

1 Elizabeth J. Cabraser (State Bar No. 083151)  
2 Robert J. Nelson (State Bar No. 132797)  
3 Lexi J. Hazam (State Bar No. 224457)  
4 Fabrice N. Vincent (State Bar No.160780)  
5 Annika K. Martin (*pro hac vice pending*)  
6 Abby R. Wolf (State Bar No. 313049 )  
7 **LIEFF CABRASER HEIMANN & BERNSTEIN, LLP**  
8 275 Battery Street, 29th Floor  
9 San Francisco, CA 94111-3339  
10 Telephone: 415.956.1000  
11 Facsimile: 415.956.1008

ENDORSED  
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San Francisco County Superior Court

DEC 11 2017

CLERK OF THE COURT  
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Deputy Clerk

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
UNLIMITED JURISDICTION

ANDREI BOSTAN, d/b/a BOSTAN  
TRUST OF 2002,

Plaintiff,

v.

PG&E CORPORATION; PACIFIC GAS  
& ELECTRIC COMPANY, A  
CALIFORNIA CORPORATION; and  
DOES 1-20, INCLUSIVE,

Defendants.

Case No. CGC-17-562990

**COMPLAINT**

**DEMAND FOR JURY TRIAL**

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

**COMPLAINT AND DEMAND FOR JURY TRIAL**

1. Plaintiff ANDREI BOSTAN, hereby allege causes of action against Defendants PG&E, PACIFIC GAS & ELECTRIC COMPANY and DOES 1-20 for inverse condemnation, negligence, private nuisance, public nuisance, trespass, premises liability, violation of Public

1 Utilities Code § 2106, and violation of Health & Safety Code § 13007 and the resulting injuries  
2 and damages.

3 2. Plaintiff seeks all available relief under California law.

### 4 **INTRODUCTION**

5 3. In October 2017, a series of severe wildfires devastated nearly 250,000 acres  
6 across nine Northern California counties, damaging and destroying homes, businesses, vineyards,  
7 farms, and lives.

8 4. These fires (collectively, the “North Bay Fires” or the “Fires”) were sparked by  
9 unsafe electrical infrastructure owned, operated and improperly maintained by PG&E  
10 Corporation and Pacific Gas & Electric Company (hereinafter “PG&E”), including the Tubbs  
11 Fire.

12 5. PG&E had a duty to properly maintain its electrical infrastructure and ensure  
13 surrounding trees and vegetation were trimmed and kept at a safe distance. PG&E violated that  
14 duty by knowingly operating aging, improperly maintained infrastructure that it “ran to failure.”  
15 In fact, PG&E’s violations had caused fires before, and PG&E had been sanctioned numerous  
16 times for this. Yet PG&E’s corporate culture emphasized cutting corners and putting profits over  
17 safety.

18 6. Had PG&E acted responsibly, these fires could have been prevented.

### 19 **JURISDICTION AND VENUE**

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

26 8. Venue is proper in this County pursuant to California Code of Civil Procedure  
27 § 395.5 because, at all times relevant, Defendants each have had their principal place of business  
28 in the County of San Francisco.

1 **PARTIES**

2 **I. Plaintiff Andrei Bostan**

3 9. At all relevant times, the Plaintiff was a citizen and resident of Santa Rosa,  
4 California.

5 10. Nearly forty years ago, Plaintiff Andrei Bostan immigrated to America with not  
6 much more than the clothes on his back. That is now how he finds himself again today because  
7 the North Bay Fires destroyed his home and nearly everything he owns.

8 11. Before the Fires, Andrei Bostan's trust, Bostan Trust of 2002, owned a property at  
9 220 Darbster Place in Santa Rosa, California in the Mark West area.

10 **Plaintiff's Home Before the Tubbs Fire**



23 Photo from Google Maps Street View.

24 12. The Tubbs Fire burned his home to the ground. All of Andrei Bostan's personal  
25 items in and around the home were completely destroyed, reduced to ash and soot.

26 13. Mr. Bostan has been staying in a motel while he deals with the agonizing process  
27 of beginning his life again.

28 14. Mr. Bostan suffered major losses in an amount according to proof at trial.

1 Shortwave Infrared Photo of Tubbs Fire noting the Location of Mr. Bostan's Home.<sup>1</sup>



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26 <sup>1</sup> Photo from DigitalGlobe, Dave Mosher, *New Satellite Photos Reveal The California Wildfire's*  
27 *Shocking Damage From Space*, Business Insider (Oct. 12, 2017 12:08 A.M.),  
28 <http://www.businessinsider.com/california-wildfires-pictures-satellites-burning-homes-2017-10/#this-image-taken-by-worldview-3-on-tuesday-shows-the-santa-rosa-area-of-northern-california-burning-1>.

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Photo from Google Maps Satellite View.

**Plaintiff's Home After the Tubbs Fire**



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Photos above were taken by Plaintiff Andrei Bostan.



Photo from [https://www.realtor.com/realestateandhomes-detail/220-Darbster-Pl\\_Santa-Rosa\\_CA\\_95403\\_M10736-79146](https://www.realtor.com/realestateandhomes-detail/220-Darbster-Pl_Santa-Rosa_CA_95403_M10736-79146).

## **II. Defendants**

### **A. PG&E Defendants**

15. At all times herein mentioned PG&E Corporation and Pacific Gas & Electric Company (collectively, “PG&E”) were corporations authorized to do business, and doing business, in the State of California, with their principal place of business in the County of San Francisco, State of California. Defendant PG&E Corporation is an energy-based holding company headquartered in San Francisco. It is the parent company of Defendant Pacific Gas & Electric Company. PG&E Corporation subsidiaries provide customers with public utility services, and services relating to the generation of energy, generation of electricity, transmission of electricity and natural gas, and the distribution of energy.



1           16. Pacific Gas & Electric Company is both an “Electrical Corporation” and a “Public  
2 Utility” pursuant to, respectively, Sections 218(a) and 216(a) of the California Public Utilities  
3 Code. PG&E is in the business of providing electricity to the residents and businesses of  
4 Northern California and, more particularly, to Plaintiff’s residence and property through a  
5 network of electrical transmission and distribution lines.

6           17. PG&E Corporation is a publicly traded company that owns and/or manages an  
7 “Electric Plant” as defined in Section 217 of the Public Utilities Code, and, like its subsidiary,  
8 Pacific Gas & Electric Company, is both an “Electric Corporation” and a “Public Utility”  
9 pursuant to, respectively, Sections 218(a) and 216(a) of the Public Utilities Code. It develops and  
10 operates energy infrastructure assets related to the production and distribution of energy such as  
11 power plants, electric lines, natural gas pipelines and liquefied natural gas receipt terminals.

12           18. At all times mentioned herein, the PG&E Defendants were suppliers of electricity  
13 to members of the public. As part of supplying electricity to members of the public, PG&E  
14 installed, constructed, built, maintained, and operated overhead power lines, together with  
15 supporting poles and appurtenances, for the purpose of conducting electricity for delivery to  
16 members of the general public. Furthermore, on information and belief, PG&E are responsible  
17 for maintaining vegetation near, around, and in proximity to their electrical equipment in  
18 compliance with State and Federal Regulations, specifically including, but not limited to, Public  
19 Resource Code § 4292, Public Resource Code § 4293, California Public Utilities Commission  
20 (“CPUC”) General Order 95, and CPUC General Order 165.

21           19. Plaintiff alleges on information and belief that the PG&E Defendants are jointly  
22 and severally liable for each other’s negligence, misconduct, and wrongdoing as alleged herein, in  
23 that:

24           a. The PG&E Defendants operate as a single business enterprise operating out  
25 of the same building located at 77 Beale Street, San Francisco, California for the purpose of  
26 effectuating and carrying out PG&E Corporation’s business and operations and/or for the benefit  
27 of PG&E Corporation;

1           b.       The PG&E Defendants do not operate as completely separate entities, but  
2 rather, integrate their resources to achieve a common business purpose;

3           c.       Pacific Gas & Electric Company is so organized and controlled, and its  
4 decisions, affairs, and business so conducted as to make it a mere instrumentality, agent, conduit,  
5 or adjunct of PG&E Corporation;

6           d.       Pacific Gas & Electric Company's income results from function  
7 integration, centralization of management, and economies of scale with PG&E Corporation;

8           e.       The PG&E Defendants' officers and management are intertwined and do  
9 not act completely independent of one another;

10          f.       The PG&E Defendants' officers and managers act in the interest of PG&E  
11 Corporation as a single enterprise;

12          g.       PG&E Corporation has control and authority to choose and appoint Pacific  
13 Gas & Electric Company's board members as well as its other top officers and managers;

14          h.       Despite the fact that they are both Electric Companies and Public Utilities,  
15 the PG&E Defendants do not compete with one another, but have been structured and organized  
16 and their business effectuated so as to create a synergistic, integrated single enterprise where  
17 various components operate in concert one with another;

18          i.       PG&E Corporation maintains unified administrative control over Pacific  
19 Gas & Electric Company;

20          j.       The PG&E Defendants are insured by the same carriers and provide  
21 uniform or similar pension, health, life, and disability insurance plans for employees;

22          k.       The PG&E Defendants have unified 401(k) Plans, pension and investment  
23 plans, bonus programs, vacation policies, and paid time off from work schedules and policies;

24          l.       The PG&E Defendants invest funds from their programs and plans by a  
25 consolidated and/or coordinated Benefits Committee controlled by PG&E Corporation and  
26 administered by common trustees and administrators;

27          m.       The PG&E Defendants have unified personnel policies and practices and/or  
28 a consolidated personnel organization or structure;

1 n. The PG&E Defendants have unified accounting policies and practices  
2 dictated by PG&E Corporation and/or common or integrated accounting organizations or  
3 personnel;

4 o. The PG&E Defendants are represented by common legal counsel;

5 p. PG&E Corporation's officers, directors, and other management make  
6 policies and decisions to be effectuated by Pacific Gas & Electric Company and/or otherwise play  
7 roles in providing directions and making decisions for Pacific Gas & Electric Company;

8 q. PG&E Corporation's officers, directors, and other management direct  
9 certain financial decisions for Pacific Gas & Electric Company including the amount and nature  
10 of capital outlays;

11 r. PG&E Corporation's written guidelines, policies, and procedures control  
12 Pacific Gas & Electric Company's employees, policies, and practices;

13 s. PG&E Corporation files consolidated earnings statements factoring in all  
14 revenue and losses from Pacific Gas & Electric Company, as well as consolidated tax returns,  
15 including those seeking tax relief; and/or, without limitation;

16 t. PG&E Corporation generally directs and controls Pacific Gas & Electric  
17 Company's relationship with, requests to, and responses to inquiries from, the CPUC and uses  
18 such direction and control for the benefit of PG&E Corporation.

