

PANISH | SHEA | RAVIPUDI LLP
 BRIAN J. PANISH, State Bar No. 116060
panish@panish.law
 RAHUL RAVIPUDI, State Bar No. 204519
ravipudi@panish.law
 ALEXANDER BEHAR, State Bar No. 271799
abehar@panish.law
 11111 Santa Monica Boulevard, Suite 700
 Los Angeles, California 90025
 Telephone: 310.477.1700
 Facsimile: 310.477.1699

Electronically FILED by
 Superior Court of California,
 County of Los Angeles
 9/17/2024 12:48 PM
 David W. Slayton,
 Executive Officer/Clerk of Court,
 By J. Hernandez, Deputy Clerk

Attorneys for Plaintiffs Vinita E. Weir, Desmond
 E. Williams, Olive M. Williams, and Carlos A.
 Solloa

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, WEST DISTRICT

VINITA E. WEIR, an individual, DESMOND
 E. WILLIAMS, an individual, OLIVE M.
 WILLIAMS, an individual, CARLOS A.
 SOLLOA, an individual,

Plaintiffs,

v.

STATE OF CALIFORNIA, a government
 entity, THE PEOPLE OF THE STATE OF
 CALIFORNIA, ACTING BY AND
 THROUGH THE DEPARTMENT OF
 TRANSPORTATION, a government entity,
 CALIFORNIA COASTAL COMMISSION, a
 government entity, CITY OF MALIBU, a
 government entity, COUNTY OF LOS
 ANGELES, a government entity, and DOES 1
 through 25, Inclusive,

Defendants.

Case No. **24SMCV04482**

COMPLAINT FOR DAMAGES

**1. DANGEROUS CONDITION OF
 PUBLIC PROPERTY**

DEMAND FOR JURY TRIAL

COMES NOW Plaintiffs VINITA E. WEIR, an individual and a wrongful death beneficiary
 of Asha Weir, DESMOND E. WILLIAMS, an individual and wrongful death beneficiary of Deslyn
 Williams, OLIVE WILLIAMS, an individual and wrongful death beneficiary of Deslyn Williams
 ("Williams Decedent"), and CARLOS A. SOLLOA, an individual (collectively, "Plaintiffs"), for
 causes of action against the STATE OF CALIFORNIA, a government entity, acting by and through

its agents, departments, agencies, actors, bodies, elected officials, and municipalities, including THE PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE DEPARTMENT OF TRANSPORTATION ("CALTRANS"), a government entity and the CALIFORNIA COASTAL COMMISSION ("COASTAL COMMISSION"), a government entity (collectively, "CALIFORNIA STATE DEFENDANTS"), CITY OF MALIBU, a government entity, COUNTY OF LOS ANGELES, a government entity, and DOES 1 through 25, Inclusive (hereafter collectively "Defendants"), who complain and allege as follows:

GENERAL ALLEGATIONS

1. This claim arises from the wrongful deaths of Asha Weir (DOB 5/29/2002) and Deslyn Williams (DOB 3/15/2002), as well as personal injuries to Plaintiff CARLOS A. SOLLOA, which occurred on October 17, 2023 at approximately 8:30 p.m. on the northbound shoulder of PCH, at or near 21625 Pacific Coast Highway ("PCH"), Malibu, California when a speeding vehicle traveling northbound on PCH lost control while attempting to navigate the curving road and careened into the shoulder, striking multiple vehicles and pedestrians, including decedents (hereinafter, the "Collision").

2. At all relevant times herein, Plaintiff VINITA E. WEIR was a resident of Harleysville, Pennsylvania. Plaintiff VINITA WEIR was Asha Weir's natural mother and an heir.

3. At all relevant times herein, Plaintiff OLIVE M. WILLIAMS was a resident of Smyrna, Georgia. Plaintiff OLIVE M. WILLIAMS was Deslyn Williams' natural mother and heir.

4. At all relevant times herein, Plaintiff DESMOND E. WILLIAMS was a resident of Smyrna, Georgia. Plaintiff DESMOND WILLIAMS was Deslyn Williams' natural father.

5. At all relevant times herein, Plaintiff CARLOS A. SOLLOA was a resident of Malibu, California.

6. Plaintiffs VINITA E. WEIR, DESMOND E. WILLIAMS, and OLIVE M. WILLIAMS have standing to bring a wrongful death cause of action as wrongful death beneficiaries under California Code of Civil Procedure § 377.60.

7. Defendant STATE OF CALIFORNIA is a public entity with the capacity to sue and be sued. Defendant STATE OF CALIFORNIA is responsible for the actions, omissions, policies,

procedures, practices, and customs of its various agents and agencies, and is sued in accord with the California Tort Claims Act, Government Code, §§ 910 et seq., for the acts and omissions of public employees.

8. Defendant CALTRANS is a public entity with the capacity to sue and be sued. Defendant STATE OF CALIFORNIA is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, and is sued in accord with the California Tort Claims Act, Government Code, §§ 910 et seq., for the acts and omissions of public employees.

9. Defendant COASTAL COMMISSION is a public entity with the capacity to sue and be sued. Defendant STATE OF CALIFORNIA is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, and is sued in accord with the California Tort Claims Act, Government Code, §§ 910 et seq., for the acts and omissions of public employees.

10. Defendant CITY OF MALIBU is a public entity with the capacity to sue and be sued. Defendant STATE OF CALIFORNIA is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, and is sued in accord with the California Tort Claims Act, Government Code, §§ 910 et seq., for the acts and omissions of public employees.

11. Defendant COUNTY OF LOS ANGELES is a public entity with the capacity to sue and be sued. Defendant STATE OF CALIFORNIA is responsible for the actions, omissions, policies, procedures, practices, and customs of its various agents and agencies, and is sued in accord with the California Tort Claims Act, Government Code, §§ 910 et seq., for the acts and omissions of public employees.

12. Plaintiffs are informed and believe, and thereon allege that, at all relevant times, Defendants CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, and COUNTY OF LOS ANGELES and/or DOES 1 through 25, inclusive, including their respective employees and agents, and each of them, owned, occupied, leased, used, maintained, managed, controlled, designed, or operated the HIGHWAY, identified as follows: the approximate .8 mile stretch of PCH, from Las

1 Flores Canyon Road to Carbon Canyon Road, in Malibu, California, including the shoulders of the
2 ROADWAY, is known as "Dead Man's Curve", due to the high number of auto accidents which
3 have occurred in this location, as described in greater detail below.

4 13. In this respect, it is understood and believed that the Defendants CALIFORNIA
5 STATE DEFENDANTS, CITY OF MALIBU, and COUNTY OF LOS ANGELES and/or DOES 1
6 through 25, inclusive, owned, leased, maintained, operated, controlled, repaired, supervised,
7 designed, managed and/or occupied the property upon which the COLLISION occurred.

8 14. The true names, identities, or capacities, whether individual, associate, corporate, or
9 otherwise, of Defendants DOES 1 through 25, inclusive, and each DOE in between, are unknown
10 to Plaintiffs at this time, and Plaintiffs therefore sue said Defendants by such fictitious names. When
11 the true names, identities, capacities, or participation of such fictitiously designated Defendants are
12 ascertained, Plaintiffs will seek leave of Court to amend the Complaint to insert said names,
13 identities, capacities, together with the proper charging allegations. Plaintiffs are informed and
14 believe and thereon allege that each of the Defendants sued herein as a DOE is responsible in some
15 manner for the events and happenings herein referred to, thereby legally causing the damages to
16 Plaintiffs as hereinafter set forth.

17 15. In compliance with Government Code § 910, on or about April 2, 2024, Plaintiffs
18 timely presented claims to Defendants for the injuries, disabilities, losses, and damages suffered and
19 incurred by them by reason of the Collision described in this complaint. Defendants confirmed
20 receipt of said claim and rejected them, with this action being filed within six months of the date of
21 rejection. Thus, this action has been filed within the time allowed by Government Code § 945.6.

22 16. On October 17, 2023 at approximately 8:30 p.m., Asha Weir, Deslyn Williams,
23 Niamh Rolston, and Peyton Stewart (collectively, "Decedents") were struck and killed by a motorist
24 operating a 2016 BMW M5 ("BMW Driver") on the northbound shoulder of PCH, at or near 21625
25 Pacific Coast Highway, Malibu, California. Plaintiff CARLOS SOLLOA, who was legally parked
26 on the northbound shoulder of PCH in this location at this time, was also rear-ended by the BMW
27 Driver during the collision sequence, receiving significant orthopedic and neurologic injuries.

28 17. At that time, Decedents, University of Pepperdine ("Pepperdine") undergraduate

1 students, parked their vehicle at or near 21625 Pacific Coast Highway in order to attend a school
2 social event at or near 21549 Pacific Coast Highway, Malibu, California. Upon information and
3 belief, Decedents were pedestrians on the northbound shoulder at the time of the impact, attempting
4 to walk to the event location.

5 18. At that same time, Mr. Solloa, also a Pepperdine undergraduate student, was legally
6 parked in his vehicle, a 2021 Volkswagen Jetta, at or near 21633 PCH, also with the intention of
7 walking to and attending the social event.

8 19. As the BMW Driver traveled northbound on PCH through Dead Man's Curve, he lost
9 control of his vehicle and travelled into the northbound shoulder. Upon information and belief, the
10 BMW Driver first collided with a legally parked car on the northbound shoulder of PCH, at or near
11 21613 PCH, then continued northbound, striking and killing Decedents, and finally impacted
12 Plaintiff CARLOS SOLLOA's vehicle, causing orthopedic and neurologic injuries.

