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12	SUPERIOR COURT OF THI
13	COUNTY OF RIVERSIDE, RIVER
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IE STATE OF CALIFORNIA RSIDE HISTORIC COURTHOUSE

15 || ANA E. CARBAJAL GARCIA, individually and as Successor in Interest to THE ESTATE OF OBED L. BARBOSA CARBAJAL; KIALLY A. VARGAS CARBAJAL, an individual; ANA E. CARBAJAL GARCIA as Guardian ad litem for MARIO I. CARRANZA CARBAJAL, a minor and KIARA Y. BARBOSA CARBAJAL, a minor,

Plaintiffs,

v.

CITY OF RIVERSIDE, a municipality; ANDRES LARIS, an individual and DOES 1 through 50, inclusive,

Defendants.

Case No. CVRI2306676

COMPLAINT FOR DAMAGES:

- **DANGEROUS CONDITION OF** 1. PUBLIC PROPERTY
- 2. NEGLIGENCE

DEMAND FOR JURY TRIAL

COME NOW Plaintiffs, ANA E. CARBAJAL GARCIA, individually and as Successor in Interest to THE ESTATE OF OBED L. BARBOSA CARBAJAL; KIALLY A. VARGAS

CARBAJAL, an individual; ANA E. CARBAJAL GARCIA as Guardian ad litem for MARIO I.

CARRANZA CARBAJAL, a minor and KIARA Y. BARBOSA CARBAJAL, a minor, for causes of action against Defendant CITY OF RIVERSIDE, ANDRES LARIS, and DOES 1 through 50, inclusive, who complain and allege as follows:

GENERAL ALLEGATIONS

- 1. This wrongful death and personal injury case stems from an auto collision that occurred in Riverside, California. On May 16, 2023 around 7:30 a.m., the Carbajal siblings were driving eastbound on Arlington Avenue. Kially Carbajal, 25 years old, was driving the family's 2015 Nissan Altima, while Mario Carbajal, 16, sat in the front passenger seat, and Kiara Carbajal, 10, and Obed Carbajal, 8, sat in the backseat. As they approached the bend on Arlington Avenue near the intersection with Stover Avenue, another driver travelling westbound on Arlington Avenue lost control of his vehicle and skid into eastbound traffic. Andres Laris was driving a 2020 Honda Civic, California License Plate No. 8TTB670 ("SUBJECT VEHICLE"). The two vehicles collided head-on ("Subject Incident") in the eastbound lanes.
- 2. 8-year-old Obed Liam Barbosa Carbajal died from his injuries at the scene. Kiara Carbajal suffered catastrophic injuries including a severe brain injury requiring emergency surgery, two broken legs, and a spinal injury. Mario Carbajal sustained brain swelling and had to have an emergency spine fusion surgery. Kially Carbajal suffered catastrophic injuries as well, including a broken arm and broken foot that both required surgery. Kially Carbajal, Mario Carbajal and Kiara Carbajal all suffered emotional injuries by personally witnessing the injuries of their siblings, and the death of their youngest sibling, Obed Carbajal.

PARTIES

- 3. Plaintiff ANA E. CARBAJAL GARCIA is the mother of OBED L. BARBOSA CARBAJAL and resides in Riverside, California. Moreover, Plaintiff ANA E. CARBAJAL GARCIA is Decedent OBED L. BARBOSA CARBAJAL's successor-in-interest for all purposes in this litigation pursuant to Code of Code Civil Procedure § 377.32.
 - 4. Plaintiff KIALLY A. VARGAS CARBAJAL resides in Riverside, California.
- 5. Plaintiff MARIO I. CARRANZA CARBAJAL is a minor born on August 26, 2006, and brings this action by and through his Guardian ad Litem, ANA E. CARBAJAL GARCIA, his

mother.

