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6 Attorneys for Plaintiffs

7 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**

9 JOHN PATRICK DAVIS (“PAT”) an
individual; MATT DAVIS, an individual;
10 JOHN CHARLES DAVIS, an individual;
ELIZABETH DAVIS McCULLAGH, an
11 individual; CURTIS CLAVE, an individual;
CADEN CLAVE, a minor, by and through his
12 Guardian Ad Litem, CURTIS CLAVE;
CHARLOTTE CLAVE, a minor, by and
13 through his Guardian Ad Litem, CURTIS
CLAVE; DANIEL COX, an individual;
14 DAVID COX, a minor, by and through his
Guardian Ad Litem, DANIEL COX; and
15 RACHAEL COX, an individual;

16 Plaintiffs,

17 v.

18 STATE OF CALIFORNIA, a government
entity; CITY OF ENCINITAS, a government
19 entity; LEUCADIA-SEABLUFFE VILLAGE
COMMUNITY ASSOCIATION, INC., a
20 California corporation; SEABREEZE
MANAGEMENT COMPANY, INC., a
21 California corporation; and DOES 1 through
50, inclusive,

22 Defendants.
23

Case No.

PLAINTIFFS' COMPLAINT FOR DAMAGES

- 1. **NEGLIGENCE**
- 2. **DANGEROUS CONDITION OF PROPERTY**
- 3. **NEGLIGENCE (PREMISES LIABILITY)**

DEMAND FOR JURY

24 COMES NOW, Plaintiffs, JOHN PATRICK DAVIS (“PAT”), an individual; MATT
25 DAVIS, an individual; JOHN CHARLES DAVIS, an individual; ELIZABETH DAVIS
26 McCULLAGH, an individual; CURTIS CLAVE, an individual; CADEN CLAVE, a minor, by
27 and through his Guardian Ad Litem, CURTIS CLAVE; CHARLOTTE CLAVE, a minor, by and
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1 through her Guardian Ad Litem, CURTIS CLAVE; DANIEL COX, an individual; DAVID COX,
2 a minor, by and through his Guardian Ad Litem, DANIEL COX; and RACHAEL COX, an
3 individual; (“Plaintiffs”), for Causes of Action against Defendants, STATE OF CALIFORNIA, a
4 government entity; CITY OF ENCINITAS, a government entity; LEUCADIA-SEABLUFFE
5 VILLAGE COMMUNITY ASSOCIATION, INC., a California corporation; SEABREEZE
6 MANAGEMENT COMPANY, INC.; and DOES 1 through 50, inclusive, and each of them, and
7 complain and allege as follows:

8 INTRODUCTION

9 1. On Friday, August 2, 2019, a large extended family and their friends were enjoying
10 a sunny afternoon at Grandview Beach (Leucadia State Beach) in the city of Encinitas when,
11 suddenly and without warning, huge multi-ton blocks of sandstone from the urbanized cliff
12 overlooking the beach collapsed and crushed three remarkable women in the presence of their
13 children and family members. Trapped and buried beneath the rubble, the women had to be
14 extricated and did not survive their catastrophic injuries.



1 2. Multiple units of fire rescue personnel responded to the scene to search, extricate,
2 disentangle, treat, and/or recover their bodies. One victim was buried so deep under rubble that heavy
3 machinery was required for the paramedics to even reach her, and her body could only be recovered in
4 pieces and fragments. Her heart was never recovered.

5 3. This tragedy was not a random act of nature. For decades, the Defendants in this
6 case have known exactly what types of urban development would cause the unstable sandstone
7 bluffs overlooking the ocean to collapse: excessive water from poor storm drain management and
8 irrigation, and the continued growth and proliferation of invasive non-native, heavy, water-laden
9 ice plants.

10 4. Defendants STATE OF CALIFORNIA and CITY OF ENCINITAS were
11 repeatedly warned by scientists and engineers of these dangers, and were explicitly told what was
12 needed to mitigate the risks of block falls and cliff collapse. These Defendants, however, failed to
13 do even the bare minimum to keep families and beach-goers safe, and instead allowed man-made
14 changes to *increase* the instability and risk of collapse over the years. By doing so, Defendants
15 made the risk of collapse inevitable and created a time bomb for the beach-going public. The
16 only question was when it would occur and who would be injured or killed.

17 5. Tragically, and unbeknownst to this family and the public, Defendants
18 cumulatively created a dangerous condition known to each of them, but they failed to protect or
19 warn beach patrons. Instead, the lifeguard on duty, who, while acting in the course and scope of
20 his employment with Defendant CITY OF ENCINITAS, directed and instructed Plaintiffs and
21 their decedents where to set up: directly under the unstable cliffs and in the clear zone of danger.

22 **GENERAL ALLEGATIONS**

23 6. This action arises from the wrongful deaths of Plaintiffs' decedents, JULIE DAVIS,
24 ANNE DAVIS CLAVE and ELIZABETH CHARLES, which resulted from the cliff stability
25 failure at Grandview Beach that occurred on August 2, 2019 in the City of Encinitas, County of
26 San Diego.

27 7. Plaintiff PAT DAVIS was, at all times herein relevant, a resident of the City of
28 Encinitas, County of San Diego, State of California. Plaintiff PAT DAVIS is the husband of

1 decedent JULIE DAVIS and the father of decedent ANNE DAVIS CLAVE.

2 8. Plaintiff MATT DAVIS was, at all times herein relevant, a resident of the City of
3 Encinitas, County of San Diego, State of California. Plaintiff MATT DAVIS is the natural born,
4 surviving son of decedent JULIE DAVIS.

5 9. Plaintiff JOHN CHARLES DAVIS was, at all times herein relevant, a resident of
6 the City of Encinitas, County of San Diego, State of California. Plaintiff JOHN CHARLES
7 DAVIS is the natural born, surviving son of decedent JULIE DAVIS.

8 10. Plaintiff ELIZABETH DAVIS McCULLAGH, was, at all times herein relevant, a
9 resident of the city of Newport Beach, County of Orange, State of California. Plaintiff
10 ELIZABETH McCULLAGH is the natural born, surviving daughter of decedent JULIE DAVIS.

11 11. Plaintiff CURTIS CLAVE was, at all times herein relevant, a resident of the City of
12 Encinitas, County of San Diego, State of California. Plaintiff CURTIS CLAVE is the husband of
13 decedent ANNE DAVIS CLAVE.

14 12. Plaintiff CADEN CLAVE, a minor, by and through his Guardian ad Litem,
15 CURTIS CLAVE, was, at all times herein relevant, a resident of the City of Encinitas, County of
16 San Diego, State of California. Plaintiff CADEN CLAVE is the natural born, surviving son of
17 Decedent, ANNE DAVIS CLAVE.

18 13. Plaintiff CHARLOTTE CLAVE, a minor, by and through her Guardian ad Litem,
19 CURTIS CLAVE, was, at all times herein relevant, a resident of the City of Encinitas, County of
20 San Diego, State of California. Plaintiff CHARLOTTE CLAVE is the natural born, surviving
21 daughter of Decedent, ANNE DAVIS CLAVE.

22 14. Plaintiff DANIEL COX was, at all times herein relevant, a resident of the City of
23 San Francisco, County of San Francisco, State of California. Plaintiff DANIEL COX is the
24 husband of decedent ELIZABETH CHARLES.

