

SUPREME COURT  
STATE OF NEW YORK

COUNTY OF ALBANY

Albany County Clerk  
Document Number 11260223  
Rcvd 10/24/2012 12:00:35 PM



**SUMMONS**

Index No: 5919-12

DIANE ABELE, HOLLY ASHLEY, WILLIAM ASHLEY, BERNADETTE BAYLOR, RICHARD BAYLOR, JR., TODD BRAMER, WENDY BRAMER, LINDA BRAUER, BRYAN BRAUER, PATRICIA BUNNELLE, PAUL BUNNELLE, MELISSA BUTCHER, BRUCE CONSOLAZIO, MONIQUE CONSOLAZIO, VICKY DAGER, CYNTHIA DEPEW, VINCENT DEPEW, KATHERINE DILLENBECK, JOHN DILLENBECK, KEITH DILLENBECK, STEVEN FULLER, DIANE FULLER, CHERYL GORINSHEK, MELVIN GROSS, WAVA GROSS, JOSEPH HARROD, VICTORIA HARROD, ROBERT HYSACK, JAMES HICKS, MARIE HICKS, GARY LAMPHERE, PAMELA MARSHALL, ANDREW MCEVOY, THERESA MCEVOY, HEIDI MILLINGTON, TOM MILLINGTON, ANDREW MISURA, SUSAN MOSHER, CAROLYN RIESEL, ALFRED ROSS, GERALDINE ROSS, JUNE SALAMONE, JAMES SALAMONE, JOHN SALAMONE, FRANCES SCUDIERI, LUIGI SCUDIERI, STEPHEN SYNAKOWSKI, THERESA SYNAKOWSKI, WILLIAM TIMMERMAN, TOBIAS TOBIN, PATRICK WILLIAMS, BONNIE WILLIAMS, GINA MARIE VOLPE, PETER VOLPE, JAY TOMEI, PAMELA TOMEI, ANTHONY SEMENTILLI, LISA SEMENTILLI, SHERRY DOUGLAS and MARK WAGNER,

Plaintiffs,

-vs.-

IBERDROLA USA, INC., IBERDROLA USA ENERGY HOLDINGS OF NY, LLC, THE ENERGY NETWORK, LLC, IBERDROLA ENERGY SERVICES, LLC, IBERDROLA USA MANAGEMENT CORPORATION, IBERDROLA ENERGY PROJECTS INC., IBERDROLA RENEWABLES, INC., IBERDROLA CORPORATE SERVICES, INC., PPM ENERGY, INC., ATLANTIC WIND USA LLC, ATLANTIC WIND LLC, ATLANTIC RENEWABLE ENERGY CORPORATION, HARDSCRABBLE WIND POWER LLC, CH2M HILL, INC., MARK BASTASCH, P.E., INCE, and Corporation X, a fictitious name intended to designate those corporations and/or employees, agents, and/or staff members of said corporations who may also be liable to the Plaintiffs whose identities are presently unknown.

Defendants.

TO THE ABOVE NAMED DEFENDANTS:

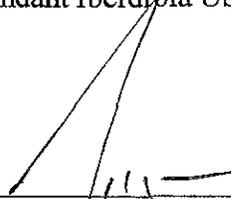
You are hereby Summoned to Answer the Complaint in this action, and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of

Appearance on the Plaintiffs' attorney within twenty (20) days after the service of this Summons, exclusive of the day of service, where service is made by delivery upon you personally within the State, or within thirty (30) days after completion of service where service is made in any other manner. In case of your failure to appear or Answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

Plaintiffs designate Albany County as the place of trial.

The basis of the venue is the location of Defendant Iberdrola USA, Inc.'s business:  
Albany, New York.

Dated: October 22, 2012



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Jeff D. DeFrancisco, Esq. (co-counsel)  
Melody Scalfone, Esq. (co-counsel)  
Attorneys for Plaintiffs  
121 East Water Street  
Syracuse, New York 13202  
(315) 479-9000

SUPREME COURT  
STATE OF NEW YORK

COUNTY OF ALBANY

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**COMPLAINT**  
Index No:

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DIANE ABELE, HOLLY ASHLEY, WILLIAM ASHLEY, BERNADETTE BAYLOR, RICHARD BAYLOR, JR., TODD BRAMER, WENDY BRAMER, LINDA BRAUER, BRYAN BRAUER, PATRICIA BUNNELLE, PAUL BUNNELLE, MELISSA BUTCHER, BRUCE CONSOLAZIO, MONIQUE CONSOLAZIO, VICKY DAGER, CYNTHIA DEPEW, VINCENT DEPEW, KATHERINE DILLENBECK, JOHN DILLENBECK, KEITH DILLENBECK, STEVEN FULLER, DIANE FULLER, CHERYL GORINSHEK, MEL VIN GROSS, WAVA GROSS, JOSEPH HARROD, VICTORIA HARROD, ROBERT HYSACK, JAMES HICKS, MARIE HICKS, GARY LAMPHERE, PAMELA MARSHALL, ANDREW MCEVOY, THERESA MCEVOY, HEIDI MILLINGTON, TOM MILLINGTON, ANDREW MISURA, SUSAN MOSHER, CAROLYN RIESEL, ALFRED ROSS, GERALDINE ROSS, JUNE SALAMONE, JAMES SALAMONE, JOHN SALAMONE, FRANCES SCUDIERI, LUIGI SCUDIERI, STEPHEN SYNAKOWSKI, THERESA SYNAKOWSKI, WILLIAM TIMMERMAN, TOBIAS TOBIN, PATRICK WILLIAMS, BONNIE WILLIAMS, GINA MARIE VOLPE, PETER VOLPE, JAY TOMEI, PAMELA TOMEI, ANTHONY SEMENTILLI, LISA SEMENTILLI, SHERRY DOUGLAS and MARK WAGNER,

Plaintiffs,

vs.

IBERDROLA USA, INC., IBERDROLA USA ENERGY HOLDINGS OF NY, LLC, THE ENERGY NETWORK, LLC, IBERDROLA ENERGY SERVICES, LLC, IBERDROLA USA MANAGEMENT CORPORATION, IBERDROLA ENERGY PROJECTS INC., IBERDROLA RENEWABLES, INC., IBERDROLA CORPORATE SERVICES, INC., PPM ENERGY, INC., ATLANTIC WIND USA LLC, ATLANTIC WIND LLC, ATLANTIC RENEWABLE ENERGY CORPORATION, HARDCRABBLE WIND POWER LLC, CH2M HILL, INC., MARK BASTASCH, P.E., INCE, and Corporation X, a fictitious name intended to designate those corporations and/or employees, agents, and/or staff members of said corporations who may also be liable to the Plaintiffs whose identities are presently unknown.

Defendants.

