



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) 974-1885  
FACSIMILE  
(213) 626-2105  
TDD  
(213) 633-0901

DAWYN R. HARRISON  
Acting County Counsel

May 17, 2022

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 2020-21**

Dear Supervisors:


Enclosed is the County Counsel Annual Litigation Cost Report ("Cost Report") for the Fiscal Year 2020-21. The Cost Report is a public document and will be posted on the County Counsel website.

Very truly yours,

DAWYN R. HARRISON  
Acting County Counsel

By   
ADRIENNE M. BYERS  
Litigation Cost Manager

APPROVED AND RELEASED:

  
DAWYN R. HARRISON  
Acting County Counsel

AMB:ds

Enclosure

**COUNTY COUNSEL ANNUAL LITIGATION COST REPORT  
FISCAL YEAR 2020-2021**

*Note: This Report includes only those litigation expenses incurred between July 1, 2020 and June 30, 2021*

**I. Overview**

Annual litigation expenses for Fiscal Year ("FY") 20-21 totaled 138.1 million<sup>1</sup>, a nine-percent decrease from the \$151.9 million spent in FY 19-20. This decrease was largely due to a reduction of \$8.6 million in judgments and settlements compared to FY 19-20. These numbers reflect the significant impact the pandemic had on the court system and litigants. The \$138.1 million paid in FY 20-21 consists of \$79 million in judgments and settlements and \$59.1 million in attorneys' fees and costs.

	FY 2020-21 Litigation Expenses	% Change from FY 19-20
CONTRACT LAW FIRM FEES	\$37,183,823	-12%
CONTRACT LAW FIRM COSTS	\$4,416,529	-30%
<b>CONTRACT LAW FIRM FEES &amp; COSTS TOTAL</b>	<b>\$41,600,352</b>	<b>-14%</b>
COUNTY COUNSEL FEES	\$13,866,366	+3%
COUNTY COUNSEL COSTS	\$3,630,929	+56%
<b>COUNTY COUNSEL FEES &amp; COSTS TOTAL</b>	<b>\$17,497,295</b>	<b>+11%</b>
<b>TOTAL FEES AND COSTS</b>	<b>\$59,097,647</b>	<b>-8%</b>
<b>JUDGMENTS PAID</b>	<b>\$10,305,855</b>	<b>-33%</b>
<b>SETTLEMENTS PAID</b>	<b>\$68,715,968</b>	<b>-5%</b>
<b>TOTAL JUDGMENTS &amp; SETTLEMENTS PAID</b>	<b>\$79,021,823</b>	<b>-10%</b>
<b>TOTAL ANNUAL EXPENSES</b>	<b>\$138,119,470</b>	<b>-9%</b>

**II. Judgments and Settlements**

Of the \$138.1 million the County of Los Angeles ("County") spent on litigation in FY 20-21, \$79 million was paid to satisfy 14 judgments and settle 273 lawsuits. This marks a 10 percent decrease from the \$87.6 million the County expended on judgments and settlements in FY 19-20.

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<sup>1</sup> While it is worth noting that the Contract Cities Liability Trust Fund and special districts reimbursed the County \$6.4 million of its FY 20-21 litigation expenses, this report covers the total amount paid by the County in litigation, which is \$138.1 million.

## *Judgments*

<b>TOP TWO JUDGMENTS</b>			
NAME	CASE TYPE	DEPARTMENT	AMOUNT
<i>WILLIAMS</i>	Law Enforcement	LASD	\$3,954,313
<i>GRANADOS</i>	Tax	Treasurer Tax Collector	\$3,398,415
<b>TOTAL</b>			<b>\$7,352,728</b>

The County paid \$10.3 million in judgments in FY 20-21, a decrease of 33 percent compared to the \$15.4 million spent in FY 19-20. The \$10.3 million comprised 14 judgments, with six against the Sheriff's Department ("LASD") (\$4.3 million); two against the Department of Children and Family Services ("DCFS") (\$1.5 million); and one each against the Treasurer Tax Collector ("TTC") (\$3.4 million), the Chief Executive Office (\$700,585), the Probation Department ("Probation") (\$373,247), the Assessor's Office ("Assessor") (\$7,198), the Department of Parks and Recreation ("DPR") (\$4,197), and Child Support Services (\$2,155). The two most expensive judgments accounted for 71 percent of the \$10.3 million spent on judgments in FY 20-21.

