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California ex rel. Julie Henderson, Director of the
8 *California Department of Pesticide Regulation*

Exempt from filing fees pursuant to
Gov. Code, § 6103

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 COUNTY OF KERN

12
13 **THE PEOPLE OF THE STATE OF**
14 **CALIFORNIA ex rel. JULIE**
15 **HENDERSON, Director of the California**
Department of Pesticide Regulation,

16 Plaintiffs,

17 v.

18 **JOHN A. SLYKERMAN;**
19 **AGRA FLY, INC., a California**
20 **corporation; and**
DOES 1 through 20, inclusive,

21 Defendants.

Case No.

COMPLAINT FOR CIVIL PENALTIES;
PRELIMINARY AND PERMANENT
INJUNCTION

1 6. On information and belief, Defendant SLYKERMAN is an individual engaged in the
2 business of using and applying pesticides, including as a pilot for aerial pesticide applications,
3 and is the Chief Executive Office, the Chief Financial Officer, and the Secretary of AGRA FLY.

4 7. On information and belief, Defendant AGRA FLY is a California corporation
5 engaged in the business of using and applying pesticides, located at 4718 Aviara Drive,
6 Bakersfield, California. In its normal course of business, AGRA FLY's activities include, but are
7 not limited to, the aerial spraying of pesticides.

8 8. The true names and capacities of defendants Does 1 through 20, inclusive, are
9 unknown to the People, who therefore sue these Does by such fictitious names. The People will
10 amend this complaint to show the true names and capacities when the same have been
11 ascertained. The People are informed and believe, and on that basis allege, that each of these
12 fictitiously named Does 1 through 20, inclusive, are legally responsible in some manner for the
13 events, occurrences, and circumstances that form the basis of this lawsuit, and are thereby liable
14 for the violations asserted herein.

15 9. On information and belief, at all times herein mentioned each of the defendants were
16 agents, servants, employees, or contractors of each of the remaining defendants and were at all
17 times acting within the course and scope of their authority as such agents, servants, employees, or
18 contractors and with the permission and consent of their co-defendants.

19 10. On information and belief, at all times relevant herein, defendant SLYKERMAN was
20 acting as a responsible corporate officer, agent, servant, contractor, qualified applicator and/or
21 employee of defendant AGRA FLY.

22 11. On information and belief, there is a unity of ownership between AGRA FLY and
23 SLYKERMAN such that a separate corporate personality does not exist and injustice would result
24 if AGRA FLY's violations are treated as those of the corporation alone, rather than acts by
25 SLYKERMAN.

26 12. On information and belief, SLYKERMAN was in a position of responsibility that
27 allowed him to influence corporate policies and activities of AGRA FLY, which allowed
28 SLYKERMAN to influence AGRA FLY's acts and omissions relating to the violations alleged

1 below. On information and belief, SLYKERMAN’s acts and omissions facilitated AGRA FLY’s
2 violations.

3 **JURISDICTION AND VENUE**

4 13. The amount in controversy exceeds the minimal jurisdictional limits of this Court.

5 14. Venue is proper in Kern County because SLYKERMAN resides in Kern County,
6 AGRA FLY’s principal place of business is situated in Kern County, and several of the violations
7 alleged below occurred in Kern County.

8 **GENERAL ALLEGATIONS**

9 15. Under Food and Agricultural Code section 12753, a pesticide includes:

10 (a) Any spray adjuvant. (b) Any substance, or mixture of substances which is
11 intended to be used for defoliating plants, regulating plant growth or for preventing,
12 destroying, repelling, or mitigating any pest as defined in Section 12754.5, which
13 may infest or be detrimental to vegetation, man, animals, or households, or be present
14 in any agricultural or nonagricultural environment whatsoever.

15 16. Under Food and Agricultural Code section 12754.5, “pest” is defined to include any
16 insect, predatory animal, rodent, nematode, weed, or other form of terrestrial, aquatic, or aerial
17 plant or animal, virus, fungus, bacteria, or other microorganism that is, or is liable to become,
18 dangerous or detrimental to the agricultural or nonagricultural environment of the state. The
19 Director of DPR may also, by regulation, declare anything to be a pest.

20 **FACTUAL ALLEGATIONS**

21 **I. LACK OF PILOT MEDICAL CERTIFICATE**

22 17. Under Food and Agricultural Code section 11901, subdivision (a), “It is unlawful for
23 any person to operate a manned aircraft in pest control unless the pilot operating the aircraft holds
24 a valid manned pest control aircraft pilot’s certificate issued by the director and an appropriate
25 and valid commercial pilot’s certificate and a current appropriate medical certificate issued by the
26 [FAA].”

