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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 SUSAN MECKLENBURG, individually and )  
on behalf of other persons similarly situated, )

11 )  
12 Plaintiff, )

13 vs. )

14 HYPERION WATER RECLAMATION )  
15 PLANT and CITY OF LOS ANGELES and )  
DOES 1 THROUGH 100, inclusive )

16 Defendants. )  
17 )

CASE NO. **21STCV28114**

CLASS ACTION COMPLAINT

1. NEGLIGENCE

2. NEGLIGENCE PER SE (Cal. Evid. Code §669)

3. PRIVATE NUISANCE (Cal. Civ. Code §3479)

4. PUBLIC NUISANCE (Cal. Civ. Code §3480)

5. TRESPASS

6. INVERSE CONDEMNATION

7. STRICT LIABILITY FOR ULTRAHAZARDOUS ACTIVITIES

8. FRAUDULENT CONCEALMENT

9. INTENTIONAL INFLCITION OF EMOTIONAL DISTRESS

10. NEGLIGENT INFLCITION OF EMOTIONAL DISTRESS

DEMAND FOR A TRIAL BY JURY

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1 Plaintiff, Susan Mecklenburg (“Plaintiff”) hereby brings this class action complaint  
2 on behalf of herself and all other similarly situated residents of the City of El Segundo,  
3 against Defendants, Hyperion Water Reclamation Plant (the “Plant”) and the City of Los  
4 Angeles.

## 5 INTRODUCTION

6  
7 1. This case involves the largest sewage spill in Los Angeles County since 2015. On  
8 July 11, 2021, the Plant located in the beachside city of El Segundo, California and operated by  
9 the City of LA discharged approximately 17 million gallons of untreated sewage through the one-  
10 mile outfall into the Santa Monica Bay off the coast of Dockweiler State Beach. Although multiple  
11 agencies were aware of, and initiated a response to the discharge, including the Los Angeles  
12 County Department of Public Health, Environmental Health Division (“Public Health”), the public  
13 was not properly notified and the beach area affected by the spill remained open for 16 hours  
14 following the discharge.

15  
16 2. Cleanup efforts inside the Plant are expected to take months. This has, and  
17 continues to cause noxious odors to permeate the air. As a result of the spill, hydrogen sulfide is  
18 in the air and has caused symptoms related to headaches, nausea, and eye, nose and throat  
19 irritation. Furthermore, El Segundo residents complained of rashes, nausea and vomiting, lung  
20 irritation, and burning eyes.

## 21 FACTUAL ALLEGATIONS

### 22 *Hyperion Plant*

23  
24 3. On Sunday July 11, 2021, at approximately 2:00 p.m., the Plant received a very  
25 high volume of large trash pieces. The mechanical headwaters intake screens use mechanical  
26 rakes to remove normal debris allowing treatable materials into the facility. The large trash flow  
27 began to overwhelm the screens and trash clearing tools. As clearing the debris became more  
28

1 difficult, Plant executive staff were called to the site. By late afternoon, the debris flow had  
2 overwhelmed the headwaters building, requiring the evacuation of personnel.

3 4. The Plant is equipped with a diversion plate that, if opened, can divert incoming  
4 sewage flow around the blocked screens to the secondary closed containment treatment system.  
5 Plant staff believed they could manage the problem without using that option. However, the  
6 excessive arriving debris flow accumulated too fast, resulting in rapidly rising water forcing the  
7 evacuation of Plant staff members before the diversion bypass plate could be opened. The  
8 headwaters building massively flooded and spilled into the Plant street system.

9  
10 5. Plant staff members installed pre-configured filter screens on all storm drain inlets  
11 within the Plant to remove as many solids as possible. Liquid waste and sewage continued to the  
12 secondary catchment area for pumping back into secondary treatment. However, by early  
13 evening, the flow was so high that approximately 50% of the Plant had flooded and the secondary  
14 pump system was unable to keep up.

15  
16 6. The Plant team opted to discharge the secondary containment pumping system into  
17 the emergency one-mile offshore pipe.

18 7. At 8:10 p.m. on July 11, 2021, when the Plant determined that the one-mile pipe  
19 was going to be needed, the Plant filed a Hazardous Material Spill/Release Report with the 24-  
20 hour on duty officer at the California Office of Emergency Services (“Cal OES”) which provided  
21 notice that an untreated, off-site discharge had occurred.

