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8 *ex rel. Rob Bonta, Attorney General*

**Exempt from filing fees pursuant to
Government Code section 6103**

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

12
13 **THE PEOPLE OF THE STATE OF**
14 **CALIFORNIA, ex rel. Michael N. Feurer,**
Los Angeles City Attorney,
15
16 **v.**
17 **S&W ATLAS IRON & METAL CO., INC.,**
18 **a California corporation; 10019 S.**
ALAMEDA LLC, a California limited
19 **liability company; GARY J.**
WEISENBERG, an individual; MATTHEW
20 **J. WEISENBERG, an individual; and**
DOES 1-20,
21
22 **Defendants.**

Case No. 21STCV13453

*[Assigned for all purposes to the Hon. Terry
A. Green]*

**PEOPLE'S NOTICE OF MOTION AND
MOTION FOR LEAVE TO INTERVENE;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
ABIGAIL BLODGETT IN SUPPORT
THEREOF**

Date: June 23, 2021
Time: 8:45 a.m.
Dept: 14
Reservation ID: 883189480745
Action Filed: April 8, 2021
Trial: None set

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE** that on June 23, 2021, at 8:45 a.m. in Department 14 of the Los
3 Angeles County Superior Court's Stanley Mosk Courthouse, located at 111 North Hill Street, Los
4 Angeles, California, 90012, the People of the State of California, *ex rel.* Rob Bonta, Attorney
5 General (People) will move, and hereby do move the Court for leave to intervene in the above-
6 captioned action pursuant to Code of Civil Procedure section 387, subdivision (d). The People's
7 proposed Complaint in Intervention (Complaint) is attached to the People's Motion for Leave to
8 Intervene (Motion) as Exhibit 1. The People's Complaint alleges, in part, that Defendants S&W
9 Atlas Iron & Metal Co., Inc., 10019 S. Alameda LLC, Gary J. Weisenberg, and Matthew J.
10 Weisenberg (collectively, Atlas Metal) have created and maintained a public nuisance at its scrap
11 metal recycling facility located at 10019 South Alameda Street in Los Angeles, California (Atlas
12 Facility). The Atlas Facility endangers the health and safety of the surrounding community,
13 including the directly adjacent Jordan High School, and the environment in violation of Civil
14 Code section 3479 et seq., Health and Safety Code 41700 et seq., Business and Professions Code
15 section 17200 et seq., and Government Code section 12607. The People seek abatement,
16 injunctive relief, civil penalties, and any other relief that the Court deems just and proper.

17 The People's Motion is based on the following grounds:

18 1. Pursuant to Government Code section 12606, the People, as represented by the
19 Attorney General, have an unconditional right to intervene in any judicial or administrative
20 proceeding in which facts are alleged concerning pollution or adverse environmental effects that
21 could affect the public in general. Such facts are alleged in the current action pending against
22 Atlas Metal before this Court. Accordingly, the Court should grant the People leave to intervene
23 in this action pursuant to Code of Civil Procedure section 387, subdivision (d)(1)(A).

24 2. The People's Motion is timely, will not impair or impede the prompt resolution of the
25 issues presented in this action, will obviate delays, will prevent a multiplicity of lawsuits, is based
26 on a direct interest in the litigation, and will not prejudice the existing parties.

27 The Motion is based upon this Notice, the People's Complaint in Intervention, the
28 accompanying Memorandum of Points and Authorities, the Declaration of Abigail Blodgett in

1 support of the Motion, any matters of which the Court may take judicial notice, the pleadings on
2 file with the Court in this action, and such other matters which may be brought to the attention of
3 the Court before or during the hearing of this Motion.
4

5 Dated: May 28, 2021

Respectfully Submitted,

6 ROB BONTA
7 Attorney General of California
8 CHRISTIE VOSBURG
9 Supervising Deputy Attorney General

10 

11 _____
12 ABIGAIL BLODGETT
13 SCOTT LICHTIG
14 Deputy Attorneys General
15 *Attorneys for the People of the State of*
16 *California, by and through the Attorney*
17 *General*
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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
MOTION FOR LEAVE TO INTERVENE

INTRODUCTION

Pursuant to Code of Civil Procedure section 387, subdivision (d), the People of the State of California *ex rel.* Rob Bonta, Attorney General (People), seek to intervene in Case Number 21STCV13453 to support the People of the State of California *ex rel.* Michael N. Feurer, Los Angeles City Attorney (City). The City's case was initiated on April 8, 2021, when it filed a Complaint against Defendants S&W Atlas Iron & Metal Co., Inc., 10019 S. Alameda LLC, Gary J. Weisenberg, and Matthew J. Weisenberg (collectively, Atlas Metal) in the Los Angeles Superior Court (City's Complaint). More recently, the City filed its First Amended Complaint on May 26, 2021 (City's FAC). The People's Complaint is attached hereto at Exhibit 1.

The People have an unconditional right to intervene in actions where facts are alleged concerning pollution and adverse environmental effects that could affect the public in general and a motion to intervene is timely. (Code Civ. Proc., § 387, subd. (d)(1)(A); Gov. Code, § 12606.) In this case, the City alleges, among other things, that Atlas Metal has created and maintained a public nuisance due to pollution from its scrap metal recycling facility (Atlas Facility) that endangers the health and safety of the surrounding community, including the directly adjacent Jordan High School (Jordan High), and impairs the local environment. The City's FAC states that the Atlas Facility projects metal objects from its property onto the Jordan High campus, maintains dangerously high piles of scrap metal, emits noxious fumes, smoke, and/or dust, and generates excessive noise, all of which interferes with Jordan High's use of its campus and affects the public in general. These allegations indisputably concern pollution and adverse environmental effects. Further, the People's Motion for Leave to Intervene (Motion) is timely because intervention is being sought within a reasonable time, will avoid delays, and will prevent additional lawsuits, the People have a direct interest in the litigation, and the existing parties will not be prejudiced by the People's intervention at this early stage of the proceedings. Therefore, the People should be granted leave to file the People's Complaint pursuant to Code of Civil Procedure section 387, subsection (d)(1)(A), and Government Code section 12606.

STATEMENT OF ALLEGED FACTS

Atlas Metal has operated a scrap metal recycling facility in the historically disadvantaged neighborhood of Watts since approximately 1947. (City's FAC, ¶ 18.) The Atlas Facility shares its southern and western walls with Jordan High's campus, which was founded in 1923. (City's FAC, ¶¶ 3, 17.)

Atlas Metal has a long history of hazardous and unlawful operations that have resulted in numerous enforcement actions by environmental and public health agencies, including the California Department of Toxic Substances Control, the Los Angeles County Fire Health and Hazardous Material Division, the Los Angeles Department of Building and Safety, and the Los Angeles Fire Department. (City's FAC, ¶ 24.) Since at least 2002, Atlas Metal's operations have launched metal projectiles onto the Jordan High campus, with the most frequent incidents occurring during the past year. (City's FAC, ¶ 26.) Atlas Metal also stores scrap metal in large piles that often exceed the height of the border wall separating the Atlas Facility from Jordan High, causing dangerous conditions for the surrounding community. (City's FAC, ¶¶ 31-34.) Further, Atlas Metal has repeatedly exposed students, staff, and workers at Jordan High and other community members to noxious fumes, smoke, and/or dust from its operations. (City's FAC, ¶¶ 36-37.) These fumes, smoke, and dust appear to be generated by multiple activities at the Atlas Facility, such as torch cutting objects that contain oil, grease, and plastic, and have reportedly caused exposed individuals to experience breathing problems and other illness. (*Ibid.*) Atlas Metal's operations also generate excessive and offensive noise levels that impact the health and welfare of Jordan High and the surrounding community. (City's FAC, ¶ 45.)

On April 8, 2021, the City filed a Complaint against Atlas Metal in Los Angeles Superior Court seeking remedies and penalties for Atlas Metal's unlawful operations. On May 26, 2021, the City filed its FAC with similar allegations. The City's FAC alleges three causes of action against Atlas Metal, including violations of California's public nuisance law (Civil Code section 3479 et seq.), violations of the Los Angeles Municipal Code's public nuisance law (Los Angeles Municipal Code section 11.00, subdivision (1)), and violations of the unlawful prong of the Unfair Competition Law (Business and Professions Code section 17200 et seq.). (City's FAC, ¶¶ 49-69.)

1 Previously, on June 12, 2020, the Los Angeles Unified School District (LAUSD) filed an action
2 in Federal Court against Atlas Metal to, in part, seek Atlas Metal’s compliance with
3 environmental laws. (City’s FAC, ¶ 25.)

4 **ARGUMENT**

5 **I. THE PEOPLE ARE ENTITLED TO INTERVENE AS A MATTER OF RIGHT**

6 The standard for intervention as a matter of right, otherwise known as mandatory
7 intervention, is provided by Code of Civil Procedure section 387, subdivision (d)(1): “The court
8 shall, upon timely application, permit a nonparty to intervene in the action or proceeding if . . .
9 (A) [a] provision of law confers an unconditional right to intervene . . .” The People, through the
10 Attorney General, have the unconditional right to intervene in the current action pursuant to
11 Government Code section 12606, which states: “The Attorney General *shall* be permitted to
12 intervene in any judicial or administrative proceeding in which facts are alleged concerning
13 pollution or adverse environmental effects which could affect the public generally.” (Emphasis
14 added.) This statute is one of several that codify the Attorney General’s unique authority to
15 protect the environment of the State. (*City of Long Beach v. City of Los Angeles* (2018) 19
16 Cal.App.5th 465, 476.)

