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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

CITY OF LONG BEACH, a municipal corporation;

Plaintiff,

v.

MONSANTO COMPANY,
SOLUTIA INC., and
PHARMACIA CORPORATION, and
DOES 1 through 100,

Defendants.

) CASE NO. _____

)

) **PLAINTIFFS' ORIGINAL**
) **COMPLAINT**

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1 I. INTRODUCTION

2 1. Polychlorinated biphenyls (or “PCBs”) are man-made chemical compounds
3 that have become notorious as global environmental contaminants — found in bays,
4 oceans, rivers, streams, soil, and air. As a result, PCBs have been detected in the tissues
5 of all living beings on earth including all forms of marine life, various animals and
6 birds, plants and trees, and humans.

7 2. The extent of PCB contamination is troubling because PCBs cause a
8 variety of adverse health effects. In humans, PCB exposure is associated with cancer as
9 well as serious non-cancer health effects, including effects on the immune system,
10 reproductive system, nervous system, endocrine system and other health effects. In
11 addition, PCBs destroy populations of fish, birds, and other animal life.

12 3. Monsanto Company was the sole manufacturer of PCBs in the United
13 States from 1935 to 1979, and trademarked the name “Aroclor” for certain PCB
14 compounds. Although Monsanto knew for decades that PCBs were toxic and knew that
15 they were widely contaminating all natural resources and living organisms, Monsanto
16 concealed these facts and continued producing PCBs until Congress enacted the Toxic
17 Substances Control Act (“TSCA”), which banned the manufacture and most uses of
18 PCBs as of January 1, 1979.

19 4. U.S. EPA (2000b) has classified PCBs as ‘probable human carcinogens.’
20 Studies have suggested that PCBs may play a role in inducing breast cancer. Studies
21 have also linked PCBs to increased risk for several other cancers including liver, biliary
22 tract, gall bladder, gastrointestinal tract, pancreas, melanoma, and non-Hodgkin’s
23 lymphoma. PCBs may also cause non-carcinogenic effects, including reproductive
24 effects and developmental effects (primarily to the nervous system). PCBs tend to
25 accumulate in the human body in the liver, adipose tissue (fat), skin, and breast milk.
26 PCBs have also been found in human plasma, follicular fluid, and sperm fluid. Fetuses
27 may be exposed to PCBs in utero, and babies may be exposed to PCBs during
28 breastfeeding. According to U.S. EPA (2000b), ‘[s]ome human studies have also

1 suggested that PCB exposure may cause adverse effects in children and developing
2 fetuses while other studies have not shown effects. Reported effects include lower IQ
3 scores, low birth weight, and lower behavior assessment scores.

4 5. PCBs have traveled into many Long Beach Waters by a variety of ways.
5 PCBs were used in many industrial and commercial applications such as paint, caulking,
6 transformers, capacitors, coolants, hydraulic fluids, plasticizers, sealants, inks,
7 lubricants, and other uses. PCBs regularly leach, leak, off-gas, and escape their
8 intended applications, causing runoff during naturally occurring storm and rain events,
9 after being released into the environment. The runoff originates from multiple sources
10 and industries and enters Long Beach Waters with stormwater and other runoff.

11 6. The natural fate and transport of PCBs result in the gathering and collection
12 in stormwater through no fault of the City of Long Beach, which lawfully discharges
13 water into many bodies of water through an NPDES permit.

14 7. Many watersheds, lakes, rivers, streams, creeks, bays, ports, harbors, and
15 other bodies of water are contaminated with PCBs, which have been detected in water,
16 sediment, fish, and wildlife. These water bodies include but are not limited to the
17 following (“Long Beach Waters”):

- 18 a. The Port of Long Beach
- 19 b. Colorado Lagoon
- 20 c. Dominguez Watershed

21 8. The U.S. Environmental Protection Agency (“U.S. EPA”) has approved
22 several PCB Total Maximum Daily Load (“TMDL”) for Long Beach Waters.

