



0029

# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 606, SANTA CRUZ, CA 960604068  
(831) 454-2040 FAX: (831) 464-2116

SAMUEL TORRES, JR., COUNTY COUNSEL

CHIEF ASSISTANTS  
RAHN GARCIA  
DANA McRAE

### Assistants

Deborah Steen	Kim Baskett
Harry A. Oberhelman III	Julia Hill
Marie Costa	Shannon Sullivan
Jane M. Scott	Sharon Carey-Stronck
Tamyra Rice	Dwight L. Herr
Pamela Fyfe	

## GOVERNMENT TORT CLAIM

### RECOMMENDED ACTION

Agenda September 11, 2001

To: Board of Supervisors

Re: Claim of Juana Avalos, No. 102-018

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 Juana Avalos, No. 102-018 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  
Janet McKinley, ARM, Risk Manager

SAMUEL TORRES, JR., COUNTY COUNSEL

By Kim Elizabeth Baskett  
Kim Elizabeth Baskett, Assistant County Counsel

## CLAIM AGAINST THE COUNTY OF SANTA CRUZ

(Pursuant to Section 910 et Seq., Govt. Code)

102018

0030

TO: BOARD OF SUPERVISORS  
COUNTY OF SANTA CRUZ  
ATTN: Clerk of the Board  
Governmental Center  
701 Ocean Street, Santa Cruz, CA 95060



1. Claimant's Name: JUANA AVALOS  
Address: 125 Felker #C  
Santa Cruz CA 95060  
Phone No: (831) 479-8872 - Attorn'ey Emily Maloney, 180-33rd Ave.  
Santa Cruz 95062  
P.O. Bos to which notices are to be sent: \_\_\_\_\_
2. Occurrence: Breaking and entering premises without a valid warrant and  
engaging in abusive behavior toward claimant.  
Date: June 8, 2001 Place: 175 Felker Street #C, Santa Cruz  
Circumstances of occurrence or transaction giving rise to claim: \_\_\_\_\_  
See attached (Ex. 1)
3. General description of indebtedness, obligation, injury, damage or loss incurred so far as is now known:  
Replacement of door \$393.04 (Ex. 2)  
Pain and suffering; emotional distress
4. Name(s) of public employee(s) causing injury, damage or loss, if known: Sheriff Deputies M. O'Neil,  
Steve Carney, Joseph Ramsey (accompanied by Santa Cruz Police Officers  
Jennifer, Lamendola and Juan Gallegos)
5. Amount claimed now ..... \$150,000  
Estimated amount of future loss, if known ... \$ not known  
TOTAL\$ not known
6. Basis for above computations: Claimant is suffering from advanced cancer and  
undergoing chemotherapy for ovarian and stomach cancer; the trauma .  
caused by this incident has greatly exacerbated her suffering.
7. If the amount claimed is over \$10,000, indicate the court of jurisdiction:  
\_\_\_\_\_ Municipal Court \_\_\_\_\_ Santa Cruz County Superior Court

CLAIMANT'S SIGNATURE: Juana Avalos

Note: Claim must be presented to Clerk, Board of Supervisors, within six (6) months after the act which occasioned the injury.

Americans with Disabilities Act questions or requests for accommodations may be directed to the ADA Coordinator at 454-2962 (TDD 454-2123). PER5003

EXHIBIT 1  
CLAIM AGAINST THE COUNTY OF SANTA CRUZ

2. Occurrence - The Statement of Probable Cause submitted by Deputy Michael P. O'Neil to obtain a warrant to enter the premises of claimant Juana Avalos at 125 Felker Street #C contains false information. Paragraph 3, page 2, of the Statement (Exhibit A hereto) reads in pertinent part as follows:

I located a vehicle consistent with the vehicle described to me by the CI, . . . ~~/with/~~ a California license of 4PCN530. . . . Santa Cruz Sheriff's Records determined that the ~~/vehicle/~~ was registered to Ismael Avalos, Ma Lourdes Avalos, and Armando Avalos at 125 Felker Street #B and #C, Santa Cruz California. . . .

The DMV Registration Card for this vehicle shows the address of the owner(s) as 125 Felker Street #B (Exhibit B hereto). There ~~is~~ no reference on that document to unit #C.

