

Rec'd Room 109

JUL 10 2018

FILED
Superior Court of California
County of Los Angeles

JUL 11 2018

Sherri R. Carter, Executive Officer/Clerk
By Jeannine Lorenz Deputy
Jeannine Lorenz

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

By Fax

Coordination Proceeding
Special Title (Rule 3.550)

SOUTHERN CALIFORNIA FIRE CASES

Case No. JCCP No. 4965
[Honorable Daniel Buckley – Room 222]

**[PROPOSED] CASE MANAGEMENT
ORDER NO. 1**

Date: July 5, 2018
Time: 1:45 p.m.
Dept.: Stanley Mosk, Room 222

The Court conducted a case management conference (“CMC”) on July 5, 2018, which included representatives of the four groups who are parties to this proceeding: (1) Individual Plaintiffs, which include cases brought on behalf of persons and business entities, including class cases; (2) Subrogation Plaintiffs; (3) Public Entity Plaintiffs; and (4) Defendants.

I. LEADERSHIP STRUCTURE

A. Individual Plaintiffs

1. Lead Counsel for Individual Plaintiffs.

Individual Plaintiffs, which include cases brought on behalf of persons and business entities, including class cases, have proposed that the Court appoint the following lawyers as Individual Plaintiffs’ Lead Counsel for those cases. The Court hereby appoints the following lawyers as Individual Plaintiffs’ Lead Counsel for cases involving Individual Plaintiffs:

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1 Brian Panish
2 Rahul Ravipudi
3 Panish, Shea & Boyle LLP
4 11111 Santa Monica Blvd., Ste 700
5 Los Angeles, CA 90025
6 Tel: (310) 477-1700
7 panish@psblaw.com
8 ravipudi@psblaw.com

9 Robert Nelson
10 Lexi Hazam
11 Lieff Cabraser Heimann & Bernstein, LLP
12 275 Battery Street, 29th Floor
13 San Francisco, CA 94111-3339
14 Tel: (415) 956-1000
15 rnelson@lchb.com
16 lhazam@lchb.com

17 Lead Counsel for Individual Plaintiffs shall be members of, as well as authorize and direct
18 the work of the Plaintiffs' Executive Committee for cases involving Individual Plaintiffs.

19 Individual Plaintiffs' Lead Counsel shall also be responsible for coordinating the activities of the
20 Direct Action Plaintiffs during pretrial proceedings, and in consultation with the Court and with
21 the assistance of the Plaintiffs' Executive Committee, shall have the following duties and
22 responsibilities. Counsel for any Individual Plaintiff who objects to Lead Counsel's execution of
23 these duties and responsibilities preserves their right to raise their objections with the Court.

- 24 a. Appear before the Court and present the position of Individual
25 Plaintiffs at all Case Management Conferences, Status Conferences,
26 or other court ordered hearings;
- 27 b. Direct and coordinate the briefing and argument of all motions
28 directed at or brought by Direct Action Plaintiffs generally;
- 29 c. Direct and coordinate the filing of opposing briefs and argue
30 motions in proceedings initiated by other parties against Direct
31 Action Plaintiffs' interests (except as to matters directed to specific
32 individual plaintiffs and their counsel or a specific Plaintiff group);
- 33 d. Initiate and coordinate all discovery proceedings on behalf of Direct
34 Action Plaintiffs, including propounded general liability written

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discovery, document production discovery and the taking of oral depositions;¹

- e. Coordinate all aspects of the Class Litigation;²
- f. Coordinate the bellwether process for Individual Plaintiffs subject to the Court's guidance;
- g. Coordinate the initiation of, and conduct discovery on behalf of Direct Action Plaintiffs consistent with the requirements of the California Code of Civil Procedure and Rules of Court relating to discovery or any subsequent order of this Court;
- h. Assign work for the investigation and discovery of common liability and damages matters for all Direct Action Plaintiffs' counsel, and delegate specific tasks to other Direct Action Plaintiffs' counsel, in a manner to ensure that pretrial preparation for Individual Plaintiffs is conducted effectively, efficiently and economically;
- i. Enter into stipulations, on behalf of Direct Action Plaintiffs, with opposing counsel as necessary for the conduct of the litigation;
- j. Prepare and distribute to other Individual Plaintiffs' counsel periodic status reports;
- k. Perform such other duties as may be necessary to the representation of Individual Plaintiffs, proper coordination of Individual Plaintiffs' activities or authorized by further Order of the Court; and
- l. Submit, if appropriate, additional Individual Plaintiffs' committees and counsel for designation by the Court.

¹ Any discovery activity initiated by Defendants directed to specific individual Plaintiffs shall be handled by the attorney for those specific individuals.

² With respect to litigation of the Class Action, the parties stipulate that the discovery specific to the class and motion for class certification deadlines are stayed, and the stay will be lifted only upon an Order of the Court.

