

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

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Pursuant to ESHB 1160, 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 December 31, 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 Q2		24
Bodily Injury	0	
Civil Rights	0	
Marine Crew Injury	2	
Marine Terminal Injury	1	
Marine Terminal Property	2	
Marine Vessel Injury	2	
Marine Vessel Property	17	
Personal Injury	0	
WSF claims Closed in FY 20 Q2		25
Bodily Injury	0	
Civil Rights	1	
Marine Crew Injury	2	
Marine Terminal Injury	1	
Marine Terminal Property	3	
Marine Vessel Injury	2	
Marine Vessel Property	15	
Personal Injury	1	

TYPE OF CLAIM	NUMBER BY TYPE	CLAIM TOTALS
Non-WSF claims Opened in FY 20 Q2		166
Bodily Injury	7	
Civil Rights	2	
Death	0	
Personal Injury	3	
Personal Property	154	
Non-WSF claims Closed in FY 20 Q2		236
Bodily Injury	49	
Civil Rights	1	
Death	5	
Personal Injury	3	
Personal Property	178	

Payments

TYPE OF CLAIM	NUMBER BY TYPE	TOTAL	INDEMNITY PAYMENTS	DEFENSE PAYMENTS	PAYMENT TOTALS	AVERAGE PAYOUT PER CLAIM TYPE ¹
WSF		28				
Bodily Injury	0		\$0.00	\$0.00	\$0.00	\$0.00
Civil Rights	3		\$0.00	\$32,318.86	\$32,318.86	\$10,772.95
Marine Crew Injury	11		\$65,000.00	\$89,053.16	\$154,053.16	\$14,004.83
Marine Terminal Injury	4		\$0.00	\$14,057.30	\$14,057.30	\$3,514.33
Marine Terminal Property	0		\$0.00	\$0.00	\$0.00	\$0.00
Marine Vessel Injury	1		\$0.00	\$2,184.38	\$2,184.38	\$2,184.38
Marine Vessel Property	6		\$9,451.95	\$0.00	\$9,451.95	\$1,575.33
Personal Injury	3		\$0.00	\$2,104.14	\$2,104.14	\$701.38
TOTAL WSF PAYOUT					\$214,169.79	\$7,684.92

TYPE OF CLAIM	NUMBER BY TYPE	TOTAL	INDEMNITY PAYMENTS	DEFENSE PAYMENTS	PAYMENT TOTALS	AVERAGE PAYOUT PER CLAIM TYPE ¹
Non-WSF		119				
Bodily Injury ²	50		\$15,326,973.34	\$459,572.43	\$15,786,545.77	\$315,730.92
Civil Rights	5		\$0.00	\$65,104.46	\$65,104.46	\$13,020.89
Death	14		\$0.00	\$114,639.95	\$114,639.95	\$8,188.57
Personal Injury	7		\$0.00	\$13,472.29	\$13,472.29	\$1,924.61
Personal Property	43		\$36,618.48	\$22,945.46	\$59,563.94	\$1,385.21
TOTAL NON-WSF PAYOUT					\$16,039,326.41	\$134,784.26

Notes: 1. The Average Payout Per Claim Type column includes both indemnity payout and defense costs.
2. One payment was for \$17.5M. Of that amount, excess insurance paid \$2.5M. So the total state payout was \$15M. That is the amount that was used for purposes of averaging the claim payout amounts. However, for the purposes of claims experience in the actuarial process of establishing WSDOT's next biennial premium, the \$17.5M amount will be used.

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.