



DEPARTMENT OF ENVIRONMENTAL HEALTH  
Hazardous Materials Program  
80 Swan Way, Rm. 200  
Oakland, CA 94621  
(415)

FACSIMILE TRANSMITTAL

TO:

569-0505 Floor/Room # \_\_\_\_\_  
Fax Phone Number

Name: Gilbert Jensen Title/Section

Agency: Alameda Co. DA's Office

Address: \_\_\_\_\_

Phone #: ( ) 569-9281

FROM:

569-4757 Floor/Room # \_\_\_\_\_  
Fax Phone Number

Date: 1-6-94 Time Sent: 5:20

Sender: Scott SEERY Title/Section

Phone #: ( ) 271-4530

Number of Pages Including Transmittal Sheet: 2

Special Instructions/Comments:

*Here is a letter FAXed to me this afternoon. This may mean his clients received their respective NOV's. Please advise.*

7. Hold Harmless Agreement:

Each party herein agrees to hold the other harmless from any and all obligations which may be incurred in behalf of the respective parties. Any obligations incurred in behalf of DORSO'S AUTO REPAIR prior to February 1, 1987 shall be the responsibilities of the Seller herein, but any obligations or liability incurred thereafter shall be the responsibilities of the Buyer herein.

8. Attorney's Fees:

If any dispute shall arise between the parties herein and such dispute would require the services of an attorney in behalf of either of the parties herein, the losing party in such dispute agrees to pay to the prevailing party reasonable attorney's fees in obtaining a resolution of said dispute.

9. Lease Assumption:

The Buyer herein shall be assuming the existing Lease on the premises which runs through June 30, 1987. The Buyer heretofore shall negotiate with the Landlord for the extension of that Lease or a new lease if so desired.

10. Accounts Receivable:

It is agreed that all sums which may be due and owing from any work orders made prior to February 1, 1987 shall remain the property of the Seller herein, and anything which may become due and owing after said date shall become the property of the Buyer. Any uncompleted work or work not performed by the Seller will become the property of the Buyer.

**LAW OFFICES OF HANS W. HERB**

50 Santa Rosa Avenue, Fifth Floor  
Santa Rosa, California 95404

Arizona  
California  
Washington

January 6, 1994

(707) 576-0757  
Telecopier:  
(707) 575-0364

Via Facsimile

**HANS W. HERB**

Mr. Scott O. Seery, CHMM  
Sr. Hazardous Material Specialist  
ALAMEDA COUNTY HEALTH CARE  
SERVICES AGENCY  
80 Swan Way, Room 200  
Oakland, CA 94621

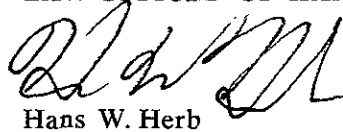
Re: Garcia & Gallegos  
Site: 16035 East 15th Street, San Leandro, CA  
Our File No. 01-126-01

Dear Mr. Seery:

Enclosed is a copy of a lawsuit we recently filed to abate the actions of the Alameda County Health Care Services Agency in the above-captioned matter.

Please review this material and contact me at your convenience so that we can discuss how to proceed.

Very truly yours,  
LAW OFFICES OF HANS W. HERB



Hans W. Herb

HWH/pdp

Enclosure

cc: Mr. Garcia  
Ms. Gallegos

ALCO  
HAZMAT  
94 JAN 10 PM 2:52

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SOLANO  
600 UNION AVENUE, FAIRFIELD, CA 94533

PLAINTIFF:

*Gregory J. Garcia, et al.*

DEFENDANT:

*Dilbert A. Jensen, et al.*

CASE NO. LC02217

NOTICE OF STATUS CONFERENCE

ONE     TWO   

Pursuant to local rules and by order of this court, this matter has been calendared for Status Conference:

DATE: 4/25/94

TIME: 9:00 A.M.