22  
23 ***Los Angeles County Department of Public Health- Environmental Health Program***

24 8. At 8:11 p.m. on July 11, 2021, the Los Angeles County Department of Public  
25 Health (“Public Health”) - Environmental Health (“EH”) Program received an email from  
26 Cal OES that a massive discharge had occurred from one manhole on Vista Del Mar  
27  
28

1 Street. The email stated that most material was contained on site, and that *some* had been  
2 discharged into the one-mile outfall pipe.

3 9. At 8:24 pm, that email was forwarded to the on-call “Strike Team” leader  
4 and two other team leaders requesting confirmation of receipt. Over the next 19 minutes,  
5 communications took place within the EH program team but none to or from the Plant.  
6

7 10. At 9:30 and 9:35 p.m., respectively, two EH Program Inspectors arrived at  
8 the Plant and were briefed by the two Plant shift supervisors. By 9:48 p.m., it was clear  
9 to the EH Inspectors that a major incident was underway, that the Plant had contained  
10 most of the waste and sewage, but some had left the facility and was impacting the public  
11 street via a manhole or other type of grate outlet at Dockweiler Beach, along with the one-  
12 mile emergency pipe being used.

13 11. The Plant supervisors told the EH Program Inspectors that the release was  
14 ongoing and would not stop until repairs (if successful) could occur at about 4:00 a.m. the  
15 next day when the sewage flow was at the daily minimum.  
16

17 12. At 11:03 p.m. the EH Program Inspectors called their team’s supervisor, and  
18 assured that nothing more at the Plant was needed from them.

19 13. At 11:15 p.m., the EH Program Inspectors went to Dockweiler Beach where  
20 they found both the Plant and Beaches and Harbor Department (B&H Department) private  
21 contractor vacuum trucks on-site cleaning up the manhole spill. The Dockweiler Beach  
22 security guard stated that the spill began at about 6:00 p.m.  
23

24 14. During this time, the inspectors tried twice to contact the manager for EH’s  
25 Recreation Waters Program, and checked in with another Recreation Waters inspector at  
26 11:56 p.m. During that call, the inspectors on site were told there was nothing more for  
27 them to do, and that the other inspector in Recreation Waters would handle it.  
28

1           15.    Between midnight and 1:00 a.m., there were several communications  
2 between the individuals, and one email was sent up the EH Program chain of command.

3           16.    The individual whom the inspectors reported to and who indicated would  
4 handle the next steps took a sick day, and did not report to work on Monday July 12,  
5 2021.

6           17.    As EH Program upper management began their work week on Monday July  
7 12, 2021, there was only partial notice of the Plant incident. It was not until late morning  
8 as more agencies contacted the EH Program that Executive Management understood what  
9 occurred and the magnitude.

10           18.    Midday on Monday, July 12, 2021, the EH Program began posting closure  
11 signs at the beach on Lifeguard Towers. They did not tell nor use County Fire  
12 Department Lifeguards. There was no effective public information until mid to late  
13 afternoon on July 12, 2021.

14 ***Los Angeles County Office of Emergency Management***

15           19.    Cal OES sent an email to Los Angeles County OEM and multiple County,  
16 state and federal agencies, including the County Public Health EH Program, within  
17 approximately two minutes of the Plant notifying Cal OES (around 8:10 p.m. on July 11,  
18 2021). OEM handled this first notification as an “awareness” notice. This “awareness”  
19 notification portrayed the spillage as a minor event.

20           20.    The Department of Public Health did not provide information to OEM which  
21 would have driven OEM to provide emergency management support and coordination.

22           21.    On the morning of July 12, 2021, OEM was fielding calls from Los Angeles  
23 County Fire, as well as trying to assess the severity of the situation. Public Health was  
24

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1 not returning OEM’s calls or emails. When OEM finally reached Public Health, they  
2 received incomplete and inaccurate information.

3 ***Los Angeles County Fire Department Lifeguards***

4 22. On Monday July 12, 2021 at 8:55 a.m., the Los Angeles County Fire  
5 Department Lifeguards (“Lifeguards”) were alerted by a bicyclist about the sewer spill.  
6 The Lifeguards inquired for hours but could not obtain effective spill or response  
7 information. Their first interaction with the EH Program team was an inspector placing a  
8 “beach closed” sign on Lifeguard Towers at about 12:11 p.m.  
9