The costliest judgment involved an excessive force lawsuit against LASD (*Janet Williams*; Case No. 2:17-CV-05640 — \$3,954,313) and arose from the fatal shooting of Dennis Rogers (the "Decedent") by LASD deputies. In 2017, deputies were called to the 24 Hour Fitness at Slauson and La Cienega Boulevard due to the decedent's disruptive behavior. Decedent refused to leave, then threatened the deputies and attacked them with a pair of hair clippers before he was shot and killed. Decedent's mother sued for civil rights violations. In 2020, the Court awarded Plaintiff \$2,028,240 in damages, \$1,904,593 in attorneys' fees, and 21,480 in costs. The County moved to set aside the award, which was denied, and the judgment was paid in FY 20-21.

The second costliest judgment paid in FY 20-21 (*Willy Granados*; Case No. BC 361 470 — \$3,398,415) was a stipulated judgment that arose from the settlement of a class action lawsuit filed in 2006. Plaintiffs sued to enjoin the TTC's collection of the utility user tax on certain telecommunications services, and to recover allegedly wrongfully collected taxes<sup>2</sup>. In 2018, the parties agreed to a settlement calling for the establishment of a \$16.9 million settlement fund for the payment of claims, with any unclaimed funds to revert to the County. The court approved the settlement agreement and entered judgment. On July 30, 2020, payment on the claims began, and the County paid \$3,398,415 in claims in FY 20-21.

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<sup>2</sup> In 2008, the voters approved a utility user tax for the unincorporated areas of the County.

**Settlements**

<b>TOP 14 SETTLEMENTS</b>			
<b>NAME</b>	<b>CASE TYPE</b>	<b>DEPARTMENT</b>	<b>AMOUNT</b>
<i>PARKS</i>	Dangerous Condition	Public Works	\$6,000,000
<i>DOE</i>	Law Enforcement	LASD	\$5,500,000
<i>HERNANDEZ</i>	Auto Liability	LASD	\$5,000,000
<i>VASQUEZ</i>	Law Enforcement	PD's Office	\$4,500,000
<i>VARO</i>	Operations	DA's Office	\$4,250,000
<i>TWYMAN</i>	Law Enforcement	LASD	\$3,900,000
<i>MUNOZ</i>	Auto Liability	LASD	\$2,500,000
<i>SPENCER</i>	Law Enforcement	LASD	\$2,000,000
<i>TARKINGTON</i>	Law Enforcement	LASD	\$1,500,000
<i>WILSON</i>	Law Enforcement	DA's Office	\$1,500,000
<i>CORREA</i>	Law Enforcement/Medical Malpractice	LASD/Health Services	\$1,500,000
<i>HICKMAN</i>	Foster Care	Children and Family Services	\$1,500,000
<i>JARVIS TAXPAYERS ASSN.</i>	Elections	County Counsel	\$1,350,000
<i>CALLANAN</i>	Law Enforcement/Medical Malpractice	LASD/Health Services	\$1,350,000
<b>TOTAL</b>			<b>\$42,350,000</b>

The County paid \$68.7 million for 273 settlements in FY 20-21, a decrease of five percent compared to the \$72.2 million spent in FY 19-20. Of the settlements, 14 cost the County nearly \$1.4 million or more each. The cost of these 14 settlements totaled \$42.4 million and accounted for 62 percent of the total settlement expenses in FY 20-21. The 14 settlements involved seven departments (LASD - \$21.8 million; Department of Public Works ("DPW") - \$6 million; District Attorney's Office ("DA's Office") - \$5.75 million; Public Defender's Office ("PD's Office") - \$4.5 million; DCFS - \$1.5 million; the Office of the County Counsel - \$1.35 million; and Health Services ("DHS") - \$1.4 million; and consisted of six case types (law enforcement - \$15.8 million; operations – \$10.1 million; auto liability - \$7.5 million; dangerous condition - \$6 million; foster care - \$1.5 million; and medical malpractice - \$1.4 million). The six most expensive settlements accounted for 42 percent of the total settlement expenses in FY 20-21.

The costliest settlement (*Cassandra Parks*; Case No. BC 651 145 — \$6 million) arose from a fatal car accident that occurred in 2016 on Bouquet Canyon Road, a mountainous, curved asphalt roadway in Santa Clarita maintained by DPW. Plaintiff's 19-year-old daughter, Elena Kramer ("Kramer") died after losing control of her vehicle at a curve, going off the road, and travelling down a steep embankment. The California Highway Patrol concluded that Kramer had been speeding. Plaintiff sued the County, alleging that Kramer's accident was caused by a dangerous condition of public property. The lawsuit was settled for \$6 million, which was paid in FY 20-21.

