

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

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

Pass and adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C94-12 for an undetermined amount. After reviewing the accident report, 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 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. C94-12
Notice of Rejection

CLERK'S USE ONLY:

Res. No.: 94-215 Ord. No. _____

Vote - Ayes: 5 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: ll

1 JEFFREY G. GREEN
2 County Counsel
3 P. O. Box 189
4 5100 Bullion St.
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)
12)

13 Pamela L. Biggins
14 c/o Douglas B. Cone, Esquire

15 720 West 19th Street

16 Merced, CA 95340

17 having filed with this Board on May 17, 1994 a claim for damages in the amount of
18 \$ undetermined;

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

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

22 AYES: BAGGETT, BALMAIN, ERICKSON, PARKER, TABER

23 NOES: NONE

24 ABSENT: NONE

25 ABSTAINED: NONE

26 Dated this 14th day of June, 1994.

27 
28 ARTHUR G. BAGGETT, JR., Chairman
Board of Supervisors

29 ATTEST:

30 
31 MARGIE WILLIAMS, Clerk of the Board

TO: Pamela L. Biggins
c/o Douglas B. Cone, Esq.
720 W. 19th Street
Merced, CA 95340

*Ind notice sent
as orig notice
sent to
incorrect
address on 7/8/94*

RE: CLAIM FOR DAMAGES AMOUNT OF CLAIM
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on May 17, 1994 was rejected by action of the Board on June 14, 1994.

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)

"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.)

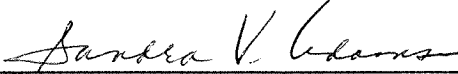
STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

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 5100 Bullion Street (P. O. Box 189), Mariposa, CA 95338. On July 8, 1994 I served the within Notice of Rejection of CLaim No. C94-12 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:

Pamela L. Biggins
c/o Douglas B. Cone, Esquire
720 W. 19th St.
Merced, CA 95340

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

Executed on July 8, 1994 at Mariposa, California.


Sandra V. Adams

Pamela L. Biggins
TO: c/o Douglas B. Cone, Esquire
120 West 19th Street
Merced, CA 95340

RE: CLAIM FOR DAMAGES AMOUNT OF CLAIM \$ undetermined
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on May 17, 1994 was rejected by action of the Board on June 14, 1994.

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)

"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:

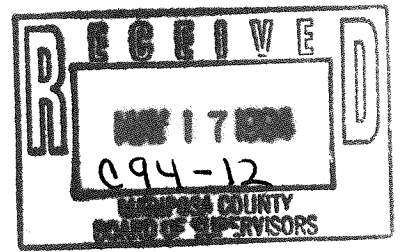
I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action; my business address is 5100 Bullion Street (P. O. Box 189), Mariposa, CA 95338. On June 28, 1994 I served the within Notice of Rejection of Claim No. C94-12 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:

Pamela L. Biggins
c/o Douglas B. Cone, Esquire
120 West 19th Street
Merced, CA 95340

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

Executed on June 28, 1994 at Mariposa, California.


Sandra V. Adams



DOUGLAS B. CONE
Attorney at Law
720 West 19th Street
Merced, California 95340
(209) 383-4333

Attorney for claimant

**MARIPOSA COUNTY
BOARD OF SUPERVISORS**

PAMELA L. BIGGINS,)	
)	
Claimant,)	
)	CLAIM FOR DAMAGES
v.)	
)	(Gov. Code §910)
COUNTY OF MARIPOSA,)	
MARIPOSA COUNTY SHERIFF,)	
AND DOES I-X)	
)	
Respondents.)	
)	

(A) Name and postal address of claimant:
PAMELA L. BIGGINS
P.O. box 665
Mariposa, California 95338

(B) Name and address for notices concerning this claim:

DOUGLAS B. CONE
Attorney at Law
720 West 19th Street
Merced, California 95340
(209) 383-4333

(C) Date, Place, and circumstances of the occurrence which give rise to this claim:

(1) The causes of action giving rise to this claim accrued, within the meaning of Government Code §910, on December 10, 1993, on Old Highway, approximately 160 feet east of 10th Street, in the roadway adjacent to the Sheriff's Department parking lot in Mariposa County, California.

