

Assigned for all purposes to: Spring Street Courthouse, Judicial Officer: William Crowfoot

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8 Attorney for Plaintiff
9 NICHOLAS ALVAREZ

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF LOS ANGELES

12 NICHOLAS ALVAREZ;

Case No.: 21STCV44437

13 **COMPLAINT FOR DAMAGES**

14 Plaintiffs,

15 vs.

16
17 CITY OF SANTA FE SPRINGS;
18 JESSICA TORRES AND DOES 1
19 THROUGH 10, INCLUSIVE,

20 Defendants.

21 **GENERAL ALLEGATIONS**

22
23 1. At all times mentioned herein, Defendant CITY OF SANTA FE SPRINGS was a
24 public entity within the meaning of the California Government Tort Claims Act. On or about
25 August 27, 2021, PLAINTIFF submitted a tort claim for the injuries alleged herein to the CITY
26 OF SANTA FE SPRINGS Clerk. The claim was denied on September 9, 2021 pursuant to
27 Government Code §§912.4.
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2. At the time of the collision, July 3, 2021 approximately 3:30pm, which is the subject matter of this litigation, Plaintiff NICHOLAS ALVAREZ was the owner and operator of a 2012 YAMAHA Motorcycle California Plate #24L5186.

3. PLAINTIFF is informed and believes and thereon alleges that at all times and places herein mentioned, defendant JESSICA TORRES owned, operated, maintained and controlled a white 2021 Chevy Traverse bearing license number 8USK444. TORRES was traveling southbound along Carmenita Road and entered the left turn lane with the intent to turn left and travel east on to Foster Road.

4. Carmenita Road runs north and south and Foster Road runs east and west. The intersection is located in an industrial/commercial area with significant commercial truck with trailer traffic. The two roadways are within the CITY OF SANTA FE SPRINGS, State of California. This portion of Carmenita Road and Foster Road, an intersection, was controlled by a three light "Permissive" phased traffic signal. The three light phased traffic light did not have a "Protected" left turn arrow signal. The failure to phase the lights, particularly the left turn light, as "Protected" instead of permissive, led to Defendant, JESSICA TORRES, attempting to yield to oncoming traffic at a permissive green- light phase and making contact with the Plaintiff's motorcycle. Years prior to the incident Carmenita Road south of Foster Road had a railroad track that crossed over Carmenita Road. Twenty years prior to the incident the rail line was rebuilt onto a bridge that now crosses over Carmenita Road. Carmenita Road was excavated to allow for a bridge to run over Carmenita Road. The excavation created an extensive drop in the roadway with a rise which completely changed the design of the roadway. The drop and rise along Carmenita Road allowed for the railroad bridge; however, the drop and the rise created a different and peculiar configuration to the roadway. The intersection of Carmenita Road and Foster Road shall be hereinafter referred to as the SUBJECT ROADWAY.

5. At all relevant times, Defendant CITY OF SANTA FE SPRINGS was responsible for ownership, maintenance, administration, control and operation of Carmenita Road and Foster Road, where the incident occurred, the SUBJECT ROADWAY.

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6. After Carmenita Road was changed and the drop and rise was added to allow for the rail bridge, the subject intersection began to experience a rise in left turn type collisions. The accident history shows a significant increase in the ten (10) years before the subject incident.

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7. The true names and capacities, whether individual, corporate, associate, governmental or otherwise of Defendants, Does 1 through 10, inclusive, are unknown to Plaintiffs at this time, who therefore sue said Defendants by said fictitious names, and when the true names and capacities of said Defendants are ascertained, leave of Court will be sought to amend this Complaint to allege the true names and capacities of said Defendants.

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8. Plaintiff is informed and believes, and thereupon alleges, that each of the Defendants, designated herein as a DOE is legally responsible in some manner or means for the events and happenings to the Plaintiff, as herein alleged, either through their contractual duty, negligence, maintenance of the roadway, conduct or through the conduct of their agents, servants, or employees, or due to their ownership, design, construction, study, inspection, management, and/or maintenance of the SUBJECT ROADWAY, and failure to maintain the SUBJECT ROADWAY, the Plaintiff was injured and suffered damages which shall be proven at trial.

