COPY

PANISH SHEA & BOYLE LLP
BRIAN PANISH, State Bar No. 116060
RAHUL RAVIPUDI, State Bar No. 204519
LYSSA A. ROBERTS, State Bar No. 235049
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
Telephone: 310.477.1700
Facsimile: 310.477.1699

COTCHETT, PITRE & McCARTHY, LLP
FRANK M. PITRE, State Bar No. 100077
840 Malcolm Road, Suite 200
Burlingame, California 94010
Telephone: 650.697.6000
Facsimile: 650.697.0577

WALKUP, MELODIA, KELLY & SCHOENBERGER
MICHAEL A. KELLY, State Bar No. 71460
KHALDOUN A. BAGHDADI, State Bar No. 190111
650 California Street, 26th Floor
San Francisco, California 94108
Telephone: 415.981.7210
Facsimile: 415.391.6965

ROGERS, SHEFFIELD & CAMPBELL, LLP
TRAVIS C. LOGUE, State Bar No. 232471
JASON W. WANSOR, State Bar No. 232949
150 E. Carrillo Street
Santa Barbara, CA 93101
Telephone: 805.963.9721
Facsimile: 805.963.2323

Attorneys for Plaintiffs

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Superior Court of California
County of Los Angeles

MAR 28 2018

Sherri R. Carter, Executive Officer/Clerk
By: Glorietta Robinson, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES, CENTRAL DISTRICT

BY FAX

CARIE BAKER-COREY, individually and as Successor-in-Interest of SAWYER COREY; SUMMER COREY, a minor by and through her guardian ad litem CARIE BAKER, Plaintiffs, v. SOUTHERN CALIFORNIA EDISON COMPANY, a California corporation; EDISON INTERNATIONAL; and DOES 1-100, inclusive, Defendants.	Case No. BC 699727 **COMPLAINT FOR DAMAGES** **1. Negligence** **2. Wrongful Death** **3. Survival Action** **4. Inverse Condemnation** **5. Public Nuisance** **6. Private Nuisance** **7. Premises Liability** **8. Trespass** **9. Private Right of Action Pursuant to *Public Utilities Code* §2106** **10. Violation of *Health & Safety Code* §13007** **DEMAND FOR JURY TRIAL** **[Filed concurrently with the Declaration of Carie Baker-Corey as Successor-in-Interest to the Estate of Sawyer Corey]**

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

COME NOW, the Plaintiffs CARIE BAKER, individually and as Successor-in-Interest of SAWYER COREY; and SUMMER COREY, a minor by and through her guardian ad litem CARIE BAKER, who complain against Defendants SOUTHERN CALIFORNIA EDISON COMPANY, EDISON INTERNATIONAL and DOES 1-100 (collectively "DEFENDANTS") and allege as follows:

I.

INTRODUCTION

1. This case arises from SOUTHERN CALIFORNIA EDISON COMPANY'S ("SCE") longstanding corporate culture of decision-making that places profits over public safety. SCE's disregard for safety regulations and risk management practices, along with their systematic failure to implement and abide by effective maintenance and inspection practices for their facilities and equipment, lies at the root of the various factors that caused and/or contributed to causing the largest wildfire in modern California history (the "Thomas Fire"). The Thomas Fire ravaged Ventura and Santa Barbara counties in December 2017 and January 2018, leaving massive devastation in its wake, and destroying the homes, businesses and personal property of residents and endangering their lives and livelihoods.

2. The Thomas Fire set in motion a chain of horrific events that devastated Plaintiffs' community, tore apart their family, and destroyed their home and personal belongings.

3. At its height, the wildfire was powerful enough to generate its own weather, qualifying it as a firestorm. It burned over 281,000 acres, destroying at least 1,063 structures and damaging 280 others. It caused widespread power outages, road and school closures, and forced thousands of residents to be evacuated and local businesses to be shut down.

4. The Thomas Fire stripped the landscape of dense thickets of chaparral, brush and tall grass that normally covers the region. When rain began to fall, the destruction from the Thomas Fire invited disastrous mudslides by turning hundreds of miles of the Santa Ynez Mountains into precarious, unstable ground susceptible of being swept away at any moment. Because the Thomas Fire had burned so intensely, the soil was transformed into a dense, water-repellant surface.

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

5. In the early morning hours of January 9, 2018, enormous flows of water and mud cascaded down the mountain sides that had been decimated by the wildfire. Then, massive debris flows, made up of thick, dense mud, rocks and trees, and moving at speeds of up to 20 miles per hour, pummeled the neighborhoods below. Homes were ripped clear off their foundations while others were swallowed by waist-high mud, debris and boulders as large as tow trucks. The debris flow hit with such force that mature trees were torn from the ground.

6. When the mudslide struck, many residents of Montecito were faced with overwhelming tragedy, among them Carie Baker and her children, twelve year old twins Sawyer Corey and Summer Corey and their 25 year old half-sister, Morgan Corey. The family was swept from their beds by mud and boulders when their home was suddenly demolished by the fast-moving debris flow. Carie Baker and Summer Corey were pulled from the debris alive, having suffered life-threatening injuries. Sawyer Corey and Morgan Corey did not survive.

7. These disasters (collectively the "Thomas Fire and Mudslides") have a common underlying cause: they were precipitated by the unsafe electrical infrastructure owned, operated, and improperly maintained by SOUTHERN CALIFORNIA EDISON COMPANY and EDISON INTERNATIONAL (collectively "SCE Defendants").

8. The Thomas Fire and the Mudslides were the inevitable byproducts of the SCE Defendants' willful and conscious disregard of public safety. The SCE Defendants, although mandated to do so, failed to identify, inspect, manage and/or control vegetation growth near its power lines and/or other electrical equipment. This created a foreseeable danger of trees and/or other vegetation coming into contact with SCE's power lines and/or other electrical equipment and causing electrical problems, including ignition of fires. Further, SCE failed to construct, manage, track, monitor, maintain, operate, replace, repair, and/or improve its power lines, poles, transformers, conductors, insulators, reclosers and/or other electrical equipment in a safe manner, despite being aware that its infrastructure was aging, unsafe, likely to cause fires and/or vulnerable to environmental conditions.

9. The SCE Defendants knew about the significant risk of wildfires and other disasters from its ineffective vegetation management programs, unsafe equipment and/or aging infrastructure

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

for years before the Thomas Fire began and has been repeatedly fined, cited and/or otherwise held responsible for causing wildfires, explosions and other disasters by failing to mitigate these known risks.

10. Further, The SCE Defendants knew of the longstanding drought conditions in California and the significantly elevated risk of ignition and rapid spread of powerline fires in Ventura County due to strong Santa Ana winds and abundant dry vegetation. The SCE Defendants had the ability to temporarily de-energize its electrical facilities in times of elevated fire risk in order to protect the safety of the communities it serviced. Plaintiffs are informed and believe that the SCE Defendants turned a blind eye to the "Red Flag Warning" issued by the National Weather Service on December 4, 2017 which stated, "This will likely be the strongest and longest duration Santa Ana wind event we have seen so far this season. If fire ignition occurs, there will be the potential for very rapid spread… and extreme fire behavior."

11. Despite such warning and the SCE Defendants' knowledge of the elevated risk of ignition and rapid spread of a fire related to electrical facilities, Defendants elected not to de-energize its facilities to minimize the risk of fire and promote public safety.

12. The SCE Defendants had a duty to maintain its electrical infrastructure properly and to ensure surrounding trees and vegetation were trimmed and kept at a safe distance. Defendants violated that duty by knowingly operating aging, overloaded and/or improperly maintained infrastructure. In fact, the SCE Defendants' violations had caused fires before, and SCE had been sanctioned numerous times for this before the Thomas Fire began. Nevertheless, the SCE Defendants knowingly and habitually underestimated the potential risk, including fire risk, its system posed.

13. Wildfires, explosions, and other devastating events have resulted from the SCE Defendants' protracted history of choosing to divert funds from public safety, vegetation management, infrastructure maintenance programs and/or other early detection fire safety methods and equipment, such as "FlameSniffers," to instead line its own corporate pockets.

14. Had the SCE Defendants acted responsibly, the Thomas Fire and Mudslides could have been prevented and the lives of Plaintiffs' beloved daughters and sisters spared.

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

II.

JURISDICTION AND VENUE

15. This Court has subject matter jurisdiction over this matter pursuant to California Code of Civil Procedure § 395(a) because at all relevant times, Defendants resided in, were incorporated in, or done significant business in the State of California so as to render the exercise of jurisdiction over Defendants by California courts consistent with traditional notions of fair play and substantial justice. The amount in controversy exceeds the jurisdictional minimum of this court.

16. Venue is proper in this County pursuant to California Code of Civil Procedure § 395.5 because at all relevant times, Defendants, and each of them, have had their principal place of business in the County of Los Angeles.

III.

THE PLAINTIFFS

17. Plaintiff Carie Baker Corey is, and at all relevant times was, a resident of Santa Barbara County, California. She is the natural mother of Summer Corey and Sawyer Corey and the step-mother of Morgan Corey.

18. Plaintiff Summer Corey is, and at all relevant times was, a resident of Santa Barbara County, California. Summer Corey is a minor, represented by and through her Guardian ad Litem, Carie Baker Corey.

19. Plaintiff The Estate of Sawyer Corey is represented by and through its Successor-in-Interest, Carie Baker Corey pursuant to Code of Civil Procedure section 377.60. See *Declaration of Carie-Baker Corey as Successor-in-Interest to the Estate of Sawyer Corey* filed concurrently herewith.

20. Carie Baker Corey ("Carie") was born and raised in Santa Barbara County. She attended Crane Country Day School and Montecito Union before graduating from Santa Barbara High School. She briefly lived out of state while attending Arizona State University, but returned to Montecito to start a career and a family. In 1994, she met David Corey, who had a young daughter, Morgan Corey ("Morgan"). Carie assumed the role of surrogate mother and raised Morgan from the time she was three years old. In 2005, David Corey and Carie had twin daughters, Summer Corey ("Summer") and Sawyer Corey ("Sawyer").

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

Summer Corey, Carie Baker Corey, Sawyer Corey and Morgan Corey

21. In January 2018, Summer and Sawyer were twelve years old. Morgan was 25 years old. The three of them lived together with Carie in a rental home located at 1231 East Valley Road, Montecito in the County of Santa Barbara (the "PROPERTY"). The twins attended Montecito Union School, like their mother had during her childhood. Sawyer enjoyed horseback riding and drawing, while her sister Summer loved drama and sang in choir. Both girls were excited to be junior lifeguards during the summer. They had the same group of friends and, while they had different personalities and interests, they were largely inseparable.

22. Morgan was smart and athletic. She loved sports and especially loved to surf and spend time by the ocean. She planned to attend nursing school and wanted to work in the healthcare industry with disabled individuals. Morgan was exceedingly kind and loving to her younger sisters and, in her adult years, she had become one of Carie's closest friends and a source of constant support.

Morgan Corey

23. On or about January 8, 2018, Carie, Morgan, Sawyer and Summer went to bed as usual in their home on the PROPERTY. In the early morning hours of January 9, 2018, Carie and Morgan were awakened by loud crashing noises coming from outside. Morgan came to Carie's room while Sawyer and Summer remained asleep in their beds. When Carie and Morgan looked out the windows, the sky was lit up bright orange and Carie could see clearly that the creek near their home was completely full, with water sloshing over the sides. Suddenly, an avalanche of water was seen coming towards them, snapping 80 foot high trees like they were matchsticks. The sound was deafening and terrifying. All Carie had time to do was take Morgan's hand.