- 6. Plaintiff KIARA Y. BARBOSA CARBAJAL is a minor born on February 13, 2013, and brings this action by and through her Guardian ad Litem, ANA E. CARBAJAL GARCIA, her mother.
- 7. OBED L. BARBOSA CARBAJAL, Decedent, would have been the plaintiff in this action had he lived. Decedent's actions are brought by Plaintiffs on behalf of his mother pursuant to California Code of Civil Procedure Sections 377.10 to 377.35 inclusive.
- 8. Prior to the filing of this action, pursuant to California Government Code sections 905, 910 et. seq., and 945.4, Plaintiffs timely served a written government claim. Defendant CITY OF RIVERSIDE has rejected and/or may be deemed to have rejected said claim. Consequently, Plaintiffs have standing to bring suit for monetary damages against the aforementioned public entity Defendant.
- 9. Defendant CITY OF RIVERSIDE, at all times relevant herein, was a public entity duly organized and existing under and by virtue of the laws of the State of California and authorized to do, and is doing, business in the State of California with its principal place of business in the County of Riverside, State of California.
- 10. Defendant ANDRES LARIS at all times relevant herein, was a resident of Corona, California.
- 11. The true names and capacities, whether individual, plural, corporate, partnership, associate, or otherwise, of DOES 1 through 50, inclusive, are unknown to Plaintiffs who therefore sue said defendants by such fictitious names. The full extent of the facts linking such fictitiously sued defendants is unknown to Plaintiffs. Plaintiffs are informed and believe, and thereupon allege, that each of the defendants designated herein as a DOE was, and is, negligent, or in some other actionable manner, responsible for the events and happenings hereinafter referred to, and thereby negligently, or in some other actionable manner, legally and proximately caused the hereinafter described injuries and damages to Plaintiffs. Plaintiffs will hereafter seek leave of the Court to amend this Complaint to show the defendants' true names and capacities after the same have been ascertained.

12. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned herein, Defendants, and each of them, including DOES 1 through 50, inclusive, were agents, servants, employees, successors in interest, and/or joint venturers of their co-Defendants, and were, as such, acting within the course, scope, and authority of said agency, employment, and/or venture, and that each and every Defendant, as aforesaid, when acting as a principal, was negligent in the selection and hiring of each and every other Defendant as an agent, servant, employee, successor in interest, and/or joint venturer.

FIRST CAUSE OF ACTION

(Dangerous Condition of Public Property by Plaintiffs Against Defendant CITY OF RIVERSIDE and DOES 1 through 40, inclusive)

- 13. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.
- 14. Plaintiffs are informed and believe, and thereon allege, that Defendant City of Riverside, and DOES 1 through 40, inclusive, created, owned, built, drafted, engineered, designed, inspected, regulated, modified, directed, supervised, planned, contracted, constructed, managed, serviced, repaired, maintained, used, occupied, and controlled the subject roadway consisting of Arlington Avenue near Stover Avenue in the City of Riverside ("Subject Roadway") and surrounding area where the subject incident occurred.
- 15. The Subject Roadway at the time of this incident constituted a dangerous condition of public property pursuant to *Government Code*, Section 835. Plaintiffs' injuries were proximately caused by the dangerous condition and the dangerous condition created a reasonably foreseeable risk of injury, and that either a) a negligent or wrongful act or omission of an employee or independent contractor or agent of the public entities listed above within the scope of his or her employment created the dangerous condition, or b) the public entities listed above had actual or constructive notice of the dangerous condition under *Government Code* Section 835.2 and sufficient time prior to the subject incident to have taken measures to protect against the dangerous condition. The Subject Roadway was owned, controlled, and maintained by the City. Therefore the City of Riverside is liable for the same under Government Code sections 815.2,

