

STATEMENT OF PROCEEDINGS
FOR THE REGULAR 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

MONDAY, MAY 18, 2009, AT 9:30 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. Shawn Thompson, et al. v. County of Los Angeles
United States District Court Case No. CV 08-00862

This lawsuit seeks compensation for a death which occurred while in the custody of the Sheriff's Department.

Action Taken:

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

Absent: None

Vote: Unanimously carried

[See Supporting Documents](#)

- b. Arturo Correa v. County of Los Angeles
Los Angeles Superior Court Case No. BC 384 324

This lawsuit concerns allegations that the Department of Public Works failed to reasonably accommodate an employee's disability.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$80,000.

Absent: None

Vote: Unanimously carried

- c. Yoon Biazar v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 380 042

This lawsuit concerns allegations that an employee of the Department of Health Services was subjected to discrimination and retaliation.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$95,000 plus approximately \$110,000 in back pay.

Absent: None

Vote: Unanimously carried

- d. AES Redondo Beach, LLC v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BS 118 450
AES Alamitos, LLC v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BS 118 451

These lawsuits concern the payment of interest on property tax refunds.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of these matters in the amount of \$471,210.74.

Absent: None

Vote: Unanimously carried

[See Supporting 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. Approval of the Minutes for the May 4, 2009, meeting of the Claims Board.

Action Taken:

The Minutes for the May 4, 2009, meeting of the Claims Board were approved.

Absent: None

Vote: Unanimously carried

[See Supporting Document](#)

6. Cancellation of the Claims Board's June 1, 2009 regular meeting.

Action Taken:

The Claims Board's June 1, 2009 regular meeting was cancelled.

Absent: None

Vote: Unanimously carried

7. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.

No such matters were discussed.

8. Adjournment.

A

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Shawn Thompson, et al v. County of Los Angeles
CASE NUMBER	CV08-00862
COURT	United States District Court
DATE FILED	February 12, 2008
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$100,000
ATTORNEY FOR PLAINTIFF	Law Offices of Eric G. Ferrer
COUNTY COUNSEL ATTORNEY	Roger H. Granbo
NATURE OF CASE	<p>Plaintiff's decedent died after an altercation with other inmates in the Los Angeles County jail system. In the lawsuit, the plaintiffs claim that the Sheriff's department failed to protect the decedent.</p> <p>The Sheriff's Department contends that the altercation was not foreseeable and the incident was not preventable.</p> <p>Due to the risks and uncertainties of litigation, and in light of the fact that a prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees, a full and final</p>

settlement of the case in the amount of \$100,000 is recommended.

PAID ATTORNEY FEES, TO DATE \$74,032

PAID COSTS, TO DATE \$4,066



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:	<u>Shawn Anthony Thompson v. County of Los Angeles, et al.</u> (Summary Corrective Action Plan #2009-007) Sunday, February 12, 2006; 1:45 p.m.
Briefly provide a description of the incident/event:	On Sunday, February 12, 2006, the plaintiff was an inmate in the custody of the Los Angeles County Sheriff's Department. At approximately 1:45 p.m., he was incarcerated in the Los Angeles County Men's Central Jail, Module 2400, "A" Row, Cell #6, when he became involved in an altercation with other inmates in his jail cell. At 2:35 p.m., the plaintiff died.

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

On February 6, 2006, the plaintiff was taken into custody by officers from the Long Beach Police Department. He was subsequently transferred to the custody of the Los Angeles County Sheriff's Department. On February 11, 2006, the plaintiff was appropriately classified consistent with existing classification protocols and housed in the Los Angeles County Men's Central Jail, Module 2400, "A" Row, Cell #6.

On February 12, 2006, the plaintiff became involved in an altercation with other inmates in his jail cell when it is believed he came to the aid of another inmate (approximately 63 years of age) engaged in an argument with other inmates. Deputies heard the altercation and escorted the plaintiff from the jail cell. While walking to the facility's medical clinic, he suddenly fell to the ground. The plaintiff indicated to the nurse treating him that he was experiencing chest pains and difficulty breathing. Emergency medical personnel responded and provided emergency medical treatment. The plaintiff was pronounced dead at 2:35 p.m.