24. The water hit the house and within seconds, the entire structure fell from its raised foundation and was split in half, pulling Carie and Morgan into the crease. The ceiling opened up wide and Carie could see the sky as the house crumbled and was immersed by the debris flow. She and Morgan were still holding hands as they became engulfed in water. Carie fought to keep her head above water as she frantically searched for some way to safety. Morgan cried out to her in terror,

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

"What do we do? What do we do?" Then, she lost hold of Morgan as a rushing stream of water and debris took hold of her. Carie was caught in a rapidly moving debris flow, with boulders as big as cars and massive trees tumbling alongside her. She desperately tried grabbing hold of branches to slow herself, but she was moving so fast, her efforts were in vain. As she prayed, she blacked out.

1231 East Valley Road before the Mudslides, Street View 04/2012

1231 East Valley Road after the Mudslides, Street View 03/2018

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

Plaintiffs' home was completely demolished by the mudslide

25. When Carie awoke, her eyes were packed with mud and she was partially buried in the debris. She could not see and she could not move. She had flown through a window into the downstairs level of a neighbor's home. She called out as best she could for help. She was later pulled out of the mud by the neighbor, who had taken shelter in the upper level of his home with his family. Hours later, fire rescue personnel trudged in through the mud and were able to take Carie out on a gurney. By the time they got to her, she was hypothermic and in shock. Eventually, she was air lifted by a helicopter to the hospital.

26. Over the next six weeks, Carie would be hospitalized and treated for a plethora of devastating injuries. She suffered massive head trauma, including that the left side of her face was crushed in and had to be reconstructed with titanium plates. Six of her ribs were broken. The teeth in the left side of her mouth were separated from the bone. Her left orbital bone was shattered and her eye dropped out of place. Her vision has been impacted and is worsening. Her right arm and rotator cuff were broken. Her left scapula and rotator cuff were broken. She sustained a punctured and collapsed lung. She required a breathing tube inserted into a hole in the left side of her body for many weeks and had to fight off pneumonia. She was covered from head to toe with lacerations and contracted a staph infection and West Nile Virus in the contaminated debris flow. Carie has required multiple surgeries and is anticipated to need many additional surgeries in the future.

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

27. Even as Carie was rescued by her neighbors, Summer remained buried and unconscious under several feet of mud about a half mile away from the PROPERTY. Sometime later on the morning of January 9, a group of fire fighters were conducting a search when they heard quiet moaning. They located and dug Summer out from under the mud and large trees. She had to be resuscitated over and over again through CPR and a defibrillator, but was ultimately brought to the hospital where her mother was already undergoing surgery. Summer required life support for nearly two weeks. She was hypothermic, developed pneumonia and required multiple blood transfusions. She suffered severe heart damage and head trauma. Her right arm sustained devastating nerve damage that has left her without use of her dominant hand. When Summer's breathing tube was finally removed, her first words were, "Where are my sisters?"

Sawyer Corey

Morgan Corey

28. Summer learned from the hospital staff that her sisters did not survive the mudslide. Sawyer's body was found on January 10, 2018. Morgan's body was found on January 13, 2018.

29. In addition to the horrific physical injuries suffered by Carie and Summer, they have both sustained severe emotional and psychological trauma as a result of the events of January 9, 2018.

IV.

THE DEFENDANTS

A. The SCE Defendants

30. At all times herein mentioned, SOUTHERN CALIFORNIA EDISON and EDISON INTERNATIONAL (collectively "SCE Defendants") were corporations authorized to do business and doing business in the State of California, with their principal place of business in the County of Los Angeles, State of California. Defendant EDISON INTERNATIONAL ("EDISON") is an energy-based holding company headquartered in Rosemead, California, and it is the parent company of Defendant SOUTHERN CALIFORNIA EDISON ("SCE"). Subsidiaries of EDISON provide customers with public utility services, and services related to the generation of energy, generation of electricity, transmission of electricity and natural gas, and the distribution of energy.

31. SCE is both an "Electrical Corporation" and a "Public Utility" pursuant to, respectively, Sections 218(a) and 216(a) of the California Public Utilities Code. SCE is in the business of providing electricity to the residents and businesses of Central, Coastal and Southern California and, more particularly, to Plaintiffs' residence, business, and property through a network of electrical transmission and distribution lines.

32. SCE, based in Los Angeles County, is one of the nation's largest electric utilities, serving a 50,000 square-mile area within Central, Coastal and Southern California. It is wholly-owned by EDISON, which has a market cap over $20.5 billion. SCE's assets total approximately $53 billion.

33. EDISON is a publicly traded company that owns and/or manages an "Electric Plant" as defined in Section 217 of the Public Utilities Code, and, like its subsidiary SCE, is both an "Electric Corporation" and a "Public Utility" pursuant to, respectively, Sections 218(a) and 216(a) of the Public Utilities Code. It develops and operates energy infrastructure assets related to the production and distribution of energy such as power plants, electric lines, natural gas pipelines and liquefied naturel gas receipt terminals. EDISON'S total assets are approximately $53 billion.

34. The SCE Defendants have at least $1 billion in wildfire insurance.

35. At all relevant times, the SCE Defendants were suppliers of electricity to members of the public. As part of supplying electricity to members of the public, SCE installed, constructed built,

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

maintained, and/or operated overhead power lines, together with supporting poles and appurtenances, for the purpose of conducting electricity for delivery to members of the general public. Furthermore, Plaintiffs are informed and believe that SCE is responsible for maintaining vegetation near, around and in proximity to their electrical equipment in compliance with State and Federal Regulations, specifically including, but not limited to, Public Resource Code §§ 4292 and 4293, California Public Utilities Commission ("CPUC") General Order Nos. 95 and 165.

36. Plaintiffs are informed and believe and thereon allege that the SCE Defendants are jointly and severally liable for each other's negligence, misconduct and wrongdoing, as alleged herein, in that:

(a) The SCE Defendants operate as a single business enterprise operating out of the same building located at 2244 Walnut Grove Ave., Rosemead, California for the purpose of effectuating and carrying out SCE's business and operations and/or for the benefit of EDISON;

(b) The SCE Defendants do not operate as completely separate entities, but rather, integrate their resources to achieve a common business purpose;

(c) SCE is so organized and controlled, and its decisions, affairs and business so conducted as to make it a mere instrumentality, agent, conduit or adjunct of EDISON;

(d) SCE's income results from function integration, centralization of management, and economies of scale with EDISON;

(e) The SCE Defendants' officers and management are intertwined and do not act completely independent of one another;

(f) The SCE Defendants' officers and managers act in the interest of SCE as a single enterprise;

(g) EDISON has control and authority to choose and appoint SCE's board members as well as its other top officers and managers;

(h) Despite the fact that they are both Electric Companies and Public Utilities, the SCE Defendants do not compete with one another, but have been structured and

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

organized and their business effectuated so as to create a synergistic, integrated, single enterprise where various components operate in concert with one another;

(i) EDISON maintains unified administrative control over SCE;

(j) The SCE Defendants are insured by the same carriers and provide uniform or similar pension, health, life, and disability insurance plans for employees;

(k) The SCE 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 SCE Defendants invest funds from their programs and plans by a consolidated and/or coordinated Benefits Committee controlled by SCE and administered by common trustees and administrators;

(m) The SCE Defendants have unified personnel policies and practices and/or a consolidated personnel organization or structure;

(n) The SCE Defendants have unified accounting policies and practices dictated by EDISON and/or common or integrated accounting organizations or personnel;

(o) The SCE Defendants are represented by common legal counsel;

(p) EDISON's officers, directors, and other management make policies and decisions to be effectuated by SCE and/or otherwise play roles in providing directions and making decisions for SCE;

(q) EDISON's officers, directors, and other management direct certain financial decisions for SCE, including the amount and nature of capital outlays;

(r) EDISON's written guidelines, policies, and procedures control SCE's employees, policies and practices;

(s) EDISON files consolidated earnings statements factoring in all revenue and losses from SCE, as well as consolidated tax returns, including those seeking tax relief, and/or without limitation

(t) EDISON generally directs and controls SCE's relationship with, requests to, and responses to inquiries from the CPUC and uses such direction and control for the

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

benefits of EDISON.

37. Plaintiffs are informed and believe that the SCE Defendants, and each of them, were the agents and/or employees of each of the other and in acting and/or failing to act as alleged herein, the SCE Defendants, and each of them, were acting in the course and scope of said agency and/or employment relationship.

B. <u>The Doe Defendants</u>

38. The true names of DOES 1 through 100, whether individual, corporate, associate, or otherwise, are unknown to Plaintiffs who, pursuant to California <u>Code of Civil Procedure</u> § 474, sue said Defendants by such fictitious names.

39. Each of the fictitiously named Defendants is responsible in some manner for the conduct alleged herein, including, without limitation, by way of conspiracy, aiding, abetting, furnishing the means for, and/or acting in capacities that create agency, respondeat superior, and/or predecessor- or successor-in-interest relationships with the other Defendants.

40. The DOE Defendants are private individuals, associations, partnerships, corporations, governmental entities or other entities that actively assisted and participated in the negligent and wrongful conduct alleged herein in ways that are currently unknown to Plaintiffs.

41. To the extent that any DOE is a governmental entity, at the time of filing of any amendment related to a fictitiously named governmental entity defendant, Plaintiffs will have either received notice of rejection of the Claim for Damages or the claim will have been deemed rejected by operation of law, pursuant to <u>Government Code</u> section 912.4(c).

42. Some or all of the DOE Defendants may be residents of the State of California. Plaintiffs may amend or seek leave to amend this Complaint to allege the true names, capacities, and responsibility of these DOE Defendants once they are ascertained, and to add additional facts and/or legal theories. Plaintiffs make all allegations contained in this Complaint against all Defendants, including DOES 1-100.

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PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

V.

FACTUAL ALLEGATIONS

A. Defendants Caused Two Tragedies

1. The Thomas Fire

43. After years of drought and following the absence of significant precipitation in the past fall or winter, the landscape of much of Southern California was critically dry.

44. On October 20, 2017, the California Department of Forestry and Fire Protection ("Cal Fire") issued a news release to warn of dangerous weather conditions in Southern California following the devastating Northern California fires. Cal Fire specifically said:

> After one of the deadliest and most destructive weeks in California's history, firefighters are preparing for another significant wind event in Southern California. The National Weather Service has issued several Red Flag Warnings and Fire Weather Watches across Southern California starting this weekend through early next week due to gusty winds, low humidity and high temperatures. In response to these anticipated conditions, CAL FIRE is increasing its staffing levels with additional firefighters, fire engines, fire crews, and aircraft to respond to any new wildfires. **"This is traditionally the time of year when we see these strong Santa Ana winds,**" **said Chief Ken Pimlott, director of CAL FIRE.** "And with an increased risk for wildfires, our firefighters are ready. Not only do we have state, federal and local fire resources, but we have additional military aircraft on the ready. Firefighters from other states, as well as Australia, are here and ready to help in case a new wildfire ignites." The weather warnings stretch from Santa Barbara, San Diego, Orange, Riverside, Los Angeles, San Bernardino and Ventura counties. **The winds are expected to reach gusts of up to 50 mph, along with record breaking heat, fire danger in these areas is high.** It is vital that the public use caution and avoid activities that may spark a new fire. **Any new fires can spread rapidly under these types of weather conditions.**

45. On December 4, 2017, the National Weather Service issued a "Red Flag Warning" for Ventura County stating "this will likely be the strongest and longest duration Santa Ana wind event we have seen so far this season. If fire ignition occurs, there will be the potential for very rapid spread …and extreme fire behavior."[1]

46. The National Weather Service issues Red Flag Warnings to alert fire departments and

[1] Sonali Kohli, Expect the "Strongest and Longest" Santa Ana Winds of the Season this Week in L.A. Area, L.A. Times (Dec. 4, 2017 8:10 a.m.) http://www.latimes.com/local/lanow/la-me-ln-fire-risk-20171204-story.html

the public of the onset, or possible onset, of critical weather and dry conditions that could lead to rapid or dramatic increases in wildfire activity. A Red Flag Warning is issued for weather events that may result in extreme fire behavior that will occur within 24 hours. A Red Flag Warning is the highest alert. During these times, extreme caution is urged because a simple spark can cause a major wildfire.[2]

47. The Thomas Fire began in two separate locations on the evening of December 4, 2017.[3] The first fire ignited around 6:25 p.m. to the east of the KOA Campground near Steckel Park, approximately 2 miles north of Santa Paula.[4] Santa Ana winds gusting up to 80 miles per hour drove the blaze toward Thomas Aquinas College and across State Route 150 as it approached the City of Ventura. Plaintiffs are informed and believe that the fire was started when power lines, transformers, conductors, poles, insulators, reclosers and/or other electrical equipment constructed, owned, operated, managed and/or maintained by SCE fell down, broke, failed, sparked, exploded and/or came into contact with vegetation, all because of SCE's disregard for mandated safety practices and the foreseeable risks associated with its infrastructure.

