



DATE: August 18, 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 First and Second Quarters of 2020 (01/01/2020 to 06/30/2020)

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 first and second quarters of 2020.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of July 31, 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 first and second quarters of 2020.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN THE FIRST AND SECOND QUARTERS OF 2020

Case Name	Date Settled	Amount	Description	Notes
<i>Andy Ford v. City of Santa Rosa, et al.</i>	04/09/2020	\$575,000.00	Americans with Disabilities Act, Rehabilitation Act, 4th Amendment Wrongful Arrest, and 4th Amendment Malicious Prosecution	Settled subject to specified conditions - 04/09/2020 Stipulation and Proposed Order re Dismissal submitted on 08/07/2020 and pending Judge's signature to dismiss case.
<i>Rafael Mateos-Sandoval and Simeon Avendano Ruiz v. County of Sonoma, City of Santa Rosa, et al.</i>	4/14/2020	\$258,941.24	Class Action Complaint for Damages for police vehicle impoundments	Global settlement between Plaintiffs, County and City for a total of \$562,882.48 (\$510,000 for attorneys fees paid in equal shares by the two public entities, \$45,000 related to filing of Opposition for writ of certiorari paid solely by County, and \$7,882.48 costs paid in equal shares by the two entities).
<i>City of Santa Rosa v. Pacific Gas & Electric Company; PG&E Corporation</i>	6/19/2020	\$95,479,585.29	City as Plaintiff. Settlement figure reflects net funds received by City after costs and attorneys' fees. Complaint for recovery of damages related to 2017 wildfires	US Bankruptcy Court approved PG&E's Reorganization Plan on June 20, 2020.

EXHIBIT B

LITIGATION AS OF AUGUST 3, 2020

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	9/27/2018	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. City's Motion for Attorneys Fees granted.	
<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	8/5/2019	Receivership	Code Enforcement/ Receivership	Complaint and Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Pleadings. Receiver Appointed. Litigation ongoing.	
<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 - Petition to appoint receiver has been filed with the hearing scheduled for 9/20/20	
<i>Sonoma Citizens for Transparency in Government v City of Santa Rosa, County of Sonoma</i>	SCV-264359	2/24/2020	To be determined.	Other (PRA)	SCTG claims they were wrongfully denied access to requested records under PRA.	Active - Pleadings; Plaintiff and SRPD continue to investigate. City has not answered.	
<i>James L. Duncan v Sonoma Marin Area Rail Transit District (Real party in Interest: City of Santa Rosa and County of Sonoma)</i>	SCV-266092	3/2/2020	N/A	Other (Writ)	Writ of Mandate and Complaint for Declaratory and Injunctive Relief relating to Jennings Ave Crossing. City is a Real Party in Interest and not a Defendant.	Active - Pleadings; City answered on 07/15/2020	

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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>Dana Bryant and Michael Bryant, d/b/a Crossing the Jordan, Plaintiffs, v. Gavin Newsom, Xavier Becerra, Sonia Y. Angell, Dr. Sundari Mase, Mark Essick, Susan Gorin, David Rabbitt, Shirlee Zane, James Gore, Lynda Hopkins, Rainer Navarro, Santa Rosa, Ca</i>	3:20-cv-3243-SK	5/19/2020	To be determined.	Other (Civil Rights)	Complaint alleges civil rights violations relating to enforcement of Public Health Order	Active - Pleadings; Motion to Dismiss to be heard on 08/27/2020	
<i>Duane DeWitt v City of Santa Rosa</i>	SCV-266383	6/3/2020		Other	Challenge to governmental procedures	Dismissal filed on 6/15/2020	Dismissed 6/15/2020
<i>Fountaingrove II Open Space Maintenance Association v. City of Santa Rosa and DOES 1-10, inclusive</i>	SCV-266455	6/16/2020	\$35,000	Other	Complaint for damages for nuisance, inverse condemnation, and dangerous condition of Public Property relating to contaminated water pipes	Active - Pleadings	
<i>William David Bush v. Brown Farm, City of Santa Rosa Does 1-20</i>	20-cv-03275-JD	5/19/2020	To be determined.	Other (Clean Water Act)	Violation of Clean Water Act	Active - City filed Motion to Dismiss	
<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	12/23/2019	TBD	Other (CEQA)	Petition for Writ of Mandate – CEQA (challenge to the City’s all electric REACH code)	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)	City as Plaintiff. Complaint for recovery of damages related to 2017 wildfires	Settlement with Public Entities. US Bankruptcy Court approved PG&E’s Reorganization Plan on June 20, 2020. City of Santa Rosa received net \$95,479,585.29, after costs and attorneys’ fees.	Settlement Approved 06/20/2020

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LITIGATION AS OF AUGUST 3, 2020

Full Case Name	Court/Case No.	Date Served	Amount Claimed	Category	Type of Action/ Comments	STATUS	SETTLED OR DISMISSED DATE
<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)	Allegation of Breach of Contract arising out of public works construction project	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 12/30/2020	
<i>Bonnie Kessner, et al. v. City of Santa Clara, et al. (City of Santa Rosa - Linda Johnson & Robert Reynoso)</i>	20-CV364054	3/4/2020	TBD	Other (Prop 218 - Water Rates)	Complaint for damages and equitable relief: Petition for Writ of Mandate under Prop 218, challenging City's water rates	Active - Discovery; stayed pending court decision on consolidation motion	
<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	6/5/2019	Exceeds \$25K	Other (Wage Claim)	Failure to pay wages, compensation, etc. for Public Works	Active - Tendered to vendor for defense	
<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	Dismissed - (CSR tender to WinterBlast insurer accepted. CSR has no monetary exposure.)	Dismissed 03/04/2020