1 **2. Individual Plaintiffs' Liaison Counsel.**

2 Individual Plaintiffs have requested that the court appoint the following lawyers as
3 Individual Plaintiffs' Liaison Counsel. The Court hereby appoints the following lawyers as
4 Individual Plaintiffs' Liaison Counsel:

5 Lyssa A. Roberts
6 Panish, Shea & Boyle LLP
7 11111 Santa Monica Blvd., Suite 700
8 Los Angeles, CA 90025
9 Tel: (310) 477-1700
10 roberts@psblaw.com

11 Walter Lack
12 Greg Waters
13 Engstrom, Lipscomb & Lack
14 10100 Santa Monica Blvd., 12th Floor
15 Los Angeles, CA 90069
16 Tel: (310) 552-3800
17 gwaters@elllaw.com

18 Individual Plaintiffs' Liaison Counsel shall be members of the Plaintiffs' Executive
19 Committee and shall have the following responsibilities:

- 20 a. Upon the designation of Individual Plaintiffs' Lead Counsel, appear
21 before the Court and present the position of Individual Plaintiffs at
22 all Case Management Conferences, Status Conferences, or other
23 court ordered hearings;
- 24 b. To make available to the Court, to counsel for Individual Plaintiffs,
25 and to counsel for Defendants an up-to-date comprehensive Service
26 List of all Individual Plaintiffs' counsel (including the date of the
27 most recent revision);
- 28 c. To receive and distribute to Individual Plaintiffs' counsel as
 appropriate, orders, notices and correspondence from the Court;
- d. To maintain and make available to other Individual Plaintiffs, on
 reasonable notice and at reasonable times, a complete set of all filed
 pleadings and orders filed and/or served in these coordinated

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1 proceedings; and

- 2 e. To coordinate the filing of notices and papers by any Individual
3 Plaintiff, including the designation of responsibilities to encourage
4 the filing of a single set of papers by the Individual Plaintiffs in
5 situations where the Individual Plaintiffs have a common position.

6 **3. Individual Plaintiffs' Executive Committee.**

7 Individual Plaintiffs have requested that the Court designate the lawyers and firms to the
8 Individual Plaintiffs' Executive Committee. The Court hereby accepts the designation of the
9 following lawyers and firms to the Individual Plaintiffs' Executive Committee:

10 A. Barry Cappello
11 Leila J. Noel
12 Cappello & Noël LLP
13 831 State Street
14 Santa Barbara, CA 93101
15 Phone: (805) 564-2444
16 abc@cappellonoel.com
17 lnoel@cappellonoel.com

18 Frank Pitre
19 Allison Cordova
20 Cotchett, Pitre & McCarthy, LLP
21 840 Malcolm Road, Suite 200
22 Burlingame, CA 94010
23 Tel.: (650) 697-6000
24 fpitre@cpmlegal.com
25 ACordova@cpmlegal.com

26 Matthew McNicholas
27 McNicholas & McNicholas
28 10866 Wilshire Blvd. Suite 1400
Los Angeles, CA 90024
Tel.: (310) 474-1582
msm@mcnicholaslaw.com

Robert Curtis
Foley Bezek Behle & Curtis, LLP
15 W. Carrillo St.
Santa Barbara, CA 93101
Tel.: (805) 962-9495
rcurtis@foleybezek.com

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Mark Robinson
Shannon Lukei
Lila Razmara
Robinson Calcagnie, Inc.
19 Corporate Plaza Drive
Newport Beach, CA 92660
Tel.: (949) 720-1288
mrobinson@rcrlaw.net
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lrazmara@rcrlaw.net

Michael A. Kelly
Khaldoun Baghdadi
Walkup, Melodia, Kelly & Schoenberger
650 California Street, 26th Floor
San Francisco, CA 94108
Tel.: (415) 981-7210
MKelly@WalkupLawOffice.com
KBaghdadi@WalkupLawOffice.com

Dave Fox
Elliot Adler
Christopher Sieglock
Wildfire Legal Group
225 West Plaza Street, Suite 102
Solana Beach, CA 92075
Tel.: (858) 256-7616
Dave@foxlawpc.com
elliottadler@gmail.com
chris@sieglocklaw.com

Alexander Robertson
Joe Liebman
Robertson & Associates
32121 Lindero Canyon Road #200
Westlake Village, CA 91361
Tel.: (818) 851-3850
arobertson@arobertsonlaw.com
jliebmanlaw@gmail.com

Amanda L. Riddle
Steven M. Berki
Corey, Luzaich, Ghetaldi & Riddle LLP
700 El Camino Real
Millbrae, CA 94030
Tel.: (650) 871-5666
alr@coreylaw.com
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Bill Robins
Robins Cloud LLP
808 Wilshire Blvd. #450
Santa Monica, CA 90401
Tel.: (310) 929-4200
robins@robinscloud.com

