

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

CARLTON FORGE WORKS, INC., AEROCRAFT HEAT TREATING CO, INC., ANAPLEX CORPORATION, and ROES 1-100

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

DORIS NICHOLS, In the Public Interest, RIGOBERTO PENA, IVAN PENA as INDIVIDUAL PLAINTIFFS, And DOE PLAINTIFFS 1-1000

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

FEB 09 2017

Sherri R. Carter, Executive Officer/Clerk
By: M. Soto, Deputy
Moses Soto

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es):

Los Angeles Superior Court
111 N. Hill Street, Los Angeles CA. 90012

CASE NUMBER:
(Número del Caso)

BC 650094

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Kurt S. Bollin, Esq., 1506 Oak St., "D", S. Pasadena, CA 91030 1 (347) 944-5973

DATE: Feb. 9, 2017
(Fecha)

FEB 09 2017

SHERRI R. CARTER

Clerk, by
(Secretario)

M. Soto

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- ☐ as an individual defendant.
- ☐ as the person sued under the fictitious name of (specify):

- ☐ on behalf of (specify):

under: ☒ CCP 416.10 (corporation)

☐ CCP 410.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

- ☐ by personal delivery on (date):

[SEAL]

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Kurt S. Bollin, Esq. SBN 134578 1506 Oak St., "D" South Pasadena, CA 91030		FOR COURT USE ONLY CONFORMED COPY ORIGINAL FILED Superior Court of California County of Los Angeles FEB 09 2017 Sherri R. Carter, Executive Officer/Clerk By: <u>M. Soto</u> , Deputy Moses Soto	
TELEPHONE NO. 1 (347) 944-5973 FAX NO.: ATTORNEY FOR (Name) Plaintiffs Nichols, Ivan Pena, Rigoberto Pena		CASE NUMBER BC 650094 JUDGE: DEPT.:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS 111 N. Hill St. MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse			
CASE NAME: Nichols, et al v Carlton Forge Works, Aircraft Heat Treat, Anaplex Corp			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|--|--|--|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input checked="" type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|--|--|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 1. Discharge, 2. Fail to Warn, 3. Trespass, 4. Negligence, 5. Fraud. Conceal.
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-010.)

Date: Feb. 9, 2017
 Kurt S. Bollin, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)
Employment
Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller
Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

ALTERNATIVE DISPUTE RESOLUTION (ADR) INFORMATION

For additional ADR information and forms visit the Court ADR web application at www.lasuperiorcourt.org (click on ADR).

The plaintiff/petitioner shall serve a copy of this form on each defendant/respondent along with the complaint (Civil only).

What Is ADR:

Alternative Dispute Resolution (ADR) is the term used to describe all the other options available for settling a dispute which once had to be settled in court. ADR processes, such as arbitration, mediation, neutral evaluation, and settlement conference are less formal than a court process and provide opportunities for parties to reach an agreement using a problem-solving approach.

There are many different kinds of ADR. All of them utilize a "neutral", an impartial person, to decide the case or help the parties reach an agreement.

Arbitration:

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed. Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. *Nonbinding arbitration* means that the parties are free to request a trial if they do not accept the arbitrator's decision.

Cases for Which Arbitration May Be Appropriate

Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate

If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Mediation:

In mediation, a neutral person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties.

Cases for Which Mediation May Be Appropriate

Mediation may be particularly useful when parties have a dispute between or among family members, neighbors, or business partners. Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate

Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Neutral Evaluation:

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is not binding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate

Neutral evaluation may be most appropriate in cases in which there are technical issues that require special expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate

Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conference:

A settlement conference may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or a neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

COURT ADR PROGRAMS

CIVIL:

- Arbitration (non-binding) (Code Civ. Proc. §§ 1141.10-1141.31, Cal. Rules of Court, rules 3.810-3.830, and Local Rules, rule 3.252 et seq.)
- Mediation (Code Civ. Proc. §§ 1775-1775.15, Cal. Rules of Court, rules 3.850-3.860, 3.865-3.872 and 3.890-3.898, Evid. Code §§ 1115-1128, and Local Rules, rule 3.252 et seq.)
 - Civil Harassment Mediation
 - Eminent Domain Mediation (Code Civ. Proc. §1250.420)
 - Small Claims Mediation
- Neutral Evaluation (Local Rules, rule 3.252 et seq.)
- Settlement Conference
 - Voluntary Settlement Conference (Local Rules, rule 3.252 et seq.)
 - Retired Judge Settlement Conference

FAMILY (non-custody):

- Arbitration (non-binding) (Fam. Code § 2554 and Local Rules, rule 5.18)
- Mediation (Local Rules, rule 5.18)
- Settlement Conference
 - Forensic Certified Public Accountant (CPA)
 - Spanish Speaking Settlement Conference

PROBATE:

- Mediation
- Settlement Conference

NEUTRAL SELECTION

Parties may select an arbitrator, mediator, or evaluator from the Party Select Panel or may hire someone privately, at their discretion. If the parties utilize the Random Select Panel, the ADR staff will assign on a random basis the name of one neutral who meets the case criteria entered on the court's website.

