



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 23-079*

For business meeting on May 12, 2023

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**Title**

Judicial Branch Administration: Judicial  
Branch Workers' Compensation Program

**Agenda Item Type**

Action Required

**Effective Date**

May 12, 2023

**Rules, Forms, Standards, or Statutes Affected**

N/A

**Date of Report**

April 21, 2023

**Recommended by**

Judicial Branch Workers' Compensation  
Program Advisory Committee  
Shelby Wineinger, Chair  
Judicial Council staff  
Edward Metro, Supervising Analyst  
Human Resources

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### Executive Summary

The Judicial Branch Workers' Compensation Program Advisory Committee recommends approval of the workers' compensation cost allocation for fiscal year 2023–24 in the amount of \$16.71 million for the trial courts and \$1.26 million for the state judiciary. The committee also recommends revisions of the Memorandum of Coverage for the participating trial courts and for the state judiciary.

### Recommendation

The Judicial Branch Workers' Compensation Program Advisory Committee recommends that the Judicial Council, effective May 12, 2023, approve:

1. The fiscal year 2023–24 workers' compensation cost allocation of \$16.71 million for participating trial courts and \$1.26 million for the state judiciary; and
2. The proposed changes to the Memorandum of Coverage (MOC), Trial Courts Pooled Workers' Compensation Program, and the Judiciary MOC.

A list of the program premiums is available at Link A. A PDF of the current version of each MOC, immediately followed by the versions displaying all proposed changes, is available at Link B.

### **Relevant Previous Council Action**

At its meeting on May 12, 2022, the Judicial Council approved the Judicial Branch Workers' Compensation Program (JBWCP) workers' compensation premium for fiscal year (FY) 2022–23 for participating members. In addition, the council approved the proposal to increase trial court and state judiciary program funding confidence levels from 60 percent to 70 percent.

### **Analysis/Rationale**

#### **Approve the workers' compensation cost allocation for FY 2023–24 (recommendation 1)**

The JBWCP is a self-funded program for which each entity pays a share of the cost based on each member's workers' compensation claims experience and historical payroll. The recommended FY 2023–24 workers' compensation cost allocation is consistent with the members' claims experience and reduction of costs over the past year. Trial court member premiums are expected to decrease by 6.07 percent and judiciary member premiums by 6.15 percent.

The reduction in the premiums is a direct result of the JBWCP Advisory Committee's member education and previous proposals approved by the Judicial Council. The JBWCP Advisory Committee hopes to continue the progress it has made over the last few years in further developing the program.

The advisory committee has reviewed and voted to approve the premium allocation for FY 2023–24. The premium allocation incorporates three years of loss data and payroll data to determine the premium funding for the upcoming fiscal year. Although the JBWCP is no longer operating at a debt, appropriate funding is still required to maintain the cost of the liabilities. The annual funding has been established based on the targeted funding level.

Last year, the Judicial Council approved an increase in the confidence level to 70 percent, which alleviated the burden of the funding shortfall from previous years and stabilized the program's funding level. The program continues to follow a more formal fiscal policy that has led to an overall reduction in premiums for the upcoming fiscal year.

If the Judicial Council approves the proposed workers' compensation premium allocation for FY 2023–24, the program will be funded at the appropriate level to continue covering the cost of claims while maintaining a positive fund balance.

#### **Approve the proposed changes to the MOCs (recommendation 2)**

Two MOCs give an overview of the coverage provided through the JBWCP: one for participating trial court members and the second for judiciary members. The MOCs were drafted when the program was first developed in 2003 and have been distributed to members each year

since. The program has continued to mature as the industry has evolved. The program's primary focus was on addressing the funding level and stabilizing the program's liabilities.

With the program's funding and confidence level addressed and with a decrease in claims cost because of positive claims development, the program's concern with solvency has been resolved. The next area of focus is on the program's governing documents, including the MOCs for both the participating trial court members and the state judiciary.

Since the original MOCs were drafted, the workers' compensation industry and parameters have continued to develop. When reviewing the program's current MOCs, the advisory committee identified a few areas that did not align with the program's current workers' compensation practice and excess insurance policy. The proposed changes to the program's MOCs align the current MOCs with the program's Excess Insurance carrier's provisions and memorialize the program's current processes. The main areas of change include the following:

- **General Section**
  - Section A6, Definitions, defines *Occurrence*
  - Section D, Who Is Covered, includes Unpaid Interns and Trial Court Jurors
- **Part One – Workers' Compensation Coverage**
  - Section A, Coverage, defines Loss from an Occurrence
  - Section A, Coverage, memorializes Out of State Process/Coverage
- **Part Five – Conditions**
  - Section A3, Notice of Accident, outlines member responsiveness
  - Section F, Other Insurance, adds other insurances
  - Section H, Disputes and Appeals, updates the disputes and appeals process

The current MOCs reference *loss*, whereas the excess insurance policy as well as case law reference *occurrence* when it comes to loss. There is no intent to change how the program operates or how coverage is provided. By defining *occurrence*, the updated MOCs would reflect the excess insurance policy.

The next proposed change involves updating the MOCs to reflect the current coverage provided to members. When it comes to volunteers, unpaid interns, and trial court jurors, the current MOCs are not specific in defining the coverage. The proposed revision adds clarifying language to define coverage without modifying the underlying coverage itself.

When it comes to out of state coverage, the current MOCs provide no information to members regarding the limitations of coverage. The JBWCP does not provide coverage outside of California. Because of the environment surrounding the COVID-19 pandemic, the recommended changes include language to specify this limitation and provide members support in procuring coverage.

Another change outlines the program members' responsibility in reporting claims and the capacity of program staff and the advisory committee to assist. This change is not to the process but merely updates the MOCs to clarify member expectations and the escalation process.

Language has also been added regarding the process for members with multiple insurance policies. The added language is intended to clarify the program's responsibility in such a circumstance. The added language identifies which policy, if multiple policies can respond to a claim or loss, becomes primary and which becomes excess.

Finally, language has been added to the MOCs to clarify and memorialize the Judicial Council's current process for non-claim-related disputes with members. Adding this language, again, does not change the process; it just identifies a specific process in which disputes are addressed. If a member has a concern and wants to appeal a decision, members will first bring the dispute to the Program Administrator's attention and then to the advisory committee or its designee. The dispute will be reviewed and responded to within 60 days.

The JBWCP Advisory Committee reviewed and recommends these proposed changes to the MOCs. Reviewing and updating the governing documents of the program is an initiative outlined on the JBWCP's Annual Agenda. Updating the MOCs is the first step of this initiative. If the Judicial Council moves forward with approving the changes, the advisory committee can begin reviewing the program's policies and procedures.

In summary, the current MOCs would be updated to reflect language from the program's excess insurance policy and case law when it comes to the definition of loss and occurrence. The MOCs would include clarifying language defining coverage of members' staff, unpaid interns, volunteers, and trial court jurors. Members would have a clearly identified process for procuring out-of-state coverage. The MOCs would also clearly explain the members' expectations and reporting requirements and define a process for nonclaim disputes.

The updated MOCs were approved by the JBWCP Advisory Committee on February 22, 2023, and would be implemented for fiscal year 2023–24, contingent on review of the MOCs by legal counsel. Legal counsel found no concerns or issues in the proposed revisions. The program's members would receive a clear and accurate depiction of their coverage, which would align with the program's excess insurance carrier provisions and the program's current processes.

### **Policy implications**

The proposal has no policy implications.

### **Comments**

The JBWCP Advisory Committee and staff did not circulate the proposed changes to the MOCs for comment but did provide them to clerk/executive officers of the state judiciary and members of the Court Executives Advisory Committee. Staff received no comments or concerns regarding the changes to the MOCs.

The advisory committee has always considered feedback from all stakeholders before voting on any changes or new proposals. The decision to update the MOCs was adopted after comments were solicited from all court executive officers.

### **Alternatives considered**

Regarding the workers' compensation cost allocations, the advisory committee considered but disregarded the option not to approve the proposed workers' compensation premium allocation for FY 2023–24. If the Judicial Council does not agree with the recommended allocation, program staff will work with the actuary to reevaluate the premium allocation to determine another funding level. During this time, the burden of claims cost will fall on the program's fund balance. The program will risk its solvency and may fall back into a deficit.

Regarding the proposed changes to the MOCs, the advisory committee has reviewed them and recommended approval. Although the committee did not consider other options, it presents two options for the Judicial Council's consideration.

#### ***Option 1: Review for now; delay implementation***

The Judicial Council could defer voting on and implementing the proposed changes to the MOCs and instead use this time to review the changes. Program members and staff would have additional time to review and revise the MOCs. The proposed changes would not be implemented in the upcoming fiscal year 2023–24, which may delay additional initiatives outlined in the Annual Agenda. The impact on the program is that the previous MOCs would be used as members' reference of the program's coverage. This reference may reflect inaccurate information because our excess insurance carrier provisions and the program's current processes have changed since the MOCs were originally developed.

Although the program members would still receive the same coverage, understanding the coverage might not be as transparent and accurately explained under the current MOCs.

#### ***Option 2: Status quo***

Parallel with option 1, the Judicial Council would opt to keep the program's MOCs the same as in prior years. The coverage of volunteers and jurors would not be accurate, the parameters of out-of-state coverage would not be included, and the definition of loss and occurrence would not reflect what is indicated on the program's excess insurance policy.

In addition, the process disputes and appeals for program members would not be accurately described. If disputes occur, members would not have a clear and transparent process to reference.

The current MOCs would be provided, along with the premiums during the annual distribution at the start of fiscal year 2023–24. As stated in option 1, this outdated information could result in unclear coverage because the current MOCs would not provide accurate information and a clear definition of program coverage.

## **Fiscal and Operational Impacts**

The proposed allocation ultimately sees a reduction across the program of over 6 percent. The premiums for FY 2022–23 at 70 percent confidence level was roughly \$17.79 million for trial court members and \$1.34 million for judiciary members. The proposed premium allocation will have a positive fiscal impact with a reduction of \$1.08 million for trial court members and \$0.82 million for judiciary members.

