

Meeting Date
03 02/20/2018



AGENDA	
Section	Unfinished Business
Item No.	V A

REVISED AGENDA REPORT
BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Opioid Litigation
DEPT/OFFICE:	County Attorney
Requested Action:	
Consider whether any of the law firms responding to the County RFQ relating to possible representation in opioid litigation should be proceed with such litigation.	
Summary Explanation & Background:	
The Board decided to publish an RFQ seeking the interest of law firms that may be qualified to represent the County in litigation against opioid manufacturers, distributors and, possibly, excessive opioid prescribers. The Board asked the County Attorney's Office to summarize the RFQ responses. That summary is attached to the agenda item.	
Fiscal Impact: All fees and costs are contingent upon recovery.	
Contact Persons: Christine Schverak, Assistant County Attorney, christine.schverak@brevardfl.gov , phone 321-633-2090 Eden Bentley, Deputy County Attorney, eden.bently@brevardfl.gov , phone 321-633-2090 Shannon Wilson, Deputy County Attorney, shannon.wilson@brevardfl.gov , phone 321-633-2090 Scott Knox, County Attorney, scott.knox@brevardfl.gov , phone 321-633-2090	
Clerk to the Board Instructions:	
Exhibits Attached: Attachment 1 and 2	
Contract /Agreement (If attached): Reviewed by County Attorney	
Yes	<input type="checkbox"/>
No	<input type="checkbox"/>
PR	<input type="checkbox"/>
County Manager Frank Abbate	Interim Assistant County Manager Jim Liesenfelt
	Assistant County Manager John Denninghoff
Department Director / Extension Scott Knox, County Attorney/ 321-633-2090	
	



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March 21, 2018

MEMORANDUM

TO: Scott Knox, County Attorney

RE: Item V.A., Board Consideration of Law Firms Responding to the Request for Qualifications (RFQ) of Representation in Opioid Litigation Proceeding

The Board of County Commissioners, in regular session on March 20, 2018, tabled consideration of the law firms responding to the RFQ relating to possible representation in opioid litigation proceeding to a future Board meeting.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe

Tammy Rowe, Deputy Clerk

/ds

cc: Interim County Attorney Bentley

County Attorney Office's Summary :

County Attorney has summarized what it perceives to be the important facts set forth in the responses and characterized the various law firms' answers to the questions posed in the RFQ based upon the CAO's interpretation of those answers. The law firms appearing before the Board will presumably be afforded the opportunity to correct or elaborate upon the CAO's interpretation of those answers.

Best Scenario: It is an advantage to the County to choose a Firm who has already done some of the research required to file a case for the county. The CAO recommends choosing a firm who can file quickly and represent the County in the federal MDL litigation, while retaining the ability to file in State court as the case develops. As there is a multi-district litigation (MDL) case in federal court with a plaintiff friendly judge advocating settlement, there is a definite advantage to having lead counsel and one or more representatives on the MDL in federal court since an expeditious resolution by settlement would not be unexpected, given the presiding judge's predisposition toward coaxing settlement between the parties. The costs in terms of effort by the County may also be lower in that scenario. Therefore, the best case scenario exists if Brevard County has a firm representative on the MDL committee and is not either the firm's first opioid case filed or the firm's first client in Florida.

ANALYSIS OF FIRMS

The highlighted summary chart on the next page of this agenda item indicates the litigation strategy proposed by each of the proposing law firms. The attached spread sheet distills the firms' answers to questions posed in the RFP.

Potential Best Scenario Exclusions – Given the likelihood that a case filed in the Florida state courts will be removed to federal court, firms without leadership representation on MDL #2804 are less compelling candidates. The following have no representation on MDL #2804 (a) **Maher/Charpentier**, (b) **Scott & Scott** and (c) **Brenstetter/Trenam** (d) **Labaton/Sucharow**, which is also a firm that is not currently representing a client in opioid litigation.

The CAO is of the opinion that the following firms, in particular order, fit the "best scenario" analysis set forth above:

(1) **Simmons Hanly Conroy /Crueger Dickinson/von Briesen & Roper/ Couture** team has representation on the MDL #2804 plaintiff executive committee in the persons of Paul Hanley as a co-lead counsel and special master, and Erin Dickinson is on the plaintiff executive committee. This team currently represents Hillsborough County, as well as many counties around the country. As such, there are advantageous efficiencies of scale available to Brevard County. Additionally, having Couture law firm as the local point of contact means that Brevard County would have an attorney representative in Brevard County, which would be valuable in any state court action. However, this team of firms has the most expensive contingency fee /cost structure. (See comparison Chart #4, attached)

(2) The **Napoli Shkolnik/Ferraro team** is representing Alachua and Osceola County in State Court. The Osceola County case is already filed. As a neighboring county, the cases may have many similarities and economies of scale. In terms of any state court action, there may be similar non-manufacturer/distributor defendants in common. This team has Hunter Shkolnik on the plaintiff executive committee in MDL #2804. The Florida contact is Louise Caro, from Miami. The downside to this pairing may be the Firm's desire to litigate in State Court while not having a local Firm on its team.

