

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
1/16/2018 8:00 AM
By: Terri Chavez, Deputy

1 PETER J. BEZEK (102310)
pbezek@foleybezek.com
2 THOMAS G. FOLEY, JR. (65812)
tfoley@foleybezek.com
3 ROBERT A. CURTIS (203870)
rcurtis@foleybezek.com
4 FOLEY BEZEK BEHLE & CURTIS, LLP
15 West Carrillo Street
Santa Barbara, California 93101
5 Telephone: (805) 962-9495
6 Facsimile: (805) 962-0722

7 ALEXANDER ROBERTSON, IV (127042)
arobertson@arobertsonlaw.com
8 MARK J. UYENO (189063)
muyeno@arobertsonlaw.com
9 ROBERTSON & ASSOCIATES, LLP
32121 Lindero Canyon Road, Suite 200
Westlake Village, California 91361
10 Telephone: (818) 851-3850
11 Facsimile: (818) 851-3851

JOSEPH LIEBMAN (110836)
jliebmanlaw@gmail.com
LAW OFFICES OF JOSEPH LIEBMAN, P.C.
4250 Mariposa Drive
Santa Barbara, California 93110
Telephone: (805) 563-2421

12 Attorneys for Plaintiffs

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA

14 COUNTY OF SANTA BARBARA

15 LORI ANN LIEBERMAN, as Trustee of the
Lori Ann Lieberman 2001 Living Trust;
16 PLUM GOODS, LLC, a California limited
liability company;
17 AIMEE KLAUS, individually and as guardian
ad litem for ALYSSA MILLER, a minor; and
18 HOLDEN MILLER, an individual,

19 *Plaintiffs,*

20 vs.

21 SOUTHERN CALIFORNIA EDISON
COMPANY, a California corporation;
22 MONTECITO WATER DISTRICT
FINANCING CORPORATION, a California
23 corporation;
and DOES 1 through 50, inclusive,

24 *Defendants.*

Case No. 18CV00185

FIRST AMENDED COMPLAINT FOR:

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

JURY TRIAL DEMANDED

1 Plaintiffs LORI ANN LIEBERMAN, as Trustee of the Lori Ann Lieberman 2001 Living
2 Trust; PLUM GOODS, LLC, a California limited liability company; AIMEE KLAUS, individually
3 and as guardian ad litem for ALYSSA MILLER, a minor; and HOLDEN MILLER, an individual,
4 individually bring this action for damages against Defendants SOUTHERN CALIFORNIA
5 EDISON COMPANY (“SCE”), MONTECTIO WATER DISTRICT FINANCING
6 CORPORATION (“MWD”), and DOES 1 through 50 (collectively, “Defendants”) as follows:

7 **INTRODUCTION**

8 1. This case arises from the Thomas Fire, which is the largest wildfire in California’s
9 history and the deadly mudflows that followed on or about January 9, 2018.

10 2. According to CAL FIRE, the Thomas Fire broke out in the hills above Steckel Park
11 in Santa Paula at approximately 6:26 p.m. on December 4, 2017. The initial ignition of the Thomas
12 fire was caused when a pole-mounted transformer owned and operated by SCE exploded and/or
13 caught fire on Anlauf Canyon Road above Steckel Park in Santa Paula.

14 3. At approximately 7:00 p.m. on December 4, 2017, another transformer located on a
15 utility pole owned and operated by SCE on Koenigstein Drive, Santa Paula (Upper Ojai) exploded
16 and/or caught fire, sending a shower of sparks and flames down into the surrounding vegetation.
17 This transformer explosion was witnessed by several area residents.¹ This transformer fire was a
18 second ignition point of the Thomas Fire and was located approximately 5.8 miles from the initial
19 ignition point on Anlauf Canyon Road, Santa Paula. The wildfire started by both points of ignition
20 joined and burned as one fire, known as the Thomas Fire into Santa Barbara County.

21 4. The Thomas Fire spread quickly, pushed by strong Santa Ana winds and dry
22 vegetation created by years of drought conditions in Southern California and spread from Ventura
23 County into Santa Barbara County. The Thomas Fire spread rapidly to approximately 281,893 acres
24 and ravaged the Los Padres National Forest, mountains and slopes located adjacent to and north of
25 Montecito, burning almost all vegetation from those areas.

26 _____
27 ¹ Thomas Fire Had Two Origins, Santa Barbara Enterprise, 12/22/17,
28 <https://www.independent.com/news/2017/dec/22/thomas-fire-had-two-origins/>

1 5. As set forth in more detail below, the Thomas Fire was caused by SCE’s negligence
2 in (a) failing to maintain its overhead electrical facilities in a safe manner, including but not limited
3 to (1) failing to identify, inspect, repair and/or replace its aging and decayed wooden utility poles
4 and attached transformers; (2) failing to abate and remove trees and vegetation around its utility
5 pole(s) and electrical equipment; (3) failing to identify, inspect, repair and/or replace its utility
6 poles that were overloaded with communications equipment from shared usage by
7 telecommunications and cable TV providers who were joint owners or renters of SCE’s utility
8 poles; and/or (4) failing to shut down the electrical grid in Santa Paula and Ventura to prevent
9 catastrophic wildfires during the Red Flag Warning that preceded the Thomas Fire.

10 6. SCE had a duty to properly construct and maintain its electrical infrastructure and
11 ensure that surrounding trees and vegetation were trimmed and kept at a safe distance. SCE violated
12 these duties by knowingly operating aging and improperly maintained infrastructure. In fact, SCE’s
13 violations had caused wildfires before, and SCE was fined by the California Public Utilities
14 Commission (“CPUC”) numerous times before the Thomas Fire began.

15 7. Had SCE acted responsibly, the Thomas Fire could have been prevented.

16 8. The Thomas Fire rendered the Los Padres National Forest, steep mountains and
17 slopes adjacent to and north of Montecito devoid of vegetation and organic surface litter, reducing
18 the amount of water taken up by plants or absorbed into the soils, removed the forest canopy
19 exposing the areas to the erosive power of high-intensity rainfall, and rendered the soils
20 hydrophobic. The fire left these areas susceptible to excessive runoff, erosion mud and debris flows
21 in the event of a heavy rainstorm event.

22 9. On or about January 9, 2018, a rainstorm occurred over the areas impacted by the
23 Thomas Fire, as well as other areas, causing massive and unusual amounts of runoff and erosion in
24 the Los Padres National Forest, steep mountains and slopes adjacent to and north of Montecito all
25 due to the fact that the Thomas Fire had rendered the areas devoid of vegetation and organic surface
26 litter, reducing the amount of water taken up by plants or absorbed into the soils, removed the forest
27
28

1 canopy exposing the areas to the erosive power of high-intensity rainfall, and rendered the soils
2 hydrophobic.

3 10. Also, on or about January 9, 2018, the MWD main line broke and/or ruptured and
4 the entirety of the MWD 9 million gallons of water stored in its reservoirs in the hills above
5 Montecito flowed into and down local creeks in the hills upslope and above Montecito.

