

STATE OF INDIANA)	IN THE WAYNE SUPERIOR COURT	Wayne County, Indiana
)SS:		
COUNTY OF WAYNE)	CAUSE NO:	

TUSHAWN CRAIG,)
MARQUETTA STOKES and)
LIMITLESS PALLETS, LLC)
)
Plaintiffs,)
v.)
)
CORNERSTONE TRADING)
GROUP, LLC and)
SETH SMITH,)
)
Defendants.)

CLASS ACTION COMPLAINT

Plaintiffs, by their undersigned attorneys, for their Class Action Complaint against Defendants allege, upon information and belief, except as to the allegations that pertain to the named Plaintiffs and their counsel which are based upon knowledge as follows:

NATURE OF ACTION

1. Plaintiffs bring this action against Defendants, Cornerstone Trading Group, LLC and Seth Smith. Plaintiffs’ properties are located within the Richmond, Indiana, County of Wayne. Plaintiffs’ claim is for damages of a compensatory and punitive nature arising as a direct and proximate result of a fire that occurred at Defendants’ plastic recycling Industrial Facility located at 308 NW F Street, Richmond, Indiana (“the Industrial Facility”) on or about April 11, 2023. Plaintiffs individually bring this action on behalf of all potential class members pursuant to Civ. R. 23.

2. Defendant Seth Smith is the President and Registered Agent of Defendant Cornerstone Trading Group, LLC which is the owner of the Industrial Facility located at 308 NW F Street, Richmond, Indiana.

3. On July 25, 2019, during Defendants' ownership of the Industrial Facility, an unsafe building order pertaining to the Industrial Facility was filed with the Wayne County Recorder. This unsafe building notice referenced the significant fire hazard that existed at the Industrial Facility and adjacent properties. Defendants had actual knowledge of these unsafe conditions for several years prior to this tragedy, but failed to take any affirmative steps to remedy the unsafe ultra-hazardous conditions that existed within the Industrial Facility and surrounding grounds.

4. Defendants' tortious conduct of failing to maintain the Industrial Facility and the hazardous contents therein set in motion a chain of events resulting in a widespread fire which released noxious fumes and hazardous materials including asbestos into the air and ground water of the surrounding area.

5. Defendants' tortious conduct was performed in blatant disregard for the safety and welfare of Plaintiffs and other similarly situated class members, and in total disregard for the health, property rights, and interests of Plaintiffs and other class members.

6. As a result of Defendants' tortious conduct, police and fire officials required approximately 2,000 individuals within the general vicinity of Defendants' Industrial Facility to evacuate their homes due to the fire on or about April 11, 2023.

7. In addition to the required evacuation, numerous other potential Plaintiffs left their homes in fear of the same threat that forced police and fire officials to order a mandatory evacuation of the area immediately surrounding Defendants' Industrial Facility.

8. Due to the fire at Defendants' Industrial Facility, numerous businesses were forced to cease operations for a substantial period of time, resulting in loss of customers and diminished profits.

9. Due to the fire at Defendants' Industrial Facility, numerous potential Plaintiffs were

unable to go to work and incurred loss of income.

10. Due to the fire at Defendants' Industrial Facility, numerous potential Plaintiffs experienced adverse health events including, but not limited to inhalation of noxious gasses and smoke, breathing complications, headaches, dizziness, skin rashes, and chest pain resulting in the need for medical care and causing great physical, emotion, and psychological pain and suffering.

11. Plaintiffs and other class members remain in, and display, fear and anxiety for their health and safety as a result of the harmful chemicals, fumes, debris, and asbestos released into the air, ground, and water from the fire at Defendants' Industrial Facility, and possibility of additional incidents at the facility.

12. Plaintiffs and other class members are experiencing or have experienced a rapid decline in the marketability of their property since the explosion at Defendants' Industrial Facility.

