

23rd JUDICIAL DISTRICT COURT
PARISH OF ASCENSION
STATE OF LOUISIANA

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ASCENSION PARISH, LA

DIVISION:

DOCKET NO. 82488

TODD EVERETT BAUMANN

Versus

D&J FILL, INC, DUANE RODOSTA,
ACE ENTERPRISES, CARLTON R. JONES,
and XYZ INSURANCE COMPANY

**FIRST AMENDED PETITION AND MOTION FOR A PRELIMINARY
INJUNCTION**

NOW INTO COURT, through undersigned counsel, comes, Todd Everett Baumann (Plaintiff, hereinafter) who with respect represents that:

1.

Plaintiff's original Petition has not been served and issue has not been joined.

2.

Plaintiff desires to amend his original Petition by adding the following allegations consecutive with those in the original Petition, to wit:

"34.

Plaintiff desires the issuance of a Preliminary Injunction during the pendency of this proceeding to enjoin, restrain and prohibit the Defendants from allowing the emissions of fumes and odors from the D & J site that cause the Plaintiff and putative class members to become ill or cause them serious or material discomfort.

35.

The fumes and odors emitted from the site are of sufficient strength and character so as to constitute a nuisance and to make it impossible for the Plaintiff and others similarly situated to enjoy their property when the wind blows from the direction of the fill site towards the Plaintiff's home.

36.

In addition, the fumes and odors are sufficiently powerful that they are routinely encountered by the Plaintiff as he travels on Interstate 10 near his home.

38.

The emission of fumes and odors from the fill site are a violation of Louisiana laws and regulations. Additionally, the Plaintiff and other members of the class have been and are being irreparably injured by the continued emission of these fumes and odors in that they are being made ill and uncomfortable and being denied the use of their homes and other property in the area.

WHEREFORE, Plaintiff, individually and on behalf of all persons similarly situated, prays that:

- I. That their original Petition be amended to add the allegations set forth herein;
- II. That all relief prayed for in their original Petition be granted, and;
- III. That in addition to the relief prayed for in the original Petition, Defendants be ordered to show cause on a date and at a time to be fixed by the Court, why a Preliminary Injunction should not be issued herein

enjoining, restraining and prohibiting the Defendants from allowing the emission of fumes and odors that make the Plaintiff ill, or cause him serious or material discomfort.

Respectfully submitted:

By:



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PLEASE SERVE:

D&J FILL, INC.

Through its registered agent for service of process
Emmett E. Batson
301 St. Ferdinand Street
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DUANE J. RODOSTA

16554 Old Jefferson Highway
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ACE ENTERPRISES, INC.

Through its registered agent for service of process

Carlton R. Jones

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CARLTON R. JONES

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