If approved, the fiscal impact will be positive because of the reduction in the next fiscal year's premiums. If not approved, the program will risk going into a deficit situation once again.

With recent changes to confidence levels and improved loss experience, the program has successfully retained a positive net year-end balance and funding stability. This gives the Advisory Committee the opportunity to focus on other areas of the program, including reviewing the governing documents and making recommendations to align the MOCs with the program's current processes. Approval of the changes to the MOCs will have a positive impact on operation of the JBWCP. Program members will have a clear and transparent definition of their coverage and the appropriate steps to take.

## **Attachments and Links**

1. Link A: *Workers' Compensation Fiscal Year 2023-24 Premium*,  
[www.courts.ca.gov/documents/2023-2024-Premium.pdf](http://www.courts.ca.gov/documents/2023-2024-Premium.pdf)
2. Link B: Trial Courts Pooled Workers' Compensation Program Memorandum of Coverage,  
[www.courts.ca.gov/documents/Proposed-Updates-to-Memorandum-of-Coverage.pdf](http://www.courts.ca.gov/documents/Proposed-Updates-to-Memorandum-of-Coverage.pdf)

**Judicial Branch Workers' Compensation Program**  
**Workers' Compensation Fiscal Year 2023-24 Premium**  
**Trial Courts**

Comparison to Prior Premium

Court	70% Confidence Level 2022-23 Total Premium (A)	70% Confidence Level 2023-24 Total Premium (B)	Total Difference (C)	Percent Change (D)
Alameda	\$975,062	\$781,318	-\$193,744	-19.87%
Alpine	5,472	5,230	-242	-4.43%
Amador	31,820	32,662	842	2.65%
Butte	113,743	114,881	1,137	1.00%
Calaveras	27,528	26,983	-545	-1.98%
Colusa	12,910	16,063	3,153	24.42%
Contra Costa	755,926	644,302	-111,624	-14.77%
Del Norte	23,507	26,452	2,946	12.53%
El Dorado	90,514	80,430	-10,084	-11.14%
Fresno	458,921	442,816	-16,104	-3.51%
Glenn	19,373	19,514	141	0.73%
Humboldt	82,688	85,552	2,863	3.46%
Imperial	172,535	171,196	-1,339	-0.78%
Inyo	18,444	17,866	-578	-3.13%
Kern	744,912	831,209	86,297	11.58%
Kings	90,775	80,180	-10,595	-11.67%
Lake	46,711	44,825	-1,886	-4.04%
Lassen	21,095	20,203	-893	-4.23%
Madera	84,726	81,024	-3,702	-4.37%
Marin	145,854	143,552	-2,302	-1.58%
Mariposa	12,913	24,812	11,899	92.14%
Mendocino	67,434	65,683	-1,751	-2.60%
Merced	175,694	127,437	-48,257	-27.47%
Modoc	10,587	10,518	-69	-0.65%
Mono	17,280	15,577	-1,703	-9.86%
Monterey	267,936	267,029	-907	-0.34%
Napa	91,572	84,970	-6,602	-7.21%
Nevada	93,513	52,050	-41,463	-44.34%
Orange	1,558,937	1,504,500	-54,437	-3.49%
Placer	157,129	139,341	-17,788	-11.32%
Plumas	10,719	20,150	9,432	87.99%
Riverside	1,459,738	1,383,076	-76,662	-5.25%
Sacramento	665,520	736,895	71,375	10.72%
San Benito	25,915	26,360	445	1.72%
San Bernardino	1,449,626	1,431,095	-18,532	-1.28%
San Diego	1,859,460	1,728,529	-130,932	-7.04%
San Francisco	877,923	862,510	-15,413	-1.76%
San Joaquin	376,205	344,128	-32,077	-8.53%
San Luis Obispo	171,273	168,278	-2,995	-1.75%
San Mateo	469,692	458,276	-11,416	-2.43%
Santa Barbara	183,118	173,475	-9,643	-5.27%
Santa Clara	1,344,038	988,820	-355,217	-26.43%
Santa Cruz	172,206	180,708	8,503	4.94%
Shasta	230,057	322,180	92,123	40.04%
Sierra	5,155	4,898	-257	-4.98%
Siskiyou	25,388	24,365	-1,022	-4.03%

**Judicial Branch Workers' Compensation Program**  
**Workers' Compensation Fiscal Year 2023-24 Premium**  
**Trial Courts**

Comparison to Prior Premium

Court	70% Confidence Level 2022-23 Total Premium (A)	70% Confidence Level 2023-24 Total Premium (B)	Total Difference (C)	Percent Change (D)
Solano	356,223	276,022	-80,200	-22.51%
Sonoma	235,093	223,006	-12,088	-5.14%
Stanislaus	270,662	205,159	-65,503	-24.20%
Sutter	47,662	45,274	-2,388	-5.01%
Tehama	59,058	61,545	2,487	4.21%
Trinity	16,271	15,901	-370	-2.28%
Tulare	315,419	321,290	5,871	1.86%
Tuolumne	39,956	61,153	21,197	53.05%
Ventura	589,664	500,045	-89,620	-15.20%
Yolo	111,046	143,953	32,906	29.63%
Yuba	50,719	48,733	-1,986	-3.91%
All Courts	\$17,793,318	\$16,714,000	-\$1,079,318	-6.07%

Notes:

- (A): From Prior Premium Report
- (B): From Exhibit TC-1.
- (C): (B) - (A)
- (D): (C) / (A)



**Judicial Branch Workers' Compensation Program**  
**Workers' Compensation Fiscal Year 2023-24 Premium**  
**State Judiciary**

Comparison to Prior Premium

Court	70% Confidence Level 2022-23 Total Premium (A)	70% Confidence Level 2023-24 Total Premium (B)	Total Difference (C)	Percent Change (D)
Supreme Court	\$64,191	\$60,237	-\$3,954	-6.16%
1st District Court	69,632	80,031	10,399	14.93%
2nd District Court	151,509	165,165	13,656	9.01%
3rd District Court	29,919	31,839	1,920	6.42%
4th District Court	68,856	67,467	-1,389	-2.02%
5th District Court	29,021	30,117	1,097	3.78%
6th District Court	56,291	38,701	-17,591	-31.25%
Judicial Council	320,564	169,693	-150,871	-47.06%
CJP	7,760	7,829	69	0.90%
HCRC	49,694	92,299	42,605	85.74%
CJCL	1,704	1,678	-26	-1.51%
Trial Court Judges	491,993	513,650	21,657	4.40%
All Courts	\$1,341,133	\$1,258,707	-\$82,426	-6.15%

Notes:

- (A): From Prior Premium Report
- (B): From Exhibit J-1.
- (C): (B) - (A)
- (D): (C) / (A)

**JUDICIAL BRANCH  
WORKERS' COMPENSATION PROGRAM (JBWCP)**

**TRIAL COURTS  
POOLED WORKERS' COMPENSATION PROGRAM**

**MEMORANDUM OF COVERAGE**



Judicial Council of California

**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM  
(JBWCP)**

**WORKERS' COMPENSATION COVERAGE**

**DECLARATIONS**

1. NAMED COVERED MEMBER: Judicial Branch Workers' Compensation Program, et al; As per Endorsement No. 1
  
2. TERM:  
    Inception: 12:01 a.m. Pacific Standard Time on July 1, 20\_\_  
    Expiration: 12:01 a.m. Pacific Standard Time on July 1, 20\_\_
  
3. EXCESS LIMITS OF LIABILITY:  
    Workers' Compensation \$100,000,000 Per Occurrence  
    Employer's Liability \$2,000,000 Per Occurrence
  
4. FORMS ENDORSEMENTS: Form No. JBWCP 20\_\_ - \_\_ WC (A)  
FORMING PART OF THE POLICY AT Endorsement No. 1  
INCEPTION

ON BEHALF OF THE JUDICIAL BRANCH WORKERS' COMPENSATION  
PROGRAM

**AUTHORIZED REPRESENTATIVE**

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**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM  
(JBWCP)**

**MEMORANDUM OF COVERAGE**

**WORKERS' COMPENSATION COVERAGE**

**ENDORSEMENT NO. 1**

It is understood that the Covered Party of the Declarations is completed as follows:

Superior Court of California, County of Alameda  
Superior Court of California, County of Alpine  
Superior Court of California, County of Amador  
Superior Court of California, County of Butte  
Superior Court of California, County of Calaveras  
Superior Court of California, County of Colusa  
Superior Court of California, County of Contra Costa  
Superior Court of California, County of Del Norte  
Superior Court of California, County of El Dorado  
Superior Court of California, County of Fresno  
Superior Court of California, County of Glenn  
Superior Court of California, County of Humboldt  
Superior Court of California, County of Imperial  
Superior Court of California, County of Inyo  
Superior Court of California, County of Kern  
Superior Court of California, County of Kings  
Superior Court of California, County of Lake  
Superior Court of California, County of Lassen  
Superior Court of California, County of Madera  
Superior Court of California, County of Marin  
Superior Court of California, County of Mariposa  
Superior Court of California, County of Mendocino  
Superior Court of California, County of Merced  
Superior Court of California, County of Modoc  
Superior Court of California, County of Mono  
Superior Court of California, County of Monterey  
Superior Court of California, County of Napa  
Superior Court of California, County of Nevada  
Superior Court of California, County of Orange

Superior Court of California, County of Placer  
Superior Court of California, County of Plumas  
Superior Court of California, County of Riverside  
Superior Court of California, County of Sacramento  
Superior Court of California, County of San Benito  
Superior Court of California, County of San Bernardino  
Superior Court of California, County of San Diego  
Superior Court of California, County of San Francisco  
Superior Court of California, County of San Joaquin  
Superior Court of California, County of San Luis Obispo  
Superior Court of California, County of San Mateo  
Superior Court of California, County of Santa Barbara  
Superior Court of California, County of Santa Clara  
Superior Court of California, County of Santa Cruz  
Superior Court of California, County of Shasta  
Superior Court of California, County of Sierra  
Superior Court of California, County of Siskiyou  
Superior Court of California, County of Solano  
Superior Court of California, County of Sonoma  
Superior Court of California, County of Stanislaus  
Superior Court of California, County of Sutter  
Superior Court of California, County of Tehama  
Superior Court of California, County of Trinity  
Superior Court of California, County of Tulare  
Superior Court of California, County of Tuolumne  
Superior Court of California, County of Ventura  
Superior Court of California, County of Yolo  
Superior Court of California, County of Yuba

Attached to and forming part of Policy No. JBWCP 2022-23 WC (A)

Effective Date: July 1, 20\_\_

**AUTHORIZED REPRESENTATIVE**

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# JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM (JBWCP)

## MEMORANDUM OF COVERAGE

### Trial Court Pooled Workers' Compensation Program

Form No. JBWCP 20\_\_-\_\_ WC (A)

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the Judicial Branch Workers' Compensation Program's (JBWCP) Trial Court Pooled Workers' Compensation Program. The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions."