Alan R. Templeman
Brett C. Templeman
John H. Howard
Lowthorp, Richards, McMillan, Miller &
Templeman
300 E. Esplanade Drive, Suite 850
Oxnard, CA 93036
Tel.: (805) 804-3848
atempleman@lrmt.com
btempleman@lrmt.com
jhoward@lrmt.com

The Individual Plaintiffs' Executive Committee shall have the following responsibilities with respect to matters of common concern to all Individual Plaintiffs:

- a. Coordination of Individual Plaintiffs' pretrial activities and work performed by the Individual Plaintiffs' lead counsel and liaison counsel;
- b. Calling meetings of Individual Plaintiffs' counsel when appropriate and to consult with Individual Plaintiffs' counsel on matters of common concern;
- c. Designating additional Individual Plaintiffs' subcommittees to perform services on behalf of Individual Plaintiffs and designate additional Individual Plaintiffs' counsel to serve on such subcommittees; and
- d. When appropriate, chairing and organizing Individual Plaintiffs' subcommittees as necessary to address specific issues of concern to claims of Individual Plaintiffs, Subrogation Plaintiffs, Government Plaintiffs and Class Plaintiffs.

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1 **B. Public Entity Plaintiffs**

2 The Public Entity Plaintiffs have requested that the court designate the following lawyers
3 as their Lead Counsel. The Court hereby appoints the following lawyers as Lead Counsel for
4 these Public Entity Plaintiffs:

5 Scott Summy
6 Baron & Budd
7 3102 Oak Lawn Ave. #110
8 Dallas, TX 75219
9 Tel: (214) 521-3605
10 SSummy@baronbudd.com

11 John Fiske
12 Baron & Budd
13 603 N. Coast Highway G
14 Solana Beach, CA 92075
15 Tel: (858) 225-7200
16 JFiske@baronbudd.com

17 Public Entities' Lead Counsel shall be responsible for propounding discovery, responding
18 to discovery, briefing, and argument of issues that are specific to the Public Entity cases. Public
19 Entities' Lead Counsel shall maintain a current listing of all filed Public Entity cases and identify
20 the same for the Executive Plaintiffs Committee, Defendants and the Court. Counsel in any
21 Public Entity cases shall cooperate with the Lead Counsel for Individual Plaintiffs, Public
22 Entities' Lead Counsel and the Court in the production of information necessary to prepare for
23 any status conference or in the scheduling of any discovery, or hearing.

24 **C. Subrogation Plaintiffs**

25 The Subrogation Plaintiffs have requested, and the Court hereby appoints, the following
26 lawyers as Lead Counsel and Liaison Counsel for the Subrogation Plaintiffs. These lawyers shall
27 serve as the members of the Executive Committee for Subrogation Plaintiffs, and said counsel
28 shall have the same duties/responsibilities within/to the Subrogation Plaintiffs group as the
lawyers serving as Lead Counsel and Liaison Counsel and the Executive Committee for the
Individual Plaintiffs shall have with respect to the Individual Plaintiffs group:

1 **1. Lead Counsel for Subrogation Plaintiffs.**³

2 Shawn Caine
3 The Law Offices of Shawn E. Caine
4 1221 Camino Del Mar
5 Del Mar, CA 92014
6 Tel: (619) 838-1365
7 scaine@cainelaw.com

8 Mark Grotefeld
9 Grotefeld Hoffmann
10 Shepard Mountain Plaza
11 6034 West Courtyard Drive, Suite 200
12 Austin, TX 78730
13 Tel: (737) 226-5310
14 mgrotefeld@ghlaw-llp.com

15 Howard Maycon
16 Cozen O'Connor
17 601 S. Figueroa Street, Suite 3700
18 Los Angeles, CA 90017
19 Tel: (213) 892-7900
20 hmaycon@cozen.com

21 Maura Walsh Ochoa
22 Grotefeld Hoffmann
23 700 Larkspur Landing Circle, Suite 280
24 Larkspur, California 94939
25 Tel: (415) 344-9670
26 mochoa@ghlaw-llp.com

27 Waylon Pickett
28 Grotefeld Hoffmann
29 0324 SW Abernethy Street
30 Portland, OR 97239
31 Tel: (502) 384-2772
32 wpickett@ghlaw-llp.com

33 Craig Simon
34 Berger Kahn, A Law Corporation
35 1 Park Plaza, Suite 340
36 Irvine, CA 92614
37 Tel: (949) 748-4444
38 csimon@bergerkahn.com

39 Lead Counsel for Subrogation Plaintiffs shall be responsible for discovery, briefing, and
40 argument of issues that are specific to the Subrogation cases. Lead Counsel for the Subrogation
41 Plaintiffs shall maintain a current listing of all filed subrogation cases and identify same for Lead
42 Counsel for Individual Plaintiffs, Defendants and the Court. Counsel in any Subrogation cases

43 ³ The rights and obligations of Lead Counsel for Subrogation Plaintiffs mirrors the rights and obligations
44 of Lead Counsel for Individual Plaintiffs.

