

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To: Allan L. Roeder  
From: Kingsley Okereke  
Dept: Interim City Manager  
Dept: Finance  
Subject: DENIAL OF AN APPLICATION FOR LEAVE  
TO PRESENT LATE CLAIM SUBMITTED  
ON BEHALF OF ERICH CHAMBERS  
Date: July 14, 2015

OBJECTIVE

To request that City Council take necessary and appropriate action on the attached "Application for Leave to Present a Late Claim."

BACKGROUND

The California Government Code requires claims for damages alleging bodily injury be submitted within six months of the date of the incident. If a claim is not submitted within that time, a written application may be made to the City for leave to present a late claim.

DISCUSSION

On June 10, 2015, attorneys on behalf of Erich Chambers submitted a claim for damages alleging that Mr. Chambers suffered bodily injury as a result of falling off his bicycle when he hit a pothole on Westminster Avenue near Magnolia Street, Garden Grove, on August 27, 2014. The claim is in the amount of \$181,842.67. Pursuant to procedures set forth in the Government Code, Staff returned the claim to Mr. Chambers' attorney as it was not presented within six months of the date of the incident.

On June 24, 2015, an "Application for Leave to Present a Late Claim" was submitted by Mr. Chambers' attorney. After review of the application, it is recommended that the application be denied by City Council for failure to properly investigate and file the claim in a timely manner. If the application is denied, Mr. Chambers has the option to seek relief in the Superior Court.

FINANCIAL IMPACT

There is no financial impact to deny the "Application for Leave to Present a Late Claim."

DENIAL OF AN APPLICATION FOR LEAVE TO PRESENT  
LATE CLAIM SUBMITTED ON BEHALF OF ERICH CHAMBERS  
July 14, 2015  
Page 2

RECOMMENDATION

It is recommended that the City Council:


- Deny the "Application for Leave to Present a Late Claim," submitted on behalf of Erich Chambers; and
- Authorize Staff to mail written notice to the claimant in accordance with the requirements of the Government Code.

  
KINGSLEY OKEREKE  
Assistant City Manager / Finance Director

  
By: Ann Eifert  
Senior Administrative Analyst

Attachment: Application for Leave to Present a Late Claim

Recommended for Approval

  
Allan L. Roeder  
Interim City Manager

**City of Garden Grove**

**INTER-DEPARTMENT MEMORANDUM**

To: City Attorney  
Risk Management

From: Kathy Bailor

Dept.: City Manager  
Finance

Dept.: City Clerk

Claim: 14/15 3548  
Chambers, Erich

Date: 06/24/2015

The attached APPLICATION FOR LEAVE TO PRESENT A LATE CLAIM was delivered to the Office of the City Clerk by messenger on June 24, 2015, and was received by Maritza Pizarro on behalf of the City of Garden Grove.

REPLY FROM CITY ATTORNEY TO RISK MANAGEMENT:

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KATHY BAILOR, CMC  
City Clerk

By: Maritza Pizarro  
Deputy Clerk

Attachment

14/15 3548

RECEIVED  
CITY OF GARDEN GROVE  
CITY CLERK'S OFFICE

APR 24 P 2:03

1 Alan Aghabegian, CA SBN 180159  
Ara Saroian, CA SBN 276985  
2 AGHABEGIAN & ASSOCIATES, PC  
500 N. Brand Blvd. Suite 1270  
3 Glendale, CA 91203  
Phone: (818) 507-4311  
4 Fax: (818) 507-4312

5 Attorneys for Claimant, ERICH CHAMBERS

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7  
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**CITY OF GARDEN GROVE  
OFFICE OF CITY CLERK**

10 ERICH CHAMBERS,  
11 )  
12 ) Claimant,  
13 )  
14 ) vs.  
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16 ) CITY OF GARDEN GROVE,  
17 )  
18 ) Public Entity.  
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**APPLICATION FOR LEAVE TO  
PRESENT A LATE CLAIM ON  
BEHALF OF CLAIMANT ERICH  
CHAMBERS**

**CAL. GOV. CODE § 911.4**

**To the City Clerk's Office of the City of Garden Grove:**

1- Application is hereby made, under California Government Code § 911.4, for leave  
to file a late claim founded on a cause of action for personal injury, which occurred on August  
27, 2014, for which a claim was not presented within the 6-month period provided by  
Government Code § 911.2(a). For additional circumstances relating to the cause of action,  
reference is made to the proposed claim attached to this application.

