

EXHIBIT A

****ELECTRONICALLY FILED****
DOC ID: 13742246
CASE NO: 2021-L-0000165
DATE: 6/18/2021 3:23 PM
BY: A H, DEPUTY

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

STEPHANIE MACKEY and NICK MIGLIORE,)
on behalf of themselves and all others similarly situated,)

Plaintiffs,)

2021-L-0000165

v.)

CHEMTOOL INCORPORATED and)
THE LUBRIZOL CORPORATION,)

Defendants.)

CLASS ACTION COMPLAINT

NOW COME Plaintiffs Stephanie Mackey and Nick Migliore, individually and on behalf of all those similarly situated, by and through their attorneys, The Collins Law Firm, P.C. and Miner, Barnhill & Galland, P.C., and hereby complain of Defendants Chemtool Incorporated (“Chemtool”) and The Lubrizol Corporation (“Lubrizol”) (collectively “Defendants”) and state as follows:

SUMMARY OF THE CASE

1. On June 14, 2021, an explosion occurred at Defendants’ Rockton, Illinois Production Center, located at 1165 Prairie Hill Road in Rockton, Illinois (“Rockton Production Center” or “Center”), resulting in an enormous chemical fire that caused a massive toxic smoke and dust plume, visible from more than 100 miles away and detected by weather satellites. In order to combat the fire, personnel, equipment, and other resources from 89 fire departments were dispatched to the scene, including an industrial firefighting organization from Louisiana. As a result of the explosion, fire, and resulting smoke and dust plume, Winnebago County, Illinois authorities issued an executive proclamation of disaster emergency, describing the

incident as a “significant and hazardous fire,” and ordered residents within a one-mile radius of the Center to evacuate. Upon information and belief, the evacuation order displaced residents from at least 150 homes who were unable to return to their homes to obtain medication, technology and communication devices, and other personal items and necessities. Winnebago County, Illinois authorities also advised residents within a three-mile radius of the Facility to wear masks to protect against inhalation of potentially toxic and harmful chemicals, and to remain indoors but not use air conditioning. Winnebago County, Illinois officials also directed 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, and cautioned residents against using their lawn mowers due to concerns about the composition of particulates that were created by the explosion and fire. As a result of the explosion and fire, Rockton residents and others have experienced nuisance-level discomforts (respiratory difficulty, malodorous smell), their properties were covered with debris, and they generally have been impeded from using and enjoying their property, including their outdoor spaces.

2. Plaintiffs are residents of Rockton, Illinois who bring this class action for damages and injunctive relief under Illinois common law nuisance, negligence, and trespass.

3. Plaintiffs seek money damages including lost-use-and-enjoyment damages to vindicate property rights and injunctive relief.

4. Plaintiffs allege that Defendants were negligent, created a nuisance, and trespassed on Plaintiffs’ and class members’ properties by failing to exercise the reasonable care that would have prevented the explosion, fire, and resulting smoke and dust plume and avoided class-area harm. The harm experienced throughout the class area, as well as the exposure to the

smoke and dust plume, were all foreseeable. Defendants knew or should have known they would occur.

5. Compensatory damages and injunctive relief in the form of remediation are warranted to redress the harms Defendants caused Plaintiffs and the class members to suffer and to deter similar conduct in the future.

PARTIES

6. Plaintiffs Stephanie Mackey and Nick Migliore own the property located at 800 Watts Avenue in Rockton, Illinois for approximately four years. Plaintiffs reside at 800 Watts Avenue in Rockton, Illinois including on June 14, 2021 and thereafter. Plaintiffs' residence is less than one mile from Defendants' Rockton Production Center.

7. Defendant Chemtool Incorporated ("Chemtool") is a Delaware company engaged in the business of manufacturing fluids, lubricants, and greases including industrial cleaners, corrosion inhibitors, and metalworking fluids. Chemtool operates the Rockton Production Center, located at 1165 Prairie Hill Road in Rockton, Illinois 61702. Chemtool's corporate headquarters and principal place of business are located at 801 W. Rockton Road in Rockton, Illinois 61072.

