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VICENTE GONZALEZ

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

VICENTE GONZALEZ, an individual;

Plaintiff,

vs.

THE CITY OF SANTA ANA, a public entity;
and DOES 1-50, inclusive,

Defendants.

Case No.: 30-2022-01240688-CU-PO-WJC

**COMPLAINT FOR DAMAGES [CIV.
CODE §3333] FOR PERSONAL
INJURIES AGAINST PUBLIC ENTITIES
AND EMPLOYEES [GOV. CODE §§ 835,
840.2, 840.4] BASED ON A DANGEROUS
CONDITION OF PUBLIC PROPERTY**

DEMAND FOR JURY TRIAL

Assigned for All Purposes

Judge Walter Schwarm

1 Plaintiff VICENTE GONZALEZ (“PLAINTIFF”), an individual, alleges against THE CITY
2 OF SANTA ANA (“SANTA ANA”), a public entity, and DOES 1-50, inclusive, (collectively
3 “DEFENDANTS”), as follows:

4 **GENERAL ALLEGATIONS**

5 1. PLAINTIFF brings this action to recover damages stemming from the negligence of
6 DEFENDANTS.

7 2. At all times herein mentioned, PLAINTIFF is and was a resident of the City of Santa
8 Ana, County of Orange, State of California.

9 3. PLAINTIFF is informed and believes, and based upon such information and belief
10 alleges that at all times herein mentioned, Defendant SANTA ANA, is and at all times mentioned
11 herein was, a government entity duly organized and existing under the laws of the State of
12 California.

13 4. At all times herein mentioned, DEFENDANTS, and each of them, were the
14 possessors, controllers, managers, designers, maintainers, inspectors, supervisors, and owners of the
15 sidewalk at Windsor Park, on the S. Nakoma Dr. side, across the street from the property of 1218 S.
16 Nakoma Dr. in the City of Santa Ana, County of Orange, State of California (“PREMISES”).

17 5. PLAINTIFF is informed and believes, and based upon such information and belief
18 alleges that on or about January 18, 2020, and sometime prior thereto, DEFENDANTS, and each of
19 them, owned, operated, designed, planned, supervised, altered, amended, built, constructed,
20 developed, managed, repaired, and/or maintained the PREMISES.

21 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
22 of DEFENDANTS named herein as DOES 1-50 are unknown to PLAINTIFF, who therefore sues
23 such DEFENDANTS by such fictitious names and will amend this Complaint to show their true
24 names and capacities when ascertained together with the proper charging allegations.

25 7. At all times herein mentioned, Defendants DOES 1-50, inclusive, were the agents,
26 servants, and employees of their co-Defendants, and in performing the acts and omissions alleged
27 in this Complaint hereinafter alleged were acting within the scope of their authority as such agents,
28 servants, and employees and with the consent and permission of their co-Defendants.

8. PLAINTIFF is informed and believes, and based upon such information and belief alleges that each of the Defendants designated herein as DOES 1-50 are responsible in some manner and liable herein by reason of negligence, nonfeasance, wanton and reckless misconduct, and conscious disregard, and said Defendants directly, legally, and proximately caused the injuries and damages asserted in this Complaint by such wrongful conduct.

9. The acts, conduct, and nonfeasance herein carried out by each and every representative, employee, or agent of each and every corporate or business defendant, were authorized, ordered, and directed by the respective Defendant's corporate or business employers, officers, directors and/or managing agents; that in addition thereto, said corporate or business employers, officers, directors, and/or managing agents had advanced knowledge of, authorized, and participated in the herein described acts, conduct, and nonfeasance of their representatives, employees, agents and each of them; and that in addition thereto, upon the completion of the aforesaid acts, conduct, and nonfeasance of the employees and agents, the aforesaid corporate and business employers, officers, directors and/or managing agents respectively ratified, accepted the benefits of, condoned, and approved of each and all of said acts, conduct, or nonfeasance of their co-employees, employers, and agents.

10. In addition, at all times herein relevant, each Defendant, whether named herein or designated as a DOE, was a principal master, employer, and joint venturer of every other Defendant, and every Defendant was acting within the scope of said agency authority, employment, and joint venturer.

