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17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

18 **FOR THE COUNTY OF SAN FRANCISCO**

19 **JUSTICE JOHN TROTTER (RET.),**  
20 **TRUSTEE OF THE PG&E FIRE VICTIM**  
21 **TRUST,**

22 Plaintiff,

23 v.

24 **PG&E CORPORATION,**  
25 **PACIFIC GAS & ELECTRIC COMPANY,**  
26 **ASSOCIATED ELECTRIC & GAS**  
27 **INSURANCE SERVICES LIMITED,**  
28 **ENERGY INSURANCE MUTUAL**  
**LIMITED, NORTH AMERICAN**  
**SPECIALITY INSURANCE COMPANY,**  
**GREAT LAKES REINSURANCE (UK) SE,**  
**ENDURANCE RISK SOLUTIONS**  
**ASSURANCE COMPANY,**  
**BERKLEY INSURANCE COMPANY,**  
**AMERICAN INTERNATIONAL**  
**REINSURANCE COMPANY, LTD.,**  
**ALLIANZ GLOBAL RISKS US**  
**INSURANCE COMPANY,**  
**LIBERTY INSURANCE**  
**UNDERWRITERS, INC.,**

**FILED**  
**SUPERIOR COURT**  
**COUNTY OF SAN FRANCISCO**

MAR 17 2021

CLERK OF THE COURT

BY: *Angelica Sunga*  
Deputy Clerk

**ANGELICA SUNGA**

**CGC-21-590296**

Case No.

**COMPLAINT FOR DECLATORY RELIEF**  
**PURSUANT TO CALIFORNIA CIVIL CODE**  
**SECTION 1060**

**COMPLAINT FOR DECLATORY RELIEF PURSUANT TO CALIFORNIA**  
**CIVIL CODE SECTION 1060**

1 **STARR INDEMNITY & LIABILITY**  
2 **COMPANY,**  
3 **U.S. SPECIALTY INSURANCE**  
4 **COMPANY CONTINENTAL CASUALTY**  
5 **COMPANY,**  
6 **BARBICAN MANAGING AGENCY**  
7 **LIMITED,**  
8 **TWIN CITY FIRE INSURANCE**  
9 **COMPANY,**  
10 **ARGONAUT INSURANCE COMPANY,**  
11 **HOUSTON CASUALTY COMPANY, and**  
12 **DOES 1-20, inclusive,**

Defendants.

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**COMPLAINT FOR DECLATORY RELIEF PURSUANT TO CALIFORNIA  
CIVIL CODE SECTION 1060**

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1           **PLAINTIFF** Justice John Trotter (Ret.), the Trustee of the PG&E Fire Victim Trust  
2 (“Trust”), a California resident, brings this declaratory relief action seeking judicial declarations  
3 (1) that **PLAINTIFF** is an indispensable party to any current or future arbitrations and/or judicial  
4 proceedings between **DEFENDANTS** regarding insurance issues, including the amount of  
5 insurance available from **INSURER DEFENDANTS** for claims related to the extensive damages  
6 arising from the separate 2017 North Bay Fires and 2018 Camp Fire; (2) requiring  
7 **DEFENDANTS** to permit **PLAINTIFF** to participate in any arbitration, judicial proceedings  
8 and/or mediation that seeks to determine the nature, extent, or amount of available insurance  
9 coverage available from the **INSURER DEFENDANTS** (or any other limitations on coverage)  
10 for claims asserted against the former officers and directors arising from the separate 2017 North  
11 Bay Fires and 2018 Campfires; (3) enjoining **DEFENDANTS** from participating in the arbitration  
12 hearing presently set for April 30, 2021 unless **PLAINTIFF** is permitted to participate, and  
13 directing all **DEFENDANTS** to this Court to resolve ongoing and future disputes pertaining to  
14 insurance coverage, or in the alternative, a declaration permitting **PLAINTIFF** to participate in  
15 the arbitration hearing presently set for April 30, 2021; and (4) any further equitable and legal  
16 relief as the Court may deem proper.