COURT ADR PANELS

Party Select Panel	The Party Select Panel consists of arbitrators, mediators, and evaluators who have achieved a specified level of experience in court-annexed cases. The parties (collectively) are charged \$150.00 per hour for the first three hours of hearing time. Thereafter, parties may stipulate in writing for additional hearing time at the rate established by the neutral.
Random Select Panel	The Random Select Panel consists of trained arbitrators, mediators, evaluators, and settlement officers who make themselves available pro bono as a way of supporting the judicial system. It is the policy of the Court that Random Select Panel neutrals provide three hours hearing time per case on a pro bono basis. Thereafter, parties may stipulate in writing for additional hearing time at the rate established by the neutral.

ADR ASSISTANCE

For assistance regarding ADR, please contact the ADR clerk at the courthouse in which your case was filed.

COURTHOUSE	ADDRESS	ROOM	CITY	PHONE	FAX	EMAIL
Antioch	42011 4th St West	1st Fl.	Lancaster CA 93534	861-974-7275	861-945-8173	AntelopeADR@lasuperiorcourt.org
Chatsworth	9425 Penfield Ave	3100	Chatsworth CA 91311	818-575-8565	818-576-8733	ChatsworthADR@lasuperiorcourt.org
Compton	200 W. Compton Blvd	1002	Compton, CA 90220	310-603-3072	310-223-0337	ComptonADR@lasuperiorcourt.org
Glendale	600 E Broadway	273	Glendale CA 91206	818-500-3160	818-548-5470	GlendaleADR@lasuperiorcourt.org
Long Beach	415 W. Ocean Blvd	316	Long Beach, CA 90802	562-491-8272	562-437-3802	LongBeachADR@lasuperiorcourt.org
Norwalk	12720 Norwalk Blvd	308	Norwalk CA 90650	562-807-7243	562-462-9019	NorwalkADR@lasuperiorcourt.org
Pasadena	300 E Walnut St	109	Pasadena CA 91101	626-356-5885	626-866-1774	PasadenaADR@lasuperiorcourt.org
Pomona	400 Civic Center Plaza	106	Pomona CA 91766	909-820-3183	909-829-6283	PomonaADR@lasuperiorcourt.org
San Pedro	505 S. Centre St	209	San Pedro CA 90731	310-519-6151	310-514-0314	SanPedroADR@lasuperiorcourt.org
Santa Monica	1725 Main St	203	Santa Monica CA 90401	310-260-1829	310-319-6130	SantaMonicaADR@lasuperiorcourt.org
Stanley Mosk	111 N. Hill St	113	Los Angeles CA 90012	213-974-5425	213-633-5115	CentralADR@lasuperiorcourt.org
Torrance	825 Maple Ave	100	Torrance, CA 90503	310-222-1701	310-782-7326	TorranceADR@lasuperiorcourt.org
Van Nuys	6230 Sylmar Ave	418	Van Nuys CA 91401	818-374-2337	818-902-2440	VanNuysADR@lasuperiorcourt.org

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Attorney for PLAINTIFFS

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

FEB 09 2017

Sherri R. Carter, Executive Officer/Clerk
By: M. Solo, Deputy
Moses Solo

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

BC 650094

DORIS NICHOLS, In the Public Interest,)
RIGOBERTO PENA, IVAN PENA As)
INDIVIDUAL PLAINTIFFS, And DOE)
PLAINTIFFS 1-1000,)

PLAINTIFFS,)

vs.)

CARLTON FORGE WORKS, INC.,)
AEROCRAFT HEAT TREATING CO,)
INC., ANAPLEX CORPORATION, and)
ROES 1-100.)

DEFENDANTS.)

CASE NO.

[RELATED TO BC644520 AS TO
ANAPLEX CORPORATION]

COMPLAINT FOR DAMAGES:

1. DISCHARGE TO DRINKING
WATER (CA HEALTH AND SAFETY
CODE §25249.5)
2. FAILURE TO WARN (CA HEALTH
AND SAFETY CODE §25249.6)
3. CONTINUING TRESPASS
4. NEGLIGENCE
5. FRAUDULENT CONCEALMENT

1 DORIS NICHOLS, hereafter "NICHOLS" or "NICHOLS PLAINTIFF" In the Public Interest, And
2 RIGOBERTO PENA , IVAN PENA, hereafter as "INDIVIDUAL PLAINTIFFS" And "DOE
3 PLAINTIFFS" 1-1000 to be named later, collectively "ALL PLAINTIFFS" (unless specifically complained
4 as otherwise) complain against CARLTON FORGE WORKS, INC., AEROCRAFT HEAT TREATING
5 CO., INC., and ANAPLEX CORPORATION; collectively "DEFENDANTS." All PLAINTIFFS are
6 informed and believe, and based upon information and belief, allege that:
7

8 **FACTS RELEVANT TO ALL CAUSES OF ACTION**

9 **THE PARTIES**

10 1. Doris Nichols, is dedicated to the protection of the environment while being a resident or
11 visitor of Los Angeles, San Diego and Ventura County, CA and exposed to Proposition 65, ("Prop 65")
12 chemicals in her own town. She is a teacher and interested in enforcement of the private attorney general
13 statutes to effectuate these environmental goals via Prop 65 codified in CA Health and Safety Code section
14 25249.5, *et seq.*

15 2. INDIVIDUAL PLANTIFFS RIGOBERTO PENA , IVAN PENA all reside and/or have
16 resided in the City of Paramount, County of Los Angeles and at the time of sustaining the damages
17 complained of herein, have been the owners, lessees, renters and/or occupants of certain real property
18 located near or around DEFENDANTS' Facilities in Paramount, California.

