

**IN THE CIRCUIT COURT FOR THE ELEVENTH JUDICIAL CIRCUIT,
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

CASE NO.

DALIA MIRANDA, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

WASTE MANAGEMENT INC. OF FLORIDA,

Defendant.

CLASS REPRESENTATION COMPLAINT AND DEMAND FOR JURY TRIAL

COMES NOW the Plaintiff, DALIA MIRANDA, by and through the undersigned counsel, on behalf of herself and all others similarly situated, and for cause of action against the Defendants, respectfully alleges and states as follows:

INTRODUCTION

1. Plaintiff brings this class action against Defendant WASTE MANAGEMENT INC. OF FLORIDA (“Defendant”). Defendant operates the Medley Landfill, which is located at 9350 NW 89th Avenue, Town of Medley, County of Miami-Dade, State of Florida (the “Landfill”). Defendant, through its operation and maintenance of the Landfill, wrongfully and tortiously releases substantial and unreasonable noxious odors, which have invaded and continue to invade Plaintiff’s property causing damages through nuisance, negligence and gross negligence.

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PARTIES

2. At all times relevant hereto, Plaintiff Dalia Miranda is an adult resident who resides at 10907 NW 87th Lane, Doral, Florida and brings this action to recover all damages permitted by law.

3. Defendant and its agents, have at all time relevant hereto, constructed, owned, operated and maintained the Landfill, located at 9350 NW 89th Avenue, in the Town of Medley, County of Miami-Dade, State of Florida.

4. Defendant is a Florida Profit Corporation with its principal place of business located at 1001 Fannin Street, City of Houston, County of Harris, State of Texas. Defendant may be served with process through its registered agent, CT Corporation System, at 1200 South Pine Island Road, Plantation, Florida 33324.

JURISDICTION AND VENUE

5. This cause of action seeks recovery for injuries to Plaintiff's real property resulting from Defendant's wrongful and tortious actions and omissions, which occurred at and around the Landfill in Miami-Dade County, Florida and caused damages to Plaintiff in Miami-Dade County.

6. Both Plaintiff and Defendant reside in Miami-Dade County, Florida.

7. Defendant engaged in discrete wrongful and tortious actions and omissions that occurred within the last four years.

8. The amount in controversy is well in excess of \$15,000.

9. This Court has personal jurisdiction over this action pursuant to Fla. Stat. Ann. § 48.193.

10. Venue is proper in Miami-Dade County pursuant to Fla. Stat. Ann. § 47.011.

11. Defendant's tortious actions and omissions, and the resulting damages to Plaintiff's property, are ongoing.

12. This cause of action is brought within the applicable four-year statute of limitations. *See Fla. Stat. Ann. § 95.11.*

FACTUAL ALLEGATIONS

The Medley Landfill

13. Defendant exercises exclusive management, control, and operation of the Landfill, which produces and emits substantial noxious odors that physically invade Plaintiff's property.

14. The Landfill is located on a more than 170-acre plot surrounded by residential properties.

15. The Landfill accepts an average of thousands of tons of waste per day.

16. Because of the noxious odors it emits into surrounding neighborhoods, the Landfill is popularly referred to by neighboring residents as "Mount Trashmore."

17. Defendant accepts, processes, and stores substantial quantities of waste including, but not limited to, biosolids, municipal solid waste, and construction and demolition debris at the Landfill.

18. Among the materials deposited into the Landfill is gypsum board from construction and demolition debris.

19. The materials deposited into Defendant's landfill decompose and generate byproducts, including leachate and landfill gas, an odorous and offensive byproduct of decomposition which generally consists of hydrogen sulfide, methane, carbon dioxide, and various other compounds.

20. Landfill gas from landfills that contain construction and demolition debris can be especially odiferous given the high content of hydrogen sulfide, which is known to have a characteristic “rotten-egg” smell.

21. A properly constructed, operated, maintained, and managed landfill will collect, capture and destroy leachate and landfill gas from the landfill in order to prevent it from escaping into the ambient air as fugitive emissions.

22. Defendant has failed to adequately collect, capture, and destroy landfill gas generated at the Landfill to prevent fugitive emissions and to otherwise prevent noxious odors, gases, and/or particulates from the Landfill from invading the homes and property of Plaintiff and the Class.

23. Defendant has failed to sufficiently collect, capture, and destroy leachate generated at the Landfill to prevent landfill gas collection wells from becoming “watered in,” including by utilizing adequate drainage systems.

