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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

14 ELIZABETH BARRIS, BENJAMIN]
15 STEGALL, DORIS STEGALL, LOUIS]
16 DONOVAN, KAREN MILLER,]
17 VICTORIA FASSETT, ROXANN FENN,]
18 GERRIANNE KOSKINEN, JAMES]
19 NEWSOME, JOEL ANGELES,]

20 Plaintiffs,]

21 vs.]

22 SOUTHERN CALIFORNIA EDISON,]
23 CORIX UTILITIES, ITRON, INC.; AND]
24 DOES 1-20 et al., INCLUSIVE,]

25 Defendants]
26]
27]
28]

CASE NO.: BC 510577

**FIRST AMENDED
COMPLAINT FOR DAMAGES**

DEPT: 92

1 Plaintiffs, Elizabeth Barris, Benjamin Stegall, Doris Stegall, Louis Donovan, Karen Miller,
2 Victoria Fassett, Roxann Fenn, GerriAnne Koskinen, James Newsome and Joel Angeles and hereby
3 allege as follows:

4 **NATURE OF ACTION**

- 5 1. This is a civil matter where the matter in controversy exceeds the sum of \$25,000.00,
6 exclusive of interest and costs.
7
- 8 2. Plaintiffs contend that venue is proper because the alleged acts occurred within the County of
9 Los Angeles.
- 10 3. By this action Plaintiffs seek all legal and equitable relief to which they may be entitled,
11 including, but not limited to compensatory and punitive damages, attorneys fees and costs, and
12 injunctive relief against Defendants and each of them.
13
- 14 4. The true names and capacities, whether individual, corporate, associate or otherwise of
15 Defendants Does 1 through 20, inclusive, are unknown to Plaintiff who therefore sues said
16 Defendants by such fictitious names. The Plaintiff will ask leave of Court to amend this
17 Complaint to insert their true names and capacities when the same have been ascertained.
18
- 19 5. Plaintiffs are informed and believe and upon such information and belief thereon allege that
20 each Defendant and Does 1 through 20 and each of them were the agent, employee, co-partner,
21 joint venturer, co-tortfeasor, co-employee, co-managing agent, of each and every other
22 defendant set forth herein, and when performing all acts and actions set forth regarding
23 defendants contained herein in this Complaint. Each Defendant, and Does 1 through 20 and
24 each of them were acting as the agent, employee, co-partner, joint venturer, co-tortfeasor, co-
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1 employee, co-managing agent, of each and every other Defendant during said acts and actions
2 set forth in this Complaint herein.

3 **FACTS COMMON TO ALL CAUSES OF ACTION**

- 4 6. Plaintiff, Elizabeth Barris (“Plaintiff Barris”) is and at all times mentioned herein is a resident
5 of the City of Topanga, California, County of Los Angeles, California.
6
7 7. Plaintiff, Benjamin Stegall is and at all times mentioned herein is a resident of the City of
8 Santa Monica, California, County of Los Angeles, California.
9
10 8. Plaintiff, Doris Stegall is and at all times mentioned herein is a resident of the City of Santa
11 Monica, California, County of Los Angeles, California.
12
13 9. Plaintiff, Louis Donovan (“Plaintiff Donovan”) is and at all times mentioned herein is a
14 resident of the City of Carson, California, County of Los Angeles, California.
15
16 10. Plaintiff, Karen Miller (“Plaintiff Miller”) is and at all times mentioned herein is a resident of
17 the City of Orange, California, County of Orange, California.
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19 11. Plaintiff, Victoria Fassett (“Plaintiff Fassett”) is and at all times mentioned herein is a resident
20 of the City of Orange, California, County of Orange, California.
21
22 12. Plaintiff, Roxann Fenn (“Plaintiff Fenn”) is and at all times mentioned herein is a resident of
23 the City of Oak Hills, California, County of San Bernardino, California.
24
25 13. Plaintiff, GerriAnne Koskinen (“Plaintiff Koskinen”) is and at all times mentioned herein is a
26 resident of the City of Hawthorne, California, County of Los Angeles, California.
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28 14. Plaintiff, James Newsome (“Plaintiff Newsome”) is and at all times mentioned herein is a
resident of the City of Long Beach, California, County of Los Angeles, California.

1 15. Plaintiff, Joel Angeles (“Plaintiff Angeles”) is and at all times mentioned herein is a resident
2 of the City of Santa Barbara, California, County of Santa Barbara, California.

3 16. At all times mentioned herein, Defendant Southern California Edison was incorporated in
4 California and is a privately owned public utility company providing natural gas and electrical
5 generation and distribution service in Southern California.

6
7 17. At all times mentioned herein, Defendant Southern California Edison had its headquarters in
8 the City of Rosemead, County of Los Angeles, California. Hence, venue is proper in the City
9 and County of Los Angeles, California.

10 18. At all times mentioned herein, defendant Southern California Edison was legally vested with
11 authority to acquire property by eminent domain pursuant to the provisions of the Public
12 Utility Code section 613 and Code of Civil Procedure sections 1230.010, 1240.010, and
13 1240.120, et. seq.