DEPT: 3

**THE OBLIGATIONS OF COUNSEL, OR ANY PARTY NOT REPRESENTED BY COUNSEL, IN REGARD TO STATUS CONFERENCE ONE AND STATUS CONFERENCE TWO ARE AS FOLLOWS (Rule 4.6, Local Rules of Court):**

- 1) Plaintiff shall serve a copy of **Notice of Status Conference One** on all defendants with the complaint.
- 2) Any party serving a cross-complaint shall serve a copy of **Notice of Status Conference One** on each cross-defendant with the cross-complaint.
- 3) Any cross-complaint served after Status Conference One has been held shall have a **Notice of Status Conference Two** served with it.
- 4) A **Status Conference One Report** shall be filed with the court and served on all parties by each counsel by the 7th calendar day before the date set for Status Conference One.
- 5) At Status Conference One the court shall inform counsel of the date, time, and place for Status Conference Two and shall make any orders regarding what is expected that counsel will accomplish in regard to the case before the filing of the **Status Conference Two Report** for Status Conference Two.
- 6) Each counsel shall complete, file and serve on all parties a completed **Status Conference Two Report** by the 7th calendar day before the date set for Status Conference Two.
- 7) At any Status Conference, counsel shall be completely aware of all procedural, factual, and legal aspects of the case, and have full authority to discuss and resolve any issues that arise at the conference, including settlement of the case.
- 8) The court may impose sanctions in the event that a **Status Conference Report** is not timely filed and/or served, or is not fully completed, or; the requirements of #7, above, are not met.

**COUNSEL ARE OBLIGATED TO REVIEW AND COMPLY WITH LOCAL RULES REGARDING CIVIL LITIGATION.**

\* \* \* \* \*

**SUMMONS  
(CITACION JUDICIAL)**

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

**NOTICE TO DEFENDANT: (Aviso a Acusado)**

GILBERT A. JENSEN; COUNTY OF ALAMEDA DISTRICT ATTORNEY'S OFFICE; SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD; STATE WATER RESOURCES CONTROL BOARD; DOES 1 through 100, inclusive.

**YOU ARE BEING SUED BY PLAINTIFF:**

**(A Ud. le est., demandando)**

GREGORY J. GARCIA, and BEATRICE S. GALLEGOS

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.)

Despues de que la entreguen esta citacion judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una repuesta escrita a maquina en esta corte.

Una carta o una llamada telefonica no le ofrecera proteccion su repuesta escrita a maquina 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 a una oficina de ayuda legal (vea el directorio telefonico).

The name and address of the court is: (El nombre y direccion de la corte es)  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SOLANO  
Hall of Justice, 600 Union Ave.  
Fairfield, CA 94533-6394

CASE NUMBER. (Numero del Caso)

**LC02217**

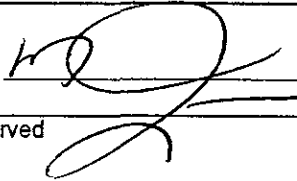
The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la direccion y el numero de telefono del abogado del demandante, o del demandante que no tiene abogado, es)

Hans W. Herb, Esq.  
LAW OFFICES OF HANS W. HERB  
50 Santa Rosa Ave., 5th Floor  
Santa Rosa, CA 95404

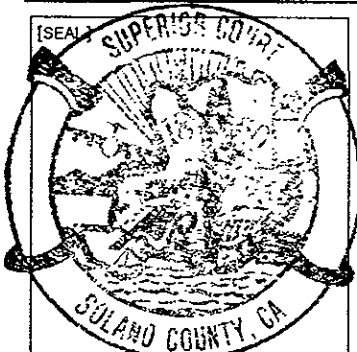
(707) 576-0757

DATE: **DEC 28 1993**  
(Fecha)

CHARLES D. RAMEY

Clerk, by   
(Actuano)

, Deputy  
(Delegado)



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 416.40 (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. (CCP 415.10)
- 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 attempting 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 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)
- 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:



(SIGNATURE)

(SIGNATURE)

**SUMMONS  
(CITACION JUDICIAL)**

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

**NOTICE TO DEFENDANT: (Aviso a Acusado)**

GILBERT A. JENSEN; COUNTY OF ALAMEDA DISTRICT ATTORNEY'S OFFICE; SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD; STATE WATER RESOURCES CONTROL BOARD; DOES 1 through 100, inclusive.

