

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

<p>DISTRICT OF COLUMBIA, A municipal corporation, 400 6th Street NW Washington, D.C. 20001</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>SOUTH CAPITOL IMPROVEMENT, LLC</p> <p style="padding-left: 40px;">c/o The Michaels Organization P.O. Box 90708 Camden, N.J. 80101-0700</p> <p style="text-align: center;">Defendant.</p>	<p>Case No.:</p> <p>Judge:</p> <p>COMPLAINT</p> <p>JURY TRIAL DEMANDED</p>
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**COMPLAINT FOR VIOLATIONS
OF THE WATER POLLUTION CONTROL ACT**

1. Plaintiff, the District of Columbia (“District”), by the Office of the Attorney General, files this civil enforcement action against South Capitol Improvement LLC (“Defendant”) for significant and repeated violations of the District’s Water Pollution Control Act (“WPCA”).

2. Defendant owns and maintains a 195-unit residential apartment building located at 4001 South Capitol Street, N.W., (“Property”).

3. In December 2020, the District of Columbia’s Department of Energy and Environment (“DOEE”) granted Defendant’s request to discharge groundwater from

the Property into the District's municipal separate sewer ("MS4") system under certain terms and conditions including the installation of a water treatment system capable of meeting discharge limits on the total amount of oil and grease, and heavy metals in the discharge ("Discharge Approval" or "Approval"). These discharge limits are particularly important because the limits are based on maintaining water quality of District Waters including the Potomac River where these discharges eventually flow. Excess pollutants like oil and heavy metals seriously impact the health of these important resources.

4. Despite repeated warnings and requests from DOEE, Defendant violated the terms of its Discharge Approval by discharging excess amounts of oil and grease and heavy metals. When requested pursuant to the terms of the Approval to modify its water treatment system to ensure compliance with discharge limits, Defendant refused to do so.

5. Defendant's illegal discharges threaten Waters of the District for which the District seeks civil penalties under the Water Pollution Control Act.

JURISDICTION

6. This Court has subject matter jurisdiction pursuant to D.C. Code § 8-103.18(b)(1).

7. The Court has personal jurisdiction pursuant to D.C. Code § 13-423.

PARTIES

8. Plaintiff, the District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the

permanent seat of the government of the United States. The District is represented in this enforcement action by its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the WPCA. *See* D.C. Code § 8-103.08(b).

9. Defendant, South Capitol Improvement LLC, owns and manages a 195-unit rental housing complex located at 4001 South Capitol Street, SW in the District of Columbia.

DEFENDANT'S VIOLATIONS OF THE WPCA

10. In August 2020, Defendant informed DOEE that contaminated groundwater was seeping into the basement sump of its recently constructed rental housing complex at 4001 South Capitol Street SW. The sump is connected to the District's MS4 system. Discharges to the MS4 flow directly to Oxon Run, a tributary to the Potomac River, both of which are Waters of the District.

11. On or about August 27, 2020, DOEE demanded that Defendant cease contaminated discharges, requiring Defendant to either mitigate the source of the contamination or treat the groundwater prior to discharge to the MS4. Defendant applied for authorization to treat the contaminated groundwater prior to discharging into the District's MS4 system.

12. On December 8, 2020, DOEE issued its Discharge Approval to Defendant with certain terms and conditions including the following:

* * *

- (2). You [Permittee] shall install, operate and maintain the water treatment system per manufacturer's requirements and as approved by DOEE. . . .
- (3) You shall collect representative groundwater discharge monitoring samples as specified in Table 1

* * *

- (6) You shall compare the analytical results of the groundwater discharge samples with the discharge limits in Table 1 and [the District's Water Quality Standards] as applicable. If the groundwater discharge monitoring results exceed the limits in Table 1, you shall:
 - i. Immediately notify DOEE . . . ;
 - ii. DOEE . . . will evaluate the monitoring data . . . to determine whether corrective action is required. Required corrective actions may include, but is not limited to . . . install or adjust a treatment system to ensure that the effluent discharge will meet [Water Quality Standards], or cease discharge to the MS4;

* * *

Failure to comply with the requirements in this approval letter and all the monitoring and reporting requirements shall constitute reasons to cancel the approval and may result in an enforcement action against you

13. Per the terms of the Approval, Defendant must sample and analyze weekly the treated groundwater for certain pollutants including oil and grease, and priority pollutant metals such as mercury, lead, and nickel to ensure that the treated groundwater complies with discharge limits for each pollutant. The Approval requires Defendant to submit the results of those analyses to DOEE within thirty (30) days after sampling ("Monitoring Reports").