6 11. The millions of gallons of water released from the MWD system joined with
7 rainwater in the local creeks and streams in the hillsides above Montecito, causing erosion,
8 devastation and destruction before its journey Montecito. As the water collected debris, trees,
9 boulders and mud, it gained speed and came crashing down into the neighborhoods of Montecito,
10 causing widespread devastation of homes, property and severe injury and loss of lives. The
11 resulting flow of mud, debris and water swept down and over homes, businesses and roadways
12 from the Los Padres National Forest to the Pacific Ocean, destroying and damaging homes and
13 businesses, injuring and killing residents, and rendering vast areas of Montecito uninhabitable.

14 12. Areas of the Los Padres National Forest that had not burned in the Thomas Fire, such
15 as Mission Canyon, experienced none of the devastation that occurred nearby in Montecito.

16 13. The resulting flow of mud, debris and water have caused loss of life and personal
17 injuries, widespread and extensive property damage, and have created a vast wasteland over much
18 of Montecito where homes and business once stood.

19 14. Interstate Freeway 101 is closed and surface streets and roads are impassable, making
20 rescues of residents impossible and leaving numerous business owners and employees unable to
21 reach their place of work.

22 15. The domestic water supply system has been damaged such that neither residents nor
23 businesses have clean sanitary drinking water.

24 16. Plaintiffs have suffered property damage, economic loss, and disruption to their
25 homes, businesses, lives and livelihoods, and they seek fair compensation for themselves in this
26 case.

27
28

1 17. Plaintiffs bring claims for damages for, *inter alia*, damage to and loss of use of real
2 and personal property, loss of income, loss of business, consequential and incidental damages,
3 emotional distress, and other harm caused by Defendants' acts and omissions.

4 **JURISDICTION AND VENUE**

5 18. This Court has subject matter jurisdiction over this matter pursuant to California
6 *Code of Civil Procedure* § 395(a) because, at all times relevant, Defendants have conducted
7 significant business in the County of Santa Barbara, State of California, so as to render the exercise
8 of jurisdiction over Defendants by California courts consistent with the traditional notions of fair
9 play and substantial justice. The amount in controversy exceeds the jurisdictional minimum of this
10 Court.

11 19. Venue is proper in this County pursuant to California *Code of Civil Procedure* §
12 395.5 because, at all times relevant herein, the damage caused plaintiffs occurred in the County of
13 Santa Barbara.

14 **THE PLAINTIFFS**

15 20. Plaintiff LORI ANN LIEBERMAN, as Trustee of the Lori Ann Lieberman 2001
16 Living Trust, is a resident of the County of Santa Barbara who suffered injuries as a result of the
17 wrongful conduct alleged herein.

18 21. Plaintiff PLUM GOODS, LLC, a California limited liability company, is a resident
19 of the County of Santa Barbara and the owner of a business located at 909 and 911 State Street,
20 Santa Barbara, California 93101 who suffered injuries as a result of the wrongful conduct alleged
21 herein.

22 22. Plaintiff AIMEE KLAUS, individually and as guardian ad litem for ALYSSA
23 MILLER, a minor, is a resident of the County of Santa Barbara who suffered injuries as a result of
24 the wrongful conduct alleged herein.

25 23. Plaintiff HOLDEN MILLER is a resident of the County of Santa Barbara who
26 suffered injuries as a result of the wrongful conduct alleged herein.

27
28

1 **THE DEFENDANTS**

2 24. At all times herein mentioned, SCE is a corporation authorized to do business, and
3 doing business, in the State of California, with its principal place of business in the County of Los
4 Angeles. SCE is both an “Electrical Corporation” and a “Public Utility” pursuant to, respectively,
5 Sections 218(a) and 216(a) of the California Public Utilities Code. SCE is in the business of
6 providing electricity to the residents and businesses in Southern California, and more particularly,
7 to Plaintiffs’ residences, businesses, and properties through a network of electrical transmission
8 and distribution lines and power generation plants.

9 25. At all times mentioned herein, SCE was the supplier of electricity to members of the
10 public in Santa Barbara and Ventura County, and elsewhere in Southern California. As part of
11 supplying electricity to members of the public, SCE installed, constructed, built, maintained, and
12 operated overhead power lines, together with supporting utility poles and transformers, for the
13 purpose of conducting electricity for delivery to members of the general public. Furthermore, on
14 information and belief, SCE is responsible for maintaining vegetation near, around, and in
15 proximity to their electrical equipment in compliance with State and Federal regulations,
16 specifically including, but not limited to, Public Resource Code § 4292, Public Resource Code §
17 4293, CPUC General Order 95, and CPUC General Order 165.

18 26. At all times mentioned herein, MWD was a corporation organized by and authorized
19 to do business, and doing business, in the State of California, with its principal place of business in
20 the County of Santa Barbara. MWD provides the drinking water and water to fire hydrants in,
21 among other places, Montecito, California.

22 **DOE Defendants**

23 27. The true names of DOES 1 through 50, whether individual, corporate, associate, or
24 otherwise, are unknown to Plaintiffs who, under California *Code of Civil Procedure* § 474, sue
25 these Defendants under fictitious names.

26 28. Each of the fictitiously named Defendants is responsible in some manner for the
27 conduct alleged herein, including, without limitation, by way of aiding, abetting, furnishing the
28

1 means for, and/or acting in capacities that create agency, *respondeat superior*, and/or predecessor
2 or successor-in-interest relationships with the other Defendants.

3 29. The Doe Defendants are private individuals, associations, partnerships, corporations,
4 or other entities that actively assisted and participated in the negligent and wrongful conduct alleged
5 herein in ways that are currently unknown to Plaintiffs. Some or all of the DOE Defendants may
6 be residents of the State of California. Plaintiffs may amend or seek to amend this Complaint to
7 allege the true names, capacities, and responsibility of these Doe Defendants once they are
8 ascertained, and to add additional facts and/or legal theories. Plaintiffs make all allegations
9 contained in this Complaint against all Defendants, including DOES 1 through 50.

10 **FACTUAL ALLEGATIONS**

11 **The Damage Caused By The Thomas Fire And The** 12 **Resulting Flow Of Mud, Debris And Water**

13 30. On December 4, 2017, at approximately 6:28 p.m., the Thomas Fires' initial point of
14 origin was on Anlauf Canyon Road, north of Santa Paula, California. The second point of ignition
15 was from a transformer fire on Keonigstein Road, Santa Paula. The Thomas Fire is the most
16 destructive wildfire in the history of Santa Barbara County and the largest wildfire in California
17 history. As of this filing, the Thomas Fire has burned approximately 281,893 acres and caused the
18 destruction of at least 1,063 structures, damage to at least 280 additional structures, and threatened
19 18,000 structures.²

20 31. The Thomas Fire also burned all vegetation on over 425 square miles of mountains
21 in Ventura and Santa Barbara counties, leaving the areas downslope from the Los Padres National
22 Forest, mountains and steep hillsides adjacent to and north of Montecito vulnerable to mud flows,
23 landslides and flooding.

