

Moved by Mr. Painter, seconded by Mr. Humphrey,

Recommendation that the Board of County Commissioners adopt Resolution Number 111-17 resolving to approve payment to vendors in the total amount of **\$1,985,557.38** as set forth in the BCC Approval Invoice Report(s) For **Checks Dated July 12, 2017**, BCC Directed Pre-Paid Invoices Report(s), Vendor Invoice List Report(s), Items paid by Fund and Check Date Range report and/or Procurement Card Transaction Report presented by the County Auditor 07/10/2017 and 07/11/2017, and further authorizing the County Auditor to issue warrants for same pursuant to Section 319.16 of the Ohio Revised Code.

Upon roll call on the foregoing motion, the vote was as follows:

David H. Uible,	<u>YES</u>
Edwin H. Humphrey,	<u>AYE</u>
David L. Painter,	<u>YES</u>

Date Adopted: July 12, 2017

[Signature]
David H. Uible, President

[Signature]
Edwin H. Humphrey, Vice-President

[Signature]
David L. Painter, Member

OR

Stephen H. Rabolt, County Administrator

RESOLUTION NO. 112-17

The Board of County Commissioners of Clermont County, Ohio, met in regular session on the 12th day of July, 2017 with the following members present:

David H. Uible, President

Edwin H. Humphrey, Vice President

David L. Painter, Member

Mr. Painter moved for the adoption of the following Resolution:

RESOLUTION DECLARING THAT THE UNLAWFUL DISTRIBUTION OF PRESCRIPTION CONTROLLED SUBSTANCES HAS CREATED A PUBLIC NUISANCE AND A SERIOUS PUBLIC HEALTH AND SAFETY CRISIS FOR THE CITIZENS OF CLERMONT COUNTY.

WHEREAS, the Board of County Commissioners is the policy-determining body of the County; and

WHEREAS, the Board of County Commissioners has the authority to take action to protect the public health, safety, and welfare of the citizens of Clermont County; and

WHEREAS, there exists a serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality in Clermont County; and

WHEREAS, the diversion of legally produced controlled substances into the illicit market causes or contributes to the serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality in Clermont County; and

WHEREAS, the violation of any laws of Ohio or of the United States of America controlling the distribution of a controlled substance is inimical, harmful, and adverse to the public welfare of the citizens of Clermont County and constitutes a public nuisance; and

WHEREAS, the Board of County Commissioners has the authority to abate, or cause to be abated, any public nuisance including those acts that significantly interfere with the public health, safety, and welfare of the citizens of Clermont County; and

WHEREAS, the Board of County Commissioners has expended, is expending, and will continue to expend in the future County public funds to respond to the serious public health and safety crisis involving opioid abuse, addiction, morbidity, and mortality in Clermont County; and

WHEREAS, the Board of County Commissioners may sue to obtain any money due the County; and

WHEREAS, the Board of County Commissioners has received information that indicates that the wholesale distributors of controlled substances in Clermont County may have violated Federal laws and regulations that were enacted to prevent the diversion of legally produced controlled substances into the illicit market; and

WHEREAS, the citizens of Clermont County will benefit from the retention of special outside counsel to investigate and pursue, if appropriate, County claims against the wholesale distributors of controlled substances in Clermont County, on a contingent fee basis, wherein there is no attorney fee or reimbursement of litigation expenses if there is no recovery; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Clermont County, Ohio with at least two-thirds of its members thereto concurring as follows:

SECTION I

That the Board of County Commissioners hereby declares that opiate abuse, addiction, morbidity and mortality has created a serious public health and safety crisis in Clermont County, Ohio, and is a public nuisance; and

SECTION II

That the Board of County Commissioners of Clermont County, Ohio, hereby authorizes the filing of a Joint Application with the Clermont County Prosecuting Attorney to the Clermont County Court of Common Pleas, pursuant to and in compliance with Section 305.14 of the Ohio Revised Code, to retain the firm of GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP, 419 Eleventh Street, Huntington, West Virginia 25701 and such other legal counsel as needed, as Special Counsel to represent the Board of County Commissioners, to investigate and, if appropriate, pursue all civil remedies which may be afforded under law as against the wholesale distributors in the chain of distribution of controlled substances who have caused or contributed to the public nuisance and serious public health and safety crisis involving opioid

abuse, addiction, morbidity, and mortality in Clermont County, with the compensation therefore on a contingent fee basis, in concert with the contingent fee agreement that is designated as "Authority to Represent" and fore which all members of the Board of County Commissioners are authorized to execute the afore stated contingent fee agreement, the same of which is identified as Exhibit A and attached hereto and made a part hereof in its entirety.

