



DATE: August 8, 2017

TO: Mayor Coursey and Members of the Council

FROM: Sue Gallagher, City Attorney

RE: Quarterly Report of Settlements and Active Litigation/Claims
for the Second Quarter of 2017 (4/1/2017 to 6/30/2017)

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 2017.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of July 31, 2017.

Attached as **Exhibit C**, is a list of new claims that have been referred to the City Attorney's Office from the Risk Department in the second quarter of 2017.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN SECOND QUARTER 2017

Case Name	Date Settled	Amount	Description	Notes
<i>Brian Kestler v. City of Santa Rosa, et al.</i>	5/11/17	\$108,000	Civil Rights Violation	

EXHIBIT B

LITIGATION AS OF 7/31/2017

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	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	Police Action	Class Action Complaint for Damages for police vehicle impoundments	Active - on Appeal in U.S. Appeal Court, Ninth Circuit from judgment against City and denial of class certification	
<i>Terry L. Weiss v. Santa Rosa Police Department</i>	SCV-256056	12/10/14	TBD	Police Action	False arrest, unlawful detainment, violation of civil rights; negligence	Active - Discovery Underway. Set for Trial 02/12/2018	
<i>Brian Kestler v. City of Santa Rosa, et al.</i>	C 15-01361	03/27/15	TBD	Police Action	Complaint for Civil Rights Violation and Damages	Settled for \$108,000	05/11/17
<i>Riccardo Capachilli, et al. v. City of Santa Rosa, et al.</i>	SCV-256628	04/02/15	TBD	Police Action	Writ of Mandate to Compel Return of Seized Property; Certification of the Case as a class action and other relief	Active - Pleadings	
<i>Bryce Lemmons v. County of Sonoma, California Forensics Medical Group, Inc., City of Santa Rosa, et al.</i>	USDC C16-04553 WHO	8/30/2016	\$ 5 mil	Police Action	Complaint for Civil Rights Violation; Negligence	Dismissed	Dismissed 3/31/17
<i>Damien Cesena v. City of Santa Rosa</i>	SCV-260297	3/10/2017	TBD	Police Action	Complaint for Violation of 4th and 14th Amendments	Active - Pleadings	

EXHIBIT B

LITIGATION AS OF 7/31/2017

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Greg Corser v. Hank Schreeder, Michael Paetzold, Ian Benner, SRPD Ofc. Woods, M. Spediacci, Jeneane Kucker</i>	USDC CV 16-7135	5/4/2017	10/23/7375	Police Action	Civil Rights Violation	Active - Pleadings	
<i>Daniel McGillicuddy v. State of California, County of Sonoma, City of Santa Rosa, et al.</i>	SCV-252694	11/28/12	Acc. To Proof	Personal Injury/Dangerous Condition	Dangerous Condition	Settled on 3/20/17 for \$7,500; dismissal pending	Settled on 3/20/17; dismissed 2/21/17
<i>Lena Harter, et al.v. CSR</i>	SCV-255401	09/04/14	TBD	Personal Injury/Dangerous Condition	Complaint for Survival/Wrongful Death - Dangerous Condition	Active - Trial date set for 02/16/2018; mediation now set for October	
<i>Sheila Roff v. City of Santa Rosa; et al.</i>	SCV-256656	03/11/15	TBD	Personal Injury/Dangerous Condition	Personal Injury - Trip and Fall on sidewalk	Voluntary Dismissal	Dismissal filed 4/3/17
<i>John Dumbrille v. City of Santa Rosa and Does 1 to 20</i>	SCV-258098	3/14/2016	Unknown	Personal Injury/Dangerous Condition	Complaint for Personal Injury and Property Damage; trip and fall	Active - Trial now set for December, 2017	
<i>Julio Lemus Villa v. Benjamin Harold Scott, City of Santa Rosa, County of Sonoma, et al.</i>	SCV258682	5/31/2016	Unknown	Personal Injury/Dangerous Condition	Complaint for Damages- Negligence and Dangerous Condition of Public Property (Highway 12)	Active / Demurrer in favor of CSR; case dismissed; appeal pending	
<i>Jason Ferry v. John Meteyer; City of Santa Rosa; et al.</i>	SCV-258219	6/7/2016	Unknown	Personal Injury/Dangerous Condition	Complaint for personal injury; property damage (sideswipe by motorcycle officer)	Settled for \$3750	Settled 04/17/2017

