

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ANNA WIDDIS,
JASON BASTIEN,
Individually and
on behalf of all others similarly situated,

Case No. 13-005590-NZ
Hon. Maria L. Oxholm

Plaintiffs,

v.

MARATHON PETROLEUM CORPORATION,
a Delaware corporation and its subsidiary, MARATHON
PETROLEUM COMPANY LP, a foreign limited partnership,

13-005590-NZ
FILED IN MY OFFICE
WAYNE COUNTY CLERK
6/5/2013 11:32:39 AM
CATHY M. GARRETT

Defendants.

HERTZ SCHRAM PC
ELIZABETH C. THOMSON (P53579)
PATRICIA A. STAMLER (P35905)
Attorneys for Plaintiffs
1760 S. Telegraph Road, Suite 300
Bloomfield Hills, MI 48302
248-335-5000
pstamler@hertzschram.com
lthomson@hertzschram.com

MACUGA, LIDDLE & DUBIN PC
PETER W. MACUGA (P28114)
LAURA L. SHEETS (P63270)
Attorneys for Plaintiffs
975 E. Jefferson Ave.
Detroit, MI 48207
(313) 392-0015
pmacuga@mldclassaction.com
lsheets@mldclassaction.com

**FIRST AMENDED CLASS ACTION COMPLAINT, MOTION FOR CLASS
CERTIFICATION AND DEMAND FOR JURY TRIAL**

Plaintiffs Anna Widdis and Jason Bastien, individually and on behalf of all others similarly situated, by and through their attorneys Hertz Schram PC and Macuga, Liddle & Dubin PC, hereby complain against Defendants Marathon Petroleum Corporation and its subsidiary, Marathon Petroleum Company, LP (hereinafter collectively known as "Defendants") move this Court for their First Amended Class Action Complaint, Class Certification, Demand for Jury Trial and state as follows:

The Parties

1. Anna Widdis lives at 17286 Dora Street, in the City of Melvindale, County of Wayne, State of Michigan.

2. Jason Bastien lives at 17275 Dora Street, in the City of Melvindale, County of Wayne, State of Michigan.

3. Anna Widdis and Jason Bastien bring this action on behalf of themselves and all other similarly situated Wayne County residents, (collectively, "Plaintiffs").

4. Defendant Marathon Petroleum Corporation ("MPC") is a Delaware corporation, and conducts operations at 1300 S. Fort St., in the City of Detroit, County of Wayne, State of Michigan.

5. Defendant Marathon Petroleum Company LP ("MPCLP") is a subsidiary of MPC and is a foreign limited partnership, and conducts operations at 1300 S. Fort St., in the City of Detroit, County of Wayne, State of Michigan.

Jurisdiction and Venue

6. Plaintiffs are residents of Wayne County.

7. The damages suffered by the Plaintiffs were suffered in Wayne County.

8. The Defendants' actions, which were the proximate and legal cause of Plaintiffs' damages as alleged herein, occurred in Wayne County.

9. Plaintiffs seek monetary damages in excess of \$25,000 per Plaintiff, exclusive of costs and attorney fees, and equitable relief.

10. This Court has personal and subject matter jurisdiction over Defendants.

11. Venue is proper in this Court.

General Allegations

12. Defendant MPC ranks as the fourth largest petroleum refiner in the United States with operations primarily in the Midwest, Gulf Coast and Southeast regions.

13. Defendant MPCLP is a subsidiary of MPC with refinery operations that include crude distillation, catalytic cracking, hydrotreating, reforming, alkylation, sulfur recovery and coking.

14. Defendants conduct operations on 250 acres in the City of Detroit (the "Facility").

15. Defendants' products include gasoline, distillates, asphalt, propane, propylene, slurry and fuel-grade coke.

16. Defendants maintain the refining capacity of 120,000 barrels of crude and heavy crude per calendar day.

17. Based upon information and belief, Defendants routinely uses, handles and stores explosive, flammable, hazardous and non-hazardous substances at the Facility.

18. On April 27, 2013, a massive explosion and fire erupted at the Facility (hereinafter referred to as the "Marathon Fire and Explosion").

19. Based upon information and belief, various fire departments were called in to assist with the management and suppression of the raging fire and explosions.

20. Residents over one mile from the Facility reported feeling their homes shake from the explosions that erupted from the Facility.

21. Based upon information and belief, the Department of Environmental Quality immediately sent in HAZMAT crews and other personnel to address environmental concerns.

22. Residents and businesses were evacuated from the area and ordered not to return to their property.

23. Based upon information and belief, 3,000 people were advised to evacuate their property as a result of the Marathon Fire and Explosion.

24. As a result of Marathon Fire and Explosion, and at all times during and after the emergency evacuation, Plaintiffs suffered damage to property, an interference with property rights and an interference with the right to peace and comfort as a result of the Defendants' actions as herein alleged.

