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County of Santa Cruz

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda May 23, 2000

To: Board of Supervisors

Re: Claim of Robert Eugene Shaw, Jr., No. 900-131

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. Reject the claim of Robert Eugene Shaw, Jr., No. 900-131 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: Mark Tracy, Sheriff-Coroner

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Samuel Torres Jr.

GOVERNMENTAL CLAIM(Government Code 9900, et seq.).

County of Santa Cruz

Santa Cruz County Jail

Santa Cruz County Health Services Agency

Santa Cruz County Sheriff-Coroner

YOU ARE HEREBY **NOTIFIED** of the claims of the individual identified below for damages against the County of Santa Cruz, the Santa Cruz County Jail, Santa Cruz County Health Services Agency, Santa Cruz County Sheriff-Coroner ("the governmental entity").

1. Name and address of Claimant:

Robert Eugene Shaw, Jr.
89 Alta Drive
La Selva Beach, CA 95076

2. Notices

All notices concerning this claim should be sent to Joseph G. Haselton, Esq., Haselton & Haselton, 2425 Porter Street, Suite 6, Soquel, California 95073, telephone (408) 462-9112, facsimile (408) 462-9115.

3. Description of Occurrence

(a) Date: On or about October 31, 1999, and continuing thereafter.

(b) Place: The Santa Cruz County main jail located at 259 Water Street; Santa Cruz, California.

(c) Names of Public Employees: The names of the public employees who contributed to the occurrence are those individuals who were responsible for the care, custody, control, and supervision of Robert Eugene Shaw, Jr., whose names and identities are still being attempted to be determined, including but in no way limited to Ed Crowley, and additional mental health individuals who are responsible for his care, custody; control, and supervision while an inmate in the Santa Cruz County Jail, those individuals instructed in regards to the care, custody, control, and supervision of Robert Eugene Shaw, Jr., while in custody in the Santa Cruz County Jail.

(d) Circumstances: On or about October 31, 1999, Robert Eugene Shaw was detained for

1 charges pertaining to felony assault. Interviews were thereafter conducted commencing on or about
 2 November 1, 1999 as performed by the Santa Cruz County Health Services Agency. Those
 3 interviews revealed that Robert Eugene Shaw, Jr., was on Paxil and Zoloft, had a history of alcohol
 4 and poly-substance abuse, had been treated ongoing for depression, and informed Santa Cruz County
 5 Health Agency that if his life would fall apart over the arrest and charges, he may feel like "ending it
 6 all". Thereafter, his condition deteriorated. Robert Eugene Shaw, Jr. continued to be emotionally
 7 unstable, upset about his legal situation, concerned over his ongoing and continuing incarceration, again
 8 informing Santa Cruz County Health Services individuals that "if he has lost his wife, jobs, and house,
 9 he does not want to live if he loses everything". Thereafter, on or about November 9, 1999, while in the
 10 care, custody, and control and under the supervision of the governmental entities, Robert Eugene
 11 Shaw, Jr., attempted suicide.

12 As a result of Robert Eugene Shaw, Jr.'s, attempted suicide, he suffered severe and
 13 debilitating injuries. The Claimant has sustained a traumatic brain injury as manifest by right epidural
 14 hematoma, diffuse subarachnoid hemorrhage, coma, and continues to suffer from prolonged periods
 15 of amnesia. The Claimant suffered a segmental spinal cord injury with a predominantly left C5 and
 16 C6 motor involvement, right C6-C7 and C8 sensory involvement consistent with a Brown-Sequard.
 17 He further has continuing problems with mild spasticity. Ongoing and continuing complaints
 18 continue to be but are in no way limited to right pupil, right sixth nerve palsy,
 19 disinhibited/circumlocutory speech. Continuing concerns regarding the possibility of exacerbation
 20 of behavioral problems due to the suicide attempt.

21 The governmental entities against whom claims are asserted here had a duty and were
 22 responsible for the care, custody, control, and supervision of Robert Eugene Shaw, Jr., Claimant.
 23 The governmental entities owed a duty to Claimant, including but in no way limited to, the adequate
 24 care, control, and supervision of Robert Eugene Shaw, Jr., due to his physical and emotional
 25 condition, suicidal ideations, and emotional problems. Further, their duties arise as a result of the
 26 special relationship that existed between the governmental entity and the Claimant requiring the
 27 governmental entity to take all reasonable steps to protect that Claimant. Said governmental entity
 28 breached its duties, as a result of these breaches of duty, Claimant suffered severe physical and

emotional injuries, including but in now way limited to traumatic brain injury and spinal injury, surgical intervention, **reconstructive** surgery, permanent **impairment**, disfiguration, emotional injuries, and physical and emotional deterioration as herein described. Permanent impairment and disfiguration includes, but is in **no** way limited to, scarring **from** the surgery, problems with a loss of vision, right sixth nerve palsy, disinhibited speech, and the possibility **of** exacerbation of behavioral problems.

