County Executive Office

Memorandum

March 7, 2007

07 MAR -8 AM 8:19

S45A

To:	Chris Norby, Chairman
From:	Thomas G. Mauk, County Executive Officer
Subject:	Exception to the Rule 21

The County Executive Office is requesting a supplemental for the March 13, 2007 Board Hearing Meeting.

Agency:	**County Counsel**
Subject:	**Retention of Outside Counsel**
District	**All**

Reason for supplemental: Several immediate legal issues regarding employee benefits that require legal assistance.

Concur: Chris Norby

Chris Norby, Chairman Board of Supervisors

cc: Rob Richardson
Assistant to the County Executive Officer

Agenda Item

AGENDA STAFF REPORT
SUPPLEMENTAL AGENDA ITEM

S45A

ASR Control

MEETING DATE:	March 13, 2007
LEGAL ENTITY TAKING ACTION:	Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S):	All
SUBMITTING AGENCY/DEPARTMENT:	County Counsel
DEPARTMENT CONTACT PERSON(S):	Benjamin P. de Mayo 834-3303

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SUBJECT: RETENTION OF OUTSIDE COUNSEL

CEO CONCUR	COUNTY COUNSEL REVIEW	CLERK OF THE BOARD
	N/A	Discussion 3 Votes Board Majority

Budgeted: **Current Year Cost:** **Annual Cost:**

Staffing Impact: none **# of Positions:** none **Sole Source:** yes

Current Fiscal Year Revenue: none

Funding Source:

Prior Board Action: none

RECOMMENDED ACTION(S):

Retain law firm of Reish Luftman Reicher & Cohen to provide COUNTY with advice and representation regarding employee benefits issues, including issues related to the County's defined benefit retirement plans and authorize County Counsel to execute standard outside counsel agreement with firm.

SUMMARY:

Retain law firm of Reish Luftman Reicher & Cohen to provide COUNTY with advice and representation regarding employee benefits issues, including issues related to the County's defined benefit retirement plans as directed by County Counsel and Board of Supervisors.

BACKGROUND INFORMATION:

The law firm of Reish Luftman Reicher & Cohen has expertise in the complex field of employee benefits issues including retirement plans. The firm served as special fiduciary counsel to the San Diego City Employees' Retirement System and provides employee benefits advice to the Orange County Fire Authority. The firm's services are needed to assist the County in handling such issues. The billing rates will be $450 an hour for partners and $300 an hour for associates. Resumes of those attorneys who are responsible for advising the County are attached.

The firm has done a conflicts check and finds no current representations that constitute a conflict with representing the County.

FINANCIAL IMPACT:

STAFFING IMPACT:

REVIEWING AGENCIES:

ATTACHMENT(S):

Firm resumes

Bruce L. Ashton, Esq.

BruceAshton@Reish.com

REISH
LUFTMAN
REICHER
&
COHEN
ATTORNEYS AT LAW

RESUME

Bruce Ashton is a partner of the law firm of Reish Luftman Reicher & Cohen, specializing in employee benefits.

Professional Experience

In his 35 years of practice, Bruce has gained wide experience representing businesses in sophisticated business transactions, employee benefits matters, and employment law issues.

His practice today focuses on all aspects of employee benefits issues, including representing public and private sector plans and their sponsors, negotiating the resolution of plan qualification issues under EP Division settlement programs, advising and defending fiduciaries on their obligations and liabilities, and structuring qualified plans, non-qualified deferred compensation arrangements and health care arrangements. Combining his employee benefits and transactional expertise, Bruce is also active in the installation and funding of employee stock ownership plans (ESOPs).

Bruce served as President of the American Society of Pension Professionals and Actuaries (ASPPA) for the 2003-2004 term. From 1998 through 2002, he served as the co-chair of ASPPA's Government Affairs Committee and has been a member of its board of directors since 1997. He is also a board member, past program chair and Spring Conference chair of the Los Angeles Chapter Western Pension & Benefits Conference. Bruce has been recognized as one of "The Best Lawyers in America" and as a "Super Lawyer" in Southern California.

Publications and Presentations

Along with his partner, Fred Reish, Bruce is co-author of the *Participant Directed Investments Answer Book*, Third Edition, and the *Plan Correction Answer Book*, both published by Aspen Publishers. He is also co-author of *Actuarial Audits: A Legal and Tactical Analysis*, published by ASPPA.