19 3. The DEFENDANTS are, and at all times herein mentioned, registered with the California
20 Secretary of State as a California Corporation with headquarters located at Paramount, California ("the
21 Facilities").

22 4. DEFENDANT CARLTON FORGE WORKS, INC., ("CARLTON") was, and at all times
23 herein mentioned is, the owner and operator of the Facility located at 7743 Adams St., Paramount, CA
24 90723. This Facility is a multi-building complex including but not limited to equipment for metal heat
25 treating, metal coating treatment, metal polishing, anodizing, metal fabricating and production equipment.

26 5. DEFENDANT AEROCRAFT HEAT TREATING CO, INC., ("AEROCRAFT") was, and at
27 all times herein mentioned is, the owner and operator of the Facility located at 15701 Minnesota,
28

1 Paramount, CA. This Facility is a multi-building complex including but not limited to equipment for
2 metal heat treating, metal coating treatment, metal polishing, anodizing, metal fabricating and production
3 equipment.

4 6. DEFENDANT ANAPLEX CORPORATION, ("ANAPLEX") was, and at all times herein
5 mentioned is, the owner and operator of the Facility located at 15547 Garfield Ave, Paramount, Ca 90723.
6 This Facility is a multi-building complex including but not limited to equipment for metal heat treating,
7 metal coating treatment, metal polishing, anodizing, metal fabricating and production equipment.

8 7. The CARLTON Facility employees ten or more people.

9 8. The AEROCRAFT Facility employees ten or more people.

10 9. The ANAPLEX Facility employees ten or more people.

11 10. CARLTON, AEROCRAFT and ANAPLEX caused to be utilized, dumped, released and
12 deposited and continues to utilize, dump, release and deposit toxic Prop 65 chemicals, including without
13 limitation, Hexavalent chromium, also known as Cr VI, in various Cr VI compounds, Arsenic (inorganic
14 compounds), Cadmium and cadmium compounds, Cobalt metal powder, Lead and lead compounds and as
15 residues of these metals used in/at/from the Facilities, and continue this illegal conduct alleged herein in
16 connection with the use of these Facilities in that each and every day is a separate violation of statute.

17 11. All PLAINTIFFS are informed and believe that all DEFENDANTS and each of them are
18 responsible negligently, intentionally and/or in some actionable manner, for the events and happenings
19 referred to herein, and caused and/or continue to cause injuries and damages thereby to the regional air
20 within the Los Angeles County area of the South Coast Air Quality Management District, ("AQMD").
21 DEFENDANTS, as alleged, have caused ambient air damages and regional water damage, both surface
22 water including, but not limited to Lake Mathews and groundwater, including but not limited to the Los
23 Angeles Basin Plan (Coastal Plain) aquifer; either through each DEFENDANT'S own conduct or through
24 the conduct of its agents, servants or employees, or due to the ownership, maintenance or control of the
25 instrumentality causing the damages/injury, or in some other actionable manner.

26 12. INDIVIDUAL PLANTIFFS are also tax payers of the county of Los Angeles and the state
27 of California, ("CA").
28

1 13. All INDIVIDUAL PLAINTIFFS have suffered cognizable damages, including but not
2 limited to having to buy hundreds of dollars per year of bottled water as a result of the alleged illegal
3 conduct by DEFENDANTS.

4 **THE ACTIONS OF DEFENDANTS**

5 14. DEFENDANTS have, since at least December 5, 2015, utilized Hexavalent chromium, also
6 known as Cr VI, in various Cr VI compounds, Arsenic (inorganic compounds), Cadmium and cadmium
7 compounds, Cobalt metal powder, Lead and lead compounds in its metal treatment and fabrication
8 business at DEFENDANTS' Facilities in Paramount, CA. DEFENDANTS have utilized these listed by
9 the State of California chemicals under Prop 65 which has caused the subsequent release by
10 DEFENDANTS at their Facilities and this continuing act has taken place for decades. The released
11 chemicals via contaminated air and particulate has trespassed off the DEFENDANTS Facilities onto or
12 into property owned by PLAINTIFFS and/or where they have resided in the adjacent downwind
13 residential communities including but not limited to Paramount, CA and all adjacent towns and
14 communities.

15 15. The INDIVIDUAL PLAINTIFFS private property is or was located adjacent to the
16 DEFENDANTS Facility's property lines. The principal flow of contaminated air referenced above came
17 from the DEFENDANTS property as DEFENDANTS unlawfully released toxic chemicals into the
18 environment. Other persons with their families (including children), and their domestic animals, including
19 dogs while enjoying the outdoors at Paramount Skate Park, Salud and Paramount public parks in and
20 around DEFENDANTS Facilities were also exposed to the above chemicals while using these public
21 places for recreational purposes. All PLAINTIFFS have had and continue to have an interest in the public
22 safety and security at all public places including Paramount Skate Park, Salud and Paramount park, and
23 the use of a public park should have been free from environmental contamination caused by
24 DEFENDANTS.

