



DATE: July 21, 2015

TO: Mayor Sawyer and Members of the Council

FROM: Caroline Fowler, City Attorney

RE: Quarterly Report of Settlements and Active Litigation/Claims
for the Second Quarter of 2015 (04/01/2015 to 06/30/2015)

On February 10, 2015, Council authorized the City Attorney to provide a quarterly report to the Council identifying any settlement agreements entered into by the City with a settlement amount over \$50,000 as recommended by the Open Government Task Force and to provide quarterly status reports regarding pending litigation matters.

Attached as **Exhibit A**, is a list of settlements over \$50,000 which have been approved during the second quarter of 2015.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of June 30, 2015.

Attached as **Exhibit C**, is a list of new claims that have been assigned to the City Attorney's Office from the Risk Department in the second quarter of 2015.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN SECOND QUARTER 2015

Case Name	Date Settled	Amount	Notes
Marlon Whitmore v. City of Santa Rosa, et al.	3/3/2015	\$210,000	settlement agreement finalized 4/28/15

EXHIBIT B

LITIGATION AS OF 6/30/2015

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>City of Santa Rosa v. Chamberlain-Nielsen Ranch, Ltd., et al.</i>	SCV 234406	03/17/04 & 03/18/04	in excess of \$25,000	Complaint on Performance Bond; Breach of Contract	Active - Set for Trial 09/18/2015	
<i>Raman D. Patel, et al. v. City of Santa Rosa, et al.</i>	C 06-3267		\$70 million	Federal Civil Rights filed against City after red light abatement actions against the Patels filed by City	Stayed until underlying proceedings against the Patel family are completed - no action by Patels	
<i>Evan Rones, et al. v. A-1 Septic Construction, Inc., City of Santa Rosa, et al.</i>	RG10696023	02/03/10	According to proof	Complaint for Damages, Restitution and Injunctive Relief (Failure to Pay Wages and Overtime)	Tender of Defense sent on 2/5/10 to A-1 Septic and Suretec	
<i>City of Santa Rosa v. Villages at Wild Oak Association, et al.</i>	SCV 248544	11/10/10		Complaint for Declaratory Relief; to Abate Violations of City Code and for Prescriptive Public Easement	Active - no Trial Date	
<i>Colleen Maguire v. City of Santa Rosa</i>	C11-02352 USDC	05/27/11	According to proof	ADA Complaint – wheelchair-bound plaintiff alleges fall due to inaccessible curb ramp	Active - Ongoing monitoring under Consent Order	Consent Order filed 3/6/13

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Rafael Mateos-Sandoval and Simeon Avendano Ruiz v. County of Sonoma, City of Santa Rosa, et al.</i>	CV-11 5817 EDL	01/03/12	TBD	Class Action Complaint for Damages and Injunctive Relief	Active - Pleading stage, Class Action Certification Denied in Feb 2015.	
<i>Citizens for Safe Neighborhoods v. City of Santa Rosa, et al.</i>	SCV-252028	07/25/12	TBD	Petition for Writ of Mandate	On Appeal - ruling in favor of City	
<i>April Wagner v. City of Santa Rosa, et al.</i>	SCV-252508	10/24/12	According to proof	Dangerous Condition	Active - Discovery	
<i>Daniel McGillicuddy v. City of Santa Rosa, et al.</i>	SCV-252694	11/28/12	Acc. To Proof	Dangerous Condition	Consolidated with Wagner	
<i>Taylor Dane v. The City of Santa Rosa, et al.</i>	SCV-253003	01/09/13	TBD	Declaratory and Injunctive Relief	On Appeal - ruling in favor of City	
<i>Earl Kennedy and Monique Yvonne Isom v. County of Sonoma, City of Santa Rosa, et al.</i>	SCV-252753	11/21/12	TBD	Negligence, Willful & Wanton Misconduct; Dangerous Condition of Public Property; Negligent Infliction of Emotional Distress	Active - Discovery	
<i>Mark Gregory v. MV Transportation, Inc., the City of Santa Rosa, et al.</i>	SCV-253341	03/25/13	TBD	Complaint for Damages; negligence	Tendered Defense	
<i>Airport Business Center, et al. v. City of Santa Rosa</i>	SCV-253897	07/02/13	TBD	Petition for Peremptory Writ of Mandate and Complaint for Declaratory Relief	Active - Set for Trial 10/09/2015	
<i>Adam Bigham v. City of Santa Rosa, et al.</i>	SCV-253926	07/18/13	TBD	Complaint for Negligence re roadway design (auto v. bicycle fatality)	Active - Set for Trial 03/11/16	
<i>Marlon Whitmore v. City of Santa Rosa, et al.</i>	C 13-1408	07/24/13	TBD	Violation of civil rights; unlawful search and seizure; excessive force	Settled - \$210,000	Settlement finalized 4/28/15

