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**ENDORSED FILED**  
**SAN MATEO COUNTY**

MAY 30 2012

Clerk of the Superior Court  
By G. Jackson  
DEPUTY CLERK

Attorneys for Plaintiffs  
JAN CHANDLER, COURTNEY CHANDLER,  
BRITTANY CHANDLER, and TYLER  
CHANDLER

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF SAN MATEO

JAN CHANDLER, individually and as  
Successor-in-Interest to the ESTATE OF  
CHRISTOPHER CHANDLER, Deceased, and  
COURTNEY CHANDLER, individually and  
as Successor-in-Interest to the ESTATE OF  
CHRISTOPHER CHANDLER, Deceased, and  
BRITTANY CHANDLER, individually and as  
Successor-in-Interest to the ESTATE OF  
CHRISTOPHER CHANDLER, Deceased,  
TYLER CHANDLER, individually and as  
Successor-in-Interest to the ESTATE OF  
CHRISTOPHER CHANDLER

Case No. CIV501071

**SECOND AMENDED COMPLAINT  
FOR DAMAGES.**

**(Negligence; Wrongful Death – Motor  
Vehicle Related; and Dangerous Condition  
of Public Property)**

**DEMAND FOR JURY TRIAL**

Plaintiffs,

vs.

STATE OF CALIFORNIA, and DOES ONE  
through FIFTY, inclusive,

Defendants.

1. On September 30, 2010, plaintiffs' decedent, CHRISTOPHER CHANDLER, was crossing El Camino Real (State Route 82) eastbound in the marked crosswalk at Isabella Avenue in Atherton, California when MATTHEW SIMON and defendants CAL TRANS and DOES ONE through FIFTY, and each of them, carelessly and negligently drove, operated,

1 maintained, owned, entrusted, serviced and controlled the aforementioned vehicle so as to  
2 cause said vehicle to strike and collide with the plaintiffs' decedent as he was crossing the  
3 intersection in the crosswalk, causing the plaintiffs' decedent to suffer and sustain fatal injuries  
4 which resulted in his death.

5 2. That the true names, capacities or involvement, whether individual, corporate,  
6 governmental or associate, or the involvement of any of the defendants named herein as DOE  
7 are all unknown to plaintiffs JAN CHANDLER, individually and as Successor-in-Interest to  
8 the ESTATE OF CHRISTOPHER CHANDLER, Deceased, COURTNEY CHANDLER,  
9 individually and as Successor-in-Interest to the ESTATE OF CHRISTOPHER CHANDLER,  
10 Deceased, BRITTANY CHANDLER, individually and as Successor-in-Interest to the ESTATE  
11 OF CHRISTOPHER CHANDLER, Deceased, and TYLER CHANDLER, individually and as  
12 Successor-in-Interest to the ESTATE OF CHRISTOPHER CHANDLER, Deceased, who  
13 therefore sues said defendants by such fictitious names. Plaintiffs pray leave to amend this  
14 Complaint to show their true names, capacities and involvement when the same have been  
15 finally determined. Plaintiffs are informed and believe, and upon such information and belief  
16 allege, that each of the defendants designated herein as DOE is negligently or otherwise legally  
17 responsible in some manner for the events and happenings herein referred to, and negligently or  
18 otherwise caused injury and damages proximately thereby to plaintiffs, as in herein alleged.

19 3. At all times herein mentioned, plaintiff JAN CHANDLER was CHRISTOPHER  
20 CHANDLER'S wife, and heir at law.

21 4. At all times herein mentioned, plaintiff COURTNEY CHANDLER was  
22 CHRISTOPHER CHANDLER'S daughter, and heir at law.

23 5. At all times herein mentioned, plaintiff BRITTANY CHANDLER was  
24 CHRISTOPHER CHANDLER'S daughter, and heir at law.

25 6. At all times herein mentioned, plaintiff TYLER CHANDLER was  
26 CHRISTOPHER CHANDLER'S daughter, and heir at law.

