

Tort Judgments and Settlements Pertaining to WSF and non-WSF Operations

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November 2019



Washington State
Department of Transportation

Pursuant to Section 219 of the Washington State Legislature’s budget pertaining to the Washington State Department of Transportation (WSDOT), the following is a summary report of information related to tort judgments and settlements pertaining to the state ferry system (WSF) and nonferry operations of the department for the quarter ending September 30, 2019.

To provide context, there are five general categories of cases. First, there are claims handled and settled by WSDOT per its delegated authority from the Department of Enterprise Services, Office of Risk Management. Second, there are claims and cases tendered to insurance companies wherein contractors hired by WSDOT are required to indemnify the State of Washington for claims related to work on construction projects. Third, there are cases that can be dismissed on motion by a party. Fourth, if a lawsuit cannot be dismissed on motion, an attempt is made to reach an agreed settlement. Finally, there are cases that result in a trial. All of these categories, whether actual litigation or not, may have defense costs relating to them as well as regular payouts. All payments made to litigants are reduced to judgments pursuant to statute codified in RCW 4.92.040 and according to the civil court rule 54(a)(1). A judgment is defined as the final determination of the rights of the parties in an action.

All tort claims received against the state are provided a unique identifying number and are classified by type. Claims are classified as personal property damage, marine vessel property damage, bodily injury, marine crew injury, civil rights, and death. Payments are separated into bodily injury (BI) and property damage (PD). The litigation costs involved in representing WSDOT are recorded as Paid Legal (PL).

The following information is the data required and responsive to Section 219, subsection 2 (a) – (c) and subsection 3 (a) – (c).

Number of Claims by Type

| TYPE OF CLAIM | NUMBER BY TYPE | CLAIM TOTALS |
|--------------------------------------|-----------------------|---------------------|
| WSF claims Opened in FY 20 Q1 | | 18 |
| Bodily Injury | 1 | |
| Marine Crew Injury | 1 | |
| Marine Terminal Injury | 1 | |
| Marine Terminal Property | 1 | |
| Marine Vessel Injury | 1 | |
| Marine Vessel Property | 13 | |
| | | |
| WSF claims Closed in FY 20 Q1 | | 19 |
| Bodily Injury | 0 | |
| Marine Crew Injury | 3 | |
| Marine Terminal Injury | 1 | |
| Marine Terminal Property | 1 | |
| Marine Vessel Injury | 2 | |
| Marine Vessel Property | 12 | |

| TYPE OF CLAIM | NUMBER BY TYPE | CLAIM TOTALS |
|--|----------------|--------------|
| Non-WSF claims Opened in FY 20 Q1 | | 333 |
| Bodily Injury | 19 | |
| Civil Rights | 1 | |
| Death | 1 | |
| Personal Injury | 4 | |
| Personal Property | 308 | |
| | | |
| Non-WSF claims Closed in FY 20 Q1 | | 357 |
| Bodily Injury | 33 | |
| Civil Rights | 0 | |
| Death | 3 | |
| Personal Injury | 4 | |
| Personal Property | 317 | |

Payments

| TYPE OF CLAIM | NUMBER BY TYPE | TOTAL | INDEMNITY PAYMENTS | DEFENSE PAYMENTS | PAYMENT TOTALS | AVERAGE PAYOUT PER CLAIM TYPE |
|-----------------------------|----------------|------------|--------------------|------------------|-----------------------|-------------------------------|
| WSF | | 37 | | | | |
| Bodily Injury | 0 | | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Civil Rights | 3 | | \$0.00 | \$35,926.27 | \$35,926.27 | \$11,975.42 |
| Marine Crew Injury | 16 | | \$626,000.00 | \$178,673.60 | \$804,673.60 | \$50,292.10 |
| Marine Terminal Injury | 4 | | \$0.00 | \$25,992.12 | \$25,992.12 | \$6,498.03 |
| Marine Terminal Property | 1 | | \$1,497.55 | \$0.00 | \$1,497.55 | \$1,497.55 |
| Marine Vessel Injury | 3 | | \$883.19 | \$9,169.58 | \$10,052.77 | \$3,350.92 |
| Marine Vessel Property | 7 | | \$9,489.79 | \$0.00 | \$9,489.79 | \$1,355.68 |
| Personal Injury | 3 | | \$28,693.04 | \$36,990.69 | \$65,683.73 | \$21,894.58 |
| TOTAL WSF PAYOUT | | | | | \$953,315.83 | \$25,765.29 |
| | | | | | | |
| Non-WSF | | 141 | | | | |
| Bodily Injury | 55 | | \$42,718.92 | \$518,019.00 | \$560,737.92 | \$10,195.23 |
| Civil Rights | 7 | | \$22,606.50 | \$68,146.90 | \$90,753.40 | \$12,964.77 |
| Death | 15 | | \$0.00 | \$350,438.02 | \$350,438.02 | \$23,362.53 |
| Personal Injury | 5 | | \$0.00 | \$22,516.20 | \$22,516.20 | \$4,503.24 |
| Personal Property | 59 | | \$129,901.37 | \$36,717.81 | \$166,619.18 | \$2,824.05 |
| TOTAL NON-WSF PAYOUT | | | | | \$1,191,064.72 | \$8,447.27 |

Proviso Section 2(d) Response

The impact of moving legal costs associated with WSF into the statewide Self-Insurance Liability Account (SILA) administered by the Department of Enterprise Services, Office of Risk Management is the substantial benefit achieved by the predictability of paying those costs through the SILA biennial premium established by actuarial analysis rather than paying the costs as incurred throughout the biennium, which frequently created pressures on Program U that were difficult to manage.

Should you have any questions, or need further information, please contact Kara Larsen, Risk Management & Legal Services Director, at 360-704-6366, or larsenk@wsdot.wa.gov.