	17CV001224 Napa - Civil		
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11	Attorneys for Plaintiff		
12	THE SUPERIOR COURT OF CALIFORNIA		
13	COUNTY OF NAPA		
15	Valerie EVANS, individually and on behalf of others similarly situated,	Case No.: 17CV001224 Judge:	
15	Plaintiff,	Dept:	
17	v.	PLAINTIFF'S ORIGINAL	
18	PG&E CORPORATION,	CLASS ACTION COMPLAINT	
19	PACIFIC GAS AND ELECTRIC CO., and DOES 1-	1. NEGLIGENCE	
20	50, Defendants.	2. NEGLIGENCE PER SE	
21	Dejenuunis.	3. STRICT LIABILITY 4. DECLARATORY AND	
22		INJUNCTIVE RELIEF	
23		JURY DEMAND	
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	Plaintiff's Original Class Action Complaint		

Plaintiff Valerie Evans files this Original Class Action Complaint against PG&E Corporation, Pacific Gas & Electric Company (together, "PG&E"), and Does 1–50 (collectively, "Defendants").¹ Ms. Evans seeks damages on her own behalf and on behalf of all those whose property was damaged in the Southern LNU Complex Fire that devastated Napa and Solano counties beginning on October 8, 2017, and which continues to burn as of the date of filing this complaint. **I. PARTIES**

1. Plaintiff Valerie Evans is a resident of San Mateo, California who owns a condominium at 110 Bonnie Brook Drive, Napa, California, which was completely destroyed by the Southern LNU Complex Fire.

2. Defendant PG&E Corporation maintains its headquarters at 77 Beale Street, San Francisco, California, and is incorporated in California.

3. Defendant Pacific Gas and Electric Company is a subsidiary of PG&E Corporation. It maintains its headquarters at 77 Beale Street, San Francisco, California, and is incorporated in California.

4. The true names of Does 1–50 are unknown to Plaintiff, who sues these Defendants under fictitious names pursuant to CALIFORNIA CODE OF CIVIL PROCEDURE § 474. The fictitiously named Defendants are contractors hired by PG&E to clear vegetation and/or trim and fell trees around power lines in Napa County. Plaintiff will amend this Complaint to allege the true names of the Doe Defendants once they are learned through discovery.

II. JURISDICTION AND VENUE

5. This Court has subject-matter jurisdiction over the causes of action asserted here pursuant to California Constitution, Article VI, § 10, because this case is a cause not given by statute to other trial courts.

¹ Ms. Evans' allegations are made on personal knowledge as to her experiences and on information and belief, based on the investigation of her counsel, as to all other matters.

6. This Court has personal jurisdiction over PG&E because PG&E does business in California and maintains its headquarters in San Francisco, California.

7. This Court has personal jurisdiction over Does 1-50 because they do business in California.

8. Venue is proper in this Court because the conduct at issue took place and had an effect in this County.

III. FACTUAL ALLEGATIONS

9. The Southern LNU Complex Fire began on or around 9:52 pm on October 8, 2017, in mountainous, brush, grass, and forest-covered land off Atlas Peak Road, south of Lake Berryessa in Napa County. The fire began when high winds blew vegetation and/or trees into contact with electrical transmission or distribution lines ("power lines") owned, operated, controlled and/or maintained by PG&E and maintained under contract from PG&E by Does 1–50.

10. The windstorm quickly spread the fire though dry grass and brush, which was especially thick because of heavy rains Napa County had experienced in the Spring of 2017. It climbed over the mountain ridge and descended into Napa Valley, devastating homes and wineries in the area.

11. Local residents were forced to evacuate, as fire fighters struggled to bring the catastrophic blaze under control. Some tragically were unable to escape and lost their lives to the fire.

12. At least 481 structures were destroyed, and 1,052 were damaged or threatened.

13. As of the filing of this Complaint, the fire has already burned over 50,000 acres of land in Napa and Solano Counties. The fire is now 96% contained.

14. Ms. Evans owns a condominium unit at 110 Bonnie Brook Drive, Napa, California in the Creekside property at Silverado Resort. Her condominium unit completely burned to the ground in the Southern LNU Complex Fire. Ms. Evans lost her entire condominium and all of its furnishings and contents, including one-of-a-kind artworks, rare trees in her garden, and irreplaceable vintage collectibles from around the world.

15. The Southern LNU Complex Fire was a foreseeable, preventable tragedy. Vegetation and trees coming into contact with power lines is a common and well-understood cause of wildfires. Public utilities like PG&E and its contractors have non-delegable duty, when owning, operating, and maintaining power lines in proximity to vegetation and trees, to clear the vegetation a reasonable distance from the power lines and trim and/or fell hazardous trees so that wind or other foreseeable conditions will not start a dangerous fire.

16. On information and belief, Defendants did not act reasonably and prudently to protect public safety by appropriately clearing vegetation and trimming and/or felling trees near power lines in the Atlas Peak area in 2017. Vegetation growth was particularly heavy in Napa County because of heavy rains in the Spring of 2017. In addition, the preceding years of drought had left trees near power lines weakened, fragile, and prone to break or topple in high winds.

