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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
COUNTY OF CHELAN

SAM KEELER and DANIELLE
SAUNDERS, husband and wife,

Plaintiffs,

vs.

RANDALL S. GLEASMAN, an individual;
PHYLLIS L. GLEASMAN, an individual;
MANZANA RANCH, LLC, a Washington
Limited Liability Company; and JOHN DOE 1
through 10,

Defendants.

16-2-00284-1

No.

COMPLAINT FOR PESTICIDE EXPOSURE

COME NOW SAM KEELER and DANIELLE SAUNDERS, husband and wife, and
allege as follows:

PARTIES

1. Plaintiffs, SAM KEELER and DANIELLE SAUNDERS are husband and
wife who own and/or reside on the residential property in Chelan County, Washington that is
the subject of this complaint.

1 otherwise responsible for the pesticide violations and the tortious and illegal acts alleged in
2 Chelan County, Washington.

3 8. The Chelan County Superior Court has personal jurisdiction over the
4 Defendant, MANZANA RANCH, LLC, because it conducts business in Chelan County,
5 Washington, and because, on information and belief, it owns or operates the orchard where
6 the pesticide violations originated in Chelan County, Washington.

7 **VENUE**

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9 9. Venue is proper in Chelan County, Washington because the acts complained
10 of occurred in Chelan County; the cause of action arose in Chelan County; and the subject
11 real estate is located in Chelan County, Washington.

12 **FACTS**

13 10. Plaintiffs Sam Keeler and Dr. Danielle Saunders own and reside on acreage
14 and residential property known as Chelan County Parcel Number 48424.

15 11. Plaintiffs were exposed to pesticides from Defendants' pesticide spraying
16 operations on or about April 9, 2014.

17 12. The pesticide drift originated from adjacent property owned, controlled, and
18 operated by Defendants known as Chelan County Parcel Numbers 47682 and 50350.

19 13. The pesticide drift, pesticide violations, and human exposure to the Plaintiffs
20 was reported to the Washington State Department of Agriculture (WSDA). The Defendants'
21 violations were investigated and confirmed by WSDA.

22 14. The pesticide violations involved the negligent and intentional spraying of the
23 organophosphate insecticide Lorsban on a windy day in violation of the label.
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1 15. Both Mr. Keeler and Dr. Saunders experienced a strong pepper odor and
2 suffered a burning sensation in their eyes, nose, and throat.

3 16. In addition to medical effects and intense anxiety, Mr. Keeler and Dr.
4 Saunders were displaced from their home.

5 17. The Washington State Department of Agriculture (WSDA) confirmed
6 pesticide residue on their property including the active ingredient in Lorsban Advanced,
7 *Chlorpyrifos*.

8 18. Pesticide drift from the Defendants' spraying operations was confirmed on the
9 window sills of Mr. Keeler's and Dr. Saunder's home by samples taken by WSDA that were
10 evaluated by an independent laboratory.

11 19. The WSDA issued an investigation report that was provided to some or all of
12 the Defendants and resulted in an enforcement action against the Defendants for numerous
13 regulatory violations and human exposure to the Plaintiffs.

14 20. The Washington State Department of Health (DOH) confirmed that the
15 symptoms documented by Mr. Keeler and Dr. Saunders on April 9, 2014 were pesticide-
16 related illness. DOH Case No. 140033.

17 21. The exposure was severe enough that Mr. Keeler sought and obtained
18 independent medical evaluation.

19 22. Dr. Saunders, who is a physician, documented her own symptoms and
20 exposure.

21 23. The subject pesticide, *Chlorpyrifos*, has been banned for use in homes and on
22 residential property for more than a decade because of exposure risks to humans and
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1 domestic pets.

2 24. Chronic human exposure to *Chlorpyrifos* is associated with neurological
3 effects, persistent developmental disorders, and autoimmune disorders. The risk factors and
4 severity of effects are compounded during pregnancy and in cases of exposure in young
5 children.

