SANTA CRUZ COUNTY
BOARD OF SUPERVISORS INDEX SHEET

Creation Date: 4/18/03

Source Code: COUNC

Agenda Date: 4/29/03

INVENUM: 52574

Resolution(s):

Ordinance(s):

Contract(s):

Continue Date(s):

Index: --Letter of County Counsel dated April 29, 2003
--Claim of Anthony M. Retamoza, Jr. dated March **19,** 2003

Item: 11. REJECTED the claim of Anthony M. Retamoza, Jr. No. 203-095, as insufficiently filed and referred to County Counsel

County of Santa Cruz

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068
(831) 454-2040 FAX: (831) 454-2115

DANA McRAE, COUNTY COUNSEL

CHIEF ASSISTANT
RAHN GARCIA

Assistants

Deborah Steen
Harry A. Oberhelman III
Samuel Torres, Jr.
Marie Costa
Jane M. Scoff
Tamyra Rice
Pamela Fyfe
Kim Elizabeth Baskett
Julia Hill
Shannon M. Sullivan
David Kendig
Miriam L. Stombler
Don Gartner

GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda April 29, 2003

To: Board of Supervisors

Re: Claim of Anthony M. Retamoza, Jr., No. 203-095

Original document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

_____ 1. Reject the claim of _____ and refer to County Counsel.

_____ 2. Deny the application to file a late claim on behalf of _____ and refer to County Counsel.

_____ 3. Grant the application to file a late claim on behalf of _____ and refer to County Counsel.

_____ 4. Approve the claim of _____ in the amount of _____ and reject the balance, if any, and refer to County Counsel.

X 5. Reject the claim of Anthony M. Retamoza, Jr., No. 203-095 as insufficiently filed and refer to County Counsel.

cc: Not County jurisdiction

RISK MANAGEMENT

By Janet McKinley
Janet McKinley, Risk Manager

DANA McRAE, COUNTY COUNSEL

By Kim Elizabeth Baskett
Kim Elizabeth Baskett, Assistant County Counsel

PER5107 Word Rev 1/2002

RETAMOZA

CLAIM AGAINST THE COUNTY OF SANTA CRUZ
(Pursuant to Section 910 et Seq., Govt. Code)

MAR 2003
RECEIVED
CLERK OF THE BOARD
BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ

TO: BOARD OF SUPERVISORS
COUNTY OF SANTA CRUZ
ATTN: Clerk of the Board
Governmental Center
701 Ocean Street, Santa Cruz, CA 95060

1. claimant's Name: ANTHONY M. RETAMOZA, JR.

Address: 31 Sydney Avenue
Freedom, CA 95019

Phone No: (831) 728-5168

P.O. Box to which notices are to be sent: c/o The Dunnion Law-Firm, 2711 Garden Rd.. Monterey, CA 93940

2. Occurrence: pedestrian vs. motor vehicle accident

Date: 10/5/02 Place: ~~Freedom Boulevard at Sydney Avenue.~~ Watsonville, CA

3. Circumstances of occurrence or transaction giving rise to claim: See police report attached. Child was crossing street which was unlit and had no traffic controls causing dangerous condition, which caused or contributed to the accident.

4. General description of indebtedness, obligation, injury, damage or loss incurred so far as is now known: Multiple fractures of both legs and shoulder.

5. Name(s) of public employee(s) causing injury, damage or loss, if known:

6. Amount claimed now ..... $78,695.94, to date. and continuing

Estimated amount of future loss, if known ..... ~~$Attached is a hospital~~ lien, but we do not have the remaining bills.

TOTAL $ The claim is well in excess of $1million.

7. Basis for above computations: See attached hospital lien.

a. If the amount claimed is over $10,000, indicate the court of jurisdiction:

_____ Municipal Court SANTA CRUZ Superior court

CLAIMANT'S SIGNATURE: 3/19/03

Note: Claim must be presented to Clerk, Board of Supervisors, within six (6) months after the act which occasioned the injury.

Americans with Disabilities Act questions or requests for accommodations may be directed to the ADA Coordinator at 454-2962 (TDD 454-2123).

