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15
16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

17 **IN AND FOR THE COUNTY OF SAN FRANCISCO**

18 **ROBERT DAVIES**, an individual;

19 Plaintiff,

20
21 vs.

22 **ROSEBURG FOREST PRODUCTS CO.**,
23 an Oregon corporation; and DOES 1 through
100, inclusive,

24 Defendants.
25

Case No.:

26 **COMPLAINT FOR:**

- 27 1) **INVERSE CONDEMNATION**
- 28 2) **TRESPASS**
- 3) **NEGLIGENCE**
- 4) **PRIVATE NUISANCE**
- 5) **PUBLIC NUISANCE**
- 6) **VIOLATION OF HEALTH
AND SAFETY CODE § 13007**

JURY TRIAL DEMANDED

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1 **I. INTRODUCTION**

2 1. On the afternoon of September 2, 2022, a fire began at a mill in Weed, California
3 which was owned and operated by **ROSEBURG FOREST PRODUCTS CO.**
4 (**“ROSEBURG”**). Later named the **MILL FIRE**, it tore through Siskiyou County for 11 days,
5 burned 3,935 acres, destroyed 118 structures, injured three people, and killed two.

6 2. The **MILL FIRE** was the result of **ROSEBURG’s** deliberate failure to avoid
7 known risks of fire ignition associated with the industrial processes conducted at its mill
8 (**“FACILITY”**).

9 3. In addition to creating wood veneer, the **FACILITY** generates electricity at an
10 onsite plant (**“BIOMASS PLANT”**). **ROSEBURG** uses the electricity to power the
11 **FACILITY**, but also transfers the electricity generated by the **BIOMASS PLANT** into Siskiyou
12 County’s electrical grid for public use.

13 4. The **BIOMASS PLANT** creates electricity by burning wood, which creates a hot
14 ash byproduct. The hot ash, if not properly cooled or treated, poses an obvious risk of fire
15 ignition. This was not news to **ROSEBURG**. Previously, it had been observed that hot ash from
16 the **BIOMASS PLANT** ignited fires at the **FACILITY** on a frequent basis.

17 5. **ROSEBURG** installed a fire suppression system but it did not function as
18 intended. Instead of fixing the system, **ROSEBURG** depended on its own employees promptly
19 reacting to extinguish the fires – rather than designing and maintaining an effective fire
20 suppression system. **ROSEBURG** relied on this practice because it was cheaper, thereby
21 sacrificing the safety of the community which surrounded the facility.

22 6. Worse, the **FACILITY** itself, and in particular the aging wooden shed where the
23 hot ash created by the **BIOMASS PLANT** was stored (**“SHED 17”**), was a ticking time bomb.

24 7. By September 2022, **SHED 17** was about 100 years old. For years, **ROSEBURG**
25 used **SHED 17** to house truckloads of hot ash from the **BIOMASS PLANT**. The rafters which
26 ran across the ceiling of **SHED 17** were covered with dust and other material. On several
27 occasions, the hot ash would cause sparks to ignite the dust and other random debris hanging
28 from the rafters.

1 8. Due to the abundant fuel and risk of ignition, proper management of fire risk at
2 the **FACILITY** was paramount. Further, **ROSEBURG** knew or should have known that severe
3 and enduring drought in Siskiyou County made the region susceptible to wildfires.

4 9. Despite these obvious and known fire risks, **ROSEBURG** deliberately failed to
5 take measures sufficient to mitigate or prevent fire ignition at the **FACILITY**, including but not
6 limited to failing to design, construct, inspect, or maintain an adequate fire suppression system at
7 the **FACILITY** or adequately manage the ignition-prone byproducts of its **BIOMASS PLANT**.

8 10. **ROSEBURG** could have and should have prevented the **MILL FIRE**. Instead,
9 **ROSEBURG** chose to save money, placing profits above the safety of its employees and the
10 public.

11 11. As a result of **ROSEBURG**'s acts and omission in operating its **FACILITY**,
12 including its operation of the **BIOMASS PLANT** and treatment of the hot ash byproduct it
13 generated, the **MILL FIRE** spread from the **FACILITY**, irreparably harmed a community,
14 destroyed homes, and killed citizens of Siskiyou County.

15 **II. THE PARTIES**

16 **A. PLAINTIFF**

17 12. **PLAINTIFF ROBERT DAVIES** (“**PLAINTIFF**” or “**ROBERT**”) is an
18 individual who was, at all times relevant, a natural person and resident of Siskiyou County,
19 California. As a result of the **MILL FIRE**, **PLAINTIFF**, a 61-year-old person with disabilities,
20 lost his home of over 30 years and all of its contents, is displaced, and suffers enduring harm.