1 shall cooperate with Lead Counsel for the Subrogation Plaintiffs, Subrogation Plaintiffs'
2 Executive Committee and the Court in the production of information necessary to prepare for any
3 status conference or in the scheduling of any discovery, or hearing. Further, the Court appoints
4 the following lawyers to the designated positions below:

5 **2. Liaison Counsel for Subrogation Plaintiffs.**

6 Alan Jang
7 Sally Noma
8 Jang & Associates
9 1766 Lacassie Avenue, Suite 200
10 Walnut Creek, CA 94596
11 Tel: (925) 937-1400
12 ajang@janglit.com
13 snoma@janglit.com

14 Ed Witt
15 Bauman Loewe Witt & Maxwell, PLLC
16 8765 East Bell Road, Suite 210
17 Scottsdale, Arizona 85260
18 Tel: (480) 502-4664
19 ewitt@blwmlawfirm.com

20 **3. Subrogation Plaintiffs' Executive Committee.**

21 Mark Bauman
22 Bauman Loewe Witt & Maxwell, PLLC
23 8765 East Bell Road, Suite 210
24 Scottsdale, Arizona 85260
25 Tel: (480) 502-4664
26 mbauman@blwmlawfirm.com

27 Peter Lynch
28 Cozen O'Connor
601 S. Figueroa Street, Suite 3700
Los Angeles, CA 90017
Tel: (213) 892-7900
kbush@cozen.com

Tim Cary
Stutman Law
1260 Corona Pointe Ct., Suite 306
Corona, CA 92879
Tel: (951) 963-1298
caryt@stutmanlaw.com

Eric Schroeder
Schroeder Loscotoff
7410 Greenhaven Dr., Ste. 200
Sacramento, CA 95831
Tel: (916) 438-8306
emschroeder@calsubro.com

1 **D. Defendants**

2 Defendants Southern California Edison Company and Edison International (collectively,
3 “SCE”) are represented as follows:

4 John C. Hueston
5 Alex G. Romain
6 Alison L. Plessman
7 Moez M. Kaba
8 Douglas J. Dixon
9 Jennifer Bunn Hayden
10 Hueston Hennigan
11 620 Newport Center Drive, Suite 1300
12 Newport Beach, CA 92660
13 Tel: (949) 229-8640
14 jhueston@hueston.com
15 aromain@hueston.com
16 aplessman@hueston.com
17 mkaba@hueston.com
18 ddixon@hueston.com
19 jbhayden@hueston.com

20 Leon Bass, Jr.
21 Brian Cardoza
22 Southern California Edison
23 2244 Walnut Grove Ave.
24 Rosemead, CA 91770
25 Tel: (626) 302-6628
26 leon.bass@sce.com
27 brian.cardoza@sce.com

28 Defendant Montecito Water District is represented as follows:

 Linda Bauermeister
 Robert Kostrenich
 Barber & Bauermeister
 1551 N. Tustin Ave. #720
 Santa Ana, CA 92705
 Tel: (714) 973-1075
 linda@bandbfirm.com
 bob@bandbfirm.com

1 Defendant City of San Buenaventura is represented as follows:

2 Thomas M. Madruga
3 Edward B. Kang
4 Olivarez Madruga Lemieux O'Neill, LLP
5 500 S. Grand Ave., 12th Floor
6 Los Angeles, CA 90071
7 Tel.: (213) 744-0099
8 tmadruga@omloaw.com
9 ekang@omloaw.com

10 **II. ADDITIONAL PARTIES**

11 The Court orders the following system for a Plaintiff to join this litigation:

12 **A. Master Pleadings**

13 A Master Complaint for Individual Plaintiffs, Master Complaint for Public Entity
14 Plaintiffs and a Master Complaint for Subrogation Plaintiffs shall be lodged with the Court.
15 Corresponding Master Answers for Defendants in response to each of these Master Complaints
16 shall govern the pleadings for those actions.⁴

17 All Plaintiffs, including Subrogation Plaintiffs, have entered into a tolling agreement to
18 November 6, 2018 with Montecito Water District. Plaintiffs who desire to proceed with
19 government tort claims against Montecito Water District must file those claims by November 12.
20 Thereafter, Montecito Water District will file its responsive pleadings December 5, opposition
21 due January 4, 2019, and reply due January 21, 2019.

22 **B. Notice of Adoption/Amendment of Master Complaint and Master Answer**

23 The parties are ordered to meet and confer regarding the Notice of Adoption/Amendment
24 of Master Complaint, and Notice of Potential Add-On Cases and Request for Coordination.
25 Plaintiffs will provide Defendants the applicable documents for review and submission to the
26 Court.

