

1 JOSEPH W. COTCHETT (SBN 36324)
 jcotchett@cpmlegal.com
 2 ANNE MARIE MURPHY (SBN 202540)
 amurphy@cpmlegal.com
 3 DONALD J. MAGILLIGAN (SBN 257714)
 dmagilligan@cpmlegal.com
 4 **COTCHETT, PITRE & McCARTHY, LLP**
 5 840 Malcolm Road
 Burlingame, California 94010
 6 Telephone: (650) 697-6000
 7 Facsimile: (650) 697-0577

8 *Attorneys for Plaintiffs*
 [Additional Counsel Listed on Signature Page]

9
 10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

12 **LINDA PARKER PENNINGTON, GREG**
 13 **PENNINGTON, THEODORE ELLINGTON,**
 14 **VICTORIA TRUSTY, MICHAEL LIN,**
 15 **BRIAN TRACEY, SALUSTIANO RIBEIRO,**
 16 **CHRISTINE FARRELL, RICHARD DE**
 17 **FRANCESCO, DAVID CASTANO, SALLY**
 18 **SHI, BINGYING WANG, GULNUR**
 19 **TUMBAT, PALOMA DUDUM-MAYA,**
 20 **MELISSA DUDUM-MAYA, CHRISTOPHE**
 21 **CROMBEZ, OLEKSANDR YEGOROV;**
 22 **JOHN WESLEY DARDEN, JR., JASON L.**
 23 **FRIED, THOMAS LUPTON, ELISA-**
 24 **MARIA TORRES, FUCHING CHI, IMIN**
 25 **LEE, SHILI LEE, KARLA BRAVO, JONAH**
 26 **HERSHOWITZ, ANDREW KAPLAN, JIN**
 27 **YUN, FRANCIS JOHN RUSSO, RAMIRO**
 28 **CASTRO and IRMA FRIAS-CASTRO,**
individually and as Trustees of THE
CASTRO FAMILY TRUST, JINPENG ZHU,
CHENLU ZHU, LIANG XU, WEILI CAO,
SEAN LA RRETT, JEWEL ROBINSON;
DUAN STEFANIE YANG, individually and
as Trustee of THE DUAN STEFANIE YANG
REVOCABLE TRUST, THERESA
DUNCAN, ANIRVAN RAJA DATTA;
JENGJIA CHEN, JORGE HIDROBO, LIEN
CHI, CORY GROOM, CICELY TAN,
RILEY SMITH, HEATHER WATKINS,
HONORIA BAXTER, JEDIDIAH BURACK,
UNTRAY BROWN, ERIC S.

LEAD CASE NO: 3:18-cv-05330-JD

CLASS ACTION

**CONSOLIDATED SECOND
 AMENDED COMPLAINT IN
 PARCEL A LITIGATION:**

1. PERMANENT PUBLIC NUISANCE
2. PERMANENT PRIVATE NUISANCE
3. UNFAIR AND UNLAWFUL COMPETITION
4. FRAUD AND FALSE ADVERTISING
5. NEGLIGENCE
6. NEGLIGENT MISREPRESENTATION
7. INTENTIONAL MISREPRESENTATION

DEMAND FOR JURY TRIAL

1 VANDERPOOL, JOSEPH FRAGA,
2 SHANNON R. HETRICK, MATTHEW VO,
3 MANDA CHOI, ANIL VITTAL, JANJRI
4 DESAI, MENG HUANG, SIYUN WANG,
5 WILFRED YUN, KWOK YEE KARINA
6 YIP, BRIAN YEE, BRETT HANLON,
7 ANTHONY BOOTH, CASEY WOO, LARA
8 WOO, DAVID YU, JERROLD POLANSKY,
9 individually and as trustee of THE
10 JERROLD S. POLANSKY TRUST,
11 CHRISTOPHER M. H. DAVIDSON, BRIAN
12 TRUONG, WONTAEK NA, SO YEON,
13 JOHN D. CHOI, NICHOLAS HAYMAN,
14 CARA URIBE, JOHNATAN URIBE,
15 CONOR MULHERIN, MALIA MULHERIN,
16 DAVID SPRINGER and ANNA ALDRETE
17 SPRINGER, individually and as trustees of
18 the ALDRETE SPRINGER FAMILY
19 LIVING TRUST, DAVID SHIN and
20 SERENA SHIN (née QUAN), individually
21 and as trustees of the SHIN FAMILY
22 TRUST, DAVID TSAI a/k/a YUN-CHUNG
23 TSAI, DESMOND CHAN, DUY MINH
24 NGUYEN, VENDY KONG, FAIZ SADEQ
25 and AFSHEEN AHMAD, individually and as
26 trustees of the S&A LIVING TRUST,
27 FRANCIS ZAMORA, CHRISTINE OMATA,
28 GABRIEL GAGNER, GREGORY COUSSA ,
JACLYNN COUSSA (née BALAS), HEDA
KOH, STEVE KIM, HOWARD YUNG,
CATHERINE CHU, JUN JA HA, HYE
SOOK UM, KENNETH KIM, JUYOUNG
KIM, MATHIEU STEMMELEN, MONICA
PADILLA-STEMMELEN, MICHAEL
SPENCER, SALLIE SPENCER, RAHIM
IBRAHIM, JUDY JEN, NAVAL SHAH,
PAUL YUE and JANET YUE, individually
and as trustees of THE YUE FAMILY
TRUST, RAM FENSTER AND MARY JANE
McGEOY, RICHARD BEACH, JOAN
BEACH, TAISEN LIN, SHENG TUAN LIN,
THOMAS KRIPINSKI, MARY ANN
KRIPINSKI, TIMOTHY GLANVILLE,
XIAOLU LI, SALILA AGBAYANI, EDGAR
AGBAYANI, LAMA NACHMAN, RAMEZ
NACHMAN, ALEXANDER DESCHAMPS,
JESSIE DESCHAMPS

1 Plaintiffs, individually, and on behalf of Class,

2 v.

3 **TETRA TECH, INC.;**
4 **TETRA TECH EC, INC;**
5 **LENNAR CORPORATION;**
6 **HPS1 BLOCK 50 LLC;**
7 **HPS1 BLOCK 51 LLC;**
8 **HPS1 BLOCK 53 LLC;**
9 **HPS1 BLOCK 54 LLC;**
10 **HPS1 BLOCK 56/57 LLC;**
11 **FIVEPOINT HOLDINGS, LLC;**
12 **HPS DEVELOPMENT CO., L.P.;**
13 **WILLIAM DOUGHERTY;**
14 **ANDREW BOLT;**
15 **EMILE HADDAD.**

16 Defendants.

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1 1. This Consolidated, Amended Complaint, is submitted in the following actions:

- 2 • *Pennington, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:18-cv-05330-JD);
- 3 • *Ellington, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:18-cv-05352-JD);
- 4 • *Lin, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:18-cv-05771-JD);
- 5 • *Farrell, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-000248-JD);
- 6 • *Yegorov v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-00252-JD);
- 7 • *Darden v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-00247-JD);
- 8 • *Fried v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-00249-JD);
- 9 • *Lupton, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-00251-JD);
- 10 • *Bravo v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-00667-JD);
- 11 • *Hershowitz v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-02698-JD);
- 12 • *Kaplan v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-02740-JD);
- 13 • *Yun, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-02771-JD);
- 14 • *Castro, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-02810-JD);
- 15 • *Zhu, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-03932-JD);
- 16 • *LaRrett, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-03941-JD);
- 17 • *Yang, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-03992-JD);
- 18 • *Duncan v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-05408-JD);
- 19 • *Datta v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-05405-JD);
- 20 • *Chen v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-03955-JD); and
- 21 • *San Francisco Shipyard Residents, et al. v. Tetra Tech, Inc., et al.* (Case No. 3:19-cv-06137-
- 22 JD)

23 2. **Plaintiffs Linda Parker Pennington and Greg Pennington; Theodore Ellington**
24 **and Victoria Trusty; Michael Lin; Brian Tracey; Salustiano Ribeiro; Christine Farrell,**
25 **Richard De Francesco and David Castano; Sally Shi; Bingying Wang; Gulnur Tumbat;**
26 **Paloma Dudum-Maya and Melissa Dudum-Maya; Christophe Crombez; Oleksandr Yegorov;**
27 **John Wesley Darden, Jr.; Jason L. Fried; Thomas Lupton; Elisa-Maria Torres; Fuching Chi;**
28 **Imin Lee and Shili Lee; Karla Bravo; Jonah Hershowitz; Andrew Kaplan; Jin**

1 Yun and Francis John Russo; Ramiro Castro and Irma Frias-Castro, individually and as
2 trustees of The Castro Family Trust; Jinpeng Zhu, Chenlu Zhu, Liang Xu, and Weili Cao;
3 Sean La Rrett and Jewel Robinson; Duan Stefanie Yang, individually and as trustee of the
4 Duan Stefanie Yang Revocable Trust; Theresa Duncan; Anirvan Raja Datta; Jengjia Chen;
5 Jorge Hidrobo and Lien Chi; Cory Groom and Cicely Tan; Riley Smith and Heather Watkins;
6 Honoria Baxter; Jedidiah Burack and Untray Brown; Eric S. Vanderpool and Joseph Fraga;
7 Shannon R. Hetrick; Matthew Vo and Manda Choi; Anil Vittal and Janjri Desai; Meng Huang
8 and Siyun Wang; Wilfred Yun and Kwok Yee Karina Yip; Brian Yee; Brett Hanlon and
9 Anthony Booth; Casey Woo and Lara Woo; David Yu; Jerrold Polansky; Christopher M. H.
10 Davidson; Brian Truong; Wontaek Na and So Yeon; John D. Choi; Nicholas Hayman; Cara
11 Uribe and Johnatan Uribe; Conor Mulherin and Malia Mulherin; David Springer and Anna
12 Aldrete Springer, individually and as trustees of the Aldrete Springer Family Living Trust;
13 David Shin and Serena Shin (née Quan), individually and as trustees of the Shin Family Trust;
14 David Tsai a/k/a Yun-Chung Tsai; Desmond Chan; Duy Minh Nguyen and Vendy Kong; Faiz
15 Sadeq and Afsheen Ahmad, individually and as trustees of the S&A Living Trust; Francis
16 Zamora and Christine Omata; Gabriel Gagner; Gregory Coussa and Jaclynn Coussa (née
17 Balas); Heda Koh and Steve Kim; Howard Yung and Catherine Chu; Jun Ja Ha and Hye Sook
18 Um; Kenneth Kim and Juyoung Kim; Mathieu Stemmelen and Monica Padilla-Stemmelen;
19 Michael Spencer and Sallie Spencer; Rahim Ibrahim and Judy Jen; Naval Shah; Paul Yue and
20 Janet Yue, individually and as trustees of the Yue Family Trust; Ram Fenster and Mary Jane
21 McGeoy; Richard Beach and Joan Beach; Taisen Lin and Sheng Tuan Lin; Thomas Kripinski
22 and Mary Ann Kripinski; Timothy Glanville; Xiaolu Li; Salila Agbayani and Edgar
23 Agbayani; Lama Nachman and Ramez Nachman; Alexander Deschamps and Jessie
24 Deschamps, (collectively, “Plaintiffs”) bring this action for damages and relief against Tetra Tech,
25 Inc., Tetra Tech EC, Inc., Lennar Corporation, HPS1 Block 50 LLC, HPS1 Block 51 LLC,
26 HPS1 Block 53 LLC, HPS1 Block 54 LLC, HPS1 Block 56/57 LLC, FivePoint Holdings, LLC,
27 HPS Development Co., L.P., William Dougherty, Andrew Bolt, and Emile Haddad (collectively
28 “Defendants”) for violations of California state law. Defendants are all responsible for the loss of

1 **value in Plaintiffs’ homes** due to the continuing toxic nature of the Superfund and former nuclear
 2 testing site upon and near Plaintiffs’ homes, and the ensuing health and other issues that waste has
 3 caused, is causing, and will continue to cause until it is remediated (to the extent such remediation
 4 is possible).

5 **I. INTRODUCTION**

6 3. This case represents one of the biggest cover-ups of serious industrial and radioactive
 7 waste on the West Coast of the United States – and – in one of the country’s largest metropolitan
 8 areas, no less.

9 4. The Hunters Point Naval Shipyard (“HPNS”) – located on the southeastern corner of
 10 San Francisco – spans 522 acres and once housed a U.S. nuclear-warfare research lab (the Naval
 11 Radiological Defense Laboratory, or “NRDL”), from 1946 to 1969, and a ship-repair company from
 12 1976 to 1986. The Navy and its successor used the site as a dumping ground for industrial chemicals,
 13 and toxic and radioactive waste.



25 **Map of San Francisco, with HPNS Detail (Source: San Francisco Chronicle)**

26 5. As a result, the Environmental Protection Agency (EPA) designated HPNS a
 27 Superfund site in 1989 due to the extensive toxicity of the soil. A Superfund site is defined as “any
 28 land in the United States that has been *contaminated by hazardous waste* and identified by the EPA

1 as a candidate for cleanup because *it poses a risk to human health* and/or the environment.” These
 2 sites are placed on the National Priorities List (NPL), along with other sites which have known
 3 releases or threatened releases of hazardous substances, pollutants, or contaminants.¹

4 6. In 1989, the U.S. Navy began spending what is now over \$1.1 billion cleaning up the
 5 Superfund site. That amount includes approximately \$300 million paid to Defendants Tetra Tech,
 6 Inc., and/or Tetra Tech EC, Inc. (collectively, “Tetra Tech”) to remove toxic waste and test the site’s
 7 toxicity levels. Tetra Tech was responsible under its contract with the U.S. Navy for fully
 8 remediating the site and making HPNS safe and healthy for development and residence.

9 7. Among its responsibilities, Tetra Tech performed work on what is known as Parcel
 10 A, the site of the “SF Shipyard” development that is at issue in this case. In particular, Tetra Tech
 11 was directed to investigate and then demolish Building 322, which showed radioactive
 12 contamination. Tetra Tech also was involved in preparing many key reports pertaining to Parcel A,
 13 including several that found the area suitable for transfer to the City of San Francisco for residential
 14 and commercial development.²

15 8. Starting in 2012, whistleblowers began coming forward to report that Tetra Tech’s
 16 workers and contractors had been faking the cleanup and falsifying the cleanup data since at least
 17 2009. Those claims have since been substantiated, and two members of Tetra Tech management
 18 have been sentenced to federal prison for their role in falsifying data to support Tetra Tech’s claims
 19 that it had successfully remediated the HPNS area, as it was paid and had agreed to do.³

20 9. One such whistleblower and former Tetra Tech employee, Anthony Smith, in a sworn
 21 declaration before the Nuclear Regulatory Commission, alleged that he saw various improper
 22 practices beginning in 2009, including **“false soil sampling, incomplete building surveys,**

23
 24 ¹ See, e.g., U.S. Department of Health and Human Services, *TOXMAP FAQ*, available at
 25 <https://toxmap.nlm.nih.gov/toxmap/faq/2009/08/what-are-the-superfund-site-npl-statuses.html>.

26 While a small percentage of the SF Shipyard, including the plot of land known as Parcel A, is no
 27 longer considered part of the Superfund Site, the vast majority remains under U.S. Navy purview.

28 ² 1993 August Lead-Based Paint & Soil Sampling Parcel A; 2001 PARCEL A FOST (prepared by
 Tetra Tech EMI); and the 2004 PARCEL A FOST - REVISION 3 (prepared by TTI / TTEMI).

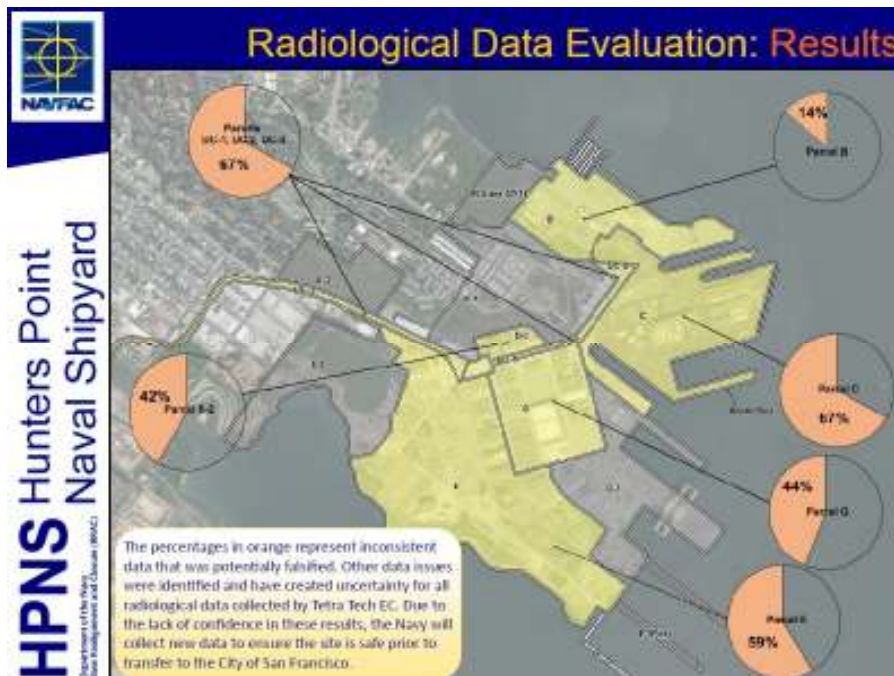
³ Indeed, more details continue to come to light, see, e.g., Third Amended Complaint in *US ex rel.*
McLaughlin v. Shaw Environment and Infrastructure, Inc., et al., Case No. 14-1509 JD and Relators
 Combined Second Amended Complaint in *US ex rel. Arthur Jahr v. Tetra Tech EC, Inc., et al.*, Case
 No. C 13-3835 JD and *US ex rel. Anthony Smith v. Tetra Tech EC, Inc., et al.*, Case No. C 16-1106
 JD (“Smith”).

1 **falsification of chain-of-custody documentation, and data manipulation.”** The Declaration of
 2 Anthony Smith, attached to this Complaint as **Exhibit A**, sets forth the many details of the fraud
 3 perpetrated by Tetra Tech.

4 10. In one of the innumerable improper practices perpetrated by Tetra Tech, a Tetra Tech
 5 employee found radioactively “hot” soil within the bounds of Parcel A, but was instructed by his
 6 supervisor not to inform anyone outside Tetra Tech, such that the area was never further inspected
 7 or remediated.

8 11. By falsifying its remediation of HPNS, Tetra Tech not only engaged in fraud, but also
 9 disregarded human health and the safety of residents of and visitors to HPNS.

10 12. Tetra Tech denied this falsification for years, yet in 2017 the U.S. Navy and the EPA
 11 each completed an independent analysis of the available data and determined that somewhere
 12 **between almost half and as much as 97% of the cleanup data on certain parcels was unreliable**
 13 and potentially **deliberately fraudulent** and needed to be retested. To date, the site has not been
 14 comprehensively retested although retesting has started.



25 **Results from Radiological Data Evaluation by U.S. Navy Contractors**
 26 **(Source: Naval Facilities Engineering Command)**

27 13. During the cleanup process, Defendant Lennar Corporation, along with its affiliate
 28 Five Point Holdings, Inc. (“FivePoint”), started building residential units in 2013 and put them on

1 the market in or around June 2014, **two years after the first whistleblowers came forward** alleging
2 misconduct and fraud during the cleanup. Lennar and FivePoint have since sold approximately 400
3 newly built homes to current residents of what is referred to as Parcel A, all the while publicly
4 averring that these homes were safe to inhabit.

5 14. Parcel A’s boundaries extend up to Crisp Street and across Spear Avenue to the south,
6 up to Griffith Street to the west, and up to Fisher Avenue and across Robinson Street and Galvez
7 Avenue to the east. The north boundary of Parcel A is defined by a fence, which separates HPNS
8 from the Bayview-Hunters Point district of San Francisco. Homes in Parcel A (also known as the
9 “SF Shipyard” development) were sold for an amount in the vicinity of \$1 million apiece, reflecting
10 the high demand and very short supply of housing anywhere in the San Francisco Bay Area, let alone
11 San Francisco proper. Parcel A, as noted below, had been cleared for development by a Tetra Tech
12 subsidiary after a very limited, perfunctory, unconvincing sweep of the land by a “scanner van” in
13 or before 2004.

14 15. In 2016, the City of San Francisco publicly stated it would not accept land transfers
15 until it was assured the land was “clean and safe.” The city still refuses to accept land transfers from
16 the affected area. The area remains difficult to inhabit, with unknown amounts of toxic industrial
17 and nuclear waste in the soil and surrounding areas, little public transit, few schools, and a high
18 crime rate.

19 16. When it began marketing the residential properties at SF Shipyard, Lennar focused
20 on its history as a naval base and omitted the site’s history as a nuclear laboratory and salvage yard
21 that dumped industrial waste on areas of the site designated as landfills in the area and treated
22 radioactive waste as common garbage, flushing it down pipes and storm drains.

23 17. Further, Lennar did not disclose the fact that the shipyard served as the endpoint for
24 ships irradiated during hydrogen bomb tests, the residue of which was sandblasted onto the land at
25 the HPNS. These residues included not only radioactive materials, but also lead paint, exposure to
26 either of which causes long-term, potentially debilitating health issues. Lennar did not disclose the
27 potential health hazards of living on or near a former EPA Superfund and nuclear warfare testing
28 site, nor did it disclose that toxic waste still contaminated the area.

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Worker Sandblasting a Radioactive Ship at HPNS, ca. 1947

18. Consequently, when Plaintiffs originally purchased their homes at the SF Shipyard, they did so in reliance on the fact that it would be safe for them and their families and friends to live and play in and near their homes; and that their homes were not and would not be affected by toxic waste and the resulting deleterious consequences such exposure involves.

19. Additionally, when Plaintiffs purchased their home from Lennar and/or FivePoint, they were informed that the SF Shipyard was to become a “true destination” including a flourishing, walkable community, with bay views, office space, supermarkets, an outdoor mall, a thriving commercial center with restaurants, bars, shops, schools, parks, and other public services including public transportation. This has not come to be. Indeed, at least three major banks have stopped all lending in Parcel A. Far from the flourishing community that Plaintiffs were promised, they now find themselves in an orphaned community with little to no future prospects. Plaintiffs are under constant worry as new information comes to light about just how bad the situation is. Common amongst Plaintiffs is a feeling of being trapped. Many cannot leave or sell their homes for a reasonable price.