14
15 19. At all times herein, defendant Corix Companies is a Wisconsin State Corporation with
16 operations in Southern California. Corix Companies’ mission is to assist gas, water and
17 electric utilities in maintaining the health of their measurement systems. Corix Companies has
18 performed over 10,000,000 smart meter changes, AMR device installations and retrofits for
19 gas, water and electric utilities since 1995. Corix Companies have offices in Salinas,
20 California, McClellan, California, Santa Clara, California, Santa Maria, California and
21 Stockton, California. Hence, venue is proper in the City and County of Los Angeles,
22 California.
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25 20. At all times herein, defendant Itron Inc. is a Washington State corporation with operations in
26 Southern California, including several offices in Berkeley, California and Oakland, California.
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1 Itron, Inc. is a global technology company, which helps utilities measure, analyze, and manage
2 energy and water. Itron, Inc.'s broad portfolio includes electricity, gas, water, and thermal
3 energy measurement and control technology; communications systems; software; and
4 professional services. With thousands of employees supporting nearly 8,000 utilities in more
5 than 100 countries, Itron Inc. empowers utilities to manage energy and water resources. Hence,
6 venue is proper in the City and County of Los Angeles, California.
7

8 21. Plaintiffs are ignorant of the true names and capacities of defendants sued herein as Does 1-20
9 inclusive and therefore sues said defendants by such fictitious names. Each fictitiously named
10 defendant is in some manner responsible for the injuries and damages complained of herein.
11 Plaintiffs will amend this complaint to allege the true names and capacities of such defendants
12 when they are ascertained.
13

14 22. Plaintiffs are informed and believe and herein allege that during all dates alleged herein,
15 defendants, and each of them, through a common and uniform course of conduct, Defendants
16 and each of them have designed, manufactured, tested, operated, supplied, promoted, sold,
17 distributed and/or leased smart meters that generate and emit radio frequency radiation
18 ("RFR") without informing the Plaintiffs, and each of them, the important safety risks
19 associated with the use of smart meters, which were withheld from the public.
20

21 23. Defendants, and each of them failed to disclose to the Plaintiffs that: (a) industry experts and
22 scientific study results differ as to the risks and biological effects that (may?) arise from smart
23 meter use; (b) for each smart meter model, the Defendants, and each of them failed to measure
24 and collect the Specific Absorption Rate ("SAR"), a measurement of how much radiation
25 passes through tissue during a specified time period; (c) that the SAR measurements is not the
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1 product of a rigid testing and review, but rather obtained through a self-certification process,
2 and failed to inform its users of the uncertainties and controversies that have been raging in
3 our court system and scientific community for decades relating to telecommunication systems
4 standards as to cause and effect, inter alia, all of which has produced limited choices to its
5 users, due to a failure to exercise due diligence.

6
7 24. California Civil Code section 43 protects the Plaintiffs from bodily restraint or harm and from
8 injury to personal relations.

9 25. California Civil Code section 1708 provides that all persons must abstain from injuring the
10 person or property of another or infringing upon the rights of another.

11 26. California Civil Code section 1709 provides that one who willfully deceives another is liable
12 for damages.

13 27. California Civil Code section 1710 defines deceit as an untrue assertion or suppression of a
14 fact so as to mislead, or a false promise.

15 28. California Civil Code section 1714(a) provides that liability for injuries arises from want of
16 ordinary care or skill.

17 29. California Public Utilities Code section 8360 requires the safe, reliable, efficient deployment
18 of the modern Smart Grid, including (h) providing customers with timely information and
19 control options.

20 30. California Public Utilities Code section 8363 requires implementations of the Smart Grid in a
21 manner which does not compromise safety, integrity or reliability.

22 31. Defendants, and each of them, as industry members, were aware, or should have been aware of
23 numerous studies and experiments that demonstrated the health risks, hazards and detrimental
24

1 biological effects of RFR. Peer-review research indicated, among other things, adverse
2 biological effects resulting from exposure to varying levels of RFR because RFR is absorbed
3 into human tissue, which produces harmful biological effects.

4 32. The American Academy of Environmental Medicine (“AAEM”), a prominent, highly regarded
5 authoritative international association, established over fifty years, with thousands of physician
6 members, has called for “immediate caution regarding smart meter installations. Citing several
7 peer-reviewed scientific studies, the AAEM concludes that “significant harmful biological
8 effects occur from non-thermal radio frequency (“RF”) exposure” showing causality. (Press
9 Advisory, April, 2012). The AAEM also expresses concern regarding significant
10 electromagnetic field (“EMF”), extremely low frequency (“ELF”), and RF fields on human
11 health. AAEM calls for: “• Immediate caution regarding Smart Meter installation due to
12 potentially harmful RF exposure. • Accommodation for health considerations regarding EMF
13 and RF exposure, including exposure to wireless Smart Meter technology. • Use of safer
14 technology”, amongst other conclusions. (See AAEM Press Release, April 12, 2012
15 <http://aaemonline.org/pressadvisoryemf.pdf>)
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18 33. The World Health Organization (WHO) has made a recent determination to include
19 radiofrequent radiation (such as emissions from Smart Meters) on the 2B list of carcinogens
20 (See http://www.iarc.fr/en/media-centre/pr/2011/pdfs/pr208_E.pdf)
21

