

CHRISTY SCOTT
CLAIMS COMMISSIONER



STATE OF CONNECTICUT
Office of the Claims Commissioner

450 Columbus Boulevard
North Tower, Suite 203
Hartford, CT 06103
Phone (860) 713-5501
Fax (860) 706-1482

December 1, 2016

Dear Chairmen Tong and Coleman, and Honorable Members of the Judiciary Committee:

Attached please find the Claims Commissioner's Report Pursuant to Public Act 16-127, as mandated by section one of that act.

On or before January 9, 2017, we will file the annual report mandated by General Statutes § 4-159a, in which the office will report on all claims that have not been disposed of within two years of the date of filing or within any extension to the two-year deadline. In addition to the statutorily mandated items, we will provide an update to this report in that document.

I must acknowledge the crucial role played by Commissioner Currey and Deputy Commissioner Fatone of the Department of Administrative Services in allowing the office and myself to find some measure of progress and success in the short time since my tenure began on March 29, 2016. They have generously provided resources, both financial and staff, and moral support as we have worked to improve the efficiency, transparency, and accessibility of the claims process.

Please do not hesitate to contact me with any questions or concerns.

Very truly yours,

A handwritten signature in blue ink, appearing to be "CS" followed by a stylized flourish.

Christy Scott
Claims Commissioner

cc: Office of the House Clerk (HCOAgencyReport@cga.ct.gov)
Office of the Senate Clerk (SCOAgencyReport@cga.ct.gov)
Office of Legislative Research (olr@cga.ct.gov)
Kendall Wiggin, State Librarian (Kendall.Wiggin@ct.gov) and VIA USPS
Jennifer Bernier, Legislative Librarian (Jennifer.bernier@cga.ct.gov)

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CLAIMS COMMISSIONER'S REPORT PURSUANT TO PUBLIC ACT 16-127

Section 1 of Public Act 16-127 requires the Claims Commissioner to report by December 1, 2016, to the General Assembly's Judiciary Committee on numerous aspects of the functioning of the Office of the Claims Commissioner.¹ This report will be followed, on or before January 9, 2017, by the Claims Commissioner's annual report mandated by General Statutes § 4-159a, in which the office will report on all claims that have not been disposed of within two years of the date of filing or within any extension to the two-year deadline.

The Claims Commissioner is statutorily mandated to receive and hear claims against the state, with the authority to award damages up to \$20,000, recommend the award of damages of more than \$20,000, or to grant authorization to bring suit against the state. Section 4-157 of the General Statutes directs the Claims Commissioner to adopt procedures that promote the simple, uniform, expeditious and economical processing of claims.

REFORMS AND IMPROVEMENTS

To further the statutory goal of simple, uniform, expeditious and economical processing of claims, the office has instituted numerous reforms and improvements since the current Commissioner began her tenure on March 29, 2016. These changes can be broken into several categories: (1) simplified and streamlined procedures; (2) technology reforms; (3) claims magistrates.

¹ Section 1 of Public Act 16-127 provides as follows:

Not later than December 1, 2016, the Claims Commissioner shall report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary on all claims, filed with the Office of the Claims Commissioner pursuant to section 4-147 of the general statutes, as amended by this act, or section 54-102uu of the general statutes, as amended by this act, on or before December 1, 2014, that have not been disposed of. Such report shall delineate by calendar year the number of such claims (1) that have not been disposed of, (2) in which a hearing was held but for which the Claims Commissioner failed to render a timely decision as provided for in section 4-154 of the general statutes, as amended by this act, and (3) in which a motion that would be dispositive of the claim was filed and subsequently heard but for which the Claims Commissioner has not rendered a decision or rendered a decision more than one hundred twenty days after the date of the hearing on such motion. In addition, the Claims Commissioner shall report to said committee on any reforms undertaken by said office to promote the simple, expeditious and economical processing of claims, including, but not limited to, technology reforms relating to the establishment of any electronic docket management system and revisions made to the rules of procedure for the processing of claims.

