



COUNTY OF LOS ANGELES
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ROBERT E. KALUNIAN
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April 9, 2009

ADOPTED

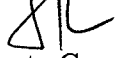
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisor

47

APRIL 21, 2009

Attention: Agenda Preparation

FROM: JOHN F. KRATTLI 
Senior Assistant County Counsel


SACHI A. HAMAI
EXECUTIVE OFFICER

RE: **Julio Kollerbohm v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. SC 081 806

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary, the Summary Corrective Action Plan, and the Corrective Action Plan be placed on the Board of Supervisors' agenda.

JFK:rfm

Attachment

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Julio Kollerbohm v. County of Los Angeles, et al., Los Angeles Superior Court Case No. SC 081 806, in the amount of \$200,000, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department's budget.

This lawsuit seeks compensation for injuries received in a vehicle accident involving an employee of the Sheriff's Department.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Julio Kollerbohm v. County of Los Angeles, et al.
CASE NUMBER	SC081806
COURT	Los Angeles Superior Court
DATE FILED	June 7, 2004
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$200,000
ATTORNEY FOR PLAINTIFF	Russell M. Rubin, Esq.
COUNTY COUNSEL ATTORNEY	Brian T. Chu Principal Deputy County Counsel
NATURE OF CASE	<p>On June 7, 2002, at approximately 6:40 p.m., Julio Kollerbohm was in stop-and-go traffic on the Santa Monica Freeway where it merges with Pacific Coast Highway, when his car was rear-ended by a patrol vehicle being driven by an on-duty Sheriff's Deputy. The Sheriff's Deputy was later diagnosed as suffering from apnea, which caused him to become unconscious just before the collision.</p> <p>As a result of the accident, Mr. Kollerbohm received soft tissue injuries to his neck and back, and claims cognitive deficits. He incurred medical expenses of approximately \$48,047 and claims lost earnings of \$9,450, lost earning capacity of \$840,000 and non-economic damages for pain and suffering.</p> <p>Due to the risks and uncertainties of litigation, the County Counsel proposes a full and final settlement of this case in the amount of \$200,000.</p>
PAID ATTORNEY FEES, TO DATE	\$90,460.48
PAID COSTS, TO DATE	\$47,235.56

Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	<p style="text-align: center;"><u>Julio Kollerbohm v. County of Los Angeles, et al.</u> (Summary Corrective Action Plan #2009-005)</p> <p>Friday, June 7, 2002; 6:41 p.m.</p>
Briefly provide a description of the incident/event:	<p>On Friday, June 7, 2002, at approximately 6:41 p.m, a uniformed Los Angeles County deputy sheriff was driving a marked patrol vehicle (2000 Ford Crown Victoria, California License Number 1051620) west on California State Route 1, west of Lincoln Boulevard, Santa Monica, when he was involved in a multi-vehicle traffic collision. The vehicle operated by the plaintiff in this case at the time of the collision (1995 BMW, California License Number 4DLD743), sustained major damage. It was later deemed a total loss.</p>

1. Briefly describe the root cause of the claim/lawsuit:

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

The plaintiff asserted that as a result of this collision, he sustained blunt force trauma to his entire body which resulted in soft tissue injuries to his back and neck. He was transported to a local medical facility for treatment.

The vehicle the plaintiff was driving was deemed a total loss.

The deputy sheriff sustained minor facial lacerations. He was transported to a local medical facility for treatment.

The vehicle the deputy sheriff was driving was deemed a total loss.

This traffic collision was thoroughly investigated by a representative from the California Highway Patrol (CHP). The investigator concluded that the primary cause of this traffic collision was the deputy sheriff's violation of California Vehicle Code section 22350, Basic Speed Law.

County of Los Angeles
Summary Corrective Action Plan

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate.)

The Los Angeles County Sheriffs Department had relevant policies and procedures/protocols in effect at the time of this incident.

The Los Angeles County Sheriffs Departments training curriculum addresses the circumstances which occurred in this incident.

The traffic collision was also investigated by representatives of the Los Angeles County Sheriffs Department. During the subsequent investigation, it was determined that the deputy sheriff suffered from a previously undiagnosed medical condition. The condition, known as sleep apnea, causes an individual to fall asleep without warning. It was this sudden loss of consciousness that caused the traffic collision.

