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14
15 Attorneys for Plaintiffs

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 COUNTY OF SAN FRANCISCO

18 SCOTT ANDREW, JESSICA ANDREW,)
19 TYLER ANDREW, MIGUEL CALDERON,)
20 DAWSON CHURCH, individually, and as)
Trustee of the Dawson Church Living Trust
dtd 3/25/05, CHRISTINE CRAMER,)
21 EDWARD CURZON and KAREN CURZON,)
individually, and as Trustees of the Edward A.
22 Curzon and Karen L. Curzon Revocable Trust,)
23 ROBERT GARIBALDI, BARBARA)
GARIBALDI, MICHAEL DESTINY,)
24 individually, and as Trustee of the Michael J.
Destiny Living Trust dtd 2/5/14, JOHN)
25 FOUTS, SUZANNE PASKY FOUTS, JOHN)
FOUTS and SUZANNE PASKY FOUTS, dba)
26 MOUNTAIN HOME RANCH RESORT,)
MOUNTAIN HOME RANCH, INC., CASEY)
27 FOUTS, RICHARD GUNVALSEN,)
28 CATHERINE BURKE-GUNVALSEN,)

Case No.

CGC-17-563290

COMPLAINT FOR:

1. **INVERSE CONDEMNATION**
2. **NEGLIGENCE**
3. **VIOLATIONS PER PUC § 2106**
4. **PREMISES LIABILITY**
5. **TRESPASS**
6. **PUBLIC NUISANCE**
7. **PRIVATE NUISANCE**
8. **VIOLATION OF HEALTH & SAFETY CODE § 13007**

BY FAX
ONE LEGAL LLC

TUBBS FIRE COMPLAINT

1 SAM HICKS, MARQUES HILL, TASHA)
2 PRUE, RICHARD HORWATH, KATHY)
3 HORWATH, AMY MARLAR, LOGAN)
4 MARLAR, a minor, SHOW N' GLOW, LLC,)
5 MICHAEL SIMONSEN, CARMA)
6 SIMONSEN, JOHN SULLINS, AUSTIN)
7 SULLINS, and HURIA TEFASILASIE,)
8)
9 Plaintiff(s),)
10)
11 vs.)
12)
13 PG&E CORPORATION, a California)
14 Corporation, PACIFIC GAS & ELECTRIC)
15 COMPANY, a California Corporation)
16 and DOES 1-50, inclusive,)
17)
18 Defendant(s).)
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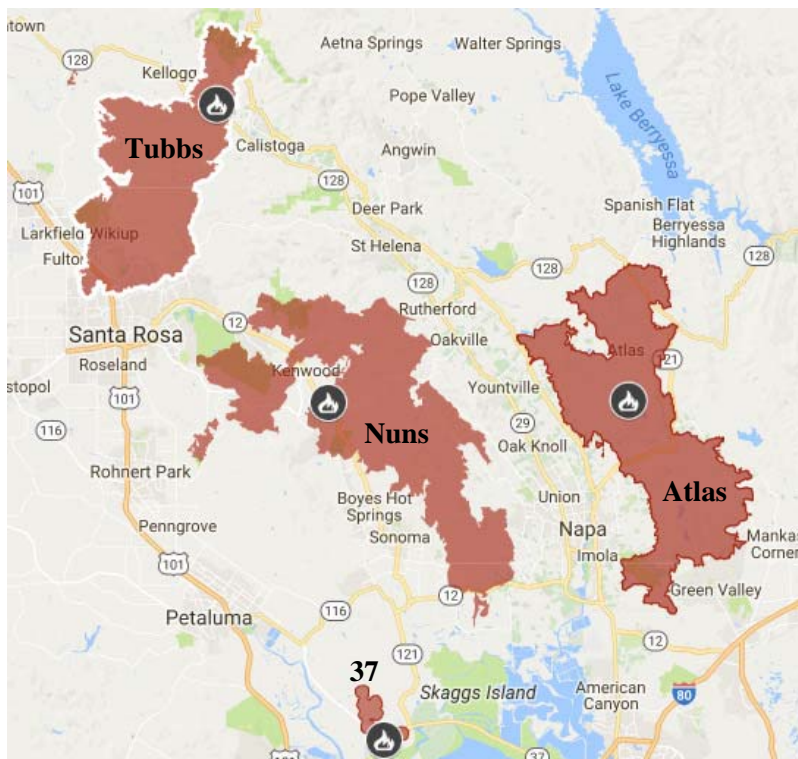
1 **I. INTRODUCTION**

2 1. Plaintiffs bring this action against Defendants PG&E CORPORATION, a California
3 Corporation, PACIFIC GAS & ELECTRIC COMPANY, a California Corporation, (collectively,
4 “PG&E” or the “PG&E Defendants”) and DOES 1-50, inclusive, for damages they suffered arising
5 out of the Tubbs Fire, one of a series of nineteen (19) fires that erupted and/or burned in Butte County
6 (Cherokee, LaPorte, and Honey Fires), Calaveras County (Point Fire), Lake County (Sulphur Fire),
7 Mendocino County (Redwood Valley Fire), Napa County (Partrick, Atlas, Nuns, and Tubbs Fires),
8 Nevada County (McCourtney and Lobo Fires), Solano County (Atlas Fire), Sonoma County (Nuns,
9 Tubbs, Norrbom, Oakmont, Pocket, Pressley, Adobe, and 37 Fires), and Yuba County (Cascade Fire)
10 on the night of October 8, 2017 (collectively, the “NorCal Fires”).

11 2. The Partrick, Adobe, Pressley, Norrbom, and Oakmont Fires merged into the Nuns
12 Fire. The La Porte Fire merged into the Cascade Fire.

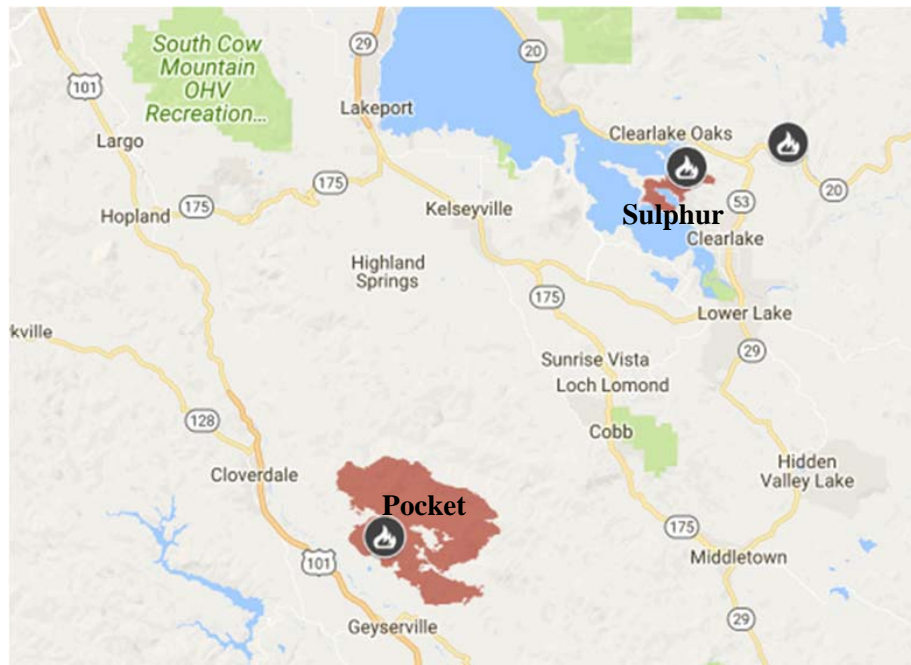
13 3. The nineteen (19) NorCal Fires killed 43 people, burned over 245,000 acres, and
14 destroyed over 14,700 homes and 3,600 vehicles.

15 4. The map below shows the fire perimeters of the Tubbs, Nuns, Atlas and 37 Fires:

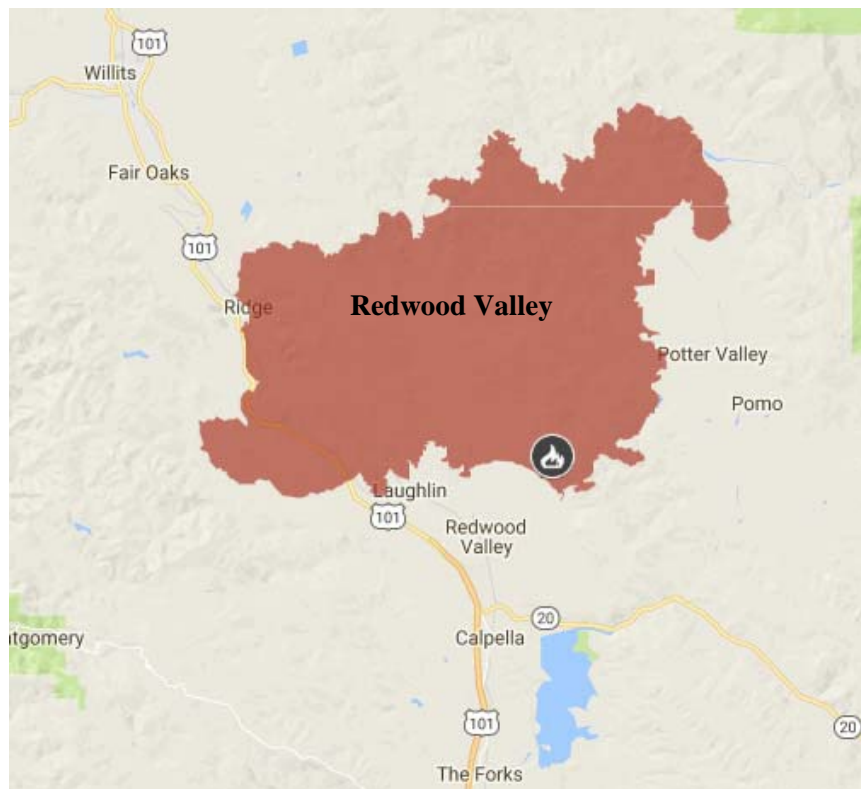


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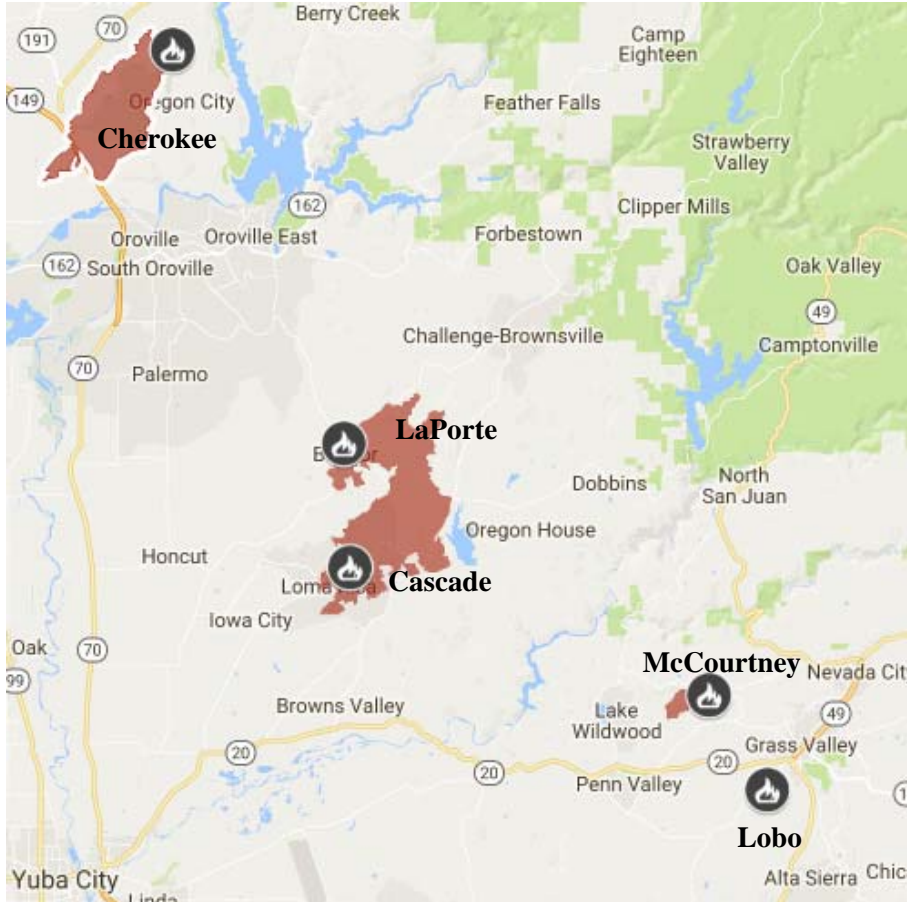
5. The map below shows the fire perimeters of the Pocket and Sulphur Fires:



6. The map below shows the fire perimeter of the Redwood Valley Fire:



1 7. The map below shows the fire perimeters of the Cherokee, LaPorte, Cascade,
2 McCourtney, and Lobo Fires:



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19 8. Each of the NorCal Fires started when energized electrical distribution lines that were
20 designed, constructed, maintained, and owned by PG&E came into contact with vegetation and ignited
21 this unprecedented series of conflagrations.

