



1 Robert G. Schock
2 LAW OFFICES OF ROBERT G. SCHOCK
3 1970 Broadway, Suite 1200
4 Oakland, CA 94612
5 Telephone: (510) 839-7722
6 Facsimile: (510) 839-7752

FILED
ALAMEDA COUNTY

JUL 11 2013

CLERK OF THE SUPERIOR COURT

By Margaret J. Davis DEPUTY

5 Attorney for Plaintiffs
6 JOHANE JEAN-PHILIPPE and
7 SEBASTIEN JEAN-PHILIPPE

10 **SUPERIOR COURT OF CALIFORNIA**
11 **COUNTY OF ALAMEDA**

12 JOHANE JEAN-PHILIPPE and
13 SEBASTIEN JEAN-PHILIPPE,

14 Plaintiffs,

15 vs.

16
17 COUNTY OF ALAMEDA, KELLY
18 STEMPLE, KAISER FOUNDATION
19 HOSPITALS, KAISER PERMANENTE
20 MEDICAL GROUP, KAISER
21 FOUNDATION HEALTH PLAN, INC., and
22 DOES 1-50, Inclusive,
23 Defendants.

Case No.: **RG13687142**

COMPLAINT FOR DAMAGES
(Medical Malpractice)

DEMAND FOR JURY TRIAL

24 COMES NOW plaintiffs JOHANE JEAN-PHILIPPE and SEBASTIEN JEAN-
25 PHILIPPE and for a cause of action against defendants COUNTY OF ALAMEDA, KELLY
26 STEMPLE, KAISER FOUNDATION HOSPITALS, KAISER PERMANENTE MEDICAL
27 GROUP, KAISER FOUNDATION HEALTH PLAN, INC., and DOES 1-50, Inclusive,
28 allege as follows:

BY FAX

FIRST CAUSE OF ACTION
(Medical Malpractice)

1
2 1. Plaintiffs do not know the true names or capacities of defendants, Does I
3 through 50, inclusive, and each of them, and sues them pursuant to California Code of Civil
4 Procedure § 474. Plaintiffs are informed and believe, and thereon allege, that each of said
5 defendants so sued are negligent and/or responsible for the events and happenings
6 hereinafter alleged, whether as manufacturers, suppliers, sellers, distributors, physicians,
7 surgeons, anesthesiologists, nurses or other medical practitioners, pharmacists, hospitals or
8 hospital attendants, ambulance companies, ambulance attendants, medical groups, or
9 otherwise, and that said defendants, and each of them, negligently acted or omitted to act in
10 one or more of the said occupations or businesses and that such negligence proximately
11 caused the injuries and damages hereinafter set forth; that plaintiffs are uncertain as to the
12 manner and functions of the defendants whether as manufacturers, sellers, suppliers, dis-
13 tributors, physicians, surgeons, nurses or other medical practitioners, pharmacists, hospital
14 attendants, ambulance companies, ambulance attendants, medical groups or otherwise;
15 that plaintiffs pray leave to insert by amendment the true names, capacities, functions and
16 occupations and businesses of said defendants and appropriate charging allegations
17 thereto when the same are ascertained.

18 2. Within the year immediately preceding the filing of the complaint herein, and
19 prior thereto, plaintiffs JEAN-PHILIPPE and SEBASTIEN JEAN-PHILIPPE were patients of
20 defendants, and each of them, and defendants, and each of them, undertook in their
21 respective capacities and through their agents, servants and employees to attend and care
22 for said plaintiffs; during said time, defendants so negligently, carelessly and intentionally
23 examined, treated, diagnosed, performed surgery upon, advised, and provided medications,
24 medical services and appliances for plaintiffs and violated their civil rights and invaded their
25 privacy as well as violating other laws so as to cause plaintiffs to suffer severe, permanent
26 and disabling injuries.
27
28

1 3. By reason of the premises, plaintiffs have suffered severe injuries to plaintiffs'
2 extremities, severe and grievous physical, mental and emotional shock, and other injuries
3 not presently diagnosed which plaintiffs pray leave to insert by amendment when the same
4 are determined.

5 4. By reason of the premises, plaintiffs were compelled to and plaintiffs did,
6 secure the services of doctors, nurses, hospitals and the like to plaintiffs' damage in a
7 presently undetermined amount, which plaintiffs pray leave to insert by amendment when
8 the same is determined.

