

**STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE 17TH JUDICIAL CIRCUIT
WINNEBAGO COUNTY**

**CHARLES K. GRASLEY, TAMIKA R.
WALKER, PAIGE HOOPS, DIANE
CONNELLY, AND ERIC OSBERG,**
individually and on behalf of all others
similarly situated,

Plaintiff,

v.

CHEMTOOL INCORPORATED,

Defendant.

CASE NO. 2021-L-0000162

AMENDED CLASS ACTION COMPLAINT

Plaintiffs Charles K. Grasley, Tamika R. Walker, Paige Hoops, Diane Connelly, and Eric Osberg (“Named Plaintiffs” or “Plaintiffs”), individually and on behalf of all others similarly situated (the “Class,” as more fully defined below), by their undersigned counsel, bring this class action lawsuit against Defendant Chemtool Incorporated (“Chemtool”) for damages sustained as the result of a June 14, 2021 fire and explosions which occurred at Defendant’s Rockton, Illinois chemical plant, and the “environmental nightmare”¹ created by the fire, explosions, and resulting massive toxic smoke and dust plume. As a result of the preventable fire, explosions, and toxic smoke and dust plume, Plaintiffs and the other Class members have suffered property damage, including but not limited to lost profits; loss of use and enjoyment of property; investigation, cleanup, and remediation of the property; and diminution of property value.

¹<https://www.nbcnews.com/news/us-news/video-shows-flames-engulfing-chemical-plant-northern-illinois-n1270729>

Defendant's negligence, recklessness, willful and wanton conduct, and failure to prevent the fire, explosions, and toxic smoke and dust plume caused and continues to cause harm to Plaintiffs and the other Class members. Plaintiffs make the following allegations upon personal knowledge as to Defendant's acts and/or omissions, upon information and belief, and upon Plaintiffs' attorneys' investigation as to all other matters:

I. GENERAL ALLEGATIONS

A. Parties

1. Plaintiff Charles K. Grasley is an Illinois citizen and a resident of Winnebago County, Illinois whose home is within a one-mile radius of Defendant's Rockton, Illinois Production Center, which is located at 1165 Prairie Hill Road, Rockton, Illinois 61072 ("Chemtool Chemical Plant").

2. Plaintiff Charles K. Grasley evacuated his home pursuant to a mandatory evacuation order because of the June 14, 2021 fire and explosion at the Chemtool Chemical Plant.

3. Plaintiff Tamika R. Walker is an Illinois citizen and a resident of Winnebago County, Illinois whose home is within a one-mile radius of the Chemtool Chemical Plant.

4. Plaintiff Tamika R. Walker evacuated her home pursuant to a mandatory evacuation order because of the June 14, 2021 fire and explosion at the Chemtool Chemical Plant.

5. Plaintiff Paige Hoops is an Illinois citizen and a resident of Winnebago County, Illinois whose home is within a one-mile radius of the Chemtool Chemical Plant.

6. Plaintiff Paige Hoops evacuated her home pursuant to a mandatory evacuation order because of the June 14, 2021 fire and explosion at the Chemtool Chemical Plant.

7. Plaintiff Diane Connelly is an Illinois citizen and a resident of Winnebago County, Illinois whose home is within a one-mile radius of the Chemtool Chemical Plant.

8. Plaintiff Eric Osberg is an Illinois citizen and a resident of Winnebago County, Illinois whose home is 1.75 miles from the Chemtool Chemical Plant.

9. Defendant Chemtool Incorporated is a Delaware corporation with its headquarters and principal place of business located at 801 West Rockton Road, Rockton, Illinois 61072.

10. Chemtool is an Illinois citizen and, at all relevant times, operated the Chemtool Chemical Plant.

B. Jurisdiction and Venue

11. This is an Illinois action directly affecting Illinois citizens who are residents of Winnebago County, Illinois.

12. This action is brought on behalf of Illinois citizens, for losses to property located in Winnebago County, Illinois, as a result of Defendant's utter indifference, reckless, willful and wanton conduct and acts of negligence, nuisance, and trespass that took place in Winnebago County, Illinois. No claims are asserted for personal injuries.

13. All of the proposed Class members are Illinois citizens.

14. The principal injuries of Plaintiffs and the other Class members were incurred in Illinois.

15. Plaintiffs and the other Class members' injuries directly resulted from Defendant's acts or omissions at and around the Chemtool Chemical Plant in Winnebago County, Illinois.

16. Plaintiffs, individually and on behalf of the other Class members, are seeking significant relief from Chemtool in the form of injunctive and monetary relief.

17. Jurisdiction is proper pursuant to 735 ILCS 5/2-209 because: (i) plaintiffs and the other Class members are Illinois citizens and reside in and around Rockton, Winnebago County, Illinois; (ii) the commission of the tortious act alleged occurred in Rockton, Winnebago County,

Illinois; and (iii) the property at issue in this case is located in Rockton, Winnebago County, Illinois.

