

OFFICE OF THE  
CHIEF JUSTICE OF THE SUPREME COURT  
OF THE  
STATE OF NORTH CAROLINA  
ORDER

Filed on the 24th day  
of October 2022/2:19p  
J. Calloway  
Deputy Clerk of Forsyth County

*Vanda Thomas and Stacy Wharton, individually and on behalf of all others  
similarly situated*

*v.  
Winston Weaver Co, Inc. and John Doe  
File No. 22-CVS-683*

*And*

*Karen Prudencio, individually and on behalf of all others similarly situated*

*v.  
Winston Weaver Co, Inc.  
File No. 22-CVS-929*

*And*

*Kathleen Q. Dubois*

*v.  
Winston Weaver Co, Inc. and John Doe  
File No. 22-CVS-623*

*And*

*Stacy Wharton*

*v.  
Winston Weaver Co, Inc. and John Doe  
File No. 22-CVS-914*

*And*

*Vanda Thomas*

*v.  
Winston Weaver Co, Inc. and John Doe  
File No. 21-CVS-1188*

*Forsyth County File Numbers: 22-CVS-683, 22-CVS-929, 22-CVS-623,  
22-CVS-914, and 22-CVS-1188*


*To the Honorable L. Todd Burke, one of the Senior Resident Judges of the Superior Court  
of North Carolina, Greeting:*

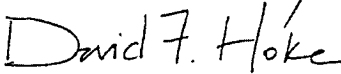
ORIGINAL



As Chief Justice of the Supreme Court of North Carolina, by virtue of authority vested in me by the Constitution of North Carolina, and in accordance with the laws of North Carolina, the Rules of the Supreme Court and, specifically, **Rule 2.1** of the General Rules of Practice for the Superior and District Courts, I hereby designate the above-referenced cases as **exceptional**. Therefore, I hereby assign the **Edwin G. Wilson, Jr.**, one of the **Senior Resident** Judges of the Superior Court of North Carolina, to hold such sessions of court as may be set and to attend to such in-chambers matters and other business as may be necessary and proper for the orderly disposition of the cases until otherwise ordered.

In Witness Whereof, I have hereunto signed my name as Chief Justice of the Supreme Court of North Carolina, on this day, **October 24, 2022**.

  
\_\_\_\_\_  
Chief Justice of the Supreme Court of North Carolina

  
\_\_\_\_\_  
Administrative Assistant to the Chief Justice



NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE  
FILED SUPERIOR COURT DIVISION  
22-CVS-0683

2022 OCT 10 A 11:14

VANDA THOMAS and STACY  
WHARTON, individually and on behalf of all  
other's similarly situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

*K. Calloway*

**ORDER GRANTING JOINT MOTION**  
**FOR RECOMMENATION FOR**  
**DESIGNATION**  
**AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0929

KAREN PRUDENCIO,

Individually and On Behalf of All Others  
Similarly Situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC.

Defendants.

**ORDER GRANTING JOINT MOTION**  
**FOR RECOMMENATION FOR**  
**DESIGNATION**  
**AS AN EXCEPTIONAL CASE**

**ORIGINAL**



NORTH CAROLINA  
COUNTY OF FORSYTH

KATHLEEN Q. DUBOIS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0623

**ORDER GRANTING JOINT MOTION  
FOR RECOMMENATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

STACY WHARTON;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
**22-CVS-0914**

**ORDER GRANTING JOINT MOTION  
FOR RECOMMENATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

VANDA THOMAS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-1188

**ORDER GRANTING JOINT MOTION  
FOR RECOMMENATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**





**FOR GOOD CAUSE** shown, the Parties' Joint Motion for Recommendation for Designation as an Exceptional Case is hereby **GRANTED** and these matters are hereby recommended to The Honorable Justice Paul Newby, Chief Justice of the Supreme Court of North Carolina, for designation as Exceptional pursuant to Rule 2.1(a) of the General Rules of Practice. The Honorable Edwin G. Wilson Jr., Superior Court Judge, with consent of Plaintiffs and Defendants, has agreed to accept these cases if so appointed.

This the 6<sup>th</sup> day of oct, 2022.

A handwritten signature in black ink, appearing to read "L. Todd Burke", written over a horizontal line.

The Honorable L. Todd Burke  
Senior Resident Superior Court Judge



22 CVS 914

NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE  
FILED SUPERIOR COURT DIVISION  
22-CVS-0683

2022 OCT 10 A 11:14

VANDA THOMAS and STACY  
WHARTON, individually and on behalf of all  
other's similarly situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

*K. Calloway*

JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE

NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0929

KAREN PRUDENCIO,

Individually and On Behalf of All Others  
Similarly Situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC.

Defendants.

JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE

ORIGINAL



NORTH CAROLINA  
COUNTY OF FORSYTH

KATHLEEN Q. DUBOIS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0623

**JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

STACY WHARTON;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

22-CVS-0914

**JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

VANDA THOMAS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-1188

**JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**



TO: The Honorable L. Todd Burke  
Senior Resident Superior Court Judge  
4th Superior Court Division

The parties in the above-captioned cases, by undersigned counsel, jointly move the Court to recommend to the Chief Justice of the North Carolina Supreme Court that these actions be designated as Exceptional pursuant to Rule 2.1(a) of the General Rules of Practice, and that the cases be assigned to Superior Court Judge Edwin G. Wilson Jr. Judge Wilson has agreed to accept these cases if designated to do so. In support of this Motion, the parties show the Court that the following factors for consideration set out in Rule 2.1(d) of the General Rules of Practice are present:

1. The Parties. Plaintiffs filed various actions on February 3rd, 2022, February 10th, 2022, February 11th, 2022, February 24th, 2022, and March 11th, 2022; each case arising out of the January 31, 2022 fire at the Winston Weaver Fertilizer Company facility in Winston-Salem. The complaints contain causes of action all arising out of the fire, including individual and class action claims for negligence, gross negligence, negligence per se, strict liability, public nuisance, private nuisance, trespass, medical monitoring, and punitive damages.

2. Pretrial Discovery and Motions. Should these cases proceed to trial, the parties anticipate numerous complex pretrial hearings, including hearings on class certification, and an extensive amount of discovery, given the nature of the claims, class certification issues, and the alleged size and nature of the purported class.

3. Efficiency. Coping with these and other issues will require a high level of judicial attention and oversight. Permitting these cases to rotate among various superior court judges will waste judicial resources and raise a significant danger of inconsistent rulings. A judge who has not been involved in prior decisions will have difficulty ruling on class certification issues and pretrial motions. Moreover, given the volume of evidence that is likely to be generated, it will be





inefficient to require more than one judge to review the court files as the cases approach the numerous anticipated hearings and trials. These cases are likely to consume an undue share of the judicial resources available in Forsyth County Superior Court. Therefore, an assignment of these cases to a special judge for purposes of managing pretrial matters, discovery issues, and trial is appropriate.

4. Case Assignment. The parties can be assured of an appropriate level of judicial oversight by assignment of the case to Judge Edwin G. Wilson Jr., who has agreed to accept the cases if appointed. The parties have agreed and hereby stipulate to waiver of venue for hearing pretrial motions as required by Rule 2.1(d) of the General Rules of Practice.

For the foregoing reasons, and for such other reasons as may appear of record, the parties jointly move the Court to recommend to the Chief Justice that these cases be designated as Exceptional pursuant to Rule 2.1(a) of the General Rules of Practice, and be assigned to the Honorable Edwin G. Wilson Jr., Superior Court Judge.

This 30th day of September, 2022.

