

<p>District Court, Boulder County, Colorado Court Address: 1777 6th Street, Boulder, Colorado 80302</p> <hr/> <p>IN RE MARSHALL FIRE LITIGATION</p>	<p>DATE FILED: April 22, 2024 1:05 PM FILING ID: 34A5B38D37BBD CASE NUMBER: 2022CV30195</p> <p>▲ COURT USE ONLY ▲</p>
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<p align="center">AMENDED COMPLAINT</p>	

Plaintiffs Robert Zuccaro, Michelle Zuccaro, A.Z., N.Z., Lynda Faires, Diane Ballard, Shane Ballard, James (Alec) Bethune, Mya Bethune, Julia Bethune, Joseph Jay Carroll, Brienna Rogers, Umut (Drew) Civelek, Laura Civelek, L.C., David Cohen, Sheila Cohen, Ethan Cohen, Jordan Cohen, Michael Daecher, Anouk Zijlma, Richard Daley, Kelly Finch, Colin Finch, David Fitch, Aide Fitch, L.F., U.F., Pia Gerstle, Bruce Janda, Mary Janda, Antonia Janda, Mario Jannatpour, Smitha Sundaresan, Ria Jansun, P.J., Mark Jewett, Kathleen Brohm-Jewett, Christopher Jewett, Carolyn Jewett, Kristin Johnson, Dirk Johnson, Luke Johnson, Lance Johnson, Timothy Johnson, Nicole Leonard, Simon Johnson, Quinn Johnson, K.J., B.J., Takayuki Kamata, Taeko Kamata, E.K., H.K., M.K., T.K., Judith Kern, Mark Higley, Katherine Kuster, Gary Morris, Mary Geraldine (Geri) Kuster, John Marlin, Sonali Marlin, Nikita Marlin, Ria Marlin, Daryl McCool, Robert McCool, Jackson McCool, Kimberly Ortega, Richard Ortega, Q.O., William Packer, Anna Packer, J.M.P., J.E.P., David Pfeiffer, Allison Jasinski, Sam Strait, Sharanya Prasad, Debanjan Mukherjee, David Reynolds, Eileen Reynolds, Paul Reynolds, Maureen Reynolds, Luke Reynolds, Matthew Reynolds, Seth Riseman, Christina Riseman, Steve Sanders, Illiana Salazar, Annabella Sanders, Julia Sanders, The Sanders Family Trust, Alvin Schurman, Heather Schurman, A.M.S., A.J.S., J.S., KappaTech, L.L.C., Julie Seydel, Rick Seydel, Ashley Seydel, Brittany Seydel, Amy Silverman, David Silverman, M.S., A.S., Lawrence Smith, Lori Smith, Joshua Smith, E.S., Charlotte Noton, Madeline Noton, Manu Sobti, Amita Sethi, A.S., M.S., Alexander Stickelberger, M.S., NOUSguide, Inc., Mary Ann Attridge, Kaitlin Weideman, Kendall Weideman, Jeffery Wepman, Carolyn Wepman, Randall Whitaker, Janice Whitaker, Lynne Willbanks, Roger Willbanks, Hudson Willbanks, P.W., Mary Jane Wolf, Pathways of the Heart, LLC, Count On Me Bookkeeper, LLC, Kassidy Hood, Jordan Anderson, Louie Delaware, Living In Place Institute, LLC, Judy Delaware, Positive Therapeutic Beginnings, LLC, Nurturing Babies and Parents, Inc., Prescott Delaware, Elise Delaware, Jennifer Kaaoush, Kamal Kaaoush, Jessica James, V.K., Danajoy Zoe Monroe, Benjamin Earl Frazier, William J. (Billy) O'Donnell, William J. O'Donnell Living Trust, Paul Stockebrand, Kindra Stockebrand, Jacob Stockebrand, Sarah Paige Stockebrand, Lisa Taylor, Marc Shen, Jakob Ahlerich, Evan Ahlerich, Malia Shen, Kai Shen, E.A., Jonathon Taylor, JLM Investments, LLC, Bernard (Wade) Coleman, Nancy Coleman, Bernard (Buck) Coleman, Jr., Charlotte Coleman, Ann Debay, E.D., C.D., Robert Allan Shields, II, Shelley Marie Shields, Max Allan Shields, C.A.S., Flemming Christensen, Jr., Kimberly Christensen, G.C., L.C., F.C., Tenzin Choephak, Lesley Draper, Lisa Draper, Debbie Garay, Monica J. Shaw, Kent R. Burleigh, Cheryl Ruff, Nathan Ruff, G.R., B.R., Christine Martin, Jerry Martin, A.M., D.M., Robert Bodizs, Jessica Bjorklund, I.B., T.B., Rex Hickman, Barba Hickman, Kathryn Jean Krajewski, Michael Louis Krajewski, Jill Alexander, Scott Lovrien, Patty Sarmiento, Shawn Bratt, Jennifer Obrate, Matthew Gray, Christine Gray, Charlotte Gray, M.G., Sara Pfeifer, Lars Schelin, Dylan Schelin, M.S., Jonathan Hinebauch, Elizabeth Hinebauch, Nathan Schmitz, Lisa A. Coughlin, Peter Bartram, Rebecca Bayne, Bayne Consulting & Search, Inc., Louise Bennett, Ty Bennett, Cathleen A. Healy, Terrence E. Healy, Kerry A. Healy, Keegan J. Healy, Connor P. Healy, Cindy Mayhew, Massage Therapy for the Body & Soul, LLC, Ryo Cain, Jonathan Kofler, and John Massone (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

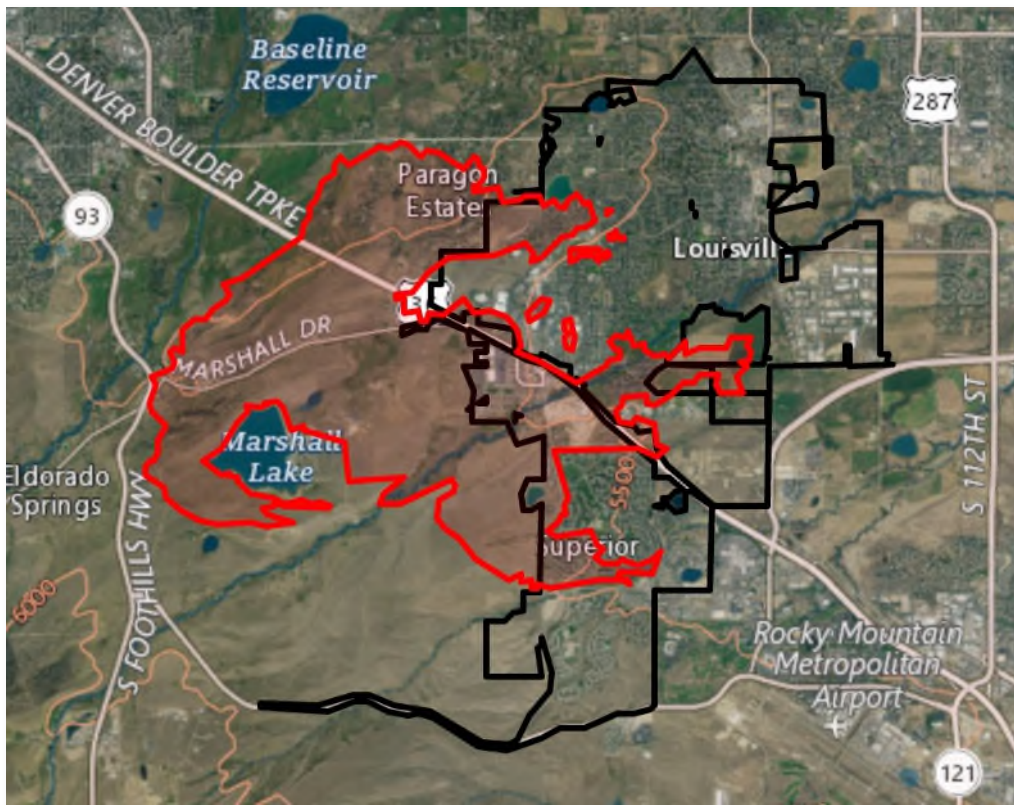
1. On December 30, 2021, the Marshall Fire, the most destructive wildfire the State of Colorado has ever seen, began its deadly rampage through Boulder County. Words cannot adequately describe the devastation that followed. Within minutes, entire neighborhoods were incinerated. The Boulder County community—and 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.¹ Tragically, two people lost their lives and thousands more were evacuated and/or displaced.



