

EMPLOYMENT RISK MANAGEMENT AUTHORITY (ERMA)

MINUTES OF THE EXECUTIVE COMMITTEE MEETING OF NOVEMBER 4, 2024

A regular meeting of the Executive Committee of ERMA was held on November 4, 2024, virtually via Zoom.

COMMITTEE MEMBERS PRESENT:

Jason Castleberry, BCJPIA
Jeremy Wittie, Treasurer, VCJPA
John Gillison, President, CIRA
Linda Cox, MPA

COMMITTEE MEMBERS ABSENT:

Bryan Whitemyer, CSJVRMA

OTHERS PRESENT:

Amy Conley, CIRA
Annette DuRand, ERMA Sr Accountant
Doug Alliston, Board Counsel
Elizabeth Arce, Liebert Cassidy Whitmore
Jared Bryan, Jackson Lewis
John Jeffs, ERMA Litigation Consultant
Kassandra Batista, ERMA Training Coordinator
Lilian Vanveldt, ERMAC Representative
Michael Christian, Jackson Lewis
Nancy Broadhurst, ERMA Interim Finance Manager
Nichol Jordan, iLearning Engines
Rob Kramer, ERMA Executive Director
Shadi Jalil, Alliant
Shawn Kraatz, ERMAC Representative
Stacey Sullivan, ERMA Litigation Manager
Traci Maxey, iLearning Engines
Yvette Flama, ERMA Board Secretary

1. CALL TO ORDER; INTRODUCTIONS

The November 4, 2024, Executive Committee Meeting was called to order at 10:11 a.m. by President John Gillison.

2. APPROVAL OF AGENDA AS POSTED (OR AMENDED)

President Gillison noted agenda item 6. B. would be presented after approval of the consent calendar.

Jeremy Wittie moved, seconded by Linda Cox, to approve the agenda as amended. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

3. PUBLIC COMMENTS

There were no public comments.

4. CONSENT CALENDAR

President Gillison drew attention to the Consent Calendar and asked if there were any questions regarding any specific items listed on the calendar.

Ms. Linda Cox, MPA, noted item 4. A., Minutes of the June 3, 2024, Board of Directors Meeting, should be pulled from the consent since the Executive Committee cannot approve Board Minutes.

Linda Cox moved, seconded by Jason Castleberry, to approve the following Consent Calendar items: (B) Minutes of the June 28, 2024, Special Executive Committee Meeting; (C) Minutes of the September 26, 2024, Special Executive Committee Meeting; (D) General Payments from May 1, 2024, through September 30, 2024; (E) Claims Payments from May 1, 2024, through September 30, 2024; (F) Treasurer's Report as of June 30, 2024; (G) PFM Quarterly Investment Report as of September 30, 2024; (H) EPL Excess Policies & Invoices; (I) Investigator Panel Update; and (J) Defense Panel Update. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

(Please note, Agenda item 6. B., Update Regarding City of Santa Maria (ERMAC), was considered following the Consent Calendar).

6. MEMBERSHIP MATTERS

B. Update Regarding City of Santa Maria (ERMAC)

Mr. Rob Kramer, Executive Director, reported the City of Santa Maria, a member of the Exclusive Risk Management Authority of California (ERMAC), has requested to be retroactively released from ERMA effective July 1, 2024. ERMAC has essentially disbanded with the City of Hayward and the City of Santa Maria, both facing challenges in acquiring appropriate replacement general liability and employment practices coverage and the cancellation of excess coverage.

The PRISM GL2 program, in which the City of Hayward is participating, does not have employment practices coverage until a much higher self-insured retention (SIR) is met, and thus, the City of Hayward plans to remain in ERMA for the time being. The PRISM GL1 program, in which the City of Santa Maria is participating, includes employment practices coverage at a much lower SIR. As such, coverage through ERMA for the City of Santa Maria would be duplicative. In light of these changes, it was proposed that ERMAC, as a JPA, no longer remain as a JPA Member of ERMA; that the City of Hayward be transitioned to individual member status; and that the City of Santa Maria be allowed to be retroactively released from ERMA effective July 1, 2024, when their coverage in the PRISM GL1 program began. It was noted that notification of these developments was delayed due to the urgent and complicated circumstances surrounding the respective transitions.

Ms. Lillian Vanveldt, ERMAC, acknowledged the main issue was the late cancellation from the carrier, which made it difficult for ERMAC to file the necessary notices on time. She expressed appreciation for Mr. Kramer's explanation of the situation and expressed hope for consideration by the Executive Committee as recommended by ERMA staff.

