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10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**
13 **WESTERN DIVISION**
14

15
16 JED AND ALISA BEHAR, individually
17 and on behalf of all others similarly
18 situated,

19 Plaintiffs,

20 v.

21 NORTHROP GRUMMAN
22 CORPORATION AND NORTHROP
23 GRUMMAN SYSTEMS
24 CORPORATION,

.

Defendants

Case No. 2:21-cv-03946

CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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1 **PLAINTIFFS' CLASS ACTION COMPLAINT AND JURY DEMAND**

2 Plaintiffs, by and through their undersigned attorneys, The Lanier Law
3 Firm, Environmental Energy & Natural Resources Advocates, PLLC, The Law
4 Office of Gideon Kracov, and Nidel & Nace, PLLC bring this civil action under
5 Fed. R. Civ. P. 23 on their own behalf and on behalf of the classes they represent
6 to obtain damages, both compensatory and punitive, injunctive relief, and costs of
7 suit from the Defendants. Plaintiffs complain and allege as follows:

8 **INTRODUCTION**

9 1. This is a civil action to redress circumstances created by Defendants
10 Northrop Grumman Corporation and Northrup Grumman Systems Corporation for
11 damages suffered by members of the putative classes defined below (the "Class
12 Members"). The Defendants' actions have resulted in the contamination of the
13 Class Members' properties and Class Members exposure to toxic chemicals due to
14 ongoing releases and leachate from Defendants' commercial manufacturing
15 facility. That facility is located at 8020 Deering Avenue, Canoga Park, California,
16 91304 (the "Site"). The Site has been owned and operated by the Defendants since
17 1967¹. During its ownership and operation of the Site the Defendants: (1)
18 mishandled and released hazardous and toxic substances at the Site, (2) disposed
19 of hazardous wastes at the Site, and (3) mishandled the management and the
20 cleanup of the wastes and substances released from the Site. In combination, the
21 Contamination and its attendant risks have now migrated in, under, on, around and
22 through Plaintiffs' and Class Members' properties. The Site has experienced
23 continuing releases of toxic, hazardous, substances, and hazardous wastes for
24 decades. The fact of the contamination was known to the Defendants, and yet this

25 _____
26
27 ¹ The original owner/operator of the Site was Litton Industries, Inc. ("Litton").
28 Beginning in 2001 the Defendants, through a series of stock purchases, mergers,
and reorganizations, became owner of the operation and responsible for the
Contamination alleged herein.

1 information has been withheld and concealed from Plaintiffs and the Class
2 Members.

3 2. Because of the Defendants' ownership and operations at the Site,
4 Plaintiffs and Class Members have been exposed to toxic and hazardous
5 substances and wastes from circuit board production, copper plating, silk
6 screening, photo printing and chemical stripping. These Site operations resulted in
7 Contaminants being released onto and into the soil, the ground water, and the air
8 at the Site. These releases have migrated to Plaintiffs' and Class Members'
9 properties. The Contaminants released at the Site were associated with the storage,
10 transfer and use of solvents, acids, and metals including, but not limited to:

11 Volatile organic compounds (VOCs) (including chlorinated
12 solvents): trichloroethylene (TCE), perchloroethylene (PCE), 1,1,1-
13 trichloroethane (1,1,1 TCA), cis-1,2-dichloroethene (c-1,1-DCE), 1,2-
14 dichloroethene (1,2, -DCE), vinyl chloride, chloroform methylene
15 chloride and 1,4 dioxane (herein referred to as "Contaminants", or
16 "Contamination".)

17 3. Despite their knowledge of: (a) the releasing, leaking and migrating
18 Contaminants at the Site; (b) the off-Site nuisance and trespass caused by the
19 Contaminants; (c) the fate and transport characteristics of the Contaminants; and
20 (d) the associated health risks with these toxic, hazardous, and carcinogenic
21 Contaminants, Defendants concealed the presence of these Contaminants and their
22 releasing, leaking and migrating from the Site. Defendants also concealed the fact
23 that the Contaminants were migrating onto, into, at and around the Plaintiffs' and
24 the Class Members' properties.

25 4. The presence of these toxic and hazardous Contaminants on, at, in,
26 and around Plaintiffs' and Class Members' properties presents a significant health
27 risk and harm to those living in, at, on, and around these contaminated properties
28 as well as a significant environmental liability and damage to those owning these

1 properties.

2 **PARTIES**

3 **Plaintiff(s)**

4 5. Plaintiffs are residents of the Canoga Park neighborhood in the Los
5 Angeles County, California, metropolitan area. Plaintiffs own and/or live in
6 property located within the Class Area. Plaintiffs are putative class representatives
7 for the Property Damage Class which is defined as those persons who own
8 residential property contaminated by the Contaminate chemicals released and
9 discharged at the Defendants' Site. Plaintiffs are also Putative class representatives
10 for the Medical Monitoring Class because they have owned and lived at their home
11 in the Class Area since 2012.

12 6. As a result of Defendants' actions, specifically their inadequate
13 containment, handling, and remedial activities, the toxic and hazardous
14 Contaminants have entered Plaintiffs' and Class Members' properties and have
15 contaminated their property - their air, land, groundwater, dwelling place (homes)
16 and their surrounding environment - thereby causing Plaintiffs and the Property
17 Damage Class Members to suffer damage to property and personal finance, loss
18 of the use and enjoyment of property and destruction of their community.

19 7. As a result of the actions of the Defendants, toxic and carcinogenic
20 Contaminants have entered onto Plaintiffs' and the Property Damage Class
21 Members' properties depriving Plaintiffs and the Property Damage Class
22 Members of their free use and enjoyment of their properties.

23 8. Plaintiffs are also putative class representatives for the Medical
24 Monitoring Class which is defined as those persons who live(d) in dwellings
25 located within the Class Area impacted by the Contaminants and as a result thereof
26 are at increased risk of developing injury, illness, and/ or disease. (The Property
27 Class Members and the Medical Monitoring Class Members are jointly referred to
28 as "Class Members".)

1 and (3) Defendants have caused harm to Plaintiffs and Class Members in this
2 District.

