

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

Oregon Mutual Insurance Company, and Does 1 through 30, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

Arvind and Alka Agarwal

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

ENDORSED

2011 MAR 21 A 11:38

David H. Yamasaki, Clerk of the Superior Court
County of Santa Clara, California

L. Kontorovsky
Clerk/Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, 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 want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

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

Santa Clara County Superior Court
191 North First Street, San Jose, CA 95113

CASE NUMBER:
(Número del Caso):
111CV196942

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):
William C. Dresser, 4 North Second Street, Suite 1230, San Jose, CA 95113-1307, tel: 408279-7529

DATE:
(Fecha)

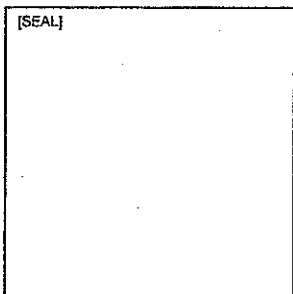
MAR 21 2011

Clerk, by
(Secretario)

DAVID H. YAMASAKI
L. Kontorovsky
Chief Executive Officer, Clerk

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

- as an individual defendant.
- as the person sued under the fictitious name of (specify):
- on behalf of (specify): *Oregon Mutual Insurance Company*
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 (authorized person)
 other (specify):
- by personal delivery on (date):

EXHIBIT C

1 William C. Dresser, 104375
2 Law Offices of William C. Dresser
3 4 North Second Street, Suite 1230
4 San Jose, California 95128
5 Tel: 408/279-7529
6 Fax: 408/298-3306

7 Attorneys for Plaintiffs
8 Arvind and Alka Agarwal

ENDORSED

2011 MAR 21 A 11:38

David H. Vorsest, Clerk of the Superior Court
County of Santa Clara, California

By: E. Kontorovsky
Deputy Clerk

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

Arvind and Alka Agarwal,

Plaintiffs,

vs.

Oregon Mutual Insurance Company, and
Does 1 through 30, inclusive,

Defendants.

No. **111CV196942**

Complaint for Declaratory Relief and
Damages Breach of Contract- Insurance,
Breach of Implied Covenant, Bad Faith

Come now Plaintiffs Alka Agarwal and Arvind Agarwal and allege as follows:

First Cause of Action

Declaratory Relief

1. Plaintiffs Alka Agarwal and Arvind Agarwal are and at all times mentioned herein have been residents of Santa Clara County, California. The payments due to Plaintiffs alleged in this Complaint were due to be paid in Santa Clara County, California.

2. Plaintiffs are informed and believe and thereon allege that Defendant Oregon Mutual Insurance Company (hereinafter "Oregon Mutual"), is an Oregon corporation duly licensed in the State of California to transact insurance policies and agreements, with its principal place of business located at 1390 Willow Pass Road, Suite 340, Concord CA 94520.

3. The true names and capacities of Does 1 through 30 are unknown to Plaintiffs,

Agarwal v Oregon Mutual; Santa Clara Superior Court action no. 1-11-CV-
Complaint for Declaratory Relief and Damages

1 who therefore sue these Defendants by such fictitious names. Plaintiffs pray leave to
2 amend this Complaint to show the true names and capacities of said Does when the
3 same have been ascertained. Plaintiffs are informed and believe, and so allege, that
4 each of said Does is responsible for Plaintiffs' damages as hereinafter alleged and
5 described.

6 4. Plaintiffs are informed and believe, and so allege, that Defendants, and each of
7 them, at all times herein mentioned were, and now are, the agents, servants, employees,
8 and representatives of their co-defendants, and acting within the scope, purpose, and
9 authority of such agency, service, employment, and representation, and with the
10 permission, knowledge, and consent of their co-defendants.

11 5. Defendant Oregon Mutual under policy BSP712181 provided to Plaintiffs
12 Arvind Agarwal and Alka Agarwal coverage under a Business Owners Coverage ISO
13 form policy BP0003 0702 covering the property commonly known as 529 Calcaterra
14 Circle, Las Vegas NV 89119. Said coverage was in effect in 2009 and 2010, including a
15 renewal policy with Oregon Mutual Insurance for the policy term of April 15, 2009 through
16 April 15, 2010.