(3) The **Robbins Geller /Morgan & Morgan** team represents Broward County in the opioid. Although both submitted separate applications, both also asked the County to consider pairing them as a Team – as was done in Broward County. The County would need to negotiate the contingency fee base – as the two are different.

As to **Morgan & Morgan**, the County would need to sign conflict of interest waiver forms as the firm is currently litigating four auto accident and/or premises liability claims in which Brevard County is a named defendant, as well as ten more cases in pre-suit investigation and ten open workers compensation claims against Brevard County. Under these circumstances, Morgan & Morgan would be ethically bound to create a firewall between lawyers representing the County in the opioid matter and firm lawyers involved with the litigation against the County. The firm would also have to agree to decline or defer new clients seeking to pursue claims against Brevard County until the conclusion of the opioid matter. The local counsel would be James Young (Morgan & Morgan) in Jacksonville and/or Mark Dearman (Robbins/Geller) from Boca Raton, Florida. Together this team has James Young (Morgan & Morgan) on the plaintiff's executive committee and Paul J. Geller/Elizabeth Cabraser on the Plaintiff's executive committee and they are also on the settlement committee. The firms currently represent Broward County together. Morgan & Morgan also represents the City of Fort Lauderdale, City of Orlando, City of Deerfield Beach, the City of Miramar, City of Lauderhill and the City of Weston. As such, there are advantageous efficiencies of scale available to Brevard County, which may be a potential downside to this pairing in that the firm is already focused on Broward County and three cities within that County (Fort Lauderdale, Deerfield Beach, Weston).

Underlying Data: Below are some different ways of looking at the data provided by the firms.

Blue – recommending State Case Yellow – recommending Federal Case No Color – no recommendation
 Italics – subject to (1) or (2) above

CHART SET #1- FIRM DESCRIPTION AND PENDING OPIOID CASES

1.	<i>Maheer/Carpenter</i>	Stephen G. Charpentier (PI) Melbourne FL
1.	Beam/Romano	Douglas R. Beam, Melbourne Attorney (PI since 1985)
1.	Simmons Hanly Conroy	Ms. Tara C. Couture (Couture Law) Titusville & Melbourne (PI Atty)
2.	Motley Rice/Moore	Kendall T. Moore (Moore Law Group) (Rockledge Atty & City Council member)(emphasis in gov't law)
3.	Robbins/Geller	Mark Dearman (Boca Raton)(Consumer Fraud, Securities Fraud)
3.	Morgan & Morgan	James D. Young (Jacksonville, FL)(Consumer Prot, Pharmaceutical Litigation)
3.	<i>Brenstetter/Trenam</i>	George Nadar, Trenam Law (St. Petersburg/Tampa)(PI atty)
3.	Napoli Law	Louise Caro (Miami)(FL attorney)(mass tort/environmental specialty)
4.	<i>Scott & Scott</i>	Paul M. Harden, Jacksonville attorney specializing in zoning, planning and land use cases
4.	<i>Labaton/Sucharow</i>	Jorge Chamizo, Florida Partners, represents clients before Florida legislature. (Tallahassee)

Firms with other Florida Gov't representation on Opioid Litigation

	Robbins/Geller	Broward County, City of Delray Beach, City of Fort Lauderdale,
	Morgan & Morgan	Broward; City of Orlando, City of Deerfield Beach, City of Fort Lauderdale, City of Miramar, City of Lauderhill, City of Weston
	Napoli/Shkolnik	Alachua County, Osceola County
	Beam/Romano	City of Delray Beach & Marion County
	Simmons Hanly Conroy	Hillsborough County, FL
	Motley Rice/Moore	Two confidential Florida Cities
	Scott and Scott	City of Jacksonville, Florida

CHART SET #2- SUMMARY FIRM RECOMMENDATIONS AND REASONING RE: STATE OR FEDERAL SUITS

Favoring Federal Court over State Court; MDL Leadership

Robbins/Geller	Firm on leadership of MDL 2804, believes it will go fast; willing to file nuisance in state court; Paul J. Geller/Elizabeth Cabraser on Plaintiff's Executive Committee MDL No 2804 AND on settlement committee
Morgan & Morgan	Fastest, most efficient & comprehensive remedies will be in federal court as part of MDL 2804; willing to also file in state court (nuisance); James Young is on Plaintiff Executive Committee
Simmons Hanly Conroy	Believes County case would likely be removed to federal court b/c none of the major manufacturers/distributors are located in FL; Could file separate state claims sounding in nuisance; Paul Hanly of Simmons Hanly Conroy is one of 3 co-lead counsel in MDL 2804 & one of the special masters of the litigation; Erin Dickinson of Crueger Dickinson is on Plaintiffs Executive Committee.
Maher/Charpentier	Client decision; MDL judge is good draw for plaintiffs; may want to file in state and federal; not on MDL leadership