/s/James R. Harrell (by consent)  
Karonnie R. Truzy (N.C. Bar No. 28228)  
James R. Harrell (N.C. Bar No. 47787)  
Brian L. Kinsley (N.C. Bar No. 38683)  
CRUMLEY ROBERTS  
2400 Freeman Mill Road, Suite 200  
Greensboro, North Carolina 27406  
Telephone: (336) 333-9899  
Fax: (336) 333-9894  
krtruzy@crumleyroberts.com



/s/Tom M. Wilmoth (by consent)

Thomas M. Wilmoth (N.C. Bar No. 41684)

Gary Jackson (N.C. Bar No. 13976)

LAW OFFICES OF JAMES SCOTT FARRIN

280 S Mangum Street

Durham, NC 27701

Telephone: (919) 328-5354

E-mail: twilmoth@farrin.com

*Attorneys for Plaintiffs*

/s/Mason E. Freeman

Rachel E. Keen (NC Bar No. 27777)

Mason E. Freeman (NC Bar No. 43358)

WOMBLE BOND DICKINSON (US) LLP

One West Fourth Street

Winston Salem, North Carolina 27107

Email: rachel.keen@wbd-us.com

Email: mason.freeman@wbd-us.com

*Attorneys for Defendant Winston Weaver Co., Inc.*



NORTH CAROLINA  
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NUMBER 22-CVS-000914

WHARTON, STACY

PLAINTIFF(S)

Vs.

WINSTON WEAVER CO INC  
DOE, JOHN

DEFENDANT(S)

NOTICE OF  
ADMINISTRATIVE SESSION

*Kathy Hise*

FILE DATE: 02/24/2022

TO THE PARTIES AND/OR THEIR ATTORNEYS OF RECORD:

Pursuant to N.C.G.S. 7A-38.1 the related Supreme Court Rules, and the Local Case Management Rules, this case is ORDERED to Mediated Settlement Conference, and to set a trial date.

**PLEASE RETURN THE ATTACHED RESPONSE TO ADMINISTRATIVE HEARING CONCERNING YOUR PREFERENCES BY THE FRIDAY BEFORE THE ADMINISTRATIVE DATE OF 10/31/2022.**

**THERE WILL BE NO ADMINISTRATIVE HEARING!!  
THE ADMINISTRATIVE SESSION WILL BE HANDLED BY RESPONSE SHEETS ONLY!!**

The following matters shall be determined:

- (1) A **firm** trial date shall be set in accordance with our Local Rules.
- (2) A mediator will be selected. [If a mediator is appointed by the Court, the hourly rate is \$150 and a one-time Administrative Fee of \$150 is due upon appointment.]
- (3) An appropriate scheduling order will be entered with deadlines established if necessary.
- (4) **For Medical Negligence cases, the DSO must be submitted on or before this Conference.**
- (5) Jury/Non-Jury status of the case and estimated length of trial will be established.

**Failure to return the Response will result in the above matters being established by the Trial Court Coordinator without your input.**

**--THE TRIAL DATE SET AT THIS CONFERENCE SHALL BE A FIRM DATE--**

/S/ L. TODD BURKE  
SENIOR RESIDENT SUPERIOR COURT JUDGE  
Local Rules Available on Web Site  
[www.nccourts.org/district 21](http://www.nccourts.org/district21)  
DATE NOTICED: 9/27/2022

KEENAN MENEFEE-LONG  
TRIAL COURT COORDINATOR  
PO BOX 20099  
WINSTON SALEM, NC 27120  
TELEPHONE: (336) 779-6641  
Keenan.Menefee-Long@nccourts.org

Copies of this notice have been sent to the following. Report any omission of counsel to this Office immediately.

PLAINTIFFS ATTORNEYS: TRUZY, KARONNIE, R  
HARRELL, JAMES, RAY  
DEFENDANTS ATTORNEYS: FREEMAN, MASON, EDWARD  
Pro Se - DOE, JOHN - No Service



22CVS 914  
8-3-22  
KCC

NORTH CAROLINA

COUNTY OF FORSYTH

VANDA THOMAS and STACY  
WHARTON, individually and on behalf of  
other's similarly situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

FILED IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

22-CVS-0683

2022 AUG -3 P 2:43

BY *K. Callaway*

**ORDER GRANTING JOINT MOTION**  
**FOR RECOMMENATION FOR**  
**DESIGNATION**  
**AS AN EXCEPTIONAL CASE**

NORTH CAROLINA

COUNTY OF FORSYTH

KAREN PRUDENCIO,

Individually and On Behalf of All Others  
Similarly Situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC.

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

22-CVS-0929

**ORDER GRANTING JOINT MOTION**  
**FOR RECOMMENATION FOR**  
**DESIGNATION**  
**AS AN EXCEPTIONAL CASE**





NORTH CAROLINA  
COUNTY OF FORSYTH

KATHLEEN Q. DUBOIS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0623

**ORDER GRANTING JOINT MOTION  
FOR RECOMMENATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

STACY WHARTON;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0914

**ORDER GRANTING JOINT MOTION  
FOR RECOMMENATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

VANDA THOMAS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.


IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-1188

**ORDER GRANTING JOINT MOTION  
FOR RECOMMENATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**



**FOR GOOD CAUSE** shown, the Parties' Joint Motion for Recommendation for Designation as an Exceptional Case is hereby **GRANTED** and these matters are hereby recommended to The Honorable Justice Paul Newby, Chief Justice of the Supreme Court of North Carolina, for designation as Exceptional pursuant to Rule 2.1(a) of the General Rules of Practice, for the purpose of discovery and pretrial matters only. The Honorable Edwin G. Wilson Jr., Superior Court Judge, with consent of Plaintiffs and Defendants, has agreed to accept these cases if so appointed.

This the 1<sup>st</sup> day of August, 2022.

  
The Honorable L. Todd Burke  
Senior Resident Superior Court Judge



22CVS 914  
8-3-22  
KCC

NORTH CAROLINA  
COUNTY OF FORSYTH

FILED  
IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2022 AUG -3 P 2:47 S-0683

VANDA THOMAS and STACY  
WHARTON, individually and on behalf of all  
other's similarly situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

FORSYTH CO. C.S.C.

BY K Calloway

JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE

NORTH CAROLINA  
COUNTY OF FORSYTH

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0929

KAREN PRUDENCIO,

Individually and On Behalf of All Others  
Similarly Situated;

Plaintiff,

v.

WINSTON WEAVER CO, INC.

Defendants.

JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE



NORTH CAROLINA  
COUNTY OF FORSYTH

KATHLEEN Q. DUBOIS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0623

**JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

STACY WHARTON;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-0914

**JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**

NORTH CAROLINA  
COUNTY OF FORSYTH

VANDA THOMAS;

Plaintiff,

v.

WINSTON WEAVER CO, INC. and JOHN  
DOE

Defendants.

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22-CVS-1188

**JOINT MOTION FOR  
RECOMMENDATION FOR  
DESIGNATION  
AS AN EXCEPTIONAL CASE**





TO: The Honorable L. Todd Burke  
Senior Resident Superior Court Judge  
4th Superior Court Division

The parties in the above-captioned cases, by undersigned counsel, jointly move the Court to recommend to the Chief Justice of the North Carolina Supreme Court that these actions be designated and consolidated as Exceptional pursuant to Rule 2.1(a) of the General Rules of Practice, and that the case be assigned to Superior Court Judge Edwin G. Wilson Jr. for the purposes of discovery and pretrial matters only. Judge Wilson has agreed to accept these cases if designated to do so. In support of this Motion, the parties show the Court that the following factors for consideration set out in Rule 2.1(d) of the General Rules of Practice are present:

1. The Parties. Plaintiffs filed various actions on February 3rd, 2022, February 10th, 2022, February 11th, 2022, February 24th, 2022, and March 11th, 2022; each case arising out of the January 31, 2022 fire at the Winston Weaver Fertilizer Company facility in Winston-Salem. The complaints contain causes of action all arising out of the fire, including individual and class action claims for negligence, gross negligence, negligence per se, strict liability, public nuisance, private nuisance, trespass, medical monitoring, and punitive damages.