25. Based upon information and belief, Defendants were in violation of state and federal regulations and industry standards that govern the handling, storage and/or distribution of hazardous and non-hazardous substances.

26. Defendants knew or should have known that their continuing violations of state and federal regulations and industry standards would cause harm, but elected to continue operating the Facility.

27. Defendants failed to ensure that they maintained the Facility in a reasonable and prudent manner so as to ensure the safe and secure storage of explosive and flammable materials.

28. Defendants are vicariously liable for all damages suffered by Plaintiffs caused by Defendants' employees, agents, and servants, real and ostensible.

29. Defendants have intentionally and knowingly failed to properly maintain and supervise their employees and Facility equipment and operations so as to prevent fires, explosions and the release of hazardous and non-hazardous substances.

COUNT I - NEGLIGENCE

30. Plaintiffs incorporate by reference all preceding paragraphs.

31. Defendants owed Plaintiffs and all others similarly situated a duty to exercise reasonable conduct, to follow all applicable laws and industry standards and to prevent the occurrence of fires, explosions and the release of hazardous and non-hazardous substances, odors and wastes.

32. Defendants failed to exercise due care in their maintenance, monitoring and repair of the Facility so as to prevent fires, explosions and the uncontrolled release of hazardous and non-hazardous substances, odors and wastes into the environment.

33. Defendants failed to exercise due care by failing to hire, retain, supervise and train appropriate personnel to monitor and maintain the Facility and all equipment and flammable materials and supplies located therein.

34. Defendants failed to exercise due care by failing to properly design, construct, maintain, inspect or monitor the Facility, procedures and equipment, and by failing to ensure that the Facility could safely store petroleum products; thus, causing the Marathon Fire and Explosion and the release of hazardous and non-hazardous substances, odors and wastes.

35. Defendants knew or should have known that the Facility was operating under hazardous conditions, not in compliance with state and federal regulations and industry standards; thus, causing the Marathon Fire and Explosion and the attendant release of hazardous and non-hazardous substances, odors and wastes and the interference with the property rights of Plaintiffs.

36. Defendants knew that the Marathon Fire and Explosion resulted in the release of petroleum products and other substances which were noxious, dangerous, and hazardous.

37. As a direct and proximate result of the Defendants' breaches of their duties, Plaintiffs were harmed.

38. As a direct and proximate result of the Defendants' breaches of their duties, Plaintiffs were harmed.

WHEREFORE, Plaintiffs respectfully request entry of a Judgment against the Defendants in whatever amount Plaintiffs are found to be entitled, including for actual damages and all other relief this Court deems just and appropriate, including but not limited to, all costs and attorneys' fees associated with bringing this action and interest from the date of the filing of this Complaint until the date of judgment at the statutory rate.

COUNT II – NUISANCE

39. Plaintiffs incorporate by reference all preceding paragraphs.

40. Defendants' acts or omissions as set forth herein have interfered with the Plaintiffs' property rights, privileges, and use and enjoyment of property so as to constitute a nuisance.

41. Plaintiffs' interests in the use and enjoyment of their property were diminished by Defendants' acts or omissions, which caused, among other things: the evacuation of Plaintiffs and all others from their property and/or the forcing of them indoors, and the release of hazardous, non-hazardous and other substances into the air and onto Plaintiffs' property.

42. Plaintiffs did not consent to the Defendants' actions as described herein.

43. Defendants' actions as alleged herein constitute an unreasonable interference with the safety, peace, comfort and convenience of the Plaintiffs and all others similarly situated.

44. Defendants' actions and omissions have caused harm to Plaintiffs.

WHEREFORE, Plaintiffs respectfully request entry of a Judgment against the Defendants in whatever amount Plaintiffs are found to be entitled, including for actual damages and all other relief this Court deems just and appropriate, including but not limited to, all costs and attorneys' fees associated with bringing this action and interest from the date of the filing of this Complaint until the date of judgment at the statutory rate.

COUNT III – CLASS ACTION ALLEGATIONS

45. Plaintiffs incorporate by reference all preceding paragraphs.

46. That Plaintiffs bring this class action alleging claims of nuisance and negligence by the Defendants named herein as a Class Action pursuant to Rule 3.501 of the Michigan Court Rules on behalf of all residential and commercial occupants and/or property owners who have suffered nuisance, property damages, economic losses and other damages as a result of the Defendants' actions as herein alleged. Plaintiffs propose to represent the following classes:

Subclass 1: All persons who own homes or property who have suffered damage to property, loss of enjoyment of their property or loss of the use of their property at any time from April 27, 2013 up to the date of trial (the "Class Period"), as a result of the Marathon Fire and Explosion.

Subclass 2: All non-owner occupants of properties who have suffered loss of enjoyment of their property or loss of the use of their property at any time during the Class Period, as a result of the Marathon Fire and Explosion.

