

OFFICE OF THE
COUNTY COUNSEL



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COUNTY OF SANTA CRUZ

GOVERNMENT CENTER
(408)454-2040
FAX(408)454-2115

701 OCEAN STREET, ROOM 505, SANTA CRUZ, CALIFORNIA 95060-4068

DWIGHT L. HERR
COUNTY COUNSEL

DEBORAH STEEN
SAMUEL TORRES, JR.
CHIEF ASSISTANTS

GOVERNMENT TORT CLAIM

RECOMMENDED ACTION

HARRY A. OBERHELMAN III
MARIE COSTA
JANE M. SCOTT
RAHN GARCIA
TAMARA CODE
PAMELA FYFE
ELLEN LEWIS
KIM BASKETT
LEE GULLIVER
DANA McRAE

Agenda June 2, 1998 ASSISTANTS

To: The Board of Supervisors

Re: Claim of Matthew Hill, No. 798-137

Original Document and associated materials are on file at the Clerk to the Board of Supervisors.

In regard to the above-referenced claim, this is to recommend that the Board take the following action:

- ☒ 1. Deny the claim of Matthew Hill, No. 798-137 and refer to County Counsel.
- ☐ 2. Deny the application to file a late claim on behalf of _____ and refer to County Counsel.
- ☐ 3. Grant the application to file a late claim on behalf of _____ and refer to County Counsel.
- ☐ 4. Approve the claim of _____ in the amount of _____ and reject it as to the balance, if any, and refer to County Counsel.
- ☐ 5. Reject the claim of _____ as insufficiently filed and refer to County Counsel.

cc: John Fant'ham, Director
Department of Public Works

RISK MANAGEMENT

By Janet McKinley

COUNTY COUNSEL

By E. Lewis

LTR9.WPT

PER 5107 Rev 4/97

Board of Supervisors
County. of Santa Cruz
Governmental Center

RE: **Sargent v Yankish. et al &** related cross-actions

05/08/98

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of the Summons on Cross-Complaint and Cross-Complaint for Comparative and Equitable Indemnity in said action [#133542] filed on 2/6/98 by Cross-Complainants. Jonathan Peter Yankish, an individual, and Rogers Refrigeration, a California corporation, naming the County of Santa Cruz as a Cross-Defendant in said action. Attached hereto and marked Exhibit "C" is a copy of the Amendment to said Cross-Complaint [#133542] filed on 3/3/98 substituting claimant [Matthew Hill] in as Roe I and thereby naming claimant herein as a Cross-Defendant in said action. On 4/7/98 Claimant herein was sub-served with the Summons on Cross-Complaint, Cross-Complaint. and Amendment thereto. On May 4. 1998 Claimant's attorney herein requested and received from attorney Sunseri [via facsimile] a copy of the initial Summons. Complaint. Yankish and Rogers Refrigeration's Answer to Complaint. and the **County of Santa Clara's Answer to Complaint.** . Claimant HILL is filing a Response to Yankish and Rogers Refrigeration's Cross-Complaint along with a Summons on Cross-Complaint and Cross-Complaint for Indemnity and Apportionment of Fault naming Yankish, Rogers Refrigeration. and the County of Santa Cruz as Cross-Defendants [Exhibit "D"].

(dj Description of loss: Such damages as may be assessed claimant or which claimant may pay of by way of settlement. judgment or otherwise to plaintiffs Richard Sargent. Jr.. Kathy Sargent and Sara Sargent. a minor, and attorneys' fees. court costs and expenses of investigation incurred in connection with said action.

(e) Names of public employees: The names of public employees causing the loss are unknown at this time.

(f) Amount being claimed: The amount being claimed is unascertained at the present time. Jurisdiction over the claim rests in Superior Court.

Sincerely,

Martin W. Mertes

MWM/dtk

Enc.

FILED

DEC - 2 1997

CHRISTINE PATTON, CLERK
BY A. S. S. S. S.
DEPUTY, SANTA CRUZ COUNTY

NEUMILLER & BEARDSLEE,
A PROFESSIONAL CORPORATION
CHRISTOPHER A. GREENE - SBN 32495
K. ROBERT FOSTER - SBN 46248
DANIEL S. TRUAX - SHN 157276
Post Office Box 20
Stockton, California 95201-3020
Telephone: (209) 948-8200
Facsimile: (209) 948-4910

Actor, Plaintiffs
Richard Sargent, Jr., Kathy Sargent and
Sarah Sargent, a minor, by and through
her guardian ad litem Richard and Kathy
Sargent
SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CRUZ

RICHARD SARGENT, JR., KATHY
SARGENT and SARAH SARGENT, a
minor, by and through her
guardian ad litem RICHARD and
KATHY SARGENT,

Plaintiffs,

vs.

JONATHAN PETER YANKISH, an
individual, ROGERS
REFRIGERATION, a California
co-oration, COUNTY OF SANTA
CRUZ, and DOES 1 through 50,
inclusive,

Defendants.

No. 133542

COMPLAINT FOR DAMAGES

Plaintiffs allege:

GENERAL ALLEGATIONS COMMON TO BOTH CAUSES OF ACTION

1. Defendant Jonathan Peter Yankish (hereinafter
"Yankish") is, and at all times herein mentioned was, a resident
of Santa Cruz County, California.

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1 2. Defendant: Rogers Refrigeration is, and at all times
2 herein mentioned was, a California corporation, with it's
3 principal place of business being Santa Cruz County, California.

4 3. Defendant: County of Santa Cruz (hereinafter "County")
5 is, and at all times herein mentioned was, a County duly
6 organized and existing under the laws of the State of California.

7 4. Plaintiffs are ignorant of the true names and
8 capacities of defendants sued herein as Does 1 through 50,
9 inclusive, and therefore sue these defendants by such fictitious
10 names. Plaintiffs will amend this complaint to allege their true
11 names and capacities when ascertained. Plaintiffs are informed
12 and believe and thereon allege that each of the fictitiously
13 named defendants are negligently responsible in some manner for
14 the occurrence herein alleged, and plaintiffs' injuries as herein
15 alleged were proximately caused by defendants.

16 5. At all times herein mentioned defendant Rogers
17 Refrigeration, and Does 1 through 10, were the owner(s) of a
18 certain 1988 Chevrolet Van (hereinafter "Van"), California
19 License No. 3P14069.

20 6. At all times herein mentioned, defendant Yankish and
21 Does 11 through 20 were the agent(s) and/or employee(s) of Rogers
22 Refrigeration and in doing the things herein alleged were acting
23 within the purpose and scope of this agency and/or employment.

