

**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
WEDNESDAY, SEPTEMBER 7, 2011, AT 1:00 PM**

Present: Chair John Naimo, Laurie Milhiser and John Krattli
(Laurie Milhiser excused herself from the meeting
at 2:00 p.m.)

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. **Kenneth Earl Smith v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. MC 020 302**

This lawsuit arises from injuries sustained when a vehicle driven by a deputy sheriff struck a pedestrian; settlement is recommended in the amount of \$30,000.

Action Taken:

This item was taken off calendar by the Claims Board.

Vote: Ayes: 2 – John Naimo, John Krattli
Absent: 1 – Laurie Milhiser

[See Supporting Documents](#)

b. Claims of Aida Pacheco and Carlos Pacheco

These claims arise from injuries sustained in 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 \$34,000.

Vote: Ayes: 2 – John Naimo, John Krattli
Absent: 1 – Laurie Milhiser

[See Supporting Documents](#)

**c. Colich Construction, L.P. v. Los Angeles County Flood Control District
Los Angeles Superior Court Case No. BC 431 730**

This breach of contract lawsuit arises from a Flood Control District construction project in the Hollyhills area.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$97,222.

Vote: Ayes: 2 – John Naimo, John Krattli
Absent: 1 – Laurie Milhiser

[See Supporting Documents](#)

**d. Karmen Ambarchyan v. County of Los Angeles
Los Angeles Superior Court Case No. BC 438 011**

This lawsuit concerns allegations that an employee of the Department of Public Social Services was subjected to sexual harassment, retaliation and discrimination.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$85,000.

Vote: Ayes: 2 – John Naimo, John Krattli
Absent: 1 – Laurie Milhiser

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. Review of Board Policy No. 8.020 – Procedures for Including Corrective Follow-up Reports as Part of the Claims Settlements Presented to the Board.

Action Taken:

The Claims Board continued this matter.

Vote: Ayes: 2 – John Naimo, John Krattli
Absent: 1 – Laurie Milhiser

6. Approval of the minutes of the August 15, 2011, regular meeting of the Claims Board.

Action Taken:

The Claims Board approved the minutes.

Vote: Ayes: 2 – John Naimo, John Krattli
Absent: 1 – Laurie Milhiser

[See Supporting Document](#)

7. Adjournment.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Kenneth Earl Smith v. County of Los Angeles, et al.
CASE NUMBER	MC 020302
COURT	Los Angeles Superior Court
DATE FILED	April 2, 2009
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ 30,000
ATTORNEY FOR PLAINTIFF	Jude Aoun, APC The Law Office of Jude G. Aoun
COUNTY COUNSEL ATTORNEY	Robert B. Reagan
NATURE OF CASE	<p>Kenneth Earl Smith is claiming damages for personal injuries sustained in a automobile accident involving an employee of the County of Los Angeles Sheriff Department.</p> <p>Due to the risks and uncertainties of litigation, we join our third party administrator, Carl Warren & Company, and our private counsel, Ivie, McNeill & Wyatt, in recommending a settlement of this matter in the total amount of \$30,000. The Los Angeles Sheriff's Department concurs in this settlement recommendation.</p>
PAID ATTORNEY FEES, TO DATE	\$ 43,648
PAID COSTS, TO DATE	\$ 25,299

Case Name: Kenneth Earl Smith v. County of Los Angeles



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:	Sunday, February 24, 2008; approximately 8:48 p.m.
Briefly provide a description of the incident/event:	<p><u>Kenneth Earl Smith v. County of Los Angeles</u> Summary Corrective Action Plan No. 2011-019</p> <p>On Sunday, February 24, 2008, at approximately 8:48 p.m., a Los Angeles County deputy sheriff was driving a standard black and white Los Angeles County-owned patrol vehicle through a mobile home park at 45125 30th Street East, Lancaster, when the vehicle he was driving struck a pedestrian.</p>

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

The plaintiff claims damages for injuries he sustained in the traffic collision.

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 addresses the circumstances which occurred in this incident.

