



## ● March 31, 2021 Quarterly Report

This is the quarterly report to the Legal and Claims Committee on the exercise of powers delegated to the General Manager and the General Counsel by Administrative Code Sections 6433 and 6434. In addition, the General Counsel reports to the Legal and Claims Committee on the exercise of power delegated to her by Administrative Code Section 6431.

### Attachments

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- ATTACHMENT A: Workers' Compensation Matters Resolved During the Period  
January 1, 2021 – March 31, 2021.
- ATTACHMENT B: Claims Against Metropolitan Resolved by Risk Management During the Period  
January 1, 2021 – March 31, 2021.
- ATTACHMENT C: Costs Collected During the Period  
January 1, 2021 – March 31, 2021.
- ATTACHMENT D: Property Damage Written Off as Uncollectible During the Period  
January 1, 2021 – March 31, 2021 - NONE.
- ATTACHMENT E: Accounts Receivables Written Off as Uncollectible During the Period  
January 1, 2021 – March 31, 2021 - NONE.

### Detailed Report

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#### Contracts

Within this past quarter, the General Counsel entered into or amended the following contracts pursuant to her authority under Administrative Code Section 6431:

#### **Buchalter, a Professional Corporation**

Metropolitan retained the services of Special Counsel to provide legal advice regarding the Union Pacific Industry Track Agreement.

#### **Executive Presentations, Inc.**

Metropolitan retained the services of Consultant to provide trial and other graphic services in the matter entitled, *Imperial Irrigation District v. The Metropolitan Water District of Southern California, et al.*, Los Angeles Superior Court Case No. 20STCV46404.

#### **Liebert Cassidy Whitmore**

This agreement was amended this quarter to reflect an increase in the maximum amount payable.

#### **Limandri & Jonna, LLP**

Metropolitan retained the services of Special Counsel to provide expert counsel on insurance and wrongful death issues and other potential claims.

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### **Meyers Nave, A Professional Corporation**

Metropolitan retained the services of Special Counsel to provide legal advice and representation in the matter entitled, *Imperial Irrigation District v. The Metropolitan Water District of Southern California, et al.*, Los Angeles Superior Court Case No. 20STCV46404.

### **Michael Heider (Agreement No. 193467)**

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed concerning potential misconduct by two employees.

### **Michael Heider (Agreement No. 200456)**

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed concerning potential misconduct by one employee.

### **Public Interest Investigations (Agreement No. 193462)**

Metropolitan retained the services of Consultant to investigate and provide recommendations concerning a complaint of violation of one or more of Metropolitan's EEO policies. This agreement was also amended within the same quarter to reflect an increase in the maximum amount payable.

### **Public Interest Investigations (Agreement No. 174608)**

This agreement was amended this quarter to reflect an increase in the maximum amount payable.

### **Reddock Law Group (Agreement No. 200459)**

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed concerning a complaint of violation of one or more of Metropolitan's EEO policies.

### **Ron Bremen**

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed concerning potential misconduct by two employees.

### **Van Ness Feldman, LLP**

Metropolitan retained the services of Special Counsel to provide advice on compliance with federal environmental law with respect to the State Water Project and Bay-Delta issues including, new State Water Project Delta conveyance.

### **Susan Woolley (Agreement No. 185879)**

This agreement was amended this quarter to reflect a change in the scope of work.

### **Susan Woolley (Agreement No. 193470)**

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed concerning a complaint of violation of one or more of Metropolitan's EEO policies.

### **Susan Woolley (Agreement No. 193468)**

Metropolitan retained the services of Consultant to investigate and provide analysis and recommendations as directed concerning a complaint of violation of one or more of Metropolitan's EEO policies.

