

**STATEMENT OF PROCEEDINGS**  
**FOR THE REGULAR MEETING**  
**OF THE LOS ANGELES COUNTY CLAIMS BOARD**  
**HELD IN ROOM 648 OF THE KENNETH HAHN HALL OF ADMINISTRATION,**  
**500 WEST TEMPLE STREET, LOS ANGELES, CALIFORNIA 90012**

**ON**

**MONDAY, DECEMBER 21 , 2009, AT 9:30 AM**

Present: John Naimo, Steven NyBlom and John Krattli

**The following items were presented to the Claims Board for consideration and the Claims Board took actions as indicated in bold.**

1. Call to Order.
2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.
3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code section 54956.9).

- a. Pamela Starks v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 393 596

This lawsuit concerns allegations that an employee of the Department of Public Social Services was sexually harassed by a fellow employee.

**Action Taken:**

**The Claims Board approved settlement of this matter in the amount of \$35,000.**

Absent: None

Vote: Unanimously carried

- b. Rebecca L. v. Los Angeles Unified School District and the Los Angeles County Department of Mental Health  
Case No. N2009060018

This matter concerns allegations of deprivation of educational rights and mental health services by the Los Angeles County Department of Mental Health.

**Action Taken:**

**The Claims Board approved settlement of this matter in the amount of \$39,174.01.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

- c. Talli W. v. Los Angeles Unified School District and the Los Angeles County Department of Mental Health  
Case No. N2009081106

This matter concerns allegations of deprivation of educational rights and mental health services by the Los Angeles County Department of Mental Health.

**Action Taken:**

**The Claims Board approved settlement of this matter in the amount of \$44,849.49.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

- d. Erik P. v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. BC 400 273

This lawsuit concerns allegations that a minor in the custody of the Probation Department was sexually assaulted by another minor.  
(Continued from the December 7, 2009 meeting.)

**Action Taken:**

**The Claims Board continued this matter.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

- e. Ericka Lauderdale v. County of Los Angeles  
Los Angeles Superior Court Case No. VC 051 914

This lawsuit concerns allegations that the Probation Department failed to engage in an interactive process or provide reasonable accommodation for an employee with disabilities.

**Action Taken:**

**The Claims Board continued this matter.**

Absent: None

Vote: Unanimously carried

- f. Mark Warr and Roberto Fidani v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 392 267

This lawsuit concerns allegations of retaliation by two employees of the Fire Department.  
(Continued from the November 16, 2009 meeting.)

**Action Taken:**

**The Claims Board approved settlement of this matter in the amount of \$98,415.46.**

Absent: None

Vote: Unanimously carried

- g. Gloria Guadron, et al. v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. TC 057 743

This lawsuit arises from injuries sustained in a vehicle accident involving an employee of the Fire Department.

**Action Taken:**

**The Claims Board approved settlement of this matter in the amount of \$21,000.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

- h. Gary Houston v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 249 765

This lawsuit concerns a sewer overflow and the sewer maintenance services provided by the Consolidated Sewer Maintenance District.

**Action Taken:**

**The Claims Board approved settlement of this matter in the amount of \$100,000.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

- i. Alameda Corridor Transportation Authority v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 389 904

This lawsuit concerns allegations that the Department of Public Works breached a contract when the Department did not accept ownership and maintenance of a storm drain.

**Action Taken:**

**The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$160,000 and that the Auditor-Controller be instructed to draw a warrant to implement this settlement from the Department of Public Works' budget.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

- j. Jaelyn Mancinas and Claudia Chavez v. County of Los Angeles  
Los Angeles Superior Court Case No. PC 044 264

This medical negligence lawsuit arises from treatment received by a patient and her mother at the Olive View Medical Center.  
(Continued from the November 9, 2009 and the November 16, 2009 meetings.)

**Action Taken:**

**The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$5,920,488 plus the assumption of the Medi-Cal lien in the amount of \$80,139 and that the Auditor-Controller be instructed to draw a warrant to implement this settlement from the Department of Health Services' budget.**

Absent: None

Vote: Unanimously carried

**[See Supporting Documents](#)**

4. Report of actions taken in Closed Session.

**The Claims Board reconvened in open session and reported the actions taken in closed session as indicated under Agenda Item No. 3 above.**

5. Approval of the minutes for the December 7, 2009, regular meeting of the Claims Board.

**Action Taken:**

**The minutes for the December 7, 2009, regular meeting of the Claims Board were approved.**

Absent:       None

Vote:         Unanimously carried

**[See Supporting Documents](#)**

6. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.

