

IN THE CIRCUIT COURT OF CLINTON COUNTY  
FORTY THIRD JUDICIAL CIRCUIT  
STATE OF MISSOURI

FILED  
JUN 8 - 2009

MOLLY LIVINGSTON  
Clerk of Clinton Co. Circuit Court

PAULA BICKET,

Plaintiff,

v.

ETEROUTREMER S.A.

Belgium

By Special Process Server:

APS INTERNATIONAL

and

MIDWEST HANGER CO.

SERVE REGISTERED AGENT:

By Special Process Server:

Timothy O. Kristl

1220 Washington

Kansas City, Missouri 64105-1444

and

ROCKWOOL INDUSTRIES, INC.

SERVE AT:

By Special Process Server

Registered Agent:

The Corporation Trust Company

Corporation Trust Company

1209 Orange Street

Wilmington, Delaware 19801

and

THE SUSQUEHANNA CORPORATION

SERVE AT:

By Special Process Server

Registered Agent:

The Corporation Trust Company

Corporation Trust Company

1209 Orange Street

Wilmington, Delaware 19801

Case No. 09CN-CV00457

and )

**SEEI HOLDINGS, INC.** )

**SERVE AT:** )  
**By Special Process Server** )  
**Registered Agent:** )  
**The Corporation Trust Company** )  
**Corporation Trust Center** )  
**1209 Orange Street** )  
**Wilmington, Delaware 19801** )

and )

**PRIME TANNING CORP.** )

**SERVE AT:** )  
**By Special Process Server** )  
**CSC Lawyers Inc. Svc. Co.** )  
**221 Bolivar Street** )  
**Jefferson City, MO 65101** )

and )

**PRIME TANNING CO., INC.** )

**SERVE AT:** )  
**By Special Process Server** )  
**Robert Moore, Jr., President** )  
**20 Sullivan Street** )  
**Berwick, ME 03901** )

and )

**NATIONAL BEEF LEATHERS CO., LLC** )

**SERVE AT:** )  
**CT CORPORATION SYSTEM** )  
**120 South Central Avenue** )  
**Clayton, MO 63105** )

and )

**RICK REAM** )

**SERVE AT:** )  
**4914 Briarwood Lane** )  
**St. Joseph, MO 64506** )

and )

VARIOUS OTHER )  
JOHN DOE DEFENDANTS )  
 )  
Defendants. )

**PLAINTIFF'S FIRST AMENDED PETITION FOR DAMAGES**

COMES NOW Plaintiff Paula Bicket, by and through undersigned counsel, and for his cause of action against the Defendants alleges and states as follows:

**THE PARTIES**

1. At all relevant times hereto, Plaintiff, Paula Bicket, is a resident of Overland Park, Johnson County, Kansas.
2. Plaintiff is the daughter of decedent and Class I representative of Mary Doyle who died on June 10, 2006, due to small cell carcinoma of the lung.
3. Decedent, Mary Doyle, was a resident of Kingston, Caldwell County, Missouri prior to her death and at all times relevant hereto and at all times relevant hereto.
4. Upon information and belief, Defendant Eteroutremer S.A. was at all times relevant hereto a major and/or the sole owner of the Susquehanna Corporation and is thereby liable for the acts and omissions of its subsidiary(ies). Defendant Eteroutremer S.A. is a Belgian corporation and service may be obtained through Special Process Server APS International Ltd.
5. Defendant Rockwool Industries, Inc. was, among other things, a manufacturer of mineral fiber insulation. At all relevant times hereto, upon information and belief Defendant Rockwool Industries, Inc. was a foreign corporation with its principal place of business in Missouri and was a wholly owned subsidiary of Defendant Susquehanna. Defendant Rockwool Industries, Inc. was dissolved as a corporate entity on July 29, 1991.

6. Defendant Susquehanna Corporation ("Susquehanna") is and at all times relevant herein was a foreign corporation with its principal place of business in Englewood, Colorado. At times relevant hereto, Defendant Susquehanna owned, operated, managed and used the Rockwool Industries, Inc. facility located at 7426 N.E. 352<sup>nd</sup> Street, Cameron, Missouri and assumed the assets and liabilities of its predecessors arising out of the operation of the Rockwool Operation.

