COUNTY OF LOS ANGELES

CLAIMS BOARD

500 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012-2713

MEMBERS OF THE BOARD

John Naimo
Auditor-Controller

Steven E. NyBlom
Chief Executive Office

Patrick A. Wu
Office of the County Counsel

NOTICE OF MEETING

The County of Los Angeles Claims Board will hold its regular meeting on **Monday, August 20, 2012, at 9:30 a.m.**, in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

AGENDA

1. Call to Order.

2. Opportunity for members of the public to address the Claims Board on items of interest that are within the subject matter jurisdiction of the Claims Board.

3. Closed Session - Conference with Legal Counsel - Existing Litigation (Subdivision (a) of Government Code Section 54956.9).

   a. Christopher Carroll v. County of Los Angeles, et al.
   Los Angeles Superior Court Case No. BC 446 640

   This dangerous condition lawsuit arises from injuries sustained in a motorcycle accident on Bouquet Canyon Road; settlement is recommended in the amount of $60,000.

   See Supporting Documents.

   b. John Paul Martin v. County of Los Angeles
   Pasadena Superior Court Case No. GC 047 913

   This lawsuit concerns allegations of false arrest and use of excessive force by Sheriff's Deputies; settlement is recommended in the amount of $40,000.

   See Supporting Documents.

c. David Barnard v. County of Los Angeles, et al.
United States District Court Case No. CV 05-05611
United States District Court Case No. CV 12-01717

This lawsuit alleges the use of excessive force by Sheriff's Deputies and failure to protect an inmate while incarcerated at Men's Central Jail; settlement is recommended in the amount of $350,000.

See Supporting Documents.

d. Robert Burgess v. County of Los Angeles, et al.
Pasadena Superior Court Case No. GC 045 728

This dangerous condition lawsuit concerns injuries received when a portion of a tree trunk fell at a County park; settlement is recommended in the amount of $65,000.

See Supporting Documents.

e. Jonathan Gbenekama v. County of Los Angeles, et al.
Los Angeles Superior Court Case No. BC 458 840

This lawsuit concerns allegations that an employee of the Department of Public Health was subjected to age discrimination; settlement is recommended in the amount of $38,000.

4. Report of actions taken in Closed Session.

5. Approval of the minutes of the August 6, 2012, meeting of the Claims Board.

See Supporting Document.

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.

7. Adjournment.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Christopher Carroll v. County of Los Angeles, et al.
CASE NUMBER		BC446640
COURT		Los Angeles Superior Court
DATE FILED		October 1, 2010
COUNTY DEPARTMENT		Public Works
PROPOSED SETTLEMENT AMOUNT	$	60,000
ATTORNEY FOR PLAINTIFF		Katherine McBroom, Esq.
COUNTY COUNSEL ATTORNEY		Brian T. Chu Principal Deputy County Counsel
NATURE OF CASE		This lawsuit arises from a motorcycle accident on September 27, 2009 on Bouquet Canyon Road ("the Road"), located in the unincorporated area of the County of Los Angeles. The Road is owned and maintained by the County of Los Angeles. Christopher Carroll alleges that he rode his motorcycle over a pothole on the Road, which caused him to lose control and fall. Mr. Carroll sustained a fractured femur that required two surgeries. Due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of $60,000 is recommended.
PAID ATTORNEY FEES, TO DATE	$	85,500
PAID COSTS, TO DATE	$	47,793

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.

Lawsuit: Date of incident/event:	Christopher Carroll September 27, 2009
Briefly provide a description of the incident/event:	On September 27, 2009, at approximately 1:45 p.m., 39-year-old (at the time) Christopher Carroll was driving his motorcyle northbound on Bouquet Canyon Road, near Elizabeth Lake Road, in the unincorporated area of Palmdale, when his vehicle allegedly struck a pothole in the roadway. As a result, Mr. Carroll lost control of his motorcyle, fell to the ground, and sustained injuries to his right leg. Bouquet Canyon Road is a 24-foot-wide, north/south roadway with one lane in each direction. The posted speed limit is 55 miles per hour. Public Works maintains Bouquet Canyon Road and during the one year period between September 2008 and September 2009, Road Maintenance Division personnel performed monthly visual inspections of the roadway. The last inspection prior to the date of the incident occurred on September 1, 2009; three weeks prior to the accident. It is our contention that the subject pothole did not exist on September 1, 2009; however, plaintiff contends that a pothole of some size likely existed and was overlooked by the inspector on September 1, 2009. The sole basis for this contention is that the roadway has alligator cracks, which are arguably one precursor to the formation of potholes. Our Geotechnical and Materials Engineering Division noted that the road rating for Bouquet Canyon Road, at the subject location, was at a level 68 out of a 100, which is considered fair. Additionally, on February 22, 2012, a coring of the roadway and pothole was conducted. The results of the coring sample determined that the pothole was less than 1 inch in depth at the time of the incident.