PER5003

2/3-21-03

STATE OF CALIFORNIA

TRAFFIC COLLISION REPORT

CHP 555 - P (8-97) OPI 042

SPECIAL CONDITIONS	NUMBER INJURED	HIT & RUN FELONY	CITY	JUDICIAL DISTRICT	NUMBER
	1	☐	Watsonville	Santa Cruz	02W-07106
	NUMBER KILLED	HIT & RUN MISD.	COUNTY	REPORTING DISTRICT / BEAT	
	0	☐	Santa Cruz	4 / 38	

LOCATION

COLLISION OCCURED ON	DATE	TIME (2400)	NCIC #	OFFICER I.D.
Freedom Bl	10/05/2002	20:47	4403	1038

MILEPOST INFORMATION: FEET

DAY OF WEEK: Saturday

TOW AWAY: [X] YES [ ] NO

PHOTOGRAPHS BY: J Pisturino [ ] NONE

[ ] AT INTERSECTION WITH
[X] OR 4 FEET N Sydney Av

STATE HWY REL: [ ] YES [X] NO

PARTY 1

DRIVER'S LICENSE NUMBER	STATE	CLASS	SAFETY EQUIP	VEH. YR.	MAKE / MODEL / COLOR	LICENSE NUMBER	STATE
A9313750	CA		G	01	TOYT COA BLU	4SNS025	CA

DRIVER [X]

NAME (FIRST, MIDDLE, LAST): Laura Elaine Holtzclaw

PEDESTRIAN [ ]

STREET ADDRESS: 62 Miles Ln

PARKED VEH. [ ]

CITY / STATE / ZIP: Watsonville, CA 95076

BICYCLIST [ ]

SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE	RACE
F	BRO	HAZ	5'04"	125	12/04/1974	W

OTHER [ ]

HOME PHONE: (831) 728-7229

BUSINESS PHONE:

INSURANCE CARRIER: AAA

POLICY NUMBER: 1T-19-27-8

DIR. OF TRAVEL: S

ON STREET OR HIGHWAY: Freedom Bl

SPEED LIMIT: 30

OWNER'S NAME: Holtzclaw, Laura [X] SAME AS DRIVER

OWNER'S ADDRESS: 62 Miles Ln , Watsonville, CA 95076 [X] SAME AS DRIVER

DISPOSITION OF VEHICLE ON ORDERS OF: [ ] OFFICER [X] DRIVER [ ] OTHER

PRIOR MECHANCAL DEFECTS: [X] NONE APPARENT [ ] REFER TO NARRATIVE

VEHICLE IDENTIFICATION NUMBER:

CHP USE ONLY VEHICLE TYPE

DESCRIBE VEHICLE DAMAGE: [ ] UNK. [ ] NONE [ ] MINOR [X] MOD. [ ] MAJOR [ ] ROLL OVER

SHADE IN DAMAGED AREA

CA ____ DOT ____ CAL-T ____
PUC ____ ICC ____

PARTY 2

DRIVER'S LICENSE NUMBER	STATE	CLASS	SAFETY EQUIP	VEH. YR.	MAKE / MODEL / COLOR	LICENSE NUMBER	STATE
			P				

DRIVER [ ]

NAME (FIRST, MIDDLE, LAST): Anthony Retamoza Jr

PEDESTRIAN [X]

STREET ADDRESS: 31 Sydney Av

PARKED VEH. [ ]

CITY / STATE / ZIP: Watsonville, CA 95076

BICYCLIST [ ]

SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE	RACE
M	BRO	BRO	5'06"	140	04/03/1987	H

OTHER [ ]

HOME PHONE: (831) 728-5168

BUSINESS PHONE:

INSURANCE CARRIER:

POLICY NUMBER:

DIR. OF TRAVEL: W

ON STREET OR HIGHWAY: Freedom Bl

SPEED LIMIT: 30

OWNER'S NAME: [ ] SAME AS DRIVER

OWNER'S ADDRESS: [ ] SAME AS DRIVER

DISPOSITION OF VEHICLE ON ORDERS OF: [ ] OFFICER [ ] DRIVER [ ] OTHER

PRIOR MECHANCAL DEFECTS: [X] NONE APPARENT [ ] REFER TO NARRATIVE

VEHICLE IDENTIFICATION NUMBER:

CHP USE ONLY VEHICLE TYPE

DESCRIBE VEHICLE DAMAGE: [ ] UNK. [ ] NONE [ ] MINOR [ ] MOD. [ ] MAJOR [ ] ROLL OVER

SHADE IN DAMAGED AREA

CA ____ DOT ____ CAL-T ____
PUC ____ ICC ____

PREPARERS NAME	DISPATCH NOTIFIED	REVIEWER'S NAME	DATE REVIEWED
Pisturino, Jarrod	[X] YES [ ] NO [ ] N/A	MB 5265	10-18-02

STATE OF CALIFORNIA

INJURED / WITNESSES / PASSENGERS

CHP 556 - Page 3 (Rev. 747) OPI 042

DATE OF COLLISION	TIME (2400)	NCIC NUMBER	OFFICER I.D.	NUMBER
10/05/2002	20:47	4403	1038	02W-07106

EXTENT OF INJURY (X) ONE — INJURED WAS ("X" ONE)

WITNESS ONLY #	PASSENGER ONLY	AGE	SEX	FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER	PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED
☐	[X]	19	F	☐	☐	☐	☐	☐	☐	☐	☐	☐		3	G	

NAME: Jennifer Holtzclaw — D.O.B: 0612011983 — ADDRESS: 1061 Wallace Ave Aptos, CA 95003 — TELEPHONE:

(INJURED ONLY) TRANSPORTED BY: — TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

EXTENT OF INJURY ("X") ONE — INJURED WAS ("X" ONE)

WITNESS ONLY #	PASSENGER ONLY	AGE	SEX	FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER	PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED
☐	☐	15	M	☐	[X]	☐	☐	☐	☐	[X]	☐	☐	2		P	

NAME: Anthony Retamoza Jr — D.O.B: 04/03/1987 — ADDRESS: 31 Sydney Av Watsonville, CA 95076 — TELEPHONE: (831) 728-5168

(INJURED ONLY) TRANSPORTED BY: AMR/ Calstar — TAKEN TO: WCH, flown to San Jose Medical Center

DESCRIBE INJURIES: Open compound fracture left leg, broken let?shoulder, large laceration to the back of the head

☐ VICTIM OF VIOLENT CRIME NOTIFIED

EXTENT OF INJURY ("X") ONE — INJURED WAS ("X" ONE)

WITNESS ONLY #	PASSENGER ONLY	AGE	SEX	FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER	PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED
[X]	☐	35	F	☐	☐	☐	☐	☐	☐	☐	☐	☐				

NAME: Elvira Rocha — D.O.B: 08/05/1967 — ADDRESS: 26 Jehl Av Watsonville, CA 95076 — TELEPHONE: (831) 763-9280

(INJURED ONLY) TRANSPORTED BY: — TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

EXTENT OF INJURY ("X") ONE — INJURED WAS ("X" ONE)

WITNESS ONLY #	PASSENGER ONLY	AGE	SEX	FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER	PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED
[X]	☐	31	M	☐	☐	☐	☐	☐	☐	☐	☐	☐				

W E Arthur Gonzales Jr — D.O.B: 05/11/1971 — ADDRESS: 2921 Freedom Bl Watsonville, CA 95076 — TELEPHONE: (831) 761-1299

(INJURED ONLY) TRANSPORTED BY: — TAKEN TO:

DESCREEINJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

EXTENT OF INJURY ("X") ONE — INJURED WAS ("X" ONE)

WITNESS ONLY #	PASSENGER ONLY	AGE	SEX	FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER	PARTY NUMBER	SEAT POS.	SAFETY EQUIP.	EJECTED
[X]	☐	9	M	☐	☐	☐	☐	☐	☐	☐	☐	☐	2			

NAME: Oscar Rocha Fernandez — D.O.B: 05/06/1993 — ADDRESS: 26 Jehl Av Watsonville, CA 95076 — TELEPHONE: (831) 763-9280

(INJURED ONLY) TRANSPORTED BY: — TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

PREPARER'S NAME	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
Pisturino, Jarrod	1038	10/06/02		

STATE OF CALIFORNIA

NARRATIVE / SUPPLEMENTAL

CHP 556 (Rev 7-90) OPI 042

DATE OF INCIDENT / OCCURENCE	TIME (2400)	NCIC NUMBER	OFFICER I.D.	NUMBER
10/05/02	2047	4403	1038	02W-07106

"X" ONE	"X" ONE	TYPE SUPPLEMENTAL ("X" APPLICABLE)
[X] NARRATIVE [ ] SUPPLEMENTAL	[X] COLLISION REPORT [ ] OTHER:	[ ] BA UPDATE [ ] FATAL [ ] HIT AND RUN UPDATE [ ] HAZARDOUS MATERIALS [ ] SCHOOL BUS [ ] OTHER:

CITY	COUNTY	JUDICIAL DISTRICT	REPORTING DISTRICT	BEAT	CITATION NUMBER
Watsonville	Santa Cruz	Santa Cruz	4	38	

LOCATION	SUBJECT	STATE HIGHWAY RELATED
Freedom Bl		[ ] YES [X] NO

PA-1(Jennifer Holtzclaw) was seated in the front right passenger's seat of V-1. PA-1 said she did not see P-2 until he was on top of the car. She said V-1 was going approx 30 MPH.

