

19



CITY OF SACRAMENTO

DEPARTMENT OF LAW
812 TENTH ST. SACRAMENTO, CALIF. 95814
SUITE 201 TELEPHONE (916) 449-5346

JAMES P. JACKSON
CITY ATTORNEY
THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY
LELIAND J. SAVAGE
DAVID BENJAMIN
SAM JACKSON
WILLIAM P. CARNAZZO
SABINA ANN GILBERT
STEPHEN B. NOCITA
DEPUTY CITY ATTORNEYS

March 21, 1980

Honorable City Council
City Hall
Council Chambers
Sacramento, California

In re: Claim of Robert Barraza, et al.

Members in Session:

The attached claim was filed by Robert Barraza, Lupe Barraza, and Nancy Barraza. Robert Barraza is a City employee who has worked as a parking lot attendant in the lot bounded by 5th, 7th, Capitol and "J" Streets. Lupe Barraza is Mr. Barraza's wife and Nancy Barraza is Mr. Barraza's daughter.

The \$12,000,000+ claim arises out of an illness and hemorrhage suffered by Mr. Barraza allegedly as a result of an exhaust fume problem at the parking lot. This claim was filed with the City on February 1, 1980. The claim is based upon illness and injury accruing on October 26, 1979 and "for a cumulative period from 1975 through October 26, 1979...". Because of the length of time covered by the claim, our office asked that the claim be referred to us.

A claim based upon injury must be presented within 100 days of the accrual of the cause of action. (Govt. Code Section 911.2). Thus, the Barraza claim is timely as to any cause of action which accrued on or after October 23, 1979. The claim is untimely and is a late claim as to the causes of action which accrued prior to that date. We have notified Mr. Barraza's attorney of this by the attached letter dated March 14, 1980.

RECOMMENDATION

We recommend that the City Council deny the claim for the causes of action which may have accrued on or after October 23, 1979. We recommend that the claim for causes of action which may have accrued prior to October 23, 1979 be returned to the claimant as a late claim.

OFFICE OF THE
CITY CLERK

CAUSES APRIL 10-23-79
RETURNED CAUSES BEFOR THAT
APR 1 1980 DATE

Very truly yours,

James P. Jackson
JAMES P. JACKSON
City Attorney

JPJ:kn
Attachments

CITY CLERK'S OFFICE
CITY OF SACRAMENTO

FEB 1 4 38 PM '80

1 W. MICHAEL LAROCHE
JOSEPH COOPER
2 Attorneys for Plaintiff
3 901 "H" Street
Suite 603
4 Sacramento, California 95814
Telephone: (916) 441-7645

9 In the matter of the claim of:)
10 ROBERT P. BARRAZA, LUPE BARRAZA,)
and NANCY BARRAZA,)
11 Claimants,)
12 vs.)
13 REDEVELOPMENT AGENCY OF)
14 SACRAMENTO, COUNTY OF SACRAMENTO,)
CITY OF SACRAMENTO,)
15 Public Entities.)

CLAIM AGAINST PUBLIC ENTITY

17 Claimants' attorneys hereby present this claim to the
18 public entities named above pursuant to Section 910 of the
19 California Government Code.

20 1. The post office address of ROBERT P. BARRAZA,
21 LUPE BARRAZA, and NANCY BARRAZA is as follows:

1445 Oregon Drive
Sacramento, California 95822

24 2. The post office address to which notices regarding
25 this claim are to be sent is as follows:

26 W. MICHAEL LAROCHE
Attorney at Law
27 901 "H" Street, Suite 603
Sacramento, California 95814
28

///

1 3. On October 26, 1979 and for a cumulative period from
2 1975 through October 26, 1979, Claimant received personal
3 injuries under the following circumstances:

4 During the aforementioned dates Claimant, ROBERT
5 BARAZZA, was exposed to high concentrations of carbon monoxide
6 and other noxious gases and fumes while working for the CITY
7 OF SACRAMENTO as a parking lot attendant at numerous locations
8 around the City, including, specifically, the parking lot bounded
9 by 5th and 7th Streets and Capitol and "J" Streets, and others.

10 As a direct result of said exposure Claimant, ROBERT
11 BARAZZA, suffered intracranial hemorrhage with prolonged coma.

