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E-FILED  
1/12/2026 12:11 PM  
Superior Court of California  
County of Fresno  
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**SUPERIOR COURT OF CALIFORNIA**

## COUNTY OF FRESNO, CENTRAL DIVISION

BALTARA ENTERPRISES, LP, a California limited partnership,

Case No 26CECG00154

Plaintiff(s),

v<sub>3</sub>

CITY OF FRESNO, a municipal corporation,  
DOES 1 to 25, individually.

## COMPLAINT

Defendant(s).

## BACKGROUND ALLEGATIONS

1. Plaintiff BALTARA ENTERPRISES, LP, a California limited partnership, ("Plaintiff") is, and at all times relevant herein was, a limited partnership authorized by and existing by virtue of the laws of the State of California, with its principal place of business in the County of Fresno, State of California.

2. Defendant CITY OF FRESNO, a municipal corporation, ("Defendant") is, and at all times relevant herein was, a California municipal corporation authorized by and existing under the laws of the State of California.

3. The true names and capacities, whether individual, corporate, associate, government, or otherwise of Defendants DOES 1 through 25, inclusive, are unknown to Plaintiff, who therefore sues herein said Defendants by such fictitious names pursuant to Section 474 of the California Code of Civil Procedure and prays leave of court to amend its Complaint to set forth the true names and capacities of said Defendants when the same have been ascertained.

4. Plaintiff is informed and believes, and on such information and belief alleges that, at all times herein, relevant, each of said Defendants were acting as the agent, servant, employee, partner and/or joint venture of each of the remaining said Defendants, and was acting in concert with each remaining said Defendant in doing the things herein alleged, while at all times acting within the course and scope of such agency, employment, partnership and/or concert of action. Plaintiff is informed and believes, and upon that basis alleges, that at all times relevant to this action, Defendants performed work on and/or provided materials to the project identified in more detail below.

## JURISDICTION AND VENUE

5. Jurisdiction and venue are proper in the County of Fresno as the place where the events occurred, where the property involved is located, and where Defendant is located.

## **FACTUAL BACKGROUND**

6. Plaintiff owns and manages various properties throughout the City of Fresno. One such property is located at 700 Van Ness Ave., Fresno, CA 93721 (the “Property”). In late 2023, Plaintiff engaged in negotiations with State Center Community College District (“SCCCD”) and Martin Functional Rehab and Chiropractic PC dba Docs Gym (“Docs Gym”) regarding leasing space at the Property. Sometime thereafter, SCCC agreed to lease Suites 209, 016, 017, and 018, and Docs Gym leased Suite 002. Suites 002, 016, 017, and 018 are located in the basement of the Property.

7. One morning, after the tenants had moved in, and after a short period of rain had ended, SCCC opened the basement suites and found water leakage had occurred, which caused water damage to the cubicles, desks, walls, and color printer. SCCC was concerned by this discovery as it had expended \$250,000.00 in training simulator equipment, so feared that if the leakage was not fixed, the new equipment would be damaged. Soon thereafter, as the delivery date for the new training equipment drew closer, SCCC had a discussion with Plaintiff, indicating that, if repairs could not be made to stop

1 the leaks, it would have to vacate the property. In response to mounting frustrations on Plaintiff's and  
2 SCCCD's part, Plaintiff contacted Lupe Perez at the City of Fresno. Ms. Perez informed Plaintiff that  
3 the Defendant was going to send a team from the Public Works Department out to the Property to  
4 determine the issue. The next day, a team from the Public Works Department reported to the Property,  
5 inspected the interior and exterior of the Property, and surmised that the leakage was probably coming  
6 from the underground culvert at the intersection of Mono Street and Van Ness Avenue. The team stated  
7 they were going to send a crew out the following week to inspect and clean the culvert via the use of a  
8 vacuum truck. Plaintiff does not believe that the City actually sent a crew to conduct such repairs as it  
9 neither witnessed, nor was it informed by a tenant, that the City had performed as promised.

10 8. After another big rain, the basement of the property experienced significant water  
11 intrusion. When Plaintiff went out to inspect the culvert, it found the culvert packed with debris again.  
12 That same day, Plaintiff emailed Ms. Perez to inquire whether a vacuum truck or a crew was ever sent  
13 out to rectify the issue, and, if not, if Defendant could send someone out to clean up the culvert so that  
14 no more flooding occurred. Ms. Perez indicated she would inform Public Works and ask them to send  
15 out another team, but no team was ever sent. Attempting to mitigate the damage, Plaintiff cleaned out  
16 the sidewalk joints and applied caulk throughout the area. Despite Plaintiff's efforts, the basement  
17 continued to experience leaking and flooding. Defendant has continuously failed to rectify the issue  
18 despite numerous and repeated complaints. Soon thereafter, SCCCD vacated the property, citing the  
19 continued water leakage and flooding as the reason it had to terminate its lease.

