

JOURNAL OF THE SENATE

Eighty-Fifth Regular Session

WEDNESDAY, December 29, 1982.

The chief clerk makes the following entries under the above date.

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Claims Board**

December 21, 1982

Don Schneider

Senate Chief Clerk

State Capitol

Madison, Wisconsin

Dear Mr. Schneider:

Enclosed is the report of the State Claims Board covering claims heard on December 13, 1982.

The amounts recommended for payment under \$1000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$1,000, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,

EDWARD D. MAIN

Secretary

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STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on December 13, 1982, upon the following claims:

Claimant	Amount
Richard Hellman & Aetna Casualty & Surety Forest County	\$ 1,000.00 22,399.72
Robert Kriedman	50,000.00
Jack Sorge	884.38
Gareth Foerster	6,662.66
Thomas Larson	13,093.58
Dimitri Pavlou	18.00

In addition, the following claims were considered and decided without hearings:

General Telephone Co.	\$312.41
Robert Mehlretter	188.19
Edward Blume	70.00
Paul Huffman	101.36
Kathleen Asleson	78.00
Lawrence Hannes	252.19
Thora McClain	36.75
Sandra Shimkus	21.00
Cheryl Enzenbacher	78.50
Lennie Pease	169.95

THE BOARD FINDS:

1. Aetna Casualty & Surety Company and Richard Hellman claim \$1,000.00 for damages to a vehicle owned by Mr. Hellman as a result of an accident between that vehicle and a state vehicle operated by an employe of the Department of Military Affairs on May 18, 1981. Mr. Hellman was driving behind the state vehicle on East Second Street in Superior, Wisconsin. The two vehicles collided as the state vehicle slowed to make a right turn. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes, and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

2. Forest County claims \$22,399.72 for reimbursement of law enforcement services provided by several municipalities and counties

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in connection with the 1980 Blue Grass Festival at Chippewa Sakogon Indian Reservation in Crandon, Wisconsin. Forest County requested the additional law enforcement services when the Sheriff's office determined their staff was insufficient to control the size of the crowd in attendance at the 1980 festival. Forest County received approximately one-half of the expenses for assistance from the Chippewa Sakogon Indian tribe. The Board finds that the County has already been reimbursed in excess of 50% of the expenses, taking into account the cost of the state patrol assistance and , therefore, concludes the claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

3. Robert Kriedman of Eau Claire, claims \$50,000.00 for damages allegedly incurred as a result of a counseling session he had with Dr. Richard Boyum, Counseling Psychologist, at the University of Wisconsin-Eau Claire in May, 1980. After meeting with claimant, Dr. Boyum discussed a threat claimant had made to him regarding his wife, with the Director of the Counseling Center. Claimant alleges that the disclosure of this statement resulted in an unfavorable divorce settlement and the loss of affection and respect of his children. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes, and this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

4. Jack Sorge of Hales Corners, claims \$250 for his insurance deductible, \$464.88 for car rental while his car was being repaired and miscellaneous expenses related to the pursuit of his claim incurred as a result of an automobile accident involving his vehicle, driven by his son, and a state vehicle operated by an employe of the University of Wisconsin-Whitewater on September 18, 1981. The state vehicle was stopped on North Prairie Street in Whitewater to allow a vehicle to enter traffic. The driver of the state vehicle did not see Mr. Sorge's vehicle behind him and backed up into claimant's vehicle, causing the damages. The Board concludes the claim should be paid in the reduced amount of \$200, representing 80% of the deductible of claimant's insurance, based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Department of Administration Risk Management appropriation s. 20.865(1) (fm), Stats.

5. Gareth Foerster of Stanley, claims \$6,662.66 for attorneys fees incurred for the defense of criminal charges filed against him

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relative to the performance of his duties as a police officer at the University of Wisconsin-Eau Claire in 1982. As a result of an investigation of a theft, claimant and his supervisor, Wallace O'Neill, were charged with making an illegal search and misconduct in office. Claimant was granted immunity for testimony in the criminal action against Mr. O'Neill. The Board is satisfied that the claimant was performing his job duties as requested by his supervisor at the time this incident occurred and, therefore, recommends payment of claimant's attorneys fees at the rate of \$35 per hour plus transcript costs and long distance phone calls, for a total award of \$3,654.01, based on equitable principles.

