

CITY COUNCIL MEETING

MAY 4, 1983

CLAIMS

On recommendation of the City Attorney and R. L. Kautz and Company, Council, on motion of Mayor Pro Tempore Snider, Murphy second, denied the following claims and referred them back to R. L. Kautz and Company:

- 1, 4
- a) Hayes Chiropractic Offices DOL 11/11/82
 - b) Mariano Chavez DOL 12/25/82

On recommendation of the City Attorney and R. L. Kautz and Company, Council, on motion of Mayor Pro Tempore Snider, Murphy second, denied the following claim as insufficient and referred it back to R. L. Kautz and Company:

- a) Ron Markle DOL 4/1/83

R. L. KAUTZ & CO.

INSURANCE MANAGEMENT
NO. 8 UNION SQUARE BLVD. • (415) 487-4940
UNION CITY, CALIFORNIA 94587

April 15, 1983

Ron Stein, City Attorney
CITY OF LODI
P.O. Box 320
Lodi, CA 95240

RE: Mariano Chavez v. City of Lodi
Date of Accident: 12/25/82

Dear Mr. Stein:

The following is our investigation and recommendations for disposition:

FACTS

On 12/25/82, Officer Lewis was called to the Guadalajara Tavern relative to a knifing. The suspect was apprehended with the assistance of Officers Pattison and Monroe. Apparently, a crowd estimated at 30 people gathered in front of the tavern. Claimant Chavez was one of those in the crowd who was apparently being quite loud and boisterous and swearing at the police officers in profound Spanish. Officer Punta was stationed outside the tavern when claimant approached him and put his arm around him. Officer Punta shrugged away from the claimant who giggled, then walked back toward him and put his arms around him once again. As claimant was obviously intoxicated with red and blurry eyes, Officer Punta elected to arrest him. His hands were placed in handcuffs and he was led to the police unit. When he arrived at the unit he began to resist and was pushed into the car, and his legs were moved into the car with the assistance of Officer Pattison's night stick. Claimant began to yell and kick the door of the police unit while waiting to be transported.

Evidently, the ride to the office as well as the initial booking process was uneventful, as Officer Punta removed the handcuffs from claimant shortly after arrival.

APR 18 1983

R. L. KAUTZ & CO.

INSURANCE MANAGEMENT

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Rcn Stein, City Attorney
RE: Mariano Chavez v. City of Lodi

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Claimant was placed in a cell and Officer Punta attempted to do a pat down search. Claimant refused orders to keep his hands on the bars and kept turning towards the officers. Officer Pattison assisted Punta by holding his hands onto the bar. Officer Monroe lightly tapped his hands while they were on the bars telling him to keep them there while he was being searched. As Officer Punta was exiting the cell, claimant tried to follow him out of the cell. Punta placed his hand on his chest and told him to stay inside. Claimant grabbed Officer Punta by the police badge and ripped his shirt. Punta states he slapped claimant lightly one time, using both hands, one on one side of claimant's face and the other on the opposite side by his ear. He did not attack the claimant, simply attempted to exit the jail cell. Due to claimant's inebriated state, he began to fall and evidently pulled Officer Punta off his feet also.

INJURIES

Claimant states injuries as being internal bruises and abrasions to the head, legs, and hands with unknown damage to the right eye.

WITNESSES

Officer Pattison arrived as Officers Lewis and Monroe were removing the knifing suspect from the tavern. He observed the crowd consisting of people from other bars and stood by Officer Lewis' police vehicle to make sure the knifing suspect was not released. He noted claimant in the front of the line yelling and screaming and recalls Punta arresting him for public intoxication. He was unable to determine what was being said only that the claimant was yelling something in profanity in Spanish. Claimant resisted entering the police unit and Pattison took one arm and Punta the other then Punta put his hand on claimant's stomach and pushed and Pattison pushed his head downward. The claimant sat in the back seat with his feet out of the car. He was told four or five times to put his feet in the car but would not. Eventually his knees were tapped with the night stick

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and his legs were put into the car and the door closed. As Pattison came out of the records booking area, he noted Punta trying to take claimant's property. They were in the booking cell and claimant's hands were placed on the bars, although he kept turning around to Punta. Pattison went over and told claimant to stick his hands through the bars and when he did so held them. Officer Monroe was in the booking area and tapped the back of claimant's hands very lightly with the night stick admonishing him not to remove his hands. There was no further resistance. He then recalls claimant turning and going forward with his hand out as if to hit Officer Punta. He confirms claimant grabbed Punta's badge which put him off balance ripping his shirt while holding on to the badge, losing his balance, falling to the floor with Officer Punta on top of him. He helped Officer Punta to his feet then Punta reached down to help claimant. He could see no signs of injuries. Claimant apologized numerous times.