24 32. As of the filing of this Complaint, mandatory evacuation orders have been issued for
25 much of Montecito due to widespread damage and flooding. Additional property damage and
26 relocation, and ensuing emotional distress of plaintiffs is anticipated.

27 _____
28 ² http://cdfdata.fire.ca.gov/incidents/incidents_details_info?incident_id=1922

1 33. The full extent of the damage has not yet been quantified.

2 34. Because the resulting flow of mud, debris and water occurred so rapidly, individuals
3 often could not protect their properties and structures, or even remove personal possessions,
4 irreplaceable heirlooms, and valuable inventories of products, materials or records.

5 35. The damage and destruction resulting from the flow of mud, debris and water also
6 has negatively impacted the value of the Plaintiffs' real property, and will continue to affect its
7 resale value and development for an indefinite period of time in the future.

8 36. In addition to damage and destruction of real and personal property, the resulting
9 flow of mud, debris and water caused widespread economic losses to individuals and businesses
10 throughout Santa Barbara County, and will continue to do so into the future.

11 37. Individuals who were displaced have incurred and will continue to incur costs related
12 to temporary lodging while being displaced.

13 38. Businesses that suffered property damage have incurred and will continue to incur
14 economic losses due to their inability to operate their businesses, loss of access to their business
15 locations, and inability of employees to reach their businesses. These conditions are ongoing and
16 will continue for an unknown duration of time.

17 39. Employees of business who were displaced or prevented from working have incurred
18 and will continue to incur damages and costs related to loss of employment.

19 **SCE Had A Non-Delegable, Non-Transferable Duty To**
20 **Safely Maintain Its Electrical Infrastructure**

21 40. At all times prior to December 4, 2017, SCE had a non-delegable, non-transferable
22 duty to properly construct, inspect, maintain, repair, manage and/or operate its electrical power
23 lines, utility poles and appurtenant equipment and to keep vegetation and trees properly trimmed
24 at a safe distance so as to prevent foreseeable contact with its electrical equipment.

25 41. In the construction, inspection, repair, maintenance, ownership, and/or operation of
26 its power lines, utility poles and other electrical equipment, SCE had an obligation to comply with
27 a number of statutes, regulations, orders and standards, as detailed below.

28

1 42. SCE is required to comply with a number of design standards for its electrical
2 equipment, as stated in CPUC General Order 95. In extreme fire areas, SCE must also ensure that
3 its power lines and utility poles can withstand winds of up to 92 miles per hour. Further, SCE must
4 follow several standards to protect the public from the consequences of vegetation and/or trees
5 from coming into contact with its power lines and other electrical equipment. Pursuant to Public
6 Resources Code § 4292, SCE is required to “maintain around adjacent to any pole or tower which
7 supports a switch, fuse, transformer, lighting arrester, line junction, or dead end or corner pole, a
8 firebreak which consists of clearing not less than 10 feet in each direction from the outer
9 circumference of such pole or tower.” Also, Public Resources Code § 4293 mandates SCE maintain
10 clearances of 4 to 10 feet for all of its power lines, depending upon their voltage. In addition,
11 “[d]ead trees, old decadent or rotten trees, trees weakened by decay or disease and trees or portions
12 thereof that are leaning toward the line which may contact the line from the side or may fall on the
13 line shall be felled, cut, or trimmed so as to remove such hazard.”

14 43. Further, pursuant to CPUC General Order 165, SCE is also required to inspect its
15 distribution facilities to maintain a safe and reliable electric system. Specifically, SCE must conduct
16 “patrol” inspections of all of its overhead facilities annually in Extreme or High Fire areas, which
17 includes Ventura County.³ SCE is also required to inspect wooden utility poles once the poles have
18 been in service for 15 years, with intrusive inspections of the poles themselves within ten years.⁴

19 44. SCE knew or should have known that such standards and regulations were minimum
20 standards and that SCE has a duty to identify vegetation and trees that posed a foreseeable hazard
21 to overhead power lines and/or other electrical equipment, and to manage the growth of vegetation
22 near its utility poles and power lines so as to prevent the foreseeable danger of contact between the
23 vegetation and/or trees and power lines starting a fire.

24
25 _____
26 ³ PUC GO 165, Table 1, http://www.cpuc.ca.gov/gos/GO165/GO_165_table.html

27 ⁴ A Brief Introduction To Utility Poles, PUC, at p. 10,
28 http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work/PPDUtilityPole.pdf

1 SCE's Overloaded Utility Poles

2 45. SCE knew about the significant risk of wildfires caused by its aging and over-loaded
3 utility poles years before the Thomas Fire began:

4 (a) The 2007 Fire Siege in Southern California: In October 2007, strong Santa Ana winds
5 swept across Southern California and caused dozens of wildfires. Several of the worst wildfires
6 were reportedly caused by downed power lines. One of these fires was the Malibu Canyon Fire,
7 which started on October 21, 2007 at approximately 4:30 a.m. A subsequent investigation by the
8 CPUC's Safety and Enforcement Division ("SED") determined that the fire was caused when three
9 wooden utility poles broke and fell to the ground as a result of strong Santa Ana winds in Malibu
10 Canyon, Los Angeles County. The resulting fire burned 3,846 acres, destroyed 14 structures and
11 36 vehicles and caused damaged to 19 other structures. Those utility poles and overhead supply
12 and communications facilities were owned and operated by SCE, Verizon Wireless, AT&T
13 Mobility, LLC, Spring Communications Company, LP, and NextG Networks of California. The
14 SED investigated the incident and found SCE and the communications companies which owned
15 the three poles in violation of PUC General Order 95 ("GO 95").

16 Specifically, SED found that the wind at the time of the fire was approximately 50 miles per
17 hour. According to GO 95, Rule 44, the type of poles involved were required to be designed and
18 constructed with a safety factor of 4.0, and able to withstand winds up to 92.4 miles per hour. The
19 SED found SCE and the other owners and operators of the poles and attached facilities to be in
20 violation of Rules 12, 31, 43 and 44 in GO 95 for failing to properly inspect and maintain their
21 poles and facilities to prevent the safety factors from falling below the minimum requirements.
22 SCE agreed to a settlement with the PUC and a \$37 million fine and agreed to conduct a safety
23 audit and remediation of its utility poles in the Malibu area.

24 (b) The 2011 Windstorm: On November 30, 2011 and December 1, 2011, Santa Ana winds
25 swept through SCE's territory, knocking down utility facilities, uprooting trees, and causing
26 prolonged power outages. Two-hundred forty-eight (248) wood utility poles and 1,064 overhead
27 electrical lines were affected. A total of 440,168 customers lost power during this wind event. SED
28

1 performed an investigation and concluded that SCE and communication providers who jointly
2 owned utility poles violated GO 95 because at least 21 poles and 17 guy wires were overloaded in
3 violation of the safety factor requirements codified in GO 95, Rule 44.1.

