

FILED
Superior Court Of California,
Sacramento
04/11/2022
kjohnson12
By _____, Deputy
Case Number:
34-2022-00318165

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA,**
11 **IN AND FOR THE COUNTY OF SACRAMENTO**

12 MARLENE JORDAN,
13 JAMES JORDAN,
14 Plaintiff,

15 vs.

16 SACRAMENTO FIRE DEPARTMENT,
17 CITY OF SACRAMENTO, and DOES 1 through
18 100, inclusive,
19 Defendants.

Case No.

**COMPLAINT FOR DAMAGES
GOVERNMENT CODE § 815.2;
NEGLIGENT INFLICTION OF EMOTIONAL
DISTRESS AND LOSS OF CONSORTIUM**

(Damages Exceed \$25,000)

DEMAND FOR JURY TRIAL

20 COME NOW Plaintiffs, MARLENE JORDAN and JAMES JORDAN, and complain of
21 defendants, and each of them, and as and for causes of action, alleges as follows:

22 **I.**

23 **FIRST CAUSE OF ACTION**

24 **(Medical Negligence)**

25 1. This Court has jurisdiction to hear the subject matter of this Complaint.
26 This Court also has jurisdiction over each Defendant, as the unlawful acts alleged herein
27 occurred in California. Venue is proper in this Court because all of the violations of law
28 alleged herein occurred in the County of Sacramento.

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1 2. At all times mentioned herein, Plaintiffs MARLENE JORDAN and JAMES
2 JORDAN, are and were residents of the County of Sacramento, State of California.

3 3. At all times material herein, Defendants SACRAMENTO FIRE
4 DEPARTMENT, and DOES 1 through 50, is and at all times herein was, a public entity,
5 business entity organized, existing and licensed under the laws of the State of California,
6 and in the County of Sacramento, and provided medical care, service and ambulance
7 transportation in the County of Sacramento, and are employees, contractors and/or
8 agents of Defendant CITY OF SACRAMENTO, in the location of the acts complained of
9 herein.

10 4. The true names and capacities of Defendants, and each of them, sued herein
11 as DOES 1 through 100, inclusive, are presently unknown to Plaintiff, who therefore sue
12 said Defendants by such fictitious names, pursuant to Code of Civil Procedure §474.
13 Plaintiff is informed and believe and thereon allege that the fictitiously named
14 Defendants, and each of them, are negligently or in some manner legally responsible to
15 Plaintiff for the events and happenings herein referred to and proximately caused
16 damages to Plaintiff as set forth herein. Plaintiff will seek leave of court to amend this
17 Complaint to insert the true names and capacities of said fictitiously named Defendants,
18 and each of them, when the same have been ascertained.

19 5. Plaintiff is informed and believes and thereon alleges that each of the
20 Defendants were the agents, ostensible agents, partner, joint venturers, co-conspirators,
21 lessors, lessees, and/or employees of each of the remaining Defendants, and others
22 named herein as Doe Defendants, and in doing the acts or things alleged herein were
23 acting within the course and scope of said agency, employment and/or other relationship
24 stated herein and/or ratified the acts of one another.

25 6. On or about July 2, 2021, Plaintiff MARLENE JORDAN employed
26 Defendants, and each of them, to provide transportation from her residence at 4800 62nd
27 Street, Sacramento, California, to the emergency room at Mercy General Hospital. Said
28 Defendants, and each of them, undertook said employment and/or undertook and agreed

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1 to provide emergency transport to Plaintiff and do all things necessary and proper in
2 connection therewith, and said Defendants, and each of them, thereby entered into a
3 relationship individually and by and through their agents (actual and/or apparent or
4 and/ostensible) and employees. Said Defendants, and each of them, agreed to provide
5 such emergency medical transportation for Plaintiff for compensation for which Plaintiff
6 agreed to pay.