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

We believe that the incident was the result of Mr. Carroll's inattention and inexperience in driving his motorcycle, which caused him to lose control after striking or attempting to avoid the subject pothole.

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

Upon notification of the pothole by the California Highway Patrol, subsequent to the subject incident, Road Maintenance Division personnel immediately patched the pothole that same day.

We fulfilled our inspection and maintenance responsibilities, which we believe are reasonable and appropriate. No corrective actions are contemplated. The settlement of this case is considered a business decision in order to preclude the risks associated with trial and further litigation costs.

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 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) Steven G. Steinhoff	Date: APRIL 30, 2012
Signature: (Director) Gail Farber	Date: 5-7-12

Chief Executive Office Risk Management Branch

Name: GEO COSTANTINO	Date:
Signature:	Date: 5/9/12

ML:psr
P4:\CARROLL SCAP1

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		John Paul Martin v. County of Los Angeles
CASE NUMBER		GC 047913
COURT		Pasadena Superior Court
DATE FILED		Complaint filed August 15, 2011 Claim filed December 13, 2011
COUNTY DEPARTMENT		Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	$	40,000
ATTORNEY FOR PLAINTIFF		Joe C. Hopkins, Esq.
COUNTY COUNSEL ATTORNEY		Edwin A. Lewis
NATURE OF CASE		Plaintiff alleges that Deputies violated his civil rights when they used excessive force against him and falsely arrested him when he refused to sign his jaywalking ticket. The Deputies contend that they had probable cause to arrest the plaintiff and only used force to subdue his resistance. 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 settlement of the case in the amount of $40,000 is recommended.

PAID ATTORNEY FEES, TO DATE	$	10,080
PAID COSTS, TO DATE	$	0

Case Name: **John Paul Martin 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:	Wednesday, September 15, 2010; approximately 5:30 p.m.
Briefly provide a description of the incident/event:	**John Paul Martin v. County of Los Angeles** Summary Corrective Action Plan No. 2012-019 On Wednesday, September 15, 2010, at approximately 5:30 p.m., two Los Angeles County deputy sheriffs detained the plaintiff at 2586 North Fair Oaks Avenue, Altadena, to issue him a citation for a violation of California Vehicle Code Section 21955, Crossing Between Controlled Intersections. The plaintiff refused to give his written promise to appear in court and was informed he was being arrested pursuant to California Vehicle Code Section 40302(b), Mandatory Appearance. The plaintiff resisted a deputy's attempt to apply handcuffs, and a violent altercation ensued. In order to overcome the resistance offered by the plaintiff, the deputies used physical force. The plaintiff was ultimately handcuffed and taken into custody. The plaintiff was charged with a violation of California Penal Code Section 69, Obstructing or Resisting Executive Officers in Performance of their Duties (Felony); California Penal Code Section 243(c)(1), Battery on an Officer Causing Injury; and, California Penal Code Section 148(a)(1), Resisting, Delaying, or Obstructing Officer or Emergency Medical Technician.

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

In his lawsuit, the plaintiff alleged he was subjected to unreasonable force committed by members of the Los Angeles County Sheriff's Department.

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 the incident.

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

Representatives from the Los Angeles County Sheriff's Department Altadena Station conducted a thorough review of this incident. Their review concluded that the level of physical force used by the deputy was reasonable, necessary, and in compliance with Department policy.

The review, however, identified an area of the employees' performance that could have been better. The employees were appropriately counseled.

