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February 10, 2011

Washington State Senate
Transportation Committee
311 John A. Cherberg Building
P.O. Box 40468
Olympia, WA 98504-0468

Washington State House of Representatives
Transportation Committee
Room LL-50, Joel M. Pritchard Building
P.O. Box 40600
Olympia, WA 98504-0600

Re: Report on Highway Tort Claims for Calendar Year 2010

Dear Members:

Following is a summary of tort cases involving state highways that were resolved by the Attorney General's Office (AGO) during calendar year 2010. This report is submitted on behalf of the Attorney General in compliance with RCW 43.10.101.

A. Overall Results

In 2010, twelve (12) highway cases against the Washington State Department of Transportation (DOT) were resolved.¹ Payouts of State money totaled \$28,686,250.00.

B. Cases Tendered to Insurance Companies

Contractors are required to indemnify the State and DOT for claims related to work on construction projects. In 2010, one case that had been previously tendered pursuant to the terms of an insurance contract (*Navarro*) was settled for \$800,000. Because this was resolved within the coverage limits of the contract, the payout did not include any State money.

One (1) lawsuit (*Adler*) was tendered to a DOT contractor's insurance carrier, James River Insurance Company, and the tender was accepted with a reservation of rights. WSDOT resolved the case with a payout of state funds in the amount of \$4,550,000.00. Because, in the view of the agency, the insurance company did not honor the indemnification terms of the contract when it came time to resolve the case, the State is pursuing a separate lawsuit in the form of a declaratory judgment action against the insurance company. For more discussion of the *Adler* settlement, see Section D, below.

¹ One case, *Mischel*, included two resolutions. The first appears as a voluntary dismissal and the second appears as a direct negotiation resolved for \$1,250.00.

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C. Dismissed by Court Order

The first plan of action in a lawsuit against DOT is to seek dismissal before trial through a motion to dismiss or for summary judgment. Disposing of lawsuits without trial is limited by the current state of highway law and court rules. Additionally, judges are generally reluctant to foreclose a trial for a plaintiff. For these reasons, AGO efforts on these motions can meet with limited success. If these motions are granted, DOT makes no payout; nevertheless, substantial expenses are incurred for attorney and staff time, and for direct costs necessary for investigation, research, expert witness retention and preparation, discovery, and other preparation.

One (1) case was voluntarily dismissed and was not re-filed. In addition, two (2) other cases that had been filed in state district court were voluntarily dismissed and re-filed in superior court. One of those cases settled while the other remains active.

D. Settlements

If a lawsuit cannot be dismissed without a trial, an attempt is made to reach an agreed settlement for an appropriate sum. The appropriate amount for settlement depends upon many factors, including the risk of liability under applicable law, the potential for joint liability, the evidence and quality of witnesses, the attorneys and court personnel involved, and pertinent client agency and Office of Financial Management input. Settlement may be negotiated between counsel, or may be approached using alternative dispute resolution, e.g., mediation. DOT's Risk Manager assists the AGO in resolving these highway lawsuits through the use of his knowledge of the law and legal process, his coordination between the AGO and DOT, and his substantial participation and guidance during settlement discussions.

For 2010, WSDOT paid settlement in nine (9) cases:

- Three (3) cases, *Mischel*, *Wosnack* and *Sooter*, settled respectively for \$1,250, \$125,000 and \$160,000.
- One (1) case, *Knapp*, settled for \$1,000,000. There, plaintiff was injured when a vehicle lost control on I-5 near Marysville, crossed under the cable barrier and struck plaintiff's vehicle.
- One (1) case, *Lancaster*, settled for \$2,000,000. There, plaintiff motorcyclist was severely injured when he was hit at the intersection of SR 101 and Lynch Road when co-defendant pulled out in front of him.