20. The toxic waste at HPNS can lead, and has led, to serious health complications, including deadly cancer, especially as residents are potentially exposed to toxic waste in the air and on the ground. Plaintiffs do not, and cannot, know if or when the environmental harm will be

1 remediated: Tetra Tech’s cleanup has been ongoing for well over a decade, and up to 97% now needs
 2 to be retested or redone. Remediation will be significantly more challenging because the
 3 contaminated land is covered with inhabited, newly built homes. Parcel A’s soil is now covered
 4 with concrete and other materials, and any forced relocation for analysis and remediation would be
 5 a great inconvenience for homeowners.

6 21. As a result, the value of Plaintiffs’ homes has been damaged. Unsurprisingly, there
 7 is little-to-no demand for homes sited next to, and potentially on top of, a toxic waste site, complete
 8 with radiation from nuclear isotopes such as radium-226, cesium-137, plutonium and uranium.
 9 Since Tetra Tech’s data falsification came to light, the level of demand has decreased even further
 10 (to the extent that is possible) because further construction has been indefinitely halted, and any
 11 further improvements and expansions of the community are receding further into the distance.
 12 Banks don’t want the property as collateral and won’t even lend any longer.

13 22. After over a decade laboring under its \$300 million naval contract, Defendants **Tetra**
 14 **Tech, Inc.** and **Tetra Tech EC, Inc.** (collectively “Tetra Tech”) have produced falsified cleanup
 15 data and a site that is still toxic. Plaintiffs do not know, and cannot know, the full extent to which
 16 records were falsified, nor which areas are actually clean and safe for human habitation. .

17 23. Defendant **Lennar Corporation** and its wholly owned subsidiaries⁴ (collectively
 18 “Lennar”), and its affiliate, Defendant **Five Point Holdings, Inc.** (“FivePoint”), have sold around
 19 400 newly built homes to current residents of the SF Shipyard. Lennar knew or should have known
 20 of the toxic waste present on the land at the SF Shipyard and should have informed potential buyers
 21 of this toxic waste. Prior to purchasing their homes, Plaintiffs did not know of the toxic waste’s
 22 presence or its health consequences, and so therefore did not factor that information in when
 23 determining what they were willing to pay for their homes. Their homes are now worth substantially
 24 less than they would have been in a world where Tetra Tech had responsibly remediated HPNS, as
 25 it had agreed and was well-compensated to do. Their home value is now considerably less than the
 26 amount Plaintiffs would have otherwise expected the value to be, given housing market dynamics
 27 in San Francisco and the greater Bay Area. And the downward trend continues, and since Plaintiffs’
 28

⁴ HPS1 Block 50 LLC, HPS1 Block 51 LLC, HPS1 Block 53 LLC, HPS1 Block 54 LLC, HPS1 Block 56/57 LLC, and HPS Development Co., L.P.

1 purchased their homes, a highly radioactive source was found on Parcel A, and development has
2 ground to a halt.

3 24. Defendants' cover-up has created or assisted in the creation of a public nuisance.
4 Every act of malfeasance committed by each Defendant since the late 1990s subjects each Defendant
5 to liability for public nuisance because there is no statute of limitations for a public nuisance claim.
6 (See Cal. Civ. Code § 3490 ("No lapse of time can legalize a public nuisance, amounting to an actual
7 obstruction of public right"); *Wade v. Campbell*, 200 Cal. App. 2d 54, 61 (1962) ("the maintenance
8 of a public nuisance may not be defended on the ground of laches or the statute of limitations".))

9 25. Tetra Tech's conduct, both individually and collectively, has violated and continues
10 to violate the law of permanent public nuisance (under common law and Civ. Code, §§ 3479 and
11 3480), the law of permanent private nuisance (under common law and Civ. Code, §§ 3479 and 3481),
12 the Unfair Competition Law, Bus. & Prof. Code, § 17200 *et seq.*, and constitutes negligence, fraud,
13 and negligent misrepresentation.

14 26. Lennar and FivePoint's conduct, both individually and collectively, has violated and
15 continues to violate Civ. Code § 1102.13 (failure to disclose material facts affecting a property
16 subject to sale), the Unfair Competition Law, Bus. & Prof. Code, § 17200 *et seq.*, and constitutes
17 negligence, fraud, and negligent misrepresentation. Lennar and FivePoint's (and the related
18 Defendants') conduct, both individually and collectively, has violated and continues to violate the
19 law of permanent public nuisance (under common law and Civ. Code, §§ 3479 and 3480), the law
20 of permanent private nuisance (under common law and Civ. Code, §§ 3479 and 3481) in so far as
21 the Lennar defendants have moved around contaminated soil only to declare it safe (or overseen
22 such action). Further these defendants have relied on institutional controls in order to proceed with
23 development, without informing residents that the institutional controls are being used to cover up,
24 instead of clean up, contaminated soil. Lennar and FivePoint have further planted vegetation,
25 including trees, that are likely to bring contaminants up to the surface of Parcel A and surrounding
26 parcels. Upon information and belief, Lennar continues to disturb the soil on Parcel A and
27 surrounding parcels, including in November 2019 on Parcel A:

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27. In or around May 2017, two Tetra Tech supervisors at the HPNS site, Justin Hubbard and Stephen Rolfe, pleaded guilty to the criminal destruction, alteration, or falsification of records in federal investigations, in violation of 18 U.S.C. § 1519. Each was fined and sentenced to time in federal prison. The plea agreements of Justin Hubbard and Stephen Rolfe are attached to this Complaint as **Exhibit B** and **Exhibit C**, respectively.

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| UNITED STATES OF AMERICA, Plaintiff, v. STEPHEN C. ROLFE, Defendant. |) NO. CR 17-0123 erb JD)) PLEA AGREEMENT)))))) |
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I, Stephen C. Rolfe, and the United States Attorney’s Office for the Northern District of California (“the government”) enter into this written plea agreement (the “Agreement”) pursuant to Rules 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:
soil in a survey unit. My motivation came from pressure applied by the Tetra Tech supervisors. One told me on multiple occasions to “get the hell out of that area,” in reference to a particular survey unit that was not testing clean. Another told me on more than one occasion that we were “not remediating the whole goddam site.” An Assistant HPNS Project Manager told me on numerous occasions to “get clean dirt.” I understood these statements as a direction to go outside the appropriate survey unit and get dirt from other areas that was known to be clean, that is not containing excessive levels of radiation.

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| UNITED STATES OF AMERICA, Plaintiff, v. JUSTIN E. HUBBARD , Defendant. |) NO. CR 17-0278 JD) PLEA AGREEMENT))))))))))) |
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I, Justin E. Hubbard, and the United States Attorney’s Office for the Northern District of California (hereafter “the government”) enter into this written Plea Agreement (the “Agreement”) pursuant to Rule 11(c)(1)(A) and 11(c)(1)(B) of the Federal Rules of Criminal Procedure:

The Defendant’s Promises

1. I agree to plead guilty to Count One of the captioned Information charging me with me with destruction, alteration, or falsification of records in federal investigations and bankruptcy, in

28. Tetra Tech’s on-site supervisors and/or managers participated in and directed Tetra Tech’s agents and employees to engage in the acts of fraud alleged in this Complaint, in a widespread plot to defraud the U.S. Navy, the City of San Francisco, and purchasers of real property at the SF Shipyard.

29. Each of the acts (and failures to act) described in this Complaint are ascribed to Defendants’ agents and employees, under Defendants’ direction and control. These agents and employees were, at all relevant times, acting within the course and scope of their agency and/or employment, with the permission, consent and authorization of Defendants. The doctrine of Respondent Superior makes an employer vicariously liable for the torts of its employees and agents committed within the scope of employment, whether or not such acts were criminal torts.

30. Defendants knew or should have known that their agents and employees would likely carry out the orders of their supervisors and managers, even if those orders were unmoral, unethical, unlawful, fraudulent, or criminal. Defendants endorsed and ratified the negligent, below-industry-standard, fraudulent, illegal and criminal behavior of their employees and agents at HPNS.

II. PLAINTIFF SPECIFIC ALLEGATIONS

31. **Plaintiffs Linda Parker Pennington and Greg Pennington** (the “Penningtons”) purchased their home at the SF Shipyard, located at 599 Donahue Street, for \$908,000 in 2014

1 directly from HPS1 Block 50, a subsidiary of Lennar Corporation. When the Penningtons
2 purchased the property in 2014, they relied on Lennar's and FivePoint's fraudulent representations
3 concerning the community's safety and future amenities, private businesses and public services.
4 They were not informed of the then-ongoing Tetra Tech scandal or the botched remediation.
5 Plaintiffs at all times relied on disclosures and representations made by Lennar prior to and during
6 the purchase of their home. Defendants' actions have harmed the Penningtons' home's value.

7 **32. Plaintiffs Theodore Ellington and Victoria Trusty** (the "Ellingtons") purchased
8 their home at the SF Shipyard, located at 451 Donahue Street, for \$615,000 in 2016 from the Marian
9 Farideh Sabety Revocable Trust, which purchased the property directly or indirectly from HPS1
10 Block 51, LLC, a subsidiary of Lennar Corporation. Plaintiffs at all times relied on disclosures and
11 representations made by Lennar and FivePoint concerning their home prior to and during the
12 purchase of their home, including any fraudulent representations about contamination and the
13 community's safety and future amenities, private businesses and public services. They were not
14 informed of the then-ongoing Tetra Tech scandal or the botched remediation. Defendants' actions
15 have harmed the Ellingtons' home's value.

16 **33. Plaintiff Michael Lin** ("Mr. Lin") purchased his home at the SF Shipyard, located at
17 262 Coleman Street, San Francisco, CA 94124, for \$1,050,800 in November 2016 directly from
18 HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Lin purchased the property in
19 2016, he relied on Lennar's and FivePoint's fraudulent representations concerning the community's
20 safety and future amenities, private businesses, and public services. Mr. Lin was not informed of
21 the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on disclosures and
22 representations made by Lennar prior to and during the purchase of his home. Defendants' actions
23 have harmed Mr. Lin's home's value.

24 **34. Plaintiff Brian Tracey** ("Mr. Tracey") purchased his home at the SF Shipyard,
25 located at 50 Jerrold Avenue, #308, San Francisco, CA 94124, for \$580,000 in January 2018 directly
26 from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Tracey purchased his
27 property, he relied on Lennar's and FivePoint's fraudulent representations concerning the
28 community's safety and future amenities, private businesses, and public services. Mr. Tracey was

1 not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on
2 disclosures and representations made by Lennar prior to and during the purchase of his home.
3 Defendants' actions have harmed Mr. Tracey's home's value.

4 **35. Plaintiff Salustiano Ribeiro** ("Mr. Ribeiro") purchased his home at the SF
5 Shipyard, located at 50 Jerrold Avenue, #311, San Francisco, CA 94124, for \$580,000 in June 2017
6 directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Ribeiro
7 purchased his property, he relied on Lennar's and FivePoint's fraudulent representations concerning
8 the community's safety and future amenities, private businesses and public services. Mr. Ribeiro
9 was not informed of the then-ongoing Tetra Tech scandal or the botched remediation. Mr. Ribeiro
10 at all times relied on disclosures and representations made by Lennar prior to and during the purchase
11 of his home. Defendants' actions have harmed Mr. Ribeiro's home's value.

12 **36. Plaintiff Christine Farrell** ("Ms. Farrell") purchased her home at SF Shipyard,
13 located at 50 Jerrold Avenue #214, San Francisco, CA 94124, for \$820,800 in May 2017 directly
14 from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Ms. Farrell purchased the
15 property in 2017, she relied on Lennar's and FivePoint's fraudulent representations concerning the
16 community's safety and future amenities, private businesses, and public services. Ms. Farrell was
17 not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on
18 the disclosures and representations made by Lennar prior to and during the purchase of her home.
19 Defendants' actions have harmed Ms. Farrell's home's value.

20 **37. Plaintiffs Richard De Francesco and David Castano** ("Messrs. De Francesco and
21 Castano") purchased their home at SF Shipyard, located at 208 Friedell Street, San Francisco, CA
22 94124, for \$819,000 in May 2017 from Dilokpol Tomarat and the Dilokpol Tomarat Living Trust,
23 who purchased the property directly or indirectly from HPS1 Block 50 LLC, a subsidiary of Lennar
24 Corporation. When Messrs. De Francesco and Castano purchased the property in 2017, they relied
25 on Lennar's and FivePoint's fraudulent representations concerning the community's safety and
26 future amenities, private businesses, and public services. Messrs. De Francesco and Castano were
27 not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied on
28 the disclosures and representations made by Lennar prior to and during the purchase of their home.

1 Defendants' actions have harmed Messrs. De Francesco and Castano's home's value.

2 38. **Plaintiff Sally Shi** ("Ms. Shi") purchased four properties at the San Francisco
3 Shipyard development. Those properties are:

- 4 a. 451 Donahue Street #502, San Francisco, CA 94124, purchased for \$710,000 in
5 November 2015 directly from HPS1 Block 51 LLC, a subsidiary of Lennar
6 Corporation;
- 7 b. 451 Donahue Street #506, San Francisco, CA 94124, purchased for \$625,000 in
8 November 2015 directly from HPS1 Block 51 LLC, a subsidiary of Lennar
9 Corporation;
- 10 c. 583 Donahue Street, San Francisco, CA 94124, purchased for \$860,000 in May 2016
11 from Robert Knigge, who purchased the property directly or indirectly from HPS1
12 Block 50 LLC, a subsidiary of Lennar Corporation; and
- 13 d. 551 Hudson Avenue #304, San Francisco, CA 94124, purchased for \$780,000 in July
14 2016 directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation.

15 When Ms. Shi purchased her properties, she relied on Lennar's and FivePoint's fraudulent
16 representations concerning the community's safety and future amenities, private businesses, and
17 public services. Ms. Shi was not informed of the Tetra Tech scandal or the botched remediation.
18 Plaintiff at all times relied on the disclosures and representations made by Lennar prior to and during
19 the purchase of her properties. Defendants' actions have harmed Ms. Shi's properties' values.

20 39. **Plaintiff Bingying Wang** ("Ms. Wang") purchased her home at SF Shipyard, located
21 at 555 Innes Avenue #313, San Francisco, CA 94124, for \$815,000 in October 2017 directly from
22 HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Ms. Wang purchased her property
23 in 2017, she relied on Lennar's and FivePoint's fraudulent representations concerning the
24 community's safety and future amenities, private businesses, and public services. Ms. Wang was
25 not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on
26 the disclosures and representations made by Lennar prior to and during the purchase of her home.
27 Defendants' actions have harmed Ms. Wang's home's value.

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1 40. **Plaintiff Gulnur Tumbat** (“Ms. Tumbat”) purchased her home at SF Shipyard,
2 located at 451 Donahue Avenue #416, San Francisco, CA 94124, for \$488,500 in October 2015
3 directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When Ms. Tumbat
4 purchased her property in 2015, she relied on Lennar’s and FivePoint’s fraudulent representations
5 concerning the community’s safety and future amenities, private businesses, and public services.
6 Ms. Tumbat was not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all
7 times relied on the disclosures and representations made by Lennar prior to and during the purchase
8 of her home. Defendants’ actions have harmed Ms. Tumbat’s home’s value.

9 41. **Plaintiffs Paloma Dudum-Maya and Melissa Dudum-Maya** (“Mses. Dudum-
10 Maya”) purchased their home at SF Shipyard, located at 451 Donahue Street #315, San Francisco,
11 CA 94124, for \$562,000 in November 2015 directly from HPS1 Block 51 LLC, a subsidiary of
12 Lennar Corporation. When Mses. Dudum-Maya purchased the property in 2015, they relied on
13 Lennar’s and FivePoint’s fraudulent representations concerning the community’s safety and future
14 amenities, private businesses, and public services. Mses. Dudum-Maya were not informed of the
15 Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied on the disclosures and
16 representations made by Lennar prior to and during the purchase of their home. Defendants’ actions
17 have harmed Mses. Dudum-Maya’s home’s value.

18 42. **Plaintiff Christophe Crombez** (“Mr. Crombez”) purchased his home at SF
19 Shipyard, located at 451 Donahue Street #202, San Francisco, CA 94124, for \$628,500 in November
20 2015 directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When Mr. Crombez
21 purchased the property in 2015, he relied on Lennar’s and FivePoint’s fraudulent representations
22 concerning the community’s safety and future amenities, private businesses, and public services.
23 Mr. Crombez was not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at
24 all times relied on the disclosures and representations made by Lennar prior to and during the
25 purchase of her home. Defendants’ actions have harmed Mr. Crombez’s home’s value.

26 43. **Plaintiff Oleksandr Yegorov** (“Mr. Yegorov”) purchased two properties at SF
27 Shipyard, one located at 451 Donahue Street #508, San Francisco, CA 94124, for \$510,800 in
28 November 2015, purchased directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation;

1 and the second property located at 507 Donahue Street, San Francisco, CA 94124, for \$899,000 in
2 February 2018, purchased from Angela and Ryan Lyles, who upon information and belief purchased
3 directly from HPS1 Block 50 LLC, a subsidiary of Lennar Corporation. When Mr. Yegorov
4 purchased his properties in 2015 and 2018, he relied on Lennar's and FivePoint's fraudulent
5 representations concerning the community's safety and future amenities, private businesses, and
6 public services. Mr. Yegorov was not informed of the Tetra Tech scandal or the botched
7 remediation. Plaintiff at all times relied on the disclosures and representations made by Lennar prior
8 to and during the purchase of her home. Defendants' actions have harmed Mr. Yegorov's properties'
9 values.

10 44. **Plaintiff John Wesley Darden, Jr.** ("Mr. Darden") purchased his home at SF
11 Shipyard, located at 50 Jerrold Avenue #309, San Francisco, CA 94124, for \$675,000 in September
12 2017 directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Darden
13 purchased his property in 2017, he relied on Lennar's and FivePoint's fraudulent representations
14 concerning the community's safety and future amenities, private businesses, and public services.
15 Mr. Darden was not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all
16 times relied on the disclosures and representations made by Lennar prior to and during the purchase
17 of his home. Defendants' actions have harmed Mr. Darden's home's value.

18 45. **Plaintiff Jason L. Fried** ("Mr. Fried") purchased his home at SF Shipyard, located
19 at 451 Donahue Street #411, San Francisco, CA 94124, for \$488,500 in November 2015 directly
20 from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When Mr. Fried purchased his
21 property in 2015, he relied on Lennar's and FivePoint's fraudulent representations concerning the
22 community's safety and future amenities, private businesses, and public services. Mr. Fried was not
23 informed of the gravity of the Tetra Tech scandal or the botched remediation. Plaintiff at all times
24 relied on the disclosures and representations made by Lennar prior to and during the purchase of his
25 home. Defendants' actions have harmed Mr. Fried's home's value.

26 46. **Plaintiff Thomas Lupton** ("Mr. Lupton") purchased two properties at SF
27 Shipyard, one located at 50 Jerrold Avenue #207, San Francisco, CA 94124, for \$618,000 in
28 November 2016 directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation; the

1 second located at 198 Coleman Street, San Francisco, CA 94124, for \$1,252,000 in August 2017
2 directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When Mr. Lupton
3 purchased the properties in 2016 and 2017, he relied on Lennar's and FivePoint's fraudulent
4 representations concerning the community's safety and future amenities, private businesses, and
5 public services. Mr. Lupton was not informed of the Tetra Tech scandal or the botched remediation.
6 Plaintiff at all times relied on the disclosures and representations made by Lennar prior to and during
7 the purchase of his home. Defendants' actions have harmed Mr. Lupton's properties' values.

8 47. **Plaintiff Elisa-Maria Torres** ("Ms. Torres") purchased her home at SF Shipyard,
9 located at 501 Hudson Avenue #101, San Francisco, CA 94124, for \$520,800 in May 2016 directly
10 from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When Ms. Torres purchased her
11 property in 2016, she relied on Lennar's and FivePoint's fraudulent representations concerning the
12 community's safety and future amenities, private businesses, and public services. Ms. Torres was
13 not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on
14 the disclosures and representations made by Lennar prior to and during the purchase of her home.
15 Defendants' actions have harmed Ms. Torres's home's value.

16 48. **Plaintiff Fuching ("Jack") Chi** ("Mr. Chi") purchased his home at SF Shipyard,
17 located at 555 Innes Avenue #405, San Francisco, CA 94124, for \$826,000 in January 2018 directly
18 from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Chi purchased the
19 property in 2018, he relied on Lennar's and FivePoint's fraudulent representations concerning the
20 community's safety and future amenities, private businesses, and public services. Mr. Chi was not
21 informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on the
22 disclosures and representations made by Lennar prior to and during the purchase of his home.
23 Defendants' actions have harmed Mr. Chi's home's value.

24 49. **Plaintiffs Imin Lee and Shili Lee** ("Mr. and Mrs. Lee") purchased their property at
25 SF Shipyard, located at 593 Donahue Street, San Francisco, CA 94124, for \$880,800 in April 2015
26 directly from HPS1 Block 50 LLC, a subsidiary of Lennar Corporation. When Mr. and Mrs. Lee
27 purchased their property in 2015, they relied on Lennar's and FivePoint's fraudulent
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1 representations concerning the community's safety and future amenities, private businesses, and
2 public services. Mr. and Mrs. Lee were not informed of the Tetra Tech scandal or the botched
3 remediation. Plaintiffs at all times relied on the disclosures and representations made by Lennar
4 prior to and during the purchase of their property. Defendants' actions have harmed Mr. and Mrs.
5 Lee's property's value.

6 50. **Plaintiff Karla Bravo** ("Ms. Bravo") purchased her home at the SF Shipyard, located
7 at 451 Donahue Street #412, San Francisco, CA 94124, for \$615,000 in July 2018 from Anne Kelny
8 Denebeim, Nathaniel Farber, and the Anne Kelny Denebeim Living Trust, who purchased the
9 property directly or indirectly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When
10 Ms. Bravo purchased her property in 2018, she was provided with a "Hunters Point Advisory" in
11 her purchase documents, apparently compiled by the San Francisco Association of Realtors
12 ("SFAR"). The SFAR Hunters Point Advisory provides a two-page summary of the history of the
13 Shipyard, including concerns raised over Tetra Tech's cleanup of the Shipyard, information that has
14 never been disclosed to potential buyers by Defendant Lennar. Prior to purchasing her property,
15 Ms. Bravo visited the Lennar Welcome Center, a sales office located within the SF Shipyard
16 community, as she was interested in one bedroom condos at the Shipyard.

