

Lovell, Solveig Matek, Thomas Matek, Laurie Mcmillan, Vanessa Corbin, Robert James, Stephen LaMotta, Jose Mendoza, Mariaelena Mendoza, Jose Sanchez, Cynthia Jones, Jose Barrera, Elias Leal, Edwin Anderson, Carl Hopson, Charles Montgomery, Aaron Gustavus, Antony Moulds, Pablo Oyervadez, Allison Molina, Mark Mitchell, Tiffany Wright, Christopher Sperk, Rosa Landin, Margie Ortiz, Colin Gray, Kenneth McCan, James Jugon, Michelle Shepherd, Colleen Laible, Helena Laverde, David Moorman, Michael Colley, Renee Neumann, Omar Neumann, Carmen Atilee, Chris Tipton, Edward Hartnett Jr., Mona Hartnett, Beverly Rogers, Brandon Brown, Rebecca Stout, Russell Faulkner, William Cartwright, Renee O'Neal, Anna Suschard, Donna Steffenauer, Jeffrey Greer, Michael Shrader, Ellen Mathias, Barbi Petty, Christine Shelton, Jeanna Moore, Greg Combs, Alexis Cruz, Edward Verweij, Sarah Opaska, Franklin Nance, Rhonda Nance, Nancy Daniels, Betty Smith, Jimmie Smith, Charles Hamilton, Susan Haynes, Jerry Johnson, John Nielsen, Mary Nielsen, Ana Cintron, June Kalman-Parillo, Derrell Claspill, Dorita Crawford, Donlashoni Cowley, Melissa Brantley, Marlene Tabb, Momika Patton-Watts, Suzanne Thomas, Gina Wilhite, Michael DeAses, Zainab Hembree, Adila Carreon, Samuel Ramirez, Betty Harms, Ray Morgan, Tami Morgan, Randy Tetteh, Jill Carlson, Sharon Williams, Jesus Amaro, Mike Fulenwider, Julie Gaines, Manuela Mann, Thomas Mann, Aaron Wood, Jessica Salmeron, Gary Rees, Richard Davis, Christopher Emmons, Brian White, Margaret Coronado, Johnny Howard, Stephanie Howard, Mark Paschall, Rosalba Paschall, Abby Belay, Gary Sova, Geralyn Bendzen, Tracy Neihouse, Michelle Perry, Robert Wells, Gloria Rodriguez, Renee Spadachene, Ann Mantle-Anglin, Jan Whited, Jeanne Park, O'Pierce Treadwell, Zahid Qayum, Stephen Keller, Michael Aston, Lee Badger, Luciano Aguilar, Samuel Feris, Kristin Nash, Betty Cater, Misty Worrell, Richard Ireland, Louann Carlucci, John Hoppes, Kathleen Sullins, John Tarver, Sandra Tarver, Scrubs etc., LLC, Lavelle Hughes, Michael Martin, Nancy Martin,

Courtney Horton, Laverne Schulze, Margie Thomas, George Drewry, Marie Wilcoxson, Dan Harbin, Edward Meteleski, John Sorrentino, Scott Smith, Gary Hines, Rhonda Bollman, Lawrence Purcell, Bill Dermott, George Dreisbach, Alice McGaughney, Donald Wilson, Rosemary Hines, James Hines, Fernando Alba, Joanne Burke, Sheryl Adams, Jeremiah Johnson, James Lobusch, Chris Sokolowski, Paul St. Denis, Ronald Jones, Joe Henley, Karen Ryan, Jeremy Barfield, Sharon Kleene, Jean McGill, Kevin Patranella, Melissa Evans, David Krenek, Debbie Castleberry, J. Robert Shullaw, Julius Peppers, Christi Medlock, Karen Nelson, Jacques Bouchez, Jean O'Rorke, Paul Mathews, Robert Tatom, Charles Kaspar, Janene Kaspar, Brett Ediss, Robert Smith, Wanda Smith, Hugh Shaver, Robert Curry, Denise Rhodes, ALIINTERIORS Steele, Kassandra Humphress, Roger Miller, Barbara Critchlow, Eva Smith, Susie Ramsey, Cheryl Gardner, Judith Gottfried, Kimber Bulkowski, Barbara Wheelis, Rina Holzmacher, Shelley Krueger, Daryl Morgan, Tullus Wallace, Michael Trejo, Laura Lawhon, Deryl Thompson, Ed Nathan, John Jordan, Richard Eicher, Clint Lipham, Jeremy Ross, Al Woodum, Lisa Wilkerson, Dewayland Miller, Melrose Lucas, Alex Afalobi, Jarvis Tuggle, Betty Batson, Mary Crawford, Shantel Stone, Clark Meyer, Stephanie Clark, Jessalyn Christenson, Michael Rogers, David Jackson, Jesse Nunez, Darryl Pope, Patricia Nichols, Brittani Matos, Michael Woods, Herb Bentel, Crystal Cantu, Andrea Zapalac, Gary Ward, Debbie Kothmann, Robert Fitzsimmons, Robert Hornung, Kelly Tischendorf, Danielle Ibarra, Penny Upshaw, Jan Olson, Marlerys Saballo, Mary Tolleson, Vincent Rogers, Richard Ricks, Nancy Matzke, Elena Dewolf, Robert Dewolf, Betty Brewster, Stephen Bixby, Gloria Hoffman, Jeff Simmons, Robert Henry, Dora Kelley, Mildred Ervin, Pam Pearson, Lynette Smith, Corey Cox, Kelly Jackson, Hector Galvan, Annemarie Dworak, Monty Montgomery, Patricia Frey-Murray, Donald Glenn Rice Jr., Matt Walton, Troy Thornton, Joseph Totina, Geraldine Schultz, Frank Leidolf, Brenda Stephens, Casey McAdams, Robert Kroeze, Buy

George Resale, LLC, Michael Hammer, Lottie Wolfe, John McDonald, John Biavaschi, Evette Biavaschi, Carol Pursley, Jeanette Oliver, Jonas Ekman, Brad Schulz, Brett Mears, Sandy Walker, John Simon, Belinda Hackleman, Michael Serres, Gloria Hester, Andrew Schmitt, Paula Amsler, Mike Waldman, Adalberto Moreno, Lloyds Jones, Gloria Sutherland, Rudolph Hanselka, Heather Durkin, Ronald Sobey, Donald Rozell, Norman Sandlin, William Hutto, Adrian Costescu, Pete Garcia, Jerry Stepp, Angel Sirgo, Tina Olive, Jose Busto, Larry Mack, Roy Head, Tanya Chavers, Denisha Duron, Thunder Gun Range, Dominique Jones, Kirk Purdy, Laura Foster, Horacio Garcia, Raed Qasem, James Presley, Eddie Bumpas, Julia Lee, Karen Robinson, Nature's Way Resources, Frank Damratoski, Lisa Bunch, William Keever, Jose Cruz, Phuong Luong, Kathleen Adams, Marilyn Bullock, Guy Burroughs, Jose Bustos, Edgar Cantu, Ramona Chandler, Mayra Cuellar, Joseph Davis, Brenda Davis, June Dixon, Tammy Dumire, Pierre Espejo, Darlene Kent, Elizabeth Kirkpatrick, Jennifer Langeland, Cassandra Lloyd, Roland Martinez, Brenda Mathis, Cal Monteith, Glen Moses, Tom Nolan, Jay Norris, Sharon Patterson, Orin Sheffield, Les Simmons, Sue Rasberry, Larry Rasberry, Monica Rodriguez, Thomas Ross, Beth Ross, Paul San Salvador, Luis Stuart, Robert Weatherly, Carol Weitzel, Bobby Brown Batchelor (hereinafter referred to "Plaintiffs") hereby file this Original Petition against Defendants Hanson Aggregates, LLC; Liberty Materials, Inc.; Megasand Enterprises, Inc.; Triple P.G. Sand Development, LLC; RGI Materials, Inc.; San Jacinto River Materials, Inc.; Stacy Kropik Trucking, Inc.; The Rasmussen Group, Inc.; Traylor Bros., Inc.; Zachry Construction Corporation; Odebrecht Construction, Inc.; Williams Brothers Construction Co., Inc.; Eagle Sorters, LLC; Texas Sterling Construction Co.; Texas Concrete Sand and Gravel Inc.; Southern Crushed Concrete, LLC; Pioneer Concrete of Texas, Inc.; A & B Crushed Concrete, LLC; Alleyton Resource Company, LLC; A.N.T. Enterprises Incorporated; Apcon Services, LLC; Argos USA, LLC; Artesian Materials, Inc.;

Artesian Materials and Aggregates, Inc.; B&B Aggregates, Inc.; Bullock Construction, LLC; Campbell Concrete & Materials, LLC; Century Asphalt, Ltd.; Cleveland Sand & Gravel, LLC; Eagle Sand & Gravel, LLC; Express Materials Venture, LP; Frontier Aggregates, LLC; Great Southern Stabilized, LLC; Gulf Coast Stabilized Materials, LLC; Lattimore Materials Corporation; LGI Land, LLC; LGI Land I, LLC; LGI Land, Ltd.; LGI GP, LLC; LGI Holdings, LLC; Lone Star Sand & Gravel, LP; Multisource Sand and Gravel Co., Ltd.; Porter Stabilized Materials; River Aggregates, LLC; Argos Ready Mix (South Central Concrete) Corp., f/k/a Southern Star Concrete, Inc.; Sunrise Materials, LP; Volcan Sand & Clay, LLP; WM Trucking & Excavating, Inc.; Forestar (USA) Real Estate Group Inc.; Argos USA LLC; Jim Bullock Partners, Ltd.; Multifam, Ltd.; Mo-Co San Jac-I45 Ltd.; Lehigh Hanson, Inc.; and 45 SRL, Inc. (“Defendants”), as follows:

I.
DISCOVERY LEVEL

1. Plaintiffs intend to conduct discovery in accordance with Texas Rules of Civil Procedure 190.4, also known as “Level 3” Discovery Control Plan, and as such, request a discovery control plan be entered herein. Plaintiffs affirmatively plead that this suit is not governed by the expedited-actions process in Texas Rule of Civil Procedure 169.

II.
VENUE AND JURISDICTION

2. This Court has personal jurisdiction over Defendants because they conduct a substantial amount of business in Texas, have continuous and systematic ties with Texas, and consequently are “at home” in Texas. Further, Defendants are incorporated and/or have their principal place of business in Texas. All or a substantial portion of the events giving rise to this action occurred in Harris County, Texas. Accordingly, Defendants are subject to both specific

and/or general jurisdiction in this Court.

3. The Court has subject matter jurisdiction as the amount in controversy is within the jurisdictional limits of the Court, and no other court has exclusive jurisdiction.

4. Venue is proper in this Court for three independent reasons.

5. First, venue is proper based on section 15.005 of the Texas Civil Practice and Remedies Code, which provides that “[i]n a suit in which the plaintiff has established proper venue against a defendant, the court also has venue of all the defendants in *all claims arising out of the same transaction, occurrence, or series of transactions or occurrences.*” TEX. CIV. PRAC. & REM. CODE § 15.005 (emphasis added).¹ Plaintiffs have already established proper venue in Harris County against at least one defendant.

6. As one example, Defendant Triple PG Sand Development has conducted aggregate extraction and excavation operations at 1025 Hueni Road, Porter, Texas 77365, which is in close proximity to the East Fork of the San Jacinto River. As the Texas Commission on Environmental Quality (“TCEQ”) has documented, portions of this facility are within Harris County:

¹ Section 15.005 applies to multi-plaintiff, multi-defendant cases like this one. *Am. Home Prods. v. Clark*, 38 S.W.3d 92, 94 (Tex. 2000) (“Eleven plaintiffs sued ten defendants . . .”). As the text of section 15.005 explicitly provides, there is no requirement under section 15.005 that the defendants’ negligent actions occur simultaneously. *See, e.g., Abney v. De Wald*, 228 S.W.2d 297, 299-300 (Tex. Civ. App.—Eastland 1950, no writ).

Gulf Coast Stabilized Materials, LLC Plant 19
1025 Hueni Rd., Porter, Harris County
AP0000832

Gulf Coast Stabilized
Sand Plant No. 17
AP0000832



Triple PG Sand
Development
AP0000963

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jodi Stemann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 7, 2018

CERTIFIED MAIL Certified # 91 7199 9991 7038 7442 7446
ELECTRONIC RETURN RECEIPT REQUESTED

Mr. Vikram Vijayakumar, Manager
Triple PG Sand Development
4321 Kingwood Drive, Suite 135
Kingwood, Texas 77339

Re: Notice of Violation for Comprehensive Compliance Investigation at:
Triple PG Sand Development,
1025 Hueni Road, Porter, Harris/Montgomery County
Regulated Entity No.: 106418817 TCEQ ID No.: TKR05BH80
Plant TCEQ ID Nos.: APO002367

Dear Mr. Vijayakumar:

On February 28, 2018, Mr. Laure Dawodu of the Texas Commission on Environmental Quality (TCEQ) Houston Region Office conducted an investigation of the above-referenced regulated entity to evaluate compliance with applicable requirements for wastewater treatment. Enclosed is a summary which lists the investigation findings. During the investigation, some concerns were noted which were noted as alleged non-compliances. Through subsequent corrective action, the alleged non-compliances have been resolved. Therefore, no further submittal from you is required concerning this investigation.

The TCEQ appreciates your assistance in this matter and your compliance efforts to ensure protection of the State's environment. If you or members of your staff have any questions regarding these matters, please feel free to contact Mr. Olanrewaju Dawodu, Environmental Investigator for the Houston Region Office at (713) 767-3673.

Sincerely,

A handwritten signature in black ink, appearing to read "Karina Rocha", written over a faint circular stamp.

Karina Rocha, Team Leader
Water Section
Houston Region Office

KR/ID/pc

Enclosure: Summary of Investigation Findings

7. Plaintiffs would show that through Triple PG Sand Development's actions, omissions, and failures, in discharging and/or failing to prevent the discharge of processed water,

silt, sand, sediment, dirt, and other materials from their facilities and/or job sites and/or commercial developments and/or properties into the East Fork of the San Jacinto River, the overall capacity of the San Jacinto River Basin has dramatically decreased. This sediment, silt, sand and dirt limited the overall capacity of these waterways such that when the water came, the rivers and the lake simply could not hold the volume. The subsequent backflow from a full Lake Houston flooded Plaintiffs' properties and as a proximate result, Plaintiffs suffered substantial damages. Plaintiffs have consequently sued Triple PG for negligence, nuisance based on negligent conduct, and violations of the Texas Water Code. Accordingly, venue is proper as to Defendant Triple PG Sand Development under section 15.002(a)(1) of the Texas Civil Practice and Remedies Code.

8. Plaintiffs would show that this Court also has venue of all the defendants in all claims or actions arising out of the same transaction, occurrence, or series of transactions or occurrences. TEX. CIV. PRAC. & REM. CODE § 15.005. As more fully set forth below, the defendants to this lawsuit have been cited by the TCEQ for numerous issues, including excessive discharge which contained runoff dust, sand, construction materials, and other products produced and/or used by Defendants at locations and/or facilities and/or properties adjacent to Spring Creek, the West Fork of the San Jacinto River, and the East Fork of the San Jacinto River. This series of actions has occurred over time, but it has affected the San Jacinto River Basin, and the negligent conduct of the defendants, occurring over time, was a proximate cause of the harm and damages Plaintiffs have suffered.

9. Plaintiffs would show that Triple PG Sand Development and all of the other defendants acted as joint tortfeasors. Specifically, the negligence of Triple PG Sand Development was a proximate cause of the flooding of Plaintiffs' properties, and Defendants' negligent conduct is inextricably combined. Plaintiffs would further show that in the event their injuries and damages

cannot be apportioned with reasonable certainty as to each individual defendant, their injuries are indivisible, and all defendants, including Triple PG Sand Development, are jointly and severally liable for the flooding of Plaintiffs' properties. *See Amstadt v. United States Brass Corp.*, 919 S.W.2d 644, 654 (Tex. 1996); *Kramer v. Lewisville Mem'l Hosp.*, 858 S.W.2d 397, 405 (Tex. 1993).

10. Another example of proper venue in Harris County is Defendant Williams Brothers Construction Co., Inc. ("Williams Brothers"). Its headquarters is in Harris County,² making venue against this defendant proper under section 15.002(a)(3). TEX. CIV. PRAC. & REM. CODE § 15.002(a)(3). Upon information and belief, Williams Brothers has owned and/or operated mining and/or commercial facilities in close proximity to the West Fork of the San Jacinto River. Moreover, in 2013, the TCEQ found that Williams Brothers had discharged turbid water that entered the West Fork of the San Jacinto River and for operating without a Multi-Sector General Permit:

² See <https://wbctx.com/contact-us/> (last visited Oct. 31, 2019) (listing the corporate headquarters as 3800 Milam Street, Houston, Texas 77006, which is comfortably within Harris County, Texas).