25 15. Plaintiff DAVID COX, a minor, by and through his Guardian ad Litem, DANIEL
26 COX , was, at all times herein relevant, a resident of the City of San Francisco, County of San
27 Francisco, State of California. Plaintiff DAVID COX is the adopted, surviving son of Decedent,
28 ELIZABETH CHARLES, and a legal heir at law entitled to bring this action.

1 16. Plaintiff RACHAEL COX, was, at all times herein relevant, a resident of the City
2 of San Francisco, County of San Francisco, State of California. Plaintiff RACHAEL COX is the
3 adopted, surviving daughter of decedent ELIZABETH CHARLES and legal heir at law entitled to
4 bring this action.

5 17. Plaintiffs are informed and believe, and thereon allege, that Defendant STATE OF
6 CALIFORNIA is a public entity with the capacity to sue and be sued. Defendant STATE OF
7 CALIFORNIA is responsible for the actions, omissions, policies, procedures, practices, and
8 customs of its various agents and agencies and for the maintenance of lands and beaches that it
9 owns or controls.

10 18. Defendant STATE OF CALIFORNIA, acting through the Department of Parks and
11 Recreation, owns, operates, maintains, administers, develops, manages, and/or controls some of
12 the Golden State’s most popular beaches spanning over 280 miles of coastline – including
13 Grandview Beach – for the “health, inspiration and education of [its] people.”¹ Acting through
14 the California Coastal Commission, Defendant STATE OF CALIFORNIA has, since 1976, also
15 planned, regulated, and controlled the use of land and water in the coastal zone, including
16 development activities on and access to all beaches that comprise the State’s 1,100 miles of
17 shoreline.

18 19. Plaintiffs are informed and believe, and thereon allege, that these beaches are
19 essential to the California economy, as billions of dollars of direct revenue are generated from
20 them. They constitute some of the State’s greatest assets and directly contribute to what is
21 equivalent to the world’s fifth largest economy. Keeping these beaches open is the primary
22 priority of the California Coastal Commission, even at the cost of human lives.

23 20. Plaintiffs are informed and believe, and thereon allege, that Defendant CITY OF
24 ENCINITAS is a public entity duly organized and existing under and by virtue of the laws of the
25 State of California and, since its incorporation in 1986, is authorized to do, and doing business in
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27 ¹ Mission of the California Department of Parks and Recreation.
28

1 the State of California.

2 21. Plaintiffs are informed and believe, and thereon allege, that decades of conflict
3 between the competing interests of municipalities, beachfront property owners, interest groups,
4 and Defendant STATE OF CALIFORNIA have led to an inefficient and dysfunctional overall
5 system that created at the subject cliff collapse site an unnatural, unstable, and unsafe urbanized
6 cliff overlooking a narrow dangerous beach. Despite this known fact, the Defendants beckoned
7 beach patrons such as Plaintiffs to go down the public stairway to the beach, and compelled them
8 to sit directly in the zone of danger – and continue to do so to this day. Due to a series of
9 systematic and preventable man-made interventions and failures, coupled with a lack of
10 monitoring and requisite maintenance, a tragic cliff failure was, and continues to be, inevitable.

11 22. Plaintiffs are informed and believe, and thereon allege, that that Defendant
12 LEUCADIA-SEABLUFFE VILLAGE COMMUNITY ASSOCIATION, INC. (“SEABLUFFE”)
13 is and at all times herein relevant was a California corporation doing business in the city of Aliso
14 Viejo, California as the homeowners association for a development known as “Seabluffe” located
15 in the CITY OF ENCINITAS.

16 23. Plaintiffs are informed and believe, and thereon allege, that that Defendant
17 SEABREEZE MANAGEMENT COMPANY, INC. (“SEABREEZE MANAGEMENT”) is and at
18 all times herein relevant was a California corporation doing business in the city of Aliso Viejo,
19 California as the property manager of the development known as “Seabluffe” located in the CITY
20 OF ENCINITAS.

21 24. Plaintiffs have, pursuant to California Government Code Section 954.4, timely
22 served a written government claim upon Defendants STATE OF CALIFORNIA and CITY OF
23 ENCINITAS. Defendants STATE OF CALIFORNIA and CITY OF ENCINITAS have rejected
24 and/or may be deemed to have rejected said claims. Consequently, Plaintiffs have standing to
25 bring suit for monetary damages against the aforementioned public entity Defendants.

26 25. The true names and capacities, whether individual, corporate, associate, or
27 otherwise, of Defendants DOES 1 through 50, inclusive, are unknown to Plaintiffs, who therefore
28 sue said Defendants by such fictitious names. Plaintiffs will seek leave of Court to amend this

1 pleading to show the true names and capacities of such Defendants when the same have been
2 ascertained. Plaintiffs are informed and believe, and thereupon allege, that each of the fictitiously
3 named Defendants was a legal cause of the injuries and damages suffered and alleged herein, or
4 subject to the jurisdiction of the Court herein as necessary parties for the relief requested.

5 26. The Defendants, and each of them, were the agents, ostensible agents, employees,
6 partners, or joint venturers of each of the remaining Defendants, and were acting within the course
7 and scope of said agency, employment, partnership or joint venture at all relevant times. At all
8 relevant times herein, the acts and omissions of the various defendants, and each of them,
9 concurred and contributed to the various acts and omissions of each and all of the other
10 Defendants in legally and proximately causing the injuries and damages to Plaintiff as alleged
11 herein. To the extent that any such act of any defendant was not initially authorized, the same was
12 subsequently ratified by the remaining defendants.

13 FACTUAL ALLEGATIONS

14 **A. Background**

15 27. Plaintiffs are informed and believe, and thereon allege, that Grandview Beach (also
16 known as part of Leucadia State Beach) is a beach that is owned, operated, maintained,
17 administered, developed, managed and/or controlled by Defendant STATE OF CALIFORNIA,
18 and/or DOES 1 through 50, inclusive, and each of them. It has been in the State Park System
19 since 1949, and was classified as a state beach by the Park and Recreation Commissioner in May
20 of 1989.

21 28. Plaintiffs are informed and believe, and thereon allege, that in or around 1990, the
22 County of San Diego, by way of a quitclaim deed, transferred to Defendant STATE OF
23 CALIFORNIA all rights, title, and interest to easements over all of the property relevant to the
24 subject incident, including the cliff face and beach area. In addition, Defendant STATE OF
25 CALIFORNIA also acquired all rights, title and interest to easements over all of the public
26 parking lot, public stairway, and beach access leading to the public beach.

27 29. Plaintiffs are informed and believe, and thereon allege, that the top of the cliff is
28 owned by Defendant SEABLUFFE and is managed by Defendant SEABREEZE

1 MANAGEMENT for the owners of condominium townhouses in the Seabluffe community, and/or
2 DOES 1 through 50, inclusive, and each of them. This cliff-top community was built in or around
3 1974, and is now approximately 20 feet from the top of the bluff.

