

District Court, Boulder County, Colorado  
Court Address: 1777 6<sup>th</sup> Street, Boulder, Colorado 80302

DATE FILED: April 22, 2024 12:41 PM  
FILING ID: AAEC95E61EBD4  
CASE NUMBER: 2022CV30195

**IN RE MARSHALL FIRE LITIGATION**

**▲ COURT USE ONLY ▲**

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Case No. 2022CV30195

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**This Document Relates to:**

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**AMENDED COMPLAINT**

Plaintiffs Spencer Brown, Susan Brown, Emilia Brown, S.B., Cynthia Banks, Gordon Banks, Daniel Patrick Ryan, Mark Hegge, Shontelle Hegge, Everett Hegge, Addison Hegge, Michael Klymkowsky, Joseph Reid, Cindy Stark Reid, Joanna Reid, Cathy A. Douglas, G. Bruce Douglas, Cathy A. Douglas Trust, Young Soon Durham, David Jung Durham, Kathleen H. Jones, Marty J. Reibold, Amy Barnard, Jeffrey Barnard, E.B., B.B., David Baron, Kimberly Meyer, John Robert Cary, Todd Gleeson, Carol Gleeson, Janine A. Fugere, Jessica Delaplain, Michael Delaplain, T.D., N.D., Greg Harms, Domos Consulting, LLC, Cecilia Davis, Andrew L. Schwartz, David Summers, Kathleen Summers, N.A.S., E.S., Dianna Soucie, Terry Soucie, Yun Ju Shin, Ji Hoon Lee, NextEPC Inc., S.L., S.Y.L., Ishan Ann Tsay, David Hsu, Lynn Tindall, Tina Tindall, Tindall Family Trust, Lars Kalnajs, Leah Fuchs, Aloke Guha, Gudrun Emrich, Gudrun Emrich Law Office, Argusys LLC, Timothy C. Hughes, Sara K. Hughes, Timothy C. Hughes Revocable Trust, Kayley McMahon, Patrick Christl, Michael Malec, Jennifer Zirul, Melissa A. Petty, Kevin R. Petty, Leila Petty, S.P., Petty Living Trust, John A. Ewy, Leslie R. Ewy, John F. Ewy, S.E., J. Mark Syers, Shiping Syers, Yuan Bing, Shezeen Oah, Euikyung Kim, Gunsang Oah, Seoyoung Oah, Elizabeth Shaffer, William Shaffer, Rana Gheissari, Robert Delwo, A.D., V.D., Abdelrahman Selim, Dara Kolodner, N.S., Brian Nordstrom Lane, Robyn Nordstrom Lane, J.N.L., R.N.L., The Nordstrom Lane Family Trust, Rebecca Larsen, Paul Larsen, Allison Larsen, T.L., R.L., Tucker Collins, Gina Collins, Gina Knows, LLC, K.C., S.C., Chih Hsiang Chiang, Hsiu Ying Chuang, Michael Chiang, Shung Yiu Chiang, Garrett Wilson, Tracy Wilson, G.W., Carol Giles Neslund, Richard E Neslund, Nathan Gutshall, Emily Gutshall, M.G., G.G., Wendy Paige Bohling, Wendy Bohling Properties LLC, Nicholas Kleinschmidt, Kate Kleinschmidt, A.K., T.K., Nicole Malcolmson, Andrew Malcolmson, Julia Malcolmson, Zachary Malcolmson, P.M., E.M., C.M., Ian Petersen, Jamie Petersen, Bartley Cox, LeeAnn Cox, William Cox, Laurel Cox, Cailin White, Michael White, B.W., Stephen Chan, Elizabeth Chan, C.C., D.C., Kelly Ruof, Suzanne Sawyer-Ratliff, Megan R. Williams, David T. Williams, Jeffrey Lewis McGonigle, Lisbeth Werlin, Piper McGonigle, Polly McGonigle, Daniel McConville, Nellie H. McConville, Emma K. McConville, Claire S. McConville, Daniel and Nellie H. McConville Revocable Trust, Rebecca Navarro, Jaron Navarro, Reginald DePass, Madeline Wessel, H.D., S.D., Jennifer Butler, Kaitlyn Benac, Madison Bergman, Kristine Wegen, Hason Family Trust, Alaaldin Faisal Hason, Randa Hason, (collectively, Plaintiffs) hereby bring this Complaint and Jury Demand against Defendants Xcel Energy, Inc., Public Service Company of Colorado d/b/a Xcel Energy, and Xcel Energy Services, Inc. (collectively “Xcel”) seeking recovery of damages Plaintiffs sustained as a result of the Marshall Fire.

Plaintiffs allege the following against Xcel:

## **I. INTRODUCTION**

1. On December 30, 2021, the Marshall Fire, the most destructive wildfire the State of Colorado has ever seen, began its deadly rampage through Boulder County. Words cannot adequately describe the devastation that followed. Within minutes, entire neighborhoods were incinerated. The Boulder County community—and the lives of thousands of Boulder County residents—were forever changed.

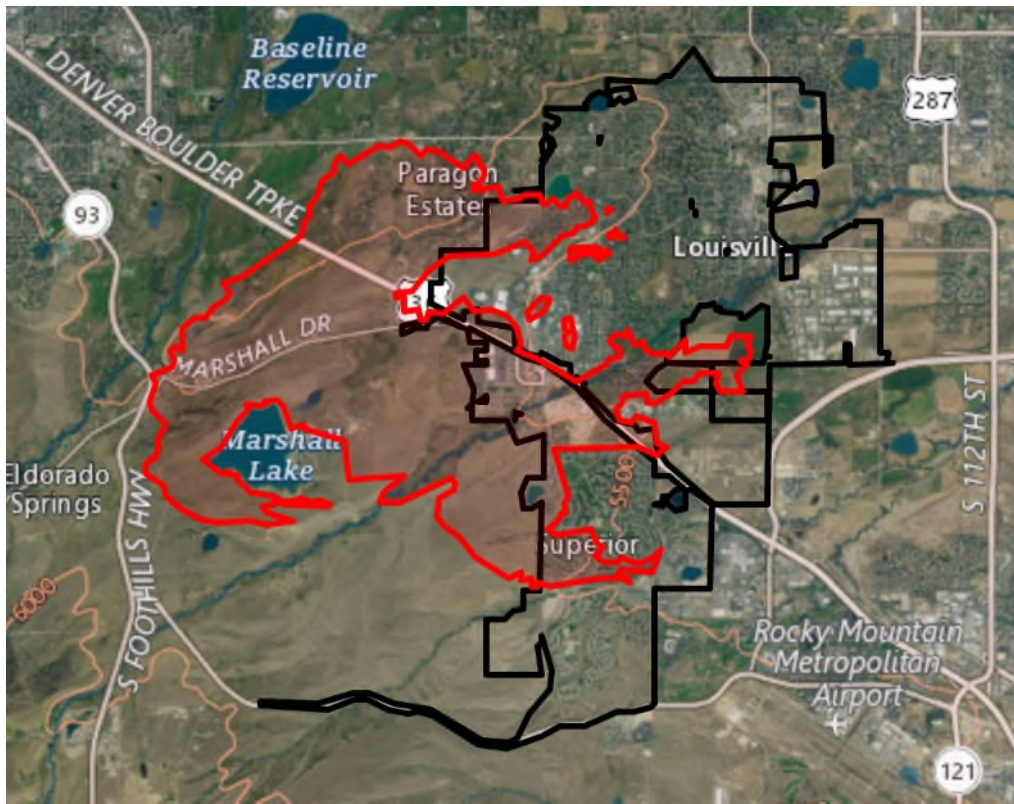


Source: Jeremy Sparig, Special to The Colorado Sun, available at <https://coloradosun.com/2023/06/08/marshall-fire-investigation-results-colorado/>.

2. The Marshall Fire left behind a swath of destruction, causing billions of dollars in damages and the loss of life. Over 6,000 acres of land were burned; more than 1,200 homes and dozens of commercial structures were damaged or destroyed.<sup>1</sup> Tragically, two people lost their lives and thousands more were evacuated and/or displaced.

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<sup>1</sup> Michael Dougherty and Curtis Johnson, *Marshall Fire Investigative Summary and Review* (June 8, 2003), <https://assets.bouldercounty.gov/wp-content/uploads/2023/06/marshall-fire-investigative-summary.pdf> [hereinafter BCSO Report].



Source: National Interagency Fire Center / By Kevin Hamm, The Denver Post, available at: <https://www.denverpost.com/2021/12/31/marshall-fire-map-perimeter-boulder-county-wildfire/>

3. Residents had little to no warning to escape the fire. Fear turned to panic as affected residents had little time to evacuate. Some residents escaped with little to nothing.<sup>2</sup> Many lost everything they owned. The fire moved so fast that over a thousand pets could not be rescued in time by their owners.<sup>3</sup> The Marshall Fire left a painful scar on Boulder County communities and families that suffered losses, devastating the towns of Superior and Louisville in particular. As one resident describes it, “Twenty-five years of our lives, just gone.”<sup>4</sup>

<sup>2</sup> David Mullen and Seth Klamann, *Timeline: As the Marshall Fire Raced, Residents Fled their Homes and Community*, Denver Gazette (Jan. 13, 2022), [https://denvergazette.com/news/wildfires/timeline-as-the-marshall-fire-raced-residents-fled-their-homes-and-community/article\\_1ad71254-6b2b-11ec-93e6-1f984ee25781.html](https://denvergazette.com/news/wildfires/timeline-as-the-marshall-fire-raced-residents-fled-their-homes-and-community/article_1ad71254-6b2b-11ec-93e6-1f984ee25781.html).

<sup>3</sup> Cole Sullivan, *Study finds more than a thousand pets died in the Marshall Fire*, 9 News (Dec. 30, 2022, 10:47pm MST), <https://www.9news.com/article/news/local/wildfire/marshall-fire/pets-died-marshall-fire/73-42642c5f-40ee-4349-bd8c-488bba1a4294>.

<sup>4</sup> Robert Sanchez, *How Do You Rebuild Your Life After Losing Everything in the Marshall Fire?*, 5280 Denver’s Mile High Magazine (July 2022), <https://www.5280.com/how-do-you-rebuild-your-life-after-losing-everything-in-the-marshall-fire/>.

4. The Boulder County Sheriff's Office led a multi-agency, 18-month intensive investigation into the origins and causes of the Marshall Fire. A summary report of that investigation was made available to the public on June 8, 2023 ("BCSO Report").

5. The BCSO's work was substantially delayed by Xcel, which repeatedly sought to obstruct the investigation. Boulder County Sheriff Curtis Johnson and District Attorney Michael Dougherty expressed concern that Xcel "worked to delay the investigation and attempted to block investigators from interviewing key employees."<sup>5</sup> Sheriff Johnson reported that Xcel was neither "forthcoming" nor "expedient" in providing information<sup>6</sup> — reportedly stalling over a year in providing certain information and seeking to block disclosure of text messages showing that the company purposefully delayed the investigation.<sup>7</sup> "Multiple sources close to the investigation say that was not Xcel's only maneuver in attempting to delay the investigation. According to sources, Xcel blocked the interviews with employees and made statements that did not tell the full story."<sup>8</sup>

6. The BCSO investigation concluded that two separate ignitions merged into a single fire. The first ignition occurred on residential property at 5325 Eldorado Springs Drive and did not involve electrical components. The second ignition ("the Xcel Ignition") occurred just south of the Marshall Mesa trailhead, which is located southeast of the intersection of Highway 93 and Eldorado Springs Drive.

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<sup>5</sup> Tony Kovalski and Joe Vaccarelli, *Top officials criticize Xcel for delaying Marshall Fire investigation*, Denver 7 (July 28, 2023, 11:18pm), <https://www.denver7.com/news/investigations/top-officials-criticize-xcel-for-delaying-marshall-fire-investigation>.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*; see also Amber Carlson, *Xcel Energy's slow response delayed Marshall fire investigation, Boulder sheriff says*, Denver Post (Aug. 7, 2023, 10:12am), <https://www.denverpost.com/2023/08/07/xcel-energy-delays-marshall-fire-investigation/>.

<sup>8</sup> Kovalski and Vaccarelli, *supra* note 5.





7. BCSO investigators and experts ultimately concluded “that the most probable cause of the [Xcel Ignition] was hot particles discharged from Xcel Energy powerlines.”<sup>9</sup>

8. Independent engineering company Jensen Hughes was retained by the District Attorney’s office to investigate the origin and cause of the Xcel Ignition as well. Jensen Hughes documented its findings in an April 7, 2023 report, later released to the public (“Jensen Hughes Report”). That report similarly concluded that the cause of the Marshall Mesa trailhead area fire was hot particles from Xcel powerlines.

9. Jensen Hughes’s investigators also determined that Xcel could have prevented this ignition: “Xcel could have increased the sensitivity of recloser 101-507 by setting the recloser to operate one time instead of 10, and set it to lockout in the event of a fault. Xcel could have also set the trip level lower to increase the recloser sensitivity to faults. The setting

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<sup>9</sup> BCSO Report, *supra* note 1.

revisions could have been changed during certain weather and fire hazard conditions. This temporary setting revision would have reduced the probability of ignition of the fire.”<sup>10</sup>

10. It would not have been the first time Xcel lines started a fire. In 2003, during a windstorm in a period of extreme dryness, an Xcel line sparked a wildfire, known as the Overland Fire, which burned at least eighteen houses and 3,500 acres in Boulder County.<sup>11</sup> Then, in 2007, five died in the Cabin Creek Fire that Xcel’s equipment started. Then, in 2020, Xcel reported that its power and transmission lines sparked 647 fires in the areas of Colorado at high risk for wildfire.<sup>12</sup> And yet, when it learned of extreme wind and dry conditions, Xcel left its systems unaltered at full power, sparking the most devastating fire in Colorado history.

11. Plaintiffs bring this action to hold Xcel accountable for the damages and harm caused by the company’s misconduct and the resulting Marshall Fire.

## **II. JURISDICTION AND VENUE**

12. This Court has jurisdiction pursuant to CRS § 13-1-124(1)(a)-(c) because Defendants transact business within this state, committed tortious acts within this state, and own, use, or possess real property in this state.

13. Venue is proper in this county pursuant to Colo. R. Civ. P. 398(a) & (c)(5) because this action affects real property located in this county and this county is the place where the tort was committed.

## **III. PARTIES**

14. Plaintiff Spencer Brown is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Spencer Brown was a resident of Boulder County, residing at 916 Arapahoe Circle, Louisville, Colorado 80027.

15. Plaintiff Susan Brown is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Susan Brown was a resident of Boulder County, residing at 916 Arapahoe Circle, Louisville, Colorado 80027.

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<sup>10</sup> Paul Way and Andrew Paris, *Marshall Mesa Trailhead Fire Investigation Report*, Jensen Hughes (Apr. 7, 2023), <https://assets.bouldercounty.gov/wp-content/uploads/2023/06/jensen-hughes-report.pdf> [hereinafter Jensen Hughes Report].

<sup>11</sup> KUSA-TV, *Xcel, Jamestown residents settle lawsuit over wildfire*, 9 News (Sept. 11, 2005, 8:50am MDT), <https://www.9news.com/article/news/local/xcel-jamestown-residents-settle-lawsuit-over-wildfire/73-344694037>.

<sup>12</sup> Christopher Osher, *Xcel Energy was spending \$597 million to mitigate fire risks prior to historic Marshall fire*, The Gazette (Jan. 2, 2022 updated Feb. 9, 2022), [https://gazette.com/news/xcel-energy-was-spending-597-million-to-mitigate-fire-risks-prior-to-historic-marshall-fire/article\\_3a8a8d86-6b69-11ec-b65c-33b265b2f57f.html](https://gazette.com/news/xcel-energy-was-spending-597-million-to-mitigate-fire-risks-prior-to-historic-marshall-fire/article_3a8a8d86-6b69-11ec-b65c-33b265b2f57f.html).

16. Plaintiff Emilia Brown is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Emilia Brown was a resident of Boulder County, residing at 916 Arapahoe Circle, Louisville, Colorado 80027.

17. Plaintiff S.B. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.B. was a resident of Boulder County, residing at 916 Arapahoe Circle, Louisville, Colorado 80027.

18. Plaintiff Cynthia Banks is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cynthia Banks was a resident of Boulder County, residing at 7469 Spring Drive, Boulder, Colorado 80303.

19. Plaintiff Gordon Banks is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Gordon Banks was a resident of Boulder County, residing at 7469 Spring Drive, Boulder, Colorado 80303.

20. Plaintiff Daniel Patrick Ryan is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Daniel Patrick Ryan was a resident of Boulder County, living at 436 Owl Drive #25, Louisville, Colorado 80027.

21. Plaintiff Mark Hegge is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mark Hegge was a resident of Boulder County, residing at 128 Skyview Court, Louisville, Colorado 80027

22. Plaintiff Shontelle Hegge is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shontelle Hegge was a resident of Boulder County, residing at 128 Skyview Court, Louisville, Colorado 80027

23. Plaintiff Everett Hegge is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Everett Hegge was a resident of Boulder County, residing at 128 Skyview Court, Louisville, Colorado 80027

24. Plaintiff Addison Hegge is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Addison Hegge was a resident of Boulder County, residing at 1137 Pleasant Street, Boulder, Colorado 80303.

25. Plaintiff Michael Klymkowsky is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael Klymkowsky owned the property at 484 Owl Drive, Louisville, Colorado 80026.

26. Plaintiff Joseph Reid is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Joseph Reid was a resident of Boulder County, residing at 897 Larkspur Court, Louisville, Colorado 80027.

27. Plaintiff Cindy Stark Reid is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cindy Stark Reid was a resident of Boulder County, residing at 897 Larkspur Court, Louisville, Colorado 80027.



28. Plaintiff Joanna Reid is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Joanna Reid was a resident of Boulder County, residing at 2258 Park Lane, Louisville, Colorado 80027 when not recuperating from medical interventions and with Joseph and Cindy at 897 Larkspur Court, Louisville, Colorado 80027 during her frequent periods of recuperation.

29. Plaintiff Cathy A. Douglas is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cathy A. Douglas was a resident of Boulder County, residing at 909 Saint Andrews Lane, Louisville, Colorado 80027.

30. Plaintiff G. Bruce Douglas is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, G. Bruce Douglas was a resident of Boulder County, residing at 909 Saint Andrews Lane, Louisville, Colorado 80027.

31. The Cathy A. Douglas Trust is a revocable living trust created on June 15, 2004. Cathy A. Douglas and G. Bruce Douglas are trustees of the Cathy A. Douglas Trust.

32. Plaintiff Young Soon Durham is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Young Soon Durham was a resident of Boulder County, residing at 908 Pikes Peak Lane, Louisville, Colorado 80027.

33. Plaintiff David Jung Durham is a natural person, and a citizen of the State of Colorado. At the time of the Marshall Fire, David Jung Durham was a resident of Boulder County, residing at 908 Pikes Peak Lane, Louisville, Colorado 80027.

34. Plaintiff Kathleen H. Jones is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kathleen H. Jones was a resident of Boulder County, residing at 1206 West Pine Court, Louisville, Colorado 80027.

35. Plaintiff Marty J. Reibold is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Marty J. Reibold was a resident of Boulder County, residing at 1206 West Pine Court, Louisville, Colorado 80027.

36. Plaintiff Amy Barnard is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Amy Barnard was a resident of Boulder County, residing at 2430 Andrew Dr., Louisville, Colorado 80027.

37. Plaintiff Jeffrey Barnard is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jeffrey Barnard was a resident of Boulder County, residing at 2430 Andrew Dr., Louisville, Colorado 80027.

38. Plaintiff E.B. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, E.B. was a resident of Boulder County, residing at 2430 Andrew Dr., Louisville, Colorado 80027.

39. Plaintiff B.B. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, B.B. was a resident of Boulder County, residing at 2430 Andrew Dr., Louisville, Colorado 80027.

40. Plaintiff David Baron is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Baron was a resident of Boulder County, residing at 835 W. Mulberry St., Louisville, Colorado 80027.

41. Plaintiff Kimberly Meyer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kimberly Meyer was a resident of Boulder County, residing at 835 W. Mulberry St., Louisville, Colorado 80027.

42. Plaintiff John Robert Cary is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, John Robert Cary was a resident of Boulder County, residing at 7332 Panorama Drive, Boulder, Colorado 80303.

43. Todd Gleeson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Todd Gleeson was a resident of Boulder County, residing at 458 Muirfield Circle, Louisville, Colorado 80027.

44. Carol Gleeson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Carol Gleeson was a resident of Boulder County, residing at 458 Muirfield Circle, Louisville, Colorado 80027.

45. Janine A. Fugere is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Janine A. Fugere was a resident of Boulder County and owned the property at 430 Owl Drive, Louisville, Colorado 80027.

46. Plaintiff Jessica Delaplain is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jessica Delaplain was a resident of Boulder County, residing at 7758 Dyer Road, Louisville, Colorado 80027.

47. Plaintiff Michael Delaplain is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael Delaplain was a resident of Boulder County, residing at 7758 Dyer Road, Louisville, Colorado 80027.

48. Plaintiff T.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, T.D. was a resident of Boulder County, residing at 7758 Dyer Road, Louisville, Colorado 80027.

49. Plaintiff N.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, N.D. was a resident of Boulder County, residing at 7758 Dyer Road, Colorado 80027.

50. Plaintiff Greg Harms is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Greg Harms was a resident of Boulder County, residing at 924 Eldorado Lane, Louisville, Colorado 80027.

51. Plaintiff Domos Consulting, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 924 Eldorado Lane, Louisville, Colorado 80027.

52. Plaintiff Cecilia Davis is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cecilia Davis was a resident of Boulder County, residing at 924 Eldorado Lane, Louisville, Colorado 80027.

53. Andrew L. Schwartz is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Andrew L. Schwartz was a resident of Boulder County, living at 432 Owl Drive, Louisville, Colorado 80027.

54. Plaintiff David Summers is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Summers was a resident of Boulder County, residing at 841 West Mulberry Street, Louisville, Colorado 80027.

55. Plaintiff Kathleen Summers is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kathleen Summers was a resident of Boulder County, residing at 841 West Mulberry Street, Louisville, Colorado 80027.

56. Plaintiff N.A.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, N.A.S. was a resident of Boulder County, residing at 841 West Mulberry Street, Louisville, Colorado 80027.

57. Plaintiff E.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, E.S. was a resident of Boulder County, residing at 841 West Mulberry Street, Louisville, Colorado 80027.

58. Plaintiff Dianna Soucie is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Dianna Soucie was a resident of Boulder County, residing at 1007 Arapahoe Circle, Louisville, Colorado 80027.

59. Plaintiff Terry Soucie is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Terry Soucie was a resident of Boulder County, residing at 1007 Arapahoe Circle, Louisville, Colorado 80027.

60. Plaintiff Yun Ju Shin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Yun Ju Shin was a resident of Boulder County, residing at 904 Pikes Peak Lane, in Louisville, Colorado 80027.

61. Plaintiff Ji Hoon Lee is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ji Hoon Lee was a resident of Boulder County, residing at 904 Pikes Peak Lane, in Louisville, Colorado 80027.

62. Plaintiff NextEPC, Inc. is a Colorado corporation with its principal place of business at the time of the Marshall Fire at 904 Pikes Peak Lane, Louisville, Colorado 80027.

63. Plaintiff S.L. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.L. was a resident of Boulder County, residing at 904 Pikes Peak Lane, in Louisville, Colorado 80027.

64. Plaintiff S.Y.L. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.Y.L. was a resident of Boulder County, residing at 904 Pikes Peak Lane, in Louisville, Colorado 80027.

65. Plaintiff Ishan Ann Tsay is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ishan Ann Tsay owned and was renting out the property at 975 Saint Andrews Lane, Louisville, Colorado 80027.

66. Plaintiff David Hsu is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Hsu owned and was renting out the property at 975 Saint Andrews Lane, Louisville, Colorado 80027.

67. Plaintiff Lynn Tindall is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lynn Tindall was a resident of Boulder County, residing at 963 Sunflower Street, Louisville, Colorado.

68. Plaintiff Tina Tindall is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Tina Tindall was a resident of Boulder County, residing at 963 Sunflower Street, Louisville, Colorado.

69. Plaintiff Tindall Family Trust is a Colorado trust with Plaintiffs Tina and Lynn Tindall as trustees, which owned the property at 963 Sunflower Street, Louisville, Colorado at the time of the Marshall Fire.

70. Plaintiff Lars Kalnajs is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lars Kalnajs was a resident of Boulder County, residing at 12 Benchmark Drive, Boulder, Colorado 80303.

71. Plaintiff Leah Fuchs is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Leah Fuchs was a resident of Boulder County, residing at 12 Benchmark Drive, Boulder, Colorado 80303.

72. Plaintiff Alope Guha is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Alope Guha was a resident of Boulder County, residing at 814 W. Mulberry Street, Louisville, Colorado 80027.

73. Plaintiff Gudrun Emrich is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Gudrun Emrich was a resident of Boulder County, residing at 814 W. Mulberry Street, Louisville, Colorado 80027.

74. Plaintiff Gudrun Emrich Law Office is a Colorado sole proprietorship with its principal places of business at 4845 Pearl E. Circle # 101, Boulder, Colorado 80301 and 814 W. Mulberry Street, Louisville, Colorado 80027.

75. Plaintiff Argusys LLC is a Colorado limited liability company with its principal place of business at 814 W. Mulberry Street, Louisville, Colorado 80027.

76. Plaintiff Timothy C. Hughes is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Timothy C. Hughes was a resident of Boulder County, residing at 1 Benchmark Drive, Boulder, Colorado 80303.

77. Plaintiff Sara K. Hughes is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sara K. Hughes was a resident of Boulder County, residing at 1 Benchmark Drive, Boulder, Colorado 80303.

78. Plaintiff Timothy C. Hughes Revocable Trust is a revocable living trust created on April 2, 2013. Timothy C. Hughes is the trustee of the Timothy C. Hughes Revocable Trust.