22 34. The Board of the American Academy of Environmental Medicine opposes the installation of
23 wireless ‘smart meters’ in homes and schools based on a scientific assessment of the current
24 medical literature (references available on request). Chronic exposure to wireless radio
25 frequency radiation is a preventable environmental hazard that is sufficiently well
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1 documented to warrant immediate preventative public health action. "As representatives of
2 physician specialists in the field of environmental medicine, we have an obligation to urge
3 precaution when sufficient scientific and medical evidence suggests health risks which can
4 potentially affect large populations. The literature raises serious concern regarding the levels
5 of radio frequency (RF – 3 KHz – 300 GHz) or extremely low frequency (ELF – 0- 300 Hz)
6 exposures produced by "smart meters" to warrant an immediate and complete moratorium on
7 their use and deployment until further study can be performed." (See
8 <http://www.scribd.com/doc/79470430/AAEM-Resolution>)
9

- 10 35. Other peer-reviewed studies that have been available to all of the Defendants and in the
11 public domain include: Hill, AB. The Environment and Disease: Association or Causation?
12 Proceedings of the Royal Society of Medicine. 1965; 58: 295---300. Xu S, Zhou Z, Zhang L,
13 et al. Exposure to 1800 MHZ radiofrequency radiation induces oxidative damage to
14 mitochondrial DNA in primary cultured neurons. Brain Research. 2010; 1311: 189---196.
15 Phillips JL, Singh NP, Lai H. Electromagnetic fields and DNA damage. Pathophysiology.
16 2009;16: 79---88. Ruediger HW. Genotoxic effects of radiofrequency electromagnetic fields.
17 Pathophysiology. 2009; 16(2): 89---102. Zhao T, Zou S, Knapp P. Exposure to cell phone
18 radiation up---regulates apoptosis genes in primary cultures of neurons and astrocytes.
19 Neurosci Lett. 2007; 412(1): 34---38. Lee S, Johnson D, Dunbar K. 2.45 GHz radiofrequency
20 fields alter gene expression on cultured human cells. FEBS Letters. 2005; 579: 4829---4836.
21 Ban R, Grosse Y, Lauby---Secretan B, et al. Carcinogenicity of radiofrequency
22 electromagnetic fields. The Lancet Oncology. 2011; 12(7): 624---626. Available from:
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1 [http://www.thelancet.com/journals/lanonc/article/PIIS1470---2045\(11\)70147--](http://www.thelancet.com/journals/lanonc/article/PIIS1470---2045(11)70147--4/fulltext?_eventId=login)
2 [-4/fulltext?_eventId=login](http://www.thelancet.com/journals/lanonc/article/PIIS1470---2045(11)70147--4/fulltext?_eventId=login).

3 36. Wireless smart meters are widely reported to cause headaches, dizziness, ringing in the ears,
4 even memory loss and heart palpitations among susceptible individuals due to bursts of
5 microwave radiation. The movement against wireless meters is the sharp end of a growing
6 movement demanding health-based standards for wireless technology. Plaintiffs are
7 informed and believe and thereon allege that defendant Southern California Edison installed
8 5.3 million meters between 2009 and 2013 including the Plaintiffs' respective residences.

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10 37. Plaintiffs are informed and believe and thereon allege that wireless smart meters typically
11 produce atypical, relatively potent and very short pulsed RF/microwaves whose biological
12 effects have never been fully tested. They emit these millisecond-long RF bursts on average
13 9,600 times a day with a maximum of 190,000 daily transmissions and a peak level
14 emission two and a half times higher than the stated safety signal, as the California utility
15 Pacific Gas & Electric recognized before that State's Public Utilities Commission. Thus
16 people in proximity to a smart meter are at risk of significantly greater aggregate of
17 RF/microwave exposure, not to mention the cumulative exposure received by people living
18 near multiple meters mounted together, pole-mounted routers or utility collector meters
19 using a third antenna to relay RF signals from 500 to 5,000 homes." "In addition to the
20 erratic bursts of modulated microwaves emitted by wireless smart meters transferring usage
21 data to electric, gas and water utilities, wireless as well as wired smart (powerline
22 communication) meters are also a major source of 'dirty electricity' (electrical interference
23 of high frequency voltage transients typically of kilohertz frequencies). Some scientists,
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1 such as American epidemiologist Sam Milham, believe that many of the health complaints
2 about smart meters may also be caused by dirty electricity generated by the “switching
3 mode” power supply activating all smart meters.”

4 38. Defendants, and each of them did not inform Plaintiffs that that they would be the subjects
5 of a state-wide experiment on the health effects of smart meter radiation.