JURISDICTION AND VENUE

11. This Court has jurisdiction in this matter pursuant to Code of Civil Procedure section 410.10 because the accident and/or injury occurred within the County of Santa Ana, in the State of California.

12. Venue is proper in this Court pursuant to the provisions of Code of Civil Procedure sections 395 and 395.5 in that the accident occurred and Defendants' obligations and liability arose in the County of Orange, State of California.

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1 **FACTUAL ALLEGATIONS.**

2 13. On or about January 18, 2020, PLAINTIFF was walking towards Windsor Park, on
3 the S. Nakoma Dr. side, across the street from the property of 1218 S. Nakoma Dr. in the City of
4 Santa Ana, when he tripped on significantly uneven concrete, causing him to fall and sustain
5 significant injuries.

6 14. Immediately following the fall, PLAINTIFF was in severe pain and sought medical
7 treatment for various areas of his body, including, but not limited to, injuries to his back, hip,
8 shoulder, and foot.

9 15. Since the date of the injury, PLAINTIFF has endured extreme pain and discomfort
10 daily. As a result of his injuries, PLAINTIFF has incurred, and continues to incur, medical expenses.

11 **FIRST CAUSE OF ACTION**

12 **DAMAGES [CIV. CODE § 3333] FOR PERSONAL INJURIES AGAINST PUBLIC**
13 **ENTITIES AND EMPLOYEES [GOV. CODE §§ 835, 840.2, 840.4] BASED ON A**
14 **DANGEROUS CONDITION OF PUBLIC PROPERTY**

15 **(Against all Defendants)**

16 16. PLAINTIFF re-alleges and incorporates by reference the allegations contained in
17 paragraphs 1 through 15 of this Complaint as though fully set forth herein.

18 17. On or about January 18, 2020, and prior to that date, the PREMISES was and is the
19 property of DEFENDANTS, and each of them.

20 18. Prior to January 18, 2020, DEFENDANTS, and each of them designed, constructed,
21 built and/or maintained the PREMISES.

22 19. Prior to January 18, 2020, an employee or employees of DEFENDANTS, and each
23 of them, negligently designed, built, constructed, and/or maintained the PREMISES in that the
24 sidewalk's height, slope, horizontal displacement, vertical displacement and/or the tree selection
25 and/or placement violated reasonable design guidelines and practices.

26 20. Prior to January 18, 2020, DEFENDANTS, and each of them, had actual knowledge
27 of, or should have had actual knowledge of, the existence of the PREMISES and knew of its
28 dangerous character and condition described above.

1 21. Prior to January 18, 2020, DEFENDANTS, and each of them, had notice,
2 constructive or otherwise, of the existence of the above described condition in that the condition
3 existed for a sufficient period and was of such an obvious matter that DEFENDANTS, and each of
4 them, in the exercise of due care, should have discovered the condition and its dangerous character
5 prior to the date of the accident. DEFENDANTS, and each of them, had the authority and it was
6 his/her/their responsibility inspect the PREMISES or to see that inspections were made to determine
7 whether the PREMISES constituted a dangerous condition and to take adequate measures to protect
8 against a dangerous condition at the expense of DEFENDANTS, and each of them, and the funds
9 and other means for doing so were readily and immediately available to him/her/them.

10 22. DEFENDANTS, and each of them, failed to design, build, construct, and/or maintain
11 the PREMISES in accordance with reasonable design guidelines and/or failed to remedy the
12 dangerous conditions as described above.

13 23. The negligence of DEFENDANTS, and each of them, caused a dangerous condition
14 which created a substantial and reasonably foreseeable risk of the type of injury hereinafter alleged
15 when the PREMISES were used with due care in a manner in which it was reasonably foreseeable
16 that they would be used.

17 24. On or about January 18, 2020, the PREMISES was being used with due care in a
18 manner in which it was reasonably foreseeable that they would be used.

19 25. On the date and at the time and place above, PLAINTIFF was lawfully on the
20 PREMISES when, as a proximate result of the dangerous condition and the negligence of
21 DEFENDANTS, and each of them, the dangerous condition to caused PLAINTIFF to fall,
22 proximately causing the hereinafter described injuries and damages to PLAINTIFF.