Photograph of discharge from Sorter Road Sand Borrow Pit taken on November 13, 2013 by Stacey Carr CCRDS Investigation No. 1144327; TCEQ Permit No.: TXR05BY90



Photo No. 8 - Discharge into the West Fork of the San Jacinto River.

GENERAL FACILITY AND PROCESS INFORMATION

The Sorters Road Borrow Pit is located at 25800 Sorters Road (30.04278 latitude and -95.26611 longitude), Porter, Montgomery County. The facility's Primary Standard Industrial Classification (SIC) code is 1442 which is covered under Sector J of the Multi-Sector General Permit (MSGP). According to the Standard Industrial Classification Manual, a facility with a SIC code of 1442 is primarily engaged in operating sand and gravel pits and dredges, and in washing, screening, or otherwise preparing sand and gravel for construction uses. At the time of the November 15, 2013 investigation, sand was being extracted from the pit, and the site was not permitted under the MSGP. The site's previous MSGP TXR05W264 was terminated by the permittee on March 15, 2011. The sand from the site is used for Texas Department of Transportation Road project, therefore, the site is not required to obtain an Aggregate Production Operation (APO) registration.

On November 13, 2013, TCEQ investigators Michelle Ruckstuhl and Stacey Carr conducted a flyover of the East and West Forks of the San Jacinto River. During the flyover a turbid discharge from the facility was photographed. See Attachment A.

The November 15, 2013 investigation documented an active sand mining operation. The facility was excavating the sand, then stock piling the sand inside the pit to allow the water to drain off, and finally loading the dried sand into dump trucks. The excavation was occurring in the northeast section of the pit. A channel had been dug around the inside perimeter of the pit in order to funnel the water away from the excavation area. A pump had been placed at the end of the channel and was actively discharging water from the pit. The water was sent under the access road and flowed into the woods located along the south end of the property. The woods were flooded with the discharge. The water being discharged was very turbid. The flood waters in the woods were the same color as the discharge. According to the Mr. Floyd Ward, site supervisor, the discharge eventually reaches a ditch in the woods and is channeled to the West Fork of the San Jacinto River. See Attachment B.

SORTERS RD SAND BORROW PIT - PORTER

11/13/2013 to 11/25/2013 Inv. # - 1144327

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NOE Date: 1/24/2014

**OUTSTANDING ALLEGED VIOLATIONS
ASSOCIATED TO A NOTICE OF ENFORCEMENT**

Track No: 525039 Compliance Due Date: To Be Determined
Violation Start Date: Unknown

30 TAC Chapter 281.25(a)(4)

Alleged Violation:
Investigation: 1144327 Comment Date: 01/21/2014

Failed to obtain a Multi-Sector General Permit (MSGP) TXR050000 to authorize the discharge of storm water. During the investigation, the facility was found to be operating without a MSGP. The facility's primary SIC code is 1442, which falls under Sector J of the MSGP. Therefore, authorization under the MSGP must be obtained prior to discharging storm water.

Recommended Corrective Action: Authorization under the MSGP must be obtained.

Signed 
Environmental Investigator

Date 1-21-14

Signed 
Supervisor

Date 1-22-14

Attachments: (in order of final report submittal)

- Enforcement Action Request (EAR)
- Letter to Facility (specify type): NOE
- Investigation Report
- ____ Sample Analysis Results
- ____ Manifests
- ____ NOR

- Maps, Plans, Sketches
- Photographs
- ____ Correspondence from the facility
- ____ Other (specify):
- ____
- ____

11. Just like Williams Brothers, the defendants to this lawsuit have discharged or failed to prevent the discharge of processed water, silt, sand, sediment, dirt, and other materials from

their facilities and/or job sites and/or commercial developments and/or properties into Spring Creek, the West Fork of the San Jacinto River, and the East Fork of the San Jacinto River. And as a direct and proximate result of this conduct, the overall capacity of the San Jacinto River Basin has dramatically decreased. Thus, Plaintiffs' claims against the defendants other than Williams Brothers arise out of the same series of transactions or occurrences. Plaintiffs have consequently sued Williams Brothers for negligence, nuisance based on negligent conduct, and violations of the Texas Water Code.³

12. Plaintiffs would show that each plaintiff has independently and properly established venue under section 15.005 of the Texas Civil Practice and Remedies Code as to all defendants.⁴ Accordingly, venue is proper in Harris County under section 15.005.⁵

³ The true nature of this lawsuit is a tort action against more than several defendants. Therefore, section 15.011 does not apply. See, e.g., *In re Graybar Elec. Co., Inc.*, 2008 WL 3970865, at *15-*17 (Tex. App.—Corpus Christi-Edinburg Aug. 26, 2008, orig. proceeding) (concluding that section 15.011 does not apply); see also *Allison v. Fire Ins. Exchange*, 98 S.W.3d 227, 241-44 (Tex. App.—Austin 2002, pet. granted, judgment vacated w.r.m.); *Trafalgar House Oil & Gas Inc. v. De Hinojosa*, 773 S.W.2d 797, 798 (Tex. App.—San Antonio 1989, no writ); cf. *KJ Eastwood Invs., Inc. v. Enlow*, 923 S.W.2d 255, 257-58 (Tex. App.—Fort Worth 1996, orig. proceeding).

⁴ Thus, section 15.003(a) does not apply on its terms and the Court need not examine whether Plaintiffs can satisfy 15.003(a)'s requirements. See TEX. CIV. PRAC. & REM. CODE § 15.002(a) ("If a plaintiff cannot independently establish proper venue, . . ."); see also *Am. Home Prods. v. Clark*, 38 S.W.3d 92, 93-97 (Tex. 2000); *Am. Home Prods. Corp. v. Adams*, 22 S.W.3d 121, 123 (Tex. App.—Fort Worth 2000, pet. dismissed by agr.) ("If a plaintiff can establish that venue is proper in the county of suit, the plaintiff does not have to establish that joinder is proper under the four section 15.003(a) factors." (citations omitted)). In the event the Court determines venue is not proper under section 15.005, Plaintiffs would reserve the right to present appropriate evidence as to each of the section 15.003(a) factors. Cf. *Elec. Data Sys. Corp. v. Pioneer Elecs. (USA) Inc.*, 68 S.W.3d 254, 258 (Tex. App.—Fort Worth 2002, no pet.) ("In its revised order, the trial court specified that plaintiffs each established proper venue under section 15.002(a)(2) and 15.005, and that it thus need not decide whether joinder was proper under section 15.003." (citation omitted)). And if the Court determines that venue is proper in Harris County under section 15.005, Plaintiffs contend that an interlocutory appeal of any such decision is improper. See, e.g., *Adams*, 22 S.W.3d at 124 ("By its express terms, section 15.003(c) only provides an appeal from the trial court's determination as to plaintiffs who are 'unable to independently establish proper venue.'" (quotation & citation omitted)).

⁵ TEX. CIV. PRAC. & REM. CODE § 15.005; see also *LaSorsa v. Burr*, 516 S.W.2d 265, 269 (Tex. Civ. App.—Houston [14th Dist.] 1974, no writ) ("In the case at bar, we hold that the appellants LaSorsa have alleged a joint cause of action against the defendants Burr and Hickson, or that the causes of action are so intimately connected that they may be joined to avoid a multiplicity of lawsuits."); *Wedegartner v. Skoruppa*, 236 S.W.2d 216, 217 (Tex. Civ. App.—San Antonio 1951, no writ); *Abney v. De Wald*, 228 S.W.2d 297, 299-300 (Tex. Civ. App.—Eastland 1950, no writ); cf. *Goodyear Tire & Rubber Co. v. Edwards*, 512 S.W.2d 748, 751-52 (Tex. Civ. App.—Tyler 1974, no writ) ("[W]e believe the plaintiff's pleadings sufficiently show that the cause of action asserted against both Goodyear and Harvester are so intimately connected with the cause of action asserted against the resident defendant that they may be joined to avoid a multiplicity of suits." (citation omitted)).

13. Second, and in the alternative, all or a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in Harris County, Texas, making venue proper under TEX. CIV. PRAC. & REM. CODE § 15.002(a)(1).

14. Third, and in the alternative, at least one or more of the Defendants are based in and/or and maintain a principal office in Harris County, Texas, making venue proper under TEX. CIV. PRAC. & REM. CODE § 15.002(a)(3).

15. This lawsuit is not subject to removal based on the existence of a federal question. Plaintiffs assert common law and statutory claims under the laws of Texas. These claims do not implicitly or explicitly arise under the Constitution, laws, or treaties of the United States. Any attempt to remove this lawsuit on this basis would be utterly and objectively baseless and would likely subject Defendants to an award of sanctions, attorneys' fees, and costs. 28 U.S.C. § 1447(c).

16. Defendants also cannot remove this lawsuit based on diversity of citizenship. Plaintiffs and nearly all defendants to this lawsuit are both residents and citizens of Texas. Accordingly, the parties are not completely diverse and removal is inappropriate. 28 U.S.C. § 1332(a)(1). Further, Plaintiffs have properly asserted multiple claims against more than several defendants who are and remain Texas citizens. Defendants are therefore precluded from removing this civil action. 28 U.S.C. § 1441(b)(2).

17. Plaintiffs do not (and will never) propose to try the claims of 100 or more persons jointly, and as such, the Class Actions Fairness Act ("CAFA") does not (and will never) apply. *See* 28 U.S.C. § 1332(d)(11)(B)(i) (providing that the term "mass action" means any civil action "in which monetary relief claims of 100 or more persons are proposed to be tried jointly"). Moreover, CAFA cannot apply because "all of the claims in the actions arise from an event or occurrence in the State [Texas] in which the action was filed. . . ." and resulted in "injuries in the

State [Texas].” *See* 28 U.S.C. § 1332(d)(11)(B)(ii).

18. Any attempt by Defendants to remove to federal district court can only be regarded as a meritless attempt to drive up the costs of litigation and delay the legitimate resolution of Plaintiffs’ claims.

III.
PARTIES

19. Plaintiff Steven Nelson is the owner of real property at the following address: 21907 Woodland Heights Lane, Spring Texas 77373.

20. Plaintiff Tai Nguyen is the owner of real property at the following address: 2018 Lakewood Ct., Willis, Texas 77318.

21. Plaintiff Larry Rogers is the owner of real property at the following address: 36 La Costa Dr., Montgomery, Texas 77356.

22. Plaintiff Pierce Treadwell on Kingwood Lakes South Community Association is a Texas non-profit entity doing business in Harris County, Texas.

23. Plaintiff Christina Koehn is the owner of real property at the following address: 79 Lakeview Village, Montgomery, Texas 77356.

24. Plaintiff Steve Riegle is the owner of real property at the following address: 4006 Knollcrest Dr., Montgomery, Texas 77356.

25. Plaintiff Yuh-Chin Chang individually and on behalf of Jen-Yi Huang (deceased) is the owner of real property at the following address: 2 Kings River Ct., Humble, Texas 77346.

26. Plaintiff Ray Besser is the owner of real property at the following address: 21002 Atascocita Point Dr., Atascocita, Texas 77346.

27. Plaintiff Sidney Hickman is the owner of real property at the following address: 248 Magnolia Point Dr., Huffman, Texas 77346.

28. Plaintiff Joe Veatch is the owner of real property at the following address: 4803 Scenic Woods Trail, Kingwood, Texas 77345.

29. Plaintiff Dirk Holland is the owner of real property at the following address: 414 Cheatham Rd., Huffman, Texas 77336.

30. Plaintiff Michelle Holland is the owner of real property at the following address: 414 Cheatham Rd., Huffman, Texas 77336.

31. Plaintiff Rickard Cade is the owner of real property at the following address: 19127 Aquatic Dr., Humble, Texas 77346.

32. Plaintiff Susan Cade is the owner of real property at the following address: 19127 Aquatic Dr., Humble, Texas 77346.

33. Plaintiff Lorraine Schroeder is the owner of real property at the following address: 20830 Little Deer Ln., Crosby, Texas 77532.

34. Plaintiff Brian Douglas is the owner of real property at the following address: 514 Carriage View Lane, Huffman, Texas 77336.

35. Plaintiff Paul Holloway is the owner of real property at the following address: 20522 Riverside Plains Dr., Humble, Texas 77346.

36. Plaintiff June Haynie is the owner of real property at the following address: 4626 Dunnam Road, Porter, Texas 77365.

37. Plaintiff Francisco Salazar is the owner of real property at the following address: 3134 Indian Mound Trail, Crosby, Texas 77532.

38. Plaintiff Kevin Waggoner is the owner of real property at the following address: 19002 Hikers Trail, Humble, Texas 77346.

39. Plaintiff Tabitha Gunnels is the owner of real property at the following address:
8523 Atascocita Lake Way, Humble, Texas 77346.

40. Plaintiff Michelle Curtis is the owner of real property at the following address:
20502 Riverside Pines Dr., Atascocita, Texas 77346.

41. Plaintiff Kathy Dalpiaz is the owner of real property at the following address: 163
N. Dear Lake Road, Huffman, Texas 77336.

42. Plaintiff Randolph Wolf is the owner of real property at the following address: 326
Harvard Rd., Huffman, Texas 77336.

43. Plaintiff Barry Thelen is the owner of real property at the following address: 21015
Atascocita Point Dr., Humble, Texas 77346.

44. Plaintiff Andrew Jung is the owner of real property at the following address, 28004
Calvin Road, Huffman, Texas 77336.

45. Plaintiff Scott Robertson is the owner of real property at the following address: 507
Carriage View Lane, Huffman, Texas 77336.

46. Plaintiff Richard Smith is the owner of real property at the following address: 134
Magnolia Point Dr., Huffman, Texas 77336.

47. Plaintiff John Boone is the owner of real property at the following address: 1322
Royal Sands Lane, Kingwood, Texas 77345.

48. Plaintiff William Bachman is the owner of real property at the following address
1315 Royal Sands Lane, Kingwood, Texas 77345.

49. Plaintiff Christopher Curran is the owner of real property at the following address:
5503 August Hill Dr., Kingwood, 77345.

50. Plaintiff Richard Keiger is the owner of real property at the following address: 6215 Redwood Bridge Trail, Kingwood, Texas 77345.

51. Plaintiff Robert Boyd is the owner of real property at the following address: 3743 Shore Shadow Dr., Crosby, Texas 77532.

52. Plaintiff Angela Finnegan is the owner of real property at the following address: 403 Forest Lane, Huffman, Texas 77336.

53. Plaintiff Leander Obregon is the owner of real property at the following address: 1810 Cobble Creek, Houston, Texas 77073.

54. Plaintiff Preston Davis is the owner of real property at the following address: 22431 Highland Point Lane, Spring, Texas 77373.

55. Plaintiff Barbara Van Curen is the owner of real property at the following address: 12314 Kings Chase Dr., Houston, Texas 77044.

56. Plaintiff Shasta Rose is the owner of real property at the following address: 24403 Glen Loch Drive, Spring, Texas 77380.

57. Plaintiff Jennifer Ward is the owner of real property at the following address: 88 West High Oaks Circle, The Woodlands, Texas 77380.

58. Plaintiff Kenneth Archer is the owner of real property at the following address: 3006 Laurel Mist Court, Kingwood, Texas 77345.

59. Plaintiff Daniel Musick is the owner of real property at the following address: 12311 Chase Dr., Houston, Texas 77044.

60. Plaintiff Maria De Jesus is the owner of real property at the following address: 8507 Dorskocil Dr., Houston, Texas 77044.

61. Plaintiff Charles Banks is the owner of real property at the following address: 11714 Abby Ridge Way, Houston, Texas 77044.

62. Plaintiff Roxanne Avina is the owner of real property at the following address: 17302 Outlaw Ridge Road, Houston, Texas 77095.

63. Plaintiff Jeff Wallace is the owner of real property at the following address: 106 S. Wild Yaupon Ct., The Woodlands, Texas 77381.

64. Plaintiff Dennis Grivette is the owner of real property at the following address: 21120 Walnut Dr., New Caney, Texas 77357.

65. Plaintiff Carol Bagley is the owner of real property at the following address: 25476 East Holly Lane, Splendora, Texas 77372.

66. Plaintiff Olga Castillo is the owner of real property at the following address: 12910 FM 1960, Huffman, Texas 77336.

67. Plaintiff Judith Crumpler is the owner of real property at the following address: 29619 Hilltop Dr., Spring, Texas 77386.

68. Plaintiff Greg Bennett is the owner of real property at the following address: 5007 Fern Garden Court, Kingwood, Texas 77345.

69. Plaintiff Edgar Avila is the owner of real property at the following address: 31823 Cates Street, Pinehurst, Texas 77362.

70. Plaintiff Carlyle Meredith is the owner of real property at the following address: 11106 Meadowvine Dr., Houston, Texas 77044.

71. Plaintiff Maxine Meredith is the owner of real property at the following address: 11106 Meadowvine Dr., Houston, Texas 77044.

72. Plaintiff Bobby Walker is the owner of real property at the following address:
31752 Casey Rd., New Caney, Texas 77357.

73. Plaintiff Jerry Trussell is the owner of real property at the following address: 1147
County Rad 3731, Splendora, Texas 77372.

