



EC-21-455
CITY OF ALBUQUERQUE
Albuquerque, New Mexico
Office of the Mayor

Mayor Timothy M. Keller

INTER-OFFICE MEMORANDUM

DATE: 10/01/2021

TO: Cynthia Borrego, President, City Council

FROM: Timothy M. Keller, Mayor *TK*

SUBJECT: Legal Department's Quarterly Litigation Report for the 3rd Quarter of FY 2021 (Greater than 10,000)

Submitted herewith to City Council is the Legal Department's Quarterly Litigation Report for the 3rd Quarter of FY 2021 (Greater than \$10,000) as required pursuant to R.O.A. §2-8-1-5.

I request that the Quarterly Litigation Reports be presented to City Council for information.

TITLE/SUBJECT OF LITIGATION: Legal Department's Quarterly Litigation Report for the 3rd Quarter of FY 2021 (Greater than 10,000)

Approved:

SN *10/13/21*

Sarita Nair Date
Chief Administrative Officer

Approved as to Legal Form:

DocuSigned by:
Esteban A. Aguilar, Jr. 10/4/2021 | 11:50 AM MDT

Esteban A. Aguilar, Jr. Date
City Attorney

Cover Analysis

1. What is it?

Legal Department's Quarterly Litigation Report for the **3rd** Quarter of **FY 2021** (greater than 10,000)

2. What will this piece of legislation do?

The purpose of the reports are to inform the City Council of litigation developments, i.e., City victories, settlements and judgments during the above-listed period pursuant to R.O.A. §2-8-1-5.

3. Why is this project needed?

See answer 2 above.

4. How much will it cost and what is the funding source?

N/A.

5. Is there a revenue source associated with this Plan? If so, what level of income is projected?

N/A.

6. What will happen if the project is not approved?

N/A

7. Is this service already provided by another entity?

N/A

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT SETTLEMENTS AND JUDGMENTS GREATER THAN \$10,000.00

January 1, 2021 to March 31, 2021

3rd Quarter FY21

Case Name: Martinez, Steve and Tillery DiCenzo v. City of Albuquerque			
<u>Type of Suit:</u> LIT-Employment/Breach of Contract	<u>Synopsis of Case</u>	<u>Disposition</u> Settled	<u>Amount Paid</u> \$350,000.00
<u>Division / Attorney:</u> Melissa M. Koontz			
<u>Matter ID</u> <u>Outside Counsel</u> 10.1224			
Case Name: Atencio, Christine (PR), et al., v. City of Albuquerque and Brent H. Wilson; D-202-CV-2020-00502			
<u>Type of Suit:</u> LIT-Tort/Personal Injury/MVA	<u>Synopsis of Case</u> Plaintiffs alleged damages following an auto accident	<u>Disposition</u> Settled	<u>Amount Paid</u> \$725,000.00
<u>Division / Attorney:</u> Litigation / Kristin J. Dalton	alleged to involve a City bus, resulting in a death and catastrophic injuries.		
<u>Matter ID</u> <u>Outside Counsel</u> 12.353 Deborah Wells			
Case Name: Dye, Eric v. City of Albuquerque and Brittany Bolog-Williams; D-202-CV-2020-06197			
<u>Type of Suit:</u> LIT-Tort/Personal Injury/MVA	<u>Synopsis of Case</u> Plaintiff alleged personal injuries following a	<u>Disposition</u> Settled	<u>Amount Paid</u> \$75,000.00
<u>Division / Attorney:</u> Litigation / Kristin J. Dalton	pedestrian (passenger) versus City bus accident.		
<u>Matter ID</u> <u>Outside Counsel</u> 12.380			

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT SETTLEMENTS AND JUDGMENTS GREATER THAN \$10,000.00