W-2(Gonzales) was traveling N/B on Freedom Blvd approaching Sydney. He could see P-2, W-1, and W-3 crossing Freedom at Sydney from E to W. He could also see V-1 traveling S/B on Freedom in the #2 lane. V-1 appeared to be traveling at a safe speed. He does not remember seeing a vehicle stopped for the pedestrians in the #1 lane. P-2 walked directly into the path of V-1.

W-1(Rocha) told me she, P-2, and W-3(Fernandez), had just left McDonalds, 1598 Freedom Blvd, on foot. They were crossing Freedom in the crosswalk going towards Sydney. A vehicle in the S/B #1 lane of Freedom stopped at the crosswalk to let them pass. W-1 could see V-1 approaching at approx 40 MPH. She believed V-1 was not going to stop, and told W-3 to stop in Spanish. Since P-2 does not speak Spanish and is hard of hearing, he continued crossing and walked directly into the path of V-1. P-2 was carried approx 51 feet on the hood of V-1 until it came to a stop.

SUMMARY:

V-1 was traveling S/B in the #2 lane of Freedom Blvd at a safe speed. P-2 was crossing Freedom Blvd at Sydney on foot in the crosswalk from the east curb towards the west curb. P-2 did not see V-1 approaching, and walked directly into the path of V-1. P-1 did not see P-2 in the crosswalk until after the impact, and could not avoid hitting him.

POINT OF IMPACT:

Based on statements and evidence, POI is 8 feet 5 inches E of the WCL of Freedom Blvd, and 4 feet N of the NCL prolongation of Sydney Ave.

CAUSE:

Based on statements and evidence, P-1 caused this T/C by violating VC 21950(a), failure to yield right of way to pedestrian in cross walk.

RECOMMENDATIONS: None.

PREPARER'S NAME	DATE	REVIEWER'S NAME	DATE
J. Pisturino 1038	10/17/02		

AARON J. LEIBOVIC
AL LEIBOVIC*
JEFFREY MARVEL"
GARIANN M. WEISENBERG
AVI LEIBOVIC***
BONNIE J. NAVARRO
DIANE WANDERER
*Admitted in Arizona
**Admitted in District of Columbia
***Admitted in New York and New Jersey

HEALTH ADVOCATES, LLP

13412 VENTURA BOULEVARD, SUITE 300
SHERMAN OAKS, CALIFORNIA 91423-3965

TELEPHONE
(818) 995-9500
FACSIMILE
(818) 995-9599

February 18, 2003

NOTICE OF LEGAL REPRESENTATION

AND

NOTICE OF LIEN

Allison Porter, Esq
The Dunnion Law Firm
2711 Garden Road
Monterey, Ca 93940

RE: Your Client: Anthony Retamoza
Our File No.: SJMC13-224125-78
Date of Loss: 10-06-02
Lien Amount: $78,695.94, to date

Dear Ms. Porter:

Please be advised that this office represents HSC **SAN** JOSE MEDICAL CENTER with regards to any and all lien and subrogation rights our client may have relating to the medical treatment provided to your client as a result of injuries for which a claim has been asserted. Pursuant to the terms and conditions of your client's Health Benefits Agreement and/or the California Lien Statutes, you are hereby advised of our client's right of recovery. When applicable or required by statute a lien is attached.

Whenever feasible or required by law we are putting all defense attorneys, insurance carriers and/or defendants on notice of this lien. In order to expedite resolution of this matter, we request that we be provided with notice of all settlement conference, arbitration and trial dates. Pursuant to California Civil Code 3045.3, we request that we be provided with the names and addresses of all insurance carriers affording coverage to all defendants in this matter.