13 20. Pursuant to California Government Code §§815.2, 815.4, 820, 830, 835, 830.8,
14 840.2, the design of the HIGHWAY was a dangerous condition of public property that was a
15 substantial factor in causing this collision. Specifically, upon and belief, the HIGHWAY was
16 designed, constructed, created, maintained, repaired, inspected, operated, controlled, signaled,
17 patrolled, and regulated by the CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU,
18 COUNTY OF LOS ANGELES, and DOES 1 through 25.

19 21. The HIGHWAY was a dangerous condition at the time of collision. Specifically,
20 this winding stretch of roadway directs high-speed, high-volume motor vehicle traffic through a
21 residential neighborhood, where pedestrians are forced to walk along unprotected shoulders, without
22 sidewalks or crosswalks, and around parked vehicles and other obstacles, in order to access homes
23 and the publicly accessible beach area, in this popular tourist destination, with extensive pedestrian
24 traffic. Pedestrians are thus placed in an unreasonable dangerous situation, walking along this
25 speedway, and further without warnings/signs/signals/markings as to its dangers, including but not
26 limited to excessive vehicle speeds and excessive auto collisions in this location, including vehicle
27 loss of control and impacts on the shoulders where pedestrians are directed and permitted to walk,
28 without protections, in order to access the ocean as well as homes in the area. Persons in parked

1 vehicles on the shoulders are also in danger of collisions with traffic, as pedestrians, bicyclists, and
2 vehicles all compete for access on this narrow right-of-way and routinely come into conflict with
3 each other. As such, the design of this roadway and pedestrian traffic plan, or lack thereof, caused
4 this stretch of PCH to be a dangerous condition, which was a substantial factor in the subject
5 collision. This danger of high speed vehicle traffic in the pedestrian right-of-way/shoulder was not
6 apparent or anticipated by reasonable persons, as the HIGHWAY had a posted speed limit of 45
7 mph with crosswalks and parking permitted on the shoulder, which directs and encourages
8 pedestrians that the shoulder is safe for their movement and further that traffic will be operating at
9 lower speeds compatible with pedestrians traffic, including but not limited to permitting safe travel
10 through the unprotected crosswalks and along the shoulders.

11 22. Specifically, the design of the roadway created a substantial risk of injury to members
12 of the general public, including Decedents and Mr. Solloa, when used with reasonable care and in a
13 reasonably foreseeable manner. The subject roadway had various dangerous conditions existing
14 thereon, including but not limited to, the following:

- 15 a. Improper/unsafe pedestrian traffic design,
- 16 b. Lack of a pedestrian traffic plan,
- 17 c. Lack of sidewalks and pedestrian facilities,
- 18 d. Lack of pedestrian safeguards to prevent auto v. pedestrian collisions on or
19 around the shoulders of the roadway, including but not limited to k-rails, delineators, traffic barriers,
20 raised curbs, and other similar roadway barriers,
- 21 e. Narrow shoulders in which vehicles and trash receptacles were permitted to
22 be located/parked, further reducing pedestrian right-of-way, and increasing interactions with
23 oncoming vehicles,
- 24 f. Lack of pedestrian bridges to access the beach/coast,
- 25 g. Improper/unsafe vehicle parking design,
- 26 h. Pedestrian traffic should not be permitted on the shoulders of PCH in the area
27 of Dead Man's Curve,
- 28 i. Motor vehicle parking should not be permitted on the shoulders of PCH in

the area of Dead Man's Curve,

- j. Lack of speed feedback signs,
- k. Lack of optical speed bars,
- l. Lack of enhanced striping at curves,
- m. Lack of speed limit markings on the pavement,
- n. Lack of Safety Corridor designation,
- o. Improper/unsafe traffic light phasing/synchronization,
- p. Lack of red light and speed cameras,
- q. Lack of signage indicating pedestrian crossing and presence,
- r. Lack of a reasonable inspection system to monitor traffic speeds and accidents,
- s. Lack of acceleration/deceleration lanes,
- t. Failure to monitor and stop encroachments of the State's right-of-way,
- u. The following safety measures, which would work to prevent excessive speeding, and which were not present on the date of collision¹:
 - i. Lane narrowing,
 - ii. Lowering speed limits,
 - iii. Lane reductions,
 - iv. Additional medians,
 - v. Additional pedestrian crossings,
 - vi. Better/additional speed surveys.

23. Further, there was negligence by the agents, independent contractors, and/or employees of said governmental entities in the ownership, control, construction, maintenance, inspection, placement, supervision, repairs, design, permitting, management and modifications of and to the subject roadway and adjacent property, including but not limited to:

¹ Special Meeting of PCH Task Force, November 14, 2023, conducted by State Assembly member Jacqui Irwin. These measures were identified as necessary measures by Steve McClary, City Manager, City of Malibu.

a. Failure to properly supervise, educate, train, monitor, control, and/or test workers in safe maintenance and construction of the subject roadway,

b. Failure to either inspect the subject roadway to ensure that it is not dangerously constructed, confusing, or lacking adequate warnings,

c. Failure to require plans to be submitted for review and to ensure the subject roadway would be safe and not lacking adequate warnings to alert vehicles traveling on the subject roadway of the dangerous condition, including but not limited to pedestrian presence on the shoulders and excessive speed warnings,

d. Failure to reduce, warn, prevent or prohibit vehicles from traveling on the part of the subject roadway that had the dangerous conditions,

e. Failure to provide safe alternative routing so that pedestrians may avoid the unsafe and dangerous conditions on the subject roadway, and/or

f. Failure to properly plan, modify, alter, construct, repair, monitor, improve, change, manage, design, control, maintain, and service the subject roadway after the occurrence of other incidents and injuries involving the dangerous condition on the subject roadway.

24. This dangerous roadway created a reasonably foreseeable risk of the kind of injuries/deaths that occurred herein. Specifically, if a vehicle loses control on this speedway, or due to inattention, travels over the fog line into the shoulder, or enters the shoulder for any other reason, there is an unreasonable risk of a collision with pedestrians and parked vehicles on the shoulder, which is precisely what occurred herein.

25. Defendants CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, and COUNTY OF LOS ANGELES and/or DOES 1 through 25, inclusive created this dangerous condition in their design, control, maintenance, and inspection of this roadway.

26. As detailed below, the CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, and COUNTY OF LOS ANGELES and/or DOES 1 through 25 had notice of the dangerous condition of this roadway for many years, and thus had enough time to protect against it. Specifically, pursuant Government Code §835.2, these entities had both actual notice of the high vehicle speeds, high accident rates, high pedestrian traffic, and dangerous nature of this roadway,

1 without sufficient speed controls, enforcement measures, and pedestrian safeguards, and/or
2 constructive notice of these dangerous conditions of this public roadway for enough time before the
3 incident and was so obvious that said parties reasonably should have discovered these conditions
4 and known it was dangerous.

5 27. To this end, multiple speed studies, collision studies, engineering studies, traffic
6 collisions, safety studies, parking studies, recommendations, and complaints by the community have
7 been to these entities concerning these conditions over the past thirty plus years, putting them on
8 notice of the dangerous condition of this roadway, including but not limited to:

9 28. Between January 16, 2012 through July 26, 2023, crash data obtained from The
10 Statewide Integrated Traffic Records System (SWITRS) as well as Traffic Accident Surveillance
11 and Analysis System (TASAS), evidence that 217 reported auto collisions have occurred on this .8
12 mile stretch of PCH, 64 of which were due to unsafe speed. SWITRS database is maintained and
13 compiled by the California Highway Patrol and is publicly available. Similarly, the TASAS
14 database is maintained and compiled by CALTRANS and is publicly available.

15 29. The crash data from SWITRS and TASAS shows that for each year during this time
16 period, the number of reported auto collisions has been consistently and unreasonable high, as
17 follows: 17 collisions in 2012, 25 collisions in 2013, 15 collisions in 2014, 23 collisions in 2015, 17
18 collisions in 2016, 25 collisions in 2017, 15 collisions in 2018, 16 collisions in 2019, 9 collisions in
19 2020, 19 collisions in 2021, 21 collisions in 2022, and 15 collisions in 2023.

20 30. The above data does not include recent similar motor vehicle collisions on PCH in
21 Malibu, including but not limited to:

- 22 a. The subject incident,
- 23 b. A multivehicle collision on January 11, 2024 at approximately 8:40 p.m. at
24 PCH and Las Flores Canyon Rd., Malibu, CA, where two people were injured, one critically.
- 25 c. A January 4, 2024 collision on PCH near Big Rock Canyon Drive, Malibu,
26 in which the involved vehicle was reported traveling in excess of 100 mph and causing a multiple
27 vehicle collision.
- 28 d. A December 2023 in which a driver was traveling 96 mph on PCH resulting

1 in a rollover, multi-vehicle crash on PCH.