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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>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	Settled - \$20,000 by City.	Dismissed 4/29/2020
<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	6/10/2019	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 01/08/2021	
<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	
<i>Megan Marlow v City of Santa Rosa, Chelino's Restaurant, DOES 1-50</i>	SCV-265050	11/18/2019	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	12/13/2019	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 is 10/16/2020	

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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>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	1/13/2020	\$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 - City is being dismissed for waiver of costs	Dismissal Pending
<i>Rafael Mateos-Sandoval and Simeon Avendano Ruiz v. County of Sonoma, City of Santa Rosa, et al.</i>	CV-11 5817 EDL	1/3/2012	TBD	Police Action	Class Action Complaint for Damages for police vehicle impoundments	Settlement of Attorney's Fees for \$258,941.24	Settled - 4/14/2020
<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	5/29/2019	According to Proof	Police Action	Americans with Disabilities Act, Rehabilitation Act, 4th Amendment Wrongful Arrest, and 4th Amendment Malicious Prosecution	Settled subject to specified conditions on 04/09/2020 - Dismissal Pending	Settled subject to specified conditions on 04/09/2020 Stipulation and Proposed Order re Dismissal submitted on 08/07/2020 and pending Judge's signature to dismiss case.

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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	6/17/2019	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 in criminal case	
<i>Marqus Martinez and Michaela Staggs, on behalf of themselves and other similarly situated individuals, v. City of Santa Rosa and Rainer "Ray" Navarro</i>	3:20-cv-04135	6/23/2020	Exceeds \$1 Million	Police Action	Plaintiffs suffered injuries by police during protest	Active - Pleadings; plaintiff's motion for preliminary injunction scheduled 8/4/2020	
<i>Rose Hernandez v Windi Braden, Chantel Medeiros, City of Santa Rosa, James Ritchie and DOES 1 to 25</i>	SCV-264519	1/8/2020	TBD	Property Damage	Plaintiff claims fire truck hit her parked rental car resulting in injury and damage to car	Active - Discovery; trial set for October	
<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 - The Court denied exemplar plaintiff damages; final judgment expected soon and likely appeal to the Ninth Circuit on multiple issues. City's claims (as non-exemplar plaintiff) are currently stayed.	
<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 - Tentative settlement as to all claims set for court hearing on 09/17/2020	

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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>Joseph Romano v. City of Santa Rosa</i>	MSC-190404	12/18/2019	\$10,000	Small Claims	Claimant alleges that City refuses to approve a building permit as required by State law.	Active - Trial set for 10/7/2020	

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FIRST AND SECOND QUARTERS OF 2020

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Romano, Joseph	12/18/2019	7/3/2019	5/18/1927	4723 Muirfield Court, Santa Rosa, CA 9405	Claimant alleges that City refuses to approve a building permit as required by State law.
Hernandez, Howard	1/3/2020	9/7/2019	over \$25,000	Not indicated on claim form	Claimant alleges SRPD vehicle rear-ended their vehicle after their vehicle came to a stop at a red light resulting in injuries.
Campos, Lyzette	1/3/2020	9/7/2019	over \$25,000	Not indicated on claim form	Claimant alleges SRPD vehicle rear-ended their vehicle after their vehicle came to a stop at a red light resulting in injuries.
Fraser, Eric	1/27/2020	12/6/2019	To be determined	In front of 432 Orchard St	Claim alleges that after parking ticket was erroneously given, claimant is experiencing emotional distress and is due damages for abuse of process.
Fountaingrove II Open Space Maintenance Assoc (OSMA)	1/27/2020	3/22/2019	over \$25,000	Six locations	Claim alleges that City is responsible for the cost to replace contaminated pipes due to contamination originating from water system owned and operated by the City. Complaint served 6/16/20 and now included in pending litigation.
Ekube, Leah	1/27/2020	1/9/2020	Less than \$25,000	Yardley St, Santa Rosa, CA	Claimant alleges that City is liable for medical bills incurred after solo car accident and arrest.
Robles, Jasmine	2/13/2020	9/24/2019	Less than \$25,000	Davis St & Third St	Claimant was 5 months pregnant when City bus hit her vehicle resulting in APD, pain in her neck, and anxiety.
Nichols, Howard	2/27/2020	1/7/2020		Challenger Way, Santa Rosa	Claimant alleges illegal seizure of vehicle, cruel and unusual punishment, excessive release and impound fees

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN FIRST AND SECOND QUARTERS OF 2020

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Teel, Carolyn	4/24/2020	11/10/2019	over \$25,000	Hoen Ave/Hoen Frontage Rd	Claimant was severely attacked by two dogs on City property and states City knew dogs were present and dangerous.
Dykstra, Richard James	5/28/2020	11/23/2019	over \$25,000	624 Oak St, Santa Rosa, CA 95404	Claimant alleged he suffered injury during arrest
Leon, Ziggy	5/13/2020	12/7/2019	over \$25,000	Highway 101, Santa Rosa	Claimant alleges he suffered injuries to due a vehicle accident caused by City of Santa Rosa's failure to repair and maintain the roadway.
TerraCon Constructors, Inc.	6/18/2020	n/a	over \$25,000		Breach of Contract for Post Court and Simpson Place Sewer Replacement - Contract No. C002081.
TerraCon Constructors, Inc.	6/18/2020	n/a	over \$25,000		Breach of Contract for Replacement of Water Services Affected by Tubbs Fire Advisory Area - Contract No. C02222.
Giron, Argelio	6/18/2020	5/31/2020	over \$25,000	Near 547 Mendocino Ave, Santa Rosa	Claimant alleges he suffered injuries when a rubber bullet hit him in the groin during a protest.