

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
NORTHEASTERN DIVISION**

**TIFFANY ASHLEY;** )  
**CHARLES RICHARD CORRY; and** )  
**BULLHEADED, LLC D/B/A** )  
**THE BULLPEN STEAKHOUSE** )  
**individually and on behalf of** )  
**all others similarly situated,** )  
 )  
**Plaintiffs,** )

**Civil Acton No.:** \_\_\_\_\_

**vs.** )

**TYSON FARMS, INC. d/b/a** )  
**RIVER VALLEY INGREDIANTS;** )  
**JASON SPANN;** )  
**HYDRASERVICE, INC.** )  
**and JASPER WATER WORKS** )  
**AND SEWER BOARD, INC.** )  
 )  
**Defendants.** )

**JURY DEMAND**

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**CLASS ACTION COMPLAINT**

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**I. INTRODUCTION**

1. Plaintiffs, Tiffany Ashley, Charles Richard Corry, and The Bull Pen Steakhouse (“Plaintiffs”), individually and as representatives of the class defined herein (the “Class”), bring this action against the defendants identified below (“Defendants”), and aver as follows:

2. This is a class action, brought pursuant to Rule 23 of the Federal Rules of Civil Procedure, to recover damages suffered by Plaintiffs and the Class Members as a result of the contamination of the Mulberry Fork segment of the Warrior River, and the subsequent transmission of unsafe and/or tainted water to residents, property owners, and/or business owners in the State of Alabama including, but not limited to, residents, property owners, and/or business owners in Walker County, Alabama and Cullman County, Alabama.

3. The above-referenced water contamination by Defendants Tyson, Spann, and HydraService, as well as Defendant JWWSB's failure to properly anticipate, plan for, contain, remediate, respond to, and/or warn Plaintiffs about the same, have caused significant damage and will continue to cause significant damage to the value of the Plaintiffs' and Class Members' real and/or personal property, and to negatively affect Plaintiffs' and Class Members' earning capacity, business income, use of natural resources, and/or general/normal use of their real property, personal property, and/or business(es).

## **II. JURISDICTION**

4. This Court has jurisdiction over this class action pursuant to 28 U.S.C. § 1332(d)(2), because the matter in controversy exceeds the sum or value of \$5,000,000.00, exclusive of interest and costs, and because it is a class action

brought by citizens of a State that is different from the State where at least one of the Defendants is incorporated or does business.

5. Prosecution of this action in this district is proper under 28 U.S.C. § 1391(a)(2) because a substantial portion of the events or omissions giving rise to the claims asserted herein occurred in this district and/or a substantial part of the property at issue in this action is situated in this district.

### **III. PARTIES**

6. Plaintiff Tiffany Ashley is an individual over the age of nineteen (19) years and is a resident and owner of real property in Walker County, Alabama. Tiffany Ashley's real property is located at 86 Chappell Fish Camp Road, Parrish, AL 35580.

7. As a result of the events described herein, she has suffered injuries and/or damages including, but not limited to, pain, suffering, mental anguish, fear, humiliation, interference with the quiet enjoyment and use of her property, significant damage to the value of her real and/or personal property, economic damages, and/or a negative effect on use of natural resources, and/or general/normal use of her real property and/or personal property.

8. Plaintiff Charles Richard Corry is an individual over the age of nineteen (19) years and is a resident and/or owner of real property in Walker County, Alabama.

9. Additionally, Charles Richard Corry is the owner and operator of a business, Bullheaded, LLC d/b/a The Bull Pen Steakhouse, which is located at 111 School Street, Oakman, Alabama 35579.

10. As a result of the events described herein, he has suffered injuries and/or damages including, but not limited to, pain, suffering, mental anguish, fear, humiliation, interference with the quiet enjoyment and use of his property, significant damage to the value of his real and/or personal property, economic damages, damages to his business, a negative effect on use of natural resources, and/or general/normal use of his real property, personal property, and/or business(es).

11. Plaintiff, Bullheaded, LLC d/b/a The Bull Pen Steakhouse is an Alabama Corporation located and doing business in Walker County, Alabama. Plaintiff earns income in the restaurant and/or food services industry.

12. As a result of the events described herein, The Bull Pen, Inc. has suffered loss of business, loss of income, and/or economic damages.

13. Defendant Tyson Farms, Inc. d/b/a River Valley Ingredients (hereinafter "Tyson") is a North Carolina corporation with its principal place of business in Wilkes County, North Carolina.

14. Defendant Tyson owned, operated, managed, and/or controlled, the River Valley Ingredients Plant located in Cullman County, Alabama at all times



material to this Complaint and caused or allowed raw sewage, effluent materials, toxins, bacteria, and/or other contaminants to be discharged into the Mulberry Fork of the Black Warrior River, causing the damages complained of by the Plaintiffs and/or Class Members referenced herein.