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Plaintiffs, by and through their attorneys, Jeff DeFrancisco, Esq. and Melody Scalfone, Esq. as and for their Complaint against the above-named Defendants, states as follows:

## PLAINTIFFS

1. Plaintiff, Diane Abele, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

2. Plaintiff, Holly Ashley, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

3. Plaintiff, William Ashley, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

4. Plaintiff, Bernadette Baylor, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

5. Plaintiff, Richard Baylor, Jr., is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

6. Plaintiff, Todd Bramer, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the

placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

7. Plaintiff, Wendy Bramer, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

8. Plaintiff, Linda Brauer, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

9. Plaintiff, Bryan Brauer, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

10. Plaintiff, Patricia Bunnelle, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

11. Plaintiff, Paul Bunnelle, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

12. Plaintiff, Melissa Butcher, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

13. Plaintiff, Bruce Consolazio, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

14. Plaintiff, Monique Consolazio, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

15. Plaintiff, Vicky Dager, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

16. Plaintiff, Cynthia Depew, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

17. Plaintiff, Vincent Depew, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the

placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

18. Plaintiff, Katherine Dillenbeck, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

19. Plaintiff, John Dillenbeck, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

20. Plaintiff, Keith Dillenbeck, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

21. Plaintiff, Steven Fuller, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

22. Plaintiff, Diane Fuller, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

23. Plaintiff, Cheryl Gorinshek, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

24. Plaintiff, Melvin Gross, is an individual residing in Herkimer County, New York. This Plaintiff, like the other Plaintiffs, has suffered various damages and injuries as it relates to the placement of the subject wind turbines in close proximity to their home as more fully set forth herein.

25. Plaintiff, Wava Gross, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

26. Plaintiff, Joseph Harrod, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

27. Plaintiff, Victoria Harrod, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

28. Plaintiff, Robert Hysack, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the

placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

29. Plaintiff, James Hicks, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

30. Plaintiff, Marie Hicks, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

31. Plaintiff, Gary Lamphere, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

32. Plaintiff, Pamela Marshall, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

33. Plaintiff, Andrew McEvoy, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

34. Plaintiff, Theresa McEvoy, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

35. Plaintiff, Heidi Millington, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

36. Plaintiff, Tom Millington, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

37. Plaintiff, Andrew Misura, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

38. Plaintiff, Susan Mosher, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

39. Plaintiff, Carolyn Riesel, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the

placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

40. Plaintiff, Alfred Ross, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

41. Plaintiff, Geraldine Ross, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

42. Plaintiff, June Salamone, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

43. Plaintiff, James Salamone, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

44. Plaintiff, John Salamone, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

45. Plaintiff, Frances Scuderi, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

46. Plaintiff, Luigi Scudieri, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

47. Plaintiff, Stephen Synakowski, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

48. Plaintiff, Theresa Synakowski, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

49. Plaintiff, William Timmerman, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

50. Plaintiff, Tobias Tobin, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the

placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

51. Plaintiff, Patrick Williams, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

52. Plaintiff, Bonnie Williams, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

53. Plaintiff, Gina Marie Volpe, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

54. Plaintiff, Peter Volpe, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

55. Plaintiff, Jay Tomei, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

56. Plaintiff, Pamela Tomei, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

57. Plaintiff, Anthony Sementilli, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

58. Plaintiff, Lisa Sementilli, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

59. Plaintiff, Sherry Douglas, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

60. Plaintiff, Mark Wagner, is an individual with real property located in Herkimer County, New York. This Plaintiff has suffered various damages and injuries as it relates to the placement of the subject wind turbines being in close proximity to their home as more fully set forth herein.

## DEFENDANTS

61. Upon information and belief, Defendant, Iberdrola USA, Inc. is a for-profit corporation duly organized and existing pursuant to the laws of the state of New York with its principal locality being Albany County, New York.

62. Upon information and belief, Defendant, Iberdrola USA, Inc. provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

63. Upon information and belief, Defendant, Iberdrola USA Energy Holdings of NY, LLC, with current entity name, The Energy Network, LLC is a for-profit corporation duly organized and existing pursuant to the laws of the state of Delaware.

64. Upon information and belief, Defendant, Iberdrola USA Energy Holdings of NY, LLC, with current entity name, The Energy Network, LLC, provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

65. Upon information and belief, Defendant, Iberdrola Energy Services, LLC is a for-profit corporation duly organized and existing pursuant to the laws of the state of Delaware.

66. Upon information and belief, Defendant, Iberdrola Energy Services, LLC, provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

67. Upon information and belief, Defendant, Iberdrola USA Management Corporation is a for-profit business duly organized and existing pursuant to the laws of the state of Delaware.

68. Upon information and belief, Defendant, Iberdrola USA Management Corporation provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

69. Upon information and belief, Defendant, Iberdrola Energy Projects Inc. is a for-profit corporation duly organized and existing pursuant to the laws of the state of Delaware.

70. Upon information and belief, Defendant, Iberdrola Energy Projects Inc. provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

71. Upon information and belief, Defendants, Iberdrola Renewables, LLC, formerly PPM Energy, Inc., is a for-profit corporation duly organized and existing pursuant to the laws of the state of Oregon.

72. Upon information and belief, Defendants, Iberdrola Renewables, LLC, formerly PPM Energy, Inc. provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

73. Upon information and belief, Defendant, Iberdrola Corporate Services, Inc. is a for-profit corporation duly organized and existing pursuant to the laws of the state of New York.

74. Upon information and belief, Defendant, Iberdrola Corporate Services, Inc. provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

75. Upon information and belief, Defendant, Atlantic Wind USA LLC

is a for-profit corporation duly organized and existing pursuant to the laws of the state of Delaware.

76. Upon information and belief, Defendant, Atlantic Wind USA LLC provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

77. Upon information and belief, Defendant, Atlantic Wind LLC is a for-profit corporation duly organized and existing pursuant to the laws of the state of Oregon.

78. Upon information and belief, Defendant, Atlantic Wind LLC provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

79. Upon information and belief, Defendant, Atlantic Renewable Energy Corporation is a for-profit corporation duly organized and existing pursuant to the laws of the state of Delaware.

80. Upon information and belief, Defendant, Atlantic Renewable Energy Corporation provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

81. Upon information and belief, Defendant, Hardscrabble Wind Power LLC is a for-profit corporation duly organized and existing pursuant to the laws of the state of Oregon.

82. Upon information and belief, Defendant, Hardscrabble Wind Power LLC provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

83. Upon information and belief, Defendant, CH2M HILL, Inc. is a for-profit corporation duly organized and existing pursuant to the laws of the state of Florida.

84. Upon information and belief, Defendant, CH2M HILL, Inc. provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

85. Upon information and belief, Defendant Mark Bastasch, P.E., INCE, was and is an environmental engineer and/or consultant hired by and/or employed by and/or contracted by and/or subcontracted by Defendants.

86. Upon information and belief, Defendant Mark Bastasch, P.E., INCE provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

87. Upon information and belief, Corporation X, a fictitious name intended to designate those corporations and/or employees, agents, and/or staff members of said corporations who may also be liable to the Plaintiffs whose identities are presently unknown.

88. Upon information and belief, Corporation X, provided services for, assistance with and/or derived benefit from the Hardscrabble Wind Power Project as more fully set forth herein.

### **FACTS**

89. Within the Herkimer County area are 37 wind turbines known as the Hardscrabble Wind Power Project (hereinafter "Hardscrabble").