2- The failure to present this claim within the 6-month period Government Code §  
911.2(a) was through mistake and excusable neglect, and the City of Garden Grove was not  
prejudiced by this failure, all as more shown by the attached declaration of Ara Saroian, Esq.

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///

1           3-       This application is being presented within a reasonable time after this cause of  
2 action accrued, as more particularly shown by the attached declaration of Ara Saroian, Esq.  
3

4           WHEREFORE, it is respectfully requested that this application be granted and that the  
5 attached proposed claim be received and acted on in accordance with Government Code § 912.4-  
6 913. The address to which notice(s) relating to this application are to be sent to Aghabegian  
7 & Associates, PC., 500 N. Brand Blvd., Suite 1270, Glendale, CA 91203.  
8  
9

10 DATED:       June 23, 2015

AGHABEGIAN & ASSOCIATES, PC

11  
12  
13 By: \_\_\_\_\_

Ara Saroian, Esq.  
Attorney for Claimant  
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2 **DECLARATION OF ARA SAROIAN, ESQ.**

3 1) I, Ara Saroian, am an attorney at law in good standing, licensed to practice before  
4 all courts of the State of California and am representing the Claimant, Mr. Eric Chambers in this  
5 matter;

6 2) This case arises from a bicycle related incident that occurred on August 27, 2014  
7 as a result of a pothole located near the north curb line of westbound Westminster Blvd., just  
8 west of Magnolia St. in the City of Garden Grove. This claim is subject to the six-month  
9 government claim statute;

10 3) On February 26, 2015, a claim was filed with the City of Westminster in regards  
11 to the above referenced incident. (A true and correct copy of said claim is attached hereto as  
12 Exhibit "A");

13 4) On May 14, 2015, Carl Warren & Company, claims administrator for the City of  
14 Westminster, sent a written correspondence to this office indicating that the area where the  
15 subject incident occurred was not owned and/or maintained by the City of Westminster. This  
16 correspondence was received by this office on May 18, 2015. (A true and correct copy of this  
17 correspondence is attached hereto as Exhibit "B");

18 5) After being apprised of this fact, this office began to research to discover the true  
19 and correct owner and/or entity responsible to maintain the subject property. After it was  
20 determined that neither the City of Westminster nor CALTRANS were not the appropriate  
21 claimants, a closer review of the city borders in this area uncovered that the border between the  
22 City of Westminster and the City of Garden Grove runs through Westminster Blvd and the  
23 correct entity was in fact the City of Garden Grove;

24 6) This office mistakenly filed a claim with the City of Garden Grove's neighboring  
25 city and neglected to determine whether Westminster Blvd. was in fact the border to any  
26 neighboring cities. Furthermore, the majority of Westminster Blvd. runs through the City of  
27 Westminster and the City of Seal Beach. Westminster Blvd. changes to Westminster Ave. at or  
28 near Brookhurst St. in the City of Garden Grove, which is approximately two city blocks west of

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1 the area where the incident occurred. This fact was unknown by Claimant when the first claim  
2 was filed.

3 7) After discovering the true and correct public entity, this office immediately  
4 filed a claim with the City of Garden Grove on June 10, 2015. (A true and correct copy of said  
5 claim is attached hereto as Exhibit "C");

6 8) On June 16, 2015, Carl Warren & Company sent another written correspondence  
7 apprising this office that the claim filed against the City of Garden Grove was denied for  
8 untimeliness. (A true and correct copy of this correspondence is attached hereto as Exhibit "D");

9 9) Based on the foregoing, it cannot be gainsaid that Claimant's failure to file a claim  
10 within the 6-month period was done as a result of mistake and excusable neglect. ;