6 39. Defendants, and each of them did not obtain the Plaintiffs’ consent to participate in the
7 experiment.
8

9 **HISTORY PERTINENT TO ALL PLAINTIFFS**

10 40. Plaintiffs hereby reallege and incorporate all previous paragraphs by reference as if fully
11 set forth herein.

12 41. Plaintiff, Elizabeth Barris (“Plaintiff Barris”) is and at all times mentioned herein is a
13 resident of the City of Topanga, California, County of Los Angeles, California.
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15 42. On or about May 1, 2011, without Plaintiff’s knowledge, Defendants Southern California
16 Edison installed a smart (or RF) meter that was designed, manufactured, tested, operated,
17 supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities and Itron
18 Inc.
19

20 43. Defendants, and each of them failed to disclose to Plaintiff Barris that: (a) industry experts
21 and scientific study results differ as to the risks and biological effects that arise from smart
22 meter use; (b) for each smart meter model, the Defendants, and each of them failed to
23 measure and collect the Specific Absorption Rate (“SAR”), a measurement of how much
24 radiation passes through tissue during a specified time period; (c) that the SAR
25 measurements is not the product of a rigid testing and review, but rather obtained through a
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1 self-certification process and measures only the potential thermal aspects of harm from
2 short term exposure as opposed to the potential non thermal aspects of harm from
3 prolonged exposure; which is where the controversy lies.

4 44. Beginning in 2011, and as a result of proximity to the Defendants' smart meter and
5 prolonged exposure to RF, Plaintiff Barris developed physical injuries, including, but not
6 limited to heart arrhythmia, ear and head pain, nausea, exhaustion, headaches, dizziness
7 and brain fog.
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9 45. Plaintiff, Benjamin Stegall is and at all times mentioned herein is a resident of the City of
10 Santa Monica, California, County of Los Angeles, California.
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12 46. On or about January 25, 2012, without Plaintiff's knowledge, Defendants Southern
13 California Edison installed a smart meter that was designed, manufactured, tested,
14 operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities
15 and Itron Inc.
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17 47. Defendants, and each of them failed to disclose to Plaintiff Benjamin Stegall that: (a)
18 industry experts and scientific study results differ as to the risks and biological effects that
19 arise from smart meter use; (b) for each smart meter model, the Defendants, and each of
20 them failed to measure and collect the Specific Absorption Rate ("SAR"), a measurement
21 of how much radiation passes through tissue during a specified time period; (c) that the
22 SAR measurements is not the product of a rigid testing and review, but rather obtained
23 through a self-certification process, and measures only the potential aspects of harm from
24 short term exposure as opposed to the potential non thermal aspects of harm from
25 prolonged exposure; which is where the controversy lies.
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1 48. Beginning in 2012, and as a result of proximity to the Defendants' smart meter and
2 prolonged exposure to RF, Plaintiff Benjamin Stegall developed physical injuries,
3 including, but not limited to severe bronchitis, cough, leg pain and insomnia.

4 49. Plaintiff, Doris Stegall is and at all times mentioned herein is a resident of the City of
5 Santa Monica, California, County of Los Angeles, California.

6 50. On or about January 25, 2012, without Plaintiff's knowledge, Defendants Southern
7 California Edison installed a smart meter that was designed, manufactured, tested,
8 operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities
9 and Itron Inc.

10 51. Defendants, and each of them failed to disclose to Plaintiff Doris Stegall that: (a) industry
11 experts and scientific study results differ as to the risks and biological effects that arise
12 from smart meter use; (b) for each smart meter model, the Defendants, and each of them
13 failed to measure and collect the Specific Absorption Rate ("SAR"), a measurement of
14 how much radiation passes through tissue during a specified time period; (c) that the SAR
15 measurements is not the product of a rigid testing and review, but rather obtained through a
16 self-certification process, and measures only the potential aspects of harm from short term
17 exposure as opposed to the potential non thermal aspects of harm from prolonged
18 exposure; which is where the controversy lies.

19 52. Beginning in 2012, and as a result of proximity to the Defendants' smart meter and
20 prolonged exposure to RF, Plaintiff Doris Stegall developed physical injuries, including,
21 but not limited to insomnia and shortness of breath.

22 53. Plaintiff, Louis Donovan, ("Plaintiff Donovan") is and at all times mentioned herein is a
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1 resident of the City of Carson, California, County of Los Angeles, California.

2 54. On or about late 2009 and early 2010, without Plaintiff's knowledge, Defendants Southern
3 California Edison installed a smart meter that was designed, manufactured, tested,
4 operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities
5 and Itron Inc.

6
7 55. Defendants, and each of them failed to disclose to Plaintiff Donovan that: (a) industry
8 experts and scientific study results differ as to the risks and biological effects that arise
9 from smart meter use; (b) for each smart meter model, the Defendants, and each of them
10 failed to measure and collect the Specific Absorption Rate ("SAR"), a measurement of
11 how much radiation passes through tissue during a specified time period; (c) that the SAR
12 measurements is not the product of a rigid testing and review, but rather obtained through a
13 self-certification process, and measures only the potential aspects of harm from short term
14 exposure as opposed to the potential non thermal aspects of harm from prolonged
15 exposure; which is where the controversy lies.