18. Venue is proper pursuant to 735 ILCS 5/2-101(1) and (2) because Chemtool is a resident of Winnebago County, Illinois and because the causes of action stated herein arose out of underlying transactions that occurred at the Chemtool Chemical Plant located in Rockton, Winnebago County, Illinois.

C. Background Facts

19. Chemtool has maintained a presence in northern Illinois since at least 1979.

20. Chemtool markets itself as “a premium manufacturer of lubricants and grease products in the Americas” offering products “that are used in a multitude of markets and applications.”²

21. In 2008, Chemtool built the Chemtool Chemical Plant in the Village of Rockton, Illinois.

22. At all relevant times, Chemtool operated the Chemtool Chemical Plant.

23. The Chemtool Chemical Plant produced lubricants, grease products, and other fluids.

24. Chemtool has a history of state and federal environmental violations.

25. In 2009, McHenry County, Illinois health authorities sued Chemtool for polluting soil and wetlands surrounding its 58-acre headquarters with sewage and other contaminants.³

26. The community of Rockton, Illinois has approximately 7,500 residents.

² <https://www.chemtool.com/>

³ <https://prev.dailyherald.com/story/?id=294766>

27. Numerous residential, commercial, and public properties are located within three miles of the Chemtool Chemical Plant. These properties include:

- a. Homes, schools, commercial buildings and stores, churches, and athletic fields;
- b. Rockton Middle School Grade School, located 0.2 miles from the Chemtool Chemical Plant;
- c. Whitman Post Elementary School, located 0.3 miles from the Chemtool Chemical Plant;
- d. Fatt Cat Café, located 0.4 miles from the Chemtool Chemical Plant;
- e. Taylor Company, located 0.5 miles from the Chemtool Chemical Plant;
- f. River Chapel, located 0.58 miles from the Chemtool Chemical Plant;
- g. Rockton United Methodist Church Parsonage, located 0.6 miles from the Chemtool Chemical Plant;
- h. Jeanne's Work Hononegah High School, located 0.7 miles from the Chemtool Chemical Plant;
- i. Coral Cove Family Fun Center, located 0.82 miles from the Chemtool Chemical Plant;
- j. Catch the Wave Swim Club, located 0.83 miles from the Chemtool Chemical Plant;
- k. Hononegah Community High School, located 0.9 miles from the Chemtool Chemical Plant;
- l. Old Stone Congregational Church, located 0.94 miles from the Chemtool Chemical Plant;
- m. World of Dreams Daycare, located 1.14 miles from the Chemtool Chemical Plant;
- n. South Beloit High School, located 1.16 miles from the Chemtool Chemical Plant;
- o. Whitman Post Elementary, located 1.16 miles from the Chemtool Chemical Plant;
- p. St. Andrew Preschool, located 1.22 miles from the Chemtool Chemical Plant;

- q. Rockton Grade School, located 1.26 miles from the Chemtool Chemical Plant;
- r. Rockton Athletic Fields, located 1.55 miles from the Chemtool Chemical Plant;
- s. Unitarian Universalist Congregation of Rock Valley, located 1.66 miles from the Chemtool Chemical Plant;
- t. Riverview School, located 1.79 miles from the Chemtool Chemical Plant;
- u. Swedish American Stateline Clinic, located 1.87 miles from the Chemtool Chemical Plant;
- v. St. Peters Catholic School, located 1.96 miles from the Chemtool Chemical Plant;
- w. Prince of Peace Church, located 2 miles from the Chemtool Chemical Plant;
- x. Macktown Golf Course, located 2.09 miles from the Chemtool Chemical Plant;
- y. Pearl Lake RV Resort, located 2.16 miles from the Chemtool Chemical Plant;
- z. Blair's Farm & Fleet, located 2.23 miles from the Chemtool Chemical Plant;
- aa. ALDI, located 2.34 miles from the Chemtool Chemical Plant;
- bb. Gaston Elementary School, located 2.34 miles from the Chemtool Chemical Plant;
- cc. Walmart Supercenter, located 2.43 miles from the Chemtool Chemical Plant;
- dd. Hackett Elementary School, located 2.55 miles from the Chemtool Chemical Plant;
- ee. Stephen Mack Middle School, located 2.7 miles from the Chemtool Chemical Plant; and
- ff. Beloit College, located 3 miles from the Chemtool Chemical Plant.