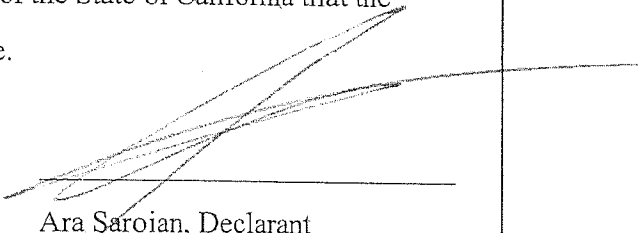
11 10) There is absolutely no prejudice against the City of Garden Grove for this failure  
12 to comply with Government Code § 911.2(a) and to ultimately receive and act on said claim. As  
13 depicted in Exhibits B and D, it is obvious that Ms. Jackie Marquez is the claims administrator  
14 for both public entities, and who in fact received notice of both claims. As such, she had every  
15 opportunity to investigate the area where the incident occurred when the initial notice was  
16 provided. There have been no changes made to the dangerous condition on Westminster Blvd. as  
17 claimed by Plaintiff since notice of the claim was initially filed with the City of Westminster on  
18 February 26, 2015;

19 11) This Application for Leave to file a Late Claim is being filed approximately one  
20 week from the denial mentioned in paragraph eight;

21 12) Claimant through this office respectfully requests that the City of Garden Grove  
22 excuse the mistake and neglect of failing to file a timely claim and allow same to be received and  
23 acted on. (A true and correct copy of said claim is attached hereto as Exhibit E).

24 I declare under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct to the best of my knowledge.

26  
27 Dated: 6/23/15

28   
Ara Saroian, Declarant



CITY OF WESTMINSTER 26'15 PM 1:05 RCUD  
CLAIM AGAINST THE CITY

NAME OF CLAIMANT Erich Chambers PHONE 714.353.4016

ADDRESS 2555 W. Winston Rd., Apt. #85, Anaheim, CA 92804

ADDRESS TO WHICH CLAIMANT DESIRES NOTICE TO BE SENT: 500 N. Brand Blvd., Suite 1270  
 Glendale, CA 91203

DATE AND TIME OF OCCURRENCE: August 27, 2014 at approx. 1:46 a.m.

LOCATION: Westminster Blvd. & Magnolia St.

DESCRIBE SPECIFIC LOCATION WHERE INCIDENT OCCURRED: W/b Westminster Blvd., just  
 west of the Magnolia St. intersection.

COMPLETE DESCRIPTION OF ALL DAMAGES AND/OR INJURIES INVOLVED: Injuries to left leg,  
 left ribs, right knee, both wrists and back. Claimant underwent an EUA and arthroscopy of the  
 right knee.

WAS A POLICE REPORT FILED        YES  NO IF YES, POLICE REPORT NO.       

NAME OR NAMES OR PUBLIC EMPLOYEE(S) CAUSING THE INJURY, LOSS OR DAMAGE, IF  
 KNOWN: Including but not limited to the public works and maintenance division.

DESCRIBE IN DETAIL WHAT HAPPENED: See Attachment "A"

AMOUNT CLAIMED AS OF DATE OF THIS REPORT: Medical bills incurred to date: \$15,934 & General damages- \$100,000

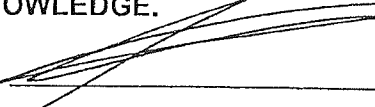
ESTIMATED AMOUNT OF PROSPECTIVE INJURY, DAMAGES, OR LOSS: Unknown at this time.

WHAT, IN YOUR OPINION, CAUSED THE INCIDENT (IF CLAIM IS BASED UPON AN ACCIDENT)  
The city's failure to maintain the street in a safe condition.

WITNESS:	<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
1.	Karen Ruml	2005 Delaware St., Huntington Beach, CA 92648;	714.277.2490 or 714.866.3878
2.			

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE FACTS HEREIN ABOVE SET  
 FORTH ARE TRUE AND CORRECT OF MY OWN KNOWLEDGE.

