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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

CITY OF CHICAGO,)
)
a municipal corporation,)
)
Plaintiff,)
)
)
v.)
)
)
MONSANTO CO., SOLUTIA INC.,)
)
PHARMACIA LLC, and UNIVAR)
)
SOLUTIONS INC.,)
)
Defendants.)
)
)

Case No. 2023L009542

COMPLAINT AND DEMAND FOR JURY TRIAL

The City of Chicago (“Chicago” or the “City”) files this complaint seeking relief for contamination by polychlorinated biphenyls (“PCBs”) in and around the City of Chicago. In support, Chicago alleges as follows:

I. INTRODUCTION

1. Polychlorinated biphenyls (“PCBs”) are industrial chemicals that contaminate areas in and around Chicago. Although PCBs were banned in the late 1970s, they continue to exist in the environment due to releases from products manufactured before the ban. PCBs released from such products continue to drain into Lake Michigan through municipal stormwater. The accumulation of PCBs in natural resources, and fish in particular, poses a public health threat to Chicago residents.

2. These PCBs were manufactured by the original Monsanto Company (“Old

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Monsanto”), which was the corporate predecessor to Defendants Monsanto Co. (sometimes referred to herein as “New Monsanto”), Solutia Inc. (“Solutia”), and Pharmacia LLC (“Pharmacia”). These three Defendants—New Monsanto, Solutia, and Pharmacia—will be referred to as the “Monsanto Defendants,” and together with Old Monsanto, as “Monsanto.” The remaining Defendant is Univar Solutions Inc. (“Univar”), which distributed Monsanto’s PCBs in Chicago as Monsanto’s agent.

3. For decades, Monsanto knew that its commercial PCB formulations were highly toxic and would inevitably produce precisely the contamination and human health risks that have occurred. Yet Monsanto intentionally misled the public about these key facts, maintaining that its PCB formulations were safe, were not environmentally hazardous, and did not require any special precautions in use or disposal. Similarly, Univar knew or should have known that the PCB products it sold in Chicago would inevitably cause widespread contamination, yet it continued selling these products without warning its customers or the public.

4. By marketing and selling PCBs in this way, Defendants created a vast public nuisance in Chicago. This action seeks to require Defendants to pay for the efforts the City has undertaken and will continue to undertake to respond to PCB contamination and to control and reduce PCB contamination.

5. As a result of Defendants’ sales of PCB products in and around Chicago, there is now widespread contamination within the City. This contamination is in the banks and sediment of the Chicago River and at sites throughout the City. As a result of the contamination in Lake Michigan, Chicago and other public entities near Lake Michigan are required to reduce PCB

contamination in stormwater they discharge to Lake Michigan by an estimated 99.6%.¹ In addition, the City has undertaken and will continue to undertake cleanups of contaminated sites. The City also seeks damages associated with a large and abandoned property (the Ingersoll Site, described below) that is not owned by the City, but which has substantially undermined the quality of life in the neighborhood around it.

6. This lawsuit seeks to shift the costs of these responses to the true author of this widespread public health problem—*i.e.*, to Monsanto and its agent in Chicago, Univar.

II. JURISDICTION

7. The Court has original jurisdiction over this action pursuant to Article VI, Section 9 of the Illinois Constitution.

8. The Court has personal jurisdiction over Defendants under 735 ILCS 5/2-209 because Defendants have conducted continuous, systematic, and substantial business in Illinois and have entered into contracts or made promises that are substantially connected to Illinois.

9. Venue for this action lies in Cook County, Illinois, pursuant to section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, in that this action arises out of transactions and activities that occurred in part in Cook County. On information and belief, about 40% of all PCB mixtures sold and used in Illinois were sold to customers in Cook County. These PCBs now contaminate areas in Chicago, as described herein.

10. No federal subject-matter jurisdiction is invoked herein. The City does not seek, and hereby disclaims, any relief with respect to conduct or injuries occurring on or originating

¹ To be clear, in this action the City seeks damages associated with reducing and/or eliminating PCBs within City limits and in the City's ongoing discharges to Lake Michigan, but does not seek damages associated with removing contamination that has already reached the Lake.

from any current or former federal lands or federal enclaves.

III. PARTIES

A. Plaintiff

11. Plaintiff the City of Chicago is a municipal corporation and a home-rule unit organized and existing under the laws of the State of Illinois. The City's Corporation Counsel has the authority to "[a]pppear for and protect the rights and interests of the city in all actions, suits and proceedings brought by or against it or any city officer, board or department." MCC § 2-60-020.

12. PCBs have caused several different types of injuries to the City. For example, through its Department of Water Management, the City owns and operates a sewer system that discharges stormwater to Lake Michigan. The Illinois Environmental Protection Agency ("IEPA") has promulgated a Total Maximum Daily Load for PCBs for the portion of Lake Michigan that abuts Chicago and other Illinois lakefront localities ("Lake Michigan TMDL"). This Lake Michigan TMDL requires all local entities holding a stormwater discharge permit, including Chicago, to reduce their PCB discharges in stormwater to Lake Michigan by an estimated 99.6%. To comply with this TMDL, the City will incur significant costs, for example by developing "Best Management Practices" to reduce the volume of unfiltered stormwater draining from Chicago to Lake Michigan. In addition, PCBs contaminate many sites throughout the City, including sites that the City owns and/or sites that the City is otherwise obligated to clean up under state or federal law.

13. Addressing PCB contamination of properties and resources that are within the City, owned by the City, or that affect City residents is an essential public function of the City.

B. The Monsanto Defendants

14. Defendant Monsanto Company (New Monsanto, as defined above) is a Delaware corporation with its principal place of business at 800 North Lindbergh Blvd., St. Louis, Missouri

63167. Following a merger transaction that closed in 2018, New Monsanto is a wholly-owned subsidiary of Bayer AG.

15. Defendant Solutia Inc. (Solutia, as defined above) is a Delaware corporation with its principal place of business at 575 Maryville Centre Drive, St. Louis, Missouri, 63166. Solutia is a wholly-owned subsidiary of Eastman Chemical Company.

16. Defendant Pharmacia LLC (Pharmacia, as defined above), formerly known as Pharmacia Corporation, is the successor to the original Monsanto Company (Old Monsanto, as defined above). Pharmacia LLC is a Delaware company with its principal place of business at 100 Route 206 N, Peapack, New Jersey 07977. Pharmacia is a wholly-owned subsidiary of Pfizer, Inc.

17. Old Monsanto operated an agricultural products business, a pharmaceutical and nutrition business, and a chemical products business. Old Monsanto began manufacturing PCBs in 1935 after acquiring Swann Chemical Company, which manufactured PCBs from 1929 to 1935. Old Monsanto continued to manufacture commercial PCBs until the late 1970s.

18. Through a series of transactions beginning in approximately 1997, Old Monsanto's businesses were spun off to form three separate corporations.

19. The corporation now known as Monsanto Company (and referred to herein as "New Monsanto") operates Old Monsanto's agricultural products business.

