

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Derrol A. Turner
180 Bridge Creek Drive
Goose Creek, SC 29445-5213

Vincent C. Moseley
204 S. Hall Court
Summerville, SC 29483

Alex Harley
440 Stephanie Dr.
Goose Creek, SC 29445

and all others similarly situated,

v.

KBR, Inc.
601 Jefferson Street
Suite 3400
Houston, Texas 77002

Kellogg, Brown & Root Services, Inc.
4100 Clinton Drive
Houston, Texas 77020

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

) CIVIL ACTION NUMBER: 2:09-1530-DCN

JURY DEMAND

COMPLAINT

1. This action seeks redress for United States soldiers and others deployed to Iraq and Afghanistan who were poisoned by KBR, Inc., Kellogg Brown & Root Services Company, Inc., Kellogg Brown and Root, LLC, and Halliburton Company (hereinafter "Defendants").

These for-profit corporations callously exposed and continue to expose soldiers and others to toxic smoke, ash and fumes. These exposures are causing a host of serious diseases, increased risk of serious diseases in the future, death and increased risk of death.

PARTIES

1. Plaintiff Derrol A. Turner is a U.S. citizen who is a permanent resident of the State of South Carolina, residing at 180 Bridge Creek Drive, Goose Creek, SC 29445 5213.

2. Plaintiff Vincent C. Moseley is a U.S. citizen who is a permanent resident of the State of South Carolina, residing at 204 S. Hall Court, Summerville, SC 29483.

3. Plaintiff Alex Harley is a U.S. citizen who is a permanent resident of the State of South Carolina, residing at 440 Stephanie Dr., Goose Creek, SC 29445.

4. Plaintiffs John and Jane Does 1-1000 are the Class of persons who have been exposed while serving in Iraq and Afghanistan to contaminated water, food, 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.

5. 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 Halliburton Company until April 2007. Defendant KBR is a leading global engineering, construction and services company supporting the energy, petrochemicals, government services and civil infrastructure sectors and does business throughout the United States and the rest of the world. Defendant KBR acted at all times relevant to this action through individual agents and employees, who are hereinafter

subsumed within the term “Defendant KBR.” Defendant KBR regularly transacts business in the State of South Carolina and is subject to this Court’s jurisdiction pursuant to the 28 U.S.C. § 1332.

6. Defendant Kellogg, Brown & Root LLC is a publicly traded corporation with headquarters located at 505 E. Huntland Dr., Suite 100, Austin, Texas 78752. Defendant Kellogg, Brown & Root LLC does business throughout the United States and the rest of the world. Defendant Kellogg, Brown & Root LLC acted at all times relevant to this action through individual agents and employees, who are hereinafter subsumed within the term “Defendant Kellogg, Brown & Root LLC.” Defendant Kellogg, Brown & Root LLC regularly transacts business in the State of South Carolina and is subject to this Court’s jurisdiction pursuant to 28 U.S.C. § 1332.

7. Defendant Kellogg, Brown & Root Services, Inc. is a publicly traded corporation with headquarters located at 4100 Clinton Drive, Houston, Texas 77020. Defendant Kellogg, Brown & Root Services, Inc. does business throughout the United States and the rest of the world. Defendant Kellogg, Brown & Root Services, Inc. acted at all times relevant to this action through individual agents and employees, who are hereinafter subsumed within the term “Defendant Kellogg Brown & Root Services, Inc.” Defendant Kellogg, Brown & Root Services, Inc. regularly transacts business in the State of South Carolina and is subject to this Court’s jurisdiction pursuant to 28 U.S.C. § 1332.

8. Defendant Halliburton is a publicly traded corporation with offices at 5 Houston Center, 1401 McKinney, Suite 24, Houston, Texas 77010. 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." Defendant Halliburton regularly transacts business in the State of South Carolina and is subject to this Court's jurisdiction pursuant to 28 U.S.C. § 1332.

JURISDICTION AND VENUE

9. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332.

