



## Office of Multnomah County Attorney

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501 SE Hawthorne Blvd., Ste. 500,  
Portland, OR 97214

# **2006-2007 Annual Litigation Report**

*County Attorney's Litigation Report  
to the Multnomah County  
Board of Commissioners  
September 18, 2007*



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## MEMORANDUM

**TO:** Board of County Commissioners  
Ted Wheeler, Chair  
Maria Rojo de Steffey, Commissioner  
Jeff Cogen, Commissioner  
Lisa Naito, Commissioner  
Lonnie Roberts, Commissioner

**FROM:** Agnes Sowle

**DATE:** September 18, 2007

**RE:** 2006-2007 Annual Litigation Report

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### INTRODUCTION

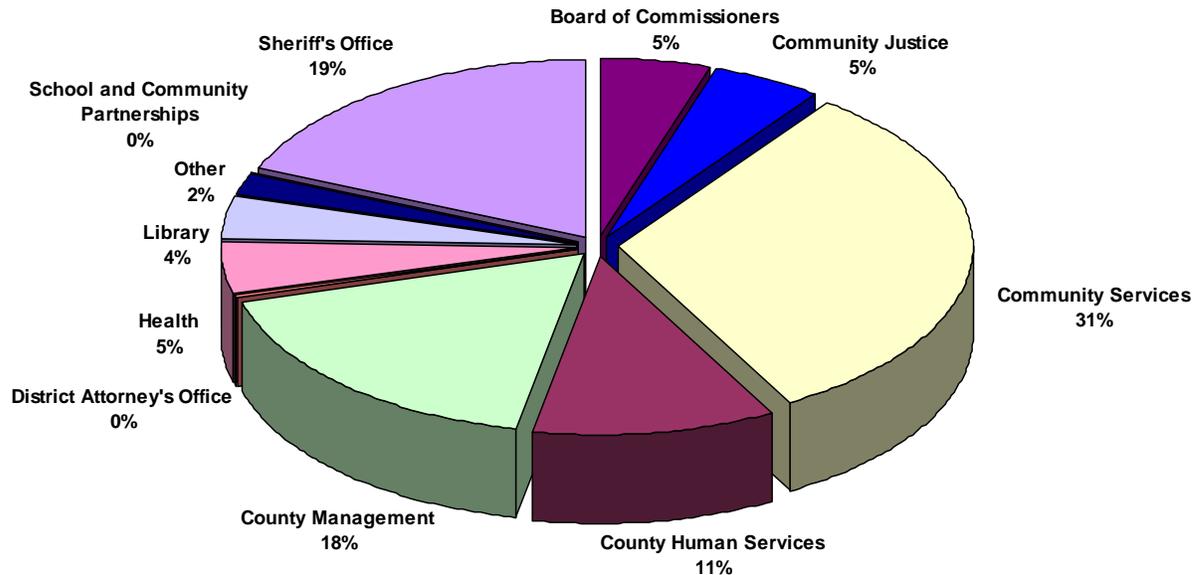
During the 2006 – 2007 fiscal year, our office had fourteen lawyers, six permanent support staff and five limited duration ITAX support staff. The office provides legal services for all county elected officials, officers and departments. Multnomah County Code Section 7.201(I) requires the County Attorney to submit a formal annual litigation report to the Board. This Annual Litigation Report summarizes the legal services we provided to county clients last fiscal year giving detail to litigation.

During the fiscal year 2006-2007, we provided 20,518 hours of direct legal services for litigation, legal consultation, legal document preparation and review, and client training. This is slightly more hours than we provided the previous year despite FMLA leaves and attorney vacancies during the recruitment and hiring of two attorneys.

## DIRECT SERVICE HOURS

Graph 1 shows all of our direct services hours broken down by department. The greatest amount of direct service time was devoted to Community Services with 31% of the hours. Community Services has been the highest user of our time for the past two years largely due to several major transportation issues and the implementation of and litigation required by Measure 37 claims. The total hours for the Sheriff remained fairly constant with 19%. County Management used 18% with County Human Services needing 11%, both about the same as previous years. The hours spent on Health Department legal matters increased slightly to 5% while Community Justice decreased to 5%. Services for the Board remained the same at 5% this year.