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.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator) Shaun J. Mathers, Captain Risk Management Bureau	
Signature:	Date: 7/26/12

Name: (Department Head) Roberta A. Abner, Chief Leadership and Training Division	
Signature:	Date: 7/30/12

Chief Executive Office Risk Management Branch

Name: LEO COSTANTINO	
Signature:	Date: 8/8/12

I:Risk Mgt. Inspector General/CAP-SCAP-RECAP/Summary Corrective Action Plan Form 2-01-10 (Final).docx

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		David Barnard v. County of Los Angeles, et al.
CASE NUMBER		Case No. CV05-05611 GAF Case No. CV12-01717 VA
COURT		United States District Court
DATE FILED		Complaint filed: August 2, 2005 Claim filed: February 29, 2012
COUNTY DEPARTMENT		Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	$	350,000
ATTORNEY FOR PLAINTIFF		Gregory A.Yates Law Offices of Gregory A. Yates
COUNTY COUNSEL ATTORNEY		Jennifer A.D. Lehman
NATURE OF CASE		Plaintiff David Barnard alleges federal civil rights violations claiming that he was assaulted by other inmates when Sheriff's Deputies were deliberately indifferent to his safety by failing to put and keep him in protective custody while an inmate in Men's Central jail. Mr. Barnard also alleges Deputies used excessive force in arresting him. The Sheriff's Department contends that it was not deliberately indifferent to Mr. Barnard's safety and that he did not sustain the injuries that he claimed.

However, 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 settlement of the case in the amount of $350,000 is recommended.

PAID ATTORNEY FEES, TO DATE	$	351,957
PAID COSTS, TO DATE	$	105,562

Case Name: **David Barnard v. County of Los Angeles, et al.**

Summary Corrective Action Plan

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Date of incident/event:	Wednesday, April 9, 2003 and July 20, 2003 – November 18, 2003
Briefly provide a description of the incident/event:	**David Barnard v. County of Los Angeles, et al.** Summary Corrective Action Plan No. 2012-012 On Wednesday, April 9, 2003, at approximately 9:37 a.m., four Los Angeles County deputy sheriffs arrested the plaintiff for a violation of California Vehicle Code section 10851, Taking Vehicle Without Owner's Consent, California Penal Code section 245(a)(1), Assault with a Deadly Weapon, and California Penal Code section 148, Resisting, Delaying, or Obstructing Officer or Emergency Medical Technician. During the course of the arrest, the deputy sheriffs used physical force to overcome the resistance offered by the plaintiff. The plaintiff was ultimately incarcerated in the Los Angeles County Sheriff's Department's Men's Central Jail. During the course of his incarceration, the plaintiff alleges he was physically and sexually assaulted by other inmates on two separate occasions.

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

The plaintiff alleged he was the subject of excessive force during his initial arrest and members of the Los Angeles County Sheriff's Department failed to protect him during his subsequent incarceration in the Los Angeles County Sheriff's Department's Men's Central Jail.

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.

Representatives from the Los Angeles County Sheriff's Department's Pico Rivera Station investigated

the use of physical force used by the four deputy sheriffs during the plaintiff's arrest. Their review

concluded that the level of physical force used by the deputy sheriffs was reasonable, necessary, and in compliance with Department policy.

Due to the extraordinary length of time between this incident and the settlement of the plaintiff's lawsuit, few documents could be located. Consequently, no employee misconduct is alleged. As a result, no corrective action measures are contemplated nor recommended. Section 4-11/060.00 of the Los Angeles County Sheriff's Department's Custody Division Manual states in relevant part: "(T)he court order shall be implemented in cases where the order can easily be complied with and does not interfere with daily operations of the facility."

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.

Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator) Shaun J. Mathers, Captain Risk Management Bureau	
Signature:	Date: 7/23/12

Name: (Department Head) Roberta A. Abner, Chief Leadership and Training Division	
Signature:	Date: 7-25-12

Chief Executive Office Risk Management Branch

Name: LEO COSTANTINO	
Signature:	Date: 8/8/12

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CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME		Robert Burgess vs. County of Los Angeles, et al.
CASE NUMBER		GC045728
COURT		Pasadena Superior Court Northeast District
DATE FILED		August 4, 2010
COUNTY DEPARTMENT		Parks and Recreation
PROPOSED SETTLEMENT AMOUNT	$	65,000
ATTORNEY FOR PLAINTIFF		Ronald Binder Binder and Associates
COUNTY COUNSEL ATTORNEY		Vicki Kozikoujekian Principal Deputy County Counsel (213) 974-8208
NATURE OF CASE		On April 29, 2010, Mr. Burgess was walking on a pathway at the Whittier Narrows Recreation Area when the top of a sycamore tree broke off and fell on him. Mr. Burgess alleges that the tree was a dangerous condition, because the County was not aware of diseased condition and failed to have a proper maintainance program to prevent such harm. The County claims that there was no dangerous condition of property .

