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Superior Court of California
County of Sonoma
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SONOMA

NICHOLAS PFENDLER, an individual;
DONALD McKINNEY, an individual;
JAMES HEPPELMANN, an individual;
MARY HABLE, an individual; RICHARD
TAVERNETTI, an individual; and
RANDALL SMITH, an individual,

Plaintiffs,

vs.

CITY OF PETALUMA; LARRY MODELL,
an individual, MATT MAGUIRE, an
individual, and DOES 1-50, inclusive,

Defendants.

Case No. 24CV07820

PLAINTIFFS' COMPLAINT FOR:
(1) PUBLIC NUISANCE;
(2) PRIVATE NUISANCE (Cal. Civ. Code
§§ 3479, 3481);
(3) NEGLIGENCE;
(4) OBSTRUCTION WITH ECONOMIC
ADVANTAGE;
(5) TRESPASS;
(6) INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS;
(7) NEGLIGENT INFLICTION OF
EMOTIONAL DISTRESS;
(8) DECLARATORY RELIEF; AND
(9) INJUNCTIVE RELIEF.

(Unlimited Civil)

Plaintiffs Nicholas Pfendler as an individual, Donald McKinney as an individual, James Heppelmann as an individual, Mary Hable as an individual, Richard Tavernetti as an individual, and Randall Smith as an individual (collectively "Plaintiffs") allege as follows:

1. Plaintiffs own land neighboring a parcel of real property owned and controlled by Defendant City of Petaluma ("City"). The City's real property is designated as A.P.N. 136-170-

001, which is in the unincorporated area of Sonoma County, California, and is commonly referred to as "Lafferty Ranch."

2. Plaintiffs each reside and have resided on their respective real properties neighboring, abutting, or directly adjacent to Lafferty Ranch for all times relevant to this Complaint. These respective parcels are collectively referred to herein as "Plaintiffs' Properties."

3. This Complaint arises from the access, management, control, ownership, and maintenance of Lafferty Ranch, located in the State of California and County of Sonoma as well as the correlated disruption of the use and enjoyment of Plaintiffs Properties based on the Defendants' actions and omissions.

4. Defendant City is a California charter city and public municipal corporation, incorporated and existing as a City within Sonoma County, under the laws of the State of California.

5. Upon information and belief, and therefore alleged, Defendant Larry Modell is an individual, who at all times relevant to this Complaint resided, performed work in, or committed actions as alleged herein, within Sonoma County, California.

6. Upon information and belief, and therefore alleged, Defendant Matt Maguire is an individual, who at all times relevant to this Complaint resided, performed work in, or committed actions as alleged herein, within Sonoma County, California.

7. The true names and capacities of defendants Does One through Fifty are unknown to Plaintiffs, and Plaintiffs will seek leave of the Court to amend this Complaint to allege such names and capacities as soon as they are ascertained.

8. At all times relevant to this action, Plaintiffs believe and thus allege each of the Defendants, including those fictitiously named, was an agent, servant, employee, employer, partner, board member, officer, joint venture, alter ego, or supervisor of the other defendants and was acting within the scope of said agency, employment, partnership, or venture with the knowledge and consent or ratification of each of the other defendants in doing the things alleged.

9. Plaintiffs are seeking declaratory and injunctive relief related to real property within Sonoma County as well as amounts beyond the jurisdictional limits of this Court making

venue and jurisdiction proper. Plaintiffs have exhausted their administrative remedies and authorizations before filing this claim.

10. Lafferty Ranch is within the unincorporated County of Sonoma and is accessed by a combination of private and public roads within the County of Sonoma.

11. Lafferty Ranch and the neighboring areas contain creeks and waterways and other habitat for protected and endangered species under the California and Federal Endangered Species Acts. In 1998, a Draft Environmental Impact Report on the City's plan to open and operate Lafferty Ranch as a public park (the "Project") was circulated pursuant to the California Environmental Quality Act, in which many significant impacts were identified including impacts to fire risk, traffic safety, and to the protected, threatened or endangered species found thereon. A final Environmental Impact Report was circulated in 2001 identifying similar impacts. Despite commissioning and controlling these two documents for more than twenty-five years, and being party to significant, protracted litigation on this very issue less than ten years ago, the City of Petaluma has never attempted to implement the necessary mitigation measures identified by the relevant local, state, and federal agencies prior to pursuing the Project. Rather, the Defendants have brazenly opened the Park for public access through hosted tours.

12. Defendants currently access, or instruct others to access, Lafferty Ranch by entering onto land exclusively owned, controlled, and possessed by the Plaintiffs. Defendants are aware, but intentionally ignore, that they have no established easement, vested use, or other possessory rights to Plaintiffs' land. Whenever confronted, Defendants or their agents present a knowingly false claim of right that has been long since debunked. They then couple this with routine and consistent trespassory access and removal of any signage or personal property of the Plaintiffs designed and intended to keep them out or secure the Plaintiffs' Properties.