SECTION III

That the Board of County Commissioners hereby finds and determines that all formal actions relative to the passage of this Resolution were taken in an open meeting of this Board, and that all deliberations of this Board and its Committees, if any, which resulted in formal action, were taken in meetings open to the public, in full compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Mr. Humphrey seconded the Resolution and on roll the vote resulted as follows:

Mr. Uible Yes

Mr. Humphrey Aye

Mr. Painter Yes

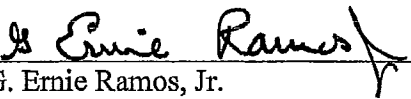
This Resolution was duly passed on the 12th day of July, 2017.

ATTEST:



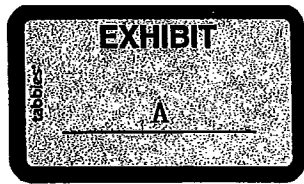
JUDITH KOCICA, CLERK
Clermont County Board of
Commissioners

This Resolution was prepared and approved as to form by the Office of the Prosecuting Attorney of Clermont County, Ohio

By: 

G. Ernie Ramos, Jr.
Chief Assistant Prosecuting Attorney

Date: 7-12-17



AUTHORITY TO REPRESENT

RE: Clermont County (Ohio) civil suit against those legally responsible for the wrongful distribution of prescription opiates and damages caused thereby.

The Board of County Commissioners for Clermont County, Ohio (hereinafter "CLIENT") hereby retains the law firm GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP, pursuant to the Ohio Rules of Professional Conduct and O.R.C. § 305.14, on a contingent fee basis, to pursue all civil remedies against those in the chain of distribution of prescription opiates responsible for the opioid epidemic which is plaguing Clermont County (Ohio) including, but not limited to, filing a claim for public nuisance to abate the damages caused thereby. **Paul T. Farrell, Jr., Esq.** (Ohio #70257) of the law firm GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP shall serve as LEAD COUNSEL. CLIENT authorizes lead counsel to employ and/or associate additional counsel, with consent of CLIENT, to assist LEAD COUNSEL in the just prosecution of the case. CLIENT consents to the participation of the following firms:

GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP
419 11th Street
Huntington, West Virginia

LEVIN, PAPANTONIO, THOMAS, MITCHELL, RAFFERTY & PROCTOR, PA
316 South Baylen Street
Pensacola, Florida

BARON & BUDD, PC
3102 Oak Lawn Avenue #1100
Dallas, Texas

HILL PETERSON CARPER BEE & DEITZLER PLLC
500 Tracy Way
Charleston, West Virginia

McHUGH FULLER LAW GROUP
97 Elias Whiddon Rd
Hattiesburg, Mississippi

Lancione & Lancione, LLC
619 Linda Street, Suite 201
Rocky River, Ohio

In consideration, CLIENT agrees to pay thirty percent (30%) of the total recovery (gross) in favor of the CLIENT as an attorney fee whether the claim is resolved by compromise, settlement, or trial and verdict (and appeal). The gross recovery shall be calculated on the amount obtained before the deduction of costs and expenses. CLIENT grants Attorneys an interest in a fee based on the gross recovery. If a court awards attorneys' fees, Attorneys shall receive the "greater of" the gross recovery-based contingent fee or the attorneys' fees awarded. **There is no fee if there is no recovery.**

GREENE, KETCHUM, FARRELL, BAILEY & TWEEL, LLP and the other law firms, hereinafter referred to as the "Attorneys," agree to advance all necessary litigation expenses necessary to prosecute these claims. All such litigation expenses, including the reasonable internal costs of electronically stored

information (ESI) and electronic discovery generally or the direct costs incurred from any outside contractor for those services, will be deducted from any recovery after the contingent fee is calculated. **There is no reimbursement of litigation expenses if there is no recovery.**

The CLIENT acknowledges this fee is reasonable given the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly, the likelihood this employment will preclude other employment by the Attorneys, the fee customarily charged in the locality for similar legal services, the anticipated (contingent) litigation expenses and the anticipated results obtained, the experience, reputation, and ability of the lawyer or lawyers performing the services and the fact that the fee is contingent upon a successful recovery.