90. Upon information and belief, the Hardscrabble project currently consists of 37 American-made Gamsea wind turbines that each stand on 100-meter towers, have 3 blades that each weigh 7 tons, and are 467-feet tall to the tip of the blade.

91. Upon information and belief, each of the Defendants assisted in the planning, researching, implementation and/or creation of the Hardscrabble project.

92. Upon information and belief, the purpose of the Hardscrabble wind turbines was to create significant renewable energy.

93. Upon information and belief, some or all of the Defendants have received or will receive significant financial benefits, tax benefits and/or other incentives for the construction of the Hardscrabble wind turbines that will exceed \$50 million dollars.

94. Upon information and belief, prior to the construction of the Hardscrabble project, the Defendants represented to the Town of Fairfield and residents in the areas where the turbines were placed that the subject wind turbines would not be noisy, would not adversely impact neighboring houses, and there would not be any potential health risks; among other disclosures and representations.

95. Upon information and belief, in or about 2006, Defendant Atlantic Renewables LLC released "projected" noise levels that showed that the wind turbines would not go over 50 dB.

96. Upon information and belief, the aforementioned 2006 noise level study by Defendant Atlantic Renewables LLC was based on projections for General Electric 1.5LSE, 389-foot tall turbines, and not the Gamesa G90, 476-foot turbines, that Defendants collectively placed in the Hardscrabble project.

97. Upon information and belief, in or about 2007, Defendants conducted an "ambient

noise study" on Hardscrabble Road in the Town of Fairfield, to show how low the noise levels were in this rural area prior to the turbine project.

98. Upon information and belief, the Defendants failed to adequately assess the effect that the wind turbines would have on neighboring properties including, but not limited to, noise creation, significant loss of use and enjoyment of property, interference with electrical functioning of homes such as satellites, television, internet and telephone services, diminished property values, destruction of scenic countryside, various forms of trespass and nuisance to neighboring properties, and health concerns; among other effects.

99. Upon information and belief, despite the foregoing, and in opposition to many residents who own property in close proximity to the wind turbines, in 2010 the Defendants erected 37 Gamesa G90 wind-turbines that stand 476 feet tall in and around the Towns of Fairfield, Middleville, and Norway, New York.

100. Upon information and belief, the wind turbines are very close to residential properties.

101. Upon information and belief, to effectuate the construction of the Hardscrabble wind turbines, the Defendants paid and are continuing to pay certain residents for allowing the Hardscrabble wind turbines to be placed on their property.

102. Upon information and belief, in 2011, the Defendants conducted a noise study that showed noise levels as high as 72 dB.

103. Upon information and belief, as a result of the aforementioned 2011 study, the Defendants thereafter faulted their own study and conducted two additional noise studies to demonstrate compliance with the Town of Fairfield's Local Ordinance 1 of 2006, which sets the maximum noise level at 50 dB.

104. Upon information and belief, these new studies conducted by the Defendants show the average wind speeds, direction and expected percentage of operation.

105. Upon information and belief, the Defendants' new studies did not measure the maximum wind speeds and do not measure the noise levels in the winter months, when the noise levels are higher.

106. Upon information and belief, the Defendants' new studies fail to acknowledge and assess the extent of the problems including the full log of Plaintiffs' complaints that are in the thousands.

107. Upon information and belief, in 2011, the Defendants' wind-turbines only produced 147,700 MWh of net energy, or just 22.8% of capacity. Upon information and belief, this is below the 30% required capacity that the U.S. Department of Treasury's 1603 Program Payments for Specified Energy Property in Lieu of Tax Credits. Upon information and belief, this energy production is also contrary to the intent and purpose of creating significant renewable energy. Furthermore, upon information and belief, because the output from wind turbines are intermittent, highly variable, largely uncontrollable and unpredictable, backup power generation systems are placed at a cost and further reduce the net energy production of the turbines.

108. Upon information and belief, since the huge wind turbines in this project produce very little electricity, when the government subsidies expire, the people in the Hardscrabble area will be confronted with a poorly maintained and deteriorating wind energy facilities that may one day become derelict.

109. Upon information and belief, the Hardscrabble wind turbines were built because of huge governmental subsidies to the benefit of the Defendants. Upon information and belief, there is little or no benefit to the public and when the turbines become old and no longer function

thereby littering the landscape and Herkimer County may be left looking like a vast industrial junkyard.

110. Plaintiffs' homes and real property are within one mile of the wind turbines.

111. Upon information and belief, wind turbines of this magnitude should not have been placed so close to residential properties.

112. Upon information and belief, the Plaintiffs have made many complaints related to the wind turbines to the Defendants, but the Defendants have merely conducted questionable noise studies in an effort to address noise compliance.

113. Upon information and belief, the Hardscrabble wind turbines also cause and/or create infra and low frequency sounds that are affecting neighboring properties.

114. Upon information and belief, the Defendants' noise studies also fail to address the aforesaid levels of infra and low frequency sounds by only focusing on audibility, and not on other sensations such as vestibular and other symptoms that fit with the Wind-Turbine Syndrome profile or other health concerns.

115. Upon information and belief, the wind turbines are causing such significant problems and/or injuries that residents, including the Plaintiffs, are continuing to have many difficulties on their properties, house values have been significantly compromised, and some residents were even forced to abandon their homes; among other damages as set forth in this complaint.

**NEGLIGENCE**

**FIRST CAUSE OF ACTION AGAINST THE FOLLOWING DEFENDANTS:**

**IBERDROLA USA ENERGY HOLDINGS OF NY, LLC, THE ENERGY NETWORK, LLC, IBERDROLA USA, INC., IBERDROLA ENERGY SERVICES, LLC, IBERDROLA USA MANAGEMENT CORPORATION, IBERDROLA ENERGY PROJECTS INC., IBERDROLA RENEWABLES, INC., IBERDROLA CORPORATE SERVICES, INC., PPM ENERGY, INC., ATLANTIC WIND USA LLC, ATLANTIC WIND LLC, ATLANTIC RENEWABLE ENERGY CORPORATION, HARDCRABBLE WIND POWER LLC**

116. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

117. Upon information and belief, Defendants Iberdrola USA Energy Holdings of NY, LLC, The Energy Network, LLC, Iberdrola USA, Inc., Iberdrola Energy Services, LLC, Iberdrola USA Management Corporation, Iberdrola Energy Projects, Inc., Iberdrola Renewables, Inc., Iberdrola Corporate Services, Inc., PPM Energy, Inc., Atlantic Wind USA LLC, Atlantic Wind LLC, Atlantic Renewable Energy Corporation, and Hardscrabble Wind Power LLC assisted and/or were primarily responsible for researching, designing, building, testing, implementing and/or creating the Hardscrabble project.

118. Upon information and belief, the Hardscrabble project was a for-profit project for which each of the aforesaid Defendants received and/or continue to receive financial benefits.

119. Upon information and belief, the aforesaid Defendants carelessly and negligently failed to adequately assess and/or test the site of the Hardscrabble project to determine whether the subject project would be feasible and/or produce reasonable benefits to the community.

