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1 Richard Smith, CSB #049095
2 The Harland Law Firm LLP
3 622 "H" Street
4 Eureka, CA 95501
5 (707) 444-9281
6
7 Attorneys for Plaintiffs
8 James Walker and Bonita E. Walker

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LIZ S.
SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

7 SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

9 JAMES WALKER and BONITA E. WALKER, Case No. **DR110777**

10 Plaintiffs,
11 vs.

12 SKAGGS TREE FARM, LLC; WILLIS
13 OTIS SKAGGS; and DOES 1 to 10,
14 inclusive,
15 Defendants.

**VERIFIED COMPLAINT FOR
DAMAGES: (Wrongful Cutting and
Removal of Timber [Civ. Code
3346(a); Code Civ. Proc. 733];
Trespass to Land Under
Cultivation/Livestock [Code of Civil
Procedure 1021.9]; Violation of
Duties of Civil Code section 841)**

16 Plaintiffs allege:

17 1. Plaintiffs JAMES WALKER and BONITA E. WALKER are, and at all times
18 mentioned in this Complaint have been, residents of Humboldt County, California, and
19 were at all times relevant to this action, the owners and in possession of certain real
20 property used for and intended to graze cattle (hereinafter "PLAINTIFFS' LAND"), which
21 is more fully described as follows:

22 All that real property situated in the County of Humboldt, State of
23 California described as follows:

23 **PARCEL ONE**

24 The South Half of Section 21;
25 and the Southwest Quarter of Section 22.
26 All in Township 2 North, Range 1 West, Humboldt Meridian.
27 EXCEPTING THEREFROM a parcel conveyed by George A. Price and
28 Isaac Price, described as follows:
COMMENCING at the Southeast corner of the Southwest Quarter of the
Southeast Quarter of Section 21 aforesaid;
and running thence North 18 rods;
thence West 80 rods;
thence South 18 rods;

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and thence East 80 rods to the place of commencement.
ALSO EXCEPTING a parcel in the Southeast corner of the Southwest Quarter of said Section 22, which was conveyed to Brice M. Stokes and Dora M. Stokes on December 21, 1895, by Deed recorded in Book 56 of Deeds, page 322. Said portion in said Southwest Quarter being described as follows:

BEGINNING at the quarter section corner on the South line of Section 22; thence North along quarter section line, 5.45 chains; thence South 69 3/4 degrees West, 8.98 chains to the section line; and thence East along the section line, 7.25 chains, more or less, to the point of beginning.

ALSO EXCEPTING THEREFROM that portion thereof lying within Parcel 1 as shown on Parcel Map. No. 925, on file in the office of the County Recorder of said County, in Book 8 of Parcel Maps, page 47.

2. Defendant SKAGGS TREE FARM, LLC ("SKAGGS TREE FARM"), is, and was at all time relevant to this action, a Limited Liability Corporation authorized to do business in the State of California. SKAGGS TREE FARM owns real property that adjoins and is north of PLAINTIFFS' LAND ("DEFENDANT'S LAND").

3. Defendant WILLIS OTIS SKAGGS ("WILLIS SKAGGS") at all times herein mentioned was the agent and/or employee of his Co-defendant SKAGGS TREE FARM and in doing the things hereinafter alleged was acting within the course and scope of such agency and with the permission and consent of his Co-defendant.

4. Plaintiffs do not know the true names, capacities or basis for liability of Defendants sued as DOES 1 through 10, inclusive, and therefore sues said Defendants by their fictitious names. Plaintiffs will amend this Complaint to allege their true names, capacities, or basis for liability when the same has been ascertained. Plaintiffs are informed, believe, and thereon allege that each fictitious Defendant was in some way responsible for, participated in, or contributed to the matters that Plaintiffs complain of, and has legal responsibility for those matter.

5. Plaintiffs are informed and believe and thereon allege that at all times mentioned, each of the defendants was the agent of each of the remaining defendants, and in doing the things hereinafter alleged, was acting within the course and scope of such agency and with the permission and consent of his or her Co-defendants.

