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

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NEW JERSEY DEPARTMENT OF :  
ENVIRONMENTAL PROTECTION; :  
COMMISSIONER OF NEW JERSEY :  
DEPARTMENT OF ENVIRONMENTAL :  
PROTECTION; and THE :  
ADMINISTRATOR OF THE NEW :  
JERSEY SPILL COMPENSATION :  
FUND, :  
Plaintiffs, :  
v. :  
MELCAM PROPERTIES, LLC; "XYZ :  
CORPORATIONS" 1 through 10; :  
"JOHN AND/OR JANE DOES" 1 :  
through 10, :  
Defendants. :

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CIVIL ACTION

**VERIFIED COMPLAINT**

Plaintiffs the New Jersey Department of Environmental Protection ("DEP"), the Commissioner of the New Jersey Department of Environmental Protection ("Commissioner"), and the Administrator of the New Jersey Spill Compensation Fund ("Administrator") (collectively, "Department"), by and through

their attorney, file this Complaint against the above-named Defendants and allege as follows:

**STATEMENT OF THE CASE**

1. The Department is charged with enforcing the environmental laws and regulations that protect the diverse people and communities of the State of New Jersey. This case involves numerous violations of environmental law, which have the potential to impact the health and safety of the communities involved and the many people living within them, as well as the environment. As such, the Department brings this action to require Defendants' compliance with their environmental obligations in order to protect New Jersey residents and the environment from the deleterious effects of environmental contamination.

2. Defendant Melcam Properties, LLC ("Melcam") is the owner and operator of Mike's Automotive Service Center ("Mike's Service Center"), located at 433 North Main Street, Stafford Township, New Jersey ("Melcam Site or property"), which has been operating as an automotive repair shop since 2007.

3. Prior to Melcam purchasing the property in 2007, the location was operating as a retail gasoline station dating back to 1969. The retail station utilized underground gasoline storage tanks ("USTs"), which Melcam removed after it purchased the Site.

4. During development of a property located across the road from the Melcam Site, and following installation of a potable water

supply well, sampling of the groundwater supplying the well identified contamination with hazardous substances and pollutants, specifically 1,2-dichloroethane ("DCA") and benzene. This contamination became known as the "Wawa Plaza Groundwater Contamination Area."

5. Long-term exposure to DCA can affect the central nervous system, kidney, liver and immune system. Long-term exposure to benzene can affect the bone marrow and blood systems and cause aplastic anemia, acute leukemia bone marrow failure and cardiovascular disease. The contamination of the potable supply well presented an Immediate Environmental Concern causing DEP to spend public funds to protect residents' health and find the source of the contamination.

6. DEP investigated and determined that discharges of hazardous substances, including DCA and benzene, at the Melcam Site were the source of the groundwater contamination affecting the potable well within the Wawa Plaza Groundwater Contamination Area.

7. The Department therefore seeks to compel Defendants to remediate the contamination at the Melcam Site and all offsite areas impacted by the hazardous substances discharged thereon, including the Wawa Plaza Groundwater Contamination Area, pursuant to the Spill Compensation and Control Act ("Spill Act"), N.J.S.A. 58:10-23.11 to -23.24, the Water Pollution Control Act ("WPCA"),

N.J.S.A. 58:10A-1 to -35, the Brownfield and Contaminated Site Remediation Act ("Brownfield Act"), N.J.S.A. 58:10B-1 to -20; and the Site Remediation Reform Act ("SRRA"), N.J.S.A. 58:10C-1 to -29.

#### **THE PARTIES**

8. DEP is a principal department within the executive branch of the New Jersey State government. DEP maintains its principal offices at 401 East State Street, Trenton, Mercer County, New Jersey. DEP is vested with the authority to conserve and protect natural resources, protect the environment, prevent pollution, and protect the public health and safety. N.J.S.A. 13:1D-9. The Spill Act; the Brownfield Act, N.J.S.A. 58:10B-1 to -20; and the SRRA, N.J.S.A. 58:10C-1 to -29, empower DEP to compel parties responsible for the discharge of hazardous substances to remediate the contamination.

9. The Commissioner is the Commissioner of DEP, N.J.S.A. 58:10A-3, and is vested by law with various powers and authority, including those conferred by DEP's enabling legislation, N.J.S.A. 13:1D-9. The Commissioner maintains his principal office at 401 East State Street, Trenton, Mercer County, New Jersey.

