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19 ATTORNEYS FOR PLAINTIFFS

20 **UNITED STATES DISTRICT COURT**
 21 **SOUTHERN DISTRICT OF CALIFORNIA**
 22 **SAN DIEGO DIVISION**

23 LINDSAY R. COOPER, JAMES R.
 24 SUTTON, KIM GIESEKING, A. G., AN
 25 INFANT BY HER MOTHER AND
 26 NATURAL GUARDIAN, KIM
 27 GIESEKING, CHARLES A. YARRIS,
 28 ROBERT M. MILLER, CHRISTOPHER G.
 BITTNER, ERIC MEMBRILA, JUDY C.
 GOODWIN, JENNIFER L. MICKE, JOHN
 W. SEELBACH, MAURICE D. ENIS,
 JAIME L. PLYM, NATHAN J.
 PIEKUTOWSKI, CAROLYN A. WHITE,
 LOUIE VIERNES, MICHAEL L.
 SEBOURN, K. S., AN INFANT BY HIS
 FATHER AND NATURAL GUARDIAN,

Case No.: 12-CV-3032-JLS-WMc
 A CLASS ACTION COMPLAINT
 Fed. [Rule 23\(a\)](#)

**SECOND AMENDED
 COMPLAINT FOR DAMAGES**

1. NEGLIGENCE
2. STRICT LIABILITY FAILURE TO WARN
3. STRICT LIABILITY FOR DESIGN DEFECT
4. PUBLIC NUISANCE
5. PRIVATE NUISANCE
6. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
7. STRICT LIABILITY FOR ULTRAHAZARDOUS ACTIVITIES

1 MICHAEL L. SEBOURN, CHRISTIAN M.
2 EBUENG, PAUL J. ENCINIAS, DANIEL
3 E. HAIR, ADAM W. KRUTZLER, DAVID
4 K. MALONE, ROBERT SELIGMAN,
5 ELOI A. WHITEMAN, JASON D.
6 HENRY, NELLIE ALLEN-LOGAN, JAMI
7 BESCHORNER, NATHAN CANCHE,
8 NATHAN CRISWELL, JASON TROY
9 FRIEL, OSCAR GONZALEZ, DAVID
10 HAHN, JAMES JACKSON, D. J., A
11 MINOR BY HIS FATHER AND
12 NATURAL GUARDIAN JAMES
13 JACKSON, JARRETT BRADY
14 JOHNSTON, JOSEPH MEDINA, ADAM
15 MINTZ, MALLORY K. MORROW,
16 WILLIAM NETHERTON, MICHELLE
17 ODEN, DONALD RAIRIGH,
18 CHRISTOPHER RICKARD, ANDREW
19 RIVERA, STEVEN RAY SIMMONS,
20 AKEEM SMITH, JUSTIN SPENCER,
21 ALAN SPURLING, ANGEL TORRES,
22 ANTHONY GARCIA AND "JOHN &
23 JANE DOES" 1-70,000,

24 Plaintiffs,

25 vs.

26 TOKYO ELECTRIC POWER COMPANY,
27 INC. aka TEPCO, and Does 1 through 200,
28 inclusive

Defendants

8. NEGLIGENCE PER SE: RES
IPSA LOQUITUR
9. PRESUMPTION OF
NEGLIGENCE PER SE

JURY TRIAL DEMANDED

Plaintiffs, by their attorneys, PAUL C. GARNER, ESQ. and CHARLES A. BONNER ESQ. as and for their Second Amended Complaint, respectfully allege, upon information and belief, on behalf of themselves and others similarly situated and for their Second Amended Complaint, state as follows:

At all relevant times, 70,000 plus CLASS PLAINTIFFS were members of

1 the armed forces, their dependents, and support personnel, who served in a variety
2 of capacities, and who are and were, at all times mentioned, citizens of the United
3 States of America.

4 One or more members of PLAINTIFFS' CLASS may sue as representative
5 parties on behalf of the class because all the following requirements are met: (1)
6 the class is so numerous that joinder of all members is impracticable, (2) there are
7 questions of law or fact common to the class, (3) the claims or defenses of the
8 representative parties are typical of the claims or defenses of the class, and (4) the
9 representative parties will fairly and adequately protect the interests of the class.

10 JURISDICTION

11 1. The jurisdiction of this Court over the subject matter in this action is
12 predicated upon Diversity Jurisdiction, 28 U.S.C. §1332. The amount in
13 controversy exceeds \$75,000, exclusive of interest and costs.¹ (2) The district
14 courts shall have original jurisdiction of any civil action in which the matter in
15 controversy exceeds the sum or value of \$5,000,000, exclusive of interest and
16 costs, and is a class action in which—(A) any member of a class of plaintiffs is a
17 citizen of a State different from any defendant;(B) any member of a class of
18 plaintiffs is a foreign state or a citizen or subject of a foreign state and any
19 defendant is a citizen of a State; or (C) any member of a class of plaintiffs is a
20 citizen of a State and any defendant is a foreign state or a citizen or subject of a
21 foreign state.²

22 PARTIES

23 2. The Plaintiffs, LINDSAY R. COOPER, JAMES R. SUTTON, KIM
24

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26 ¹ Diversity jurisdiction is currently codified at 28 U.S.C. §1332,
<http://www.law.cornell.edu/uscode/28/1332.html>; also see Ghotra v. Bandila
27 Shipping, Inc., 713 F3d 1050, 1054, 9th Cir. 1997

28 ² 28 U.S.C. §1332

1 GIESEKING, A. G., AN INFANT BY HER MOTHER AND NATURAL
2 GUARDIAN, KIM GIESEKING, CHARLES A. YARRIS, ROBERT M.
3 MILLER, CHRISTOPHER G. BITTNER, ERIK MEMBRILA, JUDY
4 GOODWIN, JENNIFER L. MICKE, JOHN SEELBACH, MAURICE D. ENIS,
5 JAIME L. PLYM, NATHAN J. PIEKUTOWSKI, CAROLYN A. WHITE, LOUIE
6 VIERNES, MICHAEL L. SEBOURN, K. S., AN INFANT BY HIS FATHER
7 AND NATURAL GUARDIAN, MICHAEL L. SEBOURN, CHRISTIAN M.
8 EBUENG, PAUL J. ENCINIAS, DANIEL E. HAIR, ADAM W. KRUTZLER,
9 DAVID K. MALONE, ROBERT SELIGMAN, ELOI A. WHITEMAN, ARAMIS
10 A. BERRIOS, RYAN S. BROWN, COURTNEY R. CARMICHAEL, WILLIAM
11 V. CHAPMAN, JOHN D. DAVIS, KYLE W. FELT, KATE M. GRACE, SHANE
12 Q. GALLAGHER, ROBERT C. HARTAGE, CHRISTIAN A JESSUP, DANIEL
13 B. LAWVER, THOMAS L. McCANTS, BENITO G. SERENTAS, KELLI D.
14 SERIO, MICHAEL B. SHANNON, KRISTIAN R. WILLIAMS, WILLIAM J.
15 ZELLER, CORA E. HILL, GUNNAR W. BORTHICK, JASON D. HENRY,
16 NELLIE ALLEN-LOGAN, JAMI BESCHORNER, NATHAN CANCHE,
17 NATHAN CRISWELL, JASON TROY FRIEL, OSCAR GONZALEZ, DAVID
18 HAHN, JAMES JACKSON, D. J., A MINOR BY HIS FATHER AND
19 NATURAL GUARDIAN JAMES JACKSON, JARRETT BRADY JOHNSTON,
20 JOSEPH MEDINA, ADAM MINTZ, MALLORY K. MORROW, WILLIAM
21 NETHERTON, MICHELLE ODEN, DONALD RAIRIGH, CHRISTOPHER
22 RICKARD, ANDREW RIVERA, STEVEN RAY SIMMONS, AKEEM SMITH,
23 JUSTIN SPENCER, ALAN SPURLING, ANGEL TORRES, DAGAN P.
24 HONDA, RONALD E. WRIGHT, TREVOR BECK, ASHLEY RAMIREZ,
25 OSVALDO VERA, BRANDON SMITH, LETICIA MORALES, SKYLER
26 WARNOCK, WYATT BINDERUP, DANIEL PRETTO, MICHAEL
27 WARNEZPONTON, ANTHONY GARCIA and JOHN & JANE DOES” 1-
28 70,000, at all times herein mentioned were among the members of the U.S. Navy

1 crews of the U.S.S. RONALD REAGAN (CVN-76), with its home port in San
2 Diego, California, the crews of other vessels participating as part of the Reagan
3 Strike Force, 7th Fleet, land-based service personnel, and/or their dependents. All
4 of the Plaintiffs were repeatedly exposed to ionizing radiation on or after March
5 11, 2011, due to the release of radioisotopes from the Fukushima Nuclear Power
6 Plant (hereinafter, “FNPP”). All of the Plaintiffs were exposed during the mission
7 known as “Operation Tomadachi.”³

8 3. Plaintiff, LINDSAY R. COOPER, born July 12, 1989, who served as an
9 aviation boatswain’s mate stationed on the flight deck, is and was at all times
10 mentioned herein a citizen of the State of California.

11 4. Plaintiff JAMES R. SUTTON, born June 10, 1987, who served as a
12 boatswain’s mate and was aircraft director on the flight deck, is and was at all
13 times mentioned a citizen of the State of Washington.

14 5. Plaintiff KIM GIESEKING, born January 28, 1989, who served as a
15 boatswain’s mate on the flight deck, is and was at all times mentioned a citizen of
16 the State of California.

17 6. Plaintiff A. G., BY HER MOTHER AND NATURAL GUARDIAN, KIM
18 GIESEKING, born October 15, 2011, is and was a citizen of the State of
19 California.

20 7. Plaintiff CHARLES A. YARRIS, born December 3, 1988, who served as a
21 boatswain’s mate as a director on the flight deck, is and was at all times mentioned
22 a citizen of the State of Ohio.

23
24
25 ³ On March 14, 2011, the U.S. 7th Fleet, U.S. Naval personnel, and aircraft aboard
26 the vessels were repositioned away from Japan’s FNPP after detecting
27 contamination in the air and on the helicopters returning to the U.S.S. Ronald
28 Reagan (CVN-76) from ferrying supplies to the land on aircraft deployed by the
U.Sed.

1 8. Plaintiff ROBERT M. MILLER, born April 19, 1986, who served as a
2 boatswain's mate handler in the air department, is and was at all times mentioned a
3 citizen of the State of California.

4 9. Plaintiff CHRISTOPHER G. BITTNER, born July 21, 1985, who served as
5 an aviation boatswain's mate stationed on the flight deck, is and was at all times
6 mentioned a citizen of the State of New Mexico.

7 10. Plaintiff ERIC MEMBRILA, born July 28, 1974, who served as a specialist
8 in air decontamination, is and was at all times mentioned a citizen of the State of
9 California.

10 11. Plaintiff JUDY C. GOODWIN, born January 9, 1988, was an aviation
11 boatswain's mate stationed on the flight deck, is and was at all times mentioned a
12 citizen of the State of New Mexico.

13 12. Plaintiff JENNIFER L. MICKE, born October 14, 1990, who served as an
14 aviation structural mechanic, is and was at all times mentioned a citizen of the
15 State of Wisconsin.

16 13. Plaintiff JOHN W. SEELBACH, born October 19, 1985, who served as an
17 aviation electronics troubleshooter, is and was at all times mentioned a citizen of
18 the State of California.

19 14. Plaintiff MAURICE D. ENIS, born October 8, 1987, who served as a
20 navigation quartermaster, is and was at all times mentioned a citizen of the State of
21 Florida.

22 15. Plaintiff JAIME L. PLYM, born October 26, 1984, who served as a
23 navigator-plotter, is and was at all times mentioned a citizen of the State of Florida.

24 16. Plaintiff NATHAN J. PIEKUTOWSKI, born February 15, 1991, who
25 served as a marine aboard the USS Essex, is and was at all times mentioned a
26 citizen of the State of Illinois.

1 17. Plaintiff CAROLYN A. WHITE, born October 16, 1979, who served as
2 expedition division chief on the USS Ronald Reagan, is and was at all times
3 mentioned a citizen of the State of California.

4 18. Plaintiff LOUIE VIERNES, born April 4, 1987, who served as a deck
5 seaman on the U.S.S. Cowpens, is and was at all times mentioned a citizen of the
6 State of California.

7 19. Plaintiff MICHAEL L. SEBOURN, born August 24, 1974, who served as a
8 decontamination coordinator, is and was at all times mentioned a citizen of the
9 State of California.

10 20. Plaintiff K. S.⁴, born November 10, 2002, by his father and natural
11 guardian, MICHAEL L. SEBOURN, is and was at all times mentioned a citizen of
12 the State of California.

13 21. Plaintiff CHRISTIAN EBUENG, born January 20, 1988, who served as an
14 aviation life-support technician on the USS Reagan, is and was at all times
15 mentioned a citizen of the State of California.

16 22. Plaintiff PAUL J. ENCINIAS, born March 10, 1984, who served as plane
17 captain, launch and recovery aboard the USS Reagan, is and was at all times
18 mentioned a citizen of the State of California.

19 23. Plaintiff DANIEL E. HAIR, born September 13, 1984, who served as an
20 administrator aboard the USS Reagan, is and was at all times mentioned a citizen
21 of the State of California.

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24 ⁴ Infants are most vulnerable due to their more rapidly growing cells, and when the
25 maternal host is exposed to radioactive isotopes, this can be fatal or highly
26 damaging to the fetus. It has been reported that by one year post Fukushima (by
27 May, 2012), up to 35% of Japan's monitored children have been found with cysts
28 or other unnatural developments on their thyroid glands. This indicates there are
both increased and unsafe levels in their environment and that they should have
been evacuated to far more than only 12-20 miles beyond the FNPP site.

1 24. Plaintiff ADAM W. KRUTZLER, born December 18, 1989, who served as
2 an aircraft electrician, plane captain and flight deck supervisor aboard the USS
3 Reagan, is and was at all relevant times a citizen of Oklahoma.

4 25. Plaintiff DAVID K. MALONE, born April 12, 1985, who served as an
5 aircraft engine mechanic, aviation machinist mate, is and was at all times
6 mentioned a citizen of the State of Washington.

7 26. Plaintiff ROBERT SELIGMAN, born August 26, 1985, who served as an
8 aircraft fuel technician aboard the USS Reagan, is and was at all times mentioned a
9 citizen of the State of Arizona.

10 27. Plaintiff ELOI A. WHITEMAN, born December 1, 1949, who served as a
11 technician aboard the USS Reagan, is and was at all times mentioned a citizen of
12 the State of California.

13 28. Plaintiff ARAMIS A. BERRIOS, born September 15, 1987, who served as a
14 USN-E5- YN/WCS/ Engineering Department aboard the USS Reagan, is and was
15 at all times mentioned a citizen of the State of California.

