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CITY OF SACRAMENTO



DEPARTMENT OF LAW  
812 TENTH STREET  
SUITE 201  
SACRAMENTO, CA 95814  
TELEPHONE (916) 449-5346

CITY MANAGER'S OFFICE  
**RECEIVED**  
OCT 21 1982

October 19, 1982

JAMES P. JACKSON  
CITY ATTORNEY  
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

**REJECTED**  
BY THE CITY COUNCIL  
OFFICE OF THE  
CITY CLERK

RE: LATE CLAIM APPLICATION OF ADOLFO CAMPOS

Members in Session:

NOV 3 1982

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. His 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.

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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]).

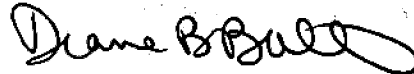
Under the circumstances, we cannot agree that the failure to file a timely claim was due to the mistake, inadvertence, surprise or excusable neglect of a reasonably diligent or prudent person (Roberts vs. State, supra; Tsingaris vs. State (1979) 91 Cal.App.3d 312). (City of Fresno vs. Superior Court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

RECOMMENDATION APPROVED:

  
CITY MANAGER

DBB:GD  
attachment

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CITY CLERKS OFFICE  
CITY OF SACRAMENTO

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OCT 7 2 00 PM '82

TELEPHONE 448-5501

GEORGE D. MANDICH  
OF COUNSEL

**CLARK & HARBISON**

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

SACRAMENTO, CALIFORNIA 95816

RONALD A. CLARK  
JOSEPH F. HARBISON III  
TIMOTHY R. MURPHY

October 1, 1982

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

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

By 

RONALD A. CLARK  
Attorney for Claimant,  
Adolfo Campos

**REJECTED**  
BY THE CITY COUNCIL  
OFFICE OF THE  
CITY CLERK

NOV 3 1982



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

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P. O. BOX 160327

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RONALD A. CLARK  
JOSEPH F. HARBISON III  
TIMOTHY P. MURPHY

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CITY CLERKS OFFICE  
CITY OF SACRAMENTO

OCT 7 2 00 PM '82

AREA COUNSEL  
TELEPHONE 448-5501

GEORGE D. MANDICH  
OF COUNSEL

October 1, 1982

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

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Very truly yours,

CLARK & HARBISON

By

  
RONALD A. CLARK  
Attorney for Claimant,  
Adolfo Campos



**CLARK & HARBISON**

ATTORNEYS AT LAW

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Very truly yours,

CLARK & HARBISON

By

  
RONALD A. CLARK

Attorney for Claimant,  
Adolfo Campos