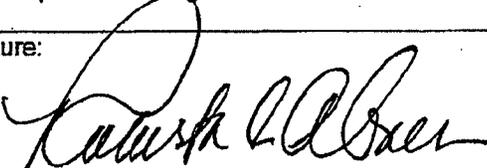
The Los Angeles County Sheriff's Department's administrative review revealed employee misconduct. Appropriate administrative action was taken.

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).

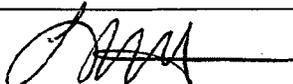
- Potentially has Countywide implications.
- Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments).
- Does not appear to have Countywide or other department(s) implications.

County of Los Angeles
Summary Corrective Action Plan

Name: (Risk Management Coordinator)	
Shaun J. Mathers, Captain Risk Management Bureau	
Signature: 	Date: 7/18/11

Name: (Department Head)	
Roberta A. Abner, Chief Leadership and Training Division	
Signature: 	Date: 07/20/11

Chief Executive Office Risk Management Branch

Name: CEO COSTANTINO	
Signature: 	Date: 7/25/2011

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CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Claims of Aida Pacheco and Carlos Pacheco
CASE NUMBER	N/A
COURT	N/A
DATE FILED	Claims Presented September 10, 2010
COUNTY DEPARTMENT	Department of Public Works
PROPOSED SETTLEMENT AMOUNT	\$17, 000 Aida Pacheco \$17,000 Carlos Pacheco
ATTORNEY FOR PLAINTIFF	None
COUNTY COUNSEL ATTORNEY	Robert B. Reagan Principal Deputy County Counsel
NATURE OF CASE	<p>This claim presented by Aida Pacheco and Carlos Pacheco seeking compensation for damages for personal injuries and property damage, which resulted from a vehicle accident.</p> <p>On September 10, 2010, an Inspector with the Construction Division of the Department of Public Works, was traveling Westbound on Arrow Highway when he attempted to make a left-hand turn onto Sunflower Avenue, West Covina, California. The light was yellow according to the County employee as he made his left-hand turn into the path of the vehicle driven by Carlos Pacheco. The claimants vehicle was a total loss as a result of the collision. (The property damage claims were previously settled by Carl Warren & County for \$2,267.09.)</p> <p>Due to the risks and uncertainties of litigation, the Office of the County Counsel join our third-party administrator, Carl Warren & Company, in conjunction with the Department of Pubic Works, are</p>

recommending a settlement in the amount
of \$34,000.00.

PAID ATTORNEY FEES, TO DATE \$0

PAID COSTS, TO DATE \$185.00



Summary Corrective Action Plan

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Claim	Aida Pacheco Carlos Pacheco
Date of incident/event:	September 10, 2010
Briefly provide a description of the incident/event:	Public Works employee made unsafe turn in front of claimants' vehicle, resulting in soft-tissue injuries for both claimants and a total loss of claimant's vehicle

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

On September 10, 2010, Carlos and Aida Pacheco were traveling westbound on Arrow Highway, approaching the intersection at Sunflower Avenue. The Public Works employee was traveling in the left-turn lane of Arrow Highway eastbound. The Public Works employee began to make a left turn in the path of claimants' vehicle, and failed to yield the right of way. This caused the claimants to collide with the Public Works vehicle.

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

The Public Works employee was issued a Written Reprimand for this incident by Risk Management on March 3, 2011.

County of Los Angeles
Summary Corrective Action Plan

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) <i>Steven G. Steinhoff</i>	Date: 5-02-2011
Signature: (Department Head) Gail Farber <i>Gail Farber</i>	Date: 7-6-11.

Chief Executive Office Risk Management

Name: Robert Chavez <i>LEO COSTANTINO</i>	Date: 7/26/2011
Signature: <i>Robert Chavez</i>	

AM CC:psr
P4:PACHECO SCAP1

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Colich Construction, L.P. v. Los Angeles County Flood Control District
CASE NUMBER	BC 431730
COURT	Los Angeles Superior Court Central District
DATE FILED	February 16, 2010
COUNTY DEPARTMENT	Department of Public Works/Flood Control District
PROPOSED SETTLEMENT AMOUNT	\$ 97,722
ATTORNEY FOR PLAINTIFF	Andrew Hawthorne Monteleone & McCrory, LLP
COUNTY COUNSEL ATTORNEY	Rosa Linda Cruz
NATURE OF CASE	Action for alleged breaches of construction contract (including the failure to timely release retention sums) by the District. The District moved for leave to cross complain for over 80 violations of the False Claims Act.
PAID ATTORNEY FEES, TO DATE	\$ 97,133
PAID COSTS, TO DATE	\$ 21,252



Summary Corrective Action Plan

County of Los Angeles 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.