12 Claimants, LUPE BARRAZA and NANCY BARRAZA, suffered
13 emotional and economic damages as a result of injuries to ROBERT
14 BARRAZA, in that he was husband, father, and sole financial
15 supporter of LUPE BARRAZA and NANCY BARRAZA.

16 4. Said injuries and damages were directly and
17 proximately caused by and the result of the carelessness,
18 negligence, willful and intentional disregard by the public
19 entities hereinabove mentioned as follows:

20 (a) Recommendations were made to the public
21 entities to correct exhaust fume problems in parking
22 lots mentioned and in the parking attendant's
23 booths as early as January of 1979.

24 (b) Testing of noxious gas and fume levels were
25 performed as early as January and April of 1979,
26 showing dangerous levels of carbon monoxide in the
27 parking attendant's booths on the first floor of the
28 5th and "J" Street parking lot. In April of 1979,

1 recommendations were made to properly ventilate the
2 booths.

3 (c) No action was taken by the public entities
4 until after ROBERT BARBASA'S collapse from carbon
5 monoxide exposure which caused his intracranial
6 hemorrhage and coma.

7 (d) On or about October of 1979, the public
8 entities allowed an increase in monthly parkers in the
9 parking facility bounded by 5th, 6th, "J" and "L"
10 Streets, at which location ROBERT BARBASA was a parking
11 attendant. This increase in monthly parkers caused
12 the carbon monoxide to rise to dangerous levels and
13 there was inadequate ventilation for the protection
14 of ROBERT BARBASA, who, as a result, suffered
15 injuries herein alleged.

16 (e) The public entities were aware of General
17 Industrial Safety Orders 5141, 5142, 5143 and others
18 applicable to harmful exposures of toxic materials,
19 fumes, and gases.

20 (f) The public entities failed, either negligently
21 or intentionally, to maintain in a reasonably safe
22 condition the parking lot premises herein described,
23 which was either owned, leased, or controlled with
24 the knowledge, it would be used by the general public.
25 The public entities breached their duty to see that
26 this parking lot was safe for the purpose intended
27 and did not exercise reasonable care to inspect and
28 repair it to prevent risk and injury to members of

1 the general public, including Claimant, ROBERT BARRAZA,
2 who may enter said parking lot.

3 b. So far as it is known to Claimants and their
4 attorneys, at the date of filing this claim, ROBERT BARRAZA has
5 incurred damages as follows:

6 Special Damages: (Incomplete)

7 Sacramento Medical Center - in excess of: \$50,000.00

8 Kaiser Hospital - in excess of: \$50,000.00

9 Mercy Convalescent Hospital - in excess of: \$15,000.00

10 Loss of Wages - approximately \$12,000.00
11 per year from October 26, 1979

12 Special Damages continue to be incurred

13 General Damages:


14 Robert Barraza: \$10,000,000.00

15 Lupe Barraza: \$ 1,000,000.00

16 Nancy Barraza: \$ 1,000,000.00

17 Said Special and General Damages are based on current
18 information and will be adjusted according to proof.

19 DATED: February 1, 1980

20
21 
22 W. MICHAEL GREENE
23 Attorney for Claimants

24 PERSONAL PROOF OF SERVICE

25 I am a citizen of the United States and a resident of
26 Sacramento County, California; I am over the age of eighteen (18)
27 years. I served the within Claim Against Public Entity in this
28 action by personally delivering to and leaving with the following

1 persons in the County of Sacramento, State of California, on the
2 date set opposite their respective names, a true copy thereof, to
3 wit:

4 NAME: _____
5 TITLE: _____ (Redevelopment Agency of
6 Sacramento)
7 ADDRESS: 630 "J" Street _____
8 Sacramento, California 95814 _____
9 DATE: 2/1/80 _____

10 NAME: _____
11 TITLE: _____ (County of Sacramento)
12 ADDRESS: 700 "H" Street _____
13 Sacramento, California 95814 _____
14 DATE: 2/1/80 _____

15 _____
16 NAME: _____
17 TITLE: _____ (City of Sacramento)
18 ADDRESS: 812 - 10th Street _____
19 Sacramento, California 95814 _____
20 DATE: 2/1/80 _____