20. Old Monsanto's chemical products business is now operated by Solutia.

21. Old Monsanto's pharmaceuticals business is now operated by Pharmacia.

22. Solutia was organized by Old Monsanto to own and operate its chemical manufacturing business. Solutia assumed the operations, assets, and liabilities of Old Monsanto's chemical business.

23. Although Solutia assumed and agreed to indemnify Pharmacia for certain liabilities related to the chemicals business, Defendants have also entered into agreements to share or apportion liabilities, and/or to indemnify one or more entities, for claims arising from Old Monsanto's chemical business, including the manufacture and sale of PCBs.

24. In 2003, Solutia filed a voluntary petition for reorganization under Chapter 11 of the U.S. Bankruptcy Code. Solutia's reorganization was completed in 2008. In connection with Solutia's Plan of Reorganization, Solutia, Pharmacia, and New Monsanto entered into several agreements under which New Monsanto continues to manage and assume financial responsibility for certain tort litigation and environmental remediation related to the chemicals business.

25. Eastman Chemical Co. (Solutia's parent) reported in its 2020 Form 10-K that it "has been named as a defendant in several [legacy tort] proceedings, and has submitted the matters to [New] Monsanto, which was acquired by Bayer AG in June 2018, as Legacy Tort Claims [as defined in a settlement agreement with Monsanto arising out of Solutia's bankruptcy proceedings]. To the extent these matters are not within the meaning of Legacy Tort Claims, Solutia could potentially be liable thereunder. In connection with the completion of its acquisition of Solutia, Eastman guaranteed the obligations of Solutia and Eastman was added as an indemnified party under the Monsanto Settlement Agreement."

26. In its Form 10-K for the period ending August 31, 2017, filed with the U.S. Securities and Exchange Commission (the last such filing before Bayer AG acquired New Monsanto), New Monsanto represented: "[New] Monsanto is involved in environmental remediation and legal proceedings to which Monsanto is a party in its own name and proceedings to which its former parent, Pharmacia LLC or its former subsidiary, Solutia, Inc. is a party but that Monsanto manages and for which Monsanto is responsible pursuant to certain indemnification

agreements. In addition, Monsanto has liabilities established for various product claims. With respect to certain of these proceedings, Monsanto has established a reserve for the estimated liabilities.” The filing specifies that the company held \$277 million in that reserve as of August 31, 2017.

C. Univar

27. Defendant Univar Solutions Inc. (“Univar”) is a Delaware corporation with its principal place of business at 3075 Highland Parkway, Suite 200, Downers Grove, Illinois 60515. Including through its predecessor Central Solvents & Chemical Co. (“Central Solvents”), Univar distributed products containing Monsanto’s PCBs to customers in and around Chicago. Central Solvents was at all relevant times one of the largest and most sophisticated chemical distributors in North America.

IV. FACTUAL ALLEGATIONS

A. PCBs threaten human and environmental health and safety.

1. Physical and chemical properties of PCBs

28. PCBs are a class of chemical compounds in which a minimum of two and a maximum of ten chlorine atoms are attached to the biphenyl molecule.

29. There are no known natural sources of PCBs in the environment.

30. There are 209 distinct PCB compounds (known as congeners) with from 2 to 10 chlorine atoms on a biphenyl molecule. The number and placement of the chlorine atoms on the biphenyl molecule determines how the congener is named and dictates its environmental fate and toxicity.

31. PCBs generally occur as mixtures of congeners.

32. Old Monsanto manufactured PCB mixtures primarily under the “Aroclor” trade name. Aroclors are differentiated principally by the composition of chlorine by weight, so, for

example, “Aroclor 1254” means the mixture contains approximately 54% chlorine by weight. Generally, the higher the chlorine content of a PCB mixture, the higher its persistence and toxicity.

33. PCBs do not burn easily, are hydrophobic (*i.e.*, they do not dissolve in water but rather cluster together), and bio-accumulate and bio-magnify in living tissue.

34. PCBs are semi-volatile. Small amounts of PCBs vaporize from PCB-containing products and PCB-contaminated sites, resulting in long-range transport of PCB vapors, at normal environmental temperatures. PCB volatilization increases with increases in temperature, *i.e.*, more PCBs are released to the atmosphere from PCB-containing products or PCB-contaminated sites as temperature increases. Once released into the atmosphere, PCBs are eventually deposited into other media nearby, such as soil, sediment and water bodies.

35. PCBs entered the air, water, sediments, and soils during their ordinary and prescribed uses. PCBs gradually escaped and dispersed from their common applications, *e.g.* in road paint or caulking, into the natural environment due to the chemical compounds’ inherent tendency to volatilize, that is to emit PCB vapors, particularly when exposed to heat (such as when road paint or building materials are exposed to the sun over time). As vapors, PCBs travel through the air, eventually settling in nearby soil, sediment or water bodies.

36. Similarly, PCBs can be released by the grinding, scraping, and removal of caulking and other construction materials that include PCBs, resulting in the contamination of nearby soil.

37. PCBs entered the environment from spills or leaks, for example through transport of the chemicals, from leaks or fires in transformers, capacitors, or other products containing PCBs, and from the burning of wastes in some municipal or industrial incinerators. PCB transformers release PCB vapors or fluids in the ordinary course of use by, *e.g.*, venting or releasing pressure.

38. In addition, Old Monsanto prescribed that PCBs and PCB-contaminated wastes should be disposed of in the ordinary course in landfills, from where they easily escaped, leached, and leaked into the surrounding environment.

39. Old Monsanto advised customers to discharge liquid PCB wastes into sewers when it knew that this would directly introduce PCBs into surface waters, and to vent PCB vapors to the atmosphere when it knew that this would directly introduce PCBs into the atmosphere, soils, and surface waters.

40. Once in the environment, PCBs do not break down readily and may remain for decades absent remediation.

41. In water, PCBs travel along currents and attach to bottom sediment or particles in the water and evaporate into air or settle into sediment. Sediments contaminated with PCBs also release PCBs into surrounding water. In soil, PCBs combine with organic matter and remain in soil for many years.

42. PCBs are taken up into the bodies of small organisms and fish in water. They are also taken up by other animals that eat these aquatic animals as food, and eventually by humans. PCBs especially accumulate in fish and marine animals, reaching levels that may be many thousands of times higher than in water. This is because PCBs are soluble in lipids (including body fat) and bio-accumulate and bio-magnify over time in living tissue. Indeed, PCB levels are highest in animals higher up the food chain.

2. Health and ecological effects of exposure to PCBs

43. Humans are exposed to PCBs primarily from eating contaminated food, breathing contaminated air, or drinking or swimming in contaminated water. The major dietary sources of PCBs are fish (especially sportfish caught in contaminated water bodies), meat, and dairy products. PCBs collect in milk fat and can enter the bodies of infants through breast-feeding.

44. Fetuses in the womb are also exposed to PCBs through their mothers. Studies show that babies born to mothers exposed to high concentrations of PCBs in the workplace or from eating PCB-contaminated fish suffer from lower birth weight than other babies. Babies born to women exposed to PCBs before and during pregnancy showed abnormal responses to infant behavioral tests, including motor skills, and experienced short-term memory deficiencies.