17 As discussed above, the City’s FAC alleges that Atlas Metal has a long history of
18 noncompliance with environmental laws and continues to endanger the public with its pollution-
19 generating operations. (City’s FAC, ¶¶ 24, 26, 31-34, 36-37.) The types of pollution caused by
20 the Atlas Facility include rogue metal objects, pieces, and shrapnel, large stockpiles of scrap
21 metal materials, noxious fumes, smoke, dust, and excessive noise. (City’s FAC, ¶¶ 26, 31-34, 36-
22 37, 45.) Accordingly, the People should be granted leave to file the People’s Complaint per Code
23 of Civil Procedure section 387, subsection (d)(1)(A).

24 **II. THE MOTION TO INTERVENE IS TIMELY**

25 The People are filing a timely motion to intervene under Code of Civil Procedure section
26 387, subdivision (d)(1). The People’s Motion is timely because: intervention is being sought
27 within a reasonable time; intervention will avoid delays; intervention will prevent additional
28 lawsuits; the People have a direct interest in the pending litigation; and the existing parties will

1 not be prejudiced by the People’s intervention at this early stage of the proceedings.

2 **A. Legal Standard for Timeliness**

3 Code of Civil Procedure section 387, subdivision (d)(1), provides that a court shall permit
4 intervention by a nonparty with an unconditional statutory right to do so “upon timely
5 application.” However, there is no statutory time limit for filing a motion to intervene. (*Noya v.*
6 *A.W. Coulter Trucking* (2006) 143 Cal.App.4th 838, 842.) Courts have determined that Code of
7 Civil Procedure section 387 “should be liberally construed in favor of intervention.” (*Lindelli v.*
8 *Town of San Anselmo* (2006) 139 Cal.App.4th 1499, 1505.)

9 In determining whether a motion for intervention is timely, “it is the general rule that a right
10 to intervene should be asserted within a reasonable time and that the intervener must not be guilty
11 of an unreasonable delay after knowledge of the suit.” (*Sanders v. Pacific Gas & Electric Co.*
12 (1975) 53 Cal.App.3d 661, 668 [citing *Allen v. Cal. Water and Telephone Co.* (1947) 31 Cal.2d
13 104].) Intervention is particularly timely when it obviates delay and prevents multiplicity of suits.
14 (*Ibid.*) Finally, intervention is timely when the applicant has demonstrated a direct interest and
15 the existing parties have not shown any prejudice that would arise from intervention. (*Truck Ins.*
16 *Exchange v. Super. Ct.* (1997) 60 Cal.App.4th 342, 351.)

17 **B. The People Are Seeking Intervention Within A Reasonable Time**

18 The California Attorney General’s Office received notice of the filing of the City’s
19 Complaint on April 8, 2021. (Declaration of Abigail Blodgett in Support of People’s Motion for
20 Leave to Intervene (Blodgett Decl.), ¶ 4.) Since receiving notice of the City’s Complaint, the
21 People have spent considerable time evaluating the factual and legal allegations in the City’s
22 Complaint, researching the current and past conditions at the Atlas Facility, engaging with the
23 City to fully understand the arguments, and preparing the necessary documents to seek leave to
24 intervene in this action. (Blodgett Decl., ¶ 5.) Therefore, the People have not caused any
25 unreasonable delays since learning of the action.

26 **C. The People’s Intervention Will Obviate Delay and Prevent Multiplicity of Suits**

27 The People filed its Motion near the inception of this matter, so the People’s intervention
28 will not cause any significant delays to the litigation schedule. This case is still in its early

1 stages—Atlas Metal has not filed a response to the City’s Complaint or FAC and no hearings on
2 the merits have been held. (Blodgett Decl., ¶ 6.) The first Case Management Conference for this
3 case is scheduled for October 15, 2021, over four months from the date of this Motion. (*Ibid.*) If
4 intervention is granted, the People would like the opportunity to file a response to Atlas Metal’s
5 pending Motion to Stay and file a brief in support of the City’s proposed Preliminary Injunction.
6 (Blodgett Decl., ¶ 8.) The People would meet and confer with the parties in an effort to reach an
7 agreement on any adjustments to the briefing and hearing schedules to allow for the People to
8 submit these filings, and if necessary, may seek relief from the Court. (*Ibid.*) However, since the
9 litigation is still at its early stages, intervention at this time is opportune and will obviate the more
10 significant impacts that would be caused by seeking intervention at a later stage of the
11 proceedings.

12 Moreover, allowing the People to intervene at this time will prevent the need for an
13 independent action by the People, thus avoiding a multiplicity of suits. (*Sanders, supra*, 53
14 Cal.App.3d at p. 668.) Therefore, the Court would avoid delay in this litigation and prevent
15 complicating this matter with an additional lawsuit by granting the People’s Motion.

16 **D. The People Have a Direct Interest in the Case and Will Not Prejudice the Parties**
17 **with Their Intervention**

18 The People have a direct interest in the issues raised by this case because of the Attorney
19 General’s statutory duty to safeguard the wellbeing of the State’s residents and environment
20 under Government Code 12606 and other similar provisions.¹ The People also have a direct and
21 immediate interest in the safety and wellbeing of school children, staff, and other workers at
22 Jordan High, in Atlas Metal’s compliance with environmental and public health laws, and in
23 ensuring the abatement of any harmful public nuisance caused by Atlas Metal’s operations.

24 Moreover, the People’s intervention will not prejudice the parties. As noted, the litigation
25 is still in its early stages—Atlas Metal has not responded to the City’s Complaint or FAC and no
26 hearings on the merits have been held. (Blodgett Decl., ¶ 6.) The first Case Management
27 Conference for this case is scheduled for October 15, 2021, in over four months. (*Ibid.*) Neither

28 ¹ See Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612.

1 the City nor Atlas Metal have presented arguments to the Court beyond their initial pleadings and
2 emergency ex-parte applications, and no dispositive rulings have been issued. (*Ibid.*) The City
3 has also indicated that it will not oppose the People's Motion. (Blodgett Decl., ¶ 7.) Therefore,
4 the People have a direct interest in this case and the People's intervention will not prejudice the
5 parties.

6 The Attorney General now seeks to exercise his unconditional right to intervene at the early
7 stages of this case as the State's chief law officer and on behalf of the People of California in
8 order to safeguard the environment and public health.

9 CONCLUSION

10 The People have an unconditional right to intervene in case number 21STCV13453.
11 Therefore, the Court should grant the People leave to file the People's Complaint.

12 Dated: May 28, 2021

Respectfully Submitted,

13
14 ROB BONTA
Attorney General of California
15 CHRISTIE VOSBURG
Supervising Deputy Attorney General

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17 

18 _____
ABIGAIL BLODGETT
19 SCOTT LICHTIG
Deputy Attorneys General
20 *Attorneys for the People of the State of*
21 *California, by and through the Attorney*
22 *General*
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DECLARATION OF ABIGAIL BLODGETT

I, Abigail Blodgett, declare as follows:

1. I am a Deputy Attorney General with the California Attorney General's Office in Oakland. I have been assigned to represent the People of the State of California, *ex rel.* Rob Bonta, Attorney General (People), in the above-entitled action.

2. I make the following statements based upon personal knowledge of the facts and, if called as a witness, I could competently testify to these statements.

3. The People of the State of California *ex rel.* Michael N. Feurer, Los Angeles City Attorney (City), filed a Complaint against S&W Atlas Iron & Metal Co., Inc., 10019 S. Alameda LLC, Gary J. Weisenberg, and Matthew J. Weisenberg (collectively, Atlas Metal) in the Los Angeles Superior Court on April 8, 2021. The City's Complaint alleges three causes of action against Atlas Metal, including violations of California's public nuisance law (Civil Code section 3479 et seq.), violations of the Los Angeles Municipal Code's public nuisance law (Los Angeles Municipal Code section 11.00, subdivision (I)), and violations of the unlawful prong of the Unfair Competition Law (Business and Professions Code section 17200 et seq.).

4. I received notice of the filed Complaint on April 8, 2021 via an email from Jessica Brown, who is the Supervisor of the City's Environmental Justice Unit.

5. Since receiving notice of the City's Complaint, the Attorney General's Office has spent considerable time and effort evaluating the factual and legal allegations in the City's Complaint, researching the current and past conditions at Atlas Metal's scrap metal recycling facility, engaging with the City to fully understand the arguments, and preparing the necessary documents to seek leave to intervene in this action.

6. The action is still in its early stages. Atlas Metal has not filed a response to the City's Complaint or First Amended Complaint and no hearings on the merits have been held. The only hearings that have occurred were ex-parte hearings regarding the City's request for an emergency Temporary Restraining Order on April 8 and 12, 2021 and Atlas Metal's ex-parte application to shorten time to consider its anticipated Motion to Stay on April 15, 2021. No dispositive rulings have been issued. Further, the first Case Management Conference for this case is scheduled for

1 October 15, 2021.

2 7. Given the early stages of the proceedings, the People's intervention in this action will
3 not prejudice the parties. On May 17, 2021, I spoke with Jessica Brown, counsel for the City,
4 who indicated that the City would not oppose the People's Motion to Intervene.

5 8. If intervention is granted, the People would like the opportunity to file a response to
6 Atlas Metal's pending Motion to Stay and file a brief in support of the City's proposed
7 Preliminary Injunction. The People would meet and confer with the parties in an effort to reach
8 an agreement on any adjustments to the briefing and hearing schedules to allow for the People to
9 submit these filings, and if necessary, may seek relief from the Court.