28. Figure 1, below, depicts a three-mile radius around the Chemtool Chemical Plant.

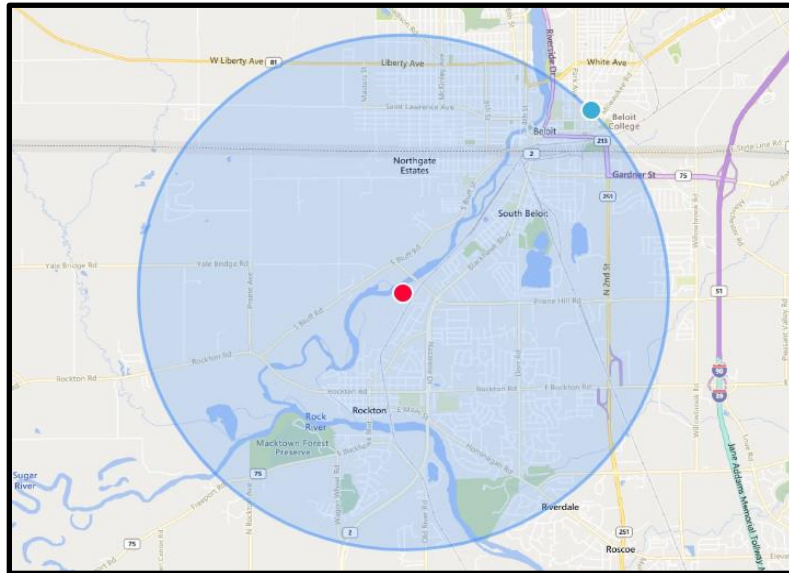


Figure 1

29. Upon information and belief, Chemtool stored lead, antifreeze, nitrogen, sulfuric acid, and other chemicals at the Chemtool Chemical Plant.

30. At all relevant times, the risk of a chemical fire, explosions, and release of a toxic smoke and dust plume was reasonably foreseeable to Defendant.

31. At all relevant times, it was reasonably foreseeable to Defendant that the risk of a chemical fire, explosions, and release of a toxic smoke and dust plume could impact the properties and present a hazard to the class members located near the Chemtool Chemical Plant.

D. The Explosion and the Ensuing “Environmental Nightmare”

32. On June 14, 2021, a fire and explosions occurred at the Chemtool Chemical Plant, resulting in a massive toxic smoke and dust plume—the plume was so large that it was reportedly detected by weather satellites and could be observed 56 miles away from the Chemtool Chemical Plant.

33. Figures 2, 3, 4, and 5, below, depict the smoke and dust plume.



Figure 2



Figure 3



Figure 4



Figure 5

34. The severity of the disaster was accurately captured by drone footage available at <https://www.youtube.com/watch?v=rX6zCDkMSRY>.

35. Nearly 90 fire departments and associated personnel and equipment were dispatched to the scene to assist in responding to the large, six-alarm fire.

36. Defendant had not informed and did not inform the emergency responders of the type and amount of chemicals that were contained within the Chemtool Chemical Plant.

37. Defendant had not consulted and did not consult with emergency responders to develop an emergency response plan to extinguish a fire at the Chemtool Chemical Plant without causing significant environmental damage to the Rock River and surrounding aquifers.

38. As a result of Defendant's failure to plan for such an emergency, the emergency responders were not equipped with proper fire suppression systems and equipment to extinguish the fire.

39. As a result of Defendant's failure to develop an appropriate emergency response plan, firefighting authorities were forced to allow the materials at the Chemtool Chemical Plant to burn before engaging in fire suppression activities.

40. The fire at the Chemtool Chemical Plant burned for several days and flare-ups continued to occur through June 19, 2021.

41. Authorities in Winnebago County, Illinois issued an executive proclamation of disaster emergency in response to the fire, explosions, and resulting toxic smoke and dust plume and ordered residents within a one-mile radius of the Chemtool Chemical Plant to evacuate ("Evacuation Order").

42. The Evacuation Order displaced residents from more than 150 homes.

43. During the period of evacuation, evacuated residents were unable to return to their homes to obtain personal items and necessities, including medication, technology, and communication devices to inform loved ones of their well-being.

44. Winnebago County, Illinois authorities advised residents within a three-mile radius of the Chemtool Chemical Plant to wear masks to protect against inhalation of potentially toxic and harmful chemicals and to remain indoors.

45. Winnebago County, Illinois authorities advised residents not to use HVAC systems.

46. The explosion and fire deposited various debris on property as far as five miles from the Chemtool Chemical Plant.

47. Winnebago County, Illinois authorities advised residents not to touch any of the debris that was deposited onto their properties but to have it removed by professionals experienced in working with hazardous materials.

48. Winnebago County, Illinois authorities cautioned residents against using their lawn mowers due to concerns about the composition of particulates that settled on residents' properties.

49. Illinois Governor J.B. Pritzker activated personnel from numerous state agencies and departments, including the Illinois Emergency Management Association, State Police, the Illinois National Guard, and the Illinois Department of Public Health, to participate in the response to the fire.

50. Governor Pritzker activated the State Emergency Operation Center to help coordinate the response to the fire.

51. The Illinois Department of Transportation, the Illinois Environmental Protection Agency, the State Fire Marshal's Office, the American Red Cross, and the Salvation Army were also mobilized to assist in the response.

52. Officials from the U.S. Environmental Protection Agency, the U.S. Department of Health and Human Services, and the Federal Emergency Management Agency also provided support to the response.⁴

53. On June 16, 2021, officials from the Illinois Environmental Protection Agency requested that the Illinois Attorney General take legal action against Chemtool to stop the release of pollutants from the chemical fire, including sulfuric acid, particulate matter, and other air contaminants.

