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**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

	)	
In re:	)	Chapter 11
	)	
CHEMTURA CORPORATION, <i>et al.</i> , <sup>1</sup>	)	Case No. 09-11233 (REG)
	)	
Debtors.	)	Jointly Administered
	)	

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal taxpayer-identification number, are: Chemtura Corporation (3153); A&M Cleaning Products, LLC (4712); Aqua Clear Industries, LLC (1394); ASCK, Inc. (4489); ASEPSIS, Inc. (6270); BioLab Company Store, LLC (0131); BioLab Franchise Company, LLC (6709); Bio-Lab, Inc. (8754); BioLab Textile Additives, LLC (4348); CNK Chemical Realty Corporation (5340); Crompton Colors Incorporated (3341); Crompton Holding Corporation (3342); Crompton Monochem, Inc. (3574); GLCC Laurel, LLC (5687); Great Lakes Chemical Corporation (5035); Great Lakes Chemical Global, Inc. (4486); GT Seed Treatment, Inc. (5292); HomeCare Labs, Inc. (5038); ISCI, Inc. (7696); Kem Manufacturing Corporation (0603); Laurel Industries Holdings, Inc. (3635); Monochem, Inc. (5612); Naugatuck Treatment Company (2035); Recreational Water Products, Inc. (8754); Uniroyal Chemical Company Limited (Delaware) (9910); Weber City Road LLC (4381); and WRL of Indiana, Inc. (9136).



America (the “**United States**”) and the State Defendants (as defined below) (collectively, the “**Defendants**”) allege as follows:

### **The Parties**

1. Plaintiff Chemtura is a Delaware corporation having its principal place of business at 199 Benson Road, Middlebury, Connecticut 06749. On March 18, 2009 (the “**Petition Date**”), Chemtura and each of the other Debtors filed with this Court a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”). The Debtors are continuing to operate their businesses and manage their property as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

2. Plaintiff Bio-Lab, Inc., a debtor in the above-captioned chapter 11 cases, is a Delaware corporation having its principal place of business at 1735 North Brown Road, Lawrenceville, Georgia 30043.

3. Plaintiff Crompton Colors Incorporated, a debtor in the above-captioned chapter 11 cases, is a Delaware corporation having its principal place of business at 199 Benson Road, Middlebury, Connecticut 06749.

4. Plaintiff Crompton Holding Corporation, a debtor in the above-captioned chapter 11 cases, is a Delaware corporation having its principal place of business at 199 Benson Road, Middlebury, Connecticut 06749.

5. Plaintiff Great Lakes Chemical Corporation, a debtor in the above-captioned chapter 11 cases, is a Delaware corporation having its principal place of business at 2226 Haynesville Highway, El Dorado, Arkansas 71730.

6. Plaintiff Great Lakes Chemical Global, Inc., a debtor in the above-captioned chapter 11 cases, is a Delaware corporation having its principal place of business at 199 Benson Road, Middlebury, Connecticut 06749.

7. Plaintiff ISCI, Inc., a debtor in the above-captioned chapter 11 cases, is an Indiana corporation having its principal place of business at 251 East Ohio Street, Suite 500, Indianapolis, Indiana.

8. Plaintiff Kem Manufacturing Corporation, a debtor in the above-captioned chapter 11 cases, is a Georgia corporation having its principal place of business at 40 Technology Parkway South, #300, Norcross, Georgia 30092.

9. Plaintiff Monochem, Inc., a debtor in the above-captioned chapter 11 cases, is a Louisiana corporation having its principal place of business at 199 Benson Road, Middlebury, Connecticut 06749.

10. Plaintiff Naugatuck Treatment Company, a debtor in the above-captioned chapter 11 cases, is a Connecticut corporation having its principal place of business at 500 Cherry Street, Naugatuck, Connecticut 06770.

11. Plaintiff Uniroyal Chemical Company Limited (Delaware), a debtor in the above-captioned chapter 11 cases, is a Delaware limited liability company having its principal place of business at 199 Benson Road, Middlebury, Connecticut 06749.