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FIRST CAUSE OF ACTION

(Against defendant CITY OF SANTA FE SPRINGS; DOES 1-5 for
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Dangerous Condition of Public Property)

9. PLAINTIFF incorporates herein by reference paragraphs 1 through 8, inclusive, of the common allegations as though fully set forth herein at length.

10. The Plaintiff alleges and incorporates the Government Codes which set forth the statutory authority to seek damages against a governmental entity such as the CITY OF SANTA FE SPRINGS.

11. Government Code, section 815 provides:

“Except as otherwise provided by statute:

1 (a) A public entity is not liable for an injury, whether such injury arises out of an act or
2 omission of the public entity or a public employee or any other person.

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4 (b) The liability of a public entity established by this part (commencing with section
5 814) is subject to any immunity of the public entity provided by statute, including this part, and
6 is subject to any defenses that would be available to the public entity if it were a private person.

7 12. The Plaintiff also alleges that Government Code, Section 835 provides for the
8 appropriate statute whereby the defendants CITY OF SANTA FE SPRINGS and DOES 1
9 through 5 can be held liable for injury to plaintiff.

10 Government Code, Section 835 provides:

11 Except as provided by statute, a public entity is liable for injury caused by a dangerous
12 condition of its property if the plaintiff establishes that the property was in a dangerous condition
13 at the time of the injury, that the injury was proximately caused by the dangerous condition,
14 That the dangerous condition created a reasonably foreseeable risk of the kind of injury which
15 was incurred, and that either

16 (a) A negligent or wrongful act or omission of an employee of the public entity within
17 the scope of his employment created the dangerous condition or

18 (b) The public entity had actual or constructive notice of the dangerous condition

19 Under section 835.2 a sufficient a time prior to the injury to have taken measures to
20 protect against the dangerous condition.

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22 13. Further the Plaintiff alleges that certain employees of the defendants, CITY OF
23 SANTA FE SPRINGS and DOES 1 through 5 were negligent and that such negligence
24 proximately caused the injury to Plaintiff.

25 Government Code, Section 840.2 provides the following:

26 “An employee of a public entity is liable for injury caused by a dangerous condition of
27 public property if the plaintiff establishes that the property of the public entity was in a
28 dangerous condition at the time of the injury, that the injury was proximately caused by the

1 dangerous condition, that the dangerous condition created a reasonably foreseeable risk of the
2 kind of injury which was incurred and that either:

3
4 (a) The dangerous condition was directly attributable wholly or in substantial part to a
5 negligent or wrongful act of the employee and the employee had the authority and the funds and
6 or means immediately available to take alternative action which would not have created the
7 dangerous condition or

8 (b) The employee had the authority and it was his responsibility to take adequate
9 measures to protect against the dangerous condition and that expense of the public entity and the
10 funds and other means for doing so were immediately available to him, and he had actual or
11 constructive notice of the dangerous condition under section 840.4 a sufficient time prior to the
12 injury to have taken measures to protect against the dangerous condition.

13 14. Although Government Code, § 830.4 provides that a condition is not a dangerous
14 condition... merely because of the failure to provide regulatory traffic control signals... The
15 Subject Roadway is not alleged to be in a dangerous condition merely due to the lack of a
16 “Protected” left turn arrow signal but rather a combination of conditions. However,
17 Government Code, § 830.8 provides that the public entity is not exonerated from liability for
18 injury proximately caused by such failure if a signal...was necessary to warn of a dangerous
19 condition which endangered the safe movement of traffic and which would not be reasonably
20 apparent to, and would not have been anticipated by, a person exercising due care.

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22 15. On July 3, 2021, and before that time, the defendants, and each of them, so
23 negligently and carelessly failed to prevent the creation of a dangerous and defective condition,
24 by not adequately taking safety measures, not installing a “Protected” left turn signal for motorist
25 traveling southbound Carmenita Road turning eastbound on to Foster Road, the lack of such a
26 signal created a dangerous conditions due to the drop and rise along Carmenita Road south of
27 Foster Road associated with the railroad bridge which created a peculiar roadway configuration
28 and a “Hidden Trap”.

