



County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068
(831)454-2040 FAX: (831)454-2115

DANA McRAE, COUNTY COUNSEL

CHIEF ASSISTANT
RAHN GARCIA

Deborah Steen
Harry A. Oberhelman III
Samuel Torres, Jr.
Marie Costa
Jane M. Scott

Assistants
Tamyra Rice
Pamela Fyfe
Kim Elizabeth Baskett
Julia Hill
Shannon M. Sullivan

David Kendig
Miriam L. Stompler
Don Gartner

GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda May 20, 2003

To: Board of Supervisors

Re: Claim of Claudia Lynch, No. 203-099

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 Claudia Lynch, No. 203-099 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: Cecilia Espinola, Director
Human Resources Agency

RISK MANAGEMENT

By Janet McKinley
Janet McKinley, Risk Managed,

DANA McRAE, COUNTY COUNSEL

By Kim Elizabeth Baskett
Kim Elizabeth Baskett, Assistant County Counsel

203-099

LYNCH

0042

**NOTICE OF CLAIM AGAINST
THE COUNTY OF SANTA CRUZ**

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



Claimant **CLAUDIA LYNCH** presents the following claim against the **COUNTY OF SANTA CRUZ** for the incident involving the City of **Santa Cruz** Police Department and the County of **Santa Cruz** Child Protective **Services** that occurred beginning on October 10, 2002.

1. Claimant's address is:

Claudia Lynch
120 Minnie Street
Santa Cruz, California 95062

2. Notices concerning this claim should be sent to:

Micha ~~Star~~ Liberty, Esq.
Andrew C. Schwartz, Esq.
Casper, Meadows & Schwartz
2121 North California Blvd., Ste. 1020
Walnut Creek, California 94596
925-947-1147
925-947-1131 (facsimile)

3. Dates of occurrence:

October 10, 2002, and subsequent weeks.

4. Place of occurrence

111 Rathburn Way
Santa Cruz, California 95062

5. Identity of the responsible party:

City of **Santa Cruz** Police Department, Police Officers **John Bush**, Paul Deocampo, and Sergeant **Jack McPhillips**;

Steven R. Belcher **Chief** of Police, **Santa Cruz** Police Department;

County of Santa Cruz Child Protective Services, Kelly Forman, Trevor Davis;

County of Santa Cruz Human Resources Agency, Family and Children's Services, Division Director Francine Nickell;

County of Santa Cruz Human Resources Agency, Director Cecilia Espinola

6. General description of the incident:

Claimant is a mother of two, and was married to her children's father for over seventeen years. One of her sons had, and still has, trouble with the law. He has been arrested numerous times for theft, drugs, intoxication, and assault with a knife. Claimant was the only parent to discipline her son—his father paid no attention to his son's anti-social and criminal behavior. After being arrested in early July 2002, her son was put on probation. The son's probation officer referred him to the Santa Cruz Human Resources Agency Family and Child Protective Services. Claimant's son told Child Protective Services that his mother was the disciplinarian of the family and that she would "yell" at him when she discovered he had broken the law or partaken of drugs or alcohol. Children's Services got involved to investigate "child abuse" based upon Claimant's son's allegations.

In August 2002, Claimant filed for divorce. Although Claimant filed for divorce, both she and her husband (in separate bedrooms for 14 years) and the children continued to live in the family home due to economic reasons. As a stay-at-home mother, she could not financially afford to move immediately.

Claimant's husband, upset by the fact that Claimant filed for divorce, made false allegations of spousal abuse, as well as child abuse. These allegations were accepted without investigation by Child Protective Services. However, the staff at Child Protective Services knew, or should have known, that Claimant was not abusive and/or that the information provided to them was false.

The initial Child Protective Services case worker presented the family with a "voluntary" case plan, which was the result of the case worker's interviews with Claimant's husband and children—with little or no direct input from Claimant. After Claimant was forced to sign the "voluntary" case plan, a new case worker was assigned, Kelly Forman, of Child Protective Services, took over. When Claimant expressed dissatisfaction with the case plan, Ms. Forman informed Claimant that if she refused to comply with the case plan, Claimant would be taken to court and not allowed to see her children.

