

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

ROBERT GATZKE, THERESA DEUEL, BRYAN  
SCHOFIELD, JOSEPH DETTMAN, and  
GEOFFREY RICKABY  
On Behalf of Themselves and all Others Similarly  
Situated,

Civil Action No.

Plaintiffs,

v.

CITY OF WEST BEND, WISCONSIN

Defendant.

**PLAINTIFFS' CLASS ACTION COMPLAINT AND JURY DEMAND**

Plaintiffs, by and through their undersigned attorneys, Urban and Taylor, S.C. and Nidel & Nace, PLLC bring this civil action on his/their own behalf and on behalf of the classes they represent to obtain damages, both compensatory and punitive, injunctive relief, and costs of suit from the named Defendant, and complain and allege, as follows:

**INTRODUCTION**

1. This is a civil action to secure redress from City of West Bend (“Defendant”) for damages suffered by members of the putative classes defined below (the “Class Members”) as a result of the contamination of their property by ongoing leachate from the Schuster Drive Landfill (“the Landfill”) and the mishandling of toxic and hazardous wastes disposed of and contained in the Landfill and the mishandling of the cleanup of wastes contained within that landfill and now contained in, under, and on Plaintiffs’ and Class Members’ properties. These wastes have been leaking from the Landfill for decades, a fact that was known to Defendant, and yet this information has been concealed from Plaintiffs and Class Members.

2. Plaintiffs and Class Members have been exposed to hazardous substances, including, but not limited to, chlorinated solvents, including trichloroethylene (“TCE”), perchloroethylene (“PCE”), dichloroethylene, dichloroethane, vinyl chloride, and 1,4 dioxane, released as a result of Defendants’ conduct in handling wastes disposed of in the Landfill.

3. Prior to the Fall of 2019, Defendant concealed the presence of these chemicals leaking from the Landfill and onto, into, and around Plaintiffs’ and Class Members’ properties, despite their knowledge of the active leaking, contamination, and trespass and the associated health risks with these toxic and carcinogenic chemicals.

4. Despite Defendant’s concealment, the presence of toxic chemicals and hazardous substances on, in, and around Plaintiffs’ and Class Members’ properties presents a significant health risk to those living in, on, and around these properties as well as a significant environmental liability to those owning these properties.

## **PARTIES**

### **Plaintiff(s)**

14. Plaintiff Robert Gatzke is a resident of the Villa Park neighborhood, in West Bend, Wisconsin. Plaintiff Robert Gatzke owns the property located within the Class Area at 819 Villa Park Drive. Plaintiff Robert Gatzke is a putative class representative for the Villa Park Property Damage Class.

15. Plaintiff Theresa Deuel is a resident of the Villa Park neighborhood, in West Bend, Wisconsin. Plaintiff Theresa Deuel owns the property located within the Class Area at 1213 Villa Park Drive. Plaintiff Theresa Deuel is a putative class representative for the Villa Park Property Damage Class.

16. Plaintiff Bryan Schofield is a resident of the Villa Park neighborhood, in West Bend, Wisconsin. Plaintiff Bryan Schofield owns the property located within the Class Area at 1040

Shepherds Drive. Plaintiff Bryan Schofield is a putative class representative for the Villa Park Property Damage Class.

17. Plaintiff Joseph Dettman is a resident of the Villa Park neighborhood, in West Bend, Wisconsin. Plaintiff Joseph Dettman owns the property located within the Class Area at 3225 Mediterranean Avenue. Plaintiff Joseph Dettman is a putative class representative for the Villa Park Property Damage Class.

18. Plaintiff Geoffrey Rickaby is a resident of the Villa Park neighborhood, in West Bend, Wisconsin. Plaintiff Geoffrey Rickaby owns the property located within the Class Area at 3312 Mediterranean Avenue. Plaintiff Geoffrey Rickaby is a putative class representative for the Villa Park Property Damage Class.

19. As a result of Defendant's actions, specifically its inadequate containment, handling, and remedial activities, toxic and hazardous chemical substances ("Landfill contaminants"), including chlorinated solvents (including TCE, PCE, DCE, DCA, and vinyl chloride) and 1,4-dioxane have entered onto Plaintiffs' and Class Members' properties and have contaminated their property, air, land, groundwater, dwelling and surrounding environment, thereby causing Plaintiffs and the Class Members to suffer damage to property and personal finance, loss of the use and enjoyment of property and destruction of their community.

20. As a result of the actions of Defendant's toxic and carcinogenic chemical wastes have entered onto Plaintiffs' and the Class Members' neighbors' properties depriving Plaintiffs and the Class Members of their free use and enjoyment of their properties.

### **Defendant**

21. The City of West Bend ("West Bend" or the "City") is an incorporated City under the laws of Wisconsin.

22. The City of West Bend has been the owner and/or operator of the Schuster Landfill for multiple decades and has been responsible for the Landfill since at least the mid-1980s.

### **JURISDICTION AND VENUE**

23. This Court has jurisdiction Defendant as it is located in the State of Wisconsin and the actions giving rise to the injuries claimed took place within the State of Wisconsin, specifically in Washington County.

24. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1367.

25. Venue is appropriate in the United States District Court for the Eastern District of Wisconsin pursuant to 42 U.S.C. § 11046(b)(1).

### **FACTUAL ALLEGATIONS**

26. Plaintiffs and the Class Members have incurred damages as a result of the contamination of their property by the ongoing and continuing leaching of hazardous and carcinogenic wastes into, under, and onto their properties from the Landfill.

27. These hazardous waste materials have been and continue to be released into, under, and onto the Plaintiffs' and Class Members' properties. Plaintiffs', the Class Members' and the Class Area properties have been and continue to be contaminated with these hazardous substances, including carcinogenic chlorinated solvents and 1,4-dioxane.

28. The Landfill is an unlined municipal landfill that is not, and never was, properly equipped for the disposal of hazardous substances, including chlorinated solvents.

29. The Landfill was in operation roughly from 1964 through 1984. During this time period, despite the lack of appropriate controls and lining, hazardous wastes, including local industrial chemicals, including but not limited to chlorinated solvents, TCE and 1,4-dioxane were disposed of in significant quantities so as to represent an imminent and substantial threat to public health and the Plaintiffs' and Class Members' properties in the Villa Park neighborhood.

30. Despite the closure of the Landfill in 1984, the Landfill continues to leak hazardous and carcinogenic chemicals into, under, and onto the surrounding property, including the Villa Park neighborhood.

31. The City knew, at least as early as 1986 that the Landfill was leaking these hazardous and carcinogenic chemicals into, under, and onto properties in or near what is now known as the Villa Park neighborhood.

32. The City was aware of groundwater contamination of the area now known as the Villa Park neighborhood as early as 1986 when they tested local drinking wells and ultimately ran city water to the area.

33. Despite closing wells due to the ongoing contamination and providing city water to the area, the City did nothing to identify the presence of hazardous and carcinogenic chemicals in, on, and under the property known comprising the Villa Park neighborhood.

34. Defendant did nothing to notify the public, including those living or purchasing homes in the Villa Park neighborhood that their properties were contaminated and that there was a serious risk of exposure to those contaminants through groundwater, surface water, sump pumps and indoor and outdoor vapors along with associated health threats.

35. For over 30-years, Defendant failed to properly control the contamination, properly remediate the contamination, and to notify the public about the presence and threat of the contamination.

36. This bungled investigation, containment, and remediation, failed to protect the public, and instead facilitated the development of the Villa Park neighborhood placing families including pregnant mothers, young infants, and children living among the contamination for 30-plus years with no knowledge of the contamination of the property or health threats associated with this contamination.

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.