

Santa Clara Valley Water District

Phone: 408 265 2600

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cc: CEO
COB
Counsel
Risk

**Claim Against the
Santa Clara Valley Water District
California Government Code
Sections 900 and following.**

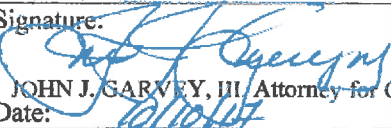
General Counsel form updated July, 2003

For Office Use Only:

Date Received:

By:

**Serve or mail this form to: Clerk of the Board
Santa Clara Valley Water District
5750 Almaden Expressway
San Jose, California 95118**

1. Name(s) and Address(es) of the person or persons making the claim	Name(s): Mary Rea, et al. Address: See attached Phone number (optional):
2. Is this claim filed on behalf of a minor? Yes ___ No <u>x</u>	If so, please indicate minor's date of birth: Relationship of claim filer to minor:
3. Name and address of the person to who notices are to be sent, if different than Number 1.	Name: See attached. Address:
4. Date, place and other circumstances of the occurrence, incident, injury or transaction. <i>Attach additional sheets for more space, if needed.</i>	Date: 4/19/2017 Location (address and or nearest intersection): See attached Other circumstances, including time, if known: See attached
5. Describe the debt, obligation, injury, damage or loss suffered so far as they are known. Include a description of the facts giving rise to the claim and why you believe the Santa Clara Valley Water District is responsible. <i>Attach additional sheets for more space, if needed, and photos, if available.</i>	Description: See attached
6. Name of the District employee who caused the injury, if known.	Name: The identity of the public officers/officials responsible for said dangerous condition and said negligence and carelessness is presently unknown.
7. Is the amount of this claim now:	Under \$10,000? Yes ___ No <u>x</u> Over \$10,000? Yes <u>x</u> No ___
8. If the amount is now over \$10,000, is this:	A Limited Civil Case? (Less than \$25,000) Yes ___ No <u>x</u> An Unlimited Civil Case? (Greater than \$25,000) Yes <u>x</u> No ___
Signature:  JOHN J. GARVEY, III, Attorney for Claimants Date:	Additional Signature(s): Date(s):

JOHN J. GARVEY, III, ESQ.
JOHN J. GARVEY, III A PC
10 ALMADEN BLVD., SUITE 1250
SAN JOSE, CA 95113
T: (408) 293-7777
F: (408) 294-5890

Attorney for Claimants

Claimants: Mary Rea; Donald Ronald Flores, Jr.; Benjamin Elias Flores	CLAIM FOR PERSONAL INJURY (GOVT. CODE SECTION 901)
Against: Santa Clara Valley Water District	CLAIM AGAINST PUBLIC ENTITY

Mary Rea, David Ronald Flores, Jr., Benjamin Elias Flores, each hereby makes this claim against the Santa Clara Valley Water District, and makes the following statements in support of each of their respective claims.

1. Claimants respective addresses are as follows:

Mary Rea
445 Maria Street
Santa Clara, CA 95050
(408) 595-6178

David Ronald Flores, Jr.
3171 Whiteleaf Court
San Jose, CA 95149
(408) 426-7324

Benjamin Flores
433 Shwahnee Court
Madera, CA 93637
(559) 232-8417

3. Mailing address re: Notices:

Notices concerning these claims should be sent to the attention of John J. Garvey, III, 10 Almaden Blvd., Suite 1250, San Jose, California 95113.

4. Date, location of Incident, and Circumstances Surrounding Incident:

The date and time of the occurrence giving rise to this claim are as follows: April 19, 2017 at the intersection of Holsclaw Road and Leavesly Road, in an unincorporated area of Santa Clara County.

Description of incident and liability:

As to the circumstances surrounding this Incident, Claimants are stating them on information and belief. Claimants and their attorney have not been able to undertake a full investigation and review of the Incident to determine the exact involvement of the public entity, if any, in the circumstances of this Incident. Therefore, this Claim is being presented and filed to comply with the applicable claims filing time limits.

Claimants are the surviving wrongful death heirs of decedent, David Ronald Flores.

On April 19, 2017 at approximately 9:00 p.m. Claimants' natural father, David Ronald Flores ("Decedent") was operating a 2005 Harley Davidson motorcycle in an eastbound direction on Leavesly Road, in Santa Clara County; and shortly after Decedent crossed a concrete bridge approaching the intersection with Holsclaw Road, ("Intersection") Decedent was struck in an eastbound lane by a 2017 Honda Accord, owned by Kelly Cheng and operated by Justin Cheng (hereinafter "Collision"). The Honda Accord, having allegedly stopped at the stop sign controlling northbound traffic on Holsclaw at Leavesly, proceeded to turn left onto Leavesly at which time the Collision occurred resulting in Decedent's death.

