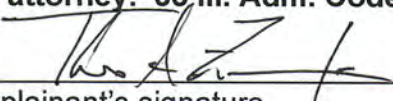


NOTICE OF FILING

Note to the Complainant: This Notice of Filing must accompany the Formal Complaint and the Documentation of Service. Once you have completed the Notice of Filing, the Formal Complaint, and the Documentation of Service, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

Please take notice that today I, Thomas A. Zimmerman, Jr., filed with the Clerk of the Illinois Pollution Control Board (Board) a Formal Complaint, a copy of which is served on you along with this Notice of Filing. You may be required to attend a hearing on a date set by the Board.

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).


Complainant's signature

Street 77 West Washington Street, Suite 1220

City, state, zip code Chicago, IL 60602

Date 3-14-2025

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

The following information has been prepared by the Board for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation. Information about the Formal Complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5) and the Board's procedural rules (35 Ill. Adm. Code 101, 103). These can be accessed on the Board's website (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules.

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this Formal Complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d)(1) of the Act (415 ILCS 5/31(d)(1)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202 (definitions of the terms "duplicative" and "frivolous")). "Duplicative" means the complaint is identical or substantially similar to a case brought before the Board or another forum. See 35 Ill. Adm. Code 103.212(a) and item 10 of the Formal Complaint.

“Frivolous” means that the Formal Complaint seeks relief that the Board does not have the authority to grant or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 through 9 of the Formal Complaint.

If you believe that this Formal Complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you received the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. See 35 Ill. Adm. Code 101.504, 103.212(b). If you need more than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after you received the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the Formal Complaint is duplicative or frivolous will stay the 60-day period for filing an Answer to the complaint. See 35 Ill. Adm. Code 103.204(e), 103.212(b); *see also* 35 Ill. Adm. Code 101.506 (generally, all motions to strike, dismiss, or challenge the sufficiency of any pleading must be filed within 30 days after service of the challenged document).

The party making a motion must “file” the motion with the Board’s Clerk and “serve” a copy of the motion on each of the other parties to the proceeding. The Board’s filing and service requirements are set forth in its procedural rules (35 Ill. Adm. Code 101.300, 101.302, 101.304), which are located on the Board’s website (pcb.illinois.gov).

If you do not file a motion with the Board within 30 days after the date on which you received the Formal Complaint, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing without any input from you. The Board will then assign a hearing officer who will contact you to schedule times for holding telephone status conferences and a hearing. See 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an Answer to this Formal Complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an Answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

Failing to file an Answer to the Formal Complaint within 60 days after you were served with the complaint may have severe consequences. Failure to timely file an Answer will mean that all allegations in the Formal Complaint will be taken as if you admitted them for purposes of this proceeding. If you have any questions about this procedure, you

should contact the hearing officer assigned to this proceeding, the Clerk's Office, or an attorney. See 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. See 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an Answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this Formal Complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file with the Board your Answer or any other document in the enforcement proceeding. The Board will pay its own hearing costs (e.g., hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3461.

DOCUMENTATION OF SERVICE

Note to the Complainant: This Documentation of Service must accompany the Formal Complaint and the Notice of Filing. Once you have completed the Documentation of Service, the Formal Complaint, and the Notice of Filing, you must file these three documents with the Board's Clerk *and* serve a copy of each document on each respondent.

This form for the Documentation of Service is designed for use by a non-attorney and must be notarized, *i.e.*, it is an "affidavit" of service. An attorney may modify the form for use as a "certificate" of service, which is not required to be notarized.

Affidavit of Service

I, the undersigned, on oath or affirmation, state that on the date shown below, I served copies of the attached Formal Complaint and Notice of Filing on the respondent at the address listed below by one of the following methods: [*check only one—A, B, C, D, or E*]

A. U.S. Mail or third-party commercial carrier with the recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. Attached is the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature and showing the date of delivery as [month/date], 20 . [*Attach the signed delivery confirmation showing the date of delivery.*]

B. X U.S. Mail or third-party commercial carrier with a recipient's signature recorded or to be recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery. However, the delivery confirmation from the U.S. Postal Service or the third-party commercial carrier containing the recipient's signature is not available to me at this time. On MARCH 14 [month/date], 2025, by the time of 5:00 ~~PM~~/PM, at 77 W. WASHINGTON STREET, CHICAGO, IL 60602
[*address where you provided the documents to the U.S. Postal Service or the third-party commercial carrier*], copies of the attached Formal Complaint and Notice of Filing were provided to the U.S. Postal Service or the third-party commercial carrier, with the respondent's address appearing on the envelope or package containing these documents, and with proper postage or delivery charge prepaid. [*Within seven days after it becomes available to you, file with the Board's Clerk the delivery confirmation—containing the recipient's signature and showing the date of delivery—and identify the Formal Complaint to which that delivery confirmation corresponds.*]