#### 17   I.       **PARTIES**

##### 18           A.       **Plaintiff**

19           1.       **PLAINTIFF JUSTICE JOHN TROTTER (RET.)** is the **TRUSTEE OF THE**  
20 **PG&E FIRE VICTIM TRUST** and is a citizen and resident of California. The PG&E Fire  
21 Victim Trust is a Delaware trust established by the United States Bankruptcy Court for the  
22 Northern District of California (the “Bankruptcy Court”). **PLAINTIFF** was retained as Trustee of  
23 the PG&E Fire Victim Trust and was assigned certain claims and causes of action through  
24 PG&E’s Chapter 11 plan of reorganization in bankruptcy.

##### 25           B.       **Defendants**

26           2.       Defendant **PG&E CORPORATION** is a California corporation with corporate  
27 headquarters at 77 Beale Street, San Francisco, California. **PG&E CORPORATION** provides

1 power and energy services throughout the State of California and is the primary provider of power  
2 and energy to northern and central California.

3 3. **PACIFIC GAS AND ELECTRIC COMPANY** is a California corporation with  
4 corporate headquarters at 77 Beale Street, San Francisco, California. **PACIFIC GAS AND**  
5 **ELECTRIC COMPANY** is the operating subsidiary of **PG&E CORPORATION** and is  
6 regulated by the California Public Utilities Commission. **PACIFIC GAS AND ELECTRIC**  
7 **COMPANY** provides power and energy services throughout the State of California and is the  
8 primary provider of power and energy in northern and central California.

9 4. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
10 **ASSOCIATED ELECTRIC & GAS INSURANCE SERVICES LIMITED (“AEGIS”)**, a  
11 corporation, is headquartered in East Rutherford, New Jersey, in Bergen County.

12 5. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
13 **ENERGY INSURANCE MUTUAL LIMITED (“EIM”)**, a corporation, is headquartered in  
14 Tampa, Florida, in Hillsboro County.

15 6. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
16 **NORTH AMERICAN SPECIALTY INSURANCE COMPANY (“SWISS RE”)**, a  
17 corporation, is headquartered in Kansas City, Missouri, in Jackson County. **SWISS RE** is an  
18 operating unit of Swiss Reinsurance Company Ltd.

19 7. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
20 **GREAT LAKES REINSURANCE (UK) SE (“GREAT LAKES”)**, a corporation, is  
21 headquartered in London, United Kingdom. **GREAT LAKES** is an operating unit of Munich  
22 Reinsurance Company.

23 8. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
24 **ENDURANCE RISK SOLUTIONS ASSURANCE COMPANY (“ENDURANCE”)**, a  
25 corporation, is headquartered in Purchase, New York, in Westchester County. **ENDURANCE** is  
26 an operating unit of Sampo International Holdings Ltd.

1           9.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
2 **BERKLEY INSURANCE COMPANY (“BERKLEY”)**, a corporation, is headquartered in  
3 Greenwich, Connecticut, in Fairfield County. **BERKLEY** is an operating unit of W.R. Berkley  
4 Corporation.

5           10.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
6 **AMERICAN INTERNATIONAL REINSURANCE COMPANY, LTD. (“AIG BERMUDA”)**  
7 a corporation, is headquartered in Pembroke, Bermuda. **AIG BERMUDA** is a part of American  
8 International Group, Inc.

9           11.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
10 **ALLIANZ GLOBAL RISKS US INSURANCE COMPANY (“ALLIANZ”)**, a corporation, is  
11 headquartered in Chicago, Illinois, in Cook County.

12           12.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
13 **LIBERTY INSURANCE UNDERWRITERS, INC. (“LIBERTY”)**, a corporation, is  
14 headquartered in Boston, Massachusetts, in Suffolk County. **LIBERTY** is registered to do  
15 business in California with several offices in Northern California, including San Ramon, Elk  
16 Grove, and Brentwood.