19 20. Plaintiff is informed and believes that the Defendants herein, and each of them,  
20 were agents and/or employees each of the other and in acting and/or failing to act as alleged  
21 herein, the Defendants, and each of them, were acting in the course and scope of said agency  
22 and/or employment relationship.

23 **B. Doe Defendants**

24 21. The true names of Does 1 through 20, whether individual, corporate, associate, or  
25 otherwise, are unknown to Plaintiff who, under California Code of Civil Procedure § 474, sues  
26 these Defendants under fictitious names.

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

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

3 23. The Doe Defendants are private individuals, associations, partnerships,  
4 corporations, or other entities that actively assisted and participated in the negligent and wrongful  
5 conduct alleged herein in ways that are currently unknown to Plaintiff. Some or all of the Doe  
6 Defendants may be residents of the State of California. Plaintiff may amend or seek to amend  
7 this Complaint to allege the true names, capacities, and responsibility of these Doe Defendants  
8 once they are ascertained, and to add additional facts and/or legal theories. Plaintiff makes all  
9 allegations contained this Complaint against all Defendants, including Does 1 through 20.

10 24. Throughout the Complaint, Defendants, PG&E, Pacific Gas & Electric, and Does  
11 1–20, inclusive, are referred to collectively as “Defendants.”

### 12 **GENERAL ALLEGATIONS**

13 25. Beginning late in the evening on or about October 8, 2017, the North Bay Fires  
14 broke out in several locations in Northern California and rapidly spread through Butte, Calaveras,  
15 Lake, Mendocino, Napa, Nevada, Solano, Sonoma, and Yuba counties. The North Bay Fires have  
16 been the most destructive in California’s modern history. The conflagration was so massive that  
17 NASA satellites could even see the smoke from the Fires from space.<sup>2</sup>

18 26. For those who witnessed the destruction firsthand, the Fires were a horrifying and  
19 unfathomable sight. Bright orange flames forty, fifty, and even one hundred feet high barreled  
20 down over the hills. Sparks “thicker than any snowstorm” flew parallel to the ground, and embers  
21 rained down like confetti. The region’s bucolic scenery was overwhelmed by the roaring of the  
22 Fires’ loud “freight train” sound.

23 27. As of the time of this filing, the North Bay Fires have burned over 245,000 acres.<sup>3</sup>  
24 More than 14,700 homes, 728 businesses and 3,600 vehicles have been damaged or destroyed.<sup>4</sup>

25 \_\_\_\_\_  
26 <sup>2</sup> NASA, Twitter (Oct. 10, 2017, 9:40 AM),  
<https://twitter.com/NASA/status/917791953131069441>.

27 <sup>3</sup> George Avalos, *Wildfire Safety Rules Proposed for PG&E, Other Utilities*, Mercury News  
(Nov. 9, 2017 5:37 P.M.), <http://www.mercurynews.com/2017/11/09/wildfire-safety-rules-proposed-for-pge-and-other-utilities/>.

28 <sup>4</sup> Jeff Daniels, *Claims Losses from California’s Wildfires Top \$3 billion; State Says Some*  
*Footnote continued on next page*

1           28.     One hundred thousand residents have been displaced.<sup>5</sup> Many were forced to flee in  
2 the dark hours before dawn when the Fires rampaged unrelentingly. They often left on only a  
3 moment's notice, without their belongings, as flames engulfed entire neighborhoods.

4           29.     Not all were able to escape. The North Bay Fires have also been the deadliest in  
5 California history. The Fires have killed forty-four people so far,<sup>6</sup> and one hundred and eighty  
6 five have been injured.<sup>7</sup> The fires resulted in 2,269 missing persons reports.<sup>8</sup>

7           30.     By all measures, the North Bay Fires were devastating – and tragically, also  
8 preventable. As set forth in more detail below, the North Bay Fires share a common cause:  
9 PG&E's willful and conscious disregard of public safety. PG&E's aging and improperly  
10 maintained electrical infrastructure sparked the North Bay Fires by coming into contact with trees  
11 and vegetation that PG&E had allowed to grow too close to power lines and poles.

12          31.     PG&E was aware of these dangers and risks— it knew its infrastructure was aging  
13 and inadequately maintained (indeed, “run to failure” is its corporate policy), it knew trees and  
14 vegetation were too close to the poles and lines, it knew the current and seasonal weather, climate  
15 and fire-risk conditions in Northern California, it knew where and how fires had ignited before in  
16 these areas, and it knew its own failures had caused fires and the attendant destruction numerous  
17 times before. PG&E knew all this, but failed to act on this knowledge.

18          32.     Because of PG&E's corporate policy of putting profits over public safety, Plaintiff  
19 and others like him have had their homes, businesses, farms, and vineyards damaged or

20 \_\_\_\_\_  
*Footnote continued from previous page*

21 *Insurers May Exit*, CNBC (Oct. 31, 2017 7:37 P.M.), [https://www.cnn.com/2017/10/31/insured-](https://www.cnn.com/2017/10/31/insured-losses-from-californias-wildfire-disaster-top-3-billion.html)  
22 [losses-from-californias-wildfire-disaster-top-3-billion.html](https://www.cnn.com/2017/10/31/insured-losses-from-californias-wildfire-disaster-top-3-billion.html).

23 <sup>5</sup> Lisa Bonos, et al., *Death Toll Continues To Rise As California Wildfires Burn On*, Wash. Post  
24 (Oct. 15, 2017), [https://www.washingtonpost.com/news/post-nation/wp/2017/10/14/more-](https://www.washingtonpost.com/news/post-nation/wp/2017/10/14/more-californians-ordered-to-flee-as-gusting-winds-spread-wildfires/?utm_term=.576e27cc3dbe)  
25 [californians-ordered-to-flee-as-gusting-winds-spread-wildfires/?utm\\_term=.576e27cc3dbe](https://www.washingtonpost.com/news/post-nation/wp/2017/10/14/more-californians-ordered-to-flee-as-gusting-winds-spread-wildfires/?utm_term=.576e27cc3dbe).

26 <sup>6</sup> Alex Emslie, *October Fires' 44th Victim: A Creative, Globetrotting Engineer With “The Kindest Heart,”* KQED News (Nov. 28, 2017), [https://www.kqed.org/news/2017/11/28/october-](https://www.kqed.org/news/2017/11/28/october-fires-44th-victim-a-creative-globetrotting-engineer-with-the-kindest-heart/)  
27 [fires-44th-victim-a-creative-globetrotting-engineer-with-the-kindest-heart/](https://www.kqed.org/news/2017/11/28/october-fires-44th-victim-a-creative-globetrotting-engineer-with-the-kindest-heart/).

28 <sup>7</sup> George Avalos, *PG&E Says It Faces “Adverse” Financial Effects From Wildfires Fallout*, Press Democrat (Nov. 27, 2017 3:00 P.M.), [http://www.mercurynews.com/2017/11/27/pg-e-says-it-](http://www.mercurynews.com/2017/11/27/pg-e-says-it-faces-materially-adverse-financial-effects-from-wildfires-fallout/)  
29 [faces-materially-adverse-financial-effects-from-wildfires-fallout/](http://www.mercurynews.com/2017/11/27/pg-e-says-it-faces-materially-adverse-financial-effects-from-wildfires-fallout/).

30 <sup>8</sup> Paul Payne, *Uncertainty Looms a Month After Devastating Sonoma County Fires*, Press Democrat (Nov. 7, 2017), [http://www.pressdemocrat.com/news/7610560-181/uncertainty-looms-](http://www.pressdemocrat.com/news/7610560-181/uncertainty-looms-a-month-after?artslide=0)  
31 [a-month-after?artslide=0](http://www.pressdemocrat.com/news/7610560-181/uncertainty-looms-a-month-after?artslide=0).

1 destroyed, lost money and business, and will spend years trying to rebuild their lives and  
2 livelihoods.

3 **A. The Tubbs Fire: the Most Destructive in California History**

4 33. On the evening of Sunday, October 8, 2017, emergency responders began  
5 receiving dozens of calls reporting fires and other hazards in and around Northern California.  
6 While the Fires ignited in various places and were given various names, evidence available thus  
7 far suggests they shared a common cause in that they were sparked by electrical infrastructure  
8 owned, operated, and improperly maintained by Defendants.

9 34. The Tubbs Fire started off of Highway 128 and Bennett Lane in Calistoga at  
10 around 9:45 P.M. on October 8, 2017,<sup>9</sup> and raced the approximately 15 miles into Santa Rosa,  
11 Sonoma County.<sup>10</sup> Contemporaneous calls and reports indicated trees hitting PG&E electrical  
12 lines around the time and place the Tubbs Fire started. Dispatchers in Sonoma County fielded 759  
13 emergency calls— an average of about one call every two minutes.<sup>11</sup> According to Sonoma  
14 County Fire radio traffic, the first vegetation fire in the heart of Santa Rosa was reported around  
15 9:22 P.M and seconds later, an electrical call went out to a location about 10 miles north.<sup>12</sup>  
16 Sonoma fire dispatch sent crews to conduct an electrical investigation at 9:23 P.M. at Mark West  
17 Springs Road.<sup>13</sup> One minute later, at 9:24 P.M., another crew was sent to a possible transformer  
18 explosion at the intersection of Fulton Road and Old Redwood Highway.<sup>14</sup> At 9:32 P.M., fire

19 \_\_\_\_\_  
20 <sup>9</sup> *Tubbs Fire (Central LNU Complex) Incident Information*, Cal Fire,  
[http://www.fire.ca.gov/current\\_incidents/incidentdetails/Index/1867](http://www.fire.ca.gov/current_incidents/incidentdetails/Index/1867).

21 <sup>10</sup> Paul Payne, *Uncertainty Looms a Month After Devastating Sonoma County Fires*, Press  
Democrat (Nov. 7, 2017), <http://www.pressdemocrat.com/news/7610560-181/uncertainty-looms-a-month-after>.

22 <sup>11</sup> Julie Johnston, *Time-Lapse Video Map Shows 911 Calls on Tubbs Fire*, Press Democrat (Oct.  
23 23, 2017), <http://www.pressdemocrat.com/news/7555919-181/time-lapse-video-map-shows-911>.

24 <sup>12</sup> Paul Rogers, *PG&E Power Lines Linked to Wine Country Fires*, East Bay Times (Oct. 13,  
2017 4:16 P.M.), <http://www.eastbaytimes.com/2017/10/10/pge-power-lines-linked-to-wine-country-fires/>.