17 6. The Oregon Mutual policy states that it provides coverage for the following:

18 SECTION I – PROPERTY

19 A. Coverage

20 We will pay for direct physical loss of or damage to Covered Property at the
21 premises described in the Declarations caused by or resulting from any Covered
22 Cause of Loss.

23 The losses covered by the Oregon Mutual policy include for vandalism damage and
24 stolen / broken property not caused by normal wear and tear, marring, and deterioration.

25 Vandalism and theft are covered losses. This is confirmed by certain limitations in
26 the policy defining "Specified causes of loss" and in portions of the policy stating when
27 losses caused by vandalism are not covered. The policy states in relevant part

28 8. Vacancy

a. Description Of Terms

1 (1) As used in this Vacancy Condition, the term building and the term vacant have
2 the meanings set forth in Paragraphs (a) and (b) below:

3 (a) When this policy is issued to a tenant, and with respect to that tenant's interest
4 in Covered Property, building means the unit or suite rented or leased to the
5 tenant. Such building is vacant when it does not contain enough business
6 personal property to conduct customary operations.

7 (b) When this policy is issued to the owner or general lessee of a building, building
8 means the entire building. Such building is vacant unless at least 31% of its total
9 square footage is:

10 (ii) Used by the building owner to conduct customary operations.

11 b. Vacancy Provisions

12 If the building where loss or damage occurs has been vacant for more than 60
13 consecutive days before that loss or damage occurs:

14 (1) We will not pay for any loss or damage caused by any of the following even if
15 they are Covered Causes of Loss:

16 (a) Vandalism;

17 H. Property definitions

18 12. "Specified causes of loss" means the following:

19 Fire; lightning;vandalism; ...

20 The 529 Calcaterra property was not vacant within the meaning of the policy through at
21 least March 22, 2010. Coverage was provided under the terms of the policy for
22 vandalism losses

23 7. Plaintiffs Arvind Agarwal and Alka Agarwal sustained property damage and
24 loss within the meaning of Business Owners Coverage ISO form policy BP0003 07 02
25 due to vandalism and theft at 529 Calcaterra Circle, Las Vegas NV 89119. Plaintiffs
26 discovered the extent of the damage and loss on or about April 2, 1010.

27 8. Plaintiffs Arvind Agarwal and Alka Agarwal sustained a business interruptions
28 loss within the meaning of Business Owners Coverage ISO form policy BP 00 03 01 06
from income received from rental of housing units at 529 Calcaterra Circle, Las Vegas
NV 89119. This damage and loss was discovered on or about April 2, 1010. This
damage and loss was incurred on and after March 22, 2010.

1 9. The terms of the Oregon Mutual policy provided that Plaintiffs as beneficiaries
2 were to be paid for the amount of their property damage and loss subject to deductibles
3 and to be paid for the amount of the business interruptions loss subject to certain limits.

4 10. Plaintiffs paid premiums, and performed all other obligations they have and
5 had under the terms of said policy. Plaintiffs have fulfilled all obligations required of them
6 under the contract

7 11. Plaintiffs reported to Defendant Oregon Mutual their losses on or about April
8 2, 2010, and have at various times thereafter provided to Oregon Mutual information and
9 documentation to support their claims under the Oregon Mutual policy.

10 12. Defendant Oregon Mutual has had in its possession since at least May of
11 2010 "independent adjuster" reports by John Drase of Drase Adjusting Services, Inc.,
12 photographs attached to the Drase Reporting reports, police reports, and contractor
13 repair reports identifying covered claims.

14 13. Arvind Agarwal provided lease agreements and source documents including a
15 repair estimate and police reports. Arvind Agarwal prepared a Sworn Statement in Proof
16 of Loss. Arvind Agarwal provided documents and testimony in an Examination Under
17 Oath on September 23 and November 10, 2010. These documents and this testimony
18 provided additional facts to support coverage under the Oregon Mutual policy.

