

State of Illinois
Pollution Control Board
James R Thompson Center
100 W Randolph Street Suite 11-500

RECEIVED
CLERK'S OFFICE

FEB 05 2009

STATE OF ILLINOIS
Pollution Control Board

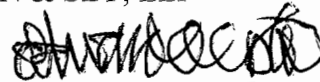
In The Matter Of:)
)
Jerrald R West II,)
)
Complainant(s) -vs-) PCB 2009-45
)
Nokomis Quarry Company)
P.O. Box #90)
Nokomis, Il 62075)
AKA: P.O. Box #500244)
St Louis, MO. 63150-0244)
)
Respondent(s))

ENTRY OF APPEARANCE

NOW COMES EDWARD Q. COSTA, of Samuels, Miller, Schroeder, Jackson & Sly, LLP, and hereby enters his appearance on behalf of Nokomis Quarry Company in the above-entitled cause.

SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP

BY:



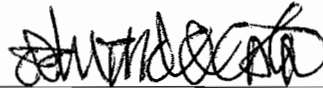
EDWARD Q. COSTA

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 3rd day of February, 2009 he served a copy of the foregoing Entry of Appearance by depositing the same in a United States Post Office Box enclosed in an envelope with postage fully prepaid upon the following:

Jerrald R West II
765 Wash Roberts Road
McMinnville, TN 37110

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218



EDWARD Q. COSTA
SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP
Attorneys for Nokomis Quarry Company
225 North Water Street, Suite 301
P. O. Box 1400
Decatur, IL 62525-1400
Telephone: (217) 429-4325

State of Illinois
Pollution Control Board
James R Thompson Center
100 W Randolph Street Suite 11-500

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Nokomis Quarry Company)
P.O. Box #90)
Nokomis, IL 62075)
AKA: P.O. Box #500244)
St Louis, MO. 63150-0244)
)
Respondent(s))

**RESPONDENT'S MOTION TO DISMISS FORMAL
COMPLAINT FILED BY JERRALD R WEST II**

NOW COMES NOKOMIS QUARRY COMPANY, a corporation, by its attorneys, Samuels, Miller, Schroeder, Jackson & Sly, LLP, and in support of its Motion to Dismiss the Formal Complaint Filed by Jerrald R West II, states the following:

INTRODUCTION

Complainant ("Jerrald West") has filed a document called "Formal Complaint" with the Pollution Control Board. The Formal Complaint was sent by Certified Mail to the attorneys for Nokomis Quarry Company with an envelope postmarked January 8, 2009. The Formal Complaint was received on January 14, 2009 (Exhibit "A"). It is unknown if a copy of the Formal Complaint has been sent to the Respondent. The Formal Complaint is unnotarized and undated.

Some history between Jerrald West and Nokomis Quarry Company (the "Quarry") needs to be stated. Attached as Exhibits "B", "C", "D" and "E" are four versions of a Complaint with accompanying Motion(s) to Dismiss filed in a lawsuit entitled *Jerrald R West II vs. Nokomis Quarry Company* in the Circuit Court of the Fourth Judicial Circuit, Montgomery County, Illinois, Case No. 07-L-25. At the time the lawsuit was filed, Jerrald West had a mailing address of P. O. Box 181, Witt, Illinois 62094. The address stated in the Formal Complaint before the Pollution Control Board is 765 Wash Roberts Road, McMinnville, Tennessee 37110. The issues raised in the Formal Complaint are identical to or substantially similar to the issues raised by Jerrald West in the Montgomery County, Illinois lawsuit. The first pleading in the Montgomery County, Illinois lawsuit was filed by Mr. West on October 26, 2007. After a Court hearing, the lawsuit was dismissed without prejudice on December 11, 2007 (Exhibit "B"). The second pleading was filed on December 28, 2007 and after a hearing, it was dismissed by the Court without prejudice on February 21, 2008 (Exhibit "C"). The third pleading was filed on March 10, 2008 and after a hearing, was dismissed by the Court without prejudice on April 22, 2008 (Exhibit "D"). The fourth pleading was filed on May 12, 2008 and after a hearing, was dismissed by the Court with prejudice on June 23, 2008 (Exhibit "E"). The Record Sheet for the Montgomery County lawsuit is attached as Exhibit "F". Now Jerrald West has filed a Formal Complaint with the Pollution Control Board.

The Quarry is in the business of manufacturing State inspected limestone used by several Agencies in the State of Illinois, contractors and individual consumers. Among other things, the Quarry sells its product to the Illinois Environmental Protection Agency ("IEPA"), Illinois

Department of Natural Resources ("DNR") and other Agencies associated with the State of Illinois. As stated in the Affidavit of Ronald K. Koehler, General Manager of the Quarry (attached to Exhibit "D"), only two loads of chip rock have been sold by the Quarry to the City of Witt, Illinois (where Jerrald R West resided) since 2002, i.e., 42.25 tons in July, 2007, and the chip rock met Illinois Department of Transportation ("IDOT") specifications. Specifically, the chip rock sold in July, 2007 was inspected by an independent consultant. The inspection tests consisted of drying and screening the rock to ensure that the rock met with State of Illinois specifications according to a sieve analysis outlined by IDOT. After inspection tests were performed, the rock was marked "Approved" by the inspector meaning the rock met IDOT quality specifications and the Quarry could sell its product as advertised.

The Quarry is located in Nokomis, Illinois which is about four and one-half miles northeast of Witt, Illinois. The facilities of the Quarry have been inspected by the IEPA on a regular basis. The most recent IEPA inspection occurred on November 2, 2007. The inspection lasted approximately one hour and no issues or problems were reported to the Quarry by the IEPA after the inspection.

MOTION TO DISMISS

1. This Motion to Dismiss is made pursuant to Section 31(d)(1) of the Environmental Protection Act (415 ILCS 5/31(d)(1)) and Title 35 of the Illinois Administrative Code.
2. The Formal Complaint submitted by Jerrald West is frivolous. "Frivolous" means that the formal complaint seeks relief that the Board does not have the authority to grant, or a

complaint that fails to state a cause of action upon which the Board can grant relief. *35 Ill. Adm. Code 101.202*.

3. The allegations in the Formal Complaint are void of facts which reasonably inform Nokomis Quarry Company of the manner and extent to which the Environmental Protection Act and/or regulations are being violated. Inasmuch as the Formal Complaint is factually deficient, it is "frivolous" within the meaning of the rules of this Board. *Rocke v. Illinois Pollution Control Board*, 78 Ill. App. 3d 476 (1979).

4. The Formal Complaint submitted by Jerrald West is also duplicative within the meaning of Section 101.202 of the Illinois Pollution Control Board's procedural rules. "Duplicative" means the matter is identical or substantially similar to one brought before the Board or another forum. *35 Ill. Adm. Code 101.202*. A lawsuit filed by Jerrald West with allegations identical or substantially similar to those in the Formal Complaint has been dismissed by the Montgomery County Circuit Court. Mr. West's Fourth Amended Complaint (lawsuit) was dismissed with prejudice on June 23, 2008.

5. Jerrald West answers "None" when asked if there was any identical or substantially similar case he knows of that is already pending before the Board (Pollution Control Board) or in another forum against this Respondent (the Quarry) for the same alleged pollution. The answer of Mr. West is false. The Quarry has outlined the history it had during 2007 and 2008 with Mr. West concerning the Montgomery County, Illinois lawsuit.

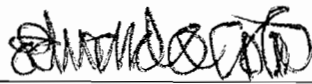
6. It is difficult, if not impossible, to determine what Jerrald West is alleging and requesting from this Board. In paragraphs 9 and 11 of the Formal Complaint, Jerrald West attempts to describe the "relief" he is seeking. It appears that the relief being sought is not relief the Board has the authority to grant. As indicated in his Montgomery County lawsuit and in this Complaint, the goal of Jerrald West is to obtain a money settlement from Nokomis Quarry Company. The lawsuit in Montgomery County, Illinois was dismissed with prejudice. Now he is trying to get a monetary settlement from Nokomis Quarry Company through the Pollution Control Board.

WHEREFORE, Respondent, NOKOMIS QUARRY COMPANY, a corporation, requests that the Pollution Control Board not accept the Complaint made by Jerrald R West II for hearing. Furthermore, it is requested that Complainant's Formal Complaint be dismissed and the Pollution Control Board award Respondent all other relief the Board deems proper.

NOKOMIS QUARRY COMPANY, a
corporation, Respondent

SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP

BY:



One of Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 3rd day of February, 2009 he served a copy of the foregoing Respondent's Motion to Dismiss Formal Complaint Filed by Jerrald R West II by depositing the same in a United States Post Office Box enclosed in an envelope with postage fully prepaid upon the following:

Jerrald R West II
765 Wash Roberts Road
McMinnville, TN 37110

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, IL 60601-3218



EDWARD Q. COSTA
SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP
Attorneys for Nokomis Quarry Company
225 North Water Street, Suite 301
P. O. Box 1400
Decatur, IL 62525-1400
Telephone: (217) 429-4325

EXHIBIT A

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL

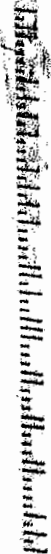


7008 2810 0002 2864 000

J.R. WEST
765 Wash Roberts
Road, Mc Minnville, TN
37110

Samuels, M, J, S, S/Y LLP.
225 N WATER, ST. STE 301
P.O. Box # 1400
Decatur, IL
62525 - 1400

62525-1400 BOX 12



1st NOTICE _____
2nd NOTICE _____
RETURNED _____

1-12-9

1400



U.S. POSTAGE
PAID
JAN 08 10 10
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EXHIBIT B

STATE OF ILLINOIS COUNTY OF MONTGOMERY**TO: Illinois Circuit**

07-L-25

In the matter of: Jerrald R West II (PLAINTIFF)

VS

The Nokomis Quarry, Its Owners and Executives
 23311 Taylorville road
 Nokomis, Illinois.
 62075 (DEFENDANT)

FILED

OCT 26 2007

 MARY WEBB
 Circuit Court Clerk
 4TH Judicial Circuit
COMPLAINT

Now comes Jerrald R West II by and through his attorney (Himself) Requesting a Jury Trial for which Civil damages REAL and ONGOING shall be sought by Remedy or Judgment of the Court.

This suit is alleging That over a period of several years the Defendant has sold a defective product which has caused **TOXIC** air conditions within the city of Witt, Il. Chip rock full of sediment is causing an unsafe breathing environment. As well Unregulated Emissions from Quarry operations are poisoning air quality. Thus Causing Repeated Daily exposure to Fugitive Particulate matter Known to be hazardous to ones health. The Plaintiff and his family are exposed to these particulates on a daily basis Involuntarily. The plaintiff believes these actions to be Unreasonable, Dangerous, and is causing the denial of Life, Liberty, and the Pursuit of happiness Afforded to Him and his family under the Illinois Constitution.

It is reasonable for the Court to assume that the defendant knows the effects of Crystalline Silica Dust and Quarry Lime on the Human Body as well as its own Employees.

These practices include but are not limited to: Blatant violations of Illinois Administrative Code, Title 35 Guidelines specifically, Ch1, Part 212.301, Subject K, entitled Fugitive particulate matter, and that Chip rock sold to the city of Witt has and is Aerosolizing Due to small particulates which don't Seem to disipate
 The Plaintiff shall also show by way of visual evidence That NOT EVEN WATER IS BEING USED TO ATTEMPT TO PREVENT FUGITIVE MATTER FROM LEAVING THE QUARRY PREMISES. In fact this Plaintiff believes this may be for financial gain.

Therefore

This Plaintiff now seeks Damages for himself and 5 members of his Immediate family. Due to long term exposure to suspended particulate Matter. Because of the appearance of

blatant disregard for human life and sufferage, as well as side effects which have been and are causing Irreversible health problems to the plaintiff and his family the Plaintiff is seeking the sum of \$6,000,000.00. Which is based on both past damages, Future health concerns, and Suffering inflicted upon the plaintiff

The Plaintiff now asks The Court to Order that the State Agency Governing Regulation of Quarry Mining be notified so they can visually and by subscribed science as well as Governing board investigate.

