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6 Plaintiff in Propria Persona

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 FOR THE COUNTY OF SACRAMENTO

9  
10 **CASE NO. 25CV010077**

11 BETTY MITCHELL,  
12 Plaintiff,  
13 vs.  
14 McCORMACK BARON SALAZAR, INC.; A.  
15 TEICHERT AND SON, INC.; MIDSTATE  
16 CONSTRUCTION CORPORATION; and  
17 DOES 1 through 50, inclusive, Defendants.  
18  
19

SECOND AMENDED COMPLAINT  
FOR NEGLIGENCE,  
FRAUDULENT CONCEALMENT,  
TRESPASS, AND  
CIVIL CONSPIRACY

20  
21  
22 **DEMAND FOR JURY TRIAL**  
23

24 Plaintiff filed prior pleadings in this action that included Sacramento Housing and  
25 Redevelopment Agency (“SHRA”). Plaintiff does not assert any cause of action against SHRA in  
26 this Second Amended Complaint.

27 **INTRODUCTION**  
28

- 1 1. This action arises from the release and off-site migration of contaminated dust,  
2 particulates, and soil-derived matter from the Mirasol Village redevelopment project onto  
3 neighboring property lawfully occupied and possessed by Plaintiff Betty Mitchell,  
4 causing contamination of her indoor cannabis facility, repeated product failures for  
5 chlordane, destruction of inventory, interference with her possessory and contractual  
6 property rights, severe economic loss, and substantial emotional distress.
- 7 2. At all relevant times, Plaintiff Betty Mitchell was the named lessee and lawful possessor  
8 of the commercial property located at 301 Dos Rios Street, Sacramento, California, also  
9 known as 1151 North D Street. Plaintiff personally signed the lease in that capacity. The  
10 lease transaction also gave Plaintiff valuable contractual rights connected to the property,  
11 including an option to purchase, a right of first offer, and a right of first refusal, giving  
12 Plaintiff a substantial economic opportunity to convert her tenancy into ownership and  
13 capture the future value and appreciation of the property.
- 14 3. Plaintiff established and operated an indoor commercial cannabis cultivation and  
15 production facility at that property, investing substantial personal funds, labor, and  
16 resources into the premises, equipment, filtration systems, ventilation systems,  
17 compliance infrastructure, and operations necessary to build and maintain a lawful  
18 business. Plaintiff was not merely occupying the property. She actively operated a  
19 commercial enterprise, making sales, generating revenue, and trying to build a long-term  
20 business there.
- 21 4. Before the contamination events described herein, Plaintiff reasonably believed her  
22 facility was capable of producing compliant cannabis product and operating successfully.  
23 On or about June 11, 2020, Plaintiff's product was sampled for testing, and the completed  
24 report dated June 18, 2020 showed chlordane as not detected and the pesticide test as a  
25 pass. That clean result is important because it shows Plaintiff's operation was not failing  
26 for chlordane at the outset. Thereafter, the pattern changed.
- 27 5. The nearby Mirasol Village redevelopment was a major public-private project involving  
28 both public-entity and private-party participation. Sacramento Housing and  
Redevelopment Agency ("SHRA") was not a minor background participant. SHRA was  
part of the project's management, oversight, communication, approval, and knowledge  
chain. Plaintiff does not assert a direct cause of action against SHRA in this Second

1 Amended Complaint because of the procedural claim-presentation restrictions and timing  
2 requirements that apply to public entities, not because SHRA lacked a significant role in  
3 the events at issue. SHRA's role, records, personnel, and communications therefore  
4 remain important parts of the factual background and knowledge chain underlying the  
5 claims against the private defendants.

6 6. Plaintiff is informed and believes, and on that basis alleges, that SHRA personnel within  
7 that chain included La Shelle Dozier, SHRA's Executive Director at the time, and  
8 Stephanie Green, an SHRA environmental coordinator or project-related environmental  
9 contact. Plaintiff is further informed and believes, and on that basis alleges, that these  
10 individuals were among those positioned to receive, review, communicate about, or act  
11 upon project conditions, environmental concerns, DTSC issues, and matters affecting  
12 neighboring properties. Plaintiff is further informed and believes, and on that basis  
13 alleges, that La Shelle Dozier was within SHRA's project knowledge and communication  
14 chain concerning matters related to the project, the surrounding area, and issues affecting  
15 adjacent business operations, including Plaintiff's, and that such matters were  
16 communicated among SHRA and project participants, including MBS, Teichert, and  
17 Midstate.

18 7. Before and during the redevelopment work, the project site was known to involve  
19 contamination concerns and unresolved environmental risk. On or about March 4, 2020,  
20 the California Department of Toxic Substances Control ("DTSC") issued a formal  
21 comment letter regarding the Twin Rivers Triangle property confirming review of  
22 environmental materials and calling for additional investigation and scoping. Those  
23 materials identified multiple categories of chemicals of potential concern, including  
24 organochlorine pesticides, a class that includes chlordane.

25 8. Thus, before and during the period of active redevelopment, the project site was not a  
26 clean, fully understood, or risk-free location. It was a site with known contamination  
27 concerns, incomplete environmental characterization, and identified need for further  
28 investigation. Despite that, demolition, grading, excavation, trenching, hauling, and other  
soil disturbing, dust generating work proceeded near neighboring occupied commercial  
property, including Plaintiff's facility. Public project materials further reflect that by  
September 3, 2020, SHRA and McCormack Baron Salazar, Inc. ("MBS") were publicly

1 celebrating that the first units at Mirasol Village were under construction, confirming that  
2 active project work was underway after DTSC had already identified contamination  
3 concerns and additional investigative needs.

4 9. Plaintiff is informed and believes, and on that basis alleges, that Defendants MBS, A.  
5 Teichert and Son, Inc. (“Teichert”), and Midstate Construction Corporation (“Midstate”)  
6 participated in, directed, controlled, coordinated, performed, supported, and/or materially  
7 contributed to that work, and that each knew, or at a minimum should have known, that  
8 disturbing contaminated or suspect soil could generate dust capable of migrating beyond  
9 project boundaries and affecting neighboring property.

10 10. Plaintiff is informed and believes, and on that basis alleges, that at all relevant times  
11 MBS acted through management-level personnel with substantial project authority,  
12 including Candice Hung, publicly identified as a Vice President and Project Manager for  
13 MBS on Mirasol Village, and Daniel Falcon, Jr., publicly identified as an MBS vice  
14 president and project-facing representative. Plaintiff is informed and believes, and on that  
15 basis alleges, that such personnel were positioned to receive, review, be informed of, and  
16 act upon project conditions, site issues, contractor communications, neighboring  
17 complaints, environmental concerns, and response to material project-related problems.

18 11. Beginning in or about late 2020, Plaintiff’s cannabis products began failing pesticide  
19 testing due to the presence of chlordane, a banned pesticide that Plaintiff did not use,  
20 introduce, or store within her operation. On or about January 21, 2021, a product sample  
21 was taken, and the report issued on January 26, 2021 showed chlordane at 0.115 ug/g, a  
22 failed result. Later, on or about December 28, 2021, another product sample was taken,  
23 and the report issued on December 30, 2021 showed chlordane at 0.396 ug/g, another  
24 failed result and a substantially worse one. During the summer of 2023, construction was  
25 in the approximate range of 100 feet nearly directly across the street, at that time a  
26 sample was taken dated approximately July 31, 2023, received August 1, 2023, and  
27 reported August 3, 2023, Plaintiff’s product tested at 3.09 ug/g for chlordane, again a fail  
28 and by far the highest confirmed result. These repeated failures were not isolated events.  
They formed a worsening pattern over time.

12. The progression of Plaintiff’s testing results over time was consistent with active  
construction activity moving closer to Plaintiff’s facility. Plaintiff is informed and

1 believes, and on that basis alleges, that earlier dust-generating work occurred farther from  
2 her building, while later active construction moved directly across from her property, and  
3 that the contamination worsened as the work advanced closer, culminating in the most  
4 severe confirmed chlordane failure in August 2023 at a time when the block adjacent to  
5 Plaintiff's property was under construction.

6 13. At the time of the earlier failures, Plaintiff did not know the source was external. She  
7 reasonably believed the problem might be inside her own facility. Acting in good faith  
8 and trying to save the business she had built, Plaintiff undertook repeated and costly  
9 remediation efforts, including cleaning, replacing filters, modifying ventilation and air  
10 pathways, consulting with others, adjusting operations, inspecting possible internal  
11 sources, and spending substantial additional time and money trying to identify and  
12 eliminate what she reasonably believed might be her own problem. Plaintiff kept doing  
13 this because she did not yet know the truth. She was not sitting on her rights. She was  
14 actively trying to solve the contamination problem with the information she had.

15 14. In or about August and September 2023, after repeated product failures, repeated  
16 remediation efforts, observation of outside project conditions, and the gathering of  
17 additional information and testing, Plaintiff first developed a clear and reasonable belief  
18 that the source of the contamination was external and project-related rather than internal  
19 to her own facility. That understanding was reinforced by the severe August 2023 test  
20 result and by Plaintiff's recent discovery, after additional investigation, that the  
21 contamination pathway was tied to outside project dust rather than to any chlordane  
22 source inside her facility.

23 15. By September 26, 2023, Plaintiff had directly asserted to MBS, SHRA, and Midstate that  
24 project-related fugitive dust caused chlordane contamination at her facility. On that date,  
25 MBS responded through counsel, stating that it had further investigated Plaintiff's  
26 statements and expressly addressing her claim that fugitive dust emissions associated  
27 with the project resulted in chlordane impacts to cannabis plants grown at 301 Dos Rios  
28 Street. That response confirms that by September 26, 2023, MBS had actual notice of  
Plaintiff's specific dust and chlordane claim and had undertaken a substantive response to  
it.

1 16. While Plaintiff was trying to solve what she reasonably believed might be an internal  
2 problem, Defendants had materially better information. On **September 19, 2022**,  
3 **Commerce Printing Services**, through its owner **Gil Caravantes**, sent a written  
4 complaint to **Sacramento Housing and Redevelopment Agency, Attn: Victoria**  
5 **Johnson, Assistant Director of Development**, regarding dust generated by the Mirasol  
6 community development. That letter complained that construction related dust had  
7 heavily blanketed Commerce Printing's rooftop solar panels, described inadequate dust  
8 mitigation and dust being kicked into Dos Rios Street, and requested reimbursement for  
9 cleaning costs. The letter further stated that, for the prior **two years**, SHRA had helped  
10 cover the cost of cleaning the solar panels, showing that the dust problem was known,  
11 recurring, and not a one time event. Plaintiff is informed and believes, and on that basis  
12 alleges, that Teichert and MBS, including through project-management channels and  
13 personnel such as Candice Hung, learned of these repeated neighboring impacts and the  
14 resulting need to pay for, authorize, or arrange cleanup of the affected solar panels. Once  
15 Defendants learned that project dust was repeatedly traveling onto adjacent property and  
16 requiring repeated cleaning and reimbursement, they knew the off-site migration problem  
17 was real, recurring, and not merely theoretical.