21 **B. DEFENDANT**

22 13. Defendant **ROSEBURG FOREST PRODUCTS CO.** (“**DEFENDANT**
23 **ROSEBURG**” “**ROSEBURG**” or “**DEFENDANT**”) is a privately-held corporation doing
24 business in California. At all times relevant, **ROSEBURG** owned, operated, managed, or
25 otherwise exercised control over a wood-products processing and biomass facility which
26 supplied energy to customers in Northern California (“**FACILITY**”).

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1 **C. DOE DEFENDANTS**

2 14. Except as described herein, **PLAINTIFF** is ignorant of the true names and/or
3 capacities of the Defendants sued as Does 1 through 100, inclusive, and therefore, **PLAINTIFF**
4 sues these Defendants by such fictitious names. Following further investigation and discovery,
5 **PLAINTIFF** will seek leave of this Court to amend this Complaint to allege their true names
6 and capacities when ascertained. These fictitiously named Doe Defendants are responsible in
7 some manner for the acts, occurrences, and events alleged herein. These Doe Defendants aided,
8 abetted, and/or conspired with Defendants in the wrongful acts and course of conduct, or
9 otherwise negligently caused the damages and injuries claimed herein and are responsible in
10 some manner for the acts, occurrences, and events alleged in this Complaint.

11 **D. AGENCY, JOINT VENTURE, AND CONCERT OF ACTION**

12 15. At all relevant times, **DEFENDANTS** were the agents, servants, employees,
13 partners, aiders and abettors, co-conspirators, and/or joint venturers of each of the other
14 **DEFENDANTS** and were at all times operating and acting within the purpose and scope of said
15 agency, service, employment, partnership, enterprise, conspiracy, and/or joint venture, and each
16 **DEFENDANT** has ratified and approved the acts of each of the remaining **DEFENDANTS**.
17 Each **DEFENDANT** aided and abetted, encouraged, and rendered substantial assistance to the
18 other **DEFENDANTS** in breaching their obligations to **PLAINTIFF**. In taking action to aid and
19 abet and substantially assist the commission of these wrongful acts and other wrongdoings
20 alleged herein, each of the **DEFENDANTS** acted with an awareness of his/her/its primary
21 wrongdoing and realized his/her/its conduct would substantially assist the accomplishment of the
22 wrongful conduct, wrongful goals, and wrongdoing.

23 **E. JURISDICTION AND VENUE**

24 16. This Court is a court of general jurisdiction and, therefore, has subject matter
25 jurisdiction over all causes of action alleged herein.

26 17. This Court has personal jurisdiction over all parties to this action because each
27 and every party has sufficient minimum contacts with the State of California arising out of or
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1 relating to the causes of action herein alleged such that this Court’s exercise of personal
2 jurisdiction comports with traditional notions of fair play and substantial justice.

3 18. Plaintiff is informed and believes, and thereon alleges, that **DEFENDANT**
4 **ROSEBURG** is a business entity that has not filed a statement designating a principal office in
5 California. Therefore, venue is proper in any Court in the State. (*Easton v. Superior Court* (1970)
6 12 Cal.App.3d 243, 246.)

7 **III. FACTUAL BASIS FOR THE CLAIMS ASSERTED**

8 **A. FIRE-PRONE BYPRODUCTS FROM ROSEBURG’S BIOMASS PLANT**
9 **CAUSED THE MILL FIRE**

10 19. On September 2, 2022, the **MILL FIRE** ignited at a wood-products processing
11 facility (“**FACILITY**”) in Weed, California owned and operated by **DEFENDANT**
12 **ROSEBURG**. The **MILL FIRE** burned for 11 days, torched 3,935 acres, destroyed 118
13 structures, injured three people, and killed two.

14 20. The residents of Siskiyou County, and in particular the residents of Weed – where
15 the **FACILITY** and **ROSEBURG** were the second-largest employer – were ambushed by flame.
16 To illustrate just how fast this fire moved, one only has to look to the location of the local fire
17 department. The City of Weed's Fire Department is located adjacent to the Roseburg Mill, at
18 128 Roseburg Parkway. Nonetheless, the **MILL FIRE** was burning so ferociously at onset a
19 trained battalion – *responding from an onsite position* – had no chance to halt the progression of
20 this blaze.

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Figure 1: Residential neighborhood in Weed, CA after the Mill Fire.

B. THE ROSEBURG FACILITY AND BYPRODUCTS FROM ITS BIOMASS PLANT POSED OBVIOUS AND KNOWN FIRE RISKS

21. **ROSEBURG** and all **DEFENDANTS** knew or should have known that the **FACILITY** and its operations posed obvious risks of igniting a fire that could harm property and life.

