



JAN I. GOLDSMITH
SAN DIEGO CITY ATTORNEY

1. **What is not involved in settlement:** Agreement does not include the following, if any:
 - criminal charges;
 - money owed to the City of San Diego (“City”) for unauthorized expenditures;
 - claims made based upon alleged conduct not in capacity as mayor.

2. **Resignation.** Mayor Filner (“Filner”) has resigned effective 5 p.m., on August 30, 2013. The City has accepted the signed resignation.

3. **Explanation of California law on legal liability.** Under California law, the City is strictly liable for sexual harassment of City employees by City supervisors, including a mayor. The City cannot avoid liability by claiming lack of knowledge of the conduct or that the conduct violated the City’s anti-harassment policies. The City may, however, seek reimbursement from a mayor for any damages it is forced to pay arising out of a mayor’s sexual harassment conduct.
 - a. **Claims against the City/Filner for Filner’s alleged conduct in capacity as mayor.** For claims made by current or former employees, City volunteers or City contractors, the City will provide a joint legal defense through the City Attorney’s office for the City and Filner. This does not extend beyond these categories of claimants. Providing a joint defense does not significantly increase City expenses and is commonly done. Should judgment be rendered against the City based upon Filner’s conduct, the City reserves the right to seek reimbursement from Filner through litigation.

 - b. **One exception.** The City will dismiss its cross-complaint filed against Filner in the lawsuit brought by Irene McCormack Jackson against the City and Filner, provide a joint legal defense through the City Attorney’s office and be responsible for the judgment except any punitive damages awarded against Filner.

 - c. **Cap on outside counsel fees.** Filner will sign waivers needed to allow the City Attorney’s office to provide a joint legal defense for the City and Filner. He may, however, retain outside counsel at his own expense except that the City will pay no more than \$98,000 as a total cap for any and all outside counsel independent advice or representation.

 - d. **Settlement.** The City has complete control over decisions on settlement of claims, if any, but may not settle without a complete release of the City and Filner.

4. **Had the settlement been rejected:**
 - a. Mayor has no obligation to resign. He could resign at any time before the day of a recall election, thereby cancelling the recall election and triggering a new special election. The recall and subsequent new special election could take up to 12 months.

 - b. Recall does not remove the City’s liability for sexual harassment claims.