The circumstances of the occurrence giving rise to the claim are as follows:

At approximately 8:30 p.m., the claimant was lying down in the her upstairs bedroom in Unit #C, 125 Felker Street, when she heard a pounding at her door. She was not feeling well as she had recently had surgery and was undergoing chemotherapy for ovarian and stomach cancer (Exhibit C hereto). Juana went to the window as soon as she was able to get up from her bed (there was no one else in the apartment at that time) and called out the window that she would be down to open the door. Before she had time to put on her shoes, put a covering over her head (she has lost her hair with the chemotherapy treatment), the door was broken into and the five officers named in No.4 rushed up the stairs with guns pulled. Juana was told to lie down on the floor; she protested stating that she **was ill**. She was told they were looking for someone who was selling drugs but did not state a name. Juana, ordered to go downstairs, was followed in a commanding manner by SCPO Lamendola and told to sit on the couch.

About that time, Juana's brothers Enrique and Jose came in. Jose entreated the officers to leave Juana alone, explaining that **she** was ill and asking why they were in the apartment. Enrique and Jose were told to sit on the couch and be quiet. When Jose objected to his picture being taken, he was handcuffed and threatened with arrest if he didn't hold his head up while being photographed. When Juana protested that she was ill and in pain, that she wanted to go to bed, she was not allowed to do so. It was not until approximately 10:30 p.m. that the officers, bragging about the overtime they had run up, left the apartment.

The officers ransacked the entire apartment, taking eight inconsequential items. (Evidence and Photograph Report, Exhibit D hereto), and leaving the apartment in total disarray. Juana was left with a damaged door that could not be locked until the

EXHIBIT 1 (A)  
STATEMENT OF PROBABLE CAUSE

0032

FILED  
SUPERIOR COURT  
OF CALIFORNIA  
CO. OF SANTA CRUZ

01 JUL 28 AM 7:24

Your affiant says that the factors in support of the issuance of the search warrant are as follows: Your affiant, Deputy Michael P. O'Neil is employed by the Santa Cruz County Sheriffs Office and has been for nine months. Prior to being employed at the Santa Cruz County Sheriffs Office, your affiant was employed as a deputy sheriff with the Denver County Sheriffs Department for eighteen (18) months. Prior to being employed with the Denver Sheriffs Office, your affiant was employed with the Boulder County Juvenile Detention Center for Boulder County, Colorado for one (1) year.

July 2000 - December 2000; I attended the South Bay Regional Police Academy as a part of my training to become a Police Officer. As part of the curriculum, I received approximately 13 hours of training on controlled substances. Although numerous substances were discussed, the training focuses primarily on the substances, cocaine, heroin, marijuana, methamphetamine, and phencyclidine. I was taught how each of these substances is packaged, sold, ingested, in the human body, and the symptoms that one would display while under the influence of each of these substances in the course of my training and experience at the academy.

August 1998 - December 1998; I attended the Denver Sheriffs Department Training Academy as part of my training to become a police officer in Colorado. As part of the curriculum, I received approximately 4 hours of training on controlled substances. Although numerous substances were discussed, the training focuses primarily on the substances, cocaine, heroin, marijuana, methamphetamine, and phencyclidine. I was taught how each of these substances is packaged, sold, smuggled into correctional facilities, ingested, in the human body, and the symptoms that one would display while under the influence of each of these substances in the course of my training and experience at the academy.

Your affiant has received numerous hours of training from other experienced officers, knowledgeable in narcotics enforcement techniques. While working at the Denver City Jail, I observed and spoke with hundreds of persons under the influence of controlled substance during the intake process at the jail. These persons told me how they purchase drugs, prepare drugs for use, and ingest drugs for use.

During the past ten days, I met with a confidential informant hereafter referred to as CI. The CI told me he/she could negotiate and arrange the purchase of cocaine during a controlled buy. The CI told me he/she has purchased cocaine from this Hispanic male adult, with a mustache; approximately 30-40 years of age, approximately 5'7", approximately 150-160 lbs, numerous times in the last twelve months. I wish to not disclose how many times as doing so may identify the CI.

of any controlled substances or weapons. The CI did not appear to be under the influence of any drugs or alcohol. 0033

I gave the CI pre-recorded Santa Cruz County Sheriff's Office buy funds and while under observation by myself, the CI went to "Day's Market" (526 Seabright Avenue, Santa Cruz, California) and entered the front door. For a brief moment I lost direct sight of the CI.

