



DATE: January 30, 2018

TO: Mayor Coursey and Members of the Council

FROM: Sue Gallagher, City Attorney

RE: Quarterly Report of Settlements and Active Litigation/Claims
for the Third & Fourth Quarter of 2017 (7/1/2017 to 12/31/2017)

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 third and fourth quarter of 2017.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of January 25, 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 third and fourth quarter of 2017.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN THIRD & FOURTH QUARTER 2017

| Case Name | Date Settled | Amount | Description | Notes |
|---|--------------|-------------|--|--|
| <i>CVSR Holdings, LLC v. City of Santa Rosa, et al.</i> | 8/31/2017 | \$295,000 | Breach of Contract | |
| <i>Lena Harter, et al. v. City of Santa Rosa</i> | 11/21/2017 | \$2,000,000 | Wrongful Death/Motorcycle | Settlement reached for \$2 million; awaiting court approval of minor's compromise. |
| <i>Veronica A. Smith v. City of Santa Rosa, Keith Alan Gorka and Does 1 to 25</i> | 12/14/2017 | \$217,500 | Complaint for Personal Injury (Motor Vehicle) | |

EXHIBIT B

LITIGATION AS OF JANUARY 25, 2018

| Full Case Name | Court/Case No. | Date Served | Amount Claimed | Category | 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 | Police Action | Complaint for Declaratory and Injunctive Relief | Settled | Settled on 11/30/2017 - \$8,500; Dismissed 12/12/2017 |
| <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>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; awaiting court approval of minor compromise | |
| <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>CVSR Holdings, LLC v. City of Santa Rosa, et al.</i> | SCV-256350 | 12/01/14 | \$466,854.05 | Other | Breach of Contract | Settled | Settled 8/31/2017 - \$295,000; Dismissed |

LITIGATION AS OF JANUARY 25, 2018

| Full Case Name | Court/Case No. | Date Served | Amount Claimed | Category | Type of Action/ Comments | STATUS | SETTLED OR DISMISSED DATE |
|---|----------------|-------------|---|-------------------------------------|---|--|---------------------------|
| <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 Motion to Determine Competency | |
| <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 - Hearing Date Set for 1/30/2018 | |
| <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>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>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 set for 2/16/2018 | |
| <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) | Active / Demurrer in favor of CSR; case dismissed; appeal pending | |
| <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 | Dismissed | Dismissed 10/24/17 |

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|---|--------------------|-------------|----------------|-------------------------------------|--|---|---|
| <i>Robert J. Warrick, Jr. v. Dwight Reed, City of Santa Rosa, et al.</i> | SCV-259744 | date Served | TBD | Personal Injury/Dangerous Condition | Complaint for Personal Injury (Motor Vehicle) - City Bus v. Motor Vehicle | Settled | Settled 09/19/2017 - \$35,000; Dismissed 10/26/2017 |
| <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 | |
| <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 - 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) | Settled & Dismissed | Settled 12/14/2017 - \$217,500; Dismissed 1/4/2018 |
| <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 | Dismissed | Dismissed 1/23/18 w/o prejudice |
| <i>Jamie Thomas Woods v. City of Santa Rosa</i> | CV 17-710 | 5/26/2017 | TBD | Other | Civil Rights Violation | Settled for Waiver of Costs; Pending Dismissal | |
| <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 | |
| <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 | |

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|---|---|---|----------------|-------------------------------------|--|--|---------------------------|
| <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 | |
| <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 | 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 | N/A - City is Plaintiff in Intervention | Unknown | Other | Qui Tam action for excess phone charges | Active - Discovery Ongoing | |
| <i>Donna Sawicki v. City of Santa Rosa</i> | SCV-261260 | 9/26/2017 | TBD | Personal Injury/Dangerous Condition | Personal Injury - Bus | Active - Pleadings | |
| <i>Unite Here Local 2850 v. City of Santa Rosa, et al.</i> | CIV-173767 | 10/19/2017 | TBD | Other | Verified Petition for Writ of Mandate | Tendered | |
| <i>Matthias, Deanna v. City of Santa Rosa</i> | SCV-261533 | 11/15/2017 | TBD | Personal Injury/Dangerous Condition | Complaint for personal injury | Active - Pleadings | |
| <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 - Demurrer filed | |

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN THIRD & FOURTH QUARTER 2017

| Claimant Name | Claim Amount | Date of Incident | Date of Claim | Location | Description of Claim |
|---|--------------|------------------|---------------|--|--|
| Hill, Maureen | TBD | 1/27/2017 | 7/3/2017 | 923 Humboldt St. | Claims she fell on sidewalk |
| Dominguez, Veronica; Dominiquez, Carlos; and Dominiquez-Alcala, Carlos E. | 1,000,000 | 2/7/2017 | 7/20/2017 | West Steele Lane Intersection with Apple Valley Lane | Claims her mother died when hit by a car in the poorly lighted and maintained crosswalk |
| Marenco, Lynnette | 2,500 | 1/26/2017 | 7/26/2017 | Finley Park | Claims she tripped on raised sidewalk |
| Guldbach, Lauren | Unknown | 2/26/2017 | 7/24/2017 | Transit Mall | Claims she fell when getting off of a bus at the transit mall. |
| Gallardo, Mario | Unknown | 7/27/2017 | 7/28/2017 | Coddington Library | Claims his iPad was broken when he was misidentified as a suspect |
| Wolford, Su | 675,000 | 11/19/2016 | 8/8/2017 | Alley between A St. and Julliard Park Drive | Claims she fell in a pot hole and broke her ankle and wrist |
| Valencia, Juana | 29,638 | 7/23/2017 | 8/28/2017 | Finley Park | Claims her child was hurt when he fell from a play structure, as a result of an equipment failure. |
| Friedell, Laura | 500,000 | 4/27/2017 | 10/3/2017 | 2090 W. Steele Lane | Claims he was hit by an unmarked police vehicle while lying on the ground. |
| Carter, Christopher | 440,000 | 8/2/2017 | 10/3/2017 | 806/808 Spencer Ave | Claims property value reduced and other general and special damages |
| Solar, Deirdre | 25,000+ | 5/17/2017 | 11/8/2017 | Santa Rosa Middle School | Claims she fell into an unmarked hole where a sign post had previously been removed. |
| Looney, Gary | TBD | 5/16/2017 | 11/15/2017 | 3845 Skyfarm Dr | Claims police came in to his home and voilated multiple laws |
| Irvin, Anthony | 5,000,000 | 4/3/2017 | 12/4/2017 | Santa Rosa, CA | Claims wrongfully arrested for financial elder abuse |
| Estate of Pablo Garcia Toribio et al. | 8,000,000 | 8/5/2017 | 12/18/2017 | 2400 Block West Steele Lane | Claims police shot and killed Pablo Garcia |