



## OFFICE OF THE CITY ATTORNEY

ROCKARD J. DELGADILLO

CITY ATTORNEY

REPORT NO. R06-0446

DEC 14 2006

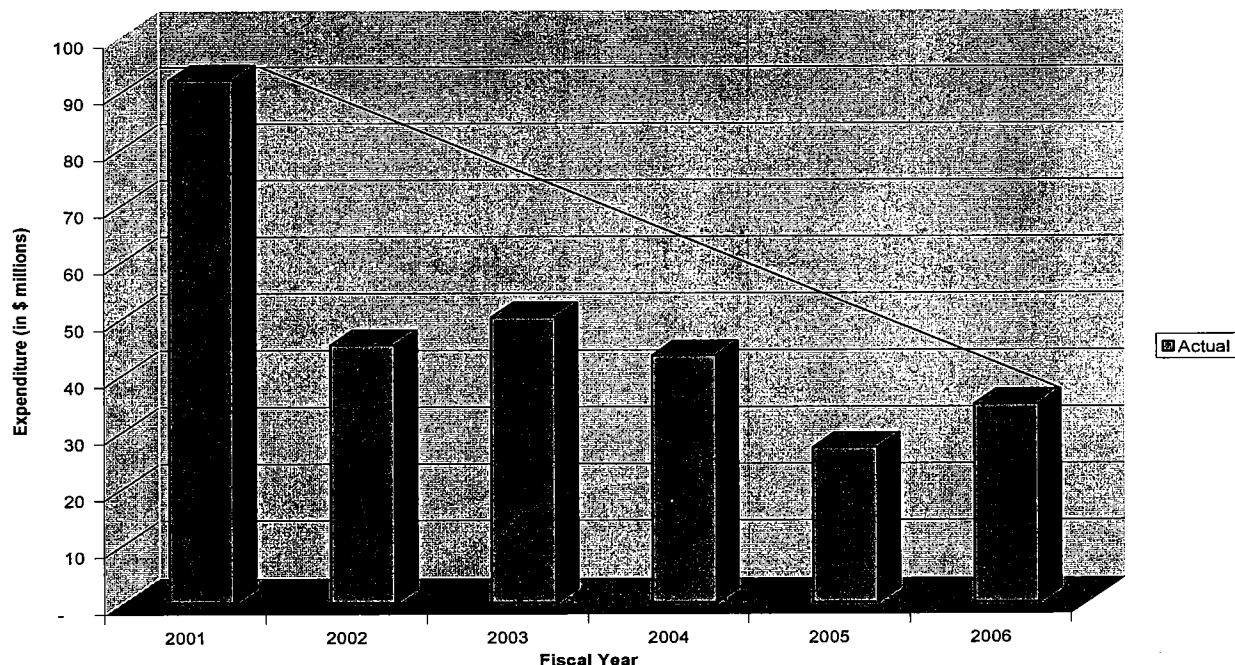
### REPORT RE: LITIGATION SUCCESSES and STATUS OF LIABILITY ACCOUNTS

Honorable Budget & Finance Committee  
City of Los Angeles  
Room 1010, City Hall  
Los Angeles, California 90012

Honorable Members:

One of the primary goals of the Office of the City Attorney has been and continues to be saving taxpayer dollars. Our success has been evident in the dramatic reduction of payouts for lawsuits filed against the City. **Over the past 5 years, General Fund liability payouts have declined by over 60 percent.** In 2001, the City paid \$92 million in liability claims. Last fiscal year, we paid out less than \$40 million.

Liability Payouts



AN EQUAL EMPLOYMENT OPPORTUNITY – AFFIRMATIVE ACTION EMPLOYER

200 NORTH MAIN STREET • LOS ANGELES, CA 90012-4131 • 213.978.8100 • 213.978.8310 TDD



I am pleased to report that we have had great success in October and November. Several of our victories are detailed below.