14. Defendant submitted the first Monitoring Report on or about December 29, 2020. According to the December 29, 2020 Monitoring Report and every subsequent Monitoring Report submitted to DOEE, Defendant exceeded the discharge limits on thirty-four (34) individual days including the limits for oil and grease, and nickel.

15. On May 27, 2021, DOEE demanded that Defendant submit a modified treatment plan to comply with the Discharge Approval.

16. By letter dated June 29, 2021, Defendant refused to submit a modified treatment plan indicating to DOEE that Defendant is “not able to provide additional treatment to the existing system at this time”

17. On or about September 23, 2021, Defendant ceased discharging to the District’s MS4 system and notified the District of termination of the Discharge Approval.

CLAIMS FOR RELIEF

Violations of the WPCA

18. The District realleges and incorporate by reference the allegations in the preceding paragraphs.

19. The purpose of the WPCA is to restore and maintain the water quality of Waters of the District which are defined as all “flowing and still bodies of water” within the District. D.C. Code § 8–103.01(26).

20. The WPCA prohibits any person from discharging pollutants into the Waters of the District, except by permit issued by the Mayor. D.C. Code §§ 8-103.02,

8-103.06. Violations of the WPCA including discharges in excess of permit limits, are subject to civil enforcement, including the imposition of civil penalties in an amount up to \$50,000 for each violation. §§ 8-103.06(g) and 8-103.18(b). Each day that a permit limit is exceeded is considered a separate violation of the WPCA. 21 DCMR § 505.1. D.C. Code § 8-103.06(g)(1) and (2).

21. On at least thirty-four (34) individual days, Defendant exceeded discharge limits set forth in its Discharge Approval for one or more pollutants.

REQUEST FOR RELIEF

WHEREFORE, the District respectfully request that judgment be entered in its favor and against Defendant and that this Court impose civil penalties, fines, and other relief as follows:

1. A declaratory judgment that Defendant has violated the WPCA.
2. Statutory civil penalties against Defendant as authorized under the WPCA in an amount to be proven at trial.
3. Such other relief as the Court deems just and proper.

JURY DEMAND

The District demands a jury trial on all issues triable of right by a jury in this matter.

Dated this 28th of October 2021.

Respectfully submitted,

KARL A. RACINE
Attorney General for the District of
Columbia

KATHLEEN KONOPKA
Deputy Attorney General
Public Advocacy Division

/s/ Jennifer L. Berger
JENNIFER L. BERGER [490809]
Chief, Social Justice Section

/s/ David S. Hoffmann
DAVID S. HOFFMANN [983129]
Assistant Attorney General
400 6th Street, NW
Washington, D.C. 20001
(202) 442-9889 (phone)
David.Hoffmann@dc.gov

Counsel for the District of Columbia

Information Sheet, Continued

C. OTHERS

- | | |
|---|---|
| <input type="checkbox"/> 01 Accounting | <input type="checkbox"/> 17 Merit Personnel Act (OEA) |
| <input type="checkbox"/> 02 Att. Before Judgment | (D.C. Code Title 1, Chapter 6) |
| <input type="checkbox"/> 05 Ejectment | <input type="checkbox"/> 18 Product Liability |
| <input type="checkbox"/> 09 Special Writ/Warrants
(DC Code § 11-941) | <input type="checkbox"/> 24 Application to Confirm, Modify,
Vacate Arbitration Award (DC Code § 16-4401) |
| <input type="checkbox"/> 10 Traffic Adjudication | <input type="checkbox"/> 29 Merit Personnel Act (OHR) |
| <input type="checkbox"/> 11 Writ of Replevin | <input checked="" type="checkbox"/> 31 Housing Code Regulations (Water Pollution Control Act) |
| <input type="checkbox"/> 12 Enforce Mechanics Lien | <input type="checkbox"/> 32 Qui Tam |
| <input type="checkbox"/> 16 Declaratory Judgment | <input type="checkbox"/> 33 Whistleblower |

II.

