

STATE OF WISCONSIN CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on August 14, 1997, upon the following claims:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
1. Amy Keller	Wisconsin State Fair Park	\$25,612.13
2. Todd & Susan Schram	Department of Public Instruction	\$36,920.77
3. Eureka Dam Campsite, Inc.	Department of Natural Resources	\$22,400.00

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

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
4. Cori Brantner	Department of Justice	\$833.50
5. Harvey Hallgren	Department of Natural Resources	\$100.00
6. John & Susan McGee	Department of Corrections	\$1,139.40
7. Aaron & Peg Moede	Department of Administration	\$246.87
8. Ruemmele Farms	Dept. of Ag. Trade & Consumer Protection	\$100.00
9. Wayne Szama	Dept. of Ag. Trade & Consumer Protection	\$65.00
10. Supervalu Holdings, Inc.	Department of Financial Institutions	\$151,657.93
11. Hanneke Tanzer-Hilliard	Department of Revenue	\$629.39
12. Patricia Wagner	Department of Revenue	\$2,975.74

In addition, the following claim, previously presented at hearing, was considered and decided:

<u>Claimant</u>	<u>Agency</u>	<u>Amount</u>
13. Heinz Service, Inc.	Department of Natural Resources	\$11,125.00

The Board Finds:

1. Amy Keller of Horicon, Wisconsin, claims \$25,612.13 for uninsured medical bills and pain and suffering incurred as a result of an accident at Wisconsin State Fair Park. On August 26, 1995, while the claimant was attending the Wisconsin Quarter Horse State Show, she tripped on an unevenly laid rubber mat, broke her ankle and injured her back. Her medical bills totaled \$2,101.80 of which her insurance paid \$1,489.67, leaving an uninsured balance of \$612.13. The claimant also requests \$25,000.00 for her pain and suffering. Wisconsin State Fair Park recommends payment of the claimant's uninsured medical expenses. The Board concludes the claim should be paid in the reduced amount of \$612.13 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., that payment should be made from the Wisconsin State Fair Park appropriation s. 20.190 (1)(h), Stats.

2. Todd and Susan Schram of Hartford, Wisconsin, claim \$36,920.77 for attorney fees, tuition, travel expenses and other expenses related to the expulsion of their son, Chad, from Hartford Union High School. In October 1995 Chad, along with three other students, was involved in a drug-related incident during school hours. Chad had no prior problems at school. The school board held an expulsion hearing and voted to permanently expel Chad from school. None of the other students involved in the incident were permanently expelled. The claimants appealed the expulsion to the State

5. Harvey Hallgren of Beach Park, Illinois, claims \$100.00 for boat damage incurred on July 1, 1995, in Sturgeon Bay. The claimant's boat was tied at the boat launch in a posted "No Wake" zone. A boat operated by a Department of Natural Resources warden sped by, causing a 3-4 foot wake. The wake caused the claimant's boat to slam into the pier several times, damaging to the boat. The claimant later spoke with the warden about the incident. The warden stated that he did not see the claimant's boat until it was "too late." The claimant understands that the Department was responding to an emergency, however, he feels that they acted recklessly by speeding into a "no wake" zone without even looking to see if there were other boats around. He has insurance coverage for the damage and requests reimbursement of his \$100 deductible. The Department believes that the claimant was without fault in the situation and that he should be compensated, based on equitable principles, for his uninsured damages. The Board concludes the claim should be paid in the amount \$100.00 of based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., that payment should be made from the Department of Natural Resources appropriation s. 20.370 (1)(mu), Stats.

6. John and Susan McGee of Stoughton, Wisconsin, claim \$1,139.40 for vehicle damage caused by a Department of Corrections' vehicle. The claimants' car was legally parked in a UW parking lot. The Department's vehicle was parked in the drive aisle of the lot and was unattended. The Department's vehicle rolled down the drive aisle and hit the claimants' parked car, causing damage to the rear of the vehicle. The claimants contacted the State Risk Management office and were told to submit two estimates and that a check would be issued to them for the lower of the two estimates. The claimants were unaware that there was a 120 day time limit for submitting these estimates to Risk Management. They submitted the estimates after the 120 days had expired and their claim was denied. They request reimbursement for the damage to their vehicle in the amount of \$1,139.40. The claimants do have insurance coverage for this damage and have a \$250 deductible. The Department of Corrections recommends payment of this claim. A Department employe was negligent and there is merit to the claim. The Board concludes the claim should be paid in the reduced amount of \$250.00 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., payment should be made from the Department of Corrections appropriation s. 20.410 (1)(a), Stats.

