COUNTY OF SANTA CRUZ

OFFICE OF THE COUNTY COUNSEL

701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068 (831) 454-2040 FAX: (831) 454-2115

DANA McRAE, COUNTY COUNSEL

Chief Deputy Rahn Garcia

Assistants

Marie Costa
Jane M. Scott
Tamyra Rice
Shannon M. Sullivan
Miriam L. Stombler
Jason M. Heath
Christopher R. Cheleden
Betsy L. Allen
David Brick
Jessica C. Espinoza
Sharon Carey-Stronck

Special Counsel

Dwight Herr
Deborah Steen
Samuel Torres, Jr.

GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

Agenda: 4/29/08

To: Santa Cruz County Board of Supervisors

Re: Myrna Perez, Claim No. 708-080

Original document and associated materials are on file at the Clerk of the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

1. X Reject the claim of Myrna Perez and refer to County Counsel.
2. ____ Deny the application to file a late claim on behalf of _____ and refer to County Counsel.
3. ____ Grant the application to file a late claim on behalf of _____ and refer to County Counsel.
4. ____ Approve the claim of _____ in the amount of _____ and reject the balance, if any, and refer to County Counsel
5. ____ Reject the claim of _____ as insufficiently filed and refer to County Counsel.

RISK MANAGEMENT

By: Janet McKinley
Janet McKinley
Acting Risk Manager

DANA McRAE, COUNTY COUNSEL

By: J M Heath
Jason M. Heath
Assistant County Counsel

cc: Tom Bolich, Public **Works Department**

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RECEIVED
Clerk of the Board
Board of Supervisors
County of Santa Cruz

1. Claimant's Name: Myrna Perez, C/O Rebecca F. Weisman, Attorney for Claimant

79 Devine St., Ste 200, San Jose, CA 95110

Phone No: 408-975-1075, 408-288-2799 (fax)

2. Occurrence: Vehicle/Pedestrian collision. Pedestrian seriously injured.

3. See attached amended complaint for full details.

4. General description of indebtedness, obligation, injury, damage or loss claimed so far as is now Known:
See attached amended complaint for full details.

5. See attached amended complaint for full details.

6. Amount claimed now ..... $ TBD

7. SCC Med. Center January 2008 medical statement shows medical expenses of $808,448.28 and well 000

8.

CLAIMANT'S SIGNATURE: , Rebecca F. Weisman, attorney for Claimant

Note: Claim must be presented to Clerk, Board of Supervisors, within **six** (6) months after the act which occasioned the injury.

Note: This claim and all attachments become Public Record and are scanned into the World Wide Web (Internet).

Americans with Disabilities Act questions or requests for accommodations may be directed to the **ADA** Coordinator at 454-2962 (TDD 454-2 123).

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2/4-10-08

Rebecca F. Weisman, State Bar Number 179920
Fleishman & Weisman, PC
79 Devine St., Ste 200
San Jose, CA 95110
Telephone: (408) 975-1075
Fax: (408) 288-2799

Attorney for Myrna Perez, Claimant

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CRUZ

MYRNA PEREZ, Claimant, vs. COUNTY OF SANTA CRUZ, a public entity, and DOES 1-25, inclusive, Defendants.	AMENDED CLAIM FOR PERSONAL INJURIES (GOVT C §910)

TO THE COUNTY OF SANTA CRUZ:

You are hereby notified that Myrna Perez claims damages against the COUNTY OF SANTA CRUZ, a public entity.

1. Notices concerning this claim should be sent to Claimaint's mailing address: Myrna Perez, C/O Rebecca F. Weisman, Fleishman and Weisman, PC, 79 Devine St., Ste 200, San Jose, CA 95110.

2. This claim is based on personal injuries sustained by Ms. Myrna Perez, (the "**Claimant**") on or about October 21, 2007, in the vicinity of Aptos, CA.

3 Defendant Santa Cruz County (the "County") is, and at all times herein mentioned, a public entity duly organized and existing under the laws of the State of California.

4 All of the areas and roadways in the vicinity of the incident are in unincorporated Santa Cruz County, and are under the jurisdiction of one or more departments of the County.

5 Claimaint does not know the true names and capacities of defendants Does 1-25, inclusive, and therefore asserts a claim against these defendants by such fictitious names. Claimaint may amend this claim to allege their true names and capacities when ascertained. Claimant is informed, believes and alleges that each of the fictitiously named defendants is responsible in some manner for the occurrences herein alleged, and that claimant's damages as alleged herein were proximately caused by their conduct. The circumstances of the incident (the "**Incident**" or "**Accident**") giving rise to this claim are as follows.