10 23. The Lifeguards found out from the B&H Department that the evening before  
11 (July 11, 2021) the Department’s environmental contractors had cleaned up a spill at the  
12 Dockweiler Beach parking area. The Lifeguards and Fire Department Operations  
13 Command staff also checked with the City of Los Angeles, the City of El Segundo, and  
14 the United States Coastal Guard, but no agency had any information on the morning of  
15 July 12, 2021 about the spill.  
16

17 ***Los Angeles County Department of Beaches and Harbors (“B&H Department”)***

18 24. On July 11, 2021 at 7:00 p.m., an EH Program inspector notified the B&H  
19 Department’s duty officer about the Dockweiler street and parking lot sewage spill. The  
20 B&H Department activated its environmental clean-up contractor. The B&H Department  
21 contractor arrived by 9:30 p.m. on July 11, 2021, and the spill was substantially  
22 remediated by 2:00 a.m. on July 12, 2021.  
23

24 **JURISDICTION AND VENUE**

25 25. This Court has jurisdiction over this action under Article 6 of the California  
26 Constitution and California Code of Civil Procedure §410.10.

27 ///  
28







1 questions that may affect only individual class members. Defendants' unreasonable  
2 operation or maintenance of the Plant and unreasonable handling of the events leading up  
3 to and following the July 11, 2021 sewage spill and discharge is the common nucleus of  
4 operative fact linking every class member. Each member of the proposed class claims  
5 that Defendants negligently operated, or maintained the Plant which caused the July 11,  
6 2021 sewage spill and discharge which resulted in harmful pollutants and noxious odors  
7 to invade their land, causing diminished use and enjoyment of their properties, polluted  
8 land and air in and around Plaintiffs' properties, and causing adverse health effects. In  
9 addition, each member of the proposed class also claims that Defendants intentionally,  
10 recklessly, and/or negligently failed to abate the sewage spill and discharge of pollutants  
11 and noxious odors, and/or intentionally, recklessly, and/or negligently failed to inform the  
12 public of the discharge and sewage spill. While slight variations in the individual damage  
13 claims may occur, common questions of law or fact regarding Defendants' liability  
14 substantially predominate over any questions affecting only individual class members  
15 such that the proposed class should be permitted for the fair and efficient adjudication of  
16 this controversy.  
17  
18

19 37. Common questions of law and fact common to Plaintiff and the class  
20 members include, but are not limited to, the following:  
21

- 22 a) Whether Defendants acted reasonably in opting to discharge the effluent  
23 through the secondary containment pumping system in the emergency one-mile  
24 offshore pump?  
25 b) Whether Defendants followed regulatory requirements regarding the off-site  
26 discharge of effluent?  
27

28 ///

- 1 c) Whether Defendants acted reasonably in the operation or maintenance of the  
2 Plant?  
3  
4 d) Whether Defendants were negligent in the operation or maintenance of the  
5 Plant?  
6  
7 e) Whether Defendants were negligent in their attempts to abate the excess of  
8 effluent?  
9  
10 f) Whether Defendants were negligent in their post-spill handling and notification  
11 to the public following the discharge of effluent?  
12  
13 g) Whether Defendants intentionally or negligently concealed public release of the  
14 information regarding the sewage spill and discharge?  
15  
16 h) Whether Defendants owed a duty to the class members?  
17  
18 i) Whether Defendants' duty to the class members was breached?  
19  
20 j) Whether Defendants' breach of duty to the class members was the actual and  
21 proximate cause of the sewage spill and/or discharge that occurred on July 11,  
22 2021, and continues to occur as of the filing of this Complaint?  
23  
24 k) Whether gases and other chemicals have been leaked, released or emitted into  
25 the area of the sewage spill and discharge that would pose a threat to the health  
26 and safety of the class members?  
27  
28 l) Whether uncontrolled leak of noxious orders, hazardous gases, chemicals,  
pollutants, and contaminants into the area of the Plant constitutes an unlawful  
trespass?  
m) Whether Defendants' failure to adequately compensate the class members for  
the uninhabitable condition of their residences constitutes a taking?

///

1 n) The magnitude to which the class members have been harmed by the  
2 uncontrolled leak of noxious odors, hazardous gases, chemicals, pollutants, and  
3 contaminants into the area of the Plant?

4 o) The appropriate measure of damages sustained by the class members.  
5

6 38. **Numerosity:** The members of the Class are so numerous that a joinder of all  
7 members would be impracticable. Plaintiff estimates that the population of El Segundo is  
8 approximately 16,500 people, based on the United States Census Bureau 2019 population  
9 calculation of 16,610 people. Plaintiff estimates that the proposed class includes each and  
10 every resident of the City of El Segundo, likely in excess of 15,000 members.