3 **GENERAL FACTUAL ALLEGATIONS**

4 13. Plaintiffs and the Class Members have suffered damages as a result
5 of the presence of the Contaminants at their property and/or residence due to the
6 ongoing and continuing release, leaching, and migration of the Contamination
7 from the Site into, under, onto, at and around their properties and residences.

8 14. The Contaminants have been released and migrate (and continue to
9 be released and migrate) into, under, onto, at and around the Plaintiffs' and the
10 Class Members' properties and residences. Plaintiffs' and the Class Members'
11 properties and residences have been and continue to be contaminated with these
12 Contaminants - including toxic and carcinogenic chlorinated solvents, methylene
13 chloride and 1,4-dioxane.

14 15. The Site was in operation from roughly 1967 – 2002 as a circuit board
15 manufacturer. During this time period, the Contaminants were released and
16 disposed of at the Site in substantial quantities. Defendants' release and disposal
17 of Contaminants created an imminent and substantial threat to public health, to the
18 Plaintiffs' and the Class Members' health and wellbeing, and created dangerous
19 conditions at Plaintiffs' and Class Members properties and residences.

20 16. Defendants have known, or should have known, that the operations
21 at the Site were releasing, leaking, and disposing of these hazardous and
22 carcinogenic Contaminants into, under, at and onto properties and into the
23 groundwater and air in, at or near the Class Area as identified below.

24 17. Furthermore, Defendants did nothing to notify the general public in
25 the Class Area, including those living or purchasing homes in the Class Area, that
26 their properties and residences were contaminated or were threatened by
27 Contamination and that there was a serious risk of exposure to the Contaminants
28 through groundwater and indoor and outdoor vapors which created associated

1 health threats.

2 18. For over 50 years, while owning and/or operating the Site,
3 Defendants failed to properly control the Contamination, properly remediate the
4 Contamination, and appropriately notify the public about the presence, hazards
5 and threats of the Contamination.

6 19. Had Defendants properly remediated or contained the Contaminants,
7 Plaintiffs' and the Class Members' properties would not have been contaminated
8 and their health would not have been put at risk and continue to be threatened and
9 damaged.

10 20. Had Defendants notified the public, the Plaintiffs and the Class
11 Members would not have purchased property and/or resided at property within and
12 around the Class Area and would not have suffered damages as a result.

13 21. The contaminant trichloroethylene, or TCE, is a known human
14 carcinogen. TCE also degrades into other chlorinated solvents, many of which are
15 also known carcinogens (such as vinyl chloride).

16 22. In addition, upon information and belief, the Site is also leaching and
17 releasing methylene chloride and 1,4-dioxane. 1,4-dioxane was used as a
18 preservative for chlorinated solvents including TCE, TCA and PCE. 1,4-dioxane
19 is an anticipated human carcinogen and this Contaminant is more water soluble
20 than TCE. Therefore, 1,4-dioxane tends to migrate farther and faster than the
21 chlorinated solvents themselves.

22 23. Despite these facts, upon information and belief, Defendants have
23 never performed any testing for 1,4-dioxane in and around the Site or the
24 surrounding Class Area.

25 24. Contaminants leaching into and migrating with the groundwater
26 expose the Plaintiffs and the Class Members to dangerous carcinogens and VOC
27 Contaminants through the well-known, well-understood and generally accepted
28 process of "vapor intrusion" ("VI").

1 25. VI occurs when chemical vapors from VOCs migrate from
2 contaminated soil and/or groundwater through the soil and through building
3 foundations and floors and into a building's rooms. These chemical vapors degrade
4 indoor air to the point of posing significant risks to the human health of the
5 occupants.

6 26. Unknown to them, Plaintiffs and the Class Members have been, and
7 are being exposed to these dangerous, toxic and carcinogenic Contaminants while
8 at their homes - both indoors and outdoors.

9 27. As a result of this exposure and continuing threat of exposure,
10 Plaintiffs and Class Members require mitigation to eliminate the VI exposure and
11 to remove any ongoing threat of such exposure at their properties.

12 **Plaintiffs and Residents Left Completely in the Dark**

13 28. No one, including the Defendants or the Defendants' employees and
14 agents, notified Plaintiffs or the Class Members of the presence of these Site
15 Contaminants at, in, under, and around Plaintiffs' and the Class Members'
16 properties.

17 29. No one, including the Defendants, or their employees and agents,
18 notified Plaintiffs or the Class Members of the significantly elevated cancer risks
19 and risks of other diseases posed by the presence of Site Contaminants at, in, under,
20 and around their properties and residences.

21 30. Rather than provide such notice and information, for decades,
22 Defendants concealed from the public, the Plaintiffs, and the Class Members the
23 presence of Site Contaminants released and affecting their properties and
24 residences located in the Class Area.

25 31. Plaintiffs and the Class Members reasonably believed that the
26 groundwater, surface water, air, and soil in their Canoga Park neighborhood did
27 not pose any greater health hazard than any other groundwater, air, soil, or natural
28 resources in a typical unpolluted residential community.

1 32. Plaintiffs' and the Class Members' properties have each been exposed
2 to the Contamination due to Defendants' acts and omissions in owning, operating,
3 containing, and remediating the Site and the Contamination.

4 33. Plaintiffs and the Class Members seek redress and damages for
5 economic losses, such as loss of property value and interference with their use and
6 enjoyment of their property; the prompt identification, delineation, cleanup,
7 excavation, treatment, abatement and removal of Contaminants from their
8 properties; and punitive damages and other damages as the result of the
9 carelessness, recklessness, negligent, willful and wanton actions in violation of
10 law, and willful disregard of persons who foreseeably might be harmed by such
11 acts or omissions by the Defendants.

12 34. Defendants, despite their knowledge of the serious health and
13 environmental effects associated with the Contaminants migrating throughout the
14 Class Area and the surrounding environment, failed to warn the public in general,
15 and the Plaintiffs and the Class Members in particular, of the dangers that the
16 historical use activities at the Site and the Contamination threat that the Site posed.