2. Pretrial Discovery and Motions. Should these cases proceed to trial, the parties anticipate numerous complex pretrial hearings, including hearings on class certification, and an extensive amount of discovery, given the nature of the claims, class certification issues, and the alleged size and nature of the purported class.

3. Efficiency. Coping with these and other issues will require a high level of judicial attention and oversight. Permitting these cases to rotate among various superior court judges will waste judicial resources and raise a significant danger of inconsistent rulings. A judge who has not been involved in prior decisions will have difficulty ruling on class certification issues and pretrial motions. Moreover, given the volume of evidence that is likely to be generated, it will be



inefficient to require more than one judge to review the court files as the cases approach the numerous anticipated hearings and trials. These cases are likely to consume an undue share of the judicial resources available in Forsyth County Superior Court. Therefore, an assignment of these cases to a special judge for purposes of managing the pre-trial and discovery issues is appropriate.

4. Case Assignment. The parties can be assured of an appropriate level of judicial oversight by assignment of the case to Judge Edwin G. Wilson Jr., who has agreed to accept the cases if appointed. The parties have agreed and hereby stipulate to waiver of venue for hearing pretrial motions as required by Rule 2.1(d) of the General Rules of Practice.

For the foregoing reasons, and for such other reasons as may appear of record, the parties jointly move the Court to recommend to the Chief Justice that this case be consolidated for the purposes of discovery and pretrial matters only, designated as Exceptional pursuant to Rule 2.1(a) of the General Rules of Practice, and be assigned to the Honorable Edwin G. Wilson Jr., Superior Court Judge.

This the 26th day of July, 2022.

/s/ James R. Harrell

Karonnie R. Truzy (N.C. Bar No. 28228)

James R. Harrell (N.C. Bar No. 47787)

Brian L. Kinsley (N.C. Bar No. 38683)

CRUMLEY ROBERTS

2400 Freeman Mill Road, Suite 200

Greensboro, North Carolina 27406

Telephone: (336) 333-9899

Fax: (336) 333-9894

krtruzy@crumleyroberts.com



/s/ Thomas M. Wilmoth

Thomas M. Wilmoth (N.C. Bar No. 41684)

Gary Jackson (N.C. Bar No. 13976)

LAW OFFICES OF JAMES SCOTT FARRIN

280 S Mangum Street

Durham, NC 27701

Telephone: (919) 328-5354

E-mail: twilmoth@farrin.com

*Attorneys for Plaintiffs*

/s/ Mason E. Freeman

Rachel E. Keen (NC Bar No. 27777)

Mason E. Freeman (NC Bar No. 43358)

WOMBLE BOND DICKINSON (US) LLP

One West Fourth Street

Winston Salem, North Carolina 27107

Email: rachel.keen@wbd-us.com

Email: mason.freeman@wbd-us.com

*Attorneys for Defendant Winston Weaver Co., Inc.*



NORTH CAROLINA  
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NUMBER 22-CVS-000914

FILED

2022 JUL 27 A 10:05

WHARTON, STACY

PLAINTIFF(S)

Vs.

WINSTON WEAVER CO INC  
DOE, JOHN

DEFENDANT(S)

NOTICE OF

ADMINISTRATIVE SESSION

FILE DATE: 02/24/2022

TO THE PARTIES AND/OR THEIR ATTORNEYS OF RECORD:

Pursuant to N.C.G.S. 7A-38.1 the related Supreme Court Rules, and the Local Case Management Rules, this case is ORDERED to Mediated Settlement Conference, and to set a trial date.

**PLEASE RETURN THE ATTACHED RESPONSE TO ADMINISTRATIVE HEARING CONCERNING YOUR PREFERENCES BY THE FRIDAY BEFORE THE ADMINISTRATIVE DATE OF 08/31/2022.**

**THERE WILL BE NO ADMINISTRATIVE HEARING!!**

**THE ADMINISTRATIVE SESSION WILL BE HANDLED BY RESPONSE SHEETS ONLY!!**

The following matters shall be determined:

- (1) A **firm** trial date shall be set in accordance with our Local Rules.
- (2) A mediator will be selected. [If a mediator is appointed by the Court, the hourly rate is \$150 and a one-time Administrative Fee of \$150 is due upon appointment.]
- (3) An appropriate scheduling order will be entered with deadlines established if necessary.
- (4) **For Medical Negligence cases, the DSO must be submitted on or before this Conference.**
- (5) Jury/Non-Jury status of the case and estimated length of trial will be established.

**Failure to return the Response will result in the above matters being established by the Trial Court Coordinator without your input.**

**--THE TRIAL DATE SET AT THIS CONFERENCE SHALL BE A FIRM DATE--**

/S/ L. TODD BURKE  
SENIOR RESIDENT SUPERIOR COURT JUDGE  
Local Rules Available on Web Site  
[www.nccourts.org/district 21](http://www.nccourts.org/district21)  
DATE NOTICED: 7/27/2022

KEENAN MENEFEE-LONG  
TRIAL COURT COORDINATION  
PO BOX 20099  
WINSTON SALEM, NC 27120  
TELEPHONE: (336) 779-6641  
[cjdkml@nccourts.org](mailto:cjdkml@nccourts.org)

Copies of this notice have been sent to the following. Report any omission of counsel to this Office immediately.

PLAINTIFFS ATTORNEYS: TRUZY, KARONNIE, R  
HARRELL, JAMES, RAY  
DEFENDANTS ATTORNEYS: FREEMAN, MASON, EDWARD





NORTH CAROLINA  
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
CASE NUMBER 22-CVS-000914

FILED

WHARTON, STACY

PLAINTIFF(S)

Vs.

WINSTON WEAVER CO INC  
DOE, JOHN

DEFENDANT(S)

**NOTICE OF  
ADMINISTRATIVE SESSION**

FILE DATE: 02/24/2022

TO THE PARTIES AND/OR THEIR ATTORNEYS OF RECORD:

Pursuant to N.C.G.S. 7A-38.1 the related Supreme Court Rules, and the Local Case Management Rules, this case is ORDERED to Mediated Settlement Conference, and to set a trial date.

**PLEASE RETURN THE ATTACHED RESPONSE TO ADMINISTRATIVE HEARING CONCERNING YOUR PREFERENCES BY THE FRIDAY BEFORE THE ADMINISTRATIVE DATE OF 06/30/2022.**

**THERE WILL BE NO ADMINISTRATIVE HEARING!!  
THE ADMINISTRATIVE SESSION WILL BE HANDLED BY RESPONSE SHEETS ONLY!!**

The following matters shall be determined:

- (1) A **firm** trial date shall be set in accordance with our Local Rules.
- (2) A mediator will be selected. [If a mediator is appointed by the Court, the hourly rate is \$150 and a one-time Administrative Fee of \$150 is due upon appointment.]
- (3) An appropriate scheduling order will be entered with deadlines established if necessary.
- (4) **For Medical Negligence cases, the DSO must be submitted on or before this Conference.**
- (5) Jury/Non-Jury status of the case and estimated length of trial will be established.