23 26. As a proximate result of the dangerous condition and of the negligence and/or
24 recklessness of DEFENDANTS, and each of them, PLAINTIFF suffered injury which have caused
25 and continue to cause PLAINTIFF great mental, physical, and nervous pain and suffering. These
26 injuries may result in permanent disability to PLAINTIFF all to PLAINTIFF's general damage.

27 27. As a proximate result of the dangerous condition and of the negligence and/or
28 recklessness of DEFENDANTS, and each of them, PLAINTIFF necessarily employed physicians

1 and surgeons for medical examination, treatment, and care of these injuries and incurred medical
2 and incidental expenses and may have to incur additional like expenses in the future, all in amounts
3 presently unknown to PLAINTIFF, to be established at the time of trial.

4 28. As a proximate result of the dangerous condition and of the negligence and/or
5 recklessness of DEFENDANTS, and each of them, PLAINTIFF was disabled and may be disabled
6 in the future and thereby be prevented from attending to the duties of PLAINTIFF's usual
7 occupation. PLAINTIFF has therefore lost earnings and may continue to lose earnings in the future,
8 all in amounts presently unknown to PLAINTIFF, to be established at trial.

9 29. On or about July 10, 2020, PLAINTIFF, presented to Defendant SANTA ANA a
10 claim for injuries, disability, losses, and damages incurred by PLAINTIFF by reason of the above
11 described occurrence, all in compliance with the requirements of Government Code section 905.

12 30. PLAINTIFF's complaint is being timely filed as prescribed by Government Code
13 section 945.6.

14 31. At the time and place of the accident described above, there were in effect sidewalk
15 regulations, specification, guidelines, practices, and requirements.

16 32. Prior to January 18, 2020, DEFENDANTS, and each of them, violated the sidewalk
17 regulations, specifications, guidelines, and requirements by failing to design, build, construct,
18 maintain, warn, and/or fix the sidewalk in accordance with the aforementioned requirements.

19 33. The above regulations, specifications, guidelines, requirements, and/or practices
20 were enacted to prevent the above described dangerous condition.

21 34. PLAINTIFF is within the class of people the above regulations, specifications,
22 guidelines, requirements, and/or practices were intended to protect. The regulations, specifications,
23 guidelines, requirements, and/or practices exist to ensure the safety of all pedestrians and foreseeable
24 people lawfully using the sidewalks and roads.

25 35. Pursuant to California Evidence Code section 669, the failure to exercise due care is
26 presumed if the defendant violates a statute, ordinance, or regulation.; the violation proximately
27 caused person or property injury; the injury resulted from the occurrence of the nature which the
28 statute, ordinance, regulation, specification, guideline, requirements, and/or practices were designed

1 to prevent; and the person sustaining the injury was one of the classes of people protected under the
2 statute, ordinance, or regulation. On information and belief, PLAINTIFF is entitled to a presumption
3 of negligence in this matter.

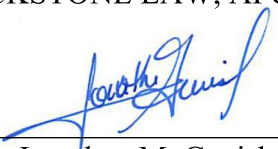
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5 **WHEREFORE**, PLAINTIFF prays for judgment against DEFENDANTS, and each of
6 them, as follows:

7 All Causes of Action:

- 8 1. For PLAINTIFF's general damages according to proof;
- 9 2. For PLAINTIFF's loss of income, wages, and earning potential according to proof;
- 10 3. For PLAINTIFF's loss of value of time according to proof;
- 11 4. For PLAINTIFF's present medical and related expenses according to proof;
- 12 5. For PLAINTIFF's future medical and related expenses according to proof;
- 13 6. For pre- and post-judgment interest according to proof;
- 14 7. For costs of suit; and
- 15 8. For such other and further relief as the Court may deem proper.

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19 DATED: January 13, 2022

BLACKSTONE LAW, APC

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21 By: 
22 Jonathan M. Genish
23 Attorneys for Plaintiff,
24 VICENTE GONZALEZ
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1 **DEMAND FOR JURY TRIAL**

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3 Plaintiff hereby demands trial by jury as to all issues so triable.

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5 DATED: January 13, 2022

BLACKSTONE LAW, APC

6
7 By: 

8 Jonathan M. Genish
9 Attorneys for Plaintiff,
10 VICENTE GONZALEZ
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