

STATEMENT OF PROCEEDINGS
FOR THE SPECIAL MEETING
OF THE LOS ANGELES COUNTY CLAIMS BOARD
HELD IN ROOM 648 OF THE KENNETH HAHN HALL OF ADMINISTRATION,
500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012

ON

THURSDAY, FEBRUARY 21, 2008, AT 8:00 AM

Present: Maria M. Oms, Rocky Armfield and John Krattli

The following items were presented to the Claims Board for consideration and the Claims Board took actions as indicated in bold.

1. Call to Order.
2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.

No members of the public addressed the Claims Board.

3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code Section 54956.9).
 - a. Daniella Sanders v. County of Los Angeles
Los Angeles Superior Court Case No. BC 361 113

This lawsuit concerns allegations that an employee of the Department of Probation was subjected to sexual harassment.

Action Taken:

This matter was continued to the next Claims Board meeting.

Absent: None

Vote: Unanimously carried

- b. Jenny Zhao, et al. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 345 536

This lawsuit concerns allegations that three employees of the Department of Public Works were subjected to employment discrimination and retaliation.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$250,000 and that the Auditor-Controller be instructed to draw a warrant to implement this settlement from the Department of Public Works' budget.

Absent: None

Vote: Unanimously carried

- c. In the matter of Former BKK Main Street Landfill
HSA-CO -5/06-114

This matter concerns the remediation of environmental contamination at the former BKK Main Street Landfill.

Action Taken:

The Claims Board recommended that the Board of Supervisors authorize settlement with Watson Land Company by accepting payment of \$375,000; and a partial settlement with Goodyear Tire & Rubber Company by accepting payment of \$375,000.

Absent: None

Vote: Unanimously carried

- d. W.A. Rasic v. Los Angeles County Flood Control District
Los Angeles Superior Court Case No. BC 368 893

This breach of contract lawsuit arises from the construction of the Ninth Avenue Storm Drain Project.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$100,000.

Absent: None

Vote: Unanimously carried

[See Attached Documents](#)

- e. Markwins International Corp., et al. v. California Coastal Communities, et al.
Los Angeles Superior Court Case No. BC

This lawsuit concerns property damage allegedly caused by land subsidence around a storm drain owned by the Los Angeles County Flood Control District.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter whereby the County will accept payment of \$270,000 and authorize transfer of \$240,000 to the City of Industry and the Industry Urban Development Agency.

Absent: None

Vote: Unanimously carried

[See Attached Document](#)

- f. Allied Insurance Co. v. County of Los Angeles and Vance Husbands
Los Angeles Superior Court Case No. BC 369 967

This property damage subrogation lawsuit arises from a vehicle accident involving an employee of the Department of Public Works.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$33,000.

Absent: None

Vote: Unanimously carried

- g. Alberto Bratslavsky v. Broadway View Retirement Hotel, et al.
Los Angeles Superior Court Case No. EC 042 390

This lawsuit arises from injuries received from a slip and fall at Broadview Residential Care Center, Glendale.

Action Taken:

This matter was continued to the next Claims Board meeting.

Absent: None

Vote: Unanimously carried

See Attached Documents

4. Report of actions taken in Closed Session.

The Claims Board reconvened in open session and reported the actions taken in closed session as indicated under Agenda Item No. 3 above.

5. Adjournment.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	W.A. Rasic v. Los Angeles County Flood Control District
CASE NUMBER	Case No. BC 368 893
COURT	Los Angeles County Superior Court, Central District
DATE FILED	April 2, 2007
COUNTY DEPARTMENT	Department of Public Works - Flood Control District
PROPOSED SETTLEMENT AMOUNT	\$100,000
ATTORNEY FOR PLAINTIFF	Scott Lane Monteleone & McCrory (213) 612-9900
COUNTY COUNSEL ATTORNEY	Truc L. Moore Senior Associate County Counsel (213) 974-4334
NATURE OF CASE	This breach of contract action by W.A. Rasic, Inc. ("Rasic") against the Los Angeles County Flood Control District ("District") seeks recovery for loss of productivity and delay damages allegedly incurred by Rasic during construction of the Ninth Avenue Drain ("Project") in the City of Industry and Hacienda Heights. Rasic alleges that the District breached the implied covenant of good faith and fair dealing by, among other things, engaging in overzealous and punitive inspection and oversight, failing to disclose at bid time Storm Water Pollution Prevention Plan ("SWPPP") and Best Management Practices ("BMPs") requirements, refusing to grant extensions of time as necessitated by poor weather conditions, and otherwise acting unreasonably, resulting in an overall loss of productivity of 49 percent and a delay of 22 days on the project.

Due to the risks and uncertainties of litigation and the substantial costs of proceeding to trial, the parties have agreed to the proposed settlement.

