

IN THE IOWA DISTRICT COURT FOR LINN COUNTY

MARK GRIFFIOEN,
JOYCE LUDVICEK,
MIKE LUDVICEK,
SANDRA SKELTON,
BRIAN VANOUS,

INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED,

PLAINTIFFS,

-vs-

CEDAR RAPIDS AND IOWA CITY RAILWAY COMPANY,
ALLIANT ENERGY CORPORATION,
UNION PACIFIC RAILROAD COMPANY,
UNION PACIFIC CORPORATION,
HAWKEYE LAND CO.,
HAWKEYE LAND II CO.,
HAWKEYE LAND NFG, INC.,
STICKLE ENTERPRISES, LTD.,
MIDWESTERN TRADING, INC.,
MIDWEST THIRD PARTY LOGISTICS, INC. aka MIDWEST 3PL,
STICKLE GRAIN CO.,
STICKLE WAREHOUSING, INC.,
RICK STICKLE,
MARSHA STICKLE

DEFENDANTS.

CASE
NO. LACV 78694

2013 JUN -7 PM 4:19
CLERK OF DISTRICT COURT
LINN COUNTY IOWA

CLASS ACTION PETITION AT LAW

****JURY TRIAL DEMANDED****

COME NOW Plaintiffs, on behalf of themselves individually, and on behalf of all others
similarly situated, and state for their causes of action against Defendants:

COMMON FACTUAL ALLEGATIONS:

1. Plaintiffs are informed and believed and thereon allege all of the following facts in this Petition, inclusive. At all times material hereto, Plaintiff Mark Griffioen was a resident of Swisher, Johnson County Iowa and owned real property and personal property located in Cedar Rapids, Iowa that was damaged by the 2008 Flood located at the following addresses: 611 A Avenue SW, 721 Second Avenue SW, and 1004 Second Avenue SW; this Plaintiff also suffered other damages as a result of the Flood of Cedar Rapids, Iowa in June 2008 (hereinafter referenced as the “2008 Flood” and/or the “Flood of 2008”).

2. At all times material hereto, Plaintiff Joyce Ludvick was a resident of Cedar Rapids, Linn County, Iowa and owned real property/real estate and personal property located in Cedar Rapids, Iowa at 2025 D Street SW that was damaged by the 2008 Flood; this Plaintiff also suffered other damages as a result of the 2008 Flood.

3. At all times material hereto, Plaintiff Mike Ludvick was a resident of Swisher, Johnson County, Iowa and owned real property/real estate and personal property located in Cedar Rapids, Iowa at 2214 D Street SW that was damaged by the 2008 Flood; this Plaintiff also suffered other damages as a result of the 2008 Flood.

4. At all times material hereto, Plaintiff Sandra Skelton was a resident of Cedar Rapids, Linn County, Iowa and owned real property/real estate and personal property located in Cedar Rapids, Iowa at 1125 Tenth Street NW that was damaged by the 2008 Flood; this Plaintiff also suffered other damages as a result of the 2008 Flood.

5. At all times material hereto, Plaintiff Brian Vanous was a resident of Quasqueton, Buchanan County, Iowa and owned real property/real estate and personal property located in Cedar

Rapids, Linn County, Iowa that was located at 425 Second Street SE that was damaged by the 2008 Flood; this Plaintiff also suffered other damages as a result of the 2008 Flood.

6. Defendant Cedar Rapids and Iowa City Railway Company (hereinafter referenced as “CRANDIC”) is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

7. Defendant CRANDIC is a subsidiary wholly owned by corporate parent Defendant Alliant Energy Corporation.

8. Defendant Union Pacific Railroad Company is a corporation incorporated in the state of Delaware, domiciled in the state of Nebraska, and doing business in the state of Iowa

9. Defendant Union Pacific Corporation is a corporation incorporated in Utah, domiciled in Nebraska, and doing business in the state of Iowa.

10. Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation are hereinafter collectively and jointly referenced as “Union Pacific” or “UP” or “Union Pacific Defendants” or “UP Defendants”).

11. Defendant Alliant Energy Corporation (hereinafter referenced as “Alliant”) is a corporation incorporated in Wisconsin, and domiciled in Wisconsin, and doing business in the state of Iowa.

12. Defendant Hawkeye Land Co. is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

13. Defendant Hawkeye Land II Co. is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

14. Defendant Hawkeye Land NFG, Inc. is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

15. Defendant Stickle Enterprises, LTD., also known as Hawkeye Land Co., is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

16. Defendant Midwestern Trading, Inc. is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

17. Defendant Midwest Third Party Logistics, Inc., also known as Midwest 3PL, is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

18. Defendant Stickle Grain Co. is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

19. Defendant Stickle Warehousing, Inc. is a corporation incorporated in the state of Iowa, domiciled in the state of Iowa, and doing business in the state of Iowa.

20. Defendant Rick Stickle is a resident of, and domiciled in, Iowa.

21. Defendant Marsha Stickle is a resident of, and domiciled in, Iowa.

22. For purposes of this action, Defendant Hawkeye Land Co., Defendant Hawkeye Land II Co., Defendant Hawkeye Land NFG, Inc., Defendant Stickle Enterprises, LTD., d/b/a Hawkeye Land Co., Defendant Midwestern Trading, Inc., Defendant Midwest Third Party Logistics, Inc. d/b/a 3PL, Defendant Stickle Grain Co., Defendant Stickle Warehousing, Inc., Defendant Rick Stickle, and Defendant Marsha Stickle shall be collectively referenced herein as "Stickle Defendants," as all Stickle Defendants jointly and severally engaged in the conduct taken by any one or more of the corporations and/or persons enumerated in this paragraph.

23. The damages resulting from the injuries alleged herein occurred in Linn County, Iowa.

24. On or about June 10, 2008, Defendant CRANDIC owned a railroad bridge near Eight Avenue SE by the Penford Plant in Cedar Rapids, Iowa (hereinafter referenced as “CRANDIC Penford Plant Railroad Bridge”).

25. On or about June 10, 2008, the UP Defendants owned a railroad bridge intersecting with First Street NW near the Quaker Oats Plant in Cedar Rapids, Iowa (hereinafter referenced as “UP Quaker Plant Railroad Bridge”).

26. On or about June 10, 2008, all Defendants owned a railroad bridge near the Cargill Corn Milling Plant near 16th Street SE and A Street SW in Cedar Rapids, Iowa (hereinafter referenced as “Defendants’ Cargill Plant Railroad Bridge”).

27. On or about June 10, 2008, the UP Defendants owned a railroad bridge near C Street SW and Ely Road SW near the Alliant’s Prairie Creek Power Generating Station in Cedar Rapids, Iowa (hereinafter referenced as “UP Prairie Creek Power Plant Railroad Bridge” or “Union Pacific Prairie Creek Power Plant Railroad Bridge”).

