IN THE CIRCUIT COURT FOR BALTIMORE CITY

MAYOR AND CITY COUNCIL OF BALTIMORE,

City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Plaintiff,

v.

PEPSICO, INC.; FRITO-LAY, INC.; FRITO-LAY NORTH AMERICA, INC.; COCA-COLA, INC.; W.R. GRACE AND COMPANY; MERCURY PLASTICS MD; ADELL PLASTICS, INC.; POLYMERSHAPES BALTIMORE

Defendants.

COMPLAINT

Case No.: _____

Jury Trial Demanded.

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Plaintiff, the Mayor and the City Council of Baltimore, Maryland ("the City" or "Plaintiff"), by and through its attorneys, the Milberg Firm, Napoli Shkolnik, PLLC, and Smouse & Mason, LLC, respectfully allege as follows:

NATURE OF THE CASE

1. In the past 75 years, annual production of plastic has grown from under two metric tons in 1950 to 460 metric tons in 2019.[1] Half of all plastic that has ever been produced was made after 2002.[2] By 2060, plastic manufacturing is expected to triple.[3] Because of the rampant production and usage of plastics, it is one of the most common forms of litter in the world.[4] Single-use plastics contribute in particular to litter, given their inherent throwaway nature. Plastic production has increased exponentially, from 2.3 million tons in 1950 to 448 million tons by 2015.[5] The increase in plastic production continues to climb higher each year.[6] As a consequence, the plastic-pollution crisis has created major economic problems for Plaintiff Baltimore City, its citizens, and its environment.

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[1] Hannah Ritchie, Veronika Samborska, & Max Roser, *Plastic Pollution*, Our World in Data (Sept. 2018), https://ourworldindata.org/plastic-pollution (https://perma.cc/T558-H5H3); Organisation for Economic Co-operation and Development (OECD), *Global Plastics Outlook: Economic Drivers, Environmental Impacts and Policy Options*, Organisation for Economic Co-operation and Development (2022) (https://doi.org/10.1787/de747aef-en) (https://perma.cc/5453-UPMD).

[2] Organisation for Economic Co-operation and Development (OECD), *Global Plastics Outlook: Economic Drivers, Environmental Impacts and Policy Options*, Organisation for Economic Co-operation and Development (2022) (https://doi.org/10.1787/de747aef-en) (https://perma.cc/9H26-SHJ9).

[3] *Id.*

[4] Hannah Ritchie, Veronika Samborska, & Max Roser, *Plastic Pollution*, Our World in Data (Sept. 2018) (https://ourworldindata.org/plastic-pollution) (https://perma.cc/C9PH-3HGA).

[5] Laura Parker, *The world's plastic pollution crisis explained*, NATIONAL GEOGRAPHIC (June 7, 2019) (https://www.nationalgeographic.com/environment/article/plastic-pollution) (https://perma.cc/4U2Z-J3QP).

[6] *Id.*

2. Plastics litter streets, sidewalks, beaches, parks, and lawns in the City. Plastic litter is not just an unattractive blight on the City, but also a threat to the environment, wildlife, land, waters, and public health. Plastic does not biodegrade in the environment; instead, it fragments into smaller and smaller pieces known as microplastics and nanoplastics, which remain in the environment indefinitely.[7] It takes around 1,000 years for single-use plastic to degrade in a landfill.[8] Bottles, bags and food containers are made of plastic contain toxic chemical additives, known as endocrine disruptors which, research shows, can cause adverse health conditions including cancers, birth defects and immune system suppression in both humans and wildlife.[9]

3. Plastic contaminates the City's harbor and public drinking water supplies. Plastics have significant impacts on the City's public water supply system. In particular, Defendants' plastic litter degrades into microplastics and nanoplastics which then diffuse into the City's public water supply system, causing harm to the water supply and the City's residents accessing it.

4. In all its forms, this plastic pollution interferes with the public's use and enjoyment of the City, and adversely affects the aesthetic value of the City and its waters. Single-use plastic beverage bottles, bottle caps, and snack food wrappers are common types of plastic waste found in the City. These products are produced, distributed, and sold by Defendants, who account for the majority of this waste within the City.

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[7] Yutaka Tokiwa, Buenaventurada P. Calabia, Charles U. Ugwu, & Seiichi Aiba, *Biodegradability of plastics*, Int. J. Mol. Sci. (Aug. 26, 2009) (https://pubmed.ncbi.nlm.nih.gov/19865515) (https://perma.cc/AG2D-U94Q).

[8] *Degradation Rates of Plastics in the Environment*, ACS Publications (2020) (https://pubs.acs.org/doi/10.1021/acssuschemeng.9b06635 (https://archive.is/I4pQF).

[9] *Adverse Health Effects Of Plastics*, Ecology Center (2021) (https://ecologycenter.org/factsheets/adverse-health-effects-of-plastics) (https://perma.cc/N8U2-55BW).

5. Plastics litter is extraordinarily expensive, with the cost externalized to cities and towns. This toxic litter and nuisance epidemic is no different in Baltimore. The City and its stakeholders spend over $32 million to collect upwards of 2,600 tons of litter annually, at an estimated cost of $10,571 per ton of litter generated,[10] a significant portion of which is plastics litter.

6. Plastics litter in Baltimore is a public nuisance that threatens the environment and human health, and costs the City millions of dollars in cleanup expenses. Defendant plastics manufacturers knew of single-use plastics' inability to be recycled and its harmful nature, and have done nothing to mitigate the impact of the disposal of their products. Defendants contract for delivery of their plastics products with distributors in the City, and/or are themselves distributors in the City. As such, Defendants must bear the responsibility for cleaning up the products they created that have and continue to contaminate the City's property.

PARTIES

A. PLAINTIFF

7. Plaintiff, the Mayor and City Council of Baltimore (hereinafter "Baltimore City," "Baltimore," or "the City"), brings this action as an exercise of its police power, which includes, but is not limited to, its power to prevent pollution of Baltimore's property and waters, to prevent and abate nuisances, and to prevent and abate hazards to the environment. It brings this claim under the Illegal Dumping and Litter Control Law, which allows the legislative body of a municipal

[10] Christopher Kelley & Ramya Ambikapathi, *Litter-Free Baltimore: A Trash Collection Policy Framework Based on Spatial Analysis and Social Media*, Abell Foundation (Aug. 2016) (https://abell.org/publication/winner-of-the-2016-abell-award-in-urban-policy) (https://perma.cc/B6XR-BJ58).

corporation to prohibit littering and classify littering as a municipal infraction, such as the public nuisance and litter control law violations described herein.[11]

8. The City has a public governmental interest in its natural resources, lands, and harbor. Its obligation, and right, to ensure the health and well-being of Baltimore's environment, its economy, and its citizens' health are essential public functions to be addressed in this litigation. Moreover, the City has incurred, and will continue to incur, massive costs for the abatement and removal of Defendants' plastic litter.

B. DEFENDANTS

9. Defendants, collectively, manufacture, market, distribute, and sell a majority of single-use plastics and plastic packaging purchased and/or used in the United States, including in Baltimore City, Maryland.

10. Each of Defendants has a substantial share of the plastics market and knew that their products would be littered in the City. Defendants knew that the plastics they manufactured would not break down after they were inevitably discarded by Defendants' customers and would thereby create a nuisance. Defendants, however, chose to manufacture and sell non-reusable, unrecyclable, or limited recyclable products, without any mitigation of the waste material. Defendants created a public nuisance solely to sell more of their products and knew that this decision would result in copious amounts of plastic littering the property both of the City and of its residents and businesses.

11. **Defendant PepsiCo, Inc. ("PepsiCo")** is a North Carolina corporation with its principal place of business at 700 Anderson Hill Road, Purchase, New York 10577. At all times relevant, PepsiCo has manufactured, marketed, and distributed beverages and snack food products

[11] MD. CODE ANN., CRIM. LAW § 10-110.

in plastic packaging including, but not limited to, Gatorade, Pepsi, Aquafina, Mountain Dew, and LifeWTR beverage bottles, as well as Cheetos, Doritos, Frito-Lay, Lay's, Tostitos, Ruffles, and Sun Chips snack food wrappers, throughout the United States, including Baltimore City, Maryland. PepsiCo regularly transacts business in Baltimore City, derives substantial revenue from its business in Maryland, and owns and/or uses real property within Maryland.[12]

12. PepsiCo is a beverage and snack food company that produces, distributes, bottles/packages, sells, and markets beverages and snack foods. PepsiCo controls all packaging and marketing decisions. PepsiCo oversees and manages activities pertaining to its subsidiaries' and franchisees' involvement in the process by which PepsiCo products are packed, marketed, and/or sold to customers through its workers and/or agents. PepsiCo maintains complete control over the manufacture, sale, and distribution of its goods. It specifies the materials used for packaging and uses its own vehicles or independent contractors under contract to transport its goods. PepsiCo is responsible for the past and present production and promotion of PepsiCo products in single-use plastic packaging by its own production, as well as its subsidiaries' and franchisees' production which it controls.

13. **Defendant Frito-Lay, Inc. ("Frito-Lay")** is incorporated in Delaware, with its headquarters at 7701 Legacy Dr., Plano, Texas 75024. Frito Lay is a wholly owned subsidiary of Defendant PepsiCo. At all times relevant, Frito-Lay has manufactured, marketed, and distributed beverages and snack food products in plastic packaging, including, but not limited to, Lay's, Doritos, Cheetos, Fritos, Sun Chips, and Tostitos, throughout the United States, including Baltimore City, Maryland. Frito-Lay regularly transacts business in Baltimore City, MD, derives

[12] Amanda Winters, *Baltimore logistics center gains PepsiCo as tenant*, Maryland.gov (June 6, 2023 (https://business.maryland.gov/blog/baltimore-logistics-center-gains-pepsico-as-tenant) (https://perma.cc/F68R-E7SB).

substantial revenue from its business in Maryland, and owns and/or uses real property within Maryland.

14. **Defendant Frito-Lay North America, Inc. ("Frito-Lay North America")** is incorporated in Delaware, with its headquarters at 7701 Legacy Dr., Plano, Texas 75024. Frito Lay is a wholly owned subsidiary of Defendant PepsiCo. At all times relevant, Frito-Lay has manufactured, marketed, and distributed beverages and snack food products in plastic packaging, including, but not limited to, Lay's, Doritos, Cheetos, Fritos, Sun Chips, and Tostitos, throughout the United States, including Baltimore City, Maryland. Frito-Lay regularly transacts business in Baltimore City, derives substantial revenue from its business in Maryland, and owns and/or uses real property within Maryland.

15. **Defendant Coca-Cola, Inc. ("Coca-Cola")** is a Georgia company with its headquarters at 1 Coca Cola Plaza, NW, Atlanta, GA 30313. At all times relevant, Coca-Cola has manufactured, marketed, and distributed beverages and snack food products in plastic packaging, including, but not limited to, Powerade, Coca-Cola, Diet Coke, Dasani, Sprite, MinuteMaid, Fanta, Vitamin Water, and SmartWater beverage bottles.

16. In overseeing and managing activities pertaining to its subsidiaries' and franchisees' involvement in the process by which Coca-Cola products are packed, marketed, and/or sold to customers through its workers and/or agents, Coca-Cola maintains complete control over the manufacture, sale, and distribution of its goods. It specifies the materials used for packaging and uses its own vehicles, or independent contractors under contract to transport its goods. Coca-Cola is responsible for the past and present production and promotion of Coca-Cola products in single-use plastic packaging by its own production, as well as through its subsidiaries' and franchisees' production.

17. **Defendant W.R. Grace and Company ("W.R. Grace")** is a Maryland corporation with its headquarters at 7500 Grace Dr., Columbia, Maryland 21044. At all relevant times, W.R. Grace has manufactured, advertised, and sold chemicals, additives, and synthetic silicas for manufacturing polypropylene (PP), polyethylene (PE), and Polyethylene Terephthalate (PET) plastics, throughout the United States, including in Baltimore City, Maryland.

18. W.R. Grace is a plastics company that manufactures, distributes, sells, and markets plastic products. W.R. Grace maintains complete control over the manufacture, marketing, sale, and distribution of its products. It specifies the materials used for its products and uses its own vehicles or independent contractors under contract to transport its goods. W.R. Grace is responsible for the past and present production and promotion of plastic products by its own design and production. It sells and distributes plastics products within Baltimore City.

19. **Defendant Mercury Plastics MD ("Mercury")** is a Maryland corporation with its headquarters at 2717 Wilmarco Avenue, Baltimore, Maryland 21223. At all relevant times, Mercury manufactured, advertised, and sold plastics to be used in industries including, but not limited to, consumer package goods, cosmetics, home goods, and personal care, throughout the United States, including in Baltimore City, Maryland. Mercury manufactures, distributes, and sells plastic materials including, but not limited to, PETG, Polypropylene (PP), Polyethylene (PE), polyethylene terephthalate (PET), and High-Density Polyethylene (HDPE).

20. Mercury is a plastics company that manufactures, distributes, sells, and markets plastic products. Mercury maintains complete control over the manufacture, marketing, sale, and distribution of its goods. It specifies the materials used for products and uses its own vehicles or independent contractors under contract to transport its goods. Mercury is responsible for the past

and present production and promotion of plastic products by its own production. It sells and distributes plastics products within Baltimore City.

21. **Defendant Adell Plastics, Inc. ("Adell")** is a Maryland corporation with its headquarters at 4530 Annapolis Rd., Baltimore, Maryland 21227. At all relevant times, Adell has manufactured, advertised, and sold thermoplastics including polypropylene, polyester (both PET and PBT), polycarbonate, and silicone concentrates.