**YOU ARE BEING SUED BY PLAINTIFF:**

**(A Ud. le est., demandando)**

GREGORY J. GARCIA, and BEATRICE S. GALLEGOS

<p><b>You have 30 CALENDAR DAYS after this Summons is served on you to file a typewritten response at this court.</b></p> <p><b>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.</b></p> <p><b>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.</b></p> <p><b>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.)</b></p>	<p><i>Despues de que la entreguen esta citacion judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una repuesta escrita a maquina en esta corte.</i></p> <p><i>Una carta o una llamada telefonica no le ofrecera proteccion su repuesta escrita a maquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.</i></p> <p><i>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.</i></p> <p><i>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 telefonico).</i></p>
--	---

The name and address of the court is: *(El nombre y direccion de la corte es)*  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SOLANO  
Hall of Justice, 600 Union Ave.  
Fairfield, CA 94533-6394

CASE NUMBER. *(Numero del Caso)*  
**LC02217**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
*(El nombre, la direccion y el numero de telefono del abogado del demandante, o del demandante que no tiene abogado, es)*  
Hans W. Herb, Esq.  
LAW OFFICES OF HANS W. HERB  
50 Santa Rosa Ave., 5th Floor  
Santa Rosa, CA 95404

(707) 576-0757

DATE: **DEC 28 1993**      CHARLES D. RAMEY      Clerk, by M. JACKSON      Deputy  
*(Fecha)*      *(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: <input type="checkbox"/> CCP 416.10 (corporation)	<input type="checkbox"/> CCP 416.60 (minor)
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<input type="checkbox"/> CCP 416.40 (association or partnership)	<input type="checkbox"/> CCP 416.90 (individual)
<input type="checkbox"/> 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. (CCP 415.10)
- 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 attempting 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):  
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- 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:

▶

▶

(SIGNATURE)

(SIGNATURE)



**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT: (Aviso a Acusado)**

GILBERT A. JENSEN; COUNTY OF ALAMEDA DISTRICT ATTORNEY'S OFFICE; SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD; STATE WATER RESOURCES CONTROL BOARD; DOES 1 through 100, inclusive.

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

**YOU ARE BEING SUED BY PLAINTIFF:**

**(A Ud. le est., demandando)**

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

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*Despues de que la entreguen esta citacion judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a maquina en esta corte.*

*Una carta o una llamada telefonica no le ofrecera proteccion su respuesta escrita a maquina 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.*

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Hall of Justice, 600 Union Ave.  
Fairfield, CA 94533-6394

CASE NUMBER. *(Numero del Caso)*

**1002217**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
*(El nombre, la direccion y el numero de telefono del abogado del demandante, o del demandante que no tiene abogado, es)*

Hans W. Herb, Esq.  
LAW OFFICES OF HANS W. HERB  
50 Santa Rosa Ave., 5th Floor  
Santa Rosa, CA 95404

**(707) 576-0757**

DATE: **DEC 28 1993**  
*(Fecha)*

CHARLES D. RAWLEY Clerk, by **M. JACKSON**, Deputy  
*(Actuano) (Delegado)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

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*(Use separate proof of service for each person served)*

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- (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. (CCP 415.10)
- 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))
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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:

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- 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:

(SIGNATURE)

(SIGNATURE)

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT: (Aviso a Acusado)**

GILBERT A. JENSEN; COUNTY OF ALAMEDA DISTRICT ATTORNEY'S OFFICE; SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD; STATE WATER RESOURCES CONTROL BOARD; DOES 1 through 100, inclusive.