Officer Monroe attempted to keep people gathering in the area calm but arrested one intoxicated individual. He does not specifically recall the arrest incident but saw Officer Punta walking with the claimant who was handcuffed to the patrol car and recalls claimant being belligerent when taken to the car. Punta's night stick was not drawn and recalls another Officer tapping claimant on the legs with the night stick in order to get them inside. He further noted claimant would not keep his hands on the cell bars when Punta was searching him and was taking his hands down and turning around. Officer Pattison was also in the area and held the fingers of claimant. Monroe tapped claimant with his night stick as an attention getter and made a comment similar to "knock it off". He further observed Punta and claimant on the floor and noted claimant kneeling on the floor with Punta's badge lying in the hallway. Punta picked up the badge and went back to the booking cell. He also noted no injuries.

R. L. KAUTZ & CO.

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Officer Lewis did not know how many persons were arrested that particular evening in that he was concerned with the knifing suspect. He did not see any physical violence or night sticks drawn. He does, however, recall hearing a scuffle in the booking area and when he arrived noted Officer Punta helping suspect to his feet. He also noted no injuries.

We were also informed that on 1/30/83, claimant was arrested for assault and battery on his wife, Mrs. Chavez, Lodi police report no. 83-00976. At the time of responding to this battery, Mrs. Chavez mentioned her husband was suing the City and that it was a phony although she did not state whether the alleged injuries were phony or the accusations were fabricated. Please advise the disposition of the battery and disturbing the peace charges that were to be filed against claimant by his wife.

It is our understanding it is common practice to check immigration papers on all foreigners be they Spanish-American or otherwise to ascertain if they are in the country legally. It is also our understanding a suspect is booked for public intoxication, placed in a cell until sober, no blood alcohol tests are taken and no formal charges are made against the suspect.

We were unable to locate further witnesses although the owner of the Guadalajara Tavern, Mr. Tapia, will make inquiries for additional names.

RECOMMENDATIONS

If does not appear excessive force was used in this particular situation and, in fact, Officer Punta is adamant that he acted in a proper manner and claimant could not have been injured in any way. I have copies of the booking photos of claimant which seem to show an obviously intoxicated gentleman.

R. L. KAUTZ & CO.

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Ron Stein, City Attorney
RE: Mariano Chavez v. City of Lodi

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Therefore, we would recommend the City deny this claim.

If you concur with our recommendations, please forward a copy of your denial letter for the completion of our files.

Very truly yours,



Connie Dedmon
Claims Administrator

CD/df

10

Alice Kumpf, City Clerk
P.O. Box 320
Lodi, CA

REMOVED

R. L. KAUTZ & CO.

1 53 15 AM 8 05

ALICE KUMPF
CITY CLERK

SUBJECT

Ron Markle

DATE

4/21/83

MESSAGE

I would suggest this claim be rejected as insufficient. We must have an exact date of loss + the claim form must be signed + dated. Rejection notice must be dated prior to 5-5-83. Please forward a copy if you agree.

SIGNED

Connie Schmidt

REPLY

SIGNED

DATE

/ /

L-29

SEND PARTS 1 AND 3 WITH CARBON INTACT - PART 3 WILL BE RETURNED WITH REPLY



LIABILITY
CITY CLAIM REPORTING FORM FOR ALL
PERSONS OR PROPERTY

RECEIVED

APR 15 AM 9 23

ALICE H. REIMCHE
CITY CLERK
CITY OF LODI

CITY OF LODI, CALIFORNIA
ATTN: Alice M. Reimche, City Clerk
221 W. Pine Street, Lodi, California 95240

CLAIMS FOR DEATH INJURY TO PERSON, OR TO PERSONAL PROPERTY, MUST BE FILED NOT LATER THAN 100 DAYS AFTER THE OCCURRENCE (GOV. CODE, SEC. 911.2).

CLAIMS FOR DAMAGES TO REAL PROPERTY MUST BE FILED NOT LATER THAN ONE YEAR AFTER THE OCCURRENCE (GOV. CODE, SEC. 911.2).

READ ENTIRE CLAIM FORM BEFORE FILING.

ATTACH SEPARATE SHEETS, IF NECESSARY, TO GIVE FULL DETAILS.