23 9. A Total Maximum Daily Load, or TMDL, is a calculation of the maximum
24 amount of pollutant that an impaired body of water can receive and still safely meet
25 water quality standards.¹

26
27
28 ¹ United States Environmental Protection Agency,
www.water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/

1 10. Long Beach Waters are impaired due to the presence of PCBs.

2 11. TMDLs are intended to achieve protection of the commercial sport fishing
3 beneficial use and to the extent that other beneficial uses are affected by PCBs, the
4 TMDLs are also intended to ensure protection of other beneficial uses, specifically,
5 preservation of wildlife, rare and endangered species, and habitat.²

6 12. Long Beach Waters TMDLs are expressed as water column targets,
7 sediment targets, fish tissue targets, and/or stormwater wasteload allocations.

8 Plaintiff CITY OF LONG BEACH hereby alleges, upon information and belief,
9 as follows:

10 **II. PARTIES**

11 13. The CITY OF LONG BEACH (“Long Beach”) is a California Charter City
12 and municipal corporation, duly organized and existing by virtue of the laws of the State
13 of California.

14 14. “Plaintiff” shall refer to the CITY OF LONG BEACH.

15 15. Plaintiff brings this suit pursuant to California Code of Civil Procedure
16 731, and California Civil Code sections 3479, 3480, 3491, 3493, and 3494 and any other
17 applicable codes or forms of relief available for monetary damages and removal of the
18 public nuisance caused by PCBs in Long Beach Waters.

19 16. Plaintiff manages and operates municipal storm water systems, which
20 collect and transport stormwater to be discharged into Long Beach Waters. In order to
21 discharge stormwater into Long Beach Waters, Plaintiff is required to receive a
22 Municipal Regional Stormwater Permit from the California Regional Water Quality
23 Control Board- Los Angeles Region, pursuant to the National Pollutant Discharge
24 Elimination System under the Clean Water Act.

25 17. Plaintiff is a permittee under a Municipal Regional Stormwater Permit,
26 which includes TMDLs for PCBs, as Long Beach Waters are impaired due to PCBs.

27 _____

28 ² Id

1 18. Plaintiff is subject to PCB TMDLs under respective Municipal Regional
2 Stormwater Permits. The PCB TMDLs require Plaintiff to limit its storm water
3 discharge of PCBs and engage in many water, sediment, and tissue quality objective
4 efforts.

5 19. Thus, Plaintiff has spent money in efforts to remediate, reduce, and monitor
6 PCBs toward these state-mandated TMDL goals. Plaintiff will spend more money in
7 the future, including possibly additional remediation efforts.

8 20. Defendant Monsanto Company (“Monsanto”) is a Delaware corporation
9 with its principal place of business in St. Louis, Missouri.

10 21. Defendant Solutia Inc. (“Solutia”) is a Delaware corporation with its
11 headquarters and principal place of business in St. Louis, Missouri.

12 22. Defendant Pharmacia LLC (formerly known as “Pharmacia Corporation”
13 and successor to the original Monsanto Company) is a Delaware LLC with its principal
14 place of business in Peapack, New Jersey. Pharmacia is now a wholly-owned
15 subsidiary of Pfizer, Inc.

16 23. The original Monsanto Company (“Old Monsanto”) operated an
17 agricultural products business, a pharmaceutical and nutrition business, and a chemical
18 products business. Old Monsanto began manufacturing PCBs in the 1930s and
19 continued to manufacture commercial PCBs until the late 1970s.

20 24. Through a series of transactions beginning in approximately 1997, Old
21 Monsanto’s businesses were spun off to form three separate corporations. The
22 corporation now known as Monsanto operates Old Monsanto’s agricultural products
23 business. Old Monsanto’s chemical products business is now operated by Solutia. Old
24 Monsanto’s pharmaceuticals business is now operated by Pharmacia.

25 25. Solutia was organized by Old Monsanto to own and operate its chemical
26 manufacturing business. Solutia assumed the operations, assets, and liabilities of Old
27
28

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