16 29. Plaintiff RYAN S. BROWN, born May 12, 1982, who served as a USN-E5-
17 Second Class Petty Officer, Hull Maintenance Technician aboard the USS
18 Reagan, is and was at all times mentioned a citizen of the State of Louisiana.

19 30. Plaintiff COURTNEY R. CARMICHAEL, born October 6, 1982, who
20 served as a USN-E1- Aviation Structural Mechanic aboard the USS Reagan, is and
21 was at all times mentioned a citizen of the State of California.

22 31. Plaintiff WILLIAM V. CHAPMAN, born August 24, 1970, who served as a
23 USN-E8- Flight Deck Coordinator aboard the USS Reagan, is and was at all times
24 mentioned a citizen of the State of California.

25 32. Plaintiff JOHN D. DAVIS, born March 6, 1977, who served as a USN-E-7-
26 HTC/Repair-CPO stationed on the USS Essex, and is and was at all times
27 mentioned a citizen of the State of Maryland.

28 33. Plaintiff, KYLE W. FELT, born March 4, 1987, who served as a USN-E5-

1 Engineering Department while aboard the USS Reagan, is and was at all times
2 mentioned a citizen of the State of California.

3 34. Plaintiff, KATE M. GRACE, born July 16, 1979, who served as a USN-E1-
4 Aviation Ordinance while aboard the USS Reagan, is and was at all times
5 mentioned a citizen of the State of Washington.

6 35. Plaintiff, SHANE Q. GALLAGHER, born June 8, 1987, who served as a
7 USMC-E5-Reconnaissance while aboard the USS Essex, is and was at all times
8 mentioned a citizen of the State of Massachusetts.

9 36. Plaintiff, ROBERT C. HARTAGE, born March 11, 1985, who served as a
10 USN-E4-Yeoman while aboard the USS Reagan, is and was at all times mentioned
11 a citizen of the State of South Carolina.

12 37. Plaintiff, CHRISTIAN A JESSUP, born July 18, 1978, who served as a
13 USN-E-6-Tomahawk Administrator, while aboard the USS Reagan, is and was at
14 all times mentioned a citizen of the State of Florida.

15 38. Plaintiff, DANIEL B. LAWVER, born June 15, 1992, who served as a
16 USN-E-1-Gunners Mate, while aboard the USS Reagan, is and was at all times
17 mentioned a citizen of the State of Wisconsin.

18 39. Plaintiff, THOMAS L. McCANTS, born September 29,, 1984, who served
19 as a USN-E-5- Electronics technician, while aboard the USS Germantown, is and
20 was at all times mentioned a citizen of the State of Washington.

21 40. Plaintiff, BENITO G. SERENTAS, JR., born June 5, 1959, who served as a
22 USN-Contractor Tarp Representative for Lerdos Corporation while aboard the
23 USS Reagan, is and was at all times mentioned a citizen of the State of California.

24 41. Plaintiff, KELLI D. SERIO, born July 24, 1989, who served as a USN-E-2-
25 Quartermaster while aboard the USS Reagan, is and was at all times mentioned a
26 citizen of the State of California.

27 42. Plaintiff, MICHAEL B. SHANNON, born September 4, 1981, who served
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1 as a USN-E-5-Electronic technician while aboard the USS Reagan, is and was at
2 all times mentioned a citizen of the State of Oklahoma.

3 43. Plaintiff, KRISTIAN R. WILLIAMS, born April 1, 1970, who served as a
4 USN-05-Commander-Pilot assigned to Atsugi, Japan, is and was at all times
5 mentioned a citizen of the State of Texas.

6 44. Plaintiff, WILLIAM J. ZELLER, born April 12, 1987, who served as a
7 USN-E-3-Security Force (SF-2), is and was at all times mentioned a citizen of the
8 State of California.

9 45. Plaintiff, CORA E. HILL, born August 29, 1983, who served as a USN-E-
10 5-Electronic technician, is and was at all times mentioned a citizen of the State of
11 California.

12 46. Plaintiff DANIEL E. HAIR, born September 13, 1984, who served as an
13 administrator aboard the USS Reagan, is and was at all times mentioned a citizen
14 of the State of California.

15 47. Plaintiff, GUNNAR W. BORTHICK, born April 18, 1987, who served as a
16 USN-E-5-Maintenance Man aboard the USS Chancellorsville, is and was at all
17 times mentioned a citizen of the State of Texas.

18 48. Plaintiff, JAMI L. BESCHORNER, born January 23, 1986, who served as a
19 USN-E-5-Avionics Electronics Technician aboard the USS Reagan, is and was at
20 all times mentioned a citizen of the State of California.

21 49. Plaintiff, NATHAN A. CRISWELL, born July 26, 1988 who served as a
22 USN-E-4-Avionics Electronics Technician aboard the USS Reagan, is and was at
23 all times mentioned a citizen of the State of Colorado.

24 50. Plaintiff, JASON T. FRIEL, born July 2, 1980 who served as a USN-E-6-
25 Sonar Technician aboard the USS Reagan, is and was at all times mentioned a
26 citizen of the State of California.

27 51. Plaintiff, OSCAR J. GONZALEZ, born December 19, 1984 who served as a
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1 USN-E-3 Aviation Ordinance Technician aboard the USS Reagan, is and was at all
2 times mentioned a citizen of the State of New Jersey.

3 52.Plaintiff, DANIEL J. HAHN, who served as a USN-LT. Commander
4 aboard the USS Reagan, is and was at all times mentioned a citizen of the State of
5 Arizona.

6 53.Plaintiff, D. J. J. born July 3, 1999, a minor, by his father and natural
7 guardian James E. Jackson was residing at Yokosuka, Japan, is and was at all times
8 mentioned a citizen of the State of California.

9 54.Plaintiff, JAMES E. JACKSON, born September 22, 1977 who served as a
10 USN-E-6-IT-LPO assigned to the Yokosuka, Japan, is and was at all times
11 mentioned a citizen of the State of California.

12 55.Plaintiff, JARRETT B. JOHNSTON, born December 5, 1985 who served as
13 a USN-E-Senior Airman, Avionics Electronics Technician aboard the USS
14 Reagan, is and was at all times mentioned a citizen of the State of Alabama.

15 56.Plaintiff, JOHNATHAN MEDINA, born November 7, 1972 who served as a
16 USN-E-6 Supervisor Aircraft Mechanic aboard the USS Reagan, is and was at all
17 times mentioned a citizen of the State of California.

18 57.Plaintiff, ADAM J. MINTZ, born April 23, 1991 who served as a USN-E-3
19 Avionics Technician aboard the USS Reagan, is and was at all times mentioned a
20 citizen of the State of California.

21 58.Plaintiff, MICHAEL R. MORROW, born July 6, 1983who served as a USN-
22 E-6 Avionics Electronics Technician aboard the USS Reagan, is and was at all
23 times a citizen of the State of Arkansas.

24 59.Plaintiff, WILLIAM O. NETHERTON, born April 18, 1987, who served as
25 a USN-E-4 Air Frame Technician assigned to NAS, Atsugi, Japan, is and was at all
26 times mentioned a citizen of the State of California.

27 60.Plaintiff, MICHELLE R. ODEN, born March 26, 1981, who served as a
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1 USN-E-6 Aviation Electronics Technicians aboard the USS Reagan, is and was at
2 all times mentioned a citizen of the State of California.

3 61.Plaintiff, RONALD A. RAIRIGH, born May 8, 1974, who served as a USN-
4 E-6 Electrician aboard the USS Reagan, is and was at all times mentioned a citizen
5 of the State of California.

6 62.Plaintiff, CHRISTOPHER S. RICKARD, born October 10, 1985, who
7 served as a USN-E-5 Security assigned to NAS, Atsugi, Japan, is and was at all
8 times mentioned a citizen of the State of Florida.

9 63.Plaintiff, ANDREW T. RIVERA, born December 21, 1986, who served as a
10 USN-E-4 – Avionics Machinists Mate aboard the USS Reagan, is and was at all
11 times mentioned a citizen of the State of Washington.

12 64.Plaintiff, STEVEN R. SIMMONS, born December 15, 1977, who served as
13 a USN-LT.JG/02E- aboard the USS Reagan, is and was at all times mentioned a
14 citizen of the State of Maryland.

15 65.Plaintiff, AKEEM R. SMITH, born June 6, 1986, who served as a USN-E-4-
16 Culinary Specialist aboard the USS Reagan, is and was at all times mentioned a
17 citizen of the State of California.

18 66.Plaintiff, ALAN W. SPURLING, born May 16, 1986, who served as a USN-
19 E-4- Security Specialist aboard the USS Reagan, is and was at all times mentioned
20 a citizen of the State of California.

21 67.Plaintiff, ANGEL L. TORRES, born February 15, 1970, who served as a
22 USN-CN02 Officer aboard the USS Reagan, is and was at all times mentioned a
23 citizen of the State of California.

24 68.Plaintiff, DAGAN P. HONDA, born December 28, 1983, who served as a
25 USN-E-6-Aviation Boatswain Mate aboard the USS Reagan, is and was at all
26 times mentioned a citizen of the State of Washington.

27 69.Plaintiff, RONALD E. WRIGHT, born January 5, 1990, who served as a
28

1 USN-E-4- Aviation Structural Mechanic aboard the USS Reagan, is and was at all
2 times a citizen of the State of Washington.

3 70.Plaintiff, NELLI ALLEN-LOGAN who served aboard the USS Reagan, is
4 and was at all times mentioned a citizen of the United States.

5 71.Plaintiff, NATHAN CANCHE who served aboard the USS Reagan, is and
6 was at all times mentioned a citizen of the United States.

7 72. Plaintiff, JUSTIN SPENCER, who served aboard the USS Reagan, is and
8 was at all times mentioned a citizen of the United States.

9 73.Plaintiff, TREVOR BECK, born January 19, 1990, who served as an
10 Electronics Technician aboard the USS Reagan, is and was at all times mentioned a
11 citizen of the State of the State of California.

12 74.Plaintiff ASHLEY RAMIREZ, born April 17, 1990, who served as Logistics
13 Specialist, aboard the USS George Washington, is and was at all times mentioned a
14 citizen of the State of California.

15 75.Plaintiff, OSVALDO VERA, born October 14, 1987, who served on board
16 of the USS Ronald Reagan as an Electronics technician, is and was at all times
17 mentioned a citizen of Bremerton, Washington.

18 76. Plaintiff, BRANDON SMITH, born January 1, 1990, who served on board
19 the USS Reagan as an Electronics Technician, is and was at all times mentioned a
20 citizen of the State of California.

21 77.Plaintiff, DANIEL B LAWVER, born September 20, 1984, who served
22 on board the USS Reagan as an Electronics Technician, is and was at all times
23 mentioned a citizen of the State of California.

24 78.Plaintiff, LETICIA MORALES, born 10 July 1979, was on board the USS
25 Reagan who served as an Quality Assurance on the flight deck during all aircraft
26 launches and recoveries, during maintenance, and as an inspector, is and was at all
27 times mentioned a citizen of Mount Vernon, WA.

28 79. Plaintiff, MICHAEL ZITELLA, who served on the USS Ronald Regan, is

1 and was at all times mentioned a citizen of the State of California.

2 80. Plaintiff, JONATHAN COLBY ZAVITZ, born February 16, 1983, was
3 stationed aboard the USS Fitzgerald as a SPY Fire control-man responsible for the
4 ships phased array air search radar, is and was at all times mentioned a citizen of
5 the State of California.

6 81. Plaintiff, JEDEDIAH IRONS, born October 8, 1986, was on the USS
7 Ronald Reagan, is and was at all times mentioned a citizen of the State of New
8 York.

9 82. Plaintiff, ANTHONY GARCIA, born November 9, 1988, served as a USN-
10 personnel aboard the USS Chancellorsville. GARCIA is and was at all times a
11 citizen of the state of Wyoming.

12 83. Plaintiffs have only recently, within all the relevant statutes of limitation
13 periods, discovered the facts pertaining to the nature and extent of their injuries, as
14 well as the facts that show DEFENDANTS' conduct, including DEFENDANTS'
15 negligent conduct in the construction, maintenance, management, and operation
16 before, during and after the March 11, 2011 earthquake and tsunami. Within all the
17 relevant statutes of limitation periods, Plaintiffs discovered the facts which prove
18 that DEFENDANT TEPCO is the actual and proximate cause of their injuries,
19 damages and harm. This delayed discovery tolls, both in equity and in law, the
20 expiration of the statutes of limitation.

21 84. Plaintiffs "JOHN & JANE" DOES 1-70,000, are class members of the
22 armed forces, their dependents, and support personnel, who served in a variety of
23 capacities, and who are and were, at all times mentioned, citizens of the United
24 States of America.

25 85. The DEFENDANT, TOKYO ELECTRIC POWER COMPANY, INC. aka
26 TEPCO, (hereinafter, "TEPCO"), at all times herein mentioned, was and still is a
27 foreign corporation, organized and existing under the laws of Japan, with its
28 principal place of business situated at 1-1-3 Uchisai wai-Cho, Chiyoda-Ku, in the

1 city of Tokyo, Japan, and with offices located at Suite 720, 1901 L Street N.W.,
2 Washington, D.C. 20036. In 2003, TEPCO registered as a California foreign
3 corporation with the California Secretary of State. TEPCO is the largest electric
4 utility in Japan and the 4th largest electric utility in the world. TEPCO enjoys
5 billions of dollars in Revenue from electricity sales. During all times relevant,
6 TEPCO conducted business as a foreign Corporation registered in the State of
7 California. Hence, TEPCO is subject to the jurisdiction of this United States
8 Federal District Court, which is empowered to enforce any Judgment against
9 DEFENDANT.

10 86. The DEFENDANT, TEPCO, is a wholly owned public benefit corporation,
11 and the government of Japan is its principal shareholder, charged with the
12 responsibility to provide electric power to the people of Japan.

13 87. At all times herein mentioned, DEFENDANT TEPCO derived substantial
14 revenue from its activities via goods used or consumed in the United States of
15 America, and its several States, including the State of California, through its
16 operation of the FNPP.

17 88. At all times herein mentioned, DEFENDANT TEPCO expected or should
18 reasonably have expected its acts to have consequences in the State of California
19 and elsewhere within the United States of America.

20 89. At all times herein mentioned the DEFENDANT TEPCO derived
21 substantial revenue from interstate or international commerce.

22 90. At all times herein mentioned the DEFENDANT TEPCO owned the
23 premises where the FNPP was situated, within the prefecture of Fukushima, Japan.

24 91. At all times herein mentioned the DEFENDANT TEPCO was one of the
25 owners of the FNPP.

26 92. At all times herein mentioned the DEFENDANT TEPCO was a lessee of
27 the FNPP.