The second costliest settlement in FY 20-21 (*Jane Doe*; Case No. 19STCV29320 — \$5.5 million) involved sexual assault allegations against an LASD detective. The detective met the plaintiff, a 14-year-old girl, when he began investigating her rape case in 2017 and took her on several unauthorized ride-alongs. In late 2017, Plaintiff had a severe psychological breakdown and told a family member that the detective had sexually assaulted her. She later reported the incident to law enforcement, and the detective was arrested. In 2019, the detective pled guilty to unlawful sexual intercourse with a minor and was sentenced to three years in prison. He was terminated from LASD, and Plaintiff's lawsuit was settled for \$5.5 million, which was paid in FY 20-21.

The third and seventh costliest settlements in FY 20-21 (*Luis Hernandez*; Case No. BC 689 849 — \$5 million and *Maria Munoz*; Case No. BC 723 658 — \$2.5 million) arose from an auto accident involving a marked sport utility vehicle driven by an LASD deputy who allegedly ran a red light responding to an emergency. In November 2017, the deputy and her training supervisor were responding to an assault with a deadly weapon radio call when their patrol vehicle collided with a Honda Accord at an intersection. After colliding with the Accord, the patrol vehicle struck a pedestrian in the crosswalk, then ran off the road onto the sidewalk and collided with multiple pedestrians, injuring many pedestrians and killing two children, Jose Luis Hernandez ("J.H.") and Marcos Antonio Hernandez ("M.H."). The traffic collision report concluded that the deputy was the primary cause of the collision. Plaintiffs Luis Hernandez and Maria Munoz, the father and mother of J.H. and M.H., sued for wrongful death. The *Luis Hernandez* lawsuit settled for \$5 million, which was paid in FY 20-21. The *Maria Munoz* lawsuit settled in FY 19-20 for \$17.5 million, payable in four installments. The first two installments, totaling \$12.5 million, were paid in FY 19-20, and the third installment of \$2.5 million was paid in FY 20-21, with the remaining \$2.5 million to be paid in FY 21-22.

The fourth costliest settlement in FY 20-21 (*George Vasquez*; Case No. 2:18-CV-07996 — \$4.5 million) involved allegations of civil rights violations against the PD's Office. The plaintiff alleged that the PD'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 17 years. In September 2000, at the end of Plaintiff's sentence for his 1995 sex crime conviction, the DA's Office filed a petition for civil commitment of Plaintiff as a sexually violent predator ("SVP"). Plaintiff was represented in the SVP case by the PD's Office from 2000 until 2016, when the court relieved the PD's Office and appointed private counsel. Shortly after appointment, the plaintiff's private counsel moved to dismiss the SVP petition for violation of the plaintiff's right to a speedy trial, and the court dismissed the SVP case in January 2018. After the DA's Office appealed and lost, Plaintiff filed a civil suit against the County. The lawsuit was settled for \$4.5 million, which was paid in FY 20-21.

The fifth costliest settlement in FY 20-21 (*Deanna Varo et al.*; 2:18-CV-9025 — \$4.25 million) involved allegations of negligence and civil rights violations against the DA's Office. Plaintiffs alleged that a former deputy district attorney disclosed their contact information on a criminal protective order served on a criminal defendant. Because of the disclosure, Plaintiffs were threatened and shot by the criminal defendant, a known gang member, to prevent them from testifying in the criminal proceedings. After the shooting, Plaintiffs were taken into protective custody, and ultimately, had to move their residence. In September 2020, the lawsuit settled for \$4.25 million.

The sixth costliest settlement in FY 20-21 (*Ryan Twyman*; Case No. 2:20-CV-00789 — \$3.9 million) arose from the fatal shooting of 23-year-old Ryan Twyman ("Decedent") by LASD deputies. In 2019, patrol deputies approached Decedent's vehicle. Decedent ignored commands to roll down the windows, started the car, and accelerated backward, causing the car to strike one of the deputy's legs as he tried to hang onto the door frame. The deputy fired five rounds at Decedent, as the other deputy saw a muzzle flash inside the rear passenger area and fired 15 rounds. Both deputies fired additional shots as they took cover, with one deputy retrieving his rifle from the trunk of his patrol car and firing another seven rounds at Decedent's car when it was about 75 yards away. Decedent's parents, three minor children, and the passenger sued the County and deputies for wrongful death and civil rights violations. The lawsuit settled for \$3.9 million that was paid in FY 20-21.

