

1 179. Defendants' conduct as described herein is therefore an actual, substantial, and  
2 proximate cause of Plaintiffs' sea level rise-related injuries.

3 **VI. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **(Public Nuisance on Behalf of the People of the State of California)**

6 **(Against All Defendants)**

7 180. The People incorporate by reference each and every allegation contained above, as  
8 though set forth herein in full.

9 181. Defendants, and each of them, by their affirmative acts and omissions, have created,  
10 contributed to, and assisted in creating, a condition in Marin County, and permitted that condition  
11 to persist, which constitutes a nuisance by, *inter alia*, increasing local sea level, increasing the  
12 frequency and intensity of flooding, and increasing the intensity and frequency of storms and  
13 storm-related damage to the County and its residents.

14 182. Defendants specifically created, contributed to, and/or assisted, and/or were a  
15 substantial contributing factor in the creation of the public nuisance, by, *inter alia*:

- 16 a. extracting raw fossil fuel products, including crude oil, coal, and natural gas  
17 from the Earth, and placing those fossil fuel products into the stream of  
18 commerce;
- 19 b. affirmatively and knowingly promoting the sale and use of fossil fuel  
20 products which Defendants knew to be hazardous and knew would lead to  
21 global warming, sea level rise, more frequent and more intense flooding,  
22 and more frequent and more intense storm surges;
- 23 c. affirmatively and knowingly concealing the hazards that Defendants knew  
24 would result from the normal use of their fossil fuel products by  
25 misrepresenting and casting doubt on the integrity of scientific information  
26 related to climate change;
- 27 d. disseminating and funding the dissemination of information intended to  
28 mislead customers, consumers, elected officials and regulators regarding

1 known and foreseeable risk of climate change and its consequences, which  
2 follow from the normal, intended use and foreseeable misuse of  
3 Defendants' fossil fuel products;

- 4 e. affirmatively and knowingly campaigning against the regulation of their  
5 fossil fuel products, despite knowing the hazards associated with the normal  
6 use of those products, in order to continue profiting from use of those  
7 products by externalizing those known costs onto people, the environment,  
8 and communities, including the People; and failing to warn the public about  
9 the hazards associated with the use of fossil fuel products.

10 183. The condition created by Defendants substantially and negatively affects the  
11 interests of the public at large. In particular, higher sea level, increased storm frequency and  
12 intensity, and increased flooding: (1) are harmful and dangerous to human health; (2) are indecent  
13 and offensive to the senses of the ordinary person; (3) obstruct and threaten to obstruct the free use  
14 of the People's property so as to interfere with the comfortable enjoyment of life and property; and  
15 (4) obstruct and threaten to obstruct the free passage and use of navigable lakes, rivers, bays,  
16 streams, canals, basins, public parks, squares, streets, and/or highways within Marin County.

17 184. The People of the State of California have a common right to be free from the  
18 increased severity of these hazards due to climate change and sea level rise.

19 185. The seriousness of rising sea levels and increased weather volatility and flooding  
20 is extremely grave, and outweighs the social utility of Defendants' conduct because, *inter alia*,

- 21 a. interference with the public's rights as described above is expected to  
22 become so regular and severe that it will cause permanent inundation;  
23 b. the ultimate nature of the harm is the destruction of real and personal  
24 property, rather than mere annoyance;  
25 c. the interference borne is the loss of property and infrastructure within Marin  
26 County, which will actually be borne by Plaintiff's citizens as loss of use of  
27 public property and infrastructure and diversion of tax dollars away from  
28 other public services to sea level rise;

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- d. Plaintiff’s coastal property, which serves myriad uses including industrial, residential, infrastructural, commercial and ecological, is not suitable for regular inundation;
- e. the social benefit of placing fossil fuels into the stream of commerce is outweighed by the availability of other sources of energy that could have been placed into the stream of commerce that would not have caused sea level rise; Defendants, and each of them, knew of the external costs of placing their fossil fuel products into the stream of commerce, and rather than striving to mitigate those externalities, Defendants instead acted affirmatively to obscure them from public consciousness;
- f. the cost to society of each ton of greenhouse gases emitted into the atmosphere increases as total global emissions increase, so that unchecked extraction and consumption of fossil fuel products is more harmful and costly than moderated extraction and consumption; and
- g. it was practical for Defendants, and each of them, in light of their extensive knowledge of the hazards of placing fossil fuel products into the stream of commerce and extensive scientific engineering expertise, to develop better technologies and to pursue and adopt known, practical, and available technologies, energy sources, and business practices that would have mitigated their greenhouse gas pollution and eased the transition to a lower carbon economy.