17 35. Despite their knowledge of the serious health and environmental
18 effects associated with Site Contamination, Defendants did not adequately design
19 the Site investigation and the Site Contaminant response and corrective action in
20 the Class Area. Nor did Defendants publicize the scope and extent of
21 Contamination (and its associated risks). These actions and omissions prevented
22 Plaintiffs and Class Members from making appropriate responses and enabled
23 Defendants to avoid taking all appropriate and reasonable steps to address and
24 respond at these Class Area properties in a timely manner. As a result, Plaintiffs
25 and the Class Members suffered as a result of Defendants' gain resulting in
26 prolonged exposures and harm due to these dangerous chemical Contaminants.

EQUITABLE TOLLING OF APPLICABLE STATUTE OF
LIMITATIONS

36. Plaintiffs and the Class Members incorporate by reference all prior paragraphs of this Complaint as if fully set forth herein.

37. The running of any statute of limitations has either not begun to run or has been tolled by reason of Defendants' concealment. Defendants, through their affirmative misrepresentations and omissions, actively concealed from Plaintiffs and Class Members the pollution present on, at and around their properties and Plaintiffs and Class Members only recently became aware of such contamination on, at and around their properties and residences.

38. As a result of Defendants' actions, Plaintiffs and the Class Members could not reasonably know or have learned through reasonable diligence that Plaintiffs' and the Class Members' properties were contaminated with significantly elevated levels of Contaminants and that those risks were the direct and proximate result of Defendants' acts and omissions.

39. Defendants are estopped from relying on any statute of limitations because of their concealment of the character, quality, scope, extent, and nature of the Contamination at, in, under, and on properties forming the Class Area. Defendants were aware of the non-public nature of the circumstances of the Contamination. This non-public information (over which Defendants had and continues to have control) was not provided to the residential homeowners and purchasers, and persons living at properties within the class area, including the Plaintiffs and the Class Members. On information and belief, to this day Defendants have continued to fail to provide this information and facts to the Plaintiffs and Class Members.

40. Plaintiffs and the Class Members had no knowledge that Defendants were engaged in the wrongdoing alleged herein. The Contamination cannot be seen either in the ground water beneath their property, or in the vapors from the

1 Contaminants entering their homes. Because of the concealment by Defendants,
2 and the failure to notify the Plaintiffs, the Class Members, and the public of the
3 Contamination and its attendant risks, neither the Plaintiffs nor the Class Members
4 have, nor could they have reasonably discovered, the Contamination at any time
5 prior to the commencement of this case.

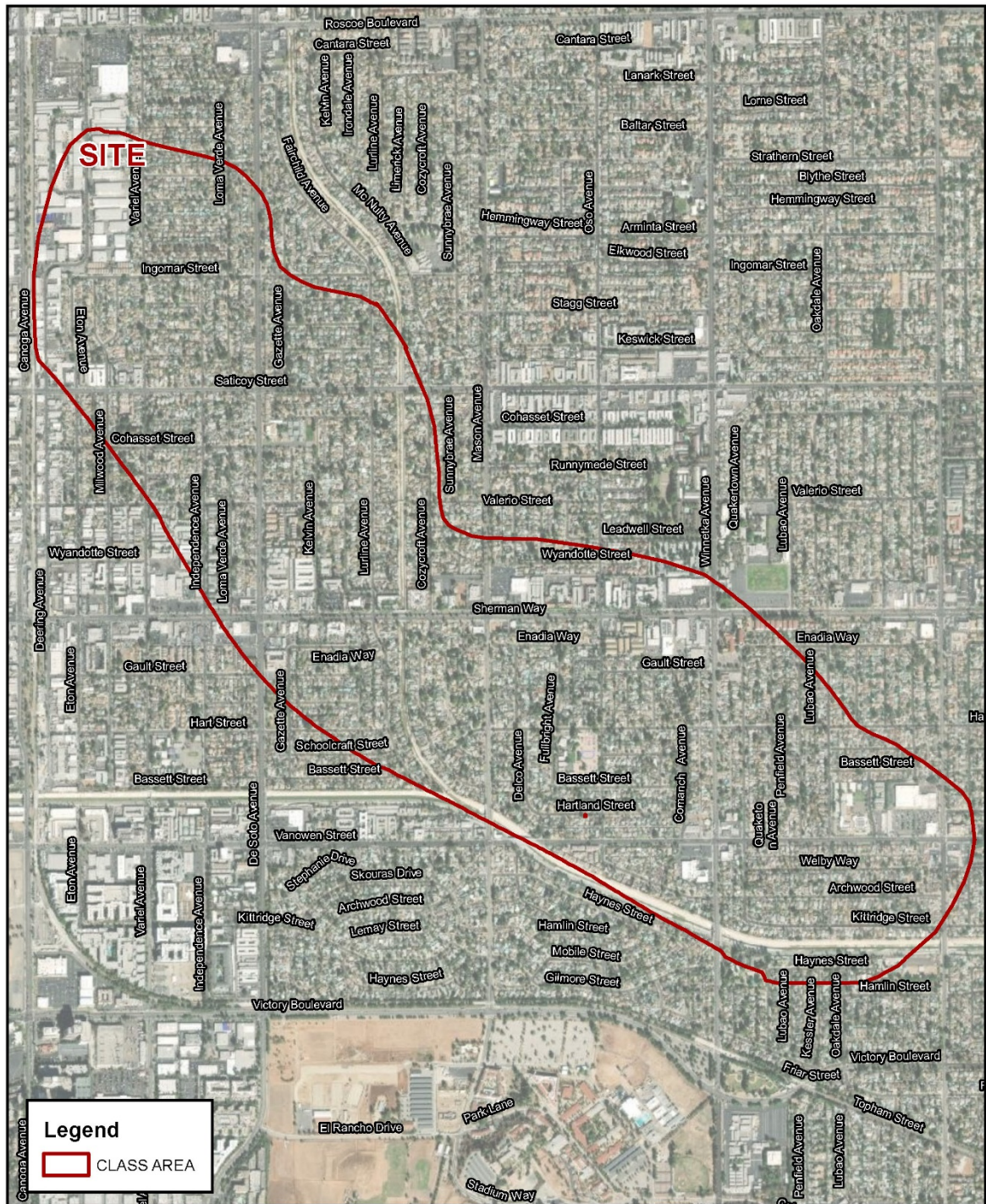
6 **CLASS ALLEGATIONS**

7 41. This class action is being filed by the Plaintiffs, pursuant to Federal
8 Rule of Civil Procedure 23, on behalf of themselves and others similarly situated.
9 These putative Class Members are similarly situated.