10 I, Abigail Blodgett declare under penalty of perjury under the laws of the State of California
11 that the above is true and correct. Executed on May 28, 2021, in Oakland, California.

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14 _____
15 ABIGAIL BLODGETT
16 Deputy Attorney General
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EXHIBIT 1

1 ROB BONTA
2 Attorney General of California
3 CHRISTIE VOSBURG, SBN 267033
4 Supervising Deputy Attorney General
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13 E-mail: Abigail.Blodgett@doj.ca.gov
14 *Attorneys for the People of the State of California,*
15 *ex rel. Rob Bonta, Attorney General*

**Exempt from filing fee pursuant to
Government Code section 6103**

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF LOS ANGELES

14 **THE PEOPLE OF THE STATE OF
15 CALIFORNIA, ex rel. Michael N. Feurer,
16 Los Angeles City Attorney,**

16 Plaintiff,

17 v.

18 **S&W ATLAS IRON & METAL CO., INC.,
19 a California corporation; 10019 S.
20 ALAMEDA LLC, a California limited
21 liability company; GARY J.
22 WEISENBERG, an individual; MATTHEW
23 J. WEISENBERG, an individual; and
24 DOES 1-20,**

22 Defendants.

Case No. 21STCV13453

*[Assigned for all purposes to the Hon. Terry
A. Green]*

**PEOPLE'S COMPLAINT IN
INTERVENTION FOR EQUITABLE
RELIEF AND CIVIL PENALTIES FOR:**

- (1) PUBLIC NUISANCE;
- (2) HEALTH & SAFETY CODE,
§ 41700;
- (3) BUSINESS & PROFESSIONS
CODE, § 17200; AND
- (4) GOVERNMENT CODE, § 12607

Dept: 14
Action Filed: April 8, 2021
Trial: None set

INTRODUCTION

1. This action is brought on behalf of the People of the State of California (People), acting by and through Rob Bonta, Attorney General, in his independent capacity against S&W Atlas Iron & Metal Co., Inc., 10019 S. Alameda LLC, Gary J. Weisenberg, Matthew J. Weisenberg, and Does 1 through 20 (collectively, Atlas Metal or Defendants).

2. Atlas Metal operates a scrap metal recycling facility at 10019 South Alameda Street in the Watts neighborhood of the City of Los Angeles, California (Atlas Facility). At the Atlas Facility, Atlas Metal purchases loads of scrap material from its customers and sorts the scrap using heavy machinery to separate metals of value for resale from waste material, including hazardous waste, for disposal. Atlas Metal stores scrap materials on site in massive piles several stories high, at times up to heights of approximately 20 to 30 feet.

3. The Atlas Facility is located within a short distance of several vulnerable populations particularly susceptible to pollution. Jordan High School (Jordan High), a campus educating students from the surrounding Watts community, shares two borders with the Atlas Facility. Immediately to the northwest of the Atlas Facility is the newly-constructed Jordan Downs Public Housing Complex, serving low-income residents. The Southeast Middle School playground also sits approximately 200 feet to the east.



Figure 1: Aerial view of the Atlas Facility and the surrounding community. (Photo credit: Google Maps)

4. The Atlas Facility as operated constitutes a public nuisance. Over the past year, Atlas Metal's operations have resulted in metal shards being projected into the outdoor areas at Jordan High. These metal projectiles are believed to be coming from the massive piles of scrap material towering over the Jordan High campus.



Figures 2 & 3: Atlas Metal scrap metal piles adjacent to Jordan High's softball field and basketball court on March 15, 2021. (Photo credit: Los Angeles Unified School District)

5. In that same time period, operations at the Atlas Facility have resulted in incidences of noxious plumes of smoke, dust, and fumes being released from the site into the surrounding community.

6. After over a year of remote learning because of the COVID-19 pandemic, students are now attending Jordan High in person, including recreating on the field and blacktop directly adjacent to the Atlas Facility where metal projectiles have recently been discovered. The Jordan High students returned to a campus exposed to unsafe and unacceptable conditions resulting from operations at the Atlas Facility next door.

7. While the threat from the Atlas Facility has increased due to Atlas Metal's actions over the past year, Atlas Metal has a long history of violations brought by both local and state regulatory agencies. These violations include, but are not limited to, continuing mismanagement of hazardous waste stored onsite and repeated violations of the local use conditions applicable to the Atlas Facility. Atlas Metal also has a prior history of interfering with the use of Jordan High, including causing a major explosion at the Atlas Facility, resulting in metal shards flying onto the Jordan High campus and the mandatory evacuation of all students.

8. The Atlas Facility endangers the health and safety of the surrounding community.

1 Atlas Metal's actions are violations of California's public nuisance law (Civil Code section 3479
2 et seq.), Health and Safety Code section 41700, which protects communities from harmful
3 emissions of air contaminants, and the Unfair Competition Law (UCL) (Business and Professions
4 Code section 17200 et seq.). Atlas Metal is also liable under Government Code section 12607 for
5 polluting, impairing, and/or destroying the natural resources of the State. To remedy these
6 claims, the People seek abatement, injunctive relief, civil penalties, and any other relief that the
7 Court deems just and proper.

8 **ALLEGATIONS SUPPORTING INTERVENTION**

9 9. Pursuant to Code of Civil Procedure section 387, subdivision (d), the People of the
10 State of California *ex rel.* Rob Bonta, Attorney General, seek to intervene in Case Number
11 21STCV13453 to support the People of the State of California *ex rel.* Michael N. Feurer, Los
12 Angeles City Attorney (City). The City's case was initiated on April 8, 2021, and the City filed
13 its First Amended Complaint (City's FAC) on May 26, 2021. The City's FAC includes similar
14 causes of action against Atlas Metal for violations of California's public nuisance law and the
15 unlawful prong of the UCL, in addition to separate violations of the Los Angeles Municipal
16 Code's public nuisance law (Los Angeles Municipal Code section 11.00, subdivision (l)).

17 **PARTIES**

18 10. The People bring this action by and through Rob Bonta, in his independent capacity
19 as Attorney General of California.

20 11. The Attorney General, as the chief law enforcement officer of the State of California,
21 is charged with ensuring that the laws of this state are adequately and uniformly enforced. The
22 Attorney General has broad independent powers under the California Constitution and the
23 California Government Code to participate in all legal matters in which the State is interested, and
24 has special and explicit statutory authority to participate in cases involving the protection of
25 California's environment. (Cal. Const., art. V, § 13; Gov. Code, §§ 12511, 12600-12612.) The
26 Attorney General is authorized to enjoin nuisances under Civil Code section 3494, including
27 violations of Civil Code sections 3479 and 3480. The Attorney General is further authorized to
28 enjoin violations of Health and Safety Code section 41700 and collect civil penalties for each

1 violation pursuant to Health and Safety Code sections 41513 and 42403. The Attorney General is
2 also authorized by Business and Professions Code sections 17204, 17206, and 17207 to enjoin
3 any person who violates California's UCL, and to obtain mandatory civil penalties for each act of
4 unfair competition.

5 12. Defendant S&W Atlas Iron & Metal Co., Inc. (S&W Atlas Iron) is a closely-held
6 California corporation doing business at the Atlas Facility in the City of Los Angeles, California.
7 S&W Atlas Iron operates the Atlas Facility and purchases and stores metal for recycling.

8 13. Defendant 10019 S. Alameda LLC (Alameda LLC) is a limited liability company
9 registered in California. Upon information and belief, Alameda LLC owns the property at 10019
10 S. Alameda Street in Los Angeles, California, and leases it to S&W Atlas Iron.

11 14. Defendant Gary J. Weisenberg (Gary Weisenberg) is the Chief Executive Officer and
12 Chief Financial Officer of S&W Atlas Iron and the sole manager of Alameda LLC. At all times
13 relevant herein, Gary Weisenberg was legally responsible for compliance with California law,
14 including Civil Code section 3479 et seq., Health and Safety Code section 41700 et seq., and
15 Business and Professions Code section 17200 et seq. Gary Weisenberg was in a position of
16 responsibility with influence over the activities and policies of both S&W Atlas Iron's and
17 Alameda LLC's compliance with California laws and regulations as well as the conduct of its
18 business in the State of California, and had, by reason of his corporate positions, responsibility
19 and authority either to prevent in the first instance, or promptly correct, the violations
20 complained-of herein, but failed to do so. In addition to any direct personal liability, Gary
21 Weisenberg is also personally liable under the "responsible corporate officer doctrine" for
22 violations of law committed by S&W Atlas Iron and Alameda LLC as alleged herein.

23 15. Defendant Matthew J. Weisenberg (Matthew Weisenberg) is the corporate Secretary
24 of S&W Atlas Iron. At all times relevant herein, Matthew Weisenberg was legally responsible
25 for compliance with California law, including Civil Code section 3479 et seq., Health and Safety
26 Code section 41700 et seq., and Business and Professions Code section 17200 et seq. Mathew
27 Weisenberg was in a position of responsibility with influence over the activities and policies of
28 S&W Atlas Iron's compliance with California laws and regulations and in the conduct of its

1 business in the State of California, and had, by reason of his corporate position, the responsibility
2 and authority either to prevent in the first instance, or promptly correct, the violations
3 complained-of herein, but failed to do so. In addition to any direct personal liability, Matthew
4 Weisenberg is also personally liable under the “responsible corporate officer doctrine” for
5 violations of law committed by S&W Atlas Iron as alleged herein.

