



**DATE:** February 12, 2019

**TO:** Mayor Schwedhelm and Members of the Council

**FROM:** Sue Gallagher, City Attorney

**RE:** Quarterly Report of Settlements and Active Litigation/Claims  
for the Fourth Quarter of 2018 (10/1/2018 to 12/31/2018)

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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 2018.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of January 17, 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 fourth quarter of 2018.

## EXHIBIT A

### SETTLEMENTS OVER \$50,000 FINALIZED IN FOURTH QUARTER 2018

Case Name	Date Settled	Amount	Description	Notes

NONE TO REPORT

## EXHIBIT B

### LITIGATION AS OF JANUARY 17, 2019

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	Dismissed (violations resolved) - Receiver Discharged 10/28/2016	Dismissed 10/28/2016
<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	Dismissed (violations resolved) - Receiver Discharged 02/08/2017	Dismissed 02/08/2017
<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	Dismissed - Receiver Discharged 10/18/2018	Dismissed 10/30/2018
<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>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	Trial court granted City's Demurrer without leave to amend.	04/06/2018 Judgment in favor of City of Santa Rosa

## EXHIBIT B

### LITIGATION AS OF JANUARY 17, 2019

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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	Dismissed - City's demurrer granted without leave to amend.	Dismissed 11/28/2018
<i>Bobby James Hubbard et al v. City of Santa Rosa, and DOES 1-25</i>		11/14/2018	TBD	Personal Injury	Complaint for damages; tripped and fell on public sidewalk causing injury; negligence.	Active - Discovery	
<i>Adrian Madrigal, a minor, through his guardian ad litem, Karissa Milazo v. City of Santa Rosa and DOES 1 through 20</i>	SCV-263628	12/17/2018	TBD	Personal Injury	Complaint for personal injury; General Negligence and Infliction of Emotional Distress	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 - tendered defense (Trial scheduled for 5/10/2019)	

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### LITIGATION AS OF JANUARY 17, 2019

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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 09/06/2019. CSR tender to WinterBlast insurer accepted. CSR has no monetary exposure.	
<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 08/09/2019	
<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 - Trial set for 05/24/2019	
<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 - Trial set for 08/23/2019	
<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 - Appellate Court recently affirmed trial court finding a Constitutional violation, but also affirming trial court denial of class certification. Parties now considering further appellate review	

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### LITIGATION AS OF JANUARY 17, 2019

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	Court granted City's Motion for Summary Judgment and Judgment on the Pleading, and entered Judgment in favor of the defense	12/12/2018 Judgment in favor of City
<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)	First Amended Complaint for Wrongful Death; negligence; violation of civil rights	Active - Trial set for 06/17/2019. Motion for summary Judgment set for hearing in February 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 - Trial set for 12/02/2019. Discovery Ongoing	
<i>BoDean Company</i>	SCV-262502	5/24/2018		Writ of Mandate	Writ of Mandate, Writ of Prohibition & Complaint	Active - Trial scheduled 05/24/2019	

## EXHIBIT C

### NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FOURTH QUARTER 2018

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Comora, Louise	10/5/2018	5/7/2018		Trash Room, 638 Fifth St, Santa Rosa, CA	Claimant opened trash bin door, it fell over, plastic tie on overflowing trash bags caught her finger causing injuries.
Casey, Robert	10/8/2018	6/1/2018	over \$25,0000	Near 2168 San Antonio Dr, Santa Rosa, CA 95405 by Strawberry Park	Claimant suffered injuries due to encounter with SRPD
Davenport, John L	10/25/2018	2/5/2018	\$4,000	924 Grand Ave, Santa Rosa, CA 95404	SRPD entered home without warrant and caused damage to property
Hernandez, Rose	11/15/2018	5/21/2018	over \$25,0000	Foodmaxx Parking Lot, 2015 Sebastopol Rd, Santa Rosam CA 95407	Claimant states SRFD fire truck backed into her parked vehicle while she was sitting in it
Sanchez, Carmen et al/Estate of Lozano	11/30/2018	6/2/2018	over \$25,0000	Santa Rosa Avenue, 13ft north of Court St, Santa Rosa, CA	Wrongful death claim by estate of Jose Sanchez Lozano (auto)
Hilkey, Shane	12/11/2018	7/12/2018	\$24,500	2046 San Miguel Ave, Santa Rosa, CA 95403	City changed zoning and now property does not comply with rebuild due to lot size
Avalos, Jobita	12/13/2018	6/15/2018	over \$25,0000	Sebastopol Rd and West Ave in Santa Rosa	Claimant was injured while riding on a City bus
Martinez, Ramiro		6/13/2018	over \$25,0000	Moorland Avenue, 1170 ft north of Todd Road	Claimant was hit by a car while walking on Moorland Avenue
Pierce, Kimberly	12/28/2018	1/4/2018	over \$25,0000		Claimaint suffered physical and emotional trauma due to sexual assault by offender who Police failed to arrest and revoke probation prior to 1/4/18.

## EXHIBIT C

### NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FOURTH QUARTER 2018

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Carral, Ryan (Minor) and Chadwell, Kristi	1/8/2019	11/4/2018	over \$25,0000	Bayer Park	Minor claimant was at Bayer Park when a globe from one of the light poles fell and struck him in the head, causing physical injuries. Claimant mother witnessed the incident and alleges emotional distress.
Almanza, Juan	1/11/2019	7/13/2018	over \$7,000	786 Kawana Springs Road	Claimant alleges that he sustained injuries when he was arrested
Wood, Rebekah	1/14/2018	9/5/2018	over \$25,0000	Sonoma County Jail Parking Lot, 2777 Venruta Ave, Santa Rosa, CA 95403	Claimant tripped and fell causing injuries