25 16. These releases by DEFENDANTS caused the contamination of the Public Parks' water
26 supply and vegetation, all property of the City of Paramount or County of Los Angeles via wet and dry
27 depositing of particulates/contaminants released at DEFENDANTS Facilities. The contamination of other
28

1 adjacent City and County owned and private property, including Doe PLAINTIFFS' property, was caused
2 by further polluted water and air migration.

3 17. These unpermitted releases of contaminated air and waters, where they may pass onto any
4 surface or onto land where they may pass into any source of drinking water (Los Angeles Aquifer),
5 whether surface water or groundwater in violation of CA Health and Safety Code section 25249.5 is
6 compounded by DEFENDANTS failure to disclose or warn of the discharges which is prohibited by
7 statute, CA Health and Safety Code §25249.6.

8 18. All PLAINTIFFS allege that DEFENDANTS have intentionally and/or negligently breached
9 their duty of reasonable care, violated state and federal law, and violated environmental safety regulations.
10 DEFENDANTS have caused numerous, sudden, recurring and continuous occurrences of excessive toxic
11 emissions and discharges, with each occurrence being separate and/or continuing in nature, having
12 injurious effects to person and property of INDIVIDUAL PLAINTIFFS herein alleged. DEFENDANTS'
13 conduct has been willful, wanton and despicable, carried out with a conscious and/or reckless disregard of
14 INDIVIDUAL PLAINTIFFS' rights and well-being and continues to subject INDIVIDUAL PLAINTIFFS
15 to cruel and unjust hardship, by conduct including but not limited to these egregious acts:

16 a. All PLAINTIFFS are informed and believe that the DEFENDANTS are a part of an industry
17 group that has kept the real health dangers of their chemical use from the populous solely for the purpose
18 of profits. This is reflected in the CA Office of Environmental Health Hazard Assessment, ("OEHHA")
19 multi decade lowering of the drinking water Maximum Contamination Level, ("MCL") for hexavalent
20 chromium compounds and the recent Public Health Goal, ("PHG") adopted by the CA. Dept. of Public
21 Health, ("DPH") in 2011 regarding the carcinogenic dangers of the chemical by ingestion.

22 b. The DEFENDANTS have further concealed the fact that the soils, air and water near their
23 facilities is contaminated with Cr VI at levels greater than the current EPA Regional Screening Level,
24 ("RSL") for soils impacting groundwater, the current OEHHA Prop 65 NSRL inhalation limit per day and
25 the above PHG.

26 19. The Air Toxics "Hot Spots" Information and Assessment Act (AB 2588, 1987, Connelly)
27 [hereinafter "statute"] was enacted in September 1987. Under this statute, stationary sources (facilities) are
28

1 required to report the types and quantities of certain substances their facilities routinely release into the air.
2 The goals of the Air Toxics "Hot Spots" Act are to collect emission data, to identify facilities having
3 localized impacts, to ascertain health risks, and to notify nearby residents of significant risks. Emissions of
4 interest are those that result from the routine operation of a Facility or those that are predictable, including
5 but not limited to continuous and intermittent releases, process upsets, or leaks.

6 20. The statute required: toxic air emissions [Toxic Air Contaminants, (TAC's)] from stationary
7 sources be quantified and compiled into an inventory according to criteria and guidelines developed by the
8 Air Resources Board (ARB); that each Facility be prioritized to determine whether a risk assessment must
9 be conducted; and that risk assessments be conducted where required. Additionally, and in strict
10 conformity with Legislative intent, this statute required that the public be notified of significant risks
11 posed by nearby facilities, and that emissions posing a significant risk be reduced.

12 21. The ARB was required to develop a program to make the emission data collected under the
13 "Hot Spots" Program available to the public. The AQMD was to make health risk assessments available
14 for public review for all releases in the localized southern counties of California, including but not limited
15 to Los Angeles County. AQMD was to also publish annual reports summarizing the health risk assessment
16 program, rank facilities according to the cancer risk posed, identify the facilities posing non-cancer health
17 risks, and describe the status of the development of control measures. However, DEFENDANTS' silence
18 regarding these risks (in direct violation of the purpose of the statute and to the detriment of persons in the
19 local and adjacent environment, and specifically INDIVIDUAL PLAINTIFFS) prevented such assessment
20 and reporting regarding DEFENDANTS Facilities until 2016. *See* AQMD "Expanded Monitoring of
21 Hexavalent Chromium in Paramount--Assessment of Initial Data.", Nov 4, 2016 pg. 2 where it was
22 reported: "The highest measurements (up to 26 ng/m³) were detected near the sites..." and that
23 monitoring had found Cr VI "Air Pollution" Oct 15-Nov 14, 2016 at "350 times normal levels"; or in
24 excess of the current Prop 65 NSRL inhalation limit of 0.001 µg/day.