John Gillison moved, seconded by Jason Castleberry, to approve the release of ERMAC effective July 1, 2024. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

5. TRAINING AND LOSS PREVENTION MATTERS

A. 2024/25 Training Update

Ms. Yvette Flama, Board Secretary, reported the training compliance survey for the 2023/24 program year had a strong response from members. Some members had yet to respond, and efforts are ongoing to collect their input, including reminders from the JPA Administrators. A breakdown of member compliance was provided, and staff continues to reach out to those identified as non-compliant to offer support in meeting the necessary training requirements. Ms. Flama noted staff will update the data following the meeting and distribute it to the JPA Administrators. Ms. Flama further reported that members are eligible for a \$2,500 annual reimbursement for training expenses, with \$107,958.09 reimbursed to date, including \$5,488.00 as of the current period. Members completed 6,938 out of 7,701 assigned online trainings, achieving a 90% participation rate. Currently, only five live trainings are scheduled, prompting plans to enhance communication about training opportunities, with the hope of increased participation in the new year.

The Committee took no formal action on this matter.

B. Update Regarding Elected Officials Training

Mr. Kramer reported the elected officials training initiative, stemming from last year's strategic plan, aims to provide training for new and existing officials after Election Day and throughout the year as needed. The sessions will focus on helping Elected Officials with their basic responsibilities, such as: communication competencies; developing empathy and cultural competence; how to have positive conflict resolution; and how to effectively collaborate with others. The training will also include the mandated sexual harassment training. These two training components will be condensed into a half-day format. The current plan is to have a total of twelve to sixteen training sessions held across various regions for statewide accessibility. While attendance is not mandatory, these sessions will serve as a valuable resource, and a budget will be presented to the Board at the annual workshop in January.

Jason Castleberry moved, seconded by Linda Cox, to approve the funding to come from the Capital Contribution Fund. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

C. Update Regarding Employment Practices Policies Survey

Mr. Kramer reported the initiative for this year is progressing, with Liebert Cassidy Whitmore (LCW) leading the effort to gather input from 230 members via an online survey. Currently, ninety-six (96) surveys have been completed, with others in progress. LCW is reviewing policies and has prepared about ten memoranda to date. It was emphasized that, before any memoranda are distributed, staff will inform members about available resources, including grant funds and special programs that offer additional support. This proactive approach aims to ensure that members are well-equipped with the necessary policies and resources, thereby enhancing the assistance provided compared to previous initiatives.

Ms. Elizabeth Arce, LCW, reported progress on policy uploads is positive, but some members have yet to upload documents. She emphasized to meet the June deadline, it is crucial to encourage prompt submissions to avoid a last-minute rush in April and May. Lastly, she expressed gratitude for staff's assistance in motivating members to complete their uploads.

The Committee took no formal action on this matter.

D. 2024 Target Risk Appraisal Recommendations

Ms. Nancy Broadhurst, Interim Finance Manager, reported during the examination of loss ratios, she focused on members who had exceeded thresholds for three consecutive years, which may lead to risk assessments for additional support. A spreadsheet was shared with recommended assessments highlighted.

Ms. Stacey Sullivan, Litigation Manager, noted ongoing issues related to elected officials in the City of Banning suggest a need for additional targeted training in the area. The City of Escalon will be observed for potential new claims after a police chief's resignation. The City of Porterville needs training on workplace discrimination and harassment. Additionally, the City of Watsonville reported serious misconduct issues within its police department, indicating a need for further assessment and training. Both Porterville and Watsonville require ongoing attention to improve training in their police departments. Mr. Kramer noted the Board requested a self-appraisal of a new member, Hesperia RPD (PERMA). Ms. Sullivan agreed to move the City of Escalon and the City of Watsonville to the 2025 program year to provide workload relief.

John Gillison moved, seconded by Linda Cox, to approve the City of Porterville, City of Banning, and Hesperia RPD to undergo a risk assessment for the current program year. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

6. MEMBERSHIP MATTERS

A. Update Regarding Members with Participation Conditions

Mr. Kramer reported the process for instituting participation conditions for new members has been successful, with most members meeting their requirements. Currently, out of the five members with participation conditions, only the City of Colton, is still ongoing due to larger city-related policy discussions. Colton previously received an extension until January 15, 2025; however, the Committee proposed a further conditional extension to March 31, 2025, to align with the Board of Directors' annual workshop. The Committee expressed confidence in Colton's progress and suggested coordinating with the President for any additional extensions, if needed. Overall, the implementation of participation conditions is achieving its intended purpose.

John Gillison moved, seconded by Jeremy Wittie, to approve an extension to March 31, 2025, for the City of Colton. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

C. Update on ERMA Claims Management System Transition from Origami to JURIS

Mr. Kramer reported a staff report was presented on the transition from the Origami claims system to Sedgwick's proprietary Juris system. This transition faced significant challenges, resulting in delays in generating loss runs that impacted timely payments to vendors and claimants, and hindered the ability to track claims effectively and complete the annual financial audit. Staff was initially unable to produce loss runs from March 31 until recently, which caused disruptions, especially for executive directors who relied on this information. While the situation has improved and loss runs as of June 30 are now available, the transition highlighted several compliance and operational issues that need to be addressed moving forward.

The Committee took no formal action on this matter.

