

CAUSE NO. \_\_\_\_\_

**LISA PARR, Individually and as Next  
Friend to her minor daughter, E.D.;  
and ROBERT "BOB" PARR,**

**Plaintiffs,**

**vs.**

**ARUBA PETROLEUM, INC.;**  
**ASH GROVE RESOURCES, LLC;**  
**ENCANA OIL & GAS (USA) INC.;**  
**HALLIBURTON COMPANY;**  
**REPUBLIC ENERGY INC.;**  
**RYDER SCOTT COMPANY, LP;**  
**RYDER SCOTT OIL COMPANY;**  
**TEJAS PRODUCTION SERVICES, INC.;**  
**TEJAS WESTERN CORP.;**

**Defendants.**

**IN THE COUNTY COURT AT LAW**

**OF DALLAS COUNTY, TEXAS**

**COUNTY COURT AT LAW NO. \_\_\_\_\_**

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**PLAINTIFFS' ORIGINAL PETITION**

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**I. INTRODUCTION**

1. Plaintiffs complain, *inter alia*, of environmental contamination and polluting events caused by the conduct and activities of the various Defendants named herein. Defendants' releases, spills, emissions, and discharges caused and continue to cause Plaintiffs and their property to be exposed to hazardous gases, chemicals, and industrial wastes, which caused damages including but not limited to the following: personal injury to Plaintiffs, injury to Plaintiffs' animals and livestock, damage to the natural resources of the environment in and around the Plaintiffs' property, loss of use and enjoyment of Plaintiffs' property, diminution of Plaintiffs' property value, constructive eviction of Plaintiffs from Plaintiffs' property, loss of Plaintiff's quality of life, emotional distress suffered by Plaintiffs, and other damages. Plaintiffs hereby bring suit against Defendants and for causes of action would show unto this honorable Court the following:

## II. DISCOVERY CONTROL PLAN

2. Plaintiffs intend to conduct discovery under Level 3 of Texas Rule of Civil Procedure 190.4 because this suit concerns numerous defendants and deals with complex issues of fact, science, and medicine to warrant a tailored discovery control plan by this Court.

## III. PARTIES

3. Plaintiff, **Lisa Parr**, an individual, is a resident of Wise County, Texas.

4. Plaintiff, **Robert "Bob" Parr**, an individual, is a resident of Wise County, Texas.

5. Plaintiff, Lisa Parr, brings this suit individually and as next friend on behalf of **Emma Duvall**, a minor child. Plaintiff is a resident of Wise County, Texas; Emma Duvall, is a resident of Wise County, Texas.

6. Defendant, **ARUBA PETROLEUM, INC.**, is a Texas corporation whose registered office is 555 Republic Drive, Suite 505 Plano, TX 75074 in Collin County, Texas, **may be served with process by serving its registered agent for service of process, James L. Poston at 555 Republic Drive, Suite 505, Plano, TX 75074, Collin County, Texas.**

7. Defendant, **ASH GROVE RESOURCES, LLC**, is a foreign corporation organized and existing under the laws of the State of KS, whose registered office is 5375 SW 7<sup>th</sup> Street, Suite 400, Topeka, KS 66606 in Shawnee County, KS, is authorized to do business in Texas and **may be served with process by serving its registered agent for service of process, C T Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201-4234 in Dallas County, Texas.**

8. Defendant, **ENCANA OIL & GAS (USA) INC.**, is a foreign corporation, whose registered office is 1800, 855 – 2<sup>nd</sup> Street SW, Calgary, AB T2P 2S5, is authorized to do business in Texas and **may be served with process by serving its registered agent for service of process, C T Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201-4234 in Dallas County, Texas.**

9. Defendant, **HALLIBURTON COMPANY**, is a Texas corporation organized and existing under the laws of the State of DE and TX, whose registered office is 2107 Citywest Blvd., Houston, TX 77042 in Harris County, TX, is authorized to do business in Texas and **may be served with process by serving its registered agent for service of process, C T Corporation System, 350 N. St. Paul Street, Suite 2900, Dallas, TX 75201-4234 in Dallas County, Texas.**

10. Defendant, **REPUBLIC ENERGY INC.**, is a Texas corporation whose registered office is 4925 Greenville Ave., Suite 1050, Dallas, TX 75206 in Dallas County, Texas **may be served with process by serving its registered agent for service of process, John D. Swanson, 4925 Greenville, Ave., Suite 1050, Dallas, TX 75206 in Dallas County, Texas.**

11. Defendant, **RYDER SCOTT COMPANY, LP**, is a Texas corporation whose registered office is 1100 Louisiana St., Suite 3800, Houston, TX 77002 in Harris County, Texas **may be served with process by serving its registered agent for service of process, Don P. Roesle, 1100 Louisiana St., Suite 3800, Houston, TX 77002 in Harris County, Texas.**

12. Defendant, **RYDER SCOTT OIL COMPANY**, is a Texas corporation whose registered office is P.O. Box 2606, Wichita Falls, TX 76307 in Wichita County, Texas **may be served with process by serving its registered agent for service of process, John D. Moffet, 900 8<sup>th</sup> St., Suite 920, Hamilton Building, Wichita Falls, TX 76301 in Wichita County, Texas.**