28. On or about June 10, 2008, the UP Defendants filled two lines of joined railcars with rock to weigh them down and positioned the two side-by-side lines of joined railcars on the UP Defendants’ Quaker bridge which spans the Cedar River in Cedar Rapids, Iowa.

29. On or about June 10, 2008, Defendant CRANDIC and Defendant Alliant filled a line of joined railcars with rock to weigh them down and positioned the line of joined railcars on Defendant CRANDIC’s Penford Plant Bridge which spans the Cedar River in Cedar Rapids, Iowa.

30. Plaintiffs are informed and believe and thereon allege that on or about June 10, 2008, all Defendants filled railcars with rock for weight and positioned the railcars on Defendants’ Cargill Plant Railroad Bridge which spans the Cedar River in Cedar Rapids, Iowa, or in the alternative, all Defendants did not fill the railcars with rock for weight and did not position the

railcars on Defendants' Cargill Plant Railroad Bridge which spans the Cedar River in Cedar Rapids, Iowa..

31. On or about June 10, 2008, the UP Defendants filled two lines of joined railcars with rock to weigh them down and positioned the two side-by-side lines of joined railcars on the UP Defendants' Prairie Creek Railroad Bridge which spans the Cedar River in Cedar Rapids, Iowa.

32. After the UP Defendants parked their railcars on Defendant UP's Quaker Plant Bridge on or about June 10, 2008, the UP Defendants' train bridge and railcars began to impede water on the Cedar River from flowing downstream while increasingly diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water.

33. After Defendant CRANDIC parked its railcars on Defendant CRANDIC's Penford Railroad Bridge on or about June 10, 2008, Defendant CRANDIC's train bridge and railcars began to impede water on the Cedar River from flowing downstream while increasingly diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water.

34. After all Defendants parked their railcars on all Defendants' jointly owned Cargill Plant Railroad Bridge on or about June 10, 2008, this train bridge and railcars began to impede water on the Cedar River from flowing downstream while increasingly diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water.

35. After the UP Defendants parked their railcars on the UP Defendants' Prairie Creek Power Plant Railroad Bridge on or about June 10, 2008, the UP Defendants' train bridge and railcars began to impede water on the Cedar River from flowing downstream while increasingly diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water.

36. On or about June 12, 2008, Defendant CRANDIC's rail bridge collapsed, spilling the still joined railcars and rock ballast they were carrying into the Cedar River, increasingly impeding water on the Cedar River from flowing downstream while diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water.

37. Defendant CRANDIC failed to build, maintain, inspect, and keep in good repair CRANDIC's Penford Plant Railroad Bridge spanning the Cedar River.

38. On or about June 12, 2008, all Defendants' jointly owned Cargill Plant Railroad Bridge collapsed, dropping over half of this substantial railroad bridge into the Cedar River increasingly impeding water on the Cedar River from flowing downstream while diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water; in the alternative, on or about June 12, 2008, all Defendants' jointly owned Cargill Plant Railroad Bridge collapsed, dropping over half of this a substantial railroad Bridge and the railcars loaded on to this bridge into the Cedar River increasingly impeding water on the Cedar River from flowing downstream while diverting, obstructing, and/or damming drains and/or other drainage improvements from being able to carry away water.

39. The UP Defendants failed to build, maintain, inspect, and keep in good repair the UP Defendants' Quaker Plant Railroad Bridge, and UP's Prairie Creek Power Plant Railroad Bridge spanning the Cedar River in Cedar Rapids, Iowa.

40. All Defendants failed build, maintain, inspect, and keep in good repair all Defendants' jointly owned Cargill Plant Railroad Bridge

41. Defendants' actions caused flooding and/or exacerbated flooding in Cedar Rapids, Linn County, Iowa causing great and extensive property damage and other damage to Plaintiffs and all others similarly situated.

42. The corporate veil separating Defendant Alliant from Defendant CRANDIC should be pierced as noted herein below, thereby making Defendant Alliant liable to Plaintiffs for Defendant CRANDIC's duties, obligations, liabilities, and responsibilities because, among other things: Defendant Alliant created Defendant CRANDIC as a mere shell, sham, and alter ego of the parent corporation, Defendant Alliant; Defendant CRANDIC is a subsidiary corporation wholly owned by Defendant Alliant, the parent corporation; Defendant CRANDIC was and is undercapitalized, particularly given the extent of the risk and resultant harm caused by its actions leading to the Flood of 2008; Defendant Alliant has affirmatively controlled the day to day decision-making of Defendant CRANDIC such that Defendant CRANDIC cannot make most decisions on its own without the permission and/or consent of Defendant Alliant; Defendant CRANDIC and Defendant Alliant share common officers and directors; Defendant Alliant has disregarded the separation of its corporate existence from Defendant CRANDIC; Defendant CRANDIC was created as a separate corporate entity primarily as a means to perpetuate fraud and/or injustice and indeed, injustice would be promoted if Defendant Alliant was not held accountable for Defendant CRANDIC's actions in causing and/or exacerbating the Flood of 2008; and Defendant Alliant and Defendant CRANDIC's finances and obligations are not kept separate.

43. The corporate veil separating Defendant Union Pacific Corporation from Defendant Union Pacific Railroad Company should be pierced as noted herein below, thereby making Defendant Union Pacific Corporation liable to Plaintiffs for Defendant Union Pacific Railroad Company's duties, obligations, liabilities, and responsibilities because, among other things: Defendant Union Pacific Corporation created Defendant Union Pacific Railroad Company as a mere shell, sham, and alter ego of the parent corporation, Defendant Union Pacific Corporation; Defendant Union Pacific Railroad Company is a subsidiary corporation wholly owned by Defendant Union Pacific

Corporation, the parent corporation; Defendant Union Pacific Railroad Company was and is undercapitalized, particularly given the extent of the risk and resultant harm caused by its actions causing and/or exacerbating the Flood of 2008; Defendant Union Pacific Corporation has affirmatively controlled the day to day decision-making of Defendant Union Pacific Railroad Company such that Defendant Union Pacific Railroad Company cannot make most decisions on its own without the permission and/or consent of Defendant Union Pacific Corporation; Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation share common officers and directors; Defendant Union Pacific Corporation has disregarded the separation of its corporate existence from Defendant Union Pacific Railroad Company; Defendant Union Pacific Railroad Company was created as a separate corporate entity primarily as a means to perpetuate fraud and/or injustice and indeed, injustice would be promoted if Defendant Union Pacific Corporation was not held accountable for Defendant Union Pacific Railroad Company's actions in leading to the Flood of 2008; Defendant Union Pacific Corporation and Defendant Union Pacific Railroad Company's finances and obligations, etc. are not kept separate; etc.