17. Making matters worse, Northern California often experiences hot, dry winds, known as the "Diablo" winds, in the Fall. These dangerous winds occur when inland areas of high pressure descend rapidly from the mountains toward areas of low pressure at the coast. It is well known that the Diablo winds can create dangerous conditions highly conducive to the spread of wildfire.

18. Despite these dangers, apparent to a reasonably prudent person and actually known to Defendants, PG&E and Does 1–50 failed to adequately clear vegetation and trim and/or fell trees from the vicinity of power lines they owned, controlled, operated and/or maintained in Napa County in 2017.

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IV. CLASS ALLEGATIONS

Ms. Evans brings this case as a class action, pursuant to CALIFORNIA CODE OF CIVIL PROCEDURE § 382 on behalf of the following Class:

All owners of real and/or personal property in Napa and Sonoma Counties, California, whose property was damaged by the Southern LNU Complex Fire beginning on October 8, 2017. Excluded from this Class are any employees, officers, or directors of any of the Defendants, any attorneys appearing in this case, and any judges assigned to hear this case as well as their immediate family and staff.

19. Numerosity. The Class members are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown at this time and can only be ascertained through appropriate discovery, Ms. Evans is informed and believes that the Southern LNU Complex Fires destroyed at least 481 structures and damaged or threatened at least an additional 1,052 structures.

20. Existence and Predominance of Common Questions. Common questions of law and fact exist as to all members of the Class and predominate over any individual questions. These common questions include, among others:

- (a) whether Defendants were negligent in failing to maintain adequate vegetation clearance around power lines in Napa County;
- (b) whether Defendants were negligent in failing to adequately trim and/or fell trees near power lines in Napa County;
- (c) whether Defendants were negligent per se in failing to comply with California law and California Public Utility Commission ("CPUC") Regulations for vegetation clearance and trimming and/or felling trees around power lines;
 - (d) whether Defendants' negligence and/or negligence per se caused the Southern LNU Complex Fire;
 - (e) whether Defendants are strictly liable for damages caused by their hazardous activities;
 - (f) whether, as a result of Defendants' unlawful actions, Ms. Evans and the Class are entitled to injunctive, declaratory, and monetary relief and, if so, the amount and nature of such relief.
- 21. **Typicality**. Ms. Evans' claims are typical of the Class members' claims as she, like all 23 Class members, suffered damage to her property as a result of the Southern LNU Complex Fire. 24 Ms. Evans bases her claims and those brought on behalf of the Class on the same legal and remedial 25 theories, and Ms. Evans is entitled to relief under the same causes of action and on the same facts as other Class members.
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22. Adequacy. Ms. Evans is an adequate Class representative, has retained competent counsel experienced in class action and fire cause and origin litigation, and will fairly and adequately protect the Class's interests.

23. **Superiority**. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because liability will be determined based on common facts and legal theories, and the damages sought are such that individual prosecution would prove burdensome and expensive for litigants and the courts. In addition, prosecution of separate lawsuits by individual members of the Class would create a risk of inconsistent and varying adjudications, which would establish incompatible standards of conduct.

24. **Manageability**. Plaintiff anticipates that there will be no difficulty in the management of this litigation as a class action. If it is expedient to do so, Ms. Evans will submit at the appropriate time a plan for phased resolution of liability and damages issues to facilitate the efficient conduct of this action.

25. **Injunctive Relief**. Class certification is also proper because Defendants have acted on grounds generally applicable to the Class, making equitable or declaratory relief appropriate with respect to the Class as a whole.

V. CAUSES OF ACTION

COUNT ONE - NEGLIGENCE

26. Ms. Evans incorporates by reference all preceding paragraphs as though fully stated here.

27. Defendants have a non-delegable duty to use reasonable care in maintaining clearance of vegetation and trimming and/or felling trees near power lines that they own, control, operate and/or maintain. This duty includes, but is not limited to, a duty to maintain clearance greater than the minimum clearance required by statute and/or CPUC regulations where the circumstances at a particular location make greater clearance reasonably necessary to ensure public safety.

28. Defendants failed to take due care in clearing vegetation and trimming and/or felling trees near power lines they own, control, operate and/or maintain in Napa County in 2017,

particularly in light of the increased vegetation growth caused by an exceptionally wet Spring, the presence of drought-stricken trees, and the foreseeable dry, windy Fall conditions.

29. Defendants' negligence proximately caused the Southern LNU Complex Fire, injuries to Ms. Evans and the Class members, and damage to their properties.

30. In light of the known risks of wildfire, Defendants' failure to take due care was despicable conduct carried on in conscious disregard of Plaintiff's and the Class members' rights and safety. Defendants' conduct in failing to maintain safe vegetation clearances and trim and/or fell trees around power lines they own, control, operate, and/or maintain in conscious disregard of Plaintiff's and the Class members' rights also constituted oppression, because it subjected Plaintiff and the Class members to cruel and unjust hardship. Plaintiff and the Class members are therefore entitled to exemplary damages under CALIFORNIA CIVIL CODE § 3294.