22. **ROSEBURG** and all **DEFENDANTS** also knew or should have known that the **FACILITY** was located in an area with high fire risk. By September 2021, 94% of Siskiyou County was categorized as “extreme drought” with over 40% qualifying for “exceptional drought.” To date, 2022 has been the 4th driest year in Siskiyou County over the past 128 years, creating an increased risk of wildfire.

23. Further, **ROSEBURG** knew that Siskiyou County had a recent history of substantial wildfires including the McKinney Fire in 2022 (60,138 acres; 4 deaths), the Lava Fire in 2021 (26,409 acres), the Slater Fire in 2020 (157,220 acres), and the Klamathon Fire in 2018 (38,008 acres).

1 24. In addition to the surrounding drought-stricken areas of Siskiyou County, the
2 **FACILITY** itself and its operations posed a known fire risk.

3 25. **ROSEBURG** used the **FACILITY** for, among other purposes, processing logs,
4 chips, and larger pieces of wood to create wood veneer. To perform the steps necessary for its
5 industrial process, the **FACILITY** used various powered industrial equipment.

6 26. **ROSEBURG** also used the **FACILITY** to generated electricity for itself and for
7 public through the **BIOMASS PLANT**. Like a fireplace, the **BIOMASS PLANT** created heat
8 by burning solid fuel. In this case, the **FACILITY** used byproducts of its wood processing, such
9 as wood chips, as fuel for the **BIOMASS PLANT**. Once burned, the wood became ash.

10 27. **ROSEBURG** then removed the hot ash byproduct from the **BIOMASS PLANT**
11 and stored it in a large wooden building built in the 1920s (“**SHED 17**”) at the **FACILITY** so it
12 could cool. Just like ashes in a fireplace, the hot ashes from the **BIOMASS PLANT** could ignite
13 a fire if not properly cooled or treated.



25 Figure 2: A building similar to Shed 17 that had stores hot ash at Roseburg Mill.

26 28. For decades, **SHED 17** housed ashes from the **BIOMASS PLANT** at the
27 **FACILITY**. Over time, ash, debris, wood chips, and other flammable material accumulated in
28 and around **SHED 17**. Inside, the potentially hot ashes from the **BIOMASS PLANT** lay piled

1 several feet high in various containers under the building's wooden rafters and beside its wooden
2 walls, which were scarred with burn marks from previous fires. **PLAINTIFF** is further informed
3 and believes that **SHED 17** and its surrounding areas were also the location of industrial
4 equipment, chemicals, and other materials and byproducts associated with the **FACILITY's**
5 operations.

6 29. Essentially, **ROSEBURG's** management of the **FACILITY** and the manner in
7 which it stored the hot ashes from the **BIOMASS PLANT** made **SHED 17** a tinderbox awaiting
8 a spark. Yet, **ROSEBURG** continued to use **SHED 17** as the primary storage site for the hot ash
9 and potentially flammable product for many years.

10 30. **ROSEBURG** knew that hot ashes from the **BIOMASS PLANT** posed a fire risk.
11 Fire ignitions caused by hot ashes from the **BIOMASS PLANT** were typical and at the
12 **FACILITY** and a matter of common knowledge to **ROSEBURG's** management and employees
13 overseeing or working at the **FACILITY**. **PLAINTIFF** is informed that while the **FACILITY**
14 experienced many operations-related fire ignitions in recent years (including substantial wood-
15 product ignitions in 2015 and 2017), hot ashes from the **BIOMASS PLANT** stored in **SHED 17**
16 actually caused fires at the **FACILITY** on a frequent basis – with the exact number of these
17 internally-combated “near miss” catastrophes unknown to the public because no formal reports
18 to administrative agencies were generated by Roseburg managers.

19 31. In an attempt to combat this known ignition risk at the **FACILITY**, **ROSEBURG**
20 installed a suppression system in **SHED 17** that was intended to cool the hot ashes from the
21 **BIOMASS PLANT** and mitigate or prevent fires.

22 32. However, **ROSEBURG** failed to ensure that the suppression system was
23 adequately designed, constructed, inspected, maintained, managed, or upgraded. **PLAINTIFF** is
24 informed, and thereon alleges, that **ROSEBURG's** management, in an effort to maximize profit
25 from **FACILITY's** operations, failed to allocate sufficient funds to upgrade and/or maintain its
26 fire suppression system and its components.

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1 33. Further, the suppression system in **SHED 17** had or was meant to function as a
2 standard sprinkler system which, when it detected a certain amount of heat, was supposed to
3 discharge water to mitigate or eliminate a potential fire.