January 1, 2021 to March 31, 2021

3rd Quarter FY21

Case Name: Hensley, Jayson v. City of Albuquerque; D-202-CV-2019-08262			
<u>Type of Suit:</u> LIT-Tort/Personal Injury/MVA <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 11.312	<u>Synopsis of Case</u> Plaintiff alleged damages and personal injury following a motorcycle collision.	<u>Disposition</u> Settled	<u>Amount Paid</u> \$15,000.00
Case Name: Munoz-Valles, Fidel v. Mario Verbeck and City of Albuquerque; D-202-CV-2020-00972			
<u>Type of Suit:</u> LIT-Tort/Personal Injury/Premises Liab. <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 10.1097	<u>Synopsis of Case</u> Plaintiff alleged personal injury following an MVA involving an APD Officer.	<u>Disposition</u> Settled	<u>Amount Paid</u> \$40,000.00
Case Name: Passafaro, Linda v. City of Albuquerque; D-202-CV-2020-02645			
<u>Type of Suit:</u> LIT-Tort/Personal Injury/Premises Liab. <u>Division / Attorney:</u> Litigation / Michael D. Russell <u>Matter ID</u> <u>Outside Counsel</u> 13.103	<u>Synopsis of Case</u> Plaintiff alleged personal injury following an alleged injury caused by a door at a City owned recreational facility.	<u>Disposition</u> Settled	<u>Amount Paid</u> \$20,000.00

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT SETTLEMENTS AND JUDGMENTS GREATER THAN \$10,000.00

January 1, 2021 to March 31, 2021

3rd Quarter FY21

Case Name: Roybal, Christopher v. City of Albuquerque, et al.; D-202-CV-2018-00951			
<u>Type of Suit:</u> LIT-Tort/Personal Injury <u>Division / Attorney:</u> Litigation / Aaron Holloman <u>Matter ID</u> <u>Outside Counsel</u> 12.307	<u>Synopsis of Case</u> Plaintiff alleged personal injury following a bicycle versus City bus accident.	<u>Disposition</u> Settled	<u>Amount Paid</u> \$50,000.00
Case Name: Sanchez, Kelly Stout, as Personal Representative of the Wrongful Death Estate of Eliza Justine Almuina and Jennie Aguirre v. City of Albuquerque, Albuquerque Public School District, and Revi Pexa; D-202-CV-2019-09584			
<u>Type of Suit:</u> LIT-Tort/Wrongful Death <u>Division / Attorney:</u> Litigation / Stephanie M. Griffin <u>Matter ID</u> <u>Outside Counsel</u> 11.269	<u>Synopsis of Case</u> Plaintiffs claimed damages after the minor child died after being hit by a vehicle while crossing the street.	<u>Disposition</u> Settled	<u>Amount Paid</u> \$650,000.00
Total Amount for January 1, 2021 to March 31, 2021: \$1,925,000.00			

**LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT
SETTLEMENTS AND JUDGMENTS LESS THAN \$10,000.00**

**January 1, 2021 to March 31, 2021
3rd Quarter FY21**

Case Name: Montoya, Nicolita v. Office of the City Clerk; D-202-CV-2020-06244			
Type of Suit: LIT-IPRA	Synopsis of Case Plaintiff alleged damages pursuant to IPRA.	Disposition Settled	Amount Paid \$3,200.00
Division / Attorney: Litigation / Kristin J. Dalton			
Matter ID Outside Counsel 10.1207			
Total Amount for January 1, 2021 to March 31, 2021: \$3,200.00			

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT CITY VICTORIES

January 1, 2021 to March 31, 2021
3rd Quarter FY21

Case Name: Castle, Sarah v. Albuquerque Bernalillo County Water Utility Authority, et al.; D-202-CV-2020-02584		
<u>Type of Suit:</u> LIT-Tort/Property Damage/ Premises Liab. <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 11.327	<u>Synopsis of Case</u> Plaintiff alleged property damages following a sewer line break that flooded her property.	<u>Disposition</u> Voluntary Dismissal
Case Name: Chavez, Donald v. City of Albuquerque; 1:20-cv-00731 removed from D-202-CV-2020-03678		
<u>Type of Suit:</u> LIT-Civil Rights and Tort Claims <u>Division / Attorney:</u> Litigation / Aaron Holloman <u>Matter ID</u> <u>Outside Counsel</u> 33.068	<u>Synopsis of Case</u> Plaintiff alleged violations of civil rights following the removal of a statue.	<u>Disposition</u> Dismissal granted in favor of City following Motions practice.
Case Name: Garcia-Pena, Santiago v. City of Albuquerque, Albuquerque Public Schools and Richard Valenzuela; D-202-CV-2020-04954		
<u>Type of Suit:</u> LIT-Tort/Personal Injury/MVA <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 11.339	<u>Synopsis of Case</u> Plaintiff alleged damages and personal injury following an MVA involving a Albuquerque Public School vehicle.	<u>Disposition</u> Plaintiff voluntarily dismissed City after Motions practice.

