

1 Alan R. Burns SBN 70328
2 HARPER & BURNS LLP
3 453 South Glassell Street
4 Orange, California 92866
Telephone (714) 771-7728
Facsimile (714) 744-3350

5 Attorneys for Plaintiff
6 Costa Mesa Sanitary District

7 Exempt from Filing Fees
8 Government Code § 6103

ELECTRONICALLY FILED
Superior Court of California,
County of Orange

08/02/2016 at 02:16:00 PM

Clerk of the Superior Court
By Sarah Loose, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF ORANGE
11 CENTRAL JUSTICE CENTER
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13 COSTA MESA SANITARY DISTRICT, a
14 California Sanitary District
Plaintiff,

15 v.

16 THE STATE OF CALIFORNIA, acting through
17 its Department of Transportation (Caltrans)

18 Defendant.
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Case No.: 30-2016-00867168-CU-EI-CXC
Judge Kim G. Dunning
CX104

**COMPLAINT IN INVERSE
CONDEMNATION**

23 Plaintiff, the Costa Mesa Sanitary District, alleges as follows:
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1 1. DEFENDANT is the State of California

2 2. At the time of DEFENDANT's acts complained of herein, PLAINTIFF was the
3 owner of a sewer easement and sewer main located in the right of way area along Newport
4 Avenue in the City of Costa Mesa, near the intersection of Fairview Road.
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6 3. PLAINTIFF operates the sewage collection lines for the City of Costa Mesa and
7 parts of Newport Beach and the County of Orange. PLAINTIFF is under an obligation to keep its
8 lines open and flowing so as not to cause a sewer system overflow that causes raw sewage to
9 escape and create a health hazard and is also under an obligation under federal and state law not
10 to allow raw sewage to enter the waters of the United States, which includes any discharge into
11 gutters and storm drains that ultimately flow into the Pacific Ocean. District regularly cleans its
12 lines to ensure that sewage continues to flow unrestricted so there is not a sewer system
13 overflow.
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15 4. Sometime in 1992 or thereafter DEFENDANT operating through its Department of
16 Transportation (Caltrans) undertook a street widening project and pursuant to that undertaking,
17 hired a contractor to construct the street widening, including relocating street lights and traffic
18 signal controllers. As part of that project, or as part of another project, DEFENDANT hired a
19 contractor who installed a street light pole # 003A015 in such a manner that it pierced the
20 PLAINTIFF's sewer line at or near 2285 Newport Blvd, post mile 2-854. DEFENDANT's
21 contractor never advised the District that it had damaged the PLAINTIFF's sewer line but instead
22 fabricated a repair that left the street light base in the PLAINTIFF's line, and repaired the
23 damage by placing a smaller diameter pipe inside PLAINTIFF's line and connecting the two
24 larger pipe ends to this smaller diameter pipe. This repair effectively reduced the PLAINTIFF's
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1 required sewer transportation capacity to the smaller pipe size and created a situation that must
2 be remedied before a sewer system overflow occurs.

3 5. PLAINTIFF only discovered the pipe damage when its agents inspected the pipe
4 condition beneath the surface of the street in December of 2015.

5 6. PLAINTIFF has obtained an estimate of the cost to repair the pipe and it is
6 estimated to cost about \$33,000 for the repairs.

7 7. As a result of this damage to the PLAINTIFF's line, PLAINTIFF has been
8 damaged in an amount that cannot be ascertained but will be proven at trial.

9 8. PLAINTIFF has not received any compensation for this damage.

10 9. PLAINTIFF submitted a claim to the Victim Compensation and Government
11 Claims Board but it rejected said claim on May 19, 2016.

12 10. PLAINTIFF has incurred and will continue to incur attorney, appraisal, and
13 engineering fees for the prosecution of this action, which fees are recoverable under the authority
14 of Code of Civil Procedure Section 1036.

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1 **WHEREFORE**, PLAINTIFF pray for judgment against DEFENDANTS as follows:

- 2 1. Damages in the amount as proven at trial with interest at the legal rate of interest
3 from the date of the damage.
- 4 2. Litigation expenses
- 5 3. Costs of suit; and
- 6 4. Other relief as the Court considers proper.

7 Dated: June 22, 2016

10 **HARPER & BURNS LLP**

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12 _____
13 Alan R. Burns
14 Attorneys for Plaintiff
15 Costa Mesa Sanitary District