48. Approximately 30 minutes after the Thomas Fire started, a second blaze was ignited about four miles to the north in Upper Ojai at the top of Koenigstein Road. Plaintiffs are informed and believe that this second fire was ignited when the power lines and/or other electrical equipment that were constructed, owned, operated, managed and/or maintained by SCE fell, broke, failed, sparked, exploded and/or otherwise came into contact with surrounding vegetation. This second fire expanded rapidly due to the strong Santa Ana winds and merged into the Thomas Fire later that night.

49. In the days and weeks that followed, the fire spread at an alarming rate due to strong Santa Ana winds and dry vegetation created by years of drought conditions in Southern California. At its height, the wildfire was powerful enough to generate its own weather, qualifying it as a firestorm. There were periods of time when the fire was advancing at a rate of one acre per second. It burned

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[2] *Red Flag Warnings & Fire Weather Watches*, Cal. Dept. Forestry & Fire Protection, http://calfire.ca.gov/communications/communications_firesafety_redflagwarning

[3] Kit Stolz, Thomas Fire Had Two Origins, Santa Barbara Independent (Dec. 22, 2017), https://www.independent.com/news/2017/dec/22/thomas-fire-had-two-origins/

[4] *Thomas Fire Incident Information*, Cal. Dept. Forestry & Fire Protection, http://cdfdata.fire.ca.gov/incidents/incidents_details_info?incident_id=1922

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

over 281,000 acres, destroying at least 1,063 structures and damaging 280 others. It caused widespread power outages, road and school closures, and forced over 100,000 residents to be evacuated and local businesses to be shut down.

50. The rocky, steep terrain of the Santa Ynez Mountains and the strong Santa Ana winds made the fire difficult to combat. Indeed, efforts to contain the fire required the largest mobilization of firefighters for battling any wildfire in California history.

51. The California Department of Forestry and Fire Protection ("Cal Fire") determined the Thomas Fire was both the largest fire in modern California history, as well as the seventh most destructive.

52. On December 11, 2017, SCE issued a press release stating that it was being investigated by Cal Fire for its role in starting the Thomas Fire: "The causes of the wildfires are being investigated by Cal Fire… SCE believes the investigations now include the possible role of its facilities."

53. It would be another thirty-two (32) days before the Thomas Fire was fully contained on January 12, 2018.

2. <u>The Mudslides and Debris Flows</u>

54. While the Thomas Fire was still burning, a strong low-pressure system and cold front began to develop off the coast of California on January 5, 2018.

55. On January 8, 2018, heavy rains started to fall on Southern California. The storm intensified the following day, with 2-4 inches of rain falling over the two-day period.

56. The heavy precipitation on the burned mountainsides above Montecito resulted in rapid erosion, turning the hillsides into torrents of debris flow consisting of mud, rock, vegetation, and boulders on soil surfaces and in stream channels. this debris flow had the consistency of wet concrete.

57. Then, in the early morning hours of January 9, 2018, Montecito Creek overflowed its banks, spilling out onto Olive Mill Road. The Mudslides began while most residents were sleeping, so many were unaware of the approaching debris flow until it slammed into their homes. Because the debris flows moved so quickly, for many people there was no time to escape or to protect their property or save their belongings.

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
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58. Richard Rudman, vice chairman of the California Emergency Alert System states that "once a debris flow begins, it's extremely difficult to get out of the way."

59. The Mudslides were the deadliest flooding event in California in decades. It is estimated that at least 2.5 million cubic yards of material was unleashed from the mountains above Montecito.

60. Some estimates of the mudflows clocked them at 20 miles per hour, which is much faster than most people can run.

61. The Mudslides created a vast wasteland over much of Montecito where homes and businesses once stood. The debris flow rampaged over homes and their inhabitants, businesses, and roadways from the Los Padres National Forest all the way to the Pacific Ocean, and rendering vast areas of Montecito uninhabitable. The Mudslides destroyed numerous bridges and critical infrastructure. The beautiful ornamental landscaping and serenity that once existed has been erased.

Structure smashed against a tree along Hot Springs Road 01/09/2018

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62. Santa Barbara County Sheriff Bill Brown said that the area now resembles a "World War I battlefield" with "a carpet of debris everywhere, with huge boulders, rocks, downed trees, power lines, wrecked cars."[5]

Destroyed house and property, boulders from the mudslide

Destroyed homes along San Ysidro Creek near East Valley Road

[5] Tom Piozet and Erik Ortiz, Deadly Rains in Southern California Send Rivers of Mud Into Homes, Trigger Fire, Flooding, NBC News (Jan. 9, 2018 11:19 p.m.), https://www.nbcnews.com/news/weather/rains-southern-california-send-rivers-mud-homes-trigger-fire-n836016

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63. The Mudslides were filled with raw sewage and dangerous chemicals.

64. The Mudslides were so large that they changed the elevation in some neighborhoods by as much as six feet and substantially widened creek channels, which means existing FEMA flood maps are no longer accurate. Consequently, the value, future development potential and marketability of dozens of properties have been severely diminished.

65. The Mudslides have caused loss of life and personal injuries, as well as widespread and extensive property damage.

66. U.S. Highway 101 was underwater and swamped with mud, rocks and debris after the slides. It remained entirely closed in the area for over 10 days. It was opened only after a herculean effort by hundreds of Caltrans workers and private contractors working around the clock with dump trucks and heavy equipment. The 101 is California's primary coastal route and the only major freeway between Santa Barbara and Ventura. The road closures made rescues of residents challenging.

67. Similarly, the large amounts of mud, debris and heavy boulders have hampered rescue efforts. First responders and rescue personnel have been searching frantically for missing residents through deep rivers of mud, hoping to locate missing persons. Numerous helicopters were utilized to conduct emergency hoist rescue operations.

3. <u>The "Fire-Flood" Cycle</u>

68. Despite the fact that the Mudslides were fast-moving and caught residents off-guard, they were absolutely predictable. Fires have been a common factor in Southern California debris flows for many years.

69. Southern California's mountain ranges are very steep and highly erodible. The Thomas Fire left these areas highly susceptible to excessive runoff of mud and debris flow in the event of a heavy rainstorm event. Geologists and weather forecasters warned that rain could trigger deadly mudslides in the scorched areas.

70. "That's something we've known since the early to mid-twentieth century," says Josh West, an associate professor of earth sciences at the University of Southern California. "It's this one-

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two punch of fire and debris flows."[6]

71. Santa Barbara officials warned that flooding was expected, especially in the area below the Thomas Fire burn scar between Montecito and Carpinteria. At a press conference outside Carpinteria City Hall on January 5, 2018, Santa Barbara County 1st District Supervisor Das Williams, Office of Emergency Management Director Robert Lewin, and County Public Works Deputy Director Tom Fayram warned that the potential for flash floods in the burn area this season is "10 times greater than a normal year" because the Thomas Fire burned off the top layer of soil that normally acts as sponge during rainstorms.[7]

72. The Thomas Fire burned the aboveground plants and structures, but it also physically altered the ground itself. Because it was such a powerful fire, it burned through the topsoil and plant matter as well as the subsurface material.

73. Prior to the Thomas Fire, the soil was held on the steep, rocky hills by vegetation. The hills above Montecito are filled with small channels less than a meter wide and these channels can quickly become overwhelmed during a powerful storm. During the rain, the water and runoff moved sediment in the steep channels, producing debris flow. Without a top layer of dirt that would normally absorb rain, the soil lost its porosity, texture and the ability to absorb and hold water. Also, fire dries the soil so much that it loses the ability to soak up rainfall.

74. The Thomas Fire made the soil incredibly loose and incapable of soaking water deeper into the ground, causing sediment to roll down the steep hillsides. Debris flow amassed in stream valleys and consisted of water, soil, and solid material. The water combined with debris made it possible to transport something very large much farther and much faster.

75. When the rains came, they hit bare, hydrophobic soil that could not readily absorb water, and this impermeable layer then actually increased the speed of surface water. The rain ran off the Thomas Fire burn area, picking up soil, boulders, vegetation and speed as it surged down canyons

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[6] Bettina Boxall, *The Same Elements That Made the Thomas Fire Such a Monster Also Created Deadly Debris Flows*, L.A. Times (Jan. 12, 2018 4:00 a.m.), http://www.latimes.com/local/lanow/la-me-mudflows-science-montecito-20180112-story.html

[7] Keith Hamm, "Significant Storm" on the Way for Santa Barbara County, Officials Warn, Santa Barbara Independent (Jan. 5, 2018), https://www.independent.com/news/2018/jan/05/significant-storm-way-santa-barbara-county-official/

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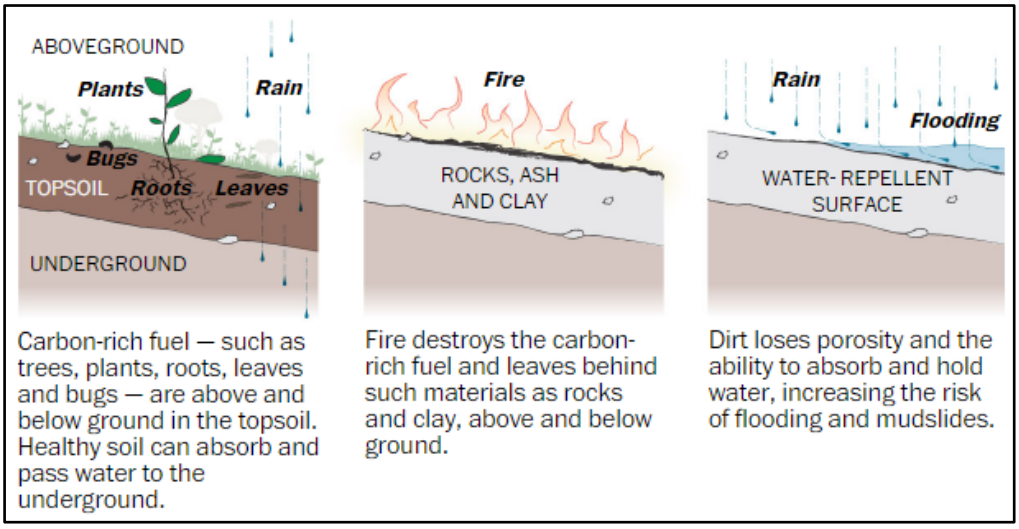
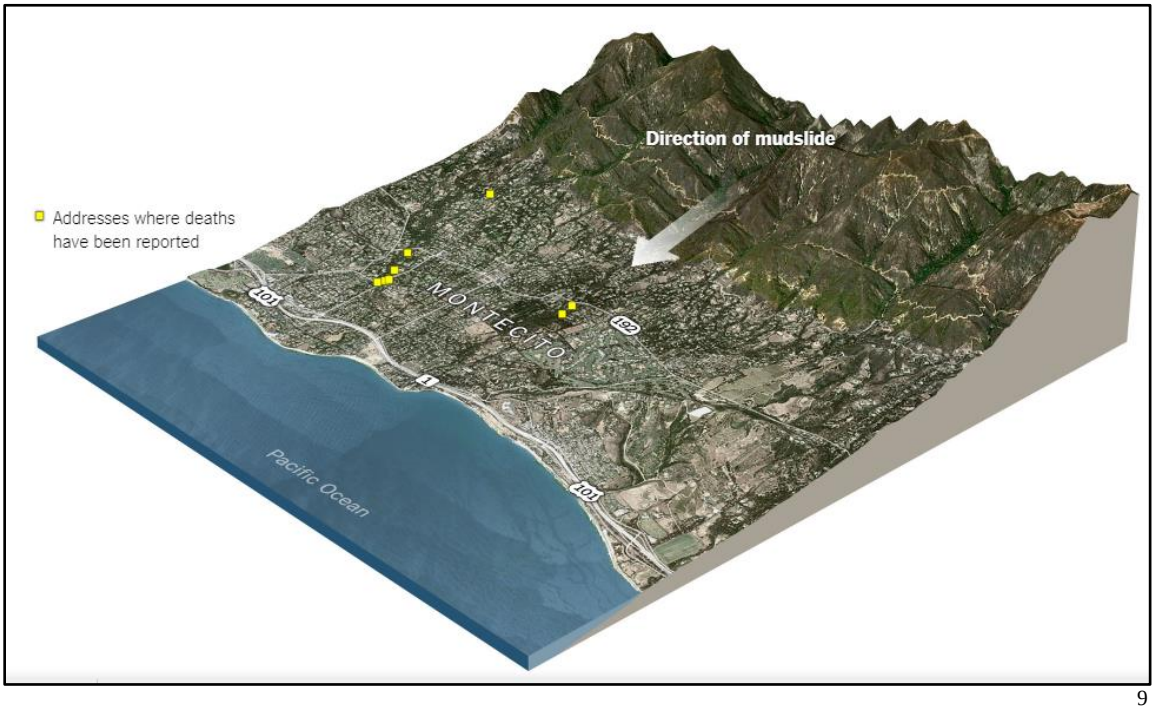
and streams. Muds formed and rapidly moved down towards the communities below, carrying debris such as rocks and boulders with them. The steep slopes above Montecito intensified the speed of the debris flows.



