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**FILED**  
SUPERIOR COURT of CALIFORNIA  
COUNTY of SANTA BARBARA  
JUL 14 2011  
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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SANTA BARBARA

11 DAVID CANNELL; JOHN BOSTWICK )  
12 and CHARMAINE BOSTWICK; ALAN )  
13 CHRIST and ELAINE CHRIST; )  
14 COMMUNITY RADIO, INC.; JULIE )  
15 DANLEY; BARBARA S. FRENCH; )  
16 HOWARD NORMAN FRIEDENBERG )  
17 and SUSAN MARIE FRIEDENBERG; )  
18 DAVID GATES; MELISSA GILL; )  
19 TIMOTHY GILL and LAURA )  
20 WILKINSON; JILL V. HARPER; DENISE )  
21 HINKLE and DONALD OSBORN )  
22 TAYLOR; GRAHAM HURVITZ and )  
23 KIMBERLY HURVITZ; SHIRLEY )  
24 KADLEC and DONALD KADLEC; )  
25 LINDA KAPLAN and BRIAN ROBBINS; )  
26 JOHN P. KENNY, Individually and as )  
27 Trustee for THE KENNY FAMILY )  
28 TRUST; WILLIAM KOONCE and KATE )  
KOOCE; KATHERINE JEAN KOURY; )  
JOSEPH LAUNIE and GILLIAN )  
LAUNIE, Individually and as Trustees for )  
THE LAUNIE, JOSEPH JOHN AND )  
MARY GILLIAM 2003 REVOCABLE )  
TRUST 3/12/2003; ROBERT L. LAWSON )  
and ELLEN LAWSON, Individually and as )  
Trustees for THE LAWSON FAMILY )  
LIVING TRUST; LARRY LEVEILLE and )  
PATRICIA GARY; MARILYN )  
MAHAFFEY, Individually and as Trustee )  
for THE MARILYN MAHAFFEY )  
TRUST, and CATHIA LEEN )  
MAHAFFEY; RICHARD C. MARSH and )  
KAY F. MARSH, Individually and as )  
Trustees for THE MARSH FAMILY )  
TRUST; KATHERINE MARTIN, )

CASE NO. 1381875

COMPLAINT FOR DAMAGES FOR:

- (1) STRICT PRODUCTS LIABILITY - FAILURE TO WARN
- (2) NEGLIGENCE

1 Individually and as Trustee of THE )  
MARTIN-DUNN RANKIN TRUST; )  
2 JULIE BUCKLEY, and JON C. MARTIN; )  
JAMES MASSIE and SUSAN )  
3 KUROMIYA; SUSAN MAZER and JOHN )  
DAMUTH; MIKE MAZZETTI and )  
4 ELIZABETH MAZZETTI; LEE )  
MENICHELLA and ADELE )  
5 MENICHELLA; JUDITH MAY MILLER, )  
Individually and as Trustee of THE )  
6 JUDITH MILLER TRUST; PHILIP MIRA; )  
LORNA LEA MOORE and DONALD )  
7 ALEXANDER MCGILVRAY, III, )  
Individually and as Trustees for )  
8 DECLARATION OF TRUST DATED )  
MAY 11, 1994; DOROTHY PERKINS )  
9 SEWELL and DAVID DARLINGTON, )  
Individually and as Trustees for THE )  
10 DOROTHY BERRY PERKINS TRUST; )  
TIMOTHY REMY and KATHLEEN )  
11 REMY; THOMAS PAUL RIEDERER; )  
CATHLEEN SMITH; ROULETTE )  
12 WILLIAM SMITH; JOSEPH A. TASCA )  
and JENNIFER M. TASCA, Individually )  
13 and as Trustees for THE JOSEPH AND )  
JENNIFER TASCA LIVING TRUST; )  
14 MICHAEL VILKIN and G. STEVEN )  
WRIGHT; JAMES WINTER; and )  
15 BRIGITTA "ANU" WISSMANN;

16  
17 Plaintiffs,

18 v.

