



COUNTY OF LOS ANGELES
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The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

**Re: County Counsel Annual Litigation Cost Report –
Fiscal Year 2019-20**

Dear Supervisors:

Enclosed is the County Counsel Annual Litigation Cost Report ("Cost Report") for Fiscal Year 2019-20. The Cost Report is a public document and will be posted on the County Counsel website.

Very truly yours,

RODRIGO A. CASTRO-SILVA
County Counsel

By


ADRIENNE M. BYERS
Litigation Cost Manager
Executive Office

APPROVED AND RELEASED:


RODRIGO A. CASTRO-SILVA
County Counsel

AMB:ds

Enclosure

COUNTY COUNSEL ANNUAL LITIGATION COST REPORT FISCAL YEAR 19-20

I. Overview

Annual litigation expenses for Fiscal Year ("FY") 19-20 totaled \$151.9 million,¹ up two percent from \$148.5 million spent in FY 18-19. This increase was largely due to a \$7.3 million increase in fees and costs compared to FY 18-19. The \$151.9 million paid in FY 19-20 consists of \$87.6 million in judgments and settlements and \$64.3 million in attorneys' fees and costs.

II. Judgments and Settlements

Of the \$151.9 million the County expended in litigation costs in FY 19-20, \$87.6 million was paid to satisfy 10 judgments and settle 239 lawsuits. This marks a four percent decrease from the \$91.5 million the County expended on judgments and settlements in FY 18-19.

Judgments

The County paid \$15.4 million in judgments in FY 19-20, a decrease of 50 percent compared to the \$31.1 million spent in FY 18-19. The \$15.4 million was comprised of 10 judgments, with two against the Department of Health Services ("DHS") (\$11.7 million); four against the Sheriff's Department ("LASD") (\$1.52 million); and one each against the Department of Public Social Services ("DPSS") (\$1.48 million), the Fire Department (\$560,000), the Department of Children and Family Services ("DCFS") (\$125,000) and the Department of Parks and Recreation (\$23,732). The three most expensive judgments accounted for 90 percent of the \$15.4 million spent on judgments in FY 19-20.

The costliest judgment paid in FY 19-20 involved DHS (*Cobb*; Case No. BC582690 — \$10.9 million) and arose from a 2015 incident that occurred when the plaintiff was struck by an industrial forklift, operated by a DHS employee, while walking in a marked crosswalk near the LAC+USC Medical Center. Plaintiff sustained fractures to his left foot that required fusion surgery on his toe and skin graft surgery on his lower legs. As trial commenced in August 2017, the County conceded liability, but reserved the right to argue that the plaintiff was comparatively negligent. After a 10-day trial, the jury returned a verdict in the plaintiff's favor for \$10,897,637, of which \$9.8 million was for noneconomic (pain and suffering) damages. The County appealed the amount of noneconomic damages as excessive, but the appellate court affirmed the judgment in May 2019. The final judgment, totaling \$11,366,106, including interest and court costs, was paid in FY 19-20.

¹ While it is worth noting that the Contract Cities Liability Trust Fund and special districts reimbursed the County \$12.4 million of its FY 19-20 litigation expenses, this report covers the total amount paid by the County in litigation, which is \$151.9 million.

The second costliest judgment (*Moncrief*; Case No. BC644539 — \$1.5 million) involved DPSS. *Moncrief* was a petition for a writ of mandate, filed in 2016, in which the petitioners alleged that DPSS failed to timely process a number of Medi-Cal renewal packets, creating a backlog that resulted in some beneficiaries having their benefits terminated without cause. By the time the petition was filed, DPSS eliminated the backlog. However, the petitioners prevailed on the writ, and the court granted an injunction and found that they were entitled to attorneys' fees and costs. After the writ hearing, the County settled with the petitioners for \$1.48 million in attorneys' fees and costs, and the court rendered judgment for the petitioners in that amount. The judgment was paid in January 2020.

