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TWENTY-THIRD JUDICIAL DISTRICT COURT

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PARISH OF ASCENSION, LA

DIVISION A

STATE OF LOUISIANA

HORACE DORSEY, EVELYN DORSEY, BRAD DORSEY, LARRY ROSEMOND,  
DIONELLE DORSEY, GARDENIA TAYLOR, STERLING BROOKS, BLAIR BROOKS,  
CAROL JOSHUA, IDELL MADISON, PAUL MADISON, TRESA WINCHESTER,  
SHARON NICHOLAS, GERALD NICHOLAS, CRYSTAL FRANKLIN,  
AND MALIK FRANKLIN

VS.

WATER TREATMENT & CONTROLS COMPANY D/B/A PEOPLE'S WATER  
SERVICE OF DONALDSONVILLE, F/K/A PEOPLES WATER COMPANY OF  
MAYLAND, INC.

**PETITION FOR DAMAGES & REQUEST FOR CLASS ACTION STATUS**

The petition of HORACE DORSEY, EVELYN DORSEY, BRAD DORSEY, LARRY ROSEMOND, DIONELLE DORSEY, GARDENIA TAYLOR, STERLING BROOKS, BLAIR BROOKS, CAROL JOSHUA, IDELL MADISON, PAUL MADISON, TRESA WINCHESTER, SHARON NICHOLAS, GERALD NICHOLAS, CRYSTAL FRANKLIN, AND MALIK FRANKLIN, all persons of the age of majority domiciled in the Parish of Ascension, State of Louisiana who bring this action on their behalf and on behalf of those similarly situated and respectfully aver as follows:

1.

Made defendant herein is:

- (1) Water Treatment & Controls Company, d/b/a People's water Service of Donaldsonville (hereinafter "People's") f/k/a People's Service Company of Maryland, Inc., a foreign business entity, conducting business within the State of Louisiana, domiciled in the State of Maryland, with its principal place of business in the State of Florida.

2.

The events herein described occurred within the jurisdictional boundaries of this Court, therefore, this Court is the proper venue for this action.

3.

Petitioners respectfully aver that this matter is appropriate for class treatment. The requirements of La. C.C.P. Art. 591, et seq. are present for the following reasons:

- (a) The class is so numerous that joinder of all members is impracticable;

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- (b) There are questions of law or fact that are common to the class. Moreover, the questions of law and fact common to the class predominate over any question affecting only individual members;
- (c) The claims of the representative parties are typical of the claims of the class defined herein;
- (d) The representative parties will fairly and adequately protect the interests of the members of the class member;
- (e) The class is or may be defined objectively in terms of ascertainable criteria, such that the Court may determine the constituency of the class for the purpose of conclusiveness of any judgment that may be rendered in this case;
- (f) A class action is superior to other available methods for the fair and efficient adjudication of the controversy.

## 4.

At all relevant times herein, People's provided water service to the community of Donaldsonville, Louisiana. The equipment used to facilitate this service as well as related and connected equipment and appurtenances was owned and/or under the control of People's at all relevant times. At all times material hereto, People's had control and garde of the equipment and appurtenances used to supply water service.

## 5.

At all relevant times, People's caused to be added chlorine dioxide to the water and then supplied the treated water to its customers, including Petitioners and those other persons similarly mentioned.

## 6.

Petitioners and those others similarly situated are informed and believe and thereon allege that People's treated its water supply with chlorine dioxide before distribution to customers. Chlorine dioxide and/or byproduct thereof are known to be harmful to humans at particular levels.

## 7.

On Tuesday, March 22, 2016 beginning approximately 4:00 p.m., the Louisiana Department of Health and Hospitals notified People's to alter the treatment of drinking water because elevated levels of chlorine dioxide were discovered in the treatment system. The Mayor of Donaldsonville declared a state of emergency as of the evening of March 22, 2016.

## 8.

Despite the common knowledge that chlorine dioxide is harmful to humans at particular levels, People's failed to warn Petitioners and those others similarly situated of test result readings above acceptable level from approximately September 2015 – March 2016. Upon information and belief, these test results showed 4-5 times above acceptable standard. People's failed to report these test results in violation of applicable Louisiana State Law.

## 9.

People's is solely responsible for the distribution of water to its customers, including petitioners and those others similarly situated. People's intended that the chlorine dioxide treated

water that it supplied would be used in residence, businesses, schools and other establishments within its water distribution network.

10.

People's at all relevant times herein, knew and intended that their chlorine dioxide treated water would be purchased from People's and used by the purchaser and/or purchaser's patrons; without inspection for defects therein by petitioners and those others similarly situated.

11.

Petitioners and those similarly situated did in fact obtain water service from People's. The water contained chlorine dioxide as herein alleged.

12.

The water purchased from People's at all relevant times herein was defective and unsafe for its intended purposes.

13.

People's had a duty to use due care in the treatment, handling, control, testing, distribution, sale, and instructions for use of water containing chlorine dioxide.

14.

People's negligently and carelessly treated, handled, controlled, tested, distributed and sold water containing chlorine dioxide that they breached their duties and proximately caused the damages to Petitioners and those others similarly situated.

15.

