

1 Matthew C. Maclear, SBN 209228
2 Jason R. Flanders, SBN 238007
3 Erica A. Maharg, SBN 279396
4 J. Thomas Brett, SBN 315820
5 **AQUA TERRA AERIS LAW GROUP**
6 4030 Martin Luther King Jr. Way
7 Oakland, CA 94609
8 Phone: 415.568.5200
9 Email: mcm@atalawgroup.com

6 Paul A. Matiasic, SBN 226448
7 **THE MATIASIC FIRM, P.C.**
8 355 S. Grand Ave., Ste. 2450
9 Los Angeles, CA 90071
10 Phone: 213.699.2083
11 Email: matiasic@mjlawoffice.com

12 *Attorneys for Plaintiffs*

11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 QUALITY SEA FOOD, INC., a
14 California Corporation; JACK
15 BUTTLER, an individual; LBC
16 SEAFOOD, INC., a California
17 Corporation; STEVE LEGERE, an
18 individual; individually, and on behalf
19 of all others similarly situated;

20 Plaintiffs,

21 vs.

22 AMPLIFY ENERGY
23 CORPORATION; BETA
24 OPERATING COMPANY, LLC d/b/a
25 BETA OFFSHORE; SAN PEDRO
26 BAY PIPELINE COMPANY; and
27 DOES 1 THROUGH 100,
28 INCLUSIVE,

Defendants.

CASE No. 8:21-cv-1680

CLASS ACTION COMPLAINT

- 1. **Strict Liability (Government Code § 8670)**
- 2. **Strict Liability (Ultrahazardous Activity)**
- 3. **Negligence**
- 4. **Unfair Business Practices (Business and Professions Code § 17200)**
- 5. **Public Nuisance**
- 6. **Interference with Prospective Economic Advantage**
- 7. **Lost Profits and Earnings Capacity (Federal Oil Pollution Act of 1990)**

DEMAND FOR JURY TRIAL

The Matiasic Firm, P.C.
355 S. Grand Ave., Ste. 2450
Los Angeles, CA 90071

1 Plaintiffs QUALITY SEA FOOD, INC., a California Corporation; JACK
2 BUTTLER, an individual; LBC SEAFOOD, INC., a California Corporation; and
3 STEVE LEGERE, an individual; individually and on behalf of all other similarly
4 situated (hereinafter “Plaintiffs”), by and through their undersigned attorneys,
5 hereby complain and allege as follows against Defendants AMPLIFY ENERGY
6 CORPORATION; BETA OPERATING COMPANY, LLC; SAN PEDRO BAY
7 PIPELINE COMPANY; and DOES 1 THROUGH 100, INCLUSIVE (hereinafter
8 collectively “Defendants”):
9
10
11

12 **JURISDICTION**

13 1. This Court has subject-matter jurisdiction over this action pursuant to 28
14 U.S.C. § 1332(d)(2), because the amount in controversy exceeds the sum of
15 \$5,000,000.00, in the aggregate, there are well over 100 members of the Class that
16 are known to exist, and this is a class action in which the Plaintiffs are from a
17 different state of at least one Defendant.
18

19 2. This Court also has supplemental jurisdiction over the state law claims
20 pursuant to 28 U.S.C. § 1367(a) because all claims alleged herein from part of the
21 same case or controversy.
22
23

24 **INTRODUCTION**

25 3. This action arises from a catastrophic oil spill occurring off the coast of
26 Huntington Beach, Orange County, California on or around October 1, 2021 caused
27 by Defendants’ oil rig/platform, known as “Elly,” and/or a rupture of its San Pedro
28

1 Bay Pipeline connected pipelines (hereinafter “oil spill” or “subject oil spill”). As a
2 result of this breach, as much as 144,000 gallons– over 3,000 forty-two (42) gallon
3 barrels of crude oil – discharged into the navigable waters of the Pacific Ocean,
4 quickly spreading and washing ashore onto and into wetlands, estuaries, the Santa
5 Ana River, bays and beaches in heavily populated communities along the coastline
6 from Long Beach to Dana Point, and points south of Newport Beach. As of filing,
7 an oil slick spanning approximately 8,320 acres was created by this spill. South
8 Orange County and San Diego County communities are anticipated to be impacted
9 by the oil spill. The oil spill has already been called a “potential ecological disaster”
10 and an “environmental catastrophe” by officials, severely damaging, if not
11 destroying, wildlife and marine ecosystems in the immediate area and beyond,
12 negatively impacting human health and safety, and significantly interfering with
13 business and economic activities in and around the affected area.
14
15
16
17

18 4. Plaintiffs brings this action on behalf of themselves and a class of
19 similarly situated individuals arising from Defendants’ unlawful, unreasonable and
20 tortious acts, omissions, and practices.
21

22 5. Plaintiffs seek an order against Defendants awarding, among other
23 things, damages, injunctive relief, and restitution to Plaintiffs and Class members.
24

25 **PARTIES**

26 6. Plaintiff QUALITY SEA FOOD, INC., a California Corporation
27 (hereinafter “QUALITY SEA FOOD”) is, and at all times alleged in this Class
28

1 Action Complaint was, a business organized and existing under the laws of the State
2 of California. QUALITY SEA FOOD, an historic seafood market operating since
3 1953, is engaged in the sale and distribution of commercial retail seafood, with its
4 principal place of business at 100 S. International Boardwalk, Redondo Beach,
5 California. Jeffrey Jones (“Jones”) is the Chief Executive Officer and President of
6 QUALITY SEA FOOD. Since the oil spill, QUALITY SEA FOOD has noticed that
7 customers are already hesitant to purchase seafood. With the commercial lobster
8 season opening October 6, 2021 and running until March, QUALITY SEA FOOD
9 has serious concerns that the economic loss from lobsters will be enormous as
10 recent and expected prices were predicted to be high. QUALITY SEA FOOD will
11 incur further serious losses with other types of seafood, including, but not limited to:
12 Red Snapper, California Halibut, Rock Cod, Mexican Snapper, Striped Bass,
13 Tilapia, Sea Bass, Mahi Mahi, Sardines, Anchovies, Smelt, Pomfret, Black Cod,
14 Mackerel, Sheephead, Octopus and Squid. Jones and QUALITY SEA FOOD rely
15 on the Southern California fisheries from as far south as Newport Beach and the
16 many surrounding fisheries supporting the species necessary to keep their
17 international seafood market open to the public. QUALITY SEA FOOD operates as
18 a first point of landing for many fishers impacted by the oil spill, as well as a
19 weighmaster for those same commercial fishers. QUALITY SEA FOOD and Mr.
20 Jones have already experienced negative consequences arising from the oil spill
21 caused by Defendants, and based thereon they face additional imminent injuries and
22
23
24
25
26
27
28

The Matias Firm, P.C.
355 S. Grand Ave., Ste. 2450
Los Angeles, CA 90071

1 losses, as well as the continued impairment of the ability to earn a living and remain
2 operational in the commercial seafood market business. Defendants’ acts and
3 omissions have therefore caused present injury to QUALITY SEA FOOD, as well
4 as the concrete risk of imminent, additional injury.
5



6
7
8
9
10
11
12
13
14
15
16 QUALITY SEA FOOD’s Redondo Beach, California storefront.