Date: 02/24/2015

Signature: 

Address: 500 N. Brand Blvd #1270  
 Glendale, CA 91203





**CARL WARREN & COMPANY**  
Claims Management and Solutions

May 14, 2015

Aghabegian & Associates  
500 N. Brand Boulevard, Suite 1270  
Glendale, CA 91203

RE:   Principal               : City of Westminster  
      D/Incident             : 08/27/2014  
      Claimant               : Erich Chambers  
      Our File No.          : 1903592JM

To Whom It May Concern:

As you are aware, Carl Warren & Company is the claims administrator for the City of Westminster, CA. I am the representative assigned to the above-captioned claim. Please direct all future correspondence and inquiries to my attention.

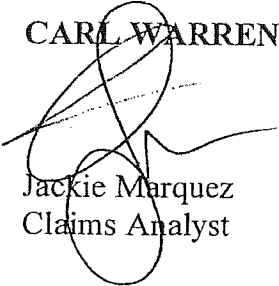
We have completed our investigation into your claim and we recommend that the City of Westminster take a position of no liability as the location in question is not owned and/or maintained by the City of Westminster.

A formal rejection notice will be mailed to your office by the City Clerk, and no settlement offers will be extended.

If you have any questions or wish to discuss this matter, please contact the undersigned at (714) 572-5286.

Sincerely

**CARL WARREN & COMPANY**

  
Jackie Marquez  
Claims Analyst

AN EMPLOYEE-OWNED COMPANY

770 S. Placentia Avenue | Placentia, CA 92870

P. O. Box 25180 | Santa Ana, CA 92799-5180

www.carlwarren.com | Tel: 714-572-5200 | 800-572-6900 | Fax: 866-254-4423

CA License No. 2607296

FILE WITH:

City Clerk's Office  
11222 Acacia Parkway  
P.O. Box 3070  
Garden Grove, CA 92842-3070

CITY OF GARDEN GROVE

CLAIM FOR DAMAGES

To Persons or Property

Claim No. \_\_\_\_\_

RECEIVED  
CITY OF GARDEN GROVE  
CITY CLERK'S OFFICE

2015 JUN 10 P 2:19

For Official Use Only

A claim must be filed with the City Clerk of the City of Garden Grove within 6 months after which the incident or event occurred. Be sure your claim is against the City of Garden Grove, not another public entity. Where space is insufficient, please use additional paper and identify information by paragraph number.

To City of Garden Grove, California:

Ms.

Mr

Mrs.

Miss

1. NAME OF CLAIMANT: CHAMBERS (Last) ERICH (First) (Middle)

a. HOME ADDRESS OF CLAIMANT: 2555 N. WINSTON RD. # 85 ANAHEIM CA 92804  
(Number, Street, Apt, etc.) (City and State) (Zip)

b. BUSINESS ADDRESS OF CLAIMANT: \_\_\_\_\_  
(Number, Street, Suite, etc.) (City and State) (Zip)

c. HOME PHONE NO.: 714. 353. 4016 d. BUSINESS PHONE NO.: \_\_\_\_\_

e. OCCUPATION: \_\_\_\_\_ f. DATE OF BIRTH: 08/23/1966

g. SOCIAL SEC. NO.: 569-37-4591 h. DRIVER'S LIC. NO.: \_\_\_\_\_

2. Name, address to which claimant desires notices to be sent, and telephone number, if other than above:

500 N. BRAND BLVD. SUITE 1270, GLENDALE, CA 91203; T: 818.507-4311  
- AGHABEGIAN & ASSOCIATES, PC -

3. Occurrence or event from which claim arises:

a. DATE: 08/27/2014 b. TIME: 1:46 AM c. PLACE (exact and specific location): W/B WESTMINSTER BLVD, JUST WEST OF MAGNOLIA ST. INTERSECTION.

d. HOW, AND UNDER WHAT CIRCUMSTANCES, DID DAMAGE OR INJURY OCCUR? SPECIFY THE PARTICULAR OCCURRENCE, EVENT, ACT, OR OMISSION YOU CLAIM CAUSED THE INJURY OR DAMAGE. (USE ADDITIONAL PAPER IF NECESSARY.)

SEE ATTACHMENT "A"

e. WHAT PARTICULAR ACTION BY THE CITY, OR ITS EMPLOYEES, CAUSED THE ALLEGED DAMAGE OR INJURY?

THE CITY'S FAILURE TO MAINTAIN THE STREET IN A SAFE CONDITION.

