

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 SARAH C. SERPA (SBN 196127)
 BRIAN D. CHASE (SBN 164109)
 BISNAR CHASE
 1301 DOVE STREET, SUITE 120
 NEWPORT BEACH, CA 92660
 TELEPHONE NO: FAX NO: 949-752-2777
 ATTORNEY FOR (Name):

FOR COURT USE ONLY
FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF ORANGE
 CENTRAL JUSTICE CENTER
 NOV 12 2010
 ALAN CARLSON, Clerk of the Court
 BY S. RIVAS DEPUTY
30-2010

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange
 STREET ADDRESS: 700 Civic Center Drive West
 MAILING ADDRESS:
 CITY AND ZIP CODE: Santa Ana, CA 92701
 BRANCH NAME: Central Justice Center

CASE NAME: Miguel Gama Macias v. State of California

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

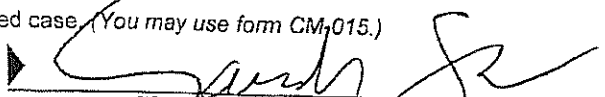
CASE NUMBER: **00424537**
 JUDGE **ANDREW P. BANKS**
 DEPT **C11**

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p>Auto Tort</p> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input checked="" type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify):
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: November 12, 2010
 SARAH C. SERPA (SBN 196127)
 (TYPE OR PRINT NAME)  (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

BY FAX

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

CM-010

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
- Asbestos Property Damage
- Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
- Medical Malpractice—Physicians & Surgeons
- Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
- Premises Liability (e.g., slip and fall)
- Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
- Intentional Infliction of Emotional Distress
- Negligent Infliction of Emotional Distress
- Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
- Legal Malpractice
- Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
- Breach of Rental/Lease
- Contract *(not unlawful detainer or wrongful eviction)*
- Contract/Warranty Breach—Seller Plaintiff *(not fraud or negligence)*
- Negligent Breach of Contract/Warranty
- Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
- Collection Case—Seller-Plaintiff
- Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
- Auto Subrogation
- Other Coverage
- Other Contract (37)
- Contractual Fraud
- Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
- Writ of Possession of Real Property
- Mortgage Foreclosure
- Quiet Title
- Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
- Writ—Administrative Mandamus
- Writ—Mandamus on Limited Court Case Matter
- Writ—Other Limited Court Case Review
- Other Judicial Review (39)
- Review of Health Officer Order
- Notice of Appeal—Labor
- Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
- Abstract of Judgment (Out of County)
- Confession of Judgment *(non-domestic relations)*
- Sister State Judgment
- Administrative Agency Award *(not unpaid taxes)*
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint *(not specified above)* (42)
- Declaratory Relief Only
- Injunctive Relief Only *(non-harassment)*
- Mechanics Lien
- Other Commercial Complaint Case *(non-tort/non-complex)*
- Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
- Civil Harassment
- Workplace Violence
- Elder/Dependent Adult Abuse
- Election Contest
- Petition for Name Change
- Petition for Relief from Late Claim
- Other Civil Petition

**SUMMONS
(CITACION JUDICIAL)**

SUM-100

**NOTICE TO DEFENDANT; STATE OF CALIFORNIA, COUNTY OF
(AVISO AL DEMANDADO): ORANGE, CITY OF SAN CLEMENTE and
DOES 1 to 100**

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

NOV 12 2010

ALAN CARLSON, Clerk of the Court

BY S. RIVAS DEPUTY

**YOU ARE BEING SUED BY PLAINTIFF: MIGUEL GAMA MACIAS, an
(LO ESTÁ DEMANDANDO EL DEMANDANTE): individual**

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación**

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Orange County Superior Court
700 Civic Center Drive West
Santa Ana, CA 92701

CASE NUMBER:
(Número del Caso)

30-2010
00424537

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

SARAH C. SERPA (SBN 196127)
BISNAR CHASE
1301 DOVE STREET, SUITE 120
NEWPORT BEACH, CA 92660

JUDGE ANDREW P. BANKS

949-752-2777

DATE: **NOV 12 2010**
(Fecha)

ALAN CARLSON

Clerk, by
(Secretario)

