



**AGENDA REPORT**  
**April 23, 2019**

**Brevard County, FL v. B West et al, Case Number 05-2013-CA-025677-XXXX-XX - Approval of Partial Stipulated Final Judgment**

---

**SUBJECT:**

Approve Stipulated Partial Final Judgment in the amount of \$6,500.00 as to Expert Witness Fees and Costs for Barry A. Diskin, Ph.D re Brevard County, FL v B West et al, Case Number 05-2013-CA-025677-XXXX-XX.

**FISCAL IMPACT:**

Fiscal Impact: \$6,500.00  
Commission District: 4  
Fund Account/Cost Code: 1163/265160

**DEPT/OFFICE:**

County Attorney Office

**REQUESTED ACTION:**

It is requested that the Board approve the Stipulated Partial Final Judgment in the amount of \$6,500.00 as to Expert Witness Fees and Costs for Barry A. Diskin, Ph.D, in the appraisal fees litigation.

**SUMMARY EXPLANATION and BACKGROUND:**

A petition in eminent domain was filed in 2013 to take necessary parcels for a portion of Barnes Boulevard. Staff recommends approval of the joint motion and the stipulated partial final judgment in the amount of \$6,500.00, as payment of the expert witness fees and costs for Barry A. Diskin, Ph.D in the appraisal fees litigation. Attorney's fees and costs for the appraisal fees litigation remain outstanding and will be presented at a later date.

**ATTACHMENTS:**

**Description**

- ▣ **Proposed Joint Motion and Stipulated Partial Final Judgment**



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001  
Fax: (321) 264-6972  
Tammy.Rowe@brevardclerk.us

April 24, 2019

**M E M O R A N D U M**

**TO:** Eden Bentley, County Attorney

**RE:** Item F.20., Stipulated Partial Final Judgment in the Amount of \$6,500 as to Expert Witness Fees and Costs for Barry A. Diskin, Ph.D. for Brevard County v. West et al, Case Number 05-2013-CA-025677-XXXX-XX

The Board of County Commissioners, in regular session on April 23, 2019, approved Stipulated Partial Final Judgment in the amount of \$6,500 as to expert witness fees and costs for Barry A. Diskin, Ph.D., in the appraisal fees litigation, for Brevard County v. B West et al, Case Number 05-2013-CA-025677-XXXX-XX.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
SCOTT ELLIS, CLERK

*Tammy Rowe*

Tammy Rowe, Deputy Clerk

cc: Finance  
Budget

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL  
CIRCUIT, IN AND FOR BREVARD COUNTY, FLORIDA

BREVARD COUNTY, FLORIDA,  
A political subdivision of the State of  
Florida,

CASE NO.: 05-2013-CA-025677  
Parcels 115, 731, 117, 828, 706  
Tradewinds and Meadowbrook

Petitioner,

v.

B WEST TOWNHOUSES, et al,

Respondents/Defendants.

**JOINT MOTION FOR ENTRY OF PARTIAL STIPULATED FINAL JUDGMENT AS TO  
EXPERT WITNESS FEES AND COSTS FOR BARRY A. DISKIN, PH.D IN THE  
APPRAISAL FEES LITIGATION**

Petitioner, BREVARD COUNTY, FLORIDA, and Defendants, TRADEWINDS  
PLAZA, LLC, and MEADOWBROOK, LLC by and through their undersigned counsel,  
respectfully move for entry of the foregoing Partial Stipulated Final Judgment as to Expert  
Witness Fees and Costs for Barry A. Diskin, Ph.D, in the appraisal fees litigation. The  
undersigned are authorized to enter into this Motion.

Eden Bentley, Esquire  
County Attorney  
Brevard County Attorney's Office  
2725 Judge Fran Jamieson Way  
Building C-Suite #308  
Viera, FL 32940  
Telephone 321-633-2090  
[eden.bentley@brevardfl.gov](mailto:eden.bentley@brevardfl.gov)  
[cathleen.cummings@brevardfl.gov](mailto:cathleen.cummings@brevardfl.gov)  
Attorney for Petitioner, Brevard County,  
Florida  
Dated \_\_\_\_\_

  
Michael J. Tomkiewicz, Esquire  
Gino A. Luzietti, Esquire  
Gray Robinson, P.A.  
301 South Bronough Street, Suite 600  
Tallahassee, FL 32301  
Telephone 850-577-9090  
[mike.tomkiewicz@gray-robinson.com](mailto:mike.tomkiewicz@gray-robinson.com)  
[dawn.wilkinson@gray-robinson.com](mailto:dawn.wilkinson@gray-robinson.com)  
Attorneys for Respondents, Meadowbrook,  
LLC and Tradewinds Plaza, LLC

Dated: 4/7/19

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL  
CIRCUIT, IN AND FOR BREVARD COUNTY, FLORIDA

BREVARD COUNTY, FLORIDA,  
A political subdivision of the State of  
Florida,

CASE NO.: 05-2013-CA-025677  
Parcels 115, 731, 117, 828, 706  
Tradewinds and Meadowbrook

Petitioner,

v.

B WEST TOWNHOUSES, et al,

Respondents/Defendants.

**STIPULATED PARTIAL FINAL JUDGMENT AS TO EXPERT WITNESS FEES AND  
COSTS FOR BARRY A. DISKIN, PH.D IN THE APPRAISAL FEES LITIGATION,  
WITH JOINT MOTION**

THIS CAUSE having come on for consideration upon the Joint Motion for Entry of Partial Final Judgment as to Expert Witness Fees and Costs for Barry A. Diskin, Ph.D, by Petitioner, BREVARD COUNTY, FLORIDA ("Petitioner"), and Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC ("Respondents"), as the former fee owner of Parcels 115, 731, 117, 828, and 706, and it appearing to the Court that the parties have reached a stipulation as to Dr. Diskin's expert witness fees and costs in the appraisal fees litigation and were authorized to enter into such stipulation as to Dr. Diskin's expert witness fees and costs, and the Court being otherwise fully advised in the premises, it is now, therefore

**ORDERED AND ADJUDGED** as follows:

1. that Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC, pursuant to §73.091, Florida Statutes, shall have and recover from the Petitioner the sum of Six Thousand Five Hundred Dollars and No Cents (\$6,500.00) for the claim of Barry A. Diskin, Ph.D.

2. ORDERED that upon entry of this Stipulated Final Judgment as to Expert Witness Fees and Costs, the Petitioner shall, within thirty (30) days, pay to Barry A. Diskin, Ph.D. Petitioner shall mail said check to Barry A. Diskin, Ph.D, 2938 Wellington Circle, Tallahassee, FL, 32309.

3. ORDERED AND ADJUDGED, upon payment of the amount stated herein, Respondents, MEADOWBROOK, LLC and TRADEWINDS PLAZA, LLC, shall have no further claims against Petitioner for Dr. Diskin's expert witness fees and costs associated with the appraisal fees litigation in this action.

4. ORDERED AND ADJUDGED that the court reserves jurisdiction to address the claims of the attorneys' fees and costs of Gray Robinson, P.A. for the appraisal fees litigation in this action.

**DONE AND ORDERED** in Chambers at Titusville, Brevard County, Florida, this \_\_\_\_\_ day of April, 2019.

\_\_\_\_\_  
GEORGE T. PAULK  
Circuit Judge

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this \_\_\_\_\_ date of \_\_\_\_\_, 2019, by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorneys/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System.

\_\_\_\_\_  
Judicial Assistant