THE INCIDENT

6. On or about October 21, 2007, Daniel Robeson was driving a Cadillac automobile westbound on Center Avenue in Aptos, CA at approximately 25-35 miles per hour (mph) approaching El Camino Del Mar. Ms. Perez, the Claimaint, was walking in a northerly direction within a marked crosswalk west of El Camino Del Mar. As Mr. Robeson's car reached the crosswalk, the front left part of the car struck the right side of claimant's body. Mr. Robeson claimed he did not see the claimant. Mr. Robeson continued in a westerly direction without stopping. Due to the impact, Ms. Perez was thrown in a westerly direction where she collided with the asphalt roadway. Ms. Perez was emergency airlifted to Santa Clara Valley Medical Center with multiple life threatening injuries resulting from blunt force trauma. The Accident is documented in CHP Police Report #2007100179.

7 Residents ("**Residents**") of the city of Aptos and in the area of the Incident, including Center Avenue, considered Center Avenue and the traffic patterns dangerous for several

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years. It was dangerous at the time of claimant's injury. The accident and the known dangerous conditions of the roadway were both proximate causes of the injuries suffered by the Claimaint.

8. The dangerous condition of the roadway in the vicinity of the Accident created a reasonably foreseeable risk of the kind of injury that occurred. The crosswalk is located around a bending "S" curve which obstructs the views of drivers. A combination of automobiles, trucks, bicycles and motorcycles use this residential area of Center Ave. as a "through" street. The south end of the crosswalk is the site of a bus stop for both municipal and school busses. Pedestrians loading or unloading from the bus, or pedestrians in the crosswalk were at a reasonably foreseeable risk of being struck by passing vehicles. There was no sidewalk, curb, or safe area for pedestrians at the bus site or at either end of the crosswalk. This remains the case today. These conditions presented a reasonably foreseeable risk of an automobile-pedestrian accident similar to the one that Ms. Perez was injured by.

9. The County had actual and constructive notice of the dangerous condition a sufficient time prior to the accident and injuries and failed to take measures to protect against the dangerous conditions. The County, which includes one or more of its departments, has a duty to control and is responsible for the roadway, the safety of the public way, and the public areas in the vicinity of the Incident. From at least the year 2001 until the time of Incident (the "**Notice Period**"), the Residents notified on numerous occasions, both orally and in writing, the responsible departments of Santa Cruz County about the dangerous condition of the traffic and pedestrian patterns on Center Ave. and in the vicinity of the Incident. The County knew, or should have known, of the dangerous condition of the vicinity of the Accident during the Notice Period.

10. During the Notice Period, the Residents prepared, delivered and published numerous written flyers, petitions and articles to newspapers warning about the dangerous traffic

and pedestrian conditions on Center Ave in the vicinity of the Accident and also the crosswalk where the Accident occurred. The Residents presented these warning documents to the responsible departments of the County and to the public. Residents demanded that County officials take actions to make the area safer for pedestrians and bicyclists. On numerous occasions, the Residents asked the County to take several remedial actions, including, but not limited to, installing stop signs, speed bumps. lowering the allowable speed limit, increasing police patrols, traffic lights, and restrictions regarding the allowable types of traffic allowed on Center Ave.

11. An abnormally high incidence of various types of accidents, inciuding auto-bicycle and auto-pedestrian, have occurred on or near the site ofthe Accident during the Notice Period. The County had active and constructive notice of this abnormally high incidence of dangerous accidents in the Accident vicinity.

12. During the Notice Period, the County, and one or more of its departments, were negligent and acted wrongfully by failing to take proper and appropriate actions to reduce the number and severity of accidents in the vicinity of the Accident. These dangerous conditions, which were fully known and aware of by the County, at and near the site of Accident resulted from the County failing to install stop signs, sidewalks, speed bumps, traffic lights or other safety measures near and around the cross-walk of the Accident site. Had the County exercised due care and performed its duty to establish a reasonably safe area around the Accident site, the Accident, and other similar types of Accidents, would not have occurred.

DAMAGES

13. Claimaint suffered serious and permanent disabling injuries, among other damages, as a result of the Accident.

This claim as of this date is in an amount that would place it within the jurisdiction of the Superior Court. The claim is based on injury, damage, and loss in an amount to be proved later.

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5. Claimaint is damaged by the foregoing acts of defendants and each of the them, in an amount according to subsequent proof. Claimaint seeks as damages, without limitation, the following:

a. General damages;

b. Special damages;

c. Compensatory damages;

d. Punitive damages as allowed by law;

e. Attorney's fees as allowed by law;

f. Costs of suit;

g. Interest as allowed by law; and

h. Such other and further relief as the Court may deem proper.

Dated: Apr. 8, 2008

Fleishman & Weisman, PC

By _____
Rebecca F. Weisman,
Attorney for Myrna Perez, Claimaint