

Patrick & Mary Adamek  
241 S. 75th Street  
Milwaukee, WI 53214

Case No.:

David & Janice Anderson  
775 Church Street  
Edgerton, WI 53534

Case Code: 30107

Raymond Anderson  
N14440 Clearview Road  
Necedah, WI 54646

Amount Claimed is Greater  
than the Amount Under  
s. 799.01 (1) (d).

James & Lorinda Armbruster  
5024 County Line Road  
Nekoosa, WI 54457

James & Lorraine Bahr  
1391 Mayfield Road  
Hubertus, WI 53033

Terry Bellmer  
N15879 24th Avenue  
Nekoosa, WI 54457

Thomas Bellmer  
W6998 Subway Road  
Fond du Lac, WI 54937

David Biddick  
W74 N867 Poplar Street  
Cedarburg, WI 53012

Dean & Joan Bluske  
1 Riverplace Drive, Apt. 201  
La Crosse, WI 54601

Randall & Deb Bowden  
4309 State Highway 173  
Nekoosa, WI 54457

Dennis & Debra Boyle  
W4461 7th Street East  
Necedah, WI 54646

John & Susan Brown  
1355 Radcliffe Road  
Buffalo Grove, IL 60089

Donald & Janice Brown  
N16168 Deerfield Drive  
Nekoosa, WI 54457

Reggie Butterbrodt  
N16104 Deerfield Drive  
Nekoosa, WI 54457

Herbert & Marveen Carlson  
N16436 26th Avenue  
Nekoosa, WI 54457

Terrance & Annette Conery  
W3277 3rd Street East  
Nekoosa, WI 54457

Mark Diedrich  
W4291 Hall's Point Court  
Necedah, WI 54646

Todd Doshier  
773 Pleasant Oak Drive  
Oregon, WI 53575

Jody & Tim Eglund  
665 Kimball Avenue  
Nekoosa, WI 54457

Clark Elmore  
W3260 Grandview Trail  
Nekoosa, WI 54457

Jeffrey & Catherine Finley  
7904 McNair Road  
Rockford, IL 61102

Anthony & Stacy Flood  
W3132 3rd Street East  
Nekoosa, WI 54457

Gregory Fredrick

387 Plank Hill Lane  
Nekoosa, WI 54457

Ronald & Kay Fredericks  
405 Riphahn Court  
Mt. Horeb, WI 53572

Olivia Gaffney  
W4235 7th Street  
Necedah, WI 54646

Kevin & Kelly Garrigan  
N16230 23rd Avenue N  
Nekoosa, WI 54457

Deborah & William Glembocki Jr.  
33911 Geneva Road  
Burlington, WI 53105

Gordon & Myra Gottbeheut  
361 Plank Hill Lane  
Nekoosa, WI 54457

Shari Ann Grass-Redfox  
N16127 23rd Avenue  
Nekoosa, WI 54457

Scott Grigsby  
1445 Pheasant Trail  
Hampshire, IL 60140

Norbert & Barbara Gust  
3351 E. Lunham Avenue  
Cudahy, WI 53110

Roy & Patti Hennecke  
7465 Highway O  
Hartford, WI 53027

Ashley Hewitt  
W3255 3rd Street East  
Nekoosa, WI 54457

Lavern & Bonita Hofmeister  
W3794 2nd Street East  
Nekoosa, WI 54457

Tim & Marcia Hogan  
N15859 24th Avenue N  
Nekoosa, WI 54457

Richard Hudzinski & Lavonne Alt  
E10368 Xanadu Road  
Wisconsin Dells, WI 53965

Grafton Hull & Jannah Mather  
3509 Gardenview Way  
Tallahassee, FL 32309

David Johnson  
5951 Wexford Lane  
Roscoe, IL 61073

Cynthia & Michael Kopis  
8191 Country Court  
DeKalb, IL 60115

Dale & Marjorie Kreitzman  
N6869 Tara Road  
Pardeeville, WI 53954

Michael & Debra Krizan  
319 Nessa Lane  
Nekoosa, WI 54457

Kathleen Krug  
W3120 4th Street  
Nekoosa, WI 54457

Mark & Robyn Lochner  
W3714 4th Street East  
Nekoosa, WI 54457

Daniel Mancini  
N12417 County Road G  
Necedah, WI 54646

Michael Marth  
4916 County Line Road  
Nekoosa, WI 54457

Carol Martin

N16017 24th Avenue  
Nekoosa, WI 54457

Daniel & Barbara Matthews  
299 Plank Hill Lane  
Nekoosa, WI 54457

Jerri McCue  
464 S. Commonwealth Avenue  
Elgin, IL 60123

Ike & Lacey McWaters  
W3928 Longview Lane  
Nekoosa, WI 54457

Peter & Emily McWaters  
321 W. 3rd Street  
Zumbrota, MN 55992

Thomas & Jean Melin  
12855 Elmwood Road  
Elm Grove, WI 53122

David & Elizabeth Meyer  
2971 S. Telemark Circle  
Green Bay, WI 54313

Thomas Miller  
5045 SW South View Court  
Dunnellon, FL 34431

Randy & Sherry Moody  
226 Nessa Lane  
Nekoosa, WI 54457

Ronald & Karla Nelson  
1891 Metcalf Place  
Wisconsin Rapids, WI 54494

Walter Ray Nelson  
W2979 2nd Street East  
Nekoosa, WI 54457

Bob & Leonie Owens  
N15902 County Road G  
Nekoosa, WI 54457

Bethany & Mike Petersen Jr.  
900 Sunnyview Lane  
Princeton, WI 54968

David & Judy Preston  
N14478 Clearview Road  
Necedah, WI 54646

Alan & Julianne Pykelny  
303 Elm Court  
Libertyville, IL 60048

José Rangel Jr.  
W3313 3rd Street East  
Nekoosa, WI 54457

Jamie Reimer  
162 County Road Z  
Nekoosa, WI 54457

Wolfgang & Janice Ruhnau  
N16427 25th Avenue  
Nekoosa, WI 54457

Gerald & Mabel Schmidt  
4193 Harley Lane  
Nekoosa, WI 54457

Paul Schmitz  
584 Emma Street  
Fond du Lac, WI 54935

Donald & Christine Scribner  
N14648 Porter Road  
Nekoosa, WI 54457

Keely & Todd Sindler  
185 Ridge Avenue  
Crystal Lake, IL 60014

Daniel Smigielski  
38540 N. Magnolia Avenue  
Wadsworth, IL 60083

Robert & Jean Sorenson

300 Plank Hill Lane  
Nekoosa, WI 54457

David Stelmacher  
492 Plank Hill Lane  
Nekoosa, WI 54457

Ted & Luann Stephenson  
7591 Pond Road  
Hartford, WI 53027

Celina Stewart & Phillip Schmidt  
N15911 24th Avenue North  
Nekoosa, WI 54457

Gregory & Francine Switalski  
1012 Dana Lane  
Waukesha, WI 53189

Donald Tessmer  
N15140 23rd Avenue  
Nekoosa, WI 54457

Robert Toetz  
N14410 Clearview Road  
Necedah, WI 54646

Michael & Chris Turok  
W3224 Grandview Trail  
Nekoosa, WI 54457

Robert & Ruth White  
200 Ridge Avenue  
Crystal Lake, IL 60014

William Winters  
N15897 24th Avenue  
Nekoosa, WI 54457

Cynthia Van Meter  
162 County Road Z  
Nekoosa, WI 54457

Steven and Dawn Vanderhill  
N14586 Porter Road  
Nekoosa, WI 54457

Todd & Diane Zettel  
12720 W Cherrytree Lane  
New Berlin, WI 53151

Plaintiffs

vs.