10 42. Plaintiffs seek to certify the following class, defined as:

11 **Canoga Park Property Damage Class (“Property Class”):** Any
12 and all persons that own any real property in or adjacent to the Canoga
13 Park contaminated area (collectively, the “Class Area”) in Los
Angeles, CA.

14 43. A map of the Canoga Park “Class Area” is shown in the figure below
15 (outlined in red):
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44. To the extent revealed by discovery and investigation, there may be additional appropriate classes and/or subclasses derived from the above class definition which are broader and/or narrower in scope.

45. Excluded from the classes are the Defendants, any entity that has a controlling interest in the Defendants, their legal representatives, officers, directors, assigns, successors, employees, agents and members of their immediate families; the governmental and judicial officers to whom this case is assigned, their staff, (and the members of their immediate families).

46. This Court may maintain these claims as a Class Action pursuant to Fed. R. Civ. P. 23(a), 23(b)(1), 23(b)(2), 23(b)(3) and/or 23(c)(4).

Numerosity

47. Fed. R. Civ. P. 23(a)(1): The members of each class are so numerous that joinder of all members is impractical. There are over 3800 residential use properties in the Class Area. The number of persons that own the 3800 plus properties located within the Class Area is estimated to exceed 5000 persons. The number of Class Members is such that it exceeds the number that reasonably allows for joinder of all Class Members and, therefore, the number of members of the Property Class satisfies Fed. R. Civ. P. 23 (a)(1).

48. The number of persons in the Medical Monitoring Class is, by definition, greater than the number of members in the Property Class because a class member need only to have lived or worked on a property in the Class Area for a period of time sufficient to appreciably increase their risk of injury based on the factors listed below. Thus, because more than one (1) person could reside in each of the 3800 Class Area properties at any one time and because many of these Class Area properties have had multiple residents over the years (operations began at the Site in circa 1967), the number of Medical Monitoring Class Members is such that it exceeds the number that reasonably allows for joinder of all Medical Monitoring Class Members and, therefore, the number of members of the Medical

1 Monitoring Class satisfies Fed. R. Civ. P. 23 (a)(1).

2 **Commonality**

3 49. Fed. R. Civ. P. 23(a)(2): There are common questions of law and fact
4 that affect the rights of every member of each respective class, and the types of
5 relief sought are common to every member of each respective class. The same
6 conduct by Defendants has injured or will injure all Class Members.

7 50. A class action is superior to other available methods of litigation for
8 the fair and efficient adjudication of this controversy, in satisfaction of Fed. R.
9 Civ. P. 23(a)(2). The same conduct by Defendants has injured each respective
10 Class Member. Common questions of law and/or fact that are common to the
11 respective Classes include, but are not limited to:

- 12 a. Whether Defendants, through their acts or omissions at
13 the Site, proximately caused Contaminants to be
14 released and migrate into, at, on, or around the Class
15 Area;
- 16 b. Whether Defendants failed to exercise reasonable care
17 in their handling, storing, transporting, using, releasing,
18 discharging, emitting, disposing and/or failed to
19 reasonably investigate, remediate and abate the
20 Contaminants;
- 21 c. Whether Defendants violated applicable standards
22 concerning handling, storing, transporting, use, release,
23 discharge, emission, disposal and/or failure to
24 investigate and remediate the Contaminants;
- 25 d. Whether Defendants' acts of releasing, discharging,
26 spilling, emitting, allowing migrating or depositing
27 Contaminants onto Plaintiffs' properties, and/or their
28 failure to remove or abate such contamination from

- 1 Plaintiffs' properties, constitutes a private nuisance;
- 2 e. Whether Defendants' releasing, discharging, emitting or
- 3 depositing Site Contaminants onto Plaintiffs' properties,
- 4 and/or their failure to remove such contamination,
- 5 constitutes a trespass;
- 6 f. Whether Defendants proximately caused Site
- 7 Contaminants to be released into the environment, and
- 8 Plaintiffs' and Class Members' properties and persons
- 9 have been exposed to such Contaminants;
- 10 g. Whether, as a proximate result of the exposure to Site
- 11 Contaminants, Plaintiffs and the members of the
- 12 Medical Monitoring Classes have an increased risk of
- 13 contracting a serious diseases or a serious illness;
- 14 h. Whether the increased risk of disease and illness makes
- 15 periodic medical examinations and screening of the
- 16 Plaintiffs and members of the Medical Monitoring Class
- 17 reasonable;
- 18 i. Whether a medical monitoring procedure exists that
- 19 makes early detection of the disease and illness
- 20 associated with exposure to the Site Contaminants
- 21 possible;
- 22 j. Whether the prescribed medical monitoring regimen is
- 23 reasonable according to contemporary medical and
- 24 scientific principles;
- 25 k. Whether, as a result of the exposure to Site
- 26 Contaminants, Plaintiffs' properties and the properties of
- 27 the members of the Property Class have suffered a loss
- 28 in value;

- 1 l. Whether, as a result of the exposure to Site
- 2 Contaminants, Plaintiffs' properties and the properties of
- 3 the members of the Property Class have suffered a loss
- 4 in their use and enjoyment of their property;
- 5 m. Whether Defendants' actions created a public nuisance;
- 6 n. Whether the Contamination created by Defendants in the
- 7 Class Area is reasonably abatable;
- 8 o. Whether the nature of the Defendants' actions and the
- 9 resulting Contamination constitutes continuing
- 10 negligence; and
- 11 p. Whether the failure to warn Plaintiffs and the Class
- 12 Members constitutes willful deceit and reckless
- 13 endangerment by the Defendants.

