

STATE OF NEW YORK
SUPREME COURT COUNTY OF BROOME

EDWARD BLAINE, ROSALIE BLAINE, JACOB BLAINE, JUDITH BLAINE, DAVID BLAINE, LEO BLAINE, ANDREW BLAINE, MARY (BLAINE) JUDGE, DANIEL BLAINE, PAM BABUKA, MARK BACON, NICOLE BRINSKO, DR. ROBERT CARMAN, BERNADINE CARMAN, PATRICIA CARMAN, DR. MICHAEL CARMAN, individually, and as parent and natural guardian of ROSEWELL CARMAN and SAMUEL CARMAN, infants, MICHAEL T. CARMAN, ANTHONY DiLORENZO, JOSEPHINE DiLORENZO, JOHN DiLORENZO, TIAH EVERY, KEVIN EVERY, individually, and as parent and natural guardian of DERON EVERY, ARYN EVERY, KEVIN EVERY, JR., ARISSA EVERY, and JORDAN EVERY, infants; FIRST UNITED METHODIST CHURCH, ENDICOTT, NEW YORK, WAYNE FREDERICKSON, JUDITH GILKESON, FREDERICK GILKESON, JOSEPH HAVEL, BETTY HAVEL, KARA HAVEL, KRISTEN HAVEL, THOMAS H. IVORY, THOMAS P. IVORY, TIMOTHY IVORY, SHAWN IVORY and TAMI LYNN (IVORY) AZOURI, JEFFERSON AVENUE PROFESSIONAL BUILDING, LLC BERT KARLSON, II, MARILYN KARLSON, MICHAEL KARLSON, LORI MELIN as parent and natural guardian of PETER MELIN, an infant; KATHLEEN MRAS, GERALD MRAS, individually, and as parent and natural guardian of COLIN MRAS and KELSEY MRAS, infants; MILLICENT OBIALERO, JOYCE OBIALERO, MARK OBIALERO, GARY OBIALERO, JANET (OBIALERO) SHAWLEY, EMMANUEL ODOM, GRACE ODOM, JAMES ODOM, BERNADETTE PATRICK, KELAN PEDLEY, JOANNE RANDALL, JAMES RANDALL JESSICA RANDALL and KATHRYN RANDALL, CHARLEY ROSS, SHIRLEY ROSS, GARY ROUGHT, ROBEN ROUGHT, JORDEN ROUGHT, JOEL ROUGHT, HEATHER ROUGHT, KATELYN ROUGHT, ABRIELLA ROUGHT, LARRY SHERLING, ANTONIA SHERLING, JESSICA SHERLING, JILL (SHERLING) WORLEY, LARRY SHERLING, JR., JOHN SHERLING, DAMIAN SHERLING, CORY SHERLING, JAMIE (SHERLING) HOLLENBECK, RONALD SKOJEC, ROSE SKOJEC, MARK SKOJEC, MATTHEW SKOJEC, CHERYL (SKOJEC) TERPEK, CATHY (SKOJEC) LaFRESE, CAROL (SKOJEC) YOUNG, CHRISTINE SKOJEC, CINDY (SKOJEC) JOHNSON, PHILIP TOPP, and JUDITH TOPP,

Plaintiffs,

vs.

INTERNATIONAL BUSINESS MACHINES CORPORATION,

Defendant.

COMPLAINT

Index No.

Plaintiffs, by and through their attorneys, as and for their complaint against Defendant, allege as follows:

JURISDICTION

1. All of the Plaintiffs are residents of the County of Broome, New York, except that Pam Babuka currently resides in Tiago County, NY; Benjamin DiLorenzo currently resides in Erie County, NY; John DiLorenzo currently resides in Rockland County, NY; Thomas P. Ivory currently resides in Montgomery County, PA; Timothy Ivory currently resides in Saratoga County, NY; Tami Lynn (Ivory) Azouri currently resides in Bergen County, NJ; Lori Melin as Parent and Natural Guardian of Peter Melin, an Infant, currently resides in Contra Costa County, CA; Mark Obialero currently resides in Tompkins County, NY; Jill (Sherling) Worley currently resides in Wake County, NC; Damian Sherling currently resides in Marion County, IN; Cory Sherling currently resides in Wake County, NC; Jamie (Sherling) Hollenbeck currently resides in Dan County, WI; Mark Skojec currently resides in Monroe County, PA; Cheryl (Skojec) Terpek currently resides in Suffolk County, NY; Cathy (Skojec) LaFrese currently resides in Suffolk County, NY and Cindy (Skojec) Johnson currently resides in Stafford County, VA.
2. Plaintiff First United Methodist Church of Endicott, New York is an unincorporated religious association which owns property located at 53 McKinley Avenue, Endicott, New York.
3. Plaintiff Jefferson Ave. Professional Building, LLC, is a limited liability corporation organized and existing under the laws of the State of New York and owns the property located at 101 Jefferson Avenue, Endicott, New York.

4. Defendant International Business Machines Corporation (hereinafter referred to as “Defendant” or “IBM”) is and, at all times hereinafter mentioned, was a New York State corporation with offices and a principal place of business located at 1 New Orchard Road, Armonk, New York.

