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COUNTY OF SANTA CRUZ

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda June 16, 1998

ASSISTANTS

To: The Board of Supervisors

Angelica Macias, individually and as Guardian Ad Litem for

Re: Claim of Unborn Heir of Decedent Rhandy Soto, No. 798-153A

Original Document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

Angelica Macias, individually and as Guardian Ad Litem for  
Unborn Heir of Decedent Rhandy Soto, No. 798-153A

X 1 Deny the claim of \_\_\_\_\_ and refer to County  
Counsel.

Deny 2 the application to file a late claim on behalf of \_\_\_\_\_  
and refer to County Counsel.

Grant 3 the application to file a late claim on behalf of \_\_\_\_\_  
and refer to County Counsel.

4 Approve the claim of \_\_\_\_\_ in the  
amount of \_\_\_\_\_ and reject it as to the balance, if any, and refer to  
County Counsel.

5 Reject the claim of \_\_\_\_\_ as  
insufficiently filed and refer to County Counsel.

cc: John Fantham, Director  
Department of Public Works

RISK MANAGEMENT

By Janet McKinley

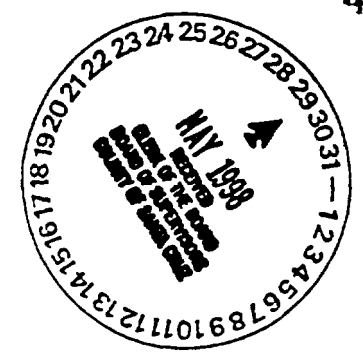
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BY Ellen Lewis

LTR9.WPT

PER 5 107 Rev. 4/97

798-153 A 42



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4 San Francisco, CA 94104  
(415) 989-1800

5 Attorneys for Claimant:  
6 ANGELICA MACIAS, individually and as  
Guardian Ad Litem for  
7 UNBORN HEIR OF DECEDENT RHANDY SOTO

9 CLAIM OF:

10 ANGELICA MACIAS, individually )  
11 and as Guardian Ad Litem for )  
UNBORN HEIR OF DECEDENT RHANDY ) CLAIM FOR PERSONAL  
12 SOTO, ) INJURY AND PROPERTY LOSS  
13 Claimants, ) [Government Code §910]  
14 v. )  
15 COUNTY OF SANTA CRUZ, THE )  
STATE OF CALIFORNIA, )  
16 Defendants. )  
17 )

18 TO THE COUNTY OF SANTA CRUZ and THE STATE OF CALIFORNIA:  
19 Claimant ANGELICA MACIAS, individually and as Guardian Ad  
20 Litem for UNBORN HEIR OF DECEDENT RHANDY SOTO claims damages  
21 from the State of California and the County of Santa Cruz.

22 (a) Claimants' post office address is: C/O Law Offices of  
23 Thomas J. Brandi, 44 Montgomery Street, Suite 1050, San  
24 Francisco, California 94104.

25 (b) The post office address to which Claimants desire  
26 notices to be sent is C/O Law Offices of Thomas J. Brandi, 44  
27 Montgomery Street, Suite 1050, San Francisco, California  
28 94104.

1 (c) This claim is based on the personal injuries  
2 resulting in the death of Rhandy **Soto**, fiance of **Angelica**  
3 Macias and father **of UNBORN HEIR OF RHANDY SOTO** and the  
4 personal injuries received by **Angelica** Macias. On the  
5 afternoon of December 5, 1997, at approximately 5:00 p.m.,  
6 Rhandy **Soto** was driving southbound on Freedom Boulevard  
7 approximately .3 miles north of La Vida Road in an  
8 unincorporated area of Watsonville in the County of Santa  
9 **Cruz**, State of California. His passenger was his fiance,  
10 **Angelica** Macias who, at the time, was pregnant with the child  
11 of Rhandy **Soto**. At the time of filing this claim, Ms. Macias  
12 has not yet given birth to this child.

13 At said time and place, **Soto's** vehicle left its lane of  
14 travel, crossed the 'center line, went across the oncoming lane  
15 of traffic, and struck a utility pole beside the roadway. Mr.  
16 **Soto** died as a result of injuries he received in the incident.  
17 Ms. Macias received personal injuries in the incident

18 The accident was caused by the STATE **OF CALIFORNIA**, the  
19 COUNTY OF SANTA CRUZ and/or their employees for reasons  
20 including, but not limited to, acts and/or omissions which  
21 resulted in:

- 22 • failure to warn of, and/or prevent and/or correct a  
23 "dangerous condition" (a condition of property that  
24 creates a substantial [as distinguished from a minor,  
25 trivial or insignificant] risk of injury when such  
26 property or adjacent property is used with due care  
27 in a manner in which it is reasonably foreseeable  
28 that it will be used) on, or immediately adjacent to,

1 public property;

- 2 • failure to provide and/or maintain adequate signs,  
3 signals, devices, channelization, pavement,  
4 shoulders, superelevation, guardrails, and striping;
- 5 • failure to provide and/or construct and/or maintain  
6 an adequate shoulder along the roadway;
- 7 • failure to provide and/or construct and/or maintain a  
8 safe roadway surface;
- 9 • failure to prevent and/or correct and/or warn of an  
10 unsafe and dangerous **"drop-out"** between the edge of  
11 the paved roadway and the unpaved shoulder and  
12 between the paved roadway and the unpaved median;
- 13 • failure to prevent and/or correct and/or warn of an  
14 unsafe an inadequate superelevation of the roadway;
- 15 • failure to warn of, and/or prevent and/or correct an  
16 unsafe and dangerous superelevation **transition of** the  
17 roadway;
- 18 • failure to warn of, and/or prevent and/or correct  
19 unsafe and dangerous curve(s) in the road surface;
- 20 • failure to adequately warn of a dangerous and unsafe  
21 condition

22 The State of California and the County of Santa Cruz had  
23 actual and/or constructive notice of the dangerous condition  
24 and a sufficient amount of time prior to decedent's and  
25 claimant's injuries to have taken measures to have protected  
26 the public against the dangerous condition.

27 (d) As far as is known at the time of the presentation  
28 of this claim, Claimant **Macias** claims damages for her personal

1 injuries, medical costs, lost wages, as well as property loss  
2 and/or damage and other damages arising therefrom. Claimant  
3 Unborn Heir of Rhandy Soto claim damages for the wrongful  
4 death of his/her father and other damages arising therefrom.

5 (e) The name or names of the public employee or employees  
6 causing the injury, damages or loss is unknown.

7 (f) The amount claimed exceeds ten thousand dollars  
8 (\$10,000) as of the date of the presentation of this claim.  
9 The jurisdiction over the claim would rest in Superior Court.

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12 **Date:** May 28, 1998

LAW OFFICES OF THOMAS-J. BRANDI

13 By: Thomas J. Brandi  
14 THOMAS J. BRANDI  
15 Attorney for Claimant

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