



County of Santa Cruz

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda October 3, 2000

To: Board of Supervisors

Re: Claim of Samuel H. Vaught, No. 900-137

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 Samuel H. Vaught, No. 900-137 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: Tom Bolich, Director
Department of Public Works

RISK MANAGEMENT

BY Janet McKinley

COUNTY COUNSEL

By Kim Elizabeth L Baskett



1 G. DANA SCRUGGS, III (096152)
2 LAW OFFICES OF G. DANA SCRUGGS
3 340 Soquel Avenue, Suite 205
4 Santa Cruz, CA 95062
5 Telephone: (83 1) 457-3700

6 Attorney for Claimant

7
8 SAMUEL H. VAUGHT, Claimant

9 vs.

10 COUNTY OF SANTA CRUZ, Respondent.
11

**SECOND AMENDED CLAIM
AGAINST COUNTY OF SANTA CRUZ
(Pursuant to Section 910
et.seq., Government Code)**

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13 Claimant SAMUEL H. VAUGHT, through his attorney, G. DANA SCRUGGS, III,
14 presents the following claim against the County of Santa Cruz and unknown public employees:

15 1. Claimant SAMUEL H. VAUGHT can be reached through his attorney, G.
16 DANA SCRUGGS, 340 Soquel Avenue, Suite 205, Santa Cruz, California 95062, telephone
17 (83 1) 457-3700.

18 2. **Occurrence:** On April 13, 2000, on the public sidewalk in front of and adjacent
19 to 1661 Soquel Drive, Santa Cruz, California, where said public sidewalk connects to the
20 private sidewalk in front of 1661 Soquel Drive, Building B, Santa Cruz, California, an
21 unreasonably dangerous condition of said public sidewalk caused Claimant's electric
22 wheelchair to tip over, throwing Claimant to the ground and the wheelchair on top of him,
23 causing him severe personal injuries.

24 Said public sidewalk was in an unreasonably dangerous condition for a number of
25 reasons, including but not limited to: The public sidewalk was severely cracked, undulating in
26 multiple different ways, at a severe slope, and constituted a "trap" for Plaintiff; Respondent
27 County of Santa Cruz knew or should have known of the unreasonably dangerous condition of
28 the public sidewalk, since its condition had been present for a number of years; Respondent

County of Santa Cruz provided no adequate warning of the unreasonably dangerous condition; and the design, construction, failure to maintain and/or repair the sidewalk created an unreasonably dangerous condition for individuals such as Plaintiff, who utilized the public sidewalk at that location to gain access to the medical complex adjacent thereto. The time of said accident was approximately 2:00 p.m.

Additionally, the acts and omissions described hereinabove by the County of Santa Cruz violated the American Disabilities Act by discriminating against Claimant on the basis of his disability by failing to provide physical access for disabled individuals to all buildings, including Claimant's doctor's office, which was open to the general public. (42 U.S.C. §§12131, 12132, et.seq.; 28 C.F.R. §35.150(b) et.seq.; and 28 C.F.R. §36.211, et.seq.) In addition to the American Disabilities Act, California law requires that physicians' offices be readily accessible to and useable by disabled persons such as Claimant, and the County of Santa Cruz violated California law in maintaining the subject sidewalk in the condition described hereinabove. California Health & Safety Code §§ 19956, 19959, California Government Code §4450.

3. Description of Injuries and Damages. Plaintiff suffered severe personal injuries, including injuries to shoulder, hip, pelvis, side and back. As a proximate legal result of the unreasonably dangerous condition, Plaintiff has suffered the following losses:

Past Medical Expenses:	\$ 15,000.00
Future Medical Expenses:	\$200,000.00
General Damages for Pain and Suffering:	\$500,000.00
Attorney's Fees	<u>\$1 00,000.00</u>
Total Amount of Claim:	\$ 8 15,000.00

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Dated: September 5, 2000.

G. DANA SCRUGGS, III
Attorney for Claimant Samuel H. Vaught