Favoring State Court over Federal Court

Napoli/Shkolnik	Seek Early Trial Date
Scott & Scott	Greatest litigation risk is in state court, so greatest recovery before a jury. To defeat removal to federal court, need a defendant who is not a manufacturer or a distributor.
Motley Rice/Moore	Firm believes resolution will be faster in state court
Beam/Romano	State Court creates more pressure for potential settlement than MDL Litigation.
<i>Brenstetter/Trenam</i>	Client decision; State court is more work on client's end (discovery/depositions) in return for more potential return; or less client work in anticipation of MDL resolution. All Firms' cases are in State court.

No Position Taken State/Federal: *Labaton;*

CHART #3-Opioid Cases Filed

Geller/Robbins	City of Delray Beach v. Purdue, and many others
Napoli	30 cases filed; filed Osceola County case
Maher/Charpentier	Buchanan County, Missouri – case filed Nov 17
Morgan & Morgan	Filed 17 West Virginia entities in state court, removed to federal court and transferred to MDL No. 2804.
Brenstetter/Trenam	In Tennessee – 47 counties
Simmons Hanly Conroy	Yes, 128 cases in 10 states
Motley Rice/Moore	Alaska, Kentucky, Montana, New H. etc.

CHART #4—FEE STRUCTURE SUMMARY

(Ranking based on Fee Structure Advantageous to County)

- All are contingency fee based
- Applicants who included costs within the contingency fee are listed first.

Rank	Firm	Summary
	Robbins/Geller	4% w/max 5% for fees/costs from engagement to discovery; 12.5% w/max 17.5% from discovery to mtm for sum. Jdgt; 15% w/max 25% from sum Jdgt thru appeal. Recovery from Defendants does NOT offset conting. fee Fees and costs will be based on the amount of monetary recovery.
	Brenstetter/Trenam	25% up to first \$25M inclusive of all fees, expenses & costs; fees deducted after costs
	Maher/Charpentier	30% flat includes fees and all costs. Common Benefit Order does not reduce 30% fee.
	Beam/Romano	10% + costs if settled prior to filing a complaint; 20% if claims settled prior to 1 st day of trial; 22.5% after a trial; 25% after trial. If no recovery, no reimbursement of costs
	Morgan & Morgan	10% up to discovery, plus reimbursement of costs; 17% thru summary judgment, plus costs; 25% after sum Judgment thru trial. Fees and costs only out of gross recovery. Fees out of gross recovery first, then costs.
	Napoli/Shkolnik	10% to point of ruling on a motion to dismiss; 15% after ruling on a motion to dismiss; 20% after close of pre-trial discovery; 20% after sum judgment ruling. Fee assessed on net settlement after costs are deducted. If no recovery, no reimbursement of cots.
	Motley Rice/Moore	20% prior to trial; 25% post-trial; Fees against gross recovery.
	Scott & Scott	Up to \$50M, 20% before filing of an answer or demand for appointment of arbitrators; 22% after filing of an answer or the demand for appointment of arbitrators thru judgment; 20% if all defendants admit liability at time of filing their answers and request a trial only on damages; 25% after notice of appeal is file.
	Simmons Hanly Conroy	25% fee taken from gross recovery. Costs assessed after fee taken out.