JURISDICTION AND VENUE

13. Venue is proper in this County under Indiana T.R. 75(A) because all of the acts and conduct charged herein occurred in Wayne County, Indiana. Furthermore, Defendant Cornerstone Trading Group, LLC is an Indiana Limited Liability Company with its principal office address at P.O. Box 1282, 310 NW F Street, Richmond, Indiana, County of Wayne and Defendant Seth Smith resides in Wayne County.

14. As Wayne County is the proper forum for this action, and Defendants' tortuous conduct occurred completely within Wayne County, Indiana law should be applied to the instant action.

THE PARTIES

PLAINTIFFS

15. Plaintiff and Class Representative, Tushawn Craig is an individual who owns property

and resides at 412 NW 1st Street, Richmond, County of Wayne, State of Indiana. Plaintiff's property is within the area of Defendants' Industrial Facility which was subject to evacuation as a result of the April 11, 2023, fire.

16. Plaintiff and Class Representative, Marquette Stokes is an individual who owns property and resides at 122 Richmond Avenue, Richmond, County of Wayne, State of Indiana. Plaintiff's property is within the area of Defendants' Industrial Facility which was subject to evacuation as a result of the April 11, 2023, fire.

17. Plaintiff, and Class Representative, Limitless Pallets, LLC is a business located and operating at 801 NW 2nd Street, Richmond, County of Wayne, State of Indiana. Plaintiff's property is within the area of Defendants' Industrial Facility which was subject to closure and/or evacuation as a result of the April 11, 2023 fire.

DEFENDANTS

18. Defendant Cornerstone Trading Group, LLC is an Indiana limited liability company with its principal office address at P.O. Box 1282, 310 NW F Street Richmond, Indiana and its physical address at 308 NW F Street, Richmond, Indiana. Defendant Cornerstone Trading Group, LLC is the owner of the Industrial Facility where the fire broke out.

19. Defendant, Seth Smith is the President of Cornerstone Trading Group, LLC, an inadequately capitalized company that failed to follow corporate formalities and engaged in years of wrongdoing by acting recklessly in disregarding unsafe building orders that outlined the significant risk of fire within Defendants' Industrial Facility. Upon information and belief, Seth Smith is a resident of Wayne County, Indiana.

CLASS ACTION ALLEGATIONS

17. Plaintiffs and class representatives, Tushawn Crag, Marquetta Stokes, and Limitless Pallets, LLC, file this complaint within the applicable period of limitations as a class action pursuant to Rule 23, Indiana Rules of Trial Procedure, on behalf of themselves and all other unnamed, or yet unknown, current and former residents of the area surrounding Defendants' Industrial Facility. Plaintiffs now bring this class action for the following reasons:

NUMEROSITY

18. Membership in the class is so numerous that joinder of all class members before this Court is impracticable.

19. Plaintiffs can ascertain approximately 2,000 potential class members and estimate that hundreds, if not thousands, more persons exist for this class.

20. Although yet unknown to Plaintiffs, the names of remaining class members are readily available and ascertainable.

COMMONALITY

21. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class.

22. Among the questions of law and fact common to the Class are:

- a) Whether Defendants practice of engaging in plastics recycling constitutes an ultra-hazardous activity, thus making Defendants strictly liable for any harms resulting from said activity.
- b) Whether Defendants negligently conducted activities in breach of the duty of ordinary care owed to Plaintiffs and other Class members, resulting in a fire

which spread numerous chemicals, noxious fumes, smoke, debris, and asbestos throughout the area surrounding Defendants' Industrial Facility.

- c) Whether the harm suffered by Plaintiffs and other Class members was a direct and proximate result of Defendants' breach of their duty, from which arose Plaintiffs', and other Class members' actual and punitive damages.
- d) Whether the accelerants that ignited the fire and hazardous materials handled, stored, and maintained at its facility were in sole possession and control of Defendants.
- e) Whether Defendants had the power to exercise sole possession and control over the accelerants and hazardous materials handled, stored, and maintained at its facility, thus falling under the doctrine of *Res Ipsa Loquitur*.
- f) Whether Defendants' knew that disregarding the unsafe building orders and improperly handling, storing, and maintaining the accelerants and hazardous materials used at its facility would result in detrimental harm to the well-being of Plaintiffs and other Class members.
- g) Whether Defendants knew or should have known that disregarding the unsafe building orders and improperly handling, storing, and maintaining the accelerants and hazardous materials used at its facility would cause a threat to the mental well-being to Plaintiffs and other Class members, resulting in physical symptoms of this harm.
- h) Whether Plaintiffs and other Class members have suffered emotional distress as a direct result of Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials.

