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Attorneys for Plaintiff EMILIO BARBA AMEZQUITA

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF MONTEREY**

EMILIO BARBA AMEZQUITA;

Plaintiff,

v.

MANUEL BENJAMIN BASALDUA;
SALINAS CITY ELEMENTARY SCHOOL
DISTRICT; HENRY F. KAMMANN
ELEMENTARY; SOLEDAD UNIFIED
SCHOOL DISTRICT; THE CITY OF
SALINAS; THE COUNTY OF MONTEREY;
THE STATE OF CALIFORNIA; AND DOES
1 TO 100;

Defendants.

CASE NO.: 24CV005155

**PLAINTIFF EMILIO BARBA
AMEZQUITA'S COMPLAINT FOR:**

- (1) MOTOR VEHICLE NEGLIGENCE;**
- (2) NEGLIGENT ENTRUSTMENT OF A
MOTOR VEHICLE;**
- (3) VIOLATION OF GOVERNMENT
CODE SECTION 815, ET SEQ.;**
- (4) DANGEROUS CONDITION OF
PUBLIC PROPERTY;**

AND DEMAND FOR JURY TRIAL

1 Plaintiff EMILIO BARBA AMEZQUITA (“Plaintiff” or “Mr. Amezquita”), based on
2 knowledge as to himself and on information and belief as to all others, complains and alleges as
3 follows:

4 **THE PARTIES**

5 **THE PLAINTIFFS**

6 1. Plaintiff is an individual residing and/or doing business in the County of
7 Monterey and the State of California during all times relevant.

8 **THE DEFENDANTS**

9 2. Defendant MANUEL BENJAMIN BASALDUA (“Driver Basaldua”) is an
10 individual residing and/or doing business in the County of Monterey and the State of California
11 during all times relevant.

12 3. Defendant SALINAS CITY ELEMENTARY SCHOOL DISTRICT (“Salinas
13 Elementary”) is a California Public Entity during all times relevant.

14 4. Defendant HENRY F. KAMMANN ELEMENTARY (“Kammann Elementary”)
15 is a California Public Entity during all times relevant.

16 5. Defendant SOLEDAD UNIFIED SCHOOL DISTRICT (“Soledad School
17 District”) is a California Public Entity during all times relevant.

18 6. Defendant THE CITY OF SALINAS (“City”) is a California Public Entity during
19 all times relevant.

20 7. Defendant THE COUNTY OF MONTEREY (“County”) is a California Public
21 Entity during all times relevant.

22 8. Defendant THE STATE OF CALIFORNIA (“State”) is a California Public Entity
23 during all times relevant.

24 9. Plaintiff is unaware of the true names and capacities, whether individual,
25 corporate or otherwise, of the Defendants sued herein as DOES 1 TO 100, and therefore sues
26 these Defendants by such fictitious names. Plaintiffs will amend this Complaint to state the true
27 names and capacities of such fictitiously named Defendants when ascertained. Plaintiff alleges
28 that each of such fictitiously named Defendants are in some manner connected with the matters

1 alleged herein and therefore are liable to Plaintiff.

2 **AGENCY**

3 10. At all times relevant, Defendants Salinas Elementary, Kammann Elementary,
4 Soledad School District, City, County, State, Driver Basaldua; and DOES 1 to 100 were and are
5 the agent, partner, employee, co-venturer, and/or co-conspirator of each of the remaining
6 Defendants, and in doing the things alleged herein acted within the scope, course, purpose,
7 consent, knowledge, ratification, and/or authorization of such agency, partnership, employment,
8 joint venture, and/or conspiracy. Wherever reference is made herein to the "Government" or the
9 "Government Defendants" such allegations shall be deemed to mean the acts of Defendants
10 Salinas Elementary, Kammann Elementary, Soledad School District, City, County, State; and
11 DOES 1 to 100, acting individually, jointly and/or severally.

12 **VICARIOUS LIABILITY**

13 11. Plaintiff is informed and believes, and on that basis, allege, that at all times herein
14 mentioned, each of the Defendants, and DOES 1 TO 100:

15 a. was responsible in some manner or way for the events and/or happenings
16 referred to herein, and/or caused injury and damages directly and/or proximately thereby to
17 Plaintiffs as alleged herein;

18 b. is vicariously liable and responsible, as an agent, employee,
19 representative, alter ego, joint-employer, joint venturer, member, partner, or co-conspirator, for
20 the happenings, events, injuries and/or damages alleged herein; or

21 c. otherwise is an indispensable party to this action.