74. Plaintiff Mary Trussell is the owner of real property at the following address: 1147
County Road 3731, Splendora, Texas 77372.

75. Plaintiff Rebecca Miller is the owner of real property at the following address:
21611 Rio Villa Dr., Houston, Texas 77049.

76. Plaintiff Gary Miller is the owner of real property at the following address: 21611
Rio Villa Dr., Houston, Texas 77049.

77. Plaintiff Agnes Cloud is the owner of real property at the following address: 21819
Forest Glade, Humble, Texas 77338.

78. Plaintiff Tex Cloud is the owner of real property at the following address: 21819
Forest Glade, Humble, Texas 77338.

79. Plaintiff Wanda Dewalt is the owner of real property at the following address:
12226 Green Mesa Dr., Houston, Texas 77044.

80. Plaintiff Kevin Newton is the owner of real property at the following address:
25292 Village Dr., New Caney, Texas 77357.

81. Plaintiff Mary Lovell is the owner of real property at the following address: 7 South
Greenbud Court, The Woodlands, Texas 77380.

82. Plaintiff Solveig Matek is the owner of real property at the following address: 7711
Boars Head Place, Montgomery, Texas 77316.

83. Plaintiff Thomas Matek is the owner of real property at the following address: 7711 Boars Head Place, Montgomery, Texas 77316.

84. Plaintiff Laurie Mcmillan is the owner of real property at the following address: 9792 Plum Grove Rd., Cleveland, Texas 77327.

85. Plaintiff Vanessa Corbin is the owner of real property at the following address: 31583 Bohlssen Road, New Caney, Texas 77357.

86. Plaintiff Robert James is the owner of real property at the following address: 20527 Baptist Encampment Rd., New Caney, Texas 77357.

87. Plaintiff Stephen LaMotta is the owner of real property at the following address: 22506 Rocky Glen Court, Spring, Texas 77373.

88. Plaintiff Jose Mendoza is the owner of real property at the following address: 9602 Hadden Rd., Baytown, Texas 77521

89. Plaintiff Marialena Mendoza is the owner of real property at the following address: 9602 Hadden Rd., Baytown, Texas 77521.

90. Plaintiff Jose Sanchez is the owner of real property at the following address: 7219 Rabbit Hollow Dr., Baytown, Texas 77521.

91. Plaintiff Cynthia Jones is the owner of real property at the following address: 13335 Barnes Worth Dr., Houston, Texas 77049.

92. Plaintiff Jose Barrera is the owner of real property at the following address: 11118 Meadowvine Dr., Houston, Texas 77044.

93. Plaintiff Elias Leal is the owner of real property at the following address: 12314 Scarlet River. Houston, Texas 77044.

94. Plaintiff Edwin Anderson is the owner of real properties at the following addresses: 31811 Cates St., Pinehurst, Texas 77362 and 31815 Cates St., Pinehurst, Texas 77362.

95. Plaintiff Carl Hopson is the owner of real property at the following address: 22633 Old Hwy 105, Cleveland, Texas 77328.

96. Plaintiff Charles Montgomery is the owner of real property at the following address: 19921 Rio Villa, Houston, Texas 77049.

97. Plaintiff Aaron Gustavus is the owner of real property at the following address: 314 Bana Bend Dr., Highlands, Texas 77562.

98. Plaintiff Antony Moulds is the owner of real property at the following address: 3114 Junegrass Court, Kingwood, Texas 77345

99. Plaintiff Pablo Oyervadez is the owner of real property at the following address: 12310 King Chase Rd., Houston, Texas 77044.

100. Plaintiff Allison Molina is the owner of real property at the following address: 21514 Magnolia Dr., New Caney, Texas 77357.

101. Plaintiff Mark Mitchell is the owner of real property at the following address: 12108 Aquaduct Rd., Houston, Texas 77044.

102. Plaintiff Tiffany Wright is the owner of real property at the following address: 3003 Laurel Mist Ct., Kingwood, Texas 77345.

103. Plaintiff Christopher Sperk is the owner of real property at the following address: 104 W. High Oaks Circle, The Woodlands, Texas 77380.

104. Plaintiff Rosa Landin is the owner of real property at the following address: 11055 Wood Shadow, Houston, Texas 77013.

105. Plaintiff Margie Ortiz is the owner of real property at the following address: 29689 Dogwood Lane, Porter, Texas 77365.

106. Plaintiff Colin Gray is the owner of real property at the following address: 3020 Windmill Lane, Montgomery, Texas 77316.

107. Plaintiff Kenneth Mccann is the owner of real property at the following address: 2603 Shorewick Dr., Highlands, Texas 77562.

108. Plaintiff James Jugon is the owner of real property at the following address: 1710 Spring Creek Dr., Spring, Texas 77386.

109. Plaintiff Michelle Shepherd is the owner of real property at the following address: 6102 Morningcrest Court, Spring, Texas 77389.

110. Plaintiff Colleen Laible is the owner of real property at the following address: 41 W. Tallowberry Dr., The Woodlands, Texas 77381

111. Plaintiff Helena Laverde is the owner of real property at the following address: 29 W. Tallowberry Dr., The Woodlands, Texas 77381.

112. Plaintiff David Moorman is the owner of real property at the following address: 33 W. Tallowberry Dr., The Woodlands, Texas 77381.

113. Plaintiff Michael Colley is the owner of real property at the following address: 3518 Morningside St., Porter, Texas 77365.

114. Plaintiff Renee Neumann is the owner of real property at the following address: 27676 Vivace Dr., Spring, Texas 77386.

115. Plaintiff Omar Neumann is the owner of real property at the following address: 27676 Vivace Dr., Spring, Texas 77386.

116. Plaintiff Carmen Atilee is the owner of real property at the following address:
12238 Kingslake Forest Dr., Houston, Texas 77044.

117. Plaintiff Chris Tipton is the owner of real property at the following address: 24202
Glen Lock Dr., Spring, Texas 77380.

118. Plaintiff Edward Hartnett Jr. is the owner of real property at the following address:
11102 Archmond Dr., Houston, Texas 77070.

119. Plaintiff Mona Hartnett is the owner of real property at the following address: 11102
Archmond Dr., Houston, Texas 77070.

120. Plaintiff Beverly Rogers is the owner of real property at the following address:
20111 Rio Villa, Houston, Texas 77049.

121. Plaintiff Brandon Brown is the owner of real property at the following address:
2215 Arendale Lane, Spring, Texas 77389.

122. Plaintiff Rebecca Stout is the owner of real property at the following address: 20235
Shady Lane, Crosby, Texas 77352.

123. Plaintiff Russell Faulkner is the owner of real property at the following address:
534 Wells Ave., Cleveland, Texas 77328.

124. Plaintiff William Cartwright is the owner of real property at the following address:
3419 Roaming Woods Lane, Spring, Texas 77380.

125. Plaintiff Renee O'Neal is the owner of real property at the following address: 58
Wood Scent Court, The Woodlands, Texas 77380.

126. Plaintiff Anna Suschard is the owner of real property at the following address: 2573
Hallmark Oak St., Spring, Texas 77386.

127. Plaintiff Donna Steffenauer is the owner of real property at the following address:
11251 Vienna Trail Lane, Houston, Texas 77095.

128. Plaintiff Jeffrey Greer is the owner of real property at the following address: 30 W.
Tallowberry Dr., Spring, Texas 77381.

129. Plaintiff Michael Shrader is the owner of real property at the following address:
663 County Rd. 347S, Cleveland, Texas 77327.

130. Plaintiff Ellen Mathias is the owner of real property at the following address: 4139
Mossy Oaks Road West, Spring Texas 77389.

131. Plaintiff Barbi Petty is the owner of real property at the following address: 31 W.
Tallowberry Dr., The Woodlands, Texas 77381.

132. Plaintiff Christine Shelton is the owner of real property at the following address:
157 Maple Lane, New Caney, Texas 77357.

133. Plaintiff Jeanna Moore is the owner of real property at the following address: 133
County Road 3708, Splendora, Texas 77372.

134. Plaintiff Greg Combs is the owner of real property at the following address: 2806
Maple Bend Dr., Kingwood, Texas 77345.

135. Plaintiff Alexis Cruz is the owner of real property at the following address: 12234
Haraldson Forest Dr., Houston, Texas 77044.

136. Plaintiff Edward Verweij is the owner of real property at the following address:
27664 Vivalce Dr., Spring, Texas 77386.

137. Plaintiff Sarah Opaska is the owner of real property at the following address: 29619
Turnbury Village Dr., Spring, Texas 77386.

138. Plaintiff Franklin Nance is the owner of real property at the following address: 9330 Pine Road, Crosby, Texas 77352.

139. Plaintiff Rhonda Nance is the owner of real property at the following address: 9330 Pine Road, Crosby, Texas 77352

140. Plaintiff Nancy Daniels is the owner of real property at the following address: 27311 Springwood Dr., Magnolia, Texas 77354.

141. Plaintiff Betty Smith is the owner of real property at the following address: 12703 Ripplewood Lane, Baytown, Texas 77015.

142. Plaintiff Jimmie Smith is the owner of real property at the following address: 3504 Knight Lane, Baytown, Texas 77015.

143. Plaintiff Charles Hamilton is the owner of real property at the following address: 3504 Knight Lane, Baytown, Texas 77521.

144. Plaintiff Susan Haynes is the owner of real property at the following address: 4140 Mossy Oaks Rd. West, Spring, Texas 77389.

145. Plaintiff Jerry Johnson is the owner of real property at the following address: 25630 Black St., Splendora, Texas 77376.

146. Plaintiff John Nielsen is the owner of real property at the following address: 90 West Wilde Yaupon Circle, The Woodlands, Texas 77381.

147. Plaintiff Mary Nielsen is the owner of real property at the following address: 90 West Wilde Yaupon Circle, The Woodlands, Texas 77381.

148. Plaintiff Ana Cintron is the owner of real property at the following address: 10625 Duncum St., Houston, Texas 77013

149. Plaintiff June Kalman-Parillo is the owner of real property at the following address:
3114 Willow Wood Trail, Kingwood, Texas 77345.

150. Plaintiff Derrell Claspill is the owner of real property at the following address: 4708
Summer Lane, Baytown, Texas 77521.

151. Plaintiff Dorita Crawford is the owner of real property at the following address:
12218 Kings Chase Dr., Houston, Texas 77044.

152. Plaintiff Donlashoni Cowley is the owner of real property at the following address:
13302 Chanel Dr., Houston, Texas 77044.

153. Plaintiff Melissa Brantley is the owner of real property at the following address:
27607 Piney Wood Ln., Houston, Magnolia, Texas 77354.

154. Plaintiff Marlene Tabb is the owner of real property at the following address: 15851
Misty Loch Ln., Houston, Texas 77084.

155. Plaintiff Momika Patton-Watts is the owner of real property at the following
address: 22914 East Fairfax Village Circle, Spring, Texas 77373.

156. Plaintiff Suzanne Thomas is the owner of real property at the following address:
29482 Iris Bloom Ct., Spring, Texas 77386.

157. Plaintiff Gina Wilhite is the owner of real property at the following address: 4138
Mossy Oaks Rd. West, Spring, Texas 77389.

158. Plaintiff Michael DeAses is the owner of real property at the following address:
810 Appomattox Dr., Spring, Texas 77380.

159. Plaintiff Zainab Hembree is the owner of real properties at the following addresses:
29619 Timber Trail St., Spring, Texas 77386 and 2310 Hickory Hollow Lane, Spring, Texas
77386.

160. Plaintiff Adila Carreon is the owner of real property at the following address: 6002 Fairway Manor Lane, Spring Texas 77373.

161. Plaintiff Samuel Ramirez is the owner of real property at the following address: 22311 Highland Point Lane, Spring, Texas 77373.

162. Plaintiff Betty Harms is the owner of real property at the following address: 19819 Rio Villa Dr., Houston, Texas 77049.

163. Plaintiff Ray Morgan is the owner of real property at the following address: 15 County Road 351, Cleveland, Texas 77327.

164. Plaintiff Tami Morgan is the owner of real property at the following address: 15 County Road 351, Cleveland, Texas 77327.

165. Plaintiff Randy Tetteh is the owner of real property at the following address: 1426 Hyde Park Circle, Spring, Texas 77373.

166. Plaintiff Jill Carlson is the owner of real property at the following address: 1803 Roman 4th Blvd., New Caney, Texas 77357

167. Plaintiff Sharon Williams is the owner of real property at the following address: 25215 Holyoke Lane, Spring, Texas 77373.

168. Plaintiff Jesus Amaro is the owner of real property at the following address: 3519 Mist Green Lane, Spring, Texas 77373.

169. Plaintiff Julie Gaines is the owner of real property at the following address: 3523 Mist Green Lane, Spring, Texas 77373.

170. Plaintiff Mike Fulenwider is the owner of real property at the following address: 3523 Mist Green Lane, Spring, Texas 77373.

171. Plaintiff Manuela Mann is the owner of real property at the following address:
22715 Sunset Glen Lane, Spring, Texas 77373.

172. Plaintiff Thomas Mann is the owner of real property at the following address: 22715
Sunset Glen Lane, Spring, Texas 77373.

173. Plaintiff Aaron Wood is the owner of real property at the following address: 2911
Laurel Mist Court, Kingwood, Texas 77345.

174. Plaintiff Jessica Salmeron is the owner of real property at the following address:
27806 Joy Circle, Spring, Texas 77373.

175. Plaintiff Gary Rees is the owner of real property at the following address: 2042
Teal Dr., Spring, Texas 77386.

176. Plaintiff Richard Davis is the owner of real property at the following address: 16714
Adlong School Road, Crosby, Texas 77532.

177. Plaintiff Christopher Emmons is the owner of real property at the following
address: 6102 Caroline Green Court, Spring, Texas 77373.

178. Plaintiff Brian White is the owner of real property at the following address: 31323
Roseville Park Ct., Spring, Texas 77386.

179. Plaintiff Margaret Coronado is the owner of real property at the following address:
27002 Star Gazer Way, Spring, Texas 77386.

180. Plaintiff Johnny Howard is the owner of real property at the following address:
25854 Water Ridge Dr., Huffman, Texas 77336.

181. Plaintiff Stephanie Howard is the owner of real property at the following address:
25854 Water Ridge Dr., Huffman, Texas 77336.

182. Plaintiff Mark Paschall is the owner of real property at the following address: 20884 Lost Lakes Dr., New Caney, Texas 77357.

183. Plaintiff Rosalba Paschall is the owner of real property at the following address: 20884 Lost Lakes Dr., New Caney, Texas 77357.

184. Plaintiff Abby Belay is the owner of real property at the following address: 5219 Chamblor Court, Houston, Texas 77069.

185. Plaintiff Gary Sova is the owner of real property at the following address: 23 Misty Grove Circle, Spring, Texas 77380.

186. Plaintiff Geralyn Bendzen is the owner of real property at the following address: 643 County Road 3706A, Splendora, Texas 77372.

187. Plaintiff Tracy Neihouse is the owner of real property at the following address: 19126 Timber Trace Dr., Atascocita, Texas 77346.

188. Plaintiff Michelle Perry is the owner of real property at the following address: 26711 Cherokee Lane, Magnolia, Texas 77354.

189. Plaintiff Robert Wells is the owner of real property at the following address: 29642 E. Hawthorne Dr., Spring, Texas 77386.

190. Plaintiff Gloria Rodriguez is the owner of real property at the following address: 6027 Dover House Way, Spring, Texas 77389.

191. Plaintiff Renee Spadachene is the owner of real property at the following address: 12519 Campsite Trail, Cypress, Texas 77429.

192. Plaintiff Ann Mantle-Anglin is the owner of real property at the following address: 4630 Magnolia Cove Dr., Apt 1232, Kingwood, Texas 77345.

193. Plaintiff Jan Whited is the owner of real property at the following address: 2018 Deer Springs Drive, Kingwood, Texas 77339.

194. Plaintiff Jeanne Park is the owner of real property at the following address: 5323 Timber Shade, Kingwood, Texas 77345.

195. Plaintiff O’Pierce Treadwell is the owner of real property at the following address: 1306 Kensington Way, Kingwood, Texas 77339.

196. Plaintiff Zahid Qayum is the owner of real properties at the following addresses: 20343 Fieldtree Drive, Humble, Texas 77338, 20329 Fieldtree Drive, Humble, Texas 77338, and 20421 Fieldtree Drive, Humble, Texas 77338.

197. Plaintiff Stephen Keller is the owner of real property at the following address: 4907 Pine Garden Drive, Kingwood, Texas 77345.

198. Plaintiff Michael Aston is the owner of real property at the following address: 2815 North Cotswald Manor Drive, Kingwood, Texas 77339.

199. Plaintiff Lee Badger is the owner of real property at the following address: 136 Magnolia Lane, Conroe, Texas 77304.

200. Plaintiff Luciano Aguilar is the owner of real property at the following address: 132 Magnolia Lane, Conroe, Texas 77304.

201. Plaintiff Samuel Feris is the owner of real property at the following address: 930 Aqua Vista Drive, Unit B, Kingwood, Texas 77339.

