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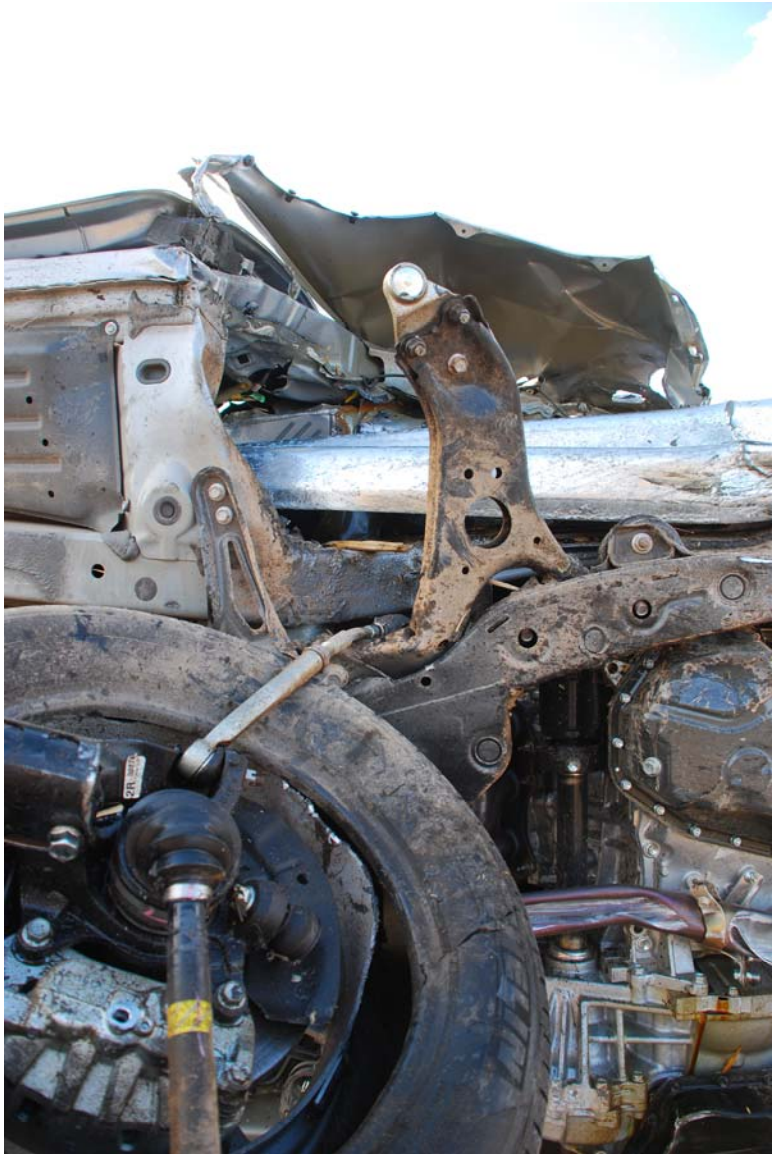

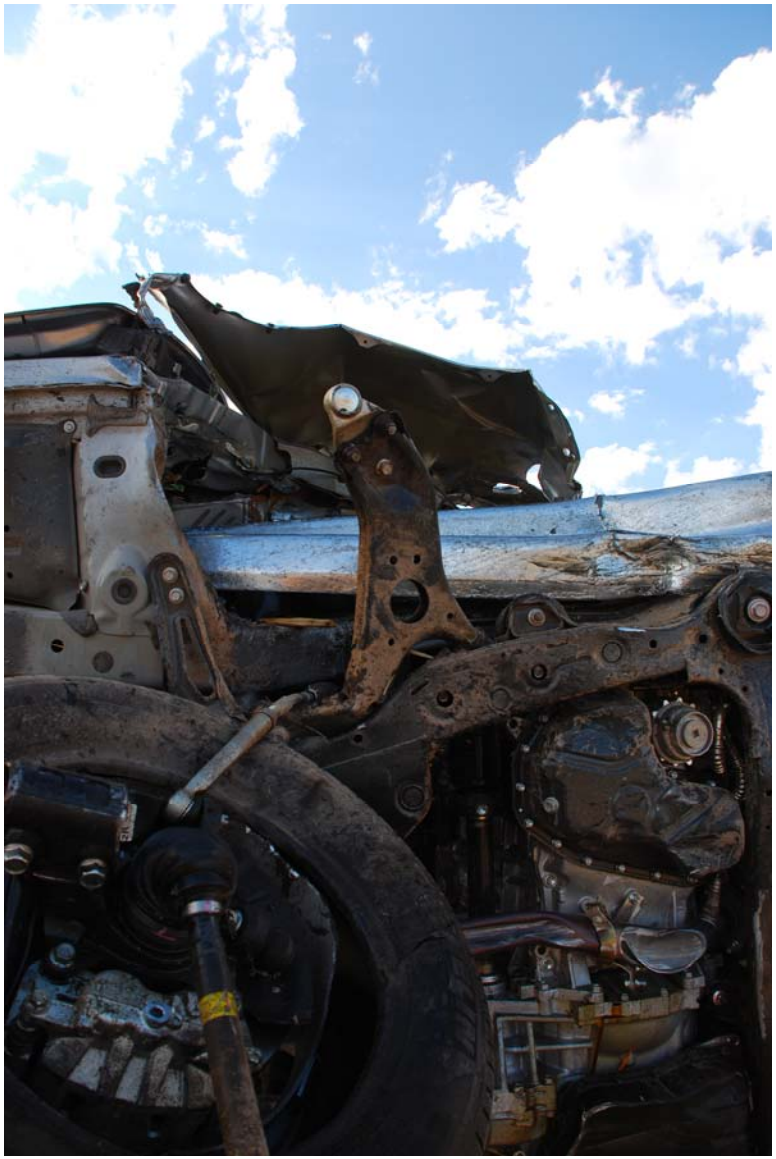

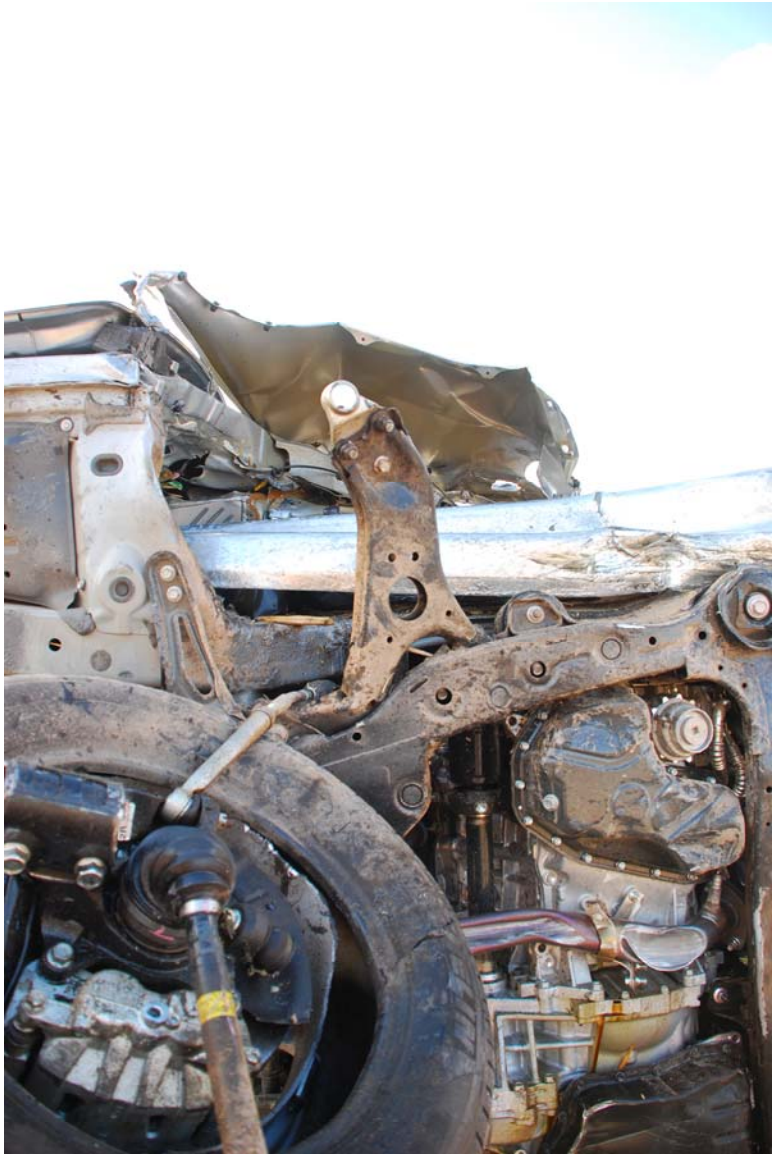

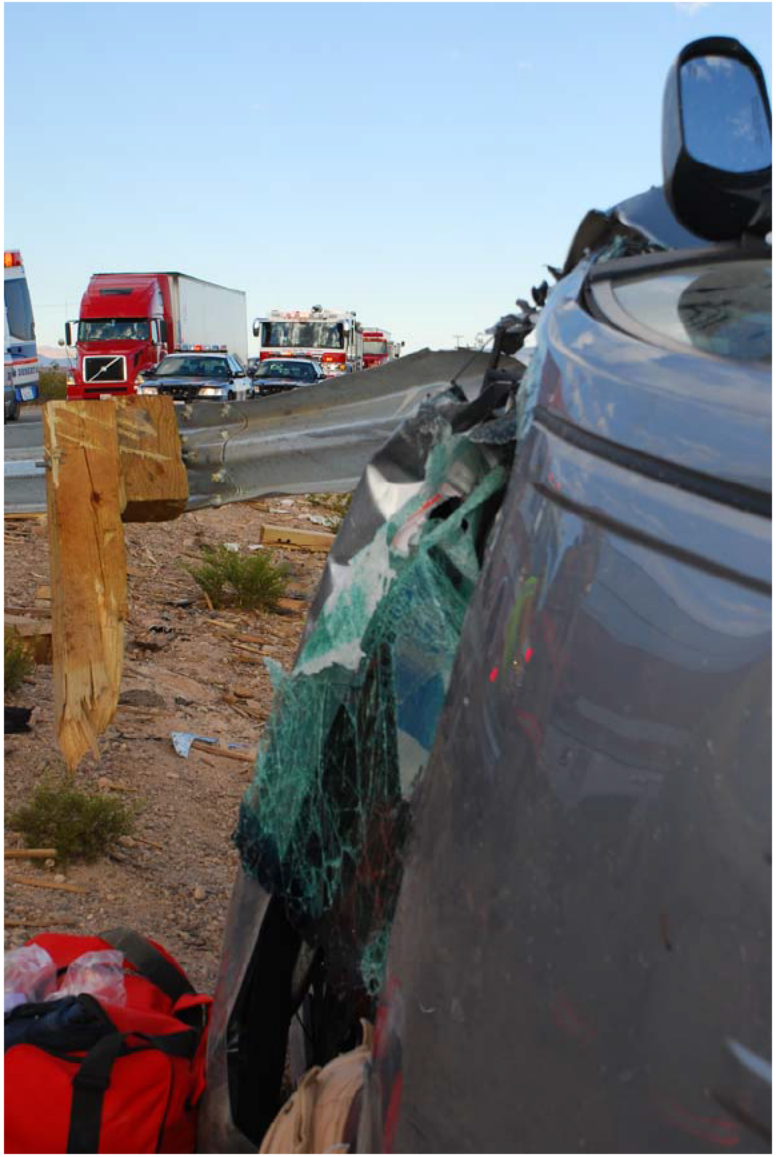

TECHNICAL RESCUE

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HIGHWAY PATROL

Newberry Springs 21
Barstow 45

Newberry Springs 21
Barstow 49

CIV-130115-CIV-BS1300021-CASEEN-144302

Scanned Document Coversheet

System Code: CIV
Case Number: BS1300021
Case Type: CIV
Action Code: CASEEN
Action Date: 01/15/13
Action Time: 2:43
Action Seq: 0002
Printed by: SFRET

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Complaint and Party information entered

NEW FILE

NANCY HERSH - SBN 49091
CHARLES C. KELLY, II – SBN 122253
MATTHEW D. CARLSON - SBN 273242
KATE HERSH-BOYLE - SBN 278864
HERSH & HERSH
A Professional Corporation
601 Van Ness Avenue
2080 Opera Plaza
San Francisco, CA 94102-6388
(415) 441-5544

Attorneys for Plaintiffs

FILED - BARSTOW
SAN BERNARDINO COUNTY
SUPERIOR COURT

JAN 15 2013

BY L. Hutter
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

Krishna Pavani Swayampakala, an individual; Madhu Priya Swayampakala, an individual; Maruthi Guntur, an individual; and Raghu Kumar Swayampakala, an individual, Plaintiffs, vs. State of California; California Department of Transportation; Trinity Highway Products, LLC and Does 1-75, inclusive; Defendants.	CASE NUMBER CIVBS1300021 **COMPLAINT FOR DAMAGES AND REQUEST FOR JURY TRIAL** 1. DANGEROUS CONDITION OF PUBLIC PROPERTY-GOVT. CODE 835 2. PRODUCT LIABILITY-CONSUMER EXPECTATION 3. PRODUCT LIABILITY-RISK BENEFIT 4. PRODUCT LIABILITY – MANUFACTURING DEFECT 5. NEGLIGENCE 6. LOSS OF CONSORTIUM $ 435.00 130115-4151

Plaintiffs Krishna Pavani Swayampakala, Madhu Priya Swayampakala, Maruthi Guntur, and Raghu Kumar Swayampakala, demand a jury trial and pleads as follows:

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ORIGINAL BY FACSIMILE

NATURE OF THE ACTION

1. This action arises out of a single-vehicle car accident on the eastbound side of Interstate 40, 980 feet west of mile post marker 44 near Ludlow, San Bernardino County, California on September 3, 2011. At approximately 6:30 a.m., Plaintiff Maruthi Guntur's vehicle, a 2011 Toyota Sienna struck a guardrail on the left side of the Interstate 40, 980 feet west of mile post marker 44. The guardrail pierced the front of vehicle, severely injuring Plaintiffs Krishna Pavani Swayampakala (Plaintiff Guntur's wife) and Madhu Priya Swayampakala (Plaintiff Guntur's mother-in-law).

THE PARTIES

2. Defendant State of California ("California"), is and at all times mentioned herein was, a State duly organized and existing under the laws of the United States of America. Defendants California, and each of them, owned, operated, maintained, and controlled the California portion of the highway known as Interstate 40 (hereafter "I-40") including but not limited to, guardrails located along I-40 near Ludlow, California.

3. At all times herein, Defendant California Department of Transportation (hereinafter "Caltrans"), is a public entity operated by the State of California. Defendant Caltrans designed, constructed, operated, controlled, and maintained, that portion of the I-40 where this accident occurred.

4. At all times herein, Plaintiffs are informed and believe that Defendant Trinity Highway Products, LLC is a Utah limited liability company in the business of designing, manufacturing, marketing, distributing, and/or selling guardrail and/or components of guardrails throughout the state of California, including the guardrail struck by Plaintiffs' vehicle 980 feet west of mile post marker 44.

5. At all times relevant herein, Defendants Does 1-25 were employees and/or agents of Defendants California and/or Caltrans and were each acting in the course and scope of such employment or agency in doing or not doing all acts alleged herein.

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A Professional Corporation

6. At all times relevant herein, Defendants Does 26-50 were individuals and/or business entities who designed, manufactured, marketed, distributed, and/or sold the guardrail on the portion of the I-40, 980 feet west of mile post marker 44.

7. At all times relevant herein, Defendants Does 51-75 were individuals and/or business entities who installed, repaired, modified, and/or maintained the guardrail on the portion of the I-40, 980 feet west of mile post marker 44.

8. Plaintiffs do not know the true names of Defendants Does 1 through 75, inclusive, and therefore sues them by those fictitious names. Plaintiff is informed and believes, and on the basis of that information and belief alleges, that each of those defendants was in some manner negligently and proximately responsible for the events and happenings alleged in this complaint and for Plaintiffs' injuries and damages.

9. Plaintiffs are informed and believes, and on the basis of that information and belief alleges, that at all times mentioned in this complaint, Defendants were the agents and employees of their co-Defendants, and in doing the things alleged in this compliant were acting within the course and scope of that agency and employment.

10. On or about July 11, 2012 Plaintiffs filed and served claims upon the State of California for their injuries and damages arising out of the incident described herein in compliance with California Government Code Section 910.4 *et seq*. On or about August 24, 2012, the State of California rejected each claim asserted by all Plaintiffs.

FACTUAL ALLEGATIONS

11. On September 3, 2011, Plaintiffs were traveling eastbound on Interstate 40 near Ludlow, California.

12. At approximately 6:30 a.m., a vehicle driven by Plaintiff Maruthi Guntur struck a guardrail on the north side Interstate 40, 980 feet west of mile post marker 44, whereupon the guardrail pierced the front of vehicle, severely injuring Plaintiffs Krishna Pavani Swayampakala (Plaintiff Guntur's wife) and Madhu Priya Swayampakala (Plaintiff Guntur's mother-in-law).

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13. Plaintiff Madhu Priya Swayampakala was transported via helicopter to Arrowhead Regional Hospital ("Arrowhead") where she was diagnosed with a right femur fracture, acetabulum fracture, right hip fracture, and lumbar traverse process fracture. She was hospitalized at Arrowhead until October 29, 2011 and remained in the intensive care unit until her discharge. While at Arrowhead, she underwent multiple surgical procedures, including rod placement in her left arm and right leg and a tracheotomy. She suffered from additional complications caused by her injuries, including but not limited to pneumonia.

14. Plaintiff Krishna Pavani Swayampakala was transported via helicopter to Loma Linda Medical Center where as a result of the extensive injuries to her both her right and left legs, including a femur fracture, open fracture of her lower leg and a closed fracture of her leg, she underwent right femur rod fixation and debridement of the right distal tibia with the application of an external fixator and contralateral open reduction and internal fixation of the left ankle Pilon variant fracture. Plaintiff Krishna Pavani Swayampakala has since undergone repeated debridements and surgical procedures for limb salvage, reconstruction of her limbs and pain control. She has also undergone and continues to undergo extensive physical and rehabilitative therapy and remains non-ambulatory as a result of her injuries.

15. At the time of the event giving rise to the injuries, September 3, 2011, and at all times thereafter continuing up to and including July 10, 2012, Plaintiffs believed that the accident and their injuries was the result of a defect in the vehicle driven by Plaintiff Maruthi Guntur. Specifically, Plaintiffs believed that Plaintiff Maruthi Guntur lost control of the vehicle due to failure of the steering system.

16. On or about May 15, 2012, Plaintiffs contacted their current attorneys, who thereafter investigated the matter by, among other things, obtaining the police report and photographs of the scene of the accident. It was only after Plaintiffs' attorneys' investigation that Plaintiffs discovered or suspected that the guardrail's condition caused or contributed to their injuries and damages, which discovery occurred on or about July 10, 2012.

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17. At no time prior to July 10, 2012 did Plaintiffs know or have reason to know that the defect in the guardrail including, but not limited to, its construction, placement, maintenance, configuration, or the presence or absence of an end barrier caused their damages and injuries.

18. As a consequence of Plaintiffs' understanding and belief that a defect in the vehicle caused their injuries and damages, their efforts after the accident up to July 10, 2012 were directed towards ascertaining the nature of the defect in the vehicle, by, for example, contacting the manufacturer of the vehicle, Toyota, who declined to cooperate with Plaintiffs.

19. Plaintiffs did not discover, nor suspect, nor was there any means through which their reasonable diligence would have revealed, or through which they would have suspected the guardrail as a cause of their injuries until they were informed by their counsel that the guardrail may have been defective on July 10, 2012.

FIRST CAUSE OF ACTION
Dangerous Condition of Public Property
(State of California; Caltrans; Does 1-25)

20. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

21. Defendants State of California, Caltrans, and Does 1-25 negligently designed, constructed, controlled, owned, maintained, managed, repaired and operated I-40 where the accident occurred, 980 feet west of mile post marker 44, including but not limited to the guardrail that pierced Plaintiffs' vehicle, in that Defendant selected, utilized and installed a defectively manufactured and designed guardrail, and/or installed, maintained or repaired the guardrail in such a manner that it pierced the Plaintiffs' vehicle thus injuring Plaintiffs.

22. Plaintiffs are informed and believe that the guardrail on I-40, 980 feet west of mile post marker 44, constituted a dangerous condition of public property which created a substantial risk of harm to those motorists using I-40, such as Plaintiffs herein, when used in with reasonable care and in a reasonably foreseeable manner.

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23. At the time of the accident, Defendants knew or should have known of the dangerous condition that existed at the time the accident occurred for sufficient time to have protected against it.

24. The dangerous condition of public property was created by the wrongful and negligent conduct of Defendants' employee acting within the scope of his employment with Defendants,

25. Plaintiffs were harmed as a result of the dangerous condition in that they suffered severe and serious physical and emotional injuries, and the dangerous condition was a substantial factor in causing Plaintiffs' harm.

WHEREFORE, Plaintiffs prays as follows:

SECOND CAUSE OF ACTION
Product Liability—CONSUMER EXPECTATION
(Trinity Highway Products, LLC; DOES 26-50)

26. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

27. Trinity Highway Products, LLC and Does 26-50 manufactured, marketed, distributed, or sold the guardrail.

28. At the time of the accident, the guardrail was in substantially the same condition as when it left the possession of Trinity Highway Products, LLC and Does 26-50.

29. If any changes were made to the guardrail after it left the possession of Trinity Highway Products, LLC and Does 26-50, those changes were reasonably foreseeable to Does 26-50.

30. The guardrail did not protect Plaintiffs from harm and in fact exacerbated their injuries by piercing the vehicle upon impact, and therefore did not perform as safely as an ordinary consumer would have expected at the time of the accident.

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31. The guardrail was used as an accident prevention or mitigation mechanism and was therefore used in a way that was reasonably foreseeable to Trinity Highway Products, LLC and Does 26-50.

32. Plaintiffs were harmed by the guardrail as described herein.

33. The guardrail's failure to perform safely was a substantial factor in causing Plaintiffs' harm.

WHEREFORE, Plaintiffs prays as follows:

THIRD CAUSE OF ACTION
Product Liability—Risk-Benefit Test
(Trinity Highway Products, LLC; DOES 26-50)

34. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

35. Trinity Highway Products, LLC and Does 26-50 manufactured, marketed, distributed, or sold the guardrail described herein.

36. At the time of the accident, the guardrail was in substantially the same condition as when it left the possession of Trinity Highway Products, LLC and Does 26-50.

37. Plaintiffs were harmed by the guardrail as described herein.

38. The guardrail's design was a substantial factor in causing Plaintiffs' harm.

39. The risks of the guardrail design outweighed its benefits.

WHEREFORE, Plaintiffs prays as follows:

FOURTH CAUSE OF ACTION
Product Liability – Manufacturing Defect
(Trinity Highway Products, LLC; Does 26-50)

40. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

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41. Trinity Highway Products, LLC and Does 26-50 manufactured, distributed, or sold the guardrail described herein.

42. The guardrail described herein contained a manufacturing defect when it left the possession of Trinity Highway Products, LLC and Does 26-50.

