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**COUNTY OF SAN MATEO  
INTERDEPARTMENTAL CORRESPONDENCE  
CONFIDENTIAL-ATTORNEY CLIENT COMMUNICATION**

**To:** Honorable Board of Supervisors  
**From:** County Counsel  
**Subject:** Hiring of Coverage Counsel  
**Date:** March 14, 2001

**RECOMMENDATION: Adopt a Resolution Authorizing Execution of an Agreement with the Law Firm of Meredith, Weinstein & Numbers.**

**BACKGROUND:**

The County purchases insurance to cover liability losses in excess of its self-insurance, that is, above \$250,000. Insurance Company of the West no longer is a carrier for the County, but their previous coverage requires the provision of insurance and defense for all covered matters which occurred during the coverage period. Because coverage issues are a very specialized area of the law, I believe that it is advisable to hire coverage counsel to assist the County Counsel if the insurer refuses to provide insurance coverage.

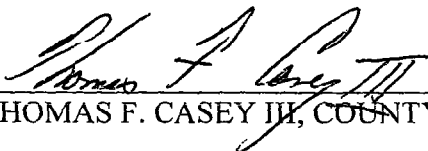
**DISCUSSION:**

Coverage issues have arisen in two cases currently in litigation, Speed v. Kelley and Franklin v. Terr. In both, ICW has refused coverage and defense for events occurring during their coverage period. Because coverage issues are a very specialized area of the law, I believe that it is advisable to hire coverage counsel to assist the County Counsel regarding the insurer's refusal to provide insurance coverage.

In the past, we have utilized the services of Barry Weinstein, of Meredith, Weinstein & Numbers, to represent and advise the County in any coverage dispute. Mr. Weinstein specializes in representing public agencies in insurance disputes and is very familiar with County insurance policies. The retention of Mr. Weinstein is necessary in that the issues regarding the insurance coverage are complex and difficult, and ICW has taken a militant stand against defending and indemnifying virtually all of the liability of the County. Were ICW not to offer coverage for the County's vicarious liability, the County alone would be responsible for any verdict in these matters. We therefore present a resolution and contract with Mr. Weinstein's firm to the Board for its approval.

**FISCAL IMPACT:**

The contract provides for payment on an hourly basis, with a maximum payment under this contract of \$100,000. The amount actually expended will depend on the position ICW maintains, and will be paid from the Risk Management Trust Fund.

  
THOMAS F. CASEY III, COUNTY COUNSEL

Enclosures

cc: County Manager  
Director of Employee & Public Services

RESOLUTION NO \_\_\_\_\_

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**RESOLUTION AUTHORIZING EXECUTION OF AN AGREEMENT  
WITH THE LAW FIRM OF MEREDITH, WEINSTEIN & NUMBERS**

**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

**WHEREAS**, County Counsel has presented for the Board of Supervisors' consideration and acceptance, an agreement, reference to which is hereby made for further particulars, whereby the law firm of MEREDITH, WEINSTEIN & NUMBERS shall perform legal services and legal representation on behalf of the County of San Mateo in the cases of *Speed v. Kelley, et al.*, No C00 0114 CW and *Franklin v. Terr, et. al.*, No. C97-02443; and in any actions or proceedings brought to enforce the rights of the County of San Mateo under those certain policies of insurance provided by Insurance Company of the West to the County from 1993 to 2000,

**WHEREAS**, this Board has examined and approved the Agreement as to both form and content and desires to enter into same

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that the County Counsel be, and he is hereby, authorized and directed to execute said agreement for and on behalf of the County of San Mateo

\* \* \* \* \*

**AGREEMENT BETWEEN COUNTY OF SAN MATEO  
AND THE LAW FIRM OF  
MEREDITH, WEINSTEIN & NUMBERS**

THIS AGREEMENT, is entered into on \_\_\_\_\_, 2001, by and between the COUNTY OF SAN MATEO (hereinafter referred to as "COUNTY"), and the law firm of MEREDITH, WEINSTEIN & NUMBERS (hereinafter referred to as 'CONTRACTOR").

**W I T N E S S E T H**

**WHEREAS**, COUNTY desires to retain CONTRACTOR to assist in the representation of the COUNTY and its officers and employees in the cases of *Speed v. Kelley, et al.*, No. C00 0114 CW and *Franklin v. Terr, et. al.* No. C97-02443; and in any actions or proceedings on behalf of the County to enforce its rights under those certain policies of insurance provided by Insurance Company of the West to the County from 1993 to 2000; and

**WHEREAS**, CONTRACTOR has both the qualified personnel and expertise to provide such legal services as are necessary and it is ready, willing and able to now provide such services upon request of County Counsel:

**NOW, THEREFORE**, in consideration of the mutual covenants, terms and conditions as hereinafter set forth, the parties agree as follows:

1. CONTRACTOR shall perform legal services and legal representation on behalf of the County of San Mateo and its officers and employees in the cases of *Speed v. Kelley, et al.*, No. C00 0114 CW and *Franklin v. Terr, et. al.* No. C97-02443; and in any actions or proceedings on behalf of the County to enforce its rights under those certain policies of insurance provided by Insurance Company of the West to the County from 1993 to 2000.

2. CONTRACTOR shall assign Baron Weinstein and such other members of its staff who are qualified and competent to provide such legal services and legal representation, subject to approval by the County Counsel's Office.

3. In consideration for the providing of such legal services as herein described, COUNTY shall pay CONTRACTOR at the following hourly rates:

|                  |           |
|------------------|-----------|
| Partners         | \$295-350 |
| Legal Assistants | \$95      |

CONTRACTOR shall also be entitled to reimbursement for reasonably incurred costs.

However, COUNTY's total obligation under this agreement shall not exceed \$100,000 unless expressly agreed to in writing between CONTRACTOR and COUNTY.

4. In performing the legal services herein agreed upon, CONTRACTOR shall have the status of independent contractor and shall not be deemed to be an officer, employee or agent of the COUNTY.

5. CONTRACTOR shall not assign any of its rights or obligations herein contracted for without the consent of the COUNTY first having been obtained.

6. CONTRACTOR shall at all times keep a complete and thorough record of the services and time expended by CONTRACTOR and CONTRACTOR shall also make available to COUNTY for inspection purposes all of such records so maintained. COUNTY will pay upon billing by CONTRACTOR based upon time and service previously rendered.

7. CONTRACTOR shall keep in full force and effect during the term of this Agreement an errors and omissions insurance policy in the minimum of ONE MILLION DOLLARS (\$1,000,000.00).

8. In performing services under this Agreement, CONTRACTOR shall comply with all procedures established by the County Counsel s Office.

9. This Agreement may be terminated by either party upon the giving of thirty (30) days written notice prior to the effective date of such termination.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

OFFICE OF THE SAN MATEO COUNTY COUNSEL

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THOMAS F. CASEY III, COUNTY COUNSEL

MEREDITH, WEINSTEIN & NUMBERS

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BARON WEINSTEIN, PARTNER