14 51. These questions of law and/or fact are common to the respective
15 Classes and predominate over any questions affecting only individual Class
16 Members.

17 **Typicality**

18 52. Fed. R. Civ. P. 23 (a)(3): The claims of Plaintiffs are typical of the
19 claims of the Class Members as required by Rule 23(a)(3), in that all claims are
20 based upon the same factual and legal theories. It is the same conduct of the
21 Defendants that injured each Class Member. The principal issue in this case
22 involves Defendants' conduct in the wrongful handling, storing, transporting,
23 using, releasing, discharging, emitting, and disposing of the Site Contaminants,
24 and Defendants' failing to quickly warn of, abate and remediate the Site
25 Contaminants. Their operations at 8020 Deering Avenue have impacted all
26 members of the respective Classes.

27 **Adequacy**

28 53. Fed. R. Civ. P. 23(a)(4): Plaintiffs will fairly and adequately represent

1 and protect the interests of the respective Classes, as required by Rule 23(a)(4).
2 Plaintiffs have retained counsel with substantial experience in the prosecution of
3 class actions and environmental litigation. Plaintiffs and their counsel are
4 committed to the vigorous prosecution of this action on behalf of the Class
5 Members and have the financial resources to do so. Neither Plaintiffs nor counsel
6 has any interest adverse to those of the Class Members.

7 54. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(1)
8 because the prosecution of separate actions by individual Class Members would
9 create a risk of inconsistent and/or varying adjudications that would establish
10 incompatible standards of conduct for Defendants. Adjudications respecting
11 individual Class Members would, as a practical matter, be dispositive of the
12 interests of the other Class Members or would risk substantially impairing or
13 impeding their ability to prosecute their interests.

14 55. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
15 because Defendants have acted or refused to act on grounds generally applicable
16 to all Class Members, thereby making relief in the form of an injunction - requiring
17 Defendants to abate the nuisance, to conduct a prompt and thorough investigation,
18 and to engage in identification, excavation, containment, abatement and removal
19 of all Site Contaminants from the properties of Plaintiffs and the Members of the
20 Classes - reasonably appropriate.

21 56. Class certification is appropriate pursuant to Fed. R. Civ. P. 23(b)(2)
22 because Defendants have acted or refused to act on grounds applicable to all
23 Members of the Medical Monitoring Class, thereby making relief in the form of
24 an injunction requiring Defendants to establish a fund for the reasonable costs of
25 medical monitoring appropriate.

26 57. In addition, Plaintiffs and the Medical Monitoring Class members
27 allege that:

- 28 • Plaintiffs and the members of the respective Classes have

1 each been exposed to Site Contaminants due to
2 Defendants' means and methods in handling, storing, use,
3 disposal and/or failure to properly remediate the
4 Contaminants.

- 5 • Site Contaminants are hazardous and toxic.
- 6 • The Plaintiffs' and the Class Members' exposure to the
7 Contamination was caused by Defendants' actions in the
8 handling, storing, use, disposal and/or failure to properly
9 remediate the Contaminants.
- 10 • As a proximate result of the exposure to Site
11 Contaminants, Plaintiffs and the respective Medical
12 Monitoring Class Members have a significantly increased
13 risk of contracting serious diseases.
- 14 • The need for medical monitoring is a reasonably certain
15 consequence of the Plaintiffs' and the Class Members'
16 exposure to the Contamination based on an analysis of:
 - 17 • the significance and the extent of their exposure to
 - 18 the Contaminants;
 - 19 • the toxicity of these Contaminants;
 - 20 • the seriousness of the diseases for which Plaintiffs
 - 21 and Class Members are at an increased risk;
 - 22 • the relative increase in the Plaintiffs' and the Class
 - 23 Members' chances of developing a disease as a
 - 24 result of the exposure when compared to (a)
 - 25 Plaintiffs' and the Class Members' chances of
 - 26 developing the illness or disease had they not been
 - 27 exposed to the Contaminants, and (b) the chances
 - 28 of members of the public at large of developing the

1 same illness or disease; and

2 • the clinical value and health benefits of early
3 detection, diagnosis, and treatment.

4 • A monitoring procedure exists that makes early detection
5 of the diseases possible.

6 • The monitoring regimen for the exposures to the
7 Contamination is different from that normally
8 recommended in the absence of Plaintiffs' and Class
9 Members' exposure to Site Contamination.

10 • The prescribed monitoring regimen is reasonable
11 according to contemporary medical and scientific
12 principles.

13 58. Plaintiffs and Class Members have suffered, and will continue to
14 suffer, harm and damages as a result of Defendants' unlawful and wrongful
15 conduct.

16 59. A class action is superior to other available methods for the fair and
17 efficient adjudication of the controversy under Fed. R. Civ. P. 23 (b)(3).
18 Maintenance of this action as a class action is a fair and efficient method for
19 adjudication of this controversy. Absent a class action, most Class Members likely
20 would find the cost of litigating their claims prohibitive and would have no
21 effective remedy at law. The class treatment of common questions of law and fact
22 is also superior to multiple individual actions or piecemeal litigation in that it
23 conserves the resources of the courts and the litigants and promotes consistency
24 and efficiency of adjudication. Thus, it would be impracticable and undesirable for
25 each member of each putative class who has suffered harm to bring a separate
26 action. In addition, the maintenance of separate actions would place a substantial
27 and unnecessary burden on the Court and could result in inconsistent
28 adjudications, while a single class action can determine, with judicial economy,

1 the rights of all Class Members.

2 60. Class certification is also appropriate because this Court can
3 designate particular claims or issues for class-wide treatment and may designate
4 one or more subclasses pursuant to Fed. R. Civ. P. 23(c)(4).

5 61. No unusual difficulties are likely to be encountered in the
6 management of this action as a class action.

7 62. Plaintiffs and the Class Members were not in any way responsible for
8 the Site Contaminants in the Class Area.

9 **CAUSES OF ACTION**

10 **FIRST CLAIM – NEGLIGENCE - CONTINUING NEGLIGENCE**

11 63. Plaintiffs repeat and re-allege each and every allegation contained in
12 the preceding paragraphs of this complaint as if set forth in full herein.

