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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE

SARAH HAND AND GRETCHEN
HAND, a married couple,
Plaintiffs,

v.

RAINIER VIEW WATER COMPANY,
INC.,
Defendant.

Cause No.:

COMPLAINT FOR:

- (1) BREACH OF CONTRACT
- (2) BREACH OF EXPRESS WARRANTY OF FITNESS FOR PARTICULAR PURPOSE
- (3) BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
- (4) PRODUCT LIABILITY-DEFECT IN CONSTRUCTION RCW 7.72.030 (2)
- (5) PRODUCT LIABILITY-FAILURE TO CONFORM TO EXPRESS WARRANTY- RCW 7.72.030(2)
- (6) PRODUCT LIABILITY-INADEQUATE WARNINGS AND INSTRUCTIONS
- (7) INTENTIONAL MISREPRESENTATION
- (8) NEGLIGENT MISREPRESENTATION
- (9) NEGLIGENCE
- (10) VIOLATION OF STATE CONSUMER PROTECTION ACT (RCW 19.86.090)
- (11) PUBLIC NUISANCE (RCW 7.48)

COME NOW, the Plaintiffs, Sarah Hand and Gretchen Hand, a married couple, by and through their attorney of record, Nigel S. Malden, and hereby allege as follows:

I. PARTIES

1.1 Sarah Hand and Gretchen Hand are a married couple residing in Pierce County, Washington.

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1 1.2 Rainier View Water Company, Inc. (Rainier) is a privately held corporation licensed to
2 conduct business in the state of Washington and headquartered in Pierce County,
3 Washington.

4 **II. VENUE AND JURISDICTION**

5
6 2.1 The Defendant is headquartered in Pierce County, Washington where it engages in the
7 sale and distribution of water to more than 30,000 customers including the plaintiffs.

8 2.2 The defendant's wrongful actions occurred and caused damage to plaintiffs in Pierce
9 County, Washington.

10 2.3 This court has jurisdiction over the subject matter and the parties and venue is proper.

11
12 **III. SUMMARY OF FACTS**

13 3.1 The plaintiffs, Sarah Hand and Gretchen Hand bought a house located at 7202 201st
14 Street East, Spanaway, Washington, in May of 2015. The house is situated in a gated,
15 residential community known as Springwood Estates.

16 3.2 After they moved in, the plaintiffs noticed that the tap water coming out of the faucets in
17 their home often appeared dark brown and contaminated by debris.

18
19 3.3 The plaintiffs began investigating and learned that several other residents of Springwood
20 Estates were having similar problems with the appearance, odor, and quality of the tap
21 water provided by Defendant Rainier.

22 3.4 Defendant Rainier manufactures, collects, treats, markets, sells and delivers water to the
23 plaintiffs and to other residential customers located in Springwood Estates in Spanaway,
24 Washington.

25 3.5 Defendant Rainier represents its water to the plaintiffs and to the public as safe, clean,
26 free of contaminants and fit for human consumption and normal household use including
27 bathing, cooking and cleaning.

1 3.6 Despite these representations, the water actually provided by Defendant Rainier to
2 plaintiffs is often brackish and dirty brown in color with floating debris and particulates
3 which is disgusting to look at and unfit for normal household use and consumption.

4 3.7 Defendant Rainier's water is contaminated by minerals, sediments, chemicals or other
5 foreign substances and has damaged the plaintiffs plumbing fixtures and appliances. The
6 contaminated water has likely caused skin rashes, infections and other health problems.

7 3.8 Defendant Rainier has been aware their water is tainted for many years and has promised
8 but failed to take reasonable corrective action.

9
10 **IV. FIRST CAUSE OF ACTION - BREACH OF CONTRACT**

11 4.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

12 4.2 The defendant agreed to provide the plaintiffs with safe, clean drinking water fit for
13 human consumption and household use including bathing, cooking and cleaning.

14 4.3 The plaintiffs agreed to pay for the water.

15 4.4 The defendant breached the contract by providing the plaintiffs with dirty, brown,
16 contaminated water unfit for human consumption and normal household use including
17 bathing, cooking and cleaning.

