



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBral, Deputy County Attorney  
Susan J. Prado, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Dylan Reingold, County Attorney  
**DATE:** March 10, 2020  
**SUBJECT:** *Indian River County et al., v. United States Department of Transportation, et al.*

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**BACKGROUND.**

On February 18, 2020, the Indian River County Board of County Commissioners (“Board”) voted to hire Kannon K. Shanmugam with the law firm of Paul Weiss to handle an appeal of the above-referenced case to the United States Supreme Court, so long as private citizens were able to raise the \$200,000 necessary to fund the filing of a petition for certiorari. The initial discussed agreement with the Paul Weiss firm was that the cost of the petition for certiorari would have a cap of \$200,000, with the private citizens funding the cost of seeking jurisdiction, and the Board funding the remaining costs, not to exceed \$400,000, for the further briefing and argument if jurisdiction is granted.

The citizens did raise \$200,000 for the appeal, however the Paul Weiss firm had a conflict and is unable to represent Indian River County. Mr. Shanmugam did recommend three attorneys, one of whom is able to handle the case for Indian River County, Mr. Jeffrey Lamken of the MoloLamken firm. That firm has already filed a request on behalf of Indian River County for a 60 day extension of time to file the brief. Mr. Lamken has presented a retainer agreement for a flat fee of \$200,000 for seeking review by the United States Supreme Court, with the private citizens funding the cost of seeking jurisdiction, and the Board funding the remaining costs, for a flat fee of \$400,000, for the further briefing and argument if jurisdiction is granted. The agreement also calls for Indian River County to pay for printing costs, which will be capped at \$8,000.

**FUNDING.**

Funds for printing and for briefing and argument, if jurisdiction is granted, would be available from the General Fund/County Attorney/Legal Services/All Aboard Florida, account # 00110214-033110-15023. The amount currently available in the All Aboard Florida account for the County’s portion of these expenses is \$445,106.

**RECOMMENDATION.**

The County Attorney’s Office recommends the Indian River County Board of County Commissioners enter into an agreement with Mr. Lamken to handle the litigation before the United State Supreme Court, for a flat fee of \$200,000 for seeking review by the United States Supreme Court, with the private citizens funding the cost of seeking jurisdiction, and the Board funding the remaining costs, for a flat fee of \$400,000, for the further briefing and argument if jurisdiction is granted. The County Attorney’s Office also recommends that the Board authorize the hiring of another firm on similar terms if a conflict arises.