22 **II. JURISDICTION AND VENUE**

23 9. This Court has jurisdiction over this matter pursuant to Code of Civil Procedure §§
24 395(a) and 410.10 because both PG&E Corporation and Pacific Gas & Electric Company were
25 incorporated in California, have their headquarters in San Francisco, California, engage in the bulk of
26 their corporate activities in California, and maintain the bulk of their corporate assets in California.

27 10. Venue is proper in this County pursuant to California Code of Civil Procedure § 395.5
28 because both PG&E Corporation and Pacific Gas & Electric Company perform business in this

1 County, have a principal place of business in San Francisco County, and a substantial part of the
2 events, acts, omissions, and transactions complained occurred in San Francisco County.

3 11. The amount in controversy exceeds the jurisdictional minimum of this Court.

4 **III. THE PARTIES**

5 **A. Plaintiffs**

6 12. Plaintiffs SCOTT ANDREW and JESSICA ANDREW owned a residence in Sonoma
7 County that was completely destroyed by the Tubbs Fire and were damaged as set forth in this
8 Complaint. Plaintiff TYLER ANDREW occupied property in Sonoma County that was completely
9 destroyed by the Tubbs Fire and was damaged as set forth in this Complaint.

10 13. Plaintiff MIGUEL CALDERON owned a residence in Sonoma County that was
11 completely destroyed by the Tubbs Fire and was damaged as set forth in this Complaint.

12 14. Plaintiff DAWSON CHURCH, as Trustee of the Dawson Church Living Trust dtd
13 3/25/05, owned a residence in Sonoma County that was completely destroyed by the Tubbs Fire and
14 was damaged in his representative and individual capacities as set forth in this Complaint.
15 CHRISTINE CRAMER occupied property Sonoma County that was completely destroyed by the
16 Tubbs Fire and was damaged as set forth in this Complaint.

17 15. Plaintiffs EDWARD CURZON and CAREN CURZON, as Trustees of the Edward A.
18 Curzon and Karen L. Curzon Revocable Trust, owned a residence in Sonoma County that was
19 completely destroyed by the Tubbs Fire and were damaged in their representative and individual
20 capacities as set forth in this Complaint. Plaintiffs ROBERT GARIBALDI and BARBARA
21 GARIBALDI owned personal property in Sonoma County that was completely destroyed by the Tubbs
22 Fire and were damaged as set forth in this Complaint.

23 16. Plaintiff MICHAEL DESTINY, as Trustee of the Michael J. Destiny Living Trust dtd
24 2/5/14, owned a residence in Sonoma County that was completely destroyed by the Tubbs fire and
25 was damaged in his representative and individual capacities as set forth in this Complaint.

26 17. Plaintiffs JOHN FOUTS and SUZANNE PASKY FOUTS owned property in Sonoma
27 County that was damaged by the Tubbs Fire and were damaged as set forth in this Complaint. Plaintiff
28 JOHN FOUTS and SUZANNE PASKY FOUTS dba MOUNTAIN HOME RANCH RESORT

1 conducted business and occupied property in Sonoma County that was completely destroyed by the
2 Tubbs Fire and were damaged as set forth in this Complaint. Plaintiff MOUNTAIN HOME RANCH,
3 INC., conducted business and owned property in Sonoma County that was completely destroyed by
4 the Tubbs Fire and was damaged as set forth in this Complaint. Plaintiff CASEY FOUTS occupied
5 property in Sonoma County that was completely destroyed by the Tubbs Fire and was damaged as set
6 forth in this Complaint.

7 18. Plaintiffs RICHARD GUNVALSEN and CATHERINE BURKE-GUNVALSEN
8 occupied property in Sonoma County that was completely destroyed by the Tubbs fire and were
9 damaged as set forth in this Complaint.

10 19. Plaintiff SAM HICKS owned a residence in Sonoma County that was completely
11 destroyed by the Tubbs Fire and was damaged as set forth in this Complaint.

12 20. Plaintiffs MARQUES HILL and TASHA PRUE occupied property in Sonoma County
13 that was completely destroyed by the Tubbs Fire and were damaged as set forth in this Complaint.

14 21. Plaintiffs RICHARD HORWATH and KATHY HORWATH owned a residence in
15 Sonoma County that was damaged by the Tubbs Fire and were also damaged as set forth in this
16 Complaint.

17 22. Plaintiffs AMY MARLAR and her daughter AMY MARLAR, a minor, occupied
18 property in Sonoma County that was completely destroyed by the Tubbs Fire and was damaged as set
19 forth in this Complaint. AMY MARLAR will seek her appointment as her daughter's guardian *ad*
20 *litem* at an appropriate time.

21 23. Plaintiff SHOW N' GLOW, LLC, conducted business in Sonoma County that was
22 damaged by the Tubbs Fire and was damaged as set forth in this Complaint.

23 24. Plaintiffs MICHAEL SIMONSEN and CARMA SIMONSEN occupied property in
24 Sonoma County that was completely destroyed by the Tubbs Fire and were damaged as set forth in
25 this Complaint.

26 25. Plaintiff JOHN SULLINS conducted business and owned a residence in Sonoma
27 County that was completely destroyed by the Tubbs Fire and was damaged as set forth in this
28

1 Complaint. Plaintiff AUSTIN SULLINS occupied property in Sonoma County that was completely
2 destroyed by the Tubbs Fire and was damaged as set forth in this Complaint.

3 26. Plaintiff HURIA TESFASILASIE owned a residence in Sonoma County that was
4 completely destroyed by the Tubbs Fire and was damaged as set forth in this Complaint.

5 **B. Defendants**

6 27. Defendant PG&E Corporation is an energy-based holding company headquartered in
7 San Francisco, California. It is the parent company of Defendant Pacific Gas & Electric Company.

8 28. Defendant Pacific Gas & Electric Company is incorporated in California and is
9 headquartered in San Francisco, California. Defendant Pacific Gas & Electric Company provides
10 public utility services that include the transmission and distribution of natural gas, and the generation,
11 transmission, and distribution of electricity to millions of customers in Northern and Central
12 California, including the residents of Butte, Calaveras, Lake, Mendocino, Napa, Nevada, Solano,
13 Sonoma, and Yuba Counties.

14 29. The PG&E Defendants are jointly and severally liable for each other's negligence,
15 misconduct, and wrongdoing as alleged herein, in that:

- 16 a. The PG&E Defendants operate as a single business enterprise operating out of the same
17 building located at 77 Beale Street, San Francisco, California, for the purpose of
18 effectuating and carrying out PG&E Corporation's business and operations and/or for
19 the benefit of PG&E Corporation;
- 20 b. The PG&E Defendants do not operate as completely separate entities, but rather,
21 integrate their resources to achieve a common business purpose;
- 22 c. Pacific Gas & Electric Company is so organized and controlled, and its decisions,
23 affairs, and business are so conducted as to make it a mere instrumentality, agent,
24 conduit, or adjunct of PG&E Corporation;
- 25 d. Pacific Gas & Electric Company's income results from function integration,
26 centralization of management, and economies of scale with PG&E Corporation;
- 27 e. The PG&E Defendants' officers and management are intertwined and do not act
28 completely independently of one another;

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- f. The PG&E Defendants’ officers and managers act in the interest of PG&E Corporation as a single enterprise;
- g. PG&E Corporation has control and authority to choose and appoint Pacific Gas & Electric Company’s board members as well as its other top officers and managers;
- h. The PG&E Defendants do not compete with one another, but have been structured and organized and their business effectuated so as to create a synergistic, integrated single enterprise where various components operate in concert one with another;
- i. PG&E Corporation maintains unified administrative control over Pacific Gas & Electric Company;
- j. The PG&E Defendants are insured by the same carriers and provide uniform or similar pension, health, life, and disability insurance plans for employees;
- k. The PG&E Defendants have unified 401(k) Plans, pension and investment plans, bonus programs, vacation policies, and paid time off from work schedules and policies;
- l. The PG&E Defendants invest funds from their programs and plans by a consolidated and/or coordinated Benefits Committee controlled by PG&E Corporation and administered by common trustees and administrators;
- m. The PG&E Defendants have unified personnel policies and practices and/or a consolidated personnel organization or structure;
- n. The PG&E Defendants have unified accounting policies and practices dictated by PG&E Corporation and/or common or integrated accounting organizations or personnel;
- o. The PG&E Defendants are represented by common legal counsel;
- p. PG&E Corporation’s officers, directors, and other management make policies and decisions to be effectuated by Pacific Gas & Electric Company and/or otherwise play roles in providing directions and making decisions for Pacific Gas & Electric Company;

- 1 q. PG&E Corporation's officers, directors, and other management direct certain financial
2 decisions for Pacific Gas & Electric Company including the amount and nature of
3 capital outlays;
- 4 r. PG&E Corporation's written guidelines, policies, and procedures control Pacific Gas
5 & Electric Company's employees, policies, and practices;
- 6 s. PG&E Corporation files consolidated earnings statements factoring in all revenue and
7 losses from Pacific Gas & Electric Company, as well as consolidated tax returns,
8 including those seeking tax relief; and/or, without limitation;
- 9 t. PG&E Corporation generally directs and controls Pacific Gas & Electric Company's
10 relationship with, requests to, and responses to inquiries from, the CPUC and uses such
11 direction and control for the benefit of PG&E Corporation.

12 30. At all relevant times, each of the Defendants were the partners, principals, agents,
13 employees, servants, and joint venturers of each other, and in doing the things alleged in this
14 Complaint were acting within the course and scope of their authority and relationship as partners,
15 principals, agents, employees, servants and joint venturers with the permission, knowledge, and
16 consent of each other.

17 31. The true names and capacities, whether individual, corporate, associate or otherwise of
18 Does 1 through 50, are unknown to Plaintiffs who, under Code of Civil Procedure § 474, sue these
19 Doe Defendants under fictitious names. Plaintiffs will amend this complaint to show their true names
20 and capacities when they are ascertained. Each of the Doe Defendants is in some manner legally
21 responsible for the occurrences alleged in this Complaint, and Plaintiffs' damages alleged in this
22 Complaint were legally caused by each of those Doe Defendants.

23 **IV. THE FACTS**

24 **A. PG&E IS REQUIRED TO SAFELY DESIGN, OPERATE, AND MAINTAIN** 25 **ITS ELECTRICAL SYSTEMS**

26 32. PG&E owns, installs, constructs, operates, and maintains overhead power lines,
27 together with supporting poles and appurtenances throughout Northern and Central California for the
28

1 purpose of transmitting and distributing electricity the general public. Those lines existed near the
2 origin points of the NorCal Fires.

3 33. Electrical infrastructure is inherently dangerous and hazardous, and PG&E recognizes
4 it as such. The transmission and distribution of electricity requires PG&E exercise an increased level
5 of care in line with the increased risk of associated danger.

6 34. At all times PG&E had and continues to have a duty to properly construct, inspect,
7 repair, maintain, manage, and operate its power lines and other electrical equipment. PG&E also has
8 a duty to keep vegetation properly trimmed and maintained so as to prevent foreseeable contact with
9 its electrical equipment.