2 31. The following collisions specifically occurred between a vehicle in transit on PCH
3 colliding with an object, vehicle, or pedestrian on the shoulder of Dead Man's Curve:

	Collision Date	Traffic Collision Report Number
4 1.	5/14/13	190005175
5 2.	09/21/13	190030182
6 3.	09/22/13	190067716
7 4.	09/28/13	190030052
8 5.	10/12/13	190016547
9 6.	11/07/14	190014204
10 7.	12/18/14	190062825
11 8.	12/29/16	190030052
12 9.	12/31/16	190033002
13 10.	02/18/17	190016547
14 11.	02/21/17	190086516
15 12.	04/13/17	190067716
16 13.	05/27/17	190052036
17 14.	07/01/17	190036406
18 15.	01/09/18	190039642
19 16.	04/13/18	190067716
20 17.	07/10/18	190002354
21 18.	09/16/18	190025547
22 19.	12/23/18	190050495
23 20.	05/15/19	190011143
24 21.	06/17/19	190035554
25 22.	11/02/20	190028829
26 23.	11/14/21	190015799

1	24.	02/15/22	190028829
2	25.	03/08/22	190020676
3	26.	05/04/22	190051177
4	27.	06/20/22	190002404
5	28.	11/24/22	190041904
6	29.	12/15/22	190028829
7	30.	02/28/23	190038328
8	31.	03/23/23	190060092
9	32.	02/13/15	190025042
10	33.	04/20/13	190025042
11	34.	12/01/13	190039464
12	35.	01/31/16	190007736
13	36.	02/11/16	190025042
14	37.	08/18/16	190007387
15	38.	02/19/17	190052036
16	39.	07/24/17	190014004
17	40.	07/28/17	190078142
18	41.	11/11/17	190002403
19	42.	01/23/19	190025420
20	43.	06/12/19	190052036
21	44.	07/04/19	190052036
22	45.	09/26/19	958018583
23	46.	11/02/20	190028829
24	47.	04/18/21	190052036
25	48.	08/04/21	190052036
26	49.	11/25/21	190052863
27	50.	03/14/22	190044588
28			

51.	04/23/22	190038130
52.	06/05/22	190015042
53.	08/17/22	190061664
54.	08/25/22	190051177
55.	01/27/23	190007732
56.	05/16/17	190030045
57.	05/01/18	190002403
58.	05/01/19	190022028
59.	06/27/21	190022013
60.	08/01/22	190002408
61.	03/05/23	190035554
62.	03/25/23	190035554

32. CALTRANS Table B data from July 1, 2017 through June 30, 2020 as to reported collisions in Dead Man's Curve (at or near PM 44.119 – PM 44.963) evidence the statistically significant number of reported motor vehicle accidents in this area. Specifically, Actual Total Accident Rate denotes the number of total reported accidents in Dead Man's Curve, as compared to the State average for a similar roadway (Average Total)² :

Location Description (Postmile)	Accident Rate – Actual (Dead Man's Curve) (Acc/MVM)	Accident Rate – Average (Acc/MVM)	Fatality Rate- Actual (Acc/MVM)	Fatality Rate- Average (Acc/MVM)
43.810 – 44.151	2.64	1.92	0	.017
44.152-53.710	1.36	1.45	.011	.010

33. An October 31, 2013 CALTRANS Speed Zone Survey Report noted that 85th percentile speed on PCH from Coastline Drive (PM 40.07) to Malibu Canyon Road (PM 48.36) was

² All Accident Rates in the Table B calculations, above, expressed as # of accidents / million vehicle miles ("MVM")

1 between 48 mph to 50 mph, above the 45 mph posted speed limit.

2 34. Specifically, that the 85th percentile of speeds at PCH and Las Flores Canyon Rd.
3 was 48 mph for northbound travel and 47 mph for southbound. Further, the 85th percentile of
4 speeds at PCH and Carbon Canyon Rd was 48 mph for northbound travel and 49 mph for
5 southbound travel. Yet CALTRANS made no changes to the posted speed limit or safety changes
6 to decrease the speed traveled.

7 35. Los Angeles County Sheriff Capt. Jennifer Seetoo, who oversees the Malibu region,
8 admitted prior government knowledge of the hazard: "It's (SR-1, Malibu) Main Street plus parking
9 for a beach...It's (SR-1, Malibu) a walkway and you literally have people going 100 miles an hour."
10 "She (Capt. Seetoo) points to nine pedestrians who died in 2021 alone". "The public wasn't 'rocked
11 because six of them were from my homeless population,' Seetoo said, adding the department handed
12 out reflective strips for the unhoused to wear at night. "She (Capt. Seetoo) wants to see speed
13 cameras installed and believes the four students would be alive if they had been." " 'I'll never forget
14 looking into those parents' eyes, it was literally the worst day of my career,' she (Capt. Seetoo) said.
15 'What if we pushed harder? What if we had those speed cameras? I don't know if this would've
16 happened.' " Kravarik, Jason. "A road to paradise paved in misery: 4 Pepperdine students are just
17 the latest to die on Malibu's broken highway". CNN, December 18, 2023.

18 36. Los Angeles County Sheriff Capt. Jennifer Seetoo, "Since the [subject] accident, I
19 had a person driving 112 [mph] [on the subject roadway, PCH] -- the car was impounded. A person
20 driving 109 [mph] , 18 years old, unlicensed driver. Another person driving 107[mph] ," said Seetoo.
21 Christine Cordero. "PCH safety: 2015 report listed hundreds of recommendations, but has anything
22 changed?" ABC, October 31, 2023.

23 37. Los Angeles County Sheriff reported that, of 6,183 citations issued along the Malibu
24 roadway in the last four years, more than 3,000 were for speeding. Karen Garcia. " 'Enraged': PCH
25 crash is focus of emotional Malibu council meeting, where speakers demand change". Los Angeles
26 Times, October 24, 2023.

27 38. Los Angeles County Sheriff reported that on October 22, 2023, at 1:23 a.m., an 18-
28 year-old driver without a license was arrested on suspicion of reckless driving, at a speed of 109

1 mph. Karen Garcia. "‘Enraged’: PCH crash is focus of emotional Malibu council meeting, where
2 speakers demand change". Los Angeles Times, October 24, 2023.

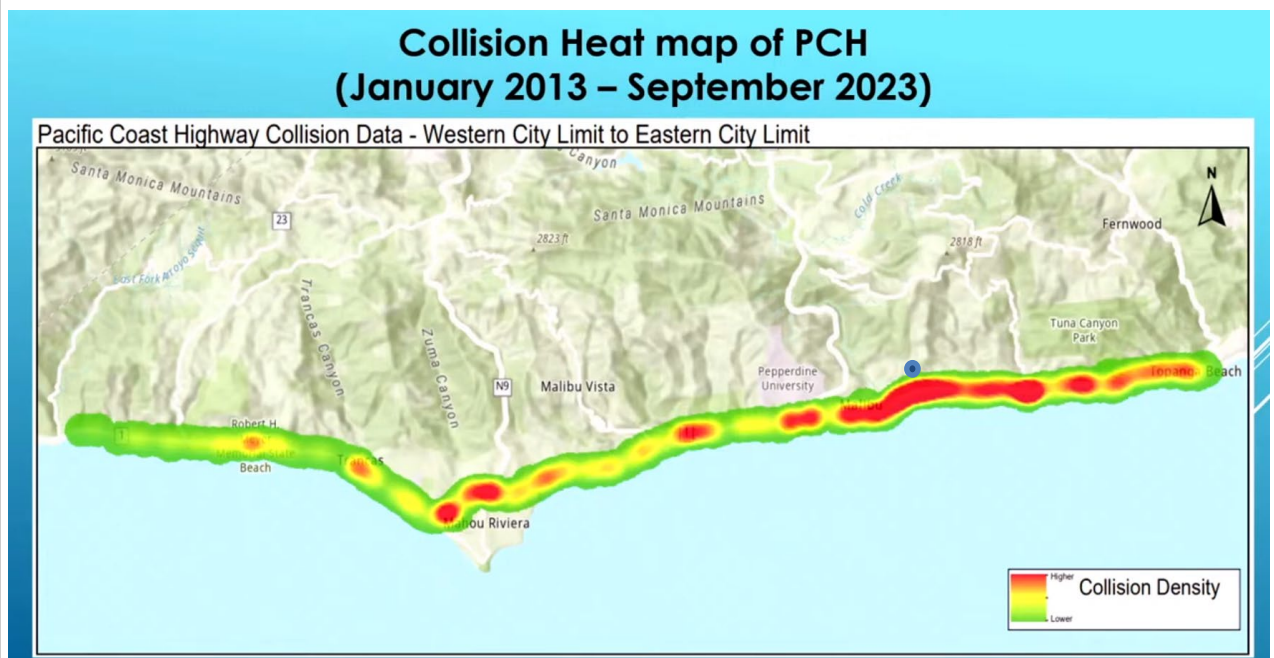
3 39. “We’ve got this major highway running through the center of our city — it’s a
4 racetrack; it has been for years,” Uhring said. “We need some help.” Quote attributed to Malibu
5 Mayor Steve Uhring. Richard Winton, Jeremy Childs, Karen Garcia. Los Angeles Times, October
6 25, 2023.

7 40. As reported by Los Angeles County Sheriff Capt. Jennifer Seetoo at the Special
8 Meeting of PCH Task Force, November 14, 2023³:

9 a. In 2023, there were 230 vehicular collisions on PCH in Malibu, including 3
10 fatal collisions, not including those of Decedents herein.

