

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. C98-12 in the amount of \$10,000. The claimant alleges that he received physical suffering as well as mental suffering and that his constitutional rights were violated when he was asked to submit to a chemical test. Based on information received from the Sheriff's Department, 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. C98-12.
Notice of Rejection.

CLERK'S USE ONLY:

Res. No.: 48-306 Ord. No. _____

Vote - Ayes: 3 Noes: _____

Absent: _____ Abstained: _____

() Approved () 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

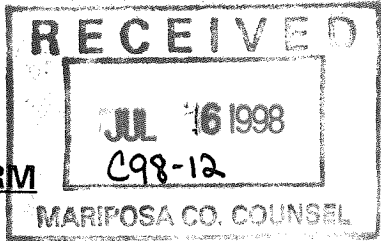
For Policy Determination

Submitted with Comment

Returned for Further Action

Comment: _____

A.O. Initials: JG



COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF Frank E. Simmons (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: Frank E Simmons Whose address is: 4186 BEN HUR RD City and State: Mariposa CA 95338 TDC Zip: 95338 TDC

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of the date of presentation of this claim, of \$ 10,000

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

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

which occurred on April 10, 1998, in the vicinity of:

140 x 49 Hwy Pioneer Gas station & Mariposa County Jail

Describe generally the facts and circumstances that give rise to the claim: (PLEASE USE BACK OF THIS PAGE IF MORE SPACE IS NEEDED.)

Pulled over by Officer Mark Jones, Transported to Jail facility, where I was brutally forced to submit to a blood test by using an unlawful choke hold to my adams apple cutting of air supply. Punctured twice by

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

Tony Vallanti, Deborah Wenger, David Estep

a needle in my arm while being restrained,
failure to breathe was a traumatic experience

- ✓ never legally ~~arrested~~ arrested.
- ✓ never read my rights

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)

pain in my throat, Pain & suffering, Civil & unvasaul punishment, mental Anguish, Violation of Constitutional Rights. fear for my life etc

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 \$ 220

Loss of earnings \$ _____

Specific damages (ITEMIZE)

Lawyer bills unfinished \$?

Insomnia \$ _____

Other damages (ITEMIZE)

Damaged rights \$ 9,780

_____ \$ _____

TOTAL DAMAGES INCURRED TO DATE: \$ 10,000

Estimated future damages as far as known from this incident:

Total estimated prospective damages: \$ 10,000

TOTAL AMOUNT CLAIMED AS OF DATE OF PRESENTATION OF THIS CLAIM: \$ 10,000

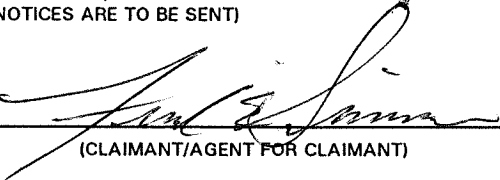
All notices or other communications with regard to this claim should be sent

to claimant at: 4186 Ben hur Rd Mariposa CA 95338 TDC

(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

Dated: July 2, 1998

Signed:


(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.

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. C98-12
11 TO GOVERNMENT CODE § 911.6)
_____)

12 Frank E. Simmons
13 4186 Ben Hur Rd.
14 Mariposa, CA 95338

15 having filed with this Board on July 6, 1998, a claim for damages in the amount of \$10,000.

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

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

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

23 Dated this 4th day of August, 1998.

24 Patti A. Reilly
PATTI A. REILLY, Chair
Board of Supervisors

25 ATTEST:

26 Margie Williams
27 MARGIE WILLIAMS, Clerk of the Board
28

TO: Frank E. Simmons
4186 Ben Hur Rd.
Mariposa, CA 95338

RE: CLAIM FOR DAMAGES (Claim No. C98-12)
NOTICE OF REJECTION

AMOUNT OF CLAIM: \$10,000

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on July 6, 1998 was rejected by action of the Board on August 4, 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 August 20, 1998, I served the within Notice of Rejection of Claim No. C98-12 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:

Frank E. Simmons
4186 Ben Hur Rd.
Mariposa, CA 95338

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

Executed on August 20, 1998 at Mariposa, California.


Sandra V. Adams