NAME OF CLAIMANT: Russ Malone AGE: 41

HOME ADDRESS OF CLAIMANT (STREET, CITY AND STATE) 47 N LUMA DR,

LODI CA 95240 TELEPHONE NO. 334-5644

GIVE ADDRESS TO WHICH YOU DESIRE NOTICES OR COMMUNICATIONS TO BE SENT REGARDING THIS CLAIM: 47 N LUMA DR LODI CA 95240

DATE OF ACCIDENT: _____ TIME: A.M. _____ P.M. _____

PLACE OF ACCIDENT (BE SPECIFIC) 47 N LUMA DR LODI

HOW DID DAMAGE OR INJURY OCCUR? (GIVE FULL PARTICULARS) SLIPPED

ICE ON WALKWAY

WERE POLICE AT SCENE? YES _____ NO X

WHAT PARTICULAR ACT OR OMISSION DO YOU CLAIM CAUSED THE INJURY OR DAMAGES? GIVE NAME OF CITY EMPLOYEE CAUSING THE INJURY OR DAMAGE, IF KNOWN _____

PAVING TO REPAIR WALKWAY

GIVE TOTAL AMOUNT OF CLAIM (INCLUDE ESTIMATE AMOUNT OF ANY PROSPECTIVE INJURY OR DAMAGE). 17,000.00

HOW WAS AMOUNT OF CLAIM COMPUTED? (BE SPECIFIC. LIST DOCTOR BILLS, WAGE RATE, REPAIR ESTIMATES, ETC.). PLEASE ATTACH TWO ESTIMATES. _____

17,000.00

THIS CLAIM MUST BE SIGNED ON REVERSE SIDE

FILE IN TRIPLICATE

EXPENDITURES MADE ON ACCOUNT OF ACCIDENT OR INJURY (DATE AND ITEM):

None

NAME AND ADDRESS OF WITNESSES, DOCTOR AND HOSPITALS

None

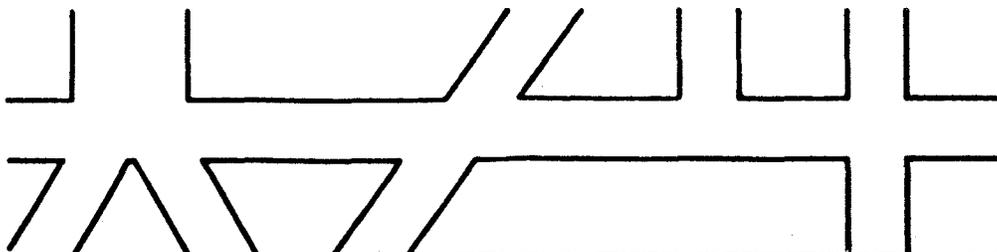
PLEASE READ THE FOLLOWING CAREFULLY.

For all accident claims, place on following diagram names of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners.

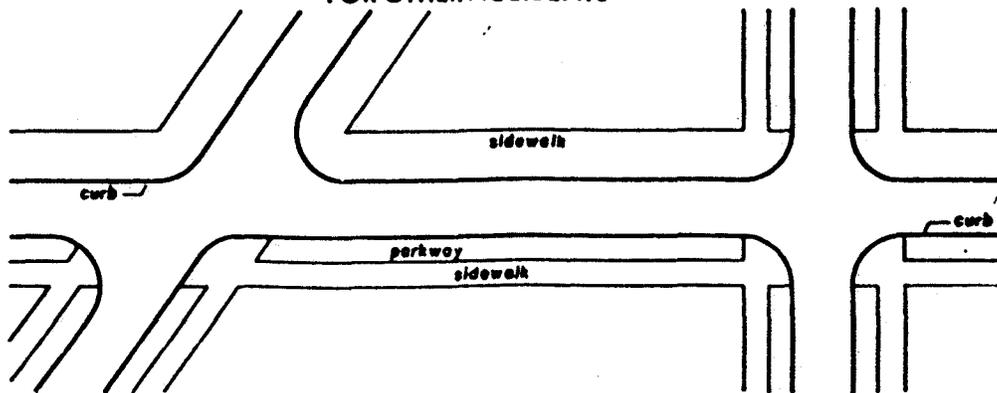
If City Vehicle was involved, designate by letter "A" location of City Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City Vehicle; location of City Vehicle at time of the accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X".

NOTE: IF DIAGRAMS BELOW DO NOT FIT THE SITUATION, ATTACH HERETO A PROPER DIAGRAM SIGNED BY CLAIMANT.