15. Defendant Jason Spann (hereinafter “Spann”), individually, and in his capacity as Plant Manager, agent, employee, and/or servant of Defendant Tyson Farms’ River Valley Ingredients plant, is an individual over the age of nineteen (19) years and resides in Cullman County, Alabama.

16. Spann is the individual in charge of the safe and proper operation of the discharge of sanitary wastewaters associated with the rendering operations of the plant, but who failed to ensure that raw sewage, effluent materials, toxins, bacteria, and/or other contaminants would not be discharged into the Mulberry Fork of the Black Warrior River causing the damages complained of by the Plaintiffs and Class Members referenced herein.

17. Defendant HydraService, Inc., (hereinafter “HydraService”) is an Alabama corporation with its principal place of business in Blount County, Alabama.

18. Upon information and belief, Defendant HydraService was the contractor that leased, rented, assembled, installed, maintained, altered, constructed, and operated a pump/pump(s) and other equipment at the River Valley Ingredients

Plant which was/were used to pump raw sewage, effluent materials, toxins, bacteria, and/or other contaminants from one wastewater basin to another.

19. Upon information and belief, Defendant HydraService's pump/pumps malfunctioned and discharged hundreds of thousands of gallons of raw untreated wastewater and other effluent contaminants into the Mulberry Fork of the Black Warrior River and caused the damages complained of by the Plaintiffs and/or Class Members referenced herein.

20. Defendant Jasper Water Works and Sewer Board, Inc. (hereinafter "JWWSB") is an Alabama Non-Profit Corporation with its principal place of business in Walker County, Alabama at all times material to this Complaint.

21. Defendant JWWSB provided water to Walker County, Alabama at all times material to this Complaint and, in doing so, drew water from the Mulberry Fork portion of the Warrior River – one of the principal locations of the incident(s) made the basis of this litigation

#### **IV. FACTUAL ASSERTIONS**

1. Plaintiffs hereby adopt and incorporate all prior paragraphs of this Complaint as if set out fully herein.

2. The Mulberry Fork begins in northeast Cullman County below Arab, Alabama then flows southwest, forming a portion of the boundary between Cullman and Blount Counties.

3. In western Walker County, it is joined by the Sipsey Fork and flows south to man-made Bankhead Lake at the junction of Walker, Jefferson and Tuscaloosa Counties, where it meets the Locust Fork.

4. Together, the two forks flow out of the lake to the southwest as the Black Warrior River, through Tuscaloosa to the Tombigbee River and south to Mobile.

5. Defendant Tyson is engaged in food and/or pet food processing operations in Cullman County, Alabama.

6. Defendant Tyson's facilities, known as the River Valley Ingredients Plant, are located in close proximity to the Black Warrior River and/or certain tributaries to the Black Warrior River.

7. Defendant Spann is a Plant Manager, agent, employee, and/or servant of Defendant Tyson Farms' River Valley Ingredients Plant.

8. In that role, Defendant Spann is/was charged with certain responsibilities including, but not limited to, the safe and proper operation, containment, and/or discharge of sanitary wastewaters associated with the rendering operations of the plant, and ensuring that raw sewage, effluent materials, toxins, bacteria, and/or other contaminants are not discharged into public waterways and/or water sources.

9. On or about June 6, 2019, a wastewater spill contaminated the waters of the Mulberry Fork along the Black Warrior River.

10. According to the Alabama Department of Environmental Management, the spill on the Mulberry Fork of the Black Warrior River happened at the “River Valley” plant when a pipe failed to properly transfer partially-treated wastewater from one holding pond, basin, and/or container to another.

11. The River Valley Plant is owned and operated by Defendant Tyson.<sup>1</sup>

12. Upon information and belief, the pump/pumps that malfunctioned and caused or contributed to cause the above-referenced wastewater spill and contamination was/were leased, rented, assembled, installed, maintained, altered, constructed, and operated by Defendant HydraService.

13. Defendants Tyson, Spann, and/or HydraService caused and/or allowed the above-referenced wastewater spill, which caused such significant and toxic contamination that it triggered a massive fish kill in areas as far as 40 miles from the River Valley plant.

14. On the day after the above-referenced contamination, Defendant Tyson issued the following public notice:

**This is a notice to the general public: on June 6, 2019,  
due to a failure in a pipe owned by River Valley**

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<sup>1</sup> In 2016, the same facility was fined a mere \$19,000 when it dumped more than 900 gallons of acid into the river and killed approximately 40,000 fish.