24. Plaintiff’s property has been and continues to be physically invaded by noxious odors which originated from the Landfill.

25. Objectionable odors and emissions from the Landfill have been the subject of frequent complaints from residents in the nearby residential area.

26. Local media reports have documented that the odors from the Landfill interfere with public and private activities, in both public and private spaces, in the areas surrounding the Landfill including jogging, biking, sports, hiking, taking children to the park, maintaining residential property, landscaping, and grilling.

27. More than 60 households have contacted Plaintiff’s counsel documenting the odors they attribute to the Landfill.

28. Plaintiff Dalia Miranda, who owns a residence in Doral, Florida, reported that her

household suffers from “disgusting” “methane and old rotten garbage” odors because of Defendant’s Landfill.

29. Plaintiff further reported that “[w]e are not able to sit outside our terrace. We are not able to enjoy cookouts with family and friends. We refrain from cooking on the grill.”

30. Below is a small sampling of the factual allegations made by members of the putative class to Plaintiff’s counsel:

- a. Putative class member Carlos Cepeda from Doral, Florida reported that “the air has a very unpleasant smell it is strong and pungent like something sour or spoiled/rotten.”
- b. Putative class member Maria S. Diaz from Doral, Florida described the odor as “rotten egg, sour milk, fumes, etc.”
- c. Putative class member Claudia Guevara from Doral, Florida reported that because of the odors “we have a pool that we can not enjoy, as the smells comes and goes throughout the day, especially early in the mornings, at sunset, and during the weekend.”
- d. Putative class member Enrique Avila from Doral, Florida reported that the “extremely unpleasant odors” from the Landfill “doesn’t allow us to entertain our family and visitors in the back yard or patio, nor can we open our house’s windows. Sometimes if we are cooking a BBQ outside we have to run inside when the odors come.”
- e. Putative class member Leonardo Zoccoli from Doral, Florida reported that “we cannot go outdoors and enjoy our patio and invite guests for a BBQ. We cannot take our kids to play in the patio either. It is unbearable.”

31. Defendant’s well documented pattern of failing to control its emissions is demonstrated by the following:

- a. Between 2016 and August 1, 2019, the City of Doral received more than 2,500 odor complaints because of the Landfill. A small sample of these complaints include:
 - i. On September 5, 2018, Doral resident Francisco Eraso reported to the city that “Medley Landfill smell is overwhelming our neighborhood of Doral.”

- ii. On September 11, 2018, Doral resident Roberto Lacambra reported to the city that “[o]nce again strong odors coming from Landfill in Medley.”
 - iii. On April 23, 2019, Doral resident Jairo Cruz reported to the city that there was a “[b]ad odor from the landfill in Medley.”
 - iv. On July 2, 2018, Doral resident Maria Lacayo reported to the city that “[g]ases emitting from Medley landfill are very strong and overwhelming.”
- b. In excess of 2,300 people have signed a Change.org petition demanding that Defendant close the Landfill because of the unbearable odors it releases into the community;
 - c. More than 100 people have liked or followed a Facebook page entitled “End Medley Trash Operations.” The Facebook Page includes a tag entitled @StopTheMedleyDump. This page was started to organize citizen action and raise awareness about the harmful effects of the Landfill’s odors to the neighboring communities;
 - d. In December 2017, the Miami-Dade County Department of Environmental Resources Management (DERM) confirmed off-site odors emitted from the Landfill and required Defendant to submit an Odor Remediation Plan. Defendant acknowledged that it was the cause of off-site odors in its plan, submitted in January 2018. The Miami-Dade County DERM determined that Defendant’s plan “[did] not provide adequate remedial actions to respond to the odor events” and required Defendant’s to submit an amended Odor Remediation Plan. The off-site odors continued.
 - e. In December 2017, the City of Doral passed a resolution establishing the Doral Environmental Advisory Task Force to evaluate the odor concerns in the City.
 - f. Following Defendant’s submission of the mandated Odor Remediation Plan to Miami-Dade County, on September 10, 2018, the City of Doral reported to the Florida State Department of Environmental Protection that “the number of odor complaints continues to increase as time passes” and that “the City believes that all primary and secondary odor controls are not really working.” In August 2018 alone, the City of Doral received 117 odor complaints about the Landfill, more than 5 times the number from the same month in 2017 (21).

32. Defendant is required to control its odorous emissions by, among other things, following proper landfilling practices, utilizing adequate landfill cover, and installing, operating,

and maintaining an adequate landfill gas collection system to capture and destroy landfill gas.

