

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Alan Metzgar)
 1121 University Blvd.)
 Apartment 407)
 Silver Spring, MD 20902,)
)
 Paul Parker)
 404 Gateshead Ct.)
 Edgewood, MD 21040)
)
)
 and all others similarly situated;)
)
 v.)
)
 KBR, Inc.)
 601 Jefferson Street)
 Suite 3400)
 Houston, Texas 77002)
)
 Kellogg, Brown & Root LLC)
 505 E. Huntland Dr., Suite 100)
 Austin, Texas 78752)
)
 Halliburton Company)
 5 Houston Center)
 1401 McKinney, Suite 24)
 Houston, Texas 77010)
)

CASE NUMBER:

JURY DEMAND

COMPLAINT

1. Plaintiffs Alan Metzgar and Paul Parker file this complaint on behalf of themselves and all others similarly situated (hereinafter referred to as "Plaintiffs") to seek redress from the defense contractors named above (Defendants). Defendants promised the United States government that they would supply safe water for hygienic and recreational uses and properly and safely dispose of waste products on U.S. bases in Iraq.

Defendants utterly failed to perform their promised duties. Instead, Defendants negligently and intentionally exposed thousands of soldiers, contract employees and other persons to unsafe water and hazardous conditions caused by improper waste disposal. Defendants acted egregiously merely to make more money for themselves. This action seeks compensatory and punitive damages against all Defendants.

PARTIES

2. Plaintiff Alan Metzgar is a U.S. citizen living in Maryland at 1121 University Blvd, Apt. 407, Silver Spring, Maryland. Mr. Metzgar was employed by the US Army and was stationed in Iraq.

3.. Plaintiff Paul Parker is a U.S. citizen living in Maryland at 404 Gateswood Ct., Edgewood, Maryland. He was employed by KBR and was stationed in Iraq.

4. Other members of the class of plaintiffs currently known include Benjamin Boeke, David Keehan, Dennis Gogel, and George Hartwell.

5. Plaintiffs John and Jane Does 1-1000 are the Class of persons who have been exposed while serving in Iraq to contaminated water, and/or to improperly operated burn pits and who have suffered injuries as a result of their exposure. Plaintiffs 1-1000 may include U.S. military personnel, U.S. government contractors and third country nationals employed by the military or contractors. Unknown Plaintiffs 1-1000 share common questions of law and fact and are so numerous that joinder of all members of the class is impracticable.

6. Defendant KBR, Inc. is a publicly traded corporation with headquarters located at 601 Jefferson Street, Suite 3400, Houston, Texas 77002. Defendant KBR was incorporated in Delaware on March 21, 2006 and was a wholly owned subsidiary of the

Halliburton Company until April, 2007. KBR is a leading global engineering, construction and services company supporting the energy, petrochemicals, government services and civil infrastructure sectors. Defendant KBR acted at all times relevant to this action through individual agents and employees, who are hereinafter subsumed within the term “Defendant KBR.”

7. Defendant KBR, Inc. regularly transacts business in the State of Maryland.

8. Defendant Kellogg, Brown & Root LLC is a publicly traded corporation with headquarters located at 505 E. Huntland Dr., Suite 100 Austin, Texas and offices located at Guilford Rd, Annapolis, Maryland.

9. Defendant Kellogg, Brown & Root LLC regularly conducts business in the State of Maryland.

10. Defendant Halliburton is a publicly traded corporation with headquarters located at 5 Houston Center, 1401 McKinney, Suite 2400, Houston Texas 77010 and offices located at 9000 Rockville Pike, Bethesda, Maryland. Defendant Halliburton was formed and incorporated under the laws of Delaware. Defendant Halliburton does business throughout the United States and the rest of the world. Defendant Halliburton acted at all times relevant to this action through individual agents and employees, who are hereinafter subsumed within the term “Defendant Halliburton.”