1 22. Accordingly, All PLAINTIFFS have had no basis for claiming and did not know that
2 DEFENDANTS have discharged toxic materials, including but not limited to Cr VI compounds, until
3 Aug. 2016, at the soonest. Before Aug. 2016, All PLAINTIFFS lacked any means of knowing, and
4 through the exercise of reasonable diligence could not have known, that DEFENDANTS had
5 contaminated the ambient air with toxic materials, including but not limited to Cr VI compounds. Only on
6 or after Aug. 2016, did All PLAINTIFFS come to know that DEFENDANTS had contaminated the
7 ambient air of Los Angeles County and beyond with toxic waste materials that DEFENDANTS had
8 released in their normal business activities. Due to the DEFENDANTS' constant handling and illegal
9 discharge of hazardous substances and acutely hazardous materials, and the failure to avoid releases of
10 toxic substances into the atmosphere and environment, DEFENDANTS are obligated to institute
11 reasonable care and compensation plans to halt, prevent and correct injuries to INDIVIDUAL
12 PLAINTIFFS' real and personal property, health, and economic interests.

13 23. Due to their proximity to the Facilities with contaminated soils it was foreseeable that
14 INDIVIDUAL PLAINTIFFS would be injured by the discharge of carcinogenic substances into the
15 atmosphere and environment surrounding the Facilities.

16 24. INDIVIDUAL PLAINTIFFS have, due to the acts of the DEFENDANTS, suffered injury to
17 their real property and personal property, including domestic pets, including without limitation dogs, and
18 cats, in their homes or apartments and fixtures and personal property contaminated or damaged by
19 DEFENDANTS' acts, in that on numerous occasions' toxic chemicals and particulates precipitate or
20 migrate onto their residences.

21 25. DEFENDANTS, through their negligent and wrongful acts, have repeatedly and
22 unreasonably invaded each INDIVIDUAL PLAINTIFFS' rights to undisturbed occupancy of their
23 residences, have repeatedly trespassed through excessive emissions and discharges of various particulates
24 onto INDIVIDUAL PLAINTIFFS' real and personal properties, have repeatedly invaded INDIVIDUAL
25 PLAINTIFFS' right of privacy by way of these injurious, unreasonable, and excessive emissions and
26 discharges, have caused continuing damage to INDIVIDUAL PLAINTIFFS' persons and real and
27 personal properties.
28

1 26. Those INDIVIDUAL PLAINTIFFS who own real property have, due to the acts of the
2 DEFENDANTS, suffered and/or continue to suffer stigma damages and advertising injury due to the
3 creation of an unfair, competitive disadvantage by way of diminution of property value as compared with
4 similarly situated unaffected real property. INDIVIDUAL PLAINTIFFS have suffered emotional distress,
5 discomfort, inconvenience, and other adverse and unnatural reactions due to knowledge that their
6 economic interests are being impaired by the DEFENDANTS, and that they are unable to prevent this
7 injury from occurring.

8 27. In order to compensate INDIVIDUAL PLAINTIFFS for damages suffered due to
9 DEFENDANTS' acts, each INDIVIDUAL PLAINTIFF requires, among other things, that
10 DEFENDANTS pay the past and future costs of obtaining medical care, respiratory therapy, and
11 toxicological examinations and diagnoses in order to ascertain and treat the nature and extent of the
12 injuries suffered due to the noxious emissions emanated from the Facilities, with INDIVIDUAL
13 PLAINTIFFS retaining the freedom of choice relative to choosing their experts. Many of these costs
14 would not be covered by INDIVIDUAL PLAINTIFFS' health care insurers, and if covered, may unfairly
15 result in increased premiums. Additionally, INDIVIDUAL PLAINTIFFS seek compensation for the
16 inconvenience, discomfort, and emotional distress suffered due to the impact of the DEFENDANTS'
17 injurious acts which have caused shock, nausea, dizziness and other adverse reactions due to the severity
18 and terror of emissions intruding into their residences and living areas. Further, INDIVIDUAL
19 PLAINTIFFS, seek compensation for: the diminution in the economic value of their personal and real
20 property and the emotional distress caused by the diminution; residential soil and air space testing and
21 monitoring, and remediation and repairs to real and personal property damaged by DEFENDANTS. To
22 the extent that adverse reactions to DEFENDANTS' emissions have caused a loss of income or earning
23 capacity, INDIVIDUAL PLAINTIFFS also seek compensation for the same.

24 28. These releases of Toxic Air Contaminants [TAC's] into the ambient air are the same toxic
25 chemicals, dissolved solids, and liquids containing Cr VI that pass into or onto surface waters of the State
26 and were released by DEFENDANTS without warning, reporting or National Pollution Discharge
27 Elimination System, ("NPDES") permits.
28

1 29. Venue is proper in the Los Angeles County Superior Court because: the DEFENDANT
2 Facilities are located in Paramount California; DEFENDANTS have violated one or more laws as alleged
3 herein in Los Angeles County; INDIVIDUAL PLAINTIFFS are located in Los Angeles County.