## GENERAL SECTION

### A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Bodily Injury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include **Occupational Disease**.
2. **Covered Party** shall mean a participant in the JBWCP which has sustained a **Loss** which is covered under this MOC of Coverage.
3. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation Law of the State of California, or under the common law of the State of California.
4. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable **Workers' Compensation Law**, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the **Workers' Compensation Law** or other law for **Bodily Injury** or **Occupational Disease** to an **Employee**.
5. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
6. **Occurrence** shall mean an injury or disease of an **Employee** arising out of and in the course of employment that is compensable under the **Workers' Compensation Law**. **Bodily Injury**, illness, or disease sustained by one (1) or

more **Employees**, as a result of a single accident, incident, or exposure, shall be deemed to arise from a single **Occurrence**. The **Occurrence** shall be deemed to take place on the earlier of (a) the last day of the last exposure, in the employment of the **Covered Party**, to conditions causing or aggravating the disease, or (b) the date upon which the **Employee** first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by employment with the **Covered Party**. All **Occupational Disease** sustained by one (1) or more **Employees** as a result of an outbreak of the same communicable disease shall be deemed to arise from a single **Occurrence**. An outbreak of the same communicable disease that spans more than one coverage period shall be deemed to take place during the first such coverage period.

7. **Participant** shall mean a trial court which has elected to participate as a Member in the JBWCP's Trial Court Pooled Workers' Compensation Program and are listed on Endorsement Number 1 of the MOC.

## **B. THE MEMORANDUM OF COVERAGE**

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the JBWCP. The terms of this MOC may not be changed or waived except by endorsement issued by the JBWCP to be part of this MOC.

## **C. COVERAGE PERIOD**

This MOC applies to **Loss(es)** resulting from an **Occurrence** during the coverage period defined in the Declarations.

## **D. WHO IS COVERED**

The **Covered Party** is a **Participant** in the JBWCP. If a **Covered Party** loses its status as a Member, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **Employees** of the **Covered Party** for purposes of **Workers' Compensation Law**. Unpaid interns are considered volunteers under this section.

Trial Court Jurors are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties.

## E. **WORKERS' COMPENSATION LAW**

**Workers' Compensation Law** means the workers' or workmen's compensation law and **Occupational Disease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal **Occupational Disease** law, or the provisions of any law that provide non-occupational disability benefits.

## **PART ONE – WORKERS' COMPENSATION COVERAGE**

### A. **COVERAGE**

The JBWCP will pay for **Loss** sustained as a result of an **Occurrence** which the **Covered Party** becomes liable under **Workers' Compensation Law** to which this coverage applies provided that:

1. Injury must occur during the coverage period; and
2. Illness by disease must be caused or aggravated by the conditions of employment by the **Covered Party** and the **Employee's** exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

This includes coverage for **Loss** resulting from an **Occurrence** for **Employees** normally employed by the **Covered Party** in the State of California who perform work outside the State of California, but only if all of the following are true: such work is incidental to the **Employee's** regular employment in the State of California; such **Loss** is compensable under the **Workers' Compensation Law** and the Loss shall not be greater than it would have been had liability been imposed by the State of California; the **Employee** claims benefits under the **Workers' Compensation Law** and benefits under the **Workers' Compensation Law** are administered.

Although Out of State premiums are not covered by the JBWCP, the program will work with each trial court to facilitate the process. Please contact JBWCP staff for assistance in procuring out of state coverage. Trial courts will be responsible for payment on all Out of State coverage.

### B. **DEFENSE**

The JBWCP has the right and duty to defend at its expense any claim, proceeding, or suit against the **Covered Party** for liabilities payable by this coverage. The JBWCP has the right to investigate and settle these claims, proceedings, or suits.

The JBWCP shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code section 4553, or discrimination or any other actions pursuant to Labor Code section 132a brought before the Workers' Compensation Appeals Board



(WCAB). The JBWCP's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

### **C. PAYMENTS THE MEMBER MUST MAKE**

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the **Workers' Compensation Law** including those imposed on the **Covered Party** because:

1. Of the **Covered Party's** serious and willful misconduct (except as stated herein above);
2. The **Covered Party** employs an **Employee** in violation of law;
3. The **Covered Party** fails to comply with a health or safety law or regulation;
4. The **Covered Party** discharges, coerces, or otherwise discriminates against any **Employee** in violation of the **Workers' Compensation Law**; or
5. The **Covered Party** violates or fails to comply with any **Workers' Compensation Law** or regulation.

If the JBWCP makes any payments in excess of the benefits regularly provided by the **Workers' Compensation Law** on the **Covered Party's** behalf, the **Covered Party** shall reimburse the JBWCP promptly.

### **PART TWO – EMPLOYER'S LIABILITY COVERAGE**

The **Program** will provide coverage for Employer's Liability **Losses** up to the **Employer's Liability** stated in the Declarations Page.

This coverage applies to **Bodily Injury**. This coverage is subject to the Limits of Liability set forth herein, provided that those amounts awarded are the direct consequence of **Bodily Injury** that arises out of and in the course of the injured **Employee's** employment by the **Covered Party**, and are claimed against the **Covered Party** in a capacity other than as employer.

1. The **Bodily Injury** must arise out of and in the course of the injured **Employee's** employment by the **Covered Party**.
2. **Bodily Injury** by accident must occur during the coverage period.
3. **Bodily Injury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **Employee's** exposure to the conditions causing or aggravating such **Bodily Injury** by disease must occur during the coverage period.

### **PART THREE - POLICY EXCLUSIONS**

This MOC shall not apply to:

- A. Liability imposed by the **Workers' Compensation Laws** because of **Bodily Injury** to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the **Workers' Compensation Laws** because of **Bodily Injury** to participants of a work release program or other community service program established by a county of the State of California.
- B. Employer's Liability Coverage herein does not apply to:
  - 1. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law.
  - 2. **Bodily injury**, illness or disease intentionally caused or aggravated or caused at the direction of the **Covered Party**.
  - 3. Bodily injury to an employee while employed in violation of law with the actual knowledge of the **Covered Party**.
- C. Liability for additional compensation imposed on the **Covered Party** under Labor Code section 4557 by reason of injury to an **Employee** under sixteen (16) years of age and illegally employed at the time of the injury.
- D. Liability imposed by Labor Code section 4856.

### **PART FOUR - THE COVERED PARTY'S RETENTION AND JBWCP'S LIMIT OF LIABILITY**

#### **A. LIMIT OF COVERAGE BY JBWCP**

The **JBWCP** will indemnify the **Covered Party** for **Loss** resulting from an **Occurrence** under **Workers' Compensation Laws**, but will not exceed the JBWCP Limit of Liability stated in Item 3 of the Declarations Page on any one **Loss**. Coverage will include all benefits required under **Workers' Compensation Laws**, including full salary benefits listed in Labor Code section 4850. The JBWCP will pay on behalf of the **Covered Party** for Employer's Liability **Losses** but will not exceed the Limits of Liability stated in Item 3 of the Declarations Page on any one **Loss**.

#### **B. HOW THE LIMIT OF COVERAGE APPLIES**

The JBWCP's Limit of Liability stated in the Declarations Page applies to **Loss** resulting from an **Occurrence** covered under the Workers' Compensation Coverage or Employer's Liability Coverage as follows:

- 1. To one (1) or more **Employees** for **Bodily Injury** or death in any one accident;  
and

2. To any one (1) **Employee** for **Bodily Injury** or death by disease.

Nothing contained herein shall operate to increase the JBWCP's Limit of Liability under this MOC.

## **PART FIVE - CONDITIONS**

### **A. NOTICE OF ACCIDENT**

1. The **Covered Party** shall immediately; within the reporting requirements of the State of California give prompt written notice to the JBWCP, or its agent, if a claim for an injury, illness, or disease occurs which appears to involve coverage by the JBWCP.
2. Notice of injury, illness, or disease given to the JBWCP shall contain complete details on the injury, illness, or disease. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the JBWCP, the **Covered Party** shall give the JBWCP:
  - a) all notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers;
  - b) copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.
3. If continued cooperation through the life of the claim is not provided by the **Covered Party** to the JBWCP within thirty (30) calendar days of knowledge of such claim, or subsequent details about the injury, disease or death including any correspondence and communication with the injured **Employee**, the JBWCP may be required to make decisions on behalf of the **Covered Party**. JBWCP will continue to contact and work with the member before making any final decisions. This requirement is a condition precedent to coverage under this MOC.

### **B. SUBROGATION - RECOVERY FROM OTHERS**

1. The JBWCP has the Covered Party's rights, and the rights of persons entitled to workers' compensation benefits from the **Covered Party**, to recover the JBWCP's loss from any third person liable for the injury, illness or disease.
2. The **Covered Party** shall not take any action after injury or disease that would jeopardize the JBWCP's right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP's

## **Loss**

### **C. MEMORANDUM CONFORMS TO LAW**

If terms of this MOC are in conflict with any laws applicable to this Memorandum this statement amends this MOC to conform to such law or document.

