

**NOTICE OF A PUBLIC MEETING CALLED
TO CONSIDER APPROVAL OF A CONTINGENT FEE CONTRACT**

September 11, 2020

Notice is hereby given that a meeting of the Commissioners Court of Harris County, Texas, will be held on Tuesday, September 15, 2020, at 10:00 a.m., virtually, to advance the public health goal of limiting face-to-face meetings to slow the spread of the Coronavirus (COVID-19), and for the purpose of considering and taking action on the following matter brought before the Court in accordance with Tex. Gov't Code § 2254.1036(2):

Request for Commissioners Court to make findings and approve the County Judge to execute the contingent fee contract with Reich & Binstock LLP, Richard Schechter, P.C., Law Office of J. Michael Solar, PLLC and Chamberlain, Hrdlicka, White, Williams & Aughtry, PC (collectively “Special Counsel”) to pursue possible litigation against parties who may be responsible for damages to Harris County related to the manufacture, distribution and marketing of e-cigarettes and vaping products. Public comments will be taken during the Public Hearing section of the meeting called for this purpose.

Pursuant to Tex. Gov't Code § 2254.1036(1), the following public notice is given:

(A) The reasons for pursuing the matter that is the subject of the legal services for which the attorney or law firm would be retained and the desired outcome of pursuing the matter:

In recent years “e-cigarettes” have been introduced into the market. These devices often have a high-tech, “cool” look, mimicking USB flash drives, pens, and other everyday items. Vaping products are marketed to Harris County’s youth and lead to significant increases in adverse health effects related to vaping and nicotine addiction. According to the CDC, in 2018, 1-in-5 high school students vaped, and 1-in-20 middle schoolers vaped. Harris County alone reported three cases of severe lung illness related to vaping in teens in 2019 before the coronavirus pandemic. These numbers will only increase. Harris County is currently in the midst of an unprecedented time in our modern history with the COVID-19 pandemic. There is evidence of a correlation between vaping and an increased risk of complications should a JUUL user contract COVID-19. On August 11, 2020, the Stanford University School of Medicine published a study that showed that teenagers and young adults who vape face a much higher risk of COVID-19 than their peers who do not vape. JUUL’s relentless profiteering from the marketing of its products to the urban youth of America has created a crisis of epic proportion that is much like the youth-oriented marketing of the major tobacco companies a few decades ago. Litigation will provide the County with its only avenue to redress the harms caused to the county in terms of diverted resources from its health care budgets and the ability to put in place a real educational and remedial program that will reverse the course of the vaping epidemic that has afflicted so many of the young residents of Harris County.

The intended contract is to file such claims and litigation as the County Attorney deems necessary against JUUL Labs, Inc., f/k/a PAX Labs, Inc., Pax Labs Inc., Altria Group, Inc., Altria Client Services, Altria Group Distribution Company, Nu Mark LLC, and Nu Mark Innovations, Ltd., any other manufacturers, distributors and marketers of e-cigarettes and vaping products, and their

corporate affiliates, parents, and subsidiaries and such other defendants as may be joined or added to the litigation (collectively “Defendants”) for the collection of actual damages and abatement costs, expenses, attorney fees, and incidental costs and damages that are due to the County resulting from the negligent or intentional public nuisance created by Defendants’ false marketing, products, nuisance, negligence and gross negligence, common law fraud, civil conspiracy and any other potentially applicable common law or statutory causes of action. The desired outcome is a judgment or settlement which would result in the collection of damages, costs, and expenses owed to Harris County.

(B) The competence, qualifications, and experience demonstrated by the attorney or law firm:

Special Counsel (identified by individual firm and attorney members below) bring a unique combination of expertise that makes them well-suited for this litigation. Among them, they have over 200 years of tort and mass tort litigation experience in State Courts, Federal Courts, and Arbitration Proceedings, including prosecuting and successfully concluding claims against Fortune 500 corporations for defectively designed, manufactured, and marketed products, public nuisance, toxic torts, and negligence. One member of the team is a former district court judge and Justice of the Texas Supreme Court. They have represented governmental entities and have specific experience representing Harris County. Finally, they have a proven track record for protecting persons, especially children, and governmental entities from harm that has been caused by others.