Central Sands Dairy, LLC  
a domestic limited liability company  
c/o Gordon Jones  
N15927 County Road G  
Nekoosa, WI 54457

Wysocki Produce Farm, Inc.  
a domestic business  
c/o James E. Wysocki  
8550 Central Sands Road  
Bancroft, WI 54921

ABC INSURANCE CORPORATION  
a fictitious insurance corporation

DEF INSURANCE CORPORATION  
a fictitious insurance corporation

GHI INSURANCE CORPORATION  
a fictitious insurance corporation

JKL INSURANCE CORPORATION  
a fictitious insurance corporation

MNO INSURANCE CORPORATION  
a fictitious insurance corporation

PQR INSURANCE CORPORATION  
a fictitious insurance corporation

STU INSURANCE CORPORATION  
a fictitious insurance corporation

VWX INSURANCE CORPORATION  
a fictitious insurance corporation

YZ INSURANCE CORPORATION



a fictitious insurance corporation

Defendants.

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## COMPLAINT

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Plaintiffs, through their attorneys Habush Habush & Rottier S.C.<sup>®</sup> and Pines Bach LLP, hereby allege the following as a complaint against the Defendants:

### PARTIES

1. The Plaintiffs, Pat and Mary Adamek, are adult residents of the State of Wisconsin who reside at 241 S. 75th Street, Milwaukee, WI 53214. The Plaintiffs, Pat and Mary Adamek, at all times material hereto, owned and/or resided at the property located at N15415 20th Avenue, Nekoosa, WI 54457.

2. The Plaintiffs, David and Janice Anderson, are adult residents of the State of Wisconsin who reside at 775 Church Street, Edgerton, WI 53534. The Plaintiffs, Dave and Janice Anderson, at all times material hereto, owned and/or resided at the property located at N14476 21st Avenue, Necedah, WI 54646.

3. The Plaintiff, Raymond Anderson, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N14440 Clearview Road, Necedah, WI 54646.

4. The Plaintiffs, James and Lorinda Armbruster, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 5024 County Line Road, Nekoosa, WI 54457.

5. The Plaintiffs, James and Lorraine Bahr, are adult residents of the State of Wisconsin who reside at 1391 Mayfield Road, Hubertus, WI 53033. The Plaintiffs, James &

Lorraine Bahr, at all times material hereto, owned and/or resided at the property located at Grand View Shores, Lot 41, Nekoosa, WI 54457.

6. The Plaintiff, Terry Bellmer, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N15879 24th Avenue, Nekoosa, WI 54457.

7. The Plaintiff, Tom Bellmer, is an adult resident of the State of Wisconsin who resides at W6998 Subway Road, Fond du Lac, WI 54937. The Plaintiff, Tom Bellmer, at all times material hereto, owned and/or resided at the property located at W3440 3rd Street East, Nekoosa, WI 54457.

8. The Plaintiff, David Biddick, is an adult resident of the State of Wisconsin who resides at W74 N867 Poplar Street, Cedarburg, WI 53012. The Plaintiff, David Biddick, at all times material hereto, owned and/or resided the property located at W3273 Yellow Banks Trail, Nekoosa, WI 54457.

9. The Plaintiffs, Dean and Joan Bluske, are adult residents of the State of Wisconsin who reside at 1 Riverplace Drive, Apartment 201, La Crosse, WI 54601. The Plaintiffs, Dean and Joan Bluske, at all times material hereto, owned and/or resided the property located at N15494 23rd Avenue, Nekoosa, WI 54457.

10. The Plaintiffs, Randall and Deb Bowden, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 4309 State Highway 173, Nekoosa, WI 54457.

11. The Plaintiffs, Dennis and Debra Boyle, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W4461 7th Street East, Necedah, WI 54646.

12. The Plaintiffs, John and Susan Brown, are adult residents of the State of Illinois, who reside at 1355 Radcliffe Road, Buffalo Grove, IL 60089. The Plaintiffs, John and Susan Brown, at all times material hereto, owned and/or resided at the property located at N15989 24th Avenue, Nekoosa, WI 54457.

13. The Plaintiffs, Donald and Janice Brown, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16168 Deerfield Drive, Nekoosa, WI 54457.

14. The Plaintiff, Reggie Butterbrodt, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16104 Deerfield Drive, Nekoosa, WI 54457.

15. The Plaintiffs, Herbert and Marveen Carlson, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16436 26th Avenue, Nekoosa, WI 54457.

16. The Plaintiffs, Terrance and Annette Conery, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3277 3rd Street East, Nekoosa, WI 54457.

17. The Plaintiff, Mark Diedrich, is an adult resident of the State of Wisconsin who resides at W4291 Hall's Point Court, Necedah, WI 54646. The Plaintiff, Mark Diedrich, at all times material hereto, owned and/or resided at the properties located at W4291 Hall's Point Court, Necedah, WI 54646 and Hall's Point Outlots, Lot 24, Necedah, WI 54646.

18. The Plaintiff, Todd Doshier, is an adult resident of the State of Wisconsin who resides at 773 Pleasant Oak Drive, Oregon, WI 53575. The Plaintiff, Todd Doshier, at all times

material hereto, owned and/or resided at the property located at Grand View Shores, Lot 5, Nekoosa, WI 54457.

19. The Plaintiffs, Jody and Tim Egland, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 665 Kimball Avenue, Nekoosa, WI 54457.

20. The Plaintiff, Clark Elmore, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3260 Grandview Trail, Nekoosa, WI 54457.

21. The Plaintiffs, Jeffrey and Catherine Finley, are adult residents of the State of Illinois who reside at 7904 McNair Road, Rockford, IL 61102. The Plaintiffs, Jeffrey and Catherine Finley, at all times material hereto, owned and/or resided at the properties located at W3165 County Line Road, Nekoosa, WI 54457 and W3151 County Line Road, Nekoosa, WI 54457.

22. The Plaintiffs, Anthony and Stacy Flood, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3132 3rd Street East, Nekoosa, WI 54457.

23. The Plaintiff, Gregory Fredrick, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 387 Plank Hill Lane, Nekoosa, WI 54457.

24. The Plaintiffs, Ronald and Kay Fredericks, are adult residents of the State of Wisconsin who reside at 405 Riphahn Court, Mt. Horeb, WI 53572. The Plaintiffs, Ronald and Kay Fredericks, at all times material hereto, owned and/or resided at the property located at N16112 Deerfield Drive, Nekoosa, WI 54457.

25. The Plaintiff, Olivia Gaffney, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W4235 7th Street, Necedah, WI 54646.

26. The Plaintiffs, Kevin and Kelly Garrigan, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16230 23rd Avenue N, Nekoosa, WI 54457.

27. The Plaintiffs, Deborah and William Glembocki Jr., are adult residents of the State of Wisconsin who reside at 33911 Geneva Road, Burlington, WI 53105. The Plaintiffs, Deborah and William Glembocki Jr., at all times material hereto, owned and/or resided at the properties located at Grand View Shores, Lot 6, Nekoosa, WI 54457 and Grand View Shores, Lot 7, Nekoosa, WI 54457.

28. The Plaintiffs, Gordon and Myra Gottbeheit, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 361 Plank Hill Lane, Nekoosa, WI 54457.