43. Plaintiffs were harmed by the guardrail as described herein.

44. The guardrail's manufacturing defect was a substantial factor in causing Plaintiffs' harm.

FIFTH CAUSE OF ACTION
Negligence
(Trinity Highway Products, LLC; Does 26-50; Does 51-75)

45. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

46. Defendants Trinity Highway Products, LLC and Does 26-50 manufactured, marketed, distributed, or sold the guardrail on the portion of the I-40 where the accident occurred.

47. Defendants Trinity Highway Products, LLC and Does 51-75 installed, repaired, modified, and/or maintained the guardrail on the portion of the I-40 where the accident occurred.

48. At all relevant times. Trinity Highway Products, LLC and Does 26-50 and 51-75, and their agents and employees, had a duty to exercise reasonable and due care in their work.

49. At all relevant times, Trinity Highway Products, LLC and Does 26-50 and 51-75, and their agents and employees, were negligent and breached their duty of care in the installation, repair, modification and/or maintenance of the guardrail.

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50. Trinity Highway Products, LLC and Does 26-50 and 51-75's negligence was a substantial factor in causing Plaintiffs' harm as herein alleged.

WHEREFORE, Plaintiffs prays as follows:

SIXTH CAUSE OF ACTION
Loss of Consortium
(Raghu Kumar Swayampakala and Maruthi Guntur v. All Defendants)

51. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

52. At all times herein mentioned Plaintiff Maruthi Guntur and Plaintiff Krishna Pavani Swayampakala were and are husband and wife.

53. At all times herein mentioned Plaintiff Raghu Kumar Swayampakala and Plaintiff Madhu Priya Swayampakala were and are husband and wife.

54. As a direct result of Defendants' aforesaid conduct, Plaintiff Maruthi Guntur lost the care, comfort, society, affection and marital consortium of his wife, Plaintiff Krishna Pavani Swayampakala, and suffered a loss of love, affection, solace, moral support and physical assistance in the operation and maintenance of the home, all to his general damage in an amount within the jurisdiction of this Court.

55. As a direct result of Defendants' aforesaid conduct, Plaintiff Raghu Kumar Swayampakala lost the care, comfort, society, affection and marital consortium of his wife, Plaintiff Madhu Priya Swayampakala, and suffered a loss of love, affection, solace, moral support and physical assistance in the operation and maintenance of the home, all to his general damage in an amount within the jurisdiction of this Court.

WHEREFORE, Plaintiffs prays as follows:

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them for the following:

1. General damages and special damages according to proof;
2. Hospital, doctor, therapy and medical costs;

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A Professional Corporation

3. Damages for loss of earnings according to proof;

4. For costs of suit herein;

5. Such other relief as the Court may deem just and proper.

DATED: January 14, 2013.

HERSH & HERSH
A Professional Corporation

By: _____
CHARLES C. KELLY, II
Attorneys for Plaintiffs

HERSHANDHERSH
A Professional Corporation

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

Krishna Pavani Swayampakala, an individual; Madhu Priya Swayampakala, an individual; Maruthi Guntur, an individual; and Raghu Kumar Swayampakala, an individual

Case No. CIVBS1300021

vs.

State of California; California Department of Transportation, Trinity Highway Products, LLC and Does 1-75, inclusive

CERTIFICATE OF ASSIGNMENT

A civil action or proceeding presented for filing must be accompanied by this certificate. If the ground is the residence of a party, name and residence shall be stated.

The undersigned declares that the above-entitled matter is filed for proceedings in the _____ District of the Superior Court under Rule 404 of this court for the checked reason:

[X] General [ ] Collection

		Nature of Action	Ground
[ ]	1	Adoption	Petitioner resides within the district.
[ ]	2	Conservator	Petitioner or conservatee resides within the district.
[ ]	3	Contract	Performance in the district is expressly provided for.
[ ]	4	Equity	The cause of action arose within the district.
[ ]	5	Eminent Domain	The property is located within the district.
[ ]	6	Family Law	Plaintiff, defendant, petitioner or respondent resides within the district.
[ ]	7	Guardianship	Petitioner or ward resides within the district or has property within the district.
[ ]	8	Harassment	Plaintiff, defendant, petitioner or respondent resides within the district.
[ ]	9	Mandate	The defendant functions wholly within the district.
[ ]	10	Name Change	The petitioner resides within the district.
[X]	11	Personal Injury	The injury occurred within the district.
[ ]	12	Personal Property	The property is located within the district.
[ ]	13	Probate	Decedent resided or resides within the district or had property within the district.
[ ]	14	Prohibition	The defendant functions wholly within the district.
[ ]	15	Review	The defendant functions wholly within the district.
[ ]	16	Title to Real Property	The property is located within the district.
[ ]	17	Transferred Action	The lower court is located within the district.
[ ]	18	Unlawful Detainer	The property is located within the district.
[ ]	19	Domestic Violence	The petitioner, defendant, plaintiff or respondent resides within the district.
[ ]	20	Other _____	_____
[ ]	21	THIS FILING WOULD NORMALLY FALL WITHIN JURISDICTION OF SUPERIOR COURT.	

The address of the accident, performance, party, detention, place of business, or other factor which qualifies this case for filing in the above-designated district is:

Interstate 40, along I-40 near Ludlow, California.

(NAME - INDICATE TITLE OR OTHER QUALIFYING FACTOR) ADDRESS

Ludlow California

(CITY) (STATE) (ZIP CODE)

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed on

January 14, 2013 at San Francisco, California

Signature of Attorney/Party

13-16503-360 Rev. 10/94 SB-16503

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO
BARSTOW DISTRICT
235 E MOUNTAIN VIEW
BARSTOW, CA 92311

CASE NO: CIVBS1300021

http://www.sb-court.org
IN RE: SWAYAMPAKALA, ET AL-V-STATE OF CA, ET AL

NOTICE OF CASE ASSIGNMENT FOR ALL PURPOSES
NOTICE OF OSC:SERVICE OF SUMMONS AND COMPLAINT
NOTICE OF CASE MANAGEMENT CONFERENCE

TO THE DEFENDANT/PARTY SERVED: The dates below DO NOT increase the time you have to respond to the Complaint filed against you. The time for your response is stated on the "Summons".

PLAINTIFF PLEASE TAKE NOTICE:This case has been assigned to:
KIRTLAND L MAHLUM
FOR ALL PURPOSES;that the above-entitled case has been set for an Order to Show Cause(OSC) why the case should not be dismissed for failure to serve the Summons and Complaint; and a Case Management Conference (CMC). A COPY OF THIS NOTICE MUST BE SERVED ON ALL DEFENDANTS
The OSC:SERVICE OF SUMMONS AND COMPLAINT is set for 04/17/13 at 8:30 in department B3
If "Proof of Service" of the Summons and Complaint has been filed 10 court days prior to the hearing, no appearance is required and the hearing will be vacated.

The Case Management Conference is set for 06/12/13 at 8:30 in Department B3
File your CMC Statement with the court 15 calendar days prior to the hearing. Failure to appear may result in monetary sanctions and/or dismissal of your case. The advance jury fees of $150 per party is NON REFUNDABLE and must be deposited on or before the date scheduled for the CMC. (CCP631)

Stephen H. Nash, Clerk of the Court
Date: 01/15/13 By: SHERRIE FRETTER

CERTIFICATE OF SERVICE

I am a Deputy Clerk of the Superior Court for the County of San Bernardino at the above listed address. I am not a party to this action and on the date and place shown below, I served a copy of the above listed notice by:
( ) Enclosed in an envelope mailed to the interested party addressed above, for collection and mailing this date, following ordinary business practice.
( ) Enclosed in a sealed envelope, first class postage prepaid in the U.S. mail at the location shown above, mailed to the interested party and addressed as shown above, or as shown on the attached listing.
( ) A copy of this notice was given to the filing party at the counter.
( ) A copy of this notice was placed in the bin located at this office and identified as the location for the above law firm's collection of file stamped documents.

DATE OF MAILING: 01/15/13
I declare under penalty of perjury that the foregoing is true and correct. Executed on 01/15/13 at Barstow, CA By: SHERRIE FRETTER
notice: NCMCT1 action: cmc

Notice 'NCMCT' has been printed for the following Attorneys/Firms or Parties for Case Number CIVBS1300021 on 1/15/13:

HERSH & HERSH
601 VAN NESS AVENUE
SUITE 2080
SAN FRANCISCO, CA 94102-6388

CIV-130227-CIV-BS1300021-AFS-113102

Scanned Document Coversheet

System Code: CIV
Case Number: BS1300021
Case Type: CIV
Action Code: AFS
Action Date: 02/27/13
Action Time: 11:31
Action Seq: 0002
Printed by: VCALF

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Answer Filed by TRINITY HIGHWAY PRODUCTS, LLC; party represented by LAW OFFICE OF BOWMAN & BROOKE.

NEW FILE

BOWMAN AND BROOKE LLP
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Hannah L. Mohrman (SBN: 263186)
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Gardena, CA 90248-4227
Telephone No.: (310) 768-3068
Fax No.: (310) 719-1019

Attorneys for Defendant, Trinity Highway Products, LLC

Scanned

FILED - BARSTOW
SAN BERNARDINO COUNTY
SUPERIOR COURT

FEB 27 2013

By Vicki Calfy Deputy

$435
130301-4279

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO – BARSTOW DISTRICT

KRISHNA PAVANI SWAYAMPAKALA, an individual; MADHU PRIYA SWAYAMPAKALA, an individual; MARUTHI GUNTUR, an individual; and RAGHU KUMAR SWAYAMPAKALA, an individual, Plaintiffs, vs. STATE OF CALIFORNIA, CALIFORNIA DEPARTMENT OF TRANSPORTATION; TRINITY HIGHWAY PRODUCTS, LLC, and DOES 1 to 75, inclusive. Defendants.	**CASE NO.: CIVBS1300021** Assigned to: Comm. Kirtland L. Mahlum Department: "B3" **TRINITY HIGHWAY PRODUCTS, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT; DEMAND FOR JURY TRIAL** Action Filed: January 15, 2013 Trial: N/A Motion Cutoff: N/A Discovery Cutoff: N/A

Defendant Trinity Highway Products, LLC, for itself alone, and for no other parties, answers the Complaint of plaintiffs as follows:

Pursuant to Code of Civil Procedure section 431.30, Trinity Highway Products, LLC denies each of the allegations contained in the Complaint filed by plaintiffs and every cause of action of it, and further denies that plaintiffs have been damaged in any sum or sums, or at all.

///

FIRST AFFIRMATIVE DEFENSE

(Failure to State Cause of Action)

1. Neither the Complaint nor any of the causes of action stated in it allege facts sufficient to constitute a cause of action against Trinity Highway Products, LLC.

SECOND AFFIRMATIVE DEFENSE

(Comparative Fault)

2. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs and others whose conduct is imputable to plaintiffs, were at fault for the matters and things alleged in the Complaint and that fault contributed directly and proximately to the happening of the incident and to plaintiffs' damages, if any, so that plaintiffs' recovery, if any, shall be diminished by the proportion of said fault.

THIRD AFFIRMATIVE DEFENSE

(Assumption of Risk)

3. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs at the time and place alleged in their Complaint knowingly, voluntarily, and freely placed themselves in an unsafe and dangerous position, and therefore assumed all resulting risks of injuries.

FOURTH AFFIRMATIVE DEFENSE

(Third Party Liability)

4. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that the damages plaintiffs allege, if any, were either wholly or partially caused or contributed to by the persons, firms, corporations, or entities other than Trinity Highway Products, LLC, either named or unnamed, and Trinity Highway Products, LLC is entitled to an apportionment among all such parties according to their responsibilities for such injuries and damages, if any, sustained by plaintiffs.

FIFTH AFFIRMATIVE DEFENSE

(Fair Responsibility Act)

5. Trinity Highway Products, LLC is informed and believes, and on that basis

alleges that Trinity Highway Products, LLC's liability, if any, is limited pursuant to Civil Code section 1431, et seq., and any damages awarded to plaintiffs against Trinity Highway Products, LLC should be accordingly reduced.

SIXTH AFFIRMATIVE DEFENSE

(Intervening/Superseding Actions)

6. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that the injuries and damages allegedly sustained by plaintiffs, if any, were the direct and proximate result of the intervening and superseding actions of third parties, whether named or unnamed, and not Trinity Highway Products, LLC.

SEVENTH AFFIRMATIVE DEFENSE

(State of the Art)

7. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that at the time the guardrail referred to in plaintiffs' Complaint was originally sold and delivered, it comported with the state of the art at the time of design.

EIGHTH AFFIRMATIVE DEFENSE

(Abuse/Alteration)

8. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that the guardrail referred to in plaintiffs' Complaint was abused and/or altered after being placed into the stream of commerce in a manner which was not reasonably foreseeable to Trinity Highway Products, LLC and that abuse and/or alteration reasonably caused or contributed to the happening of the alleged incident and to the injuries, loss, and damages, if any.

NINTH AFFIRMATIVE DEFENSE

(Mitigation of Damages)

9. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs have failed to mitigate their damages, if any, in the manner and to the extent required by law.

///

TENTH AFFIRMATIVE DEFENSE

(Failure to Preserve Evidence)

10. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs' claims are barred in whole or in part because plaintiffs and/or their representatives knew of the existence or likelihood of litigation and failed to preserve crucial evidence.

ELEVENTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

11. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs' claims are barred in whole or in part by the statute of limitations contained in Code of Civil Procedure section 335.1.

TWELFTH AFFIRMATIVE DEFENSE

(Preemption)

12. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs' defect claims are barred, in whole or in part, by the doctrine of preemption.

THIRTEENTH AFFIRMATIVE DEFENSE

(Prior Release)

13. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that plaintiffs are barred from maintaining this action because of a prior release.

FOURTEENTH AFFIRMATIVE DEFENSE

(Additional Warnings)

14. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that no additional warnings would have, or could have prevented the alleged incident, the injuries, loss and damages alleged by plaintiffs.

///

///

///

FIFTEENTH AFFIRMATIVE DEFENSE

(Violation of Commerce Clause)

15. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that the Commerce Clause of the United States Constitution (U.S. Const. Art. I, section 8, clause 3) precludes the application of a state statute to commerce that takes place wholly outside of a state's borders, whether or not the commerce has effects within the state, and protects against inconsistent verdicts and legislation arising from the projection of one state regulatory scheme into the jurisdiction of another state.

SIXTEENTH AFFIRMATIVE DEFENSE

(Other Additional Defenses)

16. Trinity Highway Products, LLC is informed and believes, and on that basis alleges that additional affirmative defenses will be raised once Trinity Highway Products, LLC has discovered the nature of the incident, the alleged defect, and the alleged damages.

WHEREFORE, defendant Trinity Highway Products, LLC prays as follows:

(1) Plaintiffs take nothing by their Complaint;

(2) For judgment in favor of defendant Trinity Highway Products, LLC;

(3) For its costs; and,

(4) For such other and further relief as the Court deems proper.

DATED: February 26, 2013

BOWMAN AND BROOKE LLP

By: _____

Mike H. Madokoro
Hannah L. Mohrman
Attorneys for Defendant,
TRINITY HIGHWAY PRODUCTS, LLC

DEMAND FOR JURY TRIAL

Defendant Trinity Highway Products, LLC hereby demands a trial by jury.

DATED: February 26, 2013

BOWMAN AND BROOKE LLP

By: _____

Mike H. Madokoro
Hannah L. Mohrman
Attorneys for Defendant,
TRINITY HIGHWAY PRODUCTS, LLC

PROOF OF SERVICE

CCP 1013A(3)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 879 West 190th Street, Suite 700, Gardena, California 90248-7468.

On **February** 26**, 2013** I served the foregoing document described as **TRINITY HIGHWAY PRODUCTS, LLC'S ANSWER TO PLAINTIFFS' COMPLAINT; DEMAND FOR JURY TRIAL** on all interested parties in this action by placing ☐ **the original** ☒ **a true copy** thereof enclosed in sealed envelopes addressed as follows:

SEE ATTACHED SERVICE LIST

☒ **BY MAIL (CCP §1013(a) and §2015.5):** I served the documents by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage date is more than **1** day after the date of deposit for mailing in affidavit.

☐ **BY OVERNIGHT DELIVERY/NEXT DAY DELIVERY (CCP §1013(c) and §2015.5):** I sealed such documents in separate envelopes to each addressee and deposited each for collection by mailing via overnight mail/next day delivery in a box or other facility regularly maintained by the U.S. Postal Service or an Express Service carrier, or delivered to an authorized carrier or driver authorized by the U.S. Postal Service or an Express service carrier to receive documents, with delivery fees paid or provided.

☐ **BY FACSIMILE (CRC 2.306, CCP §2015.5 and CCP §1013(e)):** The document(s) were transmitted by facsimile transmission to each of the parties at the facsimile number(s) listed on the attached service list and the transmission(s) reported as complete and without error. The facsimile machine I used complied with the California Rules of Court, Rule 2.306(g) and I printed a record of the transmission(s), a copy of which is attached to the original of this declaration.

☐ **BY PERSONAL SERVICE (CCP §1011 and §2015.5):** I caused to be delivered such envelope by hand to the addressee.

Executed on **February** 26**, 2013**, at Gardena, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Stephanie Taylor

Stephanie Taylor

**(For personal service signature must be that of messenger)

SERVICE/MAILING LIST

SWAYAMPAKALA, KRISHNA, et al. v. TRINITY HIGHWAY PRODUCTS, LLC, et al
San Bernardino County Superior Court, Barstow District
Case No. CIVBS1300021

Charles C. Kelly, II, Esq.
HERSH and HERSH
601 Van Ness Avenue, Ste. 2080
San Francisco, CA 94102

Attorneys for PLAINTIFFS KRISHNA PAVANI SWAYAMPAKALA, MADHU PRIYA SWAYAMPAKALA, MARUTHI GUNTUR, and RAGHU KUMAR SWAYAMPAKALA

Telephone: (415) 441-5544
Facsimile: (415) 441-7586

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CIV-140827-CIV-BS1300021-MISC-144902

Scanned Document Coversheet

System Code: CIV
Case Number: BS1300021
Case Type: CIV
Action Code: MISC
Action Date: 08/27/14
Action Time: 2:49
Action Seq: 0002
Printed by: LTAYL

THIS COVERSHEET IS FOR COURT PURPOSES ONLY, AND THIS IS NOT A PART OF THE OFFICIAL RECORD. YOU WILL NOT BE CHARGED FOR THIS PAGE

SEPARATELY BOUND DOCUMENTARY EVIDENCE INCLUDING DECLARATION OF HANNAH L MOHRMAN filed.

NEW FILE

BOWMAN AND BROOKE LLP
Mike H. Madokoro (SBN: 146970)
Hannah L. Mohrman (SBN: 263186)
970 West 190th Street, Suite 700
Torrance, CA 90502
Telephone No.: (310) 768-3068
Fax No.: (310) 719-1019

Attorneys for Defendant, Trinity Highway Products, LLC

SCANNED

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 27 2014

BY _____
LISA TAYLOR, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN BERNARDINO – CIVIL DIVISION

KRISHNA PAVANI SWAYAMPAKALA, an individual; MADHU PRIYA SWAYAMPAKALA, an individual; MARUTHI GUNTUR, an individual; and RAGHU KUMAR SWAYAMPAKALA, an individual, Plaintiffs, vs. STATE OF CALIFORNIA, CALIFORNIA DEPARTMENT OF TRANSPORTATION; TRINITY HIGHWAY PRODUCTS, LLC, and DOES 1 to 75, inclusive. Defendants.	**CASE NO.: CIVBS1300021** Assigned to: Hon. Donald R. Alvarez Department: "S32" **TRINITY HIGHWAY PRODUCTS, LLC'S SEPARATELY BOUND DOCUMENTARY EVIDENCE INCLUDING DECLARATION HANNAH L. MOHRMAN IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** [Filed concurrently with Motion for Summary Judgment and Separate Statement of Undisputed Material Facts] **DATE: March 12, 2015** **TIME: 8:30 a.m.** **DEPT: "S23"** Action Filed: January 15, 2013 Trial: N/A Motion Cutoff: N/A Discovery Cutoff: N/A

Defendant Trinity Highway Products, LLC hereby submits its Separately Bound Documentary Evidence pursuant to California Rules of Court, Rule 3.1350(g), in support of its Motion for Summary Judgment:

TABLE OF CONTENTS

Tab A	Declaration of Hannah Mohrman;
Exhibit 1	Plaintiffs' Complaint;
Exhibit 2	Traffic Collision Report No. 2011-09-0011;
Exhibit 3	Plaintiff Krishna Pavani Swayampakala's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17;
Exhibit 4	Plaintiff Madhu Priya Swayampakala's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17;
Exhibit 5	Plaintiff Maruthi Guntur's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17;
Exhibit 6	Plaintiff Raghu Kumar Swayampakala's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17;
Exhibit 7	Deposition of Dennis Salcedo, dated January 24, 2014, 78:5-17, 80:1-9, and 82:8-18;
Exhibit 8	July 2, 2013 correspondence from Mike Madokoro to Charles Kelly;
Exhibit 9	July 3, 2013 correspondence from Hannah Mohrman to Charles Kelly;
Exhibit 10	August 7, 2013 correspondence from Charles Kelly to Hannah Mohrman;
Exhibit 11	August 21, 2013 correspondence from Charles Kelly to Hannah Mohrman;
Exhibit 12	September 11, 2013 correspondence from Hannah Mohrman to Charles Kelly;
Exhibit 13	September 18, 2013 correspondence from Charles Kelly to Hannah Mohrman;
Exhibit 14	October 3, 2013 correspondence from Hannah Mohrman to Charles Kelly.

DATED: August 26, 2014

BOWMAN AND BROOKE LLP

By:

Mike H. Madokoro
Hannah L. Mohrman
Attorneys for Defendant,
TRINITY HIGHWAY PRODUCTS, LLC

DECLARATION OF HANNAH L. MOHRMAN

I, Hannah L. Mohrman, declare as follows:

1. I am an attorney at law licensed to practice before all courts of the State of California, and an attorney with the law firm of Bowman and Brooke LLP, counsel of record for defendant Trinity Highway Products, LLC. This Declaration is submitted in support of Trinity Highway Products, LLC's Motion for Summary Judgment. I am familiar with the records and pleadings on file in this action and if called as a witness, I could and would competently testify to the matters set forth below.

2. Attached as Exhibit "1" is a true and correct copy of Plaintiffs' Complaint.

3. Attached as Exhibit "2" is a true and correct copy of Traffic Collision Report No. 2011-09-0011.

4. Attached as Exhibit "3" is a true and correct copy Plaintiff Krishna Pavani Swayampakala's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17.

5. Attached as Exhibit "4" is a true and correct copy Plaintiff Madhu Priya Swayampakala's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17.

6. Attached as Exhibit "5" is a true and correct copy Plaintiff Maruthi Guntur's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17.

7. Attached as Exhibit "6" is a true and correct copy Plaintiff Raghu Kumar Swayampakala's Responses to Special Interrogatory Nos. 5, 6, 7, 10, 13, 14 and 17.

8. Attached as Exhibit "7" is a true and correct copy of Deposition of Dennis Salcedo, dated January 24, 2014, 78:5-17, 80:1-9, and 82:8-18.

9. Attached as Exhibit "8" is a true and correct copy the July 2, 2013 correspondence from Mike Madokoro to Charles Kelly.

10. Attached as Exhibit "9" is a true and correct copy of the July 3, 2013 correspondence from Hannah Mohrman to Charles Kelly.

11. Attached as Exhibit "10" is a true and correct copy of the August 7, 2013

correspondence from Charles Kelly to Hannah Mohrman.

