

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA**

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Don Webb,	)
Susan Webb,	)
Isaac Ward,	)
Randy Davis, Individually, and as Father and	)
Natural Guardian of minor children Lillie	)
Davis and Luke Davis,	)
Julie Davis,	)
Lloyd Davis,	)
Jennie Davis,	)
Dennis Best,	)
Kelly Best, Individually, and as Mother and	)
Natural Guardian of minor children Dennis D.	)
Best and Paris Best,	)
Ethel Best,	)
Buddy Joyner,	)
Katie Joyner,	)
Jeremiah Mathewson,	)
Susan Mathewson,	)
Kevin Pierce, Individually, and as Father and	)
Natural Guardian of minor child Tanner Pierce,	)
Mindy Pierce,	)
Manuel Raya, Individually, and as Father and	)
Natural Guardian of minor children Gabriella	)
Raya, Victor Raya, and Olivia Raya,	)
)	)
Plaintiffs,	)
)	)
v.	)
)	)
Murphy-Brown, LLC,	)
)	)
Defendant.	)

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**COMPLAINT**

Plaintiffs hereby file their Complaint against the Defendant Murphy-Brown, LLC (“Murphy-Brown”) and allege as follows:

## **I. INTRODUCTION**

1. The Plaintiffs are residents of Greene and Wilson County, North Carolina.

During the pertinent times they have resided on, owned and enjoyed land in proximity to the Stantonburg swine confinement facility (the “Facility”), which contains approximately 4,800 swine or more owned by Murphy-Brown, and is a Concentrated Animal Feeding Operation (“CAFO”).

2. While placing thousands of its hogs at the Facility, Murphy-Brown failed to take appropriate steps to eliminate the obnoxious odor, flies and other sources of nuisance periodically emitted from the hogs and the CAFO. During the pertinent times, this has caused odor flies, and other sources of nuisance to go onto Plaintiffs’ properties.

3. During the pertinent times, Murphy-Brown placed thousands of hogs at the Facility, provided feed, additives and medicines, and provided veterinary, technical and engineering services. Defendants knew that the placement of so many hogs in such a confined space was likely to cause noxious odors and other nuisance. However, Defendant failed to take reasonable steps to eliminate the nuisance.

4. As a direct and proximate result of this conduct, the Plaintiffs have been injured by odors, flies, and other nuisance. The hogs produce large amounts of manure which falls onto the slatted floors of the sheds, is held in storage spaces below, goes out to a large artificial open-air cesspool known as a “lagoon,” and is sprayed onto fields. Odor is blown out of the hog sheds by large fans, comes off of the lagoon surface and the Facility has received several penalties regarding spraying onto the fields and runoff onto neighboring land and waterways. There are feasible means to reduce and eliminate the nuisance, yet Defendant has not implemented them.

5. The waste generated by Murphy-Brown's swine has caused injury to the Plaintiffs. The Plaintiffs have suffered injury to their right to the use and enjoyment of their properties, diminution of the values of their properties, and other harm. In the meantime, Murphy-Brown's parent company Smithfield Foods, Inc. ("Smithfield") was sold to a Chinese-backed multinational corporation, WH Group Limited, in late 2013 in a transaction estimated to have a value in excess of \$7 billion, and reported record profits for the first quarter of 2014. Defendant clearly has the resources to eliminate the nuisance yet has not done so.

6. The use of the outmoded "lagoon and sprayfield" system has been banned for new farms in North Carolina for years, and many measures exist to reduce the nuisance from existing facilities. Defendant has the means and ability to correct the nuisance but has failed to do so negligently and improperly.

## II. PARTIES

### A. Plaintiffs.

7. Plaintiff **Don Webb** is a resident of North Carolina who during the pertinent times, owned, operated and used property for recreation consisting of approximately 450 acres a/k/a Lake Wiley Fish Camp at 3611 Sand Pit Road, Stantonsburg, NC 27883.

8. Plaintiff **Susan Webb** is a resident of North Carolina who during the pertinent times, owned, operated, or used property for recreation consisting of approximately 450 acres a/k/a Lake Wiley Fish Camp at 3611 Sand Pit Road, Stantonsburg, NC 27883.

9. Plaintiff **Issac Ward** is a resident of North Carolina who resides at 1093 Stancil Town Road, Stantonsburg, NC 27883.

10. Plaintiff **Randy Davis** is a resident of North Carolina who resides at 8226 Stancil Town Road, Stantonsburg, NC 27883.

11. Plaintiff **Lillie Davis** is a resident of North Carolina who with her father, Randy Davis, resides at 8226 Stancil Town Road, Stantonburg, NC 27883.

12. Plaintiff **Luke Davis** is a resident of North Carolina who with her father, Randy Davis, resides at 8226 Stancil Town Road, Stantonburg, NC 27883.

13. Plaintiff **Julie Davis** is a resident of North Carolina who resides at 8226 Stancil Town Road, Stantonburg, NC 27883.

14. Plaintiff **Lloyd Davis** is a resident of North Carolina who with his father, Randy Davis, resides at 8226 Stancil Town Road, Stantonburg, NC 27883.

15. Plaintiff **Jennie Davis** is a resident of North Carolina who resides at 8217 Stancil Town Road, Stantonburg, NC 27883.

16. Plaintiff **Dennis Best** is a resident of North Carolina who resides at 3023 Sand Pit Road, Stantonburg, NC 27883.

17. Plaintiff **Kelly Best** is a resident of North Carolina who resides at 3023 Sand Pit Road, Stantonburg, NC 27883.

18. Plaintiff **Dennis D. Best** is a resident of North Carolina who with his mother, Kelly Best resides at 3023 Sand Pit Road, Stantonburg, NC 27883.

19. Plaintiff **Paris Best** is a resident of North Carolina who with her mother, Kelly Best, resides at 3023 Sand Pit Road, Stantonburg, NC 27883.

20. Plaintiff **Ethel Best** is a resident of North Carolina who resides at 3063 Sand Pit Road, Stantonburg, NC 27883.

21. Plaintiff **Buddy Joyner** is a resident of North Carolina who resides at, or at pertinent times, resided at 2556 or 2845 Sand Pit Road, Stantonburg, NC 27883.

22. Plaintiff **Katie Joyner** is a resident of North Carolina who during some of the

pertinent times, resided at 2845 Sand Pit Road, Stantonburg, NC 27883.

23. Plaintiff **Jeremiah Mathewson** is a resident of North Carolina who resides at 1078 Aycock Road, Stantonburg, NC 27883.

24. Plaintiff **Susan Matthewson** is a resident of North Carolina who resides at 1078 Aycock Road, Stantonburg, NC 27883.

25. Plaintiff **Kevin Pierce** is a resident of North Carolina who resides at 8268 Stancil Town Road, Stantonburg, NC 27883.

26. Plaintiff **Tanner Pierce** is a resident of North Carolina who with his father, Kevin Pierce, resides at 8268 Stancil Town Road, Stantonburg, NC 27883.

27. Plaintiff **Mindy Pierce** is a resident of North Carolina who resides at 8268 Stancil Town Road, Stantonburg, NC 27883.

28. Plaintiff **Manuel Raya** is a resident of North Carolina who resides at 2937 Sand Pit Road, Stantonburg, NC 27883-9595.

29. Plaintiff **Gabriella Raya** is a resident of North Carolina who with her father, Manuel Raya, resides at 2937 Sand Pit Rd, Stantonburg, NC 27883-9595.

30. Plaintiff **Victor Raya** is a resident of North Carolina who with his father, Manuel Raya, resides at 2937 Sand Pit Road, Stantonburg, NC 27883-9595.

31. Plaintiff **Oliva Raya** is a resident of North Carolina who resides at 2937 Sand Pit Road, Stantonburg, NC 27883-9595.

**B. Defendant.**

32. Defendant **Murphy-Brown, LLC** ("Murphy-Brown") is a limited liability company organized under the law of Delaware. Murphy-Brown's sole member is John Morrell & Company ("Morrell"), a corporation incorporated under the law of Delaware and with its

principle office located in Virginia. Morrell is wholly-owned subsidiary of Smithfield, a corporation incorporated under the law of the Virginia and with its principle office located at 200 Commerce Street, Smithfield VA 23430. During the pertinent times, Murphy-Brown has conducted business in North Carolina.

### **III. JURISDICTION AND VENUE**

33. The Court has personal jurisdiction pursuant to N.C. Gen. Stat. § 1-75.4.
34. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) in that this is a district in which a substantial part of the events or omissions giving rise to the claim occurred, and in which a substantial part of property that is the subject of the action is situated.
35. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1) in that this is an action in which the matter in controversy, inclusive of monetary damages and the value of injunctive relief, exceeds the sum or value of \$75,000, exclusive of interest and costs, and the matter is between citizens of different States.

### **IV. FACTUAL BACKGROUND**

#### **A. Background Regarding the Individual Plaintiffs.**

36. During the pertinent times, the Plaintiffs have suffered injury and harm as a direct result of the tens of thousands of swine placed near their homes by Murphy-Brown. Defendant's thousands of hogs generate feces and urine that fall onto slatted floors and adhere to hog bodies, dry into particulate dust, adhere to skin cells from pigs, and drip and trickle under the slatted floor into holding ponds below the floors that hold raw feces and urine. Stench and gases rise from below the floor and from throughout the hog sheds, and the dust, skin cells, dander, particulates, dried fecal matter and stench from below-floor manure is sent out into the environment by large fans set in hog shed walls or by other means.