17 17. Yet Defendants did not warn Plaintiff that project dust had already escaped the site. They  
18 did not disclose that repeated complaints had been made. They did not disclose that prior  
19 dust control efforts had failed to prevent recurrence. They did not disclose that  
20 neighboring property had already required cleanup. Instead, Plaintiff is informed and  
21 believes, and on that basis alleges, that Defendants concealed these material facts because  
22 disclosure would have exposed failures in contamination control, dust suppression,  
23 project oversight, and site management, and would have increased cost, delay, scrutiny,  
24 and liability.

24 18. Plaintiff later discovered that the contamination problem was not originating inside her  
25 facility, but outside at the redevelopment project, where contaminated or suspect soil was  
26 being disturbed and dust was being allowed to migrate beyond project boundaries.  
27 Plaintiff ultimately connected the contamination affecting her facility to the project only  
28 after observing outside conditions, gathering information, obtaining samples, and  
securing testing and other evidence sufficient to reveal that the source was external rather

1 than internal. By the time Plaintiff learned the truth, repeated product failures, repeated  
2 remediation efforts, and repeated losses had consumed her available resources and helped  
3 drive the business into collapse.

4 19. Plaintiff brings this action against the private defendants for negligence, fraudulent  
5 concealment, trespass, and civil conspiracy based on their roles in creating, allowing,  
6 continuing, concealing, authorizing, ratifying, and failing to correct a contamination and  
7 dust migration problem that foreseeably and directly harmed Plaintiff's property,  
8 business, and livelihood. Plaintiff further alleges that MBS acted through officers,  
9 managing agents, and other persons with substantial discretionary authority over project  
10 oversight, coordination, response to site conditions, and handling of material project-  
11 related issues, and that MBS's conduct as alleged herein was undertaken, authorized,  
12 approved, continued, and/or ratified at that level, supporting punitive damages as  
permitted by law.

## 13 GENERAL FACTUAL ALLEGATIONS

### 14 A. Plaintiff's Leasehold, Possessory Rights, and Ownership Opportunity

15 20. Plaintiff Betty Mitchell was, at all relevant times, the named lessee and lawful possessor  
16 of the commercial property commonly known as 301 Dos Rios Street, Sacramento,  
17 California, also known as 1151 North D Street (the "Property" or "Premises").  
18

19 21. The lease documents identify "Betty Mitchell" as the Lessee and identify the Premises as  
20 301 Dos Rios Street, Sacramento, California 95811, also known as 1151 North D Street,  
21 Sacramento, California 95811. Plaintiff personally signed the lease in her own name in  
22 that capacity.

23 22. The lease provided for a multi-year tenancy commencing October 1, 2018, and ending  
24 September 30, 2023, with an agreed use that expressly included micro cannabis  
25 cultivation together with related manufacturing, distribution, and sale activities.

26 23. The lease was not a short term or incidental occupancy arrangement. It was a substantial  
27 commercial lease that gave Plaintiff lawful possession of the Property, the right to occupy  
28 and use it, and operational control over the premises for the business conducted there.

- 1 24. Plaintiff, not merely a separate business entity, held the leasehold possessory interest in  
2 the Property. Plaintiff signed the lease and related transaction documents in her own  
3 name, and those documents repeatedly treated her as the party entitled to possess the  
4 Premises, operate the business there, and hold the contractual rights arising from the  
5 tenancy.
- 6 25. The lease attachments specifically included an Option to Purchase, a Purchase Agreement  
7 to be used if the option was exercised, an Option to Extend Lease, a Right of First Offer  
8 to Purchase, and a Right of First Refusal to Purchase.
- 9 26. Those purchase-related rights gave Plaintiff more than a temporary tenancy. They gave  
10 her a contractual opportunity to acquire ownership of the Property and to realize the  
11 future value, appreciation, and business advantage associated with that ownership  
12 opportunity.
- 13 27. As a result, Plaintiff's interest in the Property was not limited to temporary occupancy.  
14 Plaintiff held a valuable leasehold, a direct right of possession, the right to conduct  
15 regulated cannabis operations there, and a contractual opportunity to convert her tenancy  
16 into ownership.
- 17 28. Plaintiff personally committed herself to that location, to the business operated there, and  
18 to the long-term success of the enterprise. The Property was the center of Plaintiff's  
19 operations, investment, livelihood, and future economic planning.
- 20 29. Plaintiff is informed and believes, and on that basis alleges, that the contamination and  
21 off-site dust migration described herein interfered not only with her physical use and  
22 possession of the Property, but also with the value of her contractual purchase  
23 opportunity, her ability to continue operating there, and her ability to realize the  
24 economic benefit of the rights associated with the lease.
- 25 30. Plaintiff therefore had, at all relevant times, a direct, personal, and legally protected  
26 possessory interest in the Property, together with a direct contractual and economic  
27 interest in preserving its utility, cleanliness, marketability, and future ownership value.
- 28 31. Plaintiff also had a direct economic interest in preserving the Premises from  
contamination, preserving the viability of the business operated there, and preserving the  
future value of the leasehold and ownership rights connected to the Property.

1 **B. Plaintiff's Cannabis Facility, Investment, and Operations**

2 32. After securing the Property, Plaintiff established and operated an indoor commercial  
3 cannabis cultivation and production facility there.

4 33. Plaintiff invested substantial personal funds, labor, time, and resources into the buildout,  
5 equipment, compliance systems, filtration systems, ventilation systems, operations, and  
6 maintenance of the facility.

7 34. Plaintiff carried the financial burden of the Property and business development for an  
8 extended period, including substantial lease obligations, permitting costs, engineering  
9 expenses, equipment purchases, security system installation, compliance expenses, tenant  
10 improvements, and other state and local requirements necessary to lawfully operate the  
11 facility.

12 35. Plaintiff invested hundreds of thousands of dollars into the Property, the facility systems,  
13 tenant improvements, compliance infrastructure, and operational buildout necessary to  
14 create and maintain a lawful cannabis business.

15 36. Plaintiff committed her livelihood to the success of the business and operated the facility  
16 as an ongoing commercial enterprise. The facility was not a passive holding. It was a  
17 working business intended to generate lawful product, sales, revenue, and long-term  
18 economic value.

19 37. The operation depended on maintaining a controlled indoor environment, clean air  
20 pathways, properly functioning HVAC and ventilation systems, protected equipment, and  
21 uncontaminated cannabis product.

22 38. Because the operation was indoor and regulated, contamination entering through airborne  
23 pathways posed an especially serious risk. Even an outside contamination source could  
24 cause severe consequences if dust, particulates, or chemical laden matter entered through  
25 air pathways, ventilation routes, or HVAC-related systems.

26 39. Plaintiff did not use, introduce, or store chlordane as part of her operation.

27 40. Plaintiff is informed and believes, and on that basis alleges, that before the contamination  
28 events described below, Plaintiff reasonably believed her facility was capable of  
producing compliant product and operating lawfully, provided that outside contaminants  
were not introduced into the premises.

1 41. On or about June 11, 2020, Plaintiff's product was sampled for testing, and the completed  
2 report dated June 18, 2020 showed chlordane as not detected and the pesticide testing as a  
3 pass. That result reflected that Plaintiff's operation was not failing for chlordane at the  
4 outset and that the later failures represented a material change over time.

5 **C. Mirasol Village Redevelopment and the Private Defendants' Roles**

6  
7 42. During the relevant period, redevelopment activities were undertaken at or in connection  
8 with the nearby Mirasol Village / Twin Rivers Triangle project site, in close proximity to  
9 Plaintiff's Property.

10 43. Those activities included demolition, grading, excavation, hauling, soil disturbance,  
11 trenching, stockpiling, site preparation, and other dust generating construction work.

12 44. SHRA managed, sponsored, approved, or otherwise served as part of the public-side  
13 redevelopment structure and was part of the project's approval, communication,  
14 oversight, and administrative chain. Plaintiff does not assert any direct cause of action  
15 against SHRA in this Second Amended Complaint because of the procedural claim  
16 presentation restrictions applicable to public entities, not because SHRA lacked a  
17 significant role in the events at issue.

18 45. Defendant McCormack Baron Salazar, Inc. ("MBS") was a developer, coordinator,  
19 project manager, decision-maker, and/or controlling participant with responsibility for  
20 planning, directing, coordinating, supervising, approving, or materially influencing  
21 redevelopment work and associated project communications.

22 46. Plaintiff is informed and believes, and on that basis alleges, that at all relevant times  
23 MBS acted through personnel with substantial discretionary authority over Mirasol  
24 Village project matters, including Candice Hung, publicly identified as a Vice President  
25 and Project Manager for MBS on Mirasol Village, and Daniel Falcon, Jr., publicly  
26 identified in Mirasol Village-related materials as an MBS vice president and project-  
27 facing representative.

28 47. Plaintiff is informed and believes, and on that basis alleges, that by virtue of their roles,  
such MBS personnel had substantial involvement in project oversight, coordination, site  
issues, contractor communications, development communications, response to project

1 conditions, continuation of project activities, handling of material project-related  
2 concerns, and decisions concerning neighboring property impacts.

3 48. Plaintiff is further informed and believes, and on that basis alleges, that MBS's project  
4 conduct as alleged herein was undertaken, directed, authorized, approved, continued,  
5 and/or ratified by officers, managing agents, or other persons with substantial  
6 discretionary authority acting on behalf of MBS.

7 49. Defendant A. Teichert and Son, Inc. ("Teichert") was a contractor and/or field operator  
8 that performed, directed, controlled, or materially contributed to grading, excavation,  
9 trenching, hauling, soil disturbance, demolition, and related dust generating work at the  
10 site.

11 50. Defendant Midstate Construction Corporation ("Midstate") was a contractor,  
12 subcontractor, site participant, and/or project operator that performed, directed,  
13 controlled, supported, coordinated, or materially contributed to site work and related dust  
14 generating activity, including work affecting field conditions, site maintenance, dust  
15 related conditions, and continuation of project operations.

16 51. Plaintiff is informed and believes, and on that basis alleges, that each of these private  
17 defendants participated in the planning, execution, control, supervision, coordination,  
18 support, and/or continuation of work that disturbed contaminated or suspect soil and  
19 generated dust capable of migrating beyond project boundaries.

20 52. Plaintiff is informed and believes, and on that basis alleges, that each private defendant  
21 had access to project information, construction conditions, field observations,  
22 environmental issues, complaints, site impact information, or communications not known  
23 to Plaintiff.

24 53. Plaintiff is informed and believes, and on that basis alleges, that each private defendant  
25 either knew, or at minimum should have known, that dust generated from soil disturbing  
26 operations at the project could leave the site and affect neighboring properties, including  
27 Plaintiff's premises.