The Plaintiff Requests and Motions the Court for an Emergency Discovery Hearing within 30 days of the date of filing of this complaint Because the hazard is ongoing and a public health threat needing to be addressed.

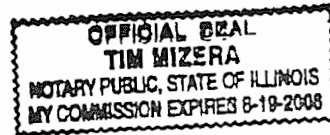
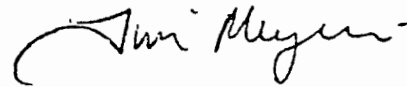
Finally this Plaintiff Requests this matter be set for Jury Trial In the Illinois Circuit court with Jurisdiction in this matter, and as well Request the Defendant answer these charges by way of "WRITTEN RESPONSE" and Discovery.

Sincerely



Jerrald R West II

10/26/07



Interrogatories

- a. Does the Defendant Believe they are in compliance with IL Title 35 EPA CODE regarding FUGITIVE PARTICULATE MATTER, 212.301. ?
- b. Is the defendant aware of the long term consequences of exposure to both <PM2.5 micrometers and 1987 <pm10 particulate size designations put forth by the US EPA 62fr-38652 for 24hr Exposure.
- c. Does the Defendant measure Emissions by the pound ?
- d. Does the Defendant believe they are in compliance with CERCLA Reporting requirements for "MAJOR SOURCES" Those who exceed 100 pounds or more in a 24 hour period?
- e. What is the mineral composition of Chip rock and sediment sold to the city of Witt? Including any Testing for Lead, Mercury, Quartz, Silica, and other substances regulated.
- f. Is the Defendant aware of the short and Long term Effects of fine particulates to Humans?
- g. Does the Defendant consider its practices to be beneficial to the human Inhabited enviroment?

This Plaintiff seeks answers to these questions and prays the Court will find Great Merit to the Dangers the Quarry poses.

(Source: Amended at 20 Ill. Reg. 7605, effective May 22, 1996)

Section 212.209 Village of Winnetka Generating Station (Repealed)

(Source: Repealed at 20 Ill. Reg. 7605, effective May 22, 1996)

Section 212.210 Emissions Limitations for Certain Fuel Combustion Emission Units Located in the Vicinity of Granite City

- a) No person shall cause or allow emissions of PM-10 into the atmosphere to exceed 12.9 ng/J (0.03 lbs/mmbtu) of heat input from fuels other than natural gas during any one hour period from any industrial fuel combustion emission units, other than in an integrated iron and steel plant, located in the vicinity of Granite City, which area is defined in Section 212.324(a)(1)(C) of this Subpart.
- b) Emission units shall comply with the emissions limitations of this Section by May 11, 1993, or upon initial start-up, whichever occurs later.

(Source: Amended at 20 Ill. Reg. 7605, effective May 22, 1996)

SUBPART K: FUGITIVE PARTICULATE MATTER

Section 212.301 Fugitive Particulate Matter

No person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.

(Source: Amended at 20 Ill. Reg. 7605, effective May 22, 1996)

Section 212.302 Geographical Areas of Application

- a) Sections 212.304 through 212.310 and 212.312 of this Subpart shall apply to all mining operations (SIC major groups 10 through 14), manufacturing operations (SIC major groups 20 through 39 except for those operations subject to Subpart S of this Part (Grain-Handling and Grain-Drying Operations) that are outside the areas defined in Section 212.324(a)(1) of this Part), and electric generating operations (SIC group 491), which are located in the areas defined by the boundaries of the following townships, notwithstanding any political subdivisions contained therein, as the township boundaries were defined on October 1, 1979, in the following counties:

Cook: All townships

EVIDENCE SUBMISSION

Exhibit: 1-7 taken afternoon 10/9/07, consisting of 26 pictures with date encodement reflecting conditions in Witt, Nokomis Proximity, as well as the Nokomis Quarry.

Exhibit: 8 Pictures reflecting the existence of white rock on or prior to 6/11/02.

Exhibit: 9 Pictures taken 2005 Documenting samples and conditions after rock was purchased and applied to Witt roads.

Exhibit 10 Video Evidence showing ongoing emissions from Nokomis Quarry Oct 2007.

Exhibit: 11 Data regarding Guidelines set by Il EPA for Fugitive particulate matter. Title#35 sec 212.301.

Exhibit: 12 Numerous Affidavits supporting the integrity of evidence and outlining Contacts with both the US EPA, and IL EPA.

Exhibit:13 Actual Samples of Materials from Witt city Streets as far back as fall 2005.

Please note this case has Relevant data still currently being sought from NIH, NIEH, Dept of Conservation, CDC, Dept Public Health, Dept of Conservation, NIOEH. FDA, Dept of Mines and Minerals, WHO, DSM IV, Il EPA, US EPA, US Dept Agriculture, DNR, and CERCLA (CLEAN AIR ACT OVERSIGHT)

SUBSEQUENT MOTIONS

This Plaintiff Now prays that the Court find this complaint Qualifies with merit based on health implications and Initial evidence presented.

This Plaintiff also in representing Himself Motions the court for accommodations to be as that of a Out of state lawyer would have being unfamiliar with Procedural processes in this State.

This plaintiff would as well request Subpoenas be issued for road resurfacing records from the City of Witt, and the Witt Elevator. As to Origin, and Composition of the materials to establish the Defendant as the source of these Materials.

As well this plaintiff requests The Court Compel the Illinois EPA to do a Thorough Investigation to establish if the Nokomis Quarry Practices are Unreasonable and/or dangerous. As well as compliance with Dept regulations.

Finally this Plaintiff would request the Court to seek opinions of Evironmental conditions which are obvious in the evidence from The Dept of Public Health and the CDC as to Short term acute and long term Exposure to the Defendants practices.

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ILLINOIS

FILED

NOV 13 2007

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

JERRALD R WEST II,)
)
Plaintiff,)
)
vs.) NO. 07-L-25
)
)
THE NOKOMIS QUARRY, ITS)
OWNERS AND EXECUTIVES,)
)
Defendants.)

**DEFENDANT'S MOTION TO DISMISS
AND STRIKE PLAINTIFF'S COMPLAINT**

NOW COMES NOKOMIS QUARRY COMPANY, a Corporation, incorrectly named The Nokomis Quarry in Plaintiff's Complaint, by its attorneys, Samuels, Miller, Schroeder, Jackson & Sly, LLP, and in support of its Motion to Dismiss and Strike Plaintiff's Complaint, says:

1. This Motion is made pursuant to several provisions of the Illinois Code of Civil Procedure.

2. Section 2-612 of the Illinois Code of Civil Procedure states, in part, that if any pleading is insufficient in substance or form or if the pleadings do not sufficiently define the issues, the Court may order other pleadings prepared.

3. In Plaintiff's Complaint, it is difficult, if not impossible, to determine what "actions" the Plaintiff is complaining about. The Complaint may be based on an exposure to "fugitive particulate matter". However, the Plaintiff does not specifically state what matter it is, how the Plaintiff was exposed to the particulate matter and how the Defendant, Nokomis Quarry Company, was involved in the exposure.

4. The Plaintiff also recites that "blatant violations" of the Illinois Administrative Code may have been committed, but he does not specifically indicate to what he is referring and how the Defendant, Nokomis Quarry Company, was involved.

5. Therefore, Plaintiff's Complaint should be dismissed by the Court because it does not comply with Section 2-612 of the Illinois Code of Civil Procedure.

6. Section 2-613 of the Illinois Code of Civil Procedure states, in part, that parties may plead as many causes of action as they may have. However, each cause of action shall be separately designated and numbered.

7. In this case, the names of the Defendants and the cause(s) of action against each are unclear. The Complaint recites a pleading against "The Nokomis Quarry, Its Owners and Executives". Furthermore, the only named Plaintiff is Jerrald R. West II. However, the Plaintiff seeks damages for five (5) unidentified members of his immediate family.

8. Therefore, Plaintiff's Complaint should be dismissed by the Court because it does not comply with Section 2-613 of the Illinois Code of Civil Procedure.

9. Plaintiff's Complaint is also in violation of Section 2-615 of the Illinois Code of Civil Procedure.

10. The allegations of the Complaint are substantially insufficient in law in that the pleading fails to state a cause of action. Again, it is difficult to determine what Plaintiff is complaining of, but the pleading may be stating that the Defendant sold a "defective product".

However, Plaintiff's Complaint fails to disclose what defective product was sold, when it was sold, to whom it was sold and how it was defective.

11. Plaintiff's Complaint recites numerous conclusions of law and fact. In one of the paragraphs, the Complaint states that "It is reasonable for the Court to assume that the defendant knows the effects of Crystalline Silica Dust and Quarry Lime on the Human Body as well as its own Employees." That statement is a conclusion not supported by specific facts.

12. In another paragraph of the Complaint, it implies that Defendant, Nokomis Quarry Company, has committed "Blatant violations of (the) Illinois Administrative Code." However, that allegation is a conclusion not supported by specific facts.

13. Plaintiff's Complaint also refers to "Unregulated Emissions from Quarry operations are poisoning air quality." That statement should be stricken from Plaintiff's Complaint inasmuch as it is a conclusion not supported by specific facts. The Complaint also refers to "the Quarry premises" but does not describe with specificity the particular premises referred to by Plaintiff.

14. Inasmuch as Plaintiff's Complaint is based on numerous conclusions of law and fact, the Complaint should be dismissed because it does not comply with Section 2-615 of the Illinois Code of Civil procedure.

15. Plaintiff's Complaint also requests in the prayer for relief money damages and other remedies. No specific facts are pled in the Complaint which support Plaintiff's requests and the language seeking those remedies should be stricken from the Complaint.

WHEREFORE, the Defendant, NOKOMIS QUARRY COMPANY, a Corporation, requests that its Motion to Dismiss and Strike be allowed and Plaintiff's Complaint be dismissed with prejudice and the Court enter any other relief deemed just and proper.

NOKOMIS QUARRY COMPANY, a Corporation,
Defendant

SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP

BY:



One of Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of November, 2007 he served a copy of the foregoing Motion to Dismiss by Nokomis Quarry Company, or in the Alternative Strike Portions of the Plaintiff's Complaint by depositing the same in a United States Post Office Box enclosed in an envelope with postage fully prepaid upon the following:

Jerrald R West II
P. O. Box 181
Witt, IL 62094



EDWARD Q. COSTA
SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP
Attorneys for Nokomis Quarry Company
225 North Water Street, Suite 301
P. O. Box 1400
Decatur, IL 62525-1400
Telephone: (217) 429-4325

EXHIBIT C

STATE OF ILLINOIS MONTGOMERY COUNTY

TO: Illinois Circuit Court

In the Matter of: **Jerrald R West II {Plaintiff}**
P.O. Box #181
Witt, Il 62094

VS

Nokomis Quarry Company
23311 Taylorville road
Nokomis, Il 62075 { Defendant #1 }

FILED

DEC 28 2007

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

COMPLAINT

Now comes Jerrald R West II {an injured party} by and through his attorney {Himself} Requesting a Jury Trial at which time civil damages REAL and ONGOING shall be sought by preponderance of the evidence and Established FACT.

CAUSE OF ACTION

1. This Plaintiff brings this action Stating "in fact" that over a period of several years the Defendant has sold defective Limestone based Road product which has caused **CUMMULATIVE TOXIC and DRY** air conditions within the city of Witt, and Surrounding geography. Chip rock and Road Pack on Witt City streets and driveways is Aerosolizing at speeds not exceeding 25 mph with each passing vehicle. As well Fugitive particulate limestone matter [air pollution] is being emitted from the Defendants premises exactly 1.3 and 2.3 miles North of Nokomis on Taylorville Road Approximately 4 Miles from my home with the permission of the State. **NO REAL CONTAINMENT** and processing on open ground with particulates smaller than the naked eye can see { < 10 Micrometers in diameter}. The aforementioned Airborne Particles have and are causing Chronic Bronchitis, Shortness of breath, Pneumonia,

Gagging from dry throat, Hard coughing, Unconsciousness, Pulled muscles, and chronic inflammation with ongoing and repeat exposure. Exhaustive countermeasures taken have as well served to oppress this Plaintiff and his family.