C. Personal service and I made the personal delivery on
[month/date], 20 , by the time of : AM/PM.

D. Personal service and another person made the personal delivery. Attached is the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made the personal delivery, showing the date of delivery as

_____, [month/date], 20____. [Attach the other person's signed affidavit or declaration showing the date of delivery.]

E. _____ Personal service and another person made or will make the personal delivery. However, the affidavit of service signed by the other person (or the declaration of service signed by the process server) who made or will make the personal delivery is not available to me at this time. On _____ [month/date], 20____, by the time of ____:____ AM/PM, at

[address where you provided the documents to the person making the personal delivery], copies of the attached Formal Complaint and Notice of Filing were provided to _____ [name of the person making the personal delivery], with the respondent's address appearing on the envelope or package containing these documents, and with proper delivery charge prepaid. [Within seven days after it becomes available to you, file with the Board's Clerk the affidavit or declaration of service—containing the signature of the person who made personal delivery and showing the date of delivery—and identify the Formal Complaint to which that affidavit or declaration corresponds.]

RESPONDENT'S ADDRESS:

Name Aqua Illinois, Inc., c/o Its Registered Agent, C T Corporation System

Street 208 South LaSalle Street, Suite 814

City, state, zip code Chicago, IL 60604

(list each respondent's name and address if multiple respondents)


Complainant's signature

Street 77 West Washington Street, Suite 1220

City, state, zip code Chicago, IL 60602

Date 3-14-2025

Subscribed to and sworn before me

this 14th day

of March 2025.


Notary Public



My commission expires: October 6, 2027

**STATE OF ILLINOIS
POLLUTION CONTROL BOARD**

| | | |
|---|---|-----------------|
| Stanley Boyd, Mary Buchanan, Lionell |) | |
| Clark, James Cole, Joan Cross, Chandra |) | |
| DeVance, Ellaray Edwards, Katrina Fox, |) | |
| Patricia Fynn, Annie Haywood, Joann |) | No. PCB _____ |
| Henderson, Gregory Hightower, |) | |
| Mohammad Iqbal, Linda Jacobs, Sonia |) | |
| Jeniks, Adrienne Jordan, Joseph Lovelace, |) | (Enforcement-X) |
| Ryan Magruder, Kanika McDonald, |) | |
| Melveria Montgomery, Myrtis Neal, Sean |) | |
| Pettiford, Ruth Redmon, Lilleta Rogers, |) | |
| John Schuricht, Brittany Snipes, Davonia |) | |
| Sorrell, John Sydnor, Linda Towner, Lisa |) | |
| Welcher-Silmon, Tika Westerfield, Tara |) | |
| Winters, and Jeanetta Wright, individually, |) | |
| and on behalf of all others similarly |) | |
| situated, |) | |
| |) | |
| Complainants, |) | |
| |) | |
| v. |) | |
| |) | |
| AQUA ILLINOIS, INC., an Illinois |) | |
| corporation, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

CLASS ACTION COMPLAINT

Complainants Stanley Boyd, Mary Buchanan, Lionell Clark, James Cole, Joan Cross, Chandra DeVance, Ellaray Edwards, Katrina Fox, Patricia Fynn, Annie Haywood, Joann Henderson, Gregory Hightower, Mohammad Iqbal, Linda Jacobs, Sonia Jeniks, Adrienne Jordan, Joseph Lovelace, Ryan Magruder, Kanika McDonald, Melferia Montgomery, Myrtis Neal, Sean Pettiford, Ruth Redmon, Lilleta Rogers, John Schuricht, Brittany Snipes, Davonia Sorrell, John Sydnor, Linda Towner, Lisa Welcher-Silmon, Tika Westerfield, Tara Winters, and Jeanetta Wright (collectively, "Complainants"), individually, and on behalf of all others similarly situated, by and

through counsel at Zimmerman Law Offices, P.C., bring this complaint against respondent Aqua Illinois, Inc. (“Respondent” or “Aqua”), as follows:

I. INTRODUCTION

1. This Informal Class Action Complaint arises out of the acts and omissions of Aqua that caused or threatened or allowed the discharge of contaminants into the environment so as to cause or tend to cause water pollution in the Village of University Park, Illinois (the “Village”).

2. Specifically, Aqua (i) caused or threatened or allowed contaminants to be discharged into the drinking water supply throughout the Village, and (ii) altered the properties of the drinking water supply throughout the Village, as did create or was likely to create a nuisance or render the drinking water supply throughout the Village harmful or detrimental or injurious to public health, safety or welfare.

3. Complainants, on behalf of themselves and all Class members, seek damages as a result of Aqua causing or threatening or allowing the contamination of the drinking water supply throughout the Village.