25 <sup>13</sup> Elizabeth Wagner, et al., *Wine Country Fires: A Timeline of Fire Dispatch Calls*, NBC Bay  
26 Area (Oct. 11, 2017 7:25 P.M.), <https://www.nbcbayarea.com/news/local/Wine-Country-Fire-A-Timeline-of-Fire-Dispatch-Calls-450503833.html>; see also, Paul Rogers, *PG&E Power Lines Linked to Wine Country Fires*, East Bay Times (Oct. 13, 2017 4:16 P.M.),  
27 <http://www.eastbaytimes.com/2017/10/10/pge-power-lines-linked-to-wine-country-fires/>.

28 <sup>14</sup> Elizabeth Wagner, et al., *Wine Country Fires: A Timeline of Fire Dispatch Calls*, NBC Bay  
Area (Oct. 11, 2017 7:25 P.M.), <https://www.nbcbayarea.com/news/local/Wine-Country-Fire-A->

1 dispatch began another electrical investigation at Mark West Station Road where wires were  
2 reported down and a transformer had blown.<sup>15</sup> More power lines were reported down at 9:58  
3 P.M.<sup>16</sup> At 10:16 P.M., an arcing transformer was reported.<sup>17</sup> At 10:34 P.M., power lines were  
4 reported down at 4858 Montecito Avenue in Santa Rosa.<sup>18</sup> At the exact same time, crews were  
5 also dispatched to Guerneville Road and Marlow Road to address power lines that might be down  
6 and arcing.<sup>19</sup> In the City of Santa Rosa, PG&E went to check a power outage related to two  
7 structures damaged by fire and discovered a “possible issue” with a secondary conductor at an  
8 unspecified time on October 8.<sup>20</sup> Another October 8th report without a time notes that a Douglas  
9 Fir was uprooted, fell into other trees, and downed a span of power lines outside the city.<sup>21</sup> On its  
10 own, the Tubbs Fire was the most destructive in California History.<sup>22</sup>

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*Footnote continued from previous page*

19 Timeline-of-Fire-Dispatch-Calls-450503833.html.

20 <sup>15</sup> *Id.*; see also Paul Rogers, *PG&E Power Lines Linked to Wine Country Fires*, East Bay Times  
(Oct. 13, 2017 4:16 P.M.), <http://www.eastbaytimes.com/2017/10/10/pge-power-lines-linked-to-wine-country-fires/>.

21 <sup>16</sup> Paul Rogers, *PG&E Power Lines Linked to Wine Country Fires*, East Bay Times (Oct. 13,  
22 2017 4:16 P.M.), <http://www.eastbaytimes.com/2017/10/10/pge-power-lines-linked-to-wine-country-fires/>.

23 <sup>17</sup> *Id.*

24 <sup>18</sup> Elizabeth Wagner, et al., *Wine Country Fires: A Timeline of Fire Dispatch Calls*, NBC Bay  
Area (Oct. 11, 2017 7:25 P.M.), <https://www.nbcbayarea.com/news/local/Wine-Country-Fire-A-Timeline-of-Fire-Dispatch-Calls-450503833.html>.

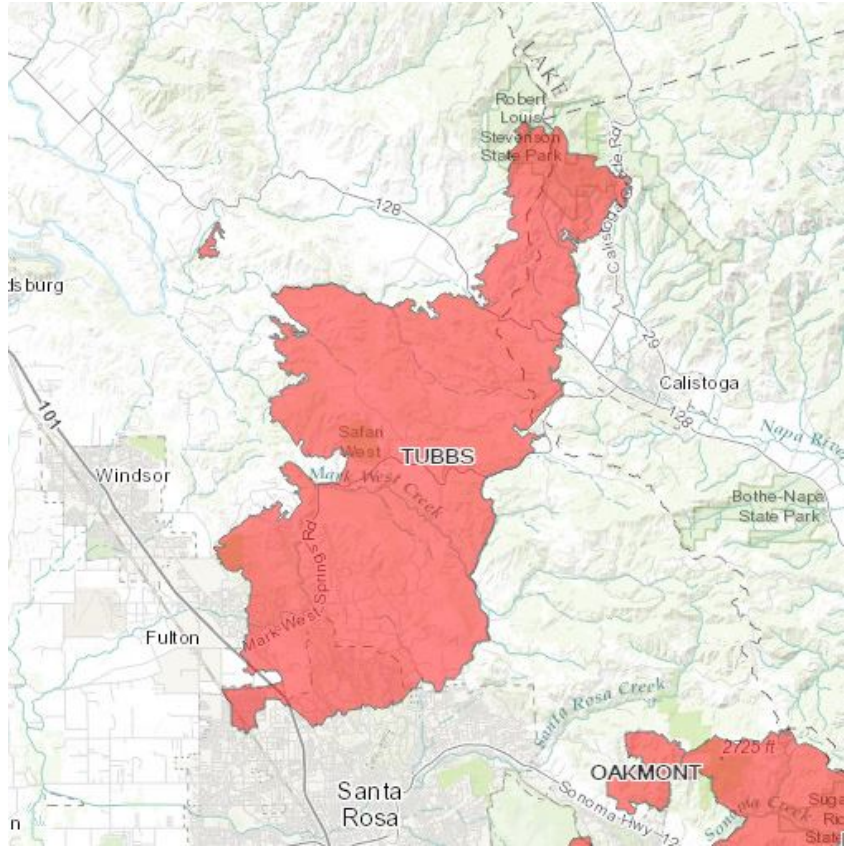
25 <sup>19</sup> *Id.*

26 <sup>20</sup> See Electric Safety Incident Reported- PG&E Incident No: 171015-8573.

27 <sup>21</sup> See Electric Safety Incident Reported- PG&E Incident No: 171020-8585.

28 <sup>22</sup> Mary Callahan and Christi Warren, *Tubbs Fire in Santa Rosa Now Ranks as California’s Most Destructive Wildfire*, Press Democrat (Oct. 20, 2017), <http://www.pressdemocrat.com/news/7546956-181/tubbs-fire-in-santa-rosa>.

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Map from Cal Fire, available at <http://calfire-forestry.maps.arcgis.com/apps/webappviewer/index.html?id=58dc77306bf448c6ac5f756af51f3ae5>.

35. Not only did PG&E’s wires and transformer problems start the North Bay Fires, but also the downed trees blocked firefighters and emergency responders from reaching the scene. Highway 128, in the center of the battle to contain the flames, was completely blocked by trees and branches, and Highway 101, which provided access through the heart of Santa Rosa, was shut down because of PG&E’s downed wires.

**B. The Damage Wrought**

36. The full extent of the damage has not yet been quantified, but as of this filing, the North Bay Fires have devastated nearly 250,000 acres in Northern California, destroying homes, businesses, vineyards, farms, and lives.

37. Over 14,700 structures were damaged or destroyed. These included homes, farm buildings, and commercial structures, often along with everything inside them.



1 38. Because the Fires spread so fast, individuals often could not protect their  
2 properties and structures or even remove personal possessions, irreplaceable heirlooms, and  
3 valuable records.

4 39. The fire damage and destruction also has negatively impacted the value of affected  
5 property, even undeveloped property, and will continue to affect its resale value and development  
6 potential for an as-yet-unknown period of time.

7 40. Because of the loss of his home to the Fires, Mr. Bostan is no longer able to afford  
8 to remain in Santa Rosa, and he has no choice but to move out of state.

9 41. The Fires also have caused a huge risk of erosion. Individuals have and will incur  
10 damage to personal and real property, and other damages related to preparing for and preventing  
11 erosion, runoff, and debris flow for a yet unknown period of time.

12 **C. PG&E Had a Non-Transferable, Non-Delegable Duty to Safely Maintain**  
13 **Electrical Infrastructure and Adjacent Vegetation.**

14 42. At all times prior to October 8, 2017, PG&E had a non-transferable, non-delegable  
15 duty to properly construct, inspect, repair, maintain, manage, and/or operate its power lines and/or  
16 other electrical equipment and to keep vegetation properly trimmed at a safe distance so as to  
17 prevent foreseeable contact with such electrical equipment.

18 43. In the construction, inspection, repair, maintenance, management, ownership,  
19 and/or operation of its power lines and other electrical equipment, PG&E had an obligation to  
20 comply with a number of statutes, regulations, and standards, as detailed below.

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

25 45. To meet this safety mandate, PG&E is required to comply with a number of design  
26 standards for its electrical equipment, as stated in CPUC General Order 95. In extreme fire areas,  
27 PG&E also must ensure that its power lines can withstand winds of up to 92 miles per hour.  
28 Further, PG&E must follow several standards to protect the public from the consequences of

1 vegetation and/or trees coming into contact with its power lines and other electrical equipment.  
2 Pursuant to Public Resources Code § 4292, PG&E is required to “maintain around and adjacent to  
3 any pole or tower which supports a switch, fuse, transformer, lightning arrester, line junction, or  
4 dead end or corner pole, a firebreak which consists of a clearing of not less than 10 feet in each  
5 direction from the outer circumference of such pole or tower.” Also, Public Resources Code  
6 § 4293 mandates PG&E maintain clearances of four to 10 feet for all of its power lines,  
7 depending of their voltage. In addition, “[d]ead trees, old decadent or rotten trees, trees weakened  
8 by decay or disease and trees or portions thereof that are leaning toward the line which may  
9 contact the line from the side or may fall on the line shall be felled, cut, or trimmed so as to  
10 remove such hazard.”

11 46. Pursuant to CPUC General Order 165, PG&E is also required to inspect its  
12 distribution facilities to maintain a safe and reliable electric system. In particular, PG&E must  
13 conduct “detailed” inspections of all of its overhead transformers in urban areas at least every five  
14 years. Also, every ten years, PG&E is required to conduct “intrusive” inspections of its wooden  
15 poles that have not already been inspected and are over fifteen years old.

16 47. PG&E knew or should have known that such standards and regulations were  
17 minimum standards and that PG&E has a duty to identify vegetation which posed a foreseeable  
18 hazard to power lines and/or other electrical equipment, and to manage the growth of vegetation  
19 near its power lines and equipment so as to prevent the foreseeable danger of contact between  
20 vegetation and power lines starting a fire. Further, PG&E has a duty to manage, maintain, repair,  
21 and/or replace its aging infrastructure to protect public safety. These objectives could and should  
22 have been accomplished in a number of ways, including, but not limited to, putting electrical  
23 equipment underground in wildfire-prone areas, increasing inspections, developing and  
24 implementing protocols to shut down electrical operations in emergency situations, modernizing  
25 infrastructure, and/or obtaining an independent audit of its risk management programs to ensure  
26 effectiveness.