10 35. In the construction, inspection, repair, maintenance, management, ownership, and/or
11 operation of its power lines and other electrical equipment, PG&E had an obligation to comply with,
12 *inter alia*: (a) Code of Civil Procedure § 733; (b) Public Resource Code §§ 4292, 4293, and 4435; (c)
13 Public Utilities Code § 451; and (d) General Order Nos. 95 and 165.

14 36. In January 2014, Governor Jerry Brown declared a state of emergency due to
15 California’s continued drought. In June 2014, the CPUC directed PG&E and all investor owned
16 utilities pursuant to Resolution ESRB-4, to take remedial measures to reduce the likelihood of fires
17 started by or threatening utility facilities. In addition, the CPUC informed PG&E that it could seek
18 recovery of incremental costs associated with these remedial measures outside of the standard funding
19 process, agreeing to provide additional funding on top of vegetation management funding already
20 authorized in order to make sure remedial measures would not go unperformed due to lack of funding.

21 37. In early 2017, the CPUC issued a Fact Sheet on “PG&E Vegetation Management
22 Spending” directing PG&E to take increased efforts to reduce fire risk due to the drought emergency:
23 “Although the Governor issued an Executive Order in April 2017 ending the Drought State of
24 Emergency, the declaration directed state agencies ‘to continue response activities that may be needed
25 to manage the lingering drought impacts to people and wildlife.’ The California Tree Mortality State
26 of Emergency issued in October 2015 by Governor Brown regarding the bark beetle infestation and
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1 resulting tree mortality remains in effect. The CPUC has not rescinded ESRB-4, and work by the
2 utilities to comply with it and the Tree Mortality Emergency continues.”¹

3 38. PG&E knew or should have known that those statutory and regulatory standards are
4 minimum standards. PG&E knew or should have known that it has: (a) a duty to identify vegetation
5 that is dead, diseased, or dying or that otherwise poses a foreseeable hazard to power lines and/or other
6 electrical equipment; and (b) a duty manage the growth of vegetation near its power lines and
7 equipment so as to prevent the foreseeable danger of contact between vegetation and power lines
8 starting a fire.

9 39. Further, PG&E has a duty to manage, maintain, repair, and/or replace its aging
10 infrastructure to protect public safety. These objectives could and should have been accomplished in
11 a number of ways, including, by not limited to, putting electrical equipment in wildfire-prone areas
12 underground, increasing inspections, developing and implementing protocols to shut down electrical
13 operations in emergency situations, modernizing infrastructure, and/or obtaining an independent audit
14 of its risk management programs to ensure effectiveness.

15 40. PG&E knew or should have known that a breach of those standards and duties
16 constituted negligence and would expose members of the general public to risk of death, injury, and
17 damage to their property.

18 **B. PG&E’S INEXCUSABLE HISTORY OF SAFETY FAILURES**

19 41. PG&E’s safety record is an abomination. PG&E has and continues to put its own
20 profits before the safety of the California residents it serves.

21 42. The NorCal Fires started approximately three years after the Butte Fire, where a 44 foot
22 tall, weak grey pine tree that should have been removed by PG&E struck a 12,000-volt overhead power
23 line that was owned and operated by PG&E. The resulting fire burned for 22 days, killing two people,
24 burning over 70,000 acres, destroying and damaging 475 residences, 343 outbuildings, and 45 other
25 structures. The fire also left tens of thousands of dead or dying trees and the risk of water pollution
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28 ¹ [http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/safety/
pge%20vegetation%20management%20spending.pdf](http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/safety/pge%20vegetation%20management%20spending.pdf)

1 and erosion in its wake. Thousands of people were forced to evacuate their homes, and thousands
2 were damaged in their person and property.

3 43. PG&E's actions leading up to the Butte Fire illustrate its conscious disregard of public
4 safety. *First*, PG&E chose to not confirm its assumption that properly qualified and trained inspectors
5 were being used by its contractors to identify hazard trees. *Second*, PG&E chose not to verify that its
6 quality assurance audits were properly conducted. *Third*, PG&E directed its inspection contractor to
7 hire inspectors that they knew did not meet the minimum qualifications required by PG&E's own
8 specifications. *Fourth*, PG&E chose to: (a) not train inspectors on PG&E's hazardous tree rating
9 system ("HTRS"); (b) not verify that its contractor trained inspectors on the HTRS; and (c) not require
10 inspectors to use PG&E's HTRS. *Finally*, PG&E knew that wildfires caused by contact between
11 vegetation and its power lines posed the highest degree of risk to the public, knew that its "vegetation
12 management program" annually failed to identify over 500,000 trees that were not within the required
13 distance away from its power lines, or were "hazard trees" that were dead, diseased, or dying, or that
14 otherwise posed a risk of contacting a power line. PG&E did nothing to remove those trees, one of
15 which was the 44 foot tall, weak grey pine tree that started the Butte Fire.

16 44. In April 2017, the CPUC fined PG&E a total of \$8.3 million because of the Butte Fire
17 for "failing to maintain its 12kV overhead conductors safely and properly" and failing to maintain a
18 minimum distance between its power lines and vegetation. Cal Fire also sent PG&E a bill for \$90
19 million to cover state firefighting costs.

20 45. After the Butte Fire, PG&E did not change, revise, or improve any of its vegetation
21 management practices, and its managers, executives, and directors astoundingly and repeatedly
22 testified at their depositions that none of PG&E's programs had failed to prevent the Butte Fire, and
23 none of its employees had done anything to contribute to the cause of the Butte Fire. This blind
24 arrogance paved the way for the future disasters that came to pass with the ignition of the NorCal fires
25 in October 2017.

26 46. The Butte Fire was not an isolated incident. PG&E has a long history of safety lapses
27 that caused injury and death to California residents, and destroyed or damaged their property:
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- a. **1981 San Francisco Gas Explosion:** A PG&E gas main in downtown San Francisco exploded, forcing 30,000 people to evacuate. It took workers nine hours to shut off the gas main's manual shut off valves and stop the flow of gas that continued to feed the flames in the interim.
- b. **1992 Santa Rosa Gas Explosion:** Two people were killed and three others were injured when a PG&E gas line exploded in Santa Rosa. The pipeline was improperly marked, failing to give proper notice to contractors working in the area. A contractor hit the pipe with a backhoe, causing the pipe to leak several months later.
- c. **1994 Trauner Fire:** The Trauner Fire burned down a historic schoolhouse and 12 homes near the scenic Gold Rush town of Rough and Ready. Investigators determined that the Trauner Fire began when a 21,000-volt power line brushed against a tree limb that PG&E had failed to keep trimmed. Through random spot inspections, the investigators found hundreds of safety violations in the area near the Trauner Fire, approximately 200 of which involved contact between vegetation and PG&E's power lines. In June 1997, a Nevada County jury found PG&E guilty of 739 counts of criminal negligence and it was required to pay \$24 million in penalties. After the trial, a 1998 CPUC report revealed that PG&E diverted \$77.6 million from its tree-trimming budget to other uses from 1987 to 1994. During that same time, PG&E underspent its authorized budgets for maintaining its systems by \$495 million and, instead, used this money to boost corporate profits.
- d. **1996 Mission Substation Electrical Fire:** At approximately 1:00 AM on November 27, 1996, a cable splice at PG&E's Mission Substation in San Francisco short-circuited, burning and melting the insulation around the splice. Smoke from the fire rose through a floor opening above the splice into a switch cabinet. That smoke was so thick that it caused a flashover between phases of the bus bars connecting the overhead N bus to the switch. This caused insulation on the N bus to ignite and a circuit breaker to open, resulting in the loss of power to a group of PG&E customers. The substation was

1 unmaned at the time and the fire was only discovered by chance by an employee who
2 had stopped by the substation to use the restroom.

3 e. **1999 Pendola Fire:** A rotten pine, which the government said PG&E should have
4 removed, fell on a power line, starting the Pendola Fire. It burned for 11 days and
5 scorched 11,725 acres, mainly in the Tahoe and Plumas national forests. PG&E paid a
6 \$14.75 million settlement to the U.S. Forest Service in 2009. That year, the utility also
7 reached a \$22.7 million settlement with the CPUC after regulators found PG&E had
8 not spent money earmarked for tree trimming and removal toward those purposes.

9 f. **2003 Mission Substation Electrical Fire:** One third of San Francisco lost power
10 following a 2003 fire at PG&E's Mission District Substation. The fire burned for
11 nearly two hours before PG&E workers arrived on the scene to discover the damage.
12 The CPUC report of the investigation, described PG&E's careless approach to safety
13 and apparent inability to learn from its past mistakes, stating "PG&E did not implement
14 its own recommendations from its own investigation of the 1996 fire."²

15 g. **2004 Sims Fire:** In July 2004, the Sims Fire burned over 4,000 acres of forest land in
16 the Six Rivers National Forest and the Trinity National Forest. A federal lawsuit
17 alleged that PG&E failed to remove a decaying tree, which fell on a transmission line
18 and ignited the blaze.

19 h. **2004 Fred's Fire:** The Fred's Fire started Oct. 13, 2004, near Kyburz in El Dorado
20 County. A lawsuit filed by the U.S Government claimed that employees of PG&E's
21 contractor lost control of a large tree they were cutting down. It fell onto a PG&E
22 powerline and caused a fire that burned over 7,500 acres. PG&E and its contractors
23 paid \$29.5 million to settle the lawsuits over the Fred's Fire and the Sims Fire.

24 i. **2004 Power Fire:** - In October 2004, the Power Fire burned approximately 17,000
25 acres on the Eldorado National Forest and on private timberlands. A federal lawsuit
26 alleged that the Power Fire was ignited by a lit cigarette that was dropped by a PG&E
27
28

² <http://docs.cpuc.ca.gov/publishedDocs/published/Report/40886.pdf>

1 tree trimming contractor. PG&E and its contractor paid the federal government \$45
2 million to settle the lawsuit.

3 j. **2005 San Francisco Electrical Explosion:** In August 2005, a PG&E electrical
4 transformer exploded beneath the San Francisco financial district at Kearny and Post
5 Streets, severely burning a woman who had been walking by. A lawsuit by the injured
6 woman settled for an undisclosed sum.

7 k. **2008 Rancho Cordova Gas Explosion:** An explosion and fire caused by a natural gas
8 leak destroyed a residence in Rancho Cordova, California, killing one person, injuring
9 five others and causing damage to several other nearby homes. The cause of the
10 explosion was the use of a section of unmarked and out-of-specification pipe with
11 inadequate wall thickness that allowed gas to leak from a mechanical coupling installed
12 approximately two years earlier. In November 2010, the CPUC filed administrative
13 charges alleging that PG&E was at fault for the blast because PG&E should have
14 discovered the improper repair job that caused the explosion, but failed to timely do so.
15 As a result, the CPUC required PG&E to pay a \$38 million fine.

16 l. **2008 Whiskey Fire:** The June 2008 Whiskey Fire burned more than 5,000 acres of
17 land in the Mendocino National Forest. The fire started when a gray pine tree that did
18 not have the required clearance from a PG&E transmission line came into contact with
19 the line. PG&E and its contractors agreed to pay \$5.5 million to settle a federal lawsuit.

20 m. **2009 San Francisco Electrical Explosion:** In June 2009, a PG&E underground vault
21 exploded in downtown San Francisco leaving thousands without power.

22 m. **2010 San Bruno Gas Explosion:** On September 9, 2010, PG&E's disregard of public
23 safety caused the death of eight people, injured 58 people, and destroyed an entire
24 neighborhood in San Bruno, California when one of its gas pipelines exploded and
25 burst into flames. After the explosion, the NTSB issued a report that blamed the
26 disaster on PG&E's poor management of its pipeline. In April 2015, the CPUC slapped
27 PG&E with a \$1.6 billion fine for causing the explosion and diverting maintenance
28 funds into stockholder dividends and executive bonuses. Further, in January 2017, a

1 federal jury found PG&E guilty of six felony charges. The judge ordered it to pay \$3
2 million in fines for causing the explosion, and ordered PG&E to submit to
3 court supervision of its natural gas operations. .

