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M24-977/25

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**CLAIM FOR MONEY OR DAMAGES
AGAINST THE COUNTY OF ORANGE**
(Pursuant to Govt. Code section 910 et seq.)

Completed and signed forms must be mailed or delivered to: Clerk of the Board of Supervisors
400 W. Civic Center Drive, 6th Floor
Santa Ana, CA 92701

INSTRUCTIONS: *Claims related to personal injury or damage to personal property must be presented within six (6) months from the date of loss. Claims related to any other loss must be presented not later than one (1) year from the date of loss. (See Government Code Section 911.2)*
Please answer all items fully and to the best of your ability. Failure to do so may be grounds for deeming your claim insufficient. If more space is needed, please attach additional pages.

CLAIMANT INFORMATION

1. Claimant's Name: Margaret Keeter 2. Date of Birth: 09/17/1969
3. Claimant's Address: 32522 Ortega Hwy, Lake Elsinore, CA 92530
Street (or P.O. Box) City State Zip Code
4. Phone Number: 619-771-3473 (Singleton Schreiber, LLP)
Home Work Other
5. Name and address where correspondence should be sent (if different from above):
Singleton Schreiber, LLP 591 Camino de la Reina, Suite 1025, San Diego, CA 92108
Name Street (or P.O. Box) City State Zip Code

CLAIM INFORMATION

6. Exact date (including year) of the accident/incident/loss: 9/09/2024
7. Exact location of the accident/incident/loss (Be as specific as possible; Example: On the southeast corner of 6th and Broadway in the City of Santa Ana):
32522 Ortega Hwy, Lake Elsinore, CA 92530
8. Describe the circumstances of how the accident/incident/loss occurred including the reason you believe the County of Orange is liable for your damages:
Orange County Public Works ignited the Airport Fire when its equipment created a spark and when it let overgrown dry brush remain on the property. The Airport fire burned nearly 24,000 acres and several structures, including my primary residence. The County's conduct amounts to inverse condemnation, negligence, trespass, private nuisance, public nuisance, and dangerous condition of public property. See attached complaint for further allegations.

9. Jail Booking Number: N/A **Police Agency/Report Number: N/A**

10. Describe the damage/injury/loss incurred so far as is known as of the time of this claim:

I suffered economic and non-economic damages, including but not limited to loss of personal property, general damages for personal injury (emotional distress, fear, annoyance, loss of quiet enjoyment), loss of use of personal property, and medical and incidental expenses.

1b. Name(s) of County employee(s) causing damage/injury/loss, if known: Specific County
 If employee(s) names are unknown. Employees were part of Orange County Public Works.

12. License number of County vehicle (if applicable): N/A

13. Name, address and phone number of any and all witnesses known: Janie McLean (32522 Ortega Hwy,
Lake Elsinore, CA 92530; 951-837-3019); Joseph McLean (same address; 949-538-8872).

14. Any additional information that may assist us in evaluating your claim: See complaint
attached hereto.

DAMAGES CLAIMED

15. a. If the amount claimed is less than \$10,000:

Amount claimed to present: \$ _____

Estimated amount of any prospective damage/injury/loss: \$ _____

TOTAL AMOUNT CLAIMED: \$ \$1.695.000

b. If the amount claimed exceeds \$10,000, would the case be a limited civil case (\$25,000 or less)?

Check one: Yes No X

c. **Basis of computation of the amount of damages (Please attach any estimates and/or receipts):** Property loss totals approximately \$695,000; non-economic damages
approximately \$1 million.

**WARNING: IT IS A CRIMINAL OFFENSE TO FILE A FALSE CLAIM
(PENAL CODE § 72)**

I have read the matters and statements in the above claim and I know the same to be true of my own knowledge; except as to those matters stated upon information and belief and as to such matters, I believe the same to be true. I certify under penalty of perjury that the foregoing is true and correct.

Paul Hunt

09/26/2024

Signature of Claimant/Claimant's Representative

Date _____

THIS CLAIM FORM MUST BE SIGNED!!



San Diego Office
591 Camino de la Reina, Suite 1025, San Diego, CA 92108
(619) 771-3473 | singletonschreiber.com

September 26, 2024

VIA PERSONAL SERVICE

Clerk of the Board of Supervisors
400 W. Civic Center Drive, 6th Floor
Santa Ana, CA 92701

Re: Airport Fire 2024 (origin – Trabuco Canyon)
Date of Incident: September 9, 2024

Dear Clerk,

Our firm represents Janie Rhea McLean, Joseph Jeffries McLean, and Margaret Keeter in their claims against the County of Orange, California, for harm caused them by the Airport Fire. As such, please find attached the relevant Government Claim forms for each of our clients as well as a draft complaint that will be filed against the County of Orange should the attached claims be denied or deemed denied.

