

CAUSE NO. \_\_\_\_\_

Derwin Degruy,	§	IN THE DISTRICT COURT OF
	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	HARRIS COUNTY, TEXAS
	§	
Westlake Chemical Corporation;	§	
Westlake Chemical Energy LLC;	§	
Westlake Chemical OpCo LP;	§	
	§	
<i>Defendants.</i>	§	_____ JUDICIAL DISTRICT

**PLAINTIFF’S ORIGINAL PETITION**

COMES NOW, Plaintiff, Derwin Degruy (“Plaintiff”) complaining of Westlake Chemical Corporation, Westlake Chemical Energy LLC, Westlake Chemical OpCo LP (collectively “Defendants”) and would respectfully show the Court the following:

**I.**

**DISCOVERY LEVEL**

1. Discovery in this matter may be conducted under Level 2 of the Texas Rules of Civil Procedure.

**II.**

**NATURE OF ACTION**

2. This suit arises out of injuries suffered by Derwin Degruy when he was severely injured as a direct result of Defendants’ negligent and grossly negligent conduct.

**III.**

**JURISDICTION AND VENUE**

3. Plaintiff’s claims arise under the laws of Texas.

4. This Court has jurisdiction over Plaintiff’s claims because (1) Plaintiff is not making any federal claims, and (2) the Defendants are citizens of Texas. Because Defendants

are citizens of Texas, the forum-defendant or home-state defendant rule precludes removal to federal court. *See* 28 U.S.C. § 1441(b)(2).

5. Venue for this suit is proper in Harris County under section 15.002(a)(3) of the Texas Civil Practice & Remedies Code because at least one Defendant maintains its headquarters or principal place of business in the state in Harris County, Texas.

**IV.**  
**PARTIES**

6. Plaintiff Derwin Degruy is a resident of Louisiana.

7. Defendant Westlake Chemical Corporation is foreign corporation with its principal place of business in Houston, Texas. Defendant Westlake Chemical Corporation may be served with process through its registered agent, CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

8. Defendant Westlake Chemical Energy LLC is a foreign limited-liability company with its principal place of business in Houston, Texas. Defendant Westlake Chemical Energy LLC may be served with process through its registered agent, CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

9. Defendant Westlake Chemical OpCo LP (“Westlake OpCo”) is foreign limited partnership with its headquarters in Houston, Texas. Westlake Chemical OpCo LP may be served with process through its registered agent, CT Corporation System at 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

## V.

### FACTS

10. On or about January 26, 2022, Plaintiff was working as a welder at the Westlake Chemical South Plant in Sulphur, Louisiana. The chemical plant is owned or operated by Defendants, who use the plant to manufacture chemicals.

11. On the morning of January 26, 2022, an empty Ethylene Dichloride tank exploded at the Westlake Chemical South Plant in Sulphur, Louisiana. At the time of the explosion, Plaintiff was operating within the course and scope of his duties as a welder. The force of the explosion was so strong that it took the Plaintiff off his feet. In addition, the Plaintiff was also subjected to extremely hot and intense flames from the explosion. Disoriented and fearing for his life, Plaintiff fled from the explosion in an attempt to escape the danger.

12. As a result of the explosion and fire, Plaintiff sustained injuries to his head, neck, shoulders, back, lungs, ears, and other parts of his body. The explosion, fire, and injuries resulted in the Plaintiff experiencing severe pain, which has not diminished. The explosion also caused the Plaintiff to sustain severe psychological and emotional injuries. The Plaintiff is undergoing continuous medical treatment for these physical and emotional injuries. However, in all likelihood, his injuries are permanent.

## VI.

### CAUSES OF ACTION

#### **A. Negligence and Gross Negligence Against All Defendants**

13. Plaintiff repeats and re-alleges each allegation contained above.

14. Defendants are negligent and grossly negligent for the following reasons:

- a. failure to properly inspect the tank that exploded;
- b. failure to prepare and vent the tank before work began;
- c. failure to properly supervise their crew;
- d. failure to properly train their employees;
- e. failure to provide adequate medical treatment;
- f. failure to provide a safe work place;
- g. failure to properly inspect the equipment in question;
- h. failure to properly maintain the equipment in;
- i. failure to properly secure the area surrounding the subject equipment prior to its use;
- j. failure to properly supervise the setup of the equipment;
- k. failure to provide proper instruction for the use of the equipment;
- l. failure to detect that the equipment in question was inadequate and not fit for use;
- m. failure to properly construct and design the pipeline(s) involved in the incident;
- n. failure to adequately secure all flammable gases from the pipeline(s) involved in the incident;
- o. failure to warn those individuals at the work site that the equipment in question was dangerous;
- p. failure to properly attend to poorly maintained equipment causing leaks of flammable gases when conducting maintenance;
- q. failure to detect highly flammable gases in the areas where Plaintiff was working;
- r. failure to correct or remedy the dangerous situation knowing residual gases were in the atmosphere where Plaintiff was working; and
- s. other acts deemed negligent and grossly negligent.

