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ORDINANCE NO.

**An ordinance of San Bernardino County, State of California,
to amend Sections 12.1907 and 12.3405 of the San
Bernardino County Code, relating to the Authority of the
County Counsel and the Risk Manager.**

The Board of Supervisors of the County of San Bernardino, State of California,
ordains as follows:

SECTION 1. Section 12.1907 of the San Bernardino County Code is amended, to
read:

12.1907 Authority of County Counsel Regarding Certain Actions.

(a) ~~Pursuant to County Code § 11.0306, the Board of Supervisors hereby
delegates to The County Counsel the authority to compromise or settle any
threatened or pending or his or her designee, with consent from the County
department or other Board governed entity involved, is authorized to consent to the
filing of a lawsuit, cross-complaint, lien, or other legal action against the County on
behalf of San Bernardino, or County or other Board governed entity to seek
compensation for damage to property or personal injury to a County or other Board
governed entity employee occasioned in the course and scope of the individual's
employment.~~

(b) ~~The County Counsel or his or her designee is authorized to allow, deny,
compromise or settle any claim or lawsuit that is presented or filed against San Bernardino
County or other Board governed entity,~~ its officers or employees provided:

(1) The amount to be paid pursuant to such allowance, compromise or
settlement does not exceed \$50,000.~~00~~; provided further, that if the matter is ~~subject to~~in
litigation, whether in a court of law or administrative proceeding, the allowance,
compromise or settlement is with the concurrence of any County Department or ~~Special~~
~~District~~other Board governed entity involved in the action and with the concurrence of any

outside counsel retained to represent ~~the County of~~ San Bernardino County, or other Board governed entity, its officers or employees. ~~If the amount to be paid exceeds \$50,000.00, the compromise or settlement must be approved by the Board of Supervisors.~~

(2) The ~~action~~claim or lawsuit is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise or settle ~~the action~~claims or actions within the scope of such policy.

(3) The action is not one which the Risk Management Department is actively handling pursuant to County Code ~~§ 12.3405~~section 12.3405; and

(4) The action does not involve an ~~employee~~employee's or former employee's claim that alleges, solely, entitlement to back-pay.

(c) The County Counsel or his or her designee is authorized to settle any claim or lawsuit that is presented or filed by San Bernardino County or other Board governed entity against any person or entity provided the settlement is no more than \$50,000 less than what is owed to the County or other Board governed entity; provided further, that if the matter is in litigation, whether in a court of law or administrative proceeding, the compromise or settlement is with the concurrence of any County department or other Board governed entity involved in the action.

~~(d)(b)~~ In all actions or lawsuits that are allowed, compromised or settled, the Auditor-Controller shall, upon written order of the County Counsel or his or her~~his or her~~ designee, and in accordance with the terms of such allowance, compromise or settlement, cause the necessary warrant to be issued upon the Treasury of ~~the County of~~ San Bernardino County or other Board governed entity in ~~the an~~ amount for which such claim, lawsuit or Workers' Compensation claim or action has been allowed, compromised or settled pursuant to this Section.

SECTION 2. Section 12.3405 of the San Bernardino County Code is amended, to read:

1 **12.3405 Authority of the Risk Manager.**

2 (a) The Risk Manager shall have the power to shut down any County or other
3 Board governed entity operation or facility which represents an imminent hazard to
4 County or other Board governed entity employees or to the public.

5 (b) The Risk Manager or his or her designee, with consent from the County
6 Counsel, is authorized to consent to the filing of a lawsuit, cross-complaint, lien, or other
7 legal action on behalf of San Bernardino County or other Board governed entity to seek
8 compensation for damage to property or personal injury to a County or other Board
9 governed entity employee occasioned in the course and scope of the individual's
10 employment.

11 (c) The Risk Manager or his or her~~their~~ designee is authorized to allow, deny,
12 compromise or settle any tort liability claim or ~~action~~lawsuit that is presented or filed
13 against ~~the County of~~ San Bernardino County or other Board governed entity, its officers
14 or employees provided ~~that as to payment:~~

15 (1) The amount to be paid pursuant to such allowance, compromise or
16 settlement does not exceed \$50,000.~~00~~; provided further, that if the matter is in litigation,
17 whether in a court of law or administrative proceeding, the allowance, compromise or
18 settlement is with the concurrence of the County Counsel ~~or other attorney retained by~~
19 ~~the County of San Bernardino. If the amount to be paid exceeds \$50,000.00, the~~
20 ~~allowance, compromise or settlement must be approved by the Board of Supervisors;;~~
21 and

22 (2) The claim or ~~action~~lawsuit is not subject to the terms of an insurance
23 policy wherein the insurer is granted the authority to allow, deny, compromise or settle
24 claims or actions within the scope of such policy.

