



## Legislation Text

---

File #: RES 2018-073, Version: 1

---

## AGENDA ITEM REPORT

### **TITLE:**

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY ATTORNEY, ON BEHALF OF THE CITY, TO ENGAGE THE SERVICES OF OUTSIDE COUNSEL TO FILE A LAWSUIT AGAINST VARIOUS PHARMACEUTICAL MANUFACTURERS AND TO JOIN THE PENDING MULTIDISTRICT LITIGATION KNOWN AS "IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION," FILED IN THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF OHIO, EASTERN DIVISION, IN ORDER TO PRESERVE THE CITY'S RIGHTS AND REMEDIES THEREUNDER.

### **BACKGROUND:**

*"In Re: National Prescription Opiate Litigation,"* MDL No. 2804, Case No. 17md-0284, is filed as a nationwide multidistrict litigation seeking redress for the harm caused by alleged deceptive and fraudulent marketing practices of several pharmaceutical manufacturers, and the alleged failure to report suspicious purchases by certain wholesalers and other entities in the chain of distribution. Several cities throughout the nation have filed lawsuits on behalf of their constituencies, which have been joined as part of this coordinated proceeding.

### **DISCUSSION:**

Based on direction from the City Commission, City staff conducted due diligence and obtained a representation letter from the joint firms of Lieff Cabraser Heimann & Bernstein, LLP, hereinafter referred to as "Lieff Cabraser," and Robbins Geller Rudman & Dowd, LLP, hereinafter referred to as "Robbins Geller," of whom Elizabeth J. Cabraser and Paul J. Geller were both appointed by the Court in the pending litigation as members of the Plaintiffs' Executive Committee and both were appointed to represent Plaintiffs on a Settlement Committee consisting of only seven (7) attorneys. The City Attorney recommends that the City Commission retain the services of Lieff Cabraser/Robbins Geller, hereinafter referred to as "LC/RG," to represent the City on a contingency fee and cost basis, wherein LC/RG will advance all fees and expenses necessary to prosecute the case. If the case should settle at any time up to and including the litigation of a Motion for Summary Judgment, the City will pay LC/RG twenty-three percent (23%) of any recovery, plus reimbursement of costs and expenses; should the case settle subsequent to that time or go all the way to trial, LC/RG will receive twenty-six and one half percent (26.5%) of any recovery, plus reimbursement of costs and expenses.

### **RECOMMENDATION:**

Staff recommends approval of this Resolution.

**FISCAL IMPACT:** Unknown at this time.