10. The Administrator is the chief executive officer of the New Jersey Spill Compensation Fund ("Spill Fund") and maintains his principal office at 401 East State Street, Trenton, Mercer

County, New Jersey. As the chief executive officer of the Spill Fund, the Administrator is authorized to approve and pay any cleanup and removal costs 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.

11. Defendant Melcam is a New Jersey registered limited liability company, with a main address of 630 Blueberry Hill, Freehold, New Jersey. Melcam is the owner and operator of Mike's Automotive Service Center ("Mike's Service Center"), located at 433 North Main Street, Stafford Township, New Jersey, since 2007.

12. Defendants "XYZ Corporations" 1 through 10, these names being fictitious, are entities with identities that cannot be ascertained as of the filing of this Complaint, certain of which are corporate successors to, predecessors of, tenants of, insurers of, or are otherwise related to the named Defendants, or are persons who otherwise participated in, or were responsible for, the discharge(s) of hazardous substances and/or pollutants at the Melcam Site.

13. Defendants "John and/or Jane Does" 1 through 10, these names being fictitious, are individuals with identities that cannot be ascertained as of the filing of this Complaint, certain of whom are persons who otherwise participated in, or were responsible for, the discharge(s) of hazardous substances and/or pollutants at the Melcam Site.

**GENERAL ALLEGATIONS**

14. The Melcam Site, also known as Block 296, Lot 107, on the Tax Map of Stafford Township, which DEP has designated as Program Interest Number 023657, is located at 433 North Main Street (aka Route 9 and Hilliard Boulevard) in the Township of Stafford, Ocean County, New Jersey.

15. The Melcam Site operated as a retail gasoline station as far back as 1969, until Defendant purchased the property in 2007. The previous property owner utilized three 6,000-gallon USTs, which Melcam removed after it purchased the property. Prior to purchasing the property, Melcam signed an administrative consent order, agreeing to investigate and remediate any and all contaminants at the property, along with any and all contaminants emanating from the property.

16. The Melcam Site is the subject of an active remediation project to address groundwater and soil contamination with Licensed Site Remediation Professional ("LSRP") oversight. However, the Melcam Site is currently out of compliance with the mandated May 7, 2014 Remedial Investigation timeframe, the May 6, 2022 Remedial Action is outstanding, and Defendant has failed to comply with direct oversight provisions.

17. The Wawa Plaza Groundwater Contamination Area, also known as Block 242, Lot 1.01, on the Tax Map of Stafford Township, which DEP has designated as Program Interest Number G000008872, is

located at 399 North Main Street (Route 9) in the Township of Stafford, Ocean County, New Jersey.

18. The Wawa Plaza Groundwater Contamination Area, located across the street from the Melcam Site, contains numerous commercial properties including a commercial strip mall anchored by Wawa Food Market #935, located at 470 North Main Street, in the Township of Stafford, Ocean County, New Jersey ("Wawa Site").

19. During the development of the Wawa Site, an on-site potable water supply well was installed with a screen depth of 80-100 feet below ground level.

20. Sampling of this on-site potable supply well between 1986 and 1998, as required by the Ocean County Department of Health, revealed that the groundwater was contaminated with DCA and benzene.

21. On or around 2016, the DEP retained an environmental and engineering professional services firm, Kleinfelder, Inc., to conduct a groundwater investigation within the right of way between the Wawa Site and the Melcam Site. The Wawa Site lies hydrogeologically up-gradient from the Wawa Site.

22. The investigation included the installation of, and sampling from, six monitoring wells on the Wawa Site in 2017. The investigation also included sampling from four monitoring wells on the Melcam Site previously installed by Melcam.

23. A total of nineteen groundwater samples were collected from these monitoring wells during the groundwater investigation at depths of 7 to 10 feet below ground surface ("bgs"), 31 to 34 feet bgs and 43 to 46 feet bgs.

24. The analytical results of the nineteen groundwater samples collected revealed a benzene plume emanating from the Melcam Site and migrating towards the Wawa Plaza Contamination Area.