Criteria	Brennster/Trenn	Beas	Likation	Mah/Charpenier	Morgan	Mokey/Rice/Hoove	Napoli	Robbin/Collar	Scott & Scott	Comment
9. Legal theories advanced?	1. product liability; general liability; fraud; gross negligence; intentional misconduct; punitive damages; FL deceptive/unfair trade practices; public nuisance claim; 2. target manufacturers active in regional market, and recovery add in particular distributors as appropriate	1. Mandate/unfair/deceptive trade practices; public nuisance; unjust enrichment 2. Negligence/negligence per se 3. Public nuisance as to defendant distributors. Cause of action arises from distributors who comply with statutory obligations for orders of unusual size/frequency.	Similar to others	Will confer with client. No amount is a good choice. Other theories advanced with other clients are false & deceptive statements by manufacturers, false and deceptive marketing by manufacturers, unfair distribution by distributors, public nuisance, RICO fraud, negligence and negligent misrepresentation, negligence per se against manufacturers and distributors for failure to report widespread/ongoing RICO claim but this will remove to federal court.	Morgan: negligence, public nuisance, Florida deceptive and unfair practices act, civil conspiracy, civil RICO/unjust enrichment. 17 West Virginia entities, filed in state court and removed to federal court, then transferred to MDL No. 2804.	Florida Deceptive & Unfair Trade Practices Act for its own spending in providing opioids through its health benefits and workers comp programs. Also common law claims for fraudulent and negligent misrepresentations. Public nuisance would allow recovery of past and future spending to abate the opioid epidemic. Negligence and negligence per se against manufacturers and distributors for failure to report widespread/ongoing RICO claim but this will remove to federal court.	See Manufacturers, Wholesalers/Distributors, and opinion leaders. Public nuisance, Florida's deceptive and unfair trade practices act, fraud, negligence, monopolization, RICO, unjust enrichment, negligent marketing	Similar to others	See Scott & Scott: deceptive and unfair trade practices, unfair competition, medical and common law fraud, racketeering, negligence, RICO, Florida deceptive and unfair trade practices act, unjust enrichment	
10. Gov't entities previously or currently representing in opioid litigation?	State of Tennessee and all 14 district attorneys	4 counties in Ohio; City of Delray Beach, Township of Irvington New Jersey and Marion County	Ohio, New Mexico, New Jersey, Michigan Atty Generals	Buchanan County, Missouri	17 West Virginia entities, filed in state court and removed to federal court, then transferred to MDL No. 2804.	Alaska, Kentucky, Montana, New Hampshire, South Carolina, City of Chicago, etc. (lots)		Delray Beach, FL, Lauderdale, Broward County, City of Phoenix AZ, Nashville TN, Davidson County TN, etc. (some tie to Morgan and Morgan here)	Jacksonville, FL; Hawthall MS; Panama City, FL; Bucks County PA; Mercer County PA; New Britain Con, Etc.	
11. Free of Conflict of Interest	Confirmed No Conflicts	confirmed no conflicts	no current conflicts	no current conflicts, all 3 firm	Firm does have 4 current auto accident and/or premises liability claims in suit which name Brevard County. 10 in pre-suit investigation, 10 open workers compensation claims. Attorneys on this case, not on these cases. Will do conflict waiver determinations if needed. Will decline/direct new matters versus Brevard through conclusion of this matter.	no current conflicts	no current conflicts.	no current conflict	no current conflict known	no current conflict known
12. Public Crime Affidavit?	Yes	Yes	Yes	Yes, all three firms	Yes, lots specific manufacturers and wholesaler/distributors. Has no SOL.	Yes	Yes	Yes	Yes	Yes
13. Considering claim for nuisance?	Yes	Yes as to manufacturers, distributors, health care providers and pharmacy defendants	Yes, favorable case law exists. Recovery here is primarily injunctive relief and abatement costs.	Yes, offers a remedy of abatement.	Yes, seeks monetary damages for epidemic-related expenses, direct costs to County thru its employee health and welfare funds and prospective costs with abating/solving the epidemic. Also an injunction. Note has done some research on Brevard County already. May assert punitive damages at an appropriate point in the litigation.	Yes, public nuisance would allow recovery of past and future spending to abate the opioid epidemic.	Yes	Yes	Yes	Separate state claim in nuisance against both the manufacturer and distributor.
14. Considering punitive damages?	Yes	Yes as to manufacturer and distributors	Yes if county determines it is appropriate	Under Florida law, not permitted in an initial pleading and not permitted unless there is a reasonable showing of basis for recovery. There may be punitive damages here, but firm would analyze situation.	Will seek monetary damages for epidemic-related expenses, direct costs to County thru its employee health and welfare funds and prospective costs with abating/solving the epidemic. Also an injunction. Note has done some research on Brevard County already. May assert punitive damages at an appropriate point in the litigation.	Yes, punitive damages for violation of Florida's fraudulent practices act.	Yes	Yes	Yes	unlikely but a RICO claim brings trouble damages
15. Who do you represent in Florida	Currently no one.	City of Delray Beach and Marion County	currently no one.	None but in active discussions.	Brevard County, the City of Fort Lauderdale, City of Orlando, City of DeSoto Beach, the City of Miramar, the City of Lakeland, City of Winter.	two confidential Florida cities.		City of Delray Beach; Fort Lauderdale and Broward County.	Fort Lauderdale, St. Lucie, West Palm Beach in other endosors	Hiborough County, FL
16. Have you filed any cases yet?	Yes	no	Yes	Yes for Buchanan County in Kansas, Commonwealth of Kentucky is pharmaceutical litigation	City of Virginia	they are representing gov't entities in litigation and investigations.	10 cases filed. Opioid liability is filed.	Yes, City of Delray Beach v. Purdue and many others listed	Yes, 128 cases in 10 states	
17. Position/role of co-lead counsel, executive committee etc?	None of current clients have opted to file in MDL.	Peter Weinberger of the Spangenberg team has been appointed as Plaintiff's co-lead counsel in National Prescription Opioid Litigation.	None	No, plaintiffs steering committee hasn't been picked yet in MDL, 2804. Just a co-lead attorney or co-lead counsel, co-lead counsel or on the executive committee	Jamen Young, from Morgan & Morgan, is on the plaintiff's executive committee.	low flow - co-lead counsel, Linda Singer - co-chair of manufacturer's litigation committee	Heater Shonick, plaintiff's executive committee in National Prescription Opioid Litigation.	Paul J. Gohler and Elizabeth Cabacez on Plaintiff's Executive Committee. MDL No. 2804 AND settlement committee	No, counseling clients to proceed in state court.	Paul Hickey - co-lead counsel, Eric Bodenheimer - Plaintiff executive committee