[8]



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[8] Laris Karklis, et al., *Mapping the Destruction of the Montecito Mudslides*, Washington Post (Jan. 11, 2018), https://www.washingtonpost.com/graphics/2018/national/california-mudslides/?utm_term=.0dd65fd3d714.

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76. While vegetation grows back in approximately five years after a fire, researchers believe that it takes up to two decades for a hillside's soil to be restored to pre-fire conditions.[10]

77. Since the rains, the porous soil has become even more dense and water repellent, which makes the region prone to further mudslides when rain strikes the surface again. This is a long-term repercussion because the area will be vulnerable to flooding and mudslides for years to decades after the fire is contained. Montecito and Carpinteria are particularly vulnerable to recurrent mudslides because the steep terrain behind these communities drops from thousands of feet above sea level to the ocean in just a few miles.

B. Defendants' Responsibility

1. Defendants Had Non-Transferable, Non-Delegable Duty to Safely Maintain Electrical Infrastructure and the Nearby Vegetation

78. SCE, EDISON and DOES 1-100, and each of them (collectively "Defendants"), own, install, construct, operate and maintain overhead power lines, together with supporting poles and appurtenances throughout Southern California, including Ventura County, for the purpose of transmitting and distributing electricity to the general public. These lines and equipment were located at and around the points of origin of the Thomas Fire.

79. Electrical infrastructure is inherently dangerous and hazardous, and Defendants recognize it as such. The transmission and distribution of electricity requires Defendants to exercise an increased level of care in accordance with the increased risk of associated danger.

80. At all relevant times, Defendants, and each of them, had a non-transferable, non-delegable duty to properly construct, inspect, repair, maintain, manage and/or operate their power lines and/or other electrical equipment. Defendants also had a duty to keep vegetation properly trimmed and maintained to prevent foreseeable contact with its electrical equipment.

81. In the construction, inspection, repair, maintenance, management, ownership and/or

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[9] Jasmine C. Lee, et al., *Identifying the Causes of the California Mudslides*, N.Y. Times (Jan. 16, 2018), https://www.nytimes.com/interactive/2018/01/16/us/map-california-mudslides.html

[10] Raoul Ranoa, Infographic: How Debris Flows Happen, L.A. Times (Oct. 15, 2016 3:340 p.m), http://www.latimes.com/visuals/graphics/la-g-how-debris-blows-happen-20151016-htmlsotry.html

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operation of their power lines and other electrical equipment, Defendants had an obligation to comply with, *inter alia*: (1) Code of Civil Procedure § 733; (b) Public Resource Code §§ 4292, 4293 and 4435; (c) Public Utilities Code § 451; and (d) General Order Nos. 95 and 165.

82. Pursuant to Public Utilities Code § 451, "[e]very public utility shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities…as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

83. To fulfill this obligation, Defendants are required to comply with a number of design standards for their electrical equipment, as set forth in CPUC General Order 95. In extreme fire areas, Defendants must also ensure that their power lines and utility poles can withstand winds of up to 92 miles per hour.

84. Further, Defendants must follow several standards to protect the public from the consequences of vegetation and/or trees coming into contact with their power lines and other electrical equipment. Pursuant to Public Resources Code § 4292, Defendants are required to "maintain around adjacent to any pole or tower which supports a switch, fuse, transformer, lighting arrester, line junction, or dead end or corner pole, a firebreak which consists of clearing not less than 10 feet in each direction from the outer circumference of such pole or tower."

85. Also, Public Resources Code § 4293 mandates that Defendants maintain clearances of 4 to 10 feet for all of their power lines, depending on their voltage. In addition, "[d]ead trees, old decadent or rotten tress, trees weakened by decay or disease and trees or portions thereof that are leaning toward the line which may contact the line from the side or may fall on the line shall be felled, cut, or trimmed so as to remove such hazard."

86. Pursuant to CPUC General Order 165, Defendants are also required to inspect their distribution facilities to maintain safe and reliable electric systems. Specifically, Defendants must conduct "patrol" inspections of all their overhead facilities annually in Extreme or Very High Fire areas, which includes Ventura County.[11]

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[11] CPUC General Order 165, Table 1, http://www.docs.cpuc.ca.gov/PUBLISHED/GENERAL_ORDER/159182.htm

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87. Defendants are required to inspect wooden utility poles once the poles have been in service for 15 years, with intrusive inspections of the poles themselves within ten years.[12]

88. Defendants knew or should have known that these statutory and regulatory standards are minimum standards. Defendants knew or should have known that they had (1) a duty to identify vegetation that is dead, diseased and/or dying, or that otherwise poses a foreseeable hazard to power lines and/or other electrical equipment; and (2) a duty to manage the growth of vegetation near their power lines and equipment so as to prevent the foreseeable danger of contact between vegetation and power lines starting a fire.

89. Defendants had and have a duty to manage, maintain, repair and/or replace their aging infrastructure to protect public safety. These objectives could and should have been accomplished in a number of ways, including, but not limited to, putting electrical equipment in wildfire-prone areas underground, increasing inspections, developing and implementing protocols to shut down electrical operations in emergency situations, modernizing infrastructure and/or obtaining an independent audit of their risk management programs to ensure effectiveness.

90. Further, Defendants are acutely aware that they had and have a duty to identify, assess and mitigate wildfire risks, and in particular to monitor severe weather conditions that pose an increased risk of a wildfire.

91. To wit, in November 2015, SCE not only acknowledged this duty, but represented to the California State Senate Subcommittee on Gas, Electric, and Transportation Safety that a number of its "existing practices" had been "enhanced and new activities adopted since 2007 to further improve SCE's ability to manage wildfire risk."[13] Namely, SCE described a pilot program for the implementation of early fire-detection technology known as the "FlameSniffer" in Santa Barbara County. The FlameSniffer was described by SCE as having the ability to "immediately detect the onset of fire from any ignition source: lightning strike, arson, or power-line arcing or accidental

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[12] Id.; See also, CPUC *A Brief Introduction to Utility Poles* at p. 10, http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Divisions/Policy_and_Planning/PPD_Work/PPDUtilityPole.pdf

[13] Southern California Edison, Senate Informational Hearing: Wildfire Safety at p. 10, Nov. 18, 2015, http://seuc.senate.ca.gov/sites/seuc.senate.ca.gov/files/11-18-15_edison_testimony.pdf

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ignition."[14] SCE touted the benefits of this technology as follows: "FlameSniffer's ability to provide traditional weather observation data AND fire/heat/arc notification and observation allows SCE to take real-time operational measures to minimize fire ignitions… The combined use of existing weather observation data from the [National Weather Service] and the new FlameSniffer devices gives SCE both predictive and enhanced response capabilities to wildland fire incidents."

92. Further, SCE represented to the Senate subcommittee that this technology: (1) provides 24-hour, unmanned fire detection and vital ground-based intelligence for managing the wildland urban interface; (2) has a built-in camera that takes photos every 17 seconds once an ignition source is detected, providing real-time visual information of its surrounding area; (3) streams live micro-climate information, providing more weather condition information than traditional remote automated weather stations; and (4) enables fire agencies to provide rapid response to contain and/or extinguish incipient-stage wildfires before they become too large to fight with initial attack resources.[15]

93. As such, SCE knew that its duty included the monitoring of environmental and weather conditions, by virtue of the National Weather Service and/or other sources, in and around its electrical facilities as part of its obligation to identify, assess and mitigate wildfire risks.

94. At all times mentioned herein, Defendants failed to appropriately monitor the wildfire risk that was developing in the days and hours before the Thomas Fire ignited and failed to implement mitigating measures such as de-energizing their electrical facilities, reprograming reclosers and/or issuing warnings to the public regarding the foreseeable increased risk of a wildfire.

95. Defendants knew or should have known that a breach of the applicable standards and duties constituted negligence and would expose members of the general public to a risk of death, injury and/or destruction or damage to their property and businesses.

2. <u>Foreseeable and Expected Santa Ana Winds and Red Flag Danger</u>

96. California's drought years increased the risk of wildfire and consequently heightened Defendants' duty of care in the prevention of wildfires. At all relevant times, Defendants were aware

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[14] Id. at p. 12

[15] Id.

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that the State of California had been in a multi-year period of drought. Defendants were also aware that Ventura County frequently experiences "Santa Ana" wind conditions, which are highly conducive to the spread of wildfires. The Santa Ana winds are a regular and foreseeable part of life in Southern California at the time of year the Thomas Fire was ignited. Anyone who lives or works in Southern California is familiar with this type of extreme wind event.

97. In January 2014, Governor Jerry Brown declared a state of emergency due to California's continued drought conditions. In June 2014, pursuant to Resolution ESRB-4, the California Public Utilities Commission ("CPUC") directed SCE and all investor-owned utilities to take remedial measures to reduce the likelihood of fires started by or threatening utility facilities. In addition, the CPUC informed SCE and investor-owned utilities that it could seek recovery of incremental costs associated with these remedial measures outside of the standard funding process, agreeing to provide additional funding on top of vegetation management funding already authorized to ensure remedial measures would not go unperformed due to lack of funding.

98. Although the Governor issued an Executive Order in April 2017 ending the Drought State of Emergency, the declaration directed state agencies to "continue response activities that may be needed to manage the lingering drought impacts to people and wildlife." The California Tree Mortality State of Emergency issued in October 2015 by Governor Brown regarding the bark beetle infestation and resulting tree mortality remained in effect. The CPUC had not rescinded ESRB-4, and work by the utilities to comply with it and the Tree Mortality Emergency was ongoing.

99. According to SCE's Circuit Reliability Review for Santa Paula, "vegetation/animal" caused 59% of "momentary" interruptions to the eight electrical circuits serving Santa Paula, California. Thus, SCE was aware that vegetation coming into contact with its power lines was the leading cause of electrical interruptions in the Santa Paula area.