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

23 Executed on this 1st day of February, 1980 at Sacramento,
24 California.

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27
28 ///



CITY OF SACRAMENTO

DEPARTMENT OF LAW

812 TENTH ST
SUITE 201

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5345

JAMES P. JACKSON
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THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY
LELIAND J. SAVAGE
DAVID BENJAMIN
SAM JACKSON
WILLIAM P. CARNAZZO
SABINA ANN GILBERT
STEPHEN B. NOCITA
DEPUTY CITY ATTORNEYS

March 14, 1980

Mr. W. Michael LaRoche
Attorney at Law
901 H Street, Suite 603
Sacramento, CA 95814

HAND DELIVERED

Re: Claim of Robert Barraza, et al.

Dear Mr. LaRoche:

This is to inform you of the actions taken on the above entitled claim by the City of Sacramento thus far. The claim purports to be based upon matters which accrued "October 26, 1979 and for a cumulative period from 1975 through October 26, 1979, . . .". The claim was submitted to the City Clerk on February 1, 1980.

A claim based upon personal injuries must be presented within 100 days of accrual of the cause of action (Govt. Code §911.2). It follows that the Barraza claim is timely as to causes of action which accrued on or after October 23, 1979; conversely, the claim is untimely, and may not be considered, insofar as it is based upon causes of action which accrued prior to October 23, 1979. The claim which was submitted appears to be based upon alleged causes of action which accrued prior to October 23, 1979 as well as alleged causes of action which accrued after that date. For this reason the claim is in part untimely and, in part, timely.

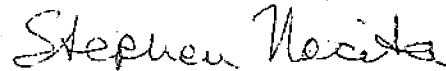
With respect to the so-called cumulative effects of exposures which took place prior to October 23, 1979, the claim is untimely; it cannot be received as to those alleged exposures. The City of Sacramento cannot and will not evaluate the merits of the claim insofar as it is based upon the alleged exposures prior to October 23, 1979.

Since you have chosen to present several causes of action, some of which are timely and some of which are untimely, within the same claim, we will accept for consideration the claim, but only insofar as it is timely - that is, only insofar as it is based upon exposures which accrued on or after October 23, 1979. As you have previously

March 14, 1980

been informed, the claim is presently being evaluated, to the extent that it is timely, by the City's claims representative. After their evaluation has taken place and the City Council has acted upon the claim, you will be informed as to such action upon the timely portions of the claim. As stated above, as to the portion of the claim based upon alleged exposures which took place prior to October 23, 1979, the claim was not timely presented and will not be received, considered or acted upon as it stands now.

Very truly yours,



STEPHEN B. NOCITA
Deputy City Attorney

SBN:SN/mb

P.S. You may wish to pursue this matter by filing a late claim application. You should consult Govt. Code §911.4 et seq. to determine your options in this regard.



HOME OFFICE: SAN FRANCISCO, CA 94111

BROWN BROTHERS ADJUSTERS of NORTH INTERIOR
1451 River Park Drive • Suite 251 • (916) 920-4392
Sacramento, CA 95825
Mail Address P.O. Box 255707 • Sacramento, CA 95825
DONALD I. OLSEN, Manager

OUR FILE NO. SAC 93,833X

March 26, 1980

City of Sacramento
915 "I" Street
City Hall Room 203
Sacramento, CA 95814

Attn: Lorraine Magana, City Clerk

RE: Assured : City of Sacramento
Claim No. : 7900.0501
Claimant : Robert Barraza, et.al.
D/L : 10/26/79

Gentlemen:

We have investigated the above captioned claim referred to this office on 2/14/80 by the City Clerk.

We, herewith, recommend and/or advise that claim be denied on basis of continued investigation.

Very truly yours,

Phil Ritchie, Adjuster

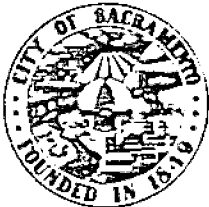
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A Commitment to the Future





CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

SACRAMENTO, CALIFORNIA 95814

CITY HALL ROOM 203

TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

HUBERT F. ROGERS
CHIEF DEPUTY CITY CLERK

February 12, 1980

W. Michael La Roche
901 H Street, Suite 603
Sacramento, California 95814

Dear Sir:

Notice is hereby given that the claim which you submitted to the City Council, on behalf of Robert Barraza, Lupe Barraza, and Nancy Barraza, on February 1, 1980, has been referred to the City's claim representative, Brown Brothers Adjusters, 1451 River Park Drive, Suite 251, Sacramento, California, 95815, (telephone 920-4392) for review and recommendations.