GENERAL FACTUAL ALLEGATIONS

5. Upon information and belief, at all times hereinafter mentioned, Defendant, or its predecessor, was the owner of certain real property and the buildings erected thereon located generally in an area bounded by Watson Boulevard on the north and North Street on the south in the Village of Endicott, Broome County, New York.
6. Upon information and belief, from approximately 1924 through 2002, and at all times hereinafter mentioned, Defendant, or its predecessor, owned and maintained the subject premises for the purpose, among other things, of operating a business machine manufacturing facility (hereinafter referred to as the “Endicott Plant”) located on such real property in the Village of Endicott. During that time, IBM designed, built and assembled at the Endicott Plant various business machine products, including, but not limited to, time recorders, typewriters, mainframe computers, and computer peripheral components, including printed circuit boards and integrated circuits.
7. Upon information and belief, during the time it conducted its various manufacturing processes at the Endicott Plant, Defendant utilized millions of gallons of various industrial chemicals, including Trichloroethylene (“TCE”), Tetrachloroethylene [also known as ethylene tetrachloride] (“PCE”),

Trichloroethane (“TCA”), Benzene, and Trichlorotrifluoroethane (“Freon 113”).

8. Upon information and belief, Defendant wrongfully, wantonly and recklessly, with conscious indifference and disregard to the health and safety of the residents of the Village of Endicott and the Town of Union, whose homes, businesses and churches surrounded the Endicott Plant, and of persons whose work brought them to be present at or near the Endicott Plant, poured, dumped, discharged, released, emitted, leaked or otherwise allowed the aforesaid industrial chemicals to enter the environment outside the Endicott Plant buildings and grounds, including the air, soils, and the groundwater located below and beneath the Endicott Plant.
9. The industrial chemicals which Defendant poured, dumped, discharged, released, emitted, leaked, or otherwise allowed to enter the environment outside the Endicott Plant, including the air, soils, and the groundwater located below and beneath the Endicott Plant, were contaminants and pollutants to the environment and constituted toxins to persons who became exposed to them through ingestion, inhalation, or dermal absorption.
10. As a result of such contaminant releases into the environmental media of air, soil and groundwater of the Village of Endicott and the Town of Union, and the streets and neighborhoods in which the Plaintiffs lived and worked, a plume of toxic chemicals formed and migrated through soils and groundwater from below and beneath the Endicott Plant in a westerly, southerly and easterly direction, eventually heading toward the Susquehanna River.

11. The contaminants volatilized from the underground plume of organic constituents and entered Endicott and Town of Union residential, commercial and church buildings located above the contaminated groundwater. Residents of, workers in, and visitors to such buildings located above the contaminated groundwater, including the Plaintiffs herein, thereupon ingested, inhaled and absorbed the aforesaid toxic vapors.
12. Defendant, a sophisticated scientific business entity whose business involved, in part, use of and knowledge about organic chemicals, knew or, in the exercise of reasonable care, should have known that the volatile organic chemicals that had wrongfully discharged into the air, soils and groundwater, and which had contaminated the groundwater beneath the Village of Endicott and the Town of Union, would remain volatile in the soil for substantial periods of time, exceeding decades, and would migrate, as vapors, into the homes, businesses, schools and churches located above the contaminated groundwater plume.
13. Defendant also released toxic volatile organic compounds from the manufacturing operations at the Endicott Plant into the ambient air surrounding the Endicott Plant, causing that air to become contaminated and toxic to humans. Defendant operated a substantial number of ventilators located on the roofs of its buildings at the Endicott Plant, the purpose of which was to evacuate organic solvent vapors and other toxic and hazardous vapors to the ambient air of Endicott, New York. The contaminated air expelled from IBM processes and buildings migrated above and within the properties of Plaintiffs whose homes, businesses and churches were located near the

Endicott Plant, resulting in Plaintiffs' exposure to toxic and hazardous substances.

14. As a result of Defendant releasing toxic environmental contaminants into the environment of the Village of Endicott and the Town of Union, and the neighborhoods in which the Plaintiffs have resided and worked and continue to reside and work, Plaintiffs and their minor children have suffered, incurred, and experienced damages, including but not limited to one or more of the following: (a) Plaintiffs have suffered, and anticipate continuing to suffer, severe and permanent physical, emotional and developmental injuries; (b) Plaintiffs have incurred, presently are incurring, and will continue to incur, past, present and future medical, hospital and other health care expenses; and (c) plaintiffs have experienced, are presently experiencing, and will continue to experience past, present and future loss of income, wages and employment benefits, diminished quality of life, limitations in their ability to enjoy life, as well as annoyance, disturbance, intrusion, harassment and inconvenience with respect to properties they lawfully occupied.
15. As a result of Defendant releasing toxic environmental contaminants into the environment of the Village of Endicott and the Town of Union, and the neighborhoods in which the Plaintiffs have resided and worked, Plaintiffs and their minor children have developed, and anticipate continuing to develop, physical, emotional and developmental injuries.
16. Consequently, in order to protect their future health and to maximize beneficial health outcomes as to themselves and their minor children, Plaintiffs will be required to incur medical monitoring and illness surveillance

expenses that would not have been necessary as part of their standard medical regime of preventive care, but for their exposure to the toxic and hazardous environmental contaminants released by the Defendant.