The eighth costliest settlement in FY 20-21 (*Jeremy Spencer*; Case No. 2:19-CV-00808 — \$2 million) arose from a 2018 incident in which Jeremy Spencer ("Decedent") died after he was shot with a Taser during a physical altercation with LASD deputies. Decedent was under investigation for making criminal threats and attacking a man with an axe when deputies went to interview his neighbors, spotted Decedent unarmed in his backyard, and climbed the fence to arrest him. When Decedent resisted arrest, deputies deployed a Taser and then restrained him. His breathing became labored, and he died at the scene after attempts at cardiopulmonary resuscitation failed. Decedent's family sued for wrongful death and civil rights violations. The lawsuit was settled for \$2 million that was paid in FY 20-21.

Four settlements cost the County \$1.5 million each in FY 20-21: *Lamont Tarkington* (Case No. 2:18-CV-07636); *Andrew Wilson* (Case No. 2:18-CV-05775); *Juan Manuel Correa* (Case No. BC690171); and *Barbara Hickman* (Case No. 19STCV37450). In *Tarkington*, Plaintiff's criminal conviction was overturned after he spent 10 years in prison for bank robbery. He then sued for civil rights violations, alleging that he was wrongfully convicted based upon evidence fabricated and planted by LASD personnel. The lawsuit settled for \$1.5 million. In *Wilson*, Plaintiff spent 32 years in prison before having his criminal conviction overturned on a petition for *habeas corpus* that was unopposed by the DA's Office, which acknowledged that errors in the prosecution deprived Plaintiff of a fair trial. Plaintiff's civil rights lawsuit, alleging wrongful conviction and malicious prosecution by the DA's Office, also settled for \$1.5 million. The *Correa* litigation arose from Mr. Correa's ("Decedent") death while in custody at Men's Central Jail. Decedent's parents sued for negligence, wrongful death, and civil rights violations, alleging that LASD and DHS staff were deliberately indifferent and slow to respond to Decedent's medical needs. The lawsuit was settled for \$1.5 million with the expenses split between the two departments. *Hickman* involved DCFS and arose from the death of two minors killed by their mother days after the DCFS child protection hotline received calls about the mother's erratic behavior. The minors' father and grandparents sued, alleging that DCFS was liable for failing to investigate the allegations, and received a \$1.5 million settlement in FY 20-21.

The thirteenth costliest settlement in FY 20-21 (*Howard Jarvis Taxpayers Association*; Case No. BC 714 579 — \$1.35 million) arose from communications provided by the County to the public about certain measures the Board of Supervisors placed on the ballot. The County provided the public with information about Measures "H" (2016) and "W" (2018) through television, radio and social media. Each of these resulted in Fair Political Practices

Commission ("FPPC") administrative enforcement actions and one (regarding Measure "H") resulted in civil litigation initiated by the plaintiff contending the County communications were campaign-related, not informational. In 2020, the FPPC administrative cases and the civil case were resolved via settlement, with no admission of liability. The County settled for \$1.35 million.

Finally, the fourteenth costliest settlement in FY 20-21 (*Alanna Callanan*; Case No. 2:18-CV-02229 — \$1.35 million) arose from the death of Alanna Callanan ("Decedent") while in custody at Central Regional Detention Facility ("CRDF"). In 2017, Decedent was arrested for drug possession. During the medical screening and booking process, she reported alcohol, methamphetamine, and opiate addiction before being booked into CRDF. After booking, Decedent was examined by CRDF nursing staff after reporting she felt unwell. The next morning, Decedent reported feeling nauseous, vomited on her bed, and was placed in an individual cell. She was later found dead. Plaintiffs sued for wrongful death and civil rights violations, alleging that custody and medical staff were deliberately indifferent to Decedent's medical needs. The expenses associated with this lawsuit were split between LASD and DHS. The lawsuit settled for \$1.35 million.

### III. Fees and Costs

The County paid \$59.1 million for fees and costs in FY 20-21, a decrease of \$5.2 million, or eight percent, from the \$64.3 million the County paid in FY 19-20. Of the \$59.1 million, \$41.6 million was paid to contract counsel firms, and \$17.5 million was billed by County Counsel attorneys to various County departments engaged in litigation. A more detailed breakdown is below.

