

MARIPOSA COUNTY
BOARD OF SUPERVISORS

AGENDA
ACTION FORM

DATE: August 11, 1992
AGENDA ITEM NO. C92

DEPT.: COUNTY COUNSEL

BY: JEFFREY G. GREEN

PHONE: 966-3625

RECOMMENDED ACTION AND JUSTIFICATION:

(Policy Item: Yes ___ No x)

Pass and adopt this Resolution authorizing Chairman to sign Order of the Board to reject Claim No. C92-14 in the amount of \$19,928.76 which was filed with this Board on June 18, 1992. Counsel does not believe that the County has any liability in this matter.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board usually follows Counsel's recommendation in matters of this nature.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Claim would automatically be denied if no action was taken.

COST: (X) Not Applicable

- A. Budgeted current FY \$ _____
- B. Total anticipated costs \$ _____
- C. Required add'l funding \$ _____
- D. Internal Transfers \$ _____

SPECIAL INSTRUCTIONS:

List the attachments and number the pages consecutively:

Claim No. C92-14

SOURCE: () 4/5ths Vote Required

- A. Unanticipated revenues \$ _____
- C. Reserve for cntngncies \$ _____
- D. Source Description: _____

Balance in Reserve for Contingencies,
if approved: \$ _____

CLERK'S USE ONLY:

Res. No.: 92-420 Ord. No.: _____
 Vote: Ayes: 4 Noes: _____
 Absent: Regatt Abstained: _____
 Approved W () Denied
 () Minute Order Attached
 () No Action Necessary

ADMINISTRATIVE OFFICER'S

RECOMMENDATION:

This item on agenda as:

- Recommended
- Not Recommended
- For Policy Determination
- Submitted with Comment
- Returned for Further Action

The foregoing instrument is a correct copy of the original on file in this office.

DATE: _____

ATTEST: MARGIE WILLIAMS
Clerk of the Board of Supervisors
County of Mariposa, State of Calif.

By: _____
Deputy

Comment: _____

A.O. Initials: Room/Byroad

1 JEFFREY G. GREEN
2 County Counsel
3 Courthouse
4 Mariposa, California

5
6 BEFORE THE BOARD OF SUPERVISORS

7 OF

8 MARIPOSA COUNTY, STATE OF CALIFORNIA

9 In the Matter of:)
10 CLAIM FOR DAMAGES)
11 PURSUANT TO GOVERNMENT CODE)
SECTION 911.6)

12 Arnold Kiil
c/o Robert T. Haden
13 HADEN & DAWSON
P. O. Box 2304

14 Merced, CA 95344-0304

15 having filed with this Board on June 18, 1992 a claim
16 for damages in the amount of \$ 19,928.76 ;


17 NOW, THEREFORE, it is ordered by the Board of Super-
18 visors that the claim is hereby REJECTED.

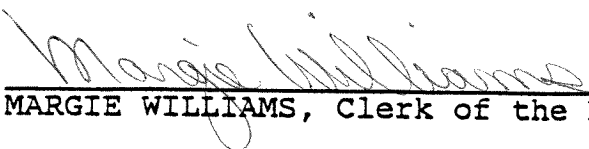
19 The foregoing order was passed by the following vote of
20 the Board:

21 AYES: PUNTE, ERICKSON, RADANOVICH, TABER
22 NOES: NONE
23 ABSENT: BAGGETT
ABSTAINED: NONE

24 Dated this 11th day of August, 1992.

25
26 ATTEST:


27 SALLY S. PUNTE, Chairperson
28 Board of Supervisors


MARGIE WILLIAMS, Clerk of the Board

Arnold Kiil
TO: c/o Robert T. Haden
HADEN & DAWSON
P. O. Box 2304
Merced, CA 95344-0304

RE: CLAIM FOR DAMAGES AMOUNT OF CLAIM \$ 19,928.76
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on June 18, 1992 was rejected by action of the Board on August 11, 1992.

WARNING

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim." (See Government Code Section 945.6)

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

JEFFREY G. GREEN
Mariposa County Counsel

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA, COUNTY OF MARIPOSA

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is:

5160 Bullion Street, Mariposa, CA 95338
On August 17, 1992, I served the within NOTICE OF REJECTION OF CLAIM NO. C92-14 on the claimant in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Mariposa, California addressed as follows:

Arnold Kiil
c/o Robert T. Haden
HADEN & DAWSON
P. O. Box 2304
Merced, CA 95344-0304

I declare under penalty of perjury, that the foregoing is true and correct.

Executed on August 17, 1992, at Mariposa California.

Sandra V. Adams
Sandra V. Adams

C92-14

CLAIM FOR DAMAGES

(Improper Sheriff's Sale Procedures)



TO: County of Mariposa

FROM: Claimant: Arnold Kiil
Attorney for Claimant:

Robert T. Haden
HADEN & DAWSON
2241 "N" Street
P. O. Box 2304
Merced, CA 95344-0304
(209) 723-3247

After obtaining a Judgment in the Mariposa County Justice Court to foreclose a mechanic's lien, claimant, through his attorney, proceeded to seek sale of the subject real property to satisfy the Judgment. After several delays, the Sheriff of Mariposa County published Notice of Sale of the subject real property. A copy of the Notice of Sale is attached hereto as Exhibit A and incorporated herein by this reference. The Sheriff of Mariposa County maintained that there was a "mandatory minimum bid" of \$101,100. Prior to the date of the sale, claimant and others pointed out to the Sheriff that there was no "minimum bid". At sale claimant's credit bid of his Judgment against the subject real property was rejected because of the alleged minimum bid requirement. No bids, all of which were below the minimum, were accepted. Thus there was a failed sale and the real property reverted to the judgment debtor.

