MEMORANDUM

August 9, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: LESTER J. TOLNAI
Principal Deputy County Counsel
Management Services Division

RE: **Maria Mata v. County of Los Angeles**
OAAC Case Nos. IN03-0317 and IN03-0311

DATE OF INCIDENT: Before August 2003

AUTHORITY REQUESTED: $175,000.00

COUNTY DEPARTMENT: Department of Community and Senior Services

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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 August 16, 2004

HOA.251394.1

SUMMARY

This is a recommendation to settle for $175,000 the Office of Affirmative Action Compliance (OAAC) charges filed by Maria Mata, a long time employee of the Department of Community and Senior Services (CSS), who has asserted claims that she has been the victim of sexual harassment by a senior manager in the Department.

LEGAL PRINCIPLES

An employer is strictly liable for unlawful sexual discrimination by a supervisor under State and Federal law, which entitle a claimant to recover damages and his or her attorney's fees and costs.

SUMMARY OF FACTS

Ms. Maria Mata has been employed by the Department of Community and Senior Services since the 1980's. In 2003, the Department initiated an investigation of a departmental manager following charges by Ms. Mata that the manager had engaged in sexually harassing conduct towards her.

Ms. Mata alleges that from early 1990 until the middle of 2003, she was subjected to that senior manager's frequent inappropriate sexual advances, in the nature of quid pro quo harassment. During this investigation it was learned that Ms. Mata had filed an anonymous complaint of sexual harassment against the same manager in 2001. However, when Ms. Mata was interviewed in the course of that investigation, she did not claim to have been victimized. That 2001 investigation was concluded as unfounded. The 2003 investigation of Ms. Mata's charges was also concluded as unfounded because of serious credibility concerns. However, interviews of other employees led to the disclosure of inappropriate conduct by that manager towards others. Although there exist credibility questions, Ms. Mata claims that the long pattern of sexual harassment caused her severe emotional distress.

DAMAGES

If this matter were to go to trial, Ms. Mata could seek damages for severe emotional distress, costs and attorney's fees.

The potential exposure to the County of Los Angeles, including attorney's fees if Ms. Mata's claims are believed by a jury and she prevails, is in excess of $500,000.

The proposed settlement provides that the Department will assist Ms. Mata to improve her career development skills. The Department will also restore to Ms. Mata approximately 3 months of time during which she was absent following her filing of a Worker's Compensation claim, which Ms. Mata has agreed to drop.

Finally, the Department will pay Ms. Mata's damages in the amount of $175,000. Ms. Mata has agreed to fully release the County, its agents and employees from all liability for these occurrences.

STATUS OF CASE

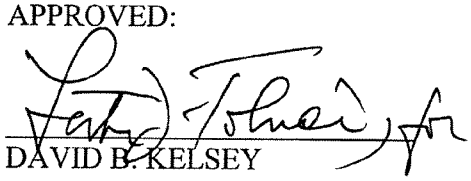
Ms. Mata's OAAC charges allege sexual harassment by her employer. A lawsuit has not yet been filed in this matter. The tentative settlement was reached following 3 full days of mediation in March, May and July. The County has paid the costs for the mediation sessions, which were arranged through the auspices of the OAAC.

EVALUATION

The settlement of this case at the early mediation stage is the result of aggressive intervention by the OAAC and the Office of the County Counsel. Were this matter to go to trial, there is a significant risk of liability for the County. This early intervention has resolved this difficult case while incurring an absolute minimum in defense costs.

The Department has taken appropriate administrative action as to the manager in question. We join with Community and Senior Services and with the Office of Affirmative Action Compliance in recommending this settlement.

APPROVED:



DAVID B. KELSEY
Assistant County Counsel
Management Services Division

LJT:mag

COUNTY OF LOS ANGELES
COMMUNITY AND SENIOR SERVICES

CORRECTIVE ACTION REPORT

Lawsuit of Maria Elena Mata vs. COLA

RISK ISSUE

CSS is liable for the conduct of its employees, especially its supervisors and managers. In this case, unlawful sexual harassment committed by a supervisor or managers, even when reasonable care was taken to prevent and promptly correct such harassing behavior, exposes the Department to legal liability.

BACKGROUND

Maria E. Mata, Community Services Analyst II, assigned to the Employment and Training Branch, alleged that her former manager, an Assistant Director, Community and Senior Services (CSS), sexually harassed her. An Office of Affirmative Action Compliance (OAAC) investigation determined that the manager engaged in inappropriate sexual behavior with other employees. As a consequence, the CSS manager was discharged on May 28, 2004. There was no Civil Service Commission appeal filed.

A notice of Intent to Suspend for 30 days has been provided to another manager, Division Chief, CSS, who had knowledge of the inappropriate behavior of the manager whom the initial allegations were filed against.

CORRECTIVE ACTION

The Department took immediate and appropriate corrective action once it became aware of the inappropriate sexual conduct. Timely notification was provided to OAAC and a thorough investigation was conducted (by OAAC).

In light of the incident that prompted the attached settlement agreement, CSS has implemented the following corrective action plan.

- CSS is providing sexual harassment training to all staff. The training, facilitated by OAAC, commenced May 18, 2004 with managers and supervisors. To date, nine sessions have been conducted and a total of 230 staff have received the training. Additional training dates have been arranged for August 16, 19, and September 14, 2004, wherein 175 additional staff are scheduled to attend. Additionally, all staff that attend are being required to complete individual forms acknowledging their attendance and receipt of the County policy on sexual harassment. These forms are being placed in individual personnel files.

- During the sessions conducted for managers and supervisors, per the direction of CSS, repeated emphasis was placed on management responsibility with regard to reporting requirements and liability.

- The Department's Personnel Policies Employee Handbook, provided to all CSS employees, emphasizes the Department's harassment policy, Section 2.08, "Harassment/Sexual Harassment." The policy outlines the definition of different forms of harassment, reporting requirements as well as disciplinary consequences.