### **D. ACCEPTANCE**

By acceptance of this MOC, the **Covered Party** agrees that the statements made on the Declarations Page are the **Covered Party's** agreements and representations, that this MOC is issued in reliance upon the truth of such representations, and that this MOC embodies all agreements existing between the **Covered Party** and the JBWCP or any of the JBWCP's agents relating to this coverage.

### **E. INSPECTION**

The JBWCP has the right, but is not obligated to review the **Covered Party's** programs and operations relating to safety. The JBWCP may give the **Covered Party** reports on the conditions the JBWCP finds. The JBWCP may recommend changes. While they may help reduce losses, the JBWCP does not undertake to perform the duty of any person to provide for the health or safety of the **Covered Party's Employees** or the public. The

JBWCP does not warrant that the **Covered Party's** workplaces are safe or healthful or that they comply with law, regulations, codes, or standards.

### **F. OTHER INSURANCE**

If the **Covered Party** carries other valid and collectible insurance with any other insurer or reinsurer covering a **Loss** also covered by this agreement, the coverage afforded by this agreement shall apply in excess of and shall not contribute with such other insurance.

### **G. TRANSFER OF THE COVERED PARTY'S RIGHTS AND DUTIES**

The **Covered Party's** rights and duties under this MOC may not be transferred without the JBWCP's written consent.

### **H. DISPUTES AND APPEALS**

Final decisions by the JBWCP concerning a claim (including, but not limited to, decisions regarding claim resolution, negotiation, investigation, defense, appeal, or settlement, and decisions about whether coverage exists for a particular claim or part of a claim) shall be made by the Advisory Committee of the JBWCP or its designee within sixty (60) days.

Any matter in dispute between the **Covered Party** and the Program Administrator, outside of a coverage dispute outlined in the MOC, shall be called to the attention of the Program Administrator, and heard by the Advisory Committee or its designee. The Advisory Committee or its designee will review the dispute and respond to the **Covered Party** within sixty (60) days of submittal. The **Covered Party** agrees to accept the Advisory Committee or its designee's decision as final.

**JUDICIAL BRANCH  
WORKERS' COMPENSATION PROGRAM (JBWCP)**

**TRIAL COURTS  
POOLED WORKERS' COMPENSATION PROGRAM**

**MEMORANDUM OF COVERAGE**



Judicial Council of California

**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM  
(JBWCP)**

**WORKERS' COMPENSATION COVERAGE**

**DECLARATIONS**

1. NAMED COVERED MEMBER: Judicial Branch Workers' Compensation Program, et al; As per Endorsement No. 1
  
2. TERM:  
Inception: 12:01 a.m. Pacific Standard Time on July 1, 20\_\_  
Expiration: 12:01 a.m. Pacific Standard Time on July 1, 20\_\_
  
3. EXCESS LIMITS OF LIABILITY:  
Workers' Compensation \$100,000,000 ~~Million per loss~~ Per Occurrence  
Employer's Liability \$2,000,000 ~~any one loss~~ Per Occurrence
  
4. FORMS ENDORSEMENTS: Form No. JBWCP 20\_\_ - \_\_ WC (A)  
FORMING PART OF THE POLICY AT Endorsement No. 1  
INCEPTION

ON BEHALF OF THE JUDICIAL BRANCH WORKERS' COMPENSATION  
PROGRAM

**AUTHORIZED REPRESENTATIVE**

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**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM  
(JBWCP)**

**MEMORANDUM OF COVERAGE**

**WORKERS' COMPENSATION COVERAGE**

**ENDORSEMENT NO. 1**

It is understood that the Covered Party of the Declarations is completed as follows:

Superior Court of California, County of Alameda  
Superior Court of California, County of Alpine  
Superior Court of California, County of Amador  
Superior Court of California, County of Butte  
Superior Court of California, County of Calaveras  
Superior Court of California, County of Colusa  
Superior Court of California, County of Contra Costa  
Superior Court of California, County of Del Norte  
Superior Court of California, County of El Dorado  
Superior Court of California, County of Fresno  
Superior Court of California, County of Glenn  
Superior Court of California, County of Humboldt  
Superior Court of California, County of Imperial  
Superior Court of California, County of Inyo  
Superior Court of California, County of Kern  
Superior Court of California, County of Kings  
Superior Court of California, County of Lake  
Superior Court of California, County of Lassen  
Superior Court of California, County of Madera  
Superior Court of California, County of Marin  
Superior Court of California, County of Mariposa  
Superior Court of California, County of Mendocino  
Superior Court of California, County of Merced  
Superior Court of California, County of Modoc  
Superior Court of California, County of Mono  
Superior Court of California, County of Monterey  
Superior Court of California, County of Napa  
Superior Court of California, County of Nevada  
Superior Court of California, County of Orange



Superior Court of California, County of Placer  
Superior Court of California, County of Plumas  
Superior Court of California, County of Riverside  
Superior Court of California, County of Sacramento  
Superior Court of California, County of San Benito  
Superior Court of California, County of San Bernardino  
Superior Court of California, County of San Diego  
Superior Court of California, County of San Francisco  
Superior Court of California, County of San Joaquin  
Superior Court of California, County of San Luis Obispo  
Superior Court of California, County of San Mateo  
Superior Court of California, County of Santa Barbara  
Superior Court of California, County of Santa Clara  
Superior Court of California, County of Santa Cruz  
Superior Court of California, County of Shasta  
Superior Court of California, County of Sierra  
Superior Court of California, County of Siskiyou  
Superior Court of California, County of Solano  
Superior Court of California, County of Sonoma  
Superior Court of California, County of Stanislaus  
Superior Court of California, County of Sutter  
Superior Court of California, County of Tehama  
Superior Court of California, County of Trinity  
Superior Court of California, County of Tulare  
Superior Court of California, County of Tuolumne  
Superior Court of California, County of Ventura  
Superior Court of California, County of Yolo  
Superior Court of California, County of Yuba

Attached to and forming part of Policy No. JBWCP 2022-23 WC (A)

Effective Date: July 1, 20\_\_

**AUTHORIZED REPRESENTATIVE**

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# JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM (JBWCP)

## MEMORANDUM OF COVERAGE

### Trial Court Pooled Workers' Compensation Program

Form No. JBWCP 20\_\_ - \_\_ WC (A)

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the Judicial Branch Workers' Compensation Program's (JBWCP)'s Trial Court Pooled Workers' Compensation Program. The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions."

## GENERAL SECTION

### A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Bodily iInjury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include ~~eOccupational dDisease~~.
2. **Covered Party** shall mean a participant in the JBWCP Program which has sustained a ~~H~~Loss which is covered under this MOC of Coverage.
3. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation ~~Act~~Law of the State of California, or under the common law of the State of California.
4. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable **Workers' Compensation Law**, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the **Workers' Compensation Act**Law or other law for ~~bBodily iInjury~~ or ~~eOccupational dDisease~~ to an ~~eEmployee~~.
5. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
6. Occurrence shall mean an injury or disease of an Employee arising out of and in the course of employment that is compensable under the Workers' Compensation Law. Bodily Injury, illness, or disease sustained by one (1) or

more **Employees**, as a result of a single accident, incident, or exposure, shall be deemed to arise from a single **Occurrence**. The **Occurrence** shall be deemed to take place on the earlier of (a) the last day of the last exposure, in the employment of the **Covered Party**, to conditions causing or aggravating the disease, or (b) the date upon which the **Employee** first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by employment with the **Covered Party**. All **Occupational Disease** sustained by one (1) or more **Employees** as a result of an outbreak of the same communicable disease shall be deemed to arise from a single **Occurrence**. An outbreak of the same communicable disease that spans more than one coverage period shall be deemed to take place during the first such coverage period.

6-7. **Participant** shall mean a trial court which has elected to participate as a Member of in the JBWCP's Trial Court Pooled Workers' Compensation Program **and are listed on Endorsement Number 1 of the MOC.**

## **B. THE MEMORANDUM OF COVERAGE**

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the JBWCP. The terms of this MOC may not be changed or waived except by endorsement issued by the JBWCP to be part of this MOC.

## **C. COVERAGE PERIOD**

This MOC applies to ~~losses~~ **Loss(es) resulting from an Occurrence** ~~occurring~~ during the coverage period defined in the Declarations.

## **D. WHO IS COVERED**

The **Covered Party** is a **Participant** in the JBWCP. If a **Covered Party** loses its status as a Member, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **eEmployees** of the **Covered Party** for purposes of **Workers' Compensation Law**. Unpaid interns are considered volunteers under this section.

Trial Court Jurors are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties.

## E. WORKERS' COMPENSATION LAW

**Workers' Compensation Law** means the workers' or workmen's compensation law and ~~o~~**Occupational d**~~D~~**isease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal ~~o~~**Occupational d**~~D~~**isease** law, or the provisions of any law that provide non-occupational disability benefits.

## PART ONE – WORKERS' COMPENSATION COVERAGE

### A. COVERAGE

The JBWCP will pay ~~those sums for~~ **Loss sustained as a result of an Occurrence for** which the **Covered Party** becomes liable under ~~the~~**Workers' Compensation Law**~~Act~~ to which this coverage applies. ~~The JBWCP will not pay more than provided that:~~

~~Limit of Liability stated in Item 3 of the Declarations page and further defined under Part Four of this Memorandum during the Coverage Period provided that:~~

1. Injury must occur during the coverage period; and
2. ~~Illness by disease must be caused or aggravated by the conditions of employment by the~~ **Covered Party** and the ~~e~~**Employee's** exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

~~This includes coverage for Loss resulting from an Occurrence for Employees normally employed by the Covered Party in the State of California who perform work outside the State of California, but only if all of the following are true: such work is incidental to the Employee's regular employment in the State of California; such Loss is compensable under the Workers' Compensation Law and the Loss shall not be greater than it would have been had liability been imposed by the State of California; the Employee claims benefits under the Workers' Compensation Law and benefits under the Workers' Compensation Law are administered.~~

~~Although Out of State premiums are not covered by the JBWCP program, the program will work with each trial court to facilitate the process. Please contact JBWCP staff for assistance in procuring out of state coverage. Trial courts will be responsible for payment on all eOut of sState coverage.~~

### B. DEFENSE

The JBWCP has the right and duty to defend at its expense any claim, proceeding, or suit against the **Covered Party** for liabilities payable by this coverage. The JBWCP has the right to investigate and settle these claims, proceedings, or suits.