100. Moreover, at least as of November 2015, SCE had identified and was aware that its electrical facilities were located in areas where, due to environmental and/or weather conditions, they posed an increased risk of wildfires, including that approximately 75% of SCE's territory was in a designated "High Fire" area; 640,000 trees within SCE's territory were located in "High Fire" areas;

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and 993 SCE circuits were in "High Fire" areas.[16]

101. According to records maintained by Cal Fire, electrical equipment was responsible for starting 350 wildfires in the Southern California region during 2015, the latest year such statistics have been published.[17] Thus, Defendants, and each of them, knew of the foreseeable danger of wildfire when their power lines came into contact with vegetation.

102. In May 2016, the CPUP adopted Fire Map 1, which is a map that "depicts areas of California where there is an elevated hazard for ignition and rapid spread of power line fires due to strong winds, abundant dry vegetation, and other environmental conditions."[18] Ventura County is designated on this map as an "Extreme" and "Very High" fire threat. The area in and around the Thomas Fire is both red and orange, indicating the highest level of elevated hazard for the "ignition and rapid spread of power line fires due to strong winds, abundant dry vegetation and/or other environmental conditions."

103. Defendants were put on notice by the publication of this Fire Map in May 2016, and therefore knew well in advance of the Thomas Fire of the elevated fire risk in Ventura County for "ignition and rapid spread of power line fires due to strong winds, abundant dry vegetation, and/or other environmental conditions."

104. Then, on October 20, 2017, the California Department of Forestry and Fire Protection ("Cal Fire") issued a news release to warn of dangerous weather conditions in Southern California following the devastating Northern California fires. Cal Fire specifically said:

> After one of the deadliest and most destructive weeks in California's history, firefighters are preparing for another significant wind event in Southern California. The National Weather Service has issued several Red Flag Warnings and Fire Weather Watches across Southern California starting this weekend through early next week due to gusty winds, low

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[16] Southern California Edison, Senate Informational Hearing: Wildfire Safety, Nov. 18, 2015, http://seuc.senate.ca.gov/sites/seuc.senate.ca.gov/files/11-18-15_edison_testimony.pdf

[17] Historical Wildfire Activity Statistics (Redbooks), Cal Fire, available at http://www.fire.ca.gov/fire_protection/fire_protection_fire_info_redbooks_2015

[18] See, CPUC Fire Map Depicts Areas of Elevated Hazards In State: First Step in Creation of Tools to Help Manage Resources, Cal. Public Utilities Commission, 05/26/2016, available at: http://frap.fire.co.gove/data/frapgismaps/pdfs/fthreat_map.pdf

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humidity and high temperatures. In response to these anticipated conditions, CAL FIRE is increasing its staffing levels with additional firefighters, fire engines, fire crews, and aircraft to respond to any new wildfires. **"This is traditionally the time of year when we see these strong Santa Ana winds,**" **said Chief Ken Pimlott, director of CAL FIRE.** "And with an increased risk for wildfires, our firefighters are ready. Not only do we have state, federal and local fire resources, but we have additional military aircraft on the ready. Firefighters from other states, as well as Australia, are here and ready to help in case a new wildfire ignites." The weather warnings stretch from Santa Barbara, San Diego, Orange, Riverside, Los Angeles, San Bernardino and Ventura counties. **The winds are expected to reach gusts of up to 50 mph, along with record breaking heat, fire danger in these areas is high.** It is vital that the public use caution and avoid activities that may spark a new fire. **Any new fires can spread rapidly under these types of weather conditions.**

105. On December 4, 2017, the National Weather Service issued a "Red Flag Warning" for Ventura County stating "this will likely be the strongest and longest duration Santa Ana wind event we have seen so far this season. If fire ignition occurs, there will be the potential for very rapid spread …and extreme fire behavior."[19]

106. Plaintiffs are informed and believe that the Defendants had the ability to temporarily shut down their power grids in high fire-threat areas to prevent wildfires by de-energizing their lines. Defendants did not, however, shut off power grids in the Santa Paula, Ojai or Ventura areas on December 4, 2017 in anticipation of or in response to the extreme Santa Ana winds that were forecasted.

107. Further, Plaintiffs are informed and believe that, at all relevant times, Defendants had the ability to reprogram their reclosers[20] in times of high winds or other high risk environmental conditions so that, in the event of a downed pole or power line, an open circuit would remain open (i.e. not conducting electricity) and would not automatically "reclose" and electrical impulses would thereby be prevented from traveling through lines or facilities that may be in contact with vegetation

[19] Sonali Kohli, Expect the "Strongest and Longest" Santa Ana Winds of the Season this Week in L.A. Area, L.A. Times (Dec. 4, 2017 8:10 a.m.) http://www.latimes.com/local/lanow/la-me-ln-fire-risk-20171204-story.html

[20] In electric power distribution, a "recloser" or "autorecloser" is a circuit breaker equipped with a mechanism that can automatically close the breaker after it has been opened due to a fault. Reclosers are used on overhead distribution systems to detect and interrupt momentary faults.

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or other flammable materials. Defendants did not, however, reprogram their electrical systems' reclosers so as to minimize the risk of wildfire despite their knowledge of the "Red Flag Warning" and the onset of severe wind conditions in high risk areas, including Ventura County.

108. Defendants were specifically aware that California's wet season runs from October through March. The southern shift of the jet stream during winter months causes storms to track over California and delivers much of the state's yearly rain in just a few months.[21]

109. Additionally, EDISON has been in business in California since 1886 and SCE since 1896. Defendants knew, or certainly should have known, about the fire-flood cycle in the state, and in their region specifically: wildfires that burn prior to the rainy season greatly increase the risk of dangerous mudslides and/or debris flows.

3. <u>SCE Knew Its Infrastructure Was Old, Improperly Maintained, and Constituted a Serious Safety Risk of Igniting Wildfires</u>

1. <u>SCE's Overloaded Utility Poles</u>

110. SCE knew about the significant risk of wildfires caused by its aging and overloaded utility poles years before the Thomas Fire began.

111. SCE's service territory spans approximately 50,000 square miles and 63% of its electric transmission and distribution system is comprised of overhead lines. There are 1.4 million utility poles in its service territory. As of November 2015, approximately 330,000 SCE wood poles were in "High Risk" areas (including "High Fire" or "High Fire/High Wind" areas).[22]

112. Plaintiffs are informed and believe that most of SCE's poles were installed just after World War II.[23] While the methods used to measure safety since that time have changed, SCE has not brought the older poles into compliance with modern standards.

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[21] Brian Lada, Wildfire-Ravaged Areas of California Face Elevated Risk for Flooding, Mudslides This Winter, AccuWeather (Nov. 9, 2017 12:39 p.m.), https://www.accuweather.com/en/weather-news/wildfire-ravaged-areas-of-california-face-elevated-risk-for-flooding-mudslides-this-winter/70003199

[22] Southern California Edison, Senate Informational Hearing: Wildfire Safety, Nov. 18, 2015, http://seuc.senate.ca.gov/sites/seuc.senate.ca.gov/files/11-18-15_edison_testimony.pdf

[23] Inspecting and Upgrading Utility Poles (SCE Pamphlet), http://www.sce.com/wps/wcm/connect/55d4ff43-9d3e-4d37-9e70-02cd51867efa/PoleLoadingProgramFactSheet.pdf?MOD=AJPERES

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113. In a 2015 report to the CPUC addressing the risk factors in its electrical system, SCE admitted that "[w]ood poles are more susceptible to decay, woodpecker damage, or failure during a fire compared to concrete or steel poles." Furthermore, poles located in high-wind areas such as Southern California are "exposed to higher stresses… [i]f a pole fails and starts a wildfire, the fire is more likely to spread in a high-wind area" and "[i]f a pole fails in service, wildfires are more likely to start in high-fire regions…"[24]

114. In 2017, the CPUC ordered that the creation of a shared database be investigated specifically to address the problems with SCE's infrastructure that caused the 2007 Malibu Canyon Fire and the electrical problems in the 2011 Windstorms:

> Poorly maintained poles and attachments have caused substantial property damage and repeated loss of life in this State. Unauthorized pole attachments are particularly problematic. A pole over loaded with unauthorized equipment collapsed during windy conditions and started the Malibu Canyon Fire of 2007, destroying and damaging luxury homes and burning over 4500 acres. Windstorms in 2011 knocked down a large number of poles in Southern California, many of which were later found to be weakened by termites, dry rot, and fungal decay.[25]

115. In the June 29, 2017 CPUC press release related to this Order, CPUC President Michael Picker said, "plain old wooden poles, along with their cousins, the underground conduits, are work horses, carrying most of our power and telecommunications. They sometimes get crowded and fail, causing outages and fires because of all the equipment crammed onto them." Further, "[n]ot knowing where all the poles are and who owns them, how loaded they are, how safe they are, and whether they can handle any additional infrastructure, is problematic to both the utilities and to the CPUC. Creating a database of utility poles could help owners track attachments on their poles and

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[24] Safety Model Assessment Before the Public Utilities Commission of the State of California (may 2015), Prepared by SCE, http://www.sce.com/sscc/law/dis/dbattach5e.nsf/0/4841D9996A06A2B288257E38007AA374/$FILE/A.15-05-XXX%20SMAP%20-%20SCE-01%20SMAP%20Testimony_M%Marelli_S.%20Menon_N.$20Woodward.pdf

[25] CPUC Order Instituting Investigation Into the Creation of a Shared Database or Statewide Census of Utility Poles and Conduit (July 10, 2017), California Public Utility Commission, http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M191/K656/191656519.PDF

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manage necessary maintenance and rearrangements, and can help the CPUC in our oversight role."[26]

2. SCE's Failure to Maintain Electrical Infrastructure and Failure to Remediate Known Risks

116. In addition to its miles of aging infrastructure with no reasonably functional method to track the system's condition, SCE also failed to perform the necessary maintenance and inspections of its electrical equipment for years before the Thomas Fire broke out.

117. Overloaded poles have been a long-standing problem for SCE. As a result, as part of SCE's 2012 General Rate Case, the CPUC ordered SCE to conduct a sample of SCE-owned and jointly-owned utility poles to determine whether pole loading[27] complied with current legal standards. SCE's study found that 22.3% of the more than 5,000 poles tested failed to meet current design standards.

118. In November 2013, the Safety & Enforcement Division sent a letter to the CPUC Commissioners regarding SCE's study and recommended the following changes in policy: (a) SCE should conduct a wind analysis in its service territory, incorporating actual wind standards into its internal pole loading standards; (b) SCE should conduct a pole loading analysis of every pole carrying SCE facilities, employing a risk management approach, considering, at a minimum, fire risk, the presence of communications facilities and the number of overloaded poles in the area; and (c) SCE should commence pole mitigation measures as soon as possible, and not wait for the pole loading analysis to be completed.

119. The CPUC noted in its 2012 General Rate Case decision the importance of remediating overloaded poles because of the risk of fire:

> SCE did not establish its ability to undertake intrusive inspections of 130,000 wood poles per year during this rate cycle. However, we are concerned to the degree that some poles in SCE's service territory, particularly jointly-owned poles, may, unknown to SCE, be overloaded.

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[26] Press Release, CPUC to Examine Utility Pole Safety and Competition; Considers Creation of Pole Database, California Public Utilities Commission (June 29, 2017), http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M191/K560/191560905.PDF

[27] "Pole loading" is the calculation of whether a pole meets certain design safety factors based on wind in its location and the facilities attached to the pole.

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Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

Overloaded poles may break and thereby contribute to increased fire and other hazards.[28]

120. In its 2015 General Rate Case, SCE proposed a Pole Loading Program ("PLP") to "inspect and assess over 1.4 million poles over a seven-year period to identify and then remediate those poles that do not meet the current standards."[29]

121. SCE requested $1 billion in 2013-2017 capital expenditures and $38 million in 2015 test year expenses to cover costs for pole loading assessments and remediation.[30] Additionally, SCE admitted:

> SCE's electric and telecommunications facilities are attached to over 1.4 million poles that range from less than one year to nearly 100 years of age… [R]ecent events, including the Malibu Canyon Fire in October 2007 and the November 2011 San Gabriel Valley windstorm, have shown that some of the poles that failed during those incidents did not meet minimum pole loading criteria when measured against today's standards.