19 14. Defendant Oregon Mutual has wrongfully refused to make payment on
20 Plaintiffs' claims or to even identify any basis for denial of all or part of Plaintiffs' claims.

21 15. There was and is no basis for denying all of Plaintiffs' claims or for failing or
22 refusing to pay for undisputed portions of Plaintiffs' claims.

23 16. Plaintiffs Arvind and Alka Agarwal also sustained a loss of business income
24 since April 1, 2010. They had been renting four of the units, and have been without that
25 income because of the delays in making payments.

26 17. Plaintiffs have paid out of their own pocket for repairs, but have been unable
27 to repair the entirety of the property damage and have again been experiencing reduced
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1 rentals because of the failure and refusal of Oregon Mutual to pay any part of the claim
2 and thus an inability to afford all required repairs and replacement of stolen and
3 vandalized properties.

4 18. Plaintiffs have retained counsel to assist in obtaining payments under the
5 Oregon Mutual policy. Counsel for Plaintiffs sent letters of October 18, 19 and 26,
6 September 1, 11, and December 20, 2010 and February 18, 2011 to Oregon Mutual and
7 its counsel seeking to obtain payment for at least the undisputed elements of Plaintiffs'
8 claims. Oregon Mutual to this date has failed and refused to make any payment to
9 Plaintiffs.

10 19. Plaintiff contends, and Defendant Oregon Mutual denies, that Plaintiffs are
11 entitled to payment of benefits under that policy.

12 20. It is because of the foregoing matters that Plaintiffs desire a judicial
13 determination of their rights and duties and of the rights and duties of Oregon Mutual.
14 Plaintiffs seek a judicial a declaration that Plaintiffs are entitled to payment of policy
15 benefits in accordance with the terms of the Oregon Mutual policy. Such a declaration is
16 necessary and appropriate in order that these Plaintiffs may ascertain their rights and
17 duties, and so that a multiplicity of actions may be avoided.

18 WHEREFORE Plaintiffs pray for judgment against Defendants as hereinafter set
19 forth.

20 **Second Cause of Action**

21 **(Breach of Contract)**

22 21. Plaintiffs reallege and incorporate the allegations contained in paragraphs 1
23 through 20 of the First Cause of Action herein.

24 22. Plaintiffs have sustained losses in the amount of property damage and
25 business interruptions losses not paid, interest on the principal sum from and after not
26 later than May 22, 2010, being 40 days after the reporting of the claim and the
27 reasonable date for completion of the evaluation of the claim under the timing standards
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1 set forth in California Administration Code, title 10, section 2695.7; concerning the
2 Standards for Prompt, Fair and Equitable Settlements. These losses have been incurred
3 and sustained as a direct, proximate and legal result of Defendant Oregon Mutual's
4 breach of contract in delaying making a decision on and thereby effectively denying
5 Plaintiffs' property damage claim and business interruptions claim.

6 23. Coverage under the policy for those losses due to vandalism and theft are
7 clear. The covered losses are certain, documented, and substantial in nature and
8 amount. Yet benefits due under the policy have been withheld. There is clear evidence
9 that at least some of Plaintiffs' property damages are covered claims and that Plaintiffs'
10 business interruptions claims are covered and well founded. An insurer may not ignore
11 evidence in a file supporting a claim, while focusing on facts supporting a denial.

12 Delgado v Heritage Life Insurance Co. (1984) 157 Cal.App.3d 262, 203 Cal.Rptr. 672
13 (failure to objectively evaluate claim). An insurer cannot create a "genuine dispute" of its
14 obligations to its insured by ignoring evidence supporting the insured. "If it does so, it
15 acts unreasonably towards its insured and breaches the covenant of good faith and fair
16 dealing." Mariscal v. Old Republic Life Insurance Co. (1996) 42 Cal.App.4th 1617, 1624,
17 50 Cal.Rptr.2d 224.

