



Brevard County Board of County Commissioners

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Legislation Text

File #: 1159, **Version:** 1

Subject:

Opioid Litigation

Fiscal Impact:

None.

Dept/Office:

County Attorney's Office

Requested Action:

Request the Board Provide Direction as to the Bankruptcy Liquidation Plan for Insys Therapeutics, Incorporated

Summary Explanation and Background:

One of the defendants in the lawsuit filed by the County is Insys Therapeutics, Incorporated (Insys). Insys filed for Chapter 11 Bankruptcy to liquidate its assets and as part of that proceeding, a liquidation plan has been proposed. The County, as an unsecured creditor, can submit a ballot by the deadline of January 10, 2020, to either accept or reject the liquidation plan, or abstain from voting.

The plan includes a path forward for the states, counties, cities and Indian Tribes to receive a set-aside of some of the assets. Acceptance of the plan also requires a third-party release of all claims. Because the Company's assets are in the millions and the opioid claims alone are in the billions, any recovery against this particular company is expected to be very modest.

Nonetheless, our outside Counsel believe the negotiation and confirmation of this Plan is an important step in moving the opioid litigation forward in large part because it provides that governmental entities claims should receive a majority of the assets of the opioid defendants and should maintain control of the post-bankruptcy trust.

The opioid litigation is being handled by outside Counsel, including Mr. Steve Charpentier (Charpentier Law Firm, P.A.); Mr. Matthew Mokwa (Maher Law Firm, P.A.); and Ms. Paulina do Amaral (Lieff, Cabraser, Heimann & Bernstein, LLP). All of the outside attorneys are recommending approval of the Insys Therapeutics liquidation plan, which is option 1 below. Additionally, the Plaintiff's Executive Council for the Middle District Litigation (PEC MDL) hired a bankruptcy attorney, Gerard Cicero (Brown Rudnick, LLP). Both the PEC MDL and the bankruptcy attorney are recommending that the local governments accept the plan. Two letters from the outside counsel providing their recommendations are attached.

Options:

1. Accept the Plan, which requires a 3rd Party Release;
2. Reject the Plan and Opt-out of the 3rd Party Release;
3. Abstain from Voting and Opt-out of the 3rd Party Release;
4. Other direction as specified by the Board.

Clerk to the Board Instructions:

Provide Memo of Board's decision to County Attorney's Office.