122. SCE claims to have started its program in 2014, and it proposed that it would complete its assessment in high fire areas in 2017 and pole remediation of overloaded poles in 2025. In its 2015 General Rate Case, SCE estimated that 22% of its utility poles were overloaded as a part of this assessment. SCE forecast it would perform an assessment of over 205,000 poles in 2015.

123. However, in its 2018 General Rate Case, SCE disclosed that instead of addressing the problems with its infrastructure, SCE modified its software used to calculate pole loading safety factors and these revisions reduced the percentage of poles it needed to remediate to just 9%.[31]

124. SCE further disclosed that it had again failed to meet its 2015 projected assessment and repair numbers for overloaded poles. Specifically, SCE admitted that it had only conducted around 142,000 of the 205,000 pole assessment that SCE previously stated it would have completed. As a result, SCE announced that it was changing the duration of its PLP from 7 years to 10 years to allow

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[28] Decision On Test Year 2012 General Rate Case for Southern California Edison Company, 181, CPUC (Dec. 10, 2012), http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M037/K668/37668274.pdf

[29] Test Year 2015 General Rate Case Application of Southern California Edison Company (U338-E), Nov. 23, 2013

[30] Transmission and Distribution (T&D) Volume 6, Part 2 – Pole Loading at 2, http://www.sec.com/sscc/law/dis/dbattach5e.nsf/0/763A8DBECCA94ECC88257C210080F6E3/$FILE/SCE-03%20Vol.%2006%20Part%202.pdf

[31] Test Year General Rate Case 2018, Transmission & Distribution Volume 9, Poles.

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

for fewer pole assessments each year.

125. Additionally, SCE disclosed that out of the 142,519 poles it assessed, it only did repairs on 569 under the PLP, which amounted to *14,310 fewer overloaded poles* than SCE forecast it would repair that year. SCE claims "repairs may be completed one or two years after the assessment, depending on whether the pole is in a high fire or non-fire area."

126. SCE's willful disregard of known, persistent problems with its electrical equipment is astounding in terms of the safety risk posed to the people and business throughout Southern California and in Ventura County.

3. <u>SCE's History of Safety Violations</u>

127. SCE knew about the significant risk of wildfires stemming from its unsafe equipment, aging infrastructure and/or ineffective vegetation management programs for many years before the Thomas Fire began. Indeed, SCE has been repeatedly fined and/or cited for failing to mitigate these risks.

128. Since 2007, the CPUC has levied over $78 million in fines against SCE for electric and fire-related incidents.[32]

129. The 1993 San Bernardino Mill Creek fire was caused by a failure of SCE's overhead power line equipment. The high winds caused a power line to break, spark a fire and damage a nearby home.

130. In 1997, SCE's failure to perform adequate vegetation management near its distribution lines caused a 25,100 acre fire in Riverside County. SCE failed to trim trees near its power lines.

131. In 1998, SCE signed an undisclosed settlement in relation to a fire in which most of Stearns Wharf in Santa Barbara was burned. An investigation concluded that SCE was responsible.

132. In 2006, SCE agreed to pay $14 million to settle a federal suit stemming from the 1994 Big Creek Forest Fire. The suit alleged that SCE did not comply with vegetation clearance requirements around a high-voltage transformer that exploded and ignited nearby dry grass. The government also alleged that SCE failed to install appropriate animal guards at the location, and that

[32] Electric and Fire-Related Fines, CPUC http://cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Electric_and_Fire_Related_Fines.pdf

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

SCE employees lacked the equipment to stop the fire before it went into the forest.

133. SCE was also held responsible for its role in the 2007 Malibu Canyon Fire. The fire began when three wooden utility poles snapped during high Santa Ana winds and ignited nearby brush. The fire burned 3,836 acres and destroyed or damaged over 30 structures. The CPUC found that at least one of the poles that fell was overloaded with telecommunications equipment in violation of the applicable standards. It further alleged that SCE misled investigators about the circumstances of the fire. SCE agreed to conduct a safety audit and remediation of its utility poles in the Malibu area. In 2013, the CPUC fined SCE $37 million for its role in the fire. Additionally, $17 million of the settlement was required to be spent on pole loading assessments and remediation work in Malibu Canyon and surrounding areas.

134. As part of the settlement agreement with CPUC, SCE admitted that it violated the law by not taking prompt action to prevent its poles in Malibu Canyon from becoming overloaded. Further, SCE admitted that a replacement pole did not comply with the CPUC's safety regulations for new construction, which should have caused SCE to take steps to remedy the situation.[33]

135. SCE was determined to be responsible for the 2007 Nightsky fire in Ventura County. The fire burned over 53 acres and was ignited when sagging, overloaded power lines arced and sparked. A jury determined that SCE had not properly maintained its lines, that there were problems with insulators or conductors on SCE's poles, and that phase-to-ground faults, relay-tripping, and phase-to-phase imbalances indicated the existence of a chronic, unfixed hazard.

136. In 2011, the U.S. Government successfully sued SCE for damages caused by a wildfire in the San Bernardino National Forest. A tree fell onto SCE power lines and emitted molten aluminum, starting a fire. The Government argued that SCE should have removed the tree prior to the fire during its inspection and maintenance. The Government received a $9.4 million verdict for the fire suppression costs and rehabilitation of the forest.

137. In November and December 2011, Santa Ana winds swept through SCE's territory,

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[33] Press Release, CPUC Staff Enter Settlement Agreement of $37 Million with Southern California Edison Over 2007 Malibu Fire, California Public Utilities Commission (May 20, 2013), http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M065/K515/65515418.PDF

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

knocking down utility facilities, uprooting trees, and causing prolonged power outages. Over 200 wood utility poles and 1000 overhead electrical lines were affected. CPUC's Safety & Enforcement Division performed an investigation and found that SCE and communication providers who jointly owned utility poles violated the CPUC's standards because at least 21 poles and 17 wires were overloaded in violation of safety factor requirements. SCE was fined $16.5 million.

138. In 2015, multiple power outages occurred on SCE's electric distribution system that serves downtown Long Beach, including a five-day outage from July 15 to July 20, 2015 and a four-day outage from July 30 to August 3, 2015. The Long Beach outages primarily affected 3,800 customers served by SCE's secondary network, but at times affected 30,000 customers, including customers who received their power from radial circuits that also feed the secondary network. Along with these outages, the failure of SCE's electrical facilities caused fires in several underground structures, resulting in explosions that blew manhole covers into the air.[34]

139. SCE received a $50,000 citation for a fatality that occurred at its Whittier facility. On May 15, 2014, an SCE overhead conductor separated and fell to the ground. A person came into contact with the downed conductor, which was energized, and was electrocuted. SED's investigators found that the overhead conductor separated at an overhead connector, and that SCE did not maintain the connector for its intended use.

4. <u>SCE's Chronic Failure to Adequately Assess the Risks of Its Equipment</u>

140. SCE knew or should have known of the risks its system posed years before the Thomas Fire began because it had been specifically told by the CPUC's Safety & Enforcement Division ("SED") that it needed to make substantial improvements in evaluating and characterizing the risk of its infrastructure.

141. The SED is in the process of advancing a new "risk-informed" process to support decision making and fund allocation in the context of energy utility General Rate Cases.

142. When the SED assessed SCE's General Rate Case application, the agency was highly

[34] Decision Adopting Settlement Agreement Between Southern California Edison Company and the Safety and Enforcement Disvision Investigation 16-07-007, California Public Utilities Commission (Oct. 15, 2017), http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M196/K833/196833010.docx

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

critical of SCE's risk assessment practices, finding that it would be "unwise to accept SCE's risk assessment methods as a basis for determining reasonableness of safety-related program requests." The SED further determined that "SCE is classifying major categories of spending as safety related even though they related to issues of customer satisfaction or electric service reliability than safety."[35]

143. Specifically, the SED "analyzed and evaluated the risk-informed decision framework used by SCE to identify major risks and determine potential mitigation plans and programs, and concluded that these methods and processes have not been particularly well described or effectively used to inform the 2018 GRC Test Year budget request."[36]

144. SCE also "admitted in testimony that it did not use risk assessment in the identification of its top risks, or to select programs to address those risks, but mostly after-the-fact as a way to measure risk reduction associated with the programs or projects proposed."

145. The SED found that SCE failed to identify the threats having the potential to lead to safety risks, pointing out that "SCE's approach to identify threats…suffers from an almost non-existent level of granularity."[37]

146. Of vital concern to the SED were SCE's large number of distribution and sub-transmission wooden poles: "The utility's Distribution and SubTransmission wood poles have been identified as assets with a substantial safety risk component."[38] Nearly 19% of poles reviewed in SCE's PLP study were considered overloaded and they failed the bending analysis.

147. The SED also noted "concern[] that any forthcoming assessments [by SCE] utilizing new software and potentially continually changing design criteria could not be adequately managing, mitigating and minimizing safety risks associated with pole loading." The SED recommended that the CPUC require SCE to conduct "a pole loading study on a statistically valid sample for SCE's service territory" and hire "an independent engineering firm, with appropriately State of California licensed

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[35] See Arthur O'Donnell, et al., *Risk and Safety Aspects of Southern California Edison's 2018-2020 General Rate Case Application* 16-09-0001, 5 California Public Utilities Commission (Jan. 31, 2017)

[36] Id.

[37] Id. at 20.

[38] Id. at 50.

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

engineers, verify and validate [SCE's] software to test the results provided by the specific software version utilized for SCE's electrical distribution and transmission wood pole design, against General Order 95 Overhead Line Construction safety requirements," since SCE had been unable to do so reliably on its own.[39]

148. In the report, SCE's own "territorial analysis project[ed] as much as a tripling of wildfire risks in the Santa Barbara region."[40]

149. The SED further found that the high risk scores of SCE's infrastructure showed that SCE's current methodology did not prioritize safety: SCE's methods for analyzing risk "underestimate[d] both the frequency and consequence/impact of very low frequency and very high consequence events, such as highly catastrophic wildfires. This is particularly true where SCE is relying on historical data as basis for estimating the frequency and consequence terms." SCE was not able to "provide even a qualitative prioritization of its risks."[41]

150. Inexplicably, despite repeated incidents of massive destruction and death, risk analyses, citations, fines, convictions, lawsuits, verdicts and settlements all revealing SCE's failures to appropriately and safely maintain and operate its infrastructure, SCE continued to adhere to the same lackadaisical practices that actually *increased* the risk of wildfires leading up to the Thomas Fire. SCE's shocking degree of complacency and refusal to modify its business practices amounts to a conscious disregard for the rights and safety of the public, including the Plaintiffs.

151. Rather than spend the money it obtains from customers to improve its infrastructure, maintenance and safety, SCE funnels this funding to boost its own corporate profits and compensation. This pattern and practice of favoring profits over a well-maintained infrastructure that would be safe and dependable left SCE vulnerable to an increased risk of a catastrophic event such as the Thomas Fire.

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[39] Id. at 56.

[40] Id.

[41] Id. at 32

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

VI.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

NEGLIGENCE

(Against All Defendants)

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

153. Defendants, and each of them, had and have a non-transferable, non-delegable duty to apply a level of care commensurate with and proportionate to the danger of designing, engineering, constructing, operating, and maintaining electrical transmission and distribution systems, including vegetation clearance.

154. Defendants, and each of them, had and have a non-transferable, non-delegable duty of vigilant oversight in the maintenance, use, operation, repair, and inspection appropriate to the changing conditions and circumstances of their electrical transmission and distribution systems.

155. Defendants, and each of them, have special knowledge and expertise far beyond that of a layperson, that they were obligated and required to use in the design, engineering, construction, use, operation, inspection, repair, and maintenance of electrical infrastructure, lines, equipment, and surrounding vegetation in order to assure safety under the local conditions of the service area, including but not limited to, those conditions that have been identified herein.

