

# **EXHIBIT 10**

*Sam Kelly*

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OF COUNSEL

June 13, 1983

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Diamond Shamrock Corporation  
717 North Harwood Street  
Dallas, Texas 75201

ATTENTION: President

Re: Lamoreaux et al. v. Diamond Shamrock Corporation et al.  
Superior Court of New Jersey  
Law Division, Essex County  
Docket No. L-036231-83

RECEIVED

JUN 16 1983

J. L. J.

Dear Sir:

This law firm represents the plaintiffs in the above-captioned action. We serve upon you herewith a copy of the Complaint And Demand For Jury Trial filed today in the Superior Court of New Jersey.

Very truly yours,

CARELLA, BYRNE, BAIN & GILFILLAN

*Richard E. Kummer*  
RICHARD E. KUMMER

REK/lh  
Enclosure

MAXUS3074007

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Attorneys for the Plaintiffs

RALPH LAMOREAUX, ALDO : SUPERIOR COURT OF NEW JERSEY  
ANDREINI, "JANE DOE", a fictitious : LAW DIVISION, ESSEX COUNTY  
name, "JOHN DOE", a fictitious : DOCKET NO. L- 036231-83  
name, NEWARK FARMERS MARKET, : CIVIL ACTION - CLASS ACTION  
INC., a New Jersey corporation, :  
BUKOWIEC MEAT PRODUCTS, INC., :  
a New Jersey corporation, MAMIE :  
DOMBROSKI, CARL DOMBROSKI, :  
CAROL DE FRANCIS, DAVID :  
LUKAS and MILLARD CHESTER, :  
on behalf of themselves individually : COMPLAINT AND DEMAND  
and on behalf of certain persons : FOR JURY TRIAL.  
and classes of persons similarly :  
situated, :

Plaintiffs, :

vs. :

DIAMOND SHAMROCK CORPOR- :  
ATION, a Delaware corporation, :  
CHEMICALAND CORPORATION, a :  
Georgia corporation, WALTER R. :  
RAY HOLDING CO., INC., a New :  
York corporation, and MARISOL, IN- :  
CORPORATED, a New Jersey :  
corporation, :

Defendants. :

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By their attorneys Carella, Byrne, Bain & Gilfillan, Ralph Lamoreaux, Aldo Andreini, "Jane Doe", "John Doe", Newark Farmers Market, Inc., Bukowiec Meat Products, Inc., Mamie Dombroski, Carl Dombroski, Carol DeFrancis, David Lukas and Millard Chester, on behalf of themselves individually and certain persons and classes of persons they represent (hereinafter sometimes collectively referred to as the "Plaintiffs"), complain against Diamond Shamrock Corporation, Chemicaland

Corporation, Walter R. Ray Holding Co., Inc. and Marisol, Incorporated (hereinafter sometimes collectively referred to as the "Defendants"), upon information and belief, as follows:

## PARTIES

### A. The Plaintiffs

1. Plaintiff Ralph Lamoreaux is a citizen and resident of the Commonwealth of Pennsylvania, residing at R.D. #2, Hunlock Creek, Pennsylvania. Lamoreaux sues on behalf of himself individually and on behalf of all former injured employees of Diamond Alkali Co. and Diamond Shamrock Corp., whose injuries resulted from exposure to hazardous and/or toxic agents, including that which is commonly known as dioxin (hereinafter collectively referred to as "dioxin") at 80 Lister Avenue, Newark, New Jersey.

2. Lamoreaux is a former employee of Diamond Alkali Co. and Diamond Shamrock Corporation, who has suffered from permanent, painful and disfiguring injuries as a result, upon information and belief, of exposure to dioxin while employed by Diamond Alkali Co. and Diamond Shamrock Corporation at 80 Lister Street, Newark, New Jersey.

3. Plaintiff Aldo Andreini ("Andreini") is a citizen and resident of the State of New Jersey, residing at 1053 Alina Street, Elizabeth, New Jersey. Andreini sues on behalf of himself individually and on behalf of all former injured employees of Diamond Alkali Co. and Diamond Shamrock Corporation, whose injuries have resulted from exposure to dioxin at 80 Lister Avenue, Newark, New Jersey.

4. Andreini is a former employee of Diamond Alkali Co. and Diamond Shamrock Corporation, who has suffered from permanent and painful injuries as a result, upon information and belief, of exposure to dioxin while employed by Diamond Alkali and Diamond Shamrock at 80 Lister Avenue, Newark, New Jersey.

5. "Jane Doe", a fictitious name, is a citizen and resident of the State of New Jersey, residing in Belleville, New Jersey. "Jane Doe" sues on behalf of herself

individually, on behalf of her minor children, on behalf of all persons having intimate marital or familial relations to persons injured by exposure to dioxin at or near 80 Lister Avenue, Newark, New Jersey, and on behalf of former residents living in the vicinity of 80 Lister Avenue, Newark, New Jersey.

