

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SAN BERNARDINO  
AND RECORD OF ACTION**

**May 18, 2021**

**FROM**

**MICHELLE D. BLAKEMORE, County Counsel**

**SUBJECT**

Consent to Representation and Waiver of Potential Conflict of Interest

**RECOMMENDATION(S)**

1. Approve a consent to representation and waiver of potential conflict of interest arising out of the representation of United Healthcare by Loeb & Loeb LLP with respect to a matter involving Arrowhead Regional Medical Center.
  2. Authorize the County Counsel or Chief Assistant County Counsel to execute the consent to representation and waiver of potential conflict of interest agenda.
- (Presenter: Michelle D. Blakemore, County Counsel, 387-5455)

**COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES**

**Operate in a Fiscally-Responsible and Business-Like Manner.**

**Pursue County Goals and Objectives by Working with Other Agencies.**

**FINANCIAL IMPACT**

Approval of the consent to representation and waiver of potential conflict of interest ("Consent and Waiver") item will not impact County discretionary funding.

**BACKGROUND INFORMATION**

The County of San Bernardino ("County") intends to utilize the services of Loeb & Loeb LLP ("Loeb & Loeb") as special counsel to defend the County in the case of *Dariotis Group Restaurants, et al v. County of San Bernardino*, pending in the San Bernardino Superior Court. County Counsel has been advised that Loeb & Loeb represents United Healthcare in an unrelated matter involving Arrowhead Regional Medical Center, wherein it is alleged that United Healthcare underpaid the County for certain healthcare services. County Counsel has also been advised that all proposed Loeb & Loeb attorneys and support staff who will work on the *Dariotis Group Restaurants* matter will be "walled off" from the United Healthcare matter and all normal related protocols will be followed so that files for one matter are not accessible to billers working on the other matter.

Under the Rules of Professional Conduct of the State Bar of California (Rule 1.7 and Rule 1.10, which govern conflicts of interest for non-governmental attorneys), Loeb & Loeb is required to obtain the informed written consent of County before it can represent the County in connection with the *Dariotis Group Restaurants* lawsuit. Loeb & Loeb represents that it will not share any of County's confidential information with United Healthcare and in this regard, will implement all appropriate ethical walls and screens in accordance with Attorneys' standard practices and procedures. If the County executes the waiver and consent, it would be acknowledging that

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Loeb & Loeb represents United Healthcare and that in retaining Loeb & Loeb to represent the County in the unrelated *Dariotis Group Restaurants* matter, the County would be waiving its right to seek to disqualify Loeb & Loeb from its representation of United Healthcare.

Counsel has reviewed the consent to representation and waiver of conflict of interest and believes there would be minimal risk to the County's interests arising from the conflict of interest regarding Loeb & Loeb's representation of United Healthcare in the dispute with Arrowhead Regional Medical Center and it would be appropriate for the Board to approve the waiver document.

**PROCUREMENT**

Not applicable.

**REVIEW BY OTHERS**

This item has been reviewed by County Counsel (Robert F. Messinger, Chief Assistant County Counsel, 387-5455) on May 14, 2021; Finance (Carl Lofton, Administrative Analyst, 387-5404) on May 14, 2021; and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on May 14, 2021.

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Record of Action of the Board of Supervisors  
County of San Bernardino

**APPROVED (CONSENT CALENDAR)**

Moved: Joe Baca, Jr. Seconded: Janice Rutherford  
Ayes: Col. Paul Cook (Ret.), Janice Rutherford, Dawn Rowe, Curt Hagman, Joe Baca, Jr.

Lynna Monell, CLERK OF THE BOARD

BY   
DATED: May 18, 2021



cc: File- County Counsel  
LA 05/25/2021