44. The corporate veil separating the Stickle Defendants should be pierced as noted herein below, thereby making all Stickle Defendants liable to Plaintiffs for all Stickle Defendants' duties, obligations, liabilities, and responsibilities because, among other things: the Stickle Defendants were created as a mere shell, sham, and alter ego of the Stickle Defendants; the Stickle Defendants are subsidiary corporations wholly owned by one another; the Stickle Defendants were and are undercapitalized, particularly given the extent of the risk and resultant harm caused by its actions causing and/or exacerbating the Flood of 2008; the Stickle Defendants have affirmatively controlled the day to day decision-making of one another such that the Stickle Defendants cannot make most decisions independently without the permission and/or consent of Defendant Rick Stickle or

Defendant Marsha Stickle; the Stickle Defendants share common officers and directors; the Stickle Defendants have disregarded the separation of its corporate existence from one another and from Defendant Rick Stickle and Defendant Marsha Stickle; the Stickle Defendants were created as a separate corporate entity primarily as a means to perpetuate fraud and/or injustice and indeed, injustice would be promoted if all of the Stickle Defendants were not held accountable for the Stickle Defendants' actions in leading to the Flood of 2008; the Stickle Defendants' finances and obligations, etc. are not kept separate; etc.

45. All Defendants should all be held jointly and severally liable for causing and/or exacerbating the extensive flooding leading to the damages enumerated herein because, among other things:

a. the conduct of all Defendants' was cumulative conduct and/or aggregate conduct and/or inextricably linked and connected conduct leading to the extensive damages noted herein;

b. all Defendants aided and abetted one another and/or were concerted actors in making the decision to place weighed down railcars on their respective bridges and/or failed to build, maintain, inspect, and/or repair their respective bridges which caused flooding and/or exacerbated flooding causing Plaintiffs and all others similarly situated to suffer the damaged enumerated herein;

AND

c. All Defendants jointly own the Cargill Plant Railroad Bridge which collapsed into the Cedar River near downtown Cedar Rapids, causing and/or exacerbating the Flood of 2008.

46. The amount in controversy and damages resulting from the injuries alleged herein exceed the minimal jurisdictional monetary requirements.

CLASS ACTION ALLEGATIONS:

47. Plaintiffs bring this action pursuant to Rule 1.261 of the Iowa Rules of Civil Procedure on behalf of themselves and on behalf of all others similarly situated, as members of the proposed Plaintiffs' class. The proposed class is initially defined as all persons and entities who suffered real and/or personal property damage and/or loss and/or the diminished value of such property and/or other damages as the result of flooding in Cedar Rapids, Linn County, Iowa in June of 2008. The proposed subclasses are initially defined as the following:

- a. Residential real estate/real property owners (e.g. residential home/dwelling owners, etc.) who suffered partial loss and/or complete loss and/or the diminished value of each such parcel of real estate/real property as well as any partial loss and/or complete loss and/or diminished value of any personal property/items as well as other damages as a result of the Flood of 2008; as used in this action, "personal property" shall mean all property which is not real property/real estate;
- b. Commercial and/or Business real estate/real property owners (e.g. owners of land and/or buildings and/or other improvements, etc. used for commercial/business and/or industrial and/or agricultural use, etc.) who suffered partial loss and/or complete loss and/or the diminished value of each such parcel of real estate/real property as well as any partial loss and/or complete loss and/or diminished value of any personal property/items as well as any other damages as a result of the Flood of 2008; as used in this action, "personal property" shall mean all property which is not real property/real estate;
- c. Owners of personal property/items who suffered partial loss and/or complete loss and/or the diminished value of personal property/items as well as other damages as

a result of the Flood of 2008 whether such persons' property/items were owned by individuals, businesses, or any other person or entity; as used in this action,

"personal property" shall mean all property which is not real property/real estate;

AND

d. Other damages.

48. The class is so numerous that joinder of individual Plaintiffs who suffered property damage as defined herein as a result of the Flood of 2008 would be impracticable. Based upon public information, Plaintiffs and all others similarly situated include, but are not limited to, persons who suffered the damages enumerated herein related to: at least 5,390 residential parcels; at least 1,049 commercial parcels; at least 84 industrial parcels; at least 51 agricultural parcels; at least 486 non-profit properties/facilities; moreover, at least 18,623 persons lived in flood-impacted areas;

49. There exists questions of law and fact common to the class which predominate over questions affecting only individual class members including, but not limited to:

- a. Whether and to what extent Defendants caused and/or exacerbated and/or contributed to the flooding;
- b. Whether Defendants' actions subject them to strict liability;
- c. Whether Defendants' were negligent;
- d. Whether, and to what extent, Defendants engaged in abnormally dangerous activity for which they are strictly liable;
- e. Whether, and to what extent, Defendants engaged in ultrahazardous/extra-hazardous activity for which they are strictly liable;

- f. Whether, and to what extent, Defendants' actions prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding;
- g. Whether and to what extent Defendants' actions dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding;
- h. Whether Defendants Alliant and CRANDIC failed to properly build, maintain, and inspect the CRANDIC Penford Plant Railroad Bridge spanning the Cedar River in Cedar Rapids, Iowa;
- i. Whether the Union Pacific Defendants failed to properly build, maintain, and inspect their railroad bridges spanning the Cedar River in Cedar Rapids, Iowa;
- j. Whether all Defendants failed to properly build, maintain, and inspect their railroad bridges spanning the Cedar River in Cedar Rapids, Iowa;
- k. Whether Plaintiffs and proposed class members were injured by the Defendants' acts or omissions;
- l. Whether Plaintiffs and the proposed class members are entitled to damages, and, if so, the appropriate amount of such class-wide measures of damages;
- m. Whether Plaintiffs and the proposed class members are entitled to punitive damages, and, if so, the appropriate amount of such class-wide measures of punitive damages;

50. Given the extensive nature of the damage involved in the Flood of 2008, together with the large numbers of persons and entities damaged by the Flood of 2008, a class action is the

quintessential superior means of achieving justice in the fairest and most efficient manner because, among other things:

a. the adjudication of separate actions by individual members of the class would create a risk of inconsistent or varying adjudications with respect to individual members of the class that would establish incompatible standards of conduct for a party opposing the class;

b. as a result of the sheer magnitude of damages suffered, separate adjudications by individual members of the class would result in an unfair and unjust allocation of Defendants' limited assets and resources relative to the extraordinary damages caused by Defendants which would substantially impair or preclude the ability of individual class members from being able to obtain a fair and proportionate share of justice/damages; and

c. the questions of law and fact common to the members of the Classes predominate over any questions affecting only individual members, and a class action is superior to any other available method for the fair and efficient adjudication of this action.

51. Plaintiffs have retained lawyers who are experienced litigators with very substantial class action experience and expertise. The lawyers have agreed to advance the costs of the out-of-pocket expenses of this litigation and have the ability to do so.

