



DATE: December 8, 2020

TO: Mayor Tom 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 2020 (07/01/2020 to 09/30/2020)

On February 10, 2015, Council authorized the City Attorney (a) 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 (b) 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 2020.

Attached as **Exhibit B**, is a list of ongoing litigation not yet been resolved as of November 23, 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 third quarter of 2020.

EXHIBIT A

SETTLEMENTS OVER \$50,000 FINALIZED IN THE THIRD QUARTER OF 2020

Case Name	Date Settled	Amount	Description	Notes
<i>Claim of Argelio Giron</i>	10/27/2020	\$200,000.00	Claimant alleges he suffered injuries when a rubber bullet hit him in the groin during a protest.	Settlement is final and funds have been dispursed.
<i>State of California, ex rel. Onthegowireless LLC v. Cellco Partnership, et al.</i>	9/24/2020	Payment to City of Santa Rosa of \$106,807.69	Qui Tam action for excess phone charges	The Court approved the settlement; settlement funds are disbursed; and dismissal is expected in the short term, concluding the matter in its entirety.

EXHIBIT B

LITIGATION AS OF NOVEMBER 23, 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	Dismissed - Property sold and receiver will soon be discharged. City's Motion for Attorneys Fees granted	Dismissal Filed 09/22/2020
<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	1/29/2020	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 12/16/2020	
<i>People of the State of California, City of Santa Rosa v. The Testate and Interstate Successors of David L. Mosher and Rosemary Mosher, Deceased, and all persons Claiming by, through, or under such Decedents any Legal or Equitable Right, Title, Estate, Lien, Interest in Real Property Commonly Known as 3073 Lamberson Court, and DOES 1-25</i>	MCV-252325	2/19/2020	Receivership	Code Enforcement/ Receivership	Complaint and Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Pleadings	
<i>People of the State of California, City of Santa Rosa v. Norma Cronin and DOES 1-10</i>	SCV-267223	10/13/2020	Receivership	Code Enforcement/ Receivership	Complaint and Petition for injunctive Relief, Abatement of Nuisance, Appointment of Receiver and other equitable relief	Active - Pleadings	

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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>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	Tentative settlement reached; closing papers in process
<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>Terracon Constructors, Inc., a California corporation v. City of Santa Rosa, a charter city; and DOES 1-50 fictitiously named parties</i>	SCV-266987	8/31/2020	688,035.00	Other (Breach of Contract)	Allegation of Breach of Contract arising out of public works construction project	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	12/23/2019	TBD	Other (CEQA)	Petition for Writ of Mandate – CEQA (challenge to the City’s all electric REACH code)	Active - Pleadings; CEQA Hearing scheduled for 01/27/2021	
<i>Airport Business Center, a California limited partnership, and Blue Fox Partners, A California general partnership v. City of Santa Rosa, City Council of the City of Santa Rosa, and DOES 1 through 25, inclusive</i>	SCV-267372	11/12/2020		Other (CEQA)	Petition for Writ of Mandate – CEQA (challenge to the City’s Downtown Station Area Specific Plan)	Active - Pleadings	

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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>County of Sonoma, a political subdivision of the State of California; Sonoma County Agricultural Preservation and Open Space District, a Public Agency; Sonoma County Water Agency, a public agency of the State of California; Sonoma County Community Development Commission, a public agency; City of Cloverdale, a municipal corporation; City of Healdsburg, a municipality organized under the laws of the State of California; Town of Windsor, a municipal corporation; and City of Santa Rosa, a municipal corporation v. Pacific Gas and Electric Company, a California Corporation; PG&E Corporation, a California Corporation; and DOES 1-100, Incusive</i>	SCV-267391	N/A	TBD	Other (City Action in Tort)	City as Plaintiff. Complaint for recovery of damages related to Kincade Fire	Active - Pleadings; Complaint filed on 11/17/2020	
<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	Motion to Dismiss granted	Dismissed as to City without cost 10/29/2020
<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)	Allegation of violation of Clean Water Act	Active - City filed Motion to Dismiss	

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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>Nicholle Vannucci, Ellen Brown, and Shannon Hall, 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>Ronald Austin v City of Santa Rosa; and DOES 1 through 10, inclusive</i>	SCV-267183	10/6/2020		Other (PRA)	Allegation of Public Records Act violations	Active - Pleadings; an extension to respond granted until 12/15/2020	
<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)	Allegation that plaintiffs were wrongfully denied access to requested records under PRA.	Active - Pleadings;	
<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>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	Other (Property Damage)	Plaintiff claims fire truck hit her parked rental car resulting in injury and damage to car	Notice of Settlement of Entire Case received; Dismissal Pending	Plaintiff settled the matter with other Defendants; City to be dismissed without cost

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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 corporation; City of Santa Rosa and DOES 1 through 250, inclusive.</i>	SCV-264530	6/5/2019	Exceeds \$25K	Other (Wage Claim)	Alleged failure to pay prevailing wages, compensation, etc. for public works project	Active - Tendered to vendor for defense. Tender rejected by UPA. Discovery is ongoing and mediation will be scheduled. Pelayo's Motion for Summary Judgment as to Pelayo and UPA's Motion for Summary Judgment to City scheduled for 02/19/2021	
<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 proposed Jennings Ave Crossing of SMART rail line. City is a Real Party in Interest and not a Defendant.	Active - Pleadings; City answered on 07/15/2020	
<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 - City tendered defense to Insured Wagner HOA. City has no exposure. Wagner insurer paid \$3,000 on behalf of City. No City payment	Settlement pending
<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 -- Allegation that foot hit a steel bracket protruding from sidewalk and plaintiff fell causing injuries	Active - Discovery ongoing; Trial set for 01/08/2021. Expert discovery commencing	To date, settlement discussions have been unsuccessful

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<i>Elizabeth Beck v County of Sonoma, et al</i>	SCV-265374	10/21/2019	Exceeds \$25K	Personal Injury/Dangerous Condition	Alleged 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	Alleged Personal Injury	Active - Discovery ongoing; Trial date not yet set. Plaintiff has passed away. Plaintiff counsel has until the January 2021 CMC date to update the Court re: status	
<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	Allegation that 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 settled and discovery is ongoing. Trial date is 3/19/2021	
<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 has negotiated dismissal in exchange for waiver of costs	Dismissal Pending

EXHIBIT C

NEW CLAIMS REFERRED TO THE CITY ATTORNEY'S OFFICE IN THIRD QUARTER OF 2020

Claimant Name	Date of Claim	Date of Incident	Claim Amount	Location	Description of Claim
Brayson, Lisa	7/2/2020	2/3/2020	over \$25,000	Sidewalk in front of 620 Fifth Street, Santa Rosa	Claimant alleges injury to left arm due to uneven sidewalk
Stamey, Ryland	7/10/2020	5/31/2020	over \$25,000	At or near Mendocino Avenue	Claimant alleges that they sustained injuries during encounter with police
Hewitt, Marlene	7/29/2020	2/2/2020	over \$25,000	Intersection of Highway 12 at Boas Drive, Santa Rosa	Claimant alleges they suffered injuries due to a vehicle accident allegedly caused by dangerous and unsafe conditions of intersection
Garcia, Adrian	8/14/2020	9/23/2019	over \$25,000	River Road to US 101 S/B	Claimant alleges that they suffered injuries while riding in bike lane when they were stuck by a vehicle, allegedly due to dangerously designed onramp
Amiral, Carson	9/15/2020	2/17/2020	\$845.00	1375 Corporate Center Parkway, Santa Rosa	Claimant alleges their vehicle was illegally towed from a private parking space
Motisi, Francesca	9/16/2020	3/21/2020	over \$25,000	Sidewalk adjacent to 7509 Oakmont Dr, Santa Rosa	Claimant alleges they sustained injuries when their foot caught on a defective and dangerous condition in the sidewalk
Womack, Lorenzo	9/21/2020	June 1, 2020 - June 4, 2020	over \$25,000	Public and communal areas of Santa Rosa	Claimant alleges City issued unlawful and unjustified curfew resulting in First Amendment rights violation