



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

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August 17, 1999

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, California 95060

**RE: EDWARD OREB, CONTINENTAL CASUALTY INSURANCE
COMPANY v County of Santa Cruz, Case No. CV 134016**

Dear Members of the Board:

This is to submit for the Boards approval a proposed settlement in the above-entitled matter. The amount and terms of the settlement are within settlement authority previously granted by the Board, and have been accepted by the claimants as settlement in full of this matter.

IT IS RECOMMENDED that the Board approve the settlement in the total amount of \$75,000 to Edward Oreb and Continental Casualty Insurance Company and authorize the County Auditor-Controller to issue a check totaling that amount as directed by County Counsel.

Very truly yours,
DWIGHTL. HERR, COUNTY COUNSEL

By *Harry A. Oberhelman III*
Harry A. Oberhelman III
Assistant County Counsel

RECOMMENDED:

Susan A. Mauriello
SUSAN A. MAURIELLO
County Administrative Officer

cc: Public Works

RELEASE OF ALL CLAIMSCOUNTY OF SANTA CRUZ & DENNIS SMITH

EDWARD OREB AND CONTINENTAL CASUALTY INSURANCE COMPANY, on behalf of itself and on behalf of its insured, Las Animas Concrete Company, have agreed to settle all claims which they have against the COUNTY OF SANTA CRUZ arising out of a solo vehicle accident which took place on April 4, 1997, near the intersection of Spreckles Drive and **Seacliff** Avenue, County of Santa Cruz, and as alleged in that certain action entitled **Edward Oreb v County of Santa Cruz; CONTINENTAL CASUALTY INSURANCE COMPANY v County of Santa Cruz**, Santa Cruz County Superior Court No. CV 134016.

1. RELEASE

In consideration of the payment of the total sum of \$75,000.00 by the COUNTY OF SANTA CRUZ to EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY, EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY, on behalf of itself and on behalf of its insured, Las Animas Concrete Company, hereby release the COUNTY OF SANTA CRUZ, and its officials, employees and agents, from all claims and causes of action, injuries and damages arising out of that certain solo vehicle accident near the intersection of Spreckles Drive and **Seacliff** Avenue on April 4, 1997.

2. BINDING EFFECT

This release binds EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY, on behalf of itself and on behalf of its insured, Las Animas Concrete Company, and their respective heirs, assigns, executors, administrators, successors in interest, trustors, beneficiaries, attorneys and insurers.

3. WAIVER

EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY acknowledge that there is a risk that subsequent to the execution of this release, EDWARD OREB and/or CONTINENTAL CASUALTY INSURANCE COMPANY may incur, suffer or sustain injury or damage which in some way is caused by or connected with the aforementioned events which occurred on or about April 4, 1997, but which is unknown and unanticipated at the time of execution of this release. Nevertheless EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY hereby acknowledge that this release is executed in light of this risk of subsequent injury or damage and expressly waive any rights against the COUNTY OF SANTA CRUZ, its officials, employees and agents, that may exist for such unsuspected injury or damage. In doing so, EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY understand and knowingly and specifically waive their rights under California Civil Code section 1542 which provides as follows: "A general release does not extend to the claims which a creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

4. DISPUTED LIABILITY.

This release pertains to disputed claims and does not constitute an admission of liability for the solo vehicle accident on April 4, 1997, on the part of the COUNTY OF SANTA CRUZ, or its officials, employees or agents.

5. GOVERNING LAW

This release shall be interpreted in accordance with and governed in all respects by California law.

6. COVENANT NOT TO SUE

EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY, on behalf of itself and on behalf of its insured, Las Animas Concrete Company, covenant and agree never to commence, aid in any way, or in any manner prosecute against the COUNTY OF SANTA CRUZ, or its officials, employees or agents, any legal action or other proceeding based in whole or in part upon the claims, demands, causes of action, obligations, damages or liabilities released by this release, or arising out of or related to the aforementioned events on April 4, 1997.

7. SETTLEMENT PROCEDURE.

COUNTY OF SANTA CRUZ and EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY shall mutually tender and exchange a check/draft in the amount of \$75,000.00 and a properly executed dismissal with prejudice, with each party bearing their own legal costs and attorney's fees, of that legal action entitled **Edward Oreb v County of Santa Cruz; CONTINENTAL CASUALTY INSURANCE COMPANY v County of Santa Cruz**, Santa Cruz County Superior Court No. CV 134016.

8. ENTIRE RELEASE.

This release constitutes the complete settlement terms between EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY, and the COUNTY OF SANTA CRUZ and supersedes any and all prior contemporaneous oral and written agreements and discussions.

EDWARD OREB and CONTINENTAL CASUALTY INSURANCE COMPANY hereby respectively acknowledge that they have the sole right and exclusive authority to execute this Agreement and that they have read the foregoing release consisting of two pages including this page and fully understands it.

Dated: _____

EDWARD OREB

Dated: _____

CONTINENTAL CASUALTY
INSURANCE COMPANY