II. PARTIES

4. At all relevant times, Complainants Stanley Boyd, Mary Buchanan, Lionell Clark, James Cole, Joan Cross, Chandra DeVance, Ellaray Edwards, Katrina Fox, Patricia Fynn, Annie Haywood, Joann Henderson, Gregory Hightower, Mohammad Iqbal, Linda Jacobs, Sonia Jeniks, Adrienne Jordan, Joseph Lovelace, Ryan Magruder, Kanika McDonald, Melferia Montgomery, Myrtis Neal, Sean Pettiford, Ruth Redmon, Lilleta Rogers, John Schuricht, Brittany Snipes, Davonia Sorrell, John Sydnor, Linda Towner, Lisa Welcher-Silmon, Tika Westerfield, Tara Winters, and Jeanetta Wright were residents of the Village of University Park, Illinois. Each Complainant is to be contacted only through their counsel, Zimmerman Law Offices, P.C., 77

West Washington Street, Suite 1220, Chicago, Illinois 60602, *firm@attorneyzim.com*. Zimmerman Law Offices, P.C.'s telephone number is (312) 440-0020, and its facsimile number is (312) 440-4180.

5. Each of the attorneys at Zimmerman Law Offices, P.C. is licensed and registered to practice law in Illinois.

6. Respondent Aqua Illinois, Inc. is an Illinois corporation with its principal place of business located at 1000 S. Schuyler Avenue, Kankakee, Illinois 60901.

III. OTHER SIMILAR MATTERS

7. The pollution at issue in this matter was/is also at issue in several other cases brought in other fora. These other cases were/are: (1) *Henderson, et al. v. Aqua Illinois, Inc.*, Case No. 19 CH 1852 (Will County, Illinois); (2) *People of the State of Illinois, et al. v. Aqua Illinois, Inc.*, Case No. 19 CH 1208 (Will County, Illinois); (3) *Arnold, et al. v. Aqua Illinois, Inc.*, Case No. 25 cv 2522 (U.S. District Court, N.D. Illinois); and (4) *Biloche, et al. v. Aqua Illinois, Inc.*, Docket No. 25-2309 (Illinois Commerce Commission).

IV. RELEVANT PROVISIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION ACT

8. The Illinois Environmental Protection Act ("Act") provides, in relevant part, that "No person shall: (a) Cause or threaten or allow the discharge of any contaminants into the environment in any state so as to cause or tend to cause water pollution in Illinois, either alone or in combination with matter from other sources, or so as to violate regulations or standards adopted by the Pollution Control Board under this Act...." 415 ILCS 5/12(a).

9. Aqua is an Illinois corporation and, thus, is a "person" as defined by the Act. 415 ILCS 5/3.315.

10. As used in the Act, the term “contaminant” means “any solid, liquid, or gaseous matter, any odor, or any form of energy, from whatever source.” 415 ILCS 5/3.165.

11. The Act defines “water pollution” as “such alteration of the physical, thermal, chemical, biological or radioactive properties of any waters of the state, or such discharge of any contaminant into any waters of the state, as will or is likely to create a nuisance or render such waters harmful or detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate uses, or to livestock, wild animals, birds, fish, or other aquatic life.” 415 ILCS 5/3.545.

12. As used in the Act, the term “waters” means “all accumulations of water, surface and underground, natural, and artificial, public and private, or parts thereof, which are wholly or partially within, flow through, or border upon this state.” 415 ILCS 5/3.550.

V. AQUA VIOLATED THE ILLINOIS ENVIRONMENTAL PROTECTION ACT

13. The U.S. Environment Protection Agency defines “environment” as “(1) the navigable waters, the waters of the contiguous zone, and the ocean waters of which the natural resources are under the exclusive management authority of the United States under the Fishery Conservation and Management Act of 1976, and (2) any other surface water, ground water, drinking water supply, land surface or subsurface strata, or ambient air within the United States or under the jurisdiction of the United States.” 42 C.F.R. § 302.3. *See also* 42 U.S.C. § 9601(8) (definition of “environment” in federal CERCLA statute).

14. “Drinking water supply” means “any raw or finished water source that is or may be used by a public water system (as defined in the Safe Drinking Water Act) or as drinking water by one or more individuals.” 42 U.S.C. § 9601(7).

A. Aqua Violated the Illinois Environmental Protection Act by Causing or Allowing the Discharge of a Contaminant (*i.e.*, a Chemical) Into the Drinking Water Supply Throughout the Village

15. Aqua caused or allowed the discharge of a chemical into the drinking water supply throughout the Village. The chemical is a “contaminant” as defined by the Act, because it is a solid or liquid matter. *See* 415 ILCS 5/3.165.

16. Thus, Aqua caused or allowed the discharge of a contaminant (*i.e.*, a chemical) into the environment.

17. The contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment caused or tended to cause alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village because the contaminant (*i.e.*, the chemical) caused or tended to cause the drinking water supply to be undersaturated with calcium carbonate (CaCO₃) and this water chemistry change caused or tended to cause the drinking water supply to remove the CaCO₃ deposits coating the inside of the water distribution pipes within the Village.

18. The contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment caused or tended to cause the removal of the CaCO₃ deposits coating the inside of the water distribution pipes within the Village because that is what the contaminant (*i.e.*, the chemical) is formulated and intended to do.

