

**IN THE CIRCUIT COURT OF SULLIVAN COUNTY, TENNESSEE  
SECOND JUDICIAL DISTRICT**

SHARON WEATHERLY, on behalf of  
herself and all others similarly situated,

Plaintiffs,

v.

EASTMAN CHEMICAL CO.

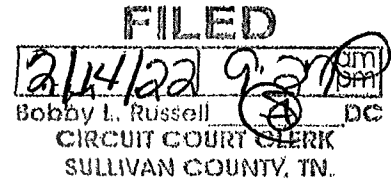
Defendant.

CASE NO.

C43750 (M)

**CLASS ACTION COMPLAINT**

Jury Demanded.



**CLASS ACTION COMPLAINT**

Plaintiff Sharon Weatherly brings this action against Eastman Chemical Co. ("Eastman"), both on behalf of herself and on behalf of all others similarly situated, for diminution in property value.

1. On January 31, 2022, a pipe operated by Eastman burst, causing debris and various contaminants, including asbestos and other toxins, to be released into the surrounding area, including residential community.

2. The incident caused these substances to be sprayed into the air over a large area and spreading into the surrounding community. Residents in the surrounding community noted that the debris could be seen raining down from the sky, coming to rest on and covering houses, vehicles, properties, and, in some cases, people.

3. The contaminants released are dangerous and pose significant risks to human health.

4. By virtue of her close proximity to the Eastman plant where this incident occurred, Plaintiff's property values have diminished, in part due to the ongoing risk to health caused by the

contaminants that covered her entire neighborhood, and due to the ongoing risk that similar incidents will occur in the future.

### **PARTIES**

5. Plaintiff Sharon Weatherly is a citizen and resident of Tennessee. At all times relevant, Plaintiff Weatherly resided at 816 Oakdale Road, Kingsport, Tennessee 37664, in close proximity to the Eastman plant located nearby.

6. Defendant Eastman Chemical Co. is a Delaware corporation with its corporate headquarters in Tennessee. Specifically, Defendant's headquarters are located at 200 South Wilcox Drive, Kingsport, Tennessee 37660. Thus, for purposes of jurisdiction, Defendant is a citizen of the State of Delaware and the State of Tennessee.

### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction pursuant to Tenn. Code Ann. §§ 20-2-222 and 20-2-223.

8. Defendant Eastman Chemical Co. is subject to jurisdiction in the State of Tennessee because it maintains its principal place of business in Kingsport, Tennessee. Further, Eastman engages in substantial business activity within the State of Tennessee, which activity caused the claimed injuries in this case.

9. Venue is proper in this Court pursuant to Tenn. Code Ann. § 20-4-101(a) and (b).

10. Venue is proper in Sullivan County because both Plaintiff and Eastman reside in Sullivan County. Further, the facts and injuries giving rise to the claims all occurred in Sullivan County.

## **GENERAL FACTS**

11. Eastman is a “global specialty materials company that produces a broad range of products.”<sup>1</sup> Since its founding, Eastman has produced chemicals for use in other product applications. Eastman maintains numerous manufacturing plants worldwide.

12. Eastman maintains one such manufacturing plant in Kingsport, Tennessee. This manufacturing site produces a “broad range of chemicals, fibers and plastics” which are used in “products such as paint, adhesives, textiles, sports bottles, pharmaceuticals, medical devices and much more.”<sup>2</sup>

13. On the morning of January 31, 2022, at approximately 7:30 a.m., a steam line (or pipe) at Eastman’s Kingsport manufacturing plant burst. Upon information and belief, this pipe carried steam to and throughout the plant, aiding in the production of Eastman’s various chemical products. The incident occurred at the northeast side of the plant.

14. Reports later indicated that five people suffered injuries as a result of the steam line failure.

15. When the steam line burst, it caused a loud noise; released a massive plume of debris into the air; and the blast reportedly shook homes nearest to the plant. Some residents reported feeling tremors from the incident, lasting for approximately five minutes. Immediately after the pipe burst, it released steam and particulate debris containing various contaminants, including asbestos and other toxins, into the air—and into the surrounding communities.

---

<sup>1</sup> [https://www.eastman.com/Company/About\\_Eastman/Pages/Profile.aspx](https://www.eastman.com/Company/About_Eastman/Pages/Profile.aspx) (last visited Feb. 10, 2022).

<sup>2</sup> [https://www.eastman.com/Company/Worldwide/our\\_sites/Pages/UnitedStates\\_Tennessee.aspx#:~:text=Eastman's%20Kingsport%2C%20Tennessee%20manufacturing%20site,medical%20devices%20and%20much%20more](https://www.eastman.com/Company/Worldwide/our_sites/Pages/UnitedStates_Tennessee.aspx#:~:text=Eastman's%20Kingsport%2C%20Tennessee%20manufacturing%20site,medical%20devices%20and%20much%20more) (last visited Feb. 10, 2022).