Ms. Forman falsely represented to the Santa Cruz Police Department that Claimant was abusing Claimant's husband and children. On October 4, 2002, Ms.

0044

Forman told Claimant's husband that if the police were called to **their** family home regarding **abuse**, the Child Protective Services hotline would **give** instructions to the police to remove Claimant regardless of who actually posed a threat. **On** October 7, 2002, when meeting in person for the first time with Claimant, **Ms.** Forman stated that if Claimant failed to comply with the "voluntary case **plan**" Child Protective Services could, and would take Claimant's children **away**,

Over the **course of** the next **few days**, Claimant's **husband** telephoned *the* police and reported **that his** wife had "abused" **him**. Several City of Santa **Cruz** Police **Department** police officers responded to the house, interviewed Claimant's husband, **and** her children, but at no time interviewed Claimant. These police offices excluded Claimant from the investigation. Claimant **was not** even **aware** the police were investigating **an** allegation of spousal abuse,

On October **10,2002**, Claimant's husband **telephoned the Santa Cruz** Police to have his wife arrested on **a** fabricated claim of spousal abuse. Claimant's husband claimed to **the** police that he was physically abused two **days prior**. However, he had no physical marks indicating any abuse **took** place. Further, Claimant is 5 feet, **3** inches tall and weighs only 130. ~~Her~~ **husband** is **5** feet, **10½** inches tall and weighs between **235** and **250 pounds**.

City of **Santa Cruz** Police Department police officers Bush and Deocampo responded to Claimant's husband's call for assistance. Upon their arrival they found **that** Claimant **had** left the home. In fact, Claimant's **friends**, had removed Claimant from *the* home for **fear** *the* situation at home would escalate, they **then** telephoned the Women's Crisis **Support** Hotline. Claimant also decided to telephone the non-emergency number to the City of Santa **Cruz** Police Department. Claimant's friend informed **the** police dispatcher the she **was with** Claimant **and was** concerned because Claimant's **husband was** acting strangely **and** irrationally in response to the divorce petition. The dispatcher **was** told that he was making false allegations about Claimant, **and had just** called the police. Claimant arranged to meet **a** City of Santa Cruz Police Department police officer near her house. Claimant **was** given **a** "resource **card**" regarding domestic violence by the responding officer. The police officer, **satisfied** that Claimant **was** not a threat to herself or **others**, escorted Claimant back to **her** house so that she could get some personal affects to stay over night with friends. The officer stated she would stand-by while Claimant safely retrieved her personal items.

Immediately upon arrival **at** 111 Rathburn Way Claimant was instructed by Officer Bush **to put** her coat down, **and put** her hands behind her **back**. The City of Santa **Cruz** Police Department police officers were then negligent and constituted **an** assault and **battery on** Claimant. Officer Bush informed Claimant she was under arrest **and then** physically handcuffed her hands behind her **back**. The officer then physically **put** Claimant in the **back** of the police car. No investigation **was** conducted at that time.

When Claimant asked **why** she **was** being arrested, the police officers informed her that she **was** being arrested because **of spousal** abuse. There were absolutely **no facts**,

0045

nor **any** physical evidence, to **support** the arrest. **Their** behavior fell below the **standard** of care. When questioned by **Claimant's** friends, the City of Santa Cruz Police Department police **officers** responded that they "were only doing there **jobs.**" Apparently **they** were instructed by Sergeant McPhillips that there **was** probable cause to arrest Claimant **and** that there **was** a bail increase imposed. **Had** these officers been properly trained regarding spousal battery complaints, domestic violence investigations, **and** policies **and** **procedures** regarding arrests with probable cause, **this** incident would not have occurred. **As** a direct and proximate result of **their** negligent acts, **and** the negligent hiring **and** training by **Santa Cruz** Police Department **and** Chief Steven R. Belcher, the Claimant **was** falsely arrested. Claimant was subsequently falsely imprisoned. **She** remained in jail for five days before being released due to the **unnecessary** bail increase. No charges were ever filed **against her** for **spousal** abuse.