20 9. Flooding continued to occur thereafter, and Plaintiff's requests to Defendant continued  
21 to be ignored throughout the winter. After no rectification of massive leakage into the Property during  
22 rainstorms in February, March, and April of 2025, Docs Gym also vacated the premise, terminating its  
23 lease of Suite 002 early. The termination specifically states the lease was terminated early “[d]ue to  
24 ongoing habitability concerns, water intrusion issues, and equipment damage...” The water intrusion  
25 caused 50% of Docs Gym's space to be flooded, and ruined the equipment Plaintiff had leased to Docs  
26 Gym. On several occasions, during heavy rain events in early 2025, muddy rainwater poured into the  
27 building and flooded half of Suite 002. Additionally, in May 2025, sewage flooded through the wall of  
28 the Property and into the basement, finally convincing Docs Gym to vacate the premises and forcing

1 Plaintiff to incur costs to replace the gym equipment and clean up the property. Due to the ongoing  
2 leaks and risks of future leaks, Plaintiff is unable to lease the spaces formerly occupied by SCCC and  
3 Docs Gym. Significant portions of the Property are uninhabitable by any tenant for any purpose now  
4 and in the future, rendering the Property useless and valueless in its existing condition.

5 10. Over time, Plaintiff has had to submit over 20 reports and complaints through the FresGo  
6 app regarding the flooding and damage caused by Defendant. However, each time a report was  
7 submitted, the report was quickly “closed” by Defendant without any due diligence being performed.  
8 This occurred on each and every occasion.

9 11. At all times from 2023 to the present, Plaintiff has experienced flooding in the basement  
10 of the Property caused by Defendant. For instance, as recently as January 3, 2026, Plaintiff has  
11 experienced flooding at the Property, and has had to personally undertake efforts to rectify the issue by  
12 hydro jetting the culvert to restore waterflow and stop the flooding.

13 12. As a result of Defendant’s inaction, Plaintiff was forced to file a Government Tort Claim  
14 form with Defendant on May 28, 2025. On December 23, 2025, Defendant informed Plaintiff of its  
15 denial of the Government Tort Claim, which occurred by operation of law on July 12, 2025. Plaintiff  
16 has, at all times, complied with the claim presentation requirement relating to a Government Tort Claim.

17 13. Plaintiff has lost business due to the Defendant’s actions or failure to act. Plaintiff has  
18 lost multiple tenants due to the repeated instances of leaking and flooding, which Defendant has failed  
19 to cure. Despite multiple attempts on Plaintiff’s part to mitigate the harm, as well as to inform Defendant  
20 of the problem, Defendant has failed to respond. As such, Plaintiff’s tenants were forced to relocate,  
21 Plaintiff was forced to incur significant property damage, and Plaintiff had to incur the cost of cleaning  
22 up the water and sewage that entered its property. Plaintiff is further damaged by the fact that significant  
23 portions of its property are uninhabitable and cannot be leased to any tenant due to the past and current  
24 leaks which will continue to occur until Defendant makes the appropriate repairs or otherwise rectifies  
25 the issue.

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## **FIRST CAUSE OF ACTION**

(Trespass Against Defendant and DOES 1 through 25)

3 14. Plaintiff alleges and by this reference incorporates each and every allegation contained  
4 in Paragraphs 1 through 13, above.

5       15. Plaintiff believes that Defendant's continual poor management, improper construction,  
6 and continual failure to make necessary repairs and updates to City infrastructure has caused  
7 Defendant's sidewalks, culverts, and gutters to become clogged with debris, or otherwise to fail to work  
8 properly, resulting in continuous damage to Plaintiff's property. As such, each time water has intruded,  
9 does intrude, and will intrude into Plaintiff's property, Defendant is committing a trespass, as its actions,  
10 or failure to act, are causing water and other debris and sewage to enter Plaintiff's property

11        16. Plaintiff, at all times relevant herein, has owned the real property known as 700 Van Ness  
12 Ave.

13        17. Defendant, through its negligence, recklessness, and/or intentional actions and/or  
14 inactions has caused water to back-up in its City designed, constructed, and maintained street and  
15 culverts, which has then entered into Plaintiff's property - 700 Van Ness Ave.

16 18. At no time has Plaintiff permitted this entry of water into its property and, in fact, Plaintiff  
17 has, at numerous times, informed Defendant of the unauthorized entry of water into Plaintiff's property  
18 caused by Defendant's actions and/or inactions.

19       19. As a result of Defendant causing water to enter into Plaintiff's property, Plaintiff has  
20 been harmed. Plaintiff has lost tenants, incurred the cost of replacing and repairing property damaged  
21 by the flooding, and been unable to lease the spaces subject to flooding due the continued inhabitability  
22 of the spaces.