24 7. At all times herein mentioned, defendant Yankish and
25 Does 11 through 20 were driving and operating the Van with the
26 consent, permission and knowledge of Rogers Refrigeration and
27 Does 1 through 10.

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6. At all times herein mentioned plaintiffs Richard Sargent, Jr. and Cathy Sargent were the owners of a certain 1989 Chevrolet Blazer (hereinafter "Blazer"), California License No. 2TED544.

9. At all times herein mentioned Graham Hill Road was a public roadway located in Santa Cruz County, California.

FIRST CAUSE OF ACTION

(Negligence)

10. Plaintiffs reallege and incorporate herein paragraphs 1 through 9, above

11. On or about December 5, 1996, plaintiff Richard Sargent, Jr. was operating, and plaintiffs Kathy Sargent and Sarah Sargent were passengers in, the Blazer traveling along and on Graham Hill Road, East of Roaring Camp Road.

12. On that date and at the place designated in paragraph 11, plaintiff, Richard Sargent, Jr. was lawfully operating his vehicle in his own lane of traffic.

13. At a point approximately 964 feet East of Roaring Camp Road, defendant Jonathan Peter Yarkish negligently operated the Van, so that it crossed over the center line of the roadway, passed into the line of on-coming traffic and collided head on with the vehicle occupied by the plaintiffs.

14. As a proximate result of the negligence, carelessness, and unlawfulness of defendants, and each of them, plaintiffs sustained serious injuries to their bodies and shock and injury to their nervous systems and persons, all of which injuries have caused and will continue to cause plaintiffs great mental,

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physical and nervous pain and suffering. These injuries will result in permanent disability to plaintiffs, all to their general damage in the amount according to proof.

15. As a further proximate result of the negligence, carelessness and unlawfulness of defendants, and each of them, as herein alleged, plaintiffs were required to, and did employ physicians and surgeons and other health care providers and home care providers for medical examination, treatment, surgery, rehabilitation, and care of their injuries, and to assist them in their daily living and did incur medical and incidental expenses, among others, in amounts according to proof.

16. As a further proximate result of the negligence, carelessness and unlawfulness of defendants, and each of them, plaintiffs will incur future medical and incidental expenses for the care, treatment and rehabilitation of their injuries in amounts according to proof.

17. At the time of the events described herein, plaintiff Richard Sargent, Jr. was gainfully employed. As a further proximate result of the negligence, carelessness and unlawfulness of defendants, and each of them, as herein alleged, plaintiff Richard Sargent, Jr. was prevented from attending to his usual occupation and has been damaged thereby in amounts according to proof.

18. By reason of the negligence, carelessness and unlawfulness of defendants, and each of them, plaintiffs Richard Sargent, Jr. and Kathy Sargent will, in the future, be prevented from attending to their usual occupation for an undetermined period of time, all to their damage in amounts according to

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1 proof.

2 19. As a further proximate result of the negligence,
3 carelessness and • zllawfulness of defendants, and each of them,
4 plaintiffs' earning capacity has been greatly impaired. The
5 exact amount is not known to plaintiffs at this time, and
6 plaintiffs will move to amend this complaint to state such
7 amounts when the same becomes known to them, or on proof thereof.

8 20. At all times herein mentioned, plaintiffs Richard
9 Sargent, Jr. and Kathy Sargent were lawfully married to each
10 other. As a further proximate⁷ result of the negligence,
11 carelessness and unlawfulness of defendants, and each of them,
12 and the resulting injuries sustained by plaintiffs, plaintiffs
13 Richard Sargent, Jr. and Kathy Sargent have suffered, and will
14 continue to suffer-. the loss of consortium from the other,
15 including, but not limited to, the loss of moral support,
16 guidance, service, love, affection, care, comfort, society,
17 companionship, sexual relations and solace, in amounts according
18 to proof.

19 SECOND CAUSE OF ACTION

20 (Dangerous Condition)

21 21. Plaintiff's reallege and incorporate herein paragraphs i
22 through and including 12 and 14 through 25 above, as if fully and
23 completely set forth herein.

24 22. On December 5, 1996, defendant's vehicle and
25 Plaintiffs' vehicle collided on Graham Hill Road, approximately
26 964 feet East of Bearing Camp Road.

27 23. On December 5, 1996, prior thereto and since that time,
28 defendant County of Santa Cruz owned, designed, constructed,

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1 maintained; controlled and operated Graham Hill Road, where the
2 collision occurred.

3 24. On December 5, 1996, prior thereto and since that time,
4 the segment of Graham Hill Road in the vicinity of 964 feet East
5 of Roaring Camp Road was, and is, in a dangerous condition which
6 created a substantial and reasonably foreseeable risk of the type
7 of injuries hereinafter alleged, even though such roadway was
8 used with due care and in the manner that was reasonably
9 foreseeable that the roadway would be used. The dangerous
13 condition of the roadway resulted from the nature of the curve,
11 the nature of the surface of the roadway and/or the lack of
12 safety barriers and other devices, resulting in a condition that
13 was not safe when used in the normal and customary manner.

14 25. Defendant County of Santa Cruz had actual and/or
15 constructive knowledge and notice of the dangerous condition
16 because the condition had existed for a sufficient period of
17 time, and was of such an obvious nature that defendant, in the
18 exercise of due care, knew of or should have discovered the
19 condition and its dangerous character and should have, but failed
20 to, take measures to protect against or remedy the dangerous
21 condition. Plaintiffs are informed and believe and thereon
22 allege that on December 5, 1996, the accident occurred as herein
23 alleged, in whole or part, as a result of the dangerous
24 condition, as previously described.

25 26. As a proximate result of the dangerous condition on
26 defendant's property and/or defendant's failure to protect against
27 or remedy the dangerous condition herein alleged, plaintiffs have
28 ///

1 suffered, and will continue to suffer, the injuries and have been
2 damaged as alleged at paragraphs 14 through 20, above.

3 27. On or about June 4, 1997, plaintiffs presented to the
4 County of Santa Cruz their claims by delivering such claims to
5 the Clerk of the Board of Supervisors for their injuries,
6 disabilities, losses, and damages suffered and incurred by them
7 by reason of the above-described occurrence, all in compliance
8 with the requirements of Section 905 of the Government Code.
9 Copies of the claims are attached hereto as Exhibits A, B and C,
10 respectively and made a part hereof by this reference.

11 28. On or about June 24, 1997, The County of Santa Cruz
12 rejected the claims in their entirety.

