

1 GARY A. PRAGLIN (SBN 101256)  
 gpraglin@cpmlegal.com  
 2 KELLY W. WEIL (SBN 291398)  
 kweil@cpmlegal.com  
 3 CARLOS URZUA (SBN 303176)  
 curzua@cpmlegal.com  
 4 THERESA E. VITALE (SBN 333993)  
 tvitale@cpmlegal.com  
 5 **COTCHETT, PITRE & McCARTHY LLP**  
 6 2716 Ocean Park Blvd., Suite 3088  
 7 Santa Monica, CA 90405  
 Tel.: (310) 392-2008  
 8 Fax: (310) 392-0111

9 *Attorneys for Plaintiffs*

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
 11 **IN AND FOR THE COUNTY OF LOS ANGELES**

12 **GRACIE MARTINEZ**, an individual,  
 13 **FLORENCE M. SANCHEZ** an individual,  
 14 **DAISEY SANCHEZ**, an individual,  
 15 **DESTINY SANCHEZ**, an individual  
 16 **BERTA RAMIREZ**, an individual,  
 17 **MARISOL GARCIA**, an individual, and  
 18 **JAIME GUTIERREZ**, an individual, and  
 Plaintiffs,

v.

19 **MARATHON PETROLEUM**  
 20 **CORPORATION**, a Delaware Corporation;  
 21 **PROLOGIS, INC.**, a Maryland Corporation;  
 22 **LIBERTY PROPERTY, LP**, a  
 Pennsylvania Limited Partnership;  
 23 **VIRGIN SCENT, INC. d/b/a ART**  
 24 **NATURALS**, a California Corporation; and  
 25 **DOES 1-100**, inclusive,

Defendants.

**CASE NO.: 21STCV40714**

**COMPLAINT FOR DAMAGES:**

1. Negligence
2. Strict Liability for Ultrahazardous Activities
3. Continuing Private Nuisance
4. Permanent Private Nuisance
5. Continuing Public Nuisance
6. Permanent Public Nuisance
7. Trespass
8. Inverse Condemnation
9. Intentional Infliction of Emotional Distress
10. Negligent Infliction of Emotional Distress
11. Fraudulent Concealment
12. Medical Monitoring

**JURY TRIAL DEMANDED**

**TABLE OF CONTENTS**

**PAGE NO.:**

1

2

3 **I. NATURE OF THE CASE .....1**

4 **II. JURISDICTION AND VENUE .....8**

5 **III. THE PARTIES .....8**

6     **A. Plaintiffs.....8**

7     **B. Defendants.....9**

8 **IV. JOINT VENTURE AND ALTER EGO LIABILITY.....10**

9 **V. FACTUAL BASIS FOR THE CLAIMS ASSERTED .....11**

10     **A. Background .....11**

11     **B. The Dominguez Channel.....11**

12     **C. The Marathon Refinery .....12**

13     **D. The Warehouse .....14**

14     **E. The COVID-19 Pandemic and Resulting Hand Sanitizer Demand Spike .....15**

15     **E. Art Naturals’ Personal Protective Essentials .....16**

16     **F. The Fire.....16**

17     **G. Significantly Elevated Hydrogen Sulfide Resulting from Marathon Refinery Discharge  
and Warehouse Fire Debris .....17**

18     **H. Plaintiffs’ Injuries.....18**

19 **VI. CAUSES OF ACTION.....19**

20     **FIRST CAUSE OF ACTION.....19**

21     **NEGLIGENCE**

22     **SECOND CAUSE OF ACTION .....22**

23     **STRICT LIABILITY FOR ULTRAHAZARDOUS ACTIVITIES**

24     **THIRD CAUSE OF ACTION.....25**

25     **PRIVATE NUISANCE – CONTINUING**

26     **FOURTH CAUSE OF ACTION.....26**

27     **PRIVATE NUISANCE – PERMANENT**

28     **FIFTH CAUSE OF ACTION .....28**

**PUBLIC NUISANCE – CONTINUING**

|    |   |           |
|----|---|-----------|
| 1  | <b>SIXTH CAUSE OF ACTION .....</b>                  | <b>30</b> |
| 2  | <b>PUBLIC NUISANCE – PERMANENT</b>                  |           |
| 3  | <b>SEVENTH CAUSE OF ACTION.....</b>                 | <b>31</b> |
| 4  | <b>TRESPASS</b>                                     |           |
| 5  | <b>EIGHTH CAUSE OF ACTION .....</b>                 | <b>34</b> |
| 6  | <b>INVERSE CONDEMNATION</b>                         |           |
| 7  | <b>NINTH CAUSE OF ACTION.....</b>                   | <b>35</b> |
| 8  | <b>INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS</b> |           |
| 9  | <b>TENTH CAUSE OF ACTION.....</b>                   | <b>36</b> |
| 10 | <b>NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS</b>   |           |
| 11 | <b>ELEVENTH CAUSE OF ACTION .....</b>               | <b>37</b> |
| 12 | <b>FRAUDULENT CONCEALMENT</b>                       |           |
| 13 | <b>TWELFTH CAUSE OF ACTION .....</b>                | <b>39</b> |
| 14 | <b>MEDICAL MONITORING</b>                           |           |
| 15 | <b>VII.PRAYER FOR RELIEF .....</b>                  | <b>40</b> |
| 16 | <b>VIII. JURY TRIAL DEMAND .....</b>                | <b>41</b> |
| 17 |   |           |
| 18 |   |           |
| 19 |   |           |
| 20 |   |           |
| 21 |   |           |
| 22 |   |           |
| 23 |   |           |
| 24 |   |           |
| 25 |   |           |
| 26 |   |           |
| 27 |   |           |
| 28 |   |           |

1 Plaintiffs Gracie Martinez, Florence M. Sanchez, Daisey Sanchez, Destiny Sanchez, Berta  
2 Ramirez, Marisol Garcia, and Jaime Gutierrez bring this action against Defendants Marathon  
3 Petroleum Corporation, a Delaware Corporation, Prologis, Inc., A Maryland Corporation; Liberty  
4 Property, LP, A Pennsylvania Corporation; Virgin Scent, Inc. d/b/a Art Naturals, a California  
5 Corporation, and Does 1–100. Plaintiffs allege the following based on information and belief.

6 **I. NATURE OF THE CASE**

7 1. For years, residents of The City of Carson (“The City”) and surrounding cities in  
8 Southern Los Angeles County, California have questioned the potential public health impact that the  
9 dozens of oil refineries and industrial facilities that line the Dominguez Channel (“The Channel”) have  
10 on themselves and their families.

11 2. On or around October 3, 2021, those same residents, including Plaintiffs herein, began  
12 to notice a pervasive and strong odor in the air, reminiscent of rotten eggs and sewage. By the end of  
13 the first week of October, the odor intensified.

14 3. The same residents, including Plaintiffs, who noticed the strong, putrid smell also  
15 started feeling sick, suffering from nausea, vomiting, irritation of the eyes, skin and throat and  
16 headaches: all symptoms of noxious gas exposure.

17 4. For approximately one week, the affected communities suffered without any  
18 information about the source of the odor that was making them sick and their homes unlivable. Finally,  
19 on October 8, 2021, the Carson City Council announced that local agencies, including the Air Quality  
20 Management District (“AQMD”), were investigating the cause of the odor.

21 5. That same day, the Mayor of Carson, Lula Davis-Holmes stated that the cause of the  
22 odor was from a “leaking pipeline” that needed to be investigated.<sup>1</sup>

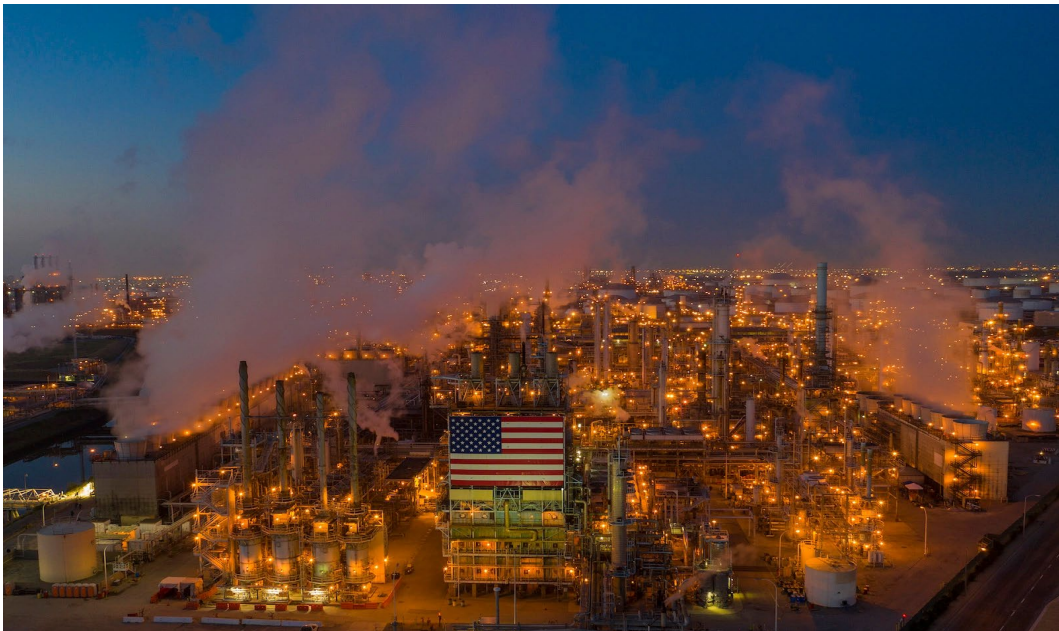
23 6. Later, AQMD determined that the odor was emanating from the Dominguez Channel.  
24 The City stated that air quality samples were being taken that detected Hydrogen Sulfide near the  
25 channel and declared it the source of the pervasive odor. The strongest measurements of Hydrogen  
26 Sulfide were reported to have taken place near the intersection of South Avalon Blvd and East Del  
27 Amo Blvd in Carson.

28  

---

<sup>1</sup> <https://lbpost.com/news/update-carson-mayor-now-says-foul-odor-due-to-leaking-pipeline-calls-for-investigation>

1           7.       Unbeknownst to the residents living in its shadow, weeks prior, in the early morning  
2 hours of September 16, 2021, Marathon Petroleum Corporation’s (“Marathon”) California Refinery,  
3 the largest oil refinery on the west coast, saw an unprecedented spike in its fence line monitor Hydrogen  
4 Sulfide readings, at nearly 290 parts per billion (“ppb”).<sup>2</sup> The readings suggested a fugitive discharge  
5 of Hydrogen Sulfide from the site, as the status quo of Marathon’s fence line Hydrogen Sulfide readings  
6 before September 16<sup>th</sup> was well below 30 ppb, the current California Ambient Air Quality Standard  
7 (CAAQS) adopted in 1969.