79. Plaintiff Kayley McMahon is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kayley McMahon was a resident of Boulder County, residing at 2472 Ajax Court, Superior, Colorado 80127.

80. Plaintiff Patrick Christl is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Patrick Christl was a resident of Boulder County, residing at 2472 Ajax Court, Superior, Colorado 80127.

81. Plaintiff Michael Malec is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael Malec resided at 805 West Mulberry Street, Louisville, Colorado 80027 and owned the property at 734 West Lois Court, Louisville, Colorado 80027.

82. Plaintiff Jennifer Zirul is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jennifer Zirul resided at 805 West Mulberry Street, Louisville, Colorado 80027 and owned the property at 734 West Lois Court, Louisville, Colorado 80027.

83. Plaintiff Melissa (“Missy”) A. Petty is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Melissa A. Petty was a resident of Boulder County, residing at 800 Pikes Peak Court, Louisville, Colorado 80027.

84. Plaintiff Kevin R. Petty is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kevin R. Petty was a resident of Boulder County, residing at 800 Pikes Peak Court, Louisville, Colorado 80027.

85. Plaintiff Leila Petty is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Leila Petty was a resident of Boulder County, residing at 800 Pikes Peak Court, Louisville, Colorado 80027.



86. Plaintiff S.P. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.P. was a resident of Boulder County, residing at 800 Pikes Peak Court, Louisville, Colorado 80027.

87. The Petty Living Trust is a revocable living trust created on June 14, 2007. Kevin R. Petty and Melissa A. Petty are settlors and initial trustees of the Petty Living Trust.

88. Plaintiff John A. Ewy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, John A. Ewy was a resident of Boulder County, residing at 1022 Willow Place, Louisville, Colorado 80027.

89. Plaintiff Leslie R. Ewy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Leslie R. Ewy was a resident of Boulder County, residing at 1022 Willow Place, Louisville, Colorado 80027.

90. Plaintiff John F. Ewy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, John F. Ewy was a resident of Boulder County, residing at 1022 Willow Place, Louisville, Colorado 80027.

91. Plaintiff S.E. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.E. was a resident of Boulder County, residing at 1022 Willow Place, Louisville, Colorado 80027.

92. Plaintiff J. Mark Syers is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, J. Mark Syers was a resident of Boulder County, residing at 462 Blackfoot Street, Superior, Colorado 80027.

93. Plaintiff Shiping Syers is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shiping Syers was a resident of Boulder County, residing at 462 Blackfoot Street, Superior, Colorado 80027.

94. Plaintiff Yuan Bing is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Yuan Bing was a resident of Boulder County, residing at 462 Blackfoot Street, Superior, Colorado 80027.

95. Plaintiff Shezeen Oah is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shezeen Oah was a resident of Boulder County, residing at 460 Muirfield Circle, Louisville, Colorado 80027.

96. Plaintiff Euikyung Kim is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Euikyung Kim was a resident of Boulder County, residing at 460 Muirfield Circle, Louisville, Colorado 80027.

97. Plaintiff Gunsang (“Johnny”) Oah is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Gunsang (“Johnny”) Oah was a resident of Boulder County, residing at 460 Muirfield Circle, Louisville, Colorado 80027.

98. Plaintiff Seoyoung (“Chantel”) Oah is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Seoyoung (“Chantel”) Oah was a resident of Boulder County, residing at 460 Muirfield Circle, Louisville, Colorado 80027.

99. Plaintiff Elizabeth Shaffer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Elizabeth Shaffer was a resident of Boulder County, residing at 927 Sunflower Street, Louisville, Colorado 80027.

100. Plaintiff William Shaffer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, William Shaffer was a resident of Boulder County, residing at 927 Sunflower Street, Louisville, Colorado 80027.

101. Plaintiff Rana Gheissari is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Rana Gheissari was a resident of Boulder County, residing at 819 W Mulberry Street, Louisville, Colorado 80027.

102. Plaintiff Robert Delwo is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Robert Delwo was a resident of Boulder County, residing at 819 W Mulberry Street, Louisville, Colorado 80027.

103. Plaintiff A.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.D. was a resident of Boulder County, residing at 819 W Mulberry Street, Louisville, Colorado 80027.

104. Plaintiff V.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, V.D. was a resident of Boulder County, residing at 819 W Mulberry Street, Louisville, Colorado 80027.

105. Plaintiff Abdelrahman Selim is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Abdelrahman Selim was a resident of Boulder County, residing at 827 W. Mulberry Street, Louisville, Colorado 80027.

106. Plaintiff Dara Kolodner is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Dara Kolodner was a resident of Boulder County, residing at 827 W. Mulberry Street, Louisville, Colorado 80027.

107. Plaintiff N.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, N.S. was a resident of Boulder County, residing at 827 W. Mulberry Street, Louisville, Colorado 80027.

108. Plaintiff Brian Nordstrom Lane is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Brian Nordstrom Lane was a resident of Boulder County, residing at 829 Mt. Evans Court, Louisville, Colorado 80027.

109. Plaintiff Robyn Nordstrom Lane is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Robyn Nordstrom Lane was a resident of Boulder County, residing at 829 Mount Evans Court, Louisville, Colorado 80027.

110. Plaintiff J.N.L. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, J.N.L. was a resident of Boulder County, residing at 829 Mount Evans Court, Louisville, Colorado 80027.

111. Plaintiff R.N.L. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, R.N.L. was a resident of Boulder County, residing at 829 Mount Evans Court, Louisville, Colorado 80027.

112. Plaintiff The Nordstrom Lane Family Trust is a revocable living trust created on June 7, 2013. Robyn Nordstrom Lane and Brian Norsdstrom Lane are trustees of The Nordstrom Lane Family Trust.

113. Plaintiff Rebecca Larsen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Rebecca Larsen was a resident of Boulder County, residing at 1028 Turnberry Circle, Louisville, Colorado 80027

114. Plaintiff Paul Larsen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Paul Larsen was a resident of Boulder County, residing at 1028 Turnberry Circle, Louisville, Colorado 80027

115. Plaintiff Allison Larsen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Allison Larsen was a resident of Boulder County, residing at 1028 Turnberry Circle, Louisville, Colorado 80027.

116. Plaintiff T.L. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, T.L. was a resident of Boulder County, residing at 1028 Turnberry Circle, Louisville, Colorado 80027.

117. Plaintiff R.L. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, R.L. was a resident of Boulder County, residing at 1028 Turnberry Circle, Louisville, Colorado 80027.

118. Plaintiff Tucker Collins is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Tucker Collins was a resident of Boulder County, residing at 1037 Turnberry Circle, Louisville, Colorado 80027.

119. Plaintiff Gina Collins is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Gina Collins was a resident of Boulder County, residing at 1037 Turnberry Circle, Louisville, Colorado 80027.

120. Plaintiff Gina Knows, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 1037 Turnberry Circle, Louisville, Colorado 80027.

121. Plaintiff K.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, K.C. was a resident of Boulder County, residing at 1037 Turnberry Circle, Louisville, Colorado 80027.

122. Plaintiff S.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.C. was a resident of Boulder County, residing at 1037 Turnberry Circle, Louisville, Colorado 80027.

123. Plaintiff Chih Hsiang Chiang is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Chih Hsiang Chiang was a resident of Boulder County, residing at 1003 Honeysuckle Lane, Louisville, Colorado 80027.

124. Plaintiff Hsiu Ying Chuang is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Hsiu Ying Chuang was a resident of Boulder County, residing at 1003 Honeysuckle Lane, Louisville, Colorado 80027.

125. Plaintiff Michael Chiang is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael Chiang was a resident of Denver County, residing at 2550 Lawrence Street, Unit B205, Denver Colorado 80205.

126. Plaintiff Shung Yiu Chiang is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shung Yiu Chiang was a resident of Boulder County, residing at 1003 Honeysuckle Lane, Louisville, Colorado 80027.

127. Plaintiff Garrett Wilson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Garrett Wilson was a resident of Boulder County, residing at 935 Eldorado Lane, Louisville, Colorado 80027.

128. Plaintiff Tracy Wilson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Tracy Wilson was a resident of Boulder County, residing at 935 Eldorado Lane, Louisville, Colorado 80027.

129. Plaintiff G.W. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, G.W. was a resident of Boulder County, residing at 935 Eldorado Lane, Louisville, Colorado 80027.

130. Plaintiff Carol Giles Neslund is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Carol Giles Neslund was a resident of Boulder County, residing at 1224 W. Pine Court, Louisville, Colorado 80027.

131. Plaintiff Richard E Neslund is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Richard E Neslund was a resident of Boulder County, residing at 1224 W. Pine Court, Louisville, Colorado 80027.

132. Plaintiff Nathan Gutshall is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nathan Gutshall was a resident of Boulder County, residing at 1137 Hillside Court, Louisville, Colorado 80027.

133. Plaintiff Emily Gutshall is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Emily Gutshall was a resident of Boulder County, residing at 1137 Hillside Court, Louisville, Colorado 80027.

134. Plaintiff M.G. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, M.G. was a resident of Boulder County, residing at 1137 Hillside Court, Louisville, Colorado 80027.

135. Plaintiff G.G. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, G.G. was a resident of Boulder County, residing at 1137 Hillside Court, Louisville, Colorado 80027.

136. Wendy Paige Bohling is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Wendy Paige Bohling was a resident of Boulder County, living at 624 Ridgeview Drive, Louisville, Colorado 80027, and the owner of the following additional properties in Boulder County: 304 Owl Drive, 396 Owl Drive, and 687 Ridgeview Drive, all in Louisville, Colorado 80027.

137. Plaintiff Wendy Bohling Properties, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 624 Ridgeview Drive, Louisville, Colorado 80027.

138. Plaintiff Nicholas (“Nick”) Kleinschmidt is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nick Kleinschmidt was a resident of Boulder County, residing at 500 Muirfield Circle, Louisville, Colorado 80027.

139. Plaintiff Kate Kleinschmidt is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kate Kleinschmidt was a resident of Boulder County, residing at 500 Muirfield Circle, Louisville, Colorado 80027.

140. Plaintiff A.K. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.K. was a resident of Boulder County, residing at 500 Muirfield Circle, Louisville, Colorado 80027.

141. Plaintiff T.K. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, T.K. was a resident of Boulder County, residing at 500 Muirfield Circle, Louisville, Colorado 80027.

142. Plaintiff Nicole Malcolmson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nicole Malcolmson was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.

143. Plaintiff Andrew Malcolmson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Andrew Malcolmson was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.

144. Plaintiff Julia Malcolmson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Julia Malcolmson was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.



145. Plaintiff Zachary Malcolmson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Zachary Malcolmson was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.

146. Plaintiff P.M. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, P.M. was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.

147. Plaintiff E.M. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, E.M. was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.

148. Plaintiff C.M. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, C.M. was a resident of Boulder County, residing at 1202 West Pine Court, Louisville, Colorado 80027.

149. Plaintiff Ian Petersen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ian Petersen was a resident of Boulder County, residing at 920 Eldorado Lane, Louisville, Colorado 80027.

150. Plaintiff Jamie Petersen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jamie Petersen was a resident of Boulder County, residing at 920 Eldorado Lane, Louisville, Colorado 80027.

151. Plaintiff Bartley Cox is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Bartley Cox was a resident of Boulder County, residing at 958 Saint Andrews Lane, Louisville, Colorado 80027.

152. Plaintiff LeeAnn Cox is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, LeeAnn Cox was a resident of Boulder County, residing at 958 Saint Andrews Lane, Louisville, Colorado 80027.

153. Plaintiff William Cox is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, William Cox was a resident of Denver County, residing at 2555 17th Street, Apartment 202, Denver, Colorado 80211.

154. Plaintiff Laurel Cox is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Laurel Cox was a resident of Boulder County, residing at 958 Saint Andrews Lane, Louisville, Colorado 80027.

155. Plaintiff Cailin White is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cailin White resided at 106 Vista Lane, Louisville, Colorado 80027.

156. Plaintiff Michael White is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael White resided at 106 Vista Lane, Louisville, Colorado 80027.

157. Plaintiff B.W. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, B.W. resided at 106 Vista Lane, Louisville, Colorado 80027.

158. Plaintiff Stephen Chan is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Stephen Chan was a resident of Boulder County, residing at 1121 Hillside Lane, Louisville, Colorado 80027.

159. Plaintiff Elizabeth Chan is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Elizabeth Chan was a resident of Boulder County, residing at 1121 Hillside Lane, Louisville, Colorado 80027.

160. Plaintiff C.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, C.C. was a resident of Boulder County, residing at 1121 Hillside Lane, Louisville, Colorado 80027.

161. Plaintiff D.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, D.C. was a resident of Boulder County, residing at 1121 Hillside Lane, Louisville, Colorado 80027.

162. Plaintiff Kelly Ruof is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kelly Ruof was a resident of Boulder County, residing at 304 Cherokee Avenue, Superior, Colorado 80027.

163. Plaintiff Suzanne Sawyer-Ratliff is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Suzanne Sawyer-Ratliff was a resident of Boulder County, residing at 405 South Third Avenue, Superior, Colorado 80027.

164. Plaintiff Megan R. Williams is a natural person and a citizen of the State of New York. At the time of the Marshall Fire, Megan R. Williams was a resident of Manhattan County, residing at 107 Thompson Street No. 5C, New York, New York 10012.

165. Plaintiff David T. Williams is a natural person and a citizen of the State of California. At the time of the Marshall Fire, David T. Williams was a resident of Maui County, residing at 527 Hana Highway, Paia, Maui, Hawaii 96779.

166. Plaintiff Jeffrey (“Jeff”) Lewis McGonigle is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jeff McGonigle was a resident of Boulder County, residing at 970 Arapahoe Circle, Louisville, Colorado 80027.

167. Plaintiff Lisbeth (“Lis”) Werlin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lis Werlin was a resident of Boulder County, residing at 970 Arapahoe Circle, Louisville, Colorado 80027.

168. Plaintiff Piper McGonigle is a natural person and a citizen of the State of Pennsylvania. At the time of the Marshall Fire, Piper McGonigle was a resident of Allegheny County, residing at 618 West Street, Pittsburgh, Pennsylvania 15221.

169. Plaintiff Polly McGonigle is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Polly McGonigle was a resident of Denver County, residing at 818 N. Logan Street, Unit 706, Denver, Colorado 80203.

170. Plaintiff Daniel McConville is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Daniel McConville was a resident of Boulder County, residing at 1000 Turnberry Circle, Louisville, Colorado 80027.

171. Plaintiff Nellie H. McConville is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nellie H. McConville was a resident of Boulder County, residing at 1000 Turnberry Circle, Louisville, Colorado 80027.

172. Plaintiff Emma K. McConville is a natural person and a citizen of the State of Minnesota. At the time of the Marshall Fire, Emma K. McConville was a resident of Douglas County, Nebraska, residing at 2211 S. 64th Plaza, Apt 311, Omaha, Nebraska 68106.

173. Plaintiff Claire S. McConville is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Claire S. McConville was a resident of Douglas County, Nebraska, residing at 2929 California Plaza, Apt 6307, Omaha, Nebraska 68131.

174. Plaintiff Daniel and Nellie H. McConville Revocable Trust is a revocable living trust created on December 30, 2010, and subsequently amended. Daniel McConville and Nellie H. McConville are the trustees of the Daniel and Nellie H. McConville Revocable Trust. The property located at 1000 Turnberry Circle, Louisville, Colorado 80027, destroyed in the Marshall Fire, is owned by the Daniel and Nellie H. McConville Revocable Trust.

175. Plaintiff Rebecca Navarro is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Rebecca Navarro was a resident of Boulder County, residing at 1125 Hillside Lane, Louisville, Colorado 80027.

176. Plaintiff Jaron Navarro is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jaron Navarro was a resident of Boulder County, residing at 1125 Hillside Lane, Louisville, Colorado 80027.

177. Plaintiff Reginald DePass is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Reginald DePass was a resident of Boulder County, residing at 1029 Willow Place, Louisville, Colorado 80027.

178. Plaintiff Madeline Wessel is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Madeline Wessel was a resident of Boulder County, residing at 1029 Willow Place, Louisville, Colorado 80027.

179. Plaintiff H.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, H.D. was a resident of Boulder County, residing at 1029 Willow Place, Louisville, Colorado 80027.

180. Plaintiff S.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, S.D. was a resident of Boulder County, residing at 1029 Willow Place, Louisville, Colorado 80027.

181. Plaintiff Jennifer Butler is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jennifer Butler was a resident of Boulder County, residing at 923 St. Andrews Lane, Louisville, Colorado 80027.

182. Plaintiff Kaitlyn (“Kaity”) Benac is a natural person and a citizen of the State of California. At the time of the Marshall Fire, Kaity Benac was a resident of San Francisco County, residing at 429 Spruce Street, San Francisco, California 94118.

183. Plaintiff Madison Bergman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Madison Bergman was a resident of Weld County, residing at 6157 Taylor Street, Frederick, Colorado 80530.

184. Plaintiff Kristine (“Krissy”) Wegen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kristine Wegen was a resident of Adams County, residing at 6250 Promenade Drive North, Westminster, Colorado 80020.

185. Plaintiff Hason Family Trust is a revocable living trust created on August 23, 2010. Alaaldin Faisal Hason and Randa Hason are trustees of the Hason Family Trust. The property located at 968 St. Andrews Lane, Louisville, Colorado 80027, destroyed in the Marshall Fire, is owned by the Hason Family Trust.

186. Alaaldin Faisal Hason is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Alaaldin Faisal Hason was a resident of Boulder County, residing at 2855 Rock Creek Circle #263, Superior, Colorado 80027.

187. Plaintiff Randa Hason is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Randa Hason was a resident of Boulder County, residing at 2855 Rock Creek Circle #263, Superior, Colorado 80027.

188. Defendant Xcel Energy, Inc. (“Xcel Energy”) is a major electric and natural gas delivery company operating in eight states, including Colorado.<sup>13</sup> Xcel Energy is a Minnesota corporation with its principal place of business at 414 Nicollet Mall, Minneapolis, Minnesota.

189. Defendant Xcel Energy Services, Inc. (“XES”) is a subsidiary of Xcel Energy. XES is a Delaware corporation with its principal place of business at 414 Nicollet Mall, 401-9, Minneapolis, MN 55401, a business office at 1123 West 3rd Avenue, Denver, CO 80223, a business office at 1800 Larimer Street, Denver, CO 80202, and a registered agent at 1900 W

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<sup>13</sup> Xcel Energy Annual Report (Form 10-K) for the fiscal year ended December 31, 2022, available at <https://www.sec.gov/Archives/edgar/data/72903/000007290323000007/xel-20221231.htm>.

Littleton Blvd, Littleton, CO 80120. XES provides an array of support services, including wildfire mitigation planning, to Public Service Company of Colorado and other utility operating company subsidiaries of Xcel Energy on a coordinated basis.

190. Defendant Public Service Company of Colorado (“PSCo”) is a subsidiary of Xcel Energy. PSCo is a Colorado corporation with its principal place of business at 1800 Larimer Street, Suite 1100, Denver, Colorado. (Defendants Xcel Energy, XES, and PSCo are herein collectively referred to as “Xcel.”)

191. Defendants Does 1-10 are persons, officers, employees, agents, servants, corporations, or associates of Xcel Energy and PSCo whose true identities are currently unknown to Plaintiffs. On information and belief, Does 1-10 may be responsible, in whole or in part, for Plaintiffs’ damages and the tortious conduct alleged herein.

#### **IV. FACTUAL ALLEGATIONS**

##### **A. Xcel was aware of the risk of catastrophic fires, particularly in the Front Range.**

192. Xcel Energy is “a major U.S. regulated electric and natural gas delivery company,” operating the fourth largest transmission system in the United States. Xcel serves 3.8 million electricity customers in Colorado, New Mexico, Texas, Michigan, Wisconsin, Minnesota, and the Dakotas.<sup>14</sup> Xcel Energy also serves 2.1 million natural gas customers, among other operations in the energy field.

193. Xcel owns, builds, operates, and maintains power lines and other electrical equipment and infrastructure to transmit and sell electricity in Colorado, including in and around the Xcel Ignition Point of the Marshall Fire.

194. Xcel trades on the NASDAQ stock exchange as XEL. As of December 2022, Xcel’s assets exceeded \$61 billion.<sup>15</sup>

195. Electrical power infrastructure includes transmission lines, which transport electricity at high voltages across long distances, and distribution lines, which deliver electricity to neighborhoods and communities over a shorter distance. Xcel has more than 100,000 miles of electrical transmission lines and 200,000 miles of distribution lines.<sup>16</sup>

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<sup>14</sup> *Id.* at 4; *see also About Us, Corporate Governance*, Xcel Energy <https://co.my.xcelenergy.com/s/about/corporate-governance> (last visited Nov. 8, 2023).

<sup>15</sup> Xcel Energy Annual Report (Form 10-K) *supra* note 13 at 5.

<sup>16</sup> *Id.*



196. Xcel Energy, which does business in Colorado through its subsidiary PSCo, has 4,615 miles of transmission lines in Colorado, and a service area of more than 8,200 square miles.<sup>17</sup>

197. The State of Colorado has vested Xcel with the power of eminent domain pursuant to C.R.S.A. § 38-5-105, allowing it to take private property for public use as part of its operations as a public utility company.

198. Xcel assures its customers that its transmission lines are safe. On its website, Xcel states, “Every effort is made to ensure safety in construction, operation and maintenance of transmission lines. Lines and line infrastructure are designed to withstand extreme weather conditions. Protective devices at line terminals stop the electricity flow under any abnormal operating circumstances. Utility practices meet or exceed standards set by national electric safety codes as well as those adopted by local governments.”<sup>18</sup>

199. Transmitting and distributing electricity carry inherent danger. Electrical infrastructure also poses significant dangers, particularly the threat of wildfire. Large, utility-caused fires are an increasingly common event in the American West. The 2017 Thomas Fire and the 2018 Camp Fire in California, and the 2020 Labor Day Fires in Oregon were all deadly, devastating, and caused by power lines.

200. Before the Marshall Fire, Xcel was well aware of the year-round wildfire risk created by its activities. In 2019, Xcel submitted its Wildfire Mitigation Plan to Colorado regulators. In the program overview on its website, Xcel acknowledges the significant risk of wildfires:<sup>19</sup>

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<sup>17</sup> *About Transmission*, Xcel Energy (Jan. 24, 2019), [https://www.transmission.xcelenergy.com/staticfiles/microsites/Transmission/Files/PDF/Resources/xcel\\_transmissionfactsheet.pdf](https://www.transmission.xcelenergy.com/staticfiles/microsites/Transmission/Files/PDF/Resources/xcel_transmissionfactsheet.pdf).

<sup>18</sup> *Transmission FAQ*, Xcel Energy, <https://www.transmission.xcelenergy.com/About/FAQ> (last visited Nov. 8, 2023).

<sup>19</sup> *Wildfire Mitigation Program*, Xcel Energy, [https://www.xcelenergy.com/company/rates\\_and\\_regulations/filings/wildfire\\_mitigation\\_program](https://www.xcelenergy.com/company/rates_and_regulations/filings/wildfire_mitigation_program) (last visited Nov. 8, 2023); *Program Overview*, Xcel Energy, <https://www.xcelenergywildfiremitigation.com/program-overview/> (last visited Nov. 8, 2023).

# Wildfire Mitigation Program

At Xcel Energy, we recognize that wildfires pose a significant year-round threat to our customers, communities and our state as a whole – and we’re proactively implementing programs to improve safety and minimize ignition risks associated with operating our system.

As part of our commitment to safety, our comprehensive Wildfire Mitigation Program was designed to help protect lives, homes and property in Colorado. Our portfolio of programs ensures we continue to construct, maintain and operate the electric grid in a manner that reduces wildfire risk. To learn more about these programs, visit [XcelEnergyWildfireMitigation.com](https://www.xcelenergy.com/outreach/pages/wildfire-mitigation) (external link).

201. Leading up to the Marshall Fire, XES employees direct Defendants’ wildfire mitigation work from XES offices in Denver. For example, in July 2020, Sandra Johnson, testified on behalf of Defendants as their Wildfire Mitigation Project Director. Johnson’s business office is in Denver. She testified that as Wildfire Mitigation Project Director, she was responsible for “all aspects of Public Service’s Wildfire Mitigation Program and Wildfire Mitigation Plan (“WMP” or “Plan”) development, capital and expense management, and execution.” Similarly, Denver-based Steven Rohlwing, Manager of Asset Risk Management at XES, is responsible for PSCo’s evaluation of wildfire risk and its wildfire risk modeling for its WMP.

202. In that 2020 WMP, PSCo explained that “recent increases in the occurrence of severe weather events has impacted both the frequency and intensity of wildfires in Colorado,” which has “changed the risk profiles that wildfires present to utilities,” noting devastating utility-caused wildfires in California.

203. The WMP explains that Xcel designated certain areas as “Wildfire Risk Zone” (“WRZ”) based on data from the Colorado State Forest Service’s Colorado Wildfire Risk Assessment Plan (“CO-WRAP”), and it said the company was focusing “virtually all” of its Wildfire Mitigation Program efforts in the WRZ.

204. PSCo filed a verified application for approval of its proposed WMP and Wildfire Protection Rider (“the Rider”) with the Public Utilities Commission (“PUC”) of Colorado. Through the Rider, Defendants sought to recover costs related to wildfire mitigation, charging customers through the end of 2025 based on the amount of electricity used.<sup>20</sup>

205. In the application process, several Colorado-based XES and PSCo executives, including Johnson and Rohlwing, testified to the PUC. In addition, Brooke

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<sup>20</sup> Lucy Haggard, *Xcel Energy looks to avoid Colorado wildfires — and PG&E’s fate — and wants customers to pay for it*, The Colorado Sun (Jan. 20, 2021, 3:43am MST), <https://coloradosun.com/2021/01/20/xcel-energy-wildfire-protection-rider-pge/>.