S. RIVAS

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):
- by personal delivery on (date):

COPY

1 **BISNAR | CHASE**
2 ONE NEWPORT PLACE
3 1301 Dove St., Suite 120
4 Newport Beach, CA 92660
5 Phone: (949) 752-2999
6 Facsimile: (949) 752-2777
7 BRIAN D. CHASE, State Bar No. 164109
8 JOHN V. BELL, State Bar No. 199142
9 SCOTT A. RITSEMA, State Bar No. 138193
10 STEVEN MEBENS, State Bar No. 84663

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

NOV 12 2010

ALAN CARLSON, Clerk of the Court

BY: S. RIVAS DEPUTY

6 Attorneys for Plaintiff MIGUEL GAMA MACIAS

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF ORANGE, STATE OF CALIFORNIA

BY FAX

10 MIGUEL GAMA MACIAS, an individual,)
11 Plaintiff,)
12 vs.)
13 STATE OF CALIFORNIA, COUNTY OF)
14 ORANGE, CITY OF SAN CLEMENTE, and)
15 DOES 1 to 100,)
16 Defendants.)

CASE NO: 30-2010
~~00424537~~

**COMPLAINT FOR DAMAGES ARISING
FROM DANGEROUS CONDITION OF
PUBLIC PROPERTY (Government Code
Sec. 835);**

DEMAND FOR JURY TRIAL

**JUDGE ANDREW P. BANKS
DEPT. C11**

18 COMES NOW, Plaintiff MIGUEL GAMA MACIAS, Individually, and for causes of action
19 against the State of California, County of Orange and City of San Clemente, and DOES 1 to 100,
20 inclusive, alleges as follows:

21 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

- 22 1. At all relevant times herein mentioned, Plaintiff MIGUEL GAMA MACIAS was and
23 is an adult individual residing in the city of Santa Ana, County of Orange, State of California.
24 2. The incident which is the subject of this Complaint which caused severe injury to
25 plaintiff herein (hereinafter the "SUBJECT INCIDENT"), occurred on or about March 25, 2010 at
26 approximately 11:00 p.m. on Southbound I-5 Freeway, at a raised curb adjacent to an asphalt island
27 located between the lanes reserved for through traffic for the motoring public and a paved shoulder.
28

1 At that time and place, Plaintiff, MIGUEL GAMA MACIAS legally, prudently and non-negligently
2 pulled his motorcycle to the right in order to make a legal stop on the right shoulder. At this time and
3 place, Plaintiff's motorcycle came upon an unexpected, unobservable and unmarked raised curb,
4 adjacent to an asphalt island located between the lanes reserved for through traffic for the motoring
5 public and a paved shoulder, which caused Plaintiff MIGUEL GAMA MACIAS to lose control of his
6 motorcycle and thereby caused severe injuries to Plaintiff MIGUEL GAMA MACIAS.

7 3. At all relevant times herein, Defendant STATE OF CALIFORNIA was and is a public
8 entity. On or about August 26, 2010, Plaintiff duly filed a claim with the STATE OF CALIFORNIA
9 pursuant to Government Code sections 905 and 910. The statutory 45 days has lapsed for a written
10 denial from the governmental entity, and thus, the claim is denied by law.

11 4. At all relevant times herein, Defendant COUNTY OF ORANGE was and is a public
12 entity. On or about August 26, 2010, Plaintiff duly filed a claim with the COUNTY OF ORANGE
13 pursuant to Government Code sections 905 and 910. The statutory 45 days has lapsed for a written
14 denial from the governmental entity, and thus, the claim is denied by law.

15 5. At all relevant times herein, Defendant CITY OF SAN CLEMENTE was and is a
16 public entity. On or about August 26, 2010, Plaintiff duly filed a claim with the CITY OF SAN
17 CLEMENTE pursuant to Government Code sections 905 and 910. The claim was rejected by the
18 CITY OF SAN CLEMENTE on or about September 30, 2010.