19 STIHL INCORPORATED; A-OK )  
MOWER SHOPS, INC.; ORCHARD )  
20 SERVICES, INC. dba ALL AROUND )  
LANDSCAPE SUPPLY; and Does 1 - 100, )  
21 inclusive,

22 Defendants.

23  
24 COME NOW Plaintiffs DAVID CANNELL; JOHN BOSTWICK and CHARMAINE  
25 BOSTWICK; ALAN CHRIST and ELAINE CHRIST; COMMUNITY RADIO, INC.; JULIE  
26 DANLEY; BARBARA S. FRENCH; HOWARD NORMAN FRIEDENBERG and SUSAN  
27 MARIE FRIEDENBERG; DAVID GATES; MELISSA GILL; TIMOTHY GILL and LAURA  
28 WILKINSON; JILL V. HARPER; DENISE HINKLE and DONALD OSBORN TAYLOR;

1 GRAHAM HURVITZ and KIMBERLY HURVITZ; SHIRLEY KADLEC and DONALD  
2 KADLEC; LINDA KAPLAN and BRIAN ROBBINS; JOHN P. KENNY, Individually and as  
3 Trustee for THE KENNY FAMILY TRUST; WILLIAM KOONCE and KATE KOONCE;  
4 KATHERINE JEAN KOURY; JOSEPH LAUNIE and GILLIAN LAUNIE, Individually and  
5 as Trustees for THE LAUNIE, JOSEPH JOHN AND MARY GILLIAM 2003 REVOCABLE  
6 TRUST 3/12/2003; ROBERT L. LAWSON and ELLEN LAWSON, Individually and as  
7 Trustees for THE LAWSON FAMILY LIVING TRUST; LARRY LEVEILLE and PATRICIA  
8 GARY; MARILYN MAHAFFEY, Individually and as Trustee for THE MARILYN  
9 MAHAFFEY TRUST, and CATHIALEEN MAHAFFEY; RICHARD C. MARSH and KAY  
10 F. MARSH, Individually and as Trustees for THE MARSH FAMILY TRUST; KATHERINE  
11 MARTIN, Individually and as Trustee of THE MARTIN-DUNN RANKIN TRUST, JULIE  
12 BUCKLEY, and JON C. MARTIN; JAMES MASSIE and SUSAN KUROMIYA; SUSAN  
13 MAZER and JOHN DAMUTH; MIKE MAZZETTI and ELIZABETH MAZZETTI; LEE  
14 MENICHELLA and ADELE MENICHELLA; JUDITH MAY MILLER, Individually and as  
15 Trustee of THE JUDITH MILLER TRUST; PHILIP MIRA; LORNA LEA MOORE and  
16 DONALD ALEXANDER MCGILVRAY, III, Individually and as Trustees for DECLARATION  
17 OF TRUST DATED MAY 11, 1994; DOROTHY PERKINS SEWELL and DAVID  
18 DARLINGTON, Individually and as Trustees for THE DOROTHY BERRY PERKINS TRUST;  
19 TIMOTHY REMY and KATHLEEN REMY; THOMAS PAUL RIEDERER; CATHLEEN  
20 SMITH; ROULETTE WILLIAM SMITH; JOSEPH A. TASCA and JENNIFER M. TASCA,  
21 Individually and as Trustees for THE JOSEPH AND JENNIFER TASCA LIVING TRUST;  
22 MICHAEL VILKIN and G. STEVEN WRIGHT; JAMES WINTER; and BRIGITTA "ANU"  
23 WISSMANN (hereinafter "the Cannell Plaintiffs" or "Plaintiffs"); complaining of Defendants,  
24 and each of them, and alleging as follows:

25  
26 **THE PARTIES**

27 1. At all relevant times, Plaintiffs were and are residents of the County of Santa  
28 Barbara, State of California, within the jurisdiction of this Court. At all relevant times, Plaintiffs

1 owned and/or resided at dwellings located in Santa Barbara County as follows:

2 DAVID CANNELL owned and/or resided at the structure(s) located at 2850 Holly Road  
3 Santa Barbara, California 93105.

4 JOHN BOSTWICK and CHARMAINE BOSTWICK owned and/or resided at the  
5 structure(s) located at 2820 Holly Road, Santa Barbara, California 93130.

6 ALAN CHRIST and ELAINE CHRIST owned and/or resided at the structure(s) located  
7 at 1025 Palomino Road, Santa Barbara, California 93105.

8 COMMUNITY RADIO, INC. owned and/or resided at the structure(s) located at 3035  
9 Gibraltar Road, Santa Barbara, California 93105.

10 JULIE DANLEY owned and/or resided at the structure(s) located at 1215 Tunnel Road,  
11 Santa Barbara, California 93105.

12 BARBARA S. FRENCH owned and/or resided at the structure(s) located at 1165A  
13 Tunnel Road, Santa Barbara, California 93105.