1 **COMPLIANCE WITH THE TORT CLAIMS ACT**  
2 **[Public Entity Defendants]**

3 7. Defendant STATE OF CALIFORNIA is, and at all relevant times mentioned  
4 herein was, a public entity with the responsibility for activities and operations of the California  
5 Department of Transportation. The California Department of Transportation is, and at all times  
6 herein mentioned was, a public entity responsible for operating the STATE OF  
7 CALIFORNIA's roads and highways, including the intersection where this incident occurred,  
8 and the surrounding roads.

9 8. On or about March 9, 2011, a written claim for damages setting forth the matters  
10 herein alleged was duly and regularly presented to and filed on behalf of plaintiffs with the  
11 defendant STATE OF CALIFORNIA in accordance with the appropriate sections of the  
12 California Government Code.

13 9. On or about May 5, 2011, defendant, the STATE OF CALIFORNIA rejected  
14 said claim. This Complaint is therefore timely filed within the provisions of the California  
15 Government Code.

16 **FIRST CAUSE OF ACTION**  
17 **[Negligence – against all Defendants]**

18 10. Plaintiffs hereby refer to and incorporates by this reference each and every  
19 allegation contained in Paragraph 1 through 9, and hereby make them part of this First Cause of  
20 Action.

21 11. At all times herein mentioned, defendants DOES ONE through TWENTY,  
22 employees of defendant STATE OF CALIFORNIA in the course and scope of their  
23 employment at all times herein, negligently designed, constructed, manufactured, tested,  
24 modified, inspected, operated, and/or maintained the subject marked crosswalk such that it was  
25 dangerous, defective and unsafe in that a fatality occurred killing plaintiffs' decedent, whereas  
26 had the marked crosswalk been properly designed, constructed, manufactured, tested,  
27 inspected, operated, and/or maintained, plaintiffs' decedent would not have been fatally injured  
28 by the passing vehicle.

1 12. Plaintiffs are informed and believe, and thereupon allege that DOES ONE through  
2 TWENTY, employees of defendant STATE OF CALIFORNIA, and/or DOES TWENTY-ONE  
3 though FIFTY, as yet unknown companies and/or contractors under the direction of defendant  
4 STATE OF CALIFORNIA, were employed and/or directed by the STATE OF CALIFORNIA  
5 for the purposes of assessing and designing roadways including but not limited to the crosswalk  
6 at El Camino Real and Isabell in Atherton, California. Plaintiffs are further informed and  
7 believe, and thereupon allege, that DOES ONE through TWENTY and DOES TWENTY-ONE  
8 through FIFTY, and each of them, were responsible for determining whether and what type of  
9 crosswalk would be placed at said intersection; whether and what type of traffic control  
10 measures would be installed at said intersection; whether the circumstances had changed since  
11 said crosswalk was created warranting changes; knew or should have known of the danger  
12 posed by the six lanes of traffic at said intersection; and they took affirmative actions that made  
13 the situation worse, including but not limited to, deciding to install a midblock marked  
14 crosswalk on a heavily traveled El Camino Real in Atherton, failing to direct pedestrians to a  
15 traffic controlled intersection crosswalk nearby and/or prohibit pedestrian crossing at the  
16 intersection at issue; deciding not to install traffic control devices at said intersection; failing to  
17 install warning signs providing warning to motorists of the pedestrian crosswalk located at said  
18 intersection – all of which, in their totality, amounted to affirmative actions by DOES ONE  
19 through TWENTY that made the situation more hazardous for decedent.

20 13. Plaintiffs are informed and believe, and thereupon allege, that the actions of  
21 DOES ONE through TWENTY, in the course and scope of their employment with defendant  
22 STATE OF CALIFORNIA, resulted in an affirmative misrepresentation to decedent presenting,  
23 among other things, that the crosswalk at El Camino Real and Isabella Street, in Atherton,  
24 California, was safe to use for crossing El Camino Real leading to the physical injuries  
25 resulting in decedent's death.