22. Adell is a plastics company that manufactures, distributes, sells, and markets plastic products. Adell maintains complete control over the manufacture, marketing, sale, and distribution of its goods. It specifies the materials used for products and uses its own vehicles or independent contractors under contract to transport its goods. Adell is responsible for the past and present production and promotion of plastic products by its own production. It sells and distributes plastics products within Baltimore City.

23. **Defendant Polymershapes Baltimore ("Polymershapes")** is a Maryland corporation with its headquarters at 7495 Race Road, Hanover, Maryland, 21076. At all relevant times, Adell has manufactured, advertised, and sold plastics such as Acrylic, Polycarbonate, Foam PVC, High Impact Polystyrene, High-Density Polyethylene (HDPE), Nylon, and UHMW.

24. Polymershapes is a plastics company that fabricates, manufactures, sells, and supplies plastic products. Polymershapes maintains complete control over the marketing, sale, and distribution of its goods. It specifies the materials used for products and uses its own vehicles or independent contractors under contract to transport its goods. Polymershapes is responsible for the past and present production and promotion of plastic products by its own production. It sells and distributes plastics products within Baltimore City.

AGENCY/JOINT VENTURE

25. At all times herein mentioned, each of Defendants was the agent, servant, partner, aider and abettor, co-conspirator, and/or joint venturer of each of the remaining Defendants herein, and was at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy, and joint venture, and rendered substantial assistance and encouragement to the other Defendants, knowing that their conduct was wrongful and/or constituted the creation of a nuisance within Baltimore City.

STATUTE OF LIMITATIONS

26. No statute of limitations can be pleaded against Plaintiff, both because in general the statute of limitations does not run against Plaintiff given its sovereign status, and also more specifically because Defendants' wrongful conduct and the consequent violations of City ordinances have been continuous, wrongful, and ongoing.

JURISDICTION AND VENUE

27. This Court has subject-matter jurisdiction over this matter under § 1-501 of the Courts and Judicial Proceedings Article of the Maryland Code. There is no federal jurisdiction in this matter because there is an absence of complete diversity of citizenship among the parties and because the claims involve solely violations of the common law of Maryland and various state statutory provisions and local ordinances, to wit, the Maryland Illegal Dumping and Litter Control Law and municipal violations of the Baltimore City Code.

28. This Court has personal jurisdiction over Defendants pursuant to Md. Code Ann., Cts. Jud. Proc. §§ 6-102 and 6-103, and because they either are domiciled in Baltimore City, Maryland; were served with process in Baltimore City, Maryland; are organized under the laws of Maryland; maintain their principal place of business in Baltimore City, Maryland; transact

business in Baltimore City, Maryland; perform work in Baltimore City, Maryland; contract to supply goods, manufactured products, or services in Baltimore City, Maryland; caused tortious injury in Baltimore City, Maryland; engage in persistent courses of conduct in Baltimore City, Maryland; derive substantial revenue from manufactured goods, products, or services used or consumed in Baltimore City within the State of Maryland; and/or have interests in, use, or possess real property in Baltimore City, Maryland.

29. Defendants are all participating manufacturers and/or transact business in Baltimore City, contract to supply goods, manufactured products, or services in Baltimore City, Maryland. Therefore, personal jurisdiction is satisfied.

30. The venue for this Complaint is proper in the Circuit Court for Baltimore City, Maryland pursuant to Md. Code Ann., Cts. & Jud. Proc. §§ 6-201 and 6-202 and because Baltimore City's causes of action arose in Baltimore and because Defendants conduct business in the City.

FACTS

A. THE HARM OF PLASTICS POLLUTION

31. Plastic is an inexpensive, lightweight, adaptable, and durable material with a wide range of applications across several business sectors.[13] Because of plastic's versatility, however, it has become a substantial source of pollution. Throughout its lengthy and intricate life cycle, plastic poses a threat to the environment and to human health. The accumulation of plastics in the environment has long disrupted and harmed both marine and terrestrial ecosystems, as well as negatively affecting the health of humans due to their constant interaction with the substance.

[13] Jefferson Hopewell, Robert Dvorak & Edward Kosior, *Plastics recycling: challenges and opportunities*, 364(1526) PHILOS. TRANS. R. SOC. LOND. B. BIOL. SCI. 2115-26 (July 27, 2009), https://royalsocietypublishing.org/doi/10.1098/rstb.2008.0311 (https://archive.is/oIwXg).

32. In the United States, specifically, plastic is one of the most littered products, with single-use plastics—such as plastic film, food and beverage packaging, bags, and water bottles—the most widespread.[14] For example, in 2022, 5 Gyres, a non-governmental organization, examined 14,237 pieces of waste collected at national parks. Of that total, 81.1% was plastic.[15] Notably, Defendants Coca-Cola's and PepsiCo's packaging were leading contributors to this waste.[16]

33. In another study, the non-governmental organization Break Free From Plastic collected 2,125,415 items of plastic waste from 2,373 separate collections across the United States from 2018 to 2022.[17] The study again documented Defendants Coca-Cola and PepsiCo as the lead producers of branded plastic waste collected across the United States.

34. Because plastic pollution has spread so widely, its impact on ecosystems and humans has been studied extensively, demonstrating that plastic pollutes soil and waters, and harms living organisms, and that the capacity of ecosystems to adapt to climate change is diminished by plastic pollution, which can modify habitats and natural processes.[18] This has a direct impact on the social well-being, food production, and livelihoods of millions of people.

35. Primary sources of oceanic plastic pollution include coastal cities like Baltimore, where plastic debris undergoes continuous fragmentation into microplastics and even smaller

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[14] Chris Dickert, *Top 10 Most Littered Plastic Items in the US*, Visual Capitalist (Feb. 9, 2023), https://www.visualcapitalist.com/sp/top-10-plastic-litter/ (https://perma.cc/5ZNS-GTQU).

[15] *Plastic-Free Parks*, 5 Gyres (2022) at 6, https://eastmetrowater.files.wordpress.com/2022/11/1ee3d-plastic-freeparkstrashblitzreport2022.pdf (https://perma.cc/N2ZU-3TLW).

[16] *Id.*

[17] *Brand Audit Report 2022*, Break Free From Plastic (2022), https://brandaudit.breakfreefromplastic.org/wp-content/uploads/2022/11/BRANDED-brand-audit-report-2022.pdf (https://perma.cc/JG2C-E37E).

[18] UNEP, *Plastic Pollution*, United Nations Environment Program, https://www.unep.org/plastic-pollution#:~:text=Plastic%20pollution%20can%20alter%20habitats,t%20exist%20in%20a%20vacuum (https://perma.cc/9YZW-LHV9).

nanoplastics.[19] The threat to humans is also increased through their ingestion of the pollution by animals and plants that are subsequently consumed as food. Each year, an estimated 4.8 to 12.7 million metric tons of plastic enters the oceans.[20] The ingestion of microplastics and nanoplastics has been observed in several marine organisms, including those used as seafood, suggesting their widespread infiltration into the human population's food sources.[21] Further, plants can absorb nanoplastics through their roots and transfer them to their structures above ground, creating additional risk to humans and animals who subsequently consumer the plant food.[22] Plastic is also found in drinks, such as bottled water and tap water.[23]

36. In 2019, a study confirmed that humans are indeed ingesting plastics.[24] Plastic particles are becoming more frequently discovered in bodily fluids and tissues.[25] In fact,

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[19] Kosuke Tanaka & Hideshige Takada, *Microplastic fragments and microbeads in digestive tracts of planktivorous fish from urban coastal waters*, Nature: SCI. REP. (2016), https://www.nature.com/articles/srep34351 (https://perma.cc/H2Z4-R3CV).

[20] Marcus Haward, *Plastic pollution of the world's seas and oceans as a contemporary challenge in ocean governance*, Nat. Commun (2018), https://pubmed.ncbi.nlm.nih.gov/29445166/ (https://perma.cc/5Q3W-RGRZ).

[21] Luis Gabriel Antao Barboza, et al., *Marine microplastic debris: An emerging issue for food security, food safety and human health*, Mar. Pollut. Bull. (2018) 133, 336–348, https://pubmed.ncbi.nlm.nih.gov/30041323/ (https://perma.cc/LGE8-D9JN); Stephanie L. Wright, et al., *Plastic and human health: a micro issue?*, Environ Sci Technol (2017) 6634–6647, https://pubmed.ncbi.nlm.nih.gov/28531345/ (https://perma.cc/KNS6-FYSY); Madeleine Smith, et al., *Microplastics in seafood and the implications for human health*, Curr. Environ. Health Rep. (2018), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6132564/ (https://perma.cc/G7W3-26WP); Gregory M. Zarus, et al., *A review of data for quantifying human exposures to micro and nanoplastics and potential health risks*, Sci Total Environ (2021), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7775266/ (https://perma.cc/LK3S-BA2W).

[22] Zhiqin Zhang, et al., *A critical review of microplastics in the soil-plant system: Distribution, uptake, phytotoxicity and prevention*, J. Hazard. Mater. (2022), https://pubmed.ncbi.nlm.nih.gov/34838359/ (https://perma.cc/W5AY-HJ5Q).

[23] Evangelos Danopoulos, et al., *Microplastic contamination of drinking water: A systematic review*, PloS one (2020), https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0236838 (https://perma.cc/C7KD-LTXU).

[24] Schwabl, et al., *Detection of Various Microplastics in Human Stool*, 173 Annals of Internal Medicine 453-457 (2019), https://pubmed.ncbi.nlm.nih.gov/31476765 (https://perma.cc/97XS-9UNN).

[25] *Id*; Martin J.M. van Velzen, et al., *Discovery and Quantification of Plastic Particle Pollution in Human Blood*, Environ. Int. (2022), https://pubmed.ncbi.nlm.nih.gov/35367073 (https://archive.is/onqTw).

nanoplastics and microplastics have been discovered to be capable of infiltrating every organ, including the brain.[26] It has even been found in human placentas.[27] In one particular study, all placentas tested indeed had microplastics present with concentrations from 6.5 to 790 micrograms per gram of tissue.[28] Besides coming from food and drinks themselves, a major source of plastic contamination comes from plastic packaging in which food and drinks are sold.[29] For example, studies suggest that there are more than 10^5 (100,000) particles of plastic in each liter of bottled water, the majority of which are nanoplastics.[30] So even if a food or drink itself is free of plastics, the packaging in which it is sold is essentially guaranteed to contaminate the product.

37. Microplastics and nanoplastics can enter the body and cross barriers such as the intestinal mucosal barrier and the blood–brain barrier.[31] This gives them the potential to negatively affect various bodily systems, including the digestive, respiratory, endocrine, reproductive, and

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[26] Carly Cassella, *Microplastics Infiltrate Every Organ, Including Brain, Study in Mice Shows*, Science Alert (Sept. 11, 2023), https://www.sciencealert.com/microplastics-infiltrate-every-organ-including-brain-study-in-mice-shows (https://perma.cc/L3CC-H7RB).

[27] Carly Cassella, *Microplastics Found in Every Human Placenta Tested, Study Finds*, Science Alert (Feb. 26, 2024), https://www.sciencealert.com/microplastics-found-in-every-human-placenta-tested-study-finds (https://perma.cc/M25Y-T2ZU); Antonio Ragusa, et al., *Plasticenta: First Evidence of Microplastics in Human Placenta*, Environ. Int. (2021), https://pubmed.ncbi.nlm.nih.gov/33395930 (https://perma.cc/2AW9-P3C8).

[28] Marcus A Garcia, et al., *Quantitation and identification of microplastics accumulation in human placental specimens using pyrolysis gas chromatography mass spectrometry*, TOXICOLOGICAL SCIENCES (Feb. 17, 2024), https://academic.oup.com/toxsci/article/199/1/81/7609801 (https://perma.cc/XP92-RTXM).

[29] Alexandra Seewann-Gaitatzis, *The Plastic Brain: The Potential Neurotoxicity of Microplastics*, Australasian Society of Lifestyle Medicine (2023), https://lifestylemedicine.org.au/content/the-plastic-brain-the-potential-neurotoxicity-of-microplastics/ (https://perma.cc/9VAU-83A8).

[30] Naixin Qian, Xin Gao, Xiaoqi, & Wei Min, *Rapid single-particle chemical imaging of nanoplastics by SRS microscopy*, PNAS (Jan. 11, 2023), https://www.pnas.org/doi/10.1073/pnas.2300582121 (https://archive.is/7j1JX).

[31] Verena Kopatz, et al., *Micro- and Nanoplastics Breach the Blood–Brain Barrier (BBB): Biomolecular Corona's Role Revealed*, Nanomaterials (2023), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC10141840/ (https://perma.cc/JJ33-GRPZ).

immune systems.[32] The human body's tissues perceive microplastics and nanoplastics as foreign bodies and can trigger local immunoreactions.[33] Thus, microplastic and nanoplastic ingestion can lead to inflammation or an altered intestinal microbiome in the digestive tract, resulting in an imbalance between beneficial and harmful bacteria and potentially leading to symptoms like abdominal pain, bloating, changes in bowel habits, irritable bowel syndrome, and colon cancer in people under age 50.[34] Individuals with nanoplastics in their body are twice as likely to have a heart attack or stroke, or die from any cause within three years, than individuals who had none present in their body.[35] Plastics often also contain additive chemicals such as harmful carcinogens that, when ingested, can cause serious harm to health, including endocrine disruption, reproductive toxicity, neurotoxicity, hepatotoxicity, and even cancer.[36] Notably, polyethylene, PVC and nylon are the most common plastics detected in the human body.[37] All are forms of plastics produced by Defendants.