6. "Jane Doe", her husband and three children formerly resided at 59 Esther Street, Newark, New Jersey, an address near 80 Lister Avenue, Newark, New Jersey. "Jane Doe" and her children presently suffer from permanent, painful and disfiguring injuries as a result, upon information and belief, of exposure to dioxin while they were residents in the vicinity of 80 Lister Avenue, Newark, New Jersey. "Jane Doe" has observed and witnessed serious physical injury to her children which, upon information and belief, resulted from exposure to dioxin. "Jane Doe" has had to pay monies for medical and other treatment of her injured children.

7. "John Doe", a fictitious name, is a citizen and resident of the State of New Jersey, residing in Kearny, New Jersey. "John Doe" sues on behalf of himself, on behalf of his minor children, on behalf of all persons having intimate marital or familial relations to persons injured by exposure to dioxin at or near 80 Lister Avenue, Newark, New Jersey, and on behalf of former residents living in the vicinity of 80 Lister Avenue, Newark, New Jersey.

8. "John Doe", his wife and three children formerly resided at 59 Esther Street, Newark, New Jersey, an address near 80 Lister Avenue, Newark, New Jersey. "John Doe's" children presently suffer from painful and disfiguring injuries as a result, upon information and belief, of exposure to dioxin while they were residents in the vicinity of 80 Lister Avenue, Newark, New Jersey. "John Doe" has observed and witnessed serious physical injury to his children which, upon information and belief, resulted from exposure to dioxin. "John Doe" has had to pay monies for medical and other treatment of his injured children.

9. Plaintiff Newark Farmers Market, Inc. ("Newark Farmers Market") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 41-43 Joseph Street, Newark, New Jersey. Newark Farmers Market sues on behalf of itself individually and on behalf of its present and future tenants and commercial property owners and other businesses in the vicinity of 80 Lister Avenue, Newark, New Jersey.

10. Newark Farmers Market is a food distribution center which supplies fresh and frozen foods to various customers in New Jersey. Newark Farmers Market leases space at Joseph Street, Newark, New Jersey to various proprietors who sell meats, vegetables and other food stuffs. Recently, Newark Farmers Market was closed temporarily by governmental authorities as a result of the discovery of dioxin at 80 Lister Avenue, Newark, New Jersey, and in surrounding areas. As a consequence of such discovery, Newark Farmers Market has lost tenants and its long-established good will in the trade, its operations have been restricted, it may not be able to replace vacating tenants and it may be required by governmental authorities to shut down its operations or be required to move to another location.

11. Plaintiff Bukowiec Meat Products, Inc. ("Bukowiec") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 23 Farmers Market, Newark, New Jersey. Bukowiec sues on behalf of itself individually and on behalf of the tenants of Newark Farmers Market and other businesses in the vicinity of 80 Lister Avenue, Newark, New Jersey.

12. Bukoweic is a tenant of Newark Farmers Market and is engaged in the preparation and sale of meat products. Recently, Newark Farmers Market and Bukoweic were closed temporarily by governmental authorities as a result of the discovery of dioxin at 80 Lister Avenue, Newark, New Jersey, and in surrounding

areas. As a consequence of such discovery, Bukowiec has lost sales of its products and its long-established good will in the trade, its operations have been restricted and it may be required by governmental authorities to shut down its operations or move to another location.

13. Mamie Dombroski ("Mamie Dombroski") is a citizen and resident of the State of New Jersey, residing at 25 Esther Street, Newark, New Jersey, an address near 80 Lister Avenue, Newark, New Jersey. Mamie Dombroski sues on behalf of herself individually and on behalf of present residential property owners and residents in the vicinity of 80 Lister Avenue, Newark, New Jersey.

14. Mamie Dombroski is the owner and an inhabitant of the residential property located at 25 Esther Street, Newark, New Jersey. Upon information and belief, recent discovery of dioxin in the vicinity of 80 Lister Avenue, Newark, New Jersey, has caused a diminution in the market value of Mamie Dombroski's residential property. Indeed, as a result of such diminution in the market value of her home, upon information and belief, Mamie Dombroski cannot sell her home and is compelled to continue to live at 25 Esther Street, Newark, New Jersey. Mamie Dombroski lives in constant fear that she will suffer from cancer, liver disease and other ailments as a result of living in the vicinity of 80 Lister Avenue, Newark, New Jersey.

15. Carl Dombroski ("Carl Dombroski") is a citizen and resident of the State of New Jersey, residing at 25 Esther Street, Newark, New Jersey. Carl Dombroski sues on behalf of himself individually and on behalf of present residents in the vicinity of 80 Lister Avenue, Newark, New Jersey.