12. Defendant United States, including and on behalf of its affiliated federal governmental units and regulatory agencies, including, without limitation, the United States Environmental Protection Agency (“EPA”), the United States Department of the Interior, the United States Department of Energy, the United States Nuclear Regulatory Commission, the National Oceanic and Atmospheric Administration, the United States Army Corps of Engineers,

the United States Department of Transportation, and the United States Coast Guard, have issued or may issue environmental remediation orders, consent decrees, notices of liability, or otherwise claim authority to impose liabilities or obligations upon Debtors with respect to environmental, health, and safety matters.

13. The states and respective state agencies listed below (collectively, the “**State Defendants**”), have issued or may issue environmental remediation orders, consent decrees, notices of liability, or otherwise claim authority to impose liabilities or obligations upon the Debtors with respect to environmental, health, and safety matters:

- (a) State of Alabama and related environmental and natural resource agencies, including the Alabama Department of Environmental Management and the Alabama Department of Conservation and Natural Resources;
- (b) State of California and related environmental and natural resource agencies, including the California Environmental Protection Agency, the California State Water Resources Control Board, the Central Coast Regional Water Quality Control Board, the Central Valley Regional Water Quality Control Board, the Santa Ana Regional Water Quality Control Board, the San Francisco Regional Water Quality Control Board, and the California Department of Toxic Substances Control;
- (c) State of Connecticut and related environmental and natural resource agencies, including the Connecticut Department of Environmental Protection;
- (d) State of Delaware and related environmental and natural resource agencies, including the Delaware Department of Natural Resources and Environmental Control;
- (e) State of Florida and related environmental and natural resource agencies, including the Florida Department of Environmental Protection;
- (f) State of Georgia and related environmental and natural resource agencies, including the Georgia Department of Natural Resources and the Georgia Environmental Protection Division;
- (g) State of Illinois and related environmental and natural resource agencies, including the Illinois Environmental Protection Agency;

- (h) State of Indiana and related environmental and natural resource agencies, including the Indiana Department of Environmental Management;
- (i) State of Kansas and related environmental and natural resource agencies, including the Kansas Department of Health and Environment;
- (j) State of Louisiana and related environmental and natural resource agencies, including the Louisiana Department of Environmental Quality and the Louisiana Department of Natural Resources;
- (k) State of Michigan and related environmental and natural resource agencies, including the Michigan Department of Environmental Quality;
- (l) State of Nevada and related environmental and natural resource agencies, including the Nevada Division of Environmental Protection;
- (m) State of New Jersey and related environmental and natural resource agencies, including the New Jersey Department of Environmental Protection;
- (n) State of New York and related environmental and natural resource agencies, including the New York State Department of Environmental Conservation;
- (o) State of North Carolina and related environmental and natural resource agencies, including the North Carolina Department of Environment and Natural Resources;
- (p) State of Ohio and related environmental and natural resource agencies, including the Ohio Environmental Protection Agency and the Ohio Department of Natural Resources;
- (q) State of Oregon and related environmental and natural resource agencies, including the Oregon Department of Environmental Quality;
- (r) Commonwealth of Pennsylvania and related environmental and natural resource agencies, including the Pennsylvania Department of Environmental Protection and the Pennsylvania Department of Transportation;
- (s) State of Tennessee and related environmental and natural resource agencies, including the Tennessee Department of Environment and Conservation;
- (t) State of Texas and related environmental and natural resource agencies, including the Texas Commission on Environmental Quality; and

- (u) State of West Virginia and related environmental and natural resource agencies, including the West Virginia Department of Environmental Protection.

### **Jurisdiction and Venue**

14. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding under 28 U.S.C. § 157(b).

15. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409.

16. Declaratory relief is appropriate pursuant to Federal Rule of Bankruptcy Procedure 7001 and the Declaratory Judgment Act, 28 U.S.C. § 2201.

