



**CITY OF MARTINEZ**

**CITY COUNCIL AGENDA  
June 18, 2008**

**TO:** Mayor and City Council  
**FROM:** Mercy G. Cabral, Deputy City Clerk  
**SUBJECT:** Rejection of Claim  
**DATE:** June 11, 2008

**RECOMMENDATION:**

Reject claim against the City by Danny Rene Godfrey, Claim #08-14, and order that the claimant be notified.

**BACKGROUND:**

Claims should be rejected, the claimant notified of the rejection, and referred to Municipal Polling 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 rejection of claim.

**FISCAL IMPACT:**

No impact to General Fund.

**ACTION:**

Motion rejecting claim against the City and order that the claimant be notified of rejection.

Attachment: Claim

**APPROVED BY:**

Acting City Manager



**CLAIM PRESENTED TO THE CITY OF MARTINEZ**  
\* Please read the instructions on the back before completing.

**RECEIVED**  
APR 10 2008

CITY OF MARTINEZ  
CITY CLERKS OFFICE

1. Claimant's Name: (PRINT) MR. DANNY RENE GODFREY

Address: c/o LAW OFFICES OF JOHN L. BURRIS

Day Phone: (510) 839-5200 Eve Phone: ( )

2. When did the damage or injury occur?  
Month: 10 Day: 10 Year: 2007 Time: a.m./p.m. Police Report # \_\_\_\_\_

3. At which location did the damage or injury occur?  
IN THE VICINITY OF THE INTERSECTION OF 5th & MARKET ST., IN RICHMOND

4. a. What happened and why is the City responsible?  
SEE ATTACHMENT "A"

b. Name and position of responsible City Employee(s), if known:  
SEE ATTACHMENT "A"

5. What damage or injury occurred?  
SEE ATTACHMENT "A"

6. Claim amount (only if less than \$10,000): OVER \$25,000

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.  
DISCOVERY IS STILL CONTINUING

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 April 8, 2007, at OAKLAND 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: LAW OFFICES OF JOHN L. BURRIS, 7677 Oakport St., Suite 1120  
City, State, Zip: Oakland, CA 94621  
Daytime Telephone: ( 510 ) 839-5200 Evening Telephone: ( ) \_\_\_\_\_

LAW OFFICES OF JOHN L. BURRIS  
Airport Corporate Centre  
7677 Oakport Street, suite 1120  
Oakland, CA 94621  
510-839-5200 office  
510-839-3882 fax

Attachment "A"

Name of Claimant: Mr. Danny Rene Godfrey

Claimant's address: C/O LAW OFFICE OF JOHN L. BURRIS, ESQ. (510)839-5200

Address to which all notices are to be sent: LAW OFFICES OF JOHN L. BURRIS,  
Airport Corporate Centre, 7677 Oakport Street, Suite 1120, Oakland, CA 94621

PLEASE NOTE: COUNSEL REPRESENTS CLAIMANT AND ALL CONTACT SHOULD  
BE MADE WITH HIS ATTORNEY.

DATE OF INCIDENT: October 10, 2007

Location of Incident: In the vicinity of the Intersection of 5th and Market Street, in the  
City of Richmond

"A GENERAL DESCRIPTION OF THE INDEBTEDNESS, OBLIGATION, INJURY,  
DAMAGE OR LOSS INCURRED SO FAR AS IT MAY BE KNOWN AT THE TIME OF  
PRESENTATION OF THE CLAIM" AND "THE NAME OR NAMES OF THE PUBLIC  
EMPLOYEE OR EMPLOYEES CAUSING INJURY, DAMAGE, OR LOSS OF KNOWN".  
{Per Government Code Section 910}

**DESCRIPTION OF INCIDENT:**

This incident took place on October 10, 2007. Mr. Danny Godfrey was riding a motor-  
cross dirt bike while driving on 5th Street a marked MARTINEZ POLICE and/or the  
CONTRA COSTA SHERIFF'S vehicle hit Mr. Godfrey on the left side of the bike.

Mr. Godfrey was knocked off the motorcycle rendering him unconscious, resulting in  
multiple fractures to his left ankle. Several minutes later, an ambulance arrived and  
transported Mr. Godfrey to Contra Costa County Regional Medical Center in Martinez.