14 HOWARD NORMAN FRIEDENBERG and SUSAN MARIE FRIEDENBERG owned  
15 and/or resided at the structure(s) located at 1255 Tunnel Road, Santa Barbara, California 93105.

16 DAVID GATES owned and/or resided at the structure(s) located at 1200 Palomino Road,  
17 Santa Barbara, California 93105 and 1186 Palomino Road, Santa Barbara, California 93105.

18 MELISSA GILL owned and/or resided at the structure(s) located at 1234 Mission Canyon  
19 Road, Santa Barbara, California 93105.

20 TIMOTHY GILL and LAURA WILKINSON owned and/or resided at the structure(s)  
21 located at 1234 Mission Canyon Road, Santa Barbara, California 93105.

22 JILL V. HARPER owned and/or resided at the structure(s) located at 1215 Tunnel Road,  
23 Santa Barbara, California 93105.

24 DENISE HINKLE and DONALD OSBORN TAYLOR owned and/or resided at the  
25 structure(s) located at 1105 Palomino Road, Santa Barbara, California 93105.

26 GRAHAM HURVITZ and KIMBERLY HURVITZ owned and/or resided at the  
27 structure(s) located at 4581 Via Maria, Santa Barbara, California 93117.

28 SHIRLEY KADLEC and DONALD KADLEC owned and/or resided at the structure(s)

1 located at 2840 Holly Road, Santa Barbara, California 93105.

2 LINDA KAPLAN and BRIAN ROBBINS owned and/or resided at the structure(s)  
3 located at 1108 Palomino Road, Santa Barbara, California 93105.

4 JOHN P. KENNY, Individually and as Trustee for THE KENNY FAMILY TRUST,  
5 owned and/or resided at the structure(s) located at 1299 Tunnel Road, Santa Barbara, California  
6 93105.

7 WILLIAM KOONCE and KATE KOONCE owned and/or resided at the structure(s)  
8 located at 2815 Holly Road, Santa Barbara, California 93105.

9 KATHERINE JEAN KOURY owned and/or resided at the structure(s) located at 2600  
10 Holly Road, Santa Barbara, California 93105.

11 JOSEPH LAUNIE and GILLIAN LAUNIE, Individually and as Trustees for THE  
12 LAUNIE, JOSEPH JOHN AND MARY GILLIAM 2003 REVOCABLE TRUST 3/12/2003,  
13 owned and/or resided at the structure(s) located at 1165K Tunnel Road, Santa Barbara,  
14 California 93105.

15 ROBERT L. LAWSON and ELLEN LAWSON, Individually and as Trustees for THE  
16 LAWSON FAMILY LIVING TRUST, owned and/or resided at the structure(s) located at 1501  
17 Mission Canyon Road, Santa Barbara, California 93105.

18 LARRY LEVEILLE and PATRICIA GARY owned and/or resided at the structure(s)  
19 located at 1125 Palomino Road, Santa Barbara, California 93105.

20 MARILYN MAHAFFEY, Individually and as Trustee for THE MARILYN MAHAFFEY  
21 TRUST, and CATHIALEEN MAHAFFEY owned and/or resided at the structure(s) located at  
22 1041 Palomino Road Santa Barbara, California 93105.

23 RICHARD C. MARSH and KAY F. MARSH, Individually and as Trustees for THE  
24 MARSH FAMILY TRUST owned and/or resided at the structure(s) located at 1265 Tunnel  
25 Road, Santa Barbara, California 93105.

26 KATHERINE MARTIN, Individually and as Trustee of THE MARTIN-DUNN RANKIN  
27 TRUST, JULIE BUCKLEY, and JON C. MARTIN owned and/or resided at the structure(s)  
28 located at 1165 Tunnel Road, Santa Barbara, California 93105.

1 JAMES MASSIE and SUSAN KUROMIYA owned and/or resided at the structure(s)  
2 located at 1480 Mission Canyon Drive, Santa Barbara, California 93105.

3 SUSAN MAZER and JOHN DAMUTH owned and/or resided at the structure(s) located  
4 at 1139 Palomino Road, Santa Barbara, California 93105.

5 MIKE MAZZETTI and ELIZABETH MAZZETTI owned and/or resided at the  
6 structure(s) located at 1168 Palomino Road, Santa Barbara, California 93105.

7 LEE MENICHELLA and ADELE MENICHELLA owned and/or resided at the  
8 structure(s) located at 1113 Palomino Road, Santa Barbara, CA 93105.