### Litigation Success

#### **Salvador Rodriguez v. City**

**Demand: \$5 million**  
**Result: Defense verdict**

This case involved an in-custody death that took place January 17, 2004, involving police officers from the Northeast Division. The decedent, who was under the influence of cocaine, was taken into custody after being seen running in and out of traffic. He was transported to the police station and sustained self-inflicted lacerations requiring paramedics to be called. The decedent was then removed from the vehicle and began to fight and struggle with officers. During the struggle he suffered a cardiac arrest and died the next day. The Los Angeles County Coroner determined cause of death was suffocation as well as cocaine intoxication. The plaintiffs asked for \$5 million in this case. The jury came back on all Federal & State causes of action in the City's favor.

#### **Hernandez v. City**

**Demand: \$1.5 million**  
**Result: \$105,000 payout**

In this case, a resident went to Hollenbeck Police Station and requested police assistance to have his brother taken into custody for mental evaluation. He was reported to have mental health problems and had not taken his medicine for several days. When police arrived, he was armed with a machete and charged the officers with knives in both hands. The brother and parents claimed that the LAPD used excessive force by shooting him in his home.

The City was sued for two causes of action -- a Monell §1983 claim and a state claim for negligence. Plaintiffs' demand in their complaint was \$20.5 million based on 12 causes of action. In addition to the negligence Monell claims, plaintiffs alleged assault, battery and intentional infliction of mental distress along with a claim against the individual officer for excessive force. Later, plaintiffs made a statutory offer for \$2.5 million, reducing their offer further during trial to \$1.5 million. In closing argument, plaintiffs' counsel asked the jury to award \$6,000 for funeral expenses and between \$1 million and \$3 million for the family's pain and suffering.

The jury found no liability on the Monell claim but awarded the two plaintiffs \$3,130 each in economic damages and \$100,000 each in non-economic damages for a total judgment \$206,260. But, the jury also found the decedent 49 percent at fault thereby reducing the total judgment owed by the City on this matter to approximately \$105,000. All individual defendants were dismissed during trial.

#### **Alvarado v. City of Los Angeles**

**Demand: \$750,000**  
**Result: Defense Verdict**

In June 2002, Los Angeles Police Department (LAPD) officers answered a radio call requesting assistance with a violent male whom Fire Department (LAFD) personnel believed was under the influence of PCP. Upon arrival, officers found the subject of the call, Eddie Alvarado, unconscious after suffering a narcotic-induced seizure. Officers placed handcuffs on the subject after LAFD personnel indicated that he had been extremely violent prior to his seizure.

When Alvarado awoke he resumed his combative conduct by attempting to kick police and fire personnel. Officers had to use a Taser device before they were able to gain control of him. Subsequently, officers noticed that Alvarado was no longer breathing. Paramedics transported Alvarado to the hospital where he was pronounced dead.

LAPD officers were accused of using excessive force to control Alvarado and of asphyxiation. Defense experts testified that Alvarado in fact died from Excited Delirium which was caused by his ingestion of methamphetamine and cocaine. The Los Angeles County Coroner ruled the cause of death was due to methamphetamine and cocaine use, but could not rule out the Taser restraint as a contributing factor given the temporal relationship between its use and the subject's death.

In the end, the jury unanimously ruled in favor of the City and that the police officers conduct was appropriate.

Liability Claims

As you know, the Office of the City Attorney regularly reports on the status of General Fund liability accounts and projected expenditures and settlements for the current fiscal year. This report is for the month ending November 30, 2006 and we are looking forward to another successful year.

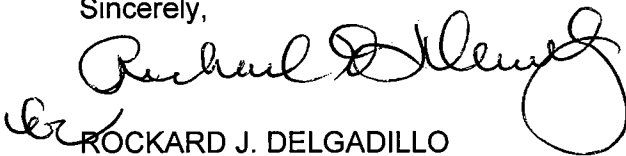
For fiscal year 2006-2007, the Adopted Budget appropriated \$10 million for Account 9760 (Claims \$100,000 and below) and \$32 million for Account 9770 (Claims over \$100,000). City Council recently authorized a transfer of \$1 million to fund outside counsel expenditures from Account 9770. The chart below details expenditures to date and the available balance in each of these accounts.