19. There is no level of lead in drinking water that is safe to consume, and there is no level of lead to consume and have no known or expected risk to health:

- (a) Consuming lead contaminated water can cause damage to a person’s brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of their body;
- (b) The greatest risk of lead exposure from consuming lead contaminated water is to young infants, young children, and pregnant women;

- (c) Scientists have linked the effects of lead on the brain with lowered IQ in children, and consuming lead contaminated water can cause lowered IQ in children;
- (d) Adults with kidney problems and high blood pressure can be affected by consuming low levels of lead more than healthy adults;
- (e) Lead from consuming lead contaminated water can be stored in a person's bones and it can be released into the blood later in their life;
- (f) During pregnancy, the child receives lead from the mother's blood which comes from the mother's bones, and may affect the fetus' brain development;
- (g) Infants and children who drink water containing lead in excess of the lead action level could experience delays in their physical or mental development;
- (h) Children who consume lead contaminated water could show slight deficits in attention span and learning abilities; and
- (i) Adults who consume lead contaminated water over many years could develop kidney problems or high blood pressure.

20. The alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village (*i.e.*, the undersaturation of the water with CaCO_3) that was caused or tended to be caused by the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment did create or was likely to create a nuisance or render the drinking water supply harmful or detrimental or injurious to public health, safety or welfare because the altered drinking water supply (*i.e.*, the undersaturation of the water with CaCO_3) removed or tended to cause the removal of the CaCO_3 deposits coating the inside of the water distribution pipes within the Village which exposed or tended to expose lead/tin solder and allowed or tended to allow elevated levels of lead to be deposited into the drinking water supply.

21. The contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment did create or was likely to create a nuisance or render the drinking water

supply harmful or detrimental or injurious to public health, safety or welfare because the contaminant (*i.e.*, the chemical) removed or tended to cause the removal of the CaCO₃ deposits coating the inside of the water distribution pipes within the Village which exposed or tended to expose lead/tin solder and allowed or tended to allow elevated levels of lead to be deposited into the drinking water supply.

22. Thus, Aqua caused or allowed the discharge of a contaminant (*i.e.*, a chemical) into the environment so as to cause or tend to cause water pollution in the Village.

B. Aqua Violated the Illinois Environmental Protection Act by Causing or Threatening or Allowing the Discharge of a Contaminant (*i.e.*, Lead) Into the Drinking Water Supply Throughout the Village

23. Aqua caused or threatened or allowed the discharge of lead into the drinking water supply throughout the Village. Lead is a “contaminant” as defined by the Act, because it is a solid or liquid matter. *See* 415 ILCS 5/3.165.

24. Thus, Aqua caused or threatened or allowed the discharge of a contaminant (*i.e.*, lead) into the environment.

25. The contaminant (*i.e.*, lead) that Aqua caused or threatened or allowed to be discharged into the environment caused or tended to cause alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village because the contaminant (*i.e.*, lead) caused or threatened or allowed the drinking water supply to be contaminated with elevated levels of lead.

26. As set forth above, there is no level of lead in drinking water that is safe to consume, and there is no level of lead to consume and have no known or expected risk to health.

27. The contaminant (*i.e.*, lead) that Aqua caused or threatened or allowed to be discharged into the environment did create or was likely to create a nuisance or render the drinking

water supply harmful or detrimental or injurious to public health, safety or welfare because the contaminant (*i.e.*, lead) caused or tended to cause the drinking water supply to be contaminated with elevated levels of lead.

28. Thus, Aqua caused or threatened or allowed the discharge of a contaminant (*i.e.*, lead) into the environment so as to cause or tend to cause water pollution in the Village.

VI. THE “DO NOT CONSUME” AND “LEAD ADVISORY”

29. Prior to 2017—when Aqua began to cause or allow the chemical to be discharged into the drinking water supply throughout the Village—the Village water test results indicated no problem with lead in the drinking water supply in the Village.

30. The contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment caused or tended to cause alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village and allowed or tended to allow elevated levels of lead to be deposited into the drinking water supply for the *first time in the history* of the Village.

31. The elevated levels of lead in the drinking water supply throughout the Village would not have occurred if Aqua had not discharged a contaminant (*i.e.*, the chemical) into the environment.

32. Some Complainants and Class members had elevated levels of lead deposited into the drinking water supply on their properties as shown by lead test results, and other Complainants and Class members were threatened with the potential that there could be elevated levels of lead deposited into the drinking water supply on their properties. Either way, all Complainants and Class members suffered substantial annoyance and inconvenience, at a minimum. Aqua’s actions and inactions interfered with all Complainants’ and Class members’ ability to use and consume

the drinking water supply on their properties regardless of whether they had an elevated lead test result on their property.