Criteria	Bonustrans/Trenam	Beam	Upton	Maher/Charpentier	Morgan	Motley Rice/Moore	Ingraham	Robbins/Leifer	Scott & Scott	Summons
1. Member of Florida Bar in good standing? (one attorney)	George Tudar, John D. Goldsmith, Brian A. Kent, Lindsay Lopez, Ben McDermis, Bridgitte McMillan, Trenton Law & Florida (Trenam Law & Florida), Lead Counsel (Trenam & Co. Counsel) (New York, Connecticut)	Douglas R. Beam (Incorporating Romano Law Group (invest, pain, South), Toronto, Iowa, Missouri & McConnaughay	Jorge Chamizo, Floridian Partners (lots of legislative contacts) (based in Miami) (this is sole Florida contact; appears to be a palatinate contact)	Stephen G. Charpentier, Esq. Charpentier is local. Maher is Orlando, teamed with Kansas City firm of Wagstaff & Cartmel (pharmaceutical litigation firm)	James Young (Jacksonville), Robert Gilbert (Orlando), Eugene Pettis (Fort Lauderdale)	Fennell T. Moore (Rockledge attorney) is local. Mr. Bar in good standing. Joseph A. Osborne	Harold Shonick POC, Louie Caro POC, Attorney (Miami) (no beyond county connection)	Mark Dearman (POC) (FL attorney), Paul J. Geller (Boca Raton) (FL bar), Mark Dearman (Boca Raton)	Scott & Scott (local counsel is Paul M. Harden (lots of experience representing govt entities))	Eric Dickson & POC, a Ms. Couture in Broward County
2. Admitted to practice before federal district and appellate courts for Broward County	All state and federal courts in Tennessee, 6th Circuit court of appeals	Yes	Yes, 2nd Circuit Court of Appeals; lot of securities litigation experience	State courts, MD Florida, 11th Circuit (more than one state)	Florida state courts, MD Florida	Florida state courts, MD Florida, 11th Circuit	MD Florida, 11th Circuit	Florida courts, Middle district of Florida, 11th Circuit	Yes	Yes, Ms. Couture, MD Florida
3. Demonstrates significant experience in mass tort and/or Multi-district/multi-jurisdictional litigation and/or	Yes (links through Tennessee and through Circuit), have MDL experience	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3a. Litigation relevant to causes of action	Yes in Tennessee	Yes	Yes	Yes, current case Buchanan County Missouri; Jackson County Missouri in civil rights litigation; Commonwealth of Kentucky in pharmaceutical litigation	Yes, lots of FL govt clients on this litigation	Yes, Lots.	Yes	Yes	Yes	Yes
4. Prefer experience representing government?	Yes in Tennessee	Yes	Yes	Yes, current case Buchanan County Missouri; Jackson County Missouri in civil rights litigation; Commonwealth of Kentucky in pharmaceutical litigation	Yes, lots of FL govt clients on this litigation	Yes, Lots.	Yes	Yes	Yes	Yes
5. Commitment to assume full financial responsibility to fully fund costs including expert witness and appellate costs subject to contingent fee arrangement	Yes, tiered contingency fee agreement; 25% of gross settlement/award up to first \$25M and 20% above that; All in "Rate", inclusive of all fees, expenses, and costs including reporting, depositions, witness fees, expert witness fees, mediation/appeal master fees, travel, other; FEES DEDUCTED AFTER COSTS; common costs tracked/billed amongst all litigants	50% of gross amount if claims are settled prior to filing a complaint; 20% if claims are settled prior to last day of trial; 22.5% of gross amount recovered after a trial; 25% after any post-judgment appeals; common costs billed by pro-ata share. Contingent upon the applicant team recovering money for the county. In addition to the contingent fee, the County pays the full amount of all expenses incurred on behalf of the County. If no recovery, no reimbursement of costs.	20% of any gross recovery as attorney's fees, and all costs will be reimbursed (reasonable). If County joins with another major FL jurisdiction, firm would reduce fee to 15% of gross recovery. County will reimburse necessary costs. Firm will proportionally divide any costs between litigant fee cases.	Yes, for simplicity, 30% contingent fee, plus costs and disbursements. If all shared costs, 30% fee will not reduce if there is a common benefit order by a judge directing a percentage (like 5%) to a common benefit fund.	Fully contingent. Attorney fees, costs and disbursements are paid out of county's gross recovery. 10% of recovery is retained by the firm. 10% of gross recovery plus costs and disbursements. 25% of recovery plus costs and disbursements. 17.5% of recovery plus costs and disbursements. 25% subsequent to the filing of any motion for summary judgment through conclusion of trial, plus costs. Costs incurred common for all clients will be equitably pro-rated among all clients. Expect a common benefit order for Federal MDL case.	20% contingency fee rate of all claims of recovery from and against government recovered prior to trial. 25% contingency fee rate of recovery plus costs and disbursements. 17.5% of recovery plus costs and disbursements. 25% subsequent to the filing of any motion for summary judgment through conclusion of trial, plus costs. Costs incurred common for all clients will be equitably pro-rated among all clients. Expect a common benefit order for Federal MDL case.	10% of pre or post-complaint monetary recovery, 15% of monetary recovery after a ruling on a motion to dismiss; 20% of recovery after a ruling on a motion for summary judgment. Fee assessed on the disbursements are deducted, no recovery. Fees assessed against gross recovery in case, less any paid by defendants. Common recovery shared equally among all clients.	Contingency fee from commencement of discovery through trial and costs of motion. 20% contingency fee after filing of an answer or the demand for judgment. 20% if defendant admits liability at time of filing their answer and request a trial only on damages. 25% after notice of appeal is filed. Costs recouped in addition to fee are only those directly attributed to Broward.	25% gross flat fee. Costs will be assessed against gross recovery. Common costs across all cases will be spread across firms clients. Common costs may also be apportioned by the MDL.	
6. Handle all phases of investigation?	Yes	Yes	Yes	Yes, in collaboration with County's chosen litigants	Yes	Intense on the ground information collection effort including interviewing witnesses in the County (doctors, law enforcement, substance abuse counselors, families) Need financial data, EMS costs, Medical examiner, social workers, etc.	Yes	Yes	Yes	Yes
7. Handle all aspects of litigation?	Yes	Yes	Yes	Yes, including appeals	Yes	Yes	Yes	Yes	Yes	Yes
8. Evolution of experience?	Yes	Yes	Yes	Yes, including appeals	Yes	Yes	Yes	Yes	Yes	Yes
9a. State or Federal Court	Client, including all their claims are currently in state court	Florida State Court creates more pressure for potential settlement than MDL litigation	Client decision?	Work with County to make sure all needed by the MDL judge is a good draw for plaintiffs. County may want to file 2 case - one state, one federal	While could file in state court, firm believes best resolution will be federal (pending to MDL 2800). Firm did file in state court in West Vir and Kentucky based on enforcement authority.	Preference for County to be in state court, as a faster resolution.	Try to stay in State Court if possible, will seek an early trial date.	Favor Federal Court b/c MDL under Pober is there best litigation risk & so recovery is in state court before a jury. Will be removed w/ a defendant who is not a plaintiff. Plaintiff will be effectively barred from filing on plaintiffs executive committee and settlement committee. Also don't think there will remain in state court. Federal MDL claim.	County's case is very likely to be removed to federal court b/c non of the major manufacturers or distributors are located in FL, so state court case would get removed.	Yes