2. Let it be established in fact that the Additional use of lime by Witt Elevator, Tracking by cars and trucks, Incorporation into farm soils annually, power plant emissions, Harvest activities, Open pile Witt City rock storage, normal variations in weather and wind, Transportation of grain, Hanson Material service operating next door, Individual Indoor Hygiene practices, all obviously play a role in this individuals acute and cumulative exposure. However, it appears that all of the aforementioned factors have a PRIMARY SOURCE.

3. The Defendant is regulated Specifically by Il ADM, Code Title #35 **Specifically** part 212.301, Il EPA act at [415 ILCS 5/1 et seq], and US EPA 62fr-38652 pm10 designation, yet it is my understanding from Dean Hayden an official of the IL EPA that Nokomis Quarry has been issued a **permit to pollute**. A permit is in **direct conflict** with the purposes of the aforementioned code, Act, and Particulate designation.

4. It is **beyond belief** that a substance known to behave as a Coagulant In Paper, a Hardener In Concrete, a Dissolver of Dead Bodies, a Bacteria suppressant in Livestock yards, Neutralizer of Acid in soil, an Alkalinity promoter, Bonding agent, Extraction agent, Drying agent, Among other uses, is being allowed to aerosolize in this manner with what appears to be dysfunctional regulatory practices at the state level. {See source data section for supporting materials}

5. As well the human body specifically requires unimpeded fluid and gas flows to properly function. After cumulative factoring of the situation based on Visible and not so visible concentrations of fine particulates and duration of exposure both acute and long term with and without countermeasures this plaintiffs exposure meets or exceeds that of a quarry worker "Involuntarily".

Therefore

Remedy Sought

6. This Plaintiff now seeks a Civil Jury Trial at which time damages in the amount of 6,000,000 will be sought for the Obvious Degenerative, systemic and acute poisoning inflicted upon this Plaintiffs body. As well as emotional and Financial stresses associated with at least 5 "Known" years of nearly continuous Exposure. Amount of damages sought is based on **Real** damages both Economic and non economic, Laborious exhaustive countermeasures, past , present, and future health concerns as well as individual earnings potential. This plaintiff shall rely on the Juries wisdom based on the evidence in determining any adjustments to the aforementioned amount sought.

7. Although this plaintiff concedes the "original" Complaint filed October, 26. 2007 was somewhat fragmented in form its **Substance** was very clear and specific. Therefore, this Plaintiff has prepared this Complaint to replace the original filing and prays the court finds both its form and substance sufficient to allow pre- trial Discovery or in the Alternative allow this Complaint to stand in order to allow this Plaintiff time to seek Assistance of the Attorney General as recommended by the Court.

8. A multi agency Complaint has as well been made to the Il EPA, US EPA, MSHA, NIH, CDC, and Illinois Attorney General. {Attached}

9. This plaintiff has no objections to the court taking ample time to thoroughly explore the merits of this case. To aid in this exploration Data sources and Plaintiff Credentials have been provided. (See Attachments)

10. Other Discovery marked " Evidence Submission" in original complaint remains unchanged. In fact More issues have come to light since the filing of the original complaint regarding agricultural use fineness standards and source of materials on Witt city streets.

11. It Appears based on conversation with the Witt City clerk the City uses an independent contractor Dooleys Truck Service to apply the rock and oil to the streets and The city purchases Rock to do so several months prior to application. Rock is stored in open piles at the city shed til such time. Also the City of Witt Randomly purchases Rock and road pack

from both Hanson Material Service and the Nokomis Quarry Company, based on price and availability at each site. Within a mile of each other.

Therefore

12. The plaintiff motions the court to acknowledge shared Responsibility should exist for emissions at each site and conditions specific to Witt City streets. which will allow for this complaint to be consolidated to serve as complaint to both parties. A separate filing is needed for Hanson Material Service Corporation and Possibly General Dynamics Which shall be completed by the Plaintiff Upon Direction of the Court.

13. In other words it does not matter to this plaintiff if all parties want to combine resources. This would save everyone involved a lot of time and money.

14. Both parties practices Appear the same or similar and both sell various limestone based materials randomly to the City of Witt from earthen material mined and processed from a proximity within a mile of one another contributing equally to cumulative exposure and providing defective materials which are of a Hazardous fine consistency and behave in a dangerous manner.

15. Finally, It is obvious to this plaintiff after fully reviewing title #35 that a rule or code based on visible Particulates is inadequate in judging amount emitted by the pound. Since Limestone has varying degrees of density and Weight based on multiple substances commonly found in Limestone, and High quality Aglime which has a particulate size smaller than the naked eye can see. This makes for a false sense of security relating to cumulative exposure and buildups of particles remaining fugitive on the earths surface.

16. This Plaintiff Prays the court shall find this case has merit based on conditions documented at both sites and concerns regarding Cumulative Exposure when Factoring all Sources.

17. In conclusion this Plaintiff means the Defendants no undue harm in bringing these proceedings and prays the defendants will change the aforementioned processing practices and resolve housekeeping issues in a safer manner.

Sincerely

A handwritten signature in black ink, appearing to read "Jerrald R West II", with a stylized flourish at the end.

Jerrald R West II
P.O. Box #181
214 W Mitchell st
Witt, IL 62094.

Attachment A
Discovery Disclosure
DATA SOURCES
VOLUNTARY DISCLOSURE

Written Material Public Record

18. **Illinois blue book of Government** 1963-64, Specifically pg. 598 {Reflecting 85% of Illinois surface area being used for Agriculture as early as 1963}. "Public Record"

19. **2005-2006 II handbook of Government** printed by the authority of the Secretary of State. Specifically pg. 60. {Reflecting the current established **purpose** of the Illinois Environmental Agency}. Specifically, pg. 103 Article I. Bill of Rights, sec, 1. Specifically, pg. 105 Article I. sec, 12. "rights to remedy and Justice.

20. **The Lincoln Library of Essential Information** , Frontier Press, Buffalo, New York. 1938. {Self Instruction manual} List of Contributors and Editors pg.12. Specifically Minerology Science section beginning on pg. 896.

{Detailed scope of purpose {definitions of lime and Limestone as well as common uses}

21. **Illinois Limestone Producers program Data** brochure 2007 from IDOA, and IDOT. Reflecting participation by both defendants. {With specific Data as to fineness affecting efficiency}.

Public Records Internet

22. www.purchase.state.il.us/vendorinfo
Reflects State award 2006 for aggregate Defendant 1 Nokomis Quarry Company. REF# 215005. Contact: Brent Barns 785-1659. To verify Defendants relationship with State of Illinois

Supporting Written Medical Data References

23. **Human Physiology** College Medical Text, Pierce College. Copyright, 1987. Specifically, pg. 31, regarding ph level in human body and role of Carbonic acid. Pg. 444 Regarding Inflammation, Pulmonary Fibrosis, and gas exchange. Pg. 572 Role of Liver in filtering blood. Pg. 453, Effects of blood Pco₂ and PH on ventilation.
24. **Lippincott manual of nursing practice** Copyright 1974. Distributed at Oxford, London, Edinburgh. College text reflecting relationship with Hyper Parathyroidism and Calcium levels relating to Kidney stones.
25. **Encyclopedia and Dictionary of Medicine and nursing** By Benjamin F. Miller MD. And Claire Brackman Keane, RN, B.S. Copyright 1972. Reflects various uses of limestone in Medication Compounds and Defines Medical condition and Symptomology.

Internet Sources

26. www.msha.gov Mine Safety and Health Administration. Position that Exposure to respirable particles 10 Micrometers or less can overcome bodies natural defenses. Key Search Silicosis.
27. www.il.gov Location of CERCLA Data, Specifically Reporting requirements for major sources.
28. www.atsdr.cdc.gov {Center for Environmental health} specifically data Relating to Dermal Exposure, Inhalation, and Oral Exposure of Calcium Fluoride. Ph. 770-488-7000
29. www.cdc.gov/niosh/pwfs/02-129 OSHA Particulate Exposure limit .05mg/m to the 3rd power at a time and weight average.
30. www.niehs.gov National Institute of Environmental Health Sciences has posted data regarding PM 2.5 Micrometers “**Short term exposure**” greatly increases risk of Heart Disease. As well Long Term Exposure to particulate matter <pm10 exposure is strongly associated with Ischemic Heart Disease, Dysrhythmias, {irregular beat} Heart Failure and arrest.
George Thurston, Sc.D. Phd. Contact Kimberly Gray 919-541-5125

GOVERNMENT DATA SOURCES

Individuals contacted Supported by Affidavit

31. Illinois EPA Employees Dean Hayden {Supervisor} Ph. 309-693-5461, Steve Youngblood, {Air Division} ph. 217-786-6329. Laurie Brinkmann "Inspector". Status Ongoing.

32. US EPA Employees Tinka Hyde, John Summerhaze {Particulate Section} Ph. 312-886-6067. Stated: "If it is in the air it is HAZARDOUS. Brent Marable Enforcement Investigator US EPA has and is investigating. {Has Viewed some Photography only} Status ongoing.

33. MSHA Contact with Kevin Legrand {Supervisor} 815-223-0697. Disussed situation suggested I Consider filing Complaint with MSHA at website. Informed also of Material data safety sheet for Limestone which Apparently is supposed to be given to the City of Witt at time of Material purchase Status Ongoing.

These are sources reviewed or conversations conducted within last 60 days.

Limestone Breakdown Supporting data source

34. www.Wikipedia.com search Key Word Lime and Limestone.

35. Numerous Dictionaries Websters Encyclopedia, Medical, and Lincoln Library of Essential Information. "Verifies Industry uses"

All materials can be made available to the Defendants upon request.

“Original”

Evidence Submission and Extended Exhibit list

36. Exhibit 1-7, taken afternoon of 10/09/07, Consisting of 26 pictures with date encodement Reflecting air conditions in Witt, Nokomis proximity in one 65 minute period.

37. Exhibit 8, reflecting existence of white rock on surface of Witt city streets. On or prior to 6/11/02

38. Exhibit 9, 27 Pictures taken 10/23/05 Beginning Just after Noon Showing various air conditions in and around Plaintiffs work and home verifying sample collection.

39. Exhibit 10. Randomly timed video evidence documenting conditions at Quarry and Witt, Nokomis Proximity Reflecting air conditions, Real emissions, and Physical conditions at both Nokomis Quarry Company and Material Service Corp. Beginning on 10/10/07 after camera purchase to ongoing. Consists of no less than 3- 40 minute DV Tapes.

40. Exhibit 11. Copy of Title #35 Guideline Regarding suspended Particulate matter, Specifically, 212.301, Subpart K.

41. Exhibit 12. Actual samples from Witt City Streets collected 10/23/05 documented and supported by Picture and affidavit.

42. Exhibit 13. Sample Suspended in water with control sample of tap water.

43. Exhibit 14. 20” by 30” Limestone industry Breakdown poster, and 2 20” by 30” Picture posters from aforementioned Exhibit 1-7 taken 10/9/07.

44. Numerous street samples documented in Exhibit 10 DV tapes.

Note: Evidence collection is ongoing

(415 ILCS 5/3.115) (was 415 ILCS 5/3.02)

Sec. 3.115. Air pollution. "Air pollution" is the presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

(Source: P.A. 92-574, eff. 6-26-02.)

(415 ILCS 5/3.120) (was 415 ILCS 5/3.03)

Sec. 3.120. Air pollution control equipment. "Air pollution control equipment" means any equipment or facility of a type intended to eliminate, prevent, reduce or control the emission of specified air contaminants to the atmosphere. Air pollution control equipment includes, but is not limited to, landfill gas recovery facilities.

(Source: P.A. 92-574, eff. 6-26-02.)

(Source: Amended at 20 Ill. Reg.7605, effective May 22, 1996)

Section 212.209 Village of Winnetka Generating Station (Repealed)

(Source: Repealed at 20 Ill. Reg. 7605, effective May 22, 1996)

Section 212.210 Emissions Limitations for Certain Fuel Combustion Emission Units Located in the Vicinity of Granite City

- a) No person shall cause or allow emissions of PM-10 into the atmosphere to exceed 12.9 ng/J (0.03 lbs/mmmbtu) of heat input from fuels other than natural gas during any one hour period from any industrial fuel combustion emission units, other than in an integrated iron and steel plant, located in the vicinity of Granite City, which area is defined in Section 212.324(a)(1)(C) of this Subpart.
- b) Emission units shall comply with the emissions limitations of this Section by May 11, 1993, or upon initial start-up, whichever occurs later.

