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SUPERIOR COURT OF NEW JERSEY
LAW DIVISION - CAMDEN COUNTY
DOCKET NO.

L 9130 04

NEW JERSEY DEPARTMENT OF
ENVIRONMENTAL PROTECTION and THE
ADMINISTRATOR OF THE NEW JERSEY
SPILL COMPENSATION FUND,

Plaintiffs,

v.

ISADORE BROWN;
JANE BROWN;
THE BROWN FAMILY TRUST;
WILLIAM JULIANO and PATRICIA
JULIANO (d/b/a William Juliano
& Sons Fuel Service);
WILLIAM JULIANO, Individually;
PATRICIA JULIANO, Individually;
LAWRENCE D. MILLS (d/b/a Custom
Craft Cleaners);
RONALD VIRGILIO(d/b/a Elite
Cleaners);
VISION PROPERTIES, LLC; and
"ABC CORPORATIONS" 1-10 (Names
Fictitious); and
"JOHN DOE" (Name Fictitious),

Defendants.

Civil Action

COMPLAINT

Plaintiffs New Jersey Department of Environmental Protection
("DEP"), and the Administrator of the New Jersey Spill Compensation

Fund ("Administrator") (collectively, "the Plaintiffs"), having their principal offices at 401 East State Street in the City of Trenton, County of Mercer, State of New Jersey, by way of Complaint against the above-named defendants (collectively, "the Defendants"), say:

STATEMENT OF THE CASE

1. The Plaintiffs bring this civil action pursuant to the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 to -23.24 ("the Spill Act"), and the common law, for reimbursement of the cleanup and removal costs they have incurred, and will incur, as a result of the discharge of hazardous substances at two sites in Waterford Township, Camden County, which has contributed to the Atco Avenue groundwater contamination in Waterford Township, Camden County. The costs and damages the Plaintiffs seek include the damages they have incurred, and will incur, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Waterford Township sites, and to compel the Defendants to perform, under plaintiff DEP's oversight, or to fund plaintiff DEP's performance of, any further assessment and restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Waterford Township sites.

THE PARTIES

2. Plaintiff DEP is a principal department within the Executive Branch of the State government vested with the authority to conserve natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9.

3. In addition, with the State being the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction, plaintiff DEP is vested with the authority to protect this public trust. N.J.S.A. 58:10-23.11a.

4. Plaintiff Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("the Spill Fund"). N.J.S.A. 58:10-23.11j. As chief executive officer of the Spill Fund, plaintiff Administrator is authorized to approve and pay cleanup and removal costs plaintiff DEP incurs, N.J.S.A. 58:10-23.11f.c. and d., and to certify the amount of any claim to be paid from the Spill Fund, N.J.S.A. 58:10-23.11j.d.

5. Defendant Isadore Brown is an individual whose dwelling or usual place of abode is 4 Yorkshire Court, Warren, New Jersey.

6. Defendant Jane Brown is an individual whose dwelling or usual place of abode is 4 Yorkshire Court, Warren, New Jersey.

7. Defendant The Brown Family Trust is a real estate trust, created on September 7, 1993, the address for which is 4 Yorkshire Court, Warren, New Jersey.

8. Defendant Patricia Juliano is an individual whose dwelling or usual place of abode is 11 Whippoorwill Drive, Sicklerville, New Jersey.

9. Defendant William Juliano is an individual whose dwelling or usual place of abode is 3031 SE Dalhart Road, Port Saint Lucie, Florida.

10. At all times relevant to this Complaint, defendants William and Patricia Juliano did business as William Juliano & Sons Fuel Service.

11. Defendant Lawrence D. Mills, who did business as Custom Craft Cleaners at all times relevant to this Complaint, is an individual whose dwelling or usual place of abode is 1442 E Sherman Avenue, Vineland, New Jersey.

12. Defendant Ronald Virgilio, who did business as Elite Cleaners at all times relevant to this Complaint, is an individual whose dwelling or usual place of abode is 9 Winding Way, Berlin, New Jersey.

13. Defendant, Vision Properties, LLC, is a limited liability corporation, organized under the laws of the State of New Jersey, with a principal place of business located at 2141 River Road, Egg Harbor City, New Jersey.

14. Defendants "ABC Corporations" 1-10, these names being fictitious, are entities whose identities cannot be ascertained as of the filing of this Complaint, which discharged hazardous

substances, or were otherwise responsible for the hazardous substances discharged, at one or both of the Waterford Township sites.

15. Defendant "John Doe", this name being fictitious, is an individual whose identity cannot be ascertained as of the filing of this Complaint, who discharged hazardous substances, or were otherwise responsible for the hazardous substances discharged at the Custom Craft Cleaners Property.

AFFECTED NATURAL RESOURCE

Ground Water

16. Ground water is an extremely important natural resource for the people of New Jersey, supplying more than 900 million gallons of water per day, which provides more than half of New Jersey's population with drinking water.

17. Not only does ground water serve as a source of potable water, it also serves as an integral part of the State's ecosystem.

18. Ground water provides base flow to streams, and influences surface water quality and wetland ecology and the health of the aquatic ecosystem.