25 (d)~~(e)~~ The Risk Manager or ~~his or her~~his or her~~their~~ designee is authorized to
26 settle any tort liability claim or lawsuit that is presented or filed by San Bernardino County
27 or other Board governed entity against any person or entity provided the settlement is no
28 more than \$50,000 less than what is owed to the County or other Board governed entity;

provided further, that if the matter is in litigation, whether in a court of law or administrative proceeding, the compromise or settlement is with the concurrence of the County Counsel.

(e) The Risk Manager or his or her designee is authorized to negotiate and settle any claim, lawsuit, lien, or other legal action that seeks to recover money paid by San Bernardino County or other Board governed entity for workers' compensation benefits provided:

(1) The County Counsel consents to the settlement terms; and

(2) Except when approved by the County Counsel, Chief Executive Officer, and Chair of the Board of Supervisors, if the matter involves a claim or lawsuit filed or presented against a third party by the employee who received workers' compensation benefits, the County or other Board governed entity shall not receive more than the lesser of: (i) Fifty percent of the total amount to be paid to the employee by the third party in the settlement or judgment; or (ii) An amount equal to fifty percent of the total amount of workers' compensation benefits the County paid the employee.

(f) ~~The Risk Manager or his or her~~~~their~~ designee is authorized to allow, deny, compromise or settle a Workers' Compensation claim or ~~case~~lawsuit that is filed against ~~the County of~~ San Bernardino County or other Board governed entity provided:

(1) The claim or ~~action~~lawsuit is for benefits as defined under the Workers' Compensation Laws of the State of California;

(2) The claim or ~~action~~lawsuit is not subject to the terms of an insurance policy wherein the insurer is granted the authority to allow, deny, compromise or settle claims or actions within the scope of such policy;

(3) That any such compromise or settlement is approved by the Workers' Compensation Appeals Board (WCAB); and

(4) Except as hereinafter provided, the amount to be paid pursuant to such compromise or settlement does not exceed \$50,000.~~00~~; provided further, that if the matter is in litigation, whether in a court of law or administrative proceeding, the compromise or settlement is with the concurrence of County Counsel or the attorney

1 retained to represent ~~the County of San Bernardino~~. County or other Board governed
2 entity. If the amount to be paid exceeds \$50,000.~~00~~, the compromise or settlement must
3 be approved by the Board of Supervisors, unless the amount of compromise or settlement
4 is to meet State-mandated payments or benefits under the Workers' Compensation Laws
5 of the State of California such as WCAB-approved lump sum payments for permanent
6 disability, life pension, burial expense and/or death benefits or unless the ~~Workers'~~
7 ~~Compensation Appeals Board~~ WCAB enters an award or other judgment or order.

8 ~~(g)(d)~~ In all claims or ~~actions~~ lawsuits that are allowed, compromised or settled, the
9 Auditor-Controller shall, upon written order of the Risk Manager or his or her designee,
10 and in accordance with the terms of such allowance, compromise or settlement, cause
11 the necessary warrant to be issued upon the Treasury of ~~the County of San Bernardino~~
12 County or other Board governed entity in an amount for which such tort liability or
13 Workers' Compensation claim or action has been allowed, compromised or settled
14 pursuant to this Section.

15
16 SECTION 3. The Board of Supervisors declares that it would have adopted this
17 ordinance and each section, sentence, clause, phrase, or portion of it irrespective of the
18 fact that any one or more sections, subsections, clauses, phrases or portions of it be
19 declared invalid or unconstitutional. If for any reason any portion of this ordinance is
20 declared invalid or unconstitutional, then all other provisions of it shall remain valid and
21 enforceable.

22
23 SECTION 4. This ordinance shall take effect thirty (30) days from the date of
24 adoption.

25
26 _____
DAWN ROWE, Chair
Board of Supervisors
27
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1 SIGNED AND CERTIFIED THAT A COPY
2 OF THIS DOCUMENT HAS BEEN DELIVERED
3 TO THE CHAIR OF THE BOARD

4 LYNNA MONELL, Clerk of the
5 Board of Supervisors

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1 STATE OF CALIFORNIA)
2) ss.
3 SAN BERNARDINO COUNTY)

4 I, LYNNA MONELL, Clerk of the Board of Supervisors of San Bernardino County,
5 State of California, hereby certify that at a regular meeting of the Board of Supervisors of
6 said County and State, held on the _____ day of _____, 20__, at which meeting
7 were present Supervisors: _____

8 and the Clerk, the foregoing ordinance was passed and adopted by the following vote, to
9 wit:

10 AYES: SUPERVISORS:

11 NOES: SUPERVISORS:

12 ABSENT: SUPERVISORS:

13 IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal
14 of the Board of Supervisors this ____ day of _____, 20__.

15 LYNNA MONELL, Clerk of the
16 Board of Supervisors of
17 San Bernardino County,
18 State of California

19 _____
20 Deputy

21 Approved as to Form:

22 TOM BUNTON
23 County Counsel

24 By: _____
25 JOLENA E. GRIDER
26 Deputy County Counsel

27 Date: _____
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