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Ronald Norgrove v. City of Santa Rosa</i>	SCV-254717	12/12/13	TBD	Complaint for Personal Injury and Premises Liability	Active - Set for Trial 03/18/16	
<i>Samuel P. Siebert v. City of Santa Rosa, et al.</i>	SCV-252626		TBD	trip and fall	Tendered Defense	
<i>Charles T. Jensen, et al. v. City of Santa Rosa, et al.</i>	SCV255347	04/21/14	TBD	Petition for Writ of Mandate	On Appeal - ruling in favor of City	
<i>Kyle David Biedma, et al. City of Santa Rosa, et al.</i>	SCV-255382	05/23/14	TBD	Complaint for Negligence, False Imprisonment, Battery, Malicious Prosecution, Violation of Civil Rights	Active - Pleadings Third Amended Complaint filed	
<i>Ronald B. Pike v. City of Santa Rosa, et al.</i>	SCV-255591	06/12/14	TBD	Complaint for personal injury damages re Fire Training Tower at SRJC	Active - Set for Trial 11/13/2015	
<i>Jorge Quinones Nava v. City of Santa Rosa and Does 1-10</i>	SCV-255826	07/29/14	TBD	Complaint for Personal Injuries	Active - Discovery	
<i>Lena Harter, et al. v. CSR</i>	SCV-255401	09/04/14	TBD	Complaint for Survival/Wrongful Death; Negligence; Dangerous Condition of Public Property	Active - Pleadings	
<i>The Tuxhorn Company, Inc., et al. v. City of Santa Rosa, , et al.</i>	SCV 256192	10/13/14	TBD	Complaint for Restitution and Refunds of Unjustified Water and Wastewater Deman Fees; Declaratory and Injunctive Relief and Petition for Writ of Mandate	Active - City's Demurrer to Complaint Sustained w/o leave to amend	
<i>Bernard Norton, Jr. v. Santa Rosa Police Dept.; City of Santa Rosa</i>	C 14-4352 KAW	10/22/14	\$700,000	Complaint for violation of civil rights, excessive force, false arrest	Active - Set for Trial 01/26/16	

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<i>People of the State of CA, City of Santa Rosa v. Marie B. Tanner, et al.</i>	SCV-256326	11/12/14	TBD	Complaint and Petition for Injunctive Relief, Abatement of Nuisance and Appointment of Receiver - 653 Wheeler Street	Active - Motion for Receiver Pending	
<i>People of the State of CA, City of Santa Rosa v. Juan Martin Suarez, et al.</i>	SCV-256582	11/24/14	TBD	Complaint and Petition for Injunctive Relief, Abatement of Nuisance and Appointment of Receiver - 509 Olive Street	Active - Receiver Appointed	
<i>CVSR Holdings, LLC v. City of Santa Rosa</i>	SCV-256350	12/01/14	\$466,854.05	Breach of Contract	Active - Set for Trial 11/06/2015	
<i>Terry L. Weiss v. Santa Rosa Police Department</i>	SCV-256056	12/10/14	TBD	False arrest, unlawful detainment, violation of civil rights; negligence	Active - Pleadings	
<i>Karen Borgfeldt v City of Santa Rosa</i>	MCV-234350	12/18/14	TBD	Complaint for personal injury and negligence	Active - Discovery	
<i>Charles Craft v. City of Santa Rosa</i>	SCV-256524	01/27/15	TBD	Complaint for personal injury and negligence due to improperly secured wheelchair on city bus	Active - Discovery	
<i>Paul Bussard and Lynn Denley-Bussard v. the City of Santa Rosa, et al.</i>	SCV-256670	01/30/15	TBD	Petition for Writ of Mandate	Active - Hearing set for 9/8/15	
<i>Meritage Homes of California, Inc. v. City of Santa Rosa</i>	SCV-256454	01/13/15	TBD	Complaint for Breach of Contract and Unjust Enrichment	Active - Pleadings and Discovery	
<i>Sheila Roff v. City of Santa Rosa; et al.</i>	SCV-256656	03/11/15	TBD	Personal Injury - Trip and Fall on sidewalk	Active - Pleadings	
<i>Mark Buras v. City of Santa Rosa; et al.</i>	C 15-01070	03/12/15	TBD	Complaint for Civil Rights Violation and Damages	Active - Discovery	