17           13.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
18 **STARR INDEMNITY & LIABILITY COMPANY (“STARR”)**, is headquartered in New  
19 York, New York. **STARR** is a part of Starr Insurance Companies. **STARR** is currently registered  
20 to do business in California, with a regional office in San Francisco, California.

21           14.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
22 **U.S. SPECIALTY INSURANCE COMPANY (“USIC”)**, a corporation, is headquartered in  
23 Houston Texas, in Harris County. **USIC** is an operating unit of HCC Insurance Holdings.

24           15.       **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
25 **CONTINENTAL CASUALTY COMPANY (“CNA”)**, a corporation, is headquartered in  
26 Chicago, Illinois, in Cook County. **CNA** has four offices in California, including an office in San  
27 Francisco.

1 16. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
2 **BARBICAN MANAGING AGENCY LIMITED (“BARBICAN”)**, a corporation, is  
3 headquartered in London, United Kingdom.

4 17. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
5 **TWIN CITY FIRE INSURANCE COMPANY (“HARTFORD”)**, a corporation, is  
6 headquartered in Hartford, Connecticut, in Hartford County.

7 18. **PLAINTIFF** is informed and believes, and thereupon alleges, that **DEFENDANT**  
8 **ARGONAUT INSURANCE COMPANY (“ARGO”)**, a corporation, is headquartered in San  
9 Antonio, Texas, in Bexar County. **ARGO** has two office locations in California, including an  
10 office in San Francisco.

11 19. Plaintiff is informed and believes, and thereupon alleges, that **DEFENDANT**  
12 **HOUSTON CASUALTY COMPANY (“HCC”)**, a corporation, is headquartered in Houston,  
13 Texas, in Harris County. **HCC** is an operating unit of HCC Insurance.

14 **C. Other Defendants**

15 20. The true names and capacities, whether individual, corporate, associate or  
16 otherwise of the defendant **DOES 1–20**, inclusive, are unknown to **PLAINTIFF** who therefore  
17 sues said defendants by such fictitious names pursuant to Code of Civil Procedure section 474.  
18 **PLAINTIFF** further alleges that each of said fictitious defendants is in some manner responsible  
19 for the acts and occurrences herein set forth. **PLAINTIFF** will amend this Complaint to show  
20 their true names and capacities when the same are ascertained, as well as the manner in which  
21 each fictitious defendant is responsible.

22 **II. JURISDICTION AND VENUE**

23 21. This court has jurisdiction over this action pursuant to California Code of Civil  
24 Procedure section 410.10. The Court has personal jurisdiction over defendant **PG&E**  
25 **CORPORATION** and **PACIFIC GAS AND ELECTRIC COMPANY** (collectively “**PG&E**”)  
26 because they are headquartered in California and because **PG&E’s** actions injured and will injure  
27 **PLAINTIFF** in California.

1           22.     This Court has jurisdiction over each of the insurers named in Paragraphs 4 through  
2 19 above (“**INSURER DEFENDANTS**”) because all of **INSURER DEFENDANTS** conduct  
3 business in California including, but not limited to, the conduct alleged in this Complaint, and  
4 have sufficient contacts with California to render the exercise of jurisdiction by this Court over  
5 them permissible under California Code of Civil Procedure section 410.10 as well as the United  
6 States and California Constitutions and traditional notions of fair play and substantial justice.

7           23.     Venue is proper in San Francisco County pursuant to California Code of Civil  
8 Procedure section 395 because a substantial part of the events or omissions giving rise to the  
9 claims alleged occurred in San Francisco, California, which is located within this jurisdiction.  
10 Because a significant amount of the harm, as well as important evidence, is located within this  
11 jurisdiction, this is the best venue for this action. Each **DEFENDANT** has sufficient contacts with  
12 this jurisdiction that venue in this jurisdiction is appropriate.

