

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA

UNITED STATES OF AMERICA and the)
STATE OF GEORGIA,)
)
Plaintiffs,)
)
v.)
)
METAL CONVERSION TECHNOLOGIES,)
LLC, 1 EAST PORTER STREET, LLC and)
JOHN PATTERSON, individually)
)
Defendants.)
_____)

Civil Action No. 4:16-cv168-HLM

COMPLAINT

Plaintiffs, the United States of America, by the authority of the Attorney General of the United States and through the undersigned attorneys, acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), and the State of Georgia, by the authority of the Attorney General of the State of Georgia and through the undersigned attorneys, acting at the request of the Director of the Environmental Protection Division (“EPD”) of the Georgia Department of Natural Resources, file this Complaint and allege as follows:

NATURE OF ACTION

1. This is a civil action brought against Metal Conversion Technologies, LLC (“MCT”), 1 East Porter Street, LLC (“EPS”), and Mr. John Patterson (collectively, “Defendants”) to obtain injunctive relief and civil penalties arising from the management of solid, hazardous, and universal wastes at Defendants’ facility in Cartersville, Georgia. The action is brought pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6928(a), and Section 12-8-65(a)(12) of the Georgia Hazardous Waste

Management Act (“GHWMA”), O.C.G.A. § 12-8-65(a)(12), for violations of the GHWMA, O.C.G.A. §§ 12-8-60 to 12-8-83 [Subtitle C of RCRA, 42 U.S.C. §§ 6921 to 6939f], and the regulations promulgated pursuant thereto at Ga. Comp. R. & Regs. Ch. 391-3-11 (the Georgia Hazardous Waste Management Rules (“GHWMR”)) [40 C.F.R. Pts. 124, 260-270, and 273]. This action is also brought pursuant to the Georgia Comprehensive Solid Waste Management Act (“SWMA”), O.C.G.A. §§ 12-8-20 et seq., and the regulations promulgated pursuant thereto at Ga. Comp. R. & Regs. Ch. 391-3-4 (the Georgia Solid Waste Management Rules).

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1355, as well as Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). This Court has supplemental jurisdiction over the state law claims asserted by the State of Georgia pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1395, and Section 3008(a)(1) of RCRA, 42 U.S.C. § 6928(a)(1), because the violations and the claims asserted herein arose in this district and because Defendants conduct business in this district.

4. Notice of the commencement of this action was originally given to the State of Georgia in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), on September 2, 2010.

STATUTORY AND REGULATORY BACKGROUND

5. RCRA, enacted in 1976, amended the Solid Waste Disposal Act of 1965. Subtitle C of RCRA, 42 U.S.C. §§ 6921 to 6939f, authorizes the “cradle-to-grave” regulation of hazardous waste. RCRA was amended in 1984 by the Hazardous and Solid Waste Amendments (“HSWA”), Pub. L. 98-616, which added additional requirements. Pursuant to its authority

under RCRA, EPA has promulgated regulations at 40 C.F.R. Parts 124, 260 through 270, and 273 applicable to hazardous waste generators, transporters, and owners and operators of hazardous waste treatment, storage, and disposal (“TSD”) facilities.

6. Section 3006 of RCRA, 42 U.S.C. § 6926, provides that a state may obtain federal authorization to administer the RCRA hazardous waste program in that state. Pursuant to Section 3006 of RCRA, 42 U.S.C. § 6926, the State of Georgia received final authorization to administer a State hazardous waste program in lieu of the federal program set forth in RCRA on August 7, 1984. 42 Fed. Reg. 31417. The provisions of the authorized Georgia hazardous waste management program are found within the GHWMA, O.C.G.A. §§ 12-8-60 to 12-8-83, and the GHWMR, Ga. Comp. R. & Regs. Ch. 391-3-11. The authorized provisions of the GHWMA and the GHWMR have become requirements of Subtitle C of RCRA and are thus federally enforceable by the United States pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), upon notification to the State of Georgia.

7. RCRA and the GHWMA, along with their implementing regulations, provide detailed requirements governing the activities of persons who generate, transport, or treat, store, or dispose of hazardous waste.

8. Generators of hazardous waste are regulated under three broad categories or classes, depending on the amount of hazardous waste generated on a monthly basis. A Conditionally Exempt Small Quantity Generator (“CESQG”) generates no more than one kilogram of acute hazardous waste or 100 kilograms of total hazardous waste per month. Ga. Comp. R. & Regs. Ch. 391-3-11-.07(1) [40 C.F.R. § 261.5]. A Small Quantity Generator (“SQG”) of hazardous waste generates greater than 100 kilograms but less than 1,000 kilograms of hazardous waste per month, but no more than one kilogram of acute hazardous waste per

month, and is subject to the SQG requirements at Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(d)]. A Large Quantity Generator (“LQG”) of hazardous waste generates more than 1,000 kilograms of hazardous waste per month, or more than one kilogram of acute hazardous waste per month, and is subject to the more extensive LQG requirements at Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)].

9. Generators of hazardous waste must first determine if their waste is hazardous using the methods identified in the regulations. Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11]. If such waste is hazardous, generators are subject to the hazardous waste management regulations outlined in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. Pt. 262], including the accumulation, transporting, manifesting, labeling, and packing requirements at Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.12(c), 262.20(a)(1), and 262.30-33, and 262.34], as well as the land disposal restriction requirements outlined in Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. § 268.7].

10. Facilities engaged in the treatment, storage, or disposal of hazardous waste must have a permit and are subject to the management requirements of Ga. Comp. R. & Regs. Ch. 391-3-11-.10(2) [40 C.F.R. Pt. 264]. O.C.G.A. § 12-8-66 [42 U.S.C. § 6925].

11. Certain hazardous wastes, known as “universal wastes” are subject to an alternate set of regulations that allow longer storage and reduced recordkeeping requirements. *See* Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. Pt. 273]. “Universal Wastes” include batteries, lamps, pesticides, and mercury-containing equipment. Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9].

12. “Universal waste handlers” include facilities that receive universal waste from other universal waste handlers, accumulate universal waste, or send universal waste to particular

types of facilities. *Id.* Universal waste handlers are regulated in two categories based on the amount of universal waste accumulated on site at any one time. Large Quantity Handlers of Universal Waste (“LQHUUW”) accumulate 5,000 kilograms or more of universal waste at any time. Small Quantity Handlers of Universal Waste (“SQHUUW”) accumulate less than 5,000 kilograms of universal waste at any time.

13. “Destination facilities” are facilities that treat, dispose of, or recycle a particular category of universal waste and are generally subject to full hazardous waste regulation as a TSD facility. Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.60(a)]. Destination facilities that recycle universal waste without any prior storage are only subject to Ga. Comp. R. & Regs. Ch. 391-3-11-.07(1) [40 C.F.R. § 261.6(c)(2)].

DEFENDANTS

14. Defendant MCT is a limited liability company, organized and existing under the laws of the State of Georgia, and licensed to do business in the State of Georgia. MCT is owned jointly by Mr. John Patterson and his wife, Mrs. Janet Patterson. MCT was created on September 18, 2003.

15. Defendant John Patterson is or has been the president, owner, operation director, manager, director, facility manager, and managing member of MCT. Mr. Patterson is a corporate officer of MCT and, from at least 2005 until April 2011, was responsible for acquiring all means and materials necessary to conduct MCT’s operations. From at least 2005 until April 2011, Mr. Patterson has been personally involved in or has been directly responsible for MCT’s corporate acts related to solid, hazardous, and universal waste handling, treatment, storage, and disposal.

16. Defendant EPS is a limited liability company, organized and existing under the laws of the State of Georgia, and licensed to do business in the State of Georgia. EPS is owned jointly by Mr. Patterson and his wife. EPS was created on October 13, 2010.¹

17. MCT, EPS, and John Patterson are each considered a “person” within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), Section 12-8-62(18) of the GHWMA, O.C.G.A. § 12-8-62(18), and Section 12-8-22(22) of the SWMA, O.C.G.A. § 12-8-22(22).