17 51. **Plaintiff Jonah S. Hershowitz** ("Mr. Hershowitz") purchased his home at the SF
18 Shipyard, located at 501 Donahue Street, San Francisco, CA 94124, for \$920,500 in April 2015
19 directly from HPS1 Block 50 LLC, a subsidiary of Lennar Corporation. When Mr. Hershowitz
20 purchased his property in 2015, he relied on Lennar's and FivePoint's fraudulent representations
21 concerning the community's safety and future amenities, private businesses, and public services.
22 Mr. Hershowitz did not learn of the gravity of the Tetra Tech scandal or the botched remediation
23 until after his purchase. Plaintiff at all times relied on the disclosures and representations made by
24 Lennar prior to and during the purchase of his home. Defendants' actions have harmed Mr.
25 Hershowitz's home's value.

26 52. **Plaintiff Andrew Kaplan** ("Mr. Kaplan") purchased his home at SF Shipyard,
27 located at 550 Innes Avenue, Unit 203, San Francisco, CA 94124, for \$651,123 in August 2017
28 directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When Mr. Kaplan

1 purchased his property in 2017, he relied on Lennar’s and FivePoint’s fraudulent representations
2 concerning the community’s safety and future amenities, private businesses, and public services.
3 Mr. Kaplan did not learn of the Tetra Tech scandal or the botched remediation until the following
4 year. Mr. Kaplan recalls learning of the scandal after two Tetra Tech supervisors plead guilty to
5 criminal charges (this was announced by the Department of Justice in May 2018). Plaintiff at all
6 times relied on the disclosures and representations made by Lennar prior to and during the purchase
7 of his home. Mr. Kaplan was told by Robert Forbes, Lennar’s sales representative, that there was
8 “no dangerous stuff.” This has proven false. Defendants’ actions have harmed Mr. Kaplan’s home’s
9 value.

10 53. **Plaintiffs Jin Yun (“Ms. Yun”) and Francis John Russo (“Mr. Russo”)** purchased
11 their home at SF Shipyard, located at 570 Innes Avenue, Unit 303, San Francisco, CA 94124, for
12 \$625,000 in December 2017 directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation.
13 When Ms. Yun and Mr. Russo purchased their property in late 2017, they relied on Lennar’s and
14 FivePoint’s fraudulent representations concerning the community’s safety and future amenities,
15 private businesses, and public services. Ms. Yun and Mr. Russo did not learn of the gravity of the
16 Tetra Tech scandal or the botched remediation until the year after their purchase. Ms. Yun and Mr.
17 Russo at all times relied on the disclosures and representations made by Lennar prior to and during
18 the purchase of their home. Defendants’ actions have harmed Ms. Yun’s and Mr. Russo’s home’s
19 value.

20 54. **Plaintiffs Ramiro Castro and Irma Frias-Castro**, individually and as trustees of
21 **The Castro Family Trust** (collectively, the “Castros”), purchased their home at SF Shipyard,
22 located at 451 Donahue Street, Unit 305, San Francisco, CA 94124, for \$468,500 in November 2015
23 directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When the Castros purchased
24 their property, they relied on Lennar’s and FivePoint’s fraudulent representations concerning the
25 community’s safety and future amenities, private businesses, and public services. The Castros did
26 not learn of the gravity of the Tetra Tech scandal or the botched remediation until years after their
27 purchase. The Castros at all times relied on the disclosures and representations made by Lennar
28 prior to and during the purchase of their home. Defendants’ actions have harmed the Castros’

1 home's value.

2 **55. Plaintiffs Jinpeng Zhu, Chenlu Zhu, Liang Xu, and Weili Cao** (“the Zhu family”)
3 purchased their property at SF Shipyard, located at 50 Jerrold Avenue #215, San Francisco, CA
4 94124, for \$838,000 in November 2017 directly from HPS1 Block 53 LLC, a subsidiary of Lennar
5 Corporation. When the Zhu family purchased their property in 2017, they relied on Lennar’s and
6 FivePoint’s fraudulent representations concerning the community’s safety and future amenities,
7 private businesses, and public services. The Zhu family was not informed of the Tetra Tech scandal
8 or the botched remediation. Plaintiffs at all times relied on the disclosures and representations made
9 by Lennar prior to and during the purchase of their property. Defendants’ actions have harmed the
10 Zhu family’s property’s value.

11 **56. Plaintiffs Sean LaRrett** (“Mr. LaRrett”) **and Jewel Robinsin** (“Ms. Robinsin”),
12 purchased their home at SF Shipyard, located at 451 Donahue Street, Unit 510, San Francisco, CA
13 94124, for \$720,500 in December 2015 directly from HPS1 Block 51 LLC, a subsidiary of Lennar
14 Corporation. When Mr. LaRrett and Ms. Robinsin purchased their property, they relied on
15 Lennar’s and FivePoint’s fraudulent representations concerning the community’s safety and future
16 amenities, private businesses, and public services. Mr. LaRrett and Ms. Robinsin did not learn of
17 the gravity of the Tetra Tech scandal or the botched remediation until years after their purchase. Mr.
18 LaRrett and Ms. Robinsin at all times relied on the disclosures and representations made by Lennar
19 prior to and during the purchase of their home. Defendants’ actions have harmed Mr. LaRrett’s and
20 Ms. Robinsin’s home’s value.

21 **57. Plaintiff Duan Stefanie Yang**, individually and as trustee of the Duan Stefanie Yang
22 Revocable Trust, (“Ms. Yang”) purchased her home at SF Shipyard, located at 50 Jerrold Avenue,
23 Unit 206, San Francisco, CA 94124, for \$574,800 in December 2016 directly from HPS1 Block 53
24 LLC, a subsidiary of Lennar Corporation. When Ms. Yang purchased her property in late 2016, she
25 relied on Lennar’s and FivePoint’s fraudulent representations concerning the community’s safety
26 and future amenities, private businesses, and public services. In fact, the
27 Lennar sales representatives were quite aggressive in selling their vision of the future community,
28 pressuring Ms. Yang to purchase a property at the SF Shipyard by offering her a discount if she

1 signed “ASAP.” After being guaranteed the Shipyard cleanup had been done properly and safely,
2 Ms. Yang did not learn of the gravity of the Tetra Tech scandal or the botched remediation until
3 more than a year after her purchase. During the closing process, Fammie Pham of Lennar even told
4 Ms. Yang that there is no safety concern because health care professionals are living in the
5 neighborhood. Ms. Yang at all times relied on the disclosures and representations made by Lennar
6 prior to and during the purchase of her home. Defendants’ actions have harmed Ms. Yang’s home’s
7 value.

8 **58. Plaintiff Theresa Duncan** (“Ms. Duncan”) purchased her home at SF Shipyard,
9 located at 50 Jerrold Avenue, Unit 305, San Francisco, CA 94124, for \$849,000 in January 2018
10 directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Ms. Duncan
11 purchased her property, she relied on Lennar’s and FivePoint’s fraudulent representations
12 concerning the community’s safety and future amenities, private businesses, and public services.
13 After being guaranteed the Shipyard cleanup had been done properly and safely, Ms. Duncan did
14 not learn of the gravity of the Tetra Tech scandal or the botched remediation until months after her
15 purchase. Plaintiff at all times relied on the disclosures and representations made by Lennar prior
16 to and during the purchase of her home. Defendants’ actions have harmed Ms. Duncan’s home’s
17 value.

18 **59. Plaintiff Anirvan Raja Datta** (“Mr. Datta”) purchased his home at SF Shipyard,
19 located at 451 Donahue Street, Unit 316, San Francisco, CA 94124, for \$480,800 in October 2015
20 directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When Mr. Datta purchased
21 his property in 2015, he relied on Lennar’s and FivePoint’s fraudulent representations concerning
22 the community’s safety and future amenities, private businesses, and public services. Mr. Datta did
23 not learn of the Tetra Tech scandal or the botched remediation until years after his purchase. Plaintiff
24 at all times relied on the disclosures and representations made by Lennar prior to and during the
25 purchase of his home. Defendants’ actions have harmed Mr. Datta’s home’s value.

26 **60. Plaintiff Jengjia Chen** (“Ms. Chen”) purchased her home at SF Shipyard in January
27 2018 for \$719,000 from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When she
28 purchased the property, Ms. Chen relied on Lennar’s and FivePoint’s fraudulent

1 representations concerning the community's safety and future amenities, private businesses and
2 public services. She was not informed of the then-ongoing Tetra Tech scandal or the botched
3 remediation. She at all times relied on disclosures and representations made by Lennar prior to and
4 during the purchase of her home, which has now substantially decreased in value due to Defendants'
5 conduct.

6 **61. Plaintiffs Jorge Hidrobo and Lien Chi** purchased their home at SF Shipyard,
7 located at 555 Innes Avenue, #305, in December 2017 from HPS1 Block 53, LLC, a subsidiary of
8 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
9 fraudulent representations concerning the community's safety and future amenities, private
10 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
11 the botched remediation. They at all times relied on disclosures and representations made by Lennar
12 prior to and during the purchase of their home, which has now substantially decreased in value due
13 to Defendants' conduct.

14 **62. Plaintiffs Cory Groom and Cecily Tan** purchased their home at SF Shipyard,
15 located at 555 Innes Avenue, #303, in September 2017 from HPS1 Block 53, LLC, a subsidiary of
16 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
17 fraudulent representations concerning the community's safety and future amenities, private
18 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
19 the botched remediation. They at all times relied on disclosures and representations made by Lennar
20 prior to and during the purchase of their home, which has now substantially decreased in value due
21 to Defendants' conduct.

22 **63. Plaintiffs Riley Smith and Heather Watkins** purchased their home at SF Shipyard,
23 located at 51 Donahue Street, #318, in November 2015 from HPS1 Block 51, LLC, a subsidiary of
24 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
25 fraudulent representations concerning the community's safety and future amenities,
26 private businesses and public services. They were not informed of the then-ongoing Tetra Tech
27 scandal or the botched remediation. They at all times relied on disclosures and representations made
28 by Lennar prior to and during the purchase of their home, which has now substantially decreased in

1 value due to Defendants' conduct.

2 **64. Plaintiff Honoria Baxter** purchased their home at SF Shipyard, located at 451
3 Donahue Street, #307, in November 2015 from HPS1 Block 51, LLC, a subsidiary of Lennar
4 Corporation. When she purchased the property, she relied on Lennar's and FivePoint's fraudulent
5 representations concerning the community's safety and future amenities, private businesses and
6 public services. She was not informed of the then-ongoing Tetra Tech scandal or the botched
7 remediation. She at all times relied on disclosures and representations made by Lennar prior to and
8 during the purchase of her home, which has now substantially decreased in value due to Defendants'
9 conduct.

10 **65. Plaintiffs Jedidiah Burack and Untray Brown** purchased their home at SF
11 Shipyard, located at 175 Avocet Way, in September 2016 from HPS1 Block 54, LLC, a subsidiary
12 of Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
13 fraudulent representations concerning the community's safety and future amenities, private
14 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
15 the botched remediation. They at all times relied on disclosures and representations made by Lennar
16 prior to and during the purchase of their home, which has now substantially decreased in value due
17 to Defendants' conduct.

18 **66. Plaintiffs Eric S. Vanderpool and Joseph Fraga** purchased their home at SF
19 Shipyard, located at 207 Friedell Street, in March 2016 from HPS1 Block 53, LLC, a subsidiary of
20 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
21 fraudulent representations concerning the community's safety and future amenities, private
22 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
23 the botched remediation. They at all times relied on disclosures and representations made by Lennar
24 prior to and during the purchase of their home, which has now substantially decreased in value due
25 to Defendants' conduct.

26 **67. Plaintiff Shannon R. Hetrick** purchased their home at SF Shipyard, located at 551
27 Hudson Avenue, #202, in February 2016 from HPS1 Block 54, LLC, a subsidiary of Lennar
28 Corporation. When she purchased the property, she relied on Lennar's and FivePoint's fraudulent

1 representations concerning the community's safety and future amenities, private businesses and
2 public services. She was not informed of the then-ongoing Tetra Tech scandal or the botched
3 remediation. She at all times relied on disclosures and representations made by Lennar prior to and
4 during the purchase of her home, which has now substantially decreased in value due to Defendants'
5 conduct.

6 **68. Plaintiffs Matthew Vo and Manda Choi** purchased their home at SF Shipyard,
7 located at 216 Friedell Street, in April 2015 from HPS1 Block 50, LLC, a subsidiary of Lennar
8 Corporation. When they purchased the property, they relied on Lennar's and FivePoint's fraudulent
9 representations concerning the community's safety and future amenities, private businesses and
10 public services. They were not informed of the then-ongoing Tetra Tech scandal or the botched
11 remediation. They at all times relied on disclosures and representations made by Lennar prior to and
12 during the purchase of their home, which has now substantially decreased in value due to
13 Defendants' conduct.

14 **69. Plaintiffs Anil Vittal and Janjri Desai** purchased their home at SF Shipyard, located
15 at 570 Innes Avenue, #302, in March 2017 from HPS1 Block 54, LLC, a subsidiary of Lennar
16 Corporation. When they purchased the property, they relied on Lennar's and FivePoint's fraudulent
17 representations concerning the community's safety and future amenities, private businesses and
18 public services. They were not informed of the then-ongoing Tetra Tech scandal or the botched
19 remediation. They at all times relied on disclosures and representations made by Lennar prior to and
20 during the purchase of their home, which has now substantially decreased in value due to
21 Defendants' conduct.

22 **70. Plaintiffs Meng Huang and Siyuan Wang** purchased their home at SF Shipyard,
23 located at 226 Coleman Street, in August 2016 from HPS1 Block 53, LLC, a subsidiary of Lennar
24 Corporation. When they purchased the property, they relied on Lennar's and FivePoint's fraudulent
25 representations concerning the community's safety and future amenities, private
26 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
27 the botched remediation. They at all times relied on disclosures and representations made by Lennar
28 prior to and during the purchase of their home, which has now substantially decreased in value due

1 to Defendants' conduct.

2 71. **Plaintiffs Wilfred Yun and Kwok Yee Karina Yip** purchased their home at SF
3 Shipyard, located at 224 Friedell Street, in April 2015 from HPS1 Block 50, LLC, a subsidiary of
4 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
5 fraudulent representations concerning the community's safety and future amenities, private
6 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
7 the botched remediation. They at all times relied on disclosures and representations made by Lennar
8 prior to and during the purchase of their home, which has now substantially decreased in value due
9 to Defendants' conduct.

10 72. **Plaintiff Brian Yee** purchased their home at SF Shipyard, located at 551 Hudson
11 Avenue, #302, in February 2016 from HPS1 Block 54, LLC, a subsidiary of Lennar Corporation,
12 Assessor's records show the property was previously granted in February 2015 to Yee from Marie
13 Bond and the Estate of James Robinson. The property was subsequently granted by Yee to Dahl
14 Ingrid and Courtney Howard in September 2015. When he purchased the property, he relied on
15 Lennar's and FivePoint's fraudulent representations concerning the community's safety and future
16 amenities, private businesses and public services. He was not informed of the then-ongoing Tetra
17 Tech scandal or the botched remediation. He at all times relied on disclosures and representations
18 made by Lennar prior to and during the purchase of his home, which has now substantially decreased
19 in value due to Defendants' conduct.

20 73. **Plaintiffs Brett Hanlon and Anthony Booth** purchased their home at SF Shipyard,
21 located at 551 Hudson Avenue, #204, in January 2016 from HPS1 Block 54, LLC, a subsidiary of
22 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
23 fraudulent representations concerning the community's safety and future amenities, private
24 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
25 the botched remediation. They at all times relied on disclosures and representations made by Lennar
26 prior to and during the purchase of their home, which has now substantially decreased in value due
27 to Defendants' conduct.

28 74. **Plaintiffs Casey Woo and Lara Woo** purchased their home at SF Shipyard,

1 located at 551 Hudson Avenue, #301, in March 2016 from HPS1 Block 54, LLC, a subsidiary of
2 Lennar Corporation. When they purchased the property, they relied on Lennar's and FivePoint's
3 fraudulent representations concerning the community's safety and future amenities, private
4 businesses and public services. They were not informed of the then-ongoing Tetra Tech scandal or
5 the botched remediation. They at all times relied on disclosures and representations made by Lennar
6 prior to and during the purchase of their home, which has now substantially decreased in value due
7 to Defendants' conduct.

8 75. **Plaintiff David Yu** purchased their home at SF Shipyard, located at 451 Donahue
9 Street, #304, in December 2015 from HPS1 Block 51, LLC, a subsidiary of Lennar Corporation.
10 When he purchased the property, he relied on Lennar's and FivePoint's fraudulent representations
11 concerning the community's safety and future amenities, private businesses and public services. He
12 was not informed of the then-ongoing Tetra Tech scandal or the botched remediation. He at all times
13 relied on disclosures and representations made by Lennar prior to and during the purchase of his
14 home, which has now substantially decreased in value due to Defendants' conduct.

15 76. **Plaintiff Jerrold Polansky** purchased their home at SF Shipyard, located at 551
16 Hudson Avenue, #10, in February 2016 from HPS1 Block 54, LLC, a subsidiary of Lennar
17 Corporation. When he purchased the property, he relied on Lennar's and FivePoint's fraudulent
18 representations concerning the community's safety and future amenities, private businesses and
19 public services. He was not informed of the then-ongoing Tetra Tech scandal or the botched
20 remediation. He at all times relied on disclosures and representations made by Lennar prior to and
21 during the purchase of his home, which has now substantially decreased in value due to Defendants'
22 conduct.

23 77. **Plaintiff Brian Thai Truong** ("Mr. Truong") purchased his home at SF Shipyard,
24 located at 237 Friedell Street, San Francisco, CA 94124, for \$873,500 in May 2016 directly from
25 HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Truong purchased his
26 property in 2016, he relied on Lennar's and FivePoint's fraudulent representations concerning the
27 community's safety and future amenities, private businesses, and public services. Mr. Truong did
28 not learn of the Tetra Tech scandal or the botched remediation until years after his purchase.

1 Mr. Truong at all times relied on the disclosures and representations made by Lennar prior to and
2 during the purchase of his home.

3 78. **Plaintiff Christopher M. H. Davidson** (“Mr. Davidson”) purchased his home at SF
4 Shipyard, located at 299 Friedell Street, San Francisco, CA 94124, for \$1,100,800 in March 2016
5 directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Davidson
6 purchased his property in 2016, he relied on Lennar’s and FivePoint’s fraudulent representations
7 concerning the community’s safety and future amenities, private businesses, and public services.
8 Mr. Davidson did not learn of the Tetra Tech scandal or the botched remediation until years after his
9 purchase. Plaintiff at all times relied on the disclosures and representations made by Lennar prior
10 to and during the purchase of his home.

11 79. **Plaintiffs Wontaek Na** (“Mr. Na”) and **Yeon So** (“Ms. So”) purchased their home
12 at the SF Shipyard, located at 52 Innes Court, Unit 104, San Francisco, CA 94124, for \$925,000 in
13 June 2018 directly from HPS1 Block 56/57 LLC, a subsidiary of Lennar Corporation. When Mr.
14 Na and Ms. So purchased their property in 2018, they relied on Lennar’s and FivePoint’s fraudulent
15 representations concerning the community’s safety and future amenities, private businesses, and
16 public services. Mr. Na and Ms. So learned of the Tetra Tech scandal after they purchased their SF
17 Shipyard property. Plaintiffs at all times relied on the disclosures and representations made by
18 Lennar prior to and during the purchase of their home.

19 80. **Plaintiff John D. Choi** (“Mr. Choi”) purchased his home at the SF Shipyard, located
20 at 555 Innes Avenue, Unit 411, San Francisco, CA 94124, for \$985,800 in February 2017 directly
21 from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Choi purchased his
22 property in 2017, he relied on Lennar’s and FivePoint’s fraudulent representations concerning the
23 community’s safety, future amenities, private businesses, and public services. Mr. Choi did not learn
24 of the Tetra Tech scandal or botched remediation until after his purchase. Mr. Choi at all times
25 relied on the disclosures and representations made by Lennar prior to and during the purchase of his
26 home.

27 81. **Plaintiff Nicholas Hayman** (“Mr. Hayman”) purchased his home at the SF Shipyard,
28 located at 227 Friedell Street, San Francisco, CA 94124, for \$885,800 in March 2016 directly from

1 HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When Mr. Hayman purchased his home
2 in 2016, he relied on Lennar's and FivePoint's fraudulent representations concerning the
3 community's safety, future amenities, private businesses, and public services. Mr. Hayman did not
4 learn of the Tetra Tech scandal or botched remediation until years after his purchase. Plaintiff at all
5 times relied on the disclosures and representations made by Lennar prior to and during the purchase
6 of his home.

7 82. **Plaintiffs Cara Uribe and Johnatan Uribe** purchased their home at the SF
8 Shipyard, located at 217 Friedell Street, #217, San Francisco, CA 94124, for \$880,800 in September
9 2015 (with a closing date of March 2016) directly from HPS1 Block 53 LLC, a subsidiary of Lennar
10 Corporation. When they purchased their home, they relied on Lennar's and FivePoint's fraudulent
11 representations concerning the community's safety, future amenities, private businesses, and public
12 services. They were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at
13 all times relied on the disclosures and representations made by Lennar prior to and during the
14 purchase of their home. Defendants' actions have harmed the value of their home.

15 83. **Plaintiffs Conor Mulherin and Malia Mulherin** purchased their home at the SF
16 Shipyard, located at 50 Jerrold Avenue, #405, San Francisco, CA 94124, for \$900,000.00 in October
17 2016 (with a closing date of November 2016) directly from HPS1 Block 53 LLC, a subsidiary of
18 Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
19 fraudulent representations concerning the community's safety, future amenities, private businesses,
20 and public services. There were not informed of the Tetra Tech scandal or the botched remediation.
21 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
22 during the purchase of their home. Defendants' actions have harmed the value of their home.

23 84. **Plaintiffs David Springer and Anna Aldrete Springer**, individually and as trustees
24 of the **Aldrete Springer Family Living Trust**, purchased their home at the SF Shipyard, located
25 at 150 Avocet Way, San Francisco, CA 94124, for \$920,500.00 in May 2015 (with a closing date of
26 August 2016) directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When they
27 purchased their home, they relied on Lennar's and FivePoint's fraudulent representations concerning
28 the community's safety, future amenities, private businesses, and public services. They were not

1 informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied on the
2 disclosures and representations made by Lennar prior to and during the purchase of their home.
3 Defendants' actions have harmed the value of their home.