8. Defendant The Lubrizol Corporation ("Lubrizol") is an Ohio company, whose principal office is located at 29400 Lakeland Blvd. in Wickliffe, Ohio 44092. Lubrizol is a global specialty chemical company. Lubrizol owns and operates the Rockton Production Center.

JURISDICTION AND VENUE

9. This Court has personal jurisdiction over Defendant Chemtool because it is domiciled and has its principal place of business in Illinois, and does regular and continuous business in Winnebago County, Illinois.

10. This Court has personal jurisdiction over Defendant Lubrizol because it does regular and continuous business in Winnebago County, Illinois.

11. Plaintiffs currently reside and are domiciled in Winnebago County, Illinois.

12. Venue is proper pursuant to 735 ILCS 5/2-101 because Defendant Chemtool's corporate headquarters and principal place of business are located in Winnebago County, Illinois and because the facts giving rise to this action occurred in Winnebago County.

FACTUAL ALLEGATIONS

13. Defendants Chemtool and Lubrizol operate the Rockton Production Center, located at 1165 Prairie Hill Road in Rockton, Illinois 61702. Defendants store a variety of dangerous chemicals at the Center, including lead, antifreeze, nitrogen, and sulfuric acid.

14. In the early hours of June 14, 2021, an explosion occurred at the Rockton Production Center, resulting in an enormous chemical fire that caused a massive toxic smoke and dust plume, visible from more than 100 miles away and detected by weather satellites. In order to combat the fire, personnel, equipment, and other resources from 89 fire departments were dispatched to the scene, including an industrial firefighting organization from Louisiana.

15. The explosion and fire were so significant that 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. Governor Pritzker also activated the State Emergency Operation Center to help coordinate the response to the explosion and fire. In addition, 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 mobilized in the area. Officials from the United States Environmental Protection Agency were

on scene to respond to the event and the U.S. Department of Health and Human Services and the Federal Emergency Management Agency also provided support.

16. As a result of the explosion, fire, and resulting toxic smoke and dust plume, Winnebago County, Illinois authorities issued an executive proclamation of disaster emergency, describing the incident as a “significant and hazardous fire,” and ordered residents within a one-mile radius of the Center to evacuate. Upon information and belief, the evacuation order displaced residents from at least 150 homes who were unable to return to their homes to obtain medication, technology devices, and other personal items and necessities. Winnebago County, Illinois authorities also advised residents within a three-mile radius of the Center to wear masks to protect against inhalation of potentially toxic and harmful chemicals, and to remain indoors but not use their air conditioning. Winnebago County, Illinois officials also directed 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, and cautioned residents against using their lawn mowers due to concerns about the composition of particulates that were created by the explosion and fire.

17. Firefighting authorities did not engage promptly in fire suppression activities because of the risk of environmental harm to the neighboring Rock River, determining that they would allow the materials at the Center to burn out before commencing such activities.

18. As a result of the explosion and fire, Rockton residents and others have experienced nuisance-level discomforts (respiratory difficulty, malodorous smell), their properties were covered with debris, and they generally have been impeded from using and enjoying their property, including their outdoor spaces.

19. Plaintiffs were in their residence at 800 Watts Avenue in Rockton, Illinois at the time of the explosion at the Center on June 14, 2021. As a result of the explosion, fire, and resulting smoke and dust plume, Plaintiffs experienced respiratory difficulty and smelled an unpleasant odor. Plaintiffs were subject to the evacuation order issued by Winnebago County, Illinois officials and left their residence on the morning of June 14, 2021. Plaintiffs have not spent a night in their home since the explosion and fire. Debris from the explosion and fire has been deposited on their residence.

20. 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.

