

**JUDICIAL BRANCH
WORKERS' COMPENSATION PROGRAM (JBWCP)**

**TRIAL COURTS
POOLED WORKERS' COMPENSATION PROGRAM**

MEMORANDUM OF COVERAGE



Judicial Council of California

**JUDICIAL BRANCH WORKERS COMPENSATION PROGRAM
(JBWCP)**

WORKERS' COMPENSATION COVERAGE

DECLARATIONS

1. NAMED COVERED MEMBER: Judicial Branch Workers Compensation Program,
et al; As per Endorsement No. 1

2. TERM:

Inception: 12:01 a.m. Pacific Standard Time on July 1, 2020
Expiration: 12:01 a.m. Pacific Standard Time on July 1, 2021

3. LIMITS OF LIABILITY:
Workers' Compensation \$100 Million – per loss
Employer's Liability \$2,000,000 any one loss

4. FORMS ENDORSEMENTS: Form No. JBWCP 2020-21 WC (A)
FORMING PART OF THE POLICY AT Endorsement No. 1
INCEPTION

ON BEHALF OF THE JUDICIAL BRANCH WORKERS COMPENSATION
PROGRAM

AUTHORIZED REPRESENTATIVE



**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM
(JBWCP)**

MEMORANDUM OF COVERAGE

WORKERS' COMPENSATION COVERAGE

ENDORSEMENT NO. 1

It is understood that the Covered Party of the Declarations is completed as follows:

Superior Court of California, County of Alameda
Superior Court of California, County of Alpine
Superior Court of California, County of Amador
Superior Court of California, County of Butte
Superior Court of California, County of Calaveras
Superior Court of California, County of Colusa
Superior Court of California, County of Contra Costa
Superior Court of California, County of Del Norte
Superior Court of California, County of El Dorado
Superior Court of California, County of Fresno
Superior Court of California, County of Glenn
Superior Court of California, County of Humboldt
Superior Court of California, County of Imperial
Superior Court of California, County of Inyo
Superior Court of California, County of Kern
Superior Court of California, County of Kings
Superior Court of California, County of Lake
Superior Court of California, County of Lassen
Superior Court of California, County of Madera
Superior Court of California, County of Marin
Superior Court of California, County of Mariposa
Superior Court of California, County of Mendocino
Superior Court of California, County of Merced
Superior Court of California, County of Modoc
Superior Court of California, County of Mono
Superior Court of California, County of Monterey
Superior Court of California, County of Napa
Superior Court of California, County of Nevada
Superior Court of California, County of Orange

Superior Court of California, County of Placer
Superior Court of California, County of Plumas
Superior Court of California, County of Riverside
Superior Court of California, County of Sacramento
Superior Court of California, County of San Benito
Superior Court of California, County of San Bernardino
Superior Court of California, County of San Diego
Superior Court of California, County of San Francisco
Superior Court of California, County of San Joaquin
Superior Court of California, County of San Luis Obispo
Superior Court of California, County of San Mateo
Superior Court of California, County of Santa Barbara
Superior Court of California, County of Santa Clara
Superior Court of California, County of Santa Cruz
Superior Court of California, County of Shasta
Superior Court of California, County of Sierra
Superior Court of California, County of Siskiyou
Superior Court of California, County of Solano
Superior Court of California, County of Sonoma
Superior Court of California, County of Stanislaus
Superior Court of California, County of Sutter
Superior Court of California, County of Tehama
Superior Court of California, County of Trinity
Superior Court of California, County of Tulare
Superior Court of California, County of Tuolumne
Superior Court of California, County of Ventura
Superior Court of California, County of Yolo
Superior Court of California, County of Yuba

Attached to and forming part of Policy No. JBWCP 2020-21 WC (A)

Effective Date: July 1, 2020

AUTHORIZED REPRESENTATIVE



A handwritten signature in blue ink, appearing to read "Pat J", is written over a solid black horizontal line.