Procedural Improvements

- Completely revised website to provide fillable forms for filing claims and fee waiver applications, detailed instructions on how to file a claim, links to relevant statutes and regulations, and information about specific aspects of the claims process, as well as other resources. See www.occ.ct.gov.
- Created single fillable claim form for all claim types for optional use by claimants (attached).
- Created one-page instructions on how to file a claim in non-technical language (attached).
- Created simplified and fillable fee waiver application form based on Superior Court eligibility rules (attached). Eliminated requirement that inmates submit verified information concerning account balance.
- By agreement with the Attorney General's Office, attorneys representing the state file appearances immediately after receipt of a notice of claim, with a position statement filed six weeks later unless an extension of time is requested.
- Revised standard scheduling order to streamline process and set shorter deadlines for all aspects of the process (attached).
- Revised standard predisposition memorandum order to simplify and clarify requirements (attached).
- Began practice of issuing sua sponte notice of possible dismissal for lack of subject matter jurisdiction, with opportunity for briefing by parties, when jurisdictional issues are apparent on face of notice of claim.
- Established standard practice of holding single hearing for determination of both liability and damages unless bifurcation is specifically ordered.
- Created new standard letter requesting waiver of the two-year disposition deadline (attached). Eliminated practice of asking for waiver for entire year. Waiver requests now identify date certain for disposition based on specific amount of time necessary for resolution of the claim.
- Improved process of documenting postmark dates for notices of claim to reduce confusion over running of statute of limitations and unnecessary motions by Attorney General's Office.
- Revised process of returning incomplete notices of claim to correspond to process used in Superior Court and eliminate unnecessary returns.

- Reorganized staff hours to maximize availability to public and improve office efficiency.²

Technological Improvements

- Converted existing paper-based case management system to Microsoft Excel while awaiting development of new software program.
- Improved timely transmittal of new claims to Attorney General's Office by scanning and emailing documents, rather than mailing.
- Began accepting filing of pleadings by email, in addition to fax, mail and hand delivery.
- Began process of configuring and implementing new software program—
 - With bond funds previously made available through the state's IT Capital Investment Project, in addition to funds provided by the Department of Administrative Services, the current Commissioner began the procurement process immediately upon her arrival to negotiate a contract with an existing vendor for the configuration and implementation of a case management software program designed to meet the specific operational needs of the Office of the Claims Commissioner. The program will provide a comprehensive internal case management system, with robust deadline tracking and reporting capabilities, as well as electronic filing of claims and pleadings, and public access to claim history.
 - After entering into an agreement with the vendor in June, the office began the process of identifying its work processes and working with the vendor to configure the program for its internal case management needs. That effort was managed by a part-time consultant/project manager funded by the Department of Administrative Services, who began working with the office in August.
 - The staff began internal testing of the case management functionality in late November, which will continue until December 9th.

² Public Act 16-127 authorizes the Commissioner to revise the existing formal rules of procedure for the processing of claims, and § 1 of the act asks the Commissioner to report on any such revisions. As of December 1, the Commissioner has not revised any of the existing formal rules of procedure. She has delayed this task in order to be more familiar with the office's full body of work, as well as the problems and issues resulting from the limited nature of the existing rules. She expects to have a draft of revised rules available for public comment in February 2017.

- The internal case management system will officially go live on December 19th, after the vendor makes needed modifications identified during testing.
- User testing for the public portal is planned for the first two weeks of January.
- Tentative launch date for public portal is January 17th.

Claims Magistrates

The mid-term budget adjustments provided the office with short-term funding to assist in addressing the backlog of pending claims. Section 5 of Public Act 16-127 provided that the Commissioner may designate magistrates to hear and make recommendations for disposition of claims from the existing list of available magistrates maintained by the Chief Court Administrator.