45. Many studies have examined how PCBs affect human health. Human health effects associated with PCB exposure include liver, thyroid, dermal, and ocular changes, immunological alterations, neuro-developmental and neurobehavioral changes, reduced birth weight, reproductive toxicity, and cancer. Due to the importance of the thyroid to brain development, PCBs' effects on the thyroid produce neurodevelopmental effects.

46. Neurological changes associated with PCB exposure include abnormal reflexes and deficits in memory, learning, impulse control, and IQ. Such changes affect infants and children more severely than adults.

47. Reproductive changes associated with PCB exposure include menstrual disturbances in women and effects on sperm morphology and production in men, all of which can result in difficulty conceiving.

48. PCBs are associated with a number of cancers, including cancer of the liver, biliary tract, intestines, and skin (melanoma).

49. In 1996, EPA assessed PCB carcinogenicity based on data related to Aroclors 1016, 1242, 1254, and 1260. EPA's cancer assessment was peer-reviewed by 15 experts on PCBs, including scientists from government, academia, and industry. All experts agreed that PCBs are probable human carcinogens.

50. The U.S. Department of Health and Human Services' National Toxicology

Program considers PCBs to be “reasonably anticipated” carcinogens. Similarly, the International Agency for Research on Cancer, an intergovernmental agency that is part of the World Health Organization of the United Nations, concluded in March 2013 that PCBs are known human carcinogens.

51. In addition to being highly toxic to humans, Monsanto’s commercial PCB mixtures are highly toxic to fish and wildlife. For example, toxicity studies have demonstrated that commercial PCB mixtures induce hepatotoxicity, immunotoxicity, neurotoxicity, and reproductive toxicity in birds and mammals.

B. Monsanto knew that PCBs were dangerous contaminants.

52. Old Monsanto developed an early, sophisticated understanding of the dangers associated with PCB compounds.

53. In 1936, many workers at a New York facility using PCBs and operated by Halowax Corporation were afflicted with severe chloracne. Three workers died and autopsies revealed severe liver damage in two of them.

54. Halowax Corporation asked Harvard University researcher Cecil K. Drinker to investigate the issue, and Dr. Drinker’s analysis was presented at a 1937 meeting attended by high-level personnel employed by Old Monsanto.

55. Dr. Drinker’s investigation revealed that rats exposed to PCBs suffered severe liver damage. Dr. Drinker’s results were published in a September 1937 issue of the *Journal of Industrial Hygiene and Toxicology*.

56. That same year, Old Monsanto admitted in an internal report that PCBs produce “systemic toxic effects” as a result of prolonged exposure to PCB vapors or oral ingestion, and that bodily contact with PCBs produces “an acne-form skin eruption.”

57. Old Monsanto subsequently retained Dr. Drinker to conduct further animal studies.

In September 1938, Dr. Drinker confirmed liver damage in rats exposed to various formulations of PCB compounds.

58. Other studies explored and confirmed the toxicity of chlorinated hydrocarbons like PCBs. A 1939 study published in the *Journal of Industrial Hygiene and Toxicology*, for example, referred to the worker fatalities investigated by Drinker and went on to conclude that pregnant women and persons previously affected by liver disease are particularly susceptible to adverse effects from chlorinated hydrocarbons, such as PCBs.

59. In February 1950, Old Monsanto Medical Director Dr. R. Emmet Kelly acknowledged that when workers fell ill at an Indiana factory that used PCBs in the manufacturing process, he immediately “suspected the possibility that the Aroclor fumes may have caused liver damage.”

60. A 1955 report on the production of Aroclor prepared by Old Monsanto acknowledged that in the “early days of development,” workers at a plant in Anniston, Alabama processing PCBs had developed chloracne and liver problems.

61. In 1955, Dr. Kelly further documented the company’s clear understanding: “We know Aroclors are toxic[.]” Dr. Kelly appeared to recognize the scope of Old Monsanto’s potential legal liability, explaining that “our main worry is what will happen if an individual develop[s] any type of liver disease and gives a history of Aroclor exposure. I am sure the juries would not pay a great deal of attention to [maximum allowable concentration levels].”

62. Old Monsanto’s Medical Department prohibited workers from eating lunch in the Aroclor department in November 1955. The Department memorandum explained that “Aroclor vapors and other process vapors could contaminate the lunches unless they were properly protected” and that “[w]hen working with this material, the chance of contaminating hands and

subsequently contaminating the food is a definite possibility.”

63. In January 1957, Dr. Kelly reported that the U.S. Navy had refused to use Monsanto’s PCB products in submarines: “No matter how we discussed the situation, it was impossible to change their thinking that Pydraul 150 [a PCB product marketed by Old Monsanto] is just too toxic for use in a submarine.”

64. Notably, at the same time it was manufacturing PCBs, Old Monsanto also manufactured—and researched the toxicological profile and environmental effect of—DDT, another now-infamous chlorinated hydrocarbon similar to PCBs.

65. By the late 1940s, Old Monsanto had already researched and compiled an extensive toxicological profile of DDT showing that it is extremely toxic to human and environmental health. Indeed, by then, scientific researchers had established that DDT and other chlorinated hydrocarbons are absorbed and stored in fatty tissue of living organisms exposed to them and pass these contaminants on to their offspring.

66. The *American Journal of Public Health* published a 1950 report warning that “chlorinated hydrocarbons, such as DDT and chlordane, are soluble in fats and are stored in the fatty tissues of the body. These compounds possess a high order of toxicity, and their uncontrolled or unwise use is not desirable.” As Old Monsanto knew, the same was and is true of its PCB compounds.

67. Extensive scientific research establishing the toxicity and bio-accumulative and bio-persistent nature of DDT and other chlorinated hydrocarbons was published from the 1940s to the 1960s. Old Monsanto produced DDT and was acutely aware of this research, and of the similarities between DDT and PCBs.

68. In 1966, the *New Scientist* published a short article (“Report of a New Chemical

Hazard”), summarizing recent research by Søren Jensen, a Swedish chemist at Stockholm University’s Institution of Analytical Chemistry, which estimated that PCBs may be spreading through environments in high volumes due to their use by manufacturing interests.

69. Søren Jensen had accidentally found enormous quantities of PCB compounds in wildlife while analyzing DDT accumulations. Dr. Jensen presented his findings to the scientific community in 1966, including a finding that PCBs “appear[] to be the most injurious chlorinated compounds of all tested.” Dr. Jensen reported that the “main characteristic[s]” of PCBs include their “very high stability,” lack of “metaboliz[ation] in living organism[s],” and their non-flammability.

70. Old Monsanto’s Medical Director, Dr. Kelly, was aware of Dr. Jensen’s findings at the time.

71. In December of 1968, *Nature* published an article by Dr. Richard Risebrough of the University of California entitled, “Polychlorinated Biphenyls in the Global Ecosystem.” The article assessed PCB presence in marine wildlife and reported high concentrations of PCBs detected in peregrine falcons and 34 other bird species, drawing a connection between PCBs and the catastrophic decline of peregrine falcon populations in the United States.

