



**DATE:** May 24, 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 First Quarter of 2016 (1/1/2016 to 3/31/2016)

---

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 first quarter of 2016.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of March 31, 2016.

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 first quarter of 2016.

# EXHIBIT A

## SETTLEMENTS OVER \$50,000 FINALIZED IN FIRST QUARTER 2016

Case Name	Date Settled	Amount	Notes
Kyle David Biedma, et al. City of Santa Rosa, et al.	3/9/2016	\$125,000	
California River Watch v. City of Santa Rosa	2/25/2016	\$70,000	plus non-monetary agreements

## EXHIBIT B

### LITIGATION AS OF 3/31/2016

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	City to receive \$80,000	Complaint on Performance Bond; Breach of Contract	Settled - \$80k to City; awaiting settlement check	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; appeal filed; stayed as to Church	
<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; likely appeal following judgment; class certification denied	
<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	Successful MSJ on 3/9/2016	
<i>Daniel McGillicuddy v. City of Santa Rosa, et al.</i>	SCV-252694	11/28/12	Acc. To Proof	Dangerous Condition	Awaiting trial 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	

## EXHIBIT B

### LITIGATION AS OF 3/31/2016

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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 to MV Transportation	
<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 - Bigham \$7,500 pending signatures and dismissal	Settled Hernandez \$212,500 - 12/23/2015 (See 4th Qtr 2015 Exhibit A)
<i>Ronald Norgrove v. City of Santa Rosa</i>	SCV-254717	12/12/13	TBD	Complaint for Personal Injury and Premises Liability	Settled \$37,500; Dismissal filed.	Settled 3/3/2016
<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	Settled \$125k. (See Exh A); Dismissal filed.	Settled 3/9/2016; Dismissed 4/15/2016
<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	Settled - no contribution by City. Awaiting dismissals	Dismissed 4/15/2016

## EXHIBIT B

### LITIGATION AS OF 3/31/2016

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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 - no contribution by City.	Settled 1/12/2016; Dismissed 1/26/2016
<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 1/20/17	
<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 7/23/2015	
<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 6/16/2015	
<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 7/8/2016	
<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	

## EXHIBIT B

### LITIGATION AS OF 3/31/2016

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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	Settled \$20k	Settled 4/7/2016; Dismissal filed 4/14/16
<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 5/11/2016	
<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	
<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	Dismissed for waiver of costs	Dismissed 3/9/2016
<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)	Dismissal for waiver of costs pending	
<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	

## EXHIBIT B

### LITIGATION AS OF 3/31/2016

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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>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	
<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	Settled \$70k. (See Exh A) Dismissal filed.	Settled 2/25/2016; Dismissed 4/25/2016
<i>Laurie Herrera v. Donald Hughes, City of Santa Rosa and Does 1 to 100</i>	SCV-256908	8/17/2015	TBD	Roller skater fall on sidewalk	Active - discovery phase; Trial set 10/2/16	
<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	Active - Hearing on Demurrer 6/8/2016	

## EXHIBIT B

### LITIGATION AS OF 3/31/2016

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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- Trial set 10/21/16	
<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	Pleadings not settled; motion to dismiss set for 6/16/2016	
<i>Wendy Flood v. City of Santa Rosa and Does 1-50</i>	SCV-258183	12/30/2015	TBD	Complaint for Personal Injury; cyclist vs. pothole	Trial set for 12/2/2016	
<i>Charles Garrett Harding v. City of Santa Rosa and Jon and Jane Doe #1-200</i>	SCV-258339	2/1/2016		Complaint for Preliminary Injunction to restrain from harming or destroying trees downtown	Preliminary Injunction Denied	Denied
<i>John Dumbrille v. City of Santa Rosa and Does 1 to 20</i>	SCV-258098	3/14/2016	Unknown	Complaint for Personal Injury and Property Damage; trip and fall	Trial set 11/4/16	
<i>Richard Marcus v. City of Santa Rosa, THI VI Sonoma, LLC, and Does 1-10</i>	SCV-258347	2/8/2016		Personal injury sidewalk trip and fall.	Pleadings are settled; discovery underway	
<i>Kristan Gilligan v. City of Santa Rosa, William Giles and Does 1-100</i>	SCV-258511	3/22/2016	Unknown	Complaint for Personal Injury and Property Damage; auto rearend by employee	Active - Discovery underway	



## EXHIBIT C

### NEW CLAIMS FILED IN FIRST QUARTER OF 2016

Claimant Name	Claim Amount	Date of Incident	Date of Claim	Location	Description of Claim
Scott, Michael	No amount listed	1/14/2016	1/15/2016	Parking steps - no exact location listed	Fell on wet steps injuring hands, arms, buttocks
Williamson, Neva	Over \$25k	10/2/2015	2/10/2016	Petsmart, 1954 Santa Rosa Marketplace	Claims Santa Rosa Paratransit bus driver failed to secure her when she was trying to get on bus and caused her to fall to the ground; claim tendered
Gilligan, Kristan	To Be Determined	10/26/2015	1/19/2016	College Avenue	Claims she was rearended by City Employee