



DATE: August 13, 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 Second Quarter of 2019 (04/01/2019 to 06/30/2019)

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 2019.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of August 8, 2019.

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 2019.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN THE SECOND QUARTER 2019

Case Name	Date Settled	Amount	Description	Notes
<i>Timothy Aboudara, Jr, et al. on behalf of themselves and all similarly situated individuals v. City of Santa Rosa</i>	5/6/2019	\$976,672.28	payment of unpaid overtime compensation and liquidated damages	\$739,172.28 paid to plaintiffs for qualifying overtime pay and liquidated damages \$237,500 in attorneys's fees and costs
<i>Laure Ann Nicole Friedell v. City of Santa Rosa, et al.</i>	7/11/2019	\$260,000.00	Personal Injury - Auto (hit by police car in parking lot)	This settlement was finalized in the third quarter of 2019.
<i>BoDean Company v. The City of Santa Rosa, The Santa Rosa City Council, Sean McGlynn in his capacity as City Manager, Michael J. Reynolds in his capacity as Code Enforcement Officer, David Guhin in his capacity as Assistant City Manager and David Gouin in his capacity as Director of Housing and Community Services</i>	7/25/2019	non-monetary	Writ of Mandate, Writ of Prohibition & Complaint	This settlement was finalized in the third quarter of 2019.

EXHIBIT B

LITIGATION AS OF AUGUST 8, 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. Craig Torango, Citimortgage, Inc. and Does 1-10</i>	SCV-263234	09/27/18	Receivership	Code Enforcement/ Receivership	Complaint for Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Property sold and receiver will soon be discharged.	
<i>People of the State of CA; City of Santa Rosa v. Juan V. Rodriguez, on behalf of the Juan V. Rodriguez Trust; Quality Loan Service Corporation; New Residential Mortgage Loan Trust and DOES 3-10</i>	SCV-264113	03/14/19	Receivership	Code Enforcement/ Receivership	Complaint for Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Dismissed	Dismissed 7/9/2019
<i>Brendan Dean dba Junk in the Box vs. City of Santa Rosa</i>	MCV-249001	05/20/19	Code Enforcement	Code Enforcement/ Receivership	Appeal of Admin Fine or Penalty Imposed by City of Santa Rosa	Active - Notice of Entry of Judgment filed granting appeal.	
<i>People of the State of CA; City of Santa Rosa v. Deborah J. O'Connor, as Trustee of the O'Connor Irrevocable Trust</i>	SCV-264904	08/05/19	Receivership	Code Enforcement/ Receivership	Complaint for Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Pleadings	
<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	Settled - \$976,672.28	Settled 5/6/2019 (date approved by Court)
<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 (homeless encampments)	Active - preliminary Injunction entered; litigation stayed from 8/12/19 through 6/7/20	

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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>David Pelayo, Roberto Hernandez, Edmond Andre, Bryan Munoz, and Brian Medeiros, each as an individual, and on behalf of the general public for all those similarly situated v Utility Partners of America, LLC, a Delaware corporaion; City of Santa Rosa and DOES 1 through 250, inclusive.</i>	SCV-264530	06/05/19	Exceeds \$25K	Other	Failure to pay wages, compensation, etc. for Public Works	Active - Pleadings. Tendered to vendor for defense.	
<i>Pace Supply Corp. v Northern Pacific Corporation; City of Santa Rosa; Fidelity and Deposit Company of Maryland; and DOES 1-20, Inclusive</i>	SCV-264605	06/13/19	Exceeds \$25K	Other	Enforcement of Stop Notice; Implied/Equitable Indemnity		
<i>Shane Hilkey v. CSR</i>	MSC-189921	07/15/19	\$10,000	Other	Claimant alleges that City changed zoning, which resulted in incurred costs.	Small claims trial set for 8/12/19.	
<i>Bobby James Hubbard et al v. City of Santa Rosa, and DOES 1-25</i>	SCV-263492	11/14/2018	TBD	Personal Injury	Complaint for damages; tripped and fell on public sidewalk causing injury; negligence.	Active - Discovery Ongoing; Trial set for 12/6/19	
<i>Adrian Madrigal, a minor, through his guardian ad litem, Karissa Milazo v. City of Santa Rosa and DOES 1 through 20</i> ----- <i>Cross-Complaint: City of Santa Rosa vs. Debi Wagner and "CYO Basketball"</i>	SCV-263628	12/17/2018	TBD	Personal Injury	Complaint for personal injury; General Negligence and Infliction of Emotional Distress; City filed Cross-Complaint vs. Wagner for indemnity	Active - Discovery (City tendered defense to Insured Wagner HOA. City has no exposure.)	
<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)	City Dismissed with prejudice on 4/9/2018. (CSR tender of defense accepted.)	Dismissed 4/9/2018