4 **85. Plaintiffs David Shin and Serena Shin (née Quan)**, individually and as trustees of
5 the **Shin Family Trust**, purchased their home at the SF Shipyard, located at 284 Friedell Street, San
6 Francisco, CA 94124, for \$860,700.00 in June 2014 (with a closing date of April 2015) directly from
7 HPS1 Block 50 LLC, a subsidiary of Lennar Corporation. When they purchased their home, they
8 relied on Lennar's and FivePoint's fraudulent representations concerning the community's safety,
9 future amenities, private businesses, and public services. There were not informed of the Tetra Tech
10 scandal or the botched remediation. Plaintiffs at all times relied on the disclosures and
11 representations made by Lennar prior to and during the purchase of their home. Defendants' actions
12 have harmed the value of their home.

13 **86. Plaintiff David Tsai a/k/a Yun-Chung Tsai** purchased his home at the SF Shipyard,
14 located at 550 Innes Avenue, #101, San Francisco, CA 94124, for \$520,800.00 in July 2015 (with a
15 closing date of December 2016) directly from HPS1 Block 54 LLC, a subsidiary of Lennar
16 Corporation. When he purchased his home, he relied on Lennar's and FivePoint's fraudulent
17 representations concerning the community's safety, future amenities, private businesses, and public
18 services. He was not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all
19 times relied on the disclosures and representations made by Lennar prior to and during the purchase
20 of his home. Defendants' actions have harmed the value of his home.

21 **87. Plaintiff Desmond Chan** purchased his home at the SF Shipyard, located at 451
22 Donahue Street, #306, San Francisco, CA 94124, for \$688,800.00 in September 2014 (with a closing
23 date of September 2015) directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation.
24 When he purchased his home, he relied on Lennar's and FivePoint's fraudulent representations
25 concerning the community's safety, future amenities, private businesses, and public services. He
26 was not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied
27 on the disclosures and representations made by Lennar prior to and during the purchase of his home.
28 Defendants' actions have harmed the value of his home.

1 88. **Plaintiffs Duy Minh Nguyen and Vendy Kong** purchased their home at the SF
2 Shipyard, located at 100 Coleman Street, San Francisco, CA 94124, for \$1,030,000.00 in November
3 2017 (with a closing date of December 2017) directly from HPS1 Block 54 LLC, a subsidiary of
4 Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
5 fraudulent representations concerning the community's safety, future amenities, private businesses,
6 and public services. There were not informed of the Tetra Tech scandal or the botched remediation.
7 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
8 during the purchase of their home. Defendants' actions have harmed the value of their home.

9 89. **Plaintiffs Faiz Mohammad Sadeq and Afsheen Ahmad**, individually and as
10 trustees of the **S&A Living Trust**, purchased their home at the SF Shipyard, located 501 Hudson
11 Avenue, #303, San Francisco, CA 94124, for \$795,800.00 in June 2015 (with a closing date of
12 January 2016) directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When they
13 purchased their home, they relied on Lennar's and FivePoint's fraudulent representations concerning
14 the community's safety, future amenities, private businesses, and public services. There were not
15 informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied on the
16 disclosures and representations made by Lennar prior to and during the purchase of their home.
17 Defendants' actions have harmed the value of their home.

18 90. **Plaintiffs Francis Zamora and Christine Omata** purchased their home at the SF
19 Shipyard, located at 151 Avocet Way, San Francisco, CA 94124, for \$920,500.00 in August 2015
20 (with a closing date of September 2016) directly from HPS1 Block 54 LLC, a subsidiary of Lennar
21 Corporation. When they purchased their home, they relied on Lennar's and FivePoint's fraudulent
22 representations concerning the community's safety, future amenities, private businesses, and public
23 services. There were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs
24 at all times relied on the disclosures and representations made by Lennar prior to and during the
25 purchase of their home. Defendants' actions have harmed the value of their home.

26 91. **Plaintiff Gabriel Gagner** purchased his home at the SF Shipyard, located at 451
27 Donahue Street, #418, San Francisco, CA 94124, for \$618,848.00 in July 2014 (with a closing date
28 of October 2015) directly from HPS1 Block 51 LLC, a subsidiary of Lennar Corporation. When he

1 purchased his home, he relied on Lennar's and FivePoint's fraudulent representations concerning
2 the community's safety, future amenities, private businesses, and public services. He was not
3 informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on the
4 disclosures and representations made by Lennar prior to and during the purchase of his home.
5 Defendants' actions have harmed the value of his home.

6 **92. Plaintiffs Gregory Coussa and Jaclynn Coussa (née Balas)** purchased their home
7 at the SF Shipyard, located at 451 Donahue Street, #217, San Francisco, CA 94124, for \$596,800.00
8 in October 2014 (with a closing date of October 2015) directly from HPS1 Block 51 LLC, a
9 subsidiary of Lennar Corporation. When they purchased their home, they relied on Lennar's and
10 FivePoint's fraudulent representations concerning the community's safety, future amenities, private
11 businesses, and public services. There were not informed of the Tetra Tech scandal or the botched
12 remediation. Plaintiffs at all times relied on the disclosures and representations made by Lennar prior
13 to and during the purchase of their home. Defendants' actions have harmed the value of their home.

14 **93. Plaintiffs Heda Koh and Steve Kim** purchased their home at the SF Shipyard,
15 located at 451 Donahue Street, #402, San Francisco, CA 94124, for \$688,600.00 in October 2014
16 (with a closing date of November 2015) directly from HPS1 Block 51 LLC, a subsidiary of Lennar
17 Corporation. When they purchased their home, they relied on Lennar's and FivePoint's fraudulent
18 representations concerning the community's safety, future amenities, private businesses, and public
19 services. There were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs
20 at all times relied on the disclosures and representations made by Lennar prior to and during the
21 purchase of their home. Defendants' actions have harmed the value of their home.

22 **94. Plaintiffs Howard Yung and Catherine Chu** purchased their home at the SF
23 Shipyard, located at 136 Avocet Way, San Francisco, CA 94124, for \$817,800.00 in May 2015 (with
24 a closing date of September 2016) directly from HPS1 Block 54 LLC, a subsidiary of Lennar
25 Corporation. When they purchased their home, he relied on Lennar's and FivePoint's fraudulent
26 representations concerning the community's safety, future amenities, private businesses, and public
27 services. They were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at
28 all times relied on the disclosures and representations made by Lennar prior to and during the

1 purchase of their home. Defendants' actions have harmed the value of their home.

2 95. **Plaintiffs Jun Ja Ha and Hye Sook Um** purchased their home at the SF Shipyard,
3 located at 570 Innes Avenue, #203, San Francisco, CA 94124, for \$662,800.00 in March 2016 (with
4 a closing date of February 2017) directly from HPS1 Block 54 LLC, a subsidiary of Lennar
5 Corporation. When they purchased their home, he relied on Lennar's and FivePoint's fraudulent
6 representations concerning the community's safety, future amenities, private businesses, and public
7 services. They were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at
8 all times relied on the disclosures and representations made by Lennar prior to and during the
9 purchase of their home. Defendants' actions have harmed the value of their home.

10 96. **Plaintiffs Kenneth Kim and Juyoung Kim** purchased their home at the SF
11 Shipyard, located at 550 Innes Avenue, #201, San Francisco, CA 94124, for \$605,000.00 in
12 November 2017 (with a closing date of January 2018) directly from HPS1 Block 54 LLC, a
13 subsidiary of Lennar Corporation. When they purchased their home, they relied on Lennar's and
14 FivePoint's fraudulent representations concerning the community's safety, future amenities, private
15 businesses, and public services. They were not informed of the Tetra Tech scandal or the botched
16 remediation. Plaintiffs at all times relied on the disclosures and representations made by Lennar prior
17 to and during the purchase of their home. Defendants' actions have harmed the value of their home.

18 97. **Plaintiffs Mathieu Stemmelen and Monica Padilla-Stemmelen** purchased their
19 home at the SF Shipyard, located at 563 Donahue Street, San Francisco, CA 94124, for \$655,700.00
20 in July 2014 (with a closing date of April 2015) directly from HPS1 Block 50 LLC, a subsidiary of
21 Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
22 fraudulent representations concerning the community's safety, future amenities, private businesses,
23 and public services. They were not informed of the Tetra Tech scandal or the botched remediation.
24 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
25 during the purchase of their home. Defendants' actions have harmed the value of their home.

26 98. **Plaintiffs Michael Spencer and Sallie Spencer** purchased their home at the SF
27 Shipyard, located at 50 Jerrold Avenue, #412, San Francisco, CA 94124, for \$970,000.00 in January
28 2018 (with a closing date of February 2018) directly from HPS1 Block 53 LLC, a subsidiary of

1 Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
2 fraudulent representations concerning the community's safety, future amenities, private businesses,
3 and public services. They were not informed of the Tetra Tech scandal or the botched remediation.
4 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
5 during the purchase of their home. Defendants' actions have harmed the value of their home.

6 99. **Plaintiffs Rahim Ibrahim and Judy Jen** purchased properties at the SF Shipyard.
7 Mr. Ibrahim and Ms. Jen purchased 501 Hudson Avenue, #304, San Francisco, CA 94124, for
8 \$668,500.00 in August 2015 (with a closing date of February 2016) directly from HPS1 Block 54
9 LLC, a subsidiary of Lennar Corporation. Mr. Ibrahim, individually, purchased 51 Innes Court,
10 #210, San Francisco, CA 94124, for \$730,500.00 in March 2018 (with a closing date of May 2018)
11 directly from HPS1 Block 56/57 LLC, a subsidiary of Lennar Corporation. When they purchased
12 these homes, they relied on Lennar's and FivePoint's fraudulent representations concerning the
13 community's safety, future amenities, private businesses, and public services. They were not
14 informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied on the
15 disclosures and representations made by Lennar prior to and during the purchase of their homes.
16 Defendants' actions have harmed the value of their homes.

17 100. **Plaintiff Naval Shah** purchased his home at the SF Shipyard, located at 298 Friedell
18 Street, San Francisco, CA 94124, for \$900,300.00 in August 2014 (with a closing date of May 2015)
19 directly from HPS1 Block 50 LLC, a subsidiary of Lennar Corporation. When he purchased his
20 home, they relied on Lennar's and FivePoint's fraudulent representations concerning the
21 community's safety, future amenities, private businesses, and public services. He was not informed
22 of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied on the disclosures
23 and representations made by Lennar prior to and during the purchase of his home. Defendants'
24 actions have harmed the value of his home.

25 101. **Plaintiffs Paul Yue and Janet Yue**, individually and as trustees of **The Yue Family**
26 **Trust**, purchased their home at the SF Shipyard, located at 555 Innes Avenue, #315, San Francisco,
27 CA 94124, for \$950,800.00 in March 2017 (with a closing date of April 2017) directly from HPS1
28 Block 53 LLC, a subsidiary of Lennar Corporation. When they purchased their home, they relied

1 on Lennar's and FivePoint's fraudulent representations concerning the community's safety, future
2 amenities, private businesses, and public services. They were not informed of the Tetra Tech scandal
3 or the botched remediation. Plaintiffs at all times relied on the disclosures and representations made
4 by Lennar prior to and during the purchase of their home. Defendants' actions have harmed the value
5 of their home.

6 102. **Plaintiffs Ram Fenster and Mary Jane McGeoy** purchased their home at the SF
7 Shipyard, located at 555 Innes Avenue, #311, San Francisco, CA 94124, for \$575,500.00 in October
8 2015 (with a closing date of February 2017) directly from HPS1 Block 53 LLC, a subsidiary of
9 Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
10 fraudulent representations concerning the community's safety, future amenities, private businesses,
11 and public services. They were not informed of the Tetra Tech scandal or the botched remediation.
12 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
13 during the purchase of their home. Defendants' actions have harmed the value of their home.

14 103. **Plaintiffs Richard Beach and Joan Beach** purchased their home at the SF Shipyard,
15 located at 292 Coleman Street, San Francisco, CA 94124, for \$1,040,800.00 in April 2016 (with a
16 closing date of July 2016) directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation.
17 When they purchased their home, they relied on Lennar's and FivePoint's fraudulent representations
18 concerning the community's safety, future amenities, private businesses, and public services. They
19 were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied
20 on the disclosures and representations made by Lennar prior to and during the purchase of their
21 home. Defendants' actions have harmed the value of their home.

22 104. **Plaintiffs Taisen Lin and Sheng Tuan Lin** purchased their home at the SF Shipyard,
23 located at 163 Avocet Way, San Francisco, CA 94124, for \$849,030.00 in June 2017 (with a closing
24 date of July 2017) directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When
25 they purchased their home, they relied on Lennar's and FivePoint's fraudulent representations
26 concerning the community's safety, future amenities, private businesses, and public services. They
27 were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied
28 on the disclosures and representations made by Lennar prior to and during the purchase of their

1 home. Defendants' actions have harmed the value of their home.

2 105. **Plaintiffs Thomas Kripinski and Mary Ann Kripinski** purchased their home at the
3 SF Shipyard, located at 51 Innes Court, #307, San Francisco, CA 94124, for \$660,000.00 in October
4 2017 (with a closing date of November 2017) directly from HPS1 Block 56/57 LLC, a subsidiary of
5 Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
6 fraudulent representations concerning the community's safety, future amenities, private businesses,
7 and public services. They were not informed of the Tetra Tech scandal or the botched remediation.
8 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
9 during the purchase of their home. Defendants' actions have harmed the value of their home.

10 106. **Plaintiff Timothy Glanville** purchased his home at the SF Shipyard, located at 570
11 Innes Avenue, #201, San Francisco, CA 94124, for \$630,000.00 in August 2015 (with a closing date
12 of March 2017) directly from HPS1 Block 54 LLC, a subsidiary of Lennar Corporation. When they
13 purchased their home, they relied on Lennar's and FivePoint's fraudulent representations concerning
14 the community's safety, future amenities, private businesses, and public services. They were not
15 informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at all times relied on the
16 disclosures and representations made by Lennar prior to and during the purchase of their home.
17 Defendants' actions have harmed the value of their home.

18 107. **Plaintiff Xiaolu Li** purchased her home at the SF Shipyard, located at 555 Innes
19 Avenue, #314, San Francisco, CA 94124, for \$825,000.00 in September 2017 (with a closing date
20 of November 2017) directly from HPS1 Block 53 LLC, a subsidiary of Lennar Corporation. When
21 she purchased her home, she relied on Lennar's and FivePoint's fraudulent representations
22 concerning the community's safety, future amenities, private businesses, and public services. She
23 was not informed of the Tetra Tech scandal or the botched remediation. Plaintiff at all times relied
24 on the disclosures and representations made by Lennar prior to and during the purchase of her home.
25 Defendants' actions have harmed the value of their home.

26 108. **Plaintiffs Salila Agbayani and Edgar Agbayani** purchased their home at the SF
27 Shipyard, located at 283 Friedell Street, San Francisco, CA 94124, for \$1,005,397.00 in August 2016
28 (with a closing date of October 2016) directly from HPS1 Block 53 LLC, a subsidiary of Lennar

1 Corporation. When they purchased their home, they relied on Lennar's and FivePoint's fraudulent
2 representations concerning the community's safety, future amenities, private businesses, and public
3 services. They were not informed of the Tetra Tech scandal or the botched remediation. Plaintiffs at
4 all times relied on the disclosures and representations made by Lennar prior to and during the
5 purchase of their home. Defendants' actions have harmed the value of their home.

6 109. **Plaintiffs Lama Nachman and Ramez Nachman** purchased their home at the SF
7 Shipyard, located at 501 Hudson Avenue, #204, San Francisco, CA 94124, for \$648,600.00 in
8 September 2015 (with a closing date of February 2016) directly from HPS1 Block 54 LLC, a
9 subsidiary of Lennar Corporation. When they purchased their home, they relied on Lennar's and
10 FivePoint's fraudulent representations concerning the community's safety, future amenities, private
11 businesses, and public services. They were not informed of the Tetra Tech scandal or the botched
12 remediation. Plaintiffs at all times relied on the disclosures and representations made by Lennar prior
13 to and during the purchase of their home. Defendants' actions have harmed the value of their home.

14 110. **Plaintiffs Alexander Deschamps and Jessie Deschamps** purchased their home at
15 the SF Shipyard, located at 551 Hudson Avenue, #203, San Francisco, CA 94124, for \$632,700.00
16 in June 2015 (with a closing date of February 2016) directly from HPS1 Block 54 LLC, a subsidiary
17 of Lennar Corporation. When they purchased their home, they relied on Lennar's and FivePoint's
18 fraudulent representations concerning the community's safety, future amenities, private businesses,
19 and public services. They were not informed of the Tetra Tech scandal or the botched remediation.
20 Plaintiffs at all times relied on the disclosures and representations made by Lennar prior to and
21 during the purchase of their home. Defendants' actions have harmed the value of their home

22 **III. COMMON ALLEGATIONS OF ALL PLAINTIFFS**

23 111. Plaintiffs bring this action to recover damages for the harm suffered from a public
24 nuisance and/or private nuisance; a failure to disclose material facts affecting a property subject to
25 sale; unlawful, unfair, and fraudulent business practices, and negligent misrepresentation.

26 112. Plaintiffs directly and foreseeably sustained all economic damages alleged herein.
27 Categories of past and continuing sustained damages include, *inter alia*, diminution in home values,
28 stigma damages, payment of Mello-Roos taxes, payment of HOA fees and emotional distress. These

1 damages have been suffered, and continue to be suffered, directly by Plaintiffs.

2 113. All Plaintiffs have been harmed by the Tetra Tech Defendants' fraudulent clean-up
3 of the former HPNS. All Plaintiffs have been harmed by the Tetra Tech Defendants' failure to
4 disclose contaminated soil and materials on Parcel A and the surrounding parcels.

5 114. All Plaintiffs have purchased units in Parcel A that they either would not have
6 purchases, or would not have paid so much for, had they known the true facts regarding the safety
7 of the SF Shipyard, the continued toxic conditions, the fraudulent clean-up, and the true pace of
8 completion of the development as a whole.

9 115. All Plaintiffs relied upon statements made by the Lennar and FivePoint defendants,
10 regardless of whether they purchased directly from these entities.

11 116. Plaintiffs at all applicable times performed all appropriate inquiry into the previous
12 ownership and uses of the facility in accordance with generally accepted good commercial and
13 customary standards and practices.

14 117. As the real parties in interest in this case, Plaintiffs have standing to bring this claim
15 and recover damages incurred as a result of Defendants' actions and omissions. Cal. Code of Civ.
16 Proc. § 367.

17 **A. DEFENDANTS**

18 118. Defendant **Tetra Tech, Inc.** ("TTI") is a Delaware corporation with its headquarters
19 and principal place of business located in Pasadena, California. It is a publicly traded company on
20 the NASDAQ index, and had revenues of approximately \$2.8 billion in FY2017. TTI does business
21 in the State of California, including in San Francisco. TTI considers itself a "world leader" in
22 applying remedial technology.⁵

23 119. Defendant **Tetra Tech EC, Inc.** ("TTEC" and, collectively with Tetra Tech, Inc.,
24 "Tetra Tech") is a wholly owned subsidiary of Tetra Tech, Inc. with its headquarters and principal
25 place of business located in Morris Plains, New Jersey. TTEC does business in California, including
26 in San Francisco.

27 ///

28 ///

⁵ See <http://www.tetrattech.com/en/remediation> (last accessed 7/6/2018).

1 120. Defendant **Lennar Corporation** is a Delaware corporation with its headquarters and
2 principal place of business located in Miami, Florida. Lennar, Corporation does business in
3 California, including in San Francisco.

4 121. Defendants **HPS1 Block 50 LLC, HPS1 Block 51 LLC, HPS1 Block 52 LLC,**
5 **HPS1 Block 53 LLC, HPS1 Block 54 LLC,** and **HPS1 Block 56/57 LLC** (collectively the “Block
6 Entities”) are privately-owned subsidiaries of Lennar Corporation. The Block Entities do business
7 in California, including in San Francisco.

8 122. Defendant **Five Point Holdings, Inc.** (“FivePoint”) is a Delaware corporation with
9 its headquarters and principal place of business located in Aliso Viejo, California. FivePoint was a
10 wholly owned subsidiary of Defendant Lennar Corporation until May 2017. Lennar Corporation
11 maintains a substantial ownership interest in FivePoint. FivePoint has described itself as the “largest
12 developer of mixed-use communities in coastal California.”

13 123. Defendant **HPS Development Co., L.P.** (“HPS Development”) is a limited
14 partnership organized in Delaware with its principle place of business in San Francisco, CA. Upon
15 information and belief, HPS Development Co., is subsidiary of a joint venture managed by
16 Defendant Lennar Corporation.

17 124. Defendant **William Dougherty** (“Dougherty”) served as project manager for Tetra
18 Tech at HPNS and had direct control over Tetra Tech’s fraudulent remediation at HPNS. Dougherty
19 started in this position in or before 2008. Dougherty is a resident of the Greater San Diego area in
20 California.

21 125. Defendant **Andrew Bolt** (“Bolt”) served as President of Tetra Tech from
22 approximately July 2014 to the present, and served as Senior Vice President, Remediation and
23 Program Manager from 1994 until he became President in 2014. Bolt is a resident of the greater
24 San Diego area in California.

25 126. Defendant **Emile Haddad** (“Haddad”) has served as FivePoint’s Chairman, CEO and
26 President since May 2016. He worked for Lennar from the mid-1990s until 2009 and has worked for
27 FivePoint and/or its affiliates in executive positions from 2009 to present. Haddad is a resident of
28 Laguna Hills, California.

1 **B. AGENTS, AIDERS, ABETTORS, AND CO-CONSPIRATORS**

2 127. At all times herein mentioned, Defendants, and each of them, hereinabove, were the
3 agents, servants, employees, partners, aiders and abettors, co-conspirators, and/or joint venturers of
4 each of the other Defendants named herein and were at all times operating and acting within the
5 purpose and scope of said agency, service, employment, partnership, enterprise, conspiracy, and/or
6 joint venture, and each Defendant has ratified and approved the acts of each of the remaining
7 Defendants. Each of the Defendants aided and abetted, encouraged, and rendered substantial
8 assistance to the other Defendants in breaching their obligations to Plaintiffs, as alleged herein. In
9 taking action to aid and abet and substantially assist the commission of these wrongful acts and other
10 wrongdoings complained of, as alleged herein, each of the Defendants acted with an awareness of
11 his/her/its primary wrongdoing and realized that his/her/its conduct would substantially assist the
12 accomplishment of the wrongful conduct, wrongful goals, and wrongdoing.