### **Background**

#### **I. Introduction**

17. The Debtors are globally diversified manufacturers and marketers of specialty chemicals products, most of which are sold to industrial manufacturing customers for use as additives, ingredients or intermediates that add value to their end products. As specialty chemical manufacturers, the Debtors have an operating history of more than 100 years. Specifically, Chemtura is the successor to Crompton & Knowles Corporation, which was incorporated in 1900 and first engaged in the manufacture and sale of specialty chemicals beginning in 1954. Chemtura and its affiliates and subsidiaries are the product of expansion through both organic growth and numerous acquisitions and mergers, including the 1996 acquisition of Uniroyal Chemical Company, Inc., the 1999 merger with Witco Corporation and the 2005 acquisition of Great Lakes Chemical Corporation. As a result of those and other mergers and acquisitions, as well as sales of certain business lines, the Debtors are burdened by a variety of “legacy” liabilities.

18. The Debtors face potentially significant environmental liabilities and obligations at numerous “legacy” sites that are not currently part of the Debtors’ bankruptcy estates, which arose largely as a result of the lengthy industrial history of the Debtors’ predecessors. These sites include previously owned or operated sites that are no longer owned or operated by the Debtors and third-party sites that have never been owned by the Debtors to which the Debtors or their predecessors are alleged to have sent waste or other materials (*see* ¶¶ 21-28 below for a further description of such sites).

19. The Debtors are allegedly subject to environmental orders, consent decrees, notices of liability, claims, demands, statutory or regulatory requirements, and other actual or contingent obligations and liabilities, including injunctive obligations to perform response actions with respect to actual or potential releases and threats of releases of hazardous substances or other contaminants, at or in connection with sites that are not owned by the Debtors and are not part of the Debtors’ estates, including the sites and associated orders set forth on Appendix A, Appendix B, and related Exhibits attached hereto (collectively, the “**Environmental Orders and Obligations**”). The Debtors now seek a declaratory judgment that the Environmental Orders and Obligations are dischargeable as prepetition, general, unsecured claims in the Debtors’ chapter 11 cases.

20. The Debtors currently own or operate numerous other facilities and properties which are part of the Debtors’ estates (“**Debtor Owned Sites**”). In this Complaint, the Debtors do not seek any relief with respect to the Debtor Owned Sites.

## **II. Former Sites**

21. The Debtors or their predecessors formerly owned or conducted operations at approximately 84 properties or facilities (collectively, the “**Former Sites**”) in 22 states,



including Alabama, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Nevada, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, and West Virginia.

22. A list of certain known or alleged Former Sites is set forth on Appendix A attached hereto,<sup>2</sup> including the site address, sale date, and order (if applicable), and the information in Appendix A is incorporated herein by reference.

23. The Former Sites consist only of sites previously owned or operated by the Debtors or their predecessors that were not owned or operated by the Debtors since the Petition Date, such that the Former Sites are not part of the Debtors' estates pursuant to section 541 of the Bankruptcy Code.

24. The Defendants contend or may contend that the Debtors are liable for or subject to Environmental Orders and Obligations with respect to the Former Sites and that such Environmental Orders and Obligations may not be discharged as general unsecured claims in these chapter 11 cases.

### **III. Third-Party Sites**

25. The Debtors have identified approximately 113 sites that are and have always been owned by unaffiliated third parties with respect to which the Debtors may be subject to Environmental Orders and Obligations associated with the disposal of wastes or other materials allegedly generated by the Debtors or their predecessors (collectively, the "**Third-Party Sites**") in 32 states across the nation, including Alabama, Arkansas, California, Colorado, Connecticut,

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<sup>2</sup> The list of Former Sites on Appendix A represents the Debtors' best efforts at identifying sites formerly owned or operated by the Debtors which may be subject to Environmental Orders and Obligations. This list is not exhaustive. Additional formerly owned or operated sites may exist where the Debtors have Environmental Orders or Obligations.

Delaware, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, Washington, and West Virginia.

26. A list of certain known or alleged Third-Party Sites is set forth on Appendix B attached hereto,<sup>3</sup> including the site address, EPA identification number, and order (if applicable), and the information in Appendix B is incorporated herein by reference.