11. Defendant Halliburton regularly conducts business in the State of Maryland.

JURISDICTION AND VENUE

12. This Court has original jurisdiction over the subject matter of this action pursuant to Maryland Code Section 1-505 and 6-103.

13. Venue is proper pursuant to Maryland Code Section 6-201(b) and 6-202(3).

CLASS ALLEGATIONS

14. This action should be certified as a class action pursuant to Maryland Rule 2-231(a) which permits the certification of a class if (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class. MD Rule 2-231.

15. This action should be certified as a class action pursuant to MD Rule 2-231(b)(1)(A) which permits the certification of a class if the lack of a class could lead to inconsistent or varying adjudication with respect to individual members which would establish incompatible standards of conduct for the defendants.

16. This action should be certified as a class action pursuant to MD Rule 2-231(b)(1)(B), which permits the certification of a class when adjudication with respect to individual Plaintiffs would, as a practical matter, be dispositive of the interests of the other putative Class Members.

17. This action should be certified as a class action pursuant to MD Rule 2-231(b)(2) which permits the certification of a class when the party opposing the class has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

18. This action should be certified as a class action pursuant to MD Rule 2-231(b)(3) because common questions of law and fact predominate over any questions

affecting only individual members and a class action is superior to other methods for the fair and efficient adjudication of the controversy.

19. This action should be certified as a class because Plaintiffs satisfy all of the prerequisites to a class action set forth in the MD Rule 2-231(a). Specifically,

- (a) the class is so numerous that joinder of all member is impracticable;
- (b) there are questions of law common to the class;
- (c) there are questions of fact common to the class;
- (d) the claims of the named Plaintiff are typical of the claims of the class;
- (e) the representative party will fairly and adequately protect the interest

of the class.

20. Counsel is experienced in bringing and defending class actions and will adequately represent the class interests.

21. There should be at least one class certified. The class should be defined as a Class which consists of persons who 1). have been deployed to Iraq as part of the U.S. military or as a U.S. government contractor or third country national serving the U.S. forces, 2). who were exposed to the actions of Defendants and 3). were injured as a result of this exposure. There are at least an estimated 100,000 individuals who were exposed to the actions of Defendants.

22. There may be additional subclasses suitable for certification.

DEFENDANTS PROVIDED CONTAMINATED WATER TO U.S. FORCES

23. Defendants are the main providers of bulk water used in dining, medical, personal hygiene and recreation facilities. KBR's Government and Infrastructure ("G&I") business unit provides program and project management logistics to the U.S. military

operating in Iraq. In August, 2006 KBR was awarded a \$3.5 billion task order under the LogCap III contract, a government contract awarded in support of military operations in the Middle East. In 2006, Iraq related work contributed \$4.7 billion to the consolidated revenues of KBR and KBR was further awarded \$120 million in award fees during that year. Revenue from their operations in Iraq represented 45% of all KBR revenues in 2006.

24. U.S. military standards, including but not limited to TB MED 577, establish field water quality standards and water certification processes and define operational and oversight rules. KBR was contractually required to comply with these and other water safety standards. The standards provide detailed requirements for the sanitary control and quality surveillance of land-based field water support. All water used for drinking, cooking and medical facilities must be potable. Water used for laundry and personal hygiene, bathing, and cleaning may be non-potable but must meet certain minimum safety standards as outlined in TB MED 577.

25. KBR was required to monitor and maintain the quality of water it distributed to meet the established standards. KBR was required to inspect and maintain distribution and storage tanks, chlorinate water supplied and ensure proper levels of chlorine residual. The water distribution and point-of-use storage containers were an integral part of the water supply system and were required to be installed, operated and maintained in accordance with applicable Army regulations. Defendants knew that failure to meet proper standards of water safety would jeopardize the health and safety of the U.S. Forces and injury resulting from exposure was reasonably foreseeable.