13. Defendant, **TEJAS PRODUCTION SERVICES, INC.**, is a Texas corporation whose registered office is 45 Progress Dr., Victoria, TX 77901 in Victoria County, Texas, **may be served with process by serving its registered agent for service of process, Jerry A. Bang, 45 Progress Drive, Victoria, TX 77901 in Victoria County, Texas.**

14. Defendant, **TEJAS WESTERN CORP.**, is a Texas corporation whose registered office is P.O. Box 2128, Granbury, TX 76048 in Hood County, Texas **may be served with process by serving its registered agent for service of process, Michael V. Bourland, 301 Commerce St., Suite 1500, Fort Worth, TX 76102 in Tarrant County, Texas.**

#### **IV. JURISDICTION**

15. This Court has jurisdiction over the lawsuit because the County Court at Law jurisdiction begins at \$10,000.00 and has concurrent jurisdiction with the District Court in civil cases regardless of the amount in controversy. In addition, this Court has jurisdiction over Defendants because Defendants purposefully availed themselves of the privileges and benefits of conducting business in Texas by engaging in business in the State of Texas. Finally, this Court has jurisdiction over Defendants because Defendants committed torts in whole or in part in Texas, which torts are the subject of this suit and which are set forth more fully below.

#### **V. VENUE**

16. Venue is proper in Dallas County under Texas Civil Practice & Remedies Code section 15.002 because one or more defendant corporations maintain its principal office in Texas in Dallas County. See Tex. Civ. Prac. & Rem. Code §15.002(a)(3).

#### **VI. STATUTE OF LIMITATIONS TOLLED**

17. The recurring wrongful conduct of Defendants, as alleged herein, which has been repeated over a period of time, constitutes a continuing tort. Pursuant to the Continuing Tort Doctrine, a claim for a continuing tort does not accrue until the tortuous conduct ceases, and Defendants' wrongful conduct has not ceased. The Continuing Tort Doctrine operates to toll the running of the two-year limitations period under §16.003 of the Texas Civil Practices and Remedies Code.

## VII. FACTS

18. Plaintiff Bob Parr, a mason and cattleman by trade, built the home located on Star Shell Rd., Decatur, Texas in Wise County on or about 2001. The home is built on approximately 40 acres of land that is used for residential living, farming, and cattle raising. Plaintiffs' home and the approximately 40 acres that comprise Plaintiffs' property will hereinafter be referred to as "Plaintiffs' Property." Plaintiffs' Property sits below the surrounding area, where significant natural gas exploration, development, and production take place. At present, there is no natural gas exploration, development, and production taking place on the approximately 40 acres that comprises Plaintiffs' Property.

19. Thereafter, on or about May of 2008, Plaintiffs Bob and Lisa Parr were married. And, on or around this time, Mrs. Parr and her minor daughter, Emma Duvall, moved into the home located on Plaintiffs' Property.

20. On or about 2008 and continuing thereafter, significant natural gas exploration, development, and production activity began taking place in Wise County – especially in close proximity to Plaintiffs' Property. Specifically, natural gas exploration, development, and production resulted in numerous well sites, as follows:

#	WELL #	API #	OPERATOR	DIRECTION FROM P	DISTANCE FROM P
1.	1H	36649	ARUBA PETROLEUM, INC	North	.75 miles - 1.00 miles
2.	2H	36658	ARUBA PETROLEUM, INC	North	.75 miles - 1.00 miles
3.	3H	36659	ARUBA PETROLEUM, INC	North	.75 miles - 1.00 miles
4.	5H	36683	ARUBA PETROLEUM, INC	West	.50 miles - .75 miles
5.	4H	36686	ARUBA PETROLEUM, INC	North	.25 miles - .50 miles
6.	1AH	36693	ARUBA PETROLEUM, INC	North	1.00 miles - 1.25 miles
7.	6H	36892	ARUBA PETROLEUM, INC	West, North-West	1.00 miles - 1.25 miles
8.	6H	36892	ARUBA PETROLEUM, INC	South - East	.50 miles - .75 miles
9.	7H	36915	ARUBA PETROLEUM, INC	West, North-West	1.25 miles - 1.50 miles
10.	7H	36915	ARUBA PETROLEUM, INC	South - East	.25 miles - .50 miles
11.	8H	36916	ARUBA PETROLEUM, INC	South - East	.25 miles - .50 miles
12.	13BH	36948	ARUBA PETROLEUM, INC	West, North-West	1.25 miles - 1.50 miles
13.	13AH	36949	ARUBA PETROLEUM, INC	West, North-West	1.25 miles - 1.50 miles
14.	1H	37071	ARUBA PETROLEUM, INC	South, South-West	1.25 miles - 1.50 miles
15.	2H	37074	ARUBA PETROLEUM, INC	South, South-West	1.25 miles - 1.50 miles
16.	1H	37154	ARUBA PETROLEUM, INC	West	1.50 miles - 1.75 miles
17.	2	31581	ENCANA OIL & GAS	South West	.75 miles - 1.00 miles