The JBWCP shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code [section 4553](#), or discrimination or any other actions pursuant to Labor Code [section 132a](#) brought before the Workers' Compensation Appeals Board (WCAB). The JBWCP's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

### C. PAYMENTS THE MEMBER MUST MAKE

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the **Workers' Compensation LawAet** including those imposed on the **Covered Party** because:

1. Of the **Covered Party's** serious and willful misconduct (except as stated herein above);
2. The **Covered Party** employs an **eEmployee** in violation of law;
3. The **Covered Party** fails to comply with a health or safety law or regulation;
4. The **Covered Party** discharges, coerces, or otherwise discriminates against any **eEmployee** in violation of the **Workers' Compensation LawAet**; or
5. The **Covered Party** violates or fails to comply with any **Workers' Compensation Law** or regulation.

If the JBWCP makes any payments in excess of the benefits regularly provided by the **Workers' Compensation LawAet** on the **Covered Party's** behalf, the **Covered Party** shall reimburse the JBWCP promptly.

### PART TWO – EMPLOYER'S LIABILITY COVERAGE

The **Program** will provide coverage for **emEmployer's iLiability losses-Losses** up to the **Employer's LiabilityProgram's Limit of Liability** stated in the Declarations Page.

This coverage applies to **bBodily iInjury**. This coverage is subject to the **Limits** of Liability set forth herein, provided that those amounts awarded are the direct consequence of **bBodily iInjury** that arises out of and in the course of the injured **eEmployee's** employment by the **Covered Party**, and are claimed against the **Covered Party** in a capacity other than as employer.

1. The **bBodily iInjury** must arise out of and in the course of the injured **eEmployee's** employment by the **Covered Party**.
2. **Bodily iInjury** by accident must occur during the coverage period.

3. **Bodily iInjury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **eEmployee's** exposure to the conditions causing or aggravating such **bBodily iInjury** by disease must occur during the coverage period.

### **PART THREE - POLICY EXCLUSIONS**

This MOC shall not apply to:

- A. Liability imposed by the **Workers' Compensation Laws** because of **bBodily iInjury** to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the **Workers' Compensation Laws** because of **bBodily iInjury** to participants of a work release program or other community service program established by a county of the State of California.
- B. Employer's Liability Coverage herein does not apply to:
1. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law.
  2. **Bodily injury**, illness or disease intentionally caused or aggravated or caused at the direction of the **Covered Party**.
  3. Bodily injury to an employee while employed in violation of law with the actual knowledge of the **Covered Party**.
- ~~E.C.~~ Liability for additional compensation imposed on the **Covered Party** under Labor Code ~~S~~section 4557 by reason of injury to an **eEmployee** under sixteen (16) years of age and illegally employed at the time of the injury.
- ~~F.D.~~ Liability imposed by Labor Code ~~S~~section 4856.

### **PART FOUR - THE COVERED PARTY'S RETENTION AND JBWCP'S LIMIT OF LIABILITY**

#### **A. LIMIT OF COVERAGE BY JBWCP**

The **JBWCP** will indemnify the **Covered Party** for **iLoss resulting from an Occurrence** under **Workers' Compensation Laws**, but will not exceed the **JBWCP** Limit of Liability stated in Item 3 of the Declarations Page on any one **iLoss**. Coverage will include all benefits required under **Workers' Compensation Laws**, including full salary benefits listed in Labor Code ~~S~~section 4850. The **JBWCP** will pay on behalf of the **Covered Party** for Employer's Liability **iLosses** but will not exceed the Limits of Liability stated in Item 3 of the Declarations Page on any one **iLoss**.

## B. HOW THE LIMIT OF COVERAGE APPLIES

The JBWCP's Limit of ~~Liability Coverage~~ stated in the Declarations Page applies to ~~claims~~ Loss resulting from an Occurrence covered under the Workers' Compensation Coverage or Employer's Liability Coverage as follows:

1. To one (1) or more ~~e~~**E**mployees for ~~b~~**B**odily ~~i~~**I**njury or death in any one accident; and
2. To any one (1) ~~e~~**E**mployee for ~~b~~**B**odily ~~i~~**I**njury or death by disease.

Nothing contained herein shall operate to increase the JBWCP's Limit of ~~Coverage~~ Liability under this MOC.

## PART FIVE - CONDITIONS

### A. NOTICE OF ACCIDENT

1. The **Covered Party** shall immediately; within the reporting requirements of the State of California give prompt written notice to the JBWCP, or its agent, if a claim for an injury, illness, or disease occurs which appears to involve coverage by the JBWCP.
2. Notice of injury, illness, or disease given to the JBWCP shall contain complete details on the injury, illness, or disease. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the JBWCP, the **Covered Party** shall give the JBWCP:
  - a) all notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers;
  - b) copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.

~~If written notice is not provided by the Covered Party to the JBWCP within thirty (30) calendar days of knowledge of such claim, coverage will not be provided under this Memorandum of Coverage.~~

3. If continued cooperation through the life of the claim is not provided by the Covered Party to the JBWCP within thirty (30) calendar days of knowledge of such claim, or subsequent details about the injury, disease or death including any correspondence and communication with the injured Employee, the JBWCP may be required to make decisions on behalf of the Covered Party. JBWCP will continue to contact and work with the member before making any final decisions.



This requirement is a condition precedent to coverage under this MOC.

## **B. SUBROGATION - RECOVERY FROM OTHERS**

1. The JBWCP has the Covered Party's rights, and the rights of persons entitled to workers' compensation benefits from the **Covered Party**, to recover the JBWCP's loss from any third person liable for the injury, illness or disease.
2. The **Covered Party** shall not take any action after injury or disease that would jeopardize the JBWCP's right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP's ~~L~~**Loss**

## **C. MEMORANDUM CONFORMS TO LAW**

If terms of this ~~Memorandum~~MOC are in conflict with any laws applicable to this Memorandum this statement amends this ~~Memorandum~~MOC to conform to such law or document.

## **D. ACCEPTANCE**

By acceptance of this ~~Memorandum~~MOC, the **Covered Party** agrees that the statements made on the Declarations Page are the **Covered Party's** agreements and representations, that this ~~Memorandum~~MOC is issued in reliance upon the truth of such representations, and that this ~~Memorandum~~MOC embodies all agreements existing between the **Covered Party** and the JBWCP or any of the JBWCP's agents relating to this coverage.

## **E. INSPECTION**

The JBWCP has the right, but is not obligated to review the **Covered Party's** programs and operations relating to safety. The JBWCP may give the **Covered Party** reports on the conditions the JBWCP finds. The JBWCP may recommend changes. While they may help reduce losses, the JBWCP does not undertake to perform the duty of any person to provide for the health or safety of the **Covered Party's** ~~e~~**Employees** or the public. The

JBWCP does not warrant that the **Covered Party's** workplaces are safe or healthful or that they comply with law, regulations, codes, or standards.

## **F. OTHER INSURANCE**

If the **Covered Party** carries other valid and collectible insurance with any other insurer or reinsurer covering a **Loss** also covered by this agreement, the coverage afforded by this agreement shall apply in excess of and shall not contribute with such other insurance.



## **F.G. TRANSFER OF THE COVERED PARTY'S RIGHTS AND DUTIES**

The **Covered Party's** rights and duties under this ~~Memorandum~~ MOC may not be transferred without the JBWCP's written consent.

## **G.H. DISPUTES AND APPEALS**~~ARBITRATION~~

Final decisions by the JBWCP concerning a claim (including, but not limited to, decisions regarding claim resolution, negotiation, investigation, defense, appeal, or settlement, and decisions about whether coverage exists for a particular claim or part of a claim) shall be made by the Advisory Committee of the JBWCP or its designee within sixty (60) days. ~~The JBWCP and Covered Party may agree to submit any dispute arising from such decisions to binding arbitration if mutually agreeable by all disputing parties.~~

~~Arbitration shall be conducted pursuant to the California Code of Civil Procedure, Title 9 (commencing with Section 1280). The parties may agree upon a single arbitrator, in which case arbitration shall be conducted by that single arbitrator. If the parties cannot agree upon a single arbitrator, arbitration shall be conducted by a three person panel. The Covered Party shall select one (1) arbitrator and the JBWCP shall select one (1) arbitrator, and the two (2) arbitrators shall select a third (3<sup>rd</sup>) arbitrator upon mutual agreement. No arbitrator shall be employed or affiliated with the Program or the Covered Party.~~

~~The selection of arbitrators shall take place within twenty (20) calendar days from the receipt of the request for arbitration.~~

~~If a single arbitrator is used, each party shall bear one half (1/2) of the cost of the arbitrator. In three (3) arbitrator cases, each party shall bear the cost of its selected arbitrator and one half (1/2) of the third (3<sup>rd</sup>) selected arbitrator. In addition, each party shall be responsible for its own costs and expenses of arbitration.~~

Any matter in dispute between the Covered Party and the Program Administrator, outside of a coverage dispute outlined in the Memorandum of Coverage MOC, shall be called to the attention of the Program Administrator, and heard by the Advisory Committee or its designee. The Advisory Committee or its designee will review the dispute and respond to the Covered Party within Sixty (60) days of submittal. The Covered Party agrees to accept the Advisory Committee or its designee's decision as final.