**No such matters were discussed.**

7. Adjournment.

## **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

CASE NAME	Rebecca L. v. Los Angeles Unified School District; Los Angeles County Department of Mental Health
CASE NUMBER	California Special Education Hearing Office (Case No. N2009060018)
COURT	Not applicable
DATE FILED	May 28, 2009
COUNTY DEPARTMENT	Department of Mental Health
PROPOSED SETTLEMENT AMOUNT	\$39,174.01 (in two warrants)
ATTORNEY FOR PLAINTIFF	Law Offices of Henry Tovmassian
COUNTY COUNSEL ATTORNEY	Andrea E. Ross Senior Deputy County Counsel (213-787-2310)
NATURE OF CASE	The case involves a special education student, Rebecca L., in the Los Angeles Unified School District ("LAUSD") who alleges deprivation, both procedurally and substantively, of (1) her educational rights, and (2) related services to which she was entitled. Rebecca's parent ("Parent") requested reimbursement from both LAUSD and the Los Angeles County Department of Mental Health ("DMH") for costs incurred pertaining to expenses Parent incurred for unilaterally placing

Rebecca in a residential placement facility. A mediation was held and resolution was reached whereby DMH agreed to reimburse Parent for costs of the residential placement of Rebecca in the amount of \$32,174.01, and pay a portion of Parent's attorney's fees in the amount of \$7,000. LAUSD agreed to reimburse Parent for the cost of educational and counseling services for Rebecca in the amount of \$31,717.92, and pay a portion of Parent's attorney's fees in the amount of \$7,000.

PAID ATTORNEY FEES, TO DATE

None

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:	2008-2009 School Year
Briefly provide a description of the incident/event:	This case involves a special education student, Rebecca L., who alleges deprivation, both procedurally and substantively, of (1) her educational rights, and (2) related services to which she was entitled. The case went through administrative mediation which resulted in an agreement between plaintiff, the Los Angeles Unified School District ("LAUSD"), and the Los Angeles County Department of Mental Health ("DMH"). The settlement is two-pronged. First, DMH agreed to reimburse Rebecca's parents, in the amount of \$32,174.01, for the costs of providing counseling services while DMH was seeking residential placement treatment services. Second, DMH agreed to pay a portion of the parent's attorney's fees in the amount of \$7,000.

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


Rebecca had demonstrated behaviors that put her in immediate physical and psychological danger. As a student who was approved for special education with mental health treatment needs, Rebecca was entitled to appropriate levels of services, in this case residential treatment, in order to enable her to access and benefit from her special education program. Given the current state of special education law, especially as interpreted by the courts to approve reimbursements, it would have been difficult for DMH to have prevailed at the administrative hearing. Resolving this case prior to an administrative hearing greatly reduced the total compensatory damages and related costs and fees.

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

There are no recommended corrective actions since this settlement reflects a compromise of the parents' unilateral action.

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).
- X Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 11-19-09
Signature: (Department Head) Robin Kay for Marvin J. Southard	Date: 11-19-09

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Talli W. v. Los Angeles Unified School District; Los Angeles County Department of Mental Health
CASE NUMBER	California Special Education Hearing Office (Case No. N2009081106)
COURT	Not applicable
DATE FILED	August 31, 2009
COUNTY DEPARTMENT	Department of Mental Health
PROPOSED SETTLEMENT AMOUNT	\$44,849.49 (in two warrants)
ATTORNEY FOR PLAINTIFF	Law Offices of Henry Tovmassian
COUNTY COUNSEL ATTORNEY	Andrea E. Ross Senior Deputy County Counsel (213-787-2310)
NATURE OF CASE	The case involves a special education student, Talli W., in the Los Angeles Unified School District ("LAUSD") who alleges deprivation, both procedurally and substantively, of (1) her educational rights, and (2) related services to which she was entitled. Talli's parent ("Parent") requested reimbursement from both LAUSD and the Los Angeles County Department of Mental Health ("DMH") for costs incurred pertaining to expenses Parent incurred for unilaterally placing

Talli in a residential placement facility. A mediation was held and resolution was reached whereby DMH agreed to reimburse Parent for costs of the residential placement of Talli in the amount of \$43,172.79, and pay a portion of Parent's attorney's fees in the amount of \$1,676.70, both costs for which DMH is responsible under applicable law. LAUSD agreed to reimburse Parent for the cost of tuition and therapeutic services for Talli in the amount of \$23,180.18, and pay a portion of Parent's attorney's fees in the amount of \$1,676.70, costs for which the school district is responsible under applicable law.

PAID ATTORNEY FEES, TO DATE

None

PAID COSTS, TO DATE

None



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Date of incident/event:	2008-2009 School Year
Briefly provide a description of the incident/event:	This case involves a special education student, Talli W., who alleges deprivation, both procedurally and substantively, of (1) her educational rights, and (2) related services to which she was entitled. The case went through administrative mediation which resulted in an agreement between plaintiff, the Los Angeles Unified School District ("LAUSD"), and the Los Angeles County Department of Mental Health ("DMH"). The settlement is two-pronged. First, DMH agreed to reimburse Talli's parents, in the amount of \$43,172.79, for the costs of providing counseling services while DMH was seeking residential placement treatment services. Second, DMH agreed to pay a portion of the parent's attorney's fees in the amount of \$1,676.70.