202. Plaintiff Kristin Nash is the owner of real property at the following address: 2507 South Strathford Lane, Kingwood, Texas 77345.

203. Plaintiff Betty Cater is the owner of real property at the following address: 226617 Lori Lane, Porter, Texas 77365.

204. Plaintiff Misty Worrell is the owner of real property at the following address: 20519 Fieldtree Drive, Humble, Texas 77338.

205. Plaintiff Richard Ireland is the owner of real property at the following address: 2711 Penmere Court, Kingwood, Texas 77345.

206. Plaintiff Louann Carlucci is the owner of real property at the following address: 9910 Chimney Swift Lane, Montgomery, Texas 77385.

207. Plaintiff John Hoppes is the owner of real property at the following address: 20122 Townsend Blvd East, Humble, Texas 77339.

208. Plaintiff Kathleen Sullins is the owner of real property at the following address: 4407 Green Court Way, Kingwood, Texas 77339.

209. Plaintiff John Tarver is the owner of real property at the following address: 11407 Birchwood Drive, Humble, Texas 77338.

210. Plaintiff Sandra Tarver is the owner of real property at the following address: 11407 Birchwood Drive, Humble, Texas 77338.

211. Plaintiff Scrubs etc., LLC is and at all relevant times has been a Texas Entity doing business in Texas at: 20465 Hwy 59, Ste. D, Humble, Texas 77338.

212. Plaintiff Lavelle Hughes is the owner of real property at the following address: 15306 Lakeview Drive, Conroe, Texas 77302.

213. Plaintiff Michael Martin is the owner of real property at the following address: 10235 Ehlers Rd., Conroe, Texas 77302.

214. Plaintiff Nancy Martin is the owner of real property at the following address: 10235 Ehlers Rd., Conroe, Texas 77302.

215. Plaintiff Courtney Horton is the owner of real property at the following address:
770 Holly Springs Dr., Conroe, Texas 77302.

216. Plaintiff Laverne Schulze is the owner of real property at the following address:
553 Raleigh Drive, Conroe, Texas 77302.

217. Plaintiff Margie Thomas is the owner of real property at the following address: 523
Robert E Lee Drive, Conroe, Texas 77302.

218. Plaintiff George Drewry is the owner of real property at the following address: 200
Lexington Ct., Conroe, Texas 77385.

219. Plaintiff Marie Wilcoxson is the owner of real property at the following address:
6002 Allen Drive, Conroe, Texas 77304.

220. Plaintiff Dan Harbin is the owner of real properties at the following addresses: 494
Brandon Rd., Conroe, Texas 77302 and 808 Stone Mountain Dr., Conroe, Texas 77302.

221. Plaintiff Edward Meteleski is the owner of real property at the following address:
116 White Sands Dr., Kingwood, Texas 77339.

222. Plaintiff John Sorrentino is the owner of real property at the following address:
2921 North Cotswold Manor Drive, Houston, Texas 77339.

223. Plaintiff Scott Smith is the owner of real property at the following address: 26622
Lori Lane, Porter Texas 77365.

224. Plaintiff Gary Hines is the owner of real property at the following address: 632
Bayou Teche, Conroe, Texas 77302.

225. Plaintiff Rhonda Bollman is the owner of real property at the following address:
4582 Kingwood Dr., Suite F, Kingwood, Texas 77345.

226. Plaintiff Lawrence Purcell is the owner of real property at the following address:
2908 S. Cotswold Manor Dr., Kingwood, Texas 77339.

227. Plaintiff Bill Dermott is the owner of real property at the following address: 1306
Castle Combe Way, Kingwood, Texas 77339.

228. Plaintiff George Dreisbach is the owner of real property at the following address:
2807 N. Cotswold Manor Dr., Kingwood, Texas 77339.

229. Plaintiff Alice McGaughey is the owner of real property at the following address:
20422 Landshire Dr., Humble, Texas 77338.

230. Plaintiff Donald Wilson is the owner of real property at the following address: 1215
Hamlet Way, Kingwood, Texas 77339.

231. Plaintiff Rosemary Hines is the owner of real property at the following address:
632 Bayou Teche Ct., Conroe, Texas 77302.

232. Plaintiff James Hines is the owner of real property at the following address: 632
Bayou Teche Ct., Conroe, Texas 77302.

233. Plaintiff Fernando Alba is the owner of real property at the following address: 1218
Charing Cross Way, Kingwood, Texas 77339.

234. Plaintiff Joanne Burke is the owner of real property at the following address: 46
Kingwood Greens Drive, Kingwood, Texas 77339.

235. Plaintiff Sheryl Adams is the owner of real property at the following address: 4922
Middle Falls Dr., Kingwood, Texas 77345.

236. Plaintiff Jeremiah Johnson is the owner of real property at the following address:
5851 W. Davis Street, Conroe, Texas 77304.

237. Plaintiff James Lobusch is the owner of real property at the following address: 4030 Pecan Park Lane, Kingwood, Texas 77345.

238. Plaintiff Chris Sokolowski is the owner of real property at the following address: 2736 Kings Retreat Circle, Kingwood, Texas 77345.

239. Plaintiff Paul St. Denis is the owner of real property at the following address: 20514 Landshire Dr., Humble, Texas 77338.

240. Plaintiff Ronald Jones is the owner of real property at the following address: 20289 Fieldtree Drive, Humble, Texas 77338.

241. Plaintiff Joe Henley is the owner of real property at the following address: 2020 North Houston Avenue, Humble, Texas 77338.

242. Plaintiff Karen Ryan is the owner of real property at the following address: 9973 Kingfisher Dr., Conroe, Texas 77385.

243. Plaintiff Jeremy Barfield is the owner of real property at the following address: 9953 King Fisher Dr., Conroe, Texas 77385.

244. Plaintiff Sharon Kleene is the owner of real property at the following address: 603 Rutledge Court, Conroe, Texas 77302.

245. Plaintiff Jean McGill is the owner of real property at the following address: 206 Garden West, Conroe, Texas 77304.

246. Plaintiff Kevin Patranella is the owner of real property at the following address: 125 Steve Owen Road, Conroe, Texas 77304.

247. Plaintiff Melissa Evans is the owner of real property at the following address: 600 Ballard Circle, Conroe, Texas 77304.

248. Plaintiff David Krenek is the owner of real property at the following address: 2502 Wood Estates Drive, Kingwood, Texas 77339.

249. Plaintiff Debbie Castleberry is the owner of real property at the following address: 3218 Riviera Lane, Humble Texas 77338.

250. Plaintiff J. Robert Shullaw is the owner of real property at the following address: 3208 Cotswold Manor Drive South, Kingwood, Texas 77339.

251. Plaintiff Julius Peppers is the owner of real property at the following address: 3435 North Cotswold Manor Drive North, Kingwood, Texas 77339.

252. Plaintiff Christi Medlock is the owner of real property at the following address: 1210 Belgravia Way, Kingwood, Texas 77339.

253. Plaintiff Karen Nelson is the owner of real property at the following address: 2803 North Cotswold Manor Drive, Kingwood, Texas 77339.

254. Plaintiff Jacques Bouchez is the owner of real property at the following address: 541 Raleigh Drive, Conroe, Texas 77302.

255. Plaintiff Paul Mathews is the owner of real property at the following address: 785 Holly Springs Drive, Conroe, Texas 77302.

256. Plaintiff Robert Tatom is the owner of real property at the following address: 10545 Ehlers Road, Conroe, Texas 77302.

257. Plaintiff Charles Kaspar is the owner of real property at the following address: 19803 Belle Way Drive, Humble, Texas 77338.

258. Plaintiff Janene Kaspar is the owner of real property at the following address: 19803 Belle Way Drive, Humble, Texas 77338.

259. Plaintiff Bret Ediss is the owner of real property at the following address: 1023 Meak Rd., Lot 15, Humble, Texas 77338.

260. Plaintiff Robert Smith is the owner of real property at the following address: 4438 Bellington, Court, Kingwood, Texas 77345.

261. Plaintiff Wanda Smith is the owner of real property at the following address: 4438 Bellington Court, Kingwood, Texas 77345.

262. Plaintiff Hugh Shaver is the owner of real property at the following address: 10118 Cantertrot Dr., Humble, Texas 77338.

263. Plaintiff Robert Curry is the owner of real property at the following address: 712 Holly Springs Dr., Conroe, Texas 77302.

264. Plaintiff Denise Rhodes is the owner of real property at the following address: 1023 Meek Road Trailer #24, Humble, Texas 77338.

265. Plaintiff ALIINTERIORS Steele is and at all times relevant a Texas Entity doing business in Texas at: 6376 Highway 105 West, Conroe, Texas 77304.

266. Plaintiff Kassandra Humphress is the owner of real property at the following address: 578 Raleigh Drive, Conroe, Texas 77302.

267. Plaintiff Roger Miller is the owner of real property at the following address: 106 White Sands Drive, Kingwood, Texas 77339.

268. Plaintiff Barbara Critchlow is the owner of real property at the following address: 535 Raleigh Drive, Conroe, Texas 77302.

269. Plaintiff Eva Smith is the owner of real property at the following address: 10039 Inverloch Way, Humble, Texas 77338.

270. Plaintiff Susie Ramsey is the owner of real property at the following address: 2661 Riverview Dr., Porter, Texas 77365.

271. Plaintiff Cheryl Gardner is the owner of real property at the following address: 13937 McGregor Road, Conroe, Texas 77302.

272. Plaintiff Judith Gottfried is the owner of real property at the following address: 602 Jeb Stuart, Conroe, Texas 77302.

273. Plaintiff Kimber Bulkowski is the owner of real property at the following address: 688 Ravensworth Drive, Conroe TX 77302

274. Plaintiff Barbara Wheelis is the owner of real property at the following address: 20310 Landshire Drive, Humble TX 77338

275. Plaintiff Rina Holzmacher is the owner of real property at the following address: 1211 Charing Cross Way, Kingwood, TX 77339

276. Plaintiff Shelley Krueger is the owner of real property at the following address: 20439 Fieldtree Drive, Humble TX 77338

277. Plaintiff Daryl Morgan is the owner of real property at the following address: 9990 Magnolia Bend Drive, Conroe TX 77302

278. Plaintiff Tullus Wallace is the owner of real property at the following address: 137 Magnolia Lane Conroe, Texas 77304

279. Plaintiff Michael Trejo is the owner of real property at the following address: 2222 Kings Trail, Kingwood, TX 77339

280. Plaintiff Laura Lawhon is the owner of real properties at the following addresses: 733 Stonewall Jackson Dr., Conroe, TX 77302 and 734 Stonewall Jackson Dr., Conroe, TX 77302.

281. Plaintiff Deryl Thompson is the owner of real property at the following address:
12226 Clark Lane - Conroe, Texas 77385

282. Plaintiff Deryl Thompson is the owner of real property at the following address:
12232 Clark Lane - Conroe, Texas 77385

283. Plaintiff Ed Nathan, is the owner of real property at the following address: 2307
Woods Estates Dr, Kingwood TX 77339, Harris County

284. Plaintiff John Jordan, is the owner of real property at the following address: 9929
Kingfisher Dr., Conroe, TX 77385

285. Plaintiff Richard Eicher is the owner of real property at the following address: 401
Brook Hollow Dr., Conroe, TX 77385

286. Plaintiff Clint Lipham is the owner of real property at the following address: 726
River Plantation Drive, Conroe TX 77302.

287. Plaintiff Jeremy Ross is the owner of real property at the following address: 112
White Sands Dr., Kingwood, TX 77339.

288. Plaintiff Al Woodum is the owner of real property at the following address: 833
Stone Mountain Dr., Conroe, Texas 77302

289. Plaintiff Lisa Wilkerson is the owner of real property at the following address: 9903
Swallow Drive, Conroe TX 77385

290. Plaintiff Dewayland Miller is the owner of real property at the following address:
9937 Kingfisher Dr., Conroe, TX 77385

291. Plaintiff Melrose Lucas is the owner of real property at the following address:
26610 Lisa Ln., Porter, TX 77365

292. Plaintiff Alex Afolabi is the owner of real property at the following address: 16734
Fallen Timbers Dr., Conroe TX 77385

293. Plaintiff Jarvis Tuggle is the owner of real property at the following address: 813
Stone Mountain Dr. Conroe TX 77302

294. Plaintiff Betty Batson is the owner of real property at the following address: 815
Stone Mountain Drive, Conroe TX 77302

295. Plaintiff Mary Crawford is the owner of real property at the following address: 811
Stone Mountain Dr. Conroe, TX 77302

296. Plaintiff Shantel Stone is the owner of real property at the following address: 768
Holly Springs Dr., Conroe, TX 77302

297. Plaintiff Clark Meyer is the owner of real property at the following address: 592
Fairway Court Conroe, Texas 77302

298. Plaintiff Stephanie Clark is the owner of real property at the following address: 600
Jeff Davis Ct., Conroe, TX 77302

299. Plaintiff Jessalyn Christenson is the owner of real property at the following address:
9899 Swallow Dr, Conroe TX 77385

300. Plaintiff Michael Rogers is the owner of real property at the following address:
15370 Lakeview Dr. Conroe, TX 77302

301. Plaintiff David Jackson is the owner of real property at the following address:
10615 Redbud Drive Conroe, Texas 77302

302. Plaintiff Jesse Nunez is the owner of real property at the following address: 10320
Woodhollow Drive, Conroe TX 77385

303. Plaintiff Darryl Pope is the owner of real property at the following address: 5207 Middle Falls Drive, Kingwood TX 77345

304. Plaintiff Patricia Nichols is the owner of real property at the following address: 5 Kings Creek Kingwood, Texas 77339

305. Plaintiff Brittani Matos is the owner of real property at the following address: 9926 Chimney Swift Lane, Conroe, Texas 77385

306. Plaintiff Carol Weitzel, is the owner of real property at the following address: 570 Roanoke Dr. Conroe TX 77302

307. Plaintiff Michael Woods is the owner of real property at the following address: 2515 River Ridge Road, Conroe, TX 77385

308. Plaintiff Herb Bentel is the owner of real property at the following address: 15175 East Essex Dr., Conroe, TX 77302

309. Plaintiff Crystal Cantu is the owner of real property at the following address: 10214 Cancertrot Dr., Humble, TX 77338

310. Plaintiff Andrea Zapalac is the owner of real property at the following address: 9911 Chimney Swift Lane Conroe, TX 77385

311. Plaintiff Gary Ward is the owner of real property at the following address: 11310 Birchwood Drive, Humble, TX 77338

312. Plaintiff Debbie Kothmann is the owner of real property at the following address: 2411 Oaks Forks Dr., Kingwood, TX 77339

313. Plaintiff Robert Fitzsimmons is the owner of real property at the following address: 9714 Cantertrot Drive, Humble, TX 77338

314. Plaintiff Robert Hornung is the owner of real property at the following address:
13174 Stonecrest Lane, Conroe, TX 77302

315. Plaintiff Kelly Tischendorf is the owner of real property at the following address:
496 Brandon Rd., Conroe, TX 77302

316. Plaintiff Danielle Ibarra is the owner of real property at the following address:
20415 Landshire Drive, Humble, TX 77338

317. Plaintiff Penny Upshaw is the owner of real property at the following address:
20050 River Ridge Drive, Porter TX 77365

318. Plaintiff Jan Olson is the owner of real property at the following address: 20050
River Ridge Drive, Porter TX 77365

319. Plaintiff Marlerys Saballo is the owner of real property at the following address:
20429 Fieldtree Drive, Humble, TX 77338

320. Plaintiff Mary Tolleson is the owner of real property at the following address:
20431 Fieldtree Dr, Humble TX 77338

321. Plaintiff Vincent Rogers is the owner of real property at the following address:
11218 Burchwood Dr., Humble, TX 77338

322. Plaintiff Richard Ricks is the owner of real property at the following address: 2503
Woods Estate Dr, Kingwood, TX 77339

323. Plaintiff Nancy Matzke is the owner of real property at the following address: 3202
Breezy Pines Court, Kingwood, TX 77339

324. Plaintiff Elena Dewolf is the owner of real property at the following address: 539
Raleigh Drive, Conroe, Texas 77302.

325. Plaintiff Robert Dewolf is the owner of real property at the following address: 539 Raleigh Drive, Conroe, Texas 77302.

326. Plaintiff Betty Brewster, is the owner of real property at the following address: 1519 Hidden Hill Circle, Kingwood, TX 77339

327. Plaintiff Stephen Bixby is the owner of real property at the following address: 11219 Ashwood Dr., Humble, TX 77338

328. Plaintiff Gloria Hoffman is the owner of real property at the following address: 534 Bull Run Court, Conroe, Texas 77302.