72. Old Monsanto personnel took note of Dr. Risebrough’s article, recognizing the public-relations disaster it portended. W.R. Richard, manager of Old Monsanto’s Research and Development of Organics Division, wrote in early 1969 that the article showed not only that PCBs are “toxic substance[s],” but also that they were “an uncontrollable pollutant ... causing [the] extinction of [the] peregrine falcon ... [and] endangering man himself.”

73. In 1969, Dr. Jensen published the formal results of his years-long research into PCBs in the environment. Dr. Jensen’s research demonstrated very high PCB concentrations in

Baltic Sea fauna such as white-tailed sea eagles. As a recent commentator observed, summarizing the implications of Dr. Jensen's results, "PCBs had entered the environment in large quantities for more than 37 years and were bio-accumulating along the food chain."

74. In September 1969, W.R. Richard wrote a memorandum titled, "Defense of Aroclor." Richard's memo noted that critics of PCBs had raised a multitude of different issues with the compounds, so "[w]e can't defend vs. everything. Some animals or fish or insects will be harmed. Aroclor degradation rate will be slow. Tough to defend against. Higher chlorination compounds will be worse [than] lower chlorine compounds. Therefore, we will have to restrict uses and clean-up as much as we can, starting immediately." In the same document, Richard admitted that PCBs will leak from virtually all applications, including such "closed" applications as air compressor, heat transfer, and capacitor fluids.

75. That same month, Old Monsanto formed what it dubbed the "Aroclor Ad Hoc Committee" to strategize about defending its PCB business against a growing public outcry and growing evidence of PCBs' toxicity and environmental harms. The minutes of the Committee's first meeting observed that PCBs had been found in fish, oysters, shrimp, and birds, along the coasts of industrialized areas including Great Britain, Sweden, the Rhine River, Lake Michigan, Pensacola Bay, and in wildlife throughout the Western hemisphere.

76. The Committee acknowledged that normal and intended uses of PCB-containing products were the cause of the contamination: "In one application alone (highway paints), one million lbs/year are used. Through abrasion and leaching we can assume that nearly all of this Aroclor winds up in the environment."

77. The Committee worked to formulate a response to growing concerns over PCBs, including those reflected by the U.S. Department of the Interior's Fish and Wildlife Service (which

found PCBs in dead eagles and marine birds), the Bureau of Commercial Fisheries (which found PCBs in the river below Monsanto's Pensacola plant), and the U.S. Food and Drug Administration (which found PCBs in milk supplies).

78. The Committee's constitutive agenda was to: "1. Protect continued sales and profits of Aroclors; 2. Permit continued development of new uses and sales; and 3. Protect the image of the Organic Division and the Corporation as members of the business community recognizing their responsibilities to prevent and/or control contamination of the global ecosystem."

79. As the minutes reflect, "there is little probability that any action that can be taken will prevent the growing incrimination of specific polychlorinated biphenyls ... as nearly global environmental contaminants leading to contamination of human food (particularly fish), the killing of some marine species (shrimp), and the possible extinction of several species of fish-eating birds." However, while "there is no practical course of action that can so effectively police the uses of these products as to prevent environmental contamination ... [t]here are ... a number of actions which must be undertaken to prolong the manufacture, sale and use of these particular Aroclors as well as to protect the continued use of other members of the Aroclor series."

80. In keeping with the corporate strategy reflected in the Aroclor Ad Hoc Committee meeting minutes and elsewhere, Old Monsanto not only continued producing Aroclors through 1969, but increased production that year and in 1970, which were the highest volume production years in the history of PCBs.

81. Elmer Wheeler, in Old Monsanto's Medical Department, circulated laboratory reports discussing results of animal studies in January 1970, in which Dr. Wheeler noted that "PCBs are about the same as DDT in mammals."

82. Old Monsanto knew that the PCBs they produced were used in "household

products” and aggressively promoted this use. For example, in a 1960 brochure, Old Monsanto promoted the use of Aroclors in a wide variety of household and personal products including home appliances, food cookers, potato chip fryers, thermostats, automotive transmission oil, insecticides, waxes used in dental casting, jewelry, lubricants, adhesives, moisture-proof coatings, printing inks, papers, sealants and caulking compounds, tack coatings, asphalt, paints, varnishes, lacquers, masonry coatings for swimming pools, stucco homes, and protective or decorative coatings for a number of other finishes.

83. A 1961 brochure published by Old Monsanto explained that Aroclors are used in “lacquers for women’s shoes,” as a “wax for the flame proofing of Christmas trees,” as “floor wax,” as an adhesive for bookbinding, leather, and shoes, and as invisible marking ink used to make chenille rugs and spreads.

84. Old Monsanto also knew that PCBs were used in products certain to directly result in contamination of the environment, such as highway paints and other exterior applications.

85. In February 1970, Old Monsanto’s high-level personnel circulated a talking-points memorandum to be used in engaging with customers raising concerns over PCB toxicity. Although Old Monsanto had reformulated certain high-chlorine congeners (Aroclor 1254 and 1260) to lower the chlorine content, it instructed employees to resist product returns of the more toxic congener formulations, explaining that Old Monsanto “can’t afford to lose one dollar of business.” The memo instructed employees to advise customers to use up their existing Aroclor 1254 and 1260 stock before topping up with new fluids: “We don’t want to take fluid back.”

C. Monsanto deceived the public concerning the hazards of PCBs.

86. As described above, Old Monsanto knew that PCBs are toxic to human and environmental health, and that their commercial PCB products would leach, leak, off-gas, and escape their ordinary and intended applications and from disposal sites—regardless of the nature

of the application—to contaminate waters, soils, and air. Even with this knowledge, Old Monsanto issued no public warning or instruction about PCBs or the health and environmental safety hazards they present.

87. On the contrary, Old Monsanto expressly denied the harmfulness and environmental toxicity of PCBs. Old Monsanto made no public disclosure of the high risk that PCBs posed to the environment and continued to recommend disposal of PCB waste materials in local landfills.

88. For example, Old Monsanto executive William Papageorge acknowledged in testimony provided in 1975 to the Wisconsin Department of Natural Resources that Old Monsanto generally recommended disposal of PCB-contaminated wastes in landfills.

89. As government investigations and formal inquiries into the dangers of PCBs amplified in the late 1960s and early 1970s, Old Monsanto doubled down on its campaign of misinformation and denial.

90. For example, Howard S. Bergen, from Old Monsanto's Functional Fluids division, sent a letter dated March 27, 1969, to the Regional Water Quality Control Board of the San Francisco Bay Region, in which he claimed that PCBs are associated with "no special health problems," and that due to PCBs' chemical inertness, "we would anticipate no problems associated with the environment from refuse dumps." Both of those statements were false and Old Monsanto knew they were false.

91. Dr. Wheeler, Assistant Director of Old Monsanto's Medical Department told a representative of the National Air Pollution Control Administration in May 1969 that Old Monsanto "cannot conceive how the PCBs can be getting into the environment in a widespread fashion."