17
18 7. Plaintiff JACK BUTTLER (hereinafter “BUTTLE”) is, and at all
19 times alleged in this Class Action Complaint was, an individual and a resident of
20 Huntington Beach, County of Orange, State of California. BUTTLER is an urchin
21 diver by trade who bases his operation out of San Pedro, and dives in the Horseshoe
22 Reef, Area 740. As the spill has tainted the waters, from San Clemente to Newport,
23 that he usually harvests, he now has had to drive his boat to locations upwards of 65
24 miles away to dive for urchin. BUTTLER typically sells QUALITY SEA FOOD
25 500-700 pounds of urchin each week. The oil spill has severely disrupted his ability
26 to continue generating the same or similar income as compared to before the oil
27
28

1 spill. Due to the spill, he is no longer permitted to harvest in the areas upon which
2 he relies, causing significant financial hardship. BUTTLER believes the negative
3 consequences of Defendants’ oil spill will continue to impair his ability to earn a
4 living as an urchin diver indefinitely. Defendants’ acts and omissions have
5 therefore caused present injury to BUTTLER, as well as the concrete risk of
6 imminent, additional injury.
7
8

9 8. Plaintiff LBC SEAFOOD, INC., a California Corporation (hereinafter
10 “LBC SEAFOOD”) is, and at all times alleged in this Class Action Complaint was,
11 a business organized and existing under the laws of the State of California. LBC
12 SEAFOOD is a family-owned seafood wholesaler that purchases lobster from
13 fishers in Orange County and sells them to buyers as far north as Redondo Beach
14 and as far south as San Diego. Additionally, LBC SEAFOOD sells lobster to larger
15 wholesalers and distributors who distribute the product throughout California and as
16 far away as Asia. With the commercial lobster season opening October 6, 2021, and
17 running until March, LBC SEAFOOD has serious concerns that the economic loss
18 from lobster will be enormous as recent and expected prices were predicted to be
19 high. LBC SEAFOOD has already been affected by the oil spill and expects risk of
20 additional imminent injuries and losses, as well as continued impairment of the
21 ability to earn a living and remain operational in the commercial lobster and fishing
22 industries. Defendants’ acts and omissions have therefore caused present injury to
23 LBC SEAFOOD, as well as the concrete risk of imminent, additional injury.
24
25
26
27
28

The Matias Firm, P.C.
355 S. Grand Ave., Ste. 2450
Los Angeles, CA 90071

1 9. Plaintiff STEVE LEGERE (hereinafter “LEGERE”) is, and at all times
2 alleged in this Class Action Complaint was, an individual and a resident of Newport
3 Beach, County of Orange, State of California. LEGERE is a lobster, crab and
4 sheephead fisher by trade who bases his operation out of Marina Del Rey, and fishes
5 and traps up and down the coast near the oil spill. LEGERE recently purchased a
6 near-shore permit and entered into an agreement to hire a boat to fish out of
7 Newport Beach. Prior to the oil spill, LEGERE expected to fish almost year-round
8 for sheephead, in addition to fishing during lobster and crab seasons. The oil spill
9 has tainted the waters in and around where he lives and fishes. During lobster
10 seasons in the recent past, LEGERE would normally catch 500-600 pounds of
11 lobster per day, but in the opening days of the 2021/22 season, the catch is down by
12 about two-thirds, as the price has correspondingly fallen also. The oil spill has
13 severely disrupted LEGERE’s ability to continue generating the same or similar
14 income as compared to before the oil spill. Due to the spill, he is not permitted to
15 harvest in the areas upon which he relies, causing significant financial hardship.
16 LEGERE believes the negative consequences of Defendants’ oil spill will continue
17 to impair his ability to earn a living catching sheephead, lobster and crab
18 indefinitely. Defendants’ acts and omissions have therefore caused present injury to
19 LEGERE, as well as the concrete risk of imminent, additional injury.
20
21
22
23
24
25

26 10. Defendant AMPLIFY ENERGY CORPORATION (hereinafter
27 “AMPLIFY”) is a Delaware corporation engaged in the business of procuring,
28

1 transporting, and supplying oil and natural gas. AMPLIFY maintains its principal
2 place of business at 500 Dallas Street, Suite 1700, Houston, Texas. AMPLIFY
3
4 owns Defendant BETA OPERATING COMPANY, LLC, its subsidiary, which is
5 responsible for the maintenance, management, ownership, control and inspection of
6 the Elly oil rig/platform and BETA’s San Pedro Bay Pipeline (hereafter “Pipeline”)
7
8 which are the subject of this litigation. AMPLIFY’s Chief Executive Officer is
9 Martyn Willsher.

10 11. Defendant BETA OPERATING COMPANY, LLC d/b/a Beta Offshore
11 (hereinafter “BETA”) is a Delaware corporation engaged in the business of
12 procuring, transporting, and supplying oil and natural gas. BETA maintains its
13 principal place of business at 111 W. Ocean Blvd., Suite 1240, Long Beach,
14 California. BETA is a subsidiary of Defendant AMPLIFY, and is responsible for
15 the day-to-day maintenance, management, ownership, control, and inspection of the
16 Elly oil platform and its Pipeline which are the subject of this litigation.
17
18

19 20. Defendant SAN PEDRO BAY PIPELINE COMPANY (hereinafter the
21 “PIPELINE COMPANY”) is a California corporation engaged in the business of
22 transporting crude oil. The PIPELINE COMPANY maintains its principal place of
23 business at 111 W. Ocean Blvd., Suite 1240, Long Beach, California. The
24 PIPELINE COMPANY is a subsidiary of Defendant AMPLIFY and is responsible
25 for transporting crude oil from offshore platforms, including the Elly Platform, to an
26 oil pump located in Long Beach, California.
27
28

1 13. The true names and capacities, whether individual, corporate, associate,
2 familial, representative, or otherwise, of Defendants named herein as DOES 1
3 through 100, inclusive, are unknown to Plaintiffs at this time, and they are therefore
4 sued by such fictitious names pursuant to Code of Civil Procedure §474. Plaintiffs
5 pray to amend this complaint to allege the true names and capacities of DOES 1
6 through 100 when Plaintiffs discovers such true identities. Each of the DOE
7 Defendants designated herein is negligently or otherwise in some manner legally
8 responsible for the events and happenings alleged herein, and negligently or
9 otherwise caused or contributed to the injuries and damages to Plaintiffs as
10 hereinafter alleged.