16. Carl Dombroski is an inhabitant of the residential property located at 25 Esther Street, Newark, New Jersey. Carl Dombroski lives in constant fear that he

will suffer from cancer, liver disease and other ailments as a result of living in the vicinity of 80 Lister Avenue, Newark, New Jersey.

17. Carol DeFrancis ("Carol DeFrancis") is a citizen and resident of the State of New Jersey, residing at 13 Esther Street, Newark, New Jersey. Carol DeFrancis sues on behalf of herself individually and on behalf of present residential property owners and residents in the vicinity of 80 Lister Avenue, Newark, New Jersey.

18. DeFrancis is the owner and an inhabitant of the residential property located at 13 Esther Street, Newark, New Jersey. Upon information and belief, recent discovery of dioxin in the vicinity of 80 Lister Avenue, Newark, New Jersey and in her home, has caused diminution in the market value of DeFrancis' residential property. Indeed, as a result of such diminution in the market value of her home, upon information and belief, DeFrancis cannot sell her home and is compelled to continue to live at 13 Esther Street, Newark, New Jersey. DeFrancis lives in constant fear that she will suffer from cancer, liver disease and other ailments as a result of living in the vicinity of 80 Lister Avenue, Newark, New Jersey.

19. David Lukas ("Lukas") is a citizen and resident of the State of New Jersey, residing at 33 Esther Street, Newark, New Jersey. Lukas sues on behalf of himself individually, on behalf of former injured employees of Chemicaland Corporation, and on behalf of present residential property owners and residents in the vicinity of 80 Lister Avenue, Newark, New Jersey.

20. Lukas is the owner and an inhabitant of the residential property located at 33 Esther Street, Newark, New Jersey. Upon information and belief, recent discovery of dioxin in the vicinity of 80 Lister Avenue, Newark, New Jersey has caused diminution in the market value of Lukas' residential property. Indeed, as a



result of such diminution in the market value of his home, upon information and belief, Lukas cannot sell his home and is compelled to continue to live at 33 Esther Street, Newark, New Jersey. Lukas lives in constant fear that he will suffer from cancer, liver disease and other ailments as a result of living in the vicinity of 80 Lister Avenue, Newark, New Jersey.

21. Lukas is a former employee of Chemicaland Corporation, who believes and fears that he may be suffering and in the future may suffer from permanent and painful injuries as a result, upon information and belief, of exposure to dioxin while employed by Chemicaland Corporation at 80 Lister Avenue, Newark, New Jersey.

22. Millard Chester ("Chester") is a citizen and resident of the State of New Jersey, residing at 85 Waverly Avenue, Newark, New Jersey. Chester sues on behalf of himself individually and on behalf of present employees working in the vicinity of 80 Lister Avenue, Newark, New Jersey.

23. Chester is an employee of a company located in the vicinity of 80 Lister Avenue, Newark, New Jersey. Chester works in constant fear that he will suffer from cancer, liver disease and other ailments as a result of working in the vicinity of 80 Lister Avenue, Newark, New Jersey. Upon information and belief, in view of his employment in the vicinity of 80 Lister Avenue, Newark, New Jersey and his possible exposure to dioxin, Chester may not be able to obtain employment elsewhere.

**B. Plaintiffs As Class Representatives**

24. Each of the Plaintiffs may sue on behalf of the particular classes they represent because, as to each of such classes, (i) the class is so numerous that joinder of all members is impracticable, (ii) there are questions of law or fact common to the class, (iii) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (iv) the representative parties will fairly and adequately protect the interests of the class.

25. This action may be maintained as a class action because the prerequisites set forth in paragraph 24, above, are satisfied and, in addition:

(i) The prosecution of separate actions by or against individual members of the class would create a risk either of (A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or (B) adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or

(ii) The Court may find that the questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

C. The Defendants

26. Diamond Shamrock Corporation ("Diamond Shamrock") is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business located at 717 North Harwood Street, Dallas, Texas. Upon information and belief, Diamond Shamrock formally owned the property located at 80 Lister Avenue, Newark, New Jersey, and manufactured herbicides, including but not limited to "Agent Orange", at 80 Lister Avenue, Newark, New Jersey. Diamond Shamrock's manufacture of such herbicides and "Agent Orange" produced a toxic and ultrahazardous substance known as dioxin.

27. Upon information and belief, Chemicaland Corporation ("Chemicaland") is a corporation organized and existing under the laws of the State of Georgia, with its principal place of business located in Calhoun, Georgia. Upon information and belief,

Chemicaland formally owned the property located at 80 Lister Avenue, Newark, New Jersey, and manufactured herbicides at 80 Lister Avenue at Newark, New Jersey. Chemicaland's manufacture of such herbicides produced a toxic and ultrahazardous substance known as dioxin.

