

CITY OF SACRAMENTO



DEPARTMENT OF LAW
812 TENTH STREET
SUITE 201
SACRAMENTO, CA 95814
TELEPHONE (916) 449-5346

APPROVED
BY THE CITY COUNCIL

SEP 21 1982

Approved

OFFICE OF THE
CITY CLERK

September 3, 1982

JAMES P. JACKSON
CITY ATTORNEY

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ASSISTANT CITY ATTORNEY

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SAMUEL L. JACKSON

WILLIAM P. CARNAZZO

STEPHEN B. NOCITA

DIANE B. BALTER

CHRISTINA PRIM
DEPUTY CITY ATTORNEYS

Honorable City Council
Council Chamber
City Hall
Sacramento, California 95814

CITY MANAGER'S OFFICE
RECEIVED

SEP 8 1982

RE: LATE CLAIM APPLICATION OF ROY WILLIS

Members in Session:

SUMMARY

Roy Willis has applied for leave to present a late claim. We are of the opinion that his application falls within those circumstances under which relief must be granted.

BACKGROUND

Roy Willis has applied for leave to present a late claim. His claim seeks damages for property damage resulting from a vehicle collision involving a city-operated van.

Government Code Section 911.2 provides that a claim for personal injury or property damage shall be presented within 100 days of accrual of the cause of action. Applicant's cause of action accrued on March 20, 1982, and the 100-day filing period expired on June 28, 1982. The original claim was received on July 6, 1982, and the late claim application was presented on August 26, 1982.

The application states that Mr. Willis mailed his claim to the City Clerk in June 22, 1982, and did not learn until August 23, 1982, that it was not received by the Clerk until July 6, 1982.

ANALYSIS

A person seeking to file a late claim must show that the failure to file a timely claim was due to mistake, inadvertence, surprise or excusable neglect (§911.6(b)(1)). In order to obtain relief on any of these grounds, it must appear that the applicant acted with reasonable diligence under the circumstances (Roberts vs. State (1974) 39 Cal.App.3d 844; El Dorado Irr. Dist. vs. Superior Court (1979) 98 Cal.App.3d 57).

SEP 21 1982

Accepting as true the facts stated in the application, in the instant case the applicant mailed his claim to the Clerk six days before the 100-day period expired. This allowed adequate time for mail to be received within the 100-day period, and this applicant had taken all the steps reasonably to be expected of him by the claims filing requirements.

Moreover, applicant, who first learned of the claim's tardy arrival on August 23, 1982, promptly prepared and submitted a late claim application on August 26, 1982. This constitutes reasonable diligence under the circumstances. We are therefore of the opinion that the instant application should be granted.

RECOMMENDATION

For the reasons stated above, we recommend that the application of Roy Willis' leave to present a late claim be granted, and the claim itself be referred to the City's claim adjuster for evaluation.

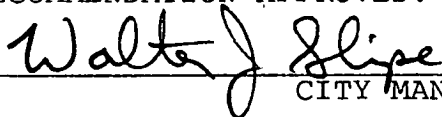
Very truly yours,

JAMES P. JACKSON
City Attorney



DIANE B. BALTER
Deputy City Attorney

RECOMMENDATION APPROVED:


CITY MANAGER

RECEIVED
CITY CLERK'S OFFICE
SACRAMENTO

CLAIM AGAINST THE CITY OF SACRAMENTO

AUG 28 11 50 AM '82

You are hereby notified that (1) ROY WILLIS, whose Post Office address is (2) 3775 7TH AVE

claims damages from the City of Sacramento in the amount, computed as of the date of the presentation of this claim, of (3) \$ 510.16. This claim is based upon (4)

() Personal injury; (X) Property damage or loss; () Other, specify _____

_____, which occurred on or about (5) 3 1 80 1 82, in the vicinity of (6) PARKING LOT ACROSS FROM GREYHOUND BUS

circumstances: (7) I WAS PARKED IN THE PARKING LOT ACROSS FROM GREYHOUND BUS LINES, WHEN I WAS HIT FROM THE BACK BY A LARGE BLACK VAN. I HAVE NO OTHER KNOWLEDGE WHY THE INCIDENT OCCURRED.