12. Attached as Exhibit "11" is a true and correct copy of the August 21, 2013 correspondence from Charles Kelly to Hannah Mohrman.

13. Attached as Exhibit "12" is a true and correct copy of the September 11, 2013 correspondence from Hannah Mohrman to Charles Kelly.

14. Attached as Exhibit "13" is a true and correct copy of the September 18, 2013 correspondence from Charles Kelly to Hannah Mohrman.

15. Attached as Exhibit "14" is a true and correct copy of the October 3, 2013 correspondence from Hannah Mohrman to Charles Kelly.

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

Executed on the 26th day of August, 2014 at Torrance, California.

Hannah L. Mohrman, Declarant

NANCY HERSH - SBN 49091
CHARLES C. KELLY, II – SBN 122253
MATTHEW D. CARLSON - SBN 273242
KATE HERSH-BOYLE - SBN 278864
HERSH & HERSH
A Professional Corporation
601 Van Ness Avenue
2080 Opera Plaza
San Francisco, CA 94102-6388
(415) 441-5544

Attorneys for Plaintiffs

FILED - BARSTOW
SAN BERNARDINO COUNTY
SUPERIOR COURT

JAN 15 2013

BY _____ DEPUTY

COPY

HERSH AND HERSH
A Professional Corporation

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

Krishna Pavani Swayampakala, an individual; Madhu Priya Swayampakala, an individual; Maruthi Guntur, an individual; and Raghu Kumar Swayampakala, an individual, Plaintiffs, vs. State of California; California Department of Transportation; Trinity Highway Products, LLC and Does 1-75, inclusive; Defendants.	CASE NUMBER CIVBS1300021 **COMPLAINT FOR DAMAGES AND REQUEST FOR JURY TRIAL** 1. DANGEROUS CONDITION OF PUBLIC PROPERTY-GOVT. CODE 835 2. PRODUCT LIABILITY-CONSUMER EXPECTATION 3. PRODUCT LIABILITY-RISK BENEFIT 4. PRODUCT LIABILITY – MANUFACTURING DEFECT 5. NEGLIGENCE 6. LOSS OF CONSORTIUM

ORIGINAL

BY FACSIMILE

Plaintiffs Krishna Pavani Swayampakala, Madhu Priya Swayampakala, Maruthi Guntur, and Raghu Kumar Swayampakala, demand a jury trial and pleads as follows:

NATURE OF THE ACTION

1. This action arises out of a single-vehicle car accident on the eastbound side of Interstate 40, 980 feet west of mile post marker 44 near Ludlow, San Bernardino County, California on September 3, 2011. At approximately 6:30 a.m., Plaintiff Maruthi Guntur's vehicle, a 2011 Toyota Sienna struck a guardrail on the left side of the Interstate 40, 980 feet west of mile post marker 44. The guardrail pierced the front of vehicle, severely injuring Plaintiffs Krishna Pavani Swayampakala (Plaintiff Guntur's wife) and Madhu Priya Swayampakala (Plaintiff Guntur's mother-in-law).

THE PARTIES

2. Defendant State of California ("California"), is and at all times mentioned herein was, a State duly organized and existing under the laws of the United States of America. Defendants California, and each of them, owned, operated, maintained, and controlled the California portion of the highway known as Interstate 40 (hereafter "I-40") including but not limited to, guardrails located along I-40 near Ludlow, California.

3. At all times herein, Defendant California Department of Transportation (hereinafter "Caltrans"), is a public entity operated by the State of California. Defendant Caltrans designed, constructed, operated, controlled, and maintained, that portion of the I-40 where this accident occurred.

4. At all times herein, Plaintiffs are informed and believe that Defendant Trinity Highway Products, LLC is a Utah limited liability company in the business of designing, manufacturing, marketing, distributing, and/or selling guardrail and/or components of guardrails throughout the state of California, including the guardrail struck by Plaintiffs' vehicle 980 feet west of mile post marker 44.

5. At all times relevant herein, Defendants Does 1-25 were employees and/or agents of Defendants California and/or Caltrans and were each acting in the course and scope of such employment or agency in doing or not doing all acts alleged herein.

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6. At all times relevant herein, Defendants Does 26-50 were individuals and/or business entities who designed, manufactured, marketed, distributed, and/or sold the guardrail on the portion of the I-40, 980 feet west of mile post marker 44.

7. At all times relevant herein, Defendants Does 51-75 were individuals and/or business entities who installed, repaired, modified, and/or maintained the guardrail on the portion of the I-40, 980 feet west of mile post marker 44.

8. Plaintiffs do not know the true names of Defendants Does 1 through 75, inclusive, and therefore sues them by those fictitious names. Plaintiff is informed and believes, and on the basis of that information and belief alleges, that each of those defendants was in some manner negligently and proximately responsible for the events and happenings alleged in this complaint and for Plaintiffs' injuries and damages.

9. Plaintiffs are informed and believes, and on the basis of that information and belief alleges, that at all times mentioned in this complaint, Defendants were the agents and employees of their co-Defendants, and in doing the things alleged in this compliant were acting within the course and scope of that agency and employment.

10. On or about July 11, 2012 Plaintiffs filed and served claims upon the State of California for their injuries and damages arising out of the incident described herein in compliance with California Government Code Section 910.4 *et seq*. On or about August 24, 2012, the State of California rejected each claim asserted by all Plaintiffs.

FACTUAL ALLEGATIONS

11. On September 3, 2011, Plaintiffs were traveling eastbound on Interstate 40 near Ludlow, California.

12. At approximately 6:30 a.m., a vehicle driven by Plaintiff Maruthi Guntur struck a guardrail on the north side Interstate 40, 980 feet west of mile post marker 44, whereupon the guardrail pierced the front of vehicle, severely injuring Plaintiffs Krishna Pavani Swayampakala (Plaintiff Guntur's wife) and Madhu Priya Swayampakala (Plaintiff Guntur's mother-in-law).

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13. Plaintiff Madhu Priya Swayampakala was transported via helicopter to Arrowhead Regional Hospital ("Arrowhead") where she was diagnosed with a right femur fracture, acetabulum fracture, right hip fracture, and lumbar traverse process fracture. She was hospitalized at Arrowhead until October 29, 2011 and remained in the intensive care unit until her discharge. While at Arrowhead, she underwent multiple surgical procedures, including rod placement in her left arm and right leg and a tracheotomy. She suffered from additional complications caused by her injuries, including but not limited to pneumonia.

14. Plaintiff Krishna Pavani Swayampakala was transported via helicopter to Loma Linda Medical Center where as a result of the extensive injuries to her both her right and left legs, including a femur fracture, open fracture of her lower leg and a closed fracture of her leg, she underwent right femur rod fixation and debridement of the right distal tibia with the application of an external fixator and contralateral open reduction and internal fixation of the left ankle Pilon variant fracture. Plaintiff Krishna Pavani Swayampakala has since undergone repeated debridements and surgical procedures for limb salvage, reconstruction of her limbs and pain control. She has also undergone and continues to undergo extensive physical and rehabilitative therapy and remains non-ambulatory as a result of her injuries.

15. At the time of the event giving rise to the injuries, September 3, 2011, and at all times thereafter continuing up to and including July 10, 2012, Plaintiffs believed that the accident and their injuries was the result of a defect in the vehicle driven by Plaintiff Maruthi Guntur. Specifically, Plaintiffs believed that Plaintiff Maruthi Guntur lost control of the vehicle due to failure of the steering system.

16. On or about May 15, 2012, Plaintiffs contacted their current attorneys, who thereafter investigated the matter by, among other things, obtaining the police report and photographs of the scene of the accident. It was only after Plaintiffs' attorneys' investigation that Plaintiffs discovered or suspected that the guardrail's condition caused or contributed to their injuries and damages, which discovery occurred on or about July 10, 2012.

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17. At no time prior to July 10, 2012 did Plaintiffs know or have reason to know that the defect in the guardrail including, but not limited to, its construction, placement, maintenance, configuration, or the presence or absence of an end barrier caused their damages and injuries.

18. As a consequence of Plaintiffs' understanding and belief that a defect in the vehicle caused their injuries and damages, their efforts after the accident up to July 10, 2012 were directed towards ascertaining the nature of the defect in the vehicle, by, for example, contacting the manufacturer of the vehicle, Toyota, who declined to cooperate with Plaintiffs.

19. Plaintiffs did not discover, nor suspect, nor was there any means through which their reasonable diligence would have revealed, or through which they would have suspected the guardrail as a cause of their injuries until they were informed by their counsel that the guardrail may have been defective on July 10, 2012.

FIRST CAUSE OF ACTION
Dangerous Condition of Public Property
(State of California; Caltrans; Does 1-25)

20. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

21. Defendants State of California, Caltrans, and Does 1-25 negligently designed, constructed, controlled, owned, maintained, managed, repaired and operated I-40 where the accident occurred, 980 feet west of mile post marker 44, including but not limited to the guardrail that pierced Plaintiffs' vehicle, in that Defendant selected, utilized and installed a defectively manufactured and designed guardrail, and/or installed, maintained or repaired the guardrail in such a manner that it pierced the Plaintiffs' vehicle thus injuring Plaintiffs.

22. Plaintiffs are informed and believe that the guardrail on I-40, 980 feet west of mile post marker 44, constituted a dangerous condition of public property which created a substantial risk of harm to those motorists using I-40, such as Plaintiffs herein, when used in with reasonable care and in a reasonably foreseeable manner.

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23. At the time of the accident, Defendants knew or should have known of the dangerous condition that existed at the time the accident occurred for sufficient time to have protected against it.

24. The dangerous condition of public property was created by the wrongful and negligent conduct of Defendants' employee acting within the scope of his employment with Defendants,

25. Plaintiffs were harmed as a result of the dangerous condition in that they suffered severe and serious physical and emotional injuries, and the dangerous condition was a substantial factor in causing Plaintiffs' harm.

WHEREFORE, Plaintiffs prays as follows:

SECOND CAUSE OF ACTION
Product Liability—CONSUMER EXPECTATION
(Trinity Highway Products, LLC; DOES 26-50)

26. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

27. Trinity Highway Products, LLC and Does 26-50 manufactured, marketed, distributed, or sold the guardrail.

28. At the time of the accident, the guardrail was in substantially the same condition as when it left the possession of Trinity Highway Products, LLC and Does 26-50.

29. If any changes were made to the guardrail after it left the possession of Trinity Highway Products, LLC and Does 26-50, those changes were reasonably foreseeable to Does 26-50.

30. The guardrail did not protect Plaintiffs from harm and in fact exacerbated their injuries by piercing the vehicle upon impact, and therefore did not perform as safely as an ordinary consumer would have expected at the time of the accident.

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Combined Documents SWAYAMPAKALA I40 MM 44 LUDLOW 62 of 162

31. The guardrail was used as an accident prevention or mitigation mechanism and was therefore used in a way that was reasonably foreseeable to Trinity Highway Products, LLC and Does 26-50.

32. Plaintiffs were harmed by the guardrail as described herein.

33. The guardrail's failure to perform safely was a substantial factor in causing Plaintiffs' harm.

WHEREFORE, Plaintiffs prays as follows:

THIRD CAUSE OF ACTION
Product Liability—Risk-Benefit Test
(Trinity Highway Products, LLC; DOES 26-50)

34. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

35. Trinity Highway Products, LLC and Does 26-50 manufactured, marketed, distributed, or sold the guardrail described herein.

36. At the time of the accident, the guardrail was in substantially the same condition as when it left the possession of Trinity Highway Products, LLC and Does 26-50.

37. Plaintiffs were harmed by the guardrail as described herein.

38. The guardrail's design was a substantial factor in causing Plaintiffs' harm.

39. The risks of the guardrail design outweighed its benefits.

WHEREFORE, Plaintiffs prays as follows:

FOURTH CAUSE OF ACTION
Product Liability – Manufacturing Defect
(Trinity Highway Products, LLC; Does 26-50)

40. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

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41. Trinity Highway Products, LLC and Does 26-50 manufactured, distributed, or sold the guardrail described herein.

42. The guardrail described herein contained a manufacturing defect when it left the possession of Trinity Highway Products, LLC and Does 26-50.

43. Plaintiffs were harmed by the guardrail as described herein.

44. The guardrail's manufacturing defect was a substantial factor in causing Plaintiffs' harm.

FIFTH CAUSE OF ACTION
Negligence
(Trinity Highway Products, LLC; Does 26-50; Does 51-75)

45. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

46. Defendants Trinity Highway Products, LLC and Does 26-50 manufactured, marketed, distributed, or sold the guardrail on the portion of the I-40 where the accident occurred.

47. Defendants Trinity Highway Products, LLC and Does 51-75 installed, repaired, modified, and/or maintained the guardrail on the portion of the I-40 where the accident occurred.

48. At all relevant times. Trinity Highway Products, LLC and Does 26-50 and 51-75, and their agents and employees, had a duty to exercise reasonable and due care in their work.

49. At all relevant times, Trinity Highway Products, LLC and Does 26-50 and 51-75, and their agents and employees, were negligent and breached their duty of care in the installation, repair, modification and/or maintenance of the guardrail.

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50. Trinity Highway Products, LLC and Does 26-50 and 51-75's negligence was a substantial factor in causing Plaintiffs' harm as herein alleged.

WHEREFORE, Plaintiffs prays as follows:

SIXTH CAUSE OF ACTION
Loss of Consortium
(Raghu Kumar Swayampakala and Maruthi Guntur v. All Defendants)

51. The allegations set forth in Paragraphs 1 through 19 are re-alleged and incorporated herein by reference.

52. At all times herein mentioned Plaintiff Maruthi Guntur and Plaintiff Krishna Pavani Swayampakala were and are husband and wife.

53. At all times herein mentioned Plaintiff Raghu Kumar Swayampakala and Plaintiff Madhu Priya Swayampakala were and are husband and wife.

54. As a direct result of Defendants' aforesaid conduct, Plaintiff Maruthi Guntur lost the care, comfort, society, affection and marital consortium of his wife, Plaintiff Krishna Pavani Swayampakala, and suffered a loss of love, affection, solace, moral support and physical assistance in the operation and maintenance of the home, all to his general damage in an amount within the jurisdiction of this Court.

55. As a direct result of Defendants' aforesaid conduct, Plaintiff Raghu Kumar Swayampakala lost the care, comfort, society, affection and marital consortium of his wife, Plaintiff Madhu Priya Swayampakala, and suffered a loss of love, affection, solace, moral support and physical assistance in the operation and maintenance of the home, all to his general damage in an amount within the jurisdiction of this Court.

WHEREFORE, Plaintiffs prays as follows:

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants, and each of them for the following:

1. General damages and special damages according to proof;
2. Hospital, doctor, therapy and medical costs;

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3. Damages for loss of earnings according to proof;

4. For costs of suit herein;

5. Such other relief as the Court may deem just and proper.

DATED: January 14, 2013.

HERSH & HERSH
A Professional Corporation

By: _____
CHARLES C. KELLY, II
Attorneys for Plaintiffs

HERSHANDHERSH
A Professional Corporation

Combined Documents SWAYAMPAKALA I40 MM 44 LUDLOW 66 of 162

STATE OF CALIFORNIA

TRAFFIC COLLISION REPORT

CHP 555 CARS PAGE 1 (REV 11-06) OPI 065

CAL TRANS

ORIGINAL

SPECIAL CONDITIONS	NUMBER WARRED 6	HIT & RUN FELONY ☐	CITY UNINCORPORATED	JUDICIAL DISTRICT BARSTOW SUPERIOR	LOCAL REPORT NUMBER 2011-09-0011
	NUMBER KILLED 0	HIT & RUN MISDEMEANOR ☐	COUNTY SAN BERNARDINO	REPORTING DISTRICT / BEAT 045	DAY OF WEEK SATURDAY / TOW AWAY ☒ YES ☐ NO

LOCATION

COLLISION OCCURRED ON:	MO DAY YEAR	TIME (2400)	NCIC #	OFFICER I.D.
I-40 E/B	09/03/2011	0630	9835	020053

MILEPOST INFORMATION: .2 MILE(S) WEST OF 40 SBD 44.00

GPS COORDINATES: LATITUDE / LONGITUDE

PHOTOGRAPHS BY: ☐ NONE — 56 DIGITAL PHOTOS TAKEN BY OFFICER C. STEVENS

☐ AT INTERSECTION WITH: ☒ OR 1.9 MILE(S) EAST OF LAVIC RD

STATE HWY REL. ☒ YES ☐ NO

PARTY 1

DRIVER'S LICENSE NUMBER	STATE	CLASS	AIR BAG	SAFETY EQUIP.	VEH. YEAR	MAKE / MODEL / COLOR	LICENSE NUMBER	STATE
E1624004	CA	C	L	G	2011	TOYO SIENNA SIL	6RUZ344	CA

DRIVER ☒ NAME (FIRST, MIDDLE, LAST): MARUTHI VIJAYANKAR GUNTUR

OWNER'S NAME ☒ SAME AS DRIVER

PEDESTRIAN ☐ STREET ADDRESS: [redacted]

OWNER'S ADDRESS ☒ SAME AS DRIVER

PARKED VEHICLE ☐ CITY / STATE / ZIP: [redacted] NV CA [redacted]

DISPOSITION OF VEHICLE ON ORDERS OF: ☒ OFFICER ☐ DRIVER ☐ OTHER — CITY TOWING - (760)256-9188

BICYCLIST ☐

SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE MO DAY YEAR	RACE
M	BLK	BLK	5-11	180	03/06/1977	O

PRIOR MECH. DEFECTS ☒ NONE APP. ☐ REFER TO NARRATIVE

OTHER ☐ HOME PHONE: (847)704-0838 BUSINESS PHONE:

VEHICLE IDENTIFICATION NUMBER: 5TDKK3DC6BS154950

INSURANCE CARRIER: ALLSTATE POLICY NUMBER: 9 27408780 05/07

VEHICLE TYPE: 08 DESCRIBE VEHICLE DAMAGE: ☐ UNK ☐ NONE ☐ MINOR ☐ MOD ☐ MAJOR ☒ ROLL-OVER SHADE IN DAMAGED AREA

DIR OF TRAVEL: E ON STREET OR HIGHWAY: I-40 SPEED LIMIT: 70

CA ____ DOT ____ CAL-T ____ TCP/PEC ____ MO/MX ____

PARTY 2

DRIVER'S LICENSE NUMBER	STATE	CLASS	AIR BAG	SAFETY EQUIP.	VEH. YEAR	MAKE / MODEL / COLOR	LICENSE NUMBER	STATE

DRIVER ☐ NAME (FIRST, MIDDLE, LAST):

OWNER'S NAME ☐ SAME AS DRIVER

PEDESTRIAN ☐ STREET ADDRESS:

OWNER'S ADDRESS ☐ SAME AS DRIVER

PARKED VEHICLE ☐ CITY / STATE / ZIP:

DISPOSITION OF VEHICLE ON ORDERS OF: ☐ OFFICER ☐ DRIVER ☐ OTHER

BICYCLIST ☐

SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE MO DAY YEAR	RACE

PRIOR MECHANICAL DEFECTS ☐ NONE APP. ☐ REFER TO NARRATIVE

OTHER ☐ HOME PHONE: BUSINESS PHONE:

VEHICLE IDENTIFICATION NUMBER:

INSURANCE CARRIER: POLICY NUMBER:

VEHICLE TYPE: DESCRIBE VEHICLE DAMAGE: ☐ UNK ☐ NONE ☐ MINOR ☐ MOD ☐ MAJOR ☐ ROLL-OVER SHADE IN DAMAGED AREA

DIR OF TRAVEL: ON STREET OR HIGHWAY: SPEED LIMIT:

CA ____ DOT ____ CAL-T ____ TCP/PEC ____ MO/MX ____

PARTY 3

DRIVER'S LICENSE NUMBER	STATE	CLASS	AIR BAG	SAFETY EQUIP.	VEH. YEAR	MAKE / MODEL / COLOR	LICENSE NUMBER	STATE

DRIVER ☐ NAME (FIRST, MIDDLE, LAST):

OWNER'S NAME ☐ SAME AS DRIVER

PEDESTRIAN ☐ STREET ADDRESS:

OWNER'S ADDRESS ☐ SAME AS DRIVER

PARKED VEHICLE ☐ CITY / STATE / ZIP:

DISPOSITION OF VEHICLE ON ORDERS OF: ☐ OFFICER ☐ DRIVER ☐ OTHER

BICYCLIST ☐

SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE MO DAY YEAR	RACE

PRIOR MECHANICAL DEFECTS ☐ NONE APP. ☐ REFER TO NARRATIVE

OTHER ☐ HOME PHONE: BUSINESS PHONE:

VEHICLE IDENTIFICATION NUMBER:

INSURANCE CARRIER: POLICY NUMBER:

VEHICLE TYPE: DESCRIBE VEHICLE DAMAGE: ☐ UNK ☐ NONE ☐ MINOR ☐ MOD ☐ MAJOR ☐ ROLL-OVER SHADE IN DAMAGED AREA

DIR OF TRAVEL: ON STREET OR HIGHWAY: SPEED LIMIT:

CA ____ DOT ____ CAL-T ____ TCP/PEC ____ MO/MX ____

PREPARER'S NAME	DISPATCH NOTIFIED	REVIEWER'S NAME	DATE REVIEWED
J. W. RICE 020053	☒ YES ☐ NO ☐ N/A	H. BOLSEN	9-9-11

STATE OF CALIFORNIA

TRAFFIC COLLISION CODING

CHP 555 CARS PAGE2 (REV. 11-08) OPI 065

DATE OF COLLISION (MO. DAY YEAR)	TIME(2400)	NCIC #	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	2011-09-0011

PROPERTY DAMAGE

OWNER: CALTRANS

OWNER ADDRESS: 1800 DILL ST, BARSTOW, CA 92311

NOTIFIED: [X] YES [ ] NO

DESCRIPTION OF DAMAGE: 75 FEET OF DAMAGED GUARD RAIL

SEATING POSITION

1 2 3
4 5 6
7

1 - DRIVER
2 TO 6 - PASSENGERS
7 - STA. WGN REAR
8 - RR. OCC TRK. OR VAN
9 - POSITION UNKNOWN
0 - OTHER

SAFETY EQUIPMENT

OCCUPANTS
A - NONE IN VEHICLE
B - UNKNOWN
C - LAP BELT USED
D - LAP BELT NOT USED
E - SHOULDER HARNESS USED
F - SHOULDER HARNESS NOT USED
G - LAP/SHOULDER HARNESS USED
H - LAP/SHOULDER HARNESS NOT USED
J - PASSIVE RESTRAINT USED
K - PASSIVE RESTRAINT NOT USED
L - AIR BAG DEPLOYED
M - AIR BAG NOT DEPLOYED
N - OTHER
P - NOT REQUIRED

CHILD RESTRAINT
Q - IN VEHICLE USED
R - IN VEHICLE NOT USED
S - IN VEHICLE USE UNKNOWN
T - IN VEHICLE IMPROPER USE
U - NONE IN VEHICLE

M/C BICYCLE - HELMET
DRIVER: V - NO, W - YES
PASSENGER: X - NO, Y - YES

EJECTED FROM VEHICLE
0 - NOT EJECTED
1 - FULLY EJECTED
2 - PARTIALLY EJECTED
3 - UNKNOWN

INATTENTION CODES

A - CELL PHONE HANDHELD
B - CELL PHONE HANDSFREE
C - ELECTRONIC EQUIPMENT
D - RADIO / CD
E - SMOKING
F - EATING
G - CHILDREN
H - ANIMALS
I - PERSONAL HYGIENE
J - READING
K - OTHER

ITEMS MARKED BELOW FOLLOWED BY AN ASTERISK (*) SHOULD BE EXPLAINED IN THE NARRATIVE.