**JUDICIAL BRANCH  
WORKERS' COMPENSATION PROGRAM (JBWCP)**

**JUDICIARY  
MEMORANDUM OF COVERAGE**



Judicial Council of California

**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM**

**WORKERS' COMPENSATION COVERAGE**

**DECLARATIONS**

1. NAMED COVERED MEMBER: Judicial Branch Workers' Compensation Program, et al; As per Endorsement No. 1
  
2. TERM:  
Inception: 12:01 a.m. Pacific Standard Time on July 1, 2022  
Expiration: 12:01 a.m. Pacific Standard Time on July 1, 2023
  
3. LIMITS OF LIABILITY:  
Workers' Compensation \$100,000,000 Per Occurrence  
Employer's Liability \$2,000,000 Per Occurrence
  
4. FORMS ENDORSEMENTS: Form No. JBWCP 20\_\_ - \_\_ WC (B)  
FORMING PART OF THE POLICY AT Endorsement No. 1  
INCEPTION

ON BEHALF OF THE JUDICIAL BRANCH WORKERS' COMPENSATION  
PROGRAM

**AUTHORIZED REPRESENTATIVE**

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**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM  
(JBWCP)**

**MEMORANDUM OF COVERAGE**

**WORKERS' COMPENSATION COVERAGE**

**ENDORSEMENT NO. 1**

It is understood that the Covered Party of the Declarations is completed as follows:

**JBWCP Judiciary Program Members:**

California Supreme Court  
California Court of Appeal - 1st District  
California Court of Appeal - 2nd District  
California Court of Appeal - 3rd District  
California Court of Appeal - 4th District  
California Court of Appeal - 5th District  
California Court of Appeal - 6th District  
Commission on Judicial Performance  
Habeas Corpus Resource Center  
California Judicial Center Library  
Trial Court Judges for California Superior Courts  
Judicial Council of California

Attached to and forming part of Policy No. JBWCP 2022-23 WC (B)

Effective Date: July 1, 20\_\_

**AUTHORIZED REPRESENTATIVE**

\_\_\_\_\_

# JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

## MEMORANDUM OF COVERAGE

### Judiciary Pooled Workers' Compensation Program

Form No. JBWCP 20\_\_ - \_\_ WC (B)

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the Judicial Branch Workers' Compensation Program's (JBWCP) Judiciary Pooled Workers' Compensation Program. The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions."

### GENERAL SECTION

#### A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Bodily Injury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include **Occupational Disease**.
2. **Covered Party** shall mean a **Participant** in the JBWCP which has sustained a **Loss** which is covered under this MOC of Coverage.
3. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation Act of the State of California, or under the common law of the State of California.
4. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable **Workers' Compensation Law**, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the **Workers' Compensation Law** or other law for **Bodily Injury** or **Occupational Disease** to an **Employee**.
5. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
6. **Occurrence** shall mean an injury or disease of an **Employee** arising out of and in the course of employment that is compensable under the **Workers' Compensation**

**Law. Bodily Injury**, illness, or disease sustained by one (1) or more **Employees**, as a result of a single accident, incident, or exposure, shall be deemed to arise from a single **Occurrence**. The **Occurrence** shall be deemed to take place on the earlier of (a) the last day of the last exposure, in the employment of the **Covered Party**, to conditions causing or aggravating the disease, or (b) the date upon which the **Employee** first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by employment with the **Covered Party**. All **Occupational Disease** sustained by one (1) or more **Employees** as a result of an outbreak of the same communicable disease shall be deemed to arise from a single **Occurrence**. An outbreak of the same communicable disease that spans more than one coverage period shall be deemed to take place during the first such coverage period.

7. **Participant** shall mean all courts and branch agencies electing to participate as a Member in the JBWCP's Judiciary Pooled Workers' Compensation Program and are listed on Endorsement Number 1 of this MOC.

## **B. THE MEMORANDUM OF COVERAGE**

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the JBWCP. The terms of this MOC may not be changed or waived except by endorsement issued by the JBWCP to be part of this MOC.

## **C. COVERAGE PERIOD**

This MOC applies to **Loss(es)** resulting from an **Occurrence** during the coverage period defined in the Declarations.

## **D. WHO IS COVERED**

The **Covered Party** is a **Participant** in the JBWCP. If a **Covered Party** loses its status as a Member, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **Employees** of the **Covered Party** for purposes of **Workers' Compensation Law**. Unpaid interns are considered volunteers under this section.

## E. **WORKERS' COMPENSATION LAW**

**Workers' Compensation Law** means the workers' or workmen's compensation law and **Occupational Disease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal **Occupational Disease** law, or the provisions of any law that provide non-occupational disability benefits.

## **PART ONE – WORKERS' COMPENSATION COVERAGE**

### A. **COVERAGE**

The JBWCP will pay for **Loss** sustained as a result of an **Occurrence** for which the **Covered Party** becomes liable under **Workers' Compensation Law** to which this coverage applies provided that:

1. Injury must occur during the coverage period; and
2. Illness by disease must be caused or aggravated by the conditions of employment by the **Covered Party** and the **Employee's** exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

This includes coverage for **Loss** resulting from an **Occurrence** for **Employees** normally employed by the **Covered Party** in the State of California who perform work outside the State of California, but only if all of the following are true: such work is incidental to the **Employee's** regular employment in the State of California; such **Loss** is compensable under the **Workers' Compensation Law** and the **Loss** shall not be greater than it would have been had liability been imposed by the State of California; the **Employee** claims benefits under the **Workers' Compensation Law** and benefits under the **Workers' Compensation Law** are administered.

Although Out of State premiums are not covered by the JBWCP, the program will work with each Judiciary Program Member to facilitate the process. Please contact JBWCP staff for assistance in procuring Out of State coverage. The premiums for Out of State coverage will be added to the Judiciary Program Member's JBWCP premium for payment.

### B. **DEFENSE**

The JBWCP has the right and duty to defend at its expense any claim, proceeding, or suit against the **Covered Party** for liabilities payable by this coverage. The JBWCP has the right to investigate and settle these claims, proceedings, or suits.

The JBWCP shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code section 4553, or discrimination or any other actions pursuant to Labor Code section 132a brought before the Workers' Compensation Appeals Board (WCAB). The JBWCP's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

### **C. PAYMENTS THE MEMBER MUST MAKE**

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the **Workers' Compensation Law** including those imposed on the **Covered Party** because:

1. Of the **Covered Party's** serious and willful misconduct (except as stated herein above);
2. The **Covered Party** employs an **Employee** in violation of law;
3. The **Covered Party** fails to comply with a health or safety law or regulation;
4. The **Covered Party** discharges, coerces, or otherwise discriminates against any **Employee** in violation of the **Workers' Compensation Law**; or
5. The **Covered Party** violates or fails to comply with any **Workers' Compensation Law** or regulation.

If the JBWCP makes any payments in excess of the benefits regularly provided by the **Workers' Compensation Law** on the **Covered Party's** behalf, the **Covered Party** shall reimburse the JBWCP promptly.

### **PART TWO – EMPLOYER'S LIABILITY COVERAGE**

The JBWCP will provide coverage for Employer's Liability **Losses** up to the Employer's Liability stated in the Declarations Page.

This coverage applies to **Bodily Injury**. This coverage is subject to the Limits of Liability set forth herein, provided that those amounts awarded are the direct consequence of **Bodily Injury** that arises out of and in the course of the injured **Employee's** employment by the **Covered Party**, and are claimed against the **Covered Party** in a capacity other than as employer.

1. The **Bodily Injury** must arise out of and in the course of the injured **Employee's** employment by the **Covered Party**.
2. **Bodily Injury** by accident must occur during the coverage period.



3. **Bodily Injury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **Employee's** exposure to the conditions causing or aggravating such **Bodily Injury** by disease must occur during the coverage period.

### **PART THREE - POLICY EXCLUSIONS**

This MOC shall not apply to:

- A. Liability imposed by the **Workers' Compensation Laws** because of **Bodily Injury** to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the **Workers' Compensation Laws** because of **Bodily Injury** to participants of a work release program or other community service program established by a county of the State of California;
- B. Employer's Liability Coverage herein does not apply to:
  1. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law.
  2. Bodily injury, illness, or disease intentionally caused or aggravated or caused at the direction of the **Covered Party**.
  3. **Bodily Injury** to an **Employee** while employed in violation of law with the actual knowledge of the **Covered Party**.
- C. Liability for additional compensation imposed on the **Covered Party** under Labor Code section 4557 by reason of injury to an **Employee** under sixteen (16) years of age and illegally employed at the time of the injury.
- D. Liability imposed by Labor Code section 4856.

### **PART FOUR - THE COVERED PARTY'S RETENTION AND JBWCP'S LIMIT OF LIABILITY**

#### **A. LIMIT OF COVERAGE BY JBWCP**

The JBWCP will indemnify the **Covered Party** for **Loss** resulting from an **Occurrence** under **Workers' Compensation Laws**, but will not exceed the JBWCP Limit of Liability stated in Item 3 of the Declarations Page on any one **Loss**. Coverage will include all benefits required under **Workers' Compensation Laws**, including full salary benefits listed in Labor Code section 4850. The JBWCP will pay on behalf of the **Covered Party** for Employer's Liability **Losses** but will not exceed the Limits of Liability stated in Item 3 of the Declarations Page on any one **Loss**.

## B. HOW THE LIMIT OF COVERAGE APPLIES

The JBWCP's Limit of Liability stated in the Declarations Page applies to **Loss** resulting from an **Occurrence** covered under the Workers' Compensation Coverage or Employer's Liability Coverage as follows:

1. To one (1) or more **Employees** for **Bodily Injury** or death in any one accident; and
2. To any one (1) **Employee** for **Bodily Injury** or death by disease.

Nothing contained herein shall operate to increase the JBWCP's Limit of Liability under this MOC.