19. Ground water also provides cycling and nutrient movement, prevents salt water intrusion, provides ground stabilization, prevents sinkholes, and provides maintenance of critical water levels in freshwater wetlands.

20. Ground water and the other natural resources of the State are unique resources that support the State's tourism industry, which helps sustain the State's economy.

21. There are more than 6,000 contaminated sites in New Jersey that have confirmed groundwater contamination with hazardous substances.

GENERAL ALLEGATIONS

22. The Custom Craft Cleaners site consists of approximately 3.06 acres of real property located at 296 White Horse Pike, Waterford Township, Camden County, New Jersey, this property being also known and designated as Block 301.02, Lot 1.02, on the Tax Map of Waterford Township ("the Custom Craft Cleaners Property"), and all other areas where any hazardous substance discharged there has become located (collectively, "the Custom Craft Cleaners Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. G000009644.

23. From September 19, 1986 through September 13, 1993, defendants Isadore Brown and Jane Brown owned the Custom Craft Cleaners Property.

24. During the time defendants Isadore Brown and Jane Brown owned the Custom Craft Cleaners Property, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included tetrachloroethane ("PCE") and trichloroethene ("TCE").

25. In September 1993, defendant The Brown Family Trust acquired the Custom Craft Cleaners Property, which it continued to own until July 1995, when it sold the Custom Craft Cleaners Property to defendant Vision Properties, the current owner of record.

26. From in or about July 1986 through January 1989, defendant Lawrence D. Mills operated a dry cleaning business known as Custom Craft Cleaners at the Custom Craft Cleaners Property, the operation of which involved the storing and handling of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included PCE and TCE.

27. From 1989 through in or about February 1991, defendant Ronald Virgilio operated a dry cleaning business known as Elite Cleaners at the Custom Craft Cleaners Property, the operation of which involved the storage and handling of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included PCE and TCE.

28. In August and September 2000, DEP sampled the soils and ground water at the Custom Craft Cleaners Site, the results of which revealed the presence of various hazardous substances in the soils and ground water at concentrations exceeding plaintiff DEP's

cleanup criteria, including PCE and TCE in the soils and ground water.

29. On January 10, 2002, plaintiff DEP issued a Spill Act directive to defendants Isadore and Jane Brown, The Brown Family Trust, Vision Properties, LLC, Lawrence D. Mills and Ronald Virgilio pursuant to N.J.S.A. 58:10-23.11f.a., directing the defendants to fund the remediation of the Custom Craft Cleaners Site, and the restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Custom Craft Cleaners Property.

30. Defendants Isadore and Jane Brown, The Brown Family Trust, Vision Properties, LLC, Lawrence D. Mills and Ronald Virgilio have failed to comply with the January 10, 2002 directive.

31. The William Juliano & Sons Fuel Service site consists of approximately .7 acres of real property located at 276 White Horse Pike, Waterford Township, Camden County, New Jersey, this property being also known and designated as Block 301.02, Lot 2, on the Tax Map of Waterford Township ("the Juliano & Sons Property"), and all other areas where any hazardous substance discharged there has become located (collectively, "the Juliano & Sons Site"), which plaintiff DEP has designated as Site Remediation Program Interest No. G000009644.

32. In or about July 1968, defendants William and Patricia Juliano, husband and wife, purchased the Juliano & Sons Property

from defendant William Juliano's parents, William Juliano Sr. and Jean Juliano, and are the current owners of record.

33. During the time defendants William and Patricia Juliano owned the Juliano & Sons Property, "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene.

34. From approximately 1968 through 1978, defendants William Juliano and Jean Juliano operated a garage, and later a fuel distribution center at the Juliano & Sons Property, the operation of which involved the storage, handling and dispensing of "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene.

35. During the period of time that the defendants William Juliano and Patricia Juliano operated a garage, and later a fuel distribution center at the Juliano & Sons Property, defendant ABC corporation supplied, handled and dispensed "hazardous substances," as defined in N.J.S.A. 58:10-23.11b., certain of which were "discharged" there within the meaning of N.J.S.A. 58:10-23.11b., which substances included benzene.

36. From approximately 1979, through early 2000, defendant Patricia Juliano operated a gift shop at the Julian & Sons

Property, which premises were vacant as of the filing of this Complaint.

37. During July 1998, plaintiff DEP sampled the soils and ground water at the Juliano & Sons Site, the results of which revealed the presence of various hazardous substances in the soils and ground water at concentrations exceeding plaintiff DEP's cleanup criteria, including petroleum products in the soils, and benzene in the ground water.

38. On March 22, 1999, plaintiff DEP issued a Spill Act directive to defendants William and Patricia Juliano, pursuant to N.J.S.A. 58:10-23.11f.a., directing defendants William and Patricia Juliano to fund the remediation of the Juliano and Sons Site, and the restoration of any natural resource that has been, or may be, injured as a result of the discharge of hazardous substances at the Juliano & Sons Property.

39. Defendants William and Patricia Juliano have failed to comply with the March 22, 1999 directive.

40. The Atco Avenue Groundwater Contamination area consists of various properties located in three mixed use residential and commercial areas within the Atco section of Waterford Township, Camden County ("Atco Avenue Area"), which plaintiff DEP has designated as Site Remediation Program Interest No. G000009644.