17. As a result of Defendant releasing toxic and hazardous environmental contaminants into the environment of the Village of Endicott and the Town of Union, and the neighborhoods in which the Plaintiffs have resided, each of those Plaintiffs who was or is an owner or lawful occupant of property contaminated or tainted by the aforesaid toxic and hazardous substances has suffered, and/or reasonably can be expected to suffer, damage to his or her property in the form of the following: (a) Interference with the right to occupy, possess and enjoy one's property; (b) Contamination of his or her property requiring remediation in an effort to restore the property to its prior, uncontaminated state, and/or (c) A reduction in the value of his or her property and/or business, as well as annoyance, disturbance, intrusion, harassment and inconvenience.
18. Defendant's release of toxic and hazardous environmental contaminants into the environment of the Village of Endicott and the Town of Union, and the neighborhoods in which the Plaintiffs have resided, worked, been educated and worshipped, was reckless, wanton and malicious, and in conscious, flagrant disregard and indifference for human life and the rights of Plaintiffs and their minor children to be secure in their persons and their property, in that Defendant, as a sophisticated scientific business entity and user of organic chemicals knew or, in the exercise of reasonable care, should have known that such toxic and hazardous environmental contaminants were harmful to

humans and that there was a substantial probability that such toxic and hazardous environmental contaminants would injure the persons and property of Plaintiffs and their minor children.

19. The toxic and hazardous environmental contaminants Defendant released into the environment of the Village of Endicott and the Town of Union, and the neighborhoods in which the Plaintiffs have resided, worked, been educated and worshipped, are “hazardous substances, pollutants or contaminants” as defined by the Comprehensive Environmental Response, Compensation & Liability Act, 42 USC §9601, *et seq.*
20. This complaint is filed on a timely basis in that technical, scientific and or medical knowledge and information sufficient to ascertain the cause of the injuries had not been discovered, identified or determined prior to the expiration of the period within which the action or claim would have been authorized.
21. The limitations of liability set forth in Article 16 of the New York Civil Practice Law and Rules do not apply to this action because of exemptions provided in Civil Practice Law and Rules §1602(5), (7) and (9).

PLAINTIFFS’ SPECIFIC FACTUAL ALLEGATIONS

22. Plaintiffs Edward Blaine and Rosalie Blaine are the owners of and reside in the premises located at 10 Jackson Avenue, and are the owners of property at 8 Jackson Avenue, both such properties being in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors, that migrated from the groundwater plume beneath or near it, which

plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the home thereon.

23. As a direct and proximate result of the contamination of such properties, Plaintiffs Edward Blaine and Rosalie Blaine have suffered property damages, including property devaluation, and Plaintiffs Edward Blaine, Rosalie Blaine, Judith Blaine, David Blaine, Andrew Blaine, Mary (Blaine) Judge and Daniel Blaine have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
24. Plaintiffs Edward Blaine, Rosalie Blaine, Jacob Blaine, and Judith Blaine resided at 419 Adams Avenue and were exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
25. As a direct and proximate result of the exposure to volatile organic compounds in their 419 Adams Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
26. Plaintiffs Edward Blaine, Rosalie Blaine, Jacob Blaine, Judith Blaine, David Blaine, Leo Blaine, Andrew Blaine, Mary (Blaine) Judge and Daniel Blaine resided at 10 Jackson Avenue and were exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

27. As a direct and proximate result of the exposure to volatile organic compounds in their 10 Jackson Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
28. In or about 2003, Defendant equipped the 419 Adams Avenue and 10 Jackson Avenue homes with vapor remediation systems in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Blaine home.
29. Plaintiff Pam Babuka operated a restaurant business located at 1412 North Street in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the structure thereon. As a direct and proximate result of the contamination of such property, Plaintiff Pam Babuka has suffered the loss of her business and loss of business profits.
30. Plaintiff Pam Babuka worked at 1412 North Street in the Village of Endicott, New York, and was exposed to the toxic and hazardous solvent vapors that migrated into the structure on such property from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
31. As a direct and proximate result of the exposure to volatile organic compounds at the 1412 North Street property, such Plaintiff has suffered an

increased risk of future illness and death thereby requiring her to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of her exposure.

32. In or about 2003, Defendant equipped the 1412 North Street structure with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the structure and vent those toxic fumes into the ambient atmosphere outside such property.
33. Plaintiff Mark Bacon is the owner of the premises located at 1412 North Street in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the structure thereon.
34. As a direct and proximate result of the contamination of his property, Plaintiff Mark Bacon has suffered property damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
35. Plaintiff Mark Bacon resided at the above address and was exposed to the toxic and hazardous solvent vapors that migrated into the structure from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
36. As a direct and proximate result of the exposure to volatile organic compounds in his 1412 North Street property, said Plaintiff has suffered an increased risk of future illness and death thereby requiring him to incur

expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of his exposure

37. Plaintiff Dr. Robert Carman resided from 1960 to 1979 at 2104 Richmond Road in the Village of Endicott. His house at that address was contaminated with toxic solvent vapors, that migrated into the home from a groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure to volatile organic compounds in his Richmond Road home and at his business address described in more detail below, Plaintiff Dr. Robert Carman developed kidney cancer.
38. Plaintiffs Bernadine Carman and Dr. Michael Carman, resided with Plaintiff Dr. Robert Carman at 2104 Richmond Road during the period from 1960 to 1979 and were similarly exposed to the toxic vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
39. As a direct and proximate result of the exposure to volatile organic compounds in their 2104 Richmond Road home, Plaintiffs Bernadine Carman, Dr. Robert Carman and Dr. Michael Carman were caused to suffer an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions they develop as a result of their vapor exposure.