26. KBR failed to meet the applicable standards and supplied water which was contaminated, untreated, and unsafe. Water quality tests were not performed and disinfection residual levels were not monitored and maintained at point-of-use storage containers and water was not properly treated or chlorinated to ensure safety to users.

27. Senator Dorgan requested that the Department of Defense Inspector General review allegations that KBR supplied unsafe water to the U.S. forces in Iraq. The audit revealed that KBR failed to properly supply, maintain, and test the water it supplied to U.S. forces during the audited period. *See DoD Inspector General Report No. D-2008-060, attached as Exhibit 1.*

28. A report entitled *Report of Findings & Root Cause, Water Mission B4 Ar Ramadi*, prepared by Wil Granger, KBR's water quality manager for Iraq, dated May 13, 2005, indicates that no disinfection to non-potable water was occurring for water designated for showering purposes. "This caused an unknown population to be exposed to potentially harmful water for an undetermined amount of time." *See Report attached as Exhibit 2 at p. 3.* The report confirms that "The deficiencies of the camp where the event occurred is not exclusive to that camp, meaning that countrywide, all camps suffer to some extent from all or some of the deficiencies noted." *Ex. 2 at 4.*

29. KBR failed to properly train its personnel in proper water operations, despite its acceptance of a contract to provide safe water to the U.S. force in Iraq. "Theatre wide there is no formalized training for anyone at any level in concerns to water operations." *Ex. 2 at 5.*

30. KBR relied on “semi-skilled” labor to maintain the water operations and paid them at the level of unskilled workers in the KBR compensation classification structure.

Ex. 2 at p. 6.

31. KBR generated or retained little or no documentation regarding water safety issues, water inventories, chemistries, audits, safety standards, procedures or orders.

“This lack of documentation shows a lack of oversight and understanding as to the requirements necessary for the production, distribution, consumption, and uses of water; both potable and non-potable. Documentation is necessary to validate the quality of our services to prevent both liability and injury.” *Ex. 2 at 6.*

32. Former KBR employees and water quality specialists Ben Carter and Ken May told HalliburtonWatch that KBR knowingly exposed troops and civilians to contaminated water from the Euphrates and Tigris Rivers. Ben Carter, a water quality specialist who worked for KBR at Junction City, testified that he tested water and found it was polluted with sewage and other contaminants and that it was not being chlorinated. He then treated the tanks for the KBR employees and told company managers the military should be alerted so they could treat their tanks as well. Carter told the media that he was ordered by his KBR supervisor to concern himself only with the health and safety of KBR personnel. KBR was supposed to test the water three times daily to confirm safety but, according to Carter, such testing never occurred.

33. Defendants provided water to fill the swimming pools located at Balad Air Force base. These swimming pools were used during recreation time for the U.S. forces. Defendants supplied unsafe water for the pools and failed to properly test or chlorinate the water, thereby exposing U.S. Forces to unsafe water for swimming.

DEFENDANTS FAILED TO PROPERLY HANDLE AND INCINERATE WASTE

34. Reasonable discovery will show that Defendants were required to properly handle and incinerate the medical wastes and all other waste that arose on some or all of the U.S. bases or camps in Iraq.

35. Defendants failed to properly and timely install, operate, and maintain incinerators designed to ensure the safe disposal of medical or other waste at Balad Air Force base, which operated a busy front- line military hospital.

36. Instead, Defendants merely dug an enormous open air burn pit and burned in the open air hazardous medical waste and vast quantities of other waste not appropriate for open air burning, thereby creating hazardous conditions for individuals exposed to heavy smoke, fumes and ash. Defendants knew that failure to properly contain and control the burn pit would result in hazardous conditions and that injury to those exposed was reasonably foreseeable from constant exposure to hazardous smoke, fumes and ash.

37. On at least one occasion, Defendants were attempting to improperly dispose of medical waste at the open air burn pit by backing a truck full of medical waste up to the pit and emptying the contents onto the fire. The truck caught fire. Defendants' fraudulent actions were thereby discovered by the military.