6 16. The true names and capacities of Does 1 through 20, inclusive, are unknown to the
7 People, who therefore sue these Does by such fictitious names. The People will amend this
8 Complaint to show the true names and capacities when the same have been ascertained. The
9 People are informed and believe, and on that basis allege, that each of these fictitiously named
10 Does 1 through 20, inclusive, are legally responsible in some manner for the events, occurrences,
11 and circumstances that form the basis of this lawsuit, and are thereby liable for the violations
12 asserted herein.

13 17. When reference is made to any act or omission of Defendants in this Complaint, such
14 allegations shall include the acts and omissions of owners, officers, directors, agents, employees,
15 contractors, vendors, affiliates, and representatives of Defendants while acting within the course
16 and scope of their employment or agency on behalf of Defendants.

17 **JURISDICTION AND VENUE**

18 18. The amount in controversy exceeds the minimal jurisdictional limits of this Court.

19 19. This Court has jurisdiction over this action pursuant to the California Constitution,
20 Article VI, section 10, Government Code sections 12600 and 12607, Code of Civil Procedure
21 section 731, Business and Professions Code sections 17204 and 17206, and Health and Safety
22 Code section 42403.

23 20. Venue is proper in Los Angeles County pursuant to Code of Civil Procedure sections
24 393 and 395.5 because Atlas Metal is located in Los Angeles County and the violations of law
25 alleged herein have occurred in Los Angeles County.

26 **BACKGROUND**

27 **A. The Community Surrounding the Atlas Facility**

28 21. Atlas Metal began operating at the Atlas Facility site in the Watts neighborhood in or

1 around 1947. The site selected for this metal processing facility is next door to Jordan High,
2 located at 2265 East 103rd Street in Los Angeles, California. Jordan High's softball field borders
3 the Atlas Facility's western wall and its gym, basketball courts, batting cages, and some
4 classrooms border Atlas Facility's southern wall.

5 22. Jordan High was founded decades before the Atlas Facility commenced operations, in
6 or around 1923, and has been educating California students from the surrounding communities
7 for nearly a century. Now part of the Los Angeles Unified School District (LAUSD), Jordan
8 High serves a historically-disadvantaged and underserved student population. In the 2019-2020
9 school year, 99 percent of Jordan High students were English learners, foster youth, and/or
10 eligible for free or reduced-price meals. That same year, 99 percent of Jordan High's students
11 were Black and/or Latinx.

12 23. The Jordan Downs Public Housing Complex is located immediately to the northwest
13 of the Atlas Facility. This 700-unit affordable housing development serves a critical housing
14 need in the community and is undergoing a major renovation to improve housing conditions and
15 add more units.

16 24. North of the Atlas Facility is a shopping center serving the local community, named
17 Freedom Plaza, at or around 9901 South Alameda Street in Los Angeles, California.

18 25. The Atlas Facility is also sited near additional schools that serve a historically-
19 disadvantaged and underserved student population, including the Southeast Middle School,
20 Weigand Avenue Elementary School, and the Southeast High School.

21 26. The community surrounding the Atlas Facility already suffer from some of the
22 highest environmental pollution burdens in all of California. According to CalEnviroScreen, a
23 tool used by the State of California to measure cumulative environmental burdens in
24 communities, the census tract in which the Atlas Facility is located suffers overall impacts in the
25 100th percentile compared to all other census tracts in California.

26 27. The community impacted by Atlas Metal's operations is made up of people of color.
27 Over 99 percent of the population living in the census tracts in which the Atlas Facility and
28 Jordan High are located are non-white, consisting largely of Latinx and/or Black residents.

B. Operations and History of Violations at the Atlas Facility

28. Atlas Metal operates a scrap metal recycling business in which it purchases loads of scrap material and processes and segregates the re-saleable metals from waste for disposal. The Atlas Facility performs a number of services for customers, including metal disposal, shearing, bailing, transport, and demolition.

29. As part of its operations, Atlas Metal maintains enormous piles of scrap materials throughout the site. These mounds, reaching heights believed to exceed 20 feet, tower over the surrounding neighborhood, including the Jordan High campus. The scrap piles constitute a public nuisance, obstructing Jordan High's free use of its campus so as to interfere with its comfortable enjoyment of life or property.



Figure 4: Piles of scrap material at the Atlas Facility from Jordan High's parking lot to the south on March 15, 2021. (Photo credit: LAUSD)



Figure 5: Piles of scrap material at the Atlas Facility from Freedom Plaza's parking lot to the north on May 21, 2021. (Photo credit: LAUSD)

1 30. Atlas Metal has a long history of mismanagement that has threatened the public
2 health and safety of the surrounding community, including the students and staff at Jordan High.
3 These incidents have resulted in enforcement actions taken against Atlas Metal by various
4 regulatory agencies, including the Los Angeles Department of Building and Safety (LADBS), the
5 California Department of Toxic Substances Control (DTSC), the Los Angeles Fire Department
6 (LAFD), and the Los Angeles County Fire Health and Hazardous Material Division (LA County
7 CUPA).

8 31. Atlas Metal operates the Atlas Facility pursuant to the Los Angeles Municipal Code
9 (L.A.M.C.) and the terms of the Jordan Downs Specific Plan (Specific Plan), including but not
10 limited to the conditions in the Specific Plan's "Attachment A." Several applicable conditions of
11 the Specific Plan are intended to mitigate Atlas Metal's impact on the surrounding community.

12 32. One such condition of the Specific Plan is that Atlas Metal must not maintain piles
13 higher than ten feet when stored within ten feet of the border wall separating the Atlas Facility
14 from Jordan High. Atlas Metal regularly violates this condition, piling scrap metal and other
15 materials in the ten-foot border area at heights that exceed the border wall protecting the Jordan
16 High campus.

17 33. Another condition of the Specific Plan requires Atlas Metal to maintain a 50-foot
18 buffer zone (Buffer Zone) free of operations or storage of materials along the western and
19 southern property boundaries the Atlas Facility shares with Jordan High, absent prior approval
20 from the City of Los Angeles. Nonetheless, Atlas Metal has a long, well-documented history of
21 unlawfully operating machinery and storing materials in the Buffer Zone. Incidences of
22 documented unauthorized operations by Atlas Metal in the Buffer Zone include, but are not
23 limited to incidents on or around: February 1, 2018; March 1, 2018; July 12, 2019; October 2019;
24 December 12, 2019; June 18, 2020; August 11, 2020; August 27, 2020; September 23, 2020;
25 October 6, 2020; November 10, 2020; December 3, 2020; December 11, 2020; January 21, 2021;
26 January 26, 2021; January 29, 2021; February 25, 2021; February 26, 2021; March 4, 2021; and
27 every day since at least April 8, 2021.
28

1 34. The Specific Plan also limits operations at the Atlas Facility to the hours of 7 A.M. to
2 3:30 P.M. Monday through Friday and 7 A.M. to 11:30 A.M. on Saturday. As repeatedly
3 documented by LAUSD, the City, and DTSC, operations at the Atlas Facility often violate this
4 condition, commencing as early as 6:30 A.M. and continuing until 5 P.M. to 5:30 P.M.

5 35. The repeated and continuous violations of the Specific Plan's operational conditions
6 intended to protect the nearby community demonstrates a wanton disregard by Atlas Metal for the
7 health and safety of the surrounding residents and the students and staff at Jordan High.

8 36. Atlas Metal has also been the subject of multiple enforcement actions by DTSC
9 related to its mismanagement and releases of hazardous waste in violation of California's
10 Hazardous Waste Control Law (HWCL), California Health and Safety Code section 25100 et seq.
11 These actions include:

- 12 a. In 2008, DTSC and Atlas Metal entered into a stipulated judgment in this Court
13 requiring that Atlas Metal cleanup onsite hazardous waste contamination and pay
14 for the cleanup of contamination at Jordan High. Sampling commenced in 2004 at
15 both the Atlas Facility and Jordan High, and results revealed elevated levels of
16 contaminants including polychlorinated biphenyls, lead, and arsenic that required
17 significant remediation. The judgment required that Atlas Metal pay DTSC a total
18 of \$350,000, of which \$210,000 was designated for cleanup of the Jordan High
19 campus. The judgment also required that Atlas Metal construct a concrete cap
20 over contaminated areas in the northwest corner of the Atlas Facility and record a
21 land use covenant restricting activities on the capped area to protect its integrity
22 and prevent exposure of the contaminated soil underneath.
- 23 b. In 2016, DTSC inspected the Atlas Facility and found multiple HWCL violations.
24 DTSC discovered soil and debris contaminated with heavy metals on the west side
25 of the Atlas Facility, in addition to a bin leaking used oil onto a paved surface.
26 Atlas Metal was cited for failing to minimize the release of hazardous waste to
27 prevent threats to the human health and environment in violation of California
28 Code of Regulations, title 22, section 66265.31. DSTC also found used oil

1 improperly stored and improperly labeled in violation of the HWCL. Atlas Metal
2 entered into a Consent Order with DTSC where it agreed to pay a \$2,000 penalty.

