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Lawsuit costs county \$10.6 million

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HIGHLIGHT: Case involving social workers has seen award, legal fees skyrocket since 2007 judgment.

The total cost to Orange County of a case in which a jury found that two social workers lied to take away a woman's daughters is \$10.6 million, according to a new audit.

The U.S. Supreme Court last year declined to hear the county's challenge to a 2007 jury award of \$4.9 million to the Seal Beach woman, Deanna Fogarty-Hardwick. With interest on that amount plus her attorney fees, the total payout by the county was \$9.6 million. In addition, the county incurred another \$1 million of its own legal costs in the case.

The figures come from a first-ever performance audit of the county's risk-management operation, which processes lawsuits and workers' compensation claims against the county. The audit, performed by the county's Office of the Performance Audit Director, comes before the Board of Supervisors at next Tuesday's meeting.

The Fogarty-Hardwick case is the most expensive liability claim paid by the county and the only one to exceed the county's \$5 million self-insurance limit. It contributed to a precipitous increase in the county's liability claims costs over the past couple of years, as payouts for personal damages leapt from \$1 million in fiscal 2009 to \$14 million in fiscal 2011.

The cost of the Fogarty-Hardwick case grew in the four years after the initial \$4.9 million in damages were awarded by an Orange County jury in 2007. Interest and attorney fees steadily accrued as the county pursued appeals all the way to the highest court in the land.

"It was pretty amazing - they succeed in taking a \$5 million award and doubling it for us," said Shawn McMillan, Fogarty-Hardwick's attorney. "In my view, the taxpayers in Orange County should be pissed. This never should have gone this far."

Throughout the case and afterward, the county's Social Services Agency maintained that its social workers did nothing wrong.

"I am certain and I stand by my social workers that they did not fabricate, they did not suppress any information and they did not perjure themselves," Michael Riley, the agency's director, told the Watchdog last year.

But ultimately it was the Board of Supervisors who decided to plow ahead with the appeals.

"We were in one of those situations where we say, 'Do we cut or we keep moving forward,' and we were being advised by our legal counsel to keep moving forward," said Supervisor John Moorlach.

"You have your department head trying to be as persuasive as possible, (saying) 'This is not the character or quality of the work of these individuals, it's being mischaracterized, we need you to support us,'" Moorlach added.

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