PRIMARY COLLISION FACTOR (LIST NUMBER (#) OF PARTY AT FAULT)

1 A VC SECTION VIOLATED: CITED [ ] YES [X] NO 22107
B OTHER IMPROPER DRIVING*
C OTHER THAN DRIVER*
D UNKNOWN*

WEATHER (MARK 1 TO 2 ITEMS)

X A CLEAR
B CLOUDY
C RAINING
D SNOWING
E FOG / VISIBILITY FT.
F OTHER:*
G WIND

LIGHTING

A DAYLIGHT
X B DUSK - DAWN
C DARK - STREET LIGHTS
D DARK - NO STREET LIGHTS
E DARK - STREET LIGHTS NOT FUNCTIONING*

ROADWAY SURFACE

X A DRY
B WET
C SNOWY - ICY
D SLIPPERY (MUDDY, OILY, ETC.)

ROADWAY CONDITION(S) (MARK 1 TO 2 ITEMS)

A HOLES, DEEP RUT*
B LOOSE MATERIAL ON ROADWAY*
C OBSTRUCTION ON ROADWAY*
D CONSTRUCTION - REPAIR ZONE
E REDUCED ROADWAY WIDTH
F FLOODED*
G OTHER*:
X H NO UNUSUAL CONDITIONS

TRAFFIC CONTROL DEVICES

A CONTROLS FUNCTIONING
B CONTROLS NOT FUNCTIONING*
C CONTROLS OBSCURED
X D NO CONTROLS PRESENT / FACTOR*

TYPE OF COLLISION

A HEAD - ON
B SIDE SWIPE
C REAR END
D BROADSIDE
X E HIT OBJECT
F OVERTURNED
G VEHICLE / PEDESTRIAN
H OTHER*:

MOTOR VEHICLE INVOLVED WITH

A NON - COLLISION
B PEDESTRIAN
C OTHER MOTOR VEHICLE
D MOTOR VEHICLE ON OTHER ROADWAY
E PARKED MOTOR VEHICLE
F TRAIN
G BICYCLE
H ANIMAL:
X I FIXED OBJECT: GUARD RAIL
J OTHER OBJECT:

PEDESTRIAN'S ACTIONS

X A NO PEDESTRIANS INVOLVED
B CROSSING IN CROSSWALK AT INTERSECTION
C CROSSING IN CROSSWALK - NOT AT INTERSECTION
D CROSSING - NOT IN CROSSWALK
E IN ROAD - INCLUDES SHOULDER
F NOT IN ROAD
G APPROACHING / LEAVING SCHOOL BUS

SPECIAL INFORMATION

A HAZARDOUS MATERIAL
B CELL PHONE HANDHELD IN USE
C CELL PHONE HANDSFREE IN USE
D CELL PHONE NOT IN USE
E SCHOOL BUS RELATED
F 78 FT MOTORTRUCK COMBO
G 33 FT TRAILER COMBO
H
I
J
K
L
M
N
O
P
Q

OTHER ASSOCIATED FACTORS (MARK 1 TO 2 ITEMS)

A VC SECTION VIOLATED: CITED [ ] YES [ ] NO
B VC SECTION VIOLATED: CITED [ ] YES [ ] NO
C VC SECTION VIOLATED: CITED [ ] YES [ ] NO
D
E VISION OBSCUREMENT:
F INATTENTION*:
G STOP & GO TRAFFIC
H ENTERING / LEAVING RAMP
I PREVIOUS COLLISION
J UNFAMILIAR WITH ROAD
K DEFECTIVE VEH. EQUIP.: CITED [ ] YES [ ] NO
L UNINVOLVED VEHICLE
M OTHER*:
N NONE APPARENT
O RUNAWAY VEHICLE

MOVEMENT PRECEDING COLLISION

A STOPPED
B PROCEEDING STRAIGHT
C RAN OFF ROAD
D MAKING RIGHT TURN
E MAKING LEFT TURN
F MAKING U TURN
G BACKING
H SLOWING / STOPPING
I PASSING OTHER VEHICLE
J CHANGING LANES
K PARKING MANEUVER
L ENTERING TRAFFIC
M OTHER UNSAFE TURNING
N XING INTO OPPOSING LANE
O PARKED
P MERGING
Q TRAVELING WRONG WAY
R OTHER*: UNSAFE TURN
BAJ & EWY

SOBRIETY - DRUG PHYSICAL (MARK 1 TO 2 ITEMS)

A HAD NOT BEEN DRINKING
B HBD - UNDER INFLUENCE
C HBD - NOT UNDER INFLUENCE*
D HBD - IMPAIRMENT UNKNOWN*
E UNDER DRUG INFLUENCE*
F IMPAIRMENT - PHYSICAL*
G IMPAIRMENT NOT KNOWN
H NOT APPLICABLE
I SLEEPY / FATIGUED

SKETCH: FOR SKETCH DIAGRAM, SEE PAGE 5

INDICATE NORTH

MISCELLANEOUS

STATE OF CALIFORNIA
INJURED / WITNESSES / PASSENGERS
CHP 555 CARS PAGE 3 (REV 11-06) OPI 065

DATE OF COLLISION (MO. DAY YEAR)	TIME(2400)	NCIC #	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	2011-09-0011

WITNESS ONLY	PASSENGER ONLY	AGE	SEX	EXTENT OF INJURY('X' ONE): FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	INJURED WAS ('X' ONE): DRIVER	PASS.	PED.	BICYCLIST	OTHER	PARTY NUMBER	SEAT POS.	AIR BAG	SAFETY EQUIP.	EJECTED
#		34	M			X		X					1	1	L	G	0

NAME / D.O.B. / ADDRESS: MARUTHI VIJAYANAKAR GUNTUR ([redacted]) [redacted] CA [redacted]55
TELEPHONE: [redacted]
(INJURED ONLY) TRANSPORTED BY: DESERT AMBULANCE
TAKEN TO: BARSTOW COMMUNITY HOSPITAL
DESCRIBE INJURIES: MINOR LACERATIONS TO FACE AND ARMS, COMPLAINT OF PAIN IN NECK AND BACK.
VICTIM OF VIOLENT CRIME NOTIFIED: ☐

#		32	F		X				X				1	3	L	G	0

NAME / D.O.B. / ADDRESS: KRISHNA PAVANI SWAYAMPAKALA ([redacted])
TELEPHONE: (8[redacted]7)[redacted]
(INJURED ONLY) TRANSPORTED BY: MERCY AIR
TAKEN TO: ARROWHEAD REGIONAL MEDICAL CENTER
DESCRIBE INJURIES: OPEN WOUND FRACTURE TO RIGHT ANKLE, LACERATIONS TO FACE, ARMS AND LEGS.
VICTIM OF VIOLENT CRIME NOTIFIED: ☐

#		48	F		X				X				1	0	L	G	0

NAME / D.O.B. / ADDRESS: MADHU PRIYA SWAYAMPAKALA ([redacted]) 5[redacted]
TELEPHONE: (84[redacted]8
(INJURED ONLY) TRANSPORTED BY: MERCY AIR
TAKEN TO: ARROWHEAD REGIONAL MEDICAL CENTER
DESCRIBE INJURIES: BROKEN LEFT ARM AND RIGHT LEG, LACERATIONS TO ARMS, LEGS, AND FACE.
VICTIM OF VIOLENT CRIME NOTIFIED: ☐

#		56	M			X			X				1	6	L	G	0

NAME / D.O.B. / ADDRESS: RAGHU KUMAR ([redacted])
TELEPHONE: [redacted]7)[redacted]
(INJURED ONLY) TRANSPORTED BY: DESERT AMBULANCE
TAKEN TO: BARSTOW COMMUNITY HOSPITAL
DESCRIBE INJURIES: LACERATIONS TO FACE, ARMS, LEGS.
VICTIM OF VIOLENT CRIME NOTIFIED: ☐

#		6	M				X		X				1	0	L	Q	0

NAME / D.O.B. / ADDRESS: SHRIPAD GUNTUR ([redacted]5) 5[redacted]
TELEPHONE: [redacted]7[redacted]
(INJURED ONLY) TRANSPORTED BY: DESERT AMBULANCE
TAKEN TO: BARSTOW COMMUNITY HOSPITAL
DESCRIBE INJURIES: COMPLAINT OF PAIN IN BACK AND NECK.
VICTIM OF VIOLENT CRIME NOTIFIED: ☐

#		8M	M				X		X				1	0	L	Q	0

NAME / D.O.B. / ADDRESS: SHRIKAR VIGNESH GUNTUR ([redacted])
TELEPHONE: (8[redacted])2[redacted]
(INJURED ONLY) TRANSPORTED BY: DESERT AMBULANCE
TAKEN TO: BARSTOW COMMUNITY HOSPITAL
DESCRIBE INJURIES: PRECAUTIONARY ONLY.
VICTIM OF VIOLENT CRIME NOTIFIED: ☐

PREPARER'S NAME	I.D. NUMBER	MO. DAY YEAR	REVIEWER'S NAME	MO. DAY YEAR
J. W. RICE	020053	09/03/2011		

STATE OF CALIFORNIA
INJURED / WITNESSES / PASSENGERS
CHP 555 CARS PAGE 3 (REV 11-06) OPI 065

DATE OF COLLISION (MO. DAY YEAR)	TIME(2400)	NCIC #	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	2011-09-0011

WITNESS ONLY	PASSENGER ONLY	AGE	SEX	EXTENT OF INJURY('X' ONE)				INJURED WAS ('X' ONE)					PARTY NUMBER	SEAT POS.	AIR BAG	SAFETY EQUIP.	EJECTED
				FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER					
X # 1	☐	52	M	☐	☐	☐	☐	☐	☐	☐	☐	☐					

NAME / D.O.B. / ADDRESS: MICHAEL RAPHAEL LOALBO (01/18/1959) 4010 E. 10TH ST LONG BEACH CA 90804
TELEPHONE: (562)619-3950

(INJURED ONLY) TRANSPORTED BY:
TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

X # 2	☐	34	F	☐	☐	☐	☐	☐	☐	☐	☐	☐					

NAME / D.O.B. / ADDRESS: MARYANNE LAPINTA (06/13/1977) 5418 STEVELY AVE LAKEWOOD CA 90713
TELEPHONE: (562)867-0409

(INJURED ONLY) TRANSPORTED BY:
TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

☐ #	☐			☐	☐	☐	☐	☐	☐	☐	☐	☐					

NAME / D.O.B. / ADDRESS:
TELEPHONE:

(INJURED ONLY) TRANSPORTED BY:
TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

☐ #	☐			☐	☐	☐	☐	☐	☐	☐	☐	☐					

NAME / D.O.B. / ADDRESS:
TELEPHONE:

(INJURED ONLY) TRANSPORTED BY:
TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

☐ #	☐			☐	☐	☐	☐	☐	☐	☐	☐	☐					

NAME / D.O.B. / ADDRESS:
TELEPHONE:

(INJURED ONLY) TRANSPORTED BY:
TAKEN TO:

DESCRIBE INJURIES:

☐ VICTIM OF VIOLENT CRIME NOTIFIED

PREPARER'S NAME	I.D. NUMBER	MO. DAY YEAR	REVIEWER'S NAME	MO. DAY YEAR
J. W. RICE	020053	09/03/2011		

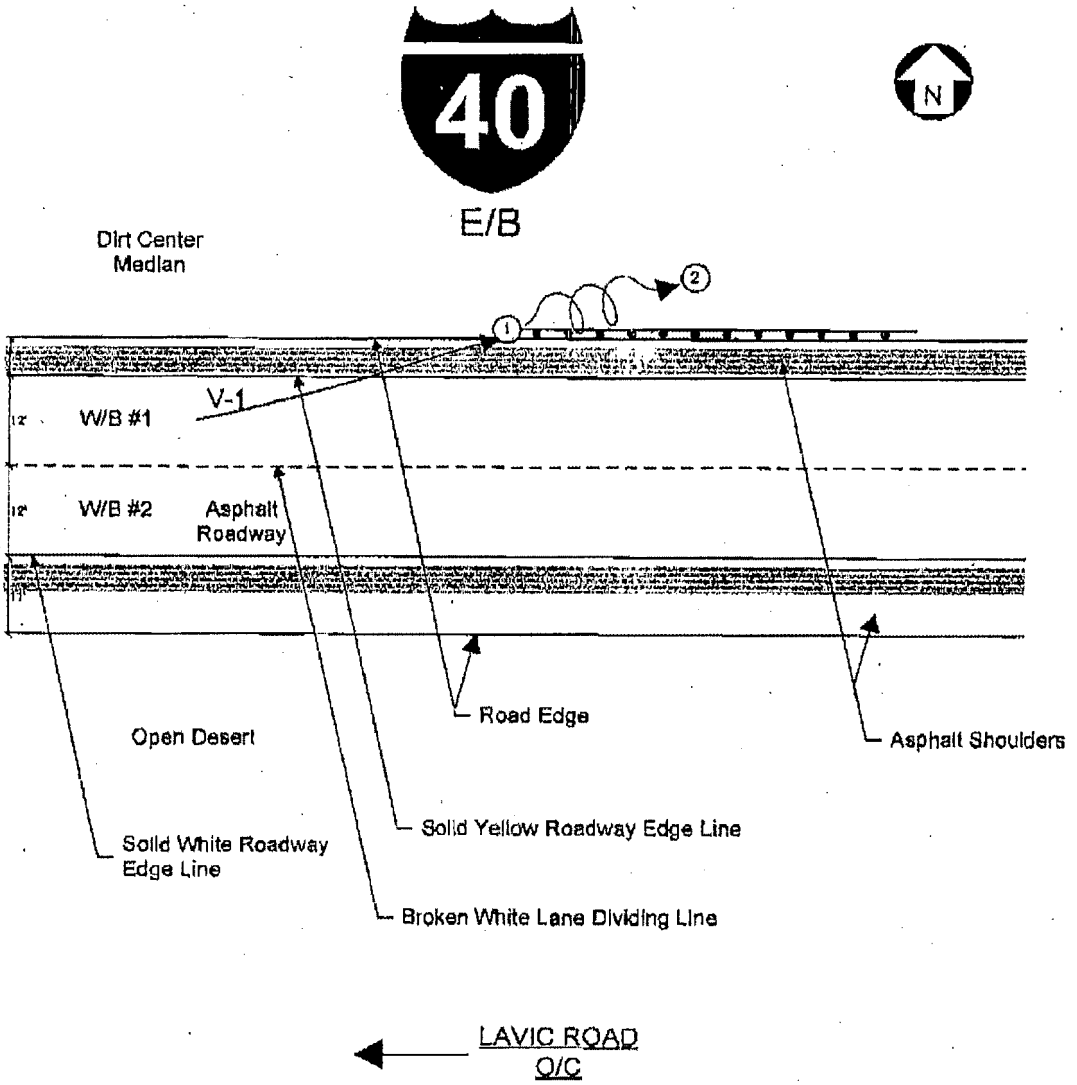
STATE OF CALIFORNIA

SKETCH DIAGRAM

CHP 555 Page 4(Rev. 8-97) OPI 042

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
09/03/2011	0735	9835	020053	

ALL MEASUREMENTS ARE APPROXIMATE AND NOT TO SCALE UNLESS STATED (SCALE=)

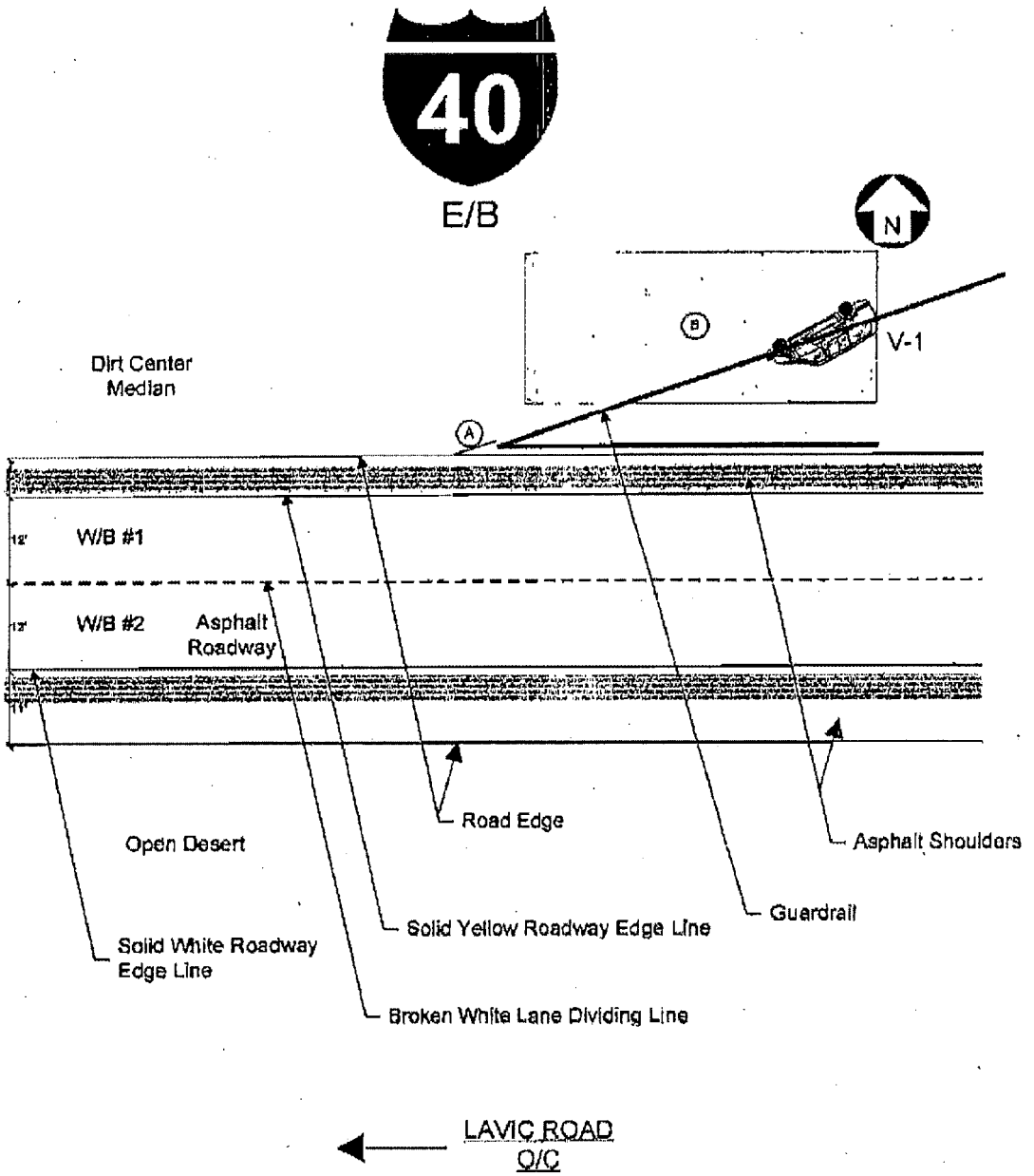


PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
OFFICER A. CROXTON	020043	09/03/2011		

STATE OF CALIFORNIA
FACTUAL DIAGRAM
CHP 555 Page 4(Rev. 8-97) OPI 042

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	

ALL MEASUREMENTS ARE APPROXIMATE AND NOT TO SCALE UNLESS STATED (SCALE=)



PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
OFFICER A. CROXTON	20043	09/03/2011		

PHYSICAL EVIDENCE LEGEND:

STATION LINE:

A station line was established along the north roadway edge line of I-40 eastbound. Station 0+00 was established 980 feet west of mile post marker 44. The station line increases as you proceed from west to east. All measurements were taken at right angles to the station line.

VEHICLE POSITION OF REST:

V-1's Left-Front Wheel	17' L	Station 1+34
V-1's Left-Rear Wheel	21' L	Station 1+42

PHYSICAL EVIDENCE DESCRIPTION:

1) 40' long dirt gravel tire mark from V-1's left side tires
2) 120'x80' area of debris consisting of miscellaneous vehicle parts from V-1 and pieces of wood from the guardrail.

PHYSICAL EVIDENCE LOCATION:

ITEM	STATION	OFFSET	DIR	DESCRIPTION
A	0+00	5'	L	Begin dirt gravel tire mark
	0+40	7'	L	End dirt gravel tire mark
B	1+86	16'	L	Center of debris field

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	2011-09-0011

FACTS

Notification:

I was at the Barstow Area CHP Office when I was dispatched to a call of a traffic collision with an ambulance responding on eastbound I-40 approximately five miles west of Ludlow at 0636 hours. I responded from the Barstow Area Office and arrived on scene at approximately 0705 hours. Upon arriving on scene, I determined this collision to be just west of mile post marker 40 SBD 44.00. All times, speeds, and measurements in this report are approximate. Measurements were obtained by estimation, roll meter and odometer.

Scene:

This traffic collision occurred on eastbound I-40, west of mile post marker 40 SBD 44.00. At this location, there are two asphalt lanes, each 12 feet wide with painted broken white lines separating the lanes. The lanes are bordered by an 11 foot asphalt shoulder to the south separated from the lanes by a solid painted white line. To the north there is a 4 foot asphalt shoulder separated from the lanes by a solid painted yellow line followed by a wood / metal guard rail, a descending dirt center divide, and the westbound lanes. The road surface was dry at the time of this collision and no visual obstructions were noted.

Parties:

Party #1 (Guntur, P-1) was located standing next to Vehicle #1 (Toyota, V-1) in the dirt center divide of eastbound I-40 at the scene of the collision. P-1 was identified by his valid California Driver License and his own statements. P-1 was placed as the driver of V-1 by his own admission.

Vehicle #1 (Honda, V-1) was located on its left side facing in a south westerly direction in the dirt center divide of eastbound I-40. V-1 sustained major collision damage consisting of, but not limited to, the following; crushed in hood and both the left and right sides running from the front to the back, shattered windows and windshield, and major damage to the passenger and engine compartment components. A visual inspection of the seatbelts was performed and the front driver and passenger seatbelts were found to be extended and locked in position. All remaining seatbelts were found to be in working condition.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
J. W. RICE	020053	09/03/2011		

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	2011-09-0011

PHYSICAL EVIDENCE:

- See factual diagram and legend for details.

STATEMENTS:

Party #1 (Guntur, P-1) related in essence he was driving Vehicle #1 (Toyota, V-1) in the number #1 lane of eastbound I-40 at 70 to 90 mph. P-1 related he was not sure what happened, but the guard rail appeared in front of his vehicle. P-1 related he had no time to react and the front of V-1 collided with the guard rail. After colliding with the guard rail, the guard rail came through the car and the car started to roll over. After rolling over and stopping on its side, P-1 related he pulled the front right passenger from the car and checked on the other occupants of the vehicle. P-1 related another motorist called 911 and they tried to help the other occupants of the vehicle until help arrived.

