

1 John B. Echols
2 7612 Sylvan Valley Way
3 Citrus Heights, CA 95610
916-968-2687

4 Plaintiff in Pro Per

FILED
Superior Court Of California,
Sacramento
12/10/2013
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By _____, Deputy
Case Number:
34-2013-00155834

7
8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **IN AND FOR THE COUNTY OF SACRAMENTO**

10)
11 **JOHN B. ECHOLS**)

12) **Case No.:**
13) **COMPLAINT FOR DAMAGES FOR:**
14) **NEGLIGENCE;**
15) **PUBLIC NUISANCE; and**
16) **UNFAIR BUSINESS PRACTICES**
17) **UNLIMITED JURISDICTION**
18)
19)

14 vs.

15 **SACRAMENTO MUNICIPAL UTILITY**
16 **DISTRICT, and Does 1-20, inclusive**

17)
18) **Defendants.**
19)
20)

21 Plaintiff, JOHN B. ECHOLS alleges as follows:

22 **JURISDICTION AND VENUE**

- 23 1. This is a Complaint for damages for Negligence, Public Nuisance, and Unfair Business
24 Practices.
25
26 2. Plaintiff John B. Echols (hereinafter "Plaintiff") is, and has been, for all times relevant herein a
27 resident of the State of California, County of Sacramento.
28

1 3. Plaintiff is informed and believes and thereon alleges that at all relevant times mentioned
2 herein Defendant Sacramento Municipal Utility District (hereinafter "Defendant" or
3 "SMUD") is a publically owned not-for-profit electrical service utility regularly
4 conducting business in the State of California , County of Sacramento.
5

6 4. Venue is proper and appropriate within Sacramento County under California Code of
7 Civil Procedure §§ 395 and 395.5. The wrongful actions of negligence, public nuisance,
8 and unfair business practices committed by Defendant as alleged herein occurred in
9 Sacramento County, State of California. Defendant is liable per California Code §815.2
10 as Plaintiff has complied with Defendants Dispute process and has exhausted
11 Administrative remedy.
12
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14 5. The true names and capacities of Does 1-20, inclusive are unknown to Plaintiff, who
15 therefore sues them by such fictitious names pursuant to California Code of Civil
16 Procedure § 474. Plaintiff is informed and believes and thereon alleges that each of the
17 Doe defendants designated herein as a fictitiously named are in some manner responsible
18 for the events and happenings herein referred to and caused the damage to Plaintiff herein
19 alleged. When Plaintiff learns the true names and capacities of Does 1-20, inclusive, he
20 will request leave to amend this complaint setting forth the same.
21
22

23 6. At all times relevant herein, Plaintiff was an electrical services residential consumer
24 customer of SMUD and SMUD was a public utility electrical service provider.
25

26 **ALLEGATIONS OF FACT COMMON TO ALL CAUSES OF ACTION**

27 7. In 2009, SMUD began deploying smart meters in the residential communities within the
28 parameters of its utility district. At that time, SMUD claimed "smart meters" would help

1 improve residential service and, over time, give customers the information and tools
2 needed to have better control over individual residential energy use and electric bill.

3
4 8. In or about the year 2000, Plaintiff purchased that certain residential real property
5 situated at 7612 Sylvan Valley Way, Citrus Heights, CA 95610 (Plaintiff's "residence"),
6 and became a residential service customer of SMUD.

7
8 9. In January, 2012, Plaintiff started Pura Vida Technology. Pure Vida Technology's
9 mission statement and business model included the formation of a non-profit corporation.
10 Ultimately, Plaintiff planned to donate his residence and convert it into a research facility
11 and model to demonstrate the potential to develop personal residences into urban mass
12 balanced sustainable living resources capable of producing protein and plant foods, water
13 and energy.

14
15 10. On or about April 30, 2012, Defendant SMUD offered Plaintiff the opportunity to
16 participate in Defendants' smart meter program at Plaintiff's residence.

17
18 11. On or about May 18, 2012, Plaintiff responded by letter to SMUD's offer stating that he
19 had not opt out of the smart meter program and had never opted into the program.
20 Instead, Plaintiff had declined participation because of the discriminatory fees exacted by
21 SMUD to those who do opt out of the smart meter program, the issues surrounding the
22 safe use of smart meters due to radio frequency (RF) and electromagnetic field (EMF)
23 health risks to Plaintiff's family and dangers to his family the result of RF and EMP
24 transmission from smart meter proximal services in Plaintiff's immediate neighborhood.