28 54. Plaintiff is informed and believes, and on that basis alleges, that as construction activity  
advanced through the project, active work moved from areas farther away from  
Plaintiff's facility to areas directly across from it, increasing the risk that airborne dust,

1 particulates, and contaminated soil-derived matter would reach Plaintiff's building and  
2 penetrate her indoor operation.

3 **D. Pre-Construction and Ongoing Knowledge of Site Contamination Risks**  
4

5 55. Before and during the redevelopment activities, contamination risks associated with the  
6 project site had already been identified and documented.

7 56. On or about March 4, 2020, DTSC issued a comment letter regarding the Twin Rivers  
8 Triangle Property, confirming DTSC's review of environmental site-assessment materials  
9 and requesting additional investigation and scoping.

10 57. The DTSC materials reflected that the site had historical commercial and industrial uses,  
11 including uses associated with manufacturing, automotive repair, salvage-related activity,  
12 and other contamination-relevant operations, and that environmental issues remained  
13 under review.

14 58. DTSC and the underlying memoranda identified numerous categories of chemicals of  
15 potential concern, including VOCs, SVOCs, PAHs, petroleum hydrocarbons, PCBs,  
16 metals, and the need for additional investigation relating to organochlorine pesticides.

17 59. Organochlorine pesticides include chlordane, the same banned pesticide later detected in  
18 Plaintiff's failed cannabis products.

19 60. The DTSC materials further reflected that the site was not fully characterized and that  
20 additional investigation, including further soil, soil vapor, and groundwater work, was  
21 required.

22 61. Thus, before and during the period of redevelopment activity, the project site was not a  
23 clean, fully understood, or risk-free location. It was a site with identified contamination  
24 concerns, incomplete characterization, and a known need for further investigation.

25 62. Plaintiff is informed and believes, and on that basis alleges, that the project's knowledge  
26 and communication chain included identified SHRA personnel, including La Shelle  
27 Dozier, SHRA's Executive Director at the time, and Stephanie Green, an SHRA  
28 environmental coordinator or project-related environmental contact, who were within the  
project review, communication, environmental, and oversight chain regarding site  
conditions and DTSC-related issues.

1 63. Plaintiff is further informed and believes, and on that basis alleges, that La Shelle Dozier  
2 was within SHRA's project knowledge and communication chain concerning matters  
3 related to the project, the surrounding area, and issues affecting adjacent business  
4 operations, including Plaintiff's, and that such matters were communicated among SHRA  
5 and project participants, including MBS, Teichert, and Midstate.

6 64. Plaintiff is informed and believes, and on that basis alleges, that the private defendants  
7 knew of these contamination issues, knew of the need for environmental precautions, or  
8 at minimum were in possession of facts that made the danger of disturbing contaminated  
9 or suspect soil reasonably foreseeable.

10 65. Plaintiff is informed and believes, and on that basis alleges, that despite these known or  
11 knowable risks, the private defendants proceeded with or materially contributed to  
12 demolition, grading, excavation, hauling, and related dust-generating activity near  
13 neighboring occupied commercial property, including Plaintiff's facility.

14 66. Plaintiff is informed and believes, and on that basis alleges, that the private defendants  
15 failed to implement adequate dust suppression, containment, boundary protection,  
16 monitoring, warning, and corrective measures sufficient to protect neighboring occupants  
17 from off-site migration of contaminated dust and particulates.

18 67. Public project materials further reflected that by September 3, 2020, SHRA and MBS  
19 were publicly celebrating that the first units at Mirasol Village were under construction,  
20 confirming that active project work proceeded after DTSC had already identified  
21 contamination concerns and additional investigative needs.

22 68. Plaintiff is informed and believes, and on that basis alleges, that active redevelopment  
23 work proceeded after this point through multiple phases, ultimately reaching the block  
24 directly adjacent to Plaintiff's facility, thereby increasing the foreseeable risk that dust  
25 generated by ongoing operations would impact Plaintiff's property.

#### 26 **E. The Chlordane Failures and Plaintiff's Internal Remediation Efforts**

27 69. Beginning in or about late 2020 and no later than January 2021, Plaintiff's cannabis  
28 products began failing pesticide testing due to the presence of chlordane, a banned  
pesticide.

- 1 70. On or about January 21, 2021, a product sample was taken, and the report issued on  
2 January 26, 2021 showed chlordane at 0.115 ug/g, a failed result.
- 3 71. At that time, Plaintiff did not know that the source of contamination was external.
- 4 72. Plaintiff reasonably believed the contamination might be coming from within her own  
5 facility, systems, equipment, or processes.
- 6 73. Acting in good faith and trying to save the business she had built, Plaintiff undertook  
7 repeated, burdensome, and costly remediation efforts.
- 8 74. Those efforts included, but were not limited to, cleaning, replacing filters, modifying  
9 ventilation and air pathways, consulting with others, changing operational practices,  
10 inspecting potential internal sources, and spending additional money in repeated attempts  
11 to identify and eliminate the contamination.
- 12 75. Plaintiff continued these efforts because the true cause of the contamination had not been  
13 disclosed to her.
- 14 76. Despite Plaintiff's efforts, the contamination events continued. On or about December 28,  
15 2021, another product sample was taken, and the report issued on December 30, 2021  
16 showed chlordane at 0.396 ug/g, again a failed result and a materially worse one.
- 17 77. Plaintiff is informed and believes, and on that basis alleges, that while Plaintiff was  
18 spending her own resources trying to solve what she reasonably believed was an internal  
19 problem, the private defendants already possessed materially better information about the  
20 risks posed by project dust, off-site migration, neighboring complaints, and project-  
21 related impacts.
- 22 78. Each new failed test caused additional financial loss, additional operational disruption,  
23 additional destruction of product, and additional pressure on Plaintiff to spend more  
24 money trying to fix a problem that remained hidden from her.
- 25 79. Plaintiff became trapped in a worsening cycle: contamination, testing failure, product  
26 loss, remediation expense, renewed operations, and further failure.
- 27 80. This cycle was devastating not only financially, but emotionally and psychologically.
- 28 81. Plaintiff experienced escalating stress, fear, confusion, anxiety, frustration, and  
helplessness as the business she had built appeared to be collapsing for reasons she could  
not yet understand.

1 82. Plaintiff suffered sleeplessness, emotional exhaustion, and severe mental anguish as she  
2 watched compliant operations become unsustainable despite her continuing efforts to  
3 correct the problem.

4 83. Plaintiff is informed and believes, and on that basis alleges, that as active construction  
5 moved closer to her facility, the contamination burden worsened, contributing to the  
6 escalation reflected in the testing results over time.

7 **F. Discovery of the External Source and Off-Site Dust Migration**

8  
9 84. Plaintiff later discovered that the contamination problem was not originating inside her  
10 facility.

11 85. Instead, the true source was external: the nearby redevelopment project, where  
12 contaminated or suspect soil had been disturbed and dust had been generated and allowed  
13 to migrate into the surrounding area.

14 86. Plaintiff is informed and believes, and on that basis alleges, that contaminated dust and  
15 particulates traveled from the project site and entered Plaintiff's Property through air  
16 pathways, including the HVAC, ventilation, and related systems serving the indoor  
17 facility.

18 87. Once inside, the dust and particulates contaminated the facility environment, equipment,  
19 surfaces, and cannabis products.

20 88. Plaintiff is informed and believes, and on that basis alleges, that the contamination  
21 pathway was foreseeable to the private defendants because they knew the work being  
22 conducted would disturb soil and generate airborne dust, and they knew or should have  
23 known that nearby occupied properties were vulnerable to off-site migration.

24 89. On a sample dated July 31, 2023, received August 1, 2023, and reported August 3, 2023,  
25 Plaintiff's product tested at 3.09 ug/g for chlordane, again a fail and by far the highest  
26 confirmed result. That August 2023 result reflected a severe worsening of the  
27 contamination pattern that had begun years earlier.

28 90. Plaintiff's own 2023 summary of the matter reflected that since January 2021 her grow  
rooms and plants had tested positive for chlordane, that the January 2021 result was

1 0.115, that the August 2023 result was 3.09, and that for almost three years she could not  
2 identify the source and therefore could not remediate it.

3 91. In or about August and September 2023, after repeated product failures, repeated  
4 remediation efforts, observation of outside project conditions, and the gathering of  
5 additional information and testing, Plaintiff first developed a clear and reasonable belief  
6 that the source of the contamination was external and project-related rather than internal  
7 to her own facility.

8 92. Plaintiff ultimately connected the contamination affecting her facility to the project only  
9 after observing outside conditions, gathering information, obtaining samples, and  
10 securing testing and other evidence sufficient to reveal that the source was external rather  
11 than internal.

12 93. By September 26, 2023, Plaintiff had directly asserted to MBS, SHRA, and Midstate that  
13 project-related fugitive dust caused chlordane contamination at her facility, and MBS  
14 responded through counsel stating that it had investigated Plaintiff's claim and addressing  
15 that accusation directly.

16 94. By the time Plaintiff discovered the truth, substantial damage had already occurred.

17 95. The delay in discovery magnified the harm because Plaintiff had spent months and years  
18 addressing the wrong suspected source while the real source remained uncorrected and  
19 undisclosed.

20 96. Plaintiff is informed and believes, and on that basis alleges, that if contaminated dust  
21 from the project was able to infiltrate Plaintiff's controlled indoor facility through air  
22 pathways, including HVAC and filtration systems, and contaminate product sufficiently  
23 to cause repeated chlordane failures, then the same dust necessarily created a foreseeable  
24 risk of exposure to persons and properties in the surrounding area that lacked such  
25 filtration barriers, including neighboring businesses, workers, customers, pedestrians, and  
26 others present near the project site.

27 97. Plaintiff is further informed and believes, and on that basis alleges, that Defendants'  
28 failure to adequately suppress, contain, monitor, and prevent the off-site migration of  
contaminated dust created an unreasonable risk not only to Plaintiff's facility, but also to  
the surrounding public environment.

1 98. Plaintiff is further informed and believes, and on that basis alleges, that if workers  
2 performing grading, excavation, hauling, demolition, and other soil-disturbing  
3 construction activities at the project site were not consistently protected by proper  
4 respiratory precautions, then Defendants' conduct also created a foreseeable risk of  
5 exposure to their own workforce, further underscoring the seriousness of the  
6 contamination-control failures at issue.

7 99. The ability of contaminated dust to penetrate a filtered indoor commercial facility,  
8 together with the resulting foreseeable risk to neighboring occupants, the public, and on-  
9 site workers, supports the inference that Defendants failed to use even minimally  
10 adequate protective measures and acted with reckless disregard for the safety of persons  
11 and property in and around the project area.

#### 12 **G. Repeated Neighbor Complaints and Actual Notice of Off-Site Dust**

#### 13 **Migration**

14 105. Plaintiff is informed and believes, and on that basis alleges, that the neighboring  
15 printing company referenced herein was **Commerce Printing Services**, located at 322  
16 North 12th Street, Sacramento, California, and that its owner was **Gil Caravantes**.