186. This public nuisance affects and/or interferes with an entire community's and/or a considerable number of persons in the State of California right to health, safety, peace, comfort, and convenience.

187. Defendants’ wrongful conduct was oppressive, malicious, and fraudulent, in that their conduct was willful, intentional, and in conscious disregard for the rights of others. Defendants’ conduct was so vile, base, and contemptible that it would be looked down upon and despised by reasonable people, justifying an award of punitive and exemplary damages in an

1 amount subject to proof at trial, and justifying equitable disgorgement of all profits Defendants  
2 obtained through their unlawful and outrageous conduct.

3 188. As a direct and proximate result of Defendants' conduct, as set forth above, the  
4 common rights enjoyed by the People of the State of California and by the general public in the  
5 County of Marin have been unreasonably interfered with because Defendants knew or should have  
6 known that their conduct would create a continuing problem with long-lasting significant negative  
7 effects on the rights of the public.

8 189. Defendants' actions are a direct and legal cause of the public nuisance.

9 190. The People of the State of California, acting through the County of Marin, have a  
10 clearly ascertainable right to have the public nuisance created by Defendants abated.

11 191. Defendants' acts and omissions as alleged herein are indivisible causes of Plaintiff  
12 the People of the State of California's injuries and damage as alleged herein.

13 192. Wherefore, the People of the State of California pray for relief as set forth below.

14 **SECOND CAUSE OF ACTION**

15 **(Public Nuisance on Behalf of Marin County)**

16 **(Against All Defendants)**

17 193. Plaintiff Marin County incorporates by reference each and every allegation  
18 contained above, as though set forth herein in full.

19 194. Defendants, and each of them, by their acts and omission, have created a condition  
20 and permitted that condition to persist, which constitutes a nuisance by increasing sea level,  
21 increasing the frequency and intensity of flooding, and increasing the intensity and frequency of  
22 storms, all of which have resulted in, and will continue to result in, injury to Plaintiff.

23 195. The condition created by Defendants substantially and negatively affects the  
24 interests of the public at large. In particular, higher sea level, increased storm frequency and  
25 intensity, and increased flooding: (1) are harmful and dangerous to human health; (2) are indecent  
26 and offensive to the senses of the ordinary person; (3) obstruct and threaten to obstruct the free use  
27 of the People's property so as to interfere with the comfortable enjoyment of life and property; and  
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1 (4) obstruct and threaten to obstruct the free passage and use of navigable lakes, rivers, bays,  
2 streams, canals, basins, public parks, squares, streets, and/or highways within Marin County.

3 196. Plaintiff Marin County includes coastal communities with substantial numbers of  
4 residents and citizens living on and near the coast, and substantial numbers of businesses and  
5 amenities on or near the coast; the condition created by Defendants therefore affects substantial  
6 numbers of people in Plaintiff's communities at the same time.

7 197. The seriousness of rising sea levels and increased weather volatility and flooding  
8 is extremely grave, and outweighs the social utility of Defendants' conduct. The seriousness of the  
9 harm to Plaintiff Marin County outweighs the benefit of Defendants' and each of their conduct,  
10 because

- 11 a. the interference with Plaintiff's property is expected to become so regular  
12 and severe as to be a permanent inundation;
- 13 b. the nature of the harm is the destruction of Plaintiff's property, rather than  
14 mere annoyance;
- 15 c. the interference borne by Plaintiff is the loss of its property and  
16 infrastructure, which will actually be borne by Plaintiff's citizens as loss of  
17 use of public property and infrastructure and diversion of tax dollars away  
18 from other public services to sea level rise;
- 19 d. Plaintiff's coastal public and private property, which serves myriad uses  
20 including industrial, residential, infrastructural, commercial and ecological,  
21 is not suitable for regular inundation;
- 22 e. the burden on Plaintiff to mitigate and prevent the interference with its  
23 property is significant and severe, as costs associated with addressing sea  
24 level rise caused by Defendants are projected to be in the billions of dollars  
25 over the next several decades;
- 26 f. the social benefit of the purpose of placing fossil fuels into the stream of  
27 commerce, if any, is outweighed by the availability of other sources of  
28 energy that could have been placed into the stream of commerce that would

