



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
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**MEMORANDUM**

**TO:** Board of County Commissioners  
**FROM:** Dylan Reingold, County Attorney  
**DATE:** October 21, 2019  
**SUBJECT:** Opioid Litigation Update

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**BACKGROUND**

The state attorneys general, local governments and other public entities nationwide have filed lawsuits as a result of damages suffered due to the opioid epidemic. In November 2017, a panel of federal judges decided to combine the separate federal actions filed by various local governmental agencies against the pharmaceutical industry into one single Multi District Litigation in the Northern District of Ohio. The case was assigned to Judge Dan Polster. As of July 2019 there were approximately 1,800 combined cases before Judge Polster. The cases accuse drug manufacturers, along with drug distributors like McKesson, AmerisourceBergen, and Cardinal Health and national pharmacies of responsibility for opioid-related harm.

On June 14, 2019, attorneys for local governments unveiled a plan that could lead to a global settlement of the federal lawsuits. The plan called for the creation of a negotiation class consisting of every local government in the country.

On August 13, 2019, the County Attorney's Office provided the Indian River County Board of County Commissioners (the "Board") with an update on the opioid litigation. At the Board meeting, the County Attorney stated that he would continue to keep the Board informed on the matter. Since the Board meeting, Judge Polster has approved moving forward with the Negotiating Class. Recently, the County Attorney's Office received a Class Action Notice and Frequently Asked Questions (FAQs) from the United States Court for the Northern District of Ohio. The Federal Court Combined all actions filed regarding the Opioid Litigation into the "In re: National Prescription Opiate Litigation", Case No. 1:17-md-2804 (DAP).

Indian River County and the cities and towns in Indian River County are part of the Negotiation Class Action. The Negotiation Class includes all counties, parishes, boroughs and all incorporated places, including without limitation cities, towns, townships, villages, and municipalities. If the County chooses to stay in the Class, it will be bound if a Class settlement is approved in the future. Once a settlement has been reached by the Class, Class Members would lose their ability to proceed in litigating their cases individually. There is a provision that addresses if the County stays in the Class and one or more of the cities within that county does not stay in the Class, then it is possible that the County's portion of the settlement proceeds will be reduced based on the affected population of those cities.

The Board has until November 22, 2019 to ask to be excluded from the class or object to the future settlement of the class. No action is required in order to stay in the settlement class. If the Board decides to stay in the settlement class, the Board will relinquish its right to file a lawsuit concerning the issues and claims at stake in the litigation. If and when a Class Settlement is reached, a proposal will be sent to the Class Members to review for approval or rejection. If no proposed settlement is reached, the Class will not vote and will have no other role.

**FUNDING.**

There is no funding associated with this item if the Board decides to stay in the settlement class and file a claim.

**RECOMMENDATION.**

The County Attorney's Office recommends that the Board vote to stay in the settlement class and file a claim when available.