**JUDICIAL BRANCH WORKERS' COMPENSATION PROGRAM
(JBWCP)**

MEMORANDUM OF COVERAGE

Trial Court Pooled Workers' Compensation Program

Form No. JBWCP 2020-21 WC (A)

This Memorandum of Coverage (MOC) sets forth the terms, conditions, and limitations of coverage provided under the JBWCP's Trial Court Pooled Workers' Compensation Program. The terms of this MOC may not be changed or waived except by amendment made a part of this MOC.

Throughout this MOC, words and phrases that appear in **bold** have special meaning. They are defined in General Section A, "Definitions."

GENERAL SECTION

A. DEFINITIONS

The terms in bold print are defined as follows:

1. **Bodily injury** shall mean bodily injury by accident or disease, including death resulting therefrom, but shall not include **occupational disease**.
2. **Covered Party** shall mean a participant in the **Program** which has sustained a loss which is covered under this MOC of Coverage.
3. **Employee** shall mean any person performing work which renders the **Covered Party** legally liable as an employer under the Workers' Compensation Act of the State of California, or under the common law of the State of California.
4. **Loss** shall mean only such amounts as are actually paid by the **Covered Party** in payment or benefits under the applicable Workers' Compensation Law, in settlement of claims, or in satisfaction of awards or judgments for liabilities imposed by the Workers' Compensation Act or other law for **bodily injury** or **occupational disease** to an **employee**.
5. **Occupational Disease** shall include (1) death resulting therefrom and (2) cumulative injuries.
6. **Participant** shall mean a trial court which has elected to participate as a **Member**

of in the JBWCP's Trial Court Pooled Workers' Compensation Program.

B. THE MEMORANDUM OF COVERAGE

This MOC includes at its effective date the Declarations Page and all endorsements listed on the Declarations Page. This MOC is the coverage document between the **Covered Party** and the JBWCP. The terms of this MOC may not be changed or waived except by endorsement issued by the JBWCP to be part of this MOC.

C. COVERAGE PERIOD

This MOC applies to **losses** occurring during the coverage period defined in the Declarations.

D. WHO IS COVERED

The **Covered Party** is a **Participant** in the JBWCP. If a **Covered Party** loses its status as a **Member**, the coverage under this MOC shall terminate immediately upon such change in status.

Volunteer workers are also afforded workers' compensation benefits for performing duties for or on behalf of the **Covered Party** while acting within the scope of their duties on behalf of the **Covered Party** provided that the **Covered Party** has first adopted a resolution as provided in Division 4, Part 1, Chapter 2, Article 2 of the California Labor Code declaring such volunteer workers to be **employees** of the **Covered Party** for purposes of Workers' Compensation Law.

E. WORKERS' COMPENSATION LAW

Workers' Compensation Law means the workers' or workmen's compensation law and **occupational disease** law of the State of California, or any similar law. It includes any amendments to that law that are in effect during the term of this MOC. It does not include any federal workers' or workmen's compensation law, any federal **occupational disease** law, or the provisions of any law that provide non-occupational disability benefits.

PART ONE – WORKERS' COMPENSATION COVERAGE

A. COVERAGE

The JBWCP will pay those sums for which the **Covered Party** becomes liable under the Workers' Compensation Act to which this coverage applies. The JBWCP will not pay more than

Limit of Liability stated in Item 3 of the Declarations page and further defined under Part Four of this Memorandum during the Coverage Period provided that:

1. Injury must occur during the coverage period; and
2. Illness by disease must be caused or aggravated by the conditions of employment by the **Covered Party** and the employee's exposure to the conditions causing or aggravating such injury by disease must occur during the coverage period.

B. DEFENSE

The JBWCP has the right and duty to defend at its expense any claim, proceeding or suit against the **Covered Party** for liabilities payable by this coverage. The JBWCP has the right to investigate and settle these claims, proceedings or suits.