329. Plaintiff Jeff Simmons is the owner of real property at the following address: 2271 Deer Cove Trail, Kingwood, TX 77301

330. Plaintiff Robert Henry is the owner of real property at the following address: 2274 Deer Cove Trail, Kingwood, TX 77339

331. Plaintiff Dora Kelley is the owner of real property at the following address: 3114 Royal Crescent Drive Kingwood, Texas 77339

332. Plaintiff Mildred Ervin is the owner of real property at the following address: 2115 Northshore Drive, Kingwood, TX 77339

333. Plaintiff Pam Pearson is the owner of real property at the following address: 54 Kingwood Greens Drive S, Kingwood, TX 77339

334. Plaintiff Lynette Smith is the owner of real property at the following address: 3110 Sunny Knoll Kingwood, TX 77339

335. Plaintiff Corey Cox is the owner of real property at the following address: 3102 Breezy Pines Ct., Kingwood TX 77339

336. Plaintiff Kelly Jackson is the owner of real property at the following address: 3111 Sunny Knoll Court Kingwood, TX 77339

337. Plaintiff Hector Galvan is the owner of real property at the following address: 738 River Plantation Drive, Conroe TX 77302

338. Plaintiff Annemarie Dworak is the owner of real properties at the following addresses: 2815 Kings Crossing Dr., #106, Kingwood, TX 77345 and 2803 Kings Crossing Dr., #110, Kingwood, TX 77345.

339. Plaintiff Monty Montgomery is the owner of real property at the following address: 2226 Kings Trail, Kingwood, TX 77339

340. Plaintiff Patricia Frey-Murray is the owner of real property at the following address: 4803 Big Falls Dr, Kingwood, TX 77345

341. Plaintiff Glenn Rice is the owner of real property at the following address: 7214 Woodland Oak Trail, Humble TX 77346

342. Plaintiff Matt Walton is the owner of real property at the following address: 2215 Tree Lane, Kingwood TX 77339

343. Plaintiff Troy Thornton is the owner of real property at the following address: 9802 Marblehead Drive, Humble TX 77338

344. Plaintiff Joseph Totina is the owner of real property at the following address: 7215 Woodland Oak Trail, Kingwood, TX 77346-3315

345. Plaintiff Geraldine Schultz is the owner of real property at the following address: 10102 Cantertrot Drive, Humble, Texas 77338

346. Plaintiff Elizabeth Kirkpatrick is the owner of real property at the following address: 20153 Russell Drive, Porter TX 77365

347. Plaintiff Frank Leidolf is the owner of real property at the following address: 5107 Middle Falls Drive, Kingwood, Texas 77345.

348. Plaintiff Brenda Stephens is the owner of real property at the following address: 1302 Trailwood Village Dr., Kingwood, TX 77339.

349. Plaintiff Casey McAdams is the owner of real property at the following address: 1511 Hidden Hill Circle, Humble, TX 77339.

350. Plaintiff Robert Kroeze is the owner of real property at the following address: 14562 I-45 South, Conroe, Texas 77384

351. Plaintiff Buy George Resale, LLC is and at all relevant times has been a Texas Entity doing business in Texas: 6390 Texas State Highway 105 West, Conroe, TX 77304

352. Plaintiff Michael Hammer is the owner of real property at 6345 Highway 105 W, Conroe, TX 77304

353. Plaintiff Lottie Wolfe is the owner of real property at the following address: 10875 Magnolia Bend Drive, Conroe, TX 77302

354. Plaintiff John Mcdonald is the owner of real property at the following address: 2611 North Woodloch, Conroe, Texas 77385

355. Plaintiff John Biavaschi is the owner of real property at the following address: 2931 North Cotswold Manor Drive, Kingwood, TX 77339.

356. Plaintiff Evette Biavaschi is the owner of real property at the following address: 2931 North Cotswold Manor Drive, Kingwood, TX 77339.

357. Plaintiff Carol Pursley is the owner of real property at the following address: 1306 Trailwood Village Dr., Kingwood, TX 77339

358. Plaintiff Jeannette Oliver is the owner of real property at the following address:

12824 Highway 105 West, Conroe, TX 77304

359. Plaintiff Jonas Ekman is the owner of real properties at the following addresses:
9957 King Fisher Drive, Conroe, Texas 77385 and 16728 Privit Place, Conroe TX 77385.

360. Plaintiff Brad Schulz is the owner of real property at the following address: 13667
Lyric Road, Conroe, Texas 77302.

361. Plaintiff Brett Mears is the owner of real property at the following address: 1715
Scenic Shore Drive, Kingwood TX 77345

362. Plaintiff Sandy Walker is the owner of real property at the following address: 3106
Breezy Pines Ct, Kingwood, TX 77339

363. Plaintiff John Simon is the owner of real property at the following address: 807
Glen hollow Drive, Conroe Texas 77385.

364. Plaintiff Belinda Hackleman is the owner of real property at the following address:
2656 S Woodloch St., Conroe TX 77385.

365. Plaintiff Michael Serres is the owner of real property at the following address: 9710
Cantertrot Dr, Humble Texas 77338.

366. Plaintiff Gloria Hester is the owner of real property at the following address: 20522
Fieldtree Dr, Humble, Texas 77338.

367. Plaintiff Andrew Schmitt is the owner of real property at the following address:
1214 Ashford Way, Kingwood, Texas 77339.

368. Plaintiff Paula Amsler is the owner of real property at the following address: 5410
Timber Shade, Kingwood, TX 77345

369. Plaintiff Mike Waldman is the owner of real property at the following address: 2019
Sunshine Point Drive, Kingwood, Texas 77345.

370. Plaintiff Adalberto Moreno is the owner of real properties at the following address: 20437 Fieldtree Dr., Humble, TX 77338 and 20349 Fieldtree Dr., Humble, Texas 77338.

371. Plaintiff Lloyd Jones is the owner of real property at the following address: 1650 Hill Top Lane, Kingwood Texas 77339.

372. Plaintiff Gloria Sutherland is the owner of real property at the following address: 19807 Elmwood Avenue, Humble, Texas 77338.

373. Plaintiff Rudolph Hanselka is the owner of real property at the following address: 3132 South Cotswold Manor Drive, Kingwood TX 77339.

374. Plaintiff Heather Durkin is the owner of real property at the following address: 9930 Chimney Swift Lane, Conroe Texas 77385

375. Plaintiff Ronald Sobey is the owner of real property at the following address: 22863 Amazon Drive, Porter, Texas 77365.

376. Plaintiff Donald Rozell is the owner of real property at the following address: 3142 East Lake Crescent Drive, Kingwood, Texas 77339.

377. Plaintiff Norman Sandlin is the owner of real property at the following address: 302 Lakeshore Dr., Conroe, TX 77304.

378. Plaintiff William Hutto is the owner of real property at the following address: 3115 Riveria, Humble, TX 77338

379. Plaintiff Adrian Costescu is the owner of real property at the following address: 129 Steve Owen Road, Conroe TX 77304

380. Plaintiff Pete Garcia is the owner of real property at the following address: 4614 Canford Court, Kingwood TX 77345.

381. Plaintiff Jerry Stepp is the owner of real property at the following address: 1307

Kensington Way, Kingwood Texas 77339.

382. Plaintiff Angel A. Sirgo is the owner of real property at 531 Bull Run Court, Conroe TX 77302

383. Plaintiff Tina Olive is the owner of real property at the following address: 20293 Fieldtree Drive, Humble, Texas 77338.

384. Plaintiff Jose F. Busto is the owner of real property at the following address: 10234 Ehlers Road Conroe, Texas 77302.

385. Plaintiff Larry Mack is the owner of real property at the following address: 2547 River Ridge Conroe, Texas 77385.

386. Plaintiff Roy Head is the owner of real property at the following address: 26531 Riverview Porter, Texas 77365.

387. Plaintiff Tanya Chavers is the owner of real property at the following address: 3026 South Cotswold Manor Drive, Kingwood, Texas 77339.

388. Plaintiff Denisha Duron is the owner of real property at the following address: 20443 Fieldtree Drive, Humble, TX 77338

389. Plaintiff Thunder Gun Range is and at all relevant times has been a Texas Entity doing business in Texas at: 17234 FM1314, Conroe, TX 77304.

390. Plaintiff Thomas Ross is the owner of real property at the following address: 4414 Walham Court, Kingwood TX 77345

391. Plaintiff Beth Ross is the owner of real property at the following address: 4414 Walham Court, Kingwood TX 77345

392. Plaintiff Dominique Jones is the owner of real property at 2535 River Ridge Drive, Conroe, Texas 77385.

393. Plaintiff Kirk Purdy is the owner of real property at the following address: 120 White Sands Dr., Kingwood, TX 77339

394. Plaintiff Laura Foster is the owner of real property at the following address: 2207 Pleasant Creek Drive Kingwood, Texas 77345.

395. Plaintiff Horacio Garcia is the owner of real property at the following address: 9531 Oldridge, Humble, Texas 77338.

396. Plaintiff Raed Qasem is the owner of real property at the following address: 10019 Inverloch Way, Humble, Texas 77338.

397. Plaintiff James Presley is the owner of real property at the following address: 8500 Allen Drive, Conroe, TX 77304.

398. Plaintiff Eddie Bumpas is the owner of real property at the following address: 20081 River Ridge Dr, Porter, TX 77365.

399. Plaintiff Julia Lee is the owner of real property at the following address: 11327 Birchwood, Humble, TX 77338

400. Plaintiff Karen Robinson is the owner of real property at the following address: 20277 Fieldtree Dr., Humble, TX 77338

401. Plaintiff Nature's Way Resources is and at all relevant times has been a Texas Entity doing business in Texas at: 101 Sherbrook Circle, Conroe, TX 77385.

402. Plaintiff Frank Damratoski is the owner of real property at the following address: 1314 Avon Way, Kingwood, Texas 77339.

403. Plaintiff Lisa Bunch is the owner of real property at the following address: 20041 Riverridge Drive, Porter Texas 77365.

404. Plaintiff William Keever is the owner of real property at the following address:

1322 Castle Combe Way, Kingwood TX 77339.

405. Plaintiff Jose Cruz is the owner of real property at the following address: 7003 Summer Lane, Rosharon, Texas 77583.

406. Plaintiff Phuong Luong has been a citizen and owner of real property in the state of Texas at all relevant times.

407. Plaintiff Kathleen Adams is the owner of real property at the following address: 201 Garden West, Conroe, Texas 77304

408. Plaintiff Marilyn Bullock has been a citizen and owner of real property in the state of Texas at all relevant times.

409. Plaintiff Guy Burroughs is the owner of real property at the following address: 12714 Green River Drive, Houston, Texas 77044.

410. Plaintiff Jose Bustos is the owner of real property at the following address: 10234 Ehlers Road, Conroe Texas 77032.

411. Plaintiff Edgar Cantu is the owner of real property at the following address: 12307 King Chase Lane, Houston, Texas 77044.

412. Plaintiff Ramona Chandler is the owner of real property at the following address: 1310 Blantyre Way, Kingwood, Texas 77339.

413. Plaintiff Mayra Cuellar is the owner of real property at the following address: 7224 Rabbit Hollow Drive, Baytown, Texas 77521.

414. Plaintiff Joseph Davis is the owner of real property at the following address: 2906 Peninsula Point, Montgomery, Texas 77356.

415. Plaintiff Brenda Davis is the owner of real property at the following address: 2906 Peninsula Point, Montgomery, Texas 77356.

416. Plaintiff June Dixon is the owner of real property at the following address: 1103 Romaine Ln, Houston, Texas 77090.

417. Plaintiff Tammy Dumire is the owner of real property at the following address: 2010 Crystal River Dr., Kingood, TX 77345

418. Plaintiff Pierre Espejo is the owner of real property at the following address: 7 Twin Greens Court, Kingwood, Texas 77339

419. Plaintiff Darlene Kent is the owner of real property at the following address: 25731 Lakewater Drive, Huffman, Texas 77336.

420. Plaintiff Jennifer Langeland is the owner of real property at the following address: 1310 Blantyre Way, Kingwood, Texas 77339.

421. Plaintiff Cassandra Lloyd is the owner of real property at the following address: 3602 Savell Baytown, Texas 77521.

422. Plaintiff Roland Martinez is the owner of real property at the following address: 1626 Highway 59 South Cleveland , Texas 77327.

423. Plaintiff Brenda Mathis has been a citizen and owner of real property in the state of Texas at all relevant times.

424. Plaintiff Cal Monteith is the owner of real property at the following address: 10035 Inverloch Way, Humble, Texas 77338.

425. Plaintiff Glen Moses has been a citizen and owner of real property in the state of Texas at all relevant times.

426. Plaintiff Tom Nolan is the owner of real property at the following address: 50 Dew Falls Court, Woodlands, Texas 77380.

427. Plaintiff Jay Norris is the owner of real property at the following address: 6111

Cypresswood Green Drive, Spring, Texas 77373.

428. Plaintiff Sharon Patterson is the owner of real property at the following address:
20015 River Ridge Dr., Porter, Texas 77365.

429. Plaintiff Orin Sheffield is the owner of real property at the following address: 3202
Wilderness Way, Montgomery, Texas 77016.

430. Plaintiff Les Simmons is the owner of real property at the following address: 2541
River Ridge, Conroe, Texas 77385.

431. Plaintiff Sue Rasberry is the owner of real property at the following address: 26570
Lori Lane, Porter, Texas 77365.

432. Plaintiff Monica Rodriguez is the owner of real property at the following address:
21410 Forest Vista Dr, Humble, Texas 77338.

433. Plaintiff Paul San Salvador is the owner of real property at the following address:
14253 Shadow Bay Drive, Willis, Texas 77318.

434. Plaintiff Luis Stuart is the owner of real property at the following address: 4130
West Mossy Oaks, Spring, Texas 77389.

435. Plaintiff Jean O'Rorke is the owner of real property at the following address: 541
Raleigh Drive, Conroe, Texas 77302.

436. Plaintiff Robert Weatherly is the owner of real property at the following address:
2915 Laurel Mist Court, Kingwood, Texas 77345.

437. Plaintiff Bobbi Brown Batchelor is the owner of real property at the following
address: 2618 S. Strathford Lane, Kingwood, Texas 77345

438. Defendant Hanson Aggregates, LLC is a limited liability company doing business
in the state of Texas. Defendant Hanson Aggregates, LLC may be served with process through its

registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service, 211 E. 7th Street, Suite 620, Austin, TX 78701.

439. Defendant Liberty Materials, Inc., is a corporation doing business in the State of Texas. Defendant Liberty Materials, Inc. may be served with process through its registered agent, Gregg R. Brown, 301 Congress Avenue, Suite 1700, Austin, Texas 78701.

440. Defendant Megasand Enterprises, Inc. is a corporation doing business in the state of Texas. Defendant Megasand Enterprises, Inc. may be served with process through its registered agent, Greg L. Angel, 5210 West Road, Baytown, Texas 77521.

441. Defendant Triple P.G. Sand Development, LLC is a limited liability company doing business in the state of Texas. Defendant Triple P.G. Sand Development, LLC may be served with process through its registered agent, Prabhakar Guniganti, at 50 Waterford Circle, Nacogdoches, Texas 75965.

442. Defendant RGI Materials, Inc. is a corporation doing business in the state of Texas. Defendant RGI Materials, Inc. may be served with process through its registered agent, Richard L. Rose, 9 Greenway Plaza, Suite 1000, Houston, Texas 77046.

443. Defendant San Jacinto River Materials, Inc. is a corporation doing business in the state of Texas. Defendant San Jacinto River Materials, Inc. may be served with process through its registered agent, Joanne Yancey, 14170 F. M. 2854, Conroe, Texas 77304.

444. Defendant Stacy Kropik Trucking, Inc. is a limited liability company doing business in the state of Texas. Defendant Stacy Kropik Trucking, Inc. may be served with process through its registered agent, Stacy Kropik, 1922 North Houston Avenue, Humble, Texas 77338.

445. Defendant Traylor Bros., Inc. is a foreign corporation doing business in the State of Texas. Traylor Bros., Inc. owns property in the State of Texas. Defendant Traylor Bros., Inc.

may be served with process through its registered agent, National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

446. Defendant Zachry Construction Corporation is a corporation doing business in the State of Texas. Defendant Zachry Construction Corporation may be served with process through its registered agent at C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

447. Defendant Odebrecht Construction Corporation is a corporation doing business in the State of Texas. Defendant Odebrecht Construction Corporation may be served with process through its registered agent, Registered Agent Solutions, Inc., 1701 Directors Blvd., Suite 300, Austin, Texas 78744.

448. Defendant Williams Brothers Construction Co., Inc. is a Texas corporation doing business in the State of Texas. Defendant Williams Brothers Construction Co., Inc. may be served with process through its registered agent, James D. Pitcock Jr., 3800 Milam Street, Houston, Texas 77006.

449. Defendant Eagle Sorters, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Eagle Sorters, LLC may be served through its registered agent, Michael Gary Orlando, Orlando & Braun, LLP, 3401 Allen Parkway, Houston, Texas 77019.

450. Defendant Texas Sterling Construction Co. is a corporation doing business in the State of Texas. Defendant Texas Sterling Construction Co. may be served with process through its registered agent at CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

451. Defendant Texas Concrete Sand and Gravel Inc. is a Texas corporation doing business in the State of Texas. Defendant Texas Concrete Sand and Gravel Inc. may be served with process through its registered agent, Somaiah Kurre, 1017 Wakefield Drive, Houston, Texas 77018.