40. Plaintiff Bernadine Carman was and is the lawful wife of Plaintiff Dr. Robert Carman. The two of them resided together, and continue to reside together, as husband and wife, with all of the legal and natural consequences attendant thereto. By reason of the negligence of the Defendant, Plaintiff Bernadine Carman has been caused to lose the comfort, companionship, society, services and consortium of her husband, Dr. Robert Carman.
41. Plaintiffs Patricia Carman and Dr. Michael Carman, with their children Rosewell Carman and Samuel Carman, infants, and Michael T. Carman resided from 1993 to 2005 at 2100 Riverview Drive in the Village of Endicott. Such house was contaminated with toxic solvent vapors that migrated into the home from a groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
42. As a direct and proximate result of the exposure to volatile organic compounds in their 2100 Riverview Drive home, these Plaintiffs were caused to suffer an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
43. Plaintiffs Patricia Carman and Dr. Michael Carman were the owners of the premises located at 2100 Riverview Drive in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or

near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

44. As a direct and proximate result of the contamination of said property, Plaintiffs Patricia and Dr. Michael Carman have suffered property damages, including property devaluation, and Plaintiffs Patricia Carman, Dr. Michael Carman, Rosewell Carman and Samuel Carman, infants, and Michael T. Carman have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
45. In or about 2003, Defendant equipped the homes at 2100 Riverview Drive and 2104 Richmond Road with vapor remediation systems in an effort to reduce the amount of toxic volatile organic compounds inside the homes and vent those toxic fumes into the ambient atmosphere outside the Carman homes.
46. Plaintiffs Dr. Robert Carman and Dr. Michael Carman, through their ownership of Jefferson Avenue Professional Building, LLC, own an office building at 101 Jefferson Avenue in the Village of Endicott, New York, wherein they also conduct the practice of dentistry under the business name of Carman Family Dentistry. Such property and the professional practice therein were contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near them, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the structure thereon.
47. As a direct and proximate result of the contamination of such property and practice, Plaintiffs Dr. Robert Carman and Dr. Michael Carman have suffered property damages, including property devaluation, and damages resulting

from annoyance, disturbance, intrusion, harassment and inconvenience, as well as a reduction of their business, the value thereof and loss of business profits.

48. Plaintiffs Dr. Robert Carman and Dr. Michael Carman worked at 101 Jefferson Avenue in the Village of Endicott, New York, and were exposed to the toxic and hazardous solvent vapors that migrated into the structure on such property from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
49. As a direct and proximate result of the exposure to volatile organic compounds at the 101 Jefferson Avenue property, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
50. Plaintiffs Anthony DiLorenzo and Josephine DiLorenzo are the owners of and reside in the premises located at 1803 Tracy Street in the Village of Endicott, New York. The home on such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the structure.
51. As a direct and proximate result of the contamination of such property, Plaintiffs Anthony DiLorenzo, Josephine DiLorenzo have suffered property

damages, including property devaluation, and have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

52. Plaintiffs Anthony DiLorenzo, Josephine DiLorenzo and John DiLorenzo resided at the above address and were similarly exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
53. As a direct and proximate result of the exposure to volatile organic compounds in their 1803 Tracy Street home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
54. In or about 2003, Defendant equipped the home at 1803 Tracy Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the DiLorenzo home.
55. Plaintiff Deron Every, an infant, was conceived by his parents, Plaintiffs Kevin Every and Tiah Every while they resided at 2005 Tracy Street, Apt. #2 in the Village of Endicott, New York and his mother lived in this home during her entire pregnancy. Such home was contaminated with toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure of Tiah Every to volatile organic compounds in her

2005 Tracy Street apartment, Plaintiff Deron Every was born with complex congenital heart defects.

56. Plaintiffs Kevin Every, Tiah Every, and their children, Aryn Every, Kevin Every, Jr., Arissa Every, Jordan Every and Deron Every, all infants, resided at the above address and were similarly exposed to the toxic solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

57. As a direct and proximate result of the exposure to volatile organic compounds in their 2005 Tracy Street apartment, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

58. As a direct and proximate result of the contamination of such property, Plaintiffs Kevin Every, Tiah Every, Aryn Every, Kevin Every, Jr., Arissa Every, Jordan Every and Deron Every have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

59. Plaintiff First United Methodist Church of Endicott, New York is an unincorporated religious association which owns property located at 53 McKinley Avenue, Endicott, New York which it operates as a place of worship for its congregation. Such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the structure.

60. As a direct and proximate result of the contamination of such property, Plaintiff First United Methodist Church of Endicott, New York has suffered property damages, including property devaluation, and its members have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
61. Plaintiff Wayne Frederickson is the owner of and resides in the premises located at 2108 Riverview Dr. in the Town of Union, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the home thereon.
62. As a direct and proximate result of the contamination of such property, Plaintiff Wayne Frederickson has suffered property damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
63. Plaintiff Wayne Frederickson from 1984 to 2002 resided at and is the current owner of 1704 East Main Street in the Village of Endicott, New York and was exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
64. As a direct and proximate result of the exposure to volatile organic compounds in his 1704 East Main Street home, such Plaintiff has suffered an increased risk of future illness and death thereby requiring him to incur

expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of his exposure.

65. As a direct and proximate result of the contamination of such property, Plaintiff Wayne Frederickson has suffered property damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
66. Plaintiff Wayne Frederickson from 2002 to the present resides at 2108 Riverview Dr. in the Town of Endwell, New York and was exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
67. As a direct and proximate result of the exposure to volatile organic compounds in his 2108 Riverview Dr. home, such Plaintiff has suffered an increased risk of future illness and death thereby requiring him to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of his exposure
68. In or about 2003, Defendant equipped the homes at 2108 Riverview Drive and 1704 East Main Street with vapor remediation systems in an effort to reduce the amount of toxic volatile organic compounds inside the homes and vent those toxic fumes into the ambient atmosphere outside the Frederickson homes.
69. Plaintiff Judith Gilkeson resided at 309 Adams Avenue in the Village of Endicott from approximately 1986 to approximately 1996. Such house was contaminated with toxic and hazardous solvent vapors that migrated into the

home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure to volatile organic compounds in her Adams Avenue home, Plaintiff Judith Gilkeson developed kidney cancer.