4 **(c) SCE Pole Loading Study:** As part of SCE’s 2012 General Rate Case, the PUC ordered
5 SCE to conduct a statistically-valid sampling of SCE-owned and jointly-owned utility poles to
6 determine whether the pole loading complied with current legal standards. SCE’s study, released
7 on July 31, 2013, found that 22.3% of the 5,006 poles tested failed to meet current design standards.
8 In November 2013, the SED sent a letter to the PUC Commissioners discussing SCE’s study and
9 recommended the following changes in policy:

10 (1) SCE should conduct a wind analysis in its service territory, incorporating actual
11 wind standards into its internal pole loading standards;

12 (2) SCE should conduct a pole loading analysis of every pole carrying SCE facilities,
13 employing a risk management approach, considering, at a minimum, fire risk, the presence of
14 communications facilities and the number of overloaded poles in the area; and

15 (3) SCE should commence pole mitigation measures as soon as possible, and not
16 wait for the pole loading analysis to be completed.

17 **(d) SCE’s Pole Loading Program:** In its 2015 General Rate Case, SCE proposed a Pole
18 Loading Program (“PLP”) to identify and remediate overloaded poles and prevent poles on the 1.4
19 million utility poles its service territory from becoming overloaded in the future. SCE claims it
20 started its PLP in 2014, but will not complete its assessment in high fire areas until 2017 and will
21 not complete pole remediation of overloaded poles until 2025. SCE claims that under the PLP, a
22 pole will be replaced between 72 hours and 59 months depending upon the safety factor and its
23 location relative to high fire areas. In its 2015 General Rate Case, SCE forecast it would perform
24 assessment of 205,754 poles in 2015. However, SCE only actually performed assessments of
25 142,382 poles in 2015, or 63,372 (30%) fewer than SCE claimed it would conduct, and as a result,
26 SCE repaired 14,310 fewer overloaded poles than it forecast in 2015. However, SCE’s PLP has
27 experienced substantial delays due to problems with the software program it used to calculate the
28

1 pole loading safety factors for its poles. In its 2015 General Rate Case, SCE estimated that 22% of
2 its utility poles were overloaded. However, in its 2018 General Rate Case, SCE disclosed that it
3 modified its software used to calculate pole loading safety factors and that these revisions reduced
4 the percentage of poles needing remediation to just 9%.

5 Additionally, SCE disclosed in its 2018 General Rate Case that it had failed to meet its 2015
6 projections to assess and repair overloaded poles. Specifically, SCE admitted that it had only
7 conducted 142,519 out of the projected 205,000 pole assessments in 2015. As a result, SCE
8 announced in its 2018 General Rate Case that it was changing the duration of its PLP from 7 years
9 to 10 years to allow for fewer pole assessments each year. Additionally, SCE disclosed in the 2018
10 General Rate Case that out of the 142,519 poles it assessed in 2015, it only constructed repairs on
11 569 under the PLP. SCE claims “repairs may be completed one or two years after the assessment,
12 depending on whether the pole is in a high fire or non-fire area.”⁵

13 **Foreseeable And Expected Santa Ana Winds**
14 **and Red Flag Fire Warning**

15 46. At all times mentioned herein, Defendants were aware that the State of California
16 had been in a multi-year period of drought. Defendants were also aware that Ventura County
17 frequently experiences “Santa Ana” wind conditions, which are highly conducive to the rapid
18 spread of wildfires and extreme fire behavior. The Santa Ana winds are not abnormal or
19 unforeseeable, and everyone who lives and works in Southern California is familiar with this type
20 of extreme wind event.

21 47. On January 17, 2014, the Governor issued an Executive Order proclaiming a State
22 of Emergency throughout the State of California due to severe drought conditions which had
23 existed for four years. On November 13, 2015, the Governor issued Executive Order B-36-15,
24 which proclaimed “[t]hat conditions of extreme peril to the safety of persons and property continue
25 to exist in California due to water shortage, drought conditions and wildfires....”⁶ Although the

26 ⁵ 2018 General Rate Case, SCE, Transmission & Distribution Volume 9, Poles. 9/1/16.

27 ⁶ Exec. Order B-36-15, Office of Gov. Edmund Brown, Jr. (Nov. 13, 2015).

1 Governor issued an Executive Order in April 2017 ending the Drought State of Emergency in all
2 counties except Fresno, Kings, Tulare and Tuolumne, the declaration directed state agencies “to
3 continue response activities that may be needed to manage the lingering drought impacts to people
4 and wildlife.”⁷

5 48. According to SCE’s 2016 Circuit Reliability Review for Santa Paula,
6 “vegetation/animal” caused 59% of “momentary” interruptions to the 8 electrical circuits serving
7 Santa Paula, California.⁸ Thus, SCE was aware that vegetation coming into contact with its power
8 lines was the leading cause of electrical interruptions in the Santa Paula area.

9 49. According to records maintained by CAL FIRE, electrical equipment was tied as the
10 third leading cause of wildfires in California during 2014, the latest year such statistics have been
11 published.⁹ Thus, SCE knew of the foreseeable danger of wildfire when its power lines came into
12 contact with vegetation.

13 50. In May 2016, the CPUC adopted Fire Map 1, which is a map that “depicts areas of
14 California where there is an elevated hazard for ignition and rapid spread of power line fires due
15 to strong winds, abundant dry vegetation, and other environmental conditions.”¹⁰ Ventura County
16 is designated on this map as an “Extreme” and “Very High” fire threat.

17 51. SCE was put on notice by the publication of this Fire Map in May 2016, and therefore
18 knew well in advance of the Thomas Fire of the elevated fire risk in Ventura and Santa Barbara
19 Counties for “ignition and rapid spread of power line fires due to strong winds, abundant dry
20 vegetation, and/or other environmental conditions.”

21
22 _____
23 ⁷ Exec.Order B-040-17 at 3, Office of Gov. Edmund Brown, Jr. (April 7, 2017).

24 ⁸ Circuit Reliability Review, Santa Paula, SCE (Jan. 2017),
<https://www.sce.com/nrc/reliability/reports/SantaPaula.pdf>

25 ⁹ Historical Wildfire Activity Statistics (Redbooks), Cal Fire, available at
http://www.fire.ca.gov/fire_protection/fire_protection_fire_info_redbooks_2014

26 ¹⁰ See, PUC Fire Map Depicts Areas of Elevated Hazards In State: First Step in Creation of
27 Tools to Help Manage Resources, Cal Pub. Utils. Comm'n (May 26, 2016), available at
28 http://frap.fire.ca.gov/data/frapgismaps/pdfs/ftthreat_map.pdf

1 into creeks in the area. This water was all of the stored water in the MWD system according to the
2 general manager of the MWD.

3 58. While MWD has an automatic Supervisory Control and Data Acquisition system
4 (“SCADA”) to monitor its pipelines, shutoff valves and reservoirs, that system cannot work without
5 electrical power. In the event of a main line break the SCADA system can be used to activate the
6 shutoff valves in the system.