- i) Whether Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials resulted in a substantial and unreasonable interference with Plaintiffs' and other Class members' use and enjoyment of their property.
- j) Whether Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials unreasonably interferes with the health, safety, or property rights of the community, which uniquely affected Plaintiffs and other Class members.
- k) Whether Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials, and the fire resulting therefrom, caused chemicals, debris, hazardous materials, and asbestos to encroach upon Plaintiffs' and other Class members' real property.
- l) Whether Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials, and the fire resulting therefrom, caused harmful or offensive contact with Plaintiffs' and other Class members' persons.
- m) Whether Defendants' disregard of unsafe building orders and previous and ongoing handling, storage, and maintenance of the accelerants and hazardous materials has resulted in permanent economic and structural damage to property of Plaintiffs and other Class members.
- n) Whether Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials, and the explosion

resulting therefrom, resulted in a substantial and unreasonable interference and diminution of Plaintiffs' and other Class members' property value.

- o) Whether Defendants' disregard of unsafe building orders and handling, storage, and maintenance of the accelerants and hazardous materials, and the resulting explosion, resulted in the loss of profits of Plaintiff, Limitless Pallets, LLC, and other Class members.
- p) Whether Plaintiffs and other Class members are entitled to compensatory and punitive damages, interest on said damages, as well as attorneys' fees and costs.

(Class I)

TYPICALITY

23. The Plaintiffs, Tushawn Craig and Marquetta Stokes, are members of and are representative of the Class of victims described herein.

24. The Plaintiffs are citizens of, and reside in Wayne County, Indiana, and own property adversely affected by Defendants' tortuous conduct.

25. The Plaintiffs' claims are typical of the claims of the remaining members of the Class in that they were injured by the same tortuous conduct which occurred at the hands of Defendants.

REPRESENTATIVES

26. Plaintiffs will fairly and adequately protect the interests of all members of the Class.

27. Plaintiffs' counsel is highly experienced, competent, and has sufficient resources to fully pursue the rights of Plaintiffs and all other class members.

CLASS CERTIFICATION PURSUANT TO CIV. R. 23(B)(3)

28. As stated herein, questions of law and fact common to Plaintiffs and all members of the class predominate over any questions affecting only individual members.

29. A class action in this matter is superior to other available methods for the fair and efficient adjudication of the controversy based upon the following:

a) The individual Class members have a very slight interest in maintaining an individual action against Defendants.

b) The damages suffered by individual Class members may be relatively small in some cases. Therefore, the expense and burden of individual litigation makes it impractical for the Class members to individually seek redress for the wrongs done to them.

c) All Class I Plaintiffs and Class members are residents of Wayne County, Indiana and Defendant is a domestic company located in Wayne County, Indiana. All claims stated herein arose from Defendants' acts or omissions which occurred in Wayne County, Indiana. Thus, once this Court has determined Defendants' liability, all claims of Plaintiffs and other Class members can be adjudicated.

d) There are no difficulties or impediments which would interfere with this Court's management of this case.

(Class II)

TYPICALITY

30. The Plaintiff, Limitless Pallets, LLC is a member of and is representative of the Class of victims described as Limitless Pallets, LLC.

31. The Plaintiff is a citizen of, and resides in Wayne County, Indiana, and owns and conducts business adversely affected by Defendants' tortuous conduct.

32. The Plaintiff's claims are typical of the claims of the remaining members of the Class in that they were injured by the same tortious conduct which occurred at the hands of Defendants.

