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10 ELECTRONICALLY FILED
11 SUPERIOR COURT OF CALIFORNIA
12 COUNTY OF SAN BERNARDINO
13 SAN BERNARDINO DISTRICT
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15 By: Sarena Perez, DEPUTY

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF SAN BERNARDINO – JUSTICE CENTER

18 IAN RAY SOUZA,

19 Plaintiff,

v.

20 PHELAN PINON HILLS COMMUNITY
21 SERVICES DISTRICT; CITY OF HESPERIA;
22 COUNTY OF SAN BERNARDINO ACTING
23 BY AND THROUGH THE SAN
24 BERNARDINO COUNTY FIRE
25 DEPARTMENT; STATE OF CALIFORNIA;
26 and DOES 1 to 100, Inclusive,

27 Defendants.

28 Case No.: CIVSB2530363

[Action is An Unlimited Civil Case;
Amount Exceeds \$35,000]

COMPLAINT FOR DAMAGES

[Government Code Sections 815.2, 815.4,
815.6, 818.6, 820, 820.8, 821.4, 830, 830.6,
830.8, 835, 835.2, 840.2 and 840.4]

1. **Dangerous Condition of
Government Property
Negligence**
- 2.

20 Plaintiff, IAN RAY SOUZA, alleges as follows:

21 **PRELIMINARY ALLEGATIONS**

22 1. At all times relevant herein, Defendants, PHELAN PINON HILLS COMMUNITY
23 SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN BERNARDINO ACTING BY
24 AND THROUGH THE SAN BERNARDINO COUNTY FIRE DEPARTMENT; STATE OF
25 CALIFORNIA; and DOES 1 to 100, Inclusive, were and are governmental entities.

1 2. At all times relevant herein, Plaintiff, IAN RAY SOUZA, was and is a resident of the
2 County of San Bernardino, State of California.

3 3. Plaintiff has timely served said public entities each with a statutory Claim for Damages
4 pursuant to Government Code §§ 910 and 911, *et seq.*, and said claims have been denied, or will
5 have been denied by said public entities, or have been, or will be, deemed denied and rejected by
6 operation of law pursuant to Government Code § 912.4, or no such Claims were required.

7 4. The true names and capacities, whether individual, corporate, associate, governmental
8 or otherwise, of defendants DOES 1 through 100, Inclusive, are unknown to plaintiff at this time,
9 who therefore sues said defendants by such fictitious names, and when the true names and capacities
10 of said defendants are ascertained, leave of Court will be sought to amend this Complaint to allege
11 the true names and capacities of said defendants.

12 5. Plaintiff is informed and believes, and thereupon alleges, that each of the defendants
13 designated herein as a DOE is legally responsible in some manner or means for the events and
14 happenings herein referred to, and proximately caused damage to Plaintiff, as herein alleged, either
15 through its conduct or through the conduct of its agents, servants or employees or in some manner or
16 means presently unknown to this Plaintiff.

17 6. Based upon information and belief, at all times herein alleged, defendants, and each of
18 them, were acting as the agents, servants and employees of the other defendants herein, and of each
19 other, and were acting within the purpose and scope and authority of their said employment or
20 agency.

21 7. At all relevant times herein alleged, Defendants PHELAN PINON HILLS
22 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
23 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
24 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive, and each of them,
25 were and now are the owners, operators, managers, lessors, lessees, and/or were otherwise
26 responsible for or in exclusive possession and/or control of the grounds and roadway premises
27 commonly known as Phelan Road westbound at or near 100 feet west of Buttemere Road, City of
28 Phelan, County of San Bernardino, State of California.

1 8. At all relevant times herein alleged, Defendants PHELAN PINON HILLS
2 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
3 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
4 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive, and each of them,
5 were and now are the owners, operators, managers, lessors, lessees, and/or were otherwise
6 responsible for or in exclusive possession and/or control of the water pipe that was damaged at or
7 near 9575 Buttmer Road, causing water to pool and freeze on Phelan Road, approximately 100 feet
8 west of Buttmer Road, City of Phelan, County of San Bernardino, State of California.

FIRST CAUSE OF ACTION

15 9. Plaintiffs reallege and incorporate by this reference paragraphs 1 through 8 above.
16 10. On or about November 20, 2024 at approximately 5:30 a.m., Plaintiff, IAN RAY
17 SOUZA, was lawfully riding his motorcycle on Phelan Road westbound at or near 100 feet west of
18 Buttemere Road, in the City of Phelan, County of San Bernardino, State of California (hereinafter
19 referred to as the “Property”). Plaintiff rode his motorcycle across a pool of frozen black ice and lost
20 control of his motorcycle. Plaintiff’s motorcycle crashed to the roadway and he was ejected.