4 n. **2014 Carmel Gas Explosion:** In 2014, PG&E employees damaged a gas pipeline in
5 Carmel while digging because they lacked the legally required records on the location
6 of the pipeline. Gas escaping from the pipeline exploded and destroyed an unoccupied
7 cottage. The CPUC fined PG&E \$37.3 million and PG&E paid an additional \$1.6
8 million to settle a related lawsuit filed by the City of Carmel.

9 o. **2015 San Francisco Electrical Explosion:** In September 2015, a PG&E underground
10 transformer exploded in Bernal Heights, injuring two people, one of them critically.

11 **C. PG&E’S INEXCUSABLE BEHAVIOR CONTRIBUTED TO THE CAUSE OF**
12 **THE NORCAL FIRES**

13 **1. The 2013 Liberty Report Found that PG&E’s Distribution System**
14 **Presented “Significant Safety Issues”**

15 47. On May 6, 2013, a report was sent to the Safety and Enforcement Division of the CPUC
16 from the Liberty Consulting Group who had been retained to conduct an independent review of capital
17 and operations and maintenance expenditures proposed by PG&E (hereinafter the “2013 Liberty
18 Report”).³ The 2013 Liberty Report concluded that: “several aspects of the PG&E distribution system
19 present significant safety issues.” It also found: (a) “addressing risks associated with electrical
20 distribution components has been overshadowed by electric transmission and gas facilities;” (b)
21 “addressing aging infrastructure and adding SCADA to the system comprise the major focuses of
22 safety initiatives for the distribution system;” and (c) “current employee/contractor serious injury and
23 fatality levels require significantly greater mitigation.”

24 **2. The 2013 Liberty Report Found that PG&E’s Wires Were Highly**
25 **Susceptible to Failure Due to Age**

26 48. One of the first key findings of the 2013 Liberty Report was that PG&E had a “large
27 amount of small size obsolete conductor remaining on PG&E’s system.” PG&E has 113,000 miles of

28 ³ <http://docs.cpuc.ca.gov/publisheddocs/efile/g000/m065/k394/65394210.pdf>

1 conductors, and according to the report, over 60 percent of those conductors are highly susceptible to
2 failure. The conductors are very small, and generally more susceptible to breaking than standard size
3 conductors. As the conductor ages, it becomes even more susceptible to breaking. Weather conditions,
4 such as winds and lightning strikes, will also wear a small conductor more than larger ones. For these
5 reasons, “[t]his conductor was once popular, but is now recognized as obsolete, due to its small size.”

6 49. PG&E’s failure to replace these undersized and obsolete conductors contributed to the
7 cause of the NorCal Fires.

8 3. PG&E’s Unsafe Use of Reclosers

9 50. A second key finding of the 2013 Liberty Report was that on a daily basis and in 36
10 percent of cases, PG&E cannot remotely de-energize a downed line and must send someone on-site to
11 manually turn off the feed. An energized downed line is a hazard, and, according to the 2013 Liberty
12 Report, this hazard has “contributed to a number of fatalities and injuries.”

13 51. PG&E has a long-standing practice of using reclosers throughout its system to
14 automatically restart power after interruptions, even though it knows these devices may cause
15 wildfires. Reclosers are circuit breakers equipped with a mechanism that can automatically “reclose”
16 the breaker and reenergize a power line after it has been “opened” due to a fault. Many of PG&E’s
17 reclosers are set to reenergize the line up to three times after a fault.

18 52. Reclosers are key tools to prevent power blackouts, but if a fault occurs from contact
19 between a line and a tree or vegetation, reenergizing the line can ignite fires. This danger is so
20 significant that the other two major utilities in California, San Diego Gas & Electric Company and
21 Southern California Edison, have reprogramed their electrical systems during fire seasons to ensure
22 that reclosers do not automatically restart electrical currents after a service interruption.

23 53. PG&E knew that its reclosers posed a great risk of wildfire, but has only taken slow
24 and incomplete steps to eliminate that risk. At a Congressional hearing in 2015, PG&E’s Senior Vice
25 President of Electrical Operations, Patrick Hogan, stated that PG&E had the ability to reprogram its
26 reclosers during fire season to not restart power. Patrick Hogan claimed that shutting down power
27 means “you take the reliability hit, but you gain the wildfire benefit.”⁴

28 _____
⁴ <http://www.sfchronicle.com/bayarea/article/Power-line-restart-device-implicated-in-past->

1 54. In contrast to San Diego Gas & Electric Company and Southern California Edison
2 having disabled all of their reclosers from reenergizing lines during fire season, and despite its own
3 knowledge of the dangers posed by reclosers, PG&E began an experimental pilot program in 2017 to
4 reprogram its reclosers that only affected a limited area of California.

5 55. Even before the Butte Fire in 2015, PG&E began a process of replacing all reclosers
6 that can only be programmed or controlled on-site with reclosers that can be remotely programmed
7 and controlled. However, that process has been so slow and deliberate many of its reclosers must still
8 be programmed or controlled only at the site where they are installed.

9 56. On its own initiative, PG&E did not turn off a number of reclosers on transmission and
10 distribution systems in the area of the NorCal Fires. Instead, PG&E left those reclosers active and did
11 not turn them off until directed to do so by Cal Fire between October 12 and 15, 2017.

12 57. PG&E's failure to turn off its reclosers during fire season and its failure to ensure all
13 of its reclosers could be programmed and controlled remotely contributed to the cause of the NorCal
14 Fires.

15 **4. PG&E's Regrettable Adoption of the "VMII" Program**

16 58. PG&E's Vegetation Management Program performs two types of tree work: annual
17 routine compliance tree work and reliability tree work.

18 59. Annual routine compliance work focuses on maintaining regulatory distances between
19 energized conductors and vegetation. Reliability tree work" focuses on locations where there has been
20 a history of vegetation-related outage problems based on three historical indexes: System Average
21 Interruption Frequency Index (SAIFI), Customer Experiencing Multiple Interruption (CEMI), and
22 System Average Interruption Duration Index (SAIDI).

23 60. In 2006, PG&E's Vegetation Management Program adopted the "Vegetation
24 Management Incentive Initiative" ("VMII"). The ostensible purpose of VMII was to reduce the annual
25 routine compliance tree work and share the resulting cost savings with the contractors whose
26 compensation would be reduced by the loss of actual work. The actual purpose of VMII was to shift
27 costs from annual routine compliance work to fund additional reliability work.

1 61. For example, in 2011, PG&E set a goal to reduce routine “units” worked from 1.18
2 million trees in 2011 to 1 million in 2012 in order to increase the amount of money available for
3 reliability work by \$20 million. In 2012, PG&E set a goal to goal to reduce routine “units” worked
4 by 25% in 2013 in order to increase the amount of money available for reliability work by \$35 million.
5 In 2013, PG&E only performed routine patrol inspections on 75% of its distribution circuits, using the
6 cost savings to increase its reliability patrols. In 2014, PG&E set a goal to reduce routine units worked
7 by 7.5% annually through 2016.

8 62. Between 2006 and 2013, PG&E actually reduced the number of routine trees worked
9 from 1.7 million to 1.25 in 2013, paid contractors \$85 million, and increased reliability spending by
10 \$134 million. During that time, customer satisfaction as measured by SAIFI increased by 40%.

11 63. Most of PG&E’s annual routine compliance work is performed in rural areas in
12 California, while most of PG&E’s “reliability” work is performed in the more densely populated urban
13 or semi-urban areas where outages will generate more complaints per square mile than in the rural
14 counties served by PG&E. Although the actual vegetation management work performed in the annual
15 routine compliance patrols and the reliability patrols is exactly the same, PG&E’s only comprehensible
16 rationale for differentiating the “two types of work” is that the “reliability” work is directed at reducing
17 statistical measurements of customer dissatisfaction over outages and that goal can be better
18 accomplished by concentrating on work in urban or semi-urban areas.

19 64. Under PG&E’s bonus incentive program, reducing the number of customer complaints
20 over outages leads to an increased likelihood of increases in executive and management bonuses.

21 65. PG&E’s implementation and continued application of VMII contributed to the cause
22 of the NorCal Fires.

23 **5. PG&E’s Failure to Fully Employ LiDAR to Identify Hazard Trees**

24 66. LiDAR (an acronym for “Light Detection and Ranging”) is a surveying method that
25 measures distances to a target by illuminating that target with a pulsed laser light, and measures the
26 reflected pulses with a sensor. These light pulses, when combined with other data recorded by the
27 system, orthoimagery, and hyperspectral data, can generate precise three-dimensional images and
28 information about the shape of the Earth and objects such as buildings or trees.

1 67. When used in a vegetation management program for electric utilities, LiDAR scans and
2 analyses can be used to identify trees that have the potential for contacting conductors, whether
3 because of proximity to the conductors or are dead, diseased, or dying. Annual LiDAR scans and
4 analyses of the electric system the change in the dead or diseased vegetation by comparing one year's
5 data to the prior year's inventory of dead or diseased trees. When the analysis is conducted over a
6 subset dataset, it can provide a statistical understanding in the percent change in vegetation identified
7 as dead or diseased.

8 68. In 2014, PG&E began to use LiDAR to scan and analyze small sections of its electric
9 transmission and distribution system. In 2015, PG&E employed a contractor who created spatially
10 accurate alignment information for over 13,000 miles of lines including 200,000 spans, over 100
11 circuits using LiDAR and imagery. The contractor also identified and assessed 2.2 million trees in the
12 CEMA LiDAR data having the potential to fail-in or encroach on distribution lines, performed “dead
13 and diseased analysis” 1.6 million trees, and identified 23,000 trees as potentially dead or diseased.

14 69. PG&E’s use of LiDAR is funded by its “Catastrophic Event Memorandum Account”
15 (“CEMA”). If a catastrophic event is declared a state of emergency by the state or federal government,
16 then utilities like PG&E can record costs caused by the event in this memorandum account. By
17 recording these costs, the utilities can later ask for recovery of these costs from the CPUC.

18 70. In 2015, for some unfortunate reason PG&E scheduled the LiDAR contractor’s
19 deliverables for October 2015 at the very tail end of California’s fire season. The contractor’s final
20 product identified the 44 foot-tall grey pine that started the Butte Fire as a “Hazard Tree” that had the
21 potential to fall into one of PG&E’s distribution lines, but unfortunately PG&E received the
22 information over a month after the Butte Fire started.

23 71. In 2016 and 2017, PG&E again employed LiDAR technology to scan and analyze its
24 electric transmission and distribution system, but only employed the technology in limited sections of
25 that system, and again scheduled the deliverables at the tail end of the California wildfire season.

26 72. PG&E’s failure to fully employ LiDAR technology in the area of the NorCal Fires and
27 its failure to timely schedule deliverables of LiDAR analyses contributed to the cause of the NorCal
28 Fires.

1 **6. PG&E’s Failure to Treat the Conditions of Its Aging Electrical Assets as**
2 **an Enterprise-Level Risk**

3 73. Another recommendation of the 2013 Liberty Report was “the establishment of a
4 formal asset management program in Electric Operations.” According to the report, “aging
5 infrastructure is best addressed by having a strategic asset management program in place. These types
6 of programs, such as the PAS 55 program, force a detailed and thorough condition assessment survey
7 of the major assets. These types of formal programs also take failure modes into consideration. Long
8 term sustainable plans can then be prepared to address the asset conditions. A sustainable asset
9 management will mitigate system safety risks from aging infrastructure, which constituted a major
10 portion of the safety items in this GRC.”

11 74. The 2013 Liberty Report specifically recommended that “PG&E treat aging
12 infrastructure as an enterprise-level risk.”

13 75. PG&E’s failure to treat its aging infrastructure as an enterprise-level risk contributed
14 to the cause of the NorCal Fires.

15 **7. PG&E’s Failure to Inspect, Maintain, Repair, or Replace Its Equipment**

16 76. PG&E failed to perform the necessary inspections, maintenance, repair, and/or
17 replacement of its electrical equipment.

18 77. A 2015 audit of PG&E’s Sonoma Division revealed that there were over 3,500 unfilled
19 PG&E repair and maintenance requests in the area of the Tubbs Fire.⁵ This number shows a staggering
20 disregard of the safety to the people caught up in the NorCal Fire zones.