25
26
27 12. On or about May 24, 2012, SMUD responded to Plaintiff's letter claiming that SMUD
28 had adopted a smart grid deployment plan pursuant to California Public Utilities Code

1 section 8369 and that all SMUD smart meters met all Federal Communications
2 Commission requirements and guidelines.

- 3
4 13. In June, 2012, SMUD sent a letter to Plaintiff confirming SMUD's understanding that
5 Plaintiff had elected to opt out of having a smart meter installed at his home. Included in
6 the letter were SMUD eligibility guidelines and additional billing fees when a SMUD
7 customer opts out of the smart meter program. Also included in the letter was a warning
8 that failure by Plaintiff to meet any of the eligibility guidelines would result in Plaintiff's
9 inability to opt-out of having a smart meter installed at his home.
10
11 14. On or about June 27, 2012, Plaintiff responded to SMUD's undated letter informing
12 SMUD that he had neither opted-in nor opted-out from the smart meter program but had
13 instead declined to participate in the smart meter program. Plaintiff further remarked that
14 the smart meters had no Underwriter Laboratories (UL) rated certification and as such
15 Plaintiff was concerned for his and his family's safety.
16
17 15. On or about July 17, 2012, SMUD responded to Plaintiff's letter reiterating SMUD's
18 belief that the smart meters used and installed by SMUD met all FCC guidelines and
19 requirements and informed Plaintiff that he only had a choice to either opt-in or opt-out
20 of the smart meter program.
21
22 16. On or about July 12, 2012, Plaintiff received a customer bill from SMUD charging
23 Plaintiff the monthly smart meter opt-out charge (\$39.40) and the one time smart meter
24 opt-out charge (\$127.00) in the total amount \$166.40. Plaintiff disputed these charges.
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- 1 17. On or about August 17, 2012, Plaintiff received a SMUD customer bill which included
2 the monthly smart meter opt-out charge in the amount of \$39.40. Plaintiff disputed this
3 charge.
4
- 5 18. Plaintiff received similar such customer bills from SMUD for the months of October,
6 November and December 2012, which also reflected monthly smart meter opt-out
7 charges.
8
- 9 19. On or about November 27, 2012, a SMUD representative appeared unannounced at
10 Plaintiff's residence and offering a smart meter. Plaintiff steadfastly refused to allow the
11 representatives offer and installation of smart meter. .
12
- 13 20. On or about April 16, 2013, a SMUD smart meter advocate called Plaintiff and offered
14 Plaintiff an analog meter and emailed Plaintiff SMUD's proposed analog meter
15 specifications.
16
- 17 21. On or about June 18, 2013, Plaintiff hand delivered a letter to SMUD explaining that on
18 June 14, 2013, a SMUD operator had gone to Plaintiff's house to install a smart meter
19 and to disconnect Plaintiff's SMUD service. Plaintiff explained, again, that he did not
20 want smart meter service at his residence, he had neither opted-in nor opted-out of the
21 smart meter program, and disputed SMUD's billing procedure for the smart meter
22 program. Plaintiff also reiterated the concern he had for his and his family's health as the
23 result of smart meter transmissions from neighboring houses.
24
- 25 22. On or about June 19, 2013, SMUD arbitrarily turned off the electricity at Plaintiff's
26 residence and continued through and continued through June 21, 2013. This interruption
27 was followed by another when SMUD turned off Plaintiff's electrical service between
28