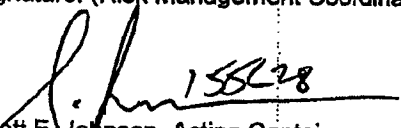
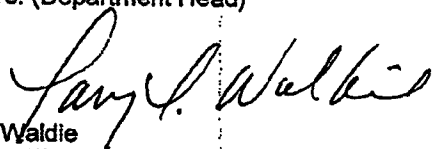
This previously undiagnosed medical condition was determined to be the root cause of the traffic collision. Once accurately diagnosed, the medical condition was corrected. Consequently, the Departments formal administrative review concluded the deputy sheriff did not violate established policy and/or procedures. As a result, no administrative action was taken.

RECOMMENDED SETTLEMENT AMOUNT: \$200,000.

This summary corrective action plan has no countywide implications (refer to #3 below).

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- Potentially has Countywide implications.
- Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have Countywide or other department implications.

Signature: (Risk Management Coordinator)  Scott E. Johnson, Acting Captain Risk Management Bureau	Date: 3-11-09
Signature: (Department Head)  Larry L. Waldie Undersheriff	Date: 03-24-09

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
RISK MANAGEMENT BUREAU

CORRECTIVE ACTION REPORT

Corrective Action Plan (CAP) Number: 2009-005CR

Lawsuit:

Name: **Julio Kollerbohm v. County of Los Angeles, et al.**
Case/Docket Number: (Los Angeles Superior Court Case Number SC081806)

Investigator: Joseph Jakl, Sergeant
Risk Management Bureau
Leadership and Training Division

Incident:

Date/Time: Friday, June 7, 2002; 6:41 p.m.

Location: California State Route 1, west of Lincoln Boulevard
City of Santa Monica
County of Los Angeles

Station, Bureau, or Facility: Malibu/Lost Hills Station
Field Operations Region I

Risk Issue(s):

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

Executive Summary:

On Friday, June 7, 2002, at approximately 6:41 p.m., a uniformed Los Angeles County deputy sheriff was driving a marked patrol vehicle (2000 Ford Crown Victoria, California License Number 1051620) west on California State Route 1, west of Lincoln Boulevard, Santa Monica, when he was involved in a multi-vehicle traffic collision. The vehicle operated by the plaintiff in this case at the time of the collision (1995 BMW, California License Number 4DLD743), sustained major damage. It was later deemed a total loss.

CORRECTIVE ACTION REPORT #2009-005CR
JULIO KOLLERBOHM V. COUNTY OF LOS ANGELES, ET AL.
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Damages:

The plaintiff asserted that as a result of this collision, he sustained blunt force trauma to his entire body which resulted in soft tissue injuries to his back and neck.

Risk Review/Compliance Audit:

Was a formal Los Angeles County Sheriff's Department Risk Management Bureau (RMB) Critical Incident Analysis (CIA) conducted? No¹

Will this corrective action plan require notification to, or the assistance from, other Los Angeles County Departments or public agencies? Yes

If yes, what is the name, title, and organization of the person contacted?

Steve NyBlom, Manager
Chief Executive Office
Risk Management Branch

When/how was the person contacted?

Thursday, March 12, 2009; 7:00 a.m., telephone

Will a formal Risk Management Bureau compliance audit be required? Yes

If yes, what is the date the audit will be performed?

May 1, 2009

Name of person/unit performing audit?

Robert J. Taliento, Sergeant
Los Angeles County Sheriff's Department
Risk Management Bureau

Policy Issues:

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of this incident.

¹ The process did not exist at the time of this incident.

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JULIO KOLLERBOHM V. COUNTY OF LOS ANGELES, ET AL.
PAGE THREE

Training/Curriculum Issues:

The Los Angeles County Sheriff's Department's training curriculum addresses the circumstances which occurred in this incident

Corrective Action:

Was a formal administrative review of the incident initiated? Yes
Was appropriate administrative action taken? No

Was the employee's driving history analyzed during the administrative review? Yes

The Los Angeles County Sheriff's Department's formal administrative review revealed no employee misconduct on the part of Los Angeles County Sheriff's Department personnel.

This traffic collision was thoroughly investigated by a representative from the California Highway Patrol (CHP). The investigator concluded that the primary cause of this traffic collision was the deputy sheriff's violation of California Vehicle Code section 22350, Basic Speed Law.

