

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

NANCY WILLIAMS, AS)	
ADMINISTRATOR OF THE ESTATE)	Case No:
OF RONALD G. WILLIAMS)	
10057 Patton Street)	
Twinsburg, OH 44087)	
)	Judge:
and)	
)	
NANCY WILLIAMS)	<u>COMPLAINT</u>
10057 Patton Street)	
Twinsburg, OH 44087)	
)	
Plaintiffs,)	JURY DEMAND ENDORSED HEREON
)	
V.)	
)	
DETREX CORPORATION)	
c/o Douglas A. Church)	
1000 Belt Line Street)	
Cleveland, OH 44109)	
)	
Defendant.)	

Plaintiffs, by and through the undersigned counsel, and for their Complaint against Defendant states as follows:

PARTIES AND VENUE

1. Nancy Williams is the widow of Ronald G. Williams (“Mr. Williams”) and the Administrator of his Estate. *See* Letter of Authority, attached hereto as Exhibit 1. Ms. Williams is a resident of Twinsburg, OH.
2. Defendant Detrex Corporation (“Detrex”) is a for profit corporation, organized under Michigan law, and headquartered in Cleveland, Ohio.

3. Detrex is a manufacturer of specialty chemicals including additives for industrial petroleum products and hydrochloric acid.
4. Venue is appropriate in Cuyahoga County under Civ. R. 3(B)(2).

DETREX'S ASHTABULA FACILITY

5. Detrex owns and operates a manufacturing facility at 1100 State Road in Ashtabula, OH.
6. Detrex manufactures hydrochloric acid and zinc dithiophosphate ("ZDP") at its Ashtabula facility.
7. Detrex is a large quantity hazardous waste generator under the Ohio Administrative Code (OAC).
8. Detrex regularly produces and/or utilizes hydrogen sulfide in its ZDP production.
9. Hydrogen sulfide is an extremely dangerous gas, which at high concentrations can kill a person almost instantly.
10. As part of its operations, Detrex generates a waste stream that it labels sodium sulfate and/or sulfate sludge and/or sulfate water and/or sulfate solid ("sulfate stream").
11. The sulfate stream is generated from Detrex's production of ZDP.
12. Detrex was aware prior to April 26, 2016, that its sulfate waste stream was highly variable, varied significantly in color and composition, and regularly contained high levels of hydrogen sulfide.

RON WILLIAMS' EXPERIENCE

13. Ron Williams was employed as a truck driver by Enviroserve, a commercial and hazardous waste disposer, from 1997-2016. Mr. Williams' job duties included the transport of industrial waste streams.
14. Mr. Williams was well known in the commercial waste disposal industry and respected as a safety-conscious professional.

THE MISLABELED "DETREX LOAD"

15. On April 26, 2016, Mr. Williams picked up a tanker of waste from Detrex's Ashtabula facility ("Detrex load").
16. Detrex was required to comply with federal and state law and regulation on the safe handling of waste and hazardous waste, including but not limited to: 42 U.S.C.A. § 6928 *et seq.*, 40 CFR Pt. 62; R.C. § 3734 *et seq.*, OAC 3745-51; and OAC 3745-52.
17. The Detrex load was accompanied by a Uniform Hazardous Waste Manifest (the "manifest"). Attached hereto as Exhibit 2.
18. According to the manifest, the waste picked up by Mr. Williams was a "non hazardous, non D.O.T. regulated material" identified as "sulfate water/solids."
19. By virtue of the signed manifest, Detrex represented, warranted, and/or certified that the waste picked up by Mr. Williams was non-hazardous.
20. According to the signed manifest, the Detrex load did not contain a dangerous level of hydrogen sulfide.

21. Detrex attached to the manifest a laboratory analysis previously performed by U.S. Ecology (also known as “EQ Detroit”) which purported to verify the waste profile of the Detrex load. *See* Exhibit 2.
22. The laboratory analysis had been conducted by U.S. Ecology on or before February 1, 2016 and expired on March 10, 2016. *Id.*
23. Detrex utilized expired laboratory testing to verify the waste profile of the Detrex load.
24. Mr. Williams was responsible for transporting the Detrex load to U.S. Ecology (also known as “EQ Detroit”), a waste facility where it would be disposed.
25. The waste that Mr. Williams picked up from Detrex was not non-hazardous, non-D.O.T. regulated material.
26. The Detrex load demonstrated the characteristics of reactivity under OAC 3745-51-23.
27. The Detrex load was “hazardous waste” under OAC 3745-51-33.
28. The waste that Mr. Williams picked up contained dangerous levels of hydrogen sulfide.
29. Detrex knew, or in the exercise of reasonable care would have discovered, that the Detrex load: demonstrated the characteristics of reactivity under OAC 3745-51-23; was “hazardous waste” under OAC 3745-51-33; and contained unsafe levels of hydrogen sulfide.
30. Detrex failed to follow the procedure outlined in OAC 3745-52-11 to determine whether the Detrex load was hazardous waste.