- 3 c. On or around July 1, 2020, DTSC inspected the Atlas Facility and cited Atlas
4 Metal for five violations of the HWCL, including the unauthorized acceptance of
5 unprocessed compressors, illegal treatment and storage of hazardous waste, failure
6 to minimize the release of hazardous waste, illegal disposal of major appliances,
7 and failure to properly label hazardous waste.
- 8 d. On or around October 9, 2020, DTSC conducted another inspection of the Atlas
9 Facility and cited Atlas Metal for six violations of the HWCL, including the illegal
10 treatment of dirt and debris around the container loader, illegal storage of
11 hazardous waste sweepings of dirt and debris for greater than 90 days, false
12 representation of the start date on which hazardous waste had begun accumulating
13 in a roll-off bin, failure to maintain and operate the Atlas Facility in a manner that
14 minimizes the possibility of a release of hazardous waste dirt and debris to the air
15 and soil, failure to properly process appliances containing materials that require
16 special handling, and failure to make accurate waste determinations of sweepings
17 determined to be hazardous waste.

18 37. On or around June 30, 2020, the LAFD conducted an inspection of the Atlas Facility.
19 LAFD observed a number of violations, including unlawful storage around electrical panels,
20 failure to maintain fire extinguishers as required, expired eye wash stations for employees, and
21 failure to maintain the necessary signage for compressed gas.

22 38. On or about June 18, 2020, LADBS conducted an inspection of the Atlas Facility.
23 During that inspection, LADBS observed electrified, barbed-wiring atop portions of the Atlas
24 Facility's border wall. The electrified barbed-wiring was not approved by LADBS and does not
25 comply with the L.A.M.C. LADBS issued Atlas Metal a corresponding Order to Comply which
26 directed Atlas Metal to "immediately discontinue use of the electrified fence and remove all of its
27 components." (OTC dated July 6, 2020.) As of the date of the filing of this Complaint, Atlas
28 Metal has not complied with this July 6, 2020 Order to Comply.

1 **C. Metal Projectiles Found at Jordan High from Atlas Metal**

2 39. With increasing frequency, shards of metal are being projected into the community
3 surrounding the Atlas Facility, particularly the adjacent Jordan High campus. Atlas Metal has a
4 history of launching dangerous metal projectiles onto the Jordan High campus, including the
5 fields and blacktop areas on which students recreate, endangering both students and staff. These
6 incidents include, but are not limited to:

- 7 a. In or around May 2002, Atlas Metal caused an explosion while cutting a 55-gallon
8 metal drum, propelling metal shrapnel onto the Jordan High campus.
- 9 b. On or around December 9, 2002, an employee of Atlas Metal used a torch to cut
10 into a scrap ammunition shell, incorrectly believing it to be inert. The subsequent
11 explosion launched both fragments of the shell casing and nearby metal objects
12 over the fence onto the Jordan High campus. Atlas Metal's actions resulted in the
13 forced evacuation of more than 2,500 students from Jordan High that day.
- 14 c. In or around May 2018, a Jordan High student outside on the field reported that a
15 piece of metal had just been launched onto the Jordan High campus from the Atlas
16 Facility. The metal piece was recovered and measured to be approximately one
17 foot long and weighed about one-and-a-half pounds.

18 40. Since early 2020, the frequency in which the Atlas Facility operations have impacted
19 Jordan High has increased significantly. In response to increased reports of metal projectiles
20 entering the Jordan High campus, LAUSD staff began performing daily checks of the property to
21 determine whether any new pieces of metal were present. The following metal object events have
22 been documented by staff and other individuals working at Jordan High:

- 23 a. On or around February 25, 2020, employees of a construction team were working
24 at Jordan High when a seven-inch piece of sharp-edged rusted metal weighing
25 nearly ten pounds was launched from the Atlas Facility and landed on the Jordan
26 High campus. The metal projectile was reported to have narrowly missed one of
27 the construction workers.

- 1 b. On or around March 3, 2020, staff reported finding pieces of metal scrap on the
2 Jordan High campus consistent with the scrap metal at the Atlas Facility.
- 3 c. On or around May 24, 2020, employees of a construction team reported that a
4 projectile was ejected from the Atlas Facility onto the Jordan High campus. The
5 projectile is believed to have landed behind the Jordan High gymnasium (Gym).
- 6 d. On or around August 28, 2020, LAUSD staff reported three metal pieces believed
7 to have originated from the Atlas Facility on the Jordan High campus, including a
8 2-inch sharp-edged push rod and gasket, a bolt about one inch in size, and a sharp
9 fragment of metal. These metal pieces were all consistent with the scrap metal at
10 the Atlas Facility.
- 11 e. On or around September 2, 2020, LAUSD staff found three additional pieces of
12 metal shards on the Jordan High campus consistent with the scrap metal at the
13 Atlas Facility.
- 14 f. On or around September 23, 2020, LAUSD staff found several large pieces of
15 scrap metal fragments caught in the barbed wire fence that sits atop the wall
16 separating the Atlas Facility from the Jordan High campus.

17 41. In or around November 2020, after receiving multiple notices that its operations were
18 launching metal projectiles onto the Jordan High campus, Atlas Metal constructed an
19 approximately 20-foot high fence along a small portion of the boundary that Atlas Facility shares
20 with Jordan High. The fence, built without the necessary approval and permitting from LADBS,
21 did not exceed the height of the scrap metal piles on the Atlas Facility. The fence did not stop
22 projectiles from being ejected from the Atlas Facility onto the Jordan High campus.

23 42. On November 16, 2020, in a case filed by LAUSD in the United States District Court
24 for the Central District of California, Atlas Metal was ordered to “prevent metal objects from
25 being launched or emitted from Defendants’ property onto Plaintiff’s property.” (*Los Angeles*
26 *Unified School District v. S&W Atlas Iron & Metal Co., Inc.*, CV 20-5330-GW-SKx, Nov. 16,
27 2020 Order.)
28

1 43. Despite the fence and the Federal Court's order, Atlas Metal continues to launch
2 metal objects onto the Jordan High campus, including the following recent incidences:

- 3 a. On or around November 24, 2020, LAUSD staff found a 19-inch long section of
4 copper wire on the Jordan High softball field consistent with the scrap metal at the
5 Atlas Facility.
- 6 b. On or around December 1, 2020, LAUSD staff found a metal bolt on Jordan High
7 grounds consistent with the scrap metal at the Atlas Facility.
- 8 c. On or around December 8, 2020, LAUSD staff found a triangular piece of metal
9 on the Jordan High grounds next to the Gym consistent with the scrap metal at the
10 Atlas Facility.
- 11 d. On or around December 16, 2020, LAUSD staff observed a sheared metal bolt on
12 Jordan High campus near the Gym consistent with the scrap metal at the Atlas
13 Facility.
- 14 e. On or around December 17, 2020, LAUSD staff found a metal rod, about two feet,
15 seven inches long, near the Gym consistent with the scrap metal at the Atlas
16 Facility.
- 17 f. On or around January 12, 2021, LAUSD staff found a piece of metal near the
18 Gym, believed to be part of an aluminum rim, consistent with the metal scrap at
19 the Atlas Facility.
- 20 g. On or around February 11, 2021, LAUSD staff found a one-and-a-quarter inch
21 long sharp piece of scrap metal on the Jordan High campus near the batting cage,
22 just south of the Atlas Facility. The scrap metal found was consistent with the
23 scrap metal at the Atlas Facility.
- 24 h. On or around February 16, 2021, LAUSD staff found a large piece of metal, about
25 one foot long by six inches wide, on Jordan High's campus near the Gym. This
26 piece of metal is consistent with the scrap metal at the Atlas Facility.
- 27
- 28

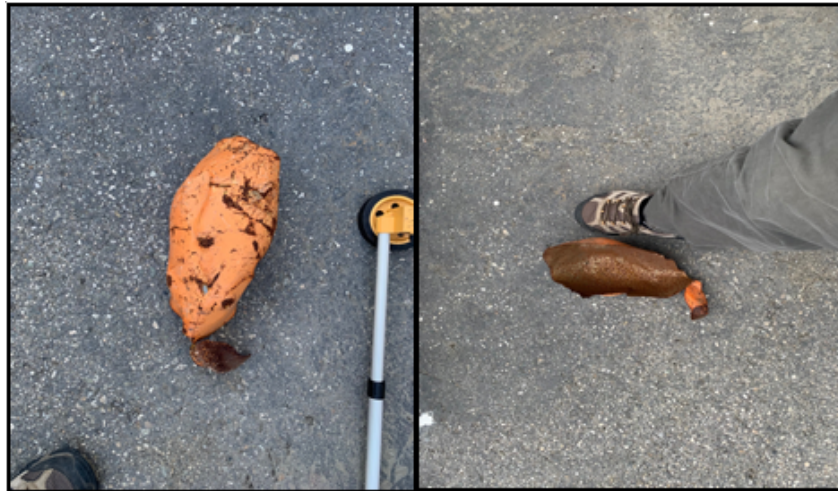


Figure 6: Scrap metal shard discovered near the Jordan High Gym Atlas on February 16, 2021. (Photo credit: LAUSD)

- i. On or around March 12, 2021, LAUSD staff found two small metal pieces near the Gym consistent with the scrap metal at the Atlas Facility.
- j. On or around March 25, 2021, LAUSD staff found a four-inch metal piece near the batting cage on the Jordan High campus consistent with the scrap metal at the Atlas Facility.
- k. On or around March 31, 2021, LAUSD staff found a piece of metal on the campus approximately 15 feet from the Atlas Facility and consistent with the scrap metal at the Atlas Facility.
- l. On or around April 6, 2021, LAUSD staff found a piece of metal on the campus near the Atlas Facility and consistent with the scrap metal at the Atlas Facility.

