CITY OF SACRAMENTO





DEPARTMENT OF 812 TENTH STREET SUITE 201

SACRAMENTO, CA 95814 TELEPHONE (916) 449-5346 CITY MANAGER'S OFFICE

October 19, 1982

JAMES P. JACKSON

THEODORE H. KOBEY, JR. **ASSISTANT CITY ATTORNEY** LELIAND J. SAVAGE SAMUEL L. JACKSON WILLIAM P. CARNAZZO STEPHEN B. NOCITA DIANE B. BALTER CHRISTINA PRIM DEPUTY CITY ATTORNEYS

Honorable City Council .Council Chamber City Hall Sacramento, California 95814

LATE CLAIM APPLICATION OF ADOLFO CAMPOS

Members in Session:

VON

SUMMARY

Adolfo Campos has applied for leave to present a late claim. We are of the opinion that his application does not fall within those circumstances under which relief must be granted.

BACKGROUND

Adolfo Campos has applied for leave to present a late claim. claim seeks damages for personal and punitive damages resulting from an allegedly false and malicious seizure and arrest.

Government Code Section 911.2 provides that a claim for personal injury or property damage shall be presented within 100 days of accrual of the cause of action. Applicant's cause of action accrued on May 20, 1982, and the 100-day filing period expired on or about August 28, 1982. The late claim application was presented on October 7, 1982.

The application states that a timely claim was not filed because the claimant was not aware of the claim filing requirements until he consulted his attorney on September 10, 1982.

ANALYSIS

A person seeking to file a late claim must show that the failure to file a timely claim was due to mistake, inadvertence, surprise or excusable neglect (Government Code §911.6(b)(1)). In order to obtain relief on any of these grounds it must appear that the applicant acted with reasonable diligence under the circumstances (Roberts vs. State (1971) 39 Cal.App.3d 844; El Dorado Irr.Dist. vs. Superior Court (1979) 98 Cal.App.3d 57). It does not appear to us that this standard has been met in the instant case.

Ignorance of the claim filing requirements and the 100-day filing period does not excuse the failure to file a timely claim. (Roberts vs. State, supra; Tsingaris vs. State (1979) 91 C.A.3d 312). The failure to consult an attorney within the 100-day filing period does not excuse the failure to file a timely claim (Bennett vs. City of Los Angeles (1970) 12 C.A.3d 116 [claim filed 19 days late]).

Under the circumstances, we cannot agree that the failure to file a timely claim was due to the mistake, inadvertence, surprise or excusable neglect of a reasonably diligent or prudent person (Roberts vs. State, supra; Tsingaris vs. State (1979) 91 Cal.App.3d 312.

(City of Fresno vs. Superior Court (1980) 104 C.A.3d 25; El Dorado Irr.Dist., supra.

RECOMMENDATION

For the foregoing reasons, it is recommended that the application of Adolfo Campos for leave to present a late claim be denied.

Very truly yours,

JAMES P. JACKSON City Attorney

DIANE B. BALTER
Deputy City Attorney

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RECOMMENDATION · APPROVED:

DBB:GD

attachment

CLARK & HARBISON

ATTORNEYS AT LAW
2220 K STREET
P. O. BOX 160327

SACRAMENTO, CALIFORNIA 95816

october 1, 1982

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CITY OF SACRAMENTO

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GEORGE D. MANDICH OF COUNSEL

Office of the City Clerk 915 "I" Street Room 203 Sacramento, CA 95814

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RONALO A, CLARK JOSEPH F. HARBISON TO

TIMOTHY R MURPHY

To Whom it may concern:

Please find attached hereto an original and four copies of CC Form 6, CLAIM AGAINST THE CITY OF SACRAMENTO. This claim is being filed on behalf of ADOLFO CAMPOS, who suffered injuries as a result of the false arrest and imprisonment by law enforcement officials of the City of Sacramento.

Being that claimant incurred such injuries on May 20, 1982, I am aware that filing of this claim is not in accord with state law, which requires that a claim for personal injury against a local public entity be filed within 100 days of the date of injury (Government Code, Section 911.2). It has only been since September 10, 1982, however, that I have been apprised of claimant's injuries and the subsequent failure to file a claim against the County within the 100 day period. The claimant was unaware, until my discussion with him on September 10, 1982, of any need on his part to file such a claim within 100 days.

It is, therefore, my sincere request that the County waive its requirement of filing a claim for personal injury within 100 days of injury and thereby accept the claim attached hereto.