17 106. On **September 19, 2022**, Gil Caravantes, on behalf of Commerce Printing  
18 Services, sent a written complaint to **Sacramento Housing and Redevelopment**  
19 **Agency, Attn: Victoria Johnson, Assistant Director of Development**, regarding dust  
20 generated by the Mirasol community development and its impact on Commerce  
21 Printing's property and rooftop solar panels.

22 107. In that letter, Commerce Printing Services stated that construction-related  
23 conditions had caused costly maintenance problems, that the driveway to the construction  
24 area did not have the rocks needed to help mitigate transmission of dust into the street,  
25 that cars driving down the street continually kicked up clouds of dust, and that Dos Rios  
26 Street had been blanketed with dirt. The letter further stated that, although a rock barrier  
27 was later installed, dust had heavily blanketed Commerce Printing's solar panels,  
28 requiring them to be cleaned.

1 108. The September 19, 2022 letter further stated that, during construction, there was  
2 no water truck to wet the dirt and no straw placed to mitigate the transmission of dust into  
3 the air, and that massive dust clouds were raised into the air by equipment operating on  
4 the ground. The letter also stated that Commerce Printing Services had additional  
5 photographic and videographic evidence of the construction conditions and dust impacts.

6 109. Plaintiff is informed and believes, and on that basis alleges, that this September  
7 19, 2022 written complaint placed SHRA, and through SHRA the project communication  
8 and knowledge chain, on actual notice that project-generated dust had escaped the site  
9 and was affecting neighboring property. Plaintiff is further informed and believes, and on  
10 that basis alleges, that Defendants Teichert and MBS likewise received notice of these  
11 dust impacts through project channels, direct communications, cleanup requests,  
12 reimbursement requests, or related project communications.

13 110. The September 19, 2022 letter also stated: “For the last 2 yrs. SHRA has help us  
14 covered the cost of cleaning,” referring to Commerce Printing Services’ solar panel  
15 cleaning costs. Plaintiff is informed and believes, and on that basis alleges, that this  
16 reflected a recurring and ongoing dust problem known to SHRA and others in the project  
17 communication chain, and not a one-time event.

18 111. Plaintiff is informed and believes, and on that basis alleges, that MBS, including  
19 through project-management channels and personnel such as Candice Hung, and Teichert  
20 learned of the repeated neighboring dust impacts, the resulting need to pay for, authorize,  
21 or arrange cleanup of the affected solar panels, and the fact that project dust was  
22 repeatedly spreading beyond site boundaries onto adjacent property.

23 112. These repeated complaints and repeated cleanup events placed Defendants on  
24 actual notice that dust from the project had already escaped the site boundaries and was  
25 affecting neighboring property.

26 113. Plaintiff is informed and believes, and on that basis alleges, that after the first  
27 complaint and cleanup, Defendants knew their dust-control and containment measures  
28 were ineffective.

114. Plaintiff is informed and believes, and on that basis alleges, that despite that  
knowledge, Defendants failed to implement effective corrective action sufficient to stop  
the recurring off-site migration.

1 115. Plaintiff is informed and believes, and on that basis alleges, that if dust was  
2 repeatedly reaching neighboring solar panels, then Defendants knew or should have  
3 known that airborne particulates were also capable of reaching neighboring structures, air  
4 intakes, HVAC systems, and indoor commercial operations such as Plaintiff's facility.

5 116. Plaintiff is informed and believes, and on that basis alleges, that these events gave  
6 Defendants concrete, real-world notice not merely abstract awareness that project dust  
7 was escaping and causing off-site impacts.

8 117. Yet Defendants did not warn Plaintiff that neighboring properties had already  
9 been affected.

10 118. They did not disclose that off-site dust complaints had already been made.

11 119. They did not disclose that cleanup had already been required.

12 120. They did not disclose that dust control had already proven inadequate to prevent  
13 repeated neighboring impacts.

#### 14 **H. Defendants' Superior Knowledge, Failure to Warn, and Concealment**

15 121. Plaintiff is informed and believes, and on that basis alleges, that the private  
16 defendants had materially superior knowledge concerning:

- 17 a. the contamination history and environmental risk profile of the project site;
- 18 b. the incompletely characterized condition of the site;
- 19 c. the nature and extent of soil-disturbing work occurring there;
- 20 d. the dust being generated by that work;
- 21 e. the escape of dust beyond project boundaries; and
- 22 f. the complaints and cleanup events showing actual off-site impacts.

23 122. These were material facts.

24 123. A reasonable neighboring property occupant operating a sensitive, indoor,  
25 regulated cannabis facility would have considered those facts important in deciding how  
26 to protect the premises, how to operate the business, whether to test environmental  
27 pathways, whether to suspend operations, whether to preserve evidence, and whether to  
28 take immediate legal and practical action.

1 124. Plaintiff is informed and believes, and on that basis alleges, that Defendants did  
2 not disclose these facts because disclosure would have exposed failures in project  
3 management, contamination control, dust suppression, supervision, and response.

4 125. Plaintiff is informed and believes, and on that basis alleges, that disclosure would  
5 also have increased costs, caused delays, triggered additional scrutiny, strengthened  
6 claims by affected neighbors, and exposed Defendants to legal, financial, and reputational  
7 consequences.

8 126. Plaintiff is informed and believes, and on that basis alleges, that Defendants chose  
9 silence while Plaintiff continued to suffer mounting losses.

10 127. By **September 19, 2022**, Defendants, through the project communication and  
11 knowledge chain, had actual notice that project-generated dust had already escaped the  
12 site and affected neighboring property. On that date, **Commerce Printing Services**,  
13 through its owner **Gil Caravantes**, sent a written complaint to **Sacramento Housing and**  
14 **Redevelopment Agency, Attn: Victoria Johnson, Assistant Director of Development**,  
15 describing heavy dust impacts from the Mirasol community development, including dust  
16 blanketing rooftop solar panels and requiring costly cleaning.

17 128. That September 19, 2022 letter also described inadequate dust mitigation,  
18 including the absence of sufficient rock mitigation at the driveway, dust being kicked into  
19 Dos Rios Street, dirt blanketing the street, lack of a water truck to wet the dirt, lack of  
20 straw to mitigate dust transmission into the air, and massive dust clouds raised by  
21 equipment operating on the ground. The letter further stated that Commerce Printing  
22 Services had additional photographic and videographic evidence of those conditions.

23 129. The September 19, 2022 letter further stated that, for the prior **two years**, SHRA  
24 had helped cover the cost of cleaning Commerce Printing Services' solar panels. Plaintiff  
25 is informed and believes, and on that basis alleges, that this reflected a recurring and  
26 ongoing dust problem known to SHRA and others in the project communication chain,  
27 and not a one-time event.

28 130. Despite that prior notice, Defendants did not disclose to Plaintiff that neighboring  
property had already experienced repeated off-site dust impacts, that neighboring solar  
panels had already required repeated cleaning, that dust-control measures had already

1 proven inadequate, or that project dust had already escaped beyond site boundaries and  
2 affected adjacent property.

3 131. By **September 26, 2023**, Plaintiff had formally asserted that project-related  
4 fugitive dust caused chlordane contamination at her facility, including in communications  
5 directed to MBS, SHRA, and Midstate. MBS responded through counsel on that date,  
6 stating that it had investigated Plaintiff's claim and addressing the accusation directly.  
7 Plaintiff is informed and believes, and on that basis alleges, that even at that point  
8 Defendants still did not disclose the prior neighboring-dust complaint history, the  
9 recurring cleanup history, or the full extent of the known off-site migration problem.

10 132. Had Defendants disclosed earlier what they knew or should have disclosed  
11 namely the known contamination concerns, the incomplete environmental  
12 characterization, the recurring off-site dust impacts, the September 19, 2022 Commerce  
13 Printing Services complaint, the repeated solar-panel cleaning history, and the known  
14 inadequacy of prior dust-control efforts Plaintiff would have acted sooner to investigate  
15 the external source, protect her facility, alter operations, preserve evidence, and reduce or  
16 prevent further damage. Instead, Defendants' silence caused Plaintiff to continue  
17 spending time, money, labor, and emotional energy chasing an internal explanation while  
18 the true external source remained uncorrected and undisclosed.

### 19 **I. Harm to Plaintiff's Property, Business, Livelihood, and Future Ownership**

#### 20 **Interest**

21 133. As a direct and proximate result of Defendants' acts and omissions, contaminated  
22 dust and particulates entered Plaintiff's Property and interfered with Plaintiff's lawful  
23 possession and use of the Premises.

24 134. Plaintiff's facility, equipment, systems, and cannabis products were contaminated.

25 135. Plaintiff suffered repeated testing failures, including failures showing chlordane  
26 levels rising from 0.115 in January 2021 to 0.396 in December 2021 and to 3.09 in  
27 August 2023, reflecting a worsening pattern over time.

28 136. Plaintiff suffered destroyed or unusable product, operational disruption, lost  
revenue, loss of business opportunity, and substantial out-of-pocket remediation expense.

1 137. Plaintiff was restricted in her ability to sell product in ordinary channels, was  
2 forced into disadvantageous remediation-market options, lost business opportunities, lost  
3 investor support, and suffered severe harm to the viability and future growth of the  
4 enterprise.

5 138. Plaintiff's inability to identify the true source for an extended period prevented  
6 effective remediation, prevented ordinary business recovery, impaired expansion, and  
7 accelerated the depletion of the resources available to keep the business alive.

8 139. Plaintiff also suffered damage to the value and utility of her leasehold and to the  
9 economic value of the ownership opportunity associated with the lease's purchase-related  
rights.

10 140. The contamination did not merely damage individual crops. It undermined the  
11 value of the Property as the center of Plaintiff's business and undermined the value of  
12 Plaintiff's path to future ownership of that Property.

13 141. Plaintiff further suffered severe emotional distress as the contamination crisis  
14 undermined the business she had built, consumed her resources, and left her for an  
15 extended period trying desperately to solve a problem whose true source Defendants  
failed to disclose.

16 142. Plaintiff's injuries were not accidental in the sense of being unforeseeable. They  
17 were the predictable result of disturbing contaminated or suspect soil, allowing dust to  
18 migrate off-site, ignoring notice that dust had already impacted neighboring property, and  
19 failing to warn adjacent occupants whose operations were vulnerable to airborne  
20 contamination.

21 143. Plaintiff therefore brings this action to recover for the destruction of her business,  
22 interference with her possession and property rights, loss of economic opportunity,  
23 emotional harm, and all other damages proximately caused by Defendants' conduct.

24 **FIRST CAUSE OF ACTION: NEGLIGENCE**

25 *(Against Defendants McCormack Baron Salazar, Inc., A. Teichert and Son, Inc.,*  
26 *Midstate Construction Corporation, and Does 1 through 50)*  
27

1 144. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 143,  
2 inclusive, as though fully set forth herein.

