

STATE OF INDIANA

BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS

ORDINANCE NO. 7-2010

AN ORDINANCE AMENDING ORDINANCE NO. 11-1992 TO INCLUDE VOLUNTEERS SERVING THE CLARK LEGAL SELF-HELP PROGRAM AS PERSONS ENTITLED TO THE PROVISION OF A LEGAL DEFENSE AND INDEMNIFICATION WITH RESPECT TO THIRD PARTY CLAIMS

WHEREAS, this Board of Commissioners of Clark County, Indiana (this "Board"), is the executive body of Clark County government pursuant to the provisions of IC 36-2-2-2; and,

WHEREAS, this Board is also the legislative body of Clark County Government pursuant to the provisions of IC 36-1-2-9; and,

WHEREAS, this Board previously adopted Ordinance No. 11-1992 entitled *Ordinance to Provide a Legal Defense and Pay Damages on Behalf of Clark County Officeholders, Their Employees, and Attorneys under Contract with Clark County, Indiana* establishing the terms and conditions on which Clark County will provide a legal defense and indemnification from damages (excluding punitive damages and attorney's fees) on any third party claims asserted against any covered person acting within the scope of their office or appointment; and,

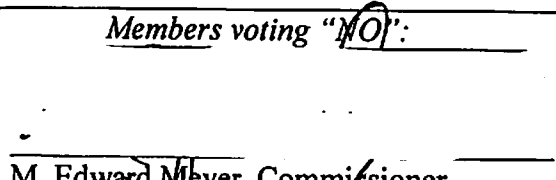
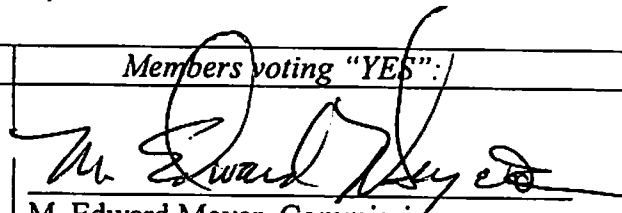
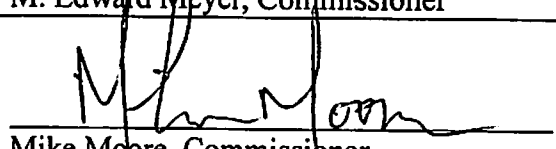
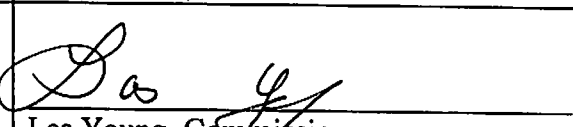
WHEREAS, this Board is aware that the Clark Circuit Court has now established a program commonly known as the *Clark Legal Self-Help Center* (the "Program") for which it is anticipated that attorneys, law students, and other persons (each a "Volunteer") will provide volunteer services ; and,

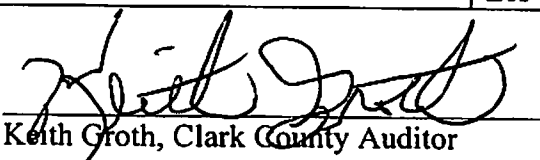
WHEREAS, this Board now finds that Ordinance No. 11-1992 should be amended to provide the protections afforded to Clark County officeholders, their employees, and attorneys under contract with Clark County to each Volunteer providing services to the Program.

NOW, THEREFORE, BE IT ORDAINED by this Board of Clark County Commissioners as follows:

1. Each attorney, law student, or other person subsequently providing services to, or for the benefit of, the the *Clark Legal Self-Help Center* (the "Program"), shall be entitled to the benefits and protection of Ordinance No. 11-1992 as covered persons thereunder with respect to any third-party claims for which benefits otherwise would extend under such ordinance.
2. Except as expressly provided in this Ordinance, Ordinance No. 11-1992 shall remain in full force and effect. No Volunteer shall be entitled to benefits or protections under this Ordinance regarding any third-party claims for which an eligible person would not have been afforded coverage under Ordinance No. 11-1992.
3. This Ordinance shall be in full force and effect upon its passage and promulgation as evidenced by the affirmative signatures of the undersigned as the majority of the duly elected and serving members of this Board.

So Ordained this 27th day of may, 2010.