D. Noxious Emissions and Noise Emanating from the Atlas Facility

44. In addition to metal projectiles, Atlas Metal's operations have repeatedly caused significant amounts of noxious dust and smoke that impact the Jordan High community. These incidences include, but are not limited to:

- a. On or around June 9, 2020, from approximately 9:00 A.M. and until at least 10:48 A.M., Atlas Metal emitted fumes and/or smoke from the Atlas Facility onto the Jordan High campus. The fumes negatively impacted construction workers on the Jordan High campus, with at least one worker reporting that the fumes caused him

1 to be ill. Those observing the Atlas Facility at the time reported that the emissions
2 appeared to emanate from the Atlas Facility where a worker was using a torch to
3 cut a large object containing oil, grease, and plastic. This work was being
4 performed unlawfully within the Buffer Zone designed to mitigate such impacts.

5 b. On or around July 17, 2020, LAUSD recorded a video depicting dust emanating
6 from the Atlas Facility onto the Jordan High campus.

7 c. Beginning in or around December 2020, the Gym served as a COVID-19 testing
8 site. The smoke, odors, and fumes from the Atlas Facility were regularly emitted
9 directly onto the testing site, and the testers and staff reported trouble breathing.
10 To protect the health and safety of those at the testing site, staff installed industrial
11 fans to blow away the smoke, odors, and fumes coming from the Atlas Facility.

12 45. DTSC also has video documentation of numerous instances of visible smoke and/or
13 dust being released from the Atlas Facility onto the Jordan High campus. After receiving
14 multiple complaints that smoke and dust from the Atlas Facility was impacting the use of Jordan
15 High, DTSC installed a camera on the top of the secondary practice gym at Jordan High to record
16 the border area. Reviewing that video, DTSC has observed well over a dozen incidences of
17 significant amounts of smoke and/or dust emanating offsite from operations at the Atlas Facility.
18 These incidents recorded on video include:

- 19 a. On November 12, 2020, at approximately 10:10 A.M., a medium-sized dust cloud
20 emanated from the southern border of the Atlas Facility blowing toward the
21 western border.
- 22 b. On November 20, 2020, at approximately 7:23 A.M., a medium-sized smoke cloud
23 emanated from the center of the Atlas Facility.
- 24 c. On December 7, 2020, at approximately 12:15 P.M., a large-sized dust cloud
25 emanated from Atlas Facility's southern border toward its western border.
- 26 d. On December 21, 2020, from approximately 9:54 A.M. until 10:04 A.M.,
27 continuous, large clouds of smoke billowed from the center of the Atlas Facility
28 traveling toward the southern border and the Gym. That same day, from

1 approximately 11:14 A.M. until 11:18 A.M., a grappler unloaded scrap metal from
2 the back of a vehicle sending large plumes of dust into the air that blow to the
3 south towards the Gym.

- 4 e. On January 16, 2021, multiple instances of smoke and/or dust were released from
5 the Atlas Facility's operations, blowing onto the Jordan High campus, including:
- 6 • From approximately 6:45 A.M. until 6:52 A.M., large clouds of smoke were
7 released near the southern border of the Atlas Facility. The cause of smoke
8 appears to be torch-cutting being conducted in the fifty-foot Buffer Zone
9 between the scrap piles and the southern property boundary. The large clouds
10 of smoke released from the Atlas Facility can be seen blowing onto the Gym.
 - 11 • From approximately 7:30 A.M. until 7:45 A.M., a large cloud of smoke was
12 released near the southern border of the Atlas Facility and blew across the
13 border into contact with the Gym. The cause of this smoke cloud appears to be
14 torch cutting of metals.
 - 15 • From approximately 8:30 A.M. until 8:39 A.M., large clouds of smoke
16 appearing to be caused by torch cutting were released from the southern border
17 of the Atlas Facility and billowed onto the Jordan High campus.
- 18 f. On February 12, 2021, from approximately 10:39 A.M. until 10:42 A.M., a large
19 cloud of smoke or dust was released from the Atlas Facility and blew onto the
20 Jordan High campus towards the Gym.
- 21 g. On February 13, 2021, from approximately 8:42 A.M. until 8:50 A.M., large
22 clouds of smoke were released from the Atlas Facility and blew onto the Jordan
23 High campus towards the Gym.
- 24 h. On February 15, 2021, from approximately 7:37 A.M. to 7:41 A.M., a large cloud
25 of smoke was released from the Atlas Facility and blew across the southern border
26 to the Gym.
- 27 i. On March 1, 2021, from approximately 8:09 A.M. to 8:17 A.M., 8:32 A.M. to
28 8:36 A.M., and 8:46 A.M. to 8:48 A.M., heavy equipment being at the Atlas

1 Facility handling scrap metal piles repeatedly and continuously caused large
2 clouds of dust to be released from the Atlas Facility into the surrounding
3 community, including onto the Jordan High School campus.

- 4 j. On March 2, 2021, from approximately 7:28 A.M. to 7:38 A.M., large clouds of
5 smoke were released from eastern portion of the Atlas Facility and blew south
6 towards the Jordan High campus.
- 7 k. On March 4, 2021, from approximately 7:43 A.M. to 7:54 A.M., large clouds of
8 smoke were repeatedly released from the eastern side of the Atlas Facility and
9 blew south towards the Gym.
- 10 l. On Thursday, March 11, 2021, from approximately 7:44 A.M. to 7:53 A.M., large
11 clouds of smoke were repeatedly released from the eastern side of the Atlas
12 Facility and blew south towards the Gym.
- 13 m. On March 20, 2021, from approximately 9:14 A.M. to 9:18 A.M., heavy
14 equipment being operated on the western side of the Atlas Facility created large
15 plumes of dust and/or smoke that were released into the air and blew into the
16 surrounding community.
- 17 n. On March 22, 2021, from approximately 10:08 A.M. to 10:16 A.M., heavy
18 equipment unloading scrap from a large truck on the Atlas Facility created large
19 clouds of dust that blew south towards the Gym.
- 20 o. On Thursday, March 25, 2021, from approximately 7:46 A.M. to 7:51 A.M., heavy
21 equipment moving scrap on the Atlas Facility created large clouds of dust that
22 blew south towards the Gym.
- 23 p. On March 31, 2021, from approximately 8:03 A.M. to 8:21 A.M., heavy
24 equipment unloading and moving scrap on the Atlas Facility repeatedly created
25 large clouds of dust released into the air that blew south towards the Gym. At this
26 same time, additional sources of smoke and/or dust being released from the eastern
27 side of Atlas Facility.
- 28

46. Based on information and belief, including observations of recorded operations at the Atlas Facility, these releases of smoke and dust predominantly come from two sources. First, the onsite use of heavy equipment, including large grapplers, to unload scrap material from trucks and sort it into large piles, causes dust to be released into the air. Second, the use of torches to disassemble scrap material into smaller pieces, or torch-cutting, causes large plumes of smoke to emanate from the Atlas Facility into the surrounding community.

47. Operations at the Atlas Facility are also excessively loud and interfere with the use and enjoyment of the surrounding properties, including the educational opportunities for students at Jordan High. Students and staff have repeatedly complained that loud noise regularly emanates from the Atlas Facility, disrupting their ability to focus in the classroom and to use outdoor areas.

E. Current Site Conditions

48. In response to the metal projectiles continuing to be launched onto the Jordan High campus, LAUSD has fenced off the eastern border of the softball field and northern outdoor gym areas to protect student safety by blocking off student access to the school facilities located closest to the Atlas Facility.

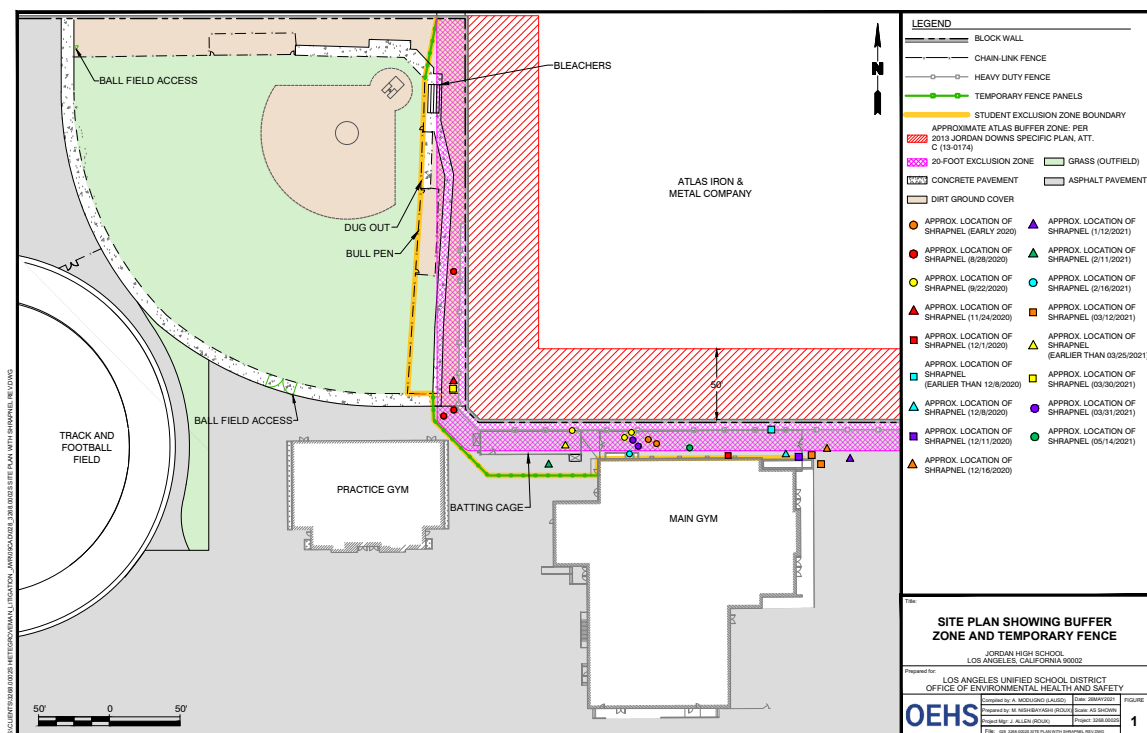


Figure 7: Restricted areas and locations of recent projectiles. (Photo credit: LAUSD)

1 49. Atlas Metal recently stacked large metal shipping containers three-high along the
2 western and southern borders of the Atlas Facility. The height of the containers is approximately
3 28.5 feet. Atlas Metal has claimed that the massive shipping container structure is necessary for
4 it to comply with the requirement that it cease launching metal objects onto the Jordan High
5 campus.