13 64. At all relevant times hereto Defendants owed to Plaintiffs and Class
14 Members, who foreseeably could be injured by its negligence, a duty to exercise
15 reasonable care in using, handling, storing, disposing, releasing, and discharging
16 Site Contaminants, Defendants knew, or should have known, that their actions
17 could result in damage and injury to Plaintiffs, Class Members, their property, and
18 their residences.

19 65. Defendants also owed a duty of care to Plaintiffs and Class Members
20 to exercise reasonable care in the disposal, storage, and remediation of Site
21 Contaminants particularly due to the proximity of their actions in relation to
22 Plaintiffs' and Class Members' residential property.

23 66. Defendants further owed a duty to exercise reasonable care to
24 disclose the presence of these Contaminants, including carcinogenic materials, the
25 risks that they posed, and what Defendants knew about the presence and risks of
26 these Site Contaminants.

27 67. Defendants further owed a duty to exercise reasonable care to abate
28 and manage the Site Contaminants to avoid further injury to Plaintiffs and Class

1 Members.

2 68. These duties to exercise reasonable care arose out of the common law
3 as well as relevant Federal and California environmental statutes and regulations.

4 69. Defendants breached their duty, over a period of years, in at least the
5 following respects:

- 6 a. Failing, and continuing to fail, to prevent groundwater
7 contamination and its migration off of the Site of the
8 Contamination.
- 9 b. Despite knowledge of the widespread presence of Site
10 Contamination, and along with the knowledge of the health and
11 environmental risks that these materials posed for those living
12 in the Class Area, failing, and continuing to fail, to take
13 appropriate actions in, on, at and around the Site (including acts
14 into, onto, and under the land that forms the Class Area) and
15 into private homes within the Class Area.
- 16 c. Failing, and continuing to fail, to safely, properly and timely
17 abate, remove, remediate and dispose of the hazardous and
18 toxic Contamination, including carcinogenic materials.
- 19 d. Failing, and continuing to fail, to warn and disclose to Plaintiffs
20 and Class Members of the Contamination on, in, and around
21 their properties, and the risks that this Contamination posed to
22 them and to their families, and the likelihood that they were
23 being exposed to carcinogenic chemicals.
- 24 e. Defendants have failed, and continue to fail, to adequately and
25 with due care identify the extent of Contamination from the
26 Site, promptly notify property owners of impacts and health
27 threats posed by those chemicals, and remediate these
28 chemicals so as to reduce or remove the threat to Plaintiffs' and

1 Class Members' properties.

2 70. As a result of Defendants' acts and omissions, as further detailed
3 above, extensive Contamination has existed, exists and will continue to exist
4 without affirmative abatement actions in and around the Class Area.

5 71. As a result of Defendants' misconduct and continued malfeasance as
6 set forth herein, Plaintiffs and Class Members have suffered and continue to suffer
7 harm and damages, including, but not limited to, the loss of value to their property
8 and the loss of the use and enjoyment of their property and an increased risk of
9 serious injury/illness.

10 72. At all relevant times, Defendants caused and continue to cause actual
11 injury and actual damages to Plaintiffs and the Class Members and/or their
12 property through acts and omissions actuated by actual malice and/or accompanied
13 by a reckless, wanton and willful disregard of persons who foreseeably might be
14 harmed by such acts or omissions.

15 73. Defendants, despite knowledge of the serious health and
16 environmental effects associated with exposure to such Contaminants, including
17 carcinogenic materials, allowed for the development of Contaminated lands for
18 development and sale for residential use despite being unfit for residential
19 purposes due to the presence of the Contamination in, on, at and around the land
20 comprising the Class Area and subsequently failed to warn Plaintiffs, the Class
21 Members, and the public of the dangers such activities posed.

22 74. Defendants, despite knowledge of the serious health and
23 environmental effects associated with exposure to Site Contaminants, masked and
24 continue to mask the true extent of contamination, thereby enabling themselves to
25 avoid taking all appropriate steps to properly remediate the hazardous substances
26 and levels of contamination in, on, at and around the Class Area or to remediate,
27 abate, and mitigate dangers.

28 75. As a direct and proximate result of the Defendants' continuing

1 wrongful acts and omissions, Plaintiffs and Class Members properties have been
2 and will continue to be contaminated (without abatement), and the property value
3 diminished and these properties are unfit for unfettered residential use.

4 76. As a direct and proximate result of the Defendants' continuing
5 wrongful acts and omissions, Plaintiffs and the Class Members currently suffer an
6 increased risk of serious latent disease, including a number of types of cancer that
7 are associated with exposure to Site Contaminants.

8 77. As a direct and proximate result of the Defendants' continuing
9 wrongful acts and omissions, Plaintiffs and the Class Members currently suffer
10 actual property damage, diminution in the value of their property, stigma, need for
11 abatement, cleanup costs, loss of use and enjoyment of their property and
12 destruction of their community.

13 78. Plaintiffs and the Class Members seek to recover against the
14 Defendants for such damages, as well as the cost of periodic medical examinations
15 necessary to detect the onset of physical harm that may be caused by Site
16 contaminants on, at and around Plaintiffs' property.

17 **SECOND CLAIM – PRIVATE CONTINUING NUISANCE**

18 79. Plaintiffs repeat and re-allege each and every allegation contained in
19 the preceding paragraphs of this complaint as if set forth in full herein.

20 80. Defendants' past, present and/or continuing acts and/or omissions
21 constitute a nuisance in that Defendants have used the Site in a manner that has
22 resulted in an unreasonable burden and interference on the Plaintiffs and the Class
23 Members in the form of personal harm, inconvenience, annoyance and discomfort
24 incidental to the contamination of their properties by Site Contaminants that
25 leaked, leached, or discharged from the Site.