23        20.      Defendant's actions and/or inactions are a substantial and continuing factor in causing  
24 Plaintiff's harm as it is Defendant's improper construction, maintenance, and/or repair of its property  
25 that has caused the water to trespass onto Plaintiff's property.

26       21. Plaintiff has been harmed and damaged in an amount to be proven at trial, which includes  
27 the damage to Plaintiff's property, loss of business and use, and cost Plaintiff has personally incurred to  
28 rectify the damage caused by Defendant.

## **SECOND CAUSE OF ACTION**

(Negligence Against Defendant and DOES 1 through 25)

22. Plaintiff alleges and by this reference incorporates each and every allegation contained in Paragraphs 1 through 21, above.

5        23.    Defendant's repeated failure to rectify the flooding issue is negligent as it has impeded  
6 Plaintiff's ability to operate its business, and manage its property. Plaintiff has repeatedly attempted to  
7 inform Defendant of the water leakage caused by the City's improper design, management, and/or repair  
8 of infrastructure in and surrounding the Property. As such, Defendant's actions, or inactions, are  
9 indicative of a negligent, if not intentional, disregard of Plaintiff's property interest and its right to be  
10 protected from Defendant's infringement thereto.

11       24.     Defendant, as the owner and entity in charge of maintaining the municipal property  
12 around Plaintiff's property - 700 Van Ness Ave. - owes a duty to Plaintiff to maintain and act in a manner  
13 that reflects ordinary skill and care.

14        25.     However, at all times relevant herein, Defendant has breached its duty of ordinary skill  
15 and care by failing to properly construct, repair, and maintain its property, which has resulted in  
16 perpetual culvert blockages that cause water to buildup and inevitably flood Plaintiff's property. On  
17 numerous occasions, Plaintiff has attempted to notify Defendant of the damages it has incurred related  
18 thereto, and implored Defendant to take action to rectify the issue. However, Defendant had failed to  
19 undertake efforts to correct its improper construction, repair, and maintenance of its property, resulting  
20 in persistent damage to Plaintiff's property.

21       26. As a result of Defendant's inability to exercise ordinary skill and care, it has caused water  
22 to enter into Plaintiff's property, causing Plaintiff harm. Plaintiff's harm has resulted in actual damages,  
23 including Plaintiff's loss of tenants, Plaintiff's having to incur the cost of replacing and repairing  
24 property damaged by the flooding, and Plaintiff's inability to lease the spaces subject to flooding due  
25 the continued inhabitability of the spaces.

26        27.    Defendant's actions and/or inactions are a substantial and continuing factor in causing  
27 Plaintiff's harm as it is Defendant's improper construction, maintenance, and/or repair of its property  
28 that has caused the flooding of Plaintiff's property.

28. Plaintiff has been harmed and damaged in an amount to be proven at trial, which includes the damage to Plaintiff's property, loss of business and use, and cost Plaintiff has personally incurred to rectify the damage caused by Defendant.

### **THIRD CAUSE OF ACTION**

(Nuisance Against Defendant and DOES 1 through 25)

29. Plaintiff alleges and by this reference incorporates each and every allegation contained in Paragraphs 1 through 28, above.

8       30.    Defendant's repeated failure to rectify the flooding issue has caused a continuous  
9 nuisance as it has impeded Plaintiff's ability to operate its business, and manage its property. Plaintiff  
10 has repeatedly attempted to inform Defendant of the water leakage caused by the City's improper design,  
11 management, and/or repair of infrastructure in and surrounding the Property. As such, Defendant's  
12 actions, or inactions, are indicative of a negligent, if not intentional, disregard of Plaintiff's property  
13 interest and its right to be protected from Defendant's infringement thereto.

31. Plaintiff, at all times relevant herein, has owned the real property known as 700 Van Ness Ave.

32. Defendant is the owner and entity in charge of maintaining the municipal property around Plaintiff's property. However, due to Defendant's actions and/or inactions, Defendant has created a condition or permitted a condition to exist that has caused substantial flooding to occur on Plaintiff's property, which is harmful to health and interferes with Plaintiff's free use and enjoyment of its property.

20       33.    Defendant's conduct in acting or failing to act was intentional and unreasonable and/or  
21 unintentional, but negligent or reckless. Despite Plaintiff's numerous attempts to inform Defendant of  
22 a problem caused by Defendant's construction, maintenance, and/or repair of its property, Defendant  
23 has taken little, if any action to rectify the issue.

34. The condition created by Defendant whereby Plaintiff's property is regularly flooded  
35 with water that has built up in Defendant's culvert has substantially interfered with Plaintiff's use and  
36 enjoyment of its land.