13 WHEREFORE, plaintiffs pray judgment against defendants, and
14 each of them, as follows:

15 II 1. For compensatory damages, including but not limited to:

16 a) general damages, past, present and future in
17 amounts according to proof;

18 b) all medical and incidental expenses according to
19 proof;

20 c) all future medical and incidental expenses
21 according to proof;

22 d) all loss of earnings according to proof;

23 e) all future loss of earnings and/or retraining
24 according to proof;

25 f) loss of earning capacity according to proof;

26 g) loss of consortium, past, present and future,

27 including, but not limited to, the loss of moral support,

28 guidance, service, love, affection, care, comfort, society,

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1 companionship, sexual relations and solace in amounts according
2 to proof;

3 h) all other special damages, past, present and
4 future according to proof;

5 2. For costs of suit incurred;

6 3. For such other and further relief as the court may deem
7 just and proper.

8 DATED: 12/1/97

NEUMILLER & BEARDSLEE
A PROFESSIONAL CORPORATION

By K. Robert Foster
K. ROBERT FOSTER
Attorneys for Plaintiffs

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** TOTAL PAGE.011 **

CROSS-

NOTICE TO DEFENDANT: (Aviso a Acusado)

COUNTY OF SANTA CRUZ, and ROES I through XX,
inclusive

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF CROSS-COMPLAINANTS:
(A Ud. le está demandando)**

JONATHAN PETER YANKISH, an individual, and
ROGERS REFRIGERATION, a California corporation

You have 30 CALENDAR DAYS after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DÍAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre y dirección de la corte es)

SUPERIOR COURT
COUNTY OF SANTA CRUZ
701 OCEAN ST
SANTA CRUZ, CA 95060

CASE NUMBER: (Número del Caso)

133542

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)

Salvatore J. Sunseri, Esq. (State Bar #183965)
Stenberg, Sunseri, Roe, Pickard & Rudy
2 N. Second St., Ste. 1350
San Jose, CA 95113
408/288-6216

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DATE:
(Fecha)

APR - 6 1998

Clerk, by
(Actuario)

DIANE P. [illegible]

Deputy
(Delegado)

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☒ as the person sued under the fictitious name of (specify): ROEI
3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)
☐ CCP 416.20 (defunct corporation)
☐ CCP 416.40 (association or partnership)
☐ other:

☐ CCP 416.60 (minor)
☐ CCP 416.70 (conservatee)
☐ CCP 416.90 (individual)

SALVATORE J. SUNSERI, ESQ. (State Bar #83965)
STENBERG, SUNSERI, ROE, PICKARD AND RUDY
2 North Second Street, Suite 1350
San Jose, California 95113

Telephone: (408) 288-6216

Attorneys for Defendants and Cross-
Complainants JONATHAN PETER YANKISH,
an individual, and ROGERS
REFRIGERATION, a California corporation

FILED
- 5
COURT OF APPEALS, 9th CIR.
SAN JOSE, CALIF.

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CRUZ

RICHARD SARGENT, JR., et al.,
Plaintiffs,

vs.

No. 133542

JONATHAN PETER YANKISH, et al.,
Defendants.

CROSS-COMPLAINT FOR
COMPARATIVE: AND
EQUITABLE INDEMNITY

JONATHAN PETER YANKISH, an
individual, and ROGERS
REFRIGERATION, a California
corporation,

Cross-Complainants,

vs.

COUNTY OF SANTA CRUZ, and
ROES I through XX, inclusive,

Cross-Defendants.

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Cross-Complainants JONATHAN PETER YANKISH, an individual,
and ROGERS REFRIGERATION, a California corporation, complain of
cross-defendants, and each of them, and allege as follows:

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FIRST CAUSE OF ACTION

I.

The true names and capacities, whether individual, corporate, associate or otherwise of the cross-defendants sued herein under the fictitious names of ROES I through XX, inclusive, are not known to cross-complainants, and cross-complainants pray leave that at such time as the true names and capacities of said cross-defendants are ascertained, that these cross-complainants be allowed to amend the cross-complaint accordingly; cross-complainants are informed and believe, and thereon allege, that each of said fictitiously named cross-defendants are responsible in some manner for, and are the proximate cause of, the occurrences herein alleged.

II.

Plaintiffs have filed a complaint for damages in the Superior Court of the State of California, in and for the County of Santa **Cruz**, Action Number 133542, -which cross-complainants refer to and incorporate herein by reference, without admitting any of the allegations thereof, which allegations are expressly denied.

III.

At all times herein mentioned, cross-defendants, and each of them, were the agents, servants, employees and/or the undisclosed principals and/or alter egos of all of the other cross-defendants, and each of them, and at all times mentioned herein, were acting within the scope and purpose of their agency, employment and/or relationship by and with the other cross-defendants, and each of them.

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IV.

Cross-complainants are informed and believe, and thereon allege that all of the cross-defendants sued herein are individuals and businesses organized and allowed to do business in the State of California.

V.

That within the time allowed by law, cross-complainants served upon cross-defendant COUNTY OF SANTA CRUZ a claim for damages in an unascertained sum, for any and all damages incurred in connection with the within lawsuit. Said claim is attached hereto, marked Exhibit "A" and made a part hereof by reference. When said claim is acted upon, **cross-complainants** will pray leave to amend their cross-complaint to set forth the necessary allegations concerning the action taken by the COUNTY OF SANTA CRUZ with respect to said claim.

VI.

That the negligence, if any, of cross-complainants herein would be only passive and secondary in character, and that the negligence of cross-defendants, and each of them, would be active and primary in character, thus authorizing **cross-complainants** to recover from cross-defendants, and each of them, for the judgment, if any, obtained by plaintiffs against cross-complainants and for all costs, expenses and fees of defense incurred in connection with the main complaint on file herein.

WHEREFORE, these cross-complainants pray for judgment as hereinafter set forth.

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SECOND CAUSE OF ACTION

I.

Cross-complainants hereby **replead** and incorporate herein by reference Paragraphs I through V, inclusive, of the First Cause of Action, as if the same were repeated at length herein.

II.

That cross-defendants, and each of them, were at fault with reference to plaintiffs' allegations and hence, if these cross-complainants are liable herein to plaintiffs, which liability is expressly denied, these cross-complainants may become obligated to pay to plaintiffs sums representing a percentage of fault not their own but that of cross-defendants, and each of them. Therefore, these cross-complainants request an adjudication and declaration of the percentage of fault on the part of these cross-complainants, if any, and on the part of cross-defendants, and each of them, so as to determine these cross-complainants' right to be obligated to plaintiffs only in an amount representing these cross-complainants' percentage of fault as compared to the fault of cross-defendants, and each of them, and others **not named** in the complaint.

