

Please Read Instructions on Reverse Side of Yellow copy

Please print in ink or type

Arkansas
State Claims Commission
APR 18 2019

BEFORE THE STATE CLAIMS COMMISSION Of the State of Arkansas

- Mr.
- Mrs.
- Ms.
- Miss

Edward Romayor, Claimant

vs.

State of Arkansas, Respondent

Do Not Write in These Spaces

Claim No. _____

Date Filed _____
(Month) (Day) (Year)

Amount of Claim \$ _____

Fund _____

COMPLAINT

Edward Romayor, the above named Claimant, of _____
(Name) (Street or R.F.D. & No.) (City)

_____ County of _____ represented by _____
(State) (Zip Code) (Daytime Phone No.) (Legal Counsel, if any, for Claim)

of _____ says:
(Street and No.) (City) (State) (Zip Code) (Phone No.) (Fax No.)

State agency involved: _____ Amount sought: \$4,876.99

Month, day, year and place of incident or service: February 14th, 2019 at 3:25 pm in Rural Crawford, Arkansas

Explanation:

On February 14th, I was driving through Arkansas on Hwy 40 to get to my destination of Fishkill, New York. I was driving a U-Haul truck that was carrying my three bedroom home along with all of our belongings. I was stopped for an alleged "improper lane change" but it was actually to search the truck for illegal substances. Officer Christopher Short called for the K9 unit, and backup officers to the scene. After the K9 dog found no traces of illegal substances, we were then taken to a warehouse where I had to wait for three hours while more than ten policemen raided my truck. I had previously hired professional movers to pack my truck both neatly, and carefully. That was essentially pointless because every piece of furniture and every box was searched and thrown about. After an exhausting search and removal of all of my belongings, no illegal substances were found. I have attached pictures of what we were left with in the end: a messy truck we could barely open the door to. Many valuable pieces of furniture were damaged and broken. I am asking for the amount stated above as reimbursement for the replacement costs. We have attached pictures of everything that has been damaged. My family and I hope that everyone is cooperative in this process and thank you all for your time.

As parts of this complaint, the claimant makes the statements, and answers the following questions, as indicated: (1) Has claim been presented to any state department or officer thereof?

No; when? _____; to whom? _____
(Yes or No) (Month) (Day) (Year) (Department)

and that the following action was taken thereon: _____

and that \$ _____ was paid thereon: (2) Has any third person or corporation an interest in this claim? No; if so, state name and address

_____ (Name) (Street or R.F.D. & No.) (City) (State) (Zip Code)

and that the nature thereof is as follows: _____ and was acquired on _____, in the following manner:

THE UNDERSIGNED states on oath that he or she is familiar with the matters and things set forth in the above complaint, and that he or she verify believes that they are true.

Edward Romayor
(Print Claimant/Representative Name)

Edward Romayor
(Signature of Claimant/Representative)

SWORN TO and subscribed before me at FISHKILL NY
(City) (State)

on this 12th day of April, 2019
(Date) (Month) (Year)

JANET H HARRIS
 (SEAL) NOTARY PUBLIC STATE OF NEW YORK
 ORANGE COUNTY LIC. #01HA6095145
 COMM. EXP. 07/07/2019

Janet H Harris
(Notary Public)

SF1-R7/99

My Commission Expires: July 07 2019
(Month) (Day) (Year)

ARKANSAS STATE CLAIMS COMMISSION
NON VEHICLE PROPERTY DAMAGE/PERSONAL INJURY INCIDENT REPORT FORM

SECTION 1

CLAIMANT Edward Romayor ADDRESS [REDACTED]
CITY & STATE [REDACTED] ZIP CODE [REDACTED]
DATE OF INCIDENT: February 14th, 2019 TIME 3:25 pm

Give a brief description of incident, showing how incident happened, exact loss and extent of damage to property and/or injury to person:
During a move cross country, my U-Haul truck was stopped for an alleged "improper lane change" and searched for illegal substances. We were stopped for around 3 hours. My truck was raided and many valuable belongings were damaged. No substances were found and the evaluated cost of everything amounts to \$4,876.99.

(If personal injury claim only, move on to Section IV)

Arkansas
State Claims Commission
APR 18 2019
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SECTION II

Has this property been repaired? Yes () No (X) If repairs have been made, give the following information: Amount: \$ _____ Have you paid for the repairs? Yes () No (X)

NOTE: Attach a copy of repair bill.

If repairs have not been made, list three estimates below and **attach copies** of each of them.