After a short period of time the CI left "Day's Market" (526 Seabright Avenue, Santa Cruz, California) and returned to me. The CI told me that he/she went into "Day's Market" and gave the Hispanic male (ARMANDO AVALOS RODRIGUEZ) the pre-recorded Santa Cruz Sheriff's Office buy funds. The Hispanic male (ARMANDO AVALOS RODRIGUEZ) returned to the cooler and retrieved the cocaine. The Hispanic male (ARMANDO AVALOS RODRIGUEZ) gave the CI the cocaine. The CI told me that after the transaction he/she left the business. The CI gave me the cocaine he/she purchased from the Hispanic male (ARMANDO AVALOS RODRIGUEZ).

The cocaine given to me by the CI was consistent with the quantity of pre-recorded Santa Cruz County Sheriff's Office buy funds I gave to the CI for the controlled buy. Deputy McAulliffe conducted a presumptive test on the suspected cocaine in my presence. Deputy McAulliffe told me the tests results were presumptive positive for cocaine.

I searched the CI and the CI did not possess any contraband, controlled substances, or remaining Santa Cruz Sheriff's Office pre-recorded buy funds. The CI did not appear to be under the influence of any controlled substances.

The CI has pending charges in the Santa Cruz County Courts, and the CI has previous felony convictions. In exchange for the CI's assistance and cooperation in this investigation, I told the CI that I would talk to the Court, District Attorney's Office, Adult Probation, and/or other interested parties about the CI's pending criminal matters, in hopes of obtaining leniency on the pending matter.

On 5-30-01, I went to "Day's Market" located at 526 Seabright Avenue, Santa Cruz, in the County of Santa Cruz, California, which is further described as a tan colored, single story business, with a sign directly on top of the Seabright Avenue side facing wall that reads, "DAY'S MARKET". The building has a painting of an "ocean with ships" located on the wall that faces Murray Street. This same wall has another sign reading, "DAY'S MARKET".

On 6-1-01 at approximately 0130hrs, I went to 526 Seabright Avenue "Day's Market" to conduct surveillance on the blue Suburban (4PCN350) and the Hispanic male (ARMANDO AVALOS RODRIGUEZ). At approximately 0205 hrs, I saw the Hispanic male adult (ARMANDO AVALOS RODRIGUEZ)

I request that the identity of the informant be kept confidential because I believe the disclosure of the informant's identity would destroy or impair his/her future usefulness to law enforcement officers engaged in investigating criminal activity and would subject him/her to great bodily injury or death from those he/she has informed upon and their associates. For the same aforementioned reasons, I request that the details of the controlled buy from the Hispanic male (**ARMANDO AVALOS RODRIGUEZ**) remain confidential since revealing this information would increase the likelihood of the CI's identity being discovered.

I know based on my training and experience the following about cocaine sales and use. Cocaine dealers commonly keep a supply on hand for immediate sales. They keep their cocaine and related items on their person, in their homes, or in assigned areas, and attempt to conceal its presence.

I further know based on my training and experience that the following items are commonly found on premises where cocaine sales are being conducted. Cocaine, business records relating to the sales, purchases, and customer lists of purchasers and sellers of cocaine, including notebooks, address books, cards and ledgers and bank records. These records usually kept for long periods of time by cocaine dealers.

Dealers commonly package their cocaine at their residences. The cocaine is weighed on scales and is packaged in plastic baggies, paper bindles, condoms, and foils.

The Cocaine is commonly mixed with a variety of powders to increase the supply. The most common powders are lactose, manitol, Vita-B, milk sugar and powdered sugar.

I know based on my training and experience that paraphernalia for the injection, and/or inhalation, and/or smoking of cocaine, including hypodermic needles or similar homemade devices, syringes, straws, razor blades, and mirrors are kept in drug dealer's residences.

It has also been ~~my~~ training/experience that cocaine dealers keep firearms to protect themselves from robbery and/or police since cocaine dealing is a very profitable business. A dealer will use firearms to protect money and/or drugs from being stolen or confiscated by police or other individuals.

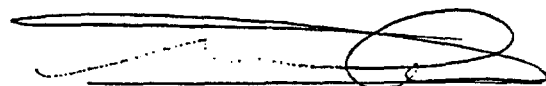
I also know based on my training and experience that persons will possess in their residences items that show proof of residence, including utility bills, mail, correspondence, telephone bills or other documents tending to show control of a suspect property relating to the occupancy, non-occupancy of any part of the premises by an person.