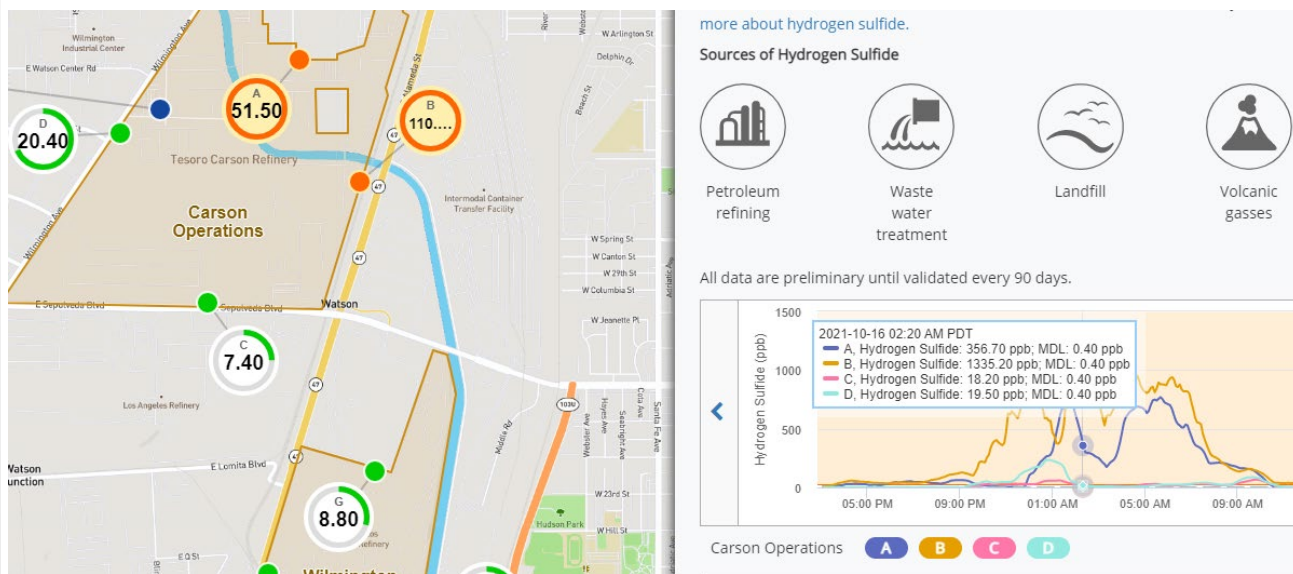
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19           8.       The next night, a magnitude 4.3 Earthquake struck Carson, just before 8 p.m.<sup>4</sup> As widely  
20 reported by residents living near the refinery, Marathon lost power during the earthquake and  
21 conducted flaring. While the power was out and when the flaring was conducted through the night from  
22 September 17<sup>th</sup> to 18<sup>th</sup>, Marathon’s monitors were offline, no longer monitoring the levels of noxious  
23 gases emitted at either of the Corporation’s adjacent refineries in Carson and Wilmington.

24           9.       In the following weeks, the likelihood that an ongoing fugitive discharge of Hydrogen  
25 Sulfide at the Marathon Refinery increased, as Marathon’s fence line monitors continued to read higher  
26  
27

28 <sup>2</sup> <https://marathonlosangelesrefineryfencelinemonitoring.com/monitors.html>  
<sup>3</sup> Photo by David McNew/Getty Images  
<sup>4</sup> <https://www.latimes.com/california/story/2021-09-17/earthquake-4-4-quake-strikes-in-carson>

1 than normal, with levels of Hydrogen Sulfide reaching 139 ppb on the night of October 7<sup>th</sup> and climbing  
2 all the way to 1,313 ppb by October 16<sup>th</sup>.<sup>5</sup>

3 10. On information and belief, the Hydrogen Sulfide emissions from the Marathon Refinery  
4 beginning on or around September 16, 2021 discharged into surrounding ambient air and/or into the  
5 nearby Dominguez Channel, a perennial river that drains water runoff from storm drains in the  
6 surrounding cities of Carson, Inglewood, Hawthorne, El Segundo, Gardena, Lawndale, Redondo  
7 Beach, and Torrance, and deposits into the Long Beach Harbor.



19 11. Meanwhile, on the afternoon of September 30, 2021, two hundred Los Angeles County  
20 Firefighters were dispatched to Carson, California to fight a massive fire that started at cosmetics  
21 corporation Virgin Scent d/b/a Art Natural's warehouse distribution center located at 16325 S. Avalon  
22 Blvd. ("The Warehouse") and engulfed an entire city block within hours.

23 12. The warehouse and surrounding yard was filled with tall stacks of pallets and cardboard  
24 boxes containing highly flammable ethanol-based hand sanitizer. Days later on October 4, 2021, the  
25 Food and Drug Administration ("FDA") found unacceptable levels of known carcinogens benzene and  
26 acetaldehyde and irritant acetal in Art Natural's hand sanitizer products labeled with "DIST. By  
27  
28

<sup>5</sup> <https://marathonlosangelesrefineryfencelinemonitoring.com/monitors.html>

1 artnaturals Gardena, CA 9024.” The FDA currently urges consumers not to use this contaminated  
2 product.<sup>6</sup>



3  
4  
5  
6  
7  
8  
9  
10  
11 Sept. 30, 2021. (CBSLA)

12 13. In the days following the fire, large amounts of the soggy, charred debris (including un-  
13 combusted ethanol-based hand sanitizer) remained piled up in and around the Warehouse. Despite the  
14 dangers and high likelihood that the debris would make its way into nearby storm drains, neither the  
15 owners of the Warehouse, Prologis, Inc. and its subsidiary, Liberty Property, LP, nor the owner of the  
16 contaminated, highly flammable products that caused the fire, Virgin Scent d/b/a Art Naturals, made  
17 any effort to remove it from the site.

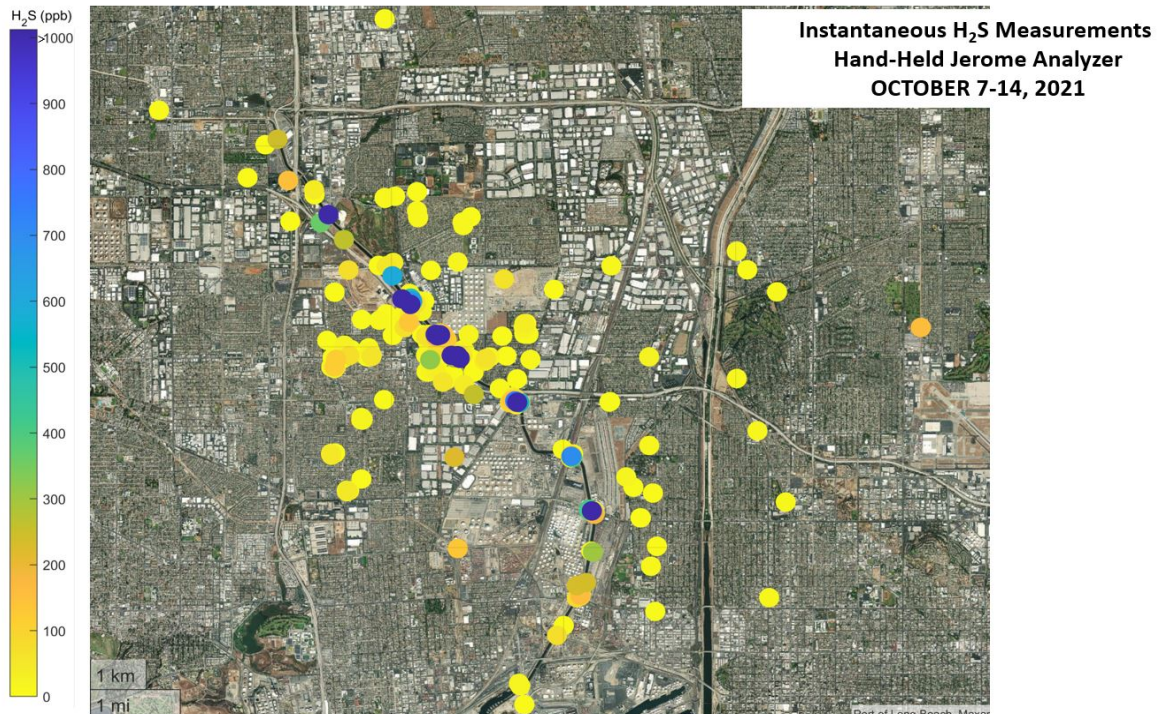


18  
19  
20  
21  
22  
23  
24  
25  
26  
27 Oct. 1, 2021. (L.A. County Fire Department)

28  
<sup>6</sup> <https://www.fda.gov/drugs/drug-safety-and-availability/fda-updates-hand-sanitizers-consumers-should-not-use>

1 14. As expected, the debris began to make its way into the Dominguez Channel via storm  
2 drains.

3 15. The un-combusted alcohols, various other combustion products, and debris entered the  
4 Channel as runoff, where it sat in shallow stagnant water (containing, among other things, hydrogen  
5 and oxygen), contributing to acute phytotoxicity (i.e., kill-off of vegetation in the channel), mixing  
6 with sulfur compounds contained both in decayed vegetation and from petroleum byproducts from  
7 nearby refineries (including, to a significant extent, fugitive discharge of Hydrogen Sulfide and sulfur  
8 dioxide from the Marathon Refinery), and catalyzing a significant and ongoing release of Hydrogen  
9 Sulfide – a highly flammable, toxic, malodorous, and corrosive gas – from the Channel.



23 16. In light of the ongoing exposure, residents, including Plaintiffs, have been advised by  
24 the Los Angeles County Department of Public Health to “keep windows and doors closed as much as  
25 possible” and “consider relocating to another area until odors go away” if symptoms are persistent or  
26 worsening.<sup>8</sup>

27 <sup>7</sup> South Coast Air Quality Management District - [https://www.aqmd.gov/home/news-events/community-](https://www.aqmd.gov/home/news-events/community-investigations/dominguez-channel)  
28 [investigations/dominguez-channel](https://www.aqmd.gov/home/news-events/community-investigations/dominguez-channel)

<sup>8</sup><https://ci.carson.ca.us/content/files/pdfs/Updated%20Community%20Notice%20for%20Odors%20in%20the%20City%20of%20Carson%2010.14.21.pdf>

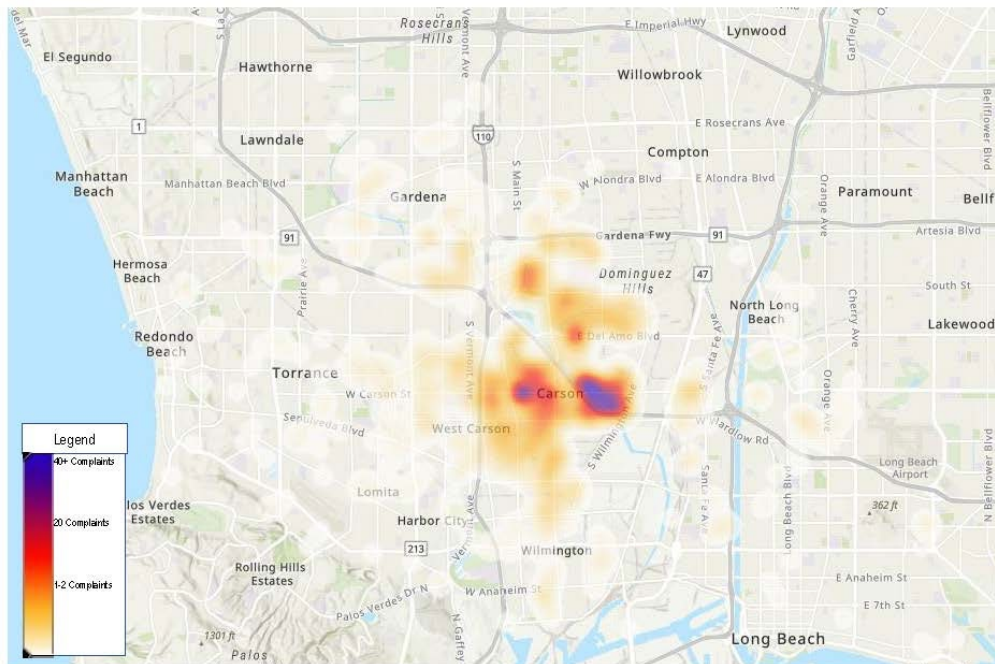


1 17. Residents, including Plaintiffs, have also been advised to “Avoid prolonged outdoor  
2 activities between the hours of 9:00 pm through 8:00 am and whenever odors are strong”.<sup>9</sup>

3 18. Exposure to elevated levels of Hydrogen Sulfide can cause headaches, dizziness,  
4 nausea/vomiting, abdominal discomfort, and irritation in the eyes, nose, throat, and lungs. Plaintiffs  
5 and have already experienced these listed symptoms.

6 Map of Complaints for Dominguez Channel Odor Incident  
7 October 3 - 12, 2021 (1,314 usable data points)

8 **AREA MAP**



10/13/21

10

19. At very high levels, exposure to Hydrogen Sulfide can cause lung and nasal tissue  
21 inflammation and damage, chemical changes in blood, muscle, and the brain, decreased ability to fight  
22 infection, loss of sense of smell, permanent lung damage, chemical changes in brain during  
23 development (maternal exposure), decreased body and brain weight, irregular heartbeat, and chemical  
24 changes in the kidney.<sup>11</sup>

25 ///

26 ///

27 \_\_\_\_\_  
28 <sup>9</sup> <https://lacounty.gov/wp-content/uploads/2021/10/Updated-Community-Notice-for-Odors-in-the-City-of-Carson-10.17.21.pdf>

<sup>10</sup> AQMD

<sup>11</sup> [https://www.health.ny.gov/environmental/chemicals/hydrogen\\_sulfide/docs/sulfide.pdf](https://www.health.ny.gov/environmental/chemicals/hydrogen_sulfide/docs/sulfide.pdf)

1           20.     The full extent of exposure is unknown. For the first few days of the exposure, levels  
2 were unknown. The South Coast Air Quality Management District started taking grab samples of  
3 ambient air on or around October 6, 2021 – approximately three days after odor complaints began.