3 145. At all relevant times, Defendants McCormack Baron Salazar, Inc. (“MBS”), A.  
4 Teichert and Son, Inc. (“Teichert”), Midstate Construction Corporation (“Midstate”), and  
5 Does 1 through 50 owed Plaintiff a duty to exercise reasonable care in the planning,  
6 direction, coordination, supervision, performance, execution, support, and continuation of  
7 demolition, grading, excavation, hauling, soil-disturbing work, dust-control operations,  
8 contamination-related precautions, and all other redevelopment activities at and around  
9 the Mirasol Village / Twin Rivers Triangle project.

10 146. Defendants further owed Plaintiff a duty to act reasonably so as not to create,  
11 permit, continue, or fail to correct an unreasonable risk that contaminated dust,  
12 particulates, soil-derived matter, and other hazardous materials would migrate off-site  
13 and invade neighboring occupied property, including Plaintiff’s leased and lawfully  
14 possessed commercial premises at 301 Dos Rios Street / 1151 North D Street.

15 147. This duty existed because Plaintiff’s property was adjacent to or in close  
16 proximity to the project; Plaintiff operated a sensitive indoor commercial cannabis  
17 facility dependent on clean air, clean equipment, and uncontaminated product; the site  
18 involved known contamination concerns and incomplete environmental characterization;  
19 and Defendants knew or should have known that off-site dust migration into such a  
20 facility could cause immediate and severe economic harm.

21 148. Defendants also owed Plaintiff a duty to use reasonable care to investigate site  
22 conditions, heed known environmental risks, implement effective dust suppression and  
23 containment measures, monitor for off-site migration, warn neighboring occupants of  
24 known hazards, and take timely corrective action when actual or constructive notice arose  
25 that project dust was escaping onto neighboring property.

26 149. Plaintiff was the named lessee and lawful possessor of the affected property and  
27 held a direct, personal, and legally protected possessory interest in the premises,  
28 operations, and contractual ownership opportunity tied to the Property.

**Negligence of Defendant MBS**

1 150. Defendant MBS, as developer, coordinator, manager, overseer, and/or controlling  
2 participant, owed Plaintiff a duty to use reasonable care in organizing, directing,  
3 supervising, approving, controlling, and continuing project activities so as to prevent  
4 foreseeable injury to adjacent properties and occupants.

5 151. MBS knew, or in the exercise of reasonable care should have known, that the  
6 project site carried known contamination concerns and unresolved environmental risks,  
7 including those reflected in DTSC's March 4, 2020 review materials and the need for  
8 additional environmental investigation. MBS also knew, or should have known, that  
9 active project work continued after those concerns had been identified and ultimately  
advanced into areas directly adjacent to Plaintiff's facility.

10 152. MBS further knew, or in the exercise of reasonable care should have known, that  
11 disturbing contaminated or suspect soil through grading, demolition, excavation, hauling,  
12 and related site activities created a foreseeable risk of off-site dust migration onto  
13 neighboring occupied properties.

14 153. Plaintiff is informed and believes, and on that basis alleges, that MBS acted  
15 through management-level personnel with substantial discretionary authority over the  
16 Mirasol Village project, including persons such as Candice Hung and Daniel Falcon, Jr.,  
17 who were positioned to receive, review, be informed of, or act upon site conditions,  
18 project complaints, contractor coordination, neighboring impacts, and response to  
material project-related issues.

19 154. Plaintiff is informed and believes, and on that basis alleges, that MBS, through  
20 such personnel and through other officers, managing agents, and persons with substantial  
21 discretionary authority, had the ability to require corrective measures, alter project  
22 response, direct communications, continue or pause project activity, and respond to  
23 known neighboring-property impacts.

24 155. MBS breached its duty of care by, among other things:

- 25 a. failing to use reasonable care in overseeing, coordinating, and continuing soil-  
disturbing and dust-generating project operations;
- 26 b. failing to require, ensure, enforce, or verify adequate dust suppression, perimeter  
27 protection, containment, monitoring, and corrective measures;
- 28 c. failing to require reasonable precautions in light of known contamination concerns and

- 1 incomplete site characterization;
- 2 d. allowing dust-generating project work to continue in close proximity to neighboring
- 3 occupied properties without adequate protection;
- 4 e. failing to warn Plaintiff and other adjacent occupants of the known or foreseeable risk
- 5 of off-site dust migration;
- 6 f. failing to act reasonably after learning that project dust had already escaped the site and
- 7 affected neighboring property; and
- 8 g. failing to require effective corrective action after repeated notice that prior dust-control
- 9 efforts were insufficient.

10 156. Plaintiff is informed and believes, and on that basis alleges, that MBS had actual

11 notice of repeated neighboring-property dust impacts, including the written complaint

12 dated **September 19, 2022** from **Commerce Printing Services**, through its owner **Gil**

13 **Caravantes**, regarding dust blanketing rooftop solar panels and requiring cleaning, yet

14 failed to take or require effective action sufficient to stop recurrence.

15 157. Plaintiff is further informed and believes, and on that basis alleges, that by virtue

16 of her role as Vice President and Project Manager for MBS on Mirasol Village, Candice

17 Hung was among the MBS personnel positioned to know that repeated dust deposition on

18 adjacent property meant project dust was escaping beyond site boundaries and posed a

19 foreseeable risk to other nearby properties, including Plaintiff's facility.

20 158. Plaintiff is further informed and believes, and on that basis alleges, that MBS's

21 negligence was active as well as passive: MBS participated in project control,

22 coordination, continuation, and response decisions while permitting conditions to exist

23 that foreseeably exposed neighboring properties, including Plaintiff's facility, to off-site

24 contaminated dust.

### 25 **Negligence of Defendant Teichert**

26 159. Defendant Teichert, as a grading, excavation, hauling, demolition, heavy-

27 construction, and/or soil-disturbance contractor, owed Plaintiff a duty to use reasonable

28 care in the means, methods, sequencing, and execution of field operations so as not to

1 release or allow contaminated dust, particulates, and soil-derived matter to migrate onto  
2 neighboring properties.

3 160. Teichert knew, or in the exercise of reasonable care should have known, that  
4 project work involving disturbed soil and dust-generating operations near Plaintiff's  
5 property created a foreseeable risk of off-site migration.

6 161. Teichert breached its duty of care by, among other things:

7 a. performing or participating in grading, excavation, hauling, demolition, and soil-  
8 disturbing work in a manner that generated and released dust and particulates off site;

9 b. failing to implement adequate watering, dust suppression, stabilization, barriers, track-  
10 out control, perimeter protection, and monitoring;

11 c. failing to maintain effective control over fugitive dust generated by site operations;

12 d. failing to modify, stop, or correct field operations after notice that project dust was  
13 escaping and affecting neighboring properties;

14 e. failing to investigate and respond reasonably to repeated complaints concerning off-site  
15 dust accumulation;

16 f. continuing dust-generating operations despite actual or constructive notice that  
17 neighboring properties were being affected; and

18 g. failing to prevent recurrence after prior off-site impacts had already occurred.

19 162. Plaintiff is informed and believes, and on that basis alleges, that Teichert received  
20 repeated complaints regarding dust accumulating on Commerce Printing Services's solar  
21 panels and surrounding property.

22 163. Plaintiff is informed and believes, and on that basis alleges, that Teichert had the  
23 opportunity and duty to correct the dust problem after receiving those complaints, but  
24 failed to implement effective measures sufficient to stop the off-site migration.

25 164. Plaintiff is informed and believes, and on that basis alleges, that Teichert paid for,  
26 arranged, or authorized cleanup of dust deposited on neighboring solar panels on more  
27 than one occasion, thereby confirming actual notice that project dust had traveled beyond  
28 the project boundaries and affected adjacent property.

165. Despite that notice, Teichert continued to perform or allow operations to continue  
without adequate correction, thereby breaching its duty of reasonable care to neighboring  
occupants, including Plaintiff.

1 **Negligence of Defendant Midstate**

2  
3 166. Defendant Midstate, as a contractor, subcontractor, site participant, and/or  
4 supporting construction participant, owed Plaintiff a duty to use reasonable care in the  
5 work it performed, supported, coordinated, or contributed to at the project site so as not to  
6 create or contribute to an unreasonable risk of off-site migration of contaminated dust and  
7 particulates.

8 167. Plaintiff is informed and believes, and on that basis alleges, that Midstate  
9 participated in site work, field conditions, project continuation, and/or operational  
10 support under circumstances in which dust, particulates, and soil-derived matter were  
11 being generated, carried, left uncontrolled, or allowed to migrate beyond the project  
12 boundaries.

13 168. Plaintiff is informed and believes, and on that basis alleges, that Midstate had  
14 access to project conditions, site activity, contractor coordination, dust-related conditions,  
15 environmental-risk information, complaint information, and/or neighboring-impact  
16 information sufficient to know, or at minimum reasonably understand, that project dust  
17 and disturbed materials posed a foreseeable risk of off-site migration and harm to  
18 neighboring occupied properties, including Plaintiff's premises.

19 169. Midstate breached its duty of care by, among other things:  
20 a. performing, contributing to, supporting, or participating in site work affecting soil,  
21 dust, and particulate conditions without adequate protective measures;  
22 b. failing to use reasonable care to prevent, contain, suppress, report, or correct off-site  
23 dust migration associated with the work in which it participated;  
24 c. failing to take reasonable corrective action once contamination and dust-migration  
25 risks became known or should have become known;  
26 d. failing to avoid conduct that contributed to repeated off-site dust impacts; and  
27 e. failing to protect neighboring properties from foreseeable harm arising from project-  
28 related site activity and conditions in which it participated.

170. Plaintiff is informed and believes, and on that basis alleges, that Midstate knew or  
should have known that site conditions and work in which it participated or which it  
supported created a foreseeable risk of contamination-related harm to adjacent properties,

1 yet nevertheless continued to participate in or contribute to the continuation of those  
2 conditions without adequate correction or protection.

3 **Common Breach, Foreseeability, and Causation**  
4

5 171. Each of the private defendants knew, or in the exercise of reasonable care should  
6 have known, that:

- 7 a. the project site involved known contamination concerns and/or incompletely  
8 characterized environmental risks;
- 9 b. demolition, grading, excavation, hauling, and soil-disturbing work could generate  
10 airborne dust and particulates;
- 11 c. neighboring commercial properties, including Plaintiff's indoor cannabis facility, were  
12 located close enough to be affected by off-site migration;
- 13 d. contamination introduced into an indoor regulated cannabis facility could destroy  
14 product, disrupt operations, and devastate the business; and
- 15 e. once neighboring-property dust complaints were made, the risk of recurring off-site  
16 harm was no longer theoretical but actual.