6. Thomas Larson of Sheboygan, claims \$1,000.00 for business losses, \$1,518.58 for cash stolen from his automobile, \$300 for clothing stolen from his automobile, \$275 for food and liquor stolen from his restaurant and \$10,000 for personal injury and medical expenses allegedly caused by four inmates on escape status from the Kettle Moraine Correctional Institution on December 26, 1981. The involved inmates escaped by driving a car through the fence surrounding the Institution. When claimant arrived at his restaurant to open for business he was met by the escaped inmates who tied him up and burglarized his restaurant. The Board concludes there is sufficient showing of negligence on the part of the state in this matter and, therefore, concludes the state in good conscience should assume and pay this claim in the reduced amount of \$500, representing \$250, the amount of cash claimant testified he would normally have in his cash box during a business day, and \$250 for loss of food, liquor and damages incurred to his premises, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(3)(a), Stats.

7. Dimitri Pavlou of Madison, claims \$18 for the replacement cost of his shirt which was damaged at the Wilson Street State Office building where he is employed by the Department of Health and Social Services. On March 17, 1982, a fellow employe walked past claimant, holding a tape dispenser which snagged claimant's shirt, causing the damage. The Board concludes this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

8. General Telephone Company of Sun Prairie, claims \$312.41 for damages to an underground telephone cable at the intersection of STH 14 and Covered Bridge Road in the Town of Richland. The Department of Transportation was drilling a hole for the installation of a sign when the cable was damaged. The Board concludes the

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claim should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395(3) (hq), Stats.

9. Robert Mehlretter of Cambridge, claims \$188.19 for damages incurred to his automobile as a result of an accident between his vehicle and a state vehicle operated by an employe of the Employment Relations Commission on July 14, 1981. Claimant was stopped in traffic on South Park Street and the state vehicle was behind claimant. In an attempt to change lanes, the state vehicle hit claimant's vehicle in the rear causing the damages. The Board concludes the claim should be paid in the reduced amount of \$172.64, the amount of the lower estimate of repairs, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Administration Risk Management appropriation s. 20.865(1) (fm), Stats.

10. Edward Blume of Madison, claims \$70 for the loss of a camera tripod, allegedly stolen from the Assembly Office on August 26, 1982, where he is employed as photographer for the Assembly Democratic Caucus staff. Lock storage for photographic equipment is now provided to employes in the Assembly staff office. The Board concludes the claim should be paid in the reduced amount of \$68.25, based on equitable principles. The Board further concludes under authority of s. 16.007(6m), Stats., payment should be made from the Assembly appropriation s. 20.765(1) (a), Stats.

11. Paul Huffman of Beloit, claims \$71.36 for lost wages and \$30 for driving expenses he incurred to complete a cardiac test at the University Hospital and Clinic in Madison. Claimant was advised by his physician to complete a cardiac test at the University Clinic. During claimant's first appointment on June 28, 1982, only the first part of the two-part test was performed. Claimant was not billed for the incomplete test. The Board concludes the claim should be paid in the reduced amount of \$30, for the cost of claimant's mileage at 25 cents per mile, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(1) (kb), Stats.

12. Kathleen Asleson of Kenosha, claims \$78.00 for the replacement cost of four pair of slacks and a jumpsuit which were snagged by a wire that protruded from the upholstery of her typist chair at the University of Wisconsin-Parkside, where she is employed. Consistent with previous decisions of the Board in similar

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claims, the Board concludes that on equitable principles the claimant should receive \$16 in full settlement of the claim. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the University of Wisconsin appropriation s. 20.285(1)(a), Stats.

13. Lawrence Hannes seeks reimbursement on behalf of his insurance company, Western Casualty & Surety Company, for an insurance claim in the amount of \$252.19. Damage to Mr. Hannes' vehicle occurred on June 26, 1982, when a rotted tree limb fell on the vehicle while it was parked in the lot at the Winnebago Mental Health Institute where claimant is employed. Based on a long-standing policy of this Board not to honor subrogation claims, the Board concludes this claim is not one for which the state is legally liable, nor one which the state should assume and pay based on equitable principles.

14. Thora McClain of Eau Claire, claims \$36.75 for repairs to her diamond ring which was damaged by a resident at the Northern Wisconsin Center on August 5, 1982. Claimant is employed at the Institute as a Speech Pathologist and the damage to her ring occurred when the resident smashed her hand between himself and a wall at the Institute. The Board concludes the claim should be paid, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(2)(gk), Stats.

15. Sandra Ann Shimkus of Union Grove, claims \$21.00 for repairs to her engagement ring which was damaged by a resident at the Southern Wisconsin Center, where she is employed. On May 7, 1982, a resident of the Center became upset and threw a container of poker chips, hitting claimant's ring, causing the damages. The Board concludes the claim should be paid, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Health and Social Services appropriation s. 20.435(2)(gk), Stats.