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|--|---|--|
| <input type="checkbox"/> 03 Change of Name | <input type="checkbox"/> 15 Libel of Information | <input type="checkbox"/> 21 Petition for Subpoena
[Rule 28-I (b)] |
| <input type="checkbox"/> 06 Foreign Judgment/Domestic | <input type="checkbox"/> 19 Enter Administrative Order as
Judgment [D.C. Code § | <input type="checkbox"/> 22 Release Mechanics Lien |
| <input type="checkbox"/> 08 Foreign Judgment/International | 2-1802.03 (h) or 32-151 9 (a)] | <input type="checkbox"/> 23 Rule 27(a)(1)
(Perpetuate Testimony) |
| <input type="checkbox"/> 13 Correction of Birth Certificate | <input type="checkbox"/> 20 Master Meter (D.C. Code § | <input type="checkbox"/> 24 Petition for Structured Settlement |
| <input type="checkbox"/> 14 Correction of Marriage
Certificate | 42-3301, et seq.) | <input type="checkbox"/> 25 Petition for Liquidation |
| <input type="checkbox"/> 26 Petition for Civil Asset Forfeiture (Vehicle) | | |
| <input type="checkbox"/> 27 Petition for Civil Asset Forfeiture (Currency) | | |
| <input type="checkbox"/> 28 Petition for Civil Asset Forfeiture (Other) | | |

D. REAL PROPERTY

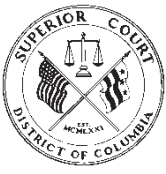
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|--|--|
| <input type="checkbox"/> 09 Real Property-Real Estate | <input type="checkbox"/> 08 Quiet Title |
| <input type="checkbox"/> 12 Specific Performance | <input type="checkbox"/> 25 Liens: Tax / Water Consent Granted |
| <input type="checkbox"/> 04 Condemnation (Eminent Domain) | <input type="checkbox"/> 30 Liens: Tax / Water Consent Denied |
| <input type="checkbox"/> 10 Mortgage Foreclosure/Judicial Sale | <input type="checkbox"/> 31 Tax Lien Bid Off Certificate Consent Granted |
| <input type="checkbox"/> 11 Petition for Civil Asset Forfeiture (RP) | |

/s/ David S. Hoffmann

Attorney's Signature

October 28, 2021

Date



Superior Court of the District of Columbia
CIVIL DIVISION
Civil Actions Branch
500 Indiana Avenue, N.W., Suite 5000 Washington, D.C. 20001
Telephone: (202) 879-1133 Website: www.dccourts.gov

_____ Plaintiff

vs.

Case Number _____

_____ Defendant

SUMMONS

To the above named Defendant:

You are hereby summoned and required to serve an Answer to the attached Complaint, either personally or through an attorney, within twenty one (21) days after service of this summons upon you, exclusive of the day of service. If you are being sued as an officer or agency of the United States Government or the District of Columbia Government, you have sixty (60) days after service of this summons to serve your Answer. A copy of the Answer must be mailed to the attorney for the plaintiff who is suing you. The attorney's name and address appear below. If plaintiff has no attorney, a copy of the Answer must be mailed to the plaintiff at the address stated on this Summons.

You are also required to file the original Answer with the Court in Suite 5000 at 500 Indiana Avenue, N.W., between 8:30 a.m. and 5:00 p.m., Mondays through Fridays or between 9:00 a.m. and 12:00 noon on Saturdays. You may file the original Answer with the Court either before you serve a copy of the Answer on the plaintiff or within seven (7) days after you have served the plaintiff. If you fail to file an Answer, judgment by default may be entered against you for the relief demanded in the complaint.

Clerk of the Court

 Name of Plaintiff's Attorney

By _____
 Deputy Clerk

 Address

Date _____

 Telephone

如需翻译,请打电话 (202) 879-4828 Veuillez appeler au (202) 879-4828 pour une traduction Để có một bản dịch, hãy gọi (202) 879-4828
 번역을 원하시면, (202) 879-4828로 전화하십시오. የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANT: IF YOU FAIL TO FILE AN ANSWER WITHIN THE TIME STATED ABOVE, OR IF, AFTER YOU ANSWER, YOU FAIL TO APPEAR AT ANY TIME THE COURT NOTIFIES YOU TO DO SO, A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY DAMAGES OR OTHER RELIEF DEMANDED IN THE COMPLAINT. IF THIS OCCURS, YOUR WAGES MAY BE ATTACHED OR WITHHELD OR PERSONAL PROPERTY OR REAL ESTATE YOU OWN MAY BE TAKEN AND SOLD TO PAY THE JUDGMENT. IF YOU INTEND TO OPPOSE THIS ACTION, DO NOT FAIL TO ANSWER WITHIN THE REQUIRED TIME.