27 18. On information and belief, SLYKERMAN’s Medical Certificate from the FAA
28 expired on February 28, 2023. SLYKERMAN has not received a new Medical Certificate since
February 28, 2023.

1 19. On information and belief, SLYKERMAN has operated a manned aircraft in pest
2 control at least three times since February 28, 2023, including aerial pesticide applications on
3 March 31, 2023; April 15, 2023; and May 11, 2023.

4 **II. DRIFT INCIDENTS BY DEFENDANTS SINCE OCTOBER 2022**

5 **A. Bear Mountain Boulevard Drift**

6 20. On information and belief, in October 2022, the Kern County Agricultural
7 Commissioner's Office investigated AGRA FLY for pesticide drift after an aerial application of
8 CottonQuik, a registered pesticide, and other pesticides to a site near Bear Mountain Boulevard in
9 Kern County damaged the pistachio trees of an individual not involved in the pesticide
10 application.

11 21. On information and belief, the Kern County Agricultural Commissioner's Office
12 concluded that the damage was caused by unlawful drift occurring during a pesticide application
13 by AGRA FLY on September 24, 2022. The Kern County Agricultural Commissioner's Office
14 issued a Notice of Proposed Action to AGRA FLY. This incident has been referred to the
15 Director for enforcement.

16 **B. Famoso Hills Drive Drift**

17 22. On information and belief, in January 2023, the Kern County Agricultural
18 Commissioner's Office investigated AGRA FLY for pesticide drift after an aerial application of
19 Cornerstone Plus, a registered pesticide, and other pesticides to a site near Famoso Hills Drive in
20 Kern County damaged pastureland of individuals not involved in the pesticide application.

21 23. On information and belief, the Kern County Agricultural Commissioner's Office
22 concluded that the damage was caused by unlawful drift occurring during a pesticide application
23 by AGRA FLY on January 21, 2023. The Kern County Agricultural Commissioner's Office
24 issued a Notice of Proposed Action to AGRA FLY and a separate Notice of Proposed Action to
25 SLYKERMAN.

26 24. On information and belief, the penalty proposed by the Kern County Agricultural
27 Commissioner's Office for the January 21, 2023, application was paid by both AGRA FLY and
28 SLYKERMAN.

1 **C. Porterville Drift**

2 25. On information and belief, in January 2023, the Tulare County Agricultural
3 Commissioner’s Office investigated AGRA FLY and SLYKERMAN for pesticide drift after an
4 aerial application of Quadris Top, a registered pesticide, and pesticides to a site near Porterville,
5 California, drifted onto the person and property of an individual not involved in the application.
6 Foliage and clothing samples collected in the non-target area tested positive for the active
7 ingredient in the pesticide applied by AGRA FLY and SLYKERMAN to a neighboring property.

8 26. On information and belief, the Tulare County Agricultural Commissioner’s Office
9 concluded that unlawful drift occurred during a pesticide application by SLYKERMAN and
10 AGRA FLY on January 23, 2023. This incident has been referred to the Director for enforcement.

11 **D. Lindsay Road Drift**

12 27. On information and belief, in March 2023, the Kern County Agricultural
13 Commissioner’s Office investigated AGRA FLY and SLYKERMAN for pesticide drift after an
14 aerial application of Ravage, a registered pesticide, and other pesticides to a site near Lindsay
15 Road in Kern County drifted onto non-target property. Swab, foliage, and clothing samples
16 collected in the non-target area tested positive for the active ingredient in the pesticide applied by
17 AGRA FLY and SLYKERMAN to a neighboring property.

18 28. On information and belief, the Kern County Agricultural Commissioner’s Office
19 concluded that unlawful drift occurred during a pesticide application by SLYKERMAN and
20 AGRA FLY on March 31, 2023. The Kern County Agricultural Commissioner’s Office issued a
21 Notice of Proposed Action to AGRA FLY.

22 29. On information and belief, the penalty proposed by the Kern County Agricultural
23 Commissioner’s Office for the March 31, 2023, application was paid by AGRA FLY.

24 **E. Shafter Drift**

25 30. On information and belief, in May 2023, the Kern County Agricultural
26 Commissioner’s Office investigated SLYKERMAN and AGRA FLY for pesticide drift after an
27 aerial application of Fyfanon, a registered pesticide, and other pesticides to a site near Shafter,
28 California, drifted onto non-target property. Swab, foliage, and clothing samples collected in the

1 non-target area tested positive for the active ingredient in the pesticide applied by AGRA FLY to
2 a neighboring property.

3 31. On information and belief, the Kern County Agricultural Commissioner’s Office
4 concluded that unlawful drift occurred during a pesticide application by SLYKERMAN and
5 AGRA FLY on May 11, 2023. The Kern County Agricultural Commissioner’s Office issued a
6 Notice of Proposed Action to AGRA FLY.

