



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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Acting County Counsel

December 9, 2009

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JOHN F. KRATTL 
Senior Assistant County Counsel

RE: **Claim of DePuy Spine, Johnson and Johnson Company**

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisor's agenda.

JFK:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Claim of DePuy Spine, Johnson and Johnson Company, in the amount of \$235,992, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Health Services' budget.

This claim arises from the loss or theft of a vendor's surgical medical supplies that were in the custody and control of the LAC+USC medical center.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF CLAIM

CASE NAME	DePuy Spine, Johnson and Johnson Company
CASE NUMBER	None
COURT	None
DATE FILED	January 21, 2009
COUNTY DEPARTMENT	Department of Health Services
PROPOSED SETTLEMENT AMOUNT	\$235,992
ATTORNEY FOR PLAINTIFF	None
COUNTY COUNSEL ATTORNEY	Eva Vera-Morrow
NATURE OF CASE	Breach of Contract -- LAC+USC acknowledges receipt of vendor's products. Products were lost or stolen while in the custody and control of LAC+USC.
PAID ATTORNEY FEES, TO DATE	\$7,500.00
PAID COSTS, TO DATE	None



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:	Between May 17 to 19, 2008
Briefly provide a description of the incident/event:	<p>Upon request, on Saturday, May 17, the vendor, DePuy Spine, J&J Company, delivered instrumentation trays for a May 19 spine surgery. The trays included expensive newly designed implants. On that same day, facility staff wrapped and sterilized the trays and stored them in the Central Processing Unit (CPU) in preparation for the surgery.</p> <p>The morning of the surgery, the trays were missing from the CPU. A search located two unwrapped trays; however four trays were missing and could not be located.</p>

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

Lack of security in the CPU.

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

- Relocated vendor representative room to a location adjacent to the CPU main desk.
- Implemented the practice of keeping the vendor representative room locked at all times.
- Improved the latch/locking mechanism on the vendor representative room door.
- Required that vendors be allowed access only when accompanied by staff.
- Trained CPU staff and vendors regarding these changes.
- Ceased vendor access to the CPU between 11:30 p.m. and 6 a.m.
- Notified the County Police, vendors, and staff that the CPU was closed to vendors between 11:30 p.m. and 6:00 a.m.
- Revised the facility's Vendor Visiting Policy

The following were implemented after the CPU moved to a new location:

- Required that vendors check in at the CPU window and present the vendor badge issued by Materials Management.
- Locked the vendor representative room.
- Required that vendors only be given access when accompanied by staff.
- Developed a Nursing Policy on "Borrowed or Consigned Instruments".

System-wide Corrective Action

- Conducted a system-wide survey and confirmed that other departmental facilities with operating rooms secure loaned equipment; require vendors to check in and be issued a visitor's badge; have either a policy or procedure for logging in loaned equipment and keeping it secure; staff accompany vendors while they are in the operating room; and that the policies and/or procedures are consistent.


County of Los Angeles
Summary Corrective Action Plan

-The security assessment will be completed by the Office of Public Safety for all Operating room storage areas by January 30, 2010.

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: 12/7/09
Signature: (Department Head) Gregory Pall for JOHN SCHUNKHOFF	Date: 12/7/09