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

August 21, 2006

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

Re: **Brenda Gaines, et al. v. County of Los Angeles**
Los Angeles Superior Court Case No. BC 318 934

Dear Supervisors:

The Claims Board recommends that:

1. The Board authorize settlement of the above-entitled action in the amount of $445,000.00.

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 4-1803.

Very truly yours,

Maria M. Oms, Chairperson
Los Angeles County Claims Board

MMO:gs

Enclosure

MEMORANDUM

May 30, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: DENNIS M. GONZALES
Principal Deputy County Counsel
Law Enforcement Services Division

RE: **Brenda Gaines, et al v. County of Los Angeles**
Los Angeles County Superior Court Case No. BC318934

DATE OF INCIDENT: August 24, 2003

AUTHORITY REQUESTED: $445,000

COUNTY DEPARTMENT: 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 August 21, 2006

HOA.365334.1

SUMMARY

This is a recommendation to settle for $445,000 the civil rights lawsuit brought by Brenda Gaines, Khiry Bently, Eymone Bently, and Deondre Brunston, Jr. for the wrongful death of Deondre Brunston.

LEGAL PRINCIPLES

A public entity is responsible for the negligent acts of its employees when the acts are done in the course and scope of employment.

Public employees may be held liable for the violation of a person's federally protected civil rights when they use excessive force. In addition, the prevailing party in a lawsuit brought under the Federal Civil Rights Act is entitled to an award of reasonable attorneys' fees.

SUMMARY OF FACTS

On August 24, 2003, Sheriff's Deputies were called to a residence regarding a complaint of spousal abuse by Deondre Brunston. The Deputies located Mr. Brunston sitting on the front porch of a nearby residence, with his right hand tucked under his left armpit. He told the Deputies he had a gun, and that he would begin to shoot if they approached him. He also indicated to the Deputies that he was not going back to prison.

The Deputies called for back-up, as well as a K-9 unit, and waited for them to arrive before taking any further action. When the K-9 unit arrived, it was determined to use the dog in an attempt to disarm Mr. Brunston.
Mr. Brunston warned the Deputies that if the dog were released, he would begin to shoot. The dog was eventually released, and Mr. Brunston brought his right hand out from his armpit as if to shoot. At that point, he was shot and killed by Deputies. It was later discovered that Mr. Brunston was holding not a gun, but a slipper.

Mr. Brunston's children, Deondre Brunston, Jr., Khiry Bently, and Eymone Bently, and his mother Brenda Gaines, filed this lawsuit for wrongful death.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Loss of Care, Comfort and Society	
Khiry Bently	$ 250,000
Eymone Bently	$ 250,000
Deondre Brunston, Jr.	$ 250,000
Brenda Gaines	$ 250,000
Civil rights attorneys' fees	$ 500,000
Total	$1,500,000

The proposed settlement calls for the County to pay $445,000 for all claims for damages, costs, and attorneys' fees.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement. Prior to trial, we made a settlement offer of $200,000, which was rejected. Plaintiffs' settlement demand was over $1 million until the first day of trial, when the proposed settlement was reached. Expenses incurred by the County in defense of this action are attorneys' fees of $152,762 and $73,618 in costs.

A trial was held with respect to the false imprisonment claim made by the one remaining plaintiff, Keisha Brunston, and Judge Ricardo Torres returned a verdict for the County.

EVALUATION

This is a case of disputed liability. The Deputies at the scene believed that Mr. Brunston was going to shoot at them, and they shot Mr. Brunston in self-defense. However, according to the plaintiffs' police procedures expert, the Sheriff's Department was negligent in sending in the K-9 when Mr. Brunston indicated that he would shoot the Deputies if that happened. He was also of the opinion that the Sheriff's Department should have continued to negotiate with Mr. Brunston rather than send in the K-9.

While our police procedures expert would have supported the Deputies' justification for shooting, a reasonable settlement at this time will avoid further litigation costs and a potential verdict that could exceed the proposed settlement.

If you have questions concerning this matter, please contact me, Assistant County Counsel Roger H. Granbo at (213) 974-1609, or Principal Deputy County Counsel Dennis M. Gonzales at (213) 974-0812.

APPROVED:

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:lw