7 32. On information and belief, the penalty proposed by the Kern County Agricultural
8 Commissioner’s Office for the May 11, 2023, application was paid by AGRA FLY.

9 **F. Arvin/Lamont Drift**

10 33. On information and belief, in September 2023, the Kern County Agricultural
11 Commissioner’s Office investigated SLYKERMAN and AGRA FLY for pesticide drift after an
12 aerial application of Fanfare, a registered pesticide, and other pesticides to a site near the
13 community of Arvin/Lamont in Kern County, California, resulted in drift onto the persons and
14 property of individuals not involved in the application.

15 34. On information and belief, the investigation of this September 2, 2023, application is
16 ongoing. This incident has been referred to the Director for enforcement.

17 **CAUSES OF ACTION**

18 **FIRST CAUSE OF ACTION**

19 **(Violation of Food and Agricultural Code section 11791 Against Defendants SLYKERMAN
and AGRA FLY for Bear Mountain Boulevard Drift)**

20 35. The People reallege and incorporate by reference as though fully set forth herein all
21 allegations contained in paragraphs 1 through 34, inclusive.

22 36. Under Food and Agricultural Code section 11791, it is unlawful for any person “to do
23 any of the following:

24 (a) Make any false or fraudulent claim, or misrepresent the effects of material or method to
25 be applied, apply any worthless or improper material, or otherwise engage in any unfair
26 practices.

27 (b) Operate in a faulty, careless, or negligent manner.
28

1 (c) Refuse or neglect to comply with this division, or any regulation issued pursuant to this
2 division, or any lawful order of the commissioner or the director.

3 (d) Refuse or neglect to keep and maintain the records which are required by this division, or
4 to make reports when and as required.”

5 37. On information and belief, SLYKERMAN and AGRA FLY’s application of
6 CottonQuik and other pesticides on September 24, 2022, violated Food and Agricultural Code
7 section 11791.

8 38. SLYKERMAN and AGRA FLY’s violation of Food and Agricultural Code section
9 11791 on September 24, 2022, renders them liable under Food and Agricultural Code section
10 11893 for a civil penalty in an amount according to proof.

11 **SECOND CAUSE OF ACTION**
12 **(Violation of Food and Agricultural Code section 11792 Against Defendants SLYKERMAN**
13 **and AGRA FLY for Bear Mountain Boulevard Drift)**

14 39. The People reallege and incorporate by reference as though fully set forth herein all
15 allegations contained in paragraphs 1 through 38, inclusive.

16 40. Under Food and Agricultural Code section 11792, it is unlawful “to do any of the
17 following:

18 (a) Make any false or fraudulent record or report.

19 (b) Operate in any county without first having registered with the commissioner.

20 (c) Operate equipment with incompetent or unqualified persons in charge of the equipment.

21 (d) Make any false or fraudulent statement, record, or report or use any fraud or
22 misrepresentation in connection with meeting any license requirement found in this division.

23 (e) Cheat on or subvert a licensing examination. As used in this subdivision, ‘subvert’
24 includes, but is not limited to, the unauthorized possession, reproduction, or distribution of
25 any portion of the licensing examination.

26 (f) Fail to comply with the provisions of Chapter 3 (commencing with section 14001) of
27 Division 7.”
28

1 41. On information and belief, SLYKERMAN and AGRA FLY’s application of
2 CottonQuik and other pesticides on September 24, 2022, violated Food and Agricultural Code
3 section 11792.

4 42. SLYKERMAN and AGRA FLY’s violation of Food and Agricultural Code
5 section 11792 on September 24, 2022, renders them liable under Food and Agricultural Code
6 section 11893 for a civil penalty in an amount according to proof.

7 **THIRD CAUSE OF ACTION**

8 **(Failure to Prevent Substantial Drift in Violation of Food and Agricultural Code**
9 **Section 12972 Against Defendants SLYKERMAN and AGRA FLY for Bear Mountain**
10 **Boulevard Drift)**

11 43. The People reallege and incorporate by reference as though fully set forth herein all
12 allegations contained in paragraphs 1 through 42, inclusive.

13 44. Food and Agricultural Code section 12972 requires that “[t]he use of any pesticide by
14 any person shall be in such a manner as to prevent substantial drift to nontarget areas.”

15 45. At all times relevant herein, CottonQuik was a pesticide registered with DPR.

16 46. On information and belief, on September 24, 2022, SLYKERMAN and AGRA FLY
17 failed to use CottonQuik in such a manner as to prevent substantial drift to nontarget areas.

18 47. SLYKERMAN and AGRA FLY’s application of CottonQuik on September 24, 2022,
19 violated Food and Agricultural Code section 12972.

