



For Office Use Only

Government Claims Program
 Office of Risk and Insurance Management
 Department of General Services
 P.O. Box 989052, MS 414
 West Sacramento, CA 95798-9052

1-800-955-0045 • www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx

Clear Form

Print Form

Is your claim complete?

- Include a check or money order for \$25 payable to the State of California.
- Complete all sections relating to this claim and sign the form. Please print or type all information.
- Attach copies of any documentation that supports your claim. Please do not submit originals.

Claimant Information Use name of business or entity if claimant is not an individual

1	ERWIN	JAMES	H	2	Tel: 909-838-1400
	<i>Last name</i>	<i>First Name</i>	<i>MI</i>	3	Email: jimerwin3@msn.com
4	7475 STAR PINE CIRCLE		HIGHLAND	CA	92346
	<i>Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Zip</i>
5	Inmate or patient number, if applicable:				
6	Is the claimant under 18? NO		If Yes, please give date of birth:		
7					
8	If you are an insurance company claiming subrogation, please provide your insured's name in section 7.				


If your claim relates to another claim or claimant, please provide the claim number or claimant's name in section 8.

Attorney or Representative Information

9	MALINE	RAJAN	R	10	Tel: 951-779-0221
	<i>Last name</i>	<i>First Name</i>	<i>MI</i>	11	Email: raj@malinemcgee.com
12	3850 VINE STREET, SUITE 100		RIVERSIDE	CA	92507
	<i>Mailing Address</i>		<i>City</i>	<i>State</i>	<i>Zip</i>
13	Relationship to claimant: ATTORNEY				

Claim Information Please add attachments as necessary

14	Is your claim for a stale-dated warrant (uncashed check)? <input type="radio"/> Yes <input checked="" type="radio"/> No <i>If No, skip to Step 15.</i>				
	State agency that issued the warrant:				
	Dollar amount of warrant:		Date of issue:		
	Warrant number:		MM/DD/YYYY		
15	Date of Incident: 12/01/2008 THROUGH 09/22/2017				
	Was the incident more than six months ago?				<input type="radio"/> Yes <input checked="" type="radio"/> No
	If YES, did you attach a separate sheet with an explanation for the late filing?				<input type="radio"/> Yes <input checked="" type="radio"/> No
16	State agencies or employees against whom this claim is filed:				
	EDMUND G. BROWN, KAMALA D. HARRIS, GARY A. SCHONS, MELISSA A. MANDEL, AND THE CALIFORNIA DEPARTMENT OF JUSTICE				
17	Dollar amount of claim: NOT LESS THAN \$30,000,000.00				
	If the amount is more than \$10,000, indicate the type of civil case:		<input type="radio"/> Limited civil case (\$25,000 or less)		
			<input checked="" type="radio"/> Non-limited civil case (over \$25,000)		
	Explain how you calculated the amount:				
	SEE ATTACHMENT				

18	Location of the incident: SAN BERNARDINO COUNTY, CALIFORNIA		
19	Describe the specific damage or injury: **SEE ATTACHMENT**		
20	Explain the circumstances that led to the damage or injury: **SEE ATTACHMENT**		
21	Explain why you believe the state is responsible for the damage or injury: **SEE ATTACHMENT**		
22	Does the claim involve a state vehicle?		<input type="radio"/> Yes <input checked="" type="radio"/> No
	If YES, provide the vehicle license number, if known:		
Auto Insurance Information			
23	Name of Insurance Carrier		
	Mailing Address	City	State Zip
	Policy Number:	Tel:	
	Are you the registered owner of the vehicle?	<input type="radio"/> Yes	<input type="radio"/> No
	If NO, state name of owner:		
	Has a claim been filed with your insurance carrier, or will it be filed?	<input type="radio"/> Yes	<input type="radio"/> No
	Have you received any payment for this damage or injury?	<input type="radio"/> Yes	<input type="radio"/> No
	If yes, what amount did you receive?		
	Amount of deductible, if any:		
	Claimant's Drivers License Number:	Vehicle License Number:	
	Make of Vehicle:	Model:	Year:
	Vehicle ID Number:		
Notice and Signature			
24	I declare under penalty of perjury under the laws of the State of California that all the information I have provided is true and correct to the best of my information and belief. I further understand that if I have provided information that is false, intentionally incomplete, or misleading I may be charged with a felony punishable by up to four years in state prison and/or a fine of up to \$10,000 (Penal Code section 72).		
		RAJAN R. MALINE	Date: 11/01/2017
	Signature of Claimant or Representative		Printed Name
25	Mail this form and all attachments with the \$25 filing fee or the "Filing Fee Waiver Request" to: Government Claims Program, P.O. Box 989052, MS 414, West Sacramento, CA 95798-9052. Forms can also be delivered to the Office of Risk and Insurance Management, 707 3rd street, 1st Floor ORIM, West Sacramento, CA 95605.		