37. The urine and feces go into giant holding ponds outdoors from which it evaporates and may leak and spill. Because Murphy-Brown does not cover the cesspools they are free to evaporate odor into the air and attract flies. The slurry or liquid containing the urine and feces is also sprayed into the air and onto fields around the hog sheds causing odorous fecal and urinous mist to drift through the air, go onto neighboring lands, and moisture and matter to fall and puddle on the soil so that more odor rises off it. Sites must spray large quantities or else the “lagoons” will overflow. Murphy-Brown refuses to truck manure away by tanker truck although it has the capacity to do so. One or more Plaintiffs have witnessed spraying and spray mist and the spraying regularly occurs and causes sickening stench. The sites also breed and attract flies and other insects. Dead hogs are placed in “dead boxes” where they rot until picked up by “dead trucks.” Large hog trucks carry hogs into and out of the facilities. All of these activities cause odor, annoyance, dust, noise and loss of use and enjoyment of homesteads. The stench and associated nuisance also embarrasses and humiliates the Plaintiffs.

38. Plaintiffs have suffered episodes of noxious and sickening odor, onslaughts of flies and pests, nausea, burning and watery eyes, stress, anger, worry, loss of property value, loss of use and enjoyment of their property, inability to comfortably engage in outdoor activities, cookouts, gardening, lawn chores, drifting of odorous mist and spray onto their land, inability to keep windows and doors open, difficulty breathing and numerous other harms.

39. Plaintiffs have employed measures and incurred expenses to try to protect themselves from the odors, pests, and nuisance from the hog sites and large hog trucks that pass up and down their rural roads. They variously engage in keeping windows and doors closed and running air conditioner during mild weather, caulking and employing other sealants on windows and doors, purchasing cans of spray insecticides, paying to have their yards sprayed with

pesticides, purchasing flypaper strips, purchasing bottled water so as to avoid using well water, purchasing scented candles or incense, and purchasing air fresheners, purifiers, and deodorizers.

40. Plaintiffs have suffered decline in property values; horrible smells of hog feces, urine, body odor, and corpses; the sight of dead, bloated, and decaying hogs; liquid dripping from passing hog trucks and “dead trucks,” the increased pest populations and other aspects of the nuisance. The Plaintiffs feel angry, fearful, worried, and depressed. They are worried and fearful about their health and their children’s health. They are angry and depressed because Murphy-Brown has done nothing to fix the problem. Below are examples of some of the injuries suffered by the Plaintiffs and additional facts regarding the families.

i. **Don and Susan Webb.**

41. Plaintiff **Don Webb** along with his wife, Plaintiff **Susan Webb**, during the pertinent times, has owned, operated and used property for recreation and the community’s recreation, consisting of over 400 acres at 3611 Sand Pit Road. Mr. Webb was born and raised in the area and his family long owned property there.

42. Mr. Webb himself was a hog farmer for a period of time. However, eventually he left the business because of the nuisance it caused and the complaints that he received from the community members including a local country store owner and a local African-American family.

43. Mr. Webb was employed as a school teacher and had plans to develop property known located at 3611 Sand Pit Road so that groups and individuals could use it for outdoor and recreational activities and enjoy its woods and waters. However, the proximity of thousands of swine at the nearby Facility impaired those plans.

44. Mr. Webb first heard about the plans for the Facility from a County Commissioner. The site was to be located near Mr. Webb's family property including rural ponds, camping and recreational land.

45. Based on his own experience with raising hogs, Mr. Webb was concerned about the plan to place thousands of hogs nearby. Mr. Webb and other concerned community members learned how Wendell H. Murphy, Jr. and his business were involved in the project.

46. Mr. Webb and a community member named William Bynum met with Mr. Murphy, before the Facility had been fully built and filled with pigs. At that time, Mr. Murphy was a State Senator.

47. During their discussion, Mr. Murphy assured them that he was only going to put 3,400 sows at the site and that they would never increase the size. This assurance has proven false, as today, the facility has approximately 4,800 swine.

48. Mr. Murphy also made assurances to the effect of how the site would not smell bad after the first year. Mr. Webb said he disagreed and that he believed it would continue to smell bad and it would get worse. In fact, the odor and nuisance from the pigs at the Facility did get worse over time.

49. Mr. Murphy also made assurances to the effect of how the Facility would not smell bad beyond 750 feet. In fact, there have been recurrent episodes of nauseating and noxious odors beyond a 750-foot radius.

50. Mr. Murphy also made assurances to the effect of how the site was the best spot he had ever seen to put a hog operation. In truth, the site was near vulnerable tributaries, waterways and ponds. In addition, there were nearby residential water wells using a shallow

subsurface aquifer. Further because the site was on a hilly incline, wastewater would flow off of it. And, ditches and a stream passed through the site and ran from it into neighboring property.

51. During this meeting, Mr. Webb also told Mr. Murphy about his concerns about the large amounts of airborne odor that would be caused by the presence of thousands of hogs. Mr. Murphy and Defendant had notice of the Plaintiffs' concerns yet proceeded with the Facility.

52. Mr. Webb also took Mr. Murphy to Mr. Webb's own land and showed him the area around the Contentnea Creek, an important local waterway used for recreation. Mr. Webb described his worries about odor, flies and harm. Mr. Murphy assured Mr. Webb with words to the effect of how you will never smell it back here. Mr. Webb told Mr. Murphy, words to the effect of how I was a hog farmer too, and we will end up smelling it. Mr. Webb proved to be correct.

53. Mr. Webb took Mr. Murphy on a drive around the area in his pickup truck. They pulled up to a different hog facility associated with Mr. Murphy. A woman came out with a shovel shouting and about to attack the truck. The woman only stopped when she realized Mr. Murphy was in the truck. Mr. Webb said to Mr. Murphy words to the effect of, now you can see what we have to go through, in terms of the hostility from your workers.

54. Mr. Webb showed Mr. Murphy an area around the cesspool at the site where the angry woman was, where there had been a leakage problem. Mr. Webb also showed Mr. Murphy the same facility that had sprayed manure off into the woods and it came down into a ditch that drained into the Contentnea Creek area. Mr. Webb showed Mr. Murphy these other farms as examples of the problems the region had experienced already due to swine sites.

55. Mr. Webb also drove Mr. Murphy to talk with some community members in the Pender's Crossroad and the Black Creek areas. They visited Annie Dupree and her husband,

near another hog operation in a largely African-American community. Mr. Dupree had serious health and breathing problems and oxygen assistance. Mrs. Dupree described to Mr. Murphy how the stench got onto their grandchildren's clothes and embarrassed the children when they went to school. Another lady in the community described to Mr. Murphy how at times the stench was so bad when she mowed the lawn she had to wear a mask.

56. Mr. Webb also took Mr. Murphy to visit Marie and Carlton Bass near Black Creek. The Basses told Mr. Murphy about the hogs at a site nearby caused a bad stench in the neighborhood. They told Mr. Murphy how children were upset and their son was very unhappy.

57. The presence of the Facility has harmed Mr. Webb's fish camp property and his ability to use and develop it. By comparison, when Mr. Murphy and his family developed some of their own property into the River Landing development, upon information and belief they took steps to ensure that inhabitants of their luxurious development would never be affected by foul odors and flies from the swine confinements which litter Duplin County. River Landing is located in Duplin County, which along with Sampson County has become one of the two highest-density hog counties in the entire United States as a result of Murphy-Brown hogs. Unlike other communities in Duplin County however, River Landing is carefully protected from swine odor and nuisance. The development is buffered from any swine confinements. While Mr. Murphy took steps to ensure no swine odor and nuisance would affect development of River Landing, he took no such steps to help protect Mr. Webb's 400-acre property.

**ii. Isaac Ward.**

58. Plaintiff **Isaac Ward**'s residence at 1093 Stancil Town Road is part of a 30-acre farm that he owns. Born in 1932, he has lived there most of his life as have his African-American ancestors. Mr. Ward is a Korean War Veteran and served in active duty in 1951-52 and served

with distinction. Mr. Ward has resided at his current address since approximately 1987 on. The land goes back in his family at least to his grandparents. The land has been in his family as long as he can remember. Prior to Isaac Ward, the land was owned by Willie Earl Ward, Jr.

59. The Facility and its sprayfields are located near Mr. Ward's home. Neither Wendell Murphy nor any of his representatives warned Mr. Ward about their plans to put thousands of pigs nearby or asked for his consent. Nor has Murphy-Brown ever paid Mr. Ward a license fee to compensate him for using his land to spread bad smells, odor and flies.

60. Mr. Ward has gotten flies and odor from that facility many times. The bad smell has made him gag, his eyes burn and his nose run, and has given him headaches.

61. Sometimes, so many flies have come onto his property that it was hard to work outside. It was never like that before the thousands of pigs were placed nearby around 1991. Before that, things were pretty normal with no swarms of flies and no stinking pig odors.

62. When Mr. Ward was young, he used Contentnea Creek and the nearby ponds. That was a favorite place for community members to swim, boat and fish. Mr. Ward used to fish there, but he would not fish in it now because of all the hog waste that runs into it.

63. Mr. Ward has gone down Sand Pit Road and he has seen pig waste in the stream that comes from the site and goes under the road on its way to Contentnea Creek. He can tell it is pig manure, urine and cesspool water by the color and the smell. He has seen it running in this stream many times, and major spills at least five or six times. Because the site is on a hill, when they spray, the leakage easily gets into the stream and ditches and then goes down to the creek.