4           21.     Ambient air measurements returned to date show very high levels of Hydrogen Sulfide  
5 in Plaintiffs’ community. Grab samples of ambient air show Hydrogen Sulfide measurements as high  
6 as 272 parts per billion, 1600 parts per billion, and 7.3 parts per million. One hour averages of ambient  
7 air show Hydrogen Sulfide measurements exceeding 5,000 parts per billion. These measurements far  
8 exceed health-protective air quality standards.

9           22.     Since 1969, the California Ambient Air Quality Standard (CAAQS) for hydrogen  
10 sulfide has been 0.03 ppm (30 ppb, 42 mg/m<sup>3</sup>) over a one-hour exposure period.

11          23.     Plaintiffs have been exposed to excessively high levels of Hydrogen Sulfide for over a  
12 month. The exposure is ongoing.

13          24.     Children, pregnant women, the elderly, and individuals with underlying health  
14 conditions are most susceptible to chemical exposure, including exposure to Hydrogen Sulfide.

15          25.     Exposure to toxic chemicals for a prolonged period of time in one’s home and  
16 environment is known to lead to mental health conditions including stress, anxiety, depression,  
17 insomnia, and worry.

18          26.     As a result of the gas, many residents of Carson and surrounding communities, including  
19 Plaintiffs, have been forced to sequester themselves inside their homes or to abandon their homes  
20 entirely and relocate to neighborhoods where the gas and other toxic pollutants had not spread. The  
21 gas has caused and is continuing to cause physical injury to residents and is interfering with Plaintiffs’  
22 ability to use and enjoy their properties.

23          27.     During an October 14, 2021 virtual town hall, the Los Angeles County Public Works  
24 Director, Mark Pestrella revealed that a criminal investigations into an “illicit discharge” of materials  
25 into the Channel, including charred debris from cardboard, pallet pieces and ethanol, had caused  
26 organisms in the Channel to begin feeding, creating a large amount of hydrogen sulfide as a  
27 byproduct.<sup>12</sup>

28 \_\_\_\_\_  
<sup>12</sup> <https://lbpost.com/news/county-to-treat-water-in-foul-smelling-dominguez-channel>

1 **II. JURISDICTION AND VENUE**

2 28. This Court has jurisdiction pursuant to California Code of Civil Procedure Sections 395  
3 and 395.5 because Defendant Prologis Inc. is headquartered in California and all Defendants do  
4 substantial business in the County of Los Angeles, California. Additionally, Plaintiffs' damages exceed  
5 the jurisdictional minimum for this Court.

6 29. Venue is proper in the County of Los Angeles because Defendants perform business in  
7 this County, and a substantial part of the events, acts, omissions, and transactions complained of herein  
8 occurred in and/or originated within Los Angeles County.

9 **III. THE PARTIES**

10 **A. Plaintiffs**

11 30. Plaintiffs are individuals who at all times relevant to this action resided in, regularly  
12 visited, and/or conducted business in the areas affected by the production and release of chemicals,  
13 including Hydrogen Sulfide, near the Dominguez Channel in the Fall of 2021. At all relevant times,  
14 Plaintiff Gracie Martinez was a resident of the State of California, County of Los Angeles City of  
15 Carson.

16 31. At all relevant times, Plaintiff Florence M. Sanchez was a resident of the State of  
17 California, County of Los Angeles City of Carson.

18 32. At all relevant times, Plaintiff Daisey Sanchez was a resident of the State of California,  
19 County of Los Angeles City of Carson.

20 33. At all relevant times, Plaintiff Destiny Sanchez was a resident of the State of California,  
21 County of Los Angeles City of Carson.

22 34. At all relevant times, Plaintiff Berta Ramirez was a resident of the State of California,  
23 County of Los Angeles City of Carson.

24 35. At all relevant times, Plaintiff Marisol Garcia was a resident of the State of California,  
25 County of Los Angeles City of Carson.

26 36. At all relevant times, Plaintiff Jaime Gutierrez was a resident of the State of California,  
27 County of Los Angeles City of Carson.

28

1           37.     Plaintiffs have all suffered damage, loss and/or harm as a result of exposure to the gas  
2 emanating from the Dominguez Channel, specifically including, but not limited to, physical injury,  
3 fear of future physical injury, increased risk of future injury, emotional distress, harm to real and  
4 personal property, medical expenses, and economic damages.

5           **B.     Defendants**

6           38.     Marathon Petroleum Corporation (“Marathon”) is a Delaware Corporation with its  
7 principal place of business in Ohio. Marathon’s Los Angeles Refinery (“the Marathon Refinery”) is  
8 the largest oil refinery on the West Coast and is comprised of two adjacent locations in south Los  
9 Angeles County, California.

10          39.     Prologis, Inc. (“Prologis”) is a Maryland Corporation with its principal place of business  
11 in San Francisco, California. Prologis is the parent company of Liberty Property, L.P.

12          40.     Liberty Property, LP, (“Liberty Property”) is a Pennsylvania Corporation with its  
13 principal place of business in Pennsylvania. Liberty Property, LP owns and operates properties located  
14 in Los Angeles County, California, including the warehouse located at 16325 S. Avalon Blvd, Carson,  
15 CA 90746.

16          41.     Virgin Scent, Inc. d/b/a Art Naturals (“Art Naturals”) is a California Corporation with  
17 its principal place of business in Gardena, California. It’s Headquarters and distribution center was  
18 most recently located at the warehouse at 16325 S. Avalon Blvd, Carson, CA 90746, which burned on  
19 September 30, 2021.

20          42.     DOES 1 through 100 are individuals and/or entities whose true names and capacities  
21 are currently not known to Plaintiffs. DOES 1 through 100 are legally responsible and liable to  
22 Plaintiffs to the extent of the liability of the named Defendants. Plaintiffs will seek leave of the Court  
23 to amend this Complaint to reflect the true names and capacities of the Defendants designated herein  
24 as DOES when such identities and capacities become known.

25          43.     At all times herein mentioned, each of the Defendants was the agent, servant, employee,  
26 and/or partner of each of the remaining Defendants named herein and were at all times operating and  
27 acting within the purpose and scope of said agency, service, employment, and/or partnership. Each  
28 Defendant has rendered substantial assistance and encouragement to the other Defendants, acting in

1 concert knowing that its conduct was wrongful and/or unlawful, and each Defendants has ratified and  
2 approved the acts of each of the remaining Defendants.

3 **IV. JOINT VENTURE AND ALTER EGO LIABILITY**

4 44. Each of the members of a joint venture, and the joint venture itself, are responsible for  
5 the wrongful conduct of a member acting in furtherance of the venture.

6 45. Plaintiffs are informed and believe, and thereon allege, that Defendants Prologis, Inc.  
7 and Liberty Property LP were operating a joint venture at the time of the Subject Incident because  
8 Defendants have: (a) combined property to carry out a single business undertaking; (b) share ownership  
9 interest in the real estate investment business(es); (c) have joint control over the business(es); (d) share  
10 profits and losses of the business(es); and (e) an implied or express joint venture agreement has been  
11 formed by the Defendants' conduct.

12 46. According to a Prologis Press Release, Prologis completed its stock acquisition of  
13 Liberty Property, including the assumption of all debt, in February 2020.<sup>13</sup>

14 47. As of the date of this filing, Defendant Prologis, Inc. advertised the Warehouse located  
15 at 16325 S. Avalon Blvd, Carson, California as one of its properties.

16 48. As of the date of filing, Defendant Liberty Property LP was the Owner of the Property  
17 located at 16325 S. Avalon Blvd, Carson, California, according to the Los Angeles County Recorder's  
18 office.

19 49. Plaintiffs are informed and believe, and thereon allege, that Defendants Prologis, Inc.  
20 and Liberty Property LP are operating a single real estate investment company as a Joint Venture and  
21 each of the members of the Joint Venture are responsible for the wrongful conduct and obligations of  
22 a member acting on behalf of the venture.

23 50. Plaintiffs are further informed and believe, and thereon allege, that a unity and sameness  
24 exists between Defendants Prologis Inc. and Liberty Property LP, such that each is the alter ego of the  
25 other. There is a unity of interests between Defendants Prologis Inc. and Liberty Property LP because  
26 Defendants: (a) failed to abide by corporate formalities by operating the real estate investment company  
27 interchangeably; (b) commingled corporate and personal funds and other assets; and (c) dominated the  
28

---

<sup>13</sup> <https://www.prologis.com/news-research/press-releases/prologis-completes-13-billion-acquisition-liberty-property-trust>

1 legal and administrative affairs of the real estate investment company.

2 51. At all relevant times, Defendants Prologs, Inc. and Liberty Property were operating a  
3 single real estate investment company. The two entities and individual are alter egos of each other, for  
4 purposes of operation of the real estate investment company, such that the corporate form of Defendants  
5 Prologis, Inc. and Liberty Property LP should be disregarded.

6 52. An unjust result will follow if the Court chooses to observe and uphold the corporate  
7 fiction between Defendants Prologis, Inc. and Liberty Property, LP.

8 **V. FACTUAL BASIS FOR THE CLAIMS ASSERTED**

9 **A. Background**

10 53. Plaintiffs reside in the City of Carson and are exposed to the air toxins (including but  
11 not limited to elevated levels of Hydrogen Sulfide) being emitted from the Dominguez Channel as a  
12 result of Defendants' conduct as described herein.

13 54. Carson is a residential community which is also home to numerous oil refineries,  
14 industrial operations, and warehouses.

15 **B. The Dominguez Channel**

16 55. The Dominguez Channel is a 15.7 mile perennial river located in the center of the  
17 Dominguez Watershed ("The Watershed") that begins just south of 116th in Hawthorn and flows  
18 through El Camino Village, Gardena, Alondra Park, El Camino College, Torrance, Harbor Gateway,  
19 Carson and Wilmington. The Channel empties into the East Basin of the Port of Los Angeles in San  
20 Pedro Bay.

21 56. Though the Channel runs through residential neighborhoods in at least seven cities and  
22 unincorporated areas, more than forty percent of the Watershed is occupied by industrial facilities,  
23 many of which line and operate private roads across the channel itself.

24 57. The Watershed is filled with industrial stormwater discharge in addition to stormwater,  
25 and on the California water board website, there are 102 currently operating industrial non-stormwater  
26 permits to discharge industrial waste directly into the channel.

27 58. Discharge liquids from oil and gas refineries contain chemicals including ammonia,  
28 phenol, cyanide, and hydrogen sulfide – also known as H<sub>2</sub>S – which ends up in the Watershed.

1           59. Hydrogen sulfide is a colorless gas known for its pungent “rotten egg” odor at low  
2 concentrations. It is extremely flammable and highly toxic.

3           60. The largest source of anthropogenic H<sub>2</sub>S is generated as a biproduct of the purification  
4 of natural gas and the refinement of crude oil. H<sub>2</sub>S is denser than air and settles and accumulates in  
5 low lying areas where there is low air displacement.

6           61. Multiple refineries discharge millions of gallons of oil and gas production biproduct into  
7 the channel daily, including Marathon, which is permitted to discharge 8.32 million gallons into the  
8 channel daily.

9           62. Also near to the Channel are numerous commercial warehouses, including the 16000  
10 block of Avalon, where the September 30, 2021 fire took place.

11           **C. The Marathon Refinery**

12           63. Marathon Petroleum Corporation operates the nation’s largest refining system with  
13 more than 3 million barrels per calendar day of crude oil capacity across 16 refineries.