THE MCT FACILITY

18. MCT’s and John Patterson’s operations since 2003 include activities at the following street addresses: 1 East Porter Street, Cartersville, Georgia; 6 East Porter Street, Cartersville, Georgia; 26 Freeman Street, Cartersville, Georgia; and 63 Industrial Drive, Cartersville, Georgia. The 1 East Porter Street, 6 East Porter Street, and 26 Freeman Street locations (collectively, the “Facility”) operated together as a single operation and constitute a “facility” pursuant to Ga. Comp. R. & Regs. 391-3-11-.02(1) [40 C.F.R. § 260.10]

19. From approximately February 2005 until at least April 2011, MCT and Mr. Patterson conducted battery collection, cracking and melting operations at the Facility. MCT received various types of batteries, cracked them, drained the electrolyte, and shredded the cracked batteries. Broken plastic battery casings or “chips” were separated from the metal battery components, and the metal components were melted in an induction furnace. The entire process produced two products sold by MCT: cadmium dust and reclaimed metal. The process also generated several hazardous wastes: electrolyte, cadmium dust, furnace filters laden with cadmium dust, and plastic battery chips containing cadmium.

¹ EPS is alleged as a Defendant in this Complaint only in so far as it became an owner of the 1 East Porter Street location beginning on November 15, 2010.

20. The 1 East Porter Street location contains or contained an electric induction furnace, an area for sorting and cracking batteries, a storage area, two loading docks, and an office. MCT's Subtitle C Notification Form submitted to EPD on June 6, 2005, characterized the 1 East Porter Street location as both a LQHUU and a universal waste destination facility. MCT began operating at this location on November 1, 2003. MCT owned the 1 East Porter Street property from January 26, 2007 until MCT sold the property to EPS on November 15, 2010. EPS is the current owner of the 1 East Porter Street property.

21. The 6 East Porter Street location is directly across the street from the 1 East Porter Street location. The 6 East Porter Street location consisted of indoor and outdoor storage areas, an area for draining electrolyte from batteries, and an office. MCT's Subtitle C Notification Form submitted to EPD on June 9, 2008, characterized the 6 East Porter Street location as a LQHUU and a CESQG of hazardous waste. MCT began operating at this location on September 1, 2007. MCT stopped operating at its 6 East Porter Street location sometime after May 2011, as a result of a fire that consumed much of the 6 East Porter Street location. MCT leased this property during its operations there.

22. A utility easement owned by the City of Cartersville runs between the 26 Freeman Street location and the 1 East Porter Street location. MCT used the 26 Freeman Street location for the storage of universal and hazardous waste. The storage area at 26 Freeman Street consisted of a concrete pad that is partially covered by a roof but is not enclosed by walls. MCT's Subtitle C Notification Form submitted to EPD on September 26, 2006, characterized the 26 Freeman Street location as a LQHUU. MCT began operating at this location on September 26, 2006, and MCT claims it ceased its operations there in November 2008. MCT leased this property during its operations there.

23. MCT began operating at the 63 Industrial Drive location sometime after May 2011. The 63 Industrial Drive location is approximately two and one-half miles from the 1 East Porter Street location and consists of a docking bay, an employee break room, an office, and a warehouse. MCT operated the 63 Industrial Drive location as a battery collection and sorting facility.

24. Since 2003, based on actual operations, the Facility operated as a LQHUU for certain universal waste batteries and universal waste lamps, a universal waste destination facility for certain universal waste batteries, an LQG of hazardous waste, and a hazardous waste TSD facility.

GENERAL ALLEGATIONS

25. Since February 2005, Defendants received and stored nickel-cadmium sealed cells, nickel-cadmium wet cells, nickel-metal hydride sealed cells, lithium-ion sealed cells, household alkaline, alkaline-manganese, zinc-chloride, lithium-iron disulfide, lithium-manganese oxide, lithium-sulfur dioxide, lithium-thionyl chloride, lithium polymer, lithium-iron phosphate, lithium primary, and lead-acid batteries at its Facility. Several of these batteries, including, nickel-cadmium, lead-acid, lithium-iron disulfide, lithium-manganese oxide, lithium-sulfur dioxide, lithium-thionyl chloride, lithium polymer, lithium-iron phosphate, and lithium primary batteries are hazardous wastes and therefore may be managed as hazardous or universal wastes. Defendants also accepted computer monitors (which contain cathode ray tubes (“CRTs”)), microwave ovens, and fluorescent bulbs and lamps.

26. MCT and Mr. Patterson began melting operations at the 1 East Porter Street location in approximately February 2005.

27. At 1 East Porter Street, MCT received truckloads of batteries, sorted batteries by their alloy type and placed them on pallets or into containers. MCT cracked some types of batteries to drain their liquid electrolyte. MCT then shredded the batteries and separated the metal components from the plastic chips. The plastic chips were either placed into 55-gallon drums, buckets, or a 30-yard roll-off container.

28. The plastic chips contained approximately 360 milligrams per liter (“mg/L”) of cadmium. Wastes containing more than 1 mg/L of cadmium are a D006 (cadmium) hazardous waste pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.07(1) [40 C.F.R. § 261.24(b)]. As explained below, MCT stored plastic battery chips at the Facility, and on multiple occasions, MCT sent plastic battery chips to a solid waste landfill.

29. The metal components of the shredded batteries were placed into an induction furnace, which could process 1,100 pounds (“lbs”) of battery metal per hour, and were melted to create re-melt alloy and metal oxides and/or cadmium-oxide.

30. Exhaust air from the induction furnace was filtered through a baghouse, which contained 36 filters. Cadmium dust collected in the baghouse filters, as well as the spent baghouse filters, contained more than 1.0 mg/L of cadmium and more than 5.0 mg/L of lead, and are therefore D006 (cadmium) and D008 (lead) hazardous waste pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.07(1) [40 C.F.R. § 261.24(b)]. As explained below, MCT stored spent baghouse filters at its Facility.

31. Drained battery electrolyte contains more than 1.0 mg/L of cadmium and has a pH of higher than approximately 12.5 and is therefore a D006 (cadmium) and D002 (corrosive) hazardous waste pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.07(1) [40 C.F.R. §§ 261.24(b) and 261.22]. As explained below, MCT stored drained electrolyte at its Facility. MCT shipped

electrolyte to Hi-Tech Waste Water Treatment Services in Cartersville, Georgia, in the amounts of 4,840 gallons on or about June 23, 2007 from the 26 Freeman Street location; 3,740 gallons on or about January 23, 2008 from the 1 East Porter Street location; 1,595 gallons on or about February 20, 2008 from the 6 East Porter Street location; 2,450 gallons on or about April 3, 2008 from the 6 East Porter location; and 2,915 gallons on or about May 13, 2008 from the 6 East Porter Street location. Such shipments were documented on non-hazardous waste manifests. At the time of these shipments of electrolyte from MCT, Hi-Tech Waste Water Treatment Services did not have an EPA identification number or a permit for the treatment, storage, or disposal of hazardous waste.

32. EPA or EPD informed MCT that it needed a RCRA Permit to operate as a universal waste destination facility on or about: April 2004; January 11, 2005; February 9, 2005; July 5, 2006; August 9, 2006; August 21, 2006; and August 20, 2009.

33. To date, Defendants have never submitted an application for a RCRA Permit pursuant to RCRA or the GHWMA.

First Fire at MCT

34. On June 19, 2006, a fire broke out at the 1 East Porter Street location and burned for approximately one-half hour. On the same date, a citizen of Cartersville, Georgia complained to EPD that the MCT Facility was emitting toxic odors.

Inspection by EPD on July 5, 2006

35. On July 5, 2006, EPD conducted an inspection at the 1 East Porter Street location.

36. Mr. Patterson claimed that use of a new type of filter caused the fire in the Facility's baghouse on June 19, 2006. Thirty-six used filters were stored in cardboard boxes.

These containers were not labeled as hazardous waste and were not labeled with the dates upon which MCT began accumulating the waste.

37. At the time of the July 5, 2006, inspection, dozens of 55-gallon drums or pallets of waste material were stored at the 1 East Porter Street location, including computer monitors, nickel-cadmium batteries, lead-acid batteries, and nickel-metal hydride batteries. Approximately 35 drums located in front of the 1 East Porter Street location also contained waste batteries; none of these 35 waste drums were labeled or marked with an accumulation date.

38. Cadmium-oxide dust produced by the furnace was being stored on the floor in piles and not in a container.

39. MCT and Mr. Patterson acknowledged sending plastic battery chips to a non-hazardous solid waste landfill.

Second Fire at MCT and Inspection by EPD on August 9, 2006

40. On August 7, 2006, EPD's Mountain District Office received a citizen complaint that MCT was emitting black smoke at the 1 East Porter Street location.