33. Defendant has failed to adequately control its odorous emissions in ways including, but not limited to, an inadequate landfill gas collection system; inadequate wellhead vacuum; inadequate monitoring; inadequate and/or improper cover and covering practices; inadequate and/or improper lining and lining practices; inadequate collection, management, and disposal of leachate; excessive intake of odor-causing wastes; improper and/or excessive processing of construction and demolition waste; inadequate treatment and disposal of biosolids and other odiferous wastes; inadequate use of odor neutralizing systems and products; and other odor mitigation or control techniques available to Defendant.

Plaintiff's Damages

34. The foul odors emitted from Defendant's Landfill are offensive to Plaintiff and the Class, would be offensive to reasonable people of ordinary health and sensibilities, and have caused property damage, including by substantially interfering with the ability of Plaintiff and the Class to freely use and enjoy their homes and property.

35. The odors have dispersed across all public and private land in the Class Area.

36. The invasion of Plaintiff's property and that of the Class by noxious odors has unreasonably interfered with Plaintiff's use and enjoyment of their property and, in addition, reduced the value of that property.

37. Members the public, including but not limited to businesses, employees, commuters, tourists, visitors, customers, clients, students, and patients, have experienced and been harmed by the fugitive noxious odors emitted from the Landfill into public spaces; however, unlike Plaintiff and the Class, members of the public who are outside of the Class Definition have not suffered damages in the form of diminished property values and/or loss of use and enjoyment of their

private property.

38. Defendant knew about the substantial, noxious fugitive odor emissions that they were creating for neighboring residents through numerous complaints, administrative actions, significant media attention, and forums held by public bodies throughout Miami-Dade County; yet Defendant has sought only to evade responsibility and has refused to take reasonable and sufficient measures to mitigate the harm.

39. Defendant negligently, knowingly, intentionally, grossly, and recklessly failed to properly construct, maintain and/or operate the Landfill and caused the invasion of Plaintiff's property by noxious odors on frequent, intermittent and reoccurring occasions.

CLASS REPRESENTATION ALLEGATIONS

Plaintiff incorporates by reference as if fully set forth herein each and every allegation in the Complaint.

A. Definition of the Class

39. Plaintiff brings this action individually and on behalf of all persons as the Court may determine to be appropriate for class certification, pursuant to Fla. R. Civ. P. 1.220. Plaintiff seeks to represent a Class of persons preliminarily defined as:

All owner/occupants and renters of residential property within the area enclosed by a geographic boundary consisting of:

Beginning at the interchange from the Ronald Reagan Turnpike (a/k/a Homestead Extension of Florida's Turnpike, SR 821) to Beacon Station Boulevard; **East** on Beacon Station Boulevard to the intersection of Beacon Street Boulevard and N. Okeechobee Road (a/k/a US 27); **Straight** traveling Northeast on Hialeah Gardens Boulevard to W 68th Street; **East** on W 68th Street to the Palmetto Expressway (a/k/a SR 826); **South** on Palmetto Expressway to 58th Street; **West** on 58th Street to the Ronald Reagan Turnpike; **North** on Ronald Reagan Turnpike to starting point at intersection/interchange of the Ronald Reagan Turnpike and Beacon Street Boulevard. (**Ex. 1**, Class Boundary Map).

The definitional boundary is subject to modification as discovery will disclose the location of all persons properly included in the Class (“Class Members”). Plaintiff reserves the right to propose one or more sub-classes if discovery reveals that such subclasses are appropriate.

40. This case is properly maintainable as a class action pursuant to and in accordance with Fla. R. Civ. P. 1.220 in that:

- a. The class, which includes thousands of members, is so numerous that joinder of all members is impracticable;
- b. There are substantial questions of law and fact common to the class including those set forth in greater particularity herein;
- c. The claims of the representative parties are typical of the claims of the class;
- d. Questions of law and fact such as those enumerated herein, which are all common to the class, predominate over any questions of law or fact affecting only individual members of the class;
- e. A class action is superior to any other type of action for the fair and efficient adjudication of the controversy;
- f. The relief sought in this class action will effectively and efficiently provide relief to all members of the class;
- g. There are no unusual difficulties foreseen in the management of this class action; and
- h. Plaintiff, whose claims are typical of those of the Class, through her experienced counsel, will zealously and adequately represent the Class.