22 **VENUE**

23 12. The proper venue for this action is Monterey County as this is the County where
24 Defendants have committed tortious acts which are the subject matter of this action, and
25 Defendants are all doing business in and/or reside and/or exist as public entities present in
26 Monterey County, State of California, during May 2024 and during all times relevant.

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1 **GOVERNMENT CLAIM STATUTES HAVE BEEN SATISFIED**

2 13. Plaintiff has complied with any and all applicable government claims statutes
3 prior to filing this lawsuit. Plaintiff timely submitted a Government Claim to each of the
4 Government Defendants and each Claim was either rejected or 45 days have passed so that the
5 Claim is deemed rejected as a matter of law.

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

7 14. On approximately May 12, 2024, Plaintiff was injured and suffered damages
8 during a motor vehicle collision with a motor vehicle operated by Defendant Driver Basaldua
9 (the “Crash”) at the approximate location of the US 101 freeway northbound and 60 feet north of
10 South Street, in Monterey County, California (the “Property”). At the time of the Crash, Plaintiff
11 was a passenger in the motor vehicle operated by Defendant Driver Basaldua.

12 15. In connection with the Crash, Driver Basaldua was operating a motor vehicle (the
13 “Subject Government Vehicle”) that was owned, controlled, and/or negligently entrusted to him
14 by the Government was operating the Subject Government Vehicle in the course and scope of his
15 employment, agency and/or under the control of the Government and/or for its benefit and/or as
16 an agent and/or contractor of the Government, when the Crash occurred.

17 **FIRST CAUSE OF ACTION**

18 **MOTOR VEHICLE NEGLIGENCE**

19 **(By Plaintiff Against All Defendants; and DOES 1 to 100)**

20 16. Plaintiff re-alleges and incorporates herein by reference each and every allegation
21 contained in paragraphs 1 through 15, inclusive, hereinabove.

22 17. Defendant Driver Basaldua operated the Subject Government Vehicle at the time
23 that he caused the Crash.

24 18. In connection with the Crash, Driver Basaldua was operating the Subject
25 Government Vehicle that was owned, controlled, and/or negligently entrusted to him by the
26 Government Defendants and Defendant Driver Basaldua was operating the Subject Government
27 Vehicle in the course and scope of his employment, agency and/or under the control of the
28 Government and/or for its benefit and/or as an agent and/or contractor of the Government, when

1 the Crash occurred.

2 19. Defendant Driver Basaldua operated/controlled the Subject Government Vehicle
3 in an unreasonable, unsafe and negligent manner that caused the Crash and caused Plaintiff to
4 suffer personal injuries.

5 20. The Government Defendants owned and/or otherwise controlled the Subject
6 Government Vehicle operated by Driver Basaldua when the Crash occurred. It is believed that
7 Government Defendants also may have negligently entrusted the Subject Government Vehicle
8 which was operated with their permission by Defendant Driver Basaldua during the Crash.

9 21. Defendants owed a duty to Plaintiff and other motor vehicle drivers, passengers,
10 and pedestrians, on the roadway to use reasonable care when operating/controlling/entrusting a
11 motor vehicle on the roadway.

12 22. However, at all times, Defendants negligently breached said duties and
13 unreasonably and negligently caused and allowed the Subject Government Vehicle (as well as
14 negligently entrusted the Subject Government Vehicle for operation by Defendant Driver
15 Basaldua in the course and scope of his employment, agency and/or otherwise under the control
16 the Government) so as to cause a Crash that resulted in injuries and harm to Plaintiff.

17 23. As a proximate and direct result of these actions, Defendants have caused, and
18 threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at trial
19 but believed to be in excess of \$35,000.00, and which include but are not limited to past and
20 future pain and suffering, medical care, and loss of earnings.

21 **SECOND CAUSE OF ACTION**

22 **NEGLIGENT ENTRUSTMENT OF A MOTOR VEHICLE**

23 **(By Plaintiff Against the Government Defendants; and DOES 1 to 100)**

24 24. Plaintiff re-alleges and incorporates herein by reference each and every allegation
25 contained in paragraphs 1 through 23, inclusive, hereinabove.