7. Defendant SEEI Holdings, Inc. is a corporation incorporated under the laws of the State of Delaware with its principal place of business in Delaware. Upon information and belief, SEEI Holdings, Inc. merged with the The Susquehanna Corporation in February 18, 1988, thereby assuming the debts, commitments, and liabilities of The Susquehanna Corporation and its subsidiaries. Upon information and belief, SEEI Holdings, Inc. was not qualified to do business in the state of Missouri, but is subject to the jurisdiction of this Court pursuant to R.S.Mo. Sections 506.500 and 506.510 because it transacts business in this state, has committed tortious acts in this state, regularly conducts or solicits business in this state and/or derives revenue from goods used and/or consumed and/or services rendered in this state.

8. Defendant Midwest Hangar Company is and at all times relevant hereto was a Missouri corporation with its principal place of business in Kansas City, Missouri.

9. Upon information and belief, Defendant Prime Tanning Corporation is a Missouri Corporation with its principal place of business in St. Joseph, Buchanan County, Missouri. It owned and operated a leather tanning facility in St. Joseph, Missouri until 2009.

10. Defendant Prime Tanning Co., Inc. is a Maine corporation and maintains its principal place of business in Berwick, Maine. At all times relevant hereto, Defendant Prime

Tanning Co., Inc. was the sole owner of Defendant Prime Tanning Corporation and is thereby liable for the acts and omissions of its wholly owned subsidiary.

11. Upon information and belief, Defendant National Beef Leathers, LLC is a Delaware corporation and maintains its principal place of business in St. Joseph, Missouri. Defendant National Beef purchased the assets and liabilities of Defendant Prime Tanning Corporation, including the St. Joseph tanning facility, in 2009, and is therefore the legal successor in interest with regard to the St. Joseph tanning operations.

12. Upon information and belief, Defendant Rick Ream is a resident of St. Joseph, Buchanan County, Missouri, and an agent and/or employee of Defendant Prime Tanning Corporation and was responsible for the land application activities which included transporting hexavalent chromium containing sludge and spreading it on Missouri farms.

13. Defendants Eteroutremer S.A., Midwest Hanger Co., Rockwool Industries, Inc., The Susquehanna Corporation and SEEI Holdings are hereinafter referred to as "Rockwool Defendants."

14. Defendants Prime Tanning Corp., Prime Tanning Co., Inc., National Beef Leathers Co., LLC and Rick Ream are hereinafter referred to as "Prime Defendants."

15. Upon information and belief, there are many other John Doe Defendants, both individual and corporate, the names of which are unknown at this time, but will be ascertainable through the discovery process, who are citizens and residents of the State of Missouri and/or conducting business in the state of Missouri, and were at all times relevant hereto acting in their capacities as corporate owners, parent companies, subsidiaries, operators, directors, officers, agents, and/or employees of the listed Defendants and/or responsible parties.

16. All of the acts and/or omissions of the Defendants which caused harm to the Plaintiff and Decedent occurred within the State of Missouri.

### JURISDICTION AND VENUE

17. The acts and/or omissions that are the subject of this action occurred within the state of Missouri and were conducted by Defendants and employees, officers and/or agents of the corporate Defendants, all acting within the course and scope of their agency and employment in this State and/or in conspiracy with each other and the companies they worked for. Furthermore, decedent was exposed to hazardous chemicals by Defendants in Clinton County, Missouri. Jurisdiction and venue are proper in this court pursuant to R.S.Mo. § 508.010 (1994).

### GENERAL ALLEGATIONS AS TO ROCKWOOL DEFENDANTS

18. The "Rockwool Operation" located in Cameron, Missouri consisted of a primary mineral fiber insulation manufacturing plant, loading and unloading facilities, dump sites and waste piles, related real property and other related operations and facilities located at and around 7426 N.E. 352<sup>nd</sup> Street, three miles west of the City of Cameron in Clinton County, Missouri. Upon information and belief, the Rockwool Operation utilized and/or owned other nearby dumpsites, which are possibly in DeKalb County. The forgoing shall sometimes hereinafter be collectively referred to as "The Rockwool Operation". The Rockwool Operation and property consists of approximately 20 acres and is west of and near to the residential neighborhoods and schools of the City of Cameron.