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not have caused sea level rise; Defendants, and each of them, knew of the external costs of placing their fossil fuel products into the stream of commerce, and rather than striving to mitigate those externalities, instead acted affirmatively to obscure them from public consciousness;

- g. the social cost of each ton of CO<sub>2</sub> emitted into the atmosphere increases as total global emissions increase, so that unchecked extraction and consumption of fossil fuel products is more harmful and costly than moderated extraction and consumption; and
- h. it was practical for Defendants, and each of them, in light of their extensive knowledge of the hazards of placing fossil fuel products into the stream of commerce and extensive scientific engineering expertise, to develop better technologies and to pursue and adopt known, practical, and available technologies, energy sources, and business practices that would have mitigated their greenhouse gas pollution and eased the transition to a lower carbon economy.

198. In addition to the harms suffered by the public at large, Plaintiff has suffered special injuries different in kind. Among other harms,

- a. Plaintiff has been forced to spend or set aside significant funds to assess, plan for, and enact infrastructure changes needed to mitigate rising sea levels on Plaintiff’s publicly owned beaches and other public coastal property;
- b. Plaintiff has had to plan for and provide additional emergency and other public services in response to more frequent and more intense flooding and storm surges on both properties owned by Plaintiff, and properties owned, leased, and utilized by residents, citizens, and visitors to Plaintiff’s communities.

199. Defendants’ wrongful conduct was oppressive, malicious, and fraudulent, in that their conduct was willful, intentional, and in conscious disregard for the rights of others.

1 Defendants' conduct was so vile, base, and contemptible that it would be looked down upon and  
2 despised by reasonable people, justifying an award of punitive and exemplary damages in an  
3 amount subject to proof at trial, and justifying equitable disgorgement of all profits Defendants  
4 obtained through their unlawful and outrageous conduct.

5 200. As a direct and proximate result of Defendants' conduct, as set forth above, the  
6 County of Marin has been unreasonably interfered with because Defendants knew or should have  
7 known that their conduct would create a continuing problem with long-lasting significant negative  
8 effects on the rights of the public.

9 201. Defendants' actions are a direct and legal cause of the public nuisance.

10 202. Defendants' acts and omissions as alleged herein are indivisible causes of Plaintiff  
11 Marin County's injuries and damage as alleged herein.

12 203. Wherefore, Plaintiff prays for relief as set forth below.

13 **THIRD CAUSE OF ACTION**

14 **(Strict Liability—Failure to Warn on behalf of Marin County)**

15 **(Against All Defendants)**

16 204. Plaintiff Marin County incorporates by reference each and every allegation  
17 contained above, as though set forth herein in full.

18 205. Defendants, and each of them, extracted raw fossil fuel products, including crude  
19 oil, coal, and natural gas from the Earth, and placed those fossil fuel products into the stream of  
20 commerce.

21 206. Defendants, and each of them, extracted, refined, formulated, designed, packaged,  
22 distributed, tested, constructed, fabricated, analyzed, recommended, merchandised, advertised,  
23 promoted and/or sold fossil fuel products, which were intended by Defendants, and each of them,  
24 to be burned for energy, refined into petrochemicals, and refined and/or incorporated into  
25 petrochemical products including fuels and plastics.

26 207. Defendants, and each of them, heavily marketed, promoted, and advertised fossil  
27 fuel products and their derivatives, which were sold or used by their respective affiliates and  
28 subsidiaries. Defendants received direct financial benefit from their affiliates' and subsidiaries'

1 sales of fossil fuel products. Defendants' role as promoter and marketer was integral to their  
2 respective businesses and a necessary factor in bringing fossil fuel products and their derivatives  
3 to the consumer market, such that Defendants had control over, and a substantial ability to  
4 influence, the manufacturing and distribution processes of their affiliates and subsidiaries.

5 208. Throughout the times at issue, Defendants individually and collectively knew or  
6 should have known, in light of the scientific knowledge generally accepted at the time, that fossil  
7 fuel products, whether used as intended or misused in a foreseeable manner, release greenhouse  
8 gases into the atmosphere that inevitably cause *inter alia* global warming, sea level rise, increased  
9 intensity and frequency of nuisance flooding, and increased intensity and frequency of storm  
10 surges.