**Ingredients located near Hanceville, Alabama, partially treated effluent is believed to have reached the Dave Young creek, which flows to the Mulberry Fork...In an abundance of caution, the public is encouraged to avoid recreating in Dave Young creek or the Mulberry Fork until further notice.**

15. According to Alabama's Division of Wildlife and Freshwater Fisheries, early reports showed up to 800,000 gallons of waste water spilled from Defendant Tyson's plant in Hanceville.<sup>2</sup>

16. The contaminated water (referred to as "bad water" by the director of the Jasper Water Works and Sewer Board) poured into the Mulberry Fork before moving downstream to the Sipsey Fork and the Black Warrior River – killing an estimated 175,000 fish in the process.<sup>3</sup>

17. The pollution and dead fish contaminated river water for miles downstream, including the area from which the JWWSB filtering plant draws its water – approximately two (2) miles below the point where the Mulberry Fork flows into the Sipsey Fork of the Black Warrior River.

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<sup>2</sup> For reference, an 800,000-gallon spill would be enough to fill 1-gallon jugs lined side by side for nearly 70 miles. It also could fill a walled-in football field including the end zones with a 14-foot-high pool of oil.

<sup>3</sup> The Alabama Department of Conservation and Natural Resources released a conservative estimate that 175,000 fish were killed. However, the Assistant Chief of Fisheries for ADCNR admitted that the incident was so large that "direct counts of dead fish were not possible," and further stated that "it appears that most of the fish in the affected area were killed"...because "dissolved oxygen dropped to levels that most fish cannot easily survive."

18. Following the subject wastewater spill, water samples taken approximately 28 miles downstream from the spill showed alarming levels of the bacteria *Escherichia coli* (commonly referred to as *E. coli*).

19. In fact, the levels of *E. coli* found in the Warrior River samples were double the maximum amount allowed by the state of Alabama in surface water.

20. In addition to its failure to anticipate such an issue concerning water quality, Defendant JWWSB negligently and/or wantonly assumed incorrect facts about the spill and/or failed to immediately take measures to protect the public from using, consuming, and/or being exposed to contaminated water.

21. Despite not knowing “what all went on up there,” Defendant JWWSB declared that “the water is safe to drink.”

22. Defendant JWWSB has admitted that it took no precautionary actions in the immediate aftermath of the Tyson spill.

23. Despite publicly admitting that the water was “dirty,” Defendant JWWSB refused to warn the citizens of Walker County that they should not consume, use, and/or be exposed to the polluted water.

24. As a proximate consequence of the wastewater spill on June 6, 2019, Plaintiffs have sustained injuries and/or damages which include, but are not limited to, pain and suffering, nuisance, monetary damages, mental anguish, emotional distress, and humiliation.

25. Moreover, Plaintiffs and Class Members will continue to experience such damages into the foreseeable future.

26. The Defendants' conduct under the circumstances was negligent, reckless, wanton, and/or willful; and/or amounts to actual malice.

27. The injuries and damages suffered by Plaintiffs and the Class Members were caused by Defendants' negligent, willful, and/or wanton failure to behave in a reasonable manner and/or failure to adhere to recognized industry standards of care and/or safety practices.

28. Defendants knew of the dangers associated with their activities and negligently, willfully, and wantonly failed to take appropriate measures to prevent damage to Plaintiffs and the Class Members.

22. The subject wastewater spill and subsequent mishandling of this significant event has damaged and will continue to damage the value of Plaintiffs' and Class Members' real and/or personal property, and to negatively affect Plaintiffs' and Class Members' earning capacity, business income, use of natural resources, and/or general/normal use of their real property, personal property, and/or business(es).

## **V. CLASS ACTION ALLEGATIONS**

23. Plaintiffs bring this action and each of the claims therein, on their own behalf and on behalf of all others similarly situated pursuant to Fed. R. Civ. P.



23(b)(1), (b)(2) and (b)(3). Plaintiffs are duly representative and typical of the proposed members of the hereinafter described classes and/or sub-classes.

24. Plaintiffs seek the certification of classes or subclasses of people impacted by the subject wastewater spill, the subsequent handling of such wastewater spill by all defendants, and remedial events as follows:

All Alabama residents who own or lease residential or commercial property and/or personal property that has been or will in the future be damaged as a result of the June 6, 2019 wastewater spill/contamination and the subsequent containment, handling, and/or remediation of said spill/contamination, and/or all Alabama residents who have experienced a negative affect on his/her/their use of natural resources and/or the general/normal use of their real property and/or personal property as a result of the June 6, 2019 wastewater spill/contamination and the subsequent containment, handling, and/or remediation of said spill/contamination.

This class further includes all Alabama residents who have suffered or will in the future suffer any legally cognizable business and/or economic losses and/or damages as a result of the June 6, 2019 wastewater spill/contamination and the subsequent containment, handling, and/or remediation of said spill/contamination.