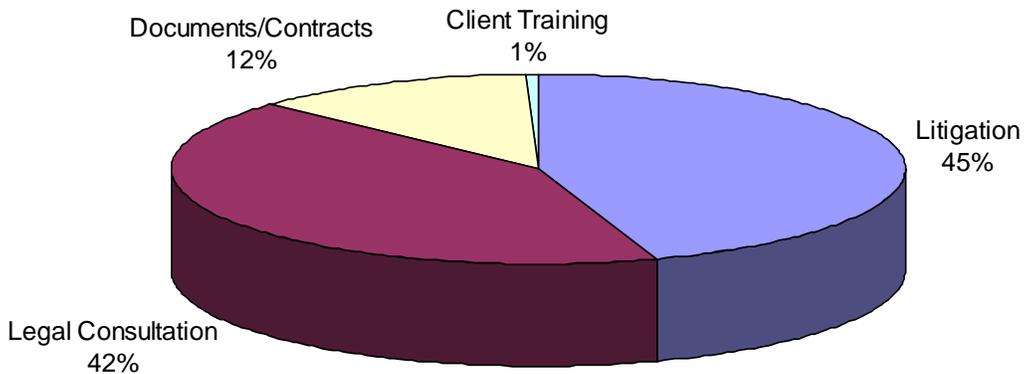
**Graph 1**  
**Direct Service Time to Departments**  
 7/1/06 through 6/30/07



Department	Hours
Community Services	6509.47
Sheriff's Office	3800.2
County Management	3593.75
County Human Services	2274.2
Community Justice	1065.95
Board of Commissioners	1012.7
Health	953.35
Library	797
Other	366.15
District Attorney's Office	99.7
School and Community Partnerships	45.4
	<b>20517.87</b>

Graph 2 depicts direct service hours expended by the various work types. At 45%, litigation was up slightly from last year's 42% and legal consultation, at 42% was slightly down. Time spent in preparation and review of contracts and other legal documents was slightly down at 12%, and at 1%, client training remained the same. These numbers vary slightly each year but have remained fairly consistent over a number of years.

Graph 2  
**Direct Service Time**  
 7/1/06 through 6/30/07



<b>Work Type</b>	<b>Hours</b>
Litigation	9,176.62
Legal Consultation	8,672.80
Documents/Contracts	2,554.85
Client Training	113.60

## LITIGATION

Graph 3 shows our litigation hours broken down by department. The Sheriff used 31% of the litigation hours. That was down slightly from last year, but MCSO generally uses about one third of our litigation hours. Community Services required 35% of our litigation hours, a substantial increase from previous years. Again, with the addition of Measure 37 cases, this is to be expected. County Human Services took 6% which is a substantial decrease from the previous year. County Management required 12% and Community Justice, 7%. It only takes one or two cases to change the numbers substantially from year to year.

During the year, we received 161 new tort claims, thirty more than last year. We received 29 new lawsuits to defend, not including those involving tax matters or non-Measure 37 land use appeals. The number of lawsuits is down from 54 last year. About one half of the lawsuits were brought against the Sheriff's Office which is usual. Many of those cases are brought by inmates (many representing themselves) and include excessive force, religious discrimination, violation of ADA, and other various civil rights claims. Community Services received a number of the lawsuits, including those alleging Measure 37 and several lawsuits regarding maintenance of roadways, signs, etc. There were several lawsuits resulting from post prison supervision and one wrongful death case against Corrections Health.

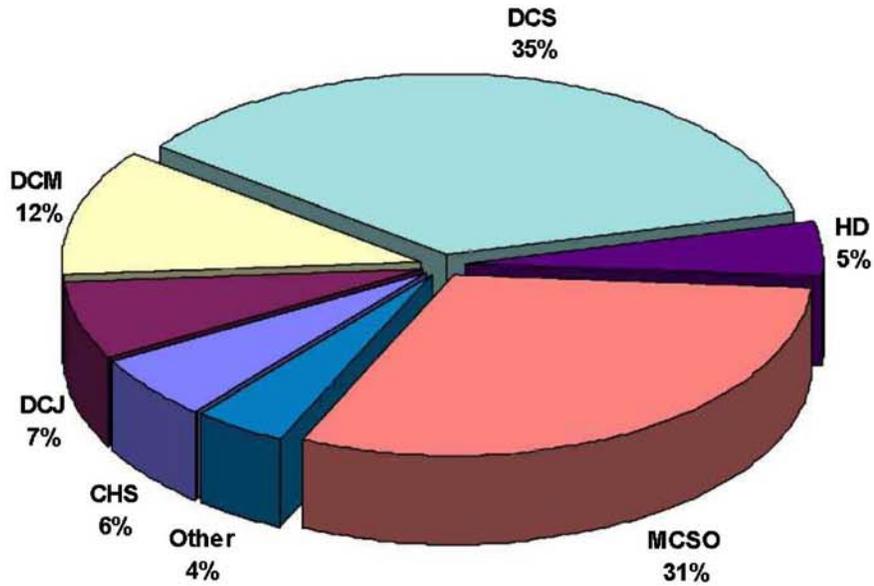
In Fiscal Year 2005-2006, we lost one case with a jury verdict of \$25,000 with additional costs of \$63,661, and we settled 13 lawsuits from the risk management fund for a total of \$780,011. In short, the County only paid out on 14 lawsuits.