Trammell, a Denver-based Regional Vice President of Rates and Regulatory Affairs at XES, testified that one of the factors that weighed in favor of approving the WMP was the “potential for catastrophic risk, including loss of life, serious property damage, and environmental harm associated with wildfire.”

206. Trammell continued: “... one only needs to look to the recent tragedies in California to understand the severity in risk... increased risk of wildfires is present in [PSCo’s] service territory and there is increased risk that potential fires could lead to catastrophic levels of damage.”<sup>21</sup>

207. Xcel knew that wildfires could cause catastrophic levels of damage—and that these risks were increasing. Like Trammell, Rohlwing noted that the risk of wildfires in developed areas where population density is higher include “direct impacts to human safety, fire damage to building structures and personal property[.]”<sup>22</sup>

208. Xcel knew that risk was specific to the Front Range: “[s]ome of the direct and immediate impacts [of wildfires in PSCo’s Front Range service area] may include loss of human life, loss of wildlife and protected species, property damage, loss of habitat, and the potential for significant infrastructure damage, such as reservoirs and watershed areas, pipelines, electric lines, and other facilities.”<sup>23</sup>

209. But that’s not all. Rohlwing explained that “the full social and economic costs of a wildfire are extensive and generally more difficult to estimate than the direct costs incurred during the suppression of a wildfire as they can have long-lasting impacts on a given area or region.”<sup>24</sup>

210. Xcel knew that in its service area, Boulder County was a particularly high risk of catastrophic damage related to wildfires. When asked which counties in Colorado have the highest percentage of housing units in high risk wildfire areas, Rohlwing identified Boulder County: “The counties in Colorado within the top five in terms of either the largest number or

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<sup>21</sup> Direct Testimony and Attachments of Brooke A. Trammell, *In the Matter of the Application of Public Service Company of Colorado for Approval of Wildfire Mitigation Plan and Wildfire Protection Rider*, Proceeding No. 20A-XXXXE (PUC Colorado, July 17, 2020), Hearing Exhibit 101, 49:6-14, [https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing Exhibit 101- Direct Testimony-Trammell.pdf](https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing%20Exhibit%20101-Direct%20Testimony-Trammell.pdf).

<sup>22</sup> Direct Testimony and Attachments of Steven D. Rohlwing, *In the Matter of the Application of Public Service Company of Colorado for Approval of Wildfire Mitigation Plan and Wildfire Protection Rider*, Proceeding No. 20A-XXXXE (PUC Colorado, July 17, 2020), Hearing Exhibit 104, 9:18-20, [https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing Exhibit 104- Direct Testimony Rohlwing.pdf](https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing%20Exhibit%20104-Direct%20Testimony-Rohlwing.pdf).

<sup>23</sup> *Id.* 10:5-8.

<sup>24</sup> *Id.* 10:13-16.

highest concentration of housing units in the ‘high to extreme’ wildfire risk category are **Jefferson, Larimer, Boulder, El Paso, Summit, Gilpin, Clear Creek**, San Miguel, Hinsdale, and San Juan Counties. Seven [sic] of these counties (in bold above) compromise areas within Public Service’s service territory, and are either fully or partially located within the [WRZ]... representing a significant proportion of electric distribution and transmission assets serving these areas.”<sup>25</sup>

211. Despite Xcel’s knowledge of the catastrophic levels of damage for which Boulder County was at high to extreme risk, Xcel in 2021 did not even spend all the money it had budgeted for wildfire mitigation in Boulder County.<sup>26</sup>

**Table 6 – 2021 Actual and Budgeted Investment by County**

<b>2021 Actual Investment Compared to Budget by County (\$ Million)</b>			
<b>County</b>	<b>Actuals</b>	<b>Budget</b>	<b>Variance \$</b>
Adams	\$0.144	\$0.000	\$0.144
Alamosa	\$20.771	\$16.220	\$4.551
Arapahoe	\$2.036	\$0.250	\$1.786
<b>Boulder</b>	<b>\$11.136</b>	<b>\$15.330</b>	<b>(\$4.194)</b>
Broomfield	\$0.002	\$0.000	\$0.002
Chaffee	\$0.826	\$1.890	<b>(\$1.064)</b>

212. Statewide, PSCo spent over \$20 million less on wildfire mitigation work than it had budgeted in 2021 on distribution lines.<sup>27</sup>

<sup>25</sup> *Id.* 18:3-10

<sup>26</sup> *Wildfire Mitigation Plan 2021 Annual Report*, Xcel Energy (May 20, 2022), [https://www.xcelenergy.com/staticfiles/xcel-responsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/2021%20Wildfire%20Annual%20Report.pdf](https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/2021%20Wildfire%20Annual%20Report.pdf).

<sup>27</sup> *Id.*

**Table 4 – 2021 Actual and Budgeted Investment**

2021 Actual Compared to Budget Investment (\$ million)								
Business Unit	Actuals		Budget		Variance \$		Variance %	
	O&M	Capital Expenditures	O&M	Capital Expenditures	O&M	Capital Expenditures	O&M	Capital Expenditures
Distribution	\$4.424	\$67.354	\$6.606	\$87.539	(\$2.182)	(\$20.185)	33%	23%
Transmission	\$0.964	\$34.571	\$0.919	\$28.900	\$0.045	\$5.671	5%	20%
<b>Total</b>	<b>\$5.388</b>	<b>\$101.925</b>	<b>\$7.525</b>	<b>\$116.439</b>	<b>\$0.123</b>	<b>(\$14.339)</b>	<b>28%</b>	<b>12%</b>

213. The risk associated with electrical infrastructure is recognized nationally. The Institute of Electrical and Electronics Engineers (“IEEE”) publishes the National Electrical Safety Code (“NESC”), which Colorado has adopted.<sup>28</sup> The NESC covers work rules for the construction, maintenance, and operation of electric supply lines and equipment, as well as basic provisions for safeguarding people from hazards related to the installation, operation, or maintenance of electric supply lines station equipment.<sup>29</sup>

214. The NESC outlines the proper procedure for maintaining and operating safe electric supply lines and equipment, which Xcel failed to do. Xcel’s failure to properly maintain and operate safe electric supply lines and equipment led to the ignition of the Marshall Fire.

**B. Xcel had notice of the high wind event and fire danger in December 2021.**

215. Strong winds are commonplace in Colorado, especially on the Front Range in winter. As the National Weather Service explains, “The two main causes of high winds in Colorado during the cold season are the air pressure difference between strong low pressure and cold high-pressure systems, and Chinook winds developing across the Front Range and other mountain ranges.”<sup>30</sup> The National Weather Service also notes that “The areas around Boulder...are especially prone to the extreme wind episodes.”<sup>31</sup>

216. Mountain waves, which cause persistent and extremely high winds, are a common phenomenon in Boulder County. Mountain waves are “stationary or standing

<sup>28</sup> Department of Regulatory Agencies, Public Utilities Commission, Rules Regulating Electric Utilities, 4 CCR 723-3, [https://drive.google.com/file/d/0B8qvU2knU8BkcEJneE93YkNRQmM/view?resourcekey=0-XGWvr\\_3zVqbuKs9g1SpG1Q](https://drive.google.com/file/d/0B8qvU2knU8BkcEJneE93YkNRQmM/view?resourcekey=0-XGWvr_3zVqbuKs9g1SpG1Q) (last visited Nov. 8, 2023).

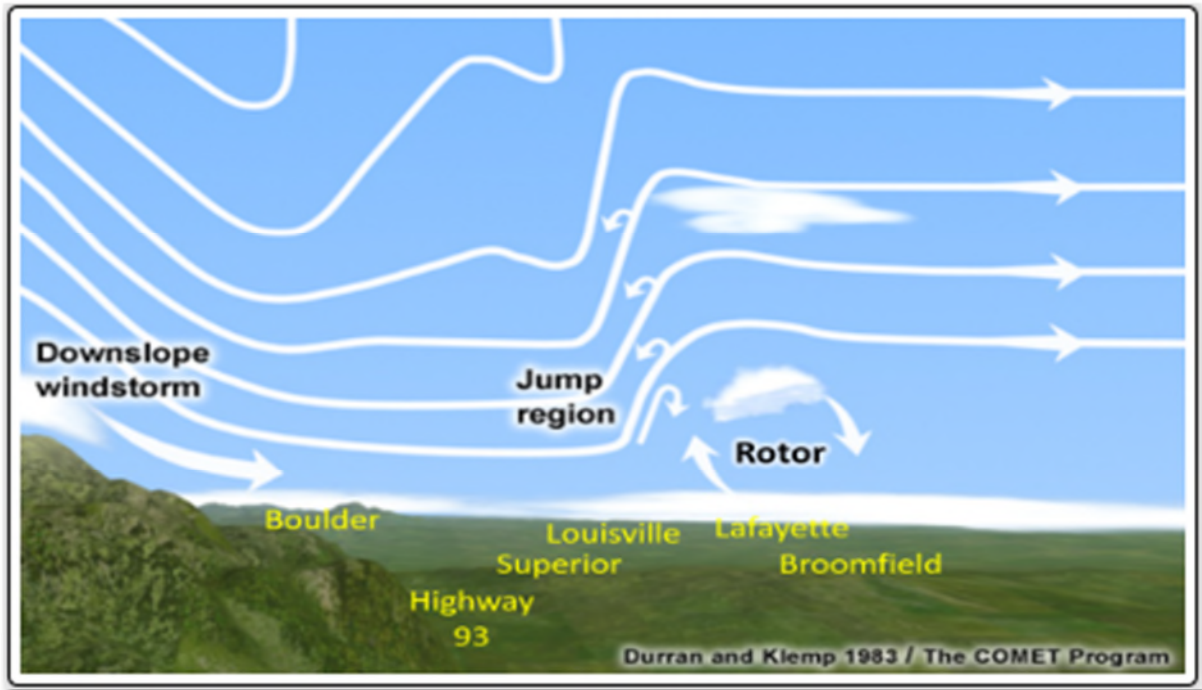
<sup>29</sup> C2-2012 – National Electric Safety Code(R) (NESC(R)), IEEE Xplore (Aug. 1, 2011), <https://ieeexplore.ieee.org/document/5967877>.

<sup>30</sup> High Wind Safety, Denver/Boulder, CO, Nat’l Weather Serv., <https://www.weather.gov/bou/highwind#:~:text=The%20two%20main%20causes%20of,Range%20and%20other%20mountain%20ranges> (last visited Nov. 8, 2023).

<sup>31</sup> *Id.*



atmospheric waves which form above or on the lee of mountain barriers.”<sup>32</sup> Strong westerly winds accelerate down the mountain to the foothills, until they suddenly weaken in what is known as the jump region. Winds are strongest where the terrain transitions, or where foothills meet the plains, as they do in Boulder County.<sup>33</sup>



217. On December 30, 2021, a mountain wave developed in Boulder County. This caused sustained high winds of 50 to 60 miles per hour with gusts of 80 to 100 miles per hour along Highway 93, Superior, and Louisville.<sup>34</sup> While extreme, this was not anomalous – winds exceed 80 miles per hour most years in Boulder.<sup>35</sup> The wind accelerated through Superior and Louisville before weakening in the jump region before Broomfield and Lafayette.

218. These winds presented clear fire danger, especially when combined with the fuel-rich environment that resulted from 2021’s climate and weather conditions. The first five

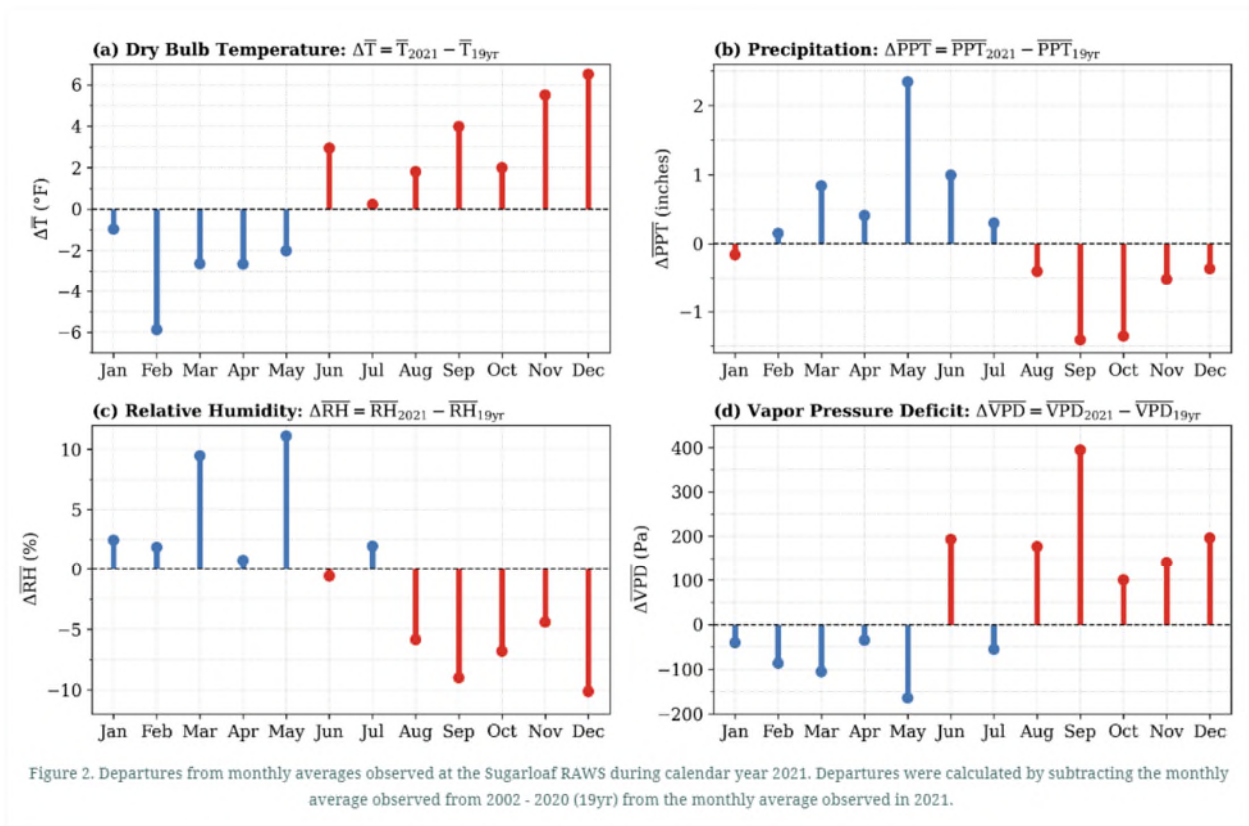
<sup>32</sup> Alberta Viera, *Mountain Wave Activity Over the Southern Rockies*, Albuquerque Center Weather Service Unit (Apr. 2005), <https://www.weather.gov/media/abq/LocalStudies/MountainWavesUpdate.pdf>.

<sup>33</sup> *Marshall Fire and High Wind on December 30 2021*, Nat’l Weather Serv., <https://www.weather.gov/bou/MarshallFire20211230> (last visited Nov. 8, 2023).

<sup>34</sup> *Id.*

<sup>35</sup> *Boulder Wind Info*, NOAA Physical Sciences Laboratory, <https://psl.noaa.gov/boulder/wind.html> (last visited Nov. 8, 2023); *see also*, BCSO Report, *supra* note 1.

months of 2021 were cooler and wetter than average, while the second half of the year was significantly hotter and drier than average.<sup>36</sup>



219. The cooler, wetter growing season had led to abundant vegetation and substantial grass growth in the first half of the year. But when the temperature rose and the humidity dropped in the second half of the year, that abundant vegetation dried out.

220. Wildland grasses that are susceptible to ignition posed a particular threat on Marshall Mesa. Flanked by Highway 93 to the west and the towns of Superior and Louisville to the east, Marshall Mesa is a popular recreational land that “preserves a rare remnant of dry tall-grass prairie.”<sup>37</sup> The vegetation in the area was a mix of two ecosystems, Western Great Plains Foothills and Piedmont Grassland and Southern Rocky Mountain Ponderosa Pine Woodland and Savanna.<sup>38</sup>

<sup>36</sup> *Marshall Fire, Facilitated Learning Analysis*, <https://storymaps.arcgis.com/stories/83af63bd549b4b8ea7d42661531de512> (last visited Nov. 8, 2023).

<sup>37</sup> *Marshall Mesa Loop*, Visit Boulder, <https://www.bouldercoloradousa.com/listings/marshall-mesa-loop/2525/> (last visited Nov. 8, 2023).

<sup>38</sup> Jensen Hughes Report, *supra* note 10.

221. The vapor pressure deficit, which measures the difference between the potential moisture-holding capacity of the air and the amount of moisture in the air, indicated that the moisture was depleted from vegetation at the end of 2021, and it had been for months. In other words, in December 2021, “wildland grasses were tall, dry, and susceptible to ignition.”<sup>39</sup>

222. Furthermore, the Colorado State Forest Service – whose data Defendants used to determine their own WRZ<sup>40</sup> – has a Wildfire Risk Public Viewer, and the United States Forest Service has a Wildfire Risk to Communities portal. Both calculate risk of wildfire, and prior to the Marshall Fire, both identified the area of the Marshall Fire as being high or highest risk.

223. Marshall Mesa was a high or highest fire risk area of wildland grasses “susceptible to ignition” and easterly winds, with the towns of Louisville and Superior on its western edge.

224. Around 3 a.m. on December 30, the National Weather Service in Boulder extended a warning of high wind that had been in effect in mountain locations to the Denver metro area, and it discussed the danger of the rapid spread of a possible fire. Boulder County also issued a high wind warning, warned against burning, and cautioned that power lines would be blown over.<sup>41</sup>

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<sup>39</sup> BCSO Report, *supra* note 1.

<sup>40</sup> 2020 *Wildfire Mitigation Plan* at 6, Xcel Energy, [https://www.xcelenergywildfiremitigation.com/wp-content/uploads/2021/05/PSCo\\_2020-Wildfire-Mitigation-Plan\\_Rev-1-.pdf](https://www.xcelenergywildfiremitigation.com/wp-content/uploads/2021/05/PSCo_2020-Wildfire-Mitigation-Plan_Rev-1-.pdf) (last visited Nov. 8, 2023) [hereinafter 2020 WMP].

<sup>41</sup> @BldrCOSheriff, X (formerly Twitter) (Dec. 30, 2021, 6:03am), <https://twitter.com/BldrCOSheriff/status/1476554585116270595>.





225. Monitoring the weather is part of Xcel’s Wildfire Mitigation Plan. Xcel’s WMP explains: “Company meteorologists monitor and compile relevant weather information such as Red Flag Warning days and High Fire Risk information gathered from various public sources, such as the National Weather Service. The information is gathered for the entire state of Colorado but is displayed to highlight the Company’s service territory. The Company also uses Indji Watch, which is a tool that provides information on environmental threats like active fires that the Company monitors for proximity to Company assets. That information is used to adjust operations protocols and field crew work practices to ensure employee safety.”

226. Defendants knew that simply monitoring and compiling weather information from public sources might not be enough. As Sandra Johnson, Xcel Energy Services Inc.’s Wildfire Mitigation Project Director, testified to the PUC in July 2020, “The Wildfire Mitigation Team will continue to evaluate the addition of situational awareness tools, such as incorporating a select few optimally-placed [sic] weather stations to provide current, location-specific weather data.”<sup>42</sup>

<sup>42</sup> Direct Testimony and Attachments of Sandra L. Johnson, *In the Matter of the Application of Public Service Company of Colorado for Approval of Wildfire Mitigation Plan and Wildfire Protection Rider*, Proceeding No. 20A-XXXXE (PUC Colorado, July 17, 2020), Hearing Exhibit 102, 34:5-8, <https://www.xcelenergy.com/staticfiles/xcelenergy/2020%20Annual%20Report/2020%20Annual%20Report.pdf>

227. In July 2020, then, Defendants were still only “evaluating” whether to incorporate a “select few” weather stations in their service area in Colorado spanning more than 8,200 square miles. By comparison, as of January 7, 2020, San Diego Gas & Electric, which has a service area of 4,100 square miles, had 191 weather stations, 100 of which provided weather observations every 30 seconds.

228. Thus, on December 30, 2021, on information and belief, Defendants had no weather stations in Boulder. Instead, Defendants only had the forecast to rely on.

229. The forecast proved true – but Defendants appear to have not heeded the forecast or taken appropriate measures to mitigate the risk. The warned-of extreme winds and fire danger manifested in three fires in the Boulder area, putting Xcel on further notice of the risk of fire. By the time reports of what would become the Marshall Fire came in, two small fires had already ignited and been contained that day in north Boulder. While crews were able to control the other fires, the third fire—the Marshall Fire—spread rapidly.<sup>43</sup> Subsequent investigation identified a key area of origin for what became the Marshall Fire: just south of the Marshall Mesa trailhead, near and downwind from an Xcel Energy pole, at the Xcel Ignition site.<sup>44</sup>

### **C. Xcel failed to respond to the high wind warnings.**

230. Xcel Energy is aware that wildfires pose a significant year-round threat to its customers and communities.<sup>45</sup> Xcel Energy is also aware that—as climate conditions have changed throughout the west—the overall risk, frequency, and severity of wildfires has increased, requiring investments in the power grid to minimize the risk of equipment-caused wildfires.<sup>46</sup>

231. Xcel’s electrical distribution circuit in the Marshall Mesa trailhead area had two devices that were intended to serve as protection: a circuit breaker and associated relay and a recloser.<sup>47</sup>

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[responsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing\\_Exhibit\\_102- Direct Testimony Johnson.pdf.](#)

<sup>43</sup> Ben Markus, *Boulder County firefighters lost crucial early minutes because they couldn’t find the start of the Marshall fire*, CPR News (Jan. 5, 2022, 4:47pm), <https://www.cpr.org/2022/01/05/boulder-county-marshall-fire-timeline/>.

<sup>44</sup> Jensen Hughes Report, *supra* note 10.

<sup>45</sup> *Wildfire Mitigation Program, Information Sheet, Colorado*, Xcel Energy (2023), [https://www.xcelenergywildfiremitigation.com/wp-content/uploads/2023/04/Xcel\\_Energy\\_-\\_Wildfire\\_Mitigation\\_Program\\_Information\\_Sheet.pdf](https://www.xcelenergywildfiremitigation.com/wp-content/uploads/2023/04/Xcel_Energy_-_Wildfire_Mitigation_Program_Information_Sheet.pdf).

<sup>46</sup> *Id.*

<sup>47</sup> *Reclosers Technical Data, What is a recloser?*, Eaton (July 2017), <https://www.eaton.com/content/dam/eaton/products/medium-voltage-power-distribution-control-systems/reclosers/recloser-definition-information-td280027en.pdf>.

232. The first device, a circuit breaker, was associated with what is known as an ABB type MMCO Microprocessor Time Overcurrent Relay, which monitors the line's electrical conditions. It is designed to sense both high current faults and excessive current demand.<sup>48</sup>

233. The second device, a recloser, is essentially a high-voltage circuit breaker designed to handle faults.<sup>49</sup> When it detects a fault, a recloser shuts off power and then attempts to restore power almost immediately. If it detects a fault again, it shuts off power again before once again trying restoring power, repeating the attempts for a set number of times before it determines the fault is permanent and it keeps power off. Reclosers are helpful when the fault is temporary, like a tree branch or animal hitting a powerline, for example.

234. Engineers adjust a recloser's sensitivity by setting the number of times it will operate, setting the trip level it will consider a fault, and setting the number of attempts before its lockout stage.<sup>50</sup> These settings are sometimes referred to as "one shot," "two shot," and so on, depending on the number of attempts before lockout. To keep people and structures safe, engineers at power companies should change these settings to account for certain weather and hazard conditions. Reclosers should be coordinated with the station's circuit breaker so that any faults downstream from the recloser are sensed and cleared by the recloser first.

235. For at least 30 years, utilities have also known that reclosers re-energizing lines in fault conditions can start fires. If, for example, a power line breaks and falls into a tree or bush, a recloser's attempts to resume the flow of electricity may ignite a fire. Xcel knew or should have known to adjust its reclosers during extreme wind events and dry conditions but, upon information and belief, did not do so in the circumstances of the Marshall Fire.

236. Or, as Xcel put it in its WMP, "...automatic reclosing can sometimes introduce a risk of ignition."<sup>51</sup>

237. There are ways to mitigate this risk of ignition, though. As Xcel explained, "Public Service has been exploring modifying automatic recloser settings when conditions warrant, such as during fire season. One modification is to set the recloser such that it does not close the line back in automatically. This is sometimes referred to as 'lock-out.' By setting a recloser to lock-out, it can reduce the risk of ignition."<sup>52</sup>

238. The structures commonly referred to as powerlines include conductors, crossarms, poles, and insulators. Xcel's powerline near the Marshall Mesa trailhead has an east, a center, and a west conductor, all of which are supported by porcelain pin-type insulators and mounted on the cross arm. The conductors were lashed to the insulators with aluminum lashing wire.