20 48. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
21 Agricultural Code section 12972 was a subsequent violation that was the same or similar to prior
22 violations by Defendants.

23 49. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
24 Agricultural Code section 12972 was intentional and resulted or reasonably could have resulted in
25 the creation of a hazard to human health or the environment.

26 50. SLYKERMAN and AGRA FLY’s application of CottonQuik was a violation of
27 section 12972 rendering them liable under Food and Agricultural Code section 12998 for a civil
28 penalty in an amount according to proof.

1 **FOURTH CAUSE OF ACTION**
2 **(Use of CottonQuik in Conflict with the Label in Violation of Food and Agricultural Code**
3 **Section 12973 Against Defendants SLYKERMAN and AGRA FLY for Bear Mountain**
4 **Boulevard Drift)**

5 51. The People reallege and incorporate by reference as though fully set forth herein all
6 allegations contained in paragraphs 1 through 50, inclusive.

7 52. Food and Agricultural Code section 12973 requires that “[t]he use of any pesticide
8 shall not conflict with labeling registered pursuant to this chapter which is delivered with the
9 pesticide or with any additional limitations applicable to the conditions of any permit issued by
10 the director or commissioner.”

11 53. On information and belief, the “Directions For Use” on the label of CottonQuik
12 includes: “Do not apply this product in a way that will contact workers or other persons, either
13 directly or through drift.”

14 54. On information and belief, on September 24, 2022, SLYKERMAN and AGRA FLY
15 applied CottonQuik in a way that contacted or could have contacted other persons through drift.

16 55. SLYKERMAN and AGRA FLY’s application of CottonQuik conflicted with the
17 labeling of CottonQuik and therefore violated Food and Agricultural Code section 12973.

18 56. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
19 Agricultural Code section 12973 was a subsequent violation that was the same or similar to prior
20 violations by Defendants.

21 57. On information and belief, SLYKERMAN and AGRA FLY’s application of
22 CottonQuik in conflict with its label in violation of Food and Agricultural Code section 12973
23 was intentional and resulted or reasonably could have resulted in the creation of a hazard to
24 human health or the environment.

25 58. SLYKERMAN and AGRA FLY’s application of CottonQuik was a violation of
26 section 12973 rendering them liable under Food and Agricultural Code section 12998 for a civil
27 penalty in an amount according to proof.
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1 **FIFTH CAUSE OF ACTION**
2 **(Violation of California Code of Regulations, Title 3, Section 6600 Against Defendants**
3 **SLYKERMAN and AGRA FLY for Bear Mountain Boulevard Drift)**

4 59. The People reallege and incorporate by reference as though fully set forth herein all
5 allegations contained in paragraphs 1 through 58, inclusive.

6 60. California Code of Regulations, title 3, section 6600 requires that “[e]ach person
7 performing pest control shall:

8 (a) Use only pest control equipment which is in good repair and safe to operate.

9 (b) Perform all pest control in a careful and effective manner.

10 (c) Use only methods and equipment suitable to insure proper application of pesticides.

11 (d) Perform all pest control under climatic conditions suitable to insure proper application of
12 pesticides.

13 (e) Exercise reasonable precautions to avoid contamination of the environment.”

14 61. On information and belief, on September 24, 2022, SLYKERMAN and AGRA FLY
15 violated California Code of Regulations, title 3, section 6600.

16 62. On information and belief, SLYKERMAN and AGRA FLY’s violation of California
17 Code of Regulations, title 3, section 6600 was a subsequent violation that was the same or similar
18 to prior violations by Defendants.

19 63. On information and belief, SLYKERMAN and AGRA FLY’s violation of California
20 Code of Regulations, title 3, section 6600 was intentional and resulted or reasonably could have
21 resulted in the creation of a hazard to human health or the environment.

22 64. SLYKERMAN and AGRA FLY’s violation of California Code of Regulations, title
23 3, section 6600 renders them liable under Food and Agricultural Code section 12998 for a civil
24 penalty in an amount according to proof.

25 **SIXTH CAUSE OF ACTION**
26 **(Failure to Protect Persons, Animals, and Property in Violation of California Code of**
27 **Regulations, Title 3, Section 6614 Against Defendants SLYKERMAN and AGRA FLY for**
28 **Bear Mountain Boulevard Drift)**

65. The People reallege and incorporate by reference as though fully set forth herein all
allegations contained in paragraphs 1 through 64, inclusive.

1 66. California Code of Regulations, title 3, section 6614 requires, in relevant part, that:

2 (b) ... [N]o pesticide application shall be made or continued when: (1) There is a
3 reasonable possibility of contamination of the bodies or clothing of persons not
4 involved in the application process; (2) There is a reasonable possibility of damage
5 to nontarget crops, animals or other public or private property; or (3) There is a
6 reasonable possibility of contamination of nontarget public or private property,
including the creation of a health hazard, preventing normal use of such property.
In determining a health hazard, the amount and toxicity of the pesticide, the type
and uses of the property and related factors shall be considered.

