



DATE: February 23, 2016

TO: Mayor Sawyer and Members of the Council

FROM: Caroline Fowler, City Attorney

RE: Quarterly Report of Settlements and Active Litigation/Claims
for the Fourth Quarter of 2015 (10/01/2015 to 12/31/2015)

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 fourth quarter of 2015.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of December 31, 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 fourth quarter of 2015.

EXHIBIT A

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

Case Name	Date Settled	Amount	Notes
Hernandez v. Bigham, City of Santa Rosa, et al. consolidated with Bigham v. City of Santa Rosa, Elizabeth Hernandez, et al.	12/23/2015	\$212,500	Settlement as to Elizabeth Hernandez, individually, and as successor-in-interest for decedent Ruben M. Hernandez
City of Santa Rosa and the Successor Agency to the Redevelopment Agency of the City of Santa Rosa v. Michael Cohen in his official capacity as the Director of the California Department of Finance	12/15/2015		Department of Finance's Appeal was dismissed; \$7,207,483 outstanding balanced owed on the Reentered Agreements was agreed to be paid to the City out of the escrow balance of \$12,115,698 from the sale price of the Vineyard Creek property belonging to the former Redevelopment Agency. The balance of the proceeds to be distributed in accordance with dissolution law by the County Auditor.

EXHIBIT B

LITIGATION AS OF 12/31/2015

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 - Settled but waiting for council approval	Notice of Settlement filed 7/29/15
<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	Judgment entered against City; evaluating appeal; stayed as to Church	
<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	Ongoing monitoring under Consent Order which terminated 1/15/2016	Consent Order filed 3/6/13 - terminated 1/15/16
<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	Case management conference set for 04/04/2016	
<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	

EXHIBIT B

LITIGATION AS OF 12/31/2015

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Taylor Dane v. The City of Santa Rosa, et al.</i>	SCV-253003	01/09/13	TBD	Declaratory and Injunctive Relief	Appeal stayed by California Supreme Court	
<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	City was dismissed for waiver of cost	
<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	Settled \$37,640.03 and City agreed to spend additional \$30k to provide notice to business licensees re UTT cap and refund process.	10/12/15

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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)	Settled - pending signatures and dismissal	Settled Hernandez - 12/23/3015 (see Exhibit A) Settled Bigham - Pending Signatures
<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 - Set for Trial 2/29/16	
<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 04/22/2016	
<i>Jorge Quinones Nava v. City of Santa Rosa and Does 1-10</i>	SCV-255826	07/29/14	TBD	Complaint for Personal Injuries	Settled 01/16- pending further signatures and dismissal	Pending Settlement

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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; Set for Trial 7/15/2016	
<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 Demand Fees; Declaratory and Injunctive Relief and Petition for Writ of Mandate	Appeal dismissed by Tuxhorn for waiver of costs	
<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 - 1/26/2016 Trial Date Vacated - to be reset	
<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 - Receiver Appointed	
<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	

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>CVSR Holdings, LLC v. City of Santa Rosa</i>	SCV-256350	12/01/14	\$466,854.05	Breach of Contract	Active - Hearing on Demurrer 2/19/2016; Set for Trial 05/13/2016	
<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	Dismissed	Dismissed 10/20/2015
<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 03/09/2016	
<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	Dismissed	Dismissed 1/6/2016
<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 - Set for Trial 8/5/2016	
<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; Set for Trial 9/6/2016	

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LITIGATION AS OF 12/31/2015

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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 - Trial set 10/24/2016	
<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	Tendered to Chrisp Co. 10/15	
<i>Cecilia Jump v. City of Santa Rosa</i>	SCV-257003	06/02/15	TBD	Complaint for Personal Injury - trip and fall	Dismissed	Dismissed 12/15/2015
<i>Seth McDonald v. City of Santa Rosa, et al.</i>	SCV-256495	05/26/15	TBD	Complaint for personal injury - motorcycle accident	Active - Set for Trial 9/30/2016	
<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	

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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	
<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 – pending settlement	
<i>Laurie Herrera v. Donald Hughes, City of Santa Rosa and Does 1 to 100</i>	SCV-256908	8/17/2015	TBD	Complaint for Personal injury and premises liability	Active - discovery phase	
<i>Department of Fair Employment and Housing, an agency of the State of California v. City of Santa Rosa; and Does One through Ten, inclusive, Thomas Draper, Real Party in Interest</i>	SCV-257379	8/24/2015	TBD	Complaint for Injunctive Relief and Compensatory Damages	First Amended Complaint - Served 1/27/2016	
<i>State of California, ex rel. Onthegowireless LLC v. Cellco Partnership, et al. (formerly Under Seal)</i>	Sacramento Superior Court Case No. 34-2012-00127517			Qui Tam action for excess phone charges	Council authorized intervention into litigation.	
<i>Mossi v Carol Ann Molln, City of Santa Rosa, Does 1-20, Inclusive</i>	SCV-257715	10/19/2015	TBD	Complaint for personal injury - trip and fall	Active - Discovery	

