



To: Mayor and City Council
From: Mercy G. Cabral, Deputy City Clerk
Subject: Rejection of Claim
Date: October 27, 2016

Recommendation

Reject claim against the City by Brandy LaBrie, Claim #16-09, and order that the claimant be notified.

Background

Claims should be rejected, claimant notified of the rejection, and referred to Municipal Pooling Authority and/or the City Attorney. Government Code Section 912.6(4) provides, "If legal liability of the public entity ... is disputed, the City Council may reject the claim..."

The statute of limitations for filing a court action on a claim commences upon notification of the rejection of claim.

Fiscal Impact

No impact to General Fund.

Attachment

- Claim #16-09

APPROVED BY:



Brad Kilger, City Manager



CLAIM PRESENTED TO THE CITY OF MARTINEZ

Reserve for filing stamp

RECEIVED

APR 11 2016

CITY OF MARTINEZ
CITY CLERK'S OFFICE

* Please read the instructions on the back before completing.

1. Claimant's Name: (PRINT) Brandy LaBrie

Address: 2505 Rachel Court

Day Phone: (925) 755-2939 Eve Phone: (510) 712-9724

2. When did the damage or injury occur?
 Month: February Day: 06 Year: 2016 Time: 10:00 a.m. Police Report # n/a

3. At which location did the damage or injury occur?
Beechwood Dr close to Ashwood Dr cross street

4. a. What happened and why is the City responsible?
 I was on a walk with my family and I rolled my ankle in a pothole in the street on Beechwood Dr. I missed 2 days of work so far and I am waiting to get to my doctor appointment today. I am in my probationary period at my new job so this does not look very good for me. If the roads in that neighborhood were kept up and the pothole was covered, I would not have injured myself as I did.

b. Name and position of responsible City Employee(s), if known:
n/a

5. What damage or injury occurred?
 I sprained my right ankle and scraped my left knee. My right ankle has been swollen for four days now. I am not able to walk or drive so I cannot get to work because of this injury.

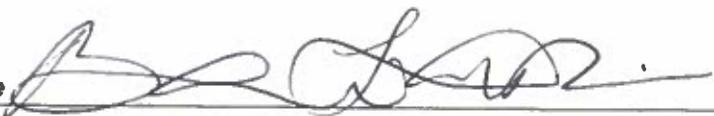
6. Claim amount (only if less than \$10,000):
\$716

If the amount exceeds \$10,000, please check (X) the court of appropriate jurisdiction:
 Municipal Court (claims up to \$25,000) Superior Court (claims over \$25,000)

7. How did you arrive at the amount claimed? Please attach documentation.

 Doctor Bills: \$238.00 Missed days of work: \$288.00 _____
 Imaging Bill: \$40.00 Pain and suffering: \$150 _____

8. I declare under penalty of perjury under the laws of the State of California that the following information is true and correct, and that this declaration was executed on February 9, 2016 at 2505 Rachel Court Antioch CA.

Signature of Claimant or Representative's Signature 

9. Official Notices and Correspondence

If represented by an insurance company or an attorney, please provide the information requested below.

Name and Capacity: (PLEASE PRINT)

Address:

City, State, Zip:

Daytime Telephone: () _____ Evening Telephone: ()

PRESENTING A CLAIM TO THE CITY OF MARTINEZ

- ⊙ PLEASE TYPE OR PRINT CLEARLY ALL OF THE INFORMATION REQUESTED ON THE CLAIM FORM.
- ⊙ YOU MUST COMPLETE EACH SECTION OR YOUR CLAIM MAY BE RETURNED TO YOU AS INSUFFICIENT.
- ⊙ THE FOLLOWING PROVIDES SPECIFIC INSTRUCTIONS FOR COMPLETING EACH SECTION OF THE CLAIM FORM:

1. **NAME AND MAILING ADDRESS OF CLAIMANT** – State the full name and mailing address of the person/persons claiming damage or injury. Please include a daytime and evening telephone number.
2. **WHEN DID THE DAMAGE OR INJURY OCCUR?** – State the exact month, date, year, and approximate time (if known) of the incident that caused the alleged damage/injury.

Under State law, claims relating to causes of action for personal injury, wrongful death, property damage, and crop damage must be presented to the City of Martinez no later than six months after the incident date. Please note that evidence of “**presentation**” includes a clear postmark date on an envelope or a certification of personal service, or service by mail.

When filing a claim beyond the six month period, you must explain the reason the claim was not filed within the six-month period. This explanation is called “**application for leave to present a late claim.**” In considering your claim, the City will first decide whether the late claim application should be granted or denied. (See Government Code Section 911.4 for the legally acceptable reasons a claim may be filed late.) Only if your late claim application is granted will the City then consider the merits of your claim.

Claims relating to any cause of action other than personal injury, wrongful death, property damage, and crop damage must be presented no later than one year after the incident. (See Government Code 911.2).

3. **AT WHICH LOCATION DID THE DAMAGE OR INJURY OCCUR?** – Please include street, address, city, county, intersection, etc. If possible, also include the Police Report number.
4. **WHAT HAPPENED AND WHY IS THE CITY RESPONSIBLE?** – Please explain the circumstances that led to the alleged damage or injury. State all facts that support your claim with the City and why you believe the City is responsible for the alleged damage or injury. If known, identify the name of the City Department(s) and/or City employee(s) that allegedly caused the damage or injury.
5. **WHAT DAMAGE OR INJURY OCCURRED?** – Provide in full detail a description of the damage/injury that allegedly resulted from the incident.
(What specific damage or injury do you claim resulted from the alleged actions?)
6. **CLAIM AMMOUNT** – State the specific total dollar amount you are claiming as a result of the alleged damage/injury. If damage/injury is continuing or is anticipated in the future, indicate with a “+” following the dollar figure if \$10,000 or under. If the total dollar amount is unspecified or exceeds \$10,000, designate the appropriate court jurisdiction for the claim.
7. **HOW DID YOU ARRIVE AT THE AMOUNT CLAIMED?** - Provide a breakdown of how the total amount that you are claiming was computed. You may declare expenses incurred and/or future, anticipated expenses. If you have supporting documentation (i.e. bills, payment receipts, cost estimates), please attach copies of them to your claim.