

96368

MARIPOSA COUNTY  
BOARD OF SUPERVISORS

AGENDA  
ACTION FORM

DATE: 9/10/96  
AGENDA ITEM NO.: CA-4

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes \_\_\_ No X)

Adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C96-16 in the amount of \$327.90. Claimant contends that as a result of driving down a County road that was recently graveled and oiled, he picked up a rock which cracked his windshield. The County does not have any liability in this matter as driving on any road carries inherent risks.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board usually follows Counsel's recommendation in matters of this nature.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Claim would automatically be denied if no action was taken.


<p><b>COSTS:</b> (x) Not Applicable</p> <p>A. Budgeted current FY \$ _____</p> <p>B. Total anticipated costs \$ _____</p> <p>C. Required additional funding \$ _____</p> <p>D. Internal transfers \$ _____</p> <p><b>SOURCE:</b> ( ) 4/5ths Vote Required</p> <p>A. Unanticipated revenues \$ _____</p> <p>B. Reserve for contingencies \$ _____</p> <p>C. Source description: _____</p> <p>Balance in Reserve for Contingencies, if approved: \$ _____</p>	<p><b>SPECIAL INSTRUCTIONS:</b> List the attachments and number the pages consecutively:</p> <p>Claim No. C96-16 Notice of Rejection.</p> <p>_____</p> <p>_____</p> <p>_____</p>
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<p><b>CLERK'S USE ONLY:</b></p> <p>Res. No.: <u>96-368</u> Ord. No. _____</p> <p>Vote - Ayes: <u>5</u> Noes: _____</p> <p>Absent: <u>Richard Smith</u> Abstained: _____</p> <p>Approved ( ) Denied ( )</p> <p>Minute Order Attached ( ) No Action Necessary ( )</p> <p>The foregoing instrument is a correct copy of the original on file in this office.</p> <p>Date: _____</p> <p>ATTEST: <u>MARGIE WILLIAMS</u>, Clerk of the Board County of Mariposa, State of California</p> <p>By: _____ Deputy</p>	<p><b>ADMINISTRATIVE OFFICER'S RECOMMENDATION:</b> This item on agenda as:</p> <p><input checked="" type="checkbox"/> Recommended</p> <p><input type="checkbox"/> Not Recommended</p> <p><input type="checkbox"/> For Policy Determination</p> <p><input type="checkbox"/> Submitted with Comment</p> <p><input type="checkbox"/> Returned for Further Action</p> <p>Comment: _____</p> <p>A.O. Initials: <u>MO</u></p>
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MARIPOSA COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

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TO: JEFF GREEN, County Counsel  
FROM: MARGIE WILLIAMS, Clerk of the Board   
SUBJECT: CLAIM NO. C96-16; RES. 96-368

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THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY, CALIFORNIA,

ADOPTED THIS Order on September 10, 1996

ACTION AND VOTE:

Approval of Consent Agenda (See End of Minutes)

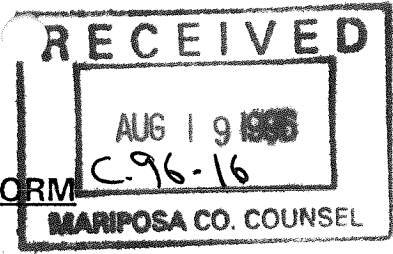
**BOARD ACTION:** Jeff Green/County Counsel, pulled item 4 for the claimant to make a presentation to the Board. Supervisor Balmain pulled item 3. Supervisor Reilly pulled item 5. Supervisor Parker pulled item 11. Action was taken on these items later this date. Supervisor Stewart excused himself for item 4 due to a potential conflict.

- Discussion was held concerning item 4 - Johnnie Phillips/claimant, stated he does not feel that the road work was done in an acceptable manner, and he feels that people are getting cracked windshields from the pea gravel that is left on the roadway. Mike Edwards/Public Works Director, advised of the process the Department uses for chip seals and patching. (M)Parker, (S)Reilly, item 4 was approved/Ayes: Reilly, Balmain, Parker; Excused: Stewart, Pickard.

- (M)Parker, (S)Reilly, balance of consent agenda was approved/Ayes: Reilly, Balmain, Stewart, Parker; Excused: Pickard.

CA-4 Resolution Authorizing the Chair to Sign an Order of the Board to Reject Claim No. C96-16 in the Amount of \$327.90 (County Counsel); Res. 96-368

cc: File



COUNTY OF MARIPOSA CLAIM FORM

CLAIM OF JOHNNIE PHILLIPS (Claimant) v. COUNTY OF MARIPOSA

CLAIM FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE (Government Code § 910)

TO THE BOARD OF SUPERVISORS OF MARIPOSA COUNTY:

YOU ARE HEREBY NOTIFIED that: (PLEASE TYPE OR PRINT)

Claimant: JOHNNIE PHILLIPS Whose address is: P.O. Box 69 City and State: CATHEYS VALLEY CA Zip: 95306

claims damages from the COUNTY OF MARIPOSA in the amount, computed as of the date of presentation of this claim, of \$

This claim is based on: (CHECK APPROPRIATE BOX OR BOXES)

- < X > Property Damage < > Other (LIST) < > Personal Injury < > Contract

which occurred on 8-17, 1996, in the vicinity of:

HORNITOS RD. - BY COUNTY YARD

Describe generally the facts and circumstances that give rise to the claim: (PLEASE USE BACK OF THIS PAGE IF MORE SPACE IS NEEDED.)