27 48. Defendants were specifically aware that they had a duty to maintain equipment  
28 and the surrounding vegetation in compliance with these regulations and that a failure to do

1 constituted negligence and would expose members of the general public to a serious risk of  
2 property damage, personal injury or death caused by wildfires.

3 **D. Foreseeable and Expected Weather, Climate and Fire Conditions**

4 49. At all times mentioned herein, Defendants were aware that the State of California  
5 had been in a period of drought, and that even though it received more rain this past winter, the  
6 extremely hot summer months brought back drought-like conditions. The heavy rain this winter  
7 followed by a hot summer made California especially prone to wildfires: the rains caused a lot of  
8 plants and vegetation to grow, and the heat then caused them to dry out. Defendants were aware  
9 that the drought conditions existed and were aware that fire danger was at an extraordinarily high  
10 level, particularly given the increased amount of dry vegetation.

11 50. Northern California often experiences the “Diablo winds”, the hot, dry winds,  
12 which can make dangerous weather conditions highly conducive to the spread of wildfire. The  
13 Diablo Winds are not abnormal or unforeseeable, and all who live and work in California have to  
14 act reasonably under these conditions to prevent fires from starting or spreading.

15 51. Defendants knew that if the power lines or other equipment came into contact  
16 with, or caused electricity to come into contact with, vegetation it was probable that a fire would  
17 result and that, given the dry conditions, a resulting fire would likely result in the loss of life,  
18 significant damage to real and personal property, and damage to members of the general public,  
19 including to Plaintiff.

20 52. In June 2014, the CPUC directed PG&E to take remedial measures to reduce the  
21 risk of fires by way of Resolution ESRB-4, after Governor Brown had declared a Drought State  
22 of Emergency in January.<sup>23</sup> In November 2015, the Governor issued another drought-related  
23 Executive Order to call for additional actions to respond to the record dry conditions and assist  
24 recovery efforts for the victims of 2015’s devastating wildfires.<sup>24</sup> Although the Governor issued  
25 an Executive Order in April 2017 ending the Drought State of Emergency in all counties except

26 <sup>23</sup> *Resolution ESRB-4*, Cal. Pub. Utils. Comm’n (June 16, 2014),  
27 <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M096/K415/96415169.pdf>.

28 <sup>24</sup> Exec. Order B-36-15, Office of Gov. Edmund G. Brown, Jr. (Nov. 13, 2015),  
[https://www.gov.ca.gov/docs/11.13.15\\_EO\\_B-36-15.pdf](https://www.gov.ca.gov/docs/11.13.15_EO_B-36-15.pdf).

1 Fresno, Kings, Tulare, and Tuolumne, the declaration directed state agencies “to continue  
2 response activities that may be needed to manage the lingering drought impacts to people and  
3 wildlife.”<sup>25</sup>

4 53. In October 2015, Governor Brown issued The California Tree Mortality State of  
5 Emergency regarding the unprecedented tree-die off in the state.<sup>26</sup> The drought conditions  
6 exacerbated a bark beetle infestation that ultimately killed tens of millions of trees. The tree die-  
7 off significantly worsened the “risk in many areas of the state and presents life safety risks from  
8 falling trees to Californians living in rural, forested communities.” Governor Brown sought  
9 additional resources to provide for the safe removal of dead and dying trees.

10 54. In addition, the CPUC informed PG&E in Resolution ESRB-4 that it could seek  
11 recovery of incremental costs associated with these remedial measures outside of the standard  
12 funding process, i.e. the CPUC was agreeing to provide additional funding on top of vegetation  
13 management funding already authorized in order to make sure remedial measures would not go  
14 unperformed due to lack of funding.

15 55. According to PG&E’s 2014 Annual Electric Distribution Reliability Report, sent  
16 to the CPUC on February 27, 2015, weather conditions have accounted for many of the top ten  
17 PG&E electrical outages each year since at least 2004, putting the utility on notice that these  
18 weather conditions occur and that they can cause electrical problems. For example, four of the  
19 “ten largest 2004 outage events” for PG&E occurred in the Santa Rosa and Sonoma areas, and  
20 winds were documented at much higher levels than those of October 8, 2017.<sup>27</sup> The CPUC has  
21 not rescinded ESRB-4 and the Tree Mortality State of Emergency remains in effect.<sup>28</sup>

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23 <sup>25</sup> Exec. Order B-40-17 at 3, Office of Gov. Edmund G. Brown, Jr. (Apr. 7, 2017),  
[https://www.gov.ca.gov/docs/4.7.17\\_Exec\\_Order\\_B-40-17.pdf](https://www.gov.ca.gov/docs/4.7.17_Exec_Order_B-40-17.pdf)

24 <sup>26</sup> *Governor Brown Takes Action to Protect Communities Against Unprecedented Tree Die-Off*,  
Office of Gov. Edmund G. Brown, Jr. (Oct. 30,  
25 2015), <https://www.gov.ca.gov/news.php?id=19180>.

26 <sup>27</sup> PG&E 2014 Annual Electrical Distribution Reliability Report, PG&E, *available at*  
[https://www.pge.com/includes/docs/pdfs/myhome/outages/outage/reliability/AnnualElectricDistri  
butionReliabilityReport.pdf](https://www.pge.com/includes/docs/pdfs/myhome/outages/outage/reliability/AnnualElectricDistributionReliabilityReport.pdf).

27 <sup>28</sup> *See* CPUC Fact Sheet, PG&E Vegetation Management Spending, *available at*  
28 [http://www.cpuc.ca.gov/uploadedfiles/cpuc\\_public\\_website/content/safety/pge%20vegetation%2  
0management%20spending.pdf](http://www.cpuc.ca.gov/uploadedfiles/cpuc_public_website/content/safety/pge%20vegetation%20management%20spending.pdf) (last accessed Nov. 23, 2017).

1           56. Further, according to records maintained by Cal Fire, approximately 135 fires in  
2 Sonoma and Napa Counties were caused by electrical equipment from 2011 through 2015.<sup>29</sup> In  
3 2015, the last year of reported data, electrical power problems sparked the burning of 149,241  
4 acres across California - more than twice the amount from any other cause.<sup>30</sup>

5           57. Even without CPUC's mapping, PG&E has long known that the biggest threat of a  
6 tree-caused electrical wildfire was in the North Bay. A document entitled "Summary and  
7 Analysis of Vegetation-Related Fire Incidents on PG&E Electric Powerlines," an internal PG&E  
8 document prepared by Charles Filmer in February 2013 and reviewed by NBC Bay Area, shows  
9 that the North Bay counties to have nearly a 3 percent risk of a power line sparking a wildfire.  
10 The risk was listed as 1 percent elsewhere in PG&E's territory. Nevertheless, PG&E failed to take  
11 reasonable, preventative measures.<sup>31</sup>

12           58. In May 2016, the CPUC adopted Fire Map 1, which is a map that "depicts areas of  
13 California where there is an elevated hazard for the ignition and rapid spread of power line fires  
14 due to strong winds, abundant dry vegetation, and other environmental conditions."<sup>32</sup>

15           59. The CPUC adopted Fire Map 1 "in response to past devastating wildfires that were  
16 reportedly ignited by power lines." According to CPUC commissioner Mike Florio, "Fire Map 1  
17 represents an important milestone in identifying areas that face a very high risk of a devastating  
18 wildfire."

19           60. On Fire Map 1, the area in and around the origin of the North Bay Fires is both red  
20 and orange, indicating the highest level of elevated hazard for the "ignition and rapid spread of  
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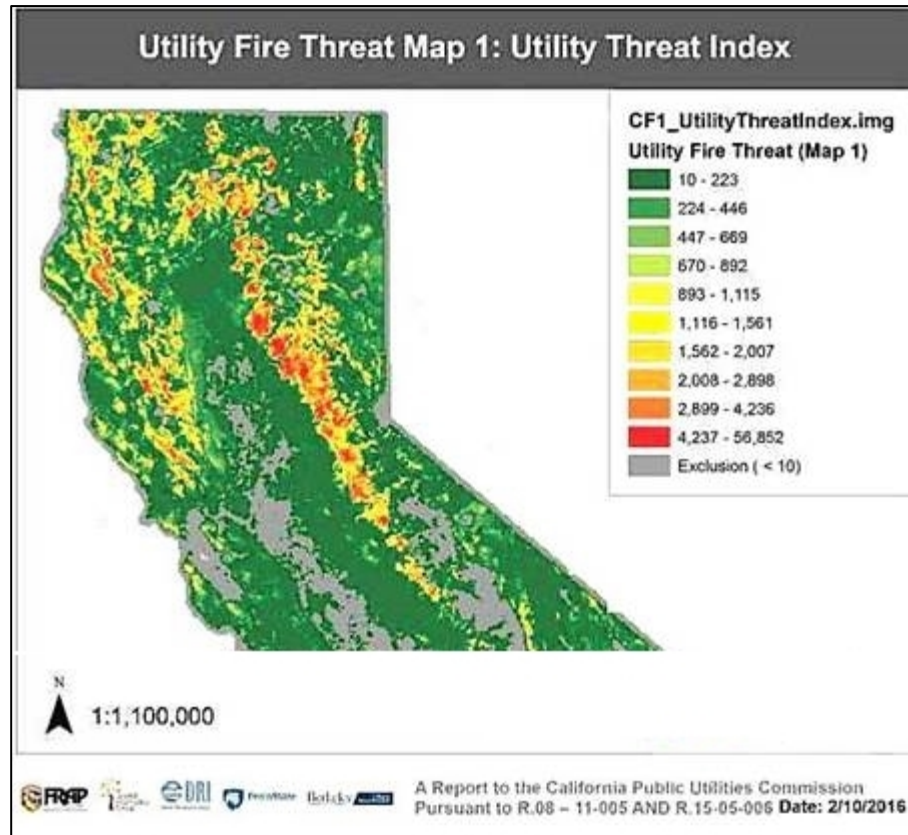
22 <sup>29</sup> Historical Wildfire Activity Statistics (Redbooks), Cal Fire, *available at*  
23 [http://www.fire.ca.gov/fire\\_protection/fire\\_protection\\_fire\\_info\\_redbooks](http://www.fire.ca.gov/fire_protection/fire_protection_fire_info_redbooks).

24 <sup>30</sup> Ivan Penn, *Power Lines and Electrical Equipment are a Leading Cause of California Wildfires*,  
Los Angeles Times (Oct. 17, 2017 2:05 P.M.), <http://www.latimes.com/business/la-fi-utility-wildfires-20171017-story.html>.