The JBWCP shall provide for the defense of, but not the indemnity for, serious and willful misconduct pursuant to Labor Code 4553, or discrimination or any other actions pursuant to Labor Code 132a brought before the Workers' Compensation Appeals Board (WCAB). The JBWCP's duty to defend such claims shall cease upon the resolution of the underlying claim for disability.

C. PAYMENTS THE MEMBER MUST MAKE

The JBWCP is not responsible for any payments in excess of benefits regularly provided by the Workers' Compensation Act including those imposed on the Covered Party because:

1. Of the Covered Party's serious and willful misconduct (except as stated herein above);
2. The Covered Party employs an employee in violation of law;
3. The Covered Party fails to comply with a health or safety law or regulation;
4. The Covered Party discharges, coerces, or otherwise discriminates against any employee in violation of the Workers' Compensation Act; or
5. The Covered Party violates or fails to comply with any Workers' Compensation Law or regulation.

If the JBWCP makes any payments in excess of the benefits regularly provided by the Workers' Compensation Act on the Covered Party's behalf, the Covered Party shall reimburse the JBWCP promptly.

PART TWO – EMPLOYER’S LIABILITY COVERAGE

The **Program** will provide coverage for employer’s liability **losses** up to the **Program’s** Limit of Liability stated in the Declarations Page.

This coverage applies to **bodily injury**. This coverage is subject to the Limit of Liability set forth herein, provided that those amounts awarded are the direct consequence of **bodily injury** that arises out of and in the course of the injured **employee's** employment by the **Covered Party**, and are claimed against the **Covered Party** in a capacity other than as employer.

1. The **bodily injury** must arise out of and in the course of the injured **employee's** employment by the **Covered Party**.
2. **Bodily injury** by accident must occur during the coverage period.
3. **Bodily injury** by disease must be caused or aggravated by the conditions of employment by the **Covered Party**. The **employee's** exposure to the conditions causing or aggravating such **bodily injury** by disease must occur during the coverage period.

PART THREE - POLICY EXCLUSIONS

This MOC shall not apply to:

- A. Liability imposed by the Workers' Compensation Laws because of **bodily injury** to prisoners or inmates who receive compensation from an entity, other than the **Covered Party**, for the work performed except for liability imposed by the Workers' Compensation Laws because of **bodily injury** to participants of a work release program or other community service program established by a county of the State of California;
- B. Employer's Liability Coverage herein does not apply to:
 1. Any obligation imposed by a workers' compensation, occupational disease, unemployment compensation, or disability benefits law, or any similar law.
 2. Bodily injury, illness or disease intentionally caused or aggravated or caused at the direction of the **Covered Party**.
 3. Bodily injury to an employee while employed in violation of law with the actual knowledge of the **Covered Party**.
- E. Liability for additional compensation imposed on the **Covered Party** under Labor Code Section 4557 by reason of injury to an **employee** under sixteen years of age and illegally employed at the time of the injury.

F. Liability imposed by Labor Code Section 4856.

PART FOUR - THE COVERED PARTY'S RETENTION AND JBWCP'S LIMIT OF LIABILITY

A. LIMIT OF COVERAGE BY JBWCP

The **JBWCP** will indemnify the **Covered Party** for **loss** under Workers' Compensation Laws, but will not exceed the Limit of Liability stated in Item 3 of the Declarations Page on any one **loss**. Coverage will include all benefits required under Workers' Compensation Laws, including full salary benefits listed in Labor Code Section 4850. The **JBWCP** will pay on behalf of the **Covered Party** for Employer's Liability **losses** but will not exceed the Limits of Liability stated in Item 3 of the Declarations Page on any one **loss**.

B. HOW THE LIMIT OF COVERAGE APPLIES

The JBWCP's Limit of Coverage stated in the Declarations Page applies to claims covered under the Workers' Compensation Coverage or Employer's Liability Coverage as follows:

1. To one or more **employees** for **bodily injury** or death in any one accident; and
2. To any one **employee** for **bodily injury** or death by disease.

Nothing contained herein shall operate to increase the JBWCP's Limit of Coverage under this MOC.