19. During the course of their operation, and at all times relevant hereto, Defendants released from and/or allowed to be released from the Rockwool Operation dangerous and toxic chemicals to the areas surrounding the Rockwool Operation in Clinton and DeKalb

counties and likely beyond. Toxic releases included metals and other substances, including but not limited to lead and arsenic, that were negligently, carelessly, recklessly and at times suddenly released, resulting in exposure to Decedent Mary Doyle. The areas where toxic and dangerous chemicals travelled to or affected shall hereinafter be referred to as the "Impacted Area" and is limited to property within the State of Missouri. The Impacted Area includes the property where Decedent has in the past resided. At no time have the defendants taken any steps to remediate the Impacted Area or the damages caused.

20. Throughout the period from 1974 to 1982, Rockwool Industries, Inc. and/or its agents released and/or dumped toxic substances into and around the environment in the Impacted Area, which includes the properties where Decedent has in the past resided, use and visit. In 1989 the Environment Protection Agency ("EPA") began to receive anonymous complaints concerning truckloads of hazardous waste buried on the Rockwool site and nearby quarry. The EPA conducted a Preliminary Assessment in February and September of 1990 and April of 1991. The report of this investigation identified some environmental problems including the disposal of waste slag, spent batteries and other waste on the Rockwool site, as well as an underground storage tank which did not meet state requirements.

21. From approximately 1992 until 2003, after the site was abandoned by Rockwool Industries, Inc., the City of Cameron took over ownership and control of the Rockwool Operation and leased the facility and surrounding property to Midwest Hanger Company, a manufacturer of clothing hangers.

22. Upon information and belief, the population of citizens who reside in the area surrounding and in the vicinity of the Rockwool Operation have and continue to experience a disproportionately high number of illnesses, including but not limited to, brain and other

tumors (both malignant and benign), and other neurological changes, illnesses and effects due to the contamination of their properties and surrounding area, including death.

23. In the spring and early summer of 2008, the Missouri Department of Natural Resources, in conjunction with the Environmental Protection Agency (EPA) and Missouri Department of Health, began an investigation into the possible environmental causes of this extremely high volume of illness injuries and deaths.

24. Although the investigation is still ongoing, results from sampling and testing done by these agencies on and around the Rockwool Operation located at 7426 N.E. 352<sup>nd</sup> Street, Cameron, Missouri, have indicated elevated levels of lead and arsenic in certain locations and the possibility of the presence of other toxic and dangerous pollutants. The investigation has also revealed illegally buried insulation and/or other materials upon the Rockwool Operation property. Further investigation is pending and further sampling and testing will be conducted.

25. Upon information and belief, the pollution and damage to the Impacted Area, and the disproportionately high number of illnesses, including but not limited to brain and other tumors (both malignant and benign), neurological changes, illnesses and other ill effects suffered by the residents and citizens of Cameron, Missouri and the Impacted Area have been directly and proximately caused by the acts and omissions of each and every defendant singularly and in concert with the other.

26. Defendant Eteroutremer S.A, through its subsidiary companies, the Susquehanna Corporation and Rockwool Industries, Inc., caused toxic substances, including but not limited to lead, arsenic and other dangerous metals to be released in and around the

Rockwool Operation to the Impacted Area during the time of operation and continuously thereafter. Nothing has been done to remediate the damaging effects.

27. Defendant Susquehanna Corporation, through its subsidiary company, Rockwool Industries, Inc. caused toxic substances, including but not limited to lead, arsenic and other dangerous metals to be released in and around the Rockwool Operation to the Impacted Area during the time of operation and continuously thereafter. Nothing has been done to remediate the damaging effects.

28. Defendant Rockwool Industries, Inc. caused toxic substances, including but not limited to lead, arsenic and other dangerous metals to be released in and around the Rockwool Operation to the Impacted Area during the time of operation and continuously thereafter. Nothing has been done to remediate the damaging effects.

29. Defendant Midwest Hanger Company operated a manufacturing plant on the site of the Rockwool Operation from 1992 until 2003. At all times during their operation at the Rockwool Operation and continuously thereafter, Defendant Midwest Hanger Company knew or should have known of the dangers presented by environmental conditions present at the site and the Impacted Area. Again, nothing was done to remediate the damaging effects.

