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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF YOLO
10

11 SHAWNA GREINER, ERIK GREINER,

Case No.: CV2021-2093

12 Plaintiffs,

13 v.

**COMPLAINT FOR DANGEROUS
CONDITION OF PUBLIC PROPERTY,
PERSONAL INJURIES, AND LOSS OF
CONSORTIUM.**

14 CITY OF DAVIS, DAVID ALBERT BAUM, and
DOES 1 through 100, inclusive,

15 Defendants.
16

17 Plaintiffs SHAWNA GREINER, ERIK GREINER, complain against Defendants CITY OF DAVIS,
18 DAVID ALBERT BAUM and DOES, inclusive, and each of them, and allege as follows:

19 **THE PARTIES**

20 1. Plaintiff SHAWNA GREINER is now, and at all relevant times was, a resident of the
21 County of Yolo, State of California.

22 2. Plaintiff ERIK GREINER is now, and at all relevant times was, a resident of the
23 County of Yolo, State of California.

24 3. The incident which is the subject of this action occurred in the County of Yolo, State
25 of California.

26 4. Defendant CITY OF DAVIS is a public entity.

27 5. Plaintiffs are informed and believe and thereon allege Defendant DAVID ALBERT
28 BAUM is now, and at all relevant times was, a resident of the County of Yolo, State of California.

1 6. The true names and capacities, whether individual, corporate, associate or
2 otherwise, of Defendants DOES 1 through 100, are unknown to Plaintiffs, who therefore sue such
3 Defendants by such fictitious names, and Plaintiffs will amend this complaint to show their true
4 names and capacities when their names have been ascertained. Plaintiffs are informed and
5 believe and thereon allege that each DOE defendant is legally responsible in some manner,
6 whether in negligence, contract, warranty, strict liability, or otherwise, for the events and
7 occurrences described herein, and thereby proximately caused injuries and damages to Plaintiffs
8 as herein alleged.

9 7. Plaintiffs are informed and believe and thereon allege that at all relevant times,
10 Defendants DOES 1 through 100, and each of them, were agents, employees, contractors, or
11 otherwise acting on behalf of the named defendants and/or other DOE defendants, and each of
12 them, and that at all relevant times, DOES 1 through 100, and each of them, were acting within
13 the course and scope of their agency, employment or contractual relationship with the named
14 defendants or DOES.

15 8. Plaintiffs are informed and believe and thereon allege that at all relevant times,
16 Defendants CITY OF DAVIS, DAVID ALBERT BAUM, and DOES, and each of them, were agents,
17 employees, contractors, or otherwise acting or failing to act on behalf of each other, and in acting
18 or failing to act as alleged herein, said defendants were acting or failing to act within the course
19 and scope of their agency, employment or contractual relationship.

20 **GOVERNMENT TORT CLAIMS ACT**

21 9. On or about July 1, 2021, Plaintiffs presented claims to Defendants CITY OF DAVIS,
22 in compliance with Government Code section 810 et seq. ("Tort Claims Act") based on the events
23 and occurrences described and complained of herein.

24 10. Plaintiffs' claims against Defendant CITY OF DAVIS were rejected on or about
25 August 16, 2021.

26 **JURISDICTION AND VENUE**

27 11. Venue is proper because the incident that gives rise to this action occurred in the
28 County of Yolo, State of California, and the amount in controversy exceeds the jurisdictional

1 minimum for an unlimited civil matter.

2 **FACTUAL BACKGROUND**

3 12. On or about January 9, 2021, Plaintiffs Shawna Greiner and Erik Greiner, were
4 standing on the southeast corner of Pole Line Road's intersection with East Covell Boulevard
5 waiting to continue westbound on East Covell Boulevard. Plaintiff Shawna Greiner was injured
6 when the vehicle driven by Defendant David Baum struck the light standard on the southeast
7 corner of the intersection of Pole Line Road and East Covell Boulevard. Due its improper and
8 defective installation, maintenance, inspection, upkeep, and operation, the light standard came
9 loose from its base and struck Plaintiff Shawna Greiner causing a traumatic head injury and spinal
10 fractures that required fusion surgery at the C1/C2 level to repair. Plaintiff was transported by
11 ambulance to UC Davis Medical Center on the date of the subject incident and Plaintiff's neck
12 surgery was performed by Dr. Kee Kim at UC Davis Medical Center on January 12, 2021. Plaintiff
13 Erik Greiner was standing next to his wife when the incident occurred and, as such, was in the
14 zone of danger.