9 JUDITH MAY MILLER, Individually and as Trustee of THE JUDITH MILLER TRUST,  
10 owned and/or resided at the structure(s) located at 2621 Tunnel Road #H, Santa Barbara,  
11 California 93105.

12 PHILIP MIRA owned and/or resided at the structure(s) located at 1091 Palomino Road,  
13 Santa Barbara, California 93105.

14 LORNA LEA MOORE and DONALD ALEXANDER McGILVRAY, III, Individually  
15 and as Trustees for DECLARATION OF TRUST DATED MAY 11, 1994 owned and/or resided  
16 at the structure(s) located at 2108 Los Canoas Road, Santa Barbara, California 93105.

17 DOROTHY PERKINS SEWELL and DAVID DARLINGTON, Individually and as  
18 Trustees for THE DOROTHY BERRY PERKINS TRUST, owned and/or resided at the  
19 structure(s) located at 1414 Paseo del Ocaso, Santa Barbara, California 93105 and 1416 Paseo  
20 del Ocaso, Santa Barbara, California 93105.

21 TIMOTHY REMY and KATHLEEN REMY owned and/or resided at the structure(s)  
22 located at 1110 Palomino Road, Santa Barbara, California 93105.

23 THOMAS PAUL RIEDERER owned and/or resided at the structure(s) located at 1215  
24 Tunnel Road, Santa Barbara, California 93105.

25 CATHLEEN SMITH owned and/or resided at the structure(s) located at 1528 Mission  
26 Canyon Road, Santa Barbara, California 93105.

27 ROULETTE WILLIAM SMITH owned and/or resided at the structure(s) located at 2600  
28 Foothill Road, Santa Barbara, California 93105.

1 JOSEPH A. TASCA and JENNIFER M. TASCA, Individually and as Trustees for THE  
2 JOSEPH AND JENNIFER TASCA LIVING TRUST, owned and/or resided at the structure(s)  
3 located at 103 Via Tusa, Santa Barbara, California 93105.

4 MICHAEL VILKIN and G. STEVEN WRIGHT owned and/or resided at the structure(s)  
5 located at 2921 Holly Road, Santa Barbara, California 93105.

6 JAMES WINTER owned and/or resided at the structure(s) located at 1242 Tunnel Road  
7 Santa Barbara, California 93105.

8 BRIGITTA "ANU" WISSMANN owned and/or resided at the structure(s) located at 2600  
9 Foothill Road, Santa Barbara, California 93105.

10 2. At all relevant times, Defendant STIHL INCORPORATED ("STIHL") was and  
11 is a Delaware corporation with its principal place of business in Virginia Beach, Virginia.  
12 STIHL was conducting business throughout the United States and including in the County and  
13 City of Santa Barbara at all relevant times to this action. STIHL was the manufacturer, designer  
14 and producer of the two subject brushcutters outlined below.

15 3. Defendant A-OK MOWER SHOPS, INC. ("A-OK") is a California Corporation  
16 doing business in the County of Santa Barbara at 14 N. Milpas Street, Santa Barbara, California  
17 93103. A-OK was the retailer/supplier of one of the two subject brushcutters outlined below.

18 4. Defendant ORCHARD SERVICES, INC. ("ORCHARD SERVICES") is a  
19 California Corporation doing business as ALL AROUND LANDSCAPE SUPPLY in the County  
20 of Santa Barbara at 4159 State Street #A, Santa Barbara, California CA 93110. ORCHARD  
21 SERVICES was the retailer/supplier of the other of the two subject brushcutters outlined below.

22 5. Plaintiffs are ignorant of the true names and capacities of the Defendants sued in  
23 this complaint as DOES 1 through 100 and therefore sue these Defendants by such fictitious  
24 names. Plaintiffs will amend this Complaint to allege their true names and capacities when  
25 ascertained. Plaintiffs are informed and believe, and on that basis allege, that each of the  
26 Defendants designated as "DOE" are legally responsible in some manner for the events and  
27 happenings herein alleged and that Plaintiffs' damages as alleged herein were proximately  
28 caused by such Defendants.