18.	8A	35462	ENCANA OIL & GAS	North	0.00 mile - .25 miles
19.	9A	35490	ENCANA OIL & GAS	North	0.00 mile - .25 miles
20.	11A	35533	ENCANA OIL & GAS	North -East	.75 miles - 1.00 miles
21.	14AH	35725	ENCANA OIL & GAS	North	.75 miles - 1.00 miles
22.	1H	35819	ENCANA OIL & GAS	West	1.25 miles - 1.50 miles
23.	1H	35872	ENCANA OIL & GAS	West	1.00 miles - 1.25 miles
24.	2H	35923	ENCANA OIL & GAS	South-West	1.00 miles - 1.25 miles
25.	12AH	35938	ENCANA OIL & GAS	South	.75 miles - 1.00 miles
26.	13H	37162	ENCANA OIL & GAS	South West	.25 miles - .50 miles
27.	16H	37163	ENCANA OIL & GAS	West	0.00 mile - .25 miles
28.	15H	37164	ENCANA OIL & GAS	West, South- West	0.00 mile - .25 miles
29.	1	34602	REPUBLIC ENERGY INC.	West, North- West	.75 miles - 1.00 miles
30.	7	32476	RYDER SCOTT OIL COMPANY	South West	1.50 miles - 1.75 miles
31.	1	34025	RYDER SCOTT OIL COMPANY	South-West	.75 miles - 1.00 miles
32.	3	34221	RYDER SCOTT OIL COMPANY	West	1.25 miles - 1.50 miles
33.	1	34295	RYDER SCOTT OIL COMPANY	West, North- West	1.25 miles - 1.50 miles
34.	4	34524	RYDER SCOTT OIL COMPANY	West	.75 miles - 1.00 miles
35.	1	34650	RYDER SCOTT OIL COMPANY	North	1.50 miles - 1.75 miles
36.	8H	36916	RYDER SCOTT OIL COMPANY	West	1.00 miles - 1.25 miles
37.	1	30827	TEJAS WESTERN CORP	South West	1.25 miles - 1.50 miles
38.	2	31186	TEJAS WESTERN CORP	South West	1.00 miles - 1.25 miles
39.	1	31557	TEJAS WESTERN CORP	East, South- East	1.25 miles - 1.50 miles
40.	5	31568	TEJAS WESTERN CORP	South West	1.25 miles - 1.50 miles
41.	1A	34462	TEJAS WESTERN CORP	South	.25 miles - .50 miles
42.	2A	34498	TEJAS WESTERN CORP	East	.50 miles - .75 miles
43.	4A	34659	TEJAS WESTERN CORP	West, South- West	.75 miles - 1.00 miles
44.	2	34801	TEJAS WESTERN CORP	South	.75 miles - 1.00 miles
45.	5A	34902	TEJAS WESTERN CORP	South	.75 miles - 1.00 miles
46.	2	34969	TEJAS WESTERN CORP	South-East	1.00 miles - 1.25 miles
47.	3	34995	TEJAS WESTERN CORP	South-East	.75 miles - 1.00 miles
48.	4	35026	TEJAS WESTERN CORP	South-East	1.25 miles - 1.50 miles
49.	5	35043	TEJAS WESTERN CORP	South, South- East	.75 miles - 1.00 miles
50.	4	35049	TEJAS WESTERN CORP	North	0.00 mile - .25 miles
51.	6A	35074	TEJAS WESTERN CORP	South-East	.50 miles - .75 miles
52.	5	35096	TEJAS WESTERN CORP	South	1.00 miles - 1.25 miles
53.	7	35305	TEJAS WESTERN CORP	North -East	.25 miles - .50 miles

21. The actions and inactions of Defendants **ARUBA PETROLEUM, INC.; ASH GROVE RESOURCES, LLC; ENCANA OIL & GAS (USA) INC.; HALLIBURTON COMPANY; REPUBLIC ENERGY INC.; RYDER SCOTT COMPANY, LP; RYDER SCOTT OIL COMPANY; TEJAS PRODUCTION SERVICES, INC.; and TEJAS WESTERN CORP.** (hereinafter collectively referred to as “Defendants”) and their agents, assigns, and/or predecessors-in-interest, whether taken separately or together, caused releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes, which caused damages to Plaintiffs including but not limited to the following: personal injury to Plaintiffs, injury to Plaintiffs’ animals and livestock, damage to the natural resources of the environment in and around the Plaintiffs’ property, loss of use and enjoyment of Plaintiffs’ property, diminution of Plaintiffs’ property value, constructive eviction of Plaintiffs from Plaintiffs’ property, loss of Plaintiff’s quality of life, emotional distress suffered by Plaintiffs, and other damages. Plaintiffs causes of action and damages stem from the actions and inactions of Defendants from their natural gas exploration and production activities at the various well sites identified above – to wit:

22. Defendants **ARUBA PETROLEUM, INC.; ENCANA OIL & GAS (USA) INC.; REPUBLIC ENERGY INC.; RYDER SCOTT COMPANY, LP; RYDER SCOTT OIL COMPANY; and TEJAS WESTERN CORP.** (hereinafter collectively referred to as “Natural Gas Operators”) are natural gas extraction companies and well site operators that are responsible for exploring, contracting, licensing, supplying, manufacturing, building, erecting, assembling, drilling, fracking, extracting, operating, using, supervising, and/or managing personnel, equipment, and/or machinery used in natural gas exploration, development, and production (hereinafter collectively referred to as “natural gas activities”), which equipment and machinery include but are not limited to the drill rig, pipes, tanks, burners, and/or separators. Upon information and belief, these Natural Gas Operators are responsible for the well sites identified above respectively.