Sincerely,

A handwritten signature in dark ink, appearing to read "Paul Starita", with a stylized, cursive script.

Paul Starita

1 SINGLETON SCHREIBER, LLP
Gerald Singleton (SBN 208783)
2 *gsingleton@singletonschreiber.com*
John C. Lemon (SBN 175847)
3 *jlemon@singletonschreiber.com*
591 Camino de la Reina, Suite 1025
4 San Diego, CA 92108
Telephone: (619) 771-3473
5
6

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **FOR THE COUNTY OF ORANGE**
9

10 JANIE MCLEAN, JOSPEH MCLEAN, AND
11 MARGARET KETTER,

Case No.

12 Plaintiffs,

COMPLAINT

13 v.

14 COUNTY OF ORANGE, ORANGE COUNTY
PUBLIC WORKS, AND DOES 1 THROUGH 100
15 inclusive.
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1 Plaintiffs JANIE MCLEAN, JOSPEH MCLEAN, AND MARGARET KETTER (hereinafter
2 collectively referred to as "Plaintiffs") bring the following Complaint for damages against County
3 of Orange ("County"), inclusive of Orange County Public Works department ("OCPW") and other
4 as of yet unknown entities and individuals, Does 1 through 100 (collectively, the "Defendants"),
5 as a result of the damages that Plaintiffs sustained in the wildfire known as the "Airport Fire."

6 THE AIRPORT FIRE

7 1. This Complaint arises from a wildfire that ignited on September 9, 2024, and has
8 burned across two counties in Southern California called the Airport Fire.

9 2. Defendants caused the Airport Fire when they used steel machinery to move
10 boulders during an excessive heat warning due to a triple-digit heat wave and dry conditions.
11 Defendants, aware of the fire risk, were moving the boulders to block access to unmaintained
12 vegetation susceptible to wildfires when its steel machinery sparked the blaze.



23 Photo from The Orange County Register Article: 'Reckless and stupid,' 'incompetent':
24 OC work that started Airport fire questioned, blasted by Teri Sforza
25

3. The Airport Fire ignited at approximately 1:21 p.m. on September 9, 2024, near Trabuco Canyon in Orange County, California. The fire quickly spread into Riverside County destroying structures, cabins, homes, and vegetation along the way. The following image depicts the Airport Fire perimeter.¹



4. To date, the Airport Fire burned 23,526 acres, injured 21 people, destroyed over 160 structures, and damaged another 34 structures. The Airport Fire prompted numerous evacuations, forcing Plaintiffs and other Orange County and Riverside County residents to flee their homes.

5. And in its wake, Plaintiffs returned to find their homes, all their personal belongings, and cherished possessions, completely destroyed.

6. Plaintiffs now sue for damages and all other available remedies arising from the harms caused by the Airport Fire.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction over this matter pursuant to California Code of Civil Procedure section 395(a) because, at all times relevant, Defendants have conducted significant business in the County of Orange, State of California, so as to render the exercise of

¹ See [Airport Fire | CAL FIRE](#).

1 jurisdiction over Defendants by California courts consistent with the traditional notions of fair play
2 and substantial justice.

3 8. The claims asserted in this complaint arise out of acts, omissions, transactions, and
4 conduct that occurred within the County of Orange, and therefore this action is properly venued in
5 the Superior Court for the County of Orange.

6 9. The amount in controversy exceeds the jurisdictional minimum of this Court.

7 **PLAINTIFFS**

8 10. Plaintiff Janie McLean owned real property in Riverside, California that was
9 completed destroyed by the Airport Fire. Plaintiff's home, landscaping, vegetation, vehicles, and
10 personal belongings were all completely destroyed. Plaintiff, who is 76 years old, was forced to
11 evacuate from her home and only barely made it out of the home before it was consumed by the
12 flames from the Airport Fire.

13 11. Plaintiffs Joseph McLean and Margaret Keeter resided in at real property owned by
14 Joseph's mother, Janie McLean, in Riverside County. The home was destroyed by the fire.
15 Plaintiffs lost all their personal belongings and vehicles in the fire. Plaintiff were forced to
16 evacuate and only barely made it out of the home before it was consumed by the flames from the
17 Airport Fire.