4. GIVE A DESCRIPTION OF THE INJURY, PROPERTY DAMAGE, OR LOSS, SO FAR AS IS KNOWN AT THE TIME OF THIS CLAIM. IF THERE WERE NO INJURIES, STATE "NO INJURIES": INJURIES TO LEFT

LEG, LEFT RIBS, RIGHT KNEE, BOTH WRISTS & BACK. CLAIMANT UNDERWENT AN EUA & ARTHROSCOPY OF THE RIGHT KNEE.

5. GIVE THE NAME(S) OF THE CITY EMPLOYEE(S) CAUSING THE DAMAGE OR INJURY: INCLUDING BUT NOT LIMITED TO THE PUBLIC WORKS & MAINTENANCE DIVISION.

6. NAME(S) AND ADDRESS(ES) OF ANY OTHER PERSON(S) INJURED: N/A

7. NAME AND ADDRESS OF THE OWNER OF ANY DAMAGED PROPERTY: N/A

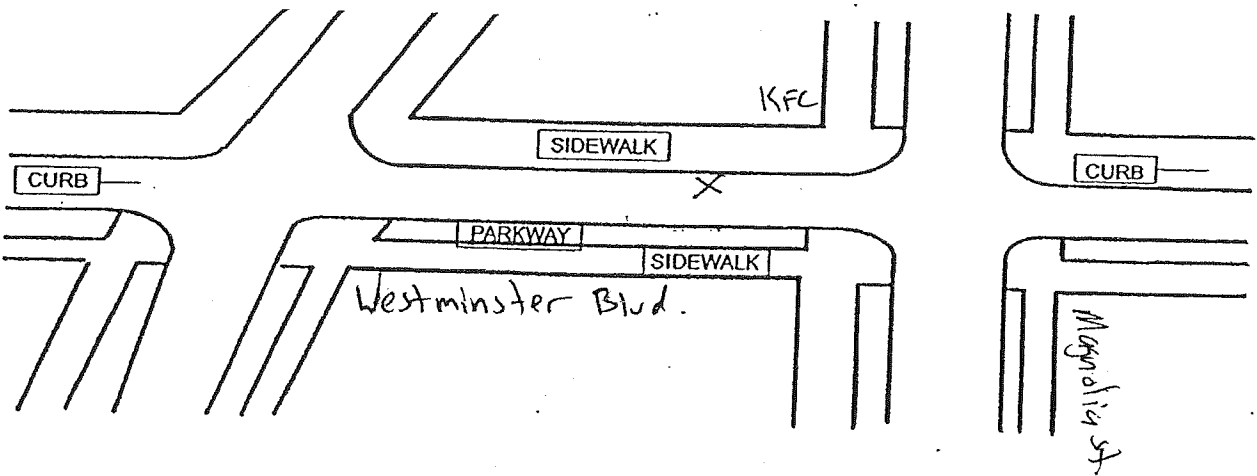
8. DAMAGES CLAIMED: MEDICAL BILLS & GENERAL DAMAGES

a. BASIS FOR COMPUTATION OF AMOUNT CLAIMED (INCLUDE COPIES OF ALL BILLS, INVOICES, ESTIMATES, ETC.)  
MEDICAL BILLS INCURRED TO DATE - \$21,842.67; GENERAL DAMAGES - \$160,000

9. ANY ADDITIONAL INFORMATION THAT MIGHT BE HELPFUL IN CONSIDERING CLAIM: WITNESS - KAREN RUMI - 2005 DELAWARE ST. HUNTINGTON BEACH, CA 92648  
T: 714.277.2490 & 714.866.3878

**READ CAREFULLY**

For all accident claims, place on following diagram names of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If City Vehicle was involved, designate by letter "A" location of City Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw City Vehicle; location of City Vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X". NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM! (PENAL CODE SEC. 72)

I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

06/09/2015  
DATE

[Signature]  
CLAIMANT'S SIGNATURE

Attachment "A"

3(d). Claimant was operating his bicycle westbound on Westminster Blvd., just west of Magnolia St., when he suddenly flew off of his bicycle as a result of a large pothole in his path of travel.