(Plaintiffs and others similarly situated may simultaneously be members of more than one class or sub-class, including separately filed legal actions)

25. Excluded from the Class are: (a) the officers and directors of any of the Defendants; (b) any entity or division in which any defendant(s) has a controlling interest; (c) any judge or judicial officer assigned to this matter and his or her



immediate family; and (d) any legal representative of Defendants, successor, or assign or any excluded persons or entities.

26. The Class is so numerous that joinder of all members is impractical. The number of individuals and businesses in the affected area, which have been or may in the future be damaged by the subject wastewater spill/contamination, the subsequent handling of said wastewater spill/contamination, and/or any actual or planned remediation efforts exceeds 100.

27. There are common questions of law and fact that exist in and among the class, such as the spill/contamination itself; the Defendants' herein described conduct which caused, brought about, allowed, contributed to, and/or significantly increased the risk of the spill/contamination itself or damages resulting therefrom; and Defendants' liability to Plaintiffs under the legal theories set forth herein, all of which predominate over any questions solely affecting individual members of the aforesaid class.

28. The duty, breach of duty, violation of laws/regulations, claims, causation and/or damages asserted by the named class Plaintiffs, who will be the representative parties, are typical of the proposed class, and these Plaintiffs will thoroughly and adequately represent the interests of the class.

29. Plaintiffs have adequate financial resources to prosecute this litigation and have retained the undersigned class counsel, as set forth below, who are

experienced in prosecuting class actions, mass tort actions, environmental claims, and complex civil matters.

30. Further, Plaintiffs' counsel has and will advance all reasonable costs necessary to protect the class, including with regard to hiring necessary experts, conducting discovery, the presentation of class certification motion papers, trying the case and otherwise vigorously prosecuting the claims set forth herein.

31. A class action mechanism is superior to all other available methods for the fair and efficient adjudication of this matter.

32. The expenses and burden of individual litigation would preclude many members, if not all, of the aforesaid class(es) from seeking redress for the harms and wrongs complained of herein, from obtaining justice and access to the courts, and from obtaining the aforesaid necessary injunctive relief.

33. Defendants' aforesaid misconduct, actions and omissions make the requested injunctive relief and monetary relief appropriate and necessary to fully protect Plaintiffs and all others similarly situated.

34. Any difficulties in management of this case as a class action are outweighed by the benefits of a class action with respect to efficiently and fairly disposing of common issues of law and fact as to the large number of litigants.

**VI. COUNT ONE – NEGLIGENCE / WANTONNESS**

**Defendants Tyson Farms, Inc. and/or Jason Spann**

35. Plaintiffs, on behalf of themselves and the Class Members, hereby adopt and incorporate all prior paragraphs of this Complaint as if set out fully herein.

36. Defendants Tyson and Spann owed a duty to Plaintiffs and Class Members to exercise reasonable care in the ownership, installation, construction, alteration, operation, management, inspection, training, repair and/or maintenance of the River Valley Ingredients Plant and all component parts thereof or attachments thereto.

37. Defendants Tyson and/or Spann had a heightened duty of care to Plaintiffs and Class Members because of the great danger and environmental concerns associated with the ownership, construction, alteration, operation, management, inspection, training, repair and/or maintenance of said facilities, including all component parts thereof and/or attachments thereto.

38. Defendants Tyson and/or Spann breached their legal duty to Plaintiffs and Class Members by failing to exercise reasonable care and acting with reckless, willful, and wanton disregard for the Plaintiffs and Class Members, in the ownership, construction, alteration, operation, management, inspection, training, repair and/or maintenance of the River Valley Ingredients Plant and all component parts thereof or attachments thereto.

39. Defendants' breach includes, but is not limited to, the ownership, construction, alteration, operation, management, inspection, training, repair and/or maintenance of the specific equipment, parts, and/or pumps referenced herein.

40. The subject wastewater spill/contamination, actions (or inactions) involved in the handling and/or containment of said spill/contamination, and/or the subsequent remediation of said spill/contamination was caused by the combining and concurring negligence and/or wantonness of the Defendants, including, but not limited to, Defendants Tyson and/or Spann.