25 <sup>31</sup> Jason Van Derbeken, *PG&E's Vegetation Management Program Under Fire After North Bay*  
26 *Blazes*, NBC Bay Area (Nov. 6, 2017 10:58 P.M.),  
<https://www.nbcbayarea.com/news/local/PGEs-Vegetation-Management-Program-Under-Fire-After-North-Bay-Blazes--455729573.html>

27 <sup>32</sup> *See CPUC Fire Map Depicts Areas of Elevated Hazards In State; First Step in Creation of*  
28 *Tools to Help Manage Resources*, Cal. Pub. Utils. Comm'n (May 26, 2016),  
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M162/K498/162498284.PDF>.

1 power line fires due to strong winds, abundant dry vegetation, and/or other environmental  
2 conditions.”



16 61. PG&E was put on direct notice of this map in May 2016, and therefore knew well  
17 in advance of the North Bay Fires of the elevated fire risk for the region.

18 62. After the fires, Defendants initially attempted to shift blame away from themselves  
19 by announcing that unusually powerful, “hurricane strength winds” were to blame for the severity  
20 of the fires. But local weather station readings found the winds were almost half that speed when  
21 Defendants’ power lines started to come down.

22 63. Northern California did not experience highly unusual weather patterns the night  
23 the North Bay Fires began. A review of readings at weather stations in the areas impacted by the  
24 Fires shows that winds were not at unexpected levels when PG&E’s electrical equipment began  
25 to fail. For example, a weather station in Santa Rosa in the vicinity of the Tubbs Fire recorded  
26 wind gusts of about 30 miles per hour at or around 9:29 p.m. on October 8, 2017.<sup>33</sup> About an hour

27  
28 <sup>33</sup> Paul Rogers, et al., *California Fire Mystery: PG&E Lines Fell in Winds That Weren’t*  
*“Hurricane Strength”*, San Jose Mercury News (Oct. 13, 2017 6:01 P.M.),

*Footnote continued on next page*

1 later, the same station recorded wind gusts of 41 miles per hour.<sup>34</sup> These wind speeds were  
2 surpassed in other recent storms in the area on a number of occasions.

3 **E. PG&E Knew Its Infrastructure Was Too Old and Improperly Maintained for**  
4 **Safety**

5 64. On May 6, 2013, a report (“2013 Liberty Report”) was sent to the Safety and  
6 Enforcement Division of the CPUC from the Liberty Consulting Group, which had been retained  
7 to conduct an independent review of capital and operations and maintenance expenditures  
8 proposed by PG&E.<sup>35</sup> The 2013 Liberty Report concluded that: “several aspects of the PG&E  
9 [electrical] distribution system present significant safety issues.”

10 65. The Report further stated, “addressing aging infrastructure and adding SCADA<sup>36</sup>  
11 to the system comprise the major focuses of safety initiatives for the distribution system.” The  
12 Report authors were so concerned about the state of PG&E’s aging infrastructure that they  
13 advised in the Report: “[w]e also recommend that PG&E treat aging infrastructure as an  
14 enterprise-level risk.”

15 66. The Liberty Report concluded that “aging infrastructure is best addressed by  
16 having a strategic asset management program in place. These types of programs ... force a  
17 detailed and thorough condition assessment survey of the major assets. These types of formal  
18 programs also take failure modes into consideration. Long term sustainable plans can then be  
19 prepared to address the asset conditions. A sustainable asset management plan will mitigate  
20 system safety risks from aging infrastructure, which constituted a major portion of the safety  
21 items” for PG&E.

22  
23 *Footnote continued from previous page*

24 <http://www.mercurynews.com/2017/10/12/californiafirespgpowerlinesfellinwindsthatwerenthurricanestrength/>.

25 <sup>34</sup> *Id.*

26 <sup>35</sup> “Study of Risk Assessment and PG&E’s GRC, Presented to: The California Public Utilities  
27 Commission Group, Safety and Enforcement Division, Presented By: The Liberty Consulting  
28 Group (May 6, 2013), available at  
<http://docs.cpuc.ca.gov/publisheddocs/efile/g000/m065/k394/65394210.pdf> (last accessed Nov. 23, 2017).

<sup>36</sup> SCADA stands for Supervisory Control and Data Acquisition.

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**1. Unsafe, Obsolete Wires**

67. PG&E has known for years that its miles of aging power lines pose a serious safety risk of triggering wildfires.

68. The 2013 Liberty Report found that PG&E’s system had a large amount of obsolete, unsafe small-size wiring (a.k.a. “conductors”) still in use, which should have been replaced with safer larger-size wires long ago. At the time, PG&E had 113,000 miles of wiring, and according to the report, over 60 percent is of the small-size type that is highly susceptible to failure. The small-size conductors are generally more susceptible to breaking than standard size conductors. As the conductor ages, it becomes even more susceptible to breaking. Weather conditions, such as winds and lightning strikes, will also wear a small conductor more than larger ones. For these reasons, “[t]his conductor [type] is now recognized as obsolete, due to its small size.”

69. The 2013 Liberty Report found that about a fifth of PG&E’s system was frail and obsolete. Most concerning to the consultants was that three quarters of the system was made of three-wire lines. Three-wire lines lack modern in-line grounding technology that has been available for at least the last four decades. Without a ground wire, PG&E could not always isolate a problem remotely nor shut down a faulty wire quickly. Instead, the live wires remain on the ground when they fall, posing a danger of injuries and fire.

70. PG&E knew the majority of its system was obsolete and had unsafe wiring, yet PG&E did nothing to update it.

**2. Old, Overloaded Utility Poles**

71. According to the 2017 CPUC Order Instituting Investigation into the Creation of a Shared Database or Statewide Census of Utility Poles and Conduit:

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 overloaded 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



1 weakened by termites, dry rot, and fungal decay.<sup>37</sup>

2 72. In the June 29, 2017 CPUC press release for the Order, the CPUC President  
3 Michael Picker stated, “[p]lain old wooden poles, along with their cousins, the underground  
4 conduits, are work horses, carrying most of our power and telecommunications. They sometimes  
5 get crowded and fail, causing outages and fires because of all the equipment crammed onto  
6 them.” Further, “[n]ot knowing where all the poles are and who owns them, how loaded they are,  
7 how safe they are, and whether they can handle any additional infrastructure, is problematic to  
8 both the utilities and to the CPUC. Creating a database of utility poles could help owners track  
9 attachments on their poles and manage necessary maintenance and rearrangements, and can help  
10 the CPUC in our oversight role.”<sup>38</sup>

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

19 **3. Live Wires**

20 74. The 2013 Liberty Report found that on a daily basis, and in 36 percent of cases,  
21 PG&E cannot remotely de-energize a downed line and must send someone to the scene to  
22 manually turn off the feed. During that time, the downed line is a live wire and a fire hazard.

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26 <sup>37</sup> Order Instituting Investigation into the Creation of a Shared Database or Statewide Census of  
Utility Poles and Conduit 1, Cal. Pub. Utils. Comm’n (June 29, 2017),  
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M191/K656/191656519.PDF>.

27 <sup>38</sup> Press Release, CPUC to Examine Utility Pole Safety and Competition; Considers Creation of  
28 Pole Database, Cal. Pub. Utils. Comm’n (June 29, 2017),  
<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M191/K560/191560905.PDF>

1                   **4.     Dangerous Reclosers**

2           75.     PG&E has a long-standing practice of using reclosers throughout its system to  
3 automatically restart power after interruptions, even though it is well known to the industry –  
4 including PG&E – that recloser devices can cause wildfires.

5           76.     Reclosers send pulses of electricity through power lines whenever an interruption  
6 occurs on lines equipped with the devices. According to experts, if power lines are in contact with  
7 trees or vegetation, these pulses of electricity can start fires.

8           77.     PG&E knew that its reclosers posed a great risk of wildfire. At a Congressional  
9 hearing in 2015, PG&E’s Senior Vice President of Electrical Operations, Patrick Hogan, stated  
10 that PG&E had the ability to reprogram its reclosers during fire season to not restart power.  
11 Patrick Hogan claimed that shutting down power means “you take the reliability hit, but you gain  
12 the wildfire benefit.”<sup>39</sup>

13           78.     The dangers posed by reclosers are so significant that the other two major utilities  
14 in California, San Diego Gas & Electric Company and Southern California Edison, have  
15 reprogrammed their electrical systems during fire seasons to ensure that reclosers do not  
16 automatically restart electrical currents after a service interruption. In contrast, PG&E did not  
17 reprogram its reclosers.

18           79.     Since PG&E did not reprogram all of its reclosers to keep electricity turned off  
19 after a disruption during fire season, the night the North Bay Fires began, some of PG&E’s  
20 devices were programmed to try up to three times to restore power by sparking electricity.

21                   **5.     Failure to Maintain Trees and Vegetation at a Safe Distance**

22           80.     NBC Bay Area has recently reported that PG&E’s own auditors allow one out of  
23 100 trees they check to violate state power line clearance standards.<sup>40</sup> With about 123 million  
24

25 <sup>39</sup> George Avalos, *PG&E Slapped With More Lawsuits Amid North Bay Inferno Probes*, San Jose  
26 Mercury News (Nov. 15, 2017 3:31 A.M.), [http://www.mercurynews.com/2017/11/14/pge-  
slapped-with-more-lawsuits-amid-north-bay-inferno-probes/](http://www.mercurynews.com/2017/11/14/pge-slapped-with-more-lawsuits-amid-north-bay-inferno-probes/).

27 <sup>40</sup> Jaxon Van Derbeken, *PG&E’s Vegetation Management Program Under Fire After North Bay*  
28 *Blaze*, NBC Bay Area (Nov. 6, 2017 11:41 P.M.), [https://www.nbcbayarea.com/news/local/PGEs-Vegetation-Management-Program-Under-Fire-  
After-North-Bay-Blazes--455729573.html](https://www.nbcbayarea.com/news/local/PGEs-Vegetation-Management-Program-Under-Fire-After-North-Bay-Blazes--455729573.html).

1 trees under its control,<sup>41</sup> this means approximately 1.2 million trees may not in compliance with  
2 state law. Even more troubling, when PG&E found more than 1 tree in every 100 violated safety  
3 laws, the company merely expanded the number of trees it checked until it could meet its  
4 compliance rate.<sup>42</sup>

5 **6. Failure to Maintain Electrical Infrastructure**

6 81. On top of having aging infrastructure and no formal, organized system to track the  
7 condition of the infrastructure, PG&E failed to perform the necessary maintenance and  
8 inspections of its electrical equipment. A 2015 audit of PG&E's Sonoma Division revealed that  
9 there were over 3,500 unfilled PG&E repair and maintenance requests in the area of the Tubbs  
10 Fire.<sup>43</sup> This number is staggering in terms of the safety risk posed to the people in the fire zones.