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- One (1) case, *Adler*, settled for \$4,550,000. There, a collision occurred in a construction area after a vehicle skidded underneath a cable barrier and hit a tractor-trailer head-on, resulting in the deaths of the driver and one passenger and severe injuries to two other passengers.
- One (1) case, *Barnum*, settled for \$5,350,000. There, three adults and one child (all members of the same family) were killed when their vehicle slid off the road in icy conditions on SR 6 in Pacific County, went down a 25 foot steep embankment and came to rest upside down in water at the bottom of the embankment.
- One (1) case, *Maurer*, settled for \$7,500,000. There, plaintiff alleged negligent design and maintenance of SR 12 after she crossed over the centerline and collided with another vehicle, resulting in the death of her husband and injuries to her three minor children.
- One (1) case, *Gendler*, settled for \$8,000,000. There, Plaintiff was severely injured (quadriplegia) when his bicycle tire dropped into a gap between the deck and grate sections of the Montlake Bridge (SR 513).

Large settlements generally involve the death of a high wage earner or major injuries such as drowning, traumatic brain injury or quadriplegia. High dollar value cases generally involve numerous expert witnesses on both liability and damages and require intense and lengthy discovery before they can be evaluated or proceed to trial.

These cases can also be complicated by joint liability. Joint liability enhances DOT's risk in many highway cases by requiring the State to pay damages caused by third parties. The State is often a co-defendant with drivers who might be primarily responsible for the accident, but are unable to cover their proportional share of liability because they are uninsured or underinsured. The plaintiff's strategy often is to convince a jury that the State's fault is a minor contributing factor (1% will suffice), and, unbeknownst to the jury, thereby causes the State to sustain liability for the uninsured or underinsured damages.

E. Trial Results

There were no trials in 2010 involving state highways.

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G. Conclusion

A summary of DOT case results is attached for your review. Please feel free to contact me in the event you have questions or would like additional information.

Sincerely,



W. HOWARD FISCHER
Senior Assistant Attorney General
Division Chief, Torts Division
(360) 586-6300

WHF:lj
Enclosure

cc: Office of the Governor (w/enc.)
Office of Financial Management, Division of Risk Management (w/enc.)
John Milton, DOT Risk Manager (w/enc.)
Robert K. Costello, Deputy Attorney General (w/enc.)
Bryce Brown, Division Chief, AGO Transportation Division (w/enc.)
Washington State Transportation Commission (w/enc.)
Jennifer S. Meyer, DOT Team Leader, Torts Division (w/enc.)

		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
1	B	Claim Denied	\$0	Dartford, David	Claim 40570288	Hilary Dartford was driving on Interstate 5 when she lost control of her vehicle and crossed the median causing a multi-vehicle accident. Claimants allege DOT did not design, install, and maintain cable carriers to prevent crossover collisions. Claimants suffer from physical and mental injuries, pain and suffering, loss of enjoyment of life, and damage to child/parent relationship.	<u>Claims:</u> 1. Failure to maintain, install, and design adequate barriers to prevent crossover collision <u>Defenses:</u> 1. Driver Negligence	a) Investigator McKnight, Lawrence b) Pro Se	included with Dartforth, Hilary
2	B	Claim Denied	\$0	Dartford, Hilary	Claim 40570287	Hilary Dartford was driving on Interstate 5 when she lost control of her vehicle and crossed the median causing a multi-vehicle accident. Claimants allege DOT did not design, install, and maintain cable carriers to prevent crossover collisions. Claimants suffer from physical and mental injuries, pain and suffering, loss of enjoyment of life, and damage to child/parent relationship.	<u>Claims:</u> 1. Failure to maintain, install, and design adequate barriers to prevent crossover collision <u>Defenses:</u> 1. Driver Negligence	a) Investigator McKnight, Lawrence b) Pro Se	2 / \$238
3	B	Claim Denied	\$0	Dartford, Lucas	Claim 40570289	Hilary Dartford was driving on Interstate 5 when she lost control of her vehicle and crossed the median causing a multi-vehicle accident. Claimants allege DOT did not design, install, and maintain cable carriers to prevent crossover collisions. Claimants suffer from physical and mental injuries, pain and suffering, loss of enjoyment of life, and damage to child/parent relationship.	<u>Claims:</u> 1. Failure to maintain, install, and design adequate barriers to prevent crossover collision <u>Defenses:</u> 1. Driver Negligence	a) Investigator McKnight, Lawrence b) Pro Se	included with Dartforth, Hilary