17 172. The progression of Plaintiff's testing results was consistent with active  
18 construction activity moving closer to Plaintiff's facility, including work directly across  
19 from Plaintiff's property, as reflected in the worsening contamination levels over time,  
20 culminating in the August 2023 result of 3.09 ug/g chlordane. Plaintiff is informed and  
21 believes, and on that basis alleges, that Defendants' conduct in continuing, coordinating,  
22 and failing to control that activity was a substantial factor in causing contaminated dust,  
23 particulates, and/or soil-derived matter to migrate from the project site onto and into  
24 Plaintiff's premises.

25 173. Defendants' breaches of duty, separately and collectively, were a substantial  
26 factor in causing contaminated dust, particulates, and/or soil-derived matter to migrate  
27 from the project site onto and into Plaintiff's premises, including through surrounding air,  
28 ventilation pathways, HVAC systems, surfaces, equipment, and the controlled  
operational environment of Plaintiff's facility.

- 1 174. As a direct and proximate result of Defendants' negligence, Plaintiff suffered,  
2 among other things:  
3 a. contamination of products and inventory;  
4 b. repeated failed pesticide tests for chlordane;  
5 c. destruction and loss of harvests and commercial product;  
6 d. interference with the use, possession, and enjoyment of the premises;  
7 e. damage to Plaintiff's leasehold, business operations, and contractual ownership  
8 opportunity;  
9 f. out-of-pocket investigation, cleanup, and remediation expenses;  
10 g. business interruption, lost revenue, and economic loss;  
11 h. loss of the value of Plaintiff's contractual right to purchase the property and realize the  
12 benefit of that ownership opportunity; and  
13 i. substantial emotional distress, anxiety, fear, sleeplessness, and mental anguish.

14 175. Plaintiff's emotional-distress damages are recoverable as part of this negligence  
15 cause of action to the extent permitted by California law.

16 176. Plaintiff has been damaged in an amount according to proof at trial.

17 **SECOND CAUSE OF ACTION: FRAUDULENT CONCEALMENT**

18 *(Against Defendants McCormack Baron Salazar, Inc., A. Teichert and Son, Inc.,*  
19 *Midstate Construction Corporation, and Does 1 through 50)*

20 177. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 176,  
21 inclusive, as though fully set forth herein.

22 178. At all relevant times, Defendants McCormack Baron Salazar, Inc. ("MBS"), A.  
23 Teichert and Son, Inc. ("Teichert"), Midstate Construction Corporation ("Midstate"), and  
24 Does 1 through 50 knew, learned, possessed, controlled, or had superior access to  
25 material facts concerning contamination risks at the Mirasol Village / Twin Rivers  
26 Triangle project site, the generation and off-site migration of project dust, the effect of  
27 such dust on neighboring properties, and the resulting danger to Plaintiff's leased and  
28 occupied commercial premises.

1 179. The material facts concealed, suppressed, and/or omitted by Defendants included,  
2 without limitation:

- 3 a. that the project site involved known contamination concerns and unresolved  
4 environmental risks before and during redevelopment activity;
- 5 b. that the project site was not fully characterized and required additional investigation,  
6 including investigation relating to organochlorine pesticides;
- 7 c. that disturbing soil, dust, and subsurface materials at the project site created a  
8 foreseeable risk of off-site migration of hazardous or contaminating particulates;
- 9 d. that project dust had in fact escaped the site and accumulated on neighboring property,  
10 including the solar panels and property of Commerce Printing Services ;
- 11 e. that repeated complaints had been made concerning those off-site dust impacts;
- 12 f. that prior dust-control and corrective efforts had failed to prevent recurrence;
- 13 g. that one or more project participants had paid for, arranged, or authorized cleanup of  
14 neighboring-property dust impacts, thereby confirming actual off-site migration;
- 15 h. that neighboring commercial properties, including Plaintiff's indoor cannabis facility,  
16 were vulnerable to harm from airborne contamination entering through HVAC,  
17 ventilation, and related pathways; and
- 18 i. that absent warning and disclosure, adjacent occupants would continue to suffer  
19 avoidable contamination and escalating damage.

18 180. These facts were material because a reasonable neighboring property occupant  
19 operating a regulated indoor cannabis facility would have considered them important in  
20 deciding whether to test for external contamination, suspend or modify operations,  
21 protect air intakes and HVAC systems, preserve evidence, demand corrective action, alter  
22 business activity, or take immediate legal and practical steps to prevent further damage.

23 181. Plaintiff did not know, and could not reasonably have known at the outset, the  
24 concealed facts described above. As alleged herein, Plaintiff reasonably believed for a  
25 substantial period of time that the contamination might be internal to her own facility,  
26 and she spent substantial time, money, and effort attempting to identify and eliminate  
27 what she believed might be an internal source.

28 182. Defendants had superior, non-public, and/or exclusive access to the concealed  
facts because of their roles in redevelopment planning, project oversight, environmental

1 review, contractor coordination, field operations, dust control, response to complaints,  
2 and site management.

3 183. Defendants had a duty to disclose these material facts to Plaintiff because:

4 a. Defendants possessed superior and/or exclusive knowledge of material facts not known  
5 to Plaintiff;

6 b. Defendants knew Plaintiff was operating an adjacent indoor commercial facility  
7 vulnerable to airborne contamination;

8 c. Defendants actively concealed and suppressed facts concerning the source, nature, and  
9 known off-site effects of project dust;

10 d. Defendants made partial disclosures and selective responses while omitting material  
11 information necessary to make those communications not misleading; and

12 e. once Defendants knew that project dust had already migrated onto neighboring  
13 property, fairness and ordinary standards of honest dealing required them to disclose that  
14 known danger to adjacent occupants foreseeably at risk, including Plaintiff. The court's  
15 prior ruling also recognized that a duty to speak may arise in multiple ways and  
16 specifically noted the absence of a well-developed LiMandri analysis in the defense  
17 papers, which supports tightening this theory now.

18 184. Disclosure should have been made, at the latest, when Defendants first knew that  
19 project dust had already escaped the site and affected neighboring property, including  
20 after the first neighboring complaint, the first cleanup event, and the first actual notice  
21 that prior dust-control measures had failed to prevent off-site migration.

### 22 **Fraudulent Concealment by MBS**

23 185. Defendant MBS, as developer, coordinator, manager, overseer, and/or controlling  
24 participant with respect to the project, had access to project-wide information concerning  
25 contamination risks, environmental review, site conditions, contractor activities,  
26 complaints, corrective actions, neighboring-property impacts, and project  
27 communications.

28 186. Plaintiff is informed and believes, and on that basis alleges, that MBS knew, or  
deliberately avoided acknowledging, that the project site involved documented

1 contamination concerns and unresolved environmental risks, including those reflected in  
2 DTSC's March 4, 2020 review and request for additional investigation.

3 187. Plaintiff is further informed and believes, and on that basis alleges, that MBS  
4 acted through officers, managing agents, and persons with substantial discretionary  
5 authority over project matters, including management-level personnel such as Candice  
6 Hung and Daniel Falcon, Jr., who were positioned to receive, review, be informed of, or  
7 act upon project conditions, neighboring complaints, contractor communications,  
8 environmental issues, and response to material project-related problems.

9 188. Plaintiff is informed and believes, and on that basis alleges, that by no later than  
10 **September 19, 2022**, MBS, through project channels, project communications,  
11 neighboring complaints, cleanup requests, reimbursement requests, or direct  
12 communications involving project participants, knew or learned that project dust had  
13 escaped the site and accumulated on neighboring property, including the rooftop solar  
14 panels and surrounding property of **Commerce Printing Services**.

15 189. On **September 19, 2022**, **Gil Caravantes**, owner of Commerce Printing Services,  
16 sent a written complaint to **Sacramento Housing and Redevelopment Agency, Attn:**  
17 **Victoria Johnson, Assistant Director of Development**, describing heavy dust impacts  
18 from the Mirasol community development, including dust blanketing rooftop solar  
19 panels, dirt blanketing Dos Rios Street, inadequate dust mitigation, absence of water or  
20 straw to control dust, and massive dust clouds raised by equipment operating on the  
21 ground. Plaintiff is informed and believes, and on that basis alleges, that this complaint  
22 was communicated within the project communication chain that included SHRA and  
23 project participants, including MBS.

24 190. The September 19, 2022 letter further stated that, for the prior **two years**, SHRA  
25 had helped cover the cost of cleaning Commerce Printing Services' solar panels. Plaintiff  
26 is informed and believes, and on that basis alleges, that MBS knew or should have known  
27 from this circumstance that the off-site dust problem was recurring, had already required  
28 repeated cleaning and reimbursement, and was not an isolated incident.

191. Plaintiff is informed and believes, and on that basis alleges, that by virtue of her  
role as **Vice President and Project Manager for MBS on Mirasol Village**, **Candice  
Hung** was among the MBS personnel positioned to receive, review, and act upon

1 complaints concerning off-site dust migration, including repeated dust accumulation on  
2 neighboring solar panels; to understand that repeated dust deposition on adjacent property  
3 meant project dust was spreading beyond site boundaries; and to participate in decisions  
4 concerning corrective action, disclosure, warning, and continued project operations  
5 affecting neighboring properties, including Plaintiff's.

6 192. Plaintiff is informed and believes, and on that basis alleges, that MBS knew  
7 repeated complaints had been made regarding those off-site dust impacts, knew prior  
8 measures had failed to prevent recurrence, knew neighboring solar panels had required  
9 repeated cleaning, and knew that if project dust was repeatedly escaping onto one  
10 neighboring property, then other nearby properties, including Plaintiff's indoor cannabis  
11 facility, were likewise at risk of contamination.

12 193. Despite that knowledge, MBS did not disclose to Plaintiff that project dust had  
13 already escaped beyond the project boundary, that repeated neighboring-property  
14 complaints had already been made, that repeated cleaning and reimbursement had already  
15 been required, that prior corrective efforts had failed, or that Plaintiff's adjacent facility  
16 was at risk of similar contamination from continuing project activity.

17 194. Plaintiff is informed and believes, and on that basis alleges, that MBS withheld  
18 this information because truthful disclosure would have exposed failures in project  
19 oversight, contamination control, and dust management; triggered more aggressive  
20 corrective obligations; increased project cost and delay; strengthened claims by affected  
21 neighbors; and subjected MBS and the project to legal, financial, regulatory, and  
22 reputational consequences.

23 195. Plaintiff is informed and believes, and on that basis alleges, that after receiving or  
24 being informed of project conditions, complaints, off-site impacts, and contamination-  
25 related concerns, MBS, through its officers, managing agents, and persons with  
26 substantial discretionary authority, authorized, approved, continued, and/or ratified the  
27 decision to proceed without adequate disclosure, warning, correction, or protection for  
28 adjacent occupants, including Plaintiff.

### **Fraudulent Concealment by Teichert**

1 196. Defendant Teichert, as a grading, excavation, hauling, demolition, heavy-  
2 construction, and/or soil-disturbance contractor, had direct operational knowledge of  
3 dust-generating field work, fugitive-dust conditions, site-control failures, corrective  
4 efforts, and complaints arising from off-site dust impacts.

