

**FILED**  
**03-22-2019**  
**Juneau County**  
**Clerk of Circuit Court**  
**2018CV000220**  
**Honorable Paul S. Curran**  
**Branch 2**

STATE OF WISCONSIN                      CIRCUIT COURT                      JUNEAU COUNTY

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

Case No.: 2018CV000220

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  
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Thomas & Sharon Bellmer  
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Nekoosa, WI 54457

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Defendants.

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**AMENDED SUMMONS**

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THE STATE OF WISCONSIN

TO EACH PERSON NAMED ABOVE AS A DEFENDANT:

You are hereby notified that the plaintiff named above has filed a lawsuit or other legal action against you. The Amended Complaint, which is attached, states the nature and basis of the legal action.

Within forty-five (45) days of receiving this Summons, you must respond with a written answer, as that term is used in Chapter 802 of the Wisconsin Statutes, to the Complaint. The Court may reject or disregard an answer that does not follow the requirements of the statutes. The answer must be sent or delivered to the Juneau County Courthouse, whose address is 220 East State Street,

Room 112, Mauston, Wisconsin 53948, and to Jason J. Knutson, plaintiffs' attorney, whose address is 150 East Gilman Street, Suite 2000, Madison, Wisconsin 53703. You may have an attorney help or represent you.

If you do not provide a proper answer within forty-five (45) days, the Court may grant judgment against you for the award of money or other legal action requested in the Complaint, and you may lose your right to object to anything that is or may be incorrect in the Complaint. A judgment may be enforced as provided by law. A judgment awarding money may become a lien against any real estate you own now or in the future and may also be enforced by garnishment or seizure of property.

Dated at Madison, Wisconsin this 22<sup>nd</sup> day of March, 2019.

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

Electronically signed by Jason J. Knutson

Jason J. Knutson  
State Bar No.: 1035801  
Breanne L. Snapp  
State Bar No.: 1091474  
Attorneys for Plaintiffs  
150 E. Gilman St. #2000  
Madison, WI 53703  
(608) 255-6663

PINES BACH LLP

Christa O. Westerberg  
State Bar No.: 1040530  
Leslie Freehill  
State Bar No.: 1095620  
122 W. Washington St. #900  
Madison, WI 53703  
(608) 251-0101

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Defendants.

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**FIRST AMENDED 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 First Amended 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 properties located at N15415 20th Avenue, Nekoosa, WI 54457 and Parcel 290021025.2 in the Town of Armenia.

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 reside at 5024 County Line Road, Nekoosa, WI 54457. The Plaintiffs, James and Lorinda Armbruster, at all times material hereto, owned and/or resided at the properties located at 5024 County Line Road, Nekoosa, WI 54457, Parcel 1300317A in the Town of Port Edwards, Parcel 1300322 in the Town of Port Edwards, and Parcel 1300322A in the Town of Port Edwards.

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 resides at N15879 24th Avenue, Nekoosa, WI 54457. The Plaintiff, Terry Bellmer, at all times material hereto, owned and/or resided at the properties located at N15879 24th Avenue, Nekoosa, WI 54457 and N15863 24th Avenue, Nekoosa, WI 54457.

7. The Plaintiffs, Thomas & Sharon Bellmer, are adult residents of the State of Wisconsin who reside at W6998 Subway Road, Fond du Lac, WI 54937. The Plaintiffs, Tom & Sharon 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 Plaintiff, Jeremy Blodgett, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N15120 County Road G, Nekoosa, WI 54457.

10. 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 properties located at N15494 23rd Avenue, Nekoosa, WI 54457 and N15506 23rd Avenue, Nekoosa, WI 54457.

11. The Plaintiffs, Randal 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.

12. 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.

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 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.

15. The Plaintiffs, Scott and Deborah Burdick, are adult residents of the State of Illinois who reside at 26445 W Fox Trail, Channahon, IL, 60410. The Plaintiffs, Scott and Deborah Burdick, at all times material hereto, owned and/or resided at the properties located at N13692 Pinewood Drive, Necedah, WI 54646 and W3715 7th Street E, Nekoosa, WI 54457.

16. The Plaintiff, Reginald 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.

17. The Plaintiffs, Herbert and Marveen Carlson, are adult residents of the State of Wisconsin who reside at N16436 26th Avenue, Nekoosa, WI 54457. The Plaintiffs, Herbert and Marveen Carlson, at all times material hereto, owned and/or resided at the properties located at N16436 26th Avenue, Nekoosa, WI 54457 and Parcel 290021528.04 in the Town of Armenia.

