



SAN DIEGO COUNTY  
REGIONAL AIRPORT AUTHORITY  
**STAFF REPORT**

Item No.  
**10**

Meeting Date: **FEBRUARY 14, 2013**

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**Subject:**

**Authorize the Rejection of the Claim of Karen Babeshoff**

**Recommendation:**

Adopt Resolution No. 2013-0014, authorizing the rejection of the claim of Karen Babeshoff.

**Background/Justification:**

On November 6, 2012, Karen Babeshoff ("Babeshoff") filed a claim (Attachment A) with the Authority alleging that on May 4, 2012, she sustained injuries to her toe as a result of falling in Terminal Two at San Diego International Airport. Babeshoff claimed damages in the amount of \$9,111.45 to cover the cost of medical treatment and orthopedic devices. Babeshoff's claim was returned without action on November 26, 2012, because it was not presented within the time limit required by California Government Code Section 911.2, which is not later than six months after the accrual of the cause of action.

California Government Code Section 911.4 allows a person who failed to file a timely claim to present an application for leave to present that claim. The application must be presented within a reasonable time not to exceed one year after the accrual of the cause of action and must contain the reason for delay.

On January 3, 2013, Babeshoff submitted evidence in the form of postal receipts and email exchanges with the U.S. Postal Service indicating that she purchased overnight delivery service on November 1, 2012 when submitting her claim. Though the cause of the delay in delivery is unknown, it appears that she reasonably relied on her postal carrier's ability to deliver the claim on or before November 4, 2012.

On February 14, 2013, at its regular meeting, the Board of the San Diego County Airport Authority Authorized the APPROVAL of the Application for Leave to Present a Late Claim of Karen Babeshoff.

Babeshoff alleges in her claim that she was walking down the stairs in flat shoes and stepped off onto a highly waxed linoleum floor and slipped. She says that she twisted her body to avoid greater injury and, as a result, fractured her toe.

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Babeshoff's claim should be denied. An investigation into the circumstances of the incident revealed no unsafe condition nor any notice of an unsafe condition of the floor or stairs. It further revealed that the stairway and floor surfaces are comprised of the same tile and that it has been tested by an independent laboratory to meet and exceed the Federal Americans With Disabilities Act ("ADA") standards for Static Coefficient of Friction for horizontal surfaces. The tile floor surfaces are never treated or cleaned with wax, but rather cleaned nightly with water only.

**Fiscal Impact:**

Not applicable.

**Authority Strategies:**

This item supports one or more of the Authority Strategies, as follows:

- Community Strategy     Customer Strategy     Employee Strategy     Financial Strategy     Operations Strategy

**Environmental Review:**

- A. California Environmental Quality Act: This Board action is not a project that would have a significant effect on the environment as defined by the California Environmental Quality Act (CEQA), as amended. 14 Cal. Code Regs. §15378. The Board action is not a "project" subject to CEQA. Cal. Pub. Res. Code §21065.
- B. California Coastal Act: This Board action is not a "development" as defined by the California Coastal Act. Cal. Pub. Res. Code §30106.

**Equal Opportunity Program:**

Not applicable.

**Prepared by:**

SUZIE JOHNSON  
PARALEGAL



SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY  
ACCIDENT OR DAMAGE CLAIM FORM

Please complete all sections.  
Incomplete submittals will be returned, unprocessed.  
Use typewriter or print in ink.

ATTACHMENT A

FOR AUTHORITY CLERK USE  
ONLY

Document No.: EL-101

Filed:

SDCRAA  
NOV 06 2012  
Corporate Services

1) Claimant Name: <u>Karen Louise Kalena Babeshoff</u>	
2) Address to which correspondence regarding this claim should be sent: <u>K Babeshoff 153 Theodor Lane Sonoma CA 95476</u>	
Telephone No.: <u>707 888 2835</u>	Date: <u>Oct 31 2012</u>
3) Date and time of incident: <u>5-04-12 13:50</u>	
4) Location of incident: <u>3835 N Harbor Drive, San Diego</u>	
5) Description of incident resulting in claim:	
6) Name(s) of the Authority employee(s) causing the injury, damage or loss, if known: <u>waxed, slippery floor -</u>	
7) Persons having firsthand knowledge of incident:	
Witness (es) <u>Ramatin Movahhed</u>	Physician(s): <u>Remy Ardizzone</u>
Name:	Name:
Address:	Address: <u>900 Hyde St</u>
	<u>San Francisco CA 94109</u>
Phone: <u>685.705.7869</u>	Phone:
	<u>415 353 6400</u>

8) Describe property damage or personal injury claimed:

Pls see Dr Ardizzo's enclosed Diagnosis

(L) hallux fracture

o/p comminuted fracture (L) Great toe

9) Owner and location of damaged property or name/address of person injured:

Karen Babeshoff

153 Theodor Lane

Sonoma CA 95476

10) Detailed list and amount of damages claimed as of date of presentation of claim, including prospective damages. If amount exceeds \$10,000.00, a specific amount need not be included.

