



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713


TELEPHONE  
(213) 974-1838  
FACSIMILE  
(213) 626-7446  
TDD  
(213) 633-0901

ANDREA SHERIDAN ORDIN  
County Counsel

December 15, 2010

TO: SACHI A. HAMAI  
Executive Officer  
Board of Supervisors

Attention: Agenda Preparation

FROM: JOHN F. KRATTLI   
Senior Assistant County Counsel

RE: **Marilyn Rodgers v. County of Los Angeles**  
**Los Angeles Superior Court Case No. KC 056 332**  
**Karen Adams v. County of Los Angeles**  
**Los Angeles Superior Court Case No. KC 056 748**

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

It is requested that this recommendation, the Case Summary, the Summary Corrective Action Plan, and the 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 matters entitled Marilyn Rodgers v. County of Los Angeles, Los Angeles Superior Court Case No. KC 056 332 and Karen Adams v. County of Los Angeles, Los Angeles Superior Court Case No. KC 056 748, in the amount of \$1,250,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Parks and Recreation's budget.

These wrongful death lawsuits arise from a vehicle accident involving an employee of the Department of Parks and Recreation.

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Marilyn Rodgers v. County of Los Angeles
	Karen Adams v. County of Los Angeles
CASE NUMBER	KC 056332 (Rodgers)
	KC 056748 (Adams)
COURT	Los Angeles Superior Court, East District
DATE FILED	July 21, 2009 (Rodgers)
	September 10, 2009 (Adams)
COUNTY DEPARTMENT	Parks and Recreation
PROPOSED SETTLEMENT AMOUNT	\$ 1,250,000.00
ATTORNEY FOR PLAINTIFF	David N. Bigelow of Girardi & Keese and Brian C. Unitt of Holstein, Taylor & Unitt (for Rodgers)
	Anthony W. Beck of Williams Beck & Forbes (for Adams)
COUNTY COUNSEL ATTORNEY	Richard K. Kudo Senior Deputy County Counsel General Litigation Division
NATURE OF CASE	These are consolidated wrongful death cases brought by Marilyn Rodgers, Jonathan Rodgers, and Karen Adams, respectively the mother, adult son and widow of the decedent James Dean

Rodgers against the County and County employee Micah Bivens.

Before sunrise in the early morning of January 7, 2009, Mr. Bivens was driving the pickup truck on the westbound I-10 freeway in West Covina on his way to a training session in Manhattan Beach. His wife, Billie Bivens was riding in the front passenger seat. She is also employed by the County as a Supervising Lake Lifeguard and was traveling to the same training assignment. Mr. Bivens was driving in the number one lane. As he approached the I-605 freeway interchange, he encountered heavy traffic and slowed down.

At the same time, the decedent Mr. Rodgers was riding his motorcycle some distance behind Mr. Bivens. Mr. Rodgers was "lane splitting" by weaving in traffic between the number one and number two lanes. Mr. Rodgers was operating his motorcycle with a permit that prohibited him from operating his motorcycle at that time of day and on a freeway.

As Mr. Rodgers approached behind Mr. Bivens' vehicle, Mr. Rodgers moved one to two feet into the number two lane. Because of the traffic slowing ahead and because he wished to transition to the southbound I-605, Mr. Bivens started to transition into the number two lane. Despite his attempt to be careful, while approximately one foot into the number two lane, the right rear of Mr. Bivens' truck impacted

Mr. Rogers' motorcycle. The motorcycle slid across the number two and three lanes where it was struck by another vehicle. Until the impact, Mr. Bivens had not seen Mr. Rogers.

Although both Mr. and Mrs. Bivens pulled over and rendered first aid assistance to Mr. Rodgers, he died several minutes later.

Due to the risks and uncertainties of litigation, the CEO proposes a full and final settlement of the case in the amount of \$1,250,000.00.