CLAIM AGAINST COUNTY OF SAN BERNARDINO
(CLAIM FORM MUST BE FILLED OUT PROPERLY OR CLAIM WILL BE RETURNED WITHOUT FILING)



DATE: 11/01/2017

Claim is hereby made against the treasury of the County of San Bernardino, State of California, as follows:

- Less than \$10,000 – State the total amount claimed \$ _____
- More than \$10,000 – Check one of the boxes:
 - Municipal Court Jurisdiction (\$10,000 - \$25,000)
 - Superior Court Jurisdiction (\$25,001 and up)

Claimant makes the following statements in support of the claim:

1. Name of Claimant: JAMES H ERWIN 909-838-1400
First Middle Last (Area Code and Phone No.)

2. Address of Claimant: 7475 STAR PINE CIRCLE HIGHLAND 92346
Street City Zip Code

3. Notices concerning claim should be sent to:
RAJAN R. MALINE, 3850 VINE STREET SUITE 100, RIVERSIDE, CA 92507 951-779-0221
Name Address Zip Code (Area Code and Phone No.)

4. Circumstances giving rise to claim are as follows: _____
SEE ATTACHMENT

5. Date, Time and Place (city, street, cross-street) damage occurred and nature thereof: _____
DECEMBER 1, 2008 THROUGH SEPTEMBER 22, 2017 IN SAN BERNARDINO COUNTY, CALIFORNIA.
SEE ATTACHMENT FOR NATURE OF DAMAGE.

6. Public property and/or public officers or employees causing injury, damage or loss:
SEE ATTACHMENT

7. Name, address and telephone number of witnesses: _____
SEE ATTACHMENT

8. Basis of computation of claimed amount is as follows:

Medical expenses to date _____	Loss wages _____
Estimated future medical expenses _____	General damages _____
Other expenses _____	Property damage _____
Other damages _____	



Claimant or Representative (Signature)

RETURN COMPLETED FORM TO:
Risk Management Division – County of San Bernardino, State of California
222 W. Hospitality Lane, 3rd Floor
San Bernardino, CA 92415-0016

Office: (909) 386-8631
Fax: (909) 382-3212

3850 Vine Street, Suite 100
Riverside, CA 92507
(951) 779-0221
raj@malinemcgee.com

November 1, 2017

Mr. Jean-Rene Basle
Office of County Counsel
385 N. Arrowhead Avenue, Fourth Floor
San Bernardino, CA 92415

VIA HAND DELIVERY

Risk Management Division
County of San Bernardino
222 W. Hospitality Lane, Third Floor
San Bernardino, CA 92415

VIA HAND DELIVERY

Board of Supervisors
County of San Bernardino
385 N. Arrowhead Avenue, Fifth Floor
San Bernardino, CA 92415

VIA HAND DELIVERY

Government Claims Program
Office of Risk and Insurance Management
Department of General Services
P.O. Box 989052, MS 414
West Sacramento, CA 95798-9052

**VIA FIRST CLASS
U.S. MAIL**

RE: Notice of Claim

Claimant: James H. Erwin, Former Chief of Staff – Third District
DOI: December 1, 2008 through September 22, 2017

NOTICE TO THE ABOVE LISTED PARTIES:

This firm has been retained by James H. Erwin to represent him in connection with his claims against the State of California and the County of San Bernardino including, but not limited to, Edmund G. Brown Jr., Kamala D. Harris, Gary Schons, Melissa A. Mandel, Michael A. Ramos, James B. Hackleman, Michael Ferman, Gary Roth, Richard L. Cope, Michael J. Smith, Robert Schreiber, Hollis Randles, Ronald Reitz, Dennis Wagner, Mitchell Norton, Charles Scolastico, Ruth E. Stringer and Josie Gonzales, in their official and individual capacity.