16. Cheryl Enzenbacher of Necedah, claims \$78.50 for the replacement cost of her eyeglasses which were damaged on August 11, 1982, while she was working as a Limited Term Employee for the Department of Natural Resources. Claimant was working on a brush clearing project in Buckhorn State Park. While piling brush, some limbs snapped and hit her in the face knocking off her glasses, causing the damage. The Board concludes there is an insufficient showing of negligence on the part of the state, its officers, agents or employes, and this claim is not one for which the state is legally liable,

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nor one which the state should assume and pay based on equitable principles.

17. Lennie Pease of Wales, claims \$169.95 for the value of a shotgun which was confiscated from him by a Department of Natural Resources warden in 1976, as a result of a hunting violation. Claimant was fined for the violation and the gun was to be returned. Claimant was out of the state following the issuance of the court order that the gun be returned and the Department of Natural Resources sold the gun at an auction on November 9, 1979, for \$80. The Board concludes the claim in the reduced amount of \$80, the fair market value of the gun, should be paid based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Natural Resources appropriation s. 20.370(1) (mu), Stats.

THE BOARD CONCLUDES:

1. The claims of the following claimants should be denied:

Richard Hellman and Aetna Casualty & Surety
Forest County
Robert Kriedman
Dimitri Pavlou
Lawrence Hannes
Cheryl Enzenbacher

2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats.:

Jack Sorge	\$200.00
Thomas Larson	500.00
General Telephone Company	312.41
Robert Mehlretter	172.64
Edward Blume	68.25
Paul Huffman	30.00
Kathleen Asleson	16.00
Thora McClain	36.75
Sandra Shimkus	21.00
Lennie Pease	80.00

THE BOARD RECOMMENDS:

1. Payment of \$3,654.01 be made to Gareth Foerster for reimbursement of attorney fees at the rate of \$35 per hour, incurred for the defense of criminal charges filed against him relative to the performance of his duties as a police officers for the University of Wisconsin-Eau Claire in 1982.

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Dated at Madison, Wisconsin this 21st day of December, 1982.

GERALD D. KLECZKA
Senate Finance Committee

VIRGIL D. ROBERTS
Assembly Finance Committee

MARGARET S. LEWIS
Representative of Governor

EDWARD D. MAIN
Representative of Secretary of
Administration

WILLIAM H. WILKER
Representative of Attorney
General

SENATE CLEARINGHOUSE ORDERS

The committee on Aging, Business and Financial Institutions and Transportation reports and recommends:

Clearinghouse Rule 82-189

AN ORDER to repeal chs. S-L 11, 14 and 15; and to repeal and recreate S-L 1.01 (2), 7.01 (3), 25.01 (2) and 50.03 and chs. 5, 10 and 20, relating to savings accounts, financial reports, real estate acquired on default of loans, supervisory orders, service corporations and procedures.

No action taken.

Clearinghouse Rule 82-187

AN ORDER creating ch. S-L 31, relating to granting state chartered savings and loan associations parity with federally chartered savings and loan associations with respect to trust powers.

No action taken.

Clearinghouse Rule 82-188

AN ORDER to renumber S-L 30.02 (4) to (10) and 30.11; to amend S-L 30.02 (3) and 30.11 (1) (c); and to create S-L 30.02 (5), (7), (9), (13) and (15), 30.11, 30.20 (8) to (10) and 30.30, relating to granting state chartered savings and loan associations parity with federally chartered savings and loan associations with respect to certain powers.

No action taken.

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Clearinghouse Rule 82-172

AN ORDER to repeal ch. Bkg 2; and to create Bkg 3.04 and ch. Bkg 4, relating to parity and limitations on deposit liabilities.

No action taken.

Clearinghouse Rule 82-83

AN ORDER to repeal ch. MVD 17; and to create ch. Trans 300, relating to transportation of school children.

No action taken.

Clearinghouse Rule 82-157

AN ORDER to amend and revise chs. SEC 3, 4, 5, 7, 32, 35 and 36 and to make diverse other changes in the rules of the office of the commissioner of securities, relating to the operation of ch. 551, Stats., the Wisconsin uniform securities law, and ch. 553, Stats., the Wisconsin franchise investment law, with respect to registration exemptions, registration requirements and procedures, securities broker-dealer and investment adviser licensing requirements and procedures, fees and administrative procedure.

No action taken.

JAMES T. FLYNN
Chair