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Rheanna Kennedy v. Sonoma County Superior Court, Chris Malhurin, City of Santa Rosa as the Santa Rosa Police Department, et al.</i>	15-cv-01642-KAW	12/8/2015	TBD	Complaint for Damages		
<i>Wendy Flood v. City of Santa Rosa and Does 1-50</i>	SCV-258183	12/30/2015	TBD	Complaint for Personal Injury; dangerous condition		

EXHIBIT C

NEW CLAIMS FILED IN FOURTH QUARTER OF 2015

Claimant Name	Claim Amount	Date of Incident	Date of Claim	Location	Description of Claim
Thomas, Jane E. †	\$6,148.00	7/12/2015	9/10/2015	2433 Dunaway	Claims she tripped and fell on uneven sidewalk
Newton, William M. †	3,000.00+	8/27/2015	8/28/2015	6th Street and Jefferson	Claims he had an undercover police officer pull a gun out on him and he clenched his teeth so hard he broke a tooth and had to have it replaced.
Greenbaum, Norman †	Excess of \$25,000	3/28/2015	9/25/2015	Occidental Rd. near intersection of Piezzi Rd	Claims dangerous condition but does not describe injuries
Pike, Leslie	To Be Decided	7/14/2015	10/5/2015	866 Third Street	Trip and fall on uneven sidewalk
Lemus, Julio (same as Julio Villa below)	To Be Decided	6/29/2015	10/5/2015	Highway 12 westbound between Wagner Place and Sunridge Drive	Hit by motorist in poorly lit/unlit section of the road
Massa, Eileen	\$593.00	6/27/2015	10/1/2015	Business Park on N. Dutton, SR	Tripped and fell claims due to unevenly poured sidewalk
Mossi v Carol Ann Molln, CSR	To Be Decided	9/21/2014	2/23/2015	1604 Fourth Street, Santa Rosa	Stepped into planter hold causing her to trip and fall on cement sidewalk
Walker, Cook, Rebecca	\$100,000.00	10/1/2015	11/4/2015	1674 Greeneich Avenue, Santa Rosa	Home Inspection
Ferry, Jason L.	\$3,329.00+	6/10/2015	10/23/2015	Sebstopol Avenue and Chestnut Street	Hit by motorcycle cop when making a left-hand turn
Cota, Ana Maria	None listed	10/10/2015	11/18/2015	Santa Rosa Avenue at Baker Ave.	Bus door hit her in the arm as she was exiting the bus
May, Tonya	\$4,500.00	10/16/2015	11/18/2015	1300 Block of Eardley Ave,	Trip and fall on sidewalk
Flood, Wendy	over \$10,000	9/10/2015	11/18/2015	Sonoma Avenue between Brookwood Ave. and E. Street, SR	Bicycle accident allegedly caused by road - dangerous condition

EXHIBIT C

NEW CLAIMS FILED IN FOURTH QUARTER OF 2015

Claimant Name	Claim Amount	Date of Incident	Date of Claim	Location	Description of Claim
Heitz, Penelope	To Be Decided	10/14/2015	11/30/2015	West entrance of Parking Garage 12 walkway	Heel of shoe caught in hole where cement should have been
Marcus, Richard	\$45,500.00	7/18/2015	11/27/2015	Corner of 3rd and Wilson Streets, SR	Trip and fall on sidewalk
Steiner, Herbert	To Be Decided	6/1/2015	11/16/2016	2210 Newgate Court	Low frequency sound waves emitting from equipment "sound walls" located on Santa Rosa City property
IDS Property Casualty Phi K. Luu	\$19,362.68	9/3/2015	12/14/2015	Piner Road	Hit by police cruiser making an unsafe u-turn
Cassell, Sheila	In excess of \$150,000	10/20/2015	12/18/2015	Sidewalk in front of 814 Carley Road, SR	Tripped over a raised cement sidewalk slab approx. 2" in height
Julio L. Villa	To Be Decided	6/29/2015	12/29/2015	Highway 12 westbound between Wagner Place and Sunridge Drive	Hit by motorist in poorly lit/unlit section of the road

‡ NOTE: Did not appear on Third Quarter Report