12 **Figure 8: Shipping container wall from the Jordan High softball field on May 19, 2021.**
13 **(Photo credit: LAUSD)**



20 **Figure 9: Shipping container wall from the roof of Jordan High secondary practice**
21 **gymnasium on May 20, 2021. (Photo credit: LAUSD)**

22 50. Atlas Metal constructed the stacked wall of shipping containers in the Buffer Zone
23 without obtaining, or applying for, any of the requisite permits or authorizations from the City of
24 Los Angeles. The containers are stacked in the designated Buffer Zone in violation of the Jordan
25 Downs Specific Plan conditions.

26 51. Atlas Metal has provided no information regarding the structural integrity of the
27 stacked containers now towering over Jordan High, including information regarding the
28

1 foundation and security of the containers and whether the containers stacked three-high are
2 designed to withstand emergencies, including potential earthquakes.

3 52. Atlas Metal also constructed the stacked containers on top of a portion of the cap
4 previously required by DTSC to protect exposing the contaminated soil underneath, in violation
5 of the recorded land use covenant.

6 53. Despite the illegally stacked containers, LAUSD continues to find metal pieces at the
7 Jordan High adjacent to the Atlas Facility. On May 14, 2021, LAUSD staff discovered a large
8 bolt over two-inches long near the Gym, approximately 16 feet from the shared boundary with the
9 Atlas Facility.

10 54. As students return to the Jordan High campus, Atlas Metal's massive container wall
11 now looms over portions of the Jordan High campus. In addition to serious concerns regarding
12 the structural integrity of the container wall, the safety risks it presents, and its failure to prevent
13 metal projectiles and emissions from entering onto the Jordan High campus, the wall is a visual
14 eyesore and blight on the community.

15 **FIRST CAUSE OF ACTION**
16 **(Public Nuisance – Civil Code, § 3479 et seq.)**

17 55. The allegations in paragraphs 1 through 54 are realleged and incorporated by
18 reference herein as though set forth in full.

19 56. Under Civil Code section 3479, a "nuisance" is "anything which is injurious to
20 health, . . . or is indecent or offensive to the senses, or an obstruction to the free use of property,
21 so as to interfere with the comfortable enjoyment of life or property"

22 57. Under Civil Code section 3480, a "public nuisance is one which affects at the same
23 time an entire community or neighborhood, or any considerable number of persons, although the
24 extent of the annoyance or damage inflicted upon individuals may be unequal."

25 58. Civil Code section 3490 states that "no lapse of time can legalize a public nuisance,
26 amounting to an actual obstruction of a public right."

27 59. Pursuant to Civil Code section 3494, a public nuisance may be abated "by any public
28 body or officer authorized thereto by law." Further, Code of Civil Procedure section 731 states

1 that a civil action “may be brought in the name of the people of the State of California to abate a
2 public nuisance”

3 60. Defendants, and each of them, have engaged and continue to engage in the following
4 acts or practices at the Atlas Facility, among others, each of which individually and in
5 combination constitutes the creation of a public nuisance pursuant to Civil Code sections 3479
6 and 3480 because they are injurious to health, indecent or offensive to the senses, and/or interfere
7 with the comfortable enjoyment of life and property in a manner that impacts a considerable
8 number of persons:

- 9 a. Atlas Metal’s operations at the Atlas Facility launch metal objects, shards, and/or
10 pieces onto the Jordan High campus, creating dangerous conditions for students,
11 staff, and other workers.
- 12 b. Atlas Metal’s operations at the Atlas Facility release dust, smoke, odors, fumes,
13 and/or other air contaminants into the surrounding community.
- 14 c. Atlas Metal’s operations at the Atlas Facility create excessive noise that is
15 disruptive to the surrounding community and school activities.
- 16 d. Atlas Metal stores large piles of scrap metal and other materials at the Atlas
17 Facility that are frequently higher than the fencing separating Atlas Metal from
18 Jordan High and other surrounding land uses.
- 19 e. Pursuant to L.A.M.C. section 11, subdivision (l), “. . . any violation of any
20 provision of [the L.A.M.C.] is declared to be a public nuisance” Atlas Metal
21 engages in unlawful operations at the Atlas Facility, including its unauthorized and
22 unsafe use of the Buffer Zone, land use covenant area, fences with netting, and/or
23 wall constructed with shipping containers. These acts, and others, violate laws
24 including, but not limited to, L.A.M.C. section

25 61. Atlas Metal’s metal projectiles, air emissions, excessive noise, towering piles of scrap
26 metal and other materials, and/or unlawful operations are a direct and proximate contributing
27 cause of the injuries and harms sustained by Jordan High’s students, staff, and other workers.
28 These acts and practices cause or have the potential to cause immediate physical injury to

1 community members, are indecent and offensive to the senses, and result in a loss of the
2 comfortable use and enjoyment of the Jordan High grounds.

3 62. Defendants, and each of them, by their metal projectiles, air emissions, excessive
4 noise, piles scrap metal and other materials, and/or unlawful operations have created a public
5 nuisance that is injurious to the environment and a substantial number of people that reside, work,
6 attend school, and visit locations and businesses close to the Atlas Facility.

7 63. Defendants' metal projectiles, air emissions, excessive noise, piles of scrap metal and
8 other materials, and/or unlawful operations are not in the public interest.

9 64. The threat to public health and safety posed by Atlas Metal's public nuisance will
10 continue unless Defendants, and each of them, are ordered to abate, and do abate, the nuisance
11 activities. Defendants must abate the public nuisance posed by its operations and site conditions
12 to reduce the harm to community members and decrease the risk of future activities.

13 **SECOND CAUSE OF ACTION**
14 **(Health and Safety Code, § 41700 et seq.)**

15 65. The allegations set forth in paragraphs 1 through 64 are realleged and incorporated
16 herein as though set forth in full.

17 66. Health and Safety Code section 41700, in relevant part, states: "a person shall not
18 discharge from any source whatsoever quantities of air contaminants or other material that cause
19 injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public,
20 or that endanger the comfort, repose, health, or safety of any of those persons or the public, or
21 that cause, or have a natural tendency to cause, injury or damage to business or property."

22 67. Health and Safety Code section 39013 defines "air contaminant" broadly to include
23 "any discharge, release, or other propagation into the atmosphere and includes, but is not limited
24 to, smoke, charred paper, dust, soot, grime, carbon, fumes, gases, odors, particulate matter, acids,
25 or any combination thereof."

26 68. Atlas Metal's operations at the Atlas Facility discharge air contaminants, such as dust,
27 smoke, fumes, and metal objects. As described herein, these air contaminants cause injury,
28 detriment, nuisance, and annoyance to a substantial number of people that reside, work, attend

1 school, and visit locations and businesses close to the Atlas Facility. Further, Atlas Metal's air
2 contaminants endanger the comfort, repose, health, and safety of the public, and cause, or have a
3 natural tendency to cause, injury or damage to businesses and property.

4 69. The air contaminants discharged by Defendants' Atlas Facility violated Health and
5 Safety Code section 41700.

6 70. Defendants' violation of Health and Safety Code section 41700 renders them liable
7 under Health and Safety Code section 42402 et seq. for civil penalties in an amount according to
8 proof.

9 **THIRD CAUSE OF ACTION**
10 **(Unfair Competition Law – Business and Professions Code, § 17200 et seq.)**

11 71. The allegations set forth in paragraphs 1 through 70 are realleged and incorporated
12 herein as though set forth in full.

13 72. Defendants, and each of them, are a "person" under Business and Professions Code
14 section 17201.

15 73. Defendants, and each of them, have engaged in and continue to engage in, have aided
16 and abetted and continue to aid and abet, and have conspired to and continue to conspire to
17 engage in business acts or practices that constitute unfair competition as defined in the UCL,
18 Business and Professions Code section 17200 et seq., in that such business acts and practices are
19 unlawful, unfair, and/or fraudulent within the meaning of the statute.