1 **FIRST CAUSE OF ACTION**
2 **Wrongful Cutting and Removal of Timber**

3 6. Plaintiffs re-allege and incorporate by reference the allegations of Paragraphs
4 1 through 5 of this Complaint.

5 7. In or about the month of September 2007 and following, Defendants
6 wrongfully entered onto the PLAINTIFFS' LAND, or caused others to enter upon
7 PLAINTIFFS' LAND, with full knowledge of Plaintiffs' ownership thereof and of all
8 standing timber thereon, and willfully and maliciously logged and removed standing
9 timber for Defendants' own use and profits.

10 8. Defendants acted intentionally and acted willfully or maliciously, intending to
11 vex, harass, annoy or injure Plaintiffs, or acted with a knowing disregard of the rights of
12 Plaintiffs. In particular, Defendants cut and removed a landmark redwood tree that was
13 12 feet DBH (diameter at breast height). In order to conceal this theft, the tree's stump
14 was then dug up and removed and the void left thereby was filled with brush in what
15 appeared to be an effort to camouflage the area where the tree had been located.
16 Further, these events occurred at a time when Defendants' knew Plaintiff JAMES
17 WALKER was hospitalized for a long term and with a severe injury and would be unable
18 to access this location on his property for a significant period of time.

19 9. During the time of Defendants' participation in the logging activities of 2007,
20 Plaintiff JAMES WALKER was hospitalized with a severe injury.

21 10. At the time of removal, the timber had a reasonable value of \$26,198.00. By
22 reason of the wrongful entry and willful and malicious removal, Plaintiffs are entitled to
23 treble damages in the sum of \$78,894.00 under the provision of Civil Code § 3346(a)
24 and Code of Civil Procedure § 733.

25 **SECOND CAUSE OF ACTION**
26 **Trespass to Lands under Cultivation / Livestock**

27 11. Plaintiffs re-allege and incorporate by reference the allegations of
28 Paragraphs 1 through 10 of this Complaint.

12. In or about September 2007 and following PLAINTIFFS' LAND was intended
for and used to graze cattle.

1 13. At the time of the timber trespass heretofore described and in a continuous
2 conduct thereafter, Defendants removed and damaged the fencing separating
3 PLAINTIFFS' LAND from DEFENDANT'S LAND. Said fencing was a boundary fence
4 under Civil Code Section 841. In addition, Defendants also damaged and removed
5 survey monuments marking this common line. Defendants have wrongfully refused to
6 restore either the common fence or line markers.

7 14. Plaintiffs have been harmed by Defendants' trespass as described in the
8 preceding paragraph in that Plaintiffs must now rebuild line fences and re-establish
9 survey monuments. Plaintiffs have been further damaged through the loss and injury to
10 live stock that left PLAINTIFFS' LAND as a result of the fence destruction. The exact
11 amount of damage has not yet been determined but it is believed to exceed \$100,000
12 and will be as Plaintiffs' proof at trial may show.

13 15. Plaintiffs are entitled to attorney fees in this matter under Code of Civil
14 Procedure section 1021.9 by virtue of Defendants' trespass onto lands under
15 cultivation/livestock production.

16 **WHEREFORE**, Plaintiffs pray for judgment against defendants, and each of
17 them, as follows:

18 1. As to the First Cause of Action:

- 19 a. Treble damages in the sum of \$78,894;
- 20 b. Damages to the fence line at a replacement cost of \$17,412.00;
- 21 b. Costs of suit herein incurred; and
- 22 c. Such other and further relief as the court may deem proper.

23 2. As to the Second Cause of Action:

- 24 a. Damages according to proof, including but not limited to, the cost of the
25 damage to the fence line and line markers at a value according to proof;
- 26 b. Attorney fees incurred in this action as authorized by Code of Civil Procedure
27 § 1021.9;
- 28 c. Cost of suit herein incurred; and

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d. Such other and further relief as the court may deem proper.

Dated: October 6, 2011

Harland Law Firm LLP


By: _____
Richard Smith, Attorney for Plaintiffs

VERIFICATION

I am a Plaintiff in this action. I have read the foregoing Complaint. The matters stated in the Complaint are true of my own knowledge except those matter stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 6, 2011


James Walker, Plaintiff