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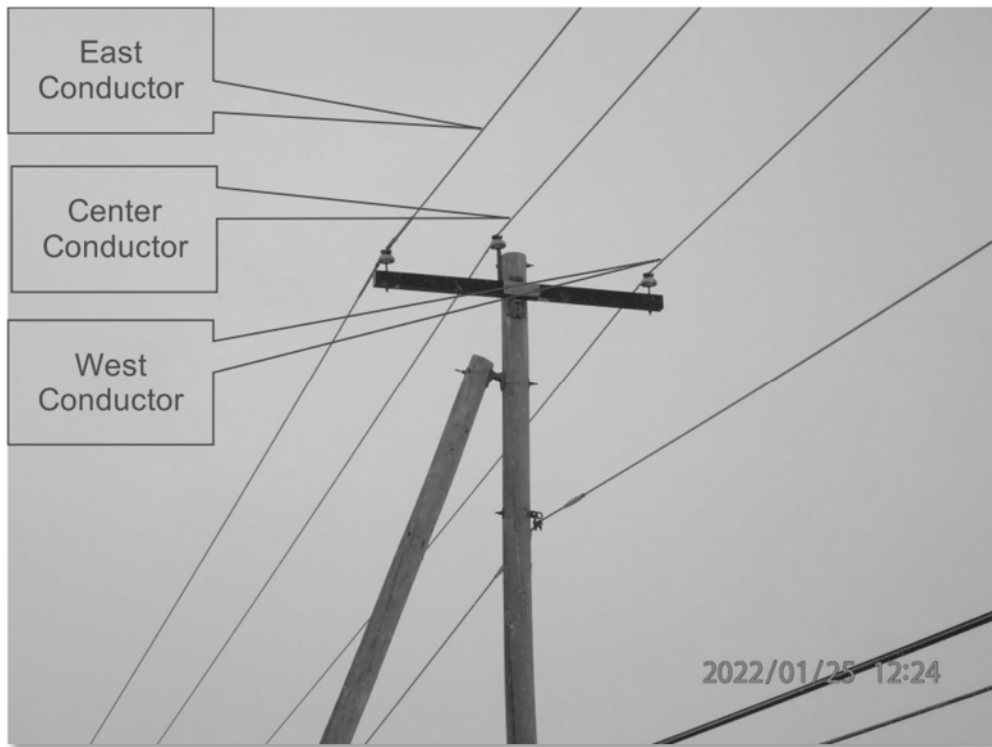
<sup>48</sup> Jensen Hughes Report, *supra* note 10.

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> 2020 WMP, *supra* note 40 at 68.

<sup>52</sup> *Id.*



239. Photographs and video from the day of the Marshall Fire show the east conductor disconnected from its insulator, bouncing and moving dramatically. A trail camera also captured the east conductor unattached from its insulator, resting against the support brace.<sup>53</sup>

240. The lashings from the east conductor that connected it to the insulator was eventually found on the ground under the distribution line. It showed evidence of electrical arcing, which occurs when electricity jumps between connections, causing extremely hot and intense flashes of electricity.

241. The Jensen Hughes Report found, inter alia:

A. The east phase of Xcel’s circuit 1161 came loose from its insulator and its lashing wire contacted the center phase, which produced hot aluminum particles that ignited the Xcel Fire.

B. “Photographs and video of the eastern conductor show that it was bouncing and moving in a dramatic way.”

C. Xcel’s own conclusions about the fire presented on October 11, 2022 were incorrect since Xcel apparently ignored arcing evidence and the repeated operation of circuit breaker 1161.

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<sup>53</sup> BCSO Report, *supra* note 1, Exhibit 4.

D. Xcel could have increased the sensitivity of its recloser by setting it to operate one time instead of ten, and by setting it to lockout in the event of a fault. Xcel also could have increased the sensitivity of the recloser to faults by setting the trip level lower. These setting revisions could be temporary and could have been changed during certain weather and fire hazard conditions, which would have reduced the probability of igniting a fire.

242. The Jensen Hughes Report concluded that Xcel engineers had not set the recloser's sensitivity settings appropriately such that the collision of conductors likely caused hot particles from the wire—including essentially a super-hot chunk of aluminum wire itself—to fly off of the conductor in an arcing event. Those particles then fell to the abnormally dry grassland below, where winds were gusting over 100 miles per hour.

243. One of the tools that utility companies, including Xcel Energy, utilize to mitigate wildfire risks during dangerous conditions is a public safety power shutoff ("PSPS"). This involves preemptively shutting off power, which ensures that equipment cannot start a fire. Utility operators' plans to de-energize power equipment during extreme fire conditions are standard industry practice.

244. The practice of de-energizing power lines in times of high fire risk is commonplace in regions accustomed to wildfires. Xcel chose not to de-energize its power lines on the date of the Marshall Fire.

245. As a multistate, multibillion-dollar power company, Xcel Energy has long been aware of the effectiveness of de-energizing power lines as a tool to guard against wildfire. It knew what factors should lead to a decision to shut off power or adjust the circuit or recloser settings. It knew the deadly and destructive consequences of leaving power lines energized during summer windstorms.

246. Xcel was aware of the weather and high wind warnings ahead of December 30, 2021. It knew that it was critical to manage and safely operate power lines in the face of fire risk that could emerge anywhere in Colorado, particularly in the right conditions. Despite knowledge of these weather warnings, Xcel chose not to shut down the power or adjust the circuit or recloser settings.

## **D. Plaintiffs Suffered Injury to Their Property**

### **1. The Brown Family**

247. Spencer and Susan Brown bought their home in Louisville on November 1, 2019, and they lived there with their children, Emilia and S.B.

248. The Browns moved to Louisville from Kansas, and they were just starting to feel at home when the Marshall Fire destroyed their house. They had just finished remodeling the kitchen, replacing the floor, getting new windows and doors, and redoing the cabinetry in all bathrooms, and they were finally settling in. The fire burned their entire property, including four

large evergreen trees, two aspen trees, eight shrubs, and the retaining wall at the front of the property.

249. On December 30, 2021, Spencer and Emilia were driving home to Louisville from Breckenridge. As they turned onto Highway 93, they experienced extremely high winds; they were so strong Spencer and Emilia felt the car windows might break. They were diverted off Highway 93 and eventually found themselves on Dillon Road in Louisville, where it was becoming increasingly smoky. When they reached McCaslin Boulevard, they found a police officer frantically directing traffic north. As they continued that way, they saw fires and fought their way through heavy smoke. They eventually made it home to Susan and S.B., who had been nervously waiting for them to return, watching the smoke get thicker and thicker as they did. Once the family was reunited, they saw a neighbor loading up her car to evacuate, and they decided to do the same. They were only able to grab a couple laptops, a few personal items, and their dog. Upon driving away, they were immediately stuck in traffic, with smoke billowing overhead. They remained in the stressful, smoky gridlock until they managed to break free and head north to Longmont, where they booked a hotel room. After a long night of worrying, they turned on the TV the next morning to see a reporter at the top of their street. Their neighborhood was ash. The family was distraught as they saw the confirmation that everything had been lost.





250. After the fire destroyed their home and possessions, the entire Brown family experienced acute stress and anxiety. Their levels of stress affected their sleep and made it more difficult to have normal relationships. Time that they would have spent with family or friends was time they had to spend recovering from the consequences of the fire. Having moved to Louisville from Kansas, the fire was a major blow to Emilia and S.B., as the fire took away took away their home base, created physical distance from new friendships, and made them feel even more unsettled. The fire affected both Susan and Spencer's job performances as well. Both of them worked from home, and they needed to not only replace all of their computer equipment, but also find temporary housing and workspace in the midst of dealing with the aftermath of losing everything they owned. The stress and anxiety continues as the Browns navigate rebuilding their home. They have spent hundreds of hours rebuilding their lives and hundreds of hours solving a problem Defendants created.

## **2. The Banks Family**

251. Cynthia and Gordon Banks purchased their home in the Spanish Hills/Paragon Estates neighborhood of Boulder in October 2020. When they moved into it in November 2020, their home quickly became their oasis. Almost everything they owned was inside that house. including their personal belongings, family keepsakes, memorabilia, and their children's belongings. Their landscaping included an impressive two ponds with waterfall features, various terraced areas, large boulders, ground cover, close to 100 light fixtures, and over twenty large mature trees, each more than fifteen years old. The below photograph fairly and accurately portrays the beautiful Banks home before the Marshall Fire:





252. At approximately 1:00 pm on the day of the Marshall Fire, Cynthia and Gordon Banks were at home when they noticed that the smoke in their neighborhood was growing increasingly dark. About fifteen minutes later, Cynthia saw flames in their backyard. They knew they needed to leave immediately. They grabbed their cat, their passports, and laptops, and frantically left their house. They received no prior evacuation warning.

253. The evacuation was hectic. The Banks family joined a long line of traffic with other residents trying to make their way to safety. After multiple route changes, Cynthia and Gordon were able to stay with friends in Lafayette for about three hours before those friends were put on pre-evacuation notice. Luckily, the Banks family was able to stay with other friends in Broomfield for two nights before moving into an apartment on January 1, 2022.

254. The Marshall Fire incinerated the Banks' house. The below photograph fairly and accurately portrays what remained of the Banks' home after the Marshall Fire:





255. In addition to their economic losses, the Banks family has been traumatized by the magnitude of sudden losses – they lost everything they owned in just a few short hours, and suddenly found themselves displaced. In the first year following the Marshall Fire, Cynthia Banks would wake up at night sweating and hyperventilating from the overwhelming stress. Cynthia, who is a professor and consultant, lost her home office when her home burned down. As a result, she was unable to foster her business and build connections necessary to be

successful in the coming years. She also was unable to care for her elderly parents as she used to prior to the fire, and she had to shift the burden onto other members of her family.

256. Gordon Banks had recently retired in March 2021. He was finally settling into and looking forward to enjoying this next chapter of their lives when the Marshall Fire turned their world upside down, after only thirteen months in their new home. Following the Marshall Fire, he would wake up in the middle of the night and be unable to fall back asleep. He now often requires a sleep aid to do so. Gordon also experienced frequent hives from the stress following the Marshall Fire.

257. Though they were lucky to escape the Marshall Fire, Cynthia and Gordon find it hard not to feel sad when they think about their precious memories and family history lost in the fire, and uncertain about the future when they are in someone else's home.

258. Cynthia and Gordon Banks remain displaced while they wait for their rebuild to be completed.

### **3. Daniel Patrick Ryan**

259. Daniel Ryan purchased and moved into his townhome-style condominium in the Wildflower Condominium Association in 1997. Over the years before the Marshall Fire, Daniel made several improvements to his house, including repainting throughout, installing new kitchen and bathroom countertops, replacing multiple fixtures, and upgrading appliances. He had fashioned it into his forever home.

260. On the day of the Marshall Fire, Daniel Ryan learned he needed to evacuate after his brother called him in a panic. He packed a small bag in what little time he had. In addition to Daniel's own car, his brother's car was parked at his house at the time. Unfortunately, there was no one else home to help him drive both cars to safety. He chose to save his brother's car and left his own behind. He drove to a friend's house, where he stayed for several days before moving into his brother's basement.

261. In a stroke of luck, the Marshall Fire did not burn down Daniel Ryan's townhome. However, because his home was attached to units that were completely burned by the fire, his home's foundation, framing, and structural beams became slanted. They were no longer structurally safe and were deemed compromised by Boulder County. Daniel's home also sustained heavy water damage from the firefighting, which resulted in water damage to and mold inside the insulation, walls, and framing. The below photograph fairly and accurately portrays the damage done by the Marshall Fire to Daniel Ryan's home:



262. In addition to his economic losses, Daniel struggles with the constant concern and stress of not having permanent housing. His prolonged stay with his brother also negatively impacted their relationship, only adding to the stress that Daniel and those around him were experiencing.

263. Daniel Ryan remains displaced as he waits for his rebuild to be completed.

#### **4. The Hegge Family**

264. Before the Marshall Fire, Mark and Shontelle Hegge had lived in the Centennial Heights neighborhood of Louisville since 2003, raising their now adult children Everett and Addison there.

265. In the years before the Marshall Fire, the family had extensively improved the home, including new paint and carpet throughout the house. The Marshall Fire severely damaged the home and erased those improvements, causing extensive smoke and ash damage to the family home. A sticky, tar-like substance coated everything: the walls, ceiling, floor, and contents.



266. The fire also destroyed a shed on their property, shown below, that contained irreplaceable family memorabilia as well as other items, and burned significant parts of the family's yard, including mature trees, bushes, fences, and ornamental plants. Most of their personal property inside the home was not salvageable.



267. When the fire arrived, Mark, Shontelle, and Everett had just minutes to flee after emergency responders told them evacuate immediately. The evacuation through fire and smoke was slow, dangerous, and harrowing. They feared they would die while stuck in traffic as the fire spread. Addison, meanwhile, watched on news and social media from Boulder, where she was leasing an apartment, as her community went up in flames and her family fled. She remembers being on the phone with Everett as his car filled with smoke, reassuring her little brother that it was going to be okay.

268. After the fire, the family was displaced for more than four months while their home was repaired, but even after they returned, their lives are forever changed. Many of their neighbors were displaced, and their community was dispersed.

269. The fire has caused the Hegge family extensive emotional distress, mental anguish, and ongoing stress. Addison returned to live at the Skyview Court property during the remediation process, and still lives there today. Although the family has extensively remediated their home and installed air filters, they continue to worry whether the air inside their home is safe for them.

## **5. Michael Klymkowsky**

270. Michael Klymkowsky bought his townhome in March 2015. He rented it out, and three tenants resided in it when the Marshall Fire destroyed it. Michael's renters had to evacuate and were displaced, and the aftermath has been a major source of stress and a huge financial burden for Michael. There have not only been the costs of rebuilding and loss of rental income, but also other expenses that are still being assessed. This has contributed to increased stress and lack of sleep for Michael.







## **6. The Reid Family**

271. Joseph and Cindy Reid bought their house in Louisville in December 2018, and they moved in in May 2019. They made renovations, added a cedar, chemical-free hot tub, and spent lots of effort improving the landscaping. They lived there until the Marshall Fire destroyed their home in December 2021.



272. The location of their home was particularly important to the Reids. Joseph and Cindy's daughter, Joanna, is their disabled adult dependent and is frequently hospitalized at Avista Hospital.

273. Joanna has an exceptional spectrum of serious medical conditions, including:

- Common Variable Immune Deficiency (failure to produce critical immune system components);
- Ehlers-Danlos Syndrome (a collagen binding tissue defect that impedes wound healing),
- Anti-Phospholipid Anti-Body Syndrome (a blood clotting disorder that causes excess anomalous clotting);
- Superior Vena-Cava Syndrome (a vascular narrowing that impedes blood pressure regulation in the head and brain);
- Seizure Syndrome (anomalous neurological function causing sporadic syncope and loss of consciousness); and
- various other neurological issues resulting from more than 100 brain, spinal, and reconstructive surgical procedures in the last twenty-five years.

274. Joanna survives by virtue of continual medical interventions. She receives infusion therapies for the above listed conditions at Avista Hospital three days every week and life-critical human antibody transfusions on an additional day every other week. She is under continuous pain management associated with the hospital visits and needs to be transported by someone else, usually by either Cindy or Joseph. Consequently, proximity to the hospital is a critical priority for the Reids.

275. Although Joanna, when well, resides in her own home, her frequent medical interventions have made it important for her parents to maintain space in their home for her extensive recovery periods—the loss of which has been a significant burden. In addition, to reciprocate her parents care, Joanna picked out their house and helped renovate portions of it, including remodeling the bathroom and adding a large deck. The pride and satisfaction of being able to give back to her parents after twenty-five years of care was very important to Joanna. Joanna's life is full of limitations and disappointments, and the loss of her parents' house was a significant personal loss to her beyond the cost and effort involved.

276. On the day of the Marshall fire, Joseph and Cindy's son-in-law called to inform them that they should evacuate. Joseph was near Target at the time and was caught in dense smoke. Joanna was undergoing treatment for her immune compromise in the Avista Hospital Infusion Center when the hospital was evacuated under imminent threat by the Marshall Fire. Cindy had to pick Joanna up and take her to her home. Cindy and Joseph arrived home around the same time, and only had about twenty minutes to take what they could—Joseph focused on saving the most important paper records, their computers, and disk drives; Cindy concentrated on saving a few family photos, their two cats, some jewelry, and a small overnight bag. They were unable to grab all the items Joanna needed to preserve (including all of her IV

medication), and Joanna had to go without them during the next few days. Evacuating their neighborhood was a harrowing experience. They were surrounded by fire, and their only escape route took them directly between the flames. When the fire was over, their home was gone. Joseph and Cindy lost nearly all of the cherished personal belongings that they had acquired over the course of forty years of marriage and raising three children.

277. When Joanna had to be evacuated from the hospital, she was under intravenous immunoglobulin (“IVIG”) treatment at the Avista Infusion Center. Joanna received care at the Infusion Center under isolation conditions to avoid exposure to other patients due to her immune deficiency. As a combined result of the loss of access to Avista due to the fire and overcrowded local hospital infusion facilities due to the COVID pandemic, Joanna was not able to receive treatment in isolation and was exposed to an unknown level of disease organisms—resulting in significant psychological trauma.

278. The Reids’ lives were very detrimentally affected by the conflagration’s direct physical threat to life and health, and they suffered great emotional trauma as well. In the immediate aftermath of the fire, they found it exceedingly difficult to carry out all the steps needed to reestablish a home life and to cope with the burden of logistics and the need to replace what had been their forever home.

279. The Reids have been unable to rebuild their home. Not only is the cost of new construction prohibitive, but Joanna’s health is such that they also need to avoid the dust and turmoil of construction.

## **7. The Douglas Family**

280. Cathy and Bruce Douglas moved to the Coal Creek Ranch neighborhood of Louisville in August of 2000. Over the course of twenty years, the house became the focus of many dearly held family memories as well as the repository of treasured, pictures and other irreplaceable memorabilia from a marriage of fifty years, including artwork, stained glass panels and generations worth of family heirlooms and history.

281. The family continued to personalize the home by finishing the basement, remodeling the kitchen and three bathrooms, installing new flooring and carpets, and adding solar panels. Cathy and Bruce also improved the landscape with the addition of a waterfall and koi pond which was home to beloved pets (ten koi fish) and several large trees. The below photographs fairly and accurately show the Douglas’ home and koi pond before the fire:





282. On the day of the Marshall Fire, the Douglasses left their home and evacuated to their daughter's house in Erie, where they spent one night and then were lucky enough to secure a rental home for the month of January. They later moved into another rental home where they stayed for ten months, and then into their current rental home. The below photographs fairly and accurately show what remained of their house and property after the fire:



283. The Marshall Fire razed Bruce and Cathy's haven destroying not only the home and possessions of the Douglas family, but also the surrounding property and killing their koi fish in the process. As a result, Cathy and Bruce have been traumatized, and since the fire, Cathy is only able to sleep for a few hours a night.

284. The Douglasses have suffered from displacement costs and complications since the loss of their home and do not expect a prospect of returning to the new home they are building on the lot until mid-2024.



## **8. The Durham Family**

285. Young Soon Durham moved into her home on Pikes Peak Lane in May 2006, when her child David was an infant. They lived there until December 2021, when the Marshall Fire burned it down.

286. After Young Soon bought the home, she made a number of improvements. She entirely remodeled the kitchen and three bathrooms to high-end specifications, installed hardwood floors throughout the entire house, replaced all the windows, repainted the interior and exterior, and installed a new roof, air conditioning, furnace, and water heater. She also improved and maintained the landscaping, including fifteen mature trees.

287. When the Marshall Fire tore through their neighborhood, Young Soon and David had to evacuate. It was the worst experience of Young Soon's life, far exceeding her worst expectations. The fire destroyed all of their personal belongings, and the toll it has taken has been significant. The time since the fire has been a hard journey. As a single mom with no family close by, Young Soon had to juggle her regular duties as a mom with the aftermath of the fire, including finding a place to live and replacing personal belongings. This created enormous stress, both emotionally and financially. Young Soon lost over ten pounds and lots of hair, and she still has trouble sleeping. She knows that she will never fully recover.



288. After the fire, Young Soon and David were forced to move much farther away from David's school, and the commute to and from school became much greater. It was often too long a drive for David or Young Soon to reasonably or safely make, especially in the snow, and David often had to stay with friends overnight. David had to replace all personal belongings and lost irreplaceable photos. For months, Young Soon and David's lives became a

question of where they were going to stay next and how exactly they were going to move on. Ever since the fire, David has had difficulty falling asleep.

289. The fire affected Young Soon's and David's relationships as well. Their relationship was noticeably strained in the first months post-fire; they were both more tense and fought more than they had in the past. Both of them were isolated from their friends, too. Young Soon noted that she did not see her friends or neighbors as often, and stress changed her mood and adversely affected her relations with her partner, close friends and family, and the way she interacts with the world in general. David saw his friends less often after moving farther away, and it became impossible to keep going on bike rides with friends, which had happened on a regular basis before the fire.

290. Young Soon Durham could not afford to rebuild and sold the lot in September 2022.

## **9. The Jones and Reibold Family**

291. Kathleen H. Jones and Marty J. Reibold moved into their home in The Enclave neighborhood of Louisville in 1992. It was where they raised their son and experienced many of life's milestones: graduations, weddings, and so on.

292. In the decades before the Marshall Fire, they extensively improved the home, including finishing the basement, renovating a bathroom, and replacing windows. The fire destroyed their home as well as the landscaping around it, including numerous mature trees and shrubs, as shown here:



293. The fire likewise destroyed their personal belongings, including all of Kathleen's collected work as a writer, irreplaceable photos, Marty's father's World War II service records and medals, dog agility awards and training gear, and many other family mementos.

294. More than that, the loss of their home destroyed their sense of security and safety. They have experienced sleeplessness, nightmares, grief, marital stress, loss of community, and other emotional distress and mental anguish.

295. In addition, Marty has been forced to delay a planned retirement and work out of state in the interim. Following the fire he developed significant shoulder and hip injuries from the labor of sifting through the ashes and debris of their burned home. After years of coaching youth baseball, he can no longer throw a baseball more than a few feet.

296. Their journey of recovery and rebuilding has been further complicated by living in New Mexico following the fire and needing to coordinate the rebuild from a distance. Likewise, they have suffered from the challenges of physical and mental well-being further complicated by the seven-hour drive to benefit from community support and any of the local relief services being offered.

## **10. The Barnard Family**

297. Amy and Jeffrey Barnard and their two minor children, E.B. and B.B., moved into their rental home in the Rock Creek neighborhood of Superior in May 2020, just months before the Marshall Fire.

298. The fire destroyed their home and all of the family's personal property, including a car, as shown below:



299. During the fire, the family was forced to evacuate through smoke and ash as their children were crying and scared, their car stuck in traffic.

300. Since the fire, the family has experienced ongoing mental anguish and emotional distress. They have had to move several times, worrying about whether they would have a roof over their heads and commuting for hours so that their children could continue in their schooling and activities. They have also experienced sleeplessness and increased anxiety, especially during high winds. B.B. has experienced panic attacks since the fire, and E.B. continues to be stressed even by the word “fire.”

## **11. The Baron and Meyer Family**

301. David Baron and Kimberly Meyer bought their home in the Centennial Heights neighborhood of Louisville in August 2021, just months before the Marshall Fire. After they bought the home, but before the fire, they made several improvements, including installing new carpet on two floors, new gutters, and new garage doors.

302. The Marshall Fire destroyed their home and property, as shown in this photo taken after the fire:





303. The fire likewise destroyed extensive landscaping, mature trees, and fences, walls, and patios. It also erased nearly all of their personal property.

304. The couple was forced to evacuate during the fire while Kimberly was pregnant with their second child. That day, just after they put their first child down for a nap, the sky darkened, and ashes started to rain down. They only had time to pack a bag, grab their child and dog, and flee. It was terrifying. They learned the next day that their home and everything inside it had been destroyed.

305. They have since been displaced from their home and community for two years and have had to deal with the stress of that displacement and loss of community while raising a newborn and trying to maintain their careers. The Marshall Fire has profoundly affected their lives in numerous ways. Like many of their neighbors, they now think of their life in two parts: life before the fire, and life after the fire.

306. The couple hopes to be able to return to their property and a rebuilt home by the end of this year.

## **12. John Robert Cary**

307. John Robert Cary moved into his home in the Spanish Hills, Panorama Park neighborhood of Boulder in 2003.

308. The Marshall Fire completely destroyed John's ten-room home, as shown in this picture:



309. The fire likewise destroyed the landscaping around his home and his personal property.

310. Following the fire, John experienced intense emotional distress and mental anguish, including depression and sleeplessness that required treatment.

### **13. The Gleeson Family**

311. Todd and Carol Gleeson purchased their home in 1990. After they moved in but before the Marshall Fire, the Gleeson family made several renovations to their home, including full roof and window replacements, a new front porch, a complete renovation of their three bathrooms and kitchen, extensive cabinet installations, and the replacement of other appliances and systems. They also maintained beautiful landscaping in their yard, which included a twenty-two-ton rock wall, elaborate watering systems, a hot tub and redwood gazebo, and several mature trees. This home was their haven. A photograph of their home before the Marshall Fire is fairly and accurately shown below:





312. On the day of the Marshall Fire, the Gleesons had no warning before learning that they needed to evacuate. They were both at home cleaning up after the holidays when their neighbor pounded on their door to let them know they were evacuating, and that the Gleesons should do the same. With little time to pack their belongings, the Gleesons filled a single suitcase with whatever they could, thinking they would only be evacuated for a few days. They left their house about fifteen minutes later, as embers and dense smoke flew past their open garage door. They escaped with the fire visible through the rear window of their car. The below photograph fairly and accurately portrays the damage to the Gleeson's home after the Marshall Fire:



313. After providing thirty-one years of safety and security, the Gleesons' house was destroyed by the Marshall Fire. Everything was lost in an instant. Todd and Carol lost not only their treasured residence, but also the family histories and heirlooms that were in their home, which would have kept those stories and memories alive for later generations. The Gleesons were devastated.

314. The Gleesons' displacement since the fire has caused them anxiety and uncertainty about any chance of future permanence. Todd and Carol still experience emotional anxiety at the sound of sirens, the smell of smoke, and when in high winds. Both Todd and Carol suffered depression for an extended time after the fire which interfered with their sleep and made the process of emotional recovery even more difficult. That depression also hampered their ability to cope with and handle day-to-day necessities such as relocation and other post-disaster needs.