20 74. Specifically, Defendants, and each of them, have engaged in and continue to engage
21 in one or more of the following unlawful business acts and practices in violation of the UCL:

- 22 a. Defendants created a condition that is "injurious to health, . . . or is indecent or
23 offensive to the senses, or an obstruction to the free use of property, so as to
24 interfere with the comfortable enjoyment of life or property" in violation of
25 California Civil Code section 3479, through the launch of metal objects, shards,
26 and/or pieces onto the Jordan High campus, as described in paragraphs 60 through
27 64.
28

- 1 b. Defendants created a condition that is “injurious to health, . . . or is indecent or
2 offensive to the senses, or an obstruction to the free use of property, so as to
3 interfere with the comfortable enjoyment of life or property” in violation of
4 California Civil Code section 3479, through the release of dust, smoke, odors,
5 fumes, and/or other air contaminants into the surrounding community, as described
6 in paragraphs 60 through 64.
- 7 c. Defendants created a condition that is “injurious to health, . . . or is indecent or
8 offensive to the senses, or an obstruction to the free use of property, so as to
9 interfere with the comfortable enjoyment of life or property” in violation of
10 California Civil Code section 3479, by creating excessive noise that is disruptive
11 to the surrounding community and school activities, as described in paragraphs 60
12 through 64.
- 13 d. Defendants created a condition that is “injurious to health, . . . or is indecent or
14 offensive to the senses, or an obstruction to the free use of property, so as to
15 interfere with the comfortable enjoyment of life or property” in violation of
16 California Civil Code section 3479, by storing large piles of scrap metal and other
17 materials at the Atlas Facility that are frequently higher than the fencing separating
18 Atlas Metal from Jordan High and other surrounding land uses, as described in
19 paragraphs 60 through 64.
- 20 e. Defendants created a condition that is “injurious to health, . . . or is indecent or
21 offensive to the senses, or an obstruction to the free use of property, so as to
22 interfere with the comfortable enjoyment of life or property” in violation of
23 California Civil Code section 3479, by engaging in unlawful operations at the
24 Atlas Facility, as described in paragraphs 60 through 64.
- 25 f. Defendants discharged “quantities of air contaminants or other materials that cause
26 injury, detriment, nuisance, or annoyance to any considerable number of persons
27 or to the public, or that endanger the comfort, repose, health, or safety of any of
28 those persons or the public, or that cause, or have a natural tendency to cause,

injury or damage to business or property” in violation of Health and Safety Code section 41700, as described in paragraphs 60 through 64.

- g. Defendants maintained a public nuisance, with each violation of the L.A.M.C. described in paragraph 74, subsections h through m, being a separate and daily offense, in violation of L.A.M.C. section 11.00, subdivision (l).
- h. Defendants violated L.A.M.C. section 12.04.01 by violating the Jordan Specific Plan, including Attachment A.
- i. Defendants violated L.A.M.C. section 12.21, subdivision (A)(1)(a), which states “[n]o building or structure shall be erected, reconstructed, structurally altered, enlarged, moved, or maintained, nor shall any building, structure, or land be used or designed to be used for any use other than is permitted in the zone in which such building, structure, or land is located and then only after applying for and securing all permits and licenses required by all laws and ordinances.”
- j. Defendants violated L.A.M.C. section 91.8105, which states “[e]very existing building, structure or portion thereof constructed without a building permit shall be made to conform to the provisions of this Code or shall be demolished and removed”
- k. Defendants violated L.A.M.C. section 91.103.1, which states “[n]o person shall construct, alter, repair, demolish, remove, move, use, occupy or maintain, within the City, any building or structure or any portion thereof, except as provided by this Code.”
- l. Defendants violated L.A.M.C. section 91.106.1.1, which states “[n]o person shall erect, construct, alter, repair, demolish, remove or move any building or structure . . . unless said person has obtained a permit therefor from the department”
- m. Defendants’ operations at the Atlas Facility also violated L.A.M.C. sections 93.0104, 57.605.3, 57.906.2., 57.906.2.5, 57.906.5, 57.906.2.3, 57.5003.5, 57.906.1, and 91.103.3.

1 n. Defendants operations and construction of the shipping container wall violated the
2 terms of the land use covenant recorded on October 20, 2008, in the Los Angeles
3 County Recorder's Office, No. 20081862960, pursuant to Civil Code section 1471
4 and Health and Safety Code section 25202.5.

5 75. Pursuant to Business and Professions Code section 17206, Defendants, and each of
6 them, are liable for civil penalties up to \$2,500 for each and every separate act of unlawful
7 competition alleged herein.

8 76. Pursuant to Business and Professions Code section 17203, Defendants, and each of
9 them, must be permanently enjoined from engaging in acts or practices that violate the UCL, as
10 alleged in this Complaint.

11 **FOURTH CAUSE OF ACTION**
12 **(Equitable Relief – Government Code, § 12607)**

13 77. The allegations set forth in paragraphs 1 through 76 are realleged and incorporated
14 herein as though set forth in full.

15 78. Government Code section 12607 provides: "The Attorney General may maintain an
16 action for equitable relief in the name of the People against any person for the protection of the
17 natural resources of the state from pollution, impairment, or destruction."

18 79. The actions of Defendants as alleged above have polluted, impaired, and/or
19 destroyed, and continue to pollute, impair, and/or destroy, the natural resources of the State.

20 80. Government Code section 12610 provides: "In granting temporary and permanent
21 equitable relief, the Court may impose such conditions upon Defendants as are required to protect
22 the natural resources of the state from pollution, impairment, and destruction."

23 81. The People are entitled to an order requiring Defendants to take all measures
24 necessary to prevent the continued pollution, impairment, and/or destruction of the natural
25 resources of the State, and to remedy the pollution, impairment, and/or destruction to the natural
26 resources caused by Defendants' actions.

PRAYER FOR RELIEF

Wherefore, the People request judgment against Defendants, and each of them, as follows:

1. Hold Defendants liable for creating, contributing to, and maintaining a public nuisance;
2. Order Defendants to immediately abate the nuisance;
3. Enter judgment for abatement, at the expense of Defendants, of the ongoing nuisance to the State and its residents;
4. Issue injunctive relief, pursuant to Business and Professions Code section 17203, prohibiting Defendants, and each of them, from engaging in the activities that led to and created the public nuisance as set forth herein and in violation of Civil Code section 3479 et seq., and prohibiting all other business acts or practices which constitute unfair competition within the meaning of Business and Professions Code section 17200;
5. Issue injunctive relief, pursuant to Business and Professions Code section 17203, requiring Defendants, and each of them, to abate and mitigate the public nuisance at their expense;
6. Make such orders or judgments as may be necessary to prevent the use or employment by any Defendant of any practice which constitutes unfair competition or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition, under the authority of Business and Professions Code section 17203;
7. Assess a civil penalty against each Defendant for each violation of Business and Professions Code section 17200, in an amount according to proof, under the authority of Business and Professions Code section 17206;
8. Issue injunctive relief, pursuant to Health and Safety Code section 41513, including such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders, prohibiting Defendants from violating Health and Safety Code section 41700, and requiring Defendants to take all measures necessary to mitigate the harmful impacts of Defendant's conduct in violations and to prevent future violations of Section 41700;

1 9. Assess a civil penalty against each Defendant for each violation of Health and Safety
2 Code section 41700, in an amount according to proof, under the authority of Health and Safety
3 Code section 42400 et seq.;

4 10. Issue injunctive relief, pursuant to Government Code section 12607, including such
5 temporary restraining orders, preliminary injunctions, permanent injunctions, mandatory
6 injunctions, or other orders, requiring Defendants to take all measures necessary to prevent the
7 continued pollution, impairment, or destruction of the natural resources of the State, and to
8 remedy the pollution, impairment, or destruction to the natural resources caused by Defendants'
9 actions;

10 11. Award the People all costs and expenses for this suit; and

11 12. For attorney's fees as authorized by Code of Civil Procedure section 1021.8 and other
12 provisions of law; and

13 13. Award such other relief as this Court deems just and proper.

14
15 Dated: May 28, 2021

Respectfully Submitted,

16 ROB BONTA
17 Attorney General of California
18 CHRISTIE VOSBURG
19 Supervising Deputy Attorney General

20 

21 _____
22 ABIGAIL BLODGETT
23 SCOTT LICHTIG
24 Deputy Attorneys General
25 *Attorneys for the People of the State of*
26 *California, by and through the Attorney*
27 *General*
28



Make a Reservation

THE PEOPLE OF THE STATE OF CALIFORNIA vs S&W ATLAS IRON & METAL CO., INC., A CALIFORNIA CORPORATION, et al.

Case Number: 21STCV13453 Case Type: Civil Unlimited Category: Other Complaint (non-tort/non-complex)
Date Filed: 2021-04-08 Location: Stanley Mosk Courthouse - Department 14

Reservation

Case Name:

THE PEOPLE OF THE STATE OF CALIFORNIA vs S&W
ATLAS IRON & METAL CO., INC., A CALIFORNIA
CORPORATION, et al.

Case Number:

21STCV13453

Type:

Motion for Leave to Intervene

Status:

RESERVED

Filing Party:

The People of the State of California (Plaintiff)

Location:

Stanley Mosk Courthouse - Department 14

Date/Time:

06/23/2021 8:45 AM

Number of Motions:

1

Reservation ID:

883189480745

Confirmation Code:

CR-WRXW4AUQGGQHUC8SW

Fees

Description	Fee	Qty	Amount
Motion for Leave to Intervene *** Fees Exempted by Gov Code 6103.1 ***	60.00	1	0.00
TOTAL			\$0.00

Payment

Amount:

\$0.00

Type:

GOVT_EXEMPT

Account Number:

n/a

Authorization:

n/a

Print Receipt

[Reserve Another Hearing](#)