

**MINUTES OF  
SOUTHEAST LOUISIANA FLOOD PROTECTION AUTHORITY-EAST  
LEGAL COMMITTEE MEETING  
HELD ON MAY 18, 2023**

PRESENT: Richard G. Duplantier, Jr., Chair  
Roy M. Arrigo, Committee Member  
Thomas G. Fierke, Committee Member

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The Legal Committee of the Southeast Louisiana Flood Protection Authority-East (Authority or FPA) met on May 18, 2023, in the Joseph Yenni Building, Second Floor Council Chambers, 1221 Elmwood Park Blvd., Jefferson, La. Mr. Duplantier called the meeting to order at 9:30 a.m.

**Opening Comments:** None

**Adoption of Agenda:** The Committee approved the agenda as presented.

**Approval of Minutes:** The Committee approved the minutes of the meeting held on March 16, 2022.

**Public Comments:** None.

**New Business:**

**A. Discussion of retaining Fisher & Phillips LLP to provide legal counsel and representation for certain Louisiana Civil Service Employee Appeals and other labor and employment litigation.**

Mr. Duplantier explained that Fisher & Phillips is one of the employment law firms in Louisiana that the FPA has been using for a number of years in the employment related police cases and Civil Service cases. Typically, Fisher & Phillips is retained through the FPA's insurance carrier to provide a defense through the FPA. The carrier recently declined to defend and indemnify the FPA for the police claims raising an issue that police claims are excluded from coverage under the policy. The FPA is fighting the carrier on this issue; however, in the interim the FPA needs to retain Fisher & Phillips to continue its representation of the FPA. Fisher & Phillips' rates are \$305 for a partner and \$270 for of counsel, which are higher than the standard rates approved by the Attorney General (AG). The FPA will request that the AG approve the FPA's retention of Fisher & Phillips at the aforementioned rates and request an exception to the standard civil defense rates within the AG's guidelines. The AG's guidelines were adopted in 2018 and rates for lawyers have substantially changed since that time.

Mr. Duplantier recommended that the Legal Committee adopt a motion to recommend that the Board approve the retention of Fisher & Phillips to defend the police cases at

the rates of \$305 for a partner and \$270 for of counsel. He added that the FPA's insurance broker and staff are handling the argument with the insurance carrier at this time and are attempting to change its opinion. The carrier had always covered the FPA in the past with the same language in the policy; however, it has a new claims person who looked at the cases from a different perspective. The FPA's opinion is that the carrier is wrong; therefore, should there be a need for the FPA to retain counsel to fight the carrier, it will do so. However, there is no need for the FPA to retain counsel at this time for this purpose.

Kirk Ordoyne, Executive Counsel, advised that the coverage under discussion is the FPA's Public Entity Liability Policy with Chubb. Chubb's manager is denying coverage under one of the policy's exclusions. The FPA is appealing the manager's decision based on cases that had been covered in the past. Should it win on the appeal of the decision, the FPA would responsible for paying Fisher & Phillips' rates of \$305 for a partner and \$270 for of counsel within its SIR (self-insured retention). Mr. Duplantier noted that the FPA has an SIR of \$100,000 per claim for this type of case and that multiple claims are involved; therefore, the cases will probably remain within the SIR for a while.

Mr. Arrigo inquired about what was involved in "other labor and employment litigation" mentioned in the agenda item. Mr. Ordoyne responded that this language was included in the event that any new police cases come about through the policy period and the claims are denied.

Mr. Duplantier offered a motion that the Committee approve the proposed resolution to retain Fisher & Phillips and recommend its adoption by the Board. The motion was seconded by Mr. Arrigo and adopted by the Committee.

Mr. Ordoyne added that other labor and employment litigation also includes any potential EEOC claim or other type of claim filed by a police officer that goes to any other court. The same attorney that represents the FPA on the Civil Service appeal in the current and prior cases would also represent the FPA in any other court. Mr. Duplantier noted that potential EEOC issues have been raised in at least one of the complaints being handled by Fisher & Phillips.

Mr. Ordoyne advised that the hearing dates provided at the March 16<sup>th</sup> Legal Committee meeting have not changed. The FPA is working on settling some accident cases, one of which was settled for a minimal amount of \$5,000 for each of the two individuals involved. Mr. Duplantier stated that an update on all of the cases would be provided prior to the June meeting.

### **Executive Session:**

- 1. Discussion of Robert, Joseph et al. versus State of Louisiana et al., Civil District Court for the Parish of Orleans, No. 2016-09374, Division F, Section 14.**
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A motion was offered by Mr. Duplantier, seconded by Mr. Arrigo and unanimously approved, for the Committee to convene in Executive Session to discuss the case listed on the agenda.

The Committee reconvened in Regular Session. Mr. Fierke stated that no decisions were made in the executive session.

There was no further business; therefore, the meeting was adjourned at 10:03 a.m.