33. Accordingly, on June 14, 2019, all Complainants and Class members were instructed to not consume their tap water on their properties (the “do not consume”) because of the potential and threat that the finished water coming out of every Complainants’ and Class members’ tap was contaminated with elevated levels of lead. Instead, all Complainants and Class members subject to the “do not consume” were instructed to use bottled water for drinking, preparing formula, making ice, brushing teeth, and food preparation.

34. On July 29, 2019, the “do not consume” was lifted and replaced with a “lead advisory” for certain Complainants’ and Class members in the Village. All Complainants and Class members subject to the “lead advisory” were instructed to not consume their tap water on their properties because of the potential and threat that the finished water coming out of every Complainants’ and Class members’ tap in the “lead advisory” was contaminated with elevated levels of lead. Instead, all Complainants and Class members in the “lead advisory” were instructed to use bottled water or filters for drinking, preparing formula, making ice, brushing teeth, and food preparation.

35. In Complainants’ and Class members’ properties throughout the “do not consume” and “lead advisory” areas, it was occurring that the tap water lead levels would fluctuate where they were normal at one test, and then days, months, or years later, the lead levels were elevated (*i.e.*, greater than 15 ppb), and then days, months, or years later, they would be normal. The lead levels fluctuated within each property, and from one property to the next.

36. When tap water lead levels are fluctuating between normal and elevated lead levels in Complainants’ and Class members’ properties throughout the “do not consume” and “lead

advisory” areas, and Complainants and Class members are being advised to alter their water use with bottled water or filters, it was reasonable for all Complainants and Class members in the “do not consume” and “lead advisory” areas to think their drinking water supply may not be safe to drink out of the tap.

37. Under these circumstances, it was reasonable for all Complainants and Class members who were under a “do not consume” or “lead advisory,” *regardless* of whether they had their tap water tested for lead, to take the following measures to protect themselves from the potential and threat of elevated lead in their tap water, and experience the following disruptions in their lives:

- (a) Using bottled or filtered water for drinking, cooking food, washing dishes, and making ice;
- (b) Using bottled or filtered water to wash their face, brush their teeth, or bathe themselves;
- (c) Using bottled water to water their vegetable garden or wash their vegetables, if they were going to eat those vegetables;
- (d) Spending time driving to pick up, or waiting to pick up, bottled water or filters;
- (e) Having difficulty carrying bottled water;
- (f) Spending time replacing filters in faucets or pitchers;
- (g) Spending time reviewing news reports, notifications, or community updates regarding the water quality issues;
- (h) Spending time attending or watching public meetings regarding the water quality issues;
- (i) Being concerned about, or spending time researching, health effects related to the water quality issues;
- (j) Seeking medical care or testing regarding the water quality issues for themselves, loved ones, or pets; and

- (k) Enduring stress, annoyance, discomfort, or inconvenience, or not being able to fully use and enjoy their residence or business.

VII. DAMAGES

38. Complainants, on behalf of themselves and all Class members, seek damages as a result of Aqua causing or threatening or allowing the discharge of a contaminant into the environment so as to cause or tend to cause water pollution in the Village, including:

- (a) Expending out-of-pocket costs for bottled water, filters for water pitchers, filtration systems, medical bills, temporary lodging, and other expenses;
- (b) Loss of time;
- (c) Loss of income;
- (d) The presence and potential for elevated levels of lead in the drinking water supply throughout the Village has threatened the health of Complainants and Class members, and exposes them to injury and the fear of future injury, including the risk of increased and irreversible health impacts, especially to young children; and
- (e) The lives of Complainants and Class members have been disrupted on a daily basis, causing considerable stress, aggravation, annoyance, inconvenience, and discomfort.

VIII. CLASS ALLEGATIONS

39. **Class Definition:** Complainants bring this action pursuant to 735 ILCS 5/2-801, on behalf of a class of similarly situated individuals (“the Class”), defined as follows:

All persons and entities in the Village of University Park, Illinois who obtained water from the drinking water supply and were under a “do not consume” notice or “lead advisory” at any time during the Class Period.

Excluded from the Class are: (1) Respondent, Respondent’s agents; (2) the Judge to whom this case is assigned and the Judge’s immediate family; (3) any person and entity who executes and files a timely request for exclusion from the Class; (4) any persons and entities who have had their claims in this matter finally adjudicated and/or otherwise released; and (5) the legal representatives, successors and assigns of any such excluded person and entity.

40. **Class Period:** The Class Period begins in 2017, when Aqua caused or allowed the chemical to be discharged into the drinking water supply throughout the Village.

41. **Numerosity:** The Class consists of thousands of individuals and entities, and is so numerous that joinder of all members of the Class is impracticable, given that (1) the “do not consume” notice affected everyone in the Village, including more than 1,900 residential connections, (2) the U.S. Census Bureau recorded a population of 7,129 in the Village in the 2010 census, and (3) the U.S. Census Bureau estimates a population of 7,020 in the Village as of July 1, 2022.¹ In addition, the “lead advisory” area consists of over 1,500 residential connections in the Village. Class members can be easily identified through Respondent’s records or by other means.