10. Venue is proper pursuant to 28 U.S.C. § 1391 et seq.

DEFENDANTS FAILED TO PROPERLY HANDLE AND INCINERATE WASTE

11. Defendants were paid millions of dollars by the United States government to dispose of waste on bases and camps in Iraq and Afghanistan. Defendants promised to dispose of all waste in a method designed to minimize safety risks, to minimize the environmental effects of any burn site they operated and to minimize any type of smoke exposure to people in and near the camp.

12. Defendants utterly failed to fulfill any of the promises they made to the United States government. Defendants, more interested in money than safety, wholly ignored their obligations, and burned vast quantities of unsorted waste in enormous open air burn pits with no safety controls. This misconduct began in 2004 and continues unabated to date.

13. Defendants' burn pits are so large that tractors are used to push waste onto them and the flames shoot hundreds of feet into the sky. Every type of waste imaginable was and is burned on these pits, including trucks, tires, lithium batteries, Styrofoam, paper, wood, rubber, petroleum-oil-lubricant (POL) products, metals, hydraulic fluids, munitions boxes, medical waste, biohazard materials including human corpses, latrine waste, medical supplies used during smallpox inoculations, paints, solvents, asbestos insulation, items containing pesticides,

polyvinyl chloride pipes, animal carcasses, dangerous chemicals, and hundreds of thousands of plastic water bottles. Defendants regularly doused the waste with diesel fuel in order to make it ignite.

14. As but one example, the thick black and white smoke from the enormous burn pits at Balad Air Force Base filled the nearby living quarters with smoke and haze. The smoke reduced visibility to only a few yards. The flames were often colored blue or green from the burning chemicals. The smell from the pits was extremely noxious because chemicals and plastic were being burned.

15. Similar conditions existed at burn pits on United States bases across Iraq and Afghanistan. Indeed, the smoke was so bad in some instances that it interfered with the military mission. For example, the military located at Camp Bucca, a detention facility, had difficulty guarding the facility as a result of the smoke.

16. Defendants knew or should have known that their burn pits were creating hazardous conditions for American soldiers and contractors. Burning plastics emit dioxins, which are known to cause cancer. Burning pesticides have similar results. Mixing types of solid waste and heavy metals with burning chemicals releases multiple toxic gases and particulates that can interact in an infinite variety of ways and cause many different toxicities and injuries.

17. Defendants operated burn pits that released known and unknown carcinogens and respiratory sensitizers into the air, creating a severe health hazard for Plaintiffs and all people located near the burn pits, potentially causing both acute and chronic health problems.

18. Defendants knew or should have known that operating open air burn pits jeopardized the health and safety of thousands of American soldiers deployed to Iraq and Afghanistan, as well as thousands of contractor employees supporting them. Numerous reports

and articles called Defendants' attention to the known hazards of operating large open air burn pits.

19. Defendants knew or should have known that they could have disposed of the wastes in a safe manner that would not have harmed Plaintiffs. Defendants willfully failed to use all available incinerators, or to install additional incinerators, in order to achieve a safer method of waste disposal.

Why are incinerators preferable?

DEFENDANTS' MISCONDUCT PHYSICALLY HARMED PLAINTIFFS

20. Defendants' misconduct physically harmed the Plaintiffs and the Class Members.

21. Plaintiff Derrol A. Turner was deployed to Balad Air Force Base, Iraq as well as Prince Sultan Airbase, Saudi Arabia, Bagram Air Base, Afghanistan and Al Udeid Airbase, Qatar. He was constantly exposed to the hazardous emissions from the burn pits operated by Defendants. While stationed at Balad Air Force base, for example, his work station was located within one-quarter mile of the burn pit, and he was exposed to toxic smoke and fumes constantly.

22. As a direct result of his exposure to toxic emissions from the burn pits, Plaintiff Derrol A. Turner developed a total of seven masses and nodules in his right lung, scarring in his left lung, as well as reduced lung capacity and chronic coughing.