315. Unable to face the loss of their once-forever home, the Gleesons have decided not to rebuild.

#### **14. Janine Fugere**

316. Janine Fugere purchased and moved into her townhome in the Wildflower Condominium Association in February 2002. For almost twenty years, this was her home. After she moved in but before the Marshall Fire, Janine filled her home with memories, family photographs and archives, important personal documents, and sacred mementos. She also made extensive renovations, including but not limited to, finishing the basement and garage, remodeling the kitchen and bathrooms, and upgrading the furnace, AC unit, hot water heater, windows, and flooring throughout the home. The below photograph fairly and accurately portrays Janine's home before the Marshall Fire:



317. On the day of the Marshall Fire, Janine and her husband were in Panama on their honeymoon. She was supposed to be celebrating the joyous start of not only her marriage, but also her retirement, by looking for a second residence abroad. Instead, she discovered that the Marshall Fire was burning through her city over 3,000 miles away, and there was nothing she could do about it.

318. It was not until over twenty-four hours after the fire that Janine was finally able to learn whether her house had survived. Unfortunately, on New Years Eve, Janine found out from a friend that her home – and everything in it – had been destroyed by the Marshall Fire.

319. Among Janine's losses were her extensive collection of photography equipment that she used for her part-time business as a professional photographer. Such equipment included professional cameras, lenses, tripods, light stands, strobe lighting equipment, photographic backgrounds, and props that had taken her years to amass. She was shattered to discover that she had also lost her entire body of photographic work from before the year 2000 when she first began digital photography, as well as her extensive designer collection of Ansel Adams-inspired, hand-developed, hand-printed, customized, and framed black and white photo enlargements. The below photograph fairly and accurately portrays the damage done by the Marshall Fire to Janine's home:





320. What started as a honeymoon and vacation became a crash course in relocation to a new country. With no home to return to, Janine and her husband had to extend their stay in Panama while Janine managed her losses from overseas. This caused financial strain and was an incredibly stressful experience that still affects her life to this day.

321. In addition to her economic losses, the loss of her home devastated Janine emotionally. Because of the overwhelming trauma caused by the Marshall Fire, Janine has slept poorly, had fire-related nightmares, experienced increased anxiety. The emotional impact of the fire on Janine strained her relationship with her husband and greatly concerned other family members.

322. Though Janine Fugere was luckily able to establish permanent residency in Panama, she remains displaced from her Louisville home while her rebuild is completed. The stress of managing the cleanup and rebuild continues to negatively affect her life.

## **15. The Delaplain Family**

323. Michael and Jessica Delaplain and their minor child, N.D., moved into their Louisville home in 2012. Their second child, T.D., joined the family not long after. In addition to their house, the two-acre property included a shed, barn, and other structures. Before the Marshall Fire, the Delaplains made substantial improvements to their home and landscaping, including planting nearly 200 trees throughout the property in 2013.

324. The Marshall Fire destroyed nearly all the landscaping and structures on the family's property, as well as nearly all their personal property. Only their chicken coop survived. Family heirlooms, souvenirs from travel, the children's artwork—all of it turned to ash:



325. Jessica was home when the fire arrived. She only had time to gather the family's five cats, including a special needs kitten, and a few other items as the house became enveloped in thick smoke. By the time she was leaving the grass by her driveway had caught fire, and she fled through blowing black smoke.

326. On top of destroying their property, the Marshall Fire has disrupted nearly every facet of the family's lives, causing extensive emotional distress and mental anguish. Trying to rebuild and recover has been like having another full-time job on top of the jobs they already have while raising two children.

327. All the family members have experienced increased stress and anxiety, having lost their sense of security and safety. Things that once brought joy, like campfires and burning candles, are now triggers. The children are nervous to leave the house, afraid it won't be there when they return. Sleep has become difficult. All have sought treatment for their emotional distress and mental anguish.

328. The Delaplain family still owns their property, and they are hopeful that they will be able to return to a rebuilt home there in early 2024.

## **16. The Harms and Davis Family and Domos Consulting, LLC**

329. Greg Harms moved into his home in the Cornerstone neighborhood of Louisville in 1992. Cecilia Davis moved into the home in 2018. The Marshall Fire destroyed their home and everything in it, as well as the landscaping around the home, including many mature trees, as shown below. All of their family memories and heirlooms collected over decades are gone.





330. On the day of the fire, the couple had no formal notice about the need to evacuate. A family member called and told them to get out right away. They had just minutes to grab some items, and as they fled several houses and the entrance to their subdivision were on fire.

331. The fire caused the couple emotional distress and mental anguish, which manifested itself in difficulty sleeping and other symptoms. Cecilia sought mental health support after the fire, and medical help for sleeplessness.

332. The couple has since sold their property in the Cornerstone neighborhood and are rebuilding in a different part of Louisville.

333. Domos Consulting, LLC is the consulting business owned by Greg Harms. The Marshall Fire forced Mr. Harms to set aside his consulting business to deal with the aftermath of the fire, and he suffered business losses.

## **17. Andrew Schwartz**

334. Andrew Schwartz purchased and moved into his five-room townhome-style condominium in the Wildflower Condominium Association in 1985. The townhome had an attached garage and basement. Andrew added central air conditioning in 1989 and maintained the large trees and bushes in his front yard. The below photograph fairly and accurately portrays Andrew's home before the fire:





335. On the day of the Marshall Fire, Andrew \was watching television when the power went out. Fearing for his safety, he decided to evacuate that afternoon. The roads were jam-packed with other residents trying to flee from the fire. It took him three and a half hours to reach a friend's house north of Boulder.

336. Around the same time, the Marshall Fire had reached Andrew's neighborhood. The below photograph fairly and accurately shows the remains of Andrew's townhome after being ravaged by the fire:



337. The fire completely destroyed over thirty-six years' worth of personal belongings and memories that cannot be replaced.

338. Andrew remained evacuated for four days before moving into a hotel, where he stayed for thirty days. He finally moved into a new home in 2022, where he will remain until the townhome on his original property is rebuilt.

339. In addition to his economic losses, Andrew has experienced emotional distress and mental anguish as a result of the fire. In addition to the stress and sleeplessness caused by the fire's aftermath, not a day goes by that Andrew does not think of everything he lost.

340. Andrew Schwartz remains displaced as he waits for his rebuild to be completed.

## **18. The Summers Family**

341. David and Kathleen Summers bought their Louisville home in 2006 and lived there with their two children, N.A.S. and E.S. until the Marshall Fire damaged their home, displacing them for a year.

342. The Summers fully remodeled their house themselves when they bought it, living in the basement for six months while they renovated every room in the home. The Summers put care and effort into their four-bedroom home and yard. They landscaped and maintained their yard, including six mature trees, all between sixteen and thirty years old, raised garden beds, and several smaller shrubs.

343. On the day of the Marshall Fire, David, N.A.S., and E.S. were out of town. Kathleen was at home, and evacuated immediately when she saw that the Summers' shed and their neighbor's house were in flames. Kathleen fled from the home taking nothing but the clothes she was wearing. Kathleen had to drive past burning houses to get out of the neighborhood. She feared for her life while stuck in traffic for an hour, less than half a mile from where her neighbors' houses were burning.

344. The Summers' house survived, but the fire destroyed their fence, shed, landscaping, siding, and some windows. The fire destroyed all of the property in the shed. Their house and many of their belongings sustained heavy smoke damage.



345. After the fire, the family spent six weeks living in hotels as there were no rentals available.

346. The family was displaced from their home for an entire year. They shared a small rental apartment without most of their belongings before they were able to move back into their home on December 29, 2022. The fire destroyed most of their neighbors' homes and their neighborhood, and they had to return to the devastation over and over again, continuing the trauma of the destruction.

347. To make matters worse, Xcel mistakenly identified the Summers' home as a total loss, disconnecting utilities from the home. Xcel refused to turn the utilities back on for over a week. Xcel also dug up the front and back yard multiple times for utility work.

348. The Marshall Fire placed great stress on the Summers family. The family ceased all social activities while dealing with the fire repairs and remediation and stopped doing most of the things that they enjoyed. The family is now traumatized any time there are high winds because of the fear of wildfires. David and Kathleen have both experienced anxiety, depression, and insomnia after the fire. N.A.S. has experienced anxiety and depression due to the fire and is currently seeing a therapist.



## **19. The Soucie Family**

349. Dianna and Terry Soucie had lived in their home in the Centennial 8 neighborhood of Louisville since November 1990. In addition to refinishing their basement, the Soucies created a great outdoor space prior to the Marshall Fire, including installing a sprinkler system, retaining wall, fence, and concrete patio, in addition to caring for the lawn and three evergreen trees in their yard.

350. The Soucies' lives changed forever when a police officer shouted from a megaphone on the street on the day of the Marshall Fire and told them that they needed to evacuate immediately. Grabbing what they could, the Soucies quickly left their home as instructed. Though the Soucies were lucky enough to safely escape the fire, their house was not.

351. The Marshall Fire destroyed everything they owned. The below photograph fairly and accurately shows what was left of the Soucies' home after the fire:



352. Following the fire, the Soucies have endured a great deal of stress, which has permeated their lives and led to sleeplessness, emotional distress, and mental anguish.

353. Like others in their neighborhood, the Soucies remain displaced as they wait for their home to be rebuilt. Even when they are able to move back, the Soucies know that their lives and their home will never be the same again because of the Marshall Fire.

## **20. The Shin and Lee Family and NextEPC, Inc.**

354. Yun Ju Shin and Ji Hoon Lee purchased their home north of Louisville's Cornerstone neighborhood in 2018. They moved in with their two young children, S.L and S.Y.L. Yun Ju and Ji Hoon wasted no time in making improvements to the home, adding new countertops and appliances to the kitchen, basement bathroom, and laundry. The Shin and Lee family also created a beautiful garden filled with various trees and flowers, a stone fire pit, a swing chair, and multiple decks to enjoy their oasis. The below photograph fairly and accurately shows the family's garden before the fire:



355. The Shin and Lee family had just returned from a cruise the morning of the Marshall Fire and were resting when they received an evacuation notice. As the fire was further away from their home at that time, they – like many others – only packed a few personal items, thinking they would be able to return home after a few hours. That turned out not to be the case.

The below photographs fairly and accurately portray the front and back of the Shin and Lee family home on fire:



356. The Marshall Fire destroyed the six-bedroom home and all the landscaping around the home, as well as their personal property. The family's two guinea pigs and saltwater tanks containing a plethora of fish, shrimps, corals, and frags, were also incinerated in the fire.

357. At the time of the Marshall Fire, Yun Ju was working in sales and marketing for companies in South Korea and often traveled overseas for work. The aftermath of the Marshall Fire prevented her from traveling and engaging with customers, which led to a loss of business opportunities and poor performance evaluations. Similarly, Ji Hoon – who worked as a



software engineer and split his time between Colorado and California working for a California company – was laid off from his job, as he had to stay in Colorado and help his family through this crisis and was unable to travel for work.

358. Following the fire, Yun Ju experienced emotional distress and mental anguish, including depression and sleeplessness, as well as back and leg pain from moving multiple times. The fire caused Ji Hoon so much stress that he required medication.

359. The children were not spared from the emotional distress – S.Y.L. was so traumatized that he wrote an essay about the Marshall Fire as his watershed moment of life, and S.L. was haunted by the loss of her guinea pigs. Both children found it hard to focus on school.

360. The Shin and Lee family remains displaced after the fire. After having to move four times, the family has been left feeling stressed, tired, and depressed as they await their rebuild to be completed. Their lives have been forever changed by the Marshall Fire.

361. NextEPC, Inc. is the home-based software company owned by Ji Hoon Lee. After the Marshall Fire and due to Ji Hoon dealing with the aftermath, NextEPC, Inc. lost out on business contracts and opportunities and suffered business losses. Also destroyed in the fire were the business's test equipment, tables, chairs, and computers.

## **21. The Tsay and Hsu Family**

362. Ishan Ann Tsay and David Hsu purchased a home in the Coal Creek Ranch neighborhood of Louisville in 2013. Their house was home to all their family memories, sentimental items, and keepsakes. Ishan and David had made numerous improvements to the house, including refinishing the basement in 2013 and remodeling the master and upstairs bathrooms in 2018. They lived in this home for six years before relocating to Boulder, renting out this home first to offset the cost of their new Boulder rental, and later as an income stream once they purchased a new home. A few of their possessions remained at the Coal Creek Ranch home, including their outdoor grill, for their tenants to use.

363. The Marshall Fire destroyed Ishan and David's Coal Creek Ranch house. The drive through their neighborhood after the fire felt like driving through a war zone or a post-apocalyptic world. Ishan and David were distraught to see their destroyed house, along with those of their neighbors. The below photographs fairly and accurately show what remained of their house and property after the fire:



*Remains of Ishan and David's property shown on the right*

364. Ishan and David were devastated by the loss of their home. Like many others, they had to devote a significant amount of their time and experienced great stress in dealing with the aftermath of the Marshall Fire, including determining clean up and rebuilding costs and procedures, familiarizing themselves with city land use rules, and handling replacement home options. It was overwhelming. Dealing with the aftermath felt like a full-time job for both of them, which led to exhaustion that hindered their own professional lives.

365. Unfortunately, because of the high cost of rebuilding the house, Ishan and David instead chose to sell the property in April 2023.

## **22. The Tindall Family**

366. Tina and Lynn Tindall moved into their home in the Centennial 8 neighborhood of Louisville in 1990. In the three decades they owned their Louisville home they substantially improved it, inside and out, including extensive room renovations and new landscaping and fencing.

367. The Marshall Fire destroyed their property, owned by them through the Tindall Family Trust, and with it nearly all the personal property and personal mementos they had collected over a lifetime. The photo below fairly and accurately shows the aftermath:



368. In addition, the Marshall Fire caused the couple severe emotional distress and mental anguish. First, they were forced to flee with little notice through smoke and falling ash. In the aftermath, their lives were fundamentally changed. At the time of the fire, Lynn had begun to enjoy retirement, which the fire upended, forcing him into the process of trying to rebuild their devastated lives. Tina was devastated by the loss, crying for weeks, and is still in shock today.

369. After the Marshall Fire, the Tindalls made the difficult decision to relocate to Yakima, Washington, and they sold their Louisville property in November 2023.



### **23. The Kalnajs and Fuchs Family**

370. Lars Kalnajs and Leah Fuchs bought their home in April 2014, and put care and effort into their home, custom shed and greenhouse, landscaping, and hardscaping, all of which the Marshall Fire destroyed.



371. After buying their home, Lars and Leah installed high quality solid hickory hardwood floors, a solid wood floating staircase, and new interior doors and trim. They also replaced the carpeting, upgraded their appliances, lighting, and fans, renovated three bathrooms, and installed home automation with smart home technology throughout. They also had a freshwater aquarium with several fish. Outside, they replaced their gravel driveway with exposed aggregate concrete, replaced the decks and stairs, installed new hardwood and tensioned cable railings on the deck, and refinished the concrete patios.

372. Both keen gardeners, Lars and Leah put lots of care and effort into their yard, laboring to create and cultivate a native and xeric garden. They had ten to twelve mature deciduous trees, six to eight conifers, hundreds of perennial plants, a 300-square-foot vegetable garden, two water features, shrubs, dwarf conifers, and extensive fencing.

373. On the day of the Marshall Fire, Leah was working at the hospital during the COVID Delta virus surge when Lars, who was working at home, texted her photos of smoke. Leah called and suggested that Lars start gathering items to evacuate. Lars called friends to

collect their 1967 Land Cruiser for safekeeping, but once they arrived, it seemed irresponsible to Lars to have them drive an antique vehicle while people were evacuating, so instead he asked them to take his primary vehicle. People had begun to pull into their neighborhood to watch the fire, and Lars began to get concerned that the number of spectators could impact the ability to evacuate, so he started asking them to leave. Leah came home, and within minutes, their home was enveloped in the smoke plume. They gathered a laundry basket with clothes, a few important documents, and their laptops. Embers were raining down on them as they were loading into their cars, and a large ember landed in Lars's hair, burning his scalp. They got in separate cars, and Leah went first, driving north into dense smoke. Lars waited a few moments to make sure he would not rear end her in the smoke. Within a few hundred feet, they were both surrounded by flames blowing across the road, which was obscured by smoke. The only exit from the neighborhood was through the flames, so Leah made the decision to drive through the flames. She could not see Lars. The few minutes that she spent waiting for him to emerge were terrifying. By the time Lars accelerated through the flames, they melted the front grill of his vehicle. Leah called 911 and reported that the only exit from their neighborhood was engulfed by flames. Leah made plans for how she might escape if the fire approached any closer as she sat in her car trying to return to the hospital, and she felt trapped. She called her sister and tried to think clearly. Upon returning to the hospital she led the evacuation of hospitalized patients. She stayed until 9 p.m., when she drove around the perimeter of the fire to a friend's house, and could see fire glowing in her neighborhood.

374. The Marshall Fire had a lasting impact on Leah and Lars. Much of their lives have been on hold as they have focused on rebuilding their home, restoring their neighborhood, and recovering. They have difficulty feeling relaxed and at ease. They have put all hobbies and activities on hold, limited travel in order to be at the rebuild site, and had less time with relatives being unable to host them or travel. Their work has suffered, too: Lars reduced his appointment at the Laboratory for Atmospheric and Space Physics to part time, turned down several scientific field missions, and has generally avoided taking on extra tasks and leadership roles at work to be able to devote the necessary resources to rebuilding, all of which will have long term impacts on his career. Leah has also declined new projects and positions. Both have dedicated countless hours to community recovery groups to aid in recovery as a form of therapy and to "do something," and have spent many, many days and hours working with third parties and searching for ways to make their finances work. The fire has had physical impacts on them as well. A chronic medical condition was exacerbated, requiring medication changes, and their sleep has suffered. They continue to be on high alert, triggered by high winds and smoke, and they continue to feel the need to pack up and take their precious few items from their prior life and carry them with them whenever they leave home. Leah had great difficulty feeling safe at work after she evacuated the hospital.

375. Lars and Leah worked to begin rebuilding as soon as possible after the fire. They explored other options, including moving, but their jobs and communities are in Boulder County. They dedicated lots of time and emotional energy to rebuilding their home and neighborhood in a fire-wise way. They are dedicated to recovering their landscape, too. The topsoil was removed for fear of contamination after the fire, and they have spent countless weekends working on their land, which will take years to restore. They still have not been able to move back to their property.



## **24. The Guha and Emrich Family**

376. Aloke Guha and Gudrun Emrich moved to their home in the Centennial Heights neighborhood of Louisville in 1997.

377. In the decades that they owned the home, they made significant improvements: remodeled kitchen, living, bath, and family rooms; new floors and windows; solar panels; and so on. The Marshall Fire totally destroyed the home they had lived in and improved for so long, as fairly and accurately shown in the photo below:



378. The fire likewise destroyed the property's landscaping, including mature trees, fruit and berry plants, ornamental plants, and other specialty landscaping, and it destroyed nearly all their personal property.

379. Following the fire, the couple has experienced considerable emotional distress and mental anguish caused by the fire, including depression, anxiety, loss of sleep, and guilt over losing precious family heirlooms.

380. The couple also conducted their businesses from the home on Mulberry Street: Gudrun Emrich Law Office and Guha's Argusys LLC. Both companies lost property and income as a result of the fire.

## 25. The Hughes Family

381. Timothy Hughes moved to the Benchmark neighborhood of Boulder in January 1991, with Sara Hughes joining him in 2016. Over the course of thirty years, the house was a focal point of family life and entertaining, taking full advantage of the ridgetop view of Boulder and the Front Range and surrounding natural beauty. Over the years, renovations included remodeling to all the bathrooms and kitchen, numerous finishes around the house, a new stained-glass studio, a hand laid paver driveway, and even a built-in pipe organ in the living room. Final renovations had just been completed at the time of the fire leaving the work and a personal investment and effort of thirty years in ashes.

382. The photograph below fairly and accurately shows the Hughes family's home before the Marshall Fire:



383. In addition to losing their home, the Hugheses also lost the beauty of their natural surroundings. Twenty mature (forty years old) trees as well as juniper and other brush species were lost. Also razed in the fire were several custom-built garden beds and fencing. Xeriscape plantings in the driveway and surrounding flagstone beds and retaining walls were destroyed, and a prized and extensive planting of English roses and lilies was eradicated.

384. The photographs below fairly and accurately show what was left of the Hughes family's home after the Marshall Fire:





385. The Hughes family are artists. A great source of family heartbreak stems from the loss of personal creations kept in the home. Expressions of passion and talent which can never be duplicated or recovered include extensive music libraries, art projects and awards from competitions and exhibitions, stained glass, and art quilts. These treasures and remembrances are now lost to family both present and future.

386. Also lost were important and historically valuable genealogical records, and high-quality family heirlooms and antiques dating back centuries.

387. Both Timothy and Sara have suffered from intense feelings of loss and depression caused by the fire and by the stress of evacuating with their cat and the few possessions they were able to grab in the emergency. Their sleep was fitful and disturbed for months. Timothy became noticeably distracted and withdrawn, and Sara had extreme bouts of anxiety and uncertainty about the future.

388. Timothy and Sara Hughes could not afford the rebuild costs and had to sell their lot.

## **26. The McMahon and Christl Family**

389. Kayley McMahon and Patrick Christl moved into their home in the Rock Creek neighborhood in Superior in 2018. After buying the home, they made substantial improvements including new interior and exterior paint, interior doors, carpeting, fixtures, and so on.

390. Two years later, the Marshall Fire destroyed the couple's home and nearly all their personal property, as fairly and accurately shown below:



391. The fire arrived before the family received any order to evacuate and while their young daughter was at daycare. After picking her up, they had just moments to grab

important items before fleeing through intense wind and smoke. During the panic to flee the fire the stress was so intense that their dog vomited and defecated in their car.

392. Though they were able to escape the Marshall Fire, it has turned the couple's lives upside down. They have experienced extensive stress, anxiety, sleeplessness, and depression caused by the Marshall Fire. The fire's aftermath strained their relationship as they struggled to work two jobs, rebuild, and care for their nine-month-old daughter.

393. Kayley also lost income as a result of the fire, which burned down their daughter's daycare, requiring Kayley to forego weeks of wages so she could provide full-time care for their daughter.

## **27. The Malec and Zirul Family**

394. Michael Malec and Jennifer Zirul bought and moved into their home on West Mulberry Street on August 21, 2010. In June 2015, they bought the house on West Lois Court, which they then rented out. The Marshall Fire destroyed Michael and Jennifer's home and damaged their rental property.

395. Michael and Jennifer made renovations to the home they lived in and to their rental property. In their own home, they added new carpet, repainted the interior and exterior, removed popcorn ceilings, replaced the window coverings and the bathroom window, installed a new roof, installed new exterior lights and interior light fixtures, replaced toilets, ceiling fans, and the garage door, got a new microwave, range, garbage disposal, washer and dryer, and whole house humidifier, and made landscaping improvements. They tended to five large mature trees, grass, and a perennial garden, and they enjoyed the stonework walls, front and rear patios, sprinkler system, fencing, turf, shed, concrete edging, flagstone path, and landscaping rock.

396. Michael and Jennifer also added new carpet, interior and exterior paint, and window coverings, and replaced the roof on the West Lois Court property.

397. December 30, 2021 was the worst day of Jennifer's life. She was at a doctor appointment in Denver when she saw smoke from the fire in the direction of her home. She left Denver thinking she would be able to help Michael pack up their belongings, but she was only able to make it as far as Westminster given the evacuation in Louisville. Meanwhile, Michael made the decision to pack the car with some essentials and monitor the situation. With no guidance or evacuation order, Michael decided to load the dog into the car and leave, quickly finding himself in gridlock traffic. Jennifer called when he was only about one minute away from their home. After talking through more essentials they needed, Michael returned to the house for another handful of things. A fire truck came roaring down the street with an evacuation order. Jennifer managed to find a hotel room for the couple and their puppy to stay at, but little did she know they would stay there for the next seven weeks.

398. On December 31, 2021, Michael and Jennifer learned that their house had burned to the ground. Michael later saw a video that showed their home actively burning. That video replayed in his mind for months. Jennifer is still dealing with her anger after the fire and grappling with the loss of all of her belongings, memories, photographs, mementos, and



heirlooms. She is reminded of the fire each time she misses her favorite pair of jeans that the garment manufacturer does not make anymore, or her favorite sweater that she can no longer find, or her shoes and orthotics that helped keep her out of pain.



399. In addition to losing their home, the property they own on West Lois Court suffered smoke and ash damage from the Marshall Fire. They were initially worried that the rental property had burned down as well, and after they learned it had survived the fire, they were concerned about potential contamination, damage, and their tenants.

400. The Marshall Fire and loss of their home has had a profound impact on Michael and Jennifer. Michael is still adjusting to the change from being a successful homeowner with a fulfilling life in a neighborhood with close friends to being a tenant with nothing in a neighborhood of strangers. They both had to put their lives on hold while rebuilding, applying for aid, going to donation centers, and attempting to inventory and replace everything in their old home, down to a bottle of ketchup. There is not a day that goes by that they don't think about their home and talk about their home. They have been unable to take trips or do the recreational activities they used to do. Jennifer also took an extended leave from work.

401. The Marshall Fire has also taken a toll on Michael and Jennifer's health. Michael has had many sleepless nights, and Jennifer has difficulty falling asleep, staying asleep, and getting back to sleep. Michael has experienced weight gain, and Jennifer has been diagnosed with PTSD and Severe Generalized Anxiety Disorder.

402. Their relationships have also suffered. The Marshall Fire and the loss of their home has put stress on their marriage, their friendships, their work relationships, and their family relationships.

403. Michael and Jennifer are in the process of rebuilding their home, and have been forced to make huge financial decisions based on limited information and under enormous stress.

## **28. The Petty Family**

404. Missy and Kevin Petty moved into their home in July 2005, when Leila was just a few months old. S.P. was born less than two years later, and the family lived there until the Marshall Fire seriously damaged their home, displacing them for months.

