

April 3, 2017

Hornbrook Community Services District  
Secretary Patricia Slote, President Robert Puckett, Sr.  
PO Box 29  
Hornbrook, CA 96097

Re: Request for Indemnification Pursuant to Govt. Code Section 995.

Dear President Puckett, Secretary Slote, and HCSD Board Members,

This letter will follow up to my prior formal request for indemnification pursuant to Govt. Code Section 995 relating to a United States District Court action against me in my official capacity entitled Peter T. Harrell v. Hornbrook Community Services District, et al; #2:14-cv-1595 KJM GGH PS. As I have previously pointed out, the improper abandonment of me by Counsel Munoz and Muphy, Pearson, Bradley & Feeney, Inc - because I caught them filing false documents with the Court, lying to the Court about numerous facts, etc - has left me without counsel after the HCSD has already agreed to indemnify me, Patty Brown, and Michele Hanson. That means my previous letter to you was legally a request for you to provide a defense to me in that civil action, but you never responded in any way. See generally Stone v. Regents of Univ. of California (1999) 77 Cal.App.4th 736. I have now received an Order from the District Court Judge stating the she will not dismiss this complaint, and that the lawsuit is going to proceed as soon as Mr. Harrell files an amended complaint. That means that you need to provide me new counsel concerning it. Here are the applicable sections of the Government Code:

825. (a) Except as otherwise provided in this section, if an employee or former employee of a public entity requests the public entity to defend him or her against any claim or action against him or her for an injury arising out of an act or omission occurring within the scope of his or her employment as an employee of the public entity and the request is made in writing not less than 10 days before the day of trial, and the employee or former employee reasonably cooperates in good faith in the defense of the claim or action, the public entity shall pay any judgment based thereon or any compromise or settlement of the claim or action to which the public entity has agreed.

825.2. (a) Subject to subdivision (b), if an employee or former employee of a public entity pays any claim or judgment against him, or any portion thereof, that the public entity is required to pay under Section 825, he is entitled to recover the amount of such payment from the public entity. (b) If the public entity did not conduct his defense against the action or claim, or if the public entity conducted such defense pursuant to an agreement with him reserving the rights of the public entity against him, an employee or former employee of a public entity may recover from the public entity under subdivision (a) only if he establishes that the act or omission upon which the claim or judgment is based occurred within the scope of his employment as an employee of the public entity and the public entity fails to establish that he acted or failed to act because of actual fraud, corruption or actual malice or that he willfully failed or refused to conduct the defense of the claim or action in good faith or to reasonably cooperate in good faith in the defense conducted by the public entity.



996. A public entity may provide for a defense pursuant to this part by its own attorney or by employing other counsel for this purpose or by purchasing insurance which requires that the insurer provide the defense. All of the expenses of providing a defense pursuant to this part are proper charges against a public entity. A public entity has no right to recover such expenses from the employee or former employee defended.

996.4. If after request a public entity fails or refuses to provide an employee or former employee with a defense against a civil action or proceeding brought against him and the employee retains his own counsel to defend the action or proceeding, he is entitled to recover from the public entity such reasonable attorney's fees, costs and expenses as are necessarily incurred by him in defending the action or proceeding if the action or proceeding arose out of an act or omission in the scope of his employment as an employee of the public entity, but he is not entitled to such reimbursement if the public entity establishes (a) that he acted or failed to act because of actual fraud, corruption or actual malice, or (b) that the action or proceeding is one described in Section 995.4. Nothing in this section shall be construed to deprive an employee or former employee of the right to petition for a writ of mandate to compel the public entity or the governing body or an employee thereof to perform the duties imposed by this part.

Any problems would be resolved by either selecting an outside counsel from a reputable firm in Sacramento to represent me, or approving my selection of counsel. I am being sued for things done in my official capacity and within the scope of that capacity as Director. Because a conflict with MPB&F did exist, that means that you should have appointed me a different counsel anyway

The law is also clear that if you continue to deny me counsel for a defense, that I may then retain any counsel I wish, at whatever cost, and those costs would be considered a claim payable by you, as is any judgment arising therefrom - so it makes sense to assist me in obtain well-qualified counsel to control all such potential costs. In the event I was unable to obtain counsel, and suffered a default judgment or other costs, the HCSD would then be liable for that, too. Naturally there is also the issue of if any denial of my request was improperly motivated, or if my request was treated differently than those of the other former directors and employees of the HCSD, that would be a violation of my civil rights.

None of my personal issues with any Board member, or the HCSD, nor my conduct as a private citizen is relevant in any way to why I am being sued by Mr. Harrell, and it has no relevance to the issue before you concerning my requested indemnification. Please respond right away per Government Code 995.2(b) so I know how to proceed.

Yours truly,

*Sharrel M Barnes*      *April 3, 2017*

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