16. Notably, upon information and belief, Eastman failed to sound any alarm warning the surrounding community of the incident and failed to ask the City of Kingsport to issue emergency messages to the community.<sup>3</sup>

17. When the steam line burst on the morning of January 31, 2022, it immediately released a massive plume of steam, debris, and various contaminants, including asbestos and other toxins, into the air. This plume extended high into the sky and continued to release debris and contaminants into the air—and into the surrounding communities—for some time. Photographs illustrate the size of these plumes of debris:



---

<sup>3</sup> [https://www.timesnews.net/news/emergency-alert-system-could-see-future-changes/article\\_a881b812-885d-11ec-93b5-07563fd0ba31.html](https://www.timesnews.net/news/emergency-alert-system-could-see-future-changes/article_a881b812-885d-11ec-93b5-07563fd0ba31.html) (last visited Feb. 10, 2022).





18. In particular, some residents reported that debris could be seen falling from the sky, similar to rainfall, coming to rest on their homes, vehicles, and properties.

19. Residents in the surrounding communities were understandably worried and concerned for their and their families' safety.

20. Almost immediately after the incident, residents called emergency services, questioning what had happened and trying to confirm that it was safe to exit their homes. The incident occurred during the early morning, as residents in the surrounding communities traveled to work or took their children to school. Thus, as residents were traveling from their homes, they were exposed to these contaminants, which rained down around them.

21. Despite this incident having so widespread and immediate an effect, Eastman did not immediately issue a statement warning the surrounding communities or assuaging their concerns. Instead, Eastman waited nearly an hour-and-a-half before issuing any statement, releasing its first statement on the incident at 8:52 a.m.

22. In this statement, Eastman confirmed that the Kingsport plant "experienced a high pressure steamline failure . . . resulting in vibrations that were felt by the surrounding community and loud noises from a consistent heavy release of steam."

23. In a further statement, Eastman explained that "small particle debris" could be released into the surrounding community.

24. Indeed, residents reported debris falling from the sky, like rainfall, coming to rest on their homes, vehicles, and properties. Photographs illustrate the magnitude and concentration of the debris that was released into the surrounding community:











25. The following photograph shows a close-up example of the debris that was released:



26. Eastman's website discussing the steam line failure states that "the impacted area is the approximately two block area north of the plant site closest to Lincoln Street including Kenwood Road and Oakwood Drive between Eastman Road and Brookwood Drive."<sup>4</sup>

27. Debris, however, was reported over a much wider area. For example debris was reported at Andrew Johnson Elementary School, while students were present.<sup>5</sup> However, on information and belief, students were permitted to play outside during the morning hours that day, shortly after toxic debris fell onto the schoolgrounds.

28. Moreover, toxic debris is reported to have reached Dobyns-Bennett High School and as far as John B. Dennis Highway. These locations are significantly farther than the impacted area as reported by Eastman.

29. Eventually, Eastman released another statement explaining that the debris is an insulation-like material used within the steam line. Eastman further warned residents that the debris could contain asbestos.

30. As Eastman explained, "[a]sbestos [is] a naturally occurring mineral [that] can be hazardous to human health." Asbestos is a fibrous silicate material, occurring in various types. It can easily be inhaled, posing serious risk of damage to the lungs and causing increased risk of developing cancer.

31. Recognizing the serious dangers associated with the contaminants spread throughout the community, Eastman sent crews in full protective hazmat gear to pick up debris

---

<sup>4</sup> [https://www.eastman.com/Company/News\\_Center/Pages/Steam-Pipe-Failure.aspx](https://www.eastman.com/Company/News_Center/Pages/Steam-Pipe-Failure.aspx) (last visited Feb. 11, 2022).

<sup>5</sup> <https://www.wjhl.com/news/local/eastman-steam-line-failure/kcs-says-some-eastman-debris-was-found-on-cars-at-johnson-elementary/?ipid=promo-link-block-st3> (last visited Feb. 11, 2022).



from properties and clean debris off vehicles, houses, and buildings. Photographs show crews in full protective gear:





32. Notably, in the time immediately following the incident, Eastman did not explain what had occurred or warn residents of the significant risks associated with the debris strewn throughout their community. Indeed, Eastman did not release any statement until nearly an hour-and-a-half had passed, at 8:52 a.m. Further, Eastman did not even warn that the debris contained asbestos until later in the day, shortly before 11 p.m. that night—some *15 hours* later.

33. Notably, Eastman stated that they had tested the debris almost immediately, and confirmed that the debris contained asbestos by that evening following the morning incident. Yet Eastman again waited hours before sharing these findings with residents.

34. Thus, residents were exposed to these contaminants, which had literally rained from the sky and covered their homes, vehicles, and properties, for some 15 hours before receiving adequate warning that the debris even contained a harmful materials, let alone that they should avoid removing the debris themselves.

35. A spokesperson for the City of Kingsport explained that the city was unaware of the severity of the situation, including that the debris contained asbestos, and did not issue a



statement to the public for this reason. The spokesperson further confirmed that, had Eastman requested the city issue a warning to residents, the city would have issued a safety warning—but Eastman never made such a request.