11 39. **Typicality:** Plaintiff's claims are typical of the claims of the class.  
12 Plaintiff and all putative class members are affected by the same sewage leak and  
13 discharge at the Plant. Defendants' course of conduct in violation of the law as alleged  
14 herein has caused Plaintiff and class members to sustain the same or similar injuries and  
15 damages.  
16

17 40. **Adequacy of representation:** Plaintiff does not have any conflicts of  
18 interest with other class members due to the great degree of commonality, and will  
19 prosecute the case vigorously on behalf of the class. Counsel representing Plaintiff and  
20 the class are competent and experienced in litigating class actions. Plaintiff will fairly  
21 and adequately represent and protect the interests of the class members. The named  
22 Plaintiff is committed to deliver relief for the class and has retained experienced class  
23 action counsel.  
24

25 41. **Superiority of class action:** A class action is superior to other available  
26 means for the fair and efficient adjudication of this controversy. Individual joinder of all  
27 class members is not practicable, and questions of law and fact common to the class  
28

1 predominate over any questions affecting only individual members of the class. Each  
2 class member has been damaged and is entitled to recovery as a direct result of  
3 Defendants' conduct with respect to the sewage spill and discharge from Defendants'  
4 Plant. Moreover, the complexity of this litigation and potential of recovery for  
5 individuals renders separate adjudication impracticable. Thus, class action treatment  
6 provides optimal resolution of all the class members' claims in a manner more efficient  
7 and economical for both the parties and the judicial system.

9 **FIRST CAUSE OF ACTION**  
10 **NEGLIGENCE**  
11 **(Against all Defendants and DOES 1-100, inclusive)**

12 42. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
13 fully set forth herein.

14 43. At all relevant times, Plaintiff resided within the City of El Segundo, a short  
15 distance from the site of the Plant sewage spill owned and operated by Defendants.

16 44. At all relevant times, Defendants each owned, operated, inspected,  
17 controlled, managed, and maintained the Plant.

18 45. At all relevant times, Defendants had the duty to exercise the utmost care  
19 and diligence in their ownership, design, operation, management, supervision, inspection,  
20 maintenance, repair, and/or control of the Plant in compliance with relevant regulations  
21 and industry standards, so as not to cause harm to individual persons, private and personal  
22 property, the environment, public resources, public health, and/or the comfortable use and  
23 enjoyment of life and property by the public.

24 46. Defendants negligently, carelessly, recklessly, and/or unlawfully used,  
25 owned, operated, managed, supervised, maintained, repaired, and/or controlled the Plant,  
26 including but not limited to (a) failing to implement reasonable emergency plans,  
27  
28

1 including emergency discharge prevention practices in the event of overflow; (b) failing  
2 to properly inspect, assess, and/or evaluate the integrity of the Plant in compliance with  
3 applicable safety standards and/or regulations; (c) failing to have an adequate and  
4 appropriate response plan to safely, and timely, adequately, promptly and properly  
5 respond to the wastewater overflow; (d) failing to immediately and promptly notify the  
6 public of the sewage spill; and/or (e) other ways according to discovery and proof.  
7

8 47. As a direct and legal result of the wrongful acts and/or omissions of  
9 Defendants, Plaintiff has suffered damages, including but not limited to, inhalation of  
10 noxious and toxic gases, chemicals, and/or fumes resulting in personal injuries including,  
11 but not limited to, severe headaches, skin rashes, nausea, vomiting, eye, nose and throat  
12 irritation, lung irritation, dizziness, difficulty breathing, burning eyes, and other harms  
13 not yet known.  
14

15 48. As a direct and legal result of the wrongful acts and/or omissions of  
16 Defendants, Plaintiff has been put at risk for development of health problems.

17 49. As a direct and legal result of the wrongful acts and/or omissions of  
18 Defendants, Plaintiff has suffered and will continue to suffer the loss of the quiet use and  
19 enjoyment of her residence.  
20

21 50. Plaintiff is entitled to attorney's fees under Code of Civil Procedure §1021.5  
22 because the successful prosecution of this action will confer a significant benefit, both  
23 pecuniary and nonpecuniary, to the general public or large class of persons by abating  
24 environmental harm to El Segundo residents and surrounding neighborhoods. Further, the  
25 necessity and financial burden of private enforcement makes such an award appropriate as  
26 the litigation is not economically feasible or viable for Plaintiff to pursue on her own and  
27  
28

1 at her own expense, and attorney's fees should not in the interest of justice be paid out of  
2 the recovery, if any.

