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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF PLACER

OCT 9 2007

JOHN MENDES
EXECUTIVE OFFICER & CLERK
By K. Hoofman, Deputy

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF PLACER

10
11 WENDY SMOLICH, on behalf of herself and
all others similarly situated,

12 Plaintiff,

13 vs.

14 SIERRA PACIFIC INDUSTRIES, a
15 California corporation, and DOES 1-25
16 inclusive,

17 Defendants.

No.

SCV 22113

**CLASS ACTION COMPLAINT FOR
PERMANENT INJUNCTION TO
ABATE NUISANCE**

BY FAX

18 Plaintiff Wendy Smolich, on behalf of herself and all others similarly situated (hereinafter
19 "Plaintiff"), and in the capacity of private attorney general, hereby files this class action lawsuit
20 based upon the following allegations:

21 1. This matter arises from Defendant Sierra Pacific Industries failure to implement
22 reasonable and necessary methods of operation to ensure compliance with its use permit.
23 Defendant projects excessive noise from its sawmill into the adjoining Foskett Ranch community
24 at all times of the day and night. As a result of the noise, Plaintiff and other members of her
25 community are unable to use and enjoy their properties. Furthermore, Plaintiff is awoken
26 throughout the night and is suffering from sleep deprivation. Defendant's actions constitute a
27 nuisance under the California Civil Code. Plaintiff seeks a injunction prohibiting Defendant from
28 generating noise on its property that exceeds the levels authorized in its use permit.

1 JURISDICTION AND VENUE

2 2. This Court has jurisdiction over this action pursuant to California Code of Civil
3 Procedure section 410.10. Plaintiff seeks an injunction on behalf of herself and all others
4 similarly situated under common and statutory law of the State of California.

5 3. Venue is proper in this Court pursuant to Code of Civil Procedure section 392 *et*
6 *seq.* because (a) the described injuries to property occurred in this county; (b) the acts and
7 omissions described herein occurred within this county; and (c) defendant is registered to do
8 business in the State of California and/or is doing business within this county.

9 PARTIES

10 4. Plaintiff Wendy Smolich was, and now is, an owner of a recorded fee interest in a
11 single-family lot and home located within the Foskett Ranch subdivision in the City of Lincoln,
12 County of Placer.

13 5. The plaintiff class consists of all owners of recorded fee interests in lots and
14 homes located within the Foskett Ranch subdivision who have been damaged by the excessive
15 noise produced by the Sierra Pacific Industries sawmill.

16 6. Defendant Sierra Pacific Industries, a California corporation, was and now is,
17 authorized and actually doing business in the State of California, including the County of Placer.
18 At all times herein stated, Sierra Pacific Industries owned and operated a raw timber processing
19 and manufacturing sawmill in the City of Lincoln.

20 7. The true names and capacities, whether individual, corporate, associate or
21 otherwise, of Defendants DOES 1 through 25, inclusive, are unknown to Plaintiff, who therefore
22 sues said Defendants by such fictitious names pursuant to Code of Civil Procedure section 474.
23 Plaintiff will move to amend this Complaint to show their true names and capacities when the
24 same have been ascertained.

25 8. Plaintiff is informed and believes, and thereon alleges, that each of the DOE
26 defendants is legally responsible in some manner for the nuisance referred to herein, and legally
27 and proximately caused damage to plaintiff. Each and every defendant had a duty to the plaintiff,
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