PAID ATTORNEY FEES, TO DATE	\$42,217
PAID COSTS, TO DATE	\$24,621 in expert fees, \$5,540 in litigation costs

Summary Corrective Action Plan
Los Angeles County Department of Public Works



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	September 27, 2004 through September 29, 2005
Briefly provide a description of the incident/event:	<p>W. A. Rasic</p> <p>Rasic construction was awarded the contract for the Flood Control District's Ninth Avenue Drain Project. The contract called for Best Management Practices (BMP) implementation on the project. Rasic claims DPW as the contract administrator breached the contract by engaging in overzealous and punitive inspections, failing to disclose requirements of the Storm Water Pollution Prevention Plan (SWPPP) and refusing extensions caused by poor weather. The District disagrees with these allegations.</p> <p>Rasic requested an equitable adjustment of \$597,014 which was denied by the District.</p>

1. Briefly describe the root cause of the claim/lawsuit:

Rasic failed to fully gage the regulatory BMP and SWPPP requirements of this contract and failed to allocate the minimal resources needed to comply with BMPs. Their approach was to react to the inspector's observations of non-compliance rather than taking preventative actions, which is a costly and time consuming approach. In addition, they chose to start the project late and encountered pipe supply delays, which extended the construction into a winter with record rainfall levels, further delaying the completion of the project.


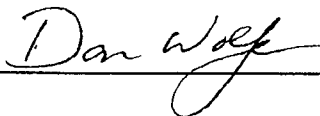
County of Los Angeles Department of Public Works
Summary Corrective Action Plan – Southern California Edison

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

No corrective actions are recommended. Proper controls were in place and carried out by the District in the review of the bid, the award of the contract and the level of inspection. The proposed settlement is a business decision. Due to the risks and uncertainties of litigation and the substantial costs of proceeding to trial, both parties have agreed to the proposed settlement.

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- Potentially has County-wide implications.
- Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 2/14/08
Signature: (Director) 	Date: 2/14/08

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Markwins International Corp., et al. v. California Coastal Communities, et al.</u>
CASE NUMBER	KC 047384 (Lead Case) Related to Case Nos. BC 346577, BC 328366, and BC 337403
COURT	Los Angeles County Superior Court, East District, Pomona Courthouse
DATE FILED	November 28, 2005
COUNTY DEPARTMENT	Department of Public Works
PROPOSED SETTLEMENT AMOUNT	Receipt of \$270,000 and authorize transfer of \$240,000 to the City of Industry and Industry Urban Development Agency in exchange for future defense and indemnification
ATTORNEY FOR PLAINTIFF	Michael Sandstrum, Esq. Bremer Whyte Brown & O'Meara, LLP (949) 221-1000
COUNTY COUNSEL ATTORNEY	Frederick W. Pfaeffle Principal Deputy County Counsel (213) 974-1951
NATURE OF CASE	Plaintiffs Markwins International Corp. et al. ("Markwins") have brought this suit against the County of Los Angeles ("County"), the Los Angeles County

Flood Control District ("District"), the City of Industry ("City"), the Industry Urban Development Agency ("Agency") and several private entities alleging subsidence damages to their property as a result of a storm drain owned and operated by the District and designed and constructed by the City, Agency and the private entities.

In 1998, the District issued a permit to allow the Agency to design and build Miscellaneous Transfer Drain ("MTD") 1536 as a replacement for the District's open rectangular flood control channel at San Jose Creek. The Agency and the City sought to place the District's channel underground so as to allow for the development of the parcel of land above the channel. The Agency hired several private entities to design and build MTD 1536.

At or near the time of the construction of MTD 1536, the Agency sold the undeveloped parcel of land above MTD 1536 to Koll Development, Inc. ("Koll"), for future development.

In 1999, the District issued a separate permit to Koll for the construction of MTD 1582, which includes District's Lines D, E and F (collectively, "Laterals"). The Laterals connect to MTD 1536 at various locations, as discussed below.

In late 1999, Koll and the other Private Entities designed and constructed a 300,000 square foot industrial building and parking lot ("Property") on the parcel above MTD 1536. Plaintiffs purchased the Property shortly thereafter.

A portion of MTD 1536 runs directly underneath the Property from east to west. The remaining portions of MTD 1536 run underneath the parking lots of three neighboring properties. The connection between MTD 1536 and Line D is located underneath the east parking lot of the Property. The connections between MTD 1536 and Lines E and F are located underneath the parking lot of the neighboring property to the north-east of the Property.

Shortly following completion of the building, Plaintiffs noticed land subsidence at the Property above MTD 1536 and filed a claim against the County and the District. Plaintiffs' engineer claims that poor compaction of the supporting backfill and bedding material along the entire length of MTD 1536 (i.e., underneath the Property, as well as adjacent properties) is the primary cause of the subsidence. Although MTD 1536, itself, does not appear to be damaged, the subsidence has caused minor damage to the Laterals.