FOR AUTOMOBILE ACCIDENTS



FOR OTHER ACCIDENTS



I HAVE READ THE FOREGOING CLAIM AND KNOW THE CONTENTS THEREOF; AND CERTIFY THAT THE SAME IS TRUE OF MY OWN KNOWLEDGE EXCEPT AS TO THOSE MATTERS WHICH ARE HEREIN STATED UPON MY INFORMATION AND BELIEF; AND AS TO THOSE MATTERS I BELIEVE IT TO BE TRUE. I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: 4/1/07 (SIGNED): Pat M... ..

NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (CAL. PEN. CODE 72).

7746

To: ALICE K. MACHE
CITY CLERK
221 W. PINE ST.
LODI, CA 95240

RECEIVED

4/1/83

103 APR 15 AM 8 43

ALICE H. MACHE
CITY CLERK
CITY OF LODI

Subject: CLAIM

I REALIZE THE DETAILS REGARDING THIS CLAIM ARE NOT DETAILED AS TO DATE AND TIME BUT IF THE CITY KEEPS RECORDS OF SERVICE CALLS BY THEIR CITY CREWS I BELIEVE THE DATES AND DETAILS CAN BE DETERMINED.

1. MY HOUSE LOCATED AT 47 N. LOMA HAS A CLEANOUT MANHOLE ON THE SEWER LINE IN THE BACK OF MY LOT.
2. OVER THE LAST 10 YRS I HAVE HAD ABOUT 3 OCCASIONS WHEN THE LINE ON MY PROPERTY BECAME CLOGGED AND I USED THE CLEANOUT TO UNCLOG THE LINE.
3. IN MID 1982 OR SO THE SEWER BACKED UP AND BEGAN OVERFLOWING ON THE FLOOR IN THE BATHROOMS. WE WERE NOT RUNNING ANYTHING BUT THE WATER KEPT RISING SLOWLY. I RAN OUT INTO THE BACK YARD AND CHECKED THE SEWER CLEANOUT EXPECTING TO FIND IT ALMOST DRY INDICATING THE LINE ON MY PROPERTY WAS CLOGGED.
4. INSTEAD THE CLEANOUT MANHOLE WAS FULL. THIS MEANT THE LINE WAS STOPPED UP OFF MY PROPERTY IN THE CITY LINE. THE LINE RAN OFF MY PROPERTY INTO A FIELD WHERE SOME NEW HOUSING DEVELOPMENT WAS GOING ON.
5. THE CITY SENT A TRUCK OUT, I SHOWED THE MAN THE MANHOLE FULL OF WATER AND HE TOOK THE TRUCK INTO THE FIELD AND DOWN THE LINE AND VACUUMED THE LINE.

6. THE WATER IN THE MANHOLE DROPPED AND WE CLEANED UP OUR MESS ON THE BATHROOM FLOORS WITHOUT ANY KNOWN DAMAGE. I THINK THIS ALL HAPPENED ON A WEEKEND OR HOLIDAY BECAUSE I WAS HOME FROM WORK.
7. A MONTH OR SO LATER WHILE I WAS AT WORK, THE WIFE CALLED THAT THE SEWER WAS BACKING UP AGAIN. I MADE SURE THAT NO WATER WAS RUNNING ANYWHERE INTO THE SEWER AND CONFIRMED THAT THE SEWER BACKUP WAS STILL RISING WITH NOTHING GOING INTO IT FROM THE HOUSE.
8. THE WIFE COULD NOT LIFT THE MANHOLE COVER ON THE CLEANOUT TO CHECK IT BUT SINCE THE WATER LEVEL KEPT RISING WITH NOTHING FROM OUR HOUSE RUNNING INTO IT I HAD THE WIFE CALL THE CITY.
9. THE CITY CREW CAME OUT AND CLEANED THE LINE FROM A MANHOLE OFF MY PROPERTY.
10. A FEW WEEKS LATER WHEN I HAD A DAY OFF I STOPPED BY CITY HALL WANTING TO DISCUSS THE PROBLEM I HAD WITH SOMEONE.
11. TWO GENTLEMEN, ONE WHO WAS A FOREMAN OR SUPERVISOR STOPPED BY MY HOUSE AND WE DISCUSSED THE PROBLEM. THEY RECALLED THE LATEST PROBLEM BUT STATED THEY FELT THE LINE STOPPAGE WAS ON MY PROPERTY BECAUSE THEY HAD TO RUN THE LINE A LONG WAY AND FELT IT HAD TO HAVE REACHED MY PROPERTY.
12. I ASKED WHY THE SEWAGE KEPT RISING IN THE HOUSE WHEN NOTHING WAS RUNNING. THE MEN INDICATED THAT MY HOUSE SHOULD BE THE ONLY ONE GOING INTO THE CITY LINE SO THAT SHOULD NOT BE POSSIBLE. THEY ALSO MENTIONED THE MANHOLE CLEANOUT WAS NOT SUPPOSED TO BE ON MY LINE.