64. Mr. Ward's use and enjoyment of his property have been harmed because of the swine, flies and odor. There have been times when he could not have picnics or barbeques or other outdoor activities. There have been times where family or friends were over and noted the

bad smell. On one occasion, Mr. Ward was getting ready to go to church and the smell got onto his suit as he walked to his truck. On other occasions, he would hang clothes up to dry, but then he would have to wash them again because of the smell.

65. Mr. Ward over the years has raised goats, chickens and ducks and knows what the ordinary odors of a farm are. The odors from the CAFO are different and worse. Mr. Ward has liked to garden and to grow onions, cabbage, white potatoes, green beans, beets, squash and okra. The odor has gotten in the way of his normal use and enjoyment of his family land.

66. The smell has been unpredictable. For instance, he could get everything prepared for a cookout and invite friends over and then, the bad smell comes. There have been times when he has had to keep the windows closed because of the smell. There have been times when he could still detect the smell through the air piped in through the air conditioner.

67. Mr. Ward has in the past protested the harm caused by the hogs. He joined the Waterkeeper Alliance to support their efforts to stop the harm. Along with the other Plaintiffs, Mr. Ward additionally contends that his property has lost value due to the presence of the swine.

### **iii. Randy and Julie Davis and their Family.**

68. Plaintiff **Randy Davis** resides at 8226 Stancil Town Road with his wife, **Julie Davis**, and their children **Lloyd, Luke and Lillie Davis**.

69. The Murphy-Brown-owned hogs at the Facility have harmed the ability of Mr. Davis and his family to use and enjoy their homestead.

70. Davis family ancestors have lived on the land in the Stancil Town Road area going back for many decades, since the early 1900s. Mr. Davis was born in 1966 and has lived most of his life in the immediate area. The home that his parents lived in when he was born is the address where he lives today.

71. In or about 1968, his parents moved across the street to the 8217 Stancil Town Road address. Mr. Davis resided at a home about 650 feet from where he resides now, on the same approximate plot of land, from 1990-94 and then moved back to 8226 Stancil Town Road.

72. Mr. Davis has done work to renovate the family home. He resides there with his wife, Julie Davis, and three children. His daughter is Lillie Elizabeth Davis (age 10, 4th grade), his older son is Lloyd (age 21) and his younger son is Luke (age 11, 5th grade).

73. Mr. Davis works for the State of North Carolina and does some farming on the side. Mrs. Davis works as a school teacher. They depend on their homestead for family time and enjoyment when they are not working and to raise their children. They are aware of what a traditional farm smells like and the CAFO odor is totally different.

74. Mr. Davis' property adjoins that of the Facility. His land is located on the upstream side. From the edge of the site's open-air cesspool to his property runs about 3750 feet. From the edge of the nearest spray field to the edge of his property is about 777 feet.

75. The quality of life for Mr. Davis and his family has been negatively impacted by the swine. At times, the odors have been horrendous. Also, there has been no way to tell when these odors will occur.

76. Mr. Davis recalls a specific incident from the latter half of 2012 when they had come home and Lillie was age 8. It smelled very bad and Lillie said words to the effect of, why do we have to live like this, Daddy? She talked about how when she went to a friend's house it did not smell bad, but then at her own house it smelled so bad. Mr. Davis did not know what to tell her. There have also been times when the Davis children have had friends over and they could smell the hog odor.

77. Over the years, a lot of times the odor has seemed to happen most when the site was spraying their hog waste on the fields and right after a rainfall. There are times when the family did not go outside to barbecue or use their outdoor pool because of how bad it smelled. There have been bad and embarrassing experiences during pool parties, birthday parties, family gatherings, and bad odors during yard work. They like to do outdoor activities like using the pool, basketball, biking, but the odors impair their enjoyment. If they open the windows on a nice day to let the air in, at any given time the odor might come. They cannot hang clothes out to dry. They have to spend money on air conditioning when they do not want to.

78. Since the site began, the family has also noted big buzzing blowflies. For example, in recent months, when Mr. Davis went outside he heard this humming noise that sounded like a swarm of bees. When he went and looked, he saw a bunch of the flies on the side of the pool house.

79. When the weather is nice, the family is taking a risk when they open the windows, because the stench is unpredictable. Once the swine odor gets inside the house, it is hard to get rid of it. Mr. and Mrs. Davis are concerned about the health impacts related to living next to the facility and it causes stress in his family.

80. The bad odors have continued even after the Davis family and others made complaints and even after the Plaintiffs initially sent farm nuisance mediation demands and filed lawsuits.

81. As an example recently in May 2014 it was a nice weather day, low humidity and they had the windows open. They went to Lillie's softball game and got back home and they could smell the odor at about 9 p.m. It was a disgusting heavy odor.

82. Mrs. Davis recalls when she had a party that schoolchildren attended. The other children and their parents noticed the odor and talked about it and brought it up with her. People started to the party early.

83. The Davis's younger son, Luke, likes to fish in the Contentnea Creek. However they have seen cesspool and spray liquid running off into this creek and its tributaries. The contamination has affected their use and enjoyment of their property and the Creek.

84. At various times, Mr. Davis has seen discharges of waste running off the facility into a stream that runs from the facility grounds and goes under Sand Pit Road. This stream goes by the Joyner homestead and empties into the Contentnea Creek.

85. When Mr. Davis was young, he used to fish and swim in the Contentnea Creek, and also, in the adjoining ponds now owned by Don Webb. They had slides, rope swings and boats and enjoyed these waters. There used to be lots of boats that could be seen on the creek. However, after the thousands of confined swine arrived, there was less swimming, fishing and recreation. Mr. Davis and his family could no longer catch and eat fish from the Creek due to the hogs.

86. The facility is located on a downward slope towards Sand Pit Road and Contentnea Creek. When there is hog feces and urine spraying, leakage or rain the stream that runs from the CAFO and under Sand Pit Road changes to a pinkish color that is accompanied by the smell of pig urine and feces odor.

87. The Davises complained about the nuisance years ago including to County Commissioners but it had no effect. Mr. Davis is a member of the Waterkeeper Alliance and has participated in efforts to stop the problem. However, Murphy-Brown continues to send thousands of its hogs to the site.

88. Mr. Davis's parents live across the street from him. Plaintiff **Jennie Davis** is his mother. She resides with Wilbur Davis, his father at the 8217 Stancil Town Road address.

89. Jennie Davis is age 89 and her husband is age 84 and they are retired. They are both legally blind. They have health issues and are largely confined to their home. It is disturbing to Randy Davis that his parents have to live with this nuisance. Wilbur is a Korean War veteran and worked hard all his life. Jennie has always loved the countryside.

90. At times, when Jennie Davis has been outside and the odor came, it made her want to vomit. The odor has been the worst during the summer when a hot breeze would blow it on her. Other times, Jennie Davis would have her grandson over and the odor and flies would make them go inside. Sometimes the flies would land on her outside. Once she complained to a man in a truck with the facility name on it about how bad it was.

91. When thousands of pigs were first placed at the Facility in the early 1990s, Mr. and Mrs. Davis and his parents were already living on Stancil Town Road nearby. Defendant never asked for their consent before starting to place thousands of hogs nearby, nor has it ever offered to pay them for spreading odors and flies over their property.

92. Accordingly, the Davis family like the other Plaintiffs has been forced without their consent to absorb the cost and the impact on their property value and their quality of life.

#### **iv. Dennis and Kelly Best and their Family.**

93. Plaintiffs **Dennis Best** and his wife **Kelly Best** reside at 3023 Sand Pit Road with minor children **Dennis D.** and **Paris Best**.

94. The Best family moved into their home in the year 2000. The Facility is located such that it cannot be seen from the public roads, and the entrance to it is a private lane with no public access. There were no warning signs to let Mr. Best there was a nuisance nearby.

95. During some or all of the period of time since Dennis Best and his family have resided at Sand Pit Road, Defendant has acted negligently and improperly in how it has continued to send thousands of swine to the site. Murphy-Brown has known that its hogs were causing odor, flies and other nuisance, and that feasible control measures were readily available. Murphy-Brown was even implementing such measures at other sites without adversely affecting its profitability or ability to stay in business. However, Murphy-Brown would not do so here.

96. Murphy-Brown holds out that when properly operated a Murphy-Brown facility never causes a nuisance. Accordingly, Murphy-Brown concedes that if the evidence reflects the existence of a nuisance, this logically reflects improper operation.

97. Because of the odors, stench, flies and other nuisance, the Best family's ability to use and enjoy their homestead has been impaired, including: not being able to have outdoor barbeques, not being able to play with their grandchild outside, and not being able to sit outside or do other outdoor activities.

98. For example, during a family reunion in May 2010, the family was having a cookout but had to come indoors because of the smell. On another occasion, a birthday party for their granddaughter was interrupted because of the smell. Once, the family wanted to buy a trampoline but did not because of the smell. Again, the family wanted to build a gazebo, but did not because of the nuisance.

99. In addition, over the years, the family members have seen large hog truck drive by to and from the facility. These hog trucks cause dust and additional odor.

100. At one time, the family complained to the water bill people in Snow Hill about the nuisance. Over the years, to try and defend against the smell, the family has used measures such

as keeping their windows closed, running the air conditioner, keeping the doors closed, using scented candles, using an automatic sprayer to spray the lawn, and staying indoors.

101. The property value of the Best family's home at 3023 Sand Pit Road is diminished because of the presence of the Facility.

