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**THIS IS NOT AN ARBITRATION CASE;
AN ASSESSMENT OF DAMAGES IS
REQUIRED; JURY OF TWELVE
DEMANDED**

ALISSA FINLEY,
on behalf of herself and all others
similarly situated,

IN THE COURT OF COMMON PLEAS
OF ALLEGHENY COUNTY
PENNSYLVANIA

*Proposed Class
Action Plaintiff*

Case No.:

vs.

Type of Pleading: Class Action Complaint

USX COMPANY, f/k/a and d/b/a as U.S. STEEL CORPORATION.

Defendant

CLASS ACTION COMPLAINT AND JURY DEMAND

INTRODUCTION

1. Plaintiff brings this class action against US Steel Corporation for the operation of its steel mill located at 152 11th street in the City of Braddock, County of Allegheny, Commonwealth of Pennsylvania ("Facility"). Through its manufacturing process, Defendant releases noxious odors and fugitive dust onto Plaintiff's property, causing property damage through private nuisance, public nuisance, negligence, gross negligence, and trespass.

THE PARTIES

2. Plaintiff, Alissa Finley, resides at 4028 Vista View St., City of West Mifflin, County of Allegheny, Commonwealth of Pennsylvania.

3. Defendant's Facility is located at 152 11th Street, in City of Braddock, County of Allegheny, Commonwealth of Pennsylvania. Defendant is a Delaware corporation with its principal place of business located in Pennsylvania.

JURISDICTION AND VENUE

4. This court has personal jurisdiction over Defendant pursuant to 42 Pa.C.S § 5301 as Defendant carries on a continuous and systematic part of its general business within the Commonwealth of Pennsylvania.

5. This Court has subject matter jurisdiction over this action pursuant to 42 Pa.C.S.A. § 931.

6. Venue is proper under Pa. R. Civ. Pro. § 2179, as Defendant regularly conducts business in this County and the cause of action arose in this County.

BACKGROUND

7. Defendant's Facility refines raw materials such as iron coke and other iron-bearing materials to produce steel slabs, which are further refined depending on their intended commercial use.

8. In general, Defendant's steel making process proceeds as such: (a) after iron ore and coke are melted down by blast furnaces in the casthouse to create molten ore, the liquid metal is transferred into ladle cars to be taken to the hot metal mixer in preparation for desulfurization; (b) the liquid metal is desulfurized using a chemical reagent; (c) the hot metal ore produced at the blast furnace is then converted to liquid steel in the basic oxygen process ("BOP") shop in a furnace known as a vessel by injecting oxygen into the molten material through a lance; (d) the resulting liquid steel is then tapped at the BOP shop and transferred to either the ladle metallurgy facility ("LMF") or the vacuum degasser, both of which further refine the liquid steel depending on the

commercial purpose for which the steel is intended; (e) the refined liquid steel passes through the dual strand continuous caster mold where it is cut as needed and shipped to its destination offsite.

9. The steel production process produces significant emissions, primarily in the form of odor and fugitive dust resulting from the desulfurization and BOP processes.

10. The Facility has several major emission sources, including but not limited to the following:

- a) The Blast Furnace Stove Stacks
- b) The Casthouse Baghouse
- c) The BOP Shop Scrubber stacks;
- d) The BOP Shop Fugitive Baghouse
- e) The BOP Shop Ladle Metallurgy Furnace Baghouse
- f) The Slag Pit

FACTUAL ALLEGATIONS

11. The Defendant owns, operates, and/or controls the Steel Facility, which is situated on 107 acres of land and surrounded by residential properties.

12. The Facility produces steel slabs, which are sent to Defendant's other steel facilities for further processing and refining or to consumers for commercial use.

13. The systems used in manufacturing the steel slabs include blast furnaces, top-blown BOP vessels, metallurgy furnaces, vacuum degassers, and slab casters.

14. The byproducts generated by the Defendant's Facility operations include the following:

- a) Dust;
- b) Noxious odors and gases;
- c) Flames, smoke, and plumes;

- d) Ash and soot;
- e) Slag
- f) Iron/Metallic Particles

15. The Facility has additional dust sources that contribute to the atmospheric particulate burden, such as vehicular traffic on paved and unpaved roads. This traffic consists of plant personnel and visitors, plant service vehicles, and trucks hauling raw materials, steel products, and waste materials.

16. Materials are also transported by skip cars, bottom railroad dumps, front end loaders, truck dumps, and conveyor transfer stations.

17. Defendant, its predecessors and agents either constructed or directed the construction of the Facility and exercise control and ownership over the Facility.