You will be advised of the claims disposition within 45 days.

Sincerely,


Lorraine Magana
City Clerk

REFERRED TO CITY
ATTORNEY FOR REPORT
3-4-80 BY COUNCIL

cc: City Attorney
Finance Administration

LM/jl



CITY OF SACRAMENTO

to Ron Petersen
forward to adjuster
FW
2-8-80

OFFICE OF THE CITY CLERK

915 I STREET
CITY HALL ROOM 200

SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 442-5426

LORRAINE MAGANA
CITY CLERK

MEMORANDUM

TO:

FROM:

RE: Robert P. Barrera, Lure Barrera + Nancy Barrera
Name of Claimant and Date of Accident
10-26-79

Enclosed is a copy of the claim which was received by the Sacramento City Clerk on 2-1-80. The enclosed document was served on date

on the City as follows:

- Personal service
 Received in mail

DATED: 2-1-80

LORRAINE MAGANA
CITY CLERK

BY: Rose McLean

CITY CLERK'S OFFICE
CITY OF SACRAMENTO

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W. MICHAEL LAROCHE
JOSEPH COOPER
Attorneys for Plaintiff
901 "H" Street
Suite 603
Sacramento, California 95814
Telephone: (916) 441-7000

In the matter of the claim of:)
)
ROBERT P. BARRAZA, LUPE BARRAZA,)
and NANCY BARRAZA,)
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Claimants,)
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Public Entities.)

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Attorney at Law
901 "H" Street, Suite 603
Sacramento, California 95814

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2 1975 through October 26, 1979, Claimant received personal
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9 by 5th and 7th Streets and Capitol and "I" Streets, and others.

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11 BARRAZA, suffered intracranial hemorrhage with prolonged coma.

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13 emotional and economic damages as a result of injuries to ROBERT
14 BARRAZA, in that he was husband, father, and sole financial
15 supporter of LUPE BARRAZA and NANCY BARRAZA.

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21 entities to correct exhaust fume problems in parking
22 lots mentioned and in the parking attendant's
23 booths as early as January of 1979.

24 (b) Testing of noxious gas and fume levels were
25 performed as early as January and April of 1979,
26 showing dangerous levels of carbon monoxide in the
27 parking attendant's booths on the first floor of the
28 5th and "J" Street parking lot. In April of 1979,

1 recommendations were made to properly ventilate the
2 booth.

3 (c) No action was taken by the public entities
4 until after ROBERT BARRASA'S collapse from carbon
5 monoxide exposure which caused his intracranial
6 hemorrhage and coma.

7 (d) On or about October of 1979, the public
8 entities allowed an increase in monthly parkers in the
9 parking facility bounded by 5th, 6th, "J" and "I"
10 Streets, at which location ROBERT BARRASA was a parking
11 attendant. This increase in monthly parkers caused
12 the carbon monoxide to rise to dangerous levels and
13 there was inadequate ventilation for the protection
14 of ROBERT BARRASA, who, as a result, suffered
15 injuries herein alleged.

16 (e) The public entities were aware of General
17 Industrial Safety Orders 5141, 5142, 5143 and others
18 applicable to harmful exposures of toxic materials,
19 fumes, and gases.

20 (f) The public entities failed, either negligently
21 or intentionally, to maintain in a reasonably safe
22 condition the parking lot premises herein described,
23 which was either owned, leased, or controlled with
24 the knowledge it would be used by the general public.
25 The public entities breached their duty to see that
26 this parking lot was safe for the purpose intended
27 and did not exercise reasonable care to inspect and
28 repair it to prevent risk and injury to members of

1 the general public, including claimant, ROBERT BARRAZA,
2 who may enter said parking lot.
3 b. As far as it is known to Claimants and their
4 attorneys, at the date of filing this claim, ROBERT BARRAZA has
5 incurred damages as follows:

6 Special Damages: (incomplete)

7 Sacramento Medical Center - in excess of: \$53,171.00

8 Kaiser Hospital - in excess of: \$50,000.00

9 Hercul Convalescent Hospital - in excess of: \$15,000.00

10 Loss of Wages - approximately \$12,000.00
11 per year from October 26, 1979

12 Special damages continue to be incurred

13 General Damages.

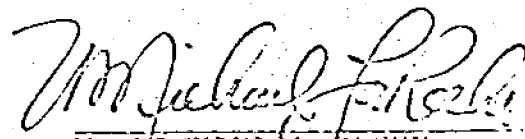
14 Robert Barraza: \$10,000,000.00

15 Lure Barraza: \$ 1,000,000.00

16 Nancy Barraza: \$ 1,000,000.00

17 Said Special and General Damages are based on current
18 information and will be adjusted according to proof.

19 DATED: February 1, 1980

20
21 
22 W. MICHAEL ROCHE
23 Attorney for Claimants

23 ///

24 PERSONAL PROOF OF SERVICE

25 I am a citizen of the United States and a resident of
26 Sacramento County, California; I am over the age of eighteen (18)
27 years. I served the within Claim Against Public Entity in this
28 action by personally delivering to and leaving with the following

1 persons in the County of Sacramento, State of California, on the
2 date set opposite their respective names, a true copy thereof, to
3 wit:

4 NAME: _____
5 TITLE: _____ (Redevelopment Agency of
6 Sacramento)
7 ADDRESS: 630 "I" Street
8 Sacramento, California 95814
9 DATE: 2/1/80

10 NAME: _____
11 TITLE: _____ (County of Sacramento)
12 ADDRESS: 700 "H" Street
13 Sacramento, California 95814
14 DATE: 2/1/80

15 NAME: _____
16 TITLE: _____ (City of Sacramento)
17 ADDRESS: 812 - 10th Street
18 Sacramento, California 95814
19 DATE: 2/1/80

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

22 Executed on this 1st day of February, 1980 at Sacramento,
23 California.

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CITY OF SACRAMENTO

DEPARTMENT OF LAW

312 TENTH ST.
SUITE 201

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5345

February 8, 1980

JAMES P. JACKSON
CITY ATTORNEY

THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY

LELIAND J. SAVAGE
ELIZABETH HASSARD SILVER
S. RUSSELL SELIX, JR.
GARLAND E. BURRELL, JR.
DAVID BENJAMIN
DEPUTY CITY ATTORNEYS

James Burpo Insurance, Inc.
960 Fulton Avenue
Sacramento, California 95825

Re: BARBARA, ET AL.

Gentlemen:

Enclosed please find copy of claim in the above
matter which is in excess of \$300,000.

Very truly yours,

Deputy City Attorney

enclosure



CITY OF SACRAMENTO

DEPARTMENT OF LAW

812 TENTH ST
SUITE 201

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5345

February 8, 1980

JAMES P. JACKSON
CITY ATTORNEY
THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY
LELIAND J. SAVAGE
DAVID BENJAMIN
SAM JACKSON
WILLIAM P. CARNAZZO
SABINA ANN GILBERT
STEPHEN B. NOCITA
DEPUTY CITY ATTORNEYS

Twohy, Darneille & Frye
Attorneys at Law
1107 9th Street
Sacramento, California 95814

RE: BARBARA, ET AL.

Gentlemen:

The enclosed case appears to be related to matters covered by Workers' Compensation and I thought that you might be interested.

Very truly yours,

STEPHEN B. NOCITA
Deputy City Attorney

SBN:GD
enclosure



CITY OF SACRAMENTO

Clerk

DEPARTMENT OF LAW

812 TENTH ST
SUITE 201

SACRAMENTO, CALIF. 95814
TELEPHONE (916) 449-5346

JAMES P. JACKSON
CITY ATTORNEY
THEODORE H. KOBEY, JR.
ASSISTANT CITY ATTORNEY
LELIAND J. SAVAGE
DAVID BENJAMIN
SAM JACKSON
WILLIAM P. CARNAZZO
SABINA ANN GILBERT
STEPHEN B. NOCITA
DEPUTY CITY ATTORNEYS

March 14, 1980

Mr. W. Michael LaRoche
Attorney at Law
901 H Street, Suite 603
Sacramento, CA 95814

HAND DELIVERED

by Stephen Nocita

3-14-80

4:20

pin SBW

Re: Claim of Robert Barraza, et al.