Reich & Binstock LLP is active in the Juul litigation nationally. It has extensive experience representing governmental entities in litigation across the country, including Harris County, other cities, and counties in Texas and across the United States, and the State of Connecticut. Robert J. Binstock, a partner at Reich & Binstock LLP, is an active member of the plaintiffs steering committee in the Judicial Council Coordinated Proceeding (JCCP) No. 5052, *JUUL Labs Products Cases*. Dennis C. Reich, also a partner at Reich & Binstock LLP, previously represented Harris County in *In re: BP Oil Spill Litigation*, and currently represents several injured persons in the JUUL JCCP. Additionally, Dennis C. Reich is a member of the plaintiffs steering committee in the Texas Opioid MDL and represents various political subdivisions in the Texas Prescription Opioid MDL. Reich has represented the State of Connecticut in a toxic tort action seeking abatement, and several cities in lead litigation. Richard Schechter of Richard Schechter, P.C., is active in the JUUL litigation, representing several individual plaintiffs. He also has extensive experience representing political subdivisions in litigation, including Harris County, in currently pending litigation against generic drug manufacturers for price-fixing and insulin manufacturers and pharmacy benefit managers for excessive insulin prices. Richard Schechter is also actively involved in the opioid litigation, representing various political subdivisions in suits against opioid manufacturers and distributors for damages stemming from the public nuisance caused by the flood of prescription opioid drugs into the market and serving as a member of the Plaintiff’s Steering Committee in the Texas multidistrict litigation and chair of the Damages Committee. J. Michael Solar of Law Office of J. Michael Solar, PLLC, in addition to practicing law for almost 40 years, is an Adjunct Professor of Trial Law at the University of Houston School of Law. Solar also has worked extensively in the areas of cancer and mental health, having served on the Board of Directors of both the M.D. Anderson Cancer Center and the Menninger Clinic. He also has a history of service devoted to protecting and improving the lives of children, including serving as

a Director of Teach for America and St. Agnes Academy here in Houston, as well as the Founding Chairman of the Archdiocese of Galveston-Houston's Charter Committee for the Protection of Children and Young People. Justice David M. Medina is a shareholder in Chamberlain, Hrdlicka, White, William & Aughtry, PC's (Chamberlain Hrdlicka's) commercial litigation section in the firm's Houston and San Antonio Offices. Justice Medina brings a unique skill set, having served as both a district judge in Harris County and as a Texas Supreme Court justice from November 2006 to December 31, 2012, as well as having been involved in complex personal injury and commercial litigation for over twenty years. Justice Medina possesses extensive knowledge and experience in advocating and adjudicating Texas causes of action in Texas and federal courts and has previously successfully represented Harris County before the Texas Supreme Court. Chamberlain Hrdlicka is a well-known national law firm with a significant focus on commercial litigation, both representing and opposing large corporations. More information on this litigation team is available at:

<https://www.reichandbinstock.com/About/>

<https://www.rs-law.com/our-firm/>;

<https://solarlaw.com/attorney-profile/j-michael-solar/>

https://www.chamberlainlaw.com/people-justice_david_medina.html#Profile

(C) The nature of any relationship, including the beginning of the relationship, between the political subdivision or governing body and the attorney or law firm selected:

The relationship between Harris County and Reich & Binstock LLP began approximately July 23, 2013 when Harris County selected Attorney Dennis C. Reich to handle the BP litigation under a separate contingency fee contract. Harris County's relationship with Richard Schechter, PC began as early as July 30, 2019 when Richard Schechter was selected to represent it in pharmaceutical litigation related to the price-fixing of generic prescription drug litigation and claims against the manufacturers of insulin and pharmacy benefit managers. Harris County's relationship with the Law Office of J. Michael Solar, PLLC began approximately July 17, 2020 when Richard Schechter's recommendation for Mr. Solar to participate as Special Counsel was favorably received by the County Attorney. Justice David Medina, with Chamberlain Hrdlicka, previously represented Harris County in an appeal before the Texas Supreme Court and offered his services to Harris County in connection with this matter on May 28, 2020.

(D) The reasons the legal services cannot be adequately performed by the attorneys and supporting personnel of the political subdivision:

The services are specialized and require significant knowledge and expertise in the area of defectively designed, manufactured, and marketed products, multi-district litigation, and public nuisance law. Further, the litigation in this case is multi-district and taking place in both California state and federal courts.

(E) The reasons the legal services cannot be reasonably obtained from attorneys in private practice under a contract providing for the payment of hourly fees without contingency:

Because of the voluminous paperwork, briefing, discovery and numerous legal issues, an hourly fee for such work would likely exceed the amount of fees collected on a contingency basis. Further, the legal services cannot reasonably be obtained by attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained and because Harris County does not have appropriated funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

(F) The reasons entering into a contingent fee contract for legal services is in the best interest of the residents of the political subdivision:

The outcome of this matter weighs as much on Special Counsel as it does on the Client this way. Special Counsel will be paid the amount of the percentage-based contingency fee, regardless of the number of hours Special Counsel spends conducting research, discovery, motion practice and litigating through trial of the matter. This contract will allow the County to recover damages, abatement costs and expenses, and court costs that are legally due to the County without the capital outlay required to secure this caliber of Special Counsel. The percentage-based contingency fee and all cost of litigation is a burden shouldered by Special Counsel and the County will not be burdened with any attorney fees and or any expenses related to this case.