13                           **III.     FACTUAL BASIS FOR THE RELIEF SOUGHT**

14           **A.   The Trust was assigned certain rights pursuant to PG&E’s Bankruptcy**  
15                           **Reorganization Plan**

16           24.     On January 29, 2019, **PG&E** filed for Chapter 11 Bankruptcy in the Northern District  
17 of California under Case Number 19-BK-3008. On June 20, 2020, the Honorable Dennis Montali  
18 approved **PG&E’s** Chapter 11 Reorganization Plan (“Reorganization Plan”) to exit bankruptcy,  
19 which included the creation of the Fire Victim Trust (“Trust”). The Trust was established to serve  
20 as a vehicle to compensate over 70,000 victims who filed claims against **PG&E** for scores of deaths,  
21 personal injury, damage or destruction to property and emotional distress. As part of the  
22 Reorganization Plan, **PG&E** agreed to establish the Trust, which is a limited fund comprised of  
23 cash, stock, and an assignment of specific claims, to help fairly compensate the victims. The Trust  
24 is responsible for administering, processing, settling, resolving, liquidating, satisfying, and paying  
25 all outstanding fire victim claims, and prosecuting or settling all assigned rights and causes of action  
26 assigned to it through the Fire Victim Trust Agreement and **PG&E’s** Reorganization Plan.



1           25.       Amongst the assigned rights and causes of action assigned to the Trust as part of the  
2 Reorganization Plan was **PG&E**'s causes of action against its former directors and officers relating  
3 to the 2017 North Bay Fires and the 2018 Camp Fire. In exchange for this assignment, **PLAINTIFF**  
4 agreed to only assert new litigation claims against **PG&E**'s former officers and directors and not  
5 against any current officers or directors. **PLAINTIFF** also agreed that any recovery for these claims  
6 would be limited to the proceeds of Directors and Officers Liability Insurance policies discussed  
7 below and that **PLAINTIFF** would not pursue the personal assets of former officers and directors.

8           26.       Therefore, the right to sue **PG&E**'s former directors and officers for their various  
9 managerial decisions or conduct that led to the separate 2017 North Bay Fires and the 2018 Camp  
10 Fire, belongs to the **PLAINTIFF**, as Trustee, to pursue on behalf of the Trust.

11           27.       Each Directors and Officers Liability Insurance Policy ("D&O Liability Insurance")  
12 purchased by **PG&E** provides coverage designated as Side A, Side B or Side C. Side A typically  
13 insures the directors and officers against non-indemnified or non-indemnifiable losses. Side B  
14 coverage typically covers the insured for the costs incurred in indemnifying its directors and officers  
15 for defense costs and liability for actions brought against them, including securities, derivative, and  
16 other actions for alleged Wrongful Acts, including claims alleging breach of duty, neglect, error,  
17 misstatement, misleading statement or omission as they might be covered under the policies. Side  
18 C coverage typically insures **PG&E** for Securities Claims, as defined by the particular policies of  
19 insurance.

20           28.       Under the Reorganization Plan, the asset specified to satisfy the Trust's assigned  
21 claims is the "Side B" coverage available under two D&O Liability Insurance policies that **PG&E**  
22 purchased from the **INSURER DEFENDANTS** to cover alleged wrongful acts in 2017 and 2018.  
23 Side B coverage refers to the amount, under the operative policies, that the **INSURER**  
24 **DEFENDANTS** are obligated to pay to **PG&E** to reimburse it for the defense costs and liability  
25 amounts incurred indemnifying its past or present directors and officers in connection with a lawsuit  
26 or other claims asserted against **PG&E** directors and officers. It is clear that, under the  
27 Reorganization Plan, the proceeds of "Side B" coverage under the 2017 and 2018 D&O Liability

1 Insurance policies are intended to benefit the victims of the 2017 North Bay Fires and 2018 Camp  
2 Fire. Accordingly, **PLAINTIFF** has a right to step into **PG&E**'s shoes with regards to pursuing  
3 any dispute to receive the proceeds from any Side B coverage from the **INSURER DEFENDANTS**  
4 that will satisfy the Trust's claims against the former officers and directors relating to the separate  
5 2017 North Bay Fires and the 2018 Camp Fire.

