

## Department of Law

### JUDGMENTS/CLAIMS/SETTLEMENTS FOR PAYMENT

(Please Type)

**\*\*This form will be used for the purpose of standardizing the submission of claims to the Legislature. Complete and accurate information will expedite payment to the claimants, thereby reducing the amount of interest required to be paid by the state. Please submit this form to the Director, Administrative Services Division, P.O. Box 110300, Juneau, AK 99811, or call (907) 465-3673.**

#### PART ONE

1. **Case Name:** Amanda Auffrey Lawton and Gregory J. Lawton v. State of Alaska, Department of Transportation & Public Facilities
2. **Case Number:** Case No. 3AN-13-06154 CI
3. **Judge/Justices:** Superior Court Judge John Suddock
4. **Date Judgment entered:** Settlement reached on August 26, 2014 for \$5,000,000. A motion for court approval of the settlement will be filed by plaintiffs by April 30, 2015.
5. **Did the date of the cause of action accrue on or after August 7, 1997?** Yes.
6. **Amount to be paid:** \$4,800,000 (four million eight hundred thousand dollars)
7. **Interest Rate:** **Effective Date:**
8. **Requested hourly rate and total compensation of attorneys to be paid:** N/A
9. **Court approved/ordered hourly rate and total compensation of attorneys to be paid:** N/A
10. **Payable to:** To be determined based on the entity selected for a trust. A portion of the settlement will be paid to Knutson & Associates in Trust for Greg and Amanda Lawton.
11. **EIN: Submit separately** **or SSN: Submit separately**
12. **Send check to:**        above address **Departmental contact:**   x

Departmental attorney contact:  
Stephanie Galbraith Moore, AAG



Signature

269-5196

Telephone Number

Revised 11/24/04

Departmental Approval:



Deputy Attorney General

10-31-14  
Date

## Department of Law

# JUDGMENT/SETTLEMENT FUNDING REQUEST QUESTIONNAIRE

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### PART TWO

The following information needs to be provided on all judgment awards and/or settlements made against the State.

**Case Name:** Amanda Auffrey Lawton and Gregory J. Lawton v. State of Alaska, Department of Transportation & Public Facilities

**Case No.:** 3AN-13-06154 CI

**1. Describe the circumstances or events resulting in this case and ultimately this judgment/settlement against the State.**

On April 6, 2012, Amanda Lawton, a 32-year-old obstetrics and delivery nurse, was seriously injured when ice from a cliff adjacent to the Seward Highway broke loose and crushed her truck. Just before her accident, a DOT maintenance crew had been working in the area of MP 113 cleaning up ice that had fallen from the cliff onto the highway blocking the northbound traffic lane. A small portion of ice also fell during the cleanup. After DOT left the area, a large column of ice fell on Amanda Lawton's truck. Ms. Lawton suffered extensive permanent injuries in the accident, including severe brain damage. Ms. Lawton cannot return to work as a nurse and she will need ongoing medical care.

This lawsuit filed by Amanda and Greg Lawton against DOT followed. Plaintiffs claimed that DOT should have undertaken remedial measures to remove the ice from the cliff, should have warned drivers, and should have diverted highway traffic away from the cliffs. After extensive motions were filed, the trial court ruled that the Lawtons' claims were not precluded by discretionary function immunity. Both sides obtained experts witnesses on liability and damages and a trial date was set. The case settled at a mediation conducted by former superior court judge Eric Sanders. Despite a pre-ligation settlement demand of \$17 million and an initial \$21 million demand at the mediation, the case settled for a total \$5 million, with Risk Management paying \$200,000 up front and the remainder to be paid after legislative appropriation.

**2. Describe issues of State policy or law involved in this case, if they are relevant to and resulted in substantial effort and expense for the department to bring or defend this case.**

This is the first case of its kind defended by the Attorney General's Office. Only three other accidents like this have been reported in North America. This lack of information and the lack industry guidance made defense of this case unusual and challenging.

**3. Did the State prevail on any issues? If so, describe.**

The superior court found that none of plaintiffs' claims were precluded by discretionary function immunity. The Alaska Supreme Court denied DOT's petition for review of the superior court's decision.

**4. Did we challenge plaintiffs' request for costs and fees or in other ways seek to reduce the costs to the State? If so, describe to what extent we were successful.**

The mediation was conducted ten months in advance of trial, which reduced defense costs to the State and eliminated the risk that a jury would award higher damages.

**5. What was the source of the State's liability in this case?**

DOT's duty of care to maintain its highways in a condition that is reasonably safe for travel.

**6. What, if any, preventative action has been taken by the involved agency to prevent or reduce the potential for such liability in the future?**

Before this accident, DOT's policy and procedures involved deploying road maintenance workers to monitor the Seward Highway and to clear the highway when ice and snow spilled from adjacent ditches into the roadway. This procedure had worked for decades without mishaps. Because the Mile Post 113 is outside of the designated avalanche zone, DOT's avalanche staff did not monitor the area. Now, after the Lawton accident, DOT's avalanche staff monitors the cliff near Mile Post 113. When they deem it to be appropriate, they request maintenance staff to deploy a new traffic diversion plan that shifts the traffic away from the cliffs, using an existing inside pullout lane for southbound traffic. The traffic diversion plan was used twice in 2014, with modifications made to the plan after its first deployment.

**7. If the information is available to you, has the agency involved taken any corrective action as a result of this case? If the information is not protected from publication by statute, privilege, or right to privacy, indicate what the corrective action was.**

See paragraph 6 above regarding preventative action taken.

**8. Any recommendations concerning cases of this type in the future?**

See paragraph 6 above regarding preventative action taken.

**9. Any recommendations for changes in statutes, regulations or policy? Cite any applicable statutes or regulations.**

We concur with the traffic diversion plan DOT adopted to address potential ice hazards.

Attorney completing form:

Date:

Stephanie Galbraith Moore

October 31, 2014

Senior Assistant Attorney General  
Title

269-5196

Phone Number