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RAYMOND G. FORTNER, JR.
County Counsel

October 1, 2008

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 2007-2008**

Dear Supervisors:


On September 23, 2008, under separate cover, the Fourth Quarter (April 1, 2008 - June 30, 2008) and Fiscal Year 2007-2008 Litigation Report ("FY 2007-2008 Litigation Report") was submitted to your Board. The FY 2007-2008 Litigation Report provided a comprehensive, confidential discussion regarding litigation expenditures for the Fourth Quarter and for Fiscal Year 2007-2008.

The enclosed County Counsel Annual Litigation Cost Report ("Cost Report") provides a brief summary of the FY 2007-2008 Litigation Report. The Cost Report is a public document and will be posted on the County Counsel website.

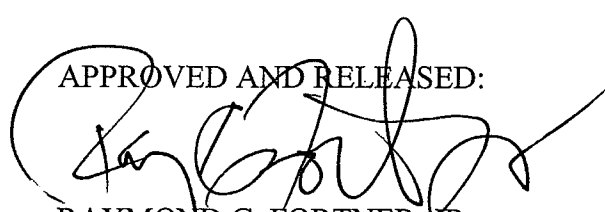
If you have questions concerning this report, please contact me at (213) 974-1762.

Very truly yours,

RAYMOND G. FORTNER, JR.
County Counsel

By 
STEVEN H. ESTABROOK
Litigation Cost Manager

APPROVED AND RELEASED:


RAYMOND G. FORTNER, JR.
County Counsel

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Enclosure

c: William T Fujioka, Chief Executive Officer
Sachi A. Hamai, Executive Officer, Board of Supervisors
Wendy L. Watanabe, Acting Auditor-Controller

**COUNTY COUNSEL ANNUAL
LITIGATION COST REPORT – FISCAL YEAR 2007-2008**

I. Overview

Attorney fees and costs reached a five-year low in Fiscal Year 2007-2008 ("FY 2007-2008") and were down 13 percent as compared to last year. The judgments and settlements *paid* this fiscal year were down 10 percent and settlements *approved* were down 26 percent as compared to last fiscal year. Six judgments totaling \$17.69 million, five of which were entered against the County in prior fiscal years, became final in FY 2007-2008. Approximately \$7.2 million of these judgments was paid in this fiscal year. Meanwhile, the County was sued with increasing frequency - up 10 percent over last year. The County prevailed in nearly two-thirds of its trials. The largest adverse verdict (\$2.23 million, which included damages and plaintiff's attorney fees) of this fiscal year was received in a Sheriff's Deputy-related shooting case. Finally, as in prior years, the County received favorable decisions in over 90 percent of its appellate cases in FY 2007-2008.

II. Attorney Fees and Costs

Attorney fees and costs paid to outside counsel and billed by County Counsel for litigated matters in FY 2007-2008 were \$43,818,077. This was the lowest amount of attorney fees and costs in the last five fiscal years and was a 13 percent decline as compared to last fiscal year. This amount was also 9 percent less than the average annual amount of fees and costs paid and billed in the preceding four fiscal years.

Outside or Contract Counsel litigation fees and costs paid in FY 2007-2008 totaled \$31,441,396. This amount represented another five-year low and was down 10.5 percent as compared to last fiscal year. It was also 13 percent less than the average annual amount of such fees and costs paid in the preceding four fiscal years.

In-House or County Counsel litigation fees and costs billed during FY 2007-2008 were \$12,376,681. Even though in-house fees relating to third-party administrator oversight and other litigation management responsibilities totaling \$844,000 were included in this amount for the first time this fiscal year, in-house fees and costs were still the lowest in the last three fiscal years and were down 18 percent as compared to last fiscal year.

III. Payment of Judgments and Settlements

The total amount of judgments and settlements actually *paid* in FY 2007-2008 was \$45,340,954. This was 10 percent less than the amount paid last fiscal year. However, while representing a significant decline over last fiscal year, the amount paid was 27 percent more than the average annual amount paid in settlements and judgments during the last four fiscal years. The \$45.3 million paid in settlements and judgments in FY 2007-2008 included \$15.5 million in judgments and settlements relating to prior fiscal year liabilities.