7 59. The shutoff valves are activated by SCADA in the event of a main line break to close
8 the valves when necessary to prevent the flow of water out of the reservoirs, into the areas
9 surrounding the line break. Unfortunately, the electric power was out during the storm on January
10 9, 2018 rendering the SCADA system inoperable. The system of backup generators used to power
11 the SCADA system in the event of a power outage do not come on line automatically, and on
12 January 9, 2018, MWD was unable to gain access to the locations of the backup generators to start
13 up the generators.

14 60. As stated by the general manager of the MWD: “There is an automatic, SCADA, but
15 with the power off and no way to access the site to get generators up and running, SCADA doesn’t
16 work without power.” Without an operational SCADA system there was no way for MWD to close
17 the shutoff valves once the “highline” water main ruptured and/or broke.

18 61. The MWD main line broke and/or ruptured and the entirety of the MWD 9 million
19 gallons of water flowed into and down local creeks in the hills upslope and above Montecito as a
20 direct result of the inability of the SCADA system to function as designed or intended. Each gallon
21 of water weighs 8.34 pounds, and 9 million gallons of water weighs 75,060,000 pounds or 37,530
22 tons.

23 62. The millions of gallons of water released from the MWD system joined with
24 rainwater in the local creeks and streams in the hillsides above Montecito, causing erosion,
25 devastation and destruction before its journey Montecito. As the water collected debris, trees,
26 boulders and mud, it gained speed and came crashing down into the neighborhoods of Montecito,
27 causing widespread devastation of homes, property and severe injury and loss of lives.

28

1 71. Defendants have a non-delegable, non-transferable duty to apply a level of care
2 commensurate with and proportionate to the danger of designing, constructing, operating and
3 maintaining electrical infrastructure, in addition to performing adequate tree trimming, vegetation
4 clearance around such facilities and to remediate overloaded utility poles.

5 72. Defendants have a non-transferable, non-delegable duty of vigilant oversight in the
6 construction, maintenance, use, operation, repair and inspection of their electrical infrastructure
7 that are appropriate to the geographical and weather conditions affecting such equipment.

8 73. Defendants have special knowledge and expertise far above that of a layperson
9 regarding their requirements to design, engineer, construct, use, operate, maintain and inspect these
10 electrical facilities, including tree trimming, removal of vegetation and remediating overloaded
11 utility poles such that their electrical equipment will not cause wildfires like the Thomas Fire.

12 74. Defendants have negligently breached those duties by, among other things:

13 (a) Failing to conduct reasonably prompt, proper, and frequent inspections of their
14 overhead electric and communications facilities;

15 (b) Failing to design, construct, monitor, operate and maintain their overhead electric
16 and communications facilities to withstand foreseeable Santa Ana wind events and avoid igniting
17 and/or spreading wildfires;

18 (c) Failing to clear vegetation within a 10-foot radius around the perimeter of all
19 utility poles and towers which supports a switch, fuse, transformer, lighting arrester, line junction,
20 or dead end or corner pole as required by Public Resource Code § 4292;

21 (d) Failing to maintain clearances of 4 to 10 feet for all overhead electric lines,
22 depending upon their voltage as required by Public Resources Code § 4293;

23 (e) Failing to fell, cut or trim dead trees, old decadent or rotten trees, trees weakened
24 by decay or disease and trees or portions of trees that are leaning toward the line which may contact
25 the line from the side or may fall on the line;

26 (f) Failure to perform inspections of all overhead electric facilities as required by
27 PUC General Order 165;

28

1 (g) Failing to de-energize overhead electric facilities during foreseeable and expected
2 Red Flag Warnings in fire-prone areas;

3 (h) Failing to de-energize overhead electric facilities after the initial ignition of the
4 Thomas Fire;

5 (i) Failing to properly investigate, screen, train and supervise employees and agents
6 responsible for maintenance and inspection of the overhead electric and communications facilities,
7 including tree trimming and vegetation removal around such facilities; and/or

8 (j) Failing to properly and safely perform construction activities in Santa Paula to
9 prevent ignition of a wildfire.

10 75. The Thomas Fire and the resulting flow of mud, debris and water was the direct, legal
11 and proximate result of Defendants' negligence. As a direct, proximate, and legal result of said
12 negligence, Plaintiffs suffered damages as alleged herein.

13 76. At all times mentioned herein, Defendants failed to properly inspect and maintain
14 electrical infrastructure and equipment which they knew, given the then existing Santa Ana wind
15 and Red Flag Warning conditions, posed a risk of harm to the Plaintiffs, and to their real and
16 personal property. Defendants were aware that if their electrical equipment came in contact with
17 vegetation a fire would likely result and spread rapidly. Defendants also knew that, given the then
18 existing weather conditions, said fire was likely to pose a risk of catastrophic property damage, and
19 economic loss, to the general public, including Plaintiffs.

20 77. The property damage and economic losses caused by the Thomas Fire and the
21 resulting flow of mud, debris and water is the result of the ongoing custom and practice of SCE of
22 consciously disregarding the safety of the public and not following statutes, regulations, standards,
23 and rules regarding the safe operation, use and maintenance of their overhead electric facilities.

24 78. Defendants failed to properly inspect and maintain their electric facilities in order to
25 cut costs, with the full knowledge that any incident was likely to result in a wildfire that would
26 burn and destroy real and personal property, create a risk of erosion, landslides and flooding in
27
28

1 rainstorms after the event of a wildfire, and would displace homeowners from their homes and
2 disrupt businesses in the Fire Area.

3 79. The actions of Defendants did in fact result in damages to the Plaintiffs. Defendants
4 failed to operate and maintain their overhead electrical facilities on Anlauf Canyon Road and
5 Koenigstein Road in a safe manner, and/or failed to properly trim and/or remove trees and remove
6 vegetation around their overhead electric facilities are required by statute, and/or failed to remediate
7 overloaded utility poles which were at risk of collapse in Santa Ana winds.

8 80. The negligence of Defendants was a substantial factor in causing the Plaintiffs'
9 damages.

10 81. Defendants' failure to comply with their duties of care proximately caused damage
11 to Plaintiffs.

12 82. As a further direct and proximate result of Defendants' negligence, Plaintiffs suffered
13 damages including, but not limited to real property damage, loss of personal property, economic
14 loss, loss of quiet use and enjoyment of their property, and costs to evacuate and relocate.

15 83. Defendants were and are in a special relationship to Plaintiffs. As a supplier of
16 electrical power to the Plaintiffs, SCE's operation of its electrical equipment was intended to and
17 did directly affect the Plaintiffs. SCE is the sole electric public utility which provides electric power
18 to the Plaintiffs in Santa Barbara and Ventura County. As a result, it was foreseeable that a massive
19 wildfire would leave the areas burned in the Thomas Fire devoid of vegetation and organic surface
20 litter, reducing the amount of water taken up by plants or absorbed into the soils, removed the forest
21 canopy exposing the areas to the erosive power of high-intensity rainfall, and rendered the soils
22 hydrophobic.

23 84. It was also foreseeable that the resulting flow of mud, debris and water would destroy
24 and damage homes and businesses, injuring and killing residents, and rendering vast areas of
25 Montecito uninhabitable, forcing many residents to evacuate, and prevent customers of businesses
26 located within the area from patronizing those businesses.