This litigation is intended to address a significant problem in the community. The litigation focuses on the wholesale distributors and their role in the diversion of millions of prescription opiates into the illicit market which has resulted in opioid addiction, abuse, morbidity and mortality. There is no easy solution and no precedent for such an action against this sector of the industry. Many of the facts of the case are locked behind closed doors. The billion dollar industry denies liability. The litigation will be very expensive and the litigation expenses will be advanced by the Attorneys with reimbursement contingent upon a successful recovery. The outcome is uncertain, as is all civil litigation, with compensation contingent upon a successful recovery. Consequently, there must be a clear understanding between the CLIENT and the Attorneys regarding the definition of a "successful recovery."

The Attorneys intend to present a damage model designed to abate the public health and safety crisis. This damage model may take the form of money damages or equitable remedies (e.g., abatement fund). The purpose of the lawsuit is to seek reimbursement of the costs incurred in the past fighting the opioid epidemic and/or recover the funds necessary to abate the health and safety crisis caused by the unlawful conduct of the wholesale distributors. The CLIENT agrees to compensate the Attorneys, contingent upon prevailing, by paying 30% of any settlement/resolution/judgment, in favor of the CLIENT, whether it takes the form of monetary damages or equitable relief. For instance, if the remedy is in the form of monetary damages, CLIENT agrees to pay 30% of the gross amount to Attorneys as compensation and then reimburse the reasonable litigation expenses. If the remedy is in the form of equitable relief (e.g., abatement fund), CLIENT agrees to pay, from moneys expended by defendant(s), 30% of the gross value of the equitable relief to the Attorneys as compensation and then reimburse the reasonable litigation expenses. To be clear, Attorneys shall not be paid nor receive reimbursement from public funds. However, any judgment arising from successful prosecution of the case, or any consideration arising from a settlement of the matter, whether monetary or equitable, shall not be considered public funds for purposes of calculating the contingent fee. Under no circumstances shall the CLIENT be obligated to pay any Attorneys fee or any litigation expenses except from moneys expended by defendant(s) pursuant to the resolution of the CLIENT's claims. If the defendant(s) expend their own resources to abate the public health and safety crisis in exchange for a release of liability, then the Attorneys will be paid the designated contingent fee from the resources expended by the defendant(s). CLIENT acknowledges this is a necessary condition required by the Attorneys to dedicate their time and invest their resources on a contingent basis to this enormous project. If the defendant(s) negotiate a release of liability, then the Attorneys should be compensated based upon the consideration offered to induce the dismissal of the lawsuit.

The division of fees, expenses and labor between the Attorneys will be decided by private agreement between the law firms and subject to approval by the CLIENT. Any division of fees will be governed by the Ohio Rules of Professional Conduct including: (1) the division of fees is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation and agrees to be available for consultation with the CLIENT; (2) the CLIENT has given *written* consent after full disclosure of the identity of each lawyer, that the fees will be divided, and that the division of fees will be in proportion to the services to be performed by each lawyer or that each lawyer will assume joint responsibility for the representation; (3) except where court approval of the fee division is obtained,

the *written* closing statement in a case involving a contingent fee shall be signed by the CLIENT and each lawyer and shall comply with the terms of Rule 1.5 (c)(2) of the Ohio Rules of Professional Conduct; and (4) the total fee is *reasonable*.

LEAD COUNSEL shall appoint a contact person to keep the CLIENT reasonably informed about the status of the matter in a manner deemed appropriate by the CLIENT. The CLIENT at all times shall retain the authority to decide the disposition of the case and maintain absolute control of the litigation.

Upon conclusion of this matter, LEAD COUNSEL shall provide the CLIENT with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination. The closing statement shall specify the manner in which the compensation was determined under the agreement, any costs and expenses deducted by the lawyer from the judgment or settlement involved, and, if applicable, the actual division of the lawyers' fees with a lawyer not in the same firm, as required in Rule 1.5 (e)(3) of the Ohio Rules of Professional Conduct. The closing statement shall be signed by the CLIENT and each attorney among whom the fee is being divided.

Nothing in this Agreement and nothing in the Attorneys' statement to the CLIENT may be construed as a promise or guarantee about the outcome of this matter. The Attorneys make no such promises or guarantees. Attorneys' comments about the outcome of this matter are expressions of opinion only and the Attorneys make no guarantee as to the outcome of any litigation, settlement or trial proceedings.

SIGNED, this _____ day of _____, 2017.

Board of County Commissioners for
Clermont County, Ohio

David H. Uible, President

Edwin H. Humphrey, Vice President

David L. Painter, Commissioner

Accepted:

GREENE, KETCHUM,
FARRELL, BAILEY & TWEEL, LLP
419 11th Street
P O Box 2389
Huntington, WV 25724-2389
(304) 525-9115 or (800) 479-0053



By _____
Paul T. Farrell, Jr., Esq.

Date

Lead Counsel