23. Plaintiff Vincent C. Moseley was deployed to Balad Air Force Base from August 2005 to December 2005 with the Air Force Reserves as an aircraft mechanic. He was constantly exposed to the hazardous emissions from the burn pits operated by Defendants.

24. As a direct result of his exposure to toxic emissions from the burn pits, Plaintiff Vincent C. Moseley has developed hardened bronchial tubes and nodules in his lungs.

25. Plaintiff Alex Harley was deployed to Al Taquaddum, Iraq (Ridgeway) in 2006 and 2007. He was healthy prior to his deployments to Iraq. He was constantly exposed to

smoke and fumes from the burn pit operated by Defendants because the burn pits were operated all day, beginning at 6:30 a.m. and the wind was constantly blowing both sand and smoke. In fact, he had to pass by the burn pit to go to the mess, and he frequently had to take waste to dump it in the burn pit himself. At times the winds were very high, and Plaintiff Alex Harley went to or past the burn pit daily. The smoke he observed was different colors depending on what was burning. The smoke and fumes did not smell like an ordinary household trash fire. At times big, black plumes of smoke that arose from the pit caused people on the base to think there had been an attack.

26. As a direct result of his exposure to toxic emissions from the burn pits, Plaintiff Alex Harley has suffered from shortness of breath and other breathing problems, including sinusitis, congestion, difficulty breathing, chest tightness, chronic laryngitis, double pneumonia, and upper respiratory infections. While in Iraq, he became extremely ill and almost died, coughing up brown phlegm or a substance blackish in color. He also suffered from diarrhea, laryngitis, pneumonia and dehydration. Plaintiff Alex Harley frequently felt congested, could not breathe, did not feel right and felt like he was 'levitating.' On one occasion he lost his voice for eight to nine days. After exposure to heavy smoke, Plaintiff Alex Harley would suffer diarrhea for up to seven days.

27. As a direct and proximate result of his exposure to toxic emissions from the burn pit, Plaintiff Alex Harley developed double pneumonia within two weeks of returning home from his first deployment. Later, Plaintiff Alex Harley developed serious bronchitis and then constant sinusitis. After his second deployment, Plaintiff Alex Harley has also suffered from depression and uncontrollable anger.

28. As a direct result of his exposure to toxic emissions from the burn pits, Plaintiff Alex Harley has suffered from peeling skin so severe that he began to lose skin on hands. His skin peeled as if from a severe sunburn, and new skin had no time to heal. His skin peeled to the point that it appeared he had exposed "raw meat." He developed small red sores in his nose, which continue to persist, and his feet became very sensitive.

29. Plaintiffs fear the long term effects of constant exposure to thick toxic smoke and will require medical monitoring of their health for the foreseeable future.

30. Plaintiffs are aware that many other American soldiers and other residents of the military bases and camps have become seriously ill, have been diagnosed with serious and potentially fatal diseases, and in some cases have died from the physical injuries and diseases caused by exposure to hazardous smoke and fumes.

31. Plaintiffs have suffered severe emotional distress as a result of prolonged exposure to hazardous smoke and fumes, and their fears and uncertainty regarding their own health risks caused by these exposures. Plaintiffs are aware that many other American soldiers and other residents of the military bases and camps have become seriously ill, have been diagnosed with serious and potentially fatal diseases, and in some cases have died from the physical injuries and diseases caused by exposure to hazardous smoke and fumes.

CLASS ALLEGATIONS

32. Plaintiffs satisfy all of the conditions for a class action under federal law.

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

34. This action should be certified as a class action pursuant to Federal Rule of Civil Procedure 23(b)(1)(A) because 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.

35. This action should be certified as a class action pursuant to Federal Rule of Civil Procedure 23(b)(1)(B) because adjudication with respect to individual Plaintiffs would be dispositive of the interests of the other putative Class Members.

36. This action should be certified as a class action pursuant to Federal Rule of Civil Procedure 23(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.