29. The Plaintiff, Shari Ann Grass-Redfox, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16127 23rd Avenue, Nekoosa, WI 54457.

30. The Plaintiff, Scott Grigsby, is an adult resident of the State of Illinois who resides at 1445 Pheasant Trail, Hampshire, IL 60140. The Plaintiff, Scott Grigsby, at all times material hereto, owned and/or resided at the property located at W3840 Longview Lane, Nekoosa, WI 54457.

31. The Plaintiffs, Norbert and Barbara Gust, are adult residents of the State of Wisconsin who reside at 3351 E. Lunham Avenue, Cudahy, WI 53110. The Plaintiffs, Norbert and

Barbara Gust, at all times material hereto, owned and/or resided at the property located at N15715 23rd Avenue, Nekoosa, WI 54457.

32. The Plaintiffs, Roy and Patti Hennecke, are adult residents of the State of Wisconsin who reside at 7465 Highway O, Hartford, WI 53027. The Plaintiffs, Roy and Patti Hennecke, at all times material hereto, owned and/or resided at the property located at N16049 24th Avenue, Nekoosa, WI 54457.

33. The Plaintiff, Ashley Hewitt, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3255 3rd Street East, Nekoosa, WI 54457.

34. The Plaintiffs, Lavern and Bonita Hofmeister, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3794 2nd Street East, Nekoosa, WI 54457.

35. The Plaintiffs, Tim and Marcia Hogan, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N15859 24th Avenue N, Nekoosa, WI 54457.

36. The Plaintiffs, Richard Hudzinski and Lavonne Alt, are adult residents of the State of Wisconsin who reside at E10368 Xanadu Road, Wisconsin Dells, WI 53965. The Plaintiffs, Richard Hudzinski and Lavonne Alt, at all times material hereto, owned and/or resided at the properties located at W3027 Johnson Road, Nekoosa WI 54457, W3035 Johnson Road, Nekoosa WI 54457 and W3048 Johnson Road, Nekoosa, WI 54457.

37. The Plaintiffs, Grafton Hull and Jannah Mather, are adult residents of the State of Florida who reside at 3509 Gardenview Way, Tallahassee, FL 32309. The Plaintiffs, Grafton Hull

and Jannah Mather, at all times material hereto, owned and/or resided at the property located at W3247 Yellow Banks Trail, Nekoosa, WI 54457.

38. The Plaintiff, David Johnson, is an adult resident of the State of Illinois who resides at 5951 Wexford Lane, Roscoe, IL 61073. The Plaintiff, David Johnson, at all times material hereto, owned and/or resided at the property located at N16108 Deerfield Drive, Nekoosa, WI 54457.

39. The Plaintiffs, Cynthia and Michael Kopis, are adult residents of the State of Illinois who reside at 8191 Country Court, Dekalb, IL 60115. The Plaintiffs, Cynthia and Michael Kopis, at all times material hereto, owned and/or resided at the property located at Country Acres, Lot 3, Nekoosa, WI 54457.

40. The Plaintiffs, Dale and Marjorie Kreitzman, are adult residents of the State of Wisconsin who reside at N6869 Tara Road, Pardeeville, WI 53954. The Plaintiffs, Dale and Marjorie Kreitzman, at all times material hereto, owned and/or resided at the property located at N14477 21st Avenue, Necedah, WI 54646.

41. The Plaintiffs, Michael and Debra Krizan, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 319 Nessa Lane, Nekoosa, WI 54457.

42. The Plaintiff, Kathleen Krug, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3120 4th Street, Nekoosa, WI 54457.

43. The Plaintiffs, Mark and Robyn Lochner, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3714 4th Street East, Nekoosa, WI 54457.

44. The Plaintiff, Daniel Mancini, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N12417 County Road G, Necedah, WI 54646.

45. The Plaintiff, Michael Marth, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 4916 County Line Road, Nekoosa, WI 54457.

46. The Plaintiff, Carol Martin, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16017 24th Avenue, Nekoosa, WI 54457.

47. The Plaintiffs, Daniel and Barbara Matthews, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 299 Plank Hill Lane, Nekoosa, WI 54457.

48. The Plaintiff, Jerri McCue, is an adult resident of the State of Illinois who resides at 464 S. Commonwealth Avenue, Elgin, IL 60123. The Plaintiff, Jerri McCue, at all times material hereto, owned and/or resided at the properties located at W3779 Longview Lane, Nekoosa, WI 54457 and Long View Point, Lot 16, Nekoosa, WI 54457.

49. The Plaintiffs, Ike and Lacey McWaters, are adult residents of the State of Wisconsin who reside at W3928 Longview Lane, Nekoosa, WI 54457. The Plaintiffs, Ike and Lacey McWaters, at all times material hereto, owned and/or resided at the properties located at W3928 Longview Lane, Nekoosa, WI 54457 and Long View Point, Lot 32, Nekoosa, WI 54457.

50. The Plaintiffs, Peter and Emily McWaters, are adult residents of the State of Minnesota who reside at 321 W. 3rd Street, Zumbrota, MN 55992. The Plaintiffs, Peter and Emily



McWaters, at all times material hereto, owned and/or resided at the property located at Long View Point, Lot 6, Nekoosa, WI 54457.

51. The Plaintiffs, Thomas and Jean Melin, are adult residents of the State of Wisconsin who reside at 12855 Elmwood Road, Elm Grove, WI 53122. The Plaintiffs, Thomas and Jean Melin, at all times material hereto, owned and/or resided at the property located at N14634 Porter Road, Nekoosa, WI 54457.

52. The Plaintiffs, David and Elizabeth Meyer, are adult residents of the State of Wisconsin who reside at 2971 S. Telemark Circle, Green Bay, WI 54313. The Plaintiffs, David and Elizabeth Meyer, at all times material hereto, owned and/or resided at the property located at Grand View Shores, Lot 40, Nekoosa, WI 54457.

53. The Plaintiff, Thomas Miller, is an adult resident of the State of Florida who resides at 5045 SW South View Court, Dunnellon, FL 34431. The Plaintiff, Thomas Miller, at all times material hereto, owned and/or resided at the property located at W2997 2nd Street, Nekoosa, WI 54457.

54. The Plaintiffs, Randy and Sherry Moody, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 226 Nessa Lane, Nekoosa, WI 54457.

55. The Plaintiffs, Ronald and Karla Nelson, are adult residents of the State of Wisconsin who reside at 1891 Metcalf Place, Wisconsin Rapids, WI 54494. The Plaintiffs, Ronald and Karla Nelson, at all times material hereto, owned and/or resided at the property located at W3403 6th Street, Nekoosa, WI 54457.

56. The Plaintiff, Walter Ray Nelson, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W2979 2nd Street East, Nekoosa, WI 54457.

57. The Plaintiffs, Bob and Leonie Owens, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N15902 County Road G, Nekoosa, WI 54457.

58. The Plaintiffs, Bethany and Mike Petersen Jr., are adult residents of the State of Wisconsin who reside at 900 Sunnyview Lane, Princeton, WI 54968. The Plaintiffs, Bethany and Mike Petersen Jr., at all times material hereto, owned and/or resided at the property located at Grand View Shores, Lot 65, Nekoosa, WI 54457.

59. The Plaintiffs, David and Judy Preston, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N14478 Clearview Road, Necedah, WI 54646.