120. Upon information and belief, the aforesaid Defendants carelessly and negligently failed to assess which wind turbines, if any, would be most suited for the area given the location of nearby residential property.

121. Upon information and belief, the aforesaid Defendants carelessly and negligently created and/or assisted in the creation of the massive wind-turbine structures that have caused and continue to cause significant harm to residents in the area of the turbines.

122. Upon information and belief, the aforesaid Defendants carelessly and negligently failed to adequately disclose the true nature and effects that the wind turbines would have on the community, including the Plaintiffs' homes.

123. Upon information and belief, the aforesaid Defendants were careless, negligent, professionally negligent and/or deviated from professional standards of care that includes, but is not limited to, failing to appropriately assess the site; failing to appropriately test the site; failing to perform or request to be performed appropriate tests for the site; failing to sufficiently study the wind turbine arrays; failing to adequately determine which turbines, if any, would be most suited for the area; utilizing wind turbines that were inappropriate for the site; placing wind turbines too close to residential properties; placing wind turbines that were too large for the area; causing permanent and irreparable harm and damage to neighboring properties; failing to adequately represent what effects the turbines would have on the community and the surrounding areas, including the Plaintiffs' homes; carelessly and negligently representing material facts and information to Plaintiffs and the community; intentionally misrepresenting material facts and information to the Plaintiffs and the community; among other acts of carelessness and negligence.

124. Upon information and belief, as a result of the aforesaid, the Plaintiffs have suffered significant and permanent injuries as more fully set forth herein.

125. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

**NEGLIGENCE**

**FIRST CAUSE OF ACTION AGAINST THE FOLLOWING:**

**CH2M HILL, INC. AND MARK BASTASCH, P.E., INCE**

126. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

127. Upon information and belief, CH2M Hill, Inc. and Mark Bastasch, P.E., INCE, were retained for financial compensation by all or some of the co-Defendants to perform an impact assessment on the real property in proximity to the Hardscrabble project.

128. Upon information and belief, the studies performed by CH2M Hill, Inc. and Mark Bastasch, P.E., INCE lacked a total and real assessment as it related to the potential harm.

129. Upon information and belief, it is a requirement of acoustic engineers, pursuant to the International Conference on Electrical and Electronics Engineering and civil engineers (as per New York State licensure) to protect public safety, health, and welfare.

130. Upon information and belief, Defendants knew or should have known that the wind turbines erected produce acoustic pressure pulsations that effect peoples' health.

131. Upon information and belief, it was the responsibility of the CH2M Hill, Inc. and Mark Bastasch, P.E., INCE, to advise their clients and the public, including Plaintiffs, of the potential for adverse health risks and other impacts to property in the Hardscrabble project area.

132. Upon information and belief, Defendants CH2M Hill, Inc. and Mark Bastasch, P.E., INCE, were negligent, careless, professionally negligent, and/or deviated from generally accepted standards of care in regards to the services and representations made and provided to the community and Plaintiffs including, but not limited to: carelessly and negligently performing

tests; carelessly and negligently failing to perform appropriate tests; failing to sufficiently test the effects of the wind turbine arrays; carelessly and negligently failing to perform an appropriate assessment of the site; failing to appropriately represent facts pertaining to the testing of the site; misrepresenting material facts regarding the site; failing to determine what wind turbines, if any, would be most appropriate for the Hardscrabble product; failing to appropriately determine distances that the subject wind turbines should be from residential areas, including the Plaintiffs' homes and real property; causing permanent and irreparable harm and damage to neighboring properties; among other acts of carelessness and negligence.

133. Upon information and belief, as a result of the aforesaid, the Plaintiffs have suffered significant and permanent injuries as more fully set forth herein.

134. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

### PRIVATE NUISANCE

#### SECOND CAUSE OF ACTION AGAINST ALL DEFENDANTS

135. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

136. Plaintiffs have a private interest in their land and Plaintiffs allege that the Defendants have interfered with and/or invaded their interest by conduct that was negligent, careless, intentional and/or unreasonable.

137. Upon information and belief, the wind turbines constitute a private nuisance because: (i) the wind turbines create significant noise; (ii) the wind turbines interfere with the private enjoyment and use of Plaintiffs' properties; (iii) the wind turbines cause blinking,

flashing and/or flickering effects that impact neighboring properties; and (iv) the wind turbines are adversely affecting property values; among other private nuisances.

138. Upon information and belief, the nuisance was created by the acts of the Defendants thereby causing injury to the Plaintiffs as set forth in this complaint.

139. The nuisance is also substantial in nature as set forth in this complaint, in that the nuisance is unreasonable in character causing significant damages as set forth in this complaint, and the nuisance affects the rights of Plaintiffs to use and enjoy their land.

140. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

### **PUBLIC NUISANCE**

### **THIRD CAUSE OF ACTION AGAINST ALL DEFENDANTS**

141. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

142. Plaintiffs allege they are private citizens and have standing to bring suit against Defendants' for negligent, careless, intended and/or unreasonable conduct that constitutes public nuisance because it is an unreasonable interference with a right common to the general public.

143. Upon information and belief, the area utilized for the Hardscrabble project takes away from the ability of the area for use for tourism and historic value in addition to having other detrimental affects and/or impact to the public in the area of the wind turbines.

144. Upon information and belief, the Hardscrabble project also makes the area significantly less attractive and significantly limits the public's right to use the property.

145. Upon information and belief, moreover, the lifespan of the subject turbines are

only approximately 20 years. Once the turbines cease to function or fall into a state of disrepair, and since there is no plan or agreement between the Defendants and the county to remove the turbines once their beneficial use has ceased, permanent and irreparable harm will be caused to the area.

146. Upon information and belief, as a result of the aforesaid and other public nuisances, the Plaintiffs and the public have suffered significant and permanent damages and/or injuries and/or will incur significant and/or permanent injuries in the future as more fully set forth herein.

147. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

### **TRESPASS TO REAL PROPERTY**

#### **FOURTH CAUSE OF ACTION AGAINST ALL DEFENDANTS**

148. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

149. Plaintiffs allege that they own and, therefore, have a lawful right to possess the real property on which they live. Plaintiffs allege that the giant wind turbines that Defendants have placed around their property results in a trespass by the Defendants due to invasion of their land by noises, lights, flickering, and low-frequency vibrations which penetrate their homes, thereby destroying the use and enjoyment of the Plaintiffs' land; among other trespass.

150. Upon information and belief, this trespass has caused injury to the Plaintiffs by diminishing their property values along with diminishing the use and enjoyment of their properties; among other damages as more fully set forth herein.

151. As a result of the aforesaid trespass, Plaintiffs have suffered and continue to suffer the damages as set forth herein.

152. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

**NEGLIGENCE PER SE**

**FIFTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**

153. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

154. Upon information and belief, Defendants' conduct violates statutes designed to protect the interests of persons in Plaintiffs' position.

155. Upon information and belief, the subject wind turbines regularly violate the Town of Fairfield's Local Ordinance 1 of 2006.