14           64. Though not the only currently active oil refinery within the city of Carson, Marathon’s  
15 Los Angeles Refinery (“the Marathon Refinery”) became the most infamous when it applied for and,  
16 despite widespread criticism, was granted approval to move forward with the Los Angeles Refinery  
17 Integration and Compliance (LARIC) project in 2016 and 2017. The project, which merged Tesoro  
18 Corporation’s Carson and Wilmington plants and increased the crude oil storage and processing  
19 capacity, made the Marathon Refinery the largest refinery on the West Coast, with a crude oil capacity  
20 of 363,000 barrels per day.

21           65. The Marathon Refinery operates directly adjacent to the Dominguez Channel and  
22 discharges into the Channel.

23           66. Opponents of the Marathon Refinery expansion included environmental groups, city  
24 officials, city agencies, and community members across Carson, Los Angeles, Long Beach and  
25 Wilmington. In a public letter to AQMD in December 2016, the Mayor of the City of Los Angeles,  
26 Eric Garcetti, requested a postponement of the certification of the Draft Environmental Impact Report  
27 (DEIR) for the Marathon Refinery stating that it “appears that the project will have broader  
28 environmental impacts across state and international boundaries...” including “the potential increase in

1 air and water pollution.”<sup>14</sup>

2 67. Later that month, the results of a joint study conducted by a group of Swedish  
3 researchers and AQMD revealed that refineries in greater Los Angeles are emitting up to 12 times more  
4 toxic chemicals than previously reported.<sup>15</sup>

5 68. By mid-2019, the Marathon Refinery was in operation and had already been cited for  
6 four workplace safety violations for failure to provide training to unit operators by the California  
7 Division of Occupational Safety and Health in a unit where gasoline is produced.<sup>16</sup>

8 69. Six months later, a massive fire broke out at the Marathon Refinery in the same unit  
9 location where the refinery operates its No. 2 reformer.<sup>17</sup>

10 70. Although AQMD reported that air monitors measured levels within the typical range  
11 following the fire, by February 2020, the air district had already cited the Marathon Refinery with at  
12 least 13 violations, including vapor leaks, creating a public nuisance by discharging air contaminants  
13 and failure to comply with rules to minimize flaring, the burn-off of excess gas.<sup>18</sup>

14 71. Due to the generation and emission of Hydrogen Sulfide and other noxious gases by oil  
15 refineries, as of December 2017, all large refineries in the South Coast Air Basin (“Basin”) have been  
16 required to collect emission data at or near their fence line and to provide the data to the public, pursuant  
17 to AQMD’s Rule 1180 Refinery Community and Fence line Air Monitoring.<sup>19</sup>

18 72. The Rule requires refineries to install and operate continuous fence line air monitoring  
19 systems to monitor a comprehensive list of criteria and toxic air pollutants in real-time, including H<sub>2</sub>S.

20 73. At 3:05 A.M. on September 16, 2021, the Marathon Refinery saw an unprecedented  
21 spike in its fence line monitor Hydrogen Sulfide readings; the monitor measured H<sub>2</sub>S at nearly 290  
22 parts per billion (“ppb”), suggesting a fugitive discharge.<sup>20</sup>

23  
24  
25  
26 <sup>14</sup> <https://www.scribd.com/document/343456714/Garcetti-s-Letter-to-the-SCAQMD-regarding-Tesoro-refinery-Merger>

<sup>15</sup> <https://archive.kpcc.org/news/2016/12/29/67663/la-area-refineries-emit-up-to-12-times-more-toxic/>

<sup>16</sup> California Division of Occupational Safety and Health for four violations after a July inspection

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> <https://www.aqmd.gov/home/rules-compliance/rules/support-documents/rule-1180-refinery-fenceline-monitoring-plans/rule-1180-community-air-monitoring>

<sup>20</sup> <https://marathonlosangelesrefineryfencelinemonitoring.com/monitors.html>



1           74. For months prior, Marathon’s fence line Hydrogen Sulfide readings before September  
2 16<sup>th</sup> were well below 30 ppb, the current California Ambient Air Quality Standard (CAAQS) adopted  
3 in 1969.

4           75. The next night, a magnitude 4.3 Earthquake struck Carson, just before 8 p.m.<sup>21</sup> As  
5 widely reported by residents living near the refinery, Marathon lost power during the earthquake and  
6 conducted flaring.

7           76. While the power was out and when the flaring was conducted through the night from  
8 September 17<sup>th</sup> to 18<sup>th</sup>, Marathon’s monitors were offline, no longer monitoring the levels of noxious  
9 gases emitted at either of the Corporation’s adjacent refineries in Carson and Wilmington.

10           77. In the following weeks, Marathon’s fence line monitor’s continued to read higher than  
11 normal, showing levels of Hydrogen Sulfide reaching 139 ppb on the night of October 7<sup>th</sup> and climbing  
12 all the way to 1,313 ppb by October 16<sup>th</sup>.

13           78. After October 16<sup>th</sup>, nightly H<sub>2</sub>S peaks continued to occur around the Marathon Refinery,  
14 reaching 906ppb on the 17<sup>th</sup> and 570ppb as recent as the 28<sup>th</sup> .

15           79. Plaintiffs have been exposed to elevated levels of Hydrogen Sulfide and other chemicals  
16 for over a month.

17           **D. The Warehouse**

18           80. Art Naturals, a cosmetics company that sold “cruelty-free wellness and natural beauty  
19 products” before the COVID-19 Pandemic, has operated its headquarters and warehouse distribution  
20 center at 16325 S Avalon Blvd. (“The Warehouse”) in Carson, California since 2017.

21           81. The industrial building tract housing Art Natural’s headquarters and distribution center  
22 was purchased by Liberty Property, a commercial real estate company specializing in development,  
23 acquisition and leasing of distribution assets in logistics markets, in 2017. Later that year, Liberty  
24 Property leased space into the Warehouse to Art Naturals.

25           82. Two years later, in 2019, Liberty Property was acquired by self-proclaimed “global  
26 leader in logistics real estate,” Prologis, Inc. for 13 billion dollars.

27  
28  

---

<sup>21</sup> <https://www.latimes.com/california/story/2021-09-17/earthquake-4-4-quake-strikes-in-carson>

1 83. On Prologis' website, the Warehouse property, which is a total of 210,710 square feet,  
2 is called "Prologis South Bay Distribution Center 30," and is advertised as available for lease in April  
3 2022.<sup>22</sup>

4 **E. The COVID-19 Pandemic and Resulting Hand Sanitizer Demand Spike**

5 84. In February 2020, COVID-19 was declared a pandemic by the World Health  
6 Organization ("WHO"). Prior to the WHO declaration, the organization and other local public health  
7 agencies around the world had issued common guidance about the importance of personal hygiene,  
8 including hand sanitizing, to combat the spread of contagious disease.

9 85. This guidance was quickly translated into useful tips for busy Americans on the go,  
10 including via the frequent use of alcohol-based hand sanitizer. Demand for hand sanitizer rose by 73%  
11 in March of 2020 alone<sup>23</sup> and by 600% by the end of 2020.<sup>24</sup> Supply raced to reach demand.

12 86. To meet the increased demand, in March 2020, the Federal Drug Administration  
13 ("FDA") issued guidance regarding the Agency's decision not to "take action against manufacturing  
14 firms that prepare alcohol-based hand sanitizers for consumer use and for use as health care personnel  
15 hand rubs during this ongoing public health emergency."<sup>25</sup>

16 87. Many companies around the world that had previously not produced or sold hand  
17 sanitizer, including Art Naturals, immediately began producing the product to sell to desperate  
18 consumers for profit.<sup>26</sup>

19 88. However, just months later, in June 2020, the FDA issued warnings about the presence  
20 of toxic chemicals, including known carcinogens, in certain new hand sanitizer products.<sup>27</sup> By  
21 September 2020, more than 150 different products were on the FDA's "Do Not Use List," and the list  
22 continues to grow as of October 2021.<sup>28</sup>

23 ///

24 \_\_\_\_\_  
25 <sup>22</sup> <https://www.prologis.com/industrial-properties/building/lax05130-prologis-south-bay-distribution-center-30>

26 <sup>23</sup> <https://www.forbes.com/sites/carlieporterfield/2021/10/12/companies-that-rushed-to-make-hand-sanitizer-for-pandemic-will-now-have-to-conform-to-fda-guidelines/?sh=4c2599113d99>

27 <sup>24</sup> <https://www.wsj.com/articles/hand-sanitizer-sales-jumped-600-in-2020-purell-maker-bets-against-a-post-pandemic-collapse-11611311430>

28 <sup>25</sup> <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-fda-provides-guidance-production-alcohol-based-hand-sanitizer-help-boost>

<sup>26</sup> <https://www.cnn.com/2020/04/02/small-businesses-retool-to-make-products-needed-for-coronavirus-crisis.html>

<sup>27</sup> <https://www.cnn.com/2020/06/22/us/hand-sanitizer-fda-trnd/index.html>

<sup>28</sup> <https://www.fda.gov/drugs/drug-safety-and-availability/fda-updates-hand-sanitizers-consumers-should-not-use>

1           **E. Art Naturals' Personal Protective Essentials**

2           89. By September of 2021, a year and a half into the Covid-19 Pandemic, Art Naturals had  
3 expanded its product offerings to include “Personal Protective Essentials,” including a “Safety Set”<sup>29</sup>  
4 that includes 50 face masks, 100 hand sanitizing wipes and 2 8 oz bottles of hand sanitizer as well as a  
5 1-gallon jug of the company’s “Scent Free” hand sanitizer.<sup>30</sup>

6           90. Despite the company’s representations that “artnaturals was born out of a desire to free  
7 beauty from high prices, toxic chemicals and all-around bad vibes,” Art Naturals’ scent free hand  
8 sanitizer, which it stored in 10-foot-high stacked pallets and cardboard boxes that could fill a football  
9 field at the Warehouse, contained highly flammable ethanol and was contaminated with benzene,  
10 acetaldehyde, and acetal.

11           91. In the early fall of 2021, the FDA became aware that Art Naturals’ “scent free” hand  
12 sanitizer’s contained unacceptable levels of benzene, acetaldehyde, and acetal contaminants.<sup>31</sup> Despite  
13 attempts to contact Art Naturals to discuss the contaminated hand sanitizers, including identification  
14 of the manufacturer, possible recalls, and the scope of the contamination, the FDA received no response  
15 from the company.

16           **F. The Fire**

17           92. At around 2:00 P.M. on Thursday, September 30, 2021, the highly flammable,  
18 contaminated sanitizer products caused numerous explosions and resulted in a fire so large, two  
19 hundred Los Angeles County Firefighters were called to the scene to fight the blaze and prevent it from  
20 swallowing other nearby buildings.

21           93. Because of the rows of stacked pallets and boxes containing the highly flammable,  
22 contaminated, ethanol sanitizer inside the Warehouse and in the surrounding Warehouse yard, the fire  
23 had endless fuel and continued to grow, endangering and injuring fire fighters as they tried to contain  
24 it.

25 ///

26 ///

27

28 <sup>29</sup> <https://artnaturals.com/artnaturals-safety-set-personal-protection-kit.html>

<sup>30</sup> <https://artnaturals.com/hand-sanitizer-scent-free-1-gallon.html>

<sup>31</sup> <https://www.fda.gov/drugs/drug-safety-and-availability/fda-updates-hand-sanitizers-consumers-should-not-use>

1           94.     The fire continued to burn into the next day, and left enormous piles of charred  
2 cardboard, pallets, and remnants of the contaminated sanitizer, including ethanol (also known as ethyl-  
3 alcohol), in its wake.

4           95.     Just days later, on October 4, 2021, the FDA published its notice to consumers, warning  
5 them that the Art Naturals hand sanitizer from the Warehouse was unsafe for use, due to the  
6 unacceptable levels of benzene, acetaldehyde and acetal contaminants found in the product.

7           96.     As of October 19, 2021, no notice regarding the FDA’s findings or the fire at the Art  
8 Naturals Warehouse has been posted to its website or disseminated to the general public.

9           **G.     Significantly Elevated Hydrogen Sulfide Resulting from Marathon Refinery**  
10           **Discharge and Warehouse Fire Debris**

11          97.     In the days following the fire, large amounts of the soggy, charred debris (including  
12 uncombusted ethanol-based hand sanitizer) remained piled up in and around the Warehouse. Despite  
13 the dangers and high likelihood that the debris would make its way into nearby storm drains, neither  
14 the owners of the Warehouse, Prologis, Inc. and its subsidiary, Liberty Property, LP, nor the owner of  
15 the contaminated, highly flammable products that caused the fire, Virgin Scent d/b/a Art Naturals,  
16 made any effort to remove it from the site.

