



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

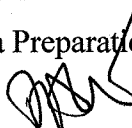
648 KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE
(213) 974-1861
FACSIMILE
(213) 229-9924
TDD
(213) 633-0901

RICHARD D. WEISS
Acting County Counsel

October 2, 2014

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors
Attention: Agenda Preparation

FROM: PATRICK A. WU 
Senior Assistant County Counsel

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Frank Haynes v. Milton Edward Bacon, Jr., et al.
Victor Castaneda v. Milton Edward Bacon, Jr. et al.
Ese-Ese Faatiliga and John Paniagua v.
Milton Edward Bacon, Jr. et al.
Gary Green v. Milton Edward Bacon, Jr. et al.
Manuel Lua v. Milton Edward Bacon, Jr. et al.
Joseph Quintero v. Milton Edward Bacon, Jr. et al.
Robert Reynolds v. Milton Edward Bacon, Jr. et al.
Ramon and Isabel Sanchez v. Milton Edward Bacon, Jr. et al.
Julio Solorio v. Milton Edward Bacon, Jr. et al.
Randall Taylor v. Milton Edward Bacon, Jr. et al.
Marcus Wright v. Milton Edward Bacon, Jr. et al.
Los Angeles Superior Court Case Nos. MC 023 081;
MC 023 077; MC 023 069; MC 023 084; MC 023 083;
MC 023 079; MC 023 045; MC 023 098; MC 023 080;
MC 023 078; and MC 023 082

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matters. 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.

PAW:cs

Attachments

HOA.1098007.1

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matters entitled Frank Haynes v. Milton Edward Bacon, Jr., et al., Victor Castaneda v. Milton Edward Bacon, Jr. et al., Ese-Ese Faatiliga and John Paniagua v. Milton Edward Bacon, Jr. et al., Gary Green v. Milton Edward Bacon, Jr. et al., Manuel Lua v. Milton Edward Bacon, Jr. et al., Joseph Quintero v. Milton Edward Bacon, Jr. et al., Robert Reynolds v. Milton Edward Bacon, Jr. et al., Ramon and Isabel Sanchez v. Milton Edward Bacon, Jr. et al., Julio Solorio v. Milton Edward Bacon, Jr. et al., Randall Taylor v. Milton Edward Bacon, Jr. et al., Marcus Wright v. Milton Edward Bacon, Jr. et al. Los Angeles Superior Court Case Nos. MC 023 081; MC 023 077; MC 023 069; MC 023 084; MC 023 083; MC 023 079; MC 023 045; MC 023 098; MC 023 080; MC 023 078; and MC 023 082, in the amount of \$300,750, and instruct the Acting Auditor-Controller to draw warrants to implement the settlements from the Fire Department's budget.

These lawsuits arise from injuries and a death sustained in a vehicle accident involving a Fire Department fire crew truck.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Frank Haynes v. Milton Edward Bacon, Jr., et al.</u> <u>Victor Castaneda v. Milton Edward Bacon, Jr., et al.</u> <u>Ese-Ese Faatiliga & John Paniagua v. Milton Edward Bacon, Jr., et al.</u> <u>Gary Green v. Milton Edward Bacon, Jr., et al.</u> <u>Manuel Lua v. Milton Edward Bacon, Jr., et al.</u> <u>Joseph Quintero v. Milton Edward Bacon, Jr., et al.</u> <u>Robert Reynolds v. Milton Edward Bacon, Jr., et al.</u> <u>Ramon and Isabel Sanchez v. Milton Edward Bacon, Jr., et al.</u> <u>Julio Solorio v. Milton Edward Bacon, Jr., et al.</u> <u>Randall Taylor v. Milton Edward Bacon, Jr., et al.</u> <u>Marcus Wright v. Milton Edward Bacon, Jr., et al.</u>
CASE NUMBER	No. MC023081 (lead case)
COURT	Los Angeles Superior Court Case
DATE FILED	January 12, 2011 through December 1, 2011
COUNTY DEPARTMENT	Fire Department
PROPOSED SETTLEMENT AMOUNT	\$ 300,750.00 (Global amount includes waiver of \$68,000 subrogation claim)