PAID ATTORNEY FEES, TO DATE	\$	49,271.90
PAID COSTS, TO DATE	\$	8,012.52

Case Name: Marilyn Rodgers



## 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:	January 7, 2009
Briefly provide a description of the incident/event:	On January 7, 2009 at approximately 5:51 A.M., employee was traveling westbound on I - 10 when he started to change lanes from the number one to number two lane and collided with a motorcycle. The motorcyclist was ejected and run over by a tractor-trailer traveling in lane number three.

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

The Traffic Collision Report states that the cause of the collision was determined to be employee's violation of section 21658(a) of the Vehicle Code (VC), unsafe lane change.

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

- As a result of this accident, the following actions are in progress:
- In November, 2010 Department completed the directive for an Automotive Review Committee. The committee will be responsible for reviewing all preventable vehicle accidents and making recommendations for administrative action.
  - Appropriate administrative action was imposed on the employee.
  - The employee will be sent to in-vehicle driver evaluation program given by Truckspect, Inc. in January, 2011.
  - Department vehicles shall be equipped with "How Am I Driving?" bumper stickers with a phone number to promote safe and courteous driving by employees.
  - Include special motorcycle awareness portion with the Department's 2011 Defensive Driver Training to promote motorcycle safety.

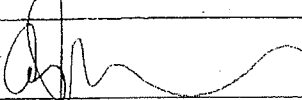
3. State if the corrective actions are applicable to only your department or other County departments:  
(If unsure, please contact the Chief Executive Office Risk Management for assistance)


Potentially has County-wide implications.

County of Los Angeles  
Summary Corrective Action Plan

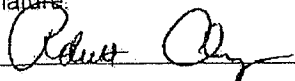
---

- 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: 12-01-10

Name: (Department Head) RUSS GUINEY	
Signature: 	Date: 11-30-10

**Chief Executive Office Risk Management**

Name: Robert Chavez	
Signature: 	Date: 12-01-10

# Corrective Action Plan



## 1. General Information

Date CAP document prepared:	November 30, 2010
Department:	Department of Parks and Recreation
Name of departmental contact person:	Anush Gambaryan
• title:	Safety Officer II
• phone number:	(213) 738-3011
• e-mail:	agambaryan@parks.lacounty.gov

## 2. Incident/Event Specific Information

Date of incident/event:	January 7, 2009
Location of incident/event:	Westbound I-10 in City of West Covina
Event contact person:	Anush Gambaryan
• phone:	(213) 738-3011
• e-mail:	agambaryan@parks.lacounty.gov
Claim adjuster: <small>(Third Party Administrator or County Counsel)</small>	Tamatha Chipp, Carl Warren & Company
• phone number:	(818) 247-2206
If claim is in litigation, please complete the following:	
County Counsel Attorney:	Richard Kudo
• phone number:	(213) 974-1879



### 3. Incident/Event Description:

<p>Nature of incident/event:</p>	<p>On January 7, 2009 at approximately 5:51 A.M., Parks and Recreation Senior Lake Lifeguard was traveling westbound on I -10 when he started to change lanes from the number one to number two lane and collided with a motorcycle. The motorcyclist was fatally injured as he was ejected and run over by a tractor-trailer traveling in lane number three. The weather was clear and dry. According to our employee, he was accelerating after slowing for traffic ahead and wanted to transition to the 605 freeway, so he wanted to start moving over to the right. He looked into his right-side mirror and saw no hazard. He looked forward again and activated his right-turn signal, and then checked the right-side mirror a second time and found everything clear. He then accelerated and began to merge into the number two lane. He was approximately one foot into the number two lane when he felt an impact. He observed plaintiffs' motorcycle traveling out of control in a northwesterly direction toward the number three lane. Plaintiff then came into contact with a big rig and was run over by the left side wheels of the tractor and trailer.</p>
<p>Provide a brief description of the incident/event:</p>	<p>According to California Highway Patrol's Traffic Collision Report the County employee caused the collision by making an unsafe lane change. Despite adverse traffic collision report attributing complete fault to County employee, there was significant comparative negligence to decedent who was splitting lanes close to the County's pick-up truck. In addition, decedent had a permit which prohibited him from operating the motorcycle at that time of day and on a freeway.</p>

Include a copy of the supervisor's first report of incident (or related accident,

event or incident investigation documentation).