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
4	B	Consolidated	\$0	Reeves, Rachelle	Clallam 07-2-00519-9	John Hubble died when the vehicle he was driving left the roadway and landed in the Pysht River. Plaintiff, as personal representative of the Hubble Estate and on behalf of Hubble's minor child, Candie Marie Hubble alleges that the design, construction, maintenance, and signing of SR 112 were responsible for the collision. Candie has suffered emotional distress and loss of parent-child relationship.	<u>Claims:</u> 1. Defective design, maintenance, and signing of road. <u>Defenses:</u> 2. No duty to upgrade highway to modern standards, signage/stripping good. 3. <i>Ruff v. County of King</i> . 4. Driving under the influence of marijuana. 5. Tree stump not on DOT property 6. Car had weakened roof pillars & no airbags. 7. Curve is not a HAL or on a HAC, so no notice to State corrective action needed	a) Meyer, Jennifer S b) Williams, Gary	72 / \$12,028

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
5	B	Consolidated	\$0	Ringen, Tyler (Individually)	Snohomish 08-2-04901-7	Darrell and Sandra Knapp and their son Noah were killed when a pickup driven by William M. Murray went through the cable barrier and slammed into their vehicle. Claimants allege that DOT is responsible for not properly maintaining the cable barrier.	<u>Claims:</u> 1. Negligent design, installation and maintenance of cable median barrier. 2. Negligence by Murphy. 3. Negligence of unknown driver who pulled in front of Murphy. <u>Defenses:</u> 1. Cable barrier was properly maintained and installed. 2. 3rd Party Negligence (Murphy)	a) Puz, Steve b) Weed, Grant K.	6 / \$1,321
6	B	Statute of Limitations	\$0	Blanchard, John W	Claim 40560007	Claimant was driving southbound and Kristie Polanco/Putnam was driving northbound. Claimant alleges that Putnam lost control of her vehicle crossed the berm and traveled over the guardrail and landed on top of claimant's car. Claimant suffers from neck, back, shoulder pain, and PTSD.	<u>Claims:</u> 1. Failure to maintain, install, and design adequate barriers to prevent crossover collision <u>Defenses:</u> 1. Statute of Limitations	a) Investigator Hartley, Jeffrey b) Majnarich, Kathy	0
7	B	Statute of Limitations	\$0	Cahoon, Kathryn	Claim 40571478	Claimant alleges that DOT was negligent for the poor road design at MP 161.95. The design of the road caused standing water to accumulate. Claimant was hit when another vehicle lost control while driving through the standing water. Claimant suffers from physical injuries and is confined to a wheel chair.	<u>Claims:</u> 1. Poor road design <u>Defenses:</u> 1. Statute of Limitations	a) Investigator Smith, Laura b) Pro Se	0

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
8	B	Statute of Limitations	\$0	Camicia, Susan	Claim 40559675	Claimant was bicycling on a sidewalk when she struck 1 of the 3 wooden bollards. Claimant landed on her head and shoulder and suffers from a spinal fracture and is quadriplegia.	<u>Claims:</u> 1. Failure to properly maintain sidewalk <u>Defenses:</u> 1. Statute of Limitations	a) Investigator Kirschenman, Eric b) Pro Se	0
9	C	Tendered Dismissed SJ Appealed Closed	\$0	Martini, Luc	King-Kent 06-2-23404-9KNT	Plaintiff alleges DOT unlawfully trespassed onto his property and eliminated an easement while it was redeveloping a highway adjacent to plaintiff's property.	<u>Claims:</u> 1. Unlawful Trespass 2. Destruction of Property <u>Defenses:</u> 1. Res Judicata/ Estoppel	a) Liu, Alex b) Dore, James J., Jr.	194 / \$24,109
10	C	Tendered Dismissed SJ No Appeal	\$0	Bish, Stephen	King-Seattle 07-2-28900-3	Plaintiff was riding his motorcycle southbound on I-5 in Everett when he came in contact with a strip of rubber protruding from an expansion joint on the freeway, causing him to lose control of his motorcycle.	<u>Claims:</u> 1. Negligent design, maintenance, operation, and management of highway <u>Defenses:</u> 1. Comparative Fault 2. Temporary unsafe condition developed without prior notice	a) Pearson, David C (Outside Counsel) b) Tomkins, D.	22 / \$33,392
11	C	Tendered Dismissed Voluntary	\$0	Sovkoplas, Gregory	King-Sea 07-2-34223-1	While traveling on Aurora Avenue North in Seattle, plaintiff's vehicle hit a large pothole causing his car to swerve and then he was ejected from the vehicle onto the pavement.	<u>Claims:</u> 1. Negligent maintenance and signage <u>Defenses:</u> 1. Comparative Fault	a) Ahearn, Garth A b) Fox, Martin	108 / \$19,343