25. The source of the Wawa Plaza Road groundwater contamination was determined to be the USTs previously located at the Melcam Site. In addition, the DCA contamination is consistent with historical use as a leaded gasoline additive and the gasoline distribution activities on the Melcam Site dating back to 1969.

26. For these reasons, and upon information and belief, the Melcam Site is the source of discharges of hazardous substances and pollutants resulting in the DCA and benzene contamination that migrated offsite and impacted areas including, but not limited to, the Wawa Plaza Groundwater Contamination Area.

#### **COUNT I**

#### **Violation of the Spill Act**

27. DEP and the Administrator repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.



28. DCA and benzene are "hazardous substances" as defined in N.J.S.A. 58:10-23.11b.

29. Except as otherwise provided in N.J.S.A. 58:10-23.11g12, which is not applicable here, any person who discharges a hazardous substance, or is in any way responsible for any hazardous substance, shall be liable, jointly and severally, without regard to fault, for all cleanup and removal costs no matter by whom incurred. N.J.S.A. 58:10-23.11g.c.(1).

30. The costs that DEP has incurred, and will incur, for the remediation of the Melcam Site, and all offsite areas impacted by the hazardous substances discharged thereon, including the Wawa Site, are "cleanup and removal costs" within the meaning of N.J.S.A. 58:10-23.11b., and are recoverable pursuant to N.J.S.A. 58:10-23.11u.b.(2), (4), and (5).

31. Defendants are "persons" within the meaning of N.J.S.A. 58:10-23.11b.

32. Defendants Melcam, XYZ Corporations 1-10, and John and Jane Does 1-10 are owners of the Melcam Site at which hazardous substances were discharged, and persons "in any way responsible," and are therefore liable, jointly and severally, without regard to fault, for all cleanup and removal costs Plaintiffs have incurred, and will incur, as a result of the discharge of hazardous substances at the Property. N.J.S.A. 58:10-23.11g.c.(1).

33. As persons who purchased the Melcam Site, and subsequently owned, operated at, and otherwise controlled the Property at the time of or subsequent to discharges of hazardous substances, Melcam, the John and/or Jane Doe Corporate Officers of XYZ Corporations 1-10 and John and Jane Does 1-10, are persons in any way responsible and are liable, jointly and severally, without regard to fault, and are therefore liable for all cleanup and removal costs incurred by the Department pursuant to the Spill Act, N.J.S.A. 58:10-23.11g.c.(1), and for the completion of the remediation of those discharges pursuant to the Brownfield Act, N.J.S.A. 58:10B-1.3(a).

34. Pursuant to N.J.S.A. 58:10-23.11u.d, Melcam, XYZ Corporations 1-10, and John and Jane Does 1-10, upon order of the court, must pay a civil penalty of up to \$50,000 per day for their failure to remediate the Site. Each day the violation continues is a separate and distinct violation. Pursuant to the Penalty Enforcement Law and R. 4:70-2, these penalties may be collected in a summary proceeding. However, while the Spill Act permits an award of penalties upon a summary proceeding, as authorized by R. 4:67-5, the Department requests that the Court conduct a plenary hearing to determine the penalty award in this matter.

35. Pursuant to N.J.A.C. 7:26C-3.3 and N.J.A.C. 7:26C-14.2, the Melcam Site is subject to direct oversight for the failure to remediate the Site in compliance with statutory and mandatory

remediation timeframes, and Melcam is required to retain a LSRP, establish a remediation funding source for the cost of the remediation, and obtain a response action outcome, among other things.

36. Pursuant to N.J.S.A. 58:10-23.11u.a.(1)(a) and N.J.S.A. 58:10-23.11u.b., the DEP may bring an action in the Superior Court for injunctive relief, N.J.S.A. 58:10-23.11u.b.(1); for recovery of its reasonable costs of preparing and successfully litigating the action, N.J.S.A. 58:10-23.11u.b.(2); and for any other unreimbursed costs the DEP has or will incur under the Spill Act, N.J.S.A. 58:10-23.11u.b.(5).

37. Pursuant to N.J.S.A. 58:10-23.11q., the Administrator is authorized to bring an action in the Superior Court for any unreimbursed costs paid from the Spill Fund.

