

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

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

Authorize Chair to sign an Order of the Board to reject Claim No. C98-4 in an amount estimated by the claimants to exceed \$500,000. The claimants contend that because one of the claimants was deprived of his lawful use of marijuana, it has resulted in increased pain, injury, and emotional distress and costs were incurred that relate to his medical condition. The claimants believe that the involved County employees acted with oppression, fraud, or malice. The District Attorney has denied the allegations contained in the claim. Based on the information received from the District Attorney as well as information received from the Sheriff's Office, I don't believe the County has any liability exposure 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:

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

COSTS: (X) 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. C98-4.
Notice of Rejection.

CLERK'S USE ONLY:

Res. No.: 98-103 Ord. No. _____

Vote - Ayes: 84 Noes: _____

Absent: 2 Abstained: _____

Approved: 86 () Denied

() Minute Order Attached () No Action Necessary

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

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:

Recommended

Not Recommended

For Policy Determination

Submitted with Comment

Returned for Further Action

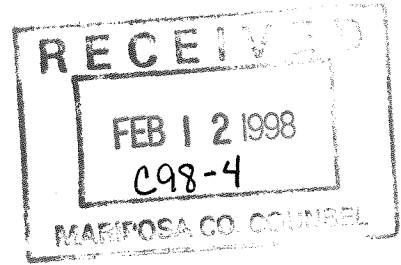
Comment: _____

A.O. Initials: *gh*

William Logan
ATTORNEY AND COUNSELOR

Post Office Box 726
Three Rivers, CA 93271
(209) 561-4695

February 10, 1998



Board of Supervisors
County of Mariposa
P. O. Box 784
Mariposa, CA 95338

Re: **GOVERNMENT TORT CLAIM**

To Whom It May Concern:

CLAIMANTS:

Dennis Hatfield and Janice Hatfield
P. O. Box 113
Midpines, CA 95345
(209) 966-6375

ATTORNEYS TO WHOM NOTICES ARE TO BE SENT:

William Logan, Esq.
P. O. Box 726
Three Rivers, CA 93276
(209) 561-4695

DATE OF INJURY:

August 14, 1997 and continuing thereafter to the present.

CIRCUMSTANCES OF CLAIM:

On or about August 14, 1998 agents of the County Mariposa, including but not limited to Deputy Kathy Sarno of the Mariposa County Sheriff's Office and Mr. Hawley of the Mariposa County Probation Department caused a law enforcement search to be conducted by Sarno and Hawley at the home of Dennis and Janice Hatfield at 6979 Highway 140 East, Midpines, California. The agents of the County were searching for marijuana, which was found in the Claimants' home, and was seized by them and Sergeant Green of the Mariposa County Sheriff's Office. The Claimants were arrested by Sarno as an agent of the County and charged with possession and cultivation of marijuana. Sarno sought prosecution of the Claimants for possessing and cultivating marijuana. The Claimants were charged on or about September 20, 1997 in a criminal complaint executed by Quinn Baranski, a deputy district attorney for Mariposa County, with a violation of Health and Safety Code Section 11358, felony cultivation of marijuana. These charges are currently pending against the Claimants.

In fact, the agents of the County of Mariposa, including but not limited to Kathy Sarno, Pelk

Richards and Quinn Baranski, knew in advance of the search, seizure and arrest, that Mr. Hatfield and his wife, who was his care-taker, possessed the marijuana for medical purposes and with a prescription, within the meaning of Health and Safety Code Section 11362.5, and that the said possession of the marijuana was not unlawful.

Prior to possessing this marijuana, Claimant Dennis Hatfield confirmed with the agents of the County, Sarno and Baranski, that he could lawfully possess the marijuana, which was subsequently seized by these agents, and for which he currently faces prosecution. The Claimants reasonably relied in good faith on the representations made by the agents of the County of Mariposa, and possessed the marijuana on that basis.

Quinn Baranski knew at the time he filed the criminal complaint against the claimants that he had previously advised Mr. Hatfield that he could lawfully possess the marijuana and that this was a complete defense to the charges. Mr. Baranski was also aware at the time he filed the criminal complaint that Mr. Hatfield was claiming in his defense that Mr. Baranski advised him that he could possess and cultivate marijuana for medical purposes. Mr. Baranski knew or should have known that, as a member of the State Bar, he could not ethically act as attorney for the People in a matter in which he will have to be a witness. Mr. Baranski violated rules of professional conduct in this matter, including those relating to conflict of interest and filing false claims.