41. On August 9, 2006, EPD conducted an inspection at the 1 East Porter Street location and found that on August 7, 2006, MCT had operated the induction furnace while the baghouse was closed.

42. At the time of the inspection, the Facility was storing sixteen 55-gallon drums of cadmium dust. Sampling conducted by EPD revealed that the dust was D006 (cadmium) and D008 (lead) hazardous waste.

Inspection by EPD on February 29, 2008

43. On February 29, 2008, EPD conducted an inspection at the 1 East Porter Street and 6 East Porter Street locations.

44. In the buildings at the 6 East Porter Street location, there was insufficient aisle space between drums of batteries to inspect the drums. Those drums that could be observed were not labeled as universal waste. The building contained lithium, alkaline, car batteries.

45. At the 1 East Porter Street location, shredded batteries were scattered on the floor next to and beneath the shredder and several hundred 55-gallon drums full of batteries were stored without lids and without labels identifying the waste as universal waste.

46. During the inspection, Mr. Patterson again acknowledged sending plastic battery chips to a solid waste landfill.

Inspection by EPA on November 17, 2008

47. On November 17, 2008, EPA conducted an inspection at the Facility.

48. At the 1 East Porter Street location, employees were sorting and shredding batteries. Plastic battery chips were being placed into a roll-off container, which was outside, in front of the 1 East Porter Street location. The roll-off container was open with no lid or covering, and was not labeled as hazardous waste or with an accumulation start date. EPA conducted Toxicity Characteristic Leaching Procedure (“TCLP”) analysis of the plastic battery chips and found the sample to contain approximately 390 mg/L of cadmium, revealing the battery chips to be a D006 (cadmium) hazardous waste. EPA also conducted TCLP analysis of soil near the roll-off container and found two of the samples to contain 8.4 mg/L and 1.4 mg/L of cadmium.

49. At the 1 East Porter Street location, an open 55-gallon drum of burned batteries was located near the shredder and furnace. The drum was not labeled as hazardous waste. The TCLP analytical result from the inspection indicated that the drum of burned batteries contained 360 mg/L cadmium, revealing the burned batteries to be a D006 (cadmium) hazardous waste.

50. At the time of the inspection, several cardboard boxes containing spent baghouse filters were located at 1 East Porter Street location. These containers were not labeled as hazardous waste or with an accumulation start date. Some of the containers were not closed. Based on MCT's own hazardous waste determination, these filters contained 3,840 mg/L of cadmium and 63.7 mg/L of lead, which revealed them to be D006 (cadmium) and D008 (lead) hazardous waste.

51. At the time of the inspection, MCT was storing several hundred 55-gallon containers and boxes of batteries. Several containers were open, not labeled as universal waste or with an accumulation start date.

52. At the time of the inspection, there was insufficient aisle space at the 1 East Porter Street location to inspect many of the containers in the warehouse.

53. Some of the containers of universal waste being stored at the 1 East Porter Street location at the time of the inspection had been stored for longer than a year.

54. During the inspection, approximately twenty 55-gallon drums were located near the loading dock of the 1 East Porter Street location marked as "Hazardous Waste" and labeled with accumulation start dates. At the time of the inspection, EPA collected three soil samples near the loading dock. Two of the samples exceeded the TCLP limit of 1.0 mg/L for cadmium with results at 8.4 mg/L and 1.4 mg/L.

55. At the 6 East Porter Street location, MCT was storing various types of batteries such as alkaline, lithium, and lead-acid batteries; however, most of the sorted batteries were wet nickel-cadmium batteries. Many of the containers and/or pallets were not labeled as universal waste or with an accumulation start date. Other containers had been stored for longer than a year.

56. At the time of the inspection, there was insufficient aisle space at the 6 East Porter Street location to inspect many of the containers.

57. Inside the 6 East Porter Street location, eleven 55-gallon drums of drained electrolyte labeled "Waste Water" were being stored there. These containers were not labeled as hazardous waste or with an accumulation start date. Outside the building, there were sixteen 55-gallon drums of drained electrolyte. These containers were open, not labeled with the words hazardous waste or with an accumulation start date. EPA collected two samples of the electrolyte during the inspection. Analytical results demonstrated that the electrolyte had pH levels of 12.5 and 13.07 and contained 3.9 mg/L and 2.3 mg/L of cadmium based on TCLP analysis, which revealed the electrolyte to be a D002 (corrosive) and a D006 (cadmium) hazardous waste.

58. At the time of the November 17, 2008 EPA inspection, MCT was storing computer monitors inside the 1 East Porter Street location and outside the 26 Freeman Street location.

59. The 26 Freeman Street location served as an open-air storage areas containing many pallets, dozens of cardboard boxes, and scores of drums storing various types of universal wastes, including nickel-cadmium, lithium-ion, and lead-acid batteries, and florescent bulbs. The 26 Freeman Street storage area was a concrete pad partially covered by a roof but not enclosed by walls. Many of the batteries, computer monitors, and other wastes were exposed to the open air.

60. Although some of the containers at the 26 Freeman Street location were labeled as "corrosive" or "universal waste," many containers of universal waste were not labeled as universal waste and were not dated with an accumulation start date. Some containers had

accumulation start dates indicating storage for over one year, including one container dated December 27, 2004.

61. At the time of the inspection, there was insufficient aisle space at the 26 Freeman Street location to fully inspect the drums and pallets.

62. At the 26 Freeman Street location, shattered universal waste lamps and various batteries were scattered on the ground.

63. At the time of the inspection, MCT was storing universal waste lamps in containers that were not labeled or marked with an accumulation start date. Some containers of lamps had accumulation start dates indicating storage for longer than one year. Some containers of waste lamps were open.

64. During the inspection, Mr. Patterson refused to provide hazardous waste storage area inspection reports, a biennial report of MCT's activities, land disposal restriction certifications, personnel training records, manifests, emergency procedure documents, hazardous waste profiles, or a contingency plan.

Third Fire at MCT

65. On April 16, 2011, containers of batteries stored by MCT in the parking lot of the 6 East Porter Street location combusted, causing explosions and substantial damage to the 6 East Porter Street location and requiring the evacuation of the surrounding community.

66. As a result of the April 16, 2011 fire, the soil surrounding the 6 East Porter Street location was contaminated with lead and cadmium.

67. Between August 11 and August 18, 2011, MCT sent ten shipments of soil contaminated with lead and cadmium, totaling 226 tons, to Michigan Disposal, Inc.'s hazardous

waste treatment and storage facility (“MDI facility”). This soil was D006 (cadmium) and D008 (lead) hazardous waste.

68. As a result of the April 16, 2011 fire, five-gallon buckets containing lithium primary batteries encased in concrete and drum carcasses were mangled, crushed, and burned.

69. On or about September 13, 2011, MCT sent approximately two shipments equaling 19.6 tons of mangled, crushed, and burned drums and buckets to the Wayne Disposal Site #2 Landfill.

70. As a result of the April 16, 2011 fire, MCT generated burned building insulation contaminated with cadmium. Such insulation was a D006 (cadmium) hazardous waste.

71. On August 29, 2011 and March 9, 2012, MCT sent building insulation contaminated with cadmium to the MDI facility. In total, MCT sent approximately 4,985 pounds of D006 building insulation to the MDI facility.

Inspection by EPA on May 20, 2011

72. On May 20, 2011, EPA conducted an inspection of the MCT Facility.

73. The following material was located inside the furnace room at the 1 East Porter Street location: at least six drums and one pallet of burned or melted batteries, including nickel-cadmium, alkaline, and lithium-ion batteries; a pallet of nickel-cadmium plates; approximately twenty-eight 55-gallon drums of nickel-metal hydride batteries that had been crushed; shredded batteries on the floor; and approximately fourteen pallets of spent baghouse filters, each containing six boxes of filters, some of which had been stored at the Facility since at least EPA’s November 17, 2008 inspection. Most of the containers described in this paragraph were not labeled as universal or hazardous waste and were not labeled with an accumulation start date.

74. The following material was located between the furnace room and the loading dock at the 1 East Porter Street location: approximately twenty-seven 55-gallon drums of nickel-cadmium batteries and three 5-gallon containers of sealed nickel-cadmium batteries. Most of the containers described in this paragraph were not labeled as universal waste and were not labeled with an accumulation start date.

