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Kimare S. Dyer, Esq.  
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(305) 670-1101, Ext. 3450  
VIA EMAIL ONLY

February 28, 2023

Pinellas County Board of County Commissioners  
ATTN: Kelly L. Vicari, Esq.  
Pinellas County Attorney's Office  
315 Court Street, 6<sup>th</sup> Floor  
Clearwater, Florida 33756  
[kvicari@pinellas.gov](mailto:kvicari@pinellas.gov)

Re: **Case Style:** *James Reinheimer et al. v. Pinellas County et al.*,  
**Case No.:** 22-005424-CI, in Pinellas County, Florida  
**DOI:** May 1, 2021  
**Location:** 345 Crosswinds Drive, Palm Harbor, Florida 34683  
**Insured:** American Empire Builders, Inc.  
**Claim No.:** 85-0305048

Dear Ms. Vicari:

As you are aware, we have been retained by Hanover Insurance, to defend American Empire Builders, Inc. ("AEB"), in the above referenced lawsuit, filed by Plaintiffs James and Theresa Reinheimer. It is our understanding that Hanover Insurance has afforded a defense of Pinellas County, Florida in this lawsuit, as well. We intend to vigorously defend the interests of both AEB and Pinellas County in hopes of bringing this lawsuit to speedy and favorable resolution.

Concurrent representation of AEB and Pinellas County could create a potential conflict of interest between the parties. Pinellas County contracted with AEB for services related to the Westwinds & Crosswinds Drive Bridges Replacement (Bid No.: 190-0109-CP(PLU)) project in Pinellas County, Florida ("Bridges Project"). Plaintiffs allege that work completed pursuant to the Bridges Project damaged their real property located at 345 Crosswinds Drive, Palm Harbor, Florida. Arguably, Pinellas County could assert that AEB was negligent in their work pursuant to the Bridges Project. However, based on the evidence known at this time, in our opinion, no actual

conflict exists between AEB and Pinellas County as there is no evidence that the alleged damage to Plaintiffs' home was caused from any work completed pursuant to the Bridges Project.

Accordingly, AEB and Pinellas County currently share a commonality of interest in defending the litigation. Both parties deny liability to Plaintiffs. In such a situation, we do not believe that there is a conflict of interest between the parties at present. However, should we learn information that leads us to believe that an actual conflict does exist, we will advise both parties promptly and ensure that separate representation is engaged.

A future conflict of interest could arise in other circumstances. For example, if we receive conflicting instructions from you and AEB, we could be placed in a position in which we could not follow one set of instructions without violating our professional obligations to the other. This situation, if unresolved, could create a conflict of interest which would require us to withdraw from representation and which would require each of you to seek new counsel. Therefore, we will require, as condition of our employment, that you provide us with a common set of instructions as to all matters, in order to prevent such a potential conflict.

In undertaking the concurrent representation of each of you, we cannot and will not advise either of you as to any matters upon which an actual conflict of interest develops among you. In the event that any conflict, dispute, or disagreement arises between you as to your respective rights and defenses, we shall decline to represent you in any manner in connection with that dispute or disagreement.

Additionally, in the event that you develop inconsistent defenses or objectives, such that one of you wishes us to pursue a defense which would adversely affect the interests of the other, a conflict would arise which would require us to withdraw as counsel from one, or the both of you. Thus, we will make every effort during the course of our representation to confirm each of you have a commonality of interest in connection with the positions asserted by each of you. If your interests diverge during the course of representation, further disclosure and waiver of the conflict, or withdrawal from representation will ensue.

AEB and its insurer has accepted Pinellas County's tender of defense and indemnification for this claim. As stated above, since we are representing your common interests in this matter, we cannot represent or advise any of you with respect to your indemnification claims. If necessary, you will have to consult with separate counsel with respect to any such indemnity claims which exist or which may arise in the future.

You should also consider that, as among you, there is no right to assert the attorney/client privilege as to communications we receive from any of you in connection with the joint representation. You confirm by executing this letter, that you are aware of Rule 4-1.7, Conflict of Interest; Current Clients, and that you expressly consent to the communication to any of you of information received by this firm from any one of you. You further acknowledge that, assuming the information learned from any of you is significant, we may have an ethical duty to disclose that information to the other party.

To the extent that the attorneys' fees in this matter shall be paid by an insurance, we are required to obtain your written consent pursuant to the provisions of Rule 4-1.7, Conflict of Interest; Current Clients, Rules of Professional Conduct. We confirm to you that any payment of either of your attorneys' fees by a third party (namely, that of an Insurer) will not interfere with the independence of our professional judgment.

By executing this letter where indicated below, you confirm that you have been fully informed as to the nature of the potential conflicts which arise as a result of our concurrent representation of AEB and Pinellas County in this lawsuit; that you have been provided a reasonable opportunity to seek the advice of independent counsel of your choice regarding these potential conflicts and waiver thereof; and you understand that a conflict may arise in the future which may require an additional disclosure and waiver by you, or alternatively, withdrawal by this firm of representation of one or all of you. Additionally, you confirm that you will take the opportunity to retain independent counsel in the event you have any reservations regarding our concurrent representation of your interests, the issues arising from that representation, and/or the waiver of the potential conflict of interest.

Assuming the foregoing accurately reflects your agreement, please execute and return to me the waiver form appended hereto. Should you have any questions, please do not hesitate to contact me. Thank you, and we look forward to working with on this matter.

Very truly yours,

*Kimare S. Dyer*

Kimare S. Dyer, Esq.

Alexis R. Dostie, Esq.

**WAIVER OF CONFLICT**

I, JANET LONG, on behalf of Pinellas County Board of County Commissioners, hereby acknowledge and agree that I have carefully read the foregoing letter, informing me that the interests of Pinellas County, Florida may potentially be in conflict with those of American Empire Builders, Inc., in connection with Quintairos, Prieto, Wood & Boyer, P.A.'s representation of American Empire Builders, Inc.'s interests and those of Pinellas County, Florida, in connection with the lawsuit *James Reinheimer & Theresa Reinheimer v. Pinellas County, Florida & American Empire Builders, Inc.*, Case No.: 22-005424-CI, in Pinellas County, Florida.

I nevertheless, knowingly and voluntarily consent to such concurrent representation by QPWB. Further, I knowingly and voluntarily consent to the payment of legal fees to QPWB by a person or entity other than myself.

I further expressly acknowledge that I have been advised that I have the right to seek independent legal counsel in connection with the advisability of waiving said conflict, and that I have had a reasonable opportunity to do so.

Dated:

2/28<sup>th</sup>/2023

By:

Janet C. Long

JANET LONG, Chair, Pinellas County Board of  
County Commissioners