27 The Master Complaints shall be filed no later than July 12, 2018.

28 If Defendants do not file a challenge to the Master Complaints, the Master Answers shall
be filed on or before the date Defendants' challenge to the Master Complaints would have been

⁴ Subsections A, B and C will not apply to the class cases. Instead, the Code of Civil Procedure shall apply. Furthermore, all class cases are stayed pending further order of the Court (see Section XI).

1 due as referenced in Section III below. If Defendants file a challenge to the Master Complaints,
2 the Master Answers shall be filed no later than seven(7) days after the Court's ruling on
3 any challenge(s).

4 The Master Complaints and the Master Answers will not be verified.

5 **1. Notice of Adoption/Amendment of Master Complaint**

6 Each Individual Plaintiff, Public Entity Plaintiff, or Subrogation Plaintiff with a case
7 already on file in JCCP No. 4965 shall serve on their respective Lead Counsel a Notice of
8 Adoption/Amendment of Master Complaint within thirty (30) days of the date the Master
9 Complaint is filed. The Notice of Adoption/Amendment shall contain the following information:
10 (1) the name and address of each Plaintiff; (2) whether each Plaintiff was allegedly harmed by the
11 Thomas Fire, Rye Fire, and/or Mudslides; (3) the causes of action each Plaintiff is joining and
12 against which Defendant(s) they are pled; (4) the categories of damages allegedly incurred by
13 each Plaintiff and for which that Plaintiff is seeking recovery and from which Defendant(s); and
14 (5) the Plaintiff's relevant Superior Court case number.

15 For existing Individual Plaintiffs, Subrogation Plaintiffs, and Public Entity Plaintiffs, the
16 filing of a Notice of Adoption/Amendment of Master Complaint shall not require the payment of
17 an additional filing fee or a new case number, unless the complex fee has not been paid. Each
18 Notice of Adoption/Amendment shall constitute an amended complaint for all purposes. Upon
19 filing the Notice of Adoption/Amendment, the Master Complaint, as amended by the Plaintiff's
20 Notice of Adoption/Amendment, shall be the operative pleading. The date on which the Master
21 Complaint is filed shall have no bearing on whether any Plaintiff has satisfied the applicable
22 statute of limitations. Rather, the date on which an individual Plaintiff's properly-filed original
23 complaint initiating his, her, or its action was filed shall be the operative date for statute of
24 limitations purposes.

25 For cases naming more than one Plaintiff, each Plaintiff must file an individual Notice of
26 Adoption/Amendment, except those naming a derivative Plaintiff (e.g., an heir asserting a
27 wrongful death claim) or those naming members of a single household, or
28 members/owners/partners of a single trust, property, or business, who need only file one Notice of

1 Adoption/Amendment.

2 **2. Notice of Adoption/Amendment of Master Answer**

3 The Defendants' Notice of Adoption/Amendment of Master Answer shall be filed within
4 thirty (30) days of the filing of Plaintiffs' Notice of Adoption/Amendment of Master Complaint.
5 All responses pled in SCE's Master Answer will be deemed pled in any previously filed
6 Complaint and Responsive Pleading now pending in this JCCP proceeding, and in any Notice of
7 Adoption/Amendment filed thereafter.

8 **3. Cases to Be Filed**

9 Plaintiffs who have not yet filed an action ("Future Cases") will initiate an action by
10 Filing a Short Form Complaint and Notice of Adoption/Amendment of Master Complaint, in a
11 proper venue in California. Each new case filed shall name a single Plaintiff, except those naming
12 a derivative Plaintiff (*e.g.*, an heir asserting a wrongful death claim) or those naming members of
13 a single household, or members/owners/partners of a single trust, property, or business, who may
14 collectively file a single complaint. For Subrogation Plaintiffs, those insurers in a single family
15 of a group of insurers may file a short form complaint/adoption together in one action. The filing
16 of any future case in Los Angeles Superior Court shall not waive the rights of any party to move
17 to transfer the action to another proper venue.

18 The Notice of Adoption/Amendment shall contain the following information as indicated
19 above. For any Future Case filed, the Plaintiff must include a civil cover sheet identifying this
20 JCCP (SOUTHERN CALIFORNIA FIRE CASES, JCCP No. 4965).

21 **C. Adding Cases Into These Coordinated Proceedings**

22 Potential add-on cases will be allowed by stipulation of all parties or by petition of
23 Defendants consistent with the procedures and requirements of California Rules of Court, Rule
24 3.544 and Code of Civil Procedure § 404.4.

25 The parties will apprise the Court of potential add-on cases pursuant to California Rules of
26 Court, Rule 3.544. In addition to the procedures set forth in Rule 3.544, potential add-on cases
27 may be added to these coordinated proceedings by submitting a stipulation and proposed order to
28 add the case to the coordinated proceedings, signed by counsel for the parties to the potential add-

1 on case, Plaintiffs' Lead Counsel, and counsel for all Defendants.