ATTORNEYS' FEES & COSTS - FISCAL YEAR COMPARISON			
	FY 2020-21	FY 2019-20	CHANGE FROM FY 19-20
CONTRACT LAW FIRM FEES	\$37,183,823	\$42,189,427	-12%
CONTRACT LAW FIRM COSTS	\$4,416,529	\$6,276,945	-30%
<b>CONTRACT LAW FIRM FEES &amp; COSTS</b>	<b>\$41,600,352</b>	<b>\$48,466,372</b>	<b>-14%</b>
IN-HOUSE FEES	\$13,866,366	\$13,497,105	+3%
IN-HOUSE COSTS	\$3,630,929	\$2,334,276	+56%
<b>IN-HOUSE FEES &amp; COSTS</b>	<b>\$17,497,295</b>	<b>\$15,831,381</b>	<b>+11%</b>
<b>TOTAL: IN-HOUSE AND CONTRACT LAW FIRM FEES &amp; COSTS</b>	<b>\$59,097,647</b>	<b>\$64,297,753</b>	<b>-8%</b>

***Contract Counsel***

Contract counsel fees and costs totaled \$41.6 million in FY 20-21, a decrease of 14 percent from \$48.5 million in FY 19-20.

Contract counsel fees decreased to \$37.2 million in FY 20-21, a decrease of \$5 million, or 12 percent, from \$42.2 million in FY 19-20.

Contract counsel costs decreased to \$4.4 million in FY 20-21, a decrease of \$1.9 million, or 30 percent, from \$6.3 million in FY 19-20.

***County Counsel***

County Counsel fees and costs increased to \$17.5 million in FY 20-21, an increase of 11 percent from \$15.8 million in FY 19-20.

County Counsel fees increased to \$13.9 million in FY 20-21, an increase of \$400,000, or 3 percent, from \$13.5 million in FY 19-20.

County Counsel costs increased to \$3.6 million in FY 20-21, an increase of \$1.3 million, or 56 percent, from \$2.3 million in FY 19-20.

**IV. Total Department Litigation Expenses**

<b>TOP TEN DEPARTMENTS</b> <b>(Judgments, Settlements, Fees, and Costs)</b> <b>FY 20-21</b>	
<b>LASD</b>	<b>\$59,242,358</b>
<b>Public Works</b>	<b>\$11,603,067</b>
<b>Children and Family Services</b>	<b>\$11,155,524</b>
<b>Health Services</b>	<b>\$8,861,712</b>
<b>DA's Office</b>	<b>\$7,875,585</b>
<b>PD's Office</b>	<b>\$5,606,991</b>
<b>Treasurer Tax Collector</b>	<b>\$3,926,128</b>
<b>Board of Supervisors</b>	<b>\$3,048,965</b>
<b>Public Health</b>	<b>\$3,000,440</b>
<b>Probation</b>	<b>\$2,658,530</b>

**V. Contract Cities and Special Districts**

Of the \$138.1 million reported in annual litigation expenses in FY 20-21, the Contract Cities Liability Trust Fund ("Fund") and special districts reimbursed the County \$6.4 million.



### ***Contract Cities***

In FY 20-21, the Fund reimbursed the County \$5.6 million of the \$6.4 million. Of the \$5.6 million paid by the Fund, \$5.4 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, and \$183,000 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 20-21, the special districts (Flood Control – \$297,000; Open Space – \$0; Sewer & Drain – \$114,000; and Waterworks – \$365,000) reimbursed the County \$776,000.

## **VI. Dismissals**

In FY 20-21, the County disposed of 305 lawsuits without payment of any settlements, judgments, or attorneys' fees to opposing parties and with no County liability. Of these 305 dismissals, 255, 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. Of the 305 dismissals, 50, or 16 percent, were involuntary dismissals effectuated by the court, usually after a successful 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 decreased by 11 percent, from 844 in FY 19-20 to 757 in FY 20-21. This is the first time the number of new lawsuits has decreased since FY 15-16. LASD was sued more often than any other County department in FY 20-21. LASD was served with 193 lawsuits in FY 20-21, a decrease from 194 in FY 19-20. DPW was second, with 43 new lawsuits in FY 20-21, a decrease from 60 in FY 19-20. Closely following DPW was the Department of Health Services, with 37 new lawsuits, a decrease from 40 in FY 19-20, along with the Department of Public Health, with 23 new lawsuits, an increase from 10, and DCFS, with 23 new lawsuits, a decrease from 35 in FY 19-20. Seven additional departments were named in 10 or more new lawsuits in FY 20-21: Fire, 19, an increase from 15; DPR, 19, an increase from 8; DA's Office, 18, an increase from 13; Probation, 18, unchanged from FY 19-20; TTC, 14, a decrease from 28; Internal Services, 13, a decrease from 18; and Child Support Services, 10, a decrease from 11. All remaining County departments were not sued or were named in fewer than 10 lawsuits in FY 20-21.