7 67. On information and belief, on September 24, 2022, SLYKERMAN and AGRA FLY
8 violated California Code of Regulations, title 3, section 6614.

9 68. On information and belief, SLYKERMAN and AGRA FLY's violation of California
10 Code of Regulations, title 3, section 6614 was a subsequent violation that was the same or similar
11 to prior violations by Defendants.

12 69. On information and belief, SLYKERMAN and AGRA FLY's violation of California
13 Code of Regulations, title 3, section 6614 was intentional and resulted or reasonably could have
14 resulted in the creation of a hazard to human health or the environment.

15 70. SLYKERMAN and AGRA FLY's violation of California Code of Regulations, title
16 3, section 6614 renders them liable under Food and Agricultural Code section 12998 for a civil
17 penalty in an amount according to proof.

18 **SEVENTH CAUSE OF ACTION**
19 **(Violation of Food and Agricultural Code section 11791 Against Defendants SLYKERMAN**
20 **and AGRA FLY for Porterville Drift)**

21 71. The People reallege and incorporate by reference as though fully set forth herein all
22 allegations contained in paragraphs 1 through 70, inclusive.

23 72. On information and belief, SLYKERMAN and AGRA FLY's application of Quadris
24 Top and other pesticides on January 23, 2023, violated Food and Agricultural Code section
11791.

25 73. SLYKERMAN and AGRA FLY's violation of Food and Agricultural Code section
26 11791 on January 23, 2023, renders them liable under Food and Agricultural Code section 11893
27 for a civil penalty in an amount according to proof.
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EIGHTH CAUSE OF ACTION
(Violation of Food and Agricultural Code section 11792 Against Defendants SLYKERMAN and AGRA FLY for Porterville Drift)

74. The People reallege and incorporate by reference as though fully set forth herein all allegations contained in paragraphs 1 through 73, inclusive.

75. On information and belief, SLYKERMAN and AGRA FLY’s application of Quadris Top and other pesticides on January 23, 2023, violated Food and Agricultural Code section 11792.

76. SLYKERMAN and AGRA FLY’s violation of Food and Agricultural Code section 11792 on January 23, 2023, renders them liable under Food and Agricultural Code section 11893 for a civil penalty in an amount according to proof.

NINTH CAUSE OF ACTION
(Failure to Prevent Substantial Drift in Violation of Food and Agricultural Code Section 12972 Against Defendants SLYKERMAN and AGRA FLY for Porterville Drift)

77. The People reallege and incorporate by reference as though fully set forth herein all allegations contained in paragraphs 1 through 76, inclusive.

78. At all times relevant herein, Quadris Top was a pesticide registered with DPR.

79. On information and belief, on January 23, 2023, SLYKERMAN and AGRA FLY failed to use Quadris Top in such a manner as to prevent substantial drift to nontarget areas.

80. SLYKERMAN and AGRA FLY’s application of Quadris Top violated Food and Agricultural Code section 12972.

81. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and Agricultural Code section 12972 was a subsequent violation that was the same or similar to prior violations by Defendants.

82. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and Agricultural Code section 12972 was intentional and resulted or reasonably could have resulted in the creation of a hazard to human health or the environment.

1 83. SLYKERMAN and AGRA FLY’s violation of section 12972 renders them liable
2 under Food and Agricultural Code section 12998 for a civil penalty in an amount according to
3 proof.

4 **TENTH CAUSE OF ACTION**
5 **(Use in Conflict with the Label in Violation of Food and Agricultural Code Section 12973**
6 **Against Defendants SLYKERMAN and AGRA FLY for Porterville Drift)**

7 84. The People reallege and incorporate by reference as though fully set forth herein all
8 allegations contained in paragraphs 1 through 83, inclusive.

9 85. On information and belief, the “Directions For Use” on the label of Quadris Top
10 includes: “Do not apply this product in a way that will contact workers or other persons, either
11 directly or through drift.”

12 86. On information and belief, on January 23, 2023, SLYKERMAN and AGRA FLY
13 applied Quadris Top in a way that contacted or could have contacted other persons through drift.

14 87. SLYKERMAN and AGRA FLY’s application of Quadris Top conflicted with the
15 labeling of Quadris Top and therefore violated Food and Agricultural Code section 12973.

16 88. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
17 Agricultural Code section 12973 was a subsequent violation that was the same or similar to prior
18 violations by Defendants.

19 89. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
20 Agricultural Code section 12973 was intentional and resulted or reasonably could have resulted in
21 the creation of a hazard to human health or the environment.