1 93. At all times herein mentioned the DEFENDANT TEPCO, DEFENDANT'S
2 servants, agents and/or DEFENDANT'S employees operated the FNPP.

3 94. At all times herein mentioned the DEFENDANT TEPCO, DEFENDANT'S
4 servants, agents and/or employees constructed, maintained, operated, and
5 controlled the FNPP.

6 95. At all times herein mentioned the DEFENDANT TEPCO, DEFENDANT'S
7 servants, agents and/or employees managed the FNPP.

8 96. At all times herein mentioned the DEFENDANT TEPCO, DEFENDANT'S
9 servants, agents and/or employees controlled the FNPP.

10 97. At all times herein mentioned the DEFENDANT TEPCO, DEFENDANT'S
11 servants, agents and/or employees supervised the FNPP.

12 98. On or before March 10, 2011 the DEFENDANT TEPCO, DEFENDANT'S
13 servants, agents and/or employees negligently attempted to perform repairs at the
14 FNPP.

15 99. On or before March 10, 2011 the DEFENDANT TEPCO, DEFENDANT'S
16 servants, agents and/or employees negligently inspected the FNPP.

17 100. On or before March 10, 2011 the DEFENDANT TEPCO,
18 DEFENDANT'S servants, agents and/or employees negligently constructed the
19 FNPP.

20 101. More than 40 years ago, the DEFENDANT TEPCO,
21 DEFENDANT'S servants, agents and/or employees negligently designed and built
22 the FNPP.

23 **DOE DEFENDANTS**

24 102. Plaintiffs do not know the true names and capacities, whether
25 individual, corporate, associate, or otherwise of DEFENDANT Does 1 through 200
26 inclusive, and therefore sue these DEFENDANTS by such fictitious names.
27 Plaintiffs will amend their complaint to allege their true names and capacities when
28 this has been ascertained.

1

2

RESPONDEAT SUPERIOR

3 103. All of the described conduct, acts, and failures to act are attributed to
4 agents and employees under the direction and control, and with the permission,
5 consent and authorization of DEFENDANTS. Said acts, conduct and failures to act
6 were within the scope of such agency and/or employment, and each of the
7 DEFENDANTS ratified the acts and omissions of each of the other
8 DEFENDANTS. Each of these acts and failures to act is alleged against each
9 DEFENDANT, whether acting individually, jointly, or severally. At all times
10 relevant herein, each DEFENDANT was acting within the course and scope of his
11 or her employment.

12

STATEMENT OF FACTS

13

14 104. ON MARCH 11, 2011, before the PLAINTIFFS arrived, off the coast
15 of Fukushima prefecture, TEPCO was negligent as revealed on December 12, 2013
16 by the former Prime Minister of Japan, Naoto Kan, who was in-office when the
17 Fukushima disaster took place, admitted for the first time: "People think it was
18 March 12th [2011] but the first meltdown occurred 5 hours after the earthquake."
19 Tepco negligently hid this information from the public, including the U.S. Sailor
20 First Responders who arrived during the afternoon on March 12, 2011 to provide,
21 and did provide humanitarian aid to the victims of the earthquake and tsunami
22 disaster. TEPCO was fully aware that the American responders would be exposed
23 to hazardous levels of radiation, yet did not communicate this to the ships and to
24 other responders. TEPCO had a duty to inform any and all persons who were, or
25 would soon be in the vicinity of the FNPP, of the radiological hazards created by
26 the meltdowns which had occurred and were in progress. TEPCO breached this
27 duty, negligently causing injuries, damages and harm to PLAINTIFFS.

1 105. On MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
2 of Fukushima prefecture, TEPCO was negligent, as revealed on Thursday 5, July
3 2012, when a Japanese Parliamentary Panel, The Fukushima Nuclear Accident
4 Independent Investigation Commission, concluded that TEPCO was negligent in
5 creating a meltdown that “occurred 5 hours after the earthquake”:⁵ The
6 Commission accused TEPCO of negligently failing to take adequate precautions,
7 despite evidence that the area was susceptible to powerful earthquakes and
8 tsunamis. The Commission concluded that “the accident was clearly 'man-made'.
9 "We believe that the root causes were the organizational and regulatory systems
10 that supported faulty rationales for decisions and actions...”

11 106. On MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
12 of Fukushima prefecture, TEPCO was negligent, as determined by the
13 Commission, which found that Tepco showed a negligent “disregard for global
14 [safety] trends and a disregard for public safety.” The commission's chairman,
15 Kiyoshi Kurokawa, a professor emeritus at Tokyo University, said in a scathing
16 introduction that TEPCO’s managers’ ”cultural traits had caused the disaster. He
17 said: "What must be admitted-very painfully-is that this was a disaster Made in
18 Japan”. The 10-member commission is the panel which is investigating the
19 Fukushima Daiichi accident. The report follows a six-month investigation
20 involving more than 900 hours of hearings, and interviews with more than 1,100
21 people.”⁵

22 107. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
23 of Fukushima prefecture, TEPCO was negligent as detailed in the report by the
24 Fukushima Nuclear Accident Independent Investigation Commission. The
25 Commission outlines TEPCO’S “errors and willful negligence” at the FNPP before
26

27 ⁵ [http://www.theguardian.com/environment/2012/jul/05/fukushima-meltdown-manmade-](http://www.theguardian.com/environment/2012/jul/05/fukushima-meltdown-manmade-disaster)
28 disaster

1 the earthquake and tsunami which devastated swaths of northeastern Japan on
2 March 11, bluntly stating that TEPCO negligently created a "man-made disaster".⁶

3 108. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
4 of Fukushima prefecture, TEPCO was negligent as detailed in the report by the
5 Fukushima Nuclear Accident Independent Investigation Commission, finding that
6 the Fukushima plant operators: "...weren't prepared for nuclear accident." And the
7 Commission concluded that TEPCO failed to properly prepare for the earthquake
8 and tsunami, and that "the direct causes of the accident were all foreseeable prior to
9 March 11, 2011."⁷

10 109. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
11 of Fukushima prefecture, TEPCO was negligent because TEPCO negligently
12 "failed to correctly develop the most basic safety requirements-such as assessing
13 the probability of damage, preparing for containing collateral damage from such a
14 disaster, and developing evacuation plans."⁸

15 110. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
16 of Fukushima prefecture, TEPCO was negligent as evidenced by the "lack of
17 training and knowledge of the TEPCO workers at the facility [which] reduced the
18 effectiveness of the response to the situation at a critical time"⁹

19 111. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
20 of Fukushima prefecture, TEPCO was negligent because TEPCO'S managers were
21 ineffective in "preventing or limiting the consequential damage" at Fukushima
22 Daiichi.¹⁰

23
24 ⁶ <http://www.cnn.com/2012/07/05/world/asia/japan-fukushima-report/>

25 ⁷ Id

26 ⁸ Id.

27 ⁹ Id.

28 ¹⁰ Id.

1 112. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
2 of Fukushima prefecture, TEPCO was negligent, as admitted by TEPCO, which
3 stated it “was not fully prepared for the nuclear disaster.” TEPCO's final report on
4 the disaster said it “did not have sufficient measures to prevent the accident.
5 TEPCO's final report also acknowledged criticism that TEPCO took too long to
6 disclose information.”¹¹

7 113. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
8 of Fukushima prefecture, TEPCO was negligent, as revealed by former Prime
9 Minister Naoto Kan, who said, “TEPCO and the nuclear safety agency had hidden
10 key details from him in the days after March 11, adding that he had been as open
11 as possible with the public, based on the information he had been given. Kan said
12 he feared further meltdowns that could result in the evacuation of Tokyo—a
13 metropolitan area of more than 30 million people. Deserting the capital, he added,
14 would have brought the government to a standstill and led to "a collapse of the
15 nation's ability to function".¹²

16 114. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
17 of Fukushima prefecture, TEPCO was negligent because TEPCO operators of the
18 Fukushima Daiichi nuclear power plant negligently ignored warnings that the
19 complex was at risk of damage from a tsunami of the size that hit north-east Japan
20 in March, negligently dismissing the need for better protection against seawater
21 flooding. Tokyo Electric Power (TEPCO) officials rejected "unrealistic" estimates
22 made in a 2008 internal report that the plant could be threatened by a tsunami of up
23 to 10.2 meters. The tsunami that crippled backup power supplies at the plant on the
24 afternoon of 11 March, leading to the meltdown of three (3) reactors, was more

25
26 ¹¹Id.

27 ¹² [http://www.theguardian.com/world/2012/may/29/fukushima-inquiry-naoto-](http://www.theguardian.com/world/2012/may/29/fukushima-inquiry-naoto-kan?guni=Article:in%20body%20link)
28 [kan?guni=Article:in%20body%20link](http://www.theguardian.com/world/2012/may/29/fukushima-inquiry-naoto-kan?guni=Article:in%20body%20link)

1 than 14 meters high.¹³ The meltdown was caused by catastrophic “Loss of
2 Coolant Accidents”, resulting from the reactors’ piping failing, breaking, splitting
3 apart and cracking due to the earthquake.

4 115. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
5 of Fukushima prefecture, TEPCO was negligent because the “Assessments of the
6 aftermath of Fukushima tell a story of confusion at the site, and a lack of
7 communication between TEPCO and safety officials. The Plant's manager, Masao
8 Yoshida, took early retirement last year after being diagnosed with cancer.¹⁴

9 116. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
10 of Fukushima prefecture, TEPCO was negligent because the company repeated its
11 denial mantra to the public, including to the foreseeable rescuers such as the
12 PLAINTIFFS: "There has been no meltdown," TEPCO repeated in the days after
13 11 March. "It was an unforeseeable disaster," TEPCO'S then president Masataka
14 Shimizu famously and improbably said later. We now know that the meltdown was
15 already occurring as TEPCO'S president spoke. The true facts are that, far from
16 being unforeseeable, the disaster had been repeatedly forewarned since 2008 by
17 industry critics.

18 117. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
19 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
20 Problems with the fractured, deteriorating, poorly repaired pipes and the cooling
21 system had been pointed out for years. In September 2002, Tepco admitted
22 covering up data about cracks in critical circulation pipes. In their analysis of the
23 cover-up, The Citizen's Nuclear Information Centre writes: "The records that were
24 covered up had to do with cracks in parts of the reactor known as recirculation

25
26 ¹³ [http://www.theguardian.com/world/2012/may/29/fukushima-inquiry-naoto-
27 kan?guni=Article:in%20body%20link](http://www.theguardian.com/world/2012/may/29/fukushima-inquiry-naoto-kan?guni=Article:in%20body%20link)

28 ¹⁴ Id.

1 pipes. These pipes are there to siphon off heat from the reactor. If these pipes were
2 to fracture, it would result in a serious accident in which coolant leaks out."

3 118. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
4 arrived off the coast of Fukushima prefecture, TEPCO was negligent because on
5 March 2, nine days before the meltdown, the government watchdog, the Nuclear
6 Industrial Safety Agency (NISA), warned TEPCO regarding its failure to inspect
7 critical pieces of equipment at the plant, including recirculation pumps. TEPCO
8 was ordered to make the inspections and perform repairs if needed.¹⁵

9 119. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
10 arrived off the coast of Fukushima prefecture, TEPCO was negligent because Kei
11 Sugaoka, who conducted on-site inspections at the plant and was the first to blow
12 the whistle on TEPCO'S data tampering, says he was not surprised by what
13 happened. In a letter to the Japanese government, dated 28 June, 2000, he warned
14 that TEPCO continued to operate a severely damaged steam dryer in the plant 10
15 years after he pointed out the problem. "I always thought it was just a matter of
16 time," he says of the disaster. "This is one of those times in my life when I'm not
17 happy I was right."¹⁶

18 120. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
19 arrived off the coast of Fukushima prefecture, TEPCO was negligent as explained
20 by Katsunobu Onda, author of TEPCO: The Dark Empire. Mr. Onda explains it
21 this way: A government or industry admission "raises suspicions about the safety
22 of every reactor they run. They are using a number of antiquated reactors that have
23
24
25

26 ¹⁵ [http://www.independent.co.uk/news/world/asia/the-explosive-truth-behind-fukushimas-](http://www.independent.co.uk/news/world/asia/the-explosive-truth-behind-fukushimas-meltdown-2338819.html)
27 [meltdown-2338819.html](http://www.independent.co.uk/news/world/asia/the-explosive-truth-behind-fukushimas-meltdown-2338819.html)

28 ¹⁶ Id.

1 the same systematic problems, the same wear and tear on the piping." Earthquakes,
2 of course, are commonplace in Japan.¹⁷

3 121. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
4 arrived off the coast of Fukushima prefecture, TEPCO was negligent as uncovered
5 by Mr. Onda's research. Mr. Onda spoke with several engineers who worked at the
6 TEPCO plants. One told him that often piping would not match up to the
7 blueprints. In that case, the only solution was to use heavy machinery to pull the
8 pipes close enough together to weld them shut. Inspection of piping was often
9 cursory and the backs of the pipes, which were hard to reach, were often ignored.
10 Repair jobs were rushed.¹⁸

11 122. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
12 arrived off the coast of Fukushima prefecture, TEPCO was negligent because Mr.
13 Onda adds: "When I first visited the Fukushima Power Plant it was a web of pipes.
14 Pipes on the wall, on the ceiling, on the ground. You'd have to walk over them,
15 duck under them-sometimes you'd bump your head on them. The pipes, which
16 regulate the heat of the reactor and carry coolant are the veins and arteries of a
17 nuclear power plant; the core is the heart. If the pipes burst, vital components don't
18 reach the heart and thus you have a heart attack, in nuclear terms: meltdown. In
19 simpler terms, you can't cool a reactor core if the pipes carrying the coolant and
20 regulating the heat rupture-it doesn't get to the core."¹⁹ This is precisely what
21 happened when the earthquake struck the FNPP.

22 123. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS arrived
23 off the coast of Fukushima prefecture, TEPCO was negligent as admitted by Tooru
24 Hasuike, a Tepco employee from 1977 until 2009, and former general safety
25

26 ¹⁷ Id.

27 ¹⁸ Id.

28 ¹⁹ Id.

1 manager of the Fukushima plant, who stated: "The emergency plans for a nuclear
2 disaster at the Fukushima plant had no mention of using seawater to cool the core.
3 To pump seawater into the core is to destroy the reactor. The only reason you'd do
4 that is that no other water or coolant was available"²⁰

5 124. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS
6 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
7 before dawn on March 12, 2011, as the water levels at the reactor began to
8 plummet and the radiation began rising, a TEPCO press release published just past
9 4am stated: "The pressure within the containment vessel is high but stable." This
10 was willfully false information, negligently deceiving the public, including first
11 responders such as PLAINTIFFS.²¹

12 125. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS
13 arrived off the coast of Fukushima prefecture, TEPCO was negligent as evidenced
14 by the fact that at 9:51pm, under the chief executive's orders, the inside of the
15 reactor building was declared a no-entry zone. At around 11pm, radiation levels for
16 the inside of the turbine building, which was next door to the reactor, reached
17 levels of 0.5 to 1.2 mSv per hour. In other words, the meltdown was already
18 underway.²² The reactors were already melted or deeply involved in melting
19 down.