15 **FIRST CAUSE OF ACTION**

16 **Dangerous Condition of Public Property – Gov't Code § 830, et seq.**
17 **(Plaintiffs SHAWNA GREINER and ERIK GREINER against CITY OF DAVIS and DOES 1**
18 **through 25.)**

19 13. Plaintiffs expressly incorporate by reference paragraphs 1 through 12 herein as
20 though set forth in full.

21 14. At all times relevant, Defendant CITY OF DAVIS, its agents, employees, contractors
22 and DOES, and each of them, and their agents, employees and contractors, were charged with the
23 duty of maintenance, design, installation, marking, warning, building, inspection and repair of the
24 light standards at the scene of the subject accident and, therefore, owed a duty and obligation to
25 area around the light standards, where it is foreseeable that pedestrians will be standing, in a
26 reasonably safe condition and free from any dangerous conditions.

27 15. On or about January 9, 2021, Plaintiffs were pedestrians walking in the vicinity of
28 the subject accident location and were at all times acting with due care and in a manner which
was reasonably foreseeable to Defendant CITY OF DAVIS and DOES, and each of them.

1 16. As of January 9, 2021, and at all times relevant, the employees, agents or
2 contractors of Defendant CITY OF DAVIS and DOES, and each of them, in the course and scope of
3 the employment, agency or contractual relationship, negligently and carelessly designed,
4 controlled, built, tested, developed, manufactured, fabricated, assembled, distributed, inspected,
5 serviced, warranted, operated, repaired, and maintained the lights standards at the intersection
6 where the subject accident occurred so as to create a dangerous condition of public property
7 thereby creating reasonably foreseeable risks of the kind of serious injuries and damages suffered
8 by Plaintiffs.

9 17. As a direct result of the negligent design, maintenance, construction, installation,
10 supervision, monitoring, inspection, control, and management of the light standard that collapsed
11 in the subject incident, employees and/or representatives of Defendant CITY OF DAVIS, a
12 dangerous condition of public property was created pursuant to Government Code Section 835, et.
13 seq. Said dangerous condition was evidence by the following non-exclusive list: installation below
14 grade which led to excessive corrosion of mounting hardware, substandard anchoring hardware
15 that was not of the appropriate specification and/or configuration, substandard footing upon which
16 the subject light standard is mounted. As a result of the foregoing, the accident location was
17 unsafe for the movement of vehicles through the intersection where the subject incident occurred.
18 As a result, Plaintiff Shawna Greiner suffered injuries. Employees and/or representatives of
19 Defendant CITY OF DAVIS had actual and/or constructive knowledge of the unsafe conditions,
20 and/or created the unsafe conditions, within a sufficient time prior to the subject accident in order
21 to report said unsafe condition, and/or to take corrective measures, and failed to either make such
22 report or reports, and further failed to take such corrective measures. It should be noted that
23 Plaintiffs have not yet completed their investigation, and therefor they cannot at this time state
24 with specificity each and every reason why the accident location was a dangerous condition of
25 public property pursuant to Government Code Section 835.

27 18. Plaintiffs are informed and believe and thereon allege that, Defendant CITY OF
28 DAVIS failed to select a competent and safe contractor or contractors to work on the light

standards at or near the accident location, and failed to supervise, monitor, inspect, control, and manage the activity of said contractor or contractors so as to avoid the creation and maintenance of the dangerous condition of public property alleged herein, or Defendant has accepted said dangerous conditions from third party contractors.

19. As a direct result of the improper design, maintenance, construction, supervision, monitoring, inspection, control, and management of the accident location by Defendant CITY OF DAVIS, as alleged herein, and the failure of Defendant to comply with its mandatory duty to properly design, install, maintain, construct, supervise, monitor, inspect, control, and manage the accident location, a dangerous, condition of public property was thereby created, resulting in injuries and damages to Plaintiffs.

20. Plaintiffs are informed and believe that Defendants CITY OF DAVIS, its agents and employees, and DOES, and each of them created the dangerous condition that existed at the scene of the subject accident and caused the subject accident. Accordingly, Defendants CITY OF DAVIS, its agents and employees, and DOES had actual knowledge of the dangerous condition within the meaning of Government Code section 835, subdivision (b). Alternatively, Plaintiffs allege, on information and belief, that prior to the subject accident Defendant CITY OF DAVIS, its agents and employees, and DOES, and each of them, knew or should have known, through reasonable inspection, that the light standard at the scene of the subject incident, was in a dangerous condition, thus providing notice within the meaning of Government Code section 835, subsection (b). Plaintiff is informed and believes that Defendant CITY OF DAVIS, its agents and employees, and DOES, and each of them knew that the condition of the light standard that struck Plaintiff Shawna Greiner had existed for such a length of time that a public entity, in the exercise of due care, should have discovered the condition.