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18 56. Beginning in 2010, and as a result of proximity to the Defendants' smart meter and
19 prolonged exposure to RF, Plaintiff Donovan developed physical injuries, including, but
20 not limited to headaches, dizziness, difficulty breathing, insomnia, pacemaker disruption,
21 heart palpitations and heart arrhythmia.

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23 57. Plaintiff, Karen Miller ("Plaintiff Miller") is and at all times mentioned herein is a resident
24 of the City of Orange, California, County of Orange, California.

25 58. On or about November 2011, without Plaintiff's knowledge, Defendants Southern
26 California Edison installed a smart meter that was designed, manufactured, tested,
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1 operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities
2 and Itron Inc.

3 59. Defendants, and each of them failed to disclose to Plaintiff Miller that: (a) industry experts
4 and scientific study results differ as to the risks and biological effects that arise from smart
5 meter use; (b) for each smart meter model, the Defendants, and each of them failed to
6 measure and collect the Specific Absorption Rate (“SAR”), a measurement of how much
7 radiation passes through tissue during a specified time period; (c) that the SAR
8 measurements is not the product of a rigid testing and review, but rather obtained through a
9 self-certification process, and measures only the potential aspects of harm from short term
10 exposure as opposed to the potential non thermal aspects of harm from prolonged
11 exposure; which is where the controversy lies.

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14 60. Beginning in February 2012, and as a result of proximity to the Defendants’ smart meter
15 and prolonged exposure to RF, Plaintiff Miller developed physical injuries, including, but
16 not limited to thyroid and adrenal exhaustion, low stress threshold, insomnia and
17 hyperactivity.

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19 61. Plaintiff, Victoria Fassett (“Plaintiff Fassett”) is and at all times mentioned herein is a
20 resident of the City of Orange, California, County of Orange, California.

21 62. On or about June 2012, without Plaintiff’s knowledge, Defendants Southern California
22 Edison installed a smart meter that was designed, manufactured, tested, operated, supplied,
23 promoted, sold, distributed and/or leased by Defendants Corix Utilities and Itron Inc.

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25 63. Defendants, and each of them failed to disclose to Plaintiff Fassett that: (a) industry experts
26 and scientific study results differ as to the risks and biological effects that arise from smart
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meter use; (b) for each smart meter model, the Defendants, and each of them failed to measure and collect the Specific Absorption Rate (“SAR”), a measurement of how much radiation passes through tissue during a specified time period; (c) that the SAR measurements is not the product of a rigid testing and review, but rather obtained through a self-certification process, and measures only the potential aspects of harm from short term exposure as opposed to the potential non thermal aspects of harm from prolonged exposure; which is where the controversy lies.

64. Beginning in 2012, and as a result of proximity to the Defendants’ smart meter and prolonged exposure to RF, Plaintiff Fassett developed physical injuries, including, but not limited to anxiety, joint pain, tinnitus, high blood pressure, attention deficit disorder, and exacerbation of Lyme disease.

65. Plaintiff, Roxann Fenn (“Plaintiff Fenn”) is and at all times mentioned herein is a resident of the City of Oak Hills, California, County of San Bernardino, California.

66. On or about mid 2011, without Plaintiff’s knowledge, Defendants Southern California Edison installed a smart meter in Plaintiff’s residence located in Apple Valley, California, that was designed, manufactured, tested, operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities and Itron Inc.

67. Defendants, and each of them failed to disclose to Plaintiff Fenn that: (a) industry experts and scientific study results differ as to the risks and biological effects that arise from smart meter use; (b) for each smart meter model, the Defendants, and each of them failed to measure and collect the Specific Absorption Rate (“SAR”), a measurement of how much radiation passes through tissue during a specified time period; (c) that the SAR

1 measurements is not the product of a rigid testing and review, but rather obtained through a
2 self-certification process , and measures only the potential aspects of harm from short term
3 exposure as opposed to the potential non thermal aspects of harm from prolonged
4 exposure; which is where the controversy lies.

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6 68. Beginning in October 2011, and as a result of proximity to the Defendants’ smart meter
7 and prolonged exposure to RF, Plaintiff Fenn developed physical injuries, including, but
8 not limited to dizziness, pain, headache, body shakes, nausea, heart palpitations, difficulty
9 breathing, loss of balance, pain throughout body, tinnitus and seizures.

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11 69. Plaintiff, GerriAnne Koskinen (“Plaintiff Koskinen”) is and at all times mentioned herein
12 is a resident of the City of Hawthorne, California, County of Los Angeles, California.

13
14 70. On or about November 2012, without Plaintiff’s knowledge, Defendants Southern
15 California Edison installed a smart meter in Plaintiff’s residence, that was designed,
16 manufactured, tested, operated, supplied, promoted, sold, distributed and/or leased by
17 Defendants Corix Utilities and Itron Inc.