You are hereby notified that, in accordance with the *California Government Claims Act*, Mr. Erwin claims damages from the State of California, County of San Bernardino, including, but not limited to, Edmund G. Brown Jr., Kamala D. Harris, Gary Schons, Melissa Mandel, Michael A. Ramos, James B. Hackleman, Michael Firman, Gary Roth, Richard L. Cope, Chief Investigator Michael J. Smith, Robert Schreiber, Hollis Randles, Ronald Reitz, Dennis Wagner, Mitchell Norton, Charles Scolastico, Ruth E. Stringer and Josie Gonzales, in the amount computed as of

the date of the presentation of this claim, of not less than TWENTY-FIVE MILLION DOLLARS (\$25,000,000.00).

Claimant is now officially serving this Formal Notice of Claim with all necessary attachments to require the State of California, San Bernardino County Board of Supervisors to act by operation of law.

Notwithstanding the fact that this matter is exempt from the requirements of the Torts Claim Act pursuant to *Snipes v. City of Bakersfield* (1983) 145 Cal. App. 3d 861; and *Garcia v. Los Angeles Unified School District* (1985) 173 Cal. App. 3d 701, 712, based in part to the discriminatory and violation of public policy claims, and without waiving any rights to relief or damages, DEMAND is hereby made by Claimant, Mr. Erwin, pursuant to California Government Code section 905, et seq., for damages, including but not limited to, Malicious Prosecution; False Arrest/False Imprisonment (Civil Code Section 52.1); Negligence; Intentional Infliction of Emotional Distress; additional claims under Civil Code Section 52.1 and violations of section 42 U.S.C. § 1983.

SUMMARY OF CLAIM

Malicious Prosecution

Adam Aleman “initiated the proceeding” by knowingly making a false report to DA investigators during his November 2008 interview. Aleman continued to give false statements to DA investigators from 2008 to 2011 in a series of interviews both in person, telephonically, and electronically. He then intentionally and knowingly testified falsely, both before the grand jury and at trial, particularly given the allegations in the Indictment that there was no reasonable suspicion of criminal activity relating to the Settlement Agreement prior to Aleman’s November 2008 statements.

Josie Gonzales admits to having made a report to the DA’s Public Integrity Unit sometime around the time of the Settlement Agreement (November 2006) in which she supposedly reported her suspicions of some criminal conduct and then like Aleman made false statements to the DA investigators, testified falsely to the Grand Jury and at trial.

To the extent either Aleman or Gonzales is found to have “initiated” the criminal proceedings, the prosecution either knew—or should have known—that numerous witnesses were offering false and perjured testimony, including Aleman, Gonzales, and Bud Randles. Aleman and Gonzales knowingly testified falsely. The prosecution manipulated Postmus’s testimony, both by failing to ensure his sobriety during the interview process and then by manipulating his memories. While this is not connected directly to Gonzales, there is a connection to Aleman, who acted as an agent at the behest of the prosecution in this process through his numerous conversations and email/text exchanges with Postmus. Taken together with all of the false testimony, as well as other conduct by prosecutors, manipulated the grand jury process.

The prosecution was brought in retaliation against Erwin, Jeffrey Burum, and Colonies Partners for pursuing the civil litigation and for exercising First Amendment rights of political expression. Moreover, both Aleman and Gonzales had ulterior motives to “initiate” the criminal proceedings by providing false statements to investigators and testifying falsely—Aleman to secure his deal with prosecutors, and Gonzales to retaliate for the civil litigation and potentially to assist her major political supporters who are rivals of Mr. Erwin and Colonies. Further, both

Gonzales and Aleman exhibited hostility and ill will toward Mr. Erwin, if nothing else based on their knowing and willfully false testimony against him.

False Arrest / False Imprisonment; Civil Code Section 52.1 (Bane Act)

Randles and Schreiber had personal knowledge that the grand jury indictment had been procured through the false testimony of Postmus, Aleman, Gonzales, and Randles.