13. Defendant City is attempting to convert or transition Lafferty Ranch into a public space. In doing so, they have failed to comply with numerous standards and safety precautions, including but not limited to, Chapter 13 of the Sonoma County Code of Ordinances, the California Environmental Quality Act, the California Endangered Species Act, and the Federal Endangered Species Act.

1 14. Defendants Modell and Maguire have trespassed onto Plaintiffs' property, entered
2 Plaintiffs' property without Plaintiffs' permission, altered Plaintiffs' property, and participated in
3 efforts to transform Lafferty Ranch and Plaintiffs' property into a public space through various
4 direct and indirect actions.

5 15. In furtherance of the goal to convert or transition Lafferty Ranch into a public
6 space, and unbeknownst to Plaintiffs at the time, agents of the City, including but not limited to
7 the other Defendants, have continuously engaged in conduct that was not supported by any
8 applicable ordinance, statute, permit, authorized public authority or due process, but instead
9 incrementally advanced the City's ultimate agenda and goal through the use of both public and
10 private funds. This has included, but is not limited to, the installation of makeshift driveways for
11 gasoline powered vehicles, creating makeshift parking lots for gasoline powered vehicles,
12 building and expanding bridges, pathways, trailheads, and culverts; displacement and disruption
13 of rocks and vegetation; disruption of habitats and wildlife, particularly those of steelhead, birds,
14 rodents, and other species of protected flora and fauna; altering water ways; increasing fire risk;
15 minimizing defensible space, removing natural plant growth; leveling land, over occupying and
16 using the land and other alterations to Lafferty Ranch. Many of these actions occurred without
17 permit, authority of law, due process, or compliance with known environmental and safety
18 standards.

19 16. These actions are in direct contradiction to findings of the Sonoma County Board
20 of Supervisors as identified within Sonoma County Code of Ordinance, Sec. 13-21 and 13-22.1
21 which includes, but is not limited to, a determination that violations as performed by the City
22 place residents and property within the unincorporated area of the County of Sonoma in a
23 condition perilous to health or safety, or both, as well as other correlated findings designed to
24 preserve resources and public safety constituting the City's actions and omissions as a public and
25 private nuisance. The importance to mitigate fire risk was reiterated in the findings of the
26 Sonoma County Board of Supervisors under Sonoma County code of Ordinances, Sec. 13A-1 for
27 parcels in the unincorporated are of Sonoma County.

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1 17. Without a public hearing, Defendant City contracted with a third-party provider to
2 conduct docent led hikes at Lafferty Ranch.

3 18. In doing so, Defendant City invites guests to trespass onto Plaintiffs' land to
4 access Lafferty Ranch, in addition to those participating in or leading docent led hikes. These
5 docent-led hikes are also a subterfuge to implement the expansion and creation of a public park
6 through unlawful and unsafe means as discussed within this Complaint and to be proven at trial.

7 19. Plaintiffs do not consent to the general public or Defendant's agents or guests
8 trespassing or disrupting the use and enjoyment of Plaintiffs' Properties, nor do they consent to
9 the dangerous and unlawful conditions and actions occurring on Lafferty Ranch.

10 20. Defendant City submitted a permit application to the County of Sonoma for the
11 alleged purpose of laying rock, falsely claiming it had a possessory right to a driveway on
12 Plaintiffs' land to access Lafferty Ranch. In submitting this permit application, Defendant City
13 provided false and misleading information regarding the intent, scope, legal right and location of
14 the intended work to the County of Sonoma in order to avoid the obligations within the
15 permitting and review process identified in various ordinances, statutes and regulations,
16 including but not limited to, Sonoma County Code of Ordinances, Sec. 13-24. These actions and
17 omissions also assisted the Defendant City in avoiding oversight with the county fire warden,
18 fire marshal or other regulating authority on fire safety. The submission of an application,
19 participation in any lawful process, expression of the first amendment and facts within this
20 specific section are not relied upon or used to prove liability or damages, but merely for context
21 in assisting the reader.

22 21. Defendant City failed to inform and intentionally concealed the fact that such a
23 "driveway" has never existed. Instead, Defendant City and its agents, including but not limited to
24 the other Defendants, were attempting to justify their actions of removing vegetation,
25 compacting earth and disrupting flora and fauna with gas powered vehicles to create a location
26 for a driveway and parking lot onto Lafferty Ranch in which they intended to install gravel and
27 other combustible material for which gas-powered equipment and vehicles would pass over
28 under color of law. Of course, the Defendant City did not comply with any of the requirements

1 under Sonoma County Code of Ordinances, Sec. 13-30- 13-39, 13-50, 13056, 13-59.5, 13-63 or
2 any other applicable safety and development standards that apply despite having a duty to
3 comply with said standards. Upon information and belief, Plaintiffs allege that Defendant City
4 and its agents did not comply with any of the standards applicable to such development and use
5 of Lafferty Ranch and as identified within this Complaint.

6 22. Defendant City and its agents were obligated to provide accurate and complete
7 information to the County of Sonoma and to comply with all applicable standards and safety
8 precautions. The failure to do so and the failure to correct the inaccurate information and
9 unauthorized actions is a continuing violation under Sonoma County Code of Ordinances, Sec.
10 13-91.