13 128. Such agents, aiders and abettors include the two Tetra Tech employees named above,
14 Justin Hubbard and Stephen Rolfe, who each pleaded guilty in federal court to crimes related to
15 Tetra Tech's fraud and cover-up, and their supervisors and/or anyone else who directed, suggested,
16 or otherwise encouraged Hubbard and Rolfe to engage in such crimes.

17 129. Such agents, aiders and abettors include Dennis McWade and Rick Weingarz, two
18 Tetra Tech employees and supervisors who have been identified by the Department of Justice as
19 culpable in the Tetra Tech fraud and coverup.

20 **C. PRINCIPLE/AGENT LIABILITY OF TETRA TECH**

21 130. Tetra Tech is liable for the acts of its employees, subcontractors, and other agents
22 involved in fabricating the radiological investigation at HPNS. The risk that Tetra Tech's employees
23 and agents, and the employees and agents of its subcontractors, would engage in the wrongful acts
24 described herein was an inherent and foreseeable consequence of Tetra Tech's conduct.

25 131. Tetra Tech's acts and omissions in furtherance of fabricating the radiological
26 investigation at the Shipyard that were made by agents and employees of Tetra Tech were undertaken
27 pursuant to the direction and control, and with the permission, consent, and authorization of, Tetra
28 Tech.

1 132. The Tetra Tech employees, subcontractors, and other agents that executed the
2 improper radiological investigation described herein were acting within the scope of their
3 employment and/or contractual obligations. Activities such as collecting soil samples and
4 conducting building surveys were primary functions of their employment and/or contractual
5 obligations.

6 133. Tetra Tech ratified the acts of its agents and employees by continuing to employ them
7 and instructing them to repeat the same wrongful conduct.

8 134. TTI is liable for the acts of its wholly owned subsidiary, TTEC. TTI has admitted that
9 TTEC's acts should be attributed to TTI due to their close relationship. For example, TTI stated that
10 "[TTI's] and [TTEC's] routine business practices generally, and their respective particular actions
11 in connection with the subject Project were at all material times taken on behalf and at the direction
12 of the other in their roles as parent and wholly-owned subsidiary, and as business units of the same
13 company."

14 135. TTI and TTEC were closely connected. Some individuals who serve as officers of
15 TTI also serve as officers of TTEC. TTEC and TTI routinely act very closely and in concert in
16 carrying out business operations. TTEC has conducted business as a business unit of TTI and has
17 been a vehicle for TTI to enter into contracts with the United States Government. TTI exercises full
18 management and control over TTEC. Occasionally, TTEC and TTI enter into subcontracts on behalf
19 of one another regardless of which entity had formal contractual privity with the Government. Some
20 or all revenues received by TTEC are attributed to TTI and some or all obligations of TTEC are
21 discharged by TTI.

22 136. Tetra Tech has indicated that TTI received at least one contract related to the
23 Shipyard. TTEC and TTI personnel were jointly involved in managing, controlling, and directing
24 the investigation at the Shipyard. Tetra Tech is liable for the acts of its subcontractors and agents
25 and their employees.

26 **IV. JURISDICTION AND VENUE**

27 137. This Court has subject matter jurisdiction over this action under the Class Action
28 Fairness Act of 2005, 28 U.S.C. § 1332.

1 138. This Court has personal jurisdiction over Defendants. They conduct substantial
2 business in California and intentionally availed themselves of the laws and markets of this state. A
3 significant portion of the acts and omissions at issue occurred in California, and Plaintiffs and many
4 class members suffered harm in California. Plaintiffs' claims against Defendants are meaningfully
5 connected to California in that the property at issue in the case is located in San Francisco, California.

6 139. Venue is proper in this District under 28 U.S.C. § 1391 because a substantial part of
7 the events or omissions giving rise to Plaintiffs' claims occurred in this District.

8 **V. INTRADISTRICT ASSIGNMENT**

9 140. Assignment to the San Francisco Division is proper under Local Rules 3-2(c) and (d)
10 because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in San
11 Francisco.

12 **VI. FACTUAL ALLEGATIONS**

13 **A. HPNS WAS DESIGNATED A SUPERFUND SITE IN 1989 AFTER**
14 **RADIOACTIVE AND INDUSTRIAL WASTE WAS DUMPED IN THE**
15 **AREA FOR DECADES**

16 141. Hunters Point Naval Shipyard has a long and storied naval pedigree. The area was
17 first established as a commercial shipyard in 1870 and remained so until it was acquired by the U.S.
18 Navy during World War II in 1939.

19 142. From World War II until its decommissioning in 1974, the U.S. Navy base (and
20 NRDL from 1946-1969) at HPNS engaged in various activities with immense negative
21 environmental effects at and around the HPNS area. These activities include, most prominently,
22 running an active, top secret nuclear warfare research laboratory and sandblasting and
23 decontaminating ships involved in atomic weapons tests in the years after World War II and through
24 much of the Cold War. Research laboratory scientists are known to have injected lab animals with
25 radioactive material to study nuclear fallout's potential effects on living tissue.

26 143. The U.S. Navy dealt with the resulting radioactive waste simply and cheaply: it
27 dumped radioactive waste down drains, contaminating pipes and sewer water; it dumped radioactive
28 waste in a landfill at the bay's edge; and it flushed radioactive waste down storm drains and sewer
lines.

1 144. This radioactive waste potentially included some or all of the contaminants cesium,
2 strontium, thorium, cobalt, plutonium, radium, and uranium, any or all of which can potentially lead
3 to serious health complications, including asthma and cancer and potentially heart disease and
4 miscarriages. The Department of Public Health’s data indicates that a child today in the Bayview
5 Hunters Point area has a shorter life expectancy than a child born on Russian Hill by 14 years.

6 145. From 1976 to 1986, a private ship-repair company, Triple A Machine Shop, leased
7 the area as a commercial ship repair facility. During this residency, the City of San Francisco
8 brought suit against Triple A Machine Shop, alleging illegal dumping of paint and other toxic waste.
9 That lawsuit eventually settled for \$1.1 million after almost a decade of litigation.

10 146. In 1991, following the closure of Triple A Machine Shop, the shipyard was placed in
11 what is known as the BRAC Base Realignment And Closure (“BRAC”) program, a federal program
12 to oversee the cleanup and transfer of former military installations to public and private entities for
13 redevelopment.

14 147. Because of the U.S. Navy’s and Triple A Machine Shop’s poor stewardship of the
15 environment at and around HPNS, the EPA declared the area a Superfund site in 1989, designating
16 it as one of the country’s most toxic areas posing a public risk. In particular, the site is believed to
17 include contamination from:

- 18 • Radioactive waste;
- 19 • Banned industrial solvents;
- 20 • Petroleum byproducts/hydrocarbons, including in contaminated groundwater;
- 21 • Harmful pesticides and herbicides including DDT;
- 22 • Volatile organic compounds (VOCs);
- 23 • Polychlorinated biphenyls (PCBs);
- 24 • Metals, including copper, mercury, lead and nickel; and
- 25 • Other forms of industrial waste.

26 ///

27 ///

28 ///



HPNS Nuclear Warning Sign (Source: Indybay.org)

148. In the years since it was decommissioned, the U.S. Navy effectively admitted it did not know the extent of the site's contamination: it advertised in local newspapers to implore workers at the base to report what types of waste had been dumped where and when.

149. As a result of the indiscriminate dumping of industrial waste, nearby residents suffer higher-than-normal rates of asthma, cancer and other diseases caused or exacerbated by the kinds of pollution and contaminants present at HPNS.

B. THE PUBLIC HAS SPENT OVER \$1.1 BILLION TO DECONTAMINATE HPNS

150. After the EPA designated HPNS as a Superfund site in 1989, the U.S. Navy began spending what now totals over \$1.1 billion of taxpayer dollars cleaning up the site. For all the reasons detailed herein, much of that money has been wasted as a result of Tetra Tech's fraud, and much of the site must be re-tested and likely re-decontaminated.

C. TETRA TECH AND TETRA TECH EC FRAUDULENTLY REPRESENTED THAT CONTAMINATED AND TOXIC AREAS WERE CLEAN

151. After it became a Superfund site, HPNS became, and is now, delineated into alphanumerically named parcels (e.g., Parcel A, Parcel D, Parcel UC-2) to designate certain coordinates within the site.

///



HPNS Basewide Map (Source: Naval Facilities Engineering Command)

152. While the conditions of the entire area are significant to this litigation, Plaintiffs purchased homes on Parcel A, one of only a few of parcels cleared by the U.S. Navy for residential development. The U.S. Navy and federal environmental regulators began pushing for Parcel A's full release to the public for use as early as 1995, initially believing it to be safe and free from contamination. Parcel A was removed from the Superfund NPL in 1999. Later investigations would turn up previously unknown contamination on or adjacent to Parcel A, leading Parcel A to be subdivided several times before it was transferred to the City of San Francisco for development.

153. In 2001, the U.S. Navy and federal regulators again pushed for Parcel A's release to the public for development, despite admissions in public records that "it is likely that hazardous substances may have been stored in Parcel A." One building located on Parcel A, referred to as Building 322, later scanned positive for radiological activity and was investigated and demolished by Tetra Tech.

154. In 2002, the U.S. Navy entered into a contract with Tetra Tech to remediate the industrial and radioactive waste still located at HPNS. This contract was initially a time-and-materials contract but transitioned in or about 2011 to a fixed-price contract, providing a financial incentive for cutting corners and fraudulent activities, as the less Tetra Tech spent on remediation,

1 the more profit would end up on its ledger. The value of this fixed-price contract is reportedly worth
2 between \$250 million and \$450 million.

3 155. Further, also in 2002, a “scanner van” completed a scan of Parcel A with radiation-
4 detecting devices. This scan, first published in 2016, reportedly detected no radiological
5 contamination on Parcel A, but also detected no contamination on other parcels later known to be
6 radioactive. This latter fact has caused many to believe that the 2002 scan was a fraud.

7 156. In 2004, the U.S. Navy handed Parcel A over to the city of San Francisco for
8 development, after Tetra Tech’s subsidiary Tetra Tech EM Inc.⁶ made the final determination that
9 Parcel A was clean and suitable for development. However, former Tetra Tech EC worker and
10 whistleblower Bert Bowers reported that, after the U.S. Navy had made this determination
11 concerning Parcel A, he had found elevated levels of radium-226 in a manhole leading to a sewer
12 line on Parcel A. Radium-226 can emit radon gas, a leading cause of lung cancer. The determination
13 that the parcel was suitable for development was a fraud.

14 157. Whistleblower Anthony Smith, a radiation technician has made claims later
15 substantiated by a review of Tetra Tech’s data that, by 2009, Tetra Tech’s workers and contractors
16 had begun faking the cleanup that the U.S. Navy had paid them hundreds of millions of dollars to
17 complete. These claims include the following:

- 18 • Creation of data out of thin air;
- 19 • Falsification of records;
- 20 • Soil samples from clean areas deliberately and falsely used to represent contaminated,
21 uncleaned areas;
- 22 • Elimination of samples and data analysis that indicated soil was not remediated to an
23 industry-standard level;
- 24 • Deliberate circumvention of radiation detection devices, and
- 25 • Surreptitious shipments of radioactive materials off-site and as backfill on-site.

26 158. Smith alleged that, during his time of employment as a radiation technician he had
27 been ordered multiple times by supervisor Justin Hubbard, an employee of Tetra Tech, to destroy
28

⁶ Tetra Tech EM Inc., a subsidiary of Tetra Tech, Inc., is a separate entity from Tetra Tech, Inc. and Tetra Tech EC, Inc. This Complaint brings no claims against Tetra Tech EM, Inc.

1 soil samples showing radioactive contamination and keep quiet. Hubbard, as detailed below,
 2 pleaded guilty in federal court in 2017 to falsifying documents, and was fined thousands of dollars
 3 and sentenced to federal prison.

4 159. These fraudulent activities resulted in multiple parcels at HPNS continuing to be
 5 contaminated well above acceptable, healthy, safe, or industry-standard levels, even though Tetra
 6 Tech has portrayed their remediation to be acceptable, healthy, safe, and industry-standard or better.

7 160. In his analysis of the data, Smith found a radioactive soil sample from Parcel A that
 8 was **26 times higher** than the U.S. Navy- and EPA-set “release criteria” limit for allowable
 9 contamination for cesium-137. This is despite assertions by multiple parties, including Tetra Tech,
 10 that Parcel A had never been used for radiological purposes and was free of dangerous levels of
 11 radioactivity, thus clearing Parcel A for transfer to the City of San Francisco. As of his declaration
 12 on June 3, 2017, Smith believed that he was the only one to take a soil sample at Parcel A, and that
 13 after he found contamination, nobody, including Tetra Tech employees, followed up or made
 14 further attempts at investigation or remediation.



24 (Source: Ansell Protective Solutions)

25 161. Smith also alleged in his declaration that in 2011 and 2012, Tetra Tech employees
 26 switched real samples with fake clean soil “pretty much every day” for a total of “between 800 and
 27 1000 times.” By fraudulently attempting to convince others that the soil at HPNS was not
 28 contaminated, Tetra Tech could “finish” its remediation more quickly and with less expense,

1 pocketing the difference and leaving SF Shipyard and San Francisco residents with the ramifications.

2 162. From 2012 through 2014, several former Tetra Tech workers and contractors made
3 multiple allegations of clean-up fraud at the shipyard, but land continued to be transferred to the City
4 of San Francisco as it was deemed clean, and Tetra Tech kept winning contracts, including a pair of
5 contracts with the U.S. Navy totaling \$7.5 million for more shipyard work, despite prior and
6 contemporaneous fraud allegations. Tetra Tech was allowed to continue working after blaming the
7 problems on low-level employees and submitting other workers to “ethics training.” At the time, the
8 U.S. Navy accepted the excuses until additional whistleblowers made allegations (since sustained)
9 of more widespread and systemic fraud. At the time, no fines were imposed on Tetra Tech.

10 163. In 2014, local media exposed that Tetra Tech had mishandled soil samples and
11 falsified radiation data. The Nuclear Regulatory Commission (NRC) soon investigated and found
12 that some employees had deliberately falsified soil sample data.

13 164. An April 2014 report by Tetra Tech detailed how the company was caught submitting
14 false soil samples to the U.S. Navy in an apparent effort to declare the soil free of radiological
15 contamination when it may not have been. The report concluded, “With the above hypotheses ruled
16 out, there is one feasible explanation for [the anomalous samples]. That explanation is that the
17 persons listed as the sample collectors on the chain-of-custody forms, either by themselves or in
18 conjunction with others, collected soil samples in areas outside the designated survey units.”⁷

19 165. In 2015, the City of San Francisco accepted two additional parcels for transfer (for a
20 total of seven acres) called UC-1 and UC-2 for “Utility Corridor.” As detailed below, the
21 remediation analysis of these parcels, formerly parts of Parcel A, are likely subjects of “falsification
22 and data manipulation.”

23 166. Also in 2015, local contractor Albion Partners was hired to perform repair work at
24 HPNS, including fixes to a “hard cap” of soil and asphalt used to cover contaminated soil with
25 potentially toxic vapors that Tetra Tech had installed in 2011.

26 167. As the allegations of fraud continued and the scandal exploded, Mayor Ed Lee and
27 Supervisor Malia Cohen, who represented the neighborhood at the time, wrote a letter to the EPA in
28

⁷ The April 2014 Tetra Tech report, entitled Investigation Conclusion Anomalous Soul Samples at Hunters Point Naval Shipyard, Revision 1 April 2014, is attached hereto as **Exhibit D**.

1 2016 decrying the state of the clean-up and stating that “San Francisco will not accept the transfers
 2 of any land until federal and state regulators are satisfied that the land is clean and safe.” At this
 3 time, Parcel A was already in the hands of Lennar, and the first homes already housed tenants.
 4 Meanwhile, the developers disregarded the problems: Kofi Bonner, then a regional executive for
 5 FivePoint, said in 2016 that “We have been assured by environmental regulators that there are no
 6 issues of concern [at HPNS].”

7 168. An investigation of radioactivity levels at HPNS stopped, and continues to hold up,
 8 the transfer of several hundred acres of land to San Francisco.

9 **1. Whistleblower Allegations Lead to U.S. Navy and EPA Analyses**
 10 **Showing Intentional Misconduct and Fraud by Tetra Tech**

11 169. Tetra Tech’s fraud scandal reached a new level in 2017, as seven former Tetra Tech
 12 workers signed sworn declarations in a petition filed with the NRC,⁸ detailing Tetra Tech’s
 13 longstanding and widespread misconduct aimed at downplaying the true and horrifying extent of
 14 contamination at HPNS.

15 170. These seven workers alleged that Tetra Tech’s supervisors participated in various
 16 forms of fraudulent activity, and that top-level on-site managers **directly instructed** employees to
 17 falsify records and commit fraud, cheating the U.S. Navy, then-current and future residents and
 18 workers at the HPNS development, including the SF Shipyard, and the U.S. taxpayer. Additionally,
 19 the fraudulent activity means that HPNS’s potentially contaminated soil could have been shipped to
 20 other locations across California while labeled as clean. Some of Tetra Tech’s workers were laid
 21 off or fired, potentially because they raised these red flags.

22 171. These seven Tetra Tech workers alleged that Tetra Tech’s fraud took the following
 23 forms:

- 24 a. Faking soil samples;
- 25 b. Manipulating data;
- 26 c. Intentional tampering with radioactivity-detection machines;
- 27 d. Botched soil remediation efforts, either intentionally to cut corners or through
 28 incompetence;

⁸ The petition is attached hereto as **Exhibit E**.

- 1 e. Pulling soil samples from known clean areas and passing them off as soil from known
2 dirty areas;
- 3 f. Running radioactivity scanners improperly and too quickly to be able to accurately
4 detect contamination;
- 5 g. Faking chain-of-custody records; and
- 6 h. Faking results at on-site testing labs.

7 172. By cutting corners on a fixed-price contract, Tetra Tech stood to reap extra profits to
8 the tune of millions to tens of millions of dollars if they were successful at defrauding the U.S. Navy,
9 the EPA, and the City and County of San Francisco.

10 173. The U.S. Navy since hired third-party contractors to review Tetra Tech's data and
11 methods in light of the allegations before and through 2017. These contractors found evidence of
12 possible "falsification and data manipulation" throughout HPNS. These contractors subsequently
13 determined that nearly half of the work performed by Tetra Tech dating back to 2005 showed signs
14 of fraud and/or was suspect and could not be trusted.

15 174. On December 27, 2017, the manager of EPA's local Superfund Division, John
16 Chesnutt, stated that he believed that the U.S. Navy was dramatically understating the severity of
17 the environmental scandal, wrote that as much as 97% of Tetra Tech's cleanup data was unreliable
18 and had to be retested. Specifically, he wrote, "**The data analyzed demonstrate a widespread
19 pattern of practices that appear to show deliberate falsification, failure to perform the work
20 in a manner required to ensure [cleanup] requirements were met, or both.**"⁹ The "suspect" soil
21 included soil from the UC-1 and UC-2 parcels—formerly part of Parcel A and now immediately
22 adjacent to Parcel A—which were transferred to the City of San Francisco in 2015. Parcel D-2, also
23 adjacent to Parcel A and transferred to the City in 2015, was also determined to contain "suspect"
24 soil samples.

25 175. The unreliability of Tetra Tech's data, Tetra Tech's now-public widespread
26 fraudulent acts, and the continued contamination throughout the HPNS site have resulted in lower
27 home values at the SF Shipyard, as buyers are accordingly discouraged from buying property there
28

⁹ John Chesnutt's letter in its entirety is attached hereto as **Exhibit F**.

1 due to health and other concerns, including whether and when Lennar and/or FivePoint will finish
2 the project.

3 176. The impact of the fraud was made manifest in a March 2015 report by San Francisco's
4 Office of Community Investment and Infrastructure (the "March 2015 Report"), detailing the costs
5 of the cleanup.¹⁰ Specifically, the report stated that "**over the last several years the U.S. Navy has**
6 **spent more money on the cleanup of the Shipyard than any other closed base in the country.**"¹¹

7 Not only does this show the extent of the contamination at HPNS, but also the amount that will be
8 spent if and when the re-tests show incomplete and/or shoddy work and the contamination has to be
9 remediated, as it should have been over the past 13 years when Tetra Tech was so contracted.

10 177. After the third-party contractors' report was made public in January 2018, the U.S.
11 Navy began preparing a comprehensive re-examination of HPNS's soil and buildings, saying the re-
12 examination was necessary after finding a pattern of fraudulent manipulation or falsification of the
13 data Tetra Tech had submitted.

14 178. In April 2018, Tetra Tech announced at a press conference that it would pay for an
15 independent retesting of the shipyard to prove the cleanup was performed correctly and the area was
16 safe for development. The announcement raised concerns that a rushed one- or two-month
17 evaluation would be insufficient to uncover more than a decade of potential fraud. The same month,
18 Jeff Ruch, the Executive Director of Public Employees for Environmental Responsibility, an
19 advocacy group, publicly stated that the scandal was "**unfolding into the biggest case of eco-fraud**
20 **in U.S. history.**"

21 2. Tetra Tech Supervisors Pled Guilty in 2017 for Criminal Misconduct at 22 HPNS Site

23 179. The U.S. Department of Justice announced in May 2018 that two former Tetra Tech
24 supervisors, Justin Hubbard and Stephen Rolfe, pleaded guilty to faking documentation, and were
25 each fined and sentenced to time in federal prison. According to the plea agreements, Hubbard had
26 on multiple occasions collected clean soil from outside designated work areas and placed them into

27 _____
28 ¹⁰ A copy of this March 2015 Report is available at http://sfocii.org/sites/default/files/FileCenter/Documents/8787-HPS%20Executive%20Summary_March%202015.pdf.

¹¹ Office of Community Investment and Infrastructure, *Executive Summary Status of the Environmental Remediation of the Hunters Point Shipyard*, March 2015 at p. ES-6.

1 containers identifying the soil as originating from various toxic areas of the shipyard. Rolfe admitted
2 that they had ordered employees to fake dirt sampling in a similar way on approximately 20 separate
3 occasions, and knowingly falsified other documentation to “impede...the U.S. Navy’s radiological
4 remediation efforts at the former naval shipyard.”