18 12. Plaintiffs and each of them were exposed to significant amounts of smoke, ashes,
19 debris, and pollution while evacuating from the Airport Fire. Plaintiffs have suffered personal
20 injuries, including emotional distress from exposure to the smoke, ashes, debris, and pollution.
21 Plaintiffs have suffered emotional distress from having to flee from the Airport Fire and seeing
22 flames approach their home.

23 **DEFENDANTS**

24 13. Plaintiffs, upon information and belief, allege that Defendant County is, and was at
25 all relevant times, a political subdivision and/or entity of the State of California. Orange County
26 Public Works (OCPW) is a governmental agency in and for the County of Orange.

27 14. County provides services to approximately three million residents, including
28 Plaintiffs. County owns, operates, and controls public property and infrastructure. County is

1 comprised of several departments, including OCPW. The OCPW, in turn, is responsible for
2 planning, constructing, operating, and maintaining the County's property and infrastructure: public
3 roads, transportation systems, bridges, equipment maintenance, water, and vegetation
4 management, among others.

5 15. County is a public entity pursuant to California Government Code section 811.2.

6 16. At all times relevant to this complaint, County is and was vested by law with
7 authority to acquire property through the power of eminent domain pursuant to the provisions of
8 California Constitution Article I, section 19 and California Code of Civil Procedure sections
9 1230.010, 1235.190, 1240.040, et seq.

10 17. At all times mentioned herein, County planned, installed, operated, constructed,
11 built, and maintained its infrastructure for the benefit of the general public, including but not
12 limited to the use of heavy equipment to move boulders.

13 18. At all times mentioned herein, County provided pre-fire management and fire
14 prevention services in Orange County, including but not limited to vegetation management of its
15 State Responsibility Areas and open space lands and/or districts.

16 19. The true names and capacities, whether individual, corporate, associate, or
17 otherwise of the Defendants Does 1 through 100, inclusive, are unknown to Plaintiffs who sue said
18 Defendants by such fictitious names pursuant to Code of Civil Procedure section 474. The term
19 "Defendants" used throughout this complaint refers collectively to the County, including OCPW,
20 and Does 1 through 100, and each of them.

21 20. Plaintiffs are informed and believe that Defendants, and/or each of them, were the
22 servants, employees, partners, aiders and abettors, co-conspirators, and/or joint venturers of each of
23 the other Defendants and were operating within the purpose and scope of said agency, service,
24 employment, partnership, enterprise, conspiracy, and/or joint venture; and each of Defendants has
25 ratified and approved the acts of each of the remaining Defendants.

26 21. Plaintiffs are informed and believe that Defendants install, own, maintain,
27 construct, manage, build, and/or operate infrastructure for the benefit of the general public,
28 including but not limited to the use of heavy equipment to move boulders.

1 22. Plaintiffs are informed and believe that Defendants perform pre-fire management
2 and fire prevention services, including but not limited to vegetation management for the benefit of
3 the general public.

4 23. Plaintiffs further allege that Defendants are in some manner responsible for the acts
5 and occurrences set forth in this Complaint. Plaintiffs may amend or seek to amend this Complaint
6 to allege the true names, capacities, and responsibility of these Doe Defendants once they are
7 ascertained, and to add additional facts and/or legal theories. Plaintiffs make all allegations
8 contained in this Complaint against all Defendants, including Does 1 through 100 pursuant to
9 Code of Civil Procedure section 474. Some or all of the Doe Defendants may be residents of the
10 State of California. At all times mentioned herein, Defendants, and/or each of them, are
11 responsible in some manner for the conduct alleged herein, including, without limitation,
12 furnishing the means and or acting in capacities that create agency, respondent superior, co-
13 venturer, and/or predecessor- or successor-in-interest relationships with the Defendants. The Doe
14 Defendants are private individuals, associations, partnerships, corporations, or otherwise that
15 actively assisted and participated in the negligent and wrongful conduct alleged herein in ways
16 that are currently unknown to Plaintiffs.

17 **COMPLIANCE WITH GOVERNMENT CODE**

18 24. On or around _____, prior to the filing of Plaintiffs' complaint, Plaintiffs Janie
19 McLean, Joseph McLean, and Margaret Keeter, presented a claim on behalf of themselves to
20 Defendant County of Orange and OCPW pursuant to Government Code section 910, et seq.
21 Defendant County of Orange and OCPW failed to act on Plaintiffs' claim within 45 days after it
22 was presented, thus it was deemed rejected pursuant to Government Code section 912.4.