20 126. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS
21 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
22 seawater was not pumped in until hours after a hydrogen explosion occurred, at
23 roughly 8pm. Sometime between 4 and 6am, on March 12, Masao Yoshida, the
24

25
26 ²⁰ Id.

27 ²¹ Id.

28 ²² Id.

1 plant manager, decided it was time to pump seawater into the reactor core. By then,
2 it was already too late.²³

3 127. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS
4 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
5 TEPCO hid from the public, including PLAINTIFFS, **TEPCO'S Triple**
6 **Meltdown, in Reactor 1, 2, and 3.** As the numbers indicate, Fukushima Daiichi 1
7 was the first plant to be built. All of the problems that are presently happening on
8 that site, as well as all of the problems that happened with the tsunami, were
9 created when they built Fukushima Daiichi 1 a hundred-foot drop that engineers
10 built a road down to the water. And those power plants weren't there. They
11 removed about 100 feet of dirt over the top of those power plants. So the decision
12 to put Fukushima Daiichi near the water was designed and constructed by TEPCO
13 in conjunction with General Electric and EBASCO, American Corporations.
14 TEPCO negligently constructed Reactor 1, 2, and 3 down at sea level in the path of
15 the known tsunami area. That negligent construction was a leading cause of the
16 problem with the groundwater flooding the FNPP. The high area has a lot of
17 groundwater in it, and water flows downhill, right into the basement of these power
18 plants. The decision to cut away the bank that was made in 1965 by TEPCO and
19 General Electric and EBASCO is a fundamental problem on this site because it is
20 causing the basements to flood. In the 60's, there was a large, steep drop-off to the
21 ocean which was leveled by engineers. The design decisions on Fukushima Daiichi
22 1, 2, 3 and 4 were made by TEPCO in conjunction with American engineers at GE
23 and EBASCO. On the other side of the site are Fukushima Daiichi 5 and
24 Fukushima Daiichi 6. They are further away from the water and they're physically
25 higher. Obviously Tokyo Electric recognized that the General Electric decisions on
26 Daiichi 1, 2, 3 and 4 were wrong, and when they built more reactors on the site

27
28 ²³ Id.

1 after the first 4 which were essentially carbon copies of each other, Daiichi 5 and
2 Daiichi 6 were built far enough away from the ocean and high enough-they were
3 another 10 feet higher-that when the tsunami hit, it didn't do anywhere near as
4 much damage. ²⁴

5 128. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS
6 arrived off the coast of Fukushima prefecture, TEPCO was negligent because in
7 1967, TEPCO chopped 25 meters off the 35-meter natural seawall where the
8 reactors were to be located, according to documents filed at the time with Japanese
9 authorities. That little-noticed action was taken to make it easier to ferry equipment
10 to the site and pump seawater to the cooling components in the steam plant (the
11 steam condensers) of the reactors. It was also seen as an efficient way to build the
12 complex atop the solid base of bedrock needed to better protect the plant from
13 earthquakes. But the razing of the cliff also placed the reactors five meters below
14 the level of 14-to15-meter tsunami hitting the plant March 11, 2011, exacerbating
15 the major nuclear disaster, specifically triggering a major nuclear disaster, resulting
16 in the meltdown of three (3) reactor cores.²⁵

17 129. The DEFENDANT TEPCO created an increased risk of radiation
18 exposure to the Plaintiffs by failing to provide them with warning of the actual
19 increased risk of exposure resulting from the meltdown. This failure to inform of
20 the true risk of exposure also extended to the general public, public officials,
21 persons and entities engaged in the humanitarian effort known as Operation
22 Tomadachi, which dealt with the humanitarian consequences following the
23 earthquake and the tsunami. Plaintiffs were responding to provide humanitarian
24

25 ²⁴ [http://www.globalresearch.ca/japans-triple-meltdown-tour-of-fukushima-daiichi-nuclear-
27 power-plant/5353516](http://www.globalresearch.ca/japans-triple-meltdown-tour-of-fukushima-daiichi-nuclear-
26 power-plant/5353516)

28 ²⁵ [http://www.washingtonsblog.com/2013/11/tepcO-destroyed-the-natural-seawall-which-
would-have-protected-fukushima-from-the-tsunami.html](http://www.washingtonsblog.com/2013/11/tepcO-destroyed-the-natural-seawall-which-
would-have-protected-fukushima-from-the-tsunami.html)

1 aid necessitated by the earthquake and the tsunami. They were NOT responding to
2 the meltdowns. TEPCO did not warn Plaintiffs of any meltdown, nor the triple
3 meltdown. TEPCO negligently created an illusory impression that the extent of the
4 radiation that had leaked from the site of the FNPP was at levels that would not
5 pose a threat to the Plaintiffs. They did so in order to promote their own interests,
6 knowing that the information they disseminated was defective, incomplete and
7 untrue, while failing to disclose the extraordinary risks posed to the Plaintiffs who
8 were carrying out their assigned duties and humanitarian mission aboard the U.S.S.
9 Ronald Reagan and other vessels of the 7th Fleet of the U.S. Navy, or elsewhere.

10 130. ON OR BEFORE MARCH 11, 2011, before the PLAINTIFFS
11 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
12 Naomi Hirose, president of the Tokyo Electric Power Company (TEPCO),
13 admitted negligence: "After I became president [in 2012], we formed a nuclear
14 safety review committee. We focused mainly on what we could do, what we could
15 learn. We had a lot of data by then. Three other reports, one from the Diet [Japan's
16 parliament], one from government. We had a lot of information. TEPCO'S own
17 report, too. We concluded that we should have avoided that catastrophic accident,
18 and we could have. We could see what we should have done. Preventative
19 measures included fitting waterproof seals on all the doors in the reactor building,
20 or placing an electricity-generating turbine on the facility's roof, where the water
21 might not have reached it. In addition, wrong assumptions were made."²⁶

22 131. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
23 of Fukushima prefecture, TEPCO was negligent because they failed to have 12 volt
24 batteries on the premises at FNPP to provide auxiliary power. TEPCO negligently
25 failed nuclear power plant operation LESSON NO. 1: Emergency generators

26
27 ²⁶ [http://www.theguardian.com/environment/2013/nov/19/uk-government-new-plant-](http://www.theguardian.com/environment/2013/nov/19/uk-government-new-plant-fukushima-nuclear-disaster-warning)
28 [fukushima-nuclear-disaster-warning](http://www.theguardian.com/environment/2013/nov/19/uk-government-new-plant-fukushima-nuclear-disaster-warning)

1 should be installed at high elevations or in watertight chambers. The isolation
2 condenser (IC), which relied on convection and gravity to perform its cooling
3 function, should have helped keep the water level high in unit 1's core through the
4 crisis. But operators had turned off the system just before the tsunami by closing its
5 valves-and there was no electric power to reopen them and let steam and water
6 flow. Workers struggled to manually open the valves on the IC system.²⁷

7 132. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
8 of Fukushima prefecture, TEPCO was negligent because TEPCO was not prepared
9 with backup power. In the plant's parking lots, workers raised car hoods, grabbed
10 the batteries, and lugged them back to the control rooms. They found cables in
11 storage rooms and studied diagrams. If they could connect the batteries to the
12 instrument panels, they could at least determine the water levels in the pressure
13 vessels.²⁸

14 133. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
15 of Fukushima prefecture, TEPCO was negligent because TEPCO failed nuclear
16 power plant operation LESSON NO. 2: If a cooling system is intended to operate
17 without power, make sure all of its parts can be manipulated without power.
18 TEPCO did have a backup for the emergency generators: power supply trucks
19 outfitted with high-voltage dynamos. That afternoon, emergency managers at
20 TEPCO's Tokyo headquarters sent 11 power supply trucks racing toward
21 Fukushima Daiichi, 250 km distant. They promptly got stuck in traffic. The roads
22 that hadn't been damaged by the earthquake or tsunami were clogged with
23 residents fleeing the disaster sites.²⁹

24 134. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
25

26 ²⁷ <http://spectrum.ieee.org/energy/nuclear/24-hours-at-fukushima>

27 ²⁸ Id.

28 ²⁹ Id.

1 of Fukushima prefecture, TEPCO was negligent because TEPCO failed nuclear
2 power plant operation LESSON NO. 3: Keep power trucks on or very close to the
3 power plant site. The containment vessel, which surrounds the pressure vessel, is a
4 crucial line of defense: It is a thick steel hull meant to hold in any tainted materials
5 that have escaped from the inner vessel. At 11:50 p.m., operators in the control
6 room finally connected car batteries to the pressure gauge for the primary
7 containment vessel. But the gauge revealed that the containment vessel had already
8 exceeded its maximum operating pressure, increasing the likelihood that it would
9 leak, crack, or even explode.³⁰

10 135. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
11 of Fukushima prefecture, TEPCO was negligent because TEPCO failed nuclear
12 power plant operation LESSON NO. 4: Install independent and secure battery
13 systems to power crucial instruments during emergencies. In their initial,
14 improvised response, the fire crew pumped water into the trucks' storage tanks,
15 then drove close to the side of the reactor building and injected the water into the
16 fire protection system's intake lines. It was 5:46 a.m. on 12 March when the first
17 drops of water sprayed across the molten fuel. Then the workers drove back to the
18 water tanks and began the slow, arduous operation all over again. Eventually
19 workers managed to use the fire engine's hoses to connect the water tanks directly
20 to the intake lines and established a steady flow of water. By midafternoon, they
21 had injected 80,000 liters of water into the pressure vessel using this makeshift
22 system. But it was too little, too late.³¹

23 136. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
24 of Fukushima prefecture, TEPCO was negligent because TEPCO failed nuclear
25 power plant operation LESSON NO. 5: Ensure that catalytic hydrogen recombiners

27 ³⁰ Id.

28 ³¹ Id.

1 (power-free devices that turn dangerous hydrogen gas back into steam) are
2 positioned at the tops of reactor buildings where gas would most likely collect. The
3 workers in charge of the venting operation took iodine tablets. It was a feeble
4 attempt at protection against the radiation they'd soon encounter, but it was better
5 than nothing. They gathered protective head-to-toe suits and face masks connected
6 to air tanks. At 3:45 a.m., the vent crew tried to measure the radiation dose inside
7 the reactor building, which had been off limits for 6 hours. Armed with handheld
8 dosimeters, they opened the air lock, only to find a malevolent white cloud of some
9 "gaseous substance" billowing toward them. Fearing a radiation steam bath, they
10 slammed the door shut. They didn't get their reading, but they had a good
11 indication that things had already gone seriously wrong inside the reactor³²

12 137. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
13 of Fukushima prefecture, TEPCO was negligent, because TEPCO failed nuclear
14 power plant operation LESSON NO. 6: Install power-free filters on vent lines to
15 remove radio-active materials and allow for venting that won't harm nearby
16 residents. The failure of reactor 1 made efforts to stabilize the other reactors
17 exponentially more difficult: Now workers would be laboring in a radioactive hot
18 zone littered with debris. In addition, when work crews returned to the power truck
19 sometime after the explosion, they couldn't get the power flowing. So the disaster
20 continued.³³

21 138. ON MARCH 11, 2011, before the PLAINTIFFS arrived off the coast
22 of Fukushima prefecture, TEPCO was negligent because TEPCO had a history of
23 negligently causing other nuclear accidents including, but not limited to, the
24 following:

27 ³² Id.

28 ³³ Id.

- 1 a. 1981: almost 300 workers were exposed to excessive levels of
2 radiation after a fuel rod ruptured during repairs at the Tsuruga
3 Nuclear Power Plant.³⁴
- 4 b. December 1995: the fast breeder Monju Nuclear Power Plant sodium
5 leak. State-run operator Donen was found to have concealed videotape
6 footage that showed extensive damage to the reactor.³⁵
- 7 c. March 1997: the Tokaimura nuclear reprocessing plant fire and
8 explosion, northeast of Tokyo. 37 workers were exposed to low doses
9 of radiation. Donen later acknowledged it had initially suppressed
10 information about the fire.³⁶
- 11 d. In 1999: A fuel loading system malfunctioned at a nuclear plant in
12 the Fukui Prefecture and set off an uncontrolled nuclear reaction and
13 explosions.³⁷
- 14 e. September 1999: the critical accident at the Tokai fuel fabrication
15 facility. Hundreds of people were exposed to radiation, three workers
16 received doses above legal limits, two of whom later died.³⁸
- 17 f. In 2000: Three Tokyo Electric Power Co. executives were forced to
18 quit after the company in 1989 ordered an employee to edit out
19 footage showing cracks in nuclear plant steam pipes in a video being
20 submitted to regulators.³⁹

23 ³⁴ http://en.wikipedia.org/wiki/Nuclear_power_in_Japan

24 ³⁵ **Id.**

25 ³⁶ **Id.**

26 ³⁷ **Id.**

27 ³⁸ **Id.**

28 ³⁹ **Id.**

- 1 g. August 2002: a widespread falsification scandal started, which led to
2 the shutdown of all Tokyo Electric Power Company's 17 nuclear
3 reactors; Tokyo Electric's officials had falsified inspection records and
4 attempted to hide cracks in reactor vessel shrouds in 13 of its 17
5 units.⁴⁰
- 6 h. In 2002: Two workers were exposed to a small amount of radiation
7 and suffered minor burns during a fire at Onagawa Nuclear Power
8 Station in northern Japan.⁴¹
- 9 i. In August 2004: four workers were killed after a steam explosion at
10 the Mihama-3 station; the subsequent investigation revealed a serious
11 lack in systematic inspection in Japanese nuclear plants, which led to
12 a massive inspection program.⁴²
- 13 j. In 2006: A small amount of radioactive steam was released at the
14 Fukushima Dai-ichi plant and it escaped the compound.⁴³
- 15 k. On July 16, 2007: a severe earthquake (measuring 6.8 on the Richter
16 scale) hit the region where Tokyo Electric's Kashiwazaki-Kariwa
17 Nuclear Power Plant is located and radioactive water spilled into the
18 Sea of Japan; as of March 2009, all of these reactors remain shut
19 down for damage verification and repairs; the plant with seven units
20 was the largest single nuclear power station in the world.⁴⁴

21 139. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
22 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
23

24 ⁴⁰ **Id.**

25 ⁴¹ **Id.**

26 ⁴² **Id.**

27 ⁴³ **Id.**

28 ⁴⁴ **Id.**

1 Tepco's spokesman, Masayuki Ono, admitted that “up to 300 tons of highly
 2 contaminated water from the FNPP site were seeping into the sea and had been
 3 leaking radioactive matter since the plant suffered a triple meltdown on 11 March
 4 2011.” One PLAINTIFF declared: “**ship was still taking in sea water - but**
 5 **obviously the ship can't filter out the radiation. Water we all showered with,**
 6 **drank, brushed our teeth, and had our food cooked with...**”

7 140. ON AND BEFORE MARCH 11, 2011, before the PLAINTIFFS
 8 arrived off the coast of Fukushima prefecture, TEPCO was negligent because
 9 TEPCO Minister Yoshihiko Noda is admitting that TEPCO created a man-made
 10 diaster, admitting liability and fault: “Tepco must compensate those affected with
 11 sincerity and generosity as well as carry out a thorough reorganization,” and he
 12 wants Tepco to “speedily” pay compensation to victims of the Fukushima nuclear
 13 disaster.”⁴⁵

14 141. On March 14, 2011, the Navy published: “The U.S. 7th Fleet has
 15 temporarily repositioned its ships and aircraft away from the Fukushima Dai-Ichi
 16 Nuclear Power Plant after detecting contamination in the air and on its aircraft
 17 operating in the area. The source of this airborne radioactivity is a radioactive
 18 plume released from the Fukushima Dai-Ichi Nuclear Power Plant. Using sensitive
 19 instruments, precautionary measurements of three helicopter aircrews returning to
 20 USS Ronald Reagan after conducting disaster relief missions near Sendai
 21 identified [measureable] levels of radioactivity on 17 air crew members.”⁴⁶

22
 23 **FIRST CAUSE OF ACTION**
 24 **(Negligence)**
 25 **Against all DEFENDANTS**

26
 27 142. Plaintiffs hereby incorporate the allegations contained in the preceding

28 ⁴⁵ <http://www.nuc.berkeley.edu/node/5833>

⁴⁶ http://www.navy.mil/submit/display.asp?story_id=59065

1 paragraphs, as though fully set forth herein.