21 78. In a December 31, 2015, letter to PG&E regarding the audit, Fayi Daye, a supervising
22 electric safety regulator with the CPUC, outlined the violations found in the review of records between
23 2010 and 2015 and a spot check of PG&E electrical distribution equipment. She stated the following:

24 “PG&E’s records indicated that from August 2010 to September 21, 2015, a total of
25 3,527 work orders were completed past their scheduled date of corrective action per
26 PG&E’s Electric Notification Prioritization Standards. Late work orders included
overhead and underground facilities.”⁶

27 _____
28 ⁵ [http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Electric_Safety_ and_Reliability/Reports_and_Audits/Electric_Facilities/EA2015-018.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Electric_Safety_and_Reliability/Reports_and_Audits/Electric_Facilities/EA2015-018.pdf)

⁶ *Ibid.*

1 79. The letter concluded that these delays violated CPUC General Order No. 128, Rule
2 17.1, which sets forth the CPUC’s design, construction, and maintenance rules for electrical systems.

3 80. The audit also reviewed PG&E’s maps for its electrical distribution lines and found
4 that over 50 pieces of overhead equipment - including pole mounted transformers and power lines has
5 not been inspected every year as required by law. This was a violation of CPUC General Order No.
6 165, Section 111-B, which sets forth standards for inspections.⁷

7 81. According to State Senator Jerry Hill, these findings are especially troubling because
8 “they are getting the money for these, they are getting the funds to do the work in a timely manner.”⁸
9 Yet, PG&E takes the money but fails to correct the problems.

10 82. Further, according to records maintained by Cal Fire, approximately 135 fires in
11 Sonoma and Napa Counties were caused by electrical equipment from 2011 through 2015.⁹ In 2015,
12 the last year of reported data, electrical power problems sparked the burning of 149,241 acres across
13 California – more than twice the amount from any other cause.¹⁰

14 83. Since prior to 1996, PG&E has known or should have known that its choice of chemical
15 treatments for its poles can also make its equipment unsafe. For example, PG&E uses and has used
16 poles treated with pentachlorophenol in liquefied petroleum gas by the Cellon® process. Those poles
17 tend to experience surface decay below ground regardless of the type of wood used for the poles. As
18 a result, digging inspections are required for poles treated by these processes for all wood types.
19 However, PG&E has failed to conduct the proper inspections. Further, when PG&E has been advised
20 of necessary repairs to such poles, PG&E failed to repair the poles in a timely manner.

21 84. According to the 2017 CPUC “Order Instituting Investigation into the Creation of a
22 Shared Database or Statewide Census of Utility Poles and Conduit”:

23 “Poorly maintained poles and attachments have caused substantial property damage
24 and repeated loss of life in this State. For example, inadequate clearance between
25 communication and power lines, perhaps in conjunction with a broken cable lashing
wire, caused the Southern California Guejito Fire of 2007 which (together with the

26 ⁷ *Ibid.*

27 ⁸ <https://www.nbcbayarea.com/news/local/State-Audit-Shows-PGE-Had-Repair-Job-Backlog-in-Sonoma-Santa-Rosa-451996923.html>

28 ⁹ http://www.fire.ca.gov/fire_protection/fire_protection_fire_info_redbooks

¹⁰ <http://www.latimes.com/business/la-fi-utility-wildfires-20171017-story.html>

1 Witch Fire) burned 197,990 acres and caused two deaths. Three more deaths occurred
2 in 2011 when an electrical conductor separated from a pole in high winds, causing a
3 live wire to fall to the ground. At least five more people lost their lives in pole-related
4 failures in 2012 and 2015.

5 “Unauthorized pole attachments are particularly problematic. A pole overloaded with
6 unauthorized equipment collapsed during windy conditions and started the Malibu
7 Canyon Fire of 2007, destroying and damaging luxury homes and burning over 4500
8 acres. Windstorms in 2011 knocked down a large number of poles in Southern
9 California, many of which were later found to be weakened by termites, dry rot, and
10 fungal decay.

11 “Communication and other wires are not infrequently found hanging onto roads or
12 yards. Poles with excessive and/or unauthorized attachments can put utility workers at
13 risk. Facilities deployed in the field may differ from what appears on paper or in a
14 utility’s database.”¹¹

15 85. In the June 29, 2017 CPUC press release for the Order, the CPUC President Michael
16 Picker stated, “Plain old wooden poles, along with their cousins, the underground conduits, are work
17 horses, carrying most of our power and telecommunications. They sometimes get crowded and fail,
18 causing outages and fires because of all the equipment crammed onto them.” Further, “[n]ot knowing
19 where all the poles are and who owns them, how loaded they are, how safe they are, and whether they
20 can handle any additional infrastructure, is problematic to both the utilities and to the CPUC. Creating
21 a database of utility poles could help owners track attachments on their poles and manage necessary
22 maintenance and rearrangements, and can help the CPUC in our oversight role.”¹²

23 86. PG&E’s failure to conduct proper and regular inspections of its wood utility poles and
24 failure to replace them or make necessary repairs contributed to the cause of the NorCal Fires.

25 **8. PG&E’s Failure to Ensure Its Infrastructure Could Withstand**
26 **Foreseeable Weather Conditions as Required by Law**

27 87. Despite PG&E’s public protestations to the contrary, Northern California did not
28 experience uncommon weather patterns the night the NorCal Fires began. Readings at weather
stations in the areas impacted by the NorCal Fires show that winds were at foreseeable levels when
PG&E’s electrical equipment began to fail. For example, on October 8, 2017, a weather station in
Santa Rosa in the vicinity of the Tubbs Fire recorded wind gusts of about 30 miles per hour at or

¹¹ <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M190/K872/190872933.pdf>

¹² <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M191/K560/191560905.pdf>

1 around 9:29 p.m. About an hour later, the same station recorded wind gusts of 41 miles per hour.
2 These wind speeds were surpassed in other recent storms in the area on a number of occasions.

3 88. According to PG&E’s 2014 Annual Electric Distribution Reliability Report, sent to the
4 CPUC on February 27, 2015, weather conditions have accounted for many of the top ten PG&E
5 electrical outages each year since at least 2004, putting the utility on notice that these weather
6 conditions occur and that they can cause electrical problems. For example, four of the “ten largest
7 2004 outage events” for PG&E occurred in the Santa Rosa and Sonoma areas where winds were
8 documented in the 35 to 65 mph range, much higher levels than those of October 8, 2017.¹³

9 89. PG&E’s largest outage in 2009 was caused by a strong early season storm that “affected
10 the entire service area with many stations reporting wind gusts over 50 mph. National Weather Service
11 records indicate this storm was the strongest October rain and wind event since 1962. Therefore,
12 PG&E had notice of the type of winds that occurred on October 8, 2017, the night the NorCal Fires
13 began.

14 90. PG&E’s wood utility poles in the areas where the NorCal Fires began did not meet the
15 wind load and safety factors required by General Order 95, Rule 48, under which wood utility poles
16 must be replaced if they are not strong enough to withstand wind speeds of 92 mph. No weather
17 station in the areas affected by the NorCal Fires recorded wind speeds at or above 92 mph on the night
18 of October 8, 2017.

19 91. PG&E’s failure to replace old and deteriorated wood utility poles that did not meet the
20 strength and safety requirements of General Order 95, Rule 48, and that could not withstand wind
21 speeds of less than 92 mph contributed to the cause of the NorCal Fires.

22 **9. PG&E’s “Run to Failure” Approach to Maintenance**

23 92. PG&E’s failure to address the “significant safety hazards” identified by the 2013
24 Liberty Report, failure to replace obsolete and undersized conductors, unsafe use of reclosers, adoption
25 of the VMII program, failure to fully employ LiDAR to identify hazard trees, failure to treat the
26 conditions of its aging infrastructure as an enterprise-level risk, failure to inspect, maintain, repair or
27

28 ¹³<https://www.pge.com/includes/docs/pdfs/myhome/outages/outage/reliability/AnnualElectricDistributionReliabilityReport.pdf>

1 replace its aging equipment, failure to conduct an inventory of its electrical assets, and failure to ensure
2 its infrastructure could withstand foreseeable weather conditions as required by law are all indicative
3 of what has been called PG&E's "run to failure" approach to its infrastructure.

4 93. PG&E has a well-documented history of implementing this "run to failure" approach
5 with its aging infrastructure, ignoring necessary maintenance in order to line its own pockets with
6 excessive profits. According to a filing by Office of Ratepayer Advocates with the CPUC in May
7 2013:

8 "However, as we saw in Section V.F.3 above, the Overland Audit explains how
9 PG&E systematically underfunded GT&S integrity management and maintenance
10 operations for the years 2008 through 2010. PG&E engaged in a 'run to failure'
11 strategy whereby it deferred needed maintenance projects and changed the assessment
12 method for several pipelines from ILI to the less informative ECDA approach – all to
13 increase its profits even further beyond its already generous authorized rate of return,
14 which averaged 11.2% between 1996 and 2010.

15 "Given PG&E's excessive profits over the period of the Overland Audit, there is
16 no reason to believe that Overland's example regarding GT&S operations between
17 2008 and 2010 was unique. The IRP Report supplements the Overland Audit findings
18 with additional examples of PG&E management's commitment to profits over safety.
19 Thus, it is evident that while the example of GT&S underfunding between 2008 and
20 2010 might be extreme, it was not an isolated incident; rather, it represents the
21 culmination of PG&E management's long standing policy to squeeze every nickel it
22 could from PG&E gas operations and maintenance, regardless of the long term 'run to
23 failure' impacts. And PG&E has offered no evidence to the contrary."¹⁴

24 94. PG&E's failure to address this "run to failure" approach to maintenance contributed to
25 the cause of the NorCal Fires.

26 **10. PG&E's Purchase of Insurance Coverage for Punitive Damages**

27 95. Under Insurance Code § 533 provides in pertinent part: "An insurer is not liable for a
28 loss caused by the willful act of the insured"

96. Civil Code § 1668 provides: "All contracts which have for their object, directly or
indirectly, to exempt anyone from responsibility for his own fraud, or willful injury to the person or
property of another, or violation of law, whether willful or negligent, are against the policy of the law."

97. Despite the statutory exoneration given to insurance companies for liability for losses
caused by willful acts of an insured, and despite the fact that the public policy of the State of California

¹⁴ ftp://ftp2.cpuc.ca.gov/PG&E20150130ResponseToA1312012Ruling/2013/03/SB_GT&S_0039691.pdf

1 invalidates any insurance contract that purports to provide coverage for punitive damages, PG&E has
2 purchased policies of insurance from offshore companies in Bermuda, London, and elsewhere that
3 expressly provide coverage for punitive damages in amounts that exceed hundreds of millions of
4 dollars.

5 98. PG&E purchased insurance policies that cover punitive damages for the purpose of
6 providing corporate security at the cost of public safety. This contributed to a culture of reckless
7 disregard for the safety of the residents of Northern and Central California and contributed to the cause
8 of the NorCal Fires.

9 **D. PG&E’S CORPORATE CULTURE IS THE ROOT CAUSE OF THE**
10 **NORCAL FIRES**

11 99. PG&E is a virtual monopoly in the provision of gas and electric services to the general
12 public in almost all counties and cities across Northern and Central California.¹⁵

13 100. Over the past thirty-plus years, PG&E has been subject to numerous fines, penalties,
14 and/or convictions as a result of its failure to abide by safety rules and regulations, including the fines,
15 penalties, settlements, and convictions detailed above. Despite these recurring punishments, PG&E
16 continues to display a shocking degree of arrogant complacency, refuses to modify its behavior, and
17 continues to conduct its business with a conscious disregard for the safety of the public, including
18 Plaintiffs.

19 101. Rather than spend the money it obtains from customers for infrastructure maintenance
20 and safety, PG&E funnels this funding to boost its own corporate profits and compensation. This
21 pattern and practice of favoring profits over having a solid and well-maintained infrastructure that
22 would be safe and dependable for years to come left PG&E vulnerable to an increased risk of a
23 catastrophic event such as the NorCal Fires.