41. Upon information and belief, Plaintiffs aver that the subject spill/contamination was caused by the joint negligence and fault of the Defendants in the following non-exclusive particulars:

- a. Failing to properly operate the River Valley Ingredients Plant and all component parts thereof or attachments thereto;
- b. Operating the River Valley Ingredients Plant and all component parts thereof or attachments thereto in such a manner that a wastewater spill occurred and caused or allowed raw sewage, effluent materials, toxins, bacteria, and/or other contaminants to be discharged into the Mulberry Fork of the Black Warrior River;
- c. Failing to properly inspect the River Valley Ingredients Plant to ensure that its equipment and personnel were fit for their intended purpose;
- d. Acting in a careless and negligent manner without due regard for the safety of others;



- e. Failing to promulgate, implement, and/or enforce rules and regulations pertaining to the safe operations of the River Valley Ingredients Plant which, if they had been so promulgated, implemented and enforced, would have averted the subject wastewater spill and/or prevented or limited discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River;
- f. Operating the River Valley Ingredients Plant with untrained and/or unlicensed personnel;
- g. Causing and/or allowing inadequate and negligent training and/or hiring of personnel;
- h. Failing to take appropriate action(s) to avoid and/or mitigate the accident;
- i. Negligent implementation of policies and/or procedures to safely conduct the operations of the River Valley Ingredients Plant;
- j. Employing untrained or poorly trained employees and failing to properly train employees;
- k. Failing to confirm and/or ensure that the River Valley Ingredients Plant and its equipment, component parts, and/or attachments were free from defects and/or were in proper working order;
- l. Failure to timely warn;
- m. Failure to timely recognize the release and/or discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants and/or the failure to timely bring the release and/or discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants under control;

- n. Failure to provide appropriate accident preventive equipment;
- o. Failure to observe and read gauges that would have predicted and/or indicated the release and/or discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants;
- p. Failure to react to signs or indications of present or pending dangerous situations;
- q. The use of defective products, equipment, and/or component parts – including, but not limited to, the “pumps” referenced herein;
- r. The use of products, equipment, and/or component parts – including, but not limited to, the “pumps” referenced herein – that were improperly installed, maintained, and/or operated;
- s. Acting in a manner that justifies imposition of punitive damages; and
- t. Such other acts of negligence and omissions as will be shown at the trial of this matter.

42. Defendants Tyson and/or Spann knew or should have known that their negligent, willful, wanton and/or reckless conduct would foreseeably result in the subject spill/contamination, causing damage to Plaintiffs and Class Members.

43. The injuries to Plaintiffs and the Class Members were also caused by or aggravated by the fact that Defendants Tyson and/or Spann failed to take necessary actions to mitigate the danger associated with their operations.

44. In addition, the subject spill/contamination would not have occurred had the Defendants exercised the high degree of care imposed on them and Plaintiffs, therefore, plead the doctrine of *res ipsa loquitur*.

45. Plaintiffs and the Class Members are entitled to a judgment finding Defendants liable to Plaintiffs and the Class Members for damages suffered as a result of Defendants' negligence, willfulness, recklessness, and/or wantonness and awarding Plaintiffs and the Class Members adequate compensation, including punitive damages therefore in amounts determined by a jury.

**Defendant HydraService, Inc.**

46. In addition to the above-referenced negligence and/or wantonness of Defendants Tyson and/or Spann, Plaintiffs and the Class members have been injured and/or damaged by the negligence and/or wantonness of Defendant HydraService, Inc.

47. Defendant HydraService owed a duty to Plaintiffs and Class Members to exercise reasonable care in the construction, assembly, testing, leasing, sale, installation, alteration, operation, management, inspection, training (operators/users), repair and/or maintenance of the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced "pumps" and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent materials, toxins,

bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

48. Defendant HydraService had a heightened duty of care to Plaintiffs and Class Members because of the great danger and environmental concerns associated with the construction, leasing, sale, lease, construction, assembly testing, installation, alteration, operation, management, inspection, training (operators/users), repair and/or maintenance of the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced “pumps” and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

49. Defendant HydraService breached its legal duty to Plaintiffs and Class Members by failing to exercise reasonable care and acting with reckless, willful, and wanton disregard for the Plaintiffs and Class Members, in the sale, lease, construction, assembly, testing, installation, alteration, operation, management, inspection, training (operators/users), repair and/or maintenance of the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced “pumps” and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent



materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

50. The subject wastewater spill/contamination, actions (or inactions) involved in the handling and/or containment of said spill/contamination, and/or the subsequent remediation of said spill/contamination was caused by the combining and concurring negligence and/or wantonness of the Defendants, including, but not limited to, Defendant HydraService.