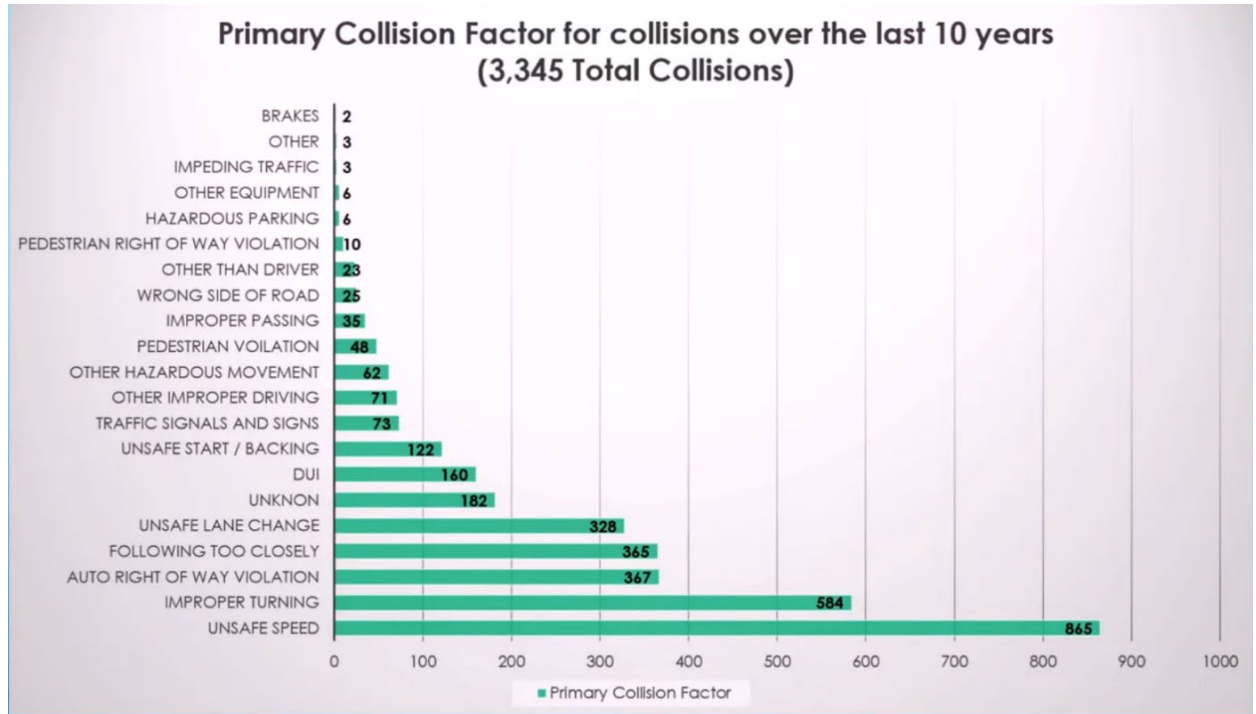
11 b. Between 2013 – 2023, there were at total of 3,345 vehicle collisions on PCH
12 in Malibu, resulting in 53 deaths and 92 serious injuries.

13 c. Below is a Collision Heat Map presented by Capt. Seetoo evidencing the high
14 density (red) collisions in the location of Dead Man's curve (indicated by blue dot- annotation added)
15 based upon CHP available and known crash data (SWITRS) from January 2013 – September 2023):



3 PCH Task Force, November 14, 2023. A link to this publicly broadcast meeting can be found
here: <https://www.dropbox.com/sc/fi/uzt846ekycidf35h27sps/PCH-Taskforce-Meeting-November-14-2023.mp4?rlkey=3x371ikdajxs863hkb3rsq312&dl=0>

d. Below is a diagram presented by Capt. Seetoo showing the primary collisions factors as determined by the investigating officers of these same 3,345 vehicular collisions, evidencing unsafe speed as the overwhelming factor (865 times), of which all entities herein were on notice of well before the subject collision:



e. In the past 10 years, Capt. Seetoo stated that the Sheriff's Dept. has issued 42,102 speeding citations on PCH in Malibu,

f. Below are crash images on PCH presented by Capt. Seetoo with radar speed on the subject highway evidencing involved speeds of 107 mph, 109 mph, and 112 mph:

///

///

///

///

///

///

///

///



41. At the same PCH Task Force meeting, Rafael Molina, Caltrans Deputy District Director for District 7, encompassing Malibu, admitted, "About a third of all collisions [on PCH] are related to speed".

42. The 2015 PCH Safety Plan⁴ presented to the City of Malibu on or about May 15, 2015 and approved by the Malibu City Council on June 22, 2015. The plan made 130 safety project and changes to PCH. To date, only 7 have been completed, despite \$28,049,719 available in funds designated for these projects.⁵ In the words of Steve McClary, City Manager, City of Malibu, "I think our biggest takeaway from all is that it has taken eight years to get where we are, and I think for us, the progress [on these safety measures to PCH] is just not unacceptable". Id.

43. The 2015 PCH Safety Plan made the following observations and recommendations. Specifically, noted below with supporting data, Dead Man's Curve has consistently had the highest

⁴ 2015 PCH Safety Plan was prepared by Stantec Consulting Ltd. ("Stantec") for the City of Malibu and the Southern California Association of Governments and presented on May 15, 2015. A copy of the report is publicly available on the Malibu City website, and can be found here: <https://www.malibucity.org/751/PCH-Safety-Study-Final-Report>

⁵ Special Meeting of PCH Task Force, November 14, 2023, statements/presentation of Steve McClary, City Manager, City of Malibu

percentage of collisions. Further, the unsafe speed has consistently been the primary collision factor in these accidents. Moreover, this area has high pedestrian and traffic volumes, with no sidewalks or protected pedestrian pathways, presenting dangers to pedestrians. All of which, as evidenced in this report, was known by these government entities well in advance of the subject collision:

a. "As a State Highway, PCH is controlled, maintained, and operated by the California Department of Transportation (Caltrans)". Id., 1.0 Introduction, p.1.

b. "Vehicle speeds appear to be higher than desirable for safety and resident experience, and traffic collisions have become all too frequent. Due to high traffic volumes and other factors, the roadway experiences a high number of traffic collisions, approximately one per day. The incidents can result in injuries or death and also can cause the roadway to be frequently closed or congested around collision sites." Id. 1.0 Introduction, p.1.

c. "The winding nature of PCH has the potential to be a visual impediment for all modes of travel". Id., Appendix 1, p. 3.

d. "Due to infrequent crosswalks in this area, residents and visitors parking and/or visiting the commercial areas on the north side of the highway are encouraged to cross PCH without a marked crosswalk to reach popular restaurants and beaches located on the southern side." Id., Appendix 1, p. 3.

e. On PCH between the intersection of Topanga Canyon Road and Cross Creek Road ("Study Area 1"), which encompasses Dead Man's curve, "The average daily traffic (ADT) volume along this highway segment is 45,330 vehicles during the week and 47,490 vehicles on weekends." Id., Appendix 1, p. 5.

f. As to Study Area 1, "On the northern side, the shoulder is of inconsistent width and is frequently obstructed bring bicyclists into the travel lane...Commercial, residential, recreational centers are located along PCH between Big Rock Drive and Cross Creek Road, so different modes of travel (cars, bus, bicycles, pedestrians, trucks) interact extensively in this study area. Parking along PCH is free, which results in competition for these spaces. Parking maneuvers can be sudden, creating a possibly unsafe condition. The ADT volume here is 46,390 during the week and 46,790 vehicles on weekends" Id., Appendix 1, p. 5-7.

1 g. "U-turns are prohibited westbound at the intersections of Las Flores Canyon
2 Road/PCH and Carbon Canyon Road/PCH, eastbound at the intersection of Rambla Pacifico
3 Street/PCH and both eastbound and westbound at the intersection of Cross Creek Road/PCH. No
4 warning signs about curves, pedestrians, bicycles, or driveways are installed along this section."
5 Id., Appendix 1, p. 7.

6 h. "On-street parking is provided on both sides of PCH between Big Rock Drive
7 and Cross Creek Road, and there are approximately 50 residential and commercial driveways
8 between Carbon Canyon Road and Rambla Vista (0.68 mile). These conditions increase friction and
9 conflict points, causing congestion along this segment of PCH. Parking for homes abutting PCH
10 backs up to the highway and may be a safety concern". Id., Appendix 1, p. 7.

11 i. "In the 1990s, all six of the most common locations for traffic collisions were
12 in Study Area 1 (specifically, Big Rock Drive to Cross Creek Road)...Since 2010, Study Area 1 has
13 again been the most common area for traffic collisions. Of the top six locations, only Webb Way at
14 PCH is in Study Area 2. The most common location for traffic collisions since 2010 has been near
15 Carbon Canyon Road at PCH. This one location accounts for nearly 8 percent of all collisions since
16 2010". Id., Appendix 1, p. 22.

17 j. "Two of the fatal incidents on PCH were the result of homicide. On April 3,
18 2010, according to court records, a driver purposely veered off the roadway to strike a pedestrian
19 on the shoulder of the roadway." Id., Appendix 1, p. 22.

20 k. "These were the most common collision factors in the 1990s: Unsafe speed
21 (36 percent), ROW violation (12 percent), Improper turning (12 percent), Driving under the
22 influence (DUI) (8 percent)." Id., Appendix 1, p. 24.

23 l. "The most common collision factors in the 2000s were the following: Unsafe
24 speed (38 percent), Unsafe lane change (15 percent), ROW violation (11 percent), Improper turning
25 (9 percent)". Id., Appendix 1, p. 24-26.