Case Name: Haynes v. Bacon, et al



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:	November 23, 2010
Briefly provide a description of the incident/event:	<p>These related lawsuits arise from a motor vehicle collision that occurred on November 23, 2010, at approximately 2:14 p.m., between a Los Angeles County Fire Department fire crew bus ("crew bus") with a fire crew of 12 state prison inmates, and a 2010 Subaru sport utility vehicle ("SUV") driven by decedent Milton Bacon ("Bacon"). As he drove westbound on SR-138, Bacon drifted left across the broken centerline striping for some unknown reason.</p> <p>At the same time, the Firefighter Specialist and crew chief ("FFS") was driving the crew bus in the eastbound lane. The FFS had taken his crew to Gorman for training earlier in the day and were on their way back to Fire Camp 14. He saw the SUV approaching in the westbound lane and gradually drift over the centerline striping and into his eastbound lane. The FFS applied his brakes and swerved to his right side to avoid a collision with the SUV. However, the SUV continued to its left in the line of travel with the crew bus. In further response, the FFS drove the crew bus partially on the dirt shoulder to his right, but there was not enough clearance from the SUV.</p> <p>Unfortunately, the left front of the SUV collided into the left front of the crew bus. The force of the collision caused the crew bus to roll several times. It came to rest on the dirt shoulder along the south side of SR-138, while the SUV came to rest upright along the white striping on the north shoulder. As a result of the collision, Bacon and one inmate firefighter, who was ejected from the crew bus, died at the scene. The FFS and the remaining inmate firefighters were also injured in the collision.</p> <p>The California Highway Patrol Multidisciplinary Accident Investigation Team ("CHP MAIT") investigated the accident and concluded that Bacon was the primary cause of the accident for driving on the wrong side of the road. It did not draw any conclusions on what caused Bacon to drift into the on-coming traffic lane. The FFS reported to CHP MAIT that when he was close enough to the SUV, he saw the driver (Bacon) looking to his right and not paying attention to the road ahead of him. An autopsy of Bacon did not reveal any reason for his actions in driving the SUV.</p>

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

The vehicle driven by Bacon drifted across the center line of the road and struck the oncoming Fire Department crew bus.

The FFS driving the crew truck was exceeding the speed limit immediately prior to the accident.

At the time of impact, not all of the inmate firefighters riding in the vehicle were using the seat belts provided.

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

1. The FFS attended an 8 hour Driver Enrichment program class to reinforce the need to adhere to posted speed limits when driving Department vehicles. – January 16, 2011 – Asst. Fire Chief Vince Pena
2. The Department has developed a Program for new Camp Crew Foreman that details responsibilities for safe operation of crew trucks. – ongoing – Asst. Fire Chief Vince Pena
3. Training program for inmate firefighters. Specific notice in the training program that seatbelts are mandatory when seated in the moving vehicle. Includes a discussion of this accident as an example of what can happen if seatbelts are not used. – November 2012 & ongoing – Asst. Fire Chief Vince Pena
4. The Air & Wildland Division developed a Power Point presentation demonstrating the need for mandatory use of seat belts in crew trucks. The presentation presents pictures and descriptions of crew truck accidents and the resulting injuries and fatality. – 2010 & ongoing – Asst. Fire Chief Vince Pena
5. The Rules of Conduct mandate the use of seatbelts in the back of crew trucks and that all persons must be seated. – January 20, 2012 & ongoing – Asst. Fire Chief Vince Pena
6. Task #9 on job description for inmate firefighter states they are to always use seatbelts and remain seated. It requires the signature of the inmate next to that statement indicating their understanding and agreement. – 2000 & ongoing – Asst. Fire Chief Vince Pena

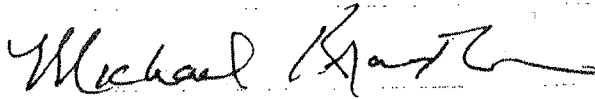
3. Are the corrective actions addressing department-wide system issues?

Yes – The corrective actions address department-wide system issues.

No – The corrective actions are only applicable to the affected parties.

Name: (Risk Management Coordinator)
Michael Kranthor, Division Chief

Signature:

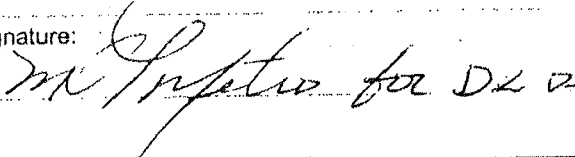


Date:

9/8/14

Name: (Department Head)
Daryl L. Osby, Fire Chief

Signature:



Date:

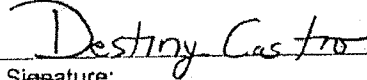
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Chief Executive Office Risk Management Inspector General USE ONLY

Are the corrective actions applicable to other departments within the County?