92. Old Monsanto similarly claimed ignorance of how PCBs could be entering the environment in large quantities to a number of other entities. In July 1969, the company claimed that, “[b]ased on the available data, manufacturing and use experience, we do not believe PCBs to be seriously toxic,” adding that, “we are unable at this time to conceive of how the PCBs can become widespread in the environment. It is certain that no applications to our knowledge have been made where the PCB’s would be broadcast in the same fashion as the chlorinated hydrocarbon pesticides have been.” Those statements were false, as Old Monsanto knew at the time.

93. At the same time that Old Monsanto was internally acknowledging that PCBs are “about the same” as DDT, in January 1970, the journal *Environment* published a note authored by Old Monsanto: “Monsanto Statement on PCB.” The company note acknowledged that recent studies, including Dr. Jensen’s studies, indicated PCBs’ widespread presence in the natural environment, and expressed the company’s “concern[] over the situation.”

94. However, the note defended PCBs by deploying a variety of false statements that Old Monsanto used on multiple occasions in the late 1960s and early 1970s to minimize the negative impacts of PCBs.

95. In particular, Old Monsanto claimed that (a) PCBs cannot escape so-called “closed applications” where PCBs are “completely sealed in metal containers”; (b) PCBs cannot escape applications such as adhesives, elastomers, and surface coatings; (c) PCBs are not “to our knowledge” used in “household products”; and (d) it is simply “not true” that PCBs are “highly toxic.”

96. Old Monsanto knew that all of these statements were untrue and would tend to mislead the public when they published them.

97. Similarly, Old Monsanto falsely asserted in the note that research it conducted into PCB toxicity in fish and mammals and PCB presence in waters and soils provided “[v]ery early results . . . that PCBs are not highly toxic.”

98. Contrary to their published claims, Old Monsanto knew PCBs would leach, leak, off-gas, and escape their ordinary and intended applications, including closed applications, and cause significant injury to natural resources and human life.

99. Old Monsanto’s Dr. Kelly communicated with the Ohio State Board of Health in March 1970 regarding the detection of PCBs, particularly Aroclor 1254, in samples of milk from at least three herds in Ohio. The Board traced this contamination back to Aroclor-containing paint flaking off and possibly leaching from the interior walls of the silos in which the milk was stored. The Board reported to Old Monsanto that it would have to destroy about 150 tons of milk, valued at about \$30 per ton. The Board reported that there were potentially 50 other silos similarly contaminated in the state that were painted with the same formulation. In response, Dr. Kelly communicated to other Old Monsanto officials: “All in all, this could be quite a serious problem, having legal and publicity overtones. This brings us to a very serious point. When are we going to tell our customers not to use any Aroclor in any paint formulation that contacts food, feed, or water for animals or humans? I think it is very important that this be done.”

100. Old Monsanto refused to heed Dr. Kelly’s admonition to warn of the dangers of similar applications of Aroclors, and instead continued to mislead customers and the public.

101. An internal memorandum prepared by Dr. Kelly dated February 10, 1967, continued to express his concern about PCB contamination: “We are very worried about what is liable to happen in the [United States] when the various technical and lay news media pick up the subject [of PCB contamination]. This is especially critical at this time because air pollution is

getting a tremendous amount of publicity in the United States.” The memo noted that some of Monsanto’s largest PCB customers, such as NCR (National Cash Register), had been pressing Monsanto to furnish more information on PCB safety, but that Monsanto had dodged their inquiries.

102. Old Monsanto’s misrepresentations and omissions to public entities and others were designed to conceal the toxicity and hazardousness of its PCB formulations to humans and the natural environment in order to salvage what Monsanto repeatedly emphasized was “one of Monsanto’s most profitable franchises,” generating tens of millions of dollars in annual revenues.

103. An internal presentation to the Corporate Development Committee generated in or around 1969 advised against exiting the Aroclor market despite clear knowledge of its dangers because “there is too much customer/market need and selfishly too much Monsanto profit to go out.” Another internal Monsanto memorandum remarked, “There can not [*sic*] be too much emphasis given to the threat of curtailment or outright discontinuance of the manufacture and sales of this very profitable series of compounds.”

104. In short, though Old Monsanto had a complete and comprehensive record of all PCB-related scientific research and general reportage during the relevant time period (an August 6, 1971 internal memorandum noted that the company “ha[s] probably the world’s best reference file on the PCB situation”), the company failed to timely alert regulators and the public of the dangers of its PCBs, and did not take adequate steps to stave off the impending environmental disaster—a course of conduct aimed at shielding the company’s sales, profits, and reputation.

105. Rather than admit the hazards associated with widespread PCB usage and take appropriate corrective action, Old Monsanto elected to finally withdraw from certain markets in around 1972. Old Monsanto continued producing and marketing PCB products for limited

applications until 1977.

106. Even after Old Monsanto stopped manufacturing and selling its PCB products, it continued to deceive the public about PCBs. For example, in 1980, Old Monsanto publicly and falsely stated that “PCBs are considered only mildly toxic on an acute basis when ingested by humans—about on the same order as common table salt,” and that “[t]here has never been a single documented case in this country where PCBs ever caused serious human health problems.” Into the 1990s and early 2000s, Old Monsanto and Pharmacia (known at the time as Pharmacia Corp.) published “material safety data sheets” that continued to deny “any causal relationship between PCB exposure and chronic human illnesses such as cancer or neurological or cardiovascular effects.” Similarly, New Monsanto’s director of environmental communications acknowledged in 2004 the “perception” that PCBs were toxic, but told a newspaper that (in the reporter’s paraphrase) “no data ever has confirmed a connection between PCBs and disease or harm.” In 2009, New Monsanto issued a public statement falsely downplaying the toxicity of PCBs: “Scientific studies have been undertaken for more than three decades on the health issues involving PCBs. They are continuing today. There is no scientific consensus on the health effects. The weight of scientific evidence does not support any causal link between exposure to PCBs and cancer or other significant human illnesses.”

D. Univar distributed Monsanto’s PCB products in Chicago and knew or should have known about the harm they would cause.

107. Univar is the successor to Central Solvents & Chemical Co. (“Central Solvents”). For years, Univar (including through Central Solvents) distributed Monsanto’s PCB products and sold vast quantities of Monsanto’s PCB products each year, including to at least a dozen firms (and possibly many more) in Chicago.

108. As one of the largest and most sophisticated chemical distributors in the country,

Univar (including through Central Solvents) knew or should have known at all relevant times about the published research on PCBs described above—and accordingly knew or should have known that the PCB products it was distributing would cause widespread contamination, including in Chicago. On information and belief, neither Univar nor Central Solvents ever provided any warning to Chicago, customers, end-users, or the public about these dangers.

E. Defendants’ PCB products were not superior to alternative products.

109. Defendants’ marketing of PCB formulations was particularly outrageous because, as Old Monsanto openly recognized, these PCB mixtures were not necessary for many of the uses for which Monsanto marketed them and were not superior to alternative products.

110. Old Monsanto’s internal documents acknowledged that its PCB-containing dielectric fluids never offered any real advantage over non-PCB fluids. For example, a document concerning the company’s product strategy for dielectric PCB fluids marked under the name “askarel” reports: “[T]he incidence of explosion with mineral oil was actually lower than with askarel! This in addition to the economic disadvantage of askarel leads to the embarrassing question of why bother to use askarel, and lends an ear to complaints from the workers who dislike the odor, irritating and toxic qualities of our material.”