452. Defendant Southern Crushed Concrete, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Southern Crushed Concrete, LLC may be served with process through its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

453. Defendant Pioneer Concrete of Texas, Inc. was a Texas corporation doing business in the State of Texas and has, through a series of mergers, merged into Hanson Aggregates, Inc. Pioneer Concrete of Texas, Inc. is now the prior name of Hanson Aggregates, Inc. The registered agent for service of process for Pioneer Concrete of Texas, Inc., who may be served with process, is: CT Corporation System, at 350 N. St. Paul Street, Dallas, Texas 75201.

454. Defendant A & B Crushed Concrete, LLC is a Texas limited liability company doing business in the State of Texas. Defendant A & B Crushed Concrete, LLC may be served with process through its registered agent, Corporation Service Company, at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

455. Defendant Alleyton Resource Company, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Alleyton Resource Company, LLC may be served with process through its registered agent, Corporation Service Company d/b/a Lawyers Incorporating Service, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

456. Defendant A.N.T. Enterprises Incorporated is a Texas corporation doing business in the State of Texas. Defendant A.N.T. Enterprises Incorporated may be served with process through its registered agent, Anthony J. Torres, 10626 Sheldon Road, Houston, Texas 77044.

457. Defendant Apcon Services, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Apcon Services, LLC may be served with process through its registered agent, Mary M Mckaughan, 25100 Pitkin Road, Suite 84B, Spring, Texas

77386.

458. Defendant Argos USA, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Argos USA, LLC may be served with process through its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

459. Defendant Artesian Materials, Inc. is a Texas corporation doing business in the State of Texas. The registered agent for service of process for Artesian Materials, Inc., who may be served with process, is: Pablo Rojas, at 5505 Gaston #50, Houston, Texas 77093.

460. Defendant Artesian Materials and Aggregates, Inc. is a Texas corporation doing business in the State of Texas. Defendant Artesian Materials and Aggregates, Inc. may be served with process through its registered agent, Robert C. Vilt, 5177 Richmond Ave. Suite 1250, Houston, Texas 77056.

461. Defendant B&B Aggregates, Inc. is a Texas corporation doing business in the State of Texas. Defendant B&B Aggregates, Inc. may be served with process through its registered agent, Paul Brockner, at Route 5, Box 254F, Cleveland, Texas 77327.

462. Defendant Bullock Construction, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Bullock Construction, LLC may be served with process through its registered agent, Cindy Bullock, 16780 Old Danville Road, Willis, Texas 77318.

463. Defendant Campbell Concrete & Materials, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Campbell Concrete & Materials, LLC may be served with process through its registered agent, Corporation Service Company d/b/a CSC Lawyers Incorporating Service, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

464. Defendant Century Asphalt, LTD is a Texas Limited Partnership doing business in the State of Texas. Defendant Century Asphalt, LTD may be served with process through its

registered agent, Greg Angel, 5210 West Road, Baytown, Texas 77522.

465. Defendant Cleveland Sand & Gravel, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Cleveland Sand & Gravel, LLC may be served with process through its registered agent, Michael G. Orlando, 1021 Main Street, Suite 1150, Houston, Texas 77002.

466. Defendant Eagle Sand & Gravel, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Eagle Sand & Gravel, LLC may be served with process through its registered agent, Adrian Lizalde, 5431 Woodmancote Dr., Humble, Texas 77346.

467. Defendant Express Materials Venture, LP is a Texas limited partnership doing business in the State of Texas. Defendant Express Materials Venture, LP may be served with process through its registered agent, Melvin B. Chapin, 8515 Highway 242 A6, Conroe, Texas 77385.

468. Defendant Frontier Aggregates, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Frontier Aggregates, LLC may be served with process through its registered agent, Jeffrey L. Beck, 24900 Pitkin Road, Suite 120, Spring, Texas 77386.

469. Defendant Great Southern Stabilized, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Great Southern Stabilized, LLC may be served with process through its registered agent, Law Office of Richard A. Fogel, PLLC, 2777 N. Stemmons Fwy., #1040, Dallas, Texas 75207.

470. Defendant Gulf Coast Stabilized Materials, LLC is a Texas limited liability company doing business in the State of Texas. Defendant Gulf Coast Stabilized Materials, LLC may be served with process through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

471. Defendant Lattimore Materials Corporation is a Texas corporation doing business in the State of Texas. Defendant Lattimore Materials Corporation may be serviced with process through its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

472. Defendant LGI Land, LLC is a Texas limited liability company doing business in the State of Texas. Defendant LGI Land, LLC may be served with process through its registered agent, Thomas E. Lipar, 19221 I-45 South, Suite 320, Conroe, Texas 77385.

473. Defendant LGI Land I, LLC is a Texas limited liability company doing business in the State of Texas. Defendant LGI Land I, LLC may be served with process through its registered agent, Thomas E. Lipar, 19221 I-45 South, Suite 320, Conroe, Texas 77385.

474. Upon information and belief, LGI Land, Ltd. is a limited partnership organized under the laws of the State of Texas and conducting business in the State of Texas. LGI Land, Ltd. may be served with process through serving its registered agent, Thomas E. Lipar, at the following address: 19221 I-45 South, Suite 320, Conroe, Texas 77385.

475. Upon information and belief, LGI GP, LLC is a limited liability company organized under the laws of the State of Texas and conducting business in the State of Texas. LGI GP, LLC may be served with process through serving its registered agent, Thomas E. Lipar, at the following address: 19221 I-45 South, Suite 320, Conroe, Texas 77385.

476. Upon information and belief, LGI Holdings, LLC is the sole member of LGI Land, LLC and/or LGI Land, Ltd. LGI Holdings, LLC is a limited liability company organized under the laws of the State of Texas and conducting business in the State of Texas. LGI Holdings, LLC may be served with process through serving its registered agent, Thomas E. Lipar, at the following address: 19221 I-45 South, Suite 320, Conroe, Texas 77385.

477. Defendant Lone Star Sand & Gravel, LP is a Texas limited partnership doing business in the State of Texas. Defendant Lone Star Sand & Gravel, LP may be served with process through its registered agent, Rob Van Til, 109 King Ranch Road, Southlake, Texas 76092.

478. Defendant Multisource Sand and Gravel Co., Ltd. is a Texas corporation doing business in the State of Texas. Defendant Multisource Sand and Gravel Co., Ltd. May be served with process through its registered agent, Daniel McCarty, 126 E. Turbo Drive, San Antonio, Texas 78279.

479. Defendant Porter Stabilized Materials d/b/a Great Southern Stabilized, LLC is a Texas corporation doing business in Texas. Defendant Porter Stabilized Materials d/b/a Great Southern Stabilized, LLC may be served with process through its registered agent, The Law Office of Richard A. Fogel, PLLC, at 2777 N. Stemmons Fwy., #1040 Dallas, Texas 75207.

480. Defendant The Rasmussen Group, Inc. is an Iowa corporation doing business in Texas. Defendant The Rasmussen Group, Inc. may be served through its registered agent, Wayne Nyberg, at 5550 NE 22nd St., Des Moines, Iowa 50316.

481. Defendant River Aggregates, LLC is a Texas limited liability company doing business in Texas. Defendant River Aggregates, LLC may be served with process through its registered agent, Rob Van Til, 158 W. Hullwood Court, Texas 77389.

482. Defendant Argos Ready Mix (South Central Concrete) Corp., f/k/a Southern Star Concrete, Inc. is a Texas corporation doing business in Texas. Defendant Argos Ready Mix (South Central Concrete) Corp., f/k/a Southern Star Concrete, Inc. may be served with process through its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporating Service, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

483. Defendant Sunrise Materials, LP is a Texas limited partnership doing business in

Texas. Defendant Sunrise Materials, LP may be served with process through its registered agent, Rob Van Til, 109 King Ranch Road, Southlake, Texas 76092.

484. Defendant Volcan Sand & Clay, LLP is a limited liability partnership doing business in Texas. Defendant Volcan Sand & Clay, LLP may be served with process through the Texas Secretary of State because Volcan Sand & Clay, LLP does not currently maintain a registered agent.

485. Defendant WM Trucking & Excavating, Inc. is a Texas corporation doing business in Texas. Defendant WM Trucking & Excavating, Inc. may be served with process through its registered agent, William Minero, 6909 JW Peavy Drive, Houston, Texas 77011.

486. Defendant Forestar (USA) Real Estate Group, Inc. is a corporation doing business in the State of Texas. Defendant Forestar (USA) Real Estate Group, Inc. may be served with process through its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

487. Defendant Argos USA LLC is a Georgia corporation doing business in Texas. Defendant Argos USA LLC may be served with process through serving its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

488. Defendant Jim Bullock Partners, Ltd. is a corporation doing business in the State of Texas. Defendant Jim Bullock Partners, Ltd. can be served through serving its registered agent, Charles Burnett, 14333 Chrisman Road, Houston, Texas 77039-1508.

489. Defendant Multifam, Ltd. is a corporation doing business in the State of Texas. Defendant Multifam, Ltd. can be served with process through serving its registered agent, Lee C. McCarty, 126 E. Turbo Drive, San Antonio, Texas 78216-3309.

490. Defendant Mo-Co San Jac-I45 Ltd. is a corporation doing business in the State of

Texas. Defendant Mo-Co San Jac-I45 Ltd. can be served with process through serving its registered agent, John G. Cannon, 9 Greenway Plaza, Suite 1100, Houston, Texas 77046-3653.

491. Defendant Lehigh Hanson, Inc. is a corporation doing business in the State of Texas. Defendant Lehigh Hanson, Inc. can be served with process through serving its registered agent, Corporation Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701-3218.

492. Defendant 45 SRL, Inc. is a corporation doing business in the State of Texas. Defendant 45 SRL, Inc. can be served with process through serving its registered agent, Richard S. Snell, 333 Clay Street, Suite 3300, Houston, Texas 77002-4104.

IV. FACTS

Hurricane Harvey Develops and Sets its Sights on Texas

493. In mid-August, 2017, all eyes turned to a series of tropical disturbances making their way across the Atlantic basin—one in particular, what would become known as Hurricane Harvey, developed, then dissipated over several days from August 17-19—a pattern it would unfortunately show again, after it made landfall in Southern Texas, days later.

494. By Wednesday, August 23, 2017, the storm had further developed into a Category 2 hurricane, just 220 miles from Port O'Connor. The very next day, the storm was upgraded to a Category 3 “major hurricane.” Meteorologists warned of torrential rains and flooding of 30-40 inches in the greater Houston area alone, as Harvey moved inland then outward, with anticipated travel up the Texas coast toward Houston. That forecast anticipated widespread flooding throughout the Texas Gulf Coast.

495. The storm made landfall on Friday, August 25, 2017 with little fanfare for those in Harris County—the storm came ashore between Port Aransas and Port O'Connor. Sitting on the “dirty” side of the storm, Harris County residents sat in their homes, watching the devastation in

the Corpus Christi and Rockport areas as we all questioned the forecasters who had predicted three and four feet of water inundating our areas. Those questions were soon cast away as Harvey, who had already moved inland, and ultimately stationed itself over Harris County—dumped catastrophic rain throughout the county—just as the forecasters had predicted.

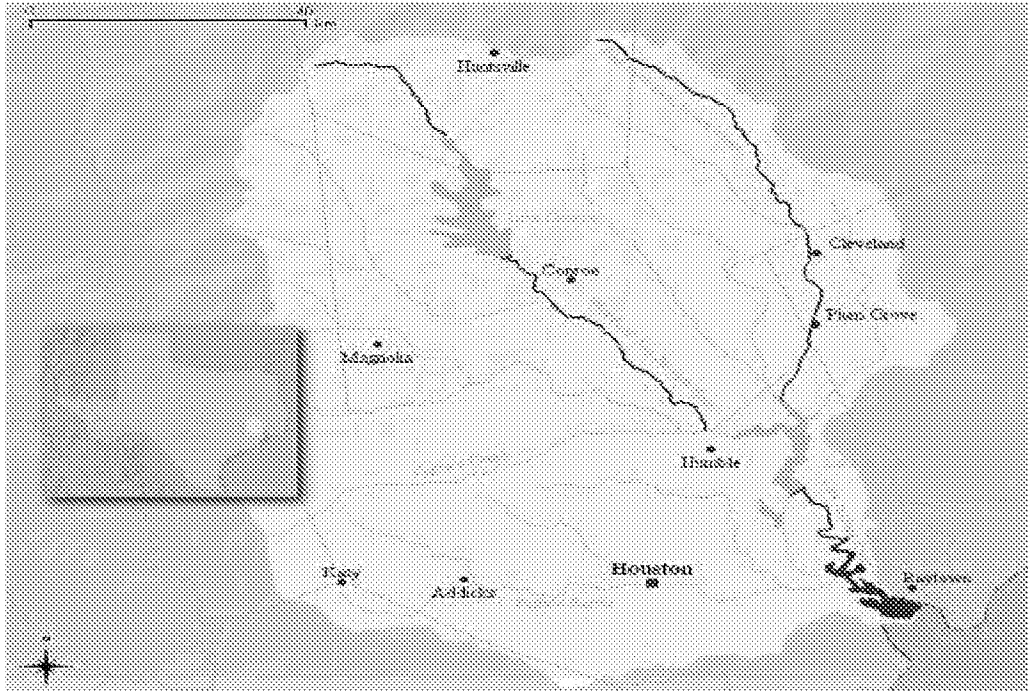
Texas's Lake and River Basins Have a Multi-Purpose Use

496. Texas's reservoirs, including both Lake Conroe and Lake Houston, are important for providing water supplies. Reservoirs are able to capture and store flood-waters for use during times of drought when the rivers are low or dry. Importantly, many of the state's major reservoirs were constructed principally for flood control, with water supply as a secondary benefit. *See* <http://www.twdb.texas.gov/surfacewater/rivers/reservoirs/index.asp>.

497. Lake Conroe is a 21,000-acre (85 km²) lake in Montgomery County, Texas. The lake lies on the West Fork of the San Jacinto River, just west of Interstate 45 off State Highway 105 in Montgomery and Walker counties.

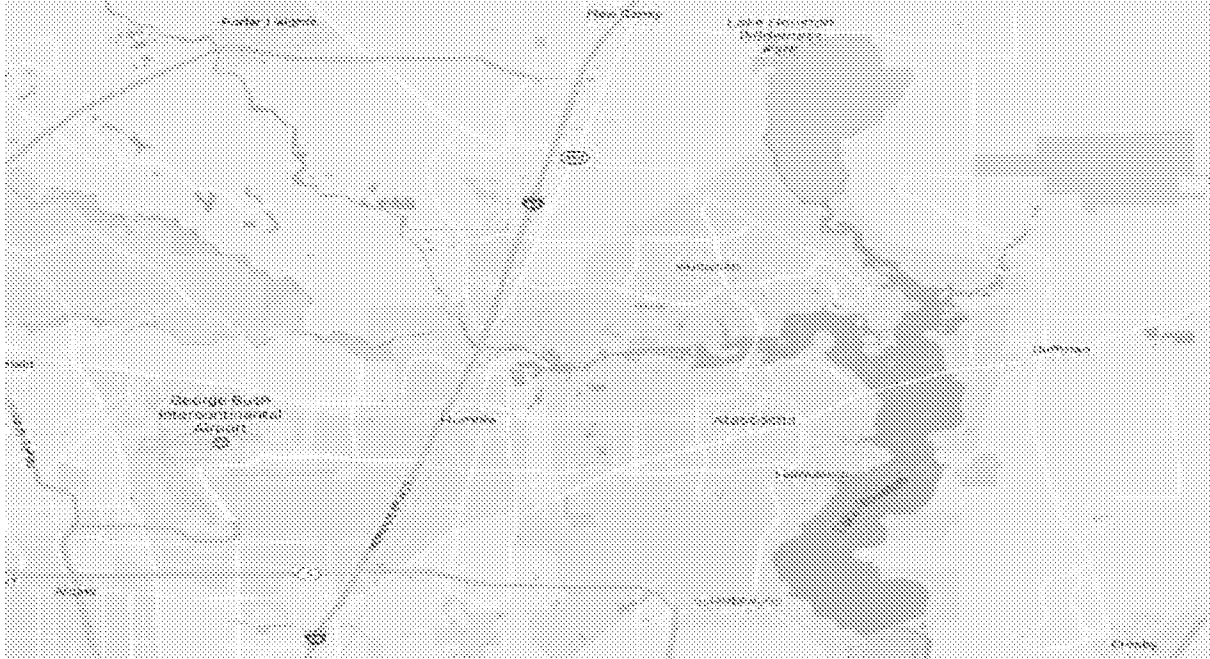
498. According to the Texas Water Board, the San Jacinto River Basin is one of the smallest river basins in Texas. From headwaters in Walker County, the San Jacinto River flows southeast through both Lake Conroe and Lake Houston, into Galveston Bay, which drains to the Gulf of Mexico.