On August 14, 1997 after arresting the Claimants, Deputy Sarno violated the Claimants privacy rights by obtaining information from Mr. Hatfield's doctor, Candice Harrison, MD, without having obtained a waiver of the rights of privacy, self-incrimination or of legal counsel. On August 27, 1997 Baranski instructed Sarno to interview another Mr. Hatfield's doctors, Dr. Engrham concerning Mr. Hatfield's medical treatment. Baranski knew at the time of the request for interview that Mr. Hatfield was represented by legal counsel. Baranski and Sarno knew that the doctor could not give them medical information concerning Mr. Hatfield without consent of Mr. Hatfield. No consent was obtained. The interview was conducted and information obtained in violation Mr. Hatfield's rights of privacy, against self-incrimination and of legal counsel. As an inducement to obtain this otherwise privileged information, Sarno falsely represented to Dr. Engrham that Mr. Hatfield had waived his privacy rights.

DESCRIPTION OF LOSS, DAMAGE OR INJURY:

Claimant Dennis Hatfield has been deprived of his lawful use of marijuana, which has resulted in increased pain, injury and emotional distress because of his medical condition. As a result of these injuries, the Claimants have also incurred costs related to his medical treatment. Both Claimants suffered serious and severe emotional distress because of the conduct of the agents of the County. Claimants have lost income as a result of the injuries caused by the County and its agents. The Claimants have suffered infringement and deprivation of their state and federal Constitutional and statutory rights. The Claimants have incurred and will continue to incur attorney's fees and costs of litigation to defend the unlawful charges. The amount of damages are not yet ascertained but are in excess of the jurisdictional limits of Superior Court, and are estimated to be in excess of \$500,000.00. The agents of the County of Mariposa acted with oppression, fraud or malice against the Claimants.

The County had advance knowledge of the unfitness of these agents and employed them with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct alleged herein.

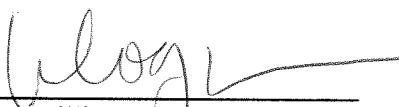
NAMES OF STATE EMPLOYEES CAUSING INJURY, DAMAGE OR LOSS:

The employees of the County of Mariposa known to have been involved in the incident are Kathy Sarno, Pelk Richards, Quinn Baransky, Sergeant Green and Probation Officer Hawley. The names of other County agents and employees responsible for Claimants' injuries are unknown to the Claimants, but known to the County. Claimants also believe that the supervisors of the officers and employees involved in the incident were negligent and/or reckless with regard to their training and supervision of the officers involved, and with regard to the policies, practices, customs and procedures for the arrest of individuals, and the conduct of internal affairs investigations. The employees and agents of the County of Mariposa also engaged in a conspiracy to cover up the unlawful conduct of its agents and to prosecute the Claimants on false charges.

THEORIES OF LIABILITY/RECOVERY:

False arrest, false imprisonment, battery, negligent and intentional infliction of emotional distress, deprivation of state and federal civil rights, fraud and deceit, negligence, invasion of privacy, governmental estoppel, malicious prosecution, abuse of process, and conspiracy.

Dated: February 10, 1998



By: William Logan, Esq.
on Behalf of Claimants

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) CLAIM NO. C98-4
11 TO GOVERNMENT CODE § 911.6)
12)

13 Dennis Hatfield and Janice Hatfield
14 c/o William Logan, Esq.
15 P.O. Box 726
16 Three Rivers, CA 93276

17 having filed with this Board on February 12, 1998, a claim for damages in an amount in
18 excess of \$500,000.

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

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

22 AYES: Balmain, Stewart, Parker, Pickard
23 NOES: None
24 ABSENT: Reilly
25 ABSTAINED: None

26 Dated this 7th day of April, 1998.

27 PATTI A. REILLY, Chair
28 Board of Supervisors

BY Bob Pickard
VICE CHAIRMAN

ATTEST:

Margie Williams
MARGIE WILLIAMS, Clerk of the Board

TO: Dennis Hatfield and Janice Hatfield
c/o William Logan, Esq.
P.O. Box 726
Three Rivers, CA 93276

RE: CLAIM FOR DAMAGES (Claim No. C98-4) AMOUNT OF CLAIM: excess of \$500,000
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on February 12, 1998 was rejected by action of the Board on April 7, 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 April 21, 1998, I served the within Notice of Rejection of Claim No. C98-4 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:

Dennis Hatfield and Janice Hatfield
c/o William Logan, Esq.
P.O. Box 726
Three Rivers, CA 93276

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

Executed on April 21, 1998 at Mariposa, California.


Sandra V. Adams