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.² Many lost everything they owned. The fire moved so fast that over a thousand pets could not be rescued in time by their owners.³ The Marshall Fire left a painful scar on Boulder County

¹ 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].

² 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.

³ 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>.

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.”⁴

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.”⁵ Sheriff Johnson reported that Xcel was neither “forthcoming” nor “expedient” in providing information⁶ — 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.⁷ “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.”⁸

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.

⁴ 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/>.

⁵ 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>.

⁶ *Id.*

⁷ *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/>.

⁸ 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.”⁹

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

⁹ 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.”¹⁰

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.¹¹ 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.¹² 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 Robert Zuccaro is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Robert Zuccaro was a resident of Boulder County, residing at 976 Arapahoe Circle, Louisville, Colorado 80027.

15. Plaintiff Michelle Zuccaro is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michelle Zuccaro was a resident of Boulder County, residing at 976 Arapahoe Circle, Louisville, Colorado 80027.

¹⁰ 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].

¹¹ 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>.

¹² 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.

16. Plaintiff A.Z. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.Z. was a resident of Boulder County, residing at 976 Arapahoe Circle, Louisville, Colorado 80027.

17. Plaintiff N.Z. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, N.Z. was a resident of Boulder County, residing at 976 Arapahoe Circle, Louisville, Colorado 80027.

18. Plaintiff Lynda Faires is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lynda Faires was a resident of Boulder County, residing at 1006 Honeysuckle Lane, Louisville, Colorado 80027.

19. Plaintiff Diane Ballard is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Diane Ballard was a resident of Boulder County, residing at 125 Skyview Court, Louisville, Colorado 80027.

20. Plaintiff Shane Ballard is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shane Ballard was a resident of Boulder County, residing at 125 Skyview Court, Louisville, Colorado 80027.

21. Plaintiff James (Alec) Bethune is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, James (Alec) Bethune was a resident of Boulder County, residing at 489 Muirfield Court, Louisville, Colorado 80027.

22. Plaintiff Mya Bethune is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mya Bethune was a resident of Boulder County, residing at 489 Muirfield Court, Louisville, Colorado 80027.

23. Plaintiff Julia Bethune is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Julia Bethune was a resident of Boulder County, residing at 489 Muirfield Court, Louisville, Colorado 80027.

24. Plaintiff Joseph Jay Carroll is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Joseph Jay Carroll was a resident of Boulder County, residing at 101 West William Street, Superior, Colorado 80027.

25. Plaintiff Brienna Rogers is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Brienna Rogers was a resident of Boulder County, residing at 101 West William Street, Superior, Colorado 80027.

26. Plaintiff Umut (Drew) Civelek is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Umut (Drew) Civelek was a resident of Boulder County, residing at 107 Vista Lane, Louisville, Colorado 80027.

27. Plaintiff Laura Civelek is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Laura Civelek was a resident of Boulder County, residing at 107 Vista Lane, Louisville, Colorado 80027.

28. Plaintiff L.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, L.C. was a resident of Boulder County, residing at 107 Vista Lane, Louisville, Colorado 80027.

29. Plaintiff David Cohen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Cohen was a resident of Boulder County, residing at 815 West Mulberry Street, Louisville, Colorado 80027.

30. Plaintiff Sheila Cohen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sheila Cohen was a resident of Boulder County, residing at 815 West Mulberry Street, Louisville, Colorado 80027.

31. Plaintiff Ethan Cohen is a natural person and a citizen of the State of New York. At the time of the Marshall Fire, Ethan Cohen was a resident of Kings County, residing at 472 Lafayette Ave, Apartment 1F, Brooklyn, New York 11205.

32. Plaintiff Jordan Cohen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jordan Cohen was a resident of Denver County, residing at 601 West 11th Avenue, Apartment 1109, Denver, Colorado 80204.

33. Plaintiff Michael Daecher is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael Daecher was a resident of Boulder County, residing at 849 Trail Ridge Drive, Louisville, Colorado 80027.

34. Plaintiff Anouk Zijlma is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Anouk Zijlma was a resident of Boulder County, residing at 849 Trail Ridge Drive, Louisville, Colorado 80027.

35. Plaintiff Richard Daley is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Richard Daley was a resident of Boulder County, residing at 1009 Arapahoe Circle, Louisville, Colorado 80027.

36. Plaintiff Kelly Finch is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kelly Finch was a resident of Boulder County, residing at 774 Club Circle, Louisville, Colorado 80027.

37. Plaintiff Colin Finch is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Colin Finch was a resident of Boulder County, residing at 774 Club Circle, Louisville, Colorado 80027.

38. Plaintiff David Fitch is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Fitch was a resident of Boulder County, residing at 993 Arapahoe Circle, Louisville, Colorado 80027.

39. Plaintiff Aide Fitch is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Aide Fitch was a resident of Boulder County, residing at 993 Arapahoe Circle, Louisville, Colorado 80027.

40. Plaintiff L.F. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, L.F. was a resident of Boulder County, residing at 993 Arapahoe Circle, Louisville, Colorado 80027.

41. Plaintiff U.F. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, U.F. was a resident of Boulder County, residing at 993 Arapahoe Circle, Louisville, Colorado 80027.

42. Plaintiff Pia Gerstle is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Pia Gerstle was a resident of Boulder County, residing at 440 Owl Drive, Louisville, Colorado 80027.

43. Plaintiff Bruce Janda is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Bruce Janda was a resident of Boulder County, residing at 806 West Mulberry Street, Louisville, Colorado 80027.

44. Plaintiff Mary Janda is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mary Janda was a resident of Boulder County, residing at 806 West Mulberry Street, Louisville, Colorado 80027.

45. Plaintiff Antonia Janda is a natural person and a citizen of the State of Illinois. At the time of the Marshall Fire, Antonia Janda was a resident of McHenry County, residing at 6916 Waterford Drive, McHenry, Illinois 60050.

46. Plaintiff Mario Jannatpour is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mario Jannatpour was a resident of Boulder County, residing at 106 Cherrywood Lane, Louisville, Colorado 80027.

47. Plaintiff Smitha Sundaresan is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Smitha Sundaresan was a resident of Boulder County, residing at 106 Cherrywood Lane, Louisville, Colorado 80027.

48. Plaintiff Ria Jansun is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ria Jansun was a resident of Boulder County, residing at 106 Cherrywood Lane, Louisville, Colorado 80027.

49. Plaintiff P.J. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, P.J. was a resident of Boulder County, residing at 106 Cherrywood Lane, Louisville, Colorado 80027.

50. Plaintiff Mark Jewett is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mark Jewett was a resident of Boulder County, residing at 943 Saint Andrews Lane, Louisville, Colorado 80027.

51. Plaintiff Kathleen Brohm-Jewett is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kathleen Brohm-Jewett was a resident of Boulder County, residing at 943 Saint Andrews Lane, Louisville, Colorado 80027.

52. Plaintiff Christopher Jewett is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Christopher Jewett was a resident of Boulder County, with a permanent address of 943 Saint Andrews Lane, Louisville, Colorado 80027.

53. Plaintiff Carolyn Jewett is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Carolyn Jewett was a resident of Boulder County, residing at 943 Saint Andrews Lane, Louisville, Colorado 80027.

54. Plaintiff Kristin Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kristin Johnson was a resident of Boulder County, residing at 856 Trail Ridge Drive, Louisville, Colorado 80027.

55. Plaintiff Dirk Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Dirk Johnson was a resident of Boulder County, residing at 856 Trail Ridge Drive, Louisville, Colorado 80027.

56. Plaintiff Luke Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Luke Johnson was a resident of Boulder County, residing at 856 Trail Ridge Drive, Louisville, Colorado 80027.

57. Plaintiff Lance Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lance Johnson was a resident of Boulder County, residing at 856 Trail Ridge Drive, Louisville, Colorado 80027.