With the generous cooperation of the Judicial Branch, an invitation to apply for a position as claims magistrate was issued to the existing list of judicial magistrates in July. Interviews were conducted in September and seven individuals signed personal services agreements to serve as claims magistrates in November.

The magistrates received an orientation training from the Commissioner and her staff on December 1st. They will begin hearing cases and making recommendations for disposition of claims in December.

CLAIMS FILED ON OR BEFORE DECEMBER 1, 2014

Section 1 of Public Act 16-127 requires the Commissioner to report on all claims filed on or before December 1, 2014, that have not been disposed of. Specifically, she is required to report by calendar year the number of such claims (1) that have not been disposed of, (2) in which a hearing was held but for which the Claims Commissioner failed to render a decision within 90 days, and (3) in which a dispositive motion was filed and heard but no decision was rendered within 120 days after the hearing.

Pending Claims Filed On or Before December 1, 2014, By Calendar Year

Since the current Commissioner's confirmation on March 29, 2016, she has disposed of 65 claims filed on or before December 1, 2014.

Currently, 154 claims are pending that were filed on or before December 1, 2014. They were filed in the following years:

2007--1

2008--1

2009—3

2010—43 (32 of these are related)

2011—9

2012—22

2013—29

2014—46

Of these 154 pending claims, 84 claims were sent to the legislature for review during the 2016 legislative session, and were unavailable for further action until they were returned to the office on May 24, 2016, after the end of the legislative session.

Categories within Pending Claims—

Stays

Forty-four of the claims filed on or before December 1, 2014, are currently stayed by order of the Commissioner, typically because a related action is pending in another forum that may resolve the claim, or because the parties have requested a stay to engage in settlement negotiations. (Of those 44 stayed claims, 33 claims involve the same incident.)

Hearing Scheduled

Forty-one of the claims are currently scheduled for a hearing on the merits.

Awaiting Memorandum of Decision

Thirteen of the claims have had a hearing on the merits and are awaiting a memorandum of decision by the Commissioner.

Motions Pending

Forty of the claims have motions pending that require decision by the Commissioner.

Discovery in Progress

For five of the claims, the parties are currently engaged in discovery and the matter is not ready for hearing.

Other Reasons

Eleven claims are not disposed of for various reasons, including two awaiting receipt of an anticipated settlement agreement from the parties, two awaiting decision on the papers, one in which the claimant died while the claim was pending and the estate has not yet appeared, and one in which the claimant's counsel withdrew and claimant requested time to retain new counsel.

**Pending Claims Filed On or Before December 1, 2014,
in which Decision not Rendered within Ninety Days of Hearing on Merits**

There are five pending claims filed on or before December 1, 2014, which had a hearing on the merits in 2016, in which a decision has not been rendered within 90 days pursuant to General Statutes § 4-154. These claims were due October 13, October 27, November 1, November 14, and November 29. A decision will issue for each of these claims by January 1, 2017, as authorized by § 31 of Public Act 16-127.

**Pending Claims Filed On or Before December 1, 2014,
in which Decision on Dispositive Motion not Rendered within 120 Days of Hearing**

There are no pending claims filed on or before December 1, 2014, in which a motion that would be dispositive was filed and subsequently heard by the current Claims Commissioner but for which the Commissioner has not rendered a decision or rendered a decision more than 120 days after the date of the hearing on such motion. The office's record-keeping is not sufficient to allow us to determine whether any of the 154 pending claims filed on or before December 1, 2014, in which a dispositive motion was filed, were subsequently heard by the prior Commissioner and a decision was not rendered or not rendered within 120 days of that hearing.

BY: _____

Christy Scott
Claims Commissioner

December 1, 2016

State of Connecticut – Office of the Claims Commissioner
CLAIM FORM

Claimant Name _____ ID# _____ Date _____

Current Address _____ Forwarding Address _____

Most claims must be filed within one year of the date of incident. See Connecticut General Statutes § 4-148 for more information.