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<i>Robert Fowler v. City of Santa Rosa; et al.</i>	C 15-01182	03/16/15 on SRPD; 3/23/15 on City	TBD	Complaint for false arrest, assault and battery; false imprisonment	Active - Discovery Set for Trial 06/13/2016	
<i>Brian Kestler v. City of Santa Rosa, et al.</i>	C 15-01361	03/27/15	TBD	Complaint for Damages	Active - Discovery	
<i>Jose Godoy, et al. v. City of Santa Rosa, et al.</i>		03/31/15	TBD	Complaint for Damages (Unreasonable Seizure, Unconstitutional, Battery, Negligence, & Violation of Civil Rights)	Active - Pleadings	
<i>Riccardo Capachilli, et al. v. City of Santa Rosa, et al.</i>	SCV-256628	04/02/15	TBD	Writ of Mandate to Compel Return of Seized Property and for other Relief	Active - Pleadings	
<i>David John Massie, et al. v. City of Santa Rosa, et al.</i>	SCV-257070	06/03/15	TBD	Complaint for Personal Injury - roadway	Active-Discovery	
<i>Cecilia Jump v. City of Santa Rosa</i>	SCV-257003	06/02/15	TBD	Complaint for Personal Injury - trip and fall	Active-Discovery	
<i>Seth McDonald v. City of Santa Rosa, et al.</i>	SCV-256495	05/26/15	TBD	Complaint for personal injury - motorcycle accident	Active - Pleadings	
<i>City of Santa Rosa v. Hillcone Steamship Company, et al.</i>	SCV-257219	06/03/15	TBD	Complaint to quiet title to Oakmont Treatment Plant property	Active - Pleadings	
<i>United States, et al., ex rel. John Hendrix v. J-M Manufacturing Company, Inc., et al.</i>	ED CV06-0055-GW		TBD	Federal qui tam action (and stayed state court action) filed against water pipe manufacturer for false claims	Active - Discovery and Phase 2 damages trial pending	

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>California River Watch v. City of Santa Rosa</i>	3:15- cv-02349		\$37,500 per day, per violation and attorneys' fees	Federal Clean Water Act complaint	Active – ongoing discussions between parties	

EXHIBIT C

NEW CLAIMS FILED IN SECOND QUARTER OF 2015

Claimant Name	Claim Amount	Date of Incident	Date of Claim	Location	Description of Claim
Lempinen, Holly	11/21/2036	10/10/2014	4/9/2015	Unknown	Unreasonable Detention and Seizure of Property, infliction of emotional distress and violation of constitutional rights
Dowdney, Samuel	TBD	11/5/2014	4/29/2015	3503 Barnes Road and 1826 Bella Vista Way, SR	Claims assault and battery, false imprisonment, emotional distress
Otero, Lynita	TBD	10/29/2014	4/6/2015	Near 950 North Russell St, SR	Fall - fractured left knee and abrasions to right arm
Green, Rene	TBD	11/6/2014	5/6/2015	3600 Westwind Blvd and Copperhill Pkwy, SR	Trip and fall - fracture right wrist
Dumbrille, John D.	11/9/6006	2/2/2015	5/18/2015	Corner of Humboldt Ave. and Seventh Street	Trip and fall - fracture right leg
Brown, Kelly Michael	TBD	12/29/2013	6/5/2015	Morgan Street & 6th Street	Equitable Indemnity and Apportionment of Fault (Seth McDonald lawsuit)
Rivera, Gloria	TBD	5/12/2015	6/18/2015	Santa Rosa City Bus Transit Mall	Trip and fall entering bus
Shotwell, Sandra L.	TBD	12/17/2014	6/17/2015	SRMH and County Jail	Violation of Civil Rights