9 5. Plaintiffs were able bodied persons and have been unable, and will be unable
10 for an indefinite period of time in the future, to pursue plaintiffs' occupation to plaintiffs'
11 damage in a presently undetermined amount, which plaintiffs pray leave to insert by
12 amendment when the same is ascertained.

13 6. By reason of the premises, plaintiffs have been generally damaged within the
14 jurisdiction of this court and are entitled to pre-judgment interest thereon.

15 7. On or about January 4, 2013, plaintiffs filed a claim against the County of
16 Alameda which was rejected by mail on March 7, 2013, and said present suit is being filed
17 within six months thereafter. A copy of the claim and the rejection notice is attached hereto
18 as Exhibit A and plaintiffs are incorporating the claim as though it is part of the charging
19 allegations of this complaint.

20 8. In violation of all plaintiffs' legal rights defendants disseminated wrongful,
21 hateful, libelous, and slanderous information that caused an upheaval in plaintiffs extended
22 family with recriminations to plaintiffs.

23 WHEREFORE, plaintiffs JOHANE JEAN-PHILIPPE and SEBASTIEN JEAN-
24 PHILIPPE pray for judgment against defendants COUNTY OF ALAMEDA, KELLY
25 STEMPLE, KAISER FOUNDATION HOSPITALS, KAISER PERMANENTE MEDICAL
26 GROUP, KAISER FOUNDATION HEALTH PLAN, INC., and DOES 1-50, Inclusive, as set
27 forth below.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CAUSE OF ACTION
(Consortium Re Johane Jean-Philippe)

COMES NOW plaintiff JOHANE JEAN-PHILIPPE and for a second, separate, and distinct cause of action against defendants, and each of them, alleges as follows:

9. Plaintiff JOHANE JEAN-PHILIPPE realleges the First Cause of Action in its entirety and incorporates it by reference herein.

10. Prior to plaintiff JOHANE JEAN-PHILIPPE sustaining said injuries, she was able to perform her duties as a wife to SEBASTIEN JEAN-PHILIPPE. Subsequent to the injuries to plaintiff JOHANE JEAN-PHILIPPE and as a proximate result of said injuries, plaintiff JOHANE JEAN-PHILIPPE has been deprived of the love, comfort, and support of her husband. By reason thereof, plaintiff JOHANE JEAN-PHILIPPE has been permanently deprived of consortium of her husband, all to the damage of plaintiffs, according to proof. Said plaintiff is entitled to pre-judgment interest thereon.

WHEREFORE, plaintiff JOHANE JEAN-PHILIPPE prays for judgment against defendants COUNTY OF ALAMEDA, KELLY STEMPEL, KAISER FOUNDATION HOSPITALS, KAISER PERMANENTE MEDICAL GROUP, KAISER FOUNDATION HEALTH PLAN, INC., and DOES 1-50, Inclusive, as set forth below.

THIRD CAUSE OF ACTION
(Consortium Re Sebastien Jean-Philippe)

COMES NOW plaintiff SEBASTIEN JEAN-PHILIPPE and for a third, separate, and distinct cause of action against defendants, and each of them, alleges as follows:

11. Plaintiff SEBASTIEN JEAN-PHILIPPE realleges the First and Second Causes of Actions in their entirety and incorporates them by reference herein.

12. Prior to plaintiff SEBASTIEN JEAN-PHILIPPE sustaining said injuries, he was able to perform his duties as a husband to JOHANE JEAN-PHILIPPE. Subsequent to the injuries to plaintiff SEBASTIEN JEAN-PHILIPPE and as a proximate result of said injuries,

1 plaintiff SEBASTIEN JEAN-PHILIPPE has been deprived of the love, comfort, and support
2 of his wife. By reason thereof, plaintiff SEBASTIEN JEAN-PHILIPPE has been permanently
3 deprived of consortium of his wife, all to the damage of plaintiffs, according to proof. Said
4 plaintiff is entitled to pre-judgment interest thereon.

5 WHEREFORE, plaintiff SEBASTIEN JEAN-PHILIPPE prays for judgment against
6 defendants COUNTY OF ALAMEDA, KELLY STEMPLE, KAISER FOUNDATION
7 HOSPITALS, KAISER PERMANENTE MEDICAL GROUP, KAISER FOUNDATION
8 HEALTH PLAN, INC., and DOES 1-50, Inclusive; as set forth below.