28. Upon information and belief, Walter R. Ray Holding Co., Inc. ("Ray") is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at Manhasset, New York. Upon information and belief, Ray formally owned and controlled the property located at 80 Lister Avenue, Newark, New Jersey used for the manufacture of dioxin.

29. Upon information and belief, Marisol, Incorporated ("Marisol") is a corporation organized and existing under the laws of the State of New Jersey, with its principal place of business located at 125 Factory Lane, Middlesex, New Jersey. Upon information and belief, Marisol presently owns and controls the property located at 80 Lister Avenue, Newark, New Jersey.

#### JURISDICTION

30. Jurisdiction over the person of Defendant Diamond Shamrock is vested in this Court by virtue of said Defendant Diamond Shamrock doing business and being present in the District of New Jersey at 350 Mt. Kemble Avenue, Morristown, New Jersey and other locations in the State of New Jersey.

31. Jurisdiction over the person of the Defendant Chemicaland is vested in this Court by virtue of said Defendant Chemicaland, upon information and belief, did business at 80 Lister Avenue in the City of Newark, State of New Jersey, contaminating the premises and surrounding environs with dioxin and causing damage and injury to the Plaintiffs and the individuals and classes of persons they represent.

32. Jurisdiction of the person of Defendant Ray is vested in this Court by virtue of said Defendant Ray, upon information and belief, doing business and being present at various locations in the State of New Jersey.

33. Jurisdiction over the person of Defendant Marisol is vested in this Court by virtue of said Defendant Marisol doing business and being present in the State of New Jersey at 80 Lister Avenue, Newark, New Jersey and 125 Factory Lane, Middlesex, New Jersey and other locations in the State of New Jersey.

#### VENUE

34. Venue of the within action is properly laid in this Court, pursuant to R.4:3-2(a)(1) and (3), as this is an action for damages, inter alia, to real property located in Essex County or to a possessory or other interest therein, and Essex County is the county in which the causes of action alleged herein arose and in which certain parties to this action reside at the time of the commencement of the action.

#### ALLEGATIONS COMMON TO ALL COUNTS

35. Dioxin is one of the most hazardous chemicals produced by man. According to government authorities, excesses of 1 part per billion ("ppb") of dioxin in a substance or material is hazardous to humans. Upon information and belief, the exposure of humans to dioxin causes cancer, miscarriages, birth defects, liver and eye disorders, discoloration of skin, boils and cysts, and chloracne, among other disorders and illnesses.

36. Dioxin is a waste by-product of the manufacture of various chemical herbicides, wood preservatives and fungicides. Dioxin is also a by-product of the manufacture of Agent Orange, a herbicide used as a defoliant in Southeast Asia during the Vietnam War. Upon information and belief, exposure of humans to Agent Orange causes cancer, miscarriages, birth defects, liver and eye disorders, discoloration of skin, boils and cysts, and chloracne, among other disorders and illnesses.

37. Upon information and belief, at various times between 1950 and 1978, 80 Lister Avenue, Newark, New Jersey was used as a site for the manufacture, production, storage and disposal of various herbicides, including but not limited to Agent Orange. Such manufacturing processes produced dioxin during that period. Upon information and belief, production workers at the site during the 1950s and the 1960s suffered from skin and liver problems, among other ailments.

38. The property located at 80 Lister Avenue, Newark, New Jersey, borders upon the Passaic River. Upon information and belief, during the period of 1958 through 1978, various manufacturers of dioxin knowingly, intentionally, wilfully, wantonly, recklessly or negligently released dioxin into the air, the ground and ground waters and dumped dioxin into the Passaic River at or in the vicinity of 80 Lister Avenue, Newark, New Jersey.

39. Upon information and belief, the facilities producing dioxin were located on parcels identified on the tax maps of the City of Newark as Block 2438, Lots 58 and 59 at 80-96 Lister Avenue, Newark, New Jersey. Between 1968 and 1981, Defendant Ray owned and controlled parcel 58. In 1981, Ray conveyed and transferred parcel 58 to Defendant Marisol, who, upon information and belief, has continuously owned and controlled parcel 58 from that time until this date.

40. Upon information and belief, Diamond Alkali Co. ("Diamond Alkali") owned and controlled parcel 59 from 1955 to 1971. In 1971, parcel 59 was conveyed and transferred to Defendant Chemicaland, who, upon information and belief, owned and controlled parcel 59 until 1978. In 1979, upon information and belief, parcel 59 was conveyed to Defendant Ray who owned and controlled parcel 59 until 1981. In 1981, Defendant Ray conveyed and transferred parcel 59 to Defendant Marisol, who owned and controlled parcel 59 from that time until this date.