DIVISION ONE:

COUNT I: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant CRANDIC and Defendant Alliant and state:

52. Plaintiffs hereby replead Paragraphs one (1) through fifty-one (51) above, as if fully set forth here.

53. Defendant CRANDIC and Defendant Alliant are jointly, severally, and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when Defendants engaged in abnormally dangerous activity and/or ultrahazardous activity and/or extra-hazardous activity when Defendants chose to load a line of connected railcars with heavy rock ballast weight and chose to place such railcars on Defendant CRANDIC's 105 year old Penford Plant Railroad Bridge spanning the Cedar River in downtown Cedar Rapids causing the bridge to collapse which caused flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein;

54. Defendant CRANDIC and Defendant Alliant should be held jointly and strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, by choosing to load a line of connected railcars with heavy rock weight and by choosing to place such railcars on Defendants' 105 year old Penford Plant Railroad Bridge spanning the Cedar River in downtown Cedar Rapids causing the bridge to collapse which caused flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein, Defendant CRANDIC and Defendant Alliant engaged in abnormally dangerous activity and/or ultrahazardous activity, and or extra-hazardous activity including, but not limited to:

- a. Defendants' actions prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding;
- b. Defendants' actions dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding;

c. Defendants failed to properly build, maintain, inspect, and keep in good repair Defendant CRANDIC's Penford Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa, causing extensive flooding and/or exacerbating flooding;

55. As a direct and proximate result of Defendants' actions, Plaintiffs and all others similarly situated have suffered property damage and diminution in property value including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by Defendant CRANDIC and Defendant Alliant's actions; AND
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT II: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant CRANDIC and Defendant Alliant and state:

56. Plaintiffs hereby replead Paragraphs one (1) through fifty-five (55) above, as if fully set forth here.

57. Pursuant to Iowa Code § 468.148, Defendant CRANDIC and Defendant Alliant are jointly, severally, and strictly liable for the damages suffered by Plaintiffs and all others similarly situated because, among other things, Defendant CRANDIC and Defendant Alliant violated Iowa Code § 468.148 when Defendants chose to load connected railcars weighted down with heavy rock ballast and place such railcars on Defendants' 105 year old Penford Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa causing this bridge to collapse causing flooding and/or exacerbated flooding because, among other things:

- a. Defendants' actions dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating the flooding;
- b. Defendants' actions prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating the flooding; AND
- c. Defendants failed to properly build, maintain, inspect, and keep in good repair Defendant CRANDIC's Penford Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa, causing extensive flooding and/or exacerbating the flooding;

58. As a direct and proximate result of Defendants' actions, Plaintiffs and all others similarly situated have suffered property damage and diminution in property value as outlined herein including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by Defendant CRANDIC and Defendant Alliant's actions; AND
- d. Other damages.

59. Defendants have on a number of occasions elected to load connected railcars weighted down with heavy rock ballast and place such railcars on Defendants' 105 year old Penford Plant Railroad Bridge spanning the Cedar River in downtown Cedar Rapids, Iowa as well as on their other railroad bridges.

60. Plaintiffs are entitled to double and/or treble damages as a result of Defendants' actions pursuant to Iowa Code § 468.148.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages plus double and/or treble damages pursuant to Iowa Code § 468.148, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT III: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant CRANDIC and Defendant Alliant and state:

61. Plaintiffs hereby replead Paragraphs one (1) through sixty (60) above, as if fully set forth here.

62. Pursuant to Iowa Code § 327F.2, Defendant CRANDIC and Defendant Alliant are jointly, severally, and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when Defendants chose to load connected railcars weighted down with heavy rock ballast and place such railcars on Defendants' 105 year old Penford Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa causing this bridge to collapse and caused flooding and/or exacerbated flooding because, among other things:

a. Defendants failed to properly build, maintain, inspect, and keep in good repair Defendant CRANDIC's Penford Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa, causing extensive flooding and/or exacerbating the flooding;

b. Defendants' actions prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating the flooding; AND

c. Defendants' actions dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating the flooding;

63. Defendant CRANDIC and Defendant Alliant should be held strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, Defendant CRANDIC and Defendant Alliant violated Iowa Code § 327F.2 as evidenced by, among other things, the collapse of Defendants' 105 year old Penford Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa causing this bridge to collapse and caused flooding and/or exacerbated flooding.

64. As a direct and proximate result of Defendants' actions, Plaintiffs and all others similarly situated have suffered real property and personal property damage and diminution in property value as outlined herein including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by Defendant CRANDIC and Defendant Alliant's actions; AND
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT IV: NEGLIGENCE

COMES NOW Plaintiffs and all others similarly situated and state for this cause of action against Defendant CRANDIC and Defendant Alliant:

65. Plaintiffs hereby replead Paragraphs one (1) through sixty-four (64) above, as if fully set forth here.

66. Defendant CRANDIC and Defendant Alliant should be held jointly liable for damages suffered by Plaintiffs and all others similarly situated for the reasons set forth herein.

67. In loading a line of connected railcars with rock weight and placing such railcars over Defendants' Penford Plant Railroad Bridge in downtown Cedar Rapids on or about June 10, 2008 which led that bridge to collapse on or about June 12, 2008 causing flooding and/or exacerbating flooding, Defendant CRANDIC and Defendant Alliant were negligent in—but not limited to—one or more of the following particulars:

- a. in failing to build, maintain, and keep in good repair all bridges, abutments, an/or other construction necessary to enable such bridge(s) to cross over the Cedar River, causing extensive flooding and/or exacerbating the flooding;
- b. in damming up, diverting, obstructing a ditch, drain, or other drainage improvement authorized by law, causing extensive flooding and/or exacerbating the flooding; AND
- c. Defendants' actions prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating the flooding.

68. Defendant CRANDIC and Defendant Alliant's negligence was a proximate cause of injuries and damages to Plaintiffs' and others similarly situated.

69. By reason of Defendant CRANDIC and Defendant Alliant's negligence, Plaintiffs and all others similarly situated have and will continue to suffer injuries and damages including but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by Defendant CRANDIC and Defendant Alliant's actions; AND
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT V: PUNITIVE DAMAGES:

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant CRANDIC and Defendant Alliant and state:

70. Plaintiffs hereby incorporate by this reference Paragraphs one (1) through sixty-nine (69) above, as if fully set forth here.

71. Defendant CRANDIC and Defendant Alliant's conduct herein constituted a willful, wanton, and reckless disregard for the rights and safety of Plaintiffs and all others similarly situated, causing them extensive real property and personal property damage and diminution in real property and personal property values. Punitive damages are necessary to punish Defendants while discouraging and deterring Defendants and others from engaging in similar conduct in the future.

