

Update on Litigation Contracts from the Legal Affairs Committee

(from June 1, 2021 Committee Meeting)

The drafting of post-map litigation contracts for outside counsel representation is ongoing. Specifically, there are two potential contracts the Legal Affairs Committee is finalizing. One contract is for Strumwasser & Woocher and the other is for Gibson, Dunn & Crutcher. Neither firm is designated as “primary” litigation counsel for post-map litigation. The Committee recommends that with the assistance of Chief Counsel management, individual cases will be assigned based on capacity of the firm and familiarity with the related issues to achieve efficiency in case assignment. The need for flexibility to ensure efficiency was an important consideration for not designating one firm as primary. Additionally, the firm rates for Gibson & Dunn are considerably higher than that of Strumwasser & Woocher, so flexibility, with an eye toward wisely utilizing tax-payer dollars as efficiently as possible is a further important need for continued assignment flexibility.

Also of note, the contracts require each firm to work as “co-counsel” cooperatively if needed, in order to avoid duplicative work where possible.

Gibson & Dunn’s fee structure is also ongoing. The firm originally proposed rates as high as \$1625/hour and has recently offered to lower that rate to \$915/hour (except for Ted Boutrous) with a \$250,000 success premium. Further negotiations are ongoing.

The Committee expects to have final recommendations for contract approval to the full Commission by June 16th.