



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1762
FACSIMILE
(213) 626-7446
TDD
(213) 633-0901

JOHN F. KRATTLI
County Counsel

January 2, 2014

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

**Re: County Counsel Annual Litigation Cost Report –
Fiscal Year 2012-2013**

Dear Supervisors:

Enclosed is the County Counsel Annual Litigation Cost Report ("Cost Report") for Fiscal Year 2012-2013. The Cost Report provides a summary of the confidential Annual Litigation Report for Fiscal Year 2012-13. The Cost Report is a public document and will be posted on the County Counsel website.

Very truly yours,

JOHN F. KRATTLI
County Counsel

By 

STEVEN H. ESTABROOK
Litigation Cost Manager
Executive Office

APPROVED AND RELEASED:



JOHN F. KRATTLI
County Counsel

SHE:mag

Enclosure

**COUNTY COUNSEL ANNUAL
LITIGATION COST REPORT – FISCAL YEAR 2012-2013**

I. Overview

The Annual Litigation Expenses for Fiscal Year 2012-2013 (“FY 2012-13”) were **\$89 million**. This was down 23 percent from the \$115.2 million spent last fiscal year, and was the lowest amount of litigation expenditures paid in the last seven fiscal years. The \$89 million spent this year included \$35.8 million in Judgments and Settlements, and \$53.2 million in Attorney Fees and Costs (“Fees and Costs”).

II. Judgments and Settlements

Of the \$89 million paid in litigation expenses this year, \$35.8 million was paid to satisfy 18 judgments and to settle 228 cases. The \$35.8 million spent on judgments and settlements was down \$24 million, or 40 percent, as compared to last fiscal year. This was the lowest amount of judgments and settlements paid in the last eight fiscal years.

Judgments

In FY 2012-13, judgments totaled \$7.2 million and were down 60 percent from the \$17.9 million paid last year. Only two judgments exceeded the \$1 million mark, *Dirks* (\$3.9 million – excessive force case) and *XYZ Distributors* (\$1.4 million – search warrant case). The \$7.2 million paid to satisfy judgments this year was the least amount paid in the last six fiscal years.

Settlements

The County paid \$28.6 million in settlements this year. This was \$13.4 million less than the \$42 million paid last year, and was the second consecutive year in which the amount paid for settlements declined. Only four of the 228 settlements this year exceeded \$1 million. The two largest were Medical Malpractice cases involving patients at LAC+USC Medical Center. One involved a brain injury which occurred during a skin graph surgery (*Rodriguez* - \$3.95 million), and the other related to neurological injuries resulting from the treatment of bacterial meningitis (*Lagos* - \$2.95 million). Two other settlements which exceeded \$ 1 million this year included a suspect who was shot in the spine and rendered a paraplegic (*White* - \$1.9 million), and a former bailiff with the Sheriff's Department claimed that she should not have been assigned to patrol duty because of a disability (*Bollinger* - \$1.25 million). These four settlements totaled approximately \$10 million and accounted for more than one-third of the \$28.6 million paid in settlements this year.

City of Alhambra

The judgments and settlements paid in FY 2012-13 do not include a \$32.2 million partial payment made this year to 47 plaintiff cities in the *City of Alhambra, et al. v. County of Los Angeles* action. The plaintiff cities claim that the Auditor-Controller improperly calculated the amount of Property Tax Administrative Fees collected from those cities beginning in FY 2006-07. After a California Supreme Court found that the Auditor-Controller improperly calculated the amount, the County made a payment of \$32.2 million as a partial refund of the fees. This *refund* was not included in the Annual Litigation expenses for FY 2012-13.

III. Attorney Fees and Costs

In addition to \$35.8 million paid in Judgments and Settlements, the \$89 million paid in litigation expenditures this year also included Attorney Fees and Costs in the amount of \$53.2 million. This was \$2.1 million, or four percent, less than was paid last fiscal year. Of the \$53.2 million paid this year, \$39.8 million was paid to Contract Counsel and \$13.4 million was billed by County Counsel to other County departments for litigation services, including costs. The amount billed by County Counsel included the attorney fees and costs for managing or overseeing litigated cases assigned to Contract Counsel, as well as handling cases in-house without the involvement of Contract Counsel.

Contract Counsel and County Counsel

Contract Counsel fees and costs this year were down \$1.1 million as compared to last year, and County Counsel fees and costs were down by another \$1 million. These reductions in attorney fees and costs for both Contract Counsel and County Counsel occurred primarily in the areas of Employment, General Liability, and Law Enforcement. Fees and costs paid on Employment matters were down in several departments, including the Chief Executive Office, Sheriff's Department, District Attorney's Office, and the Probation Department. Fees and costs also decreased in General Liability cases involving the Board of Supervisors, Department of Public Works, Parks and Recreation, and Public Health. The reduction in the Law Enforcement area was limited to *costs* primarily involving the Sheriff's Department. Although such costs were down by \$557,000 as compared to last year, the Sheriff's Department spent \$1.8 million more in fees on Law Enforcement cases this year than one year ago.