72. Defendant CRANDIC and Defendant Alliant's intentional act of placing connected railcars weighted down with heavy rock ballast on Defendants' 105 year old CRANDIC Penford Plant Railroad Bridge under the circumstances then existing was unreasonable and in disregard of a known or obvious risk that was so great as to make it highly probable that harm will follow.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their damages plus punitive damages sufficient to punish Defendants while deterring and discouraging Defendants and all others from taking similar action in the future, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT VI: PIERCING THE CORPORATE VEIL:

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant Alliant and Defendant CRANDIC and state:

73. Plaintiffs hereby incorporate by this reference Paragraphs one (1) through seventy-two (72) above as if fully set forth here.

74. Defendant Alliant is the sole shareholder of Defendant CRANDIC.

75. Defendant CRANDIC is a wholly owned subsidiary of Defendant Alliant.

76. By virtue of the catastrophic damages caused by CRANDIC as outlined in this action, Defendant CRANDIC is indebted to Plaintiffs and all others similarly situated.

77. Based upon information and belief, Defendant CRANDIC's assets are insufficient to cover Defendant CRANDIC's indebtedness to Plaintiffs and all others similarly situated.

78. Defendant Alliant has abused the corporate privilege and the corporate veil should be pierced because, among other things:

- a. Defendant CRANDIC is undercapitalized;
- b. Defendant CRANDIC is particularly undercapitalized relative to the enormous risk Defendant CRANDIC undertook when it loaded its 105 year old Penford Plant Railroad Bridge spanning the entire Cedar River in the heart of downtown Cedar Rapids with a line of joined rail cars weighted down with heavy rock ballast weight;
- c. Defendant CRANDIC's finances are not kept separate from Defendant Alliant's finances;
- d. Defendant CRANDIC's obligations are paid by Defendant Alliant and vice versa;
- e. Defendant CRANDIC is used to promote fraud or illegality;
- f. Defendant CRANDIC does not follow corporate formalities.
- g. Defendant CRANDIC is a mere sham;
- h. Defendant CRANDIC is a mere alter ego of Defendant Alliant;

i. Defendant CRANDIC and Defendant Alliant's funds, obligations, assets, debts, etc. are commingled and intertwined;

j. Defendant CRANDIC and Defendant Alliant share a number of shared/common Boards of Directors, Officers, and other personnel and departments;

k. Defendant Alliant controls and runs Defendant CRANDIC's day to day operations to the extent that Defendant CRANDIC virtually has no ability to run its affairs or make decisions without the strict oversight, management, decision-making power, and control of Defendant Alliant;

l. Defendants have abused the corporate privilege; AND

m. Plaintiffs and all other similarly situated will suffer extreme injustice if the corporate veil is not pierced.

79. Accordingly, Defendant CRANDIC's corporate veil should be pierced so that Defendant Alliant can—along with Defendant CRANDIC—be held liable for the catastrophic damages to Plaintiffs and all others similarly situated when Defendant CRANDIC and Defendant Alliant undertook the risk of placing joined and weighted railcars on the 105 year CRANDIC Penford Plant Railroad Bridge spanning the Cedar River in downtown Cedar Rapids.

WHEREFORE, Plaintiffs and all others similarly situated pray that Defendant CRANDIC's corporate veil be pierced so that Defendant CRANDIC and Defendant Alliant can both be held jointly and severally liable for such amount that will fully, fairly, and adequately compensate plaintiffs and all others similarly situated for their and damages while additionally providing double and/or treble damages plus punitive damages sufficient to punish Defendant CRANDIC and Defendant Alliant while deterring and discouraging Defendant CRANDIC and Defendant Alliant

and all others from taking similar action in the future, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

DIVISION TWO:

COUNT I: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant Union Pacific Corporation and Defendant Union Pacific Railroad Company (collectively referenced herein as “UP Defendants”) and state:

80. Plaintiffs hereby replead Paragraphs one (1) through seventy-nine (79) above, as if fully set forth here.

81. The UP Defendants are jointly and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when the UP Defendants engaged in abnormally dangerous activity and/or ultrahazardous activity and/or extra-hazardous activity when the UP Defendants, among other things:

a. chose to load two lines of connected railcars with heavy rock ballast weight and chose to place the two lines of railcars side by side on the UP Defendants’ Quaker Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein; AND

c. chose to load a line of connected railcars with heavy rock ballast weight and chose to place such railcars on the UP Defendants’ Prairie Creek Power Plant Railroad Bridge in Cedar

Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

82. The UP Defendants should be held strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, the UP Defendants engaged in abnormally dangerous activity and/or ultrahazardous activity, and or extra-hazardous activity including, but not limited to:

a. the UP Defendants' actions with respect to all of their bridges prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding;

b. the UP Defendants' actions with respect to all of their bridges dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding;

83. As a direct and proximate result of the UP Defendants' actions and decisions, Plaintiffs and all others similarly situated have suffered property damage and diminution in property value including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;

- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by Defendant Union Pacific’s actions; and
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT II: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against the UP Defendants and state:

84. Plaintiffs hereby replead Paragraphs 1-83 above, as if fully set forth here.

85. Pursuant to Iowa Code § 468.148, the UP Defendants are jointly and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when the UP Defendants, among other things:

- a. chose to load two lines of connected railcars with heavy rock ballast weight and chose to place the two lines of railcars side by side on Defendant Union Pacific’s Quaker Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein; AND

b. chose to load a line of connected railcars with heavy rock ballast weight and chose to place such railcars on Defendant Union Pacific's Prairie Creek Power Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

86. The UP Defendants should be held strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, the UP Defendants actions related to their railroad bridges as noted herein violated Iowa Code § 468.148 by, among other things:

a. the UP Defendants' actions with respect to their bridges dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding; AND

b. the UP Defendants' actions with respect to their three bridges prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding;

87. As a direct and proximate result of Defendants' actions and decisions, Plaintiffs and all others similarly situated have suffered property damage and diminution in property value as outlined herein including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;

- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by Defendant Union Pacific’s actions; AND
- d. Other damages.

88. The UP Defendants have on a number of occasions elected to load connected railcars weighted down with heavy rock ballast and place such railcars on the UP Defendants’ railroad bridges spanning the Cedar River in and near downtown Cedar Rapids, Iowa and elsewhere.

