

# REPORT

To the Honorable Mayor and City Council  
From the City Manager

April 13, 2009

## SUBJECT

Claim from Attorney Gerald H. Scher, Esq. on Behalf of Francisco Huerta

## RECOMMENDATION

Staff recommends rejection of subject claim.

## BACKGROUND

This claim is being brought to the Council because if this claim results in a monetary settlement, the settlement could exceed \$15,000. According to resolution no. 14595, if an amount to be paid for a general liability claim exceeds \$15,000, any denial, allowance, allowance in part, settlement, or compromise must be approved by Council.

On March 19, 2009 Mr. Huerta filed a claim against the City of Redwood City alleging police officer negligently operated his vehicle in such a way that resulted in Mr. Huerta being run over in the parking lot of Denny's. The claimant is asserting damages in excess of \$4,000,000, and alleges injuries including massive facial trauma with multiple abrasions and basal skull fracture and chest trauma.

It has been recommended by the City's claims adjustor, George Hills Company, and the City Attorney that this claim be denied.

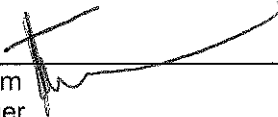
## ALTERNATIVES

If this claim is not rejected, the statute of limitations for the claimant to file a court action on the claim is extended from six months to two years, thereby placing the City in a more fiscally vulnerable position in defending this matter.

## FISCAL IMPACT

The rejection of this claim has no direct fiscal impact. However, should the claimant elect to affect litigation to this incident, we have no basis with which to estimate the legal expenses or a settlement, should such estimates ultimately be required.

  
\_\_\_\_\_  
Brian Ponty  
Director of Finance

  
\_\_\_\_\_  
Peter Ingram  
City Manager

## ATTACHMENTS

1. Acknowledgement/Recommendation of Initial Action/Advice of Closure – dated April 2, 2009

## RELATED DOCUMENTS IN CITY CLERK'S OFFICE

None

ATTACHMENT 1

**BY E-MAIL**

Our File No. 1-22282-21

Date: April 2, 2009

City Attorney's Office  
**City of Redwood City**  
c/o Brian Ponty, Finance Director  
1017 Middlefield Road  
Redwood City, CA 94063

ACKNOWLEDGMENT/RECOMMENDATION FOR INITIAL ACTION/ADVICE OF CLOSURE

Claim No.: 2611 Claimant: Francisco Huerta DOL: 2/6/09

Based upon investigation conducted to date, we recommend the following action:

- Reject the claim making use of letter format G.
- Send Notice of Insufficiency \_\_\_\_\_ using letter format \_\_\_\_\_ and citing reason(s)
- Send Notice of Lateness using letter format \_\_\_\_\_.
- We recommend that no rejection be sent at this time.

Please forward to the undersigned a copy of any notice sent to the claimant or claimant's attorney.

- The statute of limitations has passed on this case. Because of the nature of the exposure we have **not** incurred the cost of checking the court records. We are closing our file and will reopen upon notice from you that suit is on file or that service has been affected.
- Facts: See attached.
- Remarks: See attached.
- Reserves: \$150,000.00 case reserve  
\$ 10,000.00 expense reserve

ATTACHMENT 1

City of Redwood City  
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## FACTS

Oscar Huerta, through his attorney, Gerald Scher of Scher and Bassett in Sunnyvale, California, has placed a claim against the City for injuries to Mr. Huerta which occurred when he was run over by a City police vehicle being operated by Police Officer Oscar Poveda.

The loss occurred when Officer Poveda drove his police car into the parking lot of the Denny's restaurant, failing to see Mr. Huerta who was lying in the middle of the parking lot. As a result, he drove over Mr. Huerta causing injury.

The attorney lists Mr. Huerta's injury as "massive facial trauma with multiple abrasions and basal skull fracture and chest trauma."

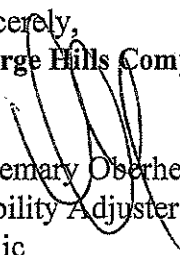
Joe Howard of Howard, Rome, Martin & Ridley is aware of this loss and will be handling the matter when it enters litigation.

It is our recommendation that the City forward a rejection letter. Please forward a copy for our file.

Please note by copy of this report, we are placing Mike Groff and Mark Stone on notice. We have also attached the enclosures which include the claim form and police report.

We will be contacting Joe Howard for further discussion. We will keep you advised on all developments with our next reporting date set for 6/10/09.

Sincerely,  
**George Hills Company, Inc.**

  
Rosemary Oberhelman  
Liability Adjuster  
RO:jc

cc: Michael Groff (w/ entire file contents)  
Mark Stone, GHC Sacramento (w/ entire file contents)