58. Plaintiff Timothy Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Timothy Johnson was a resident of Boulder County, residing at 814 Spyglass Circle, Louisville, Colorado 80027.

59. Plaintiff Nicole Leonard is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nicole Leonard was a resident of Boulder County, residing at 814 Spyglass Circle, Louisville, Colorado 80027.

60. Plaintiff Simon Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Simon Johnson was a resident of Boulder County, residing at 814 Spyglass Circle, Louisville, Colorado 80027.

61. Plaintiff Quinn Johnson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Quinn Johnson was a resident of Boulder County, residing at 814 Spyglass Circle, Louisville, Colorado 80027.

62. Plaintiff K.J. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, K.J. was a resident of Boulder County, residing at 814 Spyglass Circle, Louisville, Colorado 80027.

63. Plaintiff B.J. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, B.J. was a resident of Boulder County, residing at 814 Spyglass Circle, Louisville, Colorado 80027.

64. Plaintiff Takayuki Kamata is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Takayuki Kamata was a resident of Boulder County, residing at 112 Mohawk Circle, Louisville, Colorado 80027.

65. Plaintiff Taeko Kamata is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Taeko Kamata was a resident of Boulder County, residing at 112 Mohawk Circle, Louisville, Colorado 80027.

66. Plaintiff E.K. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, E.K. was a resident of Boulder County, residing at 112 Mohawk Circle, Louisville, Colorado 80027.

67. Plaintiff H.K. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, H.K. was a resident of Boulder County, residing at 112 Mohawk Circle, Louisville, Colorado 80027.

68. Plaintiff M.K. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, M.K. was a resident of Boulder County, residing at 112 Mohawk Circle, Louisville, Colorado 80027.

69. 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 112 Mohawk Circle, Louisville, Colorado 80027.

70. Plaintiff Judith Kern is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Judith Kern was a resident of Boulder County, residing at 955 Eldorado Lane, Louisville, Colorado 80027.

71. Plaintiff Mark Higley is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mark Higley was a resident of Boulder County, residing at 955 Eldorado Lane, Louisville, Colorado 80027.

72. Plaintiff Katherine Kuster is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Katherine Kuster was a resident of Travis County, residing at 2412 Little John Lane, Austin, Texas 78704, who co-owned the property at 671 Pine Street, Louisville, Colorado 80027.

73. Plaintiff Gary Morris is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Gary Morris was a resident of Boulder County, residing at 671 Pine Street, Louisville, Colorado 80027.

74. Plaintiff Mary Geraldine (Geri) Kuster is a natural person and a citizen of the State of Texas. At the time of the Marshall Fire, Mary Geraldine (Geri) Kuster was a resident of Potter County, residing at 4214 Danbury Drive, Amarillo, TX 79109.

75. Plaintiff John Marlin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, John Marlin was a resident of Boulder County, residing at 847 Trail Ridge Drive, Louisville, Colorado 80027.

76. Plaintiff Sonali Marlin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sonali Marlin was a resident of Boulder County, residing at 847 Trail Ridge Drive, Louisville, Colorado 80027.

77. Plaintiff Nikita Marlin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nikita Marlin was a resident of Boulder County, residing at 847 Trail Ridge Drive, Louisville, Colorado 80027.

78. Plaintiff Ria Marlin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ria Marlin was a resident of Boulder County, residing at 847 Trail Ridge Drive, Louisville, Colorado 80027.

79. Plaintiff Daryl McCool is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Daryl McCool was a resident of Boulder County, residing at 312 Coal Creek Drive, Louisville, Colorado 80027.

80. Plaintiff Robert McCool is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Robert McCool was a resident of Boulder County, residing at 312 Coal Creek Drive, Louisville, Colorado 80027.

81. Plaintiff Jackson McCool is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jackson McCool was a resident of Boulder County, residing at 312 Coal Creek Drive, Louisville, Colorado 80027.

82. Plaintiff Kimberly Ortega is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kimberly Ortega was a resident of Boulder County, residing at 121 Crestview Court, Louisville, Colorado 80027.

83. Plaintiff Richard Ortega is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Richard Ortega was a resident of Boulder County, residing at 121 Crestview Court, Louisville, Colorado 80027.

84. Plaintiff Q.O. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, Q.O. was a resident of Boulder County, residing at 121 Crestview Court, Louisville, Colorado 80027.

85. Plaintiff William Packer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, William Packer was a resident of Boulder County, residing at 951 Sunflower Street, Louisville, Colorado 80027.

86. Plaintiff Anna Packer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Anna Packer was a resident of Boulder County, residing at 951 Sunflower Street, Louisville, Colorado 80027.

87. Plaintiff J.M.P. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, J.M.P. was a resident of Boulder County, residing at 951 Sunflower Street, Louisville, Colorado 80027.

88. Plaintiff J.E.P. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, J.E.P. was a resident of Boulder County, residing at 951 Sunflower Street, Louisville, Colorado 80027.

89. Plaintiff David Pfeiffer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Pfeiffer was a resident of Boulder County, residing at 487 Blackfoot Street, Superior, Colorado 80027.

90. Plaintiff Allison Jasinski is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Allison Jasinski was a resident of Boulder County, residing at 487 Blackfoot Street, Superior, Colorado 80027.

91. Plaintiff Sam Strait is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sam Strait was a resident of Boulder County, residing at 487 Blackfoot Street, Superior, Colorado 80027.

92. Plaintiff Sharanya Prasad is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sharanya Prasad was a resident of Boulder County, residing at 549 Canary Lane, Superior, Colorado 80027.

93. Plaintiff Debanjan Mukherjee is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Debanjan Mukherjee was a resident of Boulder County, residing at 549 Canary Lane, Superior, Colorado 80027.

94. Plaintiff David Reynolds is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Reynolds was a resident of Boulder County, residing at 833 Trail Ridge Drive, Louisville, Colorado 80027.

95. Plaintiff Eileen Reynolds is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Eileen Reynolds was a resident of Boulder County, residing at 833 Trail Ridge Drive, Louisville, Colorado 80027.

96. Plaintiff Paul Reynolds is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Paul Reynolds was a resident of Boulder County, residing at 833 Trail Ridge Drive, Louisville, Colorado 80027.

97. Plaintiff Maureen Reynolds is a natural person and a citizen of the State of Massachusetts. At the time of the Marshall Fire, Maureen Reynolds was a resident of Middlesex County, residing at 67 Clark Street, Apartment 1, Framingham, Massachusetts 01702.

98. Plaintiff Luke Reynolds is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Luke Reynolds was a resident of Boulder County, with a permanent address of 833 Trail Ridge Drive, Louisville, Colorado 80027.

99. Plaintiff Matthew Reynolds is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Matthew Reynolds was a resident of Boulder County, with a permanent address of 833 Trail Ridge Drive, Louisville, Colorado 80027.

100. Plaintiff Seth Riseman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Seth Riseman was a resident of Boulder County, residing at 1122 West Enclave Circle, Louisville, Colorado 80027.

101. Plaintiff Christina Riseman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Christina Riseman was a resident of Boulder County, residing at 1122 West Enclave Circle, Louisville, Colorado 80027.

102. Plaintiff Steve Sanders is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Steve Sanders was a resident of Boulder County, residing at 945 Larkspur Lane, Louisville, Colorado 80027.

103. Plaintiff Illiana Salazar is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Illiana Salazar was a resident of Boulder County, residing at 945 Larkspur Lane, Louisville, Colorado 80027.

104. Plaintiff Annabella Sanders is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Annabella Sanders was a resident of Boulder County, with a permanent address of 945 Larkspur Lane, Louisville, Colorado 80027.

105. Plaintiff Julia Sanders is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Julia Sanders was a resident of Boulder County, with a permanent address of 945 Larkspur Lane, Louisville, Colorado 80027.

106. Plaintiff The Sanders Family Trust is a Colorado trust with Plaintiffs Steve Sanders and Illiana Salazar as trustees, which owned the property at 945 Larkspur Lane, Louisville, Colorado 80027 at the time of the Marshall Fire.

107. Plaintiff Alvin Schurman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Alvin Schurman was a resident of Boulder County, residing at 2505 Clayton Circle, Superior, Colorado 80027.