6 25. The pesticide label for the pesticides at issue in this complaint prohibits
7 application on residential property or structures, application when wind conditions can cause
8 drift, and unprotected human exposure. Defendants violated each of these restrictions.

9 26. The federally approved label states mandatory conditions and restrictions of
10 use to prevent the identified risks. The federal restrictions read:

11
12 "May be fatal if swallowed. Causes skin irritation. Causes
13 moderate eye irritation. Harmful if inhaled. Prolonged or
14 frequently repeated skin contact may cause allergic reactions in
15 some individuals. Do not get on skin or on clothing. Avoid
16 contact with the eyes and breathing vapor or spray mist . . . It
17 is a violation of Federal law to use this product in a manner
inconsistent with its labeling. . . . Do not allow spray to drift
from the application site and contact people, structures people
occupy at any time and the associated property."

18 (emphasis added).

19
20 27. The WSDA determined that the pesticide drift caused to Mr. Keeler and Dr.
21 Saunders violated federal law, label restrictions, and various provisions of Washington
22 statutes and WSDA pesticide regulations, including Chapter 15.58 RCW, Chapter 17.21
23 RCW, and Chapter 16-228 WAC.

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CAUSES OF ACTION

For their causes of action against Defendants, Mr. Keeler and Dr. Saunders repeat the allegations in Paragraphs 1 through 27, preceding, and allege as follows:

28. Defendants placed Plaintiffs in immediate fear of injury and bodily harm. Defendants actions were either intentional, or Defendants' knew, or should have known, that fear of harm would result from Defendants' actions. Defendants are liable to Plaintiffs for tortious assault and damages in the amount to be proven at trial.

29. Defendants pesticide drifted onto Plaintiffs' property without privilege or right, invading Plaintiffs' right to exclusive and peaceful enjoyment of their property. Defendants are liable to Plaintiffs for trespass, nominal damages, and such additional damages for continuing trespass in the amount to be proven at trial.

30. The unlawful drift of pesticides onto Plaintiffs' property caused by Defendants unreasonably interfered with Plaintiffs' use and enjoyment of their property. Defendants are liable for nuisance in the amount to be proven at trial. Plaintiffs are entitled to an order requiring Defendants to abate and eliminate the nuisance.

31. Plaintiffs suffered personal injury on the day of exposure sufficient to receive medical attention, and damages, including lost time, medical expenses, and pain and suffering in an amount to be proven at trial.

32. Plaintiffs live in apprehension and fear of continued incidents of exposure to themselves, guests, pets, and children caused by unpredictable and dangerous pesticide drift from Defendants' farming operation. Plaintiffs also fear the devaluation of their property from Defendants' illegal acts. Plaintiffs are entitled to injunctive relief and a court order

1 requiring Defendants to take all available precautions to prevent pesticides from entering the
2 Plaintiffs' property and prohibiting pesticide drift on to Plaintiffs' property by Defendants in
3 violation of the federal label and pesticide use restrictions of federal and state law.

4 **RELIEF REQUESTED**

5 The Plaintiffs request the following relief:

6 1. Judgment jointly and severally against Defendants for assault, trespass,
7 nuisance, and personal injury in the amount proven at trial.

8 2. Injunctive relief requiring Defendants to take all precautions necessary to
9 prevent pesticides from Defendants' farming operations from entering Plaintiffs' property and
10 prohibiting pesticide drift from Defendants' farming operations to contact Plaintiffs, their
11 guests, or their property.

12 3. Judgment jointly and severally against the Defendants for actual, reasonable
13 attorneys fees, litigation costs, and investigative costs, as allowed at law or in equity.

14 4. Judgment jointly and severally against the Defendants for statutory attorneys'
15 fees and costs.

16 5. For such other relief in favor of Plaintiffs as the court deems just and
17 equitable.

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19
20 RESPECTFULLY submitted March 29TH, 2016.

21 McELROY LAW FIRM, PLLC

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23
24 Gregory S. McElroy, WSBA No. 15494
25 Attorney for Plaintiffs