5 197. Plaintiff is informed and believes, and on that basis alleges, that Teichert received  
6 direct notice, or notice through project channels, that dust generated from project  
7 operations was accumulating on Commerce Printing Services 's solar panels and  
8 property.

9 198. Plaintiff is further informed and believes, and on that basis alleges, that Teichert  
10 knew those complaints were not speculative. They described actual off-site dust  
11 migration requiring cleanup and occurring more than once.

12 199. Teichert also knew, or deliberately ignored, that if project dust was reaching the  
13 neighboring printing business, then other nearby properties, including Plaintiff's facility,  
14 were likewise vulnerable to contamination.

15 200. Despite this knowledge, Teichert did not warn Plaintiff that project dust had  
16 already escaped and impacted neighboring property, did not disclose that repeated  
17 complaints had been made, did not disclose that prior corrective efforts had failed, and  
18 did not disclose that continued project operations posed an ongoing risk to adjacent  
19 occupants.

20 201. Plaintiff is informed and believes, and on that basis alleges, that Teichert  
21 concealed these facts because disclosure would have revealed failures in field operations,  
22 dust control, and site management; increased the likelihood of shutdowns, stricter  
23 controls, and additional cleanup obligations; and exposed Teichert to liability and project  
24 consequences.

25 202. Plaintiff is informed and believes, and on that basis alleges, that Teichert instead  
26 continued or allowed dust-generating operations to proceed without giving truthful notice  
27 to Plaintiff and other adjacent occupants of the known off-site contamination hazard.  
28

### **Fraudulent Concealment by Midstate**

1 203. Defendant Midstate, as a contractor, subcontractor, site participant, and/or  
2 supporting project participant, had access to information concerning project conditions,  
3 site activities, dust generation, off-site migration risk, and the resulting danger to  
4 neighboring properties.

5 204. Plaintiff is informed and believes, and on that basis alleges, that Midstate knew,  
6 learned, or had access to facts showing that project dust and particulates were escaping  
7 the site and affecting neighboring properties, and that Midstate participated in or  
8 benefited from the continuation of project work despite that knowledge.

9 205. Plaintiff is informed and believes, and on that basis alleges, that Midstate had  
10 access to field conditions, work coordination, complaint-related information, and/or  
11 neighboring-impact facts sufficient to understand that project dust migration posed a  
12 foreseeable risk to nearby occupied properties, including Plaintiff's premises.

13 206. Plaintiff is informed and believes, and on that basis alleges, that Midstate did not  
14 disclose to Plaintiff the known or knowable facts concerning off-site dust migration,  
15 repeated neighboring-property complaints, failed corrective measures, and the resulting  
16 risk to adjacent occupants.

17 207. Plaintiff is further informed and believes, and on that basis alleges, that Midstate  
18 joined in the collective failure to disclose these facts because disclosure would have  
19 jeopardized project progress, increased corrective obligations, and exposed project  
20 participants to claims and liability.

### 21 **Coordinated Concealment by All Private Defendants**

22 208. Plaintiff is informed and believes, and on that basis alleges, that MBS, Teichert,  
23 and Midstate each knew that:  
24 a. the project site involved known contamination concerns and incomplete environmental  
25 characterization;  
26 b. project work was generating dust and disturbing soil in close proximity to occupied  
27 neighboring properties;  
28 c. project dust had already escaped and accumulated on neighboring property, including  
the solar panels and surrounding property of **Commerce Printing Services**;

1 d. repeated complaints had been made concerning those off-site impacts; and  
2 e. repeated cleaning and reimbursement history demonstrated that the off-site dust  
3 problem was real, recurring, and dangerous.

4 209. Plaintiff is informed and believes, and on that basis alleges, that by no later than  
5 **September 19, 2022**, the project communication and knowledge chain included a written  
6 complaint from **Gil Caravantes**, owner of Commerce Printing Services, addressed to  
7 **Sacramento Housing and Redevelopment Agency, Attn: Victoria Johnson, Assistant**  
8 **Director of Development**, describing heavy dust impacts from the Mirasol community  
9 development, dust blanketing rooftop solar panels, dirt blanketing Dos Rios Street,  
10 inadequate mitigation, and massive dust clouds raised by equipment. Plaintiff is informed  
11 and believes, and on that basis alleges, that the matters raised in that complaint were  
12 communicated among SHRA and project participants, including MBS and Teichert, and  
13 were available to Midstate through project channels, site conditions, or related  
14 communications.

15 210. Plaintiff is informed and believes, and on that basis alleges, that despite such  
16 knowledge, Defendants did not disclose those facts to Plaintiff or to other similarly  
17 situated adjacent occupants, even though Defendants knew those occupants were  
18 continuing to use and operate their properties without knowledge of the full  
19 contamination risk.

20 211. Plaintiff is informed and believes, and on that basis alleges, that Defendants  
21 deliberately chose silence over disclosure because truthful disclosure would have been  
22 damaging to them and to the project, including by:  
23 a. exposing failures in contamination control, dust suppression, and project management;  
24 b. requiring more extensive corrective measures and environmental precautions;  
25 c. increasing cleanup, delay, and compliance costs;  
26 d. creating or strengthening claims by neighboring occupants;  
27 e. establishing evidence of negligence, trespass, and project mismanagement; and  
28 f. risking legal, financial, regulatory, and reputational consequences.

212. Plaintiff is informed and believes, and on that basis alleges, that Defendants'  
concealment was not a mere negligent omission. It was intentional suppression of

1 material facts after actual notice that neighboring property had already been impacted and  
2 after repeated opportunities to warn those foreseeably in harm's way.

3 213. Plaintiff remained unaware of the full concealed facts for a substantial period of  
4 time. Because Defendants concealed the true external source and their prior notice of off-  
5 site impacts, Plaintiff continued to spend money, labor, and time trying to solve what she  
6 reasonably believed might be an internal facility problem. By **August and September**  
7 **2023**, after repeated remediation efforts, repeated failures, and the severe August 2023  
8 chlordane result, Plaintiff first developed a clear and reasonable belief that the source was  
external and project-related.

9 214. Had Plaintiff known that Defendants had already received the **September 19,**  
10 **2022** written complaint that project dust was contaminating neighboring property, that  
11 repeated cleaning and reimbursement had already been required, and that prior dust-  
12 control efforts had already failed to prevent recurrence, Plaintiff would have acted  
13 differently and sooner, including by:

- 14 a. pursuing targeted external-source testing;
- 15 b. demanding immediate corrective action;
- 16 c. taking more aggressive protective measures for her facility and HVAC systems;
- 17 d. altering operations;
- 18 e. preserving evidence earlier; and
- 19 f. seeking relief before further losses accrued.

20 215. Plaintiff justifiably relied on the absence of truthful disclosure by Defendants and  
21 on Defendants' concealment of known off-site contamination facts, because Defendants  
22 possessed superior access to project conditions, environmental risks, complaint history,  
and neighboring-impact information that Plaintiff did not have.

23 216. In reliance on Defendants' silence and concealment, Plaintiff continued operating,  
24 continued investigating the wrong suspected source, continued expending funds on  
25 internal remediation, and continued suffering escalating losses while the true external  
source remained hidden from her.

26 217. As a direct and proximate result of Defendants' fraudulent concealment, Plaintiff  
27 suffered contamination of products, destruction of inventory, business interruption,  
28

1 damage to her leasehold and operations, loss of the value of her contractual purchase  
2 opportunity, out-of-pocket remediation costs, and substantial emotional distress.

3 218. Defendants acted with fraud, oppression, and/or malice in that they knowingly  
4 concealed material facts concerning known contamination risks, repeated off-site dust  
5 migration, and neighboring-property impacts while allowing Plaintiff and other adjacent  
6 occupants to remain unaware of a hazard that foreseeably threatened their property,  
7 operations, and livelihood.

8 219. With respect to MBS, Plaintiff is informed and believes, and on that basis alleges,  
9 that the acts of concealment described herein were undertaken, authorized, approved,  
10 continued, and/or ratified by officers, managing agents, or other persons with substantial  
11 discretionary authority acting on behalf of MBS, with knowledge of the dangerous facts  
12 concealed and in conscious disregard of the rights and safety of neighboring occupants,  
13 including Plaintiff. Civil Code section 3294 allows punitive damages for oppression,  
14 fraud, or malice, and for a corporate defendant requires authorization, ratification, or  
15 advance knowledge at the officer/director/managing-agent level.

16 220. Plaintiff therefore seeks compensatory damages, punitive damages, and all other  
17 relief permitted by law against the private defendants on this cause of action.

### 18 **THIRD CAUSE OF ACTION: TRESPASS**

19 *(Against Defendants McCormack Baron Salazar, Inc., A. Teichert and Son, Inc.,*  
20 *Midstate Construction Corporation, and Does 1 through 50)*

21 221. Plaintiff re-alleges and incorporates by reference paragraphs 1 through 220,  
22 inclusive, as though fully set forth herein.

23 222. At all relevant times, Plaintiff Betty Mitchell was the named lessee and lawful  
24 possessor of the commercial property commonly known as 301 Dos Rios Street,  
25 Sacramento, California, also known as 1151 North D Street. Plaintiff held a direct,  
26 personal, and legally protected possessory interest in the Property, together with the right  
27 to occupy, use, control, and operate the Premises and the business conducted there.

28 223. Plaintiff's possessory interest was not incidental or nominal. Plaintiff personally  
signed the lease in her own name as Lessee, lawfully possessed the Property, operated the

1 cannabis facility there, and held the contractual rights tied to the lease and purchase-  
2 related provisions. Plaintiff therefore had the right to exclude unauthorized intrusions and  
3 to possess and use the Property free from unlawful physical invasion.

4 224. Defendants McCormack Baron Salazar, Inc. (“MBS”), A. Teichert and Son, Inc.  
5 (“Teichert”), Midstate Construction Corporation (“Midstate”), and Does 1 through 50,  
6 through their acts, omissions, project operations, continuation of work, and failure to  
7 prevent known off-site migration, caused contaminated dust, particulates, soil-derived  
8 matter, and/or other hazardous material from the Mirasol Village / Twin Rivers Triangle  
9 project site to travel onto and into Plaintiff’s Property.

10 225. The physical invasion was not limited to outdoor deposition. Plaintiff is informed  
11 and believes, and on that basis alleges, that contaminated dust and particulates entered  
12 Plaintiff’s facility through surrounding air pathways, including the HVAC, ventilation,  
13 and related systems serving the indoor operation, and once inside contaminated the  
14 facility environment, equipment, surfaces, and cannabis products.

15 226. Plaintiff did not consent to the entry, deposit, or accumulation of contaminated  
16 dust, particulates, soil-derived matter, or other hazardous material onto or into her  
17 Property.

