

IN THE CIRCUIT COURT OF THE 20TH
JUDICIAL CIRCUIT, IN AND FOR
COLLIER COUNTY, FLORIDA

CASE NO. 2015-CA-0595

DWIGHT E. BROCK, as Clerk of the
Circuit Court of Collier County, Florida,

Plaintiff,

v.

LEO E. OCHS, JR., as Manager /
Administrator of COLLIER COUNTY, a
Political Subdivision of the State of
Florida and JOANNE MARKIEWICZ, as
Purchasing & General Services Division
Director of COLLIER COUNTY, a
Political Subdivision of the State of
Florida, and as an agent of Manager /
Administrator of COLLIER COUNTY,
LEO E. OCHS, JR.,

Defendants.

AGREED ORDER

THIS CAUSE came before the Court for hearing on **July 16, 2015, at 1:30 p.m.** and the Court being advised that the parties agree to the entry of this Order, and being otherwise fully advised in the premises, it is hereby:

ORDERED AND ADJUDGED

1. As to the currently outstanding invoices and reimbursement requests, the Clerk shall provide the County Manager with a report (a list) of outstanding invoices for which the pre-audit is complete and for which the Clerk's only objection is a lack of specific Board approval of the contract or purchase. This requirement shall apply to purchases and contracts entered into by the County Manager, the Procurement Services Director, or their agents. The County Manager will place this

report on an agenda for a special commission meeting to be held as soon as practicable for the Board of County Commissioner to make a finding with respect to valid public purpose and approve the expenditures. Following approval at this special meeting, the Clerk will release payment to all the vendors with outstanding invoices or reimbursement requests set forth on the report within three (3) business days.

2. For the remaining pendency of this lawsuit, the parties shall perform the pre-audit and payment functions as follows:

- a. Invoice is received by either County or the Clerk.
- b. The Clerk performs his pre-audit process.
- c. The Clerk places all approved pre-audited expenditures (for which the Clerk's only objection is lack of specific Board approval and Board finding of public purpose) on a report to the Board of County Commissioners. Expenditures that are not approved by the Clerk for any other reason will be resubmitted to the appropriate department through the SAP system (as is the current practice).
- d. The Board approves expenditures and finds a valid public purpose (except during the summer recess when, pursuant to Resolution 2000-149, County Code Section 2-210 and past practice of the parties, the County Manager will make that initial finding of valid public purpose and approval of expenditures, subject to ratification by the Board at the first meeting after the recess).
- e. The Clerk releases payment to the vendor.
- f. For purchases or contracts under \$50,000, the Clerk shall not consider the lack of Board of Commission approval of the purchase or contract in the pre-audit and shall make payment so long as the purchase or contract was approved by the County Manager or his staff pursuant to the County's Purchasing Ordinance, subject to and after the Board's approval in accordance with 2(d) above.

3. The parties will meet and confer about the limited discovery required for a final trial on the merits and present the Court with an agreed-upon case management plan. In the event the parties cannot agree on the case management plan, they will discuss their disagreements and present them to the Court.

4. Nothing in this Order prejudices the ability of either party to make whatever arguments they care to at the final trial before the Court or otherwise. Moreover, the parties recognize that they have disagreements about various issues, and that neither party is waiving any of their respective positions or rights by entering into, and performing in accordance with, this Order, nor are they setting any precedents thereby.

DONE AND ORDERED in Collier County, Florida this ___ day of July, 2015.

The original of this document was signed
HONORABLE JAMES R. SHENKO
Circuit Judge

JUL 16 2015

by: JAMES R. SHENKO
CIRCUIT COURT JUDGE

Copies furnished to:

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