MEMORANDUM

June 5, 2007

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MONROY, AVERBUCK & GYSLER
CLAYTON C. AVERBUCK

VICKI KOZIKOUJEKIAN
Principal Deputy County Counsel
General Litigation Division

RE: **Violet C. v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. BC 318761

DATE OF INCIDENT: September 2001 to March 2002

AUTHORITY REQUESTED: $390,000

COUNTY DEPARTMENT: Department of Children & Family 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 June 18, 2007

HOA.449579.1

SUMMARY

This is a recommendation to settle for $390,000, the County's portion of liability in the lawsuit brought by Violet C. against the County of Los Angeles ("County")/Department of Children & Family Services ("DCFS") for the alleged negligence of its social workers arising out of improper supervision of the minor plaintiff while in placement with a foster family agency ("FFA") foster parent, which resulted in sexual abuse of her by the foster father. There are also allegations of failure to meet privately with the plaintiff during the home calls, failing to report suspected child abuse, and failure to provide proper treatment following the abuse.

The settlement of this case is subject to approval by the Court of a Petition for Minor's Compromise, which will be brought following this Board's decision and that of the Board of Supervisors. The DCFS was fully briefed on this case and concurs with the proposed settlement.

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.

SUMMARY OF FACTS

The plaintiff has been in the dependency system since she was an infant, when a Petition was sustained against her mother for physical abuse and neglect in 1990. She was placed into foster care in 1993, when she was four years old. Her mother was a drug abuser, who frequently left Violet and her siblings alone and without sufficient food. Violet's mother's boyfriend was convicted of child cruelty and physical abuse in 1994. The biological father's whereabouts were unknown for several years, until approximately 2001/2002, when he surfaced and expressed an interest in renewing his relationship with Violet. Although weekend visits were approved by the DCFS and Juvenile Court, the father did not follow through.

The plaintiff was placed with Juan and Bernarda Ochoa in September 2000. Thereafter, Mr. Ochoa initiated a period of grooming the plaintiff, which led to him sexually abusing her. This conduct continued until March 28, 2002, when the plaintiff was removed from the Ochoa home upon a third party's disclosure of the abuse.

The plaintiff alleges that, as of January 31, 2002, the County social worker was aware that Mr. Ochoa "had been acting inappropriately" with her, and thus advised the FFA social worker, Ms. Godfrey. Based on that "knowledge/ suspicion" a reasonable social worker should have investigated further, reported

the suspicion to the Hotline and/or have removed the plaintiff from the home. Any of those actions, or a combination, would have curtailed the ongoing abuse.

Since her removal from the Ochoa's home, the plaintiff has been in multiple placements, including, in order, five foster homes, a psychiatric facility, two more foster homes, a group home, a psychiatric hold per W.I.C., section 5150, two more group homes, another psychiatric admission, return to a previous group home, two more psychiatric admissions, placement in another group home, an 11-month placement in a locked psychiatric facility, with discharge for assaulting staff, arrest and placement in Juvenile Hall, followed by her current placement in Metropolitan State Hospital, also a locked facility, where she has been since May 2006.

The admissions to the psychiatric facilities have been necessary due to multiple suicide attempts (8), and diagnosis of major depression, Post Traumatic Stress Disorder ("PTSD") and paranoid schizophrenia. She has been disciplined for assaultive/aggressive behavior and, in June 2005, a Conservator was appointed for her based on a Mental Health Court Judge's determination she cannot care for herself and that the least restrictive placement would be in a locked mental health facility. The Conservator's appointment has been re-approved annually for the same reasons as initially were the basis for the ruling.

DAMAGES

The plaintiff, through her attorney, attributes all of her post Ochoa home removal conduct and placements (suicides, psychiatric admissions and degenerative diagnoses and behavior) to the sexual molestation she suffered. Based on the plaintiff's experts' testimony, she will require, and on that basis seek, non-economic and economic damages, ranging in the millions, for past, current and future expenses she will incur for treatment of her psychological problems, loss of earnings capacity and compensatory damages for pain and suffering.

Plaintiff may collect the entirety of all economic damages awarded her from any of the defendants, regardless of the percentage of fault attributable to them. Thus, if the County and the FFA are found responsible for only one percent (1 percent) each, the plaintiff could seek to collect the entirety of the economic damages from either or both of them. According to plaintiff's experts, the present value of those damages alone are estimated at $3.5 to $4.5 million, not including non-economic (general) damages.

STATUS OF CASE

Expenses incurred by the County in defense of this action are attorneys' fees of $187,339 and $57,976 in costs. (Note: these figures are not final.)

EVALUATION

We believe a jury would find the County/DCFS and its employees liable for negligent failure to comply with the private meeting regulation/statute and the supervision/monitoring of this minor, with significant damages potential due to the type of injuries involved.

We join with our private counsel, Monroy, Averbuck & Gysler, and our third-party administrator, Carl Warren & Company, in recommending this settlement. The DCFS concurs in the recommendation.

APPROVED:

ANDREW W. OWENS
Assistant County Counsel
Social Services Division

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