4 34. **PLAINTIFF** is informed and believes that the sprinkler system in **SHED 17** was
5 also inadequately designed, constructed, inspected, or maintained by **ROSEBURG**. As a result,
6 the sprinkler system did not function as intended and, to the extent that it did function, **SHED**
7 **17's** suppression system was not capable of suppressing a foreseeable ignition such as the initial
8 stages of **MILL FIRE**.

9 35. **ROSEBURG** also knew or should have known that **SHED 17's** fire suppression
10 system did not function as intended and could not stop an ignition caused by hot ashes from the
11 **BIOMASS PLANT** from becoming a deadly wildfire.

12 36. Yet, **ROSEBURG** chose a reactive approach to fire risk – only acting once an
13 ignition began – rather than implementing a plan, process, or procedure to proactively address
14 fire risks at the **FACILITY** and, in particular, **SHED 17**. Accordingly, **ROSEBURG** deliberated
15 failed to take critical and life-saving measures in light of obvious and known fire risks and did
16 so, at least in part, because **ROSEBURG's** reactive approach was cheaper.

17 37. As a result, the **FACILITY's** suppression system did not function as intended and
18 hot ashes from the **BIOMASS PLANT**, which could have and should have been cooled or
19 treated, remained hot and piled several feet high in the wooden tinderbox that was **SHED 17**.

20 38. Fires were so typical at the **FACILITY**, that **ROSEBURG's** management
21 developed a policy, practice, and procedure under which its own employees would act as
22 “firefighters” if and when a fire ignited the **FACILITY**. By using its own employees to fight
23 fires at the **FACILITY**, **ROSEBURG** could avoid the financial consequences of shutting down
24 the **FACILITY**, sending employees home, paying cleanup costs, or having the fire risks become
25 known to the surrounding community.

26 39. **PLAINTIFF** is further informed and believes, however, that **ROSEBURG** did
27 not take reasonable steps to educate or train its deputized employees in the critical methods,
28 techniques, and science of fire suppression.

1 40. Simply, it was more important that **ROSEBURG** keep the **FACILITY** running
2 and profitable than keeping its employees and the public safe. In fact, **ROSEBURG**'s decision to
3 enlist its employees as private "firefighters" only heightened the risk of a fire at the **FACILITY**
4 growing and spreading due to the lack of education, training, and experience of those employees
5 in the relevant disciplines required for proper emergency fire suppression.

6 41. Ultimately, **ROSEBURG** engaged in a pattern and practice of managing the
7 **FACILITY** that consciously and deliberately disregarded known and foreseeable risks posed by
8 hot ashes from the **BIOMASS PLANT** which could ignite a catastrophic wildfire, damage
9 property, cause injuries, and take lives

10 42. Accordingly, hot ashes from the **BIOMASS PLANT** remained hot and at risk of
11 ignition. As a foreseeable result, the **MILL FIRE** ignited causing catastrophic harm to the
12 surrounding community.

13 **C. DEFENDANTS' NEGLIGENCE CAUSED PLAINTIFF SUBSTANTIAL**
14 **HARM**

15 43. **PLAINTIFF ROBERT DAVIES** ("PLAINTIFF") lived in his family home in
16 Weed, California for over 30 years. While living in that home, **PLAINTIFF** raised a family,
17 developed cherished memories, and accumulated precious and irreplaceable personal effects.

18 44. **PLAINTIFF**, a widowed 61-year old person with disabilities, felt safe and
19 comfortable in the home he cared so much for.

20 45. The **MILL FIRE** transformed **PLAINTIFF**'s home to rubble, robbing him of all
21 his material possessions while reducing his life and sense of safety to nothing more than a
22 memory.

23 46. **PLAINTIFF** was at his home when the **MILL FIRE** arrived and was forced to
24 evacuate as he saw the flames approaching his property.

25 47. Yet, the true depth of **PLAINTIFF**'s losses cannot be quantified in numbers,
26 since his greatest loss could never be replaced: In addition to the material contents of his home,
27 Robert Davies also lost the remains of his late wife which were contained in an urn on the
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1 mantle. Now, because of a fire Roseburg should have prevented, he will never be allowed to
2 honor his pledge and scatter his wife's ashes in Greece in accordance with her last wishes.



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13 Figure 3: Plaintiff Robert Davies' Home after the Mill Fire.

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15 48. **PLAINTIFF** is now displaced, suffers substantial economic harm, and further
16 suffers severe and enduring emotional distress associated with the loss of his primary residence
17 and the discomfort, annoyance, disturbance associated with the loss of and attempts to replace
18 his home.

19 49. **PLAINTIFF** did not contribute to nor could he have avoided the harm and injury
20 that he suffered as a legal result of **DEFENDANTS'** wrongful conduct.