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19 71. Defendants, and each of them failed to disclose to Plaintiff Koskinen that: (a) industry
20 experts and scientific study results differ as to the risks and biological effects that arise
21 from smart meter use; (b) for each smart meter model, the Defendants, and each of them
22 failed to measure and collect the Specific Absorption Rate (“SAR”), a measurement of
23 how much radiation passes through tissue during a specified time period; (c) that the SAR
24 measurements is not the product of a rigid testing and review, but rather obtained through a
25 self-certification process, and measures only the potential aspects of harm from short term
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1 exposure as opposed to the potential non thermal aspects of harm from prolonged
2 exposure; which is where the controversy lies.

3 72. Beginning in November 2012, and as a result of proximity to the Defendants' smart meter
4 and prolonged exposure to RF, Plaintiff Koskinen developed physical injuries, including,
5 but not limited to headaches, muscle spasms, insomnia, exacerbation of arthritis.

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7 73. Plaintiff, James Newsome ("Plaintiff Newsome") is and at all times mentioned herein is a
8 resident of the City of Long Beach, California, County of Los Angeles, California.

9 74. On or about 2012, without Plaintiff's knowledge, Defendants Southern California Edison
10 installed a smart meter in Plaintiff's residence, that was designed, manufactured, tested,
11 operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix Utilities
12 and Itron Inc.

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14 75. Defendants, and each of them failed to disclose to Plaintiff Newsome that: (a) industry
15 experts and scientific study results differ as to the risks and biological effects that arise
16 from smart meter use; (b) for each smart meter model, the Defendants, and each of them
17 failed to measure and collect the Specific Absorption Rate ("SAR"), a measurement of
18 how much radiation passes through tissue during a specified time period; (c) that the SAR
19 measurements is not the product of a rigid testing and review, but rather obtained through a
20 self-certification process, and measures only the potential aspects of harm from short term
21 exposure as opposed to the potential non thermal aspects of harm from prolonged
22 exposure; which is where the controversy lies.

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25 76. Beginning in April 2012, and as a result of proximity to the Defendants' smart meter and
26 prolonged exposure to RF, Plaintiff Newsome developed physical injuries, including, but
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1 not limited to radiation burns on neck, difficulty swallowing, and cancerous mass on right
2 side and bottom of tongue.

3 77. Plaintiff, Joel Angeles (“Plaintiff Angeles”) is and at all times mentioned herein is a
4 resident of the City of Santa Barbara, California, County of Santa Barbara, California.

5
6 78. On or about April 27, 2012, without Plaintiff’s knowledge, Defendants Southern California
7 Edison installed a smart meter in Plaintiff’s residence, that was designed, manufactured,
8 tested, operated, supplied, promoted, sold, distributed and/or leased by Defendants Corix
9 Utilities and Itron Inc.

10 79. Defendants, and each of them failed to disclose to Plaintiff Angeles that: (a) industry
11 experts and scientific study results differ as to the risks and biological effects that arise
12 from smart meter use; (b) for each smart meter model, the Defendants, and each of them
13 failed to measure and collect the Specific Absorption Rate (“SAR”), a measurement of
14 how much radiation passes through tissue during a specified time period; (c) that the SAR
15 measurements is not the product of a rigid testing and review, but rather obtained through a
16 self-certification process, and measures only the potential aspects of harm from short term
17 exposure as opposed to the potential non thermal aspects of harm from prolonged
18 exposure; which is where the controversy lies.

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21 80. Beginning in December 2012, and as a result of proximity to the Defendants’ smart meter
22 and prolonged exposure to RF, Plaintiff Angeles developed physical injuries, including,
23 but not limited to insomnia, depression, tinnitus, migraines, headaches, impaired memory,
24 stabbing body pain.
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1 81. As a proximate result of the negligence of the Defendants, and each of them, the Plaintiffs
2 were damages and injured as alleged in the preceding paragraphs.

3 82. As a direct and proximate result of the foregoing, the Plaintiffs were harmed in that the
4 Plaintiffs suffered great physical and mental pain suffering, for injuries to the health of
5 mind and body, loss of enjoyment of life, medical, dental and hospital care and treatment,
6 loss of earnings and loss of a capacity to earn, all to their damage in an amount according
7 to proof at trial.
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9 83. Plaintiffs have incurred and will continue to incur medical expenses for treatment by
10 physicians, psychiatrists and/or other health professionals, and for other incidental medical
11 expenses; and plaintiffs have suffered and will continue to suffer a loss of earnings,
12 bonuses, retirement benefits, employment opportunities and/or other employment benefits.
13

14 **FIRST CAUSE OF ACTION**

15 **NEGLIGENCE**

16 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

17 84. Plaintiffs hereby reallege and incorporate all previous paragraphs by reference as if fully
18 set forth herein.
19

20 85. The above referenced actions of the Defendants, and each of them, constitute negligence.