26 14. Defendant STATE OF CALIFORNIA is, pursuant to Govt. Code, §815.2, et  
27 seq., vicariously liable for the acts of its employees, DOES ONE through TWENTY, in the  
28 course and scope of their employment as described herein.



1 foreseeable substantial risk of harm to members of the public who were lawfully operating  
2 vehicles, or otherwise on the roadway.

3 19. Defendant STATE OF CALIFORNIA knowingly failed to properly construct,  
4 work, and/or inspect and/or maintain the marked crosswalk that fatally injured plaintiffs'  
5 decedent. Said failure is part of a pattern whereby the STATE OF CALIFORNIA fails to  
6 construct, inspect, maintain, and operate facilities and/or equipment within its control  
7 notwithstanding that it knew or should have known that the facilities' poor condition and/or  
8 changed circumstances posed a serious threat to public health and safety.

9 20. This incident was directly and legally caused by acts and/or omissions of the  
10 STATE OF CALIFORNIA, DOES ONE through FIFTY, and/or their employees or agents,  
11 including but not limited to:

- 12 (a) Failure to warn of and/or present and/or correct a "dangerous condition"  
13 (a condition of property that creates a substantial [as distinguished from a minor,  
14 trivial or insignificant] risk of injury when such property or adjacent property is  
15 used with due care in a manner in which it is reasonably foreseeable that it  
16 would be used) on or immediately adjacent to, public property;
- 17 (b) Failure to provide and/or maintain adequate traffic control devices and  
18 warning signs alerting motorists to the presence of the crosswalk as they  
19 approached this intersection, including, but not limited to, using highly  
20 reflective signs, keeping warning signs free from obstruction by surrounding  
21 vegetation and/or trees, and using high visibility roadway markings;
- 22 (c) Failure to provide and/or maintain adequate traffic control devices and  
23 warning signs alerting motorists to the crosswalk and the presence of those in the  
24 crosswalk;
- 25 (d) Failure to restrict the public, from crossing State Route 82 at Isabella  
26 Avenue, and rather than placing a crosswalk at this location that encourages the  
27 public to cross at this location;
- 28 (e) Failure to post a clear and unambiguous speed limit;

- 1 (f) Failure to provide stop signs, or traffic lights at this intersection for State  
2 Route 82 traffic;
- 3 (g) Failure to provide clear roadway markings and signs alerting motorists to  
4 the presence of this crosswalk;
- 5 (h) Failure to address and regulate the high speed of vehicles using State  
6 Route 82;
- 7 (i) Failure to provide and/or maintain adequate signs, signals, "active"  
8 warning devices, channelizers, pavement markings and striping;
- 9 (j) Creating a confusing roadway area in terms of speed advisories, signage,  
10 and pavement markings that failed to adequately alert motorists to the crosswalk  
11 where this incident occurred, and failure to warn or redirect pedestrians away  
12 from this intersection;
- 13 (k) Failure to post additional/supplemental signage, lighting, traffic control  
14 devices, and/or pavement markings in view of what defendant knew or should  
15 known to have been dangerous for those using the crosswalk;
- 16 (l) The failure to properly respond to the accident history in this area and  
17 complaints regarding collision dangers; and
- 18 (m) Failure to assess whether the changed circumstances at said intersection,  
19 such as increased traffic, warranted modifications to the intersection, the  
20 crosswalk, and/or traffic control devices.

21 21. The above- factors, both individually and in combination, created a dangerous  
22 condition of public property and presented a substantial risk of injury to members of the  
23 general public, including CHRISTOPHER CHANDLER, who use the property, or adjacent  
24 property, with reasonable care, and in a reasonably foreseeable manner. Likewise, these  
25 factors, both individually and in combination, constituted a dangerous condition which had  
26 been, but was not, remedied by agents and employees of the STATE OF CALIFORNIA.

27 22. The STATE OF CALIFORNIA and/or DOES ONE through FIFTY, and each of  
28 them, negligently created and/or possessed knowledge, actual or constructive, of the above-

1 described dangerous conditions, as well as the hazards and defects present in said roadway, and  
2 the surrounding area.