108. Plaintiff Heather Schurman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Heather Schurman was a resident of Boulder County, residing at 2505 Clayton Circle, Superior, Colorado 80027.

109. Plaintiff A.M.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.M.S. was a resident of Boulder County, residing at 2505 Clayton Circle, Superior, Colorado 80027.

110. Plaintiff A.J.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.J.S. was a resident of Boulder County, residing at 2505 Clayton Circle, Superior, Colorado 80027.

111. Plaintiff J.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, J.S. was a resident of Boulder County, residing at 2505 Clayton Circle, Superior, Colorado 80027.

112. Plaintiff KappaTech, L.L.C. is a Colorado limited liability company with its principal place of business at 2505 Clayton Circle, Superior, Colorado 80027.

113. Plaintiff Julie Seydel is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Julie Seydel was a resident of Boulder County, residing at 807 West Mulberry Street, Louisville, Colorado 80027.

114. Plaintiff Rick Seydel is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Rick Seydel was a resident of Boulder County, residing at 807 West Mulberry Street, Louisville, Colorado 80027.

115. Plaintiff Ashley Seydel is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ashley Seydel was a resident of Denver County, residing at 2840 Blake Street, Apartment 433, Colorado 80205.

116. Plaintiff Brittany Seydel is a natural person and a citizen of the State of California. At the time of the Marshall Fire, Brittany Seydel was a resident of Los Angeles County, residing at 245 West Broadway, Apartment 402, Long Beach, California 90802.

117. Plaintiff Amy Silverman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Amy Silverman was a resident of Boulder County, residing at 825 Trail Ridge Drive, Louisville, Colorado 80027.

118. Plaintiff David Silverman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, David Silverman was a resident of Boulder County, residing at 825 Trail Ridge Drive, Louisville, Colorado 80027.

119. Plaintiff M.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, M.S. was a resident of Boulder County, residing at 825 Trail Ridge Drive, Louisville, Colorado 80027.

120. Plaintiff A.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.S. was a resident of Boulder County, residing at 825 Trail Ridge Drive, Louisville, Colorado 80027.

121. Plaintiff Lawrence Smith is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lawrence Smith was a resident of Boulder County, residing at 810 West Mulberry Street, Louisville, Colorado 80027.

122. Plaintiff Lori Smith is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lori Smith was a resident of Boulder County, residing at 810 West Mulberry Street, Louisville, Colorado 80027.

123. Plaintiff Joshua Smith is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Joshua Smith was a resident of Boulder County, residing at 810 West Mulberry Street, Louisville, Colorado 80027.

124. 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 810 West Mulberry Street, Louisville, Colorado 80027.

125. Plaintiff Charlotte Noton is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Charlotte Noton was a resident of Boulder County, residing at 810 West Mulberry Street, Louisville, Colorado 80027.

126. Plaintiff Madeline Noton is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Madeline Noton was a resident of Boulder County, residing at 810 West Mulberry Street, Louisville, Colorado 80027.

127. Plaintiff Manu Sobti is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Manu Sobti was a resident of Boulder County, residing at 370 Cherokee Avenue, Superior, Colorado 80027.

128. Plaintiff Amita Sethi is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Amita Sethi was a resident of Boulder County, residing at 370 Cherokee Avenue, Superior, Colorado 80027.

129. Plaintiff A.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.S. was a resident of Boulder County, residing at 370 Cherokee Avenue, Superior, Colorado 80027.

130. Plaintiff M.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, M.S. was a resident of Boulder County, residing at 370 Cherokee Avenue, Superior, Colorado 80027.

131. Plaintiff Alexander Stickelberger is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Alexander Stickelberger was a resident of Boulder County, residing at 125 Mohawk Circle, Superior, Colorado 80027.

132. Plaintiff M.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, M.S. was a resident of Boulder County, residing at 125 Mohawk Circle, Superior, Colorado 80027.

133. Plaintiff NOUSguide, Inc. is a Colorado corporation with its principal place of business at 125 Mohawk Circle, Superior, Colorado 80027.

134. Plaintiff Mary Ann Attridge is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mary Ann Attridge was a resident of Boulder County, residing at 804 West Mulberry Street, Louisville, Colorado 80027.

135. Plaintiff Kaitlin Weideman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kaitlin Weideman was a resident of Boulder County, residing at 804 West Mulberry Street, Louisville, Colorado 80027.

136. Plaintiff Kendall Weideman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kendall Weideman was a resident of Boulder County, residing at 804 West Mulberry Street, Louisville, Colorado 80027.

137. Plaintiff Jeffery Wepman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jeffery Wepman was a resident of Boulder County, residing at 1157 West Enclave Circle, Louisville, Colorado 80027.

138. Plaintiff Carolyn Wepman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Carolyn Wepman was a resident of Boulder County, residing at 1157 West Enclave Circle, Louisville, Colorado 80027.

139. Plaintiff Randall Whitaker is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Randall Whitaker was a resident of Boulder County, residing at 1107 West Enclave Circle, Louisville, Colorado 80027.

140. Plaintiff Janice Whitaker is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Janice Whitaker was a resident of Boulder County, residing at 1107 West Enclave Circle, Louisville, Colorado 80027.

141. Plaintiff Lynne Willbanks is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lynne Willbanks was a resident of Boulder County, residing at 1155 West Enclave Circle, Louisville, Colorado 80027.

142. Plaintiff Roger Willbanks is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Roger Willbanks was a resident of Boulder County, residing at 1155 West Enclave Circle, Louisville, Colorado 80027.

143. Plaintiff Hudson Willbanks is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, Hudson Willbanks was a resident of Boulder County, residing at 1155 West Enclave Circle, Louisville, Colorado 80027.

144. Plaintiff P.W. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, P.W. was a resident of Boulder County, residing at 1155 West Enclave Circle, Louisville, Colorado 80027.

145. Plaintiff Mary Jane Wolf is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Mary Jane Wolf was a resident of Boulder County, residing at 7446 Spring Drive, Boulder, Colorado 80303.

146. Plaintiff Pathways of the Heart, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 7446 Spring Drive, Boulder, Colorado 80303.

147. Plaintiff Count On Me Bookkeeper, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 7446 Spring Drive, Boulder, Colorado 80303.

148. Plaintiff Kassidy Hood is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kassidy Hood was a resident of Boulder County, residing at 7446 Spring Drive, Boulder, Colorado 80303.

149. Plaintiff Jordan Anderson is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jordan Anderson was a resident of Boulder County, residing at 7446 Spring Drive, Boulder, Colorado 80303.

150. Plaintiff Louie Delaware is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Louie Delaware was a resident of Boulder County, residing at 1139 West Enclave Circle, Louisville, Colorado 80027.

151. Plaintiff Living In Place Institute, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 1139 West Enclave Circle, Louisville, Colorado 80027.

152. Plaintiff Judy Delaware is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Judy Delaware was a resident of Boulder County, residing at 1139 West Enclave Circle, Louisville, Colorado 80027.

153. Plaintiff Positive Therapeutic Beginnings, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 1139 West Enclave Circle, Louisville, Colorado 80027.

154. Plaintiff Nurturing Babies and Parents, Inc. is a Colorado corporation with its principal place of business at the time of the Marshall Fire at 1139 West Enclave Circle, Louisville, Colorado 80027.

155. Plaintiff Prescott Delaware is a natural person and a citizen of the State of California. At the time of the Marshall Fire, Prescott Delaware was a resident of Orange County, residing at 26 Encore Court, Newport Beach, California 92663.

156. Plaintiff Elise Delaware is a natural person and a citizen of the State of Minnesota. At the time of the Marshall Fire, Elise Delaware was a resident of Hennepin County, residing at 898 18th Avenue, Minneapolis, MN 55414.

157. Plaintiff Jennifer Kaaoush is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jennifer Kaaoush was a resident of Boulder County, residing at 2372 Bristol Street, Superior, Colorado 80027.

158. Plaintiff Kamal Kaaoush is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kamal Kaaoush was a resident of Boulder County, residing at 2372 Bristol Street, Superior, Colorado 80027.

