

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

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes\_\_\_ No X)

Authorize Chairman to sign an order of the Board to reject Claim No. C94-13 in the amount of \$660.00. Claimant, who is a former Mariposa County Deputy Sheriff, is requesting travel time and court appearance time for testifying at a trial on behalf of Mariposa County. Counsel does not believe that the County has any liability in this matter as claimant has been paid all regular witness fees and related expenses.

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. C94-13  
Notice of Rejection

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

CLERK'S USE ONLY:

Res. No.: 94-264 Ord. No. \_\_\_\_\_

Vote Ayes: 5 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

Comment: \_\_\_\_\_

A.O. Initials: M

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

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 Claim No. C94-13 )

13 Patrick J. Kilgore

14 13681 Newport Ave., 8-106

15 Tustin, CA 92680

16 having filed with this Board on June 13, 1994 a claim for damages in the amount of  
17 \$ 660.00;

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

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

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

22 NOES: NONE

23 ABSENT: NONE

24 ABSTAINED: NONE

25 Dated this 28th day of June, 1994.

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

28 ATTEST:

Margie Williams  
MARGIE WILLIAMS, Clerk of the Board

BY

Harry R. Parker  
VICE CHAIRMAN

TO: Patrick J. Kilgore  
13681 Newport Ave., 8-106  
Tustin, CA 92680

*Re-done; unsure  
if previous  
notice sent  
on 7/8/94*

RE: CLAIM FOR DAMAGES AMO  
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on June 13, 1994 was rejected by action of the Board on June 28, 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 on the Claimaint 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:

Patrick J. Kilgore  
13681 Newport Ave., 8-106  
Tustin, CA 92680

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

Executed on July 8, 1994 at Mariposa, California.

*Sandra V. Adams*  
\_\_\_\_\_  
Sandra V. Adams

TO: Patrick J. Kilgore  
13681 Newport Ave., 8-106  
Tustin, CA 92680

RE: CLAIM FOR DAMAGES AMOUNT OF CLAIM \$ 660.00  
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on June 13, 1994 was rejected by action of the Board on June 28, 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:

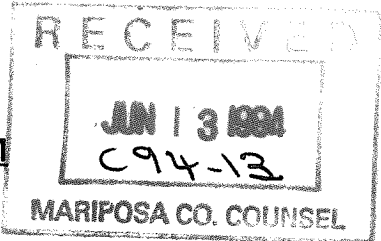
I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action; my business address is 5100 Bullion Street (P. O. Box 189), Mariposa, CA 95338. On June 28, 1994 I served the within Notice of Rejection of Claim 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:

Patrick J. Kilgore  
13681 Newport Ave., 8-106  
Tustin, CA 92680

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

Executed on July 5, 1994 at Mariposa, California.

  
\_\_\_\_\_  
Sandra V. Adams



COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF PATRICK J. KILGORE  
(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: PATRICK J. KILGORE  
Whose address is: 13681 NEWPORT AVE 8-106  
City and State: TUSTIN CALIF Zip: 92680

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of  
the date of presentation of this claim, of \$ 660.00.

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

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

which occurred on 4-22-94-4-24, 1994, in the vicinity of:  
(MONTH/DAY)

MARIPOSA COUNTY COURT HOUSE  
(PLACE WHERE INCIDENT OCCURRED)

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

PLEASE SEE ATTACHED

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

MARIPOSA COUNTY DISTRICT ATTORNEY

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)

PLEASE SEE ATTACHED!

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 \$ \_\_\_\_\_

Loss of earnings \$ \_\_\_\_\_

Specific damages (ITEMIZE) \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

Other damages (ITEMIZE) \_\_\_\_\_

SEE ATTACHED! \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL DAMAGES INCURRED TO DATE: \$ 660.00**

**Estimated future damages as far as known from this incident:**

Total estimated prospective damages: \$ \_\_\_\_\_

**TOTAL AMOUNT CLAIMED AS OF DATE  
OF PRESENTATION OF THIS CLAIM: \$ 660.00**

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

to claimant at: 13681 NEWPORT AVE 8-106 TUSTIN CALIF 92680

(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

Dated: MAY 25 1994

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.

May 25, 1994

Mariposa County Counsel  
Attn: Jeffrey Green  
P.O. Box 189  
Mariposa, CA 95338

Mr. Green

From December 5, 1990 until about April 7, 1993, I was employed with the county of Mariposa as a Mariposa County Deputy Sheriff. During the course of my employment with the sheriffs department, I investigated a report of theft of wood at the Duane Brochini residence. This investigation took place on April 1, 1993. After interviewing Mr. Brochini and recovering the stolen wood, the case was forwarded to the District Attorneys Office for review.

On or about April 7, 1993, I terminated my employment with the Mariposa County Sheriffs Department and accepted the position of Police Officer with the Tustin Police Department in Orange County, California. During this time I was informed by the Mariposa County District Attorneys Office that my presence was required at the trial of Mr. Brochini. This trial was the result of the investigation I performed while employed with the Mariposa County Sheriffs Department. My presence for this trial was requested two times and came in the form a subpoena. Both times the trial was continued to a later date at the last minute. Because the continuance was granted at the last minute it required me to modify my work schedule with the Tustin Police Department.

I received a third subpoena for this case, which once again required my appearance on February 23, 1994. I contacted the Mariposa County District Attorneys Office at which time they informed me that my presence was definitely needed on this date at 8:00 am in the morning. This required me to travel the night before and leave the day following the trial. Because these three days were of my normal days off from the Tustin Police Department, the City of Tustin refused to pay my overtime hourly wage.

On February 22, 1994, I left Orange County via a rental car at about 7:00 pm and arrived in Mariposa at approximately 2:00 am on February 23, 1994. On February 23, 1994 I appeared at 8:00 am in the Mariposa County Justice Court and testified regarding the Brochini case. After I testified the Mariposa County District Attorney informed me my presence would be required for the remainder of the case. At about 4:00 pm I was informed my presence was no longer needed. Being to tired to make the return trip home, I did not leave Mariposa until 10:00 am on February 24, 1994, arriving in Orange County at approximately 5:00 pm. This allowed me to prepare for my work with the Tustin Police Department the following day on February 25, 1994 at 6:00 am.

May 25, 1994  
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Because this case was a result of my employment with the Mariposa County Sheriffs Department, and because my off duty time was requested, I am hereby requesting the amount of \$660.00 as reimbursement for my travel time and court appearance time. The breakdown is as follows:

Travel time:	14 Hours
Court Appearance Time:	8 Hours
Total Committed Time:	<hr/> 22 Hours
Overtime Base Rate:	\$ 30.00 per Hour
Total Amount Requested:	<hr/> \$ 660.00

Should you have any questions, refer to case number MM9300396, and feel free to contact me at the following.

Patrick J. Kilgore  
13681 Newport Ave. 8-106  
Tustin, CA 92680  
Home Phone: (310) 216-0315  
Work Phone: (714) 573-3225

Respectfully,



Patrick J. Kilgore

PJK