

Litigation Costs and Opportunities Lost

*The Fiscal Impact of Lawsuit Abuse on
California's Largest Counties and Cities*



*A Report from Citizens Against Lawsuit Abuse
July 2007*

Litigation Costs and Opportunities Lost

*The Fiscal Impact of Lawsuit Abuse
on California's Largest Counties and Cities*

Table of Contents

| | |
|----------------------------------------------|---|
| Introduction..... | 2 |
| Methodology..... | 4 |
| Litigation Costs of California Counties..... | 5 |
| Litigation Costs of California Cities..... | 7 |
| Discussion..... | 9 |

Introduction

Lawsuit abuse inflicts an enormous burden on our economy. When sued, defendants must pay for attorneys to represent them and often choose to settle their cases to avoid further legal fees and the risk of a jury awarding a large verdict of either economic or non-economic damages (such as pain and suffering). A large portion of these verdicts are given not to the alleged victims but rather to their attorneys.

Yet lawsuit abuse negatively impacts more than just defendants; it also has indirect economic impacts. A recent study by Tillinghast-Towers Perrin found that every American pays an extra \$880 each year to offset the costs of lawsuit abuse.¹ Another study by the Pacific Research Institute indicates that, when all costs are taken into account, the figure is almost three times higher.²

When a city or county is party to a lawsuit, taxpayers in those jurisdictions get hit again. Cities and counties are forced to use their tax dollars to pay for legal counsel, settlements and verdicts in addition to the administrative costs taxpayers already pay. This is money that otherwise would have been spent on providing services to its citizens.

From slip-and-falls on government property to employment-related suits to conflicts between government agencies, unnecessary lawsuits clog the courts, delaying justice for true victims while costing all Californians. An examination of these costs demonstrates the full extent of taxpayers' burden.

While some lawsuits filed against cities and counties are certainly legitimate, many others illustrate the problem of unnecessary lawsuits. For example:

- While rollerblading in Newport Beach, a woman tripped over the sidewalk and fell. She claimed the fall caused an increased risk of breast cancer as a result of her injury. She filed a claim for \$30,210, of which \$210 was for current medical bills and \$30,000 was for pain and suffering related to worrying about developing breast cancer.³

¹ Tillinghast-Towers Perrin, "2006 Update on U.S. Tort Cost Trends," 2006.
<http://www.towersperrin.com/tp/getwebcachedoc?webc=TILL/USA/2006/200611/Tort_2006_FINAL.pdf>

² Pacific Research Institute, "Jackpot Justice, The True Cost of America's Tort System," 2007.
<http://liberty.pacificresearch.org/docLib/20070327_Jackpot_Justice.pdf>

³ Wilkinson, Kari. "Are city halls cash machines?" *Orange County Register*, March 15, 2007.
<http://www.ocregister.com/ocregister/news/local/costamesa_newport/article_1620735.php>

- A man sued the City of Lodi for damages when a dump truck backed into his car, even though he – a city employee – was the person driving the dump truck. Even after admitting fault in the accident, the man filed a \$3,600 claim for damages to his car.⁴
- In San Diego, a man was attending a concert at Jack Murphy Stadium when he needed to use the bathroom, but found women in the men’s facility due to a long line for the women’s room. He sued the stadium and the city for \$5.4 million on the claim that emotional distress prohibited him from being able to "go," and he therefore had to hold it in for around four hours.⁵

Regardless of the nature of these particular suits, cities and counties must spend time and resources to defend themselves in court, even if a case is ultimately dismissed.

This report exposes a fact often not publicly discussed at city and county council meetings: that personal injury lawyers who target municipalities in their lawsuits are costing California taxpayers millions of dollars each year.

⁴ Hood, Jeff. "Worker blames Lodi for his gaffe," *Recordnet.com*, January 21, 2006.

<<http://www.recordnet.com/apps/pbcs.dll/article?AID=/20060121/NEWS01/601210329&SearchID=73233255305809>>

⁵ Associated Press, "Court upholds frivolous suit fine," December 7, 1998.

