



DATE: February 11, 2020

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 2019 (09/01/2019 to 12/31/2019)

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 fourth quarter of 2019.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of February 5, 2020.

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 2019.

EXHIBIT A

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

Case Name	Date Settled	Amount	Description	Notes
<i>Deidre Solar v. City of Santa Rosa, et al.</i>	10/21/2019	\$50,000.00	Complaint for Personal Injury; General Negligence and Premises Liability	Injury due to trip on hole in planter strip adjacent to Middle School.

SETTLEMENTS OVER \$50,000 FINALIZED IN THE THIRD QUARTER 2019 (ADDENDUM)

Case Name	Date Settled	Amount	Description	Notes
<i>Hank Schreeder Contract Resolution</i>	08/01/2019	\$92,967.90	Amendment to Employment Agreement and Release of Claims; and Supplemental Release of Claims	Reformation of Contract to correct error of law at time of contract execution.

EXHIBIT B

LITIGATION AS OF FEBRUARY 5, 2020

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 awarded 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 and Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Property sold and receiver will soon be discharged. City's Mtn. for Atty Fees pending.	
<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 and Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Pleadings. Receiver Appointed.	
<i>People of the State of CA: City of Santa Rosa v. Davis Properties, a general partnership, American Savings Bank, F.A., the Testate and Intestate Successors of Mervyn C. Diehl, deceased, and all persons claiming by, through, or under such decedent any legal or equitable right, title, estate, lien, or interest in real property commonly known as 116 South E Street, Santa Rosa, and Does 1-10</i>	SCV-265933	pending	Receivership	Code Enforcement/ Receivership	Complaint and 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 (Constitutional and ADA Claims)	Complaint for Declaratory Relief and Injunctive Relief (homeless encampments)	Active - Preliminary Injunction entered; litigation stayed from 8/12/2019 through 6/7/2020	

EXHIBIT B

LITIGATION AS OF FEBRUARY 5, 2020

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 corporation; City of Santa Rosa and DOES 1 through 250, inclusive.</i>	SCV-264530	06/05/19	Exceeds \$25K	Other (Wage Claim)	Failure to pay wages, compensation, etc. for Public Works	Active - Pleadings; Tendered to vendor for defense	
<i>Shane Hilkey v. CSR</i>	MSC-189921	07/15/19	\$10,000	Other (Zoning)	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 & 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)	Breach of Contract	Active - Pleadings	
<i>William P. Gallaher, an individual v City of Santa Rosa, City Council of the City of Santa Rosa, and DOES 1 through 25, inclusive</i>	SCV-265711	12/23/19	TBD	Other (CEQA)	Petition for Writ of Mandate - CEQA	Active - Pleadings	
<i>City of Santa Rosa v. Pacific Gas & Electric Company; PG&E Corporation</i> <i>Coordination Proceeding Special Title: California North Bay Fire Cases (Judicial Council Coordination Proceeding No. 4955)</i> <i>In re: PG&E Corporation and Pacific Gas and Electric Company, Debtors</i> <i>Public Utilities Commission of the State of California Proceedings related to Pacific Gas & Electric Utility.</i>	SCV-262772 CGC-17-004955 19-30088 (DM) and 19-30089 (DM)	various	TBD	Other (City Action in Tort)	Complaint for recoery of damages related to 2017 wildfires	Stayed - Pending Bankruptcy Proceedings	

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LITIGATION AS OF FEBRUARY 5, 2020

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<i>Su Wolfard v. City of Santa Rosa; and DOES 1-25</i>	SCV-262044	3/5/2018	\$150,000	Personal Injury/Dangerous Condition	Personal Injury - Trip and fall in pothole resulting in broken 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 -- Injuries due to trip and fall in planter strip	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> ----- Cross-Complaint: <i>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 due to injury at gym; 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	Personal Injury -- Foot hit a steel bracket protruding from sidewalk and plaintiff fell causing injuries	Active - Discovery ongoing; Trial set for 7/10/2020	
<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; Case Management Conference set for 2/20/2020; Trial not yet set	

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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>Megan Marlow v City of Santa Rosa, Chelino's Restaurant, DOES 1-50</i>	SCV-265050	11/18/19	Exceeds \$25K	Personal Injury/Dangerous Condition	Personal Injury	Active - Discovery ongoing; Trial date not yet set	
<i>Mindy Streicher, an individual v City of Santa Rosa, Kaiden Kemp, an individual</i>	SCV-265071	12/13/19	Exceeds \$25K	Personal Injury/Dangerous Condition	Claimant suffered injuries during collision with police vehicle	Active - Pleadings. Answer filed on behalf of CSR; permission to answer on behalf of officer granted. Pleadings not yet settled. Trial date not yet set	
<i>Leopoldo Castillo Gomez, an individual v Thomas Carroll Hyland, an individual; Ghilotti Bros, Inc., a corporation; City of Santa Rosa, County of Sonoma, State of California DOES 1 through 50, inclusive</i>	SCV-265313	01/13/20	\$2 mil	Personal Injury/Dangerous Condition	Claimant alleges that inadequate lighting and a rapid "walk to stop" traffic light contributed to being hit by a vehicle while walking in a crosswalk	Active - Pleadings; Discovery has been served	
<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>Heck v. Humphrey</i>)	
<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; Trial set for 10/05/2020; Settlement discussions underway	

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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>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	
<i>Rose Hernandez v Windi Braden, Chantel Medeiros, City of Santa Rosa, James Ritchie and DOES 1 to 25</i>	SCV-264519	01/08/20	TBD	Property Damage	Plaintiff claims fire truck hit her parked rental car resulting in injury and damage to car	Active - Pleadings	
<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
<i>Joseph Romano v. City of Santa Rosa</i>	MSC-190404	12/18/19	\$10,000	Small Claims	Claimant alleges that City refuses to approve a building permit as required by State law.	Active - Trial set for 2/24/2020	

EXHIBIT C

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

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
DeGroot, John	10/25/2019	5/16/2019	over \$10,000	Sidewalk on Chinn St, between 4th and 5th Streets	Claimant stepped onto sidewalk from street, stumbled and fell causing injuries
Johnson, Linda	10/31/2019 amended 12/5/2019	2018	10,000.00	643 Simpson St., Santa Rosa, CA	Claimant alleges City charged rates in excess of those permitted by Prop. 218
Gilhooly, Cheyenne	11/6/2019	5/8/2019	600,500.00	Giffen Avenue, Santa Rosa	Claimant alleges they were assaulted by police during arrest
Reynoso, Robert	11/6/2019 amended 12/5/2019	2018	10,000.00	739 Blair PL, Santa Rosa, CA	Claimant alleges City charged rates in excess of those permitted by Prop. 218
Utility Partners of America	11/25/2019	5/30/2019	over \$25,0000	Santa Rosa	Claimant alleges prevailing wage violations
Davis, Regina	12/6/2019	6/8/2019	over \$25,0000	Sidewalk near 1421 Montgomery Drive, Santa Rosa	Claimant tripped and fell as a result of defect in sidewalk.
Gavriloff, David Martin	12/16/2019	10/22/2019	50,000,000.00	Mark West Springs Rd & Quietwater Road	Claimant alleges that dangerous condition of roadway led to motor vehicle accident that resulted in various injuries