54. On July 9, 2021, the Illinois Attorney General and the State's Attorney of Winnebago County filed a complaint in the Circuit Court of the Seventeenth Judicial Circuit, Winnebago County, Chancery Division, seeking preliminary injunctive relief to enjoin Chemtool from creating any further substantial endangerment to the environment and public health and welfare and from committing any further violations of the Illinois Environmental Protection Act.

E. Community Impacts from the Chemtool Chemical Plant Fire and Explosion

55. Beginning on June 14, 2021 and continuing through the date of this Amended Complaint, class members have been unable to use and enjoy their indoor and outdoor property as a result of the debris and poor air quality caused by the fire, explosions, and toxic smoke and dust plume.

56. Rockton residents, as well as residents of neighboring towns, have reported that the debris, smoke, dust, and air quality resulting from the fire, explosions, and toxic smoke and dust plume have caused nuisance-level physiological harms, including respiratory difficulty, offensive

⁴ According to the U.S. Environmental Protection Agency, a private company hired by Chemtool was brought in to assist with extinguishing the massive chemical fire.

smells, nausea, and headaches, which have further impaired their ability to use and enjoy their properties.

57. The Illinois Environmental Protection Agency took wipe samples at locations close to the Chemtool Chemical Plant on June 17, 2021 and the publicly available results demonstrate that several chemical analytes were detected above the reporting limit, including aluminum, barium, boron, calcium, chromium, iron, magnesium, manganese, potassium, strontium, and zinc.⁵

58. At the time of the fire and explosions, Plaintiff Grasley and his family were residing at his home, which is within one mile of the Chemtool Chemical Plant. Plaintiff Grasley and his family evacuated his home on June 14, 2021 pursuant to the mandatory evacuation order.

59. At the time of the fire and explosions, Plaintiff Walker and her family were residing at their home, which is within one mile of the Chemtool Chemical Plant. Plaintiff Walker and her family evacuated her home on June 14, 2021 pursuant to the mandatory evacuation order.

60. At the time of the fire and explosions, Plaintiff Hoops was at her grandparents' home, which is within a mile of the Chemtool Chemical Plant. Plaintiff Hoops helped her grandparents evacuate their home on June 14, 2021 pursuant to the mandatory evacuation order.

61. Plaintiff Hoops' residence is within one mile of the Chemtool Chemical Plant. After helping her grandparents, Plaintiff Hoops and her husband also evacuated their home on June 14, 2021 pursuant to the mandatory evacuation order.

62. At the time of the fire and explosions, Plaintiff Connelly and her husband were in their residence, which is within one mile of the Chemtool Chemical Plant. For approximately one

⁵ <https://www2.illinois.gov/epa/topics/community-relations/sites/Chemtool/Documents/ILEPA%20Wipe%20Samples%2021F0726%20Chemtool.pdf>.

week following the fire and explosions, Plaintiff and her husband closed all windows and doors to their home, turned off the HVAC system, wore dust masks, and limited exposure to the outdoors.

63. At the time of the fire and explosions, Plaintiff Osberg was in his home, which is approximately 1.75 miles from the Chemtool Chemical Plant.

64. As a result of the fire, explosions, and resulting toxic smoke and dust plume, toxic and harmful substances, smoke, debris, particulate matter, other dust, and other pollutants have been deposited in, on, and around Plaintiffs' properties.

65. As a result of the fire, explosions, and resulting toxic smoke and dust plume, Plaintiffs had and continue to have concerns about their own well-being and the well-being of their families because their residences were directly impacted by the plume, which has further interfered with their ability to use and enjoy their properties.

66. Plaintiffs and their families have not been able to use and enjoy their homes and properties as expected.

67. At all relevant times, Defendant Chemtool failed to act with reasonable care, acted with utter indifference, recklessly, and with willful and wanton misconduct.

68. Defendant failed to prevent the fire, explosions, and the resulting toxic smoke and dust plume and otherwise acted with utter indifference, recklessly, and with willful and wanton misconduct.

69. Defendant, alternatively, failed to discover the hazards that resulted in the fire, explosions, and resulting toxic smoke and dust plume, where such hazards could have been discovered by the exercise of ordinary care and otherwise acted with utter indifference, recklessly, and with willful and wanton misconduct.

70. Defendant failed to act with reasonable care to take sufficient precautions which would have prevented or mitigated the fire, explosions, and resulting toxic smoke and dust plume and otherwise acted with utter indifference, recklessly, and with willful and wanton misconduct.

71. Defendant failed to act with reasonable or ordinary care to prevent toxic chemicals, dust, and hazardous by-products from being released into the environment and onto the properties of Plaintiffs and the other Class members and otherwise acted with utter indifference, recklessly, and with willful and wanton misconduct.

72. Defendant failed to act with reasonable or ordinary care to contain the discharge of toxic smoke, dust, and hazardous by-products after the fire and explosions occurred and otherwise acted with utter indifference, recklessly, and with willful and wanton misconduct.

73. At all relevant times, it was foreseeable to Defendant that their failures would seriously injure Plaintiffs and the other Class members.