III.

These cross-complainants allege that said determination of the separate percentages of fault, if any, on the part of these cross-complainants and cross-defendants is necessary to protect the rights of said cross-complainants to comparative indemnity from cross-defendants, and each of them.

WHEREFORE, cross-complainants pray for judgment against cross-defendants, and each of them, as follows:

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1 1. For all relief prayed for in cross-complainants
2 pleadings on file herein;

3 2. For indemnity for the amount of the judgment, if any,
4 obtained by plaintiffs against these cross-complainants;

5 3. For a separate declaration of the percentage of fault,
6 if any. on the part of cross-complainants and cross-defendants;

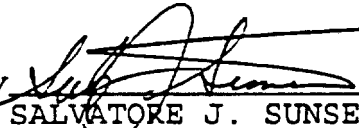
7 4. For comparative indemnity for the amount of the
8 judgment, if any, obtained by plaintiffs against these **cross-**
9 complainants;

10 5. For all costs of suit; and

11 6. For such other and further relief as the court may deem
12 proper.

13 DATED: February 5, 1998.

14 STENBERG, SUNSERI, ROE, PICKARD
15 AND RUDY

16
17 By 
18 SALVATORE J. SUNSERI
19 Attorneys for Defendants and
20 Cross-Complainants JONATHAN
21 PETER YANKISH, an individual,
22 and ROGERS REFRIGERATION, a
23 California corporation
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STENBERG, SUNSERI, ROE, PICKARD AND RUDY

DEAN E. STENBERG
 SALVATORE J. SUNSERI
 PATRICIA M. GREEN ROE
 CAROL HILL PICKARD
 CHRISTOPHER G. RUDY

ATTORNEYS AT LAW
 TWO NORTH SECOND STREET
 SUITE 1350
 SAN JOSE, CALIFORNIA 95113

TELEPHONE
 (408) 288-6216
 FACSIMILE
 (408) 288-6240

February 5, 1998

CERTIFIED - RETURN RECEIPT REQUESTED

Board of Supervisors
 County of Santa Cruz
 Governmental Center
 701 Ocean Street
 Santa Cruz, California 95060

Attention: Clerk of the Board

Gentlemen:

Please be advised that, pursuant to Government Code Section 910, a claim is hereby presented, as follows:

(a) Claimants: Jonathan Peter Yankish, an individual, 8 Moran Way, Santa Cruz, California 95062; and Rogers Refrigeration, a California corporation, 3040 "A" Prather, Santa Cruz, California 95065-1861.

(b) Notices to be sent to: Salvatore J. Sunseri, Esq., Stenberg, Sunseri, Roe, **Pickard** and Rudy, 2 North Second Street, Suite 1350, San Jose, California 95113.

(c) Occurrence giving rise to claim: Summons and Complaint Number 133542 attached hereto and marked Exhibit "A", filed in the Superior Court of the State of California in and for the County of Santa Cruz and served upon claimant on January 9, 1998, concerning an automobile accident and injuries suffered by plaintiffs Richard Sargent, Jr., Kathy Sargent and Sara Sargent, a minor, on December 5, 1996, at Graham Hill Road, Santa Cruz County, California.

(d) Description of loss: Such damages as may be assessed claimants or which claimants may pay or by way of settlement, judgment or otherwise to plaintiffs Richard Sargent, Jr., Kathy Sargent and Sara Sargent, a minor, and attorneys' fees, court costs and expenses of investigation incurred in connection with said action.

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Exhibit A

Board of Supervisors
County of Santa Cruz
February 5, 1998
Page Two

(e) Names of public employees: The names of public employees causing the loss are unknown at this time.

(f) Amount being claimed: The amount being claimed is unascertained at the present time. Jurisdiction over the claim rests in Superior Court.

Very truly yours,

STENBERG, SUNSERI, **ROE**, PICKARD AND RUDY

By: Salvatore J. Sunseri

SJS/lk

Enclosure

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PROOF OF SERVICE BY MAIL -- CCP 1013a, 2015.5

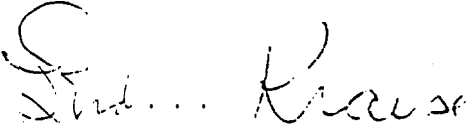
I declare that:

I am employed in the County of Santa Clara, California, I am over the age of eighteen years and not a party of the within entitled cause (Superior Court, County of Santa Cruz, Action No. 133542 entitled Richard. Sargent, Jr.. et al. v. Jonathan Peter Yankish, et al.) my business address is 2 North Second Street, Suite 1350, San Jose, California 95113.

On February 5, 1998, I served the attached CROSS-COMPLAINT FOR COMPARATIVE AND EQUITABLE INDEMNITY on the parties in said cause, by placing a true copy thereof entitled in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Jose, California, addressed as follows:

K. ROBERT FOSTER, ESQ.
NEUMILLER & BEARDSLEE
PO BOX 20
STOCKTON CA 95201-3020

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 5, 1998, at San Jose, California.



Linda Krause

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SALVATORE J. SUNSERI, ESQ. (State Bar #83965)
 STENBERG, SUNSERI, ROE, PICKARD AND RUDY
 2 North Second Street, Suite 1350
 San Jose, California 95113

Telephone: (408) 288-6216

Attorneys for Defendants and Cross-
 Complainants JONATHAN PETER YANKISH,
 an individual, and ROGERS
 REFRIGERATION, a California corporation

FILED

MAR 03 1998

CHRISTINE PATTON, CLERK
 BY USA MITCHELL
 DEPUTY SANTA CRUZ COUNTY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CRUZ

RICHARD SARGENT, JR., et al.,

Plaintiffs,

vs.

No. 133542

JONATHAN PETER YANKISH, et al.,

Defendants.

AMENDMENT TO CROSS-
 COMPLAINT FOR COMPARATIVE
 AND EQUITABLE INDEMNITY
 SUBSTITUTING TRUE NAME
 FOR FICTITIOUS NAME
 (CCP SECTION 474)

JONATHAN PETER YANKISH, an
 individual, and ROGERS
 REFRIGERATION, a California
 corporation,

Cross-Complainants,

vs.

COUNTY OF SANTA CRUZ, and
 ROES I through XX, inclusive,

Cross-Defendants.

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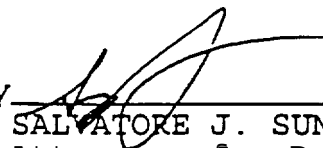
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Cross-Complainants JONATHAN PETER YANKISH, an individual,
 and ROGERS REFRIGERATION, a California corporation, have learned
 the true name of the cross-defendant sued in their cross-complaint
 is Roe I and hereby substitute the true name of MATTHEW HILL for
 that fictitious name wherever it appears in the cross-complaint.