17          98.     As expected, the debris began to make its way into the Dominguez Channel via storm  
18 drains.

19          99.     The un-combusted alcohols, various other combustion products, and debris entered the  
20 Channel as runoff, where it sat in shallow stagnant water (containing, among other things, hydrogen  
21 and oxygen), contributing to acute phytotoxicity (i.e., kill-off of vegetation in the channel), mixing  
22 with sulfur compounds contained both in decayed vegetation and from petroleum byproducts from  
23 nearby refineries (including, to a significant extent, fugitive discharge of Hydrogen Sulfide and sulfur  
24 dioxide from the Marathon Refinery), and catalyzing a significant and ongoing release of Hydrogen  
25 Sulfide – a highly flammable, toxic, malodorous, and corrosive gas – from the Channel.

26          100.    Plaintiffs have been exposed to elevated levels of Hydrogen Sulfide and other chemicals  
27 for nearly 2 months.

28

1           **H.     Plaintiffs' Injuries**

2           101.   Plaintiffs are a three generational family of seven, who live on Archibald Avenue in  
3 Carson.

4           102.   Plaintiff Gracie Martinez (“Mrs. Martinez”) is the 79-year-old matriarch of her family  
5 and has lived in the City of Carson for 56 years. Mrs. Martinez is wheelchair bound and unable to  
6 relocate because she requires the use of a handicapped bed and shower. Due to the high levels of  
7 Hydrogen Sulfide in the air in and around Mrs. Martinez’s home in Carson, Mrs. Martinez has been  
8 suffering from confusion, headaches and dizziness. Mrs. Martinez has sought medical treatment for  
9 her injuries related to the exposure.

10          103.   Plaintiff Florence M. Sanchez (“Mrs. Sanchez”), who is 53 years old and was born and  
11 raised in the City of Carson, is Mrs. Martinez’ daughter. Mrs. Sanchez is asthmatic and suffers from  
12 kidney failure. Due to the high levels of Hydrogen Sulfide in the air in and around Mrs. Sanchez’s  
13 home, Mrs. Sanchez has been suffering from severe respiratory issues, nausea, headaches and has also  
14 caused a rash on her right arm. Due to her asthma, Mrs. Sanchez has been restricted to stay indoors,  
15 with her air conditioning unit on all day and using her nebulizer to control her breathing.

16          104.   Both of Mrs. Sanchez’s daughters were also born and raised in the City of Carson.  
17 Plaintiff Daisey Sanchez (“Daisey”) is 24 years old. Due to the high levels of Hydrogen Sulfide in the  
18 air in and around Daisey’s home, Daisey has been suffering from headaches, nausea, and dizziness.

19          105.   Plaintiff Destiny Sanchez (“Destiny”) is 21 years old. Due to the high levels of  
20 Hydrogen Sulfide in the air in and around Destiny’s home, Destiny has been suffering from headaches,  
21 nausea, and dizziness. Daisey went to Urgent Care for her injuries related to the exposure.

22          106.   Mrs. Martinez’s sister, Plaintiff Berta Ramirez (“Ms. Ramirez”), who is 72 years old  
23 lives with the family in Carson. Due to the high levels of Hydrogen Sulfide in the air in and around  
24 Ms. Ramirez’s home, Ms. Ramirez has been suffering from headaches, nausea, and dizziness.

25          107.   Mrs. Sanchez’s niece, Plaintiff Marisol Garcia (“Ms. Garcia”), is 31 years old and has  
26 lived in the City of Carson with her family for over six years. Due to the high levels of Hydrogen  
27 Sulfide in the air in and around Ms. Garcia’s home, Ms. Garcia has been suffering from headaches,  
28 nausea, and dizziness.

1           108. Plaintiff Jaime Gutierrez is 41 years old and has lived with his girlfriend, Ms. Garcia, in  
2 Carson for over six years. Due to the high levels of Hydrogen Sulfide in the air in and around Mr.  
3 Gutierrez’s home, Mr. Gutierrez has been suffering from headaches, nausea, and dizziness.

4 **VI. CAUSES OF ACTION**

5 **FIRST CAUSE OF ACTION**

6 **NEGLIGENCE**

7 **(By Plaintiffs Against all Defendants)**

8           109. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though  
9 fully set forth herein.

10           110. At all relevant times, Defendant Marathon Petroleum Corporation owned, operated,  
11 inspected, controlled, managed, and/or maintained the Marathon Refinery.

12           111. At all relevant times prior to this incident, Defendant Marathon Petroleum Corporation  
13 had the duty to exercise the utmost care and diligence in the ownership, design, operation, management,  
14 supervision, inspection, maintenance, repair, and/or control of the Marathon Refinery in compliance  
15 with relevant regulations and industry standards, so as not to cause harm to individual persons, private  
16 and public property, the environment, public resources, public health, and/or the comfortable use and  
17 enjoyment of property and life by the public.

18           112. At all relevant times, Defendant Marathon Petroleum Corporation negligently,  
19 carelessly, recklessly, and/or unlawfully used, owned, operated, managed, supervised, maintained,  
20 repaired, and/or controlled the Marathon Refinery, including but not limited to allowing fugitive  
21 discharge of Hydrogen Sulfide from the site and/or failure to timely mitigate or repair fugitive discharge  
22 of Hydrogen Sulfide from the site.

23           113. At all relevant times, Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent,  
24 Inc. d/b/a Art Naturals owned, operated, inspected, controlled, managed, and/or maintained the  
25 Warehouse.

26           114. At all relevant times prior to this incident, Defendants Prologis, Inc., Liberty Property,  
27 LP, and Virgin Scent, Inc. d/b/a Art Naturals had the duty to exercise the utmost care and diligence in  
28 the ownership, design, operation, management, supervision, inspection, maintenance, repair, and/or

1 control of the Warehouse in compliance with relevant regulations and industry standards, so as not to  
2 cause harm to individual persons, private and public property, the environment, public resources,  
3 public health, and/or the comfortable use and enjoyment of property and life by the public.

4 115. At all relevant times, Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent,  
5 Inc. d/b/a Art Naturals negligently, carelessly, recklessly, and/or unlawfully used, owned, operated,  
6 managed, supervised, maintained, repaired, and/or controlled the Warehouse, including but not limited  
7 to failing to properly store products containing highly flammable, toxic chemicals and failing to safely  
8 and timely remove the large amounts of debris from the Warehouse fire site.

9 116. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
10 each of them, Plaintiffs have suffered damages, including but not limited to inhalation of noxious and  
11 toxic gases, chemicals, and/or fumes resulting in personal injuries including, but not limited to,  
12 headaches, eye irritation, skin irritation, vomiting, nausea, dizziness, difficulty breathing, and other  
13 harms known that are as yet unknown. Upon information and belief, some or all the health effects may  
14 result in permanent impairments and/or disabilities, all to their general damage in a sum according to  
15 proof.

16 117. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
17 each of them, Plaintiffs are required to, and continue to, employ physicians and/or other health care  
18 providers to examine, treat, and care for their injuries. Plaintiffs have incurred, and will continue to  
19 incur, medical and incidental expenses for such examination, treatment, rehabilitation, and care, all in  
20 an amount according to proof.

21 118. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
22 each of them, Plaintiffs have been put at risk for the development of latent health problems, such that  
23 they now – and will in the future – require medical monitoring for such problems.

24 119. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
25 each of them, Plaintiffs have incurred, and will continue to incur, a loss of income and/or a loss of  
26 earning capacity, all in an amount according to proof.

27  
28

1           120. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
2 each of them, Plaintiffs have incurred, and will continue to incur, a loss of revenues and profits from  
3 the operation of their businesses, all in an amount according to proof.

4           121. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
5 each of them, Plaintiffs have suffered and will continue to suffer the loss of the quiet use and enjoyment  
6 of their property, as well as public properties located in the area, have suffered and will continue to  
7 suffer the diminution of the value of their property, and/or have been or will be required to expend  
8 monies to repair and/or restore the property to its prior condition, all in an amount according to proof.

9           122. The wrongful acts and/or omissions of Defendants and each of them, were done  
10 maliciously, oppressively, fraudulently, and/or in conscious disregard of the health and safety of  
11 Plaintiffs and their community.

12           123. Defendant Marathon Petroleum Corporation had actual and/or constructive knowledge  
13 of fugitive discharge of Hydrogen Sulfide from its infrastructure. Defendant Marathon Petroleum  
14 Corporation knew, or should have known, that failure to maintain, inspect, replace, and/or repair their  
15 pipelines and infrastructure containing Hydrogen Sulfide would reasonably increase the probability of  
16 a catastrophic event, such as a ruptured pipeline, which foreseeably would lead to injuries to the health  
17 and safety of Plaintiffs and their community, generally.

18           124. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
19 Naturals had actual and/or constructive knowledge of the fire hazard the storing of large amounts of  
20 highly flammable, toxic products stacked in boxes and pallets in the Warehouse and Warehouse yard  
21 posed. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art Naturals also  
22 knew, or should have known, that failure to maintain, inspect, replace, and/or repair the storage  
23 facilities in the Warehouse and Warehouse yard would reasonably increase the probability of a  
24 catastrophic event, such as an uncontrollable fire, which foreseeably would lead to injuries to the health  
25 and safety of Plaintiffs and their community, generally. Further, it is foreseeable that debris and run off  
26 (if unmitigated) would end up in storm drains and into the Dominguez Channel – endangering the lives  
27 of community members along the Channel.



1 125. Further, Defendants and each of them, knew, or should have known, that failure to have  
2 established plans, processes, and/or protocols to address such an event and the subsequent clean up,  
3 repair, remediation and/or mitigation would reasonably increase the probability of a sustained  
4 catastrophic event, which foreseeably would lead to and/or increase injuries to the health and safety of  
5 Plaintiffs and their community, generally.

6 126. In failing to take protective measures to safeguard against the danger, Defendants and  
7 each of them, created a substantial risk of injury to Plaintiffs and the community of residents living  
8 near the Channel generally. Plaintiffs are entitled to punitive and exemplary damages in an amount to  
9 be ascertained which is appropriate to punish or set an example of Defendants and deter such behavior  
10 by Defendants and others in the future.

11 **SECOND CAUSE OF ACTION**

12 **STRICT LIABILITY FOR ULTRAHAZARDOUS ACTIVITIES**

13 **(By Plaintiffs Against Defendants)**

14 127. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though  
15 fully set forth herein.

16 128. At all times herein, Defendant Marathon Petroleum Corporation was the owner and  
17 operator of the Marathon Refinery.

18 129. At all times relevant to this action, Defendant Marathon Petroleum Corporation had  
19 supervision, custody, and control of the Marathon Refinery.

20 130. At all times relevant to this action, Defendant Marathon Petroleum Corporation was  
21 under a continuing duty to protect the Plaintiffs from the natural consequences of mishandling of  
22 chemicals, including Hydrogen Sulfide, at the Marathon Refinery.

23 131. Defendant Marathon Petroleum Corporation was engaged in an ultrahazardous activity  
24 by producing, handling, transporting, housing, and distributing products that contain hazardous  
25 chemicals, including Hydrogen Sulfide, at the Marathon Refinery.

26 132. At all times herein, Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent,  
27 Inc. d/b/a Art Naturals were the owners and operators of the Warehouse.

28

1           133. At all times relevant to this action, Defendants Prologis, Inc., Liberty Property, LP, and  
2 Virgin Scent, Inc. d/b/a Art Naturals had supervision, custody, and control of the Warehouse.

3           134. At all times relevant to this action, Defendants Prologis, Inc., Liberty Property, LP, and  
4 Virgin Scent, Inc. d/b/a Art Naturals were under a continuing duty to protect the Plaintiffs from the  
5 natural consequences of mishandling of ultrahazardous, flammable chemicals, including benzene,  
6 acetaldehyde, acetal, and ethanol, at the Warehouse.

7           135. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
8 Naturals were engaged in an ultrahazardous activity by producing, handling, transporting, housing, and  
9 distributing products that contain hazardous, flammable chemicals, including benzene, acetaldehyde,  
10 acetal, and ethanol.