31. Detrex paid Enviroserve less for the transport and/or disposal of non-hazardous waste than it did for hazardous waste.
32. Detrex paid U.S. Ecology less for the disposal of non-hazardous waste than it did for hazardous waste.
33. Detrex owed Mr. Williams a duty of reasonable care, including warning him about dangers of which Detrex was aware or should be aware in the exercise of reasonable care.
34. Detrex owed Mr. Williams a duty of accurately labeling the Detrex load.
35. Detrex failed to properly label the Detrex load as hazardous waste.
36. Detrex failed to warn Mr. Williams that the Detrex load contained dangerous levels of hydrogen sulfide.
37. Detrex violated federal and state laws and regulations by negligently, recklessly and/or intentionally: mislabeling a hazardous waste as non-hazardous; failing to maintain current sample analysis; and failing to warn Mr. Williams about the danger of the Detrex load.

APRIL 26, 2016 INCIDENT

38. On April 26, 2016, Mr. Williams drove the Detrex load to U.S. Ecology, located at 1923 Frederick Street, Detroit MI.
39. Upon information and belief, Mr. Williams offloaded the Detrex load at U.S. Ecology. Mr. Williams, wearing protective gear, then began a tank wash procedure. During the tank wash, Mr. Williams was overcome by an exposure to concentrated hydrogen sulfide from remnants of the Detrex load.

40. The hydrogen sulfide that Mr. Williams was exposed to emanated from the Detrex load.

41. Hydrogen sulfide exposure was capable of causing, and in fact caused, Mr. Williams' death.

42. On April 27, 2016, as a direct and proximate result of Detrex's breach of its duties and obligations with respect to the Detrex load, Mr. Williams died as a result of hydrogen sulfide exposure.

43. Following the incident at U.S. Ecology, the truck Mr. Williams drove on April 26, 2016 was returned to Detrex to bleed off high levels of hydrogen sulfide.

FIRST CAUSE OF ACTION

44. Plaintiffs restate and incorporate each and every paragraph of this Complaint as if fully re-written herein.

45. Defendant acted with a negligent, negligent *per se*, reckless, intentional and conscious disregard of or indifference to known and substantially certain risks of harm to Mr. Williams that was unreasonable under the circumstances.

46. As a direct and proximate result of the Defendant's negligent, negligent *per se*, reckless, and intentional acts and conscious disregard for Mr. Williams' safety, Mr. Williams suffered physical injuries, conscious pain and suffering and other damages.

SECOND CAUSE OF ACTION

47. Plaintiffs restate and incorporate each and every paragraph of this Complaint as if fully re-written herein.

48. As a direct and proximate result of Defendant's negligent, negligent *per se*, reckless, and intentional acts as well as the Defendant's conscious disregard for the rights and safety of Mr. Williams, which disregard had the substantial certainty of causing serious harm, Mr. Williams died from injuries caused by Defendant.

49. Mr. Williams is survived by his wife, Nancy Williams, who is a beneficiary to the Estate and this action.

50. As a direct and proximate result of the Defendant's negligent, negligent *per se*, reckless, and intentional acts and conscious disregard for Plaintiffs' decedent's safety, having caused the wrongful death of Plaintiff's decedent and/or the loss of his chance for survival, the above surviving beneficiary and other heirs at law suffered and will continue to suffer damages that are recoverable under R.C. Chapter 2125.01 *et seq.*, including, but not limited, to the following:

- (A) loss of support from the reasonably expected earning capacity of Ron Williams;
- (B) loss of services of Ron Williams;
- (C) loss of the society of Ron Williams, including loss of companionship, consortium, care, assistance, attention, protection, advice, guidance, counsel, instruction, training, and education suffered by the next-of-kin.
- (D) loss of prospective inheritance to Ron Williams's heirs at law at the time of his death; and
- (E) the mental anguish incurred by the next-of-kin.

THIRD CAUSE OF ACTION

51. Plaintiffs restate and incorporate each and every paragraph of this Complaint as if fully re-written herein.
52. Detrex represented the Detrex load to be non-hazardous and not dangerous and concealed from Mr. Williams the fact that the Detrex load was in fact hazardous and presented a danger to Mr. Williams and others.
53. Detrex's false representation and concealments about the nature of the Detrex load were material to the way Mr. Williams' handled the Detrex load.
54. Detrex's false representations and concealments about the nature of the Detrex load were made falsely.
55. Detrex possessed knowledge of the falsity of its representations and concealments or made said representations and concealments with such utter disregard and recklessness as to whether they were true or false that Detrex's knowledge may be inferred.
56. Detrex made its false representations and concealments with the intention of causing Mr. Williams to rely on them and Mr. Williams did justifiably rely on Detrex's false representations and concealments.
57. As a direct and proximate result of Mr. Williams' reliance on Detrex's false representations and concealments, Plaintiffs suffered injuries, death, and a loss of consortium.

FOURTH CAUSE OF ACTION

58. Plaintiffs restate and incorporate each and every paragraph of this Complaint as if fully re-written herein.

59. Defendant negligently, recklessly, and/or intentionally caused injuries to Ron Williams, the spouse of Plaintiff Nancy Williams.

60. As a direct and proximate result of the injuries to Ron Williams caused by Defendant, Plaintiff Nancy Williams has suffered a loss of consortium.

WHEREFORE, Plaintiffs demand judgment in their favor and against the Defendant in an amount above the jurisdictional minimum, including but not limited to, compensatory damages, special damages, punitive damages, attorney fees, costs and expenses in bringing this lawsuit, pre-judgment interest and any other relief, including equitable relief, that this Court deems just and reasonable.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury as to all issues so triable.

Respectfully submitted,

PISCITELLI LAW FIRM

/s/ Eric W. Henry

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