Methodology

In order to examine the impact of litigation costs on municipal budgets, Citizens Against Lawsuit Abuse (CALA) made inquiries to the following jurisdictions: County of Los Angeles, Orange County, Sacramento County, San Diego County, City of Los Angeles, City of Anaheim, City of Sacramento and City of San Diego. Each was asked for the amount the city or county spent on verdicts and settlements and outside counsel for fiscal years 2005 and 2006. Only the City of Anaheim said it did not report that information publicly.

Once the litigation costs were received, CALA examined city and county budget documents published on the Internet to find line items for cost comparison purposes. The full sources for these items are noted throughout this report.

Litigation Costs of California Counties

In fiscal year 2005, California's four largest counties paid \$79.2 million in litigation costs - \$38.4 million in verdicts and settlements and \$44.9 million on outside counsel. (See Table 1)

These counties must forgo expenditures on other services for citizens when burdened by these costs. For example:

- In **Los Angeles County**, **automated fingerprint ID systems** for the entire Sheriff's Department could have been installed **almost two times over**, at a cost of \$34 million each.⁶ These devices help law enforcement agents identify and apprehend criminals more quickly;
- Approximately **33 acute psychiatric beds** could have been funded at an average annual cost of \$250,000 per bed, moving patients in need of assessment and treatment out of **Orange County** emergency rooms and into psychiatric care;⁷
- The **County of Sacramento** could have **more than tripled** the \$1.7 million spent to add positions to staff an interim **prisoner housing facility** at Rio Cosumnes Correctional Center;⁸ and
- The \$3.8 million spent by the **County of San Diego** was enough to **replace 84 pre-1987 diesel school buses** with buses using natural gas or clean diesel, at a cost of \$107,500 per bus.⁹

Despite these large litigation costs, they were dwarfed by the amount counties spent in fiscal year 2006 on litigation - \$97.7 million. Again, these costs could have been better spent. In 2006, these amounts would be enough to:

- Hire more than **73 emergency response staff** in **Los Angeles County** at an average cost of \$1 million each. The response staff act as first responders for the city in case of a natural disaster;¹⁰

⁶ County of Los Angeles, "2004-2005 Final Budget," 2005, p 181. <http://lacounty.info/f_budget04-05.pdf>

⁷ County of Orange CEO of Finance and Budget, "County of Orange Fiscal Year 2005-2006 Annual Budget," 2005. <http://www.ocgov.com/finance/2006FN/budget2006fn_ada2.asp>

⁸ County of Sacramento "Fiscal Year 2005-2006 Adopted Final Budget," 2006. <<http://www.budget.saccounty.net/information-announcements/fy2005-2006/2005-2006-Final-Budget-Book/index.html>>

⁹ County of San Diego, "County of San Diego Adopted Operational Plan, Fiscal Year 2005-2006," 2006, p 198. <http://www.co.san-diego.ca.us/auditor/pdf/adoptedplan_05-07lueg.pdf>

¹⁰ County of Los Angeles, "Annual Report 2005-2006," 2005, p 25. <<http://cao.lacounty.gov/pdf/Anl%20Rpt%2005-06.pdf>>

- **Hire 196 Emergency Management employees** who lead, promote, facilitate and support **Orange County** and operational area efforts to mitigate, prepare for, respond to and recover from disasters, at a cost of \$61,075 per employee;¹¹
- **Install in-car cameras** in **Sacramento County** squad cars to increase officer safety and improve community understanding of law enforcement activities **six times over**, at a cost of \$1.8 million;¹² and
- **Cover almost half** of the \$3.4 million spent on the **Mission Road Improvements Projects** in **San Diego County**.¹³

**Table 1:
County Litigation Costs, Fiscal Years 2005 & 2006**

| County | Cost (in millions) | | | | | |
|-------------|-----------------------------------|------------------------|---------------|-----------------------------------|------------------------|---------------|
| | <u>FY05</u> | | | <u>FY06</u> | | |
| | <u>Verdicts & Settlements</u> | <u>Outside Counsel</u> | <u>Total</u> | <u>Verdicts & Settlements</u> | <u>Outside Counsel</u> | <u>Total</u> |
| Los Angeles | \$27.6 | \$37.2 | \$64.8 | \$38.3 | \$35.1 | \$73.4 |
| Orange | \$3.8 | \$4.5 | \$8.3 | \$8.7 | \$3.3 | \$12.0 |
| Sacramento | \$3.5 | \$2.8 | \$6.3 | \$7.4 | \$3.4 | \$10.8 |
| San Diego | \$3.6 | \$0.2 | \$3.8 | \$1.1 | \$0.4 | \$1.5 |