**Failure to return the Response will result in the above matters being established by the Trial Court Coordinator without your input.**

**--THE TRIAL DATE SET AT THIS CONFERENCE SHALL BE A FIRM DATE--**

/S/ L. TODD BURKE  
SENIOR RESIDENT SUPERIOR COURT JUDGE  
Local Rules Available on Web Site  
[www.nccourts.org/district 21](http://www.nccourts.org/district21)  
DATE NOTICED: 6/7/2022

KEENAN MENEFEE-LONG  
TRIAL COURT COORDINATION  
PO BOX 20099  
WINSTON SALEM, NC 27120  
TELEPHONE: (336) 779-6641  
[cjdkml@nccourts.org](mailto:cjdkml@nccourts.org)

Copies of this notice have been sent to the following. Report any omission of counsel to this Office immediately.

PLAINTIFFS ATTORNEYS: TRUZY, KARONNIE, R  
HARRELL, JAMES, RAY  
DEFENDANTS ATTORNEYS: FREEMAN, MASON, EDWARD

2

2

5-12-22  
KC

STATE OF NORTH CAROLINA  
FORSYTH COUNTY

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22 CVS 914

STACY WHARTON,

Plaintiff,

v.

WINSTON WEAVER CO., INC. and JOHN  
DOE,

Defendants.

**DEFENDANT WINSTON WEAVER  
CO., INC.'S PARTIAL MOTION TO  
DISMISS PLAINTIFF STACY  
WHARTON'S COMPLAINT**

Defendant Winston Weaver Co., Inc. ("Winston Weaver") hereby moves to dismiss the First, Fifth, and Sixth causes of action for Trespass, Strict Liability, and Medical Monitoring, respectively, contained in Plaintiff Stacy Wharton's ("Plaintiff's") Complaint pursuant to North Carolina Rule of Civil Procedure 12(b)(6).

The grounds for this motion are as follows:

1. Plaintiff has not alleged sufficient facts to support her trespass claim;
2. Plaintiff has not alleged sufficient facts to support her strict liability claim;
3. North Carolina law does not recognize a separate cause of action for medical monitoring. *Curl v. Am. Multimedia, Inc.*, 187 N.C. App. 649, 654 S.E.2d 76 (2007);

For these reasons, and the reasons to be more fully explained in its forthcoming Memorandum of Law, Winston Weaver respectfully requests the Court dismiss Plaintiff's Trespass, Strict Liability, and Medical Monitoring claims for failure to state any claim upon which relief may be granted.

Winston Weaver makes this motion in lieu of an Answer pursuant to Rule 12 of the North Carolina Rules of Civil Procedure, and is based on the pleadings and the grounds, arguments, and



authorities that will be contained Winston Weaver's forthcoming Memorandum of Law, which will be provided before the hearing on this Motion.

By filing this Motion, Winston Weaver does not waive any other defenses that may be available to it.

**PRAYER FOR RELIEF**

Winston Weaver respectfully requests the Court dismiss Plaintiff's First, Fifth, Sixth, and Eighth causes of action, with prejudice, and that the Court award Winston Weaver its reasonable fees, costs, and any other relief to which it may be entitled.

Dated: May 11, 2022

WOMBLE BOND DICKINSON (US) LLP



Rachel E. Keen (NC Bar No. 27777)

Mason E. Freeman (NC Bar No. 43358)

One West Fourth Street

Winston-Salem, North Carolina 27101

Telephone: (336) 721-3691

Email: rachel.keen@wbd-us.com

Email: mason.freeman@wbd-us.com

*Attorneys for Defendant*

*Winston Weaver Co., Inc.*

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on May 11, 2022, they served a copy of the foregoing via email to following:

Karonnie R. Truzy  
James R. Harrell  
CRUMLEY ROBERTS LLP  
2400 Freeman Mill Road  
Suite 200  
Greensboro, NC 27406

*Attorneys for Plaintiff*

A handwritten signature in black ink, appearing to read "Mason E. Freeman", written over a horizontal line.

Mason E. Freeman

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**May 11, 2022**

Denise Hines  
Clerk of Superior Court  
Forsyth County Courthouse  
200 N. Main Street  
Winston-Salem, NC 27101

Womble Bond Dickinson (US) LLP

One West Fourth Street  
Winston-Salem, NC 27101

t: 336 721 3600  
f: 336 721 3660

**Re:     *Stacy Wharton v. Winston Weaver Co., Inc. and John Doe***  
***Forsyth County Superior Court, Case No. 22-CVS-914***

Mason E. Freeman  
Partner  
Phone: (336) 721-3691  
Email: [mason.freeman@wbd-us.com](mailto:mason.freeman@wbd-us.com)

Dear Ms. Hines:

Enclosed please find *Defendant Winston Weaver Co., Inc.'s Partial Motion to Dismiss Plaintiff Stacy Wharton's Complaint* for filing in the above-captioned matter. Please file the original and return the file-stamped copy to me in the enclosed, self-addressed envelope, or via our courier.

Thank you for your assistance.

Very truly yours,

**Womble Bond Dickinson (US) LLP**

  
Mason E. Freeman

Enclosure

CC:     Karonnie R. Truzy  
          James R. Harrell

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**FILED**

FORSYTH COUNTY

2022 MAR 31 A 11:16

22 CVS 914

STACY WHARTON,	FORSYTH CO., C.S.C.	
Plaintiff,	BY <u><i>[Signature]</i></u>	
v.		ORDER GRANTING DEFENDANT
WINSTON WEAVER CO., INC. and JOHN		WINSTON WEAVER CO., INC.'S
DOE,		MOTION FOR EXTENSION OF TIME
Defendants.		TO PLEAD IN RESPONSE TO
		PLAINTIFF'S COMPLAINT

This the 31<sup>st</sup> day of March, 2022.

Jeff M. Munn - Asst. Clerk  
Presiding



IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
22 CVS 914

STACY WHARTON,	FILED	17
Plaintiff,		
v.	BY <i>Emily</i>	
WINSTON WEAVER CO., INC. and JOHN	<i>Donker</i>	
DOE,		
Defendants.		

**DEFENDANT  
WINSTON WEAVER CO., INC.'S  
MOTION FOR EXTENSION OF TIME  
TO PLEAD IN RESPONSE TO  
PLAINTIFF'S COMPLAINT**

NOW COMES Defendant Winston Weaver Co., Inc. (“Winston Weaver”), by and through counsel, and hereby moves for an extension of time in which to answer or otherwise plead in response to Plaintiffs’ Complaint. Winston Weaver’s responsive pleading is due for filing on April 11, 2022. Winston Weaver requires additional time to prepare its responsive pleading, and seeks an extension of time of 30 days for filing, up to and including May 11, 2022.

Respectfully submitted this the 22nd day of March, 2022.

WOMBLE BOND DICKINSON (US) LLP

Mama E. Freeman

Rachel E. Keen (N.C. Bar No. 27777)  
Mason E. Freeman (N.C. Bar No. 43358)  
One West Fourth Street  
Winston-Salem, North Carolina 27101  
Telephone: (336) 721-3600  
E-mail: [rachel.keen@wbd-us.com](mailto:rachel.keen@wbd-us.com)  
E-mail: [mason.freeman@wbd-us.com](mailto:mason.freeman@wbd-us.com)

*Attorneys for Defendant  
Winston Weaver Co., Inc.*

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on March 22, 2022, they served a copy of the foregoing **DEFENDANT WINSTON WEAVER CO., INC'S MOTION FOR EXTENSION OF TIME TO PLEAD IN RESPONSE TO PLAINTIFF'S COMPLAINT** via U.S. Mail and email to following:

Karonnie R. Truzy James R. Harrell Crumley Roberts, LLP 2400 Freeman Mill Road, Suite 200 Greensboro, NC 27406	
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*Attorneys for Plaintiff*



Mason E. Freeman





# STATE OF NORTH CAROLINA

Forsyth County

File No.