Very truly yours,

CLARK & HARBISON

RONALD A. CLARK

Attorney for Claimant,

Adolfo Campos

BY THE CITY COUNCIL

OFFICE OF THE CITY CLERK

CLAIN AGAINST THE CITY OF SACRAMENT CEIVED CITY OLERKS OFFICE CITY OF SACRAMENTO

You are hereby notified that (1) . Adolfo Campos	- Lumingea Poet
Office address is (2) 5305 Scarborough Way, Sacramenta CA	2 10 TH *102se Post 95823
claims damages from the City of Sacramento in the amount, computed	
the presentation of this claim, of (3) \$ 501,320.75. This claim	
(X) Personal injury; () Property damage or loss; () Other,	spacitiv
, which occurred on or about (5) 5	
the vicinity of (6) Sacramento County Juvenile Detention Center un	_
circumstances: (7) Claimant was falsely and maliciously seized a	
by law enforcement officials of the City of Sacramento for the	crime of murder
of one Dwignt Fiscus.	
The name of the City employee or employees causing the claimant's	injury or loss under
the circumstances described is (8) Unknown to claimant	
SAXXEXNUM CO.	XXXXQQQQCXXXQXXXQXXXQX
The injuries to the claimant, (if any), as far as known at the dat	e of presentation
of the claim consists of (9) shock, humiliation and embarrassment	and the costs of
a public defender and detention in juvenile hall.	
The amount of damages claimed as of the date of this claim is comp	uted as fc lows:
Damages incurred to date (Itemized):	·
(10) Juvenile Hall and Public Defender Expenses	\$ 1,320.75
Compensatory Damages	\$ 250,000.00
Estimate proposective damages as far as known: Punitive Damages	
	\$
BY INC. OF THE	\$
Clir a	,
(12) TOTAL AMOUNT CLAIMED as of presentation date of c	laim \$ 501,320.75
All notices and communications with regard to this claimoshould be	sent to cla mant
at (13) CLARK & HARBISON Attorneys at Law, 0.P.O. Box 160327 Sac	
DATED: (14) October 1, , 19 82 CLAPK & HARB	ISON
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(15) SIGNED: CYNNONIC CONTRIBUTION OF THE CONT	WX
Attorney fo	
CC FORM 6 RONALD	A. CLARK
12-23-80	OTENTAL

November 4, 1982

Clark & Harbison Attorneys At Law 2220 K Street P.O. Box 160327 Sacramento, CA 95814

RE: APPLICATION TO FILE A LATE CLAIM ON BEHALF OF ADOLFO CAMPOS.

DATE OF ALLEGED INCIDENT: MAY 20, 1982

Dear Clark:

You are hereby notified that your application for Leave to Present a Late Claim on behalf of the above named claimant was denied by the Sacramento City Council on November 3, 1982.

The application was reviewed and duly considered. The reasons given for the failure to file a claim within the time period provided by the California Government Code were determined to be insufficient, and did not meet the requirements of the Code for relief from the claim filing requirements.

Accordingly, I must inform you your application is rejected.

Sincerely,

Lorraine Magana City Clerk

LM/emm/15

cc: City Attorney

Risk Management (2)

WARNING

If you wish to file a court action on this matter, you must first petition the appropriate court for an order relieving you from the provisions of Government Code Section 945.5 (Claims Presentation Requirement). See Government Code Section 946.6. Such a petition must be filed with the court within six (6) months of the date your Application for Leave to Present a Late Claim was denied.

You may seek the advice of any attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

CLARK & HARBISON

ATTORNEYS AT LAW
2220 K STREET
P. O. BOX 160327 4
SACRAMENTO, CALIFORNIA 95816

∴ October 1, 1982

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CITY OF SAGRAMENTO

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GEORGE D. MANDICH OF COUNSEL

Office of the City Clerk 915 "I" Street Room 203 Sacramento, CA 95814

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JOSEPH F. HARBISON III

TIMOTHY, P. MURPHY

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It is, therefore, my sincere request that the County waive its requirement of filing a claim for personal injury within 100 days of injury and thereby accept the claim attached hereto.

Very truly yours,

CLARK & HARBISON

RONALD A. CLARK

Attorney for Claimant,

Adolfo Campos

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Estimate propsective damages as far as known: Punitive Damages	·
(11)	\$
	\$
(12) TOTAL AMOUNT CLAIMED as of presentation date of cla	im \$ 501,320.75
All notices and communications with regard to this claim should be s	sent to claimant
at (13) CLARK & HARBISON Attorneys at Law, P.O. Box 160327 Sacra	
,	
DATED: (14) October 1,	ON .
(15) SIGNED:	<u> </u>
Attorney for	
	lago. 1
C FORM 6 RONALD A.	CLARK
CLEONIU / CONTRACT A.	CTRUTAL.

CLARK'& HARBISON

ATTORNEYS AT LAW
2220 K STREET
P. O. BOX 160327
SACRAMENTO, CALIFORNIA 95816

October 1, 1982

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CLARK & HARBISON

RONALD A. CLARK

Attorney for Claimant,

Adolfo Campos