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
12	C	Tendered Settled Direct No Payout	\$0	Leon, Francesca	San Juan 09-2-09429-8	Plaintiff was traveling on her motorcycle about to merge onto I-5 from SR 18. Due to construction on SR 18, barrels had been placed to direct traffic onto I-5. As plaintiff tried to merge onto I-5, she struck the edge of the asphalt that had been graded for the construction, causing her to lose control of her motorcycle. Plaintiff claims permanent injuries, property damage, lost wages, and medical expenses.	<u>Claims:</u> 1. Failure to maintain roadway 2. Negligent placement of traffic control barriers <u>Defenses:</u> 1. Failure to state cause of action 2. Failure to mitigate 3. Immunity 4. 3rd Party Negligence (ICON)	a) Puz, Steve b) Abel, Gregory C.	7 / \$1,038
13	C	Tendered Settled Direct No Payout	\$0	Spuler, Philip S.	Spokane 08-2-03597-7	While on his motorcycle, plaintiff collided into a temporary concrete barrier that was put into place while the on-ramp was being paved. Plaintiff alleges there should have been warning signs to alert drivers to the re-directed route.	<u>Claims:</u> 1. Negligant signage <u>Defenses:</u> 1. Immunity 2. 3rd Party Negligence (North Star)	a) Warring, Carl P b) Casey, J. Gregory; Hunter, Amos R.	12 / \$1,820
14	C	Tendered Settled Direct No Payout	\$0	Willis, Craig	King-Seattle 07-2-36528-1	While driving on I-5 near the 320th Street overpass bridge in Federal Way, plaintiff alleges his vehicle hit a barrier because there was no notice and/or warnings of dangerous road conditions. Plaintiff alleges physical and emotional injuries and property damage, and wage loss.	<u>Claims:</u> 1. Negligant signage <u>Defenses:</u> 1. Immunity 2. 3rd Party Negligence (Icon)	a) Orcutt, Ken D (Outside Counsel) b) Murphy, William J.	0

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
15	C	Tendered Settled No Payout	\$0	Johnson, Jodi	King 07-2-27210-1	Plaintiff's husband and daughter were killed when a vehicle crossed the center median and hit the motorcycle that they were on; plaintiff suffers from loss of consortium.	<u>Claims:</u> 1. Failure to properly maintain roadway 2. Negligent signage <u>Defenses:</u> 1. Signing, striping, and lane configuration met the applicable requirements 2. Roadway was reasonably safe	a) Orcutt, Ken D (Outside Counsel) b) Keane, T.	7 / \$1,605
16	C	Tendered Settled No Payout	\$0	Holland, Keith	Pierce 07-2-08070-3	Plaintiff Keith Holland was travelling northbound on SR 167 when he drifted into the double left-hand turn lane and collided with a pedestrian island median, coming to rest partially blocking the lane. He suffered multiple physical and emotional injuries. Plaintiff Carla Holland suffered damages arising from loss of consortium of her husband. Plaintiffs Devon Holland and Cameron & Trevor Ferguson have each suffered loss of parental consortium.	<u>Claims:</u> 1. Negligent maintenance of barrier 2. Negligent signing, signalization, and striping <u>Defenses:</u> 1. Comparative Negligence	a) Meyer, Jennifer S (Outside Counsel) b) Bufalini, David A.	18 / \$3,089