**CARL WARREN & COMPANY**  
Claims Management and Solutions

June 16, 2015

Erich Chambers  
C/O Aghabegian & Associates, PC  
500 N. Brand Blvd., Suite 1270  
Glendale, CA 91203

RE: City Claim No. : 14/15-3548  
Principal : City of Garden Grove  
D/Incident : 08/27/2014  
Claimant : Erich Chambers  
Our File No. : 1909814JM

Dear Mr. Chambers:

Please be advised Carl Warren & Company is the claims administrator for the self insured City of Garden Grove, CA. I am the representative assigned to the above-captioned claim. Please direct all future correspondence and inquiries to my attention. My direct line is (714) 572-5286.

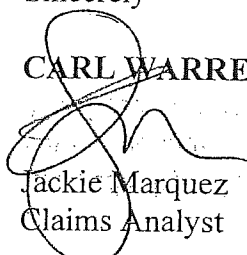
The claim which you presented to the City on June 10, 2015, will be returned to you advising the claim is late and the only recourse is to file a written "Application for leave to present a late claim".

We are recommending the claim be returned to you because it was not presented within six months after the accrual of the cause of action.

Should you have any questions, please contact me directly.

Sincerely

**CARL WARREN & COMPANY**

  
Jackie Marquez  
Claims Analyst

AN EMPLOYEE-OWNED COMPANY

770 S. Placentia Avenue | Placentia, CA 92870

P. O. Box 25180 | Santa Ana, CA 92799-5180

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CA License No. 2607296

FILE WITH:

City Clerk's Office  
11222 Acacia Parkway  
P.O. Box 3070  
Garden Grove, CA 92842-3070

CITY OF GARDEN GROVE

CLAIM FOR DAMAGES

To Persons or Property

Claim No. \_\_\_\_\_

RECEIVED  
CITY OF GARDEN GROVE  
CITY CLERK'S OFFICE

2015 JUN 24 10 4: 04

For Official Use Only

A claim must be filed with the City Clerk of the City of Garden Grove within 6 months after which the incident or event occurred. Be sure your claim is against the City of Garden Grove, not another public entity. Where space is insufficient, please use additional paper and identify information by paragraph number.

To City of Garden Grove, California:

Ms.

Mr.

Mrs.

Miss

1. NAME OF CLAIMANT: CHAMBERS (Last) ERICH (First) \_\_\_\_\_ (Middle)

a. HOME ADDRESS OF CLAIMANT: 7555 W. WINSTON RD. # 85 ANAHEIM, CA 92804  
(Number, Street, Apt, etc.) (City and State) (Zip)

b. BUSINESS ADDRESS OF CLAIMANT: \_\_\_\_\_  
(Number, Street, Suite, etc.) (City and State) (Zip)

c. HOME PHONE NO.: 714 353.4016 d. BUSINESS PHONE NO.: \_\_\_\_\_

e. OCCUPATION: \_\_\_\_\_ f. DATE OF BIRTH: 08/23/1966

g. SOCIAL SEC. NO.: 569.37.4591 h. DRIVER'S LIC. NO.: \_\_\_\_\_

2. Name, address to which claimant desires notices to be sent, and telephone number, if other than above:

AGHABEGIAN & ASSOCIATES, PC - 506 N. BRAND BLVD, SUITE 1270, GLENDALE, CA 91203

3. Occurrence or event from which claim arises:

a. DATE: 08/27/2014 b. TIME: 1:46 A.M. c. PLACE (exact and specific location): W/R WESMINSTER BLVD, JUST WEST OF MAGNOLIA ST INTERSECTION

d. HOW, AND UNDER WHAT CIRCUMSTANCES, DID DAMAGE OR INJURY OCCUR? SPECIFY THE PARTICULAR OCCURRENCE, EVENT, ACT, OR OMISSION YOU CLAIM CAUSED THE INJURY OR DAMAGE. (USE ADDITIONAL PAPER IF NECESSARY.)

SEE ATTACHMENT "1"

e. WHAT PARTICULAR ACTION BY THE CITY, OR ITS EMPLOYEES, CAUSED THE ALLEGED DAMAGE OR INJURY?