13. THE MEN STATED THEY WOULD COME BACK LATER AND RUN A DYE TEST ON THE NEIGHBORS TO MAKE SURE WE WERE NOT CONNECTED IN SERIES. THEY WERE GOING TO LET ME KNOW WHAT THEY FOUND.

14. A MONTH OR SO LATER THE BATHROOM FLOOR BEGAN TO RISE FROM THE WATER DAMAGE.

15. I FILED A CLAIM WITH MY HOMEOWNERS INSURANCE EARLY IN 83.

16. THE INSURANCE AGENT CALLED, I EXPLAINED THE DAMAGE AND CIRCUMSTANCES AND WAS ADVISED THAT THIS TYPE OF DAMAGE WAS EXCLUDED FROM COVERAGE BECAUSE THE CAUSE WAS NOT ON MY PROPERTY.

17. THEREFORE THE REASON AND BASIS FOR THIS CLAIM. IF THE CITY RECORDS VERIFY MY STORY THEN PERHAPS THE CITY'S INSURANCE CAN FUND THE REPAIR. IF THE CITY'S RECORDS CAN DISPROVE MY STORY THEN PERHAPS I CAN GO BACK TO MY HOMEOWNERS INSURANCE.

Thank You

RON MARKLE
47 N. LOMA DR.
LODI, CA 95240

(209) 334-5644

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R. (Randy) SNIDER
Mayor Pro Tempore
ROBERT C. MURPHY
JAMES W. PINKERTON, Jr.
FRED M. REID

CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

HENRY A. GLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

May 6, 1983

Robert Lloyd
Attorney at Law
343 East Main Street
Suite 828
Stockton, CA 95202

Re: Claim of Mariano Chavez DOL 12/26/82

Dear Mr. Lloyd:

Notice is hereby given that the claim you presented to the City of Lodi on March 2, 1983 was rejected by action of the Lodi City Council at its regular meeting of May 4, 1983.

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.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR:jj

cc: R. L. Kautz
Contract Administrator

CITY COUNCIL

EVELYN M. OLSON, Mayor
JOHN R. (Randy) SNIDER
Mayor Pro Tempore
ROBERT G. MURPHY
JAMES W. PINKERTON, Jr.
FRID M. REID

al *20*
CITY OF LODI

CITY HALL, 221 WEST PINE STREET
POST OFFICE BOX 320
LODI, CALIFORNIA 95241
(209) 334-5634

HENRY A. CLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

May 6, 1983

Hayes Chiropractic Office
820 South Fairmont Street
Lodi, CA 95240

Gentlemen:

Notice is hereby given that the claim you presented to the City of Lodi on April 20, 1983 was rejected by action of the Lodi City Council at its regular meeting of May 4, 1983.

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 an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR:jj

cc: R. L. Kautz
Contract Administrator

CITY COUNCIL

EVELYN M. OLSON, Mayor
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FRED M. REID

CITY OF LODI

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(209) 334-5634

HENRY A. CLAVES, Jr.
City Manager

ALICE M. REIMCHE
City Clerk

RONALD M. STEIN
City Attorney

May 4, 1983

Mr. Ron Markle
47 North Loma Drive
Lodi, CA 95240

Dear Mr. Markle:

Notice is hereby given that the claim which you presented to the City of Lodi on April 15, 1983 fails to substantially comply with the requirements of Government Code Section 910 in that it fails to state the date of the occurrence. The City of Lodi will not take action on this claim for a period of fifteen days after this notice is personally delivered or deposited in the mail.

WARNING

You may amend your claim and present it to the City of Lodi at any time before the expiration of 100 days or one year from the date of accrual of your cause of action or before final action on your claim is taken by City of Lodi whichever is later. See Government Code Sections 910.8, 910.6. 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.

Very truly yours,

Alice M. Reimche
Alice M. Reimche
City Clerk

AMR:jj

cc: R. L. Kautz
Contract Administrator