41. Upon information and belief, in 1967 Diamond Alkali (also then known as "Diamond Shamrock Corporation") was merged into an entity known as Shamrock Oil

and Gas Co. The surviving corporation was and is known as Diamond Shamrock Corporation. During the period from 1955 through 1970, upon information and belief, Diamond Alkali and Defendant Diamond Shamrock manufactured herbicides, producing dioxin at 80 Lister Avenue, Newark, New Jersey. During the period from 1966 through 1968, Diamond Alkali and Defendant Diamond Shamrock manufactured Agent Orange, producing dioxin at 80 Lister Avenue, Newark, New Jersey.

42. Upon information and belief, during the period from 1971 through 1978, Defendant Chemicaland manufactured herbicides, producing dioxin at 80 Lister Avenue, Newark, New Jersey in cooperation with other corporations, entities and/or persons not yet named as Defendants herein.

43. During or about the week of May 30, 1983, dioxin was discovered at or in the vicinity of 80 Lister Avenue, Newark, New Jersey, in amounts in excess of 1,000 ppb. Thereafter, government authorities found dioxin in certain businesses and residences and on the street in the vicinity of 80 Lister Avenue, Newark, New Jersey. Upon information and belief, the discovery of the presence of dioxin in the vicinity of 80 Lister Avenue, Newark, New Jersey, has caused, inter alia, the closure of businesses, widespread fear among residents and employees and the diminution of commercial and residential property values in the area.

COUNT I

(Strict Liability)

44. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 43 of this Complaint, as if set forth herein at length.

45. Dioxin is an unreasonably dangerous substance. The manufacture, production, storage and disposal of dioxin are ultrahazardous activities. Such activities necessarily involve a risk of serious harm to the person, land or personal property of others which cannot be eliminated by the exercise of utmost care.

46. The manufacture, production, storage and disposal of dioxin are not matters of common usage and involve unreasonably dangerous and ultrahazardous use of property.

47. The manufacture, production, storage and disposal of dioxin at 80 Lister Avenue, Newark, New Jersey, by each of Diamond Alkali, Diamond Shamrock and Chemicaland were unreasonably dangerous and ultrahazardous activities. Upon information and belief, Diamond Alkali, Diamond Shamrock and Chemicaland failed to warn the Plaintiffs and the individuals and classes of persons the Plaintiffs represent of the ultrahazardous and unreasonably dangerous nature of dioxin.

48. Diamond Alkali and Defendants Diamond Shamrock and Chemicaland were under an absolute duty to make safe their manufacture, production, storage and disposal of dioxin and to warn the Plaintiffs and the individuals and classes of persons they represent as to the ultrahazardous and unreasonable nature of dioxin.

49. Diamond Alkali and Defendants Diamond Shamrock and Chemicaland breached such duty owed to the Plaintiffs and the individuals and classes of persons they represent.

50. The breach of such duty by Diamond alkali and Defendants Diamond Shamrock and Chemicaland was the direct and proximate cause of damage to the Plaintiffs and the individuals and classes of persons they represent.

51. Each of the Plaintiffs and the individuals and classes of persons they represent have been damaged by the manufacture, production, storage, and disposal of dioxin by Diamond Alkali, Diamond Shamrock and Chemicaland.

52. During the period that dioxin was manufactured, produced, stored, disposed of and existing at 80 Lister Avenue, Newark, New Jersey, upon information and belief, Defendants Ray and Marisol owned and controlled parcels 58 and 59 at 80 Lister Avenue, Newark, New Jersey.

53. Defendants Ray and Marisol were under an absolute duty to make safe their land concerning the manufacture, production, storage, disposal and existence of dioxin and to warn the Plaintiffs and the individuals and classes of persons the Plaintiffs represent as to the ultrahazardous and unreasonable nature of dioxin. Upon information and belief, Defendants Ray and Marisol had full knowledge of the manufacture, production, storage and disposal of dioxin on their land and knew that harm to the Plaintiffs and the individuals and classes of persons they represent might occur.

54. Defendants Ray and Marisol breached such duty owed to the Plaintiffs and the individuals and classes of persons they represent.

55. The breach of such duty by Defendants Ray and Marisol was the direct and proximate cause of damage to the Plaintiffs and the individuals and classes of persons they represent.

56. Each of the Plaintiffs and individuals and classes of persons they represent have been damaged by the manufacture, production, storage, disposal and existence of dioxin on property owned and controlled by Defendants Ray and Marisol.