(Source: Amended at 20 Ill. Reg.7605, effective May 22, 1996)

SUBPART K: FUGITIVE PARTICULATE MATTER

Section 212.301 Fugitive Particulate Matter

No person shall cause or allow the emission of fugitive particulate matter from any process, including any material handling or storage activity, that is visible by an observer looking generally toward the zenith at a point beyond the property line of the source.

(Source: Amended at 20 Ill. Reg.7605, effective May 22, 1996)

Section 212.302 Geographical Areas of Application

- a) Sections 212.304 through 212.310 and 212.312 of this Subpart shall apply to all mining operations (SIC major groups 10 through 14), manufacturing operations (SIC major groups 20 through 39 except for those operations subject to Subpart S of this Part (Grain-Handling and Grain-Drying Operations) that are outside the areas defined in Section 212.324(a)(1) of this Part), and electric generating operations (SIC group 491), which are located in the areas defined by the boundaries of the following townships, notwithstanding any political subdivisions contained therein, as the township boundaries were defined on October 1, 1979, in the following counties:

Cook: All townships

State of Illinois
Rod R. Blagojevich, Governor

Department of Agriculture
Charles Hartke, Director

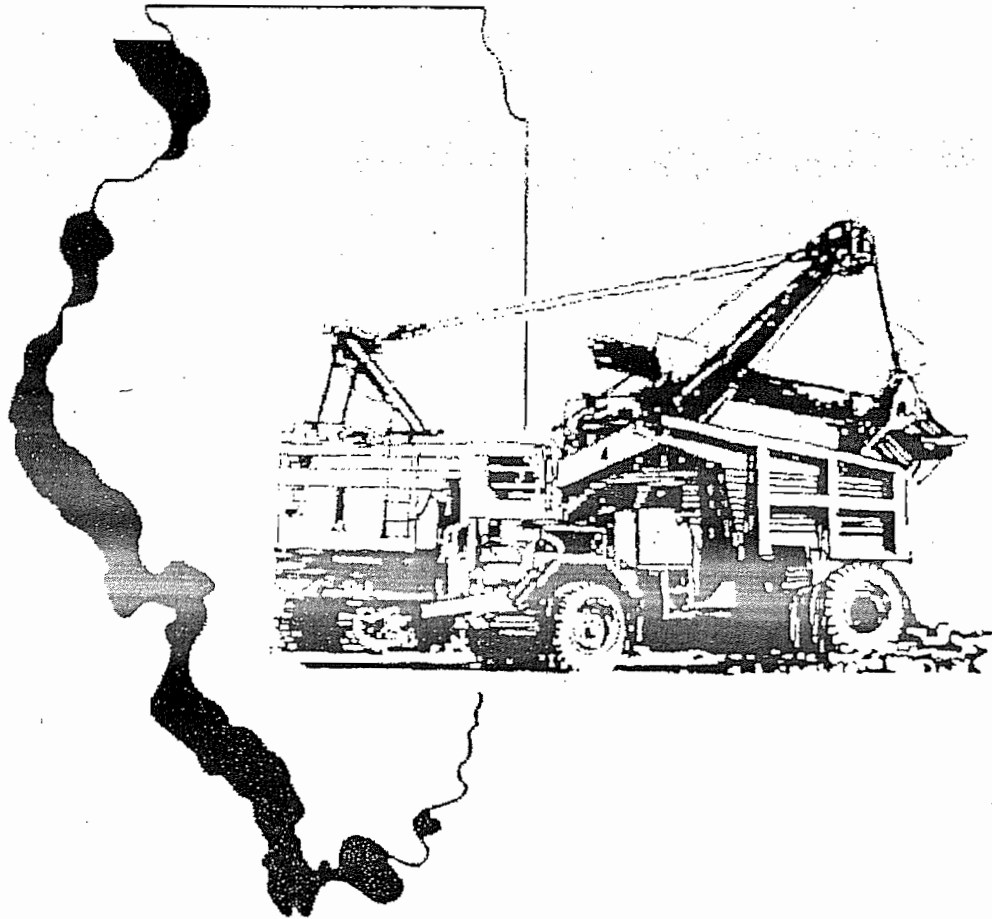
Rec'd
11/28/07



Illinois Voluntary Limestone Program PRODUCER INFORMATION

August 2007 Edition

Produced by:
Illinois Department of Agriculture
Illinois Department of Transportation



The application of limestone to Illinois cropland is a time tested method of controlling soil acidity. It can help maintain optimum nutrient availability and consequently, crop production.

However, variations in limestone quality from the many sources available to farmers can make consistent and economical application difficult. This publication indexes many Illinois sources of agricultural limestone as a function of their effective neutralizing value. Calcium Carbonate Equivalents and Fineness Efficiency of the different limestones have been figured for the producer.

The result is a correction factor at the end of each entry. Multiply this figure by the ton-per-acre of limestone recommended in your soil test for the

correct application rate of each quarry's limestone.

The application rate number is figured with a one and four year conversion rate.

Figuring ENV for one year conversion rates

The effective neutralizing value of a limestone product is determined by multiplying the Calcium Carbonate Equivalent (CCE given in booklet) by the total fineness efficiency value (TFEV).

You must figure this from data included in the booklet.

Total fineness efficiency values (TFEV's) are determined by first obtaining the weight percent (multiply by .01) of

stone in the four particle size intervals. These are:

1. Greater than #8 mesh
2. #8 to #30 mesh
3. #30 to #60 mesh
4. #60 and finer mesh.

Obtain the greater than #8 mesh figure by subtracting the #8 mesh percent weight from 1.00, to obtain the #8 to #30 mesh, subtract the percent passing #30 from the percent passing #8 to obtain the #30 to #60 figure, subtract the #60 from the #30. The passing #60 figure is already given in the table.

Here is an example TFEV computation for particle size intervals.

Particle Size Interval Analysis

	Passing #8	Passing #30	Passing #60
--	------------	-------------	-------------

Step 1			
Jones County Cr Stone	85.9	35.2	21.4

Weight Percent

Step 2			
Multiply by .01)	.859	.352	.214

Step 3
 $1.00 - .859$ (#8 figure for #8 larger particle size) = .141

Step 4 **One Year Conversion Constants***

*The four bold constants are always used when figuring 1 year conversion rates.

$141 \times 5 = .70$
 $507 \times 20 = 10.14$
 $138 \times 50 = 6.90$
 $14 \times 100 = 21.4$

39.14 = Total Fineness Efficiency Value

Step 5
 (TFEV) $39.14 \times$ (CCE) .9363 = 36.65 (product)

Step 6 **One Year application Rate**
 Always divide the product of step 5 into 46.35.
 $\frac{46.35}{36.65} = 1.26$

Step 7
 $1.26 \times$ (ton-per-acre recommendation in your soil analysis) = ton-per-acre of Jones County Cr Stone to apply.

LIMESTONE PRODUCTION PRODUCER INFORMATION - 2007

COUNTY PRODUCER NAME	CITY ADDRESS	STOCKPILE OR LEDGE LOCATION	CCE	MG	PASS #8	PASS #30	PASS #60	CORRECTION FACTORS	
								1 YEAR	4 YEAR
MADISON									
BY QUARRY 51192-03	ALTON	LDG 5, 26'	87.40	3.00	67.8	29.5	20.7	1.54	1.50
LUFF CITY QUARRY 1192-02	ALTON SE. EDGE	LEDGE 1 & 2, 75.1' (22.9 M). COARSE AGG LIME.	89.77	0.72	84.6	44.0	30.9	1.11	1.16
HIGH CAL PELLETT LIME 1192-04	ALTON	LEDGES 1 & 2, 75.1' (22.9 M)	84.67	0.41	100.0	100.0	100.0	0.55	0.80
KIMATERIALS 1192-01	GODFREY N.	VARIOUS	83.14	7.16	89.5	54.4	40.9	1.10	1.13
MCDONOUGH									
CENTRAL STONE 51092-03	TENNESSEE 3.5 MI. S.	70' LEDGE	87.79	2.50	90.7	54.6	37.4	0.98	1.06
WINNENARD									
MATERIAL SERVICE 1292-02	ATHENS 4 MI. N.	COMBINED LEDGES	81.68	1.31	88.6	43.2	30.8	1.22	1.26
MONROE									
COLUMBIA QUARRY 51632-01	COLUMBIA 2.5 MI. N.E.	LDG 1-3A, COARSE AG. LIME SAMPLE.	94.02	1.44	88.1	40.1	24.1	1.17	1.13
COLUMBIA QUARRY 51332-04	WATERLOO 3 MI. E.	LDG 1-3, COARSE AG. LIME SAMPLE.	93.11	2.72	92.6	45.9	31.4	1.03	1.07
MONTGOMERY									
MATERIAL SERVICE 1352-04	NOKOMIS 3 MI. N.W.	COMBINED LEDGES	91.77	0.59	100.0	98.8	91.6	0.53	0.74
MATERIAL SERVICE 1352-01	NOKOMIS 3 MI. N.	COMBINED LEDGES	91.11	0.60	83.4	35.6	22.8	1.28	1.24
NOKOMIS QUARRY 1352-03	NOKOMIS 4 MI. N.	COMBINED LEDGES, COARSE AGG. LIME	92.51	0.49	79.6	34.0	19.9	1.35	1.27
NOKOMIS QUARRY 51352-03	NOKOMIS 4 MI. N.	COMBINED LEDGES, PEP LIME (FINE)	92.78	0.67	99.6	51.9	30.5	0.98	0.99
MOBILE									
SCHER EXCAVATING 1412-00	MONROE CENTER 2 MI. N.	0 - 12.2 M, N. FACE	97.95	11.77	79.7	48.3	36.6	0.95	1.05

1
2-3

Comprehensive Multi – Agency Environmental Complaint

To: IL EPA, US EPA, MSHA, Illinois Dept Public Health, CDC, NIH, and
The Illinois Attorney General.

From: Jerrald R West II

I have lived in Montgomery County in the City of Witt since 1992. Over a period of several years I have made occasion to notice an increased drying effect with exposure to wind and weather. As well Fugitive Visible Clouds viewed from a distance are not readily visible from within the cloud itself. These clouds exist on a color scale of white to blue/gray.

When exposed these clouds have been causing a drying effect in my lungs. I have coughed so hard that I have lost conciousness. I have as well battled numerous respiratory conditions including Pneumonia, Chronic Bronchitis, Laryngitis, and Pluracy. This accompanied with Adrenal responses and labored breathing from **acute exposure**. It is clear after reviewing tracking processes relating to wind, weather, Vehicles, Humans, Playing children, and release sources that **Cumulative regulation is non existent** and State recources limited.

After carefully FACTORING and DOCUMENTING these conditions based on Video, Pictures, Discussion with the public, Farmers and Limestone Industry workers, Not to mention 100's of hours accumulating Data from Government sources, Analysis of Industry Structure and scope of Enforcement/Industry trends as well as simple experiments. It has become clear that "Simple Public Health and Environmental based issues are being suppressed through the systematic focus on individual Behavior, and Genetics as the cause for all Disease completely ignoring Environmental Factors.

Fact:

Miners surface and underground are taught Countermeasures related to both acute and Long term exposure to Mineral Dusts. OSHA has many, **duration substance, and concentration** based exposure limits for workers in contained factory settings yet there appears to be no containment at the open ground Quarry processing sites protecting the public Specifically 1.3 and 2.3 miles North of Nokomis on Taylorville road in Montgomery County.