21 50. **PLAINTIFF's** harm and injury could have been avoided if **ROSEBURG** and all
22 other **DEFENDANTS** exercised reasonable care in the management of the **FACILITY**.
23 **DEFENDANTS'** failures include but are not limited to: the willful disregard of known fire risks
24 associated with the **FACILITY**; failing to adequately design, construct, inspect, and/or maintain
25 the fire suppression system in **SHED 17** in a manner so as to make it capable of performing at a
26 level commiserate with the clear and known risks of fire ignition; and deliberately pursuing a
27 course of conduct with respect to the storage of hot ash that increased the risk of a catastrophic
28 wildfire.

1 **IV. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION – INVERSE CONDEMNATION**

3 **(Against All Defendants)**

4 51. **PLAINTIFF** incorporate and re-allege by this reference each of the paragraphs
5 set forth above as though fully set forth herein.

6 52. On or about September 2, 2022, **PLAINTIFF** owned real property and/or
7 personal property located within Siskiyou County in the area of the **MILL FIRE**.

8 53. Prior to or about September 2, 2022, **DEFENDANTS** installed, owned, operated,
9 used, controlled, and/or maintained the **BIOMASS PLANT**, which generated electricity for use
10 by the public and, by doing so, created hazardous hot-ash byproduct.

11 54. On or about September 2, 2022, as a direct, necessary, and legal result of the
12 **DEFENDANTS'** installation, ownership, operation, use, control, management, and/or
13 maintenance for a public use of the **FACILITY** and the **BIOMASS PLANT**, the hazardous hot-
14 ash byproduct ignited the **MILL FIRE**, which destroyed nearly 40,000 acres of land and
15 destroyed nearly 200 properties, including property owned or occupied by **PLAINTIFF**,
16 including **PLAINTIFF's** real and personal property.

17 55. The damage to **PLAINTIFF's** real and personal property was caused by the
18 actions and omissions of the **DEFENDANTS** in their design, construction, maintenance,
19 inspection, and oversight of the **BIOMASS PLANT**, as well as its attendant safety and fire
20 suppression systems, for public use and the benefit of the public at large.

21 56. **PLAINTIFF** has not received adequate compensation for the damage to and/or
22 destruction of their real and personal property, thus constituting a taking of **PLAINTIFF's**
23 property by the **DEFENDANTS** without just compensation.

24 57. As a result of the actions and omissions of the **DEFENDANTS**, **PLAINTIFF**
25 suffered damages to their real and personal property, including loss of use, interference with
26 access, and diminution in value and/or marketability in an amount according to proof at trial.

27 58. As a result of the actions and omissions of the **DEFENDANTS**, **PLAINTIFF** has
28 incurred and will continue to incur costs, disbursements, and expenses, including reasonable

1 attorney, appraisal, engineering, and other expert fees due to the conduct of the **DEFENDANTS**
2 in amounts that cannot yet be ascertained, but which are recoverable pursuant to Code of Civil
3 Procedure § 1036.

4 **SECOND CAUSE OF ACTION - TRESPASS**

5 **(Against All Defendants)**

6 59. **PLAINTIFF** incorporates and re-alleges each of the paragraphs set forth above as
7 though fully set forth herein.

8 60. At all relevant times herein, **PLAINTIFF** was the owner, tenant and/or lawful
9 occupier of property damaged by the **MILL FIRE**.

10 61. **DEFENDANTS** in wrongfully acting and/or failing to act in the manner set forth
11 above, caused the **MILL FIRE** to ignite and/or spread out of control, causing harm, damage,
12 and/or injury to **PLAINTIFF**, resulting in a trespass upon **PLAINTIFF'S** property interests.

13 62. **PLAINTIFF** did not grant permission for **DEFENDANTS** to wrongfully act in a
14 manner so as to cause the **MILL FIRE** that spread and wrongfully entered upon his property,
15 resulting in the harm, injury, and/or damage alleged above.

16 63. As a direct and legal result of the wrongful conduct of **DEFENDANTS** that led to
17 the trespass, **PLAINTIFF** has suffered and will continue to suffer damages in an amount
18 according to proof at trial.

19 64. As a further direct and legal result of the conduct of **DEFENDANTS**,
20 **PLAINTIFF** seeks treble damages for wrongful injuries to timber, trees, or underwood on their
21 property, as allowed under Civil Code § 3346.

22 65. As a result of the **ROSEBURG DEFENDANTS'** actions and omissions,
23 **PLAINTIFF** seeks the imposition of punitive and exemplary damages against the **ROSEBURG**
24 **DEFENDANTS** as allowed under Cal. Civil Code § 3294.