11 209. Throughout the times at issue and continuing today, fossil fuel products presented  
12 and still present a substantial risk of injury to Plaintiffs through the climate effects described above,  
13 whether used as intended or misused in a reasonably foreseeable manner.

14 210. Throughout the times at issue, the ordinary consumer would not recognize that the  
15 use or foreseeable misuse of fossil fuel products causes global and localized changes in climate,  
16 including those effects described herein.

17 211. Throughout the times at issue, Defendants individually and in concert widely  
18 disseminated marketing materials, refuted the generally accepted scientific knowledge at the time,  
19 and advanced pseudo-scientific theories of their own, and developed public relations campaigns  
20 and materials that prevented reasonable consumers from recognizing the risk that fossil fuel  
21 products would cause grave climate changes, including those described herein.

22 212. Defendants, and each of them, failed to adequately warn customers, consumers,  
23 elected officials and regulators of known and foreseeable risk of climate change and the  
24 consequences that inevitably follow from the normal, intended use and foreseeable misuse of  
25 Defendants' fossil fuel products.

26 213. Defendants' wrongful conduct was oppressive, malicious, and fraudulent, in that  
27 their conduct was willful, intentional, and in conscious disregard for the rights of others.  
28 Defendants' conduct was so vile, base, and contemptible that it would be looked down upon and



1 despised by reasonable people, justifying an award of punitive and exemplary damages in an  
2 amount subject to proof at trial, and justifying equitable disgorgement of all profits Defendants  
3 obtained through their unlawful and outrageous conduct.

4 214. As a direct and proximate result of the defects previously described, fossil fuel  
5 products caused Plaintiff Marin County to sustain the injuries and damages set forth in this  
6 Complaint, including damage to publicly owned infrastructure and real property, and the creation  
7 and maintenance of a nuisance that interferes with the rights of the County, its residents, and of  
8 the People.

9 215. Defendants' acts and omissions as alleged herein are indivisible causes of Plaintiff  
10 Marin County's injuries and damage as alleged herein.

11 216. Wherefore, Plaintiff prays for relief as set forth below.

12 **FOURTH CAUSE OF ACTION**

13 **(Strict Liability—Design Defect on behalf of Marin County)**

14 **(Against All Defendants)**

15 217. Plaintiff Marin County incorporates by reference each and every allegation  
16 contained above, as though set forth herein in full.

17 218. Defendants, and each of them, extracted raw fossil fuel products, including crude  
18 oil, coal, and natural gas from the Earth and placed those fossil fuel products into the stream of  
19 commerce.

20 219. Defendants, and each of them, extracted, refined, formulated, designed, packaged,  
21 distributed, tested, constructed, fabricated, analyzed, recommended, merchandised, advertised,  
22 promoted and/or sold fossil fuel products, which were intended by Defendants, and each of them,  
23 to be burned for energy, refined into petrochemicals, and refined and/or incorporated into  
24 petrochemical products including but not limited to fuels and plastics.

25 220. Defendants, and each of them, heavily marketed, promoted, and advertised fossil  
26 fuel products and their derivatives, which were sold or used by their respective affiliates and  
27 subsidiaries. Defendants' received direct financial benefit from their affiliates' and subsidiaries'  
28 sales of fossil fuel products. Defendants role as promoter and marketer was integral to their

1 respective businesses and a necessary factor in bringing fossil fuel products and their derivatives  
2 to the consumer market, such that Defendants had control over, and a substantial ability to  
3 influence, the manufacturing and distribution processes of their affiliates and subsidiaries.

4 221. Throughout the time at issue, fossil fuel products have not performed as safely as  
5 an ordinary consumer would expect them to because greenhouse gas emissions from their use  
6 cause numerous global and local changes to Earth's climate. In particular, ordinary consumers did  
7 not expect that:

- 8 a. fossil fuel products are the primary cause of global warming since the dawn  
9 of the industrial revolution, and by far the primary cause of global warming  
10 acceleration in the 20th and 21st centuries;
- 11 b. fossil fuel products are the primary cause of accelerating sea level rise since  
12 the beginning of the 20th century;
- 13 c. unmitigated use of fossil fuel products causes increased frequency and  
14 intensity of nuisance flooding in coastal communities;
- 15 d. fossil fuel products cause increased frequency and intensity of storm surges  
16 in coastal communities;
- 17 e. by increasing sea level rise, nuisance flooding, and storm surges, fossil fuel  
18 products cause damage to publicly and privately owned coastal  
19 infrastructure and buildings, including homes;
- 20 f. the social cost of each ton of CO<sub>2</sub> emitted into the atmosphere increases as  
21 total global emissions increase, so that unchecked extraction and  
22 consumption of fossil fuel products is more harmful and costly than  
23 moderated extraction and consumption; and
- 24 g. for these reasons and others, the unmitigated use of fossil fuel products  
25 present significant threats to the environment and human health and  
26 welfare, especially in coastal communities.