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

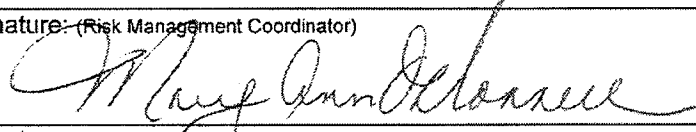
Talli is a special education student with mental health needs, who was entitled under state and federal laws to appropriate levels of services, including mental health services, in order to enable her to access and benefit from her special education program. Given the current state of special education law, especially as interpreted by the courts, it would have been very difficult for DMH and the school district to have prevailed in the administrative hearing and any subsequent court review. Resolving this case prior to an administrative hearing greatly reduced the total compensatory damages and related costs and fees, including attorneys' fees that would have been incurred had the matter proceeded to hearing.

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

There are no recommended corrective actions since this settlement reflects a compromise of the parents' unilateral action.

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).
- X Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 11-19-09
Signature: (Department Head) Robin Kay for Marvin J. Scottard	Date: 11-19-09

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Erik P. v. County of Los Angeles
CASE NUMBER	BC 400273
COURT	Los Angeles Superior Court Central District
DATE FILED	October 10, 2008
COUNTY DEPARTMENT	Probation Department
PROPOSED SETTLEMENT AMOUNT	\$ 93,000
ATTORNEY FOR PLAINTIFF	Marc Hurd Tiedt & Hurd (951) 549-9400
COUNTY COUNSEL ATTORNEY	Tom Guterres Collins, Collins, Muir & Stewart (626) 243-1100
NATURE OF CASE	<p>This is a case brought by Erik P., a minor, who alleges that he was sexually assaulted by another minor while at Eastlake Juvenile Hall. In his lawsuit, Erik P. contends that Probation Department employees should not have housed him with his assailant.</p> <p>The Probation Department contends that it did not have any notice that the assault would occur</p>

and that the incident was not preventable.

Due to the risks and uncertainties of litigation, and in light of the fact that a prevailing plaintiff in a federal civil rights lawsuit is entitled to an award of reasonable attorneys' fees, a full and final settlement of the case in the amount of \$93,000 is recommended.

PAID ATTORNEY FEES, TO DATE	\$	33,297.50
PAID COSTS, TO DATE	\$	620.62





## Summary Corrective Action Plan

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Date of incident/event:	November 17, 2007 at approximately 2:07p.m.
Briefly provide a description of the incident/event:	Plaintiff is a 5'7", 180 lbs., Hispanic Male that was detained on November 17, 2007 for committing an alleged assault. Plaintiff was admitted into Central Juvenile Hall (CJH) at approximately 9:10a.m. Plaintiff was later medically admitted at 12:00p.m., and was assigned Unit "K/L" after his mental health assessment. Plaintiff was interviewed and oriented to the unit and was assigned to room 1 with a 5'6", 130 lbs., African-American Male. Staff conducted a hall check at approximately 2:07p.m., and noticed the plaintiff lying face down on his bunk with his pants and underwear down to his knees. The minor roommate was standing over the plaintiff with his shirt covering his genitals. Plaintiff initially noted that nothing happened between him and the other minor. At approximately 3:10p.m., plaintiff alleged that he had been sodomized. In October 2008, plaintiff filed a complaint alleging general negligence, violation of Civil Rights and violation of State Civil Rights.

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

### Root Cause Analysis:

The initial incident stems from plaintiff's room assignment with a juvenile ward that allegedly violated facility rules prohibiting assaultive and sexual behavior. A root cause factor analysis was conducted including, but not limited to:

- **Exposure area relates** to plaintiff being housed with and allegedly sexually assaulted by a roommate that entered juvenile hall from camp with a temporary behavior chart that did not reflect a history of sexual misconduct.

Based upon the outcome of the above-referenced root cause analysis the Department has determined root cause factors include:

- **Insufficient information available in the temporary behavior record at the time staff was making the housing decision for a camp minor in juvenile hall.**
- **Minor's non-compliance with policy about assaultive and sexual behavior.**

This matter is being settled as a prudent business decision to mitigate associated costs.