70. As a result of her exposure at 309 Adams Avenue, Plaintiff Judith Gilkeson has suffered an increased risk of future illness and death thereby requiring her to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of her exposure.

71. In or about 2003, Defendant equipped the home at 309 Adams Avenue with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Gilkeson home.

72. Plaintiff Frederick Gilkeson was and is the lawful husband of Plaintiff Judith Gilkeson. The two of them resided together and continue to reside together as husband and wife with all of the legal and natural consequences attendant thereto. By reason of the negligence of the Defendant, Plaintiff, Frederick Gilkeson has been caused to lose the comfort, companionship, society, services and consortium of his wife, Judith Gilkeson.

73. Plaintiffs Joseph Havel and Betty Havel, are the owners of the premises located at 19 Arthur Avenue in the Village of Endicott, New York. Such property was contaminated with toxic solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and

proximate result of Defendant's acts and omissions as alleged above, into the home thereon.

74. As a direct and proximate result of the contamination of this property, Plaintiffs Joseph Havel and Betty Havel have suffered property damages, including property devaluation, and Plaintiffs Joseph Havel, Betty Havel, Kara Havel and Kristen Havel have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
75. Plaintiffs Joseph Havel, Betty Havel, Kara Havel and Kristen Havel resided at the above address and were similarly exposed to the toxic solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
76. As a direct and proximate result of the exposure to volatile organic compounds in their 19 Arthur Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
77. In or about 2003, Defendant equipped the home at 19 Arthur Avenue with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Havel home.
78. Plaintiff Thomas H. Ivory resided at 104 Adams Avenue from 1962 to 1966, and thereafter at 1605 Tracy Street from 1966 to the present. Such houses were contaminated with toxic solvent vapors that migrated into the homes

from the groundwater plume beneath or near them that was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

79. As a direct and proximate result of the exposure to volatile organic compounds in his Adams Avenue and Tracy Street homes, Plaintiff Thomas H. Ivory developed non-Hodgkin's lymphoma.
80. As a direct and proximate result of the contamination of the 1605 Tracy Street property, Plaintiff Thomas H. Ivory has suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
81. Plaintiffs Thomas H. Ivory, Thomas P. Ivory, Timothy Ivory, Shawn Ivory and Tami Lynn (Ivory) Azouri, resided at one or both of the above addresses and were similarly exposed to the toxic solvent vapors that migrated into the homes from the groundwater plume beneath or near them that was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
82. Plaintiff Shawn Ivory is the owner of the premises located at 421 McKinley Avenue in the Village of Endicott, New York. Such property was contaminated with toxic solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the home thereon.
83. Plaintiff Shawn Ivory resided at the 421 McKinley Avenue and was exposed to the toxic solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

84. As a direct and proximate result of the exposure to volatile organic compounds in their Adams Avenue, Tracy Street and McKinley Avenue homes, Plaintiffs Thomas H. Ivory, Thomas P. Ivory, Timothy Ivory, Shawn Ivory and Tami Lynn (Ivory) Azouri have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
85. As a direct and proximate result of the contamination of the 421 McKinley Avenue property, Plaintiff Shawn Ivory has suffered property damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
86. In or about 2003, Defendant equipped the homes at 1605 Tracy Street, 104 Adams Avenue and 421 McKinley Avenue with vapor remediation systems in an effort to reduce the amount of toxic volatile organic compounds inside the homes and vent those toxic fumes into the ambient atmosphere outside the Ivory homes.
87. Plaintiffs Bert J. Karlson, II and Marilyn Karlson are the owners of and reside in the premises located at 420 McKinley Avenue in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the home thereon.
88. As a direct and proximate result of the contamination of such property, Plaintiffs Bert J. Karlson, II and Marilyn Karlson have suffered property

damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

89. Plaintiffs Bert J. Karlson, II, Marilyn Karlson and Michael Karlson resided at the above address and were exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

90. As a direct and proximate result of the exposure to volatile organic compounds in their 420 McKinley Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

91. In or about 2003, Defendant equipped the home at 420 McKinley Avenue with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Karlson home.

92. Plaintiff Peter Melin, was conceived by his parents while they resided at 2105 Tracy Street, in the Village of Endicott, New York, and one month later his parents bought and moved into a home at 2102 Tracy Street where his mother lived during the remainder of her pregnancy and where Peter Melin lived after his birth. Such homes were contaminated with toxic and hazardous solvent vapors that migrated into the homes from the groundwater plume beneath or near them that was created as a direct and proximate result of Defendant's acts

and omissions as alleged above. As a direct and proximate result of the exposure of Lori Melin and Peter Melin to volatile organic compounds in their 2105 and 2102 Tracy Street homes, Plaintiff Peter Melin suffered complex congenital heart defects and pervasive developmental disorder.

93. As a direct and proximate result of the exposure to volatile organic compounds at the 2105 and 2102 Tracy Street homes, such Plaintiff has suffered an increased risk of future illness and death thereby requiring him to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of his exposure.