23 **FACTS**

24 **A. County's knowledge of drought conditions, wildfire risks and actions are below the**
25 **standard of care**

26 25. County owns, operates, and controls property and infrastructure, including public
27 roads, canyons, parks, and other property. County controls and maintains the County's
28 infrastructure, including public roads, bridges, open space conservation districts, and equipment.

1 County, through OCPW and OCFA, also performs vegetation management, fire prevention, and
2 fire suppression or reduction efforts.

3 26. Orange County had been under an Excessive Heat Warning, which means high fire
4 danger due to extreme temperatures and low humidity.² The Excessive Heat Warning began on
5 September 4, 2024 and lasted through September 10, 2024.

6 27. Orange County experienced two wet winters that fueled growth in the wildlands.
7 Followed by an Excessive Heat Warning, this overgrown foliage becomes quite dry, brittle and
8 receptive to ignition.³

9 28. County knew or should have known about the significant risk of wildfires in the
10 area posed by the ongoing and immediate climate, weather, and drought conditions in and around,
11 its service territory, including but not limited to Trabuco Canyon ("Canyon") in Orange County,
12 California, and the substantially elevated risk of fire ignition resulting from these known and
13 foreseeable conditions. Defendants knew, prior to the Airport Fire's ignition, that hot, dry weather
14 conditions create an elevated risk of wildfires and that Southern California, including Orange
15 County, faced record highs throughout 2024.⁴ Defendants also knew that surrounding counties,
16 like Riverside County, faced significant drought having recorded the driest August over the past
17 130 years.⁵

18 29. According to CAL FIRE's Hazard Severity Zones in Orange County, the Airport
19 Fire's general area of origin was located in a red zone; also referred to as a "Very High Fire
20 Hazard Severity Zone" ("Red Zone").⁶ This classification put Defendants on notice to use
21

22
23 ² The Orange County Register 'Reckless and stupid,' 'incompetent': OC work that started Airport fire
24 questioned, blasted by Teri Sforza; <https://www.ocregister.com/2024/09/12/reckless-and-stupid-incompetent-oc-work-that-started-airport-fire-questioned-blasted/>

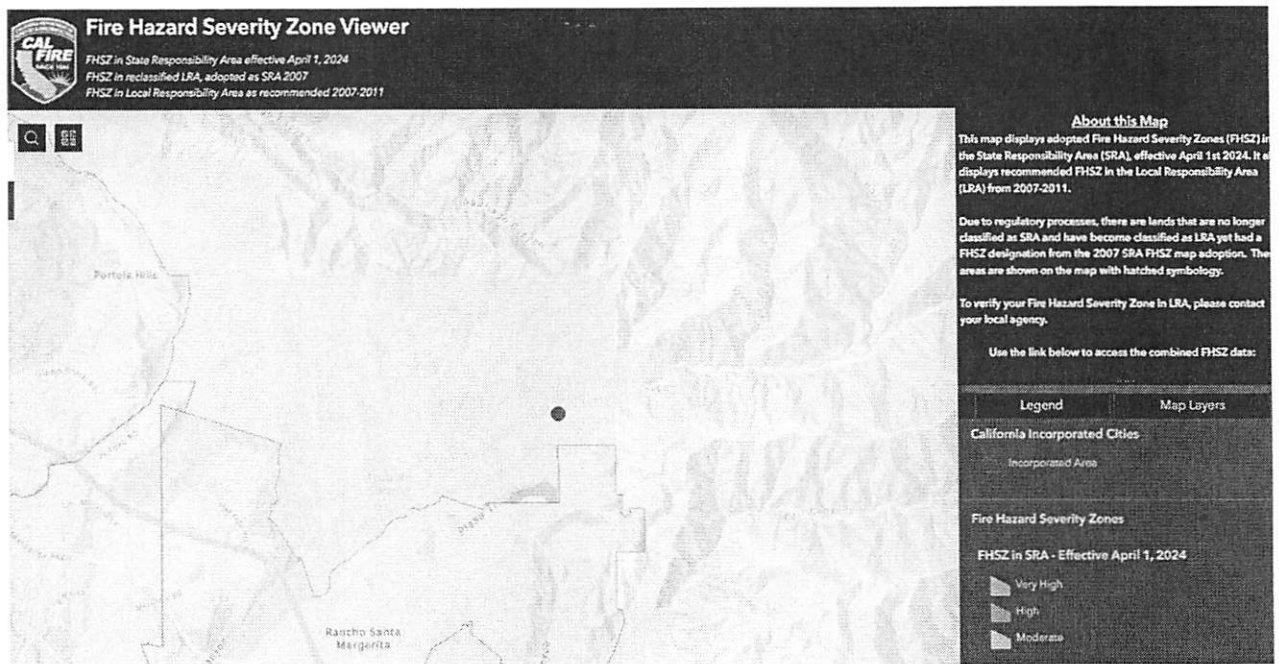
25 ³ *Id.* quoting Alex Tardy of the National Weather Service