- 16. The Subject Roadway had various dangerous conditions existing thereon, including but not limited to, the following:
 - (a) The Subject Roadway was improperly, dangerously, negligently, and defectively designed, built, placed, drafted, engineered, controlled, maintained, inspected, modified, rehabilitated, planned, contracted, and/or regulated;
 - (b) The Subject Roadway was defectively and negligently designed and maintained by failing to provide adequate warnings or signage indicating the presence of an upcoming sharp turn, or any other signs, signals, or forms of warning to alert motorists of the sharp turn and/or to reduce speed;
 - (c) The Subject Roadway was negligently controlled by allowing a speed limit that was excessive for the sharpness of the turn, and by failing to reduce the speed limit in proximity to the turn, promoting an unsafe speed that created a dangerous condition on the sharp turn;
 - (d) The Subject Roadway was defectively and negligently designed and/or rehabilitated, allowing for pavement and/or road conditions that failed to provide adequate grip for vehicles and contributed to the ease with which vehicles were able to skid on the road upon taking the sharp turn at the posted speed limit;
 - (e) The Subject Roadway was defectively and negligently maintained and controlled by failing to provide any safety measures, barriers, raised asphalt, concrete median divider, and/or safety rails that could have prevented vehicles from skidding or from colliding into other vehicles, residences, people, structures, and/or objects when skidding or losing control on the road when taking the sharp turn;
 - (f) The Subject Roadway was defectively and negligently designed and controlled without effective or adequate measures, such as signage, warnings, amber flashing lights, or road markings that prompted motorists to slow down or drive with caution along the sharp turn;
 - (g) The Subject Roadway was defectively and negligently designed and maintained by

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failing to provide any measures that minimized skidding along the sharp tur	'n,
including a failure to implement or apply any high friction surface treatmen	t
despite a high number of vehicles losing control and skidding along the Roa	adway;

- (h) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and maintained, as its created a condition in which motorists approaching the sharp turn were unable to clearly see vehicles approaching from the opposite direction and no warning, signage, light signal, amber signal, or any other kind of signal was provided to inform motorist about the status of oncoming traffic;
- (i) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and maintained, as the above-referenced dangerous conditions led to recurring vehicles colliding into residences along Subject Roadway, including vehicles colliding into residential walls, and/or crashing into residential yards;
- (j) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and control in its failure to provide any mechanism to control the speed or flow of traffic, or break up the flow of traffic, thereby allowing motorists to unsafely speed around the sharp turn, resulting in numerous vehicular accidents;
- (k) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and controlled by its failure to provide any stop signs, traffic lights, or any other measure to control the flow of traffic in the area despite multiple service requests for the same;
- (l) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and controlled by its failure to provide any stop signs, traffic lights, or any other measure to control the flow of traffic in the area despite frequent evaluation and ranking to install the same;
- (m) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and maintained by its failure to implement or apply any kind of measure to prevent against motorists speeding around the sharp turn at high speeds;
- (n) The Subject Roadway was improperly, dangerously, negligently, and defectively

- designed and maintained by its failure to restripe the lanes along the roadway as a precautionary measure to improve traffic flow and reduce risk of accidents;
- (o) The Subject Roadway was improperly, dangerously, negligently, and defectively designed and maintained by its failure to have traffic control measures such as a stop sign or traffic signal in that area so vehicles would slow down before entering the sharp turn;
- (p) The combination of the above-referenced dangerous conditions created a concealed trap to foreseeable users of the Subject Roadway such as Plaintiffs;
- (q) The Subject Roadway is a high accident location with many accidents and requests for service at the location.
- 17. Defendant had actual and constructive notice of the dangerous condition of the SUBJECT ROADWAY as far back as 2009. Since 2009, the SUBJECT ROADWAY has had over 29 motor vehicle collisions, including three fatal collisions and several head on collisions similar to the SUBJECT INCIDENT. Over the last 14 years, the residents of the surrounding areas called, emailed, attending meetings, to raise concerns about the safety of the SUBJECT ROADWAY. In April of 2015, Defendant City of Riverside created a plan to install certain measures (traffic light, high friction surface treatments) to the SUBJECT ROADWAY, but never implemented the project prior to the SUBJECT INCIDENT.
- 18. Plaintiffs are informed and believe, and thereon allege, that Defendant City of Riverside, and DOES 1 through 40 negligently and/or recklessly owned, built, drafted, engineered, designed, inspected, regulated, modified, directed, supervised, planned, contracted, maintained and controlled the Subject Roadway. Plaintiffs are further informed and believe that Defendant City of Riverside, and DOES 1 through 40, negligently and/or recklessly caused, created and/or allowed to exist and to continue to exist said dangerous condition(s) with respect to the Subject Roadway, even after being on notice of other similar incidents on the same Roadway. Plaintiffs are further informed and believe that Defendant City of Riverside, and DOES 1 through 40 misconduct and/or negligence in causing, creating, allowing to exist and to continue to exist said dangerous condition(s) with respect to the Subject Roadway, created a reasonably foreseeable risk

of injury to motorists using the Subject Roadway in a reasonable manner. Based upon the aforementioned facts, said Subject Property constituted a dangerous condition of public property at the time of the subject incident for many reasons, including but not limited to, those stated above and the following:

- (a) The Subject Roadway was dangerous and defectively planned, designed, drafted, engineered, constructed and positioned, and was either not approved in accordance with standard procedure, regulations and statutes (thereby violating same) or could not reasonably have been approved by any appropriate and responsible governmental entity or any delegates and/or agents thereof;
- (b) To the extent the design of the Subject Roadway and adjacent property was approved, if any approval was requested and given, the requesting and responding authority(ies)/delegate(s) and agent(s) were incompetent or failed to possess the requisite skills and expertise to render a reasonable evaluation of the benefits, risks and dangers of the plan as submitted or amended and approved;
- (c) To the extent the design of the Subject Roadway was approved, said approval was unreasonable and constituted a manifest abuse of discretion, or was otherwise negligent by failing to address the applicable engineering standards and conditions then existing or reasonably contemplated to exist in the future, once said design was implemented;
- (d) The Subject Roadway was at all times dangerous, improperly and defectively maintained, managed, inspected, installed, repaired, modified, reviewed and evaluated, if in fact it was maintained, managed, inspected, reviewed and evaluated. To the extent such functions were not performed, they should have been, and to the extent they were performed, they were done improperly, negligently, and violated applicable engineering standards and regulations pertaining to similarly situated roadways;
- (e) The Subject Roadway was at all relevant times in a dangerous condition due to the lack of appropriate signage, markings, warnings, barriers, safety railings, adequate

- pavement, appropriate speed limit or other measures necessary to prevent traffic collision incidents of the type that occurred in this case.
- (f) There was negligence by the agents and/or employees of Defendant City of Riverside in the ownership, control, construction, maintenance, inspection, placement, supervision, repairs, design, modifications of and to the Subject Roadway including creating and failing to warn against a non-obvious and concealed trap. There was further negligence in failure to properly supervise, educate, train, monitor and test workers including employees, agents and/or independent contractors who were responsible for doing the acts and tasks noted above. There was further negligence in a failure to warn of these known risks and hazards, some of which were created by Defendant City of Riverside and some of which existed for a sufficient period of time to provide warnings and/or remove the risk or hazard and failure to warn of previous similar incidents;
- (g) The area of the subject incident was in a dangerous condition because of the failure to exercise due care in the ownership or control of the Subject Roadway and adjacent property, in that the lack of signage, markings, as well as other dangers noted above, created a concealed trap. Said property was further unsafe because of improper materials used, failure to properly supervise, educate, train, monitor and test workers including employees and independent contractors who were responsible for doing the acts and tasks noted above. There was a failure to warn of these known risks and hazards, some of which were created by Defendant City of Riverside and some of which existed for a sufficient period of time to provide warnings and/or remove the risk or hazard. Additionally, Defendant City of Riverside further engaged in a failure to warn of a high number of previous vehicle incidents of a similar nature to the subject incident at said location; and,
- (h) Failure to properly plan, modify, alter, construct, monitor, improve, repair, manage, design, control, maintain and service said property after deterioration of the subject roadway as well as changes in traffic patterns and usage of the property since its

original design and construction.

