

OFFICE OF THE
COUNTY COUNSEL



COUNTY OF SANTA CRUZ

GOVERNMENT CENTER
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701 OCEAN STREET, ROOM 505, SANTA CRUZ, CALIFORNIA 95060-4068

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GOVERNMENT TORT CLAIM RECOMMENDED ACTION

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ASSISTANTS

Agenda November 24, 1998

To: The Board of Supervisors

Re: Claim of Frank German, No. 899-054

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:

X 1. Deny the claim of Frank German, No. 899-054 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: Art Danner, District Attorney

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Deborah Steen

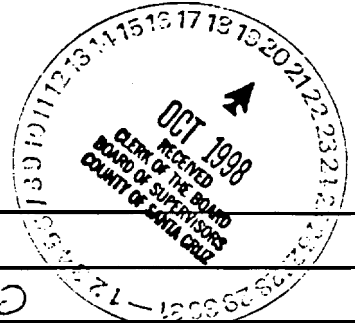
LTR9:WPT

PER 5 107 Rev. 4/97

CLAIM AGAINST THE COUNTY OF SANTA CRUZ
(Pursuant to Section 910 et Seq., Govt. Code)

899-0546

TO: BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ
ATTN: Clerk of the Board
Governmental Center
701 Ocean Street, Santa Cruz, CA 95060



1. Claimant's Name: FRANK German
Address: 1141 King St
Santa Cruz CA 95060
Phone No: 426-5736

P.O. Box to which notices are to be sent: _____

2. Occurrence: Misconduct Mishandling Misrepresentation Misinformation
Date: 97-98 August of 98 Place: Santa Cruz Family Support Division
Circumstances of occurrence or transaction giving rise to claim: see Attached Letter.
The letter was a preliminary survey overview
I will, if needed, be more specific.

4. General description of indebtedness, obligation, injury, damage or loss incurred so far as is now known:
All lost child support during the period I dealt with
The office of Family Support Division. Work time lost
Emotional stress ect.

5. Name(s) of public employee(s) causing injury, damage or loss, if known: Kimberly Mel
Mary Ann Mullins and all unknown parties working for D.A.s

6. Amount claimed now \$ 150,000.
Estimated amount of future loss, if known \$ 1,000,000.
TOTAL \$ 1,150,000.

7. Basis for above computations: Emotional Trauma as well as lost
wages and lost child support. Malpractice

8. If the amount claimed is over \$ 10,000, indicate the court of jurisdiction:
_____ Municipal Court Santa Cruz County Superior Court

CLAIMANT'S SIGNATURE: Frank German

Note: Claim must be presented to Clerk, Board of Supervisors, within six (6) months after the act which occasioned the injury.

Americans with Disabilities Act questions or requests for accommodations may be directed to the ADA Coordinator at 454-2962 (TDD 454-2 123).

September 9, 1998

Superior Court of Santa Cruz County
701 Ocean Street
Santa Cruz, Ca. 95060

Attention:

Head of the Calender Department

re: case #111817
D.A. case # 14720-b

To Whom It May Concern,

I reluctantly and regrettably chose to withdraw the motion before the court for child support. I have notified and am forwarding a copy of this letter to Ms. Fanning's Attorney thereby canceling the appearance scheduled on calender for Friday the 11th of September, 1998. I do so as a result of my perceived unbalanced, unethical, ineffectual, unprofessional behavior and handling of the case.

My primary concern is the lack of professionalism displayed by the district Attorney's office and their inability to do their job objectively and appropriately. I have been chided and goaded by Ms., Mel on several occasions and her handling of this case lends new meaning to the word bias. She has refused at every turn to do as I asked. Her proclamation of the District attorney's Office of handling these matters informally, now places me at risk of being penalized. I asked repeatedly that she make Mr. Almieda follow the rules. I asked that she follow the same type of pursuit of my sons mother as she did when she was coming after me. She allowed deadlines to pass with no action. She refused to file a case for me as I requested then 18 months later after me filing the "proper paper work" she ended up deciding that the way I asked her to do it 18 months prior was correct and pursued the matter in that fashion.