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
17	C	Tendered Settled No Payout	\$0	Yetter, Roger	King-Seattle 08-2-02592-6	Plaintiff received an electric shock while on a ladder when he was working as a laborer for ARM Construction performing demolition work on the northbound Interstate 5 bridge structure where it crosses SR 18. He fell from the ladder and his injuries included cervical radiculopathy and right carpal tunnel syndrome.	<u>Claims:</u> 1. Failure to create and implement a proper demolition plan <u>Defenses:</u> 1. The damaged wiring was latent and unknown 2. Proximate Cause 3. Comparative Negligence 5. Assumption of Risk 6. Public Duty Doctrine 7. Failure to join an indispensable party	a) Leonard, Kathryn C (Outside Counsel) b) Williamson, Rob	89 / \$16,268
18	D	Dismissed SJ No Appeal	\$0	Alderson, Paula DeLyon	King Sea 09-2-25946-1	Plaintiff was traveling eastbound on I-90 in the dark early morning hours, when she struck three large elk that were in plaintiff's traffic lane. Plaintiff alleges DOT knew that stretch of highway was a major elk herd crossing location and should have posted signs to warn travelers of the elk crossing. Plaintiff alleges physical and emotional injuries, property damage, and past and future medical expenses.	<u>Claims:</u> 1. Negligent Signage <u>Defenses:</u> 1. Comparative Negligence	a) Daheim, Matthew J b) Terry, Leslie Clay, III	60 / \$11,557

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
19	D	Dismissed SJ No Appeal	\$0	Baum, Michael E.	King-Seattle 07-2-40329-9	Plaintiff's vehicle was rear-ended by a vehicle driven by John Sincavage because of standing water on I-5 southbound. Plaintiff's passenger, Dong Nguyen, suffered brain injury, concussion, and laceration to his head. Plaintiff suffered severe neck and back injuries.	<u>Claims:</u> 1. Failure to maintain roadway <u>Damages:</u> 1. <i>Bird v. Walton</i> (crews were actively working on drainage) 2. <i>Nibarger v. Seattle</i> (no notice of pondage)	a) Pearson, David C b) Greenlee, A. Graham	275 / \$42,068
20	D	Dismissed SJ No Appeal	\$0	Noel, Jesse C.	Pierce 08-2-10435-0	Plaintiffs were traveling on their motorcycle on SR 302. They approached an intersection that had overgrown shrubbery blocking their view of the roadway and crosswalk where a young girl was walking across. Rather than striking the girl, plaintiffs chose to drop the bike, which caused injuries to plaintiffs. Plaintiffs suffer from physical injuries, wage loss, emotional distress, property damage, and loss of consortium.	<u>Claims:</u> 1. Negligent maintenance of roadway <u>Defenses:</u> 1. Improper service 2. Jurisdiction-subject matter and personal 3. Comparative Negligence 4. Non-party fault 5. Statute of Limitations	a) Anderson, Glen A b) Sargent, Vonda Michell	38 / \$4,377
21	D	Dismissed SJ No Appeal	\$0	Progressive Classic Insurance Co. (Huscusson, Curtis)	Thurston 08-2-02857-4	Progressive Classic Ins. Co. alleges that DOT failed to repair a malfunctioning stop light where their insured driver (Curtis R. Huscusson) and another vehicle collided when both stop lights indicated green.	<u>Claims:</u> 1. Negligent maintenance of stop light <u>Defenses:</u> 1. Progressive is a Non-Party	a) Orcutt, Ken D b) Cramer, Stephen D.	40 / \$8,028

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
22	E	Settled	\$2,000	Northwestern Stage Lines, Inc.	Spokane 08-2-05018-6	Plaintiff alleges that because DOT failed to develop a safe drainage system, its motor coach was damaged when it slid on ice over a curb and into a swale that contained several feet of water.	<u>Claims:</u> 1. Negligent maintenance of drainage facility <u>Defenses:</u> 1. Public Duty Doctrine	a) Cartwright, Jarold P b) Doll, Kent Neil; Smith, Brad; Ewing Anderson, P.S.	38 / \$5,068
23	E	Settled	\$3,000	Le, Thai	Snohomish 08-2-07414-3	Plaintiffs allege that they were passengers in Thuan Pham's vehicle, traveling SB on I-5. After their vehicle hit water that had accumulated and puddled on the roadway, they were then rear-ended by another vehicle driven by Carla Mercier. Plaintiffs allege that WSDOT was negligent in not maintaining the design which resulted in inadequate drainage, and that there was no warning signs.	<u>Claims:</u> 1. Negligent maintenance of drainage 2. Negligent highway desig 3. Negligent signage <u>Defenses:</u> 1. Comparative Negligence 2. Weather Conditions 2. Negligence of co-defendants 3. Discretionary Immunity	a) Pearson, David C b) Grotz, Gary C.	126 / \$22,073
24	E	Settled	\$5,000	Pearsall, Ralph David	Thurston 08-2-00239-7	While walking across the pavement at an I-5 rest stop, plaintiff tripped and fell over a curb that was allegedly not marked or lit.	<u>Claims:</u> 1. Negligent Signage 2. Negligent maintenance of curb <u>Defenses:</u> 1. Recreational Immunity (RCW 4.24.210) 2. Ordinary care was exercised to keep the rest area in a reasonably safe condition	a) Puz, Steve b) Morgan Hill, P.C.	56 / \$

