

A CALIFORNIA COUNTY
SMALL CLAIMS COURT

SOFT LIGHTS,

Plaintiff,

vs.

NEIGHBOR,

Defendant

Case No.: _____

COMPLAINT FOR NUISANCE

NOW COME the Plaintiff to state as follows:

I. Introduction

“Neighbor” owns or controls a property in the HOA, located in Placer County.

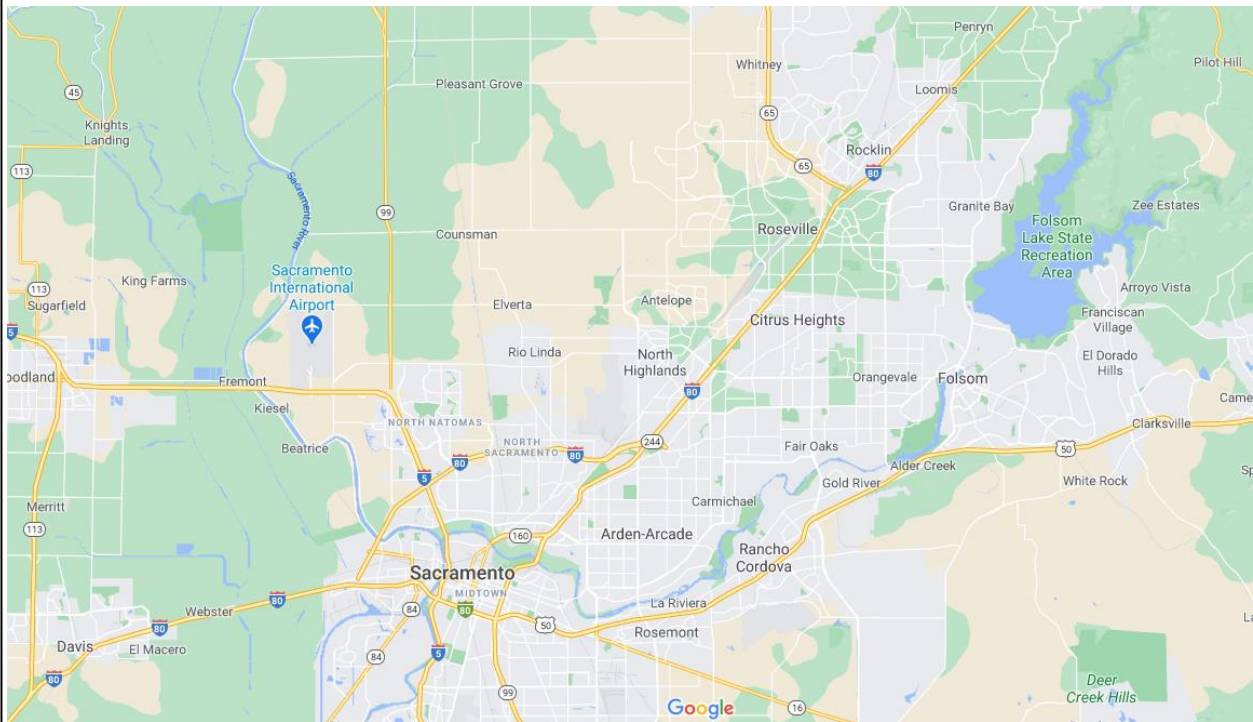


Figure 1

The Development was approved by The County in 2002. At the time of approval, the area was a rural area with farms, ranches, and natural spaces. To protect the rural character of

1 the area, the county required that the developer commit to ensuring that the community was
2 designated as darkness protected as shown in this excerpt from the California County Conditions
3 of Approval. (Exhibit 1)

4 **DD) Prohibition against night lighting within all common area lots (except**
5 **for streetlights). Night lighting within the golf course parking lot, driving range, and**
6 **clubhouse, and the Villas (condominiums) shall be limited to poles no taller than 10' and/or**
7 **bollard-type lighting in circulation areas.**

8 *Figure 2 - Conditions of Approval*

9 The developer codified these requirements into the CC&Rs of the HOA.

10 Defendant shines light onto the property of Plaintiff and leaves these lights turned on all
11 night, which interrupts the rights of Plaintiff to undamaged sleep and comfortable enjoyment of
12 Plaintiff's property. As caretaker of the property, Plaintiff also has the duty to protect the
13 biological systems that live on Plaintiff's property and Neighbor's nuisance lights are an
14 impediment to this protection.

