



**DATE:** December 3, 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 Third Quarter of 2019 (07/01/2019 to 09/30/2019)

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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 third quarter of 2019.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of November 25, 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 third quarter of 2019.

# EXHIBIT A

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

Case Name	Date Settled	Amount	Description	Notes
<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)	previously reported in second 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	previously reported in second quarter of 2019.

## EXHIBIT B

### LITIGATION AS OF NOVEMBER 25, 2019

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<i>Continental Lifestyles, Inc. v. City of Santa Rosa</i>	MCV-245854	08/10/18	Code Enforcement	Code Enforcement/ Receivership	Appeal of Administrative Enforcement Order	Settled - 10/18/2019 \$27k to City	Settled 10/18/2019
<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>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	Order vacating administrative decision	Order 07/31/2019
<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>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 8/12/2019 through 6/7/2020	
<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	

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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>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	Dismissed	Dismissed - 07/22/2019
<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.	Settlement pursuant to Court Order - \$8,575	Settled - 10/09/2019
<i>Bay Cities Paving &amp; Grading, Inc., a California corporation v. City of Santa Rosa, a body politic, and Does 1-50</i>	SCV-265333	10/15/2019	TBD	Other	Breach of Contract	Active - Pleadings	
<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>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	Settled - 10/21/2019 for \$50k	Settled 10/21/2019
<i>Bobby James Hubbard et al v. City of Santa Rosa, and DOES 1-25</i>	SCV-263492	11/14/2018	TBD	Personal Injury/Dangerous Condition	Complaint for damages; tripped and fell on public sidewalk causing injury; negligence	Active - Discovery Ongoing; Trial set for 6/26/2020	
<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/Dangerous Condition	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>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>Ramiro Martinez v. City of Santa Rosa, County of Sonoma, California Dept. of Transportation, Alexandra Peterson, and Does 1-25</i>	SCV-264687	8/26/2019	Exceeds \$25K	Personal Injury/Dangerous Condition	Complaint for Damages	Dismissed	Dismissed - 10/17/2019
<i>Elizabeth Beck v County of Sonoma, et al</i>	SCV-265374	10/21/2019	Exceeds \$25K	Personal Injury/Dangerous Condition	Trip and fall on a sidewalk	Active - Discovery ongoing; Trial not yet set	
<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 - Appeals have been exhausted. Trial court to now rule on plaintiffs' request for attorney's fees	
<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>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. Mandatory Settlement Conference set for 12/13/2019; Trial set for 10/05/2020	
<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	Case stayed pending Motion to Suppress	

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<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)	Tentative settlement as to all claims and all parties on 11/21/2019

## EXHIBIT C

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

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Murphy, Jenna	7/29/2019	5/9/2019	over \$25,0000	Santa Rosa HS, DeSoto Hall, 1235 Mendocino Ave, Santa Rosa, CA	Claimant injured when she exited a door from DeSoto Hall and the center post of the doorway fell and struck her.
Kanarek, Katherine	8/6/2019	3/13/2019		1846 Cooper Drive, backyard	Claimant alleges City is responsible for maintenance of easement; the over-saturation of the area has caused a landslide resulting in damages to claimants' property.
KB Wines LLC, et al	8/21/2019	2/27/2019	over \$25,0000	The Barlow, 200 Morris St., Bldgs B, E, and J; 6761 McKinley St, Bldg A North; 100 Morris St., Bldg H, Sebastopol	LTP released treated wastewater into the Laguna de Santa Rosa and caused/contributed to water flowing into The Barlow site flooding premises leased by KB Wines.
Martinez, Ramiro	12/4/2018	6/13/2018	over \$25,0000	Moorland Ave, 1700 ft north of Todd Rd.	Claimant was run over by car while walking on Moorland Road which had no sidewalks.
Bay Cities Paving & Grading, Inc.	8/19/2019	1/0/1900	over \$25,0000	Stony Point Road Widening Project - Sebastopol Rd to Hearn Ave	Breach of contract No. C00727.
Reed, Lucas	9/9/2019	3/13/2019	over \$25,0000	1842 Cooper Drive	Damage to drainage channel.
Taylor, Jeane	9/19/2019	5/24/2019	over \$25,0000	East sidewalk of A Street between 4th and 5th Streets	Claimant fell into open hole in sidewalk causing her to trip, fall, and sustain injuries.