In 2005, Plaintiffs filed this action alleging claims for subsidence damage to the Property based on several causes of action including inverse condemnation, negligence and nuisance. The District and County filed cross-complaints against the City, the Agency, Koll and the other private entities involved in the design and construction of MTD 1536 and the Laterals seeking indemnity against the claims of Plaintiffs, and damages and repair costs for the entire alignment of the storm drain.

The case was vigorously litigated, with significant discovery being undertaken by all parties.

Due to the risks and uncertainties of litigation, the office of the County Counsel, in conjunction with the Department of Public Works, is recommending a global settlement in the amount of \$970,00 whereby the District and County will receive \$270,000. The District and the County will pay \$240,000 of this settlement amount to the City and the Agency in exchange for their agreement to indemnify and defend the County and District against potential future claims relating to compaction, settlement or land subsidence within the backfill trench zone which lies along or surrounding MTD 1536 outside of the Plaintiffs' Property. The District will apply the remaining \$30,000 for minor repairs to the Laterals outside of the Plaintiffs' Property.

PAID ATTORNEY FEES, TO DATE	\$285,756
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PAID COSTS, TO DATE	\$65,940
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CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	<u>Alberto Bratslavsky v. Broadway View Retirement Hotel, et al.,</u>
CASE NUMBER	EC 042390
COURT	Los Angeles County Superior Court North Central District
DATE FILED	March 1, 2006
COUNTY DEPARTMENT	Registrar-Recorder/County Clerk
PROPOSED SETTLEMENT AMOUNT	\$32,500
ATTORNEY FOR PLAINTIFF	R. Thomas Sosa (for Plaintiff Bratslavsky) (626) 454-4520 Terrell Proctor (for Defendant and Claimant Broadview Residential Care Center) (818) 379-4700
COUNTY COUNSEL ATTORNEY	Jerry Custis Principal Deputy County Counsel (213) 974-1965
NATURE OF CASE	Plaintiff Alberto Bratslavsky filed suit against Broadview Residential Care Center, a Glendale retirement home, asserting that he was injured in a slip and fall there while voting in March 2004.

The Registrar-Recorder/County Clerk had arranged to use Broadview's premises as a polling place, agreeing to indemnify it for injuries arising from such use. Broadview cross-complained against the County on the basis of the indemnity agreement but dropped its suit temporarily after discovering that it had not filed a government claim. It informed the County that it planned to refile its suit against the County after complying with the claims procedure.

In the meantime, plaintiff Bratslavsky and defendant Broadview Residential Care Center litigated their personal-injury lawsuit. As trial neared, they met for mediated settlement negotiations. The County was represented at the last of the negotiations on the condition that if it contributed to settlement of plaintiff Bratslavsky's lawsuit Broadview would agree to waive any follow-on indemnity claim against the County. In the end, the plaintiff agreed to settle for \$67,500 if the County paid \$32,500 of that and Broadview paid \$35,000.

PAID ATTORNEY FEES, TO DATE	\$13,846.15
PAID COSTS, TO DATE	\$841.25

Summary Corrective Action Plan



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	March 2, 2004
Briefly provide a description of the incident/event:	After completing the voting process at a polling location, a voter stopped at a drinking fountain before exiting the facility. Upon leaving the area, he claims that he slipped and fell on a liquid substance.

1. Briefly describe the root cause of the claim/lawsuit:

The Registrar-Recorder/County Clerk (RR/CC) is responsible for providing election services to approximately 4 million registered voters in Los Angeles County. Most major elections can require as many as 5,000 polling locations throughout the County. The Department currently conducts pre-election inspections of polling locations but no formal process exists to conduct election day safety reviews of polling locations.


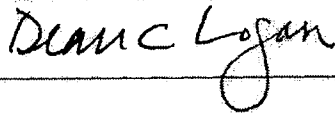
2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The RR/CC will incorporate a Physical Safety Hazard Awareness Training component to the regularly scheduled training program of polling inspectors and coordinators. Pollworker Training will include the identification and reporting of obvious hazardous conditions within a reasonable area of voter-path-of-travel at polling locations on election day. Additionally, if a significant hazard has been noted or a claim filed due to an incident at a polling location, a review of that polling location will be conducted by RR/CC staff before the next election. Additional polling inspector/coordinator training and a polling location review process will be developed by March 15, 2008 and will be implemented April 28, 2008 when training of polling inspectors and coordinators begins for the June 3, 2008 Primary Election.

The Pollworker Training Section will be responsible for implementing the Physical Safety Hazard Awareness Training component for polling inspectors and coordinators as part of their regularly scheduled training program. The Polls and Officers Section will be responsible for conducting reviews of polling locations that have been sited with potentially unsafe conditions or have resulted in claims against the Department.

3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- Potentially has County-wide implications.
- Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 1/8/08
Signature: (Department Head) 	Date: 1-8-08