


BOARD OF FIRE COMMISSIONERS
FILE NO. BFC 11-037

Date: March 8, 2011
To: Board of Fire Commissioners
From: Stephen Miller, Independent Assessor 
Subject: **INITIATION OF AN AUDIT AND ASSESSMENT OF FIRE DEPARTMENT LITIGATION AND RISK MANAGEMENT SECTION**

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

Initiation of Audit and Assessment:

The Office of the Independent Assessor announces initiation of an audit and assessment of Fire Department litigation and the Fire Department's Risk Management Section.

Legal Authority:

Los Angeles City Charter section 523 says the Independent Assessor shall have the power and duty to initiate any assessment or audit of the Fire Department or any portion of the Fire Department with prior notice to the Board of Fire Commissioners, and subject to the authority of the Board by majority vote to direct the Independent Assessor not to commence or continue an assessment or audit.

The electorate approved adding the Independent Assessor position to the City Charter on March 9, 2009. The Official Sample Ballot and Voter Information Pamphlet for that election contained ballot arguments noting local juries had imposed several multi-million-dollar verdicts challenging conduct in our fire stations and urging support for creation of an Independent Assessor position by stating: "prevent taxpayer dollars from going to pay costly courtroom verdicts." In a rebuttal argument it was said experience with the Police Department's Inspector General has shown an "independent" official helps ensure a rigorous and successful program to secure and maintain high professional and ethical standards," boosts citizen confidence which, "in turn reduces the City's exposure to legal challenge and litigation costs."

The approved class specification says the Independent Assessor has the duty to plan, assign, organize and direct the work and resources engaged in oversight of the Fire Department's civil litigation. A more specific example of the Independent Assessor's expressly described duties includes:

- Establishes and maintains communication with the Litigation Section of the Professional Standards Division and the City Attorney on matters of mutual concern such as litigation, or misconduct to determine whether revisions in policies and procedures might mitigate legal actions against the City.

Background:

Litigation initiated by Fire Department employees has resulted in significant financial losses to the City taxpayers. For example:

AMOUNT OF SETTLEMENT OR JUDGMENT	LAWSUIT
\$5,131,514.02 ¹	Dual function paramedics successfully claimed they were entitled to the payment of overtime for all hours worked in excess of forty in one week pursuant to the Fair Labor Standards Act. Additional allegations of FLSA violations remain pending against the Fire Department.
\$1,730,848 ²	A captain successfully alleged he was retaliated against after he: 1) reported sexually inappropriate comments, and 2) made verbal and written reports about discrimination and harassment.
\$3,750,000 ³	A captain successfully alleged he was retaliated against after he opposed being told to give preferential treatment of female firefighters.
\$1,500,000 ⁴	A firefighter settled a lawsuit alleging he was discriminated against on the basis of his race when he was fed dog food in his fire station.
\$1,644,046 ⁵	Two captains successfully alleged they were improperly disciplined on the basis of their race in connection with a firefighter having been fed dog food in a fire station.

Most recently, a jury awarded more than \$990,000 to a battalion chief on March 3, 2011, based on allegations the Fire Department improperly transferred him in retaliation for reporting violations of law.

¹ This amount does not include attorneys' fees, costs or interest on the judgment.

² This amount does not include attorneys' fees, costs or interest on the judgment.

³ This amount does not include attorneys' fees, costs or interest on the judgment.

⁴ This amount does not include attorneys' fees.

⁵ This amount does not include attorneys' fees, costs or interest on the judgment. On June 24, 2010, the City of Los Angeles settled the litigation with a payment of \$2,530,000. Another approximate \$730,000, or more, was paid to the private attorneys representing the City in the litigation.