26 ⁴ See Powerful heat wave hits Southern California starting Tuesday, but how hot will it be? - ABC7 Los
27 Angeles; Triple-digit heat wave continues to broil Southern California - Los Angeles Times (latimes.com).

28 ⁵ See Riverside County Conditions | Drought.gov.

⁶ See Fire Hazard Severity Zone Viewer | CAL FIRE Hub (arcgis.com).

1 heightened safety measures and increased precautions when operating their equipment.
2 Additionally, CAL FIRE continuously updates its Fire Hazard Severity Zone Viewer. This viewer
3 has the Airport Fire's General Area of Origin labeled with an overlay as "VHFHSZ" standing for
4 Very High Fire Hazard Severity Zone.⁷ The following screenshot was taken of CAL FIRE's Fire
5 Hazard Severity Viewer, and the red dot depicts the Airport Fire's general area of origin in the
6 VHFHSZ zone:



18 30. Despite the known risks, Defendants allowed the Canyon to become overgrown
19 and filled with dry brush. Given the high fire danger this overgrown dry brush presented, County
20 operated steel machinery to move, crush, and/or place boulders—creating the foreseeable risk of
21 sparking—in a forested canyon. Defendants had a duty to properly maintain its infrastructure and
22 equipment to ensure its safe operation by adequately planning, constructing, and operating its
23 systems and services. However, Defendants violated these duties by using its machinery in a
24 manner that posed a significant risk of and in fact, did cause a wildfire.

25 31. Defendants were aware that its operations, including but not limited to the use of
26 heavy machinery to move, crush, and/or place boulders, is an inherently dangerous and
27

28 ⁷ *Id.*

1 ultrahazardous activity given its proximity to forested areas filled with dry brush and the
2 significant threat of wildfire. Indeed, Defendants were placing the boulders to prevent access to
3 vegetation susceptible to wildfires. Defendants are required to exercise an increased level of care
4 commensurate with and proportionate to the increased risk of danger associated with their
5 conduct. The conditions and circumstances existing at the time of the Airport Fire's ignition were
6 reasonably foreseeable by Defendants.

7 COUNTY'S EQUIPMENT IGNITES THE AIRPORT FIRE

8 32. On September 9, 2024, during the Excessive Heat Warning and high fire danger,
9 County employees operated County equipment to move and place large boulders as barriers on
10 Trabuco Creek Road. The boulders were to act as a fire prevention barrier to part of the canyon
11 filled with dry brush. During this work, the employees noticed smoke from their equipment and
12 called 911.



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27 A burnt truck sits on Trabuco Creek Road in Trabuco Canyon, CA, on Wednesday, Sept. 11,
28 2024. (Photo by Jeff Gritchen, Orange County Register/SCNG)

1 33. Plaintiffs are informed and believe, consistent with the OCFA Deputy Chief's
2 comments, that the Airport Fire was caused by County's machinery and/or failure to maintain
3 public property in a safe condition.⁸

4 34. First, Defendants were present and utilized heavy machinery to move, crush,
5 and/or place boulders to create a barrier restricting access to vegetation. The County's conduct
6 occurred in a Very High Fire Hazard Severity Zone where there was an increased risk of wildfire
7 due to hot machinery and boulders connecting with one another.

8 35. Second, and in the alternative, Defendants negligently, recklessly, and willfully
9 failed to properly, safely, and prudently inspect, repair, maintain, and operate the machinery
10 within its infrastructure, ultimately leading to the catastrophic Airport Fire.

11 36. Third, and in the alternative, Defendants negligently, recklessly, and willfully
12 failed to properly, safely, and prudently maintain its property in a safe condition by failing to
13 comply with vegetation management and other fire prevention policies, regulations, and
14 requirements.

15 37. The conditions and circumstances surrounding the ignition of the Airport Fire,
16 including the nature of Defendants' services, dry conditions, and a prolonged heatwave were
17 foreseeable by any reasonably prudent person and, therefore, were certainly foreseeable to
18 Defendants—which have a special knowledge and expertise as to their services.