The scope of Limestones use in industry is enormous and includes Department of defense contracts. Responsible handling of this earthen material is a must. Limestone is known to have varying degrees of numerous substances strictly regulated. As well limestone can have varying degrees of both electrical and magnetic behavior. Keeping these **facts** in mind how can anyone justify the Preparation of Aglime in the open air Year after Year much less allow the Aerosolization over many miles. I am sure this is great for Corn and the cheapest most efficient way to lime a field. However, the carnage and human suffering Associated with Particulates <Pm 10 being released is of a broad, acute and chronic degenerative nature. Particles which settle into homes, Limestone based city streets {Magnetic Attraction}, Repeat aerosolization with wind and weather, and foods which have limestone based additives and minerals are Cumulatively causing a number of respiratory related Illnesses.

To compound this situation is 100+ years of use in farm fields and Construction. Recently I have been made aware of a move in the agricultural industry toward Pm 2.5 which is one fourth the size of a **visible** particulate. Given the current **Cumulative** situation, flat geography, **changing weather**, and the desperate pursuit to produce cheap ethanol, It is **CLEAR** somebody needs to save the farmers and industry from themselves and everyone else from Ignorant practices with a **drying agent**. In other words if Pm. 2.5 is becoming the optimum Liming Particulate size it Must be Mandatory to not allow even small amounts to enter the atmosphere {Aerosalize} at any part of the **process** unless and until suspended or dissolved in a liquid base with proven dissolution. This would eliminate the apparent temptation to apply **dry** to save money.

As well Simple recapture and containment equipment at the mines processing sites would eliminate the Quarry housekeeping situation. I currently possess Approx. 3 months worth of video and Pictures from this year. As well I possess pictures and Samples from 2005. I have been trying

to get someone from the Illinois State EPA to view this material in its entirety. So far to no avail.

I make this complaint do to the oppressive nature of this situation, Suffering, And exhaustive countermeasures needed to both maintain the health of my family and in operation of my fathers family business {Furniture store} which was located on rt# 16 next to Witt Elevator. My father is currently making plans to close the business due to the environmental hijacking which appears to be more important than human life.

My father was going to turn the business over to me and I refused due to this situation and my own physical diminishment. As well my wife and children have suffered greatly.

I have become extremely dissatisfied with government agencies who appear to be victims of a **NARROW ADMINISTRATIVE FOCUS** themselves.

I am currently considered Disabled and cannot find a lawyer who handles this type of case. I have sought remedy from the US EPA, II EPA, ACLU, The Court and now the Illinois Attorney General. **THIS IS AN UNPRECEDENTED VIOLATION OF EVERYONES CONSTITUTIONAL RIGHTS and FREEDOMS SET FORTH IN THE US CONSTITUTION.**

Finally, I now appeal to the Attorney General of Illinois to assist in this matter to protect and uphold my constitutional rights to Remedy. I can't find a lawyer to handle this situation nor can I afford too pay one.

Please Contact me

Sincerely Slowly Suffocating.

Jerrald R West II
Ph. 217-594-7122

Attachment B CREDENTIALS

1. From the Years of 1985 til 1992 I worked as a **Certified Nursing Assistant** in the Health care industry in both skilled and Primary care setting. assessment abilities were of utmost importance as primary link to Nurse and Physician.. {Transcript available upon request}
2. From 1993 til recently I have ran my fathers business on and off. An antique and used furniture store called **First Home Furnishings**. My father buys estates and sells new furniture as well.
3. In the Fall of 1994 I returned to College Working toward a Counseling certification as a **CADC Counselor**. My internship was at C.R.C. a 16 bed residential recovery home in Irving, Il.
4. After completing my internship 12/96 I was Put on staff as a resident advisor. shortly thereafter I became the **Executive Director under the Supervision of Dr. Doug Byers**. At the beginning of my employment the Center was not in good financial shape. Changes at the federal level had cut off some funding. My duties included Writing policy and procedure, reporting to the Board, Developing a Quality Assurance Quality control Program and providing statistical data to the state. I personally wrote policy to conform with Fed Adm Rule 2030, State rule 2060 and The Americans with disabilities act. The facility ran smoothly for more than 2 years with an astonishing 85% recovery rate. Last figures for 1996 when I began was 23%.
{Documented with Senator Demuzio}
5. In 1998 I Began working for the Gateway Foundation inside Vandalia Correctional Center. After Approx. 3 Months I took my State counseling Exam {MASTERS LEVEL} and became a CADC Counselor First Attempt.. My duties included an Individual case Load of 20 inmates, Assessment and Treatment plan creation and facilitation, Conflict Resolution, with 3 hours of Group therapy with 45 inmates daily. My Record is Exemplar. One grievance filed claiming prejudice against white people.

6. I Made the decision to leave Gateway because I was still working at C.R.C. and helping my father as necessary. I subsequently resigned from Gateway and then unplanned C.R.C. to take a Job at Ridings Xamis in Shelbyville.
7. Not long after starting everyones health insurance premiums doubled from 70\$ a week to \$130. I then wished I hadn't told anyone of my **wifes chronic Illness**. The cold environment at work with other salesman only getting \$250 wk was not real bearable. I subsequently quit and returned to work at my fathers Furniture store til recently.
8. I Served for a time on the Board of Directors at C.R.C. in 1999.
9. Also served on the family violence counsel for Montgomery County in 1998 with Lynn Lanter, and Katherine Dobrinic .
10. I as well have had occasion to followup and have frank State of the State structure based discussion with Senator Demuzio after his initial assistance in 1997 which I still feel deeply honored to have been able to participate in and give input to the Senator.
11. Therefore, it is this Plaintiffs prayer this is sufficient in establishing level of expertise and broad scope of abilities which includes assessment of medical conditions and Interests in behavioral science which has been used in factoring this situation.
12. Finally, It really gives this Plaintiff no pleasure in representing Himself. It is out of desperation, and Conservation of borrowable money.

Sincerely

Jerrald R West II

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ILLINOIS

FILED

JAN 22 2008

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

JERRALD R WEST II,)
)
Plaintiff,)
)
vs.) NO. 07-L-25
)
NOKOMIS QUARRY COMPANY,)
)
Defendant.)

**DEFENDANT'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT FILED DECEMBER 28, 2007**

NOW COMES NOKOMIS QUARRY COMPANY, a Corporation, by its attorneys, Samuels, Miller, Schroeder, Jackson & Sly, LLP, and in support of its Motion to Dismiss Plaintiff's Complaint filed December 28, 2007, says:

1. This Motion is made pursuant to several provisions of the Illinois Code of Civil Procedure.
2. Section 2-612 of the Illinois Code of Civil Procedure states, in part, that if any pleading is insufficient in substance or form or if the pleadings do not sufficiently define the issues, the Court may order other pleadings prepared.
3. Plaintiff's Complaint filed December 28, 2007, contains 17 numbered paragraphs. The first 5 paragraphs follow the caption "Cause of Action". It is still difficult, if not impossible, to determine what cause of action is being alleged by Plaintiff in the amended Complaint. Paragraph 1 alleges that the Defendant may have sold defective limestone based road product causing toxic and dry air conditions within the City of Witt, Illinois. Paragraph 1 of Plaintiff's Complaint also may

allege that fugitive particulate limestone matter is being emitted from the Defendant's premises. Finally, paragraph 1 may allege that chip rock and road pack on streets and driveways in Witt are "aerosolizing" causing problems to the Plaintiff. However, as to all of these allegations, the Plaintiff does not specifically and properly state a claim against the Defendant, how the Plaintiff was exposed to any of the problems and how the Defendant was involved in the alleged exposure to any problems.

4. It is also difficult, if not impossible, to determine what the Plaintiff is alleging in paragraph 2 of his Complaint. He refers to the City of Witt storing rock and transporting grain. He refers to the operations of Hanson Material Service. However, Plaintiff does not allege how the Defendant was involved in any activities and why the Defendant is responsible for damages.

5. Finally, it is difficult, if not impossible, to determine what actions the Plaintiff is complaining about in paragraphs 3, 4 and 5 of his Complaint and how the Defendant is involved.

6. Therefore, Plaintiff's Complaint filed December 28, 2007 should be dismissed by the Court because it does not comply with Section 2-612 of the Illinois Code of Civil Procedure.

7. Section 2-613 of the Illinois Code of Civil Procedure states, in part, that parties may plead as many causes of action as they may have. However, each cause of action shall be separately designated and numbered.

8. In this case, there are several allegations contained in paragraph 1 of the Plaintiff's Complaint (as stated above). However, Plaintiff does not specifically state how the Defendant was negligent in this case concerning each of the allegations.

9. If the Plaintiff wants to plead one cause of action, then he must do so. If the Plaintiff wants to plead several causes of action, each claim must be separately designated and numbered. In Plaintiff's Complaint, that is not done.

10. Therefore, Plaintiff's Complaint filed December 28, 2007 should be dismissed by the Court because it does not comply with Section 2-613 of the Illinois Code of Civil Procedure.

11. Plaintiff's Complaint is also in violation of Section 2-615 of the Illinois Code of Civil Procedure.

12. The allegations of Plaintiff's Complaint are substantially insufficient in law in that the pleading fails to properly state a cause of action. Again, it is difficult to determine what Plaintiff is complaining of (as stated above). Specifically, Plaintiff's Complaint fails to disclose what, if any, defective product was sold, when it was sold, to whom it was sold, how it was defective, and how Plaintiff has been damaged.

13. Plaintiff's Complaint further fails to properly state how "fugitive particulate limestone matter" is being emitted from the Defendant's premises causing damage to the Plaintiff, and how the Defendant is negligent because chip rock and road pack on Witt city streets and driveways is allegedly aerosolizing causing Plaintiff damages.

14. Plaintiff's Complaint contains several paragraphs following the caption "Remedy Sought". Paragraphs 6 through 17 of the Complaint recite numerous conclusions of law and fact. Paragraph 11 of the Complaint contains several conclusions of fact which should be stricken from

the Complaint. Paragraph 11 also refers to actions by the City of Witt and a company named Hanson Material Service.

15. Paragraph 12 of the Complaint refers to a "separate filing" that may be needed for Hanson Material Service Corporation and General Dynamics. Paragraph 12 should be stricken from the Complaint.

16. Paragraph 14 contains conclusions of fact which should be stricken from the Complaint. Finally, paragraph 15 of the Complaint contains conclusions of law which should be stricken from the Complaint.

17. Therefore, Plaintiff's Complaint filed December 28, 2007 should be dismissed by the Court because it does not comply with Section 2-615 of the Illinois Code of Civil Procedure.

WHEREFORE, the Defendant, NOKOMIS QUARRY COMPANY, a Corporation, requests that its Motion to Dismiss Plaintiff's Complaint Filed December 28, 2007 be allowed and Plaintiff's Complaint be dismissed with prejudice and the Court enter any other relief deemed just and proper.

NOKOMIS QUARRY COMPANY, a Corporation,
Defendant

SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP

BY:



One of Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of January, 2008 he served a copy of the foregoing Defendant's Motion to Dismiss Plaintiff's Complaint Filed December 28, 2007 by depositing the same in a United States Post Office Box enclosed in an envelope with postage fully prepaid upon the following:

Jerrald R West II
P. O. Box 181
Witt, IL 62094



EDWARD Q. COSTA
SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP
Attorneys for Nokomis Quarry Company
225 North Water Street, Suite 301
P. O. Box 1400
Decatur, IL 62525-1400
Telephone: (217) 429-4325

EXHIBIT D

*File:
Nokomis Quarry
Rd 7 West*

STATE OF ILLINOIS MONTGOMERY COUNTY

TO: Illinois Circuit Court

In the Matter of: **Jerrald R West II {Plaintiff}**
P.O. Box #181
Witt, Il 62094

07-L-25

VS

Nokomis Quarry Company
23311 Taylorville road
Nokomis, Il 62075 { Defendant #1 }

FILED

MAR 10 2008

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

COMPLAINT

Now comes Jerrald R West II {an injured party} by and through his attorney {Himself} Requesting a Jury Trial at which time civil damages REAL and ONGOING shall be sought by preponderance of the evidence and Established FACT.