42. **Commonality and Predominance:** There are several questions of law and fact common to the claims of the Complainants and members of the putative Class, which predominate over any individual issues, including:

- (a) Whether Aqua caused or allowed the discharge of a chemical into the drinking water supply throughout the Village;
- (b) Whether Aqua caused or threatened or allowed the discharge of lead into the drinking water supply throughout the Village;
- (c) Whether the chemical is a “contaminant” as defined by the Act, 415 ILCS 5/3.165;
- (d) Whether lead is a “contaminant” as defined by the Act, 415 ILCS 5/3.165;
- (e) Whether Aqua caused or allowed the discharge of a contaminant (*i.e.*, a chemical) into the environment;
- (f) Whether Aqua caused or threatened or allowed the discharge of a contaminant (*i.e.*, lead) into the environment;
- (g) Whether the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment caused or tended to cause alteration

¹ See <https://www.census.gov/quickfacts/fact/table/universityparkvillageillinois/PST045222>

of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village;

- (h) Whether the contaminant (*i.e.*, lead) that Aqua caused or threatened or allowed to be discharged into the environment caused or tended to cause alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village;
- (i) Whether there is any level of lead in drinking water that is safe to consume;
- (j) Whether there is any level of lead to consume and have no known or expected risk to health;
- (k) Whether the alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village that was caused or tended to be caused by the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment did create or was likely to create a nuisance or render the drinking water supply harmful or detrimental or injurious to public health, safety or welfare;
- (l) Whether the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment caused or tended to cause the drinking water supply throughout the Village to be undersaturated with CaCO_3 ;
- (m) Whether the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment is formulated and intended to cause or tend to cause the removal of the CaCO_3 deposits coating the inside of the water distribution pipes within the Village;
- (n) Whether the alteration of the physical, thermal, chemical, biological or radioactive properties of the drinking water supply throughout the Village that was caused or tended to be caused by the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment did remove or was likely to remove or tend to cause the removal of the CaCO_3 deposits coating the inside of the water distribution pipes within the Village;
- (o) Whether the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment did remove or was likely to remove or tend to cause the removal of the CaCO_3 deposits coating the inside of the water distribution pipes within the Village;
- (p) Whether the removal of the CaCO_3 deposits coating the inside of the water distribution pipes within the Village exposed or tended to expose lead/tin solder;

- (q) Whether the exposure of lead/tin solder from the water distribution pipes within the Village allowed or tended to allow elevated levels of lead to be deposited into the drinking water supply within the Village;
- (r) Whether the contaminant (*i.e.*, the chemical) that Aqua caused or allowed to be discharged into the environment did create or was likely to create a nuisance or render the drinking water supply harmful or detrimental or injurious to public health, safety or welfare;
- (s) Whether the contaminant (*i.e.*, lead) that Aqua caused or threatened or allowed to be discharged into the environment did create or was likely to create a nuisance or render the drinking water supply harmful or detrimental or injurious to public health, safety or welfare;
- (t) Whether Aqua caused or allowed the discharge of a contaminant (*i.e.*, a chemical) into the environment so as to cause or tend to cause water pollution in the Village;
- (u) Whether Aqua caused or threatened or allowed the discharge of a contaminant (*i.e.*, lead) into the environment so as to cause or tend to cause water pollution in the Village;
- (v) Whether Aqua's conduct constitutes a nuisance under Illinois law;
- (w) Whether Aqua is negligent for said conduct under Illinois law;
- (x) Whether Aqua's conduct constitutes a trespass under Illinois law;
- (y) Whether Aqua's actions and inactions constitute willful and wanton conduct, such that punitive damages should be assessed against Aqua;
- (z) Whether Aqua's actions and inactions substantially interfere with Complainants' and Class members' reasonable use and enjoyment of their homes and commercial properties; and
- (aa) Whether, and to what extent, Complainants and members of the Class were damaged as a result of Aqua's conduct alleged herein.

43. **Typicality:** Complainants' claims are typical of the claims of the proposed Class.

All claims are based on the same legal and factual issues. Aqua caused or threatened or allowed a contaminant to be discharged into the drinking water supply throughout the Village so as to cause or tend to cause water pollution in Complainants' and each of the Class members' drinking water supply. Complainants and each of the Class members are affected by the same conduct of Aqua

alleged herein. Aqua engaged in uniform conduct with respect to Complainants and all Class members.

44. **Adequacy of Representation:** Complainants will fairly and adequately represent and protect the interests of the Class, and have retained counsel competent and experienced in complex class actions. Complainants have no interest antagonistic to those of the Class, and Respondent has no defenses unique to Complainants.

45. **Superiority:** A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The expense and burden of individual litigation would make it impracticable or impossible for proposed Class members to prosecute their claims individually. The trial and the litigation of Complainants' and Class members' claims are manageable.

COUNT I
(Nuisance)

46. Complainants, individually and on behalf of the Class defined herein, repeat, reallege and incorporate by reference paragraphs 1 through 45 as paragraph 46 of this Count I, as though fully set forth herein.

