

MEMORANDUM

December 27, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: RICKY IVIE  
Ivie, McNeil, & Wyatt

JOHANNA M. FONTENOT  
Principal Deputy County Counsel  
General Litigation Division

RE: Donato Garcia v. County of Los Angeles et. al  
Los Angeles Superior Court Case No. BC 288712

DATE OF INCIDENT: 2001-2002

AUTHORITY REQUESTED: \$50,000

COUNTY DEPARTMENT: Executive Office of the Board of Supervisors

---

CLAIMS BOARD ACTION:

Approve

Disapprove

Recommend to Board of Supervisors for Approval

\_\_\_\_\_, Chief Administrative Office  
**ROCKY ARMFIELD**

\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on \_\_\_\_\_, 2006

## SUMMARY

This is a recommendation to settle for \$50,000, the defamation lawsuit filed by Donato Garcia against the County and two employees of the Executive Office, Board of Supervisors ("Executive Office").

## LEGAL PRINCIPLE

A public entity and its employees may be liable for defamation, if an employee makes a false assertion of fact that accuses a plaintiff of committing a criminal act.

## SUMMARY OF FACTS

In 2001, Mr. Garcia was the Chief of the Assessment Appeals Section of the Executive Office, which provides administrative and technical support to the Assessment Appeals Board. During that year, several anonymous letters were received by the Executive Office regarding the operation of the Assessment Appeals Board. Mr. Garcia's supervisors inquired of co-workers regarding the allegations, but the inquiry did not ultimately lead to an investigation.

Later, the Office of the Assessor complained to the Executive Office that Mr. Garcia had taken action to benefit a certain taxpayer. This information was forwarded to the Auditor-Controller for investigation. The investigation by the Auditor-Controller concluded that Mr. Garcia had acted inappropriately to benefit certain taxpayers and that he created the impression of a conflict of interest by some of his actions.

Mr. Garcia's lawsuit alleged that prior to the Auditor-Controller's investigation his supervisors made defamatory statements about him to his co-workers. He contended that these defamatory statements prevented him from being promoted and caused his co-workers to shun him. The supervisors denied Mr. Garcia's allegations.

Subsequent to the Auditor-Controller's investigation, and as the result of an unrelated matter, Mr. Garcia was demoted.

This matter commenced trial on November 28, 2005.

## DAMAGES

If this matter had proceeded to a verdict, we estimate that the potential damages would have been as follows:

Loss of Earnings and Benefits	\$550,000
Emotional Damages	<u>\$250,000</u>
Total	\$800,000

## STATUS OF CASE

Following six days of trial, the parties reached a settlement, contingent upon approval of the Claims Board.

Pursuant to the settlement, the County will pay Donato Garcia \$50,000, and restore him to his position of Chief of the Assessment Appeals Section. In exchange, Mr. Garcia agrees to dismiss the defamation lawsuit against the two supervisors, and to dismiss his administrative claim against the County, relating to his demotion. Additionally, Mr. Garcia will issue a written apology for his conduct in the unrelated matter.

Prior to trial, Mr. Garcia served the County with a CCP § 998 demand of \$1,200,000. At the outset of trial, Mr. Garcia reduced his demand to \$750,000.

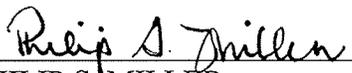
Expenses incurred by the County in defense of this matter are \$103,939.78 in attorneys fees and \$19,848.89 in costs. Attorneys' fees were increased by the taking of 24 depositions and appellate review of a summary judgment granted in the case.

## EVALUATION

This is a case of contested liability. However, we believe that the jury could conclude that members of the Executive Office defamed Mr. Garcia by making comments to other employees implying that Mr. Garcia had committed a crime, and that these comments contributed to the failure to promote Mr. Garcia. A reasonable settlement at this time will save further litigation costs and avoid a verdict which could exceed the proposed settlement.

We join with our private counsel, Ivie, McNeil & Wyatt, in recommending a settlement of this matter in the amount of \$50,000. The Executive Office concurs in this settlement recommendation.

APPROVED:

  
\_\_\_\_\_  
PHILIP S. MILLER  
Assistant County Counsel  
General Litigation Division

JMF:bh