27

28

1 85. Plaintiffs suffered injuries which were clearly and certainly caused by the Thomas
2 Fire and the resulting flow of mud, debris and water, resulting in evacuations and relocations, and
3 the cost to repair and replace their damaged and/or destroyed real and personal property.

4 86. Public policy supports finding a duty of care in this circumstance due to Defendants’
5 violation of California *Civil Code* §§ 3479, 34890, Public Utilities Code § 2106 and Health &
6 Safety Code § 13007.

7 87. Further, the conduct alleged herein was despicable and subjected Plaintiffs to cruel
8 and unjust hardship in conscious disregard of their rights, constituting oppression, for which
9 Defendants must be punished by punitive and exemplary damages in an amount according to proof.
10 Defendants’ conduct evidences a conscious disregard for the safety of others, including Plaintiffs.
11 Defendants’ conduct was and is despicable conduct and constitutes malice and defined by *Civil*
12 *Code* § 3294. An officer, director, or managing agent of Defendants personally committed,
13 authorized, and/or ratified the despicable conduct alleged herein. Plaintiffs are entitled to an award
14 of punitive damages sufficient to punish and make an example of these Defendants.

15 **SECOND CAUSE OF ACTION**

16 **(Inverse Condemnation By Plaintiffs Against All Defendants)**

17 88. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set
18 forth herein.

19 89. On or about December 4, 2017, Plaintiffs were owners of real property located within
20 the County of Santa Barbara.

21 90. Prior to January 8, 2018, Defendant SCE installed, constructed, owned, operated,
22 used, controlled, and/or maintained electrical infrastructure and facilities in Santa Barbara and
23 Ventura County.

24 91. On or about December 4, 2017, as a direct, necessary and legal result of SCE’s
25 installation, construction, ownership, operation, use, control, and/or maintenance for a public use
26 of electric infrastructure, Defendants’ electrical equipment came into contact with vegetation
27 and/or trees and caused the Thomas Fire.

28

1 92. Prior to January 9, 2018, MWD owned, operated, used, controlled and maintained a
2 municipal water supply and storage system in the hills above Montecito, California. MWD serves
3 approximately 4,500 customers in Montecito and Summerland, California.

4 93. Its primary distribution water main runs from reservoirs which are located along East
5 Mountain Drive, a high elevation point area served by MWD. The reservoirs are large storage tanks
6 that hold a total of 12 million gallons.

7 94. During the rainstorm of January 9, 2018 all but two of the reservoirs were full and
8 operational. During the storm, the “highline” water main between the MWD reservoirs sustained
9 damage and actually ruptured or broke at several locations, releasing between 8 to 9 million gallons
10 into creeks in the area. This water was all of the stored water in the MWD system according to the
11 general manager of the MWD.

12 95. While MWD has an automatic Supervisory Control and Data Acquisition system
13 (“SCADA”) to monitor its pipelines, shutoff valves and reservoirs, that system cannot work without
14 electrical power. In the event of a main line break the SCADA system can be used to activate the
15 shutoff valves in the system.

16 96. The shutoff valves are activated by SCADA in the event of a main line break to close
17 the valves when necessary to prevent the flow of water out of the reservoirs, into the areas
18 surrounding the line break. Unfortunately, the electric power was out during the storm on January
19 9, 2018 rendering the SCADA system inoperable. The system of backup generators used to power
20 the SCADA system in the event of a power outage do not come on line automatically, and on
21 January 9, 2018, MWD was unable to gain access to the locations of the backup generators to start
22 up the generators.

23 97. As stated by the general manager of the MWD: “There is an automatic, SCADA, but
24 with the power off and no way to access the site to get generators up and running, SCADA doesn’t
25 work without power.” Without an operational SCADA system there was no way for MWD to close
26 the shutoff valves once the “highline” water main ruptured and/or broke.

27
28

1 98. The MWD main line broke and/or ruptured and the entirety of the MWD 9 million
2 gallons of water flowed into and down local creeks in the hills upslope and above Montecito as a
3 direct result of the inability of the SCADA system to function as designed or intended. Each gallon
4 of water weighs 8.34 pounds, and 9 million gallons of water weighs 75,060,000 pounds or 37,530
5 tons.

6 99. The Thomas Fire rendered the Los Padres National Forest, steep mountains and
7 slopes adjacent to and north of Montecito devoid of vegetation and organic surface litter, reducing
8 the amount of water taken up by plants or absorbed into the soils, removed the forest canopy
9 exposing the areas to the erosive power of high-intensity rainfall, and rendered the soils
10 hydrophobic. The fire left these areas susceptible to excessive runoff and erosion in the event of a
11 heavy rainstorm event.

12 100. On or about January 9, 2018, a rainstorm occurred over the areas impacted by the
13 Thomas Fire, as well as other areas, causing massive and unusual amounts of runoff and erosion in
14 the Los Padres National Forest, steep mountains and slopes adjacent to and north of Montecito all
15 due to the fact that the Thomas Fire had rendered the areas devoid of vegetation and organic surface
16 litter, reducing the amount of water taken up by plants or absorbed into the soils, removed the forest
17 canopy exposing the areas to the erosive power of high-intensity rainfall, and rendered the soils
18 hydrophobic.

19 101. The millions of gallons of water released from the MWD system joined with
20 rainwater in the local creeks and streams in the hillsides above Montecito, causing erosion,
21 devastation and destruction before its journey Montecito. As the water collected debris, trees,
22 boulders and mud, it gained speed and came crashing down into the neighborhoods of Montecito,
23 causing widespread devastation of homes, property and severe injury and loss of lives.

24 102. The resulting flow of mud, debris and water swept down and over homes, businesses
25 and roadways from the Los Padres National Forest to the Pacific Ocean, destroying and damaging
26 homes and businesses, injuring and killing residents, and rendering vast areas of Montecito
27 uninhabitable.

28

1 103. Areas of the Los Padres National Forest that had not burned in the Thomas Fire, such
2 as Mission Canyon, experienced none of the devastation that occurred nearby in Montecito.

3 104. The resulting flow of mud, debris and water have caused widespread and extensive
4 property damage, and have created a vast wasteland over much of Montecito where homes and
5 business once stood.

6 105. The damage to Plaintiffs' properties was proximately and substantially caused by
7 Defendants' actions in that the Defendants' installation, ownership, operation, use, and/or control
8 for a public use of electrical infrastructure and public water system.

9 106. Plaintiffs have not received adequate compensation for the damage to and/or
10 destruction of their property, thus constituting a taking or damaging of Plaintiffs' properties by
11 Defendants without just compensation.

12 107. As a direct and legal result of the above-described damages to Plaintiffs' properties,
13 including loss of use and interference with access, enjoyment and marketability of real property,
14 and damage/destruction of personal property, Plaintiffs have been damaged in amounts according
15 to proof at trial.

16 108. Defendants have both damaged and taken property, all without just compensation, in
17 violation of the Fifth Amendment to the United States Constitution and Article I, § 19 of the
18 California Constitution.