6 29. Due to the assignment of the underlying claims and causes of action, the Trust is a  
7 third-party claimant, who under contract principles may sue as a third-party beneficiary. A claimant  
8 may sue the insurer directly as a third-party beneficiary utilizing traditional contract principles.  
9 Under California law, third-party beneficiaries of contracts have the right to enforce the terms of the  
10 contract under Civil Code section 1559 which provides: "A contract made expressly for the benefit  
11 of a third person, may be enforced by him at any time before the parties thereto rescind it."  
12 Traditional third-party beneficiary principles do not require that the person to be benefited be named  
13 in the contract. **PG&E** intended to benefit the Trust with respect to the proceeds of the D&O  
14 Liability Insurance policies because a critical piece of the Reorganization Plan (and the settlements  
15 that allowed **PG&E** to exit bankruptcy) was the assignment of claims to the Trust that could only  
16 be satisfied out of the D&O Liability Insurance policies. Thus, **PLAINTIFF** has a right to be heard  
17 with respect to the pending arbitration.

18 30. Accordingly, **PLAINTIFF** has a right to step into **PG&E**'s shoes with regards to  
19 pursuing any dispute to receive the proceeds from any Side B coverage from **INSURER**  
20 **DEFENDANTS** that will satisfy the Trust's assigned claims against the former officers and  
21 directors relating to the relating to the separate 2017 North Bay Fires and the 2018 Camp Fire.  
22 Although **PLAINTIFF** is not a named party to any insurance contract or policy between  
23 **DEFENDANTS** and **INSURER DEFENDANTS**, **PLAINTIFF** is third-party claimant who may  
24 sue the insurer directly as a third-party beneficiary of relevant Side B insurance policies because the  
25 Reorganization Plan expressly provides that certain claims assigned to the Trust may only be  
26 satisfied from Side B insurance policies.

1           31.     Based upon the assignments of these rights and claims under the Reorganization Plan  
2 in 2020, **PLAINTIFF** was required to intervene as the new plaintiff in several shareholder  
3 derivative actions that had been filed as far back as 2017 and were stayed due to **PG&E**'s  
4 bankruptcy. A stipulation and order substituting the Fire Victim Trust as the Plaintiff in these cases,  
5 under Superior Court Case No. CGC-18-572326, was granted by this Court on November 5, 2020.

6           32.     On February 24, 2021, **PLAINTIFF** filed an Amended Complaint under the same  
7 Superior Court Case number, against former officers and directors of **PG&E** for breaches of  
8 fiduciary duty related to the 2017 North Bay Fires and for separate breaches of fiduciary duty related  
9 to the 2018 Camp Fire. This Amended Complaint, filed less than a month ago, is the first complaint  
10 filed by **PLAINTIFF** and contains allegations germane to Side B coverage issues. Any judgement  
11 issued in these actions will be satisfied by the Side B coverage provided by the 2017 and the 2018  
12 D&O Liability Insurance policies issued to **PG&E** by the **INSURER DEFENDANTS**.

13           **B. PG&E and INSURER DEFENDANTS dispute the amount of coverage available**  
14           **under the D&O Liability Insurance policies**

15           33.     **PLAINTIFF** alleges, upon information and belief, that in 2017, **PG&E** purchased a  
16 tower of "claims made" D&O Liability Insurance policies from certain **INSURER**  
17 **DEFENDANTS** to protect **PG&E** and its directors and officers against claims arising from  
18 catastrophic events. This 2017 tower provides coverage for claims arising between May 20, 2017  
19 to May 20, 2018. In 2018, **PG&E** purchased another tower of insurance from **INSURER**  
20 **DEFENDANTS**, and the 2018 tower provides coverage for claims arising between May 20, 2018  
21 to May 20, 2019.

22           34.     The rights and obligations of **PG&E** and the **INSURER DEFENDANTS** under the  
23 policies are reflected in written contracts and policies. As referenced above, under the  
24 Reorganization Plan, the Side B coverage under these policies is the asset assigned to satisfy  
25 **PLAINTIFF**'s assigned claims and **PLAINTIFF** is a third-party beneficiary of the Side B policy  
26 provisions.