11 23. Defendants laid the rock, causing damage to the land, water flow, and habitats
12 while also installing a material that is known to spark, in order to drive gas powered vehicles and
13 increase the human use and involvement at Lafferty Ranch as well as other dangerous actions
14 and omissions.

15 24. Defendants have also since installed a culvert, bridge, and parking lot on
16 Plaintiffs' property and Lafferty Ranch while increasing the use and disruption of said properties.
17 These actions required additional oversight, investigation, approval, and remedial measures under
18 the Sonoma County Code of Ordinances and other authority to be proven at trial. The actions and
19 omissions of the Defendant City have usurped the citizens of Sonoma County and these Plaintiffs
20 of certain safety checks and balances designed to mitigate the risk of "Wildfire" as defined by
21 Public Resources Code, sections 4103 and 4104 as well as other dangerous conditions and waste
22 of public resources.

23 25. The increased development of Lafferty Ranch implies open access to the public,
24 further causing an increase in damages and imminent risk of significant consequence.

25 26. Defendants' conduct is drastically increasing the risk of fire at Lafferty Ranch and
26 the likelihood that fire will spread onto Plaintiffs' Properties and surrounding community,
27 creating an increase in operating expenses and likely depletion of public resources and safety.

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1 27. Defendants do not maintain or use Lafferty Ranch in a manner consistent fire
2 safety and associated statutes, ordinances or regulations designed to mitigate fire risk within the
3 unincorporated areas of Sonoma County of which Lafferty Ranch exists.

4 28. Defendants are inviting guests to engage in activities on Lafferty Ranch and
5 Plaintiffs' Properties that are known fire risks in a fire zone.

6 29. The increase in public foot and vehicle traffic as well as the unlawful actions of
7 expanding public access at Lafferty Ranch, increases the risk of human error and correlated
8 damages *i.e. use of flammable liquids, use of gas powered vehicles over flammable material,*
9 *increase in human sewage or waste, spreading of disease, driving over combustible material,*
10 *increased trash and accumulation of flammable material, security risks, smoking, cooking,*
11 *drinking alcohol or drug use, campfires, flora and fauna disruption, etc.* These actions and
12 omissions of the Defendant and its agents have and will continue to cause irreparable harm,
13 including but not limited to, loss of life, great bodily injury, loss of public and private resources
14 and other injuries and damages to be proven at trial.

15 30. The actions and omissions of the Defendants is also being performed by
16 unlicensed and unqualified individuals without meaningful oversight of which is intended and
17 designed to mitigate the risk of harms caused and for which are likely to continue to be caused or
18 amplified.

19 31. The remote location of the real properties at issue coupled with the lack of public
20 water, inadequate means of ingress and egress as well as various other characteristics of the area
21 all act individually and collectively to increase the likelihood and scope of harm.

22 32. Upon information and belief and thus alleged, the Defendants are aware that their
23 conduct and the conduct of its guests or agents, increases the risk of wildfire and other dangers at
24 Lafferty Ranch.

25 33. Upon information and belief and thus alleged, the Defendants are aware of the
26 dangerous conditions, hazards, ordinances, requirements, limitations, and/or duties, including
27 those obligations placed upon them and their property pertaining to fire risk.

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1 34. As a direct and proximate cause of the Defendants' actions and omissions
2 described above, the Plaintiffs have been forced to incur and will continue to incur out of pocket
3 expenses in excess of the jurisdictional limits of this Court for amounts associated with but not
4 limited to, repairing damage to their properties caused by Defendant City and its agents and
5 guests, prevention of additional encroachments caused by Defendant City and its agents and
6 guests, incidental costs and attorney fees.

7 35. As a direct and proximate cause of the Defendants' actions and omissions
8 described above, the Plaintiffs have been injured by way of emotional and mental distress with
9 physical manifestations, including but not limited to, worry, anger, frustration, concern, anxiety,
10 paranoia, sleeplessness, sadness, distrust, upset stomach, headaches, loss of enjoyment of life,
11 loss of use and quiet enjoyment of property.

12 36. Upon information and belief and thus alleged, the Defendants have, and continue
13 to, wilfully, maliciously, intentionally, and/or with reckless disregard for the Plaintiffs' health,
14 safety, well-being, right to quiet enjoyment, and right of full use of their property, trespass and
15 create nuisances on Plaintiffs' property in order to inflict financial hardship, emotional distress,
16 mental anguish, and threat of physical injury onto Plaintiffs, entitling Plaintiffs to punitive
17 damages.

18 **FIRST CAUSE OF ACTION**
19 **(Public Nuisance against all Defendants)**

20 37. The Plaintiffs re-allege and incorporate by reference paragraphs above as though
21 fully set forth herein.

22 38. Plaintiffs owned, occupied, and controlled property adjacent to and abutting
23 Lafferty Ranch.

24 39. The Defendants have maintained, altered, owned, or controlled the Defendants'
25 Property, in a dangerous and unsafe manner or condition as described above.

26 40. Defendant City has maintained, owned, altered or controlled Lafferty Ranch in a
27 dangerous and unsafe manner or condition as described above and herein.