2 143. At all times herein mentioned, it was the duty of the DEFENDANT
3 TEPCO, DEFENDANT'S servants, agents and/or employees to maintain said
4 FNPP in a reasonably safe and suitable condition, and in good repair.

5 144. At all relevant times herein mentioned, the DEFENDANT, TEPCO,
6 knowingly and negligently caused, permitted and allowed false and misleading
7 information concerning the true condition of the FNPP to be disseminated to the
8 public, including the U.S. Navy, Air Force, and Marines.

9 145. Prior to March 12, 2011, TEPCO knew that the U.S. Navy rescue
10 mission personnel were in danger of being irradiated by spreading radiation from
11 Unit 1 at the six-reactor, Fukushima-Daiichi nuclear complex. At least three other
12 reactors were in danger of failing, including the spent fuel pool of reactor Unit 4,
13 holding 1,535 bundles of irradiated fuel.

14 146. On March 11, 2011, before the USS Ronald Reagan and Carrier Strike
15 Group 7 arrived two miles off the coast, Fukushima Unit 1 blew up. Then Unit 3
16 exploded, releasing plums of hydrogen gases migrating through a shared vent,
17 which destroyed the containment building at Unit 4, exposing the spent fuel pool to
18 the air. Unit 2 followed suit. Tokyo Electric Power Company (TEPCO) announced
19 that most of the fuel in Units 1, 2, and 3 were intact. They were not intact. This
20 was a false, misleading, a conscious negligent act and omission. The true facts
21 were that the fuels in Units 1, 2, and 3 had fused into a molten mass and were
22 oozing through the bottom of their destroyed reactors. TEPCO likewise hid,
23 covered up, and negligently concealed these facts and falsely represented the true
24 facts to the U.S. Navy. Plaintiffs suffered harms, damage and suffered, and
25 continue to suffer, life threatening injuries as a result of TEPCO's negligence.

26 147. At all relevant times, DEFENDANT TEPCO was aware that the U.S.
27 Navy and its personnel would provide rescue and humanitarian relief operations,
28 including performance of their efforts to provide humanitarian assistance during its

1 relief mission to ferry food, blankets and water to the inhabitants of the ravaged
2 city of Sendai, located within the prefecture of Fukushima, Japan, following the
3 earthquake and tsunami on March 11, 2011.

4 148. At all relevant times herein mentioned the radiation produced at the
5 FNPP does not occur naturally. Rather, the radiation releases were admittedly
6 TEPCO'S negligent "man-made disaster."

7 149. The radiation, which was produced as a result of nuclear fission, was
8 utilized to boil water in order to produce steam generated power.

9 150. At all relevant times the DEFENDANT, TEPCO, was aware that exposure
10 to even a low dose of radiation creates danger to people's health, and was also
11 aware of the importance of accurately reporting actual levels.⁴⁷

12 151. As a consequence of the TEPCO'S negligence, the reactors were
13 damaged and power to the cooling mechanism of the FNPP was interrupted,
14 resulting in a meltdown of the fuel and reactors themselves, thereby triggering the
15 release of high levels of ionizing radiation, including radioactive cesium.⁴⁸

16 152. Nuclear radiation is a known human carcinogen that is linked to

17
18 ⁴⁷ Numerous studies indicate that even low dose radiation poses a severe danger to
19 health; see eg., "No Safe Dose - Japan's Low -Dose Radiation Disaster,"
20 <http://renew.com/general95/no-safe-dose.htm>; "Even Low-level radioactivity is
21 damaging. Broad analysis of many radiation studies finds no exposure threshold
22 that precludes harm to life,"

23 <http://www.sc.edu/news/newsarticle.php?nid=5214#.UKljkvma6X>; Meta-
24 Review of 46 Studies: Even the Lowest-Level Radiation is Damaging to Human
25 Health,

26 [http://www.washingtonsblog.com/2012/11/meta-review-of-42-studies-even-the-
27 lowest-level-radiation-is-damaging-to-human-health.html](http://www.washingtonsblog.com/2012/11/meta-review-of-42-studies-even-the-lowest-level-radiation-is-damaging-to-human-health.html)

28 ⁴⁸ At Fukushima, large releases of radioactivity apparently came from the concrete
pools, where spent fuel rods, clad with a special alloy, were placed to cool down
after their use in the reactors. These spent fuel rods were extremely hot – up to
2,000 degrees Fahrenheit – and needed a constant circulation of cold water to keep
them from burning up.

1 many human health problems. The U.S. Environmental Agency (“EPA”) classifies
2 it as a human carcinogen.⁴⁹

3 ⁴⁹ According to experts, “[t]here is a near universal acceptance that
4 epidemiological data demonstrates an excess risk of delayed cancer incidence
5 above a dose of 0.1 sieverts. All who met with Fukushima’s radioactive fallout are
6 probably to have some problem with the thyroid.” See [http://enenews.com/watch-
7 all-people-met-fukushimas-radioactive-fallout-problem-thyroid-many-tokyo-
8 already-developing-problems-video](http://enenews.com/watch-all-people-met-fukushimas-radioactive-fallout-problem-thyroid-many-tokyo-already-developing-problems-video);

9 Nuclear expert Claudia French, who was professor emeritus of molecular
10 and cell biology at UC Berkeley, who worked on the “Manhattan Project” on
11 uranium effects, and established the Biomedical Research Division of the
12 Lawrence Livermore National Laboratory, wrote in his 1990 book that “by any
13 reasonable standard of biomedical proof” there is no threshold level (no harmless
14 dose) of ionizing radiation with respect to radiation mutagenesis and
15 carcinogenesis – a conclusion supported in 1995 by a government-funded radiation
16 committee.

17 “The results of surveys and biological monitoring of children and adults of
18 Chernobyl point unambiguously to a steady, rapid and dramatic deterioration of
19 health of all victims of the impact of the Chernobyl accident,” wrote Drs. E.B.
20 Burlakova and A.G. Nazarov of the Emanuel Institute of Biochemical Physics,
21 Russian Academy of Sciences, Moscow. Most interesting, the go on to say, “The
22 dose dependence of the radiation effect may be non-linear, non-monotonic and
23 polymodal in character. Over certain dose ranges, low-level irradiation is more
24 devastating with regard to the results of its action on an organism or a population
25 than acute high-level radiation.”

26 Moreover, Dr. Ernest J. Sternglass, professor emeritus of radiation physics at
27 the University of the Pittsburgh School of Medicine, in his book, Secret Fallout –
28 Low-Level Radiation From Hiroshima To Three-Mile Island, indicated that the
29 risk increased with each additional picture. This clearly suggests that there was no
30 significant healing of the damage and thus that the cancer-causing effects of
31 radiation were cumulative.

32 Exposure to radiation causes a cascade of free radicals that wreak havoc on
33 the body. Radiation also decimates the body’s supply of glutathione, which allows
34 free radicals to run rampant through the body’s tissues and organs.

1 153. When radiation from a reactor is spilled or leaks, it contaminates the
2 environment and poses a serious health threat to humans and other species. The
3 greater the concentration of radiation that escapes from the reactor or fuel rods, the
4 higher the risk to humans, creating an enhanced threat to human health.

5 154. Radiation does not readily break down and does not biodegrade in the
6 ground or water or apparatus exposed to it. Research shows that it will persist in
7 the environment for decades, since it has a half-life in excess of 77 years, far
8 longer than the life expectancy of humans exposed to it.

9 155. The FNPP was constructed at Fukushima more than 40 years ago.
10 According to a local labor commission, low-skilled workers, illegally recruited in
11 Japan's poorest areas, were used in building the nuclear power plant in the 1960s.
12 The poor quality of construction, as well as structural defects and personnel
13 negligence eventually triggered the disastrous consequences on March 11, 2011.

14 156. During their lifetimes before March 12, 2011, the Plaintiffs, and each
15 of them, had never been exposed to harmful levels of radiation, including the time
16 they served aboard the U.S.S. Ronald Reagan (CVN-76), aboard other vessels
17 within the strike force, on land or air or sea, or at any other times or places.

18 157. As a direct and proximate result of the wrongful acts and negligence of
19 TEPCO, as described above, Plaintiffs suffered damages as alleged herein.

20 158. DEFENDANT TEPCO controlled all of the activities at the FNPP, and
21 therefore is solely responsible for the enhanced threat of radiation exposure and for
22 causing the damages alleged in this Complaint.

23 159. Only due to concerned nuclear whistle blowers whose information
24
25
26
27
28

1 was considered by outside experts after March 11, 2011, does the public, including
2 the Plaintiffs herein, now not have to rely upon the glib and technically
3 inaccessible reports from DEFENDANT herein.⁵⁰

4
5 ⁵⁰ Web sites such as “enews.com”; “fukushima-diary.com” and “rense.com” have
6 operated as information clearing houses for mainstream news, academic studies
7 and independent sources of publication about the nuclear crisis in Japan.

8 Professor Jeff Kingston of Temple University in Tokyo has presented a thorough
9 chronology of the Fukushima nuclear crisis from the political perspective and also
10 opines that the disaster “was preceded by a series of mishaps, cover-ups,
11 irresponsible practices, close calls and ignored warnings . . . it was an accident
12 waiting to happen.” As he explains in “Mismanaging Risk”:

13 So who is to blame for the three meltdowns at Fukushima? The
14 nuclear village tried to shift the blame onto PM Kan, spreading erroneous
15 information about his visit to Fukushima Daiichi to the effect that he forced
16 TEPCO to stop venting and subsequently alleging he ordered the halt of pumping
17 of seawater to cool the reactors and spent fuel rods in adjacent pools . . . but this
18 was TEPCO’s responsibility and had nothing to do with the Kan’s visit on March
19 12 . . . TEPCO retracted its allegations against Kan, but not before damaging Kan’s
20 reputation . . . Scapegoating Kan served many purposes, especially diverting
21 attention away from TEPCO’s, NISA’s and METI’s responsibility and for the
22 accident and woeful crisis response. . . .

23 The third party panel that investigated the nuclear crisis . . . was
24 harshly critical of TEPCO and the government, pointing out that the utility was ill-
25 prepared for a crisis and that its’ workers made critical errors . . . workers and their
26 managers were inadequately trained to cope with an emergency situation. . . . Their
27 mishandling of emergency procedures contributed to the crisis.

28 The investigators also pilloried TEPCO and the government’s
mishandling of the evacuation of residents living near the plant, in many instances
evacuating people to places where levels of radiation were higher than those where
they had left. . . .

The panel confirmed that data generated by the System for Prediction
of Emergency Dose Information (SPEEDI) on radiation dispersal was
available and could have been used to evacuate residents at greatest
risk to safer areas, but this information was not provided to the Prime

1 160. Such reports were widely circulated within the DEFENDANT TEPCO's
2 organization at the time it was published, despite the fact that the DEFENDANT
3 knew that much higher levels of radiation existed within the area where the
4 Plaintiffs and their vessels or rescue missions were operating.⁵¹

5 161. DEFENDANT TEPCO's management publicly claimed that there was no
6 danger to persons, including the Plaintiffs, who were carrying out their assigned
7 mission during "Operation Tomadachi."

8 162. Privately, however, the DEFENDANTS were aware of the true and

9
10 Minister's crisis management center until March 23. . . . [O]ne month
11 after the original evacuation, the government used this SPEEDI data
12 to move evacuees out of harm's way, meaning that many had been
13 subjected to substantial doses of avoidable radiation exposure.

14 TEPCO and its regulators . . . failed to act on fresh and compelling
15 evidence about tsunami risk, a blind spot that left the plant needlessly
16 vulnerable. . . . Telltale warnings began accumulating over the decade
17 prior to 3/11 tsunami. . . . Clearly there is no basis to TEPCO's claim
18 that the scale of the 3/11 tsunami was inconceivable; the utility chose
19 to ignore centuries of geological evidence and repeated 21st century
20 warnings from modern scientists, including in-house researchers. . . .
Inexcusably, TEPCO did not make safety its ethos while lax oversight
by the government allowed this culture of complacency to persist long
after it was obvious that TEPCO was cutting corners to cut costs."

21 Mismanaging Risk and the Fukushima Nuclear Crisis, [http://japanfocus.org/-Jeff-](http://japanfocus.org/-Jeff-Kingston/3724)
22 [Kingston/3724](http://japanfocus.org/-Jeff-Kingston/3724)

23 ⁵¹ Shortly after the nuclear accident on March 11, 2011, it became apparent that
24 Japan's "downplaying" of the disaster was leading to "informational uncertainty."
25 "It is absolutely imperative that Japanese officials become more transparent in their
26 crisis communication. It is equally imperative, as this present crisis makes clear,
that officials around the world realize the severe harm that can be inflicted by the
obfuscation and distortion of critical information in the wake of catastrophe."

