

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

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

February 9, 2021

FROM

MICHELLE D. BLAKEMORE, County Counsel

SUBJECT

Waiver of Conflict of Interest with Reed Smith LLP, a law firm

RECOMMENDATION(S)

1. Acting as the governing body of the County of San Bernardino:
 - a. Approve Waiver of Conflict of Interest that approves the waiver of an actual conflict of interest arising out of Reed Smith LLP's proposed representation of the County of San Bernardino in pursuit of the recovery of insurance coverage and Reed Smith LLP's representation of a party adverse to the County of San Bernardino.
 - b. Authorize the County Counsel or Chief Assistant County Counsel to execute the Waiver of Conflict of Interest.
2. Acting as the governing body of the San Bernardino County Flood Control District:
 - a. Approve Waiver of Conflict of Interest that approves the waiver of an actual conflict of interest arising out of Reed Smith LLP's proposed representation of the San Bernardino County Flood Control District in pursuit of the recovery of insurance coverage and Reed Smith LLP's representation of a party adverse to the San Bernardino County Flood Control District.
 - b. Authorize the County Counsel or Chief Assistant County Counsel to execute the Waiver of Conflict of Interest.

(Presenter: Michelle D. Blakemore, County Counsel, 387-5455)

COUNTY AND CHIEF EXECUTIVE OFFICER GOALS & OBJECTIVES

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

FINANCIAL IMPACT

This item will not result in the use of additional Discretionary General Funding (Net County Cost). The costs for the legal services provided by Reed Smith LLP are included in the Office of County Counsel 2020-21 budget.

BACKGROUND INFORMATION

In 2020, multiple settlement agreements were reached on behalf of San Bernardino County, the San Bernardino County Flood Control District, and various employees and elected officials.

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February 9, 2021**

Insurance carriers familiar with the underlying cases have indicated they will not provide coverage for these settlements and associated defense costs.

Retaining outside counsel that specializes in insurance coverage advice and litigation is essential to assisting the County and Flood Control District with the process of ensuring the proper recovery from the insurers under the applicable insurance policies. The Office of County Counsel intends to contract with Reed Smith LLP, a law firm that has the specialized skills, knowledge, experience and expertise in the area of insurance coverage litigation needed to effectively assist, advise, litigate and otherwise represent the County and Flood Control District in their recovery efforts.

In considering this representation of the County and Flood Control District, Reed Smith LLP has identified a conflict of interest from its representation of Blue Cross of California dba Anthem Blue Cross and Anthem Blue Cross Life and Health Insurance Company (Blue Shield) in connection with an action filed by the County entitled *County of San Bernardino dba Arrowhead Regional Medical Center v. Blue Cross of California dba Anthem Blue Cross, et al.* Case No. CIVDS1723565. This Blue Shield action involves various alleged underpayments for certain medical services at the County-owned hospital. The legal issues in the Blue Shield matter are unrelated to the legal services to be provided to the County regarding the insurance recovery services discussed above. No client information received or expected to be received by Reed Smith LLP in the course of its representation of the County in this insurance recovery matter is material to its representation of a party that is adverse to the County in the Blue Shield matter. Furthermore, in conformance with the Professional Rules of Responsibility that govern an attorney's representation of clients, appropriate ethical screens have been instituted by Reed Smith LLP to ensure that no confidential information pertaining to the County will be shared with Blue Cross or the attorneys acting to represent Blue Cross. Additionally, Reed Smith LLP's attorneys and staff working on the Blue Shield matter will not perform any work, discuss or have access to documents or information related to the County's insurance recovery matter. Similarly, Reed Smith LLP's attorneys and staff working on this matter will not perform any work, discuss or have access to documents or information related to the Blue Shield matter.

County Counsel has reviewed the Waiver of Conflict of Interest and believes that as a result of the ethical walls in place, Reed Smith LLP will minimize the risk of prejudice to the County in its representation of the County in this matter.

PROCUREMENT

Not applicable.

REVIEW BY OTHERS

This item has been reviewed by County Counsel (Laura L. Crane, Supervising Deputy County Counsel on January 29, 2021; Finance (Carl Lofton, Administrative Analyst, 387-5404) on February 1, 2021 and County Finance and Administration (Robert Saldana, Deputy Executive Officer, 387-5423) on February 1, 2021.


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Record of Action of the Board of Supervisors
County of San Bernardino
San Bernardino County Flood Control District

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: February 9, 2021



cc: File- County Counsel
LA 02/12/2021