27 222. Throughout the times at issue, Defendants individually and in concert widely  
28 disseminated marketing materials, refuted the generally accepted scientific knowledge at the time,

1 advanced pseudo-scientific theories of their own, and developed public relations materials, among  
2 other public messaging efforts, that prevented reasonable consumers from forming an expectation  
3 that fossil fuel products would cause grave climate changes, including those described herein.

4           223. Additionally, and in the alternative, Defendants' fossil fuel products are defective  
5 because the risks they pose to consumers and to the public, including and especially to Plaintiff,  
6 outweigh their benefits.

7           a. the gravity of the potential harms caused by fossil fuel products is extreme;  
8 global warming and its attendant consequences are guaranteed to occur  
9 following the use or foreseeable misuse of fossil fuel products because fossil  
10 fuel products inherently release greenhouse gases into the atmosphere; and  
11 global warming would continue to occur for decades even if all greenhouse  
12 gas emissions ceased.

13           b. the social benefit of the purpose of placing fossil fuels into the stream of  
14 commerce is overshadowed by the availability of other sources of energy  
15 that could have been placed into the stream of commerce that would not  
16 have caused sea level rise and accordingly Plaintiffs' injuries; Defendants,  
17 and each of them, knew of the external costs of placing their fossil fuel  
18 products into the stream of commerce, and rather than striving to mitigate  
19 those externalities, instead acted affirmatively to obscure them from public  
20 consciousness.

21           c. Defendants' campaign of disinformation regarding global warming and the  
22 climatic effects of fossil fuel products prevented customers, consumers,  
23 regulators, and the general public from taking steps to mitigate the  
24 inevitable consequences of fossil fuel consumption, and incorporating those  
25 consequences into either short-term decisions or long-term planning.

26           d. the cost to society of each ton of CO<sub>2</sub> emitted into the atmosphere increases  
27 as total global emissions increase so that unchecked extraction and  
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consumption of fossil fuel products is more harmful and costly than moderated extraction and consumption.

e. it was practical for Defendants, and each of them, in light of their extensive knowledge of the hazards of placing fossil fuel products into the stream of commerce, to pursue and adopt known, practical, and available technologies, energy sources, and business practices that would have mitigated their greenhouse gas pollution and eased the transition to a lower carbon economy, reduced global CO<sub>2</sub> emissions, and mitigated the harms associated with the use and consumption of such products.

224. Defendants' individual and aggregate fossil fuel products were used in a manner for which they were intended to be used, or misused in a manner foreseeable to Defendants and each of them, by individual and corporate consumers, the result of which was the addition of CO<sub>2</sub> emissions to the global atmosphere with attendant global and local consequences.

225. As a direct and proximate result of the defects in fossil fuel products described herein, Plaintiff sustained the injuries and damages set forth in this Complaint, including damage to publicly and privately owned infrastructure and real property.

226. Defendants' wrongful conduct was oppressive, malicious, and fraudulent, in that their conduct was willful, intentional, and in conscious disregard for the rights of others. Defendants' conduct was so vile, base, and contemptible that it would be looked down upon and despised by reasonable people, justifying an award of punitive and exemplary damages in an amount subject to proof at trial, and justifying equitable disgorgement of all profits Defendants obtained through their unlawful and outrageous conduct.

227. Defendants' acts and omissions as alleged herein are indivisible causes of Plaintiff Marin County's injuries and damage as alleged herein.

228. Wherefore, Plaintiff prays for relief as set forth below.

1 **FIFTH CAUSE OF ACTION**

2 **(Private Nuisance on behalf of Marin County)**

3 **(Against All Defendants)**

4 229. Plaintiff Marin County incorporates by reference each and every allegation  
5 contained above, as though set forth herein in full.