1 DATED: March 2, 1998.

2 STENBERG, SUNSERI, ROE, PICKARD
3 AND RUDY

4
5 By


SALVATORE J. SUNSERI
Attorneys for Defendants and
Cross-Complainants

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25 RECEIVED

26 APR - 8 1998

PROOF OF SERVICE BY MAIL -- CCP 1013a, 2015.5

I declare that:

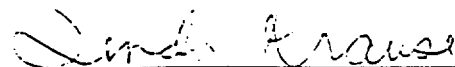
I am employed in the County of Santa Clara, California, I am over the age of eighteen years and not a party of the within entitled cause (Superior Court, County of Santa Cruz, Action No. 133542 entitled Richard Sargent, Jr., et al. v. Jonathan Peter Yankish, et al.) my business address is 2 North Second Street, Suite 1350, San Jose, California 95113.

On March 2, 1998, I served the attached AMENDMENT TO CROSS-COMPLAINT FOR COMPARATIVE AND EQUITABLE INDEMNITY SUBSTITUTING TRUE NAME FOR FICTITIOUS NAME (CCP SECTION 474) on the parties in said cause, by placing a true copy thereof entitled in a sealed envelope with postage thereon fully prepaid, in the United States mail at San Jose, California, addressed as follows:

K. ROBERT FOSTER, ESQ.
NEUMILLER & BEARDSLEE
PO BOX 20
STOCKTON CA 95201-3020

THOMAS F. NELSON, ESQ.
NELSON PERLOV & LEE
339 S SAN ANTONIO RD
LOS ALTOS CA 94022

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on March 2, 1998, at San Jose, California.


Linda Krause

RECEIVED
APR - 8 1998

ATTORNEY OR PARTY WITHOUT AN ATTORNEY (Name and Address)

PRESTON. STEFFEN, KATZEN, GALLAGHER & MACMORRIS
MARTIN W. MERTES, ESQ. BAR No. 071941
550 S. Winchester Blvd., Suite 400
San Jose, CA 95128

TELEPHONE NO
(408) 983-1675

D
135

ATTORNEY FOR (Name): Cross-Defendant MATTHEW HILL

INSERT NAME OF COURT, NAME OF JUDICIAL DISTRICT, AND BRANCH COURT, IF ANY.
SUPERIOR COURT OF SANTA CRUZ COUNTY

PLAINTIFFS: 'RICHARD SARGENT, JR., et al.,

DEFENDANTS: JONATHAN PETER YANKISH, et al.

CROSS-COMPLAINANTS:

JONATHAN PETER YANKISH, an individual, and ROGERS
REFRIGERATION, a California corporation,

v.

CROSS-DEFENDANTS:

COUNTY OF SANTA CRUZ, and ROES 1 through XX, inclusive.

**GENERAL DENIAL TO CROSS-COMPLAINT OF
JONATHAN PETER YANKISH and ROGERS REFRIGERATION**

CASE NUMBER.
1 3 3 5 4 2

You MUST use this form for your general denial if the amount asked for in the complaint or the value of the property involved is \$1000 or less.

You MAY use this form if:

1. The complaint is not verified, OR
2. The complaint is verified, and the action is subject to the economic litigation procedures of the municipal and justice courts,

EXCEPT

You MAY NOT use this form if the complaint is verified and involves a claim for more than \$1000 that has been assigned to a third party for collection.

(See Code of Civil Procedure sections 90-100, 431.30 and 431.40.)

1. CROSS-DEFENDANT (Name): MATTHEW HILL

generally denies each and every allegation of cross-complainants' complaint

2. ☐ CROSS-DEFENDANT states the following FACTS as separate affirmative defenses to CROSS-COMPLAINANTS' complaint (attach additional pages if necessary):

FIRST AFFIRMATIVE DEFENSE

Each cross-complainant was negligent and careless in and about the matters complained of in the complaint; and that cross-complainant's negligence and carelessness proximately contributed to the damages complained of, if there were any such damages.

SECOND AFFIRMATIVE DEFENSE

Each cross-complainant failed to mitigate damages by failing to use reasonable diligence to care for the alleged injuries and damages; by failing to use reasonable means to prevent aggravation of the alleged injuries and damages, and by failing to use reasonable diligence to accomplish healing and mitigation of said injuries and damages.

THIRD AFFIRMATIVE DEFENSE

The damages and injuries complained of were caused, in whole or part, by the negligence or other acts of others, thereby reducing the corresponding liability of this answering cross-defendant.

Date: MAY 2, 1998

MARTIN W. MERTES

(TYPE OR PRINT NAME)

(SIGNATURE OF DEFENDANT OR ATTORNEY)

If you have a claim for damages or other relief against the plaintiff, the law may require you to state your claim in a special pleading called a cross-complaint or you may lose your claim. (See Code of Civil Procedure sections 426.1 O-426.40.)

The original of this General Denial must be filed with the clerk of this court with proof that a copy was served on each plaintiff's attorney and on each plaintiff not represented by an attorney. (See following page for proof of service.)

PLAINTIFF (name): RICHARD SARGENT, JR., et al.
 DEFENDANT (name): JONATHAN PETER YANKISH, et al.
 AND RELATED CROSS-ACTIONS

CASE NUMBER:
 1 3 3 5 4 2

PROOF OF SERVICE

☐ Personal Service ☐ Mail

A General Denial may be served by anyone at least 18 years of age EXCEPT you or any other party to this legal action. Service is made in one of the following ways:

- (1) Personally delivering a copy to the attorney for the other party or, if no attorney, to the other party.
 OR
 (2) Mailing a copy, postage pre-paid, to the last known address of the attorney for the other party or, if no attorney, to the other party.

Be sure whoever serves the General Denial fills out and signs a proof of service. File the proof of service with the court as soon as the General Denial is served.