156. Upon information and belief, Defendants criteria for the wind turbines are beyond the recommendations of the Environmental Protection Agency and the World Health Organization to the detriment of Plaintiffs.

157. Upon information and belief, as a result of the conduct of Defendants, the Plaintiffs have suffered and continue to suffer the damages as set forth herein.

158. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

**STRICT PRODUCTS LIABILITY**

**SIXTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**

159. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

160. Upon information and belief, Defendants' wind turbines were in a defective condition and said defects were a substantial factor in causing injury to Plaintiffs.

161. Upon information and belief, the Gamesa G90 wind turbines placed by Defendants were placed in the Hardscrabble project for the purpose and manner they were normally intended.

162. Upon information and belief, it is the Defendants' fault that Plaintiffs were injured and Plaintiffs' could not have prevented the damage or injury by reasonable care having discovered the defect and their perceived danger.

163. Upon information and belief, even if Plaintiffs' exercised reasonable care, the Plaintiffs could not have averted their injury or damages.

164. Upon information and belief, as a result of the conduct of Defendants, the Plaintiffs have suffered and continue to suffer the damages as set forth herein.

165. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

**PUNITIVE DAMAGES**

**SEVENTH CAUSE OF ACTION**  
**AGAINST ALL DEFENDANTS**

166. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

167. Based on the aforesaid, the Plaintiffs allege that all of the Defendants acted willfully, recklessly, were grossly negligent, and/or acted with a conscious disregard with regard to each of the allegations set forth in this complaint.

168. Upon information and belief, Defendants' conduct rises to a level sufficient for an award of punitive damages.

169. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

**DAMAGES**

170. Plaintiffs repeat and reallege each of the paragraphs set forth in this complaint as if fully set forth herein.

171. Based on the aforesaid, Plaintiffs allege that all of the Defendants have caused significant damage to the Plaintiffs and that such damage is substantial, irreparable, and was proximately caused by the acts of the Defendants as set forth in this complaint.

172. More specified damages for each Plaintiff, includes, but is not limited to, the following.

173. Plaintiff, Diane Abele, is a self-employed dairy farmer who works full-

time on her farm and has lost many hours of work because of the Defendants' wind-turbines. Plaintiff Diane Abele experiences frequent headaches from lack of sleep and constant stress due to Defendants' wind-turbines. Plaintiff Diane Abele used to perform enjoyable activities outside such as work in her garden, frequently eat outside, enjoy the view of her landscape and countryside, perform dairy farm related activities outside, all of which she is no longer able to do or has been significantly less enjoyable since Defendants' wind turbines were installed. The wind-turbine noise is also very distractive to her dog. Plaintiff Diane Abele cannot sleep and cannot open the windows of her house because of the disruptive noise. She experiences noise from the turbines that she describes as louder than an airport, which she can hear over the tractors and milk pump on her farm. Plaintiff Diane Abele has also lost profits from her dairy farm because the cows have been less productive since Defendants built the turbines. This Plaintiff has suffered a significant loss of enjoyment and use of her property. The wind turbines have also had a negative impact on the value of the property; among other losses.

174. Plaintiff, Holly Ashley, has difficulty sleeping, meditating, relaxing on her deck, planting in her yard, and listening to AM radio; all after the wind-turbines were operational. Plaintiff Holly Ashley also has had sediment in her drinking water since Defendants installed the wind-turbines. This Plaintiff has suffered a significant loss of enjoyment and use of her property. The wind turbines have also had a negative impact on the value of the property; among other losses.

175. Plaintiff, William Ashley, has difficulty sleeping, cannot have his windows open, cannot enjoy the sound of nature, cannot enjoy landscaping on his property, and has a substantial amount of sediment in his drinking water, all since Defendants installed the wind-turbines. This

Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

176. Plaintiff, Bernadette Baylor, was unable to sell her house and land after the wind-turbines were installed. Plaintiff Bernadette Baylor, because of the Defendants' wind-turbine noise, abandoned her home and now rents a house, forcing her to file for bankruptcy. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

177. Plaintiff, Richard Baylor, Jr., was unable to sell his house and land after the wind-turbines were installed. Plaintiff Richard Baylor, Jr., because of Defendants' wind-turbine noise, abandoned his home and now rents a house, forcing him to file for bankruptcy. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

178. Plaintiff, Todd Bramer, since Defendants installed the wind-turbines, now finds it less enjoyable to have a quiet night on his porch or sitting by his outside fireplace. Plaintiff Todd Bramer bought his property on a hill in large part because of the view of the Mohawk Valley, which Defendants' wind-turbines have destroyed, as all he can now see are wind-turbines. Plaintiff Todd Bramer can no longer hunt or trap on his land with his step-son because the industrial wind-turbines have scared away the game. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

179. Plaintiff, Wendy Bramer, has lived in her current home for more than 34 years. Because of the wind-turbines, Plaintiff Wendy Bramer wishes to sell her property, but has been unable to do so. Since Defendants installed the wind-turbines, Plaintiff Wendy Bramer is no

longer able to experience the peace and tranquility of living in the country. Plaintiff Wendy Bramer's enjoyment of time outside is now overshadowed by the "whooshing" noise of the wind-turbines and the flashing red lights at night, which seems to her like an airport. Plaintiff Wendy Bramer's view has been destroyed by the wind-turbines. Plaintiff Wendy Bramer's teenage son Adam Bramer has experienced dizziness and sinus problems since Defendants installed the turbines. Plaintiff Wendy Bramer's adult daughter has a seizure disorder and cannot visit her parents at their home because of the wind-turbine flicker and noise. Plaintiff Wendy Bramer also has cloudy drinking water. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

180. Plaintiff, Linda Brauer, since Defendants installed the wind-turbines, has severe difficulty sleeping at night because of the wind-turbine noise. Plaintiff Linda Brauer can no longer enjoy her property and there is a foreclosure on her home because of the wind-turbines. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

181. Plaintiff, Bryan Brauer, since Defendants installed the wind-turbines, can no longer hunt, swim, barbeque, target shoot, bike ride, host outdoor parties, play catch with his children, watch television with the windows open, or these activities have been considerably less enjoyable. Plaintiff Bryan Brauer can no longer get a good night's sleep, as the wind-turbines are loud enough to wake him up even with the windows closed. It is presently unknown whether additional physical injuries are related to the wind turbines. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

182. Plaintiff, Patricia Bunnelle, owns/operates a farm on her property. Plaintiff Patricia Bunnelle wanted to establish agritourism on her farm, but the wind-turbines have eliminated this potential. Since Defendants installed the wind turbines, Plaintiff Patricia Bunnelle now finds all outdoor activities less enjoyable, such as relaxing by her ponds, bird watching, horseback riding, cross-country skiing, hiking, and gardening. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

183. Plaintiff, Paul Bunnelle, owns/operates a farm on his property. Plaintiff Paul Bunnelle wanted to establish agritourism on his farm, but the wind-turbines have eliminated this potential. Since Defendants installed the wind turbines, Plaintiff Paul Bunnelle now finds all outdoor activities less enjoyable, such as entertaining and gardening. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