11           136. Plaintiffs have suffered harm as a result of Defendants' conduct as described herein  
12 including but not limited to: physical injury, loss of use and enjoyment of their homes and other  
13 expenses.

14           137. The injuries sustained by Plaintiffs as a result of Defendants' conduct described herein  
15 were the direct and proximate result of Defendants' activities.

16           138. The harm to Plaintiffs was and is the kind of harm that would be reasonably anticipated  
17 as a result of the risks created by the improper production, handling, transportation, housing, and  
18 distribution of products that contain hazardous chemicals.

19           139. Defendants' harm to Plaintiffs was foreseeable because fugitive discharge of Hydrogen  
20 Sulfide and the subsequent Fire would reasonably result in an environmental impact on the surrounding  
21 communities.

22           140. Defendant Marathon Petroleum Corporation's operation and use of the Marathon  
23 Refinery and resulting discharge was and remains a substantial factor in causing the harms suffered by  
24 Plaintiffs.

25           141. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
26 Naturals' operation and use of the Warehouse and resulting Fire was and remains a substantial factor  
27 in causing the harms suffered by Plaintiffs.

28

1           142. Defendants are liable to Plaintiffs for all damages arising from this ultrahazardous  
2 activity, including all compensatory damages, and punitive damages pursuant to Cal Civ. Code § 3294,  
3 and attorney’s fees pursuant to Cal Civ. Code § 1021.5.

4           143. Defendants are liable to Plaintiffs for all damages arising from their violation of  
5 California Civil Code section 3479 and California Health & Safety Code section 25510(a), including  
6 compensatory and injunctive relief, punitive damages pursuant to California Civil Code section 3294,  
7 and attorneys’ fees pursuant to California Code of Civil Procedure section 1021.5.

8           144. The wrongful acts, representations and/or omissions of Defendants, hereinabove set  
9 forth, were made, adopted, approved, authorized, endorsed and/or ratified by their officers, directors or  
10 managing agents, and were done maliciously, oppressively, fraudulently and/or with a willful and  
11 knowing disregard of the probable dangerous consequences for the health and safety of Plaintiffs and  
12 their community. The officers, directors and/or managing agents of Defendants had advanced  
13 knowledge of the storing of products containing harmful chemicals. The officers, directors and/or  
14 managing agents of Defendant Marathon Petroleum Corporation had advanced knowledge that a failure  
15 to properly store, maintain, and/or inspect the condition of the Marathon Refinery would result in the  
16 probability of a catastrophic event, which foreseeably would lead to harm and/or injuries to the health  
17 and safety of Plaintiffs and their community, generally. Further, the officers, directors and/or managing  
18 agents of Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art Naturals  
19 also had advanced knowledge that a failure to properly store, maintain, and/or inspect the condition of  
20 the Warehouse and the products being stored in the Warehouse containing harmful, flammable  
21 chemicals, including benzene, acetaldehyde, acetal and ethanol would result in the probability of a  
22 catastrophic event, which foreseeably would lead to harm and/or injuries to the health and safety of  
23 Plaintiffs and their community, generally. In failing to take protective measures to safeguard against  
24 the danger, the officers, directors and/or managing agents of Defendants acted with a willful and/or  
25 knowing disregard of the probable dangerous consequences, and/or acted with an awareness of the  
26 probable dangerous consequences of their conduct and deliberately failed to avoid those consequences,  
27 thereby creating a substantial risk of injury to Plaintiffs and the surrounding community.

1 145. Plaintiffs are entitled to punitive and exemplary damages in an amount to be ascertained,  
2 which is appropriate to punish or set an example of Defendants and deter such behavior by Defendants  
3 and others in the future.

4 **THIRD CAUSE OF ACTION**

5 **PRIVATE NUISANCE – CONTINUING**

6 **(By Plaintiffs Against all Defendants)**

7 146. Plaintiffs incorporate by reference all allegations of the preceding paragraphs as though  
8 fully set forth herein.

9 147. Plaintiffs own and/or occupy property at or near the exposed area. At all relevant times,  
10 Plaintiffs had a right to occupy, enjoy, and/or use their property without interference by Defendants.

11 148. Defendants by reason of their wrongful acts and/or omissions created a condition that  
12 (a) was harmful to Plaintiffs' health; (b) was indecent and/or offensive to Plaintiffs' senses; (c) was an  
13 obstruction of Plaintiffs' free use and enjoyment of their property, so as to interfere with their  
14 comfortable enjoyment of life and/or property; and/or (d) unlawfully obstructed Plaintiffs' free passage  
15 or use, in the customary manner, of public parks, squares, streets, and/or highways in the exposed area.

16 149. The exposure and Defendant Marathon Petroleum Corporation's operation of the  
17 Marathon Refinery has created an ongoing condition that is harmful to health and interferes with the  
18 comfortable enjoyment of life and property. Plaintiffs did not consent to Defendant's conduct.

19 150. The exposure and Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent,  
20 Inc. d/b/a Art Naturals' operation of the Warehouse have created an ongoing condition that is harmful  
21 to health and interferes with the comfortable enjoyment of life and property. Plaintiffs did not consent  
22 to Defendants' conduct.

23 151. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or  
24 disturbed by the conduct of Defendants as described herein.

25 152. The seriousness of Plaintiffs' injuries outweighs any public benefit from any of the  
26 Defendant's conduct as described herein.

27 153. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
28 Plaintiffs have suffered, and will continue to suffer, discomfort, annoyance, anxiety, fear, worries, and

1 stress attendant to the interference with Plaintiffs' occupancy, possession, use, and/or enjoyment of  
2 their property, as alleged above.

3 154. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
4 Plaintiffs suffered and continue to suffer damages as herein above set forth.

5 155. The conduct of each Defendant was a substantial factor in causing harm to Plaintiffs  
6 who have suffered and to continue to suffer economic harm, injury, and losses, including injury to  
7 property. Plaintiffs are entitled to damages for all such past and present injuries.

8 156. The exposure described herein constitutes a nuisance within the meaning of Section  
9 3479 of the California Civil Code.

10 157. Plaintiffs are informed and believe, and on that basis allege, that the nuisance is  
11 continuing.

12 158. To remedy the harm caused by Defendants' nuisance, Plaintiff will seek injunctive  
13 relief, including without limitation an order requiring Defendants to: (1) provide adequate funding for  
14 the relocation of residents exposed to elevated levels of Hydrogen Sulfide and other chemicals (2) for  
15 long-term medical monitoring; (3) repair and restore the Channel and other areas impacted by the Fire  
16 and resulting production and release of toxic gas in and around the Channel; and (4) prevent Defendants  
17 from operating the Warehouse without adequate safety precautions and ongoing monitoring to ensure  
18 no future risk of Fire or other catastrophic event occurs.

19 159. In maintaining the nuisance, which is continuing, Defendants are acting with full  
20 knowledge of the consequences and damage being caused, and the acts and omissions of Defendants  
21 were done with malice, fraud and/or oppression as described herein.

22 **FOURTH CAUSE OF ACTION**

23 **PRIVATE NUISANCE – PERMANENT**

24 **(By Plaintiffs Against all Defendants)**

25 160. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
26 forth herein.

27 161. Plaintiffs own and/or occupy property at or near the exposed area. At all relevant times,  
28 Plaintiffs had a right to occupy, enjoy, and/or use their property without interference by Defendants.

1           162. Defendants by reason of their wrongful acts and/or omissions created a condition that  
2 (a) was harmful to Plaintiffs' health; (b) was indecent and/or offensive to Plaintiffs' senses; (c) was an  
3 obstruction of Plaintiffs' free use and enjoyment of their property, so as to interfere with their  
4 comfortable enjoyment of life and/or property; and/or (d) unlawfully obstructed Plaintiffs' free passage  
5 or use, in the customary manner, of public parks, squares, streets, and/or highways in the exposed area.

6           163. This permanent condition has interfered with Plaintiffs' free use and enjoyment of their  
7 land, along with numerous other neighbors, in the form of damage to buildings, a significant decrease  
8 in the value of the property, exposure to an array of toxic substances on the land, and/or a lingering and  
9 foul smell of toxic gases, permeating the air surrounding their property and invading their homes.

10           164. The exposure and Defendant Marathon Petroleum Corporation's operation of the  
11 Marathon Refinery has created an ongoing condition that is harmful to health and interferes with the  
12 comfortable enjoyment of life and property. Plaintiffs did not consent to Defendant's conduct.

13           165. The exposure and Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent,  
14 Inc. d/b/a Art Naturals' operation of the Warehouse have created an ongoing condition that is harmful  
15 to health and interferes with the comfortable enjoyment of life and property. Plaintiffs did not consent  
16 to Defendants' conduct.

17           166. Plaintiffs did not consent to the conduct of Defendants, which was a substantial factor  
18 in causing Plaintiffs' harm.

19           167. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or  
20 disturbed by the conduct of Defendants.

21           168. The seriousness of the harm outweighs any public benefit of any of Defendants'  
22 conduct.

23           169. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
24 Plaintiffs have suffered, and will continue to suffer, discomfort, annoyance, anxiety, fear, worries, and  
25 stress attendant to the interference with Plaintiffs' occupancy, possession, use, and/or enjoyment of  
26 their property, as alleged above.

27           170. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
28 Plaintiffs suffered and continue to suffer damages as herein above set forth.

1 171. The exposure described herein constitutes a nuisance within the meaning of Section  
2 3479 of the California Civil Code.

3 172. Plaintiffs are informed and believe, and on that basis allege, that the nuisance is  
4 permanent.

5 173. To remedy the harm caused by Defendants' nuisance, Plaintiff will seek injunctive  
6 relief, including without limitation an order requiring Defendants to: (1) provide adequate funding for  
7 the relocation of residents exposed to elevated levels of Hydrogen Sulfide and other chemicals (2) for  
8 long-term medical monitoring; (3) repair and restore the Channel and other areas impacted by the Fire  
9 and resulting production and release of toxic gas in and around the Channel; and (4) prevent Defendants  
10 from operating the Warehouse without adequate safety precautions and ongoing monitoring to ensure  
11 no future risk of Fire or other catastrophic event occurs.

12 174. In maintaining the nuisance, which is permanent, Defendants are acting with full  
13 knowledge of the consequences and damage being caused, and the acts and omissions of Defendants  
14 were done with malice, fraud and/or oppression as described herein.

15 **FIFTH CAUSE OF ACTION**

16 **PUBLIC NUISANCE – CONTINUING**

17 **(By Plaintiffs Against all Defendants)**

18 175. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
19 forth herein.

20 176. Plaintiffs own and/or occupy property at or near the exposed area. At all relevant times,  
21 Plaintiffs had a right to occupy, enjoy, and/or use their property without interference by Defendants.

22 177. Defendants, by reason of their wrongful acts and/or omissions created a condition that  
23 has affected a substantial number of people at the same time in the form of (a) a significant decrease in  
24 the value of the property, (b) exposure to an array of toxic substances, and/or (c) a lingering smell of  
25 noxious fumes permeating homes, schools, churches, retail and service business establishments in the  
26 area where they live and raise their families.

1           178. The condition that Defendants created and/or permitted to exist affected a substantial  
2 number of people within the general public, including causing Plaintiffs to relocate, personal injuries  
3 and disturbance in the enjoyment of everyday living.

4           179. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or  
5 disturbed by the condition created by each and every Defendant.

6           180. The seriousness of the harm outweighs the social utility of the conduct of any  
7 Defendants.

8           181. Plaintiffs did not consent to the conduct of any Defendants as described herein.

9           182. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
10 each of them, Plaintiffs suffered harm that is different from the type of harm suffered by the general  
11 public. Specifically, Plaintiffs have lost the occupancy, possession, use, and/or enjoyment of their land,  
12 real property, and/or personal property, including but not limited to, a reasonable and rational fear that  
13 the area is still dangerous, a diminution in the fair market value of their property, an impairment of the  
14 salability of their property, and/or exposure to an array of toxic substances on their property. Further,  
15 Plaintiffs have experienced physical ailments, including but not limited to, dizziness, headaches, and/or  
16 nausea. Plaintiffs are entitled to damages for all such past and present injuries.