COMPLETE THE FOLLOWING SECTIONS. PROVIDE SPECIFIC INFORMATION.

A. Provide a concise statement of the claim. Specify the date, time, place and the state agency the claim is against:

(Attach 2nd sheet if necessary)

B. Explain why the state is liable for the damages:

(Attach 2nd sheet if necessary)

C. Total amount of monetary damages requested: _____

D. Do you request permission to sue the state? Yes _____ No _____

E. Filing fee of \$25.00 or \$50.00 is enclosed? Yes _____ No _____

If you are requesting a fee waiver, is the completed Application for Waiver of Filing Fee and Affidavit form enclosed?
Yes _____ No _____

F. Have all administrative remedies been exhausted prior to filing this claim? Yes _____ No _____
Please enclose documentation if applicable.

I hereby present a Notice of Claim against the State of Connecticut for damages.

Signature _____ Date _____

It is highly recommended that a claim for \$5000 or less be sworn and notarized so that the claim may be resolved without a formal hearing.

Subscribed and sworn to before me on this _____ day of _____

Notary Public _____ Date of Commission expiration _____

Original claim form and one (1) copy should be delivered to the Office of the Claims Commissioner, 450 Columbus Boulevard, North Tower, Suite 203, Hartford, CT 06103.

(Rev. 11-16)

How to File a Claim

The procedure for filing a claim with the Claims Commissioner is fully described in Connecticut General Statutes, Chapter 53, as amended by Public Act 16-127, and sections 4-157-1 to 4-157-17 of the Regulations of Connecticut State Agencies. Below are general guidelines for filing a claim:

1. The notice of claim must be filed and signed by the claimant, or by an attorney licensed to practice in Connecticut.
2. The notice of claim shall include the name and address of the claimant. In most cases, a notice of claim may be filed by only one claimant. If other individuals or entities have related claims, each individual or entity should file a separate notice of claim.
3. The notice of claim shall provide a concise statement of the claim including the date, time, place and circumstances surrounding the claim, including the state agency that allegedly caused harm to the claimant, and the dollar amount of damages requested. The statement should include sufficiently detailed allegations to show what the state did or failed to do that caused the alleged damage or injury to the claimant.
4. The notice of claim must be filed in duplicate (one original and one copy).
5. A filing fee or an application for waiver of the filing fee must be submitted with each notice of claim. The check or money order shall be made payable to the Treasurer, State of Connecticut, but mailed to the Office of the Claims Commissioner. A filing fee of \$25 must accompany each claim for \$5000 or less, and \$50 must be submitted for each claim in excess of \$5,000.
6. Claims for damages of \$5000 or less should be sworn and notarized and supported by bills, estimates, etc., to allow for resolution of the claim without a hearing.
7. The notice of claim generally must be filed within one year of the date of the incident. See General Statutes § 4-148 for more information.
8. An inmate shall not file a notice of claim until the inmate has exhausted all administrative remedies provided by the Department of Correction. A notice of claim filed by an inmate shall include a description of the administrative remedies that the inmate has exhausted prior to filing the claim. An inmate shall file such claim not later than one year after the date on which the inmate exhausted all administrative remedies (except that a claim denied by the Lost Property Board must be filed not later than 60 days after the board's decision).
9. If the claimant is insured, the claimant should look to his or her insurance carrier for reimbursement. In the event of a deductible, a claimant may file a claim for the amount of the deductible. An affidavit concerning the existence and amount of coverage, the deductible, and the amount received or to be received from insurance, or the cover sheet of the applicable insurance policy should accompany the claim.
10. Claimants should be aware that the Claims Commissioner does not have jurisdiction over certain types of claims against the state, including, for example:
 - a. claims upon which suit is otherwise authorized by law including suits to recover similar relief arising from the same set of facts; General Statutes § 4-142 (2);
 - b. claims for payment of employment benefits; § 4-142 (1);
 - c. claims for refunds of taxes; § 4-142 (5);
 - d. claims related to public works contracts; § 4-61;
 - e. claims related to defective highways; § 13a-144; and
 - f. claims related to the operation of state-owned vehicles; § 52-556.