60. The Plaintiffs, Alan and Julianne Pykelny, are adult residents of the State of Illinois who reside at 303 Elm Court, Libertyville, IL 60048. The Plaintiffs, Alan and Julianne Pykelny, at all times material hereto, owned and/or resided at the property located at W3183 Yellow Banks Trail, Nekoosa, WI 54457.

61. The Plaintiff, José Rangel Jr., is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3313 3rd Street East, Nekoosa, WI 54457.

62. The Plaintiff, Jamie Reimer, is an adult resident of the State of Wisconsin who resides at 162 County Road Z, Nekoosa, WI 54457. The Plaintiff, Jamie Reimer, at all times

material hereto, owned and/or resided at the property located at 1131 Kimball Avenue, Nekoosa, WI 54457.

63. The Plaintiffs, Wolfgang and Janice Ruhnau, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16427 25th Avenue, Nekoosa, WI 54457.

64. The Plaintiffs, Gerald and Mabel Schmidt, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 4193 Harley Lane, Nekoosa, WI 54457.

65. The Plaintiff, Paul Schmitz, is an adult resident of the State of Wisconsin who resides at 584 Emma Street, Fond du Lac, WI 54935. The Plaintiff, Paul Schmitz, at all times material hereto, owned and/or resided at the property located at W3422 3rd Street East, Nekoosa, WI 54457.

66. The Plaintiffs, Donald and Christine Scribner, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided on the property located at N14648 Porter Road, Nekoosa, WI 54457.

67. The Plaintiffs, Keely and Todd Sindler, are adult residents of the State of Illinois who reside at 185 Ridge Avenue, Crystal Lake, IL 60014. The Plaintiffs, Keely and Todd Sindler, at all times material hereto, owned and/or resided at the property located at W3962 7th Street East, Necedah, WI 54646.

68. The Plaintiff, Daniel Smigielski, is an adult resident of the State of Illinois who resides at 38540 N. Magnolia Avenue, Wadsworth, IL 60083. The Plaintiff, Daniel Smigielski, at all times material hereto, owned and/or resided at the property located at W3109 Yellow Banks Trail, Nekoosa, WI 54457.

69. The Plaintiffs, Robert and Jean Sorenson, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 300 Plank Hill Lane, Nekoosa, WI 54457.

70. The Plaintiff, David Stelmacher, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 492 Plank Hill Lane, Nekoosa, WI 54457.

71. The Plaintiffs, Ted and Luann Stephenson, are adult residents of the State of Wisconsin who reside at 7591 Pond Road, Hartford, WI 53027. The Plaintiffs, Ted and Luann Stephenson, at all times material hereto, owned and/or resided at the property located at N14619 Porter Road, Nekoosa, WI 54457.

72. The Plaintiffs, Celina Stewart and Phillip Schmidt, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N15911 24th Avenue N, Nekoosa, WI 54457.

73. The Plaintiffs, Gregory and Francine Switalski, are adult residents of the State of Wisconsin who reside at 1012 Dana Lane, Waukesha, WI 53189. The Plaintiffs, Gregory and Francine Switalski, at all times material hereto, owned and/or resided at the property located at Grand View Shores, Lot 81, Nekoosa, WI 54646.

74. The Plaintiff, Donald Tessmer, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N15140 23rd Avenue, Nekoosa, WI 54457.

75. The Plaintiff, Robert Toetz, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N14410 Clearview Road, Necedah, WI 54646.

76. The Plaintiffs, Michael and Chris Turok, are adult residents of the State of Wisconsin who reside at W3224 Grandview Trail, Nekoosa, WI 54457. The Plaintiffs, Michael and Chris Turok, at all times material hereto, owned and/or resided at the properties located at W3224 Grandview Trail, Nekoosa, WI 54457 and Grand View Shores, Lot 72, Nekoosa, WI 54457.

77. The Plaintiffs, Robert and Ruth White, are adult residents of the State of Illinois who reside at 200 Ridge Avenue, Crystal Lake, IL 60014. The Plaintiffs, Robert and Ruth White, at all times material hereto, owned and/or resided at the property located at W3962 7th Street East, Nekoosa, WI 54457.

78. The Plaintiff, William Winters, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided on the property located at N15897 24th Avenue, Nekoosa, WI 54457.

79. The Plaintiff, Cynthia Van Meter, is an adult resident of the State of Wisconsin who resides at 162 County Road Z, Nekoosa, WI 54457. The Plaintiff, Cynthia Van Meter, at all times material hereto, owned and/or resided at the property located at 1131 Kimball Avenue, Nekoosa, WI 54457.

80. The Plaintiffs, Steven and Dawn Vanderhill, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N14586 Porter Road, Nekoosa, WI 54457.

81. The Plaintiffs, Todd and Diane Zettel, are adult residents of the State of Wisconsin who reside at 12720 W Cherrytree Lane, New Berlin, WI 53151. The Plaintiffs, Todd and Diane Zettel, at all times material hereto, owned and/or resided at the property located at N14970 23rd Terrace, Nekoosa, WI 54457.

82. The Defendant, Central Sands Dairy, LLC (“CSD”) is a domestic limited liability company with its principal office at N15927 County Road G Nekoosa, WI 54457. The registered agent for CSD is Gordon Jones.

83. The Defendant, Wysocki Produce Farm, Inc. (“Wysocki”) is a domestic business with its principal office at 8550 Central Sands Road Bancroft, WI 54921. The registered agent for Wysocki is James E. Wysocki. Wysocki co-owns and/or operates CSD.

### **FACTS COMMON TO ALL COUNTS**

84. Plaintiffs reallege and incorporate paragraphs 1 – 83 as though fully set forth herein.

### **BACKGROUND**

85. CSD is a large dairy Concentrated Animal Feeding Operation (“CAFO”) as that term is defined in Wis. Admin. Code § NR 243.03(12)(a). Wis. Admin. Code ch. NR 243, “Animal Feeding Operations,” implements certain standards, management practices, and Wisconsin Pollutant Discharge Elimination System (“WPDES”) permit requirements for CAFOs in Wisconsin. WPDES permits also require submission of a “nutrient management plan” (“NMP”) outlining the amounts, timing, locations, methods, and other aspects regarding the land application of manure and process wastewater. “Nutrient” components include nitrogen and phosphorus.

86. CSD received its first WPDES permit effective January 1, 2007, and began operating later that year.

87. CSD currently reports housing 6,165 animal units, including 4,125 milking and dry cows, 350 heifers, and 60 calves. CSD reports that this herd will generate annually 37,500,200 gallons of liquid manure and wastewater, and 14,472 tons of solid manure. Together with

wastewater and solid waste from other sources, CSD reports that it will apply over 50 million gallons of liquid waste and 26,000 tons of solid waste annually to the lands described below.

88. For manure storage, CSD has a concrete liquid storage basin with a 20 million gallon capacity, along with other facilities such as a solid manure stacking pad and a concrete manure digester.

89. CSD's liquid manure storage basin is not lined or backed by compacted clay, nor did CSD install an underdrain system or lysimeter to monitor leakage.

90. CSD applies manure and wastewater on 7,460 acres of agricultural fields in Juneau and Wood Counties. Wysocki, Agri-Alliance, LLC, and/or Ellis Industries, LLC own the majority of these fields, totaling 5,934 acres. The remaining 1,526 acres are rented or controlled through manure spreading agreements.

91. Wysocki is a commercial crop farm that has been operating for several decades and currently owns 28,000 acres. Wysocki grows consumer produce crops, including potatoes, peas, sweet corn, and green beans. In addition, Wysocki grows soybeans, alfalfa, and field corn for on-farm use.