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

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of this incident.

The Los Angeles County Sheriff's Department's training curriculum sufficiently addresses the circumstances which occurred in this incident.

County of Los Angeles
Summary Corrective Action Plan

The Los Angeles County Sheriff's Department's review of this incident revealed no employee misconduct on the part of Department personnel.

The Los Angeles County Sheriff's Department uses a nationally-recognized system for classifying and housing inmates. As a result of this incident, the classification system was modified accordingly.

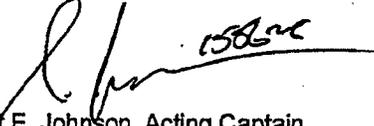
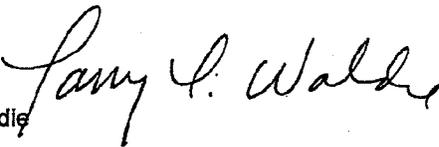
No admission of guilt or wrongdoing is made or implied. A full and final settlement at this time will avoid further litigation expenses and a potential jury verdict which *may* exceed the recommended settlement amount.

RECOMMENDED SETTLEMENT AMOUNT: \$100,000.00

This summary corrective action plan has no countywide implications (refer to #3 below).

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 Countywide 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 Countywide or other department implications.

Signature: (Risk Management Coordinator)  Scott E. Johnson, Acting Captain Risk Management Bureau	Date: 5-1-09
Signature: (Department Head)  Larry L. Waldie Undersheriff	Date: 05-11-09

D

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		AES Redondo Beach LLC v. County of Los Angeles, et al., AES Alamitos LLC v. County of Los Angeles, et. al.
CASE NUMBER		LASC Nos. BS 118450 and BS118451 respectively
COURT		Los Angeles Superior Court Department 85
DATE FILED		12/30/2008
COUNTY DEPARTMENT		Auditor-Controller
PROPOSED SETTLEMENT AMOUNT	\$	471,210.74 (AES Redondo \$174,337.89) (AES Alamitos \$296,872.85) County Gen. Fund Share: \$119,048.64
ATTORNEY FOR PLAINTIFF		Wade E. Norwood
COUNTY COUNSEL ATTORNEY		Thomas M. Tyrrell
NATURE OF CASE		Property Tax Refund
PAID ATTORNEY FEES, TO DATE	\$	AES Redondo - \$1,518.94 AES Alamitos - \$1,627.43
PAID COSTS, TO DATE	\$	0

Summary Corrective Action Plan



DEPARTMENT OF AUDITOR-CONTROLLER

Date of incident/event:	Fiscal Years 1997 through 2002
Briefly provide a description of the incident/event:	<p>Revenue and Taxation Code § 5151 provides that interest must be paid on refunded property tax payments. For the time period relevant to these lawsuits, interest was to be calculated at the greater of 3% or the County pool apportioned rate, defined as the treasury pool rate for "the preceding fiscal year for which the refund is calculated." Los Angeles County has consistently paid interest at the rate earned by its treasury pool in the year preceding the year in which the refund is paid. The statute's use of the term "fiscal year" is ambiguous, and could mean the tax roll year, the year the taxpayer paid the taxes, or the year the refund was calculated and issued.</p> <p>Approximately 37 counties participate in a statewide Tax Managers forum, which discusses and seeks to standardize tax calculation methodology and practice. The tax managers' Manual prescribes calculating interest according to Los Angeles County's refund-issue-date methodology. However, other counties do not uniformly use that approach. In 2005, two other counties settled cases on the same issue after an unfavorable tentative trial court ruling.</p> <p>In 2007, Los Angeles County settled a similar claim involving the 1999 through 2003 tax roll years on several parcels. The financial stakes were of less importance than settling the issue. But since litigation resulting in an adverse ruling could have exposed the County to many more claims, it was decided to settle the case and pursue legislative, rather than court, clarification.</p>

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

Los Angeles County found itself exposed to ongoing claims of miscalculation of statutory interest on refunds because of the ambiguity of the statute. These claims

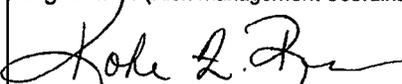
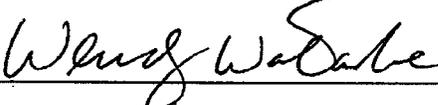
would only be made when it was advantageous to the claimant, and only when significant amounts of money were in issue.