Bruce has co-authored a quarterly column in the *Journal of Pension Benefits* on IRS remedial programs, and is a frequent contributor to various tax and pension publications, including the *Journal of Taxation*, *CCH Pension Plan Guide*, *Pension & Benefits Week*, and *The Pension Actuary*.

Bruce is a frequent speaker on employee benefits issues ranging from fiduciary responsibility to ESOPs. He is a regularly featured speaker at conferences of ASPPA, the Western Pension & Benefits Conference and various other organizations.

Education

Bruce received his B.A. degree from Rice University in 1967 and his J.D. from Southern Methodist University in 1970, where he was a member of the Order of the Coif, Phi Alpha Delta, and a Roy R. Ray Scholar. He was a recipient of the Johnson, Bromberg, Leeds & Riggs Award, and the Arthur Stedley Hansen Consulting Actuaries of Dallas Award. He was a member (1968-1970), Note and Comment Editor (1969-1970), and Acting Index Editor (1970) of the Journal of Air Law & Commerce. Bruce was admitted to the California Bar in 1971.

C. Frederick Reish, Esq.

FredReish@Reish.com

REISH
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&
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ATTORNEYS AT LAW

RESUME

Fred Reish is a shareholder of the law firm of Reish Luftman Reicher & Cohen. He specializes in employee benefits law. He is a member of the bar in the State of California, the State of Arizona and the District of Columbia.

Professional Experience

Fred has practiced employee benefits law since 1973. His practice includes representation of both private and public sector entities and their plans and fiduciaries; consulting with employers and fiduciaries on the management and operation of retirement and health and welfare plans; providing technical advice to administrators and actuaries; representation of plans, employers and fiduciaries before the governing agencies (*e.g.*, the IRS and the DOL); and consulting with banks, trust companies, insurance companies and mutual fund management companies on 401(k) investment products and issues related to plan investments. Fred has been engaged to serve as an expert witness in state courts, federal courts and arbitration proceedings involving issues as diverse as legal malpractice, fiduciary liability, fiduciary status of brokers, prohibited transactions, plan interpretation, distribution of benefits, nonqualified deferred compensation plans, and bankruptcy issues for ERISA plans.

Fred is a Charter Fellow of the American College of Employee Benefits Counsel. He has served as the Chair of the Employee Benefits Subsection of the Los Angeles County Bar Association; served as a member of the Executive Committee of the Tax Section of the Los Angeles County Bar Association; taught "Pension and Profit Sharing" at the Masters of Business Tax Program at the University of Southern California; and served as a member of the Board of Directors of the American Society of Pension Professionals and Actuaries (ASPPA), as well as Co-Chair of the Government Affairs Committee of that organization.

Fred also served as Co-Chair of the Los Angeles IRS Benefits Conference for over 10 years; was a Co-Founder of the 401(k) Summit Conference; and currently serves as a member of the Executive Committee for the National Conference of the Employee Benefit Security Administration of the U.S. Department of Labor.

He also serves as a member of the Panel of Advisors for the Nationwide Retirement Education Institute, which focuses on participant education in public sector and private section retirement plans.

On behalf of ASPPA, he has co-authored *amicus curiae* briefs with the Supreme Court of the United States in the case of *Patterson v. Shumate* and with the Tax Court in the case of *Citrus Valley Estates v. Commissioner of Internal Revenue*.

Fred has received a number of awards for his contribution to benefits education, communication, and service, including:

- Recognition by 401kWire as the 401(k) Industry's Most Influential Person for 2007.
- The IRS Director's Award and the IRS Commissioner's Award for his contributions to employee benefits education.
- The 2004 Eidson Founder's Award from ASPPA for his significant contributions to that organization and to the benefits community.
- A 2006 Lifetime Achievement Award from Plan Sponsor Magazine.
- The 2006 Lifetime Achievement Award from Institutional Investor for his contributions to the benefits community.
- Recognition as one of "The Best Lawyers in America" and as a "Super Lawyer" in Southern California.
- The Alumni Service Award from Arizona State University.