21. Defendant CITY OF DAVIS, its agents and employees, and DOES, and each of them, had actual or constructive notice of the dangerous condition in reasonable time, prior to January 9, 2021, to have obtained funds and carried out the necessary remedial work to bring the stretch of I-5 in the vicinity of the subject accident back into conformity with a reasonable design or plan, so as to protect the public against the dangerous conditions.

1 22. The dangerous condition of public property, as described herein, was a substantial
2 factor in causing the Plaintiffs' injuries and damages as alleged herein.

3 23. Further, Defendant CITY OF DAVIS, its agents and employees, and DOES, and each
4 of them, failed to properly discharge its mandatory duty to design, maintain, construct, supervise,
5 monitor, inspect, control, manage, and entrust the light standard that struck Plaintiff at the scene
6 of the subject accident, in violation of Government Code section 815.6, thereby resulting in the
7 injuries and damages to Plaintiffs, as alleged herein.

8 24. Pursuant to Government Code section 815.4, Defendant CITY OF DAVIS, its agents
9 and employees, and DOES, and each of them, is vicariously liable for the acts or omissions of any
10 contractors hired to perform work on the subject light standard at the scene of the subject
11 accident. This includes the peculiar risk and non-delegable duty doctrines. Plaintiffs are informed
12 and believe that to the extent Defendant CITY OF DAVIS, its agents and employees, and DOES,
13 and each of them, hired contractors to perform work on the subject light standard at the scene of
14 the subject accident, it failed to hire safe and competent contractors to do the work and failed to
15 supervise, monitor, inspect, control, and manage the activity of said contractors so as to avoid the
16 creation or maintenance of the dangerous conditions of the public property.

17 WHEREFORE, Plaintiffs pray for judgment against Defendant CITY OF DAVIS, its agents and
18 employees, and DOES 1 through 25, and each of them, for:

19 1. General damages in an amount in excess of the minimum jurisdiction of an
20 unlimited civil action;

21 2. All medical and incidental expenses according to proof;

22 3. All loss of earnings according to proof;

23 4. All property damage and loss of use damages;

24 5. Prejudgment interest according to law on all general and special damages;

25 6. All costs of suit; and

26 7. Such other and further relief as this Court may deem just and proper.

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1 **SECOND CAUSE OF ACTION**

2 **Negligence – Dangerous Condition of Public Property.**
3 **(Plaintiffs SHAWNA GREINER and ERIK GREINER against Defendants CITY OF DAVIS**
4 **and DOES 26 through 50, and each of them.)**

5 25. Plaintiffs expressly incorporate by reference paragraphs 1 through 24 herein as
6 though set forth in full.

7 26. On or about January 9, 2021, Plaintiffs Shawna Greiner and Erik Greiner, were
8 standing on the southeast corner of Pole Line Road's intersection with East Covell Boulevard
9 waiting to continue westbound on East Covell Boulevard. Plaintiff Shawna Greiner was injured
10 when the vehicle driven by Defendant DAVID ALBERT BAUM struck the light standard on the
11 southeast corner of the intersection of Pole Line Road and East Covell Boulevard. Due to its
12 improper and defective installation, maintenance, inspection, upkeep, and operation, the light
13 standard came loose from its base, thereby causing injuries and damages to Plaintiffs.

14 27. At said time and place aforementioned above, Defendants CITY OF DAVIS, and
15 DOES, and each of them, were responsible for the design, installation, construction, maintenance,
16 control, condition, repair, marking, and warning of the light standard as described above.

17 28. Pursuant to Government Code section 815.2, Defendant CITY OF DAVIS, its agents
18 and employees, and DOES, and each of them, is vicariously liable for injuries proximately caused
19 by the acts or omissions of its employees acting within the course and scope of their employment.
20 subject light standard at the scene of the subject accident.

21 29. As a direct, proximate and legal result of the negligence of the Defendants CITY OF
22 DAVIS's employees, and DOES, and each of them, an unreasonably dangerous condition was
23 present on the corner of the intersection of Pole Line Road and East Covell Boulevard, in the
24 vicinity of the subject incident due to said employees' negligence. Due to the dangerous condition
25 of the subject roadway in the vicinity of the subject incident, when Defendant DAVID ALBERT
26 BAUM's vehicle negligently struck the aforementioned light standard where the subject incident
27 occurred, the light standard came loose from its base, thereby causing Plaintiffs' injuries and
28 damages.