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

**ROOT-CAUSE Recommended Corrective Action:**

**Task #1 Name:** Probation Case Management System (PCMS) Development

**System Issue:** ☒ Process/Procedure  
☒ Personnel

**Responsible Person:** Fred Nazarbegian

**Task Description:**

1. The Department developed and implemented the Probation Case Management System (PCMS), which is a functional web-based application that contains various modules that handle numerous aspects of Probation's operations. PCMS enables staff to have easy access to and view information that includes, but is not limited to:
  - a. One Juvenile system with the functionality from 11 systems
  - b. Ability to see the complete record for each minor
  - c. Availability of Intake information
  - d. Availability of Detention information
  - e. Ability view minor's history
  - f. Ability to view minor's prior behavior
  - g. Ability to view minor's assessments

**This task completed April 2009 and is on-going.**

**Task #2 Name:** PCMS Training

**System Issue:** ☒ Process/Procedure  
☒ Personnel

**Responsible Person:** Fred Nazarbegian


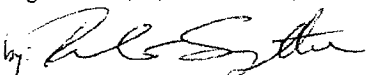
**Task Description:**

1. The Department developed and provided staff training on the use of PCMS. Upon completion of training and review of the training manual staff:
  - a. Have an overview of PCMS
  - b. Have a general knowledge of the web application
  - c. Have general knowledge of the application features
  - d. Have familiarity with criminal justice systems and concepts
  - e. Have awareness of Probation processes and guidelines

f. Have asked questions and retain the ability to receive support from the help desk  
**This task completed May 2009 and is on-going.**

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: 9/15/09
Signature: (Department Head) 	Date: 9/17/09

## Summary Corrective Action Plan

(Revised)



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Date of incident/event:	October 14, 2007
Briefly provide a description of the incident/event:	<p>On October 14, 2007, as a County fire engine was returning to the station after a medical response, it struck the rear of a vehicle that was stopped at a boulevard stop, preparing to make a right turn onto northbound La Cienega.</p> <p>The engine had pulled up behind the plaintiffs' vehicle also preparing to make a right turn at the intersection. The plaintiffs' vehicle proceeded to move forward a few feet into the intersection but then stopped abruptly. The County vehicle impacted the rear door of the plaintiffs' vehicle while travelling at 2 to 3 miles per hour.</p> <p>The plaintiffs stated the impact caused them to move forward and caused the driver to impact the steering wheel. The plaintiff later noticed some redness to the left side of her neck, but admitted she had not sustained any bruises, bumps, cuts, scratches or bleeding from the accident.</p> <p>Both plaintiffs were referred to a chiropractor by their attorney and underwent a significant amount of medical care after the accident. The plaintiffs had claimed over \$13,000 in medical expenses. Both the driver and the passenger later reported that they had suffered from lower back and knee pain much more severe than what was reported on the day of the accident.</p> <p>After careful review and investigation of the accident, it was found that the impact was mild to moderate. The plaintiff had admitted that with her foot on the brake the impact did not push the car forward at all. This kind of impact is consistent with minor soft tissue injury, but it appears that both plaintiffs had excessive medical expenses.</p> <p>This case was settled before trial was to begin. The County settled this case for \$21,000. The decision to settle this case was based on the cost of defense. Although the medical bills that the plaintiffs provided were clearly inflated, our evaluation showed that the County did have some liability. After numerous negotiations with the plaintiffs' attorney, the Carl Warren claims adjuster was able to negotiate a reasonable settlement with the plaintiffs significantly lower than their initial demand.</p>

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

The root cause was the driver's inattention to the vehicle ahead of him during stop and go traffic while driving through an intersection.

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



1. Require the involved employee to attend the "Vehicle Accident Prevention" class.

**Date: March 2009**

**Chief Deputy of Emergency Operations**

3. State if the corrective actions are applicable to only your department or other County departments:  
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Signature: (Risk Management Coordinator) 	Date: 12/21/09
Signature: (Department Head)  by TAAK	Date: 12/21/09

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(Revised)



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



1. Require the involved employee to attend the "Vehicle Accident Prevention" class.

**Date: March 2009**

**Chief Deputy of Emergency Operations**

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Signature: (Risk Management Coordinator) 	Date: 12/21/09
Signature: (Department Head)  by TAAK	Date: 12/21/09

## Summary Corrective Action Plan

(Revised)



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

The root cause was the driver's inattention to the vehicle ahead of him during stop and go traffic while driving through an intersection.

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



1. Require the involved employee to attend the "Vehicle Accident Prevention" class.

**Date: March 2009**

**Chief Deputy of Emergency Operations**

3. State if the corrective actions are applicable to only your department or other County departments:  
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- X Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 12/21/09
Signature: (Department Head)  by TAAK	Date: 12/21/09

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Houston v. County of Los Angeles
CASE NUMBER	BC 249765
COURT	Los Angeles Superior Court
DATE FILED	May 3, 2001
COUNTY DEPARTMENT	Public Works
PROPOSED SETTLEMENT AMOUNT	\$ 100,000
ATTORNEY FOR PLAINTIFF	Lee Wood, Esq.
COUNTY COUNSEL ATTORNEY	Warren R. Wellen Principal Deputy County Counsel  Greg Houle, Houle & Houle  Carolyn Oill; Greines, Martin, Stein & Richland LLP
NATURE OF CASE	In 2000, a sewer back up in the City of Palos Verdes Estates ("City") damaged a private residence. The property owner ("Houston") sued the County and the City for damages. Houston claimed that the City negligently designed the sewer system and the County negligently maintained the sewers. The County and City settled independently with Houston.  The City filed a cross-action for

contractual indemnity against the County seeking to recover its litigation and settlement costs. The matter went to trial and the court awarded the City \$73,136.