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
25	E	Settled	\$25,720	Willey, Debra L.	Whitman 04-2-00295-6	Plaintiffs were traveling in a vehicle that was struck by Defendant Nickell's vehicle after they slid on ice that was on the roadway.	<u>Claims:</u> 1. Negligent maintenance of roadway <u>Defenses:</u> 1. No notice of formation of ice 2. Comparative Negligence	a) Clemmons, Amy C b) Patrick, Robert F.	86 / \$11,126
26	E	Settled	\$26,038	Neufeldt, Ronald	Claim 40570571	Claimant alleges that while he was working at the Gee Creek Rest Area onramp to SB I-5, milepost 11, Ridgefield WA, he was walking up the shoulder of the onramp when WSDOT vehicle 5D2-69 driven by Ken Storlie, without activating the reverse warning signal, backed up the onramp, and into claimant, throwing him into rocks and causing him injury.	<u>Claims:</u> 1. Negligent operation of a motor vehicle <u>Defenses:</u> 1. Question of nature and extent of injury	a) Brown, Douglas H b) Walsh, Justin P.; Coluccio, Kevin	27 / \$5M147
27	E	Settled	\$50,000	Coen, Roger L.	Clark 06-2-05320-0	Plaintiff was injured while riding a bicycle into a chain hanging across the roadway between two posts.	<u>Claims:</u> 1. Negligent design 2. Inherently unsafe condition <u>Defenses:</u> 1. 3rd party negligence (County- chain modification & signage) 2. Comparative Negligence	a) Puz, Steve b) Hicks, Michael H.	337 / \$54,590

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
28	E	Settled	\$80,000	Abadinas, Imelda	King 07-2-41079-1	Plaintiff was a passenger in a vehicle that spun out on the ramp while exiting. Plaintiff alleges DOT is at fault for not putting any speed signs warning drivers to reduce speed on the off-ramp. Plaintiff sustained severe injuries and hasn't been able to work full time. Plaintiff further alleges that 6-months after the off-ramp incident she was rear-ended by a driver driving a UPS Supply Chain Solutions, Inc, worsening her injuries from the first incident.	<u>Claims:</u> 1. Negligent Signage <u>Defenses:</u> 1. Powell's negligent driving caused the first accident. 2. Off ramp was properly signed with 25 mph advisory sign.	a) Leonard, Kathryn C b) Clawson, Daniel F.	279 / \$52,868
29	E	Settled	\$200,000	Woodbury, Lon	Adams 06-2-00001-7	Melanie Woodbury died while driving on I90 when she hit a patch of black ice. Plaintiff is alleging that DOT failed to properly maintain the roadway.	<u>Claims:</u> 1. Failure to maintain roadway (sand or de-ice) <u>Defenses:</u> 1. Duty 2. Proximate Cause 3. Contributory Negligence	a) Cartwright, Jarold P b) Layman, John R	243 / \$32,267