36. Even following the incident, Eastman downplayed the severity of the risks associated with debris and contaminants littered throughout the community. Following the incident and its public statements that day, Eastman issued flyers the next day to residents stating that the debris was unlikely to cause adverse health effects. Notably, these flyers were issued at the same time that crews, in full hazmat suits and full protective safety gear, entered the community to clean up the debris. During the cleanup, these crews taped off certain areas with signs warning that the debris could cause cancer.

37. Though protecting the safety of its cleanup crews by providing fully protective gear, Eastman failed to do the same for community residents, failing to provide timely warnings that the debris contained asbestos – or, at an earlier time in the day, that the debris *could* contain asbestos and other contaminants.

38. Further, on the same day of the pipeline rupture, Eastman recorded three discharges that sent more than 2.4 million pounds of wastewater into the South Fork of the Holston River. The first discharge occurred around 8:00am, the second at approximately 2:15pm, and the third at 3:25pm.

39. The first discharge occurred as a result of a pumping station at the plant losing power due to the pipeline rupture. The wastewater overflowed across the sump walls, into a storm sewer and ultimately into the Holston River. At one point, almost 20,000 gallons of wastewater was being drained into the Holston River per minute.

40. The second discharge occurred when multiple deluge systems from the plant restarted and overwhelmed the lift station on the island on which Eastman is located.

41. The third discharge involved 40 pounds of hydraulic oil being leaked into the Holston River. The hydraulic oil resulted in a “visible sheen” on the river.

42. Notably, just days before the steam pipe rupture, Eastman recorded a discharge of the chemical Therminol, again resulting in a sheen on the river.

43. Therminol is a heat transfer fluid that is produced by Eastman. There are different types of Therminol, with some being fatal if swallowed. Therminol also causes skin irritations and is harmful when inhaled.

44. Eastman reported that an internal investigation determined that the spill of Therminol occurred due to corrosion under a pipe’s insulation.

45. Records from the Tennessee Department of Environment and Conservation show that Eastman had six discharges from July 12, 2019 to June 25, 2021. As a result, the state issued a Notice of Violation on November 22, 2021.

46. Eastman negligently operated the steam line, permitting it to fail and release dangerous debris into the surrounding community. And following the incident, Eastman compounded its negligence by failing to warn residents of the dangers in a timely fashion. Even in the coming days, Eastman continued to downplay the serious risks associated with the contaminants littered throughout the community.

#### **PLAINTIFF FACTS**

47. Plaintiff Sharon Weatherly resides at 816 Oakdale Road, Kingsport, Tennessee 37664. She owns the real property situated at that address, which included her home. She resided

at this address on January 31, 2022, and since that date. She has resided in Kingsport, Tennessee for her entire life.

48. Ms. Weatherly's residence is located near Eastman's Kingsport manufacturing plant. It is located approximately four blocks from where the steam line burst and is situated on the side nearest where the steam pipe exploded. Thus, Ms. Weatherly's property was located well within the affected area, where various contaminants were spread into and onto the surrounding community.

49. At approximately 7:30 a.m. on the morning of January 31, 2022, Ms. Weatherly was in her home with her daughter preparing to walk out the front door to see her daughter off for school. Suddenly, they heard a loud explosion and felt the house shake. As Ms. Weatherly described it, she could feel her feet come up off the floor. Ms. Weatherly opened her door and could immediately see a massive plume of white smoke billowing up into the sky from her front doorstep, as her house was facing the area where the steam pipe was located and failed. Ms. Weatherly took pictures before immediately returning inside.

50. Ms. Weatherly and her daughter were understandably scared, and they took some time to collect themselves. After they had time to calm down, Ms. Weatherly and her daughter went outside, where her daughter got in the car and drove to high school at Dobyns-Bennet High School, located approximately a half-mile from Ms. Weatherly's home (and approximately that same distance from the steam pipe at issue).

51. Ms. Weatherly estimates that it took approximately 30 minutes for debris to fall into and onto her property. Following that period, Ms. Weatherly recalls seeing debris all over her property, including on her lawn, on the sidewalk, on the driveway, on her vehicle, and on the roof. As she described it, the debris fell and formed a visible layer on her property.

52. At this point, Ms. Weatherly was unaware what the debris was, or what toxins it might contain, so out of an abundance of caution, she remained inside her home as much as possible until noon.

53. Ms. Weatherly recalls that no alarm sounded to warn the surrounding community of any danger or potential danger relating to the steam line failure. However, Ms. Weatherly did hear sirens and alarms sounding from Eastman's Kingsport manufacturing plant. She explained that she had lived in Kingsport her entire life and had regularly heard alarm testing in the community on a consistent basis over the years, believing these alarms were intended to warn of serious emergencies. However, on the day of the steam pipe explosion, Ms. Weatherly heard no immediate alarms warning residents in the surrounding community.

54. After the explosion, Ms. Weatherly initially stayed within her residence as a safety precaution. Hearing no alarms, Ms. Weatherly eventually made her way outside and viewed debris strewn throughout the neighborhood, covering cars, houses, sidewalks, and yards.

