



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

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GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda March 19, 2002

To: Board of Supervisors

Re: Claim of David Zampino, No. 102-101

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 David Zampino, No. 102-101 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: Jeff Almquist, Supervisor
Fifth District

RISK MANAGEMENT

By Janet McKinley
Janet McKinley, Risk Manager

DANA McRAE, COUNTY COUNSEL

By Kim Elizabeth Baskett
Kim Elizabeth Baskett, Assistant County Counsel

Zampino

107-101

0018

GOVERNMENT CLAIM

TO: County of Santa Cruz
Supervisor Jeff Almquist
Susan St. John Gliner

NAME OF CLAIMANT: David Zampino

ADDRESS: 14874 Bear Creek Road
Boulder Creek, CA 95006

ADDRESS TO WHICH NOTICE SHOULD BE SENT:

Johnson & James LLP
Post Office Box 245
Aptos, California 95001-0245

CLAIM:

Supervisor Jeff Almquist mailed a letter dated August 24, 2001, which was written on County of Santa Cruz stationery and addressed to "Dear Friend" [the "Almquist letter"]. The Almquist letter enclosed a proposed Declaration in Support of Application for Order to Show Cause re Preliminary Injunction [the "Declaration"]. It is claimant's understanding that the Almquist letter was mailed to numerous individuals living in the Boulder Creek area, including but not limited to claimant's friends and neighbors. It is claimant's further understanding that the Almquist letter was mailed using County funds with the knowledge and the consent of the County.

The Almquist letter and the Declaration contain false statements, defamatory statements and/or libelous statements. Among other things, the letter indicates that the use of claimant's helicopter is "illegal", and is "dangerous", that a County red-tag ordered claimant's flights to be discontinued, that the claimant obtained a bigger and better helicopter after having his property posted with a Notice of Violation, the use of a private helicopter in a rural residential area is not legal, that helicopter use is not permitted by County ordinance, that it is dangerous to use a helicopter in mountainous and heavily forested residential areas, that the helicopter is an annoying intrusion into "our" quiet mountain environment, that claimant is flaunting the law and inflicting his selfishness on an entire community, and that a restraining order was denied because it was not clear to the Judge that the impact on the neighborhood caused sufficient public concern and it appeared to the Judge that the flights were only occasional and irregular. The Almquist letter then goes on to solicit Declarations from Defendant Zampino's neighbors based upon the statements contained therein.



11
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The Almquist letter solicited third parties, including claimant's friends and neighbors, to sign the Declaration and cause the signed Declaration to be filed with the Court. The Almquist letter sought signatures on a declaration which contained false and defamatory statements, including, among other things, that the declarant (1) had been informed that claimant operates a heliport on his real property, (2) that claimant's use of his helicopter was a persistent source of annoyance to the declarant and other members of the declarant's household and neighborhood, (3) that the noise generated from the helicopter was disruptive as claimant often landed late into the evening hours, and (4) it was the declarant's hope that the Court would enjoin claimant's illegal use of his helicopter as the declarant did not think it was fair for someone to be allowed to continue any illegal use that so disrupted the declarant's quiet enjoyment of the declarant's own property. Claimant is informed and believes that many of the Declarations containing false and defamatory statements were signed and then filed with the Court; said Declarations were signed and filed as a direct result of the solicitations and false and defamatory statements contained in the Almquist letter.

The Almquist letter was written on County letterhead. The Almquist letter was intended to persuade its recipients that the Almquist letter and Declaration sets forth the County's official position regarding the claimant and his helicopter. In writing and mailing the Almquist letter and Declaration, Supervisor Almquist and the County were acting under color of law. The Almquist letter makes it appear that Supervisor Almquist was acting in an official capacity. The Almquist letter is an abuse of Supervisor Almquist's office and violates 42 U.S.C. §§ 1983 and 1985.

Susan St. John Gliner ["Administrative Assistant Gliner"], is the Administrative Assistant to Supervisor Jeff Almquist, who is the purported author of the Almquist letter. Administrative Assistant Gliner lives on Hopkins Gulch Road near claimant's landing site. Claimant is informed and believes and thereon alleges that Administrative Assistant Gliner, acting in a conspiracy with Supervisor Almquist, caused the Almquist letter and the Declaration to be mailed to third parties, including claimant's friends and neighbors, and/or participated in its creation and/or dissemination. Claimant is also informed and believes and thereon alleges that Administrative Assistant Gliner influenced the County to sue claimant in order to stop him from using his helicopter within the County of Santa Cruz. Claimant is also informed and believes and thereon alleges that the Almquist letter intentionally and fraudulently failed to disclose that Administrative Assistant Gliner lives near the subject property or that a member of Supervisor Almquist's office was personally involved in the above referenced matter. Claimant is informed and believes and thereon alleges that Supervisor Almquist and Administrative Assistant Gliner were intentionally hiding Administrative Assistant Gliner's personal involvement from the parties receiving the Almquist letter, from the claimant and from the Court.

Supervisor Almquist became directly involved in the prosecution of the matter against claimant without disclosing the personal involvement of his staff. Supervisor Almquist and Administrative Assistant Gliner's actions are a conflict of interest and violation of law. The Board of Supervisors has initiated ex parte communications with the Court in the form of a letter dated September 5, 2001, from the Santa Cruz County Board of Supervisors ["Board"] to the Honorable Robert Yonts, Jr., all in violation of State and Federal law, including but not limited to 42 U.S.C.