WHEREFORE, as to Count I, Plaintiffs demand judgment, on behalf of themselves individually and on behalf of the persons and classes they represent, against Defendants Diamond Shamrock, Chemicaland, Ray and Marisol for:

- (i) actual and compensatory damages;
- (ii) consequential damages;
- (iii) punitive damages;
- (iv) attorneys' fees, expenses and costs of suit; and
- (v) such other and further relief as the Court may deem just and proper.

## COUNT II

### (Negligence)

57. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 56 of this Complaint, as if set forth herein at length.

58. Diamond Alkali and Defendants Diamond Shamrock and Chemicaland owed to the Plaintiffs and the individuals and classes of persons the Plaintiffs represent, the duty to use reasonable care in the manufacture, production, storage and disposal of dioxin and to conduct such activities in accordance with generally accepted standards. By virtue of their manufacture, production, storage and disposal of dioxin, Diamond Alkali and Defendants Diamond Shamrock and Chemicaland had a special relationship with the Plaintiffs and the individuals and classes of persons the Plaintiffs represent.

59. Upon information and belief, Diamond Alkali and Defendants Diamond Shamrock and Chemicaland failed to use reasonable care and failed to act in accordance with generally accepted standards in the manufacture, production, storage and disposal of dioxin. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless.

60. Upon information and belief, Diamond Alkali and Defendants Diamond Shamrock and Chemicaland failed to use reasonable care and failed to act in accordance with generally accepted standards by failing to warn the Plaintiffs and the individuals and classes of persons they represent, concerning the ultrahazardous and unreasonably dangerous nature of dioxin. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless.

61. It was foreseeable to Diamond Alkali and Defendants Diamond Shamrock and Chemicaland that the Plaintiffs and the individuals and classes of persons they

represent would suffer damage in the event that said Defendants failed to exercise reasonable care and manufacture, produce, store and dispose of dioxin in accordance with generally accepted standards.

62. It was foreseeable to Diamond Alkali and Defendants Diamond Shamrock and Chemicaland that, by failing to warn the Plaintiffs and the individuals and classes of persons they represent as to the ultrahazardous and unreasonably dangerous nature of dioxin, the Plaintiffs and the individuals and classes of persons the Plaintiffs represent would suffer damage.

63. The failure of Diamond Alkali and Defendants Diamond Shamrock and Chemicaland to use reasonable care and to manufacture, produce, store and dispose of dioxin in accordance with generally accepted standards, directly and proximately caused damage to the Plaintiffs and individuals and classes of persons the Plaintiffs represent.

64. Defendants Ray and Marisol owed to the Plaintiffs and the individuals and classes of persons the Plaintiffs represent, the duty to use reasonable care in the ownership and control of their property located at 80 Lister Avenue, Newark, New Jersey. By virtue of their ownership and control of land which had been used for the manufacture, production, storage and disposal of dioxin, Defendants Ray and Marisol had a special relationship with the Plaintiffs and the individuals and classes of persons the Plaintiffs represent.

65. Upon information and belief, Defendants Ray and Marisol failed to use reasonable care and failed to act in accordance with generally accepted standards in the ownership and control of their property located at 80 Lister Avenue, Newark, New Jersey. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless. Upon information and belief, Defendants Ray and

Marisol had full knowledge of the manufacture, production, storage and disposal of dioxin on their land and knew that harm to the Plaintiffs and the individuals and classes of persons they represent might occur.

66. Upon information and belief, Defendants Ray and Marisol failed to use reasonable care and failed to act in accordance with generally accepted standards by failing to warn the Plaintiffs and the individuals and the classes of persons they represent, concerning the ultrahazardous and unreasonably dangerous nature of dioxin, which was manufactured, produced, stored, disposed of and existed on the land owned and controlled by Defendants Ray and Marisol at 80 Lister Avenue, Newark, New Jersey.

67. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless.

68. It was forceable to Defendants Ray and Marisol that, by failing to warn the Plaintiffs and the individuals and classes of persons they represent as to the ultrahazardous and unreasonably dangerous nature of dioxin, the Plaintiffs and individuals and classes of persons the Plaintiffs represent would suffer damage.

69. The failure of Defendants Ray and Marisol to use reasonable care in accordance with generally accepted standards concerning the ownership and control of their land located at 80 Lister Avenue, Newark, New Jersey, during the manufacture, production, storage, disposal and existence of dioxin on such land, directly and proximately caused damage to the Plaintiffs and the individuals and classes of persons they represent.

WHEREFORE, as to Count II, Plaintiffs demand judgment, on behalf of themselves individually and on behalf of the persons and classes they represent, against Defendants Diamond Shamrock, Chemicaland, Ray and Marisol for:

- (i) actual and compensatory damages;

- (ii) consequential damages;
- (iii) punitive damages;
- (iv) attorneys' fees, expenses and costs of suit; and
- (v) such other and further relief as the Court may deem just and proper.