38. Defendants burned medical waste that contained human body parts on the open air burn pit. Wild dogs in the area raided the burn pit and carried off human remains. The wild dogs could be seen roaming the base with body parts in their mouths, to the great distress of the U.S. forces.

39. Defendants illegally burned biohazard materials, hydraulic fluids, lithium batteries and other hazardous materials on the open air burn pits, causing noxious and

unsafe smoke to drift over the base. Defendants burned tires, trucks, munitions boxes, and items containing pesticide residue.

40. The smoke from the enormous burn pit at Balad Air Force Base was often so thick it filled the nearby living quarters with smoke and haze. The smoke was often so heavy that it reduced visibility to only a few yards. The flames were often colored blue or green from the hazardous chemicals that were put on the burn pit. The smoke from the pit also turned a thick black or a white depending on what was being burned. The smell from the pit was often of plastic or chemicals burning and was extremely noxious.

DEFENDANTS' ACTIONS CAUSED PLAINTIFFS' ILLNESS

41. Plaintiff Alan Metzgar was deployed to Iraq with the U.S. Army and was stationed at Balad Air Force Base. Plaintiff Metzgar was exposed to heavy smoke and fumes and suffered from chronic dry cough and irritated throat.

42. Plaintiff Paul Parker was employed in Iraq by KBR and was stationed at Balad Air Force Base. Plaintiff Parker was exposed to the heavy smoke and fumes and suffered from chronic respiratory illnesses. He developed sleep apnea from his exposure and is dependent on a machine to monitor his breathing at night. He suffers from chronic shortness of breath.

43. Plaintiff Dennis Gogel was deployed to Iraq with the U.S. Army and was stationed at Balad Air Force Base. Plaintiff Gogel was a medic for his unit. Plaintiff Gogel suffered constant recurring upper respiratory infections as a result of the heavy smoke. Due to the chronic infections he was on antibiotics approximately every few weeks for the entire year of his stay at Balad. As a medic, Plaintiff Gogel regularly treated other soldiers with antibiotics for chronic respiratory infections. Plaintiff Gogel

continues to suffer from throat infections and respiratory problems. Plaintiff Gogel also suffered severe gastrointestinal illness and lost over 40 pounds in six months time. He suffers from thickening of the wall of his stomach due to his gastrointestinal illness. As a medic, Plaintiff Gogel treated other soldiers for chronic gastrointestinal distress while at Balad Air Force Base.

44. Plaintiff David Keehan was deployed to Iraq with the U.S. Air Force and was stationed at Balad Air Force Base. While there he developed a serious skin rash with weeping lesions on his arms and feet.

45. Plaintiff Benjamin Boeke was deployed to Iraq with the U.S. Air Force and was stationed at Bald Air Force Base. As a biomedical engineer, he worked at night very close to the burn pit. The burn pit was fired 24 hours a day with some of the heaviest burning occurring at night. Since his exposure to the smoke from the burn pit he has been diagnosed with reactive airways disease and is dependent on an inhaler for treatment. He suffers from allergic reactions which cause respiratory distress.

46. Plaintiff George Hartwell was deployed to Iraq with the U.S. Army and was stationed at Balad and other installations in Iraq. Plaintiff Hartwell suffers from chronic, long term shortness of breath since his exposure to heavy smoke from the burn pit.

47. Plaintiffs all fear the long term effects of constant exposure to contaminated water and heavy, toxic smoke and will require medical monitoring of their health for the foreseeable future.

COUNT ONE: NEGLIGENCE

49. Paragraphs 1-47 are hereby incorporated.

50. Defendants owed a duty to provide water safe for swimming and hygienic purposes, and to safely and properly dispose of medical and other waste.

51. Defendants negligently failed to provide safe water and to properly dispose of waste.

52. Plaintiffs suffered harm from prolonged exposure to unsafe water and prolonged exposure to heavy smoke, fumes and ash from the burn pit.