18. The Plaintiffs, Mike and Roberta Chaney, are adult residents of the State of Wisconsin who reside at 1005 Garvens Ave, Brookfield, WI 53005. The Plaintiffs, Mike and Roberta Chaney, at all times material hereto, owned and/or resided at the property located at W3567 3rd Street, Nekoosa, WI 54457.

19. 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.

20. The Plaintiffs, Lannie Cunningham and Deborah Jasiczek, are adult residents of the State of Illinois who reside at 17192 Highwood Drive, Orland Park, IL, 60467. The Plaintiffs, Lannie Cunningham and Deborah Jasiczek, at all times material hereto, owned and/or resided at

the properties located at W3534 6th Street, Nekoosa, WI 54457 and Parcel 290021734.04 in the Town of Armenia.

21. 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.

22. The Plaintiff, Steven Dolezel, is an adult resident of the State of Wisconsin who resides at 3230 Emerald Valley Drive, Onalaska, WI 54650. The Plaintiff, Steven Dolezel, at all times material hereto, owned and/or resided at the properties located at W4272 Hall's Point Court, Necedah, WI 54646, W4275 Hall's Point Court, Necedah, WI 54646, Parcel 290020232.02 in the Town of Armenia, Parcel 290020232.03 in the Town of Armenia, Parcel 290021852.84 in the Town of Armenia, Parcel 290021852.83 in the Town of Armenia, Parcel 290021852.45 in the Town of Armenia, Parcel 290021852.44 in the Town of Armenia, Parcel 290021852.43 in the Town of Armenia, Parcel 290021852.42 in the Town of Armenia, Parcel 290021852.36 in the Town of Armenia, Parcel 290021852.24 in the Town of Armenia, Parcel 290021794.61 in the Town of Armenia, Parcel 290021794.49 in the Town of Armenia, Parcel 290021794.48 in the Town of Armenia, Parcel 290021212.26 in the Town of Armenia, Parcel 290021212.13 in the Town of Armenia, Parcel 290021212.12 in the Town of Armenia, Parcel 290020232.11 in the Town of Armenia, Parcel 290020232.06 in the Town of Armenia, Parcel 290020232.05 in the Town of Armenia, and Parcel 290020232.04 in the Town of Armenia.

23. The Plaintiffs, Todd Doshier and Michelle Haas-Doshier, are adult residents of the State of Wisconsin who reside at 773 Pleasant Oak Drive, Oregon, WI 53575. The Plaintiffs, Todd

Dosher and Michelle Haas-Dosher, at all times material hereto, owned and/or resided at the property located at Grand View Shores, Lot 5, Nekoosa, WI 54457.

24. The Plaintiff, Ann Egge, is an adult resident of the State of Wisconsin who resides at 1761 Riverwood Lane, Wisconsin Rapids, WI, 54494. The Plaintiff, Ann Egge, at all times material hereto, owned and/or resided at the property located at N15006 23rd Avenue N, Nekoosa, WI 54457.

25. 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.

26. The Plaintiffs, Clark Elmore and Carol Mount, are adult residents of the State of Wisconsin who, at all times material hereto, owned and/or resided at the property located at W3260 Grandview Trail, Nekoosa, WI 54457.

27. 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.

28. 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.

29. 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.

30. 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.

31. The Plaintiff, Olivia Gaffney, is an adult resident of the State of Wisconsin who resides at W4235 7th Street, Necedah, WI 54646. The Plaintiff, Olivia Gaffney, at all times material hereto, owned and/or resided at the properties located at W4235 7th Street, Necedah, WI 54646 and Parcel 290021468 in the Town of Armenia.

32. 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.

33. The Plaintiffs, Stephen and Richard Gilles, are adult residents of the State of Wisconsin who reside at 9481 N 67th Street, Brown Deer, WI 53223. The Plaintiffs, Stephen and Richard Gilles, at all times material hereto, owned and/or resided at the property located at W3826 Longview Lane, Necedah, WI 54646.

34. 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.

35. The Plaintiffs, Gordon and Myra Gottbeheut, 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.

36. The Plaintiffs, Marie Grams and Lois Enkro, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3840 County Road G, Nekoosa, WI 54457.

37. 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.

38. 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.

39. 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 properties located at N15715 23rd Avenue, Nekoosa, WI 54457 and Parcel 290021674.9 in the Town of Armenia.

40. The Plaintiffs, David and Nancy Hageman, are adult residents of the State of Wisconsin who reside at 6746 Rolling Oaks Lane, Verona, WI 53593. The Plaintiffs, David and Nancy Hageman, at all times material hereto, owned and/or resided at the property located at Grand View Shores, Lot 39, Nekoosa, WI 54457.