24 102. For example, according to documents released by The Utility Reform Network
25 (“TURN”), PG&E planned to replace a segment of the San Bruno pipeline in 2007 that it identified as
26 one of the riskiest pipelines in PG&E’s system. PG&E collected \$5 million from its customers to
27 complete the project by 2009, but instead deferred the project until it was too late and repurposed the

28 _____
¹⁵ A few cities like Palo Alto and Sacramento provide their own gas and electric utility services.

1 money to other priorities. That same year, PG&E spent nearly \$5 million on bonuses for six of its top
2 executives.

3 103. Moreover, PG&E has implemented multiple programs that provide monetary
4 incentives to its employees, agents, and/or contractors to not protect public safety. Prior to the Butte
5 Fire, PG&E chose to provide a monetary incentive to its contractors to cut fewer trees, even though
6 PG&E was required to have an inspection program in place that removed dangerous trees and reduced
7 the risk of wildfires. Robert Urban, a regional officer for a PG&E contractor, stated that he had a
8 concern that the bonus system incentivized his employees to not do their job, but PG&E chose to keep
9 this program despite knowing this risk. Similarly, prior to the San Bruno explosion, PG&E had a
10 program that provided financial incentives to employees to not report or fix gas leaks and keep repair
11 costs down. This program resulted in the failure to detect a significant number of gas leaks, many of
12 which were considered serious leaks. According to Richard Kuprewicz, an independent pipeline
13 safety expert, PG&E's incentive system was "training and rewarding people to do the wrong thing,"
14 emblematic of "a seriously broken process," and "explains many of the systemic problems in this
15 operation that contributed to the [San Bruno] tragedy."¹⁶

16 104. As detailed above, the NorCal Fires are just one example of the many tragedies that
17 have resulted from PG&E's enduring failure to protect the public from the dangers associated with its
18 operations. PG&E power lines, transformers, conductors, poles, insulators, and/or other electrical
19 equipment have repeatedly started wildfires due to PG&E's ongoing failure to create, manage,
20 implement, and/or maintain effective vegetation management programs for the areas near and around
21 its electrical equipment. Further, PG&E's aging infrastructure has caused multiple disasters
22 throughout California.

23 105. Beginning late in the evening on or about October 8, 2017, the NorCal Fires began
24 raging in and around multiple counties in the Northern Bay Area, including the Tubbs Fire in Sonoma
25 County and Napa County. These fires quickly ripped through neighborhoods, destroying everything
26 in their path, including residences, structures, businesses, trees, and vegetation in Santa Rosa.

27
28 ¹⁶ <http://www.sfgate.com/news/article/PG-E-incentive-system-blamed-for-leak-oversights-2424430.php>

1 106. The NorCal Fires are some of the most destructive fires in California’s history. In just
2 a week, the fires caused the deaths of at least 43 people, displaced about 100,000 people who were
3 forced to leave their homes and search for safety, burned over 200,000 acres, and destroyed at least
4 8,000 homes and buildings.

5 107. As detailed more fully above, PG&E’s failures to reduce the risk of wildfire are serious
6 and widespread, and contributed to the cause of the NorCal Fires. The reclosers in PG&E’s system
7 were set to avoid outages and not to avoid fires, even though fire conditions were known to be extreme.
8 PG&E failed to have a reasonable system in place to make sure that its contractors were properly
9 performing tree and/or vegetation inspections and removal, pole clearance, and pole inspections.
10 PG&E failed to take any steps to look for what it calls Facility Protect Trees (trees which pose a risk
11 of falling into the line), even though it knew such trees were likely to exist after its contractors had
12 performed their work. PG&E failed to properly construct its power lines and thereafter failed to take
13 reasonable steps to make sure the poles and lines were sufficiently strong to support lines and other
14 equipment that were added by third parties. Finally, despite knowing that wildfires posed the greatest
15 risk to the public from its electrical operations, PG&E chose to not ensure that its contractors were
16 properly trained in tree inspections and removal, chose to not ensure that its contractors hired people
17 who met PG&E’s minimum qualifications, and chose to not participate in the training of its
18 contractors. Similar failures caused the Butte Fire, yet PG&E continues to deny liability for that fire
19 and even claims that it did nothing wrong.

20 108. PG&E responded to the NorCal Fires by acknowledging that there were problems with
21 its electrical equipment on the night of Sunday, October 8, 2017. However, PG&E blamed its failing
22 electrical equipment on winds combined with “millions of trees weakened by 2 years of drought and
23 recent renewed vegetation growth from winter storms.”¹⁷

24 109. At all times relevant to this action PG&E had specific knowledge that wildfire is the
25 greatest risk to the public from its operations. PG&E specifically knew that wildfire could result in
26 death and injury to members of the public and could result in the destruction of structures and property.
27

28 _____
¹⁷ <http://www.pgecurrents.com/2017/10/11/pge-statement-on-north-bay-wildfires/>

1 PG&E’s own “Adjective Fire Index” rating indicated “extreme,” the highest rating, for October 8 and
2 October 9, 2017.

3 110. PG&E chose to accept vegetation management practices that would result in 17 tree
4 related power outages for each 1,000 miles of line – a total of 1,921,000 outages over its 113,000 miles
5 of distribution lines – despite knowing that such outages could result in wildfires that would kill
6 people, injure people, burn homes, and destroy property. PG&E chose to accept that its vegetation
7 management practices annually failed to identify over 500,000 trees along its distribution lines that
8 were not in compliance with state-mandated clearance distances or that were dead, diseased, dying, or
9 otherwise posed an immediate hazard to its power lines and poles. PG&E consciously chose to accept
10 those risks without providing any warning to the public.

11 111. PG&E has specifically acknowledged it knew that if it spent more money on its
12 vegetation management program it could reduce the risk of wildfire. PG&E cited its limited resources
13 as the reason it chose to put the public in danger, while at the same time it was making approximately
14 \$1,400,000,000 in profits each year. Therefore, PG&E made a conscious decision to put profits over
15 the safety of the public. PG&E’s choice resulted numerous deaths, injuries, and damage to structures
16 and property, just as PG&E knew it could, when it made the choice.

17 **E. THE TUBBS FIRE**

18 112. The Tubbs Fire was caused by tree-line contact, line-to-line contact, and the explosion
19 of a PG&E transformer. Cal Fire reported that the origin of the Tubbs Fire was in or around Highway
20 128 and Bennett Lane, in Calistoga, California. Cal Fire also reported that the Tubbs Fire started at
21 or around 9:45 p.m. on Sunday, October 8, 2017.¹⁸

22 113. PG&E’s website reports electric outages in real time. According to the website: any
23 person can “select an icon on the map to view outage details or request outage updates. The map is
24 updated every 15 minutes with any new information.”¹⁹

25 114. Immediately following the start of the Tubbs Fire, PG&E’s website reported two 2
26 outages, right next to each other, that were at or very near the origin of the Tubbs Fire.²⁰

27 ¹⁸ http://www.fire.ca.gov/current_incidents/incidentdetails/Index/1867

28 ¹⁹ https://m.pge.com/?WT.pgeac=Home_Outages#outages

²⁰ *Ibid.*

1 115. After containment of the Tubbs Fire, there was caution tape around the PG&E power
2 pole located at Highway 128 and Bennett Lane, where the outage reports originated. There are several
3 trees that are dangerously close to the subject power pole and the electric wires coming off the pole.
4 There was also electric equipment on the ground that appears to have come off the pole.

5 116. In particular, the Tubbs Fire destroyed approximately five percent of Santa Rosa's
6 housing stock, burned over 36,000 acres across two counties, and killed at least 19 individuals.

7 117. Residents have been displaced forced to flee in the dark hours before dawn when the
8 Fires grew and spread. Many left on only a moment's notice, fleeing from flames without their
9 belongings, as their entire neighborhoods were consumed by smoke and fire.

10 118. On the evening of Sunday, October 8, 2017, emergency responders began receiving
11 dozens of calls regarding fires and other hazards in and around Northern California. At least ten of
12 the calls reported electrical problems, transformer explosions, transformer fires, arcing transformers,
13 down power lines, arcing power lines, and/or flames in trees. Further, several calls reported problems
14 with PG&E's electrical equipment in the vicinity of the Tubbs Fire, including a call at approximately
15 9:24 p.m. reporting a PG&E transformer explosion, a call at approximately 9:58 p.m. reporting down
16 power lines, a call at approximately 10:14 p.m. reporting flames in trees, PG&E transformer explosion,
17 a call at approximately 10:34 p.m. reporting falling power line wires.²¹

18 119. One witness in Santa Rosa observed a power line and/or transformer near his home
19 sparking for approximately two minutes at or around 9:50 p.m. The sparks fell onto trees that were
20 right next to PG&E's power lines and other electrical equipment. After the sparking stopped, the
21 witnesses' neighborhood lost power and PG&E's power lines and/or other electrical equipment fell
22 down. This sparking occurred just outside of the Tubbs Fire.

23 120. Plaintiffs are informed that witnesses observed and described downed power lines,
24 exploding transformers, improper fuses, improper connections, improper clearances, aged and
25 defective poles, and unrepaired poles in the area of the Tubbs Fire.

26
27
28

²¹ <http://www.mercurynews.com/2017/10/10/pge-power-lines-linked-to-wine-country-fires>

1 **V. CAUSES OF ACTION**

2 **A. FIRST CAUSE OF ACTION FOR INVERSE CONDEMNATION AGAINST**
3 **PG&E**

4 121. Plaintiffs incorporate and reallege each of the paragraphs above as though fully set
5 forth herein.

6 122. Plaintiffs bring this cause of action for Inverse Condemnation against PG&E.

7 123. On or about October 8, 2017, Plaintiffs were owners of real property and/or personal
8 property located within Sonoma County in the area of the Tubbs Fire.

9 124. Prior to and on October 8, 2017, Defendants, and/or each of them, installed, owned,
10 operated, used, controlled, and/or maintained power lines and other electrical equipment for the public
11 delivery of electricity, including power lines in and around the location of the Tubbs Fire.

12 125. On October 8, 2017, as a direct, necessary, and legal result of Defendants' installation,
13 ownership, operation, use, control, management, and/or maintenance for a public use of its power lines
14 and/or other electrical equipment, the power lines and/or other electrical equipment came in contact
15 with vegetation and/or other live conductors, and/or broke, failed, fell down, sparked, and/or exploded,
16 causing a wildfire that burned thousands of acres, including property owned or occupied by Plaintiffs.

17 126. The above described damage to Plaintiffs' property was legally and substantially
18 caused by the actions of Defendants, and/or each of them, in their installation, ownership, operation,
19 use, control, management, and/or maintenance of the power lines and other electrical equipment for a
20 public use.

21 127. Plaintiffs have not received adequate compensation for the damage to and/or
22 destruction of their property, thus constituting a taking or damaging of Plaintiffs' property by
23 Defendants, and/or each of them, without just compensation.

24 128. As a direct and legal result of the actions and/or omissions of the Defendants, Plaintiffs
25 suffered damages to their real and/or personal property, including loss of use, interference with access,
26 and/or diminution in value and/or marketability in an amount according to proof at trial.

27 129. As a direct and legal result of the actions and/or omissions of the Defendants, Plaintiffs
28 have incurred and will continue to incur costs, disbursements, and/or expenses, including reasonable

1 attorney, appraisal, engineering, and/or other expert fees due to the conduct of the Defendants in
2 amounts that cannot yet be ascertained, but which are recoverable pursuant to Code of Civil Procedure
3 § 1036.

4 **B. SECOND CAUSE OF ACTION FOR NEGLIGENCE AGAINST ALL**
5 **DEFENDANTS**

6 130. Plaintiffs hereby reallege and incorporate by reference each and every allegation
7 contained above as though the same were set forth herein in full.

8 131. Plaintiffs bring this cause of action for negligence against PG&E.