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30. As the direct, proximate and legal result of the negligence of employees of Defendant, CITY OF DAVIS, DAVID ALBERT BAUM, and DOES, and each of them, Plaintiffs were hurt and injured in their health, strength and activity, sustaining injury to their body and shock and injury to their nervous systems and person, all of which said injuries have caused and continue to cause Plaintiffs great mental, physical, and nervous pain and suffering. Plaintiffs are informed, believe, and thereon allege that said injuries will result in some permanent disability to Plaintiffs.

1. General damages in an amount in excess of the minimum jurisdiction of an unlimited civil action;

3. All loss of earnings according to proof;

5. Prejudgment interest according to law on all general and special damages;

7. Such other and further relief as this court may deem just and proper.

Negligence – Personal Injury

31. Plaintiffs expressly incorporate by reference paragraphs 1 through 30 herein as though set forth in full.

1 the above referenced light standard.

2 34. On or about January 9, 2021, Defendant DAVID ALBERT BAUM was making a left
3 turn from southbound Pole Line Road onto eastbound E. Covell Boulevard. At said time and
4 general location, Defendant DAVID ALBERT BAUM struck the light standard on the southeast
5 corner of the intersection of Pole Line Road and East Covell Boulevard.

6 35. Due to the dangerous condition of the subject roadway and light standard in the
7 vicinity of the subject incident, when Defendant DAVID ALBERT BAUM's vehicle struck the
8 aforementioned light standard, the light standard came loose from its base, thereby causing
9 Plaintiffs' injuries and damages. This defendant vehicle operator is preliminarily alleged to have
10 been negligent as a co-tortfeasor along with the other named Defendants herein.

11 36. As the direct, proximate and legal result of the negligence of Defendant, DAVID
12 ALBERT BAUM, and DOES, and each of them, Plaintiffs were hurt and injured in their health,
13 strength and activity, sustaining injury to their body and shock and injury to their nervous
14 systems and person, all of which said injuries have caused and continue to cause Plaintiffs great
15 mental, physical, and nervous pain and suffering. Plaintiffs are informed, believe, and thereon
16 allege that said injuries will result in some permanent disability to Plaintiffs.

17 WHEREFORE, Plaintiffs pray for judgment against Defendants, DAVID ALBERT BAUM, and
18 DOES 51 through 75, and each of them, as follows:

19 1. General damages in an amount in excess of the minimum jurisdiction of an
20 unlimited civil action;

21 2. For all medical and incidental expenses according to proof;

22 3. All loss of earnings according to proof;

23 4. All property damage and loss of use damages;

24 5. Prejudgment interest according to law on all general and special damages;

25 6. All costs of suit; and,

26 7. Such other and further relief as this court may deem just and proper.

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1 **FOURTH CAUSE OF ACTION**

2 **LOSS OF CONSORTIUM**

3 **(Plaintiff, ERIK GREINER, as to Defendants, CITY OF DAVIS, DAVID ALBERT BAUM, and**
4 **DOES 76 through 100, and each of them.)**

5 37. Plaintiff ERIK GREINER re-alleges and incorporates by reference Paragraphs 1
6 through 36 above, as though fully set forth herein.

7 38. At all times herein mentioned, SHAWNA GREINER and ERIK GREINER were legally
8 married and were husband and wife.

9 39. As a direct, proximate and legal result of the negligence of the defendants, and each
10 of them, as alleged herein, Plaintiff's wife, SHAWNA GREINER, suffered severe personal injuries.

11 40. As a direct, proximate and legal result of the negligence of the Defendants, CITY OF
12 DAVIS, DAVID ALBERT BAUM, and DOES 76 through 100, and each of them, Plaintiff has suffered
13 a loss of consortium, including a loss of comfort, society, love, support, companionship, services
14 to the community, all to his damage in an amount in excess of the minimum jurisdiction for an
15 unlimited civil case, the exact amount according to proof.

16 WHEREFORE, Plaintiff, ERIK GREINER, seeks damages from the Defendants, CITY OF
17 DAVIS, DAVID ALBERT BAUM, and DOES 76 through 100, and each of them, as follows:

- 18 1. General damages in excess of the jurisdictional limits of this Court;
19 2. Prejudgment interest to the extent permitted by law;
20 3. All costs of suit; and,
21 4. Such other and further relief as this Court may deem just and proper.

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23 DATED: November 24, 2021

DREYER BABICH BUCCOLA WOOD CAMPORA, LLP

24
25 By:  _____

26 JASON J. BIGEL
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