REPRESENTATIVES

33. Plaintiffs will fairly and adequately protect the interests of all members of the Class.

34. Plaintiffs' counsel is highly experienced, competent, and has sufficient resources to fully pursue the rights of Plaintiffs and all other class members.

CLASS CERTIFICATION PURSUANT TO IND. R. TRIAL. P. 23(B)(3)

35. As stated herein, questions of law and fact common to Plaintiff and all members of the class predominate over any questions affecting only individual members.

36. A class action in this matter is superior to other available methods for the fair and efficient adjudication of the controversy based upon the following:

a) The individual Class members have a very slight interest in maintaining an individual action against Defendants.

b) The damages suffered by individual Class members may be relatively small in some cases. Therefore, the expense and burden of individual litigation makes it impractical for the Class members to individually seek redress for the wrongs done to them.

c) The Class II Plaintiff and Class members are residents of Wayne County, Indiana, and conduct business in Wayne County, Indiana. Defendant is a domestic company located within Wayne County, Indiana. All claims stated herein arose from Defendants' acts or omissions which occurred in Wayne County, Indiana. Thus, once this Court has determined Defendants' liability, all claims of Plaintiffs and other Class members can be adjudicated.

d) There are no difficulties or impediments which would interfere with this Court's management of this case.

FIRST CLAIM FOR RELIEF
(Strict Liability)

37. Plaintiffs re-allege and reassert paragraphs one through thirty-six.

38. Defendants engaged ultra-hazardous activities including the handling, storage, and maintenance of ultra-hazardous materials, including accelerants, toxic materials, and asbestos that create a risk of serious harm to persons or property.

39. The engagement in ultra-hazardous activities including the handling, storage, and maintenance of these ultra-hazardous materials, cannot be performed without substantial risk of serious harm to persons or property, irrespective of the amount of care taken.

40. Defendants' practice of handling, storing, and maintaining these ultra-hazardous materials is not a commonly engaged in activity by persons in Plaintiffs' and other Class members' community.

41. The above mentioned facts establish an absolute duty on the part of Defendants to make their activities safe.

42. By virtue of the fact that the fire occurred at Defendants' Industrial Facility, Defendants breached their absolute duty to make safe.

43. Plaintiffs and other Class members suffered injury to person and property as a result of Defendants' breach of duty.

44. Defendants are strictly liable for any damages sustained by Plaintiffs and other Class members, whether to person or property.

SECOND CLAIM FOR RELIEF
(Negligence)

45. Plaintiffs re-allege and reassert paragraphs one through forty-four.

46. Defendants owe a duty of reasonable care while engaging in ultra-hazardous activities including the handling, storage, and maintenance of ultra-hazardous materials used in their operations and to maintain their property in a safe manner while adhering to all safety rules and regulations and complying with all unsafe building notices.

47. Defendants' failed to exercise reasonable care in their engagement in ultra-hazardous activities including the handling, storage, and maintenance of ultra-hazardous materials, failed to maintain their property in a safe manner, and failed to comply with unsafe building notices, which resulted in a fire at their Industrial Facility.

48. Consequently, Defendants breached their duty to Plaintiffs and other Class members to exercise reasonable care in their engagement in ultra-hazardous activities including the handling, storage, and maintenance of ultra-hazardous materials used at their facility and maintenance of their property.

49. Plaintiffs and other Class members suffered injury to person and property as a result of Defendants' breach of duty.

50. Defendants are liable for any damages and injuries sustained or yet to be sustained by Plaintiffs and other Class members, whether to person or property, as a result of their negligence in the engagement of ultra-hazardous activities including the handling, storing, and maintenance of ultra-hazardous materials used at their facility and negligence in failing to safely maintain their property.

THIRD CLAIM FOR RELIEF
(Res Ipsa Loquitur)

51. Plaintiffs re-allege and reassert paragraphs one through fifty.

52. Plaintiffs and class members suffered injuries of the type that would not normally occur but for the negligence of Defendants.

53. Defendants were at all times in sole and exclusive control and possession of their Industrial Facility.

54. Defendants were at all times in sole and exclusive control of the ultra-hazardous activities and ultra-hazardous materials used in their facility.