28 41. Defendants, by acting or failing to act, created or permitted a condition to exist
that was harmful to health, in that the mismanagement and use of the Lafferty Ranch property

1 increases the risk of wildfire, and was an obstruction to the free use of Plaintiffs' property, so as
2 to interfere with the comfortable enjoyment of life or property of the Plaintiffs and others.

3 42. The use of public resources to suppress and contain fire or fire risks, including
4 emergency services and public water, impacted a substantial number of people within and
5 outside Sonoma County. The unabated hazardous conditions described herein constitute a
6 continued threat to the residents of Sonoma County, directly – by and through fire, smoke, and
7 ash – and by reducing the state's and Sonoma County's limited emergency resources.

8 43. Sonoma County and the State of California have also recognized these concerns
9 by and through issuing and/or enacting various emergency declarations, moratoriums,
10 ordinances, and amendments to the local code of ordinances, executive orders and state law as
11 described within this complaint. These laws, ordinances, declarations, amendments and orders
12 regarding wildfires, drought, vegetation management and fire safety are and were designed and
13 implemented to protect the Plaintiffs, Sonoma County residents, and a larger population within
14 the State of California.

15 44. On June 9, 2020 the Sonoma County Board of Supervisors found, through
16 Ordinance No. 6314, in part, that unabated hazardous vegetation and combustible materials
17 pose a danger to the health, safety and welfare of the residents in the vicinity and that such
18 conditions constitute a nuisance.

19 45. "Combustible Material" is defined to mean "... rubbish, firewood piles, litter or
20 material of any kind other than hazardous vegetation that is flammable and endangers the
21 public safety by creating a fire hazard." (Chapter 13A-3 of Sonoma County Code.) This would
22 include, but is not limited to, rock or gravel near dried grass with gas powered vehicle traffic
23 and other human factors commonly known to cause a fire.

24 46. "Hazardous vegetation" means vegetation that is flammable and endangers the
25 public safety by creating a fire hazard including but not limited to seasonal and recurrent
26 weeds, stubble, brush, dry leaves, etc. (Chapter 13A-3 of Sonoma County Code)

27 47. Numerous other findings by the Sonoma County Board of Supervisors,
28 including but not limited to, those within Chapter 13 Sec. 13-21 under Ordinance No. 6318

1 determine and articulate the established findings and need for fire safety, risk mitigation,
2 public danger, nuisance and obligations of those owning or controlling land in the
3 unincorporated parts of Sonoma County like Lafferty Ranch for which the Defendant City and
4 its agents have breached based on the existence of unabated hazardous vegetation,
5 combustible material and dangerous conditions coupled with high risk behavior that is known
6 to increase the chance of a fire, consumption of public resources, personal injury or loss of
7 property.

8 48. The actions and omissions pertaining to the use, facilitation or encouragement of
9 use of gasoline powered vehicles over combustible material also constitutes a public nuisance
10 under the cited California Public Resources Code §§ 4170, 4427, 4435, 4442 for which the
11 Defendants and their agents routinely violate while also encouraging other members of the
12 public to violate.

13 49. The conditions on the Defendants Property, as well as their continued actions and
14 omissions described above, including but not limited to, the Defendants' substandard vegetation
15 management, lack of qualified or licensed work, lack of meaningful oversight, lack of tree
16 maintenance or removal, lack of adequate water for fire suppression equipment, lack of adequate
17 ingress or egress, lack of safety procedures and unsafe and hazardous activities, as well as the
18 other actions and omissions described above or to be discovered, are known and recognized
19 dangers constituting a public nuisance either expressly through the cited authority or through any
20 subjective or objective standard of reasonable care.

21 50. Said conditions, actions and omissions of the Defendants and their agents are
22 harmful to health, offensive to the senses, and obstruct the free use of property so as to interfere
23 with the comfortable enjoyment of said property.

24 51. The dangerous conditions, omissions and actions of the Defendants and their
25 agents pose an actual and continuous threat of harm to a substantial number of people, including
26 but not limited to, the Plaintiffs, the residents of Sonoma County, and the people of the State of
27 California, as wildfires, air quality, and drought are a constant and continuous threat, for which
28 both Sonoma County and the State have limited resources to combat.

1 52. Defendants' conduct, including maintaining known dangerous conditions on the
2 Defendant's Property, was and is intentional and unreasonable, negligent, or reckless, or the
3 condition that the Defendant City created or permitted to exist was a result of an abnormally
4 dangerous activity, including but not limited to, its agents driving gasoline powered vehicles
5 over dried grass, encouraging direct impacts to protected or threatened habitat and species, as
6 well as contributing to unsafe traffic conditions.

7 53. Defendants' conduct and the conditions upon the Defendant City's Property
8 described above were harmful to health, or indecent or offensive to the senses and were a fire
9 hazard to Plaintiffs' health and property.

10 54. Defendants' conduct, including the maintaining of dangerous conditions upon its
11 property as described above, substantially interfered with the Plaintiffs' use and enjoyment of
12 their land.

13 55. The condition created by Defendants affected and continues to affect a substantial
14 number of people at the same time.

