



Office of

Attorney's Matters 03/05/2024

**INDIAN RIVER COUNTY
ATTORNEY**

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MEMORANDUM

TO: Indian River County Board of County Commissioners

THROUGH: John A. Titkanich, Jr., County Administrator

FROM: William K. DeBraal, County Attorney

DATE: February 2, 2024

SUBJECT: Manufacturers and Retail Opioid Class Action Settlement Payouts

BACKGROUND. At its meeting of February 20, 2024, the Board of County Commissioners (Board) discussed allocation of the opioid class action settlement payouts. The Board directed staff to bring an agenda item back clarifying the various opioid settlement funds available to the County from the class action lawsuit that was handled by the State of Florida Attorney General's Office. Individuals, local governments, health care providers and other entities affected by opioid use disorder sued manufacturers, distributors and retail pharmacies claiming they knew or should have known about the opioids' addictive dangers. All of those lawsuits were joined into a single class action case where each plaintiff or possible participant had the opportunity to remain in the suit or opt out and proceed against the defendants on their own. The Florida Attorney Generals Office took the lead role in representing the Florida governmental entities in the class action suit. Basically, the cities, counties and hospital districts "hired" the Attorney General to litigate the class action suit on their behalf. Please recall that the Board decided to opt into the class action suit on June 15, 2021, by entering into a Memorandum of Understanding ("MOU") with the Attorney General that serves as the payout agreement between the State of Florida and the County on the settlement of the opioid class action settlements.

The class action suit was settled and the County received two payouts from the opioid class action settlements. One settlement is from the City/County Fund, which is basically a settlement reached with the retail sellers of opioids, such as CVS, Walgreens and Walmart (Retail Settlement). Our first payout from the Retail Settlement in the amount of \$139,604.16 was paid in December 2022. The Retail Settlement for Fiscal Year 2023-24 of \$305,751.08 was paid in December 2023. The Retail Settlement will continue until 2039 and the annual payout amounts are listed in the spreadsheet that is attached to this agenda item as Exhibit A. For FY 2022-23 and again for FY 2023-24, the Board decided to allocate the Retail Settlement funds to the 19th Judicial Circuit Alternative Court Program (Drug Court) for assessment, treatment, testing and wrap around services for participants in the alternative court programs. Wrap around services are services such as housing and transportation. The Board elected to make the allocation of the Retail Settlement an annual decision when the payout is received.

Retail and Manufacturers Opioid Payouts

February 26, 2024

Page 2

The second payout from the opioid class action settlements is from the settlement with the opioid manufacturers such as Purdue Pharma (Manufacturers Settlement). The Manufacturers Settlement will also payout over 18 years and the projected annual payouts are found on the spreadsheet attached as Exhibit B to this memorandum. Initially it was thought that the County would receive about \$1,100,000 from this settlement, but the final payout figure was increased to \$1,276,139.70. The Board first discussed this settlement at its meeting of December 12, 2023, and heard presentations from the various local entities seeking funds at its meeting of January 9, 2024. At the January meeting, in accordance with the recommendation by the Public Safety Council for Criminal Justice, Mental Health and Substance Abuse (“Council”) the Board elected to allocate the funds as follows:

<i>Organization</i>	<i>Award Amount</i>	<i>Purpose</i>
Indian River County Sheriff	\$350,000	for improvements to the treatment wing
Substance Awareness Center	\$200,000	consisting of \$150,000 for jail treatment program and \$50,000 for a needs assessment study
IRC Mental Health Collaborative	\$40,000	for education, training and public awareness
19 th Judicial Circuit Drug Court	\$305,000	for in and out-patient treatment
Treasure Coast Homeless Council	\$282,000	for housing out-patient and jail release housing
Total	\$1,177,000	

The Board did not award the full amount of the FY 2023-24 payout, leaving a surplus of \$99,139.70. Since that time staff has learned that the payouts from the settlement funds and the awards allotted to the local entities can “roll over” to the next fiscal year and will not be swept up or deducted from future annual payouts.

FUNDING. There is no impact to County funding as a result of this agenda item.

RECOMMENDATION. The County Attorney’s Office recommends that the Board discuss the payouts and allotments from the Retail and Manufacturers Settlements.

Attachment: Annual accounting of Retail and Manufacturers Payouts – Exhibit A and B.

Copies sent by email to:

Hon. Charles A. Schwab, schwabc@circuit19.org
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