499. As can be seen in the picture below, north of Lake Conroe, the West Fork of the San Jacinto River flows into the lake, with the Lake Conroe dam regulating flow southward, as the West Fork of the San Jacinto flows south through Montgomery County and ultimately combines with the East Fork of the San Jacinto River in northeast Harris County to form Lake Houston.



500. Thus, Lake Houston, as a reservoir on the San Jacinto River, receives flow from both the East and West forks of the River. There are other, much smaller, tributaries that connect with the San Jacinto River south of Lake Conroe, including Spring Creek.

501. Lake Houston is situated between the communities of Kingwood, Atascocita and Humble on the west bank, Sheldon on the south, and Crosby and Huffman on the east.



502. Lake Houston was created in 1953 when the City of Houston built the dam to impound a reservoir to replace Sheldon Lake, which had been the primary source of water for the city.

Plaintiffs Were Harmed by the Decrease in Overall Capacity of the San Jacinto River Basin and Lake Houston

503. Over the past few decades, there have been volumetric and sedimentation surveys done of Lake Houston and the San Jacinto River. The latest survey, in 2011, published in 2013, revealed astonishing results. First, while Lake Houston was originally designed to encompass 158,553 acres-feet when first built in 1954, it has sustained a steady decline in capacity. In 1994, a volumetric and sedimentation survey revealed that Lake Houston had lost 22,172 acre-feet of capacity. The 2011 study revealed that Lake Houston’s capacity had shrunk to an estimated 124,661 acre-feet.

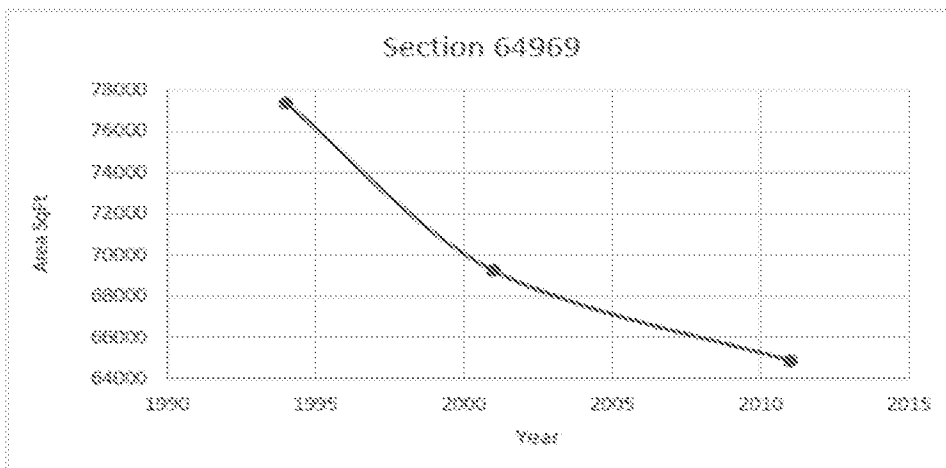
504. Thus, since its initial development, the Lake Houston Reservoir has steadily lost its reserve capacity at a rapid rate. The following chart illustrates the decrease in capacity:

Year	Reservoir Capacity (Acre-Feet)
1954	158,553
1965	146,769
1994	136,381
2011	124,661

505. The 2011 study further showed that since 1954, there has been a 21.4% decrease in the reservoir capacity. The study further explains that this loss in capacity is caused by the increased sedimentation being placed in Lake Houston. The survey notes that Lake Houston loses an estimated 344 to 689 acre-feet of capacity each year due to sediment accumulation.

506. The same surveys done over the past few decades show that this reduced capacity is also occurring in the West Fork of the San Jacinto River south of the Lake Conroe Dam. The following chart illustrates the reduced capacity at just one of the points on the West Fork near Kingwood over the course of the past twenty years:

Section	64969		
Survey Yr	1994	2001	2011
A_total	61.9	55.4	51.9
Scale	1250	1250	1250
A_scaled	77375	69250	64875



Many Companies Have Exhibited a History of Wrongfully Discharging and Negligently Allowing the Release of Materials into the San Jacinto River Basin and Spring Creek, Dramatically Reducing the Capacity and Depth of the Texas Waterways

507. Many defendants to this lawsuit own and/or operate mining facilities within two miles of the East Fork of the San Jacinto River, the West Fork of the San Jacinto River, Spring Creek, and/or Lake Houston. Other defendants own or have owned properties and/or commercial properties and/or facilities and/or developments immediately adjacent to and/or in close proximity to these waterways.⁶ Many defendants have been cited by the Texas Commission on

⁶ As one example, the negligent conduct of the LGI Defendants decreased the capacity of the San Jacinto River Basin. Upon information and belief, and based on the documents previously produced in this litigation to the LGI Defendants, see JE_LGILAND 000001-JE_LGILAND 000060, the LGI Defendants developed the Benders Landing subdivision, located in Spring, Texas and in close proximity to Spring Creek. See JE_LGILAND 000001-JE_LGILAND 000060. As a result of LGI's construction and development of the Benders Landing subdivision, the TCEQ repeatedly cited LGI for discharging and allowing the discharge of sediment, dirt, rock, dissolved and total suspended solids into Spring Creek, which is a waterway in the San Jacinto River Basin. See JE_LGILAND 000011, 000015-000021, 000035, 000048-000060. The TCEQ also imposed an administrative penalty on LGI totaling \$32,750 for discharging and allowing the discharge of materials into Spring Creek. See JE_LGILAND 000056. Upon information and belief, LGI neither contested—nor even responded to—this citation. See JE_LGILAND 000001-JE_LGILAND 000060. Further, upon information and belief and currently available information, the LGI defendants have been investigated by the Department of Justice and/or the Environmental Protection Agency and/or the Army Corps of Engineers at some point since 2000 regarding the development of the Bender's Landing subdivision.

Plaintiffs would show that the LGI Defendants owed Plaintiffs, as well as other property owners and landowners, a duty to refrain from actions and omissions that would diminish the capacity of the San Jacinto River Basin. Plaintiffs would show that the conduct of the LGI defendants, as described above, decreased the capacity of the San Jacinto River Basin and was a proximate cause of the flooding of Plaintiffs' properties. Plaintiffs would further show that in discharging and in allowing the discharge of sediment, dirt, rock, dissolved and total suspended solids into the San Jacinto River Basin, see JE_LGILAND 000011, 000015-000021, 000035, 000048-000060, the LGI Defendants failed to act as a reasonable land developer would have done, and the LGI Defendants committed negligence, as discussed herein and as more fully and additionally and subsequently described in this petition. The LGI Defendants also committed negligence *per se*, as more fully and additionally and subsequently described in this petition. The LGI Defendants also violated sections 11.086 and 26.121 of the Texas Water Code, as more fully and subsequently described in this petition. The LGI defendants also committed negligent conduct that constitutes a nuisance, as additionally and more fully and subsequently described this petition.

Finally, Plaintiffs would show that the LGI Defendants and other defendants acted as joint tortfeasors. Specifically, the negligence of the LGI defendants was a proximate cause of the flooding of Plaintiffs' properties, and Defendants' negligent conduct is inextricably combined. Plaintiffs would further show that in the event their injuries and damages cannot be apportioned with reasonable certainty as to each individual defendant, their injuries are indivisible, and all defendants, including LGI, are jointly and severally liable for the flooding of Plaintiffs' properties. See *Amstadt v. United States Brass Corp.*, 919 S.W.2d 644, 654 (Tex. 1996); *Kramer v. Lewisville Mem'l Hosp.*, 858 S.W.2d 397, 405 (Tex. 1993).

Plaintiffs are far from the only individuals who have lodged a complaint against the LGI defendants. The United States Government has had substantial qualms about the conduct of the LGI defendants. In May 2010, the United States sued the LGI defendants, among others, seeking to enjoin the discharge of pollutants into waters of the United States without a permit, in violation of the Clean Water Act. *United States of America v. Thomas E. Lipar, et al.*, Civil Action No. 4:10-cv-01904; In the United States District Court for the Southern District of Texas. Indeed, the government asserted that the LGI defendants discharged dredged or fill material into both Spring Creek and the West

Environmental Quality (“TCEQ”) for numerous issues, including excessive discharge which contained runoff dust, sand, construction materials, and other products produced and/or used by Defendants at locations and/or facilities and/or properties adjacent to Spring Creek, the West Fork of the San Jacinto River, and the East Fork of the San Jacinto River. The TCEQ violations were widespread, including, but not limited to:

- Unauthorized discharge of silt, in violation of Texas Water Code §26.039;
- Failure to obtain a permit to discharge storm water associated with industrial activities, in violation of Texas Administrative Code § 281.25;
- Failure to prevent an unauthorized discharge, in violation of Texas Water Code §26.121(a)(12);
- Failure to minimize generation of dust and off-site tracking, in violation of Texas Administrative Code §281.25(a)(4); and

508. On many occasions, water from sand pits, construction sites, batch plants, commercial properties and/or other facilities was being discharged into or near parts of Lake Houston, Spring Creek, the West Fork of the San Jacinto River, and the East Fork of the San Jacinto River. On other occasions, mud was pumped directly into the San Jacinto River. Some defendants were cited because they were operating above their allowed permit limits. Other defendants were operating without any permits at all.

509. The defendants that own and/or operate mining facilities, construction sites, batch plants, commercial properties and/or other facilities have done so immediately adjacent to the various waterways and in the flood plain. In particular, mining facilities by clear cutting all the vegetation, and digging pits within feet of the riverbanks. The defendants that own and/or operate mining facilities, construction sites, batch plants, commercial properties and/or other facilities

Fork of the San Jacinto River. The United States has amplified its allegations with a Presentation of Technical Data Forming Basis of Complaint. Following a remand from the Fifth Circuit, the government’s case against the LGI defendants is pending before Judge Lynn Hughes.

create no real barriers between their mines and the rivers, and often breaches occur where the pits open up and empty into the river (sometimes for years without repair). These defendants have no plans in place for protection and preservation of the pits and loose sand during a flood event, and floods have occurred on numerous occasions. During Harvey, the mines (old and active), construction sites, batch plants, commercial properties and/or other facilities along the West Fork of the San Jacinto River, the East Fork of the San Jacinto River, and Spring Creek, were inundated and overcome with flood waters, and thousands of acres of sand washed downstream, clogging the rivers and lakes, resulting in flood waters moving outside the banks and outside the flood plain, causing hundreds of millions of dollars in damages.



510. Altogether, with silt, dirt, rock, and sand being discharged and/or washed into the bodies of water surrounding Defendants' properties and/or facilities and/or job sites and/or developments, the San Jacinto River Basin and Lake Houston continued to lose capacity.

V.
CAUSES OF ACTION

COUNT 1: Negligence and Negligence *Per Se* (All Plaintiffs)⁷

511. Plaintiffs adopt by reference each and every preceding paragraph of this petition.

512. Through Defendants' actions, omissions, and failures, in discharging and/or failing to prevent the discharge of processed water, silt, sand, sediment, dirt, and other materials from their facilities and/or job sites and/or commercial developments and/or properties into Spring Creek and the East and West Forks of the San Jacinto River, the overall capacity of Spring Creek, the West Fork of the San Jacinto River, the East Fork of the San Jacinto River, and Lake Houston has been dramatically decreased. This sediment, silt, sand and dirt limited the overall capacity of these waterways such that when the water came, the rivers and the lake simply could not hold the volume. The subsequent backflow from a full Lake Houston flooded Plaintiffs' properties and as a proximate result, Plaintiffs suffered substantial damages.

513. Plaintiffs would show that these injuries and damages were proximately caused by the negligence and in some instances, negligence *per se*, of Defendants acting by or through their agents and/or employees, jointly, severally, singularly, and together in any combination.

514. Defendants' conduct described herein constitutes an unexcused breach of certain duties imposed by the laws of the State of Texas; in particular, sections 11.086, 26.039, and 26.121 of the Texas Water Code. As private landowners, Plaintiffs are members of the class that each of these sections of the Texas Water Code were designed to protect. Further, each of these three statutes is one for which tort liability may be imposed when violated. Defendants' unexcused breaches of the duties imposed by these sections of the Texas Water Code was a proximate cause

⁷ Counts 1-3 are asserted by all Plaintiffs against all defendants except Defendant Forestar (USA) Real Estate Group Inc. Count 4 is asserted only by the Barrington Plaintiffs and only against Defendant Forestar (USA) Real Estate Group Inc.

of Plaintiffs' injuries described herein, and constitutes negligence per se.

515. Defendants also owed a duty to Plaintiffs to implement procedures to reduce the discharge of sediment, silt, sand and dirt into the West Fork of the San Jacinto River, the East Fork of the San Jacinto River, Spring Creek, and Lake Houston. It was foreseeable that these discharges would have resulted in the West Fork of the San Jacinto River, the East Fork of the San Jacinto River, Spring Creek and Lake Houston losing capacity and causing flooding and damage to Plaintiffs property. Defendants breached the duties owed to Plaintiffs by the following omissions, among others:

- a. Failing to locate sand mines outside of floodways;
- b. Failing to increase the width of dikes;
- c. Failing to decrease the slope of dikes;
- d. Failing to control erosion with vegetation;
- e. Failing to replant areas not actively being mined;
- f. Failing to avoid clearing areas that will not soon be mined;
- g. Failing to protect stockpiles from flooding; and
- h. Failing to mine only above the deepest part of the river.

516. Further, Defendants failed to implement adequate procedures and mechanisms to prevent the discharge of silt, sand, sediment, and dirt into the West Fork of the San Jacinto River, the East Fork of the San Jacinto River, and Spring Creek.

517. Each of Defendants' acts and omissions is a proximate cause of Plaintiffs' injuries and damages. There is nothing that Plaintiffs did to cause their respective damages.

518. Plaintiffs would show that Defendants acted as joint tortfeasors. Specifically, the negligence of each defendant was a proximate cause of the flooding of Plaintiffs' properties, and

Defendants' negligent conduct is inextricably combined. Plaintiffs would further show that in the event their injuries and damages cannot be apportioned with reasonable certainty as to each individual defendant, their injuries are indivisible, and Defendants are jointly and severally liable for the flooding of Plaintiffs' properties. *See Amstadt v. United States Brass Corp.*, 919 S.W.2d 644, 654 (Tex. 1996); *Kramer v. Lewisville Mem'l Hosp.*, 858 S.W.2d 397, 405 (Tex. 1993).

COUNT 2: Violations of the Texas Water Code (All Plaintiffs)

519. Plaintiffs adopt by reference each and every preceding paragraph of this petition.

520. Section 11.086 of the Texas Water Code states that "No person may divert or impound the natural flow of surface waters in this state, or permit a diversion or impounding by him to continue, in a manner that damages the property of another by the overflow of the water diverted or impounded." TEX. WATER CODE ANN. § 11.086 (West). Defendants' conduct as described herein created a diversion and/or impoundment of the natural flow of surface water. This diversion and/or impoundment proximately caused the flooding of Plaintiffs' properties. Defendants are liable pursuant to the Texas Water Code and Texas common law.

521. By failing to prevent the discharge of sediment, silt, sand, dirt, and other materials into the San Jacinto River Basin, each defendant ensured that these waterways would gradually and severely lose capacity. These waterways morphed from natural streams and rivers into artificially clogged, manmade channels that were incapable of holding any volume of water. So, when heavy rain fell, as it did in August 2017, that surface water was diverted onto land and eventually onto Plaintiffs' properties.

522. The natural flow of water was diverted by the Defendants' diminishment of the San Jacinto River Basin. *See, e.g., Boatman v. Lites*, 970 S.W.2d 41, 43-46 (Tex. App.—Tyler 1998, no pet.). Accordingly, Defendants are liable under Texas Water Code § 11.086. Further,

Defendants violated Texas Water Code § 26.039, which prohibits the discharge of sand, silt, dirt, and other materials into adjacent waterways.

523. Additionally, Defendants violated Texas Water Code § 26.121, which prohibits the discharge of sediment, silt, sand, dirt, and other materials into or adjacent to any water in the state except as authorized by the Texas Commission on Environmental Quality (“TCEQ”). TEXAS WATER CODE §26.121(a). As individuals whose homes were flooded, Plaintiffs would show that there exists a private right of action to sue for violations of section 26.121 of the Texas Water Code. Defendants’ conduct, as previously described, constitutes a clear violation of the Texas Water Code, which conduct caused Plaintiffs to suffer significant damages—specifically, the flooding of their homes.

COUNT 3: Nuisance Based on Negligent Conduct (All Plaintiffs)

524. Plaintiffs adopt by reference each and every preceding paragraph of this petition.

525. Plaintiffs have a private interest in land and own property in Harris County, Texas, as previously discussed. When Defendants improperly diverted and/or impounded water, as previously discussed, it resulted in a private nuisance to Plaintiffs’ properties. Further, Defendants owed a duty to Plaintiffs to implement procedures to reduce the discharge of sediment, silt, sand and other materials in the West Fork of the San Jacinto River, the East Fork of the San Jacinto River, Spring Creek, and Lake Houston. Defendants breached that duty, and as a proximate result of Defendants’ conduct, these waterways lost capacity. Defendants’ conduct was a proximate cause of the flooding of Plaintiffs’ properties. Defendants’ negligent conduct resulted in an interference and invasion of Plaintiffs’ private properties, substantially interfering with Plaintiffs’ use and enjoyment of their land, and resulting in Plaintiffs suffering substantial damages.