55. Ms. Weatherly was concerned that the debris could harm her vehicle, so she eventually took it to the car wash to clean off the debris. She was unaware of what the debris contained or if it potentially damaged her car when cleaning it off. Eastman later offered Ms. Weatherly two vouchers for free car washes, which she declined.

56. Ms. Weatherly spoke with her daughter, who confirmed that visible toxic debris fell onto Dobyns-Bennett high school, located approximately a half-mile away from the steam line failure.

57. Moreover, Ms. Weatherly spoke with others in the community and confirmed that toxic debris fell onto Andrew Johnson Elementary School. She is aware that children were permitted to play outside during the morning hours, shortly after the steam line failure, when toxic



debris was falling onto the campus, and shortly thereafter. She is aware of at least one child developing a rash following her exposure on the playground during this time period when toxic debris was falling or had just fallen.

58. Ms. Weatherly is aware that Eastman originally stated that the area affected by debris was extremely limited, extending only a couple of blocks out from the steam line's location. However, Ms. Weatherly notes that her residence, which was visibly coated with toxic debris, is located beyond that area, as is Andrew Johnson Elementary School and Dobyns-Bennett High School. Ms. Weatherly also learned that toxic debris fell as far as John B. Dennis Highway, which is located farther away from any of these locations. Thus, she believes the affected area is significantly larger than Eastman originally admitted.

59. At no point following the steam line failure did Eastman or any of its representatives initiate contact with Ms. Weatherly. Instead, she was forced to initiate contact by calling a telephone line Eastman established on Tuesday morning. However, still no one from Eastman spoke with Ms. Weatherly until Wednesday morning when they called her back. During this call, she voiced serious concerns for her health, for that of her family, friends, and neighbors, and for that of her pets. She specifically asked if it was safe to breathe the air within her home, or if it was safe for her pets to be outside. Eastman's representative did not know how to answer these questions regarding safety, and he later called her back. However, when he called her back he still was unable to adequately answer her questions, referring her instead to information from the ASPCA about her pet's safety.

60. Ms. Weatherly did not hear that the debris was toxic or that it contained asbestos until Wednesday, two days following the steam line failure. And even so, she did not hear this information from Eastman. Instead, a neighbor informed her of this fact.

61. Ms. Weatherly recalls that it rained on Thursday, February 3, 2022, only a few days after the steam line failure. Since that time, she has not seen as much visible debris on her property. She worries, however, that contaminants from the explosion have entered into her home and been deposited into the ground on and around her property, which she worries could negatively impact her health, her family's health, and her pets' health.

62. Since the steam line failure, Ms. Weatherly is aware that some residents in the community have reported negative health effects, including headaches, nausea, and skin rashes. She herself experienced nausea and what she describes as a sensation as if her "stomach was on fire" from Wednesday, February 2, 2022, to Sunday, February 6, 2022. At no point did Eastman warn her that she could experience these types of negative health effects from any of the contaminants released by the explosion.

63. At no point did Eastman offer Ms. Weatherly or her family any protective equipment, including masks, respirators, or gloves.

64. Because Ms. Weatherly has lived in the Kingsport community her entire life, she has experience previous incidents occurring at Eastman's Kingsport plant, including the October 2017 coal gasification explosion. She believes, however, that this recent steam line explosion is the most significant and egregious incident at Eastman by far, as it has already and will continue to negatively impact the community in ways far more serious than previous incidents.

65. As a result of the January 31, 2022 incident, various toxic contaminants entered into and onto Ms. Weatherly's property. The steam line explosion released these contaminants, including asbestos and other toxins, into the air in and eventually all around her property and other properties throughout her neighborhood. And Eastman failed to timely and adequately warn the public of these contaminants. As a result, the value of Ms. Weatherly's residence, as well as those

of her entire neighborhood, have been negatively affected. And upon information and belief, due to the legitimate concern and public perception that these types of incidents will continue to occur in the future, the property values throughout Ms. Weatherly's neighborhood and beyond will be negatively affected for many years to come.

### **CLASS ACTION ALLEGATIONS**

66. Plaintiff brings claims pursuant to Tennessee Rule of Civil Procedure 23 on behalf of a class of similarly situated persons (collectively, the "Class" or "Class members"). Plaintiff proposes the following class:

All persons owning real property within close proximity of the Eastman plant on January 31, 2022, whose property values have been negatively affected due to the Eastman steam line explosion.

67. Defendant Eastman Chemical Co., its subsidiaries, and any officers, employees, or agents thereof are excluded from the Class.

68. The proposed Class, as defined, meets all requirements of Tennessee Rules of Civil Procedure Rules 23.01 and 23.02(2) and (3). Accordingly, certification of this litigation as a class action is appropriate. Plaintiff reserves the right to modify the proposed Class definition in a future motion requesting certification of this litigation as a class action.

69. **Rule 23.01(1) – Numerosity:** The members of the Class are so numerous that joinder of all members is impractical. The proposed Class likely contains hundreds of members, if not more.