4 30. Defendant STATE OF CALIFORNIA's General Plan devised in 1986 for
5 Grandview Beach set forth in detail the condition of the beach that was well known to it at that
6 time. The unique features of Grandview Beach included the fact that it consisted of unstable
7 urbanized bluffs overlooking a narrow strip of beach, with no significant native plant
8 communities. Instead, the non-native invasive ice plant (also known as and referred in the General
9 Plan as "sea fig" or *Carpobrotus aequilaterus*) was described as the dominant plant on the cliffs.
10 The cliffs above the beach were described as privately owned and heavily developed with cliff-
11 edge residences. Subsurface draining was evident on the bluff faces below the parking lot. As of
12 1986, no public stairs existed to give the public access to the beach, because the stairway had been
13 destroyed by a previous landslide in 1983. The General Plan recognized that areas immediately
14 north and south of the stairway location (which includes the subject cliff collapse location) were
15 **prime candidates for future bluff failures**, and explicitly prohibited the erection of any seawalls
16 on Grandview Beach.

17 31. Because of the instability of the beach area, the General Plan prohibited the
18 rebuilding of any public stairs to the beach until a geological evaluation determined the stability of
19 the area so as to prevent any public safety hazard. For numerous years, there was no public access
20 to Grandview Beach and any pedestrian access was discouraged because the instability of the
21 cliffs rendered the beach unsafe.

22 32. Defendant CITY OF ENCINITAS, by and through a 20-year Operating Agreement
23 between it and the Department of Parks and Recreation of Defendant STATE OF CALIFORNIA,
24 was and is authorized to "develop, operate, control, and maintain" Grandview Beach in a safe
25 condition and in accordance with the General Plan for the beach, as well as all laws, codes and
26 generally accepted industry standards.² Pursuant to the terms of the Operating Agreement,

27 _____
28 ² Operating Agreement with the City of Encinitas for Moonlight and Leucadia State Beaches at 2.

1 Defendant STATE OF CALIFORNIA agreed to inspect Grandview Beach and perform any
2 maintenance or repairs for the City that were necessary to maintain the safety of the premises.

3 33. Defendant CITY OF ENCINITAS contracted to, and by contract, assumed a duty
4 to maintain Grandview Beach in a safe condition and to provide lifeguard services.

5 34. Pursuant to Defendant CITY OF ENCINITAS' General Plan (as amended 6/17/92,
6 3/9/94 and 5/11/95), the stated goal of the City was "to minimize potential hazards to public
7 health, safety, and welfare and to prevent the loss of life and damage to health and property
8 resulting from both natural and man-made phenomena."³

9 **B. The Public Stairway**

10 35. In or around January of 1988, Defendant CITY OF ENCINITAS Community
11 Services Department retained Woodward-Clyde Consultants to provide a geotechnical
12 investigation to assist the City in evaluating the property and location for the erection of a new
13 public stairway to provide public access to Grandview Beach. The report provided by Woodward-
14 Clyde Consultants in March of 1988 noted numerous points of weakness on the cliff area,
15 including the existence of extensive groundwater seepage that reduced the strength of the
16 sandstone cliff, leading to erosion and block falls. For this reason, the consultants recommended
17 the installation of a *minimum* of 80 feet of rock bolts to stabilize the weakened cliff, as well as a
18 concrete seawall to cover the rock bolts. When the public stairway was installed, however, only
19 35 feet of rock bolts and seawall were installed, leaving a significant portion of the cliffs with
20 known water seepage issues unprotected.

21 36. In or around 1991, Defendant STATE OF CALIFORNIA, acting by and through
22 the California Coastal Commission, reviewed an application by Defendant CITY OF ENCINITAS
23 for the removal of the remnants of the earlier-destroyed stairway and the construction of a new
24 public beach access stairway. At that time, the Commission noted that the area surrounding the
25 site, including the areas adjacent to it, had been subject to extensive groundwater seepage that
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27 ³ Goal 2 of the Public Safety Element of City of Encinitas General Plan (as amended 6/17/92,
28 3/9/94 and 5/11/95).

1 reduced the strength of the seacliff, contributed to the coastal erosion process, and were
2 susceptible to block falls of the type that took out the first set of stairs in 1983. For this reason, the
3 Commission approved the use of a reinforced concrete retaining wall structure in the area of the
4 stairway, in contravention to the General Plan for the beach.

5 37. In addition to this wall, ten palm trees were to be added to the walkway leading to
6 the stairs, each of which would require additional irrigation and water. The plan also called for the
7 installation of eight drains in the vicinity of the stairway behind the seawall to drain groundwater
8 and surface water flowing from such irrigation and the public parking lots leading to the public
9 beach.

10 38. In granting a permit for this work, Defendant STATE OF CALIFORNIA
11 conditioned the permit on the following important conditions:

- 12 a. The irrigation system located in the stairs area had to be removed to
13 minimize the introduction of irrigation water onto the bluff face;
- 14 b. The affected upper portion of the bluff had to be re-vegetated with drought
15 and salt tolerant **native** plants (thereby requiring the removal of the non-
16 native ice plants);
- 17 c. Defendant CITY OF ENCINITAS Community Services Department was
18 required to annually monitor the erosion rate on both sides of the completed
19 concrete wall to ensure that no additional measures were needed to address
20 and prevent any erosion.

21 39. Plaintiffs are informed and believe, and thereon allege, that these conditions were
22 essential to cliff stability and public safety because the installation of the rockbolts and concrete
23 seawall, which stabilized and strengthened the stairway area, adversely affected the adjacent areas
24 of the cliff to the north and south of the seawall. Groundwater and surface water that would
25 normally be emitted from the cliff, is blocked by the seawall and would be laterally diverted to the
26 adjacent sides of the wall – thereby increasing the already pre-existing water seepage and erosion
27 on sections of these cliffs. The presence of the seawall would also cause increased pressure and
28 erosion from ocean waves breaking against the adjacent cliffs on either side of the concrete

1 barrier, resulting in accelerated undercut and increased instability. Areas adjacent to the man-
2 made seawall, therefore, would be made more vulnerable from both inside and outside the cliff
3 wall.

4 40. Plaintiffs are informed and believe, and thereon allege, that the rebuilt stairs were
5 completed in or around 1993. Contrary to the suggestions proposed by scientists and engineers in
6 or around 1988 to mitigate the risk of blockfalls and cliff failures in the areas adjacent to the
7 location of the stairway, Defendants STATE OF CALIFORNIA and CITY OF ENCINITAS
8 instead limited the concrete seawall to the width of the staircase, or approximately 35 feet.

9 41. The subject cliff collapse site is located in an adjacent area close to and directly
10 affected by the rebuilt stairway structure and concrete seawall.

11 42. It was imperative for the irrigation system to be removed to eliminate any
12 additional water source in the already seeping stairway area.

13 43. It was also essential for the non-native ice plants to be removed and the area re-
14 vegetated with a native plant to California. The invasive non-native ice plant is known to
15 accelerate coastal erosion and cliff instability because its leaves hold great masses of water and its
16 roots are very shallow. The added weight of non-maintained ice plants hanging from unstable
17 cliffs have led to block falls and cliff failures when blocks of sandstone are literally pulled by the
18 ice plant to the ground. For these reasons, the Municipal Code of Defendant CITY OF
19 ENCINITAS at Section 30.34.020(B)(6) states that: “Landscaping on beach bluff properties shall
20 **avoid the use of ice plant**, and emphasize native and drought-tolerant plants in order to minimize
21 irrigation replacements and **reduce potential slide hazards due to over-watering.**”

22 44. Defendant CITY OF ENCINITAS failed to satisfy the three above conditions
23 imposed by Defendant STATE OF CALIFORNIA, and the STATE OF CALIFORNIA did
24 nothing to ensure or monitor compliance. The permanent irrigation system was never removed
25 and still exists today. Moreover, the area by the stairway was never re-vegetated with native
26 plants. Instead, the non-native ice plant colony was either re-planted there in violation of the
27 Municipal Code, or was allowed to grow in abundance. The ten non-native Mexican fan palm
28 trees that were added to the path leading to the stairs required constant watering via irrigation, and

1 such water would flow directly to the cliffs. Despite this fact, the intended eight drains were not
2 maintained in proper working order. As a result, even more water was diverted to areas adjacent
3 to the concrete seawall, including the subject area of the collapse. Such water caused the colony
4 of ice plants to flourish and spread from the rebuilt stairway to the area of the inevitable cliff



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15 collapse.