159. Plaintiff Jessica James is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jessica James was a resident of Boulder County, residing at 2372 Bristol Street, Superior, Colorado 80027.

160. Plaintiff V.K. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, V.K. was a resident of Boulder County, residing at 2372 Bristol Street, Superior, Colorado 80027.

161. Plaintiff Danajoy Zoe Monroe is a natural person and a citizen of the State of Pennsylvania. At the time of the Marshall Fire, Danajoy Zoe Monroe was a resident of Boulder County, residing at 470 Muirfield Circle, Louisville, Colorado 80027.

162. Plaintiff Benjamin Earl Frazier is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Benjamin Earl Frazier was a resident of Boulder County, residing at 470 Muirfield Circle, Louisville, Colorado 80027.

163. Plaintiff William J. (Billy) O'Donnell is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, William J. (Billy) O'Donnell was a resident of Boulder County, residing at 444 Owl Drive, Louisville, Colorado 80027.

164. Plaintiff William J. O'Donnell Living Trust is a Colorado trust with Plaintiff William J. O'Donnell as trustee, which owned the property at 444 Owl Drive, Louisville, Colorado 80027 at the time of the Marshall Fire.

165. Plaintiff Paul Stockebrand is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Paul Stockebrand was a resident of Boulder County, residing at 824 Trail Ridge Drive, Louisville, Colorado 80027.

166. Plaintiff Kindra Stockebrand is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kindra Stockebrand was a resident of Boulder County, residing at 824 Trail Ridge Drive, Louisville, Colorado 80027.

167. Plaintiff Jacob Stockebrand is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jacob Stockebrand was a resident of Jefferson County, residing at 453 Van Gordon Street, Lakewood, Colorado 80228.

168. Plaintiff Sarah Paige Stockebrand is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sarah Paige Stockebrand was a resident of Denver County, residing at 2095 31st Street, Unit 423, Denver, Colorado 80216.

169. Plaintiff Lisa Taylor is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lisa Taylor was a resident of Boulder County, who owned and resided at 636 Fairfield Lane, Louisville, Colorado 80027 and also owned the property at 454 Owl Drive, Louisville, Colorado 80027.

170. Plaintiff Marc Shen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Marc Shen was a resident of Boulder County, who owned and

resided at 636 Fairfield Lane, Louisville, Colorado 80027 and also owned the property at 454 Owl Drive, Louisville, Colorado 80027.

171. Plaintiff Jakob Ahlerich is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jakob Ahlerich was a resident of Boulder County, residing at 636 Fairfield Lane, Louisville, Colorado 80027.

172. Plaintiff Evan Ahlerich is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Evan Ahlerich was a resident of Boulder County, residing at 636 Fairfield Lane, Louisville, Colorado 80027.

173. Plaintiff Malia Shen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Malia Shen was a resident of Boulder County, residing at 636 Fairfield Lane, Louisville, Colorado 80027.

174. Plaintiff Kai Shen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kai Shen was a resident of Boulder County, residing at 636 Fairfield Lane, Louisville, Colorado 80027.

175. Plaintiff E.A. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, E.A. was a resident of Boulder County, residing at 636 Fairfield Lane, Louisville, Colorado 80027.

176. Plaintiff Jonathon Taylor is a natural person and a citizen of the State of California. At the time of the Marshall Fire, Jonathon Taylor was a resident of Alameda County, residing at 3038 22nd Avenue, Oakland, California 94602, who co-owned the property at 454 Owl Drive, Louisville, Colorado 80027.

177. Plaintiff JLM Investments, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 636 Fairfield Lane, Louisville, Colorado 80027.

178. Plaintiff Bernard (Wade) Coleman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Bernard (Wade) Coleman was a resident of Boulder County, residing at 1019 Arapahoe Circle, Louisville, Colorado 80027.

179. Plaintiff Nancy Coleman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nancy Coleman was a resident of Boulder County, residing at 1019 Arapahoe Circle, Louisville, Colorado 80027.

180. Plaintiff Bernard (Buck) Coleman, Jr. is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Bernard (Buck) Coleman, Jr. was a resident of Boulder County, residing at 1019 Arapahoe Circle, Louisville, Colorado 80027.

181. Plaintiff Charlotte Coleman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Charlotte Coleman was a resident of Boulder County, residing at 1019 Arapahoe Circle, Louisville, Colorado 80027.

182. Plaintiff Ann Debay is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ann Debay was a resident of Boulder County, residing at 950 Saint Andrews Lane, Louisville, Colorado 80027.

183. Plaintiff E.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, E.D. was a resident of Boulder County, residing at 950 Saint Andrews Lane, Louisville, Colorado 80027.

184. Plaintiff C.D. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, C.D. was a resident of Boulder County, residing at 950 Saint Andrews Lane, Louisville, Colorado 80027.

185. Plaintiff Robert Allan Shields, II is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Robert Allan Shields, II was a resident of Boulder County, residing at 761 Saint Andrews Lane, Louisville, Colorado 80027.

186. Plaintiff Shelley Marie Shields is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shelley Marie Shields was a resident of Boulder County, residing at 761 Saint Andrews Lane, Louisville, Colorado 80027.

187. Plaintiff Max Allan Shields is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Max Allan Shields was a resident of Boulder County, residing at 761 Saint Andrews Lane, Louisville, Colorado 80027.

188. Plaintiff C.A.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, C.A.S. was a resident of Boulder County, residing at 761 Saint Andrews Lane, Louisville, Colorado 80027.

189. Plaintiff Flemming Christensen, Jr. is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Flemming Christensen, Jr. was a resident of Boulder County, residing at 1032 Turnberry Circle, Louisville, Colorado 80027.

190. Plaintiff Kimberly Christensen is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kimberly Christensen was a resident of Boulder County, residing at 1032 Turnberry Circle, Louisville, Colorado 80027.

191. Plaintiff G.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, G.C. was a resident of Boulder County, residing at 1032 Turnberry Circle, Louisville, Colorado 80027.

192. Plaintiff L.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, L.C. was a resident of Boulder County, residing at 1032 Turnberry Circle, Louisville, Colorado 80027.

193. Plaintiff F.C. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, F.C. was a resident of Boulder County, residing at 1032 Turnberry Circle, Louisville, Colorado 80027.

194. Plaintiff Tenzin Choephak is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Tenzin Choephak was a resident of Weld County, residing at 681 McAfee Court, Erie, Colorado 80516, and owned the property at 1156 Hillside Lane, Louisville, Colorado 80027.

195. Plaintiff Lesley Draper is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lesley Draper was a resident of Boulder County, residing at 916 Eldorado Lane, Louisville, Colorado 80027.

196. Plaintiff Lisa Draper is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lisa Draper was a resident of Boulder County, residing at 916 Eldorado Lane, Louisville, Colorado 80027.

197. Plaintiff Debbie Garay is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Debbie Garay was a resident of Boulder County, residing at 2814 Quartz Way, Superior, Colorado 80027, and owned the property at 890 Larkspur Court, Louisville, Colorado 80027.

198. Plaintiff Monica J. Shaw is a natural person and a citizen of the State of Arizona. At the time of the Marshall Fire, Monica J. Shaw was a resident of Boulder County, residing at 428 Owl Drive, Louisville, Colorado 80027.

199. Plaintiff Kent R. Burleigh is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kent R. Burleigh was a resident of Boulder County, residing at 428 Owl Drive, Louisville, Colorado 80027.

200. Plaintiff Cheryl Ruff is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cheryl Ruff was a resident of Boulder County, residing at 2455 Andrew Drive, Superior, Colorado 80027.

201. Plaintiff Nathan Ruff is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nathan Ruff was a resident of Boulder County, residing at 2455 Andrew Drive, Superior, Colorado 80027.

202. Plaintiff G.R. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, G.R. was a resident of Boulder County, residing at 2455 Andrew Drive, Superior, Colorado 80027.

203. Plaintiff B.R. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, B.R. was a resident of Boulder County, residing at 2455 Andrew Drive, Superior, Colorado 80027.

204. Plaintiff Christine Martin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Christine Martin was a resident of Boulder County, residing at 2492 Ajax Court, Superior, Colorado 80027.