75. The following material was located near the loading dock area at the 1 East Porter Street location: fifty 55-gallon containers of lithium-phosphate ion batteries; four 55-gallon containers of zinc-chloride batteries; eight pallets of nickel-metal hydride batteries; and eight pallets of nickel-cadmium and lithium phosphate ion batteries. Most of these battery containers were marked "Non-Regulated Waste," but were not labeled as universal waste and were not labeled with an accumulation start date.

76. The following material was located in the southwest corner of a warehouse located at the 1 East Porter Street location: two pallets of lead-acid batteries; approximately three pallets of wet cell nickel-cadmium batteries; three 55-gallon drums of lead-acid batteries; approximately sixteen 55-gallon drums of nickel-cadmium batteries; approximately sixteen 55-gallon drums of a mixture of various batteries, including but not limited to alkaline, lithium-phosphate, and nickel-cadmium batteries; approximately twenty pallets of a mixture of various batteries, including but not limited to nickel-cadmium and lithium-phosphate batteries; and approximately sixteen 55-gallon drums of sealed nickel-cadmium batteries. Most of these battery containers were labeled "Non-Regulated Waste," but were not labeled as universal waste and were not labeled with an accumulation start date.

77. The following material was located along the west wall inside a warehouse located at the 1 East Porter Street location: approximately fourteen pallets holding boxes and

containers of lithium-phosphate ion and nickel-cadmium batteries, some of which were not labeled as universal waste; a pallet of nickel-cadmium battery plates, which was not labeled as hazardous waste or with an accumulation start date; two 55-gallon drums of nickel-cadmium batteries, which were labeled “Non-Regulated Waste,” but were not labeled as universal waste; approximately twenty-five 55-gallon drums of nickel-cadmium batteries, which were labeled “Non-Regulated Waste,” but were not labeled as universal waste and were not labeled with accumulation start dates; and four pallets of nickel-cadmium batteries, which were labeled “Universal Waste” and labeled with an accumulation start date.

78. Many of the containers stored at the Facility during the May 20, 2011, inspection were stored close together and stacked on top of each other, so there was insufficient aisle space to fully inspect the containers.

79. The inspectors attempted to inspect the 6 East Porter Street location, but the building was without electricity and the main door could not be opened due to damage sustained during the fire that occurred on April 16, 2011. However, it was clear that MCT was storing lead-acid batteries and wet nickel-cadmium batteries within the building, and that burned and melted batteries were scattered on the floor inside the building. Some of the containers were marked “Non-Regulated Waste.”

80. Based on hazardous waste manifests provided during the inspection, MCT generated at least 162,560 pounds of hazardous waste from May 2010 to April 2011, including battery electrolyte, spent baghouse filters, and battery casings.

81. During the inspection, Mr. Patterson failed to produce weekly inspection records, personnel training records, and a contingency plan.

MCT’s Practice of Encasing Batteries in Concrete Prior to Disposal

82. At least during periods of 2011 and 2012, MCT engaged in the practice of encasing lithium primary batteries in concrete prior to disposing of them.

83. MCT mixed lithium primary batteries in a concrete mechanical mixer before pouring the mixture into containers.

84. In November and December 2011, MCT sent at least four shipments of batteries encased in concrete, totaling approximately 37.5 tons, as non-hazardous waste from its 1 East Porter Street location to the Michigan Disposal Waste Treatment Plant or the Wayne Disposal Site #2 Landfill, both in Belleville, Michigan, on or around the following dates: two shipments on or around November 21, 2011 (12.5 tons and 13 tons), one shipment on or around December 1, 2011 (12 tons), and one shipment on or around December 8, 2011 (12 tons).

85. Beginning in January 2012, MCT sent at least 18 shipments of batteries encased in concrete, totaling approximately 469.65 tons, as universal waste from its 63 Industrial Drive location to the Wayne Disposal Site #2 Landfill in Belleville, Michigan, on or around the following dates: one shipment on or around January 3, 2012 (9.05 tons); two shipments on or around January 4, 2012 (12 tons each); two shipments on or around January 5, 2012 (9.17 tons and 12 tons); three shipments on or around January 9, 2012 (8.48 tons, 9.17 tons, and 12 tons); one shipment on or around January 10, 2012 (9 tons); two shipments on or around January 11, 2012 (9 tons and 8.19 tons); two shipments on or around January 26, 2012 (13 tons and 15 tons); two shipments on or around February 10, 2012 (15 tons each); one shipment on or around March 12, 2012 (12.21 tons); one shipment on or around April 2, 2012 (21 tons); three shipments on or around April 3, 2012 (21 tons each); four shipments on or around April 20, 2012 (21 tons each); two shipments on or around May 17, 2012 (21 tons each); one shipment on or around May 31,

2012 (21 tons); one shipment on or around June 12, 2012 (20.9 tons); and two shipments on or around June 14, 2012 (20.9 tons and 20.59 tons).

86. The lithium primary batteries that MCT encased in concrete were not fully discharged. Lithium primary batteries that are not fully discharged are a D003 (reactive) hazardous waste.

First Claim for Relief
(Failure to Make a Hazardous Waste Determination)

87. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

88. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11], a generator of solid waste is required to determine whether that waste is a hazardous waste using the methods described therein.

89. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11] because they began generating plastic battery chips in February 2005 and failed to perform a proper hazardous waste determination until on or around December 1, 2010.

90. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11] because they began generating battery electrolyte in or around January 2005 and failed to perform a proper hazardous waste determination until on or around April 23, 2010.

91. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11] because they began generating spent baghouse filters in or around February 2005 and failed to perform a proper hazardous waste determination until approximately April 2007.

92. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11] because they generated burned batteries on or around November 17, 2008 and failed to perform a proper hazardous waste determination.

93. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT and Mr. Patterson are subject to injunctive relief and civil penalties of not more than \$32,500 per day for each such violation occurring after March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40 C.F.R. § 19.4.

Second Claim for Relief
(Transporting, Manifesting, and Packaging Violations)

94. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

95. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)], a generator may not offer its hazardous waste to a transporter or a TSD facility that has not received an EPA identification number.

96. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1)-(2) [40 C.F.R. § 262.20(a)(1)], a generator who transports or offers for transport a hazardous waste for off-site treatment, storage, or disposal, or a TSD facility who offers for transport a rejected hazardous waste load, must prepare a manifest on EPA Form 8700-22, and if necessary, EPA Form 8700-22A.

97. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32], before transporting or offering for transport any hazardous waste, such waste must be packaged, marked, and labeled in accordance with Department of Transportation (“DOT”) guidelines.

98. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33], before offering hazardous waste for transportation off-site, a generator must placard or offer the transporter appropriate placards according to DOT regulations.

99. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)] because they offered D006 plastic battery chips to a solid waste landfill that did not have an EPA identification number.

100. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] because they failed to prepare hazardous waste manifests for their shipments of D006 plastic battery chips to a solid waste landfill.

101. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32] because they failed to package, mark, or label in accordance with DOT regulations their shipments of D006 plastic battery chips to a solid waste landfill.

102. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33] because they failed to offer the transporter appropriate placards pursuant to DOT regulations for their shipments of D006 plastic battery chips to a solid waste landfill.

103. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)] because they offered D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services, which did not have an EPA identification number or a hazardous waste permit, on or about June 23, 2007.

104. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)] because they offered D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services, which did not have an EPA identification number or a hazardous waste permit, on or about January 23, 2008.

105. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)] because they offered D002 and D006 battery electrolyte to Hi-Tech

Wastewater Treatment Services, which did not have an EPA identification number or a hazardous waste permit, on or about February 20, 2008.

106. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)] because they offered D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services, which did not have an EPA identification number or a hazardous waste permit, on or about April 3, 2008.

107. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.12(c)], because they offered D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services, which did not have an EPA identification number or a hazardous waste permit, on or about May 13, 2008.

108. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] because they failed to prepare a hazardous waste manifest for their shipment of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about June 23, 2007.

109. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] because they failed to prepare a hazardous waste manifest for their shipment of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about January 23, 2008.

110. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] because they failed to prepare a hazardous waste manifest for their shipment of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about February 20, 2008.

111. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] because they failed to prepare a hazardous waste manifest for their shipment of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about April 3, 2008.

112. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.20(a)(1)] because they failed to prepare a hazardous waste manifest for their shipment of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about May 13, 2008.

113. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32] because they failed to package, mark, or label in accordance with DOT regulations their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about June 23, 2007.

114. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32] because they failed to package, mark, or label in accordance with DOT regulations their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about January 23, 2008.

115. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32] because they failed to package, mark, or label in accordance with DOT regulations their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about February 20, 2008.

116. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32] because they failed to package, mark, or label in accordance with DOT

regulations their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about April 3, 2008.

117. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. §§ 262.30-32] because they failed to package, mark, or label in accordance with DOT regulations their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about May 13, 2008.

118. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33] because they failed to offer the transporter appropriate placards according to DOT regulations for their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about June 23, 2007.

119. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33] because they failed to offer the transporter appropriate placards according to DOT regulations for their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about January 23, 2008.

120. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33] because they failed to offer the transporter appropriate placards according to DOT regulations for their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about February 20, 2008.

121. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33] because they failed to offer the transporter appropriate placards according to DOT regulations for their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about April 3, 2008.

122. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.33] because they failed to offer the transporter appropriate placards according to DOT regulations for their shipments of D002 and D006 battery electrolyte to Hi-Tech Wastewater Treatment Services on or about May 13, 2008.

123. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT and Mr. Patterson are subject to injunctive relief and civil penalties of not more than \$32,500 per day for each such violation occurring after March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40 C.F.R. § 19.4.

Third Claim for Relief
(Failure to Comply with Land Disposal Restrictions)

124. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

125. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. § 268.7(a)], a generator of hazardous waste must determine whether its waste must be treated before it is land disposed. This determination can be made concurrently with the hazardous waste determination required by Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.11]. If the generator chooses not to make such determination, the generator must send a one-time written notice to the treatment or storage facility receiving the waste and must place a copy of such notice in its files. Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. § 268.7(a)(2)].

126. Prohibited waste may be land disposed at a permitted hazardous waste land disposal facility only if it meets treatment standards for hazardous wastes. Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. § 268.40].

127. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. § 268.7] on multiple occasions because they failed to determine whether their D006 plastic battery chips had to be treated before they could be land disposed.

128. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. § 268.40] on multiple occasions because they sent to a solid waste landfill D006 plastic battery chips that failed to meet applicable treatment standards.

129. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT and Mr. Patterson are subject to injunctive relief and civil penalties of not more than \$32,500 per day for each such violation occurring after March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40 C.F.R. § 19.4.

Fourth Claim for Relief

(Failure to Obtain a Permit for Operation of a Hazardous Waste Treatment, Storage, and Disposal Facility)

130. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

131. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)], a Large Quantity Generator (“LQG”) of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit if the LQG complies with the conditions for exemption found at Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)].

132. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.173], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that containers holding hazardous waste are closed during

storage, and are not opened, handled, or stored in a manner which may rupture the containers or cause them to leak.

133. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], which incorporates Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.174], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the owner or operator inspects areas where containers are stored at least weekly. Ga Comp. R. & Regs. Ch. 391-3-11-.08(3) also requires that these weekly inspections be documented with records of such inspections kept on-site for three years.

134. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the date upon which the period of accumulation of the waste begins is clearly marked and visible for inspection on each container.

135. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that while being accumulated on-site, each container is labeled or marked with the words "Hazardous Waste."

136. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. & Regs. Chp. 391-3-11-.10(1) [40 C.F.R. § 265.16], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that facility personnel are trained to perform their duties in a manner ensuring compliance with the applicable hazardous waste regulations, including classroom instruction or on-the-job training regarding hazardous waste management procedures.

137. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the facility is maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents.

138. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.35], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the owner or operator maintains aisle space to allow unobstructed movement of personnel, fire protection equipment, and spill control equipment to any area of facility operation in an emergency.

139. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], which incorporates Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.51], an LQG of hazardous waste may accumulate hazardous waste on-site for 90 days or less without a permit, provided that the owner or operator has a contingency plan for its facility that is “designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste.”

140. MCT was an LQG of hazardous waste at least during November 2008 and May 2011 because it generated more than 2,200 pounds of D002 and D006 electrolyte, D006 plastic battery chips, and D006 and D008 spent baghouse filters.

141. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth

in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by failing to keep a roll-off container storing D006 plastic battery chips closed in front of the 1 East Porter Street location during the November 17, 2008 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].

142. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by failing to keep a container storing D006 burned batteries closed at the 1 East Porter Street location during the November 17, 2008 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].

143. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by failing to keep containers storing D006 and D008 spent baghouse filters closed at the 1 East Porter Street location during the November 17, 2008 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].

144. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by failing to keep sixteen containers of D002 and D006 electrolyte closed at the 6 East Porter Street location during the November 17, 2008 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.173(a)].

145. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(1)(i)], by failing to inspect areas where containers are stored at least weekly, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.174].

146. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on the cardboard boxes containing 36 spent baghouse filters at the 1 East Porter Street location during the July 5, 2006 inspection.

147. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on the roll-off container storing D006 plastic battery chips in front of the 1 East Porter Street location during the November 17, 2008 inspection.

148. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on the cardboard boxes containing D006 and D008 spent baghouse filters at the 1 East Porter Street location during the November 17, 2008 inspection.

149. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on eleven 55-gallon drums containing D002 and D006 electrolyte inside the 6 East Porter Street location and sixteen open containers of D002 and D006 electrolyte outside the 6 East Porter Street location during the November 17, 2008 inspection.

150. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on the six drums and one pallet of burned or melted batteries inside 1 East Porter Street's furnace room during the May 20, 2011 inspection.

151. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on the pallet of nickel-cadmium plates inside 1 East Porter Street's furnace room during the May 20, 2011 inspection.

152. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on some of the fourteen

pallets, each supporting six boxes of D006 and D008 baghouse filters, inside 1 East Porter Street's furnace room during the May 20, 2011 inspection.

153. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(2)], by failing to mark the date upon which the period of accumulation began on the pallet of nickel-cadmium plates on the west wall of the warehouse at the 1 East Porter Street location during the May 20, 2011 inspection.

154. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to label the cardboard boxes containing 36 spent D006 and D008 baghouse filters at the 1 East Porter Street location at the time of the July 5, 2006 inspection with the words "Hazardous Waste."

155. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to label the roll-off container storing D006 plastic battery chips in front of the 1 East Porter Street location during the November 17, 2008 inspection with the words "Hazardous Waste."

156. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to label the 55-gallon drum containing burned batteries at the 1 East Porter Street location during the November 17, 2008 inspection with the words "Hazardous Waste."

157. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to mark the cardboard boxes containing spent D006 and D008 baghouse filters at the 1 East Porter Street location during the November 17, 2008 inspection with the words “Hazardous Waste.”

158. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to mark the eleven 55-gallon drums containing D002 and D006 electrolyte inside the 6 East Porter Street location and the sixteen containers of D002 and D006 electrolyte outside the 6 East Porter Street location during the November 17, 2008 inspection with the words “Hazardous Waste.”

159. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to mark the six drums and one pallet of burned or melted batteries inside 1 East Porter Street’s furnace room during the May 20, 2011 inspection with the words “Hazardous Waste.”

160. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to mark the pallet of nickel-cadmium plates inside 1 East Porter Street’s furnace room during the May 20, 2011 inspection with the words “Hazardous Waste.”

161. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. §

6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(3)], by failing to mark some of the fourteen pallets, each supporting six boxes of D006 and D008 baghouse filters, inside 1 East Porter Street's furnace room during the May 20, 2011 inspection with the words "Hazardous Waste."

162. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to train their employees in a manner that ensures compliance with the hazardous waste regulations and failing to maintain records of such training for current and former employees as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.16(a)(1) and (e)].

163. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to operate the Facility in a manner likely to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], due to their storage of cadmium dust on the floor of the 1 East Porter Street location during the July 5, 2006 inspection.

164. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-1-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to operate the Facility in a manner likely to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as required by Ga.

Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], due to their storage of shredded batteries on the floor of the 1 East Porter Street location during the February 29, 2008 inspection.

165. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to operate the Facility in a manner likely to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], as demonstrated by the levels of cadmium found in the soil near the loading dock at the 1 East Porter Street location during the November 17, 2008 inspection.

166. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to operate the Facility in a manner likely to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], due to their storage of D006 battery chips outside the 1 East Porter Street location, and D002 and D006 electrolyte outside the 6 East Porter Street location during the November 17, 2008 inspection.

167. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to operate the Facility in a manner likely to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as

required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], due to their storage of shredded and burned batteries on the floor of the 1 East Porter Street and 6 East Porter Street locations during the May 20, 2011 inspection.

168. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to operate the Facility in a manner likely to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.31], as demonstrated by the fires at the Facility on June 19, 2006 and April 16, 2011, and operation of the induction furnace while the baghouse was closed on August 7, 2006.

169. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to maintain sufficient aisle space in many of the storage areas throughout the Facility during the February 29, 2008 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.35].

170. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to maintain sufficient aisle space in many of the storage areas throughout the Facility during the November 17, 2008 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.35].

171. MCT, EPS, and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to maintain sufficient aisle space in many of the storage areas at the 1 East Porter Street location during the May 20, 2011 inspection, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.35].

172. MCT and Mr. Patterson failed to meet a condition for exemption from Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], set forth in Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.34(a)(4)], by failing to have a contingency plan for the Facility, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(1) [40 C.F.R. § 265.51].

173. By failing to meet the conditions of the exemption as set forth above, MCT, EPS, and Mr. Patterson violated Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste without a permit from approximately February 2005 until at least April or May 2011.

174. MCT and Mr. Patterson violated Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by storing hazardous waste CRTs not generated by MCT at the Facility without a permit.

175. MCT, EPS, and Mr. Patterson violated Section 12-8-66 of the GHWMA, O.C.G.A. § 12-8-66 [Section 3005 of RCRA, 42 U.S.C. § 6925], by disposing of D006 (cadmium) and D008 (lead) hazardous waste on the ground at the Facility without a permit.

176. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT, EPS, and Mr. Patterson are subject to injunctive

relief and civil penalties of not more than \$32,500 per day for each such violation occurring after March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40 C.F.R. § 19.4.

Fifth Claim for Relief

(Failure to Obtain a Permit for Operation of a Universal Waste Destination Facility)

177. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

178. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.60(a)], an owner or operator of a universal waste destination facility is subject to the requirements of Ga. Comp. R. & Regs. Ch. 391-3-11 [40 C.F.R. Pts. 264, 265, 266, 268, 270, and 124], which include the requirement to obtain a permit, and the notification requirement under Section 3010 of RCRA, 42 U.S.C. § 6930. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.60(b)], the owner or operator of a universal waste destination facility that recycles a particular universal waste without storing the universal waste before it is recycled must only comply with Ga. Comp. R. & Regs. Ch. 391-3-11-.07(1) [40 C.F.R. § 261.6(c)(2)], which requires notification, use of the hazardous waste manifest system, and compliance with the hazardous organic air emission standards.

179. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9], a “destination facility” is defined as a “facility that treats, disposes, or recycles a particular category of universal waste”

180. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9], nickel-cadmium, lead-acid, lithium-iron disulfide, lithium-manganese oxide, lithium-sulfur dioxide, lithium-thionyl chloride, lithium polymer, lithium-iron phosphate, lithium primary batteries, and silver-oxide batteries are “universal waste.”

181. The Facility stores or stored universal waste batteries at the Facility prior to recycling the metal components of certain universal waste batteries in the induction furnace.

182. The Facility was a destination facility from at least February 2005 until April 2011 because it stored, treated, disposed of, and recycled certain universal waste batteries.

183. The Facility was also a destination facility because it treated reactive lithium primary batteries by encasing them in concrete in an effort to render them non-hazardous or safer to transport, store, or dispose of.

184. The 63 Industrial Drive location was a destination facility beginning in at least January 5, 2012 because it treated reactive lithium primary batteries by encasing them in concrete in an effort to render them non-hazardous or safer to transport, store, or dispose of.

185. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.60(a)], by failing to obtain and operate pursuant to a RCRA permit as the owners and operators of a universal waste destination facility which stored certain universal waste prior to recycling and/or treating, and by failing to comply with the applicable requirements of Ga. Comp. R. & Regs. Ch. 391-3-11 [40 C.F.R. Pts. 264, 265, 266, 268, 270, and 124], including, but not limited to: a) failing to train personnel to perform their duties in a way that ensures compliance with the hazardous waste regulations, and by failing to keep records of such training, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(2) [40 C.F.R. § 264.16(a)-(e)]; b) failing to have a contingency plan designed to minimize hazardous to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(2) [40 C.F.R. § 264.51]; c) failing to operate the Facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous constituents, as

required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(2) [40 C.F.R. § 264.31]; d) failing to comply with the standards for the management of hazardous waste burned in industrial furnaces, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(3) [40 C.F.R. Pt. 266, Subpart H]; e) failing to provide financial assurance for closure of the Facility, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.10(2) [40 C.F.R. § 264.143]; and failing to comply with the applicable land disposal restriction regulations, as required by Ga. Comp. R. & Regs. Ch. 391-3-11-.16 [40 C.F.R. Pt. 268].

186. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT, EPS, and Mr. Patterson are subject to injunctive relief and civil penalties of not more than \$32,500 per day for each such violation occurring after March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40 C.F.R. § 19.4

Sixth Claim for Relief

(Failure to Comply with the Large Quantity Universal Waste Handler Regulations)

187. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

188. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9], a “universal waste handler” is a generator of universal waste, or the owner or operator of a facility that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another waste handler or to a destination facility.

189. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9], a “Large Quantity Handler of Universal Waste” (“LQHUUW”) is a universal waste handler “who accumulates 5,000 kilograms or more of total universal waste (batteries, pesticides, mercury-containing equipment, or lamps, calculated collectively) at any time.”

190. MCT and Mr. Patterson notified GAEPD that MCT was a LQHUU on June 6, 2005, September 26, 2006, and June 9, 2008.

191. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9], batteries and spent fluorescent lamps and bulbs are universal waste.

192. MCT and Mr. Patterson were LQHUU within the meaning of Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.9], because they received batteries, fluorescent bulbs, and lamps from other universal waste handlers, accumulated the batteries, bulbs and lamps, and sent them to another universal waste handler or destination facility.

193. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.33(d)(1)], a LQHUU must contain universal waste lamps in containers that are “structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.”

194. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.33(d)(2)], a LQHUU must “clean up and place in a container any lamp that is broken and must place in a container any lamp that shows evidence of breakage, leakage, or damage that could cause the release of mercury or other hazardous constituents to the environment.”

195. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)], each container or tank in which universal waste batteries are contained must be labeled with one of the following phrases: “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

196. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(e)], each lamp or container or package in which such lamps are contained must be labeled with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

197. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35(a)], a LQHUU cannot accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler.

198. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35(c)], a LQHUU must be able to demonstrate the length of time the waste has been accumulated from the date it becomes a waste or is received.

199. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.37(a)], a LQHUU “must immediately contain all releases of universal wastes and other residues from universal wastes.”

200. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.37(b)], a LQHUU must determine whether any material resulting from any release is hazardous waste, and if so, must manage the hazardous waste in compliance with all applicable requirements of 40 CFR parts 260 through 272.” The handler is considered a generator of the hazardous waste resulting from the release.

201. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label 35 drums of universal waste batteries located in front of the 1 East Porter Street location at the time of the July 5, 2006 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

202. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label several hundred 55-gallon drums of batteries at the 1 East

Porter Street location at the time of the February 29, 2008 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

203. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label several hundred 55-gallon containers and boxes of batteries located at the 1 East Porter Street location at the time of the November 17, 2008 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

204. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label containers or pallets of various types of batteries, including lead-acid and wet nickel-cadmium, located at the 6 East Porter Street location at the time of the November 17, 2008 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

205. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label several 55-gallon drums of nickel-cadmium batteries and 5-gallon containers of sealed nickel-cadmium batteries located between the furnace room and the loading dock of the 1 East Porter Street location at the time of the May 20, 2011 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

206. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label several 55-gallon containers and pallets of lithium-phosphate ion batteries, zinc-chloride batteries, nickel-metal hydride batteries, and nickel-cadmium batteries near the loading dock area of the 1 East Porter Street location at the time of

the May 20, 2011 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

207. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(a)] by failing to label pallets and 55-gallon drums of various batteries, including, but not limited to, lead-acid and nickel-cadmium, in the southwest corner of a warehouse and along the west wall at the 1 East Porter Street location at the time of the May 20, 2011 inspection with the words “Universal Waste – Battery(ies),” or “Waste Battery(ies),” or “Used Battery(ies).”

208. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35] by failing to mark an accumulation start date, or to otherwise record the accumulation time, of the 35 drums of universal waste batteries located in front of the 1 East Porter Street location at the time of the July 5, 2006 inspection.

209. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35] by failing to mark an accumulation start date, or to otherwise record the accumulation time, of several hundred 55-gallon containers and boxes of batteries located at the 1 East Porter Street location at the time of the November 17, 2008, inspection.

210. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35] by failing to mark an accumulation start date, or to otherwise record the accumulation time, of containers or pallets of various types of batteries, including lead-acid and wet nickel-cadmium, located at the 6 East Porter Street location at the time of the November 17, 2008 inspection.

211. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35(c)] by failing to mark an accumulation start date, or to otherwise record the

accumulation time, of universal lamps at the 26 Freeman Street location at the time of the November 17, 2008 inspection.

212. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35] by failing to mark an accumulation start date, or to otherwise record the accumulation time, of several 55-gallon drums of nickel-cadmium batteries and 5-gallon containers of sealed nickel-cadmium batteries located between the furnace room and the loading dock of the 1 East Porter Street location at the time of the May 20, 2011 inspection.

213. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35] by failing to mark an accumulation start date, or to otherwise record the accumulation time, of several 55-gallon containers and pallets of lithium-phosphate ion batteries, zinc-chloride batteries, nickel-metal hydride batteries, and nickel-cadmium batteries near the loading dock area of the 1 East Porter Street location at the time of the May 20, 2011 inspection.

214. MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35] by failing to mark an accumulation start date, or to otherwise record the accumulation time, of pallets and 55-gallon drums of various batteries, including, but not limited to, lead-acid and nickel-cadmium, in the southwest corner of a warehouse and along the west wall of the 1 East Porter Street location at the time of the May 20, 2011 inspection.

215. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35(a)] by accumulating some containers of universal waste at the 1 East Porter Street location at the time of the November 17, 2008 inspection for longer than one year,

216. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.35(a)] by accumulating some containers of universal waste at the 6 East Porter Street location at the time of the November 17, 2008 inspection for longer than one year.

217. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.33(d)(1)-(2)] by failing to immediately clean up broken lamps at the 26 Freeman Street location at the time of the November 17, 2008 inspection.

218. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.37(a)] by failing to contain releases of residues from broken lamps at the 26 Freeman Street location at the time of the November 17, 2008 inspection.

219. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.37(b)] by failing to determine whether any material resulting from the release caused by the broken lamps at the 26 Freeman Street location was hazardous waste and whether it needed to be managed appropriately under Ga. Comp. R. & Regs. Ch. 391-3-11 [40 C.F.R. Pts. 260 through 272].

220. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.34(e)] by failing to label containers holding universal waste lamps at the 26 Freeman Street location at the time of the November 17, 2008 inspection with the words “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

221. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT, EPS, and Mr. Patterson are subject to injunctive relief and civil penalties of not more than \$32,500 per day for each such violation occurring after March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40 C.F.R. § 19.4.

Seventh Claim for Relief
(Failure to Keep Records)

222. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

223. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.40(a)], a hazardous waste generator must keep signed copies of manifests or signed copies of receipts from the facility that received the waste for three years.

224. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.41], a generator who ships a hazardous waste to a TSD facility must submit a copy of a Biennial Report to the Director of the Environmental Protection Division by March 1 of each even numbered year.

225. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.62], the owner or operator of a destination facility must keep a record of each shipment of universal waste it receives for at least three years.

226. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.40(a)] by failing to keep copies of manifests or signed copies of receipts from facilities that received hazardous waste from the Facility.

227. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.08(1) [40 C.F.R. § 262.41] by failing to submit a Biennial Report to EPD from 2005 through at least April 2011.

228. MCT and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-11-.18 [40 C.F.R. § 273.62] by failing to keep records of each shipment of universal waste batteries received at the Facility.

229. Pursuant to Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), for each violation referred to in the preceding paragraphs, MCT and Mr. Patterson are subject to injunctive relief and civil penalties of not more than \$32,500 per day for each such violation occurring after

March 15, 2004, and \$37,500 per day for each violation occurring after January 12, 2009. 40
C.F.R. § 19.4

Eighth Claim for Relief

(Failure to Comply with the Georgia Comprehensive Solid Waste Management Act, §12-8-20 et seq. and the Rules for Solid Waste Management, Ga. Comp. R. & Regs. Ch. 391-3-4)

230. Paragraphs 1 through 86 above are re-alleged as if fully set forth herein.

231. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-4-.02(1), no person shall engage in solid waste handling without first obtaining a permit from the Director of EPD authorizing such activity.

232. Pursuant to Ga. Comp. R. & Regs. Ch. 391-3-4-.01(66), “solid waste handling” means: the storage, collection, transportation, treatment, utilization, processing, or disposal of solid waste, or any combination of such activities.

233. On information and belief, MCT, EPS, and Mr. Patterson violated Ga. Comp. R. & Regs. Ch. 391-3-4-.02, by storing, collecting, and disposing of solid waste without a permit during a time period beginning in June 2005.

234. Pursuant to Section 12-8-30.6(a) of the SWMA, O.C.G.A. § 12-8-30.6(a), for the violations referred to in the preceding paragraphs, MCT, EPS, and Mr. Patterson are subject to civil penalties not to exceed \$25,000 per day for each day during which such violations continue.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, the United States of America and the State of Georgia, pray the Court:

1. Permanently enjoin Defendants MCT, EPS, and John Patterson from future violations of RCRA, the GHWMA, and the SWMA;

2. Order Defendants to perform remedial measures to address hazardous waste and hazardous constituents released as a result of Defendants hazardous waste management practices at 1 East Porter Street, 6 East Porter Street, and 26 Freeman Street, Cartersville, Georgia;

3. For the violations asserted in the First through Seventh Claims for Relief, assesses a civil penalty of up to \$32,500 per day for each violation occurring on or after March 15, 2004, and a civil penalty of up to \$37,500 per day for each violation occurring after January 12, 2009 against MCT, EPS, and John Patterson;

4. For the violations asserted in the Eight Claim for Relief, assess a civil penalty of up to \$25,000 per day for each violation occurring after June 2005 against MCT and John Patterson; and

5. Grant the Plaintiffs such other relief as the Court may deem just and proper.

Respectfully submitted,

JOHN C. CRUDEN
Assistant Attorney General
Environment and Natural Resources
Division
United States Department of Justice



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CIVIL COVER SHEET

The JS44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form is required for the use of the Clerk of Court for the purpose of initiating the civil docket record. (SEE INSTRUCTIONS ATTACHED)

I. (a) PLAINTIFF(S)

United States of America and the State of Georgia

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANT(S)

Metal Conversion Technologies, LLC, 1 East Porter Street, LLC and John Patterson, individually

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Bartow County (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL ADDRESS)

Gabriel Allen, U.S. Department of Justice, Environment & Natural Resources Division, Environmental Enforcement Section; 301 Howard St., Suite 1050, San Francisco, CA 94105; 415.744.6469; Gabriel.Allen@usdoj.gov

ATTORNEYS (IF KNOWN)

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II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. GOVERNMENT PLAINTIFF
2 U.S. GOVERNMENT DEFENDANT
3 FEDERAL QUESTION (U.S. GOVERNMENT NOT A PARTY)
4 DIVERSITY (INDICATE CITIZENSHIP OF PARTIES IN ITEM III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) (FOR DIVERSITY CASES ONLY)

- PLF DEF
1 CITIZEN OF THIS STATE
2 CITIZEN OF ANOTHER STATE
3 CITIZEN OR SUBJECT OF A FOREIGN COUNTRY
4 INCORPORATED OR PRINCIPAL PLACE OF BUSINESS IN THIS STATE
5 INCORPORATED AND PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE
6 FOREIGN NATION

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 ORIGINAL PROCEEDING
2 REMOVED FROM STATE COURT
3 REMANDED FROM APPELLATE COURT
4 REINSTATED OR REOPENED
5 TRANSFERRED FROM ANOTHER DISTRICT (Specify District)
6 MULTIDISTRICT LITIGATION
7 APPEAL TO DISTRICT JUDGE FROM MAGISTRATE JUDGE JUDGMENT

V. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE - DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Action brought pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and Section 12-8-65(a) (12) of GHWMA, O.C.G.A. § 12-8-65(a)(12), for violations of the GHWMA, O.C.G.A. §§ 12-8-60 to 12-8-83 [Subtitle C of RCRA, 42 U.S.C. §§ 6921 to 6939f], and the regulations promulgated pursuant thereto at Ga. Comp. R. & Regs. Ch. 391-3-11 (GHWMR) [40 C.F.R. Pts. 124, 260-270, and 273]

(IF COMPLEX, CHECK REASON BELOW)

- 1. Unusually large number of parties.
2. Unusually large number of claims or defenses.
3. Factual issues are exceptionally complex
4. Greater than normal volume of evidence.
5. Extended discovery period is needed.
6. Problems locating or preserving evidence
7. Pending parallel investigations or actions by government.
8. Multiple use of experts.
9. Need for discovery outside United States boundaries.
10. Existence of highly technical issues and proof.