184. Plaintiff, Melissa Butcher, has difficulty falling asleep because of the wind-turbine noise and "flicker." Plaintiff Melissa Butcher experiences annoying, constant noise from the wind-turbines. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

185. Plaintiff, Bruce Consolazio, has had his view destroyed by the wind-turbines. Plaintiff Bruce Consolazio can no longer watch television because the wind-turbines have affected the reception. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

186. Plaintiff, Monique Consolazio, has lost enjoyment of her home/property due to severe wind-turbine noise. Plaintiff Monique Consolazio's dogs are now nervous, barking excessively and pacing because of the wind-turbine noise. Plaintiff Monique Consolazio also experiences constant problems with her television reception. Defendant Hardscrabble Wind Power, LLC, offered her \$2,000 on June 30, 2011 – in exchange for a release from all liability – because the construction of the wind turbines caused a decline in her television reception. Plaintiff Monique Consolazio declined this offer. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

187. Plaintiff, Vicky Dager's, allergies have worsened since the wind-turbines were installed; among other health issues. Ms. Dager has not been able to enjoy her property like she used to. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

188. Plaintiff, Cynthia Depew, experiences constant ringing in her ears since Defendants installed the turbines. The turbines also cause her anxiety. Due to the constant wind-turbine noise, Plaintiff Cynthia Depew can no longer enjoy sitting outside her home. Despite her house being fully insulated and with all new windows, Plaintiff Cynthia Depew can hear the turbine noise inside her home. Defendants' wind-turbines have taken away from the scenic beauty of her property. Furthermore, on windy days, Plaintiff Cynthia Depew experiences noise and vibrations that sounds like a jet is going to crash into her home. This Plaintiff has suffered a

significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

189. Plaintiff, Vincent Depew, experiences high anxiety, stress, and depression because of the wind-turbines. Plaintiff Vincent Depew is no longer able to enjoy family events, gardening; sitting outside, and the view of the surrounding area because of the wind-turbines. Plaintiff Vincent Depew cannot be inside or outside his home without hearing and feeling the vibrations of the turbines. Plaintiff Vincent Depew has invested his life savings into his home. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

190. Plaintiff, Katherine Dillenbeck, since Defendants installed the wind-turbines, cannot sit outside and enjoy her property and has to shut the windows of her home because of the noise. Plaintiff Katherine Dillenbeck's dog, since Defendants installed the wind-turbines, has been nervous and barks significantly more. Plaintiff Katherine Dillenbeck has had her property listed on and off, but has been unable to sell her property. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

191. Plaintiff, John Dillenbeck, since Defendants installed the wind-turbines, cannot sit outside and enjoy his property and has to shut the windows of his home because of the noise. Plaintiff John Dillenbeck's dog, since Defendants installed the wind-turbines, has been nervous and barks significantly more. Plaintiff John Dillenbeck has had his property listed on and off, but has been unable to sell his property. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

192. Plaintiff, Keith Dillenbeck, is a self-employed dairy farmer who has lost many hours of work time because of the wind-turbines. Plaintiff Keith Dillenbeck has experienced increased stress, nervousness, a feeling of being on edge, and his sleep has been disturbed. Plaintiff Keith Dillenbeck experiences constant, irritating noise from the wind-turbines. Upon information and belief, the wind-turbines have affected Plaintiff Keith Dillenbeck's cows, causing a loss of milk production. Plaintiff Keith Dillenbeck cannot open his windows in the summertime because of the wind-turbine noise. Plaintiff Keith Dillenbeck is constantly distracted by the wind-turbine noise, which to him sounds like a propeller plane outside his door. Plaintiff Keith Dillenbeck has invested a large amount of money in his 36 year old dairy operation of which the turbines have adversely impacted his business. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

193. Plaintiff, Steven Fuller, since Defendants installed the wind-turbines, can no longer enjoy sitting outside because of the light flickering from the wind-turbines. The turbines also cause noise both inside and outside of the home, disturbing the peace and making it difficult to enjoy living there. The wind-turbines have affected Plaintiff Steven Fuller's television, internet, and cellular-phone reception. Plaintiff Steven Fuller's daughter experiences frequent headaches since Defendants installed the wind-turbines. Plaintiff Steven Fuller's neighbor has wind-turbines on his property, and Plaintiff Steven Fuller cannot build onto his house or driveway because it would come within 1,250 feet of a wind-turbine. Plaintiff Steven Fuller has invested an estimated \$170,000 in his house that he cannot complete. Plaintiff Steven Fuller used to have a beautiful view of Mohawk Valley, but can now only see wind-turbines. Plaintiff Steven Fuller is woken up frequently by the wind-turbine noise. This Plaintiff has suffered a significant

loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

194. Plaintiff, Diane Fuller, works from home full-time as a medical biller/coder. Plaintiff Diane Fuller experiences frequent headaches and stress, particularly during working hours because of the constant noise and flickering. Plaintiff also experiences interference with her internet connection. Plaintiff Diane Fuller no longer enjoys sitting outside both because of the obstructed view and the noise that the turbines create. The wind-turbines have affected Plaintiff Diane Fuller's television, internet, and cellular-phone reception. Plaintiff Diane Fuller's daughter has very frequent headaches. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

195. Plaintiff, Cheryl Gorinshek, had a severe case of vertigo that resulted in other medical complications. It is presently unknown which of her medical complications are related to the wind turbines. Plaintiff Cheryl Gorinshek has been disturbed by the wind-turbine noise and red-flashing lights at night. The wind turbines have affected this Plaintiff's ability to enjoy and use her property. The wind turbines have also had a negative impact on the value of the property; among other losses.

196. Plaintiff, Melvin Gross, can no longer enjoy being outside on his property because of the noise and reflections from the wind-turbines, and can no longer enjoy watching wild animals because the wind-turbines have scared them off. In addition to not being able to enjoy his property, the wind turbines have also had a negative impact on the value of the property; among other losses.

197. Plaintiff, Wava Gross, has trouble sleeping at night because of the wind-turbine noise and reflections, and can no longer enjoy sitting outside. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

198. Plaintiff, Joseph Harrod, has daily, severe headaches and other complications because of the wind-turbines. Plaintiff Joseph Harrod is unable to enjoy outdoor activities such as picnics, family gatherings, and gardening because of the wind-turbines. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

199. Plaintiff, Victoria Harrod, has intense migraine headaches because of the wind-turbines. Plaintiff Victoria Harrod is unable to enjoy gardening, picnics with family, reading resting outside, and has trouble sleeping because of the noise and flickering from the wind-turbines. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

200. Plaintiff, Robert Hysack, experiences very annoying noise from the wind-turbines that sound like airplanes that never land, and cannot keep his windows open. This Plaintiff has suffered a significant loss of enjoyment and use of their property. The wind turbines have also had a negative impact on the value of the property; among other losses.

201. Plaintiff, James Hicks, purchased his property as a summer home and has spent a significant amount of money on improvements. Plaintiff James Hicks bought the property because of the former peace and quiet, which the wind-turbine noise and flickering has

destroyed. This Plaintiff has suffered a significant loss of enjoyment and use of his property. The wind turbines have also had a negative impact on the value of the property; among other losses.