(2) At that time and place, two full-size Sheriff's Department Vans were negligently and carelessly allowed and

directed by County employees acting within the course and scope of their employment, to park at the East end of the Sheriff's Department parking lot on the North side of Old Highway near 10th Street in Mariposa County, such that the vision toward the East of motorists attempting to back out of the parking lot was completely obstructed by the Vans. The parking lot and the Vans were so connected with and in such proximity to the traveled portion of Old Highway as to constitute a nuisance and render Old Highway unsafe to those traveling thereon.

(3) Placing the Vans at the East end of the parking lot constitutes careless and negligent maintenance and control of the county-owned Vans, the county-owned parking lot, and the county-owned roadway. Permitting the Vans to obstruct the visibility of drivers travelling on Old Highway and motorists using the parking lot created a dangerous and defective condition of public property, both the parking lot and the roadway.

(4) Motorists backing out of the parking lot, including law enforcement officer's, could not see West-bound traffic on Old Highway until the vehicle being backed out of the lot was backed into the traveling portion of the West-bound lane of Old Highway. This condition exposes motorists using the parking lot to substantial risk of injury because they cannot see vehicles using Old Highway until it is too late to avoid hitting them.

(5) Also, West-bound motorists using Old Highway could not see vehicles backing out of the parking lot until the vehicle being backed out of the lot was backed into the traveling portion of the West-bound lane of Old Highway. This condition exposes motorists using Old Highway to substantial risk of injury because they cannot see vehicles backing out of the parking lot until it is too late to avoid hitting them.

(6) The County and its agents, servants, and employees knew, or in the exercise of ordinary care should have known, that the dangerous condition was present at the time of the accident, that it constituted a hazardous trap to the general public, and that it created a reasonably foreseeable risk of the kind of injuries which were incurred by the Claimant. The dangerous condition of the parking lot and roadway had existed for such a period of time and was of such an obvious nature that the County, in the exercise of due care, should have discovered and corrected the condition and its dangerous character.

(7) The decision allowing and directing the Vans to be parked at the East end of the parking lot, thereby creating a dangerous condition and a nuisance, was unreasonable because the probability and gravity of potential injury to persons and property foreseeably exposed to the risk of injury outweighed the inconvenience and cost of taking alternative action that would

not create the risk of injury.

(8) At that time and place, Claimant was driving her 1980 Datsun automobile with due care in a generally westerly direction on Old Highway near the Sheriff's Department parking lot near 10th Street in Mariposa County.

(9) Also at that time and place, Mariposa County Sheriff's Deputy Frederick L. Dutton carelessly and negligently backed a Sheriff's Department automobile from a parking place directly into the west-bound traveling lane of Old Highway.

(10) Deputy Dutton did not see Claimants approaching vehicle, and he backed the Sheriff's Department automobile into the side of Claimant's automobile.

(D) Description of the indebtedness, obligation, injury, damage, and loss incurred, so far as it is known, as of the time of presentation of this claim:

(1) As a direct and proximate result of the conduct of the County of Mariposa and its agents, servants, and employees, the Claimant was hurt and injured in her health, strength and activity, causing Claimant great physical pain and suffering.


(2) As a further direct and proximate result of the conduct of the County of Mariposa and its agents, servants, and employees, the Claimant was required to hire physicians and surgeons for care and treatment of her injuries. Claimant is informed and believes further medical care will be required in the future.

(3) As a further direct and proximate result of the conduct of the County of Mariposa and its agents, servants, and employees, the Claimant was required to pay for damage to her automobile.

(E) The name(s) of the public employees causing Claimant's injuries, damages, and losses, so far as are known as of the date of presentation of this claim include the Mariposa County Sheriff and Deputy Frederick L. Dutton. The names of others responsible for Claimant's wrongful injuries and damages are not presently known to the Claimant.

(F) Pursuant to Government Code §910(f), the amount claimed is not stated because it exceeds the amount over which the justice and municipal courts have jurisdiction. Jurisdiction would rest in Superior Court.

Dated: May 16, 1994.


DOUGLAS B. CONE,
Attorney for Claimant

PROOF OF SERVICE BY MAIL

I declare that:

I am employed in Merced County, California. I am over the age of eighteen and am not a party to the within action. My business address is 720 West 19th Street, Merced, California 95340.

On the date below I served the attached **CLAIM FOR DAMAGES (GOV. CODE §910)** on the below listed individuals by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid, in the United States mail at Merced, California addressed as follows:

Certified, Return Receipt Requested:

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

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed at Merced, California, on May 16, 1993.


Madelaine A. Cone
Madelaine Cone