405. The Pettys made many improvements to their home over the years. They added all new windows to the first and second floors, and they added a new high efficiency heating system, new hot water heaters and a new roof. They remodeled two bathrooms, adding new cabinets, floor and shower tiles, and granite countertops. They also redid the kitchen, putting in new cabinets, a new backsplash, and granite countertops. They installed hardwood floors where there had been carpets and refinished the existing hardwood floors. They remodeled the powder room, the fireplace, and the baluster and handrails. The Pettys also added custom shelves and cabinets in the family room. The Pettys took care of their fenced yard with grass mulch, and bushes, as well.

406. On the day of the Marshall Fire, Missy, Leila, and S.P. were visiting family out of state. Kevin remained at home for work, having recently started a new job. With a background in atmospheric science, Kevin has worked in the weather sector for decades, and on December 30, 2021, he was driving to work and observed high winds and gusts, and thought to himself, "If we have a fire today, we're in trouble." Kevin got home to Louisville around noon, and noticed the sky fill with smoke. He contacted Missy, who began checking news and social media to try to better understand the situation. As the smoke worsened and news of evacuation notices spread, Kevin prepared to evacuate. He packed up a few things and drove out of the

neighborhood, only to see the nearest trees already ablaze on the road. Missy and Kevin monitored the news and went to bed convinced their home was gone.

407. When Kevin woke up on December 31, he began watching local news. He noticed one reporter was near their neighborhood, and he reached out to her. The reporter went to their address, showed footage of their home, and told them on air that their house was damaged but still standing. Missy, Leila, and S.P. flew home that day. The Pettys thought they had escaped significant impact until they went into their house and found a gaping hole on the south side of their house. The walls were darkened with soot, ceilings were nearly black, interior vinyl shutters had melted, and materials in the drywall had started to deteriorate or melt and were hanging from the ceiling and along the walls like spiderwebs.







408. The Marshall Fire had a significant impact on the Pettys' lives. The aftermath of the fire was the most difficult period the family has ever gone through. They were not able to be the fun, social, lighthearted people they used to be. Kevin and Missy both have full-time jobs, and they spent 2022 with the additional full-time job of trying to navigate the partial burn and rebuild of their home, all while trying to establish a somewhat normal home environment for their teenagers while living in a temporary rental. Although their belongings were still there, the majority of them were damaged beyond cleaning or remediation.

409. Instead of visiting colleges over spring break as they had planned, or going on their summer family vacation, they were coordinating the rebuild. Leila and S.P. were two of five students in their high school who were impacted by the fire, and they experienced an additional level of stress, sadness, and anxiety as high school went on as usual for most of their peers.

410. The fire also affected the Pettys' sleep. Missy woke up many nights thinking, and would get up and work on the family's contents list. Due to health issues, Kevin sleeps on an inclined bed, but while they were displaced, he slept on a cot inclined on yoga blocks.

411. Christmas is not the same for the Pettys anymore, either. The fire destroyed all of the decorations they had acquired over the years, and they stopped making holiday cards.



Holiday shopping has been emotional and anxiety-inducing for Missy, and sometimes she still catches herself tearing up in the store when she goes.

412. Missy's work also involves fire weather prediction activities and there were times in the last year when discussing fire weather made her emotional, and she ended up crying in front of colleagues. The Pettys felt the support of friends and family, but the fire negatively affected some relationships, too.

413. The Pettys had to relocate four times, but they found a rental in which they stayed for nearly a year. They had to partially rebuild their home, and moved back into their home in late January 2023.

## **29. The Ewy Family**

414. John A. and Leslie Ewy along with their children John F. Ewy and S.E. bought their home in the Centennial 8 neighborhood of Louisville in 2008. Before the Marshall Fire, they made substantial improvements to the home, including new floors, siding, windows, bathroom, and landscaping.

415. The Marshall Fire destroyed the family's thirteen-room home and nearly all their personal property, as well as extensive landscaping, including mature trees, as fairly and accurately shown below:



416. In addition, John F.'s pet fish were killed in the fire.

417. On the day of the fire, a state trooper came to their home and told them to leave immediately. They only had time to grab a few important items and overnight bags before fleeing through gridlock and falling ash and smoke. When they reached safety, they watched on television as their neighborhood burned.

418. After the fire, the family has experienced extensive emotional distress and mental anguish. The fire, having destroyed their home, community, and sense of security, continues to affect their lives in numerous ways daily. Family members continue to experience sleeplessness, depression, and increased anxiety, especially in high winds.

419. The family is still rebuilding and hopes to return to their property this year.

### **30. The Syers and Bing Family**

420. J. Mark Syers and Shiping Syers bought their home in the Sagamore neighborhood of Superior in September 2012. In the years before the Marshall Fire, they made substantial improvements to the property: remodeled rooms and basement, new hardwood floors and stone countertops, new appliances, new roof and exterior paint, and more.

421. The Marshall Fire destroyed their eleven-room home, nearly all their personal property, including two vehicles (a Kia Optima and a Subaru Forester), priceless ancestral items), and extensive landscaping around the home, as fairly and accurately shown below:





422. On the day of the fire, J. Mark Syers, Shiping Syers, and Shiping’s daughter and J. Mark Syers’s stepdaughter, Yuan Bing, were home and had to flee through a thick wall of smoke with their dog Brandy. They all were terrified and panicked. It took days to confirm that their home had burned down, by which time they were living in a hotel.

423. That experience began many months of displacement and distress. They have experienced ongoing emotional distress and mental anguish, including sleeplessness, stomach issues, and feelings of helplessness and being overwhelmed.

424. Finally, after many months of displacement, the family was able to return to their property and a rebuilt home in November 2023.

### **31. The Oah Family**

425. Euikyung Kim and Shezeen Oah along with their children Gunsang (“Johnny”) and Seoyoung (“Chantel”) bought their home in the Coal Creek Ranch South neighborhood of Louisville in 2006. After buying the home, they made improvements, including replacing windows, floors, and air conditioning.

426. At the time of the Marshall Fire, the family was renting the house out, but Euikyung and Shezeen had planned to return to the home to live out their retirement. The Marshall Fire destroyed their property, fairly and accurately shown below, derailing the couple’s plans to return to Louisville and be closer to their family.





427. In addition to the loss of their real property, the family has lost tens of thousands of dollars in rental income from the property since the fire.

428. The family has also experienced emotional distress and mental anguish from losing the home where they had raised their kids, the first home the family knew after immigrating from South Korea. They have experienced anxiety, loss of sleep, and nightmares from the fire.

### **32. The Shaffer Family**

429. Elizabeth and William Shaffer bought their home in Louisville in July 1990, and it had been their home for over thirty years when the Marshall Fire destroyed it.

430. Over the course of thirty years, the Shaffers had remodeled their kitchen, finished the basement, and tiled all bathrooms and installed new showers. The Shaffers tended to their yard as well. They had ten mature trees, a full garden, and a six-foot cedar fence with new gates. They had a large deck, a stone round patio, and outdoor furniture and appliances. The below photograph fairly and accurately shows the Shaffers' home before the fire:





431. On the day of the Marshall Fire, Elizabeth and William were at home. Their son called from Denver, as he had heard the fire was on their street. In a panic, they escaped in their twenty-three-year-old minivan. The fire destroyed their home and all of their belongings. The below photograph fairly and accurately shows what remained of their house and property after the fire:



432. The Shaffers retired in 2018, and they had many plans to travel. After the Marshall Fire, they cancelled all of their plans. In the aftermath of the fire, their health and sleep has suffered, too. William's health has deteriorated, and he is suffering from anxiety. The stress has also strained their family relationships.

433. Elizabeth and William still own their lot, but they have not yet been able to rebuild. They hope they will be able to return in May or June 2025.

### **33. The Gheissari and Delwo Family**

434. In 2016, Rana Gheissari and Robert Delwo moved into their home in Louisville's Centennial Heights neighborhood with their two children, A.D. and V.D. The children spent their early formative years in this home.

435. In the years before the Marshall Fire, the family significantly improved the home, including replacing every lighting fixture, the sliding door off the deck, the kitchen sink and faucet, and the roof, as well as a full bathroom remodel, new exterior paint, extensive patio repairs, and refinishing the hardwood floors. Rana and Robert also completed a massive landscaping project that included xeriscaping their front yard with granite boulders and over 100 native plants, and building flagstone pathways, garden boxes, and a 750-square foot vegetable garden. A photo of some of this landscaping before the fire is shown below:



436. The entire family was at home on the day of the Marshall Fire. Around midday, the house started to smell of smoke, and the streets outside were smokey. Concerned about the worsening air quality, Rana, Robert, and their two children packed up their pets and enough belongings for a night, thinking that they would be able to return the following day.



437. The evacuation was distressing. After navigating several blocked-off roads in low visibility with crying children and panicked pets in the car, the family made it to Boulder where they were able to stay with a cousin. That afternoon, they learned that the two houses down from theirs was ablaze. Later that night, when they drove up on the ridge and saw all the houses on fire, they realized that their house was gone. Friends confirmed the devastating news the next day. The below photograph fairly and accurately depicts what remained of their home after the fire:



438. The family spent the next week getting very little sleep as they balanced their family's immediate and long-term needs. As they continued to deal with the aftermath of the fire, Rana and Robert experienced significant stress, anxiety, anger, sadness at the loss of their cherished family memories and for the stable family life they had intentionally built, and fear that another life-changing disaster is just around the corner. In addition, they also experienced financial anxiety and sleepless nights as they faced the reality of the cost to rebuild.

439. Rana, Robert, and their children remain displaced while the home is rebuilt. Their lives are forever changed by the Marshall Fire, which caused the family extensive emotional distress, mental anguish, and ongoing stress.

### **34. The Selim and Kolodner Family**

440. Abdelrahman Selim and Dara Kolodner and their minor child, N.S., moved into their home in the Centennial Heights neighborhood of Louisville in 2017. It is where they lived when N.S. was born, and where they had hoped to raise their family.

441. The Marshall Fire destroyed their family home, upending the family's life and destroying nearly all their possessions and landscaping, as fairly and accurately shown in this photo:



442. The family was at home when the Marshall Fire ignited, and they recall the smoke thickening in their neighborhood when a fire truck drove by telling them to evacuate immediately. By the time they grabbed a few items and loaded into the car, all the yards in their neighborhood were on fire. Then a house three doors down exploded in flame as Abdelrahman rushed back to grab the family cats. Up and down the street, neighbors were rushing from their homes as the neighborhood began to burn. After the family made it to a hotel room that night they learned from a neighbor that the homes on their street were all gone.

443. The Selim and Kolodner family has experienced extensive emotional distress and mental anguish since the fire. Like so many, the fire has strained their relationships and caused sleeplessness, anxiety, and depression. And N.S. talks about missing his stuffed animals, his bed, and the color of his old blanket, all of which burned in the fire. The family also lost the community they had built in Centennial Heights.

### **35. The Nordstrom Lane Family**

444. Brian and Robyn Nordstrom Lane and their daughters, J.N.L. and R.N.L., moved to the Grove neighborhood of Louisville in July of 2013. Over the course of eight years,



the family made improvements to the eighteen-room home including regrading the lot, improving the landscaping, building raised garden beds, replacing the roof, and adding new larger windows and sliding glass doors. The home and these improvements were eradicated in the fire along with irreplaceable items such as family heirlooms and furniture, fine art, handmade clothing, a grand piano, and photos, correspondence, and artwork documenting the family's life together. In addition to losing their home in the fire, the Nordstrom Lane family also lost the wildlife habitat they had been protecting for the birds, animals, and pollinators that shared their spot on Harper Lake. Two mature (thirty-years-old) ash trees, a sprawling linden tree, a crabapple, flowering shrubs, and two pine trees were lost in the fire. The nine garden beds Brian had built were partially destroyed by the fire, and the remainder dismantled due to soil contamination.



445. The family has been profoundly affected by the blaze and its aftermath. Brian and Robyn had only ten minutes to gather the family and pets into cars and flee the disaster. They were further traumatized by the stress of negotiating clogged escape routes with encroaching smoke. Robyn missed three weeks of work as a family physician to secure new housing for the family. The family pursued therapy to help them deal with the insomnia and hypervigilance that ensued after they lost their home. Daily, they feel the loss of their home and the life they enjoyed on Harper Lake.

446. The Nordstrom Lane family had to relocate three times and are still working on their rebuild with a hopeful move-in date of Summer 2024.

### **36. The Larsen Family**

447. Rebecca and Paul Larsen purchased and moved into their home in the Coal Creek Ranch South neighborhood of Louisville in August 2020, with their three children, Allison, T.L., and R.L. After moving in but prior to the Marshall Fire, the Larsens worked hard to improve their property, including installing all new windows just a few months after moving into their house. Personal touches included the concrete patio work on the front and side of the house, and landscaping with mature ash, pine, birch trees, and rocks. The photograph below fairly and accurately shows the Larsens' home prior to the Marshall Fire:



448. On the day of the Marshall Fire, the Larsens were all at home. They smelled smoke and noticed the high winds were starting to blow debris and ash around outside. After Rebecca received an evacuation notice on her phone, the family began gathering a few belongings. Rebecca grabbed important papers, their wedding album, and her work bag, and instructed the kids to grab their school backpacks. They grabbed their dog and the handful of belongings they had collected, and all piled in one car to make their way to Paul's parents' house. It was an eerily quiet car ride as the family listened to the news and the reality of what was happening sank in.

449. At Paul's parents' house, they watched news coverage of the Marshall Fire for the rest of the day. Watching footage of a news anchor reporting from 96th and Dillon Road, they saw their neighborhood in the background, engulfed in flames. The family was devastated. The photographs below fairly and accurately show what remained of the Larsens' home after it was completely destroyed by the Marshall Fire:





450. The Larsen family's analog pictures, heirlooms, and other pieces of irreplaceable personal history were all lost in the blaze. All they had left were the few belongings they grabbed on their way out of their house and the clothes on their backs. The following day,

the Larsen Family booked hotel accommodations and bought basic necessities, in an attempt to not only hold their family together but also pick up the pieces of their lives and move forward.

451. In addition to the Larsens' economic losses, each family member also experienced significant emotional distress, mental anguish, and extreme inconvenience as a result of the Marshall Fire. In addition to the initial devastation of losing their home and the resulting loss of sleep, the Larsens felt sadness and anger, caused not only by their experience surviving and fleeing the fire, but by from the stress due to the uncertainty of recovery, displacement, and inconvenience. The children found the evacuation experience especially traumatizing due to the smoke and lack of visibility.

452. Like many others, the Larsens still feel the shock of losing their family home and a lingering sense of helplessness. They remain displaced several months following the Marshall Fire as they rebuild their home.

### **37. The Collins Family and Gina Knows, LLC**

453. Gina and Tucker Collins moved to the Coal Creek Ranch South neighborhood of Louisville in September of 2015. The property contained mature flora including mature blue spruce, pine, acacia, and aspen trees. For over six years, their three-bedroom, three-bathroom house was home to Gina, Tucker, and their children K.C. and S.C.

454. Renovations on the home included window protections, a partial finish on the studio side of the home for Gina's home business (Gina Knows Fitness LLC), a shooting tarp, and even an installed sheet of fake ice for hockey practice. As a silver lining during the COVID pandemic, the family was able to renovate the property's landscaping, adding elevated gardens, an irrigation system, exterior bike storage, rocks and planters and a reinforced walkway on the side of the house.

455. Since the Marshall Fire, every aspect of the family's lives has been affected. Every member of the family has been processing the severe trauma and stress brought on by the fire and its aftermath. The winter holiday season now brings on a sense of loss and tragedy rather than the former joy and celebration. The family's trove of memorabilia including photos, computer files, albums, family relics, heirlooms, and hand-me-downs is gone. The family is already noticing that their absence of these treasures makes recollection of family stories and benchmarks all the harder and they fear the further loss of their family memories and history. The photos below fairly and accurately show what was left of the Collins' home after it was completely destroyed by the Marshall Fire.





456. Dealing with the trauma has been especially hard on the children who have experienced episodes of terror, fear, and tears since the fire. As a result of this emotional stress, their academic performance has deteriorated. S.C. has been in therapy since the fire and has had several disciplinary issues which had never been a problem before. Her friendships and personal relationships have suffered as well. During the evacuation, K.C. was screaming in tears and afraid for his life. This memory is especially wrenching and stressful for Gina and Tucker as they are able to see the negative effect on K.C.'s level of personal confidence.

457. As a result of the fire, Gina lost work equipment including computers, training and broadcasting equipment, and client records and workout plans. Recovery to normal business took fifteen months. The trauma of the fire has caused her stress and depression. She is constantly anxious and in fear of further losses and has been driven to doubt her own ability to provide for her children's needs as a parent.

458. Tucker has also experienced stress and depression because of the fire. This has caused bouts of overeating, an increased sense of conflict with others, and a sense of missing stability. This has affected Tucker's professional career as well as his family life, and to cope with this difficulty, Tucker has been in therapy since 2022.

459. Every member of the Collins family has suffered from sleep disorders because of the fire and all members of the family continue to be emotionally triggered severely by high winds, fire, and the smell of smoke.

460. Gina Knows, LLC is the personal training business owned by Gina Collins. After the Marshall Fire, Ms. Collins couldn't work for over a month as her home office and studio were destroyed. Lost in the fire were the business's tools, fitness training equipment, computers, training and video broadcasting and recording equipment, written workouts and client records.

### **38. The Chiang and Chuang Family**

461. Chih Hsiang Chiang and Hsiu Ying Chuang purchased their home in the Centennial 8 neighborhood of Louisville in 1997. Chih Hsiang and Hsiu Ying planted their family roots in this home and spent the next few decades filling it with family memories, sentimental belongings, photographs, and personal belongings. After moving in but prior to the Marshall Fire, Chih Hsiang and Hsiu Ying cared for their house inside and out, making renovations such as a kitchen floor replacement and landscaping of their gardens, which were covered in natural grass and a rock bed. This home provided them with a sense of stability and community that they cherished.

462. At the time of the Marshall Fire, Chih Hsiang's mother, Shung Yiu Chiang, and adult son, Michael Chiang, were living at the family home. Shung Yiu Chiang splits her time between Louisville and Taiwan to spend time with her son and his family. She stored possessions such as clothing, electronics, family mementos, and analog photographs in the Louisville house. This house was a place she considered home for a large portion of her time.

463. Michael Chiang grew up in the Louisville home and was staying there with his family for an extended time, as it was close to his workplace. The house held many of his belongings and memories, including childhood photographs, yearbooks, collectibles, clothing, and other personal items.

464. The below photograph fairly and accurately portrays the Chiang and Chuang house before the fire:



465. Chih Hsiang and Shung Yiu were both at home on the day of the Marshall Fire. Hsiu Ying and Michael were both at work. Around mid-afternoon, Chih Hsiang received an evacuation alert and immediately sprang into action. He and his mother grabbed important documents and the family dog, all while talking to Hsiu Ying and Michael via phone to ensure they did not return home and that they too were evacuating to safety. As Chih Hsiang and Shung Yiu drove out of their neighborhood, they saw homes across Main Street that were already on fire. Stuck in traffic with the hundreds of other residents trying to flee, it was a harrowing experience for them both.

466. Chih Hsiang, Hsiu Ying, and Shung Yiu stayed at a friend's house that night, and Michael stayed with one of his friends. The family eventually found themselves in temporary housing. This sudden change was especially hard on Shung Yiu.

467. The Chiang and Chuang family was devastated to learn that they had lost everything in the Marshall Fire. Memories, belongings, peace of mind, and their community – all were gone overnight. The below photograph fairly and accurately shows what remained of their house and property after the fire:





468. Because Michael Chiang was at work when he received the evacuation notice, he was unable to return home and save any of his belongings. All he had with him were the clothes on his back and what he brought to work that day. Everything else was lost in the fire. Michael had also rented out his apartment in Denver at the time of the fire since he was living with his family. With no home to return to, Michael had to stay in a hotel on his return from a preplanned trip a few days following the fire.

469. In addition to their economic losses, the Chiang and Chuang family has experienced a great deal of emotional distress and mental anguish from the Marshall Fire and its aftermath. Chih Hsiang and Hsiu Ying lost sleep over their fear that another similar tragedy could happen again at any moment. The unexpected displacement was exceptionally stressful for Shung Yiu, as was her constant concern for the well-being of her family members and friends in the affected areas. These took a mental toll on her, resulting in uncertainty and fear for her safety.

470. Michael was not spared – he feels a constant worry that his community and belongings will be lost in the blink of an eye, especially when there are high winds. Due to his family's language barrier, Michael has also had to shoulder the responsibility of spearheading their rebuild efforts, communicating with contractors and architects, and other tasks related to the Marshall Fire's aftermath – all on top of working a full-time job and running a business. His efforts to help his family return to some sense of normalcy have badly affected his stress levels and his sleep, and interfered with his life.

471. The family remains displaced as they wait for their house to be rebuilt. Though they were lucky to escape the fire with their lives, the Chiang and Chuang family's community, sense of safety, and lives are forever changed by the Marshall Fire.



### **39. The Wilson Family**

472. Garrett and Tracy Wilson moved to the Cornerstone neighborhood of Louisville in July of 2018. Over the course of three years, the family made personal improvements to their four bedroom home including landscaping, hardscaping, new exterior stairs, custom fencing, new light fixtures and outlets, new vent coverings, new carpets, interior paint, window frame sealant, custom banister and handrails, and new trim on the lower level. The home and these improvements were all lost in the Marshall Fire. Also lost were the mature trees and shrubbery throughout the property. Even more heartbreaking than the loss of property and possessions was the fact that two beloved and integral family members, dogs Fudge and Riley whom the Wilsons had raised since they were puppies, both died in the fire adding to the misery, sorrow, and loss the family continues to feel to this day.





473. The Wilsons were on vacation in Utah at the time of the fire and were alerted by a text from the neighbors. They were unable to return home immediately due to extreme weather and road closures. While they were able to contact their dog sitter, that individual was unable to enter the disaster area to rescue the family dogs. The Wilsons ended their vacation early and traveled home only to find that their entire community had been demolished and that their beloved pets had been killed by the fire.

474. The Wilson family has been traumatized by the loss of their home and feelings of present and future insecurity. Even more emotionally damaging was the loss of their beloved pets and community.

475. The Wilsons have all suffered from periods of depression and loss of sleep since the Marshall Fire. The family all continue to experience anxiety caused by their experience and the emotional reactions to extreme loss and displacement. Due to the drain on physical and emotional energy, it became necessary for Garrett to resign from his former company of fifteen years to take on less demanding work. The loss of friends and community has made recovery even harder as the Wilsons try to determine if they will be able to return to their land or should look elsewhere to settle.

#### **40. The Neslund Family**

476. Carol and Richard Neslund bought their Louisville home in 1995; it was a newly-constructed custom home. They resided there until the Marshall Fire destroyed their home. The Neslunds' home, including all landscaping, was destroyed. The Neslunds are still displaced and their home is still being rebuilt.

477. The Neslunds improved their home many times. They built two home offices with fireplaces, a recreation room and a full bathroom in their basement. They replaced the roof, rebuilt the deck, and substantially improved the landscaping in many ways. Their substantial landscape improvements included the addition of several patios, a two-story waterfall, and a stream and pond. They also remodeled their kitchen, great room and master bathroom.

478. The following photos fairly and accurately depict the remains of the Neslund home and property after the Marshall Fire:











479. On the day of the Marshall Fire, the Neslunds were at home. A neighbor knocked on their door to warn them to evacuate. They grabbed very few belongings—just things such as laptops, phone, and wallet—and left behind virtually all their other possessions. The evacuation was slow, taking nearly two hours before they reached a hotel. From the hotel, they watched their neighborhood burn on live TV. The next day, they used open space trails to reach

their neighborhood, and found their home of twenty-six years a smoldering pile of twisted metal and ash.

480. After the Neslunds long-term family home was destroyed, along with their yard and landscaping, they have spent hundreds of hours to rebuild their lives. They lost nearly all of their personal property, including treasured family items and memorabilia. This included many items that reflected their personal connections and professional achievements, which connected them to expressions of their values and priorities, their vocations and communities, and their life histories.

481. Carol and Richard were active outdoorspeople, enthusiasts of mountain climbing, hiking, and trail running. They had a “gear room” with equipment for running, back-packing, snowshoeing, skiing, and more pursuits. Their time outdoors—and their equipment—helped provide balance with their professional lives. That balance and their active lives were destroyed by the fire.

482. The Neslunds have both experienced extraordinary stress and loss of sleep following the Marshall Fire. Both Carol and Richard have experienced feelings of isolation, as the once-close community they lived in has been dispersed. Their relationships and routines have been uprooted. The time required for the rebuilding and recovery process has also placed stress on them.

483. Where they once took pride in their preparedness, in the balance and resilience they had built in their lives, they found their stability destroyed. They prided themselves, as the children of Depression-era parents, on their financial preparedness and careful planning. They owned their home without a mortgage, but their retirement has been disrupted by planning for rebuilding.

#### **41. The Gutshall Family**

484. Emily and Nathan Gutshall bought their Louisville home in July 2012 and lived there with their two children, M.G. and G.G., until the Marshall Fire destroyed the home.

485. The Gutshall family home was totally destroyed in the Marshall Fire. The family is still displaced, working to rebuild.

486. The Gutshalls improved their four-bedroom, four-bathroom house after purchasing it. They replaced the roof, air conditioning, and garage door; painted the interior and exterior; and improved the driveway and garage, among other things. The Gutshalls also substantially improved their yard, installing a new deck and extensive backyard landscaping, including a new retaining wall, patio and sprinkler system.

487. On the day of the Marshall Fire, Nathan, M.G. and G.G. were at home, while Emily was at work. Emily left work due to the smoke and returned to a windy and chaotic neighborhood. She quickly came to the realization that the family should leave, but first sought to warn her neighbors. Nathan packed up their children, M.G. and G.G., in his vehicle, while



Emily followed in her car. The family did not take their personal items, being more concerned with the well-being of their neighbors, and with evacuating to safety.