111. Likewise, many chemicals could perform the function of PCBs in various “open use” applications, such as adhesives, caulks, or varnishes, such that there was never any need to introduce environmentally hazardous PCBs for these types of uses.

F. Defendants’ PCB products have injured the City.

112. The ordinary and intended application of Defendants’ commercial and household PCB products (in, for instance, paints, papers, caulks, lubricants, hydraulic and heat-transfer fluids, transistor and capacitor fluids, and so on) has resulted in the release of PCBs into the City’s air, waters, and soils, due principally to the chemical compound’s tendency to volatilize or redistribute

itself across different environmental media.

113. Between 1929 and 1977, Defendants sold a large volume of commercial PCBs and PCB-containing products to various customers within and near the City. PCBs made and/or distributed by the Defendants were also included in innumerable products sold throughout the United States, including in Chicago. As a result of Defendants' practices (including Defendants' misleading acts and omissions), PCBs remain present to this day in Chicago.

114. Defendants never advised the City or the public that Defendants' PCB mixtures are toxic to human and environmental health and that those PCBs would leach, leak, off-gas, and escape their ordinary and intended applications, regardless of the nature of the application, to contaminate the City's stormwater and stormwater systems, as well as surface waters, sediments, soils, air, fish, and/or other resources. Defendants issued no public warning or instruction about PCBs or the health and environmental safety hazards they present. As alleged above, Monsanto denied that such hazards existed in their communications with public entities and the general public.

115. When Monsanto provided any information concerning the use and disposal of PCBs, Monsanto denied toxicity concerns and adverse human and environmental health effects, and advised that PCBs were safe for their intended uses and wastes should be deposited in landfills, despite knowing this would result in environmental contamination and human and ecological hazards.

116. Defendants' PCB mixtures and PCB-containing products were used in countless applications within the City's geographic boundaries and leached, leaked, off-gassed, and escaped their ordinary and intended applications to contaminate the City's stormwater and stormwater systems, surface waters, sediments, soils, air, fish, and/or other resources. Because PCBs are

environmentally persistent, they continue to circulate within the City to this day.

117. The City has already taken significant (and costly) steps to address PCB contamination. But widespread contamination continues to cause extensive damage, threatening human health and the well-being of the City's environment and economy.

118. The harm caused by PCB contamination can be redressed, but doing so has been (and will be) expensive. The City seeks recovery of its costs to address such contamination.

1. PCBs impair the City's stormwater and the water bodies that receive this polluted stormwater.

119. The portion of Lake Michigan near Chicago is so heavily polluted with PCBs that these waters are subject to a PCB TMDL approved in 2019 ("Lake Michigan TMDL"). The Lake Michigan TMDL lists some 20 public entities that have a permit to discharge stormwater to these waters, including the City of Chicago, and estimates that these public entities discharge some .62 kilograms of PCBs to Lake Michigan each year—a mass that exceeds the maximum amount allowed under the TMDL by 99.6%. The Lake Michigan TMDL states that these reductions are to be achieved primarily through the development of Best Management Practices ("BMPs")—*e.g.*, measures to eliminate sources of PCBs entering stormwater and to capture flows of unfiltered stormwater before this stormwater reaches the Lake. This TMDL is enforceable through the stormwater discharge permit issued to the City by IEPA. Although the City's efforts to comply with the recent Lake Michigan TMDL are only just beginning, the City will incur significant costs to comply with the Lake Michigan TMDL.

120. PCBs also drive key limits on human consumption of many types of fish in and around Chicago, including in the Chicago River. For example, because of PCB contamination, the Illinois Department of Public Health has issued a “do not eat” recommendation for carp above a certain length, to advise against *any* consumption of these fish.

2. PCBs contaminate other City resources.

121. The City has invested significant sums in a variety of site-specific efforts to assess, investigate, develop, and implement remediation plans designed to remove PCBs from other properties and resources. As a result of Defendants’ conduct, the City has incurred and will continue to incur significant costs investigating and cleaning up properties contaminated by PCBs.

122. For example, sediments in the Chicago River and the Chicago Sanitary and Ship Canal are contaminated by PCBs at levels well above the concentration expected to be harmful to biota. As discussed above, consumption of many fish in these waters is strictly limited because of PCB contamination. In an area of the South Branch of the Chicago River known as Bubbly Creek, the City expects to start work soon to cover PCB-contaminated sediment with a cap. The City also expects to incur significant expenses addressing PCB contamination in the North Branch of the Chicago River and in the Sanitary and Ship Canal.

123. The City has expended significant costs to clean up PCBs at other contaminated sites. These include the Mobley’s Auto & Wrecker site (2503-2517 West Lake Street), the Growing Home site (5814 South Wood Street), and the AmForge site (1250 W. 119th Street), all of which are owned or were owned at the relevant time by the City.

124. The City also has suffered significant injuries from PCB contamination at a 12-acre contaminated site known as the “Ingersoll Site” (1000 West 120th Street in Chicago). The U.S. EPA repeatedly mobilized to address PCBs at the site, removing approximately (a) 2,800 cubic yards of PCB-contaminated material, (b) an additional 7,021 tons of PCB-contaminated debris,

and (c) treating or disposing of sludge, oil and wastewater contaminated by the PCBs. The site has been abandoned since at least the early 2000s, and has since been subject to vandalism and fire, but it cannot be redeveloped because of PCB contamination that (notwithstanding the EPA cleanups) still remains at the site. As a result of this PCB contamination, the site remains unsecured, vacant, and unproductive, thereby depriving residents of job opportunities, reducing the value of neighboring properties, and diminishing the City's tax revenues. The site has been classified by EPA as an "environmental justice" site, because the surrounding community is majority minority.

V. CAUSES OF ACTION

COUNT I – Against All Defendants

STRICT LIABILITY DESIGN DEFECT

125. Chicago incorporates all preceding allegations as if they were set forth herein.

126. At all relevant times, Defendants were in the business of designing, engineering, manufacturing, developing, marketing, selling, and/or distributing commercial PCB formulations and PCB-containing products.

127. Defendants' PCB mixtures and PCB-containing products were not reasonably safe as designed at the time they left Defendants' control. Defendants' PCB mixtures' toxicity, volatility, tendency to bioaccumulate, inability to be contained, and environmental persistence rendered them unreasonably dangerous at all times.

128. With respect to Defendants' products composed of PCBs and hydrocarbon solvents or other components in which PCBs are soluble, such products were additionally defective in that their formulations enhanced the environmental risk posed by PCBs as they allowed PCBs to more easily escape their applications to cause environmental contamination. Defendants' PCB mixtures

and PCB-containing products were unsafe as designed.

129. Defendants knew or should have known their PCB mixtures and PCB-containing products were not safe and were likely to cause toxic contamination in Chicago. Defendants knew or should have known their PCB mixtures and PCB-containing products were unsafe to an extent beyond that which would be contemplated by an ordinary person because of the information and evidence available to them associating PCB exposure with adverse human and animal health effects, as well as the overwhelming seriousness of creating widespread environmental contamination.