94. Plaintiffs Gerald Mras and Kathleen Mras are the owners of and reside in the premises located at 407 Roosevelt Avenue in the Village of Endicott, New York. Such property was contaminated with toxic solvent vapors that migrated into the structure from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

95. As a direct and proximate result of the contamination of this property, Plaintiffs Gerald Mras and Kathleen Mras have suffered property damages, including property devaluation, and Plaintiffs Gerald Mras, Kathleen Mras and their infant children, Colin Mras and Kelsey Mras have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

96. Plaintiffs Gerald Mras, Kathleen Mras and their infant children, Colin Mras and Kelsey Mras, resided at the above address and were exposed to the toxic

and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

97. As a direct and proximate result of the exposure to volatile organic compounds in their 407 Roosevelt Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

98. In or about 2003, Defendant equipped the home at 407 Roosevelt Avenue with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Mrs home.

99. Plaintiffs Millicent Obialero and Joyce Obialero are the owners of and reside in the premises located at 2106 North Street in the Village of Endicott, New York. Such property was contaminated with toxic solvent vapors that migrated into the structure from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

100. As a direct and proximate result of the contamination of this property, Plaintiffs Millicent Obialero and Joyce Obialero have suffered property damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

101. Plaintiffs Millicent Obialero, Joyce Obialero, Mark Obialero, Gary Obialero and Janet (Obialero) Shawley resided at the above address and were

exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

102. As a direct and proximate result of the exposure to volatile organic compounds in their 2106 North Street home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
103. In or about 2003, Defendant equipped the home at 2106 North Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Obialero home.
104. Plaintiffs Emmanuel Odom and Grace Odom are the owners of and reside in the premises located at 1702 E. Main Street in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated into the structure from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
105. As a direct and proximate result of the contamination of such property, Plaintiffs Emmanuel Odom and Grace Odom have suffered property damages, including property devaluation, Plaintiffs Emmanuel Odom, Grace Odom and James Odom have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience and Plaintiff Grace Odom has

suffered a loss of business profits from her business operated out of such home.

106. Plaintiffs Emmanuel Odom, Grace Odom and James Odom resided at the above address and were exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

107. As a direct and proximate result of the exposure to volatile organic compounds in their 1702 E. Main Street home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

108. In or about 2003, Defendant equipped the home at 1702 E. Main Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Odom home.

109. Plaintiff Nicole Brinsko resided at 1808 Tracy Street in the Village of Endicott from the time of her birth in 1984 through 1988. Such home was contaminated with toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

110. As a direct and proximate result of the exposure to volatile organic compounds in her Tracy Street home, and her mother's exposure to such

compounds while said Plaintiff was *in utero*, Plaintiff Nicole Brinsko developed Hodgkin's lymphoma.

111. Plaintiff Bernadette Patrick is the mother of Plaintiff Nicole Brinsko, and resided at 1808 Tracy Street in the Village of Endicott from 1982 through 1988, including the time that she was pregnant with Plaintiff Nicole Brinsko.

112. As a direct and proximate result of the exposure to volatile organic compounds in their Tracy Street home, Plaintiffs Bernadette Patrick and Nicole Brinsko have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

113. In or about 2003, Defendant equipped the home at 1808 Tracy Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Patrick home.

114. Plaintiff Kelan Pedley resided at 1410 ½ Tracy Street in the Village of Endicott from approximately 1960 to 1980, and thereafter at 310 Jackson Avenue in the Village of Endicott from 1995 to 1998. Such houses were contaminated with toxic solvent vapors that migrated into the homes from the groundwater plume beneath or near them that was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure to volatile organic compounds in her Tracy Street and Jackson Avenue homes, Plaintiff Kelan Pedley developed kidney cancer.

115. As a direct and proximate result of the exposure to volatile organic compounds in her Tracy Street home, Plaintiff Kelan Pedley has suffered an increased risk of future illness and death thereby requiring her to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
116. In or about 2003, Defendant equipped homes in the vicinity of 1410 ½ Tracy Street and the home located at 310 Jackson Ave with a vapor remediation systems in an effort to reduce the amount of toxic volatile organic compounds inside the homes and to vent those toxic fumes into the ambient atmosphere outside the Pedley homes.
117. Plaintiff Jessica Randall was conceived by her parents, Plaintiffs James Randall and Joanne Randall, while they resided at 413 ½ Roosevelt Avenue, in the Village of Endicott, New York and her mother lived in this home during her entire pregnancy. Such home was contaminated with toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure of Plaintiff Joanne Randall to volatile organic compounds in her 413½ Roosevelt Avenue home, Plaintiff Jessica Randall was born with complex congenital heart defects.
118. Plaintiffs James Randall, Joanne Randall, Jessica Randall and Kathryn Randall resided at the above address and were similarly exposed to the toxic solvent vapors that migrated into the home from the groundwater plume

beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

119. Plaintiff Joanne Randall lived at 1803 Tracy Street, in the Village of Endicott, New York, from 1958-1982, and at 413 ½ Roosevelt Ave. in the village of Endicott, New York, from 1982-1985 prior to moving to 2104 Tracy Street. Plaintiff James Randall also resided at 412 ½ Roosevelt Ave. before moving to 2104 Tracy Street. As such these plaintiffs were exposed to the toxic solvent vapors that migrated into these homes from the groundwater plume beneath or near them, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