26 m. "Since 2010, the most common collision factors have been the following:
27 Unsafe speed (34 percent), Unsafe lane change (11 percent), ROW violation (10 percent),
28 Improper turning (9 percent)." Id., Appendix 1, p. 26.

1 n. "Again, unsafe speed (defined as speed greater than is reasonable or prudent
2 with due regard for weather; visibility; and the traffic on, and the surface and width of, the highway)
3 continues to be the most common collision factor... As seen in Figure 8, a cluster of unsafe speed
4 collisions have occurred along PCH between Rambla Vista and Las Flores Canyon Road in the last
5 6 months. The majority of these collisions occurred within Study Area 1." Id., Appendix 1, p. 26.

6 o. "LSA conducted eight independent floating speed surveys within the flow of
7 traffic along the PCH corridor and during varying times of day. These speed surveys found that
8 prevailing speeds on PCH are typically 4–6 mph higher than the posted speed limit." Id., Appendix
9 1, p. 26.

10 p. "The City has several beaches that attract millions of visitors every year. PCH
11 provides access to all of them. On-street parking is allowed on PCH near public beaches. Also, most
12 of the commercial areas within the City are located along PCH. This arrangement entices pedestrian
13 activity across PCH...In several pockets or nodes, these land uses and parking facilities are located
14 on either side of PCH, which results in heavy pedestrian use across PCH. Most pedestrian traffic is
15 part of longer trips that start in vehicles then end as a walk from the car to the destination." Id.,
16 Appendix 1, p. 37.

17 q. "Pedestrian facilities such as sidewalks and crosswalks are provided at few
18 locations along PCH.... Sidewalks are not continuous along PCH and are primarily present in Study
19 Area 2 (Cross Creek Road to Busch Drive)". Id., Appendix 1, p. 37.

20 r. As to Study Area 1: "Parking is allowed on both sides, and there are no
21 crosswalks or sidewalks, so pedestrians walk on shoulders and/or between travel-lanes and parked
22 vehicles... These existing conditions may encourage pedestrian crossing where no crosswalk is
23 provided, creating hazards for pedestrians and drivers. " Id., Appendix 1, p. 39.

24 s. "Between Big Rock Drive and Cross Creek Road, PCH is approximately 4.5
25 miles long. This segment has the highest pedestrian crossing volume and high peak-hour traffic
26 volume. The high number of vehicles and pedestrians at the intersections compete for the same
27 ROW during peak hours, resulting in friction between pedestrians and vehicular traffic. " Id.,
28 Appendix 1, p. 39.

t. "Between Las Flores Canyon Road and Rambla Vista (west), PCH has residential uses on both sides with some retail/commercial pockets. Parking is available on both sides, along with sidewalks, but they lack continuity. The south side sidewalk is narrow (less than 4 feet) with walkways partially or fully obstructed by street furniture (signs, trash cans, fire hydrants, etc.), electric poles, and trees. The residential units along this segment of PCH (on the south side only) are closely spaced, and each home has driveway access to its garage. Pedestrians using the sidewalks along this section of PCH have to watch for vehicles pulling in and out of these closely spaced (20–50-foot spacing) driveways. A continuous sidewalk is provided on the north side of PCH for approximately 900 feet west of Rambla Pacifico Street. Access to commercial uses on the northern side of PCH is provided via Rambla Pacifico Street and Rambla Vista (east). The remaining portion of this segment does not have a sidewalk on the north side of PCH, forcing pedestrians to walk on shoulders and/or between travel-lanes and parked vehicles." Id., Appendix 1, p. 39-40.

u. "From 1996 to 1998, 18 traffic collisions in the City involved pedestrians, one of them fatal. Between January 2010 and June 2012, 14 pedestrian collisions occurred in the City, three of them fatal." Id., Appendix 1, p. 41.

v. "The residents of the City and users of PCH, who have daily experience with the existing conditions, had the opportunity to share their knowledge through the public participation process. Meetings were held at the City Hall on September 13, 2012; September 20, 2012; September 27, 2012; and October 4, 2012, for the express purpose of input and definition of existing conditions along the PCH corridor. Written and verbal comments were collected at each of these meetings. In addition, an online public engagement tool was available to the public between August 31, 2012, and October 12, 2012. During this period, 1,327 unique visitors used the website to leave 624 comments." Id., Appendix 1, p. 42. These complaints/comments to City officials included the following⁶:

- i. "PCH is a highway with motorized vehicle speeds at 70+mph!"
- ii. "SLOW DOWN!!!"

⁶ 2015 PCH Safety Plan, Appendix 4B.

- 1 iii. "Accidents would be less significant if speeds were lower."
- 2 iv. "It is dangerous for pedestrians to be expected to safely cross PCH
- 3 with vehicles traveling at very high speeds. There are no signs regarding restrictions to parking,
- 4 jaywalking, or speed limits, to my knowledge. "
- 5 v. "PCH should have reduced speeds through residential areas"
- 6 vi. "Speeds should be reduced."
- 7 vii. "Street parking and walking pedestrians on PCH are a hazard!"
- 8 viii. "People walking to buses need to get there safer."
- 9 ix. "Drivers do not go the posted speed limits, they drive fast."
- 10 x. "Can speed limits be changed/reduced?"
- 11 xi. "Perhaps we should put a digital speed check at various points along
- 12 PCH to see how fast vehicles are going and then move to control it. A series of lights could be timed
- 13 for adjusted traffic flow and keep it at a slower speed. Crosswalks could be added at each stoplight.
- 14 No one seems to be policing the speed on the highway."
- 15 xii. "LOWER THE SPEED LIMIT ON PCH!!!"
- 16 xiii. "There should not be tolerance for vehicles racing."
- 17 xiv. "People speed."
- 18 xv. "Cars never went this fast before, but seem to go faster now."
- 19 xvi. "There are so many pedestrians in PCH."
- 20 xvii. "There are people running across PCH all day long in both
- 21 directions."
- 22 xviii. "When cars are forced to park on the PCH like at Paradise Cove, you
- 23 force people to walk in the street as there are no sidewalks. You are just asking for these people to
- 24 die. You must put in sidewalks if you are making people park on the PCH or the city must acquire
- 25 land for additional parking and restroom services."
- 26 w. "CONCLUSIONS: The data gathered and observations made so far leave
- 27 these general impressions of the PCH corridor: Land uses on either side of PCH entice pedestrian
- 28 crossing...Collisions appear to be more prevalent at certain locations...Unsafe speed (which

includes excessive speed) is a frequently cited contributing factor...Pedestrians need to be accommodated crossing PCH." Id., Appendix 1, p. 42.

x. Traffic statistics with data from the CHP from 1988 – 1994 in the City of Malibu evidenced that the 3rd and 4th highest collision locations on PCH were within Dead Man's Curve. Specifically, PCH at or near Las Flores Cyn Rd. (87 collisions) and PCH at or near Carbon Cyn Rd. (91 collisions). Moreover, that during this time period, Unsafe Speed (495 violations) accounted for the highest primary collision factor. Id., Appendix D, Collision Reports.

44. Below are some of the 130 safety recommendations proposed by the 2015 PCH Safety Plan, which, upon information and belief, were not followed/constructed by the aforementioned government entities⁷:

a. "Evaluate vehicle speeds to determine if lower speed limit is warranted - Past speed surveys for this area indicate a lower speed limit may be warranted, strong public interest for motorists to slow down through this area, slower speeds reduce the severity of collisions"

b. At Las Flores Canyon Rd.: "Consider widening the shoulder if any surplus width is available in travel lanes or median. Inland parking is very heavy in the narrow spot prior to the widening that is located just before Las Flores, this project will provide a buffer for parked vehicles and pedestrians."

c. Below is an aerial map of the study's recommendation to build a sidewalk from Carbon Canyon to Rambla Pacifico:

///

///

///

///

///

///

///

///

⁷ 2015 PCH Safety Plan, Appendix 4C



d. "Detailed evaluation of beach parking areas to determine if additional off-street parking can be achieved."

45. As to the feasibility of these safety changes, the 2015 PCH Safety Plan concludes as follows: "The prospect for funding for most of the recommended projects is considered to be very good." Id. at Appendix 5. Specifically, that funds would be available from the following sources: City funds from gas taxes, property taxes, and sales taxes; City monies received from Proposition C and Measure R; City monies received from fines and forfeitures related to traffic enforcement; the Transportation Development Act; the Los Angeles County Transportation Improvement Program and its Call for Project program, administered by the Los Angeles Metro; the State Transportation Improvement Program; the Governor's office of Traffic Safety Funds; the Active Transportation Program, administered by the California Transportation Commission; the federal Highway Safety Improvement Program; the federal Congestion Mitigation and Air Quality program.