19 109. As a direct and proximate result of the unconstitutional taking, Plaintiffs have
20 suffered damages, plus interest, the precise amount to be proven at the time of trial.

21 110. Plaintiffs have been required to retain legal counsel and experts to pursue their claims
22 and to seek legal redress for the acts and omissions of defendants. Plaintiffs are entitled to recovery
23 of their attorneys' fees, costs of suit, fees and expenses pursuant to Section 1036 of the Code of
24 Civil Procedure and other applicable laws.

25
26
27
28

1 **THIRD CAUSE OF ACTION**

2 **(Trespass By Plaintiffs Against All Defendants)**

3 111. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set
4 forth herein at length.

5 112. At all times relevant herein, Plaintiffs were the owners and/or lawful occupants of
6 real property damaged by the Thomas Fire and the resulting flow of mud, debris and water that
7 have caused widespread and extensive property damage, and have created a vast wasteland over
8 much of Montecito where homes and business once stood.

9 113. Defendants had a duty to use reasonable care not to enter, intrude on, or invade
10 Plaintiffs' real properties. Defendants negligently allowed the Thomas Fire to ignite and/or spread
11 out of control, causing injury to Plaintiffs. The resulting flow of mud, debris and water that have
12 caused widespread and extensive property damage, and have created a vast wasteland over much
13 of Montecito where homes and business once stood, constitutes a trespass.

14 114. Plaintiffs did not consent to such an invasion.

15 115. As a direct, proximate and substantial cause of the trespass, Plaintiffs have suffered
16 and will continue to suffer damages, including but not limited to damage to property, discomfort,
17 annoyance, and emotional distress in an amount to be proven at trial.

18 116. As a further direct and proximate result of the conduct of Defendants, Plaintiffs have
19 hired and retained counsel to recover compensation for loss and damage and are entitled to recover
20 all attorney's fees, expert fees, consultant fees, and litigation costs and expenses, as allowed under
21 California *Code of Civil Procedure* § 1029.1.

22 117. As a further direct and proximate result of the conduct of Defendants, Plaintiffs seek
23 treble or double damages for wrongful injuries to timber, trees, or underwood on their properties,
24 as allowed by *Civil Code* § 3346.

25 118. As a further direct and proximate result of the conduct of Defendants, Plaintiffs seek
26 the reasonable cost of repair or restoration of their property to its original condition and/or loss of
27 use damages, as allowed by *Civil Code* § 3334.

28

1 119. Defendants’ conduct was willful and wanton, and with a conscious disregard for the
2 disastrous consequences that Defendants knew would occur as a result of their dangerous conduct.
3 Accordingly, Defendants acted with malice towards Plaintiffs, which is an appropriate predicate
4 fact for an award of exemplary damages in an amount according to proof.

5 **FOURTH CAUSE OF ACTION**

6 **(Private Nuisance By Plaintiffs Against All Defendants)**

7 120. Plaintiffs incorporate and re-allege by this reference each of the paragraphs set forth
8 as though fully set forth herein.

9 121. Plaintiffs own and/or occupy real property in the fire area. At all times relevant
10 herein, Plaintiffs had a right to occupy, enjoy, and/or use their property without interference by
11 Defendants.

12 122. Defendants’ actions, conduct, omissions, negligence, trespass, and failure to act
13 resulted in the Thomas Fire and resulting flow of mud, debris and water that have caused
14 widespread and extensive property damage, and have created a vast wasteland over much of
15 Montecito where homes and business once stood and constitutes a foreseeable obstruction to the
16 free use of Plaintiffs’ property, invaded the right of Plaintiffs to use their property, and interfered
17 with Plaintiffs’ enjoyment of their property, causing Plaintiffs unreasonable harm and substantial
18 actual damages constituting a nuisance pursuant to *Civil Code* § 3479.

19 123. As a direct and proximate result of the conduct of Defendants, Plaintiffs seek the
20 reasonable cost of repair or restoration of their property to its original condition and/or loss-of-use
21 damages, as allowed under *Civil Code* § 3334.

22 124. Defendants’ conduct was willful and wanton, and with a conscious disregard for the
23 safety of others. Accordingly, Defendants acted with malice towards Plaintiffs, which is an
24 appropriate predicate fact for an award of exemplary/punitive damages in an amount to be proven
25 at trial.

1 **FIFTH CAUSE OF ACTION**

2 **(Public Nuisance By Plaintiffs Against All Defendants)**

3 125. Defendants owed a non-transferable, non-delegable duty to the public, including
4 Plaintiffs, to conduct their business, in particular the maintenance and operation of electrical
5 infrastructure and facilities, and adjacent vegetation in proximity to their electrical equipment in
6 Ventura County, in a manner that did not cause harm to the public welfare.

7 126. Defendants, by acting and/or failing to act, as alleged herein above, created a
8 condition that was harmful to the health of the public, including Plaintiffs, and resulted in the
9 Thomas Fire and resulting flow of mud, debris and water that have caused widespread and
10 extensive property damage, and have created a vast wasteland over much of Montecito where
11 homes and business once stood, which has damaged and interfered with the quiet use and
12 enjoyment of their property. This interference is both substantial and unreasonable.

13 127. Plaintiffs did not consent, expressly or impliedly, to the wrongful conduct of
14 Defendants.

15 128. The Thomas Fire which was created by Defendants affected a substantial number of
16 people at the same time within the general public, including Plaintiffs, and constituted a public
17 nuisance under *Civil Code* §§ 3479 and 3480 and Public Resources Code §§ 4170 and 4171.

18 129. The damaging effects of Defendants' creation of a fire hazard and the resulting
19 Thomas Fire and resulting flow of mud, debris and water that have caused widespread and
20 extensive property damage, and have created a vast wasteland over much of Montecito where
21 homes and business once stood, are ongoing and affect the public at large.

22 130. As a direct and legal result of the Defendants' conduct, Plaintiffs have suffered harm
23 that is different from the type of harm suffered by the general public. Specifically, Plaintiffs have
24 lost the occupancy, possession, use, and/or enjoyment of their land, real, and/or personal property,
25 including, but not limited to a diminution of value of their real property; an impairment of the
26 ability to sell their property; property exposed to chemical retardant agents dropped from airborne
27 firefighting aircraft; and lingering smell of smoke, soot, ash and dust in the air.

28

1 131. As a further direct and legal result of the conduct of Defendants, Plaintiffs have
2 suffered, and will continue to suffer, discomfort, anxiety, fear, worry, annoyance, and/or stress
3 attendant to the interference with the occupancy, possession, use and/or enjoyment of their
4 property.

5 132. A reasonable, ordinary person would be annoyed or disturbed by the conditions
6 caused by Defendants, and the resulting Thomas Fire.

7 133. Defendants' conduct is unreasonable and the seriousness of the harm to the public,
8 including Plaintiffs, outweighs the social utility of Defendants' conduct. There is little to no social
9 utility associated with causing wildfires to destroy the property of the Plaintiffs.

