



January 10, 2020

VIA FEDEX & EMAIL

City Clerk's Office
300 Centennial Way
Tustin, CA 92780
cityclerk@tustinca.org

Re: Claim Against the City of Tustin on Behalf of Kelvin Estiven Hernandez Román

Dear City Clerk:

The ACLU Foundation of Southern California, a non-profit civil rights organization, is filing the enclosed claim pursuant to Cal. Gov't Code § 910 on behalf of Mr. Kelvin Estiven Hernandez Román. We are representing Mr Hernandez Román in this matter. Please direct any correspondence to us at:

Jessica Karp Bansal
ACLU of Southern California
1313 W 8th Street
Los Angeles, CA 90017
jbansal@aclusocal.org
909-380-7501

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be "JKB", written over a faint, larger version of the signature.

Jessica Karp Bansal
Senior Staff Attorney
ACLU of Southern California

ENCLOSURES

CC: David E. Kendig, City Attorney (via email: dkendig@wss-law.com)



CLAIM AGAINST THE CITY OF TUSTIN
(For Damages to Person or Personal Property)

Received Via:
 U.S. Mail
 Inter-Office Mail
 Over the Counter

Time Stamp:

Claim No: _____

PLEASE NOTE:

- A. Read entire claim before filing.
- B. Be sure your claim is against the City of Tustin, not another public or private entity.
- C. Claims for death, injury to person or to personal property must be filed no later than 6 months after the occurrence (Government Code § 911.2).
- D. Claims for damages to real property (generally defined as land and things firmly attached to the land, such as buildings) must be filed no later than one year after the occurrence (Government Code § 911.2).
- E. If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.
- F. A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall provide the information shown below and must be signed by the claimant or a person on his behalf (Government Code § 910.2).
- G. This form is for the convenience of those desiring to present claims against the City. Claimant is advised to consult a private attorney if legal advice is desired. No employee of the City may give legal advice to any claimant relating to private claims.
- H. Completed claims must be mailed or delivered to the **City of Tustin, City Clerk's Office, 300 Centennial Way, Tustin, California 92780.**

1. Name and Post Office address of the Claimant:

Name of Claimant: Kelvin Estiven Hernandez Román

Home Address: Adelanto ICE Processing Center, 10250 Rancho Rd. Adelanto CA 92301

Home Telephone: NA

Work Telephone: MA

2. Post Office address to which the person presenting the claim desires notices to be sent:
(If different from above)

Name of Addressee: c/o Jessica Karp Bansal

Telephone: 909-380-7501

Post Office Address: Jessica Karp Bansal, ACLU of Southern California, 1313 W. Eighth St, Los Angeles, CA 90017

3. The date, place and other circumstances of the occurrence or transaction from which the claim arises.

Date of Occurrence: July 13, 2019

Time of Occurrence: approx. 9am

Location: Tustin, CA

Circumstances giving rise to this claim:

See attached.

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as you now know.

See attached.

5. The name or names of the City of Tustin employee or employees causing the injury, damage, or loss, if known.

Unknown.

6. Specify what particular act/omission on the part of City of Tustin officers or employees you claim caused the damage/injury (attach additional sheet if necessary).

See attached.

7. Were police on scene? Yes No

8. Was a police report filed? Yes No

If YES, please provide Police Report Number: _____

9. **If amount claimed totals less than \$10,000:** Provide the amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of your claim, including the estimated amount of any related potential future injury, damage, or loss, insofar as it may be known as of the date of your claim, together with the basis of computation of the amount claimed (include copies of all bills, invoices, estimates, etc.)

Amount Claimed and basis for computation:

\$5,000. See attached.

If amount claimed exceeds \$10,000: If the amount claimed exceeds ten thousand dollars (\$10,000), do not provide a dollar amount in the claim. However, your claim must indicate whether it would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs, does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

Limited Civil Case

Unlimited Civil Case

You are required to provide the information requested above in order to comply with Government Code §910. Additionally, in order to conduct a timely investigation and possible resolution of your claim, the City of Tustin requests that you answer the following questions.

10. Name, address and telephone number of any witnesses to the occurrence or transaction from which the claim arises:

11. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:

NA

If applicable, please attach any medical bills or reports or similar documents supporting your claim.