205. Plaintiff Jerry Martin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jerry Martin was a resident of Boulder County, residing at 2492 Ajax Court, Superior, Colorado 80027.

206. Plaintiff A.M. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, A.M. was a resident of Boulder County, residing at 2492 Ajax Court, Superior, Colorado 80027.

207. Plaintiff D.M. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, D.M. was a resident of Boulder County, residing at 2492 Ajax Court, Superior, Colorado 80027.

208. Plaintiff Robert Bodizs is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Robert Bodizs was a resident of Boulder County, residing at 811 West Mulberry Street, Louisville, Colorado 80027.

209. Plaintiff Jessica Bjorklund is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jessica Bjorklund was a resident of Boulder County, residing at 811 West Mulberry Street, Louisville, Colorado 80027.

210. Plaintiff I.B. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, I.B. was a resident of Boulder County, residing at 811 West Mulberry Street, Louisville, Colorado 80027.

211. Plaintiff T.B. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, T.B. was a resident of Boulder County, residing at 811 West Mulberry Street, Louisville, Colorado 80027.

212. Plaintiff Rex Hickman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Rex Hickman was a resident of Boulder County, residing at 812 West Mulberry Street, Louisville, Colorado 80027.

213. Plaintiff Barba Hickman is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Barba Hickman was a resident of Boulder County, residing at 812 West Mulberry Street, Louisville, Colorado 80027.

214. Plaintiff Kathryn Jean Krajewski is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kathryn Jean Krajewski was a resident of Boulder County, residing at 456 Owl Drive, Louisville, Colorado 80027.

215. Plaintiff Michael Louis Krajewski is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Michael Louis Krajewski was a resident of Boulder County, residing at 456 Owl Drive, Louisville, Colorado 80027.

216. Plaintiff Jill Alexander is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jill Alexander was a resident of Boulder County, residing at 809 West Mulberry Street, Louisville, Colorado 80027.

217. Plaintiff Scott Lovrien is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Scott Lovrien was a resident of Boulder County, residing at 809 West Mulberry Street, Louisville, Colorado 80027.

218. Plaintiff Patty Sarmiento is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Patty Sarmiento was a resident of Boulder County, residing at 809 West Mulberry Street, Louisville, Colorado 80027.

219. Plaintiff Shawn Bratt is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Shawn Bratt was a resident of Boulder County, residing at 965 Arapahoe Circle, Louisville, Colorado 80027.

220. Plaintiff Jennifer Obrate is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jennifer Obrate was a resident of Boulder County, residing at 965 Arapahoe Circle, Louisville, Colorado 80027.

221. Plaintiff Matthew Gray is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Matthew Gray was a resident of Boulder County, residing at 913 Eldorado Lane, Louisville, Colorado 80027.

222. Plaintiff Christine Gray is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Christine Gray was a resident of Boulder County, residing at 913 Eldorado Lane, Louisville, Colorado 80027.

223. Plaintiff Charlotte Gray is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Charlotte Gray was a resident of Boulder County, residing at 913 Eldorado Lane, Louisville, Colorado 80027.

224. 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 913 Eldorado Lane, Louisville, Colorado 80027.

225. Plaintiff Sara Pfeifer is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Sara Pfeifer was a resident of Boulder County, residing at 2284 Jarosa Lane, Superior, Colorado 80027.

226. Plaintiff Lars Schelin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lars Schelin was a resident of Boulder County, residing at 2284 Jarosa Lane, Superior, Colorado 80027.

227. Plaintiff Dylan Schelin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Dylan Schelin was a resident of Boulder County, residing at 2284 Jarosa Lane, Superior, Colorado 80027.

228. Plaintiff M.S. is a natural person, a minor, and a citizen of the State of Colorado. At the time of the Marshall Fire, M.S. was a resident of Boulder County, residing at 2284 Jarosa Lane, Superior, Colorado 80027.

229. Plaintiff Jonathan Hinebauch is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jonathan Hinebauch was a resident of Boulder County, residing at 7533 Panorama Drive, Boulder, Colorado 80303.

230. Plaintiff Elizabeth Hinebauch is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Elizabeth Hinebauch was a resident of Boulder County, residing at 7533 Panorama Drive, Boulder, Colorado 80303.

231. Plaintiff Nathan Schmitz is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Nathan Schmitz was a resident of Boulder County, residing at 7533 Panorama Drive, Boulder, Colorado 80303.

232. Plaintiff Lisa A. Coughlin is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Lisa A. Coughlin was a resident of Boulder County, residing at 837 West Mulberry Street, Louisville, Colorado 80027.

233. Plaintiff Peter Bartram is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Peter Bartram was a resident of Boulder County, residing at 189 Mohawk Circle, Superior, Colorado 80027.

234. Plaintiff Rebecca Bayne is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Rebecca Bayne was a resident of Boulder County, residing at 189 Mohawk Circle, Superior, Colorado 80027.

235. Plaintiff Bayne Consulting & Search, Inc. is a Colorado corporation with its principal place of business at 901 Front Street, Suite 291, Louisville, Colorado 80027.

236. Plaintiff Louise Bennett is a natural person and a citizen of the State of California. At the time of the Marshall Fire, Louise Bennett was a resident of Boulder County, residing at 104 First Avenue, Louisville, Colorado 80027.

237. Plaintiff Ty Bennett is a natural person and a citizen of the State of California. At the time of the Marshall Fire, Ty Bennett was a resident of Boulder County, residing at 104 First Avenue, Louisville, Colorado 80027.

238. Plaintiff Cathleen A. Healy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cathleen A. Healy was a resident of Boulder County, residing at 114 Vista Lane, Louisville, Colorado 80027.

239. Plaintiff Terrence E. Healy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Terrence E. Healy was a resident of Boulder County, residing at 114 Vista Lane, Louisville, Colorado 80027.

240. Plaintiff Kerry A. Healy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Kerry A. Healy was a resident of Boulder County, residing at 114 Vista Lane, Louisville, Colorado 80027.

241. Plaintiff Keegan J. Healy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Keegan J. Healy was a resident of Boulder County, residing at 114 Vista Lane, Louisville, Colorado 80027.

242. Plaintiff Connor P. Healy is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Connor P. Healy was a resident of Boulder County, residing at 114 Vista Lane, Louisville, Colorado 80027.

243. Plaintiff Cindy Mayhew is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Cindy Mayhew was a resident of Boulder County, residing at 446 Owl Drive, Louisville, Colorado 80027.

244. Plaintiff Massage Therapy for the Body & Soul, LLC is a Colorado limited liability company with its principal place of business at the time of the Marshall Fire at 446 Owl Drive, Louisville, Colorado 80027.

245. Plaintiff Ryo Cain is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Ryo Cain was a resident of Boulder County, residing at 446 Owl Drive, Louisville, Colorado 80027.

246. Plaintiff Jonathan Kofler is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, Jonathan Kofler was a resident of Boulder County, residing at 129 Mohawk Circle, Superior, Colorado 80027.

247. Plaintiff John Massone is a natural person and a citizen of the State of Colorado. At the time of the Marshall Fire, John Massone was a resident of Boulder County, residing at 808 West Mulberry Street, Louisville, Colorado 80027.

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

249. 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 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.

250. 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

¹³ 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>.

Street, Suite 1100, Denver, Colorado. (Defendants Xcel Energy, XES, and PSCo are herein collectively referred to as “Xcel.”)

251. 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.

252. 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.¹⁴ Xcel Energy also serves 2.1 million natural gas customers, among other operations in the energy field.

253. 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.

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

255. 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.¹⁶

256. 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.¹⁷

257. 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.

¹⁴ *Id.* at 4; *see also About Us, Corporate Governance*, Xcel Energy <https://co.my.xcelenergy.com/s/about/corporate-governance> (last visited Dec. 27, 2023).

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

¹⁶ *Id.*

¹⁷ *About Transmission*, Xcel Energy (Jan. 24, 2019), https://www.transmission.xcelenergy.com/staticfiles/microsites/Transmission/Files/PDF/Resources/xcel_transmissionfactsheet.pdf.

258. 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.”¹⁸

259. 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.

260. 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:¹⁹

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.xcelenergywildfiremitigation.com) (external link).