30. Each of the corporate Defendants owned, operated and/or made use of the Rockwool Operation and/or property for monetary gain. As owners, operators and/or partners in Rockwool Industries, Inc. and or the site known as Rockwool Operation, each corporate Defendant is jointly and severally liable for the activities and conditions which caused the extremely high levels of lead and arsenic and the possibility of other toxic and dangerous pollutants occurring at the Rockwool Operation and property and/or for the release of toxic materials and failing to properly and safely eliminate the presence of toxic chemicals upon their

property and the Impacted Area. The objectives of the conspiracy included the failure to adequately control the emissions from the Rockwool Operation that Defendants knew were being deposited in the Impacted Area identified above, the failure to implement adequate pollution controls and/or the failure to implement cleanup efforts at the Rockwool Operation because of the cost and reduction of profits, bonuses and the value of wages, stock and/or stock options of Rockwool as well as the corporate Defendants.

31. At all times relevant hereto, Defendants were acting by and through their partners, subsidiaries, agents, servants, employees who were acting within the scope of their partnership, agency, or employment and in conspiracy with each other.

32. As a direct and proximate result of the releases from the Rockwool Operation and property, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

#### GENERAL ALLEGATIONS AS TO PRIME DEFENDANTS

33. From 1983 to 2009, Defendant Prime Tanning Corporation operations included using hexavalent chromium to remove hair from the animal hides in the tanning process. The waste product from this process was collected as sludge and this sludge contains hexavalent chromium.

34. Hexavalent chromium is toxic and classified as a known human cancer causing agent.

35. Defendant National Beef has continued the process of using hexavalent chromium to remove hair from the hides and the sludge waste product contains hexavalent chromium.

36. Defendant Prime Tanning Corporation misrepresented to the State of Missouri that this sludge did not contain hexavalent chromium, when in fact the sludge did contain the toxic chemical.

37. Prime Tanning Corporation hauled thousands of tons of the hexavalent chromium containing sludge to farms in Clinton, Buchanan, Andrew and DeKalb counties, and applied thousands of tons of the hexavalent chromium containing sludge to such farms with a spreader. The sludge was applied for free so Prime Tanning Corporation could avoid costs of landfilling the sludge.

38. The hexavalent chromium containing sludge applied to the Missouri farms contained hazardous levels of the chemical that were above acceptable levels of human exposure.

39. Upon information and belief, the pollution and damage to the property in and around the Impacted Area, and the disproportionately high number of illnesses, including but not limited to brain and other tumors (both malignant and benign), neurological changes, illnesses and other ill effects suffered by the residents and citizens of Cameron, Missouri and the Impacted Area have been directly and proximately caused by the acts and omissions of each and every defendant singularly and in concert with the other.

40. Each of the corporate Defendants owned, operated and/or made use of the Prime Tanning Corporation and/or property for monetary gain. As owners, operators and/or partners in Prime Tanning Corporation, each corporate Defendant is jointly and severally liable for the activities and conditions which caused the high levels hexavalent chromium and/or for the release and application of toxic materials on the Missouri farms.

41. At all times relevant hereto, Defendants were acting by and through their partners, subsidiaries, agents, servants, employees who were acting within the scope of their partnership, agency, or employment and in conspiracy with each other.

42. As a direct and proximate result of the transportation, release and spreading of this sludge, Plaintiff and Decedent, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

**ALL APPLICABLE STATUTES OF LIMITATIONS**  
**HAVE BEEN TOLLED AGAINST ALL DEFENDANTS**

43. All applicable statutes of limitations have been tolled by Defendants' knowing and active concealment and denial of the facts alleged herein. Plaintiff and Decedent were denied information and kept ignorant of vital information essential to the pursuit of these claims, without any fault or lack of diligence on their part. Plaintiff and Decedent could not reasonably have known the high levels of toxic contaminants and their potential adverse effects until recent studies and facts were discovered and made known.

44. The defendants have a continuing duty to disclose the true character, quality, and nature of the contamination to Plaintiff. Because of their concealment of the true character, quality, and nature of the contamination, Defendants are equitably and legally estopped from asserting any statutes of limitations defenses against Plaintiff or Decedent.