41. 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 properties located at N16049 24th Avenue, Nekoosa, WI 54457 and Parcel 290021662.07 in the Town of Armenia.

42. 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.

43. The Plaintiff, Lori Hewitt, is an adult resident of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N16381 26th Avenue, Nekoosa, WI 54457.

44. The Plaintiffs, Lavern and Bonita Hofmeister, are adult residents of the State of Wisconsin who reside at W3794 2nd Street East, Nekoosa, WI 54457. The Plaintiffs, Lavern and Bonita Hofmeister, at all times material hereto, owned and/or resided at the properties located at W3794 2nd Street East, Nekoosa, WI 54457, Parcel 290020737 in the Town of Armenia, and Parcel 290020739.1 in the Town of Armenia.

45. 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.

46. The Plaintiffs, Ann and Andrew Hoogesteger, are adult residents of the State of Wisconsin who reside at 201 Fairview Lane, Nekoosa, WI 54457. The Plaintiffs, Ann and Andrew Hoogesteger, at all times material hereto, owned and/or resided at the property located at Parcel 1300422A in the Town of Port Edwards.

47. 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, W3048 Johnson Road, Nekoosa, WI 54457, and Parcel 290021674.4 in the Town of Armenia.

48. 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.

49. The Plaintiffs, Keith & Judi Iverson, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at N14379 21st Avenue, Necedah, WI 54646.

50. 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 properties located at N16108 Deerfield Drive, Nekoosa, WI 54457 and Parcel 290021613.1 in the Town of Armenia.

51. 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.

52. 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.



53. 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.

54. The Plaintiffs, Charlene and Lori Krohn, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 324 Plank Hill Lane, Nekoosa, WI 54457.

55. 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.

56. 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.

57. The Plaintiff, Michael Malen, is an adult resident of the State of Wisconsin who resides at N48 W17426 Thornapple Court, Menomonee Falls, WI, 53051. The Plaintiff, Michael Malen, at all times material hereto, owned and/or resided at the property located at N14197 21st Avenue N, Necedah, WI.

58. 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.

59. The Plaintiff, William Mancini Sr., is an adult resident of the State of Illinois who resides at 9750 Beaver Valley Road, Belvidere, IL 61008. The Plaintiff, William Mancini Sr., at all times material hereto, owned and/or resided at the properties located at N14199 Pine Lane,

Necedah, WI 54456, N12447 County Road G, Necedah, WI 54456, and Parcel Number 290021434.07 in the Town of Armenia.

60. 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.

61. 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.

62. The Plaintiffs, Daniel and Barbara Matthews, are adult residents of the State of Wisconsin who reside at 299 Plank Hill Lane, Nekoosa, WI 54457. The Plaintiffs, Daniel and Barbara Matthews, at all times material hereto, owned and/or resided at the properties located at 299 Plank Hill Lane, Nekoosa, WI 54457, 1684 County Road JJ, Nekoosa, WI 54457, Parcel 1300422 in Town of Port Edwards, and Parcel 1300627A in Town of Port Edwards.

63. The Plaintiffs, Cameron and Patti McChesney, are adult residents of the State of Wisconsin who reside at W3087 1st Street East, Nekoosa, WI, 54457. The Plaintiffs, Cameron and Patti McChesney, at all times material hereto, owned and/or resided at the properties located at W3087 1st Street East, Nekoosa, WI 54457, W3117 1<sup>st</sup> Street East, Nekoosa, WI 54457, and W3013 1<sup>st</sup> Street East, Nekoosa, WI 54457.

64. 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.

65. 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.

66. 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.

67. 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.

68. 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.

69. The Plaintiffs, Thomas and Sean Miller, are adult residents of the State of Florida who reside at 5045 SW South View Court, Dunnellon, FL 34431. The Plaintiffs, Thomas and Sean Miller, at all times material hereto, owned and/or resided at the property located at W2997 2nd Street, Nekoosa, 54457.

70. 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.

71. The Plaintiff, Pam Murray, is an adult resident of the State of Wisconsin who resides at 4961 Batterman Road, Nekoosa, WI 54457. The Plaintiff, Pam Murray, at all times material hereto, owned and/or resided at the properties located at 4961 Batterman Road, Nekoosa, WI 54457, N15947 24th Avenue, Nekoosa, WI 54457, Parcel 290021662.01 in the Town of Armenia, and Parcel 290021031 in the Town of Armenia.

72. 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.

73. 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.

74. The Plaintiffs, Travis and Rebecca Olsen, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 232 Nessa Lane, Nekoosa, WI 54457.