18. Defendant's steel mill has a well-documented history of failing to control the emissions generated by its operations. Examples include but are not limited to the following:

- a. A Notice of Violation ("NOV") was issued to Defendant by the Allegheny County Health Department ("ACHD"), which stated that the "nature of the violations includes excessive visible emissions, failure to maintain equipment and failure to certify compliance with the Plant's Title V operating permit.";
- b. As a consequence of Defendant's violations outlined in the NOV, the ACHD and the EPA brought suit against Defendant, resulting in Defendant entering into a consent decree in May 2022 requiring implementation of significant measures designed to mitigate Defendant's odor and dust emissions, yet these measures have failed to do so. In addition to the required odor and

dust mitigation measures, Defendant was required to pay a \$1.5 million fine for numerous Clean Air Act violations;

- c. Numerous complaints have been received by the ACHD from surrounding residents concerning Defendant's noxious odors and fugitive dust that invade and blanket their properties. For example, in a complaint received by the ACHD, one resident stated that "the smell woke [them] up" and that they "could taste" the rotten egg smell. Later, another resident described the plant's odor emissions as so strong that they gave them a "headache almost immediately" and "it looks like [the emissions are] coming from Edgar Thompson [*sic*]." Yet another resident complained that a "horrible stench from Edgar Thomson plant blanketing [the] area this morning."; and
- d. Over 70 households have already communicated with Plaintiff's counsel documenting Defendant's emissions and the nuisance that these emissions create for the surrounding residential neighborhoods. For example, in their response to a *Data Sheet* sent by Plaintiff's counsel, one resident noted that because of Defendant's emissions "[t]he exterior of our home is covered with grey dust. Windows are always dirty; interior of home becomes dusty very quickly." Another resident described in their *Data Sheet* that Defendant's emissions create a "very cloudy environment" that makes it "feel[] as if we are breathing in a dust substance." They further stated that due to Defendant's emissions "[w]e cannot enjoy our home as we'd like because some nights we can't breathe the odor is so strong."

19. The invasion of Plaintiff's property by noxious odors and fugitive dust has interfered with Plaintiff's use and enjoyment of her property, resulting in substantial damages. For

purposes of illustration, in her *Data Sheet* submitted to Plaintiff's counsel, Plaintiff noted that because of the noxious odors and fugitive dust emitted on her property she "can NOT enjoy our home as we like" and that some nights she "can't breathe because the odor is so bad."

20. Plaintiff's property has been and continues to be physically invaded by noxious odors and fugitive dust.

21. The noxious odors and fugitive dust which entered Plaintiff's property originated from the Facility, where both are generated as a result of Defendant's steel production process.

22. A properly operated, maintained, and/or constructed steel plant will not emit noxious odors and fugitive dust into the surrounding residential areas.

23. Defendant's operation, maintenance, control, and/or use of its Facility has caused noxious odors and fugitive dust to invade the properties of Plaintiff and all others similarly situated, causing property damage.

24. Defendant intentionally, recklessly, willfully, wantonly, maliciously, grossly and/or negligently failed to properly maintain, operate, and/or construct the Facility, and caused the invasion of Plaintiff's property by noxious odors and fugitive dust on intermittent and reoccurring dates too numerous to individually recount.

25. Defendant has failed to install and/or maintain adequate technology to control the emission of noxious odors and fugitive dust. Such failures include, but are not limited to the following:

- a. Failure to maintain the casthouse to prevent the emission of noxious odors and fugitive dust through leaks in the roof and baghouse;
- b. Failure to maintain the BOP Shop to prevent the emission of noxious odors and fugitive dust through the baghouse and scrubber systems;

- c. Failure to prevent/control the emission of noxious odors and dust from the transport of slag and molten ore;
- d. Failure to prevent/control the emission of noxious odors and dust from the slag pits;
- e. Failure to maintain/monitor the primary emissions system, resulting in fugitive odor and dust emissions;

26. Defendant is vicariously liable for all damages suffered by Plaintiff caused by Defendant's employees, representatives and agents, who, during the course and scope of their employment created, allowed, or failed to correct the problem(s) which caused noxious odors and fugitive dust to physically invade Plaintiff's property.

CLASS ALLEGATIONS

A. Definition of the Class

27. Plaintiff brings this action individually and on behalf of all persons as the Court may determine to be appropriate for class certification, pursuant to PA Rule of Civil Procedure 1702. Plaintiff seeks to represent a Class of persons preliminarily defined as:

Any and all individuals who owned or occupied residential property at any time beginning in 2020 to the present who are located within a one (1) mile radius of the Facility.