19 6. Plaintiffs are ignorant of the true names and capacities of the Defendants sued herein
20 as DOES 1 to 50 and therefore sues these Defendants by such fictitious names. Plaintiffs will amend
21 this Complaint to allege the true names and capacities when that information is ascertained. Plaintiffs
22 are informed and believe and, based on that information and belief, allege that each such fictitiously
23 named Defendant is legally responsible in some manner for the occurrences alleged herein, and further
24 alleges based upon information and belief, that such fictitiously named Defendants were the agents,
25 servants and/or employees of defendants STATE OF CALIFORNIA, COUNTY OF ORANGE and/or
26 CITY OF SAN CLEMENTE and acted within the proper course and scope of employment or
27 authorization of said defendants at all relevant times herein.

28 7. Plaintiffs are ignorant of the true names and capacities of the Defendants sued herein

1 as DOES 51 to 100 and therefore sues these Defendants by such fictitious names. Plaintiffs will amend
2 this Complaint to allege the true names and capacities when that information is ascertained. Plaintiffs
3 are informed and believe and, based on that information and belief, allege that each such fictitiously
4 named Defendant is legally responsible in some manner for the occurrences alleged herein, and further
5 alleges based upon information and belief, that such fictitiously named Defendant was an owner and
6 or co-owner of the motor vehicle operated by Defendant MAGLONZO or otherwise responsible for
7 the consequences of his conduct at all times relevant as alleged herein, and that Plaintiffs' injuries and
8 damages were proximately and legally caused by each such Defendant's actions, and/or omissions to
9 act.

10 8. As a legal result of the SUBJECT INCIDENT, Plaintiff MIGUEL GAMA MACIAS
11 suffered serious and permanent physical injury, resulting in his suffering economic and non-economic
12 damages in an amount in excess of \$25,000.00 according to proof at trial.

13
14 **FIRST CAUSE OF ACTION**

15 **Dangerous Condition of Public Property**

16 (Against Defendants STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF SAN
17 CLEMENTE, and DOES 1-100, Inclusive)

18 9. Plaintiff refers to each of the allegations in paragraphs 1 through 8, above, which are
19 incorporated by reference herein.

20 10. At all relevant times, Defendants, the STATE OF CALIFORNIA, COUNTY OF
21 ORANGE, CITY OF SAN CLEMENTE and DOES 1-100, inclusive, separately and jointly, were
22 aware of the severe and dangerous raised curb located on the Southbound I-5 Freeway, approximately
23 600 feet south of El Camino Real, adjacent to the asphalt island located next to the shoulder of the
24 Southbound lanes in that location. Defendants, the STATE OF CALIFORNIA, COUNTY OF
25 ORANGE, CITY OF SAN CLEMENTE and DOES 1-100, inclusive separately and jointly were aware
26 that such raised curb was not observable by the motoring public and was unmarked so that motorists
27 could not navigate over the curb safely in order to pull over to the paved shoulder.

28

1 11. Upon information and belief, on or about March 25, 2010, and for a long period of time
2 prior thereto, Defendants, the STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF SAN
3 CLEMENTE and DOES 1-100, inclusive, knew, or should have known that the following conditions
4 existed at the asphalt island on the Southbound I-5 Freeway, approximately 600 feet south of El
5 Camino Real:

- 6 A. The curb was unmarked and not observable by the motoring public.
7 B. The curb was too steep for the motoring public to drive across it safely and
8 without incident.
9 C. The curb created a hazard to the motoring public.
10 D. That despite the steep, unmarked, unobservable and hazardous curb and the
11 dangerous condition that prevailed at the location of the accident that is the
12 basis for this matter that existed on a daily basis, no Defendants caused any
13 marking to be placed on or about the curb as a warning to the motoring public.
14 E. That despite the steep, unmarked, unobservable and hazardous curb and the
15 dangerous condition that prevailed at the location of the accident that is the
16 basis for this matter that existed on a daily basis, no Defendants made any
17 effort to remedy the hazardous condition.

18 12. The above daily conditions of the steep, unmarked and unobservable curb adjacent to
19 the asphalt island constituted a dangerous condition of public property that was a legal cause of the
20 injuries incurred by Plaintiff MIGUEL GAMA MACIAS.

21 13. Upon information and belief, all of the above dangerous conditions existed at the time
22 of this accident, March 25, 2010.

