

MEMORANDUM

April 26, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: JOHANNA M. FONTENOT
Principal Deputy County Counsel
General Litigation Division

RE: Annette Barajas v. County of Los Angeles
Los Angeles Superior Court Case No. BC 311789


DATE OF INCIDENT: February 2001


AUTHORITY REQUESTED: \$ 40,000

COUNTY DEPARTMENT: Child Support Services

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 May 15, 2006

SUMMARY

This is a recommendation to settle for \$40,000 a lawsuit brought by Annette Barajas, alleging that she was discriminated against for taking a medical leave of absence.

LEGAL PRINCIPLE

The California Family Care and Medical Leave Act ("FMLA") (Government Code §§12945.2 and 19702.3) permits eligible employees to take up to twelve weeks of unpaid leave during any twelve-month period for family or medical reasons. It is a violation of FMLA for an employer to discriminate against an individual because he or she has taken a medical leave of absence.

A successful plaintiff in a FMLA lawsuit is entitled to an award of attorneys' fees.

SUMMARY OF FACTS

Annette Barajas was hired as a Deputy District Attorney I, by the Los Angeles County District Attorney's Office on February 14, 2000, and assigned to the Bureau of Family Support Operations. Prior to joining the District Attorney's Office, Ms. Barajas worked for the Los Angeles County Probation Department as a Civil Service Representative.

During the first ten months of her probationary period at the District Attorney's Office, Ms. Barajas received several substandard performance evaluations. In August and November 2000, she filed grievances with respect to unsatisfactory ratings, and the grievances were denied. On December 20, 2000, Ms. Barajas requested leave under the FMLA, which was approved by the Department.

While she was out on the approved leave, based on the assessments of her immediate supervisors, it was determined that Ms. Barajas would not pass the one-year probation as a Deputy District Attorney I. As a result, Ms. Barajas was reduced to her former position as a Civil Service Representative on February 1, 2001.

Ms. Barajas appealed the reduction to the Civil Service Commission, claiming that she was discriminated against for taking a medical leave and that the Department violated the FMLA when it reduced her to her former position while she was on medical leave.

In 2002, the Civil Service Commission found that the County had violated the FMLA. As a result, the Commissioner ruled that Ms. Barajas should be reinstated to a Deputy District Attorney I and allowed to complete her six weeks of probationary time. Subsequently, Ms. Barajas was reinstated and passed her probationary period effective February 1, 2006.

On March 8, 2004, Ms. Barajas filed a lawsuit in Superior Court claiming a violation of FMLA and discrimination for taking a leave of absence under FMLA. In August 2005, the Superior Court dismissed Ms. Barajas' lawsuit, because it was not filed within one year of the right to sue letter from the Department of Fair Employment and Housing.

Ms. Barajas filed a timely notice of appeal of the Superior Court's decision to dismiss the lawsuit. Ms. Barajas' position is that the one-year statute of limitations was tolled while she was pursuing her administrative remedies with the Civil Service Commission.

DAMAGES

If the Court of Appeal reverses the Superior Court's decision to dismiss the lawsuit and the matter proceeds to trial, the potential damages could be as follows:

Lost Wages	\$150,000
Pain and Suffering	\$300,000
Attorneys' Fees	<u>\$250,000</u>
Total	<u>\$700,000</u>

STATUS OF CASE

The case is presently on appeal. The briefing schedule has been stayed to allow consideration of this proposed settlement.

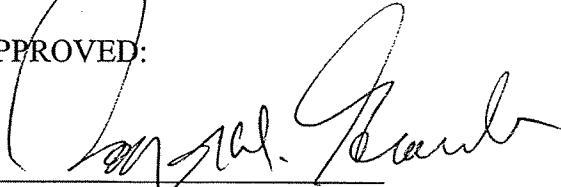
Expenses incurred by the County to date in defense of this matter are attorneys' fees of \$76,237 and \$2,609 in costs.

EVALUATION

Although the Court granted the County's motion to dismiss based on the one-year statute of limitations, the Court of Appeal could reverse that decision. A reasonable settlement at this time would avoid further litigation costs and a verdict that could exceed the proposed settlement.

We believe that settlement of this matter in the amount of \$40,000 is in the best interest of the County. The Child Support Services Department concurs with the recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Division

RHG:bh