89. Plaintiffs and all others similarly situated are entitled to double and/or treble damages as a result of Defendants’ actions pursuant to Iowa Code § 468.148.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages plus double and/or treble damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT III: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against the UP Defendants and state:

90. Plaintiffs hereby replead Paragraphs 1-89 above, as if fully set forth here.

91. Pursuant to Iowa Code § 327F.2, the UP Defendants are jointly and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when the UP Defendants, among other things:

a. chose to load two lines of connected railcars with heavy rock ballast weight and chose to place the two lines of railcars side by side on the UP Defendants' Quaker Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein; AND

b. chose to load a line of connected railcars with heavy rock ballast weight and chose to place such railcars on the UP Defendants' Prairie Creek Power Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

92. The UP Defendants should be held strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, the UP Defendants violated Iowa Code § 327F.2 when the UP Defendants engaged in activities including, but not limited to:

a. Defendants' actions with respect to loading railcars on Defendants' bridges which prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding; AND

b. Defendants' actions with respect to loading railcars on Defendants' bridges dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding;

93. As a direct and proximate result of Defendants' actions and decisions, Plaintiffs and all others similarly situated have suffered real property and personal property damage and diminution in property value as outlined herein including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved and/or damaged by floodwaters caused by and/or exacerbated by Defendants' actions; AND
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT IV: NEGLIGENCE

COMES NOW Plaintiffs and all others similarly situated and state for this cause of action against the UP Defendants and state:

94. Plaintiffs hereby replead Paragraphs 1-93 above, as if fully set forth here.

95. The UP Defendants are jointly liable as they were negligent in—but not limited to—one or more of the following particulars:

a. when they chose to load two lines of connected railcars with heavy rock weight and chose to place the two lines of railcars side by side on the UP Defendants' Quaker Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein; AND

b. when they chose to load a line of connected railcars with heavy rock ballast weight and chose to place such railcars on the UP Defendants' Prairie Creek Power Plant Railroad Bridge in Cedar Rapids preventing/diverting water from going downstream causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

c. in failing to build, maintain, and keep in good repair all bridges, abutments, an/or other construction necessary to enable such bridge(s) to cross over the Cedar River, causing extensive flooding and/or exacerbating the flooding;

d. in damming up, diverting, obstructing a ditch, drain, or other drainage improvement authorized by law, causing extensive flooding and/or exacerbating the flooding; AND

e. Defendants' actions with respect to their railroad bridges as outlined herein prevented/diverted water from flowing down the Cedar River, causing extensive flooding and/or exacerbating the flooding.

96. The UP Defendants' negligence was a proximate cause of injuries and damages to Plaintiffs' and others similarly situated.

97. By reason of the UP Defendants' negligence, Plaintiffs and all others similarly situated have and will continue to suffer injuries and damages including but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved and/or damaged by floodwaters caused by and/or exacerbated by the UP Defendants’ actions: AND
- d. Other damages

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT V: PUNITIVE DAMAGES:

COME NOW Plaintiffs and all others similarly situated for this cause of action against the UP Defendants and state:

98. Plaintiffs hereby replead Paragraphs 1-97 above, as if fully set forth here.

99. The UP Defendants’ conduct herein constituted a willful, wanton, and reckless disregard for the rights and safety of Plaintiffs and all others similarly situated, causing them extensive real property damage and personal property damage and diminution in both real property and personal property values. Punitive damages are necessary to punish the UP Defendants while

discouraging and deterring the UP Defendants and all others from engaging in similar conduct in the future.

100. The UP Defendants' intentional act of placing connected railcars weighted down with heavy rock on the UP Defendants' Quaker Plant Railroad Bridge and Prairie Creek Power Plant Railroad Bridge (or in the alternative, failing to properly build, inspect, and maintain their bridges) under the circumstances then existing was unreasonable and in disregard of a known or obvious risk that was so great as to make it highly probable that harm will follow.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their damages plus punitive damages sufficient to punish the UP Defendants while deterring and discouraging the UP Defendants and all others from taking similar action in the future, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT VI: PIERCING THE CORPORATE VEIL:

COME NOW Plaintiffs and all others similarly situated for this cause of action against Defendant Union Pacific Corporation and Union Pacific Railroad Company and states:

101. Plaintiffs hereby incorporate by this reference Paragraphs 1-100 above as if fully set forth here.

102. Defendant Union Pacific Corporation is the sole shareholder of Defendant Union Pacific Railroad Company.

103. Defendant Union Pacific Railroad Company is a wholly owned subsidiary of Defendant Union Pacific Corporation.

104. By virtue of the catastrophic damages caused by Union Pacific Railroad Company as outlined in this action, Defendant Union Pacific Railroad Company is indebted to Plaintiffs and all others similarly situated.

105. Based upon information and belief, Defendant Union Pacific Railroad Company's assets are insufficient to cover Defendant Union Pacific Railroad Company's indebtedness to Plaintiffs and all others similarly situated.

106. Defendant Union Pacific Corporation has abused the corporate privilege and the corporate veil should be pierced because, among other things:

- a. Defendant Union Pacific Railroad Company is undercapitalized;
- b. Defendant Union Pacific Railroad Company is particularly undercapitalized relative to the enormous risk Defendant Union Pacific Railroad Company undertook when it loaded all its railroad bridge spanning the entire Cedar River in Cedar Rapids with dual lines of joined rail cars weighted down with heavy rock;
- c. Defendant Union Pacific Railroad Company's finances are not kept separate from Defendant Union Pacific Railroad Company's finances;
- d. Defendant Union Pacific Railroad Company's obligations are paid by Defendant Union Pacific Corporation and vice versa;
- e. Defendant Union Pacific Railroad Company is used to promote fraud or illegality;
- f. Defendant Union Pacific Railroad Company does not follow corporate formalities.
- g. Defendant Union Pacific Railroad Company is a mere sham;

h. Defendant Union Pacific Railroad Company is a mere alter ego of Defendant Union Pacific Corporation;

i. Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation's funds, obligations, assets, debts, etc. are commingled and intertwined;

j. Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation share a number of shared/common Boards of Directors, Officers, and other personnel and departments;

k. Defendant Union Pacific Corporation controls and runs Defendant Union Pacific Railroad Company's day to day operations to the extent that Defendant Union Pacific Railroad Company virtually has no ability to run its affairs or make decisions without the strict oversight, management, decision-making power, and control of Defendant Union Pacific Corporation;

l. Defendants have abused the corporate privilege; AND

m. Plaintiffs and all other similarly situated will suffer extreme injustice if the corporate veil is not pierced.

107. Accordingly, Defendant Union Pacific Railroad Company's corporate veil should be pierced so that Defendant Union Pacific Corporation can--along with Defendant Union Pacific Railroad Company—be held liable for the catastrophic damages to Plaintiffs and all others similarly situated when Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation undertook the risk of placing joined and weighted railcars on all of their old railroad bridge spanning the Cedar River in downtown Cedar Rapids.