22CVS914

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name Of Plaintiff

Stacy Wharton

Address

2400 Freeman Mill Rd., Ste. 200

City, State, Zip

Greensboro, NC 27406

**VERSUS**

Name Of Defendant(s)

Winston Weaver Co., Inc. and John Doe

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

G.S. 1A-1, Rules 3 and 4

100  
3/30/22

## CIVIL SUMMONS

☐ ALIAS AND PLURIES SUMMONS (ASSESS FEE)

### To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1

Winston Weaver Co., Inc.

c/o Registered Agent Jeffrey T Vinson

4440 N. Cherry Street

Winston-Salem

NC

27105

Name And Address Of Defendant 2

John Doe

Unknown



**IMPORTANT! You have been sued! These papers are legal documents, DO NOT throw these papers out! You have to respond within 30 days. You may want to talk with a lawyer about your case as soon as possible, and, if needed, speak with someone who reads English and can translate these papers!**

**¡IMPORTANTE! ¡Se ha entablado un proceso civil en su contra! Estos papeles son documentos legales. ¡NO TIRE estos papeles!**

**Tiene que contestar a más tardar en 30 días. ¡Puede querer consultar con un abogado lo antes posible acerca de su caso y, de ser necesario, hablar con alguien que lea inglés y que pueda traducir estos documentos!**

### A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)

James R. Harrell

2400 Freeman Mill Rd., Ste. 200

Greensboro, NC 27406

Date Issued

2-24-22

Time

11:36

☒ AM

☐ PM

Signature

*Denise Finkbeiner*

☒ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

### ☐ ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement

Time

☐ AM

☐ PM

Signature

☐ Deputy CSC

☐ Assistant CSC

☐ Clerk Of Superior Court

**NOTE TO PARTIES:** Many counties have **MANDATORY ARBITRATION** programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

# RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

## DEFENDANT 1

Date Served 3/10/22 Time Served 10:49 ☒ AM ☐ PM Name Of Defendant Brian on behalf of Winston Weaver

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☒ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

Brian, Front Desk  
Winston Weaver Co.  
4440 Cherry St. Winston Salem 27105

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

## DEFENDANT 2

Date Served \_\_\_\_\_ Time Served \_\_\_\_\_ ☐ AM ☐ PM Name Of Defendant \_\_\_\_\_

- ☐ By delivering to the defendant named above a copy of the summons and complaint.
- ☐ By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- ☐ As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

☐ Other manner of service (specify)

☐ Defendant WAS NOT served for the following reason:

Service Fee Paid

\$

Signature Of Deputy Sheriff Making Return

Date Received

3/10/2022

Name Of Sheriff (type or print)

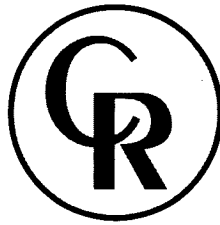
Jessica L. Hedrick - Richardson

Date Of Return

3/15/2022

County Of Sheriff

Mecklenburg Co.



WE STAND UP  
FOR YOU®  
CrumleyRoberts.com

March 24, 2022

Forsyth County Clerk of Court  
ATTN: Civil Division  
Post Office Box 20099  
Winston Salem, NC 27120

**Re: Stacy Wharton v. Winston Weaver Co., Inc. and John Doe;**  
**22 CvS 914**

Dear Madam/Sir:

Enclosed please find the original and one copy of the affidavit of service in the above-referenced case. Please file both and return the copy of the affidavit of service in the provided self-addressed and stamped envelope.

If you should have any questions, please feel free to contact me.

Sincerely,  
CRUMLEY ROBERTS, LLP

Tyler K. Goad, NCCP  
Litigation Paralegal

Enclosures

**Crumley Roberts, LLP Regional offices located in:**

**Greensboro**

2400 Freeman Mill Road  
Suite 200  
Greensboro, NC 27406

**Charlotte**

1051 East Morehead Street  
Suite 100  
Charlotte, NC 28204

**Columbia**

1201 Main Street  
Suite 1909  
Columbia, SC 29201

**Atlanta**

303 Perimeter Center North  
Suite 353  
Atlanta, GA 30346

**Birmingham**

3535 Grandview Parkway  
Suite 100  
Birmingham, AL 35243



STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

FILED

2022 MAR 29 P 12:29

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION  
FILE NO. 22 CVS 914

STACY WHARTON

Plaintiff, *[Signature]*  
FORSYTH CO. C.S.C.

vs.

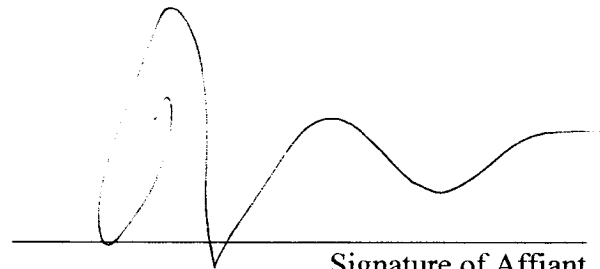
WINSTON WEAVER CO. INC

Defendant.

**AFFIDAVIT OF SERVICE**

I, JESSICA L. HEDRICK, being duly sworn, depose, and say that on the 10TH day of MARCH, 2022 at 10:49 am, I personally served by delivering a true copy of the Summons with the date and hour of service endorsed thereon by me, to BRIAN, OFFICE FRONT DESK PERSONNEL, WHO STATED HE WOULD ACCEPT SERVICE at the address of: 4440 N. CHERRY STREET WINSTON SALEM, NC 27105 and informed said person of the contents therein, in compliance with state statute.

This the 10th day of March, 2022.



Signature of Affiant

JESSICA L. HEDRICK

RICHARDSON AND DAVIS INVESTIGATIVE CONSULTING GROUP, LLC  
9820 NORTHCROSS CENTER COURT, SUITE 62  
HUNTERSVILLE, NC 28078



STATE OF NORTH CAROLINA

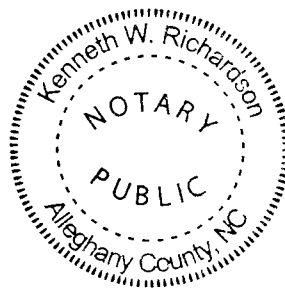
COUNTY OF ALLEGHANY

I, Kenneth W. Richardson, a Notary Public for said County and State, do hereby certify that Jessica Hedrick personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Signed and sworn to before me, this the 10 day of March, 2022.

Kenneth W. Richardson  
Notary Public

My commission expires: May 26, 2026.







NORTH CAROLINA  
FORSYTH COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

2022 FEB 24 A 11:36

22 CVS 914

STACY WHARTON, FORSYTH CO., C.B.C.

Plaintiff,

v.

WINSTON WEAVER CO., INC. and JOHN  
DOE,

Defendants.

COMPLAINT  
(Jury Trial Demanded)

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**PLAINTIFF'S ORIGINAL COMPLAINT**

NOW COMES Stacy Wharton ("Plaintiff") and files this Original Complaint complaining of Winston Weaver Co., Inc. and John Doe, and, in support thereof, respectfully shows as follows:

**PARTIES**

1. Plaintiff is a citizen and resident of the Forsyth County, State of North Carolina.
2. Defendant Winston Weaver Co., Inc. ("Defendant Weaver") is a domestic corporation registered to conduct business in North Carolina with its Principal Office located in Forsyth County, State of North Carolina at 4440 N. Cherry Street, Winston-Salem, North Carolina 27105.
3. Defendant John Doe, as of yet, unidentified employee/agent of the Defendant Weaver whose identity will be established during discovery and proven at a trial of this cause. Defendant Weaver and Defendant John Doe are collectively referred to as "Defendants".