488. The photograph below fairly and accurately shows what was left of the Gutshall home after it was destroyed by the Marshall Fire:



489. The Gutshalls' long-term family home was destroyed, along with their yard and landscaping. They have spent hundreds of hours working on rebuilding their lives and their home, including managing the rebuilding process. Construction on rebuilding their home did not commence until October 2023, and the family remains displaced as of the date of this Complaint.

490. The Gutshall family effectively lost all of their personal property and possessions, including irreplaceable items such as family heirlooms, baby pictures and mementos of the childrens' upbringing, and more.

491. The Marshall Fire has placed extraordinary stress and trauma on the Gutshall family, causing lasting sadness, anxiety and sleeplessness. Bearing the burdens of displacement, while also rebuilding their home and their lives, has taken countless hours. Windy days and dry weather are constant triggers for their stress and worry.

#### **42. Wendy Paige Bohling and Wendy Bohling Properties, LLC**

492. At the time of the Marshall Fire, Wendy Paige Bohling owned four properties in Louisville: two in the Wildflower Condominium Association and two in the Coal Creek Townhomes Association. She purchased the 687 Ridgeview Drive property in 2010, the

396 Owl Drive and 304 Owl Drive properties in 2012, and the 624 Ridgeview Drive property in 2018. Each property was a townhome.

493. At the time of the Marshall Fire, Wendy resided at the 624 Ridgeview Drive property. Prior to the Marshall Fire, she made extensive renovations to the kitchen, office, and family room in December of 2021.

494. Wendy also made several renovations to the 396 Owl Drive property prior to the Marshall Fire, including converting the basement bathroom into a full bathroom, as well as replacement of fixtures, upgraded appliances, custom painting throughout, and front patio landscaping.

495. On the day of the Marshall Fire, Wendy was on her way back home from an out-of-town trip when she heard about the evacuation in her neighborhood. Because she was still hours away from returning home, she learned she would not be able to make it back in time to grab anything for the evacuation. All she had was what little she brought with her on her trip. Friends were texting her that her home was gone as well as her rentals.

496. The Marshall Fire completely destroyed the 396 Owl Drive property. The below photographs fairly and accurately portray the damage done to this property:







497. Though 304 Owl Drive, 687 Ridgeview Drive, and 624 Ridgeview Drive luckily did not burn down in the fire, each property sustained significant smoke and ash damage both inside and outside of the homes themselves, that has lingered for months on end.

498. Wendy Paige Bohling was displaced for over a month following the Marshall Fire. Since then, she has had to manage the losses and rebuild for not just one property, but four; to deal with the aftermath, she has had to sacrifice the time she would otherwise dedicate to her work. The Marshall Fire traumatized her, disrupted her life, and caused increased stress and loss of sleep. Unfortunately, Wendy continues to experience sleep disruption and anxiety from the stress and has been prescribed a sleeping aid and anxiety medication as a result.

499. Wendy Paige Bohling was lucky enough to have been able to move back into her home at 624 Ridgeview Drive. 396 Owl Drive is still being rebuilt.

500. Wendy Bohling Properties, LLC is owned by Wendy Paige Bohling and the LLC owns several properties damaged by the Marshall Fire. After the Marshall Fire, Wendy lost rental income and was unable to work due to the aftermath of the fire and the business suffered losses.

#### **43. The Kleinschmidt Family**

501. Nick and Kate Kleinschmidt moved to Colorado with their toddler, A.K., in 2020. They were expecting a new baby, T.K., just a couple of months later. They bought and moved into their home in Louisville and were settling in - they remodeled two bathrooms, added

a bedroom in the basement, and added new landscaping and trees. Then in December 2021, the Marshall Fire destroyed it all. The photograph below fairly and accurately shows the Kleinschmidts' home prior to the Marshall Fire.



502. On the day of the Marshall Fire, while Nick was out with the kids, Kate smelled smoke. Less than an hour later, they learned that Superior was evacuating, and when Kate called Nick to say they should go to his parents' house, he was pulling into the driveway. They quickly took turns staying with the kids in the car while they grabbed their cats, a lockbox, a laptop, running shoes, pajamas for the kids, a halfway heated lunch in the microwave, and their older child's favorite stuffed animal. Kate wasn't wearing shoes, and she forgot to grab her purse and jacket.

503. They thought they would be going home that night, but they became less sure as updates on the fire rolled in while they watched the news and talked to their friends and neighbors throughout the afternoon. That evening, Kate went to PetSmart and Target to buy essentials and get dinner. That night, they saw videos and pictures of their neighborhood engulfed in flames. They couldn't believe their eyes. They talked to a neighbor who told them nothing was left and their neighborhood was flattened. They couldn't believe their ears. At that point they knew it was true, but they couldn't stop scrolling and scrolling through the news, trying to find more information or confirmation.

504. Kate Googled "What to do when your house burns down." They realized they had a long list of things to do, including make a DMV appointment to replace Kate's license, email a therapist, and buy Christmas presents for their kids.

505. The next morning, they knew the house was gone. They cried, and worried about how to tell their older child that everything was gone – her toys, her room, her Christmas



presents, and more. When they told her, she didn't really understand, and Nick and Kate cried more than she did. She just wanted to make sure her new toys were purple, since that was her favorite color.

506. Kate went to Target at 7:15 that morning to get snow clothes for her kids. Seeing all the things she used to own, she began to break down – she was sweating, crying, ripping off her jacket. She calmed down and returned to her family with essentials. They saw an aerial shot of their street, razed and smoldering, on the local news.



507. The Marshall Fire and its aftermath was incredibly stressful and had a significant impact on the Kleinschmidts' lives. Losing their home and all their belongings and evacuating with a one- and three-year-old child after having just moved to Colorado was the hardest experience of their lives. They both have some ongoing insomnia. Their kids are clearly affected, as well. Their older child still struggles with big emotions and repeats that she is thankful her dad got her stuffed animal out of the house before it burned.

#### **44. The Malcolmson Family**

508. Nicole and Andrew Malcolmson moved to the Enclave neighborhood of Louisville in February 2013 with their five children, Julia, Zachary, P.M., E.M., and C.M. Over the course of eight years, renovations and personal touches transformed the five-bedroom house into a home for the couple and their children. Renovations included new roof, windows, doors, and trimming. They also added an outdoor kitchen for entertainment.

509. In addition to the loss of their home, the Malcolmson family lost their beautiful surroundings. Mature silver maples, rose bushes and shrubs were all lost, as well as the

entire lawn. Landscaping features including a waterfall and koi pond were destroyed and several pet koi fish were killed in the blaze.

510. The photographs below fairly and accurately show the Malcolmsons' home after it was destroyed by the Marshall Fire:







511. Evacuation was especially traumatic for the Malcolmsons who were forced to flee their home only fifteen minutes after noticing smoke in the neighborhood and receiving orders to leave. Loading the family and a few possessions into two cars, the family drove through the spreading disaster in smoke and darkness. The children were understandably terrified and crying during the drive, adding to the overall stress and anxiety the family was feeling.

512. The children and adults have all experienced sleeping disorders including months of insomnia, night terrors, waking panic attacks and fitful non-recuperative sleep. Because of the limited space available in their emergency lodging, Zachary was unable to spend time recuperating with the family following their loss and has only recently been able to live with the family again in new accommodations. Their current accommodations have increased their daily school commute from fifteen minutes per day to an hour and a half per day. This forces the kids to be up much earlier and the stress to get out the door is immense. Nicole's physician has recommended treatment for anxiety.

513. The family has suffered socially as interactions with friends and family who did not experience their emotional trauma can be triggering and upsetting. The Malcolmsons equate their continuing suffering to PTSD and note that family members are quick to anger over small issues and that they experience day-to-day struggles with problems that would not have previously caused them difficulty or distress.

#### **45. The Petersen Family**

514. Ian Petersen moved into his home in Louisville on June 10, 2019, and Jamie moved in during March 2020. They were building their life there. They took care of the house and updated the washer, dryer, and dishwasher, and tended to their yard, which included three trees and other shrubs and plants. They were preparing for their wedding when the Marshall Fire destroyed their home in December 2021.



515. On the day of the fire, Ian and Jamie had to evacuate their home as the fire closed in. The experience was extremely chaotic. They loaded their dogs and a few personal belongings in a car. Everything they left behind burned. This included their other car and almost everything they had prepared for their March wedding: Jamie's veil and shoes, Ian's suits, and all their decorations.





516. The Marshall Fire affected the Petersens' lives extremely negatively. Ian has mild PTSD and Jamie has moderate PTSD surrounding the fire. Ian lost 99% of his material possessions, including the last remaining items that had belonged to his grandparents. Jamie lost all of her childhood memories that she had brought to Colorado. After the fire, their sleep suffered, they had to move farther away from family and friends, and their family relationships were strained.

517. The Petersens are rebuilding and hope to move back in between April and June 2024.

#### **46. The Cox Family**

518. Bartley and LeeAnn Cox, along with their children William and Laurel Cox, bought their home in the Coal Creek Ranch neighborhood of Louisville in 1998. Before the Marshall Fire, they made several substantial improvements to the home, including several bathroom remodels, multiple full-room renovations, installation of hardwood flooring throughout the house, window and door replacements, and several other upgrades.

519. The Marshall Fire destroyed the family's eleven-room home and all their personal property and family memories inside it, as well as their extensive landscaping including several mature trees, an exceptional variety of flowers, and a rare poppy species. The photo below fairly and accurately shows what was left of the Cox's home after it was destroyed by the Marshall Fire:





520. On the day of the Marshall Fire, Bartley, LeeAnn, and Laurel were at home. It was very windy, but they had not received an evacuation notice. Just after they saw the skies blacken, they noticed embers falling into their backyard and deck. Hearing several cars going down their street, horns blaring, and people yelling outside that they needed to leave, they realized the Marshall Fire was literally in their backyard and they only had a few minutes to get out of the house. With nothing but the clothes on their backs, what little they could grab of their personal belongings, and the new kittens that the family got for Christmas, Bartley, LeeAnn, and Laurel rushed out of their home amidst thick smoke to escape the fire. Laurel called William, who was on his way home, and told him that they were evacuating and not to come home. The family met up in Denver.

521. The Cox family was left shocked, disoriented, and traumatized by the day's events. That evening, the family watched their entire neighborhood burn on national television. Their house and everything in it, including a minimum of twenty-three years' worth of irreplaceable family heirlooms and mementos, keepsakes, and personal belongings, were incinerated.

522. In addition to her personal belongings, LeeAnn lost keepsakes of her family history, such as antiques and fine jewelry passed on from family members and her father's annotated personal book collection and writings from a lifetime of academic research.

523. Laurel lost everything, including all her books, her writing collection of travel journals, stories, diaries, and school notes, her sheet music and her compositions, her instruments, her theses, analog photographs, travel souvenirs, and childhood mementos. She also

lost her artwork and sketchbooks—as an illustrator by trade, this was especially devastating, both materially and emotionally.

524. The Cox family stayed in a hotel for approximately two months following the Marshall Fire and struggled to find a long-term rental because of how difficult it was to find suitable housing that would accept cats. Each move was just another traumatic event for the family as they were forced to repeatedly pack up their belongings and readjust to new surroundings.

525. In addition to their economic damages, each member of the Cox family has experienced significant emotional distress and mental anguish. The Cox family is tired and depressed, and lives in fear that another disaster could strike at any moment. Bartley has never felt grief, depression, and overwhelm like this before—to this day, he often still feels defeated. LeeAnn has experienced many emotions—including depression, sorrow, hopelessness, grief, and trauma—that have resulted in panic attacks, sleepless nights, nightmares, and high blood pressure, and she plans to begin therapy soon. Laurel has lost her creative spark and desire to travel. Laurel also lost her medical supplies in the fire and her health suffered as a result. William was traumatized by watching his cherished family home reduced to ashes and now sees a therapist as a result.

526. The loss of their home and community has taken a toll on their lives, their health, and relationships. In short, the Cox family feels as if their future has been stolen from them—a future that they planned for, sacrificed for, and anticipated with joy.

527. The Cox family is still rebuilding and hopes to return to their property this year.

#### **47. The White Family**

528. Cailin and Michael White bought and moved into their home on Vista Lane in November 2019. Just over two years later, the Marshall Fire burned it down.

529. After buying their home, Cailin and Michael smoothed out the ceilings and repainted the walls, they installed hardwood floors to the first floor and primary bedroom, they added solar panels and a front patio, they relandscaped in the front yard, added an underground drain, and they redid one shower. They also took care of four mature trees, bushes, and sodded grass in the front and back yards.

530. When the Marshall Fire raged through their home, Cailin and Michael were visiting Cailin's parents in California. Cailin's parents' home had burned in a wildfire in 2017, so getting news of their own home burning while with Cailin's parents was particularly significant. Michael and Cailin had lost many personal belongings when Cailin's parents' house burned, including wedding gifts and almost all of Cailin's childhood belongings. As a result, the personal items Cailin and Michael did have in their own home had extra sentimental value, given what they had already lost and what they and their family had already gone through. They did not have any opportunity to save any items, belongings, or keepsakes. When they returned, their

home and everything in it, including their car, was completely destroyed and they had to stay in an Airbnb and purchase essentials like food and clothing.

531. The below photographs show what was left of the Whites' home after the fire:





532. The Marshall Fire significantly disrupted the Whites' lives. Cailin was five months into her pregnancy at the time, and the stress likely contributed to complications including an early delivery and low birth weight; their child was in the first percentile of size and weight. The Whites also moved four times in the following months, including while Cailin was pregnant and while they had an infant and a toddler. Dealing with the aftermath of the fire has been extremely time consuming, as it has necessitated commuting longer distances, dealing with the logistics of rebuilding, recovering, and replacing their property. They both experienced a significant loss of sleep after the fire and have an especially hard time sleeping when it is windy for fear of future fires. The Marshall Fire has taken a toll on their mental health, too. Michael took a leave of absence from work. The stress from the fire has also affected their relationship. It has added even more stress on top of giving birth and raising a baby and a toddler, and it has made it harder for them to see family and friends.

#### **48. The Chan Family**

533. Stephen and Elizabeth Chan moved to the Centennial Heights West neighborhood of Louisville in May of 2017 with their two children, C.C. and D.C. Over the course of six years, the family home was upgraded with new storm proof shingles, new paint, window screens, fencing, a new garden retaining wall, river rocks, releveling of the patio, professional pruned trees, and many new plants. The photograph below shows the Chan home prior to the Marshall Fire.



534. The Chans were returning to their home in Louisville at the time of the Marshall Fire. They received a text from their neighbors telling them their neighborhood was on fire, so they diverted to a hotel in Fort Collins and were unable to rescue any important items or keepsakes. Once they were able to visit the site the next day, they found their home and neighborhood destroyed. They are traumatized by thoughts of the memories represented by lost photos and family videos, heirlooms and antiques from their own, and their ancestors', travels and homelands and the fear that these pieces of family history are lost to the Chan children and



future generations. The photographs below show the Chan home after being completely destroyed by the Marshall Fire.



535. The Chan family has been profoundly affected by the Marshal Fire and its aftermath. Emotional recovery has placed stress on the Chans' marriage and has affected relationships with extended family, friends, and co-workers. Elizabeth has had to take prescription medication to deal with fire related stress and anxiety. D.C. also had a rough time adjusting into 6th grade which continues since that was his first year at middle school.

536. The Chans are still going through the lengthy process of rebuilding their home, with an estimated completion date of Summer 2024.

**49. Kelly Ruof**

537. Kelly Ruof bought her Superior home in May 2008 and lived there until the Marshall Fire destroyed the home.

538. Kelly's home was totally destroyed in the Marshall Fire. She had to move four times in the past two years and was not able to return to her home until December 2, 2023.

539. The following pictures show Kelly Ruof's home before and after the Marshall Fire:









540. On the day of the Marshall Fire, Kelly was at home. She looked out the window and, in a short timeframe, smoke gathered so thick that she could not see the house across the street. She panicked and, taking her cat, left her home and all her belongings behind.

541. Since the Marshall Fire, Kelly has experienced post-traumatic stress, aggravated depressive symptoms, and intense anxiety, among other effects. She has experienced intense and aggravated insomnia as well as irritability that has affected her familial and social relationships.

## **50. The Sawyer-Ratliff and Williams Family**

542. Suzanne Sawyer-Ratliff's deceased husband was deeded the family home in the Original Town, Superior neighborhood in 1979. The home became the family's full-time residence for Suzanne Sawyer-Ratliff and her now adult children, Megan Williams and David Williams, in 1989. While living in the home, they made many improvements, including the addition of a grand room, an additional three-car garage, a full bathroom renovation, an entire rebuild of the front and back porches, and installation of split rail fencing. They also completely drywalled, painted, and refloored the entire home. The below photograph fairly and accurately portrays their home prior to the fire:



543. At the time of the Marshall Fire, Megan Williams was at home in Colorado for the holidays and was staying with Suzanne in the family home. Suzanne and Megan had almost no time to evacuate when they learned of the Marshall Fire. After spotting smoke in the backfields, Megan drove out to see how close it was to their house. There, she encountered firefighters who forcefully instructed her to evacuate immediately. Megan returned to the house to warn her mother. Fearing for their lives, Suzanne and Megan had only minimal time to scoop up a lifetime worth of family history. They grabbed a few family treasures and left in one car so as not to become separated. They reached safety after battling significant evacuation traffic.

544. The Marshall Fire destroyed the Sawyer-Ratliff and Williams family compound, including the home, outbuildings, the surrounding trees, shrubs, perennials, fencing, and grape vines. Everything inside and outside was destroyed. The below photograph fairly and accurately portrays the family's house after the fire:



545. Suzanne lost all her personal possessions, valuables, keepsakes, significant artwork, family heirlooms, and everything else in her home of over forty years. A career educator, gardener, avid walker, and environmental activist, Suzanne had a direct connection to her neighborhood, her community, and her land. As a librarian, she had organized both of her children's developmental milestones, clothing, artwork, as well as artifacts from her late husband and extended family, with the intent of sharing all with her children and only grandchild. This loss has been particularly painful, traumatic, and devastating.

546. Megan lost her family home, and most significant personal possessions including jewelry, clothing, hiking and camping equipment, computer equipment including external hard drives that held over twenty years of irreplaceable professional work and photography. Since the Marshall Fire, she has dedicated an immense amount of her time to helping her family deal with the aftermath and recovery, including extended stays in Colorado, traveling to and from New York City, while also working full time in her demanding Senior VP position.

547. David lost not only his family home, but some of his most valuable personal assets, family heirlooms and life-long collections. He had spent over thirty years completely restoring his classic 1965 Chevrolet 3/4 Ton Long Bed Fleet Side pickup truck. David's most treasured family heirlooms – intended for his young son from his great-grandfather who

emigrated from Wales –were also lost. Of greatest monetary value, David lost his extensive collection of rare sports, music and movie memorabilia, including rookie trading cards, personal autographs, and other priceless collectibles.

548. In addition to their economic losses, the family has experienced significant emotional distress and mental anguish from losing their home and community. They have experienced significant stress, anxiety, and loss of sleep from the fire.

## **51. The McGonigle and Werlin Family**

549. Jeff McGonigle and Lis Werlin bought and moved into their house in Louisville in June 1996. Piper was born a few months later, and Polly was born in 1999. Jeff, Lis, Piper, and Polly loved their house, their yard, and their land. They were rooted there. Then the Marshall Fire incinerated it.



550. After moving in, Jeff and Lis added a large deck and a poured and stamped concrete patio in the backyard, and they remodeled two bathrooms, including the showers, vanities, and floor. In 2021 they completed remodeling the main floor: they completely redid the kitchen, adding new appliances, cabinetry, a quartz island and quartz counter tops, adding new light fixtures, remodeling another bathroom, and adding engineered hardwood flooring throughout the house, and replacing the living room furniture and light fixtures.

551. The McGonigles also devoted themselves to their garden. Lis has always been a gardener, and for 26 years, she tended the soil at 970 Arapahoe Circle. She took special care of their ash tree, treated carefully and faithfully for emerald ash borer, their peach tree that produced the best fruit the family knew, and the maple tree that was the heart and soul of their



home. They had three apricot trees, a white fir, a silver maple, and three alders, too. Lis had peonies that grew to be six inches tall, and she tended the Irish moss, wooly thyme, canterbury bells, foxgloves, lupines, daisies, coneflowers, and succulents. The garden was also home to shrubs, including five lilac bushes, three evergreen bushes, and six lavender bushes. The garden had beautiful rock accents, too—Lis’s grandparents gave them as gifts to her mother on momentous occasions, and the turquoise, selenite, quartz, and amethyst were sprinkled through the garden. The McGonigles enjoyed the cedar fence, retaining walls, brick edging, cobblestone driveway, railroad tie garden wall, two raised garden beds, a poured and stamped lower deck, and flagstone paths that wove through their yard.

552. Piper split her time between the McGonigle house in Louisville and Pittsburgh, and Polly moved to a new place in Denver, but both of them still considered Louisville home. That day, Piper was traveling, and Polly was at home in Louisville while her parents were out. Lis was walking on Davidson Mesa with a friend when they saw smoke rising from the horizon. They returned to the neighborhood, and a friend cautioned them to pack up, save essentials, and get out. The sky was dark by that point. While Lis had gone on her walk, Jeff had gone to Costco—when he had walked in, it was a day like any other, but when he walked out, it was a hellscape of wind, ash, and heat. Jeff and Lis arrived at home around the same time, and the three of them knew it was time to evacuate. They grabbed their two dogs and tortoise, some clothes, and some ornaments from their Christmas tree and loaded them in the car. By the time Polly took the last load to the car, her hands were shaking so badly, she dropped the keys. Ash was falling like rain, the wind was unrelenting, and they couldn’t hear anything. Each successive trip to the car was worse. Jeff took one car, while Lis and Polly took the other. Polly spent the first part of the drive calling friends to make sure they knew to evacuate. As they sat in traffic, Polly began to cry for the first time. She envisioned the fire creeping toward them, cooking them in their cars.



553. The Marshall Fire ripped through their home and garden, incinerating everything. They lost their house and belongings, but more significantly, they lost the tree Lis remembers Polly reading her books in in the summer, they lost the place Piper and Polly created their own worlds, and they lost every physical connection to their home. Jeff had moved his dad's tool collection to their house just a few months earlier, and he lost every single item. Jeff can buy a new hammer, but as he explains, it doesn't have his dad's hand-oil in it, his dad didn't hold it, and he doesn't recognize it. It is a sterile, new hammer. For the first six months after the fire, Jeff couldn't go to the hardware store.



554. Lis feels the loss of the photographs of her children, her artwork, and her mother's belongings. She lost her entire tangible history pertaining to her mother, including her antique horseback saddle, her handwritten recipes, and her notes to her.

555. Polly and Piper feel the loss of the relics of their childhood. Polly lost the letters her grandmother —her pen pal—sent her, and Piper lost the diaries she kept from ages five through twenty-four. They lost their history. To Piper, it was like a death.

556. The fire has had physical effects, too. Sleep does not come easily to the McGonigles anymore. Polly still has nightmares about the fire, and she can't sleep when it's



windy. Piper felt nauseated all the time in the aftermath of the fire, and she still has sleepless nights. Nearly two years after the fire, Jeff still wakes up every night with fire-related thoughts.

557. The fire also affected the McGonigles' relationships. Lis notes that her closest relationships endured the stress and grief with lots of patience, teamwork, and care, but her peripheral relationships suffered greatly, and she does not know how she could regain those lost connections. The incident was a strain on the entire family, and stress was evident—it was a long, tough two years.

558. The McGonigles rebuilt and moved back in on July 15, 2023.

## **52. The McConville Family**

559. Daniel and Nellie McConville bought their home in December 2001 and moved with their children, Emma and Claire, to the Coal Creek Ranch South neighborhood of Louisville in 2002. Over the course of twenty-one years, the family home was upgraded several times, including a finished basement, an additional bathroom, a remodel of the existing three bathrooms, a total kitchen remodel, a remodeled entry hall and staircase, hardwood floors, a renovated dining room, a full wall sliding glass door, new lighting and windows, new carpeting in the basement and bedrooms, and new paint inside and out. Outside additions included a new front porch, new roof and gutters, a designer deck and railings in back, new landscaping and trees, a new irrigation system, heated driveway pavers, and a new A/C system and electrical panel. The home can be seen in its original state below:



560. At the time of the Marshall Fire, Emma and Claire were visiting from Nebraska and had been staying with their parents for the holidays. The McConvilles were at home, preparing for their return to Nebraska the next day. While Nellie was preparing an early dinner, she and Daniel both tried to stop their trashcans from toppling over in the strong winds.



Eventually, they received the call to evacuate. When Nellie opened the door to check the weather, she was pushed by a thrust of wind and smoke. Realizing they needed to leave immediately, the McConvilles gathered vital personal belongings and fled the area in multiple cars. Once safe, they assisted with the evacuation of elderly residents and other members of the community with special needs. It was only later while watching the news in their hotel room that they learned, to their horror, that their home and neighborhood was in flames. Their entire community had been destroyed.

561. Upon visiting the property in person over later days, the full degree of loss was realized yet again. The below photograph fairly and accurately shows what remained of the McConville property after the Marshall Fire:



562. Beyond the loss of a home, the family was deprived of several lifetime's worth of memories and keepsakes that should have been shared with future generations. This includes family heirlooms and antiques, photo albums, treasured furniture, children's art projects, and recordings of the children's performances.

563. Every member of the family has been traumatized by the experience of evacuation and the emotional impact of later realized loss and sorrow. Every member of the family has suffered from sleep disorders and anxiety. They struggle in social situations and are still individually processing their experience and grief in different ways.

564. Daniel was impacted by a profound feeling of uncertainty and helplessness when faced with the stress of evacuation and the aftermath of emotions that came with dealing with the financial and logistical issues of recovery.

565. Nellie is especially emotional over the thought of memories that were lost to future generations of the family. At the time of the fire, she had been organizing family photos and videos into a hard drive for preservation, and the loss of those items causes her heart to ache.