See attached

Dated: 10-31-12

Claimant:

K Babeshoff

(Signature)

**Notice to Claimant:**

Where space is insufficient, please use additional paper and identify information by proper section number.

Return completed form to:

Tony Russell, Director, Corporate Services/Authority Clerk  
Corporate Services Department  
P.O. Box 82776  
San Diego, CA 92138-2776

**Attachment to Claim**

**Karen Babeshoff  
Injury Incident 05-04-12**

**Oct 31, 2012**

**5) Description of incident resulting in claim.**

Walking down stairs in flats – see enclosed photo of stairs – stepped off stairs on to highly waxed linoleum – began to slip - attempted to regain control to prevent going head first - I fell yet saved my head from hitting the floor by twisting my body.

Note: My recommendation is to please install a non-slip surface - like escalators have when you step off the escalator stairs something to secure the person in the flat area prior to moving on. Currently there are good looking, effective commercial/public building options that I have noticed when I am in public buildings.

It is my understanding from first responders/security guards, which in their words, stated '*People fall here all the time.*' I hope that is not true. Perhaps these falls can be prevented and will not need to happen again with a surface put in place that is non skid. I do yoga and when my foot is healed I am an avid walker thus am fit)

**10) Detail list and amount of damages claimed as of date of presentation of claim, including prospective damages.**

Please note: I am not yet released by my MD. Due to the persistence of foot pain and type of fracture I am prescribed more PT.

Please see enclosed file with all receipts, Dr's orders, diagnosis, et al.

**Expense Summary to date -**

Apria	111.12
Image Guided Therapeutics at St Francis Medical Hospital	117.00
Dr Remy Ardizzone	792.00
Smith & Nephew Exogen 4000 (home ultra sound equipment)	4500.00
St Francis Memorial Hospital	1841.22
Sports Medicine Shop	249.30
REI (insoles to fit in therapeutic boot)	48.60
UCSD Emergency Care	1430.21
Radiologist UCSD Medical Center	32.00
Sport Medicine Shop	249.30
REI (Insoles to fit Therapeutic Boot)	48.60
<u>Total to date</u>	<u>9111.45</u>

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RESOLUTION NO. 2013-0014

A RESOLUTION OF THE BOARD OF THE  
SAN DIEGO COUNTY REGIONAL AIRPORT  
AUTHORITY AUTHORIZING THE REJECTION OF  
THE CLAIM OF KAREN BABESHOFF

WHEREAS, on November 6, 2012, Karen Babeshoff filed a claim with the San Diego County Regional Airport Authority for damages she allegedly incurred as a result of using a stairway in Terminal Two at San Diego International Airport; and

WHEREAS, California Government Code Section 911.2 requires claims filed with government entities to be presented not later than six months of the date of occurrence; and

WHEREAS, on November 26, 2012, the San Diego County Regional Airport Authority sent a NOTICE OF LATE CLAIM to Karen Babeshoff; and

WHEREAS, on January 3, 2013, Karen Babeshoff filed an Application For Leave to Present a Late Claim with the San Diego County Regional Airport Authority; and

WHEREAS, at its regular meeting on February 14, 2013, the Board considered the Application For Leave to Present a Late Claim by Karen Babeshoff and found that the application should be approved; and

WHEREAS, at its regular meeting on February 14, 2013, the Board considered the claim filed by Karen Babeshoff, the report submitted to the Board, and found that the claim should be rejected.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby authorizes the rejection of the claim of Karen Babeshoff.

BE IT FURTHER RESOLVED that this Board determines this action is not a "project" as defined by the California Environmental Quality Act (CEQA), Cal. Pub. Res. Code §21065; nor is it a "development" as defined by the California Coastal Act, Cal. Pub. Res. Code §30106.

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PASSED, ADOPTED, AND APPROVED by the Board of the San Diego County Regional Airport Authority at a special meeting this 14th day of February, 2013, by the following vote:

AYES: Board Members:

NOES: Board Members:

ABSENT: Board Members:

ATTEST:

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TONY R. RUSSELL  
DIRECTOR, CORPORATE SERVICES/  
AUTHORITY CLERK

APPROVED AS TO FORM:

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BRETON K. LOBNER  
GENERAL COUNSEL

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