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

Auditor-Controller's 2007 Corrective Action Plan was to pursue legislation "including if possible a saving clause to validate past practice." Through the statewide Association of County Auditors, we secured passage of Assembly Bill 2411. AB 2411 confirms Los Angeles County's methodology and includes a savings clause. But it preserved litigation "...pending before January 1, 2009." These lawsuits were the only such cases preserved. The Auditor-Controller has obtained legislative clarification settling the issue for it and other counties and is no longer subject to litigation based on differing interpretations. The deadline for initiation of other similar claims or litigation has passed, and barring some extraordinary circumstance, this issue will not arise in future.

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: 5/12/09
Signature: WENDY WATANABE, Auditor-Controller 	Date: 5/12/09

**DEPARTMENT OF AUDITOR-CONTROLLER
CORRECTIVE ACTION PLAN**

INCIDENT DATE: Fiscal Years 1997 through 2002

INCIDENT LOCATIONS: Not Applicable

LAWSUITS OF: AES Redondo Beach LLC, AES Alamitos LLC

RISK ISSUE: Claims of miscalculation of statutory interest on refunds. County of Los Angeles could be periodically subject to repeated and financially significant lawsuits on the same basis here asserted.

INVESTIGATIVE REVIEW:

Revenue and Taxation Code § 5151 provides that interest must be paid on refunded property tax payments. For the time period relevant to these lawsuits, interest was to be calculated at the greater of 3% or the County pool apportioned rate, defined as the treasury pool rate for "the preceding fiscal year for which the refund is calculated.". Los Angeles County has consistently paid interest at the rate earned by its treasury pool in the year preceding the year in which the refund is paid.

The statute's use of the term "fiscal year" is ambiguous. "Fiscal year" could mean the tax roll year, the year the taxpayer paid the taxes, or the year the refund was calculated and issued. Since interest rates vary randomly, no method is fiscally preferable.

Approximately 37 counties participate in a statewide Tax Managers forum, which discusses issues of tax calculation methodology and seeks to standardize practice. The tax managers' Manual prescribes calculating interest according to Los Angeles County's refund-issue-date methodology. However, other counties do not uniformly use that approach. In 2005, two other counties settled with Exxon Mobil on the same issue after an unfavorable tentative trial court ruling.

In 2007, Los Angeles County settled a similar claim of Exxon Mobil for the 1999 through 2003 tax roll years on several parcels. Legal counsel believed the County position was defensible, but the point of litigating the issue would have been to obtain the certainty of a binding published appellate opinion. Litigation which produced an adverse ruling would have exposed the County to numerous additional claims.

Therefore, the decision was made to settle. Auditor-Controller's Corrective Action Plan was to pursue legislative clarification "including if possible a saving clause to validate past practice." Working closely with legislative advocates for the statewide Association of County Auditors, passage of Assembly Bill 2411 was secured. AB 2411 adopts the Los Angeles County methodology and includes a savings clause, but preserves the rights of litigants for interest underpayment litigation "...pending before January 1, 2009."

**DEPARTMENT OF AUDITOR-CONTROLLER
CORRECTIVE ACTION PLAN**

POLICY ISSUES:

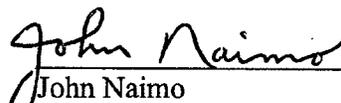
With the legislative clarification, Auditor-Controller is no longer subject to litigation based on differing interpretations. Accordingly, litigating these cases accomplishes nothing in terms of clarifying Auditor-Controller's obligations. Therefore, the benefit of further litigation is limited to potential cost avoidance. The County share of the proposed settlement is not insignificant. However, the County will bear its own attorneys fees, which could approximate the potential benefit, particularly if there is an appeal.