11 14. Plaintiffs are informed and believe, and upon such information allege,
12 that at all relevant times herein, each and every Defendant herein was the agent,
13 ostensible agent, servant, partner, joint venturer, licensee, employer, employee,
14 assistant, relative, or volunteer of each of the other Defendants, and each was at all
15 times alleged herein acting in the course and scope of said agency, ostensible
16 agency, license, service, partnership, joint venture, employment, assistance, relation,
17 and volunteering.

VENUE

18 15. Venue is proper in this District under 28 U.S.C. § 1391(a) through (d)
19 because the Plaintiffs reside in this District and are residents of the State of
20

1 California. Alternatively, venue is proper in this this District because the violations
2 and harm that the Defendants caused is in this District.

3
4 **SUBSTANTIVE ALLEGATIONS**

5 16. AMPLIFY and BETA, companies engaged in the procurement,
6 extraction, and provision of oil and natural gas, own and maintain oil rigs and
7 connected pipelines off the coast of Orange County, California, including the Elly
8 rig/platform and Pipeline. Plaintiffs are informed and believe that the Pipeline,
9 which runs from the Elly platform northward to the Port of Long Beach, was
10 constructed approximately forty years ago and is approximately seventeen miles in
11 length. The Pipeline measures approximately sixteen inches in diameter. The Elly
12 oil rig is located approximately five miles off the coast of Huntington Beach, a
13 heavily populated community with expansive beaches, wetlands, diverse wildlife,
14 riparian and marine ecosystems, and an active commercial fishing, diving, boating
15 and seafood harvesting industries.

16
17
18
19
20 17. On Friday, October 1, 2021, individuals in Newport Beach and
21 Huntington Beach began noticing strong odors and by that evening, the Office of
22 Spill Prevention and Response, a division of the California Department of Fish and
23 Wildlife, was notified of a sheen on the water off the coast of Huntington Beach.

24
25 18. AMPLIFY CEO Martyn Willsher has stated that Defendants did not
26 know about the leak until Saturday, October 2, 2021, at 8:09 a.m., when a sheen on
27
28

1 the water was detected by Defendants. The U.S. Coast Guard has stated that it was
2 first notified by Defendants of the spill on October 2, 2021.

3
4 19. In a Corrective Action Order (“COA”) issued to Defendants by the U.S.
5 Department of Transportation in response to the oil spill, the following Preliminary
6 Findings were made:

- 7
- 8 a. At approximately 02:30 PDT (05:30 Eastern Daylight Time (EDT)) on
9 October 2, 2021, Beta Offshore’s control room personnel received a
10 low-pressure alarm on the San Pedro Bay Pipeline, indicating a possible
11 failure.
 - 12 b. Beta Offshore reported the San Pedro Bay Pipeline was shut down at
13 approximately 06:01 PDT (09:01 EDT) on October 2, 2021—over three
14 hours later.
 - 15 c. At 12:07 EDT on October 2, 2021 (NRC Report No. 1318463), over six
16 hours after the initial alarm and three hours after the company shut
17 down the pipeline, Beta Offshore reported the Accident to the National
18 Response Center (NRC) indicating there was a release of crude oil in the
19 vicinity of its pipeline near Platform Elly.
 - 20 d. An oil sheen can be observed in the San Pedro Bay, an inlet of the
21 Pacific Ocean, for approximately 13 miles. Local beaches have been
22 closed. On October 3, 2021, the California Environmental Protection
23 Agency’s Office of Environmental Health Hazard Assessment issued a
24
25
26
27
28

1 Declaration of Fisheries Closure Due to a Public Health Threat Caused
2 by an Oil Spill into Marine Waters.
3

- 4 e. The San Pedro Bay Pipeline traverses a High Consequence Area (HCA)
5 as defined in 49 C.F.R. § 195.450 and an ecologically unusually
6 sensitive area as defined in § 195.6.
7



17 A beach in Huntington Beach, CA covered in crude oil washed ashore in October
18 2021.



Local wildlife, dead and covered in oil as a result of this spill.

1 20. At the time of filing this Complaint, it was reported the spill emanating
 2 from the Pipeline had an approximate 13-inch split on a 4,000-foot section of the
 3 Pipeline that had been displaced laterally about 105 feet.

5 21. As of the time of filing this Complaint, the spill estimated spill size has
 6 reached 144,000 gallons and oil from the spill has been detected at least between the
 7 Huntington Beach and Newport Beach areas.

9 22. The disaster caused by this oil spill has resulted, and will continue to
 10 result in, profound environmental, ecological, social, health, and economic impacts.

11
 12 **CLASS ACTION ALLEGATIONS**

13 23. Plaintiffs bring this class action lawsuit on behalf of the following
 14 proposed class and subclass of similarly situated persons, pursuant to Rule 23 of the
 15 Federal Rules of Civil Procedure. Plaintiffs propose to represent the following
 16 class:
 17

18 All persons or businesses in commercial fishing, diving, and seafood
 19 sales in the United States that claim economic losses, or damages to
 20 their occupations, business, and/or property as a result of the subject oil
 21 spill which occurred on or around October 1, 2021-October 2, 2021.
 22

23
 24 24. Plaintiffs propose to represent the following subclasses of Plaintiffs:

25 a. Commercial seafood markets
 26
 27
 28

1 b. Commercial fishers¹ and divers

2 c. Commercial seafood wholesalers

3
4 Plaintiffs reserve the right to propose additional subclasses of Plaintiffs in
5 connection with their Motion for Class Certification, and as determined by the Court
6 in its discretion.

7
8 25. Ascertainability: This action has been brought and may properly be
9 maintained as a class action against Defendants because there is a well-defined
10 community of interest in the litigation and the proposed class is easily ascertainable.
11 The number and identity of class members can be easily ascertained. Because the
12 oil spill was a distinct catastrophic event, the class members—who consist of
13 fishers, divers, seafood buyers/sellers/marketers at the retail and wholesale levels,
14 and other related businesspeople—will not have difficulty discerning these injuries,
15 or their cause. The spill has affected the ability of these individuals to fish as well as
16 customer demand, and continues to do so. Those who can or will no longer work as
17 a result of the spill are or will be aware of that fact. Similarly, those whose
18 businesses were affected by the spill and its lingering effects are aware of these facts
19
20
21
22
23
24

25 _____
26 ¹ Commercial fishers are defined to include all persons who fish in waters near
27 shore, in mid-water and in the deep sea, and include but are not limited to the use of
28 nets, trawling, gillnets, lines, traps or pots. Commercial fishers sell landed fish to
markets. The objects of these fishers include, but is not limited to, lobster, crab,
squid, urchin, sardine, anchovy, mackerel, halibut, lingcod, rockfish, seabass,
sharks, jacksmelt and sheephead.