202. Plaintiff, Marie Hicks, can no longer enjoy her formerly quiet land because of wind-turbine noise, which has also scared off the wildlife. Plaintiff Marie Hicks has been affected by wind-turbine noise, red lights at night, and flicker at sundown. This Plaintiff has suffered a significant loss of enjoyment and use of her property. The wind turbines have also had a negative impact on the value of the property; among other losses.

203. Plaintiff, Gary Lamphere, is self-employed and loses about four hours/\$100 per day due to the wind-turbine noise. Plaintiff Gary Lamphere has headaches and other health related issues since Defendants installed the wind-turbines. This Plaintiff has suffered a significant loss of enjoyment and use of his property. The wind turbines have also had a negative impact on the value of the property; among other losses.

204. Plaintiff, Pamela Marshall, since Defendants installed the wind-turbines, has had increased blood pressure and other health issues. Plaintiff Pamela Marshall experiences wind-turbine noise that sounds like an airport in her backyard with jets taking off. Plaintiff Pamela Marshall has four wind-turbines adjacent to her property. Plaintiff Pamela Marshall has been approached by two logging companies that want the wood on her property; however, if she were to cut down the trees, the wind-turbines would further affect the use and enjoyment of her property even more. The wind-turbines near Plaintiff Pamela Marshall have interfered with her television and cellular-phone reception. Plaintiff Pamela Marshall has been unable to sell her property. The wind turbines have also had a negative impact on the value of the property; among other losses.

205. Plaintiff, Andrew McAvoy, bought his property in or about July 2002

with the intention of building an alpaca farm. In or about 2004 Plaintiff Andrew McAvoy bought alpacas. Since Defendants constructed the turbines, Plaintiff Andrew McAvoy has been forced to suspend this operation, which he invested considerable time and money into. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

206. Plaintiff, Theresa McAvoy, her property in or about July 2002 with the intention of building an alpaca farm. In or about 2004 Plaintiff Theresa McAvoy bought alpacas. Since Defendants constructed the turbines, Plaintiff Theresea McAvoy has been forced to suspend this operation, which she invested considerable time and money into. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

207. Plaintiff, Heidi Millington, cannot not sleep at night and cannot enjoy normal daily activities because the wind-turbine noise sounds like a jet that hovers over her house and never lands. Plaintiff Heidi Millington has a farm, and everything that she does is now affected by the frustration of four wind-turbines adjacent to her house. Plaintiff Heidi Millington cannot get away from the turbines, and her family does not want to visit because of the turbines. Plaintiff Heidi Millington experiences constant ringing in her ears, migraines, and nausea from the noise and flickering of the turbines. The turbines also affect her television signal. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

208. Plaintiff, Tom Millington, is a self-employed farmer who has lost many work hours because of the wind-turbines. Plaintiff Tom Millington can no longer enjoy peace and

quiet or outdoor activities, including feeding his cows or cropping his fields. Upon information and belief, Defendants' wind-turbines have made his cows nervous and less productive. Plaintiff Tom Millington's family and friends no longer want to visit his home because of the loud, jet-like noise from the turbines. Plaintiff Tom Millington cannot sleep at night nor can he enjoy his home like he used to. He has also wasted countless hours talking to Defendants about the various disturbances the turbines cause. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

209. Plaintiff, Andrew Misura, can no longer hike, hunt, sit in his yard, or barbeque because of the disturbances from the wind-turbines. Plaintiff Andrew Misura and his family used to enjoy sitting outside their home, talking, cooking, and eating outdoors. The constant "whoosing" from the wind-turbine blades drives him crazy, and his family is no longer able to enjoy their camp. Plaintiff Andrew Misura bought the property for hunting, as its location was a perfect funnel for wildlife. The deer, bear, turkeys, and grouse that were abundant on Plaintiff Andrew Misura's land are no longer there. Plaintiff Andrew Misura bought his property as a peaceful respite from city life, but now only sees the giant spinning blades of three wind-turbines and the accompanying flickering of light as they pass across the sun. This makes it impossible for Plaintiff Andrew Misura to hear and spot approaching deer and other wildlife. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

210. Plaintiff, Susan Mosher, has anxiety and heart palpitations because of the wind-turbines. Plaintiff Susan Moser cannot sit outside or mow her lawn when the sun is out because of the flickering from the turbines. Plaintiff Susan Moser also has sediment in her drinking

water. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

211. Plaintiff, Carolyn Riesel, has increased blood pressure since Defendants installed the wind-turbines. Plaintiff Carolyn Riesel can no longer mow her lawn and cannot have her windows open due to the flickering and noise from the turbines. Plaintiff Carolyn Riesel is affected by the grinding, droning, and whooshing noises of the turbines, which interferes with daily activities such as normal conversation and walking. The constant noise makes Plaintiff Carolyn Riesel nervous. The noise comes into Plaintiff Carolyn Riesel's house, and when the wind-turbines change direction they make a startling noise. Plaintiff Carolyn Riesel can no longer enjoy hearing birds and the creek behind her house, and no longer has a television signal. This Plaintiff has also suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

212. Plaintiff, Alfred Ross, bought land with the intent of constructing a retirement home. Plaintiff Alfred Ross has spend thousands of dollars on architects, surveyors, contractors, well-drillers and water-testing professionals, but because of the proximity of the turbines, Plaintiff Alfred Ross put the construction project on hold, despite the dream of returning to where his remaining family lives. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

213. Plaintiff, Geraldine Ross, bought land with the intent of constructing a retirement home. Plaintiff Geraldine Ross has spend thousands of dollars on architects, surveyors, contractors, well-drillers and water-testing professionals, but because of the proximity of the

turbines, Plaintiff Geraldine Ross put the construction project on hold, despite the dream of returning to where her remaining family lives. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

214. Plaintiff, June Salamone, in 2012, was admitted to the hospital for partial third-nerve palsy, tension headaches, and elevated ICP. Plaintiff June Salamone has increased headaches, nervous/tension feelings of panic and anxiety, dizziness, and sleep disturbance due to the wind turbines. Plaintiff June Salamone has spend less time outside due to wind-turbine noise, which has interfered with gardening, yard work, playing with grandchildren, hiking, walking, and picnics/cookouts. Plaintiff June Salamone is unable to open her windows due to excessive noise, which, especially at nighttime, comes through the house even when the windows are closed. Plaintiff June Salamone experiences sound that is like a jet engine overhead that never lands. The thumping and whooshing sounds from the turbines permeates through Plaintiff June Salamone's body. Plaintiff June Salamone cannot get an uninterrupted night of sleep. The two turbines near Plaintiff June Salamone's home create flickers that cast shadows through her house, causing a feeling of imbalance and dizziness, like turning lights on and off.