38. Current studies show that harm from microplastics and nanoplastics is already present, and establish that it will only increase in magnitude and worsen in severity in the absence

[32] *Id.*

[33] *Id.*

[34] Yuanxiang Jin, et al., *Impacts of polystyrene microplastic on the gut barrier, microbiota and metabolism of mice*, Sci. Total Environ. (2019), https://pubmed.ncbi.nlm.nih.gov/30176444/ (https://perma.cc/ZPD7-EDG9); Marcus A Garcia, et al., *Quantitation and identification of microplastics accumulation in human placental specimens using pyrolysis gas chromatography mass spectrometry*, TOXICOLOGICAL SCIENCES (Feb. 17, 2024), https://doi.org/10.1093/toxsci/kfae021 (https://perma.cc/29MX-JNE5).

[35] Raffaele Marfella, et al., *Microplastics and Nanoplastics in Atheromas and Cardiovascular Events*, N. ENGL. J. MED. (March 7, 2024), https://www.nejm.org/doi/full/10.1056/NEJMoa2309822 (https://archive.is/lh8e6).

[36] *Id.*

[37] *Id.*

of immediate intervention.[38] A study published in 2024 concluded that in the year 2018, the hormone-disrupting effects of plastics present in the U.S.'s food and water led to $249 billion in additional health care costs.[39] Such health effects and costs are endemic in Baltimore.

B. DEFENDANTS' PLASTICS

39. The plastic pollution contaminating Baltimore and its environs, to which Defendants all substantially contribute, causes wide-ranging harm to Baltimore and its citizens. In manufacturing, fabricating, and distributing plastics, Defendants actively chose, and continue to choose, to make plastics which contain toxins and chemicals, which break down into harmful microplastics and nanoplastics and typically can only be used once before disposal, leading to widespread and harmful litter across the City.

i. Single-Use Plastic Packaging

40. For its packaging and for certain plastic products, Defendants depend on the manufacture of single-use plastics. As examples, the majority of the snacks and drinks that Defendants PepsiCo and Coca-Cola produce, manufacture, distribute, and sell are packaged in single-use plastics that are thrown away once consumers finish the snack or beverage. Likewise, the other Defendants actively manufacture and distribute plastics in similar forms, such as plastic films or containers, for sale to consumers.

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[38] *Late Lessons from Early Warnings: The Precautionary Principle 1896–2000*, European Environment Agency (2001), https://www.eea.europa.eu/publications/environmental_issue_report_2001_22/Issue_Report_No_22.pdf (https://perma.cc/WXN7-7BXP).

[39] Leonardo Trasande, Roopa Krithivasan, Kevin Park, Vladislav Obsekov, & Michael Belliveau, *Chemicals Used in Plastic Materials: An Estimate of the Attributable Disease Burden and Costs in the United States*, JOURNAL OF THE ENDOCRINE SOCIETY (Jan. 11, 2024), https://doi.org/10.1210/jendso/bvad163 (https://perma.cc/2QFZ-UJB4).

41. Defendants use plastic polymers in their packaging and products, such as polyethylene terephthalate ("PET" or "PETE"), polypropylene ("PP"), high-density polyethylene ("HDPE"), low-density polyethylene ("LDPE"), and other plastic polymers. Each of these forms of plastics make up a significant portion of the plastic litter found throughout the world, including in Baltimore, whether it be in the form of food and beverage containers, bottles, plastic films, or bags. While most plastic beverage bottles are made of PET, plastic beverage caps are usually made of HDPE or PP, and plastic wraps or sleeves used as labels for the bottles contain LDPE or HDPE.[40] Such plastics are generally not eligible to be recycled, and if they are, each product is unlikely recyclable for more than one cycle before it must be discarded. Further, although often mislabeled as "recyclable," most products are improperly disposed of in any event.

42. Plastic food wrappers are generally composed of multiple layers of combined plastics and metals. For example, a potato chip bag is composed of a combination of biaxially oriented polypropylene ("BOPP"), LDPE, and aluminum.[41] Snack food packaging found in PepsiCo's and Frito-Lay's products is not recyclable. Plastic films manufactured and distributed by Defendants W.R. Grace, Adell, Mercury, and Polymershapes also are not recyclable.

43. As a result of Defendants' persistent manufacturing, production, distribution, and sale of plastic products and/or beverages and snack foods in single-use plastic packaging, plastic litter has become a substantial form of pollution in Baltimore.

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[40] *Different Types of Plastic, Their Applications, and Recycling Codes*, Rajras (Sept. 30, 2019), https://rajras.in/types-of-plastic/ (https://perma.cc/J6PN-7RHE).

[41] *This Common Packaging is a Recycling Nightmare*, EcoEnclose (Mar. 2, 2022), https://www.ecoenclose.com/blog/this-common-packaging-is-a-recycling-nightmare/ (https://perma.cc/ZW8P-EX4K).

ii. Defendants' Plastics in Baltimore City

44. Defendants' products are the primary contributor to the plastic pollution affecting Baltimore, and their single-use plastic packaging is found regularly on its streets and sidewalks, its harbor, and other waterways.

45. According to the City's 2023-2024 Solid Waste Management Plan, plastic makes up at least 18% of the disposed waste that the City must manage.[42] This does not include the littered plastic waste that the City is also required to collect.

46. Since 2014, the City has instituted a trash wheel program which has placed four trash wheels in the Baltimore waterways to collect garbage littered in the City's inner harbor. Four versions of the Mr. Trash Wheel™ are located in Baltimore. From their initiation up to the present, the Trash Wheels have collected approximately 2,800 tons of litter and, specifically, 938,626 plastic bags and 1,812,576 plastic bottles.[43] Non-recyclable materials like single-use plastic bags and beverage containers make up almost half of the litter polluting Baltimore's streets and waterways.[44]

iii. Defendants' Harm to Baltimore City's Environment

47. Plastics continually pollute Plaintiff's natural resources. Single-use plastics wash into rivers, creeks, the Baltimore Harbor, and other water resources. They further migrate into storm and sewer systems. The toxic chemicals from the plastic packaging or products seep into,

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[42] *10-Year Solid Waste Management Plan: 2024-2033*, City of Baltimore, at 62 (Nov. 13, 2023), https://publicworks.baltimorecity.gov/sites/default/files/Baltimore%20SWMP%20Update_Pre-Final_11-13-23_REVISED.pdf (https://perma.cc/E6WJ-UZ54).

[43] *Mr. Trash Wheel*, https://www.mrtrashwheel.com/ (https://perma.cc/48NW-W4LY).

[44] The 2019 Baltimore Sustainability Plan, Baltimore Office of Sustainability (Mar. 2, 2020), https://www.baltimoresustainability.org/wp-content/uploads/2021/04/SustainabilityPlan_03-02-20-Compressed.pdf (https://perma.cc/LC2A-5USK).

pollute, and destroy the City's natural resources. Once plastics are discarded into these public waterways, which includes collection in surface water, runoff, and contamination of the soil, the plastics, or subsequent microplastics, are either eaten or absorbed by fish and further infiltrate other aquatic species' habitats, poisoning, killing, or otherwise harming those animals.

48. As stated in the *Effects of Litter on the Environment and Communities*,[45] litter causes numerous environmental problems.[46] When trash and pollutants wash into storm drains, they flow into the waterways and are distributed into the streams and rivers of every city, including Baltimore, degrading wildlife habitats.[47, 48] Eighty percent of marine pollution can be traced back to sources on land.[49] Organisms are harmed when they ingest plastic products and when marine life is exposed to the plastics' toxins. Death may not be immediate, but the toxins accumulate in the organism over its lifetime.[50, 51]

49. Plastics, particularly when eroded to microplastics, in the perception of marine animals can be perceived to be food.[52] When ingested, the plastics' impact on marine organisms includes disruption to their digestive systems through its ability to absorb and transport endocrine-

[45] *The Effects of Litter on the Environment and Communities*, https://globalconservationforce.org/news-updates/litter-environment-communities/ (https://perma.cc/3CB9-9N24) (Internal citations omitted).

[46] *Id.* (Internal citations omitted).

[47] *Id.* (Internal citations omitted).

[48] *Id.* (Internal citations omitted).

[49] *Id.* (Internal citations omitted).

[50] *Id.* (Internal citations omitted).

[51] *Id.* (Internal citations omitted).

[52] Oliver Bajt, *From plastics to microplastics and organisms*, FEBS Open Bio. (Apr. 11, 2021), https://febs.onlinelibrary.wiley.com/doi/10.1002/2211-5463.13120 (https://archive.is/toJda).

disrupting toxins, the accumulation of plastics in organisms, and the transfer of microplastics through the food web.[53]

iv. Defendants' Harm to Baltimore City's Public Health

50. Because most plastics are thrown away rather than recycled, the City's waste management services have been forced to find other ways to dispose of Defendants' products.

51. A recent report found that only 2.2% of collected plastics are capable of being recycled in Baltimore.[54] Not only are plastics littered throughout the City, but the 97.8% remaining plastics either end up in a landfill or are burned in the Wheelabrator BRESCO trash incinerator in South Baltimore.[55] This incinerator is a huge source of industrial air pollution in Baltimore.

52. Because of the amount of harmful toxins that is present in plastics, especially when burned, the emissions produced by burning these plastics have had serious adverse effects on citizens near the incinerator, disproportionately affecting environmental justice communities. Advocates of Baltimore's citizens have asserted that the BRESCO incinerator imposes approximately $55 million a year in health damages on residents.[56]

53. Further, plastics affect the City's drinking water. The City uses three major water sources for its water supply system: Gunpowder Falls, the Susquehanna River, and the Patapsco

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[53] *Id.*

[54] D. Patel, A. Danovitch, & S. Hubbard, *A Tale of 5 Cities: Plastic Barriers to Zero Waste. Global Alliance for Incinerator Alternatives*, www.doi.org/10.46556/HEOY6222 (https://perma.cc/M579-2P87).

[55] *Id.*

[56] Timothy Dashiell & Fern Shen, *Study finds just 2.2% of Baltimore's trashed plastic is recycled, while 47% is burned*, BALTIMORE BREW (July 30, 2021), https://www.baltimorebrew.com/2021/07/30/study-finds-just-2-2-of-baltimores-trashed-plastic-is-recycled-while-47-is-burned/ (https://perma.cc/YQL9-8Q42).

River.[57] Several studies on the different bodies of water surrounding the City, including those that the City utilizes as its drinking supply, have discovered large amounts of microplastics. For example, the Anacostia Riverkeeper staff pulled samples from the Patapsco River, and discovered high concentrations of microplastics,[58] which means that microplastics and nanoplastics are in the City's drinking water. The Chesapeake Bay and its tributaries also contain microplastics.[59] Baltimore's Inner Harbor has even been tested and found to have the presence of microplastics.[60] With microplastics in the drinking supplies and bodies of water surrounding the City, its citizens are at a much higher risk of ingesting or coming into contact with the hazardous substances and incurring the many medical consequences associated with it.

54. Lastly, living in neighborhoods littered with plastic litter negatively impacts residents' mental and physical health. Studies have shown that just the exposure to littered environments causes mental health issues.[61] Living in areas where litter is present creates an

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[57] *Operations*, Baltimore City Department of Public Works, https://publicworks.baltimorecity.gov/pw-bureaus/water-wastewater/water/operations#:~:text=The%20City%20of%20Baltimore%20water,limits%20collect%20and%20store%20water (https://perma.cc/EVW3-C47X).

[58] Jacob Fenston, *The Anacostia River is Full of Tiny Shards of Plastic*, DCist (June 13, 2019), https://dcist.com/story/19/06/13/the-anacostia-river-is-full-of-tiny-shards-of-plastic/ (https://perma.cc/2XDR-7LWJ).

[59] J. Bikker, et al., *Microplastics and other anthropogenic particles in the surface waters of the Chesapeake Bay*, Marine Pollution Bulletin (July 2020), https://doi.org/10.1016/j.marpolbul.2020.111257 (https://perma.cc/W3BQ-JZD9); NOAA, *Analysis of Microplastics in Chesapeake Bay and Coastal Mid-Atlantic Water Samples*, National Oceanic and Atmospheric Association Marine Debris Program (2011), https://marinedebris.noaa.gov/research/analysis-microplastics-chesapeake-bay-and-coastal-mid-atlantic-water-samples (https://perma.cc/S5UV-Y83R); Lance T. Yonkos, et al., *Microplastics in Four Estuarine Rivers in the Chesapeake Bay, U.S.A.*, Environ. Sci. Technol. (Nov. 12, 2014), https://pubs.acs.org/doi/10.1021/es5036317 (https://archive.is/J5jog).

[60] Ana Sosa, *A Deeper Dive into Baltimore Harbor: Scientists take a closer look at the tiny particles living in the murky waters*, Sea Grant Maryland (Aug. 5, 2019), https://www.mdsg.umd.edu/fellowship-experiences/deeper-dive-baltimore-harbor-scientists-take-closer-look-tiny-particles (https://perma.cc/ZG65-FSXR).

[61] Aaron Curry, Carl Latkin, & Melissa Davey-Rothwell, *Pathways to depression: The impact of neighborhood violent crime on inner-city residents in Baltimore, Maryland, USA,* Social Science & Medicine (2008), https://pubmed.ncbi.nlm.nih.gov/18396366 (https://perma.cc/Q56Q-XUXS).

atmosphere of disorder and an absence of safety, often leading to citizens suffering from a decreased life satisfaction, as well as an actual increased risk of stress, anxiety, and depression.[62] The lack of control over litter, and the never-ending presence of litter, can invoke feelings of hopelessness about the prospects for their city.[63] Due to the present plastic pollution all over Baltimore, Defendants' plastics negatively impact the mental health of its citizens.