26 25. Defendants Driver Basaldua, the Government Defendants; and DOES 1 to 100
27 were negligent in operating/controlling/entrusting the Subject Government Vehicle on
28 approximately May 12, 2024, and this negligence caused the Crash, and injuries to Plaintiff.

1 26. The Government Defendants; and DOES 1 to 100 owned/controlled the Subject
2 Government Vehicle operated by Driver Basaldua during the Crash, and Driver Basaldua had
3 possession of the Subject Government Vehicle with the permission of the Government
4 Defendants; and DOES 1 to 100.

5 27. The Government Defendants; and DOES 1 to 100 knew or reasonably should
6 have known that Driver Basaldua was incompetent, and/or unfit to operate the Subject
7 Government Vehicle on May 12, 2024.

8 28. Nevertheless, the Government Defendants; and DOES 1 to 100 negligently
9 permitted and entrusted Driver Basaldua to operate the Subject Government Vehicle on May 12,
10 2024.

11 29. Driver Basaldua; and DOES 1 to 100's incompetence and/or unfitness to operate
12 the Subject Government Vehicle was a substantial factor in causing harm to Plaintiff.

13 30. As a proximate and direct result of these actions, Defendants have caused, and
14 threaten to cause, substantial and irreparable harm to Plaintiff in an amount to be proven at trial
15 but believed to be in excess of \$35,000.00, and which include but are not limited to past and
16 future pain and suffering, medical care, and loss of earnings.

17 **THIRD CAUSE OF ACTION**

18 **VIOLATION OF GOVERNMENT CODE SECTION 815, ET SEQ.**

19 **(By Plaintiff Against the Government Defendants; and DOES 1 to 100)**

20 31. Plaintiff re-alleges and incorporates herein by reference each and every allegation
21 contained in paragraphs 1 through 30, inclusive, hereinabove.

22 32. At the time of the Crash, Driver Basaldua was in the course and scope of his
23 employment and/or agency with the Government and/or operating a motor vehicle
24 owned/controlled by the Government and/or used for the benefit of the Government at the time
25 of the Crash. The Government and Driver Basaldua operated/controlled the Subject Government
26 Vehicle in an unreasonable, unsafe and negligent manner that caused the Crash and caused
27 Plaintiff to suffer personal injuries.

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33. Pursuant to Government Code Sections 815 *et seq.* and 815.2(a), the Government is “liable for injury proximately caused by an act or omission of an employee of the public entity within the scope of his [or her] employment if the act or omission would, apart from this section, have given rise to a cause of action against that employee or his personal representative.”

34. Additionally, pursuant to California Government Code Section 815.4, the Government is liable for the negligence of its contractors. *See* Cal. Gov. Code § 815.4 (“A public entity is liable for injury proximately caused by a tortious act or omission of an independent contractor of the public entity to the same extent that the public entity would be subject to such liability if it were a private person.”) For the reasons set forth, *supra*, the Government is liable to Plaintiff due to the aforementioned acts and/or omissions of their employees and/or contractors performed within the scope of his or her employment/agency.

35. In connection with the Crash, Driver Basaldua was operating the Subject Government Vehicle in the course and scope of his employment, agency and/or otherwise under the control of the Government and/or was an agent and/or contractor of the Government when the Crash occurred. Driver Basaldua was therefore operating the Subject Government Vehicle as an employee and/or agent of the Government when the Crash occurred.

36. The Government Defendants' negligence was a direct, proximate and legal cause of the injuries sustained by Plaintiffs.

37. As a proximate and direct result of these actions, the Government Defendants have caused, and threaten to cause, substantial and irreparable harm to Plaintiffs in an amount to be proven at trial but believed to be in excess of \$35,000.00, and which include but are not limited to past and future pain and suffering, medical care, and loss of earnings.

FOURTH CAUSE OF ACTION

DANGEROUS CONDITION OF PUBLIC PROPERTY

(By Plaintiff Against the Government Defendants; and DOES 1 to 100)

38. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in paragraphs 1 through 37, inclusive, hereinabove.

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1 39. At all times relevant, the area where the Crash occurred was owned, designed,
2 planned, constructed, installed, inspected, operated, repaired, controlled, placed, and/or
3 maintained by the Government.