75. The Plaintiffs, Robert and Marlene Osse, are adult residents of the State of Wisconsin who reside at 2910 Sampson Street, Wisconsin Rapids, WI, 54494. The Plaintiffs, Robert and Marlene Osse, at all times material hereto, owned and/or resided at the properties located at N16162 Deerfield Drive, Nekoosa, WI 54457 and Lakeview Subdivision, Lot 7, Block 1, Nekoosa, WI 54457.

76. 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.

77. The Plaintiffs, David and Dawn Pearson, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 641 Kimball Avenue, Nekoosa, WI 54457.

78. 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.

79. The Plaintiffs, Clarence and Jane Pittman, are adult residents of the State of Wisconsin who reside at W4187 2nd Street East, Nekoosa, WI, 54457. The Plaintiffs, Clarence and Jane Pittman, at all times material hereto, owned and/or resided at the properties located at W4187 2nd Street East, Nekoosa, WI 54457 and Parcel 290020777.08 in the Town of Armenia.

80. The Plaintiffs, David and Judy Preston, are adult residents of the State of Wisconsin who reside at N14478 Clearview Road, Necedah, WI 54646. The Plaintiffs, David and Judy Preston, at all times material hereto, owned and/or resided at the properties located at N14478 Clearview Road, Necedah, WI 54646, Parcel 290021462.03 in the Town of Armenia, and Parcel 290021462.01 in the Town of Armenia.

81. 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.

82. 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.

83. 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.

84. 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.

85. The Plaintiffs, Richard and Linda Rusk, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 233 Plank Hill Lane, Nekoosa, WI 54457.

86. 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.

87. 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 properties located at W3422 3rd Street East, Nekoosa, WI 54457 and Parcel 290021637 in the Town of Armenia.

88. The Plaintiffs, Donald and Christine Scribner, are adult residents of the State of Illinois who reside at 9 Waters Edge Boulevard, Unit 12, Springfield, IL 62712. The Plaintiffs, Donald and Christine Scribner, at all times material hereto, owned and/or resided at the property located at N14648 Porter Road, Nekoosa, WI 54457.

89. 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.

90. 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.

91. The Plaintiffs, Robert and Jean Sorenson, are adult residents of the State of Wisconsin who reside at 300 Plank Hill Lane, Nekoosa, WI 54457. The Plaintiffs, Robert and Jean Sorenson, at all times material hereto, owned and/or resided at the properties located at 300 Plank Hill Lane, Nekoosa, WI 54457 and Parcel 1300625B in Town of Port Edwards.

92. The Plaintiffs, Timothy and Lorna Spoden, are adult residents of the State of Wisconsin who reside at 2227 Adel Street, Janesville, WI, 53546. The Plaintiffs, Timothy and Lorna Spoden, at all times material hereto, owned and/or resided at the properties located at N13244 16th Street, Necedah, WI 54646, Parcel 290020477 in Town of Armenia, and Parcel 290020466.1 in Town of Armenia.

93. The Plaintiffs, David and Sharon Stelmacher, are adult residents of the State of Wisconsin who reside at 492 Plank Hill Lane, Nekoosa, WI 54457. The Plaintiffs, David and Sharon Stelmacher, at all times material hereto, owned and/or resided at the properties located at 492 Plank Hill Lane, Nekoosa, WI 54457 and Parcel 1300621 in Town of Port Edwards.

94. 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.

95. 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.

96. The Plaintiffs, Richard and Patricia Stolz, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 4211 State Highway 173 Nekoosa, WI 54457.

97. The Plaintiffs, Daniel and Dean Storkel, are adult residents of the State of Wisconsin who reside at 4031 S. Moorland Road, New Berlin, WI 53151. The Plaintiffs Daniel and Dean Storkel, at all times material hereto, owned and/or resided at the property located at N14484 County Road G, Necedah, WI 54646

98. 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.

99. 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.

100. 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.

101. The Plaintiffs, Mark and Nicole Tuggle, are adult residents of the State of Illinois who reside at 4609 Howard Avenue, Western Springs, IL 60558. The Plaintiffs, Mark and Nicole



Tuggle, at all times material hereto, owned and/or resided at the property located at N14936 23rd Terrace, Nekoosa, WI 54457.

102. 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.

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

104. 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.

105. 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.

106. The Plaintiff, William Winters, is an adult resident of the State of Wisconsin who resides at N15897 24th Avenue, Nekoosa, WI 54457. The Plaintiff, William Winters, at all times material hereto, owned and/or resided on the properties located at N15897 24th Avenue, Nekoosa, WI 54457 and Parcel 290021688.1 in the Town of Armenia.

107. The Plaintiffs, Pat and Lois Wollenzien, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at 989 Kimball Avenue, Nekoosa, WI 54457.