35. An ordinary person would reasonably be annoyed or disturbed by Defendant's conduct.

36. As a result of Defendant's conduct in acting or failing to act, Defendant has caused water to enter into Plaintiff's property, causing Plaintiff harm. Plaintiff's harm has resulted in actual damages, including Plaintiff's loss of tenants, Plaintiff's having to incur the cost of replacing and repairing property damaged by the flooding, and Plaintiff's inability to lease the spaces subject to flooding due the continued inhabitability of the spaces. There is no benefit to the public from Defendant's actions and/or inactions. Even if there were a public benefit, the seriousness of the harm caused to Plaintiff and its property is outweighed by any claimed benefit.

37. Defendant's actions and/or inactions are a substantial and continuing factor in causing Plaintiff's harm as it is Defendant's improper construction, maintenance, and/or repair of its property that has caused the flooding of Plaintiff's property.

38. Plaintiff has been harmed and damaged in an amount to be proven at trial, which includes the damage to Plaintiff's property, loss of business and use, and cost Plaintiff has personally incurred to rectify the damage caused by Defendant.

#### **FOURTH CAUSE OF ACTION**

(Inverse Condemnation Against Defendant and DOES 1 through 25)

39. Plaintiff alleges and by this reference incorporates each and every allegation contained in Paragraphs 1 through 38, above.

40. Relatedly, Plaintiff has a claim for inverse condemnation against Defendant. Defendant's failure to maintain its infrastructure, and Defendant's property surrounding 700 Van Ness Ave. has resulted in continuous and repeated damage to Plaintiff's property. City water, drainage, and infrastructure are a public work, so they exist for the public's benefit. Since Defendant's repeated failure to maintain the infrastructure on and around Plaintiff's property has resulted in repeated instances of leakage and flooding thereto, Defendant has engaged in the sort of deliberate conduct indicative of a claim for inverse condemnation. As such, Plaintiff seeks the appropriate recourse.

41. Plaintiff, at all times relevant herein, has owned the real property known as 700 Van Ness Ave.

42. Defendant is a public entity which owns and maintains the municipal property around Plaintiff's property.

1       43. Plaintiff's property has been physically invaded in a tangible manner by water which has  
2 flooded Plaintiff's property. This water has entered Plaintiff's property due to Defendant's actions  
3 and/or inactions in relation to its construction, repair, and maintenance of its property, namely the street  
4 and culvert neighboring Plaintiff's property which is continuously backed up, causing Plaintiff's  
5 property to be flooded with water as a result of Defendant's improper construction, repair, and/or  
6 maintenance of its property.

7       44. Plaintiff's property has been physically damaged by Defendant's actions and/or inactions  
8 which have resulted in flooding of Plaintiff's property, causing actual damages, including Plaintiff's  
9 loss of tenants, Plaintiff's having to incur the cost of replacing and repairing property damaged by the  
10 flooding, and Plaintiff's inability to lease the spaces subject to flooding due the continued inhabitability  
11 of the spaces.

12       45. The flooding caused by Defendant's improper construction, repair, and/or maintenance  
13 of its property places a direct, substantial, and peculiar burden on Plaintiff's property as Plaintiff has  
14 lost the ability to use a portion of its property due to the continuous flooding events, which make the  
15 space uninhabitable, unsafe, and unclean.

16       46. Despite Plaintiff's numerous attempts to notify Defendant of the issue, and Plaintiff's  
17 numerous requests for Defendant to rectify the issue, Defendants have refused. Defendants are aware  
18 that it is its own improper construction, repair, and/or maintenance of its property that has caused, is  
19 causing, and will continue to cause the damage to Plaintiff's property.

20       47. As a result of Defendant's conduct in acting or failing to act, Defendant has caused water  
21 to enter into Plaintiff's property, causing Plaintiff harm, resulting in Plaintiff losing tenants, Plaintiff  
22 having to incur the cost of replacing and repairing property damaged by the flooding, and Plaintiff being  
23 unable to lease the spaces.

24       48. Defendant's actions and/or inactions are a substantial and continuing factor in causing  
25 Plaintiff's harm as it is Defendant's improper construction, maintenance, and/or repair of its property  
26 that has caused the harm.

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49. Plaintiff has been harmed and damaged in an amount to be proven at trial, which includes the damage to Plaintiff's property, loss of business and use, and cost Plaintiff has personally incurred to rectify the damage caused by Defendant.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiff BALTARA ENTERPRISES, LP, a California limited partnership, prays for Judgment against Defendant CITY OF FRESNO, a municipal corporation, as follows:

1. For damages in an amount to be proven at trial;
2. For attorneys' fees.
3. For costs of suit; and
4. For such other and further relief as the Court may deem just and proper.

Dated: January 12, 2026

## WANGER JONES HELSLEY PC

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