261. Leading up to the Marshall Fire, XES employees directed 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

¹⁸ *Transmission FAQ*, Xcel Energy, <https://www.transmission.xcelenergy.com/About/FAQ> (last visited Dec. 27, 2023).

¹⁹ *Wildfire Mitigation Program*, Xcel Energy, https://www.xcelenergy.com/company/rates_and_regulations/filings/wildfire_mitigation_program (last visited Dec. 27, 2023); *Program Overview*, Xcel Energy, <https://www.xcelenergywildfiremitigation.com/program-overview/> (last visited Dec. 27, 2023).

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.

262. 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.

263. 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.

264. 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.²⁰

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

266. 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.”²¹

267. 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

²⁰ 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/>.

²¹ 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/xcel-responsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing Exhibit 101- Direct Testimony-Trammell.pdf](https://www.xcelenergy.com/staticfiles/xcel-responsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing%20Exhibit%20101-Direct%20Testimony-Trammell.pdf).

developed areas where population density is higher includes “direct impacts to human safety, fire damage to building structures and personal property[.]”²²

268. 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.”²³

269. 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.”²⁴

270. 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 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.”²⁵

271. 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.²⁶

²² 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/xcel-responsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing Exhibit 104- Direct Testimony Rohlwing.pdf](https://www.xcelenergy.com/staticfiles/xcel-responsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing%20Exhibit%20104-Direct%20Testimony%20Rohlwing.pdf).

²³ *Id.* 10:5-8.

²⁴ *Id.* 10:13-16.

²⁵ *Id.* 18:3-10

²⁶ *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>.

Table 6 – 2021 Actual and Budgeted Investment by County

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

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

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%
Total	\$5.388	\$101.925	\$7.525	\$116.439	\$0.123	(\$14.339)	28%	12%

273. 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.²⁸ The NESC covers work rules for the construction, maintenance, and operation of electric supply lines and equipment, as well as basic

²⁷ *Id.*

²⁸ 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 (last visited Dec. 27, 2023).

provisions for safeguarding people from hazards related to the installation, operation, or maintenance of electric supply lines station equipment.²⁹

274. 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.

275. 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."³⁰ The National Weather Service also notes that "The areas around Boulder...are especially prone to the extreme wind episodes."³¹

276. Mountain waves, which cause persistent and extremely high winds, are a common phenomenon in Boulder County. Mountain waves are "stationary or standing atmospheric waves which form above or on the lee of mountain barriers."³² 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.³³

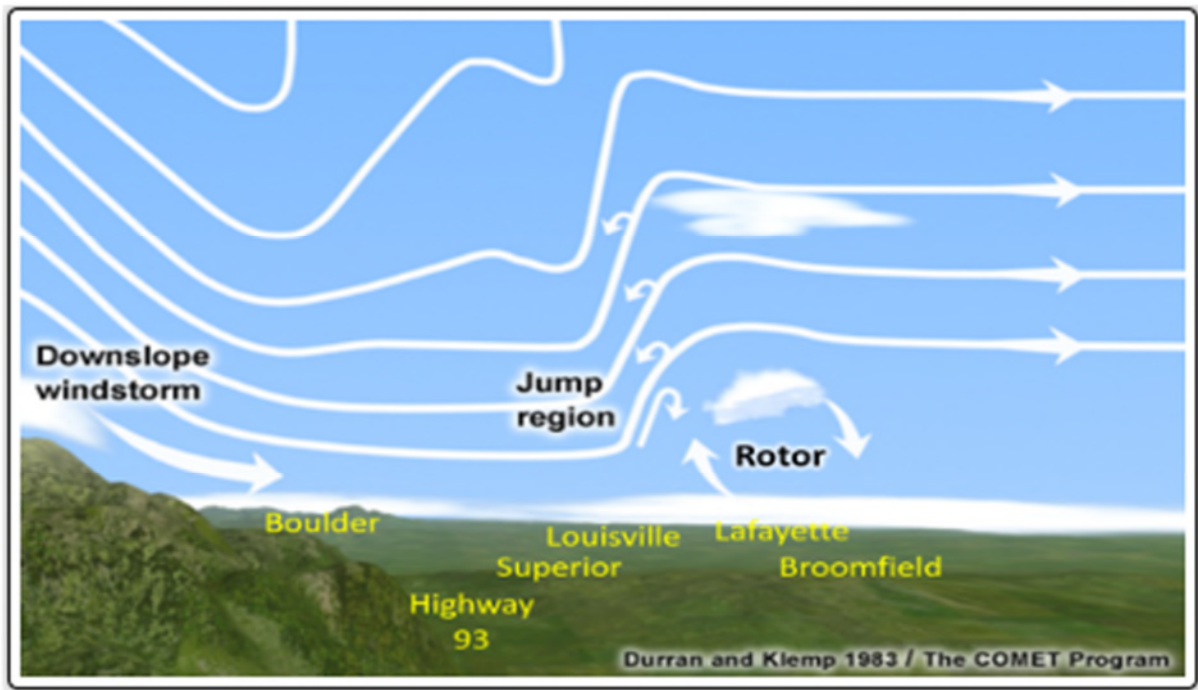
²⁹ C2-2012 – *National Electric Safety Code(R) (NESC(R))*, IEEE Xplore (Aug. 1, 2011), <https://ieeexplore.ieee.org/document/5967877>.

³⁰ *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 Dec. 27, 2023).

³¹ *Id.*

³² 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>.

³³ *Marshall Fire and High Wind on December 30 2021*, Nat'l Weather Serv., <https://www.weather.gov/bou/MarshallFire20211230> (last visited Dec. 27, 2023).



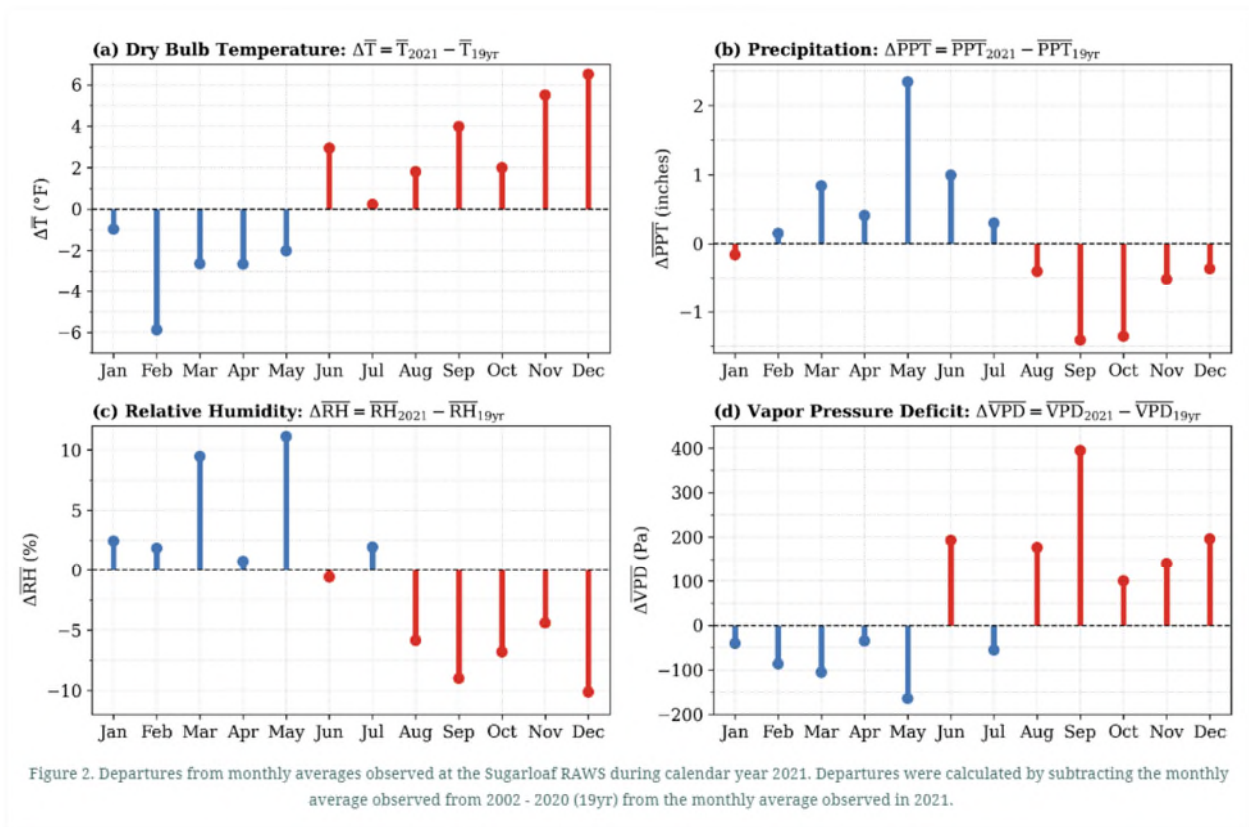
277. On December 30, 2021, a mountain wave developed in Boulder County. This caused sustained high winds of 50 to 60 miles per hour with gusts of 80 to 100 miles per hour along Highway 93, Superior, and Louisville.³⁴ While extreme, this was not anomalous – winds exceed 80 miles per hour most years in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