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*Una carta o una llamada telefonica no le ofrecera proteccion su repuesta escrita a maquina 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 a una oficina de ayuda legal (vea el directorio telefonico).*

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

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SOLANO  
Hall of Justice, 600 Union Ave.  
Fairfield, CA 94533-6394

CASE NUMBER. *(Numero del Caso)*

**1002217**

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

*(El nombre, la direccion y el numero de telefono del abogado del demandante, o del demandante que no tiene abogado, es)*

Hans W. Herb, Esq.  
LAW OFFICES OF HANS W. HERB  
50 Santa Rosa Ave., 5th Floor  
Santa Rosa, CA 95404

**(707) 576-0757**

DATE: **DEC 28 1993**

*(Fecha)*

CHARLES D. RAMEY

Clerk, by  
*(Actuario)*

**M. JACKSON**

, 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)*:
3.  on behalf of *(specify)*:  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (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. (CCP 415.10)
- 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 attempting 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 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)
- 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:

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(SIGNATURE)

1 Hans W. Herb, Esq., SBN 136018  
LAW OFFICES OF HANS W. HERB  
2 50 Santa Rosa Avenue, Fifth Floor  
Santa Rosa, California 95404  
3 (707) 576-0757

**ENDORSED FILED**

Clk of the Superior Court

DEC 23 1993

4 Attorneys for Plaintiffs  
GREGORY J. GARCIA and  
5 BEATRICE S. GALLEGOS

CHARLES D. RAMEY  
By M. JACKSON

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF SOLANO

10

11

12 GREGORY J. GARCIA, and )  
BEATRICE S. GALLEGOS, )

CASE NO. 1002217

13 )  
14 Plaintiffs, )

COMPLAINT FOR INJUNCTION;  
DECLARATORY RELIEF AND DAMAGES

15 vs. )

16 GILBERT A. JENSEN; COUNTY OF )  
ALAMEDA DISTRICT ATTORNEY'S )  
OFFICE; SAN FRANCISCO BAY )  
17 REGIONAL WATER QUALITY CONTROL )  
BOARD; STATE WATER RESOURCES )  
18 CONTROL BOARD; DOES 1 through )  
100, inclusive, )

19 )  
20 Defendants. )

21  
22  
23 Plaintiffs allege as follows:

24 THE PARTIES

25 1. Plaintiff, Gregory J. Garcia ("GARCIA"), is and was  
26 at all times relevant to this matter a resident of Solano  
27 County, California.  
28

COPY

1           2. Plaintiff, Beatrice S. Gallegos ("GALLEGOS"), is,  
2 and was at all times relevant to this matter, a resident of  
3 Fresno County, California.

4           3. The acts alleged herein occurred, in part, in Solano  
5 County, California.

6           4. Defendant Gilbert A. Jensen (hereinafter "JENSEN")  
7 is, on information and belief, an attorney duly licensed to  
8 practice law in the State of California. Although JENSEN has  
9 purported to represent the State Water Resources Control Board  
10 and Regional Water Quality Control Board as well as other  
11 regulatory agencies, on information and belief, JENSEN is an  
12 assistant attorney at the County of Alameda District Attorney's  
13 office. Because it is unclear what capacity, if any, JENSEN is  
14 involved in the matters alleged herein, he is named as an  
15 individual defendant as well as an agent of any organization who  
16 ultimately takes responsibility for his conduct.

17           5. Alameda County is a duly authorized and existing  
18 public corporation organized under California law. The District  
19 Attorney's Office is a subdivision of Alameda County.

20           6. The Regional Water Quality Control Board for the San  
21 Francisco Bay Region (hereinafter "RWQCB") is a duly organized  
22 political subdivision of the State of California. The RWQCB is  
23 a subordinate agency of the State Water Resources Control Board.

24           7. The State Water Resources Control Board (hereinafter  
25 "SWRCB") is a duly authorized and existing governmental entity  
26 of the State of California. It is a part of the California  
27 Environmental Protection Agency.

28

GENERAL ALLEGATIONS

1  
2           8.    In 1961, Joseph R. Garcia died in Alameda County,  
3 California.  In December of 1962, his estate was distributed.  
4 Among the items in his estate was the piece of property located  
5 at 16035 E. 14th Street in San Leandro, California (the  
6 "property").  At that time, the property was improved by a  
7 service station operated by the Seaside Oil Company of Santa  
8 Barbara, California.

9           9.    In accordance with Joe Garcia's wishes, his son,  
10 plaintiff herein, Gregory J. GARCIA, received a 50% interest in  
11 the property to be held in trust until he reached the age of  
12 majority.  The remaining 50% was deeded by the court to Joe  
13 Garcia's widow and plaintiff herein, Beatrice S. GALLEGOS.