7. Aaron and Peg Moede of Madison, Wisconsin, claim \$246.87 for auto damage allegedly caused by a Capitol Police patrol car. In October 1996, the claimants' vehicle was parked on the Capitol Square. A capitol police officer pulled into the space behind the vehicle and accidentally hit it, damaging the rear bumper. The claimants originally submitted a repair estimate of \$856.73, however, they have since received another estimate for \$246.87. The claimants have insurance coverage for the damage and have a \$500 deductible. They request reimbursement for the lower of the two estimates. The Department of Administration (Capitol Police) agrees that the squad car did strike the vehicle in question and recommends payment of the claim. The Board concludes the claim should be paid in the amount of \$246.87 based on equitable principles. The Board further concludes, under authority of s. 16.007 (6m), Stats., that payment should be made from the Department of Administration appropriation s. 20.505 (5)(a), Stats.

8. Ruemmele Farms of Hudson, Wisconsin, claims \$100.00 for labor costs to clean up manure at the claimant's dairy farm. In November 1996 a Department of Agriculture, Trade and Consumer Protection inspector failed to re-latch the door between the milking parlor pit and the stall area. As a result, cows wandered into the milking parlor pit area and made a mess. The claimants request reimbursement for their time to clean manure from the area. The Department does not admit liability for this incident, however, it does not contest payment of \$100 to the claimants. The Board concludes the claim should be paid in the amount of \$100.00 based on equitable principles. The Board further

the tax returns and has always filed her own returns. She does not feel it is fair for her wages to be garnished to pay his tax delinquency. The claimant was unaware of the two-year statute of limitations on refunding overpayments and requests that she be refunded the overpayment of her husband's taxes. The Department of Revenue recommends this claim be denied. Section 71.75 (5), Wis. Stats., prohibits the Department from refunding the money that was applied to the original assessment for the years in question, since no refund was claimed within the prescribed two-year period. 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.

13. Heinz Service Center, Inc. of Milwaukee, Wisconsin, claims \$11,125.00 for expenses incurred in association with the installation of a stage 2 vapor recovery system. This system was required by the Department of Natural Resources in order to control emissions from fueling motor vehicles. The claimant chose a contractor from a list provided by the Department. The contractor, Midwest Petroleum, used the wrong parts and never completed the job. The claimant had to hire another company to finish the vapor recovery system. The claimant received a \$23,082 grant from the Department of Natural Resources \$11,125 of which he paid to Midwest Petroleum in addition to over \$28,000 of his own money. The claimant has attempted to recover his money from Midwest, however, the company is in complete disarray and does not have sufficient funds to reimburse him for the unfinished job. The claimant requests reimbursement of the \$11,125 of his grant money which was essentially lost when Midwest Petroleum did not finish the job. The Department of Natural Resources does not object to payment of the claim. 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.

The Board concludes:

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

Todd & Susan Schram
 Supervalu Holdings, Inc.
 Hanneke M. Tanzer-Hilliard
 Patricia Wagner
 Heinz Service Center, Inc.

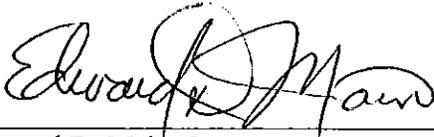
2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats:

Amy Keller	\$612.13
Eureka Dam Campsite, Inc.	\$3,300.00
Cori Brantner	\$833.50
Harvey Hallgren	\$100.00
John & Susan McGee	\$250.00
Aaron & Peg Moede	\$246.87
Ruemmele Farms	\$100.00
Wayne Sazama	\$65.00

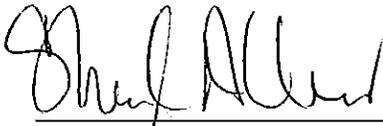
Dated at Madison, Wisconsin this 29 th day of August, 1997.



Alan Lee, Chair
Representative of the Attorney General



Edward D. Main, Secretary
Representative of the Secretary of Administration



Sheryl Albers
Assembly Finance Committee



Stewart Simonson
Representative of the Governor