37. There should be at least one class certified. The class should be defined as those persons who 1) were exposed to the actions of Defendants in Iraq or Afghanistan during the years 2004 to the present, and 2) suffered, or have a basis for fear that they may in the future suffer, physical injury as a result. There are at least an estimated 100,000 individuals who were exposed to the actions of Defendants.

COUNT ONE: NEGLIGENCE

38. Paragraphs 1-37 are hereby incorporated by reference.

39. Defendants owed a duty to safely and properly dispose of various forms of waste.

40. Defendants negligently failed to properly dispose of waste.

41. Plaintiffs suffered harm from prolonged exposure to thick smoke, fumes and ash, including numerous hazardous substances emanating from the burn pits.

42. Defendants' negligence was the direct and proximate cause of harm to all Plaintiffs.

COUNT TWO: BATTERY

43. All allegations and facts in paragraphs 1-42 are hereby incorporated by reference.

44. Defendants contaminated the air by burning unsafe substances in an open burn pit, creating constant, thick 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.

45. Plaintiffs did not consent to contact with smoke, fumes and haze contaminated with numerous unsafe substances from the burn pit.

46. Defendants' actions were unlawful and Defendants acted in willful disregard of Plaintiffs' right to be free of exposure to and contact with hazardous substances, directly and proximately causing harm to plaintiffs.

COUNT THREE: NUISANCE

47. All allegations and facts in paragraphs 1-46 are hereby incorporated by reference.

48. Plaintiffs had a right to be free from irritating and hazardous smoke from improperly operated open air burn pits and to be free of the hazards that arise when chemicals, plastics, heavy metals, and medical and other waste are burned in open air burn pits.

49. Defendants substantially and unreasonably interfered with those rights when they improperly operated open air burn pits.

50. Plaintiffs suffered physical injuries from the illegal and hazardous operation of the open air burn pits.

51. Defendants' actions are the direct and proximate cause of Plaintiffs injuries.

COUNT FOUR: NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

52. All allegations and facts in paragraphs 1-51 are hereby incorporated by reference.

53. Plaintiffs have been diagnosed with injuries as a result of Defendants' misconduct in exposing Plaintiffs to smoke, haze and fumes containing hazardous substances through the negligent operation of the open air pits.

54. Plaintiffs have suffered physical harm and severe emotional distress due to these injuries.

55. Plaintiffs have suffered severe emotional distress as a result of the prolonged exposure to hazardous smoke and fumes. This distress has been exacerbated by Plaintiffs' fears and uncertainty regarding their own health risks caused by these exposures, and by Plaintiffs' awareness that many other American soldiers and other residents of the military bases and camps have become seriously ill, been diagnosed with serious and potentially fatal diseases, and in some cases have died from the physical injuries and diseases caused by the exposure to hazardous smoke and fumes.

56. Defendants' negligent conduct is the direct and proximate cause of the Plaintiffs' emotional distress.

COUNT FIVE: OUTRAGE/ INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

57. All allegations and facts in paragraphs 1-56 are hereby incorporated by reference.

58. Plaintiffs have suffered from extreme stress and severe emotional distress due to Defendants' outrageous actions.

59. Defendants' conduct was intentional and reckless and Defendants knew or should have known that injury and emotional distress would likely result from their conduct.

60. Defendants' conduct in operating the burn pits was outrageous, intolerable and certainly offends generally accepted standards of decency and morality. Defendants' conduct caused Plaintiffs' severe emotional distress. Defendants' conduct in burning hazardous materials in open air burn pits and subjecting Plaintiffs to constant exposure to smoke, haze and fumes contaminated with hazardous substances, when Plaintiffs were stationed overseas serving their nation, is so outrageous in character and so extreme in degree as to be utterly intolerable in a civilized community. 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.

61. Plaintiffs have suffered severe emotional distress from knowing that they were constantly exposed to thick smoke, fumes and haze which contained numerous chemicals and hazardous substances.

