



GOVERNMENT CENTER
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CHIEF ASSISTANTS

GOVERNMENT TORT CLAIM
RECOMMENDED ACTION

ASSISTANTS

Agenda September 22, 1998

To: The Board of Supervisors

Re: Claim of David Herrlich, No. 899-021

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

In regard to the abovereferenced claim, this is to recommend that the Board take the following action:

- 1 . Deny the claim of David Herrlich, No. 899-021 and refer to County Counsel.
2. Deny the application to file a late claim on behalf of _____ and refer to County Counsel.
3. Grant 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 tiled and refer to County Counsel.

cc: Christine Patton, Clerk/Administrator
Municipal and Superior Courts
John Rhoads, Chief Probation Officer
Mark Tracy, Sheriff-Coroner

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Ellen Lewis

LTR9 WPT

PER 5107 Rev 4. 97

LAW OFFICES OF
FRANCES P. HENDERSON
655.A MAIN STREET
WATSONVILLE CALIFORNIA 95076
(408) 761-1965
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899-0000 34



August 11, 1998

Board of Supervisors of Santa Cruz County
Clerk of the Board of Supervisors
county of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, CA 95060

Re: David Herrlich Claim
Date of Loss: 3/26/98

Dear Board of Supervisors:

David Herrlich has retained the services of the Law Offices of Frances P. Henderson for filing a **claim** for false arrest, and imprisonment, and the consequent pain and suffering he experienced on March 26, 1998 through March 31, 1998, in Santa Cruz County jail. His **claim** is as follows:

Mr. Herrlich was stopped while on his bicycle near the intersection of Freedom Boulevard and Marin Street in the City of Watsonville on March 26, 1998, by an officer of the Watsonville Police Department. After checking Mr. Herrlich's license, the officer left and returned approximately 15 minutes later accompanied at least six other officers. They advised Mr. Herrlich that there was a "no-bail" felony warrant outstanding, handcuffed him and arrested him. He was taken to Santa Cruz County jail. Mr. Herrlich told the Watsonville Police officers that his last and only criminal charge occurred in the late 1980's and his probation (for possession of a controlled substance) had terminated four years prior to the date of his arrest. He repeated this to the Santa Cruz County Sheriff Department. Neither agency investigated Mr. Herrlich's representations, and Mr. Herrlich was held in custody.

On March 27, 1998, I contacted the clerk of the Municipal Court, criminal department, in an attempt to obtain Mr. Herrlich's release, but was notified that he was "no-bail" status because of an allegation he had absconded from the County. I attempted to review the file, but it was in storage and would not be available until the following week.

At his arraignment on March 30, 1998, Mr. Herrlich advised that he was represented by counsel, and Judge Michael Barton advised him to remain silent until he spoke with his attorney and set a hearing for the next day for further arraignment. On March 31, 1998, Probation Officer Andy Azevedo recommended Mr. Herrlich receive 6 months in county jail.

Board of Supervisors
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After representing to the Court that Mr. Herrlich believed that his probation had terminated, he was released on his own recognizance pending the next hearing date of April 23, 1998. On that date the Court was closed due to a fire in the basement and Mr. Herrlich returned to court on April 30, 1998. At this time it was confirmed that his probation had indeed terminated prior to his arrest, and his case was dismissed.

Mr. Herrlich was damaged as follows:

5 Days in Santa Cruz County Jail		
Lost Wages @ \$25/Hr x 40 x 5	\$	1, 000
Attorneys' Fees	\$	750

Enclosed herewith is a copy of the Attorneys' Fees Statement of April 1998; Mr. Herrlich is employed at the rate of \$25.00 per hour as a property manager for 40 hours per week, and he was so employed at that time.

Mr. Herrlich was arrested without any cause whatsoever and was negligently held on this erroneous charge. He spent five days in jail because of an error on the part of the County of Santa Cruz. He was humiliated and his physical safety was put at risk. He seeks recovery for the shame and humiliation as well as the special damages itemized above. Consequently, Mr. Herrlich herein presents a claim of \$25,750 against the County of Santa Cruz.

Very truly yours,



FRANCES P. HENDERSON

FPH/fc
 cc: David Herrlich

LAW OFFICES OF
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DAVID HERRLICH
511 Amesti Road
Watsonville, CA 95075

In re: Criminal Defense
Date: April, 1998

Rate: \$150/hr

STATEMENT

<u>Date</u>	<u>Matter services</u>	<u>Time</u>	<u>Amount</u>
3/27/98	Check w/Jail & Courthouse re bail/release status at Smith's request & travel to Sant Cruz	1.5	225.00
3/31/98	Court Appearance on Probation Violation	1.5	225.00
4/23/98	Court Appearance - Courthouse closed due to fire - continued	1.0	150.00
4/30/98	Court Appearance - Dismissal of charges	1.0	150.00
Total Charge:			\$ 750.00

Thank you.