C. DEFENDANTS' MISLEADING STATEMENTS, DECEPTIVE PRACTICES, AND FAILURE TO WARN

55. Defendants have long been aware of their plastics' harm to the environment and public health, as well as their individual contributions to the magnitude of that harm. Plastic pollution has been a prominently examined and discussed issue for decades. Indeed, studies began reporting on the accumulation of plastics in rivers, landfills, and sewers and flowing into other water bodies as early as 1972.[64]

56. Some Defendants, as a result of their awareness of the plastics pollution issue, have even ballyhooed initiatives that claimed to curb the harm generated by their plastic waste production, in an effort to appear "climate-conscious."[65] The hollow nature of this public relations effort is revealed by their continued production of single-use plastic products and plastic packaging, plus their lack of follow-through with these initiatives.

57. For example, PepsiCo has characterized the problem as a "plastic pollution crisis," expressly acknowledging that its own plastic packaging often ends up as waste on land or in water

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[62] *Id.*

[63] Tara L. Bennett, *Perceived Health Effects of Litter and Trash by Inner City Residents*, Ohio State University (2012), http://hdl.handle.net/1811/51932 (https://perma.cc/D7AE-XGU2).

[64] Edward J. Carpenter & K.L. Smith, *Plastics on the Sargasso Sea surface*, Science (1972), https://doi.org/10.1126/science.175.4027.1240 (https://archive.is/tOaB3).

[65] *Brand Audit*, Break Free From Plastic (2022), https://brandaudit.breakfreefromplastic.org/wp-content/uploads/2022/11/BRANDED-brand-audit-report-2022.pdf (https://perma.cc/GK6Q-L654).

bodies with, to quote PepsiCo's euphemistic terminology, "potential environmental impacts." PepsiCo's website describes its acknowledgement that "packaging is often improperly disposed of after a product has been consumed, and **we share the concern** that plastics and other wastes **are accumulating in the marine environment and on land**."[66] Coca-Cola has also acknowledged that the world has a "packaging waste problem,"[67] and the company acknowledges that it has a responsibility to help solve the global plastic waste crisis.[68]

58. Obviously, Defendants' affirmation of the plastics crisis, and their acknowledgement of their role in it, establishes their continued knowledge of how their plastic products and packaging are harming the environment, including Baltimore.

59. Even setting aside such public acknowledgements, Defendants have been on notice for decades about the dangers of their products and their effects on the environment and public. They also know how to stop the pollution. They simply refuse to do so.

60. Defendants know, of course, that their consumers continue to discard their plastic packaging after a single use, but Defendants continue to produce millions of metric tons of single-use plastics. None of this plastic packaging is reusable, and only a tiny fraction is recycled. The inevitable result is that most of it is littered, with significant quantities discarded into the environment of American cities, including Baltimore.

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[66] *PepsiCo Recycling and Sustainability Initiatives*, PepsiCo, https://contact.pepsico.com/pepsico/article/pepsico-recycling-and-sustainability-initiatives (emphasis added) (https://archive.is/TG2Hq).

[67] *What is Coca-Cola Doing to Reduce Plastic Waste?*, The Coca-Cola Company, https://www.coca-cola.ca/faqs/coca-cola-faqs-enviroment/what-is-coca-cola-doing-to-reduce-plastic-waste (https://perma.cc/AC7X-UHYL).

[68] *World Without Waste – Sustainable Packaging*, The Coca-Cola Company, https://www.coca-colacompany.com/sustainability/packaging-sustainability (https://perma.cc/9QHV-4MQR).

61. Defendants know that their plastic packaging will be disposed of after a single use, so they intentionally designed and manufactured it to facilitate that use. Defendants knowingly created products that cannot be recycled. Because they are involved in all the manufacturing of their own plastic packaging, they make their plastics in the state in which they are distributed—which is not recyclable. Defendants thus knowingly and intentionally manufactured many of their plastics in forms that are unrecyclable.

i. False Statements

62. Despite Defendants' awareness of the limits of recycling as a solution to the plastic pollution crisis, Defendants have continued to falsely portray recycling as a practical solution. In fact, the plastics industry has known about the growing ocean plastics problem since at least the 1950s, yet has continued to ramp up production, consistently branding plastic as environmentally safe, recyclable, benign to humans, and essential to the modern way of life.[69]

63. Despite their false claims, Defendants know that recycling cannot provide a solution for the disposal of plastic food packaging, because it is made with multiple layers of plastics, metals, and other non-recyclable materials. Further, although plastic bottles manufactured by Defendants are potentially recyclable, the large majority are not, and Defendants know it.

64. Faced with increasing plastic waste, recycling systems are now overwhelmed and rendered ineffective against Defendants' flood of plastic production. Only 9% of plastic produced

[69] *Fueling plastics: Plastic industry awareness of the ocean plastics problem*, CIEL (2017), https://www.ciel.org/wp-content/uploads/2017/09/Fueling-Plastics-Plastic-Industry-Awareness-of-the-Ocean-Plastics-Problem.pdf (https://perma.cc/3VBH-XGMX); *Why we suddenly have a plastics crisis*, Three Worlds (2017), http://threeworlds.campaignstrategy.org/?p=1764 (https://perma.cc/P7QT-9W7T).

since 1950 has been properly recycled.[70] Even worse, 79% of plastic ends up either in landfills or in the environment, including the streets and waters of Baltimore.[71]

65. Though Defendants have publicly acknowledged the futility of current recycling practices for their plastic packaging and products, Defendants continue to falsely tout recycling as a viable solution to the plastic pollution crisis in Baltimore and elsewhere. All Defendants thus falsely promulgate recycling programs as an efficacious method to curb their contributions to plastic pollution.[72]

66. Defendants' false narrative has a long history. The Center for Climate Integrity released a report in February 2024 called *The Fraud of Plastic Recycling* (**Exhibit A**).[73] The report details the expansive history of lies and deceit engaged in by the oil and plastics industries to cover up the truth about plastics' danger to the environment and to the public health, in order to maintain the ability to manufacture and sell the products to residents of cities like Baltimore.

67. Recycling plastic has never been a viable solution to the plastics crisis. Defendants have known this truth despite stating the exact opposite for decades. The issue stemmed from the facts that what is commonly called "plastics" is in fact a combination of related synthetic polymers, rather than one single material.[74] Two different types of plastic cannot be recycled together.[75] Even

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[70] *Talking Trash: The Corporate Playbook of False Solutions to the Plastic Crisis*, Talking Trash (Sept. 2020), https://talking-trash.com/wp-content/uploads/2020/08/TalkingTrash_ExecutiveSummary.pdf (https://perma.cc/7VPZ-9WM9).

[71] *Id.*

[72] *Brand Audit*, Break Free From Plastic (2022), https://brandaudit.breakfreefromplastic.org/wp-content/uploads/2022/11/BRANDED-brand-audit-report-2022.pdf, (https://perma.cc/LQA7-CCW9) at 18-19.

[73] Davis Allen, et al., *The Fraud of Plastic Recycling*, Center for Climate Integrity (Feb. 2024), https://climateintegrity.org/uploads/media/Fraud-of-Plastic-Recycling-2024.pdf (https://perma.cc/V388-XZKM).

[74] *Id.* at 8.

[75] *Id.*

worse, a single plastic product may include various additives, making it impossible to recycle on its own. For this reason, the plastics industry knew, and even acknowledged, that the economics of plastic recycling were, and are, "virtually hopeless," all the way back in 1969.[76]

68. In 1974, one industry insider wrote: "There is serious doubt that [recycling plastic] can ever be made viable on an economic basis."[77] This is because there are several major challenges associated with recycling: cost, sorting, processing, cleaning, etc. In spite of this knowledge, the plastics industry has chosen to hide these facts, in order to maintain the lie that recycling is an efficient and workable solution for plastic pollution.[78]

69. Plastics companies, including Defendants, adopted this course because they had no incentive to support a recycling scheme that could undercut the demand for their virgin plastics.[79] This lack of incentive continues today, as Defendants' monetary success relies on consumers purchasing new plastic products and not on creating a market for recycled plastics. In the words of a previous industry insider and recycling expert, Defendants regarded recycling as "internal competition. They don't want to see it succeed."[80]

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[76] Thomas B. Becnel, *Wastes from Plastic Packages, in First National Conference on Packaging Wastes: Proceedings*, Sept. 22-24, 1969, 85, 87 (1971) (https://perma.cc/U9G6-JGXH).

[77] Laura Sullivan, *How Big Oil Misled The Public Into Believing Plastic Would Be Recycled*, NPR (Sept. 11, 2020), https://www.npr.org/2020/09/11/897692090/how-big-oil-misled-the-public-into-believing-plastic-would-be-recycled (https://perma.cc/46ES-8MW3).

[78] *Id.*

[79] Davis Allen, et al., *The Fraud of Plastic Recycling*, Center for Climate Integrity (Feb. 2024), https://climateintegrity.org/uploads/media/Fraud-of-Plastic-Recycling-2024.pdf, (https://perma.cc/US8J-CDC2) at 9.

[80] Elisabeth M. Kirschner, Recycling's Rough Adolescence, C&E News 20 (Nov. 4, 1996), https://p2infohouse.org/ref/30/29449.pdf (https://perma.cc/6ZCH-HZDJ).

70. For decades, Defendants have nonetheless claimed to the customers, including the residents of Baltimore, that plastic products are recyclable. But, as they have known since the 1970s, recycling their products is "practically impossible."[81]

71. Each Defendant claimed, and continues to claim, to produce plastic products that are infinitely recyclable. However, not only are most single-use plastics not recyclable at all (food wrappers), but other single-use plastics that Defendants claim to be recyclable (PET bottles) are not recyclable in practical terms. Even if properly recycled, Defendants' plastics get worn down and degraded quickly to a point where they are unusable for their manufactured purpose.[82] This means that Defendants' claims of recyclability are false because their claimed "recyclable" material has a quite limited number of cycles it can be put through before it must be trashed. Simply put, Defendants claim that their plastics are "recyclable" is a fraudulent statement upon which the City relied.

72. Rather than admit this from the beginning, Defendants and the entire Plastics Industry doubled down and publicly advertised that plastics could be recycled over and over again. For example:[83]

[81] Laura Sullivan, *Recycling plastic is practically impossible — and the problem is getting worse*, NPR (Oct. 24, 2022), https://www.npr.org/2022/10/24/1131131088/recycling-plastic-is-practically-impossible-and-the-problem-is-getting-worse (https://perma.cc/292V-BJV5).

[82] *Id.*

[83] National Association for Plastic Container Recovery, A Bottle That Can Come Back for New Year's Eve is a Cause for Thanksgiving, Ladies Home Journal 92 (Dec. 1991) (on file with CCI #4805.1) (advertisement).



73. The Plastics Industry heavily publicized the false viability of recycling, successfully putting the responsibility of plastics pollution on to the consumer and tricking the public into believing plastics would be routinely recycled. However, with an ever-increasing awareness of the dangers of plastic pollution and microplastics, Defendants' lies are coming back to bite them.

74. Defendants have done nothing to change their practice of making and promoting false claims. Even with alternatives to single-use plastic being readily available, Defendants continue to churn out millions of metric tons of plastic each year, rather than implement programs that would dramatically reduce their plastic footprint in Baltimore and end their contamination of its sidewalks, roads, and waterways.

ii. Deceptive Practices

75. Defendants have acknowledged their role in the plastics pollution crisis, and the ever-increasing consumer criticism of Defendants as the source of plastics pollution. In response, each Defendant put forward supposed "initiatives" to combat that pollution, and even advertised themselves as environmentally friendly. However, these initiatives and advertisements do not tell the truth about Defendants.

76. Defendants publicly claim that they have set long-term goals of sustainability, created effective recycling programs, and are moving towards a "circular economy"[84] to minimize waste. These representations are knowingly false.

77. In the 1970s, the plastic industry's impact on the solid waste crisis became apparent to the public. It was at this point that the industry realized it needed to something to alter public perception of their products while maintaining their production and profits.

78. Defendant Pepsi, for example, announced in 2019 that it would reduce the total amount of "virgin" plastic used by 35%, by 2025.[85] Shortly after, however, PepsiCo ceased to publish its progress toward this 2019 beverage bottle objective, and instead substituted a **new** goal for reducing virgin plastic: by 50%, by 2030.[86] By making public declarations for sustainable

[84] A "circular economy" is defined as a system that "is regenerative by design and aims to gradually decouple growth from the consumption of finite resources." *Concept: What is a circular economy? A framework for an economy that is restorative and regenerative by design*, Ellen MacArthur Foundation, https://www.ellenmacarthurfoundation.org/the-circular-economy-in-detail-deep-dive#:~:text=A%20circular%20economy%20is%20a,the%20consumption%20of%20finite%20resources (https://perma.cc/67NQ-NBWZ).

[85] *PepsiCo Accelerates Plastic Waste Reduction Efforts*, PR Newswire (Sept. 13, 2019), https://www.prnewswire.com/news-releases/pepsico-accelerates-plastic-waste-reduction-efforts-300917771.html (https://perma.cc/6QPH-V7K8).

