



DATE: October 2, 2018

TO: Mayor Coursey and Members of the Council

FROM: Sue Gallagher, City Attorney

RE: Quarterly Report of Settlements and Active Litigation/Claims
for First through Third Quarter of 2018 (1/1/2018 to 08/31/2018)

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, second, and third quarters of 2018.

Attached as **Exhibit B**, is a list of ongoing litigation not yet resolved as of September 27, 2018.

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 first, second, and third quarters of 2018.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN FIRST, SECOND & THIRD QUARTER 2018

Case Name	Date Settled	Amount	Description	Notes
<i>California Riverwatch v. City of Santa Rosa</i>	3/12/2018	\$25,000	60-day Notice of Violations and Intent to File Suit alleging various violations of the Endangered Species Act	Settlement of \$25k plus tasks agreed upon per settlement without admitting any fact, wrongdoing or liability
<i>Lena Harter, et al.v. City of Santa Rosa</i>	8/1/2018	\$2 million	Complaint for Survival/Wrongful Death - Dangerous Condition	Excess Carrier CJPRMA to pay \$1.5 m

EXHIBIT B

LITIGATION AS OF SEPTEMBER 27, 2018

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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 - Receiver Mark Adams Appointed - receiver to be discharged 10/18/2018	
<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.	Judgment Affirmed in favor of City by Appellate Court - 05/01/2018
<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	Judgment Affirmed in favor of City by Appellate Court - 2/6/2018
<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>Jamie Thomas Woods v. City of Santa Rosa</i>	CV 17-710	5/26/2017	TBD	Other	Civil Rights Violation	Dismissed for Waiver of Costs	Dismissed 02/14/2018

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LITIGATION AS OF SEPTEMBER 27, 2018

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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 - Trial date vacated. Awaiting relevant ruling by Labor Board.	
<i>Wesco Insurance Company V. City of Santa Rosa</i>	MCV-242210	7/26/2017	TBD	Other	Complaint for Money (Automobile Subrogation) Limited Action	Case Dismissed for waiver of costs	Dismissed 09/05/2017
<i>Christopher Carter v. Teresa Caratti, City of Santa Rosa, et al.</i>	SCV-261366	12/5/2017	\$440,000	Other	Complaint for fraud, negligent misrepresentation, rescission, breach of fiduciary duty, constructive fraud, breach of implied warranty, violation of Civil Code Sec. 1102 et seq. and negligence	Active - Trial Set for 03/01/2019	
<i>Deborah Drake, Samantha Jenkins, Nicholle Vannucci, Steven Robert Singleton, and Ellen Brown, individuals; and Homeless Action!, an unincorporated association v. County of Sonoma, Sonoma County Community Development Commission, City of Santa Rosa, and Does I to XX</i>	3:18-CV-01955-VC	4/2/2018	TBD	Other	Complaint for Declaratory Relief and Injunctive Relief	Active - Trial set for 12/22/2019	
<i>Jamie Woods v. City of Santa Rosa, and DOES 1 through 10, inclusive</i>	SCV-263013	8/23/2018	TBD	Other	Unlawfully denied specified pay and accrued benefits while absent from work as result of work-related injury	Active - Pleadings	

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<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	Settlement reached for \$2 million (Excess Carrier CJPRMA to pay \$1.5 m)	Settled 08/01/2018
<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	Jury trial resulted in defense verdict	Judgment entered in favor of City 09/24/2018
<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)	Demurrer in favor of CSR; case dismissed; Appeal Filed	Court of Appeal upheld dismissal on 04/27/2018
<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 Albavieramendiola, 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 - tendered defense (Trial scheduled for 5/10/2019)	
<i>Donna Sawicki v. City of Santa Rosa</i>	SCV-261260	9/26/2017	TBD	Personal Injury/Dangerous Condition	Personal Injury - Bus	Dismissed for waiver of costs	Dismissed 06/05/2018
<i>Matthias, Deanna v. City of Santa Rosa</i>	SCV-261533	11/15/2017	TBD	Personal Injury/Dangerous Condition	Complaint for personal injury	Dismissed for waiver of costs	Dismissed 9/05/2018