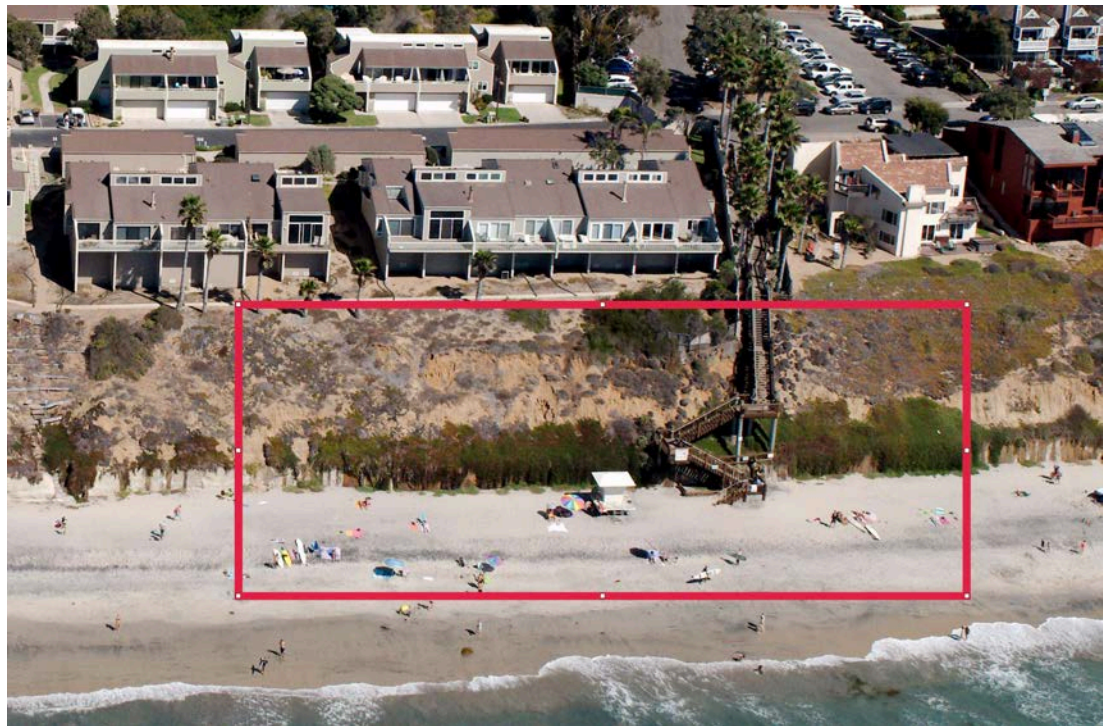
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17 Photographs of the subject area before and after the stairway was rebuilt depict the
18 dramatic increase in the ice plant colony **after** the completion of its construction.

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January 1989: Before rebuilt stairway



September 2013: After rebuilt stairway

45. Plaintiffs are informed and believe, and thereon allege, that Defendant CITY OF ENCINITAS failed to annually monitor the adjacent sides of the stairway as required by the

1 permit conditions, and it failed to observe or prevent the increased erosion that has occurred on
 2 either side of the seawall.



Subject cliff collapse site: undercutting of cliff

15 46. At all relevant times, both Defendant STATE OF CALIFORNIA and Defendant
 16 CITY OF ENCINITAS had a duty to maintain the landscaping on the cliff. Section
 17 30.34.020(B)(3) of the Encinitas Municipal Code permits the removal or trimming of non-native
 18 vegetation such as the ice plant to enhance bluff stability and to prevent erosion. The non-native
 19 plants should have been removed at the time the new stairway was built. Despite this fact, neither
 20 Defendant STATE OF CALIFORNIA nor Defendant CITY OF ENCINITAS removed or trimmed
 21 the ice plants after the stairway was completed.

22 47. Defendant STATE OF CALIFORNIA, acting by and through the California
 23 Coastal Commission, has, for many decades, restricted the ability of residents or
 24 officials/managers with Defendant CITY OF ENCINITAS to do anything further to prevent block
 25 falls or to protect the public or beachfront property. The Commission previously refused to
 26 approve the City’s Local Coastal Plan and imposed difficult, if not impossible, hurdles for anyone
 27 seeking approvals of plans/permits for additional concrete seawalls in areas adjacent to the
 28 stairway or elsewhere on the beach after the public access stairway was rebuilt. The recalcitrance

1 of the Commission, and the restrictive hurdles it imposed on Defendant CITY OF ENCINITAS,
2 led to an unworkable situation in which the few coastal engineers in the area gave up trying to
3 seek approval for projects because they believed it would be futile. The arbitrary actions of the
4 Commission were in contravention of the findings noted in the California Coastal Act of 1976 that
5 “to promote the public safety, health, and welfare, and to protect private and public property, . . . it
6 is necessary to protect the ecological balance of the coastal zone and prevent its deterioration and
7 destruction.”

8 48. Faced with this reality, and knowing the increased instability of the cliff area
9 adjacent to the public access stairway, Defendants CITY OF ENCINITAS nevertheless created an
10 even more dangerous condition of property by failing to take measures to protect beach patrons
11 and the public whom they expressly invited to the public beach from inevitable block falls and
12 disaster. These measures included, but were not limited to, the following:

- 13 a. Trimming and cutting the ice plants by hand or removing the ice plants;
- 14 b. Ensuring that the storm water drainage systems at Seabluffe and other
15 property owners were in compliance with the Encinitas Municipal Code and
16 consistent with the as-built plans;
- 17 c. Ensuring that all surface and other water would be diverted away from the
18 cliffs;
- 19 d. Removing the permanent water irrigation system inserted by the stairway;
- 20 e. Maintaining and repairing the eight pipes by the stairway so that all of them
21 are functioning;
- 22 f. Restricting beach patrons from the beach during high tide or when beach
23 crowds made it difficult to find a place to sit other than by the cliff;
- 24 g. Limiting the number of beach patrons who travel down the public access
25 stairways daily and use the beach;
- 26 h. Training and supervising lifeguards to continuously monitor the bluffs and
27 the location of beach patrons;
- 28 i. Training and supervising lifeguards to move beach patrons away from the

1 bluffs and ice plants;

2 j. Training and supervising lifeguards to warn beach patrons of the dangers of
3 block falls and cliff stability failures due to the increased erosion, excessive
4 water seepage, and heavy ice plants on the cliff;

5 k. Blocking off the danger area under the cliff;

6 l. Posting adequate signs in conspicuous places to warn visitors of the
7 impending danger of block falls and cliff failure; and/or

8 m. Closing the beach during high tide when visitors would be forced to sit
9 under the dangerous cliffs or until viable solutions can be implemented.