47. Plaintiffs expressly reserve the right to modify the class definitions as the litigation proceeds.

48. Plaintiffs are not asserting any present personal injury claim as a result of the Marathon Fire and Explosion.

49. Plaintiffs herein allege and appoint Anna Widdis and Jason Bastien as class representatives on behalf of the above defined sub-classes.

50. The claims of the representative party Plaintiff Anna Widdis and Jason Bastien are typical of the claims of the members of the Class.

51. Plaintiffs and all members of the Class sustained damages arising from the actions of the Defendants as herein alleged.

52. The Class of Plaintiffs is so numerous that joinder of all members would be impracticable.

53. The Class representative Anna Widdis and Jason Bastien will fairly and adequately assert and protect the interests of the members of the Class and designated subclasses and have retained counsel competent and experienced in this type of litigation. Plaintiff Anna Widdis and Jason Bastien have no interest that is contrary to or in conflict with the Class members they seek to represent.

54. Maintenance of the action as a Class Action will be superior to other available methods of adjudication in promoting the convenient administration of justice, as otherwise there could be conflicting rulings from different courts with regard to the claims made by the Class members against Defendants.

55. Class Action is superior to other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, due to the size of the Class, the expense and burden of individual litigation makes it impossible for the members of the Class individually to address wrongs done to them. Plaintiffs know of no

difficulty that will be encountered in the management of this litigation that would preclude its maintenance as a Class Action.

56. There are common questions of fact and law among all members of the Class as herein alleged.

57. Plaintiffs request that this Court appoint the law firm of Hertz Schram PC and Macuga, Liddle & Dubin PC as co-lead Class Counsel on behalf of all Class members with full authority to act on its behalf, as permitted by law.

58. Notice covering the matters set forth in MCR 3.501(C)(3) may be accomplished by sending written notice via first class mail to all Class members, by publication in a newspaper of appropriate circulation and/or on the of proposed class counsel, Hertz Schram PC and Macuga, Liddle & Dubin PC.

WHEREFORE, Plaintiffs respectfully request and move this Court that this matter be certified as a class action, entry of a Judgment against the Defendants in whatever amount Plaintiffs are found to be entitled, including for actual damages and all other relief this Court deems just and appropriate, including but not limited to, all costs and attorneys' fees associated with bringing this action and interest from the date of the filing of this Complaint until the date of judgment at the statutory rate.

Respectfully submitted,

HERTZ SCHRAM PC

By: 

Elizabeth C. Thomson (P53579)

Patricia A. Stamler (P35905)

Attorneys for Plaintiffs

1760 S. Telegraph, Suite 300

Bloomfield Hills, MI 48302

(248) 335-5000

MACUGA, LIDDLE & DUBIN PC

By: 

PETER W. MACUGA (P28114)

LAURA L. SHEETS (P63270)

Attorneys for Plaintiffs

975 E. Jefferson Ave.

Detroit, MI 48207

(313) 392-0015

sliddle@mldclassaction.com

lsheets@mldclassaction.com

Dated: June 4, 2013

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

ANNA WIDDIS,
JASON BASTIEN,
Individually and
on behalf of all others similarly situated,

Case No. 13-005590-NZ
Hon. Maria L. Oxholm

Plaintiffs,

v.

MARATHON PETROLEUM CORPORATION,
a Delaware corporation and its subsidiary, MARATHON
PETROLEUM COMPANY LP, a foreign limited partnership

Defendants.


HERTZ SCHRAM PC
ELIZABETH C. THOMSON (P53579)
PATRICIA A. STAMLER (P35905)
Attorneys for Plaintiffs
1760 S. Telegraph Road, Suite 300
Bloomfield Hills, MI 48302
248-335-5000
pstamler@hertzschram.com
lthomson@hertzschram.com

MACUGA, LIDDLE & DUBIN PC
PETER W. MACUGA (P28114)
LAURA L. SHEETS (P63270)
Attorneys for Plaintiffs
975 E. Jefferson Ave.
Detroit, MI 48207
(313) 392-0015
sliddle@mldclassaction.com
lsheets@mldclassaction.com

JURY DEMAND

Now come the above-named Plaintiffs, by and through their attorneys, and hereby
demand a trial by jury.

Respectfully submitted,

By: 
HERTZ SCHRAM PC
ELIZABETH C. THOMSON (P53579)
PATRICIA A. STAMLER (P35905)
Attorneys for Plaintiffs
1760 South Telegraph, Ste. 300
Bloomfield Hills, MI 48302
248-335-5000
lthomson@hertzschram.com
pstamler@hertzschram.com

MACUGA, LIDDLE & DUBIN PC

By:

Laura L. Sheets / with
PETER W. MACUGA (P28114) *consent*

LAURA L. SHEETS (P63270)

Attorneys for Plaintiffs

975 E. Jefferson Ave.

Detroit, MI 48207

(313) 392-0015

sliddle@mldclassaction.com

lsheets@mldclassaction.com

Dated: June 4, 2013