NAME	ADDRESS	AMOUNT
1. _____	_____	\$ _____
2. _____	_____	\$ _____
3. _____	_____	\$ _____

SECTION III

Was property covered by insurance? Yes () No (X)
If yes, what is the deductible? \$ _____

NAME OF INSURANCE CARRIER ADDRESS

SECTION IV

Is injured covered by medical insurance? Yes () No (X)
If yes, what is the deductible? \$ _____

NAME OF INSURANCE CARRIER ADDRESS

SECTION V

If incident was investigated by the police or by some other agency, give name and title of officer/person making the investigation: _____

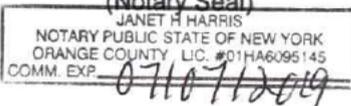
SECTION VI

The undersigned states on oath that he/she is familiar with the matters and things set forth in the above statement, and that he/she verily believes that they are true.

Edward Romayor
Signature of Claimant

Sworn to and subscribed before me at FISHKILL, NY
City & State

on this 12th day of April, 2019.
day month year



My Commission Expires 07-07-2019

Janet H Harris
Signature of Notary Public

BEFORE THE ARKANSAS STATE CLAIMS COMMISSION

EDWARD ROMAYOR

CLAIMANT

V.

CLAIM NO. 191041

ARKANSAS STATE POLICE

RESPONDENT

ORDER

Now before the Arkansas State Claims Commission (the “Claims Commission”) is the claim of Edward Romayor (the “Claimant”) against the Arkansas State Police (the “Respondent”). At the hearing held on August 15, 2019, Claimant appeared *pro se* via telephone. Elaine Lee appeared on behalf of Respondent.

Background and Witness Testimony

1. Claimant filed his claim seeking \$4,876.99 in personal property damage. Claimant alleged that Respondent searched his moving truck while he was traveling from Portland, Oregon, to upstate New York, and that some of Claimant’s personal property (the “Property”) was damaged when Respondent unpacked and re-packed the moving truck. Claimant submitted pictures of the Property, along with a summary of the replacement costs for those damaged items.

2. At the hearing, Claimant testified that he paid a professional moving company to pack his belongings in the moving truck and that his wife supervised the packing. On February 13, 2019, while driving through Oklahoma, Claimant testified that he was stopped by the Oklahoma State Police and released without a search of his moving truck. The following day, Respondent stopped Claimant and took the moving truck to a warehouse to inspect it. Claimant stated that, during the search, he sat in the trooper’s vehicle and that Claimant’s passenger was seated somewhere else. Claimant testified that he was ultimately given a warning by the trooper, along with a number to call if Claimant had any damaged items. Claimant also testified that his blood

pressure medication was “confiscated,” which caused Claimant to incur damages in having to replace that prescription.

3. Upon a question from a commissioner, Claimant stated that he arrived at his damage amount by looking at receipts and online to determine the value of the damaged Property.

4. On cross examination, Claimant stated that there were other law enforcement officers present during the search. Claimant estimated there to be between six and twelve officers present. Claimant also stated that he could see only see the front of the moving truck during the search and does not know if everything was taken out of the truck. Claimant noted that he heard a “crash” at one point during the search.

5. Upon a question from a commissioner, Claimant stated that he does not have any pictures to show the condition of the Property prior to Respondent’s search of the moving truck or before Claimant’s arrival at his destination in upstate New York.

6. Claimant’s pictures and damage summary were admitted without objection as Claimant’s Hearing Exhibit 1.

7. Upon a question from a commissioner, Claimant stated that the cost to replace his blood pressure medication was \$16.90.

8. Upon a question from a commissioner, Claimant stated that there were no moving pads or blankets protecting the Personal Property in the moving truck. Claimant testified that his wife watched to make sure everything was put in the moving truck correctly. Claimant agreed that the roads are not in the best condition but maintained that the damage to the Property resulted from the poor repacking job done by Respondent.

9. Respondent then called Trooper Christopher Short. Trooper Short testified that when the moving truck was moved to the Crawford County Sheriff’s Office, there were three or four other law enforcement officers present with him. Trooper Short stated that he did not take

Claimant's blood pressure medication and does not know anything about the missing medication. He also testified that he did not witness any destruction to the Property and does not recall seeing any moving blankets.

10. Upon a question from a commissioner, Trooper Short confirmed that three agencies (Van Buren Police Department, Crawford County Sheriff's Office, and Respondent) were involved in the search of Claimant's moving truck.

11. Respondent's exhibits, along with the original affidavit executed by Trooper Short, were admitted without objection as Respondent's Hearing Exhibit 1.

12. Claimant noted in closing that he heard a female officer tell the other law enforcement officers to be careful with the items in the moving truck.

13. The Claims Commission reviewed the video footage from Trooper Short's vehicle, including both a dashboard camera and an interior camera that filmed Claimant sitting in the backseat of Trooper Short's vehicle. From a review of the interior camera, the Claims Commission notes that Claimant was given the option to sit outside of Trooper Short's vehicle in order to observe the search but that Claimant asked to remain in the vehicle. The Claims Commission also notes that Claimant was offered water and was immediately shown to a restroom upon Claimant's request. Trooper Short's behavior toward Claimant was kind and professional. At the end of the video, Trooper Short radioed for a telephone number for Claimant to call if he wanted to file a claim for any damaged items.