10 49. The physical alterations made to the cliff led to artificial physical changes in the
11 immediate vicinity of the cliff collapse site.

12 50. Plaintiffs are informed and believe, and thereon allege, that Defendants STATE OF
13 CALIFORNIA and CITY OF ENCINITAS were well aware of the effect of those changes, as a
14 subsequent study showed 24 major bluff failures over a 24-month time period, and City staff
15 members regularly record major bluff collapses at least once a month.

16 **C. Improper Storm Water Management**

17 51. Compounding these problems are the antiquated and improper storm drains and
18 storm water management system used by Defendants SEABLUFFE and SEABREEZE
19 MANAGEMENT which directs water through or over the bluff in the immediate vicinity of the
20 site of the collapse. Section 30.34.020(B)(5) of the Encinitas Municipal Code requires all such
21 drainage to be diverted away from within five feet of the edge and face of the bluff. That section
22 specifically states that when work is done: “Any existing drainage system which deliver runoff to
23 or over the edge of the bluff shall be removed.” These Defendants made substantial changes to
24 their drainage and/or other systems prior to the subject cliff collapse, and were required to obtain a
25 permit and change their drainage system to comply with current regulations.

26 52. The existing drainage system used by Defendants SEABLUFFE and SEABREEZE
27 MANAGEMENT, although permissible in 1974, should have been removed long before the date
28 of the cliff collapse. The obvious constant water seepage coming from the cliff wall at the cliff

1 failure site is visible in photographs depicting the area spanning decades, and appears as darkened,
2 wet sandstone with water lines on the surface. While at the beach, water can be observed dripping
3 from the leaves of the ice plants on the bluff, and the lushness of the green ice plants in that area
4 highlights a long-standing water problem.



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17 53. Plaintiffs are informed and believe, and thereon allege, that the as-built plans for
18 the storm drain details at Defendant SEABLUFFE required a storm drain that drained water from
19 the top of the bluff, directed it through a culvert, and emptied it into a carefully designed concrete
20 outlet. The outlet was designed to slow the water, allow impurities to settle out, and then release
21 the water so as to gently flow onto the beach without causing erosion. Defendants SEABLUFFE
22 and SEABREEZE MANAGEMENT had a duty to maintain that drain system in the manner in
23 which it was designed. Plaintiffs are informed and believe, and thereon allege, that contrary to
24 such as-built plans, regulations, and without a permit or consent from either the City or the
25 California Coastal Commission, the pipe was illegally changed from concrete to black plastic.
26 Prior to the date of the cliff collapse, such change disrupted the cliff so that fiber tubes had to be
27 installed, and the concrete outlet was removed. From that point on and continuing to the current
28 day, the dirty water gushes out with higher velocity during heavy rains, causing increased erosion

1 on the beach.

2 54. Over time, these Defendants’ fiber tubes have failed, and openings cause water to
 3 empty directly onto the cliff face, which has led to erosion at the cliff and collapse of the fiber
 4 tubes. Because of this failed man-made structure, the cliff is literally collapsing around it.



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 16 Because of the depression created by the erosion, water is allowed to accumulate and move
 17 laterally towards the already water-laden cliff collapse site.

18 **D. August 2, 2019: The Day of the Inevitable Cliff Collapse**

19 55. Before and on August 2, 2019, the site of the cliff collapse was located in between
 20 two deficient man-made artificial structures and directly in front of Defendant SEABLUFFE’s
 21 improper and illegal storm water drainage system – all of which combined to create an
 22 overabundance of water seepage at the cliff, leading to increased erosion and causing the
 23 overgrown ice plants at that location to become heavy with excess water. This deadly
 24 combination was well known to Defendants, or should have been well known to Defendants, and
 25 would certainly have been discoverable with any inspection, maintenance, or monitoring as
 26 required by law, industry standards, as-built plans, the operating agreement, and/or the conditions
 27 of the permit.

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56. The conditions that existed at that time and at that location made the beach area directly in front of the cliff unreasonably dangerous. The narrowness of that strip of beach, however, particularly during high tide, left little options to beachgoers and especially large family groups who had no choice but to set up close to the cliffs.

57. On the afternoon of August 2, 2019, Plaintiffs gathered at Grandview Beach for a day of surfing and beach activities to celebrate the recovery of ELIZABETH CHARLES from breast cancer. Her sister, decedent JULIE DAVIS, arrived with her husband, and was joined by her daughters and grandchildren. Decedent ELIZABETH CHARLES, was present with her daughter, and was waiting for her husband and son. The remainder of the family was expected to arrive later in the day.

58. Upon the group’s arrival to the beach, Decedent ANNE DAVIS CLAVE, who was with her young children, friends, and/or other family members, asked the lifeguard where they should set up. The lifeguard, QUINN NORWOOD, and/or DOES 1 THROUGH 50, inclusive, and each of them, who was acting in the course and scope of his employment with Defendant CITY OF ENCINITAS, directed her and the family to set up right underneath the cliff. The family, who had no knowledge of the dangers posed by the subject cliff, relied on and complied with the lifeguard’s direction. The lifeguard watched the family set up their chairs, towels, surfboards, toys, and beach accessories directly under the subject cliff, and never provided them

1 with any warning or instructions to move away from the cliff.

2 59. At approximately 2:53 p.m., the inevitable happened and a huge portion of the cliff
3 collapsed. The weight of heavy, overwatered ice plants hanging off the cliff pulled the weakened
4 huge blocks of sandstone to the ground, crushing the decedents in front of their loved ones and
5 family members.



20 60. Plaintiff PAT DAVIS, who was seated next to his wife, JULIE DAVIS, was in the
21 zone of danger and his arm was injured by one of the falling rocks. Because he had been trained
22 by and served his country in the United States Navy, and had medical training as a pediatric
23 dentist, he was able, despite his pain and shock, to assess the scene. He immediately saw that his
24 beloved wife was buried under heavy blocks of sandstone, and he could not lift them. Frantically,
25 he dug a hole in the sand around her head to enable her to breathe. Although he was anguished
26 and terrorized by the pain and suffering he believed his wife to be suffering, he went to where his
27 youngest child and cherished daughter, ANNE DAVIS CLAVE was located. Although she was
28 also trapped under debris, he was able to cradle her head in his lap, and he attempted to position

1 her to enable her to breathe until paramedics arrived. He helplessly held his precious daughter's
2 head while her blood seeped into his lap and clothing. Seeing both his wife and his daughter, as
3 well as his sister-in-law gravely injured, suffering, and buried in rubble without being able to
4 rescue them caused Plaintiff PAT DAVIS to suffer extreme emotional distress, anxiety, terror, and
5 mental anguish.

6 61. Plaintiff ELIZABETH DAVIS McCULLAGH, who was also in the immediate
7 vicinity of her beloved mother, JULIE DAVIS, and her cherished sister, ANNE DAVIS CLAVE,
8 was also in the zone of danger and was in stunned horror when the massive cliff collapse occurred.
9 Seeing her mother, sister, and aunt crushed, severely injured, in pain, and buried under huge
10 boulders caused Plaintiff ELIZABETH DAVIS McCULLAGH to suffer extreme emotional
11 distress, anxiety, and mental anguish.