## PART FIVE - CONDITIONS

### A. NOTICE OF ACCIDENT

1. The **Covered Party** shall immediately; within the reporting requirements of the State of California give prompt written notice to the JBWCP, or its agent, if a claim for an injury, illness, or disease occurs which appears to involve coverage by the JBWCP.
2. Notice of injury, illness, or disease given to the JBWCP shall contain complete details on the injury, illness, or disease. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the JBWCP, the **Covered Party** shall give the JBWCP:
  - a) all notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers;
  - b) copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.
3. If continued cooperation through the life of the claim is not provided by the **Covered Party** to the JBWCP within thirty (30) calendar days of knowledge of such claim, or subsequent details about the injury, disease, or death including any correspondence and communication with the injured **Employee**, the JBWCP may be required to make decisions on behalf of the **Covered Party**. JBWCP will continue to contact and work with the member before making any final decisions. This requirement is a condition precedent to coverage under this MOC.

### B. SUBROGATION - RECOVERY FROM OTHERS

1. The JBWCP has the **Covered Party's** rights, and the rights of persons entitled to workers' compensation benefits from the **Covered Party**, to recover the JBWCP's loss from any third person liable for the injury, illness, or disease.
2. The **Covered Party** shall not take any action after injury or disease that would jeopardize the JBWCP's right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP's **Loss**

**C. MEMORANDUM CONFORMS TO LAW**

If terms of this MOC are in conflict with any laws applicable to this Memorandum this statement amends this MOC to conform to such law or document.

**D. ACCEPTANCE**

By acceptance of this MOC, the **Covered Party** agrees that the statements made on the Declarations Page are the **Covered Party's** agreements and representations, that this MOC is issued in reliance upon the truth of such representations, and that this MOC embodies all agreements existing between the **Covered Party** and the JBWCP or any of the JBWCP's agents relating to this coverage.

**E. INSPECTION**

The JBWCP has the right, but is not obligated to review the **Covered Party's** programs and operations relating to safety. The JBWCP may give the **Covered Party** reports on the conditions the JBWCP finds. The JBWCP may recommend changes. While they may help reduce losses, the JBWCP does not undertake to perform the duty of any person to provide for the health or safety of the **Covered Party's Employees** or the public. The JBWCP does not warrant that the **Covered Party's** workplaces are safe or healthful or that they comply with law, regulations, codes, or standards.

**F. OTHER INSURANCE**

If the **Covered Party** carries other valid and collectible insurance with any other insurer or reinsurer covering a **Loss** also covered by this MOC, the coverage afforded by this MOC shall apply in excess of and shall not contribute with such other insurance.

**G. TRANSFER OF THE COVERED PARTY'S RIGHTS AND DUTIES**

The **Covered Party's** rights and duties under this MOC may not be transferred without the JBWCP's written consent.

## H. DISPUTES AND APPEALS

Final decisions by the JBWCP concerning a claim (including, but not limited to, decisions regarding claim resolution, negotiation, investigation, defense, appeal, or settlement, and decisions about whether coverage exists for a particular claim or part of a claim) shall be made by the Advisory Committee of the JBWCP or its designee within sixty (60) days.

Any matter in dispute between the **Covered Party** and the Program Administrator, outside of a coverage dispute outlined in the MOC, shall be called to the attention of the Program Administrator, and heard by the Advisory Committee or its designee. The Advisory Committee or its designee will review the dispute and respond to the **Covered Party** within sixty (60) days of submittal. The **Covered Party** agrees to accept the Advisory Committee or its designee's decision as final.

**JUDICIAL BRANCH  
WORKERS' COMPENSATION PROGRAM (JBWCP)**

**JUDICIARY  
MEMORANDUM OF COVERAGE**



Judicial Council of California

## JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

### WORKERS' COMPENSATION COVERAGE

#### DECLARATIONS

1. NAMED COVERED MEMBER: Judicial Branch Workers' Compensation Program, et al; As per Endorsement No. 1
2. TERM:  
Inception: 12:01 a.m. Pacific Standard Time on July 1, 2022  
Expiration: 12:01 a.m. Pacific Standard Time on July 1, 2023
3. LIMITS OF LIABILITY:  
Workers' Compensation \$100,~~000,000~~ ~~Million per~~ Per Occurrence~~loss~~  
Employer's Liability \$2,000,000 ~~any one loss~~ Per Occurrence
4. FORMS ENDORSEMENTS: Form No. JBWCP 20\_\_ - \_\_ WC (B)  
FORMING PART OF THE POLICY AT Endorsement No. 1  
INCEPTION

ON BEHALF OF THE JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

**AUTHORIZED REPRESENTATIVE**

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**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM  
(JBWCP)**

**MEMORANDUM OF COVERAGE**

**WORKERS' COMPENSATION COVERAGE**

**ENDORSEMENT NO. 1**

It is understood that the Covered Party of the Declarations is completed as follows:

**JBWCP Judiciary Program Members:**

California Supreme Court  
California Court of Appeal - 1st District  
California Court of Appeal - 2nd District  
California Court of Appeal - 3rd District  
California Court of Appeal - 4th District  
California Court of Appeal - 5th District  
California Court of Appeal - 6th District  
Commission on Judicial Performance  
Habeas Corpus Resource Center  
California Judicial Center Library  
Trial Court Judges for California Superior Courts  
Judicial Council of California

Attached to and forming part of Policy No. JBWCP 2022-23 WC (B)

Effective Date: July 1, 20\_\_

**AUTHORIZED REPRESENTATIVE**

\_\_\_\_\_

# JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM

## MEMORANDUM OF COVERAGE

### Judiciary Pooled Workers' Compensation Program

Form No. JBWCP 20\_\_ - \_\_ WC (B)

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the Judicial Branch Workers' Compensation Program's (JBWCP) [Judiciary Pooled Workers' Compensation Program](#). The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions."

## GENERAL SECTION

### A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Bodily iInjury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include ~~eOccupational dDisease~~.
2. **Covered Party** shall mean a **Participant** in the [JBWCP Program](#) which has sustained a ~~lLoss~~ which is covered under this MOC of Coverage.
3. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation Act of the State of California, or under the common law of the State of California.
4. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable **Workers' Compensation Law**, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the **Workers' Compensation Act-Law** or other law for ~~bBodily iInjury~~ or ~~eOccupational dDisease~~ to an ~~eEmployee~~.
5. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
6. **Occurrence** shall mean an injury or disease of an **Employee** arising out of and in the course of employment that is compensable under the **Workers' Compensation**



Law. Bodily Injury, illness, or disease sustained by one (1) or more Employees, as a result of a single accident, incident, or exposure, shall be deemed to arise from a single Occurrence. The Occurrence shall be deemed to take place on the earlier of (a) the last day of the last exposure, in the employment of the Covered Party, to conditions causing or aggravating the disease, or (b) the date upon which the Employee first suffered disability and either knew, or in the exercise of reasonable diligence should have known, that such disability was caused by employment with the Covered Party. -All Occupational Disease sustained by one (1) or more Employees as a result of an outbreak of the same communicable disease shall be deemed to arise from a single Occurrence. -An outbreak of the same communicable disease that spans more than one coverage period shall be deemed to take place during the first such coverage period.

§.7. **Participant** shall mean all courts and branch agencies electing to participate as a Member in the JBWCP's Judiciary Pooled Workers' Compensation Program and are listed on Endorsement Number 1 of this MemorandumMOC.

## **B. THE MEMORANDUM OF COVERAGE**

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the JBWCP. The terms of this MOC may not be changed or waived except by endorsement issued by the JBWCP to be part of this MOC.

## **C. COVERAGE PERIOD**

This MOC applies to Loss(es) resulting from an Occurrence~~losses occurring~~ during the coverage period defined in the Declarations.

## **D. WHO IS COVERED**

The **Covered Party** is a **Participant** in the JBWCP. If a **Covered Party** loses its status as a Member, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **eEmployees** of the **Covered Party** for purposes of **Workers' Compensation Law**. Unpaid interns are considered volunteers under this section.

## E. WORKERS' COMPENSATION LAW

**Workers' Compensation Law** means the workers' or workmen's compensation law and **Occupational Disease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal **Occupational Disease** law, or the provisions of any law that provide non-occupational disability benefits.

## PART ONE – WORKERS' COMPENSATION COVERAGE

### A. COVERAGE

The JBWCP will pay for Loss sustained as a result of an Occurrence ~~these sums~~ for which the Covered Party becomes liable under ~~the Workers' Compensation Law~~ Act to which this coverage applies. ~~The JBWCP will not pay more than Limit of Liability stated in Item 3 of the Declarations page and further defined under Part Four of this Memorandum during the Coverage Period~~ provided that:

1. Injury must occur during the coverage period; and
2. Illness by disease must be caused or aggravated by the conditions of employment by the Covered Party and the **Employee's** exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

This includes coverage for Loss resulting from an Occurrence for Employees normally employed by the Covered Party in the State of California who perform work outside the State of California, but only if all of the following are true: such work is incidental to the Employee's regular employment in the State of California; such Loss is compensable under the Workers' Compensation Law and the Loss shall not be greater than it would have been had liability been imposed by the State of California; the Employee claims benefits under the Workers' Compensation Law and benefits under the Workers' Compensation Law are administered.

Although Out of State premiums are not covered by the JBWCP program, the program will work with each Judiciary Program Member to facilitate the process. Please contact JBWCP staff for assistance in procuring Out of State coverage. The premiums for Out of State coverage will be added to the Judiciary Program Member's JBWCP premium for payment.

### B. DEFENSE

The JBWCP has the right and duty to defend at its expense any claim, proceeding, or suit against the **Covered Party** for liabilities payable by this coverage. The JBWCP has the right to investigate and settle these claims, proceedings, or suits.