2 After entry of an order adding a case to the coordinated proceedings, the add-on
3 Plaintiff(s) will file a Notice of Adoption/Amendment as set forth above. Plaintiffs' Lead Counsel
4 will provide the Plaintiffs in each action added to these coordinated proceedings with access as
5 appropriate to electronic or paper copies of pleadings, filings, orders, discovery, and other papers.

6 All procedures and orders approved by the Court will apply to later-joined actions.

7 **D. Cross-Complaints**

8 Defendants may or may not file cross-complaints as they choose. The Parties are ordered
9 to meet and confer regarding the deadline by which cross complaints must be filed before a
10 motion for good cause must be filed.

11 **E. Guardian Ad Litem Applications**

12 Plaintiffs will periodically provide the Court with a list of cases with pending Guardian *ad*
13 *litem* applications through a folder created on CaseHomePage (an electronic case management
14 system and hereinafter "CHP") to facilitate the Court's review of such applications. Parties are
15 directed to call the Court to provide additional notice of such submissions for the first few weeks.

16 **F. Master List of Cases**

17 Counsel for SCE, Hueston Hennigan LLP, will maintain a master list of all filed cases that
18 it will update regularly and provide to the Court and all parties through a folder on CHP. Counsel
19 for SCE are directed to call the Court to provide notice of such submissions for the first few
20 weeks.

21 **III. RESOLUTION OF SIGNIFICANT ISSUES IDENTIFIED BY THE COURT**

22 **A. Inverse Condemnation**

23 The schedule for demurrers addressing inverse condemnation is as follows:

- 24 • Any individual Defendant filing such a demurrer, which shall not exceed 25 pages, shall
25 file it on or before August 3, 2018;
- 26 • Individual Plaintiffs' Lead Counsel, the Subrogation Plaintiffs' Lead Counsel and the
27 Public Entities Plaintiffs' Lead Counsel shall file their respective oppositions, each of
28 which shall not exceed 20 pages, no later than August 31, 2018;

- 1 • Each of the individual Defendants may file a reply to any opposition, which shall not
2 exceed 20 pages, no later than September 21, 2018.
- 3 • The hearing on any challenge(s) to the Master Complaints will be held on October 4, 2018
4 at 1:45 pm.

5 The Parties are further ordered to meet and confer as to whether a demurrer would address the
6 potential liability of Montecito Water District through the doctrine of inverse condemnation,
7 specifically determining whether or not this question can be answered by a demurrer or whether it
8 is a question of both law and fact.

9 **B. Economic Loss Rule**

10 The parties need not file any motion addressing the economic loss rule until after the
11 California Supreme Court issues its ruling in the *Southern California Gas Leak Cases*, S246669,
12 *review granted*, 411 P.3d 526, 229 Cal.Rptr.3d 345. In the meantime, all rights and defenses,
13 including Defendants' right to demurrer to any claims under the economic loss rule, are
14 preserved.

15 **IV. JURISDICTION & VENUE**

16 The parties agree that this court has jurisdiction over the parties and that there are no
17 challenges to personal or subject matter jurisdiction.

18 **V. SERVICE**

19 Parties first appearing after the date of this CMO may serve new complaints or cross-
20 complaints on any party presently in the case by uploading all documents via CHP, along with a
21 blank Notice and Acknowledgement of Receipt directed to the party being served. Service will be
22 deemed completed when counsel for the defendant(s) or cross-defendant(s) uploads a copy of the
23 signed Notice & Acknowledgement of Receipt to CHP.

24 Each firm of record and unrepresented litigant is required to sign up with CHP and will be
25 individually responsible for payment of applicable CHP fees.

26 A Judge's folder has been created for the Court on CHP that will contain pleadings filed
27 with the Court, and a two-way "bulletin board" that may be used for communication between the
28 Court and the parties.

1 An Order regarding Electronic Service will be filed separately by the Court.

2 **VI. INSURANCE**

3 Defendants SCE, Montecito Water District, and City of San Buenaventura have disclosed
4 initial information regarding their insurance coverage. Plaintiffs have some additional questions
5 raised by the disclosures, and the parties will meet and confer regarding the issues, and bring any
6 disputes to the Court.

7 **VII. DISCOVERY PLAN**

8 Discovery in these proceedings shall proceed in two stages:

9 Stage One shall relate to: (1) liability discovery; and (2) damages discovery from
10 Individual Plaintiffs, Public Entity Plaintiffs and Subrogation Plaintiffs.

11 Stage Two shall relate to expert discovery on issues of both liability and damages and will
12 be subject to further order of this Court.

13 **A. Stage One: Liability Discovery**

14 **1. By Individual, Public Entity and Subrogation Plaintiffs.**

15 Discovery shall be conducted as directed by Lead Counsel for the Individual Plaintiffs,
16 Lead Counsel for the Public Entities, and Lead Counsel for Subrogation Plaintiffs. Plaintiffs have
17 provided to SCE an overview of the initial liability discovery they will be propounding, attached
18 as Exhibit A. Plaintiffs indicated they intend to propound initial written discovery, depositions of
19 persons most qualified on certain topics, and physical examinations. The Parties are ordered to
20 provide the Court with a summary of discovery conducted to date and a description of the next
21 phase of liability discovery they will seek in advance of the August Status Conference.