6 230. Plaintiff owns and manages extensive property within Marin County borders that  
7 has been injured and will be injured by rising sea levels.

8 231. Defendants, and each of them, by their acts and omission, have created a condition  
9 on Plaintiff's property, and permitted that condition to persist, which constitutes a nuisance by  
10 increasing sea level, increasing the frequency and intensity of flooding, and increasing the intensity  
11 and frequency of storms.

12 232. The condition created by Defendants substantially and negatively affects Plaintiff's  
13 interest in its own coastal real property. In particular, higher sea level, increased storm frequency  
14 and intensity, and increased flooding are:

- 15 a. harmful and dangerous to human health;
- 16 b. indecent and offensive to the senses of the ordinary person;
- 17 c. threatening to obstruct the free use of Plaintiff's property and property  
18 owned by Plaintiff's residents and citizens, so as to interfere with the  
19 comfortable enjoyment of life and property; and
- 20 d. threatening to obstruct the free passage and use of navigable lakes, rivers,  
21 bays, streams, canals, basins, public parks, squares, streets, and/or highways  
22 within Plaintiff's respective communities.

23 233. The condition described above created by Defendants' conduct substantially  
24 interferes with Plaintiff's use and quiet enjoyment of its coastal properties.

25 234. Plaintiff has not consented to Defendants' conduct in creating the condition that has  
26 led to sea level rise and its associated harms.

27 235. The ordinary person, and the ordinary city or county in Plaintiff's position, would  
28 be reasonably annoyed and disturbed by Defendants' conduct and the condition created thereby,

1 because, *inter alia*, it infringes on Plaintiff's ability to provide public space to residents and  
2 visitors, and has forced Plaintiff to plan for and provide additional emergency and other public  
3 services in response to more frequent and more intense flooding and storm surges on properties  
4 owned by Plaintiff.

5 236. The seriousness of rising sea levels and increased weather volatility and flooding  
6 is extremely grave, and outweighs the social utility of defendants' conduct. The seriousness of the  
7 harm to Plaintiff outweighs the benefit of Defendants' and each of their conduct, because:

- 8 a. the interference with Plaintiff's property is expected to become so regular  
9 and severe as to be a permanent inundation;
- 10 b. the nature of the harm is the destruction of Plaintiff's public and private real  
11 and personal property, rather than mere annoyance;
- 12 c. the interference borne by Plaintiff is the loss of its private and public  
13 property and infrastructure, which will actually be borne by Plaintiff's  
14 citizens as loss of use of public property and infrastructure and diversion of  
15 tax dollars away from other public services to sea level rise;
- 16 d. Plaintiff's coastal public and private property, which serves myriad uses  
17 including industrial, residential, infrastructural, commercial and ecological,  
18 is not suitable for regular inundation;
- 19 e. the burden on Plaintiff to mitigate and prevent the interference with its  
20 property is significant and severe, as costs associated with addressing sea  
21 level rise caused by Defendants are projected to be in the billions of dollars  
22 over the next several decades;
- 23 f. the social benefit of the purpose of placing fossil fuels into the stream of  
24 commerce is overshadowed by the availability of other sources of energy  
25 that could have been placed into the stream of commerce that would not  
26 have caused sea level rise; Defendants, and each of them, knew of the  
27 external costs of placing their fossil fuel products into the stream of  
28 commerce, and rather than striving to mitigate those externalities,

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Defendants acted affirmatively to obscure those costs from public consciousness;

g. the social cost each ton of CO<sub>2</sub> emitted into the atmosphere increases as total global emissions increase, so that unchecked extraction and consumption of fossil fuel products is more harmful and costly than moderated extraction and consumption;

h. Defendants’ campaign of disinformation regarding global warming and the climatic effects of fossil fuel products prevented customers, consumers, regulators, and the general public from staking steps to mitigate the inevitable consequences of fossil fuel consumption, and incorporating those consequences into either short-term decisions or long-term planning; and

i. it was practical for Defendants, and each of them, in light of their extensive knowledge of the hazards of placing fossil fuel products into the stream of commerce, to pursue and adopt known, practical, and available technologies, energy sources, and business practices that would have mitigated their greenhouse gas pollution and eased the transition to a lower carbon economy, reduced global CO<sub>2</sub> emissions, and mitigated the harms associated with the use and consumption of such products.