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT CITY VICTORIES

January 1, 2021 to March 31, 2021
3rd Quarter FY21

Case Name: Gariss, Scott v. City of Albuquerque and Ethan Watson; D-202-CV-2020-04109		
<u>Type of Suit:</u> LIT-IPRA <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 10.1139	<u>Synopsis of Case</u> Plaintiff alleged damages pursuant to IPRA.	<u>Disposition</u> Disposition Order for Lack of Prosecution filed Sua Sponte.
Case Name: Gaul, Nancy v. Sundance Village Limited Partnership, et al.; D-202-CV-2020-04902		
<u>Type of Suit:</u> LIT-Tort/Personal Injury/Premises Liab. <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 11.344	<u>Synopsis of Case</u> Plaintiff alleged personal injury following a trip and fall incident.	<u>Disposition</u> City negotiated dismissal of City as a party.
Case Name: Howard-Portee, Catherine v. City of Albuquerque and Nyvia Barraza; D-202-CV-2021-00123		
<u>Type of Suit:</u> LIT-IPRA <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 10.1231	<u>Synopsis of Case</u> Plaintiff alleged damages pursuant to IPRA.	<u>Disposition</u> City negotiated dismissal of Complaint.

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT CITY VICTORIES

January 1, 2021 to March 31, 2021

3rd Quarter FY21

Case Name: Mayfield, Earl v. Presbyterian Hospital, et al.; 19-cv-948		
<u>Type of Suit:</u> LIT-Civil Rights and Tort Claims <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 10.1064	<u>Synopsis of Case</u> Plaintiff alleged violations of his civil rights following an encounter at Presbyterian Hospital.	<u>Disposition</u> Dismissal granted in favor of the City following Motions practice.
Case Name: Murphy, Dennis, PR, of the Estate of Robert A. Nelson, Deceased v. New Mexico Department of Transportation, et al.; D-202-CV-2020-02998		
<u>Type of Suit:</u> LIT-Tort/Wrongful Death <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 11.331	<u>Synopsis of Case</u> Plaintiff's estate alleged damages pursuant to wrongful death following an MVA involving a motorcycle.	<u>Disposition</u> Plaintiff voluntarily dismissed City after Motions practice.
Case Name: Nunez, Jaclyn as PR of the Estate of Danny Ray Licon v. City of Albuquerque; D-202-CV-2020-00923		
<u>Type of Suit:</u> LIT-Negligence <u>Division / Attorney:</u> Litigation / Stephanie M. Griffin <u>Matter ID</u> <u>Outside Counsel</u> 10.1095	<u>Synopsis of Case</u> Plaintiff alleged negligence after child fell from an overpass and died.	<u>Disposition</u> Disposition Order for Lack of Prosecution.

LEGAL DEPARTMENT QUARTERLY LITIGATION REPORT CITY VICTORIES

January 1, 2021 to March 31, 2021
3rd Quarter FY21

Case Name: Ramirez, Michael v. City of Albuquerque, et al.; 1:20-cv-00255 KRS-JHR		
<u>Type of Suit:</u> LIT-Civil Rights and Tort Claims <u>Division / Attorney:</u> Litigation / Kristin J. Dalton <u>Matter ID</u> <u>Outside Counsel</u> 10.1105	<u>Synopsis of Case</u> Plaintiff alleged violations of his civil rights following an arrest by APD.	<u>Disposition</u> Dismissal granted in favor of City following Motions practice.
Case Name: State Farm Mutual Automobile Insurance Company v. City of Albuquerque; D-202-CV-2020-02634)		
<u>Type of Suit:</u> LIT-Tort/Personal Injury/MVA <u>Division / Attorney:</u> Litigation / Michael D. Russell <u>Matter ID</u> <u>Outside Counsel</u> 17.151	<u>Synopsis of Case</u> Plaintiff alleged money due in subrogation following an MVA involving a Solid Waste Management vehicle.	<u>Disposition</u> Stipulated dismissal of Complaint. No settlement.