



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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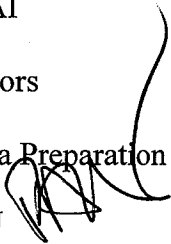
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JOHN F. KRATTLI
Acting County Counsel

May 23, 2012

TO: SACHI A. HAMAI
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: PATRICK A. WU 
Senior Assistant County Counsel

RE: **Item for the Board of Supervisors' Agenda**
County Claims Board Recommendation
Bonni Sue Schopp v. County of Los Angeles
Los Angeles Superior Court Case No. BC 459 222

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, the Summary Corrective Action Plan, and the Corrective Action Plan which are 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 Supervisors' agenda.

PAW:rfm

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled Bonni Sue Schopp v. County of Los Angeles, Los Angeles Superior Court Case No. BC 459 222, in the amount of \$475,000 and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Animal Care and Control.

This lawsuit arises from injuries sustained in a dog attack as a result of the alleged negligence on the part of the Department of Animal Care and Control.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Bonni Sue Schopp v. County of Los Angeles, et al.
CASE NUMBER	BC 459222
COURT	Los Angeles Superior Court - North West District
DATE FILED	4/11/11
COUNTY DEPARTMENT	Department of Animal Care and Control
PROPOSED SETTLEMENT AMOUNT	\$ 475,000
ATTORNEY FOR PLAINTIFF	Thomas M. Bohl, Esq. Bohl, Nixon & Schoneman
COUNTY COUNSEL ATTORNEY	Diane C. Reagan
NATURE OF CASE	Plaintiff Bonni Sue Schopp ("Plaintiff") was seriously injured as a result of a vicious dog attack which occurred on August 23, 2010, at the Agoura shelter. The attack was the result of the alleged negligence of the Department of Animal Care and Control ("DACC") and Ms. Buxbaum ("Volunteer"), a volunteer at the shelter. The strict liability allegation was removed from the complaint following our successful demurrer, but the Plaintiff has plausible arguments for the remaining negligence and dangerous condition causes of action. The Plaintiff has had two surgeries on her arm to date.

Medical expenses are \$114,000 to date; there is also a \$10,000 loss of earnings to date. It is estimated that she will incur an additional \$50,000 or more for future surgeries related to the nerve damage in her arm, and to repair scarring. It is very probable she will continue to have pain, especially in her right forearm, for the balance of her life, with the only question being the level of that pain. Although surgery is included in the future medical expenses, the surgeon cannot guarantee he will be able to eliminate the neuromas and nerve entrapment which are causing that pain. She also has permanent sensory loss on the forearm, in addition to the pain. Those sequelae are from the severed nerves and scar tissue she developed due to the tearing bites, attempts at repair and healing. Also, because of the psychological problems caused by the traumatic attack, she has Post Traumatic Stress Disorder ("PTSD"), and she will require treatment for that, at least in the near term.

PAID ATTORNEY FEES, TO DATE	\$	83,046.45
PAID COSTS, TO DATE	\$	3,717.76



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:	August 23, 2010
Briefly provide a description of the incident/event:	The plaintiff was severely injured when she was bitten multiple times by a dog at the Agoura Hills Animal Care Center. The incident occurred in one of the "Get Acquainted" areas while the plaintiff was interacting with a dog she was considering for adoption. The dog had been extremely friendly with staff and volunteers up to this point and had shown no signs of aggression, even during a medical examination and before and after neuter surgery. After playing with the dog for some time with no problems, the plaintiff picked up a large ball and raised it over her head to throw for the dog. This triggered an attack by the dog.

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

The root cause of this incident is the unpredictability of animals. The County does not know the circumstances under which the animals lived prior to coming to the animal care centers. The animals may have had histories of abuse or neglect, or may harbor phobias regarding certain triggers that cannot be anticipated by the County.