1 or "brushcutter" depends on the type of cutting attachment affixed thereto. The term "trimmer"  
2 is used to designate an FS unit which is equipped with a nylon line head or a head with flexible  
3 plastic blades. The term "brushcutter" is used to designate an FS unit equipped with a rigid  
4 metal blade. Many FS models, including the subject FS 110 units, may be used as either a  
5 trimmer or brushcutter. The instruction manual details recommended use, limitations and  
6 cautions associated with use of the trimmer/brushcutter and its authorized accessories. At all  
7 times relevant to this litigation, the subject STIHL FS 110 trimmer/brushcutters were affixed  
8 with rigid metal blades and, as such, will be referred to as **brushcutters**.

9 11. On or around January 5, 2006, Dana Larsen purchased a STIHL FS 110R'  
10 brushcutter (serial number 264027780) from authorized STIHL dealer ORCHARD SERVICES.

11 12. On or around May 23, 2008, David Phreaner purchased a STIHL FS 110R  
12 brushcutter (serial number 271221375) from authorized STIHL dealer A-OK. (For ease of  
13 reference, the STIHL FS 110R brushcutter (serial number 264027780) and the STIHL FS 110R  
14 brushcutter (serial number 271221375) will hereinafter be referred to collectively as "the subject  
15 FS 110 units" or "the subject brushcutters".)

16 13. On or around May 5, 2009, Santa Barbara residents Dana Larsen and Craig  
17 Illestine set out to the Jesusita Trail for the purpose of clearing vegetation. Larsen and Illestine  
18 are two of many individuals who frequented the Jesusita Trail for mountain biking activities and  
19 were concerned regarding the safety hazards caused by overgrown vegetation on the trail.  
20 Larsen and Illestine cleared vegetation on the Jesusita Trail on an occasional basis; this was not  
21 their first time doing so. Their primary objective in clearing vegetation at the trail was hazard  
22 reduction, specifically, an attempt to clear vegetation at "blind corners" which obstructed the  
23 vision of trail users. By clearing vegetation, Larsen and Illestine were trying to make the trail  
24 safe for its users.

25 14. In order to clear vegetation from the Jesusita Trail, Larsen and Illestine each  
26

27 <sup>1</sup> FS models with an "R" on the nameplate, including the subject brushcutters, were  
28 originally configured at the time of distribution with a loop handle. Other than the loop  
handle, there is no differentiation between the FS 110R and other FS 110 brushcutters.

1 equipped themselves with a STIHL FS 110 brushcutter. Larsen was using one he had purchased  
2 from Defendant ORCHARD SERVICES and Illestine was using the one Larsen had borrowed  
3 from David Phreaner (which Phreaner had purchased from Defendant A-OK). Larsen and  
4 Illestine began clearing brush at the Jesusita Trail at approximately 9:45 a.m. They did so for  
5 around two hours and left the area at approximately 11:45 a.m., after which they went to  
6 Larsen's home and ate lunch.

7 15. The subject FS 110 units which Larsen and Illestine used to clear vegetation at the  
8 Jesusita Trail on May 5, 2009 were both equipped with the STIHL "brush knife" cutting tool,  
9 a three-point metal blade. Pursuant to the instruction manual, when fitted to the FS 110 unit, the  
10 brush knife is suitable for applications ranging from cutting matted grass to clearing weeds, wild  
11 growth and scrub. While the instruction manual warned that contact with solid objects such as  
12 stones or rocks should be avoided to prevent *personal injury*, it did not contain any warnings or  
13 cautions regarding the potential for ignition due to spark production using the brush knife or any  
14 other rigid metal STIHL accessories.

15 16. Unbeknownst to Larsen and Illestine, the subject FS 110 units they were using to  
16 clear vegetation contacted rocks or other hard matter along or under the trail, causing hot sparks  
17 from the cutting edge of the blade to be emitted. The sparks in turn converted to embers in the  
18 brush along the trail's edge, not visible to Larsen and Illestine. The embers smoldered for some  
19 time until fire conditions evolved sufficient to facilitate and trigger combustion.

20 17. Neither Larsen nor Illestine had any knowledge regarding the presence of a fire  
21 nor the potential for subsequent combustion at the Jesusita Trail when they left the area at  
22 approximately 11:45 a.m. In fact, despite the presence of hikers on the trail both during and after  
23 the period of time Larsen and Illestine were clearing brush, a fire wasn't even reported until  
24 approximately 1:37 p.m. This fire, which eventually became known as the Jesusita Fire, burned  
25 nearly 9,000 acres and destroyed or damaged nearly 100 structures, including those belonging  
26 to Plaintiffs as listed above.