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<i>Su Wolfard v. City of Santa Rosa; and DOES 1-25</i>	SCV-262044	3/5/2018	TBD	Personal Injury/Dangerous Condition	Personal Injury - Claims she fell in pothole and broke ankle & wrist	Active - Trial set for 02/08/2019. CSR tender to WinterBlast insurer accepted. CSR will have nonmonetary exposure in this case.	
<i>Laure Ann Nicole Friedell v. Michael Quinto Spediacci III, and Does 1 through 20</i>	SCV-262164	5/7/2018	According to Proof	Personal Injury/Dangerous Condition	Personal Injury - Auto (hit by police car in parking lot)	Active - Trial set for 03/29/2019	
<i>Deirdre Solar v. City of Santa Rosa and Santa Rosa City Schools; Does 1-20</i>	SCV-262527	6/4/2018	TBD	Personal Injury/Dangerous Condition	Complaint for Personal Injury; General Negligence and Premises Liability	Active	
<i>Gustavo Climaco v. Santa Rosa Police Department; City of Santa Rosa; Does 1-20, Inclusive</i>	SCV-262843	7/31/2018	TBD	Personal Injury/Dangerous Condition	Personal injury auto - claims police car hit his car	Active - Pleadings	
<i>Carlos E. Dominguez, Carlos Dominguez Jr., and Veronica Dominguez v. Aaron Celovsky, Pacific Eagle Electric, Inc., City of Santa Rosa and Does 1 to 20</i>	SCV-261634	1/31/2018	TBD	Personal Injury/Dangerous Condition (Wrongful Death)	Compaint for Wrongful Death	Dismissed	Dismissed 4/27/18
<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 - Awaiting Court's decision on fully briefed Motionfor Summary Judgment and Motion for Judgment on Pleadings.	

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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	Case settled with County contribution of \$18,900 and City contribution of \$8,100.	Settled 06/13/2018
<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	Dismissed for waiver of costs	Dismissed 01/12/2018
<i>Estate of Pablo Garcia Toribio; Pablo Garcia Santos, individually and as Sucessor in Interest to Pablo Garcia Toribio; Margarita Toribio Dominguez, an individual v. City of Santa Rosa; The Santa Rosa Police Department; The Chief of Police for the Santa Rosa Police Department, Hank Schreeder; Officer Nicholas Vlahandreas; Officer Jeffrey Badger; Officer Park McAllister and Does 1 through 50, inclusive</i>	C 18-2151 YGR	5/21/2018	TBD	Police Action (Wrongful Death)	FA Complaint for Wrongful Death; negligence; violation of civil rights	Active - Trial set for 06/17/2019	
<i>United States, et al., ex rel. John Hendrix v. J-M Manufacturing Company, Inc., et al.</i>	ED CV06-0055-GW	N/A	TBD	Qui Tam	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	N/A - City is Plaintiff in Intervention	Unknown	Qui Tam	Qui Tam action for excess phone charges	Active - Discovery Ongoing	
<i>Lane Scott Weiss v. CSR</i>	MSC-188605	4/5/2018	7/6/2009	Small Claims - Property Loss	Complaint for negligent police security related to third party crime.	Judgment in favor of City at Trial on 8/8/2018	Judgment 8/9/2018

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Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Unite Here Local 2850 v. City of Santa Rosa, et al.</i>	CIV-173767	10/19/2017	TBD	Writ of Mandate	Verified Petition for Writ of Mandate	Tendered	
<i>BoDean Company</i>	SCV-262562	5/24/2018		Writ of Mandate	Writ of Mandate, Writ of Prohibition & Complaint		

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FIRST, THIRD & FOURTH QUARTER 2018