## **Claims and Other Matters**

1. Between January 1, 2021 – March 31, 2021, Metropolitan initiated, compromised, settled, or otherwise disposed of the following claims and entered into the following separation agreements:

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### a. Litigated, Compromised and Settled Claims By and Against Third Parties

1. ***Metropolitan v. R. Douglas Collins, Los Angeles Superior Court Case No. 19STCP00437, CA App 2<sup>nd</sup> Case No. B305990:***

Hearing Officer Doug Collins issued his decision on November 20, 2018, sustaining the appeal by AFSCME Local 1902 of a decision to terminate an employee involved in an altercation at the workplace. The hearing officer reduced the disciplinary action to a three-week suspension as he believed the termination was disproportionate to the discipline imposed on the other employee involved in the altercation, and the hearing officer was not convinced that the aggravating circumstances cited by Metropolitan warranted an enhancement of the disciplinary action to a discharge. Metropolitan disagreed with Mr. Collins' assessment that there are no substantial aggravating circumstances present, and on February 12, 2019, Metropolitan filed a petition for writ of administration mandamus seeking to overturn his decision. The petition was granted in part, with the Superior Court finding that some of Mr. Collins' findings were not supported by substantial evidence, however the court declined to overturn the discipline. Metropolitan has now filed an appeal of the Superior Court decision. Metropolitan primarily contends that the Hearing Officer failed to apply the correct legal standard to the discipline, inappropriately considered irrelevant cases in determining the level of discipline and unilaterally modified the terms of the Memorandum of Understanding (MOU) between Metropolitan and AFSCME by fashioning a remedy outside of the terms of the MOU.
2. ***Andrew Hawgood v. Metropolitan, Los Angeles Superior Court Case No. 20STCV32021:***

Mr. Hawgood filed a complaint in superior court alleging race discrimination and disability discrimination. After reviewing the complaint in detail, Metropolitan determined that the race discrimination allegations were unfounded but that there was a liability risk associated with the disability discrimination allegations. Based on the risk and the particular facts, it was unlikely that the matter could be disposed of by pre-trial motion so, if not settled, the matter would have proceeded to trial. As a result, Metropolitan entered into a settlement with Mr. Hawgood. Key terms of the settlement included a one-time payment within the Administrative Code authority of the General Manager and General Counsel in exchange for a dismissal of the lawsuit with prejudice, no admission of wrongdoing and a waiver of attorney fees and costs. Mr. Hawgood is no longer employed by Metropolitan. The Legal Department represented Metropolitan in this matter.
3. ***AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1441-M:***

In this PERB complaint, AFSCME is challenging the language Metropolitan used in certain recent engineer recruitments. Metropolitan contends it has the right to use specific language for recruitment purposes for positions with generalized classification descriptions that covers a variety of sub-specialities. AFSCME filed its PERB charge on March 24, 2020, and on March 22, 2021, PERB issued a complaint. Metropolitan has retained Atkinson, Andelson, Loya, Ruud & Romo to assist in defending this matter. A settlement conference is scheduled for May 6, 2021.
4. ***AFSCME Local 1902 v. MWD, PERB Case No. LA-CE-1435-M:***

Metropolitan asserted that AFSCME's executive treasurer's use of leave time for union business exceeded what was authorized by the collective bargaining agreement. AFSCME contended that even if the use exceeded the terms of the contract, Metropolitan was bound to that use as a past practice. AFSCME filed a PERB charge on February 20,

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2020, after PERB issued the complaint on September 20, 2020, the parties continued to discuss potential settlement. In March 2021, the parties settled by agreeing to terms regarding executive treasurer leave during the remainder of the current contract period. AFSCME and Metropolitan agreed to consider proposals to clarify this issue at the next bargaining session. In light of the agreement, AFSCME has withdrawn the PERB charge.