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2 16. The defendant, CITY OF SANTA FE SPRINGS and DOES 1-5 failed to take
3 reasonable steps to properly maintain the intersection of Carmenita Road and Foster Road
4 considering the increased commercial truck activity, along with the high level of collisions at the
5 intersection coupled with the drop and rise in Carmenita Road. The rise and drop along
6 Carmenita Road south of Foster Road created a peculiar configuration. The failure to properly
7 maintain the Subject Roadway for the benefit of motorist and specifically a motorcyclist created
8 a dangerous condition for the public motorist.

9 17. At all times herein mentioned, and for some time prior thereto, defendant, CITY
10 OF SANTA FE SPRINGS, in the exercise of due care, had both constructive and actual notice,
11 pursuant to Government Code, Section 840.4 (a) and (b), of the dangerous and defective
12 condition of the subject city premises due to the lack of proper maintenance of the SUBJECT
13 ROADWAY.

14 18. At all times herein mentioned defendant CITY OF SANTA FE SPRINGS, and
15 DOES 1-5, was/were responsible for, among other things, the planning, design, supervision,
16 control, construction, servicing, management, inspection, monitoring, testing, evaluation,
17 improvement, redesigning, redevelopment, resurfacing, modification, operation, signing,
18 striping, maintenance, repair, traffic control, and other activities related to the SUBJECT
19 ROADWAY where the subject incident occurred.

20 19. On July 3, 2021, Plaintiff NICHOLAS ALVAREZ was traveling with due care
21 northbound Carmenita Road, on his 2012 Yamaha motorcycle in the number two lane
22 approaching Foster Road. As Plaintiff was driving northbound Carmenita Road he was in the
23 dip area caused by the aforementioned drop and rise of the SUBJECT ROADWAY just south of
24 Foster Road. Defendant TORRES entered the left turn lane from southbound Carmenita Road
25 and intended to turn left on to eastbound Foster Road. Defendant TORRES saw that northbound
26 traffic for Carmenita Road was clear and she attempted to turn left but then suddenly saw
27 Plaintiff emerge from the dip area, Defendant TORRES could not properly determine the time
28 and distance, she hesitated and stopped and proceeded believing it was safe to proceed and

1 Plaintiff struck the 2021 Traverse driven by TORRES. Plaintiff NICHOLAS ALVAREZ, while
2 in the dip area, due to the drop and rise on Carmenita Road, could not see defendant TORRES
3 making the left turn, thus he could not anticipate the danger. The rise created a surprise for any
4 motorist reaching the top with due care. The failure to have a “Protected” left turn signal
5 coupled with the drop and rise of the SUBJECT ROADWAY and failure to warn created a
6 “Hidden-Trap”. As Defendant TORRES made the left turn, Plaintiff NICHOLAS ALVAREZ
7 came out of the rise and attempted to brake but impacted with the Chevy Traverse. A motorist
8 turning left from Carmenita on to eastbound Foster Road during the permissive phase has
9 difficulty seeing an oncoming motorcycle and perceiving its speed because a motorcycle is a low
10 target vehicle.
11

12 20. Additionally, due to the Hidden-Trap and other maintenance failures, the
13 SUBJECT ROADWAY was in a dangerous and defective condition such that a motorcyclist
14 traveling northbound Carmenita Road cannot properly perceive the vehicle turning left at the top
15 of the rise and brake.
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17 21. Northbound Carmenita Road motorist south of Foster Road have no warning that
18 a Southbound Carmenita Road motorist may be attempting to turn east onto Foster Road at the
19 area of impact due to the dip in the SUBJECT ROADWAY. The Southbound Carmenita Road
20 motorists have no warning that a motorist could be coming out of the dip and as a result when
21 making a left turn there is a Hidden-Trap. The Hidden Trap creates a defective and unsafe
22 roadway without a “Protected” left-turn only traffic signal.
23

24 22. At all times mentioned herein, Defendant CITY OF SANTA FE SPRINGS
25 had a duty to monitor the traffic conditions at the subject intersection, the number of accidents at
26 the subject location and the number of vehicles at the subject location and provide traffic signals
27 and warnings which were intended to safely control the flow and movement of all traffic at the
28 subject intersection in order to facilitate the safe movement of vehicles and to diminish and deter
the risk of hazard to vehicles proceeding through said intersection. Plaintiff alleges that
Defendant CITY OF SANTA FE SPRINGS had a duty to adapt and modify the traffic signals,