Application for Waiver of Filing Fee and Affidavit

Office of the Claims Commissioner

Claimant

File no.

Inmate # (if applicable)

APPLICATION

I request a waiver of the filing fees in connection with this claim. I believe I am entitled to the relief sought in this claim against the State and, without such a waiver, I will be unable to pursue my claim.

FINANCIAL AFFIDAVIT

1. Are you presently employed? (If an inmate in a state institution, include inmate employment).

☐ Yes ☐ No

If the answer is yes, state your salary or wages and give the name and address of your employer.

\$	Per	Employer
----	-----	----------

If the answer is no, state the date of last employment, the salary or wages and the name and address of your employer. Date of last employment:

\$	Per	Employer
----	-----	----------

2. Within the last 12 months, have you received any money from the following sources?

Business, professional or self-employment? ☐ Yes ☐ No

Rental income, royalties, interest or dividends? ☐ Yes ☐ No

Pensions, annuities or insurance payment? ☐ Yes ☐ No

Gifts or inheritances? ☐ Yes ☐ No

Any other sources? ☐ Yes ☐ No

If the answer to any of the above is "yes", describe the source and amount of money received.

3. Do you have money in a checking or savings account or cash on hand? (If an inmate, include funds in your inmate account). ☐ Yes ☐ No . If "yes", state the total amount \$

Application for Waiver of Filing Fee and Affidavit

Page 2

Office of the Claims Commissioner

4. Do you own any real estate, stocks, bonds, notes, automobiles or other valuable property? Exclude household furnishings and clothing. ☐ Yes ☐ No
If "yes" describe the property and state its approximate value.
5. Do you have any outstanding debts? ☐ Yes ☐ No If "yes" list or describe the debts and amounts owed.
6. Do you have any recurring living expenses for food, clothing or shelter? ☐ Yes ☐ No
If "yes" list or describe the nature of such expenses and the amounts.
- | | |
|-------------|----------|
| Housing | Food |
| Heat | Clothing |
| Electricity | Other |
7. Is anyone dependent upon you for support? ☐ Yes ☐ No If "yes" list the dependents, their ages and relationship to you and the amount you contribute for support.

I understand that a false statement or answer to questions in this affidavit will subject me to penalties for perjury.

I certify that the information in this application and affidavit is true and accurate to the best of my knowledge and that I can, if asked, document all income, expenses, and liabilities listed herein.

Signature

Date

Subscribed and sworn to before me on this day of , 20 .

Notary Public, Commissioner of the Superior Court, or other person authorized to administer an oath:

OFFICE OF THE CLAIMS COMMISSIONER
450 Columbus Boulevard, North Tower, Suite 203, Hartford, CT 06103

(Claimant) :

FILE NO.

v.

STATE OF CONNECTICUT :

Month xx, 2016

SCHEDULING ORDER

The following scheduling order is hereby entered in the above matter:

- 1) Discovery shall be completed on or before (two months).
- 2) Dispositive motions shall be submitted on or before (two months).
- 3) Predisposition memoranda shall be submitted by the later of the dates indicated in the attached order or 30 days after a decision on a dispositive motion has been rendered (if applicable) for the claimant and 45 days after the decision for the respondent.
- 4) Status conferences may be scheduled as needed related to settlement, discovery, or other predisposition issues.
- 5) A hearing on the merits will be scheduled if needed.

If the amount of damages sought is \$5,000 or less, the matter may be decided without a hearing based on affidavits submitted by the parties, pursuant to Connecticut General Statutes § 4-151a.

