

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

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

Pass and adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C95-16 for an undetermined amount. Based on information received from Parks and Recreation, the subject function of the claim was a School District activity and not a County-related activity. Counsel, therefore, does not believe that the County has any liability exposure in this matter.

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 is taken.

COSTS: (X) Not Applicable A. Budgeted current FY \$ _____ B. Total anticipated costs \$ _____ C. Required additional funding \$ _____ D. Internal transfers \$ _____ SOURCE: () 4/5ths Vote Required A. Unanticipated revenues \$ _____ B. Reserve for contingencies \$ _____ C. Source description: _____ Balance in Reserve for Contingencies, if approved: \$ _____	SPECIAL INSTRUCTIONS: List the attachments and number the pages consecutively: Claim No. C95-16 Notice of Rejection _____ _____ _____
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CLERK'S USE ONLY:
 Res. No.: 95-406 Ord. No. _____
 Vote - Ayes: _____ Noes: _____
 Absent: _____ Abstained: _____
 () Approved () Denied
 () Minute Order Attached () No Action Necessary

The foregoing instrument is a correct copy of the original on file in this office.
Date: _____
ATTEST: MARGIE WILLIAMS, Clerk of the Board
County of Mariposa, State of California
By: _____
Deputy

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
 This item on agenda as:
 Recommended
 Not Recommended
 For Policy Determination
 Submitted with Comment
 Returned for Further Action
 Comment: _____
 A.O. Initials: [Signature]

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)

11 TO GOVERNMENT CODE § 911.6)

12 Claim No. C95-16)

13 Stanford Dean Maples
14 c/o Albert S. Albrechtson, III

15 5100 N. Sixth Street, Suite 154

16 Fresno, CA 93710

17 having filed with this Board on August 21, 1995 a claim for damages in the amount of
18 \$ Undetermined ;

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

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


22 AYES: REILLY, BALMAIN, STEWART and PARKER

23 NOES: NONE

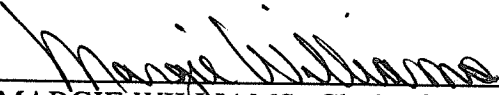
24 ABSENT: TABER

25 ABSTAINED: NONE

26 Dated this 12th day of September, 1995.

27 
28 GARRY R. PARKER, Chairman
Board of Supervisors

29 ATTEST:

30 
31 MARGIE WILLIAMS, Clerk of the Board

TO: Stanford Dean Maples
c/o Albert S. Albrechtson, III
5100 N. Sixth Street, Suite 154
Fresno, CA 93710

RE: CLAIM FOR DAMAGES
NOTICE OF REJECTION

AMOUNT OF CLAIM \$ Undetermined
Claim No. C95-16

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on August 21, 1995 was rejected by action of the Board on September 12, 1995.

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 Section 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 September 26, 1995 I served the within Notice of Rejection of Claim No. C95-16 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:

Stanford Dean Maples
c/o Albert S. Albrechtson, III
5100 N. Sixth Street, Suite 154
Fresno, CA 93710

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

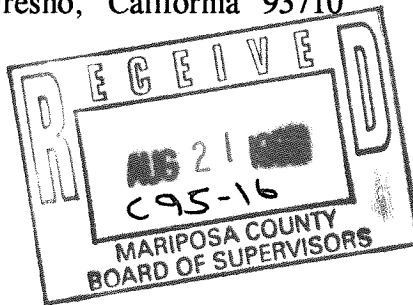
Executed on September 26, 1995 at Mariposa, California.


Sandra V. Adams

W

Law Office Of
ALBERT S. ALBRECHTSON III
5100 North Sixth Street, Suite 154
Fresno, California 93710

Albert S. Albrechtson III
Attorney at Law
Licensed in California & Hawaii



Phone (209) 248-0218
Fax (209) 248-0617

August 18, 1995

Board of Supervisors
Mariposa County
5100 Bullion St., P.O. Box 784
Mariposa, California 95338

Re: Our client: Stanford Dean Maples
Place: Mariposa County High School
Date of Accident: April 26, 1995

Dear Board of Supervisors:

Please be advised that this office represents the above-named individual regarding injuries he received in the above-referenced matter. Please accept this as Mr. Maples' claim against the Mariposa County pursuant to Govt. Code 905 et. seq.

If this claim must be presented to a board, entity or authority than yourself, please do so. If I do not hear otherwise, I shall assume that you agree to this manner of processing this claim.

Our client's address is 3107 Triangle Road, Mariposa, Ca., 95338. Any correspondence should be directed through this office.

The subject accident occurred on or about April 26, 1995, in the afternoon, at Mariposa County High School. Our client was there as a parent and spectator of his daughter, who was participating in a track event.

The area was owned, controlled and/or maintained exclusively by Mariposa County, the Mariposa County Unified School District and Mariposa County High School, its representatives, agents, employees and officials. The specific area that our client was injured in was a sloped, dirt road or accessway which was chained. The road/accessway led from an adjacent street to the track and bleacher area of the property.

This road/accessway was the most convenient and direct, if not only, ingress and egress to

and from the track and bleacher area . The chain in question was located approximately two-thirds of the way up the incline toward the track and bleacher area. It spanned the entire width of the road/accessway and was attached on either end to a fence or fencepost. It was placed there to prevent vehicles from coming into the competition area, and was not removed despite the obvious flow of pedestrian traffic in the area. Moreover, there was no safe, alternative route in the area in and out of the event to the street below.

After the event, our client was walking out of the track area to leave. He and many other people, mostly youngsters and young adults, had to climb over the chain to exit the area. As he was stepping over the chain, which measured anywhere from approximately 16 to 24 inches off the ground, the chain moved, catching his foot and causing him to fall hard onto the ground.

Our client suffered spiral fractures of his left femur, broke his left hip, and suffered other severe injuries. An ambulance took him to a local hospital, and he was eventually transferred to Saint Agnes Hospital, where he stayed for several days, undergoing a seven hour surgery to repair his femur and for hip replacement. He has had numerous followup visits with doctors and specialists and is and will remain on crutches for the next several months, after which he will begin a long and hard course of physical therapy.

Our client's medical bills are approximately \$80,000.00. These expenses will rise substantially before his treatment is completed, and he will probably be left with permanent disabilities. He also lost substantial income due to his being unable to engage in his self-employed business as a maker and marketer of aerospace parts and equipment. To date, his estimated income loss is approximately \$20,000.00, but this figure will certainly rise, depending on how quickly he heals and is able to resume his normal activities.

Because his injuries are still healing, and it is too early to tell his future prognosis and damages, we are unable at this time to make a specific demand. Nevertheless, because the Govt. Code generally requires us to state our client's damages, for purposes of this claim they exceed \$2,000,000.00.

I look forward to hearing from you in the near future.

Sincerely,



Albert S. Albrechtson III

cc: Stanford Dean Maples