1 signage and controls at the subject intersection so as to facilitate the safe flow of vehicles
2 according to the conditions created by the drop and rise in the roadway and other conditions at
3 the subject intersection at all hours of the night and day and to make further modifications to said
4 traffic lights and signage based upon any changes or modifications to connecting roadways to
5 Carmenita Road and Foster Road which are located close to said intersection.
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7 23. Plaintiff further alleges that the various agencies and service providers of the
8 CITY OF SANTA FE SPRINGS, such as the Department of Streets and Highways, the
9 Department of Public Works and other agencies responsible for the safety and monitor and
10 maintenance of the street lights and turn signals lights at the subject location and, are not co-
11 ordinated so as to report to each other in the event of a dangerous condition, such as that
12 described herein at the subject location and encountered by Plaintiff, resulting in the existence of
13 a dangerous condition at the subject location. Said dangerous conditions could be alleviated if
14 there was coordinated reporting to the responsible agency and repairs could be made to the
15 subject location in a reasonable amount of time. By failing to maintain a centralized reporting
16 system, periodic inspection and timely repairs, the general public of the CITY OF SANTA FE
17 SPRINGS is subject to a dangerous condition at the subject location resulting in numerous
18 injuries and public and private expense.
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20 24. At all times mentioned herein, Defendant CITY OF SANTA FE SPRINGS
21 negligently, carelessly and recklessly maintained, supervised, monitored, repaired, controlled,
22 operated, inspected and otherwise conducted itself so as to fail to discover, inspect, repair, warn
23 of or against, mark off, barricade, modify left turn signals, place appropriate signage or to advise
24 third parties of dangerous conditions on public property, including where Plaintiff's accident
25 occurred. Defendant CITY OF SANTA FE SPRINGS breached said duty by failing to
26 periodically inspect the roadway traffic lights and turn signals at the location of Plaintiff's
27 injuries, failing to determine or install the proper, correct and appropriate turn signal lights at the
28 subject location given the conditions, failing to repair the dangerous condition or notify those
parties responsible for doing so while at the same time marking off the dangerous and defective

1 condition until it was repaired. Instead, Defendant CITY OF SANTA FE SPRINGS allowed a
2 dangerous condition to exist on its property in violation of Government Code §835. Plaintiff
3 alleges that the Subject Roadway was in a dangerous condition at the time of the injury, that the
4 injury was proximately caused by the dangerous condition. Plaintiff's suffered injuries as a
5 result and the dangerous condition created a reasonably foreseeable risk of the kind of injury
6 which was incurred, and that either:

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8 (a) A negligent or wrongful act or omission of an employee of the public entity within the
9 scope of his employment created the dangerous condition; or

10 (b) The public entity had actual or constructive notice of the dangerous condition under
11 Government Code §835.2 a sufficient time prior to the injury to have taken measures to protect
12 against the dangerous condition.

13 25. Plaintiff alleges that Defendant CITY OF SANTA FE SPRINGS created the
14 dangerous condition or permitted it to exist by failing to inspect and monitor the subject location,
15 adapt or adjust the traffic lights, turns signals or controls to the given conditions at the subject
16 intersection, and failed to determine the proper safe and appropriate turn signals which should
17 have been used at the subject location due to the peculiar configuration, as described herein.
18 Plaintiff further alleges that Defendant CITY OF SANTA FE SPRINGS had actual and/or
19 constructive notice of the dangerous condition in sufficient time prior to the incident to have
20 taken measures to protect against the dangerous condition, yet failed to take any steps to repair it.

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22 26. Plaintiff alleges that the existence of the condition and its dangerous character
23 would have been discovered by an inspection and monitoring system that was reasonably
24 adequate to inform Defendant CITY OF SANTA FE SPRINGS as to whether the property was
25 safe for the use(s) for which the Defendant used or intended others to use the public property,
26 and for uses that the Defendant CITY OF SANTA FE SPRINGS actually knew others were
27 making of the public property. Defendant THE CITY OF SANTA FE SPRINGS failed to
28 maintain and operate such an inspection system with due care and thus did not discover the
condition.