4 30. Since at least December 7, 2015 DEFENDANTS failed to provide those persons that
5 visited or passed the immediate vicinity to its Facilities and INDIVIDUAL PLAINTIFFS still living
6 adjacent to the Facilities with a clear and reasonable warning regarding all known carcinogens and
7 reproductive toxins among Prop 65 chemicals and other known Toxic Air Contaminants being
8 released from the Facilities. These exposures occur on and near DEFENDANTS Facilities to all
9 persons in the adjacent environment without warning as delineated at Title 27 CCR§25601, *et seq.*

10 31. As a proximate cause of DEFENDANTS' violations of Health and Safety Code §
11 25249.5 *et seq.*, DEFENDANTS are liable to the state of CA for the penalty prescribed by law per day
12 and/or per discharge in excess of the statutory limit and every day is a separate violation.

13 **FIRST CAUSE OF ACTION:**
14 **DISCHARGE TO DRINKING WATER**
15 **PROPOSITION 65, H&S CODE §25249.5**
 (By NICHOLS)

16 32. PLAINTIFF NICHOLS re-alleges and incorporates by reference as if specifically set forth
17 herein Paragraphs 1 through 31 inclusive.

18 33. NICHOLS is informed and believes, and based upon such information and belief alleges,
19 that DEFENDANTS use and/or have used toxic and dangerous Prop 65 chemicals including Cr VI, Arsenic
20 (inorganic compounds), Cadmium and cadmium compounds, Cobalt metal powder, Lead and lead
21 compounds from their Facilities, and that the use of these chemicals, combined with toxic releases from
22 said Facilities into the groundwater, soil, both public and private, ambient air, threatens adjacent surface
23 water and the surrounding environment. These discharges of Cr VI alone have also contaminated drinking
24 water absent discharge permits or threaten sources of drinking water of the state in violation of Health and
25
26
27
28

1 Safety Code §§25249.5, 25249.9 (b) (2) and 25249.11 (e). These sources are all surface water ¹ including,
2 but not limited to, Lake Mathews, the Los Angeles Basin (Coastal Plain) aquifer and both the CA Aqueduct
3 system and Colorado River system. Scientific analysis of the Cr VI isotope ratios found in the widespread
4 Cr VI damage to the environment 24/7/365 is continuing to identify all the areas of California that
5 DEFENDANTS Cr VI particulate has migrated to.

6
7 34. As a proximate result of the acts by DEFENDANTS, the All PLAINTIFF's have been
8 exposed/endangered/threatened by carcinogenic/reproductive toxicant chemicals in drinking water in
9 excess of the OEHHA cumulative PHG threshold of 0.02 parts per billion (ppb) for Cr VI by ingestion,
10 dermal and inhalation exposures during shower or swimming, *et al.*

11 35. On Dec. 5, 2016 NICHOLS sent the required 60-day notices of Prop 65 violations to public
12 agencies responsible for enforcement of these environmental laws and to DEFENDANTS or their corporate
13 agent for service, informing them that their Facilities were discharging Prop 65 chemicals including
14 carcinogens and reproductive toxins.

15
16 36. Further those DEFENDANTS were discharging said chemicals to sources of drinking water
17 and/or releasing these listed chemicals into the air where they may threaten sources of drinking water after
18 wet or dry fallout of the atmosphere.

19
20 37. Said 60-day notices were filed with the CA Justice Department for Prop 65 enforcement,
21 and the Los Angeles, Orange, Riverside and San Bernardino County District Attorney Offices. Neither of
22 those first jurisdictional agencies chose to enforce the statute within said 60-day period pursuant to Health
23 and Safety Code section 25249.7 (c). PLAINTIFF NICHOLS is now within the authority of Health and
24 Safety Code §25249.7 (d) to pursue the discharge violation as provided by law.
25
26
27
28

¹ Tit. 27, CCR §25102 (w)

1 38. PLAINTIFF NICHOLS seeks to collect civil penalties against DEFENDANTS for
2 discharge violations under Prop 65; specifically Health and Safety Code §§ 25249.7 (b) (1) and 25249.9 (b)
3 (2).

4 **SECOND CAUSE OF ACTION:**
5 **FAILURE TO WARN**
6 **PROPOSITION 65, H&S CODE 25249.6**
7 **(By NICHOLS)**

8 39. PLAINTIFF NICHOLS re-alleges and incorporates by reference as if specifically set forth
9 herein Paragraphs 1 through 38 inclusive.

10 40. Since at least December 5, 2015, DEFENDANTS failed to provide those persons in the
11 immediate vicinity to the DEFENDANTS' Paramount Facilities with a clear and reasonable warning
12 regarding all known carcinogens and reproductive toxins among Prop 65 chemicals discharged as required
13 by statute. These exposures occur on and near the Facilities to others in the adjacent environment without
14 adequate warnings.
15

16 41. PLAINTIFF NICHOLS alleges that the DEFENDANTS have released toxic chemicals, without
17 required warnings, in violation of Prop 65 on numerous occasions since at least Dec. 5, 2016, including
18 numerous dates in October and November of 2016 and as the recent Jan. 31, 2017 AQMD air concentration
19 map shows, and that they also did so on numerous occasions prior to that time period. As such
20 DEFENDANTS were required to give warnings in a conspicuous manner in accordance with Health and
21 Safety Code § 25249.6; as delineated at Title 27 CCR §25601 *et seq.*
22

23 42. More egregiously as the record from AQMD circa 2013-2017 now shows that the
24 DEFENDANTS have knowingly and intentionally released said Prop 65 chemicals without giving the
25 required clear and reasonable warnings to those in the adjacent community of Paramount.
26

27 43. DEFENDANTS' recent emissions/discharges have caused violations of the above statute
28 and make them liable for the penalty prescribed by law per day, per exposed individual, and every day is a

1 separate violation. Health and Safety Code says at §25249.10 (c) that the level of exposure that is exempt
2 must be proven by the DEFENDANTS to not pose any:

3 "significant risk assuming (a) lifetime of exposure at the level
4 in question for substances known to the state to cause cancer..."