12 62. Plaintiff RACHAEL COX, who was only 18 years old at that time, was seated by
13 her mother ELIZABETH CHARLES, and was in the zone of danger at the time of the cliff
14 collapse, and in fact was physically injured when rocks and boulders fell on and/or injured the left
15 side of her body. Although she was in considerable pain and had to be transported to and treated at
16 the hospital, her physical injuries were nothing compared to the extreme mental anguish she
17 suffered when she observed the severed body of her beloved mother literally in fragments and
18 pieces in front of her. Seeing her mother, ELIZABETH CHARLES, her aunt, JULIE DAVIS, and
19 her cousin, ANNE DAVIS CLAVE, buried under the boulders and rocks and catastrophically
20 injured caused Plaintiff RACHAEL COX to suffer extreme emotional distress, anxiety, and
21 mental anguish.

22 63. Plaintiff CADEN CLAVE, who was only 7 years old at the time of the cliff
23 collapse, and his sister, Plaintiff CHARLOTTE CLAVE, who was only 5 years old at that time,
24 were both in the immediate vicinity of their beloved mother, ANNE DAVIS CLAVE and in the
25 zone of danger at the time the cliff collapse occurred. Seeing their mother, grandmother, and aunt
26 crushed and shattered by boulders and rocks caused Plaintiff CADEN CLAVE and Plaintiff
27 CHARLOTTE CLAVE to suffer extreme emotional distress, anxiety, and mental anguish.

28 64. Despite the frantic efforts of the family and fire rescue personnel, these women

1 could not be saved. JULIE DAVIS was transported from the scene, but resuscitation efforts at the
2 hospital were unsuccessful. She died from multisystem blunt force injuries. ANNE DAVIS
3 CLAVE sustained severe trauma to her head, and she died in the hospital from craniocerebral
4 blunt force. ELIZABETH CHARLES died in the rubble on the beach, and her cause of death was
5 determined to be multisystem blunt force crushing injuries due to complete body fragmentation.

6 65. Most disturbing to the family, the conditions existing at Grandview Beach have not
7 improved or been fixed, and remain a danger to every man, woman, and child who comes there.
8 A recent photo taken only a year after the tragedy shows that beachgoers still sit and lay directly
9 under the cliffs in the direct presence of the lifeguards on duty – and totally unaware of the peril
10 that surrounds them.



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FIRST CAUSE OF ACTION

WRONGFUL DEATH – NEGLIGENCE

(As Against Defendant CITY OF ENCINITAS and DOES 1 through 50, Inclusive)

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4 66. Plaintiffs re-allege and incorporate herein by reference each and every allegation
5 and statement contained in the prior paragraphs.

6 67. Defendant CITY OF ENCINITAS provides lifeguards, including QUINN
7 NORWOOD, and/or DOES 1 through 50, inclusive, and each of them, to ensure that all beach
8 patrons have a safe and enjoyable time at Grandview Beach. On the City’s website, the public is
9 informed that such lifeguards provide safety information to the public, mitigate safety hazards on
10 the beach, and perform bluff monitoring and crowd control. According to the City, the purpose of
11 having on-duty lifeguards is to ensure that beach patrons are supervised by lifeguards who are
12 specifically trained to perform these important functions.

13 68. At all relevant times, QUINN NORWOOD and/or DOES 1 through 50, inclusive,
14 and each of them, was acting within the course and scope of his employment for Defendant CITY
15 OF ENCINITAS, and DOES 1 though 50, and each of them.

16 69. As a lifeguard in the course and scope of his employment with Defendant CITY OF
17 ENCINITAS, QUINN NORWOOD and/or DOES 1 through 50, inclusive, and each of them, was
18 obligated to exercise due care in his actions so as to not create an unreasonable risk of injury to
19 others.

20 70. By directing Plaintiffs and their decedents to the location directly under the
21 dangerous cliff, QUINN NORWOOD and/or DOES 1 through 50, inclusive, and each of them,
22 negligently, deliberately or willfully placed them in a dangerous position and created a serious risk
23 of harm to which they otherwise would not have been exposed.

24 71. By providing lifeguard services at Grandview Beach, Defendant CITY OF
25 ENCINITAS assumed the duty to hire, retain, supervise, and train its agents, employees, and
26 contractors in a reasonable manner.

27 72. By providing lifeguard services at Grandview Beach, Defendant CITY OF
28 ENCINITAS, acting by and through its employee or agent, QUINN NORWOOD, and/or DOES 1

1 through 50, inclusive, and each of them, had a duty to perform those services with reasonable care,
2 including the duty to warn beach patrons such as Plaintiffs and their decedents of unsafe
3 conditions on the beach and near the cliff, to patrol the beach area and monitor the location of such
4 beach patrons, and to direct and warn them to stay away from the cliffs. The City intended and
5 Plaintiffs and their decedents relied on the presence of the lifeguards for their safety and
6 enjoyment of the beach.

7 73. The beach-going public, including Plaintiffs and their decedents, relied upon the
8 City's voluntarily assuming the duty of providing lifeguard service, including the duty to non-
9 negligently monitor the bluffs, control the beach crowd, give appropriate directions to beach
10 patrons, and warn them of unsafe conditions.

11 74. Defendant CITY OF ENCINITAS, acting by and through its lifeguard QUINN
12 NORWOOD, and/or DOES 1 through 50, inclusive, and each of them, failed or chose not to
13 perform these duties in a reasonable manner, and exposed Plaintiffs and their decedents to
14 dangerous peril and certain death. Such failure or acts directly, legally, and proximately caused or
15 contributed to the injuries and damages complained of herein.

16 75. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
17 conduct of Defendants, their agents and employees, including QUINN NORWOOD, and each of
18 them, Plaintiffs PAT DAVIS, MATT DAVIS, JOHN DAVIS, and ELIZABETH DAVIS
19 McCULLAGH have sustained damages resulting from the loss of love, affection, society, service,
20 comfort, care, support, right of support, expectations of future support and counseling,
21 companionship, solace, mental support, guidance, and training, as well as other benefits and
22 assistance, such as household services, of decedent JULIE DAVIS, all to their general damages in
23 a sum in excess of the jurisdictional limits of this Court, which will be stated according to proof,
24 pursuant to Section 425.10 of the California *Code of Civil Procedure*.

25 76. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
26 conduct of Defendants, and each of them, Plaintiffs CURTIS CLAVE, CADEN CLAVE,
27 CHARLOTTE CLAVE, AND PAT DAVIS have sustained damages resulting from the loss of
28 love, affection, society, service, comfort, care, support, right of support, expectations of future

1 support and counseling, companionship, solace, mental support, guidance, and training, as well as
2 other benefits and assistance, such as household services, of decedent ANNE DAVIS CLAVE, all
3 to their general damages in a sum in excess of the jurisdictional limits of this Court, which will be
4 stated according to proof, pursuant to Section 425.10 of the California *Code of Civil Procedure*.

5 77. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
6 conduct of Defendants, and each of them, Plaintiffs DANIEL COX, RACHAEL COX, AND
7 DAVID COX have sustained damages resulting from the loss of love, affection, society, service,
8 comfort, care, support, right of support, expectations of future support and counseling,
9 companionship, solace, mental support, guidance, and training, as well as other benefits and
10 assistance, such as household services, of decedent ELIZABETH CHARLES, all to their general
11 damages in a sum in excess of the jurisdictional limits of this Court, which will be stated
12 according to proof, pursuant to Section 425.10 of the California *Code of Civil Procedure*.