¹¹ County of Orange CEO of Finance and Budget, "County of Orange Fiscal Year 2005-2006 Annual Budget," 2005. http://www.ocgov.com/finance/2006FN/budget2006fn_ada2.asp

¹² County of Sacramento "Fiscal Year 2006-2007 Adopted Final Budget," 2007. <http://www.budget.saccounty.net/information-announcements/fy2006-2007/2006-07-final-budget/index.html>

¹³ County of San Diego, "County Completes Fallbrook Road Improvements," Press Release, October 19, 2006.

Litigation Costs of California Cities

In fiscal year 2005, California’s largest cities also bore high litigation costs, paying \$49.1 million - \$42.8 million in verdicts and settlements and \$6.3 million on outside counsel. (See Table 2)

Had these cities not incurred these large costs in lawsuits, taxpayers dollars could have been better spent on needed resources and services. For example:

- The **City of Los Angeles** could have repaired and added necessary new **street lights for the entire city**, increasing visibility and safety, for the next ten years;¹⁴
- The **City of Sacramento** could have hired **23 new firefighters** at a cost of \$115,820 per firefighter;¹⁵ and
- The \$7.6 million spent by the **City of San Diego** could have repaved over **46 miles of streets with asphalt**.¹⁶

**Table 2:
City Litigation Costs, Fiscal Years 2005 & 2006**

| City | Cost (in millions) | | | | | |
|-------------|-----------------------------------|------------------------|---------------|-----------------------------------|------------------------|---------------|
| | FY05 | | | FY06 | | |
| | <u>Verdicts & Settlements</u> | <u>Outside Counsel</u> | <u>Total</u> | <u>Verdicts & Settlements</u> | <u>Outside Counsel</u> | <u>Total</u> |
| Los Angeles | \$29.8 | \$2.6 | \$32.4 | \$36.3 | \$2.3 | \$38.6 |
| Sacramento | \$2.0 | n/a ¹⁷ | \$2.0 | \$0.8 | n/a | \$0.8 |
| San Diego | \$11.0 | \$3.7 | \$14.7 | \$4.9 | \$2.7 | \$7.6 |

These numbers held steady in fiscal year 2006, costing these cities \$47 million in litigation, with \$42 million spent on verdicts and settlements and \$5 million spent on outside counsel.

Again, this money could have been better spent on other budget items. For example:

- In **Los Angeles**, the \$38.6 million is more than **one-half** of the city’s total expenditures on **libraries**;¹⁸

¹⁴ City of Los Angeles, “Budget, Fiscal Year 2004-2005,” 2005. <http://www.lacity.org/ctr/05_section2_p2c.pdf>

¹⁵ City of Sacramento, “Approved Budget, Fiscal Year 2004-2005; Fire Department,” 2005.

<<http://www.cityofsacramento.org/finance/budget/approved-budget-2004-05/Section13-Fire.pdf>>

¹⁶ Office of Mayor Jerry Sanders, City of San Diego, “Fact Sheet: Sanders Increases Street Repair Funding By 449% Since Taking Office,” Press Release, May 2, 2007. <http://www.sandiego.gov/mayor/pdf/streets_factsheet_5_2.pdf>

¹⁷ The City of Sacramento was unable to provide outside counsel figures.

- The **City of Sacramento** could have paid for **three and a half years** worth of maintenance to every Sacramento neighborhood park;¹⁹ and
- The \$7.6 million spent by **the City of San Diego** was enough to pay for **seven and a half lifeguard docks** at the cost of \$1 million each.²⁰

¹⁸ City of Los Angeles, “Budget, Fiscal Year 2005-2006; Section II, Budgetary Departments,” 2006.

<http://www.lacity.org/ctr/abu1/ctrabu194133919_11282005.pdf>

¹⁹ City of Sacramento, “Approved Budget, Fiscal Year 2005-2006; Parks and Recreation Department,” 2006.