51. Upon information and belief, Plaintiffs aver that the subject spill/contamination was caused by the joint negligence and/or fault of the Defendant HydraService in the following non-exclusive particulars:

- a. Failing to properly construct, test, install, alter, operate, manage, inspection, train (operators/users), repair and/or maintain the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced “pumps” and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River;
- b. Constructing, assembling testing, installing, altering, operating, managing, inspecting, training (operators/users), repairing and/or maintaining the subject equipment and/or component parts in use at the River Valley Ingredients Plant in such a manner that a wastewater spill occurred and caused or allowed raw sewage, effluent materials, toxins, bacteria, and/or other contaminants to be discharged into the Mulberry Fork of the Black Warrior River;
- c. Failing to properly inspect the subject equipment and/or component parts in use at the River Valley Ingredients Plant to ensure that its equipment and personnel were fit for their intended purpose;

- d. Acting in a careless and negligent manner without due regard for the safety of others;
- e. Failing to promulgate, implement, and/or enforce rules, policies, procedures, guidelines, instructions, and/or regulations pertaining to the safe operation of the subject equipment and/or component parts in use at the River Valley Ingredients Plant which, if they had been so promulgated, implemented and/or enforced, would have averted the subject wastewater spill and/or prevented or limited discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River;
- f. Allowing and/or causing the operation of the subject equipment and/or component parts in use at the River Valley Ingredients Plant with untrained and/or unlicensed personnel;
- g. Causing and/or allowing inadequate and negligent training of operators and/or users of the subject equipment and/or component parts in use at the River Valley Ingredients Plant;
- h. Failing to take appropriate action(s) to avoid and/or mitigate the subject accident;
- i. Negligent implementation of policies and/or procedures to safely construct, test, install, alter, operate, manage, inspection, train (operators/users), repair and/or maintain the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced “pumps” and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River;
- j. Employing untrained or poorly trained employees and failing to properly train, teach, and/or advise employees, operators, and/or users of the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced “pumps” and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent materials, toxins,

bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River;

- k. Failing to confirm and/or ensure that the equipment, component parts, and/or attachments in use at the River Valley Ingredients Plant were free from defects and/or were in proper working order;
- l. Failure to timely, adequately, and/or appropriately warn;
- m. Failure to timely recognize active, pending, and/or potential defects, failures, and/or problems causing and/or allowing the release and/or discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants and/or the failure to timely bring the release and/or discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants under control;
- n. Failure to provide appropriate accident preventive equipment;
- o. Failure to observe and read gauges that would have predicted and/or indicated the active and/or potential release and/or discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants;
- p. Failure to react to signs or indications of present or pending dangerous situations;
- q. The use of defective products, equipment, and/or component parts – including, but not limited to, the “pumps” referenced herein;
- r. The use of products, equipment, and/or component parts – including, but not limited to, the “pumps” referenced herein – that were improperly installed, maintained, and/or operated;
- s. Acting in a manner that justifies imposition of punitive damages; and
- t. Such other acts of negligence and omissions as will be shown at the trial of this matter.



52. Defendant HydraService knew or should have known that its negligent, willful, wanton and/or reckless conduct would foreseeably result in the subject spill/contamination, causing damage to Plaintiffs and Class Members.

53. The injuries to Plaintiffs and the Class Members were also caused by or aggravated by the fact that Defendant HydraService failed to take necessary actions to mitigate the danger associated with their operations.

54. Additionally, the subject spill/contamination would not have occurred had the Defendants exercised the high degree of care imposed on them and Plaintiffs, therefore, plead the doctrine of *res ipsa loquitur*.

55. Plaintiffs and the Class Members are entitled to a judgment finding Defendants liable to Plaintiffs and the Class Members for damages suffered as a result of Defendants' negligence, willfulness, recklessness, and/or wantonness and awarding Plaintiffs and the Class Members adequate compensation, including punitive damages therefore in amounts determined by a jury.

**Defendant Jasper Water Works and Sewer Board, Inc.**

56. In addition to the above-referenced negligence and/or wantonness of Defendants Tyson, Spann, and/or HydraService, Plaintiffs and the Class members have been injured and/or damaged by the negligence and/or wantonness of Defendant Jasper Water Works and Sewer Board, Inc.



57. Defendant JWWSB owed a duty to Plaintiffs and Class Members to exercise reasonable care in the treatment, containment, and/or safeguarding of water that was provided to the public prior to, during, and subsequent to the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

58. Moreover, Defendant JWWSB owed a duty to Plaintiffs and Class Members to exercise reasonable care in the warning of the general public about the subject spill/contamination (and all risks, dangers and/or problems that might be associated with such a spill/contamination) during, and subsequent to the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

59. Defendant JWWSB had a heightened duty of care to Plaintiffs and Class Members because of the great danger and environmental, medical, and economic concerns associated with subject spill/contamination and the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River (and subsequent provision of such tainted water to the general public by Defendant JWWSB).

60. Plaintiffs and Class Members had an absolute right to make informed and/or educated choices about their use, consumption, and/or exposure to such

dangerous and contaminated water, and Defendant JWWSB made conscious decisions to take that right away from Plaintiffs and Class Members.