45. The defendants have a continuing duty to disclose the true character, quality, and nature of the contamination to Plaintiff. Because of their concealment of the true character, quality, and nature of the contamination, Plaintiff and Decedent could not have have

reasonably discovered the cause of the alleged illness, determined that there was a cause of action or ascertained damages.

**COUNT I AS TO ROCKWOOL DEFENDANTS**  
**(Wrongful Death)**

46. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 45 of Plaintiff's Petition for Damages as if fully set forth herein.

47. The handling and processing of metals and other toxic substances at the Rockwool Operation and subsequent release thereof, for which Defendants are jointly and severally liable, constituted and continues to constitute an abnormally dangerous activity or ultra hazardous activity, because such activities create a high risk of significant harm.

48. The Defendants are strictly liable to Plaintiff for the wrongful death of Mary Doyle as a result of the release of metals and/or other toxic substances from the Rockwool Operation.

49. The collection, handling, and processing of metals and other toxic substances at the Rockwool Operation has directly and proximately caused release of such substances in and to the Impacted Area identified above including onto properties wherein the Decedent resided.

50. Defendants owed a duty to the Decedent, Mary Doyle, to control and contain the lead, arsenic and other toxic substances generated at the Rockwool Operation, and to warn Decedent of their release.

51. Defendants owned, managed, operated and/or used the Rockwool Operation, or the Rockwell Operation Property, and/or acted in conspiracy with each other and unnamed co-conspirators and continue to do so in a way that negligently, carelessly and recklessly generated, handled, stored, treated, disposed of, and failed to control and contain the

lead, arsenic and other toxic substances generated at the Rockwool Operation, resulting in the release of metals and other toxic substances, and resulting in exposure to Decedent and the Impacted Area. Defendants further negligently, carelessly and recklessly failed to warn and continue to fail to warn the Decedent of the release of the metals and other toxic substances into the Impacted Area identified above and of the reasonable foreseeable effects of such releases.

52. Defendants' generation, use, handling, storage, treatment and disposal of lead, arsenic and other toxic substances at the Rockwool Operation, property and related operations and facilities, and their failure to control and contain the same within the confines of Rockwool Operation, property, and related operations and facilities, constituted negligence.

53. As a direct and proximate result of the releases from the Rockwool Operation and property, Plaintiff and Decedent, Mary Doyle, suffered damages, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

54. The actions of Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT II AS TO ROCKWOOL DEFENDANTS**  
**(Strict Liability)**

55. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 54 of Plaintiff's Petition for Damages as if fully set forth herein.

56. The handling and processing of metals and other toxic substances at the Rockwool Operation and subsequent release thereof, for which Defendants are jointly and severally liable, constituted and continues to constitute an abnormally dangerous activity or ultra hazardous activity, because such activities create a high risk of significant harm.

57. The collection, handling, and processing of metals and other toxic substances at the Rockwool Operation has directly and proximately caused release of such substances in and to the Impacted Area identified above including onto properties in which the Decedent resided.

58. As a direct and proximate result of the releases from the Rockwool Operation and property, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, lung cancer, pain and suffering and death.

59. The actions of Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating circumstances damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT III AS TO ROCKWOOL DEFENDANTS**  
**(Negligence)**

60. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 59 of Plaintiff's Petition for Damages as if fully set forth herein.

61. Defendants owed a duty to Decedent to control and contain the lead, arsenic and other toxic substances generated at the Rockwool Operation, and to warn her of their release.

62. Defendants owned, managed, operated and/or used the Rockwool Operation, or the Rockwell Operation Property, and/or acted in conspiracy with each other and unnamed co-conspirators and continue to do so in a way that negligently, carelessly and recklessly generated, handled, stored, treated, disposed of, and failed to control and contain the lead, arsenic and other toxic substances generated at the Rockwool Operation, resulting in the release of metals and other toxic substances, and resulting in exposure to Decedent and the Impacted Area. Defendants further negligently, carelessly and recklessly failed to warn Decedent of the release of the metals and other toxic substances into the Impacted Area identified above and of the reasonable foreseeable effects of such releases.