**4. Corrective Action Plan Problem Statement**

Provide a written narrative of the incident/event problem statement:

The County of Los Angeles can be held liable for any resulting damages to third parties when an employee driving a County vehicle causes such damage during the course and scope of their County employment.

**5. Root Cause Analysis**

Root Cause Analysis tool used:	Traffic Collision Report.
Incident/event root causes:	List incident/event root causes.  The Traffic Collision Report states that the cause of the collision was determined to be employee's violation of section 21658(a) of the Vehicle Code (VC), unsafe lane change.

- Include a copy of the Root Cause Analysis tool utilized (or related Root Cause Analysis documentation).

**Corrective Action Plan Steps**

Task number:	1
Task name:	Automotive Review Committee
System issue:	<input checked="" type="checkbox"/> Process/procedure <input type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	January, 2011
Schedule completion date:	January, 2011
Responsible person:	Anush Gambaryan
Task description:	Develop an Automotive Review Committee responsible for systematically

	<p>reviewing all preventable vehicle accidents and making recommendations for Administrative Action based on incident-specific information, past driving history and violations. Committee will be comprised of Regional Operations Managers or other high level supervisors and will meet every other month. Directive was developed in November, 2010; the committee will begin to meet in January, 2011.</p>
--	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Task number:	2
Task name:	Administrative Action
System issue:	<input type="checkbox"/> Process/procedure <input type="checkbox"/> Equipment <input checked="" type="checkbox"/> Personnel
Schedule start date:	December 1, 2010
Schedule completion date:	December 1, 2010
Responsible person:	Brenda Harrison
Task description:	<p>Appropriate administrative action was imposed on the employee for violating VC 21658 (a), unsafe lane change. After consulting with DHR Advocacy Section, Department decided to impose a 15 day suspension on the employee.</p>

Task number:	3
Task name:	Driver Training
System issue:	<input checked="" type="checkbox"/> Process/procedure <input type="checkbox"/> Equipment

County of Los Angeles  
 Corrective Action Plan

	<input type="checkbox"/> Personnel
Schedule start date:	January, 2011
Schedule completion date:	January, 2011
Responsible person:	Anush Gambaryan
Task description:	<p>The employee will be sent to in-vehicle driver evaluation program given by Truckspect, Inc. which will include the following:</p> <ul style="list-style-type: none"> <li>• Lane change/use</li> <li>• Passing and being passed</li> <li>• Steering and cornering</li> <li>• Use of brakes</li> <li>• Defensive driving skills</li> </ul>


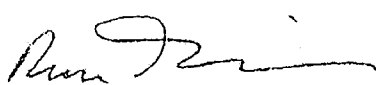
Task number:	4
Task name:	The Department will develop and implement a "How am I Driving?" Program.
System issue:	<input checked="" type="checkbox"/> Process/procedure <input type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	November, 2010
Schedule completion date:	March, 2011
Responsible person:	Anush Gambaryan
Task description:	Each Department vehicle shall be equipped with a "How Am I Driving?" bumper sticker with a phone number. The purpose of the program is to

	promote and increase employee awareness of the need for safe driving and improve the safety record of the Department's drivers.
Task number:	5
Task name:	Motorcycle Awareness Training
System issue:	<input checked="" type="checkbox"/> Process/procedure <input type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	June, 2011
Schedule completion date:	June, 2011
Responsible person:	Irl Stalcup
Task description:	Include a special motorcycle awareness portion with the Department's annual Defensive Driver Training to promote safety to all Department employees who drive on County time.

\* If additional task sheets are needed; cut and paste the above table, as needed. If necessary, delete unused Corrective Action Plan Step tables.

### 7. Review and Authorization

The department has reviewed the incident/event investigation, Root Cause Analysis documentation and Corrective Action Plan and has taken all appropriate corrective actions required.

Review and authorization steps:	Signature:	Date:
Document reviewed by department Risk Management Coordinator:		12-01-10
Document reviewed by department head or designee.		11-30-10