CONTINUED ON REVERSE

FOR OFFICE USE ONLY

RECEIPT # AMOUNT \$ APPLYING IFP MAG. JUDGE (IFP)
JUDGE MAG. JUDGE (Referral) NATURE OF SUIT CAUSE OF ACTION

VI. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT - "0" MONTHS DISCOVERY TRACK

- 150 RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT
152 RECOVERY OF DEFAULTED STUDENT LOANS (Excl. Veterans)
153 RECOVERY OF OVERPAYMENT OF VETERAN'S BENEFITS

CONTRACT - "4" MONTHS DISCOVERY TRACK

- 110 INSURANCE
120 MARINE
130 MILLER ACT
140 NEGOTIABLE INSTRUMENT
151 MEDICARE ACT
160 STOCKHOLDERS' SUITS
190 OTHER CONTRACT
195 CONTRACT PRODUCT LIABILITY
196 FRANCHISE

REAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 210 LAND CONDEMNATION
220 FORECLOSURE
230 RENT LEASE & EJECTMENT
240 TORTS TO LAND
245 TORT PRODUCT LIABILITY
290 ALL OTHER REAL PROPERTY

TORTS - PERSONAL INJURY - "4" MONTHS DISCOVERY TRACK

- 310 AIRPLANE
315 AIRPLANE PRODUCT LIABILITY
320 ASSAULT, LIBEL & SLANDER
330 FEDERAL EMPLOYERS' LIABILITY
340 MARINE
345 MARINE PRODUCT LIABILITY
350 MOTOR VEHICLE
355 MOTOR VEHICLE PRODUCT LIABILITY
360 OTHER PERSONAL INJURY
362 PERSONAL INJURY - MEDICAL MALPRACTICE
365 PERSONAL INJURY - PRODUCT LIABILITY
367 PERSONAL INJURY - HEALTH CARE/ PHARMACEUTICAL PRODUCT LIABILITY
368 ASBESTOS PERSONAL INJURY PRODUCT LIABILITY

TORTS - PERSONAL PROPERTY - "4" MONTHS DISCOVERY TRACK

- 370 OTHER FRAUD
371 TRUTH IN LENDING
380 OTHER PERSONAL PROPERTY DAMAGE
385 PROPERTY DAMAGE PRODUCT LIABILITY

BANKRUPTCY - "0" MONTHS DISCOVERY TRACK

- 422 APPEAL 28 USC 158
423 WITHDRAWAL 28 USC 157

CIVIL RIGHTS - "4" MONTHS DISCOVERY TRACK

- 441 VOTING
442 EMPLOYMENT
443 HOUSING/ ACCOMMODATIONS
444 WELFARE
440 OTHER CIVIL RIGHTS
445 AMERICANS with DISABILITIES - Employment
446 AMERICANS with DISABILITIES - Other
448 EDUCATION

IMMIGRATION - "0" MONTHS DISCOVERY TRACK

- 462 NATURALIZATION APPLICATION
465 OTHER IMMIGRATION ACTIONS

PRISONER PETITIONS - "0" MONTHS DISCOVERY TRACK

- 463 HABEAS CORPUS- Alien Detainee
510 MOTIONS TO VACATE SENTENCE
530 HABEAS CORPUS
535 HABEAS CORPUS DEATH PENALTY
540 MANDAMUS & OTHER
550 CIVIL RIGHTS - Filed Pro se
555 PRISON CONDITION(S) - Filed Pro se
560 CIVIL DETAINEE: CONDITIONS OF CONFINEMENT

PRISONER PETITIONS - "4" MONTHS DISCOVERY TRACK

- 550 CIVIL RIGHTS - Filed by Counsel
555 PRISON CONDITION(S) - Filed by Counsel

FORFEITURE/PENALTY - "4" MONTHS DISCOVERY TRACK

- 625 DRUG RELATED SEIZURE OF PROPERTY 21 USC 881
690 OTHER

LABOR - "4" MONTHS DISCOVERY TRACK

- 710 FAIR LABOR STANDARDS ACT
720 LABOR/MGMT. RELATIONS
740 RAILWAY LABOR ACT
751 FAMILY and MEDICAL LEAVE ACT
790 OTHER LABOR LITIGATION
791 EMPL. RET. INC. SECURITY ACT

PROPERTY RIGHTS - "4" MONTHS DISCOVERY TRACK

- 820 COPYRIGHTS
840 TRADEMARK

PROPERTY RIGHTS - "8" MONTHS DISCOVERY TRACK

- 830 PATENT

SOCIAL SECURITY - "0" MONTHS DISCOVERY TRACK

- 861 HIA (1395ff)
862 BLACK LUNG (923)
863 DIWC (405(g))
863 DIWW (405(g))
864 SSID TITLE XVI
865 RSI (405(g))

FEDERAL TAX SUITS - "4" MONTHS DISCOVERY TRACK

- 870 TAXES (U.S. Plaintiff or Defendant)
871 IRS - THIRD PARTY 26 USC 7609

OTHER STATUTES - "4" MONTHS DISCOVERY TRACK

- 375 FALSE CLAIMS ACT
376 QUI TAM 31 USC 3729(a)
400 STATE REAPPORTIONMENT
430 BANKS AND BANKING
450 COMMERCE/ICC RATES/ETC.
460 DEPORTATION
470 RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS
480 CONSUMER CREDIT
490 CABLE/SATELLITE TV
890 OTHER STATUTORY ACTIONS
891 AGRICULTURAL ACTS
893 ENVIRONMENTAL MATTERS
895 FREEDOM OF INFORMATION ACT
899 ADMINISTRATIVE PROCEDURES ACT / REVIEW OR APPEAL OF AGENCY DECISION
950 CONSTITUTIONALITY OF STATE STATUTES

OTHER STATUTES - "8" MONTHS DISCOVERY TRACK

- 410 ANTI-TRUST
850 SECURITIES / COMMODITIES / EXCHANGE

OTHER STATUTES - "0" MONTHS DISCOVERY TRACK

- 896 ARBITRATION (Confirm / Vacate / Order / Modify)

* PLEASE NOTE DISCOVERY TRACK FOR EACH CASE TYPE. SEE LOCAL RULE 26.3

VII. REQUESTED IN COMPLAINT:

CHECK IF CLASS ACTION UNDER F.R.Civ.P. 23 DEMAND \$

JURY DEMAND YES NO (CHECK YES ONLY IF DEMANDED IN COMPLAINT)

VIII. RELATED/REFILED CASE(S) IF ANY

JUDGE Harold J. Murphy

DOCKET NO. 4:14-cv-00163-HLM

CIVIL CASES ARE DEEMED RELATED IF THE PENDING CASE INVOLVES: (CHECK APPROPRIATE BOX)

- 1. PROPERTY INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
2. SAME ISSUE OF FACT OR ARISES OUT OF THE SAME EVENT OR TRANSACTION INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
3. VALIDITY OR INFRINGEMENT OF THE SAME PATENT, COPYRIGHT OR TRADEMARK INCLUDED IN AN EARLIER NUMBERED PENDING SUIT.
4. APPEALS ARISING OUT OF THE SAME BANKRUPTCY CASE AND ANY CASE RELATED THERETO WHICH HAVE BEEN DECIDED BY THE SAME BANKRUPTCY JUDGE.
5. REPETITIVE CASES FILED BY PRO SE LITIGANTS.
6. COMPANION OR RELATED CASE TO CASE(S) BEING SIMULTANEOUSLY FILED (INCLUDE ABBREVIATED STYLE OF OTHER CASE(S)):

7. EITHER SAME OR ALL OF THE PARTIES AND ISSUES IN THIS CASE WERE PREVIOUSLY INVOLVED IN CASE NO. , WHICH WAS DISMISSED. This case IS IS NOT (check one box) SUBSTANTIALLY THE SAME CASE.

SIGNATURE OF ATTORNEY OF RECORD

June 20, 2016

DATE