15 56. An ordinary person would be reasonably disturbed by Defendants' conduct and
16 the dangerous conditions on its property.

17 57. Plaintiffs did not consent to Defendants' conduct or to the dangerous conditions
18 described above.

19 58. Plaintiffs were harmed by the Defendants as articulated within this Complaint and
20 to be proven at trial.

21 59. Upon information and belief and thereon alleged, the Defendants will continue to
22 maintain their property in the hazardous condition described herein unless and until ordered by
23 this Court to abate or prevent these conditions.

24 60. The harm suffered by Plaintiffs was different from the type of harm suffered by
25 the general public, as Plaintiffs each own land adjacent to or abutting Lafferty Ranch.
26 Defendants' actions on, access to, and changes to Lafferty Ranch directly impacts Plaintiffs and
27 their land.

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1 61. The Defendants' conduct is and was a substantial factor in causing Plaintiffs'
2 harm.

3 62. As a direct and proximate cause of the Defendants' actions and omissions
4 described above, Plaintiffs have been forced to incur and will continue to incur out of pocket
5 expenses in excess of the jurisdictional limits of this Court for amounts associated with but not
6 limited to, prevention of additional encroachments caused by Defendants' conduct onto
7 Plaintiffs' property, protecting Plaintiffs' Properties from the elevated fire risk presented by
8 Defendants' conduct, increased costs in maintaining and owning the Plaintiffs' Property,
9 diminished value of their land, diminished use and enjoyment in their land, damages associated
10 with the repair to structures and fences as well as general and incidental damages all in amounts
11 to be proven at trial.

12 63. As a direct and proximate cause of the Defendants' actions and omissions
13 described above, the Plaintiffs have been injured by way of emotional and mental distress with
14 physical manifestations, through worry, anger, frustration, distrust, headaches, upset stomach,
15 concern, anxiety, paranoia, sleeplessness, sadness, loss of enjoyment of life, loss of use and quiet
16 enjoyment of property. The Defendants' actions and omissions were a direct and proximate
17 cause of Plaintiffs' emotional mental distress with physical manifestations.

18 64. As a direct and proximate cause of the Defendants' actions and omissions
19 described above, Plaintiffs have and will continue incurred attorneys' fees and costs for which
20 they have a right of recovery as the prevailing party.

21 65. The seriousness of the harms caused by the Defendants outweigh the social utility
22 of their conduct as described within this Complaint.

23 66. The Defendants' actions were and are knowing, intentional, malicious and/or in
24 reckless disregard for the Plaintiffs' safety and rights, thus allowing the Plaintiffs to recover
25 punitive damages from the Defendants.

26 WHEREFORE, the Plaintiffs pray for relief as set forth below.

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SECOND CAUSE OF ACTION
(Private Continuing Nuisance against all Defendants)

67. Plaintiffs re-allege and incorporate by reference paragraphs above as though fully set forth herein.

68. Defendants' behavior on and toward Plaintiffs' property, the conditions on the Defendant City's Property, as well as the actions and omissions of the Defendants as described above, constitute a private nuisance as described above and according to California Civil Code sections 1714, 3479, 3481, 3541 and other applicable authority.

69. Plaintiffs owned, occupied, and controlled property adjacent to and abutting Lafferty Ranch.

70. Defendants, by acting or failing to act, created or permitted a condition to exist that was harmful to health, in that the mismanagement and use of the Lafferty Ranch property increases the risk of wildfire, and was an obstruction to the free use of Plaintiffs' property, so as to interfere with the comfortable enjoyment of life or property of Plaintiffs.

71. The Defendants' conduct and that of their agents, including but not limited to, maintaining dangerous conditions on the Defendant's Property as described above, was and is intentional and unreasonable, negligent, or reckless, or the condition that the Defendants created or permitted to exist was a result of an abnormally dangerous activity, including but not limited to, its agents driving gasoline powered vehicles over dried grass and other combustible material.

72. Defendants' conduct and the conditions upon the Defendant City's Property described above were harmful to health, or indecent or offensive to the senses and were a fire hazard to Plaintiffs' health and property.

73. Defendants' conduct, including the maintaining of dangerous conditions upon its property as described above, substantially interfered with the Plaintiffs' use and enjoyment of their land.

74. An ordinary person would be reasonably disturbed by Defendants' conduct and the dangerous conditions on its property.

75. Plaintiffs did not consent to Defendants' conduct or to the dangerous conditions described above.

1 76. Plaintiffs were harmed by the Defendants and their agents acting within the scope
2 of said agency.

3 77. As a direct and proximate cause of the Defendants' actions and omissions
4 described above, Plaintiffs have been forced to incur and will continue to incur out of pocket
5 expenses in excess of the jurisdictional limits of this Court for amounts associated with but not
6 limited to, protecting their properties from the elevated fire risk presented by Defendants'
7 conduct, increased costs in maintaining and owning the Plaintiffs' Property, diminished value of
8 their land, damages associated with the repair to structures and fences as well as general and
9 incidental damages all in amounts to be proven at trial.