21. Defendants failed to exercise reasonable care to plan for and take sufficient safety and precautionary measures to prevent the explosion and fire, and to extinguish the fire once it began. Defendants also failed to exercise ordinary care to prevent particulate matter and other pollutants to be discharged into the community and prevent debris from being deposited into the community.

CLASS ACTION ALLEGATIONS

22. Plaintiffs bring this class action complaint pursuant to 735 ILCS 5/2-801 on behalf of themselves and all Illinois residents within a three-mile radius of the Rockton Production Center. Plaintiffs seek money damages including lost-use-and-enjoyment damages for themselves and the class, and appropriate injunctive relief.

23. The requirements for class certification in this case are met:

a. **Numerosity**

This class is so numerous that joinder of all members would be impracticable.

Thousands of people live in Illinois in the three-mile area around Defendants' Rockton Production Facility and were exposed to the toxic smoke and dust plume caused and released by the explosion and fire that began on June 14, 2021. Class certification would be substantially more practical than joinder.

b. Commonality

Common questions of law and fact exist as to all members of the class, including, but not limited to:

- i. whether Defendants were negligent;
- ii. whether Defendants caused a toxic smoke and dust plume to inundate the residences of the class members, interfering with their use and enjoyment of their residences;
- iii. whether Defendants' smoke and dust plume created nuisance conditions at the class members' properties; and
- iv. whether Defendants trespassed on class members' properties by depositing toxic smoke and dust and debris.

Numerous important common questions of law and fact exist, and they will predominate over any questions pertaining to individual class members.

c. Adequacy

Plaintiffs Mackey and Migliore will fairly and adequately protect the interests of the entire class in securing just compensation for the harms the explosion and fire caused. Plaintiffs have no interests adverse to any members of the class. Plaintiffs intend to prosecute this case on behalf of all class members, not just themselves. Plaintiffs have engaged class-action counsel

with decades of class-action experience and successes, including specific knowledge and experience in handling environmental nuisance class-action lawsuits.

d. Fair and Efficient Adjudication of the Controversy

This class action is an appropriate method for the fair and efficient adjudication of the controversy. It asserts claims in negligence, nuisance, and trespass for potentially thousands of class members seeking damages to compensate them for the lost use and enjoyment they suffered at their residences, which claims the class members have insufficient resources to vindicate on their own. Common issues will predominate over any individual ones. A class action is the only efficient and effective method for adjudicating this matter.

**COUNT I
NEGLIGENCE**

24. Plaintiffs repeat and re-allege the allegations set forth above.

25. Defendants had a duty to class members to exercise reasonable care to prevent foreseeable interference -- here, by an explosion and fire that caused the release of a toxic and harmful smoke and dust plume and debris -- with the class members' use and enjoyment of their properties.

26. Defendants breached said duty to exercise reasonable care so as to interfere with class members' ability to use and enjoy their properties. Specifically, Defendants breached their duty as follows:

- (a) failed to plan for and take sufficient safety and precaution measures to prevent an explosion;
- (b) failed to plan for and take sufficient safety and precaution measures to prevent a fire;
- (c) failed to plan for and take sufficient safety and precaution measures to extinguish a fire;
- (d) allowed enormous amounts of particulate matter, other pollutants, and debris to be deposited on class members' properties; and/or

- (e) generally failed to control the emissions of particulate matter, other pollutants, and debris from their property

27. As a direct and proximate result of Defendants' negligence, Plaintiffs and the class suffered unacceptable and unreasonable interference with their rights to use and enjoy their properties, interference they should not be required to suffer without compensation.

28. Plaintiffs accordingly seek money damages including for the lost use and enjoyment caused by Defendants' conduct and an injunction requiring Defendants to remediate the resulting harm at or threatening their residences and for other appropriate injunctive relief.

WHEREFORE, Plaintiffs demands judgment against Defendants in an amount in excess of \$50,000, as shall represent fair and just compensation.