The City filed an appeal and the County filed a cross-appeal

The parties dispute whether the County had a contractual obligation to indemnify the City and, if so, how much the County must pay to the City in indemnity.

Due to the risks and uncertainties of litigation, the Department of Public Works and County Counsel propose a full and final settlement in the amount of \$100,000.

PAID ATTORNEY FEES, TO DATE	\$	442,203
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PAID COSTS, TO DATE	\$	21,596
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## Summary Corrective Action Plan

### County of Los Angeles Department of Public Works



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.

Case:	City of Palos Verdes Estates
Date of incident/event:	May 11, 2000
Briefly provide a description of the incident/event:	<p>Gary Houston sued the County and the City of Palos Verdes Estates (City) for damages to his residence caused by a May 11, 2000, main sewer line backup. Mr. Houston claimed that the City negligently designed the sewer system and the County negligently maintained the sewer system. The County and the City each settled independently with Mr. Houston for \$210,000 and \$75,000, respectively.</p> <p>The City tendered its defense to the County. The County rejected the tender on the grounds that the lawsuit alleged an independent basis for liability against the City: Negligent design of the sewer system.</p> <p>The City filed a cross-complaint against the County for express indemnity on the grounds that the County performed sewer maintenance services pursuant to the County/City General Services Agreement (GSA), which contains an express indemnity provision. The City seeks reimbursement from the County for its \$75,000 settlement to Mr. Houston and approximately \$600,000 in litigation costs incurred by the City's insurer, the California Joint Powers Insurance Authority (CJPIA).</p> <p>The County defended the City's cross-action on the basis that the County provided sewer maintenance services under the CSMD, not the GSA, and therefore does not have a contractual obligation to indemnify the City. The County provides sewer maintenance services to numerous cities. The majority of the cities receive these services because they elected to become part of the Consolidated Sewer Maintenance District (CSMD) pursuant to a statutory process. A few cities receive sewer maintenance pursuant to the applicable GSA.</p> <p>At trial, the judge ruled that the County provided sewer maintenance services under the GSA and therefore had a contractual duty to indemnify the City. The judge issued judgment in favor of the City in the amount of \$73,136 for fees paid directly by the City and held the City could not recover fees paid by the CJPIA. Both the City and the County have appealed the trial court's rulings.</p>

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

The underlying action resulted from the May 11, 2000, backup of a County-maintained sewer that caused damage to the Houston residence. The City's cross-action resulted from the County's rejection of the City's tender. The County rejected the City's tender because Mr. Houston sued the City based on the City's alleged negligent design. At the time of the County's rejection, the County and the CJPIA did not have direct discussions regarding the distinction between sewer maintenance services provided under the CSMD versus the GSA and the corresponding indemnity obligations. Such discussions did not take place until after the CJPIA had incurred substantial litigation costs and the judge had ruled that the GSA applied. Therefore, the CJPIA was reluctant to dismiss its cross-action.

County Counsel and Public Works believe the trial judge committed an error by finding that the County provided sewer maintenance services under the GSA.

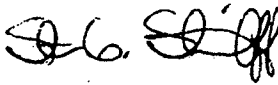
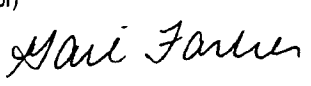
2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

By June 30, 2010, Public Works will write letters to those cities for which it performs sewer maintenance services and state whether the County performs the service under the auspices of the CSMD or under the terms of the applicable GSA. The goal of the letters is to resolve any confusion on the part of the cities as to whether they would be entitled to express indemnity from the County in the event of an action arising from a main sewer line backup that damages property.



Additionally, Public Works remains committed to working with County Counsel on the development and finalization of a Memorandum of Understanding (MOU) with the CJPIA, which sets forth a cooperative process for resolving indemnity claims between CJPIA member cities and the County. The proposed MOU will likely result in less indemnity actions between the CJPIA member cities and the County.

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 Countywide 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 Countywide or other department implications.