The traffic collision was also investigated by representatives of the Los Angeles County Sheriff's Department. During the subsequent investigation, it was determined that the deputy sheriff suffered from a previously undiagnosed medical condition. The condition, known as sleep apnea, causes an individual to fall asleep without warning. It was this sudden loss of consciousness that caused the traffic collision.

This previously undiagnosed medical condition was determined to be the root cause of the traffic collision. Once accurately diagnosed, the medical condition was corrected. Consequently, the Department's formal administrative review concluded the deputy sheriff did not violate established policy and/or procedures. As a result, no administrative action was taken.²

² A separate lawsuit (Lynne Shulim v. County of Los Angeles - Santa Monica Superior Court Case Number SC 076894) settled in 2004 before trial. During the settlement phase of that case, a separate corrective action plan was prepared. In that corrective action plan, the same conclusion as to the root cause of the traffic collision was reached. A copy of the July 9, 2004 memorandum from the Office of the County Counsel to the Los Angeles County Claims Board (Attachment A) and a copy of the corrective action plan filed pursuant to the case (Attachment B) is attached to this corrective action plan for reference.

CORRECTIVE ACTION REPORT #2009-005CR
JULIO KOLLERBOHM V. COUNTY OF LOS ANGELES, ET AL.
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Working through the Los Angeles County Chief Executive Office - Risk Management Branch - representatives from the Los Angeles County Sheriff's Department's Risk Management Bureau will work with the office of Occupational Health Programs (OHP) to study screening protocols for the detection of sleep apnea symptoms in Sheriff's Department applicants.

Representatives from the Los Angeles County Sheriff's Department's Risk Management Bureau will also work with the Department's Wellness Program coordinator to raise organizational awareness to the causes and symptoms of sleep apnea and other sleep disorders.

Settlement Amount: \$200,000.00

Prepared: Patrick Hunter, Lieutenant *PH*
Risk Management Bureau

Submitted: Scott E. Johnson, Acting Captain *S.E.J.*
Risk Management Bureau

Reviewed: Eric B. Smith, Commander *EBS*
Leadership and Training Division

Approved: Roberta A. Abner, Chief *R.A.A.*
Leadership and Training Division

Authorized: Larry L. Waldie, Undersheriff

Signature: *Larry L. Waldie* Date: 03-024-09

ATTACHMENT "A"

MEMORANDUM

July 9, 2004

02-0148855

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: CONRAD KOHRS
Kohrs and Fiske

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: Lynne Shulim v. County of Los Angeles
Santa Monica Superior Court Case No. SC 076894

DATE OF INCIDENT: June 7, 2002

AUTHORITY REQUESTED: \$150,000

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 _____, 2004

01/05/2009 21:54 FAX

COUNTY OF L. A. CAO

004/008

SUMMARY

This is a recommendation to settle for \$150,000, a lawsuit filed by Lynne Shulim, who was injured in an automobile accident with an employee of the Sheriff's Department.

LEGAL PRINCIPLES

The County is responsible for the negligent and intentional acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

On June 7, 2002, at approximately 6:40 p.m., Lynne Shulim was in stop and go traffic in Santa Monica on the 10 Freeway where it merges with Pacific Coast Highway, when her car was rear-ended by a car that had been rear-ended by a patrol vehicle being driven by a Sheriff's Deputy. The Sheriff's Deputy had fallen asleep at the wheel, and was estimated to be driving at approximately 50 miles-per-hour at the time of the collision. The Sheriff's Deputy was subsequently diagnosed with the medical condition known as apnea, which causes a person to suddenly fall asleep without warning.

Lynne Shulim injured her back as a result of the collision, and has been diagnosed with multiple disc bulges, which will require surgery.

DAMAGES

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

Medical expenses	\$ 30,000
Future medical expenses	\$ 25,000
Loss of earnings	\$ 24,000
Pain and suffering	\$350,000
Total	<u>\$429,000</u>

The proposed settlement calls for the County to pay Lynne Shulim \$150,000 for all of her claims for damages, costs, and attorney fees. Lynne Shulim's claim for the damage to her car was previously settled for \$12,772.70.

01/05/2009 21:54 FAX

COUNTY OF L. A. CAO

005/008

The claim for property damage filed by Julio Kollerbohm, the driver of the car that was rear-ended by the Sheriff's Deputy, was previously settled for \$21,954.56. Mr. Kollerbohm subsequently filed a lawsuit for his personal injuries, and that lawsuit is still pending.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.