4 40. The Government held a nondelegable duty to maintain its property/land in a safe
5 condition and which would make the Government liable for the negligent conduct of any
6 contractor(s) it hired and/or to which it delegated said duty/duties.

7 41. The Government is liable Plaintiff for the Crash and the injuries Plaintiff
8 sustained because it was caused by dangerous conditions of its property in two respects: (1) The
9 creation of the condition by a negligent or wrongful act or omission of an employee or contractor
10 of the public entity within the scope of his or her employment/agency; and/or (2) The failure to
11 take measures to protect against the dangerous condition after notice.

12 42. The Government is liable for the Crash because it was caused by a dangerous
13 condition of the Government's property that was in a dangerous condition at the time of the
14 injury to Plaintiff, the injury was proximately caused by the dangerous condition, the dangerous
15 condition created a reasonably foreseeable risk of the kind of injury which was incurred, and
16 either: (a) A negligent or wrongful act and/or omission of an employee/contractor of the
17 Government within the scope of his or her employment created the dangerous condition; or (b)
18 The Government had actual or constructive notice of the dangerous condition under section
19 835.2 a sufficient time prior to the injury to have taken measures to protect against the dangerous
20 condition. *See* Government Code Sections 829, 830, *et seq.*

21 43. Additionally, the Government is liable for this Crash because it owned, designed,
22 planned, constructed, installed, inspected, operated, repaired, controlled, placed, and/or
23 maintained this area where this Crash occurred so that the roadway created an unanticipated and
24 dangerous area where views of the entire roadway are limited and/or blocked and creates hazards
25 in the roadway area that constitutes a danger and a trap for unwary motorists (such as Driver
26 Basaldua). This trap existed even when all parties were using this area of roadway with due
27 care. This trap was also caused to exist by the confusion from the lack of placement of the safety
28 measures and lack of proper controls and/or markings and/or warnings at or leading up to this

1 area of the roadway and the inclined/declined condition of the land. The Government knew or
2 reasonably should have known of prior incidents of vehicles losing control in this area due,
3 including but not limited to the weather effect which posed substantial danger known to the
4 Government (but was concealed from motorists) regarding the occurrence of materials and/or
5 weather on the roadway as a consequence of the roadway's physical surroundings, features, and
6 location and the combination with the design, navigation, layout, and/or along with its lack of
7 appropriate barriers and warnings/warning signs. Indeed, this area of roadway lacked
8 appropriate warning signs, indicating the proper speed to negotiate the roadway and to warn
9 unsuspecting motorists of the dangerous and uneven road and banking and/or curving roadway
10 and/or slippery roadway—all of which lacked appropriate barriers for safety of said motorists.

11 44. Moreover, this dangerous condition of public property also exists for reasons other
12 than or in addition to the mere failure to provide such controls or markings because the roadway
13 was a confusing route, the area surrounding the roadway and signage made it unreasonably
14 difficult to see oncoming traffic or other roadway features, this trap was a concealed danger
15 known to the Government and/or a danger clothed with a deceptive appearance of safety. This
16 trap caused the Crash and the injuries to Plaintiff. The Government failed to prevent and/or warn
17 of this trap and/or dangerous condition which would not be reasonably apparent to, and would
18 not have been anticipated by, a person exercising due care—and it was not anticipated by
19 Plaintiff. The dangerous condition was also created by the negligent or wrongful conduct of the
20 Government and/or the Governments' employees/contractors acting within the scope of their
21 employment/agency and/or the Government had notice of the dangerous condition for a long
22 enough time to have protected against it but failed to do so.

23 45. The Government's property was also in a dangerous condition at the time of the
24 Crash in that the Government knew or reasonably should have known that the area where the
25 Crash occurred constituted a dangerous condition given that the area was used for high speed
26 traffic and lacked proper traffic control devices, including but not limited to lacking a proper stop
27 sign, signage, traffic light, pedestrian signage and/or walkways, speed bumps, warning signs, or
28 other forms of proper speed reduction and traffic control devices, and had previously been the