23. Defendants **ASH GROVE RESOURCES, LLC; HALLIBURTON COMPANY; and TEJAS PRODUCTION SERVICES, INC.** are hereinafter collectively referred to as “Natural Gas Service Providers.”

24. Defendant **ASH GROVE RESOURCES, LLC** (“Ash”) is a cement, oil well cement, and soil stabilizer manufacturer and supplier with six plants nationwide, including one plant in Midlothian, TX. On or about December 15, 2009, Ash caused to be released significant quantities of visible Cement Kiln Dust (CKD), while operating at the site of well 6H (number 8 above). CKD is a mixture of sulfates, chlorides, carbonates, and oxides of sodium, potassium and calcium; quartz (CAS No. 01-4808-60-7), limestone (CAS No. 1317-5-3), fly ash, dolomite, feldspars, and iron oxides; glasses of silicon dioxide, aluminum oxide and iron oxide; and cement compounds (CAS No. 65997-15-1), and which CKD requires the following protective measures, including but not limited to the following, which protective measures were not followed by Ash: (i) users need to exercise good environmental management practices to ensure the material will not create an environmental water quality problem. Good environmental management practices include: avoid placement of the material where there is potential for it to come into direct contact with groundwater, or direct contact with surface water bodies; utilize up-slope storm water diversions to

prevent unnecessary contact of storm water with CKD; and avoid placement of material on steep slopes where erosion is likely; (ii) steps to be taken in case material is spilled: Use dry cleanup methods that do not disperse the dust into the air; and (iii) avoid breathing the dust. Upon information and belief, Ash's actions and/or inactions caused Plaintiffs to be exposed to toxic CKD dust on a continuous basis.

25. Defendant **HALLIBURTON COMPANY** is a natural gas exploration, development, and production service provider that is responsible for natural gas activities. Upon information and belief, Halliburton provided the technology and services to perform drilling, drill cementing, well cementing, well intervention, well completion, fluid services, fracking fluid composition, fracking fluids, proprietary SHALEDRIIL water based drilling system technology and services, proprietary INTEGRADE Diesel-Based Fluid System technology and services, and various other services necessary for natural gas exploration, development, and production at all well sites identified by Plaintiffs. Upon information and belief, Halliburton operates or operated at all well sites identified by Plaintiffs.

26. Defendant **TEJAS PRODUCTION SERVICES, INC.** is a natural gas exploration, development, and production service provider that is responsible for natural gas activities, which natural gas activities and which equipment and machinery include but are not limited to dump valves, relief valves, regulators, safety systems, holding tanks, and separators. Upon information and belief, Tejas operates or operated at all well sites identified by Plaintiffs – especially wells 6H, 7H, and 8H.

27. At all times relevant hereto, Defendants' natural gas activities required the use of equipment, machinery and/or processes, including but not limited to those identified below, which equipment, machinery and/or processes produced releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes – to wit:

- **Vehicles and Engines:** Drilling, completion, and work-over trucks, rigs, and equipment such as pumps run off of diesel-powered and/or gasoline-powered engines. The exhaust fumes from diesel and/or gasoline fuels produce great quantities of emissions. Polycyclic aromatic hydrocarbons (PAHs) are found in exhausts from gasoline and diesel engines. A long list of other air pollutants, including nitrogen oxides, carbon monoxide, BTEX, formaldehyde, and metals are also contained in the gasoline and diesel engines used by Defendants. Due to Defendants' natural gas activities, actions, and/or inactions, Plaintiffs are/were forced breathe and inhale PAH, nitrogen oxides, carbon monoxide, BTEX, formaldehyde, and metals on an almost daily basis, which substantially contributed to Plaintiffs' injuries.
- **Construction activity:** Construction accompanies every phase of natural gas exploration, development, and production (exploration, field organization, production, and site abandonment). Each requires disturbing the soil to some degree through the use of construction machinery. These activities generate particulate matter and stir up dust, which in turn react with the other prerequisites

to form ground-level ozone or smog. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced breathe and inhale smog and particulate matter on an almost daily basis, which substantially contributed to Plaintiffs' injuries.