- 19. The combination of the above-referenced dangerous conditions created a concealed trap to foreseeable users of the subject roadway such as Decedent and Plaintiffs.
- 20. Plaintiffs are informed and believe, and thereon allege, that Defendant City of Riverside, and DOES 1 through 40, inclusive, had, within the meaning of *Government Code* § 835.2, actual and/or constructive knowledge of the said dangerous and defective conditions of the Subject Roadway for a sufficient period of time prior to the subject incident to have taken measures to prevent such incidents due to the longstanding physical appearance and conditions of the Subject Roadway. Plaintiffs are further informed and believe, that Defendant City of Riverside, and DOES 1 through 40, inclusive, also had actual knowledge of prior incidents in proximity to the subject incident, for sufficient period of time prior to the subject incident to have taken measures to prevent further such incidents.
- 21. Plaintiffs are further informed and believe, and thereon allege, that said dangerous conditions were a legal, direct, and proximate cause of the injury and damages suffered by Decedent and Plaintiffs, including the death of Obed Liam Barbosa Carbajal.
- 22. As a legal, direct, and proximate cause of the conduct of Defendant City of Riverside and DOES 1 through 40, inclusive, as aforesaid, all Plaintiffs have incurred property, medical, and loss of earnings in an amount to be stated according to proof, pursuant to section 425.10 of the California Code of Civil Procedure. Plaintiffs ANA E. CARBAJAL GARCIA and THE ESTATE OF OBED L. BARBOSA are also claiming funeral and burial expenses and a loss of earnings capacity.
- 23. As a legal, direct and proximate cause of the conduct of Defendant City of Riverside and DOES 1 through 40, inclusive, as aforesaid, Plaintiff Ana Esther Carbajal Garcia has sustained damages resulting from the loss of love, affection, society, service, comfort, support, right of support, expectations of future support and counseling, companionship, solace and mental support, as well as other benefits and assistance of Obed L. Barbosa Carbajal, all to her general damages in a sum in excess of the jurisdictional limits of this Court, which will be stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure. Plaintiff

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Ana E. Carbajal Garcia has also incurred property, medical, funeral, and burial expenses in an amount to be stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure. Plaintiffs Kially A. Vargas Carbajal, Mario I. Carranza Carbajal, and Kiara Y. Barbosa Carbajal have suffered catastrophic personal injuries and incurred medical expenses in a sum in excess of the jurisdictional limits of this Court, which will be stated according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure. Plaintiffs Kially A. Vargas Carbajal, Mario I. Carranza Carbajal, and Kiara Y. Barbosa Carbajal suffered severe emotional distress after witnessing their siblings become catastrophically injured in the incident.

24. DECEDENT endured pain and suffering caused by Defendants acts and/or omissions prior to his death. Pursuant California Code of Civil Procedure section 377.34, Plaintiff ANA E. CARBAJAL seeks damages, as Decedent's successors in interest according to California Code of Civil Procedure section 377.11 and Decedent's heir at law, for Decedent's pain and suffering prior to his death.

SECOND CAUSE OF ACTION

(Negligence by Plaintiffs Against Defendant ANDRES LINARES and DOES 41 through 50, inclusive)

- 25. Plaintiffs re-allege and incorporate herein by reference each and every allegation and statement contained in the prior paragraphs.
- 26. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned herein, Defendant ANDRES LARIS and DOES 41 through 50, inclusive, owed a duty of care to all reasonably foreseeable people, including Plaintiffs to own, lease, manage, maintain, control, entrust, and operate the SUBJECT VEHICLE in a reasonable manner.
- 27. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned herein, Defendant ANDRES LARIS and DOES 41 through 50, inclusive, carelessly, negligently, grossly negligently, and recklessly owned, leased, managed, maintained, controlled, entrusted, and operated the SUBJECT VEHICLES. Specifically, Defendant LARIS failed to keep the SUBJECT VEHICLE in the westbound lanes of traffic.