70. **Rule 23.01(2) – Commonality:** There are common questions of law and fact that predominate over any questions affecting only individual members of the Class. For Plaintiff and the Class, the common questions of law and fact include, but are not limited to, the following:

- a. Whether Eastman acted negligently, recklessly, wantonly, and/or unlawfully to cause the steam line failure, or otherwise allow it to happen;
- b. Whether Eastman installed and maintained adequate safety measures and monitoring systems on the steam line at issue, and in its systems of command and control to prevent the steam line failure;
- c. Whether Eastman conducted adequate supervision that could have prevented the steam line failure, or otherwise reduced the scale of the failure;
- d. Whether Eastman engaged unconscionable, deceptive, and/or unreasonable business practices and conduct;
- e. Whether Eastman knowingly, intentionally, or negligently concealed, suppressed, or omitted material facts concerning the safety of the steam line failure from the public;
- f. Whether Eastman knowingly, intentionally, or negligently concealed, suppressed, omitted, or delayed in revealing material facts concerning the safety of the debris released from the steam line;
- g. Whether Eastman knowingly, intentionally, or negligently concealed, suppressed, omitted, or delayed relaying material facts regarding the steam line rupture to local, state, and federal agencies, thereby slowing and/or impacting the response, and/or increasing the damages to Plaintiff and the Class members;



- h. Whether Plaintiff and the Class members suffered injury by virtue of Eastman's negligence, recklessness, carelessness, and/or unconscionable and/or deceptive business practices; and
- i. Whether Eastman are strictly liable to Plaintiffs and Class members, by virtue of state and/or federal laws.

71. **Rule 23.01(3) – Typicality:** Plaintiff, as representative of the proposed Class, maintains claims that are typical of the Class members' claims. Plaintiff and the Class members have been injured by the same wrongful acts and omissions of Eastman, in the same manner. Plaintiff's claims arise from the same practices and course of conduct that give rise to the Class members' claims and are based on the same legal theories. Further, Plaintiff is not subject to any potential defense that would not be equally applicable to the Class members generally.

72. **Rule 23.01(4) – Adequacy of Representation:** Plaintiff, as representative of the proposed Class, will fully and adequately assert claims on behalf of the Class members, and will protect the interests of the Class members. In furtherance of this, Plaintiff has retained class counsel who are experienced and qualified in prosecuting class actions. Neither Plaintiff, nor her attorneys, have any interest contrary to or in conflict with the Class.

73. **Ascertainability:** The total number and identity of Class members can be easily determined. Because the steam line failure was a distinct, catastrophic event, the Class members—who consist of residents in the community of Kingsport, Tennessee, immediately adjacent to and surrounding Eastman's Kingsport manufacturing plant—will not have difficulty these injuries, or their cause. On January 31, 2022, as a result of the steam line failure, insulation debris, including asbestos, fell from the sky onto Class members' properties, causing a hazard to their health,

potentially damaging their property, and impacting the value of their properties. All those residents of Kingsport, Tennessee who were affected by the steam line failure are aware of these facts.

74. **Rule 23.02(2):** Plaintiff also satisfies the requirements for maintaining a class action under Rule 23.02(2). Eastman has acted or refused to act on grounds that apply generally to the proposed Class, making final declaratory or injunctive relief appropriate with respect to the proposed Class as a whole.

75. **Rule 23.02(3):** Plaintiff also satisfies the requirements for maintaining a class action under Rule 23.03(3). The common questions of law and fact predominate over any questions affecting only individual Class members. Further, a class action is the superior method for maintaining this litigation, as opposed to maintaining this litigation on individual bases. The amount of damages available to individual plaintiffs is insufficient to make litigation addressing Eastman's conduct economically feasible in the absence of the class action procedure available under the Tennessee Rules of Civil Procedure. Individualized litigation also presents a potential for inconsistent or contradictory judgments, and increases the delay and expense to all parties and this court. By contrast, maintaining this litigation as a class action presents far fewer case management difficulties and provides the benefits of a single adjudication, economy of scale, and comprehensive supervision by a single court.

76. **Rule 23.03(4):** In the alternative to certifying a class action under Rule 23.02(2) or (3), the Court may maintain the litigation as a class action under Rule 23.03(4). The claims of Class members are composed of issues that are common to all Class members and capable of class-wide resolution that will significantly advance the litigation. Thus, in the alternative to certifying a class action under Rule 23.02(2) or (3), the Court may certify a class (or classes) on specific issues, including, but not limited to, on liability or damages.

## **CAUSES OF ACTION**

### **First Claim for Relief**

#### **Strict Liability for Ultra-Hazardous Activity**

77. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

78. At all times relevant, Eastman was the owner and operator of the steam line at issue.

79. At all times relevant, Eastman had supervision, custody, and control of the steam line at issue.

80. At all times relevant, Eastman were under a continuing duty to protect Plaintiff and the Class from the harm caused by the steam line's failure.

81. Eastman was engaged in ultra-hazardous activities by transporting high pressure steam under unsafe conditions through an asbestos-lined steam line.