The proposed class boundary is subject to modification as discovery progresses. Plaintiff reserves the right to propose one or more sub-classes if discovery reveals that such subclasses are appropriate.

B. Numerosity

28. Based on census data, there are 3,746 households within 1.0 mile of the Facility. Accordingly, the members of the Class are so numerous that joinder of all parties is clearly impracticable.

29. Prosecution of separate lawsuits by Class members would risk inconsistent or varying adjudications. Class-wide adjudication of these claims is therefore appropriate.

C. Commonality

30. Defendant has engaged in a uniform and common course of misconduct towards members of the Class, giving rise to questions of both law and fact common to all Class members, including but not limited to:

- a) Whether and how Defendant intentionally, recklessly, willfully, wantonly, maliciously, grossly and negligently failed to maintain, operate, and/or construct the Facility;
- b) Whether Defendant owed any duties to Plaintiff;
- c) Which duties Defendant owed to Plaintiff;
- d) Which steps Defendant has and has not taken in order to control its emissions through the maintenance and/or operation of its Facility;
- e) Whether and to what extent the Facility's emissions were dispersed over the class area;
- f) Whether it was reasonably foreseeable that Defendant's failure to properly maintain, operate, and/or construct the Facility would result in an invasion of Plaintiff's property interests;
- g) Whether the degree of harm suffered by Plaintiff and the class constitutes a substantial annoyance or interference; and
- h) The proper measure of damages incurred by Plaintiff and the Class.

D. Typicality

31. The claims of the named Plaintiff are typical of the claims of all members of the Class. If brought and prosecuted individually, the claims of each Class member would require

proof of many of the same material and substantive facts, utilize the same complex evidence including expert testimony, rely upon the same legal theories, and seek the same type of relief.

32. The claims of Plaintiff and the other Class members have a common cause and their damages are of the same type. The claims originate from the same failure of the Defendant to properly maintain, operate, and/or construct the Facility.

33. All Class members have suffered injury in fact as a result of the invasion of their properties by noxious odors and fugitive dust emitted by Defendant. The noxious odors and fugitive dust emitted by Defendant interferes with their ability to use and enjoy their homes and has impacted property values.

E. Adequacy of Representation

34. Plaintiff's claims are sufficiently aligned with the interests of the absent members of the Class to ensure that the Class claims will be prosecuted with diligence and care by Plaintiff as representative of the Class. Plaintiff will fairly and adequately represent the interests of the Class and does not have interests adverse to the Class.

35. Plaintiff has retained the services of counsel who are experienced in complex class action litigation, and in particular class actions stemming from invasions of private property by industrial emissions. Plaintiff's counsel will vigorously prosecute this action and will otherwise protect and fairly and adequately represent Plaintiff and all absent Class members.

F. Class Treatment Is The Superior Method of Adjudication

36. A class action is superior to other methods of litigation and will provide a fair and efficient method for adjudication of the controversy because:

- a. The prosecution of separate civil actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class which would confront Defendant with

potentially incompatible standards of conduct, and which would as a practical matter be dispositive of the interests of other members not parties to the adjudication or substantially impair or impede their ability to protect their interests;

- b. The forum is appropriate as the conduct complained of occurred in Alleghany County, Defendant's business is located in Alleghany County, and all of the class members resided in Alleghany County when injured;
- c. In view of the complexities of the issues and/or the expenses of litigation, the separate claims of individual class members are insufficient in amount to support separate actions;
- d. It is not likely that the amount which may be recovered by individual class members will be so small in relation to the expense and effort of administering the action as not to justify a class action; and
- e. Based on Plaintiff's counsel's experience, litigation of this case as a class action is manageable.

CAUSES OF ACTION I AND II

NEGLIGENCE AND GROSS NEGLIGENCE

37. Plaintiff restates the allegations set forth in all previous paragraphs of this Complaint as if fully rewritten herein.

38. In maintaining, operating, controlling, engineering, constructing, and/or designing the facility, Defendant has a duty to exercise ordinary care and diligence so that noxious odors and air particulates do not invade Plaintiff's property.

39. Defendant knowingly breached its duty to exercise ordinary care and diligence when it improperly maintained, operated, engineered, constructed, and/or designed the facility and

knew, or should have known, that such actions would cause Plaintiff's property to be invaded by noxious odors and air particulates.

40. As a direct and proximate result of the failure of Defendant to exercise ordinary care, Plaintiff's property is physically invaded by noxious odors and particulates.

41. As a direct and proximate result of Defendant's negligence in operating, maintaining, and/or constructing its facility, Plaintiff's property is exposed to and invaded by noxious odors and air particulates.