12. If the claim relates to an automobile accident:

Claimant(s) Auto Ins. Co.: NA	Telephone:
Address:	Insurance Policy No.:
Insurance Broker/Agent:	Telephone:
Address:	
Claimant's Veh. Lic. No.:	Vehicle Make/Year:
Claimant's Drivers Lic. No.:	Expiration:

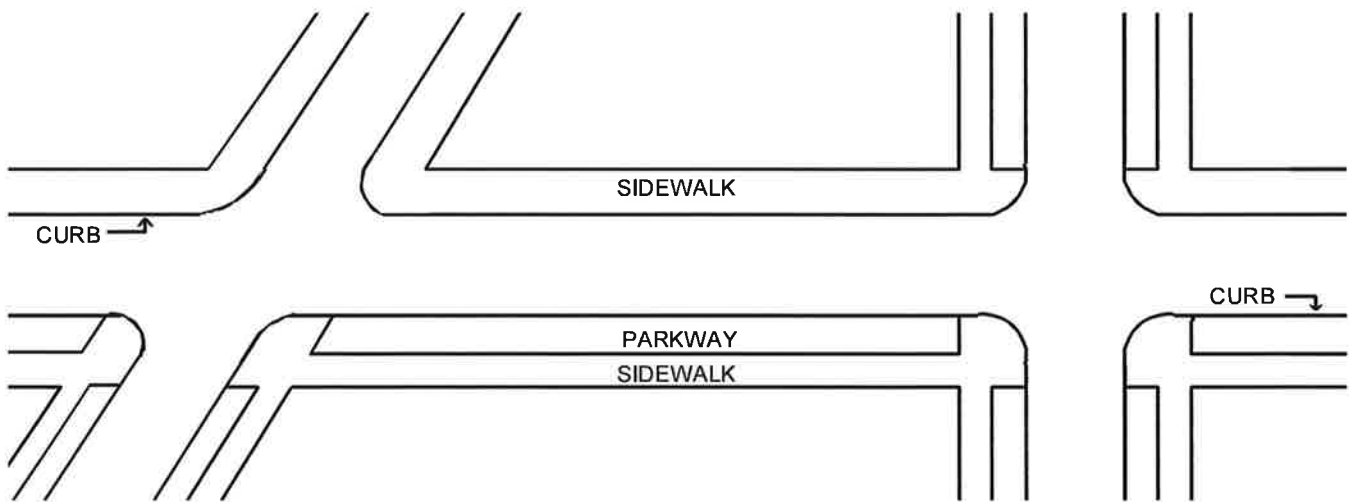
If applicable, please attach any repair bills, estimates or similar documents supporting your claim.

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City/Agency Vehicle was involved, designate by letter "A" location of City/Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw


City/Agency Vehicle; location of City/Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



Warning: Presentation of a false claim is a felony (Penal Code §72). Pursuant to CCP §1038, the City of Tustin may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature:

 (attorney for
claimant)

Date:

1/10/20

Addendum to Claim Against City of Tustin on Behalf of
Kelvin Estiven Hernandez Román

Circumstances giving rise to this claim:

Kelvin Estiven Hernandez Román is a 32-year-old father of two. At the time of this incident, he resided in Garden Grove. At approximately 9:00 on the morning of July 13, 2019, he was driving in the city of Tustin when he was stopped by two Tustin police officers. The officers informed him that they had stopped him because of his car's tinted windows. They ordered him to step outside of his vehicle. Once he was standing outside, one of the officers asked him a series of questions about his immigration status, including, "What country are you from?" and "What is your status?". Mr. Hernandez Roman answered the questions honestly. He also asked the officer why he was asking those questions. The officer responded, "these are routine questions."

The District Attorney declined to file any charges against Mr. Hernandez Román in connection with his arrest.

General description of the indebtedness, obligation, injury, damage or loss incurred so far as you now know:

By questioning Mr. Hernandez Román about his immigration status, the Tustin Police violated his rights under the California Values Act. That Act prohibits local police from "inquiring into an individual's immigration status." Cal. Gov't Code § 7284.6(a)(1)(A).

The officer's statement that such unlawful inquiries are "routine" is especially concerning. As the State legislature found when passing the California Values Act:

"A relationship of trust between California's immigrant community and state and local agencies is central to the public safety of the people of California. . . . This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians."

Cal. Gov't Code § 7284.2.

As a result of the Tustin police officers' unlawful questioning, Mr. Hernandez Román suffered emotional distress, pain, suffering, trauma, worry, anxiety, humiliation, and embarrassment.

Specify what particular act/omission on the part of City of Tustin officers or employees you claim caused the damage/injury:

By questioning Mr. Hernandez Román about his immigration status, the Tustin Police violated his rights under the California Values Act and caused him emotional distress, pain, suffering, trauma, worry, anxiety, humiliation, and embarrassment. Cal. Gov't Code § 7284.6(a)(1)(A) (prohibiting "inquiring into an individual's immigration status").

Amount claimed and basis for computation:

Mr. Hernandez Román requests the following:

1. \$5,000 in compensatory, statutory, treble, and punitive damages for violating his rights under the California Values Act;
2. An internal investigation into Tustin Police Department officers responsible for questioning Mr. Hernandez Román about his immigration status, and the release of findings of that investigation to at least Mr. Hernandez Román and his counsel;
3. Tustin Police Department's implementation of and compliance with a comprehensive policy consistent with the California Values Act and Truth Act; and
4. A training regarding the California Values Act and Truth Act for all Tustin Police Department staff to be conducted in consultation with the ACLU of Southern California.