As a seller of the water service, which Petitioners and those others similarly purchased, there is an implied warranty by People's as to the water's fitness for use by Petitioners and those others similarly situated. People's has breached the implied warranty of fitness for use.

16.

As it stands, the water supplied by People's is not safe to consume in any manner, by drinking and/or for use in cooking. As a proximate result, Petitioners and those others similarly situated have been forced to use bottled water and have therefore incurred damages in connection with obtaining water.

17.

The acts and/or omissions of People's as alleged herein have affected the following non-exhaustive persons including but not limited to individuals, business entities, schools, hospitals, nursing, homes, other establishments and the like.

18.

Pursuant to the provisions of Louisiana Civil Code, the acts and/or omissions by People's constitutes fault. People's is liable to Petitioner's and those others similarly situated for damages sustained and for all other just and equitable relief, including costs. Damages include but are not limited to the following:

- (a) Costs of, and associated with, obtaining another source of water;
- (b) Inconvenience;
- (c) Fear and fright;
- (d) Mental anguish;
- (e) Discomfort;

- (f) Pain and suffering;
- (g) Emotional distress;
- (h) Medical and pharmaceutical costs;
- (i) Any other damages to be proven at the trial of this matter.

19.

The damages sustained by Petitioners and those others similarly situated were caused proximately by People's acts and/or omissions in the following non-exclusive manner:

- (a) Failure to properly inspect, monitor, test, handle, treat, and control, the water system;
- (b) Failure to ensure that no contaminated water was distributed to Petitioner's and those others similarly situated;
- (c) Failure to warn Petitioners and those others similarly situated about a known hazardous condition;
- (d) Failure to report elevated levels of chlorine dioxide in accordance with Louisiana State law;
- (e) Failure to prudently operate the water system;
- (f) In allowing to exist a hazardous situation consisting of faulty and insufficient procedures and work practices;
- (g) In failing to properly inspect their equipment and plant facility to assure that the equipment and personnel they utilized were fit for the intended purpose;
- (h) In acting in a careless and negligent manner without due regard for the safety of others;
- (i) In failing to promulgate, implement, and enforce rules and regulations pertaining to the safe operation of the task being conducted at the time of the incidents described herein, which, if they had been so promulgated, implemented and enforced, would have averted the said accident;
- (j) Inadequate and negligent training and hiring;
- (k) Failing to take appropriate action to avoid or mitigate the incidents;
- (l) In employing untrained or poorly trained employees and failing to properly train their employees;
- (m) Failure to recognize and/or to properly react to incidents;
- (n) Failure to timely warn;
- (o) Owning and/or having custody and control of dangerous and defective equipment;
- (p) Failure to timely bring the situation under control;
- (q) Such other acts and/or omissions as will be shown at the trial of this matter.

All of which were in contravention of the laws of the State of Louisiana, which are pleaded herein as if copied *in extenso*.

20.

In addition to the acts and/or admissions stated above, and in the alternative thereto, the injuries and damages suffered by Petitioners and those others similarly situated were caused by acts or omissions People's which acts or omissions may be beyond proof by the Petitioners herein, but which were within the knowledge and control of People's, there being no other possible

conclusion than that the incident resulted from the acts and/or omissions of People's. Furthermore, the incident would not have occurred had People's exercised the high degree of care imposed on them and Petitioners and those others similarly situated therefore plead the doctrine of res ipsa loquitur.

21.

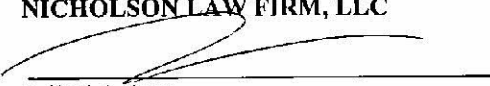
Petitioners respectfully allege that the precise parameters of the class be determined at the appropriate time in this litigation. At the present time, petitioners allege that the class consists of those persons and/or business entities receiving water distribution services from People's and those persons whom, although not a direct customer of People's, ingested or were affected by the events herein described. The geographic boundaries of the class consist of People's water distribution network, generally consisted of Donaldsonville, Louisiana. The class consists of those persons and/or business entities that sustained compensable damages from the acts or omissions of People's as specified herein.

WHEREFORE, the Petitioners and those others similarly situated pray that the Defendant Water Treatment & Controls Company, d/b/a People's water Service of Donaldsonville (hereinafter "People's") f/k/a People's Service Company of Maryland, Inc., be duly served with a copy of this petition and be cited to appear and answer same; that after due proceedings are had that this matter be certified as a class action, that there be a trial of this matter; that after due proceedings are had, that there be judgement in this matter in favor of the Petitioners and those others similarly situated and against the defendants declaring that said defendants are liable, to the Petitioners and those others similarly situated for the compensatory damages in an amount to be determined by this honorable court together with interest thereon from the date of judicial demand, all costs of these proceedings and any and all other just and equitable relief as deemed necessary and proper by this Honorable Court.

All of which is respectfully submitted:

By Attorneys:

**NICHOLSON LAW FIRM, LLC**



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**INFORMATION FOR SERVICE:**

**PLEASE SERVE:**

1. **Water Treatment & Controls Company**  
Through its agent for service of process:  
JAMES L. ELLIS  
450 LAUREL STREET; 8TH FLOOR  
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