I will start at the beginning:

I have always had at least 50% physical custody of my son. I wanted Ms. Fanning to have a decent place to live and be able to take care of Dominic. I agreed to, on my own, pay \$500.00 a month in support. Ms. Fanning worked but she chose to live in a studio apartment and buy a new car, a Mazda 626. In addition to the \$500.00 per month, which by the way was way above guideline as well as put a real burden on me. I paid for Dominic's private school, all his clothes and extra curricular activities. Ms. Fanning contributed nothing.

When I became self employed I could no longer afford to pay the support I notified the District Attorney's Office, I intended to file a Request for Modification of Support. The notice did not matter, after several court appearances initiated by the District Attorney's Office filing a Contempt of Court Citation against me for non payment of support, they refused to cooperate with me and filed the contempt citation, it was determined that I would no longer pay support based on income and physical custody.

Several weeks thereafter the District Attorney's Office filed another motion attempting to obtain another Order for Support against me. They never served me with the paper work and despite Ms. Mel's attempts to "slide one past" the courts, Judge Kelsey dismissed the motion based on lack of service.

I was granted custody of my son on a temporary bases in May of 95, pending evaluations. My son and I eventually prevailed and primary physical custody was granted to me. I went to renew my drivers licence and was informed that it was revoked by the District Attorney's office due to unpaid support. I requested clarification from the Office of the District Attorney, as well as a review of the case. I was denied any information, regarding an alleged amount owed for 6 months, and was informed that my licence would not be released until I paid at least 1000.00 up front. After complaining and writing to Art Danner I was given back my licence. Right after I stipulated with the D.A.'s office Ms. Mel appeared **Exparte** and inappropriately in front of the court and received a default judgment on me requiring me to file a job search form for the District Attorney's Office. This after I and her office had stipulated to the agreement nullifying her need to appear.

I had tried for over 1 and a half years to get the District Attorney's office to open a case to get a support order against Ms. Fanning but twice the paper work was lost and once out of frustration I thought I would pursue the matter myself Because of the disposition of Judge McAdams and his statement, that if I continued to litigate, it would effect his decision making around my keeping my son. I felt I had no other avenue to pursue other than the D.A. getting the order for me. I insisted that there was already a case for my son opened and the District Attorney's simply needed to file under the existing case number. I was berated by Ms. Mel who insisted I knew nothing of which I spoke and that I had to fill out the packet and the case would be opened. Later it seems that the D.A.'s office decided to go ahead and file the motion under the same case number anyway.

The service on Ms. Fanning had a default time period that would have automatically granted a Support Order had she not responded in thirty days. She did not respond in the time period and I insisted that the D.A. file the default judgment. Again I was berated by Ms. Mel. She informed me that she would handle the case as best she knew how and that I knew nothing. Ms Fanning hired an Attorney and the attorney contacted the DA's Office. Without verification or any formal paperwork they communicated with and allowed the attorney's to dictate what direction we where going to head. I told Ms. Mel that she was not to speak to him until he filed the paperwork stating that he was the Attorney of Record. I was berated by Ms. Mel and told that they did these types of things informally and I knew nothing. I insisted that he file the paper work and she told me no.

I was told not to speak to the Attorney and in fact I offered a stipulation of \$160.00 per month to the Attorney along with a stipulation to forgive any past arrearage. The Attorney countered with a straight \$160.00 per month and I was advised by Ms. Mel to not accept the offer due to the fact that there was no mention of arrearages as well as the amount was substantially less than what Dominic was entitled to. I followed the advise.

Next I was informed by the District Attorney's Office that Ms. Fanning's Attorney wanted my tax records and bank statements dating back three or four years. I did not acknowledge the request because I still had not received proper notice of him being the Attorney of record. Later I found out he was making a request under the provisions of the law. I was not made privy to any paper work.

When we appeared in court, I informed the court that Ms. Farming's attorney had not filed the Substitution of Attorney. The court asked him if he did and he said YES. He lied He in fact, never has filed such a document. The court directed him to file the paper work. I told the court I was willing to provide my tax returns from 1997 and the District Attorney's Office agreed that was all they would require.