3  
4 **SECOND CAUSE OF ACTION**  
5 **NEGLIGENCE PER SE**  
6 **Cal. Evid. Code §669**  
7 **(Against all Defendants and DOES 1-100, inclusive)**

8 51. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
9 fully set forth herein.

10 52. At all relevant times, Defendants were under a mandatory duty, as handlers  
11 of hazardous materials, to immediately report the release or threatened release of sewage  
12 to the unified program agency pursuant to Cal. Health & Safety Code §25510(a).

13 53. At all relevant times, Defendants were under a mandatory duty pursuant to  
14 Cal. Health & Safety Code §41700 and South Coast Air Quality Management District  
15 (SCAQMD) Rule 402 which prohibit the discharge from any source whatsoever quantities  
16 of air contaminants or other material which cause injury, detriment, nuisance, or  
17 annoyance to a considerable number of persons or to the public, or which endanger the  
18 comfort,

19 54. The aforementioned statutes and regulations were intended to protect against  
20 the type of harm suffered by the Plaintiff and residents of El Segundo.

21 55. Defendants breached their duty owed under the aforementioned statutes and  
22 regulations by (a) failing to implement reasonable emergency plans, including emergency  
23 discharge prevention practices in the event of overflow; (b) failing to properly inspect,  
24 assess, and/or evaluate the integrity of the Plant in compliance with applicable safety  
25 standards and/or regulations; (c) failing to have an adequate and appropriate response plan  
26 to safely, and timely, adequately, promptly and properly respond to the wastewater  
27  
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1 overflow; and/or (d) failing to immediately and promptly notify the public of the sewage  
2 spill, and relay the gravity of the spill as something more than a mere small event,  
3 pursuant to Health & Safety Code §25510(a).

4 56. As a direct and legal result of the wrongful acts and/or omissions of  
5 Defendants, Plaintiff suffered and continues to suffer damages in amounts according to  
6 proof at trial.

7  
8 **THIRD CAUSE OF ACTION**  
9 **PRIVATE NUISANCE**  
10 **Cal. Civ. Code §3479**  
11 **(Against all Defendants and DOES 1-100, inclusive)**

12 57. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
13 fully set forth herein.

14 58. At all relevant times, Defendants were under a mandatory duty to not  
15 obstruct the free use of property so as to interfere with the comfortable enjoyment of life  
16 or property pursuant to Cal. Civ. Code §3479.

17 59. At all relevant times, Plaintiff resided in the City of El Segundo, a short  
18 distance from the site of the Plant sewage spill owned and/or operated by Defendants.

19 60. Defendants, by reason of their wrongful acts and/or omissions, created  
20 and/or permitted a condition to exist that was (a) harmful to Plaintiff's health; (b) was  
21 indecent and offensive to the senses; (c) was an obstruction to Plaintiff's free use and  
22 enjoyment of her residence and property so as to interference with the comfortable  
23 enjoyment of life and property; and (d) unlawfully obstructed the free use, in the  
24 customary manner, of the beaches, public parks, streets, and otherwise affected areas.

25 61. Defendants intentional and/or reckless conduct in acting and/or failing to act  
26 created or permitted to exist an abnormally dangerous activity.  
27  
28

1           62. Plaintiff suffers from the ongoing contamination of the air surrounding her  
2 home and the threat of continued exposure to emissions and pollutants in the air and via  
3 air particles in her home and surrounding area such that the condition substantially  
4 interferes with Plaintiff's use or enjoyment of her land.

5           63. Plaintiff did not consent to Defendants' conduct. To the extent Plaintiff  
6 gave any implied consent by virtue of living in El Segundo adjacent to the Plant, such  
7 implied consent extends only to a properly maintained and safe facility, and not to an  
8 improperly maintained and operated Plant nor improper and delayed notification of  
9 environmental spills coming from said Plant in violation of the aforementioned statutes.

10           64. An ordinary person would be reasonably annoyed and disturbed by the  
11 conduct of the Defendants.

12           65. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

13           66. The seriousness of Plaintiff and the class members' injuries outweigh any  
14 public benefit of Defendants' conduct.

15           67. As a direct and legal result of the wrongful acts and/or omissions of  
16 Defendants, Plaintiff has suffered and will continue to suffer discomfort, annoyance,  
17 anxiety, fear, worries, and stress related to Defendants' interference with Plaintiff's  
18 occupancy, possession, use, and/or enjoyment of her property.