108. The Plaintiffs, Fred and Kathleen Zankl, are adult residents of the State of Wisconsin who, at all times material hereto, owned and resided at the property located at W3798 County Road G, Nekoosa, WI 54457.

109. 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.

110. 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.

111. 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**

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

### **BACKGROUND**

113. 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.

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

115. 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.

116. 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.

117. 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.

118. 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.

119. 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.

120. 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.

121. 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.

122. 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.

123. 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.

124. 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.

125. 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.

126. 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.

127. 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.

128. 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.

129. 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.

130. 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.

131. 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.

132. 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.

133. 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

134. 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.

135. 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.

136. 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.

137. 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.

138. 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.

139. 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.

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

141. 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.

142. 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.

143. 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.

144. 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.

145. 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 39-59 mg/L and has tested positive for total coliform bacteria.

146. 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.

147. 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.

148. 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.

149. In February 2019, EPA released an interpretive report entitled, "Data Analysis: Relationships between Nitrate in Groundwater and Potential Source."<sup>1</sup> This report presented an analysis and evaluation of the data sampling and inspection efforts EPA conducted from April 30 through May 3, 2018. EPA's report also investigated potential nitrate sources, including Defendants' facilities and fields, residential septic systems, and cranberry fields. EPA made the following findings and conclusions:

- a. EPA's data revealed "a similar trend across all nitrogen analyses – concentrations below detection limits to below 10 mg/l at sample locations upgradient of crop fields and CSD, and elevated concentrations at locations downgradient of crop fields and CSD."
- b. "Results of nitrogen analyses of samples immediately downgradient of the cranberry field in the northwest edge of the study area were below 10 mg/l, and in most cases below 2 mg/l."
- c. None of the 93 validated groundwater samples collected upgradient of crop fields exceeded the 10 mg/l nitrate standard, while 65% of the groundwater

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<sup>1</sup> EPA's report can be found at: [https://www.epa.gov/sites/production/files/2019-02/documents/wi006353302\\_juneau\\_findings\\_memo\\_20181211.pdf](https://www.epa.gov/sites/production/files/2019-02/documents/wi006353302_juneau_findings_memo_20181211.pdf)

samples collected downgradient of crop fields exceeded the 10 mg/l nitrate standard. "...This data suggests crop fields are likely sources of elevated levels [of] nitrogen in groundwater and wells downgradient of crop fields."

- d. EPA's isotopic analysis suggests that agricultural inputs of commercial fertilizer and manure are the most significant sources of nitrate contamination in groundwater. Septic systems were not found to contribute significantly to elevated nitrates in groundwater.

150. 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 and December 2018, Plaintiffs observed ponding of liquid manure on Defendants' fields, as well as a leaking manure hose spraying manure several feet into the air. In January 2019, Plaintiffs observed Defendants' winter spreading of manure. As temperatures increased in mid to late March 2019, Plaintiffs have experienced runoff on their properties from Defendants' fields.

151. 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.

152. 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.

153. 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.

154. 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.

155. 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.

156. 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.

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

158. 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.

159. 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

160. 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.

161. 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 CDS'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.

162. On June 21-22, 2017, EPA conducted an inspection of CSD to evaluate compliance with the Federal Clean Water Act and with CSD's WPDES permit. EPA identified approximately 205 instances of land application practices or reporting issues between 2015 and 2017 that were

inconsistent with CSD's WPDES permit and NMP. EPA specifically noted the following in its Inspection Report:

- a. CSD failed to obtain the required number of soil samples for its fields, in violation of NR 243 requirements. CSD failed to conduct a single soil test for numerous fields in 2015 and 2016. For the soil and manure tests that were conducted, CSD failed to produce the underlying lab data.
- b. CSD's software program ("SnapPlus") improperly calculated the amount of manure actually applied to its fields, potentially leading to over-application.
- c. CSD exceeded the recommended nitrogen application rate numerous times.
- d. CSD failed to produce the requested written documentation of land manure application records and soil test lab data.
- e. CSD failed to produce records of weather conditions at or around the time of manure application, nor did CSD record weather conditions 24 hours before and after land application.

### **CAUSES OF ACTION**

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

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

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

165. 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

nitrites 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.

166. 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.

167. 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.

168. 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)**

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

170. 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.

171. 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)**

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

173. 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.

174. 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.

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

176. 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.

177. 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)**

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

179. 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.

180. 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)**

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

182. 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.

183. 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.

184. 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.

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

186. 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 22<sup>nd</sup> day of March, 2019.

HABUSH HABUSH & ROTTIER S.C.®

Electronically signed by Jason J. Knutson

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