42. As a direct and proximate result of the invasion of Plaintiff's property by noxious odors and air particulates, Plaintiff has suffered damages.

43. The conduct of Defendant in knowingly allowing conditions to exist, which caused noxious odors and air particulates to physically invade Plaintiff's property, constitutes gross negligence as Defendant's conduct demonstrates a substantial lack of concern for whether an injury resulted to Plaintiff's property, and at least constitutes recklessness.

44. Defendant is vicariously liable for the negligence and/or gross negligence of its employees, representatives, and agents, who, during the course and scope of their employment, allowed or failed to correct the problem which caused noxious odors and air particulates to physically invade Plaintiff's property.

45. Defendant's conduct entitles Plaintiff to an award of punitive damages, as it was engaged in with the reckless indifference to the rights of others and as such, constitutes outrageous conduct.

CAUSE OF ACTION III

PRIVATE NUISANCE

46. Plaintiff restates the allegations set forth in this Complaint as if fully restated herein.

47. Defendant owed and continues to owe a duty to Plaintiff and the Class, who are neighboring private property holders, to prevent and abate the interference with, and the invasion of, their private property interests.

48. The fugitive dust and noxious odors that entered Plaintiff's property originated from the Facility constructed, designed, maintained, and/or operated by Defendant.

49. The fugitive dust and noxious odors invading Plaintiff's property are indecent and/or offensive to the senses, and obstruct the free use of their property so as to significantly and unreasonably interfere with the comfortable enjoyment of life and/or property, including in but not limited to the following ways:

- a) Causing Plaintiff and the Class to remain inside their homes and forego use of their yards, porches, and other outdoor spaces and refrain from outdoor activities;
- b) Causing Plaintiff and the Class to keep doors and windows closed when weather conditions otherwise would not require them to do so;
- c) Depriving Plaintiff and the Class of the full value of their homes and properties;
- d) Causing Plaintiff and the Class embarrassment, inconvenience, and reluctance to engage in outdoor activities and invite guests to their homes.

50. Defendant's emission of fugitive dust and noxious odors is proscribed by municipal and Pennsylvania Law, which Defendant has been cited for violating.

51. The fugitive dust and noxious odors produced by Defendant's Facility are severe, continuous in nature, and has a long-lasting effect.

52. Defendant is aware of the fugitive dust and noxious odors that emanate from its Facility and has knowledge of the significant impacts these nuisances have on residents' lives yet has failed to abate or correct the conditions causing the nuisance fugitive dust.

53. Plaintiff and the Class have suffered physical damage to property as a result of Defendant's emissions, including interference with use and enjoyment of property, deprivation of full value of property, diminution of property value, and embarrassment, annoyance, and inconvenience as alleged herein.

54. Whatever social utility the Facility provides is clearly outweighed by the harm suffered by Plaintiff and the putative class, who have on unusually frequent occasions been deprived of the full use and enjoyment of their properties and have been forced to endure substantial loss in the use and value of their properties.

CAUSE OF ACTION IV

PUBLIC NUISANCE

55. Plaintiff restates the allegations set forth in this Complaint as if fully restated herein.

56. Plaintiff and the Class utilized their property as a residence and reside within the Class Area.

57. The fugitive dust and noxious odors which entered Plaintiff's property originated from Defendant's Facility, which is in close proximity to Plaintiff's property.

58. The fugitive dust and noxious odors emitted by Defendant's Facility have been and continue to be unreasonably dispersed across public and private land throughout the Class Area.

59. By failing to reasonably design, operate, repair, and maintain its Facility, Defendant has caused an invasion of Plaintiff's property by fugitive dust and noxious odors on unusually frequent occasions that are too numerous to individually list herein.

60. The fugitive dust and noxious odors invading Plaintiff's property are indecent and offensive to Plaintiff and the Class, and indecent and offensive to individuals with ordinary sensibilities and obstruct the free use of Plaintiff's property so as to substantially and unreasonably interfere with the comfortable enjoyment of life and property.

61. Defendant knew that it was emitting fugitive dust and noxious odors onto neighboring properties yet failed to take reasonably adequate steps to abate the nuisance. Defendant owed and continues to owe a duty to Plaintiff and the Class to prevent and abate the interference with, and the invasion of, their private interests.

62. Defendant owed and continues to owe a duty to the public to prevent and abate the interference with, and the invasion of, the free use and enjoyment of public air and spaces by emitting fugitive dust and noxious odors into the ambient air.