27. The Third-Party Sites have never been owned by the Debtors and are not a part of the Debtors' bankruptcy estates pursuant to section 541 of the Bankruptcy Code. The Third-Party Sites consist only of sites to which the Debtors or their predecessors are alleged to have sent waste or other materials.

28. The Defendants contend or may contend that the Debtors are liable for or subject to Environmental Orders and Obligations with respect to the Third-Party Sites and that such Environmental Orders and Obligations may not be discharged as general unsecured claims in these chapter 11 cases.

#### **IV. The Debtors' Approach to Addressing Environmental Orders and Obligations and the Need For Declaratory Relief.**

29. Since the commencement of these chapter 11 cases, the Debtors have been engaged in a concerted effort to negotiate with state and federal agencies, including the United States Department of Justice on behalf of the EPA and several of the State Defendants, including the States of California, Connecticut, Florida, Louisiana, New Jersey, New York, and

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<sup>3</sup> The list of Third-Party Sites on Appendix B represents the Debtors' best efforts at identifying third-party sites never owned or operated by the Debtors which may be subject to Environmental Orders and Obligations. This list is not exhaustive. Additional third-party sites may exist where the Debtors have Environmental Orders or Obligations.

Pennsylvania, in an attempt to achieve consensual resolution of the dischargeability of the Environmental Orders and Obligations relating to the Former Sites and the Third-Party Sites in the Debtors' chapter 11 cases. During these negotiations, the Debtors continued to perform remediation obligations at certain sites under a full reservation of rights.

30. The Debtors' negotiations with the governmental agencies have been fruitful to date and the Debtors are continuing their ongoing efforts to reach mutually acceptable terms of settlement with such governmental agencies. The Debtors' reorganization is on a fast track, however, and for numerous reasons the Debtors are not in a position to delay emergence from chapter 11 in the event that negotiations slow or become stalled. Accordingly, the Debtors file this action for declaratory relief in order to position the existing controversies for ultimate judicial determination to the extent a consensual resolution cannot be reached in a timeframe consistent with the resolution of other issues in these chapter 11 cases.

31. Notwithstanding the filing of this Complaint, the Debtors wish to make clear that they intend to continue their efforts to work cooperatively with the federal and state agencies to reach mutually acceptable terms regarding the dischargeability of the Environmental Orders and Obligations.

32. The Debtors have received over 14,000 proofs of claim filed before the bar date, and an initial review of those proofs of claim indicates that a number of the Defendants have filed proofs of claim alleging the Debtors' liability regarding the Environmental Orders and Obligations and reserving their rights to argue that the Environmental Orders and Obligations are not dischargeable in these chapter 11 cases. By way of example:

- (a) the United States filed claims for "unliquidated" amounts for past and future response costs as well as "protective proofs of claim" contending that the Debtors'

liability with respect to Environmental Orders and Obligations relating to Former Sites and Third-Party Sites are not dischargeable claims (*see* Proofs of Claim 11672, 11797, 11854, and 11993, attached hereto in Appendix C);

(b) the State of California filed claims for “unliquidated” amounts for Environmental Orders and Obligations relating to certain Former Sites, and asserted in those claims that the Debtors’ investigation and remedial liabilities regarding the Environmental Orders and Obligations may not be discharged, while also seeking administrative expense priority payment for certain claims (*see* Proofs of Claim 11700, 11718 and 11726, attached hereto in Appendix C);

(c) the State of Connecticut filed claims for \$18,901,316, and \$8,251,196, while contending that certain Environmental Orders and Obligations relating to Third-Party Sites are not dischargeable claims (*see* Proofs of Claim 11513 and 11569, attached hereto in Appendix C);

(d) the State of Florida filed a claim for \$2,000,000 on account of Environmental Orders and Obligations relating to Former Sites, but asserted that the Environmental Orders and Obligations are not dischargeable claims while also seeking administrative expense priority payment for certain costs (*see* Proof of Claim 11046, attached hereto in Appendix C);