- Yes, the corrective actions potentially have County-wide applicability.
 No, the corrective actions are applicable only to this department.

Name: (Risk Management Inspector General)



Signature:



Date:

9/8/2014

Case Name: Haynes v. Bacon, et al.



Corrective Action Plan

1. General Information

Department:	Fire
Date CAP document prepared:	August 4, 2014
Name of departmental contact person:	Michael Kranther
• Title:	Division Chief
• Phone number:	323/8891-2379
• E-mail Address:	michael.kranther@fire.lacounty.gov

2. Incident/Event Specific Information

Date of incident/event:	November 23, 2010
Location of incident/event:	State Hwy 138 east of Cement Plant Rd., Unincorporated L.A. County
Event contact person:	
• Phone Number:	
• E-mail Address:	
Claim adjuster: <small>(Third Party Administrator or County Counsel)</small>	Sylvia Hernandez
• Phone number:	818/247-8842
If claim is in litigation, please complete the following:	
County Counsel Attorney:	Brian Chu
• Phone number:	213/974-1956

3. Incident/Event Description:

Nature of incident/event:	Vehicle Accident
Provide a brief description of the incident/event:	<p>These multiple lawsuits arise from a motor vehicle collision that occurred on November 23, 2010, at approximately 2:14 p.m., between a Los Angeles County Fire Department fire crew bus ("crew bus") with a fire crew of 12 state prison inmates, and a 2010 Subaru sport utility vehicle ("SUV") driven by decedent Milton Bacon ("Bacon"). As he drove westbound on SR-138, Bacon drifted left across the broken centerline striping for some unknown reason.</p> <p>At the same time, the Firefighter Specialist and crew chief ("FFS") was driving the crew bus in the eastbound lane. The FFS had taken his crew to Gorman for training earlier in the day and were on their way back to Fire Camp 14. He saw the SUV approaching in the westbound lane and gradually drift over the centerline striping and into his eastbound lane. The FFS applied his brakes and swerved to his right side to avoid a collision with the SUV. However, the SUV continued to its left in the line of travel with the crew bus. In further response, the FFS drove the crew bus partially on the dirt shoulder to his right, but there was not enough clearance from the SUV.</p> <p>Unfortunately, the left front of the SUV collided into the left front of the crew bus. The force of the collision caused the crew bus to roll several times. It came to rest on the dirt shoulder along the south side of SR-138, while the SUV came to rest upright along the white striping on the north shoulder. As a result of the collision, Bacon and one inmate firefighter, who was ejected from the crew bus, died at the scene. The FFS and the remaining inmate firefighters were also injured in the collision.</p> <p>The California Highway Patrol Multidisciplinary Accident Investigation Team ("CHP MAIT") investigated the accident and concluded that Bacon was the primary cause of the accident for driving on the wrong side of the road. It did not draw any conclusions on what caused Bacon to drift into the on-coming traffic lane. The FFS reported to CHP MAIT that when he was close enough to the SUV, he saw the driver (Bacon) looking to his right and not paying attention to the road ahead of him. An autopsy of Bacon did not reveal any reason for his actions in driving the SUV.</p>

- Included a copy of the supervisor's first report of incident (or related accident, event or incident investigation documentation).

4. Corrective Action Plan Problem Statement

Provide a written narrative of the incident/event problem statement:

The CHP MAIT investigated the accident and concluded that Bacon was the primary cause of the accident for driving on the wrong side of the road.

Data downloaded from the crew bus event recorder revealed that the crew bus was traveling 69 miles per hour 13 seconds before the collision. The FFS took his foot off of the accelerator and applied the brakes. At impact, the crew bus speed was further reduced to approximately 61 to 64 miles per hour. The speed limit on that road at that location is 55 MPH.

5. Root Cause Analysis

Root Cause Analysis tool used:	
Root Cause Analysis source material(s) used:	CHP MAIT Team investigative report

- Included a copy of the Root Cause Analysis tool utilized (or related Root Cause analysis documentation).

Identify as many root causes as necessary. Select the root cause type that best describes the nature of the root cause description. You will reference each root cause by its letter when writing the Corrective Action Steps.