II. CLASS ACTION ALLEGATIONS

74. Pursuant to Illinois Code of Civil Procedure 735 ILCS 5/2-801, Plaintiffs seek to certify and represent a class defined as:

All current Illinois citizens who were, on June 14, 2021, owners or tenants of property located in Illinois within a three-mile radius of the Chemtool Chemical Plant.

75. Specifically excluded from the Class is Defendant, including any parent, subsidiary, affiliate, or controlled person of Defendant; Defendant's officers, directors, agents, or employees, the judicial officers assigned to this litigation and any members of its staff and immediate family, and any juror assigned to this action.

76. Plaintiffs reserve the right to amend or modify the Class definition with greater specificity or division after having had an opportunity to conduct discovery.

77. **Numerosity.** Upon information and belief, there are hundreds of members of the Class, making the members of the Class so numerous that joinder of all members is impracticable. Although the exact number of members of the Class is currently unknown to Plaintiffs, thousands of people live in Rockton alone and thousands of pieces of property were affected. Class members may be identified through objective means, including objective data available to the Parties regarding the persons and property present in the affected areas following the explosion and fire. Class members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. mail, electronic mail, Internet postings, social media and/or published notice. Thus, pursuant to Illinois Rule of Civil Procedure 735 ILCS 5/2-801(1), the large size of the Class renders the Class so numerous that joinder of all individual members is impracticable.

78. **Predominance of Common Questions of Law or Fact.** Common questions of law and fact predominate in this matter because Defendant's conduct towards Plaintiffs and the other Class members is uniform. These common questions of law or fact predominate over any questions affecting only individual Class members. Common questions include, but are not limited to the following:

- a. Whether Defendant engaged in the wrongful conduct alleged herein;
- b. Whether Defendant caused the fire at the Chemtool Chemical Plant in violation of rules, regulations, and customs;
- c. Whether Defendant caused the release of toxic particulate matter into the Rockton community resulting from the fire at the Chemtool Chemical Plant fire;
- d. Whether Defendant failed to use the appropriate standard of care in allowing the fire at the Chemtool Chemical Plant to occur;
- e. Whether Defendant omitted required, reasonable, or minimal safety measures resulting in the fire at the Chemtool Chemical Plant;

- f. Whether Defendant failed to follow required, reasonable, or minimal safety measures that would have mitigated the fire at the Chemtool Chemical Plant;
- g. Whether Defendant engaged in ultrahazardous activities;
- h. Whether Defendant were negligent;
- i. Whether Defendant created a nuisance;
- j. Whether Plaintiffs and the other Class members suffered injury and damages as a result of Defendant's conduct; and
- k. Whether Plaintiffs and the other Class members are entitled to damages, equitable relief, and other relief.

79. Plaintiffs share a common interest with the other Class members in the objectives of the action and the relief sought.

80. Plaintiffs satisfy the commonality requirement of Illinois Rule of Civil Procedure 735 ILCS 5/2-801(2) because their claims arise from Defendant's course of conduct which led to the single incident affecting all of the Class members and are based on the same legal theories as all other Class members' claims.

81. **Adequacy.** Pursuant to Illinois Rule of Civil Procedure 735 ILCS 5/2-801(3), Plaintiffs can and will adequately represent the other Class members and their interests are common to and coincident with them. By proving their individual claims, Plaintiffs will necessarily prove the other Class members' claims and prove Defendant's class-wide liability. Plaintiffs have no known conflicts of interest with any of the other Class members, their interests and claims are not antagonistic to those of any other Class member, nor are their claims subject to any unique defenses.

82. Moreover, Plaintiffs' claims are typical of the claims of all other Class members because all such claims arise from Defendant's conduct as alleged herein.

83. Plaintiffs and the other Class members' legal claims arise from the same single event, namely, the Chemtool Chemical Plant fire, followed by a series of explosions emitting debris and a toxic smoke and dust plume throughout the Rockton, Illinois area and beyond. The material facts underlying each Class member's claim are the same material facts as those supporting Plaintiffs' claims alleged herein and require proof of the same material facts.

84. Plaintiffs, therefore, can and will fairly and adequately protect and represent the other Class members' interests.

85. Plaintiffs' counsel—Foote, Mielke, Chavez & O'Neil, LLC, Williams McCarthy LLP, Miner, Barnhill & Galland, P.C., The Collins Firm, Romanucci & Blandin, LLC, DiCello Levitt Gutzler LLC, Hart McLaughlin & Eldridge, LLC, and Freiberg Law Offices—have extensive experience in environmental and toxic tort litigation and class actions, and have sufficient personnel and adequate financial resources to ensure that the interests of the Class will be adequately represented.

86. If appointed Class representatives, Plaintiffs are aware of, and are committed to, faithfully upholding their fiduciary duties to absent Class members.

87. Plaintiffs and their counsel are committed to the vigorous prosecution of this action and will allocate the appropriate time and resources to ensure that the Class is fairly represented.

88. Plaintiffs and their counsel will, therefore, fairly and adequately assert and protect the interests of the Class.

89. **Appropriateness.** Class treatment provides an appropriate method for adjudication of this controversy insofar as the class action can best secure the economics of time, effort, and expense and promote uniformity of decision. Indeed, the prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudications with respect

to individual Class members that would establish incompatible standards of conduct for the party opposing the Class. As a result, separate actions brought by individual Class members would possibly lead to a situation where identical language is interpreted differently.