55. The power of control and opportunity to exercise that control lies solely with Defendants.

56. At no time did Plaintiffs and other Class Members exert any control over Defendants' facility or ultra-hazardous activities and materials used therein.

FOURTH CLAIM FOR RELIEF
(Intentional Infliction of Emotional Distress)

57. Plaintiffs re-allege and reassert paragraphs one through fifty-six.

58. Defendants failed to maintain their property in a safe manner by ignoring building safety orders and knowingly allowing fire hazards to exist at their Industrial Facility.

59. Defendants knew that failing to maintain their property in a safe manner by ignoring building safety orders and knowingly allowing fire hazards to exist at their Industrial Facility would result in detrimental harm to the well-being of Plaintiffs and other Class Members.

60. Defendants' intentional omission to correct the known fire hazards constituted conduct that is extreme, outrageous, and in total disregard to the well-being of Plaintiffs and other Class Members.

61. Plaintiffs and other Class Members suffered and continue to suffer severe emotional distress in fear for the health, safety, and well-being of themselves, household members, and property.

FIFTH CLAIM FOR RELIEF
(Negligent Infliction of Emotional Distress)

62. Plaintiffs re-allege and reassert paragraphs one through fifty-nine.

63. Defendants negligently maintained their property in an unsafe manner and negligently handled, stored, and maintained ultra-hazardous and toxic materials at their Industrial Facility.

64. Defendants knew or should have known that the unsafe conditions and improper handling, storage, and maintenance of ultra-hazardous and toxic materials used in Defendants' facility would result in a foreseeable risk to the mental well-being of Plaintiffs and other Class Members.

65. Plaintiffs and other Class Members suffered and continue to suffer severe emotional distress in fear for the health, safety, and well-being of themselves, household members, and property as a direct result of Defendants' negligent engagement in ultra-hazardous activities and maintenance, handling, and storage of ultra-hazardous and toxic materials at the Industrial Facility.

66. Plaintiffs' and other Class Members' severe emotional distress is manifested through physical symptoms.

SIXTH CLAIM FOR RELIEF
(Private Nuisance)

67. Plaintiffs re-allege and reassert paragraphs one through sixty-six.

68. Defendants' failure to maintain their property, their engagement in ultra-hazardous activities, and their improper handling, storage, and maintenance of ultra-hazardous and toxic materials used in Defendants' facility resulted in a fire which spread noxious fumes, smoke, other chemicals, and debris throughout the area surrounding the Industrial Facility.

69. Defendants' actions substantially and unreasonably interfered with Plaintiffs' and other Class Members' use and enjoyment of their property.

70. The interference with the use and enjoyment of property suffered by Plaintiffs and other Class members is different from the general public.

SEVENTH CLAIM FOR RELIEF
(Trespass)

71. Plaintiffs re-allege and reassert paragraphs one through seventy.

72. Defendants' failure to maintain their property and their improper handling, storage, and maintenance of ultra-hazardous and toxic materials used in Defendants' facility resulted in a fire which spread noxious fumes, smoke, other chemicals, and debris throughout the area surrounding the Industrial Facility.

73. The noxious fumes, toxic materials, other chemicals, and debris including asbestos which were spread as a result of the explosion of Defendants' facility physically invaded Plaintiffs' and other Class Members' property.

74. At no time did Defendants have permission or license to enter upon the land of Plaintiffs and other Class members for any purpose.

EIGHTH CLAIM FOR RELIEF
(Battery)

75. Plaintiffs re-allege and reassert paragraphs one through seventy-four.

76. Defendants intended to disregard multiple safety and fire hazard warnings and continue to handle, store, and maintain ultra-hazardous and toxic materials at its Industrial Facility.

77. Defendants' failure to safely maintain their property and their improper handling, storage, and maintenance of ultra-hazardous and toxic materials used in their facility resulted in a fire which spread noxious fumes, harmful chemicals, and debris throughout the area surrounding their Industrial Facility.