COUNT III

(Nuisance)

70. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 69 of this Complaint, as if set forth herein at length.

71. The manufacture, production, storage and disposal of dioxin at 80 Lister Avenue, Newark, New Jersey, by each of Diamond Alkali, Diamond Shamrock and Chemicaland were unreasonably and abnormally dangerous and ultrahazardous activities, and the ownership and control of such property by each of Ray and Marisol under circumstances allowing such activities to continue with full knowlege of the activities and knowledge that harm to the Plaintiffs and the individuals and classes of persons they represent might occur, all constituted a nuisance.

72. The failure of Defendants Diamond Shamrock and Chemicaland to use reasonable care in accordance with generally accepted standards in the manufacture, production, storage and disposal of dioxin, and the failure of Defendants Ray and Marisol to use reasonable care in accordance with generally accepted standards in the ownership and control of their property at 80 Lister Avenue, Newark, New Jersey, as well as the wilful, wanton and reckless misconduct of the Defendants, as aforesaid, all constituted a nuisance.

73. At the time, Plaintiffs Newark Farmers Market, Bukowiec, "Jane Doe", "John Doe", Mamie Dombroski, Carl Dombroski, DeFrancis, Lukas and the individuals and classes of persons they represent, either owned or had an interest in real property in the vicinity of 80 Lister Avenue, Newark, New Jersey.

74. The nuisance of the Defendants was a substantial and unreasonable interference with the use and enjoyment of the real property of such Plaintiffs.

75. Each of such Plaintiffs and the individuals and classes of persons they represent have been damaged by the nuisance created by the Defendants.

WHEREFORE, as to Count III, Plaintiffs Newark Farmers Market, Bukowiec, "Jane Doe", "John Doe", Mamie Dombroski, Carl Dombroski, DeFrancis and Lukas demand judgment, on behalf of themselves individually and on behalf of the persons and classes they represent, against Defendants Diamond Shamrock, Chemicaland, Ray and Marisol for:

- (i) actual and compensatory damages;
- (ii) consequential damages;
- (iii) punitive damages;
- (iv) attorneys' fees, expenses and costs of suit; and
- (v) such other and further relief as the Court may deem just and proper.

COUNT IV

(Negligent Infliction of Mental and Emotional Distress)

76. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 through 75 of this Complaint, as if set forth herein at length.

77. Diamond Alkali and Defendants Diamond Shamrock and Chemicaland owed a duty to the Plaintiffs and the individuals and classes of persons the Plaintiffs represent, to use reasonable care in the manufacture, production, storage and disposal of dioxin and to conduct such activities in accordance with accepted standards. By virtue of their manufacture, production, storage and disposal of dioxin, Diamond Alkali and Defendants Diamond Shamrock and Chemicaland had a special relationship with the Plaintiffs and the individuals and classes of persons the Plaintiffs represent.

78. Upon information and belief, Diamond Alkali and Defendants Diamond Shamrock and Chemicaland failed to use reasonable care and to act in accordance with generally accepted standards in the manufacture, production, storage and disposal of dioxin. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless.

79. Upon information and belief, Diamond Alkali and Defendants Diamond Shamrock and Chemicaland failed to use reasonable care and failed to act in accordance with generally accepted standards by failing to warn the Plaintiffs and the individuals and classes of persons the Plaintiffs represent, concerning the ultrahazardous and unreasonably dangerous nature of dioxin. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless.

80. It was foreseeable to Diamond Alkali and Defendants Diamond Shamrock and Chemicaland that the Plaintiffs and the individuals and classes of persons they



represent would suffer damage in the event that said Defendants failed to exercise reasonable care and failed to manufacture, produce, store and dispose of dioxin in accordance with generally accepted standards.

81. It was foreseeable to Diamond Alkali and Defendants Diamond Shamrock and Chemicaland that, by failing to warn the Plaintiffs and the individuals and classes of persons the Plaintiffs represent as to the ultrahazardous and unreasonably dangerous nature of dioxin, the Plaintiffs and the individuals and classes of persons they represent would suffer damage.

82. Defendants Ray and Marisol owed to the Plaintiffs and the individuals and classes of persons the Plaintiffs represent, the duty to use reasonable care in the ownership and control of their property located at 80 Lister Avenue, Newark, New Jersey. By virtue of their ownership and control of land which had been used for the manufacture, production, storage and disposal of dioxin, Defendants Ray and Marisol had a special relationship with the Plaintiffs and the individuals and classes of persons the Plaintiffs represent.