25 **THIRD CAUSE OF ACTION – NEGLIGENCE**

26 **(Against All Defendants)**

27 66. **PLAINTIFF** incorporates and re-alleges by this reference each of the paragraphs
28 set forth above as though fully set forth herein.

1 67. The Mill Fire was a direct and legal result of the negligence, carelessness,
2 recklessness, and/or unlawfulness of **DEFENDANTS** who breached their respective duties owed
3 individually and/or collectively to **PLAINTIFF** by, including but not limited to: (1) failing to
4 comply with the applicable statutory, regulatory, and/or professional standards of care; (2)
5 failing to timely and properly maintain, manage, inspect, and/or monitor the subject mill;

6 68. The conduct of **DEFENDANTS** failed to meet the requisite standard of care
7 under Public Resources Code § 4437(a) which states: every processor of forest products shall
8 exercise due diligence in the disposal of flammable material incident to the processing, so that
9 the material does not cause the inception or spread of uncontrolled fire. Furthermore,
10 **DEFENDANTS** failed to comply with Public Resources Code § 4437(b) which states: every
11 person, co-partnership, firm, corporation, or company that operates a sawmill or plant engaged in
12 the processing or converting of forest products into lumber, shook, ties, poles, posts, veneer,
13 shakes, shingles, and planed or milled products, shall dispose of flammable material incident to
14 that operation. If such flammable material is not to be used as fuel, or as a byproduct, within the
15 operation, it shall be disposed of by burning or by other alternative methods which effectively
16 prevent the flammable material from constituting a fire hazard.

17 69. The conduct of **DEFENDANTS** failed to meet the requisite standard of care
18 under Public Resources Code § 4440(a) which states: flammable forest product residue may only
19 be accumulated in piles when the area surrounding the piles is cleared and kept clear of all
20 flammable vegetation and debris.

21 70. **DEFENDANTS** breached their duties, including but not limited to: (i) failing to
22 design, construct, operate, monitor, inspect, and/or maintain the **FACILITY** including but not
23 limited to the management of its **BIOMASS PLANT**, its byproducts, and its suppression system
24 for hot ashes from the **BIOMASS PLANT** in a manner that would reduce the foreseeable risk of
25 fire in the area affected by the **MILL FIRE**; (ii) failing to properly design, construct, operate,
26 monitor, inspect, and/or maintain the sprinkler system and/or fire suppression system at the
27 **FACILITY** and, in particular, **SHED 17**, in a reasonable manner that could be expected to
28 mitigate the risk of foreseeable ignitions; (iii) failing to commit appropriate resources to ensure

1 that the sprinkler system and/or fire suppression system at the **FACILITY** and, in particular,
2 **SHED 17** was properly designed, constructed, operated, monitored, inspected, and/or maintained
3 so that it may operate as intended; (iv) failing to adequately educate or train their agents,
4 employees, or representatives in the methods necessary to adequately mitigate or prevent fire
5 risks at the **FACILITY**; (v) failing to implement and/or follow regulations and reasonably
6 sensible practices to avoid dangerous conditions prone to fire ignition. These breaches and
7 others, in isolation or in combination with one another, were the factual and proximate causes of
8 **PLAINTIFF's** harm.

9 71. As a result of **DEFENDANTS'** actions and omissions, in isolation or in
10 combination, **PLAINTIFF** has suffered damage to real property, including but not limited to, the
11 loss of his beloved home of 30 years and a loss of use, benefit, goodwill, diminution in value
12 and/or enjoyment of such property in an amount according to proof at trial.

13 72. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** has suffered
14 damage to and/or loss of personal property, including but not limited to items of peculiar value to
15 **PLAINTIFF** in an amount according to proof at trial.

16 73. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** has incurred
17 and will continue to incur expenses and other economic damages related to the damage to his
18 property, including costs relating to storage, clean-up, disposal, repair, depreciation, and/or
19 replacement of his property and other related consequential damages in an amount according to
20 proof at trial.

21 74. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** was injured
22 in his health, strength, and activity in an amount according to proof at trial.

23 75. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** was
24 required to and/or continue to employ physicians and other health care providers to examine,
25 treat, and care for his physical injuries. **PLAINTIFF** has incurred, and will continue to incur,
26 medical and incidental expenses in an amount according to proof at trial.

27 76. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** has suffered
28 great mental pain and suffering, including worry, emotional distress, humiliation,

1 embarrassment, anguish, anxiety, and nervousness. **PLAINTIFF** is informed and believes and
2 upon such information and belief alleges, that such injuries have resulted in debilitating injury in
3 an amount according to proof at trial.