63. Defendant, by failing to reasonably repair, operate, and/or maintain its Facility so as to abate nuisances such as odor and dust emissions, has acted, and continues to act, intentionally, negligently, and with conscious disregard to public health, safety, peace, comfort, and convenience.

64. As a foreseeable, direct and proximate result of the foregoing conduct of Defendant, Plaintiff and the Class suffered damages to their property as alleged herein.

65. By emitting fugitive dust and noxious odors that physically invaded Plaintiff's property, Defendant created a nuisance which substantially and unreasonably impaired Plaintiff and the Class' use and enjoyment of their property on unusually frequent occasions too numerous to mention individually.

66. Such substantial and unreasonable interference includes, but is not limited to:

- a. loss of use and ability to enjoy the outside areas of Plaintiff's property or to open windows due to the presence of fugitive dust and noxious odors;

- b. decrease in the value of Plaintiff and the Class' properties and depriving them of the full value of their properties; and
- c. annoyance, inconvenience, and discomfort, including but not limited to, inability to open windows when fugitive dust and/or noxious odors are present, inability to use outdoor spaces, and the inability to invite guests to Plaintiff residence due to the embarrassment and annoyance of the fugitive dust and noxious odors invading Plaintiff's property.

67. Apart from the private property damage incurred by Plaintiff and the Class, Defendant's emissions have substantially interfered with rights common to the general public, including the right to breathe uncontaminated and/or unpolluted air.

68. Plaintiff suffered and continues to suffer special harm to private property interests, including interference with the use and enjoyment of private land and private property, deprivation of full value of private property, and decreased property values. These damages are of a different kind and are additional to damages suffered by the public at-large exercising the same common right to breathe uncontaminated and unpolluted air.

69. Plaintiff did not consent to fugitive dust and/or noxious odors entering upon their property.

70. Whatever social utility provided by the Facility is clearly outweighed by the harm suffered by Plaintiff and the putative class, who have on unusually frequent occasions been deprived of the full use and enjoyment of their properties and have been forced to endure substantial loss in the value of their properties.

71. Defendant's substantial and unreasonable interferences with Plaintiff's property rights constitutes a nuisance for which Defendant is liable to Plaintiff for all damages arising from such nuisance, including compensatory, injunctive, exemplary relief, and/or punitive relief.

CAUSE OF ACTION VI

TRESPASS BY FUGITIVE DUST

72. Plaintiff restates all allegations of this Complaint as if fully rewritten herein.

73. Defendant intentionally, recklessly, willfully, wantonly, maliciously and/or negligently failed to properly construct, maintain and/or operate the Facility which caused fugitive dust to physically invade and enter upon Plaintiff's property on occasions too numerous to identify independently.

74. As a direct and proximate result of Defendant's foregoing conduct, fugitive dust physically invaded, entered upon, settled upon, and accumulated upon Plaintiff's property.

75. It was reasonably foreseeable that Defendant's failure to properly construct, maintain, and/or operate the Facility would result in an invasion of Plaintiff's property by fugitive dust.

76. The fugitive dust that has been and continues to be emitted by Defendant has invaded and continues to invade Plaintiff's property and interfere with Plaintiff's interests in the possession, use, and enjoyment of their property and constitutes a continuous trespass thereupon.

77. Plaintiff did not consent to the physical invasion of their property by fugitive dust.

78. Defendant's actions resulting in the trespass upon Plaintiff's land were and continue to be intentional, willful, malicious and made with a conscious disregard for the rights of Plaintiff, entitling Plaintiff to compensatory relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court enter judgment against Defendant for an amount in excess of the jurisdictional limits of compulsory arbitration holding that entrance of the aforementioned noxious odors and fugitive dust upon Plaintiff's property constitutes a nuisance. Plaintiff further requests that this Honorable Court grant the following: (1)

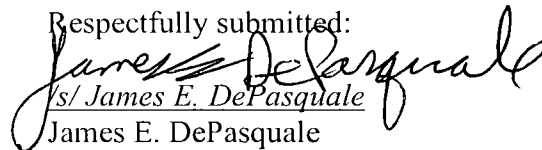
compensatory damages caused as a result of the noxious odors and fugitive dust; (2) injunctive relief outside of that which is required by Defendant's Federal and State issued air permits; (3) punitive damages; (4) prejudgment and post judgment interest as provided by law; and (5) such further relief permitted by law.

JURY DEMAND

Plaintiff hereby demands a trial by jury.

Dated: October 11, 2022

Respectfully submitted:


/s/ James E. DePasquale

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [U.S. Steel Hit with Class Action Over Alleged 'Noxious Odors,' 'Fugitive Dust' from Pennsylvania Steel Mill](#)
