

Office of the Superintendent of Schools
Board Meeting of July 20, 2022

July 6, 2022

Office of School Board Attorney
Walter J. Harvey, School Board Attorney

SUBJECT: AUTHORIZATION TO RETAIN OUTSIDE LEGAL COUNSEL IN THE CASE OF *Office of the Attorney General, Department of Legal Affairs, State of Florida v. Sarasota County Public Hospital District, et al., Leon County Circuit Court Case No. 2022 CA 000541* and for THE LAW OFFICE OF EVAN D CARB, PLLC.

On April 6, 2022, the Florida Attorney General (“AG”) filed a lawsuit against several public hospitals and the Miami-Dade County School Board and the Putnam County School Board in relation to several settlements that the AG has procured for the State of Florida in the State’s lawsuit against numerous Opioid manufacturers and distributors. The lawsuit was filed in the Second Judicial Circuit in Leon County, Florida.

Pursuant to the State’s opioid litigation, the AG obtained several settlements with opioid manufacturers and distributors. In its lawsuit, the AG claims that it has the authority to represent the entire state and its political subdivisions. The AG also asserts that subsidiary claims that the School Board may have against the settling party defendants (opioid manufacturers and distributors) may jeopardize the settlements reached by the AG or decrease the recovery of proceeds for the State. The School Board is not a party in the State’s opioid lawsuit. The School Board. was also not asked to join the subject state settlements and could not have joined because it is not a party to that litigation.

The School Board is a party to a national multi-district opioid class action litigation in federal court, which was approved by Board action pursuant to Agenda Item G-9 (“National Prescription Opiate Litigation”), at its April 1, 2019 meeting. The Board item authorized the Board Attorney to secure outside legal counsel to represent and file a claim(s) on behalf of the School Board in the national opiate litigation that has been consolidated in the matter known as: *In Re: National Prescription Opiate Litigation*, MDL 2804, Case No. 1:17-md-2804, and to execute any necessary contracts to effectuate such legal representation. The AG’s opioid litigation, meanwhile, is in state court.

In order to protect the Board’s interests and, among other things, to preserve any recovery that may be obtained in the opioid litigation to which the Board is already a party, the School Board Attorney retained Mr. Joe Jacquot, Esquire, a shareholder with then law firm of Gunster Yoakley & Stewart, P.A. (“Gunster”). From 2007-2010, Mr. Jacquot served as Florida’s Chief Deputy Attorney General. Mr. Jacquot also served as the General Counsel to Florida Governor Ron DeSantis, from January 2019 through October 2020. In this capacity, Mr. Jacquot was responsible for all litigation and legal matters of the Governor and state executive agencies.

G- 4

Mr. Jacquot's retention by the School Board Attorney in this case was on a tentative basis pending the progress of the litigation. Unfortunately, it appears that this litigation may take longer than originally anticipated as on June 13, 2022, the AG, amended her complaint for declaratory relief, which also challenges the sovereignty, the constitutional and statutory powers of political subdivisions of the state. As a result of the current status of the litigation the School Board Attorney is recommending that the Board retain Mr. Jacquot and his firm for the remainder of the litigation of this case. Mr. Jacquot will be assisted by Mr. Derek Mountford, an associate with the Gunster law firm.

In addition, the School Board Attorney would request authorization to continue to retain Mr. Evan D. Carb, Esquire to serve as counsel representing the School Board in connection with legal matters concerning telecommunications, radio, television and educational broadband operations and licensing, WLRN, Federal Communications Commission (FCC) and related matters. Mr. Carb is currently the principal attorney with The Law Offices of Evan D. Carb, PLLC., a Washington-DC based communications law firm which was established 2006. Mr. Carb's expertise in this filed extends over thirty (30) years. His practice focuses on the representation of both commercial and educational clients in all areas of FCC regulation as well as general commercial matters affecting radio, television, and broadband services.

From time to time, for almost a decade, Mr. Carb has advised the Board on matters impacting its radio and television station. Due to the Board's recent agreement with Friends of WLRN, matters related to the Board's radio and television station may increase and become more complex. Accordingly, the Board Attorney requests that Mr. Carb continue to be retained on an extended basis in order to advise the Board in these matters.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the School Board Attorney to:

1. Retain Mr. Joe Jacquot, a shareholder with the Gunster law firm, to represent the School Board as its legal counsel in this litigation. Mr. Jacquot will be compensated at the rate of \$600.00 per hour and Mr. Mountford, his associate, at \$450.00 per hour.
2. Retain Mr. Evan D. Carb, the principal attorney with The Law Office of Evan D. Carb, PLLC. to represent the School Board as its counsel in connection with matters relating to WLRN and/or the Federal Communications Commission. Mr. Carb will be compensated at the rate of \$400.00 per hour.