92. Defendants' operations are located on soil that is primarily sand. This soil has very high permeability and is considered by the State of Wisconsin to be at a high risk of nitrate leaching. The soil composition in this area has been known and is known by the Defendants.

93. The water table in the region where Defendants' operations are located is at least as high as 15 to 20 feet below ground surface. This fact has been known and is known to the Defendants.

94. Some of the fields on which Defendants' operations are located have groundwater within 24 inches of the ground surface, also contributing to a high risk of leaching. This fact has been known and is known to the Defendants.

95. The Central Sands Region of Wisconsin is in the Cambrian-Ordovician Aquifer System, which is mainly comprised of sandstone aquifers and allows significant groundwater infiltration. This fact has been known and is known to the Defendants.

96. Defendants apply solid and liquid manure to land in the spring, summer, and fall, and occasionally in the winter. Defendants apply liquid manure and process wastewater via center pivot irrigation, or with a knife injection tool or airway bar. The liquid manure is supplied by underground pipelines and hoses, and/or above ground hoses. Defendants truck solid manure to crop fields and spread it with a disk till.

97. The manure generated by the cows at CSD contains harmful contaminants, including but not limited to: nitrates, ammonia, phosphorus, sulfates, fecal coliform bacteria, *Escherichia coli* ("*E. coli*"), and other microorganisms.

98. In addition to solid manure, liquid manure, and process wastewater, Wysocki applies commercial fertilizers to the fields on which it spreads manure and process wastewater. These fertilizers contain harmful contaminants, including but not limited to nitrates.

99. The Environmental Protection Agency ("EPA") sets maximum contaminant levels ("MCLs") for contaminants in drinking water. MCLs are based on known or anticipated adverse health effects. The MCL for nitrate is 10 mg/L, while the MCL for bacteria, including coliforms and *E. coli*, is zero. The EPA classifies phosphorus and ammonia as hazardous substances.



100. Wisconsin sets groundwater quality standards for substances of public health concern. Pursuant to Wis. Admin. Code § NR 140.10, Wisconsin's enforcement standard for Nitrates is 10 mg/L, while its preventive action limit ("PAL") is 2 mg/L.

101. The International Agency for Research on Cancer ("IARC") and numerous other agencies have concluded that ingested nitrate, under conditions that result in endogenous nitrosation, is probably carcinogenic. There is strong or preliminary evidence that elevated nitrate consumption poses a hazard for certain cancers, including but not limited to: colorectal, ovarian, bladder, kidney, thyroid, astrocytomas, and non-Hodgkin's lymphoma.

102. Elevated nitrate consumption causes methemoglobinemia ("blue baby syndrome"). There is strong or preliminary evidence that elevated nitrate consumption poses a hazard for adverse reproductive outcomes, including but not limited to: low birthweight, small for gestational age, spontaneous abortion, miscarriage, pre-term birth, neonatal mortality, spina bifida, neural tube defects, limb deficiencies, cleft lip and palate, and other congenital abnormalities, birth defects, and developmental delays.

103. There is strong or preliminary evidence that elevated nitrate consumption poses a hazard for several other diseases and adverse health outcomes, including but not limited to: Type II diabetes, Type I diabetes in children, respiratory infections in children, thyroid disease, macular degeneration, hypertension, and damage to the cardiovascular system.

104. Mixtures of nitrates and other hazardous contaminants found in manure, fertilizers, agricultural chemicals, and/or air pollutants, can pose an even greater hazard than elevated nitrate consumption alone, depending on exposure conditions.

105. Plaintiffs have suffered adverse health outcomes they attribute to exposure to Defendants' nitrates and other contaminants, including but not limited to cancers, thyroid disease, miscarriage, congenital abnormalities, and other adverse reproductive outcomes.

DEFENDANTS' CONTAMINATION OF THE GROUNDWATER SUPPLYING PLAINTIFFS' PROPERTIES

106. All Plaintiffs own property and/or reside in Juneau or Wood Counties in the State of Wisconsin. There is no municipal water system that serves the area in which Plaintiffs reside, and private wells provide water for residential use. This fact is known and has been known by Defendants.

107. Defendants' manure handling, storage, spreading, and/or disposal, and other practices, in addition to Wysocki's application of commercial fertilizer, are responsible for groundwater contamination with nitrates and ammonia at levels beyond the enforcement standard and/or Maximum Contaminant Level ("MCL"), phosphorus, sulfates, total coliforms, and other indicators of bacteria.

108. The Defendants' conduct has contaminated the aquifer that supplies water to Plaintiffs' properties, resulting in the entry and/or threatened entry of contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties.

109. Defendants knew or should have known, prior to CSD's receipt of its first WPDES permit in 2007, that their manure handling, storage, spreading, and/or disposal, and application of commercial fertilizers, would cause contamination of the aquifer that supplied water to Plaintiffs' properties, resulting in the entry and/or threatened entry of contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties.

110. Prior to CSD's receipt of its first WPDES permit in 2007, Defendants falsely represented to residents in the area that their cropping practices would "improve the quality of soil

and water of the central sands area;” their waste disposal practices would not pollute the environment; a manure digester would keep their neighborhood footprint small; they would achieve reduced nitrate leaching; and odors from the facility would be minimal.

111. Contrary to Defendants’ representations, nearby residents were negatively impacted soon after CSD began operating. At least two properties became uninhabitable due to Defendants’ illegal manure spraying, swarms of flies, and infiltration of ammonia odor into the walls of their home. Defendants eventually purchased these properties.

112. By 2008, at the latest, manure and fertilizers from Defendants’ production area and fields were contaminating the groundwater supplying Plaintiffs’ properties.

113. CSD installed three monitoring wells in January 2008 but failed to report testing results from these wells to DNR, in violation of state law and a conditional use permit issued to CSD by the Town of Armenia.

114. Defendants had data as early as 2008, from CSD’s own monitoring wells, confirming that their practices were in fact causing groundwater contamination.

- a. The monitoring well immediately downgradient of an irrigated field directly East of CSD’s production area has tested above the MCL for nitrates since sampling began in 2008, with levels ranging from 16.3 to 40.8 mg/L.
- b. The monitoring well immediately downgradient of CSD’s manure storage basin was testing above the nitrate PAL by 2010, with the proportion of ammonium indicating manure leakage from the basin.

115. In January 2009, Jeff Sommers, Wysocki’s General Manager, acknowledged to DNR Wastewater Specialist Terry Kafka that he knew Defendants were failing to observe proper setbacks from wells installed on center pivot irrigation devices, despite a 100-foot setback

requirement from any direct conduit to groundwater. Mr. Sommers intimated that he knew Defendants' practices would inevitably cause groundwater contamination, even if proper setbacks were observed.

116. In addition to CSD's own monitoring wells, Defendants were aware of contaminated private wells downgradient of their fields and production facility by 2012, at the latest. Defendants were also aware of *E. Coli* contamination in pivot wells and Spud Creek by 2012, at the latest.

