

#39  
Billingsley

FILED  
DEC 30 2020  
AD  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

KAREN PAZ DOMINGUEZ, Auditor-  
Controller, County of Humboldt,  
  
Petitioner,  
  
COUNTY OF HUMBOLDT; COUNTY OF  
HUMBOLDT BOARD OF SUPERVISORS;  
and DOES 1-10,  
  
Respondents.

Case No. CV2001430  
  
ORDER RE: *EX PARTE* APPLICATION BY  
AUDITOR-CONTROLLER KAREN PAZ  
DOMINGUEZ REQUESTING THE COURT TO  
DECLARE A CONFLICT & APPOINT COUNSEL  
PURSUANT TO GOV. CODE §31000.6 FILED  
12/22/2020

The ex parte application to declare a conflict and appoint counsel pursuant to Government Code Section 31000.6 came before the Court at 1:30 p.m. on December 23, 2020 in Courtroom 7 of the Humboldt County Superior Court, the Honorable Joyce D. Hinrichs. Applicant Karen Paz Dominguez, Auditor-Controller for Humboldt County, appeared by and through her attorney of record, Cyndy Day-Wilson, Esq. The County of Humboldt appeared by and through their attorney of record, Jefferson Billingsley.

County Counsel Billingsley stated that he acknowledged that a conflict existed at the December 8, 2020 Board of Supervisors Meeting; Attorney Day-Wilson stated that she had done an extensive review and was unaware of any such statement. The Action Summary from that meeting provides that the County Counsel recommended that the Board of Supervisors: "1. Deliberate on the request of the Auditor-Controller; and 2. Authorize a designated County Counsel attorney to represent the Auditor-Controller in the investigation

1 with an ethical wall in place.” While the recommendation does not include appointment of  
2 outside legal counsel, the recommendation for an ethical wall would only be necessary if a  
3 Conflict of Interest was acknowledged. No determination was made on December 8, 2020,  
4 and the issue was continued to December 15, 2020.

5 On December 17, 2020, County Counsel Billingsley sent an email to Attorney Day-  
6 Wilson stating that on December 15, 2020, the Board of Supervisors authorized outside legal  
7 counsel representation for Auditor-Controller Paz Dominguez. Attorneys Billingsley and  
8 Day-Wilson exchanged emails regarding the selection of the specific attorney to represent  
9 Auditor-Controller Paz Dominguez.

10 The Court does not have to make an order regarding the issue of conflict. It is clear  
11 that the County Counsel acknowledged that there was a conflict in their continued  
12 representation of Auditor-Controller Paz Dominguez, and that County Counsel Billingsley  
13 was communicating with Attorney Day-Wilson to identify outside legal counsel for Auditor-  
14 Controller Paz Dominguez.

15 Government Code §31000.6(a) provides:

16 Upon request of the assessor, auditor-controller, or the sheriff of the county,  
17 the board of supervisors shall contract with and employ legal counsel to  
18 assist the assessor, auditor-controller, or the sheriff in the performance of his  
19 or her duties in any case where the county counsel or the district attorney  
would have a conflict of interest in representing the assessor, auditor-  
controller, or the sheriff.

20 And

21 Government Code §31000.6(e) provides:

22 If the presiding judge determines that a conflict of interest does exist, and  
23 that representation by the county counsel or district attorney through the  
24 creation of an ethical wall is inappropriate, the board of supervisors shall  
25 immediately employ legal counsel selected by the presiding judge to assist  
the assessor, the auditor-controller, or the sheriff. The assessor, the auditor-  
controller, or the sheriff may recommend specific legal counsel for selection  
by the presiding judge. The board of supervisors may also separately

1 recommend specific legal counsel for selection by the presiding judge. When  
2 selecting counsel pursuant to this section, the presiding judge shall consider  
the counsel compensation rates prevailing in the county for similar work.

3 Pursuant to statute the presiding judge only selects outside legal counsel, if the  
4 presiding judge determines the issue of conflict. Therefore, this Court will not do so, but will,  
5 however, direct the Humboldt County Board of Supervisors to contract with and employ legal  
6 counsel to assist Auditor-Controller Paz Dominguez in the performance of her duties as it  
7 relates to the investigation identified in the October 14, 2020, correspondence to Auditor-  
8 Controller Paz Dominguez from the Offices of Human Resources and County Counsel.

9 It is clear that Attorney Day-Wilson is the attorney of choice of Auditor-Controller Paz  
10 Dominguez. The County is not obligated to select Attorney Day-Wilson, however, if the  
11 Humboldt County Board of Supervisors do not do so, the Court does believe that Attorney  
12 Day-Wilson should be reimbursed at a reasonable rate for the legal work she did to secure  
13 outside legal counsel on behalf of Auditor-Controller Paz Dominguez.

14 Having considered the papers and argument of counsel, for the reasons stated  
15 herein, the *Ex Parte* Application by Auditor-Controller Karen Paz Dominguez requesting the  
16 Court to declare a conflict and appoint counsel pursuant to Government Code §31000.6 filed  
17 December 22, 2020, is denied.

18 IT IS SO ORDERED.

19 DATED: December 30, 2020

20 JOYCE D. HINRICHS

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Joyce D. Hinrichs, Presiding Judge of the Superior Court

PROOF OF SERVICE BY MAIL

I am a citizen of the United States, over 18 years of age, a resident of the County of Humboldt, State of California, and not a party to the within action; that my business address is Humboldt County Courthouse, 825 5<sup>th</sup> St., Eureka, California, 95501; that I served a true copy of the attached ORDER RE: EX PARTE APPLICATION BY AUDITOR-CONTROLLER KAREN PAZ DOMINGUEZ REQUESTING THE COURT TO DECLARE A CONFLICT & APPOINT COUNSEL PURSUANT TO GOV. CODE §31000.6 FILED 12/22/2020 by placing said copies in the attorney's mail delivery box in the Court Operations Office at Eureka, California on the date indicated below, or by placing said copies in envelope(s) and then placing the envelope(s) for collection and mailing on the date indicated below following our ordinary business practices. I am readily familiar with this business practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Eureka, California in a sealed envelope with postage prepaid. These copies were addressed to:

Jefferson Billingsley, Court Operations Box #39

Cyndy Day-Wilson, Court Operations Box #116

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on the 30<sup>th</sup> day of December 2020, at the City of Eureka, California.

Kim M. Bartleson, Clerk of the Court

By Audrey Q.  
Deputy Clerk