Mr. Erwin was wrongfully arrested and jailed 3 times for Bribery and other related charges. One on March 15, 2009 for the bail amount of \$220,000.00. The second time on February 10, 2010 for the additional bail amount of \$380,000.00. The third time in May 11, 2011 for the bail amount of \$2,000,000.00, even though Mr. Erwin had been released on his own recognizance and had never been tardy or missed a court scheduled appearance. All inflated bail amounts were requested by the prosecution team. Erwin was waste-chained, leg shackled and paraded in front of news cameras in green jail attire. Afterwards Erwin appeared on the front page of local newspapers. All in an oppressive and malicious tactic to get fabricated testimony against Developer Jeffrey Burum

Violations of California's Bane Act, Civil Code § 52.1

Mr. Erwin's unlawful arrest violated his Fourth Amendment rights, and that such arrest constituted an effort by Ramos and/or other members of the DA's office (e.g., Cope, Hackleman, Randles, and Schreiber) to coerce Erwin into not exercising his First Amendment right to participate in the political process.

Negligence

The prosecution team's conduct with regard to the investigation, grand jury, and trial breached their duty to "act reasonably so as to not cause Erwin undue harm." (*Reinhardt*, 2006 WL 3147691, at *10.) Specifically, the manipulation of Postmus, the attempted manipulation of other witnesses (e.g., Matt Brown), the eliciting of false testimony from Gonzales and Aleman, the false testimony provided to the grand jury by Randles, the various manipulations of the grand jury process (e.g., the handling of the Lindley testimony), and much more, all violates this duty. Further, investigators and prosecutors violated their duty "to properly and adequately investigate all reasonable leads and evidence" (*id.*) with regard to exculpatory evidence, failing to drug test Postmus, failing to investigate Aleman's false claims that he met with Mr. Erwin and Postmus, failing to investigate Gonzales's false claim that she saw Mr. Erwin in China, and much more.

Further, Mr. Erwin voluntarily went to DA investigators in November 2007 to provide information regarding criminal acts being committed by Postmus, Aleman and other Assessor staff during the DA investigation of the Assessor's office. The information provided by Mr. Erwin was largely responsible for the arrest and prosecution of Aleman and Postmus.

Messrs. Schreiber and Randles knew or should have known that Aleman's uncorroborated statements against Erwin were false and plainly in retaliation for Erwin's earlier statements implicating Aleman in crimes associated with the Assessor's office.

Intentional Infliction of Emotional Distress

A claim for intentional infliction of emotional distress (IIED) alleges that defendants' conduct (1) was extreme and outrageous; (2) was intended to cause the plaintiff emotional distress; and (3) actually caused the plaintiff distress.

Federal Claims – Civil Rights Violation Under 42 U.S.C. § 1983

Retaliation

Mr. Erwin claims that the criminal prosecution against him was in retaliation for his having exercised his First Amendment rights to participate in the political process (campaign contributions, campaign speech, political activities) and to petition the government and access the courts (civil lawsuit). Despite the fact that Mr. Erwin at all times was exercising his constitutional rights, he was nonetheless targeted and prosecuted by the County of San Bernardino District Attorney's Office and the State of California Office of the Attorney General. Mr. Erwin claims:

1. He was engaged in a constitutionally protected activity;
2. His actions against the plaintiff would chill a person of ordinary firmness from continuing to engage in the protected activity; and
3. His protected activity was a substantial or motivating factor in the State and County's conduct and decision to prosecute Mr. Erwin.

This retaliation created a chilling effect on Mr. Erwin's exercise of free speech.

Unreasonable Seizure of Person (False Arrest)

Investigators Randles and Schreiber, and prosecutors Cope and Mandel, knew that false testimony had been presented to the grand jury, and because they had been instrumental in developing and presenting that false testimony (including Randles's own false testimony in connection with the statute of limitations), they knew that there was, in fact, no probable cause to indict Mr. Erwin—and thus their arrest/seizure of Mr. Erwin was unreasonable.