**JURISDICTION AND VENUE**

4. The present Court has personal jurisdiction over the parties, as they are citizens or domestic corporations of North Carolina or otherwise have minimum contacts with the state of



North Carolina. This Court has subject matter jurisdiction over the matter as the amount in controversy is within the limits of the court, and no other court has exclusive jurisdiction.

5. Venue is proper in Forsyth County, North Carolina, pursuant to N.C. GEN. STAT. § 1-82 because Plaintiff resides in Forsyth County, North Carolina.

6. Defendant Weaver's principal office, executive officers, and corporate office are in Forsyth County, North Carolina.

### **FACTS**

7. Upon information and belief, Defendant Weaver owned, operated, and/or maintained a facility located at 4440 N. Cherry Street, Winston-Salem, North Carolina ("Subject Property").

8. Upon information and belief, Defendant Weaver utilized the Subject Property in the production of granular fertilizer, and the Subject Property stored numerous chemicals and substances commonly used in the production of fertilizer, including but not limited to, ammonium nitrate.

9. On or about January 31, 2022, the Winston-Salem Fire Department received reports of a fire at the Subject Property.

10. Upon information and belief, at the time of the January 31 fire, the Subject Property contained nearly 600 tons of ammonium nitrate and other unknown chemicals. The burning of those chemicals released smoke into the air and spread across the surrounding area – including residential neighborhoods such as the one Plaintiff lived in.

11. In addition to the risk of inhalation of fumes from the burning chemicals, there was also a substantial risk of detonation of the ammonium nitrate and other flammable chemicals contained at the Subject Property.

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12. Due to the risk of an explosion at the Subject Property, the Winston-Salem Fire Department was forced to pull back their firefighters from the Subject Property to a safe distance and had to rely on other methods to fight the blaze, including monitoring the fire with drones operated by the Winston-Salem Police Department.

13. Due to the risk of an explosion at the Subject Property, on January 31, 2022, the City of Winston-Salem asked residents living within a one-mile radius of the Subject Property to evacuate. The area of evacuation included approximately 6,500 people in 2,500 homes.

14. In addition to the risk of detonation, the neighborhoods around the Subject Property and those down-wind from the fire were also exposed to significant amount of toxic smoke, soot, ash, and/or dust and fumes coming from the fire.

15. The fire at the Subject Property burned for days before the risk of detonation had decreased enough to allow the firefighters to return to the scene on the evening of February 3, 2022. The area of evacuation of residents was also reduced at this time to 660 feet from the Subject Property.

16. On February 5th, the City of Winston-Salem issued a statement warning residents to stay out of Muddy, Mill and Monarcas Creeks downstream from the Winston Weaver Co. fertilizer plant due to elevated levels of chemicals in the water resulting from the fire at the plant. Samples found elevated levels of nitrates, ammonia nitrogen, and other potentially harmful chemicals.

17. On February 6, 2022, the area of evacuation was further reduced to 275 feet from the Subject Property.

18. Investigations into the cause of the January 31, 2022 fire at the Subject Property are ongoing.

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19. Plaintiff's residence was in the evacuation zone at the time of the fire at the Subject Property on January 31, 2022. As a result, Plaintiff was ordered by the Winston-Salem Fire Department to evacuate her residence on February 1, 2022 and remained evacuated until February 5, 2022.

20. Plaintiff was exposed to and was affected by the exposure to the smoke and fumes created by the fire at the Subject Property and has suffered from a multitude of issues, including, but not limited to:

- a. Shortness of breath;
- b. Cough;
- c. Headaches,
- d. Irritation of the lung, nose, and throat;
- e. Irritation of the eyes;
- f. Dizziness or lightheadedness.

21. Plaintiff's residence and/or personal property was damaged by ongoing exposure to the smoke and fumes created by the fire at the Subject Property. Plaintiff has spent significant time and/or incurred costs in the investigation and mitigation of damages to [his/her] residence and/or personal property.

22. Due to the fire at the Subject Property, Plaintiff's work schedule was impacted, and Plaintiff had a reduction in income.

23. Defendant Weaver's reckless disregard for safety was the proximate cause for this incident. Plaintiff's injuries and damages were directly attributable to the conduct as described above.

#### **CAUSES OF ACTION**





### **FIRST CLAIM FOR RELIEF: TRESPASS**

24. Plaintiff hereby incorporates the foregoing paragraphs and re-asserts them herein.

25. Plaintiff was in possession of her residence at the time the toxic fumes drifted from the Subject Property to Plaintiff's residence.

26. Defendant Weaver's release of toxic fumes from the Subject Property onto Plaintiff's residence was an unauthorized and unlawful entry or invasion upon Plaintiff's land.

27. Plaintiff was damaged by the above invasion of her residence, including but not limited to, Plaintiff's loss of enjoyment of her property, costs incurred in the investigation and mitigation of the Defendant Weaver's unreasonable interference, and other such harms and losses as may be proved at the trial of this action.

28. Defendant Weaver is therefore liable to Plaintiff for the actual damages caused by its trespass in an amount in excess of the minimum jurisdictional limits of this Court.

### **SECOND CLAIM FOR RELIEF: NUISANCE**

29. Plaintiff hereby incorporates the foregoing paragraphs and re-asserts them herein.

30. Defendant Weaver's use of its property, under the circumstances, unreasonably invaded or interfered with the Plaintiff's use and enjoyment of the Plaintiff's property.

31. As a direct and proximate result of Defendant Weaver's unreasonable interference, Plaintiff suffered substantial property and other damages.

32. Plaintiff's damages include but are not limited to Plaintiff's loss of enjoyment of her property, costs incurred in the investigation and mitigation of the Defendant Weaver's unreasonable interference, and other such harms and losses as may be proved at the trial of this action.

33. Defendant Weaver is therefore liable to Plaintiff for the actual damages caused by

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its nuisance in an amount in excess of the minimum jurisdictional limits of this Court.

### **THIRD CLAIM FOR RELIEF: NEGLIGENCE**

34. Plaintiff hereby incorporates the foregoing paragraphs and re-asserts them herein.

35. As the owner and/or occupier of the Subject Property, Defendant Weaver owed a duty to the public and to Plaintiff to make the Subject Property and the surrounding community safe and free from any effects of the abnormally dangerous activity taking place at the Subject Property.

36. Defendant Weaver's operation of Subject Property was negligent in the following ways:

- a. It failed to follow prevailing industry standards in the detection, prevention, and mitigation of fires at a facility storing dangerous chemicals and compounds;
- b. It failed to safely and responsibly store dangerous chemicals on the premises of the Subject Property;
- c. It failed to conduct routine investigations into possible fire hazards at the Subject Property;
- d. Upon learning of the possibility of toxic fume discharges at the Subject Property, it failed to notify Plaintiff in a reasonable period of time;
- e. It was negligent in other ways to be proven through discovery or at the trial of this action.

37. That as a direct and proximate result of the aforesaid negligence of Defendant Weaver, Plaintiff has sustained injuries and damages to her person, in an amount in excess of twenty-five thousand dollars (\$25,000.00) (pled pursuant to Rule 8(a)(2) of the North Carolina Rules of Civil Procedure) to be determined at the trial of this matter.