- **Pits:** Earthen pits are used to store or evaporate produced water and wastewater from natural gas dehydration or natural gas separation units. Additionally, prior to disposal of drilling wastes (muds and cements) and hydraulic fracturing (fracking) wastes, these wastes are often stored in earthen or metal pits that are open to the air. Hundreds of different chemicals are used during drilling, fracking, and work-over procedures, including acids, biocides, surfactants, solvents, lubricants and other chemicals. Chemical compounds that are naturally present in natural gas or chemicals that have been injected down-hole during drilling, hydraulic fracturing, or well work-over operations, will be present in the water or wastes that are held in pits. Some of the lighter or more volatile chemicals and compounds, such as benzene, toluene, and hydrogen sulfide will escape from the produced water pits into the atmosphere. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced breathe and inhale these chemicals on a consistent basis, which substantially contributed to Plaintiffs' injuries.
- **Condensate tanks:** Natural gas wells produce a semi-liquid condensate along with the gas. Condensates are hydrocarbons that are in a gaseous state within the reservoir (prior to production), but become liquid during the production process and are composed of hydrocarbons, as well as aromatic hydrocarbons such as benzene, toluene, xylenes and ethylbenzene (BTEX). Condensates give off a characteristic hydrocarbon or petroleum-type odor, and benzene gives off a sweet odor. The Occupational Safety and Health Administration (OSHA) has set maximum exposure levels for workers' exposure to benzene at 1 ppm (over an 8-hour period) and 5 ppm (over a 15-minute period). At levels above 150 ppm some people may begin to experience serious and irreversible health effects. Most people can smell benzene when it reaches levels of approximately 1.5 - 5 parts of benzene ppm. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced to smell, breathe, and inhale benzene and hydrocarbons on an almost daily basis, which substantially contributed to Plaintiffs' injuries.
- **Dehydrators:** Natural gas wells use glycol dehydrators to remove water from the gas. The dehydrator releases aromatic organic chemicals to the atmosphere. If the natural gas undergoing dehydration contains benzene, toluene, or other volatile organic compounds, significant quantities of these compounds are released when the glycol solution undergoes regeneration. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced breathe and inhale volatile organic compounds on an almost daily basis, which substantially contributed to Plaintiffs' injuries.
- **Flaring:** Flaring is the practice of burning gas. Flaring results in hydrogen sulfide



emissions, emissions from the drilling or hydraulic fracturing process that are converted to a gaseous form, and emissions of other chemicals and compounds including but not limited to benzene, formaldehyde, PAH (including naphthalene), acetaldehyde, acrolein, propylene, toluene, xylenes, ethyl benzene, and hexane. Due to Defendants' natural gas activities, actions and/or inactions and occasional flaring, Plaintiffs are/were forced to breathe and inhale various toxic and deadly chemicals and compounds on a consistent basis, which substantially contributed to Plaintiffs' injuries.

- **Fugitive Emissions:** Fugitive emissions are “unintentional” leaks of gases. This occurs from breaks or cracks in seals, tubing, valves or pipelines, as well when lids or caps on equipment or tanks have not been properly closed or tightened. When natural gas escapes via fugitive emissions, methane as well as volatile organic compounds (VOCs) and any other contaminants in the gas (e.g., hydrogen sulfide) are released to the atmosphere. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced breathe and inhale fugitive emissions on an almost daily basis, which substantially contributed to Plaintiffs' injuries.
- **Venting:** Venting is the release of gas to the atmosphere. Venting occurs at a number of points in the natural gas development process (well completion; well maintenance; pipeline maintenance; tank maintenance; etc.). During natural gas development, huge quantities of gas are vented to the atmosphere. For example, during well completion, after a well is drilled and stimulated (e.g., hydraulically fractured), the wellbore and surrounding formation must be cleaned out. The solids and fluids from the well go into pits, while the gases are allowed to escape into the atmosphere. These gases include but are not limited to hazardous air pollutants such as benzene, toluene, ethylbenzene, xylene, hexanes, methane, ethane, propane, butane, and pentanes, hydrogen sulfide (H<sub>2</sub>S), carbon dioxide, helium, nitrogen, and other compounds. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced breathe and inhale these chemicals on a consistent basis, which substantially contributed to Plaintiffs' injuries.
- **Fracking:** Fracking is a process that results in the creation of fractures in rocks through the high-pressure injection of thousands to millions of gallons of water and other fracking chemicals in a borehole and into targeted rock formations. The fracture width is typically maintained after the injection by introducing a proppant into the injected fluid. Significant environmental safety and health concerns have emerged concerning fracking, which include mishandling of solid toxic waste, a deterioration in air quality, the contamination of ground water, and the unintended migration of gases and hydraulic fracturing chemicals to the surface within a given radius of drilling operations, and the release of fracking chemicals into the air, which fracking chemicals include but are not limited to kerosene, benzene, toluene, xylene, and formaldehyde. Due to Defendants' natural gas activities, actions and/or inactions, Plaintiffs are/were forced breathe and inhale these chemicals on a

consistent basis, which substantially contributed to Plaintiffs' injuries.

28. Defendants have been aware for decades that exposure to hydrocarbons, BTEX, and various other chemicals, compounds, and/or metals present in natural gas activities create various adverse health effects to individuals exposed thereto, which various adverse health effects include but are not limited to the following: **Pulmonary effects:** Pulmonary toxicity is the result of hydrocarbon aspiration. The lower the viscosity and higher the volatility, the greater the risk of pulmonary aspiration. The hydrophobic nature of hydrocarbons allows them to penetrate deep into the tracheobronchial tree, producing inflammation and bronchospasm. The volatile chemical may displace alveolar oxygen, leading to hypoxia. Direct contact with alveolar membranes can lead to hemorrhage, hyperemia, edema, surfactant inactivation, leukocyte infiltration, and vascular thrombosis. The result is poor oxygen exchange, atelectasis, and pneumonitis. Respiratory symptoms generally begin in the first few hours after exposure and usually resolve in 2-8 days. Complications include hypoxia, barotrauma due to mechanical ventilation, and acute respiratory distress syndrome (ARDS). Prolonged hypoxia may result in encephalopathy, seizures, and death. **GI effects:** Local irritation is the usual GI manifestation of hydrocarbon ingestion. Abdominal pain and nausea are common complaints. Vomiting increases the likelihood of pulmonary aspiration. **CNS effects:** Hydrocarbon toxicity produces various CNS effects. Initial effects are similar to the effects observed in patients with alcohol intoxication. Narcotic-like depression may also be observed. Euphoria may develop, as in alcohol or narcotic toxicity. Eventually, lethargy, headache, obtundation, and coma may follow. Seizures are uncommon and are believed to be due to hypoxia. **Cardiac effects:** Dysrhythmias are a major concern. Etiologies include hypoxia, myocardial sensitization to catecholamines, and direct myocardial damage. Sudden death has been reported as a result of coronary vasospasm due to hydrocarbon inhalation. **Other effects:** Hydrocarbons are reported to cause bone marrow toxicity and hemolysis. Chlorinated hydrocarbon toxicity may cause hepatic and renal failure, and toluene toxicity may lead to renal tubular acidosis. Direct contact with the skin and mucous membranes may cause effects ranging from local irritation to extensive chemical burns.