I provided the tax return to the district Attorney's office and told them not to release the information to anyone not a *party to the case*. The District Attorney instructed Ms. Fanning's Attorney to contact me directly this after tell me not to speak to him(they forwarded a copy of the letter telling me not to speak with him to him).

The next appearance I was portrayed as uncooperative and was admonished by the court. Ms. Fanning's Attorney, who, by the way still had not followed the courts direction and filed the substation of attorney, was allowed to have a retroactive request for sanctions placed on record for the commissioner to consider at a later date. The District Attorney's Office stated that I forbid them from releasing the tax records to anyone, in fact I said **only** to parties to the case. I was not allowed to object because according to the commissioner the time for any objection had past, I had insisted that Ms. Mel object to the request she wouldn't. I have been forced again into a position of peril due to the conduct of Ms. Mel and her informal way of doing business. Mystically this lack of formality was absence when she pursued me for an order some 7 years ago.

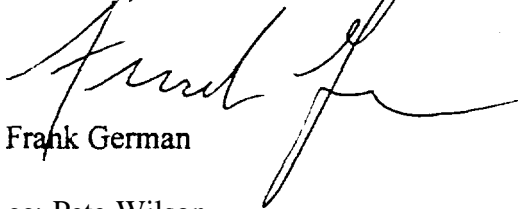
In closing I would say, WHAT WAS I THINKING?!!!! How could I ever imagine that a man with custody would get a fair shake from an over burdened, over bias, sexiist organization, like the Family Division of the District Attorney's Office in Santa Cruz? In an office that constantly castrates men I innocently anticipated fairness and representation for my son, not assist the noncustodial parent against me. I suppose that if I had a daughter my chances of getting them to cooperate would have increased and if I where a woman the other party would be homeless by now. But I am what I am, and unfortunately in a feminist laden environment where the presence of a penis is looked upon as almost criminal, I was doomed to get the worst end of it.

I never have had representation, I could never afford it, and I can not afford to pay for Ms. Fanning's *I* again *was assuming that the court would decide and rule on what was right and what was wrong* but instead *my rights meant little*, and Ms. Fanning's *wrongs meant even less*. Where else could someone make a written promise to pay two hundred dollars a month then not do it? Where else could someone not pay any support for three years and get away with it? Where else could someone hire a lawyer to represent all their wrong doing's, obfuscate the matter, and walk away from the situation **scott** free? Only here, only in this court system, and only IF YOU ARE A WOMAN!!!!.

The last thing I would say is, I constantly was told of how over burdened and how busy everyone was. I was told the court had a lot of cases to hear and could not spend time on me. I was let known how unimportant and insignificant my case was in comparison to the masses. EXCUSE ME: I realize the case load is heavy, but I only have one case MINE!!! I would expect and anticipate the opportunity to be represented by the service paid for in part, thru my taxes.

Despite the commissioner statement that what the D.A.'s office provides is a public service and a courtesy, I disagree. Since when can a public service place you in jail for noncompliance? It is the law, they are mandated by law to provide a service, which was subpart at best, and the court is to protect my rights and afford me the opportunity to be heard, which it did not. I withdraw the motion for support out of necessity, what necessity? The one that has to do with me not being able to afford counsel for myself but having been placed in a position to possibly have to pay fee's for Ms. Farming to have counsel. This after I made more than reasonable offers to stipulate and she refused the offer making litigation necessary. This after being misrepresented and mislead by the District Attorney's Office. Well congratulations to all, my son will receive no support from his Mother because she refuses to pay and I can't afford to go **after** it. Please don't worry, I will continue to raise my son by myself, put him **thru** college and I will do it as I have up to this point, by myself with **no help** and in spite of all the misdeeds and malicious behavior.

Sincerely,



Frank German

cc: Pete Wilson

Art Danner

Santa Cruz Sentinel

James Almiade

Kim Mel

Dave Geneci o

Honorable William Kelsey

Honorable Richard McAdams