### **FOURTH CLAIM FOR RELIEF: NEGLIGENCE OF JOHN DOE**

38. Plaintiff hereby incorporates all prior allegation as though set forth herein.



39. That the Defendant John Doe was the, as of yet, unidentified employee/agent of the Defendant Weaver whose identity will be established during discovery and proven at trial.

40. That the Defendant John Doe was an employee of Defendant Weaver at the time of the acts and/or omissions complained of herein.

41. That the Defendant Weaver and John Doe were responsible for the inspection, maintenance, upkeep and monitoring of the chemicals and products on the property of the Subject Property.

42. That Defendant John Doe was responsible for seeing that the chemicals and products at the Subject Property were inspected, maintained and operated according to manufacturer and industry standards.

43. That upon information and belief, Defendant John Doe and vicariously Defendant Weaver failed to properly maintenance, inspect, and manage the chemicals and products located at the Subject Property.

44. That such maintenance, inspection, and management of the chemicals and products on the Subject Property would have prevented the fire and subsequent hazards caused from said fire.

45. That Defendant John Doe knew, or in the exercise of reasonable care should have known, of the dangerous conditions created from the lack of maintenance, inspection and reasonable care.

46. That the Defendant John Doe was negligent, his/her negligence consisting, among other things, of the following which will be established during discovery and proven at trial of this cause , to wit:

- a. Failed to insect, maintain, and monitor the chemicals and products on the Subject Property;



- b. Negligently allowed harmful chemicals and products to be so situated as to form a hazard and danger to the public;
- c. Failed to follow prevailing industry standards in the detection, prevention, and mitigation of fires at a facility storing dangerous chemicals and compounds;
- d. Failed to conduct routine investigations into possible fire hazards at the Subject Property;
- e. Upon learning of the possibility of toxic fume discharges at the Subject Property, it failed to notify Plaintiff in a reasonable period of time; and
- f. Was negligent in other ways to be proven through discovery or at the trial of this action.

47. That the negligence of Defendant John Doe was a proximate cause of the harm complained of herein.

48. That at the times complained of the acts and/or omissions of Defendant John Doe complained of herein, the Defendant John Doe was an employee of the Defendant Weaver and was acting within the course and scope of his/her employment; and as such Defendant Weaver is liable as principal for the acts/omissions of the Defendant John Doe pursuant to respondeat superior.

49. That as a direct and proximate result of the aforesaid negligence of Defendant John Doe, whose negligence is imputed to Defendant Weaver, Plaintiff has sustained injuries and damages to her person, in an amount in excess of twenty-five thousand dollars (\$25,000.00) (pled pursuant to Rule 8(a)(2) of the North Carolina Rules of Civil Procedure) to be determined at the trial of this matter.

#### **FIFTH CLAIM FOR RELIEF: STRICT LIABILITY**

50. Plaintiff hereby incorporates the foregoing paragraphs and re-asserts them herein.

51. Defendant Weaver is the owner of the premises of the Subject Property.





52. Defendant Weaver conducted an abnormally dangerous activity on its property. Storing toxic and explosive chemicals is an activity that is not of common usage and creates a foreseeable and highly significant risk of physical harm even when reasonable care is exercised by all actors.

53. Defendant Weaver knew or reasonably should have known of the activity's highly significant risk of physical harm.

54. Defendant Weaver had a duty to use ordinary care to ensure that the premises did not present a danger to Plaintiff. This duty includes the duty to inspect and the duty to warn or to cure.

55. Defendant Weaver breached the duty of ordinary care by failing to operate the Subject Property in a reasonable and safe manner so as to prevent a fire and allow the dispersion of hazardous smoke or otherwise notify others in the general area of the abnormally dangerous activity relating to the chemicals and compounds on Defendants' premises.

56. Defendant Weaver's breach of duty proximately caused injury to Plaintiff which resulted in the following damages:

- a. Past and future pain and suffering;
- b. Past and future mental anguish;
- c. Past and future reasonable, necessary, and customary medical expenses; and
- d. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court.

57. Plaintiff's injury resulted from Defendant Weaver's gross negligence, malice, or willful or wanton conduct.

#### **SIXTH CLAIM FOR RELIEF: MEDICAL MONITORING**

58. Plaintiff hereby incorporates all prior allegations as though set forth herein.



59. Plaintiff has suffered a significant exposure to a hazardous substance through the tortious actions of the Defendant Weaver.

60. As a proximate result of this exposure, Plaintiff suffers from an increased risk of contracting a serious latent disease.

61. The increased risk makes periodic diagnostic medical examinations reasonably necessary.

62. Monitoring and testing procedures exist which make the early detection and treatment of the disease possible and beneficial.

63. Plaintiff seeks unliquidated damages within the jurisdictional limits of this court as it relates to the damages incurred to monitor her medical condition.

#### **SEVENTH CLAIM FOR RELIEF: GROSS NEGLIGENCE**

64. Plaintiff hereby incorporates all prior allegations as though set forth herein.

65. Defendant Weaver, jointly and severally, through their agents, servants and employees, were negligent, grossly negligent, careless, and acted with willful, wanton and reckless disregard for the safety of others, in the following ways, among others:

- a. Failing to inspect, service, and properly maintain the chemicals and products at the Subject Property;
- b. Failing to warn the public including the plaintiff of a dangerous and unsafe condition which they knew or in the course of reasonable inspection and supervision should have known existed;
- c. Creating a dangerous, unsafe and ultra-hazardous condition and allowing said dangerous and hazardous condition to exist for an unreasonable period of time; and
- d. Failing to take all reasonable steps that Defendant, knew, or with the use of reasonable care should have known, were necessary and appropriate to protect the public, including the Plaintiff, from hazards, known and unknown, associated with the Subject Property.



e. Were negligent, grossly negligent, careless and willful & wanton in recklessly disregarding the safety of others, including the Plaintiff, in other ways to be proven at trial.

66. That as a direct and proximate result of the aforesaid negligence of Defendant Weaver, Plaintiff has sustained injuries and damages to her person, in an amount in excess of twenty-five thousand dollars (\$25,000.00) (pled pursuant to Rule 8(a)(2) of the North Carolina Rules of Civil Procedure) to be determined at the trial of this matter.

#### **EIGHTH CLAIM FOR RELIEF: PUNITIVE DAMAGES**

67. Plaintiff hereby incorporates all prior allegations as though set forth herein.

68. It was foreseeable that Plaintiff would expect there not to be any fires, hazardous smoke, or explosions released near her home.

69. Plaintiff's injuries resulted from Defendant Weaver's willful or wanton which entitles Plaintiff to punitive damages under N.C. GEN. STAT. § 1D-15.

70. All injuries suffered by Plaintiff relating to this incident, past, present, and future, were due to the aforementioned causes of action of the Defendant Weaver, without any contributing negligence on the part of the Plaintiff.

71. That as a direct and proximate result of the aforesaid negligence of Defendant Weaver, Plaintiff seeks punitive damages, in an amount in excess of twenty-five thousand dollars (\$25,000.00) (pled pursuant to Rule 8(a)(2) of the North Carolina Rules of Civil Procedure) to be determined at the trial of this matter.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully prays the Court as follows:

1. That Plaintiff have and recover a judgment against Defendant Weaver for all damages in an amount to be proven at trial, plus pre- and post-judgment interest, to be finally calculated

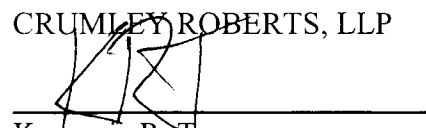


at the time judgment is entered; past and future medical monitoring; reasonable costs incurred in bringing this action; and all other and further relief, at law or in equity, as this Court may deem appropriate.