9 132. The Tubbs Fire was a direct and legal result of the negligence, carelessness,
10 recklessness, and/or unlawfulness of Defendants, and/or each of them. Defendants, and/or each of
11 them, breached their respective duties owed individually and/or collectively to Plaintiffs by, including
12 but not limited to: (1) failing to comply with the applicable statutory, regulatory, and/or professional
13 standards of care; (2) failing to timely and properly maintain, manage, inspect, and/or monitor the
14 subject power lines, electrical equipment, and/or adjacent vegetation; (3) failing to properly cut, trim,
15 prune, and/or otherwise keep vegetation at a sufficient distance to avoid foreseeable contact with
16 power lines; (4) failing to trim and/or prune vegetation so as to avoid creation of a safety hazard within
17 close proximity of the subject power line; (5) failing to make the overhead lines safe under all the
18 exigencies created by surrounding circumstances and conditions; (6) failing to conduct adequate,
19 reasonably prompt, proper, effective, and/or frequent inspections of the electrical transmission lines,
20 wires, and/or associated equipment; (7) failing to design, construct, monitor, and/or maintain high
21 voltage electrical transmission, and/or distribution power lines in a manner that avoids the potential to
22 ignite a fire during long, dry seasons by allowing vegetation to grow in an unsafe manner; (8) failing
23 to install the equipment necessary and/or to inspect and repair the equipment installed, to prevent
24 electrical transmission and distribution lines from improperly sagging, operating, and/or making
25 contact with other metal wires placed on its poles and igniting fires; (9) failing to keep equipment in
26 a safe condition and/or manage equipment to prevent fire at all times; (10) failing to de-energize power
27 lines during fire prone conditions; (11) failing to de-energize power lines after the fire's ignition;

1 and/or (12) failing to properly train and to supervise employees and agents responsible for
2 maintenance and inspection of the distribution lines and/or vegetation areas nearby these lines.

3 133. As a direct and legal result of Defendants' actions and/or omissions, Plaintiffs were
4 injured in their health, strength, and/or activity in an amount according to proof at trial.

5 134. As a further direct and legal result of Defendants' actions and/or omissions, Plaintiffs
6 were required to and/or continue to employ physicians and other healthcare providers to examine,
7 treat, and/or care for their injuries. Plaintiffs have incurred, and will continue to incur, medical, and
8 incidental expenses in an amount according to proof at trial.

9 135. As a further direct and legal result of Defendants' actions and/or omissions, Plaintiffs
10 have suffered and/or continue to suffer great mental pain and suffering, including worry, emotional
11 distress, humiliation, embarrassment, anguish, anxiety, and nervousness. Plaintiffs are informed and
12 believe, and upon such information and belief allege, that such injuries have resulted in debilitating
13 injuries in an amount according to proof at trial.

14 136. As a further direct and legal result of Defendants' actions and/or omissions, Plaintiffs
15 have suffered a loss of income, loss of earning capacity, loss of profits, increased expenses due to
16 displacement, and/or other consequential economic losses in an amount according to proof at trial.

17 137. As a further direct and legal result of Defendants' actions and/or omissions, Plaintiffs
18 have suffered damage to real property, including the loss of vegetation, trees, and structures, the
19 creation of hydrophobic soil conditions, and a loss of use, benefit, goodwill, diminution in value,
20 and/or enjoyment of such property in an amount according to proof at trial.

21 138. As a further direct and legal result of Defendants' actions and/or omissions, Plaintiffs
22 have suffered damage to and/or a loss of personal property, including but not limited to items of
23 peculiar value to Plaintiffs in an amount according to proof at trial.

24 139. As a further direct and legal result of Defendants' actions and/or omissions, Plaintiffs
25 have incurred and will continue to incur expenses and other economic damages related to the damage
26 to their property, including costs relating to storage, clean-up, disposal, repair, depreciation, and/or
27 replacement of their property, and/or other related consequential damages in an amount according to
28 proof at trial.

1 140. As detailed in above, PG&E’s safety record is inexcusably horrendous. PG&E has had
2 several other incidents that caused injury and death to California residents, and destroyed properties,
3 and has been subject to numerous penalties, including, but not limited to record fines following the
4 San Bruno Explosion, as a result of their failure to comply with safety standards, rules and regulations.
5 Despite these fines and punishments, Defendants failed to modify their behavior, continuing their
6 practice of placing their own profits over safety and conducting their business with a conscious
7 disregard for the safety and well-being of the public and property. As a result, in August of this year,
8 the California Public Utilities Commission voted unanimously for an investigation into the corporate
9 culture of PG&E to determine if PG&E’s representations that safety was its priority matches PG&E’s
10 long-term practices.

11 141. The NorCal Fires were the result of PG&E’s continued practice of prioritizing profits
12 over safety, wherein they failed to properly maintain and inspect their power lines, and the surrounding
13 vegetation, knowing that the likely result was a fire that would pose risk of serious injury and/or death,
14 and damage to property.

15 142. At all times prior to the subject incident, the conduct of Defendants, by act and/or
16 omission, demonstrated a wanton and/or reckless indifference for the required maintenance of PG&E’s
17 electrical infrastructure and the surrounding vegetation, as well as a conscious disregard for and a
18 foreseeable risk of serious injury and death of others. The wrongful conduct of Defendants was more
19 than just inadvertence, error of judgment or negligence. Rather, Defendants conduct was despicable
20 and showed malice as defined by Civil Code § 3294. The state has an extremely strong interest in
21 imposing sufficiently high punitive damages in actions where the malicious conduct of Defendants
22 leads to the wrongful death of one of its citizens. As a result, Plaintiffs request that the trier of fact, in
23 the exercise of sound discretion of the rights and safety of others, such that additional damages for the
24 sake of example and sufficient to punish said Defendants for their despicable conduct, in an amount
25 reasonably related to Plaintiffs’ actual damages and Defendants’ wealth, yet sufficiently large enough
26 to be an example to others and to deter Defendants and others from engaging in similar conduct in the
27 future.

1 **C. THIRD CAUSE OF ACTION FOR VIOLATIONS OF STATUTE AGAINST**
2 **ALL DEFENDANTS PURSUANT TO PUBLIC UTILITIES CODE § 2106**

3 143. Plaintiffs hereby reallege and incorporate by reference each and every allegation
4 contained above as though the same were set forth herein in full.

5 144. Plaintiffs bring this cause of action for violations of the Constitution, the laws of
6 California, and/or orders and decisions of the California Public Utilities Commission against PG&E.

7 145. This private right of action is authorized by Public Utilities Code § 2106, which permits
8 action by a person or entity who have suffered loss, damages, or injury caused by the acts of a public
9 utility which does, causes to be done, or permits any act, matter, or thing prohibited or declared
10 unlawful, or which omits to do any act, matter, or thing required to be done, either by the Constitution,
11 any law of this State, or any order or decision of the commission.

12 146. Defendants at all times herein had a duty to properly design, construct, operate,
13 maintain, inspect, and manage its electrical infrastructure as well as trim trees and vegetation in
14 compliance with all relevant provisions of applicable orders, decisions, directions, rules or statutes,
15 including, but not limited to, those stated in: (a) General Order No. 95, Rules 31.1-31.5, 35, 38, 43,
16 43.2, 44.1-44.4, and 48-48.1; (b) General Order No. 165; (c) Code of Civil Procedure § 733; (d) Public
17 Resources Code §§ 4292, 4293, and 4435; and (e) Public Utilities Code § 451.

18 147. The violation of a legislative enactment or administrative regulation which defines a
19 minimum standard of conduct is unreasonable per se.

20 148. Defendants violated the above listed requirements, by:

- 21 a. Failing to service, inspect or maintain electrical infrastructure, structures and
22 vegetation affixed to and in close proximity to high voltage electrical lines;
- 23 b. Failing to provide electrical supply systems of suitable design;
- 24 c. Failing to construct and to maintain such systems for their intended use of safe
25 transmission of electricity considering the known condition of the combination of the
26 dry season and vegetation of the area, resulting in Plaintiff(s) being susceptible to the
27 ignition and spread of fire and the fire hazard and danger of electricity and electrical
28 transmission and distribution;

- 1 d. Failing to properly design, construct, operate, maintain, inspect and manage its
2 electrical supply systems and the surrounding arid vegetation resulting in said
3 vegetation igniting and accelerating the spread of the fire;
- 4 e. Failing to properly safeguard against the ignition of fire during the course and scope of
5 employee work on behalf of PG&E; and
- 6 f. Failing to comply with the enumerated legislative enactments and administrative
7 regulations.

8 149. Defendants proximately and substantially caused the destruction, damage, and injury
9 to Plaintiffs by their violations of applicable orders, decisions, directions, rules or statutes, including,
10 but not limited to, those stated in: (a) General Order No. 95, Rules 31.1-31.5, 35, 38, 43, 43.2, 44.1-
11 44.4, and 48-48.1; (b) General Order No. 165; (c) Code of Civil Procedure § 733; (d) Public Resources
12 Code §§ 4292, 4293, and 4435; and (e) Public Utilities Code § 4511.

13 150. Plaintiffs were and are within the class of persons for whose protection applicable
14 orders, decisions, directions, rules or statutes were adopted, including, but not limited to, those stated
15 in: (a) General Order No. 95, Rules 31.1-31.5, 35, 38, 43, 43.2, 44.1-44.4, and 48-48.1; (b) General
16 Order No. 165; (c) Code of Civil Procedure § 733; (d) Public Resources Code §§ 4292, 4293, and
17 4435; and (e) Public Utilities Code § 451.

18 151. As alleged herein according to proof, Defendants are liable to Plaintiffs for all loss,
19 damages and injury caused by and resulting from Defendants' violation of applicable orders, decisions,
20 directions, rules or statutes were adopted, including, but not limited to, those stated in: (a) General
21 Order No. 95, Rules 31.1-31.5, 35, 38, 43, 43.2, 44.1-44.4, and 48-48.1; (b) General Order No. 165;
22 (c) Code of Civil Procedure § 733; (d) Public Resources Code §§ 4292, 4293, and 4435; and (e) Public
23 Utilities Code § 451.

24 152. As a further direct and legal result of the wrongful acts and/or omissions of Defendants,
25 and/or each of them, Plaintiffs seek the recovery of punitive and exemplary damages against
26 Defendants as set forth above.

1 **D. FOURTH CAUSE OF ACTION FOR PREMISES LIABILITY AGAINST ALL**
2 **DEFENDANTS**

3 153. Plaintiffs hereby reallege and incorporate by reference each and every allegation
4 contained above as though the same were set forth herein in full.

5 154. Plaintiffs bring this cause of action for Premises Liability against PG&E.

6 155. Defendants, and/or each of them, were the owners of an easement and/or real property
7 in the area of origin of the Tubbs Fire and/or were the owners of the power lines upon said easement
8 and/or right of way.

9 156. Defendants, and/or each of them, acted wantonly, unlawfully, carelessly, recklessly,
10 and/or negligently in failing to properly inspect, manage, maintain, and/or control the vegetation near
11 its power lines along the real property and easement, allowing an unsafe condition presenting a
12 foreseeable risk of fire danger to exist on said property.

13 157. As a direct, proximate and legal result of the wrongful acts and/or omissions of
14 Defendants, and/or each of them, Plaintiffs suffered, and continue to suffer, the injuries and damages
15 as set forth above.

16 158. As a further direct and legal result of the wrongful acts and/or omissions of Defendants,
17 and/or each of them, Plaintiffs seek the recovery of punitive and exemplary damages against
18 Defendants as set forth above.

19 **E. FIFTH CAUSE OF ACTION FOR TRESPASS AGAINST ALL DEFENDANTS**

20 159. Plaintiffs hereby reallege and incorporate by reference each and every allegation
21 contained above as though the same were set forth herein in full.

22 160. Plaintiffs bring this cause of action for Trespass against PG&E.

23 161. At all times relevant herein, Plaintiffs were the owners, tenants, and/or lawful
24 occupants of property damaged by the Tubbs Fire.

25 162. Defendants, and/or each of them, in wrongfully acting and/or failing to act in the
26 manner set forth above, caused the Tubbs fire to ignite and/or spread out of control, causing harm,
27 damage, and/or injury to Plaintiffs herein, resulting in a trespass upon Plaintiffs' property interests.

28

1 163. Plaintiffs did not grant permission for Defendants to wrongfully act in manner so as to
2 cause the Tubbs Fire, and thereby produce a wildland fire which spread and wrongfully entered upon
3 their property, resulting in the harm, injury, and/or damage alleged above.