If the claimant claims privilege with respect to assignment for hearing based on age, illness, or estate status, pursuant to General Statutes § 4-151 (a), claimant shall notify the Office of the Claims Commissioner promptly. Counsel shall make every effort to resolve discovery issues without the Commissioner's involvement. If unable to resolve a dispute, counsel shall submit respective positions, in writing, for the Commissioner's consideration.

The parties are advised that, if a formal hearing is held, it will encompass both liability and damages issues unless the Claims Commissioner indicates otherwise in advance of the hearing date, either on her own motion, or in response to a motion for bifurcation.

BY ORDER OF THE COMMISSIONER

CHRISTY SCOTT

PREDISPOSITION MEMORANDA ORDER

No later than April 27, 2017, claimant shall submit a predisposition memorandum. Failure by the claimant to submit a predisposition memorandum by this date shall result in a dismissal of the claim. The respondent shall submit a predisposition memorandum two weeks after claimant's memorandum is received. The memoranda shall contain the following information:

- 1) Claimant's contentions (claimant only)
State specifically the nature of each claim, the relief sought and claimant's allegations as to the facts constituting the basis for each claim.
- 2) Respondent's contentions (respondent only)
State the respondent's contentions as to the claims and relief sought, including factual issues in dispute and defenses.
- 3) Legal issues
List the disputed legal issues presented by the foregoing contentions of claimant and respondent.
- 4) List of witnesses
Set forth the names and addresses of each witness to be called by the party with a brief statement of the anticipated testimony and any anticipated scheduling problems.
- 5) Exhibits and deposition testimony
Attach a list of each exhibit that the party proposes to offer, with a brief description of contents. Also attach a list of each witness whose testimony will be offered by deposition, including page and line designations that the party proposes to offer. The party shall also attach a list of objections, if any, to the opponent's proposed exhibits or deposition testimony. (To comply with this part of the order, claimant and respondent shall exchange exhibits and list of deposition testimony in advance of submitting their memoranda. The parties shall make every effort to resolve objections prior to submission of the memoranda.)
- 6) Anticipated evidentiary problems
Attach memoranda of fact and law concerning evidentiary problems anticipated by the party.
- 7) Further predisposition proceeding
Specify any further discovery required to prepare for hearing or disposition and reasons for failure to complete if beyond deadlines set forth in scheduling order.
- 8) Time required for hearing
Claimant and respondent shall estimate the time required for their portion of the hearing proceedings, if any.

BY ORDER OF THE COMMISSIONER

DATE: 10/27/16

CHRISTY SCOTT

*Parties may, by agreement, file their memoranda earlier, if they so choose.

December 1, 2016

[address]

Re: CLAIM OF [claimant]-- FILE NO. xxxxx

Dear Attorney :

Connecticut General Statutes section 4-159a requires the Claims Commissioner to report claims to the General Assembly that have not been disposed of within two years of the date of filing. Because this claim has not yet been resolved, we are providing you with notice that we may be required to report the claim to the legislature pursuant to this statute.

If the claim is so reported, the legislature may take any one of the following actions: (1) grant an extension of time for disposition by this office; (2) grant permission to sue the state; (3) grant an award; or (4) deny the claim.

If you do not wish for this claim to be reported to the legislature, you have the option of stipulating to an extension of time for the Claims Commissioner to dispose of the claim.

If you choose to stipulate to an extension of time until **April 15, 2017** for the resolution of this claim, please complete this document and return it to our office by **December 14, 2016**. Your completion and return of this document will constitute your stipulation to an extension of time for the purposes of General Statutes section 4-159a.

Failure to complete and return this document will constitute a refusal to stipulate to an extension of time and may result in the reporting of this claim to the General Assembly pursuant to section 4-159a.

Very truly yours,

Christy Scott
Claims Commissioner

CS/tmd

I hereby stipulate and consent to an extension of time until **April 15, 2017** for the resolution of claim no. **xxxxxx**.

[name]

Date:

cc: [AAG]