5
6 UNITED STATES
7 NUCLEAR REGULATORY COMMISSION
8 REGION I
9 7100 RENAISSANCE BLVD.
10 KING OF PRUSSIA, PA 19406-2111

11 July 28, 2016

12 IA-15-081

13 Mr. Justin Hubbard
14 HOME ADDRESS DELETED
15 UNDER 10 CFR 2.390

16 SUBJECT: NOTICE OF VIOLATION (NRC INVESTIGATION REPORT NO. 1-2014-018)

17 Dear Mr. Hubbard:

18 This letter provides you the U.S. Nuclear Regulatory Commission's (NRC's) enforcement
19 decision for the apparent violation identified during an NRC investigation of the activities of
20 Tetra Tech EC, Inc. (Tetra Tech) staff at the U.S. Navy's Hunter's Point Naval Shipyard (HPNS)
21 site in San Francisco, California. The investigation was conducted to evaluate whether
22 employees of Tetra Tech deliberately falsified soil sample surveys from the area referred to as
23 'Parcel C' at HPNS. Based on the results of the NRC investigation, the NRC preliminarily
24 determined that you committed an apparent violation of Title 10 of the Code of Federal
25 Regulations (CFR) Part 30.10(a), "Deliberate Misconduct." Specifically, while you were
26 employed as a Radiation Task Supervisor at Tetra Tech, you deliberately falsified soil sample
27 surveys when your staff was tasked with obtaining soil samples to ascertain the amount of
28 residual radioactivity in specific locations within Parcel C.

180. Concerning the guilty pleas, Assistant EPA Administrator Susan Bodine emphasized
the importance of accurate data concerning Superfund site remediation: “Accurate data is a critical
component of EPA’s efforts to protect communities and the environment at Superfund sites.
Yesterday’s sentence demonstrates that those who place communities at risk by deliberately
falsifying information will be held accountable.” The Department of Defense’s Office of the
Inspector General’s Special Agent in Charge, Chris D. Hendrickson, noted that “Rolfe and
Hubbard’s lies and shortcuts in the soil testing process potentially put the community at risk and
frustrated the contracting efforts of the U.S. Navy to test and remediate soil at HPNS. These results
demonstrate that [law enforcement is] committed to holding accountable those who cheat the
Department of Defense procurement process and U.S. taxpayers.”

181. According to sworn testimony from Archie Jackson (a worker at the HPNS site, who
was employed by subcontractors but supervised by Tetra Tech) , Tetra Tech employees, Rolfe and

1 Hubbard formed a “clique” led by Tetra Tech’s project manager (and defendant in this matter, Bill
2 Dougherty), Jackson alleged that the two “did whatever Dougherty wanted, including cutting
3 radiological corners.”¹²

4 182. Susan Andrews, another former radiation technician, claimed that Tetra Tech
5 managers, including construction manager Dennis McWade, had ordered her to destroy data on
6 multiple occasions, and on at least one occasion allowed radiologically contaminated metal fencing
7 to be returned, still contaminated, to the company from which it was rented. She also claimed that
8 Tetra Tech’s supervisors lowered the sensitivity of some scanners in 2011, leading to potentially
9 contaminated and radioactively dangerous dirt leaving the HPNS as “clean” soil, some to be trucked
10 to conventional landfills across California.

11 **3. HPNS, Including Parcel A Containing the Homes at the SF Shipyard,
12 Must be Retested**

13 183. In June 2018, the U.S. Navy released a proposed plan for retesting Parcel G, a site
14 just to the south of Parcel A, where the current residential housing units at the SF Shipyard are
15 located. The planned test would include various parts of the property known or believed to have
16 been “radiologically impacted” by the U.S. Navy’s actions.

17 184. The California Department of Public Health announced just a few days later, in June
18 2018, that the U.S. Navy would begin testing Parcel A in July 2018 to “address the radiological
19 health and safety of the environment.” Parcel A contains approximately 450 homes that have been
20 completed or are under construction and, according to Lennar’s website, houses over 350
21 homeowners¹³ (as all homes built in the SF Shipyard area are in what has been designated as Parcel
22 A). Experts, however, including Dan Hirsch, retired director of the Program on Environmental and
23 Nuclear Policy at UC Santa Cruz, have expressed serious misgivings about the testing process,
24 saying that the scanners being proposed would not detect two particularly harmful nuclear isotopes
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26 ¹² According to sworn testimony from Archie Jackson, Tetra Tech employees Rolfe and Hubbard
27 formed a “clique” led by Tetra Tech’s project manager and Defendant in this matter, Bill
28 Dougherty. Jackson alleged that the two “did whatever Dougherty wanted, including cutting
radiological corners.” The declaration of Archie R. Jackson is attached hereto as **Exhibit G**.

¹³ https://www.lennar.com/New-Homes/California/San-Francisco-Bay-Area/San-Francisco/Promo/BAULEN_Shipyard_General_Landing_Page_Mod?utm_source=sfsy&utm_medium=website&utm_campaign=baulen_website_sfsy_masterplan (Last accessed July 3, 2018).

1 known to contaminate the site: strontium-90 and plutonium-239. Others have expressed concern
2 that the testing will reveal little without contemporaneous analysis of soil core samples. Indeed, the
3 March 2015 Report indicates how difficult it will be to find (and remediate) contamination under
4 the ground after the tracts are developed, pointing out that “[o]nce new construction is complete, it
5 is unlikely that any new contaminants will be found because there won’t be any digging below
6 ground except for utility repairs to streets.”¹⁴ Defendants were well aware of this fact when they
7 were developing the homes on Parcel A.

8 185. The most recent plan to scan Parcel A for contamination, as of July 12, 2018, did not
9 include actually testing the housing itself. The California Department of Public Health announced
10 on July 6, 2018 that it plans to scan “open areas of uncovered ground, landscaped areas and...streets
11 and sidewalks” near the housing at the SF Shipyard for gamma radiation. This scan was essentially
12 pointless because any clean bill of health will be meaningless, for two reasons:

- 13 • One of the most commonly found radioactive isotopes at SF Shipyard, radium-226,
14 mostly emits alpha particles as it decays, and these alpha particles will not be picked
15 up during the planned test.
- 16 • The planned test will not be able to determine the radioactive exposures people may
17 experience while in their own homes.

18 186. Portions of Parcel A were “tested” for radioactivity by the California Department of
19 Public Health during the week of July 16 through July 20, 2018. However, the test involved only a
20 single maintenance utility vehicle driving up and down the residential streets of the SF Shipyard and
21 did not include any testing on residents’ property or in residents’ houses and did not include any
22 digging or attempt to procure soil samples and was thus insufficient to allay residents’ founded fears
23 or confidently determine the area to be clean from contamination.

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¹⁴ Office of Community Investment and Infrastructure, *Executive Summary Status of the Environmental Remediation of the Hunters Point Shipyard*, March 2015 at p. ES-15.

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California Department of Public Health Completes a Rudimentary Scan of Parcel A for Radiation, July 19, 2018 (Source: Cotchett, Pitre & McCarthy)

187. While the U.S. Navy and EPA have long insisted that Parcel A was clean, and was used mostly for military housing barracks, government reports and field technicians have challenged this position, bringing it into question. According to government reports, one adjacent laboratory building housed caged dogs given lethal doses of radiation, and at least one former Tetra Tech worker detected high levels of radioactivity on the parcel’s edge.



(Source: The Chronicle)

1 188. The current homeowners at SF Shipyard justifiably relied to their detriment on the
 2 reassurances of Tetra Tech, Lennar Corp. and others that the SF Shipyard site, including Parcel A
 3 was not contaminated. Plaintiffs now own property on and/or adjacent to land still containing toxic
 4 and nuclear contamination at levels high enough to have deleterious health consequences over the
 5 short and long terms. Given that few people would willingly live in such conditions, the demand
 6 for such homes is small or nonexistent, and the values of these homes have been and will continue
 7 to diminish relative to the rest of the San Francisco housing market. Indeed, major banks have
 8 already stopped lending.

9 4. Tetra Tech Contracted to Clean the Area

10 189. Tetra Tech received a contract worth between \$250 million and \$450 million from
 11 the U.S. Navy in or around 2002 to remediate the contamination from radioactive and industrial
 12 waste resulting from military nuclear testing and the subsequent operation of a shipyard at the HPNS
 13 site.



24 **Tetra Tech's Hunters Point Field Office (Source: NBC Bay Area)**

25 190. Very early on in their tenure, Tetra Tech found ways to cut corners such that they
 26 could obtain maximum profit from the fixed-price contract they had received from the U.S. Navy to
 27 clean the area. This cover up resulted in two federal criminal convictions, but more importantly,
 28 Tetra Tech's work must be completely retested and redone, in a process that could take years.

1 191. Tetra Tech, through its managers at the HPNS site, deliberately engaged in fraudulent
2 activity to cover up all the methods they used to cut corners and save money cleaning up HPNS.
3 Subsequent independent analyses from the U.S. Navy, independent contractors, and the EPA have
4 indicated that between almost half and 97% of Tetra Tech’s work was suspect and potentially
5 fraudulent, and much of the area has to be retested and, very possibly, re-remediated.

6 192. These federal regulators, former Tetra Tech employees, and environmental activists
7 have claimed that the HPNS site is still contaminated with radioactive and industrial waste, despite
8 Tetra Tech’s “remediation attempts” over the past 13 years. Tetra Tech’s procedures are below, or
9 well below, industry standard, especially given the copious amount of suspect and/or falsified data
10 Tetra Tech provided to interested parties, and Tetra Tech is known to have fired employees who
11 raised red flags concerning Tetra Tech’s practices at HPNS.

12 193. This fraudulent activity has resulted in approximately 350 SF Shipyard homeowners
13 being exposed on a daily basis to potentially dangerous amounts of radioactivity and industrial waste
14 in the ground beneath and around them.

15 **5. Lennar and FivePoint Represented the Area as Clean**

16 194. Developers Lennar and FivePoint started building condominiums in Parcel A of
17 HPNS in 2013, after whistleblowers came forward in 2012, and started selling them in or around
18 June 2014. Approximately 300 to 350 the SF Shipyard units have been sold to homeowners.

19 195. Lennar marketed the SF Shipyard as a robust live-work community with 12,000 new
20 homes and romantic ties to a shipyard past, with no mention of the area’s radioactive, contaminated
21 state. A 2015 version of Lennar’s marketing site to the area, promised 42-story highrises, stormwater
22 ecogardens, solar and wind energy infrastructure, an international African marketplace, a regional
23 retail center, library reading rooms, community events, and 300-plus acres of parks and open space
24 for residents.¹⁵

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¹⁵ <https://web.archive.org/web/20150206044532/http://thesfshipyard.com:80/event-category/big-plans/> (Last Visited July 10, 2018).

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Artist Rendering of Lennar’s SF Shipyards (Source: d10benefits.org)

196. On information and belief, on multiple occasions Lennar promised SF Shipyards residents that the community would be accompanied by street-level retail storefronts. Instead, many of those promised amenities, including parks, retail and commercial spaces have not come to fruition, or are being re-planned for other purposes.

197. As of 2015, when the first residential units were sold, Lennar and FivePoint, responsible for building and selling the area’s first 926 homes, had planned to deliver 800,000 square feet of office space and 1,400 housing units. As of March 2019, there is no office space in operation. The SF Shipyards area remains unwalkable, with almost no public transit, and little infrastructure, such as schools.



Artist’s rendering of a completed San Francisco Shipyards by Lennar and FivePoint (Source: Business Insider)

1 198. On information and belief, Lennar and/or FivePoint did not disclose the continuing
 2 contamination at the SF Shipyard site prior to selling real property to homeowners between 2013
 3 and today. Indeed, their advertising and marketing did not mention the radioactive nature of the
 4 U.S. Navy’s activities at HPNS, including the nuclear warfare research laboratory, nor the fact that
 5 the shipyard served as an endpoint for ships irradiated during Hydrogen bomb tests, nor the fact that
 6 the area contained a general waste dump potentially containing radium and other radioactive waste
 7 that, at the time, was treated like common garbage, nor the contamination therein, nor the U.S.
 8 Navy’s investigation into Tetra Tech that started at least as early as 2014.

9 199. On information and belief, Lennar and/or FivePoint had knowledge of the failed
 10 cleanup at HPNS and Tetra Tech’s fraudulent activities, or should have known, but still failed to
 11 disclose these facts, seeking to profit off the lack of information known by home purchasers at the
 12 SF Shipyard.



Recent Image of SF Shipyard (Source: SF Examiner)

D. DEFENDANTS’ FRAUD HAS AND WILL COST THE SF SHIPYARD RESIDENTS MILLIONS OF DOLLARS IN LOST HOME EQUITY

200. When the SF Shipyard residents purchased their homes from Lennar and/or

1 FivePoint, they had no reason to believe they were purchasing residential property on a site
2 contaminated with radioactive and/or industrial waste at levels potentially deleterious to their health.
3 At no point before the purchase did Lennar and/or FivePoint disclose this essential information.
4 Once the information became public, these homes lost up to hundreds of thousands of dollars in
5 value, as nobody would willingly expose their own health, or that of their families, to such physical
6 harm and stress.

7 201. Home values have decreased substantially since Lennar first sold the homes at the
8 SF Shipyard, despite the San Francisco market's high demand and low supply pushing up housing
9 prices throughout the San Francisco Bay Area, and new units are being sold at much lower prices
10 than comparable units were selling for prior to the extent of Tetra Tech's fraud becoming public.

11 **E. DEFENDANTS ENGAGED IN OTHER UNLAWFUL AND UNFAIR**
12 **MISCONDUCT**

13 202. For example, Defendants violated Cal. Civ. Code §1102.13 by failing to properly
14 disclose the continuing toxic contamination of the HPNS site, including the SF Shipyard.

15 203. Defendants also failed to provide good faith disclosures upon the transfer of the SF
16 Shipyard properties to purchasers, in violation of Cal. Civ. Code §1102.7.

17 204. Defendants made or disseminated, directly or indirectly, untrue, false, or misleading
18 statements about HPNS, or caused untrue, false, or misleading statements about HPNS to be made or
19 disseminated to the general public, including those individuals that purchased property at the SF
20 Shipyard, in violation of Cal. Bus. & Prof. Code Section 17500.

21 205. The effects of this misconduct by Defendants are ongoing. The HPNS site is still
22 contaminated with radioactive and/or industrial waste and given the fact that practically the entire
23 area must be retested, it is unknown how much longer it will take to remediate the contamination in
24 the area, or if it even can be remediated with new structures already built at the SF Shipyard.

25 **F. ALTHOUGH DEFENDANTS KNEW THAT TETRA TECH WAS**
26 **COVERING UP ITS MISDEEDS, THEY FRAUDULENTLY CONCEALED**
27 **THEIR MISCONDUCT, AND THE MISCONDUCT OF OTHERS**

28 206. Defendants, both individually and collectively, made and profited from
misrepresentations about the health risks of living at the SF Shipyard due to the underlying and

1 surrounding land's toxic contamination, even though they knew that the misrepresentations were false
2 and misleading. Defendants had access to scientific studies, detailed data, and reports of adverse
3 events—all of which should have made clear that the SF Shipyard site was potentially still
4 contaminated even after over a decade of attempted remediation and Parcel A being available for
5 public development.

6 207. Moreover, at all times relevant to this Complaint, Defendants took steps to avoid
7 detection of their misdeeds and to fraudulently conceal the true facts through deceptive
8 marketing and unlawful, unfair, and fraudulent conduct. Defendants Lennar and/or FivePoint
9 purposefully hid behind the assumed credibility of the U.S. Navy and Tetra Tech and relied on
10 them to vouch for the accuracy and integrity of false and misleading statements about the risks
11 and benefits of purchasing property at the SF Shipyard.

12 208. Thus, Defendants successfully concealed from potential and actual purchasers of
13 residential property at the SF Shipyard facts sufficient to arouse suspicion of the claims that Plaintiffs
14 now assert. Plaintiffs did not know of the existence or scope of Defendants' and their co-
15 conspirators' area-wide fraud and could not have acquired such knowledge earlier through the
16 exercise of reasonable diligence.

17 **G. BY ALLOWING THE PURCHASE OF RESIDENTIAL PROPERTY ON**
18 **CONTAMINATED LAND THROUGH UNLAWFUL AND UNFAIR**
19 **BUSINESS PRACTICES, EACH DEFENDANT HAS CREATED OR**
20 **ASSISTED THE CREATION OF A NUISANCE**

21 209. Defendants' misrepresentations deceived potential and actual purchasers of property
22 at the SF Shipyard about the health risks of living in the area. Residents confirm that they were
23 never told the homes they were purchasing were on or surrounded by land contaminated with
24 industrial and/or radioactive waste at levels potentially harmful to their health.

25 210. Defendants knew and should have known that their misrepresentations about the health
26 risks of living at the SF Shipyard due to the underlying and surrounding land's toxic contamination
27 were false and misleading when they made them.

28 211. Defendants' and their co-conspirators' unlawful and unfair business practices caused
and continue to cause Plaintiffs' home values to decline to levels below where they would otherwise

1 be. Absent Defendants' deceptive marketing scheme and unlawful and unfair business practices,
 2 these residents would not have purchased property at SF Shipyard, and their homes would not have
 3 lost value relative to the greater San Francisco housing market at the rate that they did due to the
 4 public exposure of the health risks.

5 212. Defendants' unlawful and unfair business practices also caused SF Shipyard residents to
 6 purchase property at SF Shipyard, believing it was safe. Absent Defendants' unlawful practices,
 7 residents would not have purchased property at the SF Shipyard. Ultimately Defendant Tetra Tech
 8 was tasked with remediating the contamination at HPNS and Lennar and FivePoint were tasked with
 9 providing proper disclosures to their potential residents; all Defendants flagrantly violated the law.

10 **VII. CLASS ACTION ALLEGATIONS**

11 213. Plaintiffs propose certification of the following class, pursuant to Rules 23(a), (b)(2), and
 12 (b)(3) of the Federal Rules of Civil Procedure:

13 All current and former owners of one or more units in the SF Shipyard development.

14 Excluded from this class are purchasers of BMR units, Defendants, their affiliates and
 15 subsidiaries, and their officers, directors, partners, employees, and agents; class counsel,
 16 employees of class counsel's firms, and class counsel's immediate family members;
 17 defense counsel, their employees, and their immediate family members; and any judicial
 18 officer who considers or renders a decision or ruling in this case, their staff, and their
 19 immediate family members.

20 214. **Numerosity.** The members of the class are so numerous that their individual joinder is
 21 impracticable. There are more than 400 class members, whose names and addresses are readily available
 22 from Lennar and FivePoint records, combined with publicly available property records.

23 215. **Existence and Predominance of Common Questions of Fact and Law.** Class
 24 certification is appropriate under Rule 23(b)(3) because this action involves common questions of law
 25 and fact that predominate over any questions affecting individual class members, including, without
 26 limitation:

- 27 a. Whether each Defendant owed a duty to Plaintiffs and the Class;
- 28 b. Whether each Defendant misrepresented or omitted material facts, causing harm

1 to Plaintiffs;

2 c. Whether each Defendants fraudulently concealed material information regarding
3 the toxic history of the former HPNS, and/or the SF Shipyard and/or Parcel A;

4 d. Whether each Defendants fraudulently concealed material information regarding
5 the safety of the former HPNS, and/or the SF Shipyard and/or Parcel A;

6 e. Whether Lennar and FivePoint and the Block entities misrepresented the plans
7 for Parcel A and the surrounding SF Shipyard development;

8 f. Whether Lennar and FivePoint and the Block entities misrepresented to Plaintiffs
9 and the Class that amenities, including transportation, schools, restaurants and businesses would
10 be available in the SF Shipyard;

11 g. Whether Defendants have created a permanent nuisance;

12 h. Whether Defendants have created a public nuisance;

13 i. Whether Defendants have created a private nuisance;

14 j. Whether Tetra Tech's falsified testing has affects at the same time the entire
15 community of Parcel A;

16 k. Whether Tetra Tech's falsification of testing has interfered with the comfortable
17 enjoyment of life by Parcel A residents;

18 l. Whether the Lennar and FivePoint defendants' misrepresentations and omissions
19 have affected at the same time the entire community of Parcel A;

20 m. Whether the Lennar and FivePoint defendants' misrepresentations and omissions
21 have interfered with the comfortable enjoyment of life by Parcel A residents;

22 n. Whether the Lennar and FivePoint defendants were aware of Tetra Tech's
23 anomalous soil results, and when they became aware of the results;

24 o. Whether Defendants have engaged in unlawful, fraudulent and/or unfair
25 conduct;

26 p. Whether Defendants engaged in conduct likely to deceive California consumers;

27 q. Whether Defendants disseminated misleading statements regarding the
28 contamination and/or testing and remediation of HPNS, including Parcel A and the SF

1 Shipyard;

2 r. Whether Plaintiffs are entitled to damages, and if so, in what amount.

3 216. **Typicality.** Plaintiffs' claims are typical of the other class members' claims because
4 Plaintiffs and class members are all present or former purchasers of units in Parcel A of the SF
5 Shipyard and all were subjected to the same wrongful conduct and damaged in the same way by
6 being uniformed of the true facts regarding the past and current toxic contamination of the SF
7 Shipyard.

8 217. **Adequacy of Representation.** Plaintiffs are adequate class representatives. Their
9 interests do not conflict with the interests of the other class members they seek to represent. Plaintiffs
10 have retained counsel competent and experienced in complex class action litigation, who will
11 prosecute this action vigorously. Plaintiffs and their counsel will fairly and adequately pursue and
12 protect the interests of the class.

13 218. **Superiority.** A class action is superior to all other available means for the fair and
14 efficient adjudication of this controversy it would be impracticable for class members to seek redress
15 individually. Individualized litigation would also create a potential for inconsistent or contradictory
16 judgments and increase the delay and expense to all parties and the court system. By contrast, a class
17 action presents far fewer management difficulties and provides the benefits of single adjudication,
18 economy of scale, and comprehensive supervision by a single court.

19 219. Class certification is also appropriate under Rule 23(b)(2) because Defendants acted
20 or refused to act on grounds generally applicable to the class, thereby making appropriate final
21 injunctive relief with respect to the members of the class as a whole.

22 220. The claims of class members include common issues whose efficient adjudication in
23 a class proceeding would materially advance the litigation and aid in achieving judicial economy
24 and efficiency. Hence, in the alternative, class certification under Rule 23(c)(4) may be appropriate
25 as to certain issues.