Claim:	Colich Construction, L.P.
Date of incident/event:	January 2006 to July 8, 2009
Briefly provide a description of the incident/event:	In June 2005, Colich Construction, L.P. (Plaintiff) entered into an agreement with the Los Angeles County Flood Control District (District) under contract PIN FCC0000970 for the construction of Hollyhills Drain, Unit 8B (Phase II) and Project No. 3881, Unit 1 - Line E (Project), a large underground drainage system in the Cities of Beverly Hills, Los Angeles, and West Hollywood. Construction of said project commenced in January 2006. Work was delayed and change orders for extra equipment and materials were negotiated between Plaintiff and the District after excess groundwater was encountered at one of the construction pits. Plaintiff alleged that it was entitled to additional compensation and filed suit against the District for breach of contract.

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

During the construction of the Project, Plaintiff encountered groundwater in Tunneling Pit No. 4 that exceeded the anticipated rate of groundwater specified for dewatering treatment per the Project's specifications. The dewatering treatment specifications were based on data obtained from existing groundwater monitoring wells and from the Aquifer Test and Groundwater Modeling Report prepared in December 1, 2000, by contractor Tait Environmental Management, Inc. Per specifications, the anticipated rate of groundwater to be dewatered from Tunneling Pit No. 4 was 60,000 gallons per day. The actual rate of groundwater that was being dewatered from the pit was on the average of 92,000 gallons per day. The District negotiated with Plaintiff to pay for the extra expenses incurred by Plaintiff in dealing with the excess water at Tunneling Pit No. 4. Consequently, approximately \$1 million was paid to Plaintiff through various change orders for equipment, material costs, and extra work performed to resolve the excess water issue. However, on July 8, 2009, Plaintiff filed a claim against the County of Los Angeles (County) alleging that the County unreasonably denied payment associated with costs for extra work and delays caused by the greater than anticipated flow of groundwater in Tunneling Pit No. 4. The claim was denied.

Plaintiff demanded \$977,000, alleging that the District breached the contract by providing incomplete plans and specifications; misrepresenting the flow rate of groundwater at the construction site; and denying payments for extra costs for labor, equipment, and overhead charges due to delays as a result of the excess groundwater. According to Construction Division (CON), the source of this excess groundwater has not been determined. However, it is the position of the District and CON that Plaintiff was fully compensated for all extra work and materials Plaintiff was owed for problems caused by excess groundwater at Tunneling Pit No. 4.

County of Los Angeles Department of Public Works
 Summary Corrective Action Plan

Plaintiff has not been able to substantiate its demand for \$977,000 with specific supporting documents itemizing actual costs and has frequently changed their rationale as to why they were entitled to additional compensation. In response, County Counsel filed a motion for leave to file a cross-complaint alleging Plaintiff violated the False Claim Act by knowingly presenting false claims for payment; by knowingly making and using false records, such as price markups for materials; and submitting work records showing more work hours than actually paid out to laborers by Plaintiff's own payroll.

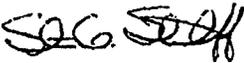
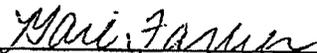
Unfortunately, breach of contract cases are difficult to defend as they pertain to determination of facts that require a jury trial as opposed to resolution through summary judgment. Also there exists prior case law, *Dillingham v. City of LA*, in which the jury and trial court rejected the City of Los Angeles' false claims allegations against contractor Dillingham-Ray Wilson. As part of its ruling, the Court of Appeals ruled that a contractor should be allowed to try to prove damages through engineering estimates rather than actual costs. The attorneys that represented Dillingham-Ray Wilson have been hired to represent Plaintiff in the subject case. It is anticipated that costs engaging in trial for the subject case will be approximately \$400,000.