5 44. Further §25249.10 (c) requires that the DEFENDANTS prove that the OEHHA "PHG" of
6 .020 ug/L in drinking water is not the proper NSRL for warning requirements via the pathways of
7 inhalation, dermal and ingestive exposures collectively as it is lower than the current 10 ppb MCL.
8

9
10 **THIRD CAUSE OF ACTION**
11 **(Continuing Trespass)**
12 **(By INDIVIDUAL PLAINTIFFS)**

13 45. All INDIVIDUAL PLAINTIFFS incorporate herein by reference, as if set forth in full each
14 of the allegations contained in paragraphs 1 through 44, inclusive, herein above.

15 46. DEFENDANTS, and each of them, as herein before alleged in detail, constitute and
16 continue to constitute unlawful trespass and interference with, and invasions of INDIVIDUAL
17 PLAINTIFFS' rights to possession of their property, in that those acts were done and are done with the
18 substantial certainty that they would result and do result in damage to others and would result and do result
19 in the entry of foreign, toxic, and carcinogenic matter onto the real property owned, leased and/or occupied
20 or previously occupied by INDIVIDUAL PLAINTIFFS.

21 47. INDIVIDUAL PLAINTIFFS are informed and believe, and based thereon allege, that the
22 trespass is continuing and reasonably abatable by reasonable means and at reasonable costs.
23

24 48. As a proximate result of the trespasses committed by the DEFENDANTS by and through
25 their officers, directors, and managing agents, INDIVIDUAL PLAINTIFFS have suffered and continue to
26 suffer injuries to their persons, their mental and emotional health, their earning capacities, their property
27 and their economic interests, all as alleged herein, and have suffered and continue to suffer further mental
28

1 and emotional distress as a result of the loss of use of their real and personal property. All of the above
2 damages will be established according to proof.

3 49. The aforementioned conduct of the DEFENDANTS by and through their officers, directors
4 and managing agents, in intentionally and recklessly using their dangerous and hazardous materials and
5 substances at the Facility in the immediate vicinity of INDIVIDUAL PLAINTIFFS' persons and properties
6 and the DEFENDANTS intentionally and recklessly allowing and continuing to allow emissions of these
7 hazardous materials and substances into INDIVIDUAL PLAINTIFFS' property and INDIVIDUAL
8 PLAINTIFFS' environs was and is intended to cause injury to INDIVIDUAL PLAINTIFFS, or in the
9 alternative, was and is willful, wanton and despicable conduct carried out with a conscious disregard to
10 INDIVIDUAL PLAINTIFFS' rights and well-being and subjected and continues to subject INDIVIDUAL
11 PLAINTIFFS to cruel and unjust hardship so as to justify an award of exemplary and punitive damages in a
12 sum to be determined at time of trial.
13
14

15 **FOURTH CAUSE OF ACTION**

16 **(Negligence)**

17 **(By ALL PLAINTIFFS)**

18 50. All PLAINTIFFS incorporate by reference, as if set forth in full, each of the allegations
19 contained in paragraphs 1 through 49, inclusive, herein above.

20 51. As herein before alleged in detail, because of the proximity of the INDIVIDUAL
21 PLAINTIFFS to the Facilities the DEFENDANTS owed and owe a duty to INDIVIDUAL PLAINTIFFS to
22 conduct their activities at the Facility in a reasonably safe and lawful manner. The Defendants had a legal
23 duty to use due care and they breached that duty by reckless environmental safety practices and the use of
24 poor emission control equipment, thereby causing said breach of that duty, and the proximate cause of the
25 resulting air, soil and water contamination alleged. This reckless and negligent conduct has caused injury to
26 INDIVIDUAL PLAINTIFFS' persons, their mental and emotional health, their drinking water supplies,
27 their animals' health, their property and their economic interests.
28

1 52. Further NICHOLS alleges that the conduct of all DEFENDANTS, and each of them, as
2 described herein constitutes other violations of law, including but not limited to: Health and Safety Code
3 §§41700, 42402 *et seq.*, 25249.5, 25249.6 and at least AQMD District Rules 201, 202 and 402. Each of
4 these violations constitutes negligence under the theory of 'negligence per se.'