14           10.  At no time did either of the plaintiffs have any  
15 operational control over the service station or the equipment on  
16 the property.  Instead, the plaintiffs simply acted as passive  
17 landlords for the piece of property they inherited.

18           11.  In 1974, after Gregory J. GARCIA returned from  
19 military service in Vietnam, the trust administered for him by  
20 his mother deeded him the property.  It was later disposed of by  
21 sale.

22           12.  In 1979, Jerry Petsas and Mary Petsas (hereinafter  
23 referred to as "Petsases"), purchased the property and all the  
24 service station equipment from the plaintiffs.  The Petsases  
25 purchased the property "as-is" and without any right of recourse  
26 against the plaintiffs.

1           13. At the time the property was sold to the Petsases,  
2 the underground storage tanks, pumps and all service station  
3 equipment at the San Leandro property were in good working  
4 condition. The property was leased and the improvements were  
5 being used by the tenants who were operating an automobile  
6 repair business on the property.

7           14. At no time were there ever any improper or illegal  
8 spills, leaks, discharges, or releases of petroleum products  
9 known to plaintiffs. In fact, the equipment was sold as-is at  
10 the demand of the purchasers, not the sellers. The property was  
11 discounted substantially by the sellers to satisfy the as-is  
12 clause.

13           15. In 1983, the State of California first enacted  
14 requirements for the permitting of underground storage tanks.  
15 In accordance with the requirements of the State permitting  
16 statutes, the Petsases apparently notified the appropriate  
17 permitting agency of the presence of the underground storage  
18 tanks on their property. After receiving several extensions of  
19 time within which to comply with the permit requirements or  
20 remove the tanks, the Petsases were ordered by Alameda County to  
21 have the tanks removed. According the public records, this took  
22 place beginning in 1985. The Petsases took no action to remove  
23 the tanks for several more years.

24           16. In 1991, the Petsases finally removed the  
25 underground storage tanks from their property pursuant to Orders  
26 issued by various regulatory and permitting agencies. When the  
27  
28



1 tanks were removed, trace amounts of contamination were  
2 apparently detected in the soil and groundwater at the site.

3 17. From information gathered from public records,  
4 plaintiffs are informed and believe that in 1991, the Petsases  
5 became subject to local agency oversight by the Alameda County  
6 Healthcare Services Agency (hereinafter referred to as "ACHSA").  
7 The ACHSA operates as a "deputy" water board pursuant to a  
8 contract with the SWRCB.

9 18. Under the terms of the ACHSA's oversight contract,  
10 the Petsases were to be provided with assistance and advice from  
11 ACHSA in dealing with their contamination problem. In exchange  
12 for paying the SWRCB a service charge of approximately \$125 per  
13 hour, the Petsases were to be assisted by the ACHSA in cleanup  
14 of the unauthorized releases at the site.

15 19. Unfortunately, the expert advice offered by the  
16 ACHSA apparently turned out to be incorrect. As a result, on  
17 information and belief, the Petsases were required to expend  
18 tens of thousands of dollars frivolously while the toxic problem  
19 at the site, to the extent it existed, was not being addressed.

20 20. On information and belief, after becoming  
21 financially destitute due to the advice provided by the ACHSA,  
22 the Petsases sought to bring in other potentially responsible  
23 parties to assist them with the high cost of dealing with the  
24 cleanup requirements.

25 21. On information and belief, in accordance with  
26 instructions from the ACHSA, the Petsases requested that  
27 plaintiffs be named as "responsible parties" for the cleanup of  
28

1 the San Leandro site. This was based on the ACHSA's erroneous  
2 belief that all operators and owners of an underground storage  
3 tank are responsible for the cleanup of any contamination  
4 discovered once the tank is removed.

5 22. As a result of the request by the Petsases, the  
6 ACHSA, by letter dated March 2, 1993, informed plaintiffs that  
7 the ACHSA had declared them to be responsible parties in  
8 connection with the property.

