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County of Santa Cruz

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda June 27, 2000

To: Board of Supervisors

Re: Claim of Lino Alberto Montes, No. 900-142

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. Reject the claim of Lino Alberto Montes, No. 900-142 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: John Fantham, Director
Department of- Public Works

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

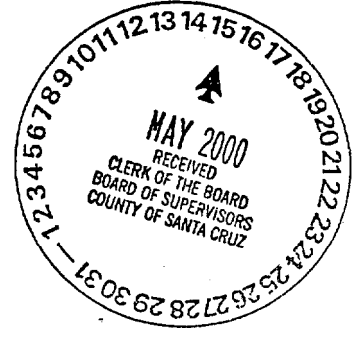
By Samuel Torres Jr

900-142

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THE HOUSE LAW FIRM
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San Jose, CA 95126
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Attorney for Claimant

IN THE MATTER OF THE CLAIM OF:

LINO ALBERTO MONTES

Claimant,

vs.

COUNTY OF SANTA CRUZ, CALIFORNIA
HIGHWAY PATROL, CALIFORNIA
DEPARTMENT OF TRANSPORTATION,
AND DOES ONE through ONE HUNDRED,
inclusive

CLAIM FOR PERSONAL INJURY
PURSUANT TO GOVERNMENT CODE § 10

UNLIMITED CIVIL CASE

Respondents.

TO THE RESPONDENTS, COUNTY OF SANTA CRUZ; CALIFORNIA
HIGHWAY PATROL; and CALIFORNIA DEPARTMENT OF TRANSPORTATION:

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the Claimant, LINO
ALBERTO MONTES, whose present address is c/o Stanley J. House, Esq., 1485 Park
Avenue #200, San Jose, California 95126, hereby claims damages from you, and each of you,
in an amount within the jurisdiction of the Superior Court of the State of California.

This claim is based on the following circumstances:

On or about November 17, 1999, at approximately 8:21 a.m., claimant was driving
his 1999 GMC pickup truck in a generally southbound direction on Graham Hill Road near
its intersection with Grand View Avenue, in the unincorporated area of Santa Cruz County.
Claimant suddenly rounded a curve in the roadway and came upon an accident scene being

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1 nvestigated by the California Highway Patrol. Having no pre-warning of the stated
2 ondition and coming upon an investigating officer standing in the middle of the road,
3 Claimant braked his vehicle losing control, leaving the roadway and colliding with a
4 redwood tree

5 A. TO RESPONDENTS COUNTY OF SANTA CRUZ and CALIFORNIA
6 DEPARTMENT OF TRANSPORTATION:

7 YOU AND EACH OF YOU, on or about November 17, 1999, and for some time
8 prior thereto created, constructed, owned, designed, engineered, operated, leased, controlled,
9 Installed, inspected, serviced, maintained and repaired Graham Hill Road near its intersection
10 with Grand View Avenue, Santa Cruz County, California.

11 On or about November 17, 1999, and for some time prior thereto, said Graham Hill
12 Road at or near its intersection with Grand View Avenue was in a dangerous, defective and
13 unsafe condition; and, YOU AND EACH OF YOU, by and through your duly authorized
14 agents, servants and employees, acting within the course and scope of their agency, service
15 and employment, negligently, carelessly and otherwise wrongfully, created, constructed,
16 owned, designed, engineered, operated, leased, controlled, installed, inspected, serviced,
17 maintained and repaired said Graham Hill Road in such a manner so that dangerous,
18 defective and unsafe conditions of public property were created and allowed to exist in that,
19 among other things, based upon information and belief:

20 (1) the shoulder and lane widths on said Graham Hill Road in the vicinity described
21 above were inadequate, improper and unsafe;

22 (2) there were improper, inadequate and unsafe locations and placement of speed
23 limit and/or other warning signals, markings, signs or devices, on Graham Hill Road in said
24 vicinity, including, but not limited to an accident scene in the immediate vicinity; any such
25 speed limit and/or warning signals, markings, signs or devices that were provided and posted
26 were concealed and obstructed by trees and foliage, as well as being deceptive and
27 misleading to drivers of vehicles traveling on Graham Hill Road;

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(3) there were improper, inadequate and unsafe sight distances for vehicles on Graham Hill Road in said vicinity;

B. TO RESPONDENT CALIFORNIA HIGHWAY PATROL:

YOU AND EACH OF YOU, on or about November 17, 1999 negligently and carelessly supervised and controlled the investigation of the accident scene referred to herein so as to create an unsafe condition which was the proximate cause of the Claimant to lose control of his vehicle and leave the roadway, colliding with a redwood tree, causing serious injury to the claimant.

More specifically, the investigating California Highway Patrol officer failed to take the appropriate measures to forewarn oncoming traffic of traffic conditions, and the absence of the pre-warning created an unsafe and dangerous condition for the Claimant

YOU AND EACH OF YOU, by and through your duly authorized agents, servants and employees, acting within the course and scope of their agency, service and employment, had notice and knowledge of said dangerous, defective and unsafe conditions of public property a sufficient period of time prior to the accident described herein to have taken measures and remedies against and to correct said conditions; but YOU AND EACH OF YOU negligently, carelessly and wrongfully failed to warn motorists of said conditions and wrongfully failed to take measures and remedies to correct said conditions.

Claimant requests permission to amend this claim to allege other causes and sources which caused dangerous, defective and unsafe conditions of public property at the area in question, when the same have been ascertained.

The names of the public employees causing claimant's injuries under the described circumstances are unknown at this time.

The injuries sustained by claimant, as far as known, as of the date of presentation of this claim, consist of:

- 1. Injuries to right hip
- 2. Injuries to lower right ribs
- 3. Injuries to head

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- 4. Injuries to the body
- 5. General bodily bruises and injuries
- 6. Shock and injury to the nervous system
- 7. Permanent neurological injury resulting in recurrent seizures
- 8. And other presently unascertained and undiagnosed bodily injuries.

The amount claimed is within the jurisdiction of the Superior Court of the State of California and consists of the following, generally described as an Unlimited Civil Case:

- 1. Expenses for medical care and hospital care;
- 2. Loss of earnings/earning capacity;
- 3. Property damage and loss of use;
- 4. General damages

The COUNTY OF SANTA CRUZ, CALIFORNIA HIGHWAY PATROL, and CALIFORNIA DEPARTMENT OF TRANSPORTATION must act on this claim within 45 days after the presentation of this claim. If said Respondents fail or refuse to act on the claim within the allocated time, the claim will be deemed rejected on the 45th day after the presentation of this claim.

All notices or other communications with regard to this claim should be sent to claimant at the office of his attorney, STANLEY J. HOUSE, ESQ., 1485 Park Avenue #200, San Jose, CA 95126.

Dated: May 12 2000.


 STANLEY J. HOUSE
 Attorney for Cl&&t