82. Plaintiff and the Class have suffered harm from the discharge of toxic contaminants resulting from the steam line rupture, the discharge of these contaminants directly into the community and onto their properties, Eastman's inadequate response following this incident, and the continuing concern and public perception that similar incidents will occur in the future.

83. The damages sustained by Plaintiff and the Class were the direct and proximate result of Eastman's activities.

84. The harm to Plaintiff and the Class was and is the kind of harm that would be reasonably anticipated as a result of the risks created by transporting high pressure steam through an asbestos-lined steam line and failing to properly maintain or monitor the steam line in close proximity to the surrounding community.

85. Eastman's operation of the steam line and the steam line explosion was a substantial factor in causing the harms suffered by Plaintiff and the Class.

86. Due to Eastman's strict liability, Plaintiff and Class members are entitled to recover actual damages.

87. The acts and omissions of Eastman were conducted with malice, fraud, and/or oppression as set out in this Complaint.

**Second Claim for Relief**  
**Negligence**

88. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

89. Eastman owed a duty to Plaintiff and the Class to exercise reasonable and ordinary care. That duty arose generally as well as from, among other things, federal, state, and local laws, ordinances, and regulations that require Eastman to operate its plant generally, and the subject steam line specifically, in a manner that does not damage public health and safety. These laws include, but are not limited to, the Federal Clean Water Act, 33 U.S.C. § 1251 *et seq.* and Clean Air Act: 42 U.S.C. § 7401, *et seq.*

90. Eastman breached its duty to Plaintiff and the Class by, among other things, failing to install reasonable safety equipment to prevent a steam line failure, failing to properly monitor the steam line, failing to inspect the steam line for structural weaknesses, failing to promptly respond to and contain the steam line failure, and failing to timely and adequately warn residents in the surrounding area of the dangers of contaminants released by the steam line explosion.

91. Eastman, in the exercise of reasonable care, should have known that the steam line could burst or otherwise fail, and discharge significant amounts of debris, including asbestos and other contaminants.



92. In addition, Eastman's violations of the above-cited statutes, ordinances, and/or regulations resulted in precisely the harm to Plaintiff that the laws listed above were designed to prevent, and Plaintiff and the Class are members of the class of persons for whose protection those laws were adopted.

93. At all times herein mentioned, Eastman negligently, wantonly, carelessly and/or recklessly maintained and operated the steam line.

94. As a direct and proximate result of Eastman's negligence, Plaintiff and the Class have sustained damages. As a direct and legal cause of Eastman's wrongful acts and omissions herein above set forth, Plaintiff and the Class have suffered and will continue to suffer economic harm.

95. The damages include loss of use and enjoyment of real property because of toxic contaminants polluting the area.

96. The damages also include the diminished value of real property in the area in which Plaintiff and Class members have a direct ownership interest.

97. The acts and omissions of Eastman were conducted with malice, fraud, and/or oppression as described in this Complaint.

**Third Claim for Relief**  
**Public Nuisance**

98. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

99. Eastman has created a condition that is harmful to health and interferes with the comfortable enjoyment of life and property by discharging various contaminants, including asbestos and other toxins, into and onto the surrounding community, constituting a nuisance.

100. That nuisance affects a substantial number of individuals similarly situated to Plaintiff, such as citizens of and visitors to Kingsport, Tennessee, real property owners, and those who rely on the safe and healthy environment in Kingsport, Tennessee.

101. Eastman's failed steam line is a condition which would reasonably annoy and disturb an ordinary person, as shown by, for example, the health impacts warned of by Eastman after the steam line discharged into and onto the surrounding community (and after many hours passed) and the community outrage in response to the steam line's failure.

102. The gravity of that harm outweighs the social utility of Eastman's conduct. There is little or no social utility in allowing hazardous and aging steam lines, with a propensity for failure, to discharge toxic contaminants into and onto the surrounding community.

103. Plaintiff and the Class suffered harm and injury to their economic livelihood, to which they did not consent.

104. The above acts and omissions also created a public nuisance vis-à-vis the Plaintiff and the Class, interfering with the property rights of Plaintiff and the Class, and rights incidental to those property rights.

105. As a direct and legal cause of Eastman's wrongful acts and/or omissions set forth above, Plaintiff and the Class have suffered and will suffer economic harm, injury, and losses.

106. To remedy the harm caused by Eastman's nuisance, Plaintiff will seek public injunctive relief, including, but not limited to, an order requiring Eastman to do the following: restore real properties in the area impacted by the spill; repair short and long term damages to properties; repair reputational damage done to property values in Kingsport, Tennessee; and prevent Eastman from operating the steam line, or other similar utility lines, without adequate safety mechanisms and ongoing monitoring, to ensure that no future failures of this kind occur.

107. In failing to timely and adequately warn of and remediate the damages caused by the failed steam line, Eastman acted with, and continues to act with, full knowledge of the consequences and damage being caused, and the acts and omissions of Eastman, were done with malice, fraud, and/or oppression as described in this Complaint.

