

CAUSE NO. \_\_\_\_\_

AURELIO CAMPOS, JOSE FLORES  
and NOE FLORES,

Plaintiffs,

VS.

KMCO, LLC

Defendant.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

\_\_\_\_\_  
JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

TO THE HONORABLE COURT:

COME NOW, AURELIO CAMPOS, JOSE FLORES and NOE FLORES, Plaintiffs in the above-styled and -numbered cause, and file this Original Petition and Request for Disclosure complaining of KMCO, LLC, and for cause of action, would respectfully show the Court the following:

**I.**

**DISCOVERY PLAN LEVEL 3**

1. Plaintiffs intend to conduct discovery in this matter under Level 3 of Rule 190. Pursuant to the Texas Rule of Civil Procedure 47(c)(5), each Plaintiff seeks an amount exceeding \$1,000,000.

**II.**

**PARTIES**

2. Plaintiffs are residents of the state of Texas.  
3. Defendant KMCO, LLC is a foreign limited liability company authorized to conduct business in the state of Texas and may be served with process through its registered

agent for service of process in the State, Jeff L. McFerrin, at 16503 Ramsey Road, Crosby, Harris County, Texas 77532. Plaintiffs request that the clerk issue citation and forward same to Plaintiffs' counsel for personal service by a private process server.

### III.

#### **JURISDICTION AND VENUE**

4. Pursuant to the Texas Civil Practice & Remedies Code, venue for this cause of action is proper in Harris County, Texas, because Defendant resides in Harris County, Texas. The Court has jurisdiction in this matter because Plaintiffs' damages are within its jurisdictional limits.

### IV.

#### **FACTUAL BACKGROUND**

5. On or about April 2, 2019, Plaintiffs were working at the KMCO Plant in Crosby, Harris County, Texas when flammable chemicals escaped from a line or tank, vaporized, and ignited, causing a violent explosion and fire at the plant.

6. On information and belief, a check valve on an isobutylene line failed. Although isobutylene was being moved through a high pressure line, the check valve was not capable of handling the pressures at which the isobutylene was transported through the high-pressure line. As a result of the valve's failure, isobutylene—a highly flammable and toxic chemical—escaped, vaporized and spread throughout sections of the plant, eventually exploding and catching parts of the plant on fire.

7. On information and belief, before the explosion it became apparent to personnel at the plant that a leak was occurring at or near the check valve. Despite this knowledge, KMCO personnel did not immediately order an evacuation or sound the general alarm. Only after a large

quantity of isobutylene had been released and ignition became imminent was a call made to evacuate.

V.

CAUSES OF ACTION

8. The negligence of Defendant was a proximate cause of the occurrence and damages in question. In particular, Defendant allowed too much pressure to be channeled into pipes and vessels at its facility in Crosby, Texas.

9. Plaintiffs would show that nothing they did or failed to do on the occasion in question caused, or in any way, contributed to their injuries. To the contrary, the explosion at the Defendant's facility and the injuries to the Plaintiffs were proximately caused by the negligence, both of commission and omission, of the Defendant.

10. Defendant's negligence and gross negligence included but is not limited to the following:

- a. failed to properly train their employees;
- b. failed to provide adequate equipment;
- c. failed to properly supervise their employees;
- d. failed to conduct adequate maintenance;
- e. failed to maintain a safe work environment;
- f. failed to properly supervise work being performed;
- g. failed to inspect and/or maintain its equipment;
- h. failed to provide adequate warning to Plaintiffs of the dangerous condition;
- i. failed to inform Plaintiffs of the defective nature of the condition;
- j. failed to provide adequate medical treatment;

- k. failed to provide adequate instruction;
- l. failed to properly inspect the premises;
- m. failed to implement adequate safety policies and procedures;
- n. failed to ensure its safety systems were adequate and functional;
- o. failed to properly train its safety personnel to prevent explosions such as the one underlying this suit;
- p. violations of applicable rules, regulations, statutes and standards;
- q. failed to timely evacuate the facility;
- r. vicariously liable for the act(s) and omission(s) of their employee(s) and agent(s); and
- s. other acts deemed negligent and grossly negligent.

11. Defendant's above negligence and gross negligence was a proximate cause of damages and injuries to Plaintiffs.

## **VI.**

### **DAMAGES**

12. Plaintiffs would additionally allege and show that they are entitled to recovery of pre-judgment interest in accordance with law and equity as part of their damages herein, and Plaintiffs here and now sue for recovery of pre-judgment interest as provided by law and equity, under the applicable provisions of the laws of the State of Texas.

13. In the occurrence made the basis of this suit, the Plaintiffs sustained severe bodily injuries. By reason of these injuries and the damages flowing in law therefrom this suit is maintained. Because of the nature and severity of the injuries sustained, the Plaintiffs have suffered:

- a. Physical pain and mental anguish suffered in the past and in the future;
- b. Loss of earning capacity sustained in the past and in the future;
- c. Disfigurement sustained in the past and in the future;
- d. Physical impairment sustained in the past and in the future;
- e. Loss of earnings and wage earning capacity in the past and in the future;
- f. Loss of household services sustained in the past and in the future; and
- g. Medical care expenses incurred in the past and in the future.

**VII.**

**JURY DEMAND**

14. Pursuant to Texas Rule of Civil Procedure 216, Plaintiffs request a trial by jury and would show that the appropriate fee is paid contemporaneously with the filing of this Petition.

**VIII.**

**REQUEST FOR DISCLOSURE**

15. Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Defendant is requested to disclose the information and material described in Rule 194.2 within fifty (50) days of the service on the Defendant of these Requests for Disclosure to Defendant.

**IX.**

**NOTICE UNDER RULE 193.7**

16. Pursuant to Tex. R. Civ. P. 193.7, each party's production of a document in response to written discovery authenticates the document for use against that party in any pretrial proceeding or at trial unless, within ten (10) days or a longer or shorter time ordered by the Court, after the producing party has actual notice that the document will be used, the party

objects to the authenticity of the document, or any part of it, stating the specific basis for objection. Plaintiffs now give notice under Rule 193.7 that all such documents will be used in pretrial proceedings or trial.

**X.**

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, AURELIO CAMPOS, JOSE FLORES and NOE FLORES, Plaintiffs in the above-styled and -numbered cause, respectfully pray that Defendant be cited to appear and answer herein, and that upon final hearing of the cause, judgment be entered for Plaintiffs against Defendant for compensatory and punitive damages in an amount within the jurisdictional limits of the Court, together with pre-judgment interest at the maximum rate allowed by law, post-judgment interest at the legal rate, costs of court, attorneys' fees, and all such other and further relief to which Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

**THE LANIER LAW FIRM, P.C.**

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**ATTORNEYS FOR PLAINTIFFS**

Unofficial Copy Office of Marilyn Burgess District Clerk