14. From a review of the dashboard camera, the Claims Commission does not have a good view of the search. The dashboard camera is facing toward the front of the moving truck because the moving truck was backed into the warehouse. The Claims Commission is unable to view the interior of the moving truck prior to the search or the condition of the Property as it was

removed from the moving truck. Similarly, the Claims Commission cannot draw any conclusions about the method used to remove or replace any of the Property.

Findings of Fact and Conclusions of Law

Based upon a review of the pleadings, testimony, and the law of Arkansas, the Claims Commission hereby finds as follows:

15. The Claims Commission has jurisdiction to hear this claim pursuant to Ark. Code Ann. § 19-10-204(a).

16. The Claims Commission found the witnesses to be credible.

17. In weighing the evidence, including Claimant's testimony regarding hearing a "crash" during the search and Claimant's photograph of the re-packed moving truck, the Claims Commission agrees with Claimant that his Property was likely damaged while being re-packed into the moving truck.

18. However, the Claims Commission finds it significant that Claimant did not monitor the condition of the items in the moving truck during the first part of the trip from Oregon to Arkansas given his testimony regarding the poor road conditions. The Claims Commission also finds it significant that Claimant did not take Trooper Short up on his offer to observe the search of the moving truck. Additionally, the Claims Commission notes that Claimant did not require the "professional moving company" to use moving pads or moving blankets to cushion the items in the moving truck.

19. As such, the Claims Commission assigns fault as follows:

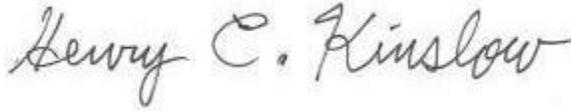
(a) Claimant: 40%

(b) Respondent: 60%

20. As for damages, the only evidence presented by either party was Claimant's testimony as to the replacement cost of the Property. However, the proper measure of damages is

the fair market value of the Property immediately prior to the search. *Commercial Fitness Concepts, L.L.C. v. WGL, LLC*, 2017 Ark. App. 148, 516 S.W.3d 764 (2017) (holding that the trial court erred in basing an award on replacement costs rather than fair market value). Having nothing other than Claimant's testimony to rely upon, the Claims Commission must use its best judgment to determine an appropriate value of the Property prior to Respondent's search of the moving truck. As such, the Claims Commission unanimously finds that Claimant is entitled to \$1,500.00 in damages to his Property, of which Respondent is liable for 60% of that amount, or \$900.

IT IS SO ORDERED.



ARKANSAS STATE CLAIMS COMMISSION
Henry Kinslow



ARKANSAS STATE CLAIMS COMMISSION
Paul Morris, Chair



ARKANSAS STATE CLAIMS COMMISSION
Sylvester Smith

DATE: August 22, 2019

Notice(s) which may apply to your claim

- (1) A party has forty (40) days from the date of this Order to file a Motion for Reconsideration or a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1). If a Motion for Reconsideration is denied, that party then has twenty (20) days from the date of the denial of the Motion for Reconsideration to file a Notice of Appeal with the Claims Commission. Ark. Code Ann. § 19-10-211(a)(1)(B)(ii). A decision of the Claims Commission may only be appealed to the General Assembly. Ark. Code Ann. § 19-10-211(a)(3).
- (2) If a Claimant is awarded less than \$15,000.00 by the Claims Commission at hearing, that claim is held forty (40) days from the date of disposition before payment will be processed. *See* Ark. Code Ann. § 19-10-211(a). Note: This does not apply to agency admissions of liability and negotiated settlement agreements.
- (3) Awards or negotiated settlement agreements of \$15,000.00 or more are referred to the General Assembly for approval and authorization to pay. Ark. Code Ann. § 19-10-215(b).

Edward Romayor



**Arkansas
State Claims Commission**

SEP 30 2019

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30th September 2019

Kathryn Irby

Director, Arkansas State Claims Commission Department
101 East Capitol Avenue Suite 140
Little Rock, Arkansas 72201-3823

Dear Ms. Irby,

This is a response/notice of appeal regarding claim number 191041. After the Court hearing, the claims commission believes that I am only entitled to 60% of \$1,500 dollars worth of damages done. I completely disagree.

I am still seeking the amount of \$4,876.99 to cover the damages done to my personal property. I hope we can eventually come to an agreement on the amount owed to me.

Thank you,

A handwritten signature in cursive script that reads "Edward Romayor".

Edward Romayor

CC: Ms. Elaine Lee