**Fifth Claim for Relief**  
**Trespass**

108. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

109. Eastman discharged toxic debris beyond the boundary of Plaintiff's and Class members' real property in such a manner that it was reasonably foreseeable that the debris would, in due course, invade into or onto Plaintiff's and Class members' real property and cause harm.

110. By discharging the toxic debris, Eastman entered, invaded, and intruded on the real properties of Plaintiff and the Class members without privilege, permission, invitation, or justification.

111. Eastman had a duty to use reasonable care not to enter, intrude on, or invade Plaintiff's and Class members' real properties. Eastman also owed a duty to Plaintiff and Class members to exercise reasonable care in the manufacture, maintenance, and operation of the steam line at issue.

112. Eastman had a heightened duty of care to Plaintiff and the Class because of the great danger associated with high pressure steam through an asbestos-lined pipe so near to residential areas without taking increased care to ensure the steam line was properly and safely maintained.

113. Eastman breached the duty they owed to Plaintiff and Class members when they failed to exercise reasonable care in the maintenance and operation of the steam line, which resulted in entry, intrusion, or invasion on Plaintiff's and Class members' real properties.

114. Eastman knew or should have known that their conduct would foreseeably result in a disastrous incident in which the steam line failed and burst, causing damage to the real properties and economic interests of persons in the area affected by the spill.

115. As a direct and proximate result of Eastman's trespass, Plaintiff and Class members have suffered legal injury and damages, in an amount to be proven at trial, including, but not limited to, property damage, diminution of value of real estate, and other economic loss.

116. Eastman's wanton or reckless conduct, as described herein, entitles Plaintiffs and Class members to punitive damages.

**Sixth Claim for Relief**  
**Continuing Private Nuisance**

117. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

118. Eastman's actions and inactions caused, maintained, and/or permitted the contamination alleged in this action by its negligent acts and/or omissions.

119. Eastman created the contamination at issue, which is harmful to both human health and the environment and interferes with Plaintiff's and Class members' comfortable use and enjoyment of the real property in which they have possessory interests.

120. Eastman was, at all relevant times, in sufficient control of the steam line at issue to have known of the threatened release of steam and various contaminants to have prevented the resulting contamination. Eastman knew or should have known that their operation of the failed steam line would have, and did, cause the contamination described herein.



121. Despite knowledge and forewarning, Eastman failed to take reasonable steps to prevent the failure which resulted in the contamination at issue.

122. Eastman failed to take reasonable steps to abate the contamination at issue. Eastman has failed to timely ensure the full remediation of all toxic debris that entered the surrounding community, which continues to contaminate the area and which contamination may spread unless timely remediated. This also confirms that Eastman has knowingly maintained the nuisance—that is, the contamination at issue.

123. Plaintiff and Class members did not consent to the ongoing damage to the use and enjoyment of their properties as a result of Eastman's actions and inactions.

124. After having a reasonable opportunity to do so, Eastman failed to timely warn Plaintiff and Class members of the dangers associated with the contamination and further failed to take reasonable measures to properly and timely abate the contamination described herein.

125. As a direct and proximate cause, Eastman's acts and omissions have caused substantial actual damage and immediate and ongoing diminution of the value of Plaintiff's and Class members' real properties.

126. As a result, Plaintiff and Class members have and will continue to suffer damages, both economic and otherwise.

127. Plaintiff is informed and believes, and on that basis alleges, that the contamination is continuing and abatable.

128. As a proximate result of the nuisance, Plaintiff and Class members have and will continue to suffer damages.

**Seventh Claim for Relief**  
**Medical Monitoring**

129. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

130. Plaintiff and Class members were significantly exposed to various toxic contaminants as described herein.

131. The exposure to these dangerous substances is such that Plaintiff, Class members, and others living and working in close proximity to the Eastman plant have already experienced acute symptoms as described herein and have been placed at an increased risk of contracting latent illness and disease, including but not limited to various malignancies, respiratory conditions, and cardiopulmonary conditions, and as such, require medical monitoring which Eastman is responsible for providing and funding.

132. Monitoring and testing procedures for the medical conditions already reported by Plaintiff, Class members, and others living and working in close proximity to the Eastman plant and the latent injuries associated with exposure to asbestos and other toxins released during the explosion make the early detection and treatment of the disease possible and beneficial.

133. As a result, the Court should establish a Court-supervised and administered trust fund and medical monitoring regime to compensate Plaintiff and Class members for their increased risk of bodily injury due to this incident.

**NON-APPLICABILITY OF PUNITIVE DAMAGES CAPS**

134. Plaintiff incorporates by reference each and every prior allegation of this Complaint as if fully restated here.

135. On October 1, 2011, the Tennessee Civil Justice Act went into effect, enacting “caps” in all Tennessee personal injury cases for punitive damages. However, based on the timing

and nature of Eastman's conduct, these damages caps should not be applied in this case. *See* Tenn. Code Ann. §§ 29-39-104(a)(7)(B). (providing that the limitations on punitive damages shall not be applied if the defendant intentionally falsified, destroyed, or concealed material evidence with the purpose of wrongfully evading liability).