THE CITY'S FAILURE TO MAINTAIN THE STREET IN A SAFE CONDITION.

4. GIVE A DESCRIPTION OF THE INJURY, PROPERTY DAMAGE, OR LOSS, SO FAR AS IS KNOWN AT THE TIME OF THIS CLAIM. IF THERE WERE NO INJURIES, STATE "NO INJURIES": INJURIES TO LEFT

LEG, LEFT RIBS, RIGHT KNEE, BOTH WRISTS & BACK. CLAIMANT UNDERWENT AN E.U.A. & ARTHROSCOPY OF THE RIGHT KNEE

5. GIVE THE NAME(S) OF THE CITY EMPLOYEE(S) CAUSING THE DAMAGE OR INJURY: INCLUDING  
(BUT NOT LIMITED TO THE PUBLIC WORKS & MAINTENANCE DIVISION)

6. NAME(S) AND ADDRESS(ES) OF ANY OTHER PERSON(S) INJURED: N/A

7. NAME AND ADDRESS OF THE OWNER OF ANY DAMAGED PROPERTY: N/A

8. DAMAGES CLAIMED: MEDICAL BILLS & GENERAL DAMAGES

a. BASIS FOR COMPUTATION OF AMOUNT CLAIMED (INCLUDE COPIES OF ALL BILLS, INVOICES, ESTIMATES, ETC.)

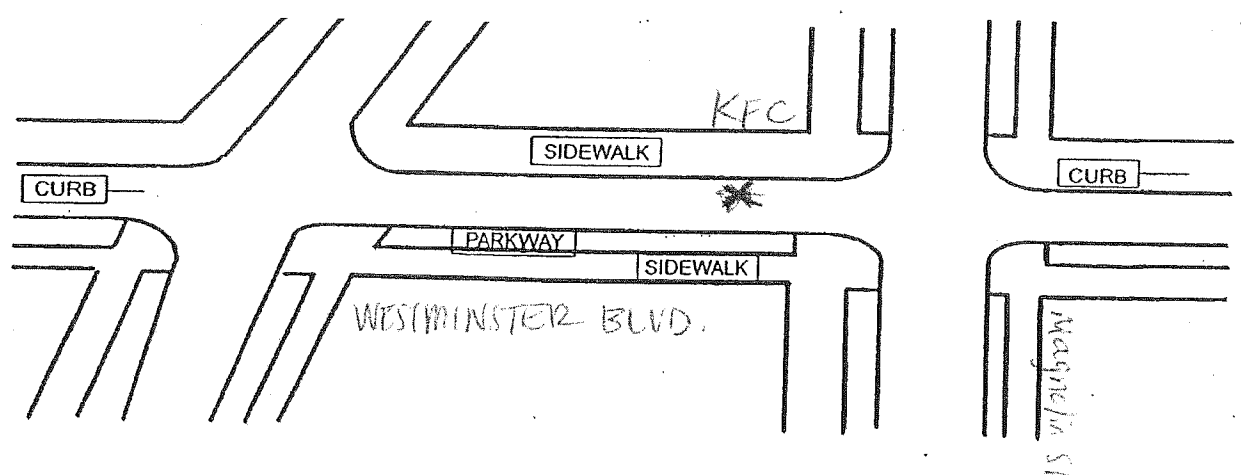
MEDICAL BILLS INCURRED TO DATE - \$ 21, 842.67 ; GENERAL DAMAGES - \$ 160,000

9. ANY ADDITIONAL INFORMATION THAT MIGHT BE HELPFUL IN CONSIDERING CLAIM: WITNESS:

KAREN RUMI - 2005 DELAWARE ST., HUNTINGTON BEACH, CA 92648. TEL: (714) 277-2490  
(714) 216-3878

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WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM! (PENAL CODE SEC. 72)

I certify under penalty of perjury that the foregoing is TRUE and CORRECT.

9/23/15  
DATE

[Signature]  
CLAIMANT'S SIGNATURE

# ATTACHMENT "A"



ATTACHMENT "A"

Claimant was operating his bicycle westbound on Westminster Blvd. just west of Magnolia St. when he suddenly flew off of his bicycle as a result of a large pothole in his path of travel.