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## SOUNDLY SETTLED

### Healthful tobacco deal a job well done in Harris County

Thanks to the good work of County Attorney Mike Fleming and powerhouse lawyer Richard Mithoff, Harris County and other Texas counties will receive \$2.275 billion over and above the state's \$15.3 billion settlement with the tobacco industry agreed to in January. At least one lawmaker had promised to "try" to eke out \$400 million of that sum for counties. This agreement represents a fairer, more solid allocation than that one, which also barred counties from further claims against tobacco companies. Under the new agreement, Harris and the other Texas counties will receive funding that offers real help in dealing with smoking-related illnesses in public hospital and clinic facilities.

Of the nearly \$2.3 billion spelled out in the agreement, \$450 million would be paid out over the next three years, with Harris County receiving about \$80 million. About \$1.8 billion is to be used to create a health-care endowment. The interest will be divided among the 254 counties beginning in 2000, with approximately 20 percent flowing to Harris County.

Harris County officials were right to challenge the \$15.3 billion tobacco settlement that Attorney General Dan Morales had worked out for the state. That pact specified that although certain Texas health-care programs would receive \$1.2 billion in first-year tobacco payments, not one cent would go for direct payments to hospital districts, which provide the bulk of care for indigent patients suffering tobacco-related illnesses.

Mithoff, who performed preliminary work on the settlement renegotiation at no fee, first

stood to gain \$27 million for his three month's work on the case. That caused some consternation, but he and Commissioners Court on Friday agreed to a more reasonable fee of \$20 million, \$10 million of which Mithoff has agreed to donate to the county to fund children's health care. The fee commissioners settled on takes into account Mithoff's good work and his support staff expenses, and Mithoff's charitable gesture is deserving of the highest accolades.

Taking a cue from the public outcry Morales endured for agreeing to a \$2.3 billion contingency fee for private attorneys who worked on the state's tobacco settlement, Harris County Judge Robert Eckels might have worked out a more reasonable fee for Mithoff at the outset, avoiding altogether the taint of unreasonable fees on an otherwise seemingly brilliant county settlement.

In a positive development for the citizens of Texas, Morales now has signed the final documents on the total \$17.3 billion lawsuit agreement with the tobacco industry (believed to be the largest settlement agreement in litigation history), which was quickly approved by U.S. District Judge David Folsom in Texarkana. That means that the issue of the disputed legal fees for private attorneys on the state lawsuit will be considered later as a separate issue by an arbitration panel, which is as it should be.

As good as this news is, there remains work ahead. When the Legislature convenes in January, and as county officials begin allocating this new money, Texans will have to watch to ensure it is put to wisest use.