83. Upon information and belief, Defendants Ray and Marisol failed to use reasonable care and to act in accordance with generally accepted standards in the ownership and control of their property located at 80 Lister Avenue, Newark, New Jersey. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless. Upon information and belief, Defendants Ray and Marisol had full knowledge of the manufacture, production, storage and disposal of dioxin on their land and knew that harm to the Plaintiffs and the individuals and classes of persons they represent might occur.

84. Upon information and belief, Defendants Ray and Marisol failed to use reasonable care and failed to act in accordance with generally accepted standards by failing to warn the Plaintiffs and the individuals and the classes of persons they represent, concerning the ultrahazardous and unreasonably dangerous nature of dioxin, which was manufactured, produced, stored, disposed of and existed on the land owned and controlled by Defendants Ray and Marisol at 80 Lister Avenue, Newark, New Jersey. Such failure to use reasonable care, upon information and belief, was also wilful, wanton and reckless.

85. It was foreseeable to Defendants Ray and Marisol that, by failing to warn the Plaintiffs and the individuals and classes of persons they represent as to the ultrahazardous and unreasonably dangerous nature of dioxin, the Plaintiffs and individuals and classes of persons the Plaintiffs represent would suffer damage.

86. The failure of Defendants Ray and Marisol to use reasonable care in accordance with generally accepted standards concerning the ownership and control of their land located at 80 Lister Avenue, Newark, New Jersey, during the manufacture, production, storage, disposal and existence of dioxin on such land, directly and proximately caused damage to the individuals and classes of persons the Plaintiffs represent.

87. The negligence of Defendants Diamond Shamrock and Chemicaland in the manufacture, production, storage and disposal of dioxin, and the negligence of Defendants Ray and Marisol in the ownership and control of their land at 80 Lister Avenue, Newark, New Jersey, has directly and proximately caused serious physical injury to the children of Plaintiffs "Jane Doe" and "John Doe".

88. "Jane Doe" and "John Doe" have enjoyed and continue to enjoy an intimate familial relationship with their injured children.

89. "Jane Doe" and "John Doe" have and continue to observe and witness the serious injuries suffered by their children.

90. "Jane Doe" and "John Doe" have suffered and continue to suffer severe emotional and mental distress from observing and witnessing the suffering of their children, caused by the negligence and wilful, wanton and reckless misconduct of Defendants Diamond Shamrock and Chemicaland in the manufacture, production, storage and disposal of dioxin and caused by the negligence and wilful, wanton and reckless misconduct of Defendants Ray and Marisol in the ownership and control of their land located at 80 Lister Avenue, Newark, New Jersey.

91. Plaintiffs Lamoreaux, Andreini, "Jane Doe", "John Doe", Mamie Dombroski, Carl Dombroski, DeFrancis, Lukas and Chester have suffered and will continue to suffer emotional and mental distress, including fear and anxiety of the "time-bomb" effect of exposure to dioxin concerning cancer, liver disease, skin lesions and other severe, painful, permanent and disfiguring diseases and including premature and painful death, caused by the negligence and wilful, wanton and reckless misconduct of Defendants Diamond Shamrock and Chemicaland in the manufacture, production, storage and disposal of dioxin and caused by the negligence and wilful, wanton and reckless misconduct of Defendants Ray and Marisol in the ownership and control of their land located at 80 Lister Avenue, Newark, New Jersey.

92. The failure of Defendants Diamond Shamrock, Chemicaland, Ray and Marisol to use reasonable care in the manufacture, production, storage and disposal of dioxin or in the ownership and control of their land, as the case may be, in accordance with generally accepted standards, directly and proximately caused damage to "Jane Doe", "John Doe", Lamoreaux, Andreini, Mamie Dombroski, Carl Dombroski, DeFrancis, Lukas, Chester and the individuals and classes of persons they represent.

WHEREFORE, as to Count IV, Plaintiffs "Jane Doe", "John Doe", Lamoreaux, Andreini, Mamie Dombroski, Carl Dombroski, DeFrancis, Lukas and Chester demand

judgment, on behalf of themselves individually and on behalf of the persons and classes they represent, against Defendants Diamond Shamrock, Chemicaland, Ray and Marisol for:

- (i) actual and compensatory damages;
- (ii) consequential damages;
- (iii) punitive damages;
- (iv) attorneys' fees, expenses and costs of suit; and
- (v) such other and further relief as the Court may deem just and proper.

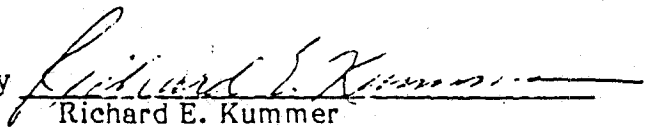
#### JURY DEMAND

Plaintiffs hereby demand trial by jury on all claims, causes of action, defenses and issues triable before a jury.

Dated: June 13, 1983

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