9
10 PRAYER

11 WHEREFORE, plaintiffs JOHANE JEAN-PHILIPPE and SEBASTIEN JEAN-
12 PHILIPPE pray for judgment against defendants COUNTY OF ALAMEDA, KELLY
13 STEMPLE, KAISER FOUNDATION HOSPITALS, KAISER PERMANENTE MEDICAL
14 GROUP, KAISER FOUNDATION HEALTH PLAN, INC., and DOES 1-50, Inclusive, as
15 follows:

- 16 1. For general damages and special damages within the jurisdiction of this court,
17 together with pre-judgment interest;
18 2. For costs of suit incurred herein; and,
19 3. For such other and further relief as the court may deem just and proper.
20
21

22 Date: July 10, 2013

LAW OFFICES OF ROBERT G. SCHOCK

23
24
25 By: 

26 ROBERT G. SCHOCK, Attorney for
27 Plaintiffs JOHANE JEAN-PHILIPPE and
28 SEBASTIEN JEAN-PHILIPPE

DEMAND FOR JURY TRIAL

Plaintiffs JOHANE JEAN-PHILIPPE and SEBASTIEN JEAN-PHILIPPE hereby
demand a jury for all claims for which a jury is permitted.

Date: July 10, 2013

LAW OFFICES OF ROBERT G. SCHOCK

By: 

ROBERT G. SCHOCK, Attorney for
Plaintiffs JOHANE JEAN-PHILIPPE and
SEBASTIEN JEAN-PHILIPPE

Courthouse News Service

Exhibit A

Courthouse News Service

AMENDED CLAIM AGAINST THE COUNTY OF ALAMEDA**PLEASE TYPE OR PRINT**

Please complete the form, retain one (1) copy for your records and return the original to:

Clerk, Board of Supervisors Office,
Administration Building, 1221 Oak Street,
Room 536, Oakland, CA 94612. Phone: (510) 208-4949.

Please include all attachments which would support your claim (estimates, bills, receipts, police report, etc.)

CBS CLAIM NO. _____

FOR CLERK'S USE ONLY

**FOR FUTURE INFORMATION ON YOUR CLAIM
PLEASE CONTACT:**

Acclamation Insurance Management Services
P.O. Box 2147, Oakland, CA 94621
Phone No.: (510) 633-5650 Fax: (510) 633-5673

RECEIVED

JAN 11 2013

AIMS

1. Claimant's Name: Sebastien Jean-Philippe and Johane Jean-Philippe
(Last, First, Middle Initial)
- 1.5 Claimant's PFN (if applicable): _____
2. Address: 1640 6th Ave., #3, Oakland, CA 94606 (510) 575-4234
(number, street, city, state & zip code) (phone number)
3. Address to which notices are to be sent, if different from 1 & 2:
Name: Robert G. Schock, Law Offices of Robert G. Schock (510) 839-7722
Address: 1970 Broadway, Ste. 1200, Oakland, CA 94612 (phone number)
(number, street, city, state & zip code)
- *4. Total Amount of Claim: \$ Exceeds \$25,000 5. Date of Accident/Loss: On or about July 12, 2012 & thereafter
6. Location of Accident/Loss: See Attachment
7. How did Accident/Loss Occur?: See Attachment
8. Describe Injury/Damage/Loss: See Attachment
9. Name of Public Employee(s) Causing Injury/Damage/Loss, if known: Alameda County Public Health Department, its employees and agents, including Kelly Stemple.
10. Itemization of Claim (List items totaling amount set forth in line #4). (Use separate sheet for additional items.)
- | ITEM | AMOUNT | ITEM | AMOUNT |
|--|-----------------------|--------------------------------|-----------------------|
| Emotional Distress & Physical Distress | \$ Unknown at present | Past & Future Medical Expenses | \$ Unknown at present |
| Loss of Consortium | Unknown at present | Past & Future Earning Capacity | \$ Unknown at present |
| Pain & Suffering | \$ Unknown at present | | \$ Unknown at present |
- *TOTAL AMOUNT OF CLAIM
11. Signed by or on behalf of claimant: Robert G. Schock Date: January 7, 2013
Robert G. Schock, Attorney for Claimants

NOTICE: Section 72 of the Penal Code provides:

"Every person who, with intent to defraud, presents for allowance or for payment to any state board or officer, or to any county, city or district board or officer, authorized to allow or pay the same if genuine, any false or fraudulent claim, bill, account, voucher, or writing, is punishable either by imprisonment in the county jail for a period of not more than one year, by a fine of not exceeding one thousand (\$1,000), or by both such imprisonment and fine; or by imprisonment in the state prison, or by a fine not exceeding ten thousand (\$10,000), or by both such imprisonment and fine."