1 and the resulting costs. Finally, those in the fishing industry are well aware of any
2 current or continuing changes to the availability, quality or demand for their
3 products.
4

5 26. Numerosity: Plaintiffs do not know the exact size of the class, but
6 estimate it is composed of more than 100 persons. The persons in the class are so
7 numerous that the joinder of all such persons is impracticable and the disposition of
8 their claims in a class action rather than in individual actions will benefit the parties
9 and the courts.
10

11 27. Common Questions Predominate: This action involves common
12 questions of law and fact to the potential classes because each class member's claim
13 derives from the same deceptive, unlawful and/or unfair practices, acts, statements
14 and omissions. The common questions of law and fact predominate over individual
15 questions, as proof of a common or single set of facts will establish the right of each
16 member of the class to recover. The questions of law and fact common to the class
17 including, but are not limited to, the following:
18
19

- 20
- 21 a. Whether Defendants acted negligently, recklessly, wantonly, and/or
22 unlawfully to cause the subject oil spill;
23
 - 24 b. Whether Defendants established, installed, implemented, inspected, and
25 maintained adequate safety measures and systems to as to prevent and
26 control such oil spills;
27
- 28

- 1 c. Whether Defendants engaged in adequate supervision of its facilities
2 and systems that could have prevented the subject oil spill or reduced its
3 scope and scale;
- 4
- 5 d. Whether class members have suffered from Defendants' violations of
6 the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act,
7 Government Code Section 8670, *et seq.*; the Porter-Cologne Act, Water
8 Code Sections 13000, *et seq.*; Cal. Fish & Game Code Section 5650, *et*
9 *seq.*; the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.*; the Oil
10 Pollution Act, 33 U.S.C. § 2701, *et seq.*; various local, state, and federal
11 spill notification laws; and the oil spill response plans required by local,
12 state, and federal laws.
- 13
- 14 e. Whether Defendants' conduct is unlawful, unfair, or fraudulent in
15 violation of the Unfair Competition Law, California Business and
16 Professions Code §17200, *et seq.*;
- 17
- 18 f. Whether Defendants' engaged in unconscionable, deceptive, and/or
19 unreasonable business practices and conduct;
- 20
- 21 g. Whether Defendants knowingly, intentionally, or negligently concealed,
22 suppressed, or omitted material facts concerning the safety of its oil
23 rig/platform and Pipeline from the public;
- 24
- 25 h. Whether Defendants knowingly, intentionally, or negligently concealed,
26 suppressed, omitted, or delayed relaying material facts regarding the
27
28

1 subject oil spill to local, state, and federal agencies, thereby slowing the
2 response and/or increasing the damages to Plaintiffs and other class
3 members;
4

5 i. Whether Defendants are strictly liable to Plaintiffs and class members
6 by virtue of state and/or federal law;
7

8 j. Whether class members are entitled to restitution, injunctive and other
9 equitable relief and, if so, what is the nature (and amount) of such relief;
10 and
11

12 k. Whether class members are entitled to payment of actual, incidental,
13 consequential, exemplary and/or statutory damages plus interest thereon,
14 and if so, what is the nature of such relief.
15

16 28. Typicality: Plaintiffs' claims are typical of the claims of other members
17 of the Class because, among other things, all such claims arise out of the same
18 wrongful course of conduct in which the Defendants engaged in violations of law as
19 described herein. Further, the damages of each member of the Class were caused
20 directly by Defendants' wrongful conduct in violation of the law as alleged herein.
21 Plaintiffs and the classes have suffered injury in fact as a result of Defendants'
22 actions and inactions.
23
24

25 29. Adequacy of Representation: Plaintiffs will fairly and adequately protect
26 the interests of all class members because it is in their best interests to prosecute the
27 claims alleged herein to obtain full compensation due to them for the unfair and
28

1 illegal conduct of which they complain. Plaintiffs have no interests that are in
2 conflict with, or antagonistic to, the interests of class members. Plaintiffs have
3 retained highly competent and experienced attorneys to represent his interests and
4 that of the classes. By prevailing on their own claims, Plaintiffs will establish
5 Defendants' liability to all class members. Plaintiffs and their counsel have the
6 necessary financial resources to adequately and vigorously litigate this class action,
7 and Plaintiffs and counsel are aware of their fiduciary responsibilities to the class
8 members and are determined to diligently discharge those duties by vigorously
9 seeking the maximum possible recovery for class members.
10
11
12

13 30. Superiority: There is no plain, speedy, or adequate remedy other than by
14 maintenance of this class action. The prosecution of individual remedies by
15 members of the classes will tend to establish inconsistent standards of conduct for
16 Defendants and result in the impairment of class members' rights and the
17 disposition of their interests through actions to which they were not parties. Class
18 action treatment will permit a large number of similarly situated persons to
19 prosecute their common claims in a single forum simultaneously, efficiently, and
20 without the unnecessary duplication of effort and expense that numerous individual
21 actions would engender. Furthermore, as the damages suffered by each individual
22 member of the class may be relatively small, the expenses and burden of individual
23 litigation would make it difficult or impossible for individual members of the class
24
25
26
27
28

1 to redress the wrongs done to them, while an important public interest will be served
2 by addressing the matter as a class action.

3
4 31. Notice: Notice by mail and/or local publication, including electronic
5 means, will adequately apprise interested class members.

6
7 32. Plaintiffs are unaware of any difficulties that are likely to be
8 encountered in the management of this action that would preclude its maintenance
9 as a class action.

10
11 **CAUSES OF ACTION**

12 **FIRST CAUSE OF ACTION**
13 **(Strict Liability (Government Code § 8670))**

14 33. Plaintiffs reallege and incorporate the paragraphs of this Class Action
15 Complaint as if set forth herein.

16
17 34. The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act
18 (“the Act”) provides that “[a] responsible party, as defined in Section 8670.3, shall
19 be absolutely liable without regard to fault for any damages incurred by any injured
20 person that arise out of, or are caused by, a spill.” Cal. Gov’t Code Section
21 8670.56.5(a).

22
23 35. The Pacific Ocean off the coast of Orange County is defined as “marine
24 waters” pursuant to Government Code § 8670.3(j).

25
26 36. Defendants constitute “responsible parties” pursuant to Government
27 Code § 8670.3(ac) as they are the “owner or transporter of oil or a person or entity
28 accepting responsibility for the oil.”

1 37. The oil that is the subject of this action is “oil” as defined by the Act,
2 which defines “oil” as “[a]ny kind of petroleum, liquid hydrocarbons, or petroleum
3 products or any fraction or residues therefrom, including, but not limited to, crude
4 oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed
5 with waste, and liquid distillates from unprocessed natural gas.” Cal. Gov’t Code
6 Section 8670.3(p)(1).
7

8
9 38. “Spill,” “discharge,” or “oil spill” means a release of any amount of oil
10 into waters of the state that is not authorized by a federal, state, or local government
11 entity. Cal. Gov’t Code Section 8670.3(ag).
12

13 39. As the responsible party for the oil that is the subject of this action,
14 Defendants are liable under the Act.
15

16 40. On or around October 1, 2021, Defendants discharged or spilled crude
17 oil into the Pacific Ocean and are therefore absolutely liable without regard to fault
18 for all damages that Plaintiffs and the Class sustained or will sustain. That
19 discharge was not permitted by state or federal law.
20

21 41. The Act entitles a plaintiff to recover a wide variety of damages,
22 including, but not limited to, loss of subsistence use of natural resources; injury to,
23 or economic losses resulting from destruction of or injury to, real or personal
24 property, which shall be recoverable by any claimant who has an ownership or
25 leasehold interest in property; loss of taxes, royalties, rents, or net profit shares
26 caused by the injury, destruction, loss, or impairment of use of real property,
27
28

1 personal property, or natural resources; and loss of profits or impairment of earning
2 capacity due to the injury, destruction, or loss of real property, personal property, or
3 natural resources. Cal. Gov't Code Section 8670.56.5(h).
4

5 42. The contamination illegally caused by the discharge of crude oil into or
6 upon area beaches and the Pacific Ocean injured, caused to be lost, and/or impaired
7 the use of property or natural resources on which Plaintiffs and the Class depend for
8 their livelihood, including, but not limited to, local beaches and marine waters;
9 populations of fish, squid, and shellfish; and marine protected areas and ecosystems.
10 It also caused injury to and destruction of real or personal property, as well as
11 impairment of earning capacity of Plaintiffs and the Class.
12
13

14 43. Because Plaintiffs and members of the Class: rely on natural resources
15 for subsistence use; Plaintiffs derive at least twenty-five percent of their annual or
16 seasonal earnings from activities that utilize property or natural resources damaged
17 by Defendants' oil spill; Plaintiffs' livelihoods and earning capacity depend directly
18 on the integrity of the Pipeline being maintained, monitored and responded to so as
19 to avoid its rupturing and thereby damaging the natural resources in and around the
20 Pacific Ocean, and along the California coastline; and/or Defendants' damage to
21 natural resources has caused Plaintiffs a loss of taxes, royalties, rents, or net profit;
22 or all of the above, Defendants are liable to Plaintiffs and the Class under the Act.
23
24
25
26
27
28

1 44. The injury, destruction, loss, and/or impairment of usability of these
2 natural resources has caused Plaintiffs and the Class to lose profits and will cause
3 future losses of profits and/or impair their earning capacities.
4

5 45. The long-lasting effects of contamination related to the discharge of
6 toxic crude oil into the Pacific Ocean and coastal areas, which Plaintiffs and the
7 Class rely on, requires that Plaintiffs and the Class continue future monitoring and
8 testing activities in order to ensure that such marine life is not contaminated and is
9 safe and fit for human consumption, that the toxic oil from the spill does not further
10 contaminate and degrade Plaintiffs' property, and that their earning capacity is not
11 impaired.
12

13 **SECOND CAUSE OF ACTION**
14 **(Strict Liability (Ultrahazardous Activity))**

15 46. Plaintiffs reallege and incorporate the paragraphs of this Class Action
16 Complaint as if set forth herein.
17
18

19 47. At all relevant times herein, Defendants were the owners, operators, and
20 maintainers of the Elly rig/platform and Pipeline and had supervision, custody, and
21 control of the Pipeline.
22

23 48. At all relevant times herein, Defendants were under a continuing duty to
24 protect the Plaintiffs and the Class from the harm caused by the ruptured or leaking
25 Pipeline.
26
27
28

1 49. At all relevant times herein, Defendants were engaged in ultrahazardous
2 activities, including the transportation of flammable, hazardous, and toxic oil
3 through the waters of the Pacific Ocean via the Pipeline.
4

5 50. Plaintiffs and the Class have suffered harm from the discharge of toxic
6 oil, including the release of benzene, sulfur dioxide, hydrogen sulfide, volatile
7 organic compounds, oil and other hazardous substances, from the Pipeline.
8

9 51. The injuries sustained by Plaintiffs and the Class as a result of the oil
10 spill were the direct and proximate result of Defendants' activities.
11

12 52. The harm to Plaintiffs and the Class was and is the kind of harm that
13 would be reasonably anticipated as a result of the risks created by transporting
14 flammable, hazardous, and toxic oil in a pipeline, and not properly maintaining the
15 pipelines in close proximity to the Pacific Ocean.
16

17 53. Defendants' operation of the Pipeline and its actions and inactions
18 resulting in the oil spill were substantial factors in causing the harms suffered by
19 Plaintiffs and the Class.
20

21 54. As a result of Defendants' strict liability, Plaintiffs and Class members
22 are entitled to recover actual damages.
23

24 55. The acts and omissions of Defendants were conducted with malice,
25 fraud, and/or oppression as set out in this Complaint.
26

27 //

28 //

THIRD CAUSE OF ACTION
(Negligence)

1
2
3 56. Plaintiffs reallege and incorporate the paragraphs of this Class Action
4 Complaint as if set forth herein.
5

6 57. Defendants owed a duty to Plaintiffs and the Class to exercise
7 reasonable and ordinary care in their management, ownership, control, and
8 operation of the Elly rig/platform and the Pipeline and in their actions following the
9 subject oil spill. That duty arose generally as well as from, among other things,
10 federal, state, and local laws, ordinances and regulations that require Defendants to
11 operate a pipeline in a manner that does not damage public health and safety. These
12 laws include, but are not limited to: the Lempert-Keene-Seastrand Oil Spill
13 Prevention and Response Act, Government Code Section 8670, *et seq.*; the Porter-
14 Cologne Act, Water Code Sections 13000, *et seq.*; Cal. Fish & Game Code Section
15 5650, *et seq.*; the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.*; and local,
16 state, and federal spill response and notification laws.
17
18
19

20 58. Defendants breached their duty to Plaintiffs and the Class by, among
21 other things: failing to properly install the oil rig/platform and/or Pipeline; failing to
22 properly maintain the oil rig/platform and/or Pipeline; failing to properly operate the
23 oil rig/platform and/or Pipeline, resulting in this catastrophic oil spill; failing to
24 properly inspect the subject oil rig/platform and/or Pipeline; failing to ensure that
25 the subject oil rig/platform and/or Pipeline were in safe, operational condition;
26 failing to properly monitor the subject oil rig/platform and/or Pipeline; failing to
27
28

1 respond to indications of low pressure, a sign of a leak, in a timely fashion so as to
2 minimize the discharge of oil from the controls in place at the subject oil
3 rig/platform and/or Pipeline; failing to install reasonable safety equipment to
4 prevent an oil spill, including adequate emergency shut-off valves; failing to
5 promptly notify the appropriate authorities immediately upon receiving information
6 suggestive of the fact that a breach to the Pipeline and/or oil spill had occurred;
7 failing to promptly respond to and contain the spill; failing to comply with the
8 Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, Government
9 Code Section 8670, *et seq.*; the Porter-Cologne Act, Water Code Sections 13000, *et*
10 *seq.*; Cal. Fish & Game Code Section 5650, *et seq.*; the Federal Clean Water Act, 33
11 U.S.C. § 1251 *et seq.*; and local, state, and federal spill response and notification
12 laws; and failing to warn Plaintiffs, the Class, and the public at large of the scope
13 and extend of the oil spill and the potential hazards and impacts associated
14 therewith.
15
16
17
18
19

20 59. At all relevant times herein, Defendants negligently, wantonly,
21 carelessly and/or recklessly maintained and operated the oil rig/platform and/or the
22 Pipeline. Defendants' conduct fell below the standard of care of a reasonable
23 property or Pipeline owner/operator in similar circumstances.
24

25 60. Defendants, in the exercise of reasonable care, should have known that
26 the Pipeline could rupture or otherwise fail and spill significant amounts of oil, and
27 could have averted the discharge from the Pipeline by adequately maintaining the
28

1 Pipeline and promptly acting when the spill triggered its low pressure alarm at 02:30
2 (PDT) on October 2, 2021.

3
4 61. In addition, Defendants’ breaches of the above duties and violations of
5 the above-cited statutes, ordinances, and/or regulations resulted in precisely the
6 harm to Plaintiffs that the laws listed above were designed to prevent, and Plaintiffs
7 and the Class are members of the class of persons for whose protection those laws
8 were adopted.

9
10 62. The actions and inactions of Defendants as set forth herein were
11 negligent or, alternatively, were negligent under the doctrine of *res ipsa loquitur*.

12
13 63. As a direct and proximate result of Defendants’ negligence, Plaintiffs
14 and the Class have sustained damages. Those damages take primarily two forms:
15 short-term and long-term. As a direct and legal cause of the Defendants’ wrongful
16 acts and omissions herein above set forth, Plaintiffs and the Class have suffered and
17 will continue to suffer economic harm, injury to earning capacity, and losses.

18
19
20 64. The short-term damages include loss of profits due to fishing closures
21 caused by the spill, and increased costs associated with traveling to different
22 fisheries. The closures have excluded fishers from fishing grounds for lobster, crab,
23 cod, mackerel, squid, and other species. The short-term damages also include loss
24 of available, local seafood, and lost profits due to cancellations from customers
25 who, but for Defendants’ oil spill, would have used services offered by businesses
26
27
28

1 in Orange County and the surrounding counties, or simply visited the businesses
2 there.

3
4 65. The long-term damages include future lost profits due to the harm
5 caused to the fisheries themselves. For example, the oil is likely to depress (or even
6 eradicate in some areas) populations of sea urchins, crab, lobster, and other
7 crustaceans by directly killing numbers of those species or hindering their breeding
8 and feeding. Similarly, oil that sinks below the surface will poison fish and
9 potentially smother their eggs, limiting their future numbers. The taboo associated
10 with an oil spill has and will continue to drive down the price of local fish and
11 shellfish, as consumers and fish processors become wary of producing locally-
12 caught species.

13
14
15
16 66. Similarly, the image of the Southern California coast as a pristine place
17 as a perfect place to vacation has been tarnished. Images of oil-soaked birds, dead
18 dolphins, and fouled beaches now show up prominently in internet searches for
19 “Huntington Beaches” or “Newport Beaches” and will dissuade people from visiting
20 the region and the many businesses that depend on tourism and other visitors.
21

22
23 67. The acts and omissions of Defendants, and each of them, were
24 conducted with malice, fraud, and/or oppression as described in this Complaint

25 **FOURTH CAUSE OF ACTION**
26 **(Unfair Business Practices (Business and Professions Code § 17200))**

27 68. Plaintiffs reallege and incorporate the paragraphs of this Class Action
28 Complaint as if set forth herein.

1 69. Defendants’ conduct, as set forth above, violates the California Unfair
2 Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (“UCL”). Defendants’
3 conduct constitutes unlawful or unfair business acts or practices as the UCL forbids
4 all wrongful business activities in any context in which they appear.
5

6 70. Defendants have engaged in, are engaging and/or continue to engage in
7 unlawful, unfair or fraudulent business practices, acts and omissions causing
8 Plaintiffs and class members to have suffered injuries in fact and lost money or
9 property as a result of Defendants unfair competition.
10

11 71. Plaintiffs and class members have relied on Defendants in keeping the
12 oil rig/platform and Pipeline in safe and good operating condition so as to avoid a
13 catastrophic discharge of oil as occurred on or about October 1, 2021. Further,
14 Plaintiffs and class members relied on the truth of statements from Defendants
15 concerning the cause, discovery and response to the oil spill for their truth and
16 accuracy, such that they continued to engage in commercial fishing and retail sales
17 after oil began discharging from the Pipeline and are now refraining from engaging
18 in such commercial activities based on the falsity of Defendant’s statement(s).
19
20
21

22 72. Moreover, as described above, Defendants’ practices offend and
23 violated established laws, public policies, are immoral, unethical, oppressive, and
24 unscrupulous. The impact of Defendants’ practices is in no way mitigated by any
25 justifications, reasons, excuses or motives. Defendants’ conduct has no utility when
26 compared to the catastrophic harm done to Plaintiffs and members of the Class.
27
28

1 73. Defendants’ conduct is “unlawful” because it violated laws including
2 but not limited to the Lempert-Keene-Seastrand Oil Spill Prevention and Response
3 Act, Government Code Section 8670, *et seq.*; the Porter-Cologne Act, Water Code
4 Sections 13000, *et seq.*; Cal. Fish & Game Code Section 5650, *et seq.*; the Federal
5 Clean Water Act, 33 U.S.C. § 1251 *et seq.*; the Oil Pollution Act, 33 U.S.C. § 2701,
6 *et seq.*; various local, state, and federal spill notification laws; and the oil spill
7 response plans required by local, state, and federal laws. Local, state, and federal
8 officials have announced civil and criminal investigations into Defendants’ conduct
9 related to the spill, so it is reasonable to infer that Defendants may have violated
10 other laws.
11

12 74. As a direct and proximate result of Defendants’ unlawful conduct,
13 Plaintiffs and class members suffered injury in fact and lost money and property,
14 including, but not limited to short-term and long-term economic harm, injury to
15 earning capacity, and other losses as set forth above.
16

17 75. Pursuant to California Business and Professions Code § 17203,
18 Plaintiffs and class members seek declaratory and injunctive relief for Defendants’
19 unlawful conduct and to recover restitution. The relief sought includes, but is not
20 limited to, an order requiring Defendants to do the following: restore fisheries
21 impacted by the spill; repair reputational damage done to the affected area’s seafood
22 industry; medical monitoring of the marine life in the affected area; and preventing
23
24
25
26
27
28

1 Defendants from operating the Pipeline without adequate safety mechanisms and
2 ongoing monitoring, to ensure that no future spills occur.

3
4 76. Pursuant to California Code of Civil Procedure § 1021.5, Plaintiffs and
5 class members are entitled to recover reasonable attorneys' fees, costs, and expenses
6 incurred in bringing this action.

7
8 77. Plaintiffs and class members bring this action as a private attorney
9 general pursuant to California Code of Civil Procedure section 1021.5, and any
10 other applicable legal theory, to enforce important rights affecting the public
11 interest.

12
13 78. Issuance of the relief requested in this complaint will confer significant
14 benefits on the general public by, among other benefits: requiring restoration of
15 fisheries impacted by the oil spill; and an order requiring Defendants to operate the
16 Pipeline in such a way to ensure no further spills and resulting losses of jobs occur
17 as a result of Defendants operation and maintenance of the Pipeline.

18
19 79. Issuance of the relief requested in this Complaint will result in the
20 enforcement of important rights affecting the public interest, by compelling
21 Defendants to restore the fisheries, abate the contamination and protect public health
22 and natural resources.

23
24 80. The necessity and financial burden of enforcement are such as to make
25 an award of attorneys' fees appropriate in this proceeding. Absent enforcement by
26
27
28

1 Plaintiffs and class members, the oil pollution and impacts detailed herein might
2 otherwise evaded legally adequate removal and abatement.

3
4 81. Plaintiffs and the Class have no adequate remedy at law for the injuries
5 that will result from failure of the Defendants to safely replace and/or repair,
6 operate, and maintain the Pipeline and it could be impossible for Plaintiffs and the
7 Class to determine the precise amount of damages they will suffer if Defendants'
8 Class to determine the precise amount of damages they will suffer if Defendants'
9 conduct is not restrained and Plaintiffs are forced to institute a multiplicity of suits
10 to obtain adequate compensation for injuries and harm to the Class.

11
12 82. The acts and omissions of Defendants were done with malice, fraud,
13 and/or oppression as described in this Complaint.

14
15 **FIFTH CAUSE OF ACTION**
16 **(Public Nuisance)**

17 83. Plaintiffs reallege and incorporate the paragraphs of this Class Action
18 Complaint as if set forth herein.

19 84. Defendants, in both their actions and in their failures to act, have created
20 a condition that is harmful to health and interferes with the comfortable enjoyment
21 of life and property by discharging approximately 144,000 gallons of crude oil into
22 the Pacific Ocean and onto the California coastline, wetlands, and beaches.

23
24 85. This nuisance affects a substantial number of individuals similarly
25 situated to the Plaintiffs, such as citizens of and visitors to the affected area of
26 Southern California, commercial fishers that rely on the safe and healthy
27
28

1 environment in the area; and businesspeople who rely on the commercial fishing
2 and related industries.

3
4 86. Defendants' oil spill is a condition which would reasonably annoy and
5 disturb an ordinary person, as shown by, for example, the health impacts warned of
6 by the county, the community outrage in response to the spill, and the nationwide
7 interest in the spill's impacts on the Southern California coast.
8

9 87. The seriousness and gravity of this harm outweighs any social utility of
10 Defendants' conduct. There is no social utility associated with releasing over
11 144,000 gallons of oil into the unique ecological setting of the waters off the
12 Southern California coast.
13

14 88. Plaintiffs and the Class suffered harm and injury to their economic
15 livelihood, to which they did not consent and which is different from the type of
16 harm suffered by the general public.
17

18 89. The acts and omissions of Defendants described herein were also in
19 violation of various California state laws including but not limited to the Lempert-
20 Keene-Seastrand Oil Spill Prevention and Response Act, Government Code Section
21 8670, *et seq.*; the Porter-Cologne Act, Water Code Sections 13000, *et seq.*; Cal. Fish
22 & Game Code Section 5650, *et seq.*; the Federal Clean Water Act, 33 U.S.C. § 1251
23 *et seq.*; the Oil Pollution Act, 33 U.S.C. § 2701, *et seq.*; various local, state, and
24 federal spill notification laws; and the oil spill response plans required by local,
25 state, and federal laws.
26
27
28

1 90. Defendants’ violations of those statutes directly and proximately caused,
2 and will continue to cause, injury to the Plaintiffs and the Class of a type which the
3 statutes are intended to prevent. Plaintiffs and the Class are of the class of persons
4 for whose protection these statutes were enacted.
5

6 91. As a direct and legal cause of Defendants’ wrongful acts and/or
7 omissions herein above set forth, Plaintiffs and the Class have suffered and will
8 suffer economic harm, injury, and other losses.
9

10 92. To remedy the harm caused by Defendants’ nuisance, Plaintiffs will
11 seek public injunctive relief, including, but not limited to, an order requiring
12 Defendants to do the following: restore fisheries impacted by the spill; repair
13 reputational damage done to the affected area’s seafood industry; and preventing
14 Defendants from operating the Pipeline without adequate safety mechanisms and
15 ongoing monitoring, to ensure that no future spill occurs.
16

17 93. In maintaining the nuisance, which is ongoing, Defendants are acting
18 with full knowledge of the consequences and damage being caused, and the acts and
19 omissions of Defendants, were done with malice, fraud, and/or oppression as
20 described in this Complaint
21
22

23
24 **SIXTH CAUSE OF ACTION**
25 **(Interference with Prospective Economic Advantage)**

26 94. Plaintiffs reallege and incorporate the paragraphs of this Class Action
27 Complaint as if set forth herein.
28

1 95. At all relevant times herein, Plaintiffs and the Class had existing and/or
2 prospective economic relationships with citizens of Southern California, visitors to
3 the area, and other individuals and organizations doing business in and related to
4 Southern California in the areas affected by this oil spill. These relationships have a
5 reasonably probable likelihood of resulting in future economic benefits or
6 advantages to Plaintiffs and the Class.
7

8
9 96. Defendants knew or should have known of these existing and
10 prospective economic relationships.
11

12 97. Defendants owed a duty to Plaintiffs and the Class to avoid negligent or
13 reckless conduct that would interfere with and adversely affect the existing and
14 prospective economic relationships of Plaintiffs and the Class.
15

16 98. Defendants breached their duty to Plaintiffs and the Class by, among
17 other things: failing to properly install the oil rig/platform and/or Pipeline; failing to
18 properly maintain the oil rig/platform and/or Pipeline; failing to properly operate the
19 oil rig/platform and/or Pipeline, resulting in this catastrophic oil spill; failing to
20 properly inspect the subject oil rig/platform and/or Pipeline; failing to ensure that
21 the subject oil rig/platform and/or Pipeline were in safe, operational condition;
22 failing to properly monitor the subject oil rig/platform and/or Pipeline; failing to
23 respond to indications of low pressure, a sign of a leak, in a timely fashion so as to
24 minimize the discharge of oil from the controls in place at the subject oil
25 rig/platform and/or Pipeline; failing to install reasonable safety equipment to
26
27
28

1 prevent an oil spill, including adequate emergency shut-off valves; failing to
2 promptly notify the appropriate authorities immediately upon receiving information
3 suggestive of the fact that a breach to the Pipeline and/or oil spill had occurred;
4 failing to promptly respond to and contain the spill; failing to comply with the
5 Lempert-Keene-Seastrand Oil Spill Prevention and Response Act, Government
6 Code Section 8670, *et seq.*; the Porter-Cologne Act, Water Code Sections 13000, *et*
7 *seq.*; Cal. Fish & Game Code Section 5650, *et seq.*; the Federal Clean Water Act, 33
8 U.S.C. § 1251 *et seq.*; and local, state, and federal spill response and notification
9 laws; and failing to warn Plaintiffs, the Class, and the public at large of the scope
10 and extend of the oil spill and the potential hazards and impacts associated
11 therewith.

12
13
14
15
16 99. Defendants knew or should have known that, if they failed to act with
17 reasonable care, the existing and prospective economic relationships of Plaintiffs
18 and the Class would be interfered with and disrupted.

19
20 100. Defendants were negligent and failed to act with reasonable care as
21 herein set forth above.

22
23 101. Defendants engaged in wrongful acts and/or omissions as herein set
24 forth above, including but not limited to their violations of federal, state, and local
25 laws that require Defendants to operate the Pipeline in a manner that does not
26 damage public health and safety.
27
28

1 102. As a direct and proximate result of Defendants wrongful acts and/or
2 omissions, Defendants negligently and recklessly interfered with and disrupted the
3 existing and prospective economic relationships of Plaintiffs and the Class.
4

5 103. As a direct and proximate result of Defendants’ wrongful acts and/or
6 omissions, Plaintiffs and the Class have suffered and will suffer economic harm,
7 injury, and losses as herein set forth above.
8

9 **SEVENTH CAUSE OF ACTION**
10 **(Lost Profits and Earnings Capacity (Federal Oil Pollution Act of 1990))**

11 104. Plaintiffs reallege and incorporate the paragraphs of this Class Action
12 Complaint as if set forth herein.

13 105. Defendants’ conduct, as set forth above, violates the Federal Oil
14 Pollution Act of 1990 (33 U.S.C. § 2701, *et seq.*).
15

16 106. At all relevant times herein, Defendants were the owners, operators, and
17 maintainers of the Elly rig/platform and Pipeline and had supervision, custody, and
18 control of the Pipeline. Each Defendant constitutes a “responsible party” as defined
19 by 33 U.S.C. § 2701(32)(F).
20

21 107. The Pipeline constitutes a “facility” as defined by 33 U.S.C. § 2701(9):
22 “‘facility’ means any structure, group of structures, equipment, or device (other than
23 a vessel) which is used for one or more of the following purposes: exploring for,
24 drilling for, producing, storing, handling, transferring, processing, or transporting
25 oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or
26 more of these purposes.”
27
28

The Matias Firm, P.C.
355 S. Grand Ave., Ste. 2450
Los Angeles, CA 90071

1 108. The oil that is the subject of this spill constitutes “oil” as defined by 33
2 U.S.C. § 2701(23): “‘oil’ means oil of any kind or in any form, including petroleum,
3 fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil...”
4

5 109. The oil spill constitutes a “discharge” as defined by 33 U.S.C. §
6 2701(7): “‘discharge’ means any emission (other than natural seepage), intentional
7 or unintentional, and includes, but is not limited to, spilling, leaking, pumping,
8 pouring, emitting, emptying, or dumping.”
9

10 110. Defendants engaged in wrongful acts and/or omissions as herein set
11 forth above, including but not limited to their violations of federal, state, and local
12 laws that require Defendants to operate the Pipeline in a manner that does not
13 damage public health and safety.
14

15 111. As a result of the acts and omissions of Defendants, a massive,
16 destructive oil spill occurred, causing Plaintiffs and Class members to incur loss of
17 profits or impairment of earning capacity due to the injury, destruction, or loss of
18 real property, personal property, or natural resources.
19

20 112. Pursuant to 33 U.S.C. § 2702(a), “each responsible party for a vessel or
21 a facility from which oil is discharged, or which poses the substantial threat of a
22 discharge of oil, into or upon the navigable waters or adjoining shorelines or the
23 exclusive economic zone is liable for the removal costs and damages specified in
24 subsection (b) that result from such incident.” These damages for which Defendants
25 are liable include damages for injury to natural resources, real or personal property,
26
27
28

1 loss of subsistence use, loss of revenue, loss of profits or impairment of earning
2 capacity, and costs of providing increased public services. 33 U.S.C. § 2702(b)(2).
3

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiffs, on behalf of themselves, those similarly situated,
6 and the general public, pray for judgment as follows:
7

- 8 A. Certification of the proposed class and subclasses, including
9 appointment of Plaintiffs' counsel as counsel for the Class;
10
11 B. Orders temporarily and permanently enjoining Defendants from
12 continuing the unlawful, deceptive, fraudulent, and unfair business
13 practices alleged in this Complaint;
14
15 C. For appropriate injunctive relief, including public injunctive relief; i.e.,
16 an order requiring Defendants to do the following: restore fisheries
17 impacted by the spill; repair reputational damage done to the affected
18 area businesses in Southern California's seafood industry; and an order
19 requiring Defendants to operate the Pipeline in such a way to ensure no
20 further spills and resulting losses of jobs;
21
22 D. For medical monitoring for those individuals within the Class who were
23 exposed to the oil while on the water and for those exposed in the course
24 of performing ship maintenance on those exposed vessels;
25
26 E. For general (non-economic) damages according to proof;
27
28 F. For special (economic) damages according to proof;

- G. For punitive (exemplary) damages according to proof;
- H. For payment of attorneys’ fees and expert fees as may be allowable under applicable law, including Cal. Code of Civ. Pro. section 1021.5, Cal. Gov. Code section 8670.56.5(f) the Private Attorneys General Act (“PAGA”), Cal. Lab. Code. § 2698, et seq.;
- I. An award of restitution in an amount to be determined;
- J. For pre-judgment and post-judgment interest as permitted by law;
- K. For costs of suit herein;
- L. For such other and further relief as the Court may deem just and proper.

Dated: October 8, 2021

By: /s/ Paul A. Matiasic

Matthew Maclear
**AQUA TERRA AERIS LAW
GROUP**

Paul A. Matiasic
THE MATIASIC FIRM, P.C.

Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury for all issues so triable.

Dated: October 8, 2021

By: /s/ Paul A. Matiasic

Matthew Maclear
**AQUA TERRA AERIS LAW
GROUP**

Paul A. Matiasic
THE MATIASIC FIRM, P.C.

Attorneys for Plaintiffs