[86] *PepsiCo Introduces New Packaging Goal Doubling Down on Scaling Reusable Packaging*, PepsiCo (Dec. 5, 2022), https://www.pepsico.com/our-stories/press-release/pepsico-introduces-new-packaging-goal-doubling-down-on-scaling-reusable-packagin12052022 (https://archive.is/fI4bL).

initiatives and then failing to actually implement any methods to reach them, PepsiCo intentionally misled the public in Baltimore into believing that its products are "sustainable" and that its business is "environmentally friendly." PepsiCo thereby is able to reap the profits from announcing such initiatives while pushing back the projected completion date, which it never planned to meet in the first place. Meanwhile, the residents of Baltimore have purchased millions of dollars of Defendants' products and the City's public works department has had to spend millions to clean up Defendants' products.

79. Defendant Coca Cola has done the same thing, by claiming it can achieve a "circular economy,"[87] and publishing objectives to curb its contributions to plastic pollution, while simultaneously failing to meet them. Lying the City of Baltimore and its citizens about these products is a marketing strategy designed to boost sales of its products.

80. As would be expected, these Defendants' plastic productions have actually **increased** over the past few years which, of course, directly contradicts their promises to be sustainable[88] or to reduce the production of virgin plastics by 2025 or 2030.[89] Coca-Cola production goes up every year. Coca-Cola produces over 3.2 million metric tons of plastic each

[87] *Moving Toward a Circular Economy*, The Coca-Cola Company (Oct. 9, 2018), https://www.coca-colacompany.com/media-center/moving-toward-a-circular-economy (https://perma.cc/KL9K-DJ77); *World Without Waste – Sustainable Packaging*, The Coca-Cola Company, https://www.coca-colacompany.com/sustainability/packaging-sustainability (https://perma.cc/8356-DF4L).

[88] *Sustainability at Grace*, W.R. Grace, https://grace.com/sustainability/; *Sustainability and Environmental Impact*, Mercury Plastics Inc. in Maryland, https://mercuryplasticsmd.com/about/#values (https://perma.cc/56BM-9MYR); *Sustainability*, Polymershapes Baltimore, https://www.polymershapes.com/sustainability/ (https://perma.cc/84E9-AMSJ).

[89] *Brand Audit*, Break Free From Plastic (2022), https://brandaudit.breakfreefromplastic.org/wp-content/uploads/2022/11/BRANDED-brand-audit-report-2022.pdf (https://perma.cc/4ZB4-YE4X), at 18-19.

year.[90] So does PepsiCo, which produces 2.5 million metric tons of plastic each year.[91] A large quantity of these products ends up in the City.

81. The other Defendants also publicize their environmentally friendly business practices and sustainability values, to deceive the public about the real danger of their plastic production.[92] They continue to supply, distribute, and manufacture single-use plastics and plastic products that negatively impact the environment and health of the City and its citizens, at a cleanup cost to the City running into the millions of dollars each year.

82. Instead of putting actual plans in place to reduce their plastic pollution, Defendants spend their money on advertisements that give the false impression of sustainability, in order to keep their sales and profits high. For example, in 2019, Coca-Cola invested $4.24 billion in advertising and marketing alone.[93] In comparison, Coca-Cola spent $11 million to help fund a river cleanup initiative the same year, [94] less than 0.03% of its marketing budget.

83. Defendants spend millions on "greenwashing" rather than simply making changes to the way their products are packaged or distributed to customers. All Defendants are pursuing the same strategy. Each tells its customers that it is a sustainable company, while doing nothing to

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[90] *Id.* at 18.

[91] *Id.*

[92] *Sustainability at Grace*, W.R. Grace, https://grace.com/sustainability/ (https://perma.cc/Y2PM-TBBQ); *Sustainability and Environmental Impact*, Mercury Plastics Inc. in Maryland, https://mercuryplasticsmd.com/about/#values (https://perma.cc/VN3X-5HWM); *Sustainability*, Polymershapes Baltimore, https://www.polymershapes.com/sustainability/ (https://perma.cc/LVJ5-NYSJ).

[93] *Coca-Cola Spent $4.24bn for Advertising in 2019, $20bn in the Last 5 Years*, Focus on Business (Mar. 5, 2020), https://focusonbusiness.eu/en/news/coca-cola-spent-4-24bn-for-advertising-in-2019-20bn-in-the-last-5-years/3404 (https://perma.cc/3VG5-UNBP).

[94] *Benioff Ocean Initiative and the Coca Cola Foundation Announce $11 Million in Funding to Clean Up River and Stem Flow of Waste to Oceans*, The Coca-Cola Company (Jan. 15, 2020), https://www.coca-colacompany.com/media-center/benioff-ocean-initiative-and-the-coca-cola-foundation-announcement (https://perma.cc/R4CT-32W2).

alter the nature of their production and distribution which continues to harm and pollute the streets and waterways of Baltimore and elsewhere.

iii. Failure to Warn

84. Defendants have also failed to warn the public about the danger that their plastic packaging presents, misrepresenting to Baltimore residents that Defendants' efforts to combat the climate crisis were both real and effective. Defendants have known of the negative effects of plastic pollution as well as the ubiquitous littering of their products in Baltimore for decades. Despite this knowledge, Defendants have done nothing to abate their products' deleterious effects on the public and environmental health through warnings to the public.

85. Defendants failed to warn or give any notice to the City that their plastic packaging was a major source of plastic pollution and would cause serious harm to the health of humans and the environment and that it would cost the City millions of dollars a year to remove their plastics from the City's land and waters. Despite knowing all these dangers, and the farce of their so-called "initiatives," including virtually non-existent recycling, Defendants even failed, at minimum, to warn consumers that their packaging is a source of plastic pollution that causes harm to human health and the environment.

86. Defendants did not make such a warning because they knew that they would lose profits if consumers were aware that the products they purchased contributed to plastic pollution.[95]

[95] *PepsiCo Annual Report 2022*, PepsiCo (2022), https://www.annualreports.com/HostedData/AnnualReportArchive/p/NYSE_PEP_2022.pdf (https://perma.cc/8FM3-2ZJQ) at 12; Coca-Cola https://investors.coca-colacompany.com/filings-reports/annual-filings-10-k/content/0000021344-23-000011/0000021344-23-000011.pdf (https://perma.cc/X3FJ-3XA3), at 12; W.R. Grace Annual Report 2023, W.R. Grace (2023), https://www.annualreports.com/HostedData/AnnualReports/PDF/NYSE_GRA_2020.pdf (https://perma.cc/84F6-VQJ2).

Due to these financial concerns, Defendants actively continue to avoid properly warning the public about the dangerous nature of its products to the environment and human health.

D. THE CITY'S LOSSES AND DEFENDANTS' HARM TO THE CITY'S COMMUNITIES, NATURAL RESOURCES, AND PUBLIC HEALTH

87. Plastic litter interferes with the City's use of its property. An exorbitant amount of plastic packaging and products are littered along the City's sidewalks, streets, waterways, and other public areas. Plastic litter, including in the form of microplastics and nanoplastics, is endemic in Baltimore.[96] The presence of plastics and microplastics negatively impacts the public health of communities and neighborhoods, their environment, and citizens' health. Citizens are continually forced to observe and interact with plastics pollution throughout their daily activities. Plastic pollution is an ugly nuisance and, due to its sheer quantity and ubiquity, is impossible to fully clear from the public areas in Baltimore despite daily, costly litter collection by the City's Public Works Department.

88. In addition, the presence of plastic pollution throughout Baltimore presents an "unclean" appearance to the City. This consequently impacts tourism and the City's tax revenue by tarnishing the aesthetic appeal of Baltimore and thereby substantially reduces the City's income and increases its costs. Littered plastic in front of businesses negatively impacts their profitability and therefore the taxes they pay the City. In a recent study, 98% of businesses surveyed stated that "the presence of litter lowered property values and had a negative impact on business sales."[97] The result is millions of dollars in reduced revenues to the City from property taxes each year.

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[96] Ana Sosa, *A Deeper Dive in Baltimore Harbor: Scientists take a closer look at the tiny particles living in the murky waters*, Sea Grant Maryland (Aug. 5, 2019), https://www.mdsg.umd.edu/fellowship-experiences/deeper-dive-baltimore-harbor-scientists-take-closer-look-tiny-particles (https://perma.cc/Y4AP-QEYS).

[97] John E. Schneider, et al., *Online Simulation Model to Estimate the Total Costs of Tobacco Product Waste in Large U.S. Cities*, Int'l J. of Envi. Research and Public Health 1, 3 (June 30, 2020), https://pubmed.ncbi.nlm.nih.gov/32629929 (https://perma.cc/4M4T-GNL5).

89. Plastics litter costs the City millions of dollars in clean-up expenses each year. Nationwide, the vast majority of plastics is thrown away rather than recycled.[98] Plastics disposal in Baltimore is no exception. Because Defendants have purposely manufactured plastics in ways that either limit or prevent their ability to be reliably recycled, and have also refused to implement reliable recycling mechanisms for their own plastics products, management of plastics waste has become extremely difficult for the City.

90. Trash disposal is provided by the Baltimore City Department of Public Works. Just during the time that Mr. Trash Wheel™ has been in operation, the City has spent more than $32 million on collecting and disposing of litter into landfills.[99]

91. The City has put forth multiple initiatives and methods to reduce plastics pollution and litter generally, including the recent "Clean Corps" initiative which will spend $14.7 million cleaning up Defendants' products in East, West and South Baltimore.[100] The City has, for more than a decade, tried numerous campaigns and community initiatives to reduce plastic waste in the City. They each have a positive effect for a brief time, and then the community is inevitably overwhelmed again by the onslaught of Defendants' plastic products. Most recently, in 2020, the Baltimore City Comprehensive Bag Reduction Act was signed into law.[101] It bans single-use

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[98] Only 9% of plastic waste is recycled. 15% is collected for recycling, but 40% of that amount is disposed as residues. OECD, *Plastic Pollution is growing relentlessly as waste management and recycling fall short, says OECD*, OECD (Feb. 22, 2022), https://www.oecd.org/newsroom/plastic-pollution-is-growing-relentlessly-as-waste-management-and-recycling-fall-short.htm (https://perma.cc/S95X-GBU6).

[99] *Id.*

[100] Adam Willis, *Baltimore kicks off $15 million Clean Corps, paying residents to clean their neighborhoods*, The Baltimore Banner (Feb. 6, 2023), https://www.thebaltimorebanner.com/politics-power/local-government/baltimore-kicks-off-15-million-clean-corps-paying-residents-to-clean-their-neighborhoods-RVMI6KTLDFGCLNYUCXHVTYOGZ4/ (https://perma.cc/HHH2-4APH).

[101] *Comprehensive Bag Reduction*, City of Baltimore Ordinance 20.337, Council Bill 19-0401 (details available here: https://www.baltimoresustainability.org/projects/bringyourbag https://perma.cc/HQ97-ANU8).

plastic bags at the point of sale, pickup, or delivery, and requires a fee for other types of bags. Despite the City's and its citizens' desire for a litter-free City, plastics pollution remains an intractable problem due to Defendants' incessant production and distribution in Baltimore.

92. Due to the sheer quantity of Defendants' plastics production, the City must expend resources on managing disposal receptacles, mechanical street sweeping, manual cleanup, storm drain and sewer clean out, and water treatment processes. These expenditures include the cost of the administration and labor of these clean-up procedures. The City has spent, and continues to spend, millions of dollars, simply to clear sewage and drainage pipes of clogs created by this massive litter of Defendants' products.

93. The City further expends its scarce resources on litter deterrence and abatement that includes posting signs indicating fines for littering, increasing of public awareness through billboards and radio/television broadcasting, plus law enforcement time, energy, and manpower to fine for littering.[102] Instead of spending this money on matters of public safety, i.e., community law enforcement and fire departments, the City must spend its funds cleaning up Defendants' plastic pollution and disposing of the ever-increasing onslaught of Defendants' products.

94. According to past scientific estimates, the annual cost to the City for the partial clean-up of Defendants' products ranges from $5,299,099 to $5,391,325, but the actual cost is now much larger, and increasing rapidly.[103]

95. From 2018 to 2022 the City spent:

a. $62,861,662 of General Funds, Stormwater Utility Funds, and Casino Funds to clean streets and alleys;

[102] Schneider, *supra* note 98, at 4.

[103] *Id*.

b. $1,992,171 on Trash Wheels, including:

i. $16,189 of General Funds on Trash Wheels;

ii. $1,738,958 of Casino Funds on Trash Wheels;

iii. $237,570 of General Funds on Waterfront Partnership Trash Wheel Support;

c. $32,126,030 to clean sidewalks and walkways, including:

i. $9,027,500 of General Funds on Business District cleaning;

ii. $23,098,530 of General Funds and Stormwater Utility Funds on mechanical sweeping operations; and

d. $1,881,572 of Stormwater Utility funds to clean drains; and

e. Tens of millions of dollars to maintain landfills.

96. Thus from 2018 to 2022, the City spent more than $100M on cleaning streets, waterways, alleys, walkways, sidewalks, and drains, 70% of which was spent cleaning up Defendants' products.

97. In addition, from 2023 to 2025, the City will spend approximately $80M on cleaning streets, waterways, alleys, walkways, sidewalks, and drains.

98. Moreover, plastic litter combines with other trash and debris leading to clogged and broken pipes, as well as the ever-more-frequent floods in the City's neighborhoods.[104] This damaged City property must be replaced by the City, at great additional costs that increase every fiscal year.

[104] *The Effects of Litter on the Environment and Communities*, https://globalconservationforce.org/news-updates/litter-environment-communities/ (https://perma.cc/9RTG-Z9TE) (internal citations omitted).