18 4.5 This breach of contract proximately caused economic damage in an amount to be proven
19 at trial. The damages include but are not limited to the cost to repair or replace plumbing
20 fixtures and appliances, the cost to add water filtration devices, loss of use, diminution in
21 property value, and the cost to obtain clean water from a substitute source.

22
23 **V. SECOND CAUSE OF ACTION - BREACH OF EXPRESS WARRANTY OF**
24 **FITNESS FOR PARTICULAR PURPOSE**

25 5.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

26 5.2 Defendant expressly warranted to plaintiffs that its water was fit for human consumption
27 and normal household use including cooking, bathing and cleaning.

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1 5.3 Defendant breached this express warranty which proximately caused economic damage
2 in an amount to be proven at trial. The damages include but are not limited to the cost to
3 repair or replace plumbing fixtures and appliances, the cost to add special mechanical
4 filtration devices, loss of use, diminution in property value, and the cost to obtain clean
5 water from a substitute source.

6 **VI. THIRD CAUSE OF ACTION - BREACH OF IMPLIED WARRANTY OF**
7 **MERCHANTABILITY**

8 6.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

9 6.2 Defendant impliedly warranted to plaintiffs that its water is fit for human consumption
10 and normal household use including cooking, bathing and cleaning.

11 6.3 Defendant breached this implied warranty which proximately caused economic damage
12 in an amount to be proven at trial. The damages include but not limited to the cost to
13 repair or replace plumbing fixtures and appliances, the cost to add special mechanical
14 filtration devices, loss of use, diminution in property value, and the cost to obtain clean
15 water from a substitute source.

16 **VII. FOURTH CAUSE OF ACTION - PRODUCT LIABILITY-DEFECT IN**
17 **CONSTRUCTION RCW 7.72.030 (2)**

18 7.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

19 7.2 Defendant is both a product manufacturer and seller as defined by RCW7.72.010.

20 7.3 The water sold by Defendant was not reasonably safe in construction and did not
21 conform to the manufacturer's express warranty or implied warranties under RCW
22 07.72.030(2).
23

24 7.4 Defendant is strictly liable for special and general damages proximately caused thereby
25 including cost to repair or replace plumbing fixtures and appliances, the cost to add water
26 filtration devices, loss of use, diminution in property value, the cost to obtain clean water
27 from a substitute source, bodily injury and emotional distress.
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1 **VIII. FIFTH CAUSE OF ACTION - PRODUCT LIABILITY-FAILURE TO**
2 **CONFORM TO EXPRESS WARRANTY- RCW 7.72.030(2)**

3 8.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

4 8.2 Defendant is both a product manufacturer and seller as defined by RCW 7.72.010.

5 8.3 Defendant manufactured, sold and delivered water to plaintiffs that was not reasonably
6 safe in construction and did not conform to the manufacturer's express warranty or
7 implied warranties under RCW 07.72.030(2).

8 8.4 Defendant is strictly liable for special and general damages proximately caused thereby
9 including cost to repair or replace plumbing fixtures and appliances, the cost to add water
10 filtration devices, loss of use, diminution in property value, the cost to obtain clean water
11 from a substitute source, bodily injury and emotional distress.

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13 **IX. SIXTH CAUSE OF ACTION - PRODUCT LIABILITY-INADEQUATE**
14 **WARNINGS AND INSTRUCTIONS**

15 9.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

16 9.2 Defendant is both a product manufacturer and seller as defined by RCW 7.72.010.

17 9.3 Defendant manufactured, sold and delivered water to plaintiffs that was not reasonably
18 safe because adequate warnings or instructions were not provided as required by RCW
19 7.72.030.

20 9.4 Defendant is strictly liable for special and general damages proximately caused thereby
21 including cost to repair or replace plumbing fixtures and appliances, the cost to add water
22 filtration devices, loss of use, diminution in property value, and the cost to obtain clean
23 water from a substitute source, bodily injury and emotional distress.

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25 **X. SEVENTH CAUSE OF ACTION - INTENTIONAL MISREPRESENTATION**

26 10.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

- 1 10.2 Defendant intentionally misrepresented material facts to the plaintiffs regarding the
2 quality and safety of its water and its abilities and intentions to fix the problem.
- 3 10.3 Defendant knew its statements were false and were intended to induce plaintiffs to
4 continue paying for tainted water.
- 5 10.4 The plaintiffs' justifiably relied on defendant's intentional misrepresentations which
6 proximately caused special and general damages in an amount to be proven at trial.
- 7 10.5 The damages include cost to repair or replace plumbing fixtures and appliances, the cost
8 to add water filtration devices, loss of use, diminution in property value, and the cost to
9 obtain clean water from a substitute source, bodily injury and emotional distress.