53. Defendants negligence was the proximate cause of harm to all Plaintiffs.

COUNT TWO: BATTERY

54. All allegations and facts in paragraphs 1-53 are hereby incorporated.

55. Defendants supplied water contaminated with hazardous substances knowing that such water would come into contact with Plaintiffs and knowing that Plaintiffs would not consent to such contact. Defendants also contaminated the air by burning hazardous substances in an open air burn pit, creating constant, heavy smoke, fumes and haze. Defendants knew that Plaintiffs would come into contact with the smoke, fumes and haze from the illegal fires and that they would not consent to such contact.

56. Plaintiffs did not consent to contact with contaminated water while using the hygiene facilities supplied for showering, shaving and brushing teeth or while swimming in the pools or to contact with heavy smoke, fumes and haze from the burn pit.

57. Defendants' actions were unlawful acts and Defendants acted in willful disregard of Plaintiffs right to be free of exposure to hazardous substances.

COUNT THREE: NUISANCE

58. All allegations and facts in paragraphs 1-57 are hereby incorporated

59. Plaintiffs and all residents of U.S. bases in Iraq had the right to have water that met the applicable military standards and air that was free of hazardous smoke, fumes and haze.

60. Defendants substantially and unreasonably interfered with those rights when they knowingly failed to provide safe water in which to bathe and swim.

61. Plaintiffs had a right to be free from irritating and hazardous smoke from an improperly operated open air burn pit and to be free of the hazards that arise when chemicals, plastics, and medical waste are burned on an open air burn pit.

62. Defendants substantially and unreasonable interfered with those rights when they improperly burned an open air burn pit constantly and improperly burned hazardous waste and medical waste from the nearby front line military hospital.

63. Plaintiffs suffered from injuries, both physical and emotional, due to Defendants egregious conduct in placing contaminated water into the swimming pools and the hygiene units. Plaintiffs suffered injuries from the illegal operation of the open air burn pit.

64. Defendants actions are the proximate cause of Plaintiffs injuries.

COUNT FOUR: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

65. All allegations and facts in paragraphs 1-64 are hereby incorporated

66. Plaintiffs have been diagnosed with injuries as a result of Defendants' conduct in supplying unsafe water and in creating hazardous conditions through the negligent operation of the open air pit.

67. Plaintiffs have suffered from emotional distress due these injuries.

68. Defendants negligent conduct is the cause of the Plaintiffs' emotional distress.

COUNT FIVE: INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

69. All allegations and facts in paragraphs 1-68 are hereby incorporated

70. Plaintiffs have suffered from extreme stress due to Defendants outrageous actions.

71. Defendants conduct was intentional and reckless.

72. Defendants' conduct in providing sewage water for the U.S. Forces to swim and bath in and taking millions of taxpayer dollars as payment was outrageous and intolerable and certainly offends generally accepted standards of decency and morality. Defendants' conduct in dumping medical waste in an open burn pit and allowing body parts to be taken, carried and likely eaten by wild dogs was outrageous, intolerable and certainly offends generally accepted standards of decency and morality.

73. Defendants' conduct caused Plaintiffs' emotional distress. Defendants knew or had reason to know that their actions would create a risk of harm and they deliberately proceeded to act, or failed to act, in conscious disregard of that risk of harm.

74. Plaintiffs suffered severe emotional distress from learning they were bathing and brushing teeth with sewage water. Plaintiffs have suffered emotional distress from knowing they were constantly exposed to heavy smoke, fumes and haze which contained unknown chemicals and hazardous substances.

COUNT SIX: STRICT PRODUCT LIABILITY

75. All allegations and facts in paragraphs 1-74 are hereby incorporated.

76. Under different contracts with the U.S. government, Defendants were responsible for supplying U.S. bases in Iraq with all manner of items designed to safeguard the Morale, Welfare, and Recreation of the U.S. Forces. Under such contracts, Defendants sold to the U.S. water and waste disposal services. Defendants handled these large government contracts in their regular course of business.