4 164. As a direct and legal result of the wrongful conduct of Defendants, and/or each of them,
5 which led to the trespass, Plaintiffs have suffered and will continue to suffer damages as set forth
6 above, in an amount according to proof at trial.

7 165. As a further direct and legal result of the wrongful conduct of Defendants, Plaintiffs,
8 whose land was under cultivation, and/or was used for raising livestock or was intended to be used for
9 raising livestock, have hired and retained counsel to recover compensation for loss and damage and
10 are entitled to recover all attorney's fees, expert fees, consultant fees, and litigation costs and expenses,
11 as allowed under Code of Civil Procedure § 1021.9.

12 166. As a further direct and legal result of the conduct of Defendants, Plaintiffs seek treble
13 damages for injuries to trees or timber on Plaintiffs' property as allowed under Code of Civil Procedure
14 § 733.

15 167. As a further direct and legal result of the conduct of Defendants, Plaintiffs seek double
16 and/or treble damages for the negligent, willful, and wrongful injuries to timber, trees, or underwood
17 on their property, as allowed under Civil Code § 3346.

18 168. As a direct and legal result of the wrongful acts and/or omissions of Defendants, and/or
19 each of them, Plaintiffs suffered, and continue to suffer, the injuries and damages as set forth above.

20 169. As a further direct and legal result of the wrongful acts and/or omissions of Defendants,
21 and/or each of them, Plaintiffs seek the recovery of punitive and exemplary damages against
22 Defendants as set forth above.

23 **F. SIXTH CAUSE OF ACTION FOR PUBLIC NUISANCE AGAINST ALL**
24 **DEFENDANTS**

25 170. Plaintiffs hereby reallege and incorporate by reference each and every allegation
26 contained above as though the same were set forth herein in full.

27 171. Plaintiffs bring this cause of action for Public Nuisance against PG&E.
28

1 172. Plaintiffs own and/or occupy property at or near the site of the fire that is the subject of
2 this action. At all relevant times herein, Plaintiffs had a right to occupy, enjoy, and/or use their
3 property without interference by Defendants, and/or each of them.

4 173. Defendants, and/or each of them, owed a duty to the public, including Plaintiffs herein,
5 to conduct their business, in particular the maintenance and/or operation of power lines, power poles,
6 and/or electrical equipment on power poles, and adjacent vegetation in proximity to their power lines
7 in Sonoma and Napa County/ies in a manner that did not threaten harm or injury to the public welfare
8 from operation of those power lines.

9 174. Defendants and/or each of them, by acting and/or failing to act, as alleged hereinabove,
10 created a condition that was harmful to the health of the public, including these Plaintiffs and that
11 interfered with the comfortable occupancy, use, and/or enjoyment of Plaintiffs' property.

12 175. Plaintiffs did not consent, expressly or impliedly, to the wrongful conduct of
13 Defendants, and/or each of them, in acting in the manner set forth above.

14 176. The hazardous condition which was created by and/or permitted to exist by Defendants,
15 and/or each of them, affected a substantial number of people within the general public, including
16 Plaintiffs herein, and constituted a public nuisance under Civil Code §§ 3479 and 3480 and Public
17 Resources Code § 4171. Further, the ensuing uncontrolled wildfire constituted a public nuisance under
18 Public Resources Code § 4170.

19 177. The damaging effects of Defendants' maintenance of a fire hazard and the ensuing
20 uncontrolled wildfire are ongoing and affect the public at large. As a result of the fire's location,
21 temperature, and/or duration, extensive areas of hydrophobic soils developed within the fire's
22 perimeter. This further caused significant post fire runoff hazards to occur, including hillside erosion,
23 debris flow hazards, and sediment laden flow hazards. As a result, large quantities of ash and sediment
24 will be deposited in perennial and ephemeral watercourses.

25 178. As a direct and legal result of the conduct of Defendants, and/or each of them, Plaintiffs
26 suffered harm that is different from the type of harm suffered by the general public. Specifically,
27 Plaintiffs have lost the occupancy, possession, use, and/or enjoyment of their land, real and/or personal
28 property, including, but not limited to: a reasonable and rational fear that the area is still dangerous; a

1 diminution in the fair market value of their property; an impairment of the salability of their property;
2 soils that have become hydrophobic; exposure to an array of toxic substances on their land; the
3 presence of “special waste” on their property that requires special management and disposal; and a
4 lingering smell of smoke, and/or constant soot, ash, and/or dust in the air.

5 179. As a further direct and legal result of the conduct of Defendants, and/or each of them,
6 Plaintiffs have suffered, and will continue to suffer, discomfort, anxiety, fear, worries, annoyance,
7 and/or stress attendant to the interference with Plaintiffs’ occupancy, possession, use and/or enjoyment
8 of their property, as alleged above. A reasonable, ordinary person would be reasonably annoyed or
9 disturbed by the condition created by Defendants, and/or each of them, and the resulting fire. The
10 conduct of Defendants and/or each of them, is unreasonable and the seriousness of the harm to the
11 public, including Plaintiffs herein, outweighs the social utility of Defendants’ conduct.

12 180. The individual and/or collective conduct of Defendants set forth above, and/or each of
13 them, resulting in the Tubbs Fire is not an isolated incident, but is ongoing and/or a repeated course
14 of conduct, and Defendants’ prior conduct and/or failures have resulted in other fires and damage to
15 the public.

16 181. The unreasonable conduct of Defendants, and/or each of them, is a direct and legal
17 cause of the harm, injury, and/or damage to the public, including Plaintiffs herein.

18 182. Defendants, and/or each of them, have individually and/or collectively, failed and
19 refused to conduct proper inspections and to properly trim, prune, and/or cut vegetation in order to
20 ensure the sole delivery of electricity to residents through the operation of power lines in the affected
21 area, and Defendants’ individual and/or collective failure to do so exposed every member of the public,
22 including those residing and/or owning property in Napa and Sonoma Counties, to a foreseeable
23 danger of personal injury, death, and/or a loss of or destruction real and personal property.

24 183. The conduct of Defendants, and/or each of them, set forth above constitutes a public
25 nuisance within the meaning of Civil Code §§ 3479 and 3480, Public Resources Code §§4104 and
26 4170, and Code of Civil Procedure § 731. Under Civil Code § 3493, Plaintiffs have standing to
27 maintain an action for public nuisance because the nuisance is especially injurious to Plaintiffs
28 because, as more specifically described above, it is injurious and/or offensive to the senses of the

1 Plaintiffs, unreasonably interferes with the comfortable enjoyment of their properties, and/or
2 unlawfully obstructs the free use, in the customary manner, of Plaintiffs' properties, and have suffered
3 harm, injury, and damages.

4 184. For these reasons, Plaintiffs seek a permanent injunction ordering that Defendants, and
5 each of them, stop continued violation of: (a) General Order No. 95, Rules 31.1-31.5, 35, 38, 43, 43.2,
6 44.1-44.4, and 48-48.1; (b) General Order No. 165; (c) Public Resources Code §§ 4292, 4293, and
7 4435; and (d) Public Utilities Code § 451. Plaintiffs also seek an order directing Defendants to abate
8 the existing and continuing nuisance described above.

9 **G. SEVENTH CAUSE OF ACTION PRIVATE NUISANCE AGAINST ALL**
10 **DEFENDANTS**

11 185. Plaintiffs hereby reallege and incorporate by reference each and every allegation
12 contained above as though the same were set forth herein in full.

13 186. Plaintiffs bring this cause of action for Private Nuisance against PG&E.

14 187. Defendants, and/or each of them, by their acts and/or omissions set forth above, directly
15 and legally caused an obstruction to the free use of Plaintiffs' property, an invasion the Plaintiffs' right
16 to use their property, and/or an interference with the enjoyment of Plaintiffs' property, resulting in
17 Plaintiffs' suffering unreasonable harm and substantial actual damages constituting a nuisance
18 pursuant to Civil Code §§ 3479 and 3481.

19 188. As a direct and legal result of the wrongful acts and/or omissions of Defendants, and/or
20 each of them, Plaintiffs suffered, and continue to suffer loss and damage to property, discomfort,
21 annoyance and emotional distress, and the injuries and damages as set forth above.

22 189. As a further direct and legal result of the wrongful acts and/or omissions of Defendants,
23 and/or each of them, Plaintiffs seek the recovery of punitive and exemplary damages against
24 Defendants as set forth above.

25 **H. EIGHTH CAUSE OF ACTION FOR VIOLATIONS OF HEALTH & SAFETY**
26 **CODE § 13007 AGAINST ALL DEFENDANTS**

27 190. Plaintiffs hereby reallege and incorporate by reference each and every allegation
28 contained above as though the same were set forth herein in full.

1 191. Plaintiffs bring this cause of action for violations of Health & Safety Code § 13007
2 against PG&E.

3 192. Defendants, and/or each of them, by their acts and/or omissions described above, set
4 fire to and/or allowed fire to be set to the property of another in violation of Health & Safety Code §
5 13007.

6 193. As a direct and legal result of PG&E's violation of Health & Safety Code § 13007,
7 Plaintiffs suffered property damages that are recoverable from Defendants under Health & Safety
8 Code § 13007.21, and continue to suffer the injuries and damages described above.

9 194. As a further direct and legal result of Defendants' violations of Health & Safety Code
10 § 13007, Plaintiffs are entitled to reasonable attorney's fees under Code of Civil Procedure § 1021.9.

11 195. As a further direct and legal result of the wrongful acts and/or omissions of Defendants,
12 and/or each of them, Plaintiffs seek the recovery of punitive and exemplary damages against
13 Defendants as set forth above.

14 **VI. PLAINTIFFS DEMAND A JURY TRIAL**

15 196. Plaintiffs hereby demand a jury trial.

16 **VII. PRAYER**

17 WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, as follows:

18 **For the Cause of Action for Inverse Condemnation:**

- 19 a. Repair, depreciation, and/or replacement of damaged, destroyed, and/or lost personal
20 and/or real property;
- 21 b. Loss of the use, benefit, goodwill, and enjoyment of the Plaintiffs' real and/or
22 personal property;
- 23 c. Loss of wages, earning capacity and/or business profits and/or any related
24 displacement expenses;
- 25 d. All costs of suit including attorney's fees, expert fees, and related costs;
- 26 e. Any and all relief, compensation, or measure of damages available to Plaintiffs by
27 law based on the injuries and damages suffered by Plaintiffs;
- 28 f. For prejudgment interest;

- 1 g. For all costs of suit incurred herein; and
- 2 h. For such other and further relief as the Court deems just and proper.

3 **For the Causes of Action for: Negligence; Private Right of Action under Public Utilities**
4 **Code § 2106; Premises Liability; Trespass; Public Nuisance; Private Nuisance; and Violations**
5 **of Health & Safety Code § 13007:**

- 6 a. Repair, depreciation, and/or replacement of damaged, destroyed, and/or lost personal
7 and/or real property;
- 8 b. Loss of the use, benefit, goodwill, and enjoyment of the Plaintiffs' real and/or
9 personal property;
- 10 c. Loss of wages, earning capacity and/or business profits and/or any related
11 displacement expenses;
- 12 d. For general damages in an amount according to proof;
- 13 e. For special damages in an amount according to proof;
- 14 f. For treble damages in an amount according to proof for injuries to trees as allowed
15 under Code of Civil Procedure § 733;
- 16 g. For treble or double damages in an amount according to proof for wrongful injuries to
17 timber, trees, or underwood, as allowed under Civil Code § 3346;
- 18 h. For exemplary damages in an amount according to proof as allowed under Code of
19 Civil Procedure § 3294;
- 20 i. For exemplary damages in an amount according to proof as allowed under Public
21 Utilities Code § 2106;
- 22 j. For attorney's fees, expert fees, consultant fees and litigation costs and expenses as
23 allowed under Code of Civil Procedure § 1021.9;
- 24 k. For prejudgment interest;
- 25 l. For all costs of suit incurred herein; and
- 26 m. For such other and further relief as the Court deems just and proper.

1 DATED: December 20, 2017

Respectfully submitted,

2 **COREY, LUZAICH, DE GHETALDI & RIDDLE LLP**

3 By:  _____

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