

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

**MINUTES OF THE COVERAGE COMMITTEE
MEETING JANUARY 8, 2020**

An ERMA Coverage Committee meeting was held on January 8, 2020, via teleconference.

COMMITTEE MEMBERS PRESENT: John Gillison, President, PARSAC
Truc Dever, Vice President, VCJPA
Stuart Schillinger, Treasurer, VCJPA
Scott Ellerbrock, President, PERMA

COMMITTEE MEMBERS ABSENT: None

OTHERS PRESENT: Jennifer Jobe, Executive Director
Kathy Maylin, Litigation Manager
Mona Hedin, Analyst
Doug Alliston, Board Counsel

1. CALL TO ORDER/ROLL CALL

The January 8, 2020, ERMA Coverage Committee meeting was called to order at 3:00 p.m. by President John Gillison. Roll call was taken and it was determined a quorum was present.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

Truc Dever moved to approve the agenda as posted. Seconded by Scott Ellerbrock. The motion passed unanimously.

3. PUBLIC COMMENTS

None

4. CONSENT CALENDAR

Truc Dever moved to approve the Minutes – Meeting of January 14, 2019. Seconded by Scott Ellerbrock. The motion passed unanimously.

5. COVERAGE MATTERS

A. Review of Proposed Revisions to the Memorandum of Coverage for the 2020/21 Program Year, Effective July 1, 2020

Kathy Maylin, Litigation Manager, stated that as a result of on-going member ambiguity regarding the definition of a “Claim” and the process for reporting, staff proposed clarifying revisions to the Memorandum of Coverage (MOC) for the 2020/21 Program Year.

Mr. Alliston reviewed the proposed revisions to the MOC as follows:

Revisions to the definition of “Claim:”

1. Section II – Definitions

The current definition of “Claim” includes complex language at times, resulting in confusion with ERMA’s claim reporting process.

Mr. Alliston recommended removing the following language from the definition, “‘*Claim*’ means: (a) a written demand or notice which is made or brought by an *Employee*, or an oral demand or notice by an *Employee* which is memorialized by the *Covered Party* in writing within fifteen (15) days of the oral demand or notice, and (b) seeks or alleges *Damages* or alleges other injury, harm, or invasion of rights, and (c) which contains an allegation that a *Wrongful Employment Practice* or a series of *Wrongful Employment Practices* has been committed during the *Coverage Period*. *Claim* includes a civil action, an administrative proceeding or charge commenced before the Equal Employment Opportunity Commission or similar state or other agency having jurisdiction over the *Covered Party*, or an alternative dispute resolution proceeding, or action brought by a person or entity acting on behalf of an *Employee* of the *Covered Party*.”

Discussion ensued regarding member agencies memorializing written complaints in an effort to ensure ERMA’s involvement as early as possible. Resources to leverage the need for early involvement were discussed, including the incorporation of a review of ERMA’s reporting requirements as a part of AB 1825 & SB 1343 trainings, reminders to member agencies via the bi-annual membership letter and leveraging primary JPA Managers as disseminators of information to their underlying members.

Mr. Alliston further recommended amendments to language defining the grant of coverage in order to simplify the definition and clarify the coverage period referenced.

Revisions to the grant of coverage:

1. Section 1 – Coverage

Mr. Alliston recommended amendments to the definition, “The *Authority* will pay *Ultimate Net Loss*, less the *Retained Limit*, up to the *Limit of Coverage* on behalf of the *Covered Party* due to a *Claim* against the *Covered Party* because of a *Wrongful Employment Practice*, to which this Memorandum applies, caused by an *Occurrence*, except as otherwise excluded.”

Truc Dever moved to approve the recommended revisions to the Memorandum of Coverage for the 2020/21 Program Year, effective July 1, 2020. Seconded by Scott Ellerbrock. The motion passed unanimously.

B. Review of Proposed Revisions to the Master Program Document for the 2020/21 Program Year, Effective July 1, 2020

Ms. Maylin spoke to the noted inconsistency in the Master Program Document (MPD) regarding the Litigation Manager's authority to accept as timely any claim reported after 30 days.

Revisions to the Litigation Manager's discretionary authority to accept/deny claims:

1. Section VII - Conditions

Mr. Alliston recommended the addition of the following language to the MPD: "The Litigation Manager shall have discretion to accept as timely any *Claim* reported after 30 days except for any of the following: notice from the U.S. Equal Employment Opportunity Commission, the California Department of Fair Employment and Housing or any other state or federal Government agency to which an *Employee* has made a claim; a Government claim; or a civil lawsuit."

Ms. Jobe stated minor updates were incorporated as part of the annual review and updates for the 2020/21 Program Year. Ms. Jobe advised the recommended amendments would be provided to the Board for review at the upcoming February meeting, to allow for any further necessary amendments prior to the 2020/21 Program Year.

Truc Dever moved to approve the recommended revisions to the Master Program Document for the 2020/21 Program Year, effective July 1, 2020. Seconded by Scott Ellerbrock. The motion passed unanimously.

6. CLOSING COMMENTS

A. Coverage Committee

None

B. Staff

None

7. ADJOURNMENT

The January 8, 2020, ERMA Coverage Committee meeting adjourned at 3:26 p.m. by general consent.

Mona Hedin, Board Secretary