Signature: (Risk Management Coordinator)  Steven G. Steinhoff	Date: 12/15/09
Signature: (Director)  Gail Farber	Date: 12/15/09

ARM:psr  
P4:HOUSTON SCAP1

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Alameda Transportation Corridor Authority v. County of Los Angeles, et. al.
CASE NUMBER	BC 389 904
COURT	Los Angeles Superior Court
DATE FILED	April 30, 2008
COUNTY DEPARTMENT	Department of Public Works
PROPOSED SETTLEMENT AMOUNT	\$ \$160,000
ATTORNEY FOR PLAINTIFF	Kevin Collins Alston & Bird LLP
COUNTY COUNSEL ATTORNEY	Rosa Linda Cruz Senior Deputy County Counsel
NATURE OF CASE	<p>Breach of Contract: The County's June 19, 2001 Cooperative Agreement No. 73412 with ACTA, and a 2003 addendum thereto (together, "the contract") obligated ACTA to design and construct the Anaheim Street Drain and Pumping Station ("the Project"). The County's duties under the contract were to: (1) pay ACTA a portion of the cost of the Project; (2) accept ownership of the Project; and (3) operate and maintain the Project.</p> <p>The Project was completed in January 2006. ACTA alleged the County breached the contract by</p>

refusing to accept ownership of and responsibility for the operation and maintenance of the Project, and by refusing to pay the costs of enhancements to the Project. ACTA sought a total of \$513,000 in damages.

The County contended the features ACTA claimed as "enhancements" should have been included in the original design of the Project as standard features. The County also disputed whether it should accept, own and maintain the Project since the County and ACTA both believed the soil around the drain is contaminated and could not agree to an allocation between the parties of responsibility for the potential future environmental remediation of portions of the Project.

Due to the risks and uncertainties of litigation, the Department of Public Works and County Counsel propose a full and final settlement in the amount of \$160,000

PAID ATTORNEY FEES, TO DATE	\$	103,466
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PAID COSTS, TO DATE	\$	8,830
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## Summary Corrective Action Plan

### County of Los Angeles Department of Public Works



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.

Claim/lawsuit:	Alameda Corridor Transportation Authority
Date of incident/event:	Contract, not applicable.
Briefly provide a description of the incident/event:	Alameda Corridor Transportation Authority (ACTA) contracted with Public Works to design and construct the Anaheim Street Drain and Pump Station. ACTA alleges that Public Works breached its obligations under Cooperative Agreement No. 73412 by refusing to accept ownership of and responsibility for the operation and maintenance of the Anaheim Street Drain and Pump Station. ACTA operated and maintained the Anaheim Street Drain and Pump Station until it was transferred to the County on December 15, 2008.

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

Resistance from Public Works in accepting ownership and maintenance of the Anaheim Street Drain and Pump Station arose from knowledge that portions of the project site were contaminated. However, this knowledge of contamination issues predated the agreement with ACTA and cannot be used as a basis to refuse ownership and maintenance of the Anaheim Street Drain and Pump Station.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

By December 31, 2009, a departmental memorandum will be sent to divisions that are responsible for coordinating and managing projects with other jurisdictions and/or agencies reminding them to ensure that a Preliminary Environmental Site Screening is conducted during the project concept development phase. This will ensure that the potential risks of hazardous materials are considered prior to entering into any long term financial or maintenance commitments. If hazardous materials are found, the responsible program manager will review the circumstances with County Counsel to ensure that the matter is properly addressed in the cooperative agreement including the possible inclusion of an indemnification clause to relieve the County of the liability associated with the presence of hazardous materials.



County of Los Angeles Department of Public Works  
Summary Corrective Action Plan

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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 a Countywide implication.
- ☐ 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 Countywide or other department implications.

Signature: (Risk Management Coordinator)	Date:
Steven G. Steinhoff <i>[Signature]</i>	12/10/09
Signature: (Director)	Date:
Gail Farber <i>[Signature]</i>	12-14-09.

RS:psr

P4:VACTA SCAP4

*[Handwritten initials]*

**DEPARTMENT OF PUBLIC WORKS  
CORRECTIVE ACTION PLAN**

**DEPARTMENT OF PUBLIC WORKS**

**CORRECTIVE ACTION PLAN**

**LAWSUIT OF:** Alameda Corridor Transportation Authority.

**INCIDENT DATE:** Contract, not applicable.

**INCIDENT LOCATION:** No incident location.

**RISK ISSUE:**

Public Works breached its obligations under Cooperative Agreement No. 73412 by refusing to accept ownership of and responsibility for the operation and maintenance of the Anaheim Street Drain and Pump Station.

**INVESTIGATIVE REVIEW:**

Alameda Corridor Transportation Authority (ACTA) contracted with Public Works to design and construct the Anaheim Street Drain and Pump Station. ACTA alleges that Public Works failed to accept ownership of and responsibility for the operation and maintenance of the Anaheim Street Drain and Pump Station and, therefore, breached the terms of the agreement.

Resistance from Public Works in accepting ownership and maintenance of the Anaheim Street Drain and Pump Station arose from knowledge that portions of the project site were contaminated. However, this knowledge of contamination issues predated the agreement with ACTA and cannot be used as a basis to refuse ownership and maintenance of the Anaheim Street Drain and Pump Station.

ACTA operated and maintained the Anaheim Street Drain and Pump Station until it was transferred to the County on December 15, 2008.

