MEMORANDUM

December 14, 2004

TO:	THE LOS ANGELES COUNTY CLAIMS BOARD
FROM:	MICHAEL THOMAS, ESQ. Thomas, Donahue, Thomas & Hurevitz OWEN L. GALLAGHER Principal Deputy County Counsel General Litigation Division
RE:	**Alan Wimberley v. County of Los Angeles** **Los Angeles Superior Court Case No. BC306333**
DATE OF INCIDENT:	February 10, 2003, through February 15, 2003
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 March 7, 2005

SUMMARY

This is a recommendation to settle for $150,000, the wrongful death lawsuit brought by Alan Wimberley (husband) for the death of Pamela Wimberley on February 17, 2003, at LAC+USC Medical Center, while in the custody of the Los Angeles County Sheriff's Department.

LEGAL PRINCIPLES

The County is liable for failure of its jail and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered, and the failure to provide a prisoner immediate medical care for a serious medical condition.

SUMMARY OF FACTS

On February 10, 2003, at 6:57 a.m., Pamela Wimberley, a 38-year-old woman with a disorder caused by the failure of the pancreas to release enough insulin into the blood (diabetes mellitus), and in the custody of the Los Angeles County Sheriff's Department, was seen by nursing personnel at the Twin Towers Correctional Facility for complaints of a headache and fever. It was noted that Ms. Wimberley had an abnormally high pulse rate, and abnormally high blood pressure (hypertension). A physician was consulted by telephone and informed of Ms. Wimberley's condition. Because diabetic individuals are at risk of developing respiratory infections, the physician orally ordered a blood test for a determination of the number of red and white blood cells (complete blood count [CBC]), and a microscopic examination of a sample of Ms. Wimberley's urine (urinalysis), to eliminate the possibility that Ms. Wimberley's symptoms might be the result of an infection occurring in the body. However, the physician's oral order was not reduced to writing and processed, resulting in no CBC or urinalysis being performed. Ms. Wimberley was given juice and medication for pain, and she was returned to her cell.

On February 11, 2003, Ms. Wimberley was seen by a physician for complaints of fever and a cough. The physician believed that Ms. Wimberley was suffering from an infection of the nose, throat, and sinuses (upper respiratory infection [URI]) due to a virus. Ms. Wimberley was given medication for a cough, and she was returned to her cell. Although the physician who examined Ms. Wimberley had previously ordered a CBC and urinalysis, the physician failed to make an inquiry as to whether a CBC and urinalysis had been performed.

On February 12, 2003, Pamela Wimberley was seen in the clinic for evaluation of her diabetes. However, medical personnel failed to make an inquiry as to whether a CBC and urinalysis had been performed as ordered on February 10, 2003.

On February 14, 2003, Ms. Wimberley was seen by medical personnel for complaints of chills, a sore throat, and an inflammation of the voice box (laryngitis). Although a sore throat and laryngitis may be signs of an infection caused by a bacteria, medical personnel did not order the administration of antibiotics, nor did they make an inquiry as to whether a CBC and urinalysis had been performed as ordered on February 10, 2003. Medical personnel believed that Ms. Wimberley's symptoms were due to an infection caused by a virus, and she was encouraged to drink additional fluids.

On February 15, 2003, at 2:03 p.m., Pamela Wimberley was seen by medical personnel for complaints of fever, chills, and chest pain. At 3:25 p.m., it was noted that Ms. Wimberley had decreased breath sounds, an abnormally high pulse rate, and abnormally low blood pressure. She was diagnosed with shock that occurs from the spreading of a severe infection (septic shock).

At 6:23 p.m., Pamela Wimberley was transferred to LAC+USC Medical Center for further treatment. However, despite aggressive treatment, Ms. Wimberley's condition continued to deteriorate.

On February 17, 2003, at 11:47 a.m., Pamela Wimberley died. An autopsy performed by the Los Angeles County Coroner attributed the cause of death to an overwhelming infection (sepsis) resulting from an inflammation of the lungs (pneumonia) caused by a bacteria.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Alan Wimberley,	
Loss of Future Spousal Services	$560,000
Loss of Care, Comfort and Companionship (MICRA limit)	$250,000
Funeral Expenses	$ 3,036
TOTAL	$813,036

The proposed settlement includes:

Alan Wimberley,	
Loss of Care, Comfort and Companionship	$ 97,100
Attorneys Fees (MICRA Estimate)	$ 47,900
Costs of Litigation	$ 5,000
TOTAL	$150,000

STATUS OF CASE

The current trial date has been vacated pending approval of this settlement.

Expenses incurred by the County of Los Angeles in the defense of this case through November 8, 2004, are attorneys fees of $42,221 and $6,120 in costs.

The total cost to the County of Los Angeles, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	$150,000
County Attorneys Fees and Costs	$ 48,341
TOTAL	$198,341

EVALUATION

Medical experts will be critical of the failure of medical personnel on February 10, 2003, to perform a CBC and urinalysis, as ordered, to eliminate the possibility that Pamela Wimberley's symptoms might be the result of a bacterial infection occurring in the body, and the failure of medical personnel, from February 11, 2003, through February 15, 2003, to make an inquiry as to whether a CBC and urinalysis had been performed as ordered. These failures fell below the standard of care, resulted in a missed opportunity to diagnose and treat Ms. Wimberley's condition, and are directly responsible for the results observed here.

We join with our private counsel, Thomas, Donahue, Thomas & Hurevitz, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of $150,000.

The Sheriff's Department concurs in this settlement.