17           183. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
18 Plaintiffs suffered and continue to suffer damages as described above and in an amount according to  
19 proof at trial.

20           184. The exposure described herein constitutes a nuisance within the meaning of Section  
21 3479 of the California Civil Code.

22           185. Plaintiffs are informed and believe, and on that basis allege, that the nuisance is  
23 continuing.

24           186. To remedy the harm caused by Defendants' nuisance, Plaintiff will seek public  
25 injunctive relief, including without limitation an order requiring Defendants to: (1) provide adequate  
26 funding for the relocation of residents exposed to elevated levels of Hydrogen Sulfide and other  
27 chemicals (2) for long-term medical monitoring; (3) repair and restore the Channel and other areas  
28 impacted by the Fire and resulting production and release of toxic gas in and around the Channel; and



1 (4) prevent Defendants from operating the Warehouse without adequate safety precautions and ongoing  
2 monitoring to ensure no future risk of Fire or other catastrophic event occurs.

3 187. In maintaining the nuisance, which is continuing, Defendants are acting with full  
4 knowledge of the consequences and damage being caused, and the acts and omissions of Defendants  
5 were done with malice, fraud and/or oppression as described herein.

6 **SIXTH CAUSE OF ACTION**

7 **PUBLIC NUISANCE – PERMANENT**

8 **(By Plaintiffs Against all Defendants)**

9 188. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
10 forth herein.

11 189. Plaintiffs own and/or occupy property at or near the exposed area. At all relevant times,  
12 Plaintiffs had a right to occupy, enjoy, and/or use their property without interference by Defendants.

13 190. Defendants by reason of their wrongful acts and/or omissions created a permanent  
14 condition that has affected and continues to affect a substantial number of people at the same time in  
15 the form of (a) a significant decrease in the value of the property, (b) exposure to an array of toxic  
16 substances, and/or (c) a lingering smell of noxious fumes permeating homes, schools, churches, retail  
17 and service business establishments in the area where people live and raise their families.

18 191. The condition that Defendants created and/or permitted to exist has affected and  
19 continues to affect a substantial number of people within the general public, including causing Plaintiffs  
20 to relocate, personal injuries and disturbance in the enjoyment of everyday living.

21 192. An ordinary person of reasonable sensibilities would reasonably be annoyed and/or  
22 disturbed by the condition created by each and every Defendant.

23 193. The seriousness of the harm outweighs the social utility of the conduct of any  
24 Defendants.

25 194. Plaintiffs did not consent to the conduct of any Defendants as described herein.

26 195. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
27 Plaintiffs have suffered and continue to suffer harm that is different from the type of harm suffered by  
28 the general public. Specifically, Plaintiffs have lost the occupancy, possession, use, and/or enjoyment

1 of their land, real property, and/or personal property, including but not limited to, a reasonable and  
2 rational fear that the area is still dangerous, a diminution in the fair market value of their property, an  
3 impairment of the salability of their property, and/or exposure to an array of toxic substances on their  
4 property. Further, Plaintiffs have experienced physical ailments, including but not limited to, dizziness,  
5 headaches, and/or nausea. Plaintiffs are entitled to damages for all such past and present injuries.

6 196. As a direct and legal result of the wrongful acts and/or omissions of Defendants,  
7 Plaintiffs suffered and continue to suffer damages as described above and in an amount according to  
8 proof at trial.

9 197. The contamination described herein constitutes a nuisance within the meaning of  
10 Section 3479 of the California Civil Code.

11 198. Plaintiffs are informed and believe, and on that basis allege, that the nuisance is  
12 permanent.

13 199. To remedy the harm caused by Defendants' nuisance, Plaintiff will seek public  
14 injunctive relief, including without limitation an order requiring Defendants to: (1) provide adequate  
15 funding for the relocation of residents exposed to elevated levels of Hydrogen Sulfide and other  
16 chemicals (2) for long-term medical monitoring; (3) repair and restore the Channel and other areas  
17 impacted by the Fire and resulting production and release of toxic gas in and around the Channel; and  
18 (4) prevent Defendants from operating the Warehouse without adequate safety precautions and ongoing  
19 monitoring to ensure no future risk of Fire or other catastrophic event occurs.

20 200. In maintaining the nuisance, which is permanent, Defendants are acting with full  
21 knowledge of the consequences and damage being caused, and the acts and omissions of Defendants  
22 were done with malice, fraud and/or oppression as described herein.

23 **SEVENTH CAUSE OF ACTION**

24 **TRESPASS**

25 **(By Plaintiffs Against all Defendants)**

26 201. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
27 forth herein.

28 202. Plaintiffs own and/or occupy property at or near the exposed area.

1           203. At all relevant times, Plaintiffs had a right to occupy, enjoy, and/or use their property  
2 without interference by Defendants.

3           204. Defendant Marathon Petroleum Corporation caused a trespass by discharging Hydrogen  
4 Sulfide and other potential chemicals (including particulate matter and/or chemicals with gaseous, non-  
5 gaseous, aquatic, and other properties) beyond the boundary of the Marathon Refinery and the  
6 Dominguez Channel in such a manner that it was reasonably foreseeable that the pollutants would, in  
7 due course, invade Plaintiffs' real property and cause physical injury or damage to that property.

8           205. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
9 Naturals caused a trespass by discharging Hydrogen Sulfide and other potential chemicals (including  
10 particulate matter and/or chemicals with gaseous, non-gaseous, aquatic, and other properties) beyond  
11 the boundary of the Dominguez Channel in such a manner that it was reasonably foreseeable that the  
12 pollutants would, in due course, invade Plaintiffs' real property and cause physical injury or damage  
13 to that property.

14           206. The exposure invaded the property of Plaintiffs and interfered with their possessory  
15 interests of that property.

16           207. The exposure invaded the real property of Plaintiffs and caused physical injuries.

17           208. The exposure caused Defendants to enter, invade, and intrude on the real properties of  
18 Plaintiffs without their privilege, permission, consent, authorization, invitation, or justification.

19           209. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
20 Naturals were engaged in an ultra-hazardous activity and/or intentionally, recklessly, and/or  
21 negligently caused toxic and noxious chemicals, gases, and/or fumes to escape the Dominguez Channel  
22 and invade Plaintiffs' property, including the air space surrounding, above, and within Plaintiffs'  
23 residence.

24           210. Defendant Marathon Petroleum Corporation was engaged in an ultra-hazardous activity  
25 and/or intentionally, recklessly, and/or negligently caused toxic and noxious chemicals, gases, and/or  
26 fumes to escape the Marathon Refinery and invade Plaintiffs' property, including the air space  
27 surrounding, above, and within Plaintiffs' residence.

28

1           211. Defendants had a duty to use reasonable care not to enter, invade, or intrude on the real  
2 property of Plaintiffs. Defendants also owed a duty to Plaintiffs to exercise reasonable care in the  
3 construction, maintenance, and operation of the Warehouse because of the close proximity to the  
4 neighboring communities.

5           212. Defendants had a heightened duty of care to Plaintiffs because of its proximity to the  
6 neighboring communities and great danger associated with producing, handling, transporting, housing,  
7 and distributing products that contain hazardous chemicals. Defendants' maintenance and operation of  
8 the Marathon Refinery and the Warehouse was inherently dangerous, posed a significant risk of harm  
9 to Plaintiffs and their property, and constituted an ultrahazardous activity as described herein.

10           213. Defendants breached the duty they owed to Plaintiffs when they failed to exercise  
11 reasonable care in the construction, maintenance, and operation of the Marathon Refinery and the  
12 Warehouse as described herein, which conduct resulted in entry, intrusion, or invasion of Plaintiffs'  
13 properties.

14           214. Plaintiffs did not give permission for this direct and/or indirect entry. Defendants  
15 Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art Naturals knew or should have  
16 known that their conduct and the ongoing operation and maintenance of the Warehouse would  
17 foreseeably result in causing damage to the real properties and economic interests of persons in the  
18 area affected by the exposure. Defendant Marathon Petroleum Corporation knew or should have known  
19 that their conduct and the ongoing operation and maintenance of the Marathon Refinery would  
20 foreseeably result in causing damage to the real properties and economic interests of persons in the  
21 area affected by the exposure.

22           215. As a direct and proximate result of Defendants' trespass, Plaintiffs have suffered legal  
23 injury and damages, in an amount to be proven at trial, and attorneys' fees pursuant to Cal. Civ. Proc.  
24 Code § 1021.5.

25 ///

26 ///

27 ///

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **INVERSE CONDEMNATION**

3 **(By Plaintiffs Against Defendants)**

4 216. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
5 forth herein.

6 217. Article 1, Section 19 of the California Constitution prohibits the taking of private  
7 property for public use without just compensation.

8 218. Plaintiffs own and/or occupy property at or near the exposed area. At all relevant times,  
9 Plaintiffs had a right to occupy, enjoy, and/or use their property without interference by Defendants.

10 219. On or about October 3, 2021 as a direct and legal result of the wrongful acts and/or  
11 omissions of Defendants, and each of them, toxic chemicals, gases, and/or fumes developed in the  
12 Dominguez Channel due to multiple significant contributing factors, including fugitive discharge of  
13 Hydrogen Sulfide from the Marathon Refinery and the September 30, 2021 Warehouse fire, and  
14 invaded the atmosphere surrounding the Channel, including property owned and occupied by Plaintiffs,  
15 rendering that property unhealthy, injurious to health, and uninhabitable.

16 220. Plaintiffs have not received adequate compensation for the damage to and/or destruction  
17 of their property, thus constituting a taking or damaging of Plaintiffs' property by the Defendants  
18 without just compensation.

19 221. As a direct and legal result of the wrongful acts and/or omissions of Defendants, and  
20 each of them, Plaintiffs suffered damages to their real and personal property, including loss of use,  
21 interference with access, and diminution in value and/or marketability in an amount according to proof  
22 at trial.

23 222. As a direct and legal result of the wrongful acts and/or omissions of Defendants, and  
24 each of them, Plaintiffs have incurred and will continue to incur costs, disbursements, and expenses,  
25 including reasonable attorney, appraisal, engineering, and other expert fees due to the conduct of  
26 Defendants, and each of them, in amounts that cannot yet be ascertained, but which are recoverable  
27 pursuant to Code of Civil Procedure section 1036.

28

1 **NINTH CAUSE OF ACTION**

2 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

3 **(By Plaintiffs Against Defendants)**

4 223. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
5 forth herein.

6 224. Defendant Marathon Petroleum Corporation engaged in outrageous, malicious, and/or  
7 intentional conduct by owning operating and/or maintaining the Marathon Refinery and producing,  
8 handling, transporting, housing, and distributing products that contain hazardous chemicals, including  
9 Hydrogen Sulfide, with knowledge that the Marathon Refinery lacked adequate safety measures to  
10 prevent the type of catastrophe which occurred on or about September 16, 2021. Defendants and each  
11 of them, also knew, or should have known, that a Hydrogen Sulfide release from the Marathon Refinery  
12 posed an imminent threat to the surrounding community, but deliberately did nothing to address the  
13 growing danger nor warn Plaintiffs or public health officials of the growing danger.

14 225. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
15 Naturals and each of them, engaged in outrageous, malicious, and/or intentional conduct by owning  
16 operating and/or maintaining the Warehouse and producing, handling, transporting, housing, and  
17 distributing products that contain hazardous, flammable chemicals, including benzene, acetaldehyde,  
18 acetal, and ethanol with knowledge that the Warehouse lacked adequate safety measures to prevent the  
19 type of catastrophe which occurred on or about September 30, 2021. Defendants and each of them, also  
20 knew, or should have known, that a fire at the Warehouse that contained large amounts of hand sanitizer  
21 contaminated with hazardous, flammable chemicals, including benzene, acetaldehyde, acetal and  
22 ethanol stacked pallets and boxes posed an imminent threat to the surrounding community, but  
23 deliberately did nothing to address the growing danger nor warn Plaintiffs or public health officials of  
24 the growing danger.

25 226. Defendants and each of them, acted with reckless disregard of the probability that  
26 Plaintiffs would suffer emotional distress, knowing that Plaintiffs lived in close proximity to the  
27 Marathon Refinery, the Warehouse, and the Channel and were foreseeably in danger of suffering harm  
28 in the event of toxic air exposure.