29. Despite Defendants' knowledge, Defendants engaged in natural gas activities, actions and/or inactions around Plaintiffs' Property at the various well sites identified above.

30. Defendants' natural gas activities, actions, and/or inactions, individually and/or collectively, have created an atmosphere where Plaintiffs are/were under constant, perpetual, and inescapable assault of Defendants' releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants, which included but are not limited to exposure from Vehicles and Engines; Construction activity; Pits; Condensate tanks; Dehydrators; Flaring; Fugitive Emissions; Venting; and Fracking, as identified above.

31. Due to Defendants' natural gas activities, actions, and/or inactions, Plaintiffs began experiencing serious health effects including but not limited to the following: Headaches; Migraines; Body aches; Rashes throughout the body; Permanent scarring; Open sores in the

nose, ears, and throughout body; Chronic nose bleeding; Ringing in the ears; Dizziness; Nausea; Drowsiness; Rapid or irregular heartbeat; Tremors; Confusion; Irritation of the stomach; Coughing; Choking; Fever; Tachypnea; Grunting; Wheezing; Lethargy; Ataxia; Abdominal pain; Arrhythmia; Anisocoria; and Depression.

32. Due to Defendants' natural gas activities, actions, and/or inactions, Plaintiffs began experiencing the death of house pet(s), chickens, and the physical dwarfing of a newborn calf.

33. Due to Defendants' natural gas activities, actions, and/or inactions, Plaintiffs have been forced to seek medical attention for their physical injuries. On or about April 2010, Plaintiffs went to an environmental health specialist whom administered various tests and discovered the presence of natural gas chemicals, compounds, and/or metals in the bodies of Plaintiffs, which natural gas chemicals, compounds, and/or metals include but are not limited to the following: ethylbenzen and m,p-Xylene to name a few.

34. Due to Defendants' natural gas activities, actions, and/or inactions and upon medical instruction from Plaintiffs' environmental health specialist, Plaintiffs have been forced to evacuate their home.

35. Due to Defendants' natural gas activities, actions, and/or inactions, Plaintiffs have suffered significant damages, as detailed more fully below.

36. Due to Defendants' natural gas activities, actions, and/or inactions, Plaintiffs bring the following claims and causes of action – to wit:

#### **VIII. COUNT 1: ASSAULT – INFLICTION OF BODILY INJURY**

37. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

38. Due to Defendants' natural gas activities, actions, and/or inactions, Defendants made physical contact with Plaintiffs' person through Defendants' releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants and are liable to Plaintiffs for Assault.

39. Defendant acted intentionally, knowingly, and/or recklessly through Defendants natural gas activities, actions, and/or inactions.

40. Defendants' actions directly and proximately caused injury to Plaintiffs, which resulted in the damages detailed below.

41. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

**IX. COUNT 2: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

42. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

43. In the alternative, should Plaintiffs be unsuccessful in their other Counts, Plaintiffs brings suit against Defendants in Plaintiffs' individual capacity for Intentional Infliction of Emotional Distress.

44. Due to Defendants' natural gas activities, actions, and/or inactions, Defendants made physical contact with Plaintiffs' person through Defendants' releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants. In addition, Defendants' natural gas activities, actions, and/or inactions, individually and/or collectively, have created an atmosphere where Plaintiffs were under constant, perpetual, and inescapable assault of Defendants' releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants. As a consequence of Defendants' natural gas activities, actions, and/or inactions, Plaintiffs have been forced to experience and witness each other's decline in health, the death of their animals, and the environmental destruction of Plaintiffs' Property.

45. Defendants acted intentionally, knowingly, and/or recklessly through Defendants' natural gas activities, actions, and/or inactions when they caused to be released releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants.

46. Defendants' natural gas activities, actions, and/or inactions were extreme and outrageous.

47. Defendants' conduct proximately caused severe emotional distress to Plaintiffs, which resulted in the damages detailed below.

48. Should Plaintiffs be unable to prevail on any of their other Counts, Plaintiffs' severe emotional distress is the proper remedy.

49. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

**X. COUNT 3: NEGLIGENCE**

50. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

51. In addition or in the alternative, Defendants are liable to Plaintiffs for Negligence.

52. Defendants owed a legal duty to Plaintiffs when conducting their natural gas activities, actions, and/or inactions.

53. Defendant breached the duty to Plaintiffs through Defendants' natural gas activities, actions, and/or inactions, in the following non-exclusive ways:

- a. When Defendants caused releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes through Defendants' natural gas activities, which releases, spills, emissions, and discharges migrated to Plaintiffs' Property through the air and subsurface trespass;
- b. When Defendants made physical contact with Plaintiffs' person through Defendants' releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants;
- c. When Defendants caused Plaintiffs' emotional distress;
- d. When Defendants failed to properly supervise personnel utilizing Defendants' equipment, machinery, and/or processes, which failure to supervise resulted in releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes through Defendants' natural gas activities;
- e. When Defendants' failed to maintain Defendants' equipment, machinery, and/or processes, including but not limited to Defendants' Vehicles and Engines; Construction activity; Pits; Condensate tanks; Dehydrators; Flaring; Fugitive Emissions; Venting; and Fracking, which failure to maintain resulted in releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes through Defendants' natural gas activities; and
- f. When Defendants' natural gas activities, actions, and/or inactions were conducted in contravention of the standard of care that a reasonably prudent operator would conduct itself under the same or similar circumstances.

54. Defendants' actions directly and proximately caused injury to Plaintiffs, which resulted in the damages detailed below.

55. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

#### **XI. COUNT 4: GROSS NEGLIGENCE**

56. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

57. In addition or in the alternative, Defendants are liable to Plaintiffs for Gross Negligence.

58. Defendants owed a legal duty to Plaintiffs when conducting their natural gas activities, actions, and/or inactions.

59. Defendants breached the duty to Plaintiffs through Defendants' natural gas activities, actions, and/or inactions, as detailed in Count 3 above.

60. Defendants consciously and/or deliberately engaged in recklessness, oppression, fraud, willfulness, wantonness and/or malice through Defendants' natural gas activities, actions, and/or inactions when they caused to be released releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes created by Defendants on a continuous and consistent basis, and Defendants should be held liable in punitive and exemplary damages to Plaintiffs.

61. Defendants' actions directly and proximately caused injury to Plaintiffs, which resulted in the damages detailed below.

62. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

## **XII. COUNT 5: NEGLIGENCE PER SE**

63. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

64. In addition or in the alternative, Defendants are liable to Plaintiffs for Negligence *Per Se*.

65. Defendants' negligence described in Count 3 violated statutes designed to protect a class of persons to which Plaintiffs belong against the type of injury suffered by Plaintiffs and which statutes are of the type that impose tort liability.

66. Specifically, Defendants' negligence described in Count 3 violated the following statutes:

- a. Violation of the Texas Clean Air Act.
- b. Violation of the Texas Clean Water Act.
- c. Violation of various TCEQ/TRRC regulations regarding well site operation and exposure.
- d. Violation of Tex. Penal Code Ann. § 22.01 - ASSAULT. A person commits an offense if the person intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse and intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive.
- e. Violation of Tex. Penal Code Ann. § 28.04 - RECKLESS DAMAGE OR DESTRUCTION OF PROPERTY. A person commits an offense if, without the

effective consent of the owner, he recklessly damages or destroys property of the owner.

- f. Violation of Tex. Penal Code Ann. § 28.02 - ARSON. A person commits an offense if the person starts a fire, regardless of whether the fire continues after ignition, when the person is reckless about whether the burning will endanger the life of some individual or the safety of the property of another.

67. Defendants' violations of these statutes are without a legal excuse.

68. Defendants' actions directly and proximately caused injury to Plaintiffs, which resulted in the damages detailed below.

69. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court

### **XIII. COUNT 6: PRIVATE NUISANCE**

70. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

71. In addition or in the alternative, Defendants are liable to Plaintiffs for Private Nuisance.

72. Plaintiffs are owners of Plaintiffs' Property.

73. Defendants intentionally, negligently, and/or unreasonably interfered with and invaded Plaintiffs' Property when Defendants caused releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes through Defendants' natural gas activities, which releases, spills, emissions, and discharges migrated to Plaintiffs' Property through the air and subsurface trespass and which interference and invasion was abnormal.

74. Defendants' natural gas activities, actions, and/or inactions substantially interfered with Plaintiffs' private use and enjoyment of Plaintiffs' Property.

75. Defendants' actions directly and proximately caused injury to Plaintiffs and permanent damage to Plaintiffs' Property, which resulted in the damages detailed below.

76. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

**XIV. COUNT 7: TRESPASS & SUBSURFACE TRESPASS TO REAL PROPERTY**

77. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

78. In addition or in the alternative, Defendants are liable to Plaintiffs for Trespass to Real Property.

79. Plaintiffs are owners of Plaintiffs' Property.

80. Defendants physically, intentionally, and voluntarily entered Plaintiffs' Property when Defendants caused releases, spills, emissions, and discharges of hazardous gases, chemicals, and industrial wastes through Defendants' natural gas activities, which releases, spills, emissions, and discharges migrated to Plaintiffs' Property through the air and subsurface trespass.

81. Defendants' actions directly and proximately caused injury to Plaintiffs and permanent damage to Plaintiffs' Property, which resulted in the damages detailed below.

82. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

**XV. COUNT 8: STRICT LIABILITY – ABNORMALLY DANGEROUS ACTIVITY**

83. Plaintiffs re-allege all of the allegations in the previous paragraphs, as though set forth fully herein.

84. In addition or in the alternative, Defendants are liable to Plaintiffs for Strict Liability for Abnormally Dangerous Activity.

85. Defendants' natural gas activities require the use of hazardous gases, chemicals, and industrial wastes. In addition, Defendants' natural gas activities produce hazardous gases, chemicals, and industrial wastes. These hazardous gases, chemicals, and industrial wastes are toxic, hazardous, and deadly in nature and are capable of causing severe personal injuries and damages to persons and property coming in contact with them.

86. Inherent in Defendants' natural gas activities, is the inevitable releases, spills, emissions, and discharges of Defendants' hazardous gases, chemicals, and industrial wastes, which releases, spills, emissions, and discharges are ultra hazardous and abnormally dangerous, regardless of degree of caution exercised by Defendants.

87. By engaging in abnormally dangerous and ultra hazardous activities, Defendants are strictly liable without regard as to fault for all the damages and injuries suffered by Plaintiffs proximately caused by the releases, spills, emissions, and discharges of Defendants' hazardous gases, chemicals, and industrial wastes.



88. Defendants' actions directly and proximately caused injury to Plaintiffs, which resulted in the damages detailed below.

89. Plaintiffs seek unliquidated damages within the jurisdictional limits of this court.

#### **XVI. DAMAGES**

90. Defendants' natural gas activities, actions, and/or inactions, as detailed above, proximately caused personal injury and property damage to Plaintiffs', which include the following:

- a. Physical pain in the past and future.
- b. Mental anguish in the past and future.
- c. Disfigurement in the past and future.
- d. Physical impairment in the past and future.
- e. Medical expenses in the past and future.
- f. Loss of earning capacity in the past and future.
- g. Loss of consortium in the past and future.
- h. Property damage.
- i. Market value damages, which is the difference in the value of Plaintiffs' Property immediately before and immediately after damage.
- j. Actual or intrinsic value damages, which is the value of Plaintiffs' Property to the Plaintiffs in the condition in which it was when it was damaged.
- k. Replacement value damages, which is the cost of replacing or reproducing the property.
- l. Sentimental value damages, which is the reasonable special value of the property to Plaintiff.
- m. Repair damages, which is the value of the reasonable cost of repairs.
- n. Loss of use damages.
- o. Unliquidated damages within the jurisdictional limits of this court.
- p. Attorney's fees. Tex. Civ. Prac. & Rem. Code §102.002(b).

- q. Exemplary damages under Texas Civil Practice & Remedies Code §§ 41.001, 41.003(a), *et seq.*
- r. Pre-judgment and post-judgment interest. Texas Finance code §304.001, *et seq.*, and any other applicable law.
- s. **Medical Monitoring Damages:** Plaintiffs were wrongfully and significantly exposed to toxic chemicals and hazardous substances through the negligent and wrongful actions of Defendants. The levels of toxic chemicals and hazardous substances to which Plaintiffs have been exposed are greater than normal background levels. As a proximate result of Plaintiffs' exposure to such hazardous substances, Plaintiffs have a significantly increased risk of contracting a serious latent disease. Medical examinations exist that makes the early detection of diseases possible. Such early detection will help to ameliorate the severity of the disease(s). The medical examinations are different from that normally recommended in the absence of the exposure. Plaintiffs' increased risk makes early and periodic diagnostic medical examinations reasonably necessary.
- t. **Remediation:** Plaintiffs seek remediation or the cost of restoring Plaintiffs' Property and its ground water to its pre-drilling conditions.
- u. Nominal damages for each trespass by each Defendant, in addition to Plaintiffs' actual damages and other damages enumerated above.

#### **XVII. EQUITABLE RELIEF**

91. Plaintiffs seek a permanent injunction against Defendants, precluding current and future drilling and fracking activities near Plaintiffs' land.

#### **XVIII. REQUESTS FOR DISCLOSURE**

92. Under Texas Rule of Civil Procedure 194, Plaintiffs requests that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

#### **XIX. JURY DEMAND**

93. Plaintiffs demand a jury trial and tender the appropriate fee with this petition.

**XX. PRAYER**

94. WHEREFORE, PREMISES CONSIDERED, Plaintiffs ask that the Court issue citation for Defendants to appear and answer, and that Plaintiff be awarded a judgment against Defendants for the following: Actual damages; Prejudgment and Post-judgment interest; Court costs; Exemplary damages; and all other relief to which Plaintiffs are entitled.

Respectfully submitted,  
MATTHEWS & ASSOCIATES

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DAVID P. MATTHEWS  
TSB#: 13206200  
BRADFORD J. GILDE  
TSB#: 24045941  
2905 Sackett St.  
Houston, TX 77098  
713-522-5250 - phone  
713-993-0841 - facsimile

Tim K. Goss  
Freese and Goss, PLLC  
3031 Allen St., Suite 200  
Dallas, Texas 75204  
P :: 214.761.6610  
F :: 214.761.6688

ATTORNEYS FOR PLAINTIFFS