23 14. Defendants, the STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF SAN
24 CLEMENTE and DOES 1-100, inclusive, knew, or should have known, that the dangerous condition
25 of the steep, unmarked and unobservable curb would expose the motoring public, and Plaintiff,
26 MIGUEL GAMA MACIAS to the risks and dangers of not being able to pull to the shoulder of the
27 roadway safely.

28

1 15. At all relevant times, the dangers and risks created by the dangerous condition of the
2 public property was foreseeable to, and preventable by, Defendants, the STATE OF CALIFORNIA,
3 COUNTY OF ORANGE, CITY OF SAN CLEMENTE and DOES 1-100, inclusive, in the exercise
4 of reasonable care. At all times relevant, Defendants, the STATE OF CALIFORNIA, COUNTY OF
5 ORANGE, CITY OF SAN CLEMENTE and DOES 1-100, inclusive, had the resources reasonably
6 available to be applied to the proper task of correcting, preventing, and/or ameliorating the existence
7 of the dangerous and defective condition.

8 16. The acts, omissions and conduct of Defendants, the STATE OF CALIFORNIA,
9 COUNTY OF ORANGE, CITY OF SAN CLEMENTE and DOES 1-100, inclusive, in causing,
10 allowing, creating and failing to warn the public about said dangerous condition of public property
11 was a legal cause of the severe injuries to Plaintiff, MIGUEL GAMA MACIAS.

12 17. As a result of the foregoing, Plaintiff, MIGUEL GAMA MACIAS is entitled to
13 damages from Defendants, the STATE OF CALIFORNIA, COUNTY OF ORANGE, CITY OF SAN
14 CLEMENTE and DOES 1-100, inclusive, as alleged herein.

15
16 WHEREFORE, Plaintiff prays for Judgment against all Defendants as follows:

17 1. Compensatory damages, including but not limited to compensation for past and future
18 pain, suffering, disfigurement, disability, emotional and mental distress and worry, medical expenses,
19 loss of wages, loss of earning ability, and other rehabilitative, palliative, and corrective care for the
20 personal injuries sustained by MIGUEL GAMA MACIAS;

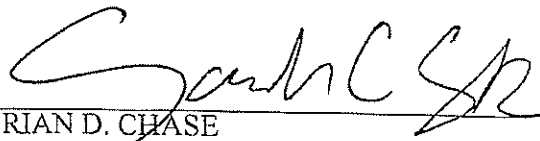
21 2. The costs and disbursements of this action; and

22 3. Any other further and different relief as deemed appropriate by the Court.

23
24 DATED: November 12, 2010

BISNAR|CHASE

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BRIAN D. CHASE
SARAH C. SERPA
Attorneys for Plaintiffs

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PROOF OF SERVICE

Miguel Gama Macias v. State of California., et al.
Orange County Superior Court Case No. 00424537

I am employed in the County of Orange, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1301 Dove Street, Suite 120, Newport Beach, CA, 92660.

On November 19, 2010, I served the following document **COMPLAINT FOR DAMAGES ARISING FROM DANGEROUS CONDITION OF PUBLIC PROPERTY** on interested parties in this action:

SEE ATTACHED LIST

BY MAIL, by placing a true copy thereof, in an sealed envelope to the addressee(s) below, and depositing the same into the United States mail at the address located set forth herein above, with sufficient first-class postage thereon pre-paid:

BY OVERNIGHT PRIORITY MAIL WITH TWO-DAY DELIVERY GUARANTEED WITH SIGNATURE by placing a true copy thereof, in an sealed envelope to the addressee(s) below, and depositing the same into the **OVERNIGHT EXPRESS** mail drop at the address located set forth herein above, with postage pre-paid.

BY PERSONAL SERVICE, by causing the document to be personally delivered the same to the addressee(s) listed below:

BY FACSIMILE, by transmitting by facsimile transmission a true and correct copy of the same to the addressee(s) listed below:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 19, 2010, at Newport Beach, California.



JAY MULLANY

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SERVICE LIST

Miguel Gama Macias v. State of California., et al.
Orange County Superior Court Case No. 00424537

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