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Weiss, Lane Scott	1/11/2018	10/24/2017	\$40,000	3524 Brookdale Dr. Santa Rosa, CA	Claims his burnt property was looted and that he was denied access to property to retrieve valuable coins (California Wildfires)
Karki, Aryan	1/12/2018	1/9/2018	\$25,000+	Crosswalk on Mendocino Ave	Claims was struck by a car at a dangerous crosswalk
Sheehan, Robert	2/23/2018	2/22/2018	\$5,356	Chesnut St.	Claims Police Officer removed his registration sticker from car
Estate of Nathaniel Hankton et al.	3/5/2018	9/6/2017	TBD	In police custody	Estate claims that brother's death was caused by SRPD's violation of decedent's civil rights
Otto, Austin & Otto, Cameron	3/6/2018 *3/27/2018 * Amended	10/8/2017	\$2,000	1910 Bent Tree Pl.	Claims to have suffered financial and emotional loss as a result of the Tubbs fire (California Wildfires)
Ternullo, Scott	3/12/2018	10/27/2017	\$2,500,000	Santa Rosa Ave/ Court Street	Claims he was hit by a car crossing an unsafe intersection
Lueger, Ed	3/26/2018	3/22/2017	TBD	632 Benjamins Rd Santa Rosa CA	Claims 4th and 14th amendments violated
Guyette, Karen	3/26/2018	3/22/2017	TBD	632 Benjamins Rd Santa Rosa CA	Claims 4th and 14th amendments violated
Hayes, Jasmine	3/26/2018	3/22/2017	TBD	632 Benjamins Rd Santa Rosa CA	Claims she was separated from her father and forcefully removed from her home
George, Tom	3/26/2018	3/22/2017	TBD	632 Benjamins Rd Santa Rosa CA	Claims she was forced to leave her home with 30 minutes notice
Bowman, Mark and Bowman, Irma	4/6/2018	10/8/2017	TBD	Santa Rosa	Wrongful death (California Wildfires)

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Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Thistlethwaite, Jamie	4/6/2018	10/8/2017	\$25,000	3734 Skyfarm Dr Santa Rosa Ca	Claims property could have been preserved (California Wildfires)
Weiss, Steve	4/6/2018	10/24/2017	\$40,000	2019 Stonewood Dr Santa Rosa CA	Claims property could have been preserved (California Wildfires)
Stark, Charles D Decker, James III Decker, Susan K	4/6/2018	10/8/2017	TBD	Santa Rosa	Claims city was not prepared for a wildfire emergency (California Wildfires)
Graff, Bob E and Willett, Kathleen	4/6/2018	10/9/2017	\$210,000	1907 Lyon Court Santa Rosa, CA	Claims water tanks contained burned plastics from the fire (California Wildfires)
PG&E	4/19/2018	10/17/2017	TBD	Sonoma County	Seeks contribution and equitable indemnity from City for any claim that has been or will be asserted against PG&E (California Wildfires)
Minor	4/24/2018	3/10/2018	TBD	415 Steele Lane Road Santa Rosa CA	Claims a 50 pound pipe fell off of the community center on his head
Climaco, Gustavo Caralampio	5/18/2018	4/24/2018	TBD	Guerneville Road (40 ft. west of S/B 101)	Claims he sustained personal injury when his car was hit by a police car
Meyer, Tessala	6/8/2018	5/8/2018	TBD	Joe Rodota Trail, West of Dutton Ave.	Claims she was injured when a motorcycle officer ran into her on the trail

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FIRST, THIRD & FOURTH QUARTER 2018

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Homeless (34 claims) Padfield; Brown; Buttterfly; Cerola; Croft; Fenk; Garcia; George, Jr.; Grissom, Jr.; Gutierrez; Hzll; Jone III; Jones; LaFond; Lang; LaRose; Lopez; Marrufo; Martinez; McCloud; McDowell, Jr.; Morell, III; Navarro; Offutt (2); O'Neal; Potter; Ramirez (aka Redhawk); Robertson- Bass; Santiago; Stinnett; Teves; Vega; Whitten	6/12/2018	multiple	TBD	multiple homeless locations	Evictions by police (Homeless)
Gutierrez, Armando	6/12/2018	4/19/2018	\$1,890	Last Chance Village, 777 Sebastopol Road	SRPD evicted me and took my belongings
Marchbanks, Maurice	8/1/2018	2/1/2018	\$25,000		Claims officer(s) unreasonably seized him and caused his arrest and deprivation of liberty; additonally claims officer(s) falsly accused him of having controlled substances
Hubbard, Tina	8/31/2018	4/1/2018	\$25,000	Near corner of Beaver St. & 7th St.	Claimant's husband, Bobby James Hubbard, suffered personal injury including, but not limited to, fractured ribs, lacerations, and a brain injury.

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NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FIRST, THIRD & FOURTH QUARTER 2018

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Hubbard, Bobby	8/31/2018	4/1/2018	\$25,000	Near corner of Beaver St. & 7th St.	Claimant suffered personal injury including, but not limited to, fractured ribs, lacerations, and a brain injury.
Giambastiani, Debra Kay	9/20/2018	3/24/2018	\$25,000+	4110 Trinity Dr, Santa Rosa, CA 95405	Claimant suffered injuries while placed under arrest.