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
30	E	Settled	\$300,000	Jones, Shirley W. (Jones, Dennis Estate)	Snohomish 06-2-11962-1	Plaintiff's husband was struck by another vehicle that had crossed the I-5 median, went under and through a cable barrier, causing severe injuries resulting in her husband's death. Plaintiff alleges the cable barrier was defective.	<p><u>Claims:</u></p> <ol style="list-style-type: none"> 1. Negligent installation of cable barrier 2. Improper cable barrier <p><u>Defenses:</u></p> <ol style="list-style-type: none"> 1. Placement of any type of barrier in a median with the width of this median exceeded design criteria. 2. Cable barrier was installed in accordance with design criteria known at the time of installation. 3. Testing of cable barriers were not conducted until the year after this accident. 4. Slopes were within range for cable barrier 	a) Fraser, III, Richard A. b) Nelson, Michael Edward	332 / \$78,699
31	E	Settled	\$315,000	Harrison, Margaret	Klickitat 07-2-00318-1	Plaintiff was driving on State Highway 14 when a rockslide occurred. Plaintiff's vehicle was struck, forcing the vehicle off the roadway. Plaintiff claims physical injuries, property damage, medical expenses, lost wages, pain and suffering, and loss of enjoyment of life.	<p><u>Claims:</u></p> <ol style="list-style-type: none"> 1. Negligent maintenance of slope <p><u>Defenses:</u></p> <ol style="list-style-type: none"> 1. Priority Array 2. Lack of Negligence 	a) Winskill, Edward S b) Telquist, George E.; Jensen, John V.	552 / \$100,144

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
32	E	Settled	\$350,000	Gabrielsen, Dolores	Snohomish 07-2-07095-6	Plaintiff was a passenger in a vehicle driven by her husband. When they were in a left turn lane, a pickup truck driven by Justin Shepard struck plaintiffs' vehicle, causing Plaintiff's arm to be amputated. Plaintiff alleges that DOT knew the left turn lane had numerous prior traffic accidents. Plaintiff claims medical expenses, disability, loss of enjoyment of life, and pain and suffering.	<u>Claims:</u> 1. Failure to correct or minimize the risk to drivers <u>Defenses:</u> 1. Comparative Negligence 2. Reasonably safe roadway 3. Negligence of Sheperd (driver) 4. 3rd Party Negligence (Transamerica) (WAC 204-90-040(6))	a) Pearson, David C b) Leaf, Ralph A.; Putra, Brian; Peterson Young Putra	746 / \$127,580
33	E	Settled	\$1,250,000	Ringen, Tyler (Estate)	Snohomish 08-2-02422-7	Darrell and Sandra Knapp and their son Noah were killed when a pickup driven by William M. Murray went through the cable barrier and slammed into their vehicle. Plaintiffs allege that DOT is responsible for not properly maintaining the cable barrier.	<u>Claims:</u> 1. Negligent design, installation and maintenance of an ineffective cable median barrier system. 2. Negligence by Murphy. 3. Negligence of unknown driver who pulled in front of Murphy. <u>Defenses:</u> 1. Proper installation of barrier 2. Negligence of Murphy	a) Puz, Steve b) Weed, Grant; Norris, Vickie; Anderson Hunter Law Firm	428 / \$77,539

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		Resolution	Payout	Case Name	County, Cause#	Case Description	Theories/Defenses	Counsel	Attorney Hours/Cost
34	E	Settled	\$5,000,000	Ruggles, Jeffrey	Thurston 08-2-00215-0	Plaintiffs allege that when Traci Szolomayer was traveling northbound on SR 101, her vehicle hit ice and went into the southbound lane striking a vehicle driven by Sylvia J. Hering. Szolomayer's 10-year-old son, Blake, was ejected from the vehicle and died at the scene. Plaintiff Kody Ruggles, Szolomayer's 9-year-old, was in the vehicle and he survived but had serious injuries, including brain damage. Note: Szolomayer's blood tests after the accident revealed she was driving under the influence of drugs at the time of the collision. Plaintiffs allege that the lack of sanding by WSDOT caused the accident.	<u>Claims:</u> 1. Failure to properly maintain roadway (de-ice) <u>Defenses:</u> 1. No notice of ice on roadway 2. Contributory Negligence (Traci Szolomayer) 3. Contributory Negligence (Parents of Ruggles child-- had knowledge of Traci's drug use)	a) Puz, Steve b) Messina, John L.; Bulzomi, Stephen Louis; Johnston, Jeremy A.; Karlsvik, Harold; Johnson, Kevin L.	1M976 / \$257,680