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2 27. Plaintiff alleges that a dangerous condition and “Hidden Trap” existed at the
3 Subject Intersection. The conditions at and leading up to the Subject Intersection including but
4 not limited to the drop and rise along Carmenita Road located close to the subject intersection,
5 the amount of traffic at the subject location, the absence of “protected” turn signals for eastbound
6 Foster Road from Carmenita Road and other conditions all combined to create and/or
7 substantially increase the risk of a vehicle vs vehicle collision as occurred on July 3, 2021, at or
8 about 3:30 p.m. Moreover, Defendant CITY OF SANTA FE SPRINGS is not entitled to design
9 immunity as any potential design immunity was lost due to a dangerous condition caused by a
10 change in physical conditions as described herein, Defendant had notice of the dangerous
11 condition created by the change in physical conditions, and Defendant had a reasonable time to
12 obtain the funds and carry out the necessary corrective work to conform the property to a
13 reasonable design or plan and/or Defendant did not reasonably attempt to provide adequate
14 warnings of the dangerous condition.

15 28. As a proximate result of said acts and conduct by Defendant CITY OF SANTA
16 FE SPRINGS and each of them, Plaintiff was severely and catastrophically injured including
17 suffering the amputation of his left leg, which has caused and will continue to cause, Plaintiff
18 herein, great mental pain and suffering, all to their respective damage in an amount within the
19 jurisdictional limits of the above-entitled Court and according to proof at Trial.

20 29. More specifically, the “Hidden Trap” was, among other things, the conjunction of
21 the dangerous condition of the SUBJECT ROADWAY with the CITY OF SANTA FE
22 SPRINGS failing to provide proper maintenance of the roadway.

23 30. At the time of the incident, Plaintiff, NICHOLAS ALVAREZ was using the
24 SUBJECT ROADWAY with due care, however, due to the dangerous and unreasonably poor
25 visibility, dip in the roadway which created and increased likelihood that vehicles would impact
26 with a motorist making a left-turn on the SUBJECT ROADWAY even at low speeds causing
27 conflicts with the motorcyclist traveling on the SUBJECT ROADWAY at reasonable and
28 foreseeable speeds.

1 31. The-SUBJECT ROADWAY was, among other things, inadequately and
2 improperly maintained, inspected, surfaced, striped, contoured, signed, regulated, monitored
3 and/or controlled by the CITY OF SANTA FE SPRINGS and DOES 1-5 thereby interfering with
4 the safe operation of motorcyclist due to the absence of any required or adequate warnings of the
5 aforementioned conditions and without a designated left turn signal.
6

7 32. The dangerous condition of public property, as alleged above, was the proximate
8 cause of Plaintiff NICHOLAS ALVAREZ'S injuries in that, among other things, that the CITY
9 OF SANTA FE SPRINGS and DOES 1- 5 failed to provide safeguards against a dangerous
10 condition of public property, which: (1) was known, or should have been known, by the CITY
11 OF SANTA FE SPRINGS in time to make the condition safe, and (2) the CITY OF SANTA FE
12 SPRINGS has had the means to make the condition safe, and (3) the CITY OF SANTA FE
13 SPRINGS knew of a number of accidents and injuries which required the installation of a left
14 turn signal to remediate the dangerous condition but failed to take action.

15 33. As a proximate result of defendants', negligence and failure to remedy a
16 dangerous condition of public property, as alleged above, PLAINTIFF, has suffered pain,
17 suffered economic loss, including past and future medical billing, past and future loss of earnings
18 and earning capacity, all to his damage in an amount in excess of the jurisdictional limits of this
19 court, said amount to be determined according to proof at time of trial.
20

21 **SECOND CAUSE OF ACTION**

22 **(Negligence Against JESSICA TORRES)**

23 34. Plaintiffs re-alleges each and every paragraph in this complaint as if fully set forth
24 here.

25 35. At all times, each Defendant owed Plaintiff the duty to act with due care in the
26 operation of her vehicle.