15. As a direct and proximate result of Defendants' negligence and gross negligence, Plaintiff sustained severe injuries to his body and mind, which resulted in physical pain, mental anguish, and other medical problems. Plaintiff has sustained severe pain, physical impairment, cognitive injury, discomfort, mental anguish, and distress. In all reasonable probability, Plaintiff's physical pain, physical impairment, and mental anguish will continue indefinitely. Plaintiff has also suffered a loss of earnings in the past, as well as a loss of future earning capacity. Plaintiff has incurred and will incur pharmaceutical and medical expenses in connection with his injuries.

16. Specifically, as a direct and proximate result of Defendants' negligent and grossly negligent acts and/or omissions, Plaintiff suffered severe and debilitating injuries when he sustained injuries after the explosion caused by flammable gases exposed into the atmosphere. Plaintiff has already been forced to seek medical attention just days after the incident and will require future medical care to obtain any sort of recovery. Plaintiff has been damaged in a sum far in excess of the minimum jurisdictional limits of this Honorable Court, for which he now sues.

17. Plaintiff is also entitled to exemplary damages because the aforementioned actions and/or inactions of Defendants amounts to gross negligence. Defendants were aware of the risks involved with performing maintenance operations at plant that produced ethylene but nevertheless, proceeded in conscious indifference to Plaintiff's safety and welfare. Defendants' actions and/or inactions, viewed objectively, subjected Plaintiff to an extreme degree of danger.

18. Plaintiff sustained his injuries because of Defendants' negligence, gross negligence, and malice. As a proximate result of Defendants' negligence and gross negligence, Plaintiff suffered actual damages in excess of the jurisdictional limits of this Court.

**B. Premises Liability Against Westlake OpCo**

19. Plaintiff repeats and re-alleges each allegation contained above.

20. At all material times, Westlake OpCo owned, occupied, and/or controlled the area where Plaintiff was injured. The condition of the area where Plaintiff was injured posed an unreasonable risk of harm, and Westlake OpCo had actual knowledge or reasonably should have known of the unreasonably dangerous condition. Nor did Plaintiff have actual knowledge of the unreasonably dangerous condition.

21. Plaintiff was an invitee who entered Westlake OpCo's premises with Westlake OpCo's knowledge and for Westlake OpCo's benefit. Westlake OpCo had a duty to either warn Plaintiff of the unreasonably dangerous conditions or make the unreasonably dangerous condition reasonably safe. Westlake OpCo breached this duty by failing to warn Plaintiff of the known and unreasonably dangerous condition and by failing to make the unreasonably dangerous condition reasonably safe. Westlake OpCo's breach proximately caused Plaintiff's injuries.

**VII.**

**DAMAGES**

22. As a result of said occurrences, Plaintiff sustained severe injuries to his body, head, neck, back, and other parts of his body, which caused physical pain, mental anguish, and other medical problems. Plaintiff has sustained severe pain, physical impairment, discomfort, mental anguish, and distress. In all reasonable probability, Plaintiff's physical pain, physical

impairment, and mental anguish will continue indefinitely. Plaintiff has also suffered a loss of earnings in the past, as well as a loss of future earning capacity. Plaintiff has incurred and will incur pharmaceutical and medical expenses in connection with his injuries.

23. Plaintiff is also entitled to exemplary damages or punitive damages because the aforementioned actions of Defendants were grossly negligent. Plaintiff's injuries were caused by malicious, willful, reckless, or wanton acts or omissions of Defendants, or alternatively the gross negligence of Defendants' employees, agents, or representatives.

### **VIII.**

#### **JURY TRIAL**

24. Plaintiff hereby requests a trial by jury on all claims.

### **IX.**

#### **PRAYER**

Plaintiff prays that this citation issue and be served on Defendants in a form and manner prescribed by law, requiring Defendants appear and answer, and that upon final hearing, Plaintiff has judgment against Defendants in a total sum in excess of the minimum jurisdictional limits of this Court, plus pre-judgment and post-judgment interests, all costs of Court, and all such other relief to which Plaintiff show himself justly entitled. As required by Rule 47 of the Texas Rules of Civil Procedure, Plaintiff affirmatively states that he seeks damages in excess of \$1,000,000 and prays for relief and judgment, as follows:

- Past and future compensatory damages against Defendants;
- Actual damages;
- Consequential damages;
- Past and future pain and suffering;
- Exemplary damages;

- Past and future mental anguish;
- Past and future impairment;
- Past and future economic loss;
- Past and future disfigurement;
- Interest on damages (pre- and post-judgment) in accordance with law;
- Plaintiffs' reasonable attorneys' fees;
- Costs of court;
- Expert witness fees;
- Costs of copies of depositions; and
- Such other and further relief as the Court may deem just and proper.

Respectfully Submitted,

ARNOLD & ITKIN LLP

*/s/ Kurt Arnold*

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**ATTORNEYS FOR PLAINTIFF**