47. A public nuisance is defined as the “doing of or the failure to do something that injuriously affects the safety, health or morals of the public, or works some substantial annoyance, inconvenience or injury to the public.” *E.g., Burns v. Simon Properties Group, LLP*, 2013 IL App (5th) 120325, ¶ 6. In contrast, “a private nuisance is a substantial invasion of another’s interest in the use and enjoyment of his or her land.” *E.g., Dobbs v. Wiggins*, 401 Ill.App.3d 367, 375 (5th Dist. 2010). “A private nuisance, however, that interferes with public rights can also constitute a public nuisance.” *Chicago Nat. League Ball Club, Inc. v. Thompson*, 108 Ill. 2d 357, 365 (1985); *City of Chicago v. Am. Cyanamid Co.*, 355 Ill.App.3d 209, 215 (1st Dist. 2005).

48. Aqua's actions and inactions constitute both public and private nuisance, as (1) Complainants' and Class members' right to access the drinking water supply of the Village is a public right because the drinking water supply of the Village is an indivisible resource shared by the public at large, and (2) Complainants' and Class members' ability to use and consume the drinking water supply of the Village is crucial to their use and enjoyment of their property. *See, e.g., City of Chicago*, 355 Ill.App.3d at 214-15.

49. Aqua (i) caused or threatened or allowed contaminants to be discharged into the drinking water supply throughout the Village, and (ii) altered the properties of the drinking water supply throughout the Village. The contaminant (*i.e.*, the chemical) and the altered drinking water flowed onto the properties of Complainants and Class members.

50. The contaminant (*i.e.*, the chemical) and the altered drinking water did create or was likely to create a nuisance or render or threaten to render the drinking water supply throughout the Village harmful or detrimental or injurious to public health, safety or welfare because it allowed or tended to allow, or there was a potential or threat that it would allow or tend to allow, elevated levels of lead to be deposited into the drinking water supply.

51. Aqua's actions and inactions injuriously affect the health, safety and welfare, and cause substantial annoyance, inconvenience, and injury, to the public, including Complainants and Class members. As a result of Aqua's actions and inactions, the lives of Complainants and Class members have been disrupted on a daily basis, causing considerable stress, aggravation, annoyance, inconvenience, and discomfort, and interfered with their use and enjoyment of their properties.

52. Aqua knew or should have known that its actions and inactions described herein would substantially interfere with Complainants' and Class members' reasonable use and

enjoyment of their properties, and Aqua recklessly, willfully, and intentionally acted in contravention of the known risks; thus, rendering an award of punitive damages appropriate.

53. As a direct and proximate result of Aqua's actions and inactions, Complainants and Class members have been damaged.

WHEREFORE, Complainants request that this tribunal enter judgment in favor of Complainants and the Class and against Respondent, and pray that the tribunal:

- A. Certify this action as a class action on behalf of the Class defined herein, appoint Complainants as the Class representatives, and appoint Complainants' counsel as counsel for the Class;
- B. Award nominal and punitive damages, and actual damages incurred by Complainants and the Class for all out-of-pocket costs, loss of time, loss of income, injury and fear of future injury, and stress, aggravation, annoyance, inconvenience, and discomfort;
- C. Award Complainants and the Class their attorney's fees and costs of suit, and such other and further relief as the tribunal deems just and proper.

COUNT II
(Negligence)

54. Complainants, individually and on behalf of the Class defined herein, repeat, reallege and incorporate by reference paragraphs 1 through 45 as paragraph 54 of this Count II, as though fully set forth herein.

55. Aqua owed a duty to Complainants and Class members to:

- (a) Refrain from causing or threatening or allowing contaminants to be discharged into the drinking water supply throughout the Village;
- (b) Refrain from altering the properties of the drinking water supply throughout the Village;
- (c) Refrain from acting or failing to act in such a manner that would create or would be likely to create a nuisance or render or threaten to render the drinking water supply throughout the Village harmful or detrimental or injurious to public health, safety or welfare; and

- (d) Refrain from interfering with Complainants' and Class members' ability to use and consume the drinking water supply regardless of whether they had an elevated lead test result on their property.

56. Aqua breached its duty to Complainants and Class members by:

- (a) Causing or threatening or allowing the discharge of contaminants into the environment so as to cause or tend to cause water pollution in the Village;
- (b) Causing or threatening or allowing contaminants to be discharged into the drinking water supply throughout the Village, and altering the properties of the drinking water supply throughout the Village, as did create or was likely to create a nuisance or render or threaten to render the drinking water supply throughout the Village harmful or detrimental or injurious to public health, safety or welfare; and
- (c) Interfering with Complainants' and Class members' ability to use and consume the drinking water supply regardless of whether they had an elevated lead test result on their property.