61. Defendant JWWSB breached its legal duties to Plaintiffs and Class Members by failing to exercise reasonable care and acting with reckless, willful, and wanton disregard for the Plaintiffs and Class Members, in its failure to take adequate steps to contain, remediate, and/or safeguard the contaminated water during and after the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

62. Moreover, Defendant JWWSB breached its legal duties to Plaintiffs and Class Members by failing to exercise reasonable care and acting with reckless, willful, and wanton disregard for the Plaintiffs and Class Members, in its refusal to notify Plaintiffs and Class Members of the serious situation regarding contaminated water and the potential dangers, risks, and/or environmental, medical, and economic concerns associated with subject spill/contamination and the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River (and subsequent provision of such tainted water to the general public by Defendant JWWSB).

63. The damages and injuries suffered by Plaintiffs and Class Members was caused by the combining and concurring negligence and/or wantonness of the Defendants, including, but not limited to, Defendant JWWSB.

64. Defendant JWWSB knew or should have known that its negligent, willful, wanton and/or reckless conduct would foreseeably result in damage to Plaintiffs and Class Members.

65. The injuries and damages to Plaintiffs and the Class Members were also caused by or aggravated by the fact that Defendant HydraService failed to take necessary actions to mitigate the danger associated with their operations.

66. In addition, the subject damages and injuries would not have occurred and/or would have been greatly reduced had Defendant JWWSB exercised the high degree of care imposed on them and Plaintiffs, therefore, plead the doctrine of *res ipsa loquitur*.

67. The actions and/or conduct of the Defendants represents a conscious disregard for the rights and safety of others including, but not limited to, the Plaintiffs and Class Members.

68. Plaintiffs and the Class Members are entitled to a judgment finding Defendants liable to Plaintiffs and the Class Members for damages suffered as a result of Defendants' negligence, willfulness, recklessness, and/or wantonness and awarding Plaintiffs and the Class Members adequate compensation, including punitive damages therefore in amounts determined by a jury.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Class Members demand judgment against the Defendants, in such an amount of compensatory and

punitive damages as a jury deems reasonable and may award, plus costs and attorneys' fees, and an award of all other or further relief to which Plaintiffs' reasonably may be entitled.

## **VII. COUNT TWO – STRICT LIABILITY**

69. Plaintiffs and Class Members hereby adopt and incorporate all prior paragraphs of this Complaint as if set out fully herein.

70. At all relevant times, the Defendants have deliberately engaged in an abnormally dangerous activity by generating, discharging, transporting, handling, and/or allowing the discharge of toxic and/or harmful substances and/or concealing knowledge of same.

71. As a direct and proximate result of the acts and omissions of the Defendants, Plaintiffs and Class Members have lost the beneficial use, enjoyment, and/or exclusive possession of their property; Plaintiffs' and Class Members' properties have declined in value and continue to decline in value as a result of the contamination; and/or Plaintiffs and Class Members have suffered and continue to suffer property damage, economic loss, business losses, emotional distress, personal injury, inconvenience and/or humiliation.

72. Defendants are strictly liable for the above damages which resulted directly from their engaging in the abnormally dangerous activities referenced herein.



### **VIII. COUNT THREE – TRESPASS**

73. Plaintiffs and Class Members hereby adopt and incorporate all prior paragraphs of this Complaint as if set out fully herein.

74. Defendants Tyson, Spann, HydraService, and/or JWWSB, by their intentional, negligent and/or wanton actions, trespassed, caused a trespass, and/or allowed a trespass onto Plaintiffs' and Class Members' property.

75. Defendants Tyson, Spann, HydraService, and/or JWWSB engaged in their wrongful conduct with knowledge that it would, to a substantial certainty, result in the entry of foreign matters, materials, and/or contaminants onto Plaintiffs' and Class Members' properties.

76. The Intrusion that occurred has interfered and continues to interfere with the Plaintiffs' and Class Members' rights to exclusive possession of their property.

77. As a proximate result of said Defendants' negligent, willful, intentional, and/or wanton actions, the Plaintiffs and Class Members have been injured and damaged as set forth herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Class Members demand judgment against the Defendants, in such an amount of compensatory and punitive damages as a jury deems reasonable and may award, plus costs and

attorneys' fees, and an award of all other or further relief to which Plaintiffs' reasonably may be entitled.

**IX. COUNT FOUR – NUISANCE**

78. Plaintiffs and Class Members hereby adopt and incorporate all prior paragraphs of this Complaint as if set out fully herein.

79. At all times material to this Complaint, Defendants Tyson and/or Spann owed a duty to Plaintiffs and Class Members to exercise reasonable care in the ownership, installation, construction, alteration, operation, management, inspection, training, repair and/or maintenance of the River Valley Ingredients Plant and all component parts thereof or attachments thereto.