63. Defendants' generation, use, handling, storage, treatment and disposal of lead, arsenic and other toxic substances at the Rockwool Operation, property and related operations and facilities, and their failure to control and contain the same within the confines of Rockwool Operation, property, and related operations and facilities, constituted negligence.

64. Defendants and their predecessors knew or should have known that the generation, handling, storage, treatment and disposal of the described metals and toxic substances produced by the Rockwool Operation and property were the proximate cause of damage to Plaintiff and Decedent.

65. As the direct and proximate result of the above negligence and fault, for which Defendants are jointly and severally liable, Plaintiff and Decedent, Mary Doyle, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

66. The actions of the Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT VI AS TO ROCKWOOL DEFENDANTS**  
**(Negligence per se)**

67. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 66 of Plaintiff's Petition for Damages as if fully set forth herein.

68. Defendants violated state law in their illegal management and mismanagement of hazardous materials, specifically but not limited to Mo. Rev. Stat. 260.394, 260.420 and 260.424.

69. Defendants owned, managed, operated and/or used the Rockwool Operation, or the Rockwell Operation Property, and/or acted in conspiracy with each other and unnamed co-conspirators and continue to do so in a way that negligently, carelessly and recklessly generated, handled, stored, treated, disposed of, and failed to control and contain the lead, arsenic and other toxic substances generated at the Rockwool Operation, resulting in the

release of metals and other toxic substances, and resulting in exposure to Decedent, Mary Doyle, and the Impacted Area. Defendants further negligently, carelessly and recklessly failed to warn and continue to fail to warn the Decedent, of the release of the metals and other toxic substances into the Impacted Area identified above and of the reasonable foreseeable effects of such releases.

70. Defendants' generation, use, handling, storage, treatment and disposal of lead, arsenic and other toxic substances at the Rockwool Operation, property and related operations and facilities, and their failure to control and contain the same within the confines of Rockwool Operation, property, and related operations and facilities, constituted numerous and repeated violations of environmental statutes and regulations, including but no limited to, RSMo. §§ 260.380 and 260.530, and other state regulations which govern the generation, handling, treatment and/or storage of hazardous substances and chemicals. Accordingly, Defendants and their predecessors and successors have been negligent as a matter of law.

71. As the direct and proximate result of the above negligence and fault, for which Defendants are jointly and severally liable, Plaintiff and Decedent, Mary Doyle, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

72. The actions of the Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating

circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT V AS TO PRIME DEFENDANTS**  
**(Wrongful Death)**

73. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 72 of Plaintiff's Petition for Damages as if fully set forth herein.

74. The transportation, distribution, and application of hexavalent chromium containing sludge to Missouri farms, for which Defendants are jointly and severally liable, constituted and continues to constitute an abnormally dangerous activity or ultra hazardous activity, because such activities create a high risk of significant harm.

75. The Defendants are strictly liable to Plaintiff for the death of her mother and for all damages she sustained or will sustain as a result of the release of the toxic substances from the transportation, distribution and application of the sludge.

76. The transportation, distribution and application of hexavalent chromium containing sludge has directly and proximately caused release of such substances from the Prime Operations.

77. As a direct and proximate result of the transportation, distribution and application of hexavalent chromium containing sludge, for which Defendants are jointly and severally liable, Plaintiff and Decedent, Mary Doyle, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

78. The actions of Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiffs, entitling Plaintiffs to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT VI AS TO PRIME DEFENDANTS**  
**(Strict Liability)**

79. Plaintiff hereby incorporates by reference the allegations contained in Paragraphs 1 through 78 of Plaintiff's Petition for Damages as if fully set forth herein.

80. The handling and processing of metals and other toxic substances at the Prime Operation and subsequent release thereof, for which Defendants are jointly and severally liable, constituted and continues to constitute an abnormally dangerous activity or ultra hazardous activity, because such activities create a high risk of significant harm.

81. The collection, handling, and processing of metals and other toxic substances at the Prime Operation has directly and proximately caused release of such substances in and to the Impacted Area identified above including onto properties in which the Decedent resided.

