

**AGENDA SUMMARY**  
**GRAND COUNTY COMMISSION**  
**REGULAR MEETING**  
**SEPTEMBER 6, 2022**

Agenda Item:

<b>TITLE:</b>	Approving Utah Subdivision Agreement to Establish Utah Attorney Fee and Expense Fund
<b>FISCAL IMPACT:</b>	Reduces our opioid settlement fees by 20% but also reduces our total fee liability from 35% to 20%
<b>PRESENTER(S):</b>	Christina Sloan, County Attorney

Prepared By:

Christina Sloan,  
County Attorney

**FOR OFFICE USE ONLY:**

**Attorney Review:**

Complete  
August 31, 2022

**RECOMMENDATION:**

I move to approve the Utah Subdivision Agreement to Establish Utah Attorney Fee and Expense Fund.

**BACKGROUND:**

In 2018, along with 26 other Utah counties, the previously named Grand County Council and prior County Attorney Andrew Fitzgerald entered into litigation in the Moab District Court against opioid manufacturers and distributors including Johnson & Johnson and Teva Pharmaceuticals USA for damages caused by their role in the opioid epidemic in Utah. State claims include negligence, products liability, and public nuisance. Grand County's Moab District Court case was later consolidated with similar cases filed by other counties in the Third Judicial District in Summit County.

At that time, the Grand County Commission approved, upon Mr. Fitzgerald recommendation, a contingency fee agreement with the County's Opioid Counsel Phipps Ortiz Talafuse. The fee agreement set the attorneys' fees to be recovered from any award to Grand County at 35% (but obligated the County to pay nothing if it didn't recover from the Defendants).

During the protracted opioid settlement process, all parties have represented to the counties, including the County's Opioid Counsel, that attorneys' fees would be paid out of a separate pot of money included in the settlement with Distributor Defendants. This means we were told over and over again that our pittance of a settlement share (0.304%) would not be reduced by the payment of attorney's fees.

Upon finalization of the settlement agreement with Distributor Defendants by the State of Utah as part of a national settlement process, the handling of attorneys' fees has changed. The good news is that the County's fee liability is capped at 20%, which reduces the County's fees by 15%. The bad news is that the fees will be taken out of the county's already pathetic settlement share.

Brown Greer, a national independent law firm, will distribute the attorneys fees and settlement funds. And all Utah counties are required to pay 20% of their settlement proceeds into the Attorney Fee and Expense Fund, regardless of the total amount of their fees, or the specifics of their fee agreement.

At this time, neither the County's Opioid Counsel or the Utah AG's office has a lot of detail about how the fee payments will work. We believe that Brown Greer will deduct 20% from each settlement check paid to the County until its total fees are paid. There is a small chance that, ultimately, Grand County will only be responsible for its actual fees incurred, which the County's Opioid Counsel estimates to be less than 20% of its award, and that Grand County will actually pay less than 20% in fees. However, this is unknown at this time.

The County Attorney continues to work to confirm that this Fee MOU has been executed by each of the other counties in Utah.

**ATTACHMENT(S):**

1. Utah Subdivision Agreement to Establish Utah Attorney Fee and Expense Fund
2. 2018 Contingency Fee Agreement