



# County of Santa Cruz

## OFFICE OF THE COUNTY COUNSEL

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### GOVERNMENT TORT CLAIM

#### RECOMMENDED ACTION

Agenda November 20, 2001

To: Board of Supervisors

Re: Claim of James Estep, No. 102-042

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 James Estep, No. 102-042 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  
Rama Khalsa, Administrator  
Health Services Agency

#### 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

102-047

ESTEP

1 **DOUGLAS C. KANE, State Bar No. 198934**  
 2 **LAW OFFICE OF DOUGLAS KANE**  
 3 **121 Jewell Street**  
 4 **Santa Cruz, CA 95060**  
 5 **(831) 459-8000**  
 6 **Fax: (831) 459-8127**



7 **Attorney for Claimant JAMES ESTEP**

8 **Claim of JAMES ESTEP**

9  
10 **JAMES ESTEP**

11 v.

12 **COUNTY OF SANTA CRUZ**

**CLAIM FOR PERSONAL INJURIES,  
 DEPRIVATION OF CIVIL RIGHTS,  
 NEGLIGENCE, FAILURE TO  
 PROVIDE MEDICAL CARE FOR  
 PRISONER IN CUSTODY DESPITE  
 KNOWLEDGE OF THE NEED FOR  
 MEDICAL CARE (GOVT. CODE §  
 845.6), AND NEGLIGENT AND  
 INTENTIONAL INFLICTION OF  
 EMOTIONAL DISTRESS**

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15 **To the Board of Supervisors of the County of Santa Cruz:**

16 You are hereby notified that JAMES ESTEP, whose address is 485 High Street,  
 17 Brookdiddle, CA 95007, claims damages from the County of Santa Cruz ("the County"), and  
 18 the individual agents and/or employees of the County causing his injuries. All notices or  
 19 other communications with regard to this claim should be sent to Claimant's attorney,  
 20 Douglas C. Kane, at the following address: Douglas C. Kane, Law Offices of Douglas  
 21 Kane, 121 Jewell Street, Santa Cruz, CA 95060.

22 This claim is based upon personal injuries, deprivation of civil rights, false  
 23 arrest/imprisonment, negligence, failure to provide a detained individual medical care  
 24 despite knowledge of the need for medical care (Govt. Code § 845.6) and negligent and  
 25 intentional infliction of emotional distress sustained by Claimant on or about April 21,  
 26 2001, in the Santa Cruz County Jail, under the following circumstances:

27 Claimant is a 52-year-old male who is a Vietnam veteran who has only one eye. In  
 28 the evening of April 21, 2001, Claimant was walking along the side of State Highway 9 in  
 Felton, California after leaving an establishment known as the Log Cabin. He had had

1 several drinks but was not intoxicated. Because of his missing eye, Claimant failed to see  
2 a hole or some other obstacle and tripped and fell. He felt a very sharp pain in his ankle,  
3 which immediately began to swell, convincing Claimant that it was broken.

4 A short time later, Claimant was relieved to see a Santa Cruz County Sheriff's  
5 Department patrol car approaching, because he believed that the deputy would take him  
6 to the hospital to get his ankle treated. Instead, when Claimant informed the deputy of  
7 what had happened and requested that the deputy bring him to the hospital, the deputy  
8 ignored the request and instead arrested Claimant for public intoxication, and brought him  
9 to the Santa Cruz County jail. Claimant was incarcerated in the jail over night, and offered  
10 no medical attention for his injured ankle. Finally, when Claimant was released the  
11 following morning, his mother brought him to Dominican Hospital in Santa Cruz, where the  
12 medical staff confirmed that Claimant's ankle was in fact broken, and provided him with  
13 treatment.

14 The failure to provide Claimant with medical assistance despite the knowledge that  
15 such assistance was necessary violated Claimant's rights protected by the California and  
16 United States constitutions, including the right not to be deprived of his liberty without due  
17 process, and the right to be free from cruel and unusual punishment. It also violated the  
18 provisions of California Government Code section 845.6, as well as giving rise to common  
19 law claims for negligence and intentional and/or negligent infliction of emotional distress.  
20 This failure to provide Claimant with necessary medical assistance caused Claimant  
21 significant physical and mental anguish and emotional distress.

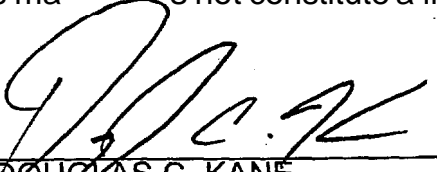
22 The names of the public employees causing Claimant's injuries under the described  
23 circumstances are unknown at this time. They include the deputy who ignored Claimant's  
24 request that he be brought to the hospital to have his ankle treated. They also include the  
25 unidentified individual or individuals at the Santa Cruz County jail who refused to give  
26 Claimant the medical assistance he required, as well as Sheriff Mark Tracy and other  
27 unidentified individuals who negligently failed to properly train the individual or individual:  
28 who refused to give Claimant medical assistance regarding providing necessary medica

1 attention to prisoners and detainees. These individuals were all acting within the course  
2 and scope of their employment at all times and were acting in concert, each the agent of  
3 the other and the County of Santa Cruz. They acted together under color of state law to  
4 deprive Claimant of his civil rights and to discriminate against Claimant on the basis of his  
5 race and his disability] which they failed to reasonably accommodate.

6 The injuries sustained by Claimant, as far as known, as of the date of presentation  
7 of this claim, consist of emotional distress, pain and suffering] medical expenses and  
8 other general and special damages all flowing from the wrongful conduct of the County  
9 and its agents and employees under the circumstances described. Claimant also claims  
10 entitlement to punitive damages. In addition, he seeks injunctive relief requiring the  
11 County and its law enforcement personnel to provide appropriate medical care to  
12 prisoners and detainees, and declarative relief clarifying the extent of the duty of the  
13 County and its law enforcement personnel to provide appropriate medical care to  
14 prisoners and detainees.

15 The amount claimed, as of the date of presentation of this claim, is an amount within  
16 the jurisdiction of the Superior Court. This matter does not constitute a limited civil case.

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18 Dated: October 11, 2001

  
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DOUGLAS C. KANE  
Attorney for Claimant

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