Witness #1 (Loalbo, W-1) was contacted at the scene of the collision and related in essence he was traveling eastbound on I-40, in the number #2 lane, at 73 mph. W-1 related he observed a van (V-1) pass him in the number #1 lane. After passing him, V-1 began to weave across the broken white line three times prior to accelerating at approximately 75 to 76 mph away from his location. W-1 related he lost sight of V-1 for a short period of time and in that time he observed what he described as an explosion ahead of his location. Upon getting closer, he realized it was the same vehicle that just passed him. W-1 related he stopped, called 911, and attempted to help the occupants of the vehicle.

Witness #2 (Lapinta, W-2) was contacted at the scene of the collision and related in essence she was traveling eastbound on I-40, in the number #1 lane, at 75 mph. W-2 related as she exited a gradual left curve in the road she observed the vehicle approximately 100 to 200 feet in front of her (V-1) was drifting onto the left shoulder. W-2 related she thought the van was going to swerve back onto the road, but instead it continued across the shoulder onto the dirt were it collided with the guard rail. W-2 related at no time did it appear the driver of V-1 made any attempt to brake or steer V-1 away from the guard rail prior to the collision. After the collision, W-2 stopped, called 911 and attempted to render aid to the occupants of the vehicle.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
J. W. RICE	020053	09/03/2011		

DATE OF INCIDENT	TIME	NCIC NUMBER	OFFICER I.D.	NUMBER
09/03/2011	0630	9835	020053	2011-09-0011

OPINIONS AND CONCLUSIONS:

Summary:

Party #1 (Guntur, P-1) was driving Vehicle #1 (Toyota, V-1) in the number #1 lane of eastbound I-40, near mile post marker 40 SBD 43.50, at 70 to 90 mph.

For an undetermined reason, P-1 allowed V-1 to drift to the left across the solid yellow line and onto the left shoulder. V-1 continued across the left shoulder and into the dirt center divide where it collided with the wood/metal guard rail. After colliding with the guard rail, the guard rail went through the passenger compartment and out the rear of V-1. V-1 continued down the dirt embankment in the center divide and began to rotate to the right rolling over onto its left side and coming to a stop. After the collision, P-1 with the assistance of other passing motorists was able to extricate himself as well as three other occupants of the vehicle. Due to injuries sustained and damages to V-1, two occupants were later extricated by fire and medical personnel at the scene of the collision. After the collision, V-1 remained unmoved in the dirt center divide of the eastbound lanes until CHP arrived.

Area of Impact (AOIs): (The AOIs was determined by the statements of the involved parties and physical evidence.)

AOI #1 (V-1 vs. Guard Rail) was located 4 feet left of station 0+40.

AOI #2 (V-1 Roll-over) was located 17 feet left of station 1+34.

Cause:

Party #1 (Guntur, P-1) caused this traffic collision by being in violation of California vehicle code section 22107. This section states the following: No person shall turn a vehicle from a direct course or move right or left upon a roadway until such movement can be made with reasonable safety and then only after the giving of an appropriate signal in the manner provided in this chapter in the event any other vehicle may be affected by the movement.

RECOMMENDATIONS:

None.

PREPARED BY	I.D. NUMBER	DATE	REVIEWER'S NAME	DATE
J. W. RICE	020053	09/03/2011		

NANCY HERSH, State Bar No. 49091
CHARLES C. KELLY, II, State Bar No. 122253
KATE HERSH-BOYLE, State Bar No. 278864
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A Professional Corporation
601 Van Ness Avenue, Suite 2080
San Francisco, CA 94102-6316
(415) 441-5544

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

KRISHNA PAVANI SWAYAMPAKALA, et al., Plaintiffs, vs. STATE OF CALIFORNIA, et al., Defendants.	CASE NUMBER CGC-12-523953 RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

PROPOUNDING PARTY: Defendant Trinity Highway Products, LLC

RESPONDING PARTY: Plaintiff Krishna Pavani Swayampakala

SET NUMBER: ONE

Comes now Plaintiff Krishna Pavani Swayampakala, and responds to Defendant's First Set Special Interrogatories, as follows:

PRELIMINARY STATEMENT

Plaintiff is engaged in the early stages of the discovery process and the following written responses is based upon and given to the best of plaintiff's knowledge, information,

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and belief. To the extent that plaintiff's investigation and discovery are continuing, the responses provided herein may be supplemented or amended at a later date to conform to subsequently discovered facts or additional information.

Moreover, much of the information requested will be the subject of expert testimony and Defendants will have ample opportunity to conduct discovery regarding such testimony during the period exclusively set aside for such purpose.

These responses are made solely for the purpose of this action and each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any statement contained herein at the time of trial.

This Preliminary Statement is hereby incorporated into each of the responses set forth below.

INTERROGATORY NO. 1

Please state YOUR social security number.

RESPONSE TO INTERROGATORY NO. 1

619-83-2757.

INTERROGATORY NO. 2

Please state the date, time and exact location of the INCIDENT which is the subject of this lawsuit.

RESPONSE TO INTERROGATORY NO. 2

9/3/11 at 6:30 am on eastbound Interstate 40 in San Bernardino County.

INTERROGATORY NO. 3

Please state with specificity how and in what manner YOU allege the incident occurred which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 3

Our van left the roadway and hit the guardrail, which pierced the van. The guardrail then injured me.

///

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A Professional Corporation

INTERROGATORY NO. 4

State the name, address and relationship to YOU, if any, of each person upon whom YOU would rely to support or establish any fact cited in YOUR answer to the preceding interrogatory.

RESPONSE TO INTERROGATORY NO. 4

Myself. CHP officers who investigated the scene, identified in Traffic Accident Report. CalTrans employees' names are unknown at this time.

INTERROGATORY NO. 5

Factually, what do YOU contend was the cause of YOUR accident.

RESPONSE TO INTERROGATORY NO. 5

Objection, vague and ambiguous as to the meaning of the term "accident." To the extent that accident means my injury, I contend the guardrail was defective.

INTERROGATORY NO. 6

IDENTIFY the SUBJECT PRODUCT which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 6

Guardrail.

INTERROGATORY NO. 7

State any and all facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC, was negligent and how that negligence proximately caused injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 7

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 8

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

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RESPONSE TO INTERROGATORY NO. 8

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 9

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 9

Photographs taken by CHP and my husband after the accident giving rise to my injuries. Investigation and discovery have just commenced.

INTERROGATORY NO. 10

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, state the facts upon which you base YOUR contention.

RESPONSE TO INTERROGATORY NO. 10

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 11

If you CONTEND that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY the name, address, and telephone number of each person who has, claims to have, or is reported to have any knowledge of any such claimed defect.

RESPONSE TO INTERROGATORY NO. 11

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

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HERSHANDHERSH
A Professional Corporation

INTERROGATORY NO. 12

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY all DOCUMENTS and photographs that relate to YOUR contention.

RESPONSE TO INTERROGATORY NO. 12

Photographs taken by CHP and my husband after the accident giving rise to my injuries. Investigation and discovery have just commenced.

INTERROGATORY NO. 13

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 13

The fact that the guardrail pierced the van; and the allegations made in the Qui Tam lawsuit brought against Defendant.

INTERROGATORY NO. 14

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 14

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 15

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

HERSHANDHERSH
A Professional Corporation

RESPONSE TO INTERROGATORY NO. 15

Photographs taken by CHP and my husband after the accident giving rise to my injuries. Investigation and discovery have just commenced. Documents identified in Qui Tam lawsuit.

INTERROGATORY NO. 16

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 16

See response to interrogatory no. 10.

INTERROGATORY NO. 17

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 17

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 18

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 18

Photographs taken by CHP after the accident giving rise to my injuries. Investigation and discovery have just commenced.

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INTERROGATORY NO. 19

If YOU contend that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard, identify each standard(s) and state in what way YOU contend the standard was not met.

RESPONSE TO INTERROGATORY NO. 19

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 20

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 20

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 21

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 21

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 22

State any and all facts upon which YOU base YOUR contention that defendant Trinity Highway Products, LLC failed to adequately warn of some condition to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 22

No posted warning existed at or near guardrail.

INTERROGATORY NO. 23

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon

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which YOU base YOUR contention that defendant, Trinity Highway Products, LLC failed to adequately warn of some condition to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 23

All of the plaintiffs. Unknown as to others.

INTERROGATORY NO. 24

IDENTIFY each of the occupants of the subject 2011 Toyota Sienna by name, address and seat position and state which occupants were wearing a seat belt.

RESPONSE TO INTERROGATORY NO. 24

All of the plaintiffs and Shripad Guntur and Srikar Guntur were wearing seatbelts.

INTERROGATORY NO. 25

At what speed do you contend the subject 2011 Toyota Sienna struck the SUBJECT PRODUCT identified in the INCIDENT.

RESPONSE TO INTERROGATORY NO. 25

Unable to estimate.

INTERROGATORY NO. 26

IDENTIFY YOUR height, weight, shirt size, dress size (if applicable) and pants inseam at the time of the INCIDENT.

RESPONSE TO INTERROGATORY NO. 26

5'4", 130 lbs., small shirt, dress and pant size.

INTERROGATORY NO. 27

IDENTIFY, by name and address, all other persons or entities which whom YOU or YOUR representatives entered into a settlement or covenant not to sue concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO FORM INTERROGATORY 27

Not applicable as to this plaintiff.

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A Professional Corporation

INTERROGATORY NO. 28

IDENTIFY, by name and address, all other persons or entities with whom YOU or YOUR representatives entered into a settlement or covenant not to sure concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO INTERROGATORY NO. 28

Not applicable as to this plaintiff.

DATED: May 14, 2013

HERSH & HERSH
A Professional Corporation

By_____
CHARLES C. KELLY, II
Attorneys for Plaintiffs

HERSHANDHERSH
A Professional Corporation

Combined Documents SWAYAMPAKALA I40 MM 44 LUDLOW 85 of 162

VERIFICATION

I, the undersigned, certify and declare that I am a party to this action. I have read the foregoing

RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

and am familiar with its contents. The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and/or compiled from available documents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, and, as to those matters, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed May 20th, 2013, at Bellevue, Washington.

KRISHNA PAVANI SWAYAMPAKALA

HERSHANDHERSH
A Professional Corporation

PROOF OF SERVICE

I, Portland Grant, declare:

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action or proceeding; my business address is 601 Van Ness Avenue, Suite 2080, San Francisco, California 94102-6316.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 17, 2013, I served a true copy of the following documents:
RESPONSE TO SPECIAL INTERROGATORIES, SET ONE
in said action by placing a true copy thereof, enclosed in a sealed envelope, each envelope addressed as follows:

Mike H. Madokoro
Hannah L. Mohrman
Bowman and Brook LLP
879 West 190th Street, Suite 700
Gardena, CA 90248-4227
310-768-3068
fax: 310-719-1019
Δs Trinity Highway Products, LLC

Robert A. Baggs
Deputy Attorney
CalTrans/Legal Division
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702
213-687-600
fax: 213-687-8300
Δ State of California/Dept. of Transportation

X **(BY MAIL)** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in accordance with the above business practice, as addressed above.

_____ **(BY FACSIMILE)** By transmitting a facsimile copy of the same, to the number listed above.

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

Executed on May 17, 2013, at San Francisco, California.

Portland Grant

Portland Grant

HERSHANDHERSH
A Professional Corporation

NANCY HERSH, State Bar No. 49091
CHARLES C. KELLY, II, State Bar No. 122253
KATE HERSH-BOYLE, State Bar No. 278864
HERSH & HERSH
A Professional Corporation
601 Van Ness Avenue, Suite 2080
San Francisco, CA 94102-6316
(415) 441-5544

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

KRISHNA PAVANI SWAYAMPAKALA, et al., Plaintiffs, vs. STATE OF CALIFORNIA, et al., Defendants.	CASE NUMBER CGC-12-523953 RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

PROPOUNDING PARTY: Defendant Trinity Highway Products, LLC

RESPONDING PARTY: Plaintiff Madhu Priya Swayampakala

SET NUMBER: ONE

Comes now Plaintiff Madhu Priya Swayampakala, and responds to Defendant's First Set Special Interrogatories, as follows:

PRELIMINARY STATEMENT

Plaintiff is engaged in the early stages of the discovery process and the following written responses is based upon and given to the best of plaintiff's knowledge, information,

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and belief. To the extent that plaintiff's investigation and discovery are continuing, the responses provided herein may be supplemented or amended at a later date to conform to subsequently discovered facts or additional information.

Moreover, much of the information requested will be the subject of expert testimony and Defendants will have ample opportunity to conduct discovery regarding such testimony during the period exclusively set aside for such purpose.

These responses are made solely for the purpose of this action and each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any statement contained herein at the time of trial.

This Preliminary Statement is hereby incorporated into each of the responses set forth below.

INTERROGATORY NO. 1

Please state YOUR social security number.

RESPONSE TO INTERROGATORY NO. 1

I do not have a social security number.

INTERROGATORY NO. 2

Please state the date, time and exact location of the INCIDENT which is the subject of this lawsuit.

RESPONSE TO INTERROGATORY NO. 2

9/3/11 at 6:30 am on eastbound Interstate 40 in San Bernardino County.

INTERROGATORY NO. 3

Please state with specificity how and in what manner YOU allege the incident occurred which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO.3

Our van left the roadway and hit the guardrail, which pierced the van. The guardrail then injured me.

///

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INTERROGATORY NO. 4

State the name, address and relationship to YOU, if any, of each person upon whom YOU would rely to support or establish any fact cited in YOUR answer to the preceding interrogatory.

RESPONSE TO INTERROGATORY NO. 4

Myself. CHP officers who investigated the scene, identified in Traffic Accident Report. CalTrans employees' names are unknown at this time.

INTERROGATORY NO. 5

Factually, what do YOU contend was the cause of YOUR accident.

RESPONSE TO INTERROGATORY NO. 5

Objection, vague and ambiguous as to the meaning of the term "accident." To the extent that accident means my injury, I contend the guardrail was defective.

INTERROGATORY NO. 6

IDENTIFY the SUBJECT PRODUCT which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 6

Guardrail.

INTERROGATORY NO. 7

State any and all facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC, was negligent and how that negligence proximately caused injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 7

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 8

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

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RESPONSE TO INTERROGATORY NO. 8

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 9

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 9

Photographs taken by CHP and my son-in-law after the accident giving rise to my injuries. Investigation and discovery have just commenced.

INTERROGATORY NO. 10

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, state the facts upon which you base YOUR contention.

RESPONSE TO INTERROGATORY NO. 10

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 11

If you CONTEND that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY the name, address, and telephone number of each person who has, claims to have, or is reported to have any knowledge of any such claimed defect.

RESPONSE TO INTERROGATORY NO. 11

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

///

HERSHANDHERSH
A Professional Corporation

INTERROGATORY NO. 12

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY all DOCUMENTS and photographs that relate to YOUR contention.

RESPONSE TO INTERROGATORY NO. 12

Photographs taken by CHP and my son-in-law after the accident giving rise to my injuries. Investigation and discovery have just commenced.

INTERROGATORY NO. 13

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 13

The fact that the guardrail pierced the van; and the allegations made in the Qui Tam lawsuit brought against Defendant.

INTERROGATORY NO. 14

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 14

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 15

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

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RESPONSE TO INTERROGATORY NO. 15

Photographs taken by CHP and my son-in-law after the accident giving rise to my injuries. Investigation and discovery have just commenced. Documents identified in Qui Tam lawsuit.

INTERROGATORY NO. 16

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 16

See response to interrogatory no. 10.

INTERROGATORY NO. 17

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 17

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 18

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 18

Photographs taken by CHP after the accident giving rise to my injuries. Investigation and discovery have just commenced.

///

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A Professional Corporation

INTERROGATORY NO. 19

If YOU contend that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard, identify each standard(s) and state in what way YOU contend the standard was not met.

RESPONSE TO INTERROGATORY NO. 19

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 20

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 20

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 21

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 21

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 22

State any and all facts upon which YOU base YOUR contention that defendant Trinity Highway Products, LLC failed to adequately warn of some condition to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 22

No posted warning existed at or near guardrail.

INTERROGATORY NO. 23

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon

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which YOU base YOUR contention that defendant, Trinity Highway Products, LLC failed to adequately warn of some condition to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 23

All of the plaintiffs. Unknown as to others.

INTERROGATORY NO. 24

IDENTIFY each of the occupants of the subject 2011 Toyota Sienna by name, address and seat position and state which occupants were wearing a seat belt.

RESPONSE TO INTERROGATORY NO. 24

All of the plaintiffs and Shripad Guntur and Srikar Guntur were wearing seatbelts.

INTERROGATORY NO. 25

At what speed do you contend the subject 2011 Toyota Sienna struck the SUBJECT PRODUCT identified in the INCIDENT.

RESPONSE TO INTERROGATORY NO. 25

Unknown as to this plaintiff.

INTERROGATORY NO. 26

IDENTIFY YOUR height, weight, shirt size, dress size (if applicable) and pants inseam at the time of the INCIDENT.

RESPONSE TO INTERROGATORY NO. 26

5'2", 120 lbs., size medium.

INTERROGATORY NO. 27

IDENTIFY, by name and address, all other persons or entities which whom YOU or YOUR representatives entered into a settlement or covenant not to sue concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO FORM INTERROGATORY 27

Allstate Insurance.

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INTERROGATORY NO. 28

IDENTIFY, by name and address, all other persons or entities with whom YOU or YOUR representatives entered into a settlement or covenant not to sure concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO INTERROGATORY NO. 28

Allstate Insurance.

DATED: May 15, 2013

HERSH & HERSH
A Professional Corporation

By_____
CHARLES C. KELLY, II
Attorneys for Plaintiffs

HERSHANDHERSH
A Professional Corporation

Combined Documents SWAYAMPAKALA I40 MM 44 LUDLOW 96 of 162

VERIFICATION

I, the undersigned, certify and declare that I am a party to this action. I have read the foregoing

RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

and am familiar with its contents. The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and/or compiled from available documents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, and, as to those matters, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed May 20th, 2013, at Bellevue WA.

MADHUPRIYA SWAYAMPAKALA
(Marcelthi V Gentes
on behalf of Madhu)

HERSHANDHERSH
A Professional Corporation

HERSHANDHERSH
A Professional Corporation

PROOF OF SERVICE

I, Portland Grant, declare:

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action or proceeding; my business address is 601 Van Ness Avenue, Suite 2080, San Francisco, California 94102-6316.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 17, 2013, I served a true copy of the following documents:
RESPONSE TO SPECIAL INTERROGATORIES, SET ONE
in said action by placing a true copy thereof, enclosed in a sealed envelope, each envelope addressed as follows:

Mike H. Madokoro
Hannah L. Mohrman
Bowman and Brook LLP
879 West 190th Street, Suite 700
Gardena, CA 90248-4227
310-768-3068
fax: 310-719-1019
Δs Trinity Highway Products, LLC

Robert A. Baggs
Deputy Attorney
CalTrans/Legal Division
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702
213-687-600
fax: 213-687-8300
Δ State of California/Dept. of Transportation

X **(BY MAIL)** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in accordance with the above business practice, as addressed above.

_____ **(BY FACSIMILE)** By transmitting a facsimile copy of the same, to the number listed above.

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

Executed on May 17, 2013, at San Francisco, California.

Portland Grant

Portland Grant

NANCY HERSH, State Bar No. 49091
CHARLES C. KELLY, II, State Bar No. 122253
KATE HERSH-BOYLE, State Bar No. 278864
HERSH & HERSH
A Professional Corporation
601 Van Ness Avenue, Suite 2080
San Francisco, CA 94102-6316
(415) 441-5544

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

KRISHNA PAVANI SWAYAMPAKALA, et al., Plaintiffs, vs. STATE OF CALIFORNIA, et al., Defendants.	CASE NUMBER CGC-12-523953 RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

PROPOUNDING PARTY: Defendant Trinity Highway Products, LLC

RESPONDING PARTY: Plaintiff Maruthi Guntur

SET NUMBER: ONE

Comes now Plaintiff Maruthi Guntur, and responds to Defendant's First Set Special Interrogatories, as follows:

PRELIMINARY STATEMENT

Plaintiff is engaged in the early stages of the discovery process and the following written responses is based upon and given to the best of plaintiff's knowledge, information,

HERSHANDHERSH
A Professional Corporation

and belief. To the extent that plaintiff's investigation and discovery are continuing, the responses provided herein may be supplemented or amended at a later date to conform to subsequently discovered facts or additional information.

Moreover, much of the information requested will be the subject of expert testimony and Defendants will have ample opportunity to conduct discovery regarding such testimony during the period exclusively set aside for such purpose.

These responses are made solely for the purpose of this action and each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any statement contained herein at the time of trial.

This Preliminary Statement is hereby incorporated into each of the responses set forth below.

INTERROGATORY NO. 1

Please state YOUR social security number.

RESPONSE TO INTERROGATORY NO. 1

338-06-5132.

INTERROGATORY NO. 2

Please state the date, time and exact location of the INCIDENT which is the subject of this lawsuit.

RESPONSE TO INTERROGATORY NO. 2

9/3/11 at 6:30 am on eastbound Interstate 40 in San Bernardino County.

INTERROGATORY NO. 3

Please state with specificity how and in what manner YOU allege the incident occurred which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 3

Traveling eastbound Interstate 40, I lost control of the van and it struck the guardrail, which pierced the van.

///

HERSHANDHERSH
A Professional Corporation

INTERROGATORY NO. 4

State the name, address and relationship to YOU, if any, of each person upon whom YOU would rely to support or establish any fact cited in YOUR answer to the preceding interrogatory.

RESPONSE TO INTERROGATORY NO. 4

Other than myself, the passengers in the van.

INTERROGATORY NO. 5

Factually, what do YOU contend was the cause of YOUR accident.

RESPONSE TO INTERROGATORY NO. 5

I was unable to steer or stop the van.

INTERROGATORY NO. 6

IDENTIFY the SUBJECT PRODUCT which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 6

Guardrail.

INTERROGATORY NO. 7

State any and all facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC, was negligent and how that negligence proximately caused injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 7

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 8

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

///

///

HERSHANDHERSH
A Professional Corporation

RESPONSE TO INTERROGATORY NO. 8

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 9

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 9

Photographs taken by CHP and myself after the accident giving rise to my damages. Investigation and discovery have just commenced

INTERROGATORY NO. 10

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, state the facts upon which you base YOUR contention.

RESPONSE TO INTERROGATORY NO. 10

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 11

If you CONTEND that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY the name, address, and telephone number of each person who has, claims to have, or is reported to have any knowledge of any such claimed defect.

RESPONSE TO INTERROGATORY NO. 11

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

///

HERSHANDHERSH
A Professional Corporation

INTERROGATORY NO. 12

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY all DOCUMENTS and photographs that relate to YOUR contention.

RESPONSE TO INTERROGATORY NO. 12

Photographs taken by CHP and myself after the accident giving rise to my damages. Investigation and discovery have just commenced.

INTERROGATORY NO. 13

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 13

The fact that the guardrail pierced the van; and the allegations made in the Qui Tam lawsuit brought against Defendant.

INTERROGATORY NO. 14

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 14

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 15

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

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A Professional Corporation

RESPONSE TO INTERROGATORY NO. 15

Photographs taken by CHP and myself after the accident giving rise to my damages. Investigation and discovery have just commenced. Documents identified in Qui Tam lawsuit.

INTERROGATORY NO. 16

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 16

See response to interrogatory no. 10.

INTERROGATORY NO. 17

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 17

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 18

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 18

Photographs taken by CHP after the accident giving rise to my damages. Investigation and discovery have just commenced.