10 78. As a direct and proximate cause of the Defendants' actions and omissions
11 described above, the Plaintiffs have been injured by way of emotional and mental distress
12 through worry, anger, frustration, concern, anxiety, paranoia, sleeplessness, sadness, loss of
13 enjoyment of life, loss of use and quiet enjoyment of property.

14 79. As a direct and proximate cause of the Defendants' actions and omissions
15 described above, Plaintiffs have incurred attorneys' fees and costs for which they have a right of
16 recovery as the prevailing party.

17 80. The seriousness of the harm outweighs the public benefit of Defendants' conduct.

18 81. The Defendants' actions were and are knowing, intentional, malicious and/or in
19 reckless disregard for the Plaintiffs' safety and rights, thus allowing the Plaintiffs to recover
20 punitive damages from the Defendants.

21 WHEREFORE, the Plaintiffs pray for relief as set forth below.

22 **THIRD CAUSE OF ACTION**
23 **(Negligence against all Defendants)**

24 82. The Plaintiffs re-allege and incorporate by reference the paragraphs above as
25 though fully set forth herein.

26 83. Defendants' conduct as described and articulated within this Complaint and other
27 actions to be determined and proven at trial was negligent and negligently caused Plaintiff's
28 harm.

1 84. Among other duties to be proven at trial, Defendants a duty not to fabricate their
2 property rights or that of the general public, as they relate to Plaintiffs' Properties. Defendants
3 had a duty to follow ordinary due process rules when implementing its desire to convert Lafferty
4 Ranch into a publicly accessible park. Defendants had a duty not to place or remove
5 improvements on Plaintiffs' property. Defendants had a duty not to invite guests and agents to
6 trespass onto Plaintiffs' land. Defendants had a duty to maintain, use, occupy, alter, possess or
7 manage Defendant City's Property in a safe and lawful manner and to avoid creating
8 unreasonable interference, trespass or nuisance onto Plaintiffs' property or use of said property.
9 Defendant City had an obligation to participate in meaningful oversight to ensure the safety of
10 Plaintiffs and the residents of Sonoma County. Defendants had an obligation to comply with
11 applicable sections of the Sonoma County Code of Ordinances in altering Lafferty Ranch.
12 Defendants had a duty not to participate in the unlawful efforts to turn Lafferty Ranch and
13 Plaintiffs' property into a public space. Defendants had an obligation to not misuse public funds
14 for an unauthorized alteration of Lafferty Ranch and to first obtain a knowing and accurate
15 approval of any such alteration both holistically and specifically for which they failed.

16 85. The Defendants' breached their duties identified above, based on their actions and
17 omissions described above, and including, but not limited to, fabricating property rights,
18 violating due process, allowing improvements to be placed on Plaintiffs' property, trespassing on
19 Plaintiffs' property, inviting their agents and members of the public to trespass on Plaintiffs'
20 property, and placing rock, gravel, and a culvert on Plaintiff's land.

21 86. The Defendants' conduct and conditions upon the Defendants' Property and
22 trespass on Plaintiffs' land are the actual and proximate cause of Plaintiffs' damages.

23 87. As a direct and proximate result of the Defendants' actions and omissions
24 described above, the Plaintiffs have been forced to incur and will continue to incur out of pocket
25 expenses in excess of the jurisdictional limits of this Court for amounts associated with, but not
26 limited to, measures taken by Plaintiffs to protect their land and prevent further trespass or
27 encroachments caused by Defendants, as well as incidental and miscellaneous costs.

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88. As a direct and proximate result of the Defendants' actions and omissions described above, the Plaintiffs have been injured by way of emotional and mental distress with physical manifestation, including but not limited to, worry, anger, distrust, headaches, upset stomach, frustration, concern, anxiety, paranoia, sleeplessness, sadness, loss of enjoyment of life, loss of use and quiet enjoyment of property.

89. The damages and injuries to the Plaintiffs by the Defendants were reasonably foreseeable based on the Defendants' conduct, which could have been avoided had the Defendants exercised reasonable care.

90. The Defendants actions were knowing, intentional, malicious or in reckless disregard for the Plaintiffs' safety and rights, thus allowing Plaintiffs to recover punitive damages.

WHEREFORE, the Plaintiffs pray for relief as set forth below.

FOURTH CAUSE OF ACTION
(Obstruction with Economic Advantage against All Defendants)

91. The Plaintiffs re-allege and incorporate by reference paragraphs above as though fully set forth herein.

92. Defendants intentionally interfered with an economic relationship between Plaintiffs and their insurance companies, by taking action that increased the cost and expense to maintain appropriate insurance on Plaintiffs' Properties.

93. Defendants knew that Plaintiffs' Properties were insured and knew of Plaintiffs' relationships with their insurance companies.

94. Defendants trespassing and inviting guests and agents to trespass on Plaintiffs' Properties and placing improvements on Plaintiffs' Properties caused Plaintiffs' insurance costs and expenses to increase to ensure appropriate coverage.

95. Defendants knew their conduct was certain or substantially certain to cause Plaintiffs' insurance expenses and costs to increase.