The third costliest judgment involved LASD (*Mendez*; Case No. 11-CV-04771 — \$1 million) and arose from a 2010 incident that occurred when LASD deputies shot two residents while searching for an armed felon in a row of woodsheds behind a single-family residence in Lancaster. Believing the sheds were unoccupied, deputies entered one of the sheds and saw the silhouette of a man holding a rifle. The deputies fired, shooting Mendez, a lawful resident, and his pregnant wife. They sued for civil rights violations based on unlawful search and seizure and use of excessive force. After a bench trial, the judge denied the excessive force claim, found that the deputies violated the plaintiffs' constitutional rights by entering the shed where the plaintiffs resided without a warrant or announcing their presence, and awarded the plaintiffs \$4,098,698 in damages and \$1,695,730 in attorneys' fees and costs. After multiple appeals, the court determined the plaintiffs' injuries were caused by the deputies' unconstitutional, warrantless entry (not excessive force) and that the trial court's decision could be affirmed under either a constitutional theory or a negligence theory, and ruling that the plaintiffs were entitled to additional fees and costs for the appeal. The County agreed to pay the plaintiffs \$1,040,000 in attorneys' fees and costs for the appeals, which the court incorporated into the final judgment, ultimately entering judgment for the plaintiffs in the amount of \$6,876,516, including damages, attorneys' fees, costs, and interest. LASD paid the bulk of the judgment, \$5,836,516, in FY 18-19. In FY 19-20, LASD paid the remainder, in the amount of \$1,040,000.

Settlements

The County paid \$72.2 million for 239 settlements in FY 19-20, an increase of 20 percent compared to the \$60.4 million spent in FY 18-19. Of the 239 settlements, nine cost the County \$2 million or more each. The cost of these nine settlements totaled \$38.2 million and accounted for 53 percent of the total settlement expenses in FY 19-20. The nine settlements involved six departments (LASD - \$21.9 million; DCFS - \$7.1 million; Public Defender's Office - \$2.8 million; Parks and Recreation - \$2.1 million; Public Works ("DPW") - \$2 million; and District Attorney's Office/LASD - \$2.25 million split between the two departments) and consisted of four case types: law enforcement - \$12.5 million; auto liability - \$12.5 million; employment - \$9.1 million; and general liability - \$4.1 million). The five most expensive settlements accounted for 41 percent of the total settlement expenses in FY 19-20.

The costliest settlement arose from an auto liability lawsuit (*Munoz*; Case No. BC723658 — \$12.5 million). *Munoz* involved a marked patrol vehicle driven by an LASD deputy who allegedly ran a red light in November 2017, then ran off the road onto the sidewalk, colliding with several pedestrians, severely injuring the plaintiff, and killing her two children. The lawsuit was settled for \$17.5 million, payable in four installments with the first two installments, totaling \$12.5 million, paid in FY 19-20 and the remaining two installments, totaling \$5 million, payable in FY 20-21.

The second costliest settlement in FY 19-20 (*Valentine*; Case No. BC602184 — \$7.1 million) involved employment disability discrimination allegations against DCFS. *Valentine* was filed in state court in 2015 as a class action lawsuit challenging multiple violations of the California Fair Employment and Housing Act, including unlawful medical inquiry, disability discrimination, failure to accommodate, failure to engage in the interactive process, sex/pregnancy discrimination, pregnancy disability leave interference, and related violations of the California Family Rights Act and the Confidentiality of Medical Information Act. The complaint was filed by lead plaintiffs Danessa Valentine and JaLisa Moore, on behalf of themselves and all others similarly situated in three classes/sub-classes (collectively, "plaintiffs"): 1) an "unlawful inquiry class" for employees and job applicants who had to undergo the pre-placement medical examination process; 2) an "adverse employment action sub-class" for employees and applicants who underwent the same process but also had job offers revoked, were discharged, or suffered a delay in hiring due to medical information revealed during the process; and 3) a "pregnancy adverse employment action sub-class" for employees and applicants who underwent the process but also had job offers revoked, were discharged, or suffered a delay in hiring when the process revealed that they were pregnant or anticipating being pregnant. In February 2020, the court approved a \$7,137,900 settlement of only the unlawful inquiry class claims, inclusive of incentive awards for Valentine and Moore and nearly \$2.4 million in attorneys' fees, and this settlement was paid in March 2020. The litigation continues with respect to Valentine, Moore, and the other two sub-classes.

The third costliest settlement in FY 19-20 (*Taylor*; Case No. TC028803 — \$4.4 million) arose from the fatal shooting of Donta Taylor by LASD deputies. Taylor's father and significant other's three children sued, alleging wrongful death and state civil rights violations and arguing that Taylor was stopped for no reason and the deputies lied, claiming that Taylor had a gun, to justify their actions. In 2018, the parties agreed to settle for \$7 million. In FY 18-19, \$2.6 million was paid, and the remaining \$4.4 million was paid in FY 19-20.