120. As a direct and proximate result of the exposure to volatile organic compounds in their 2104 Tracy Street home, and for plaintiff Joanne Randall, for the exposure to volatile organic compounds in her 1803 Tracy Street and 413 ½ Roosevelt Avenue homes, and for plaintiff James Randall for exposure at 413 ½ Roosevelt Avenue, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

121. Plaintiffs James Randall and Joanne Randall are the owners of the premises located at 2104 Tracy Street in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

122. As a direct and proximate result of the contamination of said property, Plaintiffs James Randall and Joanne Randall have suffered property damages, including property devaluation, and Plaintiffs James Randall, Joanne Randall, Jessica Randall and Kathryn Randall have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
123. In or about 2003, Defendant equipped the homes at 2104 Tracy Street, 1803 Tracy Street and 413 ½ Roosevelt Ave. with vapor remediation systems in an effort to reduce the amount of toxic volatile organic compounds inside the homes and vent those toxic fumes into the ambient atmosphere outside the Randall homes.
124. Plaintiffs Charley Ross and Shirley Ross are the owners of and reside in the premises located at 2111 Tracy Street in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, that was created as a direct and proximate result of Defendant's acts and omissions as alleged above, into the home thereon.
125. As a direct and proximate result of the contamination of this property, Plaintiffs Charley Ross and Shirley Ross have suffered property damages, including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
126. Plaintiffs Charley Ross and Shirley Ross resided at the above address and were similarly exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which

plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

127. As a direct and proximate result of the exposure to volatile organic compounds in their 19 Arthur Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

128. In or about 2003, Defendant equipped the home at 2111 Tracy Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Ross home.

129. Plaintiff Gary Rought resided at 1807 Tracy Street in the Village of Endicott, New York from 1991 through the present. Such home was contaminated with toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure to volatile organic compounds in his 1807 Tracy Street home, Plaintiff Gary Rought developed non-Hodgkin's lymphoma.

130. Plaintiff Roben Rought was and is the lawful wife of Plaintiff Gary Rought. The two of them resided together and continue to reside together as husband and wife, with all of the legal and natural consequences attendant thereto. By reason of the negligence of Defendant, Plaintiff Roben Rought

has been caused to lose the comfort, companionship, society, services and consortium of her husband, Gary Rought.

131. Plaintiffs Gary Rought, Roben Rought, Jordan Rought, Joel Rought, Heather Rought, Katelyn Rought and Abriella Rought resided at the above address for various periods of time and were similarly exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
132. As a direct and proximate result of the exposure to volatile organic compounds in their 1807 Tracy Street home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
133. As a direct and proximate result of the contamination of this property, Plaintiffs Gary Rought, Roben Rought, Jordan Rought, Joel Rought, Heather Rought, Katelyn Rought and Abriella Rought have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.
134. In or about 2003, Defendant equipped the home at 1807 Tracy Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Rought home.
135. Plaintiff Larry Sherling resided at 110 S. McKinley Avenue in Endicott, New York from 1987 to the present. Such home was contaminated with toxic solvent vapors that migrated into the home from the groundwater plume

beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate result of the exposure to volatile organic compounds in his S. McKinley Avenue home, Plaintiff Larry Sherling developed non-Hodgkin's lymphoma.

136. Plaintiff Antonia Sherling was and is the lawful wife of Plaintiff Larry Sherling. The two of them resided together, and continue to reside together, as husband and wife, with all of the legal and natural consequences attendant thereto. By reason of the negligence of the Defendant, Plaintiff, Antonia Sherling has been caused to lose the comfort, companionship, society, services and consortium of her husband, Larry Sherling.

137. Plaintiffs Larry Sherling and Antonia Sherling are the owners of the premises located at 110 S. McKinley Avenue in the Village of Endicott, New York. Such property was contaminated with toxic solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

138. As a direct and proximate result of the contamination of their property, Plaintiffs Larry Sherling and Antonia Sherling have suffered property damages, including property devaluation, and Plaintiffs Larry Sherling, Antonia Sherling, Jessica Sherling, Jill (Sherling) Worley, Larry Sherling, Jr., John Sherling, Damian Sherling, Jamie (Sherling) Hollenbeck and Cory Sherling have suffered damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

139. Plaintiffs Larry Sherling, Antonia Sherling, Jessica Sherling, Jill (Sherling) Worley, Larry Sherling, Jr., John Sherling, Damian Sherling, Jamie (Sherling) Hollenbeck and Cory Sherling resided at the above address for various periods of time and were similarly exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
140. As a direct and proximate result of the exposure to volatile organic compounds in their S. McKinley Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.
141. In or about 2003, Defendant equipped the home at 110 S. McKinley Avenue with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Sherling home.
142. Plaintiffs Ronald Skojec and Rose Skojec are the owners of and reside in the premises located at 1710 Tracy Street in the Village of Endicott, New York. Such property was contaminated with toxic and hazardous solvent vapors that migrated into the structure from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.
143. As a direct and proximate result of the contamination of such property, Plaintiffs Ronald Skojec and Rose Skojec have suffered property damages,

including property devaluation, and damages resulting from annoyance, disturbance, intrusion, harassment and inconvenience.

144. Plaintiffs Ronald Skojec, Rose Skojec, Mark Skojec, Matthew Skojec, Cheryl (Skojec) Terpek, Cathy (Skojec) Lafrese, Carol (Skojec) Young, Christine Skojec and Cindy (Skojec) Johnson resided at the above address and were exposed to the toxic and hazardous solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

145. As a direct and proximate result of the exposure to volatile organic compounds in their 1710 Tracy Street home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

146. In or about 2003, Defendant equipped the home at 1710 Tracy Street with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Skojec home.