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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 04/24/2020 (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)	Settled - \$260,000	Settled 7/11/2019
<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 11/1/2019; Motion for Summary Judgment set for 9/27/19	
<i>Rebekah Wood v. County of Sonoma; City of Santa Rosa and Does 2-100, Inclusive</i>	SCV-263778	04/30/19	According to Proof	Personal Injury/Dangerous Condition	Personal Injury	Dismissed	Dismissed 5/31/2019
<i>Jonathan Roope v City of Santa Rosa, and DOES 1 through 50</i>	SCV-264473	06/10/19	Exceeds \$25K	Personal Injury/Dangerous Condition	Foot hit a steel bracket protruding from sidewalk and fell causing injuries	Active - Discovery	

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<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	
<i>Robert Casey, an individual, v. City of Santa Rosa; and DOES 1-50, inclusive</i>	4:18-cv-07731 KAW	1/14/2019	TBD	Police Action	Complaint for damages; excessive force	Active - Pleadings (Stayed pending outcome of Motion to Suppress)	
<i>Meyer, Tessala Dakota v. City of Santa Rosa, Does 1-20</i>	SCV-263791	1/25/2019	TBD	Police Action	Alleges police officer hit her with motorcycle	Dismissed	Dismissed 6/25/19
<i>Andy Ford v. City of Santa Rosa, City of Petaluma, John Whitten, John Silva, Justin Farrington, Thomas Walsh, David Lamb, Brenda Harrington, Steven Pehlke, Matthey Rooney, David Linscomb, Summer black, Robert Moore, David Marconi, Ronald Nelson, and DOES 1-25, Inclusive</i>	3:19-cv-02741 WHA	05/29/19	According to Proof	Police Action	ADA/RA - Wrongful Arrest, 4th Amendment Wrongful/False Arrest, and 4th Amendment Malicious Prosecution	Active - Pleadings	

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<i>Debra Giambastiani v City of Santa Rosa Santa Rosa Chief of Police Robert Schreeder, Santa Rosa Officer Timothy Gooler, Santa Rosa Officer Tyler Laron, Santa Rosa Officer Christopher Mahurin, Santa Rosa Officer Kenneth Ferrigno, Santa Rosa employees DOES 1-25, County of Sonoma, Sonoma County Sheriff Mark Essick, Sonoma County employees DOES 26-50, Jointly and Severally</i>	3:19-cv-02450-VC	06/17/19	According to Proof	Police Action	Civil rights violation; malicious prosecution; false arrest and imprisonment; assault and battery; negligence; invasion of privacy; intentional infliction of emotional distress	Active - Pleadings. Plaintiff filed a First Amended Complaint alleging violation of federal constitutional and state statutes.	
<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 date 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; Trial set for 12/02/2019 (Trial being rescheduled to March 2020)	Claims versus T-Mobile & Sprint being settled. Claims versus Verizon & ATT proceeding to Trial.
<i>BoDean Company v. The City of Santa Rosa, The Santa Rosa City Council, Sean McGlynn in his capacity as City Manager, Michael J. Reynolds in his capacity as Code Enforcement Officer, David Guhin in his capacity as Assistant City Manager and David Gouin in his capacity as Director of Housing and Community Services</i>	SCV-262502	5/24/2018		Writ of Mandate	Writ of Mandate, Writ of Prohibition & Complaint	Settled - non-monetary provisions	Settled 7/25/2019

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN SECOND QUARTER 2019

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Lopez, Leopoldo Castillo	3/28/2019	10/4/2018	over \$25,0000	Moorland Ave & Todd Ave	Claimant was struck in crosswalk
Davies, Thomas; Putnam, Jill	4/1/2019	10/23/2018	over \$10,000	Intersection of Stony Pt. Road and Occidental Road	Claimants' daughter, Jennell Davies, was struck and killed crossing Stony Pt./Occidental Rd.
Beck, Elizabeth	5/29/2019	5/12/2019	over \$25,0000	Sidewalk near 509 Adams Street	Claimant tripped and fell on uneven sidewalk