15 Plaintiff submitted numerous requests to the HOA to enforce Section 6.23 of the CC&Rs,
16 but the HOA refuses to act. Plaintiff also submitted multiple written requests to Defendant to
17 properly shield the lights to prevent light trespass and to turn off the lights at night when not in
18 immediate use. Defendant has refused to respond or act. For these reasons and additional
19 reasons described herein, Neighbor has created an illegal nuisance.

20 Plaintiff now sues for monetary damages due to illegal nuisance.

21 **II. Parties**

22 Defendant **Neighbor** is located at an address in California.

1 Plaintiff **Soft Lights** is an advocacy group with a member who is impacted by the
2 nuisance light controlled by Neighbor.

3 4 **III. Jurisdiction and Venue**

5 A California County Superior Court, Small Claims Division is the proper jurisdiction and
6 venue for this case because the location of Defendant's property is in A California County.

7 8 **IV. Statement of Facts**

9 **A. Exterior Lights On All Night**

10 Neighbor turns on the exterior lights at dusk and leaves them on all night. The lights are
11 unshielded and the direct rays of the light trespass beyond property boundaries and onto the
12 property of Plaintiff, including into the Plaintiff's bedroom window.

13 Figure 3 is a photo of Neighbor's property at 4am.

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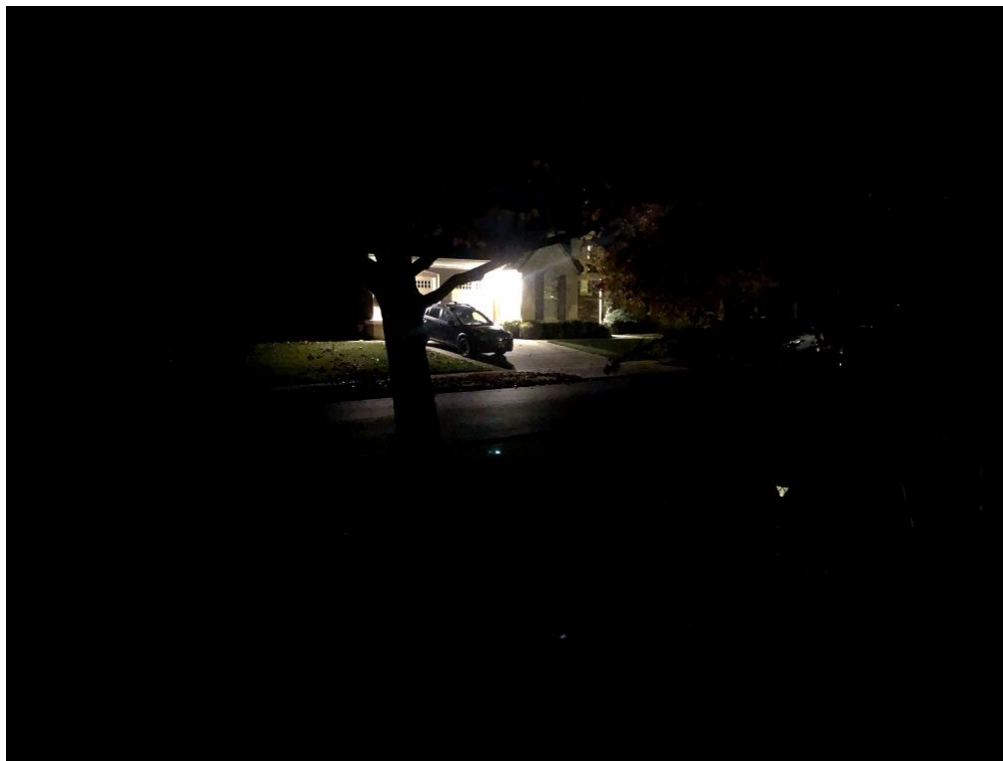


Figure 3 – Lights from Neighbor Property at 4am

Figure 4 shows a photo of the photons from Neighbor’s lights entering the window of Plaintiff.