Litigation Expenditures

Ten County departments spent \$80 million, or 90 percent, of the County's \$89 million expenditures in FY 2012-13. These expenses included judgments and settlements and fees and costs in a variety of areas, including Law Enforcement, General Liability, Employment, Medical Malpractice, and Auto

Liability. In FY 2012-13, departmental expenditures by the top ten departments ranged from a high of \$43 million paid by the Sheriff's Department to a low of \$1 million paid by the Department of Mental Health. The litigation expenditures of the top ten departments for FY 2012-13 were as follows:

ANNUAL LITIGATION EXPENSES – TOP TEN DEPARTMENTS	
FISCAL YEAR 2012-13	
Sheriff	\$43,001,077
Health Services	\$14,629,862
Public Works	\$8,036,909
Children and Family Services	\$3,676,866
Fire Department	\$2,699,080
Chief Executive Office	\$1,979,693
Parks & Recreation	\$1,635,518
Community & Senior Services	\$1,545,399
Probation	\$1,475,468
Mental Health	\$1,044,736

IV. Contract Cities Expenses and Waterworks Expenses

Of the \$89 million paid in Annual Litigation Expenses this fiscal year, approximately **\$9.8 million** was paid by the Contract Cities Trust Fund and other special districts.

Contract Cities

In FY 2012-13, \$7.5 million of the \$89 million Annual Litigation Expenses was paid by the Contract Cities Trust Fund. This \$7.5 million, including judgments and settlements and attorney fees and costs, was the result of liabilities arising from the alleged misconduct of Sheriff's deputies contractually assigned to various cities throughout the County (\$7.3 million), and for liabilities resulting from work performed for cities by the Department of Public Works (\$200,000).

Special Districts

Two special districts, the Los Angeles County Waterworks District 40 and the Flood Control District, also paid a portion of the \$89 million Annual Litigation Expenses this year. The Los Angeles County Waterworks District paid approximately \$1.9 million in fees and costs for a groundwater rights action in the Antelope Valley. The Flood Control District paid approximately \$442,000 in a Clean

Water Act action brought by the Natural Resources Defense Council involving water quality standards in Los Angeles rivers, watersheds, and beaches. In FY 2012-13, the Waterworks District and the Flood Control District paid a total of approximately \$2.3 million of the \$89 million Annual Litigation Expenses.

V. Dismissals

In FY 2012-13, the County successfully disposed of 267 cases without paying plaintiffs or their attorneys any money. Contract Counsel and County Counsel obtained these dismissals by either persuading plaintiffs or their attorneys to voluntarily dismiss their actions or by obtaining court orders through a variety of motions (such as motions to dismiss, demurrers, and motions for summary judgments) directing that the cases be dismissed. The County expended \$7.5 million in attorney fees and costs in obtaining these dismissals. This was \$6.1 million more in attorney fees and costs than was paid last year to secure 179 dismissals.

VI. New Cases

The number of new cases fell below the 800 mark for the first time in the last three fiscal years. In FY 2012-13, there were 794 new cases, down from the 819 new cases last year, and the 849 new cases involving the County two years ago. There were decreases in new cases involving several departments as compared to last year, including the Department of Public Works, District Attorney's Office, Department of Health Services, and the Department of Community and Senior Services. The number of new cases involving the Department of Public Works was down one-third compared to last year and was the lowest in the last six fiscal years. New cases involving the District Attorney's Office and the Department of Health Services were down 60 percent and 20 percent, respectively. New cases involving the Department of Community and Senior Services dropped from 22 last year to just one this year. However, other departments saw increases over last year, including the Department of Public Health, Auditor-Controller, and the Department of Parks and Recreation. New cases involving the Department of Public Health more than doubled, and cases involving the Auditor-Controller and Parks and Recreation rose by 73 percent and 50 percent, respectively. The most notable increase this year occurred in new cases brought against the County which failed to identify a particular department. Steadily increasing over the last five fiscal years, this year such cases jumped from 68 to 101 new cases.

VII. Trials, Writs, and Appeals

The number of cases tried by the County decreased for the first time in three fiscal years – down to 31 from the 42 tried last fiscal year, and the 35 tried the year before. As in previous fiscal years, the majority of cases tried (20) involved a Law Enforcement matter. The remaining trials included five Automobile Liability actions, three Employment matters, two Dangerous Condition cases, and one Tax

matter. The County was successful in 58 percent of the cases tried - winning 18, losing 12, and obtaining one mistrial. Ten of the 12 trial losses occurred in Law Enforcement cases. The more costly of these losses were in *Montalvo* (\$8.76 million – shooting after high-speed car pursuit) and *Thomas* (\$7.5 million – shooting after foot pursuit). The County prevailed in 4 of 8 writ actions this year, and won 77 percent of the 32 appeals in which it was a party. Two appeals were particularly significant – *Genest* and *Schmeer*. In *Genest*, the County unsuccessfully challenged the constitutionality of California State Assembly Bill 26 which shifted \$2.05 billion in redevelopment funds to the State. In the second, *Schmeer*, the County secured a favorable decision enforcing its ordinance which banned the use of plastic bags in retail establishments.

VIII. Recoveries

The County recovered \$937,295 through its litigation efforts in FY 2012-13. These recoveries included litigation expenses, property taxes, and civil penalties. The most significant of these recoveries arose from a wrongful death action (*Avetisyan*) brought by the family of a cab driver who was killed after striking a guardrail. The family sued the County and the County, in turn, brought an action against the fabricator of the guardrail. Ultimately, the County recovered \$580,000 from the insurer of the fabricator to cover the County's fees and costs incurred in the defense of the matter.