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 as the settlement arose as a result of weighing the costs and benefits of pursuing the litigation in trial.

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 a Countywide implication.
- Potentially have 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) Steven G. Steinhoff 	Date: 4-5-2011
Signature: (Director) Gail Farber 	Date: 4-11-11

Chief Executive Office Risk Management Branch

Name: LEO COSTANTINO	Date:
Signature: 	Date: 5/11/2011

YTL:psr
 P4:COLICH SCAP1

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF REGULAR MEETING

August 15, 2011

1. Call to Order.

This meeting of the County of Los Angeles Claims Board was called to order at 9:30 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: John Naimo, Laurie Milhiser, and John Krattli.

Other persons in attendance at the meeting were: Office of the County Counsel: Stacey Lee, Millicent Rolon, Joanne Nielsen, Richard Kudo, and Andrea Ross; Fire Department: Michael Kranther and Rosalia Santana; Sheriff's Department: Sgt. Lynn Hughes; Department of Public Works: Michael Hays; Department of Children and Family Services: Michelle Victor, Alma Golla, Michele S. Brienze, and John Byeon; Department of Mental Health: Zoe Trachtenberg; Department of Human Resources: David Kim; Outside Counsel: Christy O'Donnell.

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 9:35 a.m., the Chairperson adjourned the meeting into Closed Session to discuss the items listed as 4(a) through 4(g) below.

4. Report of actions taken in Closed Session.

At 11:44 a.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:

a. Jonathan Bowers v. County of Los Angeles Fire Department Los Angeles Superior Court Case No. BC 436 904

This lawsuit concerns allegations that an employee of the Fire Department was subject to discrimination and retaliation.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$22,770.82.

Vote: Unanimously carried
Absent: None

b. **Lisa Hosey v. County of Los Angeles, et al.**
United States District Court Case No. CV 09-09427

This lawsuit concerns allegations of false arrest and excessive force by Sheriff's Deputies.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$62,000.

Vote: Unanimously carried

Absent: None

c. **Public Service Mutual Insurance, et al. v. Los Angeles County Department of Transportation, et al.**
Los Angeles Superior Court Case No. MC 022 154

This lawsuit concerns allegations that an employee of the Department of Public Works operated a dump truck in an unsafe manner causing property damage.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$94,000.

Vote: Unanimously carried

Absent: None

d. **Claim of Navaline Smith**

This claim concerns actions taken by the County when referring and investigating a complaint of child neglect.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$30,000

Vote: Unanimously carried

Absent: None

e. **Claim of Richard Michael Kaye**

This claim concerns allegations of sexual assault and battery by an employee of the Department of Public Health.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$37,000.

Vote: Unanimously carried
Absent: None

f. **Liora S. v. Los Angeles Unified School District and
Los Angeles County Department of Mental Health
Case No. N2010120547**

This matter concerns allegations of deprivation of educational rights and mental health services by the Department of Mental Health.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$43,828.47.

Vote: Unanimously carried
Absent: None

g. **Zachary S. v. Los Angeles Unified School District and
Los Angeles County Department of Mental Health
Case No. N20111040552**

This matter concerns allegations of deprivation of educational rights and mental health services by the Department of Mental Health.

Action Taken:

The Claims Board approved settlement of this matter in the amount of \$25,848.00.

Vote: Unanimously carried
Absent: None

5. Approval of the minutes of the August 1, 2011, meeting of the Claims Board.

Action Taken:

The Claims Board approved the minutes.

Vote: Unanimously carried

Absent: None

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.

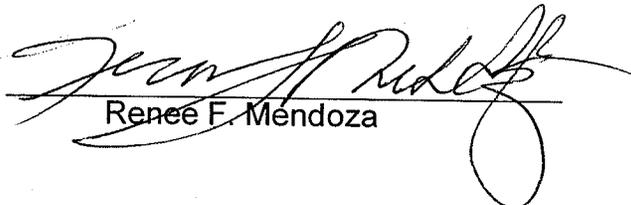
No such matters were discussed.

7. Adjournment.

The meeting was adjourned at 11:50 a.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By


Renee F. Mendoza