On or about April 19, 2017, and at all times relevant thereto, the Santa Clara Valley Water District, owned, maintained, designed, constructed, managed, and controlled said Intersection including said concrete bridge and railing and all portions thereof relevant to this Incident; including, but not limited to the roadway, bridge, shoulders, signage, lighting and vegetation (hereinafter "Public Property").

On or about April 19, 2017, and at all times relevant thereto, the above-described Public Property was in a dangerous condition that created a substantial risk of the type of injury hereinafter alleged when the property was used with due care in a manner that

was reasonably foreseeable that it would be used, including but not limited to the following respects:

- (a) The geometry of said roadway including but not limited to the eastbound Leavesly approach to said Intersection, singularly and in combination with the concrete bridge wall and guardrail on the south side of said concrete bridge and their proximity to said Intersection, constituted and/or contributed to a visual sight distance obstruction to vehicles attempting to make a left-hand turn from Holsclaw onto westbound Leavesly.
- (b) There was an absence of proper signage and warning/caution devices for eastbound traffic on Leavesly approaching said Intersection, advising of the upcoming Intersection. In addition thereto, there was an improper posting of what the advisable safe speed limit should be on Leavesly approaching said Intersection.
- (c) Said deficient roadway geometry and traffic controls and sight distance obstruction constituted a hidden trap for motorists using said Public Property with due care.
- (d) Said relevant area of the roadway was otherwise designed, constructed, and maintained with deficient roadway geometry and traffic controls; and further said relevant sections of the concrete bridge was designed and constructed such that pertinent sections constituted a "line of sight" obstruction at said Intersection.
- (e) Said Public Property otherwise constituted a dangerous condition and a substantial factor in the Collision.

Said dangerous conditions, individually and collectively, caused and/or significantly contributed to the Collision.

The dangerous conditions set forth above in paragraphs "a through e" inclusive, were designed; and such designs were not

reasonable and the designs would not have been reasonably approved. If in fact the designs were reasonably approved, conditions have changed substantially since the time of the design creating a dangerous condition.

Said public entity had actual and/or constructive knowledge of the existence of said dangerous conditions, and knew or should have known of said dangerous conditions in sufficient time prior to the date of the subject accident to have taken measures to protect against said dangerous conditions. Additionally, employees of said public entity had the authority and it was his/her/their responsibility to take adequate measures to protect against said dangerous conditions at the expense of the public entity and the funds and other means were immediately available to him/her/them.

Said Public Property was otherwise in a dangerous condition and said public entity was otherwise negligent and careless all of which caused and/or contributed to said vehicle collision and Decedent's death and resulting damages.

5. Describe injury/damages.

Death of Claimants' father, David Ronald Flores, Sr., resulting in Claimants' loss inter alia, of their father's care, comfort, society, companionship, guidance and support and all other damages allowed by statute and case law. Funeral and burial expenses the total of which is not yet ascertained.

Claimants' claims as of this date is in an amount that would place the claim within the jurisdiction of the Superior Court. Their claim is based on damages and/or loss in an amount to be proven later.

PROOF OF SERVICE

I, the undersigned, declare:

I am a citizen of United States and resident of the County of Santa Clara. I am over the age of eighteen(18) years and not a party to the within entitled action. I am employed by John J. Garvey, III, A Professional Corporation, Ten Almaden Boulevard, Suite 1250, San Jose, California 95113, in the office of a member of the bar of this court at whose direction the service was made. On April 13, 2012, I served a copy of the attached document: CLAIM AGAINST PUBLIC ENTITY on the parties to this action by placing a true copy thereof in a sealed envelope addressed to:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Santa Clara Valley Water District
Clerk of the Board
5750 Almaden Expressway
San Jose, CA 95118

() [BY MAIL] I placed each such sealed envelope, with postage thereon fully prepaid for first-class mail, for collection and mailing at San Jose, California, following ordinary business practices. I am readily familiar with the practice of this office for collection and processing of correspondence for mailing with the United States Postal Service; this correspondence will be deposited with the United States Postal Service on the above date in the ordinary course of business.

() [BY OVERNIGHT DELIVERY] By consigning such copy in a sealed envelope to an overnight courier for next business day delivery.

() [BY HAND DELIVERY] By consigning each such sealed envelope to a messenger for guaranteed hand-delivery.

() [BY FACSIMILE TRANSMISSION] By consigning such copy to a facsimile operator for transmittal to the number indicated after the address(es) noted.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 11, 2017, at San Jose, California.



ANANDA COOK

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