



# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

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### GOVERNMENT TORT CLAIM

#### RECOMMENDED ACTION

Agenda January 23, 2001

To: Board of Supervisors

Re: Claim of Lieff, Cabraser, Heimann & Bernstein, LLP, No. 001-070

Original document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

- 1. Reject the claim of Lieff, Cabraser, Heimann & Bernstein, LLP, No. 001-070 and refer to County Counsel.
- 2. Deny the application to file a late claim on behalf of \_\_\_\_\_ and refer to County Counsel.
- 3. Grant the application to file a late claim on behalf of \_\_\_\_\_ and refer to County Counsel.
- 4. Approve the claim of \_\_\_\_\_ in the amount of \_\_\_\_\_ and reject the balance, if any, and refer to County Counsel.
- 5. Reject the claim of \_\_\_\_\_ as insufficiently filed and refer to County Counsel.

cc: Rahn Garcia, County Counsel.

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Kim Elizabeth Baskett

001-070

0038

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

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SANTA CRUZ COUNTY  
AUDITOR-CONTROLLER

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ATTORNEYS AT LAW

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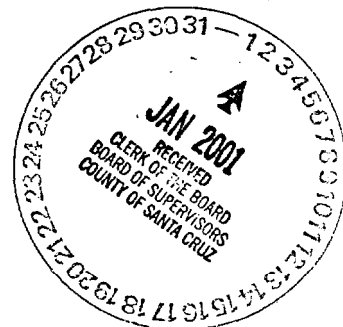
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December 21, 2000

VIA FEDERAL EXPRESS

Gary Knutson  
Auditor-Controller  
County of Santa Cruz  
701 Ocean Street, Room 100  
Santa Cruz, CA 95060

Richard W. Bedal  
County Clerk  
County of Santa Cruz  
701 Ocean Street, Room 230  
Santa Cruz, CA 95060

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Re: Claim Against County of Santa Cruz

Dear Mr. Knutson and Mr. Bedal:

This is a claim for money or damages presented in accordance with the provisions of California Government Code § 900, ~~and~~ California Government Code § 910 sets forth the required contents of a claim. Each of these requirements, and the corresponding information, is set forth separately below.

<sup>1/</sup>We are aware that the County of Santa Cruz may make claim forms available. However, as we are simultaneously presenting claims to our other City and County clients, we are presenting them by letter, in the interest of uniformity. See Cal. Govt. Code § 910.4 (the governing board “may provide forms specifying the information to be contained in claims against the public entity,” but “the person presenting a claim need not use such form if he presents his claim in conformity with Sections 910 and 910.2”); Blair v. Superior Court, 267 Cal. Rptr. 13, 16 (1990) (local public entity cannot require more information than required by statute).

a. **The name and post office address of the claimant.**

The name of the claimant is Lief, Cabraser, Heimann & Bernstein, LLP (“LCHB”), post office address 275 Battery Street, 30<sup>th</sup> Floor, San Francisco, California, 94111.

b. **The post office address to which the person presenting the claim desires notices to be sent.**

Notices concerning this claim should be sent to:

Richard M. Heimann  
Lief, Cabraser, Heimann & Bernstein, LLP  
275 Battery Street, 30<sup>th</sup> Floor  
San Francisco, California, 94111

c. **The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.**

On or about August 10, 1996, the County of Santa Cruz entered into an Engagement and Contingency Agreement with LCHB. Pursuant to that agreement, LCHB agreed to represent the County of Santa Cruz in litigation against the major tobacco companies, and the County of Santa Cruz agreed to pay LCHB a specified contingent attorney fee of the amounts recovered by the County of Santa Cruz.

On or about August 10, 1996, the County of Santa Cruz entered into a Second Engagement and Contingency Agreement with LCHB. Pursuant to that agreement, LCHB agreed to represent the County of Santa Cruz in additional litigation against the major tobacco companies, and the County of Santa Cruz agreed to pay LCHB a specified contingent attorney fee of amounts recovered by the County of Santa Cruz.

LCHB has fully performed its obligations under the terms of the contracts, prosecuting the lawsuits against the tobacco companies to a successful conclusion on behalf of the County of Santa Cruz and its other City and County clients. As part of a multi-state settlement (the “MSA”), the County of Santa Cruz and the other California City and County plaintiffs represented by LCHB dismissed their actions against the tobacco companies in consideration of the settlement and the related Memorandum of Understanding (the “MOU”) which provided the County of Santa Cruz and the other City and County clients a specific portion of the payments due California under the MSA.

Under the terms of the contracts between the County of Santa Cruz and LCHB, LCHB is entitled to payment of the contingent attorney fees with credit to the County of Santa

Cruz for a proportional share of any amounts actually received by LCHB pursuant to an arbitration award of attorneys fees in favor of LCHB against the tobacco companies.

- d. **A general description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of presentation of the claim.**

See Part (c), sum-a.

- e. **The name or names of the public employee or employees causing the in jury, damage, or loss, if known.**


The Engagement and Contingency Agreement and the Second Engagement and Contingency Agreement were executed on behalf of the County of Santa Cruz by Dwight L. Herr, County Counsel. LCHB does not know which public employee or employees of the County of Santa Cruz may be responsible for making the payments due to LCHB under the terms of these agreements.

- f. **If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case.**

The amount claimed exceeds ten thousand dollars (\$10,000). If litigation were instituted on the claim, it would not be a limited civil case.

Very truly yours,

LIEFF, CABRASER, HEIMANN  
& BERNSTEIN, LLP

By:   
Robert J. Nelson  
Partner

cc: (VIA FEDERAL EXPRESS)  
Dwight L. Herr  
Office of the County Counsel  
County of Santa Cruz  
701 Ocean Street, Room 505  
Santa Cruz, CA 95060

knutson.sft