The fourth costliest settlement in FY 19-20 (*Garcia*; Case No. BC687480 — \$3 million) arose from the fatal shooting of 17-year-old Armando Garcia by LASD deputies. In June 2017, in response to being attacked by Garcia's pit bull, two deputies discharged their firearms at the dog and a ricocheted bullet struck and killed Garcia. Shortly after the shooting, Garcia's mother alleged she arrived on scene, identified herself as the mother, and instead of being told her son had died, was erroneously told her son had been transported to the hospital. After the incident, she sued for wrongful death, assault,

battery, negligence, and state civil rights violations, alleging that deputies were negligent in failing to call for the dog's owner, failing to call for Animal Control, aggravating the dog, and negligently opening fire. The lawsuit was settled for \$3 million, which was paid in FY 19-20.

The fifth costliest settlement in FY 19-20 (*Zavala*; Case No. 18-CV-04472 - \$2.8 million) involved allegations of civil rights violations against the Public Defender's Office. The plaintiff alleged that the Public Defender's Office violated his civil rights by failing to provide him with an adequate defense in a civil commitment proceeding in which he was held in custody for nearly 14 years. In November 2002, at the end of the plaintiff's sentence for his 1994 sex crime conviction, the District Attorney's Office filed a petition for civil commitment of the plaintiff as a Sexually Violent Predator ("SVP") under Welfare and Institutions Code section 6600, *et seq.* The plaintiff was represented in the SVP proceeding by the Public Defender's Office from 2002 until 2015, when the Public Defender's Office declared a conflict of interest and the court appointed private counsel. Shortly after appointment, the plaintiff's private counsel filed a motion to dismiss the SVP case for violation of the plaintiff's right to a speedy trial, and the court dismissed the SVP case in August 2016. In September 2019, the lawsuit was settled for \$2.8 million.

The sixth costliest settlement in FY 19-20 (*Lindsey*; Case No. 17-CV-03886 – \$2.25 million) arose from the 2011 arrest and prosecution of Abraham Rueda ("Rueda"). When Rueda was prosecuted on drug charges, he produced a video of his arrest that conflicted with written reports by LASD deputies and suggested that there was no probable cause to search or arrest him. Due to the inconsistencies, the District Attorney's Office dismissed the criminal case against Rueda and later filed a felony complaint against the deputies for filing a false report. A jury acquitted the deputies in 2015. In 2017, the deputies sued, alleging that they were selectively prosecuted for filing false police reports when other similarly situated deputies were not, that a former undersheriff pressured the District Attorney's Office into filing criminal charges against them to satisfy a personal vendetta, and that the prosecutor failed to turn over exculpatory evidence. The lawsuit was settled for \$2.25 million, which was split between LASD and the District Attorney's Office.

The seventh costliest settlement in FY 19-20 (*Herrera*; Case No. BC565439 – \$2.12 million) arose from the 2014 drowning death of 16-year-old Erik Ortiz, an autistic student on a school field trip at a County swimming pool maintained by the Department of Parks and Recreation. The plaintiffs, Ortiz's parents, sued both the County and Los Angeles Unified School District ("LAUSD") for wrongful death after Ortiz was found unresponsive at the bottom of the pool during a LAUSD-sponsored field trip. LAUSD faculty failed to give lifeguards instructions to protect the safety of Ortiz, who was supposed to be under the direct supervision of a one-on-one LAUSD aide at all times, and the aide was not present when Ortiz entered the pool. The plaintiffs alleged that County lifeguards failed to supervise Ortiz and that the County failed to provide proper lifeguard training, policies, and equipment. The County cross-complained against the LAUSD, but the court dismissed the LAUSD as a defendant under the statutory field-trip immunity, which immunizes a school district and its employees from liability for injuries or death

resulting from a student's participation in an authorized field trip. The County settled with the plaintiffs for \$2.12 million.

The eighth costliest settlement in FY 19-20 (*Camarillo*; Case No. BC474290 – \$2 million) involved allegations of discrimination and retaliation against LASD. The plaintiff was a female sergeant at the Lakewood station who alleged that LASD failed to select her for a special assignment position and then transferred her to Men's Central Jail after she complained of discrimination. The lawsuit was settled for \$2 million.

Finally, the ninth costliest settlement in FY 19-20 (*Rodriguez*; Case No. BC632837 – \$2 million) arose from a fatal car accident that occurred in 2015 on Bouquet Canyon Road, a mountainous, curved asphalt roadway in Santa Clarita maintained by DPW. Plaintiff Nicholas Rodriguez was driving with his 16-year-old brother Christopher Rodriguez ("decedent") in the passenger seat when he lost control at a curve, went off the road, and hit two trees. Decedent was killed, and Nicholas Rodriguez was severely injured. The plaintiffs, Nicholas Rodriguez and his parents, then sued the County, alleging a dangerous condition of public property. The lawsuit was settled for \$2 million.