EXHIBIT B

LITIGATION AS OF 7/31/2017

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Norman Greenbaum v. City of Santa Rosa, et al.</i>	SCV-258671	8/15/2016	Over \$25K	Personal Injury/Dangerous Condition	Complaint for Damages Dangerous Condition of Public Property and Negligence	City of Santa Rosa Dismissed	Dismissed 04/03/2017
<i>Tonya May v. City of Santa Rosa, Mark Avila Viera, Focus Real Estate, et al.</i>	SCV-258972	10/4/2016	Medical \$10,332.92 Wages \$2,513.70	Personal Injury/Dangerous Condition	Personal Injury; Trip and Fall - Dangerous Condition	Active - Pleadings	
<i>Robert J. Warrick, Jr. v. Dwight Reed, City of Santa Rosa, et al.</i>	SCV-259744	11/11/2016	TBD	Personal Injury/Dangerous Condition	Complaint for Personal Injury (Motor Vehicle) - City Bus v. Motor Vehicle	Active - Discovery underway. Set for Trial 11/3/2017	
<i>Sergio Hernandez, Sr. v. Novato Disposal Service, Inc.; North Bay Corporation; The Ratto Group of Companies Inc.; Redwood Empire Disposal, Sonoma County, Inc.; City of Santa Rosa; Jesus Albaviera Mendiola, et al.</i>	SCV-260326	3/27/2017	TBD	Personal Injury/Dangerous Condition	Complaint for Personal Injury - Motor Vehicle and Negligence (Garbage Truck and Motor Vehicle)	Active - Pleadings; tendered defense	
<i>Veronica A. Smith v. City of Santa Rosa, Keith Alan Gorka and Does 1 to 25</i>	SCV-260202	3/27/2017	TBD	Personal Injury/Dangerous Condition	Complaint for Personal Injury (Motor Vehicle)	Active pleadings; mediation set for 9/8/17	
<i>Charles T. Jensen, et al. v. City of Santa Rosa, et al. (SAY)</i>	SCV255347	04/21/14	TBD	Land Use	Petition for Writ of Mandate CEQA challenge to SAY Dream Center approval	Judgment for City; On Appeal, Awaiting Hearing Date.	
<i>Paul Bussard and Lynn Denley-Bussard v. the City of Santa Rosa, et al.</i>	SCV-256670	01/30/15	TBD	Land Use	Petition for Writ of Mandate challenging the City's approval of Calistoga Cottages Subdivision	Judgment for City on 05/27/2016 ; On Appeal, Awaiting Hearing Date.	

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LITIGATION AS OF 7/31/2017

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>City of Santa Rosa v. Hillcone Steamship Company, et al.</i>	SCV-257219	06/03/15	TBD	Land Use	Complaint to quiet title to Oakmont Treatment Plant property	Active - Pleadings	
<i>People of the State of CA, City of Santa Rosa v. Marie B. Tanner, et al.</i>	SCV-256326	11/12/14	TBD	Code Enforcement/ Receivership	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	Code Enforcement/ Receivership	Complaint and Petition for Injunctive Relief, Abatement of Nuisance and Appointment of Receiver - 509 Olive Street	Active - Receiver Appointed 6/16/2015	
<i>People of the State of CA, City of Santa Rosa v. Estate of Charles Duncan, et al.</i>	SCV-261005	7/31/2017	TBD	Code Enforcement/ Receivership	Complaint and Petition for Injunctive Relief, Abatement of Nuisance and Appointment of Receiver - 6837 Oak Leaf Drive	Active - Mtn to Appt Receiver 9/13/17	
<i>People of the State of California, City of Santa Rosa v. John Vincent; 550 Richmond Drive</i>	SCV-259072			Code Enforcement/ Receivership	Complaint for Injunctive Relief under Drug Abatement Act of Nuisance and Other Relief	Judgment in favor of City. We await Court's ruling on post-trial attorney's fees/cost motion.	Judgment dated 04/20/2017
<i>CVSR Holdings, LLC v. City of Santa Rosa, et al.</i>	SCV-256350	12/01/14	\$466,854.05	Other	Breach of Contract	Trial set for 09/15/2017	
<i>Jamie Thomas Woods v. City of Santa Rosa</i>	CV 17-710	5/26/2017	TBD	Other	Civil Rights Violation	Active	
<i>Timothy Aboudara, Jr, et al. on behalf of themselves and all similarly situated individuals v. City of Santa Rosa</i>	CV 17-01661 (HSG))	6/9/2017	TBD	Other	Complaint for Violations of the Fair Labor Standards Act	Active - Pleadings; Trial Date Set for 03/26/2018	

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LITIGATION AS OF 7/31/2017

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Wesco Insurance Company V. City of Santa Rosa</i>	MCV-242210	7/26/2017	TBD	Other	Complaint for Money (Automobile Subrogation) Limited Action	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	Other	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>State of California, ex rel. Onthegowireless LLC v. Cellco Partnership, et al.</i>	Sacramento Superior Court Case No. 34-2012-00127517			Other	Qui Tam action for excess phone charges	Active - Discovery Ongoing	
<i>Michael Bisagno and Irene Bisagno v. City of Santa Rosa and MOES 1-20</i>	SCV-259721		TBD	Other	Cross-complaint for Indemnity, Contribution, and Declaratory Relief	Dismissed	Dismissed 7/5/2017

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN SECOND QUARTER 2017

Claimant Name	Claim Amount	Date of Incident	Date of Claim	Location	Description of Claim
Dansing, River	TBD over \$25,000	11/4/2016	4/10/2017	521 7th Street (Parking Garage)	Claims attacked by homeless person and no City attendant in garage
Guldbeck, Lauren	2,500	2/26/2017	4/13/2017	Transit Mall	Claims she fell getting off of bus at transit mall
Riveras, August	Unknown	4/1/2017	4/24/2017	Safeway Fourth Street Bus Stop	Claims he fell on bus
Matthias, Deanna	over \$25,000	11/23/2016	5/4/2017	Sidewalk near the S. East Street underpass in Santa Rosa	Claims she fell in a hole in the ground
Sawicki, Donna	500,000	12/30/2016	5/12/2017	On Bus #10	Claims she was hurt when bus driver slammed on brakes
Jensen, Whitney	TBD	5/18/2017	5/23/2017	7th and B Intersection	Claims she was hit by a city vehicle
Holcomb, Robert	250,000	11/13/2016	6/12/2017	"Santa Rosa"	Claims he was assaulted by police officer
Golden Tee HOA	2,500	12/16/2016	6/14/2017	3000 Yulupa Ave.	Claims water damage from drainage from Bennett Valley Golf Course onto HOA properties