Re: Sebastien Jean-Philippe & Johane Jean-Philippe, Claimants

Attachment
Amended Claim Against the County of Alameda

6. Location of Accident/Loss:

The Alameda County Public Health Department, its employees and agents, including Kelly Stemple, contacted claimants by phone on July 12, 2012. They directed claimants to Kaiser Hospital after being told they had been exposed to a sexually transmitted disease, which included HIV. The Alameda County Public Health Department also contacted Kaiser and gave them the same false information.

7. How did the Accident/Loss Occur?:

The Alameda County Public Health Department, its employees and agents, including Kelly Stemple, provided inaccurate and erroneous information concerning claimants to Kaiser Hospital and to claimants alleging that they were exposed to sexually transmitted diseases. Said information was negligently and carelessly transmitted. Violation of privacy, USC 1983, violation of other state and federal laws, negligent infliction of mental and emotional distress.

8. Describe Injury/Damage/Loss:

Severe emotional and physical distress as well as past and future loss consisting of medical expense, loss of earnings and earning capacity, pain and suffering and disability. Claimants losses also include reasonable compensation of companionship, comfort, affection, society, loss of enjoyment of relations, and loss of the physical assistance to a spouse in the operation and maintenance of the home, as well as any other losses that are recoverable in an action against you for the negligent care and treatment to claimants Sebastien Jean-Philippe and Johane Jean-Philippe.

PROOF OF SERVICE**RE: Sebastien Jean-Philippe & Johane Jean-Philippe, Claimants**

I declare that I am employed in the County of Alameda, State of California. My business address is 1970 Broadway, Ste 1200, Oakland, California 94612-2211. I am over the age of eighteen years and not a party to the within action. I am readily familiar with my employer's normal business practice for collection and processing of correspondence for mailing with the U.S. Postal Service, and that practice is that correspondence is deposited with the U.S. Postal Service the same day of collection in the ordinary course of business.

On the date set forth below, according to ordinary business practice, I served the following document(s) described as: **AMENDED CLAIM AGAINST THE COUNTY OF ALAMEDA** on the following parties in said action:

Clerk, Board of Supervisors Office Administrative Building 1221 Oak Street, Room 536 Oakland, CA 94612	<u>Courtesy Copy to:</u> Acclamation Insurance Management Services P.O. Box 2147 Oakland, CA 94621
---	---

☒ **BY MAIL**

I caused such sealed envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Oakland, CA.

☐ **BY FACSIMILE**

By transmitting via facsimile from facsimile number (510) 839-7752 the document(s) listed above to the fax number(s) set forth above, or as stated on the attached service list, on this date before 5:00 p.m. A statement that this document was successfully transmitted without error was received.

☐ **BY PERSONAL SERVICE**

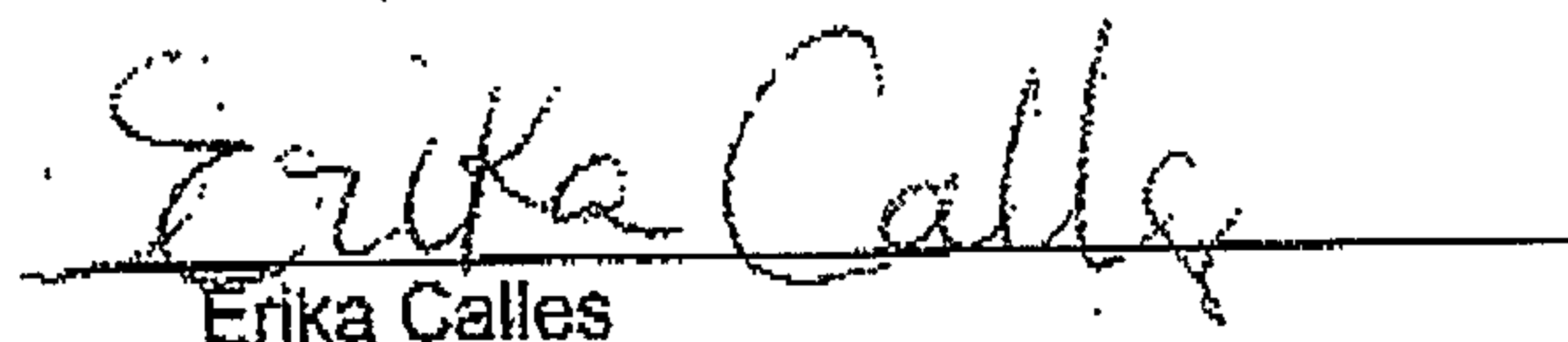
I caused such envelope(s) to be delivered by hand this date to the offices of the addressee(s) listed above.