46. The 2015 PCH Safety Plan also included in its appendix a February 2000 traffic study titled, "Traffic Safety Evaluation for Malibu, California", conducted by the California Institute of Transportation Safety, San Diego State University, and presented to the City of Malibu. Id., Appendix D, Collision Reports. It noted the following:

a. "Pacific Coast Highway in Malibu is nearly thirty miles long and suffers an

inordinate number of traffic accidents". Charles Bergson, Public Works Director, City of Malibu. Id., Appendix D, Collision Reports, California Inst. Of Transportation Safety, February 2000 traffic study.

b. "During the analysis of the collision data, seven key areas were noted as having a high propensity for traffic collisions. They key areas include segments adjacent to the intersections along Pacific Coast Highway at ... Las Flores Canyon Road, Carbon Canyon Road...It was determined that unsafe speeds followed closely by unsafe turning movements were the primary source of 60% of all collisions occurring in Malibu". Id., Appendix D, Collision Reports, California Inst. Of Transportation Safety, February 2000 traffic study, p. 1.

c. "Malibu ranks 8th out of 471 cities throughout California by vehicle miles and 9th out of 471 by population for high-collision rates, which suggests Malibu should take active measure to reduce the number of collisions." Id., p. 2.

d. "The Public Works Department and the Department of Transportation (Caltrans) must coordinate for mitigation actions of collisions along Pacific Coast Highway (77% of all collisions in Malibu [occur on PCH]). Id., p. 2.

e. From 1995 through 1998, there were approximately 1,000 traffic collision on PCH. As depicted in the graph below, 4 of the 14 "High Collision Areas" of this 21 mile stretch of PCH in Malibu were found on this .8 mile stretch of Dead Man's Curve, including at PCH and Las Flores Cyn. Rd (97 collisions), Carbon Canyon (64 collisions), Rambla Pacifico (41 collisions), and Rambla Vista (25 collisions) ⁸:

///

///

///

///

///

⁸ 2015 PCH Safety Plan, Appendix D, Collision Reports, California Inst. Of Transportation Safety, February 2000 traffic study, p. 27.

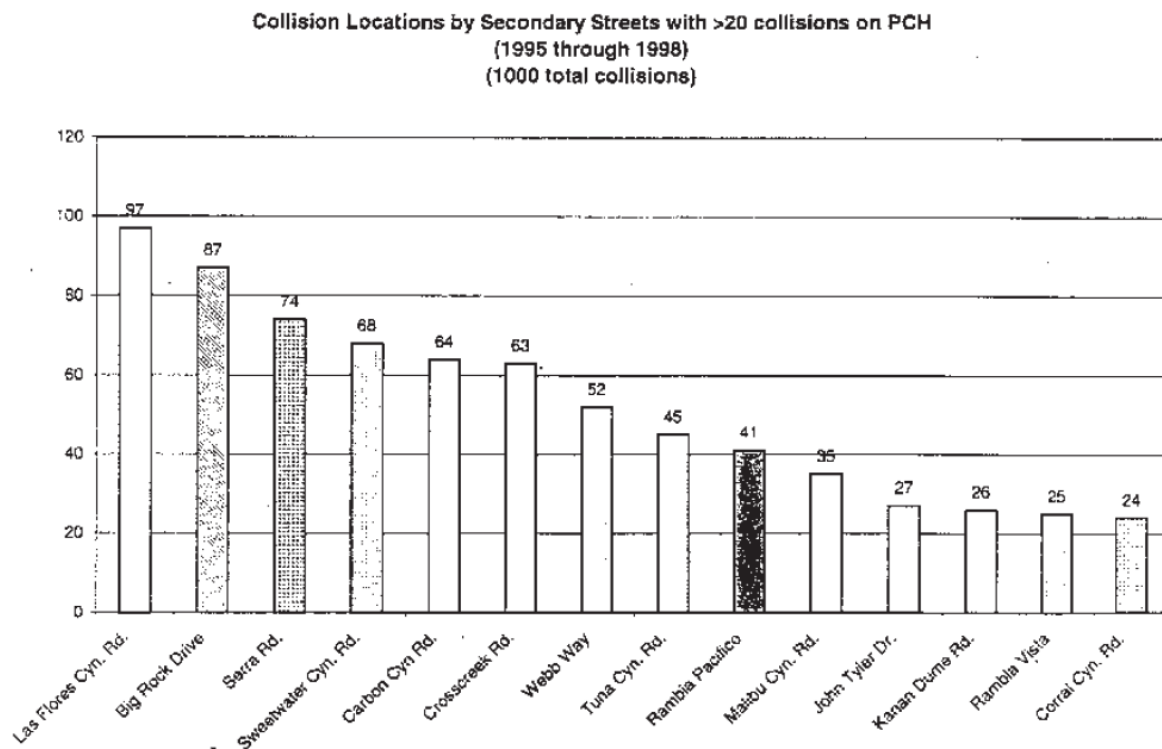


Figure 7

27

f. Moreover, February 2000 traffic study noted that unsafe speed was the overwhelmingly collision trend relating to the above data from 1995 through 1998: "This collision trend comparison for the cross streets on Pacific Coast Highway shows that despite the location or design of each intersection or segment, all of the high collision areas have a common thread. Each one shows a predisposition for unsafe speed...This comparison chart can assist law enforcement and traffic engineers in directing their focus while establishing mitigation measures for the high collision areas". Id., p. 28. This trend was visually shown on the below chart:

///

///

///

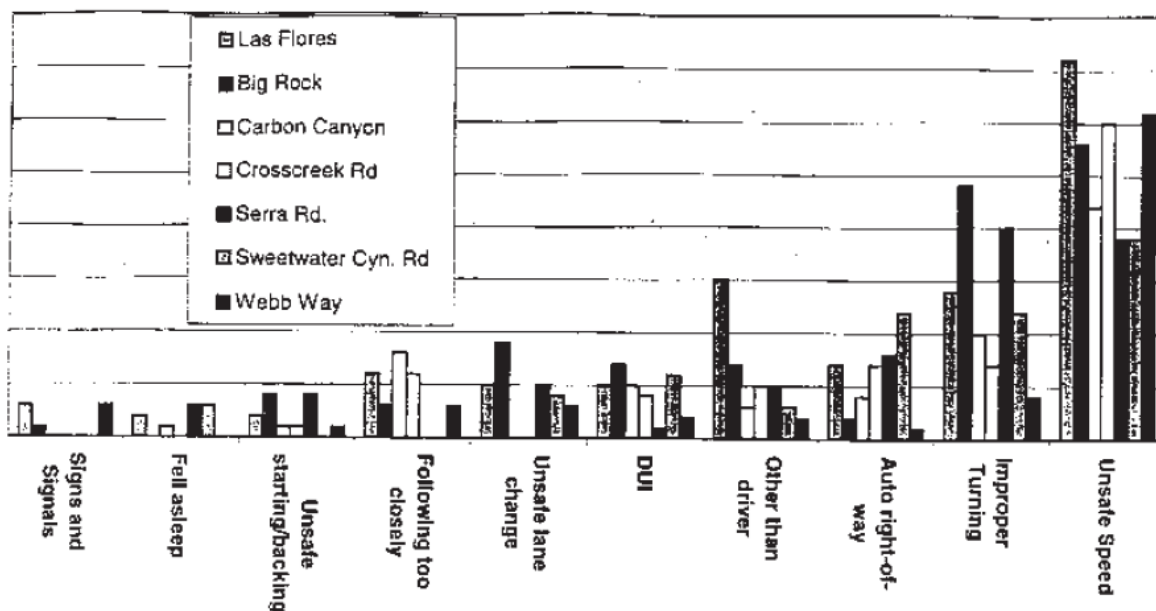
///

///

///

Collision Trend Comparison

Figure 8



g. "The cumulative percentage of collisions and the cumulative percentage of sites are plotted. This sort of clustering is important to identify, because when a relatively few sites (7 in Malibu) account for a large proportion of the collisions (52%), improvements at these sites is most likely to give a big overall reduction in collisions". Id. at p. 28 (quoting "Safer Roads, A Guide to Road Safety Engineering": Ogden, 1996).

h. From 1995 through 1998, the Sherriff's Department gave 876 citations for unsafe speed, representing 64% of all traffic citations during this time period, and 853 of the 876, or 97%, were for speeding violation on PCH in Malibu. Id. at p. 30.

i. "The actual impact that enforcement alone makes on speed reduction on PCH is minimal and temporary at best." Id. at p.32.

47. 2015 PCH Safety Plan also included in its appendix a report prepared by the Malibu/Lost Hills Sherriff's Department, entitled, "Pacific Coast Highway, Traffic Safety Evaluation". This study also described the dangers of this roadway and put the aforementioned public entities on notice of the same, including but not limited to:

a. "This is illustrated by the nationally accepted Enforcement Index (EI), which

1 combines the number of hazardous citations issued with the driving under the influence arrests, then
2 divides that sum by the number of fatal and injury traffic collisions. The national standard is 20:1,
3 which means in order to reach the standard, 20 citations/arrests per 1 (one) collision must be reached.
4 As of the date of this document, the City of Malibu's EI is 103:1, which greatly exceeds the national
5 accepted level of provided highway safety. " Id., p. 8.

6 b. "Moreover, in regards to speed limit, terrain, vehicle/bicycle/pedestrian use,
7 and commercial/residential/tourist use, PCH is not a static highway. The speed limit varies from 45
8 MPH, 50 MPH, and 55 MPH, none of which address traffic congestion and the competition between
9 motor vehicles, bicycles, and pedestrians. Reduced roadway widths, lack of center medians, erratic
10 roadway surface, all merge to create excessive traveling variables. These variables amplify the
11 safety issues when combining the competitive use of PCH by motor vehicles, bicycles, and
12 pedestrians." Id., p. 8.

