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Attorneys for Claimant **A. WOODROW CARTER**

A. WOODROW CARTER,  
Plaintiff,

vs.

CAPISTRANO UNIFIED SCHOOL  
DISTRICT, et al.,  
Defendants.

**AMENDED CLAIM FOR DAMAGES**  
[Govt. Code § 910]

TO THE BOARD OF TRUSTEES OF THE CAPISTRANO UNIFIED SCHOOL  
DISTRICT:

Pursuant to the Government Claims Act, Government Code § 910, et seq., you are hereby notified that A. WOODROW CARTER (hereinafter “Carter” or “Claimant”), claims damages from the CAPISTRANO UNIFIED SCHOOL DISTRICT (hereinafter “Respondent” or “District”) for breach of contract.

The name and post office address of the Claimant and to which Claimant desires notices to be sent is BREON & SHAEFFER, PLC located at 19900 MacArthur Boulevard, Suite 1150, Irvine, California 92612.

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1           The claim arises under the following circumstances. On February 25, 2008, Claimant  
2 and Respondent entered into a written contract of employment for a term commencing  
3 February 25, 2008 and ending June 30, 2011, whereby Claimant was employed as  
4 Superintendent (hereinafter "Contract").

5           Prior to July 1, 2008, the District's Board of Trustees (hereinafter "Board") did not notify  
6 Claimant that his Contract as Superintendent shall not be extended. Therefore, pursuant to  
7 paragraph 1 of Claimant's Contract, the term of Claimant's Contract is automatically extended  
8 by one (1) year to June 30, 2012.

9           Paragraph 3 of Contract provides Claimant's salary is \$273,000.00, payable in 12 equal  
10 monthly payments.

11           Pursuant to paragraph 5 of Claimant's Contract, District's Board and Claimant expected  
12 the Claimant's salary as Superintendent to be adjusted in order to provide a competitive and  
13 attractive salary to Claimant.

14           Contract provides in paragraph 6 for the Claimant to receive such health and other fringe  
15 benefits provided employees of Respondent with Point of Service Employee Plus - One Plan  
16 option available to Claimant, or payback of \$11,000.00.

17           Contract provides in paragraph 7 that Claimant shall accrue up to 24 working days  
18 annually of vacation time and one (1) day of sick leave per month.

19           Contract requires in paragraph 10 for District's Board, individually and collectively, to  
20 refer promptly all criticism, complaints and suggestions brought to its attention to Superintendent  
21 for his information or for study and recommendation.

22           Contract requires in paragraph 13 for Respondent to contribute to an annuity per year in  
23 an amount as determined by IRS guidelines, but not to exceed 15% of base salary (prorated if  
24 Claimant serves less than a year). Contract provides that the compensation payable according to  
25 the terms of paragraph 13 shall be considered as part of total compensation for PERS purposes to  
26 the maximum extent permitted by law.

27           On or about March 9, 2009, Respondent's Board of Trustees publicly reported out action  
28 it took in closed session to terminate Contract. Respondent's Board of Trustees did so without  
complying with its contractual obligation under paragraph 10, which required the Board,

1 individually and collectively, to refer promptly all criticism, complaints and suggestions brought  
2 to its attention to Claimant for his information and for study and recommendation.

3 At all times herein relevant, Claimant substantially performed his job duties except where  
4 his performance was excused or prevented by Respondent's Board of Trustees or otherwise.

5 At all times herein relevant, Claimant neither willfully breached his job duties nor  
6 continually neglected his job duties.

7 As a result of Claimant's termination, Claimant has suffered damages for breach of  
8 contract of a specified term as follows:

9 1. Lost salary (including adjustments thereto) for the duration of Claimant's  
10 Contract in specific amounts presently unknown, but which are believed to be in excess of  
11 \$887,250 (39 months times Claimant's monthly salary of \$22,750).

12 2. Lost fringe benefits, including lost health insurance, retirement benefits and other  
13 fringe benefits provided to the employees of the District, for the duration of Claimant's Contract  
14 of 39 months in specific amounts presently unknown, but which are believed to be in excess of  
15 \$250,000.