CAUSE OF ACTION

1. This Plaintiff brings this action Stating "in fact" that over a period of several years the Defendant has sold defective Limestone based Road product which has caused **CUMMULATIVE TOXIC and DRY** air conditions within the city of Witt, and Surrounding geography. Chip rock and Road Pack on Witt City streets and driveways is Aerosolizing at speeds not exceeding 25 mph with each passing vehicle. As well Fugitive particulate limestone matter [air pollution] is being emitted from the Defendants premises exactly 1.3 and 2.3 miles North of Nokomis on Taylorville Road Approximately 4 Miles from my home with the permission of the State. **NO REAL CONTAINMENT** and processing on open ground with particulates smaller than the naked eye can see {< 10 Micrometers in diameter}. The aforementioned Airborne Particles have and are causing Chronic Bronchitis, Shortness of breath, Pneumonia,

*- how def
- when
- where*

*how effect
- when*

to who

Gagging from dry throat, Hard coughing, Unconsciousness, Pulled muscles, and chronic inflammation with ongoing and repeat exposure. Exhaustive countermeasures taken have as well served to oppress this Plaintiff and his family.

2. Let it be established in fact that the Additional use of lime by Witt Elevator, Tracking by cars and trucks, Incorporation into farm soils annually, power plant emissions, Harvest activities, Open pile Witt City rock storage, normal variations in weather and wind, Transportation of grain, Hanson Material service operating next door, Individual Indoor Hygiene practices, all obviously play a role in this individuals acute and cumulative exposure. However, it appears that all of the aforementioned factors have a PRIMARY SOURCE.

3. The Defendant is regulated Specifically by Il ADM, Code Title #35 Specifically part 212.301, Il EPA act at [415 ILCS 5/1 et seq], and US EPA 62fr-38652 pm10 designation, yet it is my understanding from Dean Hayden an official of the IL EPA that Nokomis Quarry has been issued a **permit to pollute**. A permit is in direct conflict with the purposes of the aforementioned code, Act, and Particulate designation.

4. It is **beyond belief** that a substance known to behave as a Coagulant In Paper, a Hardener In Concrete, a Dissolver of Dead Bodies, a Bacteria suppressant in Livestock yards, Neutralizer of Acid in soil, an Alkalinity promoter, Bonding agent, Extraction agent, Drying agent, Among other uses, is being allowed to aerosolize in this manner with what appears to be dysfunctional regulatory practices at the state level. {See source data section for supporting materials}

5. As well the human body specifically **requires** unimpeded fluid and gas flows to properly function. After cumulative factoring of the situation based on Visible and not so visible concentrations of fine particulates and duration of exposure both acute and long term with and without countermeasures this plaintiffs exposure meets or exceeds that of a quarry worker "Involuntarily".

Therefore

Remedy Sought

6. This Plaintiff now seeks a Civil Jury Trial at which time damages in the amount of 6,000,000 will be sought for the Obvious Degenerative, systemic and acute poisoning inflicted upon this Plaintiffs body. As well as emotional and Financial stresses associated with at least 5 "Known" years of nearly continuous Exposure. Amount of damages sought is based on **Real** damages both Economic and non economic, Laborious exhaustive countermeasures, past, present, and future health concerns as well as individual earnings potential. This plaintiff shall rely on the Juries wisdom based on the evidence in determining any adjustments to the aforementioned amount sought.

?
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?
?

7. Although this plaintiff concedes the "original" Complaint filed October, 26, 2007 was somewhat fragmented in form its **Substance** was very clear and specific. Therefore, this Plaintiff has prepared this Complaint to replace the original filing and prays the court finds both its form and substance sufficient to allow pre-trial Discovery or in the Alternative allow this Complaint to stand in order to allow this Plaintiff time to seek Assistance of the Attorney General as recommended by the Court.

?

8. A multi agency Complaint has as well been made to the Il EPA, US EPA, MSHA, NIH, CDC, and Illinois Attorney General. {Attached}

- 50?

9. This plaintiff has no objections to the court taking ample time to thoroughly explore the merits of this case. To aid in this exploration Data sources and Plaintiff Credentials have been provided. (See Attachments)

10. Other Discovery marked " Evidence Submission" in original complaint remains unchanged. In fact More issues have come to light since the filing of the original complaint regarding agricultural use fineness standards and source of materials on Witt city streets.

?

11. It Appears based on conversation with the Witt City clerk the City uses an independent contractor Dooleys Truck Service to apply the rock and oil to the streets and The city purchases Rock to do so several months prior to application. Rock is stored in open piles at the city shed til such time. Also the City of Witt Randomly purchases Rock and road pack

- ?
?
?



from both Hanson Material Service and the Nokomis Quarry Company, based on price and availability at each site. Within a mile of each other.

Therefore

12. I would like to make the court Aware of "The legend of Billy [Blue Eye's] West, My Uncle, He spent 20 Years in the Airforce Went to College on the GI Bill {Rend Lake Mining College} and graduated. Then took a job as a school bus driver for 17 years instead of becoming a minor. My "star" witness just Died after becoming sick. I was as well a deep cover Asset of Senator Demuzio Who had me investigating the agriculture situation which he feared was going to damage the Environment. Every Person in America needs to understand the "REAL" cause for Most diseases and Disorders now days. Greed and Stupidity. See My uncle Bill Instructed me when I shot my first rabbit. He told me to wait for my best shot. I did. I ran with the rabbit til it was 3ft away and shot it in the Belly. My uncle Bill looked at me and said "why did you do it that way?". My response was I shoot it in the Belly so it would already be gutted and There wouldn't be Any "Lead" shot in my meat. Uncle Bill then Replied "Son Your Not Gonna need a gun." Please be aware an Autopsy is pending.

13. This situation has gone on so long Rumsfeld doesn't even know his driveway is probably Poisoning him and his own personal biases have Jeopardized a blameless president and our national security..

14. Both parties practices Appear the same or similar and both sell various limestone based materials randomly to the City of Witt from earthen material mined and processed from a proximity within a mile of one another contributing equally to cumulative exposure and providing defective materials which are of a Hazardous fine consistency and behave in a dangerous manner.

15. Finally, It is obvious to this plaintiff after fully reviewing title #35 that a rule or code based on visible Particulates is inadequate in judging amount emitted by the pound. Since Limestone has varying degrees of density and Weight based on multiple substances commonly found in Limestone, and High quality Aglime which has a particulate size smaller than the naked eye can see. This makes for a false sense of security

relating to cumulative exposure and buildups of particles remaining fugitive on the earths surface.

- ?

16. This Plaintiff Prays the court shall find this case has merit based in human rights law.

- ?

17. In conclusion this Plaintiff means the Defendants no undue harm in bringing these proceedings and prays the defendants will change the aforementioned processing practices and resolve housekeeping issues in a safer manner.

Sincerely

Jerrald R West II AKA Narasimha
 P.O. Box #181
 214 W Mitchell st
 Witt, IL 62094.

- ?

APR 10 2008

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ILLINOIS

JERRALD R WEST II,)	
)	
Plaintiff,)	
)	
vs.)	NO. 07-L-25
)	
NOKOMIS QUARRY COMPANY,)	
)	
Defendant.)	

**COMBINED MOTION TO DISMISS PLAINTIFF'S
COMPLAINT FILED MARCH 10, 2008 PURSUANT TO
SECTION 2-619.1 OF THE ILLINOIS CODE OF CIVIL PROCEDURE**

NOW COMES NOKOMIS QUARRY COMPANY, a Corporation, by its attorneys, Samuels, Miller, Schroeder, Jackson & Sly, LLP, and in support of its Combined Motion to Dismiss Plaintiff's Complaint Filed March 10, 2008 Pursuant to Section 2-619.1 of the Illinois Code of Civil Procedure, states the following. In support of such Motion, the Affidavit of Ronald K. Koehler is attached hereto and incorporated herein.

§2-615 MOTION TO DISMISS

1. Plaintiff has filed his third Complaint and this is the third Motion to Dismiss filed by Nokomis Quarry Company. It appears that Plaintiff is alleging a single cause of action in paragraph 1 of his new Complaint whereby he says that "The Defendant has sold defective Limestone based Road product which has caused Cummulative Toxic and Dry air conditions within the city of Witt, and Surrounding geography." However, the allegation made still does not meet the pleading requirements of the Illinois Code of Civil Procedure.

Specifically, Plaintiff's allegation fails to disclose when any limestone was sold, to whom it was sold, how it was defective, and how the Plaintiff has been damaged. Furthermore, Plaintiff's allegation does not specifically state how Nokomis Quarry Company was negligent in this case.

2. Paragraph 1 of Plaintiff's new Complaint also contains allegations of damages but fails to disclose who has been damaged and what person or entity has negligently caused the alleged damages. Paragraph 1 of Plaintiff's new Complaint contains other statements which are merely conclusions of law and fact which should be stricken from his Complaint.

3. Paragraph 2 of Plaintiff's new Complaint contains numerous conclusions of law and fact which should be stricken from the Complaint. Furthermore, none of the allegations in paragraph 2 relate to Nokomis Quarry Company.

4. Paragraph 3 of Plaintiff's new Complaint contains numerous conclusions of law and fact which should be stricken from the Complaint. Furthermore, none of the allegations in paragraph 3 refer to any negligent acts of Nokomis Quarry Company.

5. Paragraphs 4 through 17 of Plaintiff's new Complaint contain numerous conclusions of law and fact which should be stricken from the Complaint. Furthermore, none of the allegations in paragraphs 4 through 17 relate to Nokomis Quarry Company.

WHEREFORE, the Defendant, NOKOMIS QUARRY COMPANY, a Corporation, requests that this Court dismiss Plaintiff's Complaint filed March 10, 2008 and award Defendant all other relief the Court deems proper.

SECTION 2-619 MOTION TO DISMISS

1. Plaintiff filed his original Complaint on October 26, 2007. In his new pleading, Plaintiff is alleging that over a period of several years Nokomis Quarry Company sold defective limestone (rock) to the City of Witt, Illinois and he has been damaged.

2. Nokomis Quarry Company has sold two loads of rock to the City of Witt since 2002. One of the loads was sold on July 9, 2007 and the second load of rock was sold to the City of Witt on July 10, 2007. (See Affidavit of Ronald K. Koehler.)

3. In July, 2007 the rock sold by Nokomis Quarry Company was tested and inspected both before and after it was shipped to the City of Witt, Illinois. The Quarry's rock met specifications set by the Illinois Department of Transportation and it was not defective.

4. Contrary to Plaintiff's allegation that defective limestone (rock) was sold to the City of Witt, Nokomis Quarry Company can show that the rock sold in July, 2007 was not defective. Furthermore, the Quarry has never sold rock to the Witt Elevator contrary to any implication made in Plaintiff's new Complaint that sales did occur. As such, Plaintiff cannot prove a cause of action against Nokomis Quarry Company based on the sale of defective limestone (rock).

WHEREFORE, the Defendant, NOKOMIS QUARRY COMPANY, a Corporation, requests that this Court dismiss Plaintiff's Complaint filed March 10, 2008 and award Defendant all other relief the Court deems proper.

NOKOMIS QUARRY COMPANY, a
Corporation, Defendant

SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP

BY:



One of Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 8th day of April, 2008 he served a copy of the foregoing Notice of Hearing by depositing the same in a United States Post Office Box enclosed in an envelope with postage fully prepaid upon the following:

Jerrald R West II
P. O. Box 181
Witt, IL 62094



EDWARD Q. COSTA
SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP
Attorneys for Nokomis Quarry Company
225 North Water, Suite 301
P. O. Box 1400
Decatur, Illinois 62525-1400
Telephone: (217) 429-4325

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ILLINOIS

JERRALD R WEST II,)

Plaintiff,)

vs.)

NOKOMIS QUARRY COMPANY,)

Defendant.)

NO. 07-L-25

AFFIDAVIT

STATE OF ILLINOIS)

) SS.

COUNTY OF MONTGOMERY)

RONALD K. KOEHLER, having been duly sworn on oath deposes and states as follows:

1. I am the General Manager of Nokomis Quarry Company and am authorized to make this Affidavit. I am familiar with the books and records of Nokomis Quarry Company and also familiar with the allegations contained in the lawsuit entitled *Jerrald R. West II, Plaintiff, vs. Nokomis Quarry Company, Defendant*, pending in Montgomery County, Illinois as Case No. 07-L-25.