PART FIVE - CONDITIONS

A. NOTICE OF ACCIDENT

1. The **Covered Party** shall immediately; within the reporting requirements of the State of California give prompt written notice to the JBWCP, or its agent, if a claim for an injury, illness or disease occurs which appears to involve coverage by the JBWCP.
2. Notice of injury, illness or disease given to the JBWCP shall contain complete details on the injury, illness or disease. If a suit, claim, or other proceeding is commenced which appears to involve coverage by the JBWCP, the **Covered Party** shall give the JBWCP:

- a) all notices and legal papers related to the claim, proceeding, or suit, or copies of these notices and legal papers;
 - b) copies of reports on investigations made by the **Covered Party** on such claims, proceedings, or suits.
3. If written notice is not provided by the **Covered Party** to the JBWCP within thirty (30) calendar days of knowledge of such claim, coverage will not be provided under this Memorandum of Coverage.

B. SUBROGATION - RECOVERY FROM OTHERS

1. The JBWCP has the Covered Party's rights, and the rights of persons entitled to compensation benefits from the **Covered Party**, to recover the JBWCP's loss from any third person liable for the injury, illness or disease.
2. The **Covered Party** shall not take any action after injury or disease that would jeopardize the JBWCP's right of recovery.
3. Any subrogation recovery by the JBWCP will be used to reduce the JBWCP's loss

C. MEMORANDUM CONFORMS TO LAW

If terms of this Memorandum are in conflict with any laws applicable to this Memorandum this statement amends this Memorandum to conform to such law or document.

D. ACCEPTANCE

By acceptance of this Memorandum, the **Covered Party** agrees that the statements made on the Declarations Page are the **Covered Party's** agreements and representations, that this Memorandum is issued in reliance upon the truth of such representations, and that this Memorandum embodies all agreements existing between the **Covered Party** and the JBWCP or any of the JBWCP's agents relating to this coverage.

E. INSPECTION

The JBWCP has the right, but is not obligated review the **Covered Party's** programs and operations relating to safety. The JBWCP may give the **Covered Party** reports on the conditions the JBWCP finds. The JBWCP may recommend changes. While they may help reduce losses, the JBWCP does not undertake to perform the duty of any person to provide for the health or safety of the Covered Party's employees or the public. The

JBWCP does not warrant that the **Covered Party's** workplaces are safe or healthful or that they comply with law, regulations, codes, or standards.

F. TRANSFER OF THE COVERED PARTY'S RIGHTS AND DUTIES

The **Covered Party's** rights and duties under this Memorandum may not be transferred without the JBWCP's written consent.

G. ARBITRATION

Final decisions by the JBWCP concerning a claim (including, but not limited to, decisions regarding claim resolution, negotiation, investigation, defense, appeal or settlement, and decisions about whether coverage exists for a particular claim or part of a claim) shall be made by the Advisory Committee of the JBWCP or its designee. The JBWCP and **Covered Party** may agree to submit any dispute arising from such decisions to binding arbitration if mutually agreeable by all disputing parties.

Arbitration shall be conducted pursuant to the California Code of Civil Procedure, Title 9 (commencing with Section 1280). The parties may agree upon a single arbitrator, in which case arbitration shall be conducted by that single arbitrator. If the parties cannot agree upon a single arbitrator, arbitration shall be conducted by a three-person panel. The **Covered Party** shall select one (1) arbitrator and the JBWCP shall select one (1) arbitrator, and the two (2) arbitrators shall select a third (3rd) arbitrator upon mutual agreement. No arbitrator shall be employed or affiliated with the Program or the **Covered Party**.

The selection of arbitrators shall take place within twenty (20) calendar days from the receipt of the request for arbitration.

If a single arbitrator is used, each party shall bear one-half (1/2) of the cost of the arbitrator. In three (3) arbitrator cases, each party shall bear the cost of its selected arbitrator and one-half (1/2) of the third (3rd) selected arbitrator. In addition, each party shall be responsible for its own costs and expenses of arbitration.