99. The costly cleanup and disposal problem created by Defendants' products is only the tip of Defendants' plastic iceberg. Indeed, there are far more insidious consequences for citizens of Baltimore and its government. The list of additional economic problems caused by Defendants' litter and trash is extensive. Numerous studies have shown that when litter is present, people are more likely to continue littering in that same area.[105] When litter exists, people perceive there to be more crime in that area compared to a place that does not have litter.[106] Researchers have found that the presence of Defendants' littered products actually increases crime.[107] In residential areas, Defendants' litter decreases property values, and in commercial areas it decreases customers and reduces sales.[108] Plastic litter dramatically reduces the value of neighborhoods in Baltimore. The properties of the citizens of Baltimore, whether occupied, vacant, or abandoned, are forced into a cycle of devaluation which has spurred a mass migration from the City.[109] This worsening reduction in the residential and business population has reduced the City's tax base by tens of millions of dollars.[110] Yet Defendants, whose plastic products are a major cause of this abandonment of the City, continue to project ever-increasing sales.

100. Lastly, plastic pollution has devastated Baltimore tourism. The Inner Harbor once attracted tens of thousands of tourists every year. Baltimore and its citizens relied on that tourism

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[105] *Id.* (internal citations omitted).

[106] *Id.* (internal citations omitted).

[107] *Id.* (internal citations omitted).

[108] *Id.* (internal citations omitted).

[109] Adam Thompson, Cristina Mendez & Paul Gessler, *Multi-billion dollar plan to solve Baltimore's vacant homes crisis disclosed*, CBS News (Dec. 11, 2023), https://www.cbsnews.com/baltimore/news/baltimore-mayor-to-announcement-partnership-to-combat-vacant-homes-crisis/ (https://perma.cc/ET3E-J73V).

[110] *Id.*

to bring in revenue, boost the local economy, and generate taxes for the City. The ugly presence of Defendants' plastics pollution deters tourism.[111]

CLAIMS FOR RELIEF

COUNT I
VIOLATION OF THE MARYLAND ILLEGAL DUMPING AND LITTER CONTROL LAW

101. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

102. The Maryland Illegal Dumping statute provides criminal penalties and fines against any person who disposes or causes or allows the disposal of litter on public or private property, unless the property is designated by the State, a unit of the State, or a political subdivision of the State, for the disposal of litter, and the person is authorized by the proper public authority to use the property, or the litter is placed into a litter receptacle or container installed on the property. Md. Criminal Law Code Ann. § 10-110. Attached as **Exhibit B**.

103. The Maryland statute further states that "'[l]itter means all rubbish, waste matter, garbage, trash, debris, dead animals, or other discarded materials of every kind and description." *Id.* at § 10-110 (a)(4).

104. Defendants' actions and omissions, including the release and migration of plastic into and onto Baltimore City lands, violate that statute and constitute unlawful littering as defined by, and in violation of, § 10-110.

105. Maryland has a criminal sanction clause for violations of the Illegal Dumping and Litter Control Law within § 10-110(e) that states "[a] person who disposes of litter in violation of

[111] The Trash Wheels and the Public Works Department do their best with resources available to them, but they simply cannot stem the massive incoming tide of Defendants' plastic products.

this section . . . is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding" the following, under subsection (c) below:

a. "[f]or an amount not exceeding 100 pounds or 27 cubic feet and not for commercial gain . . . 30 days or a fine not exceeding $1,500 or both."
b. "[f]or an amount exceeding 100 pounds or 27 cubic feet, and not for commercial gain exceeding 500 pounds or 216 cubic feet, and not for commercial gain . . . 1 year or a fine not exceeding $12,500 or both."
c. "[f]or an amount exceeding 500 pounds or 216 cubic feet or in any amount for commercial gain . . . 5 years or a fine not exceeding $30,000 or both." (Emphasis added). *Id.*

106. Each Defendant has far exceeded this amount and is subject to the cumulative maximum fines since their plastic littering began, and continuing until their violations cease.

107. In addition to the criminal penalties under the statute, the Maryland statute authorizes a court order requiring the violator to "remove or render harmless the litter disposed of, repair or restore any property damaged by, or pay damages for, the disposal of the litter, perform public service relating to the removal of litter disposed of or to the restoration of an area polluted by litter disposed of, or reimburse the state, county, municipal corporation, or by county unit for its costs incurred and removing the litter disposed of in violation of the section." *Id*. (emphasis added).

108. Defendants are responsible for their litter that permeates Baltimore. Under this statute, a person may not, "[d]ispose or **cause or allow** the disposal of litter on public or private property . . . ." *Id*. (emphasis added).[112]

109. Defendants have known for decades the disastrous impact that their massive, unrelenting production of plastic products would have on all American cities, including Baltimore, and, as expected, their products continue to permeate every community in Baltimore. Defendants

[112] *Id.* at § 10-110(c)(2).

did not utilize alternative programs or materials or even tell the public the truth about the harm, through littering, their plastics would cause. Defendants knew for more than forty years that their plastics are disposed of after a single use, and it is impossible to recycle sufficiently to stop plastic accumulation in Baltimore. This knowledge of the obvious pollution caused by discarded plastics put Defendants on notice that their plastics would accumulate on the streets and in the soil and waterways of Baltimore and would have to be cleaned up and disposed of, at great cost, by Plaintiff.

110. Defendants had scienter. They knew when they created and sold their non-recyclable products by the billions that their products would be littered and disposed of in a non-sustainable way. In an attempt to cover up their criminal acts, they lied to the City and its citizens. The unlawful acts and omissions resulting in plastics contaminating the City's lands and waters, have violated, are currently violating, and will continue into the indeterminable future to violate, the Maryland statute and, thus, Defendants are subject to fines for each past, present, and future statute violation until the violations cease.

111. Wherefore, Plaintiff prays for relief as set forth below.

COUNT II
VIOLATION OF THE BALTIMORE CITY CODE §§ 7-606 AND 7-607

112. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

113. The Baltimore City Code prohibits any person from disposing waste or other material except in a receptacle and at a location approved by law for waste disposal, at a licensed landfill, or at any other disposal site authorized by law to receive waste. Baltimore City Revised Code at § 7-606. Attached as **Exhibit C**.

114. The Baltimore City Code defines "person" as "an individual"; "a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind"; or "a partnership, firm, association, corporation, or other entity of any kind." *Id.* at § 1-108(a).

115. The Baltimore City Code also prohibits disposal of, and does not permit "discharge or flow onto any public or private property, with or without the owner's permission," of "any liquid or solid matter that is or that, after exposure to the atmosphere or otherwise, **is likely to become offensive or otherwise a nuisance**." *Id.* at § 7-607 (emphasis added).

116. The Baltimore City Code defines disposing of "offensive materials" as applying to these, among others: "blood," "refuse coal oil," "dead animal or part of an animal," "domestic or sanitary sewage," "excrement," "filth," "foul or nauseous liquid," "**garbage**," "slaughterhouse or other trade cleanings," "stagnant water," or "other **offensive matter of any kind**." *Id.* at § 5-902(b) (emphasis added).

117. Defendants' actions and omissions, including the release and migration of plastic into and onto City lands, constitute unlawful disposal as defined by, and in violation of, § 7-607.

118. Baltimore City has a criminal sanction clause for violations of the Baltimore City Code within § 7-632, which authorizes a basic penalty of a fine not more than $1,000 and imprisonment for not more than ninety days for any person who violates any provision of this subtitle or who authorizes any employee or agent to violate any provision of the subtitle, and an enhanced penalty of a fine not more than $1,000, imprisonment for not more than twelve months, and revocation of the privilege of seeking a building permit in the City for any violation that entails the disposal, in any twenty-four-hour period, of material that weighs twenty-five or more pounds or material that comprises of ten or more cubic feet. *Id.* at § 5-910.

119. Defendants' unlawful acts and omissions, resulting in the plastic contaminating the City's lands and waters, have violated, are currently violating, and will continue into the indeterminable future to violate the asformentioned Baltimore City Code and, thus, Defendants are subject to fines for each past, present, and future statute violation until the violations cease.

120. Defendants knew that their plastic products would, and still do, violate this section of the Baltimore City Code. Even with this knowledge, Defendants lied to the residents of Baltimore City by claiming that their products were recyclable. The residents of Baltimore relied on Defendants' misrepresentations and continue to purchase their products and dispose of them on the streets and in the waters of the City.

121. Wherefore, Plaintiff prays for relief as set forth below.

COUNT III
VIOLATION OF THE BALTIMORE CITY CODE § 7-608

122. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

123. The Baltimore City Code further prohibits dumping on public property. As to public property, "[n]o person may dump or dispose of any garbage, waste, wire, glass, nails, or any other matter: (1) in or on any gutter, sidewalk, street, open space, wharf, or other public place; or (2) into any public trash receptacle located on or along any sidewalk, street, open space, wharf, or other public place." *Id.* at § 7-608.

124. The Baltimore City Code defines "person" as "an individual"; "a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind"; or "a partnership, firm, association, corporation, or other entity of any kind." *Id*. at § 1-108(a).

125. The Baltimore City Code defines disposing of "offensive materials" as applying to these, among others: "blood," "refuse coal oil," "dead animal or part of an animal," "domestic or

sanitary sewage," "excrement," "filth," "foul or nauseous liquid," "**garbage**," "slaughterhouse or other trade cleanings," "stagnant water," or "other **offensive matter of any kind**." *Id*. at § 5-902(b) (emphasis added).

126. Defendants' actions and omissions, including the release and migration of plastics into and onto City lands, constitute unlawful disposal as defined by, and in violation of, § 7-608.

127. Baltimore City has a penalty clause for violations of the Baltimore City Code within § 7-628 which states that "[a]ny person who, in violation of section 7–608 of this subtitle or in violation of any other provision of the law, dumps or otherwise disposes of matter in or on property owned, leased, or controlled by the City is liable to the City for the costs of: (1) removing the matter dumped or disposed of; and (2) repairing any damage caused by the dumping or disposal." *Id*. at § 7-628.

128. Defendants' unlawful acts and omissions, resulting in the plastic contaminating the City's lands and waters, have violated, are currently violating, and will continue into the indeterminable future to violate, the asformentioned Baltimore City Code and, thus, Defendants are subject to fines for each past, present, and future statute violation until the violations cease.

129. Defendants knew that their plastic products would, and still do, violate this section of the City Code. Even with this knowledge, Defendants lied to the residents of Baltimore by claiming that their products were recyclable. The residents of Baltimore relied on Defendants' misrepresentations and continue to purchase their products and dispose of them on the streets and in the waters of the City.

130. Wherefore, Plaintiff prays for relief as set forth below.

COUNT IV
VIOLATION OF THE BALTIMORE CITY CODE § 7-609

131. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

132. The Baltimore City Code further prohibits dumping on private property. For private property, "[n]o person may dump or otherwise dispose of any earth, dirt, sand, ashes, gravel, rocks, **garbage, waste**, or any other matter on any private property, including in or near any waste receptacle on the property, without the permission of **the property owner or the owner's agent**." *Id.* at § 7-609 (emphasis added).

133. The Baltimore City Code defines "person" as "an individual"; "a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind"; or "a partnership, firm, association, corporation, or other entity of any kind." *Id*. at § 1-108(a).

134. The Baltimore City Code defines disposing of "offensive materials" as applying to these, among others: "blood," "refuse coal oil," "dead animal or part of an animal," "domestic or sanitary sewage," "excrement," "filth," "foul or nauseous liquid," "**garbage**," "slaughterhouse or other trade cleanings," "stagnant water," or "other **offensive matter of any kind**." *Id*. at § 5-902(b) (emphasis added).

135. Defendants' actions and omissions, including the release and migration of plastics into and onto the City's lands, constitute unlawful disposal as defined by, and in violation of, § 7-609.

136. Baltimore City has a criminal penalty clause for violations of the Baltimore City Code within § 7-632, which provides for a basic penalty of a fine not more than $1,000 and imprisonment for not more than ninety days for "any person who violates any provision of this subtitle or who authorizes any employee or agent to violate any provision of the subtitle," and an

enhanced penalty of a fine not more than $1,000, imprisonment for not more than twelve months, and revocation of the privilege of seeking a building permit in the City for any violation that entails "the disposal, in any 24-hour period, of material that weighs 25 or more pounds or material that comprises of 10 or more cubic feet . . . ." *Id*. at § 7-632.

137. Defendants' unlawful acts and omissions, resulting in the plastic contaminating the City's lands and waters, have violated, are currently violating, and will continue into the indeterminable future to violate, the asformentioned Baltimore City Code and, thus, Defendants are subject to fines for each past, present, and future statute violation until the violations cease.

138. Defendants knew that their plastic products would, and still do, violate this section of the City Code. Even with this knowledge, Defendants lied to the residents of Baltimore by claiming that their products were recyclable. The residents of Baltimore relied on Defendants' misrepresentations and continue to purchase their products and dispose of them on the streets and in the waters of the City.

139. Wherefore, Plaintiff prays for relief as set forth below.

COUNT V
VIOLATION OF THE BALTIMORE CITY CODE § 7-702

140. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

141. The Baltimore City Code prohibits a person from littering on any public or private property and does not permit the accumulation of litter on any property under that person's control. *Id.* at § 7-702.

142. The Baltimore City Code defines "person" as "an individual"; "a receiver, trustee, guardian, personal representative, fiduciary, or representative of any kind"; or "a partnership, firm, association, corporation, or other entity of any kind." Id. at § 1-108(a).