7 7. On or about July 2, 2021, in the course of providing emergency medical
8 transport services to Plaintiff MARLENE JORDAN, said Defendants and each of them,
9 failed to exercise that degree of due care and/or skill common to emergency transport
10 personnel in said community and/or geographical area, thereby breaching the duty owed
11 by said Defendants, and each of them, to Plaintiff, to exercise that degree of care, skill,
12 ability, and/or learning expected of said Defendants, including, but not limited to
13 dropping Plaintiff while attempting to move her from a recliner to a gurney, thereby
14 proximately causing serious and grievous harm to Plaintiff as more fully set forth
15 hereinafter.

16 8. On or about November 16, 2021, Plaintiffs presented claims to Defendants
17 CITY OF SACRAMENTO / SACRAMENTO FIRE DEPARTMENT in compliance with
18 Government Code section 810 et seq. ("Tort Claims Act") based on the events and
19 occurrences described and complained of herein, see **Exhibit "A"**.

20 9. Plaintiffs' claim against Defendants CITY OF SACRAMENTO / SACRAMENTO
21 FIRE DEPARTMENT was rejected on or about December 7, 2021, see **Exhibit "B"**.

22 10. As a proximate, direct and substantial factor of Defendants' negligence
23 and/or wrongdoing, Plaintiff MARLENE JORDAN suffered severe harm and damages as a
24 proximate result thereof.

25 11. In the course of providing emergency medical transport to Plaintiff,
26 Defendants, and each of them, individually and/or while acting by and through their
27 agents, employees, joint venturers, partners, lessors, lessees and/or co-conspirators,
28 named or unnamed as Defendants herein, while acting within the course of their

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1 employment, agency or other relationship, failed to exercise that degree of due care
2 and/or skill common to emergency transport personnel in said community and/or
3 geographical area, thereby breaching the duty owed by said Defendants, and each of
4 them, to Plaintiff, to exercise that degree of care, skill, ability and/or learning expected of
5 said Defendants, and each of them, and/or common to emergency medical transport in
6 said community and/or geographical area. Further, said Defendants, and each of them, so
7 negligently transported, treated, cared for, obtained informed consent, failed to obtain
8 informed consent, battered and/or otherwise acted negligently toward Plaintiff, that
9 Plaintiff was caused to and did experience injuries, including a fractured left femur, and
10 other injuries and damages as stated herein, compensation for which is sought by
11 Plaintiff.

12 12. As a proximate, direct and substantial factor of the negligence, carelessness
13 and wrongdoing of Defendants, and each of them, Plaintiff MARLENE JORDAN has been
14 injured in her health, strength and activity, and has sustained grievous injury to her body
15 and profound shock and injury to her person and nervous system, all of which injuries
16 resulted in great mental, physical and nervous pain and suffering. Said injuries will result
17 in some permanent disability to Plaintiff, all to his general damage in a sum as yet
18 uncertain, in excess of the minimum jurisdiction of this Court. Plaintiff will seek leave of
19 court to plead and prove the nature and extent of his general damages, according to proof
20 at time of trial, together with interest and/or pre-judgment interest thereon at the legal
21 lawful rate.

22 13. As a further proximate, direct and substantial factor of the negligence,
23 carelessness and wrongdoing of Defendants, and each of them, Plaintiff MARLENE
24 JORDAN has in the past and in the future will be required to employ physicians and
25 surgeons to examine, treat and care for said Plaintiff. The exact amount of such medical
26 expenses is unknown, and Plaintiff will seek leave of court to plead and prove the exact
27 amount of said expenses at the time of trial, together with interest and/or pre-judgment
28 interest thereon at the legal lawful rate.

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1 19. Plaintiffs refer to and incorporate by reference paragraphs 1-18, inclusive,
2 as though fully set forth herein.

3 20. At all times relevant herein, Plaintiffs MARLENE JORDAN and JAMES
4 JORDAN were legally married and were husband and wife.