117. Defendants have knowingly continued to contaminate the groundwater supplying Plaintiffs' properties, as demonstrated by numerous groundwater exceedances in additional monitoring wells CSD was required to install during and after 2014. For example:

- a. Monitoring well location CSD-1 is southeast and downgradient of CSD's manure storage lagoon. Monitoring well CSD-1S has consistently recorded nitrate above the MCL at levels between 11-27 mg/L, ammonia above the PAL, and has tested positive for coliform bacteria. Monitoring well CSD-1D has consistently recorded nitrate above the MCL at levels between 11.9-38 mg/L, ammonia above the enforcement standard, and has tested positive for total coliform bacteria. Monitoring well CSD-9 is just northwest of monitoring well location CSD-1, and has also recorded nitrate above the MCL and detected total coliform bacteria and *E. coli*.
- b. Monitoring well location CSD-4 is on the north-central side of the dairy site and immediately downgradient of field RDO-12, where CSD applies manure and commercial fertilizers. Monitoring well CSD-4 has consistently recorded nitrate above the MCL at levels between 10-77 mg/L

and has tested positive for total coliform bacteria. Monitoring well location CSD-8 is just east of CSD-4 and has also recorded nitrate well in excess of the MCL, at levels between 13-64 mg/L, and has tested positive for total coliform bacteria.

- c. Monitoring well location CSD-7 is in the east-central portion of the dairy site, downgradient of the barns and digester. Monitoring well CSD-7S has consistently recorded nitrate above the MCL at levels between 20-88 mg/L, ammonia above the PAL, and has tested positive for total coliform bacteria and *E .coli*. Monitoring well CSD-7D has also recorded nitrate above the MCL at levels between 39-56 mg/L and has tested positive for total coliform bacteria.

118. On October 23-25, 2017, EPA conducted groundwater testing at locations near CSD, including 13 private wells. Nearly half of the private well samples exceeded the nitrate MCL.

119. In May of 2018, the Juneau and Wood County Health Departments conducted a voluntary testing program in which more than 100 property owners participated. Dozens of those wells tested positive for nitrates at levels above the MCL. One quarter of the wells tested had nitrate levels more than twice the MCL.

120. On April 30 through May 3, 2018, EPA conducted a groundwater investigation in northeast Juneau County along five transects upgradient and downgradient of Defendants' facilities and fields. The results indicated significant contamination downgradient of both the production facility and the fields. EPA also collected drinking water samples from 5 private wells, which all exceeded the MCL for nitrate.

121. Defendants have shown a complete and utter disregard for the rights of the Plaintiffs by continuing their practices such that groundwater contamination is substantially certain to continue to result, resulting in the entry and/or threatened entry of additional contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties. In fact, as recently as November 2018, Plaintiffs have observed ponding of liquid manure on Defendants' fields, as well as a leaking manure hose spraying manure several feet into the air.

122. Clean water is a basic and most precious resource as well as a fundamental commodity. Water supports direct human needs such as drinking, cooking, bathing, and cleaning, and supports wildlife and natural resources that contribute to the health, economy, and general well-being of the Plaintiffs.

123. Many Plaintiffs have been advised by the Juneau and Wood County Health Departments, and the Wisconsin Department of Natural Resources, not to use their contaminated water for, among other things, drinking, cooking, and food preparation.

124. Upon information and belief, Defendants never warned Plaintiffs of their groundwater contamination, despite the vast amount of data they possessed for at least a decade. In fact, Defendants only acknowledged the existence of groundwater contamination when the information became publicly available due to EPA and County Health Department investigations.

125. Upon information and belief, Defendants formed the Armenia Growers Coalition ("AGC") in Summer of 2018, in response to the Juneau and Wood County Health Departments' confirmation of widespread groundwater contamination. Via the AGC, Defendants have approached many Plaintiffs with contaminated wells, offering them bottled water and a reverse osmosis system on their kitchen sink. Defendants have not offered point of entry systems to treat Plaintiffs' entire residences. Defendants have not offered to pay for filters and maintenance of the

reverse osmosis systems, nor have they offered follow-up testing to ensure that the systems are working properly.

126. Upon information and belief, the reverse osmosis system offered by Defendants will not filter out all or even most of the nitrates in Plaintiffs' wells. For wells with nitrate levels at twice the MCL or more, the system will not render Plaintiffs' water safe for drinking under any standard.

127. As a result of Defendants' groundwater contamination, and the entry and/or threatened entry of contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties, Plaintiffs have been placed at an increased risk of cancers, adverse reproductive outcomes, and other illnesses, now and in the future.

128. Plaintiffs' property values have decreased or will decrease as a result of Defendants' groundwater contamination.

129. Plaintiffs' use and enjoyment of their properties has been adversely affected by virtue of inconvenience, disturbance, and annoyance caused by the contamination in the soils, surface waters, and aquifers beneath, around, and affecting Plaintiffs' properties.

130. Plaintiffs may be required to expend large sums of money to remediate nitrates and other harmful contaminants in their water, caused by Defendants' introduction of these contaminants into their groundwater supply, and to develop new and/or alternative source(s) of clean water.

#### DEFENDANTS' VIOLATIONS OF STATE AND FEDERAL REGULATIONS AND STANDARDS

131. Since CSD began operating in 2007 and continuing to the present date, Defendants have over-applied manure and commercial fertilizers, engaged in risky practices with high potential for leaching, and consistently violated the agricultural regulations and standards imposed

by Wis. Stat. § 283.31 and Wis. Admin. Code chs. NR 214, 243, 140, and 151, and NRCS Standards 313 and 590. Defendants have violated the following agricultural regulations and standards, among others:

- a. In violation of Wis. Stat. § 283.31(3)(g), Defendants have not limited their discharges to prevent violation of the groundwater protection standards established under Wis. Stat. ch. 160 and Wis. Admin. Code ch. NR 140.
- b. In violation of Wis. Admin. Code § NR 243.03(71), Defendants have perpetrated numerous “unacceptable practices,” causing the discharge of pollutants to waters of the State and/or resulting in a failure to comply with livestock performance standards and prohibitions outlined in Wis. Admin. Code ch. NR 151.
- c. In violation of Wis. Admin. Code § NR 214.14(3)(b), Defendants’ discharge has not been limited such that it prevents the exceedance of PALs for contaminants in groundwater.
- d. In violation of Wis. Admin. Code § NR 243.14(1), Defendants failed to submit to DNR and follow a NMP that complied with all applicable requirements, including NRCS Standard 590 and UW-Extension crop recommendations, and failed to obtain DNR approval for NMP amendments.
- e. In violation of Wis. Admin. Code § NR 243.14(2)(b)6., Defendants’ land application practices have failed to minimize the loss of nutrients and other contaminants to waters of the State of Wisconsin and have failed to prevent exceedances of groundwater and surface water quality standards.



- f. In violation of Wis. Admin. Code § NR 243.13(5)(a), Defendants have discharged manure or process wastewater pollutants to waters of the State of Wisconsin that fail to comply with groundwater and surface water quality standards.
- g. In violation of Wis. Admin. Code § NR 214.14(1)(b), Defendants have sprayed wastewater within 500 feet of inhabited dwellings.
- h. In violation of Wis. Admin. Code § NR 243.14(2)(b)1., Defendants' application of manure and/or process wastewater has caused ponding on application sites.
- i. In violation of Wis. Admin. Code § NR 243.14(2)(b)7., Defendants have applied manure and/or process wastewater to areas of their fields with depths to groundwater or bedrock of less than 24 inches.
- j. In violation of Wis. Admin. Code § NR 243.14(2)(b)13., Defendants have applied manure and/or process wastewater when precipitation capable of producing runoff is forecast within 24 hours of the planned application.
- k. In violation of Wis. Admin. Code § NR 243.14(2)(b)3., Defendants' manure or process wastewater has caused the fecal contamination of well water.
- l. In violation of Wis. Admin. Code § NR 243.14(2)(f), Defendants have failed to obtain and use the results of manure, process wastewater, and soil analyses to determine nutrient application rates for manure and process wastewater.