The conduct of the sale by the Mariposa County Sheriff was improper and resulted in loss of property, which in turn rendered claimant's Judgment worthless.

Claimant is entitled to compensation equal to the amount of the Judgment, plus the attorney fees and costs incurred to date to obtain that Judgment and to attempt to satisfy it. This claim now totals \$19,928.76.

DATE: 6-16-92

HADEN & DAWSON

By 
ROBERT T. HADEN

EXHIBIT A

MARIPOSA COUNTY SHERIFF'S DEPARTMENT
NOTICE OF SHERIFF'S SALE
(701.530 and 701.540 CCP)

SHERIFF'S CIVIL FILE # 91-286

COURT CASE #1240

UNDER AN EXECUTION issued out of the Justice Court, Mariposa Judicial District, County of Mariposa, State of California, June 26, 1991, on a judgment rendered March 28, 1991;

IN FAVOR OF Arnold Kiil and against M. B. Scott and Mary Scott for the sum of \$12,654.50;

I HAVE LEVIED upon all the right, title, claim and interest of the debtor(s) M. B. Scott and Mary Scott, 10373 Fisk Road, Greeley Hill, California, in the County of Mariposa, and as described in the attached legal description.

"Prospective bidders should refer to Section 701.510 to 701.680, inclusive of the Code of Civil Procedure for provisions governing the terms, conditions, and effect of the sale and the liability of defaulting bidders." (CCP 701.547)

MINIMUM BID AMOUNT: \$101,100.00

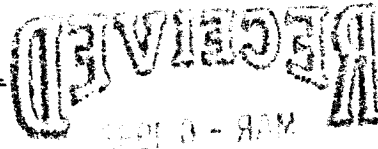
PUBLIC NOTICE IS HEREBY GIVEN that I will proceed to sell at public auction to the highest bidder for cash in lawful money of the United States all the right, title, claim and interest of the debtor(s) in the above described property or so much as will be sufficient to satisfy said Writ or Warrant with interest and all costs on Tuesday, March 31, 1992, at 10:00 o'clock A.M., at the Mariposa County Courthouse, 5088 Bullion Street, Mariposa, California.

Roger N. Matlock, Sheriff/Coroner
Mariposa County Sheriff's Department


Civil Division

ATTORNEY FOR CREDITOR:

Robert T. Haden
HADEN & DAWSON
2241 "N" Street
PO Box 2304
Merced, CA 95344-0304



The subject property to be sold is situated in Mariposa County, California, and are more particularly described as follows:

All that part of the Southeast quarter of the Northeast quarter and the Northeast quarter of the Southeast quarter of Section 19, Township 2 South, Range 17 East, M.D.B.&M., described as follows:

BEGINNING at the Southeast corner of the C.E. WADDELOW LOT a 1" rod on the bank of BEAN CREEK, from whence the 1/4 section corner on the East line of said Section 19 bears N. 88° 17' 30" E. 1178.65 feet; thence N. 20° 00' E. 300 feet, more or less, along the East line of said WADDELOW TRACT to its intersection with the South line of the ED J. DEFFENBAUGH LOT; thence Easterly along the said South line 89 feet, more or less, to a point in the center of the County Road; thence Southeasterly along the center line of the said road 110 feet, more or less, to the Northwest corner of the BRADBERRY LOT as per Deed, recorded in Volume 41 of Official Records of Mariposa County at page 21; thence S. 38° 59' W. 379.7 feet; thence N. 58° 51' W. 162 feet, more or less, to the West line of the said Northeast quarter of the Southeast quarter; thence N. 0° 26' 30" E. 67 feet, more or less, along the said West line to the Southwest corner of the aforesaid WADDELOW LOT; thence East along the South line of said lot 111.2 feet, more or less, to the Southeast corner thereof, the PLACE OF BEGINNING.

The common address of the subject premises is 10373 Fisk Road, Greely Hill, California, 95311-9502.

APN: 004-160-003-0

PROOF OF SERVICE BY MAIL – CCP 1013a, 2015.5

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I declare that:

I am ~~an~~ ~~employee~~ of (employed in) the county of Merced, California.
(COUNTY WHERE MAILING OCCURRED)

I am over the age of eighteen years and not a party to the within cause; my (business/residence) address is: 2241 "N" Street, Merced, CA, 95340

On June 17, 1992, I served the within CLAIM FOR DAMAGES
(DATE)
(Improper Sheriff's Sale Procedures) parties listed below

in said cause, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Merced, California addressed as follows:

Jeffrey Green
MARIPOSA COUNTY COUNSEL
P. O. Box 189
Mariposa, CA 95338

MARIPOSA COUNTY SHERIFF
P. O. Box 276
Mariposa, CA 95338

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on June 17, 1992, at Merced, California.
(DATE) (PLACE)

MADELINE BUENDIA
(TYPE OR PRINT NAME)

Madelaine Buendia
SIGNATURE