10 134. The individual and/or collective conduct of Defendants SCE set forth above resulting
11 in the Thomas Fire is not an isolated incident, but is ongoing and/or a repeated course of conduct,
12 and SCE's prior conduct and/or failures have resulted in the 2007 Malibu Canyon Fire and other
13 wildfires and damage to the public.

14 135. The unreasonable conduct of Defendants is a direct and legal cause of the harm,
15 injury, and/or damage to the public, including Plaintiffs.

16 136. Defendants have failed to conduct reasonable and timely inspections of their
17 electrical infrastructure and facilities, trim and/or remove trees and vegetation in close proximity
18 to such facilities, and/or remediate overloaded utility poles, and Defendants' failure to do so
19 exposed every member of the public to a foreseeable danger of loss or destruction of real and
20 personal property.

21 137. Defendants' conduct set forth above constitutes a public nuisance within the meaning
22 of *Civil Code* §§ 3479 and 3480, *Public Resources Code* §§ 4104 and 4170, and *Code of Civil*
23 *Procedure* § 731. Under *Civil Code* § 3493, Plaintiffs have standing to maintain an action for public
24 nuisance because the nuisance is especially injurious to Plaintiffs, because, as described above, it
25 is injurious and/or offensive to the senses of the Plaintiffs, unreasonably interferes with their
26 comfortable enjoyment of their properties, and/or unlawfully obstructs the free use, in the
27 customary manner, of their properties.

28

1 138. For these reasons, Plaintiffs seek a permanent injunction ordering Defendants to stop
2 continued violation of Public Resource Code §§ 4292 and 4293 and PUC General Order 95.
3 Plaintiffs also seek an order directing Defendants to abate the existing and continuing nuisance
4 described above.

5 **SIXTH CAUSE OF ACTION**

6 **(Premises Liability By Plaintiffs Against All Defendants)**

7 139. Plaintiffs incorporate and re-allege by this reference, each of the paragraphs set forth
8 as though fully set forth herein.

9 140. Defendants were the owners of an easement and/or real property in the area of the
10 origins of the Thomas Fire, and/or were the owners of electrical infrastructure upon said easement
11 and/or right of way.

12 141. Defendants acted wantonly, unlawfully, carelessly, recklessly, and/or negligently in
13 failing to properly inspect, manage, maintain, and/or control the vegetation near their electrical
14 infrastructure along the real property and easement, allowing an unsafe condition presenting a
15 foreseeable risk of fire danger to exist in said area.

16 142. As a direct and legal result of the wrongful acts and/or omissions of Defendants,
17 Plaintiffs suffered, and continue to suffer, the injuries and damages as set forth above.

18 143. As a further direct and legal result of the wrongful acts and/or omissions of
19 Defendants, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants as
20 set forth above.

21 **SEVENTH CAUSE OF ACTION**

22 **(Violation of Public Utilities Code § 2106 By Plaintiffs Against All Defendants)**

23 144. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set
24 forth herein.

25 145. As a public utility, Defendants are legally required to comply with the rules and
26 orders promulgated by the CPUC pursuant to Public Utilities Code § 702.

27
28

1 146. Public utilities whose failure to perform or inadequate performance of duties required
2 by the California Constitution, a law of the State, or a regulation or order of the CPUC, leads to
3 loss or injury, are liable for that loss or injury, pursuant to Public Utilities Code § 2106.

4 147. As public utilities, Defendants are required to provide and maintain service,
5 equipment and facilities in a manner adequate to maintain the safety, health, and convenience of
6 their customers and the public, pursuant to Public Utilities Code § 451.

7 148. Defendants are required to design, engineer, construct, operate, and maintain
8 electrical infrastructure in a manner consonant with their use, taking into consideration local
9 geographic and weather conditions and other circumstances, so as to provide safe and adequate
10 electric service, pursuant to CPUC General Order 95 and Order 165.

11 149. Defendants are required to maintain vegetation in compliance with California Public
12 Resources Code §§ 4293, 4294, 4435 and Health & Safety Code § 13001.

13 150. Through their conduct alleged herein, Defendants violated Public Utilities Code §§
14 702, 451 and/or CPUC General Order 95, thereby making them liable for losses, damages, and
15 injuries sustained by Plaintiffs pursuant to Public Utilities Code § 2106.

16 **EIGHT CAUSE OF ACTION**

17 **(Violation Of Health & Safety Code § 13007 By Plaintiffs Against All Defendants)**

18 151. Plaintiffs hereby re-allege and incorporate by reference each and every allegation
19 contained above as though fully set forth herein.

20 152. By engaging in the acts and/or omissions alleged in this Complaint, Defendants
21 willfully, negligently, and in violation of law, allowed fire to ignite or spread to the property of
22 another in violation of California Health & Safety Code § 13007.


23 153. As a legal result of Defendants' violation, Plaintiffs suffered recoverable damages to
24 property under California Health & Safety Code § 13008 and 13009.1.

25 154. As a further legal result of the violation of § 13007 by Defendants, Plaintiffs are
26 entitled to reasonable attorney's fees under California *Code of Civil Procedure* § 1021.9 for the
27 prosecution of this cause of action.
28

1 11. For such other and further relief as the Court shall deem appropriate, all according
2 to proof.

3
4 Dated: January 15, 2018

FOLEY BEZEK BEHLE & CURTIS, LLP

5
6 By 
7 ROBERT A. CURTIS (203870)

8 ADDITIONAL COUNSEL:

9 PETER J. BEZEK (102310)
10 THOMAS G. FOLEY, JR. (65812)
11 FOLEY BEZEK BEHLE & CURTIS, LLP
12 15 West Carrillo Street
Santa Barbara, California 93101

13 ALEXANDER ROBERTSON, IV (127042)
14 MARK J. UYENO (189063)
15 ROBERTSON & ASSOCIATES, LLP
32121 Lindero Canyon Road, Suite 200
Westlake Village, California 91361

16 JOSEPH LIEBMAN (110836)
17 LAW OFFICES OF JOSEPH LIEBMAN, P.C.
18 4250 Mariposa Drive
Santa Barbara, California 93110

19 Attorneys for Plaintiffs
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY TRIAL DEMANDED

Plaintiffs hereby demand a jury trial on all causes of action for which a jury is available under the law.

Dated: January 15, 2018

FOLEY BEZEK BEHLE & CURTIS, LLP

By 
ROBERT A. CURTIS (203870)

ADDITIONAL COUNSEL:

PETER J. BEZEK (102310)
THOMAS G. FOLEY, JR. (65812)
FOLEY BEZEK BEHLE & CURTIS, LLP
15 West Carrillo Street
Santa Barbara, California 93101

ALEXANDER ROBERTSON, IV (127042)
MARK J. UYENO (189063)
ROBERTSON & ASSOCIATES, LLP
32121 Lindero Canyon Road, Suite 200
Westlake Village, California 91361

JOSEPH LIEBMAN (110836)
LAW OFFICES OF JOSEPH LIEBMAN, P.C.
4250 Mariposa Drive
Santa Barbara, California 93110

Attorneys for Plaintiffs