102. Plaintiff **Ethel Best** is a relation and resides at 3063 Sand Pit Road. During some of the pertinent times, other family members have resided with her including her son, Reginald Best, his wife, Shinah Hawkins Best, her grandson, Jamar Carmon, and her daughter, Tierra Best. Ethel Best has resided at her address since in or about 1999.

103. Ethel Best has had her right to use and enjoy her property impaired by the odor and other nuisance. When the smell has been bad, she has had to keep the windows and doors closed and she has used scented candles. It also makes it harder to breathe.

104. The property value of Ethel Best's home at 3063 Sand Pit Road is diminished because of the presence of the Facility.

**v. Buddy and Katie Joyner.**

105. Plaintiff **Buddy Joyner** has at pertinent times resided at 2556 or 2845 Sand Pit Road. From time to time he has had other family members residing with him including Tiffany Moore and his grandmother, Plaintiff **Katie Joyner**. Mr. Joyner has resided on Sand Pit Road ever since 1986 when he was born.

106. Before Murphy-Brown and its predecessors began keeping hogs at the Facility in the early 1990s, there was no bad smell and fishing was plentiful. Mr. Joyner as a child used to play in the stream that passed by the homestead. In the years since the CAFO began, Mr. Joyner as a child had to stop playing in the stream that borders the property.

107. The stream used to be clear with some fish in it. After the thousands of hogs were placed up the hill where the stream came from, the stream would get cloudy and smell bad.

Also, there were odors and flies. When they got bad sometimes, he had to stay indoors.

108. Mr. Joyner used to fish, swim and hunt along Contentnea Creek. He used to catch and eat fish. After the hogs came, most of the good fish went away. He was concerned it was not safe to eat fish he caught. Sometimes, he saw a pink color on the Creek like the runoff from the CAFO. There were many smaller discharges and sometimes larger ones.

109. Episodes of foul stench have particularly occurred at night. When the smell has been bad, he has had to keep windows closed and could not do things such as hang clothes outside to dry, or enjoy other activities outdoors. From time to time, the foul odors have made it more difficult to breathe. The odor is like feces or something dead. Mr. Joyner has also had nausea.

110. From time to time, trucks pass near Mr. Joyner's property containing live or dead hogs. These trucks may give off a foul odor and dust. Mr. Joyner has seen dead hogs on the CAFO property. From time to time there are quantities of flies around Mr. Joyner's property. At various times, Mr. Joyner has seen the runoff running by his family's land.

111. Katie Joyner is age 70 and resided on Sand Pit Road since about 1972. For much of the time family members including her husband Offie Joyner, Jr., her children Jimmy Ray Jr., Steve Mae Joyner and Tammy Delores Perry and her grandson Plaintiff Buddy Joyner resided with her. She lived at 2845 Sand Pit Road with her husband for over 40 years until he passed away in December 2012.

112. The CAFO was built up the hill across from her home. A stream runs from the Facility down under Sand Pit Road and traveled by her home. The family water well was located

about 25 feet from the stream. After the CAFO started, sometimes they saw swine site runoff in the stream. They were told it was getting in their well. They had to keep using the well anyway for a while because it could not afford to pay to get onto city water, until 1999.

113. Sometimes the spills were bigger and the stream turned a pink-brown color and the smell was really bad. There were also many smaller spills. There was runoff into the stream when the CAFO sprayed manure into the air and onto the fields around the swine and if it rained.

114. The stream that went by the Joyner house went down to the Contentnea Creek. They have seen the pig runoff get all the way to the wetlands and the Creek.

115. After her retirement, Katie Joyner spent a great deal of time at home. During her time living on Sand Pit Road, she smelled the bad odors from the hogs at times during the day and at night. Some of the worst smells were at night.

116. Because of the noxious odors from the hogs, Ms. Joyner was injured in her use and enjoyment of her property, including doing yard work, hanging out clothes to dry, keeping the windows open, and walking or sitting outdoors. She had to run the air conditioner when she did not want to and there were times when she went indoors because it smelled bad.

117. Ms. Joyner complained to the CAFO and asked them to stop spraying because of the foul smells. She also told Don Webb about the problems. She supported the Waterkeepers to try to make the CAFO change. But the problems went on.

118. Ms. Joyner had problems with nausea and burning in the eyes. She does not know what drinking and using the bad well water may have done to her or family. From time to times, trucks passed by her house containing live or dead hogs and with a bad smell. She also had problems with flies. Ms. Joyner saw hog runoff beside her house and well. She saw workers trying to pump out spills from next to her property.

119. Recently, Ms. Joyner has relocated to Pikeville, NC. She moved to get away from the odor, flies and bad memories from living near the CAFO.

**vii. Jeremiah and Susan Mathewson.**

120. Plaintiff **Jeremiah Mathewson** and his wife **Susan Mathewson** reside at 1078 Aycock Road. They purchased their land in 2009. The land has approximately 120 acres. The land is partly in Wilson County and partly in Greene County. They use the land as a residence and also to grow crops including soybeans and corn.

121. From time to time, the Mathewsons have experienced a foul odor from the CAFO. They have smelled it during warmer months, and also, when they are downwind.

122. The foul odor has affected their use and enjoyment of their land and their ability to enjoy time with their family and friends on their land. They have also experienced episodes of flies. When the smell is bad, they have had to keep windows closed.

123. The Mathewsons know what a traditional pasture farm smells like and the CAFO smells were different and worse.

124. Mr. Mathewson is retired and the CAFO has impaired his use and enjoyment of his land. He has smelled the bad odor while mowing the grass. The smell has affected his wife's ability to enjoy her patio and garden and at times has made her stay inside. At times they had to keep the windows closed and run air conditioning when they did not want to.

**viii. Kevin, Mindy and Tanner Pierce.**

125. Plaintiffs **Kevin Pierce** and his wife **Mindy Pierce** along with their son **Tanner Pierce** reside at 8268 Stancil Town Road. When they purchased their home in 2004, they had no knowledge of the existence of the Facility and Murphy-Brown placed no warnings about the swine or the recurrent odors near the private Facility entrance.

126. Once the Pierces moved in, they began to experience the harmful effects caused by the thousands of swine concentrated at the CAFO.

127. The Pierces have experienced episodes of foul odor at various times of day. It has impaired their ability to engage in outdoor activities. They have had episodes of flies. When the odor is bad, they must keep their doors and windows shut and use air fresheners.

**ix. Manuel and Olivia Raya and their Family.**

128. Plaintiffs **Manuel Raya** and his wife **Olivia Raya** reside at 2937 Sand Pit Road with their son **Victor** and their daughter **Gabriella Raya**. The Rayas have resided at their address since 2007. Prior to that time, they resided a short distance away (about 200 yards) on Bad Alley Lane. The Rayas have lived these two addresses since the year 2000.

129. Mr. and Mrs. Raya's home is across the road from the Facility. Some sprayfields and the entry are located directly across the road. Where they live is also near a stream that runs from the Facility and under Sand Pit Road. This stream enters into the Creek a short distance away.

130. On a number of occasions, Mr. Raya has seen the stream carrying hog manure and urine runoff to Contentnea Creek with a maroon/pinkish color and bad smell.

131. Over the years, Mr. Raya and his family have often gotten the smell on their property. They are familiar with that odor. It is an awful odor. When there is spraying, that made the smell bad. The smell gets into their home and onto their clothes. It is hard to get rid of. This has occurred many times and they never know when it will come.

132. The bad smell episodes made it hard for them to be outside. There have been times when spraying mist has crossed the road and gotten into the ditch in front of their house and onto their property. This ditch connects with the stream that goes to the Creek.

133. Mr. Raya's son Victor used to fish in the Creek. He stopped fishing there because of the waste. The family cannot eat the fish from that creek now.

134. Mr. Raya and his family suffer stress related to the operation of the Facility. It is not just the odor but also the flies that at times have gotten bad. Mr. Raya joined the Waterkeeper Alliance to try to support the effort to end the problem.

**B. Background on Hog Manure, Odors and Nuisance Causes.**

135. Hogs generate multiple times more feces and urine per day than a human being. In 2002, the General Accounting Office estimated that 7.5 million hogs in five eastern NC counties produced 15.5 million tons of manure each year.

136. Furthermore, Murphy-Brown's diet and antibiotic regimen is meant to promote aggressive growth, causing more manure to be generated in less time.

137. A hog may grow from birth to 250 pounds in about six months or less before it is slaughtered. A piglet usually feeds from its mother until it is four to six weeks old and weighs about 25 or 30 pounds. Then it eats feed grain and is known as a feeder pig. It takes about six months for a pig to reach market weight of 250 pounds. A slaughter-weight hog is thus about fifty percent heavier than an average person.

138. The hog odors can be smelled at extremely low concentrations that cannot be measured with available instruments.

139. Dietary manipulation can reduce odor. Murphy-Brown supplies all the feed and sets the ingredients and additives for its hogs and on information and belief has tailored the diet without regard to reducing the odor and nuisance.

140. In addition to and separate from any foul odors, the presence of Defendant's hogs causes periodic swarms of flies and other insects and pests. The Plaintiffs and their families, find

that large black flies periodically come onto Plaintiffs' properties. These flies were not prevalent before the thousands of hogs were placed at the CAFO. The flies impair cookouts and other outdoor activities. Other insects such as gnats also come onto Plaintiffs' property. The flies get stuck to windows and get inside the homes. They land on peoples' skin and on their food and are disgusting and humiliating.