<u>Members voting "NO":</u>	<u>Members voting "YES":</u>
 M. Edward Meyer, Commissioner	 M. Edward Meyer, Commissioner
 Mike Moore, Commissioner	 Mike Moore, Commissioner
 Les Young, Commissioner	 Les Young, Commissioner

Attested by: 
 Keith Groth, Clark County Auditor

AMENDED TO
ORDINANCE
7-2010
6-13-2010

ORDINANCE #11-1992 -

**ORDINANCE TO PROVIDE A LEGAL DEFENSE
AND PAY DAMAGES ON BEHALF OF CLARK COUNTY
OFFICEHOLDERS, THEIR EMPLOYEES AND
ATTORNEYS UNDER CONTRACT WITH CLARK COUNTY, INDIANA**

WHEREAS, from time to time the actions of officeholders of Clark County and their employees, and attorneys who are under contract for Clark County, Indiana are called into question; and

WHEREAS, some of these complaints manifest themselves in the form of suits against the officeholder and/or his or her deputies or against attorneys under contract with the county; and

WHEREAS, Clark County, Indiana desires to protect its officeholders and their employees and attorneys under contract or otherwise performing legal services for or in any office of Clark County government from financial loss; and

WHEREAS, IC 34-4-16-5(c) provides that local entities of government shall provide counsel for an pay all costs and fees suit for a loss occurring because of acts or omissions within the scope of his/her employment or contract, regardless of whether the employee (or attorney) can or cannot be held personally liable for the loss; and

WHEREAS, the Board of Commissioners, the Clark County Council, the Clark County Public Defender Office, the Health Department and the Office of Planning and Zoning regularly, on an annual basis, contract with certain attorneys of their choice for continuous legal advice and legal services throughout the course of the year who are paid pursuant to specific contracts; and

WHEREAS, such attorneys perform valuable legal functions, at the direction of the party/office with whom they contract, for the benefit of Clark County, Indiana; and

WHEREAS, litigation against officeholders of Clark County, Indiana, their employees and said attorneys is sometimes instituted, naming these persons as party defendants, either as a result of their position as a contractor, officeholder or employee of the county as a result of their acts/omissions in any function on behalf of the county.

NOW, THEREFORE, BE IT ORDERED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

1. That the above recitals are incorporated by reference herein.
2. That this Ordinance repeals and supersedes Ordinance 2-1985 and Ordinance 4-1989 and this Ordinance shall be the controlling Ordinance of Clark County government pertaining to legal defense and representation matters, superseding all others.
3. Whenever a Clark County, Indiana officeholder and/or his or her employees or any attorney described in the above recitals shall be sued for a loss occurring because of acts or omissions

attorney described in the above recitals shall be sued for a loss occurring because of acts or omissions within the scope of his/her employment or contract, regardless of whether the employee or attorney can or cannot be held personally liable for the loss, then Clark County, Indiana shall provide, at its expense, a legal defense for said officeholder, attorney and/or employee. In the event a court of competent jurisdiction shall pay said judgment, and all court costs incurred, ~~timely~~.

(insert) a judgment of such person, Cl Co In

4. Upon receipt of notice of such suit the affected officeholder, employee or attorney shall submit the documentation pertaining to the law suit to the Board of Commissioners. The commissioners shall have the exclusive right to select and retain defense counsel of its choice to represent the affected officeholder, employee or attorney.

5. This Ordinance shall apply to suits on and after this date as well as any suits pending on this date.

6. This Ordinance shall not apply to criminal acts of the officeholder and/or his or her employees.

7. The benefits and protections of this Ordinance shall not apply to any officeholders or employees of any township level of government in Clark County, Indiana, nor to any attorneys under contract with any township government.

8. The benefits and protections of this Ordinance shall not extend to any circumstance wherein the county is liable for payment of punitive damages and/or attorney fees awarded against any officeholder, ~~employee or attorney~~ by a court of competent jurisdiction unless the Board of Commissioners, in the exercise of its sole discretion, determines otherwise and assumes the obligation to pay any such sums, in whole or in part, after being presented with a request therefor, along with supporting reasons and evidence, by the affected ~~officeholder employee or attorney~~ *PERSON*.

9. The portions of this Ordinance referencing attorneys are expressly applicable and limited to those attorneys at law, duly licensed in Indiana, who perform services for any office of Clark County, Indiana government pursuant to a written contract. The commissioners expressly state the court-appointed public defenders, prosecutors and deputy prosecutors are also afforded the protections and benefits of this Ordinance in the event that state agencies (e.g. Attorney General of Indiana for the prosecuting attorney and his deputies) do not provide the judgment and cost payment obligations and the legal representation for them that is outlined herein.

So ordained and approved by November 17, 1992.

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9. The portions of this Ordinance referencing attorneys are expressly applicable and limited to those attorneys at law, duly licensed in Indiana, who perform services for any office of Clark County, Indiana government pursuant to a written contract. The commissioners expressly state the court-appointed public defenders, prosecutors and deputy prosecutors are also afforded the protections and benefits of this Ordinance in the event that state agencies (e.g. Attorney General of Indiana for the prosecuting attorney and his deputies) do not provide the judgment and cost payment obligations and the legal representation for them that is outlined herein.

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