3 23. By reason of the premises, and as a direct and legal result of the above-described  
4 dangerous condition and the negligence and carelessness of the STATE OF CALIFORNIA,  
5 DOES ONE through FIFTY, and/or their employees and agents, plaintiffs' decedent  
6 CHRISTOPHER CHANDLER was involved in this motor vehicle collision causing the above-  
7 described severe fatal injuries.

8 24. By reason of the premises, plaintiffs JAN CHANDLER, surviving spouse, and  
9 COURTNEY CHANDLER, BRITTANY CHANDLER, and TYLER CHANDLER, the adult  
10 children of decedent, have been deprived of the care, comfort, society, companionship,  
11 protection, services, support and consortium of a kind and loving husband and father, all to  
12 their economic and general damages, the exact amount of which is presently unascertained by  
13 plaintiffs. Plaintiffs pray leave to amend the Complaint to insert said amounts when the same  
14 are finally determined.

15 25. By reason of the premises, plaintiffs have been generally damaged in a sum in  
16 excess of the jurisdictional minimum of this Court.

17  
18 **PRAYER FOR RELIEF**

19 WHEREFORE, plaintiffs pray judgment against defendants, and each of them, jointly  
20 and severally, as follows:

- 21 A. For general damages in an amount according to proof;  
22 B. For special damages in an amount according to proof;

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- C. For prejudgment interest;
- D. For costs of suit herein incurred; and
- E. For such other and further relief as the Court may deem appropriate.

DATED: May 29, 2011


**THE DANKO LAW FIRM**

By:   
MICHAEL S. DANKO  
Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

DATED: May 29, 2011

**THE DANKO LAW FIRM**

By:   
MICHAEL S. DANKO  
Attorneys for Plaintiffs

1 Jan Chandler, individually and as Successor-in-Interest to the Estate of Christopher Chandler,  
2 et al. v. Matthew Simon  
3 San Mateo County Superior Court Case No. CIV501071

4 **PROOF OF SERVICE**

5 I, the undersigned, declare:

6 I am employed in the County of San Mateo, State of California. I am over the age of  
7 eighteen and not a party to this action. My business address is 247 N. San Mateo Drive, San  
8 Mateo, California 94401.

9 On May 30, 2012, I served the foregoing document:

10 **SECOND AMENDED COMPLAINT FOR DAMAGES**

11 on the parties to this action, addressed as follows, in the manner described below:

12 XX **MAIL**, being familiar with the practice of this office for the collection and the  
13 processing of correspondence for mailing with the United States Postal Service, and  
14 deposited in the United States Mail copies of the same to the business addresses set  
15 forth below, in a sealed envelope fully prepared.

16 **FACSIMILE** I caused such document(s) to be transmitted by facsimile on the parties,  
17 through their attorneys of record, by facsimile machine, pursuant to Rule 2.306. The  
18 facsimile machine I used complied with Rule 2.301 and the transmission was reported  
19 as complete and without errors. I caused the machine to print a transmission record of  
20 the transmission attaching true and correct copies thereof in a sealed envelope addressed  
21 as shown below.

22 **FEDERAL EXPRESS** for delivery the following business day by placing same for  
23 collection by Federal Express to the business addresses set forth below.

24 **PERSONAL DELIVERY** by placing said document in a sealed envelope and causing  
25 it to be personally delivered to the address(es) set forth below.

26 *Addressed to:*

27 Ronald W. Beals, Chief Counsel  
28 David Gossage, Deputy Chief Counsel  
G. Michael Harrington, Assistant Chief Counsel  
Irene B. Moy (SBN: 156323)  
595 Market Street, Suite 1700  
San Francisco, CA 94105  
Telephone: (415) 904-5700  
Facsimile: (415) 904-2333

Counsel for Defendant State of California

I declare under penalty of perjury that the foregoing is true and correct. Executed on  
May 30, 2012, at San Mateo, California.



Michael Chen