11 82. In a December 31, 2015 letter to PG&E regarding the audit, Fayi Daye, a  
12 supervising electric safety regulator with the CPUC, outlined the violations found in the review of  
13 records between 2010 and 2015 and a spot check of PG&E electrical distribution equipment. Fayi  
14 Daye's letter stated the following:

15 PG&E's records indicated that from August 2010 to September 21,  
16 2015, a total of 3,527 work orders were completed past their  
17 scheduled date of corrective action per PG&E's Electric  
Notification Prioritization Standards. Late work orders included  
overhead and underground facilities.<sup>44</sup>

18 The letter concluded that these delays violated CPUC General Order No. 128, Rule 17 .1,  
19 which sets forth the CPUC's design, construction, and maintenance rules for electrical systems.

21 \_\_\_\_\_  
22 <sup>41</sup> See PG&E's Response to Safety and Enforcement Divisions' 10/14/17 Questions, Oct. 17,  
2017, *available at*  
23 [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Safety/Response%20to%20Data%20Request.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Response%20to%20Data%20Request.pdf).

24 <sup>42</sup> Jaxon Van Derbeken, PG&E's Vegetation Management Program Under Fire After North Bay  
Blaze, NBC Bay Area (Nov. 6, 2017 11:41 P.M.),  
25 <https://www.nbcbayarea.com/news/local/PGEs-Vegetation-Management-Program-Under-Fire-After-North-Bay-Blazes--455729573.html>.

26 <sup>43</sup> Letter from Fayi Daye, Program and Project Supervisor ESRB at CPUC, to Adeel Babar,  
Supervisor – Regulatory Compliance PG&E, (Dec. 31, 2015), *available at*  
27 [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/Safety/Electric\\_Safety\\_and\\_Reliability/Reports\\_and\\_Audits/Electric\\_Facilities/EA2015-018.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/Safety/Electric_Safety_and_Reliability/Reports_and_Audits/Electric_Facilities/EA2015-018.pdf)

28 <sup>44</sup> *Id.* at 2.

1 83. The audit also reviewed PG&E’s maps for its electrical distribution lines and  
2 found that over 50 pieces of overhead equipment – including pole mounted transformers and  
3 power lines - has not been inspected every year as required by law. This was a violation of CPUC  
4 General Order No. 165, Section III-B, which sets forth standards for inspections.<sup>45</sup>

5 84. According to State Senator Jerry Hill, these findings are especially troubling  
6 because “they are getting the money for these, they are getting the funds to do the work in a  
7 timely manner.”<sup>46</sup> PG&E takes the money but fails to correct the problems.

8 **F. PG&E’s Culture of Profits Over Safety**

9 85. PG&E’s failure to use due care in maintaining its power lines and its disregard for  
10 the requirements of vegetation management caused this foreseeable, preventable tragedy that has  
11 harmed thousands of people and businesses.

12 86. PG&E knew of the risks its system created before the North Bay Fires because  
13 PG&E has been called out and punished for this behavior before.

14 87. PG&E has a long history of disregarding safety regulations in order to maximize  
15 corporate profits. In 1994, PG&E was found guilty of 739 counts of negligence and fined nearly  
16 \$30 million by the CPUC when its high-voltage wires caused a fire in Nevada County after  
17 coming into contact with nearby trees. Prosecutors uncovered that PG&E had diverted almost \$80  
18 million from its tree-cutting programs into profits.<sup>47</sup>

19 88. An audit by the CPUC showed that PG&E violated electricity-grid safety  
20 regulations at least 11 times in the North Bay in the years prior to the North Bay Fires. CPUC  
21 also said that PG&E had failed in thousands of instances over a five-year period to conduct timely  
22 inspections and to complete work orders required by the state regulator. During the same time  
23 period, PG&E took in about \$1 billion in profits each year.<sup>48</sup>

24 <sup>45</sup> *Id.* at 1.

25 <sup>46</sup> Jaxon Van Derbeken, *State Audit Shows PG&E Had Repair Job Backlog in Sonoma, Santa*  
26 *Rosa*, NBC Bay Area (Oct. 20, 2017 7:31 P.M.), <https://www.nbcbayarea.com/news/local/State-Audit-Shows-PGE-Had-Repair-Job-Backlog-in-Sonoma-Santa-Rosa-451996923.html>.

27 <sup>47</sup> Paul Rogers, et al., *PG&E Power Lines Linked To Wine Country Fires*, East Bay Times (Oct.  
28 13, 2017 4:16 P.M.), <http://www.eastbaytimes.com/2017/10/10/pge-power-lines-linked-to-wine-country-fires/>.

<sup>48</sup> Mercury News Editorial Board, *PG&E Records Show Utility Cannot Be Trusted* (Editorial),

*Footnote continued on next page*

1 89. PG&E also regularly fails to comply with safety rules set by regulators. Regulators  
2 who audit PG&E's work in the field cite the company for late repairs and maintenance jobs far  
3 more frequently than any other electric utility in the state.

4 90. Moreover, PG&E has actively fought against initiatives intended to prevent  
5 wildfires. After electrical lines knocked down by wind sparked the catastrophic fires in San Diego  
6 in 2007, the CPUC has attempted to adopt stricter regulations and create a map of the power lines  
7 that pose the biggest fire risk. Proponents assert that the initiative could have bolstered  
8 maintenance efforts and forced PG&E to strengthen poles prior to the Fires. But PG&E opposed  
9 these efforts, claiming such mapping would be too expensive for rural areas. This safety initiative  
10 was delayed five times, including an additional delay granted on October 6, just two days before  
11 the North Bay Fires began.

12 91. PG&E has also blocked implementation of the safety proposals related to  
13 wildfires. In July 2017, PG&E asked again to slow down the effort and for more time to comply  
14 with new wildfire regulations. PG&E also argued against increasing the ability of the poles to  
15 sustain greater winds, claiming there was no evidence that wildfires had been caused by poles not  
16 being able to withstand high winds.

## 17 2. **Run to Failure**

18 92. PG&E has a well-documented history of implementing a "run to failure" approach  
19 with its aging infrastructure, whereby it ignores necessary maintenance in order to line its own  
20 pockets with excessive profits. According to a filing by the CPUC in March 2013:

21 [T]he Overland Audit explains how PG&E systematically  
22 underfunded [Gas Transmission & Storage ("GT&S")] integrity  
23 management and maintenance operations for the years 2008  
24 through 2010. PG&E engaged in a "run to failure" strategy whereby  
25 it deferred needed maintenance projects and changed the  
26 assessment method for several pipelines from (In-line Inspection  
27 ("ILI")) to the less informative [External Corrosion Direct  
28 Assessment ("ECDA")] approach – all to increase its profits even  
further beyond its already generous authorized rate of return, which  
averaged 11.2% between 1996 and 2010.

27 *Footnote continued from previous page*  
San Jose Mercury News (Oct. 27, 2017 1:11 P.M.),  
28 <http://www.mercurynews.com/2017/10/26/editorial-pge-records-show-utility-cannot-be-trusted/>.

1 Given PG&E's excessive profits over the period of the Overland  
2 Audit, there is no reason to believe that Overland's example  
3 regarding GT&S operations between 2008 and 2010 was unique.  
4 The [Integrated Resource Planning] Report supplements the  
5 Overland Audit findings with additional examples of PG&E  
6 management's commitment to profits over safety. Thus, it is  
7 evident that while the example of GT&S underfunding between  
8 2008 and 2010 might be extreme, it was not an isolated incident;  
9 rather, it represents the culmination of PG&E management's long-  
10 standing policy to squeeze every nickel it could from PG&E gas  
11 operations and maintenance, regardless of the long term "run to  
12 failure" impacts. And PG&E has offered no evidence to the  
13 contrary.<sup>49</sup>

8 93. This same filing also cited to reports which revealed that "the multiple and  
9 recurring deficiencies in PG&E operational practices indicate **a systemic problem** . . . . [These  
10 problems] involve people at numerous levels within a company, and are characterized by **a**  
11 **pervasive lack of proactive measures to ensure adoption and compliance with a safety**  
12 **culture.**"<sup>50</sup> Additionally, the filing found that "[PG&E] did not include any goals for safety as  
13 part of its long-term aspirations. It did include an aspiration for financial performance,  
14 however."<sup>51</sup>

15 **b. Prior Safety Violations**

16 94. PG&E knew about the significant risk of wildfires from its ineffective vegetation  
17 management programs, unsafe equipment, and/or aging infrastructure for decades before the  
18 North Bay Fires began, and has been repeatedly fined and/or convicted of crimes for failing to  
19 mitigate these risks:

20 a. In 1994, PG&E's failure to trim trees near its power lines caused the  
21 devastating "Trauner Fire" in Nevada County, California. In 1997, a jury found PG&E liable for  
22 739 counts of criminal negligence for causing this fire. Subsequent to the trial, a report authored  
23 by the CPUC revealed that from 1987 through 1994, PG&E diverted \$495 million from its  
24 budgets for maintaining its systems, and instead, used this money to boost corporate profits.<sup>52</sup>

25 <sup>49</sup> Opening Brief of the Division of Ratepayer Advocates, Cal. Pub. Utils. Comm'n (Mar. 11,  
26 2013), [ftp://ftp2.cpuc.ca.gov/PG&E20150130ResponseToA1312012Ruling/2013/03/SB\\_GT&S\\_0039691.pdf](ftp://ftp2.cpuc.ca.gov/PG&E20150130ResponseToA1312012Ruling/2013/03/SB_GT&S_0039691.pdf).

27 <sup>50</sup> *Id.* at 27 (emphasis added).

28 <sup>51</sup> *Id.* at 28–29.

