



## Agenda Item Summary

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**File ID:** 20-0012

**DEPT-3**

**Meeting Date:** 10/22/2019

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**PLACEMENT:** Departmental

**TITLE:**

**REQUEST FOR PRIVATE ATTORNEY-CLIENT SESSION CONCERNING THE CASE OF JUSTIN INDUSTRIES, INC. V. MARTIN COUNTY, ET AL., MARTIN COUNTY CIRCUIT COURT CASE NO. 2018-CA-638**

**EXECUTIVE SUMMARY:**

The County Attorney desires to meet with the Board of County Commissioners ("Board") and the County Administrator in a private attorney-client session, in accordance with Florida Statutes § 286.011(8), to obtain advice about a Proposal for Settlement/Demand for Judgment served on the County by the Plaintiff and potentially serving a Proposal for Settlement on the Plaintiff in the case of Justin Industries, Inc. v. Martin County, et al., Martin County Circuit Court Case No. 2018-CA-000638.

**DEPARTMENT:** County Attorney

**PREPARED BY:** **Name:** Elysse A. Elder  
**Title:** Senior Assistant County Attorney

**REQUESTED BY:** Sarah W. Woods, County Attorney

**PRESET:** 12:00 PM

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

On or about June 28, 2018, Justin Industries sued Martin County, John Polley, Patrick Yancey, Elite Customs Services, Inc. and Interstate Recycling of Florida, LLC. The original Complaint included causes of action for breach of the Construction and Demolition Contract between Martin County and Justin dated October 1, 2013 ("C&D Contract"), tortious interference with C&D Contract, conspiracy to tortiously interfere with C&D Contract and voidance of the Vegetation Contract between Martin County and Interstate Recycling dated March 19, 2018 ("Veg Contract") under Florida Statutes § 112.3175, all related to Martin County's Solid Waste Transfer Facility. After several amendments to the Complaint and discovery by the parties, Justin eventually dropped all claims against John Polley and Interstate Recycling and the cause of action against the County to void the Veg Contract. Currently, there are three claims against Martin County, two for breach of contract and one for breach of good faith and fair dealing, all related to the C&D Contract. There are also claims against Patrick Yancey and Elite Custom Services for tortious interference with the C&D Contract and conspiracy to interfere with the C&D Contract.

Justin served a Proposal for Settlement/Demand for Judgment on Martin County pursuant to Florida

Statutes § 768.79 and Rule 1.442 of the Florida Rules of Civil Procedure offer to settle the claims against Martin County for \$750,000, exclusive of attorneys' fees and costs. If the County accepts the Proposal, the County will have to pay Plaintiff \$750,000 and Plaintiff will dismiss all claims against Martin County and will bear its own attorneys' fees and costs. If the County does not accept the Proposal and the Plaintiff prevails in the case with a judgment that is at least 25% greater than the Proposal, the Plaintiff will be awarded sanctions against Martin County, which includes costs and attorneys' fees incurred from the date the Proposal was served.

The County Attorney would also like to discuss serving a Proposal for Settlement on the Plaintiff. If a Proposal for Settlement is served and rejected by the Plaintiff, the County will be awarded sanctions against the Plaintiff if the County prevails with a judgment of no liability or if the plaintiff is awarded an amount 25% or lower than the amount of the Proposal. Sanctions would include an award of the County's attorneys' fees and costs from the date of service of the Proposal. If the Plaintiff accepts the Proposal, the County will have to pay Plaintiff the amount of the Proposal and the case would be dismissed against the County.

**ISSUES:**

1. Whether the County should accept or reject Plaintiff's Proposal for Settlement/Demand for Judgment in the amount of \$750,000?
2. Whether the County should serve a Proposal for Settlement on Plaintiff and if so, in what amount?

**LEGAL SUFFICIENCY REVIEW:**

This item has been reviewed for legal sufficiency to determine whether it is consistent with applicable law, has identified and addressed legal risks, and has developed strategies for legal defensibility.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Move that the Board reject the Plaintiff's Proposal for Settlement/Demand for Judgment in the amount of \$750,000 and that the Board approves service of a Proposal for Settlement on Plaintiff in an amount to be determined in the attorney-client session.

**ALTERNATIVE RECOMMENDATIONS**

None

**FISCAL IMPACT:**

**RECOMMENDATION**

None

Funding Source	County Funds	Non-County Funds
Subtotal		

Project Total		
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**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

- ☐Budget Transfer / Amendment
 ☐Chair Letter
 ☐Contract / Agreement
- ☐Grant / Application
 ☐Notice
 ☐Ordinance
 ☐Resolution
- ☐Other:

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