130. These risks were not obvious to the City or the public.

131. Defendants manufactured, distributed, marketed, promoted, and/or sold PCB mixtures and PCB-containing products despite such knowledge. The seriousness of the environmental and human health risk posed by Defendants' products far outweighs any purported social utility of Defendants' conduct in manufacturing and distributing their commercial PCB mixtures and PCB-containing products. The rights, interests, and inconvenience to the City and general public far outweigh the rights, interests, and inconvenience to Defendants, which profited heavily from the manufacture, sale, and distribution of their commercial PCB mixtures and PCB-containing products.

132. Practical and feasible alternative designs capable of reducing the City's injuries were available. Such alternatives include alternative chemical formulations and/or additional chemical processing measures Defendants could have taken to enhance the safety of their PCB mixtures. Alternative chemical formulations that would have reduced the City's injuries include a reduction of chlorine content in all PCB products, which would have materially decreased the environmental persistence and toxicity of PCBs without eliminating their typical applications or

utilities. Moreover, products combining PCBs and hydrocarbon solvents in which PCBs are soluble could have been designed with components in which PCBs are not soluble, mitigating the risk of environmental harm. Viable and readily available alternatives to PCBs vary by application, and include non-chlorinated plasticizers and solvents (such as monoisopropyl biphenyl, phthalate esters, or epoxy compounds) as well as mineral oils, silicone fluids, vegetable oils, esters, and nonfluid insulating chemicals for electrical applications, as evidenced by the rapid replacement of PCBs by such alternatives upon the prohibition of PCBs.

133. Defendants' conduct caused the presence of PCBs in Chicago and subsequent injury to the public interest, including the physical and economic health and well-being of Chicago residents.

134. The City has suffered and will continue to suffer injuries and damages to its public treasury as a result of Defendants' conduct and the presence of PCBs within Chicago. Defendants are under a continuing duty to act to correct and remediate the injuries their conduct has introduced and to warn the City, their customers, and the public about the human and environmental risks posed by its PCBs. Defendants are strictly liable for all damages arising out of their defectively designed PCB mixtures and PCB-containing products.

REQUEST FOR RELIEF, COUNT I

The City requests judgment against Defendants, jointly and severally, as follows:

- A. An award of monetary damages to the City to compensate for the injuries described herein;
- B. Any other damages as permitted by law;
- C. Litigation costs and attorneys' fees as permitted by law;

- D. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law;
and
- E. Such other and further relief as the Court deems just and proper.

COUNT II – Against All Defendants

NEGLIGENT FAILURE TO WARN

135. Chicago incorporates all preceding allegations as if they were set forth herein.

136. At all relevant times, the Defendants were in the business of designing, engineering, manufacturing, developing, marketing, selling, and/or distributing commercial PCB formulations and PCB-containing products. As sophisticated designers, manufacturers, sellers, and/or distributors of commercial PCB formulations and PCB-containing products, the Defendants had greater knowledge than the City, end-users, and other members of the public about the dangers these formulations and products posed.

137. At the time Defendants manufactured, marketed, promoted, sold, and/or distributed PCB mixtures and PCB-containing products, they knew or should have known their PCB mixtures and PCB-containing products were not safe and were likely to contaminate property and resources in Chicago. The City and the public lacked this knowledge.

138. Defendants had a duty to provide reasonable instructions and adequate warnings about the environmental and health hazards posed by PCBs.

139. Despite their greater knowledge and expertise, the Defendants failed to provide adequate warnings that their PCB mixtures and PCB-containing products were toxic and would cause this contamination, and to provide adequate instructions to minimize, mitigate, reduce, control, or eliminate such risks. Defendants' PCB mixtures and PCB-containing products were not reasonably safe at the time they left the Defendants' control because they lacked adequate warnings

and instructions.

140. An adequate warning would have diminished the volume of PCBs entering the environment, including by diminishing or eliminating the use of PCBs altogether.

141. The Defendants' conduct caused and continues to cause injury to the City and its residents. The City has suffered and will continue to suffer injuries and damages to its public treasury as a result of Defendants' conduct and the presence of PCBs within Chicago.

REQUEST FOR RELIEF, COUNT II

The City requests judgment against Defendants, jointly and severally, as follows:

- A. An award of monetary damages to the City to compensate for the injuries described herein;
 - B. Any other damages as permitted by law;
 - C. Litigation costs and attorneys' fees as permitted by law;
 - D. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law;
- and
- E. Such other and further relief as the Court deems just and proper.

COUNT III – Against All Defendants

NEGLIGENCE

142. Chicago incorporates all preceding allegations as if they were set forth herein.

143. The Defendants had a duty to the City and its residents to exercise due care in the design, manufacture, formulation, marketing, sale, distribution, and/or labeling of their products. The Defendants had a duty not to contaminate or cause the contamination of Chicago's environment.

144. The Defendants breached their duties when they designed, manufactured,

formulated, marketed, sold, distributed, and/or labeled their commercial PCB mixtures and PCB-containing products in a manner that they knew or should have known would result in injury to Lake Michigan and to Chicago's property and resources.

145. The Defendants knew or should have known that their PCB mixtures and PCB-containing products were not safe and were likely to contaminate stormwater and other property and resources within Chicago. The Defendants knew or should have known their PCB mixtures and PCB-containing products were unsafe to an extent beyond that which would be contemplated by an ordinary person because of the information and evidence available to them associating PCB exposure with adverse human and animal health effects as well as the overwhelming seriousness of creating widespread environmental contamination.

146. The Defendants failed to exercise ordinary care because a reasonably careful company would not manufacture or distribute those products, would warn of these products' toxic and environmentally hazardous properties and instruct on the proper use and disposal thereof to minimize or mitigate such risks, and/or would take steps to enhance the safety and/or reduce the toxicity, environmental persistence, and other effects of the products.

147. The Defendants were grossly negligent because they failed to exercise even slight care, placing revenue and profit generation above human and environmental health and safety.

148. The seriousness of the environmental and human health risk posed by Defendants' conduct and products far outweighs any purported social utility of Defendants' conduct in manufacturing and/or distributing their commercial PCB mixtures and PCB-containing products, without disclosing the dangers posed to human health and the environment. The rights, interests, and inconvenience to the City and general public far outweigh the rights, interests, and inconvenience to the Defendants, which profited heavily from the manufacture, sale, and/or

distribution of their commercial PCB mixtures and PCB-containing products.

149. The Defendants' negligent conduct caused and continues to cause injury to Chicago and Chicago residents. The City has suffered and will continue to suffer injuries and damages to its public treasury as a result of the Defendants' negligent conduct.

150. The Defendants are under a continuing duty to act to correct and remediate the injuries their conduct has introduced and to warn the City, their customers, and the public about the human and environmental risks posed by their PCBs.

REQUEST FOR RELIEF, COUNT III

The City requests judgment against Defendants, jointly and severally, as follows:

- A. An award of monetary damages to the City to compensate for the injuries described herein;
- B. Any other damages as permitted by law;
- C. Litigation costs and attorneys' fees as permitted by law;
- D. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law; and
- E. Such other and further relief as the Court deems just and proper.