5 53. The acts of the DEFENDANTS by and through their officers, directors and managing
6 agents, as herein before alleged in detail, constitute violation of the duty of ordinary care and skill owed by
7 DEFENDANTS to All PLAINTIFFS. The INDIVIDUAL PLAINTIFFS have suffered and continue to suffer
8 further mental and emotional distress as a result of the diminution of their property values.
9
10 DEFENDANTS' conduct alleged herein and above was and is willful, wanton and despicable, carried out
11 with a conscious and/or reckless disregard of INDIVIDUAL PLAINTIFFS' rights and well-being and
12 continues to subject INDIVIDUAL PLAINTIFFS to cruel and unjust hardship so as to justify an award of
13 exemplary and/or punitive damages in a sum to be determined at the time of trial.
14

15
16 **FIFTH CAUSE OF ACTION**
17 **(By ALL PLAINTIFFS and Those Similarly**
18 **Situated Doe PLAINTIFFS)**
19 **For Fraudulent Concealment)**

20 54. All PLAINTIFFS incorporate herein by reference, as if set forth in full, each of the
21 allegations contained in paragraphs 1 through 53, inclusive, herein above.

22 55. As set forth hereinabove, DEFENDANTS had both an implied and statutory duty to warn
23 Doe PLAINTIFFS and INDIVIDUAL PLAINTIFFS concerning the nature of the emissions from their
24 Facility, under Health and Safety Code Section 25249.6. DEFENDANTS' failure to so warn constitutes a
25 concealment of material information with the intent to deceive All PLAINTIFFS and cause them to refrain
26 from taking steps to protect themselves, their property and their families. Further, in failing to warn and
27 thereby concealing the toxic nature of their emissions, DEFENDANTS intended that All PLAINTIFFS
28 would refrain from reporting DEFENDANTS' conduct to relevant authorities or taking legal action for

1 damages or other relief. In the alternative, this conduct is also tangible proof of negligence and “negligence
2 per se” as to the NICHOLS claims in the Public Interest. DEFENDANTS’ conduct alleged herein was and
3 is willful, wanton and despicable, carried out with a conscious and/or reckless disregard of INDIVIDUAL
4 PLAINTIFFS rights and well-being and continues to subject INDIVIDUAL PLAINTIFFS to cruel and
5 unjust hardship so as to justify an award of exemplary and punitive damages in a sum to be determined at
6 the time of trial.
7

8 56. In reliance on DEFENDANTS’ failure to warn or apprise All PLAINTIFFS of the extent of
9 DEFENDANTS’ conduct and to toxic nature of their emissions, All PLAINTIFFS reasonably believed,
10 until recently, that it was safe for their persons and property to remain in the vicinity of the Facilities, and
11 the Paramount Public Parks, and therefore did not take steps to protect themselves, their property, nor legal
12 action until recently.
13

14 57. All PLAINTIFFS allege this fraudulent concealment became more purposeful after the state
15 of CA, via the CDPH and OEHHA, adopted Cr VI as an ingestive carcinogen in 2011 and as a reproductive
16 toxicant in 2012. The DEFENDANTS combined post 2012 “unreasonable risk” conduct that is and was in
17 violation of CA. Health and Safety Code §42402.3 (a)-(b) as complained of herein, was created by the
18 composite dermal, inhalation and ingestive danger of Cr VI now combined with the reproductive danger as
19 recently identified by regulators.
20

21 58. All PLAINTIFFS allege this egregious conduct has only increased the continuing liability and
22 damages as the DEFENDANTS willfully and intentionally concealed from INDIVIDUAL PLAINTIFFS
23 and all Doe PLAINTIFFS or others similarly situated in at least the Los Angeles County air basin their real
24 discharges (emissions). The recent governmental testing adjacent to the DEFENDANTS Facilities confirms
25 that prior emission reports to AQMD, *et al* were a false record in violation of §42402.4 for the purposes of
26 concealment from those persons that required the information. Discovery is continuing.
27
28

1 59. All PLAINTIFFS allege that this concealment was also for the purposes of DEFENDANT
2 and other illegal dischargers evading the cost of cleanup of the environment. NICHOLS research has found
3 a small enough group of environmental violators that have specifically discharged the Cr VI at issue and
4 that this group meets the "Enterprise Liability" threshold to be a group sharing liability in a proportionate
5 share. The DEFENDANTS Enterprise Liability group will be more fully delineated as discovery continues.
6

7 **WHEREFORE**, ALL PLAINTIFFS pray judgment against each individual DEFENDANT as follows:

- 8 1. For general damages according to proof;
9 2. For special damages according to proof;
10 3. For the diminution in the value of INDIVIDUAL PLAINTIFFS' property;
11 4. For exemplary or punitive damages according to proof;
12 5. For civil penalties according to proof as to Public Interest violations under Prop 65;
13 6. Attorneys' fees pursuant to Cal. Code of Civ. Pro. § 1021.5;
14 7. For tolling of all applicable statutes of limitations by continuing violations;
15 8. For costs of suit incurred herein; and
16 9. For such other and further relief as the Court deem proper.
17

18 **DEMAND FOR JURY TRIAL**

19 The issues complained of herein and damages exceed the jurisdictional minimum of the Superior
20 Court. All PLAINTIFFS hereby demand a trial by jury.
21

22
23 Dated: Feb. 9, 2017

24 By:


Kurt S. Bollin, Esq.
Attorney for ALL PLAINTIFFS
25
26
27
28