



# Maricopa County

## Risk Management

Peter J. Crowley, Risk Manager

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July 8, 2010

Sheriff Joseph M. Arpaio  
Chief Deputy David A. Hendershott  
Detective Jonathan Halverson (#1674)  
Detective Patrick Roshetko (#1412)  
Maricopa County Sheriff's Office  
100 W. Washington Street, Suite 1900  
Phoenix, Arizona 85003

Maricopa County Sheriff's Office  
c/o Sheriff Joseph M. Arpaio  
100 W. Washington Street, Suite 1900  
Phoenix, Arizona 85003

Lisa Aubuchon, Esq.  
Maricopa County Attorney's Office  
301 W. Jefferson Street, Suite 800  
Phoenix, Arizona 85003

Maricopa County Attorney's Office  
c/o Richard Romley, County Attorney  
301 W. Jefferson Street, Suite 800  
Phoenix, Arizona 85003

Andrew P. Thomas, Esq.  
c/o Thomas for AG Committee  
4757 E. Greenway Road, Suite 103-233  
Phoenix, Arizona 85032

**Re: Reservation of Rights**

Dear Addressees:

The Maricopa County Risk Management Department has received ten Notices of Claim served by nine individuals, including their spouses and/or family members and/or affiliated entities, arising out of your personal conduct and/or the conduct of your present or former offices. As of the date of this letter, the following Notices of Claim have been served: (1) Don and Kathy Stapley, dated March 18, 2010; (2) Don and Kathy Stapley, dated June 4, 2010; (3) Mary Rose and Earl Wilcox, dated May 27, 2010; (4) Sandra Wilson, dated June 1, 2010; (5) Susan Schuerman, dated June 2, 2010; (6) Judge Gary Donahoe, dated May 21, 2010; (7) Judge Barbara Mundell, dated May 28, 2010; (8) Judge Anna Baca, dated May 28, 2010; (9) Judge Kenneth Fields, dated June 1, 2010; (10) Conley, Ashton and Brandon Wolfswinkel and their affiliated entities, dated May 14, 2010.

The Risk Management Department has completed its initial coverage analysis and has concluded that, given the nature of many of the allegations against you and your offices, it is necessary and appropriate to reserve certain rights under the Revised Restated Declaration of Trust for Maricopa County, Arizona Self-Insured Trust Fund (the "Trust"). As the Administrator of the Trust, I set forth below the relevant

provisions of the Trust, and the nature and extent of the Trust's reservation of rights thereunder, pursuant to my authority to do so under Section 2.2.3.4 of the Trust upon the consent of the Board of Supervisors. Although, in general, pursuant to Section 2.2.1.4 of the Trust, the Trust provides coverage for many liability claims brought against Maricopa County and its elected officials, officers and other employees while they are acting within authorized governmental or proprietary capacities and in the course and scope of their employment or authorization, the Trust also provides for certain exclusions from coverage.

Pursuant to Section 2.2.4.2 of the Trust, the Trust does not provide coverage for any loss, costs, claims, litigation expenses or other expenses "arising from fines, assessments, penalties, punitive, exemplary, or treble damages, unless written approval has been obtained from the Board prior to payment." As of the date of this letter, the Board of Supervisors has not provided me with any such written approval. The Trust hereby reserves its rights not to provide coverage for any and all claims/causes of action predicated upon any conduct by you and/or your office that are determined to fall within this exclusionary coverage provision of the Trust.

Pursuant to Section 2.2.4.2 of the Trust, the Trust does not provide coverage for any loss, costs, claims, litigation expenses or other expenses "arising from an act or omission determined by a court having jurisdiction to be a violation of Arizona Revised Statutes Titles 13 and 28, or a violation of any other federal, state or local law or ordinance which allows the imposition of criminal penalties. Any acts or omissions which may reasonable be characterized as a violation of the above-referenced laws are also excluded from coverage under the Trust." The Trust hereby reserves its rights not to provide coverage for any and all claims/causes of action predicated upon any conduct by you and/or your office that are determined to fall within this exclusionary coverage provision of the Trust.