Malicious Prosecution

Malicious prosecution in violation of Mr. Erwin's First, Fourth, Fifth, and Fourteenth Amendment rights. Randles and Schreiber knowingly withheld the extent to which they had manipulated Postmus into falsely claiming he was bribed, or the fact that they had been investigating Mr. Erwin and the Colonies settlement. They withheld other relevant information or supplied some other false information to the prosecutors.

Fabrication of Evidence

Investigators violated Mr. Erwin's Fourteenth Amendment rights by deliberately fabricating evidence to present to both the grand jury and at trial. Investigators deliberately fabricated evidence that was used to criminally charge and prosecute Mr. Erwin.

and

Investigators continued their investigation of Erwin despite the fact that they knew that Mr. Erwin was innocent, or were deliberately indifferent to Mr. Erwin's innocence, and the results of the investigation were used to criminally charge and prosecute Erwin.

and

Investigators used techniques that were so coercive and abusive that they knew, or were deliberately indifferent, that those techniques would yield false information that was used to criminally charge and prosecute Erwin.

First, investigators deliberately manipulated Postmus to fabricate evidence of bribery, and

Randles deliberately gave false testimony regarding the timing of his investigation of Mr. Erwin so as to avoid the charges being time barred. Second, investigators continued their investigation despite being told by Postmus—multiple times and in no uncertain terms—that there had been no *quid pro quo* agreement. And third, investigators used coercive and abusive techniques in interviewing Postmus when they knew, or were deliberately indifferent, that those techniques would result in false testimony from Postmus that would then be used to charge and prosecute Mr. Erwin which they ultimately did.

Richard Lewis Cope, Melissa Mandel, Gary Schons and James B. Hackleman assisted in fabricating evidence and inducing false testimony before the grand jury when there was no probable cause against Mr. Erwin. Cope and Mandel participated with DA investigators in the Postmus and Aleman interviews. Those interviews were intentionally designed to illicit false testimony of wrongdoing against Mr. Erwin. Cope and Mandel deliberately involved themselves in those interviews but would leave the interview room before substantive questions were asked of Mr. Aleman and Postmus. DA Investigators would then report to Cope and Mandel during and after those interviews. Further, DA Investigators would receive instructions from Cope and Mandel.

Mr. Hackleman's sought a breach or waiver of the attorney client privilege between the county attorney's, private outside attorneys and the county Board of Supervisors. Mr. Hackleman and Mr. Schons pursued County Counsel Ruth Stringer. At the time Messrs. Hackleman and Schons were seeking the attorney client waiver they knew that the county had changed its position on the reasonableness of the settlement. Despite this, Hackleman and Schons sought the false, reckless, negligent, misguided and self-serving statements of "advice" to the county by the these outside attorneys. The "advice" those outside attorneys gave the county prior to the settlement was that the proposed settlement was unreasonable. At the time, Hackleman and Schons knew that the settlement was reasonable and the "advice" of county attorneys were wrong yet still sought those statements to further fabricate the evidence and prosecution against Mr. Erwin.

Damages

Mr. Erwin sustained damages to include, but not limited to, the following: Loss of Employment; Lost wages; Reduction in Pension Benefits; Interference with Prospective Advantage; Damage to Name and Reputation; Physical Injury, Specifically the onset of Hypertension and Chronic Kidney Disease (CKD) - Stage II; Negligent Intentional Infliction of Emotional Distress; and the effect on Mr. Erwin's family.

The state and county is well aware of the magnitude of the misconduct by the prosecution team, as well as other state and county officials in the case, *People v. Paul Biane, Jeff Burum, James Erwin and Mark Kirk*. Voluminous documents and evidence to support this claim is already in the possession of the government.

In the event this claim is rejected, Mr. Erwin will bring a lawsuit in the United States District Court for the Central District of California, and/or any other court of competent jurisdiction, requesting a jury trial for compensatory and punitive damages suffered by him according to proof, as well as such other relief as the court may order.

Pursuant to the *California Tort Claims Act*, you are hereby given forty-five (45) days within which to respond to this Formal Notice of Claim. Following your denial of this claim, Mr. Erwin intends to vigorously pursue any and all remedies afforded him pursuant to law, including the aforementioned action.

Very truly yours,



RAJAN R. MALINE

RRM:bk
cc: James H. Erwin