- m. In violation of Wis. Admin. Code § NR 243.13(2)(b)8. and 9., Defendants have spread manure within 100 feet of a well and/or direct conduit to groundwater.
- n. In violation of Wis. Admin. Code § NR 243.14(3), Defendant's manure and process wastewater application rates have failed to properly take into account nutrient applications from other sources, including commercial fertilizers.
- o. In violation of Wis. Admin. Code § NR 243.14(5), Defendants have applied manure and/or process wastewater on fields with elevated phosphorus soil levels without DNR approval and in excess of allowed amounts.  
Defendants have also failed to report phosphorus field rotation budgets and target values to the DNR.
- p. In violation of Wis. Admin. Code § 243.14(1)(a) and NRCS Standard 590, Defendants have applied manure at rates that exceed UW-Extension crop recommendations, and have failed to comply with criteria to minimize entry of nutrients to groundwater.
- q. In violation of Wis. Admin. Code § NR 214.14(3)(a) and (6), Defendants have not complied with discharge limitations, and soil investigation and groundwater monitoring requirements, for manure irrigation.
- r. In violation of Wis. Admin. Code § 243.15(3)(f) and NRCS Standard 313, Defendants have failed to show or maintain two feet of separation of groundwater from the manure pit and manure digester.

132. Wisconsin's DNR has acknowledged and/or confirmed Defendants' repeated violations of regulations and standards via internal and external communications, Notices of Noncompliance, and Notices of Violation.

- a. On November 18, 2011, an internal DNR memorandum verified that Defendants had sprayed wastewater and manure too close to homes, roads, and private wells in violation of Wis. Admin Code § NR 214.14(1). Defendants were also applying manure within 100 feet of a direct conduit to groundwater or private well in violation of Wis. Admin Code § NR 243.14(2)(b)9., and within 500 feet from the nearest edge of the wastewater spray and the nearest inhabited dwelling, in violation of §§ NR 243.15(6) and 214.14(1)(b).
- b. On November 29, 2012, DNR notified CSD that several documents required by Wis. Admin. Code ch. NR 243 were missing or had not been submitted, including manure sampling and manure spreading records, and that its nutrient management plan did not reflect all applicable requirements of ch. NR 243.
- c. In May 2013, DNR informed CSD that its nutrient management plan continued to be deficient in multiple ways, lacking accurate manure sampling results, indicating past over-application of nitrogen and phosphorus, and failing to reflect correct manure spreading practices to lower the risk of nitrogen leaching.
- d. By letter dated February 7, 2014, DNR required CSD to empty and inspect its manure storage lagoon based on concerns regarding recorded nitrate and

ammonia contamination, as well as documents indicating the lagoon lacked the required two feet of separation from groundwater under Wis. Admin. Code § NR 243.15(3)(f) and NRCS Standard 313.

- e. On July 9, 2014, CSD admitted to DNR that it was not following its NMP as submitted to and approved by the DNR, and that it had revised the plan without prior DNR approval, in violation of Wis. Admin. Code § NR 243.14(1)(a) and (c) and its WPDES permit.
- f. On July 22, 2014, DNR informed CSD of numerous documentation deficiencies with respect to its manure storage facilities, in violation of Wis. Admin Code § NR 214.15(10).
- g. On September 26, 2014, DNR required CSD to conduct Phase I Groundwater Monitoring around the dairy's production area, which included the construction of several monitoring wells on the perimeter of CSD's production area.
- h. On February 24, 2015, DNR Issued a Notice of Noncompliance for CSD's application of solid manure to a snow-covered field in the month of February, in violation of its WPDES permit and Wis. Admin. Code § NR 243.14(6).
- i. On April 6, 2015, DNR issued a Notice of Violation for CSD's failure to comply with manure management and storage, post construction documentation, and well abandonment requirements.
- j. On September 28, 2015, DNR sent CSD a Non-Compliance Evaluation related to the prior inspection of CSD's manure storage lagoon and other

facilities on-site. It found the lagoon and digester did not have the required two feet of separation from groundwater as required by NCRS 313 and the requirement to protect groundwater in NR 243, and that CSD had failed to submit documentation regarding shrinkage and cracking in the concrete.

- k. By letter dated September 30, 2015, DNR notified CSD that it would need to conduct an investigation into the excessive levels of nitrogen in monitoring well CSD-4, including the impact of manure spreading on fields north of the CSD site, such as field RDO-12.
- l. By letter dated July 7, 2016, DNR required Phase II groundwater monitoring through a modification to CSD's WPDES permit to identify and address the following: sources of groundwater contamination; failure to sample soils taken from cracks in CSD's manure storage lagoon; and failure of manure lagoon and digester floors to have the required minimum two feet separation from saturation. CSD objected to DNR's proposed modifications and served on DNR a petition for a contested case hearing.
- m. On July 27, 2017, DNR and CSD entered into a settlement agreement, which required CSD to submit a crop history report for field RDO-12 and an Ammonia Source Investigation Plan. In addition, CSD was required to continue monitoring groundwater quality and elevation and submit reports relating to the contamination.
- n. On February 15, 2018, DNR denied CSD's request for nitrogen fertilizer application over UW-Extension recommendations because CSD failed to demonstrate that additional applications would not negatively impact or

threaten the environment or public health. However, CSD had already been applying at higher rates since at least 2013 based on plant tissue sampling and other factors.

- o. On February 16, 2018, DNR noted in its Permit Fact Sheet that Defendants built CSD's manure stacking pad to be 72,000 square feet in size, significantly larger than the size it submitted to and was approved by DNR – to wit, 49,000 square feet.

### **CAUSES OF ACTION**

#### **COUNT I: NEGLIGENCE (ALL DEFENDANTS)**

133. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in Paragraphs 1 - 131 inclusive.

134. Defendants have handled, stored, applied, and disposed of liquid and solid manure and wastewater, and/or commercial fertilizers, around and affecting Plaintiffs' properties.

135. Defendants have known or should have known that their storage, application, and disposal of liquid and solid manure and wastewater, and/or commercial fertilizers, would cause nitrates and other contaminants to leach and be released into the groundwater beneath, around, and affecting Plaintiffs' properties, and could mix with the groundwater causing contamination beneath, around and affecting Plaintiffs' property, resulting in the entry and/or threatened entry of contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties.

136. Defendants owe Plaintiffs a duty to exercise reasonable care in the storage, application, and disposal of liquid and solid manure and wastewater, and commercial fertilizers. Defendants have a duty to prevent and contain the discharge and release of these toxic and

hazardous substances into the groundwater beneath, around, and affecting Plaintiffs' properties, which might harm persons, property, and/or economic interests of Plaintiffs.

137. Defendants have breached these duties by their negligent storage, application, and disposal of liquid and solid manure and wastewater, and/or commercial fertilizers, among other ways. Defendants' negligence has resulted in dangerous releases of toxic and hazardous substances beneath, around, and affecting Plaintiffs' property, and the entry and/or threatened entry of contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties. These actual and continued releases and discharges are ongoing and have subjected Plaintiffs to an unreasonable risk of harm, threat of future harm, and actual injuries to their persons, properties, and/or economic interests.