**WHEREFORE,** the Department demands judgment against the Defendants in their favor:

- a. Ordering Melcam, XYZ Corporations 1-10, and John and/or Jane Does 1-10, jointly and severally, without regard to fault, to complete the remediation at the Melcam Site, and all offsite areas impacted by the hazardous substances discharged thereon, including the Wawa Site, in accordance with the Brownfield Act, N.J.S.A. 58:10B-1.3(a), SRRA, and all other applicable statutes and

regulations including, but not limited to, the Administrative Requirements for the Remediation of Contaminated Sites ("ARRCS"), N.J.A.C. 7:26C, and the Technical Requirements for Site Remediation, N.J.A.C. 7:26E;

- b. Ordering the Defendants to immediately retain, and maintain, a LSRP to implement the remediation of this Site;
- c. Ordering Defendants to comply with direct oversight pursuant to N.J.S.A. 58:10C-27 and N.J.A.C. 7:26C-14.2, and requiring the Defendants to enter into an Administrative Consent Order with the Department to memorialize the requirements and timeframes associated with the provisions of direct oversight;
- d. Imposing upon Defendants, pursuant to N.J.S.A. 58:10-23.11u.a; N.J.S.A. 58:10-23.11u.d and R. 4:70, a civil penalty for Defendants' violation of the Spill Act; and
- e. In the alternative, ordering that, should the defendant's penalty liability not be resolved in a summary proceeding, this action shall proceed as a plenary action and defendant shall answer plaintiff's complaint within 35 days pursuant to Rule 4:67-5; and
- f. Awarding such other relief as the Court deems just and proper; and

- g. Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Wawa Site, and all offsite areas impacted by the substances.

**COUNT II**

**Unjust Enrichment**

38. The Plaintiffs repeat and incorporate by reference each and every allegation set forth in the preceding paragraphs as if fully set forth herein.

39. Defendants have failed to perform the remediation required to address the contamination at the Melcam Site and all offsite areas impacted by the hazardous substances discharged thereon, including the Wawa Site.

40. Defendants failure to perform the remediation required to address the contamination, which otherwise would be Defendants' obligation to fully fund and/or perform, has unjustly enriched Defendants.

WHEREFORE, Plaintiffs demand judgment against the Defendants in their favor:

- a) Finding that Melcam, XYZ Corporations 1-10, and John and/or Jane Does 1-10 have been unjustly enriched by Plaintiffs' expenditure of public funds to perform the remediation of the potable well contamination within the Wawa Plaza Groundwater Contamination Area;

- b) Finding Melcam, XYZ Corporations 1-10, and John and/or Jane Does 1-10 liable for all other compensatory and consequential damages; and
- c) Awarding the Plaintiffs such other relief as this Court deems appropriate.
- d) Reserving the right to bring a claim in the future for natural resource damages arising out of the discharge of hazardous substances at the Wawa Site.

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

Dated: 4/20/2023

By: /s/ Peter Sosinski  
Peter Sosinski  
Deputy Attorney General

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:25-4, the Court is advised that Peter Sosinski, Deputy Attorney General, is hereby designated as trial counsel for Plaintiffs in this action.

**CERTIFICATION REGARDING OTHER PROCEEDINGS AND PARTIES**

The undersigned counsel certifies that the matters in controversy in this action are not currently the subject of any other pending action in any court or arbitration proceeding known to the State at this time, nor is any non-party known to the State at this time who should be joined in this action pursuant to R. 4:28, or who is subject to joinder pursuant to R. 4:29-1. If, however, any such matter or non-party later becomes known, an amended certification shall be filed and served on all other parties and with this Court in accordance with R. 4:5-1(b)(2).

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

Dated: 4/20/2023

By: /s/ Peter Sosinski  
Peter Sosinski  
Deputy Attorney General

**CERTIFICATION OF COMPLIANCE WITH RULE 1:38-7(c)**

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with R. 1:38-7(b).

MATTHEW J. PLATKIN  
ATTORNEY GENERAL OF NEW JERSEY  
Attorney for Plaintiffs

Dated: 04/20/2023

By: /s/ Peter Sosinski  
Peter Sosinski  
Deputy Attorney General



**VERIFICATION**

I, Nadine Drake, by way of certification, state that:

1. I am the enforcement manager for the Site and am employed within the Bureau of Enforcement and Investigations of the New Jersey Department of Environmental Protection.
2. I have read the Verified Complaint.
3. I certify that the factual allegations contained in Paragraphs 1-11 and 14-26 of the Verified Complaint are true and correct.
4. I am aware that if the foregoing statements made by me are willfully false, I may be subject to punishment.