80. At all times material to this Complaint, Defendant HydraService owed a duty to Plaintiffs and Class Members to exercise reasonable care in the construction, assembly, testing, leasing, sale, installation, alteration, operation, management, inspection, training (operators/users), repair and/or maintenance of the subject equipment and/or component parts in use at the River Valley Ingredients Plant, including, but not limited to, the above-referenced “pumps” and component parts/attachments that caused and/or allowed the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

81. At all times material to this Complaint, Defendant JWWSB owed a duty to Plaintiffs and Class Members to exercise reasonable care in the treatment, containment, and/or safeguarding of water that was provided to the public prior to, during, and subsequent to the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

82. Moreover, Defendant JWWSB owed a duty to Plaintiffs and Class Members to exercise reasonable care in the warning of the general public about the subject spill/contamination (and all risks, dangers and/or problems that might be associated with such a spill/contamination) during, and subsequent to the discharge of raw sewage, effluent materials, toxins, bacteria, and/or other contaminants into the Mulberry Fork of the Black Warrior River.

83. The Defendants negligently, purposefully, knowingly, willfully, and/or wantonly breached their duty of care as referenced above.

84. Moreover, the Defendants knew or should have known that failure to act with requisite due care in carrying out the above-referenced duties would result in injuries, harms, and/or damages to Plaintiffs and Class Members.

85. As a direct and proximate result of Defendants' conduct, the Plaintiffs have been injured and damaged as set forth herein.

86. As a result of their proximity to the contaminated water and/or due to the direct contact and/or damages suffered by the Plaintiffs and Class Members referenced herein, the harms inflicted upon these individuals and/or businesses is different in kind and degree from the damage suffered by the public in general.

87. Defendants' conduct and the resulting harms, losses, and/or damages constitutes a nuisance to Plaintiffs and Class Members including, but not limited to, interference with the Plaintiffs' and Class Members' quiet enjoyment and use of their property, significant damage to the value of the Plaintiffs' and Class Members' real and/or personal property, and/or a negative effect Plaintiffs' and Class Members' earning capacity, business income, use of natural resources, and/or general/normal use of their real property, personal property, and/or business(es).

88. Defendants' actions were intentional, willful, and/or malicious, and were carried out with a total disregard to the law or health and convenience of the Plaintiffs and Class Members.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and Class Members demand judgment against the Defendants, in such an amount of compensatory and punitive damages as a jury deems reasonable and may award, plus costs and attorneys' fees, and an award of all other or further relief to which Plaintiffs' reasonably may be entitled.



**X. COUNT FIVE – INJUNCTIVE RELIEF**

1. Plaintiffs and Class Members hereby adopt and incorporate all prior paragraphs of this Complaint as if set out fully herein.

2. The wrongful acts and conduct of the Defendants as alleged herein have caused, and will continue to cause, irreparable harm to the Plaintiffs and Class Members for which there is no adequate remedy other than a permanent injunction prohibiting such conduct by the Defendants.

3. The Plaintiffs and Class Members respectfully ask this Court to enter an Order awarding them permanent and mandatory injunctive relief, including remediation and abatement of contamination, and requiring that Defendants refrain from the negligent, willful, wanton and illegal dispersing of toxic and other harmful substances onto their property.

**XI. PRAYER FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs and the Class Members demand judgment against Defendants, jointly and severally as follows:

- a. An order certifying the Class for the purpose of going forward with any one or all of the causes of action alleged herein; appointing Plaintiffs as Class Representatives; and appointing undersigned counsel as counsel for the Class;
- b. Economic and compensatory damages in amounts to be determined at trial, but not less than the \$5,000,000.00 amount required by the Class

Action Fairness Act which establishes one of this Court's bases of jurisdiction to hear this case;

- c. Punitive damages;
- d. Pre and post-judgment interest at the maximum rate allowable by law;
- e. Attorney's fees and costs of litigation;
- f. Such other and further relief available under all applicable state and federal laws and any relief the court deems just and appropriate; and
- g. A trial by jury as to all Defendants.

**PLAINTIFFS DEMAND A TRIAL BY STRUCK JURY.**

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that upon receiving a copy of the executed summons and filed complaint, a copy of the foregoing will be served upon all attorneys of record and/or parties via process server which will provide individual notification of such filing to the following persons and/or entities of record:

Tyson Farms, Inc. d/b/a  
River Valley Ingredients  
c/o CT Corporation System  
2 North Jackson Street, Suite 605  
Montgomery, Alabama 36104

Jasper Water Works and Sewer Board  
c/o Jason Langley  
620 Alabama Avenue  
Jasper, Alabama 35501

Mr. Jason Spann  
1170 County Road #508  
Hanceville, AL 35077

HydraService, Inc.  
c/o Registered Agent F.J. Doyle, II  
2104 Highway 160  
Warrior, AL 35180

/s/ Joshua M. Vick  
OF COUNSEL