Drug dealers often keep records, chemical formulas for the manufacture of narcotics, or the names and telephone numbers of other distributors of suppliers on computers and/or computer disks.

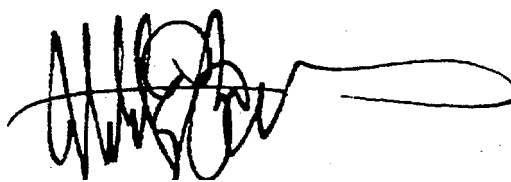
I know, based on my training and experience that drug dealers commonly use vehicles as storage containers for drugs and money. These vehicles are sometimes operating vehicles registered to the suspects or to other persons, but are in control of the suspects. Sometimes the vehicles are inoperable and/or abandoned on the curtilage of the property. I know that drug dealers commonly keep keys to these vehicles inside their residences for easy access to the vehicles. I know that possession of the keys to a vehicle shows that a person with keys has control over the vehicle. I know that persons in control of a residence also accept some control over vehicles parked within the curtilage of the residence.

Your affiant, further states, upon being sworn, that the facts presented in this affidavit are true and correct and your affiant requests a search warrant be issued for the aforementioned property, person(s), and vehicles, and that of the refrigeration area of "Day's Market"(526 Seabright Avenue, Santa Cruz, California.



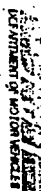
Deputy Michael P. O'Neil

Date 6-1-01



(Judge of Superior Court)

Date 6-1-01



A Public Service Agency

REGISTRATION CARD VALID FROM: 12/14/2000 TO: 12/16/2001

MAKE	YR MODEL	YR 1ST SOLD	VLF C S	*YR	TYPE VEH	TYPE LIC	LICENSE NUMBER
CHEV	1994	0000	D	2000	13S	11	4PCN5310
BODY TYPE MODEL	MP	MO					VEHICLE ID NUMBER
SW	G	GM					1GNEC16K9RJ397511
TYPE VEHICLE USE		DATE ISSUED	CC/ALCO	DT FEE RECVD	PIC		STICKER ISSUED
AUTOMOBILE		01/05/01	44	01/05/01	4		H0748574

REGISTERED OWNER

AVALOS ISMAEL R  
OR AVALOS ARMANDO  
OR AVALOS MA LOURDES  
125 FELKER ST APT B  
SANTA CRUZ  
CA 95060

LIENHOLDER

TRANSOUTH FNCL SVC  
1111B N MAIN ST

SALINAS  
CA

93906

B00 533 08 0022200 0050 CM B00 010501 11 4PCN530 51A

AMOUNT DUE	AMOUNT RECVD
\$ 222.00	
CASH :	
CHCK :	
CRDT :	

AMOUNT PAID  
\$ 222.00





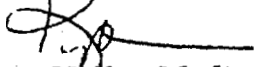
Dedicated to the Health  
of the Whole Community

0037

751 South Bascom Avenue  
San Jose, California 95128  
Tel 408 885-5514

Date: 06/11/01

To: IMMIGRATION AND NATURALIZATION SERVICE

From: Kay Ammon, LCSW   
Medical Social Worker, Valley Medical CenterRE: Extension of visitor entry permit 393843330 02 for Rosalinda  
Avalos Rodriguez DOB: 2/19/76

Please extend the entry permit for the above named individual for at least three months so that **she** may provide care and comfort to her sisters, both **of** whom are undergoing treatment for cancer. Alicia Avalos, the younger of the two sisters is terminal with stage IV cervical cancer. She was transferred from Valley Medical on Friday, June 8, to a nearby nursing home to facilitate five weeks **of** radiation treatment for palliative purposes. When **she** completes her **daily** radiation treatment, she **will** return to Santa Cruz to **the** home of her older sister, Juana **who** is receiving chemotherapy for ovarian and stomach cancer.

As Alicia is increasingly unable to care for herself, and will require larger doses of pain medication, it is essential that she have a family member, someone **she** trusts, to care for her in these last few months. Her sister Juana, due to her own advanced cancer, is unable to **help** her and **likely** need assistance herself during the chemotherapy and subsequent treatment.

Should **you** have any questions **regarding** the medical condition of Alicia, you may contact me, (408)885-5514 or Dr. Gerardo Perez, chief of gynecology oncology, (408)885-5550.