526. Under Texas law, nuisance refers to a type of legal injury involving interference with the use and enjoyment of real property. *Crosstex North Texas Pipeline, L.P. v. Gardiner*, 505

S.W.3d 580, 588 (Tex. 2016). Plaintiffs would show that the negligent conduct of Defendants, as previously discussed, caused a nuisance because it substantially and unjustifiably interfered with Plaintiffs' use and enjoyment of their properties. As a direct and proximate result of Defendants' negligent conduct, jointly, severally, singularly, and/or together in any combination, Plaintiffs' homes flooded. Accordingly, Plaintiffs may recover damages for nuisance caused by Defendants' negligent conduct. *See id.* ("We further clarify that a defendant can be liable for causing a nuisance if the defendant intentionally causes it, negligently causes it . . .").

527. Plaintiffs would show that Defendants acted as joint tortfeasors. Specifically, the negligence of each defendant was a proximate cause of the flooding of Plaintiffs' properties, and Defendants' negligent conduct is inextricably combined. Plaintiffs would further show that in the event their injuries and damages cannot be apportioned with reasonable certainty as to each individual defendant, that their injuries are indivisible, and Defendants are jointly and severally liable for the flooding of Plaintiffs' properties. *See Amstadt v. United States Brass Corp.*, 919 S.W.2d 644, 654 (Tex. 1996); *Kramer v. Lewisville Mem'l Hosp.*, 858 S.W.2d 397, 405 (Tex. 1993).

**COUNT 4: Negligence Against Defendant Forestar (USA) Realty Group, Inc.
(Barrington Plaintiffs Only)**

528. The Barrington Plaintiffs⁸ adopt by reference each and every preceding paragraph of this petition.

529. The Barrington Plaintiffs own property in and/or reside in the Barrington subdivision, located in Kingwood, Texas. The Barrington subdivision is a private, 200-acre

⁸ The term "Barrington Plaintiffs" refers to all Plaintiffs who resided in the Barrington subdivision located in Kingwood, Texas at the time of the underlying incident. Based on their geographic addresses, the following Plaintiffs owned property in the Barrington subdivision during the flooding: John Sorrentino, Lawrence Purcell, George Dreisbach, J. Robert Shullaw, Julius Peppers, Karen Nelson, John Biavaschi, Evette Biavaschi, Rudolph Hanselka, and Tanya Chavers.

neighborhood comprised of single-family homes. It is surrounded by the Lakes Course of Kingwood Country Club. South of the Barrington subdivision is the West Fork of the San Jacinto River. A map of the Barrington subdivision is below:



530. The original declaration of Covenants, Conditions, and Restrictions for the Barrington Subdivision was filed on May 18, 2001, by Kingwood Partners, LP. In 2006, Bravo Marshall Communities, LP became the successor in interest to Kingwood Partners, LP. Bravo Marshall Communities, LP filed for Chapter 7 bankruptcy on September 18, 2008. As a result, lenders R.E. Loans, LLC, Barney Ng, Bar K, Inc. and George Smith Partners, Inc. foreclosed on the property.

531. Capital Salvage subsequently and successfully bid for the property at a foreclosure sale in 2009. As stated in the First Amended Declaration of Covenants, Conditions, and Restrictions filed on August 6, 2011, Capital Salvage became the successor in interest to Bravo Marshall Communities, LP. On September 6, 2011, Defendant Forestar (USA) Real Estate Group, Inc. (“Forestar”) acquired the property from Capital Salvage via warranty deed. Forestar was

named the successor in interest to Capital Salvage.

532. The Barrington Subdivision was built in stages or sections. All homes were eventually built outside of or beyond the 100-year floodplain, after some lots needed to be filled with dirt to be elevated to be above and outside the 100-year floodplain. However, many of these sections remained within the 500-year floodplain.

533. Despite knowing that the Barrington subdivision is in close proximity to the West Fork of the San Jacinto River and despite knowing its location on a floodplain, Forestar chose to develop, market, and/or sell homes on that land. Moreover, Forestar had no set standards for determining the elevation of a house relative to its geographic location and that location's risk of flooding. To the extent Forestar did consider standards for determining the elevation of a home, the standards were based on obsolete, antiquated data, rather than newer, more reliable data that was readily available. Moreover, the drainage system for the Barrington Subdivision was wholly inadequate to handle rainfall amounts that should have and could have been foreseen by Forestar.

534. Despite having actual knowledge of the possibility of flooding in the Barrington Subdivision, Forestar did not advise homebuyers to purchase flood insurance. Nor did Forestar advise the residents of the Barrington Subdivision of its location on a floodplain, or that their elevations were changed due to lots being filled with dirt, when each Barrington Plaintiff purchased a home in the Barrington Subdivision. As a direct and proximate result of Forestar's actions and omissions, the residents of the Barrington Subdivision, most of whom chose not to obtain flood insurance, suffered catastrophic damage to their homes when Hurricane Harvey occurred.

535. Prior to Hurricane Harvey, other storms had delivered comparable amounts of rain to parts of the Texas Gulf Coast. In July 1979, Tropical Storm Claudette dropped nearly 42 inches

of rain on the Houston Metropolitan Area within 24 hours. In June 2001, Tropical Storm Allison dropped approximately 37 inches of rain on the Houston Metropolitan Area. In May 2015, a storm system dropped approximately 12 inches of rain on the Houston Metropolitan Area within 10 hours. This weather event is known as the Memorial Day flood. In April 2016, a storm system dropped approximately 15 inches of rain on the Houston Metropolitan Area within 24 hours. This weather event is referred to as the Tax Day flood. In August 2017, Hurricane Harvey dropped approximately 34 inches of rain on the Houston Metropolitan Area.

536. There have also been many weather events that had high rainfall amounts for a 24-hour period. There are several recorded storms that had 24-hour rainfall totals of 24.1 inches, 38.2 inches, 33.6 inches, 26 inches, and 15.9 inches. The largest 24-hour rainfall total during Hurricane Harvey was slightly over 16 inches. Considering these events, it is dubious for Forestar to contend that Hurricane Harvey constituted an unforeseeable “Act of God.”

537. During Hurricane Harvey, several feet of water filled the streets and the homes in the Barrington subdivision. Unfortunately, the drainage system in the Barrington subdivision was not designed to handle rainfall amounts that should have been reasonably anticipated by Forestar. Moreover, Forestar made several errors in developing the Barrington subdivision. Specifically, many of the homes in the Barrington subdivision were built at an elevation that was unreasonably low for the elevation of the land they were built on. Forestar knew, or should have known, that houses needed to be built at an elevation adequate to prevent and/or reduce the likelihood of flooding.

538. The negligence of Forestar was a proximate cause of the damages suffered by the Barrington Plaintiffs. Specifically, each of the Barrington Plaintiffs’ homes flooded and was catastrophically damaged. The Barrington Plaintiffs and their families have been displaced from

their homes. They have endured, and they will continue to endure, years of costly repairs and rebuilding, in addition to significant losses in property values.

539. Forestar owed duties of care to the Barrington Plaintiffs. Forestar breached its duties and was negligent in one or more of the following ways:

- a. Developing the Barrington subdivision in a manner that caused homes to flood during a foreseeable weather event;
- b. Negligently developing the Barrington subdivision;
- c. Filling some portions of the Barrington subdivision with dirt and thereby elevating the lots, ensuring that homes in the immediate vicinity would face a greater risk of flooding;
- d. Failing to advise homeowners in the Barrington subdivision to obtain flood insurance;
- e. Failing to inform the Barrington Plaintiffs of prior flood events on their land;
- f. Failing to implement a proper drainage plan for the Barrington subdivision; and
- g. Failing to maintain a proper drainage system for the Barrington subdivision.

540. Forestar's actions and/or omissions were a proximate cause of the Barrington Plaintiffs' injuries and damages. There is nothing that the Barrington Plaintiffs did to cause their damages.⁹

541. The Barrington Plaintiffs would show that the negligence of each defendant to this lawsuit, including Forestar, was a proximate cause of the flooding of the Barrington Plaintiffs' properties, and Defendants' negligent conduct is inextricably combined. The Barrington Plaintiffs would further show that in the event their injuries and damages cannot be apportioned with

⁹ The Barrington Plaintiffs are not making any construction defect claims subject to the Texas Residential Construction Liability Act.

reasonable certainty as to each individual defendant, that their injuries are indivisible, and Defendants are jointly and severally liable for the flooding of the Barrington Plaintiffs' properties. *See Amstadt v. United States Brass Corp.*, 919 S.W.2d 644, 654 (Tex. 1996); *Kramer v. Lewisville Mem'l Hosp.*, 858 S.W.2d 397, 405 (Tex. 1993).

VI. **TIMELINESS OF FILING**

542. To the extent Defendants raise any issue with the timeliness of this pleading, their argument would ring hollow. This petition is timely filed on its own, and without a doubt, it is timely filed under statutory and equitable tolling provisions. Plaintiffs herein exercised diligence and actively pursued their judicial remedies by timely pleading via a Petition in Intervention on *Ellisor, et al v. Hanson Aggregates, LLC, et al*, Cause No. 2018-66557; pending in the 11th Judicial District Court of Harris County on August 23, 2019. This district court presiding over the timely filed pleading on December 16, 2019 as insufficient to confer jurisdictional standing upon Plaintiffs in the Court of filing. The dismissal occurred over Plaintiffs' objection. Plaintiffs here participated in multiple hearing in the case referenced above in this paragraph, and Defendants were not only put on notice of them, they began defending them through the motion practice.

543. Plaintiffs are timely refileing this pleading in accordance with Tex. Civ. Prac. & Rem. Code 16.064. The statute is remedial in purpose - thus liberally construed - as it provides limitation-tolling relief "to one who has mistakenly brough his action in the wrong court." *Clary Corp. v. Smith*, 949 S.W.2d 452, 461 (Tex. App. – Fort Worth 1997, writ denied). The foregoing dismissal for lack of justiciable interest is tantamount to a jurisdictional dismissal. *See Vale v. Ryan*, 809 S.2d 324, 327 (Tex. App. - Austin 1991, no writ) (adopting the principle the saving statute "applies whether the dismissed action was filed in the state or the federal court, and whether the dismissal is one for want of jurisdiction of the subject matter or one based upon the impropriety

of exercising jurisdiction in a particular action”); *see also Geneder v. Kirkwood*, 506 S.W.3d 508, 515 (Tex. App. - Houston[1st Dist] 2016, no pet.)(holding that Tex. R. Civ. P. 16.064 applies when a court possess jurisdiction but, by discretionally dismissal, declines to exercise it). The foregoing dismissal was not voluntarily; rather it was strictly over Plaintiffs’ objection. *See Malmgren v. Inverness Forest Residents Civic Club, Inc.*, 981 S.W.2d.875, 880 n.3 (Tex. App. - Houston [1st Dist.] 1998, no pet.) (cautioning that “[a] voluntary dismissal is not equivalent to a dismissal for lack of jurisdiction” under Tex. Civ. Prac. & Rem. Code 16.064). Plaintiffs did not intentionally disregard jurisdictional requisites, relied in good faith upon existing authority to file their pleading, and maintain the decision was and is supported by law. Plaintiffs file this suit within 60 days of the involuntary dismissal outlines above.

544. Plaintiffs are also entitled to invoke equitable tolling. *See, e.g. Palmer v. Enserch Corp.*, 728 S.W.2d 431 (Tex. App. - Austin 1987, writ ref’d n.r.e.). Plaintiffs’ timely filed their pleading later determined to be defective. *See Czerwinski v. Univ of. Tex. Health Sci. Ctr. At Houston Sch. of Nursing*, 116 S.W.3d 119, 122-23 (Tex. App. - Houston [14th Dist.] 2002, pet. Denied) (noting that “equitable tolling [] applies ‘in situations where the claimant has actively pursued his judicial remedies by filing a defective pleading during the statutory period.’”). Defendants are not disadvantaged by putative error in pleading as the parties have been actively litigating the claims at issue. *See, e.g. Continental Southern Lines, Inc. v. Hilland*, 528 S.W..2d 828, 831 (Tex. 1975) (holding that tolling was appropriate because the Defendant was aware of the claim, not mislead or placed at a disadvantage by the defective pleading.)

545. The petition is also timely pursuant to an *American Pipe* theory of tolling. *See American Pipe & Constr. Co. v. Utah*, 414 U.S. 538, 554 (1974). Here, Defendants filed their June, 2019 motion for MDL with the Texas Supreme Court Panel on Multidistrict Litigation. *See*

Defendants' Joint Motion for Transfer and Request for Stay. (requesting "the Panel grant their motion and transfer the pending cases referenced in Appendix A, **along with any tag along cases**, to a pretrial court for consolidated and coordinated pretrial proceedings" because the cases are related, and the transfer will be for the convenience of the parties and witnesses, and will promote the just and efficient conduct of the cases") (emphasis supplied). The motion acknowledged current and future anticipated filings arising from a single event, and the motion requested a stay of all proceedings. As such, akin to the class action tolling of *American Pipe*, Defendants were notified not only of "the substantive claims being brought against them," but also the scope of those claims, the generic identities of claimants (by proximity); the potential witnesses; their defenses, *See Id.* At 554, 555 (holding that equitable tolling principles apply where "the defendants have the essential information necessary to determine both the subject matter and size of the prospective litigation, whether the actual trial is conducted in the form of a class action, as a joint suit, or as a principal suit with additional intervenors.").

VI. **DAMAGES**

546. Plaintiffs adopt by reference each and every preceding paragraph of this petition.

547. As a direct and proximate result of Defendants' conduct as described herein, whether acting by or through their agents or employees, jointly, severally, singularly, and/or together in any combination, Plaintiffs have been caused to suffer or experience damages in the past and, in all reasonable probability, are expected to experience damages for a long time into the future.

548. Plaintiffs damages consist of one or more of the following:

- a. Cost of repairs to real property;
- b. Cost of replacement or fair market value of personal property lost, damaged,

- or destroyed during such event;
- c. Loss of use of real and personal property;
- d. Diminution of market value;
- e. Loss of income, business income, profits, and business equipment;
- f. Loss of good will and reputation;
- g. Consequential costs incurred, including but not limited to alternative living conditions or accommodations and lost time from work;
- h. Mental anguish and/or emotional distress;
- i. Pre-judgment interest;
- j. Post-judgment interest; and,
- k. Court costs.

549. In accord with Texas Rule of Civil Procedure 47, Plaintiffs allege that this is a claim for monetary relief in a sum over \$1,000,000.00, and a demand for judgment for all other relief to which Plaintiffs may show themselves to be entitled, including but not limited to damages of any kind, penalties, costs, expenses, and pre-judgment interest.

550. By reason of the above and foregoing, Plaintiffs would show that they have been damaged in a sum within the jurisdictional limits of the Court.

VII.
GROSS NEGLIGENCE AND EXEMPLARY DAMAGES

551. Plaintiffs adopt by reference each and every preceding paragraph of this petition.

552. The conduct of Defendants, acting by or through their agents or employees, was not only negligence but gross negligence as those terms are defined by Texas law. The Defendants' acts or omissions described above, when viewed from the standpoint of the Defendants at the time of the act or omission, involved an extreme degree of risk, considering the

probability and magnitude of the potential harm to Plaintiffs and to others. Defendants had actual, subjective awareness of the risk involved in the above described acts or omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiffs and others. Based on the facts stated herein, Plaintiffs request exemplary damages be awarded to Plaintiffs from Defendants, jointly and severally.

VIII.
PRE- AND POST-JUDGMENT INTEREST

553. Plaintiffs assert a claim for pre-judgment and post-judgment interest on all applicable elements of damages.

IX.
CONDITIONS PRECEDENT

554. All conditions precedent to Plaintiffs' right to recover herein and to Defendants' liability have been performed or have occurred.

X.
REQUEST FOR DISCLOSURE

555. Pursuant to Rule 194, Plaintiffs hereby request Defendants to disclose, within fifty days (50) of service of this request, the information or material described in Rule 194.2.

XI.
JURY DEMAND

556. Plaintiffs hereby demand a trial by jury and have paid the appropriate fee.

XII.
JURY DEMAND

WHEREFORE PREMISES CONSIDERED, Plaintiffs' respectfully request that each Defendant each be cited to appear and answer, and that on final trial, Plaintiffs' have and recover from the Defendants, jointly, severally, singularly and/or together in any combination, the

following:

- a. judgment against Defendants for actual damages in an amount within the jurisdictional limits of the Court;
- b. judgment against Defendants for exemplary damages in an amount within the jurisdictional limits of the Court;
- c. pre-judgment interest as provided by law;
- d. post judgment interest as provided by law;
- e. costs of suit; and,
- f. such other and further relief to which Plaintiffs may show themselves to be justly entitled.

Respectfully Submitted,

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