27 36. At said time and place, Defendants, and each of them, so negligently, carelessly,
28 recklessly, wantonly, and unlawfully drove, operated, maintained, conducted, controlled and

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1 entrusted said Vehicle as to directly and proximately cause the same to collide with Plaintiff's
2 motorcycle.
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4 **THIRD CAUSE OF ACTION**

5 **(Negligence Against DOES 6-10)**

6 37. Plaintiffs re-alleges each and every paragraph in this complaint as if fully set forth
7 herein.

8 38. At all times herein mentioned defendants DOES 6-10, was/were responsible for,
9 among other things, as private contractors for the CITY OF SANTA FE SPRINGS, performed
10 construction, servicing, management, inspection, monitoring, testing, evaluation, improvement,
11 redesigning, redevelopment, resurfacing, modification, operation, signing, striping, maintenance,
12 repair, traffic control, and other activities related to the SUBJECT ROADWAY where the
13 subject incident occurred.

14 39. At all times, each Defendant, DOES 6-10 owed Plaintiffs and motorists the duty
15 to act with due care in the work performed for the CITY OF SANTA FE SPRINGS.

16 40. At said time and place, Defendants, DOES 6-10, and each of them, so negligently,
17 carelessly, recklessly, wantonly, and unlawfully maintained the SUBJECT ROADWAY so as to
18 directly and proximately cause the subject collision.

19 41. As a direct and proximate result of the negligence, carelessness, recklessness,
20 wantonness and unlawfulness of Defendants, and each of them, as aforesaid, Plaintiffs sustained
21 severe and serious injury to his person, all to Plaintiff's damage in a sum within the jurisdiction
22 of this Court and to be shown according to proof.

23 42. By reason of the foregoing, this Plaintiff, NICHOLAS ALVAREZ has been
24 required to employ the services of hospitals, physicians, nurses and other health care
25 professionals and Plaintiff has been compelled to incur expenses for the treatment of his injuries
26 in an amount to be shown according to proof.
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43. Plaintiff is informed and believes, and thereon alleges, that further medical services will be required by Plaintiff in an amount to be shown according to proof.

44. As a direct and proximate result of the negligence, carelessness, recklessness, wantonness and unlawfulness of said Defendants, and each of them, as aforesaid, and the resulting injuries sustained by the Plaintiffs, as aforesaid, Plaintiffs suffered a loss of earnings and earning capacity; the exact extent and amount of which are unknown to Plaintiffs at this time, and Plaintiffs will ask leave of Court to amend this Complaint in this regard when the same are ascertained, or according to proof at the time of trial.

45. As a direct and proximate result of the negligence, carelessness, recklessness, wantonness and unlawfulness of Defendants, and each of them, Plaintiff, NICHOLAS ALVAREZ was injured in his health, strength and activity. All of said injuries have caused and continue to cause Plaintiff great physical and mental pain and suffering; all to his damage in an amount to be shown according to proof.

46. As a direct and proximate result of the negligence, carelessness and unlawfulness of the Defendants, and each of them, Plaintiff has been damaged and injured in an amount which is at present unknown to Plaintiff and Plaintiff will ask leave of Court to amend this complaint in this regard when the same are ascertained or according to proof at the time of trial, and Plaintiff seeks interest pursuant to law for said injuries and damages.

DEMAND FOR JURY TRIAL

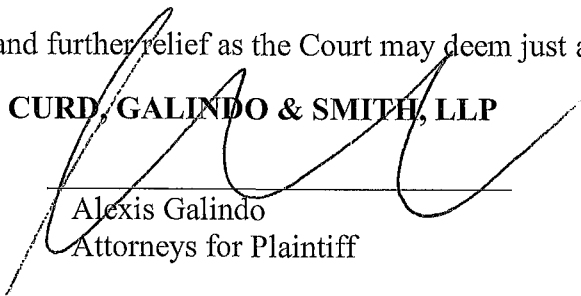
Plaintiff hereby demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as follows:

1. For general damages to be proven at trial;
2. For special damages to be proven at trial;
3. For interest pursuant to law;
4. For costs of suit incurred herein; and

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2 5. For such other and further relief as the Court may deem just and proper.

3 **CURD, GALINDO & SMITH, LLP**

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6 Alexis Galindo
7 Attorneys for Plaintiff
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