90. Resolution of the common issues of fact and law affecting Plaintiffs' and the other Class members' claims, including the common issues discussed above, in a single action will eliminate the chance of inconsistent and/or varying adjudications. Such resolution will further allow Class members to present their claims efficiently, share the costs of litigation, experts and discovery, and preserve judicial time and resources. A class action is thus superior to other available means for the fair and efficient adjudication of Plaintiffs' and the other Class members' claims.

91. In the alternative, the proposed classes may be certified because:

- a. The prosecution of separate actions by each individual Class member would create a risk of inconsistent adjudications, which could establish incompatible standards of conduct for Defendant;
- b. The prosecution of individual actions could result in adjudications that, as a practical matter, would be dispositive of the interests of non-party Class members or which would substantially impair their ability to protect their interests; and
- c. Defendant acted or refused to act on grounds generally applicable to the proposed classes, thereby making final and injunctive relief appropriate with respect to Class members.

III. CLAIMS ALLEGED

COUNT I Negligence

92. Plaintiffs adopt and incorporate Paragraphs 1-91, as though fully set forth herein.

93. Defendant knew or should have known of the risk of fire and explosion at the Chemtool Chemical Plant.

94. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic substances into the surrounding neighborhood.

95. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful smoke into the surrounding neighborhood.

96. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful debris into the surrounding neighborhood.

97. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful particulate matter into the surrounding neighborhood.

98. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful dust into the surrounding neighborhood.

99. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful pollutants into the surrounding neighborhood.

100. Defendant knew or should have known that the release of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants would pose a risk of serious damage to, diminution in the value of, and loss of use and enjoyment of the affected property.

101. Defendant had a duty to Plaintiffs and the other Class members to exercise reasonable care to prevent the foreseeable interference with Class members' use and enjoyment of their properties that has resulted from the release of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants from the fire, explosion, and resulting smoke and dust plume.

102. Defendant had a duty to prevent the release of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants from the Chemtool Chemical Plant.

103. Defendant breached the duties that it owes to Plaintiffs and each of the other Class members, to exercise reasonable care, which has caused property damage, including but not limited to lost profits; loss of use and enjoyment of property; investigation, cleanup, and remediation of the property; and diminution of property value.

104. Specifically, Defendant breached that duty by:

- a. Failing to comply with its regulatory obligations to take measures to identify and prevent the risk of fire and explosion at the Chemtool Chemical Plant;
- b. Failing to comply with their regulatory obligations to inform emergency responders of the hazards associated with responding to a fire and explosion at the Chemtool Chemical Plant;
- c. Failing to comply with their regulatory obligations to develop appropriate emergency response plans to minimize the catastrophic effect of a fire and explosion;
- d. Choosing not to take sufficient precautions to prevent a fire;
- e. Choosing not to take sufficient precautions to prevent an explosion;
- f. Choosing not to take sufficient precautions to extinguish a fire;
- g. Allowing enormous amounts of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants to be deposited on Class members' properties; and/or

- h. Otherwise failing to take sufficient precautions to control the emissions of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants from Class members' property.

105. As a direct and proximate cause of one or more of the aforementioned negligent acts or omissions, Plaintiffs and the other Class members have sustained, and continue to sustain, property damage.

106. As a direct and proximate cause of one or more of the aforementioned negligent acts or omissions, Plaintiffs and the other Class members have incurred, and will continue to incur, monetary damages arising from the property damage, including but not limited to lost profits; loss of use and enjoyment of property; investigation, cleanup, and remediation of the property; and diminution of property value.

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that this Court enter judgment in their favor and against Defendant in an amount in excess of \$50,000, which will adequately and fairly compensate them, plus the costs of this lawsuit, and an injunction requiring Defendant to remediate the resulting harm at or threatening their residences and for other appropriate injunctive relief.

COUNT II
Willful and Wanton Conduct

107. Plaintiffs adopt and incorporates Paragraphs 1-106, as though fully set forth herein.

108. Defendant acted with utter indifference and reckless disregard for the safety of Plaintiffs and the other Class members in its negligent acts or omissions.

109. Defendant knew or should have known of the impending danger of a fire, explosions, and resulting release of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants and failed to exercise ordinary care to prevent it.

110. Alternatively, Defendant's carelessness and recklessness caused Defendant to fail to discover the danger, which could have been discovered by the exercise of ordinary care.

111. Defendant further failed to act with ordinary care by failing to inform emergency responders of the hazards associated with responding to the fire and explosion at the Chemtool Chemical Plant.

112. Defendant was conscious of its reckless conduct and was conscious, from its knowledge of the surrounding circumstances and existing conditions, that Defendant's reckless conduct would naturally and probably result in injury.