**POLICY ISSUES:**

Contract agreements require identification and thoughtful planning of how to manage potential risks. Knowing of the likely existence of soil contamination on-site should have led to discussions amongst the parties to the agreement on how to apportion this risk, including insurance and indemnity provisions in the agreement.

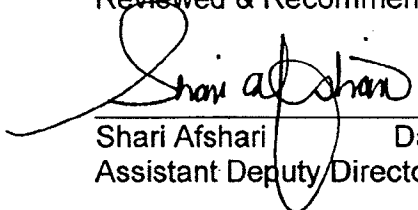
**DEPARTMENT OF PUBLIC WORKS  
CORRECTIVE ACTION PLAN**

**CORRECTIVE ACTION:**

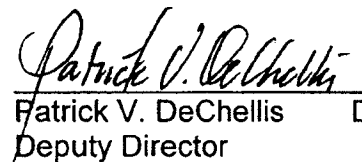
Adhere to the following corrective action plan:

By December 31, 2009, a Departmental memo will be sent to Divisions that are responsible for coordinating and managing projects with other jurisdictions and/or agencies reminding them to ensure that a Preliminary Environmental Site Screening (PESS) is conducted during the project concept development phase. This will ensure that the potential risks of hazardous materials are considered prior to entering into any long term financial or maintenance commitments. If hazardous materials are found, the responsible program manager will review the circumstances with County Counsel to ensure that the matter is properly addressed in the cooperative agreement including the possible inclusion of an indemnification clause to relieve the County of the liability associated with the presence of hazardous materials.

Reviewed & Recommended

 12/10/09  
Shari Afshari      Date  
Assistant Deputy Director

Approved

 12-10-2009  
Patrick V. DeChellis      Date  
Deputy Director

 RS:psr  
P4:ACTA CAP

REVISED



## Summary Corrective Action Plan

Date of incident/event:	April 26, 2008
Briefly provide a description of the incident/event:	On April 22, 2008, Claudia Chavez, who was pregnant with twins, was admitted to Olive View/UCLA Medical Center. The staff began monitoring her closely. On April 25, 2008, at approximately 4:00 PM, one twin's fetal monitor tracing showed a concerning pattern. Staff examined the patient and continued to monitor her. The pattern resolved at 4:30 PM, but returned later. Staff continued to monitor. Since the fetal monitoring strips continued to show a concerning pattern, at approximately 2:17 AM on April 26, 2008, Ms. Chavez was taken to the operating room for a cesarean delivery. One twin was diagnosed with brain injury due to lack of oxygen.

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

- Lack of resolution of the clinical significance of an unusual and rarely occurring heart rate pattern leading to a delay in performing a cesarean section

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

- Appropriate personnel corrective actions were done
- A new policy was developed for consultation of the attending on call and the mandatory consultation policy was revised to include perinatology consultation.
- All other DHS hospitals were surveyed and determined to have satisfactory policies for physician consultation
- A policy was revised for the process of obtaining uncrossmatched blood.
- All other DHS hospitals were surveyed and determined to have satisfactory policies and procedures for obtaining uncrossmatched blood.
- System put in place for remote access to documents
- All applicable DHS hospitals have remote access to documents
- Fetal monitor competence testing was conducted at the facility
- Fetal monitor competence testing was conducted system wide for applicable DHS hospitals

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).

X Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator)	Date:
<i>Kim McKenney (et)</i>	12-21-09
Signature: (Interim Chief Medical Officer)	Date:
<i>Robert Splawn</i>	12/21/09
Signature: (Interim Director)	Date:
<i>W. M. M.</i>	12-21-09

COUNTY OF LOS ANGELES CLAIMS BOARD

MINUTES OF REGULAR MEETING

December 7, 2009

1. Call to Order.

This regular meeting of the County of Los Angeles Claims Board was called to order at 9:30 a.m. The meeting was held in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Claims Board Members present at the meeting were: Steven NyBlom (who replaces Rocky Armfield), John F. Krattli, and John Naimo.

Other persons in attendance at the meeting were: Office of the County Counsel: Lauren Black, Eva Vera-Morrow, Brian Chu, Richard Kudo, Gary Gross, Paul Kim, Milicent Rolon, Albert Kelly, and Edwin Lewis; Office of Affirmative Action: David Kim; Sheriff's Department: Patrick Hunter and Lynne Hughes; Department of Health Services: Kim McKenzie, Evelyn Szeto, Luis Fonseca, Chi Fong, and Bonnie Bilitch; Second District – Board of Supervisors: Richard Fajardo; Department of Public Works: Michael Hays, Keith Lehto, and Eleni Hailu; Probation Department: Tracy Jordan-Johnson; Outside Counsel: Douglas Fee, Pete Bollenger, and Geoffrey Sheldon.

2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.

**No members of the public addressed the Claims Board.**

3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code Section 54956.9).