Please direct all communications regarding our client's lien to this office. Please do not contact our client directly or suggest to your client that they do so on your behalf. You may wish to refer to Rule 2-100 of the California Rules of Professional Responsibility for guidance. You should, however, continue to direct all your subpoenas and requests for business and medical records to the hospital.

In addition, if the parties choose to ignore our client's statutory lien and disburse settlement funds without consideration of the lien, we will treat this action as an intentional violation of the applicable Statutes and conversion. If necessary, we will seek all appropriate remedies on behalf of our client.

In the interest of facilitating and expediting the distribution of all settlement funds when this matter is resolved, we request that you furnish to our office a separate draft or check payable to HSC SAN JOSE MEDICAL CENTER for the full lien amount. Please be sure to contact **us** prior to settlement to obtain our client's **final** lien amount.

We are hopeful that you will not interpret the contents of this letter to be confrontational but rather an attempt to avert unnecessary issues and conflicts. In advance, thank you for your courtesy, cooperation and prompt attention in this matter. If you have any inquiries, please feel free to contact **Martha** Lopez, our liability analyst, at (818)461-5851.

Very truly yours,

Diane Wanderer

CONTRACTUAL OR STATUTORY LIEN PURSUANT TO
CALIFORNIA CIVIL CODE §3045 et seq. and/or
WELFARE & INSTITUTIONS CODE 914124.791 and/or
GOVERNMENT CODE 923004.1

Notice is hereby given that HSC SAN JOSE MEDICAL CENTER has provided medical treatment to Anthony Retamoza .and hereby claims a lien in accordance with the provisions of the Health Benefits Agreement, the California Civil, Welfare & Institutions and/or Government Codes.

The following available information is provided to you:

I. Patient/Injured Party: ANTHONY RETAMOZA
Address : %ALLISON PORTER, ESQ, THE DUNNION LAW FIRM, 2711 GARDEN ROAD, MONTEREY, CA 93940

1. The loss occurred on or about 10-06-02

2. Service and/or benefits provided by HSC SAN JOSE MEDICAL, CENTER located at : 2033A SAMARITAN DRIVE, SAN JOSE, CA 95124

3. The amount claimed as reasonable and necessary charges or benefits paid is $78,695.94, to date

When required by law this lien is mailed via registered mailheturn-receipt requested.

Direct all inquiries and correspondence to:

Health Advocates, LLP
13412 Ventura Blvd.
Suite 300
Sherman Oaks, CA 91423
Phone: (818)461-5851 FAX: (818)995-9599

Please be sure to reference our file number: **SJMC13-224125-78**

(SPACE BELOW FOR FILING STAMP ONLY)

THE DUNNION LAW FIRM
A Professional Corporation
2711 Garden Road
Monterey, California 93940
(831) 373-8035

Retamoza, Jr. v. City of Watsonville **Case Number:**

PROOF OF SERVICE

I, PAMELA GARTMAN, declare: That I am, and was at the time of service of the paper herein referred to, over the age of eighteen years, and not a party to the action. I am employed in the County of Monterey, State of California, in which county the within mentioned mailing occurred. My business address is 2711 Garden Road, Monterey, California 93940. I served the following document: NOTICE OF CLAIM TO THE COUNTY OF SANTA CRUZ dated March 19, 2003, or a TRUE AND CORRECT COPY, is attached by:

X **(U.S. MAIL)** By placing a copy thereof in a separate envelope for each address named hereafter, addressed to such addressee respectively. I then sealed the envelope and placed it for collection and delivery in the mail room of The Dunnion Law Firm on March 19, 2003. I am readily familiar with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service, and correspondence so deposited in the mail room would be deposited with the United Postal Service that same day in the ordinary course of business.

_ **(FACSIMILE TRANSMISSION)** By transmitting a true copy thereof from facsimile number (831) 375-4124 to the parities to said action at the facsimile number below.

_ **(FEDERAL EXPRESS)** By placing a true copy thereof, in the sealed and enclosed envelope, to be delivered by Federal Express, to the address below.

_ **(HAND DELIVERY)** by personally delivering a true copy of thereof, in an enclosed sealed envelope to the addressee below.

City Clerk/City of Watsonville
Administrative Offices
P. O. Box 50000
Watsonville, CA 95077-5000

Board of Supervisors
County of Santa Cruz
ATTN: Clerk of the Board
Governmental Center
701 Ocean Street
Santa Cruz, CA 95060

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 19, 2003, at Monterey, California.

Pamela Gartman

PAMELA GARTMAN