

1979 WL 42837 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 2, 1979

***1 RE: Claim No. 78-03-11-1433 Donnie M. Franks**

Colonel Jasper B. Varn
Acting Deputy Adjutant General
Office of the Adjutant General
1225 Bluff Road
Columbia, South Carolina 29201

Dear Colonel Varn:

You have requested an opinion as to the liability of the Office of the Adjutant General under the South Carolina Governmental Motor Vehicles Tort Claim Act for damages to property sustained in an accident in Fort Stewart, Georgia, on August 1, 1978. I have reviewed the investigation file and conclude that this claim is not cognizable under our Act. Section 15-77-230 of the Act includes the following proviso:

(a) Before any action shall be brought, notice in writing shall be filed with such governmental entity against whom recovery is sought within three months after the date of such injury, or action has been commenced thereon within such time upon a verified complaint unless reasonable excuse is given to the satisfaction of the court for not giving such notice and the court is further satisfied that the defendant has not been prejudiced by the delay . . .

It is my understanding that notice of this claim was not received until February 2, 1979. Since this is more than six months after the date of the accident, the failure to give notice would be a bar to recovery under the South Carolina Government Motor Vehicles Tort Claim Act.

If you should need any further information in this regard, please do not hesitate to contact me.

Very truly yours,

Richard B. Kale, Jr.
Assistant Attorney General

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