1. At the time of service I was at least 18 years of age and not a party to this legal action.

2. I served a copy of the General Denial as follows (check either a or b):

(a) ☒ Personal Service. I personally delivered the General Denial as follows:

- (1) Name of person served:
 (2) Address where served:
 (3) Date served:
 (4) Time served:

(b) ☐ Mail. I deposited the General Denial in the United States mail, in a sealed envelope with postage fully pre-paid

The envelope was addressed and mailed as follows:

(1) Name of person served:	K. ROBERT FOSTER, ESQ.	SALVATORE J. SUNSERI, ESQ.
(2) Address	NEUMILLER & BEARSLEE	STENBERG, SUNSERI, ROE, etc.
	P.O. BOX 20	2 N. SECOND ST., XI350
	STOCKTON, CA 95201-3020	SAN JOSE, CA 95113

CONT. (1) Name of person served:	THOMAS F. NELSON, ESQ.	BRAD WILES, ESQ.
CONT. (2) Address	NELSON, PERLOV & LEE	518 OCEAN ST., #B
	339 SO. SAN ANTONIO RD.	SANTA CRUZ, CA 95060
	LOS ALTOS, CA 94022	

(3) Date of mailing: MAY 8 1998

(4) Place of Mailing: San Jose, California

(5) I am a resident of or employed in the county where the General Denial was mailed.

(c) My residence or business address is (specify):

BUSINESS
 PRESTON, STEFFEN, KATZEN, GALLAGHER & MACMORRIS
 550 S. Winchester Blvd., Suite 400
 San Jose, CA 95128

(d) My phone number is (specify):

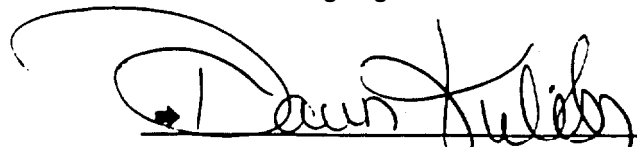
(408) 983-1 675 BUSINESS

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

Date: MAY 8 1998

DAWN T. KULISH

(TYPE OR PRINT NAME)



(SIGNATURE OF PERSON WHO SERVED GENERAL DENIAL)

**SUMMONS UN CROSS-COMPLAINANT
(CITACION JUDICIAL)**

101

NOTICE TO CROSS-DEFENDANTS: (Aviso a Acusado)

JONATHAN PETER YANKISH, an individual, ROGERS REFRIGERATION, a California corporation, COUNTY OF SANTA CRUZ, AND ROES AA-HH, INCLUSIVE

YOU ARE BEING SUED BY CROSS-COMPLAINANT:

(A Ud. le está demandando)

MATTHEW HILL

FOR COURT USE ONLY

You have 30 CALENDAR DAYS after this sum-mons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you: your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una repuesta escrita a máquina en esta corte.

Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.

Si usted no presenta su repuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.

Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o una oficina de ayuda legal (vea el directorio telefónico).

The name and address of the court is: (El nombre dirección de la corte es)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ
701 OCEAN STREET
SANTA CRUZ, CA 95060

CASE NUMBER: (Número del Caso)

1 3 3 5 4 2

The name, address, and telephone number of plaintiffs attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)

MARTIN W. MERTES #071941 (408) 983-1675
PRESTON, STEFFEN, KATZEN, GALLAGHER & MACMORRIS
550 S. WINCHESTER BLVD., SUITE 400, SAN JOSE, CA 95128

DATE:

(Fecha)

Cl&k. by _____, Deputy

(Actuario)

(Delegado)

(SEAL)

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify)

3. ☐ on behalf of (specify)

under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.0 (association or partnership) ☐ CCP 416.90 (individual)
☐ other:

4. ☐ by personal delivery on (date):

PROOF OF SERVICE — SUMMONS
(Use separate proof of service for each person served)

1. I served the

- a. ☐ summons ☐ complaint ☐ amended summons ☐ amended complaint
☐ completed and blank Case Questionnaires ☐ Other *Specify*:

b. on defendant (*name*):

- c. by serving ☐ defendant ☐ other (*name and title or relationship to person served*):

- d. ☐ by delivery ☐ at home ☐ at business

(1) date:

(2) time:

(3) address:

- e. ☐ by mailing

(1) date:

(2) place:

2. Manner of service (*check proper box*):

- a. ☐ Personal service. By personally delivering copies. KC? 415.101
- b. ☐ Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
- c. ☐ Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (*Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first rampring personal service.*)
- d. ☐ Mail and acknowledgment service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (*Attach completed acknowledgment of receipt.*)
- e. ☐ Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) (*Attach signed return receipt or other evidence of actual delivery to the person served.*)

- f. ☐ Other (*specify code section*):

☐ additional page is attached.

3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of *Specify*:
- c. ☐ on behalf of *Specify*:

under:

☐ CCP 416.10 (corporation)☐ CCP 416.20 (defunct corporation)☐ CCP 416.40 (association or partnership)☐ CCP 416.60 (minor)☐ CCP 416.70 (conservatee)☐ CCP 416.90 (individual)☐ other:

- d. ☐ by personal delivery on (*date*):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a. ☐ California sheriff, marshal, or constable.
- b. ☐ Registered California process server.
- c. ☐ Employee or independent contractor of a registered California process server.
- d. ☐ Not a registered California process server.
- e. ☐ Exempt from registration under Bus. & Prof. Code 22350(b).

f. Name, address and telephone number and, if applicable, county of registration and number:

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

(For California sheriff, marshal, or constable use only)
 I certify that the foregoing is true and correct.

Date:

Date:

MARTIN W. MERTES
State Bar No. 071941

PRESTON, STEFFEN, KATZEN,
GALLAGHER & MACMORRIS

ATTORNEYS AT LAW
550 S Winchester Blvd #400
San Jose, California 95128

(408) 903-1675

ATTORNEY FOR CROSS-DEFENDANT/
CROSS-COMPLAINANT. MATTHEW HILL

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CRUZ

RICHARD SARGENT, JR., et al.,

Plaintiffs,

v.

JONATHAN PETER YANKISH, et
al.,

Defendants.

1 3 3 5 4 2

CROSS-COMPLAINT FOR
INDEMNITY AND APPORTIONMENT
OF FAULT

MATTHEW HILL,

Cross-Complainant,

v.

JONATHAN PETER YANKISH, an
individual, ROGERS
REFRIGERATION, a California
corporation, COUNTY OF SANTA
CRUZ, and ROES AA-HH,
Inclusive,

Cross-
Defendants.

AND RELATED CROSS-ACTIONS.

COMES NOW Cross-Complainant MATTHEW HILL (hereinafter
referred to as "HILL") and cross-complains of

1 Defendants/Cross-Defendants JONATHAN PETER YANKISH, an
2 individual (hereinafter referred to as "YANKISH"); ROGERS
3 REFRIGERATION, a California corporation, (hereinafter referred
4 to as "ROGERS"); COUNTY OF SANTA CRUZ; AND ROES AA-HH,
5 inclusive, and each of them, and for a cause of action alleges
6 as follows:
7

8 FIRST CAUSE OF ACTION

9 1. That the true names and/or capacities, whether
10 individual, corporate, associate or otherwise, of Cross-
11 Defendants, and each of them, ROES A.4 through HH, inclusive,
12 are unknown to Cross-Complainant HILL who therefore sues those
13 Cross-Defendants, and each of them, by such fictitious names
14 and asks leave to amend this Cross-Complaint to show their
15 true names and capacities when the same have been ascertained.