4 77. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** has suffered
5 a loss of income, loss of earning capacity, loss of profits, increased expenses due to
6 displacement, and/or other consequential economic losses in an amount according to proof at
7 trial.

8 78. As a result of **DEFENDANTS'** wrongful acts and omissions, as here to for
9 alleged **PLAINTIFF** seeks the imposition of punitive and exemplary damages against the
10 **DEFENDANTS** as allowed under Cal. Civil Code § 3294.

11 **FOURTH CAUSE OF ACTION – PRIVATE NUISANCE**

12 **(Against All Defendants)**

13 79. **PLAINTIFF** incorporates and re-alleges by this reference each of the paragraphs
14 set forth above as though fully set forth herein.

15 80. **PLAINTIFF** owns and/or occupies property at or near the site of the **MILL**
16 **FIRE**. At all relevant times, **PLAINTIFF** had a right to occupy, enjoy, and/or use their property
17 without interference by **DEFENDANTS**.

18 81. **DEFENDANTS**, by their acts and omissions set forth above, directly and legally
19 caused an obstruction to the free use of **PLAINTIFF'S** property, an invasion of the
20 **PLAINTIFF'S** right to use his property, and/or an interference with the enjoyment of
21 **PLAINTIFF'S** property resulting in the **PLAINTIFF** suffering unreasonable harm and
22 substantial actual damages constituting a nuisance pursuant to Civil Code §§ 3479 and 3481.

23 82. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** suffered
24 harm, injury, and damages in an amount according to proof at trial.

25 83. As a result of the **ROSEBURG DEFENDANTS'** actions and omissions,
26 **PLAINTIFF** seeks the imposition of punitive and exemplary damages against the **ROSEBURG**
27 **DEFENDANTS**.

28

1 **FIFTH CAUSE OF ACTION – PUBLIC NUISANCE**

2 **(Against All Defendants)**

3 84. **PLAINTIFF** incorporates and re-alleges by this reference each of the paragraphs
4 set forth above as though fully set forth herein.

5 85. **PLAINTIFF** owns and/or occupies property at or near the site of the **MILL**
6 **FIRE**. At all relevant times, **PLAINTIFF** had a right to occupy, enjoy, and/or use his property
7 without interference by **DEFENDANTS**.

8 86. **DEFENDANTS** owed a duty to the public, including **PLAINTIFF**, to conduct
9 the maintenance and/or operation of the subject mill in Siskiyou County, specifically including
10 the sprinkler system and/or fire suppression system, in a manner that did not threaten harm or
11 injury to the public welfare, or offend the public or interfere with public use and enjoyment of
12 their property.

13 87. The **MILL FIRE** burned nearly 4,000 acres of land leaving nothing where there
14 were once homes, farms, meadows, fields, and forests. **DEFENDANTS** created a condition that
15 was harmful to the health of the public, including **PLAINTIFF**, and that interfered with the
16 comfortable occupancy, use, and/or enjoyment of **PLAINTIFF'S** property. **PLAINTIFF** did not
17 consent, expressly or impliedly, to **DEFENDANTS'** wrongful conduct.

18 88. The hazardous condition that **DEFENDANTS** created and/or permitted to exist
19 affected a substantial number of people within the general public, including **PLAINTIFF**, and
20 constituted a public nuisance under Civil Code §§ 3479 and 3480, and Public Resources Code §
21 4171. Further, the ensuing uncontrolled wildfire constituted a public nuisance under Public
22 Resources Code § 4170.

23 89. As a result of **DEFENDANTS'** actions and omissions, **PLAINTIFF** suffered
24 harm that is different from the type of harm suffered by the general public. Specifically,
25 **PLAINTIFF** has lost occupancy, possession, use, and/or enjoyment of their land, real, and/or
26 personal property, including, but not limited to: a reasonable and rational fear that the area is still
27 dangerous; a diminution in the fair market value of his property; an impairment of the salability
28 of his property; soils that have become hydrophobic; exposure to an array of toxic substances on

1 his land; the presence of “special waste” (as defined in 22 California Code of Regulations §
2 66261.120) on his property that requires special management and disposal; and a lingering smell
3 of smoke, and/or constant soot, ash, and/or dust in the air

4 90. As a result of **DEFENDANTS’** actions and omissions, **PLAINTIFF** has suffered,
5 and will continue to suffer, discomfort, anxiety, fear, worries, and stress attendant to the
6 interference with **PLAINTIFF’S** occupancy, possession, use, and/or enjoyment of his property,
7 as alleged above.

8 91. A reasonable, ordinary person would be annoyed or disturbed by the condition
9 created by **DEFENDANTS** and the resulting fire.