141. These insects and pests are also scientifically found to be "vectors" for disease. Flies for example can carry germs.

142. In addition, ever since the hogs have come, very large trucks crawl up and down the streets outside of the Plaintiffs' homes. These streets are not wide city thoroughfares distanced from the houses, but rather narrow and even unpaved country lanes. The trucks cause noise, dust, and lights from headlights and they pass even in the middle of the night. Further, when the trucks bring hogs in and out this can create extra odor.

### **C. Background on the Facility.**

143. The Facility is a Concentrated Animal Feeding Operation or "CAFO" with permit number NCA240041 issued by DENR. It is located at 2938 Sand Pit Road in Greene County near the Wilson County line. Stantonburg Farm, Inc. ("SFI") is a North Carolina corporation with a principle place of business in North Carolina and upon information and belief owns a land located at 2938 Sand Pit Road.

144. SFI was incorporated on or about October 28, 1991 by Donald Parker. One or more Murphy family members have been executives with SFI.

145. Upon information and belief, prior to 2000, the Facility held swine owned by Wendell Murphy, Sr., Wendell Murphy, Jr., or their Murphy Farms business. After Smithfield

acquired Murphy Farms in 2000, the Facility held swine owned by Murphy-Brown. Currently the Facility confines approximately 4,800 swine.

146. Upon information and belief, the real property and buildings of the site are owned by SFI. For much or all of its existence SFI has been 100% owned by Dell Murphy and Wendy Murphy Crumpler, each owning a 50% interest.

147. Upon information and belief, during some of the pertinent times and through on or about December 29, 2012, the Facility was “leased” by SFI to Murphy-Brown. Upon information and belief, Murphy-Brown oversaw and controlled all materials aspects of the Facility under this “lease.” Upon information and belief, after December 29, 2012, the Facility continued to be managed by Murphy-Brown, with Murphy-Brown employee Michael Griffin listed as the certified operator. According to SEC filings, during fiscal year 2012, Smithfield directly or through Murphy-Brown paid expenses of \$508,000 to SFI.

148. Murphy Family Ventures, LLC (“MFV”) is a limited liability company whose member and manager upon information and belief is Wendell Murphy’s son, Wendell H. Murphy, Jr. aka “Dell” Murphy, and/or DM Farms of Rose Hill, LLC, a company owned by Dell Murphy. On or about January 31, 2013, SFI contracted with MFV and its employees including but not limited to A.J. Linton to assist with certain irrigation and disposal duties aka “nutrient management.” MFV as of 2010 operated swine production facilities in North Carolina and Missouri employing approximately 250 people in Missouri and approximately 400 in North Carolina. Dell Murphy as of 2012 held a 100% interest in Murphy Family Ventures. In 2012, Smithfield made payments of \$1,444,000 to MFV.

149. Upon information and belief, the Facility began operations in or about 1991 and has generated close to 12 million gallons of manure and flush water per year. Once the open-air cesspool grows full, it is sprayed or applied onto nearby fields.

**D. DENR Records Regarding the Facility.**

150. Since 1991, there have been multiple reported episodes where spraying on the fields has caused runoff into a tributary of the Contentnea Creek which passes nearby. This unnamed tributary, or stream, passes along the border of the land where Plaintiff Buddy Joyner and Katie Joyner have lived. Upon information and belief, the fields used for the spraying cannot absorb all of the urine and feces, and the shallow water table makes this condition worse.

151. A DENR registration form dated December 30, 1993 reflected that on average, 5,000 swine were then kept at the Facility.

152. Upon information and belief, on one or more occasions the DENR permit for the Facility lapsed or was revoked and had to be reinstated.

**i. 1995 Spill Incidents.**

153. According to DENR records, on or about January 28, 1995, photos taken by Prakash Menon and Robert Tankard showed pink-colored water in the tributary ditch near the Facility, and individuals including Don Webb complained that there was an odor to the water.

154. Upon information and belief, during that and other episodes, there was harm to aquatic life. Local residents including Buddy Joyner and others experienced recurrent episodes of pink-colored water flowing in the stream passing by their land.

155. According to DENR records, on or about February 2, 1995 samples of the tributary near the Facility were taken. At the headwaters of the tributary, they measured 5.9 mg/L of dissolved oxygen, and 30/100 ml of fecal coliform. Downstream where the tributary

crossed NC State Road 1232 near Mr. Joyner's family land, they measured 7.9 mg/L of dissolved oxygen, and 70/100 ml of fecal coliform. For comparison, game fish such as trout need least 6 mg/L dissolved oxygen in order to flourish.

156. On or before February 13, 1995, DENR reported a call with Randy Davis. Mr. Davis observed pink water in the ditch on January 28, 1995 and had camcorder footage. Mr. Davis had resided in the area all his life and was familiar with the roads, paths and water courses of the region. Mr. Davis said the flow in the ditch observed on January 28, 1995 went directly to the Contentnea Creek via adjacent wetlands.

157. On or about March 20, 1995, a DENR memo related how Don Webb reported a spill into the tributary of the Contentnea Creek. Don Webb and Randy Davis, as well as Harvey Joyner, were witnesses to the event. The memo described how there were three dead pigs dumped into a drainage area and half-covered with water.

158. On or about April 27, 1995, DENR issued a Notice of Violation to the Facility with regard to its leaks into the unnamed tributary of the Contentnea Creek.

159. Despite these facts, on February 19, 1995, Wendell H. Murphy, Jr. was quoted in the Raleigh News & Observer as saying that "lagoons will seal themselves," and that there is "not one shred, not one piece of evidence anywhere in this nation that any groundwater is being contaminated by a hog lagoon." However, the water near the Stantonburg Facility was even then being harmed, and his company Murphy Farms was on notice of this fact.

ii. **1999 Spill Incident.**

160. On or about February 2, 1999, DENR wrote to the Facility stating how when DENR performed a site inspection on October 13, 1998, the management plan was not available for review, and when they came back the next day, it was missing information.

161. In a subsequent inspection on or about March 23, 1999, DENR noted a broken discharge pipe for the lagoon, plastics in the lagoon, and bare areas that needed vegetation.

162. On or about October 22, 1999, an inspection form by Daphne Cullom of DENR described that an irrigation hydrant cap had come loose and runoff was crossing beneath the path at the Facility.

163. On or about November 4, 1999, DENR records reflected that a community member named Sabrina Watson had called reporting spraying and residue landing on her property, she saw purplish water in the ditches next to her property, the spraying was especially bad on windy days, and that she was concerned about the health risks.

164. On or about November 16, 1999, a letter from DENR regarding a Notice of Violation described how on October 22, 1999, Daphne Cullom and Kim Cole inspected and "animal waste was observed in the unnamed tributary, flowing from the property of Stantonsburg Farm, Inc."

**iii. DENR Records, 2000-08.**

165. On or about May 22, 2001, a DENR letter to the Facility described that the nutrient utilization plan needed more detail on the crops and land.

166. On or about December 31, 2002, a DENR inspection report stated that the freeboard level (i.e., the level in the open-air lagoon) needed to be lowered immediately.

167. On or about January 31, 2003, a letter from David Elkin, Director of Engineering at Murphy-Brown, to Daphne Cullom at the Washington DENR Regional Office, stated that equipment installation was performed under the direction of Murphy-Brown personnel.

168. A letter dated February 13, 2003 on the letterhead of "Murphy Farms LLC" to DENR discussing a Notice of Violation dated January 27, 2003. This letter described that the

facility “owner” was Stantonburg Farm, Inc. and the “manager” was Murphy Farms, LLC with the same phone number. The letter complained that the DENR inspection was “heavy handed” and “inconsiderate of our basic private property rights.” However, during all these times it was Defendant who was being inconsiderate of Plaintiffs’ property rights.

169. A letter dated July 24, 2003 from DENR stated that the site had inadequate freeboard (i.e., the water level in a lagoon was too close to the top, near spilling over) so DENR was issuing a Notice of Violation.

170. A nutrient utilization plan in the DENR file dated June 2004 listed the “irrigation system designer” as Kraig Westerbeek of Murphy-Brown. A nutrient utilization plan dated May 2005 listed Murphy-Brown as involved in site operations and was signed by Dawn Williamson for Murphy-Brown. A nutrient utilization plan dated October 27, 2006 listed Murphy-Brown and was signed by Amy Roberson for Murphy-Brown.

171. A nutrient utilization plan dated May 16, 2007 listed Murphy-Brown and was signed by Amy Roberson for Murphy-Brown. On the same date, a letter on Murphy-Brown letterhead was sent to DENR regarding over-application caused by a purported calculation error in the field by the operator and stated that a work order was issued to train the operator further.

**iv. 2009 Spill Incident.**

172. A DENR record dated March 3, 2009 reported a call from Michael Griffin regarding a spill of 1,000 gallons or more at the Facility. The document described how “[t]he ‘pink’ water will be pumped back onto the field” and that Johnny Lancaster was setting up the irrigation reel for calibration when it happened and the flood gate was not working. A DENR record dated March 5, 2009 further described how there was a spill in which a hydrant burst and released 1000 gallons into the tributary of the Contentnea Creek.

173. On March 9, 2009, a letter from Michael Norris, Specialist for Murphy-Brown, described that there was a spill when a hydrant burst during startup of irrigation equipment. The letter claimed that “[o]ur on site technician was beginning the process of calibrating his reels” and the hydrant broke. The letter described that “[t]he Stantonburg Farm is owned by Murphy Family Ventures and managed by Murphy Brown LLC.” The letter said that the Facility removed 121,800 gallons from the ditch and insisted that it was now in compliance with “Murphy-Brown, LLC’s Environmental Management System (EMS).” An attached analysis report listed the “grower” as Murphy-Brown.