- 28. At all relevant times, Plaintiffs Kially A. Vargas Carbajal, Mario I. Carranza Carbajal, and Kiara Y. Barbosa Carbajal were seated inside the Nissan Altima, during the subject event, and were within the zone of danger to the injury-producing event. Plaintiffs were all in the SUBJECT VEHICLE at the time of impact thereby compromising the occupant protection zone. Plaintiffs all sustained physical injuries and emotional injuries as they witnessed their family members being injured.
- 29. As a legal, direct and proximate result of said negligence of said Defendants, as aforesaid, Plaintiffs have sustained and are certain in the future to sustain disabling, serious and permanent injuries.
- 30. As a further direct, legal and proximate result of said negligence of said Defendants, as aforesaid, Plaintiffs have incurred and will incur in the future, medical, hospital, x-ray and sundry expenses in the examination, care and treatment of Plaintiffs' injuries, within the jurisdiction of this court, and in an amount according to proof at the time of trial.
- 31. As a further direct, legal and proximate result of said negligence of said Defendants, as aforesaid, Plaintiffs have suffered lost earnings, past, present, and future, within the jurisdiction of this court, and in an amount according to proof at the time of trial.
- 32. As a further direct, legal and proximate result of the said negligence of said Defendants, as aforesaid, Plaintiffs sustained damage and injuries to personal property, within the jurisdiction of this court, and in an amount within the jurisdiction of this court and according to proof at the time of trial.
- 33. As a legal, direct, and proximate cause of the conduct of Defendant City of Riverside and DOES 1 through 50, inclusive, as aforesaid, all Plaintiffs have incurred property, medical, funeral and burial expenses in an amount to be stated according to proof, pursuant to section 425.10 of the California Code of Civil Procedure.
- 34. As a legal, direct and proximate cause of the conduct of Defendant City of Riverside and DOES 1 through 50, inclusive, as aforesaid, Plaintiff Ana Esther Carbajal Garcia has sustained damages resulting from the loss of love, affection, society, service, comfort, support, right of support, expectations of future support and counseling, companionship, solace and mental

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support, as well as other benefits and assistance of Obed Liam Barbosa Carbajal, all to her general

according to proof, pursuant to Section 425.10 of the California Code of Civil Procedure. Plaintiff

Ana Esther Carbajal Garcia has also incurred property, medical, funeral, and burial expenses in an

damages in a sum in excess of the jurisdictional limits of this Court, which will be stated

WHEREFORE, Plaintiffs, ANA E. CARBAJAL GARCIA, individually and as Successor in Interest to THE ESTATE OF OBED L. BARBOSA CARBAJAL, KIALLY A. VARGAS CARBAJAL, an individual, MARIO I. CARRANZA CARBAJAL, a minor by and through his Guardian ad Litem, ANA E. CARBAJAL GARCIA, KIARA Y. BARBOSA CARBAJAL, a minor by and through her Guardian ad Litem, ANA E. CARBAJAL GARCIA, for causes of action against Defendant CITY OF RIVERSIDE, ANDRES LARIS and DOES 1 through 50, inclusive, as follows:

- 1. For general damages suffered by Plaintiff Ana E. Carbajal Garcia, including, but not limited to, loss of love, affection, care, society, service, comfort, support, right to support, companionship, solace or moral support, expectations of future support and counseling, other benefits and assistance of their respective Decedent, which will be stated according to proof, and beyond the jurisdictional minimum of this Court, and in a sum within the jurisdiction of this Court and which will be established according to proof at trial;
- 2. For Plaintiffs KIALLY A. VARGAS CARBAJAL, an individual, MARIO I. CARRANZA CARBAJAL, a minor by and through his Guardian ad Litem, ANA E. CARBAJAL

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DECLARATION OF ANA CARBAJAL

I, ANA CARBAJAL, in accordance with the provisions of Section 377.32 of the Code of Civil Procedure, declare and say that:

- 1. Decedent Obed Liam Barbosa Carbajal (DOB: April 22, 2015), died on May 16, 2023, in County of Riverside, California as a result of a motor vehicle collision.
 - 2. Decedent Obed Liam Barbosa was my biological son.
- 3. No proceeding is now pending in California for the administration of Decedent's estate.
- 4. This declarant, as the mother of the decedent, is the decedent's successor in interest as defined in Code of Civil Procedure Section 377.11, and succeed to the decedent's interests in all respects. No other persons have a superior right to commence the action or proceeding or to be substituted for the decedent in the pending action.
- 5. Attached as Exhibit "1" to this declaration is a true and correct certified copy of Decedent Obed Liam Barbosa Carbajal's death certificate.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed December _05____, 2023, at Riverside, California.



EXHIBIT 1

COUNTY OF RIVERSIDE

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