5 21. As a further direct and proximate result of said wrongful conduct of
6 Defendants, and each of them, Plaintiff JAMES JORDAN was deprived of the comfort,
7 society and consortium of MARLENE JORDAN, as a result of the injuries sustained by her
8 as a direct and proximate result of the conduct of the Defendants, and each of them, as
9 hereinabove set forth. The full nature and extent of damages for said loss are at this time
10 uncertain, and therefore Plaintiffs will seek leave of court to plead and prove the same
11 when ascertained, together with prejudgment interest thereon at the legal, lawful rate.

12 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them,
13 as follows:

14 1. For non-economic damages in excess of the minimum jurisdiction of this
15 court, according to proof at time of trial;

16 2. For medical expenses, according to proof;

17 3. For incidental expenses incurred as a result of the above incident;

18 4. Damages for loss of society, comfort and consortium, according to proof at
19 the time of trial;

20 5. For interest and/or prejudgment interest on all damages sought and/or
21 incurred herein at the legal lawful rate;

22 6. For costs of suit incurred herein; and

23 7. For such other and further relief as may be just and proper.

24 Dated: April 6, 2022

WILCOXEN CALLAHAM, LLP

By: 

WALTER H. LOVING, III
Attorneys for Plaintiffs

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EXHIBIT A

CITY OF SACRAMENTO - CLAIM FORM

For official use only

**** PLEASE READ INSTRUCTIONS ON OTHER SIDE FIRST ****

Name of Claimant: Marlene Jordan
(First Name) (Middle Initial) (Last Name)

Home Address: 4800 62nd Street, Sacramento, CA 95820

City, State, Zip: _____

Daytime () Evening ()

Type of Loss: Personal Injury Other _____ Police Report # _____
 Property Damage Indemnity-Date complaint served

When did injury or damage occur? July 2, 2021 _____ AM/PM
(Month/Day/Year) (Day of Week) (Time)

Where did injury or damage occur? (Street address, intersecting streets, or other location) _____
4800 62nd Street, Sacramento, CA 95820

How did injury or damage occur? (Describe accident or occurrence) Marlene Jordan suffered a left femur fracture when she was dropped by Sacramento Fire Department's paramedics while attempting to put her on a gurney in her home

What action or inaction of City employee(s) caused your injury or damage? Two paramedics assisted Claimant from a sitting position. The paramedic holding her left arm let go and she fell fracturing her left femur.

What injury or damage did you suffer? Fracture to her left femur.

Name of any witnesses: James Jordan (spouse) 4800 62nd St, Sacramento, CA 95820
(Name) (Address) (Phone Number)

(Name) (Address) (Phone Number)

Name of City employee(s) involved: Unknown at this time

Amount of Claim: Personal Injury \$ 250,000 (MICRA) Property Damage \$ _____ Other \$ _____
Limited Civil Case: Yes _____ No XX

State the amount of your claim if the total amount is \$10,000.00 or less. If it is over \$10,000.00, no dollar amount shall be stated, but you are required to state whether the claim would be a limited civil case (total amount of claim does not exceed \$25,000).

\$250,000 Maximum non-economic damages per MICRA.

ALL NOTICES AND/OR COMMUNICATIONS SHOULD BE SENT TO:

Name Walter H. Loving, III./Wilcoxon Callahan, LLP Daytime Phone (916) 442-2777

Address (Street, City, State, Zip): _____
2114 K Street, Sacramento, CA 95816

WARNING:

CC FORM 6 (Rev. 12/14)

It is unlawful to knowingly present or cause to be presented any false or fraudulent claim for payment of a loss or injury. (P.C. § 550(c)(1).) Every person who violates this paragraph is guilty of a felony punishable by imprisonment in state prison for two, three, or five years and by a fine not exceeding fifty thousand dollars (\$50,000). (P.C. § 556(c)(1).) Pursuant to Code of Civil Procedure § 1036, the City may seek to recover all costs of defense in the event an action is filed that is later determined not to have been brought in good faith and with reasonable cause.

Declaration and Signature of Claimant(s): I declare under penalty of perjury that I have read the foregoing claim for damages and know the contents thereof; that the same is true of my knowledge and belief, save and except as to those matters stated on information and belief, and as to them, I believe to be true.