///

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INTERROGATORY NO. 19

If YOU contend that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard, identify each standard(s) and state in what way YOU contend the standard was not met.

RESPONSE TO INTERROGATORY NO. 19

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 20

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 20

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 21

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 21

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 22

State any and all facts upon which YOU base YOUR contention that defendant Trinity Highway Products, LLC failed to adequately warn of some condition to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 22

No posted warning existed at or near guardrail.

INTERROGATORY NO. 23

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon

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which YOU base YOUR contention that defendant, Trinity Highway Products, LLC failed to adequately warn of some condition to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 23

All of the plaintiffs. Unknown as to others.

INTERROGATORY NO. 24

IDENTIFY each of the occupants of the subject 2011 Toyota Sienna by name, address and seat position and state which occupants were wearing a seat belt.

RESPONSE TO INTERROGATORY NO. 24

All of the plaintiffs and Shripad Guntur and Srikar Guntur were wearing seatbelts.

INTERROGATORY NO. 25

At what speed do you contend the subject 2011 Toyota Sienna struck the SUBJECT PRODUCT identified in the INCIDENT.

RESPONSE TO INTERROGATORY NO. 25

Unsure of speed at the time of impact with the guardrail.

INTERROGATORY NO. 26

IDENTIFY YOUR height, weight, shirt size, dress size (if applicable) and pants inseam at the time of the INCIDENT.

RESPONSE TO INTERROGATORY NO. 26

5'10", 170 lbs., medium shirt size.

INTERROGATORY NO. 27

IDENTIFY, by name and address, all other persons or entities which whom YOU or YOUR representatives entered into a settlement or covenant not to sue concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO FORM INTERROGATORY 27

Not applicable as to this plaintiff.

///

///

///

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A Professional Corporation

INTERROGATORY NO. 28

IDENTIFY, by name and address, all other persons or entities with whom YOU or YOUR representatives entered into a settlement or covenant not to sure concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO INTERROGATORY NO. 28

Not applicable as to this plaintiff.

DATED: May 14, 2013

HERSH & HERSH
A Professional Corporation

By _____
CHARLES C. KELLY, II
Attorneys for Plaintiffs

HERSHANDHERSH
A Professional Corporation

Combined Documents SWAYAMPAKALA I40 MM 44 LUDLOW 107 of 162

VERIFICATION

I, the undersigned, certify and declare that I am a party to this action. I have read the foregoing

RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

and am familiar with its contents. The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and/or compiled from available documents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, and, as to those matters, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed May 20th, 2013, at Bellevue, Washington.

MARUTHI GUNTUR

HERSHANDHERSH
A Professional Corporation

PROOF OF SERVICE

I, Portland Grant, declare:

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action or proceeding; my business address is 601 Van Ness Avenue, Suite 2080, San Francisco, California 94102-6316.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 17, 2013, I served a true copy of the following documents:
RESPONSE TO SPECIAL INTERROGATORIES, SET ONE
in said action by placing a true copy thereof, enclosed in a sealed envelope, each envelope addressed as follows:

Mike H. Madokoro
Hannah L. Mohrman
Bowman and Brook LLP
879 West 190th Street, Suite 700
Gardena, CA 90248-4227
310-768-3068
fax: 310-719-1019
Δs Trinity Highway Products, LLC

Robert A. Baggs
Deputy Attorney
CalTrans/Legal Division
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702
213-687-600
fax: 213-687-8300
Δ State of California/Dept. of Transportation

_X_ **(BY MAIL)** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in accordance with the above business practice, as addressed above.

_____ **(BY FACSIMILE)** By transmitting a facsimile copy of the same, to the number listed above.

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

Executed on May 17, 2013, at San Francisco, California.

Portland Grant

Portland Grant

HERSHANDHERSH
A Professional Corporation

NANCY HERSH, State Bar No. 49091
CHARLES C. KELLY, II, State Bar No. 122253
KATE HERSH-BOYLE, State Bar No. 278864
HERSH & HERSH
A Professional Corporation
601 Van Ness Avenue, Suite 2080
San Francisco, CA 94102-6316
(415) 441-5544

Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

KRISHNA PAVANI SWAYAMPAKALA, et al., Plaintiffs, vs. STATE OF CALIFORNIA, et al., Defendants.	CASE NUMBER CGC-12-523953 RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

PROPOUNDING PARTY: Defendant Trinity Highway Products, LLC

RESPONDING PARTY: Plaintiff Raghu Kumar Swayampakala

SET NUMBER: ONE

Comes now Plaintiff Raghu Kumar Swayampakala, and responds to Defendant's First Set Special Interrogatories, as follows:

PRELIMINARY STATEMENT

Plaintiff is engaged in the early stages of the discovery process and the following written responses is based upon and given to the best of plaintiff's knowledge, information,

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A Professional Corporation

and belief. To the extent that plaintiff's investigation and discovery are continuing, the responses provided herein may be supplemented or amended at a later date to conform to subsequently discovered facts or additional information.

Moreover, much of the information requested will be the subject of expert testimony and Defendants will have ample opportunity to conduct discovery regarding such testimony during the period exclusively set aside for such purpose.

These responses are made solely for the purpose of this action and each response is subject to all objections as to competence, relevance, materiality, propriety and admissibility, and any and all other objections and grounds which would require the exclusion of any statement contained herein at the time of trial.

This Preliminary Statement is hereby incorporated into each of the responses set forth below.

INTERROGATORY NO. 1

Please state YOUR social security number.

RESPONSE TO INTERROGATORY NO. 1

I do not have a social security number.

INTERROGATORY NO. 2

Please state the date, time and exact location of the INCIDENT which is the subject of this lawsuit.

RESPONSE TO INTERROGATORY NO. 2

9/3/11 at 6:30 am on eastbound Interstate 40 in San Bernardino County.

INTERROGATORY NO. 3

Please state with specificity how and in what manner YOU allege the incident occurred which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 3

Our van left the roadway and hit the guardrail, which pierced the van.

///

///

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INTERROGATORY NO. 4

State the name, address and relationship to YOU, if any, of each person upon whom YOU would rely to support or establish any fact cited in YOUR answer to the preceding interrogatory.

RESPONSE TO INTERROGATORY NO. 4

Myself. CHP officers who investigated the scene, identified in Traffic Accident Report. CalTrans employees' names are unknown at this time.

INTERROGATORY NO. 5

Factually, what do YOU contend was the cause of YOUR accident.

RESPONSE TO INTERROGATORY NO. 5

Objection, vague and ambiguous as to the meaning of the term "accident." To the extent that accident means my injury, I contend the guardrail was defective.

INTERROGATORY NO. 6

IDENTIFY the SUBJECT PRODUCT which is the subject of YOUR complaint.

RESPONSE TO INTERROGATORY NO. 6

Guardrail.

INTERROGATORY NO. 7

State any and all facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC, was negligent and how that negligence proximately caused injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 7

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 8

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

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RESPONSE TO INTERROGATORY NO. 8

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 9

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that defendant, Trinity Highway Products, LLC was negligent in causing YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 9

Photographs taken by CHP and my son-in-law after the accident giving rise to my injuries. Investigation and discovery have just commenced.

INTERROGATORY NO. 10

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, state the facts upon which you base YOUR contention.

RESPONSE TO INTERROGATORY NO. 10

The end plate failed to stop van, but instead allowed guardrail to pierce the van. The guardrail was negligently designed and malfunctioned.

INTERROGATORY NO. 11

If you CONTEND that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY the name, address, and telephone number of each person who has, claims to have, or is reported to have any knowledge of any such claimed defect.

RESPONSE TO INTERROGATORY NO. 11

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

///

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INTERROGATORY NO. 12

If YOU contend that the INCIDENT was caused by any defect in the SUBJECT PRODUCT, IDENTIFY all DOCUMENTS and photographs that relate to YOUR contention.

RESPONSE TO INTERROGATORY NO. 12

Photographs taken by CHP and my son-in-law after the accident giving rise to my injuries. Investigation and discovery have just commenced.

INTERROGATORY NO. 13

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 13

The fact that the guardrail pierced the van; and the allegations made in the Qui Tam lawsuit brought against Defendant.

INTERROGATORY NO. 14

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 14

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 15

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively manufactured to cause YOU injury or damage.

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A Professional Corporation

RESPONSE TO INTERROGATORY NO. 15

Photographs taken by CHP and my son-in-law after the accident giving rise to my injuries. Investigation and discovery have just commenced. Documents identified in Qui Tam lawsuit.

INTERROGATORY NO. 16

State any and all facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 16

See response to interrogatory no. 10.

INTERROGATORY NO. 17

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 17

Objection, work product and premature disclosure of experts in violation of CCP § 2034. Without waiving said objections, myself, CHP officers who investigated the scene, identified in Traffic Accident Report, CalTrans employees, names and Defendants unknown at this time.

INTERROGATORY NO. 18

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the PRODUCT that is the subject matter of this action was defectively designed to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 18

Photographs taken by CHP after the accident giving rise to my injuries. Investigation and discovery have just commenced.

///

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A Professional Corporation

INTERROGATORY NO. 19

If YOU contend that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard, identify each standard(s) and state in what way YOU contend the standard was not met.

RESPONSE TO INTERROGATORY NO. 19

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 20

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 20

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 21

IDENTIFY any and all documents and other tangible things that support the facts upon which YOU base YOUR contention that the SUBJECT PRODUCT failed to meet any statutory or governmental regulatory standard.

RESPONSE TO INTERROGATORY NO. 21

Unknown at this time; discovery and investigation have just commenced.

INTERROGATORY NO. 22

State any and all facts upon which YOU base YOUR contention that defendant Trinity Highway Products, LLC failed to adequately warn of some condition to cause YOU injury or damage.

RESPONSE TO INTERROGATORY NO. 22

No posted warning existed at or near guardrail.

INTERROGATORY NO. 23

IDENTIFY any and all persons, by full name, address, telephone number, date of birth, social security number and driver's license, who have knowledge of the facts upon

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which YOU base YOUR contention that defendant, Trinity Highway Products, LLC failed to adequately warn of some condition to cause injury or damage to YOU.

RESPONSE TO INTERROGATORY NO. 23

All of the plaintiffs. Unknown as to others.

INTERROGATORY NO. 24

IDENTIFY each of the occupants of the subject 2011 Toyota Sienna by name, address and seat position and state which occupants were wearing a seat belt.

RESPONSE TO INTERROGATORY NO. 24

All of the plaintiffs and Shripad Guntur and Srikar Guntur were wearing seatbelts.

INTERROGATORY NO. 25

At what speed do you contend the subject 2011 Toyota Sienna struck the SUBJECT PRODUCT identified in the INCIDENT.

RESPONSE TO INTERROGATORY NO. 25

Unknown as to this plaintiff.

INTERROGATORY NO. 26

IDENTIFY YOUR height, weight, shirt size, dress size (if applicable) and pants inseam at the time of the INCIDENT.

RESPONSE TO INTERROGATORY NO. 26

5'10", 180 lbs., medium.

INTERROGATORY NO. 27

IDENTIFY, by name and address, all other persons or entities which whom YOU or YOUR representatives entered into a settlement or covenant not to sue concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO FORM INTERROGATORY 27

Allstate Insurance.

///

///

///

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INTERROGATORY NO. 28

IDENTIFY, by name and address, all other persons or entities with whom YOU or YOUR representatives entered into a settlement or covenant not to sure concerning the INCIDENT or any injuries or damages alleged to have resulted from the INCIDENT.

RESPONSE TO INTERROGATORY NO. 28

Allstate Insurance.

DATED: May 15, 2013

HERSH & HERSH
A Professional Corporation

By_____
CHARLES C. KELLY, II
Attorneys for Plaintiffs

HERSHANDHERSH
A Professional Corporation

Combined Documents SWAYAMPAKALA I40 MM 44 LUDLOW 118 of 162

VERIFICATION

I, the undersigned, certify and declare that I am a party to this action. I have read the foregoing

RESPONSE TO SPECIAL INTERROGATORIES, SET ONE

and am familiar with its contents. The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and/or compiled from available documents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents or compiled from available documents, including all contentions and opinions, and, as to those matters, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Verification was executed May 20th, 2013, at Bellevue WA.

RAGHU KUMAR SWAYAMPAKALA
(Marcella Fowler
On behalf of Raghu)

HERSHANDHERSH
A Professional Corporation

HERSHANDHERSH
A Professional Corporation

PROOF OF SERVICE

I, Portland Grant, declare:

I am employed in the City and County of San Francisco, California. I am over the age of 18 years and not a party to the within action or proceeding; my business address is 601 Van Ness Avenue, Suite 2080, San Francisco, California 94102-6316.

I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On May 17, 2013, I served a true copy of the following documents:
RESPONSE TO SPECIAL INTERROGATORIES, SET ONE
in said action by placing a true copy thereof, enclosed in a sealed envelope, each envelope addressed as follows:

Mike H. Madokoro
Hannah L. Mohrman
Bowman and Brook LLP
879 West 190th Street, Suite 700
Gardena, CA 90248-4227
310-768-3068
fax: 310-719-1019
Δs Trinity Highway Products, LLC

Robert A. Baggs
Deputy Attorney
CalTrans/Legal Division
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702
213-687-600
fax: 213-687-8300
Δ State of California/Dept. of Transportation

X **(BY MAIL)** By placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in accordance with the above business practice, as addressed above.

_____ **(BY FACSIMILE)** By transmitting a facsimile copy of the same, to the number listed above.

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

Executed on May 17, 2013, at San Francisco, California.

Portland Grant

Portland Grant

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

KRISHNA PAVANI, SWAYAMPAKALA, et al.,

Plaintiffs,

vs.

STATE OF CALIFORNIA, et al.,

Defendants.

Case NUMBER: CGC-12-523953

DEPOSITION OF DENNIS SALCEDO

Friday, January 24, 2014

10:04 a.m.

464 West 4th Street

San Bernardino, California

REPORTED BY:

April Panameno

CSR No. 13739

1 A Continued to work. I worked for San
2 Bernardino county mail service for five years and
3 then the San Bernardino County Flood Control for
4 eight months prior to working for Caltrans.
5 Q So if we were to go back and look at
6 Exhibits 3 and 4, this is with regard to the repairs
7 that occurred after an incident in September of
8 2010. Is it my understanding, or is it correct to
9 state that it took approximately five and a half
10 months for these guardrail components to be repaired
11 an replaced between the time of the accident of
12 September 23, 2010 and February 3, 2011?
13 A Yes.
14 Q And during that time there would have been
15 no guardrail end treatment installed at that
16 location?
17 A During that time, yes.
18 Q And are there any records as to any
19 inspections of these guardrail components at Argos
20 wash between February 3, 2011 and September 3, 2011?
21 A Are there any records for --
22 Q Yes. For inspection?
23 A What were the dates again, please?
24 Q Sure. Let me start over. We had talked
25 about two separate incidents earlier.

1 Q So as you sit here today, when you went
2 out to the scene on September 12th, 2011, do you
3 have a recollection of seeing any Trinity products
4 at that accident scene?
5 A No. I don't recollect.
6 Q Did you see any guardrail end treatments
7 at that crash site when you went out there on
8 September 12, 2011?
9 A No. I don't remember. I barely remember
10 yesterday.
11 Q So your answer is no. You don't have any
12 recollection of seeing any guardrail end treatment.
13 Is that correct?
14 A No.
15 Q Is that correct?
16 A Yes.
17 Q You had earlier mentioned seeing accident
18 scene photographs from the incident that we've been
19 talking about, and I've got a copy of the 56
20 photographs that were taken by the CHP. Can you
21 take a look at those and tell me if those are the
22 same photographs or similar to the photographs that
23 you looked at yesterday?
24 A I have seen some.
25 Q And you testified earlier that the

1 of that photograph there, there's an object with
2 what appears to be black and yellow striping on
3 that. That's what you would call a guardrail end
4 treatment; correct?
5 A That and from this picture (indicating);
6 that and the -- 50 feet into that would be the end
7 treatment.
8 Q Okay. So is it correct to state that as
9 you sit here today, you cannot tell me anything
10 about the condition of any end treatment that would
11 have been at this accident site in September of
12 2011. Is that correct?
13 A Yes.
14 Q And you cannot confirm for me the model or
15 the type or even if there was an end treatment at
16 that accident site on September of 2011. Isn't that
17 correct?
18 A Yes.
19 Q You have described for us earlier the
20 highway components that were removed in this
21 accident site from Caltrans and where they would be
22 taken. Is there any inventory of what is taken by
23 Caltrans from this accident site?
24 A No.
25 Q Are there any photographs?

Bowman and Brooke LLP
Attorneys at Law

879 West 190th Street, Suite 700
Gardena, CA 90248
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Mike H. Madokoro
Direct: 310.380.6519
Email: Mike.Madokoro@bowmanandbrooke.com

VIA FACSIMILE

July 2, 2013

Charles C. Kelly, II, Esq.
HERSH and HERSH
601 Van Ness Avenue, Ste. 2080
San Francisco, CA 94102

Re: Swayampakala, Krishna Pavani, et al. v. Trinity Highway Products, LLC, et al.
San Bernardino County Superior Ct (Barstow District) Case No.: CIVBS1300021

Dear Mr. Kelly:

Please allow this to confirm my July 2, 2013 telephone conference with Portland Grant of your office, whereby you have graciously granted to our office a 30-day extension for defendant Trinity Highway Products, LLC ("Trinity") to file motions to compel plaintiffs to provide further responses to Trinity's (1) Form Interrogatories, Set No. One; (2) Special Interrogatories, Set No. One; (3) Request for Admissions, Set No. One; and, (4) Demand for Identification of Documents and Other Tangible Things, Set No. One. This will further confirm that Trinity now has until August 7, 2013, to file their motions to compel, if necessary.

As discussed with Ms. Grant, we will send a meet and confer letter to you outlining our requests for further responses. As always, it is our preference to resolve these discovery disputes without the need for court intervention. However, as long as a specific Trinity product is not identified as the subject of plaintiffs' product liability complaint, we will have to do whatever is required in the best interests of our client.

If your understanding of our agreement is different, please contact us immediately.

Thank you for continued courtesy and cooperation with regard to the handling of this matter.

Very truly yours,

BOWMAN AND BROOKE LLP

Mike H. Madokoro

HLM/snt

5297938v1

Bowman and Brooke LLP

Fax Cover Sheet

879 West 190th Street, Suite 700
Gardena, CA 90248
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: July 2, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH
Fax: (415) 441-7586

From: Hannah L. Mohrman

Number of Pages (Including Coversheet): 2

If you do not receive all pages, please contact us immediately.

Hard copy will follow by U.S. Mail
Hard copy will follow by overnight delivery
⇒ Hard copy will not be sent

Client/Case Name: Swayampakala, Krishna, et al. v. Trinity Highway Products, LLC, et al.

Client Number:

Matter Number: 12110

Special Instructions:

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address via the U.S. Postal Service. Thank you.

* * * COMMUNICATION RESULT REPORT (JUL. 2. 2013 4:42PM) * * *

FAX HEADER 1: 310 719 1019
FAX HEADER 2:

TRANSMITTED/STORED : JUL. 2. 2013 4:41PM

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E-3) NO ANSWER
E-4) NO FACSIMILE CONNECTION
E-5) MAIL SIZE OVER

Bowman and Brooke LLP

Fax Cover Sheet

879 West 190th Street, Suite 700
Gardena, CA 90248
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: July 2, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH
Fax: (415) 441-7586

From: Hannah L. Mohrman

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Client/Case Name: Swayampakala, Krishna, et al. v. Trinity Highway Products, LLC, et al.

Client Number:

Matter Number: 12110

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VIA FACSIMILE & U.S. MAIL

July 3, 2013

Charles C. Kelly, II, Esq.
HERSH and HERSH
601 Van Ness Avenue, Ste. 2080
San Francisco, CA 94102

Re: Swayampakala, Krishna Pavani, et al. v. Trinity Highway Products, LLC, et al.
San Bernardino County Superior Ct (Barstow District) Case No.: CIVBS1300021

Dear Mr. Kelly:

We have received and reviewed plaintiffs' responses to Trinity Highway Products, LLC's ("Trinity") discovery and thank you for the same. However, plaintiffs' responses to Trinity's Form Interrogatories, Special Interrogatories and Requests for Production, Sets One, are deficient. Please accept this as an attempt to meet and confer pursuant to Code of Civil Procedure sections 2030.300(b), 2031.310(b)(2) and 2033.290(b) to obtain proper and complete responses without the need to seek court intervention by filing motions to compel.

MARUTHI GUNTUR'S RESPONSES

Form Interrogatories

Plaintiff, Maruthi Guntur failed to provide responses to **Form Interrogatories Nos. 2.1(c)–(d) and 2.4(d)**. Pursuant to Code of Civil Procedure Section 2033.710, the judicial council has approved the use of form interrogatories in any personal injury action. Accordingly, please provide responses to these interrogatories.

Form Interrogatory 17.1 corresponds with the Request for Admissions. For each response where plaintiff did not provide an unqualified admission, he is required to answer sections (a)-(d) to each request for admission. Plaintiff, Maruthi Guntur did not provide an unqualified admission to 17 of the 19 requests for admission, therefore a further response is required in section 17.1(a)-(d). Please provide supplemental responses to this form interrogatory.

Special Interrogatories

Special Interrogatory No. 6 requests that plaintiff identify the product which is the subject of plaintiff's complaint. The subject product is defined as "the guardrail which is the subject of plaintiffs' complaint." Plaintiff, Maruthi Guntur, responded to this interrogatory by stating "guardrail." Pursuant to California Code of Civil Procedure, Section 2017, "discovery

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may relate to the claim or defense of the party seeking discovery or of any other party to the action." Code of Civil Procedure section 2030.220(a)&(b) requires that each answer in the response to an interrogatory be "as complete and straightforward as the information reasonably available to the responding party permits...if an interrogatory cannot be answered completely, it shall be answered to the extent possible." Similarly, in Deyo v. Kilbourne, the court recognized that the "purpose of the discovery statutes is to enable a party to obtain evidence under the control of its adversary in order to further the efficient and economical disposition of a lawsuit." Deyo v. Kilbourne (1978) Cal.App.3d 771, 793. Plaintiff's response of "guardrail," is not responsive to Trinity's interrogatory and does not meet the requirements of Code of Civil Procedure section 2030.220(a)&(b) or the purpose of discovery as outlined in Deyo. To date, plaintiffs have not identified the Trinity product that is the subject of plaintiffs' complaint. "Regardless of the theory which liability is predicated upon . . . it is obvious that to hold a producer, manufacturer, or seller liable for injury caused by a particular product, there must first be proof that the defendant produced, manufactured, sold, or was in some way responsible for the product . . . " Garcia v. Joseph Vince Co. (1978) 84 Cal.App.3d 868, 874. "[W]here a plaintiff alleges a product is defective, proof that the product has malfunctioned is essential to establish liability for an injury caused by the defect." Khan v. Shiley Inc. (1990) 217 Cal.App.3d 848, 855. Accordingly, please supplement this response.

Special Interrogatory No. 13 requests all facts to support plaintiff's contention that the subject product was defectively manufactured to cause injury or damage to plaintiff. Plaintiff responds by directing Trinity to the fact that the guardrail pierced the van and refers Trinity to the allegations made in the Qui Tam lawsuit brought against Trinity. This is not responsive. Code of Civil Procedure section 2030.010(b) states the following: "an interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial." Similarly, the court in Deyo stated that "[i]f only partial answers can be supplied, the answers should reveal all information then available to the party." Deyo v. Kilbourne, at 783. To date, plaintiffs have not identified the Trinity product that is the subject of plaintiffs' complaint. Accordingly, a general reference to a Qui Tam lawsuit does nothing to help Trinity understand plaintiff's contentions. Please provide an explanation of how this matter is related in any way to the Qui Tam lawsuit in accordance with the Deyo holding.