9 23. In the time provided by statute, and in accordance  
10 with California Health and Safety Code §25297.1(d)(3) and (h),  
11 as well as Health and Safety Code §§25299.37(c) and (d),  
12 plaintiffs filed a proper appeal to the SWRCB, objecting to the  
13 requirement that they participate in the investigation and  
14 cleanup at the San Leandro property.

15 24. While the petition was pending before the SWRCB,  
16 defendant JENSEN appointed himself as a hearing officer and  
17 conducted what he termed a "Pre-enforcement Review Panel."  
18 Also present at the review panel were members of the ACHSA and a  
19 staff employee of the RWQCB.

20 25. At the end of the "hearing", which plaintiffs were  
21 not present at, JENSEN announced that plaintiffs were  
22 responsible parties for the cleanup of this site.

23 26. Upon receiving information that JENSEN had  
24 determined that plaintiffs were responsible parties at the site,  
25 plaintiffs, through their attorneys, contacted the SWRCB to  
26 inquire as to how to proceed in order to avoid inconsistent  
27 adjudications. The SWRCB, via letters and verbal  
28

1 communications, indicated that the matter was still pending  
2 before the SWRCB. Further, the SWRCB advised plaintiffs that  
3 JENSEN was neither authorized to represent the SWRCB, nor did  
4 the State approve of his conduct in holding illegal hearings in  
5 which he appointed himself a hearing officer. In addition, the  
6 State Board advised that the issue of plaintiff's liability for  
7 the cleanup at the site would be presented to the State Board  
8 for review and that any determination of JENSEN was null and  
9 void.

10           27. Subsequently, plaintiffs received yet another  
11 directive, this one from the executive officer of the Bay Area  
12 RWQCB, again ordering the plaintiffs to participate in the  
13 cleanup at the San Leandro property. Plaintiffs timely appealed  
14 that decision to the SWRCB and, in accordance with local  
15 practice, appealed to the executive officer of the RWQCB to have  
16 a full hearing on the issue. The hope was to resolve the  
17 conflict informally since three appeals were already pending.

18           28. On December 20, 1993, plaintiffs received a letter  
19 from the Mr. JENSEN regarding his position on these various  
20 cleanup orders and their appeals. In Mr. JENSEN's letter, Mr.  
21 JENSEN implied that he was not bound by the decisions of either  
22 the SWRCB or the RWQCB and that he was going to exercise his  
23 independent judgment, outside of the legal and statutory  
24 process, to determine how to proceed with various sanctions  
25 against plaintiffs.

26

27

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1           29. According to defendant JENSEN, these sanctions  
2 include fines of up to \$1000 per day for each day plaintiffs  
3 failed to comply with defendant JENSEN's directives.

4           30. At this point, plaintiffs are left in a quandary.  
5 They have purportedly been named as responsible parties by no  
6 less than three agencies and/or organizations (the ACHSA, the  
7 RWQCB and the Alameda County District Attorney's Office). At  
8 the same time, appeals have been filed, as required by statute,  
9 of the decision of these entities in naming petitioners as  
10 responsible parties. Nevertheless, despite the fact that  
11 appeals are pending, defendant JENSEN, of his own volition,  
12 apparently contends that the appeals do not bind him and that he  
13 alone can make an independent decision, outside of the statutory  
14 process, to sanction the plaintiffs.

15           31. Plaintiffs have repeatedly attempted to establish  
16 communications with the Alameda County District Attorney's  
17 Office to resolve the issues in this matter. JENSEN has refused  
18 to return any phone calls or to substantively answer any letters  
19 concerning this matter.