156. Defendants, and each of them, breached their respective duties owed to Plaintiffs by, including, but not limited to: (1) failing to comply with the applicable statutory, regulatory, and/or professional standards of care; (2) failing to timely and properly maintain, manage, inspect, and/or monitor the subject power lines, electrical equipment, and/or adjacent vegetation; (3) failing to properly cut, trim, prune, and/or otherwise keep vegetation at a sufficient distance to avoid foreseeable contact with power lines; (4) failing to trim and/or prune vegetation so as to avoid creation of a safety hazard within close proximity of the subject power line; (5) failing to make the overhead lines safe under all the exigencies created by surrounding circumstances and conditions; (6) failing to conduct adequate, reasonably prompt, proper, effective, and/or frequent inspections of the electrical

transmission lines, wires, and/or associated equipment; (7) failing to design, construct, monitor, and/or maintain high voltage electrical transmission, and/or distribution power lines in a manner that avoids the potential to ignite a fire during long, dry seasons by allowing vegetation to grow in an unsafe manner; (8) failing to install the equipment necessary and/or to inspect and repair the equipment installed, to prevent electrical transmission and distribution lines from improperly sagging, operating, and/or making contact with other metal wires placed on its poles and igniting fires; (9) failing to keep equipment in a safe condition and/or manage equipment to prevent fire at all times; (10) failing to de-energize power lines during fire prone conditions; (11) failing to de-energize power lines after the fire's ignition; (12) failing to reprogram reclosers to prevent electrical impulses from traveling in/through downed or damaged power poles, lines and other electrical equipment; and/or (13) failing to properly train and to supervise employees and agents responsible for maintenance and inspection of the distribution lines and/or vegetation areas nearby these lines.

157. Moreover, when the Mudslide that caused the deaths of Sawyer Corey and Morgan Corey occurred, Plaintiffs Carie Baker Corey and Summer Corey were present at the scene and were aware that the Mudslide was causing injury and/or death to Sawyer Corey and/or Morgan Corey.

158. Plaintiffs Carie Baker Corey and Summer Corey have suffered and continue to suffer serious emotional distress.

159. The negligence of the Defendants, and each of them, was a substantial factor in causing Plaintiffs' damages, including the deaths of their loved ones, Sawyer Corey and Morgan Corey. Defendants' failure to comply with their duties of care proximately caused the Plaintiffs to sustain damages as set forth herein. The conduct of the Defendants, and each of them, was a substantial factor in causing the serious emotional distress suffered by Carie Baker Corey and Summer Corey.

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

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

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

162. As a further direct and legal result of the Defendants' actions and/or omissions, Plaintiffs have suffered and/or continue to suffer great mental pain and suffering, including worry, emotional distress, humiliation, embarrassment, anguish, anxiety, and nervousness, in an amount to be shown according to proof at trial.

163. As a further direct and legal result of the Defendants' actions and/or omissions, Plaintiffs have suffered serious emotional distress, including suffering, anguish, fright, horror, nervousness, grief, anxiety, worry, shock, humiliation, and shame.

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

165. As a further direct and legal result of the Defendants' actions and/or omissions, Plaintiffs have suffered damage to and/or a loss of personal property, including but not limited to items of peculiar value to Plaintiffs and their cherished possessions, in an amount to be shown according to proof at trial.

166. The communities affected by the Thomas Fire are all dependent upon the safe transmission and distribution of electrical power for continuous residential and commercial usage, and the Defendants have contractual, statutory, and public duties to provide such electrical power in a manner that promotes those individual and public interests.

167. The potential harms to Plaintiffs from wildfires such as the Thomas Fire, including but not limited to the resulting Mudslides, were objectively foreseeable both in nature and in scope, and were subjectively known to the Defendants. At all relevant times, Defendants failed to properly inspect and maintain electrical infrastructure and equipment, which they knew, given the then-existing and known weather, climate, and wildfire risk conditions, posed a risk of serious harm to the Plaintiffs and to their personal property, to their health and well-being, and to their businesses and livelihoods. Defendants were aware that if their electrical infrastructure came into contact with vegetation subject to long-term drought conditions, a fire would likely result. Defendants also knew that, given the existing and known weather, climate, and fire-risk conditions, the fire was likely to pose a risk of

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

property damage, economic loss, personal injury and/or death to the general public, including the Plaintiffs.

168. Over the past decade, Defendant SCE has been subject to numerous fines and penalties as a result of SCE's failure to abide by safety rules and regulations.

169. The property damage and economic losses occasioned by the Thomas Fire, including but not limited to the resulting Mudslides, are the direct and proximate result of the ongoing custom and practice of Defendants' election to consciously disregard the safety of the public and to refuse to comply with statutes, regulations, standards and rules regarding Defendants' business operations. Despite having caused death, injury and extensive property damage and economic loss, the Defendants have continued to act in conscious disregard for the safety and rights of others and have ratified the unsafe conduct of their employees. Plaintiffs are informed and believe that no employee of the Defendants has been discharged or disciplined as a result of failing and/or refusing to comply with regulations and/or as a result of injuries or property damage inflicted on members of the public.

170. As set forth above and as will be shown according to proof, there is a high degree of certainty that Plaintiffs have suffered the injuries and damages set forth herein, and that there is an extremely close connection between those injuries and damages and Defendants' conduct. A high degree of moral blame is attached to Defendants' conduct, and the policy of preventing future harm justifies both the recognition of the existence of a duty of care owed by Defendants to all Plaintiffs and the imposition of all damages described herein.

171. The conduct alleged against Defendants herein was malicious, willful, wanton and despicable as defined by Civil Code § 3294. Such conduct subjected Plaintiffs to cruel and unjust hardship in conscious disregard of their rights, constituting oppression, for which Defendants must be punished by the award of punitive and exemplary damages in an amount sufficiently large to be an example to others and to deter Defendants and other from engaging in similar conduct in the future.

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

SECOND CAUSE OF ACTION

WRONGFUL DEATH AND SURVIVAL ACTION

(Against All Defendants)

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

173. As a direct and legal result of Defendants' actions and/or omissions, and/or each of them, Sawyer Corey ("Decedent") was caused to sustain traumatic injuries and death when the Mudslides struck her home and carried her out into the debris flow.

174. As a further direct and legal result of the Defendants' actions and/or omissions, Plaintiffs have sustained damages result from the loss of love, affection, society, service, comfort, support, right of support, expectations of future support and counseling, companionship, solace and mental support, as well as other benefits and assistance of Decedent Sawyer Corey, all to their general damages in an amount to be shown according to proof at trial.

175. As a further direct and legal result of the Defendants' actions and/or omissions, Plaintiffs have incurred medical, funeral and burial expenses in an amount to be shown according to proof at trial.

176. As a further direct and legal result of Defendants' actions and/or omissions, and/or each of them, Plaintiffs suffered economic losses, including but not limited to the loss of financial support, and/or the loss of household services in an amount according to proof of trial.

THIRD CAUSE OF ACTION

SURVIVAL ACTION

(Against All Defendants)

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

178. Prior to Decedent Sawyer Corey's death, this cause of action arose in her favor. Plaintiffs are informed and believe and thereon allege that, as a direct and legal result of Defendants' actions and/or omissions, Decedent Sawyer Corey suffered pre-death physical injuries, mental anguish, terror, anxiety, and unconsciousness. Had she survived, Decedent Sawyer Corey would have

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

been entitled to recover all such damages allowed pursuant to Code of Civil Procedure § 377.30 under the causes of action alleged herein.

179. Since Decedents' death, Plaintiff Carie Baker Corey is authorized as Sawyer Corey's Successor-in-Interest to pursue any and all legal claims for damages relevant thereto.

180. As set forth above, the Thomas Fire and mudslides were a direct and legal result of the negligence, carelessness, recklessness and/or unlawfulness of the Defendants, and each of them.

181. As a further direct and legal result of Defendants' actions and/or omissions, expenses were incurred for the identification and/or removal of Decedents' remains and other medical and/or emergency services related to the mudslides.

182. As set forth above and as will be shown according to proof, there is a high degree of certainty that Plaintiffs have suffered the injuries and damages set forth herein, and that there is an extremely close connection between those injuries and damages and Defendants' conduct. A high degree of moral blame is attached to Defendants' conduct, and the policy of preventing future harm justifies both the recognition of the existence of a duty of care owed by Defendants to all Plaintiffs and the imposition of all damages described herein.

183. The conduct alleged against Defendants herein was malicious, willful, wanton and despicable as defined by Civil Code § 3294. Such conduct subjected Plaintiffs to cruel and unjust hardship in conscious disregard of their rights, constituting oppression, for which Defendants must be punished by the award of punitive and exemplary damages in an amount sufficiently large to be an example to others and to deter Defendants and other from engaging in similar conduct in the future.

FOURTH CAUSE OF ACTION

INVERSE CONDEMNATION

(Against All Defendants)

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

185. Prior to and on December 4, 2017, Plaintiffs legally occupied and possessed real property and personal property located in Santa Barbara County in the area of the Thomas Fire.

186. Prior to and on December 4, 2017, Defendants installed, owned, operated, used,

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

controlled, and/or maintained electrical distribution infrastructure in Southern California.

187. Prior to and on December 4, 2017, as a direct, necessary and legal result of Defendants' installation, ownership, operation, use, control and/or maintenance for a public use of power lines and electrical equipment, Defendants' electrical lines and/or equipment came in contact with vegetation and caused the Thomas Fire and Mudslides, which damaged and destroyed the property occupied and possessed by Plaintiffs, as well as their personal property.

188. The damage to Plaintiffs' property was proximately and substantially caused by Defendants' actions in that the Defendants' installation, ownership, operation, use, control and/or maintenance for a public use of power lines and equipment was negligent and caused the Thomas Fire and Mudslides.

189. Plaintiffs have not received adequate compensation for the damage to and/or destruction of their property, which constitutes a taking or damaging of Plaintiffs' property by Defendants without just compensation.

190. As a direct and legal result of the above-described damages to Plaintiffs' property, including loss of use and interference with access and enjoyment of property, and damage/destruction of personal property, Plaintiffs have been damaged in an amount according to proof at trial.

191. Plaintiffs have incurred and will continue to incur attorneys', appraisal, and engineering fees and costs because of Defendants' conduct, in amounts that cannot yet be ascertained, but which are recoverable in this action pursuant to Code of Civil Procedure § 1036.

FIFTH CAUSE OF ACTION

PUBLIC NUISANCE

(Against All Defendants)

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

193. Defendants owed a non-transferable, non-delegable duty to the public, including Plaintiffs, to conduct their business, specifically the maintenance and/or operation of power lines, power poles and/or electrical equipment on power poles, and adjacent vegetation in proximity to their electrical infrastructure in Southern California, in a manner that did not threaten harm or injury to the

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Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

public welfare.

194. Defendants, by acting and/or failing to act as alleged herein, created a condition that was harmful to the health of the public, including Plaintiffs, and created a fire hazard and other potentially dangerous conditions to the Plaintiffs' property, which interfered with the comfortable occupancy, use and/or enjoyment of Plaintiffs' property. This interference is both substantial and unreasonable.

195. Plaintiffs did not consent, expressly or impliedly, to the wrongful conduct of the Defendants.

196. The hazardous condition that was created by and/or permitted to exist by the Defendants affected a substantial number of people at the same time within the general public, including the Plaintiffs, and constituted a public nuisance pursuant to Civil Code §§ 3479 and 3480 and Public Resources Code § 4171. Further, the Thomas Fire and Mudslides constituted a public nuisances pursuant to Public Resources Code § 4170.

197. The damaging effects of Defendants' creation of a fire hazard and the ensuing Thomas Fire and Mudslides are ongoing and affect the public at large. There is a long term risk of additional mudslides and/or debris flows in the future because the region was destabilized by the Thomas Fire and Mudslides.