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


1. The Department has implemented the use of a Safety Information Acknowledgement form, which advises potential adopters interested in interacting with an animal about the unpredictability of animals; the unknown histories of the animals; physical movements to avoid; and the importance of monitoring child safety around animals. The form is in its pilot stage at one animal care center while being printed and should be fully implemented at all care centers

- by May 1, 2012.
2. The Department is in the process of installing signs on every Get Acquainted area with the same cautionary language in item 1 above. This will be completed by May 1, 2012.
 3. The Department is purchasing dog bite intervention tools to be placed in every Get Acquainted area. These tools include animal capture poles, panels to insert between biting dogs and a victim, fire extinguishers to spray on biting dogs, and air horns to startle biting dogs as well as summon assistance. These will be purchased and installed by June 1, 2012.
 4. The Department removed all toys from the Get Acquainted areas on August 24, 2011.

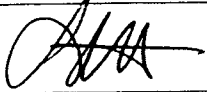
3. State if the corrective actions are applicable to only your department or other County departments:
(If unsure, please contact the Chief Executive Office Risk Management for assistance)

- 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) Patricia Learned	
Signature: 	Date: 4/16/12

Name: (Department Head) Marcia Mayeda	
Signature: 	Date: 4/16/12

Chief Executive Office Risk Management

Name: LEO COSTANTINO	
Signature: 	Date: 4/15/2012



Corrective Action Plan

1. General Information

Date CAP document prepared:	4/3/12
Department:	Animal Care and Control
Name of departmental contact person:	Patricia Learned
• title:	Executive Assistant
• phone number:	(562) 256-1362
• e-mail:	plearned@animalcare.lacounty.gov

2. Incident/Event Specific Information

Date of incident/event:	August 23, 2010
Location of incident/event:	Agoura Animal Care Center - Dog "Get Acquainted" yard
Event contact person:	Patricia Learned
• phone:	(562) 256-1362
• e-mail:	<u>plearned@animalcare.lacounty.gov</u>
Claim adjuster: <small>(Third Party Administrator or County Counsel)</small>	Diane Reagan, Principal Deputy County Counsel
• phone number:	(213) 974-1868
If claim is in litigation, please complete the following:	
County Counsel Attorney:	Diane Reagan
• phone number:	(213) 974-1868

3. Incident/Event Description:

<p>Nature of incident/event:</p>	<p>The plaintiff was severely injured when she was bitten multiple times by a dog at the Agoura Hills Animal Care Center. The incident occurred in the "Get Acquainted" area while interacting with a dog the plaintiff was considering for adoption.</p>
<p>Provide a brief description of the incident/event:</p>	<p>The plaintiff visited the animal care shelter to adopt a dog. She chose a Boxer mix dog named "Bobby" with which she wanted to interact in consideration of adoption. A department volunteer removed Bobby from his kennel run and brought him to a "Get Acquainted" area, a fenced play yard where potential adopters can interact with dogs they may wish to adopt. Bobby was responsive to the volunteer and well-mannered when being walked to the area. After entering the area with the dog, the plaintiff and the dog initially interacted very well. After playing with Bobby for several minutes, the plaintiff took a large ball and raised it over her head to throw. This action triggered an immediate and aggressive attack by Bobby, causing severe injuries to the plaintiff. A staff member entered the play yard and began kicking the dog to stop the attack, while the volunteer grabbed a high pressure hose to spray the dog. This ended the attack and the plaintiff was able to escape the yard. Paramedics were called and the plaintiff was transported to the hospital for treatment.</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

As part of its mission, the Department is charged with finding new homes for unwanted animals. However, many animals at the shelters arrive as strays and the Department has no history or background regarding their upbringing, training, temperament or medical history. Even owners who surrender their pets may not be completely truthful about the pets' behavior, medical status or other information helpful in evaluating the animals' suitability for adoption.