This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

215. Plaintiff, James Salamone, since Defendants installed the wind-turbines, has experienced constant ringing and pressure in his ears, which turns into earaches and pounding headaches that last for days. Plaintiff James Salamone has become very stressed and irritable and has disturbed sleep. Sometimes Plaintiff James Salamone experiences sound like a jet-plane stuck over his house, and other times it sounds like fighter jets taking off. Plaintiff James

Salamone experiences noise much louder at night. The flickering lights from the turbines significantly bother Plaintiff James Salamone and he cannot sit outside of his house. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

216. Plaintiff, John Salamone, is unable to enjoy barbequing outside with his family, playing with his dog, hiking, hunting, yard work, or gardening, all since Defendants installed the turbines. Plaintiff John Salamone is unable to open the windows of his house because the turbine noise enters the house, causing aggravation and nervousness. The turbines sound like an overhead plane at times, a thumping sound at others. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

217. Plaintiff, Frances Scuderi, experiences turbine noise such that she cannot sit on her deck, and at night she is bothered by the flickering red lights. Plaintiff Frances Scuderi has also lost television reception. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

218. Plaintiff, Luigi Scudieri, experiences turbine noise such that he cannot sit on his deck, and at night he is bothered by the flickering red lights. Plaintiff Luigi Scuderi has also lost television reception. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

219. Plaintiff, Stephen Synakowski, since Defendants installed the turbines, cannot sit on his back deck and enjoy the view. Plaintiff Stephen Synakowski can see 17 wind-turbines

from his property, and is distracted by the noise. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

220. Plaintiff, Theresa Synakowski, since Defendants installed the turbines, cannot sit on her back deck and enjoy the view. Plaintiff Theresa Synakowski can see 17 wind-turbines from her property, and is distracted by the noise. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

221. Plaintiff, William Timmerman, since Defendants installed the turbines, cannot enjoy the outdoors and is unable to sleep some nights. Plaintiff William Timmerman has post-traumatic stress disorder from his military service, and the constant wind-turbine noise has made this increasingly difficult for him to deal with. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

222. Plaintiff, Tobias Tobin, built a house for retirement, but the turbines have diminished the value of his home. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

223. Plaintiff, Patrick Williams, since Defendants installed the turbines, can no longer enjoy cookouts with friends, sitting outside at night and enjoying the sounds of nature, and is unable to enjoy the sun because the flickering effect from the turbines force him to close his blinds. Plaintiff Patrick Williams has difficulty sleeping. Plaintiff Patrick Williams' dogs have been affected by the turbines, and bark and/or pace when the wind-turbines are on. This Plaintiff

has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

224. Plaintiff, Bonnie Williams, since Defendants installed the turbines, can no longer enjoy her backyard because of the noise and is disturbed by the light flickering. Plaintiff Bonnie Williams has dogs that bark non-stop when they are outside. Plaintiff Bonnie Williams' sleep is interrupted by the noise from the turbines. Plaintiff Bonnie Williams' daughter Rebecca has experienced a decrease in her grades at school since the turbines were installed and she has had a difficult time finding a quiet place to do her homework. Plaintiff Bonnie Williams' satellite reception also sometimes goes black. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

225. Plaintiff, Peter Volpe, is a professional opera singer who finds it difficult to teach voice lessons or practice in his home with the windows open due to the noise disturbance from the turbines. Plaintiff Peter Volpe loses three to five hours of work time during the summer, or \$300 to \$500 per day. Plaintiff Peter Vole no longer enjoys sitting on his back patio due to the incessant noise and flicker, which is annoying and destroys the beautiful view of Mohawk Valley that he once had. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

226. Plaintiff Gina Marie Volpe, since Defendants installed the wind-turbines, has experienced increased stress and other health problems because of the wind-turbine noise. Plaintiff Gina Marie Volpe can no longer enjoy playing in her yard with her dogs, barbequing, watching her outdoor theater, relaxing, or having friends or family to her house because of the

constant thumping of the turbines. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

227. Plaintiff Jay Tomei, since Defendants installed the wind-turbines, cannot enjoy outdoor activities on his property because of the flickering and noise. Because of the wind-turbines, Plaintiff Jay Tomei has suspended his plans to sell his property. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

228. Plaintiff Pamela Tomei, since Defendants installed the wind-turbines, cannot enjoy outdoor activities on her property because of the flickering and noise. Because of the wind-turbines, Plaintiff Pamela Tomei has suspended her plans to sell her property. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

229. Plaintiff Lisa Sementilli moved to the Fairfield area in 1998 to be near her family and enjoy the peace and quiet of country life. However, Plaintiff Lisa Sementilli's daughter was diagnosed with Central Auditory Processing Disorder. When she heard that the wind-turbines were coming to the area, she had to pull her children out of school mid-year due to her daughter's diagnosis. Plaintiff Lisa Sementilli can no longer have her daughter visit her grandparents in Fairfield because of the wind-turbine noise. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

230. Plaintiff Anthony Sementilli moved to the Fairfield area in 1998 to be near his family and enjoy the peace and quiet of country life. However, Plaintiff Anthony

Sementilli's daughter was diagnosed with Central Auditory Processing Disorder. When he heard that the wind-turbines were coming to the area, he had to pull his children out of school mid-year due to his daughter's diagnosis. Plaintiff Anthony Sementilli can no longer have his daughter visit her grandparents in Fairfield because of the wind-turbine noise. This Plaintiff has suffered a significant loss of use and enjoyment of the property. The wind turbines have also had a negative impact on the value of the property; among other losses.

231. Plaintiff, Sherry Douglas, has experienced a decrease in property value since Defendants installed the wind-turbines. This Plaintiff has suffered a significant loss of use and enjoyment of the property; among other losses.

232. Plaintiff, Mark Wagner, has experienced a decrease in property value since Defendants installed the wind-turbines. Plaintiff Mark Wagner operates a 141-acre Garden Center on a property that has been in his family since about 1938. Plaintiff Mark Wagner has invested approximately \$600,000 into his business, which he cannot sell because of the presence of the wind turbines. This Plaintiff has suffered a significant loss of use and enjoyment of the property; among other losses.

233. Upon information and belief, in addition to the aforesaid, all Plaintiffs are entitled to damages related to the diminution of their property values; compensatory damages for the destruction of their homes and lifestyle; loss of use and enjoyment of their properties; damages in the form of relocations costs and lost time spent relocating their homes; mental anguish; destruction of scenic countryside; physical pain and suffering; difficulty sleeping; nuisance; trespass; interference with electrical functioning of their homes such as satellites, telephone and televisions; loss of business profits; special damages that include anxiety, stress, worry and inconvenience; some Plaintiff's may have a need for future medical monitoring and/or

medical care; and the effects of the lights and noise the wind turbines have on the Plaintiffs' properties; among other injuries.

234. In addition to the aforesaid, Plaintiffs seek any and all attorney fees and costs incurred.

235. Upon information and belief, as a result of the conduct of Defendants, the Plaintiffs have suffered and continue to suffer the damages as set forth herein.

236. The amount of the damages sustained herein by Plaintiffs exceed the jurisdictional limits of all lower courts.

**WHEREFORE**, Plaintiffs demand judgment against the Defendants on each of the causes of action for the damages stated herein, in an amount to be determined which exceeds the jurisdictional limits of all lower courts, together with attorney's fees, court costs and the disbursements of this action.

Dated: October 22, 2012



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