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1 **VIII. CLAIMS**

2 **FIRST CLAIM**

3 **PERMANENT PUBLIC NUISANCE**

4 **Common Law and Violations of California Civil Code Sections 3479 and 3480**

5 **(Against Each Defendant)**

6 221. Plaintiffs re-allege and incorporate by reference each of the allegations contained in the
7 preceding paragraphs of this Complaint as though fully alleged in this Claim.

8 222. At all times mentioned herein, Plaintiffs had the right to own, enjoy, and use their
9 residences and property free of interference by Defendants and/or their officers, employees, and/or
10 agents, whose acts and omissions created a permanent public nuisance.

11 223. A permanent nuisance has been defined as “of such a character as it will be reasonably
12 certain, or will be presumed, to continue indefinitely, or affect the value of the property
13 permanently.” *Spar v. Pacific Bell* (1991) 235 Cal. App. 3d 1482, 1484-85.

14 224. Civil Code Section 3490 states that “[n]o lapse of time can legalize a public nuisance,
15 amounting to an actual obstruction of public right.”

16 225. Civil Code Section 3479 provides that “[a]nything that is injurious to health ... or is
17 indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere
18 with the comfortable enjoyment of life or property ... is a nuisance.”

19 226. Civil Code Section 3480 defines a “public nuisance” as “one which affects at the
20 same time an entire community or neighborhood, or any considerable number of persons, although
21 the extent of the annoyance or damage inflicted upon individuals may be unequal.”

22 227. Defendants, and/or each of them, by acting or failing to act, created a condition or
23 permitted a condition to exist that was and is harmful to health, indecent or offensive to the sense,
24 was and is an obstruction to the free use of property, so as to interfere with the comfortable
25 enjoyment of life and/or property. This condition affected a substantial number of people at the same
26 time, as several people live, travel, and work around and/or in the former HPNS. An ordinary person
27 would reasonably be annoyed or disturbed by Defendants’ conduct.

28 228. Defendant Tetra Tech and/or its officers, employees, and/or agents intentionally,

1 fraudulently, and/or negligently misrepresented to the government agencies the level of
2 contamination and the results of tests on Parcel A and other parcels surrounding Parcel A.
3 Defendants Tetra Tech and/or its officers, employees, and/or agents also withheld materially relevant
4 and important results from the government agencies which indicated that Parcel A was
5 environmentally contaminated. This is despite being hired by government agencies to remediate and
6 clean-up the property to be suitable for safe residential and commercial use. Defendant Tetra Tech
7 and/or its officers, employees, and/or agents failed to remediate the nuclear and toxic materials at
8 HPNS as contracted, falsified soil sample testing results to show the toxic and nuclear materials at
9 HPNS were at acceptable levels. Defendant Tetra Tech's and its officers', employees', and/or
10 agents' misrepresentations and/or omissions permitted a harmful and/or contaminated condition to
11 exist on the property when the public, and Plaintiffs were led to believe it no longer existed.

12 229. Defendants Lennar, the Block Entities, FivePoint and/or HPS Development and/or
13 their officers, employees, and/or agents established and maintained significant presence on Parcel A
14 after acquiring said property in or around 2004. Lennar and its related entities had in fact been
15 involved in redevelopment of the HPNS since 1999, if not even earlier, and were thus privy to many
16 of the discussions with government agencies, the Navy and contractors, including Tetra Tech,
17 regarding environmental hazards, concerns, and clean-up plans. The Lennar/FivePoint Defendants
18 could not have maintained such presence without being aware of Defendant Tetra Tech's
19 insufficient, negligent, and/or fraudulent environmental remediation on Parcel A and other
20 surrounding properties at HPNS. Nor could the Lennar/FivePoint Defendants have maintained
21 such presence without being aware of the deeply toxic history of the entire HPNS, including Parcel
22 A and surrounding parcels. Upon information and belief, Defendants Lennar and/or Five Point
23 companies and their executives had actual and/or constructive notice that Defendant Tetra Tech was
24 not performing cleanup, remediation, and/or testing responsibilities properly and was thereby
25 covering up environmental contamination on and around Parcel A. Despite being the owner of Parcel
26 A and marketing the property for residential and commercial sale under the guise of the property
27 being safe and not contaminated, the Lennar/FivePoint Defendants did not pursue its own
28 investigation or alert government regulators, the public or potential homeowners of the risk of the

1 property being contaminated. By failing to do so, Defendants, and/or each of them, permitted a
2 harmful and/or contaminated condition to exist on the property when the public, and Plaintiffs were
3 led to believe it no longer existed.

4 230. Plaintiffs did not consent to the aforementioned conduct of the Defendants, and
5 Plaintiffs suffered harm that was different from the type of harm suffered by the general public,
6 including but not limited to: (a) the diminution in their property value; (b) inability to sell their
7 property; and/or (c) inability to sell their property for the value it would be worth if not contaminated.

8 231. The conduct of Defendants, and/or each of them, was a substantial factor in causing
9 Plaintiffs' harm, and the seriousness of the harm outweighs the public benefit of Defendants'
10 conduct. Defendants allowed the dangerous conditions to exist, and said acts and omissions exposed,
11 and continue to expose, Parcel A residents to the dangers and consequences of toxic and nuclear
12 waste.

13 232. The public nuisance is substantial, unreasonable, and permanent. Defendants' actions
14 caused and/or continue to cause the diminution in the value of property at the SF Shipyard described
15 above in the City and County of San Francisco, and that harm outweighs any offsetting benefit.

16 233. The public nuisance — i.e., the nuclear toxicity and other environmental toxicity—
17 created, perpetuated, and maintained by Defendants is permanent and cannot be abated. Abatement
18 is impractical because up to 97% of the adjoining property is estimated to need
19 retesting and possible remediation. Tetra Tech alone was paid \$300 million to test and remediate
20 the property. A review of Tetra Tech's work will cost in excess of \$300 million. Indeed, the
21 government is pursuing false claims cases against Tetra Tech. Further, remediation does not resolve
22 the harm incurred as a byproduct of Defendants' actions. As to Parcel A, the entire development of
23 current homes would need to be razed in order to remediate the land, making this a permanent
24 nuisance.

25 234. As a direct and proximate result of the nuisance created and maintained by
26 Defendants, Plaintiffs have been and will be further damaged, in a sum to be established by proof at
27 trial. Plaintiffs' damages include the diminution in the value of, and future harm to, their property,
28 including stigma damages, emotional distress, as well as those damages more fully described above.

SECOND CLAIM

PERMANENT PRIVATE NUISANCE

Common Law and Violations of California Civil Code Sections 3479 and 3481

(Against Each Defendant)

235. Plaintiffs re-allege and incorporate by reference each of the allegations contained in the preceding paragraphs of this Complaint as though fully alleged in this Claim.

236. At all times mentioned herein, Plaintiffs had the right to own, enjoy, and use their residences and property free of interference by Defendants and/or their officers, employees, and/or agents, whose acts and omissions created a permanent public nuisance.

237. Civil Code Section 3479 provides that “[a]nything that is injurious to health ... or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property ... is a nuisance.”

238. Civil Code Section 3481 defines a “private nuisance” as “every nuisance not included in the definition of [public nuisance].”

239. A permanent nuisance has been defined as “of such a character as it will be reasonably certain, or will be presumed, to continue indefinitely, or affect the value of the property permanently.” *Spar v. Pacific Bell* (1991) 235 Cal. App. 3d 1482, 1484-85.

240. Defendants Lennar Corporation, HPS1 Block 50 LLC, HPS1 Block 51 LLC, HPS1 Block 53 LLC, HPS1 Block 54 LLC, HPS1 Block 56/57 LLC, FivePoint Holdings, LLC and/or HPS Development Co., L.P. and/or their officers, employees, and/or agents and/or each of them, by acting or failing to act, created a condition or permitted a condition to exist that was and is harmful to health, indecent or offensive to the sense, was and is an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life and/or property. This condition has substantially interfered with and continues to substantially interfere with Plaintiffs’ use or enjoyment of their land, and an ordinary person would reasonably be annoyed or disturbed by Defendants’ conduct.

241. Defendant Tetra Tech and/or its officers, employees, and/or agents intentionally, fraudulently, and/or negligently misrepresented to the government agencies the level of contamination and the results of tests on Parcel A and other parcels surrounding Parcel A.

1 Defendants Tetra Tech and/or its officers, employees, and/or agents also withheld materially relevant
2 and important results from the government agencies which indicated that Parcel A was
3 environmentally contaminated. This is despite being hired by government agencies to remediate and
4 clean-up the property to be suitable for safe residential and commercial use. Defendant Tetra Tech
5 and/or its officers, employees, and/or agents failed to remediate the nuclear and toxic materials at
6 HPNS as contracted, falsified soil sample testing results to show the toxic and nuclear materials at
7 HPNS were at acceptable levels. Defendant Tetra Tech's and its officers', employees', and/or
8 agents' misrepresentations and/or omissions permitted a harmful and/or contaminated condition to
9 exist on the property when the public, and Plaintiffs were led to believe it no longer existed.

10 242. Defendants Lennar, the Block Entities, FivePoint and/or HPS Development and/or
11 their officers, employees, and/or agents established and maintained significant presence on Parcel A
12 after acquiring said property in or around 2004. Lennar and its related entities had in fact been
13 involved in redevelopment of the HPNS since 1999, if not even earlier, and were thus privy to many
14 of the discussions with government agencies, the Navy and contractors, including Tetra Tech,
15 regarding environmental hazards, concerns, and clean-up plans. The Lennar/FivePoint Defendants
16 could not have maintained such presence without being aware of Defendant Tetra Tech's
17 insufficient, negligent, and/or fraudulent environmental remediation on Parcel A and other
18 surrounding properties at HPNS. Nor could the Lennar/FivePoint Defendants have maintained such
19 presence without being aware of the deeply toxic history of the entire HPNS, including Parcel A and
20 surrounding parcels. Upon information and belief, Defendants Lennar and/or Five Point companies
21 and their executives had actual and/or constructive notice that Defendant Tetra Tech was not
22 performing cleanup, remediation, and/or testing responsibilities properly and was thereby covering
23 up environmental contamination on and around Parcel A. Despite being the owner of
24 Parcel A and marketing the property for residential and commercial sale under the guise of the
25 property being safe and not contaminated, the Lennar/FivePoint Defendants did not pursue its own
26 investigation or alert government regulators, the public or potential homeowners of the risk of the
27 property being contaminated. By failing to do so, Defendants, and/or each of them, permitted a
28 harmful and/or contaminated condition to exist on the property when the public, and Plaintiffs were

1 led to believe it no longer existed.

2 243. Plaintiffs did not consent to the aforementioned conduct of the Defendants.

3 244. The conduct of Defendants, and/or each of them, was a substantial factor in causing
4 Plaintiffs' harm, and the seriousness of the harm outweighs the public benefit of Defendants'
5 conduct. Defendants allowed the dangerous conditions to exist, and said acts and omissions exposed,
6 and continue to expose, Parcel A residents to the dangers and consequences of toxic and nuclear
7 waste.

8 245. The private nuisance created, perpetuated, and maintained by Defendants is
9 permanent and cannot be abated. Abatement is impractical because up to 97% of the property is
10 estimated to need retesting and possible remediating. Tetra Tech alone was paid \$300 million to test
11 and remediate the property. A review of Tetra Tech's work will cost in excess of \$300 million.
12 Further, such remediation does not resolve the harm incurred as a byproduct of Defendants' actions.

13 246. As a direct and proximate result of the nuisance created and maintained by
14 Defendants, Plaintiffs have been and will be further damaged, in a sum to be established by proof at
15 trial. Plaintiffs' damages include the diminution in the value of, and future harm to, their property,
16 including stigma damages, emotional distress, as well as those damages more fully described above.

17 **THIRD CLAIM**

18 **UNFAIR AND UNLAWFUL COMPETITION**

19 **Violations of Business and Professions Code Section 17200, *et seq.***

20 **(Against Each Defendant)**

21 247. Plaintiffs re-allege and incorporate by reference each of the allegations contained in the
22 preceding paragraphs of this Complaint as though fully alleged in this Claim.

23 248. Defendants, and each of them, are "persons" as defined under Bus. & Prof. Code
24 Section 17021.

25 249. At a minimum, each Defendant is named in this Claim for its activities that occurred
26 within four years of the filing of this action. Plaintiffs reserve the right to prove at trial that the full
27 extent of the Defendants' acts of Unfair Competition was not known to Plaintiffs until recently, and
28 Plaintiffs also reserves the right to demonstrate that tolling extends the statute of limitations

1 applicable to Plaintiffs' claims against Defendants.

2 250. Business and Professions Code Section 17200 (§ 17200) prohibits any "unlawful,
3 unfair or fraudulent business act or practice."

4 251. Defendants have engaged in unlawful, unfair, and fraudulent business practices in
5 violation of Section 17200 as set forth above.

6 252. Defendants' business practices, as described in this Complaint, are deceptive and
7 violate Section 17200 because the practices are likely to deceive consumers in California.

8 253. Defendants made or disseminated false and misleading statements regarding the
9 contamination and/or testing and remediation of the HPNS, including Parcel A and the Shipyard, or
10 caused false and misleading statements to be made or disseminated, that were likely to deceive the
11 public. Defendants' omissions, which are deceptive and misleading in their own right, render even
12 Defendants' seemingly truthful statements about the contamination of HPNS false and misleading.
13 All of this conduct, separately and collectively, was likely to deceive Parcel A home purchasers who
14 purchased the homes as residences or investment properties and are now confronted with the aftermath
15 of the sites' contamination and questions regarding the environmental safety of the SF Shipyard.

16 254. Defendants' business practices as describe in this Complaint are unlawful and violate
17 Section 17200. These unlawful practices include, but are not limited to:

- 18 • Defendants violated State and Federal laws by failing to properly disclose
19 contamination;
- 20 • Defendants violated Section 5 of the Federal Trade Commission Act (15 U.S.C. §
21 45);
- 22 • Defendants violated the California Civil Code by failing to properly disclose the
23 continued toxic contamination of HPNS. Cal. Civ. Code § 1102 *et seq.*, including §§
24 1102.13, 1102.17;
- 25 • Lennar Defendants failed to provide good faith disclosures upon the transfer of the SF
26 Shipyard properties to purchasers, in violation of Cal. Civ. Code § 1102.7;
- 27 • Defendants made or disseminated, directly or indirectly, untrue, false, or misleading
28 statements about HPNS, or caused untrue, false, or misleading statements about
HPNS to be made or disseminated to the general public, including those individuals
that purchased property at the SF Shipyard, in violation of Bus. & Prof. Code §
17500;

- 1 • Defendants have violated the Toxic Substances Control Act (15 U.S.C. §2601 et
2 seq.);
- 3 • Defendants have violated the Hazardous Materials Transportation Act (40 U.S.C.
4 1811 et seq.)

5 255. A violation of Section 17200 may be predicated on the violation of any state or federal
6 law. All the acts described herein, as violations of Cal. Civ. Code § 1102 *et seq.*, including, §1102.7,
7 §1102.13, §1102.17, and Bus. & Prof. Code § 17500, are unlawful and in violation of public policy,
8 and are immoral, unethical, oppressive, fraudulent and unscrupulous and thereby constitute unfair,
9 unlawful, and/or fraudulent business practices in violation of § 17200.

10 256. By and through their unfair, unlawful, and/or fraudulent business practices described
11 herein, Defendants have obtained valuable recompense, and have deprived Plaintiffs of valuable
12 rights and benefits guaranteed by law, all to Plaintiffs' detriment.

13 257. Plaintiffs have suffered economic injury as a direct result of Defendants' wrongful
14 conduct.

15 258. Defendants' business practices as described in this Complaint are unfair and violate
16 Section 17200 because they offend established public policy, and because the harm they cause to
17 consumers in California greatly outweighs any benefits associated with those practices.

18 259. As a direct and proximate result of the foregoing acts and practices, Defendants have
19 received, or will receive, income, profits, and other benefits associated with those practices, which they
20 would not have received if they had not engaged in violations of the UCL described in this Complaint.

21 260. As a direct and proximate result of the foregoing acts and practices, Defendants have
22 obtained an unfair advantage over similar businesses that have not engaged in such practices.

23 **FOURTH CLAIM**

24 **FRAUD AND FALSE ADVERTISING**

25 **Common Law, Violations of Business and Professions Code Section 17500, *et seq.* and of**

26 **Civil Code Section 1102.13**

27 **(Against Each Defendant)**

28 261. Plaintiffs re-allege and incorporate by reference each of the allegations contained in

1 the preceding paragraphs of this Complaint as though fully alleged in this Claim.

2 262. Before, during, and after the construction of the homes at the SF Shipyard,
3 Defendants, and/or each of them, knew about the former industrial and nuclear activities conducted
4 at HPNS, specifically that HPNS had been and presently was considered an active Superfund site
5 and hazardous due to nuclear and toxic waste.

6 263. In addition, Defendant Tetra Tech and/or its officers, employees, and/or agents
7 intentionally and fraudulently misrepresented to the government agencies the level of contamination
8 and the results of tests on Parcel A and other parcels surrounding Parcel A. Defendant Tetra Tech
9 and/or its officers, employees, and/or agents also intentionally withheld materially relevant and
10 important results from the government agencies which indicated that Parcel A was environmentally
11 contaminated. And Defendants did so knowing that these intentional misrepresentations and/or
12 omissions would lead to the desired government approval required for development and sale of the
13 parcels for residential and commercial use and that persons such as Plaintiffs would purchase
14 environmentally contaminated property unknowingly. These misrepresentations and/or omissions
15 resulted in a fraudulently obtained government approval for development of the property, which in turn
16 led to the development and sale of the parcels under the guise of non-contamination and it being a safe
17 place to live. But for this, Plaintiffs would not have purchased their property/properties.

18 264. Defendants Lennar and/or FivePoint and/or their officers, employees, and/or agents
19 established and maintained a significant presence at Parcel A after acquiring said property in or around
20 2004. Defendants could not have maintained such presence without being aware of Defendant Tetra
21 Tech's insufficient, negligent, and/or fraudulent environmental remediation on Parcel A and
22 other surrounding properties at HPNS. Upon information and belief, Defendants Lennar and/or
23 FivePoint had actual and/or constructive notice that Defendant Tetra Tech was not performing cleanup,
24 remediation, and/or testing responsibilities properly and was thereby covering up environmental
25 contamination on and around Parcel A. Despite being the owner of said property and marketing and
26 selling the property for residential and commercial sale under the guise of the property being safe and
27 not contaminated, Defendant Lennar knew that it could not verify such statements and that in fact, such
28 statements were based on fraud and misrepresentations. But instead of pursuing further investigation or

1 alerting government regulators, the public, or potential homeowners of the risk of the property being
2 contaminated, Defendants Lennar and/or FivePoint acted in conscious disregard of the safety of
3 Plaintiffs and the public, by ignoring the known, probable and foreseeable significant and horrific safety
4 and health risks to Plaintiffs and the public and instead advertising the direct opposite and knowingly
5 convincing Plaintiffs that HPNS was a safe and healthy place to live so as to induce their purchase of
6 the property/properties. Defendants failed to disclose the existence of continued toxic contamination
7 of the residential parcels at the SF Shipyard. Moreover, Plaintiffs are informed, believe, and thereon
8 allege that Defendants failed to disclose these hazardous activities to all purchasers of the homes at
9 the SF Shipyard.

10 265. The intentional failure to disclose the presence of toxic contamination on the site by
11 Defendants was fraud by omission.

12 266. Plaintiffs were induced to purchase their property/properties based on Defendants' fraud
13 by omission.

14 267. When Defendants made these representations, Defendants knew them to be false, and
15 these representations were made by Defendants with the intent to defraud and deceive Plaintiffs, and
16 with the intent to induce Plaintiffs to act in the manner herein alleged.

17 268. Plaintiffs, at the time these representations were made and at the time Plaintiffs took
18 the actions herein alleged, were ignorant of the continued existence of the toxic contaminants, and
19 Plaintiffs could not, in the exercise of reasonable diligence, have discovered that Defendants had
20 acted unlawfully, and that the area was still contaminated.

21 269. Business and Professions Code Section 17500 ("Section 17500") makes it unlawful
22 for a business to make, disseminate, or cause to be made or disseminated to the public "any statement,
23 concerning . . . real or personal property . . . which is untrue or misleading, and which is known, or
24 which by the exercise of reasonable care should be known, to be untrue or misleading."

25 270. As alleged above, each Defendant, at all times relevant to this Complaint, violated
26 Section 17500 by making and disseminating false or misleading statements about the safety and value
27 of SF Shipyard Property or by causing false or misleading statements about SF Shipyard Property to
28 be made or disseminated to the public.

1 271. As alleged above, each Defendant, at all times relevant to this Complaint, violated
2 Section 17500 by making statements to promote the sale or transfer of the SF Shipyard parcels that
3 omitted or concealed material facts, and by failing to correct prior misrepresentations and
4 omissions, about toxin levels of the underlying property. Each Defendant's omissions, which are
5 false and misleading in their own right, render even their seemingly truthful statements about HPNS
6 false and misleading.

7 272. As alleged above, Defendants' statements about the toxic contamination of HPNS,
8 including the SF Shipyard, were not supported by or were contrary to the scientific evidence, as
9 confirmed by the EPA and U.S. Navy.

10 273. As alleged above, each Defendant's conduct, separately and collectively, was likely
11 to deceive California home owners who purchased property for residential or investment purposes.

12 274. At the time it made or disseminated its false and misleading statements or caused
13 these statements to be made or disseminated, each Defendant knew and should have known that the
14 statements were false or misleading and therefore likely to deceive the public. In addition,
15 Defendants knew and should have known that their false and misleading advertising created a false
16 or misleading impression of the investment prospects, community development, and toxic
17 contamination levels of the SF Shipyard parcels.

18 275. California Civil Code § 1102.13 imposes civil liability against any person who sells
19 real property, and either willfully or negligently fails to provide required disclosures of the subject
20 property in accordance with California law, including but not limited to Civ. Code § 1102.6.

21 276. Plaintiffs purchased real property from Defendants.

22 277. Defendants knew that the land they were selling at the SF Shipyard to residential
23 purchasers, and/or the land immediately adjacent to the land they were selling, was contaminated
24 with radioactive and/or industrial waste above levels acceptable for development.

25 278. Defendants sold new homes to Plaintiffs after failing to disclose the presence of un-
26 remediated local radioactive and/or industrial waste that, individually and collectively, can have
27 deleterious health effects on residents, in violation of Civ. Code § 1102.13.