27 18. Neither Larsen nor Illestine had any knowledge of their involvement in the cause  
28 of the Jesusita Fire until they heard via the media that power tools were involved. The news that

1 their STIHL power tools were was the cause of the fire came as quite a surprise to Larsen and  
2 Illestine; they had taken fire prevention precautions while clearing brush and had gone out of  
3 their way to avoid setting the brushcutters anywhere near combustible sources such as grass or  
4 brush. Furthermore, as far as Larsen was concerned, STIHL machines were superior to all other  
5 brands and the least likely to malfunction in any way which could pose a problem given the  
6 known risk of fire in the Santa Barbara area. Larsen and Illestine had/have tremendous respect  
7 for the Jesusita and Santa Barbara environment and surrounding communities and conducted  
8 themselves accordingly at all times.

9         19. Detailed post-fire investigation into the cause of the fire revealed that the Jesusita  
10 Fire was caused by a rock/blade interaction during vegetation clearance conducted by Larsen and  
11 Illestine. The type of blade attachment used by Larsen and Illestine, the "brush knife", produces  
12 sparks when it comes into contact with rocks or other hard matter along the trail. Larsen and  
13 Illestine used the STIHL brushcutters exactly as they were intended to be used by the  
14 manufacturer - cutting and clearing brush on rugged terrain, in this instance the Jesusita Trail.

15         20. The potential for spark production and latent ignition of vegetation was confirmed  
16 during testing of an identical brushcutter with the "brush knife" attachment. The testing also  
17 demonstrated the potential for a low-intensity, slow developing, incipient form of combustion  
18 and fire generation. The test was conducted by consultants at the request of the local District  
19 Attorney's office. The ignition achieved during the test resulted in very light smoke production  
20 with combustion and fire development triggered by wind. The test indicated that the combustion  
21 and ignition scenario which occurred after Larsen and Illestine had cleared vegetation at the  
22 Jesusita Trail could have occurred without alerting Larsen and Illestine while they were present,  
23 consistent with Larsen and Illestine's indication that they had no knowledge of a fire at the  
24 Jesusita Trail until well after they had left the area.

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1 the subject FS 110 units in a reasonably foreseeable way and as intended by the manufacturer.  
2 Larsen and Illestine were using the FS 110 brushcutters with “brush knife” attachments for the  
3 purpose of “clearing wild growth”, as specifically contemplated by STIHL in its instruction  
4 manual for the FS 110 brushcutting tool. As a direct result thereof, Plaintiffs have suffered and  
5 will continue to suffer damages, including but not limited to damage to real and personal  
6 property, discomfort, annoyance, and emotional distress in an amount to be proven at trial.

7 30. The lack of sufficient warnings was a substantial factor in causing Plaintiffs’ harm.  
8

9 **SECOND CAUSE OF ACTION:**

10 **NEGLIGENCE**

11 **(Against Defendants STIHL and Does 1-100)**

12 31. Paragraphs 1 through 30 are incorporated by reference as if fully set forth in this  
13 cause of action.

14 32. Defendant STIHL manufactured the subject STIHL FS 110 brushcutters in a  
15 substandard manner as contemplated by *Civil Code* § 1714. STIHL was negligent. The STIHL  
16 FS 110 brushcutters were designed in a manner which caused slow developing ignition of  
17 vegetation while the brushcutters were being used in a reasonably foreseeable manner. STIHL  
18 failed to warn its customers about the risk of fire which could develop as a result of its customers  
19 use of its brushcutters in this reasonably foreseeable manner. The very feature that makes  
20 STIHL brushcutters so valuable and enticing to end-users presents an unreasonable and  
21 unacceptable risk of harm for which no warning was provided.

22 33. The negligence of Defendant STIHL was a substantial factor in causing Plaintiffs’  
23 damages.

24 34. As a result of the negligence of Defendant STIHL, Plaintiffs have suffered and will  
25 continue to suffer damages in an amount to be proven at trial.  
26

27 WHEREFORE, Plaintiffs pray for damages as follows:

28 1. For Special Damages in amounts to be proven at time of trial;

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- 2. For General Damages in an amount to be proven at time of trial;
- 3. For costs of suit;
- 4. For such other and further relief as the Court may deem just and proper.

DATED: July 14, 2011

ENGSTROM, LIPSCOMB & LACK

BY: Brian J. Heffernan  
BRIAN J. HEFFERNAN  
Attorneys for Plaintiffs  
DAVID CANNELL, et al.