198. As a direct and legal result of the conduct of Defendants, Plaintiffs suffered harm that is different from the type of harm suffered by the general public. Specifically, Plaintiffs have lost the occupancy, possession, use and/or enjoyment of their real and/or personal property, including but not limited to: a reasonable and rational fear that the area is still dangerous; soils that have become hydrophobic; exposure to an array of toxic substances on the land; the presence of "special waste," mud and/or boulders on the property that require special management and disposal; and economic losses.

199. As a further direct and legal result of the conduct of Defendants, Plaintiffs have suffered, and will continue to suffer, discomfort, anxiety, fear, worries, annoyance, and/or stress attendant to the interference with Plaintiffs' occupancy, possession, use and/or enjoyment of the property.

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Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

200. A reasonable, ordinary person would be annoyed or disturbed by the condition created by Defendants, and the resulting Thomas Fire and Mudslides.

201. Defendants' conduct is unreasonable and the seriousness of the harm to the public, including the Plaintiffs, outweighs the social utility of Defendants' conduct. There is little or no social utility associated with cause the Thomas Fire and Mudslides to destroy one of the most beautiful and beloved regions of Southern California.

202. The individual and/or collective conduct of Defendants set forth above resulting in the Thomas Fire and Mudslides is not an isolated incident, but is ongoing and/or a repeated course of conduct, and Defendants' prior conduct and/or failures have resulted in other fires and damage to the public.

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

204. Defendants have individually and/or collectively failed to and refused to conduct proper inspections and to properly trim, prune and/or cut vegetation in order to ensure the safe delivery of electricity to residents and businesses through the operation of power lines in the affected area, and Defendants' individual and/or collective failure to do so exposed every member of the public to a foreseeable danger of personal injury, death and/or a loss of or destruction of real and personal property.

205. Defendants' conduct set forth above constitutes a public nuisance within the meaning of Civil Code §§ 3479 and 3480, Public Resources Code §§ 4104 and 4170, and Code of Civil Procedure § 731. Pursuant to Civil Code § 3493, Plaintiffs have standing to maintain an action for public nuisance because the nuisance is especially injurious to Plaintiffs because it is injurious and/or offensive to the senses of the Plaintiffs, unreasonably interferes with the comfortable enjoyment of property and/or unlawfully obstructs the free use, in the customary manner, of their property.

206. For these reasons, Plaintiffs seek a permanent injunction ordering that Defendants, and each of them, stop continued violation of: (1) General Order No. 95, Rules 31.1–31.5, 35, 38, 43, 43.2, 44.1–44.4, 48 and 48.1; (2) General Order No. 165; (c) Public Resources Code §§ 4292, 4293 and 4435; and (d) Public Utilities Code § 451. Plaintiffs also seek an order directing Defendants to abate

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11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax

the existing and continuing nuisance described above.

SIXTH CAUSE OF ACTION

PRIVATE NUISANCE

(Against All Defendants)

207. Plaintiffs incorporate and re-allege by reference each of the paragraphs set forth as though fully set forth herein.

208. At all relevant times, Plaintiffs occupied property at or near the site of the Thomas Fire and Mudslides. At all relevant times herein, Plaintiffs had a right to occupy, enjoy, and/or use the property without interference by Defendants.

209. Defendants' actions, conduct, omissions, negligence, trespass and/or failure to act resulted in a fire hazard and a foreseeable obstruction to the free use of Plaintiffs' property, invaded the right of Plaintiffs to use the property, and interfered with Plaintiffs' enjoyment of the property, causing Plaintiffs unreasonable harm and substantial actual damages constituting a nuisance pursuant to Civil Code § 3479.

210. As a direct and proximate result of Defendants' conduct, Plaintiffs sustained losses and damages, including but not limited to damage to property, discomfort, annoyance, and emotional distress, the amount of which will be proven at trial.

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

212. Defendants' conduct was willful and wanton, and done with a conscious contempt and disdain for the disastrous consequences that Defendants knew could occur as a result of their dangerous conduct. Accordingly, Defendants acted with malice towards Plaintiffs, and therefore, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants, as set forth herein.

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SEVENTH CAUSE OF ACTION

PREMISES LIABILITY

(Against All Defendants)

213. Plaintiffs incorporate and re-allege by reference each of the paragraphs set forth as though fully set forth herein.

214. Defendants, and each of them, were the owners of an easement and/or real property in the area of the origins of the Thomas Fire and/or were the owners of the power lines upon said easement(s) and/or right(s) of way.

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

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

217. Defendants' conduct was willful and wanton, and done with a conscious contempt and disdain for the disastrous consequences that Defendants knew could occur as a result of their dangerous conduct. Accordingly, Defendants acted with malice towards Plaintiffs, and therefore, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants, as set forth herein.

EIGHTH CAUSE OF ACTION

TRESPASS

(Against All Defendants)

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

219. At all times relevant herein, Plaintiffs were the owners, tenants, and/or lawful occupants of property damaged by the Thomas Fire and/or the Mudslides.

220. Defendants, and each of them, in acting and/or failing to act in the manner set forth

above, caused the Thomas Fire to ignite and/or spread out of control, thereby creating the perfect post-wildfire conditions for disastrous mudslides. Defendants' wrongful acts and/or omissions caused and/or contributed to the harm, damage, and/or injury to Plaintiff, resulting in a trespass upon Plaintiffs' property interests.

221. Plaintiffs did not grant permission for Defendants to wrongfully act in a manner so as to cause the Thomas Fire and Mudslides, which wrongfully entered upon Plaintiffs' property, resulting in the harm, injury, and/or damage alleged herein.

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

223. Defendants' conduct was willful and wanton, and done with a conscious contempt and disdain for the disastrous consequences that Defendants knew could occur as a result of their dangerous conduct. Accordingly, Defendants acted with malice towards Plaintiffs, and therefore, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants, as set forth herein.

NINTH CAUSE OF ACTION

PRIVATE ACTION PURSUANT TO PUBLIC UTILITIES CODE § 2106

(Against All Defendants)

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

225. Public Utilities Code § 2106 creates a private right of action against "[a]ny public utility which does, causes to be done, or permits any act, matter, or thing prohibited or declared unlawful, or which omits to do any act, matter, or thing required to be done, either by the Constitution, any law of this State, or any order or decision of the commission . . . ."

226. As a Public Utility, Defendants at all times herein had a duty to properly design, construct, operate, maintain, inspect, and manage its electrical infrastructure as well as trim trees and vegetation in compliance with all relevant provisions of applicable orders, decisions, directions, rules or statutes, including, but not limited to, those stated in: (a) General Order No. 95, Rules 31.1-31.5,

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35, 38, 43, 43.2, 44.1-44.4, and 48-48.1; (b) General Order No. 165; (c) Code of Civil Procedure § 733; (d) Public Resources Code §§ 4292, 4293, and 4435; and (e) Public Utilities Code § 451.

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

228. Defendants, and each of them, violated the above listed requirements, by: (a) failing to service, inspect or maintain electrical infrastructure, structures and vegetation affixed to and in close proximity to high voltage electrical lines; (b) failing to provide electrical supply systems of suitable design; (c) failing to construct and to maintain such systems for their intended use of safe transmission of electricity considering the known condition of the combination of the dry season and vegetation of the area, resulting in Plaintiffs being susceptible to the ignition and spread of fire and the fire hazard and danger of electricity and electrical transmission and distribution; (d) failing to properly design, construct, operate, maintain, inspect and manage its electrical supply systems and the surrounding arid vegetation resulting in said vegetation igniting and accelerating the spread of the fire; (e) failing to properly safeguard against the ignition of fire during the course and scope of employee work on behalf of the Defendants; and (f) failing to comply with the enumerated legislative enactments and administrative regulations.

229. Defendants, and each of them, proximately and substantially caused the destruction, damage, and injury to Plaintiffs by their violations of applicable orders, decisions, directions, rules or statutes, including, but not limited to, those stated 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 Order No. 165; (c) Code of Civil Procedure § 733; (d) Public Resources Code §§ 4292, 4293, and 4435; and (e) Public Utilities Code § 4511.

230. Plaintiffs were and are within the class of persons for whose protection applicable orders, decisions, directions, rules or statutes were adopted, including, but not limited to, those stated 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 Order No. 165; (c) Code of Civil Procedure § 733; (d) Public Resources Code §§ 4292, 4293, and 4435; and (e) Public Utilities Code § 451.

231. As alleged herein according to proof, Defendants are liable to Plaintiffs for all losses, damages and injuries caused by and resulting from Defendants' violation of applicable orders,

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decisions, directions, rules or statutes were adopted, including, but not limited to, those stated 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 Order No. 165; (c) Code of Civil Procedure § 733; (d) Public Resources Code §§ 4292, 4293, and 4435; and (e) Public Utilities Code § 451.

232. Defendants' conduct was willful and wanton, and done with a conscious contempt and disdain for the disastrous consequences that Defendants knew could occur as a result of their dangerous conduct. Accordingly, Defendants acted with malice towards Plaintiffs, and therefore, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants, as set forth herein.

TENTH CAUSE OF ACTION

VIOLATION OF HEALTH & SAFETY CODE § 13007

(Against All Defendants)

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

234. By engaging in the acts and/or omissions alleged herein, Defendants, and each of them, willfully, negligently, carelessly, recklessly, and/or in violation of law, set fire to and/or allowed fire to be set to the property of another in violation of Health & Safety Code § 13007.

235. As a direct and legal result of Defendants' violation of Health & Safety Code § 13007, Plaintiffs suffered recoverable damages to property under Health & Safety Code § 13007.21 and continue to suffer the injuries and damages described herein.

236. As a further direct and legal result of the Defendants, and each of them, violating Health & Safety Code § 13007, Plaintiffs are entitled to reasonable attorney's fees pursuant to Code of Civil Procedure § 1021.9.

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

238. Defendants' conduct was willful and wanton, and done with a conscious contempt and disdain for the disastrous consequences that Defendants knew could occur as a result of their

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dangerous conduct. Accordingly, Defendants acted with malice towards Plaintiffs, and therefore, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants, as set forth herein.

VII.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs pray for relief against SCE, EDISON and DOES 1-100, and each of them, as set forth below:

1. Repair, depreciation, and/or replacement of damaged, destroyed, and/or lost personal and/or real property;
2. Loss of the use, benefit, goodwill, and enjoyment of Plaintiffs' real and/or personal property;
3. Loss of wages, earning capacity, and/or business profits or proceeds and/or any related displacement expenses;
4. Wrongful death damages;
5. Funeral and burial expenses;
6. Losses and damages that the decedent sustained before death, including any penalties or punitive or exemplary damages that the decedent would have been entitled to recover had she lived;
7. All costs of suit, including attorneys' fees where appropriate, appraisal fees, engineering fees, and related costs;
8. Exemplary damages in an amount according to proof pursuant to Civil Code § 3294;
9. Exemplary damages in an amount according to proof pursuant to Public Utilities Code § 2106;
10. For all costs of suit incurred;
11. Prejudgment interest according to proof;
12. General damages for fear, worry, annoyance, disturbance, inconvenience, mental anguish, emotional distress, loss of quiet enjoyment of property, personal injury, and for such other and further relief as the Court shall deem proper, all according to proof;

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13. Imposition of a permanent injunction ordering that Defendants, and each of them, stop continued violation of: (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 Order No. 165; (c) Public Resources Code §§ 4292, 4293, and 4435; and (d) Public Utilities Code § 451.

14. Issuance of an order directing Defendants to abate the existing and continuing nuisance they created; and

15. For such other and further relief as the Court shall deem proper, all according to proof.

VIII.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all claims in this action.

DATED: March 28, 2018

PANISH SHEA & BOYLE LLP

By: _____

RAHUL RAVIPUDI
LYSSA A. ROBERTS
Attorneys for Plaintiffs

PANISH SHEA & BOYLE LLP
11111 Santa Monica Boulevard, Suite 700
Los Angeles, California 90025
310.477.1700 phone • 310.477.1699 fax