☐ **BY OVERNIGHT DELIVERY**

I caused such envelope(s) to be delivered to an overnight delivery carrier with delivery fees provided for, addressed to the person(s) whom it is to be served.

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

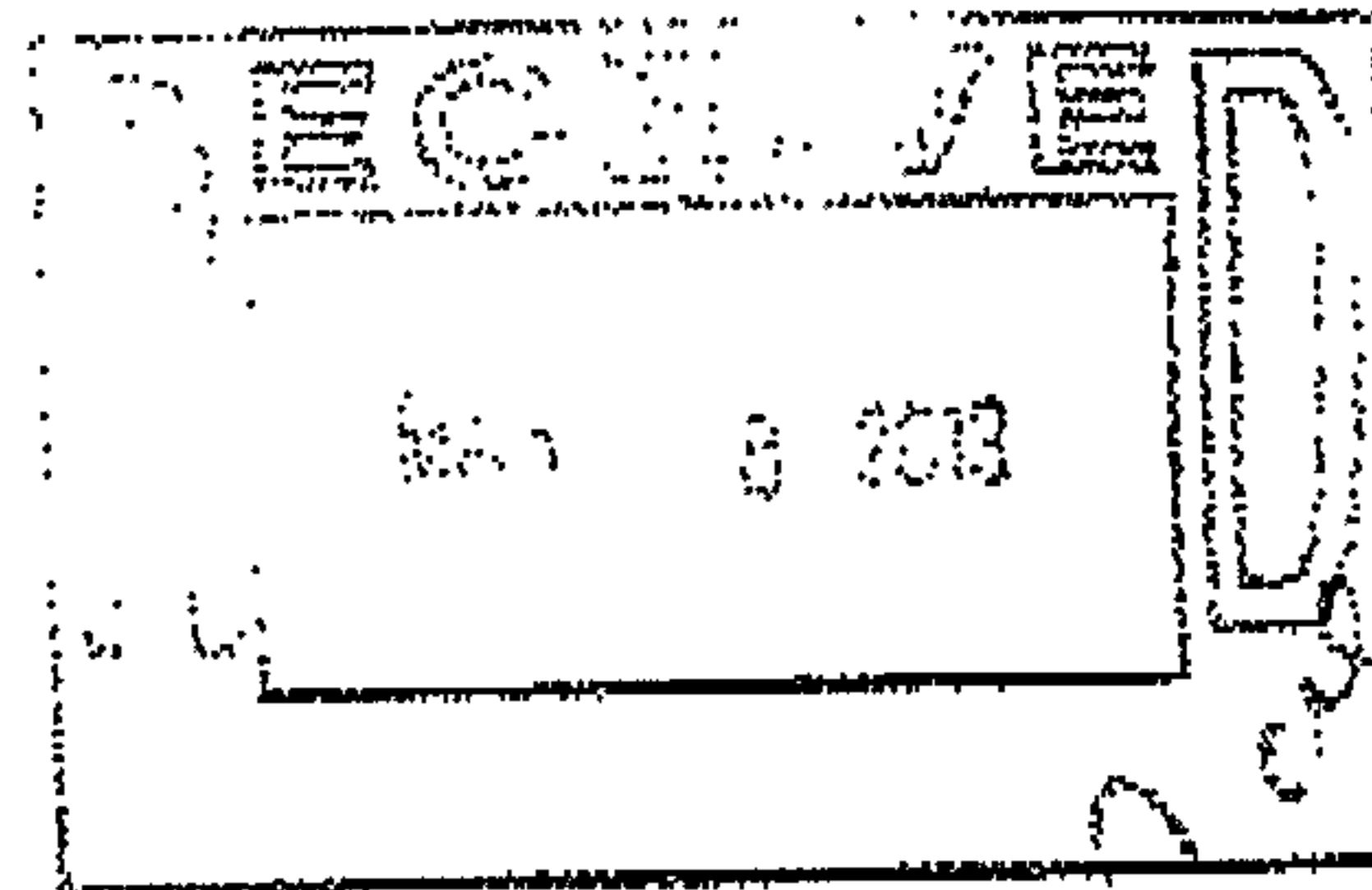
Executed at Oakland, California on January 7, 2013.


