



Monterey County

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Board Report

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Authorize and direct the Auditor-Controller to County Counsel employees for all litigation related expenses, including lodging and travel expenses, incurred during trials of *Aquino v. County of Monterey*, CASE NO. 14-CV-03387 EJD, and *Simonelli v. County of Monterey*, Case No.: 5:17-cv-01448-SVK, upon authorization by County Counsel that they were necessary litigation expenses.

RECOMMENDATION:

It is recommended that the Board of Supervisors authorize and direct the Auditor-Controller to reimburse County Counsel employees for all litigation related expenses, including lodging and travel expenses, incurred during trials of *Aquino v. County of Monterey*, CASE NO. 14-CV-03387 EJD, and *Simonelli v. County of Monterey*, Case No.: 5:17-cv-01448-SVK, upon authorization by County Counsel that they were necessary litigation expenses.

SUMMARY:

Several Deputy County Counsels were trial counsel in the recent cases of *Aquino v. County of Monterey* and *Simonelli v. County of Monterey*. These two trials were held in U.S. District Court, Northern District of California, located at 280 South First Street, San Jose, California. The *Aquino* trial took place between July 31, 2018 and August 13, 2018 and the *Simonelli* trial between August 13, 2018 and August 15, 2018. The Auditor-Controller has taken the position that reimbursement for any lodging in conflict with the Auditor-Controller's travel policy must be approved by this Board. Accordingly, County Counsel seeks authorization for these expenditures. Specifically, trial counsel was unable to find a hotel within walking distance of the courthouse that fell within the approved rate of the Auditor-Controller.

DISCUSSION:

Several Deputy County Counsels recently were in trial on two cases in federal court in San Jose. Because of the hectic nature of trial, including often having to be at Court from 8:00 a.m. to 6:00 p.m., or later, and then meeting with witnesses thereafter to prepare for the next day of trial, trial counsel needed a hotel within walking distance of the Courthouse in San Jose. This also served as a meeting place for witnesses and, in general, a location to meet and strategize for trial. Although an attempt was made to find a hotel within walking distance of the Courtroom which fell within the Auditor-Controller's "travel policy", there were no hotel rooms available at the "government rate". As such, County Counsel is asking this Board to approve the lodging expenses and other miscellaneous litigation expenses incurred by those deputies, upon authorization by County Counsel that they were necessary litigation expenses. Reimbursement conforms with Monterey County Personnel Policies and Practices. Specifically, section A.19.1 states in part: "In addition to the mileage allowance provided

for, an employee of the County is entitled to receive reimbursement for **his/her actual and necessary expenses** for other transportation and for meals, lodging, and incidentals incurred as a result of being assigned as part of his/her official duties ... to: a) Work excessively long hours away from regularly established headquarters;”. Section A.19.2 states: “The Auditor-Controller is directed to allow the foregoing expenses upon the filing of a proper claim by the employee, approved by the employee's department head or his/her designee.”

The effected deputies have still not been reimbursed for the expenses they fronted, which is more than \$9,000 combined. This has created a hardship for the employees involved.

OTHER AGENCY INVOLVEMENT:

The Auditor-Controller requires Board approval for these expenses.

FINANCING:

Litigation expenses will be funded through the Risk Management Internal Service Fund.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Payment of these expenses furthers the proper administration of the County by reimbursing employees for the necessary expenses incurred in their job. The payment also furthers public safety through the proper defense of the Sheriff's Office in litigation arising out of the Sheriff's duties.

Mark a check to the related Board of Supervisors Strategic Initiatives

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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