COUNT II NUISANCE

29. Plaintiffs repeat and re-allege the allegations set forth above.

30. At all times relevant hereto, Defendants knew that an explosion and fire at the Rockton Production Facility could result in toxic releases, including particulate matter and debris, migrating from that Facility to neighboring properties.

31. As a direct and proximate result of the explosion and fire at the Rockton Production Facility, toxic releases, including particulate matter and debris, did invade and cause contamination of Plaintiffs' and class members' properties. The invasion was both substantial and unreasonable.

32. As a direct and proximate result of Defendants' negligence, Plaintiffs and the class suffered unacceptable and unreasonable interference with their rights to use and enjoy their properties, interference they should not be required to suffer without compensation.

33. Plaintiffs accordingly seek money damages including for the lost use and enjoyment caused by Defendants' conduct and an injunction requiring Defendants to remediate the resulting harm at or threatening Plaintiffs' and class members' residences and for other appropriate injunctive relief.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000, as shall represent fair and just compensation.

**COUNT III
TRESPASS**

34. Plaintiffs repeat and re-allege the allegations set forth above.

35. Defendants have trespassed through unlawful, unauthorized, and wrongful entry and damage to Plaintiffs' and class members' land by depositing airborne particulate matter and debris on the Plaintiffs' and class members' properties without their permission or invitation.

36. Defendants were aware of the trespass they were causing.

37. The trespass has caused actual and substantial damage to the Plaintiffs' and class members' properties, and has interfered with the Plaintiffs' and class members' exclusive possession of their properties.

38. The trespass is continuing and ongoing.

39. Defendants' interference with the Plaintiffs' and class members' possessory rights was unreasonable and foreseeable.

40. 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.

41. As a direct and proximate result of Defendants' negligence, Plaintiffs and the class suffered unacceptable and unreasonable interference with their rights to use and enjoy their properties, interference they should not be required to suffer without compensation.

42. Plaintiffs accordingly seek money damages including for the lost use and enjoyment of Plaintiffs' and the class members' properties caused by Defendants' conduct and an injunction requiring Defendants to remediate the resulting harm at or threatening such properties and for other appropriate injunctive relief.

WHEREFORE, Plaintiffs demand judgment against Defendants in an amount in excess of \$50,000, as shall represent fair and just compensation.

JURY DEMAND

Plaintiffs demand trial by jury.

Respectfully submitted,

/s/ Shawn M. Collins

Shawn M. Collins

One of the Attorneys for Plaintiff

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DOC ID: 13742246 CC-233 V5
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CLERK, DEPUTY

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Stephanie Mackey and Nick Migliore on behalf of themselves
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Plaintiff

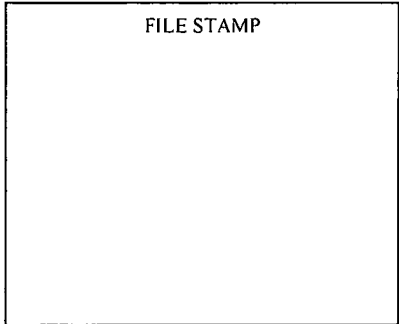
Vs

Chemtool Incorporated and The Lubrizol Corporation

Defendant

2021-L-0000165

CASE NO. _____



JURY DEMAND

The Plaintiff / Defendant _____

in the above entitled case demands a jury for the trial of said cause.

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Pro Se Name (representing myself) _____

Address _____

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Dated: 6/18/2021

Signature: s/Shawn M. Collins

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RULE 222 AFFIDAVIT OF DAMAGES

The undersigned being first duly sworn upon oath, deposes and states that he is a party to the above entitled cause of action seeking money damages and states that this cause of action:

___ Does not exceed \$50,000.00

X Does exceed \$50,000.00

Dated: June 18, 2021

Respectfully submitted,

s/Shawn M. Collins

By: _____
One of the Plaintiffs' Attorneys

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