CORRECTIVE ACTION:

The Auditor-Controller has accomplished the necessary legislative clarification to settle the issue for it and other counties. While the legislation included a saving clause to validate past practice, litigation pending as of the statutes effective date -- as is typical -- was preserved. We have not received any other similar claims, and this should be the last time this issue arises.

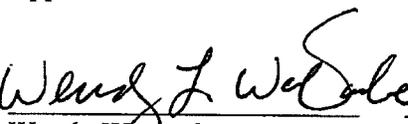
Reviewed and Recommended

Approved



John Naimo
Assistant Auditor-Controller

5/12/09
Date



Wendy Watanabe
Auditor-Controller

5/12/09
Date

MINUTES

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF REGULAR MEETING

May 4, 2009

1. Call to Order.

This regular meeting of the County of Los Angeles Claims Board was called to order at 9:40 a.m. The meeting was held in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Claims Board Members present at the meeting were: Maria M. Oms, Rocky Armfield and John F. Krattli.

Other persons in attendance at the meeting were: Office of the County Counsel: Karen A. Lichtenberg, Warren R. Wellen, Roger Granbo, Jonathan McCaverty, and Narbeh Bagdasarian; Department of Public Works: Mike Hayes and Rudy Lee; Sheriff's Department: Patrick Hunter, Shaun Mathers, Brenda Doyle, Kathleen Braman, Rita C. Dineros, and Michael Kwan; Department of Health Services: Nina Park and Kim McKenzie.

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).

At 9:45 a.m., the Chairperson adjourned the meeting into Closed Session to discuss the items listed as 4(a) through 4(e) below.

4. Report of actions taken in Closed Session.

At 12:10 p.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:

a. Claims of James and Carol Hamada, et al.

These claims arise from flooding damage to twelve homes in the City of Rancho Palos Verdes; settlement is recommended in the amount of \$400,000.

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$400,000.

The vote of the Claims Board was unanimous with all members being present.

- b. Darryl and Monet Titus v. County of Los Angeles, et al.
United States District Court Case No. CV 06-3690 ODW (AJWx)

This lawsuit seeks compensation for a false imprisonment by the Sheriff's Department; settlement is recommended in the amount of \$550,000.

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$550,000.

The vote of the Claims Board was unanimous with all members being present.

- c. Franklin Silva, et al. v. County of Los Angeles
Los Angeles Superior Court Case No. BC 349 175

This lawsuit arises from medical treatment received by an inmate while in the custody of the Sheriff's Department; settlement is recommended in the amount of \$900,000, plus waiver of any County bills from 2005.

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$900,000, plus waiver of any County bills from 2005.

The vote of the Claims Board was unanimous with all members being present.

- d. Estate of Michael Buford, et al. v. County of Los Angeles
United States District Court Case No. CV-06-7940

This lawsuit arises from medical treatment received by an inmate while in the custody of the Sheriff's Department; settlement is recommended in the amount of \$395,000.

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$395,000.

The vote of the Claims Board was unanimous with all members being present.

- e. Hermelinda Arcila, et al. v. County of Los Angeles
Los Angeles Superior Court Case No. PC 042 869

This medical malpractice lawsuit arises from treatment received by a patient while hospitalized at the Olive View Medical Center; settlement is recommended in the amount of \$325,000.

This matter was continued to the next Claims Board meeting.

The vote of the Claims Board was unanimous with all members being present.

5. Approval of the Minutes for the April 20, 2009, meeting of the Claims Board.

The Minutes for the April 20, 2009, meeting of the Claims Board were approved.

The vote of the Claims Board was unanimous with all members being present.

6. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.

No such matters were discussed.

7. Adjournment.

The meeting was adjourned at 12:23 p.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By 
Michelle Ramelot