(e) the State of New Jersey filed four claims for “unliquidated” amounts, all of which also objected to the dischargeability of certain of Environmental Orders and Obligations relating to Former Sites (*see* Proofs of Claim 10410, 10718, 11195, and 11261, attached hereto in Appendix C);

(f) the State of New York filed administrative expense claims for \$1,500,000 and \$4,321,000 with respect to Environmental Orders and Obligations relating to Former Sites, contending that such Environmental Orders and Obligations are not dischargeable claims (*see* Proofs of Claim 10880 and 11495, attached hereto in Appendix C); and

(g) the State of Pennsylvania filed “protective proofs of claim” contending that the Debtors’ liability with respect to Environmental Orders and Obligations relating to Former Sites in Pennsylvania are not dischargeable claims (*see* Proofs of Claim 11234 and 11903, attached hereto in Appendix C).

33. The Debtors are continuing to review the numerous proofs of claim that were filed, but it is possible that some of the Defendants did not file “protective” proofs of claim and still intend to assert that Environmental Orders and Obligations relating to Former Sites and Third-Party Sites are not dischargeable and may be enforced after emergence from chapter 11.<sup>4</sup>

34. While the Debtors may ultimately dispute their liability for Environmental Orders and Obligations for the Former Sites and Third-Party Sites, such dispute is not the subject of this Complaint. The sole issue raised in this Complaint is whether any liability for Environmental Orders and Obligations that exists with respect to the Former Sites and Third-Party Sites is a “claim” under the Bankruptcy Code.

35. This Court’s determination that the Environmental Orders and Obligations constitute general, unsecured, and dischargeable prepetition claims, for which the Defendants may receive only limited recoveries depending on the treatment of general unsecured claims for the applicable Debtors under a chapter 11 plan of reorganization, will likely facilitate a

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<sup>4</sup> To the extent any Defendant has filed a proof of claim regarding Environmental Orders and Obligations and concedes that the Debtors’ obligation for Former Sites or Third-Party Sites are dischargeable prepetition unsecured “claims,” the Debtors will withdraw this declaratory judgment action as to that Defendant.

consensual resolution of disputes concerning the Environmental Orders and Obligations, thus enabling the Debtors' estates to avoid needless, protracted, and expensive litigation.

36. Additionally, such a determination will assist the Debtors in developing a plan of reorganization because it will address the priority and dischargeability of what are likely substantial claims in the Debtors' chapter 11 cases.

**COUNT ONE**  
**(Declaratory Judgment)**

37. Plaintiffs hereby reallege and incorporate by reference each and every allegation contained in paragraphs 1 through 36 as if fully restated herein.

38. As of the Petition Date, neither the Debtors nor any affiliated entities owned any real property or conducted any business activities at any of the Former Sites or Third-Party Sites.

39. The Environmental Orders and Obligations that are or may be asserted against the Debtors by the Defendants with respect to the Former Sites or Third-Party Sites arise exclusively from alleged prepetition conduct of the Debtors and/or their purported predecessors.

40. The Environmental Orders and Obligations that are or may be asserted against the Debtors by the Defendants with respect to the Former Sites or Third-Party Sites are "claims" within the meaning of section 101(5) of the Bankruptcy Code that arose before the Petition Date, and accordingly, are subject to discharge under section 1141(d) of the Bankruptcy Code in accordance with the terms of any plan of reorganization proposed by the Debtors that is confirmed by this Court and becomes effective.

41. Declaratory relief is appropriate in this case pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. An actual controversy, within the meaning of 28 U.S.C. § 2201, exists with respect to the Bankruptcy Code's treatment of the Environmental Orders and Obligations.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Debtors pray the Court to enter an order and judgment declaring that:

- (1) The Environmental Orders and Obligations that are or may be asserted against the Debtors by the Defendants with respect to the Former Sites and Third-Party Sites are general unsecured “claims” under the Bankruptcy Code that are dischargeable upon confirmation of a chapter 11 plan pursuant to section 1141(d) of the Bankruptcy Code; and
- (2) Such other and further relief as deemed appropriate by the Court.

New York, New York  
Dated: November 3, 2009

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