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County of Santa Cruz

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda June 22, 1999

To: The Board of Supervisors

Re: Claim of Anthony F. Fiorentino, No. 899-154

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:

1. X Deny the claim of Anthony F. Fiorentino, No. 899-154 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 the** balance, if any, and refer to County Counsel.
5. Reject the claim of _____ as insufficiently filed and **refer** to County Counsel.

cc: Not County Jurisdiction

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Ellen Aldridge

**Claim of:**

ANTHONY F. FIORENTINO,

Claimant,

v.

THE COUNTY OF SANTA CRUZ,

Defendants.

CLAIM FOR PERSONAL INJURY
(Section 9 10 of the California
Government Code)

To: The Board of Supervisors of the County of Santa Cruz, **701** Ocean St., Santa **Cruz**, California 95060:

YOU ARE HEREBY NOTIFIED THAT ANTHONY F. FIORENTINO, whose address is 237 **Loma** Alta Avenue, Los Gatos, California, claims damages from the County of Santa **Cruz** in the amount, computed as of the date of presentation of this claim, of \$297,500.

This claim is based on personal injuries sustained by claimant on or about December 29, 1998 in the vicinity of Beach Street at Cliff Street in the City of Santa **Cruz** near the Boardwalk **Beach** Amusement Park, under the following circumstances: Claimant was riding his bicycle along a designated bicycle lane when his bicycle flipped over as he was traveling across railroad tracks which ran directly through the bicycle lane. As a result thereof, he sustained serious and permanent injuries, including but not limited to a left hip fracture, which has necessitated two (2) surgeries, and a separated shoulder.

The legal bases for this claim are as follows: The subject area (where the crosswalk intersects the railroad tracks in the vicinity of Beach Street at Cliff Street near Boardwalk Beach Park) is, on information and belief, owned and controlled by the County of Santa Cruz pursuant

1 to California Government Code Section **830(c)**. It is alleged by this claimant that the subject area
2 constitutes a dangerous condition within the meaning of Section **830(c)** insofar as it is a condition
3 of property which creates a substantial risk of injury when such property is used with due care in a
4 manner which it is reasonably foreseeable that it will be used. As plaintiff was simply riding his
5 bicycle at a safe speed in a designated bicycle path, he was at all times exercising due care.

6 The dangerousness of *this* subject area is conclusively established by the fact that
7 numerous persons who have operated bicycles through the subject area have fallen to the ground
8 due the aforesaid dangerous condition and have sustained serious and permanent injuries since at
9 least 1980. These incidents have resulted in several governmental claims and/or civil complaints
10 which have been filed against the City and/or County of Santa Cruz. Further, claimant is informed
11 and believes and **thereon** alleges that numerous City of Santa Cruz police reports have been filed
12 regarding injuries sustained at the subject area. Thus, this dangerous condition **unquestionably**
13 creates a substantial risk of injury within the meaning of Cal. Gov. Code Section 830(a).

14 Despite the abundance of notice which has been provided to the County, and the fact that
15 the subject area creates a substantial risk of injury, it has done nothing within reason to eradicate
16 the dangerousness of the condition. Specifically, **in** response to these known incidents, the only
17 attempts any governmental agency has undertaken in an attempt to make the subject area safer is
18 to install certain signs in and/or around the area of the dangerous condition, as opposed to
19 removing the dangerous condition altogether. Claimant is informed and believes and thereon
20 alleges that these steps taken by these entities, including but not limited to the County, are not
21 reasonable and has not made the condition safer, as it evidenced by the fact that several known
22 accidents which have occurred in or about the subject area continue to **occur** with regularity
23 despite the **signage**. Simple steps which easily could and should have been taken to remove the
24 dangerous condition include but are not limited to placing the bicycle lane on the other side of
25 Beach Street or on the other side of the Boardwalk

26 The names of the public employees causing Claimant's injuries under the above-described
27 circumstances are unknown.

28 The injuries **sustained** by Claimant, as far as known, as of the presentation of this claim,

consists primarily of a **left** hip fracture which has necessitated two surgeries.

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

Damages incurred to date:

Estimated expenses for medical and hospital care: \$25,000

Estimated loss of earnings: \$ 7,000

Estimated special damages: \$32,000

Estimated future expenses for medical care: \$ 5,000

Estimated future loss of earnings: \$ 3,000

Other prospective special damages: \$ 500

Prospective general damages: \$225,000

Total amount claimed as of date of

presentation of this claim: \$297,500

Jurisdiction would rest in the Superior Court in and for the County of Santa **Cruz**.

All notices and other communications with regard to this claim should be sent to the Claimant himself at the following address: 237 **Loma** Alta Avenue, Los Gatos, California.

Dated: June 10, 1999

Anthony F. Fiorentino
ANTHONY F. FIORENTINO

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