

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 Chairman to sign an order of the Board to reject Claim No. C94-21 which was filed with this Board on October 13, 1994 in the amount of \$250,000. 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 was 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. C94-21.  
Notice of Rejection.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CLERK'S USE ONLY:  
Res. No.: 94-473 Ord. No. \_\_\_\_\_  
Vote - Ayes: 5 Noes: \_\_\_\_\_  
*hw* 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: *hw*



TO: GUADALUPE GARCIA VIRGEN  
6319 Loma Vista Avenue, Apt. B  
Bell, CA 90201

RE: CLAIM FOR DAMAGES AMOUNT OF CLAIM \$250,000.00  
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on October 13, 1994 was rejected by action of the Board on November 1, 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

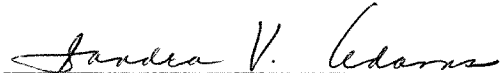
**PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P.)**

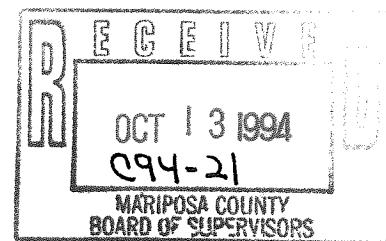
STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

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 November 8, 1994 I served the within Notice of Rejection of Claim No. C94-21 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:  
Guadalupe Garcia Virgen  
6319 Loma Vista Avenue, Apt. B  
Bell, CA 90201

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

Executed on November 8, 1994 at Mariposa, California.

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



IN THE MATTER OF THE CLAIM OF )  
 )  
 ) CLAIM FOR PERSONAL INJURIES  
 ) (Government Code §910,  
GUADALUPE GARCIA VIRGEN )  
 ) et seq)  
 )

TO: MARIPOSA COUNTY SHERIFF'S DEPARTMENT and the CALIFORNIA DEPARTMENT OF JUSTICE, LOS ANGELES BUREAU OF NARCOTIC ENFORCEMENT, CLANDESTINE LABORATORY TASK FORCE.

YOU ARE HEREBY NOTIFIED, and claim and demand upon you, and each of you, is hereby presented as follows:

1. NAME AND ADDRESS OF CLAIMANT: Guadalupe Garcia Virgen, currently incarcerated at Mariposa County Jail awaiting sentencing on November 3, 1994.

2. NOTICE TO BE SENT TO: 6319 Loma Vista Avenue, Apt. B, Bell, California 90201.

3. PLACE OF INCIDENT: Mariposa County, California.

4. DATE OF INCIDENT: April 21, 1994.

5. NATURE OF CLAIM: On or about April 21, 1994, the Mariposa County Sheriff's Department and the California Department of Justice, Los Angeles Bureau of Narcotic Enforcement, Clandestine Laboratory Task Force (herein "Task Force") arrested claimant.

In the course of effecting the arrest, and in the scope of their employment, the officers and agents of the Mariposa County Sheriff's Department and the Task Force, placed a set of handcuffs on claimants wrists, but failed to properly lock the handcuff. The failure of the agents and officers of the Mariposa County Sheriff's Department and the Task Force to properly lock the hand cuffs resulted in the handcuffs continually tightening around claimants wrists causing injury and swelling to result.

5. EXTENT OF INJURIES AND DAMAGES: As a result of the injuries received during the arrest and the continuous tightening of the handcuffs Claimant has experienced, and continues to experience, swelling, tightening, numbness and pain in both hands and wrists, most particularly the left hand and wrist along with a corresponding decrease in grip strength.

The exact nature and extent of the injuries, special and general damages, medical bills, loss of wages and permanent disability are not, at this time, fully known.

WHEREFORE, claim and demand is made upon you, and each of you, jointly and severally, for the sum of \$250,000.00.

Dated: October 7, 1994

By: Guadalupe Virgen  
GUADALUPE GARCIA VIRGEN

PROOF OF SERVICE BY MAIL

I, Timothy J. Kolb, declare:

I am over age 18, not a party to this action, and reside in Merced County. On October 7, 1994 I placed for collection and mailing at the Mariposa post offices at 5109 Jessie Street, Mariposa, CA a copy of the attached CLAIM FOR PERSONAL INJURIES in a sealed envelope, with postage fully prepaid, addressed to:

Board of Control  
Government Claims  
P.O. Box 3035  
Sacramento, CA 95812-3035

Mariposa County Clerk  
P.O. Box 247  
Mariposa, CA 95338

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 7, 1994

  
\_\_\_\_\_  
Timothy J. Kolb