Publications

Fred has written four books and over 350 articles on employee benefits, IRS and DOL audits, and pension plan disputes. He authors a monthly column on 401(k) fiduciary responsibility for *Plan Sponsor* magazine, as well as a quarterly column on that subject for the *Journal of Pension Benefits*. He has authored or co-authored most of the IRS plan correction articles published by the *Journal of Taxation* and the *Journal of Pension Benefits*. Fred also serves on the editorial boards of several benefits publications.

As an expert on benefits matters, Fred is frequently quoted by both professional and public publications, including *The Wall Street Journal, Fortune, Forbes, Inc., CFO Magazine, New York Times, Washington Post, Los Angeles Times, USA Today, Los Angeles Business Journal, Legal Times, Institutional Investor, Plan Sponsor, Pension World, Tax Notes, CCH Pension Plan Guide, BNA Pension and Benefits Reporter, Pensions & Investments, Compensation and Benefits Alert, BNA Daily Tax Report*, and *RIA Pension and Profit Sharing*.

Presentations

Fred is a nationally known speaker on fiduciary responsibility, technical compliance matters, and litigation issues. He has spoken at the annual conferences of the American Bar Association, the American Society of Pension Professionals and Actuaries, the Western Pension and Benefits Conference, the Enrolled Actuaries Conference, the International Foundation of Employee Benefit Plans, and the National Institute of Pension Administrators. Topics of those programs have included "401(k) Lessons from the Bear Market," "Fiduciary Responsibility," "Professional Liability for Plan Service Providers," "IRS Plan Audits: VCR and CAP," "Internal Revenue Service and Department of Labor Audits," "Retirement Plans and Bankruptcy," and "ERISA Litigation."

Education

Fred received a B.S. from Arizona State University and a J.D. from the University of Arizona.

REISH LUFTMAN REICHER & COHEN
ATTORNEYS AT LAW

Debra A. Davis, Esq.

DebraDavis@Reish.com

RESUME

Debra Davis is a senior associate with the law firm of Reish Luftman Reicher & Cohen, specializing in the area of employee benefits law.

Professional Experience

Debra advises employers and fiduciaries regarding employee benefit plans, including retirement and health and welfare plans. She assists fiduciaries in complying with ERISA's requirements. She also helps plan sponsors to fulfill their duties under ERISA and the Internal Revenue Code and to correct any plan defects. Additionally, Debra represents clients in Department of Labor investigations and the Internal Revenue Service audits.

Debra is the Chair of the Department of Labor (DOL) Subcommittee and a member of the Steering Committee of the Government Affairs Committee for the American Society of Pension Professionals & Actuaries (ASPPA). She is also a Contributing Editor for the Journal of Pension Benefits. Additionally, she is a member of the Employee Benefits Committee of the American Bar Association's Taxation and Labor and Employment Law Sections.

Publications and Presentations

Debra has written numerous articles on employee benefits matters. She currently authors a quarterly column for the Journal of Pension Benefits on *Employment Issues for Employee Benefit Plans.* She has also published the law review article, *Do-It-Yourself Retirement: Encouraging Employees to Direct the Investment of Their Retirement Savings*, in the University of Pennsylvania Journal of Labor & Employment Law. She is a contributing author of the 2003 Cumulative Supplement to the book, *Employee Benefits Law.* She has also written articles for several other publications. Recent publications include *The Multinational Fiduciary: Applying ERISA to Non-US Persons and Plans* for the Journal of Pension Benefits, *Responding to a Mobile Multinational Work Force* for Defined Contribution Insights, *Avoiding Investment Advice Hazards* for The ASPPA Journal, and *Finding the Needles in the Haystack: Uncovering Retirement Plans' Problems* for CalCPA.

Debra has also been quoted in the AICPA Journal of Accountancy, Plan Sponsor Magazine, IOMA Managing 401(k) Plans Newsletter and Ignites.

Debra is a frequent speaker on employee benefits issues for various professional organizations. Recent presentations include *Employee Rewards in the Headlines: Will You Be Next?* for Deloitte Dbriefs, *Distribution Problems* for the Mid-Atlantic Benefits Conference (sponsored by Mid-Atlantic Area Employee Plans, TE/GE of the IRS and ASPPA) and *The Five Ws of DOL Investigations* for the ASPPA Summer Conference.

Education

Debra received her Masters of Law (LL.M.) in Taxation, with honors, from Golden Gate University School of Law. She earned her J.D. from the University of Connecticut School of Law. She received a BA. in Political Science from Fairfield University.