18 24. Oregon Mutual had sufficient information in its possession to support
19 payments to Plaintiffs under the Oregon Mutual policy. It has unreasonably withheld
20 benefits from Plaintiffs. Oregon Mutual's unreasonableness in withholding of benefits
21 encompasses not only the failure to pay full benefits due under the policy but also the
22 unreasonable delay in payments. Love v. Fire Insurance Exchange (1990) 221
23 Cal.App.3d 1136, 1153, 271 Cal.Rptr. 246; Austero v. National Casualty Co. (1978) 84
24 Cal.App.3d 1, 29-30, 148 Cal.Rptr. 653.

25 25. Plaintiffs Alka Agarwal and Arvind Agarwal and each of them have sustained
26 severe emotional distress as a direct, proximate and legal result of Defendant Oregon
27 Mutual's failure and refusal to provide the benefits of the insurance policy.

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1 32. Defendant Oregon Mutual is aware, and since at least September of 2010
2 had been aware, of the Plaintiff's likely consequential damages caused directly,
3 proximately and legally by Defendant Oregon Mutual's unreasonable failure and delays
4 in paying for benefits when the obligation for payment is clear.

5 33. Plaintiffs Arvind and Alka Agarwal have sustained damage and impairment to
6 their credit and to their reputation as a direct, proximate and legal result of Defendant's
7 failure to provide the benefits of the insurance policy.

8 34. Plaintiffs Arvind and Alka Agarwal and each of them have sustained severe
9 emotional distress as a direct, proximate and legal result of Defendant's failure to provide
10 the benefits of the insurance policy.

11 35. Plaintiffs have been required to retain legal counsel to receive the benefits of
12 the contract. Plaintiffs are therefore entitled to recovery of court costs and reasonable
13 attorney's fees in accordance with Brandt v. Superior Court.

14 36. The actions of Defendants were taken in conscious disregard of Plaintiffs'
15 rights, and as well were fraudulent, oppressive and malicious. Plaintiffs are thus entitled
16 to recovery of exemplary damages to punish Defendant Oregon Mutual and make an
17 example of Oregon Mutual.

18 WHEREFORE Plaintiffs pray for judgment against Defendants as hereinafter set
19 forth.

20 **Fourth Cause of Action**

21 **Bad Faith**

22 37. Plaintiffs reallege and incorporate the allegations contained in paragraphs 1
23 through 36 of the First, Second and Third Causes of Action herein.

24 38. Defendant Oregon Mutual has failed to deal fairly and in good faith with its
25 insureds, Plaintiffs Alka Agarwal and Arvind Agarwal.

26 39. Plaintiffs Alka Agarwal and Arvind Agarwal have sustained monetary,
27 financial, and personal injury losses and damages as a direct, proximate and legal result

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1 of Defendant Oregon Mutual's wrongful actions, .

2 40. Plaintiffs Alka Agarwal and Arvind Agarwal have sustained severe emotional
3 distress, damage to their credit and reputation, and are subject to further consequential
4 damages and losses as a direct, proximate and legal result of Defendant's failure to
5 provide the benefits of the insurance policy.

6 41. Plaintiffs have been required to retain legal counsel to receive the benefits of
7 the contract. Plaintiffs are therefore entitled to recovery of court costs and reasonable
8 attorney's fees in accordance with Brandt v. Superior Court.

9 42. The actions of Defendants were taken in conscious disregard of Plaintiffs'
10 rights, and as well were fraudulent, oppressive and malicious. Plaintiffs are thus entitled
11 to recovery of exemplary damages to punish Defendant Oregon Mutual and to make an
12 example of Oregon Mutual

13 WHEREFORE Plaintiffs pray for judgment against Defendants as hereinafter set
14 forth.

15 PRAYER FOR RELIEF

16 1. For a declaration of the rights and obligations of Plaintiffs Arvind Agarwal and
17 Alka Agarwal and of Defendant Oregon Mutual Insurance Company under the Oregon
18 Mutual policy BSP712181 including under the Businessowners Coverage Form including
19 a judicial determination that the Plaintiffs are entitled to payment for property damage
20 and for business interruptions coverage;

21 2. For payment by Defendant Oregon Mutual Insurance Company of the property
22 damage and business interruptions benefits under Oregon Mutual policy BSP712181
23 including under the Businessowners Coverage Form;

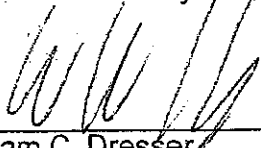
24 3. For recovery of damages and injuries including consequential damages
25 sustained by Plaintiffs including for severe emotional distress;

26 4. Interest thereon at the rate of ten percent per annum from and after May 22,
27 2010;

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- 1 5. For reasonable attorney's fees;
- 2 6. For costs of suit in this action;
- 3 7. For exemplary damages to punish and make an example of Defendants; and
- 4 8. For such other and further relief as the Court may deem proper.