13 c. "The central portion of PCH is highly congested with commercial use, tourist
14 interests, and cross-traffic, all creating an environment of randomness of actions. This creates a
15 challenging environment for all participants to safely maneuver. Based on statistical information,
16 the inter-section of Las Flores Canyon and PCH has the highest accident rate for an intersection.
17 Additionally, mid-block between Carbon Canyon Road and Las Flores Canyon has the highest
18 accident rate per mile for a mid-block section of PCH." Id., p. 8.

19 d. "PCH is an arterial highway that is part of the overall transportation network
20 for the Los Angeles and Ventura County region. It is inadequate to handle the current commuter
21 traffic volumes..." Id., p. 8.

22 e. "Caltrans uses warrants to establish the feasibility of each construction
23 project. This bureaucratic process has delayed numerous projects within the city for decades. In
24 some specific instances, the city of Malibu has paid for the installation of traffic signals with the
25 expectation of being reimbursed by the state once funding becomes available. Id., p. 11.

26 f. "The City of Malibu has attempted to restrict parking in areas where parked
27 vehicles present a hazard to pedestrians exiting the vehicles. In each instance, the coastal
28 commission has prohibited such restrictions under the guise that it limits the public access to the

1 coastline." Id., p. 11.

2 g. Improvement needed to Rambla Vista (West) and PCH:
3 "Acceleration/deceleration lanes, add sidewalks, median barrier. As part of the Rambla Vista loop,
4 it is suggested that Rambla Vista become a one way street where it crosses PCH. The east loop will
5 be a one way entrance and the west loop will be a one way exit." Id. p. 63.

6 h. Improvement needed to Rambla Vista (East) and PCH:
7 "Acceleration/deceleration lanes, add sidewalks, median barrier. Rambla Vista connects with PCH
8 at two locations. This street exits next to an off street parking area where the merge is not delineated
9 and conflicts with traffic turning right from PCH. This section enters PCH within 100 yards of two
10 other intersections. This design contributes to the highest accident rate in Malibu at Las Flores
11 Canyon. Despite the recommendations above, these three intersections will continue to contribute
12 to the high accident rate unless they are redesigned into two distinct intersections further apart.
13 Absent the redesign of the intersections, consideration should be given to making the lower portions
14 of Rambla Vista one way. The east leg of Rambla Vista leads itself as a natural entrance, while the
15 west portion faces north and should be the one way exit." Id. at 65.

16 i. Improvements needed to Rambla Pacifico Street and PCH:
17 "Acceleration/deceleration lanes, add sidewalks, median barrier. Rambla Pacifico is a relatively
18 short street north of PCH that leads to a small number of residences. It may be possible to access
19 these residences via Las Flores Rd. with the repair of an existing cross street north of PCH. This
20 would alleviate the backup caused by the close proximity to the Las Flores intersection signal. If
21 none of these solutions are adopted, the coordination of the two signals could improve safety in this
22 area." Id. at p. 65.

23 j. "Most of the recommendations include the addition of a median barrier,
24 bicycle lanes and sidewalks. Removal of street parking from the land side of the highway in non-
25 business areas for pedestrian safety is a second component of this plan." Id. at p. 73.

26 k. Improvements to PCH between Carbon Canyon Road to Las Flores Canyon
27 Road: "the current two-way left turn lane should be converted to a center median, possibly shifting
28 the highway to provide space for off street parking and the addition of marked bicycle lanes. The

1 objective is to reduce the number of entrance/exit points onto the highway with sidewalks for
2 pedestrians. This segment of roadway has the highest number of accidents per mile on PCH. This
3 is a result of congestion and poorly timed signals causing extreme delays resulting in the high
4 number of non-preventable rear-end collisions. " Id. at p. 85.

5 48. 2015 PCH Safety Plan also included in its appendix a May 2013 Corridorwide Safety
6 Assessment Report, prepared by LSA Associates, Inc. and presented to the City of Malibu, which
7 made the following recommendations and observations to the City:

8 a. "Throughout the corridor, eight potential safety issues were repeated
9 frequently. The first issue is the conflict between travel modes that occurs because of competing
10 desires for use of the shoulder. In areas without sidewalks or bike lanes, both pedestrians and
11 bicycles seek to use the shoulder to stay out of the travel lanes. However, bus stops are also located
12 along the shoulder, and buses pull in to fully occupy the shoulder to avoid blocking a travel lane.
13 Passenger cars also utilize on-street parking in the shoulder. In addition, the shoulder area is used to
14 service adjacent residences for trash collection, utilities, and construction. These are significant
15 demands for the same narrow piece of public ROW ("Right of Way"). Without rationalizing its use
16 and augmenting it where possible, the first-come-first-served system results in conflict between
17 these varying groups." 2015 PCH Safety Plan, Appendix 2, Corridorwide Safety Assessment
18 Report, p. 4.

19 b. "The following is a list of comments received from the public that suggest
20 possible solutions to their safety concerns along the PCH corridor: Pedestrian bridges to allow
21 crossing without impeding vehicular flow and safety...Streets for motorized vehicles – do not create
22 interaction points between vehicles and pedestrians...Reduce speed limit to 25 mph in certain areas
23 and 35 mph in all others...There are more accidents, traffic, residential parking problems in Segment
24 One, yet there is a uniform speed limit along PCH. The speed limit should be lower in this area to
25 correspond to the volume. Speed limit should be 25 to 35 mph...Consider the removal of parking
26 on the east side of PCH". Id. at A-1 – A3.

27 49. Plaintiffs further allege that the design and/or plan for Dead Man's Curve was either
28 not approved in accordance with standard procedure, regulations, and/or statutes (thereby violating

1 the same) or could not reasonably have been approved by any appropriate and responsible
2 government entity or any delegates and agents thereof.

3 50. To the extent the subject roadway design was approved, if any approval was
4 requested and given, the requesting and responding authority(ies)/delegate(s) and agent(s) were
5 incompetent or failed to possess the requisite skills and expertise to render a reasonable evaluation
6 of the benefits, risks and dangers of the plan as submitted or amended and approved.

7 51. To the extent the said design was approved, said approval was unreasonable and
8 constituted a manifest abuse of discretion, or was otherwise negligent by failing to address the
9 applicable engineering standards and conditions then existing or reasonably contemplated to exist
10 in the future, once said design was implemented.

11 52. The roadway was at all times dangerous, improperly and defectively maintained,
12 managed, inspected, installed, repaired, modified, reviewed and evaluated, if in fact it was
13 maintained, managed, inspected, reviewed and evaluated. To the extent such functions were not
14 performed, they should have been, and to the extent they were performed, they were done
15 improperly, negligently, and violated applicable engineering standards and regulations pertaining to
16 similarly situated roadways.

17 53. On November 13, 2023, the Malibu City Council declared a Local Emergency aimed
18 at addressing, among other things, pedestrian safety on the PCH. In so declaring, the Malibu City
19 Council acknowledged that the October 17, 2023 tragic incident was the impetus behind this action.
20 (<https://www.malibucity.org/1143/Pacific-Coast-Highway-Safety>).

21 54. A PCH Safety Report presented to the Malibu City Council on January 22, 2024
22 called for action by CALTRANS, the state, and local law enforcement to commit to addressing
23 safety issues on PCH.⁹ And a September 2015 study by the Pacific Coast Highway Taskforce
24 funded by the California Office of Traffic Safety and presented to the City of Malibu revealed that
25 between 2010-2014 there were 43 motor vehicle and pedestrian collisions on PCH, of which over
26

27 ⁹ <https://www.malibucity.org/DocumentCenter/View/33188/Malibu-PCH-Safety-Project-Report-12324?bidId=>
28

57% resulted in severe injury or death. Nearly half of the pedestrian collisions occurred after 6:00p.m.¹⁰ In acknowledging that CALTRANS needed to make safety upgrades to PCH, CALTRANS Secretary Toks Omishakin stated that “Ever since [the October 17, 2023] crash, it hasn’t left my mind”.

55. Moreover, assuming the design of the roadway was approved, Claimant asserts that the plan or design had become dangerous because of a changed in physical condition, including but not limited to increase vehicle traffic, increased pedestrian traffic, increased vehicle speeds, excessive vehicle speeds, change in posted speed limit, increase in vehicular collisions, changes to the lanes/shoulders, and/or changes to pedestrian traffic plan. To this end, the record provides the following evidence:

a. Steve McClary, City Manager, City of Malibu, stated, "The City receives about 15 million visitors a year. I don’t think when PCH was really originally designed and conceived anybody had any notion we'd be looking at this level of traffic volumes. So I think the bottom line for us is that PCH has changed, and I think its time for us to change with it".¹¹

b. "Development of new neighborhoods and business is occurring, increasing traffic volumes and residential capabilities." 2015 PCH Safety Plan, Appendix D, Collision Reports, California Inst. Of Transportation Safety, February 2000 traffic study, p. 3.

c. "PCH showed very high speeds (posted 45 mph, 85th % of 57+ mph), and areas with limited site distance due to horizontal and vertical curvature. The driving environment, with increased speed and an increased population requires above average attention and driver skill to negotiate safely...The beach accesses from a safety standpoint are extremely limited and the high speeds on PCH limit pedestrian's crossing to signalized intersections." 2015 PCH Safety Plan, Appendix D, Collision Reports, California Inst. Of Transportation Safety, February 2000 traffic

¹⁰

https://static1.squarespace.com/static/5bc4c71fe66669281d4232b5/t/5d1bea24f8ff4d0001f26746/1562110621991/15-1009_PCH+ Final+Recommendations+Report_FINAL.pdf

¹¹ Special Meeting of PCH Task Force, November 14, 2023, statements/presentation of Steve McClary, City Manager, City of Malibu

study, p. 23.

d. Further, as Capt. Seetoo acknowledge at the PCH Task Force, November 14, 2023, "PCH was constructed nearly a century ago when the top speed of vehicles were about 45 mph, 60 mph. And there weren't 15 million people driving PCH every year to come and visit this beautiful community. Now a century old road is virtually the Mainstreet of a resident and business district. This highway runs through residential neighbors, a business districts, and a university town. To top it off, its an iconic destination place for our beachgoers".

e. "Pacific Coast Highway (State Route 1) is a four-lane state highway traveling in an east to west direction along the Pacific Coast. In 1947, the roadway was completely reconstructed and widened to its current rent configuration of 4 lanes. In 1964, turn pockets and signals were installed." 2015 PCH Safety Plan, Appendix D, Collision Reports, Pacific Coast Highway, Traffic Safety Evaluation, Prepared by Malibu/Lost Hills Station, p. 6.

