



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#14-1640

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Cynthia A. Everett, City Attorney

DATE: December 17, 2014

TITLE: WALK ON – Resolution appointing Robbins Geller Rudman & Dowd, LLP
as Special Counsel to General Employee’s Retirement System to pursue
lead plaintiff status in Federal securities fraud class action filed against
Salix Pharmaceuticals, LTD., et al in United States District Court Southern
District of New York

Recommendation

It is recommended that the City Commission adopt a resolution appointing Robbins Geller Rudman & Dowd, LLP (“Robbins Geller”) as special counsel to the City’s General Employee’s Retirement System (GERS) to pursue lead plaintiff status in Federal securities fraud class action filed against Salix Pharmaceuticals, LTD., et al in United States District Court Southern District of New York.

Background

GERS has retained several firms to monitor the funds or portfolios for potential securities fraud. One of those firms, Robbins Geller (Exhibit 1 – Firm Resume), brought to the attention of GERS a pending class action securities fraud complaint filed in the United States District Court Southern District of New York (Exhibit 2 – Executive Summary of Case and Exhibit 3 – Draft Complaint) against Salix Pharmaceuticals, LTD., et al. It is estimated that GERS’ losses amount to approximately \$500,000.00 during the class period, as a result of fraudulent and misleading statements about Salix’s operations.

On December 4, 2014, GERS’ Board of Trustees reviewed the Executive Summary and presentation by attorneys from Robbins Geller and voted to pursue lead plaintiff status in the case. Robbins Geller indicated that there has been a lack of participation by institutional investors in this case and recommended that GERS pursue lead plaintiff station to protect the interest of the Board and other similarly situated members of the class.

The retainer agreement provides a fee structure that is solely contingent in nature. As a result all legal fees, costs and expenses payable to the lead plaintiff counsel are based

on a recovery by the class as a whole, with the largest percentage being 25% of the first \$100 Million. Additionally, any costs assessed to plaintiffs shall be borne solely by Robbins Geller. No additional fees are allowable under the agreement (Exhibit 4 – Retainer Agreement).

Pursuant to the GERS Plan and Section 20-113 of the City Code of Ordinances, the City Attorney serves as legal counsel, representing GERS in all suits and actions to which GERS may be a party. To implement the motion adopted by the GERS Board, the City commission must adopt a resolution, pursuant to Section 4.10 of the City Charter.

The deadline for filing a motion to have GERS appointed as lead plaintiff status is January 6, 2015.

Attorneys' fees will be awarded by the Court out of the corpus of the gross class recovery, whether by Final Judgment or by settlement. GERS recovery would be net of costs, expenses and attorneys' fee.

Resource Impact

There is no fiscal impact to the City.

Attachment(s):

Exhibit 1- Firm Resume

Exhibit 2- Executive Summary

Exhibit 3- First Filed Complaint

Exhibit 4- Retainer Agreement

Prepared by: Cole J. Copertino, Assistant City Attorney

Charter Officer: Cynthia A. Everett, City Attorney