22 90. SLYKERMAN and AGRA FLY’s violation of section 12973 renders them liable
23 under Food and Agricultural Code section 12998 for a civil penalty in an amount according to
24 proof.

25 **ELEVENTH CAUSE OF ACTION**
26 **(Violation of California Code of Regulations, Title 3, Section 6600 Against Defendants**
27 **SLYKERMAN and AGRA FLY for Porterville Drift)**

28 91. The People reallege and incorporate by reference as though fully set forth herein all
allegations contained in paragraphs 1 through 90, inclusive.

1 **FOURTEENTH CAUSE OF ACTION**
2 **(Violation of Food and Agricultural Code section 11901 Against Defendants SLYKERMAN**
3 **and AGRA FLY for Lindsay Road Drift)**

4 108. The People reallege and incorporate by reference as though fully set forth herein all
5 allegations contained in paragraphs 1 through 107, inclusive.

6 109. On information and belief, on March 31, 2023, SLYKERMAN and AGRA FLY
7 operated a manned aircraft in pest control without holding a current appropriate medical
8 certificate issued by the Federal Aviation Administration.

9 110. SLYKERMAN and AGRA FLY's application on March 31, 2023, violated Food and
10 Agricultural Code section 11901.

11 111. SLYKERMAN and AGRA FLY's violation of Food and Agricultural Code section
12 11901 on March 31, 2023, renders them liable under Food and Agricultural Code section 11893
13 for a civil penalty in an amount according to proof.

14 **FIFTEENTH CAUSE OF ACTION**
15 **(Violation of Food and Agricultural Code section 11901 Against Defendants SLYKERMAN**
16 **and AGRA FLY for April 15, 2023, Application)**

17 112. The People reallege and incorporate by reference as though fully set forth herein all
18 allegations contained in paragraphs 1 through 111, inclusive.

19 113. On information and belief, on April 15, 2023, SLYKERMAN and AGRA FLY
20 operated a manned aircraft in pest control without holding a current appropriate medical
21 certificate issued by the Federal Aviation Administration.

22 114. SLYKERMAN and AGRA FLY's application on April 15, 2023, violated Food and
23 Agricultural Code section 11901.

24 115. SLYKERMAN and AGRA FLY's violation of Food and Agricultural Code
25 section 11901 on April 15, 2023, renders them liable under Food and Agricultural Code section
26 11893 for a civil penalty in an amount according to proof.
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1 **SIXTEENTH CAUSE OF ACTION**
2 **(Violation of Food and Agricultural Code section 11901 Against Defendants SLYKERMAN**
3 **and AGRA FLY for Shafter Drift)**

4 116. The People reallege and incorporate by reference as though fully set forth herein all
5 allegations contained in paragraphs 1 through 115, inclusive.

6 117. On information and belief, on May 11, 2023, SLYKERMAN and AGRA FLY
7 operated a manned aircraft in pest control without holding a current appropriate medical
8 certificate issued by the Federal Aviation Administration.

9 118. SLYKERMAN and AGRA FLY's application on May 11, 2023, violated Food and
10 Agricultural Code section 11901.

11 119. SLYKERMAN and AGRA FLY's violation of Food and Agricultural Code section
12 11901 on May 11, 2023, renders them liable under Food and Agricultural Code section 11893 for
13 a civil penalty in an amount according to proof.

14 **SEVENTEENTH CAUSE OF ACTION**
15 **(Violation of Food and Agricultural Code section 11791 Against Defendants SLYKERMAN**
16 **and AGRA FLY for Arvin/Lamont Drift)**

17 120. The People reallege and incorporate by reference as though fully set forth herein all
18 allegations contained in paragraphs 1 through 119, inclusive.

19 121. On information and belief, SLYKERMAN and AGRA FLY's application of Fanfare
20 and other pesticides on September 2, 2023, violated Food and Agricultural Code section 11791.

21 122. SLYKERMAN and AGRA FLY's violation of Food and Agricultural Code section
22 11791 on September 2, 2023, renders them liable under Food and Agricultural Code section
23 11893 for a civil penalty in an amount according to proof.

24 **EIGHTEENTH CAUSE OF ACTION**
25 **(Violation of Food and Agricultural Code section 11792 Against Defendants SLYKERMAN**
26 **and AGRA FLY for Arvin/Lamont Drift)**

27 123. The People reallege and incorporate by reference as though fully set forth herein all
28 allegations contained in paragraphs 1 through 122, inclusive.

124. On information and belief, SLYKERMAN and AGRA FLY's application of Fanfare
and other pesticides on September 2, 2023, violated Food and Agricultural Code section 11792.