22 In order to provide efficiency, economy, and uniformity, prior to serving Defendants with
23 liability discovery, Individual Plaintiffs, Public Entity Plaintiffs, and Subrogation Plaintiffs have
24 agreed to cooperate in good faith to coordinate such discovery. Either the Individual Plaintiffs'
25 Lead Counsel, Public Entities' Lead Counsel or the Subrogation Plaintiffs' Lead Counsel may
26 serve discovery on Defendants. After liability discovery is served on Defendants, regardless of
27 which Plaintiff group was the serving party, the Individual Plaintiffs' Lead Counsel, Public
28 Entities' Lead Counsel, and the Subrogation Plaintiffs' Lead Counsel shall collectively meet and

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1 confer with Defendants concerning Defendants' discovery responses. Plaintiffs shall not serve
2 duplicative or cumulative discovery on Defendants.

3 **2. By Defendants.**

4 Defendants shall serve any liability discovery directed to any specific individual Plaintiff,
5 Public Entity Plaintiffs or the Subrogation Plaintiffs on Individual Plaintiffs' Lead Counsel,
6 Subrogation Plaintiffs' Lead Counsel, Public Entities' Lead Counsel, and counsel of record for
7 the specific individual plaintiff(s). Where appropriate, the Individual Plaintiffs, Public Entity
8 Plaintiffs, or Subrogation Plaintiffs shall serve Defendants with a Master Response. To the extent
9 such discovery relates to a specific group of Plaintiffs, Defendants may serve such discovery
10 requests on Lead Counsel for each applicable group.

11 As to verifications, since Individual Plaintiffs, Public Entity Plaintiffs and Subrogating
12 Plaintiffs may not have knowledge of the liability facts and may only be responding on
13 information and belief, no verification of a Master Response will generally need to be served by
14 any Plaintiff, and the Master Responses will be deemed verified by the Individual, Public Entity,
15 and Subrogating Plaintiffs, and will have the same force and effect as if verified by each and
16 every Plaintiff, unless within fourteen (14) days of service of the Master Responses, an
17 Individual, Public Entity or Subrogation Plaintiff serves notice that he, she or it does not agree
18 with the Master Response. Once liability discovery requests are propounded on Plaintiffs, the
19 parties agree to meet and confer regarding how to handle responses from any individual Plaintiffs
20 with eyewitness knowledge regarding liability issues such as origin and cause.

21 If a Plaintiff objects to any portion of a Master Response, that Plaintiff must serve his, her
22 or its own verified response to the request(s) at issue within fourteen (14) days of service of the
23 Master Response.

24 **3. By Future Parties.**

25 When a Future Case is added after discovery has commenced, the new party shall not be
26 permitted to conduct any discovery that is duplicative or cumulative of discovery already
27 conducted, absent a determination of good cause by the Court. For the avoidance of doubt, the
28 fact that a party is new shall not be good cause for permitting discovery that is duplicative or

1 cumulative of discovery already conducted.

2 **B. Stage One: Damages Discovery**

3 **1. Subrogation Plaintiffs.**

4 Damages discovery may be propounded to all Subrogation Plaintiffs through a “Master
5 Request to All Subrogation Plaintiffs”. The Subrogation Plaintiffs shall serve a “Master Response
6 to the Master Request to All Subrogation Plaintiffs”, and each Subrogation Plaintiff shall then
7 serve an “Adoption of the Master Response in Full or in Part”. If the response adopts “in Part,”
8 the responding Subrogation Plaintiff will set forth any answers that are different from the Master
9 Response in its Adoption. These Adoptions will be verified by each responding
10 Subrogation Plaintiff.

11 The Subrogation Plaintiffs shall set forth a list of claims for which they are seeking
12 reimbursement. The Subrogation Plaintiffs shall provide to Defendants an updated list of the
13 names, addresses, dates of loss, claim numbers, the amounts paid by Subrogation Plaintiffs and
14 open reserves (as that information is available) as to each of the subrogated claims for which they
15 are seeking reimbursement (hereinafter the “List of Claims”) no later than July 18, 2018. The
16 Subrogation Plaintiffs shall provide an updated List of Claims as reasonably requested by the
17 Defendants. Subrogation Plaintiffs shall provide a final List of Claims to Defendants on or before
18 the expiration of the applicable statute of limitations, which will constitute the final list of claims
19 to be included in the litigation. The original and/or any amended adoption complaint filed by the
20 Subrogation Plaintiffs will be deemed to set forth all of the information in the List of Claims
21 provided to Defendants pursuant to this Order. Any claims not disclosed by the Subrogating
22 Plaintiffs on or before the due dates above, will be barred by statute. Should there be new
23 mudslide events in the future that Subrogation Plaintiffs allege arise out of the Thomas Fire, the
24 list will be provided before the expiration of the applicable statute of limitations.