March 16, 2018

County Attorney Scott Knox
2725 Judge Fran Jamieson Way
Building C
Viera, FL 32940

**Re: Brevard County Opioid Litigation Supplement to Response to Request
for Qualifications – Economic Summary for Brevard County**

Dear Mr. Knox:

We have just obtained an economic summary from our economist that details the damages and budget considerations for Brevard County as it relates to the opioid epidemic. We wanted to provide this as supplemental material to our initial Response to Request for Proposal.

Enclosed are 6 copies of this supplemental report for your review and the Board of County Commissioners' review.

Very truly yours,



Douglas R. Beam

DRB/tkm
via hand-delivery
enclosures

Brevard County Budget and Concerns

- The County's budget for the FY 2017-18 is set at \$1,141,806,372.
- The County identified several critical needs that remain unfunded including road maintenance, building repairs, and drainage pipe replacements.
- Additionally, the County indicated that technological infrastructure improvements to the Judicial Support Division are desperately needed.

Housing and Human Services

- The County's Reentry Task Force is working to tackle the recidivism issues (estimated to be above 55%) relating to the Brevard County Jail.
 - Interested in implementing models used by other communities in Florida, but the funds are simply not available at present.
- The grant money supporting the Juvenile and Adult Drug Courts are nearing the end of their funding cycle and no alternative funding source has been identified.
 - Overdose deaths in Brevard County have increased nearly 50% from 2014 to 2016.