IV. Settlements Approved

There were 192 settlements, totaling \$27,032,951, which were approved by the Board of Supervisors, Claims Board, and County Counsel during FY 2007-2008. This amount provides a "real time" accounting of the settlements agreed to by the County during this fiscal year. The *amount* of settlements approved (\$27 million) in this fiscal year was down 26 percent as compared to the last two fiscal years. The *number* of settlements approved (192) was 19 percent less than last fiscal year and 24 percent fewer than were approved in Fiscal Year 2005-2006.

There was a departure last fiscal year from the criteria previously used to determine the number and amount of *settlements approved*. The tentative or "hand-shake" date of a settlement formerly utilized was replaced with the *actual date* of approval by the Board of Supervisors, Claims Board, or County Counsel. In order to effectuate this more precise and consistent method of reporting settlements, several settlements which had been previously reported in Fiscal Year 2005-2006 were again reported in Fiscal Year 2006-2007. Even reducing the total amount of settlements approved last fiscal year by these "duplicative" amounts, the amount of settlements approved in FY 2007-2008 was still 18 percent less than the amount of settlements approved in Fiscal Year 2006-2007.

The Department of Health Services accounted for 42 percent of the settlements approved, with \$11.28 million of the total amount. The Department of Public Works and the Sheriff's Department followed with \$5.6 million and \$4.6 million, respectively.

V. New Cases

The County was served with 736 new cases in FY 2007-2008. Although this was a 10 percent increase as compared to last fiscal year, the number of new cases filed against the County in FY 2007-2008 was nearly the same as the average number of new cases filed against it during the last three fiscal years. Slightly more than one-quarter of the new cases filed against the

County in FY 2007-2008 involved the Sheriff's Department, which experienced a 20 percent increase in new cases over last fiscal year. New cases involving the Department of Public Works increased 44 percent over last fiscal year and accounted for 15 percent of all new cases filed against the County in FY 2007-2008. However, the number of new cases involving the Department of Public Works in Fiscal Year 2006-2007 represented a five-year low. Cases involving the Department of Health Services accounted for 12 percent of the new cases in FY 2007-2008, and were down 13 percent as compared to last fiscal year.

VI. Trials

In FY 2007-2008, the County tried 25 cases. The County prevailed in 16, received adverse verdicts or decisions in 7 cases, and 2 trials resulted in "hung" juries (cases in which the jurors were unable to reach a verdict).

The County prevailed in eight Sheriff's Department cases which involved allegations of excessive force, false arrest and inadequate medical care. The County was successful in two public nuisance cases, a Coroner's case involving the parents of a deceased child, a wrongful termination and racial discrimination case brought by a former Department of Children and Family Services' supervisor, and a medical malpractice case. The County also prevailed at trial against allegations involving the untimely recording of reconveyances by the Registrar-Recorder. Finally, the County will net \$23.4 million more in property taxes through 2026 as a result of its successful defense of an action brought by the City of Glendora, and the public will be provided with hiking and equestrian trails in Altadena as the result of a successful action brought by the County against a housing developer.

The largest verdict rendered against the County involved ten Sheriff's Deputies in a Deputy-related shooting case in Compton. After a four-week trial and nearly two weeks of deliberations, the jury returned a verdict in the amount of \$1,326,468 against only two of the ten Deputies originally sued in the case. The Court also awarded plaintiff \$907,290 in attorney fees. A second significant verdict against the County was rendered in a gender discrimination case. The plaintiff, an environmental manager, claimed that only men were promoted to the director position in her department. The jury awarded the manager damages of \$768,286, and the court later awarded her attorney fees in the amount of \$468,483.

VII. Appellate Decisions

Fiscal Year 2007-2008 was a particularly active year for the County in the appellate arena. During that time, the appellate court decided 74 cases involving the County. This was a significant increase over preceding fiscal years, including a 64 percent increase over last fiscal year. Although named as a party, the County took no position in 2 cases and prevailed in 65 cases - a 90 percent success rate.

VIII. Recoveries

The County recovered \$2.7 million by way of litigation in FY 2007-2008. The most significant was a \$1.7 million recovery in an action by the County against one of its third-party administrators involving the mishandling of workers' compensation claims. The County also recovered \$273,000 for construction design defects in the Central Juvenile Hall and another \$270,000 for defective building construction in the City of Industry. In all, the County obtained seven significant recoveries (each exceeding \$20,000) totaling \$2.7 million in FY 2007-2008.

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