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Figure 4 - Reflection of Light in Plaintiff's Window

B. Courtesy and Cease and Desist Letters

Plaintiff sent a courtesy letter to Neighbor via postal mail requesting that the lights be shielded and turned off when not in immediate use (Exhibit 2). As there was no response, Plaintiff sent a Cease and Desist letter demanding that the lights be shielded and turned off when not in use (Exhibit 3). Again, Neighbor failed to respond or act.

Figure 5 shows an example of a shielded light that prevents light trespass onto neighboring properties. This is the type of luminaire that is required by the HOA CC&Rs.



Figure 5 - Shielded Light

C. Private Impact

Neighbor turns on the exterior lights each night and leaves them on the entire night. The lights are unshielded, so the direct rays of the light trespass beyond property boundaries and onto the property of Plaintiff.

First, Plaintiff dislikes having artificial light shined into Plaintiff's eyes and is emotionally harmed by unwanted artificial light that Plaintiff does not consent to.

Second, the artificial light enters in the bedroom window of Plaintiff. As the research shows, even tiny amounts of artificial light suppress melatonin production, which in turn causes diseases such as prostate cancer and mood disorders. Plaintiff has been forced to sleep in a different bedroom away from the light, rendering the bedroom on the street unusable.

1 Third, the artificial light disturbs the inhabitants of Plaintiff's yard such as insects, birds,
2 and plants. Again, as the research shows, the artificial light harms all these inhabitants. Plaintiff
3 has a duty to protect the inhabitants of the surrounding environment from artificial light.

4 5 **D. Safety and Security**

6 A study of streetlights in England concluded, "There was no evidence from the overall
7 estimates for an association between the aggregate count of crime and switch off."¹ Another
8 study in Houston, Texas concluded, "The positive relationship between streetlights and crime is
9 contrary to the protective role of lighting that has been suggested previously."²

10 According to data pulled from the 2017 Open City Crime Data, more than half of all
11 crimes occur during the day.³ A common theory is that darkness is a contributor to crime, and
12 that adding artificial light to eliminate the darkness will reduce crime. However, since more
13 crime occurs during the day, this common theory falls apart and the act of adding artificial light
14 may increase crime due to the extra light. The reality is that crimes happen at different times of
15 the 24-hour cycle and is not increased by how much darkness is at the location.

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¹ <https://www.ncbi.nlm.nih.gov/books/NBK316511/>

²

<https://kinder.rice.edu/sites/default/files/documents/Kinder%20Streetlights%20and%20Crime%20report.pdf>

³ <https://www.thesleepjudge.com/crimes-that-happen-while-you-sleep/>

TIME OF CRIMES

Percentage of Police Incident Reports, by Time of Day



Figure 6⁴

E. Human Health

The circadian rhythm is fundamental for human health. The most important environmental time cue for the circadian system is light, with the effects mediated primarily by the photopigment melanopsin. Exposure to light at night suppresses production of the sleep-

⁴ <https://www.thesleepjudge.com/crimes-that-happen-while-you-sleep/>

1 promoting hormone melatonin and causes circadian disruption, which is associated with a range
2 of poor health outcomes, including disrupted sleep.⁵

3 The health problems caused by even small amounts of artificial light range from cancer to
4 mood disorders. The light pollution from Neighbor's artificial light is therefore contributing to
5 Plaintiff's risk of developing cancer.⁶ In addition, artificial light has been shown to greatly
6 increase Plaintiff's risk of developing mood or anxiety disorders.⁷

7

8 **F. Cost to Eliminate the Nuisance**

9 The cost to eliminate the nuisance lighting is negligible. The solution is to turn the lights
10 off when not in use. Turning off the lights would reduce energy costs, reduce light pollution, and
11 reduce maintenance costs. As the research studies have shown, there would be no loss of
12 security from turning off the lights.