13 78. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
14 conduct of Defendants, DOES 1 through 50, inclusive, and each of them, Plaintiffs PAT DAVIS,
15 ELIZABETH DAVIS McCULLAGH, RACHAEL COX, and CADEN AND CHARLOTTE
16 CLAVE were caused to suffer serious and permanent suffering, anguish, fright, terror, anxiety,
17 horror, nervousness, grief, shock, and serious emotional distress. Plaintiff RACHAEL COX was
18 also caused to suffer serious physical injuries, severe pain and suffering, worry, humiliation,
19 embarrassment, anguish, and nervousness. Plaintiffs were compelled to, and did employ the
20 services of hospitals, physicians, surgeons and/or health care specialists to care for and treat them,
21 the exact amount of such losses to be stated according to proof, pursuant to Section 425.10 of the
22 California *Code of Civil Procedure*.

23 79. As a further direct and legal result of the Defendants' actions and/or omissions,
24 Plaintiffs have suffered a loss of income, loss of earning capacity, loss of profits, increased
25 expenses due to displacement, and/or other consequential economic losses in an amount to be
26 shown according to proof at trial.

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1 SECOND CAUSE OF ACTION

2 **WRONGFUL DEATH – DANGEROUS CONDITION OF PUBLIC PROPERTY**

3 **(As Against Defendant STATE OF CALIFORNIA, Defendant CITY OF ENCINITAS and**
4 **DOES 1 through 50, Inclusive)**

5 80. Plaintiffs re-allege and incorporate herein by reference each and every allegation
6 and statement contained in the prior paragraphs.

7 81. At all relevant times, Defendant STATE OF CALIFORNIA and Defendant CITY
8 OF ENCINITAS, including their employees and agents, and each of them, owned, regulated,
9 controlled, managed, maintained, operated, supervised, repaired, monitored, and possessed the
10 subject cliff collapse site at Grandview Beach.

11 82. At all relevant times, including at the time of the subject incident, Defendants
12 caused a dangerous condition to exist at the cliff collapse site, within the meaning of Government
13 Code Section 830 et seq. that created a substantial risk of injury and death when such property or
14 adjacent property was used with due care in a manner in which it is and was reasonably
15 foreseeable that it would be and was used, including but not limited to, the following respects: (a)
16 the subject incident site was adjacent to man-made features on either side of it that were
17 improperly, dangerously, and defectively built, installed, controlled, maintained, inspected,
18 monitored, modified, repaired, planned, and/or regulated; (b) the subject incident site and the
19 beach and cliff area lacked any or had insufficient and/or defective warning signs to alert beach
20 patrons of the dangerous conditions described herein; (c) the subject incident site and adjacent
21 property, including the excessive water and unnatural ice plant, were defectively and negligently
22 inspected, monitored, maintained, and controlled; and (d) the subject incident site and adjacent
23 areas failed to comply with laws, codes, regulations, industry standards, engineering standards, the
24 operating agreement, as-built plans, or the conditions of any permits.

25 83. The combination of the above-referenced conditions created a concealed trap to
26 beach patrons and foreseeable users of the subject cliff collapse site, including Plaintiffs and their
27 decedents.

28 84. Said dangerous conditions were not nor would not have been reasonably apparent

1 to, and were not nor would have been anticipated by persons exercising due care, such as Plaintiffs
2 and their decedents.

3 85. At all relevant times, Defendant caused, created, and/or allowed to exist and to
4 continue to exist said dangerous conditions with respect to the subject cliff collapse site and its
5 adjacent property. The willful misconduct of these Defendants in causing, creating, allowing to
6 exist and to continue to exist said dangerous conditions in the incident site and at Grandview
7 Beach created and continues to create a reasonably foreseeable risk of injury and/or death to beach
8 patrons and the public. Even after the tragic death of these decedents, Defendants still allow beach
9 patrons to position themselves in danger zones directly under unstable urbanized cliffs with
10 excessive water seepage and heavy, unmaintained ice plants, making additional injuries and deaths
11 inevitable.

12 86. Employees, agents, representatives and contractors of Defendants, and each of
13 them, negligently, wrongfully, and unlawfully created and/or caused these dangerous conditions at
14 the beach and in the area of the collapse within the scope of their employment. Defendants had
15 actual or constructive notice of the dangerous conditions described herein a sufficient time prior to
16 the date of the incident to have taken measures to protect against the dangerous conditions and/or
17 warn beach patrons and the public, including Plaintiffs and their decedents.

18 87. Such dangerous conditions were the legal, direct, and proximate cause of the
19 injuries and damages suffered by Plaintiffs and their decedents.

20 88. As a direct, legal, and proximate result of the dangerous condition and the
21 intentional, reckless and/or negligent conduct of Defendants, and each of them, Plaintiffs PAT
22 DAVIS, MATT DAVIS, JOHN DAVIS, and ELIZABETH DAVIS McCULLAGH have sustained
23 damages resulting from the loss of love, affection, society, service, comfort, care, support, right of
24 support, expectations of future support and counseling, companionship, solace, mental support,
25 guidance, and training, as well as other benefits and assistance, such as household services, of
26 decedent JULIE DAVIS, all to their general damages in a sum in excess of the jurisdictional limits
27 of this Court, which will be stated according to proof, pursuant to Section 425.10 of the California
28 *Code of Civil Procedure*.

1 89. As a direct, legal, and proximate result of the dangerous condition and the
2 intentional, reckless and/or negligent conduct of Defendants, and each of them, Plaintiffs CURTIS
3 CLAVE, CADEN CLAVE, CHARLOTTE CLAVE, AND PAT DAVIS have sustained damages
4 resulting from the loss of love, affection, society, service, comfort, care, support, right of support,
5 expectations of future support and counseling, companionship, solace, mental support, guidance,
6 and training, as well as other benefits and assistance, such as household services, of decedent
7 ANNE DAVIS CLAVE, all to their general damages in a sum in excess of the jurisdictional limits
8 of this Court, which will be stated according to proof, pursuant to Section 425.10 of the California
9 *Code of Civil Procedure*.

10 90. As a direct, legal, and proximate result of the dangerous condition and the
11 intentional, reckless and/or negligent conduct of Defendants, and each of them, Plaintiffs DANIEL
12 COX, RACHAEL COX, AND DAVID COX have sustained damages resulting from the loss of
13 love, affection, society, service, comfort, care, support, right of support, expectations of future
14 support and counseling, companionship, solace, mental support, guidance, and training, as well as
15 other benefits and assistance, such as household services, of decedent ELIZABETH CHARLES,
16 all to their general damages in a sum in excess of the jurisdictional limits of this Court, which will
17 be stated according to proof, pursuant to Section 425.10 of the California *Code of Civil*
18 *Procedure*.