III. Fees and Costs

The County paid \$64.3 million in fees and costs in FY 19-20, an increase of \$7.3 million, or 13 percent, from the \$57 million the County paid in FY 18-19. Of the \$64.3 million, \$48.5 million was paid to contract counsel firms, and \$15.8 million was billed by County Counsel attorneys to various County departments engaged in litigation. A more detailed breakdown is below.

Contract Counsel

Contract counsel fees and costs totaled \$48.5 million in FY 19-20, an increase of 20 percent from the \$40.5 million paid in FY 18-19.

Contract counsel fees rose to \$42.2 million in FY 19-20, up \$8.3 million, or 24 percent, from the \$33.9 million paid in FY 18-19.

Contract counsel costs decreased to \$6.3 million in FY 19-20, down \$331,000, or five percent, from the \$6.6 million paid in FY 18-19.

County Counsel

County Counsel fees and costs decreased to \$15.8 million in FY 19-20, down from \$16.5 million in FY 18-19. County Counsel costs declined, resulting in an overall decrease of \$664,000.

County Counsel fees rose to \$13.5 million in FY 19-20, up \$1 million, or eight percent, from \$12.5 million in FY 18-19.

County Counsel costs decreased to \$2.3 million in FY 19-20, down \$1.7 million, or 42 percent, from \$4 million in FY 18-19.

IV. Total Department Litigation Expenses

TOP TEN DEPARTMENTS	
(Judgments, settlements, fees, and costs)	
FY 19-20	
LASD	\$60,758,777
Health Services	\$21,562,077
Children and Family Services	\$19,153,354
Public Works	\$8,038,415
Parks and Recreation	\$5,631,341
Probation	\$4,341,753
Public Social Services	\$4,310,252
Public Defender's Office	\$3,389,407
District Attorney's Office	\$2,750,392
Fire	\$2,230,747

V. Contract Cities and Special Districts

Of the \$151.9 million reported in annual litigation expenses in FY 19-20, the Contract Cities Liability Trust Fund ("Fund") and special districts reimbursed the County \$12.4 million.

Contract Cities

In FY 19-20, the Fund reimbursed \$11.1 million of the \$12.4 million. Of the \$11.1 million paid by the Fund, \$10.9 million was paid for judgments, settlements, fees and costs arising from the conduct of deputies contractually assigned by LASD to various cities throughout the County. The remaining \$174,000 was for judgments, settlements, fees and costs associated with DPW.

Special Districts: Flood Control, Open Space, Sewer and Drain, and Waterworks

The County was also reimbursed for litigation expenses paid on behalf of its special districts, which have their own funding sources. In FY 19-20, the special districts (Flood Control – \$827,000; Open Space – \$6,000; Sewer & Drain – \$78,000; and Waterworks – \$380,000) reimbursed the County a total of \$1.3 million.

VI. Dismissals

In FY 19-20, the County disposed of 191 lawsuits without payment of any settlements, judgments, or attorneys' fees to opposing parties and without any County liability. Of these 191 dismissals, 161, or 84 percent, resulted from voluntary dismissals effectuated by plaintiffs and/or their attorneys, often resulting from a pretrial court ruling exposing defects in the lawsuit or insufficient evidence to win at trial. Of the 191 dismissals, 30, or 16 percent, were involuntary dismissals effectuated by the court, usually after a successful, dispositive motion by the County, such as a demurrer, motion to dismiss, motion for summary judgment, or discovery motion resulting in terminating sanctions.

VII. New Lawsuits

The number of new lawsuits in which the County was served rose 11 percent, from 762 in FY 18-19 to 844 in FY 19-20. This is consistent with the trend over the past four years, as the number of new lawsuits has increased every year since FY 15-16. LASD was sued more often than any other County department in FY 19-20. LASD was served with 194 lawsuits in FY 19-20, unchanged from FY 18-19. DPW was a distant second again this year, with 60 new lawsuits in FY 19-20, up from 47 in FY 18-19. Closely following DPW was DHS, with 40 new lawsuits, down from 42 in FY 18-19, and DCFS, with 35 new lawsuits, down from 44 in FY 18-19. Nine additional departments were named in 10 or more new lawsuits in FY 19-20: Treasurer and Tax Collector, 28, up from 18; Assessor, 22, up from 12; Internal Services, 18, up from 12; Probation, 18, up from 17; Fire, 15, down from 22; District Attorney, 13, down from 14; Public Social Services, 13, up from 12; Mental Health, 12, unchanged from FY 18-19; Child Support Services, 11, up from 5. All remaining County departments were either not sued or were named in fewer than 10 lawsuits in FY 19-20.

