

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes___ No_X)

Authorize the Chair to sign an Order of the Board to reject Claim No. C97-25, which was filed with this Board on December 30, 1997 in the amount of \$546.11. Claimant contends that rocks from a County dump truck loaded with gravel flew off the top of the truck, hit her windshield, and caused cracks in the windshield. According to staff at the Public Works Department, the subject dump truck was empty, however, there was sand and rocks on the road surface. Because this is an inherent risk of driving on any road, Counsel does not believe the County has liability in this matter and recommends that the claim be denied.

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:

- Reject claim as recommended.
- Take no action; claim will automatically be denied if no action is taken.

COSTS: () Not Applicable

A. Budgeted current FY \$ _____

B. Total anticipated costs \$ _____

C. Required additional funding \$ _____

D. Internal transfers \$ _____

SOURCE: () 4/5ths Vote Required

A. Unanticipated revenues \$ _____

B. Reserve for contingencies \$ _____

C. Source description: _____

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

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Claim No. C97-25.
Notice of Rejection.

CLERK'S USE ONLY:

Res. No.: 98-38 Ord. No. _____

Vote - Ayes: 3 Noes: _____

Absent: _____ Abstained: _____

Approved _____ 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
County of Mariposa, State of California

By: _____
Deputy

Comment: _____


A.O. Initials: JR by hand



OFFICE OF THE
COUNTY COUNSEL

M E M O R A N D U M

DATE: February 13, 1998
TO: Board of Supervisors
FROM: Jeffrey G. Green, County Counsel
RE: Claim No. C97-25 - Patricia Perry



On February 3, 1998, the Board rejected payment of the above-captioned claim in the amount of \$546.11 as recommended. Ms. Perry was requesting reimbursement of damage to her vehicle windshield due to rocks which flew from the top of a County dump truck. Subsequent to the denial of the claim, I received information relative to a similar claim that was filed with the Board and which took place on the same date, at the same place as the rejected claim (Claim No. C98-2/Betsy N. Wenk). I had a detailed discussion with Mike Edwards and Bob Johnson and as a result of that conversation, I believe that the County cannot adequately maintain in Small Claims Court that the rocks did not come from the County's dump truck. Therefore, by copy of this letter, I am requesting that Ken Hawkins draw a warrant in the amount of \$546.11, the amount Ms. Perry claimed in damages, unless I hear an objection from Board members.

In our conversation, Mike indicated that he would institute a written policy wherein all dump truck drivers will check their vehicle prior to driving on the road in order to avoid the possibility of rocks or other debris falling from the truck.

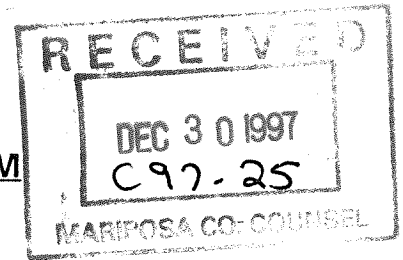
Should you have any questions regarding this matter, please feel free to contact me.

sa

cc: Ken Hawkins

No objections from Board members. Warrant given to claimant 2/26/98.

Liability Set-Aside #705-0149-505-0302



COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF Patricia Perry (Claimant) v. COUNTY OF MARIPOSA

CLAIM FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE (Government Code § 910)

TO THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY:

YOU ARE HEREBY NOTIFIED that: (PLEASE TYPE OR PRINT)

Claimant: Patricia Perry
Whose address is: 3891 Pinecrest Drive
City and State: Mariposa, CA Zip: 95338

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of the date of presentation of this claim, of \$ 546.11

This claim is based on: (CHECK APPROPRIATE BOX OR BOXES)

- <X> Property Damage < > Other (LIST)
< > Personal Injury
< > Contract

which occurred on 12-29, 1997, in the vicinity of:

Highway 49 between Ashworth + Darrah Rds

Describe generally the facts and circumstances that give rise to the claim:

(PLEASE USE BACK OF THIS PAGE IF MORE SPACE IS NEEDED.)