237. Defendants’ conduct was a direct and proximate cause of Plaintiff’s injuries, and a substantial factor in the harms suffered by Plaintiff as described in this Complaint.

238. Defendants’ acts and omissions as alleged herein are indivisible causes of Plaintiff Marin County’s injuries and damage as alleged herein.

239. Wherefore, Plaintiff prays for relief as set forth below.

**SIXTH CAUSE OF ACTION**

**(Negligence on Behalf of Marin County)**

**(Against All Defendants)**

240. Plaintiff Marin County incorporates by reference each and every allegation contained above, as though set forth herein in full.

1           241. Defendants knew or should have known of the climate effects inherently caused by  
2 the normal use and operation of their fossil fuel products, including the likelihood and likely  
3 severity of global and local sea level rise and its consequences, and including Plaintiff's injuries  
4 and damages described herein.

5           242. Defendants, collectively and individually, had a duty to use due care in developing,  
6 designing, testing, inspecting and distributing their fossil fuel products. That duty obligated  
7 Defendants collectively and individually to, *inter alia*, prevent defective products from entering  
8 the stream of commerce, and prevent reasonably foreseeable harm that could have resulted from  
9 the ordinary use or reasonably foreseeable misuse of Defendants' products.

10          243. Defendants, and each of them, breached their duty of due care by, *inter alia*:

- 11           a. allowing fossil fuel products to enter the stream of commerce, despite  
12           knowing them to be defective due to their inevitable propensity to cause sea  
13           level rise and its consequences;
- 14           b. failing to act on the information and warnings they received from their own  
15           internal research staff, as well as from the international scientific  
16           community, that the unabated extraction, promotion and sale of their fossil  
17           fuel products would result in material dangers to the public, including Marin  
18           County;
- 19           c. failing to take actions including but not limited to pursuing and adopting  
20           known, practical, and available technologies, energy sources, and business  
21           practices that would have mitigated their greenhouse gas pollution and  
22           eased the transition to a lower carbon economy; shifting to non-fossil fuel  
23           products, and researching and/or offering technologies to mitigate CO<sub>2</sub>  
24           emissions in conjunction with sale and distribution of their fossil fuel  
25           products; and pursuing other available alternatives that would have  
26           prevented or mitigated the injuries to Plaintiff caused by sea level rise that  
27           Defendants, and each of them, knew or should have foreseen would  
28           inevitably result from use of Defendants' fossil fuel products;



1 d. engaging in a campaign of disinformation regarding global warming and  
2 the climatic effects of fossil fuel products that prevented customers,  
3 consumers, regulators, and the general public from taking steps to mitigate  
4 the inevitable consequences of fossil fuel consumption, and incorporating  
5 those consequences into either short-term decisions or long-term planning.

6 244. Defendants individual and collective acts and omissions were actual, substantial  
7 causes of sea level rise and its consequences, including Plaintiff's injuries and damages set forth  
8 herein, as sea levels would not have risen to the levels that caused Plaintiff's injuries but for  
9 Defendants introduction of their fossil fuel products into the stream of commerce.

10 245. Defendants individual and collective acts and omissions were proximate causes of  
11 sea level rise and its consequences, including Plaintiff's injuries and damages set forth herein. No  
12 other act, omission, or natural phenomenon intervened in the chain of causation between  
13 Defendants' conduct and Plaintiff's injuries and damages, or superseded Defendants' breach of  
14 their duties' substantiality in causing Plaintiff's injuries and damages.

15 246. As a direct and proximate result of Defendants' and each of their acts and  
16 omissions, Plaintiff sustained injuries and damages as set forth herein.

17 247. Defendants' acts and omissions as alleged herein are indivisible causes of Plaintiff  
18 Marin County's injuries and damage as alleged herein.

19 248. Defendants' wrongful conduct was oppressive, malicious, and fraudulent, in that  
20 their conduct was willful, intentional, and in conscious disregard for the rights of others.  
21 Defendants' conduct was so vile, base, and contemptible that it would be looked down upon and  
22 despised by reasonable people, justifying an award of punitive and exemplary damages in an  
23 amount subject to proof at trial, and justifying equitable disgorgement of all profits Defendants  
24 obtained through their unlawful and outrageous conduct.