21 86. As a further proximate result of the negligence of Defendants, and each of them, Plaintiffs
22 have incurred and will continue to incur medical expenses for treatment by physicians,
23 psychiatrists and/or other health professionals, and for other incidental medical expenses;
24 and plaintiffs have suffered and will continue to suffer a loss of earnings, bonuses,
25 retirement benefits, employment opportunities, and/or other employment benefits.
26
27

1 87. As a direct and proximate result of the above described negligence of defendants, Plaintiffs
2 have suffered and continue to suffer great physical, emotional and mental anguish.
3 Plaintiffs have been humiliated, embarrassed, and ridiculed as a result of the foregoing acts
4 of Defendants, and each of them.

5
6 88. As a proximate result of the negligence of Defendants, and each of them, Plaintiffs were
7 damaged and injured as alleged in the preceding paragraphs.

8 89. As a directed a proximate result of the foregoing, the plaintiffs experienced, loss of habitat,
9 deprived of their above described rights and are entitled to damages including, but not
10 limited to general and special damages.

11 **SECOND CAUSE OF ACTION**

12 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

13 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

14
15 90. Plaintiffs hereby reallege and incorporate all previous paragraphs by reference as if fully
16 set forth herein.

17
18 91. Defendants' conduct was outrageous, intentional and malicious and done with the specific
19 intent of causing Plaintiffs to suffer humiliation, mental anguish, and emotional and
20 physical injury and distress.

21 92. As a proximate result of the acts performed by Defendants, and each of them as alleged,
22 Plaintiffs suffered severe emotional and mental distress and anguish, embarrassment,
23 mortification, physical injury and distress, humiliation, indignity, and have been injured in
24 mind and body, all to their general damage within the jurisdiction of this Court.
25
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1 93. The injuries and damages suffered by the Plaintiffs and for which recovery is sought
2 include general damages for physical injuries to the health of mind and body and loss of
3 enjoyment of life; medical and dental expenses and hospital care and treatment for said
4 injuries in an amount not yet fully ascertained; loss of earnings and loss of capacity to earn
5 a living in an amount not yet fully ascertained.

6
7 94. Defendants' wrongful conduct as herein alleged was willful, wanton, intentional,
8 malicious, oppressive, and fraudulent in nature and justify the awarding of exemplary and
9 punitive damages in an amount to be determined at trial.

10 **THIRD CAUSE OF ACTION**

11 **FRAUD AND DECEIT**

12 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

13
14 95. Plaintiffs hereby reallege and incorporate all previous paragraphs by reference as if fully
15 set forth herein.

16 96. As stated above, between 2009-2013, without Plaintiffs' knowledge, Defendants Southern
17 California Edison installed a smart meter in Plaintiffs' residences that was designed,
18 manufactured, tested, operated, supplied, promoted, sold, distributed, installed and/or
19 leased by Defendants Corix Utilities and Itron Inc.

20
21 97. Defendants, and each of them failed to disclose to the Plaintiffs that: (a) industry experts
22 and scientific study results differ as to the risks and biological effects that arise from smart
23 meter use; (b) for each smart meter model, the Defendants, and each of them failed to
24 measure and collect the Specific Absorption Rate ("SAR"), a measurement of how much
25 radiation passes through tissue during a specified time period; (c) that the SAR
26
27

1 measurements is not the product of a rigid testing and review, but rather obtained through a
2 self-certification process. At all times the Defendants were aware of the dangers and health
3 risks that the smart meters posed to the public.

4 98. As a result of proximity to the Defendants' smart meter and prolonged exposure to RF,
5 Plaintiffs developed various physical and mental injuries.

6 99. As a proximate result of the negligence of the Defendants, and each of them, the Plaintiffs
7 were damaged and injured as alleged in the preceding paragraphs.

8 100. As a direct and proximate result of the foregoing, the Plaintiffs were harmed in that the
9 Plaintiffs suffered great physical and mental pain and suffering, for injuries to the health of
10 mind and body, loss of enjoyment of life, medical, dental and hospital care and treatment,
11 loss of earnings and loss of a capacity to earn, all to their damage in an amount according to
12 proof at trial.

13 101. As a result of the above referenced acts, Defendants fraudulently induced the Plaintiffs to
14 pay utility fees and rental costs for the smart meters. At no time were the Plaintiffs aware
15 of the dangers posed or connected with the smart meters.

16 102. Plaintiff is informed and believes and on such information and belief alleges that
17 Defendants conspired to, do the acts and things herein alleged pursuant to, and in furtherance
18 of, the conspiracy and agreement alleged above.

19 103. As a proximate result of the wrongful acts herein alleged, plaintiffs have been
20 generally damaged in a sum within the jurisdiction of this Court to be proven at trial.
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1 104. As a direct and proximate result of the actions of Defendants, and each of them, Plaintiffs
2 were defrauded into paying utility fees and rental costs connected with the smart meters in a
3 sum subject to proof at trial.