19           68. As a direct and legal result of the wrongful acts and/or omissions of  
20 Defendants, Plaintiff suffered and continues to suffer damages in amounts according to  
21 proof at trial.

22 ///  
23 ///  
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1 property, as well as a diminution in the fair market value of her property and an exposure  
2 to an array of toxic substances on her property. Furthermore, Plaintiff and the class  
3 members have suffered and continue to suffer physical side effects including rashes, nausea  
4 and vomiting, lung irritation, and burning eyes.

5  
6 76. As a direct and legal result of the wrongful acts and/or omissions of  
7 Defendants, Plaintiff suffered and continues to suffer damages in amounts according to  
8 proof at trial.

9 **FIFTH CAUSE OF ACTION**  
10 **TRESPASS**  
11 **(Against all Defendants and Does 1-100, inclusive)**

12 77. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
13 fully set forth herein.

14 78. At all relevant times, Plaintiff owned residential property within the City of  
15 El Segundo, a short distance from the site of the Plant sewage spill owned and/or operated  
16 by Defendants. At all relevant times, Plaintiff had a right to occupy, enjoy, and/or use her  
17 property without interference by the Defendants.

18 79. Defendants caused a trespass in the following manners: (a) by intentionally  
19 and/or recklessly allowed the discharge of 17 million gallons of untreated sewage through  
20 a one-mile outfall into Santa Monica Bay off the coast of Dockweiler State Beach; and (b)  
21 the discharge of which has caused the uncontrolled leak of noxious odors, hazardous  
22 gases, chemicals, pollutants, and contaminants beyond the Plant and beach, in such a  
23 manner that it was reasonably foreseeable that the pollutants and orders would invade  
24 Plaintiff's real property and cause injury to that property.

25  
26 80. Defendants were engaged in an ultra-hazardous activity and/or intentionally,  
27 recklessly and/or negligently caused toxic and noxious chemicals, gases, and/or fumes to  
28

1 escape their natural gas storage facility and invade Plaintiff's property, including the air  
2 space surrounding above and within Plaintiff's residence.

3 81. Plaintiff did not give permission for this direct and/or indirect entry.

4 82. As a direct and legal result of the wrongful acts and/or omissions of  
5 Defendants, Plaintiff suffered and continue to suffer damages as described in amounts  
6 according to proof at trial.

7  
8 **SIXTH CAUSE OF ACTION**  
9 **INVERSE CONDEMNATION**  
10 **(Against all Defendants and Does 1-100, inclusive)**

11 83. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
12 fully set forth herein.

13 84. Article I, Section 19 of the California Constitution prohibits the taking of private  
14 property for public use without just compensation.

15 85. Plaintiff and the class members who own property in the City of El Segundo, all of  
16 which are affected by the sewage spill, had and continue to have a right to occupy, enjoy, and/or  
17 use their property without interference by the Defendants.

18 86. On July 11, 2021, as a direct and legal result of the wrongful acts and/or omissions  
19 of Defendants, 17 million gallons of untreated sewage was discharged from the Plant into the  
20 environment, the toxic fumes, chemicals, and pollutants therein contained invading the atmosphere  
21 throughout El Segundo, including the property owned and occupied by Plaintiff, thereby rendering  
22 that property unhealthy, injurious to health, and uninhabitable, with no adequate information as to  
23 the extent and scope of air quality.

24 87. Plaintiff has not received adequate compensation for the damages to and/or  
25 destruction to their property, thereby constituting a taking or damaging to Plaintiff's property by  
26 the Defendants without just compensation.  
27  
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1 of noxious fumes and pollutants. As such, the high risk of harm to the community outweighed any  
2 benefits to the community arising out of Defendants' activities.

3 93. As a direct and legal result of the Plant operation allowing and leading up to the  
4 sewage spill of July 11, 2021, Defendants caused sewage and noxious gases, fumes, and pollutants  
5 to be discharged from the Plant and into El Segundo inundating the community and causing harm  
6 to Plaintiff as described herein.

7  
8 94. The harm to Plaintiff was and is the kind of harm that would be reasonably  
9 anticipated as a result of the risks created by the kinds of ultra-hazardous activities related to a  
10 sewage treatment plant in close proximity to the City of El Segundo.

11 95. Defendants are liable to Plaintiff and the class members for all damages arising  
12 from this ultra-hazardous activity, including all compensatory damages, punitive damages  
13 pursuant to Cal. Civ. Code §3294 and attorneys' fees pursuant to Cal. Civ. Code §1021.5.