25 249. Wherefore, Plaintiff prays for relief as set forth below.  
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1 **SEVENTH CAUSE OF ACTION**

2 **(Negligence - Failure to Warn on Behalf of Marin County)**

3 **(Against All Defendants)**

4 250. Plaintiff Marin County incorporates by reference each and every allegation  
5 contained above, as though set forth herein in full.

6 251. Defendants knew or should have known, based on information passed to them from  
7 their internal research divisions and affiliates and/or from the international scientific community,  
8 of the climate effects inherently caused by the normal use and operation of their fossil fuel  
9 products, including the likelihood and likely severity of global warming, global and local sea level  
10 rise, and their associated consequences, including Plaintiff's injuries and damages described  
11 herein.

12 252. Defendants knew or should have known, based on information passed to them from  
13 their internal research divisions and affiliates and/or from the international scientific community,  
14 that the climate effects described above rendered their fossil fuel products dangerous, or likely to  
15 be dangerous, when used as intended or misused in a reasonably foreseeable manner.

16 253. Throughout the times at issue, Defendants failed to adequately warn any consumers  
17 or any other party of the climate effects that inevitably flow from the use or foreseeable misuse of  
18 their fossil fuel products.

19 254. Throughout the times at issue, Defendants individually and in concert widely  
20 disseminated marketing materials, refuted the generally accepted scientific knowledge at the time,  
21 advanced pseudo-scientific theories of their own, and developed public relations materials that  
22 prevented reasonable consumers from recognizing the risk that fossil fuel products would cause  
23 grave climate changes, undermining and rendering ineffective any warnings that Defendants may  
24 have also disseminated.

25 255. Given the grave dangers presented by the climate effects that inevitably flow from  
26 the normal use or foreseeable misuse of fossil fuel products, a reasonable extractor, manufacturer,  
27 formulator, seller, or other participant responsible for introducing fossil fuel products into the  
28 stream of commerce, would have warned of those known, inevitable climate effects.



1           264. Plaintiff Marin County has been and continues to be actually injured and continues  
2 to suffer damages as a result of Defendants and each of their having caused ocean water to enter  
3 their real property, by *inter alia* permanently submerging real property owned by Plaintiff, causing  
4 flooding which have invaded and threatens to invade real property owned by Plaintiff and rendered  
5 it unusable, and causing storm surges and heightened waves which have invaded and threatened  
6 to invade real Property owned by Plaintiff and rendered it unusable.

7           265. Defendants' and each Defendant's introduction of their fossil fuel products into the  
8 stream of commerce was a substantial factor in causing the injuries and damages to Plaintiff's  
9 public and private real property.

10           266. Defendants' acts and omissions as alleged herein are indivisible causes of Plaintiff  
11 Marin County's injuries and damage as alleged herein.

12           267. Defendants' wrongful conduct was oppressive, malicious, and fraudulent, in that  
13 their conduct was willful, intentional, and in conscious disregard for the rights of others.  
14 Defendants' conduct was so vile, base, and contemptible that it would be looked down upon and  
15 despised by reasonable people, justifying an award of punitive and exemplary damages in an  
16 amount subject to proof at trial, and justifying equitable disgorgement of all profits Defendants  
17 obtained through their unlawful and outrageous conduct.

18           268. Wherefore, Plaintiff prays for relief as set forth below.

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1 **VII. PRAYER FOR RELIEF**

- 2 1. Compensatory damages in an amount according to proof;
- 3 2. Equitable relief to abate the nuisances complained of herein;
- 4 3. Reasonable attorneys' fees pursuant to California Code of Civil Procedure 1021.5
- 5 or otherwise;
- 6 4. Punitive damages;
- 7 5. Disgorgement of profits;
- 8 6. Costs of suit; and
- 9 7. For such and other relief as the court may deem proper.

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11 Dated: July 17, 2017

**OFFICE OF THE COUNTY COUNSEL  
COUNTY OF MARIN**

12

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14 By: 

BRIAN E. WASHINGTON, County Counsel  
BRIAN C. CASE, Deputy County Counsel

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21 *Attorneys for The County of Marin, individually  
and on behalf of the People of the State of  
California*

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**VIII. JURY DEMAND**

Plaintiff Marin County demands a jury trial on all issues so triable.

Dated: July 17, 2017

**OFFICE OF THE COUNTY COUNSEL  
COUNTY OF MARIN**

By:   
BRIAN E. WASHINGTON, County Counsel  
BRIAN C. CASE, Deputy County Counsel

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