16 2. Cross-Complainant HILL is informed and believes, and
17 thereon allege that each of the Cross-Defendants designated as
18 a ROE is negligently or otherwise legally responsible in some
19 manner for the events and happenings referred to herein, and
20 negligently or otherwise legally caused injuries and damages
21 proximately thereby to the Cross-Complainant HILL.

22 3. On or about December 2, 1998, Plaintiffs filed a
23 Complaint for damages in the Personal injury, Action No.
24 133542, in the above-entitled Court. Without admitting the
25 truth of the allegations contained in said Complaint, and for
26 the purpose of reference only, said allegations are
27 incorporated herein by reference as though set forth in full.

28 4. On or about February 6, 1998, YANKISH and ROGERS,

1 filed a Cross-Complaint for Comparative and Equitable
2 Indemnity in the Personal Injury, Action No. 133542, in the
3 above-entitled Court. On or about March 3, 1998, Cross-
4 Complainants, YANKISH and ROGERS filed an Amendment to their
5 Cross-Complaint for Comparative and Equitable Indemnity
6 substituting the true name of MATTHEW HILL for Roe I as a
7 cross-defendant in this action and thereby naming Cross-
8 Complainant herein as a cross-defendant. Without admitting
9 the truth of the allegations contained in said Cross-
10 Complaint, and for the purpose of reference only, said
11 allegations are incorporated herein by reference as though set
12 forth in full.

13 5. At all times herein mentioned, Cross-Defendants, and
14 each of them, were the agents, servants, employees and/or the
15 undisclosed principals and/or alter egos of the remaining
16 Cross-Defendants, and each of them, and at all times mentioned
17 herein, were acting within the scope and purposed of their
18 agency, employment, and/or relationship by and with the other
19 cross-defendants, and each of them.

20 6. Cross-Complainant HILL is informed and believes, and
21 thereon alleges that all of the cross-defendants sued herein
22 are individuals and businesses organized and allowed to do
23 business in the State of California.

24 7. That within the time allowed by law, cross-
25 complainant HILL served upon cross-defendant COUNTY OF SANTA
26 CRUZ a claim for damages in an unascertained sum, for any and
27 all damages incurred in connection with the within lawsuit.
28

1 Said claim is attached hereto, marked Exhibit "A" and made a
2 part hereof by reference. When said claim is acted upon,
3 cross-complainant HILL will pray leave to amend his cross-
3 complaint to set forth the necessary allegations concerning
5 the action taken by the COUNTY OF SANTA CRUZ with respect to
6 said claim.

7
8 8. That the negligence, if any, of cross-complainants
9 herein would be only passive and secondary in character, and
10 that the negligence of cross-defendants, and each of them,
11 would be active and primary in character, thus authorizing
12 cross-complainants to recover from cross-defendants, and each
13 of them, for the judgment, if any, obtained by plaintiffs
14 and/or any other party to this action against cross-
15 complainants and for all costs, expenses and fees of defense
16 incurred in connection with the main complaint on file herein.

17 WHEREFORE, Cross-Complainant HILL prays for judgment as
18 hereinafter set forth.

19
20 SECOND CAUSE OF ACTION

21 9. Cross-complainant HILL hereby repleads and
22 incorporates herein by reference paragraphs i through E,
23 inclusive of the First Cause of Action, as if the same were
23 repeated at length herein.

25 10. That cross-defendants, and each of them, were at
26 fault with reference to plaintiffs' allegations and hence, if
25 this cross-complainant is liable herein to plaintiffs, which
28 liability is expressly denied, this cross-complainant may

1 become obligated to pay plaintiffs sums representing a
2 percentage of fault not his own but that of cross-defendants
3 herein, and each of them. Therefore, this cross-complainant
4 requests an adjudication and declaration of the percentage of
5 fault on the part of this cross-complainant, if any, and on
6 the part of cross-defendants herein, and each of them, so as
7 to determine this cross-complainant's right to be obligated to
8 plaintiffs only in an amount representing this cross-
9 complainants' percentage of fault as compared to the fault of
10 cross-defendants, and each of them, and others not named in
11 the complaint.

12
13 11. In the event that Cross-Complainant HILL is held
14 liable, said negligence, carelessness and other acts of
15 omission or commission of Cross-Defendants, and each of them,
16 are of a higher degree than the Cross-Complainant HILL and
17 thus, the Cross-Complainant HILL is entitled to contribution
18 in proportion to each Cross-Defendants' negligence,
19 carelessness, acts of omission or commission, and if any
20 judgment is rendered against cross-Complainant and Defendants,
21 or any of them, said judgment ought to be reduced and
22 apportioned according to the proportionate fault of all of
23 said parties as more specifically set forth in American
24 Motorcycle Association v. Superior Court (1987) 20 Cal.3d 571.

25 12. Cross-complainant HILL alleges that said
26 determination of the separate percentage of fault, if any, on
27 the part of this cross-complainant and cross-defendants herein
28 is necessary to protect the rights of said cross-complainant

1 to comparative indemnity from cross-defendants, and each of
2 them.

3 13. Cross-Complainant HILL alleges that an actual
4 controversy **exists** between Cross-Complainant HILL and Cross-
5 Defendants, and each of them, under the circumstances above
6 **alleged** and Cross-Complainant HILL contends that the ultimate
7 responsibility and liability, if any, is the responsibility of
8 the Cross-Defendants, and each of them above-named.

9 **WHEREFORE, Cross-Complainant HILL prays for judgment**
10 **against Cross-Defendants, and each of them, as follows:**

11 1. For all relief prayed for in cross-complainant HILL's
12 pleadings on file herein;

13 2. For indemnity for the amount of the judgment, if any,
14 obtained by plaintiffs and/or any party to this action,
15 against this cross-complainant.

16 3. ~~CT~~ a separate declaration of the percentage of
17 fault, ~~if~~ any, on the part of cross-complainants and cross-
18 defendants;

19 4. For comparative indemnity for the amount of the
20 judgment, if any, obtained by plaintiffs and/or any party to
21 this action against cross-complainants;

22 5. For the costs of suit, attorneys' fees, and other
23 expenses and damages incurred in the defense of this action by
24 Cross-Complainant HILL, and for the prosecution of HILL's
25 Cross-Complaint; and
26

27 ///

28 ///

1 6. For such other and further relief as the Court may deem
2 just and proper.