/s/ Nadine M. Drake

Enforcement Manager, DEP

DATED: April 19, 2023



# Civil Case Information Statement

## Case Details: OCEAN | Civil Part Docket# L-000904-23

**Case Caption:** NJ DEP'T OF ENV'T PR OTECTION VS  
MELCAM PROPRTI

**Case Initiation Date:** 04/20/2023

**Attorney Name:** PETER SOSINSKI

**Firm Name:** ATTORNEY GENERAL LAW

**Address:** 25 MARKET ST PO BOX 112

TRENTON NJ 08625

**Phone:** 6099843900

**Name of Party:** PLAINTIFF : NJ DEP'T OF ENV'T  
PROTECTION

**Name of Defendant's Primary Insurance Company**  
(if known): Unknown

**Case Type:** ENVIRONMENTAL/ENVIRONMENTAL COVERAGE  
LITIGATION

**Document Type:** Complaint

**Jury Demand:** NONE

**Is this a professional malpractice case?** NO

**Related cases pending:** NO

**If yes, list docket numbers:**

**Do you anticipate adding any parties (arising out of same  
transaction or occurrence)?** NO

**Does this case involve claims related to COVID-19?** NO

**Are sexual abuse claims alleged by: NJ DEP'T OF ENV'T  
PROTECTION?** NO

**Are sexual abuse claims alleged by: COMM'R OF NJ DEP'T OF  
ENV'T PR?** NO

**Are sexual abuse claims alleged by: ADM'R OF THE NJ DEP'T OF  
ENV'T?** NO

## THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

**Do parties have a current, past, or recurrent relationship?** NO

**If yes, is that relationship:**

**Does the statute governing this case provide for payment of fees by the losing party?** NO

**Use this space to alert the court to any special case characteristics that may warrant individual  
management or accelerated disposition:**

**Do you or your client need any disability accommodations?** NO

**If yes, please identify the requested accommodation:**

**Will an interpreter be needed?** NO

**If yes, for what language:**

**Please check off each applicable category: Putative Class Action?** NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule* 1:38-7(b)

04/20/2023  
Dated

/s/ PETER SOSINSKI  
Signed

**From:** [eCtsCivDNR.Mbx@judiciary.state.nj.us](mailto:eCtsCivDNR.Mbx@judiciary.state.nj.us)  
**To:** [Peter Sosinski](#)  
**Subject:** [EXTERNAL] NJ eCourts Case Initiation Confirmation - Civil Case OCN-L-000904-23  
**Date:** Thursday, April 20, 2023 8:52:42 AM

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**SUPERIOR COURT OF NEW JERSEY - eCOURTS**

The following was filed by SOSINSKI, PETER on 04/20/2023 at 8:52 AM:

Plaintiff Name: NJ DEP'T OF ENV'T PROTECTION, COMM'R OF NJ DEP'T OF ENV'T PR, ADM'R OF THE NJ DEP'T OF ENV'T  
Defendant Name: MELCAM PROPERTIES, LLC, XYZ CORPORATIONS 1-10, JOHN AND/OR JANE DOE 1-10  
Case Caption: NJ DEP'T OF ENV'T PR OTECTION VS MELCAM PROPERTI  
Case Number: [OCN-L-000904-23](#)  
Docket Text: Complaint for OCN-L-000904-23 submitted by SOSINSKI, PETER , ATTORNEY GENERAL LAW on behalf of NJ DEP'T OF ENV'T PROTECTION, COMM'R OF NJ DEP'T OF ENV'T PR, ADM'R OF THE NJ DEP'T OF ENV'T against MELCAM PROPERTIES, LLC, XYZ CORPORATIONS 1-10, JOHN AND/OR JANE DOE 1-10  
Transaction ID: [LCV20231322315](#)  
Law Firm Case ID:

Documents Attached:

Document Type	File Name	Document Description
Complaint	4.19.23 - NJDEP v. Melcam Properties LLC - Final Complaint.pdf	Complaint
Case Information Statement	cis_LCV20231322315.pdf	Case Information Statement

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