Special Interrogatory No. 15 requests all documents that supports the facts upon which plaintiff bases his contention that the subject product was defectively manufactured as to cause plaintiff his injuries. Plaintiff responds by directing Trinity to the documents identified in the Qui Tam lawsuit. As outline above, plaintiffs have not identified the Trinity product that is the subject of plaintiffs' complaint and a general reference to a Qui Tam lawsuit is not non-responsive pursuant to Code of Civil Procedure section 2030.010(b) and Deyo. Please specify the documents from the Qui Tam lawsuit which supports plaintiff's contentions.

Request for Production

First, plaintiff's responses completely fail to comply with California Code of Civil Procedure, Section 2031.230, whereby plaintiffs "shall affirm that a diligent search and reasonable inquiry has been made in an effort to comply with 'each demand.'" Please amend your responses to comply with California Code of Civil Procedure.

Plaintiff, Maruthi Guntur's response to **Request for Production No. 4** refers to photographs taken by him of the accident. We would like copies of these photographs. Please forward copies of these photographs in .jpg format.

Plaintiff, Maruthi Guntur's response to **Request for Production No. 10** refers to a summary of the accident, a letter from Kamala Harris, a letter from the District Attorney of Alameda, a letter from Toyota Corporation and a letter written to Toyota Corporation. However, these documents were not produced with plaintiff's discovery responses. Please forward these documents pursuant to Code of Civil Procedure section 2031.210(a).

Requests for Production Nos. 11 and 12 requests all documents relating to plaintiff's contention that Trinity was negligent to cause plaintiff's injury. Plaintiff responds by directing Trinity to the Qui Tam lawsuit filed against Trinity. This is not responsive pursuant to Code of Civil Procedure section 2031.210(a). As outline above, plaintiffs have not identified the Trinity product that is the subject of plaintiffs' complaint. Please specify what documents, if any, from the Qui Tam lawsuit, support plaintiff's contentions.

Requests for Production Nos. 13, 14 and 15 requests all documents pertaining to plaintiff's contention that the subject product was defectively designed. Plaintiff responds by directing Trinity to the Qui Tam lawsuit. This is not responsive pursuant to Code of Civil Procedure section 2031.210(a). As outline above, plaintiffs have not identified the Trinity product that is the subject of plaintiffs' complaint. Please specify what documents, if any, from the Qui Tam lawsuit, support plaintiff's contentions.

Requests for Production Nos. 16, 17 and 18 requests all documents pertaining to plaintiff's contention that the subject product was defectively manufactured. Plaintiff responded to these requests by directing Trinity to the Qui Tam lawsuit. This is not responsive pursuant to Code of Civil Procedure section 2031.210(a). As outline above, plaintiffs have not identified the Trinity product that is the subject of plaintiffs' complaint. Please specify what documents, if any, from the Qui Tam lawsuit, support plaintiff's contentions.

KRISHNA PAVANI SWAYAMPAKALA RESPONSES

Form Interrogatories

Plaintiff, Pavani Swayampakala failed to provide responses to **Form Interrogatories Nos. 2.1(c)–(d) and 2.4(d)**. Please provide responses to these interrogatories pursuant to Code of Civil Procedure sections 2030.210 and 2030.220.

Form Interrogatory No. 6.4 requests information regarding any treatment plaintiff, Krishna Pavani Swayampakala, received from a health care provider following the incident. Plaintiff responded by stating that she received treatment from a podiatrist, neurologist, orthopedic surgeon, dietician and general physician. However, she fails to provide the exact name, address and telephone number of these physicians. She also failed to specify the date and type of treatment she received. Lastly, she did not provide the charges to date for the treatment she received. Code of Civil Procedure section 2030.220 requires that each answer in a response to interrogatories be as complete and straightforward as the information reasonably available. Plaintiff, Krishna Pavani Swayampakala's response is incomplete and does not comply with Code of Civil Procedure section 2030.220. Please supplement this response.

Form Interrogatories Nos. 6.6 and 6.7 request information regarding additional medical treatment plaintiff, Krishna Pavani Swayampakala, will need as a result of the incident. Plaintiff responds by stating that she is in need of physical therapy and future plastic surgery. However, plaintiff failed to provide responses to 6.6(b)-(d) regarding the date, cost and the name of each medical provider that will provide the medical services necessitated by the injuries she allegedly suffered as a result of the incident. Similarly, plaintiff failed to provide responses to 6.7(a)-(c) and did not provide the name and address of the health care provider that advised her that she will need future plastic surgery. Plaintiff also failed to specify the complaint for which the treatment was advised and did not specify the nature, duration and estimated cost of the future plastic surgery. Please supplement this response in accordance with Code of Civil Procedure sections 2030.210 and 2030.220.

Plaintiff, Krishna Pavani Swayampakala, failed to provide responses to **Form Interrogatory 8.2(b)-(c)**. Plaintiff is claiming loss of income and/or earning capacity as a result of the incident. Accordingly, her response to 8.2(b)-(c) regarding her job title at the time of the incident and the date her employment began is relevant to the claims being raised in this case. Please supplement this response in accordance with Code of Civil Procedure sections 2030.210 and 2030.220.

Form Interrogatory 17.1 corresponds with the Request for Admissions. For the reasons stated for Plaintiff, Maruthi Guntur's response to Form Interrogatory 17.1 please have plaintiff, Krishna Pavani Swayampakala, supplement this form interrogatory.

Special Interrogatories

Plaintiff, Krishna Pavani Swayampakala, provides the same responses that Plaintiff, Maruthi Guntur provided in response to **Special Interrogatories No. 6, 13 and 15**. For the reasons stated for Plaintiff, Maruthi Guntur's responses, plaintiff, Krishna Pavani Swayampakala's responses to these Special Interrogatories are not responsive. Please supplement these responses in accordance with Code of Civil Procedure sections 2017, 2030.010(b), 2030.220(a)&(b), Deyo v. Kilbourne (1978) Cal.App.3d 771, 793, Garcia v. Joseph Vince Co. (1978) 84 Cal.App.3d 868, 874 and Khan v. Shiley Inc. (1990) 217 Cal.App.3d 848, 855.

Request for Production

First, plaintiff's responses completely fail to comply with California Code of Civil Procedure, Section 2031.230, whereby plaintiffs "shall affirm that a diligent search and reasonable inquiry has been made in an effort to comply with 'each demand.'" Please amend your responses to comply with California Code of Civil Procedure.

Plaintiff, Krishna Pavani Swayampakala's response to **Request for Production No. 6** refers to photographs of her injuries. We would like copies of these photographs. Please forward copies of these photographs in .jpg format.

Plaintiff, Krishna Pavani Swayampakala, provides the same responses that Plaintiff, Maruthi Guntur, provided in response to **Request for Production No. 10-18**. For the reasons stated for Plaintiff, Maruthi Guntur's responses, plaintiff, Krishna Pavani Swayampakala's

responses to these Requests for Productions are not responsive. Please supplement these responses pursuant to Code of Civil Procedure section 2031.210(a).

MADHU PRIYA SWAYAMPAKALA RESPONSES

Form Interrogatories

Plaintiff, Madhu Priya Swayampakala failed to provide responses to **Form Interrogatories Nos. 2.1(c)–(d) and 2.4(d)**. Please provide responses to these interrogatories pursuant to Code of Civil Procedure sections 2030.210 and 2030.220.

Plaintiff, Madhu Priya Swayampakala claims that she still has complaints that she attributes to the incident. However, she failed to provide responses to the interrogatories relating to her complaints, the medication that she takes for these complaints, medical services she has received for these complaint or any future treatment she may need for these complaints. Accordingly, please provide responses to **Form Interrogatories Nos. 6.3(a)-(c), 6.4(a)-(e), 6.5(a)-(e), 6.6(a)-(c), and 6.7(a)-(c)** in accordance with Code of Civil Procedure sections 2030.210 and 2030.220.

Form Interrogatory No. 9.1 asks if plaintiff has any other damages that she attributes to the incident. Plaintiff responds by stating "not applicable." This is not responsive in accordance with Code of Civil Procedure sections 2030.210 and 2030.220. Please provide a yes or no response to this interrogatory.

Form Interrogatory No. 10.2 requests that plaintiff list all physical, mental and emotional disability she had immediately before the incident. Plaintiff responds by stating "no." This is not responsive pursuant to Code of Civil Procedure sections 2030.210 and 2030.220. If plaintiff objects to this interrogatory, please provide the objections. Otherwise, please supplement this interrogatory with a valid response.

Form Interrogatory 17.1 corresponds with the Request for Admissions. For the reasons stated for Plaintiff, Maruthi Guntur's response to Form Interrogatory 17.1 please have plaintiff, Madhu Priya Swayampakala, supplement this form interrogatory.

Special Interrogatories

Plaintiff, Madhu Priya Swayampakala, provides the same responses that Plaintiff, Maruthi Guntur provided in response to **Special Interrogatories No. 6, 13 and 15**. For the reasons stated for Plaintiff, Maruthi Guntur's responses, plaintiff, Madhu Priya Swayampakala's responses to these Special Interrogatories are not responsive. Please supplement these responses in accordance with Code of Civil Procedure sections 2030.010(b), 2030.220(a)&(b), Deyo v. Kilbourne (1978) Cal.App.3d 771, 793, Garcia v. Joseph Vince Co. (1978) 84 Cal.App.3d 868, 874 and Khan v. Shiley Inc. (1990) 217 Cal.App.3d 848, 855.

Request for Production

First, plaintiff's responses completely fail to comply with California Code of Civil Procedure, Section 2031.230, whereby plaintiffs "shall affirm that a diligent search and

reasonable inquiry has been made in an effort to comply with 'each demand.'" Please amend your responses to comply with California Code of Civil Procedure.

Plaintiff, Madhu Priya Swayampakala's response to **Request for Production No. 6** refers to photographs of her injuries. We would like copies of these photographs. Please forward copies of these photographs in .jpg format.

Plaintiff, Madhu Priya Swayampakala provides the same responses that Plaintiff, Maruthi Guntur provided in response to **Request for Production No. 10-18**. For the reasons stated for Plaintiff, Maruthi Guntur's response, plaintiff, Madhu Priya Swayampakala's to these Requests for Productions are not responsive. Please supplement these responses pursuant to Code of Civil Procedure section 2031.210(a).

RAGU KUMAR SWAYAMPAKALA RESPONSES

Form Interrogatories

Plaintiff, Ragu Kumar Swayampakala failed to provide responses to **Form Interrogatories Nos. 2.1(c)–(d) and 2.4(d)**. Please provide responses to these interrogatories pursuant to Code of Civil Procedure sections 2030.210 and 2030.220.

Plaintiff, Ragu Kumar Swayampakala, states that he is suffering from emotional distress and loss of consortium as a result of the incident. However, he failed to provide responses to the interrogatories relating to his complaints, the medication that he takes for these conditions, medical services he has received for these complaint or any future treatment he may need for these complaints. Accordingly, please provide responses to **Form Interrogatories Nos. 6.3(a)-(c), 6.4(a)-(e), 6.5(a)-(e), 6.6(a)-(c), and 6.7(a)-(c)** in accordance with Code of Civil Procedure sections 2030.210 and 2030.220.

Form Interrogatory No. 10.2 requests that plaintiff list all physical, mental and emotional disability he had immediately before the incident. Plaintiff responds by stating "no." This is not responsive to this interrogatory. If plaintiff objects to this interrogatory, please provide the objections. Otherwise, please supplement this interrogatory with a valid response.

Form Interrogatory 17.1 corresponds with the Request for Admissions. For the reasons stated for Plaintiff, Maruthi Guntur's response to Form Interrogatory 17.1 please have, plaintiff, Ragu Kumar Swayampakala, supplement this form interrogatory in accordance with Code of Civil Procedure sections 2030.210 and 2030.220.

Special Interrogatories

Plaintiff, Ragu Kumar Swayampakala, provides the same responses that Plaintiff, Maruthi Guntur provided in response to **Special Interrogatories No. 6, 13 and 15**. For the reasons stated for Plaintiff, Maruthi Guntur's response, plaintiff, Ragu Kumar Swayampakala's responses to these Special Interrogatories are not responsive. Please supplement these responses in accordance with Code of Civil Procedure sections 2030.010(b), 2030.220(a)&(b), Deyo v. Kilbourne (1978) Cal.App.3d 771, 793, Garcia v. Joseph Vince Co. (1978) 84 Cal.App.3d 868, 874 and Khan v. Shiley Inc. (1990) 217 Cal.App.3d 848, 855.

Request for Production

Plaintiff, Ragu Kumar Swayampakala's response to **Request for Production No. 6** refers to photographs of his injuries. We would like copies of these photographs. Please forward copies of these photographs in .jpg format.

Plaintiff, Ragu Kumar Swayampakala provides the same responses that Plaintiff, Maruthi Guntur provided in response to **Request for Production No. 10-18**. For the reasons stated for Plaintiff, Maruthi Guntur's response, plaintiff, Ragu Kumar Swayampakala's to these Requests for Productions are not responsive. Please supplement these responses pursuant to Code of Civil Procedure section 2031.210(a).

We wish to resolve the discovery issues as outlined without the need to seek court involvement. Please provide supplemental verified responses to the Form and Special Interrogatories and Request for Production no later than July 19, 2013.

Please feel free to contact me if you have any questions

Very truly yours,

BOWMAN AND BROOKE LLP

Hannah L. Mohrman

HLM/snt

Bowman and Brooke LLP

Fax Cover Sheet

879 West 190th Street, Suite 700
Gardena, CA 90248
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: July 3, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH

Fax: (415) 441-7586

From: Hannah L. Mohrman

Number of Pages (Including Coversheet): 8

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HERSHANDHERSH

FACSIMILE TRANSMITTAL SHEET

DATE: August 7, 2013 TIME: 10:33 AM

TO: Mike H. Madokoro
310-719-1019

FROM: Charles C. Kelly, II

RE: Swayampakala v. State of California, et al.

ADDITIONAL COMMENTS OR INFORMATION:

I am sending 7 pages, including this cover sheet.

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Thank you.

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HERSH AND HERSH

August 7, 2013

LeRoy Hersh (1920-2003)
Nancy Hersh
Mark E. Burton, Jr.
Charles C. Kelly, II
Kate Hersh-Boyle

VIA FACSIMILE: 310-719-1019

Mike H. Madokoro
Bowman and Brooke, LLP
879 West 190th Street, Suite 700
Gardena, CA 90248-7468

Re: Swayampakala v. State of California, et al.

Dear Mr. Madokoro:

This is in response to your meet and confer letter.

MARUTHI GUNTUR'S RESPONSES

Form Interrogatories

No. 2.1(c)(d): Plaintiff will amend 2(c). However, there is no form interrogatory 2(d).

No. 2.4(d): No amendment is necessary here as 2.4(d) is not applicable in light of the response to 2.4.

No. 17.1: Plaintiff will amend his response to reflect that for each denial the same facts stated in his original response support each denial. Regarding the reference to the Qui Tam lawsuit, Plaintiff submits that the facts alleged in that lawsuit, to wit, that Defendant modified its design of the guardrail making it defective obtains and applies to the guardrail which is the subject matter of this lawsuit. Insofar as Plaintiff was unable to admit or deny a request, Plaintiff stands by his response that discovery has only just commenced and he cannot answer the request for admission as the information needed to respond is in the possession of another defendant, Caltrans. Plaintiff has propounded discovery to that defendant and is awaiting responses. Plaintiff has attempted to obtain more time from Defendant to amend his responses but defense counsel has failed to respond to that request.

Special Interrogatories

No. 6: Plaintiff cannot amend this response to identify the guardrail until such time as Caltrans responds to outstanding discovery as Defendant knows but has refused to acknowledge. The guardrail and information pertaining to it is not in Plaintiff's possession. No amendment will be forthcoming. Defendant's failure to allow Plaintiff to conduct discovery to obtain responsive information is bad faith and gamesmanship. This is further evidenced by Defendant's complete lack of communication with plaintiffs' counsel to extend adequate time to receive Caltrans' responses.

No. 13: Plaintiff will not amend his response. The photographs of the guardrail ARE evidence that the guardrail is defective in that a properly designed end plate should not allow a vehicle to be pierced by the guardrail. Further, CCP § 2030.230 allows a party to answer an interrogatory by identifying a document, which Plaintiff has done by referencing the Qui Tam lawsuit. The lawsuit and the accompanying documents and files are equally available to Defendant. That lawsuit details the defects with the end plate of the guardrail, which is the subject of the accident. Insofar as there is any ambiguity regarding Plaintiff's response, it is Defendant's fault as it has not allowed Plaintiff to conduct sufficient discovery on the party having possession of information relevant to his response.

No. 15: Plaintiff cannot amend his response at this time, as he has no further responsive information.

Request for Production

Request No. 4: Plaintiff will produce the photographs.

Requests Nos. 1, 12, 13, 14, 15, 16, 17 and 18: Plaintiff cannot amend his response at this time for the reasons discussed in response to form interrogatory no. 17.1, above.

KRISHNA SWAYAMPAKALA'S RESPONSES

Form Interrogatories

No. 2.1(c)(d): Plaintiff will amend 2(c). However, there is no form interrogatory 2(d).

No. 2.4(d): No amendment is necessary here as 2.4(d) is not applicable in light of the response to 2.4.

No. 6.4, 6.6, 6.7: Plaintiff will amend her responses to the extent the responses may be made without resort to a summary or compilation of her medical records. To the extent her medical records are equally available to Defendant, Plaintiff will not perform any summary, compilation, or abstract of her medical records as directed by CCP 2030.230.

No. 8.2(b)-(c): Plaintiff will amend her responses.

No. 17.1: Plaintiff will amend her response to reflect that for each denial the same facts stated in her original response support each denial. Regarding the reference to the Qui Tam lawsuit, Plaintiff submits that the facts alleged in that lawsuit, to wit, that Defendant modified its

design of the guardrail making it defective obtains and applies to the guardrail which is the subject matter of this lawsuit. Insofar as Plaintiff was unable to admit or deny a request, Plaintiff stands by her response that discovery has only just commenced and she cannot answer the request for admission as the information need to respond is in the possession of another defendant, Caltrans. Plaintiff has propounded discovery to that defendant and is awaiting responses. Plaintiff has attempted to obtain more time from Defendant to amend her responses but defense counsel has failed to respond to that request.

Special Interrogatories

No. 6: Plaintiff cannot amend this response to identify the guardrail until such time as Caltrans responds to outstanding discovery as Defendant knows but has refused to acknowledge. The guardrail and information pertaining to it is not in Plaintiff's possession. No amendment will be forthcoming. Defendant's failure to allow Plaintiff to conduct discovery to obtain responsive information is bad faith and gamesmanship. This is further evidenced by Defendant's complete lack of communication with plaintiffs' counsel to extend adequate time to receive Caltrans' responses.

No. 13: Plaintiff will not amend her response. The photographs of the guardrail ARE evidence that the guardrail is defective in that a properly designed end plate should not allow a vehicle to be pierced by the guardrail. Further, CCP § 2030.230 allows a party to answer an interrogatory by identifying a document, which Plaintiff has done by referencing the Qui Tam lawsuit. That lawsuit details the defects with the end plate of the guardrail, which is the subject of the accident. Insofar as there is any ambiguity regarding Plaintiff's response, it is Defendant's fault as it has not allowed Plaintiff to conduct sufficient discovery on the party having possession of information relevant to her response.

No. 15: Plaintiff cannot amend her response at this time, as she has no further responsive information.

Request for Production

Request No. 6: Plaintiff will provide photographs.

Requests No. 10-18: Plaintiff cannot amend her response at this time for the reasons discussed in response to form interrogatory no. 17.1, above.

MADHU SWAYAMPAKALA RESPONSES

Form Interrogatories

No. 2.1(c)(d): Plaintiff will amend 2(c). However, there is no form interrogatory 2(d).

No. 2.4(d): No amendment is necessary here as 2.4(d) is not applicable in light of the response to 2.4.

No. 6.4, 6.6, 6.7: Plaintiff will amend her responses to the extent the responses may be made without resort to a summary or compilation of her medical records. To the extent her medical records are equally available to Defendant, Plaintiff will not perform any summary, compilation, or abstract of her medical records as directed by CCP 2030.230.

No. 9.1: Plaintiff will amend her response.

No. 10.2: Plaintiff will amend her response.

No. 17.1: Plaintiff will amend her response to reflect that for each denial the same facts stated in her original response support each denial. Regarding the reference to the Qui Tam lawsuit, Plaintiff submits that the facts alleged in that lawsuit, to wit, that Defendant modified its design of the guardrail making it defective obtains and applies to the guardrail which is the subject matter of this lawsuit. Insofar as Plaintiff was unable to admit or deny a request, Plaintiff stands by her response that discovery has only just commenced and she cannot answer the request for admission as the information need to respond is in the possession of another defendant, Caltrans. Plaintiff has propounded discovery to that defendant and is awaiting responses. Plaintiff has attempted to obtain more time from Defendant to amend her responses but defense counsel has failed to respond to that request.

Special Interrogatories

No. 6: Plaintiff cannot amend this response to identify the guardrail until such time as Caltrans responds to outstanding discovery as Defendant knows but has refused to acknowledge. The guardrail and information pertaining to it is not in Plaintiff's possession. No amendment will be forthcoming. Defendant's failure to allow Plaintiff to conduct discovery to obtain responsive information is bad faith and gamesmanship. This is further evidenced by Defendant's complete lack of communication with plaintiffs' counsel to extend adequate time to receive Caltrans' responses.

No. 13: Plaintiff will not amend her response. The photographs of the guardrail ARE evidence that the guardrail is defective in that a properly designed end plate should not allow a vehicle to be pierced by the guardrail. Further, CCP § 2030.230 allows a party to answer an interrogatory by identifying a document, which Plaintiff has done by referencing the Qui Tam lawsuit. That lawsuit details the defects with the end plate of the guardrail, which is the subject of the accident. Insofar as there is any ambiguity regarding Plaintiff's response, it is Defendant's fault as it has not allowed Plaintiff to conduct sufficient discovery on the party having possession of information relevant to her response.

No. 15: Plaintiff cannot amend her response at this time, as she has no further responsive information.

Request for Production

Request No. 6: Plaintiff will provide photographs.

Requests No. 10-18: Plaintiff cannot amend her response at this time for the reasons discussed in response to form interrogatory no. 17.1, above.

RAGU SWAYAMPAKALA RESPONSES

Form Interrogatories

No. 2.1(c)(d): Plaintiff will amend 2(c). However, there is no form interrogatory 2(d).

No. 2.4(d): No amendment is necessary here as 2.4(d) is not applicable in light of the response to 2.4.

Nos. 6.3-6.7: Plaintiff will amend his responses to the extent the responses may be made without resort to a summary or compilation of his medical records. To the extent his medical records are equally available to Defendant, Plaintiff will not perform any summary, compilation, or abstract of his medical records as directed by CCP 2030.230.

No. 10.2: Plaintiff will amend his response.