Erika Calles



March 7, 2013

Robert G. Schock, Esq.
Law Offices of Robert G. Schock
1970 Broadway, Suite 1200
Oakland, CA 94612



RE: Sebastien & Johane Jean-Philippe v. County of Alameda
County Claim No.: 13-005

Dear Mr. Schock:

NOTICE IS HEREBY GIVEN that the claim for damages you presented to the Clerk, Board of Supervisors of Alameda County on January 4, 2013 was rejected on March 7, 2013.

WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

This notice applies only to actions for which a California Government Code claim is required.

Very truly yours,

Kenneth R. Maiolini
/dt

P.O. Box 2147
Oakland, CA 94621
(510) 633-5650
(510) 633-5673 Fax
www.aims4claims.com
CA LIC. 2617034

105M573351020.tif - 7/11/2013 12:19:09 PM



PROOF OF SERVICE BY MAIL

I declare I am employed in the County of Sonoma, over the age of eighteen and not a party to the within cause.

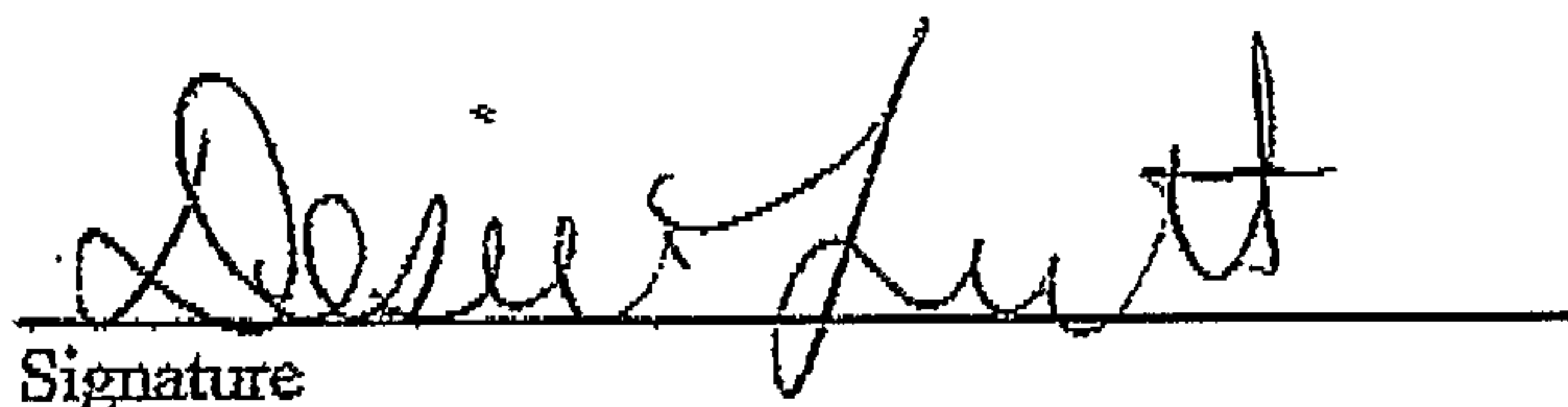
My business address is P. O. Box 724, Sebastopol, CA 95473.

I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service and that correspondence would be deposited with the United States Postal Service the same day in the ordinary course of business.

I placed a copy of the rejection letter regarding Alameda County Claim No: 13-005 in an envelope, which envelope was then sealed and placed for collection and mailing on this date following ordinary business practices and addressed to the person listed as follows:

Robert G. Schock, Esq.
Law Offices of Robert G. Schock
1970 Broadway, Suite 1200
Oakland, CA 94612

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in the County of Sonoma on March 7, 2013.



Signature