41. In December 1990, the Camden County Health Department sampled a potable well at a commercial property located in

Waterford Township, the results of which revealed the presence of various hazardous substances, including benzene at concentrations exceeding plaintiff DEP's cleanup criteria in the ground water from the well.

42. On various occasions from December 1990 through June 1991, the Camden County Health Department sampled approximately 63 residential potable wells within the Atco Avenue Area, the results of which revealed the presence of various hazardous substances, including TCE, PCE, benzene, 1,2-DCE, Mercury and 1,2-DCA, at concentrations exceeding plaintiff DEP's cleanup criteria in the water from 20 wells.

43. As a result, the Camden County Health Department, Waterford Township Municipal Utilities Authority and plaintiff DEP, conducted a groundwater investigation that resulted in the collection of samples from 324 private potable wells, the results of which revealed the presence of various hazardous substances, including benzene, PCE and TCE, at concentrations exceeding plaintiff DEP's cleanup criteria in water from 58 wells.

44. In February 1992, plaintiff DEP began installing point-of-entry treatment systems on 67 affected potable wells in the Atco Avenue Area, the purpose of which was to remove the contaminants from the water.

45. In 1996, plaintiff DEP completed a study of the groundwater contamination in the Atco Avenue Area, the results of

which led plaintiff DEP to conclude that the appropriate long-term remedy was the continued use of point-of-entry treatment systems for the affected residences.

46. Notwithstanding the results of plaintiff DEP's 1996 study, between 1997 and 1999, Waterford Township extended the public water supply system to approximately 185 residences in the Atco Avenue Area, which activities plaintiff DEP partially funded.

47. In 2001, plaintiff DEP initiated an investigation to determine the source of the potable well contamination in the Atco Avenue Area, during which plaintiff DEP identified the Custom Craft Cleaners Property as the PCE and TCE source, the Juliano & Sons Property as the benzene source, but was unable to identify the source of mercury, a hazardous substance, detected in certain of the potable wells in the Atco Avenue Area.

48. Although plaintiff DEP, and others have initiated the remediation of groundwater contamination in the Atco Avenue Area, the groundwater contamination continues

FIRST COUNT

Spill Act

49. Plaintiffs DEP and Administrator repeat each allegation of paragraphs 1 through 48 above as though fully set forth in its entirety herein.

50. Each defendant is a "person" within the meaning of N.J.S.A. 58:10-23.11b.

51. Plaintiff DEP has incurred, and will continue to incur, costs as a result of the discharge of hazardous substances at the Juliano & Sons Property and the Custom Craft Cleaners Property, including costs for the Atco Avenue Area.

52. Plaintiff Administrator has certified, and may continue to certify, for payment, valid claims made against the Spill Fund concerning the Site, and, further, has approved, and may continue to approve, other appropriations for the Atco Avenue Area, including for the Juliano & Sons Site and the Custom Craft Cleaners Site.

53. The Plaintiffs also have incurred, and will continue to incur, costs and damages, including lost use and reasonable assessment costs, for any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Juliano & Sons Property and the Custom Craft Cleaners Property, including for the Atco Avenue Area.

54. The costs and damages the Plaintiffs have incurred, and will incur, for the Atco Avenue Area, including for the Juliano & Sons Site and the Custom Craft Cleaners Site, are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b.

55. Defendants John Doe, Lawrence Mills and Ronald Virgilio are dischargers of hazardous substances at the Custom Craft Cleaners Property, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages,

including lost use and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Custom Craft Cleaners Property. N.J.S.A. 58:10-23.11g.c.(1).

56. Defendants Isadore Brown, Jane Brown, The Brown Family Trust and Vision Properties, as the owners of the Custom Care Cleaners Property, a property at which hazardous substances were discharged, are persons otherwise responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost use and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Custom Care Cleaners Property. N.J.S.A. 58:10-23.11g.c.(1).

57. Defendants William Juliano and Patricia Juliano, as the owners of the Juliano & Sons Property at the time hazardous substances were discharged there, are persons otherwise responsible for the discharged hazardous substances, and are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost use and reasonable assessment

costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Juliano & Sons Property. N.J.S.A. 58:10-23.11g.c.(1).

58. Defendants ABC Corporations, discharged hazardous substances at the Juliano & Sons Property, or were otherwise responsible for the hazardous substances discharged at the Juliano & Sons Property, and, thus, are liable, jointly and severally, without regard to fault, for all cleanup and removal costs and damages, including lost use and reasonable assessment costs, that the Plaintiffs have incurred, and will incur, to assess, mitigate, restore, or replace, any natural resource of this State that has been, or may be, injured as a result of the discharge of hazardous substances at the Juliano & Sons Property. N.J.S.A. 58:10-23.11g.c.(1).

59. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., plaintiff DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for its unreimbursed investigation, cleanup and removal costs, including the reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); natural resource restoration and replacement costs, N.J.S.A. 58:10-23.11u.b.(4); and for any