26 81. Defendants' past, present and/or continuing activities, acts and/or
27 omissions at the Site and in the property surrounding the Site including, but not
28 limited to, the Class Area, constitute a private continuing nuisance resulting in

1 unreasonable interference with Plaintiffs' and the Class Members' right to the
2 exclusive use and enjoyment of their properties due to the presence of
3 contamination in the form of hazardous and toxic substances contaminating their
4 properties and the surrounding environment, thereby exposing Plaintiffs and the
5 Class Members to hazardous and toxic substances and substantially interfering
6 with Plaintiffs' and the Class Members' free use and enjoyment of their properties.

7 82. Defendants' past, present and/or continuing acts and/or omissions,
8 resulting in high levels of hazardous Contamination in and on the properties
9 surrounding the Site and/or Defendants' failure to remove or properly investigate,
10 abate and remediate this hazardous Contamination, and allowing such
11 Contamination to remain on Plaintiffs' and the Class Members' properties, the
12 surrounding properties, and the surrounding environment, constitutes a nuisance
13 in that Defendants have managed the Site and the remediation of Site
14 Contaminants in a manner that has unreasonably interfered with Plaintiffs' and the
15 Class Members' property interests, use and enjoyment, and health and safety.

16 83. Defendants' past, present and/or continuing acts and/or omissions,
17 resulting in high levels of Site Contamination at and on the properties surrounding
18 the Site and/or Defendants' failure to remove or properly investigate and remediate
19 this hazardous Contamination, and allowing such contamination to remain on the
20 private properties surrounding Plaintiffs' properties constitutes a nuisance in that
21 Defendants will now have to engage in extensive and disruptive abatement,
22 remediation and removal of these contaminants that will result in unreasonable
23 interference with Plaintiffs' and the Class Members' use and enjoyment of their
24 property.

25 84. Defendants' Contamination presently impacts Plaintiffs' and the Class
26 Members' property, causes a diminution in their property values, is a blight on
27 Plaintiffs' community, causes annoyance, interference and inconvenience and
28 deprives Plaintiffs of the free use and enjoyment of property, including, but not

1 limited to, the inability to fully use, enjoy and recreate on their indoor and outdoor
2 spaces, freely perform certain work and repairs on their property; and requiring
3 the property to be dug up, excavated, handled with extreme caution and otherwise
4 disrupted causing inconvenience and disruption. Plaintiffs and Class Members
5 additionally suffer fear of adverse health effects, including cancer and other latent,
6 serious illness.

7 85. In the alternative, Defendants' disposal of and/or failure to control
8 and/or remediate Site Contaminants from residential areas violates applicable
9 standards and/or regulations, which constitutes a nuisance *per se*.

10 86. Defendants' knew or should have known that the invasion of Site
11 Contaminants onto Plaintiffs' and the Class Members' properties and residences
12 was substantially certain to result.

13 87. This interference with Plaintiffs' and the Class Members' use and
14 enjoyment of their property is and will continue to be substantial, unreasonable,
15 unwarranted and unlawful until abated.

16 88. As a result of Defendants' wrongful acts and omissions, Plaintiffs and
17 the Class Members have suffered and will suffer exposure to hazardous
18 substances, annoyance, inconvenience, discomfort, displacement, fear of adverse
19 health effects and economic loss for which damages are justified.

20 89. As a direct and proximate result of Defendants' misconduct, Plaintiffs
21 and the Class Members have suffered and will continue to suffer economic losses
22 and the loss of value to their property and other damages.

23 90. The nuisance that Defendants created is a continuing nuisance in that
24 it has continued and remains unabated even though such nuisance is reasonably
25 abatable.

26 91. Separate and apart from acting negligently, at all relevant times
27 Defendants caused injury and damages to the Plaintiffs, the Class Members and/or
28 their property through acts and omissions actuated by actual malice and/or

1 accompanied by a reckless, wanton and willful disregard of persons who
2 foreseeably might be harmed by such acts or omissions.

3 92. Defendants, despite knowledge of the serious health and
4 environmental effects associated with exposure to the Site Contaminants failed to
5 properly investigate and remediate said Contaminants from the surrounding
6 environment, and had knowledge (or should have known) that the land,
7 groundwater and indoor air had been, is, or would be developed for residential use;
8 at the same time as failing to warn purchasers and existing residents of the dangers
9 of such Contaminants.

10 93. Defendants, despite knowledge of the serious health and
11 environmental effects associated with exposure to the Site Contaminants, did not
12 disclose the true extent of Contamination, thereby enabling the Defendants to
13 avoid taking all appropriate steps to properly abate and remediate Site
14 Contaminants and to mitigate their dangers in the Class Area.

15 94. Defendants, despite knowledge of the serious health and
16 environmental effects associated with exposure to the Site Contaminants, failed to
17 properly warn, abate and remediate such Contamination in the Class Area.

18 **THIRD CLAIM – STRICT LIABILITY –**
19 **ABNORMALLY DANGEROUS ACTIVITY**

20 95. Plaintiffs repeat and re-allege each and every allegation contained in
21 the preceding paragraphs of this Complaint as if set forth in full herein.

22 96. Defendants, by using, disposing of, not controlling, and then failing
23 to properly identify, contain, warn, abate, remediate and ultimately disclose the
24 presence of Site Contaminants have engaged in an activity that is abnormally
25 dangerous, ultrahazardous, and constitutes inherently or intrinsically dangerous
26 activities for which they are strictly liable to the Plaintiffs and the Class Members.

27 97. Defendants' activities pose a high degree of risk of harm to Plaintiffs
28 and to the Class Members. The likelihood that the harm that results from the

1 Defendants' activities will be great is based on the fact that the hazardous chemical
2 Contamination presents serious health risks, including cancer, which are not
3 detectible by human ears and eyes (silent and hidden from common view) and
4 thereby remains unknown without scientific investigation and analysis. Yet, the
5 pernicious nature of these Contaminants is well known and should not be used at
6 or near residential property, which is the case at and near the Site and in the Class
7 Area.