10 92. The conduct of **DEFENDANTS** is unreasonable and the seriousness of the harm
11 to the public, including **PLAINTIFF**, outweighs the social utility of **DEFENDANTS’** conduct.

12 93. The unreasonable conduct of **DEFENDANTS** is a direct and legal cause of the
13 harm, injury, and/or damage to the public, including **PLAINTIFF**.

14 94. The conduct of **DEFENDANTS** constitutes a public nuisance within the meaning
15 of Civil Code §§ 3479 and 3480, Public Resources Code §§ 4104 and 4170, and Code of Civil
16 Procedure § 731. Under Civil Code § 3493, **PLAINTIFF** has standing to maintain an action for
17 public nuisance because the nuisance is one that is especially injurious and/or offensive to the
18 senses of the **PLAINTIFF**, unreasonably interferes with the comfortable enjoyment of his
19 property, unlawfully obstructs the free and customary use of **PLAINTIFF’S** property, and
20 caused individualized harm, injury, and damages to **PLAINTIFF**.

21 **SIXTH CAUSE OF ACTION – VIOLATION OF HEALTH & SAFETY CODE § 13007**
22 **(Against All Defendants)**

23 95. **PLAINTIFF** incorporates and re-alleges by this reference each of the paragraphs
24 set forth above as though fully set forth herein.

25 96. By engaging in the acts and/or omissions alleged herein, **DEFENDANTS**
26 willfully, negligently, carelessly, recklessly, and/or in violation of law, set fire to and/or allowed
27 fire to be set to the property of another in violation of Health and Safety Code § 13007.

1 97. As a result of **DEFENDANTS'** violation of Health and Safety Code § 13007,
2 **PLAINTIFF** suffered recoverable damages to property under Health and Safety Code §
3 13007.21

4 98. As a result of **DEFENDANTS'** violation of Health and Safety Code § 13007,
5 **PLAINTIFF** are entitled to reasonable attorneys' fees under Code of Civil Procedure § 1021.9.

6 99. As a result of the act and omissions of the **DEFENDANTS, PLAINTIFF,** and
7 each of them have suffered harm, injury and damages as set forth above.

8 100. As a result of the **DEFENDANTS'** actions and omissions, **PLAINTIFF** seeks the
9 imposition of punitive and exemplary damages against the **ROSEBURG DEFENDANTS.**

10 **V. PRAYER FOR RELIEF**

11 101. WHEREFORE, **PLAINTIFF** prays for judgment against **DEFENDANTS**
12 **ROSEBURG** and DOES 1 through 100, and each of them as follows:

13 For an award against **DEFENDANTS** for Inverse Condemnation, all according to proof,
14 for:

- 15 1. Repair, depreciation, and/or replacement of damaged, destroyed, and/or lost
16 personal and/or real property;
- 17 2. Loss of wages, earning capacity and/or business profits, use, goodwill, and/or
18 proceeds and/or any related displacement expenses;
- 19 3. All costs of suit, including reasonable attorneys' fees, appraisal fees, engineering
20 fees, other expert fees, and related costs;
- 21 4. Prejudgment interest;
- 22 5. For such other and further relief as the Court shall deem just and proper.

23 For an award against **DEFENDANTS** for Trespass, Negligence, Private Nuisance, Public
24 Nuisance, and Violation of Health and Safety Code § 13007, all according to proof, for:

- 25 1. Repair, depreciation, and/or replacement of damaged, destroyed, and/or lost
26 personal and/or real property;
- 27 2. Loss of the use and benefit of Plaintiff' real and/or personal property;

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- 3. Loss of wages, earning capacity, goodwill, and/or business profits or proceeds and/or any related displacement expenses;
- 4. Past and future medical expenses and incidental expenses according to proof;
- 5. Attorneys' fees, expert fees, consultant fees, and litigation costs and expenses as allowed under Code of Civil Procedure § 1021.9;
- 6. Treble damages for wrongful injuries to timber, trees, or underwood as allowed under Civil Code § 3346;
- 7. General damages for fear, worry, annoyance, disturbance, inconvenience, mental anguish, emotional distress, loss of quiet enjoyment of property, and personal injury;
- 8. All costs of suit;
- 9. Prejudgment interest;
- 10. Punitive and exemplary damages as allowed under Cal. Civil Code § 3294; and
- 11. For such other and further relief as the Court shall deem just and proper.

VI. JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Dated: October 4, 2022

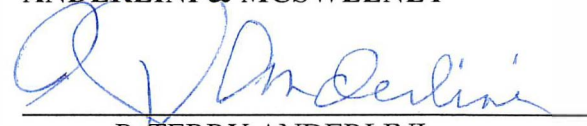
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Dated: October 4, 2022

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