27 Downplaying Disaster, Informational Uncertainty in the Wake of Japan's Nuclear
28 Crisis,

1 dangerous condition of the zone in which the Plaintiffs were operating.

2 163. Belatedly, after March 12, 2011, DEFENDANT TEPCO prepared and
3 circulated a memo that stated: “We agree that radiation is greater within the zone
4 and that “[b]ecause of its levels subsequent to the tsunami’s occurrence, from an
5 environmental and engineering standpoint, you may need to be informed of its
6 presence to assist you in responding effectively to remedial requirements.”

7 164. DEFENDANT TEPCO was also aware that the potential health risk was
8 far
9 greater than its agents were reporting.

10 165. DEFENDANT’s acts, including those of its agents within the government
11 of Japan, amounted to negligent acts and omission regarding the safety of those
12 operating within the zone of radiation. Communications from TEPCO demonstrate
13 the difference between DEFENDANT’s actual knowledge of the true properties
14 and condition of the area around the FNPP, and their public posture and
15 pronouncements regarding the levels of exposure, and are evidence of
16 DEFENDANT’s misconduct at the time.

17 166. Despite the duty arising from such unsupported assurances of safety,
18 DEFENDANT TEPCO breached said duty to properly disclose its knowledge of
19 the true risks of the levels of radiation within the area subsumed in “Operation
20 Tomadachi.”

21 167. Despite having knowledge of the inevitability of radiation exposure to
22 the PLAINTIFFS and others in the area, DEFENDANT TEPCO chose not to warn
23 the PLAINTIFFS, the U.S. Navy, public officials, or the general public.

24 168. DEFENDANT TEPCO intentionally and knowingly made misleading
25 environmental claims with knowledge that these claims of environmental safety
26 were untrue, to the PLAINTIFFS’ detriment.

27 169. The intentional and tortious conduct of the DEFENDANT TEPCO was
28

1 aimed at and encompassed the entire area surrounding the FNPP, including the
2 waters, land and air adjacent to the Fukushima FNPP, where the PLAINTIFFS
3 were employed and operating.

4 170. DEFENDANT TEPCO knew or, in the exercise of due care, should have
5 known that the PLAINTIFFS, among several thousand other crewmen aboard the
6 U.S.S. Ronald Reagan (CVN-76), as well as others, would be directly and
7 harmfully impacted by DEFENDANT TEPCO's conduct.

8 171. Honesty and fair-dealing is a basic and most precious resource, as
9 well as a fundamental commodity of incalculable value. The PLAINTIFFS and the
10 U.S. Navy had the right to know the actual conditions they would confront during
11 "Operation Tomadachi."

12 172. Upon information and belief, based upon currently available data,
13 through its conduct, the DEFENDANT TEPCO rendered the PLAINTIFFS infirm
14 and poisoned their bodies.

15 173. The PLAINTIFFS must now endure a lifetime of radiation poisoning and
16 suffering which could have and should have been avoided.

17 174. Upon information and belief, the DEFENDANT TEPCO failed to timely
18 and adequately test the water to which the PLAINTIFFS were exposed in order to
19 detect contamination.

20 175. Upon information and belief, the DEFENDANT TEPCO, its agents,
21 servants and/or employees failed to perform proper and adequate testing within the
22 theater of their operation of the radiation levels to which the PLAINTIFFS and/or
23 their vessels would be exposed, to the PLAINTIFFS' detriment.

24 176. On or about March 11, 2011 and thereafter, the DEFENDANT TEPCO
25 never warned the PLAINTIFFS, or the general public about the actual or potential
26 level of radioactive contamination there and then existing.

27 177. Upon information and belief, the DEFENDANT TEPCO constructed and
28

1 operated the FNPP with the knowledge that the nuclear fuel had a potential to leak,
2 or in reckless disregard of knowledge as to whether or not the FNPP could leak
3 radiation into the environment.

4 178. As owner, operator and/or promoter of nuclear power, DEFENDANT
5 TEPCO had a duty to the PLAINTIFFS arising from, among other things, its: (a)
6 vastly superior knowledge and resources than those of the PLAINTIFFS; (b)
7 material negligent representations and/or omissions concerning the levels of
8 radiation contamination; and (c) marketing, promotion and sales of power
9 generated by nuclear fission, without warning of the foreseeable adverse impact it
10 would have on the environment in which PLAINTIFFS were operating.

11 179. DEFENDANT's duties included, but are not limited to, the duty: (a) to
12 reasonably protect PLAINTIFFS' health and well-being; (b) to timely inform
13 public officials and the PLAINTIFFS of the level of actual or potential spills from
14 the FNPP and its storage tanks and reactors; (c) to timely warn public officials and
15 the PLAINTIFFS of the nature and risks they would confront; (d) to warn public
16 officials and PLAINTIFFS of the properties that make radiation a threat to their
17 health and well-being; (e) to timely warn all persons, including the PLAINTIFFS,
18 who relied upon their representations, despite the propensity of radiation from the
19 FNPP to move great distances upon being released into the environment, as well as
20 its potential health risks and noxious properties and the need for timely and
21 adequate testing; and (f) such other duties as may be shown during discovery and
22 at trial.

23 180. DEFENDANT TEPCO breached its duties, causing damages, including
24 damages to the PLAINTIFFS, caused by contamination of their bodies with
25 radiation, with dire consequences to their physical and emotional well-being.

26 181. DEFENDANT TEPCO also knew or should have known that the system it
27 was using for storing spent fuel rods and for the containment of radiation and
28 utilization of nuclear material at the FNPP was faulty, inadequate and leaking.

1 182. DEFENDANT TEPCO also knew or should have known that the radiation
2 released at the FNPP is remarkably recalcitrant to natural degradation and, once
3 dispersed into the environment, is extremely difficult to clean up.

4 183. According to data existing at that time, and uniquely known to the
5 DEFENDANT at the time, the PLAINTIFFS' consequent exposure to radiation
6 within their zone of operation indicated that radiation levels had already reached
7 levels exceeding the levels of exposure to which the people living the same
8 distance from Chernobyl experienced, and who subsequently developed cancer.⁵²

9 184. Consequently, the potential for the development of cancer in the
10 PLAINTIFFS
11 has also been dangerously heightened, due to the levels of exposure experienced by
12 them during "Operation Tomadachi."

13 185. The kind of misleading communication engaged in by the DEFENDANT
14 utterly failed to alert public officials, including the U.S. Navy, the PLAINTIFFS,
15 and the general public to the danger of coming too close to the FNPP, and
16 completely omitted the kind of detailed directions and precautions that would have
17 been required to avoid the contamination of PLAINTIFFS with radiation.

18 186. The conduct of the DEFENDANT TEPCO was extreme and outrageous
19 and/or so reckless and/or wantonly negligent as to be the equivalent of a conscious
20 disregard of the rights of the Plaintiffs, entitling them to recover punitive damages.

21
22 ⁵² The nuclear community has now created a special rating system for Fukushima –
23 assigning it to a new category, above Chernobyl, as a no. 8 level nuclear disaster.
24 Fukushima is a "[m]ulti-source major nuclear accident requiring international
25 assistance and monitoring. See Nuclear incident scales:
26 <http://www.coasttocoastam.com/pages/portzline-images>;
27 Measured as quadrillions or petabecquerels (10 to the 15th Power) See, Becquerel:
28 <http://www.wiki.org/wiki/Becquerel> , the radiation was comparable to
Chernobyl, being well over half, if not equivalent in volume. See, Chernobyl:
Assessment of Radiological and Health Impact 2002 Update of Chernobyl: Ten
Years On, <http://www.oecd-nea.org/rp/chernoble/c02.html>

1 This conduct includes, but is not limited to: (1) manufacturing and marketing
2 power from the FNPP causing radiation exposure despite specific actual
3 knowledge of a serious defect that led inevitably to the contamination of
4 PLAINTIFFS' bodies; (2) intentionally misrepresenting and concealing the true
5 levels of radiation existing at and around the FNPP between March 10-11, 2011
6 and thereafter; (3) marketing and promoting power generated at the FNPP as
7 environmentally safe and beneficial, despite specific knowledge to the contrary; (4)
8 storing and continuing to store radioactive fuel rods at the FNPP, despite
9 knowledge that the cooling tanks were leaking; (5) failing to issue any warnings to
10 the PLAINTIFFS as to the health dangers of their continued exposure to the air and
11 water adjacent to the FNPP; (6) conducting inadequate testing and inaccurately
12 representing and reporting to the PLAINTIFFS that their presence aboard the
13 U.S.S. Reagan at the locations where they were operating was safe, in disregard of
14 the true facts; (7) failing to accept financial responsibility for damages caused to
15 the PLAINTIFFS who rely upon their physical and mental well-being in order to
16 perform their assigned duties and provide for their families, which is now
17 compromised due to excessive radiation contamination.⁵³

18 187. As manufacturer, distributor, seller, supplier, marketer and, promoter of
19 nuclear power, DEFENDANT TEPCO had a duty to ensure that the product when
20 used as intended was reasonably safe to property, air and water upon which the
21 PLAINTIFFS relied, and DEFENDANT failed to exercise due care and caution.

22 188. DEFENDANT had the clear duty and the financial means to determine
23

24 ⁵³ The purposes of punitive damages are to punish a defendant and to deter similar
25 acts in the future.

26 Conduct is in reckless disregard of the plaintiff's rights if, under the circumstances,
27 it reflects complete indifference to the plaintiff's safety or rights, or if the
28 defendant acts in the face of a perceived risk that its actions will violate the
plaintiff's rights under federal law. Ninth Circuit Manual of Model Jury
Instructions Civil: 5.5 Punitive Damages.

1 whether any latent defects existed at the FNPP, including its storage facilities, and
2 to warn PLAINTIFFS and public officials of the latent defects known to them,
3 their agents and employees. The DEFENDANT breached this duty.

4 189. DEFENDANT TEPCO breached its duty to warn the PLAINTIFFS who
5 relied
6 upon TEPCO'S expertise and pronouncements.

7 190. DEFENDANT TEPCO affirmatively and voluntarily undertook to conduct
8 and report research related to the environmental hazards and benefits of the
9 continued operation of the FNPP, and failed to exercise due care and caution in
10 connection with said undertaking.

11 191. DEFENDANT TEPCO, its agents, servants and/or employees breached
12 their duties and committed acts of negligence toward the PLAINTIFFS in the
13 design, manufacture, marketing and/or sale of nuclear power, including but not
14 limited to failing or failing to adequately ensure the integrity of their reactors
15 and/or storage tanks at the FNPP before the earthquake and tsunami; failing to
16 provide warnings or adequate warnings of the enhanced risk to health posed by
17 supplying and storing nuclear fuel to the FNPP; and intentionally, recklessly and/or
18 negligently concealing and/or omitting to disclose the true facts about the levels of
19 radiation at and near the FNPP, and of the true facts of the condition of the roof
20 storage tanks and reactors at said location.

21 192. DEFENDANT TEPCO, its agents, servants and/or employees knew, or in
22 the exercise of reasonable care should have known that the levels of radiation at
23 the FNPP posed a greater and enhanced hazard to land, air and water as described
24 above, that contact with and/or ingestion of radiation posed a threat to the health
25 and well-being of the PLAINTIFFS and those persons utilizing sea water in an
26 effort to decontaminate the U.S. Reagan (CVN-76), its attached helicopters, and
27 otherwise potable water, that they contained radiation at a level of concern as a
28 human carcinogen, and that the PLAINTIFFS would suffer injury to body and

1 mind, property damage, and other hardship from the contamination and loss of
2 their air and water supply.⁵⁴

3 193. DEFENDANT's negligence proximately caused widespread
4 contamination of PLAINTIFFS' environs, including their air and water supply.

5 194. PLAINTIFFS have suffered and been damaged, all as described above and
6 herein, as a direct and proximate result of DEFENDANT's negligence.

7 195. Upon information and belief, as a further direct and proximate result
8 of DEFENDANT's negligence, PLAINTIFFS have been and will be required to
9 undergo further medical testing, evaluation and medical procedures, including but
10 not limited to chelation therapy, bone marrow transplants and/or genetic re-
11 programming for leukemia, in an effort to seek cure, and will be required to
12 employ extraordinary means to achieve cure.

13 196. As a further direct and proximate result of DEFENDANT's negligence,
14 the PLAINTIFFS incurred losses and damages for personal injury and property
15 damage, loss of use and enjoyment of life and their property, the need for periodic
16 medical examination and treatment, and economic losses, including wage loss, and
17 the expenditure of time and money, and will continue to incur losses and damages
18 in the future.

19 197. PLAINTIFFS also face additional and irreparable harm to their life
20 expectancy which has been shortened and cannot be restored to its prior condition.

21
22 ⁵⁴ TEPCO has admitted that "a total of about 10 becquerals per hour of radioactive
23 cesium was being emitted from the No. 1 to No. 3 reactors as of June. That is
24 about one-80 millionths of the level that was being spewed immediately after the
25 accident." After 500 days, Fukushima No. 1 Plant Not Out of the Woods,

26 <http://ajw.asahi.com/article/0311disaster/fukushima/AJ201207240087>

27 While the worst Chernobyl had to offer was pretty much over after it had blown its
28 lid, Fukushima still releases vastly greater amounts of harmful radiation due to the
nuclear fuel that remains at the site.

1 198. Solely as a result of the DEFENDANT's negligence, carelessness and
2 recklessness, the PLAINTIFFS suffered severe and serious personal injuries to
3 mind and body, and further, the PLAINTIFFS were subjected to great physical
4 pain and mental anguish.

5 199. By reason of the foregoing, the PLAINTIFFS were severely injured and
6 damaged, sustained severe nervous shock and mental anguish, great physical pain
7 and emotional upset, some of which injuries are believed to be permanent in nature
8 and duration, and the PLAINTIFFS will permanently suffer pain, inconvenience
9 and other effects of such injuries; the PLAINTIFFS incurred and in the future will
10 necessarily incur further hospital and/or medical expenses in an effort to be cured
11 of said injuries; and the PLAINTIFFS will be unable to pursue their usual duties
12 with the same degree of efficiency as prior to this incident, all to the PLAINTIFFS'
13 great damage.

14 200. The DEFENDANT's conduct was willful, wanton, reckless, malicious
15 and/or exhibited a gross indifference to, and a callous disregard for human life,
16 safety and the rights of others, and more particularly, the rights, life and safety of
17 the PLAINTIFFS; and was motivated by consideration of profit, financial
18 advantage, monetary gain, economic aggrandizement and/or cost avoidance, to the
19 virtual exclusion of all other considerations.

20 201. Due to DEFENDANT's negligence, each of the PLAINTIFFS is entitled to
21 compensatory damages in a sum to be determined by the jury, plus punitive
22 damages in a sum equal to treble the damages determined to be adequate by the
23 jury.