566. Claire continues to struggle. Alongside the trauma, Claire experienced many PTSD symptoms. She did not return home for a year and could not talk about or look at the burned-out debris that used to be their home. She is benefiting from therapy to help deal with the issues caused by the fire but feels like the trauma of the events stay with her.

567. Emma was especially traumatized by calls from friends who were also evacuating at the time. She is grateful to be alive and has also sought therapy to deal with the strong emotions she continues to feel years later.

568. Like many others, the McConvilles remain displaced while they wait for their rebuild to be completed. They hope to move back to their property soon, but their house, sense of security, and community will remain forever changed by the Marshall Fire.

### **53. The Navarro Family**

569. Rebecca “Becky” Navarro along with her son Jaron Navarro moved into their home in the Centennial Heights West neighborhood of Louisville in 1994. Since buying the home, the Navarros made substantial improvements, including converting the unfinished basement into an accessory dwelling unit that they rented out.

570. The Marshall Fire destroyed the family home including all their personal property and extensive landscaping, including fruit trees, a large vegetable garden, and irrigation system, as shown below:



571. Rebecca also lost all the inventory from her home antique and collectible online marketing business, worth tens of thousands of dollars.

572. In addition to these economic losses, the Navarros experienced extensive emotional distress and mental anguish. They have experienced trauma, depression, sleeplessness, and other direct impacts from the fire.

573. On the day of the fire, Rebecca was still in the home as it began to burn. She was in the basement working when she heard a loud bang and rushed upstairs to find thick smoke and a firefighter who had come through her front door looking for people inside. She quickly fled in her car, over a front yard that was on fire. She inhaled significant smoke, for which she went to the emergency room several times and experienced lasting symptoms.

574. They are still in the process of rebuilding their property but hope to return in 2024.

#### **54. The DePass and Wessel Family**

575. Reggie DePass and Madeline Wessel bought their home in Louisville in March 2013. They had their children in 2016 and 2018, and it was the only home their children had ever known when the Marshall Fire destroyed it.





576. Prior to the Marshall Fire, Reggie and Madeline made many improvements to their home, including a complete remodel of the kitchen and three bathrooms, new siding, roof, and gutters, new central air conditioning and fireplace, new front and rear decks and patio doors, and new concrete walkways and driveway repair. Reggie and Madeline also were attentive to their seven mature trees, approximately thirty mature shrubs, and landscaping features including retaining walls, rock work, sprinkler system, and sod.

577. On the day of the Marshall Fire, the daycare Reggie and Madeline's youngest child attended notified families that it needed to evacuate. Reggie went to pick up their child, and within five minutes of returning home, Reggie and Madeline answered a bang on the door and a state trooper told them they needed to evacuate. Madeline left about ten minutes later with overnight supplies and the children. Reggie grabbed the kids' birth certificates and social security cards but was unable to gather anything else. When Reggie left, the house was already filled with smoke and ash, and as he drove away, he saw their neighbor's house on fire. Madeline found herself immediately stuck in traffic just a few blocks from their home. She sat in the car with the children, unable to move, watching the smoke cloud grow closer, and she was afraid that she and her children would burn in the car. She and Reggie were talking on the phone when he saw their neighbor's home engulfed in flames. Madeline could hear explosions through the phone as he drove out of their neighborhood. It took ninety minutes to drive two miles, but all of them eventually made it to Madeline's parents' home.



578. The Marshall Fire totally destroyed Madeline and Reggie's home and completely upended their lives. In the immediate aftermath, the daycare their youngest child attended shut down for over a month. Reggie and Madeline were both working full-time and had to take significant time off to care for their child. Reggie, Madeline, and their kids have been displaced since the Marshall Fire, and have gone from sharing a room to a basement to a rental. Their displacement has completely changed their lifestyle, as they lost the access they had had to trails, a gym, outdoor space, and their kids' schools. Madeline has quadrupled the miles she puts on her car annually in the aftermath of the fire. The time demands of relocating, replacing their belongings, and trying to address the issues related to the fire have been immense – it took months to repurchase enough kitchen supplies to be able to cook on a regular basis. Madeline ended up giving up her job so she could focus on the rebuild, repurchasing essentials, and taking her children to and from school. Reggie now works as much overtime as possible, which has had a huge impact on their family and the relationship between him and their children. The incredible financial impact and stress has impacted their relationships with friends and family, too.

579. Reggie and Madeline are in the process of rebuilding and hope to move back in the spring of 2024.

## **55. The Butler, Benac, Bergman, Wegen Family**

580. Jennifer Butler moved to the home on St. Andrews in the Coal Creek Ranch neighborhood of Louisville with her daughters Kaity (Benac), Madison (Bergman), and Kristine (Wegen) in July 2011. It was the family's third home in the Coal Creek Ranch neighborhood – which had been their community for thirty-two years. Over the course of ten years, Jennifer and her family personalized both the home and its surroundings. This included a total interior

renovation in 2019 and exterior renovations that totaled over \$300,000. Outside, the property was improved by all new landscaping with new sod, xeriscape gardens with perennial flowers, garden beds, lilac and rose bushes, evergreens, aspen and maple trees. These natural accents complimented a flagstone patio, outdoor pergola, hot tub, built-in bench seating, poured concrete, and patio wrap-around.

581. The photograph below shows the Butler family home prior to the Marshall Fire.



582. On the day of the Marshall Fire, Jennifer was at home and received no evacuation notice. When she decided to leave with the family dog and a neighbor's dog, the fire was already burning in her neighborhood. As soon as she got out of the neighborhood, she saw flames and started shaking. She was forced to continue driving while her car was being hit with flying debris in 100 mph winds. Thankfully, she made it to her mother's house to evacuate her, and then was able to get to her daughter's house. After six weeks she was able to find a more permanent rental.

583. The photographs below show what was left of the Butler family home after the Marshall Fire completely destroyed it.





584. As a result of the fire and its aftermath, Jennifer Butler and her daughters have been emotionally traumatized. Along with the loss of their family home, Jennifer and her daughters mourn the destruction of family heirlooms, personal items belonging to the children, precious home videos, scrap books, school records, years' worth of antiques and other treasured items intended to be handed on to later generations. Madison was in the process of moving out at the time of the fire and also lost a full lifetime of personal items in the blaze.

585. Since the fire, and because of losing her nest egg, Jennifer Butler has suffered from depression, anxiety, and fear of homelessness. She has been in therapy for the past two years related to the emotional impact of the Marshall Fire. Jennifer was unable to work for a year and lost considerable income as a result. She is now uncertain about her ability to retire. She has experienced insomnia and has been forced to take sleep aids to overcome nightmares of dying with her dog in a burning house.

586. Kaity Benac was not at her mother's house at the time of the Marshall Fire, but she watched images of the fire destroying her family home on news reports in California. She was unable to work for several days because of the stress of that loss and she continues to feel shock and grief over the incident, as well as worry for her mother's well-being.

587. Madison Bergman was at work in Boulder at the time of the Marshall Fire. She left work and attempted to help her mom and grandma evacuate but was unable to reach them due to the roads being blocked off when the fire crossed the highway. Madison was affected so strongly by the loss of her home and possessions, that she was forced to resign from work due to the emotional toll. She has sought therapy to help deal with the anxiety, fear and depression that seeing her homeland, in addition, the town she grew up in destroyed entirely.

588. At the time of the Marshall Fire, Kristine Wegen was at her apartment in Broomfield. She was given no evacuation notice, but saw the smoke and called her mom, and they made a plan to evacuate and meet in Frederick. As she left, she was surrounded by smoke in her car. She has been in therapy twice a month to help her deal with her PTSD and the anxiety she feels from fires, smoke, and high winds as a result of her family's ordeal. Kristine takes sleep aids frequently to avoid regular insomnia caused by her stress.

589. Jennifer was forced to sell her lot after the Marshall Fire because the cost to rebuild was too great.

## **56. The Hason Family**

590. Alaaldin and Randa Hason bought their home on St. Andrews Lane in 1999 and lived there for twenty-two years. It is the home where they raised their children and held family gatherings for over two decades. They eventually converted the property to a rental, but continued to maintain a substantial amount of personal property in storage at the home.

591. The St. Andrews Lane home was totally destroyed in the Marshall Fire.

592. The Hasons improved the house many times. They completely remodeled the walk-out basement, adding a bedroom and bathroom, a living area, kitchen, dining room, laundry

and storage. They replaced the roof, upgraded the flooring from carpet to wood, remodeled the bathrooms and kitchen, and replaced the kitchen appliances. At the time of the fire, a remodel of the home's main floor had recently been completed.

593. The following photos depict the St. Andrews Lane home before and after the fire:





594. The Hasons lost a substantial amount of their personal property and possessions that had been stored in the home.

595. The Marshall Fire has placed stress on the Hason family, affecting their sense of safety and stability, and causing anxiety and tensions amongst them. Although they had relocated from the St. Andrews Lane property, it had been their long-term family home for over two decades, where they raised their children and held large family gatherings. They feel an immense sense of loss for their community, the emotional weight of the loss of their long-term family home, and the devastating affect on their community.

**E. Xcel delayed and tampered with the Marshall Fire investigation.**

596. It took months of dogged research, but we now know that just minutes after the fire started, an Xcel lineman texted his supervisor to say, “I think our lines may have started this fire east of El Dorado.”<sup>54</sup> If only Xcel had been this candid and forthcoming all along.

597. Knowing that Boulder County’s residents would be wondering what sparked the fire and in response to early reports that a downed powerline caused the fire, on December 31, 2021, Boulder County’s Office of Emergency Management published the following Tweet: “Update on Cause of Fire: Initial reports were of downed powerlines. @XcelEnergyCO has been a very responsive and invaluable partner & after inspection found no downed powerlines in the ignition area.” The information Xcel provided Boulder County for this Tweet later became the subject of further investigation.

598. The same day, Xcel issued a “do not repair” order to preserve the system for investigation. But it appears that Xcel didn’t follow its own order to preserve the powerlines at issue.

599. Unbeknownst to investigators and despite the “do not repair” order, it appears that Xcel reattached the east conductor to its insulator and crossarm on January 2, 2022. In so doing, Xcel could have destroyed or interfered with the discovery of direct evidence of the detached line and thereby the fire-cause investigation.

600. Xcel’s actions run afoul of the national guidelines set forth in the National Fire Protection Association 921 Guide for Fire and Explosion Investigations (“NFPA 921”), which provide that “every attempt should be made to protect and preserve the fire scene because evidence could easily be destroyed or lost in an improperly preserved fire scene.”<sup>55</sup> NFPA 921 also sets forth numerous ways in which evidence can and should be preserved at the scene.<sup>56</sup>

601. Further, Xcel argued that the term in the Tweet, “downed powerline,” is a technical term referring to a powerline that contacts the ground. Xcel argued that the information in the Tweet was correct because, while the Tweet referred to a downed powerline, the line

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<sup>54</sup> Kovaleski and Vaccarelli, *supra* note 5.

<sup>55</sup> NFPA 921 17.3.1 (2021).

<sup>56</sup> See generally NFPA 921 17.3.

involved in the Marshall Fire, which is detached from its pole but remains suspended in the air, is technically called a “floater.”

602. But in its Wildfire Mitigation Plan 2022 Annual Report, Defendants stated, “The Company also uses the term ‘Wires-Down’ for a broad scope of events; not just when a wire is physically touching the ground. The events captured also include instances where a wire is displaced from its normal location, whether or not the wire contacts the ground.”<sup>57</sup>

603. After the Boulder County Sheriff’s Office released a report finding Xcel powerlines discharged hot particles that caused the fire that started near Marshall Mesa trailhead, Xcel released a statement that “We strongly disagree with any suggestion that Xcel Energy’s power lines caused the second ignition.” But an investigative report found the opposite: that Xcel ignored the arcing evidence and the repeated operation of the circuit breaker.

604. Ultimately, the Boulder County Sheriff and District Attorney both say Xcel worked to delay the investigation and block investigators.

## **V. CLAIMS**

### **COUNT ONE — INVERSE CONDEMNATION (Against Public Service Company of Colorado Only)**

605. Plaintiffs restate and incorporate the allegations above as if fully stated herein.

606. During the relevant time, Plaintiffs were the owners of property or persons claiming an interest in property damaged by Marshall Fire.

607. The Colorado Constitution, Article II, § 15, provides in part: “Private property shall not be taken or damaged, for public or private use, without just compensation,” and, “whenever an attempt is made to take private property for a use alleged to be public, the question whether the contemplated use be really public shall be a judicial question, and determined as such without regard to any legislative assertion that the use is public.”

608. The state grants Xcel the power to condemn by eminent domain pursuant to Colo. Rev. Stat. §38-5-105.

609. Xcel owned, operated, controlled, managed, and/or maintained power line infrastructure in Boulder County, Colorado, for the purpose of providing electricity to the public pursuant to Colo. Rev. Stat. §40-1-103. Providing electricity to the public using power line

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<sup>57</sup> *Wildfire Mitigation Plan 2022 Annual Report* at 20, Xcel Energy (May 31, 2023), [https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Mitigation%20Plan%202022%20Annual%20Report\\_FINAL\\_05-31-23.pdf](https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Mitigation%20Plan%202022%20Annual%20Report_FINAL_05-31-23.pdf).

infrastructure is a public improvement intended to benefit the community as a whole, and it therefore serves a public purpose.

610. Pursuant to this public purpose, Xcel perpetrated a taking of or damage to Plaintiffs' private property. Xcel's failure to adequately maintain and prepare its circuits in the face of a known, foreseeable high-wind event, and failure to de-energize its power lines during the high-wind event caused the Marshall Fire, which burned property owned and/or occupied by Plaintiffs on or around December 30, 2021.

611. Given the risk of a catastrophic fire at the time Xcel started the Marshall Fire, Xcel's taking had the natural consequence of the taking of Plaintiffs' property.

612. Xcel's actions constitute a taking by inverse condemnation of Plaintiffs' private property, without adequate or just compensation or the institution of formal eminent domain or condemnation proceedings.

613. The damage to Plaintiffs is disproportionate to the risks from the public improvements made to benefit the community as a whole. Justice, fairness, and the Colorado Constitution require that Plaintiffs be compensated for their injuries and the taking by Xcel rather than allowing the injuries and taking to remain disproportionately or exclusively concentrated on Plaintiffs.

614. Plaintiffs suffered property losses and other economic losses as well as non-economic losses including stress, depression, and anxiety, among other general damages, resulting from Xcel's inverse condemnation.

## **COUNT TWO — NEGLIGENCE**

615. Plaintiffs restate and incorporate the allegations above as if fully stated herein.

616. Plaintiffs suffered injuries, losses, or damages as described in this Complaint.

617. Xcel was negligent. Specifically, Xcel had duties and responsibilities pursuant to accepted industry standards, Xcel's own standards, National Electric Safety Code standards, the requirements of the American National Standards Institute's utility vegetation management standards, and other state standards. Xcel's duties included, but were not limited to:

A. Apply a level of care corresponding with and proportionate to the danger of designing, engineering, constructing, operating, and maintaining electrical transmission and distribution systems;

B. Operating and maintaining its power line infrastructure in a safe and reasonable manner;

C. Reasonably inspecting its power line infrastructure for hazardous conditions;



D. Exercising the care required of an electric utility company to design, construct, monitor, and maintain high voltage transmission and distribution lines in a manner that would avoid igniting and/or spreading fire during foreseeable and expected dry seasons;

E. Exercising the care required of an electric utility company to design, construct, operate, and maintain high voltage transmission and distribution lines and equipment to withstand foreseeable conditions and avoid igniting and/or spreading fires;

F. Reasonably inspecting, maintaining, and monitoring of high voltage transmission and distribution lines in known fire-prone areas to avoid igniting and/or spreading fires;

G. Reasonably de-energizing power lines during critical and extremely critical fire conditions, when Xcel knew or in the exercise of reasonable care should have known that the then-present fire conditions would cause energized lines to fall or otherwise contact vegetation, structures, and objects;

H. Reasonably de-energizing power lines even after fires had been ignited by their power line infrastructure or other utilities' power line infrastructure;

I. Reasonably implementing policies and procedures, and using equipment, to avoid igniting or spreading fire; and

J. Reasonably adjusting its operations to heed warnings about weather conditions that could cause rapid and dangerous fire growth and spread on or around December 30, 2021.

618. Xcel, through its own actions or inactions or those of its agents or employees, breached its duties as alleged in this Complaint.

619. Xcel's negligence caused or was a substantial factor in causing foreseeable harm to Plaintiffs' property, damages, and other economic losses as well as non-economic losses including stress, depression, and anxiety, among other general damages.

### **COUNT THREE — TRESPASS TO LAND**

620. Plaintiffs restate and incorporate the allegations above as if fully stated herein.

621. Xcel intentionally and wrongfully entered upon Plaintiffs' properties by causing or allowing fire, flames, smoke, embers, ash, odors, gases, and/or airborne particles to physically come into contact with, enter, damage, destroy, or otherwise trespass on Plaintiffs'

property. This intrusion on Plaintiffs' property was unauthorized and not consented to by Plaintiffs, and it caused physical damage to Plaintiffs' properties.

622. Plaintiffs were the owner or had lawful possession of the damaged properties described above.

623. Xcel's action were intentional because Xcel purposefully operated its utility equipment in a dangerous way that in the natural course of events resulted in the entry onto Plaintiffs' properties. Xcel knew of the extreme fire danger that high-wind conditions posed and knew or should have known that there existed critical and extremely critical fire conditions leading up to December 30, 2021. Despite Xcel's knowledge of the risk of extreme fire danger in high-wind conditions, Xcel had no plan in place to shut off power and chose not to de-energize their power lines during the then-present high-wind conditions. Instead, Xcel kept its power lines energized during the critical and extremely critical fire conditions.

624. Xcel knew that the then-present conditions were certain or substantially certain to cause the unauthorized entry and trespass onto Plaintiffs' property and disturb Plaintiffs' possessory interest.

625. As a direct and proximate result of Xcel's conduct, Xcel interfered with Plaintiffs' possessory interests and caused damage to Plaintiffs, including property damage, loss of cherished possessions, economic losses, business losses, emotional distress, annoyance, disturbance, inconvenience, mental anguish, loss of quiet enjoyment of their property, and costs related to evacuation and/or relocation.

626. Plaintiffs have also suffered general damages including, but not limited to, shock, embarrassment, physical distress and injury, humiliation, emotional distress, stress, and other damages to be proven at time of trial.

#### **COUNT FOUR — PRIVATE NUISANCE**

627. Plaintiffs restate and incorporate the allegations above as if fully stated herein.

628. Plaintiffs have a possessory interest, including the right to quiet use and enjoyment, in the real property harmed by the fire Xcel caused.

629. Xcel kept powerlines energized and did not adjust the settings for protective equipment during extremely windy and dry conditions, when Xcel knew or in the exercise of reasonable care should have known that the conditions could cause energized powerlines to fall or come into contact with structures, objects, or vegetation and cause sparking, arcing, or emission of burning materials or electricity.

630. Proper inspection and maintenance of infrastructure and equipment, shutting down power, or increasing the sensitivity of protective equipment could have prevented or avoided the harm to Plaintiffs' property. Failure to do so created an unreasonable risk of harm that Xcel's infrastructure and equipment would ignite a fire.

631. Xcel's failure to do so was a failure to exercise reasonable care. Xcel's behavior was negligent and/or intentional.

632. Xcel's conduct unreasonably interfered with the use and enjoyment of Plaintiff's property. Such substantial and unreasonable interference includes, but is not limited to:

- A. Total destruction of Plaintiffs' real and personal property.
- B. Damage to Plaintiffs' real and personal property.
- C. Diminution in the value of Plaintiffs' real and personal property.
- D. Loss of use and ability to enjoy Plaintiffs' real and personal property.
- E. Annoyance and inconvenience.
- F. Loss of wages, earning capacity, and/or business profits or proceeds and/or any related displacement expenses; and
- G. Other noneconomic damages.

633. Xcel's interference was so substantial that it would have been, and was, offensive or caused inconvenience or annoyance to a reasonable person in the community.

634. Xcel's interference was negligent and/or intentional.

635. Xcel's interference with the use and enjoyment of Plaintiffs' property constitutes a private nuisance for which Xcel is liable to Plaintiffs for all resulting damages.

636. As a direct and proximate result of Xcel's conduct, Xcel interfered with Plaintiffs' possessory interests and caused damage to Plaintiffs, including property damage, loss of cherished possessions, economic losses, business losses, emotional distress, annoyance, disturbance, inconvenience, mental anguish, loss of quiet enjoyment of their property, and costs related to evacuation and/or relocation.

637. Plaintiffs have also suffered general damages including, but not limited to, shock, embarrassment, physical distress and injury, humiliation, emotional distress, stress, and other damages to be proven at time of trial.

#### **COUNT FIVE — PUBLIC NUISANCE**

638. Plaintiffs restate and incorporate the allegations above as if fully stated herein.

639. Plaintiffs have a possessory interest, including the right to quiet use and enjoyment, in the real property harmed by the fire Xcel caused.



640. Xcel kept powerlines energized and did not adjust the settings for protective equipment during extremely windy and dry conditions, when Xcel knew or in the exercise of reasonable care should have known that the conditions could cause energized powerlines to fall or come into contact with structures, objects, or vegetation and cause sparking, arcing, or emission of burning materials or electricity.

641. Proper inspection and maintenance of infrastructure and equipment, shutting down power, or increasing the sensitivity of protective equipment could have prevented or avoided the harm to Plaintiffs' property. Failure to do so created an unreasonable risk of harm that Xcel's infrastructure and equipment would ignite a fire.

642. Xcel's failure to do so was a failure to exercise reasonable care. Xcel's behavior was negligent and/or intentional.

643. Xcel's conduct unreasonably interfered with the use and enjoyment of Plaintiff's property. Such substantial and unreasonable interference includes, but is not limited to:

- A. Total destruction of Plaintiffs' real and personal property.
- B. Damage to Plaintiffs' real and personal property.
- C. Diminution in the value of Plaintiffs' real and personal property.
- D. Loss of use and ability to enjoy Plaintiffs' real and personal property.
- E. Annoyance and inconvenience.
- F. Loss of wages, earning capacity, and/or business profits or proceeds and/or any related displacement expenses; and
- G. Other noneconomic damages.

644. Xcel's interference was so substantial that it would have been, and was, offensive or caused inconvenience or annoyance to a reasonable person in the community.

645. Xcel's interference was negligent and/or intentional.

646. Xcel's interference with the use and enjoyment of Plaintiffs' property constitutes a public nuisance for which Xcel is liable to Plaintiffs for all resulting damages.

647. As a direct and proximate result of Xcel's conduct, Xcel interfered with Plaintiffs' possessory interests and caused damage to Plaintiffs, including property damage, loss of cherished possessions, economic losses, business losses, emotional distress, annoyance, disturbance, inconvenience, mental anguish, loss of quiet enjoyment of their property, and costs related to evacuation and/or relocation.

648. Plaintiffs have also suffered general damages including, but not limited to, shock, embarrassment, physical distress and injury, humiliation, emotional distress, stress, and other damages to be proven at time of trial.

### **COUNT SIX — WILLFUL AND WANTON CONDUCT**

649. Plaintiffs restate and incorporate the allegations above as if fully stated herein. Defendant has been designing, engineering, constructing, operating, and maintaining electrical distribution and transmission systems in Colorado for over a century. It has specialized knowledge and expertise in electrical distribution and transmission systems. It also has experience with its equipment and infrastructure starting wildfires.

650. Despite its expertise and knowledge, and despite warnings of extremely high wind and dry conditions and other fire ignitions that day, Xcel did not shut down power or adjust the sensitivity of its protective equipment including a recloser and circuit breaker. In doing so, Xcel consciously disregarded a substantial and unjustifiable risk that its equipment would cause a destructive wildfire that could endanger thousands of people and their homes.

651. As a direct and proximate result of Xcel's conduct, Xcel interfered with Plaintiffs' possessory interests and caused damage to Plaintiffs, including property damage, loss of cherished possessions, economic losses, business losses, emotional distress, annoyance, disturbance, inconvenience, mental anguish, loss of quiet enjoyment of their property, and costs related to evacuation and/or relocation.

### **COUNT SEVEN — NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

652. Plaintiffs restate and incorporate the allegations above as if fully stated herein.

653. Xcel was negligent as described above.

654. Xcel's negligence created an unreasonable risk of physical harm and caused certain Plaintiffs to fear for their own safety. Many residents were directly in the path of deadly fire and were forced to abandon their homes and belongings. They had to flee in the midst of fire, smoke, and debris, while the fire blocked some ways out of their neighborhoods. The fire and the evacuation both posed risks of physical harm.

655. Plaintiffs' fear had physical consequences and/or resulted in long-continued emotional disturbances. Plaintiffs have experienced continued effects of Defendants' negligence, including but not limited to fear, anxiety, post-traumatic stress disorder, depression, and a diminished capacity to enjoy their day-to-day life.

656. Certain plaintiffs were in the "zone of danger," or personally in the Marshall Fire area.

## **VI. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs request that the Court enter judgment in their favor and against Defendants as follows:

- A. An award of damages, including nominal and compensatory damages, as allowed by law and in an amount to be determined;
- B. Plaintiffs may in the future seek exemplary damages by amendment to this Complaint;
- C. An award of attorneys' fees, costs and litigation expenses;
- D. An award of prejudgment interest on all amounts awarded;
- E. An Order for injunctive and declaratory relief; and
- F. Such other and further relief as this Court may deem just and proper.

## **VII. JURY TRIAL**

Plaintiffs demand a trial by jury for all issues so triable.

Dated this 22<sup>nd</sup> day of April, 2024.

Respectfully submitted,

KELLER ROHRBACK L.L.P.

*s/ Katherine J. Klein*

Katherine J. Klein, Colorado State Bar No. 56494

Lynn Lincoln Sarko (*Pro Hac Vice*)

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