MEMORANDUM

July 9, 2004

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: CONRAD KOHRS
Kohrs and Fiske

ROGER H. GRANBO
Principal Deputy County Counsel
General Litigation Division

RE: **Lynne Shulim v. County of Los Angeles**
Santa Monica Superior Court Case No. SC 076894

DATE OF INCIDENT: June 7, 2002

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 July 19, 2004

HOA.246233.1

SUMMARY

This is a recommendation to settle for $150,000, a lawsuit filed by Lynne Shulim, who was injured in an automobile accident with an employee of the Sheriff's Department.

LEGAL PRINCIPLES

The County is responsible for the negligent and intentional acts of its employees when the acts are done in the course and scope of employment.

SUMMARY OF FACTS

On June 7, 2002, at approximately 6:40 p.m., Lynne Shulim was in stop and go traffic in Santa Monica on the 10 Freeway where it merges with Pacific Coast Highway, when her car was rear-ended by a car that had been rear-ended by a patrol vehicle being driven by a Sheriff's Deputy. The Sheriff's Deputy had fallen asleep at the wheel, and was estimated to be driving at approximately 50 miles-per-hour at the time of the collision. The Sheriff's Deputy was subsequently diagnosed with the medical condition known as apnea, which causes a person to suddenly fall asleep without warning.

Lynne Shulim injured her back as a result of the collision, and has been diagnosed with multiple disc bulges, which will require surgery.

DAMAGES

Should this matter proceed to trial, we estimate the potential damages could be as follows:

Medical expenses	$ 30,000
Future medical expenses	$ 25,000
Loss of earnings	$ 24,000
Pain and suffering	$350,000
Total	$429,000

The proposed settlement calls for the County to pay Lynne Shulim $150,000 for all of her claims for damages, costs, and attorney fees. Lynne Shulim's claim for the damage to her car was previously settled for $12,772.70.

The claim for property damage filed by Julio Kollerbohm, the driver of the car that was rear-ended by the Sheriff's Deputy, was previously settled for $21,954.56. Mr. Kollerbohm subsequently filed a lawsuit for his personal injuries, and that lawsuit is still pending.

STATUS OF CASE

The trial court proceedings have been suspended pending consideration of the proposed settlement.

Expenses incurred by the County in defense of this action are attorney fees of $25,189 and $7,370 in costs.

EVALUATION

This is a case of potential liability. The Sheriff's Deputy fell asleep at the wheel, due to apnea, and caused the collision with Lynne Shulim. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed settlement.

We join with our private counsel, Kohrs and Fiske, and our third party administrator, Carl Warren and Company, in recommending a settlement in the amount of $150,000. The Sheriff's Department concurs in this recommendation.

APPROVED:

GARY N. MILLER
Assistant County Counsel
General Litigation Division

RHG:scr

Los Angeles County Sheriff's Department

CORRECTIVE ACTION REPORT

LAWSUIT OF: Shulim, Lynne R. v. The County of Los Angeles, Case No. SAV99-428GLT (ANx)

INCIDENT DATE: June 7, 2002 6:41 PM

INCIDENT LOCATION: State Route 1 N/B (Pacific Coast Highway), North of Lincoln Boulevard, Santa Monica, CA.

RISK ISSUES: A public entity is responsible for the negligent and wrongful acts of employees when the acts are committed in the course and scope of his or her duties. Although some of the facts in this case are in dispute, it is undisputed that Ms. Shulim was stopped in traffic at the time of the collision, and that she was struck by a vehicle that had been struck by an on duty deputy driving in a marked patrol vehicle.

INVESTIGATIVE REVIEW: On June 7, 2002, at approximately 6:41 PM, a deputy operating his marked patrol vehicle westbound on State Route 1 (Pacific Coast Highway) east of Lincoln Boulevard in Santa Monica, was involved in a multi-vehicle traffic collision. The deputy was returning to patrol duties in Malibu after dropping off a juvenile at Los Padrinos Juvenile Hall. California Highway Patrol investigated the collision and found that the deputy's vehicle struck three other vehicles, including that occupied by the plaintiff, which were stopped in traffic. The 1998 Mercedes E320 occupied by the plaintiff sustained major damage (more than $18,000) to the rear end. The patrol vehicle was a total loss.

As a result of the collision the plaintiff suffered significant injuries and contends that the collision caused disc bulges and protrusions at multiple levels requiring surgery and rehabilitation. The plaintiff had a prior history of back pain complaints, and diagnosed degenerative disc disease made worse by the collision. Medical expenses are estimated at approximately $30,000 plus potential future medical bills of approximately $25,000. Also alleged is a loss of earnings of $24,000. Should this matter be tried, the potential exposure could total $500,000.

TRAINING ISSUES: At the time of this incident, the Sheriff's Department had a well-established training curriculum concerning the operation of departmental vehicles under both emergent and routine situations.

POLICY ISSUES: Manual of Policy and Procedures Section 3-01/090.10 dictates that deputies shall observe all traffic laws, always employ defensive driving techniques, and not operate vehicles in an unsafe or negligent manner.

CORRECTIVE ACTION: A thorough traffic collision investigation was conducted by the California Highway Patrol which found that the collision occurred because the deputy was driving at an unsafe speed for conditions. Subsequent to treatment administered to the deputy in the emergency room, doctors diagnosed him with sleep apnea. Sleep apnea is a sleep disorder in which breathing during sleep stops for 10 seconds or more, usually more than 20 times per hour, causing measurable blood deoxygenation. It can and does cause sudden loss of consciousness due to lack of sleep. The deputy later underwent nasal surgery to alleviate chronic nasal obstruction which was partially the cause of the condition. This condition was previously undiagnosed.

A thorough administrative review of the incident was completed. The deputy had no prior knowledge of his condition until his emergency room treatment. As a result of the medical condition and corrective measures, no discipline was imposed.

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W. STONICH
NOTED

William F. Stonich