136. Through its failure to sound alarms to the community following the steam line failure, including but not limited to its refusal to immediately inform residents that the debris released from the steam line was toxic and extremely harmful, Eastman's actions preclude application of the damages caps. Moreover, Eastman has stated through multiple media that the area impacted by the steam line failure is limited to a small area nearest Eastman's plant, openly suggesting that most of the surrounding community was not impacted or at risk, when in reality Eastman was fully aware that the impacted area was much larger. This conduct precludes application of the damages caps.

137. To the extent damages caps may be applicable in this case, Plaintiff Weatherly avers that Tennessee Code Annotated section 29-39-102(a)(5) is in violation of Article I, Section 6 of the Tennessee Constitution, which provides that the right of trial by jury shall remain inviolate. Furthermore, the statutory cap on punitive damages violates Article 1, Section 17 of the Tennessee Constitution which states that all courts shall be open, and every man shall have a remedy for injury done by due course of law. The punitive damages cap usurps the powers of the Judicial Branch in violation of Article II, Sections 1 and 2 of the Tennessee Constitution. Additionally, the statutory cap violates Article XI, Section 16, of the Tennessee Constitution which indicates that the rights of citizens articulated in Tennessee's Bill of Rights "shall never be violated on any pretense whatever . . . and shall forever remain inviolate."

138. Therefore, Plaintiff Weatherly requests a declaration, pursuant to Tennessee Code Annotated section 29-14-103, that the cap is void *ab initio* and of no force and effect.

139. Pursuant to Tennessee Code Annotated section 29-14-107 and Tennessee Rule of Civil Procedure 24.04, a copy of this Complaint is being served on the Attorney General of the State of Tennessee, notifying the State of Tennessee Attorney General that Plaintiff Weatherly is challenging the constitutionality of Tennessee Code Annotated section 29-39-102(a)(5).

### **PRAYER FOR RELIEF**

Plaintiff, individually and on behalf of all others similarly situated, request judgment against Defendant Eastman Chemical Co. as follows:

- a. For an order certifying the proposed Class and appointing Plaintiff as representative of the Class and appointing the attorneys representing Plaintiff as Class Counsel;
- b. For an order permanently enjoining Eastman from operating a steam line, or similar utility line, without adequate safety and response measures and ongoing monitoring;
- c. For all recoverable compensatory, statutory, and other damages sustained by Plaintiff and Class members, including all relief allowed under applicable laws;
- d. For the establishment of a Court-supervised and administered trust fund and medical monitoring regime to compensate Plaintiff and Class members for their increased risk of bodily injury due to this incident;
- e. For costs;
- f. For both pre-judgment and post-judgment interest on any amounts awarded;
- g. For appropriate injunctive relief, including public injunctive relief—that is, an order requiring Eastman to do the following: repair reputational damage done to Kingsport, Tennessee’s economy as a result of the steam line failure; restore property values impacted by the



steam line failure; and an order requiring Eastman to operate the steam line, or similar utility line, in such a way to ensure no further failures and resulting losses;

- h. For treble damages insofar as they are allowed by applicable laws;
- i. For appropriate individual relief as requested above;
- j. For payment of attorneys' fees and expert fees as may be allowable under applicable law, and any other applicable statutes and/or regulations;
- k. For exemplary or punitive damages under Tenn. Code Ann. § 29-39-104 for the malice, intention, fraud, and/or recklessness alleged herein;
- l. For a declaratory judgment that Eastman is responsible for past and future costs to remedy the harm caused to Plaintiff, Class members, and their properties; and
- m. For such other and further relief, including declaratory relief, as the Court may deem just and proper.

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all claims so triable.

Dated: February 14, 2022

**RESPECTFULLY SUBMITTED,**

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC**

By: \_\_\_\_\_

Gregory F. Coleman (TN BPR #14092)  
Louis W. Ringger, III (TN BPR # 33674)  
William A. Ladnier (TN BPR # 34316)  
Virginia Ann Whitener (TN BPR # 38528)  
Kelsey Gatlin Davies (TN BPR # 38953)  
First Horizon Plaza  
800 S. Gay Street, Suite 1100  
Knoxville, Tennessee 37929  
Tel: (865) 247-0080  
Fax: (865) 522-0049

*Attorneys for Plaintiff and the Proposed  
Class*

FILED  
I HEREBY CERTIFY THIS  
IS A TRUE AND CORRECT  
COPY OF THE ORIGINAL  
FILED IN THIS CAUSE  
2/14/22 9:35 am  
Bobby L. Russell  
CIRCUIT COURT CLERK

**COST BOND**

We the undersigned acknowledge ourselves as Surety for costs of the clerk adjudged in this matter.

Respectfully submitted this 14<sup>th</sup> day of February, 2022.

**MILBERG COLEMAN BRYSON  
PHILLIPS GROSSMAN, PLLC**

By: 

\_\_\_\_\_  
Louis W. Ringger, III