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CITY MANAGER MEMORANDUM

To: The Honorable Mayor and City Commissioners

Through: James R. Elensky, City Manager

From: Fred Reilly, City Attorney

Date: July 03, 2025

Subject: Resolution No. 25-1878 Legal Services Contract for Insulin Price Fixing Litigation Claim

Executive Summary

Approve the Legal Services Contract with Grossman and Kelly, LLP for the Insulin Price Fixing Litigation Claim.

Staff Contact: Fred Reilly, City Attorney

Introduction

The intent of this item is to seek the City Commission's approval of the Legal Services Contract with Grossman and Kelly, LLP ("Grossman") concerning the Insulin Price Fixing Litigation settlements in relation to 40+ Pharmaceutical Company Defendants and 3 Pharmacy Benefit Manager Defendants.

Background

Grossman assists insurers, hospitals, self-funded entities, third-party administrators, and municipalities to recover funds wrongly overcharged in the following cases:

1. Insulin Price-Fixing (MDL 3080)
2. Generic Pharmaceutical Pricing (MDL 2724)
3. Overview of the Cases

Insulin Price-Fixing (MDL 3080)

- Insulin manufacturers Eli Lilly, Novo Nordisk, and Sanofi, in collaboration with the three largest PBMs - CVS Caremark, Express Scripts, and OptumRx, colluded to artificially inflate insulin prices by negotiating secret rebates in exchange for preferential placement on insurance formularies, effectively passing the increased costs onto patients through higher list prices.

- A motion for Class Certification was recently denied resulting in each Plaintiff having its own claim to pursue.



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- Our attorneys have taken a lead role in the substantive discovery phase to include large-scale repository document review, robust ESI and depositions.
- The MDL is in front of Judge Martinotti in the District Court of New Jersey. We have handled many clients' cases before this Court, including complex medical device cases, with success.
- Importantly, there are some concerns that we have a January 14, 2025, deadline to file all remaining Clients' cases as this is the 4-year anniversary of a Congressional Report on the collusion based on statute of limitations. This is a potential cut-off so all interested entities should file with us before if possible. We will file for clients after this date but with a disclosure.

Generic Pharmaceutical Pricing (MDL 2724)

- Generic Drug Manufacturers (over 40 of them) were involved in widespread collusion to artificially inflate prices and allocate market share.
- Collusion occurred through direct interactions between senior executives at industry events, trade shows, dinners, and other social gatherings.
- Prices of approximately 80 generic drugs, particularly those used for dermatological conditions, were allegedly inflated due to this collusion.
- The MDL is in front of Judge Rufe in the Eastern District of Pennsylvania. AWKO has been Lead Counsel before Judge Rufe in several complex litigations which were resolved successfully.
- There have been several small-scale settlements already and AWKO anticipates our clients having opportunities to participate in or opt out as it were, depending upon the circumstances. However, from a timing perspective, all unfiled claims should be filed presently to ensure full participation and evaluation of options.

Grossman's clients, like all similarly situated entities, were greatly impacted by the wrongful practices addressed in each of the MDLs. Participating in these cases not only offers the opportunity to recover substantial damages but also sends a clear message against anti-competitive behavior.

Legal Services Contract

Grossman operates on a contingency basis. This means clients incur no upfront costs, and we would only recover expenses and fees upon a successful outcome. If the cases are unsuccessful, the client owes Grossman nothing.

City Attorney Reilly will serve as co-counsel with Attorney David Grossman to coordinate and pursue the City's Claim. City Attorney Reilly would receive a portion of the contingency fee paid to Grossman, if any.

Potential Recovery and Data Collection

Recoveries depend upon Grossman obtaining and analyzing specific data relative to each case. However, the potential for significant recovery is clear. Grossman's onboarding process is streamlined to minimize the burden on the City's team. Once an engagement is signed, Grossman gathers and analyzes the



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necessary data with the City's selected points of contact to build a comprehensive damages model and case strategy to include opting in and/or opting out of potential settlements as they present themselves.

Organizational Goal(s)

Quality of Life: Create an environment that enhances the quality of life and benefits the community culturally, recreationally and economically.

Budget Impact

The Legal Services Contract will not result in an immediate budget impact. All costs associated with the claims filing process will be borne by Grossman.

Recommendation

Staff recommends the City Commission's approve the Legal Services Contract with Grossman and Kelly, LLP ("Grossman") concerning the Insulin Price Fixing Litigation settlements in relation to 40+ Pharmaceutical Company Defendants and 3 Pharmacy Benefit Manager Defendants.