ROCK CRACKED WINDSHIELD

The name(s) of the public employee(s) causing claimant's injuries or damages under the above-described circumstances is/are:

The injuries sustained by claimant, as far as known, as of the date of presentation of this claim consist of: (DESCRIBE GENERALLY CLAIMANT'S INJURIES OR DAMAGES)

THE ROAD HAS RECENTLY BEEN GRAVBIED  
AND DIL

The amount claimed, as of the date of presentation of this claim is computed as follows:

**Damages incurred to date:**

Expenses for medical and hospital care \$ \_\_\_\_\_

Loss of earnings \$ \_\_\_\_\_

Specific damages (ITEMIZE)

CRACKED WINDSHIELD \$ 327<sup>90</sup>

\_\_\_\_\_ \$ \_\_\_\_\_

Other damages (ITEMIZE)

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL DAMAGES INCURRED TO DATE:** \$ 327<sup>90</sup>

Estimated future damages as far as known from this incident:

Total estimated prospective damages: \$ \_\_\_\_\_

**TOTAL AMOUNT CLAIMED AS OF DATE**

**OF PRESENTATION OF THIS CLAIM:** \$ 327<sup>90</sup>

All notices or other communications with regard to this claim should be sent

to claimant at: P.O. Box 69 CATHERS VALLEY CA  
(ADDRESS TO WHICH NOTICES ARE TO BE SENT)

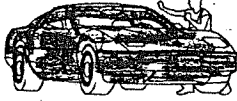
Dated: 8-19-96

Signed: John Phillips  
(CLAIMANT/AGENT FOR CLAIMANT)

**Government Code § 911.2. Time of or presentation of claims**

A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with § 915) of this chapter not later than one year after the accrual of the cause of action.

Mariposa Auto Glass  
& Tinting



5008 Fairgrounds Drive  
Mariposa, CA 95338

Owners David & Gheri Clegg  
966-3835

Daves Mountain Detail  
& Auto Glass

Waxing • Polishing • Oxidation Removal  
Interior Cleaning • Engine Degreasing  
Scotch Guard • Paint Seal  
Stereo Sales & Installation

5176 "E" Highway 49 North  
742-4418

NAME: \_\_\_\_\_

Estimate: \_\_\_\_\_

95 Dodge Ram

DW1176

# \$302.90

327.90

w/moldings

TYM-35.  
DW1176 GBW  
~~300.00~~  
300.00

1 JEFFREY G. GREEN  
2 County Counsel  
3 P. O. Box 189  
4 5100 Bullion St.  
5 Mariposa, CA 95338

6 BEFORE THE BOARD OF SUPERVISORS

7 OF

8 MARIPOSA COUNTY, STATE OF CALIFORNIA

9 In the Matter of: )  
10 CLAIM FOR DAMAGES PURSUANT ) CLAIM NO. C96-16  
11 TO GOVERNMENT CODE § 911.6 )  
12 \_\_\_\_\_ )

13 Johnnie Phillips  
14 P.O. Box 69  
15 Catheys Valley, CA 95306

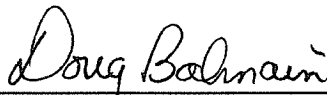
16 having filed with this Board on August 19, 1996 a claim for damages in the amount of  
17 \$327.90.


18 **NOW, THEREFORE,** it is ordered by the Board of Supervisors that the claim is  
19 hereby **REJECTED.**

20 The foregoing order was passed by the following vote of the Board:

- 21 AYES: Reilly, Balmain, and Parker
- 22 NOES: None
- 23 ABSENT: Stewart and Pickard
- 24 ABSTAINED: None

25 Dated this 15<sup>th</sup> day of October, 1996.

26   
27 \_\_\_\_\_  
28 DOUG BALMAIN, Chairman  
Board of Supervisors

29 ATTEST:  
30   
31 \_\_\_\_\_  
32 MARGIE WILLIAMS, Clerk of the Board

TO: Johnnie Phillips  
P.O. Box 69  
Catheys Valley, CA 95306

RE: CLAIM FOR DAMAGES (Claim No. C96-16) AMOUNT OF CLAIM: \$327.90  
NOTICE OF REJECTION

NOTICE IS HEREBY GIVEN that the claim, which you presented to the Board of Supervisors of Mariposa County on August 19, 1996 was rejected by action of the Board on September 10, 1996.

**WARNING**

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim." (See Government Code § 945.6)

"NOTE: This six-month filing period applies only to State Court actions. If your action is based on federal law and/or you intend to file it in Federal Court, a shorter or longer period within which to file the action may apply."

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

JEFFREY G. GREEN  
Mariposa County Counsel

**PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P.)**


STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action; my business address is 5100 Bullion Street (P. O. Box 189), Mariposa, CA 95338. On October 21, 1996, I served the within Notice of Rejection of Claim No. C96-16 on the claimant in said action by placing a true copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing a copy into an inter-office delivery receptacle located in Counsel's office:

Johnnie Phillips  
P. O. Box 69  
Catheys Valley, CA 95306

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on October 21, 1996 at Mariposa, California.

  
Sandra V. Adams