The JBWCP shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code [section](#) 4553, or discrimination or any other actions pursuant to Labor Code [section](#) 132a brought before the Workers' Compensation Appeals Board (WCAB). The JBWCP's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

### C. PAYMENTS THE MEMBER MUST MAKE

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the **Workers' Compensation ~~Aet~~ Law** including those imposed on the **Covered Party** because:

1. Of the **Covered Party's** serious and willful misconduct (except as stated herein above);
2. The **Covered Party** employs an **eEmployee** in violation of law;
3. The **Covered Party** fails to comply with a health or safety law or regulation;
4. The **Covered Party** discharges, coerces, or otherwise discriminates against any **eEmployee** in violation of the **Workers' Compensation ~~Law~~ Aet**; or
5. The **Covered Party** violates or fails to comply with any **Workers' Compensation Law** or regulation.

If the JBWCP makes any payments in excess of the benefits regularly provided by the **Workers' Compensation ~~Law~~ Aet** on the **Covered Party's** behalf, the **Covered Party** shall reimburse the JBWCP promptly.

## **PART TWO – EMPLOYER'S LIABILITY COVERAGE**

The **~~JBWCP Program~~** will provide coverage for **eEmployer's ~~Liability~~ ~~Losses~~** up to the **~~Program's Employer's Liability~~ ~~Limit of Liability~~** stated in the Declarations Page.

This coverage applies to **~~bBodily~~ ~~iInjury~~**. This coverage is subject to the **Limits** of Liability set forth herein, provided that those amounts awarded are the direct consequence of **~~bBodily~~ ~~iInjury~~** that arises out of and in the course of the injured **eEmployee's** employment by the **Covered Party**,

and are claimed against the **Covered Party** in a capacity other than as employer.

1. The ~~b~~**B**~~o~~**d**~~i~~**l**~~y~~ ~~i~~**n**~~j~~**u**~~r~~**y** must arise out of and in the course of the injured ~~e~~**E**~~m~~**p**~~l~~**o**~~y~~**e**~~e~~'~~**s** employment by the **Covered Party**.~~
2. **Bodily i**~~n~~**j**~~u~~**r**~~y~~ by accident must occur during the coverage period.
3. **Bodily i**~~n~~**j**~~u~~**r**~~y~~ by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The ~~e~~**E**~~m~~**p**~~l~~**o**~~y~~**e**~~e~~~~'~~**s** exposure to the conditions causing or aggravating such ~~b~~**B**~~o~~**d**~~i~~**l**~~y~~ ~~i~~**n**~~j~~u~~**r**~~y~~ by disease must occur during the coverage period.~~

### **PART THREE - POLICY EXCLUSIONS**

This MOC shall not apply to:

- A. Liability imposed by the **Workers' Compensation Laws** because of ~~b~~**B**~~o~~**d**~~i~~**l**~~y~~ ~~i~~**n**~~j~~u~~**r**~~y~~ to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the **Workers' Compensation Laws** because of ~~b~~**B**~~o~~**d**~~i~~**l**~~y~~ ~~i~~**n**~~j~~u~~**r**~~y~~ to participants of a work release program or other community service program established by a county of the State of California;~~~~
- B. Employer's Liability Coverage herein does not apply to:
  1. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law.
  2. Bodily injury, illness, or disease intentionally caused or aggravated or caused at the direction of the **Covered Party**.
  3. **Bodily i**~~n~~**j**~~u~~**r**~~y~~ to an ~~e~~**E**~~m~~**p**~~l~~**o**~~y~~**e**~~e~~ while employed in violation of law with the actual knowledge of the **Covered Party**.
- ~~E~~**C**. Liability for additional compensation imposed on the **Covered Party** under Labor Code ~~S~~**s**ection 4557 by reason of injury to an ~~e~~**E**~~m~~**p**~~l~~**o**~~y~~**e**~~e~~ under sixteen (16) years of age and illegally employed at the time of the injury.
- ~~F~~**D**. Liability imposed by Labor Code ~~S~~**s**ection 4856.

### **PART FOUR - THE COVERED PARTY'S RETENTION AND JBWCP'S LIMIT OF LIABILITY**

#### **A. LIMIT OF COVERAGE BY JBWCP**

The JBWCP will indemnify the **Covered Party** for H~~l~~oss resulting from an Occurrence under **Workers' Compensation Laws**, but will not exceed the JBWCP Limit of Liability stated in Item 3 of the Declarations Page on any one H~~l~~oss. -Coverage will include all benefits required under **Workers' Compensation Laws**, including full salary benefits listed in Labor Code Section 4850. The JBWCP will pay on behalf of the **Covered Party** for Employer's Liability H~~l~~osses but will not exceed the Limits of Liability stated in Item 3 of the Declarations Page on any one H~~l~~oss.

## B. HOW THE LIMIT OF COVERAGE APPLIES

The JBWCP's Limit of Coverage-Liability stated in the Declarations Page applies to e~~l~~aims Loss resulting from an Occurrence covered under the Workers' Compensation Coverage or Employer's Liability Coverage as follows:

1. To one (1) or more e~~E~~mployees for b~~B~~odily i~~n~~jury or death in any one accident; and
2. To any one (1) e~~E~~mployee for b~~B~~odily i~~n~~jury or death by disease.

Nothing contained herein shall operate to increase the JBWCP's Limit of Coverage Liability under this MOC.

## PART FIVE - CONDITIONS

### A. NOTICE OF ACCIDENT

1. The **Covered Party** shall immediately; within the reporting requirements of the State of California give prompt written notice to the JBWCP, or its agent, if a claim for an injury, illness, or disease occurs which appears to involve coverage by the JBWCP.
2. Notice of injury, illness, or disease given to the JBWCP shall contain complete details on the injury, illness, or disease. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the JBWCP, the **Covered Party** shall give the JBWCP:
  - a) all notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers;
  - b) copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.

~~If written notice is not provided by the Covered Party to the JBWCP within thirty~~

~~(30) calendar days of knowledge of such claim, coverage will not be provided under this Memorandum of Coverage.~~

3. ~~If continued cooperation through the life of the claim is not provided by the **Covered Party** to the JBWCP within thirty (30) calendar days of knowledge of such claim, or subsequent details about the injury, disease, or death including any correspondence and communication with the injured **Employee**, the JBWCP may be required to make decisions on behalf of the **Covered Party**. JBWCP will continue to contact and work with the member before making any final decisions. This requirement is a condition precedent to coverage under this MOC.~~

## B. SUBROGATION - RECOVERY FROM OTHERS

1. The JBWCP has the **Covered Party's** rights, and the rights of persons entitled to workers' compensation benefits from the **Covered Party**, to recover the JBWCP's loss from any third person liable for the injury, illness, or disease.
2. The **Covered Party** shall not take any action after injury or disease that would jeopardize the JBWCP's right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP's **Loss**

## C. MEMORANDUM CONFORMS TO LAW

If terms of this Memorandum-MOC are in conflict with any laws applicable to this Memorandum this statement amends this Memorandum-MOC to conform to such law or document.

## D. ACCEPTANCE

By acceptance of this Memorandum-MOC, the **Covered Party** agrees that the statements made on the Declarations Page are the **Covered Party's** agreements and representations, that this Memorandum-MOC is issued in reliance upon the truth of such representations, and that this Memorandum-MOC embodies all agreements existing between the **Covered Party** and the JBWCP or any of the JBWCP's agents relating to this coverage.

## E. INSPECTION

The JBWCP has the right, but is not obligated to review the **Covered Party's** programs and operations relating to safety. The JBWCP may give the **Covered Party** reports on the conditions the JBWCP finds. The JBWCP may recommend changes. While they may help reduce losses, the JBWCP does not undertake to perform the duty of any person to provide for the health or safety of the **Covered Party's** e**mployees** or the public. The JBWCP

does not warrant that the **Covered Party's** workplaces are safe or healthful or that they comply with law, regulations, codes, or standards.

#### **F. OTHER INSURANCE**

~~If the **Covered Party** carries other valid and collectible insurance with any other insurer or reinsurer covering a **Loss** also covered by this agreementMOC, the coverage afforded by this agreementMOC shall apply in excess of and shall not contribute with such other insurance.~~

#### **FG. TRANSFER OF THE COVERED PARTY'S RIGHTS AND DUTIES**

The **Covered Party's** rights and duties under this Memorandum-MOC may not be transferred without the JBWCP's written consent.

#### **HG. ~~ARBITRATION~~DISPUTES AND APPEALS**

Final decisions by the JBWCP concerning a claim (including, but not limited to, decisions regarding claim resolution, negotiation, investigation, defense, appeal, or settlement, and decisions about whether coverage exists for a particular claim or part of a claim) shall be made by the Advisory Committee of the JBWCP or its designee within sixty (60) days. ~~The JBWCP and **Covered Party** may agree to submit any dispute arising from such decisions to binding arbitration if mutually agreeable by all disputing parties.~~

~~Arbitration shall be conducted pursuant to the California Code of Civil Procedure, Title 9 (commencing with Section 1280). The parties may agree upon a single arbitrator, in which case arbitration shall be conducted by that single arbitrator. If the parties cannot agree upon a single arbitrator, arbitration shall be conducted by a three person panel. The **Covered Party** shall select one (1) arbitrator and the JBWCP shall select one (1) arbitrator, and the two (2) arbitrators shall select a third (3<sup>rd</sup>) arbitrator upon mutual agreement. No arbitrator shall be employed or affiliated with the Program or the **Covered Party**.~~

~~The selection of arbitrators shall take place within twenty (20) calendar days from the receipt of the request for arbitration.~~

~~If a single arbitrator is used, each party shall bear one-half (1/2) of the cost of the arbitrator. In three (3) arbitrator cases, each party shall bear the cost of its selected arbitrator and one-half (1/2) of the third (3<sup>rd</sup>) selected arbitrator. In addition, each party shall be responsible for its own costs and expenses of arbitration.~~

Any matter in dispute between the **Covered Party** and the Program Administrator, outside of a coverage dispute outlined in the Memorandum of CoverageMOC, shall be called to the attention of the Program Administrator, and heard by the Advisory Committee or its designee. The Advisory Committee or its designee will review the dispute and respond to

the **Covered Party** within ~~S~~sixty (60) days of submittal. The **Covered Party** agrees to accept the Advisory Committee or its designee's decision as final.