4 105. As a direct and proximate result of the above described unlawful and malicious acts of
5 defendants, and each of them, Plaintiffs have suffered emotional and mental anguish, all of
6 which are in violation of their rights under the laws of the State of California. Plaintiffs have
7 suffered and will continue to suffer great emotional and mental anguish. Plaintiffs have been
8 humiliated, embarrassed, and ridiculed as a result of the foregoing acts of Defendants.
9

10 106. Defendants and each of them suppressed material facts, and made certain
11 misrepresentations of fact for the sole purpose of inducing the Plaintiffs to pay utility costs and
12 rental fees for the smart meters.
13

14 107. At the time the suppressions of material facts and misrepresentations of fact were made by
15 Defendants, Defendants had full knowledge of their falsity, and had no reasonable grounds for
16 believing these misrepresentations to be true.
17

18 108. The true facts were that the Defendants were aware of the health risks posed by the smart
19 meters and failed to disclose them to the Plaintiffs and the general public. The Defendants, and
20 each of them, failed to disclose to the Plaintiffs that the defendants installed smart meters on
21 the Plaintiffs' residences in order to secure revenue for said smart meters.
22

23 109. Defendants and each of them concealed these material facts from the Plaintiffs.

24 110. In reliance on these suppressions of material facts and misrepresentations of facts, the
25 Plaintiffs acted as alleged above without knowledge of the true facts.
26
27
28

1 111. As a proximate result of the acts of Defendant, Plaintiffs were hurt and injured in their
2 health, strength, and activity, sustaining injury to their nervous system and person, all of
3 which injuries have caused, and continue to cause Plaintiffs great mental, physical, and
4 nervous pain and suffering. Plaintiffs are informed and believe, and thereon allege, that the
5 injuries will result in some permanent disability. As a result of the injuries, Plaintiffs have
6 suffered general damages in a sum within the jurisdiction of this Court to be proven at trial.
7

8 **112.** The aforementioned conduct of Defendants was an intentional misrepresentation, deceit, or
9 concealment of a material fact known to the Defendants with the intention on the part of the
10 Defendants of thereby depriving Plaintiffs of property, loss of habitat or legal rights or
11 otherwise causing injury, and was despicable conduct that subjected Plaintiffs to a cruel and
12 unjust hardship in conscious disregard of Plaintiffs' rights, so as to justify an award of
13 exemplary and punitive damages.
14

15 113. As a result of proximity to the Defendants' smart meter and prolonged exposure to RF,
16 Plaintiffs developed various physical and mental injuries.
17

18 114. As a proximate result of the negligence of the Defendants, and each of them, the Plaintiffs
19 were damaged and injured as alleged in the preceding paragraphs.
20

21 115. As a direct and proximate result of the foregoing, the Plaintiffs were harmed in that the
22 Plaintiffs suffered great physical and mental pain and suffering, for injuries to the health of
23 mind and body, loss of enjoyment of life, medical, dental and hospital care and treatment, loss
24 of earnings and loss of a capacity to earn, all to their damage in an amount according to proof
25 at trial.
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1 **FOURTH CAUSE OF ACTION**

2 **PRODUCTS LIABILITY**

3 **BY ALL PLAINTIFFS AGAINST ALL DEFENDANTS**

4 116. Plaintiffs hereby reallege and incorporate all previous paragraphs by reference as if fully
5 set forth herein.

6
7 117. Each of the Defendants knew the product would be purchased and/or used without
8 inspection for defects. The product was defective when it left the control of each defendant.

9 118. The product at the time of injury was being used in the manner intended by the defendants.

10 119. The product at the time of injury was used in the manner that was reasonably foreseeable
11 by defendants as involving a substantial danger not readily apparent. Adequate warnings were
12 not given.

13
14 120. Plaintiffs were bystanders to use of the product, users of the product and/or unwitting
15 purchasers of the product.

16 121. Plaintiffs' injuries were the proximate result of the strict liability of the defendants, and
17 each of them who manufactured or assembled the smart meters; designed and manufactured
18 component parts supplied to the manufacturer; and sold the product to the public.

19
20 122. Plaintiffs' injuries were the proximate result of the negligence of the defendants, and each
21 of them, who owed a duty to the Plaintiffs.

22
23 123. Plaintiffs' injuries were the proximate result of defendants' breach of implied and express
24 warranty.

25
26 WHEREFORE, Plaintiffs prays for judgment as follows:
27

- 1 1. For general damages against defendants, and each of them, in a sum to be proven at the time of
2 trial;
- 3 2. Compensatory damages on the Plaintiffs' economic losses, humiliation, mental anguish and
4 emotional damages in a sum to be proven at the time of trial;
- 5 3. General damages in a sum to be proven at the time of trial;
- 6 4. Special damages in a sum to be proven at the time of trial;
- 7 5. For exemplary or punitive damages
- 8 6. For prejudgment interest at the legal rate of interest;
- 9 7. Costs and expenses of this action;
- 10 8. Other and further relief as the Court deems just and proper;
- 11 9. Reasonable attorneys fees according to proof;
- 12
- 13
- 14

15 Dated: 5/31/13

LAW OFFICES OF DAVID KYLE

18 _____
19 David Kyle
20 Attorneys for Plaintiffs
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