8 98. The Contaminants are not commonly used; they are typically used
9 only in heavy industrial manufacturing and military applications such as
10 degreasing and paint stripping of equipment. The chemical Contaminants are
11 typically only used at locations where their ready and common release into the
12 environment (due to their physical, fate and transport characteristics) will not
13 cause harm to human health and the environment. These Contaminants readily and
14 rapidly will contaminate the soils, groundwater and air in the vicinity of their use
15 and very rapidly spread from the locations of the release and spills. Because of
16 these characteristics and the serious and known health consequences associated
17 with exposure, Defendants' use of the chemical Contaminants created a high
18 degree of risk to Plaintiffs and the Class Members.

19 99. The Site and the Class Area is in Canoga Park, Los Angeles,
20 California, and is made up primarily of residences while being transected by
21 Sherman Way in historic downtown Canoga Park that is the "main street" of the
22 Canoga Park community. This is a vibrant small business, social and cultural
23 mecca of great value and historic significance to Southern California. There are
24 antique shops, live entrainment, music clubs and restaurants in this area. These
25 Contaminants are not compatible with the people, family and residential
26 community nature and uses which are the predominant current and future uses in
27 the Class Area.

28 100. Defendants' use, management, investigation and remediation at their

1 Site with actual knowledge that nearby properties were residential use is an
2 abnormally dangerous activity. That danger cannot be immediately eliminated
3 through the use of reasonable care. As such, Defendants' actions at the Site were
4 inherently and unreasonably dangerous. There is no safe way to house people on
5 these lands that have not been properly treated, abated or remediated and therefore
6 the contaminant vapors pose unreasonably unsafe hazards to human health.

7 101. Defendants' disposal, storage, and inadequate abatement and
8 remediation of these contaminated soil and groundwater areas, and Defendants'
9 failure to properly investigate, delineate, identify, abate, remediate and warn
10 Plaintiffs and the Class Members about the contamination in the Class Area was a
11 matter of uncommon usage and was not appropriate activity in the places where it
12 was carried out.

13 102. Residential exposure to significantly elevated levels of Site
14 Contaminants, including these carcinogenic industrial wastes, lead to the increased
15 risk of serious health impacts, including cancer, and birth defects, and it is a
16 critical societal problem in Southern California, and thus, the value of Defendants'
17 activities, including their flawed and inadequate warning, abatement and
18 remediation, is substantially outweighed by the serious health and environmental
19 and health problems caused by their actions.

20 103. As a direct and proximate result of Defendants' conduct as set forth
21 herein, Plaintiffs and the Class Members have suffered and continue to suffer
22 actual damages and injuries including economic losses, property damages and the
23 loss of value to their property; loss of use and enjoyment, pain and suffering, and
24 other damages as set forth herein.

25 104. Separate and apart from acting negligently, at all relevant times
26 Defendants' abnormally dangerous activities caused injury and damages to the
27 Plaintiffs, Class Members, and/or their property and residences through acts and
28 omissions actuated by actual malice and/or accompanied by a reckless, wanton

1 and willful disregard of persons who foreseeably might be harmed by such acts or
2 omissions.

3 **FOURTH CLAIM – TRESPASS/ CONTINUING TRESPASS**

4 105. Plaintiffs repeat and re-allege each and every allegation contained in
5 the preceding paragraphs of this complaint as if set forth in full herein.

6 106. Defendants intentionally used, disposed of and stored chemicals that
7 directly caused, and continue to cause, the migration of Site Contamination at,
8 under, onto, and into Plaintiffs' and Class Members' properties and homes.

9 107. These chemicals on their land constitute uninvited, unwanted and
10 unlawful invasion of Plaintiffs' and Class Members' properties and homes.

11 108. Defendants' trespass has proximately caused, and continues to cause,
12 Plaintiffs and the Class Members to suffer economic and non-economic damages
13 including remediation and abatement costs, loss of use and enjoyment, stigma, and
14 loss of property value.

15 109. Plaintiffs' and the Class Members' right to be free of trespass has been
16 and continues to be denied by Defendants.

17 **FIFTH CLAIM- UNJUST ENRICHMENT**

18 110. Plaintiffs repeat and re-allege each and every allegation contained in
19 the preceding paragraphs of this complaint as if set forth in full herein.

20 111. By releasing, spilling, discharging, and then failing to warn and abate
21 and remediate Site Contamination at the Plaintiffs' and the Class Members
22 property and homes, Defendants' costs were significantly reduced by avoiding
23 costs of lawful handling and disposal of the Contaminants and hazardous wastes
24 generated at their Site.

25 112. This unlawful disposal and storage of hazardous waste contaminants
26 at, on, in and under the Class Area results in damages and additional costs to
27 Plaintiffs and the Class Members as diminished property value, stigma,
28 remediation and abatement costs.

JURY TRIAL DEMAND AND PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court enter an order or judgment against Defendants as follows:

- A. Enter an Order pursuant to Federal Rule of Civil Procedure 23 permitting this action to be maintained as a class action, appointing Plaintiffs as the representatives of the Classes and Plaintiffs' counsel as counsel for the Classes;
- B. Enter an Order requiring the Defendants to bear the costs of medical monitoring, for the Medical Monitoring Class including, but not limited to, testing, examination, preventative and diagnostic screening and treatment for conditions that can result from, or may potentially result from, exposure to the Site Contaminants;
- C. Enter an Order requiring injunctive relief – that the Defendants bear the costs of a property inspection, abatement and remediation program, including, but not limited to, testing, examination, abatement and remediation of the Site Contaminants at each Class Area Property;
- D. Enter an Order requiring the Defendants to bear the cost of publication to Plaintiffs and Class Members of approved guidelines and procedures for medical screening and monitoring of Plaintiffs and Class Members, the content, form and manner of such publication to be approved by the Court;
- E. Enter judgment in favor of Plaintiffs and Class Members against Defendants for costs to be incurred in medical monitoring, loss of property value, stigma, loss of use and enjoyment, unjust enrichment and for all other relief, in an amount to be proven at trial, as to which they may be entitled, including interest, fees and costs of this suit;
- F. Award prejudgment and post-judgment interest as provided by law;

1 G. Award punitive damages; and

2 H. Award such other relief as this Court deems necessary, just and
3 proper.

4 Dated: May 10, 2021

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