<sup>52</sup> Kenneth Howe, et al., *Tree Trimming Pact Lowers PG&E Fine to \$29 Million*, San Francisco

*Footnote continued on next page*

1           b.       In 2003, PG&E’s apparent inability to learn from its past mistakes caused a  
2 fire at its Mission District Substation in San Francisco. In 2004, the CPUC investigated the fire  
3 and concluded that “it finds it quite troubling that PG&E did not implement its own  
4 recommendations” after a previous fire at the same substation.<sup>53</sup>

5           c.       In 2008, PG&E’s inadequate repair job and infrastructure caused a deadly  
6 explosion in Rancho Cordova, California. In 2010, the CPUC fined PG&E \$38 million for  
7 causing and failing to prevent the explosion.<sup>54</sup>

8           d.       In 2010, PG&E’s aging infrastructure caused the deadly gas explosion in  
9 San Bruno, California that killed eight people and destroyed dozens of homes. As a result, the  
10 CPUC slapped PG&E with a \$1.6 billion fine, and PG&E was later found guilty of six felony  
11 charges.<sup>55</sup>

12           e.       In 2011, PG&E caused an explosion in Cupertino when it failed to replace  
13 a plastic pipe that it knew was unsafe since at least 2002. PG&E ignored warnings about the  
14 dangerous nature of the pipe, and instead chose to do nothing.<sup>56</sup>

15           f.       In 2014, PG&E’s inadequate recordkeeping and disregard for public safety  
16 caused an explosion in Carmel. As a result, PG&E was required to pay over \$36 million in  
17 fines.<sup>57</sup>

18 *Footnote continued from previous page*

19 Chronicle (Apr. 3, 1999), <http://www.sfgate.com/news/article/Tree-Trimming-Pact-Lowers-PG-E-Fine-to-29-Million-2938340.php>.

20 <sup>53</sup> Richard W. Clark, Investigation Report on PG&E Mission Substance Fire and Outage (Oct. 20, 2004), <http://docs.cpuc.ca.gov/publishedDocs/published/Report/40886.PDF>.

21 <sup>54</sup> Associated Press, PG&E to Pay \$38 Million Fine in 2008 Explosion, San Diego Tribune (Dec. 1, 2011), <http://www.sandiegouniontribune.com/sdut-pge-to-pay-38-million-fine-in-2008-explosion-2011dec01-story.html>.

22 <sup>55</sup> George Avalos, *PG&E Loses Ruling in San Bruno Explosion Trial*, San Jose Mercury News (Nov. 18, 2016 3:42 P.M.), <http://www.mercurynews.com/2016/11/17/pge-loses-ruling-in-san-bruno-explosion-trial/>.

23 <sup>56</sup> Paul Rogers, *PG&E Pipe That Exploded in Cupertino Was Made Of Material Connected With Numerous Other Fires*, San Jose Mercury News (Aug. 13, 2016 2:34 P.M.), <http://www.mercurynews.com/2011/09/02/pge-pipe-that-exploded-in-cupertino-was-made-of-material-connected-with-numerous-other-fires/>.

24 <sup>57</sup> Tom Leyde, *CPUC Fines PG&E \$24.3 Million in Case Related to 2014 Carmel House Explosion*, <http://www.montereyherald.com/article/NF/20160601/NEWS/160609989> (noting that PG&E was fined \$10.8 M by the CPUC and \$24.3 by an Administrative Law Judge). PG&E also paid \$1.6 M to the city of Carmel in penalties. See Rachel Swan, *PG&E to Pay \$1.6 Million To Settle Suit Over Carmel Blast*, San Francisco Chronicle (June 9, 2017),

*Footnote continued on next page*

1 g. Since 2014, PG&E has been fined \$9.65 million by the CPUC for incidents  
2 solely related to their electrical distribution systems.<sup>58</sup>

3 h. In 2015, PG&E was once again responsible for causing a massive wildfire  
4 called the “Butte Fire”, which destroyed hundreds of homes and killed two people, due its  
5 inadequate and unlawful vegetation management practices and disregard for public safety. After  
6 the fire, in 2017, the CPUC fined PG&E a total of \$8.3 million for violating multiple safety  
7 laws.<sup>59</sup>

8 i. The most recent fine/penalty imposed on PG&E for safety violations  
9 occurred on April 9, 2015, when the CPUC imposed a record \$1.6 billion for safety violations  
10 that resulted in deaths, injuries, and destroyed homes related to the San Bruno Fire. One of the  
11 stated purposes of the CPUC in rendering such a record fine against PG&E was to “ensure that  
12 nothing like this happens again.”

13 95. In addition, PG&E’s disregard for safety has resulted in federal criminal charges  
14 for its knowing and willful violation of various minimum safety standards. Despite these penalties  
15 and fines, the PG&E Defendants have failed and refused to modify their behavior and they have  
16 continued to conduct their business with a conscious disregard for the safety of the public.

17 96. As a result of the continued actions by these Defendants, in conscious disregard  
18 for the safety of others, the CPUC has ordered an investigation into the culture of ignoring safety  
19 at PG&E. The CPUC President has recognized that Defendants have failed and refused to modify  
20 their conduct. Despite penalties and fines, in July of 2015, the President of the CPUC,  
21 specifically stated:

22 Despite major public attention, ongoing CPUC investigations ...  
23 and rulemakings ... into PG&E’s actions and operations, including  
the investigations we voted on today, federal grand jury, and

24 *Footnote continued from previous page*

25 <http://www.sfgate.com/bayarea/article/PG-E-to-pay-1-6-million-to-settle-suit-over-11209644.php>.

26 <sup>58</sup> “Electric Safety Citations Issued,” Cal. Pub. Utils. Comm’n, *available at*  
27 <http://www.cpuc.ca.gov/General.aspx?id=1965>.

28 <sup>59</sup> *PG&E Issued Citations and Fined \$8.3M For Violations Related to Butte Fire*, CBS  
Sacramento (Apr. 25, 2017 9:28 P.M.), <http://sacramento.cbslocal.com/2017/04/25/pge-issued-citations-and-fined-8-3m-for-violations-related-to-butte-fire/>.



1 California Department of Justice investigation, continued safety  
2 lapses at PG&E continue to occur.<sup>60</sup>

3 97. All of these devastating events, and many more, resulted from PG&E's long  
4 history of choosing to divert funds from its public safety, vegetation management, and/or  
5 infrastructure maintenance programs to instead line its own corporate pockets.

6 **c. Profits over Safety**

7 98. Rather than allocate adequate funds from the money it obtains from customers for  
8 infrastructure maintenance and safety, PG&E funnels funds to boost its own corporate profits and  
9 compensation. This pattern and practice of favoring profits over having a solid and well-  
10 maintained infrastructure that would be safe and dependable for years to come exposed the  
11 citizens of Northern California, such as the Plaintiff, to an increased risk of a catastrophic event  
12 such as the North Bay Fires.

13 99. For example, according to documents released by The Utility Reform Network,  
14 PG&E supposedly planned to replace a segment of the San Bruno pipeline in 2007 that it  
15 identified as one of the riskiest pipelines in PG&E's system. PG&E collected \$5 million from its  
16 customers to complete the project by 2009, but instead deferred the project until it was too late  
17 and repurposed the money to other priorities. That same year, PG&E spent nearly \$5 million on  
18 bonuses for six of its top executives.<sup>61</sup>

19 100. Moreover, PG&E has implemented multiple programs that provide monetary  
20 incentives to its employees, agents, and/or contractors to not protect public safety. Prior to the  
21 Butte Fire, PG&E chose to provide a monetary incentive to its contractors to cut fewer trees, even  
22 though PG&E was required to have an inspection program in place that removed dangerous trees  
23 and reduced the risk of wildfires. Robert Urban, a regional officer for a PG&E contractor, stated

24 \_\_\_\_\_  
25 <sup>60</sup> President Picker's Comments on PG&E Safety, Culture, and Enforcement Theory 2,  
26 [http://www.cpuc.ca.gov/uploadedFiles/CPUC\\_Public\\_Website/Content/About\\_Us/Organization/  
Commissioners/Michael\\_J\\_Picker/PresidentPickerCommentsonPGESafetyCultureandEnforceme  
ntTheory.pdf](http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/About_Us/Organization/Commissioners/Michael_J_Picker/PresidentPickerCommentsonPGESafetyCultureandEnforcementTheory.pdf) (last accessed Nov. 28, 2017).

27 <sup>61</sup> Steve Johnson, et al., PG&E accused of Delaying Crucial Repair Work, San Jose Mercury  
28 News (Sept. 15, 2010 1:58 P.M.),  
<http://www.mercurynews.com/2010/09/15/pgeaccusedofdelayingcrucialrepairwork/>.

1 that he had a concern that the bonus system incentivized his employees to not do their job, but  
2 PG&E chose to keep this program despite knowing this risk.

3 101. Similarly, prior to the San Bruno explosion, PG&E had a program that provided  
4 financial incentives to employees to not report or fix gas leaks and keep repair costs down. This  
5 program resulted in the failure to detect a significant number of gas leaks, many of which were  
6 considered serious leaks. According to Richard Kuprewicz, an independent pipeline safety expert,  
7 PG&E's incentive system was "training and rewarding people to do the wrong thing,"  
8 emblematic of "a seriously broken process," and "explains many of the systemic problems in this  
9 operation that contributed to the [San Bruno] tragedy."<sup>62</sup>

## 10 **FIRST CAUSE OF ACTION**

### 11 **Inverse Condemnation**

12 102. Plaintiff incorporates by reference and realleges all other paragraphs of this  
13 complaint.

14 103. On or about October 8, 2017, Plaintiff was an owner of real property and personal  
15 property located within Northern California.

16 104. Prior to and on October 8, 2017, Defendants installed, owned, operated, used,  
17 controlled, and/or maintained electrical distribution infrastructure in Northern California.

18 105. On or about October 8, 2017, as a direct, necessary, and legal result of Defendants'  
19 installation, ownership, operation, use, control, and/or maintenance for a public use of power  
20 lines and electrical equipment, Defendants' electrical lines and/or equipment came in contact with  
21 vegetation and caused the North Bay Fires, which burned in excess of 250,000 acres, including  
22 property owned or occupied by Plaintiff. The Tubbs Fire damaged and/or destroyed Plaintiff's  
23 real and or personal property.

24 106. The damage to Plaintiff's property was proximately and substantially caused by  
25 Defendants' actions in that Defendants' installation, ownership, operation, use, control, and/or  
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27 <sup>62</sup> Jaxon Van Derbeken, *PG&E Incentive System Blamed For Leak Oversight*, San Francisco  
28 Chronicle (Dec. 25, 2011 4:00 A.M.) <http://www.sfgate.com/news/article/PG-E-incentive-system-blamed-for-leak-oversights-2424430.php>.

1 maintenance for a public use of power lines and equipment was negligent and caused the Tubbs  
2 Fire.

3 107. Plaintiff has not received adequate compensation for the damage to and/or  
4 destruction of his property, thus constituting a taking or damaging of Plaintiff's property by  
5 Defendants without just compensation.

6 108. As a direct and legal result of the above-described damages to Plaintiff's property,  
7 including loss of use and interference with access, enjoyment and marketability of real property,  
8 and damage/destruction of personal property, Plaintiff has been damaged in amounts according to  
9 proof at trial.