78. The noxious fumes, toxic materials, other chemicals, and debris including asbestos which were spread as a result of the fire at Defendants' facility constituted harmful and/or offensive contact with the persons of Plaintiffs and other Class Members.

79. At no time did Plaintiffs and other Class members consent to this harmful and/or offensive touching.

80. Plaintiffs and other Class members suffered injury as a result of Defendants' harmful and/or offensive touching.

NINTH CLAIM FOR RELIEF
(Diminution of Property)

81. Plaintiffs re-allege and reassert paragraphs one through eighty.

82. Defendants intended to disregard multiple safety and fire hazard warnings and maintained, handled, and stored ultra-hazardous and toxic materials at its Industrial Facility.

83. Defendants continue to handle, store, and maintain ultra-hazardous and toxic materials at its Industrial Facility.

84. Defendants' failure to safely maintain their property and their improper handling, storage, and maintenance of ultra-hazardous and toxic materials used in their facility resulted in a

fire which spread noxious fumes, harmful chemicals, and debris throughout the area surrounding their Industrial Facility.

85. The noxious fumes, toxic materials, other chemicals and debris which were spread as a result of the fire at Defendants' facility caused permanent structural and economic damages to Plaintiffs' and other Class members' property.

86. The property owned by Plaintiffs and other Class members has decreased in value since the fire at Defendants' facility on April 11, 2023.

87. The noxious fumes, toxic materials, harmful chemicals, and debris including asbestos which were released in the air and the ground water has caused an ongoing diminution of property values of the property owned by Plaintiffs and other Class members.

TENTH CLAIM FOR RELIEF
(Lost Profits, Class II Plaintiffs Only)

88. Plaintiffs re-allege and reassert paragraphs one through eighty-seven.

89. Defendants intended to disregard multiple safety and fire hazard warnings and maintained, handled, and stored ultra-hazardous and toxic materials at its Industrial Facility.

90. Defendants' failure to safely maintain their property and their improper handling, storage, and maintenance of ultra-hazardous and toxic materials used in their facility resulted in a fire which spread noxious fumes, toxic materials, harmful chemicals, and debris throughout the area surrounding their Industrial Facility.

91. The noxious fumes, toxic materials, harmful chemicals, and debris including asbestos which were spread as a result of the fire at Defendants' facility resulted in an evacuation which was ordered by police and fire officials.

92. The mandatory evacuation lasted a substantial period of time.

93. During the time period of the evacuation Plaintiffs and other Class members were unable to perform ordinary business functions.

94. The cessation of ordinary business functions due to the evacuation, which was a direct and immediate consequence of Defendants' tortuous actions, caused Plaintiffs and other Class members to lose profits which would have otherwise been realized.

95. Plaintiffs and other Class members can readily and easily ascertain the amount of their lost profits.

ELEVENTH CLAIM FOR RELIEF
(Punitive Damages)

96. Plaintiffs re-allege and reassert paragraphs one through ninety-five.

97. The Defendants' actions, jointly and individually, demonstrate malice, aggravated or egregious fraud and oppression, with a conscious disregard for the rights of other persons with a great probability of causing substantial harm, and entitle Plaintiffs and the Classes they represent to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, the Named Plaintiffs, on behalf of themselves and the Classes, pray for judgment as follows:

- a. Certifying this action to be a Class Action pursuant to Rule 23 of the Indiana Rules of Trial Procedure, and approving the Named Plaintiffs as proper class representatives of the Classes.
- b. Awarding the Named Plaintiffs and the Classes compensatory and punitive damages in excess of \$25,000 as a result of the wrongs alleged herein.
- c. Awarding the Named Plaintiffs and the Classes they represent interest on all damage awards.
- d. Awarding the Named Plaintiffs and members of the Class interest, costs and expenses, including reasonable attorneys' fees and expert fees, and for such other relief as this Court may deem proper.

e. Awarding the Named Plaintiffs and members of the Class any other monetary relief to which they may be entitled.

Respectfully submitted,

/s/Trevor J. Crossen

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Respectfully submitted,

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