Pursuant to Section 2.2.4.7 of the Trust, the Trust does not provide coverage for any loss, costs, claims, litigation expenses or other expenses "arising from intentional and willful/wrongful act(s) of an Employee." The Trust hereby reserves its rights not to provide coverage for any and all claims/causes of action predicated upon any conduct by you and/or your office that are determined to fall within this exclusionary coverage provision of the Trust.

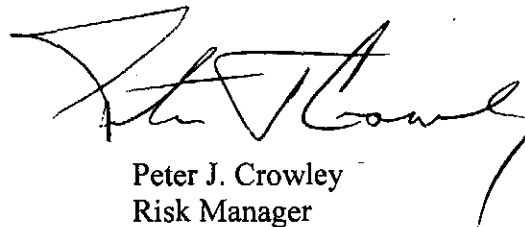
Subject to the foregoing reservations of rights, the Trust will provide coverage for you and your offices for any and all claims/causes of action predicated upon any conduct by you and/or your office that are determined to fall outside the foregoing exclusionary coverage provisions of the Trust. Subject to the foregoing reservations of rights, the Trust will pay for all defense costs and reasonable attorneys' fees incurred by the attorney(s) duly appointed by me at the appropriate time to represent you and/or your office, pursuant to my authority to do so under Section 2.2.3.1 of the Trust. This provision of coverage and payment of costs and reasonable attorneys' fees do not apply to any claims/causes of action not asserted in the existing Notices of Claim, to any supplemental or new claims/causes of action that may be asserted in the future by those who have served the existing Notices of Claim, and to any claims/causes of action that may be asserted in the future by those who have not yet served a Notice of Claim arising out of the referenced events in the existing Notices of Claim. The Trust hereby reserves its rights to conduct a further coverage analysis of all such claims/causes of action and to thereafter issue, as necessary and appropriate, any and all further reservation of rights letters.

For those of you Addressees who either now are former employees of Maricopa County, or who hereafter become former employees of Maricopa County, please be advised that the Trust does not provide coverage for any claims/causes of action predicated upon any conduct by you at the time you are a former employee of Maricopa County, nor will the Trust pay for any costs or attorneys' fees incurred in defense of any claims/causes of action predicated upon any conduct by you at the time you are a former employee of Maricopa County.

I remind all Addressees of the mandatory provisions of Section 2.2.6.3 of the Trust, which I highlight for your cautionary consideration, and which state in relevant part that "any party covered by the terms of the Declaration of Trust **shall cooperate fully** with the Administrator and appointed counsel in the defense of claims covered under the Trust; **the failure of a covered party to fully cooperate in the administration, investigation and defense of any claim shall result in the loss of coverage under this Declaration of Trust.**" These mandatory provisions apply equally to current and former employees as an express condition of coverage for all claims/causes of action for which the Trust provides coverage. I therefore caution and encourage all Addressees, current and former employees alike, to cooperate fully in the administration, investigation and defense of all the claims/causes of action asserted in the existing Notices of Claim and any future Notices of Claim arising out of the referenced events in the existing Notices of Claim. I likewise caution and encourage all Addressees, current and former employees alike, to refrain from saying or doing anything that may compromise, interfere with, or otherwise impede the administration, investigation and defense of all such claims/causes of action.

Finally, to the extent that any Addressee may wish to retain their own attorney either to begin preparation of their defense or to obtain legal advice about the import of this reservation of rights letter, before I appoint an attorney for you pursuant to my authority to do so under Section 2.2.3.1 of the Trust, please be advised that you certainly may retain such personal counsel, but neither the Trust nor Maricopa County will indemnify you or otherwise pay for any costs or attorneys' fees incurred as a result of your retention of such private personal counsel.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Peter J. Crowley". The signature is stylized and cursive, with a large initial "P" and "C".

Peter J. Crowley  
Risk Manager