2. That a jury trial is demanded; and
3. For such other relief as this Court deems just and proper.


This the 16<sup>th</sup> day of February, 2022.

CRUMLEY ROBERTS, LLP



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Karonnie R. Truzy  
NC State Bar No.: 28228  
2400 Freeman Mill Road, Suite 200  
Greensboro, North Carolina 27406  
Telephone: (336) 333-9899  
Fax: (336) 333-9894  
krtruzy@crumleyroberts.com



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James R. Harrell  
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2400 Freeman Mill Road, Suite 200  
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NORTH CAROLINA  
FORSYTH COUNTY

FILED

2022 FEB 24 A 11:36

IN THE GENERAL COURT OF JUSTICE  
SUPERIOR COURT DIVISION

22 CVS 914

STACY WHARTON, ~~FORSYTH CO., N.C.~~

Plaintiff,

BY *[Signature]*

v.

WINSTON WEAVER CO., INC. and JOHN  
DOE,

Defendants.

**VERIFICATION**

The undersigned, Stacy Wharton, being first duly sworn, alleges and says: That she is the Plaintiff in the Complaint filed in this matter, that she has read the Complaint and knows the contents thereof; and that said contents are true of her own knowledge, save and except for those matters and things therein alleged upon information and belief, and as to such matters and things, she believes said contents to be true.

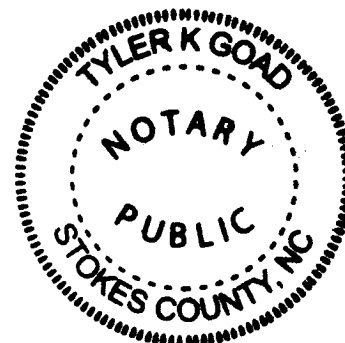
This the 11<sup>th</sup> day of February, 2022.

*[Signature]*  
Stacy Wharton

NORTH CAROLINA  
Forsyth COUNTY

Sworn to and subscribed before me  
this the 11<sup>th</sup> day of February, 2022.

*[Signature]*  
Notary Public  
My Commission Expires: July 8<sup>th</sup>, 2024





# STATE OF NORTH CAROLINA

FORSYTH

County FILED

File No.

22CVS914

In The General Court Of Justice

☐ District ☒ Superior Court Division

Name And Address Of Plaintiff 1

STACY WHARTON

C/o Crumley Roberts, LLP

2400 Freeman Mill Road, Suite 200

Greensboro, NC 27406

2021 FEB 24 A 11:36

GENERAL

## CIVIL ACTION COVER SHEET

Name And Address Of Plaintiff 2

FORSYTH CO. C.S.C.

*Amelia Finkbeiner*

☒ INITIAL FILING ☐ SUBSEQUENT FILING

Rule 5(b) of the General Rules of Practice for the Superior and District Courts

VERSUS

Name And Address Of Defendant 1

WINSTON WEAVER CO., INC.

Name And Address Of Attorney Or Party, If Not Represented  
(complete for initial appearance or change of address)

James R. Harrell

2400 Freeman Mill Road, Suite 200

Greensboro, NC 27406

Summons Submitted

☒ Yes ☐ No

Telephone No.

336-333-9899

Cellular Telephone No.

NC Attorney Bar No.

47787

Attorney Email Address

jharrell@crumleyroberts.com

Name And Address Of Defendant 2

JOHN DOE

☒ Initial Appearance in Case ☐ Change of Address

Name Of Firm

Crumley Roberts, LLP

Fax No.

336-333-9894

Summons Submitted

☒ Yes ☐ No

Counsel For

☒ All Plaintiffs ☐ All Defendants ☐ Only: (list party(ies) represented)

☒ Jury Demanded In Pleading ☐ Complex Litigation ☐ Stipulate to Arbitration

### TYPE OF PLEADING

(check all that apply)

- ☐ Amend (AMND)
- ☐ Amended Answer/Reply (AMND-Response)
- ☐ Amended Complaint (AMND)
- ☐ Assess Costs (COST)
- ☐ Answer/Reply (ANSW-Response) (see Note)
- ☐ Change Venue (CHVN)
- ☒ Complaint (COMP)
- ☐ Confession Of Judgment (CNFJ)
- ☐ Consent Order (CONS)
- ☐ Consolidate (CNSL)
- ☐ Contempt (CNTP)
- ☐ Continue (CNTN)
- ☐ Compel (CMPL)
- ☐ Counterclaim (CTCL) Assess Court Costs
- ☐ Crossclaim (list on back) (CRSS) Assess Court Costs
- ☐ Dismiss (DISM) Assess Court Costs
- ☐ Exempt/Waive Mediation (EXMD)
- ☐ Extend Statute Of Limitations, Rule 9 (ESOL)
- ☐ Extend Time For Complaint (EXCO)
- ☐ Failure To Join Necessary Party (FJNP)

- ☐ Failure To State A Claim (FASC)
- ☐ Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- ☐ Improper Venue/Division (IMVN)
- ☐ Including Attorney's Fees (ATTY)
- ☐ Intervene (INTR)
- ☐ Interplead (OTHR)
- ☐ Lack Of Jurisdiction (Person) (LJPN)
- ☐ Lack Of Jurisdiction (Subject Matter) (LJSM)
- ☐ Modification Of Child Support In IV-D Actions (MSUP)
- ☐ Notice Of Dismissal With Or Without Prejudice (VOLD)
- ☐ Petition To Sue As Indigent (OTHR)
- ☐ Rule 12 Motion In Lieu Of Answer (MDLA)
- ☐ Sanctions (SANC)
- ☐ Set Aside (OTHR)
- ☐ Show Cause (SHOW)
- ☐ Transfer (TRFR)
- ☐ Third Party Complaint (list Third Party Defendants on back) (TPCL)
- ☐ Vacate/Modify Judgment (VCMD)
- ☐ Withdraw As Counsel (WDCN)
- ☐ Other (specify and list each separately)

**NOTE:** All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts. and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must include either a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

(Over)

# CLAIMS FOR RELIEF

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Administrative Appeal (ADMA)      | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State Convictions (PLDP) | <input type="checkbox"/> Product Liability (PROD)                 |
| <input type="checkbox"/> Appointment Of Receiver (APRC)    | <input type="checkbox"/> Medical Malpractice (MDML)                                  | <input type="checkbox"/> Real Property (RLPR)                     |
| <input type="checkbox"/> Attachment/Garnishment (ATTC)     | <input type="checkbox"/> Minor Settlement (MSTL)                                     | <input type="checkbox"/> Specific Performance (SPPR)              |
| <input type="checkbox"/> Claim And Delivery (CLMD)         | <input type="checkbox"/> Money Owed (MNYO)   | <input type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT)      | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG)                           |   |
| <input type="checkbox"/> Condemnation (CNDM)               | <input checked="" type="checkbox"/> Negligence - Other (NEGO)                        |   |
| <input type="checkbox"/> Contract (CNTR)                   | <input type="checkbox"/> Motor Vehicle Lien G.S. Chapter 44A (MVLN)                  |   |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Possession Of Personal Property (POPP)                      |   |
| <input type="checkbox"/> Injunction (INJU)                 |  |   |

Date

2/16/2022

Signature Of Attorney/Party

*[Handwritten Signature]*

## FEES IN G.S. 7A-308 APPLY

Assert Right Of Access (ARAS)  
Substitution Of Trustee (Judicial Foreclosure) (RSOT)  
Supplemental Procedures (SUPR)

## PRO HAC VICE FEES APPLY

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No. ☐ Additional Plaintiff(s)

No. ☐ Additional Defendant(s) ☐ Third Party Defendant(s)

Summons Submitted

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted