COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET

LOS ANGELES, CALIFORNIA 90012

MEMBERS OF THE BOARD

Maria M. Oms
Auditor-Controller
John F. Krattli
Office of the County Counsel
Rocky Armfield
Chief Administrative Office

November 1, 2004

Honorable Board of Supervisors
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Re: **Petra Nunez v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 259 744

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $170,000.00, plus assumption of the Medi-Cal Lien not to exceed $68,668.23.

2. The Auditor-Controller be directed to draw warrants to implement this settlement from the Department of Health Services.

Enclosed is the settlement request and a summary of the facts of the case.

The Corrective Action Report is being transmitted to you under separate cover by the Department of Health Services.

Return the executed, adopted copy to Georgene Salisbury, Suite 648 Kenneth Hahn Hall of Administration, Extension 4-9910.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosure

MEMORANDUM

September 27, 2004

TO:	THE LOS ANGELES COUNTY CLAIMS BOARD
FROM:	JACK M. SCHULER, ESQ. Schuler & Brown OWEN L. GALLAGHER Principal Deputy County Counsel General Litigation Division
RE:	**Petra Nunez v. County of Los Angeles** **Los Angeles Superior Court Case No. BC259744**
DATE OF INCIDENT:	June 15, 2001
AUTHORITY REQUESTED:	$170,000, Plus Assumption of the Medi-Cal Lien Not to Exceed $68,668.23
COUNTY DEPARTMENT:	DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:

☐ Approve ☐ Disapprove ☐ Recommend to Board of Supervisors for Approval

_____, Chief Administrative Office
ROCKY A. ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2004

SUMMARY

This is a recommendation to settle for $170,000, the medical negligence lawsuit brought by Petra Nunez for the injuries she sustained during her surgery at LAC+USC Medical Center on June 15, 2001. The State, having paid $68,668.23 for the provision of Medi-Cal care, has a claim for reimbursement, which will be settled by the County.

LEGAL PRINCIPLES

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

On June 15, 2001, Petra Nunez, a 45-year-old woman, underwent a surgical procedure at LAC+USC Medical Center utilizing a tube and optical system inserted through a small incision (laparoscopy) involving a sharp, pointed rod housed inside a tube and used to pierce the skin (trocar) near the navel, in preparation to the removing of a contraceptive device placed in the uterine cavity (intrauterine device [IUD]). At the end of the laparoscopic procedure, however, a suture used to close the trocar incision site near the navel inadvertently penetrated the sac that lines the abdomen (peritoneum) and incorporated a portion of the small bowel, which went unappreciated by medical personnel. Ms. Nunez's IUD was removed, and on June 16, 2001, she was discharged.

On June 17, 2001, Ms. Nunez was seen in the Emergency Room at LAC+USC Medical Center with complaints of nausea and vomiting. An x-ray of Ms. Nunez's abdomen was interpreted as showing a disturbance in the wall of the intestine, a known complication of surgery. Ms. Nunez was given intravenous infusions of fluids, and on June 18, 2001, she was discharged.

On June 25, 2001, Ms. Nunez was seen in the Emergency Room at LAC+USC Medical Center with complaints of constipation, vomiting, abdominal pain, and no bowel movement for 10 days. An imaging study generated by a computer synthesis of x-ray data (CT scan) performed on June 29, 2001, suggested that a portion of the small intestine was protruding through an abnormal opening in the abdominal wall (hernia) near the trocar incision site near the navel. Rather than surgically intervening, medical personnel attempted to reduce the hernia by external manipulation. However, Petra Nunez's condition continued to deteriorate.

On July 3, 2001, Ms. Nunez underwent emergency exploratory abdominal surgery. During surgery, medical personnel found a perforation of the bowel near the area of the hernia and trocar incision site, resulting in an infection in the space surrounding the abdomen (peritonitis). The perforation was repaired and the infection was drained. On August 18, 2001, Petra Nunez was discharged.

On March 12, 2003, Petra Nunez underwent cosmetic surgery at LAC+USC Medical Center to repair a bulge of the tissue through the surgical scar (incisional hernia), and severe scarring resulting from the abdominal surgery performed on July 3, 2001. On March 14, 2003, she was discharged.

DAMAGES

If this matter proceeds to trial, the claimant will likely seek the following:

Petra Nunez,	
Pain and Suffering (MICRA limit)	$250,000
TOTAL	$250,000

The proposed settlement includes:

Petra Nunez,	
Cash Settlement	$104,583
Attorneys Fees (MICRA Estimate)	$ 50,417
Costs of Litigation	$ 15,000
TOTAL	$170,000

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

On March 12, 2003, Petra Nunez underwent cosmetic surgery at LAC+USC Medical Center to repair the incisional hernia and severe scarring resulting from the abdominal surgery performed on July 3, 2001. Although the abdominal surgery was performed without complication, Ms. Nunez later alleged that the surgery had been negligently performed, resulting in the filing of a second lawsuit, which was consolidated with this matter. As a result, it was necessary to conduct additional discovery, and to hire additional experts. The County believes that the second lawsuit alleging negligence during the July 3, 2001, surgery is unfounded. In exchange for the settlement of this matter, Petra Nunez has agreed to dismiss the second lawsuit.

Expenses incurred by the County of Los Angeles in the defense of this case through September 21, 2004, are attorneys fees of $65,919 and $19,184 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)		$170,000.00
County Attorneys Fees and Costs		$ 85,103.00
Medi-Cal Lien		$ 68,668.23
	TOTAL	$323,771.23

EVALUATION

Medical experts will be critical that medical personnel failed to adequately protect Petra Nunez's bowel from injury during the suturing of the trocar incision site near the navel on June 15, 2001. This failure fell below the standard of care, and is directly responsible for the results observed here.

We join with our private counsel, Schuler & Brown, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of $170,000, and payment of the Medi-Cal lien in the amount of $68,668.23.

The Department of Health Services concurs in this settlement.