Emergency Management Office

- The County indicated that the facilities housing Brevard’s critical emergency systems is insufficient in its current state.
- The estimated cost for a suitable upgraded facility is \$21 million.
- The County indicated that an improvement to the existing 9-1-1 infrastructure allowing the capability of texting to 9-1-1 as well as consolidating call centers would be of great benefit.

Sheriff's Office

- The County estimates that it is 60 deputies short of meeting the requirement of 2 deputies per 1,000 residents.
 - An additional 20 deputies per year over the next 3 years will be needed to keep up with growth.
- The County indicated that replacing patrol vehicles is significantly lagging behind their replacement schedule.
 - As such, the County is experiencing an increase in maintenance and repair costs.

CFES - Budgetary Impact Analysis

- With the County currently battling with budget concerns and deferments of vital projects, the costs associated with the opioid crisis will make budgetary decisions even more difficult.
- We assess what the potential budgetary impact will look like for Brevard County due to the opioid crisis.
 - We utilize the following divisions in our analysis, but note that several potential divisions may also be impacted:

Division	Actual Budget FY 2015-2016	Current Budget FY 2016-2017	Requested Budget FY 2017-2018
Sheriff	\$ 121,816,862	\$ 125,578,664	\$ 125,053,410
Emergency Management	\$ 6,880,982	\$ 15,116,365	\$ 13,490,804
Housing and Human Services	\$ 11,833,025	\$ 22,288,318	\$ 20,599,603
Judicial Branch Admin.	\$ 187,380	\$ 429,948	\$ 480,462
Judicial Support	\$ 4,140,037	\$ 4,373,564	\$ 4,397,382

Supplemental Report re: Brevard Opioid Crisis

Beam, Spangenberg, Schochor, Romano, et al.

Budgetary Impact Analysis (cont'd)

- In our analysis, we assume that the previously mentioned divisions will experience/have experienced direct costs relating to the on-going opioid crisis equal to 10%, 20%, 30%, 40%, and 50% of their budget allocation.
- We illustrate what these costs would amount to assuming a 10 and 20 year remediation period.
- We utilize the total offset methodology and assume the County would invest funds similar to current investment strategy.

CFES – 10 Year Future Table

Table: Potential Budgetary Impact for Brevard County Due to On-going Opioid Crisis Assuming 10 Year Remedation Period

Period	Total Impacted Budget Divisions	Assuming 10% of Total	Cumulative Total	Assuming 20% of Total	Cumulative Total	Assuming 30% of Total	Cumulative Total	Assuming 40% of Total	Cumulative Total	Assuming 50% of Total	Cumulative Total
2015-16	144,858,286	14,485,829	14,485,829	28,971,657	28,971,657	43,457,486	43,457,486	57,943,314	57,943,314	72,429,143	72,429,143
2016-17	167,786,859	16,778,686	31,264,515	33,557,372	62,529,029	50,336,058	93,793,544	67,114,744	125,058,058	83,893,430	156,322,573
2017-18	164,021,661	16,402,166	47,666,681	32,804,332	95,333,361	49,206,498	143,000,042	65,608,664	190,666,722	82,010,831	238,333,403
2018-19	164,021,661	16,402,166	64,068,847	32,804,332	128,137,693	49,206,498	192,206,540	65,608,664	256,275,387	82,010,831	320,344,234
2019-20	164,021,661	16,402,166	80,471,013	32,804,332	160,942,026	49,206,498	241,413,038	65,608,664	321,884,051	82,010,831	402,355,064
2020-21	164,021,661	16,402,166	96,873,179	32,804,332	193,746,358	49,206,498	290,619,537	65,608,664	387,492,716	82,010,831	484,365,895
2021-22	164,021,661	16,402,166	113,275,345	32,804,332	226,550,690	49,206,498	339,826,035	65,608,664	453,101,380	82,010,831	566,376,725
2022-23	164,021,661	16,402,166	129,677,511	32,804,332	259,355,022	49,206,498	389,032,533	65,608,664	518,710,044	82,010,831	648,387,556
2023-24	164,021,661	16,402,166	146,079,677	32,804,332	292,159,354	49,206,498	438,239,032	65,608,664	584,318,709	82,010,831	730,398,386
2024-25	164,021,661	16,402,166	162,481,843	32,804,332	324,963,687	49,206,498	487,445,530	65,608,664	649,927,373	82,010,831	812,409,217
2025-26	164,021,661	16,402,166	178,884,009	32,804,332	357,768,019	49,206,498	536,652,028	65,608,664	715,536,038	82,010,831	894,420,047
2026-27	164,021,661	16,402,166	195,286,176	32,804,332	390,572,351	49,206,498	585,858,527	65,608,664	781,144,702	82,010,831	976,430,878
2027-28	164,021,661	16,402,166	211,688,342	32,804,332	423,376,683	49,206,498	635,065,025	65,608,664	846,753,366	82,010,831	1,058,441,708