5. ***Greg Staar v. MWD, Los Angeles Superior Court Case No. 19STCV41726:***  
Mr. Staar filed a first amended complaint against Metropolitan on January 17, 2020 alleging that he was retaliated against (by being released from probationary employment) for "blowing the whistle" on various issues. After the complaint was filed, the parties engaged in discovery but quickly fell into a protracted dispute regarding the use of privileged records in litigation. After MWD filed a contested motion on the issue, the parties reached an agreement in March 2021 to prohibit the use of attorney-client privileged records in the litigation. Depositions are now anticipated in April 2021. The parties are scheduling a mediation to attempt to resolve the matter. If the mediation is not successful, Metropolitan anticipates filing a motion for summary judgment.
  6. ***AFSCME Local 1902 v. MWD (CSU Meal Periods), a hearing officer appeal matter:***  
In this contractual dispute, AFSCME contends the collective bargaining agreement guarantees employees the right to take extended lunch breaks when working in the field and where the field location does not contain suitable lunch facilities (which AFSCME characterizes as a table to sit, shelter, running water, microwave and kitchen amenities, etc.). MWD contends the contract does not provide for such extensive meal period rights but offered to discuss proposals regarding lunch break provisions at the next contract bargaining session. AFSCME declined and elected to request a hearing officer appeal on February 20, 2020. The parties spent several months attempting to negotiate a settlement of the dispute but unfortunately could not resolve the matter. Consequently, Metropolitan anticipates the matter will be set for hearing in July 2021.
- b. Workers' Compensation Matters  
Workers' Compensation claims settled by the General Manager and the General Counsel within this past quarter are reported in Attachment A.
  - c. Other Claims By and Against Third Parties Resolved by Risk Management  
Non-litigated third-party claims resolved by Risk Management (under authority delegated by the General Manager) and approved by the General Counsel within this past quarter are reported in Attachment B.
  - d. SB 90 Claims  
No SB 90 claims for reimbursement for state-mandated costs collected were reported within this past quarter.
  - e. Separation Agreements  
Metropolitan did not enter into any separation agreements within this past quarter.
2. Costs collected for claims within this past quarter are reported in Attachment C.
  3. No Property Damage Claims were declared as uncollectible by the General Manager within this past quarter.
  4. No Accounts Receivables were written off as uncollectible by the General Manager within this past quarter.

**ATTACHMENT A**  
Workers' Compensation Matters Resolved During the Period  
January 1, 2021 – March 31, 2021

<b>Classification</b>	<b>Control No.</b>	<b>Date of Injury</b>	<b>Amount of Settlement</b>	<b>Nature of Injury</b>	<b>Basis for Settlement</b>
O&M Tech IV	2018-1109-0211	11/8/2018	\$21,895.00	Left Shoulder	Stipulation with Request for Award
Team Manager IV	2018-1017-0175	10/17/2018	\$12,252.50	Bilateral Knees	Stipulation with Request for Award

**ATTACHMENT B**  
 Claims Against Metropolitan Resolved by Risk Management During the Period  
January 1, 2021 – March 31, 2021

<b>Claimant</b>	<b>Control No. TPA No.</b>	<b>Amount of Settlement</b>	<b>Incident Description</b>	<b>Basis for Resolution</b>
Shehata, Dahlia	2020-0903-0158 027-000158	\$2,923.98	On 9/20/2020, an MWD truck backed into the rear of a parked third-party SUV, and caused damage to the rear bumper and liftgate	The third-party claim was settled based upon an evaluation of the accident, impact, damage and repair cost
Herrera, Timothy	2020-0723-0031 027-000120	\$500.00	On 7/23/2020, an MWD truck made a left turn and struck a third-party flatbed trailer in the adjacent lane causing damage to the trailer, rim and tire	The third-party claim was settled based upon an evaluation of the accident, damage, and the cost estimate to repair the damage and replace the rim and tire

**ATTACHMENT C**  
 Costs Collected During the Period of  
January 1, 2021 – March 31, 2021

<b>Third Party or Cause</b>	<b>Control No. TPA No.</b>	<b>Costs Collected</b>	<b>Incident Description</b>	<b>Basis for Costs Collected</b>
Kupferman, Paul	2020-1118-0215 026-000319	\$3,000.00	On 11/9/2020, a third-party vehicle crossed the lane of traffic while turning left and struck and damaged the right front side of a District truck	The cost to repair the MWD property damage was \$5,134.17. MWD was limited to \$3,000.00 recovery due to the low third-party property damage insurance policy limits