5 Dated: March 21, 2011

6 
7 _____
8 William C. Dresser
9 Attorneys for Plaintiffs
10 Arvind and Alka Agarwal

11 Agarwal\Oregon\Pld\Complain.321

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CIVIL LAWSUIT NOTICE

Superior Court of California, County of Santa Clara
191 N. First St., San Jose, CA 95113

CASE NUMBER **111CV196942**

PLEASE READ THIS ENTIRE FORM

PLAINTIFF (the person suing): Within 60 days after filing the lawsuit, you must serve each Defendant with the *Complaint, Summons, an Alternative Dispute Resolution (ADR) Information Sheet*, and a copy of this *Civil Lawsuit Notice*, and you must file written proof of such service.

DEFENDANT (The person sued): You must do each of the following to protect your rights:

1. You must file a **written response** to the *Complaint*, using the proper legal form or format, in the Clerk's Office of the Court, within **30 days** of the date you were served with the *Summons and Complaint*,
2. You must serve by mail a copy of your written response on the Plaintiff's attorney or on the Plaintiff if Plaintiff has no attorney (to "serve-by mail" means to have an adult other than yourself mail a copy); and
3. You must attend the first Case Management Conference.

**Warning: If you, as the Defendant, do not follow these instructions,
you may automatically lose this case.**

RULES AND FORMS: You must follow the California Rules of Court and the Superior Court of California, County of Santa Clara Local Civil Rules and use proper forms. You can obtain legal information, view the rules and receive forms, free of charge, from the Self-Help Center at 99 Notre Dame Avenue, San Jose (408-882-2900 x-2926), www.sccselfservice.org (Select "Civil") or from:

- State Rules and Judicial Council Forms: www.courtinfo.ca.gov/forms and www.courtinfo.ca.gov/rules
- Local Rules and Forms: <http://www.sccsuperiorcourt.org/civil/ruleftoc.htm>

CASE MANAGEMENT CONFERENCE (CMC): You must meet with the other parties and discuss the case, in person or by telephone, at least 30 calendar days before the CMC. You must also fill out, file and serve a *Case Management Statement* (Judicial Council form CM-110) at least 15 calendar days before the CMC.

You or your attorney must appear at the CMC. You may ask to appear by telephone – see Local Civil Rule 8.

Your Case Management Judge is: Honorable Mark Pierce Department: 9 ✓

The 1st CMC is scheduled for: (Completed by Clerk of Court)

Date: AUG 16 2011 Time: 1:30 pm in Department: 9

The next CMC is scheduled for: (Completed by party if the 1st CMC was continued or has passed)

Date: _____ Time: _____ in Department: _____

ALTERNATIVE DISPUTE RESOLUTION (ADR): If all parties have appeared and filed a completed *ADR Stipulation Form* (local form CV-5008) at least 15 days before the CMC, the Court will cancel the CMC and mail notice of an ADR Status Conference. Visit the Court's website at www.sccsuperiorcourt.org/civil/ADR/ or call the ADR Administrator (408-882-2100 x-2530) for a list of ADR providers and their qualifications, services, and fees.

WARNING: Sanctions may be imposed if you do not follow the California Rules of Court or the Local Rules of Court.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA
ALTERNATIVE DISPUTE RESOLUTION
INFORMATION SHEET / CIVIL DIVISION

Many cases can be resolved to the satisfaction of all parties without the necessity of traditional litigation, which can be expensive, time consuming, and stressful. The Court finds that it is in the best interests of the parties that they participate in alternatives to traditional litigation, including arbitration, mediation, neutral evaluation, special masters and referees, and settlement conferences. Therefore, all matters shall be referred to an appropriate form of Alternative Dispute Resolution (ADR) before they are set for trial, unless there is good cause to dispense with the ADR requirement.