7. ADMINISTRATIVE MATTERS

A. 2024/25 Goals and Objectives Update

Mr. Kramer reviewed the progress made since the annual workshop in January, which focused on strategic thinking rather than administrative tasks. The Executive Committee was formed and is now operating. The Committee evaluated settlement authority levels, provided some enhanced authority to the Litigation Manager, and determined that higher retention for ERMA was not beneficial at this time. Goals four, five, and six were noted as in progress. Goal seven, which introduced diversity training as an option, was accomplished. Resources regarding workplace violence were provided, with an emphasis on referrals rather than direct training by ERMA. The ongoing development of the investigators' panel and the concept of collective risk management teams was discussed, with plans for further focus on

these items next year. Overall, the Executive Committee expressed satisfaction with the year's progress and looked forward to a comprehensive report at the annual workshop.

The Committee took no formal action on this matter.

B. Review of the 25th Annual Workshop Agenda

Mr. Kramer provided an overview of the agenda for the upcoming annual workshop, highlighting the program's status and strategic initiatives. An icebreaker will be conducted to foster collaboration and familiarity among attendees. Staff will provide an overview of accomplishments from the past year, including updates on claims, finances, and the loss prevention program. A significant focus will be placed on the collective risk management team concept and the potential for leadership training to enhance conflict resolution and understanding among members, led by Gerry Preciado and the 34th Street Consulting team. Additionally, discussions about the claims handling process highlighted considerations for managing claims from "Dollar One (\$1)" at the outset to improve efficiency and clarity on costs will be discussed.

The Committee took no formal action on this matter.

C. Update Regarding FPPC Electronic Filing

Ms. Flama reported during the February Board meeting in Napa, the Board approved transitioning ERMA to electronic filing for the annual compliance report. The amended code has been approved by the FPPC as of August 16, 2024, and staff are currently setting up the online platform for members to file electronically starting January 1, 2025. A digital signature from the FPPC will be emailed to members for confirmation. Committee members expressed appreciation for the shift to electronic filing despite the challenges with the FPPC's processes.

The Committee took no formal action.

D. CAJPA Analytics Project: Loss Data and Exposure Information Collection

Mr. Kramer reported CAJPA is launching a data project aimed at collecting loss information from excess and specialty pools to guide tort reform for JPAs and public entities. CAJPA is the designated platform for this effort, as all general partners participate in it. They have requested loss runs and detailed loss information specifically from CARMA and ERMA, and there is strong support for contributing to the industry in this manner.

John Gillison moved, seconded by Linda Cox, to approve the release of loss and underwriting information to CAJPA pursuant to their request. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

8. LITIGATION MANAGEMENT

A. Update Regarding Investigators Forum and Resources

Mr. Kramer reported staff are excited to announce a new initiative stemming from the recent annual workshop, aimed at bringing investigators together to establish expectations and consistency, as well as update them on the ERMA program in general. He reported that staff have been collaborating with partners, including Leibert Cassidy Whitmore and Jackson Lewis, to plan a forum tentatively scheduled for March 2025. This event will provide training, gather feedback on rates, and engage both the investigators and the ERMA Defense Panel.

Ms. Sullivan reported concern about the rising number of claims, resulting in a three to four-month wait for investigators. Ms. Sullivan noted she planned to increase the number of qualified investigators on the ERMA panel, gather feedback on the \$290 hourly rate, which is below the market rate of \$450 to \$500, and propose a two-tier system. This system would potentially assign less complex claims to newer investigators, while reserving more complex claims for those with greater experience. These topics will be addressed at the upcoming Investigator Forum.

Linda Cox moved, seconded by Jeremy Wittie, to approve the project plan as presented by staff. A vote was conducted, and the motion passed unanimously with no nays or abstentions.

B. Review of Claims Data History

Mr. Kramer reported a significant increase in claims, which have become more complex and time-consuming. While the percentage of litigated claims hasn't risen, the workload on Ms. Sullivan and Mr. John Jeffs, Litigation Consultant, has grown considerably. There is a suggestion to evaluate providing additional support to Ms. Sullivan and the team, allowing her to focus on higher-level claims and strategic tasks, while potentially hiring another resource to manage lower-level claims. A proposal may be necessary to discuss staffing changes with Sedgwick, given these challenges, and input from the Committee is sought to address the increasing demands on staff. Ms. Sullivan stated that the administrative aspect of claims management takes up most of her time. She expressed a desire for the Committee to consider approval of additional staff to assist her with this.

The Committee provided general direction to staff to have at least two options to present to the Board at the upcoming annual workshop in January.

9. CLAIMS MATTERS

A. Closed Session Pursuant to Government Code Section 54956.95(a) to Discuss Claims

Pursuant to Government Code Section 54956.95(a), the Committee recessed to Closed Session at 12:15 p.m. to discuss the following claims:

- Alcon v. City of Victorville (PERMA)
- Ramirez v. City of Livingston (CSJVRMA)

The Committee reconvened to Open Session at 12:45 p.m. Doug Alliston, Board Counsel, advised no reportable action was taken in Closed Session.

10. CLOSING COMMENTS

A. Executive Committee

None.

B. Staff

None.

11. ADJOURNMENT

The November 4, 2024, ERMA Executive Committee Meeting adjourned at 12:58 p.m. by general consent.



Yvette Flama, Board Secretary