21 11. In the hours prior to the incident, on the same day, a fire truck, owned, operated and/or
22 otherwise controlled by Defendants PHELAN PINON HILLS COMMUNITY SERVICES
23 DISTRICT; CITY OF HESPERIA; COUNTY OF SAN BERNARDINO ACTING BY AND
24 THROUGH THE SAN BERNARDINO COUNTY FIRE DEPARTMENT; STATE OF
25 CALIFORNIA; and DOES 1 to 100, Inclusive struck and ruptured a water pipe located at or near
26 9575 Buttmere Road.

27 12. The water pipe that was struck by Defendants PHELAN PINON HILLS
28 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN

1 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
2 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive, is also owned,
3 operated, maintained and/or otherwise under the control of Defendants PHELAN PINON HILLS
4 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
5 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
6 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive.

7 13. On information and belief, this water pipe located at or near 9575 Buttmer Road has
8 been struck and ruptured multiple times prior to the incident by fire trucks and other emergency
9 vehicles owned, operated and/or otherwise controlled by Defendants PHELAN PINON HILLS
10 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
11 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
12 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive. Citizens have made
13 multiple reports documenting these incidents to the Phelan Water Department among other agencies.
14 Defendants knew or should have reasonably known about this issue to have sufficient notice to
15 correct the problem.

16 14. On information and belief, the water pipe leak at or near 9575 Buttmer Road had
17 been leaking for several hours prior to the incident, despite being reported, before finally being shut
18 off. The water that had already spilled from the damaged pipe was not cleaned up and became
19 frozen on the on Phelan Road creating a danger to passing motor vehicles. No warning signs, cones
20 or other warning device was set up at the site of leaking water or on Phelan Road.

21 15. This danger was evident to Officer Alex Lugo, who responded to the scene of
22 Plaintiff's crash. Officer Lugo noted, "During my scene investigation, and clean-up of the crash
23 scene, I observed multiple vehicles, including ones who slowed appropriately, lose control on the
24 black ice." TCR p. 7 lns. 20-21.

25 16. At the time of the accident, the Property was in a dangerous and unsafe condition as
26 defined by Government Code Sections 818.6, 830, 830.6, 830.8, 835, 835.2, 840.2 and 840.4, for the
27 following reasons:

28 a. striking the water pipe and causing the leak on the date of the incident,

- b. failing to properly secure the water pipe before the subject incident despite prior complaints,
- c. failing to timely shut off the water leak on the date of the subject incident thus creating pooling water that froze (a dangerous condition),
- d. failing to clear the spilled water out of the roadway prior to the incident,
- e. failing to treat the ice that had formed in the roadway to make it safe for passing motorists, and
- f. failing to warn (signs, cones, lights, etc.) motorists of the spilled/pooled water caused by the leak.

10 17. Based upon information and belief, Defendants, PHELAN PINON HILLS
11 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
12 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
13 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive, owned, maintained,
14 constructed, installed, controlled, created, operated, repaired, monitored, supervised and/or were
15 responsible for the design, construction, installation, operation, maintenance, service and safety of
16 the aforementioned Property.

17 18. Based on information and belief, at all times relevant hereto, Defendants, PHELAN
18 PINON HILLS COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
19 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE
20 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100, Inclusive, owned, maintained,
21 constructed, installed, controlled, created, operated, repaired, monitored, supervised and/or were
22 responsible for the design, construction, installation, operation, repairs, maintenance, service and
23 safety of the Property and/or were otherwise responsible for ensuring the Property was not a danger
24 to the public and for warning for any dangerous condition that did arise.

25 19. Plaintiff is informed and believes, and thereon alleges, that, at all times relevant hereto,
26 Defendants, PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT; CITY OF
27 HESPERIA; COUNTY OF SAN BERNARDINO ACTING BY AND THROUGH THE SAN
28 BERNARDINO COUNTY FIRE DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100,

1 Inclusive, were public entities, agencies and/or institutions existing pursuant to the laws of the State
2 of California, and/or are governmental entities created and existing pursuant to the laws of the State
3 of California, or some other state, or some other unknown governmental agency, entity or division of
4 the State of California, or some other state. Plaintiff therefore, brings this action against said
5 Defendants in their capacities as public entities and/or employees of public entities, pursuant to
6 Government Code Sections 815.2, 815.4, 815.6, 818.6, 820, 820.8, 821.4, 830, 830.6, 830.8, 835,
7 835.2, 840.2 and 840.4, and/or other applicable statutes, regulations or legal basis, based on the
8 negligent plan, design and construction of, installation of, maintenance of, service of and/or an
9 improvement to the Property, and based on the negligent acts and omissions of the employees,
10 agents and independent contractors of said defendants while said employees, agents and independent
11 contractors were engaged in the course and scope of their employment, authority and/or agency by
12 and with said public entities, including their failure to protect against the hazard of that particular
13 risk as alleged herein, which constituted a mandatory duty imposed on said public entity, and/or
14 against injury or death caused by a dangerous condition of public property. Plaintiff reserves the
15 right to amend, modify or expand the bases of liability regarding said public entities based on further
16 investigation and discovery.

