



**CLAIM AGAINST THE SANTA CLARA VALLEY WATER DISTRICT**  
**California Government Code Sections 900 and following**

Page 1 of 2

<b>The completed form can be mailed, sent electronically or hand delivered. Mail or deliver to:</b>  Clerk of the Board Santa Clara Valley Water District-HQ 5700 Almaden Expressway San Jose, CA 95118  Or submit the completed form electronically to: clerkoftheboard@valleywater.org	Clerk of the Board's Date Stamp <b>20 JAN 9 AM 8:34</b>	
	<b>For SCVWD Use Only</b>	
	Date Received:	<b>ROUTING</b>
	<input type="checkbox"/> Via U.S. Mail:	<input type="checkbox"/> CEO:
	<input type="checkbox"/> Hand Delivered:	<input type="checkbox"/> District Counsel
	<input type="checkbox"/> E-mail:	<input checked="" type="checkbox"/> Risk Management
<input type="checkbox"/> Other:	<input type="checkbox"/> COB	
	<input type="checkbox"/> BOD (District #): <b>5</b>	

*With certain exceptions, claims for personal injury or property damage MUST be filed within six months of the incident giving rise to the claim. Claimant must complete each section. If information is unknown, write "unknown" in the appropriate box. Please use additional pages if necessary. Please attach itemized receipts, witness statements, photos and all other documentation that you believe will be helpful to process your claim. Claimant MUST sign and date the form; see last page.*

Name of Claimant: David Walter Wessel and Karen Michele Platt			
Address of Claimant: 925 Chehalis Drive		City: Sunnyvale	State: CA
Mailing Address to Which Notices Should be Sent if Different From Above: Gail J. Lamchick, Esq. 130 Portola Road		City: Portola Valley	State: CA
Home Phone Number:		Cell Phone Number:	Zip: 94087
Is this claim being filed on behalf of a minor? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Work Phone Number:	
If so, please indicate minor's date of birth: _____		Relationship to the minor: _____	
Date and time of incident or loss: July 14, 2019 Shortly after sundown.	Location of incident or loss (address): On the Calabazas Bridge on North Tantau Avenue, Cupertino, southbound.	Is there a police report? <input type="checkbox"/> Yes If Yes, Police Report #:  <input type="checkbox"/> No	

Describe how the incident or loss happened, and the reason you believe the Santa Clara Valley Water District is responsible for your damages (Please attach additional sheets if necessary):

The District created a dangerous condition of public property in the marked bicycle lane on North Tantau Avenue south of Homestead Road near to, at and on the Calabazas Bridge. The District put a lip/rise/elevation in southbound bicycle lane on the Bridge that can be seen in the photos that are Attachment 1. [Continued on Attachment 2]



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In detail, describe the damage or injury (Please attach additional sheets if necessary):

David Wessel suffered and suffers personal injury, including bodily injury and emotional distress, loss of income, and loss of earning capacity. His wife, Karen M. Platt, suffered loss of consortium. David's injuries included injuries to: (See Attachment 3)

List Name(s) and contact information of any witness(es) or District employee involved (if any):

Unknown to claimant. Witnesses may include City of Cupertino employees Chad Mosely and David Stillman.

**DAMAGES CLAIMED:** Basis for computation of amounts claimed (include copies of bills, invoices, estimates, receipts, photos, police case # or other documentation.) Note: If your claim is more than \$10,000, you need not fill in an amount, but must state whether jurisdiction for the claim would be in the Limited Jurisdiction (up to \$25,000) or Unlimited jurisdiction of the Superior Court.

Is the amount of the claim under \$10,000?

☐ Yes

☐ No

Court Jurisdiction: (Check One)

☐ Limited Civil

☒ Unlimited Civil

ITEMS	CLAIM AMOUNT
1.	\$
2.	\$
3.	\$
4.	\$
<b>TOTAL AMOUNT</b>	\$

Signed this

3

day of

January

20 20

  
Claims' Attorney's signature

Government Code Section 945.6 provides that, with limited exceptions, any suit brought against a public entity must be commenced:

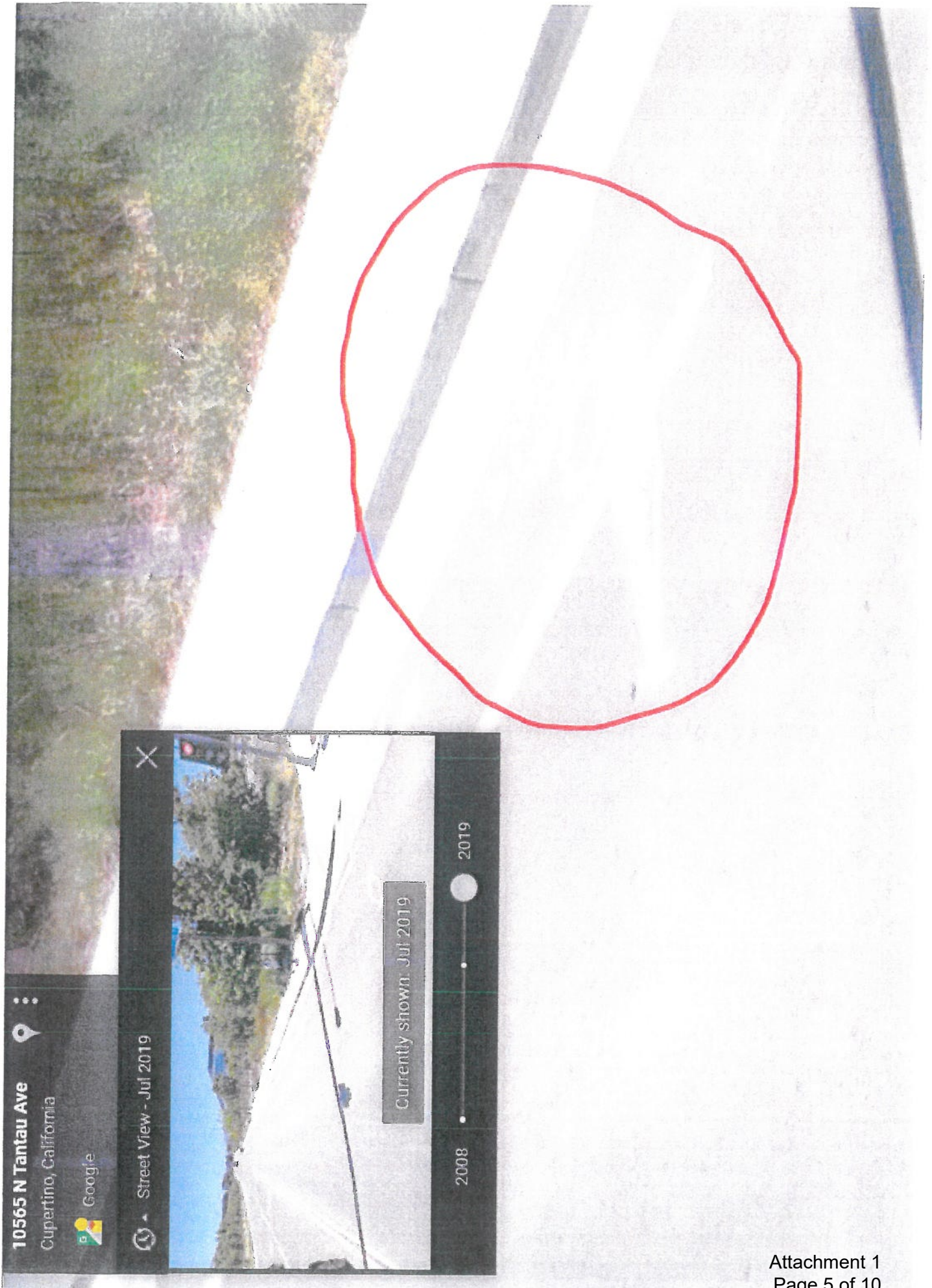
- (1) If written notice is given of a denial of claim in accordance with **Section 913**, not later than six months after the date such notice is personally delivered or deposited in the mail.
- (2) If written notice is not given of a denial of claim in accordance with **Section 913**, within two years from the accrual of the cause of action.

# ATTACHMENT 1









10565 N Tantau Ave  
Cupertino, California

Google

Street View - Jul 2019

Currently shown: Jul 2019

2008 2019







# ATTACHMENT 2

ATTACHMENT 2 TO DAVID WESSEL'S CLAIM AGAINST SANTA CLARA VALLEY WATER DISTRICT

The lip/rise/elevation was of the same concrete that was in the bicycle lane all the way across the bridge. The lip/rise/elevation was parallel to the bike lane. The lip/rise/elevation was very difficult for a cyclist to see, especially at twilight or at night. There was no reason for the lip/rise/elevation. The lip/rise/elevation was only on the bridge, and only on part of the bridge. It was not at the beginning of the north end of the bridge. It was not on the south end of the bridge. It did not give a cyclist travelling at a reasonable speed time to perceive and react to it, especially at twilight when it was essentially invisible due to the absence of signage and lighting.

The lip/rise/elevation caused David Wessel to fall when the wheels on his bicycle came into contact with the lip/rise/elevation. The fall caused by the lip/rise/elevation and the conduct of the District caused David Wessel severe bodily injuries and severe emotional distress. As a consequence of his injuries, his wife, Karen M. Platt, suffered loss of consortium.

The District, its agents, servants, employees, partners, coventurers, contractors and/or collaborators negligently designed, constructed, maintained, and repaired the bridge over Calabazas Creek, including but not limited to insufficient roadway signage and marking, inadequate lighting, and it inadequately and poorly maintained the roadway approaching the location of the fall. There was no signage at all on North Tantau Avenue warning cyclists of the lip/rise/elevation.

The District installed signage on North Tantau Avenue that clearly designated the bike lane on southbound North Tantau Avenue. The signage clearly indicated that the bike lane was a safe area for a cyclist. The District thus installed misleading and inadequate signage for cyclists on North Tantau Avenue.

The District's conduct created a dangerous condition of the roadway for cyclists. This dangerous condition created a reasonably foreseeable risk that this kind of incident and injuries to David Wessel would occur. The dangerous condition, the lip/rise/elevation in the bicycle lane parallel to the bicycle lane, caused David Wessel's fall.

The negligent or wrongful conduct of an employee of the District acting within the scope of his or her employment created, designed and constructed the dangerous condition. A reasonable examination of the bridge would have revealed the dangerous condition. The dangerous condition has existed since before October 2017 and should have been discovered by The District in the exercise of due care, and it would have been discovered by the District had the District a reasonably adequate inspection system maintained and operated with due care.



# ATTACHMENT 3

ATTACHMENT 3 TO DAVID WESSEL'S CLAIM AGAINST THE SANTA CLARA COUNTY WATER DISTRICT

- Left Hand – Severely injured and broken. The injury required surgery that pinned the bones together.
- Right Hand – Severe bruising/contact injuries.
- Both Legs – Bruising, strains, and abrasions.
- Both Wrists – Pain and bruising. Carpel tunnel syndrome in left wrist.
- Exacerbation of pain in right hip with preexisting arthritis, hastening the need for surgical treatment.
- Emotional distress over pain and change of lifestyle.