82. As a direct and proximate result of the releases from the Prime Operation and property, for which Defendants are jointly and severally liable, Plaintiff and Decedent, Mary Doyle, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

83. The actions of Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT VII AS TO PRIME DEFENDANTS**  
**(Negligence)**

84. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 83 of Plaintiff's Petition for Damages as if fully set forth herein.

85. Defendants owed a duty to the Plaintiff and Decedent to control and contain the hexavalent chromium containing sludge and to warn Decedent.

86. Defendants owned, managed, operated and/or used the Prime Tanning Facility, and/or acted in conspiracy with each other and unnamed co-conspirators and continue to do so in a way that negligently, carelessly and recklessly transportation, distribution and application of hexavalent chromium containing sludge, resulting in the release of hexavalent chromium, and resulting in exposure to Decedent, Mary Doyle. Defendants further negligently, carelessly and recklessly failed to warn the Decedent of the release of hexavalent chromium and other toxic substances and of the reasonable foreseeable effects of such releases.

87. Defendants' generation, use, transportation, distribution and application of hexavalent chromium containing sludge, property and related operations and facilities, and their failure to control and contain the same within the confines of the Prime Tanning Operation, property, and related operations and facilities, constituted negligence.

88. Defendants and their predecessors knew or should have known that the generation, transportation, distribution and application of hexavalent chromium containing

sludge produced by the Prime Tanning Operation and property were the proximate cause of damage to Decedent.

89. As the direct and proximate result of the above negligence and fault, for which Defendants are jointly and severally liable, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

90. The actions of the Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**COUNT VIII AS TO PRIME DEFENDANTS**  
**(Negligence per se)**

91. Plaintiffs hereby incorporate by reference the allegations contained in Paragraphs 1 through 90 of Plaintiff's Petition for Damages as if fully set forth herein.

92. Defendants violated state law in their illegal management and mismanagement of hazardous materials, specifically but not limited to Mo. Rev. Stat. 260.394, 260.420 and 260.424.

93. Defendants owned, managed, operated and/or used the Tanning Operation, and/or acted in conspiracy with each other and unnamed co-conspirators and continue to do so in a way that negligently, carelessly and recklessly generated, handled, stored, treated, disposed of,

and failed to control and contain the hexavalent chromium and other toxic substances generated at the Tanning Operation, resulting in the release of hexavalent chromium, and resulting in exposure to Decedent Mary Doyle. Defendants further negligently, carelessly and recklessly failed to warn Decedent of the release of the toxic substances into the Impacted Area identified above and of the reasonable foreseeable effects of such releases.

94. Defendants' generation, use, handling, transportation and application of hexavalent chromium and other toxic substances at the Tanning Operation, property and related operations and facilities, and their failure to control and contain the same within the confines of Tanning Operation, property, and related operations and facilities, constituted numerous and repeated violations of environmental statutes and regulations, including but not limited to, RSMo. §§ 260.380 and 260.530, and other state regulations which govern the generation, handling, treatment and/or storage of hazardous substances and chemicals. Accordingly, Defendants and their predecessors and successors have been negligent as a matter of law.

95. As the direct and proximate result of the above negligence and fault, for which Defendants are jointly and severally liable, Plaintiff and Decedent, Mary Doyle, suffered damages, injuries and losses, including, but not limited to, past medical bills and expenses, lung cancer, pain and suffering and death.

96. The actions of the Defendants were outrageous due to Defendants' evil motive or reckless indifference to the rights of Plaintiff, entitling Plaintiff and putative class members to an award of punitive damages.

**WHEREFORE**, Plaintiff prays for judgment against the Defendants, and each of them, jointly and severally, for an amount in excess of Twenty-five Thousand (\$25,000.00) dollars, that will fairly and justly compensate Plaintiff for punitive damages, aggravating

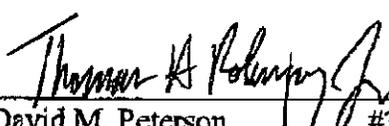
circumstances, damages, wrongful death and, for costs incurred herein, attorney's fees and costs and for such other and further relief as this Court deems just, proper and equitable.

**JURY DEMAND**

Plaintiff hereby demands a trial by jury in this case as to such issues so triable.

Respectfully submitted,

**PETERSON & ASSOCIATES, P.C.**



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