As part of fulfilling the mission of finding new homes for the animals, potential adopters wish to spend time with an animal they are considering for adoption to ensure that the animal is a good fit for their family, prior to the adoption. In response to this need, "get acquainted areas" have been constructed at all Department animal care centers which enable adopters to spend some time with the dog that they are interested in adopting in a quieter area away from the other dogs.

5. Root Cause Analysis

Root Cause Analysis tool used:	Investigation.
Incident/event root causes:	The root cause of this incident is the unpredictability of animals. The County does not know the circumstances under which the animals lived prior to coming to the animal care centers. The animals may have had histories of abuse or neglect, or may harbor phobias regarding certain triggers that cannot be known or anticipated by the County.

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

6. Corrective Action Plan Steps

Task number:	1
Task name:	Removal of Toys from Get Acquainted Areas
System issue:	<input type="checkbox"/> Process/procedure <input checked="" type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	August 24, 2011
Schedule completion date:	August 24, 2011

Responsible person:	Marcia Mayeda Director
Task description:	<p>"Resource guarding" is known behavior among dogs where they will "guard" a toy or other object that the dog perceives as having value, perhaps growling or snapping if someone approaches them when they have possession of the object. Although it doesn't appear that the dog in the present case was "guarding" an object, since an object was involved, to avoid the potential of an incident as a result of this behavior, the Department director ordered all toys be removed from Get Acquainted areas when members of the public are in those areas with dogs.</p>

Task number:	2
Task name:	Safety Information Acknowledgement Form
System issue:	<input checked="" type="checkbox"/> Process/procedure <input type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	9/26/11
Schedule completion date:	5/1/12
Responsible person:	Patricia Learned Executive Assistant <i>(in conjunction with Derek Brown and Aaron Reyes, Deputy Directors of Operations)</i>
Task description:	A Safety Information Acknowledgement Form has been developed. The purpose of the Form is for potential adopters to read, understand, and acknowledge the unpredictability of animals; that the County does not know the animals' history; movements and

	behaviors that people should avoid making around animals; and the importance of monitoring children around animals. All potential adopters that wish to interact with an animal will be required to read and sign these forms. The form is in its pilot stage at one animal care center while it is being printed, with full implementation at all animal care centers expected by May 1, 2012.
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Task number:	3
Task name:	Safety Information Signs
System issue:	<input type="checkbox"/> Process/procedure <input checked="" type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	February 1, 2012
Schedule completion date:	May 1, 2012
Responsible person:	Patricia Learned Executive Assistant
Task description:	Safety Information Signs have been designed and fabricated. These signs will be mounted on every Get Acquainted area, advising potential adopters about the unpredictability of animals; that the County does not know the animals' history; movements that people should avoid making around animals; and the importance of monitoring children around animals. These signs will again warn people interested in interacting with potential pets in the Get Acquainted yards about the unpredictability of animals.



Task number:	4
Task name:	Dog Bite Intervention Tools

System issue:	<input type="checkbox"/> Process/procedure <input checked="" type="checkbox"/> Equipment <input type="checkbox"/> Personnel
Schedule start date:	4/2/12
Schedule completion date:	6/1/12
Responsible person:	Gary Pecorelli Warehouse Manager / Procurement
Task description:	<p>The department will purchase and install several tools in every Get Acquainted yard, Department-wide, that can be immediately available to intervene should a dog bite occur. These tools will include:</p> <ul style="list-style-type: none"> a. "Breaking Boards". These are 3' x 3' square aluminum panels that can be used to insert between a biting dog and a person, so the bite will be halted and the dog can be placed under physical restraint. b. "Catch Poles". These are animal control devices used to restrain dogs. They are composed of a metal pole with a loop at the end. c. Fire extinguishers. These will be used to startle a dog in the process of biting, to divert its attention from the bite, and release its grasp, allowing a staff member or volunteer to regain control of the dog. d. Air horns. These will be used to startle a dog in the process of biting, to divert its attention from the bite. They will also be used to summon assistance from other staff.

* 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:		4/17/12
Document reviewed by department head or designee.		4/17/12