28 279. Defendants' failure to make the requisite disclosures induced Plaintiffs to purchase

1 properties they never would have purchased, and that property is now declining in value and
2 desirability due to the contamination on the property, which was unknown and undisclosed at the
3 time of sale. Therefore, Plaintiffs have suffered, and will continue to suffer, damages which will be
4 ascertained according to proof at trial.

5 280. Plaintiffs did not know, and could not reasonably have discovered, this information.
6 In or about September 2018, a radioactive deck marker was found on Parcel A. The Department of
7 Justice announced on October 26, 2018 that it was joining False Claims Act lawsuits that had been
8 under seal. Even as events were reported, Lennar and Tetra Tech continued to assure residents of the
9 SF Shipyard that all was well.

10 281. Defendants knew that Plaintiffs did not know, and could not reasonably have
11 discovered, this information.

12 282. This information significantly affected the value and desirability of the property.

13 283. Defendants' failure to disclose this information was a substantial factor in causing
14 Plaintiffs' harm.

15 284. As a proximate result of Defendants' fraud and the facts herein alleged, Plaintiffs
16 have been damaged in an amount to be determined at the time of trial.

17 285. In doing the acts herein alleged, Defendants acted with oppression, fraud, and malice,
18 and Plaintiffs are entitled to punitive damages.

19 **FIFTH CLAIM**

20 **NEGLIGENCE**

21 **(Against Each Defendant)**

22 286. Plaintiffs incorporate herein by reference all of the allegations in this complaint.

23 287. Defendants, and/or each of them, owed Plaintiffs duties under statutory and common
24 law, including, but not limited to: (1) the duty to warn the residents of potential, probable, and/or
25 significant risks to human health; (2) the duty to provide complete disclosures under Cal. Civ. Code
26 §1102.13; (3) the duty to not withhold material information regarding contamination from the
27 government and Plaintiffs; and (4) the duty to properly remediate the San Francisco Shipyard.

28 288. Defendants, and/or each of them, breached these duties by the aforementioned

1 conduct in this Complaint and including but not limited to:

- 2 • Falsifying data and reports;
- 3 • Failing to investigate;
- 4 • Failing to implement effective controls and procedures to address data falsification;
- 5 • Failing to dispose of toxic waste at a proper site and to avoid contamination of the SF
- 6 Shipyard;
- 7 • Causing Plaintiffs to become exposed to toxic substances which threaten cancer;
- 8 • Misrepresenting the contamination of HPNS;
- 9 • Permitting the transfer and sale of real property contaminated by nuclear and toxic
- 10 waste; and
- 11 • Failing to complete proper disclosures that would have revealed the toxic
- 12 contamination of the property.

13 289. Tetra Tech's work was initiated by the United States and was intended to, and did,
14 affect the Plaintiffs. The Tetra Tech defendants were aware that their work was intended to prepare
15 the Shipyard for redevelopment into residential and commercial space.

16 290. Tetra Tech owed a duty to Plaintiffs to exercise reasonable and ordinary care in
17 investigating and remediating the SF Shipyard and to avoid causing economic and other injury to
18 the Plaintiffs. That duty arises from the nature of the work Tetra Tech was contracted to perform and
19 the interdependency of Tetra Tech's work, the redevelopment of the SF Shipyard for residential and
20 commercial purposes, and Plaintiffs' purchase of units in the SF Shipyards for residential and
21 investment purposes.

22 291. Tetra Tech negligently, carelessly, tortiously, and wrongfully breached its duty to the
23 Plaintiffs through misconduct including, but not limited to, falsifying soil samples and building
24 surveys, destroying and falsifying records, and hiring and failing to supervise unqualified employees
25 and contractors.

26 292. It was reasonably foreseeable that Tetra Tech's misconduct would significantly delay
27 and/or hinder redevelopment of the property, deter property buyers and lenders, and harm the
28 Plaintiffs.

1 293. Tetra Tech’s conduct is ethically and morally blameworthy because Tetra Tech
 2 placed its profits ahead of the safety of others and the development of badly needed housing in San
 3 Francisco by failing to properly investigate the Shipyard. Tetra Tech has no reasonable excuse for
 4 these failures, which have delayed the development of the Shipyard and harmed the Plaintiffs who
 5 were relying on the development to take place and who were relying on representations that the
 6 property was safe for residence.

7 294. Tetra Tech’s conduct violated statutes and regulations, including at least:

- 8 • 10 C.F.R. 20.1501(a), which requires that each Nuclear Regulatory Commission
 9 licensee “shall make or cause to be made, surveys of areas, including the subsurface,
 10 that . . . are reasonable under the circumstances to evaluate the magnitude and extent
 11 of radiation levels; and concentrations or quantities of residual radioactivity; and the
 12 potential radiological hazards of the radiation levels and residual radioactivity
 13 detected.”
- 14 • 10 C.F.R. 20.2103, which provides that licensees “shall maintain records showing the
 15 results of surveys” required by the regulations.
- 16 • 18 U.S.C. § 1519, which states that “[w]hoever knowingly alters, destroys, mutilates,
 17 conceals, covers up, falsifies, or makes a false entry in any record, document, or
 18 tangible object with the intent to impede, obstruct, or influence the investigation or
 19 proper administration of any matter within the jurisdiction of any department or
 20 agency of the United States . . . , or in relation to or contemplation of any such matter
 21 or case, shall be fined under this title, imprisoned not more than 20 years, or both.”
- 22 • Section 5 of the Federal Trade Commission Act (15 U.S.C. § 45);
- 23 • Cal. Civ. Code § 1102 et seq., including §§ 1102.13, 1102.17, which required proper
 24 disclosure of the continued toxic contamination of HPNS;
- 25 • Bus. & Prof. Code § 17500;
- 26 • Toxic Substances Control Act (15 U.S.C. §2601 et seq.); and,
- 27 • Hazardous Materials Transportation Act (40 U.S.C. §1811 et seq.)

28 295. Pursuant to California Code of Evidence § 669, the Tetra Tech Defendants’

1 negligence is presumed under the doctrine of negligence *per se* because it violated these laws.

2 296. The Plaintiffs' harm resulted from conduct that the foregoing statute and regulations
3 were designed to prevent, and the Plaintiffs' are within the class of persons they are intended to
4 protect.

5 297. Plaintiffs have suffered damages directly, proximately and foreseeably caused by
6 Defendants' breaches of their statutory and common law duties.

7 It was reasonably foreseeable that Defendants' breaches of the duties set forth in this Claim would
8 cause harm to Plaintiffs in the form of diminution in value of the SF Shipyard properties but for
9 Defendants' wrongful conduct. And that it would induce Plaintiffs to purchase property they would
10 otherwise not have purchased. Thus, Plaintiffs have suffered monetary losses proximately caused
11 by Defendants' breaches of their duties set forth in this Claim.

12 298. Each Defendant's breaches of the common-law duties that they owed to Plaintiffs are
13 the proximate cause of Plaintiffs' injuries, and Plaintiffs are entitled to all damages allowable by
14 law, costs and attorneys' fees, and any other relief the Court deems necessary and appropriate.

15 299. Defendants' negligent acts as set forth herein were made with oppression, fraud or
16 malice, entitling Plaintiffs to exemplary damages.

17 300. Furthermore, Defendants, by their negligent conduct, have caused Plaintiffs to be
18 exposed to toxic substances which threaten cancer.

19 301. Defendants' conduct in causing the exposure amounts to oppression, fraud, and
20 malice as defined in California Civil Code section 3294;

21 302. Defendants' conduct in causing the exposure has caused Plaintiffs' to be in reasonable,
22 genuine, and serious fear of developing cancer as a result of the exposure;

23 303. That reliable medical or scientific opinion confirms that Plaintiffs' risk of developing
24 cancer was significantly increased by the exposure and has resulted in an actual risk that is
25 significant; and

26 304. That Defendants' conduct was a substantial factor in causing Plaintiffs' fear.

27 //.

28 //.

SIXTH CLAIM

NEGLIGENT MISREPRESENTATION

(Against Each Defendant)

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3
4 305. Plaintiffs incorporate all paragraphs above as though fully set forth herein.

5 306. Before, during, and after the construction of the homes at the SF Shipyard,
6 Defendants knew or should have known about the former industrial and nuclear activities conducted
7 at the former Hunters Point Naval Shipyard site, specifically that the Hunters Point Naval Shipyard
8 had been and presently was considered an active Superfund site and hazardous due to nuclear and
9 toxic waste. Plaintiffs are informed, believe and thereon allege that the industrial and nuclear toxic
10 contamination has affected the homes located therein.

11 307. Defendants owed a duty to residential purchasers to inform them of potential
12 radioactive and/or industrial waste on or near the real property for sale. To the extent Defendants
13 represented that the land had been properly remediated or else not in need of remediation, that was
14 untrue.

15 308. The failure to disclose the present toxic contamination of the site by defendants was
16 misrepresentation by omission.

17 309. Plaintiffs were induced to purchase properties based on Defendants'
18 misrepresentation by omission.

19 310. When Defendants made these representations, Defendants knew or should have known
20 them to be false, and these representations were made by Defendants with the intent Plaintiffs rely on
21 their representations, and with the intent to induce Plaintiffs to act in the manner herein alleged.

22 311. Plaintiffs, at the time these representations were made and at the time Plaintiffs took
23 the actions herein alleged, were ignorant of the continued existence of the toxic contaminants, and
24 Plaintiffs could not, in the exercise of reasonable diligence, have discovered that Defendants had
25 acted unlawfully, and that the area was still contaminated.

26 312. As a proximate result of Defendants' fraud and the facts herein alleged, Plaintiffs
27 have been damaged in an amount to be determined at the time of trial.

28 313. Plaintiffs' reliance on Defendants' misrepresentations, by omission or otherwise, was

1 a substantial factor in causing this harm.

2 **SEVENTH CLAIM**

3 **INTENTIONAL MISREPRESENTATION**

4 **(Against Each Defendant)**

5 314. Plaintiffs hereby re-allege and incorporate herein by reference each and every
6 allegation contained in the previous paragraphs as though fully set forth herein.

7 315. Before, during, and after the construction of the homes at the SF Shipyard,
8 Defendants, and/or each of them, knew about the former industrial and nuclear activities conducted
9 at HPNS, specifically that HPNS had been and presently was considered an active Superfund site
10 and hazardous due to nuclear and toxic waste.

11 316. In addition, Defendant Tetra Tech and/or its officers, employees, and/or agents
12 intentionally and fraudulently misrepresented to various government agencies the level of
13 contamination and the results of tests and cleanup of HPNS, including Parcel A and the SF Shipyard.
14 Defendant Tetra Tech and/or its officers, employees, and/or agents also intentionally withheld
15 materially relevant and important results from the government agencies which indicated that HPNS,
16 including in and around Parcel A and the SF Shipyard, was environmentally contaminated.
17 Defendants did so knowing that these intentional misrepresentations and/or omissions would lead to
18 the desired government approval required for development and sale of the parcels for residential and
19 commercial use and that persons such as Plaintiffs would purchase environmentally contaminated
20 property unknowingly. These misrepresentations and/or omissions resulted in a fraudulently
21 obtained government approval for development of the property, which in turn led to the development
22 and sale of the parcels under the false premise that the parcels had been properly remediated and the
23 soil sampling testing results were proof of such. Had Plaintiffs known the truth of Tetra Tech's
24 remediation work (or lack thereof) and falsified soil sample testing results, Plaintiffs would not have
25 purchased their properties. Such fraudulent misrepresentations were done with a conscious disregard
26 for the rights and safety of Plaintiffs, as well as the general public, and Defendants knew or should
27 have known that such fraudulent misrepresentations would be relied on by Plaintiffs and the general
28 public that HPNS, including Parcel A and the SF Shipyard, would be environmentally safe for use.

1 Further Defendants knew that public discovery of Tetra Tech’s misrepresentations would delay
2 development of the Shipyard.

3 317. Defendants Lennar, HPS1 Block 50, HPS1 Block 51, HPS1 Block 53, HPS1 Block
4 54, HPS1 Block 56/57 LLC, FivePoint and/or HPS Development, and/or their officers, employees,
5 and/or agents acquired Parcel A in or around 2004, and have maintained a continuous and
6 demonstrable presence within the Shipyard community to date. Upon information and belief,
7 Defendants Lennar, HPS1 Block 50, HPS1 Block 51, HPS1 Block 53, HPS1 Block 54, HPS1 Block
8 56/57, FivePoint, and/or HPS Development had actual and/or constructive notice that Defendant
9 Tetra Tech was not performing its contractual duties and failed to perform remediation work and
10 accurate soil sample testing at HPNS, including
11 in and around Parcel A.

12 318. Despite this actual and/or constructive notice, Lennar, HPS1 Block 50, HPS1 Block
13 51, HPS1 Block 53, HPS1 Block 54, HPS1 Block 56/57, FivePoint and/or HPS Development
14 continued to advertise and market residential properties at The SF Shipyard as environmentally safe
15 without notifying future homeowners of Tetra Tech’s acts and omissions in regards to the
16 remediation and soil sample testing at HPNS, including in and around Parcel A and the SF Shipyard.
17 At all relevant times, Defendants Lennar, HPS1 Block 50, HPS1 Block 51, HPS1 Block 53, HPS1
18 Block 54, HPS1 Block 56/57, FivePoint, and/or HPS Development continued to represent to current
19 and prospective homeowners at The SF Shipyard that HPNS, including Parcel A and the SF
20 Shipyard, was a safe and inhabitable community free of any toxic or nuclear materials.

21 319. Despite being the owner of said property and marketing and selling the property for
22 residential and commercial sale, and continuing to misrepresent that the land was safe to live on and
23 was free of nuclear and toxic waste, Defendants Lennar, HPS1 Block 50, HPS1 Block 51, HPS1
24 Block 53, HPS1 Block 54, HPS1 Block 56/57, FivePoint, and/or HPS Development knew that they
25 could not verify such statements and that in fact, such statements were based on fraud and
26 misrepresentations.

27 320. Defendants Lennar, HPS1 Block 50, HPS1 Block 51, HPS1 Block 53, HPS1 Block
28 54, HPS1 Block 56/57, FivePoint and/or HPS Development acted in conscious disregard of the

1 safety of Plaintiffs and the public, by ignoring the known, probable and foreseeable significant health
2 and safety risks to Plaintiffs and the public. Instead, Defendants Lennar, HPS1 Block 50, HPS1
3 Block 51, HPS1 Block 53, HPS1 Block 54, HPS1 Block 56/57, FivePoint and HPS Development
4 advertised that the Shipyard was environmentally safe with the intent to convince Plaintiffs that
5 HPNS was a safe and healthy place to live so as to induce Plaintiffs' and others to purchase property
6 at the SF Shipyard. Defendants failed to disclose the existence of continued toxic contamination of
7 the residential parcels at the SF Shipyard. Moreover, Plaintiffs are informed, believe, and thereon
8 allege that Defendants failed to disclose, and continue to fail to disclose these hazardous materials
9 to all purchasers and future purchasers of the homes at the SF Shipyard.

10 321. The intentional failure to disclose the presence of toxic contamination on the site by
11 Defendants was fraud by omission. Plaintiffs were induced to purchase their residences based on
12 Defendants' fraud by omission.

13 322. When Defendants made these representations, Defendants knew them to be false, and
14 these representations were made by Defendants with the intent to defraud and deceive Plaintiffs and
15 with the intent to induce Plaintiffs to act in the manner herein alleged.

16 323. As a result of Defendants' intentional misrepresentations, by omission or otherwise,
17 Plaintiffs took the actions herein alleged and were ignorant of the continued existence of the toxic
18 contaminants. Plaintiffs could not, in the exercise of reasonable diligence, have discovered that
19 Defendants had acted unlawfully, and that the area was still contaminated.

20 324. As alleged above, Defendants, and each of them, at all relevant times, made and
21 disseminated false or misleading statements about the safety and value of property at the SF Shipyard
22 or caused false or misleading statements about safety and value of the property at the SF Shipyard
23 to be made or disseminated to the public.

24 325. As alleged above, Defendants, and each of them, at all relevant times, made
25 statements to promote the sale or transfer of parcels at the SF Shipyard that omitted or concealed
26 material facts about toxin levels and toxic contamination of the underlying property. Furthermore,
27 Defendants failed to correct said prior misrepresentations and omissions. Defendants' omissions,
28 which are false and misleading in their own right, render even their seemingly truthful statements

1 about HPNS, including Parcel A and the SF Shipyard false and misleading.

2 326. As alleged above, Defendants' statements about the status of toxic contamination of
3 HPNS, including Parcel A and the SF Shipyard, were not supported by or were contrary to the
4 scientific evidence, as confirmed by the EPA and U.S. Navy.

5 327. As alleged above, Defendants' conduct, separately and collectively, was likely to
6 deceive home owners who purchased property for residential or investment purposes.

7 328. At the time they made or disseminated false and misleading statements or caused
8 these statements to be made or disseminated, Defendants, and each of them, knew and should have
9 known that the statements were false or misleading and therefore likely to deceive the public. In
10 addition, Defendants knew and should have known that their false and misleading advertising
11 created a false or misleading impression of the investment prospects, community development, and
12 toxic contamination levels of HPNS, including but not limited to Parcel A and the SF Shipyard.

13 329. Such misrepresentation and failures to disclose information regarding the actual
14 existing nature of the nuclear and toxic waste at HPNS, including Parcel A and the SF Shipyard,
15 subjects Defendants to damages pursuant to California Civil Code Section 1102.13.

16 330. Plaintiffs purchased real property either directly or indirectly from Defendants.
17 Defendants knew that the land they were selling at the SF Shipyard to residential purchasers, and/or
18 the land immediately adjacent to the land they were selling, was contaminated with radioactive
19 and/or industrial waste above levels acceptable for development.

20 331. Defendants sold new homes while failing to disclose the presence of un-remediated
21 local radioactive and/or industrial waste that, individually and collectively, can have deleterious
22 health effects on residents, in violation of Civ. Code § 1102.13.

23 332. Defendants' failure to make the requisite disclosures induced Plaintiffs to purchase
24 properties they never would have purchased, and those properties are now declining in value and
25 desirability due to the contamination on and/or around the property, as well as questions regarding
26 the environmental safety of the SF Shipyard, which was unknown and undisclosed at the time of
27 sale. In doing the acts herein alleged, Defendants acted with oppression, fraud, and malice, and
28 Plaintiffs are entitled to punitive damages.

1 333. Therefore, Plaintiffs have suffered, and will continue to suffer, damages which will
2 be ascertained according to proof at trial.

3 334. Plaintiffs did not know, and could not reasonably have discovered, information
4 regarding Tetra Tech's acts and omissions, nor could they have reasonably discovered, vetted or
5 verified the claims made by Lennar, HPS1 Block 50, HPS1 Block 51, HPS1 Block 53, HPS1 Block
6 54, HPS1 Block 56/57, FivePoint and HPS Development regarding the environmental condition of
7 the land, including whether the toxic and nuclear waste had been properly remediated and removed
8 from the land prior to their home purchases. Defendants knew that Plaintiffs did not know, and could
9 not reasonably have discovered, this information. Such information significantly and negatively
10 affected the value and desirability of the property.

11 335. Defendants' failure to disclose this information was a substantial factor in causing
12 Plaintiffs' harm. As a proximate result of Defendants' fraud and the facts herein alleged, Plaintiffs
13 have been damaged in an amount to be determined at the time of trial.

14 **IX. PRAYER FOR RELIEF AND DEMAND FOR JURY**

15 WHEREFORE, Plaintiffs respectfully pray that this Court grant the following relief:

16 1. Entering Judgment in favor of each Plaintiff in a final order against each of the
17 Defendants;

18 2. A declaration that Defendants have created a public nuisance in violation of Civil
19 Code Sections 3479 and 3480;

20 3. A declaration that Defendants have created a private nuisance in violation of Civil
21 Code Section 3479;

22 4. Compensatory damages;

23 5. Injunctive relief;

24 6. An order that Defendants compensate Plaintiffs for damages to their properties,
25 including but not limited to the purchase price and/or the decrease in value of the properties;

26 7. Amounts that Plaintiffs expended in reliance on Defendants' fraud, damages for loss
27 of use and enjoyment of the property, loss of profit and other gains;

28 8. A declaration that Defendants have engaged in unlawful, unfair, and deceptive
business acts and practices in violation of the Unfair Competition Law;

1 9. A declaration that Defendants have made, disseminated as part of a plan or scheme,
2 or aided and abetted the dissemination of false and misleading statements in violation of the False
3 Advertising Law;

4 10. An order that Defendants pay restitution to Plaintiffs of any money acquired by Defendants'
5 false and misleading advertising, pursuant to the False Advertising Law;

6 11. An order that Defendants pay restitution to Plaintiffs of any money acquired by Defendants'
7 unlawful, unfair and fraudulent practiced, pursuant to the Unfair Competition Law;

8 12. Damages in a sum to be established by proof at trial equal to the diminution in the
9 value of, and future harm to, Plaintiffs' property; plus interest on that amount at the legal rate until
10 paid;

11 13. Damages in a sum to be established by proof at trial equal to the difference between
12 the amount Plaintiffs paid for the properties and the value of the property had proper disclosures
13 been made; plus interest on that amount at the legal rate until paid;

14 14. An award of punitive damages;

15 15. An award of the costs of investigation, reasonable attorneys' fees, and all costs and expenses
16 of the litigation; and

17 16. Such further and additional relief as the Court deems proper.

18 **PLAINTIFFS FURTHER DEMAND TRIAL BY JURY ON ALL ISSUES.**

19 Dated: February 28, 2020

COTCHETT, PITRE & McCARTHY, LLP

21 By: /s/ Anne Marie Murphy
22 JOSEPH W. COTCHETT
 ANNE MARIE MURPHY

23 **BOWLES & VERNA LLP**
24 Bradley R. Bowles (SBN 202722)
25 Jonathan W. Lee (SBN 285323)
26 2121 N. California Blvd., Suite 875
27 Walnut Creek, CA 94596
28 Tel: (925) 935-3300
 Fax: (925) 935-0371
 bbowles@bowlesverna.com
 jlee@bowlesverna.com

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GIBBS LAW GROUP LLP
Eric H. Gibbs (SBN 178658)
Andre M. Mura (SBN 298541)
Aaron Blumenthal (SBN 310605)
505 14th Street, Suite 1110
Oakland, CA 94612
Tel: (510) 350-9700
Fax: (510) 350-9701
ehg@classlawgroup.com
amm@classlawgroup.com
ab@classlawgroup.com

Attorneys for Plaintiffs