24 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

25 **SECOND CAUSE OF ACTION**
26 **(Strict Liability Failure to Warn)**
27 **Against all DEFENDANTS**

28 202. PLAINTIFFS hereby incorporate the allegations contained in the
preceding paragraphs, as though fully set forth herein.

1 203. As manufacturer, designer, distributor, supplier, seller and marketer of
2 nuclear power, the DEFENDANT had a duty not to put a product in the market
3 that poses a serious danger to land, air and soil without issuing warnings of the risk
4 posed by the product to the PLAINTIFFS, the public, and public officials during
5 “Operation Tomadachi.”

6 204. DEFENDANT breached this duty by manufacturing, distributing, selling
7 and marketing power produced by nuclear reaction with the actual or constructive
8 knowledge that the product posed a high degree of risk to the safety and well-being
9 of the PLAINTIFFS, without issuing any warnings or without sufficient warnings
10 of the enhanced risk.

11 205. DEFENDANT breached this duty by manufacturing, distributing, selling
12 and generating nuclear power at the Fukushima Daiichi reactors and by improperly
13 storing nuclear fuel rods at the FNPP with the actual or constructive knowledge
14 that the product posed a high degree of risk to the safety and health of the
15 PLAINTIFFS, without issuing any warnings or without sufficient warnings of the
16 enhanced risk.

17 206. DEFENDANT had actual and/or constructive knowledge that radiation
18 would be released into soil, air and water upon which the PLAINTIFFS would
19 rely. DEFENDANT had actual and/or constructive knowledge of the properties of
20 radiation that would ensure that, once released into the environment, radiation
21 would spread further and in concentrations that would cause injury to the
22 PLAINTIFFS.

23 207. DEFENDANT represented and warranted that the levels of contamination
24 to which the PLAINTIFFS would be exposed were less than harmful to them and
25 that their presence during “Operation Tomadachi” would not cause any different or
26 greater harm to them than they might have experienced on missions in the past.

27 208. At all relevant times, the DEFENDANT knew that the reactors and storage
28 tanks at the FNPP were then leaking and emitting high levels of radiation.

1 1. DEFENDANT knew that the U.S. Navy would necessarily operate the
2 U.S.S. Reagan (CVN-76) with its crew of approximately 5,500 aboard, as well as
3 other vessels in the waters adjacent to the FNPP, without the benefit of
4 independent inspection or evaluation of the area for defects, and in reliance upon
5 the veracity and completeness of representations made by the DEFENDANT.

6 209. At all relevant times herein, the DEFENDANT failed to warn the public,
7 including PLAINTIFFS, of the properties and actual levels of radiation detected at
8 the FNPP at that time.

9 210. At all relevant times herein, by example the DEFENDANT failed to warn
10 the public, including PLAINTIFFS, that the levels of radiation in the waters
11 adjacent to the FNPP posed significant threats to human, animal and aquatic
12 health; created a need for those living or working aboard vessels in the adjacent
13 waters to conduct frequent tests to determine the actual level of radiation exposure;
14 failed to warn as to the actual risks and protective measures necessary to ensure the
15 PLAINTIFFS' well-being; and failed to issue other required warnings as may be
16 shown at trial.

17 211. The DEFENDANT knew or should have known of the properties and
18 characteristics of radiation exposure that comprise the risk and danger which is
19 different in kind, degree and magnitude from the risks and dangers inherent in the
20 performance of the PLAINTIFFS' duties in non-nuclear radiation zones.

21 212. The public, including the PLAINTIFFS, the U.S. Navy, and other branch
22 services were unaware of the true levels of such risks, which were not of a kind
23 that they would ordinarily discover or could protect themselves against in the
24 absence of sufficient warnings by DEFENDANT TEPCO.

25 213. Once DEFENDANT TEPCO became aware of the actual levels of
26 contamination and decided to withhold such vital and accurate information as to
27 those levels around the FNPP, including the zone in which the PLAINTIFFS were
28

1 performing their assigned duties, harm to the PLAINTIFFS was inevitable and
2 could not be avoided or minimized due to the absence of warnings.

3 214. DEFENDANT's conduct was unreasonable in the circumstances. As set
4 forth above, available scientific data, of which the DEFENDANT had actual or
5 constructive knowledge, gives rise to the reasonable inference that the alleged
6 dangers existed and were foreseeable.

7 215. DEFENDANT's failure to warn the PLAINTIFFS and others, as alleged
8 herein, proximately caused reasonably foreseeable damages to the PLAINTIFFS.
9 The harm to the PLAINTIFFS proximately caused by DEFENDANT's wrongful
10 conduct includes those injuries and damages herein alleged.

11 216. By engaging in said conduct, the DEFENDANT's misconduct constituted
12 a defective or unreasonably dangerous practice because of the DEFENDANT's
13 failure to warn, for which DEFENDANT is strictly liable to PLAINTIFFS.

14 217. At all times herein mentioned, DEFENDANT TEPCO acted with malice,
15 fraud and oppression, and engaged in despicable conduct that should not be
16 tolerated in a civilized society, displaying a conscious, willful and intentional
17 disregard for the health, safety and welfare of the public, the environment and the
18 PLAINTIFFS. As a result of TEPCO'S conduct, PLAINTIFFS are entitled to
19 punitive damages, as a means of protecting the public by deterring such wanton,
20 callous and intentionally injurious conduct.

21 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

22
23 **THIRD CAUSE OF ACTION**
24 **(Strict Liability for Design Defect)**
25 **Against all DEFENDANTS**

26 218. PLAINTIFFS hereby incorporate the allegations contained in the
27 preceding paragraphs, as though fully set forth herein.

28 219. The DEFENDANT TEPCO during the relevant time period was the
designer,

1 manufacturer, and creator of the FNPP.

2 220. DEFENDANT had a duty of due care to design and manufacture a
3 reasonably safe FNPP.

4 221. DEFENDANT had a duty of care to test the FNPP to determine the risks
5 posed to the environment generally, water, and air in the surrounding vicinity.

6 222. DEFENDANT had a duty not to put on the market an unsafe and
7 defectively designed product that posed a serious danger to the PLAINTIFFS' and
8 others' health and well-being.

9 223. DEFENDANT breached said duties of due care when it manufactured a
10 defectively designed product, namely the FNPP, with actual or constructive
11 knowledge of the defects.⁵⁵ Due to the design defect, the FNPP was not reasonably

12
13 ⁵⁵ There exists an accumulation of evidence that the earthquake itself was the
14 primary cause of the meltdowns, something [TEPCO] does not want to admit—that
15 there are other inherent flaws in the way the power plant was built and operated.
16 See Report on Nuclear Disaster Holds Key to Reactor's Fate,

17 [http://online.wsj.com/article/SB1000142405270230444140577482113658775518.](http://online.wsj.com/article/SB1000142405270230444140577482113658775518.html)
18 [html](http://online.wsj.com/article/SB1000142405270230444140577482113658775518.html)

19
20 Nuclear expert Gundersen points out that the service pumps failed because they
21 were positioned in such a way that they were flooded by the tidal wave on 311.
22 These pumps send water from the ocean to cool the back-up diesel generators.
23 “There could have been 14 meltdowns and not three. If you look at the data, there
24 were six units at Fukushima Daiichi (Power Station No. 1), there are four at
25 Fukushima Daini (Station No. 2), three at Onagawa and one at Tokai. The net
26 affect is that there were 37 diesel generators between those plants. 24 of those
27 diesels were knocked out by the tsunami. You need the diesels to cool the plant.”
28 At FNPP no. 1 the tsunami flooded the actual diesel generators, but at the other
plants, the “tsunami knocked out the cooling water to the diesels, something called
service water. So, Japan narrowly missed 14 meltdowns and not three because the
cooling water to 24 of 37 diesels was destroyed.” See Gundersen, July 6, 2012,
Pacifica Radio Host Ian Masters and Fairewinds' Arnie Gundersen: Lessons Not

1 safe and protective of the environment generally and PLAINTIFFS', among others,
2 health and well-being.

3 224. Any utility of nuclear generated power does not outweigh the risks
4 inherent in manufacturing and maintaining a FNPP designed in that manner.⁵⁶

5 225. The defective design of the DEFENDANT's FNPP, as alleged herein,
6 proximately caused reasonably foreseeable damages to the PLAINTIFFS.

7 226. The DEFENDANT's conduct in the design, manufacture, and maintenance
8 of the FNPP, a defective or unreasonably dangerous product, makes
9 DEFENDANT TEPCO strictly liable to the PLAINTIFFS.

10 WHEREFORE, PLAINTIFFS request relief as hereinafter provided.

11
12 **FOURTH CAUSE OF ACTION**
13 **(Public Nuisance)**
14 **Against all DEFENDANTS**

15 227. PLAINTIFFS hereby incorporate the allegations contained in the
16 preceding paragraphs, as though fully set forth herein.

17 228. The DEFENDANT has manufactured, distributed, marketed and promoted
18 their product in a manner that has unreasonably endangered or injured the property,
19 health, safety and comfort of the PLAINTIFFS, causing inconvenience and
annoyance.

20 229. The DEFENDANT, by its negligent, reckless and willful acts and
21

22
23 Learned From Fukushima Daiichi, <http://www.fairewinds.com/radio>; SolarIMG
Podcast with Arnie Gundersen–Aug 10/2012, <http://solarimg.org/?p=3021>

24 ⁵⁶ **Error! Main Document Only.** The FNPP site is fraught with danger, with
25 constant reports of highly toxic water leaking from this pipe or that, or this reactor
26 or that. For example, water in Unit 2 turbine basement was found to have 47
million becquerals per liter. Unit 2 Water 10 Times More Radioactive than Unit 1,

27 [http://enenews.com/unit-2-10-times-more-radioactive-than-unit-1-47000000-
28 Becquerals-per-liter-in-turbine-room-basement](http://enenews.com/unit-2-10-times-more-radioactive-than-unit-1-47000000-Becquerals-per-liter-in-turbine-room-basement)

1 omissions as set forth above, has caused and permitted radiation contamination to a
 2 growing number of people who participated in “Operation Tomadachi” and others.
 3 This contamination has migrated, or threatens to continue to migrate into the
 4 environment, thereby contaminating the earth.⁵⁷

5 _____
 6 ⁵⁷ The level of cesium being emitted 500 days after March 11, 2011 was down
 7 from a peak of thousands of trillions of becquerels at the time of the reactor
 8 explosions.” See Fukushima Derived Radinuclides in the Ocean and Biota Off
Japan,

9 [http://www.pnas.org/content/early/2012/03/26/1120794109.full.pdf=html?with-](http://www.pnas.org/content/early/2012/03/26/1120794109.full.pdf=html?withds=yes)
 10 [ds=yes;](http://www.pnas.org/content/early/2012/03/26/1120794109.full.pdf=html?withds=yes)

11 Scientists: Far more Cesium Released than Previously Believed:

12 <http://ajw.asahi.com/article/0311disaster/fukushima/AJ201202290025>

13 A terabecquerel is a trillion Becquerels, a commonly used measure of
 14 radiation emitted by radioactive material. So the New York Times is saying that
 15 early on 900,000,000,000,000,000 becquerels were released in the first 20 days of
 16 the nuclear disaster. Radiation can damage the human body by breaking the
 17 chemical bonds in one’s cells. The amount of damage done depends on how much
 18 radiation one is exposed to. This in turn depends on how much radioactive
 material is present in our environment, our food and so on.

19 “The greatest human experiment with radiation exposure is taking place in
 20 the Ukraine and Byelorussia, where much of the 50 million curies the Soviet
 21 government says were released by the 1986 accident at Chernobyl is being felt. . . .
 22 Chernobyl legacy could include hundreds of thousands of additional cancer deaths.
 23 . . . Current estimates predict anything from 14,000 to 475,000 deaths worldwide
 24 from Chernobyl.” (A curie measures the intensity of radiation and is equal to 37
 25 billion disintegrations per second. As a reference point, the Hiroshima and
 26 Nagasaki bombs released an estimated one million curies.) It should also be noted
 27 that Belarusian scientists reported an increase in a rare childhood thyroid cancer to
 28 5,000 times its spontaneous occurrence in “clean” countries. According to the 2000
 report on Minsk’s United Nations Development Program (UNDP), life expectancy
 in Belarus in the 1960s was almost level with that in Western Europe. By 1999, 13
 years after Chernobyl, it had fallen 12-14 years for men and 7-9 years for women.
 A baby born in rural Belelrus today can expect to live 59 years. But they may be

1 230. Actual and threatened radiation contamination caused by the
2 DEFENDANT's conduct has damaged PLAINTIFFS' health and substantially and
3 has unreasonably interfered with PLAINTIFFS' use, benefit and enjoyment of their
4 properties, in a way that an ordinary, reasonable person would find, resulting in
5 substantial inconvenience, annoyance and injury.

6 231. The ongoing conditions found site-wide at the FNPP and country-
7 wide, have caused and are causing a material loss of good health because of actual
8 and threatened continued radiation contamination and exposure.

9 232. PLAINTIFFS, who were exposed to excessive levels of radiation, suffer
10 special damages because, unlike the general public, they are at a heightened risk of
11 developing injuries related to their exposure, including cancer.

12 233. PLAINTIFFS' special damages also include loss of health and increasingly
13

14 very hard years, given that nearly half of Belarus' teenagers have serious health
15 problems, with 45-47% of high school graduates suffering from physical disorders
16 like gastrointestinal anomalies, weakened hearts, and cataracts; 40% of them have
17 chronic "blood disorders" and malfunctioning thyroids. The number of
18 handicapped adolescents has tripled in the last decade. It has always been known
19 that ionizing radiation, in higher doses than background levels, can cause
20 measurable increases in cancers and leukemias, as well as cause genetic mutations
21 that affect future generations.

22 Thus, the New York Times has reported that in terms of radiation released in
23 the first 20 days by the FNPP, 900,000 terabecquerels translates into 27 million
24 curies. It is over a year later and no one knows or is saying how much aggregate
25 radiation has been released, but clearly it's a staggering amount.

26 One curie is the amount of radiation equal to the disintegration of 37 billion
27 atoms – 37 billion becquerels – per second. Obviously, it is a very large amount of
28 radiation. If one multiplies these amounts (27 million curies times 37 billion
radioactive atoms), the result is just a little more than 900,000 terabecquerels . . .
all the way up to 999,000,000,000,000 becquerels, which translates into
999,000,000,000,000 nuclear particles decaying in the first 20 days after the
Fukushima nuclear nightmare.

1 widespread necessity to seek treatment. Their future medical conditions have been
2 rendered less certain, unsafe and unreliable. As a result, PLAINTIFFS suffer loss
3 of enjoyment of life and fear, among other injuries.