174. On March 10, 2009, DENR wrote describing how the site had a hydrant burst during the start-up of irrigation equipment, which made runoff enter a ditch tributary to the Contentnea Creek, which was a violation of the Facility’s permit.

175. On March 17, 2009, Michael Norris of Murphy-Brown wrote to DENR and stated the damaged slam gate (aka flood gate) was replaced and the technician was re-trained to make sure the slam gates were working before doing irrigation.

176. On March 19, 2009 a DENR “lagoon liquid irrigation field record” stated that Murphy-Brown was the “owner” and the “certified operator” of the Facility.

177. On August 13, 2009, a letter from Kraig Westerbeek, Murphy-Brown, to DENR said that Murphy-Brown was the “manager of this facility” and was “representing the interests of the owner, Stantonburg Farm, Inc.” The letter protested the DENR fine against the Facility.

178. A letter dated December 14, 2009 from DENR reflected payment of \$3,076.67 for the violation by check from Murphy Family Ventures, LLC.

**v. 2010-13 DENR Records.**

179. A July 27, 2011 DENR letter described the site capacity was 3,400 farrow to wean, 400 wean to feeder, plus 1,000 feeder to finish pigs, equaling a total of 4,800 swine.

180. On March 21, 2012, a nutrient utilization plan included a certification stating that the Facility was “leased by Murphy-Brown LLC” with a stamped signature of Kraig Westerbeek for Murphy-Brown. The plan was also signed by Toni King listed as a technical specialist with Murphy-Brown.

181. A February 6, 2013 letter from Murphy-Brown to DENR described a high freeboard incident and said that it was caused by above-average rainfall.

**vi. 2013 Spill Incident.**

182. A DENR record dated March 15, 2013 reported a major discharge to a tributary of Contentnea Creek. Neighbors reported that they had seen urine and feces runoff in the stream that flowed from the Facility to the Contentnea Creek.

183. From March 2013 through November 2013, the Waterkeeper organization took 17 water samples from the vicinity and supported the claim of runoff to the unnamed tributary.

184. On March 18, April 16, and May 20, 2013, witnesses assisting the Waterkeeper organization observed obvious discoloration of liquid entering the unnamed tributary.

185. On April 24, 2013, DENR wrote describing that it had not sent in the annual sludge survey that was due and that measures how much sludge has accumulated in the artificial open-air ponds known as “lagoons.”

186. On June 11, 2013, witnesses assisting with the Waterkeeper performed a flyover and observed solids in the lagoon.

187. The North Carolina Division of Water Quality (“DWQ”) in 2013 assessed a civil penalty in proceeding no. DV-2013-0020 regarding the spill. “Ponding observed during the initial investigation suggests that hydraulic over-application occurred and was likely the primary cause of the incident.”

188. By letter dated June 17, 2013, Murphy Family Ventures wrote to DWQ about the violation and the fine of \$5,236.81. Subsequently, upon information and belief, Murphy Family Ventures and/or another Murphy business entity paid a fine in the amount of \$2,986.81.

189. On August 15, 2013, witnesses observed Facility urine and feces runoff entering the unnamed tributary.

190. On September 10, 2013, witnesses observed the Facility spraying and the runoff entering the unnamed tributary.

191. On November 27, 2013, witnesses observed that the fields were saturated, there were standing ponds of water, and runoff was entering the unnamed tributary.

192. On December 4, 2013, witnesses observed discoloration where urine and feces effluent from the Facility was entering the unnamed tributary.

**vii. 2014 Incidents.**

193. Upon information and belief, improper runoff has continued to occur in 2014.

194. In or about April 2014, the Facility was given a warning citation by DENR for disposing of pig carcasses in an uncovered pit. Under the animal disposal laws, carcasses must be buried at least 300 feet from public waters and 3 feet below the ground within 24 hours.

#### **E. Additional Facts Regarding Murphy-Brown in North Carolina.**

195. Murphy-Brown was formed after Smithfield acquired much of the Murphy family operations in 2000. Upon information and belief, Wendell Murphy, Sr. was a board member or held other positions both with the Murphy businesses and with Smithfield at various times.

196. Mr. Murphy was quoted in a February 24, 1995 Raleigh News & Observer article claiming that swine CAFOs have actually increased property values. According to the article, "Wendell Murphy, founder and chairman of Murphy Family Farms, rejects claims that hog farms devalue nearby property. In fact, he says the opposite is true: 'Property values have gone up, and I mean seriously gone up, as a result of this industry being here.'" The article also quoted Mr. Murphy as stating: "If somebody has property near us and they say their property is worth less and they have to leave -- tell us about it. We'll buy it."

197. In fact, numerous studies have shown that proximity to swine CAFOs decreases property values. Particularly in light of Mr. Murphy's offer to "buy" value-impaired properties, the Plaintiffs are fairly entitled to compensation from Defendant for their diminished property values, in addition to other damages.

198. Murphy-associated facilities have a long history of violations. On May 8, 1991, a 10-acre lagoon ruptured on Murphy Farm's Magnolia No. 1 facility in Duplin County. After a limestone layer beneath the lagoon collapsed, tons of water went into Millers Creek. Wendell Murphy, Sr. knew about the incident within hours and personally visited the site of the spill. It took four days to find and patch the leak. But Murphy never notified the State about the spill.

199. In 1996, D.M. Farms of Rose Hill, LLC (owned by Dell Murphy) and Murphy Farms, Inc. operated sow farms including the Magnolia 4, Melville 1 and 2, Dell, and Section 1 site 4 farms (collectively "Mag 4"). All sites used the lagoon and sprayfield system. In

November 1996, runoff flowed off two sprayfields from Mag 4 while the spray equipment was operating without supervision and ran into a tributary of Six Runs Creek.

200. In July 1997, the Mag 4 farms again spilled into a tributary of Six Runs Creek. Apparently an operator had incorrectly set the pump timer so that the spray equipment continued to pump after completion of spraying, causing ponding in the field.

201. In January 1998, citizens groups filed a complaint against Murphy businesses in the *American Canoe Association* case alleging that Murphy spilled swine urine and feces into North Carolina rivers. In Spring 1999, after the *American Canoe* case started, the Mag 4 farm again spilled. That time, a careless operator allowed his spraying equipment to run without supervision, causing a discharge into the creek.

202. In April 1999, a spill at Vestal Farms, owned by Murphy Farms, dumped over a million gallons of water into Duplin County creeks and wetlands. Murphy Family Farms was fined \$40,650. A newspaper article dated May 22, 1999 in the Wilmington Star-News reported that Murphy Farms spokesman Jeff Turner insisted some unidentified vandal caused the spill. The State Board of Investigation and others investigated and found zero evidence to back up Murphy's claim. Investigators indicated that there was vegetation growing near the lagoon and tree roots weakened the wall and there were erosion issues. Murphy was cited for making a waste discharge to surface waters, failure to notify regulators of an interruption in the wastewater management system, failure to divert stormwater, and failure to provide a written report.

203. In October 1999, again in spite of the pending *Canoe Association* lawsuit, Mag 4 spilled again when an operator incorrectly set the pump timer so that the spray gun continued to pump after the spraying reel was fully retracted.

204. In November 1999 it was reported that Vestal Farm had another spill. This time, it was reported to have spilled 5,000 gallons into wetlands and a tributary of the Persimmon Branch. The spill originated from spraying on saturated fields or a lagoon leak.

205. On February 5, 2000, again in spite of a pending lawsuit, Mag 4 spilled again when one of the land technicians did not show up for work, forcing one man to supervise two spraying events several miles apart; as a result, water containing stored hog urine and feces ponded on one of the sprayfields and spilled off toward the creek.

206. After Smithfield acquired Murphy operations in 2000, it continued the operations through its Murphy-Brown subsidiary. Smithfield has prominently held-out to shareholders and the general public that its management systems used at the sites where its hogs are kept prevent any nuisance. Murphy-Brown contends that when properly operated according to its rules the swine sites will not cause nuisance. Accordingly, where the evidence reflects that indeed there has been a nuisance, Murphy-Brown must admit that this reflects improper operation.

207. Murphy-Brown is a multi-state corporation, wholly-owned by an even larger multinational corporation which itself is owned by a Chinese-controlled enterprise (formerly Shuanghui, now WH Group) after an acquisition valued at more than \$7 billion. Murphy-Brown is part of one “integrated” enterprise, Smithfield, which owns the hogs through Murphy-Brown, owns the processing plants through its Smithfield Packing subsidiary, and controls other aspects of the pork production process. The relationship between Murphy-Brown and its contract growers is part of “vertical integration” in which Murphy-Brown is the “integrator.”

208. Shuanghui Group is a meat processing company headquartered in Luohe, Henan, China and the largest meat producer in China. According to testimony before the U.S. Senate in July 2013 and reported translations of the Chinese-language website pages, Shuanghui is a

Chinese state-controlled company founded by Chairman Wan Long, whose biography describes him as a member of the Communist Party and a former soldier in the People's Liberation Army and political official. Plaintiffs are concerned that with Shuanghui/WH Group's buying of Smithfield, there may be pressure to increase pig production, exports to China and increase of the nuisance.