2. Nokomis Quarry Company has sold only two loads of rock to the City of Witt, Illinois since 2002. One of the loads of rock was sold on July 9, 2007 and the second load of rock was sold to the City of Witt, Illinois on July 10, 2007. Attached to this Affidavit and marked Exhibit "A" are copies of Scale Tickets issued by Nokomis Quarry Company documenting each sale of rock.

3. During July, 2007 and at times before and after that time period, the rock sold by Nokomis Quarry Company was inspected on a regular basis. The inspections were performed by an independent consultant hired by Nokomis Quarry Company.

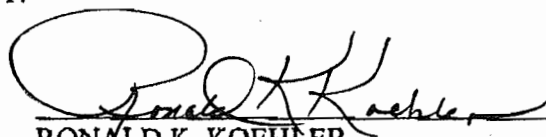
4. Inspection tests were performed each week. The testing consisted of drying and screening rock to insure that the rock meets with State specifications according to a sieve analysis outlined by the Illinois Department of Transportation.

5. Inspection tests were run on rock at Nokomis Quarry Company on July 3, 2007 and July 10, 2007. After the tests were performed, the rock was marked "Approved" by the inspector meaning the rock met Illinois Department of Transportation quality specifications and that Nokomis Quarry Company could sell its product as advertised. Attached to this Affidavit and marked Exhibit "B" are copies of the 7/3/07 and 7/10/07 inspection test results.

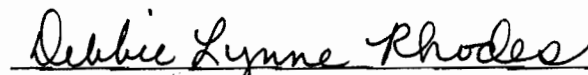
6. At the time Nokomis Quarry Company sold the two loads of rock to the City of Witt, Illinois on July 9, 2007 and July 10, 2007, its rock met the quality specifications set by the Illinois Department of Transportation and it was not defective.

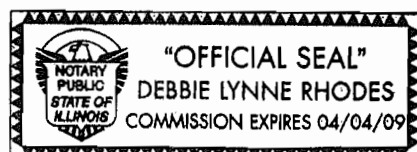
7. Nokomis Quarry Company has never sold any rock to the Witt Elevator.

FURTHER AFFIANT SAITH NOT.


RONALD K. KOEHLER

Subscribed and sworn to before me this 4TH day of April, 2008.


Notary Public



ILLINOIS DEPARTMENT OF TRANSPORTATION
AGGREGATE GRADATION REPORT

MISTIC ID

EXHIBIT B

Inspector Name: **Producter Sampled** Date Sampled: **070307** Sequence No: **097**
 Mix Plant No: **98** Lab: **DI** Lab Name: **??** Contract No: **070307** Job No: **Nokomis Quarry**
 Responsible Loc: **98** Lab: **DI** Lab Name: **??** Source Name: **Nokomis Quarry**

SOURCE	MATL CODE	TYPE	ORIGINAL ID	SPEC	ART	SAMPLED FROM	WASH DRY
51352-03	032CM16	PRO		STAND 1004	1004	PR LL	W
CM:	1/4	2.5	1.75	1.5	3/4	5/8 1/2 3/8 #4 #8 #16 #30 #50 #100 #200	
		53				100 94 28 2 2	

WASH 200 PI or Retir RESULT REMARK
 1.28312 APPR 0

mm	Sieve	Over Load	12" Load	Indiv. Retain	Cumul. Retain	Cumul. Wt. Retain	Cumul. % Retain	Pct Pass	Spec. Range %Pass	In/Out	Overload
2.5	11800	0									
2	2	9100									
1.75	1.75	8200									
1.5	1.5	6800									
1	1	4500									
3/4	3/4	3400									
5/8	5/8	2900									
1/2	1/2	2200	0.0	98.4	98.4	0.0	100.0	100	94-100		
3/8	3/8	1700	98.4	98.4	98.4	6.3	83.7	83.7	83.7		
1/4	1/4	1000	630.3	737.7	737.7	47.1	52.9	25.7	28-40		
#4	#4	850	428.5	1184.2	1184.2	74.3	25.7	2.3	0-8		
#8	#8	450	365.7	1529.9	1529.9	87.7	2.0	0.8			
#16	#16	450	5.2	1535.1	1535.1	98.0	2.0	0.8			
#30	#30	450									
#40	#40	450									
#50	#50	450									
#100	#100	450	7.8	1542.9	1542.9	98.5	1.5				
#200	#200	450	4.0	1546.9	1546.9						
Pan											
Total Dry Wt.			1588.5								
Total Wash Wt.			1546.4								
Diff (-200)			20.1								

Orig. Wet Weight: 0 grams
 Moisture %:
 (#200 / #10):
 % Washed -200: 1.3
 (Mix Plant Only)
 Lot:
 Bin:

Tech/Insp: 0
 Tested By: DIST 6
 Agency: 0
 Copies to: Materials Inspector
 District Materials
 Producer

07/03/2007
 Date

Steven P. ...
 Signature

FOR DTY03604 Version 6.0 03/18/98
 MI504QC

(This is a Field/Laboratory Report for MISTIC Input)

Validity Check OK

Master Band Target: 32

AGGREGATE GRADATION REPORT

Inspector Name: **Producet Sampled** Date Sampled: **07-10-07** Sequence No: **100**
 Mix Plant No: **98** Lab: **DI** Lab Name: **??** Contract No: **Job No: Nokomis Quarry**
 Responsible Loc: **98** Source Name: **Nokomis Quarry**

SOURCE	MATL CODE	TYPE INSP	ORIGINAL ID	SPEC ART	SAMPLED FROM	WASH DRY										
51392-03	032CM16	PRO	STAND 1004	1004	SP UL	W										
CM	1/4	2.5	2	1.75	1.5	3/4	5/8	1/2	3/8	#4	#8	#16	#30	#50	#100	#200
		57						100	96	27	3	2				1.7

WASH 200 PI of Ratio RESULT REMARK
 1.47823 APPR 0

mm	Slave	Over Load	12" Load	Indiv. Wt. Retain	Cumul. Wt. Retain	Cumul. % Retain	Pet Pass	Spec. Range %Pass	WORK AREA	
									In/Out	Overload
2.5	11600	0	11600	0.0	0.0	100.0	100			
2	9100	2	9100	69.8	69.8	95.7	94-100			
1.75	8200	1.75	8200	621.0	690.8	42.7	57.3			
1.5	8800	1.5	8800	483.3	1174.1	72.6	27.4			
1	4500	1	4500	393.5	1567.6	97.0	3.0			
3/4	3400	3/4	3400	10.7	1578.3	97.6	2.4			
5/8	2900	5/8	2900	0.0	0.0	100.0	100			
1/2	2200	1/2	2200	0.0	0.0	100.0	100			
3/8	1700	3/8	1700	69.8	69.8	95.7	94-100			
1/4	1000	1/4	1000	621.0	690.8	42.7	57.3			
#4	850	#4	850	483.3	1174.1	72.6	27.4			
#8	450	#8	450	393.5	1567.6	97.0	3.0			
#16	450	#16	450	10.7	1578.3	97.6	2.4			
#30	450	#30	450	0.0	0.0	100.0	100			
#40	450	#40	450	0.0	0.0	100.0	100			
#50	450	#50	450	0.0	0.0	100.0	100			
#100	450	#100	450	10.4	1588.7	98.3	1.7			
#200	450	#200	450	4.1	1592.8	99.3	0.7			
Pan										
Total Dry Wt.				1618.8						
Total Wash Wt.				1592.9						
Diff (-200)				23.9						

Orig. Wet Weight: 0 grams Moisture %:
 (#200 / #40): PIRATIO 0.00
 % Washed -200: 1.5
 (Mix Plant Only)
 Lot:
 Bin:

Tech/Insp: 0
 Tested By: DIST 6
 Agency: 0
 Copies to: Materials Inspector
 District Materials
 Producer

Signature: *[Signature]*
 Date: 07/10/2007

Validity Check OK
 IFOR DTY03504
 M1604QC Version 8.0 03/18/98

(This is a Field/Laboratory Report for MISTIC Input)

EXHIBIT E

DeFord or

STATE OF ILLINOIS MONTGOMERY COUNTY

TO: Illinois Circuit Court

File #
07-2-25

In the Matter of: **Jerrald R West II {Plaintiff}**
P.O. Box #181
Witt, Il 62094

VS

Nokomis Quarry Company
23311 Taylorville road
Nokomis, Il 62075 **{ Defendant #1 }**

FILED

MAY 12 2008

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

COMPLAINT

Now comes Jerrald R West II {an injured party} by and through his attorney {Himself} Requesting a Jury Trial at which time civil damages REAL and ONGOING shall be sought by preponderance of the evidence and Established FACT.

CAUSE OF ACTION

1. This Plaintiff brings this action Stating "in fact" that over a period of several years the Defendant has sold defective Limestone based Road product which has caused **CUMMULATIVE TOXIC and DRY** air conditions within the city of Witt, and Surrounding geography. Chip rock and Road Pack on Witt City streets and driveways is Aerosolizing at speeds not exceeding 25 mph with each passing vehicle. As well Fugitive particulate limestone matter [air pollution] is being emitted from the Defendants premises exactly 1.3 and 2.3 miles North of Nokomis on Taylorville Road Approximately 4 Miles from my home with the permission of the State. NO REAL CONTAINMENT and processing on open ground with particulates smaller than the naked eye can see {< 10 Micrometers in diameter}. The aforementioned Airborne Particles have and are causing Chronic Bronchitis, Shortness of breath, Pneumonia, Dry

throat, Hard coughing, Unconsciousness, Pulled muscles, and chronic systemic inflammation with ongoing and repeat exposure. Exhaustive countermeasures taken have as well served to oppress this Plaintiff and his family.

2. Let it be established in fact that the Additional use of lime by Witt Elevator, Tracking by cars and trucks, Incorporation into farm soils annually, power plant emissions, Harvest activities, Open pile Witt City rock storage, normal variations in weather and wind, Transportation of grain, Hanson Material service operating next door, Individual Indoor Hygiene practices, all obviously play a role in this individuals acute and cumulative exposure. However, it appears that all of the aforementioned factors have a PRIMARY SOURCE.

3. The Defendant is unregulated Specifically by the Ignoring of Il ADM, Code Title #35 Specifically part 212.301, Il EPA act at [415 ILCS 5/1 et seq], and US EPA 62fr-38652 pm10 designation, yet it is my understanding from Dean Hayden an official of the IL EPA that Nokomis Quarry has been issued a "PAID" **permit to pollute**. A permit is in **direct conflict** with the purposes of the aforementioned code, Act, and Particulate designation. In Fact Limestone often contains varying levels's of radon, Arsenic, Magnesium, Lead, Mercury, Silica, and Other substances apparently unregulated. These substances use particles like a vehicle when present and can become reactive precipitating gases in direct sun. Be aware Lime is often used as a vehicle in agriculture to effect multiple purpose application thus saving money. The defendant Makes this product which is processed on the open ground "Without Containment" In Fact Aglime often has Pesticides such as nicotine {As reported by CBS}, Herbicides, Nitrogen, etc. In addition to these facts. Limestone is also harvested for mineral fillers in many many foods. Seemingly small amounts can be very heavy. Great for food sales which is often measured by the pound or Ounce.

4. It is **beyond belief** that a substance known to behave as a **Coagulant** In Paper, a **Hardener** In Concrete, a Dissolver of Dead Bodies by **accelerated Dehydration**, a Bacteria suppressant in **Livestock yards**, Neutralizer of Acid in **soil**, an Alkalinity promoter, Bonding agent, Extraction agent, Drying agent, Among other uses, is being allowed to aerosolize in this manner with what appears to be dysfunctional regulatory practices at the state level. Please be aware in fact Limestone

often has varying Magnetic and Electrical Behavior based on random individual stones which naturally occur and are sometimes more suited for metal preparation, Example "Alumina"
{See source data section for supporting materials}

5. As well in fact the human body specifically **requires** unimpeded fluid and gas flows to properly function as well as cardiovascular and Pulmonary Elasticity. After cumulative factoring of the situation based on Visible and not so visible concentrations of fine particulates and duration of exposure both acute and long term with and without countermeasures this plaintiffs exposure meets or exceeds that of a quarry worker "Involuntarily".