In failing to act as described herein, the governmental entities were negligent, failed to discharge mandatory duties, allowed or **maintained** dangerous conditions on public property, unreasonably failed to control and care for Claimant, inadequately supervised Claimant, and are strictly liable. Further, the failure to care for Claimant imposed an unreasonable risk of harm to the claimant, and such unreasonable risk of harm constituted a substantial legal and proximate cause of the damage sustained by Claimant. Finally, a special relationship existed which was breached by the governmental entity in failing to take reasonable steps to protect its charge.

Said governmental entities additionally willfully, wantonly, negligently, failed to provide care, custody, control, and supervision of Claimant. Said entities were on notice from Claimant's **family**, their own medical records, medical records which could have been obtained by said governmental entities, and others, that the failure to properly care for, watch over, supervise, and control Claimant would result in severe and debilitating injuries caused to Claimant as outlined herein.

Statutory obligations also exist as to the governmental entities herein including, but in no way limited to Welfare and Institutions Code Sections 5 150 et seq., Penal Code Sections 4011.6, 4011.8, Government Code Sections 6276.36, and 26643.

(e) Basis for Legal Liability: The governmental entities are liable to claimant, based upon the circumstances described above, including, but in no way limited to the following legal theories: (1) negligence; (2) breach of mandatory duty; (3) dangerous condition of property; (4) strict liability; (5) statutory obligations, (6) intentional and negligent **infliction** of emotional distress..

4 Description of Iniurv and Damage

Claimant suffered severe personal injuries .

Personal Injury

1 Emotional Injury

2 Claimants emotional distress includes but is in no way limited to, nervousness, anxiety,
3 **sleeplessness**, digestive system disorders, fear, behavioral problems, and other symptoms.

4 Physical Injury

5 Claimant suffered physical injuries and damages to his health and physical well being as
6 described herein as a result of the action, inaction, and/or omissions of said governmental entities.
7 Physical injuries include but in no way are limited to traumatic **brain** injury, traumatic spinal cord
8 injury, right **epidural** hematoma, **diffuse subarachnoid** hemorrhage, coma, prolonged periods of
9 amnesia, right pupil, right sixth nerve palsy, disinhibited speech, cognitive deficit, exacerbation of
10 behavioral problems, segmental spinal cord injury, mild spasticity, and general **discomfort** therefrom.

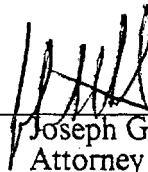
11 5. Wage Loss

12 Due to the injuries as described herein, Claimant is unable to continue his occupation as a
13 janitor. As such, Claimant will need necessary retraining and/or compensation including but in no
14 way limited to vocational rehabilitation to assist Claimant in returning to the work force.

15 6. Amount of Claim

16 The amount of damages to date for personal, emotional **injuries**, wage loss, are within the
17 jurisdictional limits of the Superior Court.

18
19 Dated: April 13, 2000



Joseph G. Haselton
Attorney for Claimant

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21 Shaw/Gov-claim
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(PROOF OF SERVICE BY MAIL--1013a, 2015.5 C.C.P.)

STATE OF CALIFORNIA)
) ss
 COUNTY OF SANTA CRUZ)

I am a resident of the County of Santa Cruz; I am over the age of eighteen years and not a party to the within above entitled action; my business address is:

2425 Porter Street, Suite 6
 Soquel, CA 95073

On April 14, 2000, I served the within GOVERNMENTAL CLAIM on the attorneys/parties in said action, by placing a true copy thereof in a sealed envelope for collection and mailing in the mail room of Haselton & Haselton, 2425 Porter Street, Suite 6, Soquel, California 95073 addressed as follows:

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

Santa Cruz County Sheriff-Coroner
 701 Ocean Street, Room 340
 Santa Cruz, CA 95060

Santa Cruz County Health Services Agency
 1080 Emeline Street
 Santa Cruz, CA 95065

Santa Cruz County Jail
 c/o Santa Cruz County Sheriff-Coroner
 701 Ocean Street, Room 340
 Santa Cruz, CA 95060

I am readily familiar with the business practice of the within named firm for collection and processing of correspondence for mailing with the United States Postal Service and the above-referenced correspondence will be deposited with the United States Postal Service on the same date as first stated above, in the ordinary course of business.

I declare, under penalty of perjury pursuant to the laws of the State of California, that the foregoing is true and correct.

Executed on April 14, 2000, at Soquel, California.


 Barbara Carson

Shaw/POS-MAIL