147. Plaintiff Philip Topp resided from 1984 to 1994 at 309 Adams Avenue in the Village of Endicott, New York. Such house was contaminated with toxic and hazardous solvent vapors that migrated from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above. As a direct and proximate

result of the exposure to volatile organic compounds in his Adams Avenue home, Plaintiff Philip Topp developed sinus cancer.

148. Plaintiff Judith Topp was and is the lawful wife of Plaintiff Philip Topp.

The two of them resided together and continue to reside together as husband and wife, with all of the legal and natural consequences attendant to the aforesaid status. By reason of the negligence of the Defendant, Plaintiff, Judith Topp has been caused to lose the comfort, companionship, society, services and consortium of her husband, Philip Topp.

149. Plaintiffs Philip Topp and Judith Topp resided at the above address and were similarly exposed to the toxic solvent vapors that migrated into the home from the groundwater plume beneath or near it, which plume was created as a direct and proximate result of Defendant's acts and omissions as alleged above.

150. As a direct and proximate result of the exposure to volatile organic compounds in their 309 Adams Avenue home, such Plaintiffs have suffered an increased risk of future illness and death thereby requiring them to incur expenses for medical monitoring and surveillance to ensure early diagnosis and treatment of any conditions developed as a result of their exposure.

151. In or about 2003, Defendant equipped the home at 309 Adams Avenue with a vapor remediation system in an effort to reduce the amount of toxic volatile organic compounds inside the home and vent those toxic fumes into the ambient atmosphere outside the Topp home.

**FIRST CAUSE OF ACTION AGAINST DEFENDANT
(NEGLIGENCE AND RECKLESSNESS):**

152. Plaintiffs repeat and reallege each and every allegation previously set forth herein.
153. Defendant owed a duty to Plaintiffs and their infant children to use and exercise due care to avoid release of toxic and hazardous environmental contaminants into the environmental media of the Village of Endicott, the Town of Union and into the neighborhoods in which of Plaintiffs resided, and onto the properties and into the homes and businesses in which Plaintiffs and their minor children either lived or worked.
154. In disregard of its legal duties, Defendant negligently, wantonly and recklessly, with conscious indifference and disregard to human life and the rights and safety of the Plaintiffs and their minor children, released toxic and hazardous environmental contaminants into the air, soil and groundwater of the Village of Endicott, the Town of Union and the neighborhoods of Plaintiffs residences, places of business, places of learning and places of worship of the Plaintiffs and their minor children.
155. Defendant knew or should have known of the dangerous, hazardous and unsafe characteristics, properties and potentialities of the contaminants which Defendant released into the environment and the potential or likelihood that such volatile substances would migrate out of the contaminated groundwater and into the homes, businesses, places of learning and churches of Plaintiffs and their minor children.
156. As a direct and proximate result of Defendant's negligence, wantonness and recklessness, Plaintiffs and their infant children have suffered the

aforesaid personal injuries, medical monitoring damages and property damages and are entitled to recover for the same.

**AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANT
(PRIVATE NUISANCE):**

157. Plaintiffs repeat and reallege each and every allegation previously set forth herein.

158. Defendant negligently, wantonly, recklessly, intentionally, unreasonably, or through its participation in abnormally dangerous activities, released such toxic and hazardous environmental contaminants into the environment of the Village of Endicott, the Town of Union and onto the properties owned and/or occupied by Plaintiffs and their minor children.

159. Defendant's release of such toxic environmental contaminants has caused and will continue to cause an unreasonable and substantial interference with the property ownership rights of Plaintiffs rightful use and quiet enjoyment of, and ability to gain and profit economically from, their respective their properties.

160. As a direct and proximate result of Defendant's private nuisance created by Defendant's acts and omissions, Plaintiffs have suffered the aforesaid personal injuries, medical monitoring damages and property damages, as well as annoyance, disturbance, intrusion, harassment and inconvenience, and they are each entitled to recover their damages therefor.

**AS AND FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANT
(TRESPASS):**

161. Plaintiffs repeat and reallege each and every allegation previously set forth herein.

162. Defendant's release of toxic and hazardous environmental contaminants into the environment of the Village of Endicott and Town of Union, and onto the property of Plaintiffs, and into Plaintiffs' homes was an unlawful act or a lawful act performed in unlawful manner under the laws of the New York.

163. Defendant's actions have knowingly and intentionally intruded upon, invaded, violated and infringed upon the property rights of Plaintiffs and will have the effect of continued intrusion, invasion, violation and infringement upon Plaintiffs' property rights, including the right of quiet enjoyment of such property.

164. As a direct and proximate result of Defendant's trespass, Plaintiffs have suffered the aforesaid personal injuries, have incurred and will incur medical monitoring damages, and have experienced property damages including annoyance, disturbance, intrusion, harassment and inconvenience, for which Plaintiffs are entitled to recover their respective damages.

WHEREFORE, Plaintiffs, as applicable, demand judgment against Defendant for damages: for property devaluation and loss of business value and income, with interest thereon as allowed by law; for personal injuries, medical monitoring, nuisance and trespass in an amount that exceeds the jurisdiction limits of all lower courts which would otherwise have jurisdiction; for punitive damages as allowed by law; together with the costs and disbursements of this action, attorneys fees, and such other and further relief as the court deems just and proper.

Dated: January 3, 2008
Binghamton, New York

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