B. Numerosity

41. The Class consists of thousands of members and therefore is so numerous that joinder is impracticable.

C. Commonality

42. Numerous common questions of law and fact predominate over any individual questions affecting Class Members, including, but not limited to the following:

- a. whether and how Defendant wrongfully, negligently, knowingly, intentionally, recklessly, and grossly failed to construct, maintain and operate the Landfill, causing noxious odors to invade Plaintiff's property;
- b. whether Defendant owed any duties to Plaintiff;
- c. which duties Defendant owed to Plaintiff;
- d. which steps Defendant has and has not taken in order to control the emission of noxious odors through the maintenance and operation of the Landfill;
- e. whether and to what extent the Landfill's noxious odors were dispersed over the class area;
- f. whether it was reasonably foreseeable that Defendant's failure to properly construct, maintain and operate the Landfill would result in an invasion of Plaintiff's property interests;
- g. whether the degree of harm suffered by Plaintiff and the class constitutes a substantial annoyance or interference with their use and enjoyment of their property; and
- h. the proper measure of damages incurred by Plaintiff and the Class.

D. Typicality

43. Plaintiff has the same interests in this matter as all other members of the Class and her claims are typical of all members of the Class. If brought and prosecuted individually, the claims of each Class Member would require proof of substantially the same material and substantive facts, utilize the same complex evidence including expert testimony, rely upon the same legal theories and seek the same type of relief.

44. The claims of Plaintiff and the other Class Members have a common cause and their damages are of the same type. The claims originate from the same failure of the Defendant to properly construct, maintain and operate the Landfill.

45. All Class Members have suffered injury in fact as a result of the invasion of their property by Defendant's release of noxious odors.

E. Adequacy of Representation

46. Plaintiff's claims are sufficiently aligned with the interests of the absent Class Members to ensure that the Class' claims will be prosecuted with diligence and care by Plaintiff as representative of the Class. Plaintiff will fairly and adequately represent the interests of the Class and do not have interests adverse to the Class.

47. Plaintiff has retained the services of counsel who are experienced in complex class action litigation and in particular class actions involving neighborhood environmental concerns, including the emission of noxious odors. Plaintiff's counsel will vigorously prosecute this action and will otherwise protect and fairly and adequately represent Plaintiff and all absent Class Members.

F. Class Treatment Is the Superior Method of Adjudication

48. A class action is superior to other methods for the fair and efficient adjudication of the controversies raised in this Complaint because:

- a. Individual claims by the Class Members would be impracticable as the costs of pursuit would far exceed what any one Class Member has at stake;
- b. Little or no individual litigation has been commenced over the controversies alleged in this Complaint and individual Class Members are unlikely to have an interest in separately prosecuting and controlling individual actions;
- c. The concentration of litigation of these claims in one action will achieve efficiency and promote judicial economy; and
- d. The proposed class action is manageable.

49. The prosecution of separate actions by or against individual members of the Class would create the risk of (i) inconsistent or varying adjudications with respect to individual members of the Class, which could establish incompatible standards of conduct for the party opposing the Class; and (ii) adjudications with respect to individual members of the Class

which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

50. Notice can be provided to members of the Class by U.S. Mail and/or publication.

LIABILITY

CAUSE OF ACTION I

NUISANCE

Plaintiff incorporates by reference as if fully set forth herein each and every allegation in the Complaint.

51. The noxious odors, which entered Plaintiff's property originated from the Landfill constructed, maintained and operated by Defendant.

52. The noxious odors have impacted, and been disbursed across, all public and private property in the Class Area.

53. The noxious odors invading Plaintiff's property are indecent and offensive to people with ordinary health and sensibilities and obstruct the free use of their property so as to substantially and unreasonably interfere with the comfortable enjoyment of life and property, including in but not limited to the following ways:

- a. Causing Plaintiff to remain indoors and forego use of outdoor areas, including her patio;
- b. Causing Plaintiff to keep doors and windows closed when weather conditions otherwise would not so require; and
- c. Causing Plaintiff annoyance, discomfort, inconvenience, embarrassment, and reluctance, including by being unable to invite guests to their homes and/or play outside with children.

54. Defendant owed and continues to owe a duty to Plaintiff and the putative class to prevent and abate the unreasonable interference with the invasion of their private property.

55. Defendant owed and continues to owe a duty to the public to prevent and abate unreasonable fugitive emissions of noxious odors and gases into public property.

56. By constructing and then failing to reasonably construct, operate, repair, and maintain its landfill, Defendant has wrongfully, negligently, and knowingly created a foreseeable harm by causing an unreasonable invasion of Plaintiff's property by noxious odors, gases and/or particulates.