14  
15 **EIGHTH CAUSE OF ACTION**  
16 **FRAUDULENT CONCEALMENT**  
17 **(Against all Defendants and Does 1-100, inclusive)**

18 96. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
19 fully set forth herein.

20 97. Defendants began experiencing excessive sewage inflows at 2:00 p.m. on  
21 July 11, 2021. By 8:10 p.m., Defendants knew that the one-mile pipe was going to be  
22 used to dump sewage into the ocean at Dockweiler Beach. Defendants knew that noxious  
23 odors containing pollutants and chemicals from untreated sewage were likely to emanate  
24 from the dump.

25 98. Plaintiff is informed and believes and thereon alleges that Defendants knew  
26 and/or concealed this sewage dump from the general public by downplaying and/or  
27 lessening the degree of what was going on, referring to it instead as a minor incident.  
28

1           99. Plaintiff is informed and believes and thereon alleges that Defendants did  
2 not return calls or emails to various regulatory agencies who were inquiring into the July  
3 11, 2021 incident.

4           100. Plaintiff is informed and believes and thereon alleges that Defendants  
5 disclosed some facts to the certain agencies, but withheld the other facts and about  
6 severity and degree of the incident from other agencies, thereby precluding necessary  
7 emergency steps and/or release of the information to the public.

8           101. As a result of Defendants' concealment, the general public was not made  
9 aware of the sewage dump incident of July 11, 2021 until 16 hours later, during which  
10 time the beaches remained open with the general public and children continuing to swim  
11 in the waters, Plaintiff and other class members continued to be outside breathing in such  
12 contaminated air Had Defendants timely released this information, the beaches would  
13 have been closed 16 hours prior, and critical and direct exposure would not have taken  
14 place during that time frame.

15           102. Had Plaintiff and the class members been aware of the true facts, they would  
16 have taken measures to avoid exposure through the beaches and the City if El Segundo in  
17 order to reduce exposure and inhalation to the gases emitted from the sewage dump.

18           103. Defendants' concealment was a substantial factor in causing Plaintiff and  
19 the class member's harm.

20           104. As a direct and legal result of the fraudulent acts and/or omissions of  
21 Defendants, Plaintiff has suffered and continues to suffer damages, losses, and injuries  
22 described above in amounts according to proof at trial.

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1 **NINTH CAUSE OF ACTION**  
2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
3 **(Against all Defendants and Does 1-100, inclusive)**

4 105. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
5 fully set forth herein.

6 106. At all times herein mentioned, Defendants knew that the Plant was requiring repair  
7 and was not fit to manage overflow as occurring on July 11, 2021. Defendant continued to  
8 operate their Plant aware that such flooding could overwhelm its capacities.

9 107. Furthermore, Defendants knew that its standard operating procedures were  
10 outdated, that they lacked adequate personnel, and that they were ill equipped to handle a major  
11 incident.

12 108. Therefore, Defendants acted with reckless disregard of the probability that such  
13 incident would occur, and failed to take steps to stop the flooding within the Plant, prevent the  
14 dump into the beach, and promptly notify the public once the sewage spill was intentionally  
15 inevitable.

16 109. Defendants engaged in such outrageous conduct that was in conscious disregard to  
17 the rights of Plaintiff and the residents of El Segundo, who were left to swim in the waters during  
18 the active sewage dump, without warning, and left to breathe the noxious odors and fumes since  
19 the July 11, 2021 incident with no reprieve.

20 110. Defendants conduct is especially wrongful and causing Plaintiff's severe emotional  
21 distress in light of the global pandemic, which on the one hand is encouraging the public to stay  
22 outside in ventilated areas, yet offering no reprieve for the residents of El Segundo who must now  
23 stay indoors, many without air conditioning in the heat of Summer, to avoid breathing the fumes  
24 around their City and home.

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1 111. The wrongful acts and/or omissions of Defendants were outrageous, being so  
2 extreme that they go beyond all possible bounds of decency tolerable in a civilized community by,  
3 and not limited to, ignoring a high risk of emotional, psychological, and physical injury to the  
4 residents of El Segundo who were swimming in the waters during the time of an active sewage  
5 dump, and breathing the fumes emanating therefrom.