96. Plaintiffs' insurance expenses and costs did increase.

97. Plaintiffs were harmed by the increase in insurance expenses and costs.

1 98. Defendants' conduct was a substantial factor in causing Plaintiffs' harm.

2 WHEREFORE, the Plaintiffs pray for relief as set forth below.

3 **FIFTH CAUSE OF ACTION**
4 **(Trespass against All Defendants)**

5 99. Plaintiffs re-allege and incorporate by reference paragraphs above as though fully
6 set forth herein.

7 100. Plaintiffs owned, occupied, and controlled their properties abutting and adjacent
8 to Lafferty Ranch.

9 101. Defendants, themselves and through their agents, representatives, and guests,
10 intentionally, recklessly, or negligently entered Plaintiffs' Properties on numerous occasions and
11 destroyed or removed signage, security equipment and other items owned by Plaintiffs sitting
12 upon their properties.

13 102. Plaintiffs did not give permission for the entries, removal or destruction of their
14 properties or personal property sitting upon said land. If any prior permission for entry was
15 given, these recent entries exceeded that permission.

16 103. The Defendants and each of them, without Plaintiffs' consent, caused and
17 allowed, or continue to allow, individuals; foreign matter, including but not limited to, rocks and
18 gravel, culverts, bridges, and gas-powered automobiles; the displacement of rocks and
19 vegetation; and disruption of habitats and wildlife on the Plaintiffs' Property of which Plaintiffs
20 are the owners and/or possessors for which Plaintiffs did not consent.

21 104. As a proximate result of this trespass upon Plaintiffs' land, Plaintiffs have
22 incurred, and will continue to incur, damages within the jurisdictional limits of this Court.

23 105. Defendants' entry and conduct was a substantial factor in causing Plaintiffs'
24 harm.

25 106. The Defendants' actions were and are knowing, intentional, malicious and/or in
26 reckless disregard for the Plaintiffs' safety and rights, thus allowing the Plaintiffs to recover
27 punitive damages from the Defendants.

28 WHEREFORE, the Plaintiffs pray for relief as set forth below.

1 **SIXTH CAUSE OF ACTION**

2 **(Intentional Infliction of Emotional Distress by all Defendants)**

3 107. The Plaintiffs re-allege and incorporate by reference paragraphs above as though
4 fully set forth herein.

5 108. Defendants' conduct cause Plaintiffs to suffer severe emotional distress.

6 109. Defendants' conduct was outrageous.

7 110. Defendants intended to cause Plaintiffs emotional distress by, without limitation,
8 circumventing their rights to due process and possession of their own property when Defendant
9 City falsely claimed a right to possession of Plaintiffs' property.

10 111. Given the history between Plaintiffs and Defendant City, Defendants knew that
11 Defendant City did not have a possessory right to Plaintiffs' property.

12 112. Defendants by, without limitation, applying for and approving the permit to place
13 improvements on Plaintiffs' property, placing those trespassory improvements on Plaintiffs'
14 property, destroying natural habitats on Plaintiffs' property, and inviting guests and agents to
15 trespass on Plaintiffs' property, acted with reckless disregard of the probability that Plaintiffs
16 would suffer emotional distress, knowing that Plaintiffs were present on their impacted
17 properties when the conduct occurred.

18 113. Plaintiffs did suffer severe emotional distress, including, but not limited to, stress,
19 anxiety, worry, fear, sleeplessness, loss of enjoyment of life and other negative and detrimental
20 emotions.

21 114. Defendants conduct was a substantial factor in causing Plaintiffs' severe
22 emotional distress.

23 115. Plaintiffs are entitled to general and special damages, including but not limited to
24 medical expenses, compensatory damages, lost earnings, lost earning potential, personal injury
25 by way of mental, emotional and physical manifestation, as well as incidental damages and costs.

26 116. Defendants acted knowingly, maliciously, oppressively, fraudulently or with
27 reckless disregard of the Plaintiffs' rights entitling Plaintiffs to exemplary or punitive damages.

28 WHEREFORE, the Plaintiffs pray for relief as set forth below.

SEVENTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress by all Defendants)

117. The Plaintiffs re-allege and incorporate by reference paragraphs above as though fully set forth herein.

118. Defendants' conduct as described and articulated within this Complaint and other actions to be determined and proven at trial was negligent and negligently caused Plaintiff to suffer severe emotional distress, including but not limited to stress, anxiety, worry, fear, sleeplessness, loss of enjoyment of life and other negative and detrimental emotions.

119. Among other duties to be proven at trial, Defendants had a duty not to fabricate their property rights, as they relate to Plaintiffs' property. Defendants had a duty to follow ordinary due process rules when implementing its desire to convert Lafferty Ranch into a publicly accessible park. Defendants had a duty not to place or remove improvements on or from Plaintiffs' property. Defendants had a duty not to invite guests and agents to trespass onto Plaintiffs' land. Defendants had a duty not to participate in the unlawful efforts to turn Lafferty Ranch and Plaintiffs' property into a public space or the misuse or unauthorized use of public funds for said purpose.