19 38. The Airport Fire was not the result of an "act of God" or other *force majeure*. This
20 wildfire was started Defendants' machinery, which was intentionally used to move, crush, and/or
21 place boulders—boulders that would create a spark when contact was initiated with the
22 machinery.

23 39. As a result of the Airport Fire, Plaintiffs suffered substantial harm, including
24 damage to and/or destruction of real and personal property, lost business income, and evacuation
25 expenses. The harms caused by the Defendants are extensive and ongoing.

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28 ⁸ See Airport Fire in Orange County's Trabuco Canyon area spreads to more than 23,000 acres, homes
destroyed near Lake Elsinore - ABC7 Los Angeles.

1 **FIRST CAUSE OF ACTION**

2 **INVERSE CONDEMNATION**

3 **By Plaintiffs for Inverse Condemnation Against County**

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

6 41. On September 9, 2024, Plaintiffs are the owners of real and/or personal property
7 located within Riverside County that was damaged, destroyed, or affected by the Airport Fire,
8 which ignited in Orange County.

9 42. Prior to and on September 9, 2024, County, controlled, operated, maintained,
10 constructed, used and/or serviced equipment, infrastructure, and public property within Orange
11 County, including performing fire hardening, fire suppression, fire prevention, and vegetation
12 management in and around the Airport Fire's location or origin. County's conduct was for the
13 benefit of the general public.

14 43. On September 9, 2024, County was aware of the inherent dangers and risks
15 associated with allowing dry brush to become overgrown during extreme fire conditions. County
16 was also aware of the inherent dangers and risks associated with the use of heavy, steel machinery
17 to move, crush, and/or place boulders in a Red Zone. Indeed, the boulders were being moved,
18 crushed, and/or placed to block access to this overgrown dry brush that was susceptible to
19 wildfires for the benefit of the general public.

20 44. This inherent risk was realized on September 9, 2024, when the steel machinery
21 and boulders connected, created a spark that ignited the dry brush in the Canyon causing the
22 Airport Fire and resulted in the taking and/or damaging of Plaintiffs' real and/or personal property.

23 45. This taking was legally and substantially caused by County's actions and inactions
24 in constructing, installing, operating, controlling, using, servicing, and/or maintaining its property,
25 equipment, and infrastructure, including the placement of boulders with steel machinery.

26 46. Plaintiffs have not been adequately compensated, if at all, for this taking.

27 47. Pursuant to Article 1, Section 19 of the California Constitution, Plaintiffs seek just
28 compensation for this taking, according to individual proof at trial.

48. Plaintiffs further seek, pursuant to Code of Civil Procedure section 1036, to recover all litigation costs, expense, and interest with regard to the compensation of damage to their property, including attorneys' fees, expert fees, consulting fees, and litigation costs.

SECOND CAUSE OF ACTION.

NEGLIGENCE

By Plaintiffs for Negligence Against County

49. Plaintiffs hereby re-allege and incorporate by reference each and every allegation contained above as though the same were set forth herein in full.

50. Under Government Code section 820, public employees are liable for torts like private people. Under Government Code section 815.2, public entities are liable for torts of public employees done in the course and scope of their employment.

51. County employees acting within the course and scope of their employment in controlling, operating, and maintaining County equipment, property, and infrastructure were under a duty codified in Civil Code section 1714(a), which states, in pertinent part:

Everyone is responsible, not only for the result of his or her willful acts, but also for an injury occasioned to another by his or her want of ordinary care or skill in the management of his or her property or person, except so far as the latter has, willfully or by want of ordinary care, brought the injury upon himself or herself.

52. County and its employees have a nondelegable duty to apply a level of care commensurate with and proportionate to the danger of constructing, controlling, operating, and maintaining its property and infrastructure, inclusive of its equipment, services performed, and vegetation management.

53. County and its employees have a nondelegable duty of vigilant oversight in the maintenance, repair, operation, installation, management, and supervision, appropriate to the changing conditions and circumstances of their property, infrastructure, equipment, and services.

54. County and its employees have a nondelegable duty to maintain its property in a safe condition, including performing vegetation management, fire suppression, fire hardening, and fire prevention activities.

1 55. County and its employees have special knowledge and expertise far beyond that of a
2 layperson, that they were obligated and required to use in the construction, use, operation, repair,
3 and maintenance of their infrastructure, property, equipment, and services to assure safety under
4 the local conditions of the service area, including but not limited to, the equipment used, the
5 activity undertaken, and operation of equipment, all of which were prone to ignite sparks in the
6 service area given local conditions, including unprecedented heatwaves, dry conditions, and
7 susceptible vegetation, which was left unmaintained.