WHEREFORE, Plaintiffs and all others similarly situated pray that Defendant Union Pacific Railroad Company's corporate veil be pierced so that Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation can both be held jointly and severally liable for such amount that will fully, fairly, and adequately compensate plaintiffs and all others similarly situated for their and damages while additionally providing double and/or treble damages plus punitive damages sufficient to punish Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation while deterring and discouraging Defendant Union Pacific Railroad Company and Defendant Union Pacific Corporation and all others from taking similar action in the future, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

DIVISION THREE:

COUNT I: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against all Defendants and state:

108. Plaintiffs hereby replead Paragraphs 1-107 above, as if fully set forth here.

109. All Defendants are jointly, severally, and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when all Defendants engaged in abnormally dangerous activity and/or ultrahazardous activity and/or extra-hazardous activity when all Defendants, among others things, chose to load a line of connected railcars with heavy rock weight and chose to place such railcars on all Defendants' jointly owned Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in

damages suffered by Plaintiffs and all others similarly situated as outlined herein or, in the alternative, all Defendants chose not to properly build, inspect, and maintain all Defendants' jointly owned Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

110. All Defendants should be held jointly, severally, and strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, all Defendants engaged in abnormally dangerous activity and/or ultrahazardous activity, and or extra-hazardous activity including with respect to their jointly owned Cargill Plant Railroad Bridge, including but not limited to:

a. All Defendants' actions with respect to their jointly owned Cargill Plant Railroad Bridge prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding;

b. All Defendants' actions with respect to their jointly owned Cargill Plant Railroad Bridge dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding; AND

c. All Defendants failed to properly build, maintain, inspect, and keep in good repair all Defendants' jointly owned Cargill Plant Railroad Bridge spanning over the Cedar River near downtown Cedar Rapids, Iowa, causing extensive flooding and/or exacerbating flooding;

111. As a direct and proximate result of all Defendants' actions and decisions, Plaintiffs and all others similarly situated have suffered property damage and diminution in property value including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by all Defendants actions; AND
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT II: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against all Defendants and state:

112. Plaintiffs hereby replead Paragraphs 1-111 above, as if fully set forth here.

113. Pursuant to Iowa Code § 468.148, all Defendants are strictly, severally, and jointly liable for the damages suffered by Plaintiffs and all others similarly situated when all Defendants chose, among other things, to load a line of connected railcars with heavy rock weight and chose to place such railcars on all Defendants' Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein, or in the alternative, all Defendants chose not to properly build, inspect, and maintain all Defendants' Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

114. All Defendants should be held jointly, severally, and strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, all Defendants' actions related to all Defendants' jointly owned Cargill Plant Railroad bridge as noted herein violated Iowa Code § 468.148 by, among other things:

a.. All Defendants with respect to their jointly owned Cargill Plant Railroad Bridge dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding;

b. All Defendants took action with respect to their jointly owned Cargill Plant Railroad Bridge which prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding; AND

c. All Defendants' failure to properly build, maintain, inspect, and keep in good repair all Defendants' jointly owned Cargill Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa, caused extensive flooding and/or exacerbating flooding;

115. As a direct and proximate result of all Defendants' actions and decisions, Plaintiffs and all others similarly situated have suffered property damage and diminution in property value as outlined herein including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved in and/or damaged by floodwaters caused by and/or exacerbated by all Defendants' actions; AND
- d. Other damages.

116. Defendants have on a number of occasions elected to load connected railcars weighted down with heavy rock ballast and place such railcars on Defendants' railroad bridges spanning the Cedar River in and near downtown Cedar Rapids, Iowa and elsewhere.

117. Plaintiffs and all others similarly situated are entitled to double and/or treble damages as a result of Defendants' actions pursuant to Iowa Code § 468.148.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages plus double and/or treble damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT III: STRICT LIABILITY

COME NOW Plaintiffs and all others similarly situated for this cause of action against all Defendants and state:

118. Plaintiffs hereby replead Paragraphs 1-117 above, as if fully set forth here.

119. Pursuant to Iowa Code § 327F.2, all Defendants are jointly, severally, and strictly liable for the damages suffered by Plaintiffs and all others similarly situated when all Defendants, among other things, chose to load a line of connected railcars with heavy rock weight and chose to place such railcars on all Defendants' Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein, or in the alternative, when all Defendants chose not to properly build, inspect, and maintain all Defendants' Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

120. All Defendants should be held jointly, severally, and strictly liable for damages suffered by Plaintiffs and all others similarly situated because, among other things, all Defendants violated Iowa Code § 327F.2 when all Defendants engaged in activities including, but not limited to:

a. All Defendants' failure to properly build, maintain, inspect, and keep in good repair all Defendants' jointly owned Cargill Plant Railroad Bridge spanning over the Cedar River in downtown Cedar Rapids, Iowa, causing extensive flooding and/or exacerbating flooding;

b. All Defendants' actions with respect to their jointly owned Cargill Plant Railroad Bridge prevented water from flowing down the Cedar River, causing extensive flooding and/or exacerbating flooding; AND

c. All Defendants' actions with respect to their jointly owned Cargill Plant Railroad bridge dammed, diverted, and/or obstructed drains and/or other drainage improvements designed to carry away water, causing extensive flooding and/or exacerbating flooding;

121. As a direct and proximate result of all Defendants' actions and decisions, Plaintiffs and all others similarly situated have suffered real property and personal property damage and diminution in property value as outlined herein including, but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved and/or damaged by floodwaters caused by and/or exacerbated by all Defendants actions; AND

d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT IV: NEGLIGENCE

COMES NOW Plaintiffs and all others similarly situated and state for this cause of action against all Defendants and state:

122. Plaintiffs hereby replead Paragraphs 1-121 above, as if fully set forth here.

123. All Defendants are jointly and severally liable when they were all negligent in—but not limited to—the following with respect to all Defendants’ jointly owned Cargill Plant Railroad Bridge:

a. when all Defendants chose to load a line of connected railcars with heavy rock weight and chose to place such railcars on all Defendants’ jointly owned Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein, or in the alternative, when all Defendants chose not to properly build, inspect, and maintain all Defendants’ jointly owned Cargill Plant Railroad Bridge in Cedar Rapids causing this bridge to collapse causing flooding and/or the exacerbation of flooding resulting in damages suffered by Plaintiffs and all others similarly situated as outlined herein.

b. when all Defendants failed to build, maintain, and keep in good repair all bridges, abutments, an/or other construction necessary to enable such bridge(s) to cross over the Cedar River, causing extensive flooding and/or exacerbating the flooding;

c. in damming up, diverting, obstructing a ditch, drain, or other drainage improvement authorized by law, causing extensive flooding and/or exacerbating the flooding; AND

d. Defendants' actions with respect to their jointly owned Cargill Plant Railroad Bridge as outlined herein prevented/diverted water from flowing down the Cedar River, causing extensive flooding and/or exacerbating the flooding.

124. All Defendants negligence was a proximate cause of injuries and damages to Plaintiffs' and others similarly situated.