3 DATED: MAY 8 1998

4
5
6 MARTIN W. MERTES
7 Attorney for Cross-Complainant/
8 Cross-Defendant, MATTHEW HILL
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LAW OFFICES OF
PRESTON. STEFFEN, KATZEN, GALLAGHER & MACMORRIS

146

550 S Winchester Blvd. #400
San Jose, California 95128
(408) 983-1675

10 River Park Place East Ste 205
Fresno CA 93720
(209) 433-1900

550 North Brand Blvd Ste 1240
Glendale CA 91203
(818) 552-4650

2030 East Flamingo Road Ste 250
Las Vegas NV 89119
(702) 369-3443

1900 Embarcadero, Ste 305
Oakland, CA 94606
(510) 437-6200

MARTIN W. MERTES
(408) 983-1675

4811 Chippendale Dr Ste 202
Sacramento CA 95841
(916) 331-5330

100 Van Ness Ave., Ste 1700
San Francisco CA 94102
(415) 565-2811

550 South Winchester Blvd Ste 400
San Jose CA 95128
(408) 983-1675

1500 Farmers Lane Ste 200
Santa Rosa CA 95405-0906
(707) 544-4435

3116 W March Lane Ste 150
Stockton CA 95219
(209) 951-3678

May 8, 1998

CERTIFIED - RETURN RECEIPT REQUESTED

Board of Supervisors
County of Santa Cruz
Governmental Center
701 ocean St.
Santa Cruz, CA 95060

Attn: Clerk of the Board

Re: SARGENT, JR., et al. v. YANKISH, et al., & related cross-actions
Santa Cruz Superior Court Case #133542

Dear Gentilepersons:

Please be advised that, pursuant to Government Cods Section 910, a claim is hereby presented, as follows:

(a) Claimant: Matthew Hill, an individual: 9801 Hwy 9, Ben Lomond, CA 95005.

(b) Notices to be sent to Claimant's counsel: Martin W. Mertes, Esq., at Preston, Steffen, Katzen, Gallagher, & MacMorris, 550 S. Winchester Blvd., Suite 400, San Jose, CA 95128.

(c) Occurrence giving rise to claim: Summons and Complaint Number 133542 attached hereto and marked Exhibit "A", filed in the Superior Court of the State of California in and for the County of Santa Cruz concerning an automobile accident and injuries suffered by plaintiffs Richard Sargent, Jr., Kathy Sargent and Sara Sargent, a minor, on December 5, 1996, at Graham Hill Rd., [at a point approximately 964 feet East of Roaring Camp Rd.] in Santa Cruz County, California. Attached hereto and marked Exhibit "B" is a copy

Board of Supervisors
County of Santa Cruz
Government31 Center
RE: Sargent v Yankish. et al & related cross-actions
05/08/98
Page 2

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of the Summons on Cross-Complaint and Cross-Complaint for Comparative and Equitable Indemnity in said action [#133542] filed on 2/6/98 by Cross-Complainants, Jonathan Peter Yankish, an individual, and Rogers Refrigeration, a California corporation, naming the County of Santa Cruz as a Cross-Defendant in said action. Attached hereto and marked Exhibit "C" is a copy of the Amendment to said Cross-Complaint [#133542] filed on 3/3/98 substituting claimant [Matthew Hill] in as Roe I and thereby naming claimant herein as a Cross-Defendant in said action. On 4/7/98 Claimant herein was sub-served with the Summons on Cross-Complaint, Cross-Complaint, and Amendment thereto. On May 4, 1998 Claimant's attorney herein requested and received from attorney Sunseri [via facsimile] a copy of the initial Summons, Complaint, Yankish and Rogers Refrigeration's Answer to Complaint, and the **County of Santa Clara's Answer to Complaint**. . Claimant HILL is filing 3 Response to Yankish and Rogers Refrigeration's Cross-Complaint along with a Summons on Cross-Complaint and Cross-Complaint for Indemnity and Apportionment of Fault naming Yankish, Rogers Refrigeration, and the County of Santa Cruz as Cross-Defendants [Exhibit "D"].

(d) Description of loss: Such damages as may be assessed claimant or which claimant may pay of by way of settlement, judgment or otherwise to plaintiff's Richard Sargent, Jr., Kathy Sargent and Sara Sargent, a minor, and attorneys' fees, court costs and expenses of investigation incurred in connection with said action.

(e) Names of public employees: The names of public employees causing the loss are unknown at this time..

(f) Amount being claimed: The amount being claimed is unascertained at the present time. Jurisdiction over the claim rests in Superior Court.

Sincerely,

Martin W. Mertes

MIWM/dtk
Enc.

Superior Court of Santa Cruz County
PROOF OF SERVICE BY MAIL (CCP SECTION 1013a(3), 2015.5)

I, the undersigned, am employed in Santa Clara County at 559 S. Kinchester Blvd., #400, San Jose, California 95128. I am over the age of 18 years and nor a party to the above cause.

i am readily familiar with my employer's business practice for collection and processing correspondence for mailing with the United States Postal Service, and under such practice this correspondence consisting of SUMMONS ON CROSS-COMPLAINT AND CROSS-COMPLAINT FOR INDEMNITY AND APPORTIONMENT OF FAULT will be deposited with the United States Postal Service today in the ordinary course of business in an envelope, which was addressed, sealed, and placed for collection and mailing in San Jose at the above business address of my employer following ordinary business practices, addressed to:

K. ROBERT FOSTER, ES@
NEUMILLER & BEARSLEE
P.O. BOX 20
STOCKTON, CA 95201-3020

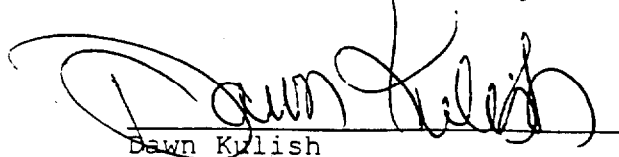
SALVATORE J. SUNSERI, ESQ.
STENBERG. SUNSERI. ROE. etc.
2 N. SECOND ST., #1350
SAN JOSE, CA 95113

THOMAS F. NELSON, ES@.
NELSON, PERLOV & LEE
339 SO. SAN ANTONIO RD.
LOS ALTOS, CA 94022

BRAD WILES, ESQ.
518 OCEAN ST., X8
SANTA CRUZ, CA 95060

I declare under penalty of perjury under the laws of the State of California that the statements in the foregoing proof of service are true and correct and that this verification was signed on

May 8, 1998.


Dawn Kulish