Root Cause A	
Root Cause Type:	<p><i>Only select one:</i></p> <p><input type="checkbox"/> Process/System</p> <p><input checked="" type="checkbox"/> Personnel</p> <p><input type="checkbox"/> Equipment</p> <p><input type="checkbox"/> Property</p>

Describe Root Cause:	The vehicle driven by the plaintiff drifted across the center line of the road and struck the oncoming Fire Department crew bus.
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Root Cause B	
Root Cause Type:	<i>Only select one:</i> <input type="checkbox"/> Process/System <input checked="" type="checkbox"/> Personnel <input type="checkbox"/> Equipment <input type="checkbox"/> Property
Describe Root Cause:	The FFS was exceeding the speed limit immediately prior to the accident.

Root Cause C	
Root Cause Type:	<i>Only select one:</i> <input type="checkbox"/> Process/System <input checked="" type="checkbox"/> Personnel <input type="checkbox"/> Equipment <input type="checkbox"/> Property
Describe Root Cause:	At the time of impact, not all of the inmate firefighters riding in the vehicle were using the seat belts provided.

*If additional root causes are needed; cut and paste the above fields, as needed. If necessary, delete unused root cause fields.

6. Corrective Action Plan Steps

For each Corrective Action Plan step, please reference, by letter, the Root Cause(s) this Corrective Action Plan step is addressing.

Associated Root Cause reference letter(s):	B
Task number:	1
Task name:	Driver Training for FFS
Scheduled start date:	June 16, 2011
Scheduled completion date:	June 16, 2011
Responsible person:	Asst. Chief Vince Pena
Task description:	The FFS attended an 8 hour Driver Training class to reinforce the need to adhere to posted speed limits when driving Department vehicles.

Associated Root Cause reference letter(s):	B
Task number:	2
Task name:	New Foreman Driver Training
Scheduled start date:	Unk
Scheduled completion date:	Ongoing
Responsible person:	Asst. Fire Chief Vince Pena
Task description:	The Department has developed a Program for new Camp Crew Foreman that details responsibilities for safe operation of crew trucks.

Associated Root Cause reference letter(s):	C
Task number:	3
Task name:	Inmate Fire Crew Training
Scheduled start date:	November 2012
Scheduled completion date:	Ongoing
Responsible person:	Asst. Chief Vince Pena
Task description:	Training program for inmate firefighters. Specific notice in the training program that seatbelts are mandatory when seated in the moving vehicle. Includes a discussion of this accident as an example of what can happen if seatbelts are not used.


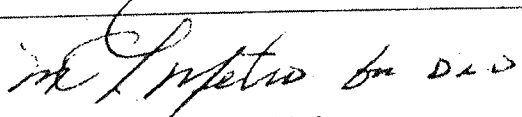
Associated Root Cause reference letter(s):	C
Task number:	4
Task name:	Seat Belt Power Point Presentation
Scheduled start date:	2010
Scheduled completion date:	Ongoing
Responsible person:	Asst. Fire Chief Vince Pena
Task description:	The Air & Wildland Division developed a Power Point presentation demonstrating the need for mandatory use of seat belts in crew trucks. The presentation presents pictures and descriptions of crew truck accidents and the resulting injuries and fatality.

Associated Root Cause reference letter(s):	C
Task number:	5
Task name:	Rules of Conduct for Inmate Firefighte3rs
Scheduled start date:	January 20, 2012
Scheduled completion date:	Ongoing
Responsible person:	Asst. Fire Chief Vince Pena
Task description:	The Rules of Conduct mandate the use of seatbelts in the back of crew trucks and that all persons must be seated.

Associated Root Cause reference letter(s):	C
Task number:	6
Task name:	Inmate Firefighter Job Description
Scheduled start date:	2000
Scheduled completion date:	Ongoing
Responsible person:	Asst. Fire Chief Vince Pena
Task description:	Task #9 on job description for inmate firefighter states they are to always use seatbelts and remain seated. It requires the signature of the inmate next to that statement indicating their understanding and agreement.

7. Review and Authorization

The department has reviewed the incident/event investigation, root cause analysis documentation, Corrective Action Plan, and has taken all appropriate corrective actions required.

Review and authorization steps	Signature	Date
Document reviewed by Department Risk Management Coordinator:	 Michael Kranther, Division Chief	9/8/14
Document reviewed by Department head or designee.	 Daryl L. Osby, Fire Chief	9.9.14