16 3. Lost vacation of 24 days per year and lost sick leave of twelve (12) days per year  
17 for the duration of Claimant's Contract of 39 months in specific amounts presently unknown, but  
18 which are believed to be in excess of \$107,000.

19 4. Lost annuity payments of fifteen percent (15%) of Claimant's salary up to the  
20 earning limits of 26 U.S.C. § 401(a)(17) for the duration of Claimant's Contract of 39 months in  
21 specific amounts presently unknown, but which are believed to be in excess of \$125,000.

22 5. Expenses incurred by Claimant in relocating his personal residence from Orange  
23 County in specific amounts presently unknown, but which approximate \$4,700.

24 6. Expenses incurred by Claimant in seeking comparable employment in specific  
25 amounts presently unknown, but which approximate \$1,400.

26 7. Future lost salary, fringe benefits and annuity payments in specific amounts  
27 presently unknown, but which are believed to be in excess of four million dollars (\$4 million).

28 Claimant does not believe an Amended Claim is required. *Stockett v. Association of  
California Water Agencies* (2004) 34 Cal.4<sup>th</sup> 441, 447. However, out of an abundance of caution

1 and in view of the recent decision in *Page v. MiraCosta Community College District* (2009)  
2 \_\_\_ Cal.App.4<sup>th</sup> \_\_\_ (ordered published 12/18/09), Claimant is filing an Amended Claim for  
3 breach of contract within one (1) year of its accrual on March 9, 2009, pursuant to the provisions  
4 of Government Code §§ 910.6 and 911.2.

5 Claimant seeks prejudgment interest at the rate of ten percent (10%) per annum on all  
6 sums due and owing. *Teacher's Retirement Board* (2007) 154 Cal.App.4th 1012, 1045.

7 As of the date of the presentation of this Amended Claim, the total obligation due and  
8 owing Claimant, to the extent known, is \$5.5 million, plus prejudgment interest at the rate of ten  
9 percent (10%) per annum, plus attorneys' fees and lost retirement benefits in amounts according  
10 to proof.

11 The Claim is an unlimited civil case.

12 Dated: January 15, 2010  
13 Irvine, CA

Respectfully submitted,

14 BREON & SHAEFFER, PLC

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16 By: 

17 \_\_\_\_\_  
18 GEORGE W. SHAEFFER, JR.  
19 Attorneys for Claimant  
20 A. WOODROW CARTER  
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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 COUNTY OF ORANGE )

4 I am employed in the County of Orange, State of California. I am over the age of 18 and  
5 not a party to the within action. My business address is 19900 MacArthur Boulevard, Suite  
6 1150, Irvine, California 92612.

7 On January 15, 2010, I caused to be served the foregoing document described as  
8 **AMENDED CLAIM FOR DAMAGES** on the interested parties in this action by placing a true  
9 copy thereof enclosed in a sealed envelope addressed as follows:

10 Board of Trustees  
11 CAPISTRANO UNIFIED SCHOOL DISTRICT  
12 33122 Valle Road  
13 San Juan Capistrano, CA 92675

14  X  (BY MAIL) I am "readily familiar" with the firm's practice of collection and processing  
15 correspondence for mailing. Under that practice it would be deposited with U.S. postal service  
16 on that same day by first-class mail, Certified Mail, Return Receipt Requested, with postage  
17 thereon fully prepaid at Irvine, California in the ordinary course of business.

18 \_\_\_\_\_ (BY FACSIMILE) pursuant to agreement on the following parties at the address set forth  
19 above.

20 \_\_\_\_\_ (FEDERAL) I declare that I am employed in the office of a member of the bar of this  
21 court at whose direction the service was made.

22  X  (STATE) I declare under penalty of perjury under the laws of the State of California that  
23 the above is true and correct.

24 Executed on January 15, 2010, at Irvine, California.

25   
26 \_\_\_\_\_  
27 CLAUDIA DEAN

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