In the 2006-2007 fiscal year, we only tried one case to verdict, a Measure 37 case. The judge ruled in favor of the County. Graph 4 shows lawsuits against the County that we settled from the risk management fund during the 2006-2007 fiscal year -- eleven with the total amount paid out of \$361,020.

We prevail in the majority of the lawsuits filed against the County. Our litigation team is very successful in obtaining dismissals as the result of successful motions to dismiss or motions for summary judgment. As a result, the yearly amount of County liability resulting from litigation is extremely low, particularly the past couple of years.

# Litigation Time by Department

7/1/06 through 6/30/07



Department	Time
Community Services	3,268.52
Sheriff	2,835.15
County Management	1,056.80
Community Justice	640.95
County Human Services	529.20
Health Department	463.35
Other County	237.55
Multnomah County Library	94.10
District Attorney	44.70
Board of Commissioners	6.10
School and Community Partnerships	0.20

**Graph 4**

**GENERAL LIABILITY AND BODILY INJURY PAYMENTS  
for July 1, 2006 – June 30, 2007**

<b>Case Name/Date</b>	<b>Dept.</b>	<b>Type</b>	<b>Amount</b>
<b>Delarosa, Anthony</b> 12/21/06	Health	Wrongful death based on corrections health medical malpractice	200,000
<b>Buckwalter, Lori</b> 08/29/07	DCM	Gender identity discrimination, retaliation	35,000
<b>Dzhur, Lyubov</b> 08/15/06	CHS	Employment discrimination	32,420
<b>Thompson, Anderson and Aune</b> 07/21/06	MCSO	Excessive Force	25,000
<b>Reel, Connie</b> 11/27/06	DCJ	Employment discrimination	20,000
<b>Getz, Julie</b> 06/26/07	DCS	Negligent road signage	15,000
<b>Phillips, Kenneth</b> 03/29/07	MCSO	Corrections medical malpractice	13,500
<b>MacDonald, Alasdair</b> 06/06/07	MCSO	Excessive force, inadequate medical treatment.	12,500
<b>Walker, Steve</b> 09/27/06	MCSO	Inmate denial of medical treatment	7,000
<b>Vu, Thanh</b> 12/04/07		Employment discrimination	6,600
<b>Mortimer, Amanda</b> 05/25/07	MCSO	Abuse of Authority of Deputy	4,000
<b>TOTAL</b>			361,020

## EFFECTIVE RATE

The effective rate paid for each hour of direct legal service was \$125.42, up from last year's \$118.03. The rate is calculated by dividing the actual expenditures of the office, including payroll for attorneys and staff, rent, supplies, professional dues and the like, by the hours of direct service provided by the attorneys. The rate has been calculated by using direct service hours only and does not take into account the 1972 hours spent on office administration and continuing legal education activities. This hourly rate pays for a very experienced staff: Four of our attorneys have 25 or more years of experience and five have more than 10 years experience.

Despite the slight increase in our rate from last year, we saved the county and taxpayers a significant amount of money from rates charged by private law firms. Legal fees charged by Portland firms to represent government clients now exceeds \$225 per hour and, in some cases, is as high as \$350 per hour. In the Dorothy English litigation, her attorneys requested the court approve fees for partners at an hourly rate in excess of \$400 per hour and for associates in excess of \$250 per hour, and the Court awarded the entire amount requested. We have appealed that award

Of all hours reported by county attorneys 91% went to direct client legal services; the percentage of our hours devoted to administrative and professional development services is only 8.77%, a little less than last year, and significantly less than the years before. Those hours include management of the office, staff meetings, litigation meetings, library maintenance, and professional development including the hours attorneys attend Mandatory Continuing Legal Education to maintain their licenses.

The following chart summarizes the effective hourly rate computation:

Total Hours Reported		22,489
Direct Service	(91.23%)	20,517
Non-Direct Service	(8.77%)	1972
<b>14 Lawyer FTE Average Direct Service Hours*</b>		<b>1,466</b>
Office Actual Expenditures 2006-07		\$2,573,452
Divided by Direct Service Hours		20,517
<b>Effective Hourly Rate</b>		<b>\$125.42</b>

## **CONCLUSION**

We have now compiled eight years of legal service data permitting us to quantify the hours of legal services, the nature of the services and the clients that receive services. The data allows us to more efficiently manage, monitor and deploy county legal assets. We continue to work to improve the accuracy of our data.

Our challenge is to continue to provide efficient and effective legal services and increase appropriate non-litigation use of our resources. We also must meet the increasing demands of more complex and serious litigation. We continue to work closely with the Sheriff, the department that uses a large share of our resources. We continue to seek opportunities to effectively use county legal resources and look for ways to improve our services to best meet the county's legal needs. Our mission is to provide the highest quality, customer-focused service and good value for the tax dollar. We believe we perform that mission well.