CFES – 20 Year Future Table

Table: Potential Budgetary Impact for Brevard County Due to On-going Opioid Crisis Assuming 20 Year Remediation Period

Period	Total Impacted Budget Divisions	Assuming 10% of Total	Cumulative Total	Assuming 20% of Total	Cumulative Total	Assuming 30% of Total	Cumulative Total	Assuming 40% of Total	Cumulative Total	Assuming 50% of Total	Cumulative Total
2015-16	144,858,286	14,485,829	14,485,829	28,971,657	28,971,657	43,457,486	43,457,486	57,943,314	57,943,314	72,429,143	72,429,143
2016-17	167,786,859	16,778,686	31,264,515	33,557,372	62,529,029	50,336,058	93,793,544	67,114,744	125,058,058	83,893,430	156,322,573
2017-18	164,021,661	16,402,166	47,666,681	32,804,332	95,333,361	49,206,498	143,000,042	65,608,664	190,666,722	82,010,831	238,333,403
2018-19	164,021,661	16,402,166	64,068,847	32,804,332	128,137,693	49,206,498	192,206,540	65,608,664	256,275,387	82,010,831	320,344,234
2019-20	164,021,661	16,402,166	80,471,013	32,804,332	160,942,026	49,206,498	241,413,038	65,608,664	321,884,051	82,010,831	402,355,064
2020-21	164,021,661	16,402,166	96,873,179	32,804,332	193,746,358	49,206,498	290,619,537	65,608,664	387,492,716	82,010,831	484,365,895
2021-22	164,021,661	16,402,166	113,275,345	32,804,332	226,550,690	49,206,498	339,826,035	65,608,664	453,101,380	82,010,831	566,376,725
2022-23	164,021,661	16,402,166	129,677,511	32,804,332	259,355,022	49,206,498	389,032,533	65,608,664	518,710,044	82,010,831	648,387,556
2023-24	164,021,661	16,402,166	146,079,677	32,804,332	292,159,354	49,206,498	438,239,032	65,608,664	584,318,709	82,010,831	730,398,386
2024-25	164,021,661	16,402,166	162,481,843	32,804,332	324,963,687	49,206,498	487,445,530	65,608,664	649,927,373	82,010,831	812,409,217
2025-26	164,021,661	16,402,166	178,884,009	32,804,332	357,768,019	49,206,498	536,652,028	65,608,664	715,536,038	82,010,831	894,420,047
2026-27	164,021,661	16,402,166	195,286,176	32,804,332	390,572,351	49,206,498	585,855,527	65,608,664	781,144,702	82,010,831	976,430,878
2027-28	164,021,661	16,402,166	211,688,342	32,804,332	423,376,683	49,206,498	635,065,025	65,608,664	846,753,366	82,010,831	1,058,441,708
2028-29	164,021,661	16,402,166	228,090,508	32,804,332	456,181,015	49,206,498	684,271,523	65,608,664	912,362,031	82,010,831	1,140,452,539
2029-30	164,021,661	16,402,166	244,492,674	32,804,332	488,985,348	49,206,498	733,478,021	65,608,664	977,970,695	82,010,831	1,222,463,369
2030-31	164,021,661	16,402,166	260,894,840	32,804,332	521,789,680	49,206,498	782,684,520	65,608,664	1,043,579,360	82,010,831	1,304,474,200
2031-32	164,021,661	16,402,166	277,297,006	32,804,332	554,594,012	49,206,498	831,891,018	65,608,664	1,109,188,024	82,010,831	1,386,485,030
2032-33	164,021,661	16,402,166	293,699,172	32,804,332	587,398,344	49,206,498	881,097,516	65,608,664	1,174,796,688	82,010,831	1,468,495,861
2033-34	164,021,661	16,402,166	310,101,338	32,804,332	620,202,676	49,206,498	930,304,015	65,608,664	1,240,405,353	82,010,831	1,550,506,691
2034-35	164,021,661	16,402,166	326,503,504	32,804,332	653,007,009	49,206,498	979,510,513	65,608,664	1,306,014,017	82,010,831	1,632,517,522
2035-36	164,021,661	16,402,166	342,905,670	32,804,332	685,811,341	49,206,498	1,028,717,011	65,608,664	1,371,622,682	82,010,831	1,714,528,352
2036-37	164,021,661	16,402,166	359,307,837	32,804,332	718,615,673	49,206,498	1,077,923,510	65,608,664	1,437,231,346	82,010,831	1,796,539,183
2037-38	164,021,661	16,402,166	375,710,003	32,804,332	751,420,005	49,206,498	1,127,130,008	65,608,664	1,502,840,010	82,010,831	1,878,550,013

Supplemental Report re: Brevard Opioid Crisis

Beam, Spangenberg, Schochor, Romano, et al.