**At 9:33 a.m., the Chairperson adjourned the meeting into Closed Session to discuss the items listed as 4(a) through 4(k) below.**

4. Report of actions taken in Closed Session.

**At 3:02 p.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:**

- a. Darnell Wheat v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. BC 380 785

This lawsuit concerns allegations that the Department of Children and Family Services failed to adequately protect a dependent of the Juvenile Court.

(Continued from the meetings of October 5, 2009 and November 16, 2009.)

**The Claims Board approved settlement of this matter in the amount of \$42,500.**

**The vote of the Claims Board was unanimous with all members being present.**

- b. Claim of DePuy Shine, Johnson and Johnson Company

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.

(Continued from the meetings of October 5, 2009 and November 16, 2009.)

**The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$235,992.**

**The vote of the Claims Board was unanimous with all members being present.**

- c. Celia Contreras v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 382 611

This lawsuit arises from injuries sustained in a vehicle versus pedestrian accident involving a maintenance employee of the LAC+USC Medical Center; settlement is recommended in the amount of \$125,000.

**The Claims Board continued this matter.**

**The vote of the Claims Board was unanimous with all members being present.**

d. Claim of April Foss

This claim seeks compensation for property damage caused by a broken fire hydrant.

**The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$142,476.70.**

**The vote of the Claims Board was unanimous with all members being present.**

e. Claim of Juan De La Rama

This claim seeks compensation for damage caused by a sewer main line blockage and back-up.

**The Claims Board recommended to the Board of Supervisors the settlement of this matter in the amount of \$213,916.86.**

**The vote of the Claims Board was unanimous with all members being present.**

f. Robin McDaniel v. Michael Foster

Los Angeles Superior Court Case No. TC 022 762

This lawsuit arises from injuries sustained in a vehicle accident involving an employee of the Sheriff's Department.

**The Claims Board approved settlement of this matter in the amount of \$22,800.**

**The vote of the Claims Board was unanimous with all members being present.**

g. 21<sup>st</sup> Century Insurance Company v. County of Los Angeles  
Los Angeles Superior Court Case No. 09 C 00620

This lawsuit arises from a vehicle accident involving an employee of the Sheriff's Department.

**The Claims Board approved settlement of this matter in the amount of \$24,000.**

**The vote of the Claims Board was unanimous with all members being present.**

- h. Eugenio D. Tuazon v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. KC 053 787

This lawsuit arises from injuries sustained in a vehicle accident involving an employee of the Sheriff's Department.

**The Claims Board approved settlement of this matter in the amount of \$21,000.**

**The vote of the Claims Board was unanimous with all members being present.**

- i. Erik P. v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. BC 400 273

This lawsuit concerns allegations that a minor in the custody of the Probation Department was sexually assaulted by another minor; settlement is recommended in the amount of \$93,000.

**The Claims Board continued this matter.**

**The vote of the Claims Board was unanimous with all members being present.**

- j. Timothy Bentley v. County of Los Angeles  
United States Central District Court Case No. CV – 09-2063

This lawsuit concerns allegations that the Probation Department violated the Fair Labor Standards Act by not compensating for overtime.

**The Claims Board approved settlement of this matter in the amount of \$50,000.**

**The vote of the Claims Board was unanimous with all members being present.**

- k. Michael Jones v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 386 849

This lawsuit concerns allegations that the Probation Department failed to accommodate an employee's disability; settlement is recommended in the amount of \$92,500.

**The Claims Board continued this matter.**

**The vote of the Claims Board was unanimous with all members being present.**



5. Claims Board Procedures.

**John Naimo was selected to be Chair of the Claims Board.**

**The vote of the Claims Board was unanimous with all members being present.**

6. Approval of the minutes for the November 16, 2009 meeting of the Claims Board.

**The minutes for the November 16, 2009 meeting of the Claims Board were approved.**

**The vote of the Claims Board was unanimous with all members being present.**

7. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.

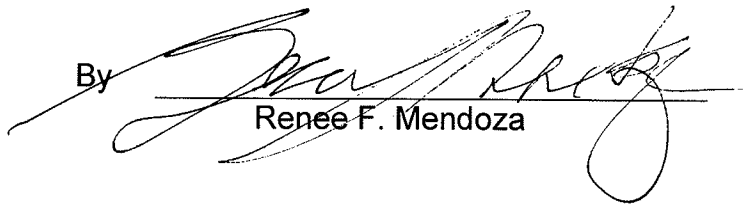
**No such matters were discussed.**

8. Adjournment.

**The meeting was adjourned at 3:28 p.m.**

COUNTY OF LOS ANGELES CLAIMS BOARD

By

A handwritten signature in black ink, appearing to read 'Renee F. Mendoza', is written over a horizontal line. The signature is stylized with a large, looping 'R' and 'M'.

Renee F. Mendoza