

17

CITY OF SACRAMENTO



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

CITY MANAGER'S OFFICE
RECEIVED
SEP 29 1982

REJECTED
September 28, 1982
OFFICE OF THE
CITY CLERK

JAMES P. JACKSON
CITY ATTORNEY
THEODORE H. KOBAY, 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

OCT 5 1982

RE: LATE CLAIM APPLICATION OF WILLIAM M. GODATTI

Members in Session:

SUMMARY

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

BACKGROUND

William Godatti has applied for leave to present a late claim. His claim seeks damages for personal injury suffered while playing golf at Haggin Oaks Golf Course.

Government Code §911.2 provides that a claim for personal injury shall be presented within 100 days of accrual of the cause of action. Applicant's cause of action accrued on May 21, 1982, and the 100-day filing period expired on or about August 10, 1982. His late claim application was filed on September 22, 1982. Godatti's application states that he failed to file within the 100-day period because he was unaware of the claim filing requirement until he consulted an attorney after the 100-day period had expired.

ANALYSIS

A person seeking to present 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, it must appear that the applicant acted with reasonable diligence under the circumstances (Roberts vs. State (1974) 39 C.A. 3d 844; El Dorado Irr. Dist. vs. Superior Court (1979) 98 C.A.3d 57). It does not appear that these standards have been met in the instant case.

Ignorance of the claim filing requirement 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. Nor does the failure to consult an attorney within the 100-day period does not excuse the failure to file a timely claim. Bennett vs. City of Los Angeles (1970) 12 C.A.3d 116).

Under the circumstances it appears that the applicant's failure to file a timely claim was not due to the mistake, inadvertence, surprise or excusable neglect of a reasonably diligent person.

RECOMMENDATION

For the foregoing reasons it is recommended that the application of William M. Godatti 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:

Walter J. Slye
CITY MANAGER

CLAIM AGAINST THE CITY OF SACRAMENTO

You are hereby notified that (1) WILLIAM M. GODATTI, whose Post Office address is (2) 7525 Scaup Lane, Citrus Heights, CA 95610

claims damages from the City of Sacramento in the amount, computed as of the date of the presentation of this claim, of (3) \$ 500,000.00. This claim is based upon (4)

Personal injury; () Property damage or loss; () Other, specify _____, which occurred on or about (5) 5 / 2 / 82, in the vicinity of (6) Haggin Oaks Golf Course under the following circumstances: (7) Claimant was injured while walking on a footbridge which had a hole in it.

The name of the City employee or employees causing the claimant's injury or loss under the circumstances described is (8) unknown to the claimant.

~~unknown to the claimant.~~

The injuries to the claimant, (if any), as far as known at the date of presentation of the claim consists of (9) Injuries to both claimant's back and legs, as well as abrasions of the head.

REJECTED
BY THE CITY COUNCIL
OFFICE OF THE CITY CLERK

The amount of damages claimed as of the date of this claim is computed as follows:

Damages incurred to date (Itemized):
(10) Specific information as to amount of and \$ _____
itemization of damages to OCET provided at a \$ _____
later time.

Estimate propsective damages as far as known:
(11) See 10 above. \$ _____
\$ _____

(12) TOTAL AMOUNT CLAIMED as of presentation date of claim \$ 500,000.00

All notices and communications with regard to this claim should be sent to claimant at (13) Clark & Harbison, Attorneys at Law, P.O. Box 160327, Sacramento, CA 95816

DATED: (14) September 21, 1982

(15) SIGNED: Ronald A. Clark
~~CLARK~~ RONALD A. CLARK
Attorney for Claimant

October 8, 1982

Ronald A. Clark
2220 K Street
Sacramento, CA 95816

RE: APPLICATION TO FILE A LATE CLAIM ON BEHALF OF William M. Godatti.
DATE OF ALLEGED INCIDENT: May 2, 1982

Dear Mr. 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 October 5, 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/mn/#17
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
SACRAMENTO, CALIFORNIA 95816

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

RECEIVED
CITY CLERK'S OFFICE
CITY OF SACRAMENTO
SEP 22 4 10 PM '82
AREA CODE 916
TELEPHONE 498-5501
GEORGE D. MANDICH
OF COUNSEL

September 21, 1982

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

TO WHOM IT MAY CONCERN:

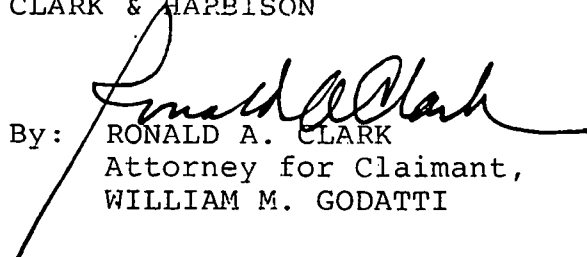
Please find attached hereto an original and four copies of CC Form 6, CLAIM AGAINST THE CITY OF SACRAMENTO. This claim is being filed on behalf of Mr. William M. Godatti, who suffered injuries while playing golf at Haggin Oaks Golf Course.

Being that claimant incurred such injuries on May 2, 1982, I am aware that filing of this claim at this time 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. However, it has only been since September 7, 1982, that I have been apprised of claimant's injuries and the failure to file a claim against the City within the 100 day period. Claimant did file an accident report at the golf course on the date of the accident, but he was unaware, until my discussion with him on September 7, 1982, of any need on his part to file a claim within 100 days.

Therefore, it is my sincere request at this time that the City waive its requirement of filing a claim within 100 days of his injury and thereby accept the claim attached hereto.

Very truly yours,

CLARK & HARBISON

By: 
RONALD A. CLARK
Attorney for Claimant,
WILLIAM M. GODATTI

RAC:jm
Enc.