If you wish to talk to a lawyer and feel that you cannot afford to pay a fee to a lawyer, promptly contact one of the offices of the Legal Aid Society (202-628-1161) or the Neighborhood Legal Services (202-279-5100) for help or come to Suite 5000 at 500 Indiana Avenue, N.W., for more information concerning places where you may ask for such help.

See reverse side for Spanish translation
 Veá al dorso la traducción al español



TRIBUNAL SUPERIOR DEL DISTRITO DE COLUMBIA
DIVISIÓN CIVIL
Sección de Acciones Civiles
500 Indiana Avenue, N.W., Suite 5000, Washington, D.C. 20001
Teléfono: (202) 879-1133 Sitio web: www.dccourts.gov

_____ Demandante
 contra

Número de Caso: _____

_____ Demandado

CITATORIO

Al susodicho Demandado:

Por la presente se le cita a comparecer y se le requiere entregar una Contestación a la Demanda adjunta, sea en persona o por medio de un abogado, en el plazo de veintiún (21) días contados después que usted haya recibido este citatorio, excluyendo el día mismo de la entrega del citatorio. Si usted está siendo demandado en calidad de oficial o agente del Gobierno de los Estados Unidos de Norteamérica o del Gobierno del Distrito de Columbia, tiene usted sesenta (60) días, contados después que usted haya recibido este citatorio, para entregar su Contestación. Tiene que enviarle por correo una copia de su Contestación al abogado de la parte demandante. El nombre y dirección del abogado aparecen al final de este documento. Si el demandado no tiene abogado, tiene que enviarle al demandante una copia de la Contestación por correo a la dirección que aparece en este Citatorio.

A usted también se le requiere presentar la Contestación original al Tribunal en la Oficina 5000, sito en 500 Indiana Avenue, N.W., entre las 8:30 a.m. y 5:00 p.m., de lunes a viernes o entre las 9:00 a.m. y las 12:00 del mediodía los sábados. Usted puede presentar la Contestación original ante el Juez ya sea antes que usted le entregue al demandante una copia de la Contestación o en el plazo de siete (7) días de haberle hecho la entrega al demandante. Si usted incumple con presentar una Contestación, podría dictarse un fallo en rebeldía contra usted para que se haga efectivo el desagravio que se busca en la demanda.

SECRETARIO DEL TRIBUNAL

Nombre del abogado del Demandante _____

Por: _____
 Subsecretario

Dirección _____

Fecha _____

Teléfono _____

如需翻译, 请打电话 (202) 879-4828 Veuillez appeler au (202) 879-4828 pour une traduction Để có một bản dịch, hãy gọi (202) 879-4828
 번역을 원하시면 (202) 879-4828 로 전화하십시오 የአማርኛ ትርጉም ለማግኘት (202) 879-4828 ይደውሉ

IMPORTANTE: SI USTED INCUMPLE CON PRESENTAR UNA CONTESTACIÓN EN EL PLAZO ANTES MENCIONADO O, SI LUEGO DE CONTESTAR, USTED NO COMPARECE CUANDO LE AVISE EL JUZGADO, PODRÍA DICTARSE UN FALLO EN REBELDÍA CONTRA USTED PARA QUE SE LE COBRE LOS DAÑOS Y PERJUICIOS U OTRO DESAGRAVIO QUE SE BUSQUE EN LA DEMANDA. SI ESTO OCURRE, PODRÍA RETENÉRSELE SUS INGRESOS, O PODRÍA TOMÁRSELE SUS BIENES PERSONALES O BIENES RAÍCES Y SER VENDIDOS PARA PAGAR EL FALLO. SI USTED PRETENDE Oponerse a esta acción, NO DEJE DE CONTESTAR LA DEMANDA DENTRO DEL PLAZO EXIGIDO.

Si desea conversar con un abogado y le parece que no puede pagarle a uno, llame pronto a una de nuestras oficinas del Legal Aid Society (202-628-1161) o el Neighborhood Legal Services (202-279-5100) para pedir ayuda o venga a la Oficina 5000 del 500 Indiana Avenue, N.W., para informarse sobre otros lugares donde puede pedirayuda al respecto.

Vea al dorso el original en inglés
 See reverse side for English original