138. Defendants' negligence has been a direct and proximate cause of injuries to Plaintiffs causing actual past and present harm to Plaintiffs' person, property, and/or economic interests, and creating an increased risk of future harm to Plaintiffs. Plaintiffs are entitled to recover damages for such past, present, and future injuries, including but not limited to: personal injuries and non-economic impacts; costs of providing and maintaining a program of medical monitoring based on any exposures to nitrates and other harmful contaminants; diminution of property value and loss of property appreciation; reimbursement and remediation of Plaintiffs' water supply, including payment by Defendants of all costs associated with the creation, installation, and maintenance of alternative water sources and water treatment systems; loss of use and enjoyment of Plaintiffs' properties; discomfort and annoyance to Plaintiffs as occupants; and damages for all other losses and injuries caused by Defendants, including any and all personal or economic injuries that have already occurred or will occur in the future.

**COUNT II: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
(ALL DEFENDANTS)**

139. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 – 137 inclusive.

140. Defendants' negligent storage, application, and disposal of liquid and solid manure and wastewater, and/or commercial fertilizers and resulting release of nitrates and other contaminants beneath, around, and affecting Plaintiffs' properties, and Plaintiffs' resulting exposure to contaminants, has resulted in Plaintiffs' severe emotional distress, including but not limited to worries regarding adverse personal health consequences and fear of economic injuries, including harm to their property values.

141. Defendants' negligent conduct directly and proximately caused and continues to cause Plaintiffs severe emotional distress, including but not limited to worries regarding adverse personal health consequences and fear of economic injuries, including harm to their property values.

**COUNT III: TRESPASS TO LAND  
(ALL DEFENDANTS)**

142. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in Paragraphs 1 – 140 inclusive.

143. Defendants have intentionally, recklessly, or negligently allowed contaminants to migrate into the soil and groundwater serving Plaintiffs' properties, leading to the entry and/or threatened entry of contaminants into Plaintiffs' wells and/or onto Plaintiffs' properties. Upon information and belief, additional properties will test positive for contaminants in the future with the spread of the contamination created by the Defendants, and Defendants' continued discharge of contaminants into the groundwater serving Plaintiffs' properties.



144. Defendants' discharge of contaminants onto and into Plaintiffs' properties and drinking water supply has interfered, and continues to interfere, with Plaintiffs' interests in the exclusive possession their land, and therefore constitutes an actual and/or constructive trespass to Plaintiffs' properties.

145. Plaintiffs' properties continue to be threatened, exposed to, and/or contaminated by nitrates and other contaminants in the aquifer beneath their properties.

146. Defendants' intentional, reckless, or negligent storage, application, and disposal of liquid and solid manure and wastewater, and/or commercial fertilizers, has resulted in an entry and intrusion onto the Plaintiffs' properties without privilege, permission, invitation, or justification.

147. Defendants' conduct is a direct and proximate cause of injuries to Plaintiffs, causing actual present harm to Plaintiffs' person, property, and/or economic interests and creating an increased risk of future harm to Plaintiffs. Plaintiffs are entitled to recover damages for such present and future injuries, including: personal injuries and non-economic impacts; costs of providing and maintaining a program of medical monitoring based on any exposures to nitrates and other contaminants; diminution of property value and loss of property appreciation; reimbursement and remediation of Plaintiffs' water supply, including payment by Defendants of all costs associated with the creation, installation, and maintenance of alternative water sources and water treatment systems; loss of use and enjoyment of Plaintiffs' properties; discomfort and annoyance to Plaintiffs as occupants; and damages for all other losses and injuries caused by Defendants.

**COUNT IV: PUNITIVE DAMAGES  
(ALL DEFENDANTS)**

148. Plaintiffs reallege and incorporate paragraphs 1 – 146 inclusive.

149. Upon information and belief, Defendants have acted maliciously or in an intentional disregard of the rights of Plaintiffs, including but not limited to, the safety, health,

property, and welfare of Plaintiffs by intentionally and knowingly storing, applying, and disposing of liquid and solid manure and wastewater, and/or commercial fertilizers, in a manner they knew would contaminate the aquifer beneath Plaintiffs' properties, and thereby the groundwater on which Plaintiffs must rely to live.

150. Defendants' malicious or intentional disregard of Plaintiffs' rights is a direct and proximate cause of all of Plaintiffs damages herein alleged. Upon information and belief, the aforesaid conduct of Defendants is such as to subject them to punitive damages incident to the damages as alleged in this Complaint.

**COUNT V: PERMANENT INJUNCTIVE RELIEF PURSUANT TO CHAPTER 813  
(ALL DEFENDANTS)**

151. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations contained in paragraphs 1 – 149 inclusive.

152. Plaintiffs have suffered and will continue to suffer harm as a result of Defendants' contamination of the groundwater serving their properties, including injuries to Plaintiffs' persons, properties, and/or economic interests.

153. There is a reasonable likelihood that Defendants' practices will continue to contaminate the groundwater serving Plaintiffs' properties and thus Defendants will continue to trespass onto and into Plaintiffs' properties, interfering with Plaintiffs' interests in the exclusive possession of their land.

154. A permanent injunction is necessary to prevent irreparable injury to Plaintiffs as their properties and persons continue to be threatened, exposed to, and contaminated and injured by nitrates and other contaminants in the aquifer beneath their properties.

155. Plaintiffs have no adequate legal remedy available for Defendants' continuing and future trespasses.

156. A permanent injunction will prevent the risk of repetitive and costly litigation.

WHEREFORE, Plaintiffs demand relief as follows:

- a. Permanent injunctive relief from this Court, tailored to ensure the cessation of Defendants' harmful conduct and directing Defendants to modify their handling, storage, treatment, transportation, spreading, and/or disposal of liquid and solid manure and wastewater, and/or their application of commercial fertilizers, such that these practices no longer contaminate Plaintiffs' properties with nitrates and other harmful substances.
- b. Compensatory damages in an amount in excess of this Court's minimal jurisdictional limits, including but not limited to damages representing:
  - i) Costs of providing Plaintiffs with a permanent alternate source of potable water as a result of the contamination of Plaintiffs' drinking water supply;
  - ii) Damages representing the diminution in Plaintiffs' property values;
  - iii) Damages sufficient to compensate Plaintiffs for past, present and future pain and suffering, past and future mental anguish, fear and worry, inconvenience, reduction in quality of life, lost wages, earning capacity, reasonable medical expenses, and loss of use and enjoyment of their properties;
  - iv) Costs of providing and maintaining a program of medical monitoring sufficient to allow qualified medical and toxicological professionals to evaluate the effects of Plaintiffs' exposure to nitrates and other harmful and hazardous substances present in Plaintiffs' water supply as a result of Defendants' acts; and

- v) All other compensatory damages as may be proved.
- b. Restoration damages representing the costs to fully investigate, monitor, clean and restore Plaintiffs' properties and the water supply that Defendants caused to be contaminated;
- c. PUNITIVE damages;
- d. Plaintiffs' costs and fees associated with this litigation; and
- e. Such other and further relief as the nature of Plaintiffs' causes may require.

**PLAINTIFFS DEMAND THAT ALL ISSUES RAISED ABOVE BE TRIED BEFORE A JURY OF TWELVE PERSONS.**

Dated at Madison, Wisconsin this 30<sup>th</sup> day of November, 2018.

HABUSH HABUSH & ROTTIER S.C.<sup>®</sup>

Electronically signed by Jason J. Knutson

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