11 **XI. EIGHTH CAUSE OF ACTION - NEGLIGENT MISREPRESENTATION**

- 12 11.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.
- 13 11.2 Defendant negligently misrepresented material facts to the plaintiffs regarding the quality
14 and safety of its water and its abilities and intentions to fix the problem.
- 15 11.3 Defendant reasonably should have known that its statements were false and would
16 foreseeably induce plaintiffs to continue paying for tainted water.
- 17 11.4 Plaintiffs reasonably relied on defendant's negligent misrepresentations which
18 proximately caused special and general damages in an amount to be proven at trial.
- 19 11.5 The damages include cost to repair or replace plumbing fixtures and appliances, the cost
20 to add water filtration devices, loss of use, diminution in property value, and the cost to
21 obtain clean water from a substitute source, bodily injury and emotional distress.

24 **XII. NINTH CAUSE OF ACTION - NEGLIGENCE**

- 25 12.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

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12.2 The defendant had a duty to use reasonable care in the collection, storage, and delivery to plaintiffs of clean, uncontaminated water which is safe for human consumption and normal household use including cooking, washing, drinking and cleaning.

12.3 The defendants negligently breached this duty of care.

12.4 The Defendant's negligence proximately caused special and general damages in amounts to be proven at trial. The damages include cost to repair or replace damaged property, diminution in real property value, and cost of buying replacement drinking water, plumbing fixtures and appliances, the cost to add water filtration devices, loss of use, diminution in property value, and the cost to obtain clean water from a substitute source, bodily injury and emotional distress.

XIII. TENTH CAUSE OF ACTION - VIOLATION OF STATE CONSUMER PROTECTION ACT (RCW 19.86.090)

13.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

13.2 Defendant engaged in unfair or deceptive acts or practices in connection with its marketing and sale of water to plaintiffs and to other residential customers in Springwood Estates.

13.3 The unfair or deceptive acts or practices occurred in the conduct of defendant's trade or commerce and affects the public interest.

13.4 The unfair or deceptive acts and practices proximately caused injuries to plaintiffs including but not limited to cost of investigation, and cost to repair or replace.

XIV. ELEVENTH CAUSE OF ACTION - PUBLIC NUISANCE (RCW Chapter 7.48)

14.1 Paragraph 3.1 through 3.6 are hereby incorporated by reference.

14.2 Defendant has assumed a legal duty to provide clean, safe water to plaintiffs and others to use in their homes for drinking, cooking, washing and cleaning.

1 14.3 The Defendant has breached this duty which injures, and endangers the comfort, repose,
2 health and safety of plaintiffs and renders them insecure in their use and enjoyment of
3 their property which has proximately caused special and general damages in amounts to
4 be proven at trial.

5 14.4 The damages include cost to repair or replace plumbing fixtures and appliances, the cost
6 to add water filtration devices, loss of use, diminution in property value, and the cost to
7 obtain clean water from a substitute source, bodily injury and emotional distress.

8 **XV. PRAYER FOR RELIEF**

9
10 15.1 Plaintiffs request entry of judgement against defendants on all causes of action to include
11 an award of monetary compensation for:

- 12 a) General damages in the amount to be determined at trial for emotional distress
13 and physical injury under the third, fourth and fifth causes of action;
- 14 b) Special damages for property damage under all seven causes of action;
- 15 c) Special damages for diminution in real property value under all seven causes of
16 action;
- 17 d) Treble economic damages under RCW 19.86.090;
- 18 e) Pre-judgment interest on special damages;
- 19 f) Attorney fees and legal costs under RCW 19.86.090;
- 20 g) An order of injunction enjoining defendant from continuing to supply
21 contaminated water;
- 22 h) Any other relief the court deems just and proper under the circumstances.

23 DATED: This 16 day of February, 2017.



24
25 **NIGEL S. MALDEN, WSBA#15643**
26 **Attorney for Plaintiffs**

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