1 location of collisions (and/or near misses) between vehicles and/or pedestrians. The Government
2 also knew that it caused dangers on the roadway as well as limited views for drivers so that it
3 would be inhibited in their ability to perceive and react in this area of the roadway. The
4 Government had actual and/or constructive notice that the subject area of the roadway involved
5 in this Crash constituted a dangerous condition of public property during the time of the Crash,
6 and before. Indeed, the Government had received actual notice and/or constructive notice of the
7 roadway and otherwise blocking, inhibiting views and creating the aforementioned hazards for
8 drivers and prior crashes in this area of the roadway, including but not limited to the area of
9 roadway lacking appropriate warning signs, indicating the proper speed to negotiate the roadway
10 and to warn unsuspecting motorists of the dangerous and uneven road and banking and/or
11 curving roadway and/or slippery roadway—all of which lacked appropriate barriers for safety of
12 said motorists.

13 46. The Government was also responsible for preventing that danger of the roadway
14 because the Government failed to properly prevent this danger (both failed to have a proper
15 inspection policy and also failed to apply any policy with due care). Additionally, the
16 Government's actual design or plan failed to conform with the approved plan or design for this
17 subject roadway and the Government had notice of subsequent conditions that rendered the plan,
18 or design, a dangerous condition at this subject intersection. Proper traffic control and speed
19 reduction devices were required here because the existing condition constitutes a trap. The
20 subject public property was also in a dangerous condition also because of the design or location
21 of the property, the lack of proper sight lines and sight distance as well as inadequate stopping
22 distance given the confusing roadway, lack of sight coupled with the fast turn and posted speed
23 limit, the interrelationship of its structural or natural features, inadequate protection for drivers.

24 47. The dangerous condition at the area where the Crash occurred created a
25 reasonably foreseeable risk of the kind of harm that did occur to Plaintiff. The dangerous
26 condition created a reasonably foreseeable risk of the kind of injury that occurred and it was
27 known or reasonably should have been known to the Government. Indeed, it was one or more
28 employees and/or agents and/or persons acting in the course and scope of his/her employment

1 and/or agency and/or under the control of the Government that caused, ratified, approved, and/or
2 allowed the dangerous condition to exist. The Government had actual and/or construction notice
3 of the dangerous condition for long enough time to have protected against it, but the Government
4 failed to do so.

5 48. Moreover, the Government is without a design immunity defense because
6 (including but not limited to) its: (1) plan has become dangerous because of a change in physical
7 conditions; (2) the Government had actual and/or constructive notice of the dangerous condition
8 thus created; and (3) the Government had a reasonable time to obtain the funds to carry out the
9 remedial work to bring the property back into conformity with a reasonable design or plan, or the
10 Government, unable to remedy the condition due to practical impossibility or lack of funds, had
11 not reasonably attempted to provide adequate warnings.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment against all Defendants; and DOES 1 to 100
14 as follows:

- 15 (A) For economic damages, as proven at trial, but in excess of \$35,000.00;
16 (B) For non-economic damages, as proven at trial, but in excess of \$35,000.00;
17 (C) For general and special damages, as proven at trial, but in excess of \$35,000.00;
18 (D) For past and future medical expenses;
19 (E) As permitted by law, for damages according to proof at trial;
20 (F) As permitted by law, for costs of suit;
21 (G) For prejudgment and post-judgment interest to the extent permitted by law; and
22 (H) For such other and further relief as the Court deems just and proper.

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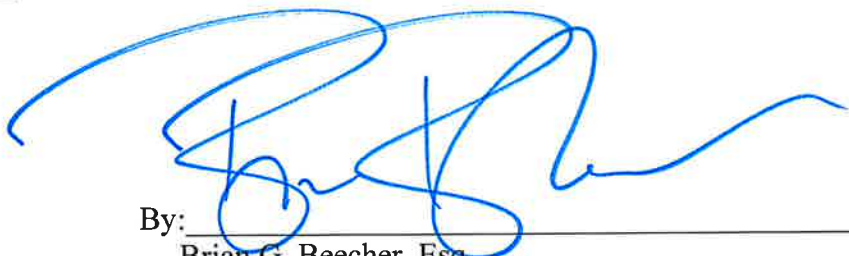
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DEMAND FOR JURY TRIAL

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

DATED: December 5, 2024 **THE LAW OFFICES OF ARASH KHORSANDI, PC**



By: _____
Brian G. Beecher, Esq.
Attorneys for Plaintiff EMILIO BARBA AMEZQUITA