4 234. The DEFENDANT knew or in the exercise of reasonable care should have
5 known that the introduction and use of radiation based energy would and has
6 unreasonably and seriously endangered, injured and interfered with the ordinary
7 comfort, use and enjoyment of the PLAINTIFFS' lives.

8 235. The DEFENDANT TEPCO has violated and/or threatened to violate a
9 public
10 right to pure air and water. As a direct and proximate result of DEFENDANT's
11 acts and omissions creating the above described nuisance, PLAINTIFFS, who were
12 exposed to radioactive materials and who constitute a considerable number of
13 people, have suffered special damages and injury in the form of damage to their
14 persons and property and endangerment to their health and safety, more so than
15 those persons not exposed to such materials in the zone of danger at the FNPP.

16 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

17 **FIFTH CAUSE OF ACTION**

18 **(Private Nuisance)**

19 **Against all DEFENDANTS**

20 236. PLAINTIFFS hereby incorporate the allegations contained in the
21 preceding paragraphs, as though fully set forth herein.

22 237. The PLAINTIFFS' bodies have been contaminated by radiation poisoning
23 as a direct and proximate result of the intentional, unreasonable, negligent and
24 reckless conduct of the DEFENDANT, all as alleged herein.

25 238. The contamination of PLAINTIFFS' persons caused by the
26 DEFENDANT's
27 conduct has substantially and unreasonably interfered with their physical well-
28 being, use, benefit, and enjoyment of their properties and life.

1 239. The stigma and actual contamination of PLAINTIFFS' bodies has caused a
2 material loss of value of their properties and life expectancy.

3 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

4 **SIXTH CAUSE OF ACTION**
5 **(Intentional Infliction of Emotional Distress)**
6 **Against all DEFENDANTS**

7 240. PLAINTIFFS hereby incorporate the allegations contained in the
8 preceding paragraphs, as though fully set forth herein.

9 241. DEFENDANTS engaged in extreme and outrageous conduct by engaging
10 in the following acts and omissions:

11 (a) overstating any environmental benefits of the FNPP while neglecting
12 to mention or understating its actual environmental costs;

13 (b) marketing nuclear power as a "clean" and environmentally "safe" and
14 beneficial fuel;

15 (c) misrepresenting the actual levels of radiation, including statements that
16 it posed no threat of harm to the PLAINTIFFS in the performance of their
17 mission;

18 (d) representing that the condition of the FNPP did not pose any unusual
19 threat of harm as compared to a conventional, non-nuclear power plant;

20 (e) failing to disclose that when radiation leaked from the FNPP, it would
21 be unable to contain the radiation and would be far more likely to cause
22 contamination than other sources of power generation;

23 (f) leading the public and the PLAINTIFFS to believe that they could
24 safely perform their duties in the waters adjacent to the FNPP despite the
25 detected levels of radiation;

26 (g) stating that the air and water at and about the FNPP were adequately
27 tested and shown not to pose a health hazard or enhanced risk to the
28 environment while avoiding and discouraging additional testing; and

1 (h) concealing the necessity for the PLAINTIFFS to take steps to undergo
2 early detection modalities to determine whether or not they had been
3 exposed to unsafe levels of radiation, a potential carcinogen.

4 242. As a direct and proximate result of the reckless and/or intentional
5 conduct of DEFENDANT TEPCO, PLAINTIFFS suffered severe emotional
6 distress and mental suffering by fearing that their exposure to DEFENDANT'S
7 highly toxic and carcinogenic emissions would lead to the development of cancer
8 as well as other life threatening ailments.

9 243. DEFENDANT'S acts proximately caused harm and damage to the
10 PLAINTIFFS, including personal injury, property damage, loss of enjoyment of
11 their property and life, the need for periodic examination and treatment, as well as
12 economic losses including loss of earnings, stigma damages, the cost of obtaining
13 potential cure, and other needless expenditures of time and money. PLAINTIFFS
14 will continue to incur losses and damage in the future. Based on PLAINTIFFS'
15 repeated exposure to ionizing radiation, PLAINTIFFS have a reasonable fear that
16 said exposure more likely than not increases their risk of developing cancer and
17 other illnesses in the future.

18 244. DEFENDANT TEPCO intended to cause or acted with conscious disregard
19 of
20 the probability of causing injury to PLAINTIFFS, and therefore, is liable for
21 punitive damages.

22 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

23 **SEVENTH CAUSE OF ACTION**
24 **(Strict Liability for Ultrahazardous Activities)**
25 **Against all DEFENDANTS**

26 245. PLAINTIFFS hereby incorporate the allegations contained in the
27 preceding paragraphs, as though fully set forth herein.

28 246. DEFENDANT engaged in an ultrahazardous activity that caused harm,

1 damages, losses, injuries, including fear of contracting cancer, birth defects for
2 their children, born and unborn, and economic and non-economic damages.

3 247. DEFENDANT is responsible for that harm, injuries, damages, both
4 economic and non-economic because DEFENDANT engaged in producing nuclear
5 power, an ultra-hazardous activity, at FNPP.

6 248. PLAINTIFFS' injuries, damages, losses and harm is the kind of harm that
7 would be anticipated as a result of the risk created by exposure to a radiation
8 release as the nature and kind that was released at Fukushima.

9 249. DEFENDANT TEPCO'S acts proximately caused harm and damage to the
10 PLAINTIFFS, including personal injury, property damage, loss of enjoyment of
11 their property and life, the need for periodic examination and treatment, as well as
12 economic losses including loss of earnings, stigma damages, the cost of obtaining
13 potential cure, and other needless expenditures of time and money. PLAINTIFFS
14 will continue to incur losses and damage in the future. Based on PLAINTIFFS'
15 repeated exposure to ionizing radiation, PLAINTIFFS have a reasonable fear that
16 said exposure more likely than not increases their risk of developing cancer in the
17 future.

18 250. DEFENDANT intended to cause or acted with conscious disregard of the
19 probability of causing injury to PLAINTIFFS, and therefore, is liable for punitive
20 damages.

21 WHEREFORE, PLAINTIFFS request relief as hereinafter provided.

22
23 **EIGHTH CAUSE OF ACTION**
24 **(Negligence per se: Res Ipsa Loquitur)**
25 **Against all DEFENDANTS**

26 251. PLAINTIFFS hereby incorporate the allegations contained in the
27 preceding paragraphs as though fully set forth herein.

28 252. PLAINTIFFS' harm was caused by a release of radiation from the FNPP
which only DEFENDANT controlled.

1 253. PLAINTIFFS' voluntary actions did not cause or contribute to the events
2 which harmed them.

3 254. PLAINTIFFS' harm, injuries, damages and losses ordinarily would not
4 have happened unless someone was negligent.

5 255. PLAINTIFFS' injuries, damages, losses and harm are the kind of harm that
6 would be anticipated as a result of the risk created by exposure to a radiation
7 release of the nature and kind that was released at Fukushima.

8 256. DEFENDANT'S acts proximately caused harm and damage to the
9 PLAINTIFFS, including personal injury, property damage, loss of enjoyment of
10 their property and life, the need for periodic examination and treatment, as well as
11 economic losses including loss of earnings, stigma damages, the cost of obtaining
12 potential cure, and other needless expenditures of time and money. Plaintiffs will
13 continue to incur losses and damage in the future. Based on Plaintiffs' repeated
14 exposure to ionizing radiation, Plaintiffs have a reasonable fear that said exposure
15 more likely than not increased their risk of developing cancer in the future.

16 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

17 **NINTH CAUSE OF ACTION**
18 **(Presumption of Negligence Per Se)**
19 **Against all DEFENDANTS**

20 257. PLAINTIFFS hereby incorporate the allegations contained in the
21 preceding paragraphs, as though fully set forth herein.

22 258. DEFENDANT TEPCO'S illegal, intentional, reckless and negligent
23 conduct as herein above alleged, violated several State, Federal, and International
24 laws, regulations, and statutes, which were enacted to protect the public, the
25 communities and the environment, including the class of individuals to which
26 PLAINTIFFS belong: Good Samaritans, rescue workers, indeed, the
27 "TOMODACHIS" (friends), who offered help to the victims of the Fukushima
28 meltdown. The 1972 Convention on the Prevention of Marine Pollution by

1 Dumping of Wastes and Other Matter, to which Japan is a signatory, bans the
2 dumping of pollution at sea.

3 259. The Inter-Governmental Conference on the Convention on the
4 dumping of Wastes at Sea, which met in London in November 1972 at the
5 invitation of the United Kingdom, adopted this instrument, generally known as the
6 London Convention. The London Convention, one of the first international
7 conventions for the protection of the marine environment from human activities,
8 came into force on August 30, 1975.

9 260. The London Convention contributes to the international control and
10 prevention of marine pollution by prohibiting the dumping of certain hazardous
11 materials. In addition, a special permit is required prior to dumping of a number of
12 other identified materials and a general permit for other wastes or matter.

13 261. "Dumping" has been defined as the deliberate disposal at sea of
14 wastes or other matter from vessels, aircraft, platforms or other man-made
15 structures, as well as the deliberate disposal of these vessels or platforms
16 themselves. Annexes list wastes which cannot be dumped and others for which a
17 special dumping permit is required.

18 262. Amendments adopted in 1993 (which entered into force in 1994)
19 banned the dumping into sea of low-level radioactive wastes. In addition, the
20 amendments phased out the dumping of industrial wastes by 31 December, 1995
21 and banned the incineration at sea of industrial wastes.

22 263. DEFENDANTS, and specifically, DEFENDANT TEPCO, engaged in
23 intentionally dumping in excess of 11,500 tons of radioactive water into the Pacific
24 Ocean during and following the meltdown of the FNPP.

25 264. PLAINTIFFS' injuries, damages, losses and harm are the kind of harm that
26 would be anticipated as a result of the risk created by exposure to a radiation
27 release as the nature and kind that was released at Fukushima.

28 265. DEFENDANT TEPCO'S acts proximately caused harm and damage to the

1 PLAINTIFFS, including personal injury, property damage, loss of enjoyment of
2 their property and life, the need for periodic examination and treatment, as well as
3 economic losses including loss of earnings, stigma damages, the cost of obtaining
4 potential cure, and other needless expenditures of time and money. PLAINTIFFS
5 will continue to incur losses and damage in the future. Based on PLAINTIFFS'
6 repeated exposure to ionizing radiation, PLAINTIFFS have a reasonable fear that
7 said exposure more likely than not increased their risk of developing cancer in the
8 future.

9
10 WHEREFORE, PLAINTIFFS request relief as hereinafter provided

11 **TENTH CAUSE OF ACTION**
12 **(Loss of Consortium)**
13 **Against all DEFENDANTS**

14 266. PLAINTIFFS hereby incorporate the allegations contained in the
15 preceding paragraphs, as though fully set forth herein.

16 267. Each spouse of each PLAINTIFF herein alleges he/she has been harmed
17 by the injury to his/her husband/wife/domestic partners. Each spouse/domestic
18 partner of each Plaintiff seeks to be reasonably compensated for the loss of his/her
19 husband/wife's/domestic partner's companionship and services, past and future,
20 including:

- 21 1. The loss of love, companionship, comfort, care, assistance, protection,
22 affection, society, moral support; and
23 2. The loss of the enjoyment of sexual relations and/or the ability to have
24 children.

25
26 **CLASS ACTION AVERMENTS**

27 268. PLAINTIFFS hereby incorporate the allegations contained in the
28 preceding paragraphs, as though fully set forth herein.

1 269. PLAINTIFFS state, Pursuant to Federal Rule of Civil Procedure,
2 23(b) (1)(A)(B) that: (1) prosecuting separate actions by individual Class
3 Members would create a risk of: (A) inconsistent or varying adjudications with
4 respect to individual class members that would establish incompatible standards of
5 conduct for the DEFENDANTS; or (B) would substantially impair or impede their
6 ability to protect their interests.

7 270. PLAINTIFFS further state, Pursuant to Federal Rule of Civil Procedure
8 23(b) (2) and (3) that: (2) the DEFENDANT opposing the class has acted or
9 refused to act on grounds that apply generally to the class, so that final injunctive
10 relief or corresponding declaratory relief is appropriate respecting the class as a
11 whole; or (3) this Court should find that the questions of law or fact common to
12 class members predominate over any questions affecting only individual members,
13 and that a class action is superior to other available methods for fairly and
14 efficiently adjudicating the controversy. The matters pertinent to these findings
15 include: (A) the class members' interests in individually controlling the
16 prosecution or defense of separate actions;(B) the extent and nature of any
17 litigation concerning the controversy already begun by class members;(C) the
18 desirability of concentrating the litigation of the claims in the this U.S. District
19 Federal Court; and (D) the unlikely difficulties in managing this class action.

20 PRAYER FOR RELIEF

- 21 1. For a judgment ordering, requiring and compelling the
22 DEFENDANTS to establish a fund in an amount not less than one
23 BILLION (\$1,000,000,000.00) DOLLARS available to advance and
24 pay all costs and expenses for each of the PLAINTIFFS for medical
25 examination, medical monitoring, and treatment by physicians of
26 PLAINTIFFS' choice;
- 27 2. For special and economic damages, including lost wages, for all
28 Causes of Action;

3. For general and non-economic damages for all Causes of Action;
4. For punitive damages for all Causes of Action;
5. For prejudgment interest at the prevailing legal rate;
6. For costs of the suit including reasonable attorneys' fees; and
7. For such other and further relief, including injunctive relief, as the Court may deem proper.

Dated: February 6, 2014

RESPECTFULLY SUBMITTED,

By: /S/ PAUL C. GARNER
PAUL C. GARNER, ESQ.
Attorney for Plaintiffs

Dated: February 6, 2014

**RESPECTFULLY SUBMITTED,
LAW OFFICES OF BONNER & BONNER**

By: /S/ CHARLES A. BONNER
CHARLES A. BONNER
Attorney for Plaintiffs

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DEMAND FOR JURY TRIAL

The PLAINTIFFS hereby demand a jury trial of all issues as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: February 06, 2014

RESPECTFULLY SUBMITTED,

By: /S/PAUL C. GARNER
PAUL C. GARNER, ESQ.
Attorney for Plaintiffs

Dated: February 06, 2014

**RESPECTFULLY SUBMITTED,
LAW OFFICES OF BONNER & BONNER**

By: /S/CHARLES A. BONNER
CHARLES A. BONNER
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, CHARLES A. BONNER, am an attorney at Law Offices of Bonner & Bonner counsel of record for Plaintiffs in this action. I certify that on Febraury 6, 2014, I caused the attached document to be served via this Court's Electronic Filing System on JOHN B. OWENS, counsel for DEFENDANT, a registered user of that system. *See* Local Civil Rule 5.4.

DATED: February 6, 2014

BY:/S/ CHARLES A. BONNER
CHARLES A. BONNER
ATTORNEY FOR PLAINTIFFS