113. As a direct and proximate cause of one or more of Defendant's aforementioned willful and wanton acts or omissions, Plaintiffs and the other Class members have incurred, and will continue to incur, monetary damages arising from the property damage, including but not limited to lost profits; loss of use and enjoyment of property; investigation, cleanup, and remediation of the property; and diminution of property value.

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that this Court enter judgment in their favor and against Defendant in an amount in excess of \$50,000, which will adequately and fairly compensate them, plus the costs of this lawsuit, and an injunction requiring Defendant to remediate the resulting harm at or threatening their residences and for other appropriate injunctive relief.

COUNT III
Nuisance

114. Plaintiffs adopt and incorporates Paragraphs 1-91, as though fully set forth herein.

115. Defendant knew or should have known of the risk of fire and explosion at the Chemtool Chemical Plant.

116. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic substances into the surrounding neighborhood.

117. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful smoke into the surrounding neighborhood.

118. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful debris into the surrounding neighborhood.

119. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful particulate matter into the surrounding neighborhood.

120. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful dust into the surrounding neighborhood.

121. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful pollutants into the surrounding neighborhood.

122. The fire and explosions at the Chemtool Chemical Plant caused the uncontrolled discharge of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants, which invaded the Plaintiffs' and the other Class members' properties, and Plaintiffs and the other Class members did not consent to the entry of such materials onto their properties.

123. Defendant knew or should have known that they caused the disposal and invasion of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants on the Plaintiffs' and the other Class members' properties but has failed to remove such material from the Plaintiffs' and the other Class members' properties.

124. Defendant's uncontrolled discharge of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants and the disposal and invasion thereof onto the Plaintiffs' and the other Class members' properties is unreasonable and unlawful.

125. The discharge, disposal, and invasion of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants onto Plaintiffs' and the other Class members' properties have substantially interfered with the lawful rights of Plaintiffs and the other Class members to use and enjoy their properties, which constitutes a private nuisance.

126. The nuisance described above continues to this day and has adversely impacted the life of Plaintiffs and the other Class members.

127. The nuisance described above has unreasonably, negligently, and recklessly interfered with the comfortable use and enjoyment of life and property, has diminished Plaintiffs' and the Class members property values, and has thereby created a common law nuisance, for reasons of which Defendant is liable to the Plaintiffs and the other members of the Class Plaintiffs represent.

128. As a direct and proximate result of this nuisance, Plaintiffs and the other Class members suffered unacceptable and unreasonable interference with their rights to use and enjoy their properties, interference they should not be required to suffer without compensation.

129. As a direct and proximate cause of the nuisance, Plaintiffs and the other Class members have incurred, and will continue to incur, monetary damages arising from the lost use and enjoyment of their property caused by Defendant's conduct.

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that this Court enter judgment in their favor and against Defendant in an amount in excess of \$50,000, which will adequately and fairly compensate them, plus the costs of this lawsuit, and an injunction requiring Defendant to remediate the resulting harm at or threatening their residences and for other appropriate injunctive relief.

COUNT IV
Trespass

130. Plaintiffs adopt and incorporate Paragraphs 1-91, as though fully set forth herein.

131. Defendant knew or should have known of the risk of fire and explosion at the Chemtool Chemical Plant.

132. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic substances into the surrounding neighborhood.

133. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful smoke into the surrounding neighborhood.

134. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful debris into the surrounding neighborhood.

135. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful particulate matter into the surrounding neighborhood.

136. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful dust into the surrounding neighborhood.

137. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful pollutants into the surrounding neighborhood.

138. Defendant knew or should have known that the release of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants into the surrounding neighborhood would pose a risk of serious damage to, diminution in the value of, and loss of use and enjoyment of the affected property.

139. The fire and explosions at the Chemtool Chemical Plant caused the uncontrolled discharge of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants, which invaded the property in which Plaintiffs and the other Class members have an interest, and Plaintiffs and the other Class members did not consent to the entry of such materials onto these properties.

140. Defendant is aware that it caused the disposal and invasion of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants on the Plaintiffs' and the Class members' properties but has failed to remove the toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants from the properties.

141. Defendant's uncontrolled discharge of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants and the disposal and invasion thereof onto the Plaintiffs' and the other Class members' properties is unreasonable and unlawful, and such discharge, disposal and invasion have substantially interfered with the lawful rights of Plaintiffs and the other Class members to use and enjoy their properties, constituting an unlawful trespass.

142. The trespass is continuing and ongoing.

143. Defendant's interference with Plaintiffs' and Class members' possessory rights was unreasonable and foreseeable.

144. As a direct and proximate result of the trespass, Plaintiffs and Class members sustained and will continue to sustain a loss of ability to use and enjoy their properties.

145. As a direct and proximate cause of the trespass, Plaintiffs have incurred, and will continue to incur, monetary damages arising from the lost use and enjoyment of their property caused by Defendant's conduct.

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that this Court enter judgment in their favor and against Defendant in an amount in excess of \$50,000, which will adequately and fairly compensate them, plus the costs of this lawsuit, and an injunction requiring Defendant to remediate the resulting harm at or threatening their residences and for other appropriate injunctive relief.