<<http://www.cityofsacramento.org/finance/budget/approved-budget-2005-06/Parks%20&%20Recreation.pdf>>

²⁰ Office of Mayor Jerry Sanders, City of San Diego, “Fact Sheet: Sanders’ Budget Addresses, Funds Long Neglected Parks & Beach Projects Throughout the City,” Press Release, May 2, 2006, p 3.

<http://www.sandiego.gov/mayor/pdf/missionbay_5_2.pdf>

Discussion

The impact of litigation costs on city and county governments is often overlooked by policymakers and citizens. However, this report demonstrates that when personal injury lawyers set their sites on municipal governments, taxpayers wind up paying a hidden tax—not for additional services but to enrich those lawyers who make a living targeting California’s public entities.

In just two fiscal years, the cities and counties of San Diego, Los Angeles and Sacramento, together with Orange County spent more than \$276 million on settlements, verdicts and outside counsel.

While staggering in its own right, this figure still does not reflect *all* costs associated with city and county legal cases. The counsel costs reported here do not include the time and money that staff attorneys on the public payroll of cities and counties spent defending against frivolous lawsuits. Nor do

“The public is justifiably frustrated with the big multimillion-dollar judgments and settlements and payouts that they see the city meting out.”

– Los Angeles City Controller Laura Chick

those figures include the opportunity costs – the lost ability to spend this money on other items – of litigation.

Often, opportunity costs are amorphous. But when it comes to the way that local governments conduct

their business, citizens and taxpayers can regularly see the effects of ill-spent funds. Overcrowded schools, police officers, ambulances and emergency personnel delays due to understaffing, and roads, libraries and parks in disrepair, all force us to call into question the expenditure of millions of dollars on litigation.

No doubt there are legitimate claims against city and county governments, for which they need to defend themselves. However, for too many personal injury attorneys, governments are yet another deep pocket to attack in hopes of landing a big payday.

Local governments certainly do not enjoy paying out these verdicts and settlements. In fact, many cities, like the City of Sacramento, are taking aggressive measures to fight predatory lawsuits. By ensuring ongoing communication between the City Council, city attorneys, appropriate city agencies and the risk management department, Sacramento’s City Attorney has adopted a “no surprises” policy that encourages transparency about the litigation of which the city is a party.²¹

²¹ See, for example, Office of the City Attorney’s Annual Report, available at http://www.cityofsacramento.org/cityattorney/annual_reports/documents/2005-06-Annual-Report.pdf.

Earlier this year, Los Angeles Mayor Antonio Villaraigosa issued an executive order requiring senior staff in every city agency be assigned as a risk manager and submit quarterly reports to the mayor's office on claims, lawsuits and settlements.²²

"The public is justifiably frustrated with the big multimillion-dollar judgments and settlements and payouts that they see the city meting out," noted City Controller Laura Chick at a news conference announcing the executive order.²³

Efforts to cut down on city and county liability should be applauded and encouraged. Many county leaders, including Los Angeles County Supervisors Gloria Molina and Mike Antonovich, are calling into question

"I think there is a responsibility to be effective lawyers and to protect ourselves, but the public should know what these settlements are. It's their money..."
– Los Angeles County Supervisor Gloria Molina

policies that shield information about litigation costs from taxpayers. "I think there is a responsibility to be effective lawyers and to protect ourselves, but the public should know what these settlements are," said Molina. "It's their money... We've got to strike a balance."²⁴

It is only through complete public disclosure and a full understanding of the implications of municipal settlements that city and county managers can more effectively control these costs. The public needs to demand accountability from their local governments and encourage action to fight lawsuit abuse that – at its heart – victimizes taxpayers every day.

²² McGreevy, Patrick. "Mayor clamping down on settlements," *Los Angeles Times*, January 11, 2007.

²³ Ibid.

²⁴ Leonard, Jack. "Public access to county settlements urged," *Los Angeles Times*, July 11, 2007.

<<http://www.latimes.com/news/local/la-me-settle11jul11.1.470271.story?coll=la&ctrack=2&cset=true>>