1 35. On information and belief, there is a dispute between **PG&E** and the **INSURER**  
2 **DEFENDANTS** concerning the amount of Side B coverage available under the policies to cover  
3 the **PLAINTIFF**'s claims and other suits arising from of the 2017 North Bay Fires and the 2018  
4 Camp Fire, which were two separate catastrophic events arising from completely separate causes  
5 and harming unique victims. On information and belief, the **INSURER DEFENDANTS** will or  
6 may take the position that only the 2017 tower of insurance applies and therefore the amount of  
7 Side B coverage is limited to \$200,000,000. On information and belief, **PG&E** will or may contest  
8 the **INSURER DEFENDANTS**' position and instead will or may take the position that both the  
9 2017 and 2018 towers of insurance are applicable and the amount of Side B coverage available is  
10 \$400,000,000, if not more.

11 **C. PG&E and the INSURER DEFENDANTS are in arbitration without PLAINTIFF**

12 36. **PLAINTIFF** alleges that after the claims were assigned to **PLAINTIFF** under the  
13 Reorganization Plan, **PG&E**, without the advice, consent, or participation of **PLAINTIFF**,  
14 commenced arbitration with the **INSURER DEFENDANTS** to resolve a dispute regarding the  
15 amount of Side B coverage available for claims arising out of the separate 2017 North Bay Fires  
16 and the 2018 Camp Fire. An arbitration hearing, to which **PLAINTIFF** is not a party, is currently  
17 scheduled for April 30, 2021.

18 37. The arbitration began at least six months before **PLAINTIFF** filed his Amended  
19 Complaint. Instead of waiting for **PLAINTIFF** to file his operative complaint, **DEFENDANTS**  
20 rushed to convene a private arbitration in which they could attempt to resolve coverage disputes  
21 based on pleadings that are at least four years old, several before the Camp Fire even occurred, and  
22 filed by shareholders and not the Trust, and which no longer apply given the Amended Complaint  
23 now filed by the Trust. The allegations in the Amended Complaint are the most important factor  
24 affecting the resolution of the arbitration dispute.

25 38. Upon learning of the arbitration, counsel for **PLAINTIFF** requested an opportunity  
26 to participate in the arbitration on several occasions. The arbitration will determine the value of an  
27 asset that is the sole source of recovery for claims that belong to the Trust and the Trust's interests

1 are not currently represented at the arbitration. The **INSURER DEFENDANTS** have an obvious  
2 conflict of interest with the Trust, since the carriers will likely seek to minimize their exposure and  
3 assert that only the 2017 tower of insurance is applicable. Moreover, **PG&E** is conflicted and  
4 cannot adequately represent **PLAINTIFF**'s interests since **PLAINTIFF**'s claims in the underlying  
5 litigation are against **PG&E**'s former officers and directors. **PG&E** also has a continuing business  
6 relationship with the **INSURED DEFENDANTS**, and therefore its interest in this dispute does not  
7 fully align with that of the Trust. Most importantly, none of the parties in the arbitration have the  
8 familiarity or expertise with **PLAINTIFF**'s claims that **PLAINTIFF** does, and therefore cannot  
9 adequately advocate for a position that both towers of insurance are implicated.

10 39. Specifically, on February 17, 2021, counsel for **PLAINTIFF** requested that **PG&E**  
11 consent to **PLAINTIFF**'s intervention of the arbitration based upon **PLAINTIFF**'s contention that  
12 the Trust was an indispensable party to the arbitration because Side B coverage is an asset that  
13 belongs to the Trust for the satisfaction of the Claims that were assigned to the Trust during the  
14 Reorganization Plan. *See* Exhibit A. **PG&E** rejected **PLAINTIFF**'s request to consent to  
15 intervene.