COUNT TWO - NEGLIGENCE PER SE

31. Ms. Evans incorporates by reference all preceding paragraphs as though fully stated here.

32. Pursuant to CALIFORNIA PUBLIC RESOURCES CODE §§ 4292 & 4293 and Rule 35 of CPUC General Order 95, Defendants have a legal responsibility to maintain minimum vegetation clearances around power lines and to trim and/or fell dead or weakened trees that could fall on power lines that they own, control, operate, or maintain.

33. On information and belief, Defendants failed to comply with the requirements of CALIFORNIA PUBLIC RESOURCES CODE §§ 4292 & 4293 and Rule 35 of General Order 95, leading to dangerous conditions in Napa County, where vegetation grew closer to power lines than the minimum clearances specified by statute and rule, and dead or weakened trees remained dangerously close to power lines which Defendants owned, controlled, operated, and/or maintained.

34. Defendants' violation of these statutes and rules proximately caused the Southern LNU Complex Fire, injuries to Ms. Evans and the Class members, and damage to their properties.

35. In light of the known risks of wildfire, Defendants' failure to comply with CALIFORNIA PUBLIC RESOURCES CODE §§ 4292 & 4293 and Rule 35 of General Order 95 was despicable conduct carried on in conscious disregard of Plaintiff's and the Class members' rights and safety. Defendants' conduct in failing to maintain safe vegetation clearances and trim and/or fell trees around power lines they own, control, operate, and/or maintain in conscious disregard of Plaintiff's and the Class members' rights also constituted oppression, because it subjected Plaintiff and the Class members to cruel and unjust hardship. Plaintiff and the Class members are therefore entitled to exemplary damages under CALIFORNIA CIVIL CODE § 3294.

COUNT THREE - STRICT LIABILITY

36. Ms. Evans incorporates by reference all preceding paragraphs as though fully stated here.

37. Defendants' operation and maintenance of electrical power lines in proximity to vegetation and trees in Napa County is an abnormally dangerous activity, due to the possibility of wildfires.

38. Defendants' acts and/or omissions in operating and maintaining electrical power lines in proximity to vegetation and trees in Napa County caused the Southern LNU Complex Fire, which is the type of harm to be anticipated as a result of the risk created by such hazardous activity.

39. As a direct and/or legal result of Defendants' acts and/or omissions, Ms. Evans and the Class have suffered significant injuries and property damage.

COUNT FOUR - DECLARATORY AND INJUNCTIVE RELIEF

40. Ms. Evans incorporates by reference all preceding paragraphs as though fully stated here.

41. An actual controversy has arisen and now exists between Ms. Evans, on behalf of the Class, and Defendants concerning their respective rights and duties in that Ms. Evans contends that Defendants' acts or omissions caused the Southern LNU Complex Fire, whereas Defendants dispute their responsibility.

42. A judicial declaration is necessary and proper in order that Defendants' legal responsibility for injuries, damages, and losses caused by the Southern LNU Complex Fire should be established. Current uncertainty regarding legal responsibility for the Southern LNU Complex Fire is adding to the burdens that fire victims face.
43. In addition, Ms. Evans and the Class members have no adequate remedy at law in that

monetary damages alone will not fully compensate them for the continuing nature of the harm caused by the Southern LNU Complex Fire. An injunction is therefore appropriate to order Defendants to establish a fund for compensation of victims of the Southern LNU Complex Fire and to grant equitable jurisdiction to this Court to supervise fair distribution of this fund.

VI. PRAYER

WHEREFORE, Ms. Evans, on her own behalf and on behalf of the Class, prays for relief against Defendants including:

13	(a)	an Order requiring Defendants to preserve all evidence regarding the cause of the Southern LNU Complex Fire;
14 15	(b)	an Order requiring Defendants to preserve all evidence regarding their vegetation clearance and tree trimming operations in Napa County from 2016 to the present;
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17	(c)	an Order declaring this action to be a proper class action and certifying Ms. Evans as the Class Representative and her counsel as Class Counsel;
18	(d)	appropriate damages to Plaintiff and the Class members;
19	(e)	exemplary and/or punitive damages as appropriate to deter and punish Defendants for their actions;
20	(f)	a declaration that Defendants are legally responsible for injuries caused by
21	(-)	the Southern LNU Complex Fire;
22	(g)	fees, expenses, and costs to Plaintiff and her counsel;
23	(h)	pre-judgment interest from the date of filing of this lawsuit;
24	(i)	equitable, injunctive, or declaratory relief; and
25	(j)	all other relief to which Ms. Evans and the Class members may be justly entitled.
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1	VII. JURY DEMAND		
2	Ms. Evans demands a trial by jury.		
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4	Dated: October 25, 2017	Respectfully submitted,	
5		By: <u>/s/ Michael A. Caddell</u>	
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	PLAINT	IFF'S ORIGINAL CLASS ACTION COMPLAINT	