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

June 20, 2005

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

Re: **Albino Acosta v. County of Los Angeles**
United States District Court Case No. CV 03-00476 DDP (PLAx)

Elias Acosta v. County of Los Angeles
United States District Court Case No. CV 03-00473 DDP (PLAx)

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $150,000.00.

2. The Auditor-Controller be directed to draw a warrant to implement this settlement from the Sheriff's Department.

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

The Corrective Action Report by the Sheriff's Department is being transmitted to you under separate cover.

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

Enclosures

MEMORANDUM

June 13, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: DWYER, DALY, BROTZEN & BRUNO, LLP
Richard S. Kemalyan, Esq.

JOHANNA M. FONTENOT
Principal Deputy County Counsel
General Litigation Division

RE: **Albino Acosta v. County of Los Angeles, et al.**
United States District Court Case No. CV 03-00476 DDP (PLAx)

Elias Acosta, et al. v. County of Los Angeles, et al.
United States District Court Case No. CV 03-00473 DDP (PLAx)

DATE OF INCIDENT: February 2, 2002

AUTHORITY REQUESTED: $150,000

COUNTY DEPARTMENT: LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

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 _____, 2005

HOA.294183.1

SUMMARY

This is a recommendation to settle for $150,000, the consolidated federal civil rights lawsuits filed by Albino Acosta, Elias Acosta, and Genoveva Acosta, who claim they were injured in a struggle with Los Angeles County Sheriff's Deputies.

LEGAL PRINCIPLES

Under Federal Civil Rights law, a person who is arrested without probable cause or subjected to the use of excessive force may recover damages in an action brought pursuant to 42 U.S.C. section 1983.

A prevailing plaintiff in a 42 U.S.C. section 1983 action is entitled to an award of attorney fees.

SUMMARY OF FACTS

On February 2, 2002, Albino Acosta made two 9-1-1 telephone calls to the Pico Rivera Station requesting assistance. He was extremely upset with his wife Maria Cardoza because he suspected she was having an affair. During the second 9-1-1 call, Albino Acosta was verbally abusive to the dispatcher and then to a Sheriff's Deputy who took over for the dispatcher. The Sheriff's Deputy indicated to Mr. Acosta that Sheriff's Deputies would respond to Mr. Acosta's residence. A computer message was then sent to Sheriff's Deputies in the field requesting that the suspect at the location be arrested.

Two Sheriff's Deputies and a Community Service Officer arrived at the Acosta residence. As the Sheriff's Deputies approached the house, Albino Acosta was right outside of his front door. As Albino Acosta started to go back inside his residence, Sheriff's Deputies attempted to stop him. However, Albino Acosta did not obey their verbal commands and resisted their attempt to detain him. As a result, an altercation ensued.

According to Albino Acosta, the Sheriff Deputies rushed him and pushed him through his front door. Albino Acosta alleges that a Sheriff's Deputy struck him several times with a flashlight and hit him in the ribs. Albino Acosta sustained an injury to his right knee. Elias Acosta, who is Albino's brother, was in the rear of the property at the time of the initial altercation. When Elias Acosta heard screaming, he ran to the front, entered the front door and joined in the altercation. He was also struck several times by Sheriff's Deputies.

Genoveva Acosta, the mother of Elias and Albino, attempted to intercede to help her sons, but was kept away by the Community Service Officer.

Albino Acosta and Elias Acosta were arrested for battery on a peace officer with intent to commit great bodily injury. The great bodily injury charge was the result of one of the Sheriff's Deputies believing he had sustained fractures to his wrist and ankle. The criminal court later reduced the criminal charges to a battery. Both Albino and Elias Acosta were acquitted of the criminal charges for battery on a peace officer. However, Albino Acosta was convicted for battery on his wife.

DAMAGES

Albino Acosta sustained an injury to his right knee which required surgery. In addition, Albino Acosta spent forty days in custody. During this period of time, he lost his employment with Siemens, Inc., where he assisted in the manufacturing of hearing devices. He also sought psychological counseling for emotional injuries.

Elias Acosta sustained an aggravation of a pre-existing psoriasis condition, for which he sought limited medical treatment. Elias Acosta also spent forty days in custody.

The potential damages, should this matter proceed to trial, could be as follows:

Medical expenses (Albino)	$ 15,000
Lost earnings (Albino)	$200,000
Emotional distress (Albino)	$100,000
Emotional distress (Elias)	$100,000
Emotional distress (Genoveva)	$ 50,000
Attorney Fees	$350,000
Total	$815,000

The proposed settlement calls for the County to pay Albino, Elias, and Genoveva Acosta $150,000 for all of their claims for damages, costs, and attorney fees.

STATUS OF CASE

The court proceedings have been suspended pending consideration of this proposed settlement. Expenses incurred by the County in defense of this matter include attorney fees of $71,280 and costs of $27,368.

EVALUATION

This is a case of potential liability. A jury may find that Sheriff's Deputies used excessive force based on Albino and Elias Acosta's injuries, and the testimony of Maria Cardoza, Genoveva Acosta, and a fifteen-year-old boy who lived next door. These witnesses will testify that Albino Acosta and Elias Acosta were not resisting, and that they did not strike Sheriff's Deputies during the altercation.

If Albino and Elias Acosta were to prevail at trial, they would be entitled to an award of attorney fees. A jury verdict, coupled with attorney fees, would far exceed the proposed recommended settlement amount.

We join with our private counsel, Dwyer, Daly, Brotzen, & Bruno, in recommending settlement of this matter in the amount of $150,000. The Sheriff's Department concurs with this settlement recommendation.

APPROVED:

GARY N. MILLER
Assistant County Counsel
General Litigation Division

GNM:JMF:bh