Mr. Godfrey was hospitalized for several days, because his ankle required major  
surgery. After being released from the hospital, Mr. Godfrey was never charged. As a  
result of the injuries sustained from being hit by the CITY OF MARTINEZ POLICE  
and/or the CONTRA COSTA SHERIFF'S, Mr. Godfrey has had three surgeries on his  
ankle and his ankle may never fully recover.

Claim for Danny Godfrey

**DESCRIPTION OF CLAIM:**

Claimant alleges that the acts of the MARTINEZ POLICE DEPARTMENT and/or the CONTRA COSTA SHERIFF'S DEPARTMENT and their individual employees, agents and/or servants constitute civil rights violations, by the assault and battery of Claimant with a vehicle, causing serious injury to Claimant.

Claimant alleges that individual employees, agents and/or servants of the CITY OF MARTINEZ and/or the CONTRA COSTA SHERIFF'S DEPARTMENT are responsible for Claimant's civil rights violations and acts and/or omissions committed within the course or scope of employment under the theory of Respondeat Superior liability. Respondeat Superior liability includes but is not limited to, negligent supervision, control and/or discipline. Individuals employees, agents, and/or servants of the MARTINEZ POLICE DEPARTMENT and/or the CONTRA COSTA SHERIFF'S DEPARTMENT, including but not limited to, the pain and agony that Mr. Godfrey had to endure by being placed in the hospital for several days, and missing work due to the seriousness of his injury.

Claimant is informed and believes and thereon alleges that the conduct of individual employees, agents and/or servants of the MARTINEZ POLICE and/or the CONTRA COSTA SHERIFF'S DEPARTMENT officers as alleged herein was intentional, malicious, oppressive and/or done with a conscious and reckless disregard for the safety of the Claimant.

**CLAIM FOR DAMAGES:**

Claimant have a claim for damages arising from the acts and/or omissions of the CITY OF MARTINEZ and/or the CONTRA COSTA SHERIFF'S DEPARTMENT employees, agents, and/or servants, including but not limited to the Officer operating the police vehicle, and/or DOES 1-25, individually and/or while acting in concert with one another, as alleged herein based on theories of liability which is include. But, is not limited to the use of excessive force, assault and battery and the infliction of emotional distress, negligence per se, also the violation of his civil rights, including but not limited to, the violation of the United States Constitution and/or statutory rights under California law.

Claimant has, or may have in the future, a claim for general damages, including, but not limited to, a claim for excessive force, which may include a claim for assault and battery by the Martinez Police Department, along with the infliction of emotional distress, in amounts to be determined according to proof.

Claimant has and/or may continue to have in the future, a claim for special damages, including, but not limited to, a claim for lost wages, property damages, as well as permanent scarring resulting from future surgeries to his ankle, in amounts to be determined according to proof.

Claimant has damages in excess of \$25,000.

Claim for Danny Godfrey

**NAME OF PUBLIC EMPLOYEE(S) BELIEVED TO HAVE CAUSED INJURY OR DAMAGE:**

City of Martinez; Contra Costa Sheriff's Department, and Does 1-25 (names of the police officers and/or Deputy Sheriff's unknown), discovery is still continuing.

**DEMAND FOR PRESERVATION OF EVIDENCE:**

Claimant does hereby demand that the MARTINEZ POLICE DEPARTMENT, including, but not limited to, the CITY OF MARTINEZ and/or the CONTRA COSTA SHERIFF'S DEPARTMENT, its employees, servants and/or attorneys, maintain and preserve all evidence, documents and tangible material which relates in any manner whatsoever to the subject matter of this Claim, during the pendency of this case, and until the completion of any and all civil and/or criminal litigation.

This demand for preservation of evidence included, but is not limited to, a demand that all police departments and/or public safety entities preserve all tapes, logs and/or other tangible materials of any kind be preserved until the completion of all and all civil and criminal litigation, which maybe the subject matter of this Claim.

DATED: April 8, 2008

  
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JOHN L. BURRIS  
Attorney for Claimant