10 109. Plaintiff has incurred and will continue to incur attorney's, appraisal, and  
11 engineering fees and costs because of Defendant's conduct, in amounts that cannot yet be  
12 ascertained, but which are recoverable in this action under Code of Civil Procedure § 1036.

## 13 **SECOND CAUSE OF ACTION**

### 14 **Negligence**

15 110. Plaintiff incorporates by reference and realleges all other paragraphs of this  
16 complaint.

17 111. Defendants have a non-transferable, non-delegable duty to apply a level of care  
18 commensurate with and proportionate to the danger of designing, engineering, constructing,  
19 operating, and maintaining electrical transmission and distribution systems, including vegetation  
20 clearance.

21 112. Defendants have a non-transferable, non-delegable duty of vigilant oversight in the  
22 maintenance, use, operation, repair, and inspection appropriate to the changing conditions and  
23 circumstances of their electrical transmission and distribution systems.

24 113. Defendants have special knowledge and expertise far above that of a layperson  
25 that they were required to apply to the design, engineering, construction, use, operation,  
26 inspection, repair, and maintenance of electrical lines, infrastructure, equipment, and vegetation  
27 in order to assure safety under all the local conditions in their service area, including but not  
28 limited to, those conditions identified herein.

- 1           114. Defendants negligently breached those duties by, among other things:
- 2           a. Failing to conduct reasonably prompt, proper, and frequent inspections of
- 3 the electrical transmission lines, wires, and associated equipment;
- 4           b. Failing to design, construct, monitor, and maintain high voltage
- 5 transmission and distribution lines in a manner that would avoid igniting and/or spreading fire
- 6 during foreseeable and expected long, dry seasons;
- 7           c. Failing to design, construct, operate, and maintain high voltage
- 8 transmission and distribution lines and equipment to withstand foreseeable wind conditions and
- 9 avoid igniting and/or spreading fires;
- 10          d. Failing to maintain and monitor high voltage transmission and distribution
- 11 lines in known fire-prone areas to avoid igniting and/or spreading fires;
- 12          e. Failing to keep equipment in a safe condition at all times to prevent fires;
- 13          f. Failing to inspect vegetation within proximity to energized transmission
- 14 and distribution lines and maintain at a safe distance to avoid igniting and/or spreading fires;
- 15          g. Failing to de-energize power lines during foreseeable and expected fire-
- 16 prone conditions;
- 17          h. Failing to de-energize power lines after the fire's ignition;
- 18          i. Failing to properly investigate, vet, hire, train, and supervise employees
- 19 and agents responsible for maintenance and inspection of the distribution lines and proximate
- 20 vegetation;
- 21          j. Failing to implement and follow regulations and reasonably prudent
- 22 practices to avoid igniting and/or spreading fire; and
- 23          k. Failing to properly investigate, monitor, and maintain vegetation sufficient
- 24 to mitigate the risk of fire.

25           115. The Tubbs Fire was a direct, legal, and proximate result of Defendants'

26 negligence. As a direct, proximate, and legal result of said negligence Plaintiff suffered damages

27 as alleged herein.

28

1           116. At all times mentioned herein, Defendants failed to properly inspect and maintain  
2 electrical infrastructure and equipment which they knew, given the then existing and known  
3 weather, climate and fire-risk conditions, posed a risk of harm to the Plaintiff, and to his real  
4 and/or personal property. Defendants were aware that if the subject electrical infrastructure came  
5 in contact with vegetation that a fire would likely result. Defendants also knew that, given the  
6 existing and known weather, climate and fire-risk conditions, said fire was likely to pose a risk of  
7 property damage, personal injury, and/or death to the general public, including to Plaintiff.

8           117. Over the past decade, Defendants have been subject to numerous fines and  
9 penalties as a result of PG&E's ongoing failure to abide by safety rules and regulations.

10           118. The property damage and economic losses occasioned by the Tubbs Fire are the  
11 result of the ongoing custom and practice of Defendants of consciously disregarding the safety of  
12 the public and not following statues, regulations, standards, and rules regarding their business  
13 operations. Despite having caused death and injury to numerous people and extensive property  
14 damage, these Defendants have continued to act in conscious disregard for the safety of others,  
15 and have ratified the unsafe conduct of their employees. Upon information and belief, no  
16 employee has been disciplined or discharged as a result of failing and/or refusing to comply with  
17 the regulations and/or as a result of the deaths of members of the public.

18           119. These Defendants, in order to cut costs, failed to properly inspect and maintain the  
19 subject electrical infrastructure with full knowledge that any incident was likely to result in a fire  
20 that would burn and/or kill people, damage or destroy property, and/or cause harm to the general  
21 public, including Plaintiff.

22           120. The actions of Defendants did in fact result in damages to the Plaintiff. Defendants  
23 failed to make the proper inspections, failed to properly maintain the lines, failed to properly trim  
24 vegetation, failed to properly and timely remove vegetation, and failed to safely operate their  
25 electrical infrastructure, in order to save money.

26           121. The negligence of Defendants was a substantial factor in causing Plaintiff's  
27 damages.

28





1 Public Resources Code § 4171. Further, the ensuing North Bay Fires constituted a public  
2 nuisance under Public Resources Code § 4170.

3 135. The damaging effects of Defendants' creation of a fire hazard and the ensuing  
4 North Bay Fires are ongoing and affect the public at large. As a result of the North Bay Fires  
5 location, temperature, and/or duration, extensive areas of hydrophobic soils developed within the  
6 burned areas. This further caused significant post-fire runoff hazards to occur, including hillside  
7 erosion, debris flow hazards, sediment-laden flow hazards, and hillside erosion. As a result, large  
8 quantities of ash and sediment will be deposited in perennial and ephemeral watercourses.

9 136. As a direct and legal result of the conduct of Defendants, Plaintiff suffered harm  
10 that is different from the type of harm suffered by the general public. Specifically, Plaintiff has  
11 lost the occupancy, possession, use, and/or enjoyment of his land, real, and/or personal property,  
12 including, but not limited to: a reasonable and rational fear that the area is still dangerous; a  
13 diminution in the fair market value of his property; an impairment of the ability to sell his  
14 property; soils that have become hydrophobic; exposure to an array of toxic substances on his  
15 land; the presence of "special waste" on his property that requires special management and  
16 disposal; and a lingering smell of smoke, and/or soot, ash, and/or dust in the air.

17 137. As a further direct and legal result of the conduct of Defendants, Plaintiff has  
18 suffered, and will continue to suffer, discomfort, anxiety, fear, worries, annoyance, and/or stress  
19 attendant to the interference with Plaintiff's occupancy, possession, use and/or enjoyment of his  
20 property.

21 138. A reasonable, ordinary person would be annoyed or disturbed by the condition  
22 created by Defendants, and the resulting Tubbs Fire.

23 139. Defendants' conduct is unreasonable and the seriousness of the harm to the public,  
24 including Plaintiff, outweighs the social utility of Defendants' conduct. There is little or no social  
25 utility associated with causing wildfires to destroy one of the most beautiful and beloved regions  
26 of Northern California.

27  
28









1 consideration local conditions and other circumstances, so as to provide safe and adequate electric  
2 service, pursuant to CPUC General Order 95, and CPUC General Order 165.

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

5 165. Through their conduct alleged herein, Defendants violated Public Utilities Code  
6 §§ 702, 451 and/or CPUC General Order 95, thereby making them liable for losses, damages, and  
7 injuries sustained by Plaintiff pursuant to Public Utilities Code § 2106.

8 **EIGHTH CAUSE OF ACTION**

9 **Violation of Health & Safety Code § 13007**

10 166. Plaintiff incorporates by reference and realleges all other paragraphs of this  
11 complaint.

12 167. By engaging in the acts and omissions alleged in this Complaint, Defendants  
13 willfully, negligently, and in violation of law, allowed fire to ignite on or spread to the property of  
14 another in violation of California Health & Safety Code § 13007.

15 168. As a legal result of Defendants' violation of California Health & Safety Code §  
16 13007, Plaintiff suffered recoverable damages to property under California Health & Safety Code  
17 §§ 13008 and 13009.1.

18 169. As a further legal result of the violation of California Health & Safety Code  
19 § 13007 by Defendants, Plaintiff is entitled to reasonable attorney's fees under California Code of  
20 Civil Procedure § 1021.9 for the prosecution of this cause of action.

21 170. Further, the conduct alleged against Defendants in this complaint was despicable  
22 and subjected Plaintiff to cruel and unjust hardship in conscious disregard of his rights,  
23 constituting oppression, for which Defendants must be punished by punitive and exemplary  
24 damages in an amount according to proof. Defendants' conduct was carried on with a willful and  
25 conscious disregard of the rights and safety of Plaintiff, constituting malice, for which Defendants  
26 must be punished by punitive and exemplary damages according to proof. An officer, director, or  
27 managing agent of PG&E personally committed, authorized, and/or ratified the despicable and  
28 wrongful conduct alleged in this complaint.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests judgment against defendants as follows:

1. Costs of repair, depreciation, and/or replacement of damaged, destroyed, and/or lost personal and/or real property;
2. Loss of use, benefit, goodwill, and enjoyment of Plaintiff's real and/or personal property, and/or alternative living expenses;
3. Loss of wages, earning capacity, and/or any related displacement expenses;
5. Attorney's fees, expert fees, consultant fees, and litigation costs and expense, as allowed under California Code of Civil Procedure § 1021.9;
6. Treble or double damages for wrongful injuries to timber, trees, or underwood on his property, as allowed under California Civil Code § 3346;
7. Punitive/exemplary damages;
8. All costs of suit;
9. Prejudgment interest, according to proof; and
10. General damages for fear, worry, annoyance, disturbance, inconvenience, mental anguish, emotional distress, loss of quiet enjoyment of property, and for such other and further relief as the Court shall deem proper, all according to proof.
11. For such other and further relief as the Court shall deem proper, all according to proof.

Dated: December 11, 2017

Respectfully submitted,

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

By: 

Elizabeth J. Cabraser (State Bar No. 083151)  
Robert J. Nelson (State Bar No. 132797)  
Lexi J. Hazam (State Bar No. 224457)  
Fabrice N. Vincent (State Bar No. 160780)  
Annika K. Martin (*pro hac vice pending*)  
Abby R. Wolf (State Bar No. 313049)

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**JURY DEMAND**

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

Dated: December 11, 2017

Respectfully submitted,

LIEFF CABRASER HEIMANN & BERNSTEIN, LLP

By: 

Elizabeth J. Cabraser (State Bar No. 083151)

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Fabrice N. Vincent (State Bar No. 160780)

Annika K. Martin (*pro hac vice pending*)

Abby R. Wolf (State Bar No. 313049)

Attorneys for Plaintiff