1 June 24, 2013 and July 2, 2013, despite warnings to SMUD of life threatening health
2 conditions.

- 3
4 23. Prior to electrical shutoff on June 19, 2013, Plaintiff developed a Pura Vida Technology
5 demonstration for presentation at the 2013 California State Fair. Plaintiff planned to use
6 his presentation as a launching pad for his business. A continual supply of electrical
7 energy was critical and essential to sustain Plaintiff's development and demonstration.
8
9 24. When the electrical power was shut off at Plaintiff's residence on June 19, 2013, the
10 interruption of services caused Plaintiff's Pura Vida Technology demonstration
11 opportunity to expire and become diminished. Disruption of the power resulted in the
12 direct loss of biological experiments including incubating eggs, microbiology, livestock
13 and incursion of mitigation costs and delayed completion of Plaintiffs' cornerstone
14 display, an Atmospheric Water generator.
15
16 25. On June 21, 2013, Plaintiff attempted to initiate a formal dispute resolution process with
17 Defendant.
18
19 26. On June 21, 2013, at approximately 4:00 p.m., a SMUD representative appeared
20 unannounced at Plaintiff's residence and attempted to install a smart meter. Again,
21 Plaintiff refused the installation and insisted on the installation of an analog meter.
22
23 Plaintiff also cautioned the representative that cut of electrical power would damage the
24 Pura Vida life support systems. Plaintiff then called SMUD management and requested
25 that an analog meter be reinstalled. A SMUD manager refused Plaintiff's request and
26 told Plaintiff electrical service at his residence would be "flatted" (meaning power would
27
28

1 be restored without any metering). At approximately 7:00 p. m. a SMUD representative
2 returned to Plaintiff's residence and restored electrical service as flatted.

3
4 27. On June 24, 2013, at 10:00 a.m., Plaintiff met with SMUD Operations Managers to
5 attempt to resolve the matter. At that time, the managers refused to agree to install an
6 analog meter at Plaintiff's residence and told Plaintiff if didn't accept a smart meter, no
7 meter would ever be installed and service would be terminated. Plaintiff requested
8 SMUD provide him with written confirmation of the decision. Later that day, a SMUD
9 representative appeared at Plaintiff's residence terminated service and installed a service
10 panel blank. At approximately 4:00 p.m. a SMUD representative called Plaintiff to
11 advise him of the opportunity for an administrative hearing and indicated Plaintiff would
12 receive a call informing him of a hearing date.

13
14
15 28. On or about June 28, 2013, SMUD informed Plaintiff that as a result of SMUD's March
16 21, 2013, revision and restated Residential Customer Smart Meter Opt-Out policy,
17 Plaintiff was no longer eligible to participate in the SMUD Smart Meter Opt-Out Option.
18 And, upon reconnection of electrical service, SMUD would install a smart meter at
19 Plaintiff's residence.

20
21
22 29. On or about July 5, 2013, SMUD responded that it had scheduled a hearing for Plaintiff
23 on July 31, 2013, and informed Plaintiff that issues presented at the hearing would be
24 limited to the bill dispute of Opt-Out Fees.

25
26 30. On or about July 15, 2013, Plaintiff notified to SMUD request an alternative hearing date
27 because Plaintiff was in the middle of the State Fair exhibition and proposed two week
28

1 delay to follow the exhibit's conclusion on June 28, 2013. SMUD denied that request
2 forcing Plaintiff abandon the hearing.

3
4 31. On or about July 31, 2013, SMUD notified Plaintiff of the hearing results. The hearing
5 officer found that after consideration of Plaintiff's written correspondence to SMUD and
6 account notations, SMUD had followed all necessary protocols in adherence with the
7 California Municipal Utilities District, SMUD Standard District Procedures, and Rates,
8 Rules and Regulations. As such, Plaintiff's opt-out, disconnect/reconnect, and any
9 additional charges remained in effect and were due. Also included was an option for
10 Plaintiff to appeal the findings.
11

12
13 32. On or about August 14, 2013, Plaintiff requested an appeal of the hearing results.

14 33. On or about October 1, 2013, SMUD responded to Plaintiff's appeal request and claimed
15 that Plaintiff was "likely aware" that on August 15, 2013, the SMUD Board of Directors
16 revised and restated the Residential Customer Smart Meter Opt-Out Policy and Payment
17 Schedule. Additionally, the Board found that based on certain findings made by the
18 Board, relevant to the issues raised in Plaintiff's appeal and request for hearing,
19 Plaintiff's appeal and underlying issues were moot.
20

21
22 34. On or about October 18, 2013, a SMUD manager phoned Plaintiff to schedule a time for
23 service re-connection with metering via a new analog meter. During the call Plaintiff re-
24 affirmed his conviction that to date he had not made an opt-in or opt-out voluntary
25 election.
26

27 35. On October 23, 2013, a SMUD representative appeared at Plaintiff's residence and
28 installed an analog meter.