209. The WH Group Global Offering dated on or about April 15, 2014 described that "we are the world's largest pork company" and how they owned "the U.S.'s largest pork company, Smithfield." Further it stated how "We have strict quality control systems in each segment of our value chain, from production through sales and distribution. In the U.S., these objectives are grounded in our sustainability program, which focuses on key areas such as ... helping communities and value creation." (p. 185, emphasis added). In order for these statements to be true, Defendant must remedy the harm caused by its swine.

210. The WH Group offering also states: "Looking ahead, we will continue to adhere to our business principles of providing high quality and safe animal protein to consumers globally and promoting social responsibility." (p. 186). The document describes how "hog prices in the U.S. from 2010 to 2012 were approximately 40% lower than those in China principally due to lower feed costs and higher productivity...." (p. 188). "We believe we can increase our exports to China because of the supply-demand gap in China and the scale of our U.S. operations." (Id.). If the company wishes to export pork to China, it must produce the pork in an environmentally safe manner so that North Carolina and its residents such as Plaintiffs are not required to bear the externalized costs.

211. The WH Group offering also states: "In China, the U.S. and Europe, we operate a platform that seamlessly integrates R&D, production, quality control and distribution." (p. 191).

“In the U.S. and Europe, a growing number of our customers prefer suppliers that are vertically integrated and have stringent controls over supply and a commitment to sustainability.” (Id.). It states that “we have adopted … stringent supply chain controls.” (p. 192). “We believe quality assurance, traceability and commitment to sustainability are key purchasing decisions for our customers in the U.S.” (Id.). “In the U.S., we will continue to promote our sustainability program, which focuses on … helping communities.....” (p. 195). In order for these statements to be true, Defendant must remedy the harm that it now causes.

212. Smithfield has touted how “Smithfield manages every aspect of the pork production process. Vertical integration is a key point of difference and a unique selling proposition for our products and brands, allowing us to drive changes through the supply chain.” However Defendant has not made changes to end the nuisance.

213. The Smithfield 2012 annual report describes how “All company-owned and contract farms are subject to random third-party audits and site assessments” and how “Members of our production management staff … visit every contract and company-owned farm at least once a month.” Murphy-Brown constantly sends specialists to the site such as engineers and technicians, inspectors and veterinarians and controls relevant details of operation of the sites.

214. In August of 1997, Smithfield was fined \$12.6 million for violating the U.S. Clean Water Act. This was reported to be the largest fine ever imposed under the Clean Water Act. Smithfield was found to be dumping into the Pagan River, a tributary flowing into the Chesapeake Bay. The company's failures resulted in more than 5,000 violations of permit limits over five years. These violations caused harm to the water quality of the Pagan River, the James River and the Chesapeake Bay. Further, the Courts found that the company had falsified documents and destroyed water quality records.

215. In September 1999, Hurricane Floyd caused flooding in Eastern North Carolina. Many hog farms spilled and thousands of dead pigs floated in nearby areas. This hurricane and other rain events have caused flooding from hog facilities and highlighted the vulnerabilities in our State. However in 2011, Wendell Murphy, Sr. stated the harm caused by the hog facilities in the hurricane was “minimal.”

216. Defendant has taken steps in one or more other States that it has publically admitted were to “reduce the level of odor produced by the farms.” Defendant has added controls at some sites in North Carolina such as the Mitchell Norris facility in Bladen County due to odor and has installed a partial lagoon cover at Kenansville Farm in Duplin County “to respond to odor complaints from neighbors.” Defendant is aware that the hog sites cause odor and nuisance, but willfully refuses to install improvements where its hogs are stored herein.

217. In 2000, due to widespread concerns including about pig farm odor, North Carolina commissioned a multi-year study known as the “Smithfield Agreement.” This agreement allocated funds for research into superior alternatives to the lagoon and sprayfield system. Various candidate technologies were reviewed for feasibility and also under the agreement, in 2003, the non-partisan RTI institute issued a report regarding the nuisance and other bad impacts of the lagoon-and-sprayfield CAFOs. The report found among other things that the sites have a negative impact on “measures of human well-being” and found: “Odor emissions from hog farms are a continuing concern in North Carolina, particularly for residents living in close proximity to farms.” It noted how “using data on housing prices in nine counties in southeastern North Carolina … found that proximity to hog farms had a significantly negative impact on housing values and that these effects varied by the size of the operation.” Finally it noted “disease-transmitting vectors.”

218. In December 2005, a majority of the ten members of the economics subcommittee under the Smithfield Agreement found that “the range of benefits predicted to flow” from new technology appeared to justify any increased costs. By contrast, a minority of the members insisted that any new technology that “raises the net cost of production in North Carolina is not economically feasible.” The minority report was signed by Bart Ellis of Smithfield Foods, Inc., Dave Townsend of Premium Standard Farms (acquired by Smithfield), Bundy Lane of Frontline Farmers (a group supported by Murphy), Richard Eason, President, Cape Fear Farm Credit (a company that upon information and belief benefited from CAFO construction loans set up by Smithfield), and Dennis Dipietre, Economic Advisor, Premium Standard Farms (later acquired by Smithfield). Because of the staunch opposition of these Smithfield-aligned representatives, the Smithfield Agreement after more than 14 years failed to lead to the adoption of new control technologies for the swine CAFOs in North Carolina.

219. In the years since the determination by a majority of economics subcommittee members in 2005 that feasible technologies were available, the feasibility of technologies to reduce odor and nuisance and prevent environmental damage has only increased.

220. Since 2005, Murphy-Brown has made improvements at swine CAFOs in other States like Missouri at a total cost upon information and belief of \$70 million or more, yet has refused to do the same in North Carolina, despite record recent revenues.

221. In 1997, recognizing the unsustainable and harmful nature of the lagoon and sprayfield system, the State of North Carolina placed a moratorium on the construction of new and expanded hog facilities using the lagoon-and-spray system. The moratorium was enacted after CAFO construction began to threaten the Pinehurst golf course. The bill was sponsored by North Carolina State House Representative Richard Morgan who stated that “he filed the bill

because he was worried about industrial-style hog farms cropping up near golf courses in Moore County” and stated that his aim was to “draw a distinction between farming and the mass production of swine.”

222. In 2007, the State continued the moratorium against new hog lagoons. The new law made the moratorium permanent on new and expanded farms and required all new farms to follow performance standards including to substantially eliminate odor. Under the law, a swine operator can build a new CAFO using the lagoon and sprayfield system only if he can prove that it meets these requirements. Upon information and belief, to date, not a single new CAFO has been built using the old design, reflecting how that old system causes a nuisance.

223. Because Murphy recklessly failed to perform proper studies to determine the potential harmful effects of the swine CAFOs before have them built in the 1980s-early 90s, scholars were obligated to work to assess the health risks after the fact. As merely a few examples of the numerous studies that were produced from 1995 onward:

- a. A 1995 study reviewed the effect of odors from large-scale hog operations on neighbors. The results indicated that persons living near the swine experienced odors and reported significantly more tension, depression, anger, fatigue, and confusion. Persons exposed to the odors also had more total mood disturbance.
- b. Studies from 1996 and later reflect that swine CAFOs are disproportionately located in communities of color and poverty more susceptible to the nuisance and more likely to experience detrimental consequences.
- c. A 1997 study of neighbors living within a two-mile radius of a 4,000 sow swine facility found that they reported higher rates of negative effects.
- d. A 1999 report found that health effects of swine sites included “odors” and “flies” among others.
- e. A 2000 study found that hog sites are concentrated in southeast North Carolina in poor, rural and African-American communities who are more susceptible to harm and who report decreased quality of life.

- f. A 2000 study on odors from swine sites found that people living nearby reported more tension, depression, anger, fatigue, confusion, and less vigor.
- g. In 2000, the North Carolina Council of Churches noted that hog operations adversely affect “those who live in the surrounding neighborhoods.”
- h. A 2002 paper described how CAFOs and their odor disrupt the quality of life for neighbors in rural communities.
- i. A 2005 study reviewed the health effects of residents near industrial hog farms in the Duplin/Sampson County area and found increased psychological distress.
- j. 2006 studies surveyed children from schools in North Carolina who were near CAFOs and suggested that swine odor adversely affects the children.
- k. A 2006 study examined the air plume upwind and downwind from a CAFO and recommended buffering swine CAFOs from residential areas.
- l. A 2007 report found that “The encroachment of a large-scale livestock facility near homes is significantly disruptive of rural living.”
- m. A 2007 study found that due to factors like low income, inadequate housing, low health status, and insufficient access to medical care, racial discrepancies compound the negative impacts that hog farms create.
- n. A study from 2007 noted how “Odor gives a problem when pig farms are located close to residential areas.”
- o. A 2008 study investigated residents living within 1.5 miles of industrial swine operations in eastern North Carolina. The study indicated that odor is commonly present and that the odors are related to interruption of activities of daily life.
- p. A 2008 report found that “Recurrent strong odors” and “increased populations of flies are among the problems caused by CAFOs that make it intolerable for neighbors and their guests to participate in normal outdoor recreational activities or normal social activities in and around their homes.”
- q. A 2008 study noted that for residents near CAFOs “hog odor limits several leisure time activities and social interactions.” The study focused on nuisance in North Carolina, defined to include conduct that “is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property.” The study found that within 1.5 miles of CAFOs, “hog odor limits activities of daily living that participants either ‘enjoyed’ doing the most or expected to be able to perform inside and outside their homes. It restricts, for instance, activities like cookouts, barbequing, family reunions, socializing with neighbors, gardening, working

outside, playing, drying laundry outside, opening doors and windows for fresh air and to conserve energy, use of well water, and growing vegetables.”