20           32. Although the Alameda County Board of Supervisors,  
21 the Bay Area RWQCB and the SWRCB have all attempted to work, in  
22 good faith, to resolve this matter, the ultimate ability of  
23 those agencies to affect a proper resolution depends on being  
24 able to properly control and restrain defendant JENSEN. Under  
25 such circumstances, any settlement with the legally authorized  
26 agencies would be meaningless since, according to defendant

27  
28

1 JENSEN, he has the power to ultimately overrule any decision of  
2 any of the agencies.

3 33. Under California Code of Civil Procedure §1021.5,  
4 plaintiffs are entitled to recover attorneys' fees for acting in  
5 the public interest. Plaintiffs base their claim to attorneys'  
6 fees in this case on at least three separate and independent  
7 grounds. First, the actions of JENSEN, as a representative of  
8 the Alameda County District Attorney's Office, threatens to harm  
9 the environment by diverting resources from the cleanup of  
10 environmental contamination instead to finance litigation and  
11 attorneys' fees to the detriment of the people of the State of  
12 California. Second, despite acknowledging the fact that its  
13 conduct is without legal authority, the Alameda County District  
14 Attorney's Office has continued to proceed with its claims  
15 against the plaintiffs. Third, plaintiffs are entitled, if they  
16 so choose, to damages under U.S.C. 1983. Because plaintiffs  
17 believe they will prove that this same improper conduct has  
18 happened to others, they request reasonable attorneys' fees for  
19 abating this illegal practice as a private attorney general.

20 FIRST CAUSE OF ACTION

21 (Declaratory Relief)

22 34. Plaintiffs refer to each and every paragraph set  
23 forth in the preceding allegations and incorporate those  
24 paragraphs as though set forth in full in this cause of action.

25 35. Plaintiffs allege that an actual and present  
26 controversy now exists between plaintiffs and defendants in that  
27 plaintiffs contend that they have a right to seek redress of the  
28

1 erroneous decisions of the ACHSA and the Bay Area RWQCB. The  
2 defendants, dispute these contentions, and contend that  
3 plaintiffs have no rights of appeal and that JENSEN, either  
4 individually or as an agent of the District Attorney's Office,  
5 is not bound by the statutory or decisional law of the State of  
6 California.

7 36. As a result of the foregoing, plaintiffs request a  
8 declaration of their rights pursuant to §1060 of the Code of  
9 Civil Procedure and §11350(a) of the Government Code.

10 WHEREFORE, plaintiff prays for judgment as follows:

11 (a) For an injunction restraining defendant JENSEN from  
12 illegally interfering with the exercise of due process rights by  
13 the plaintiffs;

14 (b) For a declaratory judgment that plaintiffs are  
15 entitled to due process under the local oversight program  
16 contract;

17 (c) For a declaratory judgment that plaintiffs are  
18 entitled to due process under the Water Code;

19 (d) For attorneys' fees pursuant to C.C.P. §1021.5;

20 (e) For such other and further relief as the Court rules  
21 is just and proper.

22 DATED: December 23, 1993

Respectfully submitted,  
LAW OFFICES OF HANS W. HERB

23  
24  
25 BY: 

HANS W. HERB  
Attorney for Plaintiffs  
GREGORY J. GARCIA and  
BEATRICE S. GALLEGOS

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RECEIPT WILL BE MAILED TO YOU. *ct*  
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HANS W. HERB

OUR FILE NO.: 01-126-01  
YOUR FILE NO.: \_\_\_\_\_  
RE: GARCIA / Gallegos  
DATE: 12/23/93

Enclosed herewith please find the following:

- Complaint
- Answer and/or counterclaim
- Summons
- Acknowledgment of Service
- Judgement
- Stipulation of Dismissal
- Self Addressed Stamped Envelope
- Petition
- Notice
- Crossclaim
- Writ of Execution

- Notice of Motion
- Affidavit/Declaration
- Proof of Services
- Order
- Interrogatories (Demanded)
- Interrogatories (Answered)
- Release
- Check in the amount of \$ 182<sup>00</sup>
- Amended Complaint
- Notice of Depositions

Would you please:

- File
- Acknowledge Receipt
- Return "Filed" copy
- Present for signing
- Advise Date of Service
- Return

- Charge our Account
- Credit our Account
- Record and Return
- Execute and Return
- Reply as requested
- Serve defendant(s) at:

Very truly yours,

LAW OFFICES OF HANS W. HERB

Hans W. Herb

RETAIN THIS NUMBER-CUSTOMER  
RECEIPT WILL BE MAILED TO YOU. *ct*  
TB 877924701 US