

RESOLUTION 4-1

WHEREAS, Sangamon County is now and will in the future be a named defendant in federal lawsuits in which, if a plaintiff prevails, that plaintiff may, in addition to monetary damages, also recover its attorney’s fees, costs, and expenses, sometimes in an amount that exceeds the damages awarded to the plaintiff; and

WHEREAS, Federal Rule of Civil Procedure 68 allows defendants to make an offer of judgment (essentially a settlement offer) to a plaintiff and, if, after trial, the judgment the plaintiff obtains does not exceed the defendant’s offer of judgment, the plaintiff cannot recover its attorney’s fees, costs, and expenses incurred after the defendant made the offer of judgment; and

WHEREAS, if a defendant accepts a plaintiff’s offer of judgment, the court automatically enters judgment in the agreed amount in the plaintiff’s favor; and

WHEREAS, an offer of judgment is confidential (e.g., even from the court), and it does not become known until it is accepted or, if it is not accepted, until a judgment in favor of the plaintiff does not exceed the offer of judgment; and

WHEREAS, maintaining the confidentiality of an offer of judgment is important because, if it becomes known, it is likely to affect the damages awarded by the decision maker, either a judge or a jury; and

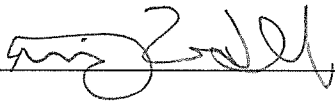
WHEREAS, the County authorizing its attorney to make an offer of judgment constitutes “final action” under the Open Meetings Act and, as such, the Open Meetings Act requires that such authorization be made during an open meeting of either the Civil Liabilities Committee or the full Board, depending upon the size of the offer of judgment; and

FILED
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Don J. May
Sangamon County Clerk

WHEREAS, making such a decision during an open meeting destroys the confidential nature of offers of judgment and, thus, deprives the County of the potential benefits of offers of judgments.

NOW, THEREFORE, BE IT RESOLVED by the Sangamon County Board on this 10th day of September, 2024, that to secure the confidentiality necessary to afford Sangamon County the potential benefits of Rule 68 offers of judgment in federal lawsuits in which it may be liable for monetary damages, the State's Attorney's Office's Civil Division Chief and the County Administrator, after conferring with the Civil Liabilities Committee, are hereby authorized to jointly make or cause to be made Rule 68 offers of judgment on the County's behalf in amounts they jointly determine (in writing, with each maintaining a copy of the writing) best serve the County's interests. The Civil Liabilities Committee is to review the advisability of continuing this grant of authority every other year at its August meeting.

Approved by the _____ Civil Liabilities Committee _____ August 15, 2024 _____

 _____, Chairman

Chairman, Sangamon County Board

ATTEST:

County Clerk