No. 17.1: Plaintiff will amend his response to reflect that for each denial the same facts stated in his original response support each denial. Regarding the reference to the Qui Tam lawsuit, Plaintiff submits that the facts alleged in that lawsuit, to wit, that Defendant modified its design of the guardrail making it defective obtains and applies to the guardrail which is the subject matter of this lawsuit. Insofar as Plaintiff was unable to admit or deny a request, Plaintiff stands

by his response that discovery has only just commenced and he cannot answer the request for admission as the information need to respond is in the possession of another defendant, Caltrans. Plaintiff has propounded discovery to that defendant and is awaiting responses. Plaintiff has attempted to obtain more time from Defendant to amend his responses but defense counsel has failed to respond to that request.

Special Interrogatories

No. 6: Plaintiff cannot amend this response to identify the guardrail until such time as Caltrans responds to outstanding discovery as Defendant knows but has refused to acknowledge. The guardrail and information pertaining to it is not in Plaintiff's possession. No amendment will be forthcoming. Defendant's failure to allow Plaintiff to conduct discovery to obtain responsive information is bad faith and gamesmanship. This is further evidenced by Defendant's complete lack of communication with plaintiffs' counsel to extend adequate time to receive Caltrans' responses.

No. 13: Plaintiff will not amend his response. The photographs of the guardrail ARE evidence that the guardrail is defective in that a properly designed end plate should not allow a vehicle to be pierced by the guardrail. Further, CCP § 2030.230 allows a party to answer an interrogatory by identifying a document, which Plaintiff has done by referencing the Qui Tam lawsuit. That lawsuit details the defects with the end plate of the guardrail, which is the subject of the accident. Insofar as there is any ambiguity regarding Plaintiff's response, it is Defendant's fault as it has not allowed Plaintiff to conduct sufficient discovery on the party having possession of information relevant to his response.

No. 15: Plaintiff cannot amend his response at this time, as he has no further responsive information.

Request for Production

Request No. 5: Plaintiff will provide photographs if there are any.

Requests No. 10-18: Plaintiff cannot amend his response at this time for the reasons discussed in response to form interrogatory no. 17.1, above.

Very truly yours,

Charles C. Kelly, II

CCK:pg

HERSH AND HERSH

August 21, 2013

LeRoy Hersh (1920-2003)
Nancy Hersh
Mark E. Burton, Jr.
Charles C. Kelly, II
Kate Hersh-Boyle

RECEIVED
AUG 26 2013
BOWMAN AND BROOKE LLP
LOS ANGELES

Mike H. Madokoro
Bowman and Brooke, LLP
879 West 190th Street, Suite 700
Gardena, CA 90248-7468

Re: Swayampakala v. State of California, et al.

Dear Mr. Madokoro:

This is a follow up to our recent meet and confer letter.

MARUTHI GUNTUR'S RESPONSES

Form Interrogatories

No. 2.1(b)(c): Plaintiff amends his responses as follows:

No. 2.1(b): Plaintiff has not used any other name.

No. 2.1(c): Not applicable.

Request for Admissions

No. 17.1: Plaintiff amends his responses to 17.1 as follows:

Request for Admission No. 1: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 2: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 3: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 4: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 5: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Hersh & Hersh A Professional Corporation 601 Van Ness Avenue Suite 2080 San Francisco, CA 94102-6316
Telephone (415) 441-5544 Facsimile (415) 441-7586 www. hershlaw.com

H

Special Interrogatories

No. 6: Plaintiff amends his response to Special Interrogatory 6 as follows: "ET 2000 Plus."

Request for Production

Request No. 4: Photographs are attached in the enclosed disc.

KRISHNA SWAYAMPAKALA'S RESPONSES

Form Interrogatories

No. 2.1(b)(c): Plaintiff amends her responses as follows:

No. 2.1(b): She never used any other name.

No. 2(c): Not applicable.

No. 6.4: Plaintiff amends her response as follows: Robert Burri, M.D., provided orthopedic treatment/surgery on right leg at Kaiser Oakland 11/25/11 and 1/20/12; Kaiser Hayward hospital admission 9/14/2011-10/3/2011; Peter Turnus, Podiatrist, Kaiser Hayward consulted during this hospitalization; Orthopedist Kasey Cortese, M.D., performed an open debridement and tibia shortening on or about 9/19/11; Plastic Surgeon Karla Werninghaus performed a flap procedure on right ankle on 9/27/11 to cover the ankle wound. Other dates, times, and type of treatment are in the medical records previously produced and equally available to Defendant.

Emergency room physicians, surgeons and specialists at Loma Linda Medical Center. 9/3/2011-9/6/2011. Specific Dates, times, and types of surgery, specialists and treatment are in the medical records previously and equally available to Defendant.

No. 6.6: Plaintiff amends her response as follows: Discovery and investigation continuing as to the dates, time and name of physical therapist and plastic surgeon.

No. 6.7: Plaintiff amends her response as follows: Discovery continuing as to the type of plastic surgery needed and the name of provider who will perform the surgery.

No. 8.2(b)-(c): Plaintiff amends her responses as follows:

No. 8.2(b): Quality Assurance Lead Analyst.

No. 8.2(c): 11/1/2010.

No. 17.1: Plaintiff amends her responses to 17.1 as follows:

Request for Admission No. 1: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 2: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 3: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 4: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 5: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Special Interrogatories

No. 6: The guardrail at issue is the "ET 2000 Plus."

Request for Production

Request No. 6: Plaintiff provides the enclosed disc with photographs.

MADHU SWAYAMPAKALA RESPONSES

Form Interrogatories

No. 2.1(b)(c): Plaintiff amends her responses as follows:

No. 2.1(b): Plaintiff has not been known by any other names.

No. 2.1(c): Not applicable.

H

No. 6.4: Plaintiff was admitted to Arrowhead Regional Medical Center on 9/3/11 and discharged on October 29, 2011. She was treated by numerous specialists listed in medical records produced from that facility including but not limited to: Resident Sadia Khan, M.D., Intern Min Kim, D.O. She had an orthopedic surgery by unknown orthopedic surgeon while at Arrowhead for left humeral ulnar fracture. She also was treated by a pulmonologist because of respiratory failure, identity unknown. Plaintiff also received occupational, physical and speech therapies. Treaters and dates of treatment unknown at this time. Investigation and discovery are continuing.

No. 6.6: Discovery and investigation continuing.

No. 6.7: Unknown at this time.

No. 9.1: Plaintiff amends her response as follows: No.

No. 10.2: Plaintiff amends her response as follows: None related to the injuries suffered in this accident.

No. 17.1: Plaintiff amends her responses to 17.1 as follows:

Request for Admission No. 1: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 2: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 3: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 4: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 5: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Special Interrogatories

No. 6: The guardrail involved in the accident is the "ET 2000 Plus."

Request for Production

Request No. 6: Plaintiff provides photographs on the enclosed disc.

RAGU SWAYAMPAKALA RESPONSES

Form Interrogatories

No. 2.1(b)(c): Plaintiff amends his responses as follows:

No. 2.1(b): Plaintiff has not been known by any other name.

No. 2.1(c): Not applicable.

No. 6.4: Plaintiff is currently in India and counsel is still attempting to obtain responsive information.

No. 6.7: Plaintiff is currently in India.

No. 10.2: None.

No. 17.1: Plaintiff amends his responses to 17.1 as follows:

Request for Admission No. 1: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 2: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 3: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 4: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Request for Admission No. 5: The guardrail at issue is the "ET 2000 Plus." Photographs of guardrail at scene. Qui Tam Lawsuit and facts alleged therein.

Special Interrogatories

No. 6: The guardrail involved in the accident is the "ET 2000 Plus."

Request for Production

Request No. 5: Plaintiff provides any responsive documents in the enclosed disc.

Very truly yours,

Charles C. Kelly, II

CCK:pg
Encl.

cc: Robert A. Baggs (w/encl.)

Bowman and Brooke LLP
Attorneys at Law

970 West 190th Street, Suite 700
Torrance, CA 90502
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Hannah L. Mohrman
Direct: 310.380.6584
Email: Hannah.Mohrman@bowmanandbrooke.com

VIA FACSIMILE & U.S. MAIL

September 11, 2013

Charles C. Kelly, II, Esq.
HERSH and HERSH
601 Van Ness Avenue, Ste. 2080
San Francisco, CA 94102

Re: Swayampakala, Krishna Pavani, et al. v. Trinity Highway Products, LLC, et al.
San Bernardino County Superior Ct (Barstow District) Case No.: CIVBS1300021

Dear Mr. Kelly:

Please allow this correspondence to serve as Trinity Highway Products, LLC's ("Trinity") response to your August 7, 2013 and August 21, 2013 response to Trinity's meet and confer correspondence.

You state in your August 7, 2013 correspondence that plaintiff has attempted "to obtain more time from Defendant to amend his responses but defense counsel has failed to respond to that request." Trinity propounded their discovery on plaintiffs on March 22, 2013. Plaintiffs' responses were originally due on April 26, 2013. Three extensions were granted in order to allow plaintiffs sufficient time to provide meaningful responses and responses were received on May 22, 2013.

On July 3, 2013, Trinity sent its meet and confer correspondence to plaintiffs requesting supplemental responses by July 19, 2013. Plaintiffs requested a two week extension making the supplemental responses due on August 2, 2013. Trinity is aware that plaintiffs' sent an e-mail request on July 24, 2013 for an extension. However, this request was not immediately received by our office because it was received during our recent office move. As evidenced by the previous extensions, if you had followed-up this request with a phone call, Trinity would have provided the extension.

On August 26, 2013, Trinity received your August 21, 2013 correspondence providing plaintiffs' proposed supplemental responses. You state in your August 21, 2013 correspondence that the guardrail at issue is the "ET 2000 Plus" and refer to the photographs of the guardrail at the scene to support this response. We have reviewed the photographs provided along with your August 21, 2013 correspondence and fail to see any evidence in the photographs to support your clients' claim that the guardrail is the "ET 2000 Plus." Accordingly,

5410345v2

please specify which photographs support plaintiffs' contention that the guardrail at issue is the "ET 2000 Plus." Additionally, the photographs were provided within a word document. In our July 3, 2013 correspondence, we requested that photographs be forwarded in .jpg format. Please resend these photographs in the requested format.

Additionally, you stated in your August 7, 2013 correspondence that plaintiff Maruthi Guntur cannot amend his responses to Request for Production Nos. 11-18 because plaintiff has propounded discovery on defendant and is awaiting responses. Similar responses were provided on behalf of Krishna Swayampakala, Madhu Swayampakala and Ragu Swayampakala and their responses to Request for Production Nos. 10-18. We understand that Cal-Trans has now provided responses to plaintiffs' Special Interrogatories. However, supplemental responses were not provided in your August 21, 2013 correspondence. On the other hand, we found nothing in Cal-Trans' responses to show that any Trinity product was present at the September 3, 2011 crash scene.

Requests for Production Nos. 11-15 requests all documents relating to plaintiff's contention that Trinity was negligent to cause plaintiff's injury and all documents pertaining to plaintiff's contention that the subject product was defectively designed. Plaintiffs responded by directing Trinity to the Qui Tam lawsuit filed against Trinity. Code of Civil Procedure section 2031.210(a) requires that plaintiffs' responses to requests consist either of answers, objection or election to allow inspection and copying of records. The responding party "like witnesses, are required to state the truth, the whole truth, and nothing but the truth in answering written interrogatories...[w]here the question is specific and explicit, an answer which supplies only a portion of the information sought is wholly insufficient." Deyo v. Kilbourne (1978) 84 Cal.App.3d 771, 783. "Likewise, a party may not provide deftly worded conclusionary answers designed to evade a series of explicit questions." Id. Plaintiffs' reference to the Qui Tam lawsuit filed against Trinity is a "conclusionary answer designed to evade a series of explicit questions." Accordingly, please provide supplemental responses to Requests for Production 11-18 on behalf of Maruthi Guntur and to Request for Production Nos. 10-18 on behalf of Krishna Swayampakala, Madhu Swayampakala and Ragu Swayampakala.

Lastly, our July 3, 2013 correspondence requested that plaintiffs provide supplemental verified responses to the Form and Special Interrogatories and the Request for Production. However you provided supplemental responses in the form of a correspondence. This is improper. Please provide the supplemental responses in their proper format, incorporating the deficiencies highlighted above. Please let us hear from you within five (5) days of the date of this correspondence or further more formal action will be taken. As our motion to compel deadline is now September 20, 2013, should you require additional time, please do not hesitate to contact us at your earliest convenience.

Please feel free to contact us if you have any questions.

Very truly yours,

BOWMAN AND BROOKE LLP

Hannah L. Mohrman

HLM/snt

Bowman and Brooke LLP

Fax Cover Sheet

970 West 190th Street, Suite 700
Torrance, CA 90502
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: September 11, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH

Fax: (415) 441-7586

From: Hannah L. Mohrman

Number of Pages (Including Coversheet): 3

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Client/Case Name: Swayampakala, Krishna, et al. v. Trinity Highway Products, LLC, et al.

Client Number:

Matter Number: 12110

Special Instructions:

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* * * COMMUNICATION RESULT REPORT (SEP. 11. 20.. 4:55PM) * * *

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FAX HEADER 2:

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Bowman and Brooke LLP

Fax Cover Sheet

970 West 190th Street, Suite 700
Torrance, CA 90502
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: September 11, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH
Fax: (415) 441-7586

From: Hannah L. Mohrman

Number of Pages (Including Coversheet): 3

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Client/Case Name: Swayampakala, Krishna, et al. v. Trinity Highway Products, LLC, et al.

Client Number:

Matter Number: 12110

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LOS ANGELES RICHMOND COLUMBIA DALLAS AUSTIN

HERSHANDHERSH

FACSIMILE TRANSMITTAL SHEET
CONFIDENTIAL

DATE: 9/18/2013

TO: Hannah L. Mohrman, Esq.
Bowman and Brooke
Fax: 310-719-1019

FROM: Charles C. Kelly, II.
Hersh & Hersh

RE: **Swayampakala v. State of California, et al.**
SCC No. CIVBS1300021

I am sending 3 pages, including this cover sheet.

If you do not receive all the pages or have any questions, please call (415) 441-5544.

Thank you,

Kate Hersh-Boyle

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Hersh & Hersh A Professional Corporation 601 Van Ness Avenue Suite 2080 San Francisco, CA 94102-6396
Telephone (415) 441-5544 Facsimile (415) 441-7586 www.hershlaw.com

HERSH AND HERSH

September 18, 2013

LeRoy Hersh (1920-2003)
Nancy Hersh
Mark E. Burton, Jr.
Charles C. Kelly, II
Kate Hersh-Boyle

Via U.S. Mail and Facsimile
Fax: 310-719-1019

Hannah L. Mohrman, Esq.
Bowman and Brooke
970 West 190th Street, Suite 700
Torrance, CA 90502

Re: Swayampakala v. State of California, et al.
San Bernardino County SCC No. CIVBS1300021

Dear Ms. Mohrman:

This letter is in response to your September 11, 2013 letter regarding Plaintiffs' responses to Trinity Highway Products, LLC's ("Trinity") discovery and prior meet and confer letters.

First, as to the photographs we previously provided, if necessary, we will provide the photographs in .jpg format as requested by the end of next week.

Second, you stated that you found nothing in CalTrans' responses to show a Trinity product was present at the crash scene. However, we request that you please review CalTrans' responses to Special Interrogatory nos. 1 and 6 in which CalTrans identified Trinity as the manufacturer of the Guardrail on the portion of the highway at issue in this case.

Third, you have requested that Plaintiffs provide complete answers and not conclusory answers to requests for production nos. 11-15 for Maruthi Guntur and 10-18 for Krishna, Madhu and Ragu Swayampakala. The requests to which you refer were, for example, "Any and all documents and writing containing information relating to YOUR contention, if any, that Trinity Highway Products, LLC was negligent to cause YOU injury or damage, other than information protected by Code of Civil Procedure Section 2034." Plaintiffs provided responses identifying responsive documents, i.e. referring Defendant to the Qui Tam lawsuit filed against Defendant and identifying and providing photographs of the guardrail. The Qui Tam lawsuit is a public document that is equally available and accessible to Defendant. Plaintiffs did not provide conclusory responses which evade the question as you suggest in your letter. Identifying a responsive document that is publicly available and equally available in response to a request for production of documents is not an evasive response. Further, you cite and rely on law that is more

specifically applicable to responses to interrogatories not requests for documents. We remain unclear on how you would like the responses amended since the information requested was provided.

Fourth, while Plaintiffs provided supplemental responses in correspondence format, if you need the format of the responses changed, please let me know. We can provide re-formatted responses by the end of next week.

Finally, we are still in the process of meeting and conferring with CalTrans regarding its responses to Plaintiffs' Interrogatories. We intend to serve requests for production and further interrogatories and will have additional information when that discovery is completed. As you know, discovery in this case is in its initial stages and more discovery will be conducted in the very near future.

We appreciate the letters and attempts to resolve this matter informally. We would like to discuss this further over the telephone if possible. Please provide a date and time this week for a telephone conversation.

Please feel free to contact us if you have any questions at all.

Thank you.

Very truly yours,

Charles C. Kelly, II

CCK:khb

Bowman and Brooke LLP
Attorneys at Law

970 West 190th Street, Suite 700
Torrance, CA 90502
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Hannah L. Mohrman
Direct: 310.380.6584
Email: Hannah.Mohrman@bowmanandbrooke.com

VIA FACSIMILE & U.S. MAIL

October 3, 2013

Charles C. Kelly, II, Esq.
HERSH and HERSH
601 Van Ness Avenue, Ste. 2080
San Francisco, CA 94102

Re: Swayampakala, Krishna Pavani, et al. v. Trinity Highway Products, LLC, et al.
San Bernardino County Superior Ct (Barstow District) Case No.: CIVBS1300021

Dear Mr. Kelly:

Please allow this to confirm our September 27, 2013 telephone conference with you and Kate Hersch-Boyle, whereby plaintiffs have granted to our office a two (2) month extension for defendant Trinity Highway Products, LLC ("Trinity") to file motions to compel plaintiffs to provide further responses to Trinity's (1) Form Interrogatories, Set No. One; (2) Special Interrogatories, Set No. One; (3) Request for Admissions, Set No. One; and, (4) Demand for Identification of Documents and Other Tangible Things, Set No. One. This will further confirm that plaintiffs will provide verified supplemental responses to outstanding discovery by November 27, 2013 and that Trinity now has until December 11, 2013, to file their motions to compel, if necessary.

This will also confirm that plaintiffs plan to conduct further discovery to attempt to specifically identify the product that is the subject of their Complaint and that plaintiffs currently do not have evidence that a specific identifiable Trinity product was at the site of the September 3, 2011 crash. Based upon these facts, the parties agreed on the September 27, 2013 telephone conference that motions to compel further discovery responses would be futile, at this time, as plaintiffs have provided all of the information and documents that they have in response to discovery.

If your understanding of our agreement is different, please contact us immediately. As always, it remains our intent to resolve these discovery disputes without the Court's intervention, however, we are anxious to get this case moving.

6212632v1

Thank you for continued courtesy and cooperation with regard to the handling of this matter.

Very truly yours,

BOWMAN AND BROOKE LLP

Hannah L. Mohrman

HLM/snt

Bowman and Brooke LLP

Fax Cover Sheet

970 West 190th Street, Suite 700
Torrance, CA 90502
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: October 3, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH

Fax: (415) 441-7586

From: Hannah L. Mohrman

Number of Pages (Including Coversheet): 3

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Client/Case Name: Swayampakala, Krishna, et al. v. Trinity Highway Products, LLC, et al.

Client Number:

Matter Number: 12110

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* * * COMMUNICATION RESULT REPORT (OCT. 3. 2013 3:56PM) * * *

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Fax Cover Sheet

970 West 190th Street, Suite 700
Torrance, CA 90502
Phone: 310.768.3068
Fax: 310.719.1019
www.bowmanandbrooke.com

Date: October 3, 2013

To: Charles C. Kelly, II, Esq.
HERSH and HERSH

Fax: (415) 441-7586

From: Hannah L. Mohrman

Number of Pages (Including Coversheet): 3

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Client/Case Name: Swayampakala, Krishna, et al. v. Trinity Highway Products, LLC, et al.

Client Number:

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MINNEAPOLIS PHOENIX DETROIT SAN JOSE
LOS ANGELES RICHMOND COLUMBIA DALLAS AUSTIN

PROOF OF SERVICE
CCP 1013A(3)
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 970 West 190th Street, Suite 700, Torrance, California 90502.

On **August 12, 2014** I served the foregoing document described as **TRINITY HIGHWAY PRODUCTS, LLC'S SEPARATELY BOUND DOCUMENTARY EVIDENCE INCLUDING DECLARATION HANNAH L. MOHRMAN IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** on all interested parties in this action by placing ☐ **the original** ☒ **a true copy** thereof enclosed in sealed envelopes addressed as follows:

Charles C. Kelly, II, Esq.
HERSH and HERSH
601 Van Ness Avenue, Ste. 2080
San Francisco, CA 94102

☐ **BY MAIL (CCP §1013(a) and §2015.5):** I served the documents by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage date is more than **1** day after the date of deposit for mailing in affidavit.

☒ **BY OVERNIGHT DELIVERY/NEXT DAY DELIVERY (CCP §1013(c) and §2015.5):** I sealed such documents in separate envelopes to each addressee and deposited each for collection by mailing via overnight mail/next day delivery in a box or other facility regularly maintained by the U.S. Postal Service or an Express Service carrier, or delivered to an authorized carrier or driver authorized by the U.S. Postal Service or an Express service carrier to receive documents, with delivery fees paid or provided.

☐ **BY FACSIMILE (CRC 2.306, CCP §2015.5 and CCP §1013(e)):** The document(s) were transmitted by facsimile transmission to each of the parties at the facsimile number(s) listed on the attached service list and the transmission(s) reported as complete and without error. The facsimile machine I used complied with the California Rules of Court, Rule 2.306(g) and I printed a record of the transmission(s), a copy of which is attached to the original of this declaration.

Executed on **August 12, 2014**, at Torrance, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Brianna K. Alvarez

PROOF OF SERVICE
CCP 1013A(3)
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 970 West 190th Street, Suite 700, Torrance, California 90502.

On **August 26, 2014** I served the foregoing document described as **TRINITY HIGHWAY PRODUCTS, LLC'S SEPARATELY BOUND DOCUMENTARY EVIDENCE INCLUDING DECLARATION HANNAH L. MOHRMAN IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** on all interested parties in this action by placing ☐ **the original** ☒ **a true copy** thereof enclosed in sealed envelopes addressed as follows:

Robert A. Baggs, Esq.
Deputy Attorney
CAL TRANS/LEGAL DIVISION
100 South Main Street, Suite 1300
Los Angeles, CA 90012-3702

☒ **BY MAIL (CCP §1013(a) and §2015.5):** I served the documents by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing documents for mailing. On the same day the document is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage date is more than **1** day after the date of deposit for mailing in affidavit.

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☐ **BY FACSIMILE (CRC 2.306, CCP §2015.5 and CCP §1013(e)):** The document(s) were transmitted by facsimile transmission to each of the parties at the facsimile number(s) listed on the attached service list and the transmission(s) reported as complete and without error. The facsimile machine I used complied with the California Rules of Court, Rule 2.306(g) and I printed a record of the transmission(s), a copy of which is attached to the original of this declaration.

Executed on **August 26, 2014**, at Torrance, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Brianna K. Alvarez