The County was also named in 304 Non-Jurisdictional lawsuits. These lawsuits consist of allegations that do not involve the County, County officers or employees acting in the scope of their employment, or County property.

The new lawsuits cover 12 case types: Auto Liability (148), Breach of Contract (16), Dangerous Condition (303), Election (7), Employment (86), Environmental (3), Foster Care (36), General Liability (50), Law Enforcement (117), Medical Malpractice (29), Real Property (27), and Tax (22).

VIII. Trials, Writs and Appeals

Trials

The County prevailed in three of the eight trials in FY 19-20, a success rate of 38 percent, lower than the four-year average success rate of 49 percent. Of the eight lawsuits tried in FY 19-20, LASD had the most, with four trials. LASD won one of those

four trials, a law enforcement case. Also, DPW won a general liability trial, and DHS won a medical malpractice trial. Of the five losses, an employment lawsuit involving LASD (*Rodriguez*; Case No. BC680213) resulted in the largest verdict this year. In *Rodriguez*, the plaintiff was an LASD deputy who alleged that he was subjected to a hostile work environment, harassment, and retaliation after refusing to sign false police reports and engage in other unlawful activity. The jury returned a verdict in the plaintiff's favor in October 2019, awarding a total of \$8,115,000 and \$214,791 in attorneys' fees, which the County is appealing.

Writs

A petition for a writ of mandate can be filed to compel the County to perform certain acts. The County was named as a respondent in two writs filed in FY 19-20, down from three in FY 18-19. The County successfully obtained a dismissal of one writ, *Alexander* (Case No. BS162731). *Alexander* involved a Public Records Act (PRA) request regarding an order to compel the District Attorney's Office to produce records pertaining to the petitioner's criminal cases. Petitioner sought the disclosure of booking photographs, fingerprint records, and search warrants relating to his arrests and 1997 conviction. The trial court denied the writ because the documents the petitioner sought were investigatory records exempt from disclosure pursuant to Government Code section 6254(f) and judgment was entered in the County's favor in November 2019.

Appeals

The County won 12 of the 13 appeals to which it was a party this year. Twelve of the appeals were initiated by adverse parties and one was initiated by the County. One notable appellate victory this year was *Flores* (Case No. B287382). In *Flores*, the plaintiff was a clerk employed by a temporary staffing agency, AppleOne, and assigned to the Probation Department. In 2016, she sued the County for discrimination, sexual harassment, retaliation, and failure to prevent discrimination and retaliation. In 2017, the jury found in the County's favor on the claims of discrimination and sexual harassment, but returned a verdict for the plaintiff on the retaliation and failure to prevent discrimination and retaliation claims, awarding her \$62,127 in damages and \$743,731 in attorneys' fees and costs. After the County appealed, the Court of Appeal reversed the jury verdict and the attorneys' fee award and directed that judgment be entered in favor of the County on all claims.

IX. Recoveries

The County recovered \$62.8 million through its litigation efforts in 38 lawsuits in FY 19-20. A noteworthy \$62.3 million recovery was obtained in *County of Los Angeles v. Southern California Edison* (Case No. 19STCV14376). This lawsuit stemmed from the November 2018 Woolsey Fire, the largest and most destructive fire in Los Angeles County history. The Woolsey Fire burned for 13 days before it was contained. It consumed more than 96,000 acres, destroyed 1,500 buildings, damaged another 341 buildings, and killed three people. After Southern California Edison (SCE) publicly

acknowledged that its equipment was likely associated with the ignition of the fire, the County and multiple other public entities filed lawsuits against SCE. The County's complaint, filed on behalf of the County, the Flood Control District, and the Consolidated Fire Protection District, alleged numerous causes of action, including inverse condemnation, negligence, nuisance, and various violations of state codes. In November 2019, the County and the coalition of public agencies reached a global settlement which required SCE to pay a total of \$210 million. The County received \$62.3 million from SCE in the settlement. The funding will help compensate the County — and its taxpayers — for extensive firefighting and emergency response costs, recovery efforts, infrastructure damage, injury to natural resources, loss of tax revenue, and other significant public losses that resulted from the Woolsey Fire.