What is ADR?

ADR is the general term for a wide variety of dispute resolution processes that are alternatives to litigation. Types of ADR processes include mediation, arbitration, neutral evaluation, special masters and referees, and settlement conferences, among others forms.

What are the advantages of choosing ADR instead of litigation?

ADR can have a number of advantages over litigation:

- < **ADR can save time.** A dispute can be resolved in a matter of months, or even weeks, while litigation can take years.
- < **ADR can save money.** Attorney's fees, court costs, and expert fees can be reduced or avoided altogether.
- < **ADR provides more participation.** Parties have more opportunities with ADR to express their interests and concerns, instead of focusing exclusively on legal rights.
- < **ADR provides more control and flexibility.** Parties can choose the ADR process that is most likely to bring a satisfactory resolution to their dispute.
- < **ADR can reduce stress.** ADR encourages cooperation and communication, while discouraging the adversarial atmosphere of litigation. Surveys of parties who have participated in an ADR process have found much greater satisfaction than with parties who have gone through litigation.

What are the main forms of ADR offered by the Court?

< **Mediation** is an informal, confidential, flexible and non-binding process in the mediator helps the parties to understand the interests of everyone involved, and their practical and legal choices. The mediator helps the parties to communicate better, explore legal and practical settlement options, and reach an acceptable solution of the problem. The mediator does not decide the solution to the dispute; the parties do.

< **Mediation may be appropriate when:**

- < The parties want a non-adversary procedure
- < The parties have a continuing business or personal relationship
- < Communication problems are interfering with a resolution
- < There is an emotional element involved
- < The parties are interested in an injunction, consent decree, or other form of equitable relief

< **Neutral evaluation**, sometimes called "Early Neutral Evaluation" or "ENE", is an informal process in which the evaluator, an experienced neutral lawyer, hears a compact presentation of both sides of the case, gives a non-binding assessment of the strengths and weaknesses on each side, and predicts the likely outcome. The evaluator can help parties to identify issues, prepare stipulations, and draft discovery plans. The parties may use the neutral's evaluation to discuss settlement.

Neutral evaluation may be appropriate when:

- < The parties are far apart in their view of the law or value of the case
- < The case involves a technical issue in which the evaluator has expertise
- < Case planning assistance would be helpful and would save legal fees and costs
- < The parties are interested in an injunction, consent decree, or other form of equitable relief

-over-

- DO NOT FILE WITH THE COURT -
-UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): William C. Dresser 4 North Second Street, Suite 1230 San Jose, CA 95113-1307	TELEPHONE NO.: 408/279-7529	FOR COURT USE ONLY
ATTORNEY FOR (name): Plaintiffs Arvind and Alka Agarwal		CASE NUMBER: 1-11-CV-196942
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 North First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Downtown Courthouse		
PLAINTIFF: Arvind Agarwal, et al DEFENDANT: OREGON MUTUAL INSURANCE COMPANY		
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)		

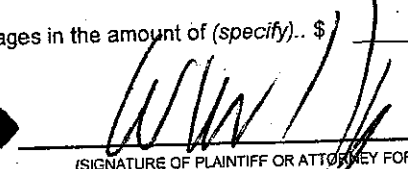
To (name of one defendant only): OREGON MUTUAL INSURANCE COMPANY
 Plaintiff (name of one plaintiff only): Arvind Agarwal
 seeks damages in the above-entitled action, as follows:

	AMOUNT
1. General damages	
a. <input type="checkbox"/> Pain, suffering, and inconvenience	\$ _____
b. <input checked="" type="checkbox"/> Emotional distress	\$ 200,000.00
c. <input type="checkbox"/> Loss of consortium	\$ _____
d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only)	\$ _____
e. <input type="checkbox"/> Other (specify)	\$ _____
f. <input type="checkbox"/> Other (specify)	\$ _____
g. <input type="checkbox"/> Continued on Attachment 1.g.	
2. Special damages	
a. <input type="checkbox"/> Medical expenses (to date)	\$ _____
b. <input type="checkbox"/> Future medical expenses (present value)	\$ _____
c. <input checked="" type="checkbox"/> Loss of earnings (to date)	\$ 30,000
d. <input type="checkbox"/> Loss of future earning capacity (present value)	\$ _____
e. <input checked="" type="checkbox"/> Property damage	\$ 200,000
f. <input type="checkbox"/> Funeral expenses (wrongful death actions only)	\$ _____
g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only)	\$ _____
h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only)	\$ _____
i. <input checked="" type="checkbox"/> Other (specify) attorneys fees, to date and future	\$ 50,000.00
j. <input type="checkbox"/> Other (specify)	\$ _____
k. <input type="checkbox"/> Continued on Attachment 2.k.	
3. <input checked="" type="checkbox"/> Punitive damages: Plaintiff reserves the right to seek punitive damages in the amount of (specify) .. \$	250,000.00
when pursuing a judgment in the suit filed against you.	

Date: May 12, 2011
 William C. Dresser

(TYPE OR PRINT NAME)

(Proof of service on reverse)


 (SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

- DO NOT FILE WITH THE COURT -
- UNLESS YOU ARE APPLYING FOR A DEFAULT JUDGMENT UNDER CODE OF CIVIL PROCEDURE § 585 -

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): William C. Dresser 4 North Second Street, Suite 1230 San Jose, CA 95113-1307	TELEPHONE NO.: 408\279-7529	FOR COURT USE ONLY
ATTORNEY FOR (name): Plaintiffs Arvind and Alka Agarwal		CASE NUMBER: 1-11-CV-196942
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 191 North First Street MAILING ADDRESS: CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Downtown Courthouse		
PLAINTIFF: Arvind Agarwal, et al DEFENDANT: OREGON MUTUAL INSURANCE COMPANY		
STATEMENT OF DAMAGES (Personal Injury or Wrongful Death)		

To (name of one defendant only): OREGON MUTUAL INSURANCE COMPANY
 Plaintiff (name of one plaintiff only): Alka Agarwal
 seeks damages in the above-entitled action, as follows:

	AMOUNT
1. General damages	
a. <input type="checkbox"/> Pain, suffering, and inconvenience	\$ _____
b. <input checked="" type="checkbox"/> Emotional distress	\$ 200,000.00
c. <input type="checkbox"/> Loss of consortium	\$ _____
d. <input type="checkbox"/> Loss of society and companionship (wrongful death actions only)	\$ _____
e. <input type="checkbox"/> Other (specify)	\$ _____
f. <input type="checkbox"/> Other (specify)	\$ _____
g. <input type="checkbox"/> Continued on Attachment 1.g.	
2. Special damages	
a. <input type="checkbox"/> Medical expenses (to date)	\$ _____
b. <input type="checkbox"/> Future medical expenses (present value)	\$ _____
c. <input checked="" type="checkbox"/> Loss of earnings (to date)	\$ 30,000
d. <input type="checkbox"/> Loss of future earning capacity (present value)	\$ _____
e. <input checked="" type="checkbox"/> Property damage	\$ 200,000
f. <input type="checkbox"/> Funeral expenses (wrongful death actions only)	\$ _____
g. <input type="checkbox"/> Future contributions (present value) (wrongful death actions only)	\$ _____
h. <input type="checkbox"/> Value of personal service, advice, or training (wrongful death actions only)	\$ _____
i. <input checked="" type="checkbox"/> Other (specify) attorneys fees, to date and future	\$ 50,000.00
j. <input type="checkbox"/> Other (specify)	\$ _____
k. <input type="checkbox"/> Continued on Attachment 2.k.	
3. <input checked="" type="checkbox"/> Punitive damages: Plaintiff reserves the right to seek punitive damages in the amount of (specify)	\$ 250,000.00
when pursuing a judgment in the suit filed against you.	

Date: May 12, 2011
 William C. Dresser

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