1 125. SLYKERMAN and AGRA FLY’s violation of Food and Agricultural Code section
2 11792 on September 2, 2023, renders them liable under Food and Agricultural Code section
3 11893 for a civil penalty in an amount according to proof.

4 **NINETEENTH CAUSE OF ACTION**

5 **(Failure to Prevent Substantial Drift in Violation of Food and Agricultural Code**
6 **Section 12972 Against Defendants SLYKERMAN and AGRA FLY for Arvin/Lamont Drift)**

7 126. The People reallege and incorporate by reference as though fully set forth herein all
8 allegations contained in paragraphs 1 through 125, inclusive.

9 127. At all times relevant herein, Fanfare was a pesticide registered with DPR.

10 128. On information and belief, on September 2, 2023, SLYKERMAN and AGRA FLY
11 failed to use Fanfare in such a manner as to prevent substantial drift to nontarget areas.

12 129. SLYKERMAN and AGRA FLY’s application of Fanfare violated Food and
13 Agricultural Code section 12972.

14 130. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
15 Agricultural Code section 12972 was a subsequent violation that was the same or similar to prior
16 violations by Defendants.

17 131. On information and belief, SLYKERMAN and AGRA FLY’s violation of Food and
18 Agricultural Code section 12972 was intentional and resulted or reasonably could have resulted in
19 the creation of a hazard to human health or the environment.

20 132. SLYKERMAN and AGRA FLY’s violation of section 12972 renders them liable for
21 a civil penalty in an amount according to proof.

22 **TWENTIETH CAUSE OF ACTION**

23 **(Use in Conflict with the Label in Violation of Food and Agricultural Code Section 12973**
24 **Against Defendants SLYKERMAN and AGRA FLY for Arvin/Lamont Drift)**

25 133. The People reallege and incorporate by reference as though fully set forth herein all
26 allegations contained in paragraphs 1 through 132, inclusive.

27 134. On information and belief, the “Directions For Use” on the label of Fanfare includes:
28 “Do not apply this product in a way that will contact workers or other persons, either directly or
through drift.”

1 135. On information and belief, on September 2, 2023, SLYKERMAN and AGRA FLY
2 applied Fanfare in a way that contacted or could have contacted other persons through drift.

3 136. SLYKERMAN and AGRA FLY's application of Fanfare conflicted with the labeling
4 of Fanfare in violation of Food and Agricultural Code section 12973.

5 137. On information and belief, SLYKERMAN and AGRA FLY's violation of Food and
6 Agricultural Code section 12973 was a subsequent violation that was the same or similar to prior
7 violations by Defendants.

8 138. On information and belief, SLYKERMAN and AGRA FLY's violation of Food and
9 Agricultural Code section 12972 was intentional and resulted or reasonably could have resulted in
10 the creation of a hazard to human health or the environment.

11 139. SLYKERMAN and AGRA FLY's violation of section 12973 renders them liable
12 under Food and Agricultural Code section 12998 for a civil penalty in an amount according to
13 proof.

14 **TWENTY-FIRST CAUSE OF ACTION**
15 **(Violation of California Code of Regulations, Title 3, Section 6600 Against Defendants**
16 **SLYKERMAN and AGRA FLY for Arvin/Lamont Drift)**

17 140. The People reallege and incorporate by reference as though fully set forth herein all
18 allegations contained in paragraphs 1 through 139, inclusive.

19 141. On information and belief, on September 2, 2023 SLYKERMAN and AGRA FLY
20 violated California Code of Regulations, title 3, section 6600.

21 142. On information and belief, SLYKERMAN and AGRA FLY's violation of California
22 Code of Regulations, title 3, section 6600 was a subsequent violation that was the same or similar
23 to prior violations by Defendants.

24 143. On information and belief, SLYKERMAN and AGRA FLY's violation of California
25 Code of Regulations, title 3, section 6600 was intentional and resulted or reasonably could have
26 resulted in the creation of a hazard to human health or the environment.
27
28

1 144. SLYKERMAN and AGRA FLY’s violation of California Code of Regulations,
2 title 3, section 6600 renders them liable under Food and Agricultural Code section 12998 for a
3 civil penalty in an amount according to proof.

4 **TWENTY-SECOND CAUSE OF ACTION**

5 **(Failure to Protect Persons, Animals, and Property in Violation of California Code of**
6 **Regulations, title 3, Section 6614 Against Defendants SLYKERMAN and AGRA FLY for**
7 **Arvin/Lamont Drift)**

8 145. The People reallege and incorporate by reference as though fully set forth herein all
9 allegations contained in paragraphs 1 through 144, inclusive.

10 146. On information and belief, on September 2, 2023, SLYKERMAN and AGRA FLY
11 violated California Code of Regulations, title 3, section 6614.