(Note: Alica Avalos died on June 16, 2001.)



EXHIBIT 1(D)

0038

SANTA CRUZ COUNTY SHERIFF - CQRONER

THIS IS REPORT ☐

## 'EVIDENCE AND PHOTOGRAPHIC REPORT

REPORT AREA

3-9

Page 1 of 2

Day	Date	T/Arrived	T/Completed	Weather	Offense	Scene No.	Case No.
FRI	6-8-01	2037	2220	CLEAR	11578/H/S	MPZ	01-5201

CSI Officer	Deputies	Suspect
	ONEIL / RAMSEY / CARNEY	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

Place of Seizure
125 FELDER "C"
SANTA CRUZ CA

<input type="checkbox"/> R/P <input type="checkbox"/> Victim <input checked="" type="checkbox"/> Suspect	DOB: 4-9-47
NAME & ADDRESS: Phone No.	
ARMONDO AVALOS	
125 FELDER ST "C"	
SANTA CRUZ CA.	

Work Requested
F = Develop H = Hold P = Property
A = Analyze L = Latents C = CSI
D = Destroy R = Return to Owner
Y = Coroner Z = Other

<input checked="" type="checkbox"/> E <input type="checkbox"/> P	Evidence (Numerical)	To	<input checked="" type="checkbox"/> Photographs (Alphabetical)	To	<input checked="" type="checkbox"/> Loc.
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1	INDICIA BEARING THE NAME JUANA AVALOS @ 125 FELDER "C" SANTA CRUZ FOUND IN ENVELOPE IN BOTTOM OF WHITE DRESSER IN BACK BEDROOM.	H	P
2	PHOTO DEPICTING ARMONDO AVALOS BOTTOM WHITE DRESSER DRAWER IN BACK BEDROOM.		
3	PHOTO DEPICTING JOSE AVALOS FROM WHITE 4X6 PHOTO ALBUM FROM TO LEFT OF CLOSET IN BACK BEDROOM.		
4	WHITE NOTEPAD WITH MONEY NOTES IN SPANISH FOUND IN ENVELOPE FROM BOTTOM DRAWER OF WHITE DRESSER IN BACK BEDROOM.		
5	INDICIA BEARING THE NAME MARIA AVALOS FOUND IN ENVELOPE IN BOTTOM DRAWER OF WHITE DRESSER OF BACK BEDROOM.		
6	INDICIA BEARING THE NAME JOSE AVALOS IN ENVELOPE BOTTOM DRAWER WHITE DRESSER OF BACK BEDROOM.		

HARD COPY - PROPERTY / SOFT COPY - RECORDS

SF - 0316 [REV.8-93]

(SIDE ONE)

REPORTING DEPUTIES

ONEIL / CARNEY

13

Day	Date	T/Arrived	T/Completed	Weather	Offense	Scene No	Case No.
FRI	6-8-01	2037	2220	clear?	11378 HKS	MPOI	01-520

CSI Officer	Deputies	Suspect
	ONEIL / CARNEY / RAM	Yes <input type="checkbox"/> No <input type="checkbox"/>

☐ R/P   ☐ Victim   ☒ Suspect   DOB: 4-9-67

NAME & ADDRESS:	Phone No.
HERNANDO ALBOS RODRIGUEZ	
125 FELICIA "C"	
SANTA CRUZ CA	

Place of Seizure
125 "C" FELDER ST
SANTA CRUZ CA

Work Requested		
F = Develop	H = Hold	P = Property
A = Analyze	L = Latents	C = CSI
D = Destroy	R = Return to Owner	
Y = Coroner	Z = Other _____	

E	P	Evidence (Numerical)	7	To	7	Photographs (Alphabetical)	A	To	A	↓	Loc.
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-7	INDICIA BEARING NAME ENRIQUE AVALOS FROM BOTTOM DRAWER OF DOWN STAIRS BED	H	D.
A	SCENE PHOTOS	H	C

EXHIBIT 2

**Gus Zesati, Handyman**

**(831) 427-9867**

0040

**.BILL**

DATE: July 11.2001

ATTENTION: Juana Avalos

LOCATION: 125 Felker. Apartment C

AMOUNT DUE: \$393.04

**RESCRIPTION:**

Materials	<b>\$189.04</b>
Labor	<u>204.00</u>
Total	<b><u>\$393.04</u></b>