Pleadings

6. This plaintiff can give a very efficient presentation at his own peril based in fact and supported by "Definition" of a single statute. As Follows: {415 ILCS 5/3.115} {was 415 ILCS 5/3.02}
Sec. 3.115 Air Pollution. "Air Pollution" is the presents in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health or to property, or to unreasonably interfere with the enjoyment of life or property.

Source: { P.A. 92-574, eff. 6-26-02. }

Est Presentation time: 1.5 Hours This will include industry overviews, video of actual conditions, Education, and Physical examination of the road materials by the Jury. This Plaintiff needs to present no supporting case law since this product is obviously being handled carelessly without real regulation. Therefore all Limestone based products have been rendered defective do to repeated tracking mechanisms and scope of regulated substances found in or added to limestone based products.

Therefore

Remedy Sought

7. This Plaintiff now seeks a Civil Jury Trial at which time damages in the amount of 6,000,000 will be sought for the Obvious Degenerative, systemic and acute poisoning inflicted upon this Plaintiffs body. As well

as emotional and Financial stresses associated with at least 5 "Known" years of nearly continuous Exposure. Amount of damages sought is based on **Real** damages both Economic and non economic, Laborious exhaustive countermeasures, past , present, and future health concerns as well as individual earnings potential. This plaintiff shall rely on the Juries wisdom based on the evidence in determining any adjustments to the aforementioned amount sought.

Interrogatories

8. I have few questions for the Defendant other than:
- a. Since much of our food supply has tested positive in the past for pesticides. Does the defendant process and sell both aglime, and mineral filler for food at the same site?
 - b. Does the Defendant know the historical disease rates among quarry workers.
 - c. Has the defendant mined materials better suited for metallic purposes from this same site in the past.
 - d. What does the Defendant believe to be the most inexpensive way to apply lime to its corn fields across the Roadway?

9. This plaintiff has no objections to the court compelling the defendant to answer these questions within the time frame afforded by the Illinois code of Civil procedure. Based on public health concerns and lack of regulatory protection.

10. In fact This Plaintiff has been very patient and deliberate, providing much of the case to the defendant for review. Alternatives to trial have been provided to the Defendant.

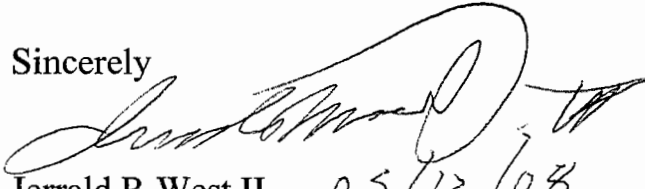
11. This plaintiff now prays and Motions the court will schedule a hearing of discovery at which time this Plaintiff shall give the full

presentation based in Verifiable fact. To afford time for the Defense to argue any denial of reality they may still be harboring.

12. Finally, It is obvious to this plaintiff after fully reviewing title #35 that a rule or code based on visible Particulates is inadequate in judging amount emitted by the pound. Since Limestone has varying degrees of density and Weight based on multiple substances commonly found in Limestone, and High quality Aglime which has a particulate size smaller than the naked eye can see. This makes for a false sense of security relating to cumulative exposure and buildups of particles remaining fugitive on the earths surface which re aerosolize when disturbed. The American people deserve better.

13. In conclusion this Plaintiff means the Defendants no undue harm in bringing these proceedings and prays the defendants will change the aforementioned processing practices and resolve housekeeping issues in a safer manner. As well My 1,000's of pages of data are organized from government sources and Affidavits are Prepared.

Sincerely



Handwritten signature of Jerrald R. West II, dated 05/12/08.

Jerrald R. West II
P.O. Box #181
214 W Mitchell st
Witt, IL 62094.

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
MONTGOMERY COUNTY, ILLINOIS

JERRALD R WEST II,)
)
Plaintiff,)
)
vs.)
)
NOKOMIS QUARRY COMPANY,)
)
Defendant.)

NO. 07-L-25

FILED

JUN 6 - 2008

MARY WEBB
Circuit Court Clerk
4TH Judicial Circuit

**DEFENDANT'S MOTION TO DISMISS
PLAINTIFF'S COMPLAINT FILED MAY 12, 2008**

NOW COMES NOKOMIS QUARRY COMPANY, a Corporation, by its attorneys, Samuels, Miller, Schroeder, Jackson & Sly, LLP, and in support of its Motion to Dismiss Plaintiff's Complaint Filed May 12, 2008, states the following:

INTRODUCTION

Plaintiff has now filed his fourth Complaint and this is the fourth Motion to Dismiss presented by Nokomis Quarry Company. At the three previous Motion hearings (each time Plaintiff's Complaint was dismissed), Plaintiff was cautioned to either hire an attorney to represent him or file an appropriate pleading which could state a cause of action. The Court has on three occasions indicated to the Plaintiff that he may not get another opportunity to file an amended claim because his pleadings are on the verge of harassing the Defendant and causing the Defendant to incur unnecessary expenses. In this case, all of the pleadings filed by the Plaintiff should be considered as a whole. In the initial Complaint (filed October 26, 2007), Plaintiff says, among other things, that the Defendant sold defective "chip rock." In the second Complaint (filed December 28, 2007),

Plaintiff says the Defendant has sold defective "road product" which is chip rock. In the third Complaint (filed March 10, 2008), Plaintiff says the Defendant has sold defective "road product." For that reason, Defendant submitted an Affidavit with its Motion to Dismiss referring to its sale(s) of rock to the City of Witt. The fourth Complaint (filed May 12, 2008) now says that Defendant has sold defective "limestone based product." As to each of his prior Complaints, the Court ruled that an appropriate cause of action was not pled. Plaintiff's Complaint filed May 12, 2008 is nothing more than a repetition of what he has filed in the past. Plaintiff cannot state a cause of action against Nokomis Quarry Company. Plaintiff has been given ample opportunity to state an appropriate cause of action. He is harassing the Defendant and he should be responsible to pay all the expenses incurred by Nokomis Quarry Company because of the frivolous pleadings being filed.

§ 2-615 MOTION TO DISMISS

1. From the initial Complaint filed by the Plaintiff until this fourth Complaint now on file, it cannot be determined what cause of action is being alleged against Nokomis Quarry Company. Paragraph 1 of the instant Complaint is identical to paragraph 1 of Plaintiff's third Complaint (filed March 10, 2008) but for the deletion of four words, i.e., road, gagging from, systemic.

2. Paragraph 1 of Plaintiff's fourth Complaint alleges that "over a period of several years the Defendant has sold defective Limestone based product which has caused Cummulative Toxic and Dry air conditions within the city of Witt, and Surrounding geography." However, the allegation being made still does not meet the pleading requirements of the Illinois Code of Civil Procedure.

Specifically, Plaintiff's allegation fails to disclose when any limestone based product was sold, to whom it was sold, how it was defective, and how the Plaintiff has been damaged. Furthermore, Plaintiff's allegation does not specifically state how Nokomis Quarry Company was negligent in this case.

3. Paragraph 1 of Plaintiff's fourth Complaint also contains allegations of damages (like his previous claims), but fails to disclose who has been damaged and what person or entity has negligently caused the alleged damages. Paragraph 1 of Plaintiff's Fourth Complaint contains other statements which are merely conclusions of law and fact which should be stricken from his Complaint.

4. Paragraph 2 of Plaintiff's fourth Complaint is identical to paragraph 2 of Plaintiff's third Complaint. Paragraph 2 contains numerous conclusions of law and fact which should be stricken from the Complaint. Furthermore, none of the allegations in paragraph 2 relate to Nokomis Quarry Company.

5. Paragraph 3 of Plaintiff's fourth Complaint contains numerous conclusions of law and fact which should be stricken from the Complaint. The only difference in paragraph 3 of Plaintiff's fourth Complaint (compared to paragraph 3 of Plaintiff's previous pleadings) is that he adds long sentences referring to limestone. None of the wording added in paragraph 3 of the fourth Complaint relates to Nokomis Quarry Company.

6. Paragraphs 4 and 5 of Plaintiff's fourth Complaint are essentially no different than paragraphs 4 and 5 contained in Plaintiff's previous pleadings. As to both paragraphs 4 and 5, the

new Complaint contains numerous conclusions of law and fact which should be stricken from the Complaint. Furthermore, none of the allegations in paragraphs 4 or 5 relate to Nokomis Quarry Company.

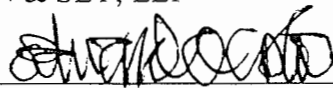
7. Paragraph 6 of Plaintiff's fourth Complaint makes little sense and has no relevance to any pleading in this case. Paragraph 6 does not relate to Nokomis Quarry Company and it should be stricken from Plaintiff's Complaint.

WHEREFORE, the Defendant, NOKOMIS QUARRY COMPANY, a Corporation, requests that this Court dismiss Plaintiff's Complaint filed May 12, 2008 with prejudice and award Defendant all other relief the Court deems proper.

NOKOMIS QUARRY COMPANY, a Corporation,
Defendant

SAMUELS, MILLER, SCHROEDER,
JACKSON & SLY, LLP

BY:

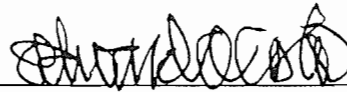


One of Its Attorneys

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 4th day of June, 2008 he served a copy of the foregoing Defendant's Motion to Dismiss Plaintiff's Complaint Filed May 12, 2008 by depositing the same in a United States Post Office Box enclosed in an envelope with postage fully prepaid upon the following:

Jerrald R West II
P. O. Box 181
Witt, IL 62094



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P. O. Box 1400
Decatur, IL 62525-1400
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EXHIBIT F

ATTORNEYS		ATTORNEYS
2007L 000025D 001 Filed: 10/26/2007 WEST, JERRALD R (P)(001) VS. NOKONIS QUARRY, ITS OWNERS AND EXE (D)(001)		

DATE		Case No. 075L 25
10/26/07	FILING FEE	133.00
10/26/07	JURY DEMAND	212.50
11/13/07	ENTRY OF APPEARANCE	7d 93.00
12/1/07	Copies made for Costa: over \$10.00	
		SHERIFF
		CITATION
	CERTIFIED MAIL	RULE

DATE	JUDGE and REPORTER	RECORD SHEET
10/26/07		Complaint at Law filed. Summons issued and given to Plaintiff.
11/13/07		Defendants Motion To Dismiss And Strike Plaintiffs Complaint, and Notice of Hearing filed.
12/11/07	JW TR	TT pro se. Edward Costa for A's Motion to Dismiss is granted. Complaint struck. TT granted 21 days to respond.
12/08/07		Complaint filed.
1/22/08		Defendants Motion To Dismiss Plaintiffs Complaint Filed. December 28, 2007 filed.
2-21-08	JW CS.	TT pro se; Edward Costa (cannot) w/ Ron Kaylor (can)

ADDITIONAL RECORD SHEET

Case No. 07-L-25

Nature of Case WEST -VS- Nekomis Quarry

DATE	JUDGE and REPORTER		COSTS
		Hearing held on motion to Dismiss	
		Motion to Dismiss is granted.	
		TI granted 21 days to amend.	
3 10 08		Complaint filed.	
4 10 08		Notice of Hearing and Combined Motion to Dismiss	
		Plaintiff's Complaint filed March 10, 2008 Pursuant	
		to Section 2-619.1 of The Illinois Code of Civil Procedure filed.	
4 22 08	<u>CS</u>	Hearing held on Δ's	
		Motion Motion to Dismiss per 619	
		is denied w/o prejudice to refile that	
		issued in future motions on pleading.	
		615 motion to dismiss is granted	
		Complaint is withdrawn w/ leave to	
		refile w/in 21 days.	
5 12 08		4th Amended Complaint filed	
6 6 08		Defendant's Motion to Dismiss Plaintiff's Complaint	
		filed May 12, 2008 filed. Notice filed.	
6 23 08	<u>JTE</u> <u>CA</u>	TI pro se; Δ by atty Costa. Arguments	
		heard re Δ's M to DISMISS (filed 6/6/08).	
		TI's Complaint (4th Complaint. filed 5/12/08)	
		is dismissed with prejudice	
		Pursuant to 2-615 for failing to state	
		cause of action.	