- r. A 2009 study found that individuals living in African-American communities in southeastern North Carolina near hog farms reported high rates of stress and negative mood.
- s. In 2008-09, a global swine flu pandemic was caused by H1N1 influenza virus. Research noted that one potential source of the outbreak was swine in CAFOs and that swine flu is more likely to persist in larger farms with higher pig densities. Reports noted how in 1994, Smithfield had established its Perote operations in Mexico and in 1999 expanded its operations. The first reports of swine flu came from Perote. The Perote facility raised upwards of 950,000 hogs in 2008. It was reported that the vector of the outbreak was the clouds of flies that come out of the hog barns, and the lagoons into which the facility spewed tons of excrement. According to a municipal health official, the disease vector was a type of fly that reproduces in pig manure.
- t. A 2010 report noted how “CAFO odors can cause severe lifestyle changes for individuals in the surrounding communities and can alter many daily activities. When odors are severe, people may choose to keep their windows closed, even in high temperatures when there is no air conditioning. People also may choose to not let their children play outside and may even keep them home from school.... Odor can cause negative mood states, such as tension, depression, or anger....”
- u. In 2011, a study summarized how “Animal manure and sewage sludge” were harmful to neighbors based on studies of 16 eastern North Carolina communities near industrial swine farms.
- v. A 2013 study found that “malodors may be associated with acute blood pressure increases that could contribute to development of chronic hypertension.”
- w. A 2013 article noted that “Swine finishing operations near residential areas can create public nuisance concerns due to the annoyance potential of odor emitted from the houses.”
- x. A 2013 report described how “On the coastal plain of eastern North Carolina, families in certain rural communities daily must deal with the piercing, acrid odor of hog manure—reminiscent of rotten eggs and ammonia—wafting from nearby industrial hog farms. On bad days, the odor invades homes, and people are often forced to cover their mouths and noses when stepping outside. Sometimes, residents say, a fine mist of manure sprinkles nearby homes, cars, and even laundry left on the line to dry.”
- y. A 2014 study “odor concentrations ... in the ventilation air from the pig rooms” and found the results “indicate an acute need for ... odor mitigation technologies.”

**COUNT I: RECURRING, TEMPORARY, ABATABLE,  
PRIVATE NUISANCE**

224. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs, as if fully set forth herein.

225. Plaintiffs, and each of them, are, or during some or all of the pertinent times were, in lawful possession of their properties, and used them, or had the right to use them, as residences or for other legitimate uses.

226. Defendant, during the pertinent times, owned and materially controlled the hogs in close proximity to Plaintiffs' properties so as to cause a private nuisance.

227. Plaintiffs' right to use and enjoy their properties has been impaired by recurring foul and offensive odors; hog manure and urine; flies or other insects; buzzards or other scavenger animals; vectors of disease; trucks cause noise and lights at night and foul smells; dead hogs; and other sources of nuisance.

228. The nuisance caused by Defendant's swine has substantially impaired Plaintiffs' and use and enjoyment of their property, and has caused anger, embarrassment, discomfort, annoyance, inconvenience, decreased quality of life, deprivation of opportunity to continue to develop properties, injury to and diminished value of properties, physical and mental discomfort and reasonable fear of disease and adverse health effects.

229. Defendant has engaged in improper or negligent operation of the facilities during some or all of the pertinent times, causing harm to the Plaintiffs.

230. Defendant's conduct has been unreasonable. Reasonable persons, generally, looking at Defendant's conduct, the problems caused by it, the character of the neighborhood, the nature, utility and social value of the use of land, and the extent, nature, and recurrent nature of the harm to Plaintiffs' interests, would consider Defendant's conduct to be unreasonable.

231. The invasions, harms and injuries complained of herein by Plaintiffs are more than slight inconveniences or petty annoyances, but rather substantial invasions, harms, and injuries to Plaintiffs' comfort, property, and use of their land.

232. Defendant had actual knowledge during some or all of the pertinent times that the subject hogs were causing a nuisance.

233. Defendant knew or should have known that foul and offensive odors, hog manure and urine, flies and other insects, and other causes of nuisance from their hogs would recurrently encroach upon and invade Plaintiffs' properties, and substantially impair Plaintiffs' use and enjoyment of their properties.

234. While knowing that practicable technologies and methods are readily available to abate the nuisances and problems, Defendant has failed to abate the foul and offensive odors and other causes of nuisance.

235. During the pertinent times, the level of control that Defendant exercised over relevant aspects of the hogs and the facility operations rose to such a level that Defendant stood in a principal-agent relationship with the facility owners and is vicariously liable for their conduct in operating the facility in a manner which caused a nuisance to the Plaintiffs.

236. Alternatively, during the pertinent times, Defendant's own direct involvement in material aspects of the operation of the facility and management of the hogs renders Defendant independently liable for the nuisance with regard to the Plaintiffs.

237. Alternatively, during the pertinent times, Defendant employed contract growers to do work which Defendant knew or had reason to know to be likely to involve the creation of a nuisance, and is therefore subject to liability for harm resulting to Plaintiffs. *See Restatement (Second) Torts § 427B* ("One who employs an independent contractor to do work which the

employer knows or has reason to know to be likely to involve a trespass upon the land of another or the creation of a public or a private nuisance, is subject to liability for harm resulting to others from such trespass or nuisance.”).

238. Defendant’s conduct described above constitutes a series of recurring temporary abatable private nuisances, which Defendant has failed to remedy within a reasonable period of time, and for which Defendant is liable.

239. As a result of Defendant’s liability for private temporary recurring abatable nuisance, Plaintiffs are entitled to compensatory damages in an amount to be determined at trial.

240. In accordance with Fed. R. Civ. P. 9(g), Plaintiffs hereby plead special damages including the diminished value and lost rental value of their homesteads and properties. Plaintiffs show that as homeowners and occupants of their family properties, they are of the opinion that one impact of Defendant’s nuisance has been to reduce their property values. Numerous studies and reports have determined that hog CAFOs lower nearby property values. Plaintiffs allege that each of their homes and properties has lost significant value as a result of the proximity of Defendant’s hogs and the stench and nuisance that they cause, to be shown at trial. These damages are in addition to all other allowable damages which the jury may award.

## **COUNT II: NEGLIGENCE**

241. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs, as if fully set forth herein.

242. At all pertinent times, Defendant had a duty of reasonable care as to the ownership, maintenance, and control of the hogs that it recurrently sent in groups to swine facilities.

243. During the pertinent times, the level of control that Defendant exercised over relevant aspects of the hogs and facility operations rose to such a level that Defendant stood in a principal-agent relationship with the facility owners and is vicariously liable for their conduct in operating the facilities in a negligent manner which caused injury to the Plaintiffs.

244. Alternatively, during the pertinent times, Defendant's own direct involvement in material aspects of the operation of facilities and the management of the hogs renders Defendant independently liable for its breaches of its duty of due care with regard to the Plaintiffs.

245. Defendant has recurrently breached its duty of due care. As a direct and proximate result of Defendant's breach of its duty of care, the Plaintiffs have been injured.

246. During the pertinent times, Defendant knew or should have known that its actions and omissions were causing and contributing to cause harm to the Plaintiffs.

247. Plaintiffs are entitled to actual damages in a fair and reasonable sum in an amount to be determined at trial sufficient to compensate Plaintiffs for the negligence of Defendant.

### **COUNT III: PUNITIVE DAMAGES**

248. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs, as if fully set forth herein.

249. Defendant's above-described recurring conduct, acts, omissions, negligence, and impropriety included aggravating factors giving rise to a claim of punitive damages under Chapter 1D of the North Carolina General Statutes.

250. Pursuant to N.C. Gen. Stat. § 1D-15(a), Defendant is properly liable for punitive damages in this action in that Defendant is liable for compensatory damages and has committed one or more aggravating acts or omissions justifying an award of punitive damages, including

without limitation, recurring acts of egregious and reckless behavior, and specific instances of willful and wanton conduct.

251. The recurring conduct, acts, omissions, negligence, and impropriety of the Defendant were willful, wanton, malicious, and in reckless disregard for the rights and interests of the Plaintiffs and justify an award of punitive damages. Accordingly, Plaintiffs demand judgment against Defendant for punitive damages in an amount to be determined at trial.

**COUNT IV: INJUNCTIVE AND EQUITABLE RELIEF**

252. Plaintiffs incorporate by reference the allegations set forth in the preceding paragraphs, as if fully set forth herein.

253. In addition to their claims for monetary damages, the Plaintiffs respectfully request entry of injunctive and equitable relief requiring the Defendant to implement and continue measures to alleviate and abate the nuisance-causing conditions alleged herein.

**JURY DEMAND**

Plaintiffs respectfully request a trial by jury of all claims so triable.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiffs pray that this Court:

- A. Award the Plaintiffs compensatory damages, in an amount to be determined at trial;
- B. Award the Plaintiffs punitive damages;
- C. Award the Plaintiffs pre-judgment and post-judgment interest and any other costs, expenses or fees to which they may be entitled by law;
- D. Award the Plaintiffs appropriate injunctive and equitable relief; and
- E. Award the Plaintiffs such other and further relief as is just and proper.

A JURY IS RESPECTFULLY DEMANDED TO TRY THESE ISSUES.

Respectfully submitted, this the 21st day of August, 2014.

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