Due to the risks and uncertainties of litigation, the Department of Parks and Recreation proposes a full and final settlement of the case in the amount of $65,000.

PAID ATTORNEY FEES, TO DATE	$	30,085.50
PAID COSTS, TO DATE	$	4,862.61

Burgess, Robert v. COLA

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:	April 29, 2010
Briefly provide a description of the incident/event:	Plaintiff claims that on April 29, 2010 he was walking on a pathway at Whittier Narrows Recreation Area when the top of a large sycamore tree broke off and fell on him, knocking him to the ground. Plaintiff noticed that it was a windy day, and there were downed branches in the park. Plaintiff was taken to Los Angeles County+USC Medical Center by paramedics and diagnosed with a thoracic spine fracture, closed scapula fracture, and hematoma and a CT scan suggested a fracture associated with the dorsal spine at the T2 vertebral element. County's orthopedic expert, based on his physical examination as well as medical records opined that the injuries have healed and plaintiff has declined any future care from his spinal specialist. However, plaintiff, a teacher at South El Monte High School claims that the fractures have placed him in constant pain and that he is unable to stand for long periods of time, participate in his physical education classes, coach basketball games, and participate in other activities such as jogging, golf, lifting weights and skiing. The County's arborist opined and we continue to believe that such decay would not have been visibly known to an experienced tree trimmer and preventative measures could not have been taken.

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

The sycamore tree, which otherwise appeared healthy, had rot. This settlement is strictly based on economic reasons. Jury could have sympathized with the plaintiff and awarded him damages.

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

The Department will reinvestigate the economic feasibility and practicality of implementing an inspection program.

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 for assistance)

- ☑ Potentially has County-wide 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 County-wide or other department implications.

Name: (Risk Management Coordinator) Anush Gambaryan	
Signature:	Date: 7/25/12

Name: (Department Head) Russ Guiney	
Signature:	Date: 8-6-12

Chief Executive Office Risk Management

Name: LEO COSTANTINO	
Signature:	Date: 7/17/2012

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF REGULAR MEETING

August 6, 2012

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, Steven NyBlom, and Patrick Wu.

Other persons in attendance at the meeting were: Office of the County Counsel: Jenny Tam, Millicent Rolon, Rosemarie Belda, and Ruben Baeza, Jr.; Sheriff's Department: Lt. Patrick Hunter; Probation Department: Tracy Jordan Johnson; Department of Health Services: Karen White; and Outside Counsel: Diana Ratcliff.

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(d) below.

4. Report of actions taken in Closed Session.

At 10:43 a.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:

a. <u>Robert Andrew Durham, Jr. v. County of Los Angeles, et al.</u> Los Angeles Superior Court Case No. BC 457 732

This lawsuit arises from injuries sustained in a vehicle versus pedestrian accident involving the alleged negligence of a Sheriff's Deputy.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $150,000.

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

b. **Maurice Cortiz White v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. BC 453 537

This lawsuit seeks compensation for an inmate's alleged over-detention in County jail.

Action Taken:

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

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

c. **Sylvia Wilson v. County of Los Angeles, et al.**
Los Angeles Superior Court Case No. BC 456 759

This lawsuit alleges that a participant of the Probation Adult Alternative Work Service Program was sexually harassed and assaulted by a Probation Department Crew Instructor.

Action Taken:

The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of $375,000.

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

d. **Len Tarlton v. Los Angeles County Department of Health Services, et al.**
Los Angeles Superior Court Case No. BC 451 274

This lawsuit concerns allegations that an employee of the Department of Health Services was subjected to disability discrimination and retaliation and that the Department failed to engage in the interactive process or provide reasonable accommodation.

Action Taken:

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

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

5. **Approval of the minutes of the July 23, 2012, special meeting of the Claims Board.**

Action Taken:

The Claims Board approved the minutes.

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

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 10:50 a.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By Carol J. Slosson

Carol J. Slosson