120. Defendants breached their duties by, without limitation, fabricating property rights, violating due process, allowing improvements to be placed on Plaintiffs' property, placing the improvements on Plaintiffs' property, trespassing and inviting guests and agents to trespass on Plaintiffs' property or by exposing Plaintiffs to unnecessary risk and exposure to wildfire.

121. Defendants' negligence was a substantial factor in causing Plaintiffs' serious and severe distress, including, but not limited to, stress, anxiety, worry, fear, sleeplessness, loss of enjoyment of life and other negative and detrimental emotions.

122. Plaintiffs are entitled to general and special damages, including but not limited to medical expenses, compensatory damages, lost earnings, lost earning potential, personal injury by way of mental, emotional and physical manifestation, as well as incidental damages and costs.

123. Defendants acted knowingly, maliciously, oppressively, fraudulently or with reckless disregard of the Plaintiffs' rights entitling Plaintiffs to exemplary or punitive damages.

1 WHEREFORE, the Plaintiffs pray for relief as set forth below.

2 **EIGHTH CAUSE OF ACTION**
3 **(Declaratory Relief as to all Defendants)**

4 124. The Plaintiffs re-allege and incorporate by reference paragraphs above as though
5 fully set forth herein.

6 125. The 14th Amendment to the United States Constitution says that “no state shall
7 make or enforce any law which shall abridge the privileges and immunities of citizens of the
8 United States; nor shall any state deprive a person of life, liberty, or property without due process
9 of law.” Article 1 Section 7 of the California Constitution provides the same protection, that “a
10 person may not be deprived of life, liberty, or property without due process of law or denied
11 equal protection of the laws.”

12 126. 42 U.S.C. §1983 says “every person who, under color of any statute, ordinance,
13 regulation, custom, or usage . . . subjects, or causes to be subjected, any citizen . . . or other
14 person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities
15 secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit
16 in equity, or other proper proceeding”

17 127. Defendant City’s actions including, without limitation, inviting guests and agents
18 to trespass on Plaintiffs’ property, and placing trespassory improvements onto Plaintiffs’
19 property violates Plaintiffs’ rights to substantive due process of law by virtue of obstruction of
20 the use, enjoyment, control and ownership of their respective real property.

21 128. Defendants are depriving Plaintiffs of their rights to manage, control, possess,
22 reside at, and financially benefit from their property.

23 129. Plaintiffs seek a judicial declaration that Defendants’ actions and omissions have
24 violated Plaintiffs’ rights, secured to them by the United States and California Constitutions as
25 well as any applicable local ordinances.

26 130. Plaintiffs seek a judicial determination of their rights and duties and a declaration
27 with respect to their right to exclusive ownership and maintenance of their properties, and their

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1 ability to prevent and prohibit Defendants from placing improvements, performing any kind of
2 construction, or allowing Defendants' guests and agents to trespass on Plaintiffs' property.

3 131. A judicial declaration is necessary and appropriate so that the parties may use and
4 enjoy their land.

5 132. 42 U.S.C. §1988(b) provides for reasonable attorneys' fees to be awarded by the
6 Court in its discretion to the prevailing party. To the extent that Petitioners are deemed to be
7 prevailing parties on this cause of action, they respectfully request, and are entitled to, an award
8 of reasonable attorneys' fees.

9 WHEREFORE, the Plaintiffs pray for relief as set forth below.

10 **NINTH CAUSE OF ACTION**
11 **(Injunctive Relief against Defendant City)**

12 133. The Plaintiffs re-allege and incorporate by reference paragraphs above as though
13 fully set forth herein.

14 134. The Plaintiffs are informed and believe and on that basis allege that unless the
15 Defendants are restrained and enjoined by order of this Court to abate the above described
16 nuisances and cease the trespass on the Plaintiffs' Property, the Defendants will continue to
17 engage in the above-described acts and omissions constituting a continuing nuisance and trespass
18 on Plaintiffs' Property. Such conduct will result in irreparable harm to the Plaintiffs and the
19 general public as described, in that the nuisance will cause loss of enjoyment and use of the
20 Plaintiffs' Property and continued damage and injury until it has been abated. The threat of such
21 irreparable and permanent damage, including but not limited to destruction of real and personal
22 property and free use of real property and use of public resources, justifies the issuance by this
23 Court of an injunction, as well as the award of monetary damages expressly authorized by Cal.
24 Code Civ. Proc. §§ 731 and 1021.5.

25 135. The requested injunction is necessary to ensure that all damage Defendants
26 caused to Plaintiffs' land is abated, and it is necessary to ensure Plaintiffs retain their right to use
27 and enjoyment of their land.

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- 1 (c) For an order prohibiting Defendant City from inviting its agents and guests to
2 trespass on Plaintiffs' property;
3 (d) For an order prohibiting Defendant City from placing improvements on Plaintiffs'
4 property; and
5 (e) For an order prohibiting Defendant City from accessing Lafferty Ranch by
6 trespassing on Plaintiffs' property.

7
8 DATED: December 23, 2024

CLEMENT, FITZPATRICK & KENWORTHY
INCORPORATED

9
10 By: 

DAVIN R. BACHO

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