77. The water that Defendants sold the U.S. for use by the U.S. Forces in Iraq was unreasonably dangerous when used for swimming, bathing, brushing teeth and shaving. Since Defendants put contaminated water in swimming pools and the field hygiene units, it was reasonably anticipated that the water would be used in this manner.

78. Defendants did not give adequate warning of the danger of the water, even after they were confronted with its dangers by members of their own corporation.

79. Plaintiffs used the contaminated water in a reasonably anticipated manner.

80. Plaintiffs were injured by their exposure to contaminated water. Plaintiffs' injuries are a direct result of Defendants defective products.

COUNT SEVEN: WILFULL AND WANTON CONDUCT

81. All allegations and facts in paragraphs 1-80 are hereby incorporated.

82. Defendants owed Plaintiffs a duty to provide safe water, and waste disposal services. Defendants breached that duty and proximately and directly caused harm to Plaintiffs

83. Defendants were conscious of their conduct in failing to adequately supply safe water and waste disposal services.

84. Defendants were conscious from their knowledge of the surrounding circumstances and existing conditions that their conduct would naturally and probably result in injury to Plaintiffs.

85. Defendants demonstrated either a deliberate intent to harm Plaintiffs or an utter indifference and conscious disregard for the welfare of Plaintiffs.

COUNT EIGHT: NEGLIGENCE HIRING, TRAINING AND SUPERVISION

86. All allegations and facts in paragraphs 1-85 are hereby incorporated.

87. Defendants had a duty to properly train their personnel in water supply safety and military water standards and in proper testing, reporting and administrative procedures, and proper maintenance and oversight procedures.

88. Defendants failed, as reported by their own employee, to implement any of the required training of personnel.

89. Defendants wholesale failure to set up a water supply system that was adequately overseen, trained, maintained and policed was the direct and proximate cause of injury to Plaintiffs.

COUNT NINE: BREACH OF DUTY TO WARN

90. All allegations and facts in paragraphs 1-89 are hereby incorporated.

91. Defendants had a duty to warn U.S. Forces when Defendants learned there were safety issues with the water supply, when they learned there were safety issues with the smoke, fumes and haze from the open air burn pit.

92. Defendants failed to warn U.S. Forces of these issues and this failure was the direct and proximate cause of injury to Plaintiffs.

COUNT TEN: MEDICAL MONITORING

93. All allegations and facts in paragraphs 1-92 are hereby incorporated.

94. Plaintiffs have been exposed to unknown hazardous substances in the water and air as a direct result of the conduct of Defendants.

95. This exposure has resulted in physical health problems for Plaintiffs.

96. Plaintiffs face an increased risk of contracting future diseases as a result of the exposure to contaminated water and the prolonged and constant exposure to heavy smoke, fumes and haze which contained hazardous substances.

97. Plaintiffs have a reasonable fear of contracting a future disease as a direct result of the exposure to hazardous substances caused by Defendants.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

Award Plaintiffs monetary damages to compensate each Plaintiff for their physical injuries, emotional distress, fear of future disease, and need for continued medical treatment and monitoring;

Award Plaintiffs punitive damages in an amount sufficient to strip Defendants of all of the revenue and profits earned from their pattern of constant misconduct and callous disregard and utter indifference to the welfare of Americans serving and working in Iraq who depend on Defendants supply of the basic necessities of life;

Award attorney's fees and costs to Plaintiffs for legal services provided in the pursuit of this suit; and,

Grant such additional and further relief as the Court deems just and proper.

Date: January 21, 2009

/s/

William O'Neil

Bar #

Susan L Burke

Elizabeth M. Burke

BURKE O'NEIL LLC

1718 20th Street

Washington D.C. 20009

Counsel for Plaintiff