1 36. Beginning in July, 2013, Plaintiff began to experience physical injuries including but not
2 limited to: dizziness, uncontrollable high blood pressure, constant nausea and a high
3 ringing in his ears, needle and pin sensations in his hands and feet, and headaches.
4

5 37. In May, 2011, the World Health Organization placed the non-ionizing radiation emitting
6 from smart meters on the Class 2-B Carcinogen list. And, the National Institute of Health
7 has found biological changes in the brain after only minutes of exposure to non-ionizing
8 radiation.
9

10 38. The American Academy of Environmental Medicine ("AAEM"), a prominent, highly
11 regarded authoritative international association, established over fifty years, with
12 thousands of physician members, has called for "immediate caution regarding smart
13 meter installations. Citing several peer-reviewed scientific studies, the AAEM concludes
14 that "significant harmful biological effects occur from non-thermal radio frequency
15 ("RF") exposure" showing causality. (Press Advisory, April, 2012). The AAEM also
16 expresses concern regarding significant electromagnetic field ("EMF"), extremely low
17 frequency ("ELF"), and RF fields on human health. AAEM calls for: "• Immediate
18 caution regarding Smart Meter installation due to potentially harmful RF exposure. •
19 Accommodation for health considerations regarding EMF and RF exposure, including
20 exposure to wireless Smart Meter technology. • Use of safer technology", amongst other
21 conclusions. (See AAEM Press Release, April 12, 2012
22 <http://aaemonline.org/pressadvisoryemf.pdf>)
23
24
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26

27 39. The Board of the American Academy of Environmental Medicine opposes the
28 installation of

1 wireless 'smart meters' in homes and schools based on a scientific assessment of the
2 current medical literature (references available on request). Chronic exposure to wireless
3 radio frequency radiation is a preventable environmental hazard that is sufficiently well
4 documented to warrant immediate preventative public health action. "As representatives
5 of physician specialists in the field of environmental medicine, we have an obligation to
6 urge precaution when sufficient scientific and medical evidence suggests health risks
7 which can potentially affect large populations. The literature raises serious concern
8 regarding the levels of radio frequency (RF - 3 KHz - 300 GHz) or extremely low
9 frequency (ELF - 0- 300 Hz) exposures produced by "smart meters" to warrant an
10 immediate and complete moratorium on their use and deployment until further study can
11 be performed." (See <http://www.scribd.com/doc/79470430/AAEM-Resolution>)
12
13

14
15 40. In or about September, 2012, based on industry analysis, and contrary to their prior
16 information regarding smart meter transmissions, SMUD revised their public information
17 regarding smart meter RF transmissions from 6 transmissions per day to 13,381
18 transmissions per day. Plaintiff alleges that SMUD currently maintains misleading and
19 inaccurate formation on SMUD's public information website relative to smart meters
20 including strength of EMF and RF transmissions.
21
22

23 41. As industry members, SMUD was aware, or should have been aware, of the numerous
24 studies and experiments that demonstrated the health risks, hazards and detrimental effect
25 to human biology due to the emission of non-ionizing radiation by smart meters.
26

27 **FIRST CAUSE OF ACTION: Negligence**
28

1 42. Plaintiff re-alleges and incorporates by reference each and every allegation contained in
2 Paragraphs 1 through 39, as if set forth in full.

3
4 43. California Civil Code section 1714(a) provides that liability for injuries arises from want
5 of ordinary care or skill.

6 44. California Public Utilities Code section 8360 requires the safe, reliable, efficient
7 deployment of the modern Smart Grid, including (h) providing customers with timely
8 information and control options.

9
10 45. California Public Utilities Code section 8363 requires implementations of the Smart Grid
11 in a manner which does not compromise safety, integrity or reliability.

12
13 46. Pursuant to the above referenced code sections SMUD had duty to provide safe electrical
14 service to consumers like Plaintiff and to provide said consumers with reasonable and
15 safe alternatives to smart meter installation as a means to implementation of the Smart
16 Grid.

17
18 47. SMUD breached their duty when they failed to fully test and inform their consumers,
19 including Plaintiff, of the constant radiation hazards transmitted by smart meters and
20 when SMUD turned off Plaintiff's electrical power when he refused to accept the
21 unreasonable opt-in/opt-out smart meter installation policy.