I was travelling North on Hwy 49 (towards Mariposa) as a County Dump Truck (mustard-yellow color), loaded with gravel, was travelling South on Hwy 49 (towards Oakhurst) As I passed the dump truck, approximately 20-30 ->

The name(s) of the public employee(s) causing claimant's injuries or damages under the above-described circumstances is/are:

County Dump truck hauling rocks on 12/29/97, Hwy. 49 Southbound between Ashworth and Darrah Rds, at approx. 7:50 to 7:55 a.m.

The injuries sustained by claimant, as far as known, as of the date of presentation of this claim consist of: (DESCRIBE GENERALLY CLAIMANT'S INJURIES OR DAMAGES)

Broken windshield

The amount claimed, as of the date of presentation of this claim is computed as follows:

Damages incurred to date:

Expenses for medical and hospital care \$ 0

Loss of earnings \$ 0

Specific damages (ITEMIZE) \$ 546.11
windshield

Other damages (ITEMIZE) \$ _____

Other damages (ITEMIZE) \$ _____

Other damages (ITEMIZE) \$ _____

Other damages (ITEMIZE) \$ _____

TOTAL DAMAGES INCURRED TO DATE: \$ 546.11

Estimated future damages as far as known from this incident:

Total estimated prospective damages: \$ 0

TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM: \$ 546.11

All notices or other communications with regard to this claim should be sent to claimant at: 3891 Pinecrest Drive, Mariposa, CA 95338
(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

Dated: 12/30/97 Signed: Patricia Perry
(CLAIMANT/AGENT FOR CLAIMANT)

Government Code § 911.2. Time of or presentation of claims
A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than one year after the accrual of the cause of action.

MARIPOSA GLASS

12-30-97

5006 FAIRGROUNDS DRIVE • MARIPOSA, CALIFORNIA 95338 • (209) 966-3292 FAX (209) 966-4708

PAT PERRY

1990 FORD BROWNSHIRE

SHADED TINTED

W1127 - LIST 986.80

WINDSHIELD - 429.26

KIT

10 -

439.26

TX 31.85

471.11

LABOR

75 -

546.11

1 JEFFREY G. GREEN
2 County Counsel
3 P. O. Box 189
4 5037 Stroming Rd.
5 Mariposa, CA 95338

6 BEFORE THE BOARD OF SUPERVISORS

7 OF

8 MARIPOSA COUNTY, STATE OF CALIFORNIA

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

CLAIM NO. C97-25

12 Patricia Perry
13 3891 Pinecrest Drive
14 Mariposa, CA 95338

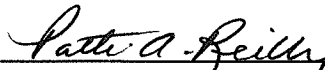
15 having filed with this Board on December 30, 1997, a claim for damages in the amount of
16 \$546.11.

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

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

20 AYES: Reilly, Balmain, Stewart, Parker, Pickard
21 NOES: None
22 ABSENT: None
23 ABSTAINED: None

24 Dated this 3rd day of February, 1998.

25 
26 PATTI A. REILLY, Chair
27 Board of Supervisors

28 ATTEST:

MARGIE WILLIAMS, Clerk of the Board

TO: Patricia Perry
3891 Pinecrest Drive
Mariposa, CA 95338

RE: CLAIM FOR DAMAGES (Claim No. C97-25)
NOTICE OF REJECTION

AMOUNT OF CLAIM: \$546.11

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on December 30, 1997, was rejected by action of the Board on _____, 1998.

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 § 945.6)

"NOTE: This six-month filing period applies only to State Court actions. If your action is based on federal law and/or you intend to file it in Federal Court, a shorter or longer period within which to file the action may apply."

"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 5037 Stroming Road (P. O. Box 189), Mariposa, CA 95338. On _____, I served the within Notice of Rejection of Claim No. C97-25 on the claimant in said action by placing a true copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing a copy into an inter-office delivery receptacle located in Counsel's office:

Patricia Perry
3891 Pinecrest Drive
Mariposa, CA 95338

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

Executed on _____ at Mariposa, California.

Sandra V. Adams