6  
7 112. As a direct and legal result of the outrageous conduct of Defendants, Plaintiff and  
8 the class were hurt and injured in their health and morale, suffering from severe emotional  
9 distress, fear, anxiety, and worry over the damage and potential of future damage to themselves  
10 related to the ongoing inhalation of toxic and noxious fumes.

11 113. Plaintiff is informed and believes that her serious emotional distress will continue  
12 indefinitely because of the uncertainties associated with exposure to gases, including the long term  
13 effects of inhalation of hydrogen sulfide on adults, and the long and short term effects of  
14 inhalation of hydrogen sulfide on children.

15  
16 114. As a direct and legal result of the fraudulent acts and/or omissions of  
17 Defendants, Plaintiff has suffered and continues to suffer general damages described  
18 above in amounts according to proof at trial.

19  
20 **TENTH CAUSE OF ACTION**  
21 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**  
22 **(Against all Defendants and Does 1-100, inclusive)**

23 115. Plaintiff re-alleges and incorporates the preceding paragraphs as though  
24 fully set forth herein.

25 116. As a result of Defendants' negligence, untreated sewage and odors emitting  
26 therefrom has been contaminating the City of El Segundo. As of July 28, 2021, Public  
27 Health found hydrogen sulfide in the residential neighborhoods of El Segundo. Public  
28 Health advised in its Public Health Update of 7/21/21 that "[H]ydrogen sulfide does not



1 have long-term health effects but does cause nuisance odors that may cause short-term  
2 symptoms and impact quality of life. Public Health staff spoke with over 60 residents and  
3 many reported experiencing symptoms including headache and nausea. Public Health  
4 staff explained to residents that some people may experience temporary symptoms such as  
5 headaches, nausea, or eye, nose and throat irritation. Symptoms should go away when the  
6 odors are no longer present.”

8 117. Defendants acted negligently in (a) maintaining the Plant leading up to the July 11,  
9 2021 sewage spill, (b) emergently handling the sewage spill, and (c) disclosing to the public the  
10 ongoing spill. Defendants failed to report the release of hazardous materials in accordance with  
11 statute and regulation in order to initiate countywide systems and processes which could have  
12 helped mitigate the dangers and get the public out of harm’s way.

14 118. As a result of Defendants’ negligence, Plaintiff and the class members suffered  
15 serious emotional distress. Plaintiff and the class members suffered harmful health effects of  
16 being exposed to the untreated sewage and odors and chemicals emitting therefrom.

17 119. Plaintiff is entitled to attorney’s fees under Cal. Code of Civil Procedure  
18 section 1021.5 because the successful prosecution of this action will confer a significant  
19 benefit, both pecuniary and nonpecuniary, to the general public or large class of persons  
20 by abating environmental harm to El Segundo residents and surrounding neighborhoods.  
21 Further, the necessity and financial burden of private enforcement makes such an award  
22 appropriate as the litigation is not economically feasible or viable for Plaintiff to pursue  
23 on her own and at her own expense, and attorney’s fees should not in the interest of  
24 justice be paid out of the recovery, if any.

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1 120. Due to the ongoing fear, anxiety and worries Plaintiff now suffers and will  
2 suffer into the future, Plaintiff is entitled to damages according to proof at trial.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff on behalf of herself and all others similarly situated, pray for  
5 relief and judgment against Defendants as follows:  
6

- 7 1. That this action be certified a class action pursuant to California Code of Civil  
8 Procedure section 382;
- 9 2. An order that Plaintiff be appointed representative of the Class;
- 10 3. A judgment in favor of Plaintiffs on all claims;
- 11 4. Compensatory and general damages according to proof;
- 12 5. Punitive and exemplary damages according to proof;
- 13 6. All costs of suit;
- 14 7. Reasonable attorneys' fees pursuant to California Code of Civil Procedure §1021.5;
- 15 8. Awarding prejudgment and post-judgment interest at the maximum legal rate;
- 16 9. All such other relief as this Court may deem just and proper.

17 Date: July 30, 2021

18 Respectfully Submitted,

19 McCATHERN LLP

20  
21  
22 By: *Evan Selik*  
23 EVAN SELIK  
24 CHRISTINE ZAOUK  
25 Attorneys for Plaintiff  
26  
27  
28

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**DEMAND FOR JURY TRIAL**

Plaintiff demands a trial by jury for herself and the Class members on all claims.

Date: July 30, 2021

Respectfully Submitted,

McCATHERN LLP

By: *Evan Selik*  
EVAN SELIK  
CHRISTINE ZAOUK  
Attorneys for Plaintiff