Signature: _____ Relationship: ATTORNEY Date: 11/16/21
CC FORM 6 (Rev. 12/14)

You are required by law to provide the information requested on page 1 in order to comply with Government Code § 910 and § 910.2. Additionally, in order to conduct a timely investigation the City of Sacramento requests that you provide additional information:

1. Claimant(s) Social Security Numbers(s): _____
2. Claimant(s) Date of Birth: 04/3/1938
3. Claimant's Driver's License Number and State: None
4. Are you a Medicare Beneficiary? Yes No
5. Medicare HICN number: 2PC7-TRS-TF54

6. If the claim involves a motor vehicle incident, please provide the following information:

Claimant(s) Insurance Company: _____ Telephone: _____

Insurance Policy No.: _____

Insurance Agent: _____ Telephone: _____

Claimant's Vehicle Year/Make/Model _____ License Plate No. _____

Please check here if there was no insurance coverage in effect at the time of the incident.
(Please attach any repair bills, estimates, and photographs of your vehicle damage.)

7. If this claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors, hospitals or other medical providers (e.g. chiropractors, physical therapists, acupuncturists, etc.) providing treatment. (Government Code § 985).

The names of the two paramedics are unknown at this time.

8. Additionally, please provide the name, address and telephone number of any insurance company (or other similar entity), which has or is expected to make payments to you or any medical provider on your behalf as a result of your claimed injuries (e.g., Medi-Cal, unemployment insurance, disability insurance, etc.). (Government § 985(c).) Medicare

EXHIBIT B

SACRAMENTO

Department of Administration

December 7, 2021

Wilcoxon Callahan, LLP
2114 K St.
Sacramento, CA 95816

RE: Claimant : Marlene Jordan
 Our File No. : 4A21110UKBN-0001
 Date of Loss : July 2, 2021

Dear Walter Loving:

NOTICE OF CLAIM REJECTION

Notice is Hereby Given that the claim you filed with the Office of the City Clerk for the City of Sacramento on **November 18, 2021**, was **rejected** as without merit effective **December 7, 2021**. CA Government Code Section 913 requires the following warning be given when a claim is rejected.

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 in a municipal or superior court of the State of California on this claim. See Government Code Section 945.6. This warning applies only to State claims, and does not apply to statutes of limitations for Federal causes of action.

You may seek the advice of an attorney of your choice in connection with this matter. If you desire to speak with an attorney, you should do so immediately.

Please also be advised that, pursuant to Sections 128.5 and 1038 of the California Code of Civil Procedure, the city will seek to recover all costs of defense in the event a lawsuit is filed in the matter and it is determined that the action was not brought in good faith and with reasonable cause.

Sincerely,

Tiffany Saich
Tiffany Saich

Personnel Technician

City of Sacramento

PROOF OF SERVICE

STATE OF CALIFORNIA

COUNTY OF SACRAMENTO

I am a citizen of the United States and am employed in the County of Sacramento. I am over the age of eighteen (18) years and am not a party to the within above-titled action. My business address is 915 I Street, Sacramento, CA 95814.

I am readily familiar with the City of Sacramento's practice for collection and processing of correspondence for mailing with the United States Postal Service and that the correspondence would be deposited with the United States Postal Service in the County of Sacramento, California that same day in the ordinary course of business.

On **December 7, 2021**, I served the within **Notice of Rejection** on the persons interested in said action by placing true copies thereof enclosed in sealed envelopes in the designated area for outgoing mail addressed as set forth below:

Wilcoxon Callahan, LLP
2114 K St.
Sacramento, CA 95816

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Executed on **December 7, 2021**, at Sacramento, California.

Tiffany Saich

Tiffany Saich

RECEIVED
MAIN LOBBY DROP BOX

2022 APR 11 PM 12:22

GDSSC COURTHOUSE
SUPERIOR COURT
OF CALIFORNIA
SACRAMENTO COUNTY