8 56. County and its employees breached their duties in negligently controlling,
9 operating, and maintaining County equipment and infrastructure in a manner that was foreseeable
10 to start a fire. County employees failed to utilize appropriate fire safety methods to prevent County
11 equipment from igniting dry brush in the Canyon.

12 57. It was foreseeable that a massive wildfire would destroy personal and real property,
13 force residents in the fire area to evacuate, and prevent customers of businesses located within the
14 fire area from patronizing those businesses. Notwithstanding the above, County employees failed to
15 take reasonable precautions to protect adjoining property owners against the foreseeable risk of
16 harm created by their activities. The Airport Fire was a direct and legal result of the negligence,
17 carelessness, recklessness, and/or unlawfulness of County employees who breached their respective
18 duties owed to Plaintiffs, and each of them, including but not limited to: (1) failing to comply with
19 the applicable statutory, regulatory, and/or professional standards of care; (2) failing to take
20 necessary precautions given conditions and circumstances in service area; (3) failing to construct,
21 monitor, operate, and/or maintain its machinery in a manner that avoids the potential to ignite a
22 fire; (4) failing to implement procedures based upon service conditions, including procedures for
23 using machinery to move objects prone to ignite fires; (5) failing to adequately maintain vegetation
24 in public property; (6) failing to properly train and supervise employees and agents responsible for
25 maintenance, inspection, and operation of the machinery, services provided, and vegetation
26 management; and/or (7) violating Health and Safety Code section 13007 by allowing fire to be set
27 to the property of another.

1 58. As a direct and legal result of County and its employees' actions and/or omissions,
2 Plaintiffs suffered damages, which were clearly and certainly caused by the Airport Fire, including
3 the cost to repair and replace the damaged and/or destroyed real and personal property, personal
4 injuries, evacuation expenses, medical expenses, lost wages, emotional distress, and other
5 damages
6

7 59. Public policy supports finding a duty of care in this circumstance due to County
8 and its employees' violation of California Civil Code sections 3479 and 3480.

9 **THIRD CAUSE OF ACTION**

10 **By Plaintiffs For Trespass Against County and Does 1-100**

11 60. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set
12 forth herein at length.

13 61. At all times relevant herein, Plaintiffs were the owners and/or lawful occupants of
14 real property damaged or destroyed by the Airport Fire.

15 62. Defendants, including County, had a duty to use reasonable care not to enter,
16 intrude on, or invade Plaintiffs' real properties. Defendants, including County through the acts of
17 its employees as established above, negligently allowed the Airport Fire to ignite and/or spread out
18 of control, causing injury to Plaintiffs. The spread of a negligently caused fire to wrongfully
19 occupy land of another constitutes a trespass.

20 63. Plaintiffs did not grant permission for Defendants to cause the Airport Fire to their
21 property.

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

25 65. As a further direct and proximate result of the conduct of Defendants, Plaintiffs have
26 hired and retained counsel to recover compensation for loss and damage and are entitled to recover
27 all attorney's fees, expert fees, consultant fees, and litigation costs and expenses, as allowed under
28 California Code of Civil Procedure section 1029.1.

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

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

FOURTH CAUSE OF ACTION

By Plaintiffs For Private Nuisance Against County and Does 1-100

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

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

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

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

FIFTH CAUSE OF ACTION

By Plaintiffs For Public Nuisance Against County and Does 1-100

72. Defendants owed a duty to the public, including Plaintiffs, to conduct their business in a manner that did not cause harm to the public welfare.

73. Defendants in maintaining public property in a dangerous condition and, by its employees acting and/or failing to act, as alleged herein above, created a condition that was harmful

1 to the health of the public, including Plaintiffs, and created a fire which damaged and interfered with
2 the quite use and enjoyment of their property. This interference is both substantial and unreasonable.

3 74. Plaintiffs do not consent, expressly or impliedly, to the wrongful conduct of
4 Defendants.

5 75. The Airport Fire which was created by Defendants affected a substantial number of
6 people at the same time within the general public, including Plaintiffs, and constituted a public
7 nuisance under Civil Code sections 3479 and 3480 and Public Resources Code sections 4170 and
8 4171.

9 76. The damaging effects of Defendants' creation of a fire hazard and the resulting
10 Airport Fire are ongoing and affect the public at large.