18 227. Defendants knew, or in the exercise of reasonable care should have known, that  
19 their demolition, grading, excavation, hauling, trenching, soil disturbance, and related  
20 dust-generating operations created a foreseeable risk that contaminated or suspect  
21 material would leave the project site and physically invade neighboring property,  
22 including Plaintiff’s Premises.

23 228. Defendants’ actual notice of off-site migration was reinforced by the written  
24 complaint dated **September 19, 2022** from **Commerce Printing Services**, through its  
25 owner **Gil Caravantes**, to **Sacramento Housing and Redevelopment Agency, Attn:**  
26 **Victoria Johnson, Assistant Director of Development**, regarding repeated dust  
27 accumulation on rooftop solar panels and related property areas. Plaintiff is informed and  
28 believes, and on that basis alleges, that cleanup was required more than once and that  
project participants paid for, authorized, or arranged that cleanup, thereby confirming that  
project dust had already escaped the site and physically reached adjacent property.

1 229. Once Defendants knew that project dust had repeatedly traveled beyond the  
2 project boundaries and deposited on neighboring property, Defendants knew or should  
3 have known that the same dust and particulates were capable of traveling onto and into  
4 other nearby properties, including Plaintiff's indoor commercial facility through  
5 surrounding air, ventilation, and HVAC pathways.

6 230. Despite that knowledge, Defendants continued project activity and failed to take  
7 adequate action to stop the recurring off-site migration and physical invasion.

8 231. Defendants' conduct, separately and collectively, resulted in a direct physical  
9 invasion of Plaintiff's Property by contaminated dust, particulates, and soil-derived  
10 matter.

11 232. That physical invasion interfered with Plaintiff's lawful possession, use, and  
12 enjoyment of the Premises and with the operation of the business conducted there.

13 233. As a direct and proximate result of Defendants' trespass, Plaintiff suffered, among  
14 other things:

- 15 a. contamination of the Property, facility environment, equipment, surfaces, and cannabis  
16 products;
- 17 b. repeated failed pesticide tests for chlordane;
- 18 c. destruction and loss of harvests and commercial product;
- 19 d. interference with Plaintiff's use, possession, and enjoyment of the Premises;
- 20 e. impairment of Plaintiff's ability to continue operating at the Property;
- 21 f. damage to the value and utility of Plaintiff's leasehold and to the contractual ownership  
22 opportunity associated with the lease's purchase-related rights;
- 23 g. out-of-pocket investigation, cleanup, remediation, and protective-measure expenses;
- 24 h. business interruption, lost revenue, and economic loss; and
- 25 i. substantial emotional distress, anxiety, fear, sleeplessness, and mental anguish to the  
26 extent recoverable under California law.

27 234. The trespass alleged herein was a substantial factor in causing Plaintiff's harm.

28 235. Plaintiff has been damaged in an amount according to proof at trial.

#### **FOURTH CAUSE OF ACTION: CIVIL CONSPIRACY**

1                   *(Against Defendants McCormack Baron Salazar, Inc., A. Teichert and Son, Inc.,*  
2 *Midstate Construction Corporation, and Does 1 through 50)*

3           236.       Plaintiff re-alleges and incorporates by reference paragraphs 1 through 235,  
4                   inclusive, as though fully set forth herein.

5           237.       Plaintiff is informed and believes, and on that basis alleges, that Defendants  
6                   McCormack Baron Salazar, Inc. (“MBS”), A. Teichert and Son, Inc. (“Teichert”),  
7                   Midstate Construction Corporation (“Midstate”), and Does 1 through 50 entered into,  
8                   agreed to, participated in, and carried out a common plan, scheme, understanding, and  
9                   course of conduct to continue project operations while concealing, suppressing, and  
10                  failing to disclose material facts concerning contamination risks, off-site dust migration,  
11                  neighboring-property impacts, and the resulting danger to adjacent occupants, including  
12                  Plaintiff.

13           238.       The object of the conspiracy was not merely to continue ordinary construction  
14                   activity. It was to continue and protect the project while avoiding the cost, delay,  
15                   scrutiny, corrective obligations, disclosure consequences, and liability that would follow  
16                   if neighboring occupants were told the truth about known contamination concerns,  
17                   repeated off-site dust migration, and failed dust-control measures.

18           239.       Plaintiff is informed and believes, and on that basis alleges, that Defendants  
19                   reached and operated under this common understanding after acquiring knowledge that:  
20                   a. the project site involved known contamination concerns and incomplete environmental  
21                   characterization;  
22                   b. project work was disturbing soil and generating airborne dust in close proximity to  
23                   occupied neighboring properties;  
24                   c. project dust had already escaped and accumulated on neighboring property, including  
25                   the solar panels and surrounding property of **Commerce Printing Services**;  
26                   d. by **September 19, 2022**, a written complaint had been sent by **Gil Caravantes**, owner  
27                   of Commerce Printing Services, to **Sacramento Housing and Redevelopment Agency**,  
28                   **Attn: Victoria Johnson, Assistant Director of Development**, describing heavy dust  
                    impacts, inadequate mitigation, and repeated solar-panel cleaning needs; and

1 e. repeated complaints and cleanup history demonstrated that the off-site problem was  
2 real, recurring, and dangerous.

3 240. Plaintiff is informed and believes, and on that basis alleges, that Defendants acted  
4 in concert to continue project activity and to withhold from Plaintiff and other adjacent  
5 occupants the material facts set forth above, including the prior neighboring dust  
6 complaints, the repeated cleanup events, the known inadequacy of prior dust-control  
7 efforts, and the foreseeable risk that continued project dust would spread to additional  
8 neighboring properties.

9 241. Defendant MBS participated in the conspiracy by, among other things,  
10 coordinating and continuing project activity, receiving or having access to project-wide  
11 information concerning contamination risk, complaints, and neighboring impacts, and,  
12 through management-level personnel including Candice Hung and Daniel Falcon, Jr.,  
13 participating in decisions concerning corrective action, disclosure, warning, and  
14 continuation of work despite known off-site impacts.

15 242. Defendant Teichert participated in the conspiracy by, among other things,  
16 continuing dust-generating field operations after repeated notice that project dust had  
17 escaped the site and affected neighboring property, failing to implement effective  
18 corrective measures sufficient to stop recurrence, and joining in the failure to provide  
19 truthful warning or disclosure to Plaintiff and other adjacent occupants.

20 243. Defendant Midstate participated in the conspiracy by, among other things,  
21 continuing to participate in or support site work and project operations with knowledge,  
22 access to knowledge, or deliberate disregard of facts showing that project dust and  
23 particulates were escaping the site and affecting neighboring properties, and by joining in  
24 the failure to disclose those facts to persons foreseeably at risk.

25 244. Plaintiff is informed and believes, and on that basis alleges, that each conspirator  
26 knew the object and purpose of the common plan and intended to aid, encourage,  
27 facilitate, or benefit from its operation.

28 245. Plaintiff is informed and believes, and on that basis alleges, that Defendants'  
concerted conduct included:

a. continuing demolition, grading, excavation, hauling, and related dust-generating  
operations despite actual or constructive notice of off-site migration;

- b. failing to implement effective measures sufficient to stop recurring off-site dust impacts;
- c. failing to disclose neighboring complaints and cleanup events to Plaintiff and other adjacent occupants;
- d. failing to warn Plaintiff that project dust had already escaped and affected nearby property;
- e. withholding material facts necessary to allow Plaintiff to identify the true external source earlier; and
- f. advancing partial, selective, or defensive responses while omitting known facts that would have revealed the true nature and extent of the off-site migration problem.

246. By August and September 2023, Plaintiff had developed a clear and reasonable belief that the contamination source was external and project-related, and by September 26, 2023 she had directly asserted that claim to MBS, SHRA, and Midstate. Plaintiff is informed and believes, and on that basis alleges, that rather than disclose the full truth about prior off-site dust complaints, cleanup history, and known failures of project dust control, Defendants continued to act in furtherance of the common plan by denying responsibility and maintaining silence as to those material facts.

247. The conspiracy was a substantial factor in causing the commission of the underlying wrongful acts alleged herein, including fraudulent concealment and the continuation of conduct that allowed contaminated dust and particulates to migrate onto and into Plaintiff's Property.

248. As a direct and proximate result of Defendants' civil conspiracy and the wrongful acts committed pursuant to it, Plaintiff suffered, among other things:

- a. contamination of products and inventory;
- b. repeated failed pesticide tests for chlordane;
- c. destruction and loss of harvests and commercial product;
- d. interference with the use, possession, and enjoyment of the premises;
- e. damage to Plaintiff's leasehold, business operations, and contractual ownership opportunity;
- f. out-of-pocket investigation, cleanup, and remediation expenses;

- g. business interruption, lost revenue, and economic loss; and
- h. substantial emotional distress, anxiety, fear, sleeplessness, and mental anguish.

249. Defendants are therefore jointly liable for the damages proximately caused by the wrongful acts committed in furtherance of the conspiracy.

### PRAYER FOR RELIEF

WHEREFORE, Plaintiff Betty Mitchell prays for judgment against Defendants McCormack Baron Salazar, Inc., A. Teichert and Son, Inc., Midstate Construction Corporation, and Does 1 through 50, and each of them, as follows:

1. For general damages according to proof at trial;
2. For special damages according to proof at trial;
3. For compensatory damages in an amount not less than **\$9,591,000**, or according to proof at trial, including but not limited to:
  - a. destruction of cannabis inventory and product in excess of **\$491,000**;
  - b. loss of leasehold, possessory, and contractual property interests, including loss of the value of Plaintiff's option and related rights to purchase the Property, in an amount of at least **\$600,000**;
  - c. lost gross revenue in an amount of approximately **\$5,000,000** over five years;
  - d. lost profits in an amount of approximately **\$1,500,000** over five years; and
  - e. all additional economic losses according to proof;
4. For damages for loss of use and enjoyment of the Property according to proof at trial;
5. For damages for business interruption, remediation costs, investigation costs, cleanup costs, compliance costs, and all other consequential economic losses according to proof at trial;
6. For damages for emotional distress, mental anguish, anxiety, sleeplessness, humiliation, and other non-economic harm according to proof at trial;
7. For punitive and exemplary damages against the appropriate Defendants, according to proof, in an amount sufficient to punish and make an example of such Defendants for their fraudulent, oppressive, malicious, and conscious disregard of Plaintiff's rights, and

1 to deter similar misconduct in the future. Civil Code section 3294 authorizes punitive  
2 damages for oppression, fraud, or malice.

3 8. For prejudgment interest as permitted by law;

4 9. For costs of suit incurred herein;

5 10. For such other and further relief as the Court deems just and proper.

6 **Dated:** April 16<sup>th</sup> 2026

7  
8 Respectfully submitted,

9 *Betty Lou Mitchell*

10  
11 **Betty Mitchell**

12 *Plaintiff, in Propria Persona*

13 1520 West El Camino Ave, Ste. 278

14 Sacramento, CA 95833

15 Telephone: (916) 678-2241

16 isokelab@sbcglobal.net