22
23 48. The direct and proximate result of the SMUD's negligence is that Plaintiff has incurred
24 and will continue to incur medical expenses for treatment by physicians, and/or other
25 health professionals, and for other incidental medical expenses; and Plaintiff has suffered
26 and will continue to suffer a loss of earnings, employment opportunities, and/or other
27 employment benefits.
28

1 49. Plaintiff's injuries included loss of income and earning capacity and medical expenses,
2 and Plaintiff will continue to suffer said damages and injuries in the future in an amount
3 according to proof but not less than the minimum jurisdiction of this Court.
4

5 **SECOND CAUSE OF ACTION: Public Nuisance**

6 50. Plaintiff re-alleges and incorporates by reference each and every allegation contained in
7 Paragraphs 1 through 47, as if set forth in full.
8

9 51. California Civil Code section 3480 states that a public nuisance is one which affects at
10 the same time an entire community or neighborhood, or any considerable number of
11 persons, although the extent of the annoyance or damage inflicted on individuals may be
12 unequal.
13

14 52. Pursuant to California Civil Code section 3493, a private person may maintain an action
15 for a public nuisance if it is specially injurious to himself or herself, but not otherwise.
16

17 53. SMUD's installation of unsafe radiation emitting smart meters in Plaintiff's
18 neighborhood constitute a public nuisance because Plaintiff is continually bombarded
19 with carcinogenic producing non-ionizing radiation from all smart meters in the vicinity
20 of his residence.
21

22 54. The proximate result of said nuisance has caused Plaintiff injuries different in kind, not
23 just degree, from that suffered by the general public as specifically referenced herein and
24 above.
25

26 55. As a further proximate result of the nuisance, Plaintiff has been hurt and injured in his
27 health, strength, and activity, sustaining injury to his nervous system and person, all of
28 which injuries have caused, and continue to cause, Plaintiff great mental, physical, and

1 nervous pain and suffering. Plaintiff is informed and believes and thereon alleges that
2 such injuries will result in some permanent disability to him. As a result of these injuries,
3 Plaintiff has suffered general damages in an amount according to proof but not less than
4 the minimum jurisdiction of this Court.
5

6 56. As a further proximate result of the nuisance created by SMUD, Plaintiff has incurred,
7 and will continue to incur, medical and related expenses in an amount according to proof
8 but not less than the minimum jurisdiction of this Court.
9

10 **THIRD CAUSE OF ACTION: Unfair Business Practices**

11 57. Plaintiff re-alleges and incorporates by reference each and every allegation contained in
12 Paragraphs 1 through 54, as if set forth in full.
13

14 58. California Business and Professions Code sections 17200, et seq. provide in pertinent part
15 that: unfair competition shall mean and include any unlawful, unfair or fraudulent
16 business act or practice and unfair, deceptive, untrue or misleading advertising.
17

18 59. California Business and Professions Code section 17204 provides in pertinent part:
19 actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of
20 competent jurisdiction by a person who has suffered injury in fact and has lost money or
21 property as a result of the unfair competition.
22

23 60. As a direct and proximate result of SMUD's action of turning off Plaintiff's residential
24 electrical power on June 19, 2013, caused Plaintiff to suffer lost business opportunities,
25 loss of property, and lost money.
26

27 61. As a further actual and proximate cause of Defendants' violation of Business and
28 Professions Code section 17200, et seq. as described herein, Plaintiff has been injured in

1 an amount to be proven at trial, but not less than the minimum jurisdiction of this Court
2 and an justify an award of exemplary and punitive damages.
3
4
5

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff prays for judgment and damages as follows:
8

- 9 1. For general damages in an amount to be proven at trial;
10 2. For specific damages to be proven at trial;
11 3. For exemplary damages to be awarded as provided in California Civil Code § 3294,
12 according to proof at trial;
13 4. For punitive damages as provided by California Statutory Law, according to proof at
14 trial;
15 5. For contribution as set forth herein;
16 6. For interest at the legal rate on the foregoing sums as provided by law;
17 7. For costs of necessary professional services pursuant to *Stearman v. Centex Homes*
18 (2000) 78 Cal.App.4th 611.
19 8. For costs of suit as provided by law, and;
20 9. For such other and further relief as the court may deem just and proper.
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25 Dated:

26 
27 John B. Echols
28 Plaintiff in Pro Per