1            227. The wrongful acts and/or omissions of Defendants and each of them, were outrageous,  
 2 being so extreme that they go beyond all possible bounds of decency tolerable in a civilized community,  
 3 by, and not limited to, ignoring a high risk of serious injury to the habitants of the City of Carson and  
 4 neighboring communities and their property.

5            228. As a direct and legal result of the outrageous conduct of Defendants, Plaintiffs were hurt  
 6 and injured in their health, strength, and activity, suffering from severe emotional distress, fear, anxiety,  
 7 and worry over the damage to themselves and their loved ones. Plaintiffs are informed and believe that  
 8 their serious emotional distress will continue indefinitely because of the uncertainties associated with  
 9 the exposure to toxic gases and chemicals and its impact on their future health and well-being, all to  
 10 Plaintiffs' general damage in amounts according to proof at trial.

11                                    **TENTH CAUSE OF ACTION**

12                            **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

13                            **(By Plaintiffs Against Defendants)**

14            229. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
 15 forth herein.

16            230. It was foreseeable that Plaintiffs were in the zone of danger and would suffer severe  
 17 emotional distress at witnessing the injuries to their loved ones who were exposed to the toxic and  
 18 noxious fumes, gases and chemicals produced in the Channel resulting from Defendants' conduct as  
 19 described herein.

20            231. Plaintiffs were present at the time that their loved ones suffered injuries related to  
 21 exposure to the toxic and noxious fumes, gases and chemicals produced in the Channel resulting from  
 22 Defendants' conduct as described herein.

23            232. As a direct and legal result of the wrongful acts and/or omissions of Defendants and  
 24 each of them, Plaintiffs suffered severe emotional pain and suffering at witnessing the injuries and  
 25 harmful health effects of being exposed to the toxic gases and chemicals produced in the Channel  
 26 resulting from Defendants' conduct as described herein.

1 233. Upon information and belief, the long term or future effects of such exposure is  
2 unknown and, therefore, will result in permanent severe emotional distress to Plaintiffs who are worried  
3 and fearful for their own future health and well-being, and that of their loved ones.

4 234. Plaintiffs are entitled to attorney's fees under Code of Civil Procedure section 1021.5  
5 because the successful prosecution of this action will confer a significant benefit, both pecuniary and  
6 non-pecuniary, on the general public and a large group of persons by abating environmental harm and  
7 preventing future harm to residents of the City of Carson and surrounding neighborhoods. Further, the  
8 necessity and financial burden of private enforcement makes such an award appropriate as the litigation  
9 is not economically feasible or viable for Plaintiffs to pursue on their own and at their own expense,  
10 and attorney's fees should not in the interest of justice be paid out of the recovery, if any.

11 235. Due to the on-going fear, anxiety, and worry Plaintiffs will suffer into the future,  
12 Plaintiffs are entitled to damages according to proof at trial and for medical monitoring to determine if  
13 the prolonged exposure to Hydrogen Sulfide and other toxic chemicals will lead to serious disease  
14 requiring medical treatment.

15 **ELEVENTH CAUSE OF ACTION**

16 **FRAUDULENT CONCEALMENT**

17 **(By Plaintiffs Against Defendants)**

18 236. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
19 forth herein.

20 237. Plaintiffs are informed and believe that Defendant Marathon Petroleum Corporation  
21 knew that hazardous levels of toxic chemicals, including Hydrogen Sulfide, were likely to be produced  
22 and/or released from the Marathon Refinery into the surrounding community (both directly and through  
23 the Dominguez Channel) due to the production and storing of chemicals at the Marathon Refinery.

24 238. Plaintiffs are informed and believe that Defendants Prologis, Inc., Liberty Property, LP,  
25 and Virgin Scent, Inc. d/b/a Art Naturals knew that hazardous levels of toxic and flammable chemicals,  
26 including but not limited to benzene, acetaldehyde, ethanol and Hydrogen Sulfide, were likely to be  
27 produced and/or released from the Warehouse into the surrounding community (both directly and  
28 through the Dominguez Channel) due to the production and storing of hand sanitizers contaminated



1 with benzene, acetaldehyde, acetal and ethanol at the Warehouse.

2 239. Plaintiffs are informed and believe that Defendant Marathon Petroleum Corporation  
3 knew and concealed the fact that large amounts of dangerous chemicals, including Hydrogen Sulfide,  
4 were released from the Marathon Refinery.

5 240. Plaintiffs are informed and believe that on/or before September 16, 2021, Defendant  
6 Marathon Petroleum Corporation knew there was a fugitive release of Hydrogen Sulfide from the  
7 Marathon Refinery, but intentionally withheld from Plaintiffs the knowledge that toxic chemicals had  
8 contaminated, or were at risk of contaminating, the communities surrounding the Marathon Refinery,  
9 and failed to provide Plaintiffs any warning regarding the danger despite the fact that these facts were  
10 known only to Defendant Marathon Petroleum Corporation, and Plaintiffs could not reasonably have  
11 discovered such facts.

12 241. Defendant Marathon Petroleum Corporation intended to conceal the true facts from  
13 Plaintiffs and intended Plaintiffs to remain ignorant in order for Defendants and each of them, to  
14 continue to operate the Marathon Refinery for their financial gain.

15 242. Plaintiffs and public health officials reasonably relied on their ignorance of the true facts  
16 and were, therefore, in no position to take corrective measures to avoid or minimize the risks created  
17 by operations of Defendant Marathon Petroleum Corporation at the Marathon Refinery.

18 243. Plaintiffs are informed and believe that Defendants Prologis, Inc., Liberty Property, LP,  
19 and Virgin Scent, Inc. d/b/a Art Naturals knew and concealed the fact that large amounts of the  
20 contaminated, highly flammable hand sanitizer were stored in and around the Warehouse in unsafe  
21 conditions.

22 244. Plaintiffs are informed and believe that on/or before September 30, 2021, Defendants  
23 Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art Naturals were informed by the  
24 Federal Drug Administration that large amounts of hand sanitizer produced, stored, and distributed  
25 from the Warehouse were contaminated with harmful, toxic, and flammable chemicals, including  
26 benzene, acetaldehyde and ethanol. Plaintiffs are further informed and believe that Defendants  
27 Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art Naturals concealed the high risk  
28 of a fire at the Warehouse that would result in the release and production of the toxic gases and

1 chemicals in the surrounding communities for at least several days if not months. Defendants Prologis,  
2 Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art Naturals intentionally withheld from  
3 Plaintiffs the knowledge that toxic chemicals had contaminated, or were at risk of contaminating, the  
4 communities surrounding the Warehouse, and failed to provide Plaintiffs any warning regarding the  
5 danger despite the fact that these facts were known only to Defendants Prologis, Inc., Liberty Property,  
6 LP, and Virgin Scent, Inc. d/b/a Art Naturals, and Plaintiffs could not reasonably have discovered such  
7 facts.

8 245. Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
9 Naturals intended to conceal the true facts from Plaintiffs and intended Plaintiffs to remain ignorant in  
10 order for Defendants and each of them, to continue to operate the Warehouse for their financial gain.

11 246. Plaintiffs and public health officials reasonably relied on their ignorance of the true facts  
12 and were, therefore, in no position to take corrective measures to avoid or minimize the risks created  
13 by operations of Defendants Prologis, Inc., Liberty Property, LP, and Virgin Scent, Inc. d/b/a Art  
14 Naturals at the Warehouse.

15 247. Had Plaintiffs or public health officials been aware of the true facts they would have  
16 taken measures to protect the persons and property at risk of exposure to the inundations and inhalation  
17 of harmful chemicals and gases produced and released due to Defendants' conduct as described herein.

18 248. As a direct and legal result of the fraudulent acts and/or omissions of Defendants and  
19 each of them, Plaintiffs have suffered and continue to suffer damages, losses, and injuries described  
20 above in amounts according to proof at trial.

21 **TWELFTH CAUSE OF ACTION**

22 **MEDICAL MONITORING**

23 **(By Plaintiffs against Defendants)**

24 249. Plaintiffs incorporate and re-allege each of the paragraphs above as though fully set  
25 forth herein.

26 250. Defendants have exposed Plaintiffs to excessive levels of Hydrogen Sulfide and other  
27 chemicals and toxins proven hazardous to human health.

28 251. Defendants have also exposed Plaintiff to environmental conditions proven hazardous

1 to mental health.

2 252. The exposure to these dangerous substances and conditions is such that Plaintiff have  
3 been placed at an increased risk of contracting latent illness and disease, including but not limited to  
4 neurological and mental health issues, and as such, require medical monitoring which Defendants are  
5 responsible for providing and paying for.

6 253. Monitoring and testing procedures for neurological disorders and other illnesses  
7 associated with exposure to Hydrogen Sulfide exist, as well as for mental health issues, which make  
8 the early detection and treatment of such diseases and health conditions possible and beneficial.

9 254. Accordingly, the Court should establish a Court-supervised administered trust fund and  
10 medical monitoring regime to compensate Plaintiffs.

11 **VII. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs request relief against all Defendants as follows:

- 13 A. a judgment in favor of Plaintiffs on all claims;
- 14 B. for compensatory and general damages according to proof;
- 15 C. an award to Plaintiffs for the amount of damages, including personal injuries, property  
16 damage, damage to the health of their pets, and diminution in property value, according to  
17 proof;
- 18 D. loss of the use and benefit of Plaintiffs' real and/or personal property;
- 19 E. past and future medical expenses and incidental expenses according to proof;
- 20 F. loss of wages, earning capacity, and/or business profits or proceeds and/or any related  
21 displacement expenses, according to proof;
- 22 G. an immediate temporary injunction against Defendants to provide the following: (1) a fund  
23 for the cost of relocation in order to prevent ongoing exposure to elevated levels of air toxics  
24 including Hydrogen Sulfide (2) a fund for the cost of medical monitoring to monitor the  
25 health of Plaintiffs and diagnose at an early stage any ailments associated with exposure to  
26 toxic chemicals, including Hydrogen Sulfide, produced and released due to the Discharge  
27 and Fire; (3) repair and restore the Channel and other areas impacted by the Discharge an  
28 Fire and resulting production and release of toxic gas in and around the Channel; and (4)

1 prevent Defendants from operating the Refinery and Warehouse without adequate safety  
2 precautions and ongoing monitoring to ensure no future risk of Discharge and Fire or other  
3 catastrophic event occurs.

- 4 H. a permanent injunction against Defendants to provide the following: (1) a fund for the cost  
5 of relocation in order to prevent ongoing exposure to elevated levels of air toxics including  
6 Hydrogen Sulfide (2) a fund for the cost of medical monitoring to monitor the health of  
7 Plaintiff and diagnose at an early stage any ailments associated with exposure to toxic  
8 chemicals, including Hydrogen Sulfide, produced and released due to the Discharge and  
9 Fire; (3) repair and restore the Channel and other areas impacted by the Fire and resulting  
10 production and release of toxic gas in and around the Channel; and (4) prevent Defendants  
11 from operating the Refinery or Warehouse without adequate safety precautions and ongoing  
12 monitoring to ensure no future risk of Discharge or Fire or other catastrophic event occurs.
- 13 I. general damages for fear, worry, annoyance, discomfort, disturbance, inconvenience,  
14 mental anguish, emotional distress, and loss of quiet enjoyment of property;
- 15 J. an award to Plaintiffs for punitive and exemplary damages according to proof;
- 16 K. all costs of suit, including attorneys' fees where appropriate, appraisal fees, engineering  
17 fees and related costs;
- 18 L. for reasonable attorneys' fees pursuant to California Code of Civil Procedure, section  
19 1021.5;
- 20 M. for pre- and post-judgment interest at the legal rate on all amounts awarded; and
- 21 N. for all other relief as this Court may deem just and proper.

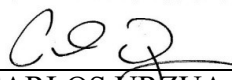
22 **VIII. JURY TRIAL DEMAND**

23 Plaintiffs demand a trial by jury on all of the triable issues within this Complaint.

24 Dated: November 4, 2021

**COTCHETT, PITRE & McCARTHY, LLP**

25  
26 By: \_\_\_\_\_

  
CARLOS URZUA  
GARY A. PRAGLIN  
KELLY W. WEIL  
THERESA E. VITALE  
*Attorneys for Plaintiff*