The name of the City employee or employees causing the claimant's injury or loss under the circumstances described is (8) DIANE THOMPSON

_____ or is unknown to the claimant.

The injuries to the claimant, (if any), as far as known at the date of presentation of the claim consists of (9) NONE

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

Damages incurred to date (Itemized):

(10) _____ \$ 510.16
_____ \$ _____

Estimate prospective damages as far as known:

(11) _____ \$ 510.16
_____ \$ _____

(12) TOTAL AMOUNT CLAIMED as of presentation date of claim \$ 510.16

All notices and communications with regard to this claim should be sent to claimant

at (13) ~~3775~~ 3775-7TH AVE SACRAMENTO, CA 95817
Phone 454-4351

DATED: (14) 6-22, 1982

(15) SIGNED: ROY WILLIS
Claimant, or
Attorney for Claimant

CITY OF SACRAMENTO
OFFICE OF MANAGEMENT
AUG 25 11 50 AM '82

Application for State (Urban)

To: The City of Sacramento - Office of the City Clerk
Attn: Records Programs

This letter is in regard to a claim sent June 29, 1982
but not received by your office until (over date)

July 6, 1982. Why on sending it because ~~was~~
Attorney W. D. Bue was hit by a Van owned by

the City of Sacramento on March 30, 1982. The claim
of the Van, Diana Thompson who is employed by

the Dept of Community Services, gave her work
number 449-5538, and also the number of an

insurance company by the name of Acotal and
Van Enterprises who issued the Van to the

City of Sacramento, thru a rent-a-car agency
(the name I don't know). I contacted Acotal &

here the following week and was able to get
3 estimates for damages. I got the estimate

April 9th and sent them the same day. I
waited 3 or 4 weeks for a check from Acotal &

Van Enterprises but was never contacted. I left it work
was long enough to wait so I called them

and was informed their insurance company would
not be responsible to pay for the damages to my

Van but that I needed to contact the City of
Sacramento. This was on May 18, 1982. I was

given a number to call which would connect
but after speaking with 3 different persons I

did finally get the right person. I was told
I would be sent a claim form. I waited

2 weeks and didn't receive form. I waited

2 weeks and didn't receive form. I waited

City of Sacramento
Case # 42672

called again and did get some forms in June of 82. I mailed them June 22, 1982 and waited to hear from your office, which I never heard from. I called August 23rd 1982, because I felt I should have heard from your office by then. I was told by phone that a denial form letter had been sent on July 16th and another at a later date to 2775 - 7th Avenue to Roy Willis. My address is 3775 - 7th Ave and my name is Roy Willis. So the letters were sent to the wrong address & to the wrong person. I never received a letter from your office. I would appreciate if you would please accept my claim as I feel I was not to blame for it not getting in your office within 100 days. I didn't know there was a time limit and I didn't know I was to deal with the City instead of Scotiabank & York Insurance Company. I did file but with the Insurance Company your city employee told me that would handle the matter.

Thank you

Roy Willis
916-454-4351



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

September 24, 1982

Roy Willis
3775 7th Avenue
Sacramento CA 95817

RE: APPLICATION TO FILE A LATE CLAIM ON BEHALF OF ROY
WILLIS, DATE OF ALLEGED INCIDENT: March 20, 1982

Dear Mr. Willis:

Notice is hereby given that the following application for leave to present a late claim was allowed on September 24, 1982. Upon allowance of the late filing the City Council thereupon referred said claim to the City's claims representative, Brown Brothers Adjusters, 1451 River Park Drive, Suite 251, Sacramento, California 95815 (phone 916-920-4392), for review and recommendation. You will be advised of the claim's disposition within 45 days.

Claim submitted by you on behalf of the above named claimant in the amount of \$510.16 for alleged damages occurring when automobile was hit by a large black van while parked in the parking lot, and allegedly occurring on or about March 20, 1982.

Sincerely,

Anne Mason
Assistant City Clerk

AM/mlt/16
cc: Risk Management (2)