56. Defendants CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES, and DOES 1 through 25 had notice of the dangerous condition created because of the change in physical conditions and had a reasonable time to obtain the funds, and/or already had the funds as stated above, and carry out the necessary corrective work to conform the property to a reasonable design or plan and/or were unable to correct the condition due to practical impossibility or lack of funds but did not reasonably attempt to provide adequate warnings of the dangerous condition.

///

///

///

///

///

///

///

///

///

FIRST CAUSE OF ACTION

(Dangerous Condition of Public Property by Plaintiffs Against Defendants STATE OF CALIFORNIA, a Public Entity, THE PEOPLE OF THE STATE OF CALIFORNIA, ACTING BY AND THROUGH THE DEPARTMENT OF TRANSPORTATION, a Public Entity, CALIFORNIA COASTAL COMMISSION, a public entity, CITY OF MALIBU, a Public Entity, COUNTY OF LOS ANGELES, a public entity, and DOES 1 Through 25, Inclusive)

57. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.

58. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendant CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES and DOES 1 through 25, Inclusive, owned, rented, occupied, and/or controlled the HIGHWAY.

59. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendant CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES and DOES 1 through 25, Inclusive, had a duty to own, rent, occupy, and/or control the SUBJECT ROADWAY, in a reasonable manner.

60. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendant CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES and DOES 1 through 25, Inclusive, had a duty to design, fabricate, construct, maintain, use, and provide warnings associated with the HIGHWAY, in a reasonable manner.

61. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, the HIGHWAY constituted a dangerous condition of public and private property in that was unsafe for pedestrian travel and on-street vehicle parking, and the collision was thus foreseeable.

62. Plaintiffs are informed and believe, and thereon allege, that at all times herein

1 mentioned, the condition of the HIGHWAY at the time this incident constituted a dangerous
2 condition of public property pursuant to *Government Code*, Section 835. Plaintiffs' injuries were
3 proximately caused by the dangerous condition and the dangerous condition created a reasonably
4 foreseeable risk of injury, and that either, a) a negligent or wrongful act or omission of an employee
5 or independent contractor or agent of the public entities listed above within the scope of his
6 employment created the dangerous condition or, b) the public entities listed above had actual or
7 constructive notice of the dangerous condition under *Government Code* Section 835.2 and sufficient
8 time prior to the death to have taken measures to protect against the dangerous condition.

9 63. Plaintiffs contend that as a consequence of the above-mentioned acts and omissions
10 of Defendant CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS
11 ANGELES and DOES 1 through 25, Inclusive, a dangerous condition was created, and said
12 defendants had actual and/or constructive notice of the dangerous condition at a sufficient time prior
13 to the injury to have taken measures to protect against said dangerous condition.

14 64. Furthermore, Plaintiffs also allege that Defendant CALIFORNIA STATE
15 DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES and DOES 1 through 25,
16 Inclusive, are liable for the conduct of their employees, agents, servants and independent contractors
17 who worked on the HIGHWAY, who negligently, carelessly, recklessly, or in some other actionable
18 manner, planned, modified, altered, constructed, repaired, monitored, improved, changed, manage,
19 designed, controlled, maintained, and served the HIGHWAY.

20 65. The specific names of the employees, agents, servants, independent contractors,
21 volunteers, and/or representatives of Defendant CALIFORNIA STATE DEFENDANTS, CITY OF
22 MALIBU, COUNTY OF LOS ANGELES and DOES 1 through 25, and each of them, who were
23 involved in the ownership, control, design, construction, maintenance, servicing, supervision,
24 alteration, repair, management, improvement, monitoring, and/or responsibility of the HIGHWAY
25 are unknown to Plaintiffs at this time. Such negligent, carless, and reckless conduct was a
26 substantial factor in causing Plaintiffs' injuries.

27 66. Plaintiff also contends the specific employees, agents, servants, independent
28 contractors, volunteers, and/or representatives were acting in the course and scope of employment

1 and/or agency of Defendant CALIFORNIA STATE DEFENDANTS, CITY OF MALIBU,
2 COUNTY OF LOS ANGELES and DOES 1 through 25, inclusive, and were negligent for
3 maintaining, constructing, managing, and repairing the HIGHWAY in such a manner as to injure
4 Decedents and Plaintiff CARLOS SOLLOA when they knew or should have known of the
5 dangerous conditions on the HIGHWAY. Plaintiff further contends that Defendant CALIFORNIA
6 STATE DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES and DOES 1 through
7 25, were negligent in hiring, training, and supervising the specific employees, agents, servants,
8 independent contractors, and volunteers, and/or representatives and that this negligence ultimately
9 led to Plaintiffs' injuries. Such negligence was a substantial factor in causing Plaintiffs' injuries.

10 67. As a direct and proximate result of the conduct of Defendant CALIFORNIA STATE
11 DEFENDANTS, CITY OF MALIBU, COUNTY OF LOS ANGELES and DOES 1 through 25,
12 Plaintiffs were caused to suffer severe injuries.

13 68. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
14 conduct of Defendants, and each of them, Plaintiffs VINITA E. WEIR, DESMOND E. WILLIAMS,
15 and OLIVE M. WILLIAMS have sustained damages resulting from the loss of decedents Asha Weir
16 and Deslyn Williams' companionship, comfort, care, assistance, protection, affection, society, moral
17 support, training and guidance, as well as other benefits and assistance, of decedents, all to their
18 general damages in a sum in excess of the jurisdictional limits of this Court, which will be stated
19 according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure.

20 69. As a direct, legal, and proximate result of the conduct of Defendants, Plaintiffs
21 VINITA E. WEIR, DESMOND E. WILLIAMS, and OLIVE M. WILLIAMS have been and will be
22 deprived of the financial support and assistance of decedents, the exact amount of such losses to be
23 stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure.

24 70. As a direct, legal, and proximate result of the conduct of Defendants, Plaintiffs
25 VINITA E. WEIR, DESMOND E. WILLIAMS, and OLIVE M. WILLIAMS have incurred funeral,
26 and burial expenses in an amount to be stated according to proof, pursuant to Section 425.10 of the
27 California Code of Civil Procedure.

28 71. Plaintiff CARLOS SOLLOA sustained non-economic damages, including, but not

limited to, past and future physical pain and mental suffering, loss of enjoyment of life, disfigurement, physical impairment, inconvenience, grief, anxiety, humiliation, serious emotional distress, in an amount in excess of the jurisdictional minimum, according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure.

72. Plaintiff CARLOS SOLLOA was injured in his health, strength, and activity, sustaining injuries to his body, and shock and injury to his nervous system and person, all of which have caused, and continue to cause him great physical, mental, and nervous pain and suffering.

73. Plaintiff CARLOS SOLLOA was compelled to, and did, employ the services of hospitals, physicians, surgeons, nurses, and the like, to care for and treat him, the exact amount of such losses to be stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure.

74. Plaintiff CARLOS SOLLOA also suffered lost earning capacity, and property damages, the exact amount of such losses to be stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure. The exact amount of said losses will be stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure.

PRAYER FOR DAMAGES


WHEREFORE, all Plaintiffs pray for judgment against all Defendants, and each of them, as follows:

1. General damages in excess of the minimum jurisdiction for an unlimited civil case, the exact amount according to proof;
2. For all medical, professional and incidental expenses, past and future, according to proof;
3. Wrongful death damages, past and future, according to proof;
4. For special damages, past and future, according to proof;
5. For all past and future damages;
6. For all costs of suit, according to proof;
7. For loss of the enjoyment of life, and other general damages, past and future,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- according to proof;
- 8. All statutorily allowed damages, including attorney fees;
 - 9. For such other and further relief as this court may deem just and proper.

DATED: September 12, 2024 PANISH | SHEA | RAVIPUDI LLP

By: 

Rahul Ravipudi
Attorneys for Plaintiffs Vinita Weir, Desmond
Williams, Olive Williams, and Carlos Solloa

DEMAND FOR JURY TRIAL

Plaintiffs request a jury trial on all causes of action as to all Defendants.

DATED: September 12, 2024

PANISH | SHEA | RAVIPUDI LLP

By: _____



Rahul Ravipudi

Attorneys for Plaintiffs Vinita Weir, Desmond
Williams, Olive Williams, and Carlos Solloa