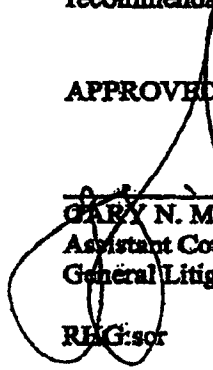
Expenses incurred by the County in defense of this action are attorney fees of \$25,189 and \$7,370 in costs.

EVALUATION

This is a case of potential liability. The Sheriff's Deputy fell asleep at the wheel, due to apnea, and caused the collision with Lynne Shulim. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our private counsel, Kohrs and Fiske, and our third party administrator, Carl Warren and Company, in recommending a settlement in the amount of \$150,000. The Sheriff's Department concurs in this recommendation.

APPROVED:



GARY N. MILLER
Assistant County Counsel
General Litigation Division
REG:scr

01/05/2009 21:55 FAX

COUNTY OF L. A. CAO

008/008

Los Angeles County Sheriff's Department**CORRECTIVE ACTION REPORT**

LAWSUIT OF: Shulim, Lynne R. v. The County of Los Angeles,
Case No. SAV99-428GLT (ANx)

INCIDENT DATE: June 7, 2002 6:41 PM

INCIDENT LOCATION: State Route 1 N/B (Pacific Coast Highway), North of Lincoln
Boulevard, Santa Monica, CA.

RISK ISSUES: A public entity is responsible for the negligent and wrongful acts of employees when the acts are committed in the course and scope of his or her duties. Although some of the facts in this case are in dispute, it is undisputed that Ms. Shulim was stopped in traffic at the time of the collision, and that she was struck by a vehicle that had been struck by an on duty deputy driving in a marked patrol vehicle.

INVESTIGATIVE REVIEW: On June 7, 2002, at approximately 6:41 PM, a deputy operating his marked patrol vehicle westbound on State Route 1 (Pacific Coast Highway) east of Lincoln Boulevard in Santa Monica, was involved in a multi-vehicle traffic collision. The deputy was returning to patrol duties in Malibu after dropping off a juvenile at Los Padrinos Juvenile Hall. California Highway Patrol investigated the collision and found that the deputy's vehicle struck three other vehicles, including that occupied by the plaintiff, which were stopped in traffic. The 1998 Mercedes E320 occupied by the plaintiff sustained major damage (more than \$18,000) to the rear end. The patrol vehicle was a total loss.

As a result of the collision the plaintiff suffered significant injuries and contends that the collision caused disc bulges and protrusions at multiple levels requiring surgery and rehabilitation. The plaintiff had a prior history of back pain complaints, and diagnosed degenerative disc disease made worse by the collision. Medical expenses are estimated at approximately \$30,000 plus potential future medical bills of approximately \$25,000. Also alleged is a loss of earnings of \$24,000. Should this matter be tried, the potential exposure could total \$500,000.

TRAINING ISSUES: At the time of this incident, the Sheriff's Department had a well-established training curriculum concerning the operation of departmental vehicles under both emergent and routine situations.

POLICY ISSUES: Manual of Policy and Procedures Section 3-01/090.10 dictates that deputies shall observe all traffic laws, always employ defensive driving techniques, and not operate vehicles in an unsafe or negligent manner.

01/05/2009 21:55 FAX

COUNTY OF L. A. CAO

007/008

CORRECTIVE ACTION: A thorough traffic collision investigation was conducted by the California Highway Patrol which found that the collision occurred because the deputy was driving at an unsafe speed for conditions. Subsequent to treatment administered to the deputy in the emergency room, doctors diagnosed him with sleep apnea. Sleep apnea is a sleep disorder in which breathing during sleep stops for 10 seconds or more, usually more than 20 times per hour, causing measurable blood deoxygenation. It can and does cause sudden loss of consciousness due to lack of sleep. The deputy later underwent nasal surgery to alleviate chronic nasal obstruction which was partially the cause of the condition. This condition was previously undiagnosed.

A thorough administrative review of the incident was completed. The deputy had no prior knowledge of his condition until his emergency room treatment. As a result of the medical condition and corrective measures, no discipline was imposed.

CONTENTS
RE STRONG
NOTED

William J. Spivey