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

³⁴ *Id.*

³⁵ *Boulder Wind Info*, NOAA Physical Sciences Laboratory, <https://psl.noaa.gov/boulder/wind.html> (last visited Dec. 27, 2023); *see also*, BCSO Report, *supra* note 1.

³⁶ *Marshall Fire, Facilitated Learning Analysis*, <https://storymaps.arcgis.com/stories/83af63bd549b4b8ea7d42661531de512> (last visited Dec. 27, 2023).



279. 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.

280. 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.”³⁷ 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.³⁸

281. 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.”³⁹

³⁷ *Marshall Mesa Loop*, Visit Boulder, <https://www.bouldercoloradousa.com/listings/marshall-mesa-loop/2525/> (last visited Dec. 27, 2023).

³⁸ Jensen Hughes Report, *supra* note 10.

³⁹ BCSO Report, *supra* note 1.

282. Furthermore, the Colorado State Forest Service – whose data Defendants used to determine their own WRZ⁴⁰ – 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.

283. 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.

284. 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.⁴¹



⁴⁰ 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 (last visited Dec. 27, 2023) [hereinafter 2020 WMP].

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

285. 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.”

286. 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.”⁴²

287. 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.

288. 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.

289. 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.⁴³ 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.⁴⁴

⁴² 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/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing Exhibit 102- Direct Testimony Johnson.pdf](https://www.xcelenergy.com/staticfiles/xcelresponsive/Company/Rates%20&%20Regulations/Regulatory%20Filings/Wildfire%20Protection/Hearing%20Exhibit%20102-Direct%20Testimony%20Johnson.pdf).

⁴³ 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/>.

⁴⁴ Jensen Hughes Report, *supra* note 10.

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

290. Xcel Energy is aware that wildfires pose a significant year-round threat to its customers and communities.⁴⁵ 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.⁴⁶

291. 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.⁴⁷

292. 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.⁴⁸

293. The second device, a recloser, is essentially a high-voltage circuit breaker designed to handle faults.⁴⁹ 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.

294. 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.⁵⁰ 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.

295. 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

⁴⁵ *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.

⁴⁶ *Id.*

⁴⁷ *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>.

⁴⁸ Jensen Hughes Report, *supra* note 10.

⁴⁹ *Id.*

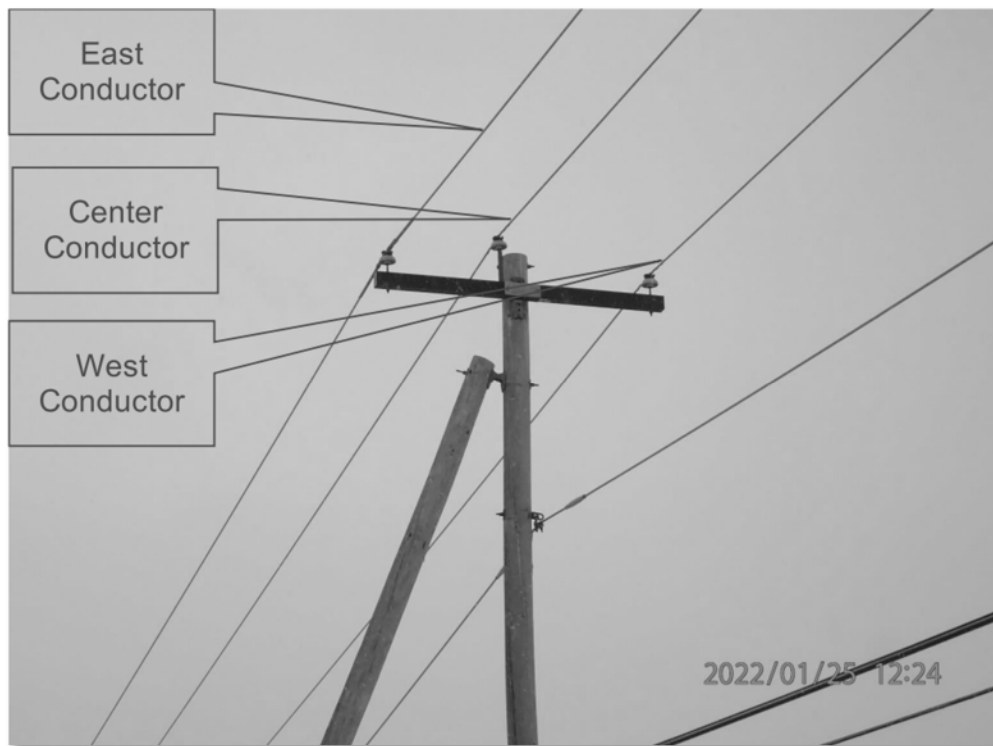
⁵⁰ *Id.*

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.

296. Or, as Xcel put it in its WMP, “...automatic reclosing can sometimes introduce a risk of ignition.”⁵¹

297. 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.”⁵²

298. 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.



⁵¹ 2020 WMP, *supra* note 40 at 68.

⁵² *Id.*

299. 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.⁵³

300. 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.

301. 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.

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.

302. 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.

303. 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.

304. 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.

⁵³ BCSO Report, *supra* note 1, Exhibit 4.

305. 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.

306. 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

307. As a result of Xcel's conduct, the Marshall Fire caused extensive economic and non-economic damages to Plaintiffs, including destruction of real or personal property, lost personal or business income, alternative living expenses, or loss to timber, crops, or specialty vegetation. Some suffered bodily injury, including smoke inhalation.

308. In addition, the Marshall Fire has caused Plaintiffs extensive emotional distress and mental anguish, including but not limited to anxiety, depression, loss of community, or sleeplessness.

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

309. 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."⁵⁴ If only Xcel had been this candid and forthcoming all along.

310. 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.

311. 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.

312. 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,

⁵⁴ Kovaleski and Vaccarelli, *supra* note 5.

Xcel could have destroyed or interfered with the discovery of direct evidence of the detached line and thereby the fire-cause investigation.

313. 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."⁵⁵ NFPA 921 also sets forth numerous ways in which evidence can and should be preserved at the scene.⁵⁶

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

315. 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."⁵⁷

316. 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.

317. 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)

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

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

⁵⁵ NFPA 921 17.3.1 (2021).

⁵⁶ *See generally* NFPA 921 17.3.

⁵⁷ *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.

320. 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.”

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

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

323. 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.

324. 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.

325. 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.

326. 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.

327. 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

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

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

330. 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.

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

332. 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

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

334. 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.

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

336. 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.

337. 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.

338. 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.

339. 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

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

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

342. 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.

343. 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.

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

345. 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.

346. 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.

347. Xcel's interference was negligent and/or intentional.

348. 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.

349. 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.

350. 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

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

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

353. 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.

354. 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.

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

356. 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.

357. 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.

358. Xcel's interference was negligent and/or intentional.

359. 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.

360. 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.

361. 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

362. 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.

363. 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.

364. 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

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

366. Xcel was negligent as described above.

367. 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.

368. 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.

369. 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 22nd day of April, 2024.

Respectfully submitted,

KELLER ROHRBACK L.L.P.

s/ Katherine J. Klein

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