57. As a foreseeable, direct and proximate result of the foregoing conduct and omissions of Defendant, Plaintiff suffered damages to property as alleged herein.

58. Plaintiff suffered harm relating to the use and enjoyment of land and property, and decreased property values.

59. Defendant's noxious emissions have invaded public spaces and caused harm to the public.

60. The injuries to Plaintiff's property, and Plaintiff's rights therein, are separate, different in kind, and in addition to the harm caused by Defendant to the public at-large and/or other private individuals not within the class description.

61. The nuisance is recurring and ongoing.

62. The nuisance is abatable.

63. Plaintiff did not consent to the invasion of their property by noxious odors.

64. By causing noxious odors produced and controlled by Defendant to physically invade Plaintiff's land and property, Defendant negligently, knowingly, intentionally, and recklessly created a nuisance which substantially and unreasonably interfered with Plaintiff's use and enjoyment of property.

65. Any social utility that is provided by the Landfill is clearly outweighed by the harm suffered by the Plaintiff and the putative class, who have on frequent occasions been deprived of the full use and enjoyment of their properties and have been forced to endure substantial loss in the value of their properties.

66. Defendant's substantial and unreasonable interference with Plaintiff's use and enjoyment of their property constitutes a nuisance for which Defendants are liable to Plaintiff and the putative class for all damages arising from such nuisance, including compensatory and injunctive relief.

CAUSES OF ACTION II AND III

NEGLIGENCE

Plaintiff incorporates by reference as if fully set forth herein each and every allegation in the Complaint.

67. Defendant owed, and continues to owe, a duty to Plaintiff to construct, operate and maintain the Landfill in a reasonable manner and to take reasonable steps to prevent and abate the fugitive emission of noxious gases and odors from the Landfill.

68. Defendant breached its duty by negligently and improperly maintaining and operating the Landfill, such that it has caused the invasion of noxious odors into Plaintiff's homes, land, and property on occasions too numerous to mention.

69. As a direct and proximate result of Defendant's negligence and gross negligence in maintaining and operating the Landfill, Plaintiff's property, on occasions too numerous to mention, has been invaded by noxious odors.

70. As a further direct and proximate result of the foregoing conduct of the Defendant, Plaintiff suffered damages to property as alleged herein.

71. The invasion and subsequent damages suffered by Plaintiff were reasonably foreseeable by the Defendants.

72. By failing to properly construct, maintain and operate the Landfill, Defendant failed to exercise the duty of ordinary care and diligence, which they owe to Plaintiff and the putative class, so noxious odors would not invade their property.

73. A properly constructed, operated and maintained landfill will not emit noxious odors into neighboring residential areas.

74. By failing to construct, maintain and operate the Landfill, Defendant negligently, knowingly, intentionally, and recklessly caused the invasion of Plaintiff's property by noxious odors.

75. Defendant knowingly breached its duty to exercise ordinary care and diligence when it improperly constructed, maintained and operated the Landfill and knew, or should have known, upon reasonable inspection that such actions would cause Plaintiff's property to be invaded by noxious odors.

76. As a direct and proximate result of the failure of Defendant to exercise ordinary care, Plaintiff's residence was invaded by noxious odors causing and constituting damage to property, including by interfering with use and enjoyment of property and causing diminution of value.

PRAYERS FOR RELIEF

Plaintiff incorporates by reference as if fully set forth herein each and every allegation in the Complaint.

WHEREFORE, Plaintiff, individually and on behalf of the proposed Class, pray for judgment as follows:

- A. Certification of the proposed Class pursuant to Fla. R. Civ. P. 1.220;
- B. Designation of Plaintiff as representatives of the proposed Class and designation of their counsel as Class Counsel;
- C. Judgment in favor of Plaintiff and the Class members and against Defendants;
- D. Award Plaintiff and the Class members all compensatory and punitive damages in an amount considered fair and reasonable by a jury and for all such further relief, both general and specific to which they may be entitled;
- E. Award Plaintiff and the Class members injunctive relief not inconsistent with Defendants' state and federal regulatory obligations;
- F. Such further relief both general and specific to which Plaintiff may be entitled.

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DEMAND FOR JURY TRIAL

Plaintiff, Dalia Miranda, on behalf of herself and all others similarly situated, demands trial by jury on all issues so triable.

DATED this 19th day of March 2020.

Respectfully Submitted:

/s/ Spencer Aronfeld

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