16 40. On February 22, 2021, counsel for **PLAINTIFF** requested that **PG&E** provide  
17 **PLAINTIFF** with information regarding the terms of the arbitration agreement, the identity of the  
18 arbitrators, the address of the venue for the arbitration, and/or contact information for a case  
19 manager so that **PLAINTIFF** could take independent action to request to intervene on behalf of the  
20 Trust. Again, **PG&E** refused to provide **PLAINTIFF** with this information claiming that it was  
21 confidential. However, **PG&E** agreed to inform the Arbitration Panel of **PLAINTIFF**'s request on  
22 **PLAINTIFF**'s behalf. **PLAINTIFF** prepared a letter requesting this information understanding  
23 that it would be provided to the Arbitration Panel by **PG&E**. *See* Exhibit B.

24 41. On March 8, 2021, counsel for **PLAINTIFF** was informed by counsel for **PG&E**  
25 that the Arbitration Panel purportedly denied **PLAINTIFF**'S request to intervene in the arbitration.  
26  
27

1           42.     On March 10, 2021, counsel for **PLAINTIFF** requested that **PG&E** provide all  
2 materials submitted in support or opposition of the Trust's request to intervene as well as any  
3 written ruling explaining the basis for denial of **PLAINTIFF**'s request to intervene. *See* Exhibit C.

4           43.     To date, **PLAINTIFF** has not received any materials submitted in support or  
5 opposition to the Trust's request to intervene, nor any written ruling or other documentation  
6 articulating the Arbitration Panel's purported basis for denying **PLAINTIFF**'s request to participate  
7 in the arbitration.

8           44.     On information and belief, the arbitration hearing is scheduled on April 30, 2021  
9 without **PLAINTIFF**'s participation. If the arbitration proceeds as presently scheduled without  
10 **PLAINTIFF**'s participation, there is a significant potential for prejudice to the asset assigned to  
11 the Trust for satisfaction of its claims, which will be to the great detriment of the 70,000 victims of  
12 the two fires who must look to the Side B proceeds to satisfy their claims under the Reorganization  
13 Plan ordered by the Bankruptcy Court.

14           **D. The controversy between the parties is ripe for declaratory relief**

15           45.     **DEFENDANTS** have commenced an arbitration concerning D&O Liability  
16 Insurance policies that are the sole source of recovery and satisfaction for certain causes of action  
17 that were assigned to the Trust by **DEFENDANTS**.

18           46.     Under **PG&E**'s Reorganization Plan, **PLAINTIFF** has an assigned, cognizable  
19 right in the value of the asset that is the subject of the arbitration between the **DEFENDANTS**.

20           47.     **PLAINTIFF** has exhausted all legal avenues to intervene and participate in the  
21 arbitration between the **DEFENDANTS**. The dispute amongst the parties as to whether and how  
22 **PLAINTIFF** may intervene and participate in the arbitration is sufficiently certain and concrete to  
23 warrant declaratory relief by this Court.

24           48.     **PLAINTIFF** has no other alternative remedy to safeguard the value of the asset  
25 assigned to satisfy its claims as a condition of **PG&E**'s Reorganization Plan as the source of the  
26 fire victims' recovery.

1 49. The **INSURER DEFENDANTS** have obvious conflicts of interests with the Trust,  
2 since the carriers seek a ruling that only one tower of insurance is applicable. **PG&E** is also  
3 conflicted since **PLAINTIFF**'s claims in the relevant litigation are against **PG&E**'s former  
4 officers and directors. There is also a competing interest between **PLAINTIFF** and **PG&E**  
5 shareholders who seek financial returns but have not been victims of the 2017 North Bay Fires and  
6 the 2018 Camp Fire. Most importantly, none of the parties in the arbitration have **PLAINTIFF**'s  
7 familiarity and expertise with **PLAINTIFF**'s claims, and the basis for those claims, to adequately  
8 advocate for the fact that both towers of insurance are implicated.

9 50. **PLAINTIFF** will suffer imminent and significant hardship without a judicial decree  
10 from this Court. The value of the asset which funds the recovery to the victims of the separate  
11 2017 North Bay Fires and 2018 Camp Fire, may be substantially undermined without an  
12 opportunity for **PLAINTIFF** to explain the nature of the wrongs giving rise to claims against the  
13 D&O Liability Insurance policies, and to take steps to protect all of the assets assigned to satisfy  
14 the Trustee's assigned claims by the Bankruptcy Court.