19 91. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
20 conduct of Defendants and DOES 1 through 50, inclusive, and each of them, Plaintiffs PAT
21 DAVIS, ELIZABETH DAVIS McCULLAGH, RACHAEL COX, and CADEN AND
22 CHARLOTTE CLAVE were caused to suffer serious and permanent suffering, anguish, fright,
23 terror, anxiety, horror, nervousness, grief, shock, and serious emotional distress. Plaintiff
24 RACHAEL COX was also caused to suffer serious physical injuries, severe pain and suffering,
25 worry, humiliation, embarrassment, anguish, and nervousness. Plaintiffs were compelled to, and
26 did employ the services of hospitals, physicians, surgeons and/or health care specialists to care for
27 and treat them, the exact amount of such losses to be stated according to proof, pursuant to Section
28 425.10 of the California *Code of Civil Procedure*.

1 92. As a further direct and legal result of the Defendants’ actions and/or omissions,
2 Plaintiffs have suffered a loss of income, loss of earning capacity, loss of profits, increased
3 expenses due to displacement, and/or other consequential economic losses in an amount to be
4 shown according to proof at trial.

5 **THIRD CAUSE OF ACTION**

6 **WRONGFUL DEATH – NEGLIGENCE**

7 **(As Against Defendants SEABLUFFE AND SEABREEZE MANAGEMENT and DOES 1**
8 **through 50, Inclusive)**

9 93. Plaintiffs re-allege and incorporate herein by reference each and every allegation
10 and statement contained in the prior paragraphs.

11 94. At all relevant times, Defendants SEABLUFFE and SEABREEZE
12 MANAGEMENT, and Does 1 through 50, and each of them, owned, leased, occupied, managed,
13 repaired, inspected, and/or controlled the common property and storm water drains located directly
14 above the cliff at the subject site of the collapse.

15 95. As such, these Defendants had a duty to use and maintain said property in a
16 reasonable manner.

17 96. At all relevant times, these Defendants had actual or constructive knowledge of the
18 instability of the cliffs and the peril posed by excessive water seepage on or through the cliffs.
19 Moreover, these Defendants also had actual or constructive knowledge that injury or death would
20 be a probable result of such increased peril by such water. These Defendants, however,
21 consciously failed to act to avoid such peril.

22 97. These Defendants failed to use and maintain said property in a reasonable manner,
23 and instead, willfully and with conscious disregard for the safety of others, including beach
24 patrons at the subject cliff collapse site, managed the surface/storm water on the Seabluffe
25 property in a way that was contrary to the law, codes, engineering standards, as-built plans, and/or
26 industry standards.

27 98. At all relevant times, Defendants’ willful mismanagement of the property and lack
28 of inspection and/or maintenance resulted in failed structures and systems that cause dirty water to

1 gush and/or seep on or through the already eroded and unstable cliffs, including at the subject cliff
2 collapse site, causing further erosion and the excessive watering of the heavy ice plant hanging off
3 the cliff. Such willful misconduct directly, legally, and proximately caused or contributed to the
4 subject incident and the injuries and damages complained of herein

5 99. As a direct, legal, and proximate result of the willful, intentional, reckless and/or
6 negligent conduct of Defendants, and each of them, Plaintiffs PAT DAVIS, MATT DAVIS,
7 JOHN DAVIS, and ELIZABETH DAVIS McCULLAGH have sustained damages resulting from
8 the loss of love, affection, society, service, comfort, care, support, right of support, expectations of
9 future support and counseling, companionship, solace, mental support, guidance, and training, as
10 well as other benefits and assistance, such as household services, of decedent JULIE DAVIS, all
11 to their general damages in a sum in excess of the jurisdictional limits of this Court, which will be
12 stated according to proof, pursuant to Section 425.10 of the California *Code of Civil Procedure*.

13 100. As a direct, legal, and proximate result of the willful, intentional, reckless and/or
14 negligent conduct of Defendants, and each of them, Plaintiffs CURTIS CLAVE, CADEN
15 CLAVE, CHARLOTTE CLAVE, AND PAT DAVIS have sustained damages resulting from the
16 loss of love, affection, society, service, comfort, care, support, right of support, expectations of
17 future support and counseling, companionship, solace, mental support, guidance, and training, as
18 well as other benefits and assistance, such as household services, of decedent ANNE DAVIS
19 CLAVE, all to their general damages in a sum in excess of the jurisdictional limits of this Court,
20 which will be stated according to proof, pursuant to Section 425.10 of the California *Code of Civil*
21 *Procedure*.

22 101. As a direct, legal, and proximate result of the willful, intentional, reckless and/or
23 negligent conduct of Defendants, and each of them, Plaintiffs DANIEL COX, RACHAEL COX,
24 AND DAVID COX have sustained damages resulting from the loss of love, affection, society,
25 service, comfort, care, support, right of support, expectations of future support and counseling,
26 companionship, solace, mental support, guidance, and training, as well as other benefits and
27 assistance, such as household services, of decedent ELIZABETH CHARLES, all to their general
28 damages in a sum in excess of the jurisdictional limits of this Court, which will be stated

1 according to proof, pursuant to Section 425.10 of the California *Code of Civil Procedure*.

2 102. As a direct, legal, and proximate result of the intentional, reckless and/or negligent
3 conduct of Defendants, DOES 1 through 50, inclusive, and each of them, Plaintiffs PAT DAVIS,
4 ELIZABETH DAVIS McCULLAGH, RACHAEL COX, and CADEN AND CHARLOTTE
5 CLAVE were caused to suffer serious and permanent suffering, anguish, fright, terror, anxiety,
6 horror, nervousness, grief, shock, and serious emotional distress. Plaintiff RACHAEL COX was
7 also caused to suffer serious physical injuries, severe pain and suffering, worry, humiliation,
8 embarrassment, anguish, and nervousness. Plaintiffs were compelled to, and did employ the
9 services of hospitals, physicians, surgeons and/or health care specialists to care for and treat them,
10 the exact amount of such losses to be stated according to proof, pursuant to Section 425.10 of the
11 California *Code of Civil Procedure*.

12 103. As a further direct and legal result of the Defendants' actions and/or omissions,
13 Plaintiffs have suffered a loss of income, loss of earning capacity, loss of profits, increased
14 expenses due to displacement, and/or other consequential economic losses in an amount to be
15 shown according to proof at trial.

16 PRAYER FOR DAMAGES

17 WHEREFORE, Plaintiffs pray for judgment against all Defendants for all causes of action,
18 unless specifically indicated otherwise, as follows:

- 19 1. General damages in excess of the minimum jurisdiction for an unlimited civil case, the
20 exact amount according to proof;
- 21 2. For all medical, professional and incidental expenses, past and future, according to
22 proof;
- 23 3. For special damages, past and future, according to proof;
- 24 4. For all past and future damages;
- 25 5. For all costs of suit, according to proof;
- 26 6. For loss of the enjoyment of life, negligent infliction of emotional distress, and other
27 general damages, past and future, according to proof;
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- 7. All statutorily allowed damages, including attorney fees;
- 8. For such other and further relief as this court may deem just and proper.

DATED: August 25, 2020

ATHEA TRIAL LAWYERS

By:

DEBORAH CHANG, ESQ.
BIBIANNE FELL, ESQ.
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DEMAND FOR JURY TRIAL

Plaintiffs request a jury trial on all causes of action as to all Defendants.

DATED: August 25, 2020

ATHEA TRIAL LAWYERS

By:

DEBORAH CHANG, ESQ.
BIBIANNE FELL, ESQ.
Attorneys for Plaintiffs