COUNT IV – Against All Defendants

PUBLIC NUISANCE

151. Chicago incorporates all preceding allegations as if they were set forth herein.

152. The Defendants' sale, promotion and/or distribution of their PCB products caused the contamination of soil, sediment and/or other media and resources in Chicago, as alleged above.

153. The Monsanto Defendants were substantially certain that that their sale and promotion of PCB products would cause this contamination to occur, even when their PCB

products were used exactly as intended, as alleged above.

154. Univar negligently engaged in conduct that created an unreasonable risk of this contamination.

155. This contamination has damaged City property, as well as waters and natural resources within Chicago. It has also caused valuable private property in Chicago to be abandoned to the detriment of the surrounding community.

156. As a result of PCB contamination, the City and other lakefront localities are required to reduce PCB contamination in their stormwater by an estimated 99.6%.

157. This PCB contamination constitutes a substantial and unreasonable interference with rights enjoyed by the public, including rights under Article XI of the Illinois Constitution. This contamination has caused harm that is severe and greater than the City and the public should bear without compensation, and outweighs any utility of the Defendants' conduct. This PCB contamination obstructs the public's free use and comfortable enjoyment of property and natural resources, and an ordinary person would be reasonably annoyed or disturbed by the presence of these toxic PCBs.

158. The City has incurred and will incur costs to monitor and address PCB contamination in soil, stormwater and/or other media, and has suffered and will suffer other injuries as a direct and proximate result of Defendants' conduct.

REQUEST FOR RELIEF, COUNT IV

The City requests judgment against Defendants, jointly and severally, as follows:

- A. An award of monetary damages to the City to compensate for the injuries described herein;
- B. Any other damages as permitted by law;

- C. Litigation costs and attorneys' fees as permitted by law;
- D. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law;
and
- E. Such other and further relief as the Court deems just and proper.

COUNT V – Against All Defendants

PRIVATE NUISANCE

159. Chicago incorporates all preceding allegations as if they were set forth herein.

160. The Monsanto Defendants' sale, promotion, and/or distribution of their PCB products caused the contamination of City-owned property in Chicago, as alleged above, and thereby invaded the City's interest in the use and enjoyment of its property. This City-owned property includes contaminated sites and stormwater systems.

161. The Monsanto Defendants were substantially certain that that their sale and promotion of PCB products would cause this contamination to occur, even when Monsanto's PCB products were used exactly as intended, as alleged above.

162. Univar negligently engaged in conduct that created an unreasonable risk of this contamination.

163. This PCB contamination has caused harm that is severe and greater than the City should bear without compensation, and that outweighs any utility of the Defendants' conduct. An ordinary person would be reasonably annoyed or disturbed by the presence of these toxic PCBs.

164. The City has incurred and will incur costs to address PCB contamination on its property, and has suffered and will suffer other injuries as a direct and proximate result of Monsanto's conduct.

165. Given the toxicity and propensity of PCBs to circulate in the environment, the PCB

contamination at these properties threatens public health.

REQUEST FOR RELIEF, COUNT V

The City requests judgment against Defendants, jointly and severally, as follows:

- A. An award of monetary damages to the City to compensate for the injuries described herein;
- B. Any other damages as permitted by law;
- C. Litigation costs and attorneys' fees as permitted by law;
- D. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law; and
- E. Such other and further relief as the Court deems just and proper.

COUNT VI – Against All Defendants

TRESPASS

166. Chicago incorporates all preceding allegations as if they were set forth herein.

167. The Monsanto Defendants designed, manufactured, formulated, marketed, sold, distributed, and labeled their commercial PCB mixtures and PCB-containing products in a manner that they knew or were substantially certain would wrongfully cause PCBs to intrude upon and injure and contaminate City-owned property. As alleged in detail above, Monsanto instructed PCB users to dispose of PCB-containing wastes in a manner that would certainly cause their PCBs to enter into City property, including by venting PCB vapors to the atmosphere, sewerage PCB wastes, dumping PCB fluids from PCB-filled heat transfer and other systems, and disposing of PCB wastes in unlined landfills or pits, among others.

168. Univar negligently engaged in conduct that caused PCBs to enter upon and injure and contaminate property owned by the City.

169. As a direct result of Defendants’ wrongful conduct, the City has suffered and will continue to suffer damages to its property, including the cost to remove PCBs from City-owned sites and City-owned stormwater systems.

REQUEST FOR RELIEF, COUNT VI

The City requests judgment against Defendants, jointly and severally, as follows:

- A. An award of monetary damages to the City to compensate for the injuries to City property described herein;
 - B. Any other damages as permitted by law;
 - C. Litigation costs and attorneys’ fees as permitted by law;
 - D. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law;
- and
- E. Such other and further relief as the Court deems just and proper.

COUNT VII – Against All Defendants

COST RECOVERY PURSUANT TO MCC § 1-20-020

170. The City realleges and incorporates herein by reference each of the allegations contained in the preceding paragraphs of this Complaint as though fully alleged in this Count.

171. Section 1-20-020 of the MCC provides, in pertinent part: “Any person who causes the city or its agents to incur costs in order to provide services reasonably related to such person’s violation of any federal, state or local law, or such person’s failure to correct conditions which violate any federal, state or local law when such person was under a legal duty to do so, shall be liable to the city for those costs.”

172. Defendants committed the violations of law described in Counts I through VI.

173. These violations have caused and will cause the City to incur costs reasonably

related to these violations of law. These costs include the costs of cleaning up contaminated sites and reducing PCB concentrations in the City's stormwater, as described above.

REQUEST FOR RELIEF, COUNT VII

The City requests judgment against Defendants, jointly and severally, as follows:

- F. An award of monetary damages to the City to compensate for the injuries described herein;
- G. Any other damages as permitted by law;
- H. Litigation costs and attorneys' fees as permitted by law;
- I. Pre-judgment and post-judgment interest on all monies awarded, as permitted by law; and
- J. Such other and further relief as the Court deems just and proper.

JURY DEMAND

The City respectfully requests trial by jury on all claims so triable.

Date: September 19, 2023

Respectfully submitted,

MARY B. RICHARDSON-LOWRY
Corporation Counsel of the City of Chicago

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**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

CITY OF CHICAGO,)
)
a municipal corporation,)
)
Plaintiff,)
)
)
v.)
)
)
MONSANTO CO., SOLUTIA INC.,)
)
PHARMACIA LLC, and UNIVAR)
)
SOLUTIONS INC.,)
)
Defendants.)
)
)

Case No. 2023L009542

AFFIDAVIT

Now comes affiant Rebecca Hirsch and being first duly sworn on oath, deposes and states:

1. I am one of the attorneys representing Plaintiff City of Chicago in this action.
2. I am familiar with the facts in this action.
3. I have reviewed the available information relating to the money damages this action.
4. On information and belief, the total money damages sought in this action by the City are in excess of \$50,000.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

Date: September 19, 2023

/s/ Rebecca Hirsch
Rebecca Hirsch

FILED DATE: 9/19/2023 2:21 PM 2023L009542