#### 15 **V. CAUSE OF ACTION**

#### 16 **DECLARATORY RELIEF**

#### 17 **(Against ALL DEFENDANTS and DOES 1–20)**

18 52. **PLAINTIFF** hereby re-alleges and incorporates by reference each allegation set  
19 forth above, as if fully set forth in detail herein.

20 53. Pursuant to the Reorganization Plan and its assignment to the Trust of the right to  
21 prosecute the claims, the Trust is a third-party beneficiary of the Side B coverage under the 2017  
22 and 2018 D&O Liability Insurance towers.

23 54. **PLAINTIFF** alleges, upon information and belief, that **PG&E** and **INSURER**  
24 **DEFENDANTS** dispute some or all of **PLAINTIFF**'S contentions as set forth above and as  
25 enumerated in this Complaint. **PG&E** misunderstands the factual basis for **PLAINTIFF**'s  
26 claims against **PG&E**'s former directors and officers and cannot adequately represent  
27

1 **PLAINTIFF**'s interests in addressing the amount and extent of Side B coverage under the 2017  
2 and 2018 D&O Liability Insurance policies.

3 55. There are also competing interests in those funds between **PLAINTIFF** and  
4 **PG&E** shareholders who seek financial returns but have not lost their homes, property, and  
5 livelihoods like the victims of the separate 2017 North Bay Fires and 2018 Camp Fire.

6 56. The positions taken by **PG&E** and the **INSURER DEFENDANTS** in the  
7 arbitration will directly impact the **PLAINTIFF**'s rights under the policies that, by the  
8 Reorganization Plan, are the sole source of recovery for causes of action assigned to the Trust.

9 57. The arguments and issues addressed in arbitration, and the potential rulings that can  
10 be issued by the Arbitration Panel, are therefore an essential part of the Reorganization Plan, and  
11 to the extent that there is any dispute regarding the full availability of both towers of insurance  
12 coverage, **PLAINTIFF** is entitled to a seat at the table to address the full extent of coverage.

13 58. Without judicial intervention by this Court, the foundational premise of the  
14 Reorganization Plan, including the right to seek recovery under the Side B coverage under the  
15 D&O Liability Insurance towers, a right which fire victims relied upon in agreeing to the  
16 Reorganization Plan, will be jeopardized.

17 59. A dispute is present, and an actual controversy exists between **PLAINTIFF** and  
18 **DEFENDANTS** as to whether **PLAINTIFF** has a right to participate in the arbitration between  
19 **PG&E** and **INSURER DEFENDANTS**.

20 60. **PLAINTIFF** will suffer irreparable harm unless it is recognized as a third-party  
21 beneficiary and indispensable party to any current or future proceedings addressing the nature,  
22 extent, and availability of Side B insurance coverage and other coverage issues, including but not  
23 limited to the arbitration hearing currently set to take place on April 30, 2021 without  
24 **PLAINTIFF**'S participation. Being deprived of the rights to address and protect the insurance  
25 coverage that is a critically important source of recovery under the Reorganization Plan would  
26 constitute irreparable harm to **PLAINTIFF**.





1 available insurance coverage available from the **INSURER DEFENDANTS** (or any other  
2 limitations on coverage) for claims asserted against the former officers and directors arising from  
3 the separate 2017 North Bay Fires and 2018 Camp Fire.

4 67. A declaration that enjoins **DEFENDANTS** from participating in the arbitration  
5 hearing presently set for April 30, 2021 and directs all **DEFENDANTS** to this Court to resolve  
6 ongoing and future issues pertaining to insurance coverage, or in the alternative, a declaration  
7 permitting **PLAINTIFF** to participate in the arbitration hearing presently scheduled on April 30,  
8 2021 or any later date that might be selected.

9 68. For such other and further equitable and legal relief as the Court may deem proper.

10 Dated: March 17, 2021

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