125. By reason of all Defendants' common negligence, Plaintiffs and all others similarly situated have and will continue to suffer injuries and damages including but not limited to:

- a. Total and/or partial loss of real property/real estate whether owned by: a person, a business, or any other person or entity;
- b. Total and/or partial loss of personal property/items whether owned by: a person, a business, or any other person or entity;
- c. Diminution in value of real property/real estate and/or personal property/items—whether owned by: a person, a business, or any other person or entity—by virtue of such property being involved and/or damaged by floodwaters caused by and/or exacerbated by all Defendants' actions; AND
- d. Other damages.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their and damages, for cost of this action, together

with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

COUNT V: PUNITIVE DAMAGES:

COME NOW Plaintiffs and all others similarly situated for this cause of action against all Defendants and state:

126. Plaintiffs hereby replead Paragraphs 1-125 above, as if fully set forth here.

127. All Defendants' conduct herein was concerted and constituted a willful, wanton, and reckless disregard for the rights and safety of Plaintiffs and all others similarly situated, causing them extensive real property damage and personal property damage and diminution in both real property and personal property values and other damages. Punitive damages are necessary to punish all Defendants while discouraging and deterring all Defendants and others from engaging in similar conduct in the future.

128. All Defendants' concerted and intentional act of placing connected railcars weighted down with heavy rock ballast on Defendants' jointly owned Cargill Plant Railroad Bridge (or in the alternative, failing to properly build, inspect, and maintain all Defendants' jointly owned Cargill Plant Railroad Bridge) under the circumstances then existing was unreasonable and in disregard of a known or obvious risk that was so great as to make it highly probable that harm will follow.

WHEREFORE, Plaintiffs and all others similarly situated pray for such amount that will fully, fairly, and adequately compensate them for their damages plus punitive damages sufficient to punish all Defendants while deterring and discouraging all Defendants and all others from taking

similar action in the future, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

DIVISION FOUR:

COUNT I: PIERCING THE CORPORATE VEIL:

COME NOW Plaintiffs and all others similarly situated for this cause of action against the Stickle Defendants and state:

129. Plaintiffs hereby replead Paragraphs 1-128 above as if fully set forth here.

130. Defendant Rick Stickle and Defendant Marsha Stickle are the only shareholders of the Stickle Defendant entities.

131. The Stickle Defendants have liberally disregarded their corporate separation by, among other things, identifying various Stickle Defendants by the names of other various Stickle Defendants.

132. By virtue of the catastrophic damages caused by Hawkeye Land Co, one of the Sickle Defendants that is joint owner of the Cargill Plant Bridge that collapsed during the Flood of 2008, Hawkeye Land Co. is indebted to Plaintiffs and all others similarly situated.

133. Based upon information and belief, Hawkeye Land Co. assets are insufficient to cover its indebtedness to Plaintiffs and all others similarly situated ho suffered damages as a result of the 2008 Floods.

134. Defendant Hawkeye Land Co. and the other Sickle Defendants have abused the corporate privilege and the corporate veil should be pierced because, among other things:

- a. Defendant Hawkeye Land Co. is undercapitalized;
- b. Defendant Hawkeye Land Co. is particularly undercapitalized relative to the enormous risk Defendant Hawkeye Land Co. undertook when it loaded its jointly owned Cargill Plant Railroad Bridge spanning the entire Cedar River in Cedar Rapids with joined rail cars weighted down with heavy rock, or in the alternative, when it failed to build, maintain, and repair its jointly owned Cargill Plant Railroad Bridge.
- c. Defendant Hawkeye Land Co.'s finances are not kept separate from the Stickle Defendants' finances and vice versa;
- d. Defendant Hawkeye Land Co.'s obligations are paid by the Stickle Defendants and vice versa;
- e. Defendant Hawkeye Land Co. is used to promote fraud or illegality;
- f. Defendant Hawkeye Land Co. does not follow corporate formalities.
- g. Defendant Hawkeye Land Co. is a mere sham;
- h. Defendant Hawkeye Land Co. Company is a mere shell and/or alter ego of the Stickle Defendants;
- i. Defendant Hawkeye Land Co. funds, obligations, assets, debts, etc. are commingled and intertwined with the other Stickle Defendants and vice versa;
- j. Defendant Hawkeye Land Co. and the Stickle Defendants share all the same Boards of Directors, Officers, and other personnel and departments;

k. The Stickle Defendants controls and run Defendant Hawkeye Land Co.'s day to day operations to the extent that Hawkeye Land Co. virtually has no ability to run its affairs or make decisions without the strict oversight, management, decision-making power, and control of the Stickle Defendants;

l. the Stickle Defendants have abused the corporate privilege; AND

m. Plaintiffs and all other similarly situated will suffer extreme injustice if the corporate veil is not pierced.

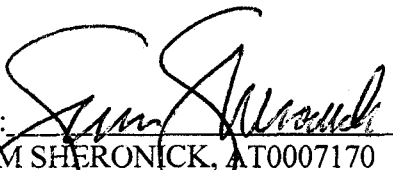
135. Accordingly, Defendant Hawkeye Land Co.'s corporate veil should be pierced so that Defendant Hawkeye Land Co. can—along with all of the other Stickle Defendants —be held liable for the catastrophic damages to Plaintiffs and all others similarly situated when Defendant Hawkeye Land Co., the other Stickle defendants, and all other Defendants undertook the risk of placing joined and weighted railcars on all of their old railroad bridge spanning the Cedar River in downtown Cedar Rapids and/or when they failed to build, maintain, inspect, and repair Defendants' jointly owned Cargill Plant Railroad Bridge.

WHEREFORE, Plaintiffs and all others similarly situated pray that Defendant Hawkeye Land Co.'s corporate veil be pierced so that Defendant Hawkeye Land Co. and all of the other Stickle Defendants can all be held jointly and severally liable for such amount that will fully, fairly, and adequately compensate plaintiffs and all others similarly situated for their and damages while additionally providing double and/or treble damages plus punitive damages sufficient to punish all Defendants while deterring and discouraging all Defendants and all others from taking similar action in the future, for cost of this action, together with interest as provided by law, and for such other relief to which Plaintiffs and all others similarly situated are entitled.

JURY TRIAL DEMANDED


COME NOW Plaintiffs and all others similarly situated hereby demand a trial by jury.

SAM SHERONICK LAW FIRM, P.C.

BY: 

SAM SHERONICK, AT0007170
4125 Glass Road NE
Cedar Rapids, Iowa 52402 USA
Telephone: (319) 366-8193
Facsimile: (319) 366-0648
sam@samlawpc.com

KERSHAW, CUTTER & RATINOFF LLP

BY: 

ERIC RATINOFF
401 Watt Avenue
Sacramento, CA 95864
Telephone: (916) 448-9800

**ATTORNEYS FOR PLAINTIFFS AND
ALL OTHERS SIMILARLY SITUATED**