COUNT V
Trespass to Chattels

146. Plaintiffs adopt and incorporate Paragraphs 1-91, as though fully set forth herein.

147. Defendant knew or should have known of the risk of fire and explosion at the Chemtool Chemical Plant.

148. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic substances into the surrounding neighborhood.

149. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful smoke into the surrounding neighborhood.

150. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful debris into the surrounding neighborhood.

151. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful particulate matter into the surrounding neighborhood.

152. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful dust into the surrounding neighborhood.

153. Defendant knew or should have known of the risk that a fire and explosion at the Chemtool Chemical Plant would result in the release of toxic and harmful pollutants into the surrounding neighborhood.

154. Defendant knew or should have known that the release of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants would pose a risk of serious damage to, diminution in the value of, and loss of use and enjoyment of the affected property.

155. The explosions and fire at the Chemtool Chemical Plant caused the uncontrolled discharge of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants, which invaded the property in which the Plaintiffs and the other Class members have an interest, dispossessing and intermeddling them of a chattel.

156. Plaintiffs and the other Class members did not consent to the entry of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants onto their properties.

157. Defendant is aware that it caused the disposal and invasion of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants on the Plaintiffs' and the other Class members' properties, dispossessing and intermeddling them of a chattel, but has failed to remove the smoke and particles from the properties.

158. Defendant's uncontrolled discharge of toxic and harmful substances, smoke, debris, particulate matter, other dust, and/or other pollutants and the disposal and invasion thereof onto the Plaintiffs' and the other Class members' properties is unreasonable and unlawful and has substantially interfered with the lawful rights of Plaintiffs and the other Class members to use and enjoy their properties.

159. The trespass is continuing and ongoing.

160. Defendant's interference with Plaintiffs' and the other Class members' possessory rights was unreasonable and foreseeable.

161. As a direct and proximate result of the trespass, Plaintiffs and the other Class members sustained and will continue to sustain a loss of ability to use and enjoy their properties.

162. As a direct and proximate cause of the trespass, Plaintiffs and the other Class members have incurred, and will continue to incur, monetary damages arising from the lost use and enjoyment of their property caused by Defendant's conduct.

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, respectfully request that this Court enter judgment in their favor and against Defendant in an amount in excess of \$50,000, which will adequately and fairly compensate them, plus the costs of this lawsuit, and an injunction requiring Defendant to remediate the resulting harm at or threatening their residences and for other appropriate injunctive relief.

IV. REQUEST FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the other Class members, respectfully requests that this Court:

- a) Issue an order certifying this action as a class action pursuant to Illinois Code of Civil Procedure 735 ILCS 5/2-801 in the manner described above;
- b) Appoint Plaintiffs as Class representatives and their undersigned counsel as Class counsel;
- c) Issue a class-wide judgment holding Defendant liable for the reasons described above for their unlawful conduct causing Plaintiffs and the other Class members to sustain damages resulting therefrom;
- d) Enter a judgment declaring that Defendant has committed the violations of law alleged herein;
- e) Award Plaintiffs and the other Class members compensatory damages in an amount that is fair, just, and reasonable, to be determined at trial;
- f) Award pre-judgment and post-judgment interest to Plaintiffs and the other Class members as permitted by law;
- g) Award reasonable attorneys' fees and costs of suit, including expert witness fees, to the Plaintiffs and proposed Classes pursuant to 740 ILCS 23/5(c)(2); and
- h) Order equitable, injunctive, and declaratory relief requiring Defendant to:

- i. Provide all class members with particulate masks;
- ii. Provide all class members with high efficiency particulate air filters for their homes;
- iii. Conduct immediate testing and sampling of the air and groundwater to detect the presence of toxins and other chemicals potentially hazardous to human health;
- iv. Immediately and publicly disclose all information regarding the toxins and other compounds that comprised the plume;
- v. Institute perimeter particulate matter monitoring at the fence line of the Chemtool Chemical Plant;
- vi. Install additional air quality monitors in all affected areas;
- vii. Provide a full cleanup of all affected residences, businesses, and common areas;
- viii. Wash the exterior of buildings in all affected areas;
- ix. Wash the streets and sidewalks in all affected areas;
- x. Provide alternative housing for class members for the duration of the cleanup process;
- xi. Provide funds for an independent third-party assessor to evaluate and provide estimates to class member property owners regarding property damage and diminution in property value; and
- xii. Any and all additional relief that the Court deems just and proper.

V. JURY DEMAND

Plaintiffs, individually and on behalf of the other proposed Class members, demand a trial by jury on all issues herein so triable pursuant to Section 2-1105 of the Illinois Code of Civil Procedure.

VI. AFFIDAVIT PURSUANT TO SUPREME COURT RULE 222(B)

Pursuant to Supreme Court Rule 222(B), counsel for the above-named plaintiffs certify that plaintiffs seek money damages in excess of Fifty Thousand and 00/100ths Dollars (\$50,000).

Dated: July 23, 2021

Respectfully submitted,

/s/ Robert M. Foote

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