143. The Baltimore City Code defines littering as: "to discard or otherwise dispose of, in any way other than as authorized by § 7-601 of this title, of **small amounts of paper**, beverage containers, glass, garbage, or other waste that: (1) weight **less than 1 pound**; (2) comprise less than 1 cubic foot; and (3) are **not toxic, noxious, or otherwise a threat** to the public health or safety." *Id.* at § 7-701 (emphasis added).

144. Defendants' actions and omissions, including the release and migration of plastics into and onto the City's lands, constitute unlawful litter as defined, and in violation of, § 7-702.

145. The Baltimore City Code has a penalty section, § 7-706, which states "[a]ny person who violates this subtitle is guilty of a misdemeanor and, on conviction, is subject to a fine of $500 for each offense, and that "**[e]ach day a violation continues is a separate offense**." *Id.* at § 7-706 (emphasis added).

146. Defendants' unlawful acts and omissions resulting in the plastic contaminating the City's lands and waters, have violated, are currently violating, and will continue into the indeterminable future to violate, the asformentioned Baltimore City Code and, thus, Defendants are subject to fines for each past, present, and future statute violation.

147. Defendants knew that their plastic products would, and still do, violate this section of the City Code. Even with this knowledge, Defendants lied to the residents of Baltimore by claiming that their products were recyclable. The residents of Baltimore relied on Defendants' misrepresentations and continue to purchase their products and dispose of them on the streets and in the waters of the City.

148. Wherefore, Plaintiff prays for relief as set forth below.

COUNT VI
VIOLATION OF BALTIMORE CITY ORDINANCE 23-0424

149. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

150. The Baltimore City Ordinance prohibits unfair, abusive, or deceptive trade practices in the sale, or offer for sale, of any consumer good, realty, or service. Baltimore City Ordinance at § 4-2. Attached as **Exhibit D**.

151. The Ordinance establishes civil penalties against persons or entities who violate the ordinance. *Id.* at § 4-3. Penalties include a civil penalty of not more than $1,000. Each violation counts as a separate offense and each day where a violation continues constitutes a separate offense.

152. The Ordinance also establishes criminal penalties against persons or entities who violate the ordinance. *Id.* at § 4-4. A person who violates this ordinance is guilty of a misdemeanor and, upon conviction, is subject to a fine of not more than $1,000. Each violation counts as a separate offense and each day where a violation continues constitutes a separate offense.

153. The Ordinance authorizes the City Solicitor, on behalf of the Mayor and City Council, to take action if there is reason to believe a person or merchant is engaging in practices that violate the ordinance. *Id.* at § 4-5(A).

154. The plastics manufacturers engaged in deceptive practices in the conduct of their business, trade, and/or commerce in the City, in violation of the Ordinance in the course of manufacturing, selling, distributing, promoting, and/or marketing single-use plastics or products packaged in single-use plastic.

155. The plastics manufacturers violated the Ordinance through omissions of warning about known and foreseeable risks of the intended use and foreseeable discarding of their plastic products. The City relied on these manufacturers' lack of a warning to the detriment of the health of the environment and of its citizens.

156. Defendants are presumed to have knowledge of the City's Code. Defendants established operations in, and directly interacted with, the City and knew that their manufacturing, production, and distribution activities would result in plastic pollution on City property.

157. Defendants knew that their plastic products would, and still do, violate this section of the City Code. Even with this knowledge, Defendants lied to the residents of Baltimore by claiming that their products were recyclable. The residents of Baltimore relied on Defendants' misrepresentations and continue to purchase their products and dispose of them on the streets and in the waters of Baltimore.

158. Wherefore, Plaintiff prays for relief as set forth below.

COUNT VII
VIOLATION OF MARYLAND CONSUMER PROTECTION ACT

159. The Maryland Consumer Protection Act ("MCPA"), Annotated Code of Maryland Subtitle 3 § 313-301, prohibits unfair and deceptive trade practices.

160. MCPA § 13-301(1) defines an unfair or deceptive trade practices as a false, falsely disparaging, or misleading oral or written statement, visual description, or other representation of any kind which has the capacity, tendency, or effect of deceiving or misleading consumers. Md. Code Ann., Com. Law § 13-301(1). Attached as **Exhibit E**.

161. MCPA § 13-301(3) of the MCPA defines an unfair or deceptive trade practice as a failure to state a material fact if the failure deceives or tends to deceive. Md. Code Ann., Com. Law § 13-301(3) (2010).

162. In the process of producing, selling, distributing, promoting, and/or marketing products, such as beverages and snack foods in single-use plastic packaging, Defendants engaged in deceptive practices in the conduct of business, trade, and/or commerce in Baltimore, in violation of MCPA. This included purposely omitting warnings or notice about the known and foreseeable risks that result from the intended use and foreseeable misuse of its plastic products.

163. Defendants used intentionally false and misleading statements and other representations that had the capacity to deceive or mislead consumers concerning the dangers of plastic usage. Defendants also failed to state material facts about the harms of plastic usage in order to deceive or mislead the public and continue profiting from consumers.[113] The City relied on these manufacturers' lack of a warning to the detriment of the health of the environment and of its citizens.

COUNT VIII
CONTINUING TRESPASS

164. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

165. Defendants knew with substantial certainty at the time of their manufacture and sale of plastics, and then with their disposal and littering of these products and wastes, that such activities were likely, if not certainly, to result in contamination of the City's lands and waters.

[113] Md. Code Ann., Com. Law §13-301(1)-(3).

166. Defendants' conduct as described constitutes a continuing trespass upon City property, that is, a continuing invasion in and of the exclusive possession and control of the City's lands and waters.

167. Defendants' conduct caused, and continues to cause, permanent harm to and seriously damage the property values and utility of City property, thereby causing the City to, upon information and belief, lose millions of dollars in sales and property tax for decades.

168. Upon information and belief, the City has incurred, and will incur in the future, massive costs to investigate, monitor, evaluate, abate, clean up, and remediate Defendants' plastic litter.

169. As a result of Defendants' conduct, the City has suffered, is suffering, and will continue to suffer damages to the public interest, economy, lands, and creditors.

170. Wherefore, Plaintiff prays for relief as set forth below.

COUNT IX
STRICT LIABILITY FOR DESIGN DEFECT

171. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

172. Defendants' plastics were unsafe for the environment as designed.

173. The risk of danger to the environment is inherent in the design of Defendants' plastics.

174. Alternatively, Defendants knew their plastics would litter the City's property to an extent beyond that which would be contemplated by an ordinary person.

175. The plastics and their toxins reached the City's lands and water without any substantial change in condition from when they left the control of Defendants.

176. Defendants manufactured plastics and/or placed those plastics into the stream of commerce, and owed a duty not to market and distribute any product which is unreasonably dangerous for its intended or reasonably foreseeable uses.

177. Defendants, and each of them, formulated, designed, manufactured, packaged, distributed, tested, constructed, fabricated, analyzed, recommended, merchandised, advertised, promoted, and/or sold plastics and/or products inside plastic packaging, which were intended by Defendants, and each of them, to be purchased and used in public places within Baltimore and to become litter in Baltimore.

178. Defendants, and each of them, heavily marketed, promoted, and advertised products in plastic packaging, which were sold and used by the general public. Defendants received direct financial benefit from using plastics in their sales. Defendants had control over, and a substantial ability to influence, the manufacturing and distribution processes that led to the plastic littering of the streets of Baltimore. Defendants intentionally misrepresented to the residents of Baltimore that their products were recyclable when they knew that they were not.

179. Defendants, and each of them, knew that their plastic and its toxins lack the ability decompose and would persist in the environment perpetually, rendering them defective and unreasonably dangerous to the flora and fauna of Baltimore.

180. Throughout the time at issue, plastics have not performed as safely as an ordinary consumer would expect them to, and have been unreasonably dangerous for their intended, foreseeable, and ordinary use, because their use damages the environment and costs the City millions of dollars in cleanup costs. In particular, ordinary consumers did not, and do not, expect that plastics would:

a. pollute waterways;

b. contaminate the public water supply;

c. permanently contaminate the soil and groundwater;

d. be ingested by humans; and

e. cost the City millions of dollars in cleanup costs and reduce tax revenue.

181. The above-described defects were beyond the knowledge of an ordinary consumer, and neither the City nor any ordinary consumer could have avoided the harm caused by Defendants' plastic products by the exercise of reasonable care.

182. Defendants' individual and aggregate plastic products and packaging were defective at the time of manufacture and reached the consumer in a condition substantially unchanged from the time of manufacture; were used in the manner in which they were intended to be used, or in a manner foreseeable to Defendants and each of them, by individual consumers; and the result was the addition of millions of plastics into the City's environment with attendant local consequences.

183. Defendants' unreasonably dangerous plastics and toxins caused the permanent and increasing presence of litter in Baltimore and damage to the public interest, including a massive threat to the economic health of Baltimore.

184. As a direct and proximate result of the acts and omission of each Defendant, Plaintiff Mayor and City Council of Baltimore have sustained and will sustain substantial loses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and injuries to public resources that interfere with the economic viability of the City.

185. On information and belief, each Defendant has substantially contributed to the ongoing massive littering of public and private property in the City according to each Defendants' percentage of the total sales and distribution of plastics and products in plastic packaging in the

City. Accordingly, each Defendant is responsible to reimburse the City for its percentage of the cleanup costs and other losses sustained, and projected to be sustained, by the City as a result of the plastic litter for which each Defendant is responsible.

186. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants had actual knowledge that their products were defective and dangerous when used as intended or in a foreseeable manner, in that they were not biodegradable, and acted with conscious disregard for the probable deleterious consequences of their conduct and their products' foreseeable economic impact upon the property of others, including the City of Baltimore.

187. Moreover, Defendants misrepresented to the City and its residents that their plastic products were recyclable when they knew they were not. The City and its residents relied on this information from Defendants. Therefore, the City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient, given each Defendants' net worth and the illicit profits obtained by each Defendant from its misconduct, to punish each Defendant for its acts impacting Baltimore City, for the good of society, and to deter each Defendant, as well as others, from ever committing the same or similar acts.

188. Wherefore, Plaintiff prays for relief as set forth below.

COUNT X
NEGLIGENT DESIGN DEFECT

189. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

190. Defendants' plastics and plastic packaging constituted an unreasonably dangerous design at the time they left their control.

191. Defendants' plastics were unsafe to the environment as designed.

192. The risk of danger to the environment inherent in the design of Defendants' plastics drastically outweighed any perceived benefits of the design of such products when such products were put to reasonably foreseeable uses.

193. Alternatively, Defendants knew their plastic products were unsafe to the environment to an extent beyond that which would be contemplated by an ordinary person.

194. Defendants knew or should have known of the environmental and public health effects inherently caused by the normal use and operation of their plastic products, because they knew the products were nonbiodegradable and unrecyclable, including the likelihood that discarded plastics would contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats such as seagrass and reef ecosystems, poison pets, wildlife and fish if ingested, be ingested by humans, and the associated consequences of those physical and environmental changes, and including injuries to Plaintiff's natural resources, as described herein.

195. Defendants, collectively and individually, had a duty to use due care in developing, designing, testing, inspecting, manufacturing and distributing their plastic products. That duty obligated Defendants collectively and individually to, *inter alia*, prevent the defective products from entering the stream of commerce, and prevent reasonably foreseeable harm that resulted from the ordinary and/or reasonably foreseeable use of Defendants' products.

196. Defendants, and each of them, breached their duty of due care by, *inter alia*:

a. Placing their single-use plastics into the stream of commerce, despite knowing them to be defective due to the fact that they are nonbiodegradable and they inevitably would be discarded into the environment and contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats and

ecosystems, and poison pets, wildlife and fish if ingested, be ingested by humans, and the associated consequences stated in this Complaint of those physical and environmental changes;

b. Failing to act on the information and warnings they received from their own internal research staff, as well as from the international scientific community, that the unabated manufacture, promotion, sale, and distribution of their plastics would result in material dangers to the City and its citizens and destroy natural resources; and

c. Failing to take actions including, but not limited to, designing, manufacturing and selling biodegradable plastics and telling the truth to residents of Baltimore City about the health and safety dangers that would occur from purchase and distribution of their plastic products in Baltimore.

197. Defendants' individual and collective acts and omissions were actual, substantial causes of contaminated soil and groundwater, hampered plant growth, polluted waterways, deteriorated critical aquatic habitats, and poison pets, wildlife and fish if ingested, be ingested by humans, and the associated consequences of those physical and environmental changes, including harm and injuries set forth herein to the City and its natural resources, as these damages would not have occurred but for Defendants' introduction of their plastics into the stream of commerce.

198. As a direct and proximate result of the acts and omission of each Defendant, Plaintiff Mayor and City Council of Baltimore has sustained and will sustain substantial expenses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and injuries to public resources that interfere with the rights of Baltimore City.

199. Wherefore, Plaintiff requests an award of damages against each of Defendants as they are jointly and separately liable for all of its losses sustained prays for relief as set forth below.

COUNT XI
PUBLIC NUISANCE

200. Defendants manufactured, distributed, marketed, promoted, and attempted the disposal of plastics in a manner that created or contributed to the creation of public nuisances that unreasonably have obstructed the free use and enjoyment of the City's property.

201. Defendants, individually and in concert with each other, by their affirmative acts and omissions, have created, contributed to, and/or assisted in creating, conditions that significantly interfere with rights general to the public, including the public safety, the public peace, the public comfort, and the public convenience.

202. An ordinary person would be reasonably annoyed or disturbed by the presence of plastics accumulated on City property.