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

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

20 79. A reasonable, ordinary person would be annoyed or disturbed by the conditions
21 caused by Defendants, and the resulting Airport Fire.

22 80. Defendants' conduct is unreasonable and the seriousness of the harm to the public,
23 including Plaintiffs, outweighs the social utility of Defendants' conduct. There is little to no social
24 utility associated with causing wildfires to destroy the property of the Plaintiffs.

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

27 82. Defendants have failed to maintain its property, equipment, or infrastructure in a safe
28 condition. Defendants failed to comply with its fire hardening and vegetation management policies,

1 failed to trim and/or remove vegetation on public property, and/or remediate the potential for
2 harmful contact between Defendants' equipment and boulders thereby creating a spark, and
3 Defendants' failure to do so exposed every member of the public to a foreseeable danger of personal
4 injury, death, and/or a loss or destruction of real and personal property.

5 83. Defendants' conduct set forth above constitutes a public nuisance within the meaning
6 of Civil Code sections 3479 and 3480, Public Resources Code sections 4104 and 4170, and Code of
7 Civil Procedure section 731. Under Civil Code section 3493, Plaintiffs have standing to maintain
8 an action for public nuisance because the nuisance is especially injurious to Plaintiffs, because, as
9 described above, it is injurious and/or offensive to the senses of the Plaintiffs unreasonably interferes
10 with their comfortable enjoyment of their property, and/or unlawfully obstructs the free use, in the
11 customary manner, of their property.

12 84. For these reasons, Plaintiffs seek an order directing Defendants to abate the existing
13 and continuing nuisance described above.

14 **FIFTH CAUSE OF ACTION**

15 **By Plaintiffs For Dangerous Condition of Public Property Against County and Does 1-100**

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

18 86. Defendants owned, controlled, or maintained the public road and adjacent canyon,
19 an open space conservation district, in the area of the origin of the Airport Fire.

20 87. Defendants acted wantonly, unlawfully, carelessly, recklessly, and/or negligently in
21 failing to properly manage and maintain its property allowing an unsafe condition presenting a
22 foreseeable risk of fire danger to exist on public property.

23 88. In its role of providing fire prevention services, Defendants have superior knowledge
24 and experience in dealing with fire hazards. Defendants also had actual and constructive notice of
25 the dangerous condition. Defendants were aware of the high fire risk and dry brush that acted as a
26 fire hazard.

27 89. Defendants also created a dangerous condition that caused the Airport Fire when they
28 used heavy, steel machinery to move boulders during a triple-digit heat wave and dry conditions.

1 Defendants, aware of the fire risk, were moving the boulders to block access to vegetation
2 susceptible to wildfires when its steel machinery sparked the blaze.

3 90. The dangerous condition Defendants maintained or otherwise created on its public
4 property ignited the Airport Fire, which rapidly spread to Plaintiffs properties causing them harm
5 and damages.

6 91. As a direct and legal result of the wrongful acts and/or omissions of Defendants,
7 Plaintiffs suffered, and continues to suffer, the injuries and damages as set forth above.

8 92. As a further direct and legal result of the wrongful acts and/or omissions of
9 Defendants, Plaintiffs seek the recovery of punitive and exemplary damages against Defendants as
10 set forth above.

11 **PRAYER FOR RELIEF**

12 Plaintiffs pray for judgment against the County and Does 1 through 100, and each of them
13 as follows:

- 14 1. For monetary damages in an amount to be proven at trial, which exceeds the
15 jurisdictional minimum of this Court;
- 16 2. Loss of the use, benefit, goodwill, and enjoyment of Plaintiffs' real and/or
17 personal property;
- 18 3. Loss of wages, earning capacity, goodwill, and/or business profits or proceeds
19 and/or any related displacement expenses;
- 20 4. Out of pocket costs;
- 21 5. Damage to real and personal property;
- 22 6. Past and future medical expenses and incidental expenses;
- 23 7. General damages for personal injury, emotional distress, fear, annoyance,
24 disturbance, inconvenience, mental anguish, and loss of quiet enjoyment of
25 property;
- 26 8. For prejudgment interest in accordance with California Civil Code section 3287
27 and the California Constitution;
- 28

1 9. For attorneys' fees and cost of suit to the extent allowed by California law,
2 including California Code of Civil Procedure sections 1021.9 and 1036; and

3 10. For such other relief as the Court deems just and proper.

4 **JURY TRIAL DEMAND**

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

7
8 Dated:

9 [sig block]