Dear Mr. LaRoche:

This is to inform you of the actions taken on the above entitled claim by the City of Sacramento thus far. The claim purports to be based upon matters which accrued "October 26, 1979 and for a cumulative period from 1975 through October 26, 1979, . . .". The claim was submitted to the City Clerk on February 1, 1980.

A claim based upon personal injuries must be presented within 100 days of accrual of the cause of action (Govt. Code §911.2). It follows that the Barroza claim is timely as to causes of action which accrued on or after October 23, 1979; conversely, the claim is untimely, and may not be considered, insofar as it is based upon causes of action which accrued prior to October 23, 1979. The claim which was submitted appears to be based upon alleged causes of action which accrued prior to October 23, 1979 as well as alleged causes of action which accrued after that date. For this reason the claim is in part untimely and, in part, timely.

With respect to the so-called cumulative effects of exposures which took place prior to October 23, 1979, the claim is untimely; it cannot be received as to those alleged exposures. The City of Sacramento cannot and will not evaluate the merits of the claim insofar as it is based upon the alleged exposures prior to October 23, 1979.

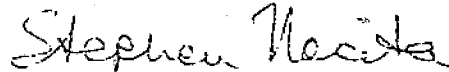
Since you have chosen to present several causes of action, some of which are timely and some of which are untimely, within the same claim, we will accept for consideration the claim, but only insofar as it is timely - that is, only insofar as it is based upon exposures which accrued on or after October 23, 1979. As you have previously

*Rec'd. from Karen Hill
3-14-80*

March 14, 1980

been informed, the claim is presently being evaluated, to the extent that it is timely, by the City's claims representative. After their evaluation has taken place and the City Council has acted upon the claim, you will be informed as to such action upon the timely portions of the claim. As stated above, as to the portion of the claim based upon alleged exposures which took place prior to October 23, 1979, the claim was not timely presented and will not be received, considered or acted upon as it stands now.

Very truly yours,



STEPHEN B. NOCITA
Deputy City Attorney

SBN :SN/mb

P.S. You may wish to pursue this matter by filing a late claim application. You should consult Govt. Code §911.4 et seq. to determine your options in this regard.



CITY OF SACRAMENTO

OFFICE OF THE CITY CLERK

915 I STREET

CITY HALL ROOM 203

SACRAMENTO, CALIFORNIA 95814

TELEPHONE (916) 449-5426

LORRAINE MAGANA
CITY CLERK

April 2, 1980

W. Michael LaRoche
Attorney at Law
901 H Street, Suite 603
Sacramento, CA 95814

Dear Mr. LaRoche:

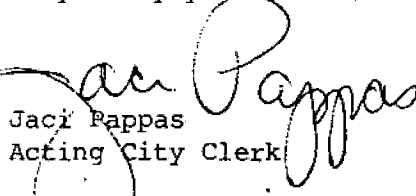
Notice is hereby given that the claim described below, which you submitted on February 1, 1980 was rejected by the City Council on April 1, 1980. The City of Sacramento's Claims Representative, Brown Brothers Adjusters, investigated the claim and with the advice of the City Attorney's Office determined that the claim should be denied because of the basis of continued investigation.

Further reference is made to the communication from the City Attorney dated March 14, 1980 with respect to the so-called cumulative effects of exposures which took place prior to October 23, 1979 that cannot be received because the claim is untimely.

The Claim submitted by you on behalf of Robert P. Barraza, et al, alleged injuries and damages, exposure to high concentrations of carbon monoxide and other noxious gases and fumes while working for City as parking lot attendant, vicinity parking lot bounded by 5th, 7th, Capitol and I Streets, which was in the amount of \$12,115,000.00, and allegedly occurring for a cumulative period from 1975 through October 26, 1979.

Please note the "Warning" set forth below. This "Warning" is required by State law to be included as part of this notice.

Very truly yours,


Jaci Pappas
Acting City Clerk

JR:HO'

cc: Finance Administration (2)

Item No. 19

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.

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