203. The nuisance created and contributed to by Defendants is substantial and unreasonable. It has caused, continues to cause, and will continue to cause far into the future, significant harm to the environment as alleged herein and that harm outweighs any offsetting benefit. The health and safety of Baltimore's environment is a matter of great public interest and of legitimate concern to the City.

204. Defendants' conduct caused and continues to cause permanent harm and serious damage to the property values and utility of the residential and commercial properties in the City by increasing crime and decreasing the real estate property value and commercial sales, thereby causing the City to, upon information and belief, lose, and spend, millions of dollars in tax revenue for decades.

205. Defendants specifically created, contributed to, and/or assisted, and/or were a substantial contributing factor in the creation of the public nuisance by, *inter alia*:

a. Controlling every step of the plastics supply chain: the design, manufacture, marketing sale, and distribution of those plastics and products in plastic packaging and placement of those products into the stream of commerce in Baltimore; and

b. Affirmatively and knowingly promoting the sale and use of products which Defendants knew to be hazardous to the City's environment and that their product would cost the City millions of dollars in cleanup costs and reduce the City's revenue.

206. Because of their superior knowledge of plastic and their position controlling the design, manufacture, marketing, sale, and distribution of those products, Defendants were in the best position to prevent or abate the nuisance, but failed to do so, by failing to warn customers, retailers, regulators, public officials, or the City of the permanent litter risk posed by their plastics and failing to take any other precautionary measures to prevent or mitigate those known damages.

207. The public nuisance caused, contributed to, maintained, and/or participated in by Defendants has caused and imminently threatens to cause massive losses to the City. The public nuisance has also caused a substantial reduction in value of real property owned by the City for the cultural, historic, and economic benefit of Baltimore's residents.

208. The seriousness of contaminated soil and groundwater, hampered plant growth, polluted waterways, deteriorated critical aquatic habitats, and poisoned pets, wildlife and fish when ingested, was ingested by humans, and the associated consequences of those environmental damages, is grave and outweighs the social utility of Defendants' conduct because, *inter alia*:

a. Interference with the City's rights due to contaminated soil and groundwater, hampered plant growth, polluted waterways, deteriorated critical aquatic habitats, and poisoned pets, wildlife, and fish, ingestion by humans, and the associated consequences of those physical and environmental damages as described above, has caused material deprivation of and/or interference with the use, enjoyment, and value of public and private property in Baltimore;

b. The ultimate nature of the damages is the destruction of real and personal property, loss of public cultural, historic, and economic resources, rather than mere annoyance;

c. The interference borne is the loss of property, infrastructure, and public resources within the City, which is borne by the City's loss of value of public and private property and infrastructure; loss of cultural, historic, and economic resources, and diversion of tax dollars away from other public services to provide mitigation of Defendants' plastic litter;

d. The City's property, which serves myriad uses including residential, infrastructural, commercial, historic, cultural, and ecological, is not suitable for its intended use because it is littered with Defendants' plastics and the associated environmental consequences;

e. The social "benefit" of manufacturing and placing plastics into the stream of commerce, if any, is heavily outweighed by the availability of alternative plastic products or recyclable plastics that could have been placed into the stream of commerce that would not have caused the environmental consequences as described herein;

f. The social "benefit" of manufacturing and placing plastic into the stream of commerce, if any, is outweighed by the ability to manufacture and produce recyclable plastics that could have been placed into the stream of commerce that would not have caused the environmental consequences as described herein;

g. The cost to the City of the plastic littered in its environment is far more harmful and costly than the manufacturing and producing of recyclable plastic; and

h. It was practical for Defendants, and each of them, considering their extensive knowledge of the hazards of manufacturing and placing plastics into the stream of commerce and extensive scientific engineering expertise, to develop technologies and to pursue and adopt known, practical, and available technologies, such as biodegradable or recyclable plastic, that would have avoided the toxic plastic epidemic and the associated environmental consequences on Baltimore City.

209. Defendants' actions are the overwhelming causative factor in the unreasonable violation of the public rights of Baltimore City and its residents as set forth above, because Defendants knew that their conduct would create a continuing litter problem with long-lasting significant negative effects on the rights of Plaintiff, and absent Defendants' conduct the violations of Plaintiff's rights described herein would not have occurred.

210. Defendants misrepresented to the citizens of Baltimore that their plastic products were recyclable, in order to increase sales and profits, despite their knowledge that their products were not recyclable and that they would cause many millions of dollars to the City for cleanup and reduce the City's revenue in the numerous ways alleged in this Complaint.

211. Defendants are under a continuing duty to act to correct, abate, and remediate the public nuisances their plastics have had, and continue to have, caused, and each day on which they fail to do so constitutes a new loss to the City and a violation of its litter laws as set forth above.

212. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants knew that their products were defective and dangerous when used as intended or in a foreseeable manner, and yet still acted with conscious disregard for the obvious disastrous consequences of their conduct and their products' imminently foreseeable impact upon the rights of others, including Baltimore City. Therefore, the City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient, given each Defendants' net worth and the illicit profits obtained by each Defendant from its misconduct, to punish each Defendant for its acts impacting Baltimore City, for the good of society, and to deter each Defendant, as well as others, from ever committing the same or similar acts.

213. The City seeks an order that provides for the immediate abatement of the public nuisance Defendants have created, enjoins Defendants from creating future nuisances, through their littering, and awards Baltimore City damages in an amount to be determined at trial. The City pursues these remedies in its sovereign capacity for the benefit of the general public.

214. Wherefore, Plaintiff prays for relief as set forth below.

COUNT XII
STRICT LIABILITY FAILURE TO WARN

215. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

216. Defendants' plastic products were not reasonably safe at the time they left their control because they lacked adequate warnings and/or instructions concerning the dangers and hazards of their plastics.

217. Defendants, and each of them, at all times were required to issue adequate warnings to the City, the public, consumers, and public officials of the reasonably foreseeable or knowable severe risks posed by the inevitable use and litter of their defective and dangerous plastic products when used as intended or in a foreseeable manner.

218. Defendants knew, based on information passed to them and/or from the scientific community, of the environmental consequences inherently caused by the normal use and operation of their plastics, including the likelihood that discarded plastics would contaminate the soil and groundwater, hamper plant growth, pollute waterways, deteriorate critical aquatic habitats and ecosystems, poison pets, wildlife and fish if ingested, be ingested by humans, and the associated consequences of those physical and environmental changes, including the City's losses as described herein.

219. Defendants were required to warn of and instruct Plaintiff about these dangers but failed to do so, and intentionally concealed information in order to maximize profits for decades and externalize the cleanup costs, causing continuing losses to the City.

220. Throughout the period at issue, Defendants failed to adequately warn Plaintiff or Defendants' consumers of the environmental consequences that would inevitably flow from the intended use of their plastics.

221. Defendants continue to conceal the dangers to the environment of plastics after they manufactured, distributed, marketed, promoted, sold, and distributed plastic and products in plastic packaging in Baltimore.

222. Given the grave dangers presented by the environmental consequences that inevitably flow from the expected use of plastics, a reasonable designer, manufacturer, marketer, seller, distributor, or other participant responsible for introducing plastics into the stream of

commerce, including Baltimore, would have warned the City of those known, inevitable environmental consequences.

223. Defendants' conduct was and is a direct and proximate cause of Plaintiff's losses and the primary factor in the damages suffered by Plaintiff as alleged herein.

224. As a direct and proximate result of the acts and omission of each Defendant, Plaintiff Mayor and City Council of Baltimore has sustained and will sustain substantial losses and damages as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and damages to public resources that have, and will continue to, interfere with the rights of the City.

225. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants knew that their products were defective and dangerous when used as intended or in a foreseeable manner and yet acted with conscious disregard for the probable disastrous consequences of their conduct and their products' foreseeable impact upon the rights of others, including the City. Therefore, the City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient, given each Defendants' net worth and the illicit profits obtained by each Defendant from its misconduct, to punish each Defendant for its acts impacting Baltimore City, for the good of society, and to deter each Defendant, as well as others, from ever committing the same or similar acts.

226. Wherefore, Plaintiff prays for relief as set forth below.

COUNT XIII
NEGLIGENT FAILURE TO WARN

227. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

228. Defendants, and each of them, at all times had a duty to issue adequate warnings to the City, the public, consumers, and public officials of the reasonably foreseeable or knowable severe risks posed to the environment by the daily use and litter of their plastics.

229. Defendants were required to warn of and instruct the City about these dangers of their products but failed to do so, and negligently failed to timely reveal the information in order to avoid a reduction in profits for decades while causing losses of revenue and increasing cleanup costs to the City.

230. Defendants knew or should have known, based on information passed to them and/or from their scientific community, of the environmental consequences inherently caused by the normal use of their plastic products, including the likelihood that discarded plastic would contaminate the City's soil and groundwater, hamper plant growth, pollute waterways and the public water supply, deteriorate critical aquatic habitats and environments and poison pets, wildlife and fish if ingested, be ingested by humans, plus the associated economic consequences of those environmental impacts, including the City's damages as described herein.

231. Defendants should have known, based on information passed to them and/or from the scientific community, that the environmental consequences described herein rendered their plastic products dangerous, and/or likely to cause damage to the City, when used as intended or in a reasonably foreseeable manner.

232. Throughout the times at issue, Defendants breached their duty of care by failing to adequately warn the City of the environmental consequences that would inevitably flow from the intended use of their plastic products.

233. Given the probable losses presented by the environmental consequences that inevitably flow from the normal use of plastics, a reasonable designer, manufacturer, marketer,

seller, distributor or other participant responsible for introducing plastics into the stream of commerce, would have warned the City of those known, inevitable environmental consequences and financial losses.

234. Defendants' conduct was a direct and proximate cause of Plaintiff's losses and the primary factor in the damages suffered by Plaintiff as alleged herein.

235. As a direct and proximate result of the acts and omission of each Defendant, Plaintiff Mayor and City Council of Baltimore has sustained and will sustain substantial costs and losses as set forth in this Complaint, including damage to publicly owned infrastructure and real property, and damages to public resources that interfere with the property rights of the City.

236. Wherefore, Plaintiff prays for relief as set forth below.

COUNT XIV
NEGLIGENCE

237. Plaintiff realleges each and every allegation contained above, as though set forth in full herein.

238. As reasonable designers, manufacturers, marketers, sellers, and distributors of plastics, Defendants, and each of them, at all times owed a duty of care to the City not to place into the stream of commerce a product that was in a defective condition and unreasonably dangerous to the City's environment, including with reference to the likelihood that discarded plastics would litter the City's streets, sidewalks, parks, and lawns, contaminate the soil and groundwater, and contaminate its waterways, reservoirs, and public water supply.

239. Defendants breached this duty by negligently designing, formulating, manufacturing, distributing, selling, supplying, and/or marketing unreasonably dangerous plastic products into the stream of commerce even when they knew or should have known about the dangers plastics pose to the City's environment, including the likelihood that discarded plastic

would litter the City's streets, sidewalks, parks, and lawns, contaminate the soil and groundwater, and contaminate its waterways, reservoirs, and public water supply.

240. As a direct and proximate result of the acts and omission of each Defendant, the City has incurred and will continue to incur damages due to the plastic contamination caused by Defendants' products.

241. Defendants knew or should have known that the acts and omissions described above would cause injury to the City's environment, including the likelihood that discarded plastics would litter the City's streets, sidewalks, parks, and lawns, contaminate the soil and groundwater, and contaminate its waterways, reservoirs, and public water supply.

242. Defendants' wrongful conduct as set forth herein was committed with actual malice. Defendants knew that their products were defective and dangerous when used as intended or in a foreseeable manner and yet acted with conscious disregard for the probable disastrous consequences of their conduct and their products' foreseeable impact upon the rights of others, including the City. Therefore, the City requests an award of punitive damages in an amount reasonable, appropriate, and sufficient, given each Defendants' net worth and the illicit profits obtained by each Defendant from its misconduct, to punish each Defendant for its acts impacting Baltimore City, for the good of society, and to deter each Defendant, as well as others, from ever committing the same or similar acts.

243. Wherefore, Plaintiff prays for relief as set forth below.

PRAYER FOR RELIEF

243. Wherefore, Plaintiff respectfully requests the Court to award:

a. Compensatory damages in an amount sufficient to pay for the losses, past, present, and future, for damage to Baltimore City's infrastructure, land and natural

resources, including the economic impact to the City from the loss of its environmental health, and other losses resulting from the conduct alleged herein, including, but not limited to, the loss of value in the City's properties, the loss of tax, sales, and licensing revenue to the City resulting from Defendants' actions and omissions, plus the costs to the City of cleaning up and disposing of Defendants' litter, past, present, and future;

b. Equitable relief, including investigation, abatement, remediation, and removal of the nuisances complained of herein;

c. Criminal penalties, including, but not limited to, fines consistent with Maryland law and the Baltimore City Code for each and every separate offense, past, present, and ongoing;

d. Punitive damages in an amount reasonable, appropriate, and sufficient, given each Defendants' net worth and the illicit profits obtained by each Defendant from its misconduct, to punish each Defendant for its acts impacting Baltimore City, for the good of society, and to deter each Defendant, as well as others, from ever committing the same or similar acts;

e. Injunctive relief in the form of Court Orders mandating the immediate and complete abatement and remediation of all City property befouled or damaged by plastic litter;

f. Disgorgement of profits;

g. Plaintiff's attorneys' fees and costs of suit; and

h. For such and other relief as the court may deem proper.

Respectfully submitted,

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DEMAND FOR JURY TRIAL

Plaintiff, the Mayor and City Council of Baltimore, demands a trial by jury on all claims so triable.

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