57. If ordinary care had been used by Aqua, (i) no contaminant would have been caused or threatened or allowed to be discharged into the drinking water supply throughout the Village, (ii) the properties of the drinking water supply throughout the Village would not have been altered, (iii) elevated levels of lead would not have been deposited or threatened to be deposited into the drinking water supply throughout the Village, (iv) a nuisance would not have been created or likely would not have been created, (v) the drinking water supply throughout the Village would not have been rendered or threatened to be rendered harmful or detrimental or injurious to public health, safety or welfare, and (vi) there would have been no interference with Complainants' and Class members' ability to use and consume the drinking water supply regardless of whether they had an elevated lead test result on their property.

58. It was foreseeable that Aqua's acts and omissions as described herein would result in (i) a contaminant being caused or threatened or allowed to be discharged into the drinking water supply throughout the Village, (ii) alteration of the properties of the drinking water supply

throughout the Village, (iii) depositing or threatening to deposit elevated levels of lead into the drinking water supply throughout the Village, (iv) a nuisance being created or likely to be created, (v) rendering or threatening to render the drinking water supply throughout the Village harmful or detrimental or injurious to public health, safety or welfare, and (vi) the interference with Complainants' and Class members' ability to use and consume the drinking water supply regardless of whether they had an elevated lead test result on their property.

59. Aqua knew or should have known that its actions and inactions described herein would substantially interfere with Complainants' and Class members' reasonable use and enjoyment of their properties, and Aqua recklessly, willfully, and intentionally acted in contravention of the known risks; thus, rendering an award of punitive damages appropriate.

60. As a direct and proximate result of Aqua's actions and inactions, Complainants and Class members have been damaged.

WHEREFORE, Complainants request that this tribunal enter judgment in favor of Complainants and the Class and against Respondent, and pray that the tribunal:

- A. Certify this action as a class action on behalf of the Class defined herein, appoint Complainants as the Class representatives, and appoint Complainants' counsel as counsel for the Class;
- B. Award nominal and punitive damages, and actual damages incurred by Complainants and the Class for all out-of-pocket costs, loss of time, loss of income, injury and fear of future injury, and stress, aggravation, annoyance, inconvenience, and discomfort;
- C. Award Complainants and the Class their attorney's fees and costs of suit, and such other and further relief as the tribunal deems just and proper.

COUNT III
(Trespass)

61. Complainants, individually and on behalf of the Class defined herein, repeat, reallege and incorporate by reference paragraphs 1 through 45 as paragraph 61 of this Count III,

as though fully set forth herein.

62. Complainants and Class members reside/resided, or own/owned property, in the Village during the Class Period and obtain/obtained water in their homes or properties from the drinking water supply throughout the Village.

63. Aqua (i) caused or threatened or allowed contaminants to be discharged into the drinking water supply throughout the Village, and (ii) altered the properties of the drinking water supply throughout the Village. The contaminant (*i.e.*, the chemical) and the altered drinking water flowed onto the properties of Complainants and Class members.

64. Complainants and Class members did not consent to or permit the flow of a contaminant (*i.e.*, the chemical) or the altered drinking water onto their properties because of the risk that it (i) would allow or tend to allow, or there was a potential or threat that it would allow or tend to allow, elevated levels of lead to be deposited into the drinking water supply, and (ii) would create or would be likely to create a nuisance or render or threaten to render the drinking water supply harmful or detrimental or injurious to public health, safety or welfare.

65. As a direct and proximate result of Aqua's conduct, a contaminant (*i.e.*, the chemical) and the altered drinking water flowed onto the property of Complainants and Class members, which (i) allowed or tended to allow, or there was a potential or threat that it would allow or tend to allow, elevated levels of lead to be deposited into the drinking water supply, and (ii) created or likely created a nuisance and rendered or threatened to render the drinking water supply harmful or detrimental or injurious to public health, safety or welfare.

66. Aqua's trespasses onto Complainants' and Class members' drinking water supply in their homes and properties were intentional, willful and wanton, and/or negligent, and wrongful; thus, rendering an award of punitive damages appropriate.

67. Aqua's trespasses onto Complainants' and Class members' drinking water supply in their homes and properties disrupted the lives of Complainants and Class members, causing considerable stress, aggravation, annoyance, inconvenience, and discomfort, and interfered with Complainants' and Class members' reasonable use and enjoyment of their properties.

68. As a direct and proximate result of Aqua's actions and inactions, Complainants and Class members have been damaged.

WHEREFORE, Complainants request that this tribunal enter judgment in favor of Complainants and the Class and against Respondent, and pray that the tribunal:

- A. Certify this action as a class action on behalf of the Class defined herein, appoint Complainants as the Class representatives, and appoint Complainants' counsel as counsel for the Class;
- B. Award nominal and punitive damages, and actual damages incurred by Complainants and the Class for all out-of-pocket costs, loss of time, loss of income, injury and fear of future injury, and stress, aggravation, annoyance, inconvenience, and discomfort;
- C. Award Complainants and the Class their attorney's fees and costs of suit, and such other and further relief as the tribunal deems just and proper.

Respectfully submitted,

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