The County was also named in 238 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 (140), Breach of Contract (14), Dangerous Condition (226), Election (10), Employment (58), Environmental (2), Foster Care (13), General Liability (109), Law Enforcement (109), Medical Malpractice (39), Real Property (24), and Tax (13).

## **VIII. Trials, Writs and Appeals**

### ***Trials***

The County had no trials in FY 20-21. This unusual statistic undoubtedly reflects the significant impact the pandemic had on the court system and litigants.

### ***Writs***

A petition for a writ of mandate can be filed to compel the County to perform certain acts. The County was an interested party in 10 petitions for writs of mandate in FY 20-21, up from two in FY 19-20. The County was named as a respondent in nine writ actions, and the County was the moving party in the other one.

The County prevailed in five writ actions. Three involved Public Records Act requests for documents from the LASD, one was an environmental challenge to the County's approval of the LACMA Building for the Permanent Collection, and one involved a dispute between the Board of Supervisors and LASD regarding the authority to settle civil litigation.

The County settled one writ action involving a Public Records Act request for documents regarding the Vermont/Manchester Transit Priority Joint Development Project, and adverse parties prevailed in the remaining four writ actions. Three were environmental in nature, with one challenging the County's approval of the Northlake Specific Plan, one challenging a storm water discharge permit, and one challenging the County's code enforcement actions against a landfill operator. The fourth involved a parent's petition to have his name removed from the Child Abuse Central Index after DCFS substantiated allegations he abused his daughter.

### ***Appeals***

The County won 15 of the 20 appeals to which it was a party this year. Fifteen of the appeals were initiated by adverse parties and five were initiated by the County. One notable appellate victory this year was *CA Restaurant Association Inc.* (Case No. 20STCP03881). In *CA Restaurant Association Inc.*, the Court of Appeal overturned an injunction barring enforcement of a Health Officer Order ("HOO") issued by the DPH which restricted onsite dining at restaurants during the height of the COVID-19 2020 winter surge. On November 22, 2020, the DPH announced that restaurants would be temporarily prohibited from offering onsite dining due to the rapid spread of COVID-19. The California Restaurant Association ("CRA"), an advocacy group for restaurant operators, sought an injunction preventing enforcement of the HOO. On December 15, 2020, the court granted an injunction barring the County from enforcing a ban on outdoor dining until its public health officers produced a risk-benefit analysis supporting the restriction. The County appealed and requested an immediate stay, which was granted pending resolution of the appeal. The Court of Appeal

later dissolved the injunction and upheld the HOO, finding it was not arbitrary or capricious and the County had a rational basis to enact its restrictions. The court found that, unlike challenges to restrictions on places of worship, this case did not involve a fundamental right. The court rejected the CRA's argument that the HOO infringed on the right to peaceful assembly, finding it was a content-neutral restriction that left open alternative channels for assembling, and clarifying that the appropriate standard for reviewing the HOO is rational basis, not strict scrutiny. The court then remanded the case to the trial court for discovery and trial.

## **IX. Recoveries**

The County recovered \$5.1 million through its litigation efforts in 60 lawsuits in FY 20-21. A noteworthy \$2.6 million recovery was obtained in *OntheGo Wireless et al. v. Cellco Partnership et al.* (Case No. 34-2012-127517). This lawsuit was originally filed by OnTheGoWireless in 2012 under the California False Claims Act that authorizes any person with knowledge that a public agency has been defrauded to sue on behalf of that agency. In 2015, the County and other California government entities intervened in the lawsuit against multiple wireless service providers, alleging that the providers overcharged the government entities for cellular services by failing to provide the "lowest available cost" as contractually required. The case resulted in a global settlement. The County received \$2.6 million, including \$2,031,910 from AT&T, \$365,138 from Sprint, and \$198,846 from Verizon.