Due to the basis of Claimant's arrest, the City of Santa **Cruz** Police Department insisted **an** Emergency Protective Order be **Imposed.** Claimant **was** not allowed to visit her children, or **go** near her home. Then, a Temporary Restraining Order **was** imposed. During the **hearing** for the Temporary **Restraining** Order, the judge ordered the parties to mediation.

Ms. Forman telephoned the court ordered mediator **and** informed the mediator **that** Child Protective Services had been involved with Claimant for years. This statement is not true. Ms. Forman also told the mediator that **Claimant** was extremely violent towards her children. This also **was** not a **true** statement. **As** a result of **Ms. Forman's** false statements, **Claimant** was only able to see her children in **supervised** visits. **She** was not allowed to go near her home. Additionally, Ms. Forman informed Claimant, through Claimant's divorce attorney, that if Claimant petitioned the courts for **unsupervised** visitation, Child Protective Services "would initiate **an** action against **her.**" Claimant **was** separated from her family for several months.

In early November, **Ms. Forman's** supervisor, Trevor **Davis,** **was** contacted directly **regarding** **Ms. Forman's** behavior. **In** response to **Claimant's** complaint, he **stated** that no formal complaint process existed, and that if Claimant **wanted** to complain she **would** have to "get **a** lawyer, or call **a** politician."

In doing the **acts** alleged the previously identified **responsible parties,** **and** other yet **undetermined** employees of the **City and County** of Santa **Cruz,** **and** each of **them,** interfered by threat, intimidation, or coercion, with Claimant's enjoyment **of** the rights protected by the Constitution **and** the **Laws** of the State of California

7. **Potential claims include:**

- (a) assault **and** battery;
- (b) intentional infliction of emotional **distress;**
- (c) **negligence;**

- (d) negligent supervision, selection, training retention, investigation and discipline;
- (e) conspiracy to deliberately fabricate evidence;
- (f) false arrest;
- (g) false imprisonment;
- (h) abuse of process;
- (i) malicious prosecution.

8. Itemization of claim:

Jurisdiction over the claim would rest in Superior Court.

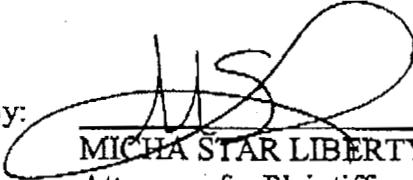
- (j) General damages, including pain and suffering:
Undetermined at this time
- (k) Loss of income:
Undetermined at this time
- (l) Any damages to which claimant is entitled by California statute.

9. Amount of claim:

This is a claim in an amount exceeding the jurisdiction of the Superior court.

DATED: 04/03/03

CASPER, MEADOWS & SCHWARTZ

By: 
 MICHA STAR LIBERTY
 Attorneys for Plaintiff

ANDREW C. SCHWARTZ
MICHAEL D. MEADOWS
STAN CASPER
LARRY G. COOK
THOM SEATON
MICHA STAR LIBERTY

LAW OFFICES OF
CASPER, MEADOWS & SCHWARTZ
A PROFESSIONAL CORPORATION
CALIFORNIA PLAZA
2121 NORTH CALIFORNIA BOULEVARD
SUITE 1020
WALNUT CREEK CALIFORNIA 94596

TEL: (925)947-1147
FAX: (925)947-1131
EMAIL: INPO@CMSLAW.COM

FACSIMILE COVER SHEET

DATE : April 8, 2003
FROM : Micha Star Liberty
RE : *Claudia Lynch*



TOTAL NUMBER OF **PAGES** (including this page): 6

Originals/Copies Via First Class Mail Overnight Mail Courier

SENT TO

FAX NUMBER

County of Santa Cruz
Board of Supervisors, Clerk of the Board (831) 454-2327

Comments / Documents Transmitted:

Notice of Claim Against the County of Santa Cruz.

THIS FAX IS INTENDED FOR THE CONFIDENTIAL USE OF THE PERSON(S) DESIGNATED ABOVE. IF THIS TRANSMISSION IS GARBLED OR INCOMPLETE, OR IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, PLEASE CONTACT OUR OFFICE IMMEDIATELY AT 925/947-1147. THANK YOU.