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14 **V. Causes of Action**

15 **Cause One: CC&Rs**

16 Section 6.23 of the HOA CC&Rs states that exterior lights must be both adequately and
17 properly shielded. Neighbor's lights have no shielding, in violation of Section 6.23. In addition,
18 exterior lighting used for security purposes must not be illuminated for extended periods of time.
19 Neighbor's lights are on for 10-12 hours per night, in violation of Section 6.23.

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23 ⁵ <https://www.nature.com/articles/s41598-020-75622-4>

⁶ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3002207/>

⁷ <https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2767698>

1 The following case law references offer supporting evidence for this claim of illegal
2 nuisance.

- 3 • "... liability for nuisance does not require proof of damage to the plaintiff's property;
4 proof of interference with the plaintiff's use and enjoyment of that property is
5 sufficient." (San Diego Gas & Electric Co. v. Superior Court (1996) 13 Cal.4th 893,
6 937 [55 Cal.Rptr.2d 724, 920 P.2d 669].)
- 7 • "[T]he essence of a private nuisance is its interference with the use and
8 enjoyment of land. The activity in issue must 'disturb or prevent the comfortable
9 enjoyment of property,' such as smoke from an asphalt mixing plant, noise and
10 odors from the operation of a refreshment stand, or the noise and vibration of
11 machinery." (Oliver v. AT&T Wireless Services (1999) 76 Cal.App.4th 521, 534
12 [90 Cal.Rptr.2d 491], internal citations omitted.)
- 13 • "A nuisance is an interference with the interest in the private use and enjoyment
14 of the land and does not require interference with the possession." (McBride v.
15 Smith (2018) 18 Cal.App.5th 1160, 1178 [227 Cal.Rptr.3d 390].)

16 17 **VI. Standing to Sue**

18 California Civil Code, Part 3, Title 3, Section 3501 states, "The remedies against a
19 private nuisance are 1) A civil action; or, 2) Abatement"

20 California Civil Code, Part 3, Title 1, Section 3484 states, "The abatement of a nuisance
21 does not prejudice the right of any person to recover damages for its past existence."
22

23 **VII. Possible Arguments by Defendant**

1 2. That Plaintiff attempted to resolve the issue via the HOA board and that the HOA
2 board refused to enforce Section 6.23 of the CC&Rs and therefore Plaintiff's only
3 recourse is to sue.

4 3. That Neighbor owns or controls the external lights on Neighbor's property

5 4. That Neighbor, by acting or failing to act, created a condition or permitted a condition
6 to exist that:

7 i) was harmful to health because the artificial light suppresses melatonin which leads
8 to disease.

9 ii) was indecent or offensive to the senses because of the glare from the light

10 iii) was an obstruction to the free use of property, so as to interfere with the

11 comfortable enjoyment of life or property because the artificial lights disturb

12 Plaintiff's sleep.

13 5. That Neighbor's conduct in turning on the lights each night for the entire duration of
14 the light was intentional and unreasonably interferes with Plaintiff's right to use of
15 Plaintiff's property. The intent required is only to do the act that interferes, not an
16 intent to cause harm. (Lussier, supra, 206 Cal.App.3d at pp. 100, 106; see Rest.2d
17 Torts, § 822.)

18 6. That this condition substantially interfered with Plaintiff's use or enjoyment of
19 Plaintiff's land by forcing Plaintiff to abandon the bedroom along the street.

20 7. That an ordinary person would be reasonably annoyed or disturbed by having artificial
21 light shined into their bedroom window.

22 8. That plaintiff did not consent to Neighbor's conduct

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9. That plaintiff suffered harm in the form of sleep disturbance and the diseases that arise from sleep disturbance.

10. That Neighbor’s conduct was a substantial factor in causing Plaintiff’s harm of sleep disturbance.

11. That the seriousness of the harm outweighs the public benefit of Neighbor’s conduct as there is no public benefit to this light pollution.

Therefore, plaintiff requests the following relief:

- a. Damages of \$10,000
- b. Court costs

day of Month, year.

Mark Baker, Soft Lights