12 147. On information and belief, SLYKERMAN and AGRA FLY’s violation California
13 Code of Regulations, title 3, section 6614 was a subsequent violation that was the same or similar
14 to prior violations by Defendants.

15 148. On information and belief, SLYKERMAN and AGRA FLY’s violation of California
16 Code of Regulations, title 3, section 6614 was intentional and resulted or reasonably could have
17 resulted in the creation of a hazard to human health or the environment.

18 149. SLYKERMAN and AGRA FLY’s violation of California Code of Regulations,
19 title 3, section 6614 renders them liable under Food and Agricultural Code section 12998 for a
20 civil penalty in an amount according to proof.

21 **TWENTY-THIRD CAUSE OF ACTION**

22 **(Public Nuisance in Violation of Civil Code, Sections 3479, 3480, and 3494 Against**
23 **Defendants SLYKERMAN and AGRA FLY for All Drifts)**

24 150. The People reallege and incorporate by reference as though fully set forth herein all
25 allegations contained in paragraphs 1 through 149, inclusive.

26 151. Civil Code section 3479 provides: “Anything which is injurious to health . . . , or is
27 indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere
28 with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or
use, in the customary manner, of any navigable . . . stream . . . is a nuisance.”

1 152. A “public nuisance” is defined in Civil Code section 3480 as a nuisance “which
2 affects at the same time an entire community or neighborhood, or any considerable number of
3 persons” Civil Code section 3490 provides that “[n]o lapse of time can legalize a public
4 nuisance.”

5 153. Pursuant to Civil Code section 3494, “a public nuisance may be abated by any public
6 body or officer so authorized by law.”

7 154. Defendants’ continued misapplication of pesticides presents emergency conditions to
8 life and property. SLYKERMAN is performing aerial pesticide applications without a valid
9 current appropriate Medical Certificate. Defendants’ activities are a public nuisance that endanger
10 the life, wellbeing, and property of the community around their applications. Each day that
11 Defendants conduct aerial pesticide applications, the significant threat to the community exists.

12 155. An ordinary person would be annoyed and disturbed by the conditions created by
13 Defendants’ aerial pesticide drift incidents, as described in this complaint.

14 156. The seriousness of the harm caused by Defendants’ misapplication of pesticides
15 outweighs any social utility of Defendants’ conduct.

16 157. The nuisance is capable of abatement to applicable regulatory standards, but the
17 People are informed and believe that Defendants will, unless restrained and enjoined by this
18 Court, continue to maintain the public nuisance and the acts complained of herein, and the threat
19 to public safety and to the environment, will continue.

20 158. The People have no plain, speedy or adequate remedy at law to address the public
21 nuisance. Injunctive relief is expressly authorized by statute. (Code Civ. Proc., § 526.)

22 **PRAYER FOR RELIEF**

23 WHEREFORE, the People pray for judgment against Defendants, and each of them, as
24 follows:

25 1. That the Court issue a preliminary and permanent injunction under Food and
26 Agricultural Code sections 11895.5 and 13000.1, Code of Civil Procedure section 525, and Civil
27 Code section 3422 requiring Defendants and each of them, and their agents, lessees, tenants,
28 employees, representatives, successors-in-interest, and all persons acting under, in concert with,

1 or for them to take all measures necessary to prevent future violations and enjoining Defendants
2 from conducting or permitting others from engaging in or performing, directly or indirectly, any
3 of the following acts:

4 A. Any additional violations of the Food and Agricultural Code as set forth in the
5 First through Twenty-Second Causes of Action.

6 B. Any further acts endangering the public and creating a public nuisance in
7 violation of the Civil Code as set forth in the Twenty-Third Cause of Action.

8 2. That under Food and Agricultural Code sections 11893 and 12998, the Court assess
9 civil penalties against Defendants for each violation of a Food and Agricultural Code section or
10 implementing regulation, as alleged in the First through Twenty-First Causes of Action,
11 according to proof;

12 3. For post-judgment interest as permitted by law;

13 4. For all costs of investigating and prosecuting this action, including expert fees,
14 reasonable attorney's fees, and costs, pursuant to Code of Civil Procedure, section 1021.8.

15 5. For costs of suit; and,

16 6. For such other and further relief as the Court deems just and proper.

17
18
19 Dated: September 28, 2023

Respectfully submitted,

20 ROB BONTA
21 Attorney General of California
22 TRACY L. WINSOR
23 Supervising Deputy Attorney General

24 **John D.**
25 **Butterfield**
26 Digitally signed by
27 John D. Butterfield
28 Date: 2023.09.28
10:14:17 -07'00'

JOHN D. BUTTERFIELD
Deputy Attorney General
*Attorneys for Plaintiff People of the State of
California ex rel. Julie Henderson, Director
of the California Department of Pesticide
Regulation*

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