25 The List of Claims provided by the Subrogation Plaintiffs will not be admissible in
26 evidence unless the Defendants later reach an agreement with the Subrogation Plaintiff that
27 prepared the List of Claims that the List of Claims is admissible.

28 The Subrogation Plaintiffs shall produce claim files on a rolling basis to all Defendants.

1 The parties shall meet and confer regarding a schedule for the production of claim files and shall
2 report back to the Court on this issue in sixty (60) days. The Subrogation Plaintiffs suggest rolling
3 out closed claim files first and the parties are discussing the proposal. The parties will submit to
4 the Court how they will deal with any supplements to the claim files, and how Defendants will be
5 notified of additional payments on any of the claims. Claim files may be requested sooner for any
6 Plaintiff claiming a preference or on a case-by-case basis, and Subrogation Plaintiffs will make
7 every effort to produce such claim files within fifteen (15) days of such a request. Subrogation
8 Plaintiffs are already working on a first listing of claims at SCE's request.

9 **2. Individual Plaintiffs.**

10 Each individual plaintiff shall complete the Notice of Adoption/Amendment of Master
11 Complaint, which contains specific facts regarding the case. All other damages case specific
12 discovery including any written discovery, contention discovery or deposition discovery, is stayed
13 until further order of the court.⁵

14 **3. Miscellaneous Discovery Issues.**

15 Plaintiffs and Defendants will agree to use one court reporter service for all depositions in
16 these coordinated actions. All Individual Plaintiffs shall have the right to have their depositions
17 conducted in the County of their residence if they so request.

18 Discovery requests propounded by any party will be numbered consecutively and
19 sequentially among all sets of discovery.

20 **C. Privileged Communications**

21 The communication, transmission, or dissemination of information of common interest
22 among Plaintiffs' counsel or among Defendants' counsel shall be protected by the attorney-client
23 privilege, the protections afforded by the attorney work-product doctrine, the protections afforded
24 to material prepared for litigation or any other privilege to which a party may otherwise be
25 entitled. Cooperative efforts shall not in any way be used against any of the parties, be cited as
26 purported evidence of conspiracy, wrongful action or wrongful conduct, and shall not be

27 _____
28 ⁵ Defendants reserve their rights to conduct damages discovery from the class action Plaintiffs, but the parties will meet and confer as to the scope and timing of such discovery, which will be subject to further order of this Court.

1 communicated to any jury.

2 **D. Preferential Trial Settings**

3 The parties are ordered to meet and confer on issues relating to preferential trial settings
4 pursuant to Code of Civil Procedure § 36 and report back to the Court at the next
5 Status Conference.

6 **E. Trial Structure**

7 The parties are ordered to meet and confer on the appropriate structure for trial(s) in these
8 coordinated proceedings, including the scope and procedure relating to any potential bellwether
9 process, such as a bellwether case selection process, case specific discovery and law and motion
10 practice in bellwether and non-bellwether cases, if any, the conduct of bellwether trials, and the
11 suitability of any issue(s) for a mini-trial(s). The parties will report back to the Court at the next
12 Status Conference with further details.

13 **VIII. ELECTRONICALLY STORED INFORMATION**

14 The parties are ordered to meet and confer on an ESI protocol, and if unable to reach
15 agreement will submit their disputes to the Court by July 16, 2018.

16 **IX. PROTECTIVE ORDER**

17 The Court adopts the parties' agreed-upon Protective Order, filed separately.

18 **X. STAY OF CLASS ACTION PROCEEDINGS**

19 All class action cases are stayed pending further order of the Court. The Parties are to
20 meet and confer regarding how the class cases will progress.

21 **XI. INSPECTION OF CONDUCTOR REMOVED FROM ANLAUF CANYON**

22 Plaintiffs may not conduct another physical, non-destructive inspection of the same
23 conductor that is the subject of the protocol attached as Exhibit B absent agreement of the Parties
24 or order of the Court.

25 **XII. NEXT CASE MANAGEMENT CONFERENCE**

26 The next Status Conference will be held on August 23, 2018 at 10 am. The next Status
27 Conference Statement is due to the Court by 5:00 P.M. on August 20, 2018.

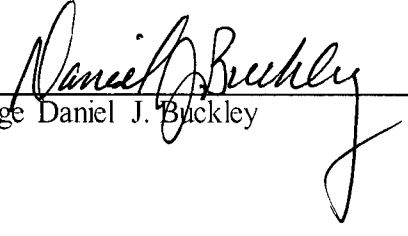
28 Going forward, Court Call is only to be used for attendance. Those who wish to speak or

1 make a presentation must appear in person.

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IT IS SO ORDERED.

Dated: *July 11*, 2018



Judge Daniel J. Buckley

07/24/2018