ACCOUNT	AVAILABLE	EXPENDED/ COMMITTED	BALANCE	% OF AVAILABLE
9760	\$10,000,000	\$3,680,257	\$6,319,743	63%
9770	\$31,000,000	\$12,558,756	\$18,441,244	59%

*See Attachment A for details of Expended/Committed column.*

We remain committed to vigorously defending lawsuits and protecting the City's interest. We look forward to partnering with you to enhance risk management efforts that will help continue this success. We also appreciate the support we have received from General Managers, department staff and other City officials in achieving our common goal.

Sincerely,

  
ROCKARD J. DELGADILLO

Attachment

cc: Honorable Antonio Villaraigosa, Mayor  
Honorable Members of the City Council  
General Managers

## ATTACHMENT A

As of: 11/30/06

## Detail of Expenditures/Committed Balances

Description	Authority	Date Authorized	Total Commitments (Paid - Unpaid Commitments)	Paid	Unpaid Commitments
<b>ACCOUNT 9760</b>					
Various			3,680,257	3,680,257	-
<b>TOTAL</b>			<b>3,680,257</b>	<b>3,680,257</b>	<b>-</b>
<b>ACCOUNT 9770</b>					
20th Century Architecture Alliance (BX083089/B174028)	CF05-2631	11/08/06	195,273		195,273
Alexander, Davis (BC256420)	CF06-1229	06/14/06	138,163	138,163	-
Bastidas, Paul (CV04-8902)	CF06-1814	09/13/06	810,000	810,000	-
Bernal, Ruthie (BC34089)	CF06-2015	9/27/06	320,000	320,000	-
Diaz, David (CV06-6400, CV00-04158)/Blumberg (CV00-5607)/Guerrero (CV00-7165)/Figueroa (CV00-04158)/Soly (CV96-4157)	CF06-2199/CF01-0976-S45/CF06-2200/CF02-1876-S1/CF05-1110	10/04/06	2,850,000		2,850,000
Bressler, Lewis/Lee, Brenda/Mellinger, Gary (BC336783)	CF06-2640	11/22/06	350,000		350,000
Budwig, Arlette/4902 Onteora Way (BC337576)	CF06-2424	10/25/06	326,400	326,400	-
Carapetian, Harmik AM (BC279042)	CF04-0542	9/20/06	650,000	650,000	-
Chance, Clarence (C92-3656)	CF03-1523	06/29/04	88,920	44,460	44,460
Davis, Evelyn (BC333166) (see Note below)	CF06-0989	6/7/06	1,500,000	1,500,000	-
Gallo, Omar/Cermak, Robert James (BCTC018410)	CF06-2642	11/21/06	215,000		215,000
Hernandez, John (BC347941)	CF06-2262	10/11/06	220,000	220,000	-
Jones, Davide Allen (CV05-1778)	CF06-2087	10/04/06	720,000	720,000	-
Kaplan, Mitchell T./Jones, Marilyn E.	CF06-1824	09/27/06	125,000	33,426	91,574
Krieg, Angela (BC345781)	CF06-2481	11/28/06	850,000		850,000
McIntosh, Diane (BC339546)	CF06-2641	11/21/06	325,000		325,000
Miller, Stanely (TC018567)	CF06-2619	11/28/06	450,000		450,000
Oliver, Christopher Justin (BC246184) (see Note below)	CF04-2670	06/07/06	1,400,000	1,400,000	-
Ramos, Rafael/Ana (BC312199)	CF06-1551	08/09/06	650,000	650,000	-
Rasmi, Soraya (SC086587)	CF06-1752	09/13/06	250,000	250,000	-
Yuan, Henry (BC343265)	CF06-2129	10/11/06	125,000		125,000
<b>TOTAL</b>			<b>12,558,756</b>	<b>7,062,449</b>	<b>5,496,307</b>

**NOTE:**

Settlements for Christopher Justin Oliver and Evelyn Davis were paid in FY2006; however, due to changes in payee names, checks had to be cancelled and re-issued using FY2007 funds. Request to re-appropriate returned funds is included in the August FSR.