17 20. Plaintiff is informed and believes, and thereon alleges, that, to the extent that the
18 dangerous, hazardous and/or defective condition of the Property was approved by an employee or
19 agent of Defendants, PHELAN PINON HILLS COMMUNITY SERVICES DISTRICT; CITY OF
20 HESPERIA; COUNTY OF SAN BERNARDINO ACTING BY AND THROUGH THE SAN
21 BERNARDINO COUNTY FIRE DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100,
22 Inclusive, and to the extent that such employee or agent was exercising discretionary authority to
23 give approval to the design, construction, installation, maintenance of, service of the Property there
24 existed changed physical conditions at the time of subject accident such that the Property was no
25 longer in conformity with the approved plan or design which created or produced the condition of
26 the Property, and said defendants were aware of said changed physical conditions at the Property for
27 a reasonable and sufficient period of time to allow and permit said defendants to apply for, and to
28 obtain funds for, and to carry out remedial work necessary to allow the Property to be in conformity

1 with a safe, non-hazardous and non-defective plan or design approved by the appropriate legislative
2 body of said Defendants, or other body or employee.

3 21. As a legal result of the negligent and careless conduct of said Defendants as herein
4 described, Plaintiff, IAN RAY SOUZA, sustained personal injuries, which have caused Plaintiff pain
5 and suffering, entitling Plaintiff to general damages, as will be established at the time of trial.

6 22. As a legal result of the negligent and careless conduct of Defendants as herein
7 described, Plaintiff, IAN RAY SOUZA, incurred, and will continue to incur in the future, expenses
8 and obligations resulting from the treatment of the personal injuries Plaintiff sustained, past and
9 future loss of earnings and earning capacity and household services damages and attendant care
10 damages, as will be established at the time of trial.

11 23. As a legal result of the negligent and careless conduct of said defendants as herein
12 described, Plaintiff, IAN RAY SOUZA, sustained damage to his personal property, including loss of
13 use damages, as will be established at the time of trial.

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15 **SECOND CAUSE OF ACTION**

16 **AGAINST All DEFENDANTS, DOES 1 TO 100, INCLUSIVE**

17 **(For Negligence)**

18 24. Plaintiff, IAN RAY SOUZA, realleges and incorporates by this reference paragraphs 1
19 through 23 above.

20 25. Pursuant to Government Code Section 815.2, A public entity is liable for injury
21 proximately caused by an act or omission of an employee of the public entity within the scope of his
22 employment if the act or omission would, apart from this section, have given rise to a cause of action
23 against that employee or his personal representative.

24 26. The DOE Defendant fire truck driver that struck the water pipe located at 9575
25 Buttemere Road, on information and belief, was employed by Defendants PHELAN PINON HILLS
26 COMMUNITY SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN
27 BERNARDINO ACTING BY AND THROUGH THE SAN BERNARDINO COUNTY FIRE

1 DEPARTMENT; STATE OF CALIFORNIA; and DOES 1 to 100 on the date of the subject
2 incident.

3 27. DOE Defendant fire truck driver's action in striking the water pipe would give rise to
4 liability on the part of his employer outside of this section of the Government Code.

5 28. DOE Defendant fire truck driver's actions of striking the water pipe constitute
6 negligence and inattentive driving. Defendants PHELAN PINON HILLS COMMUNITY
7 SERVICES DISTRICT; CITY OF HESPERIA; COUNTY OF SAN BERNARDINO ACTING BY
8 AND THROUGH THE SAN BERNARDINO COUNTY FIRE DEPARTMENT; STATE OF
9 CALIFORNIA; and DOES 1 to 50 are vicariously liable pursuant to Gov. Code 815.2 for the actions
10 of their employee driver.

11 29. As a result of DOE Defendant fire truck driver's negligence, Plaintiff sustained
12 damages as outline above in paragraphs 21-23.

13 **WHEREFORE**, Plaintiff prays for damages against all defendants, and each of them, as
14 follows:

15 **FOR FIRST AND SECOND CAUSES OF ACTION**

16 1. For general, non-economic damages in an amount in excess of the minimum
17 jurisdictional limits of this Court;

18 2. For past and future medical, surgical, therapeutic, rehabilitation, vocational and all other
19 related expenses, and incidental expenses, according to proof;

20 3. For past and future loss of earnings, employment benefits, loss of earning capacity and
21 loss of ability to provide household services, according to proof;

22 4. For costs and expenses related to the damage caused to Plaintiff's property and the loss
23 of use of said property, according to proof;

24 **FOR ALL CAUSES OF ACTION**

25 5. For prejudgment interest according to Civil Code section 3291;

26 6. For costs of suit herein incurred; and

27 7. For such other and further relief as the Court deems just and proper.

1 DATED: 10/15/2025

2 **BROWN, KORO & ROMAG, LLP**

3 By: Andrew R. Myers

4 Charles E. Koro

5 Andrew R. Myers

6 Attorneys for Plaintiff

7 IAN RAY SOUZA

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