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**County of Santa Cruz**

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**GOVERNMENT TORT CLAIM**

RECOMMENDED ACTION

Agenda August 22, 2000

To: Board of Supervisors

Re: Claim of Robert & Diane Bunter, No.001-004

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 & Diane Bunter, No.001-004 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  
John Rhoads, Chief Probationer Officer

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By Samuel Torres Jr

1 Donald E.J. Kilmer, Jr., (SBN: 179986)  
 LAW OFFICES OF DONALD KILMER  
 2 11261 Lincoln Avenue, Suite 108  
 San Jose, California 95 125-3030  
 3 Telephone: 408/998-8489  
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attorney for Claimants: Robert and Diane Bunter

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In the Matter of the Claim of,

CLAIM PURSUANT TO  
GOVERNMENT CODE §§ 900 et seq.

ROBERT & DIANE BUNTER,

Claimants.

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Pursuant to Government Code' Sections 900 et seq., Claimants ROBERT and DIANE BUNTER, makes the following claim for money damages and/or equitable relief against the Santa Cruz County Sheriffs' Department and the County of Santa Cruz, and their agents, assigns and employees.

- A. The name and post office address of the claimant for purposes of this matter is: Robert & Diane Bunter, c/o Law Offices of Donald Kilmer, 1261 Lincoln Avenue, Suite 108, San Jose, California 95 125-3030.
- B. The post office address to which the claimant desires notices to be sent: Robert & Diane Bunter, c/o Law Offices of Donald Kilmer, 1261 Lincoln Avenue, Suite 108, San Jose, California 95 125-3030.
- C. The initial events that gave rise to this claim took place on June 14, 2000. The place that the events that give rise to this claim took place is 2251 B. Mattison Lane, Santa Cruz county.

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1 D. Claimants are citizens of the United States and of the State of California. The place of the  
2 event that gave rise to this claim is their home. At approximately 11:00 a.m. Mr. Bunter  
3 returned home to find 3 to 5 sheriffs' officers near his home and standing in his driveway.  
4 Mr. Bunter asked the officers to state the purpose of their visit. The officers claimed to be  
5 conducting a probation check on Mr. Bunter's son. Mr. Bunter informed the officers that  
6 his son was not home and no longer lived at the house, having been asked to leave the  
7 previous day. The officers stated that they intended to search the house. Mr. Bunter  
8 informed the officers that he was not consenting to a search of the house, but offered no  
9 physical resistance to the officers' invasion of the home. Client then followed the officers  
10 into the house and repeated his statement that he was not consenting to a search of the house.  
11 Mr. Bunter pointed out his son's room to the officers and a search was conducted of the  
12 son's room. At this time one of the officers stated his intention to search the entire house.  
13 Mr. Bunter again protested the invasion of his home and asked the officers to produce a  
14 warrant or some other lawful authority for the search. Mr. Bunter again informed the  
15 officers that his son was not home and would not be returning, having been asked to leave  
16 the previous day. Mr. Bunter asked the officers to leave his home. Mr. Bunter then called  
17 his wife Diane. Over Mr. Bunter's protests, the officers began a search of the entire home;  
18 when challenged again, one of the officers stated that no warrant was issued and none was  
19 needed. At this time one of the officers knocked Mr. Bunter to the ground and placed him  
20 in a choke hold. Mr. Bunter was hand-cuffed and placed in a chair, he was sitting there when  
21 Mrs. Bunter returned home. As she entered the house, she observed the officers rummaging  
22 through the entire house. At this time the officers started expressing an interest in Mr.  
23 Bunter's computer and stating that they were looking for evidence of someone calling Santa  
24 Cruz County Sheriffs "Commie-Pigs." The officers confiscated the computer and all disks.  
25 The officers then confiscated items from the Bunter's garbage cans. At no time did either  
26 of the Bunters offer any physical resistance or make any threatening moves toward the  
27 officers.

1 E. The names of all the other public employees whose actions caused losses to the claimant  
 2 are not known at this time. The names of all agents or assigns of the Santa Cruz County  
 3 Sheriffs' Department and the County of Santa Cruz are not known at this time. It is known  
 4 that the public employees and agents that caused the losses to the claimant are and were  
 5 employees/agents of the Santa Cruz County Sheriffs' Department and the County of Santa  
 6 Cruz, and that they were acting in their official capacity. It is based upon this  
 7 employee/agency relationship that claimant names the Santa Cruz County Sheriffs'  
 8 Department and the County of Santa Cruz as liable parties.

9 F. Claimants seeks reimbursement for out of pocket expenses and losses, including but not  
 10 limited to lost wages and reimbursement for medical treatment. Claimants also seek  
 11 damages to compensate then for the emotional trauma of the home invasion and the loss of  
 12 the peace and quiet enjoyment of their home. Claimants seek the immediate return of their  
 13 property. Claimant also seeks injunctive relief to prevent future harm of this type from  
 14 recurring. If litigation is necessary, Claimants will seek money damages in an amount to  
 15 be determined by proof. Should litigation prove necessary, venue will be in a Superior Court  
 16 outside of the County of Santa Cruz and/or United States Federal District Court.

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 19 Dated: 1/13/2000



Donald E.J. Kilmer, Jr.

Attorney for The Bunters