62. Plaintiffs' severe emotional distress which resulted from the prolonged exposure to hazardous smoke and fumes has been exacerbated by Plaintiffs' fears and uncertainty regarding their own health risks caused by this exposure, and by Plaintiffs' awareness that many other American soldiers and other residents of the military bases and camps have become seriously ill, have been diagnosed with serious or fatal diseases and in some cases have died from the physical injuries and diseases, caused by the exposure to hazardous smoke and fumes.

COUNT SIX: WILFUL AND WANTON CONDUCT

63. All allegations and facts in paragraphs 1-62 are hereby incorporated by reference.

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

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

66. 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.

67. Defendants demonstrated either a deliberate intent to harm Plaintiffs, or an utter indifference to and conscious disregard for the welfare of Plaintiffs, directly and proximately causing harm to Plaintiffs.

COUNT SEVEN: NEGLIGENT HIRING, TRAINING AND SUPERVISION

68. All allegations and facts in paragraphs 1-67 are hereby incorporated by reference.

69. Defendants had a duty to properly train their personnel in safe waste disposal.

70. Defendants failed to implement any of the required training.

71. Defendants' wholesale failure to set up a waste disposal system that was adequately overseen, maintained and policed, and staffed by properly trained employees was the direct and proximate cause of injury to Plaintiffs.

COUNT EIGHT: BREACH OF DUTY TO WARN

72. All allegations and facts in paragraphs 1-71 are hereby incorporated by reference.

73. Defendants had a duty to warn United States forces when Defendants learned there were safety issues with the smoke, fumes and haze from the open air burn pits.

74. Defendants failed to warn United States forces of these issues and this failure was the direct and proximate cause of injury to Plaintiffs.

COUNT NINE: MEDICAL MONITORING

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

76. Plaintiffs have been exposed to dangerous levels of known and unknown hazardous substances in the air as a direct result of the conduct of Defendants.

77. This exposure has resulted in serious physical health problems for Plaintiffs.

78. Plaintiffs' exposure to known and unknown hazardous substances is a direct result of Defendants' negligence.

79. Plaintiffs face an increased risk of contracting future diseases as a direct and proximate result of the prolonged and constant exposure to thick smoke, fumes and haze which contained numerous hazardous substances.

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

81. Plaintiffs have a significantly increased risk of contracting a serious latent disease.

82. Monitoring procedures exist that make possible the early detection of certain potential diseases that could result from Plaintiffs' exposure to hazardous substances. Such medical monitoring procedures are reasonably necessary according to contemporary scientific principals, and these medical monitoring procedures differ from the medical tests and procedures recommended in the absence of exposure to hazardous substances.

COUNT TEN: FUTURE MEDICAL EXPENSES

83. All allegations and facts in paragraphs 1-82 are hereby incorporated by reference.

84. Plaintiffs have been exposed to dangerous levels of known and unknown hazardous substances in the air as a direct result of the conduct of Defendants.

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

86. Plaintiffs' exposure to numerous hazardous substances is a direct result of Defendants' negligence and intentionally reckless conduct.

87. Plaintiffs' injuries will result in Plaintiffs incurring future medical expenses, both as a result of physical injuries and as a result of an increased risk of contracting future diseases as a direct and proximate result of their prolonged and constant exposure to thick smoke, fumes and haze which contained hazardous substances.

88. Plaintiffs will demonstrate the likely cost of such future medical treatment and monitoring at trial.

COUNT ELEVEN: BREACH OF CONTRACT: THIRD PARTY BENEFICIARIES

89. All allegations and facts in paragraphs 1-88 are hereby incorporated by reference.

90. Defendants entered into contractual agreements with the United States Department of Defense.

91. Defendants had a duty under these contracts to dispose of waste, including medical waste, at these bases properly and without exposing United States Military personnel, government contractors and others residing at United States Military bases and camps to fumes, smoke and haze contaminated with hazardous substances.

92. Plaintiffs, as personnel serving the United States and stationed at or residing on the bases for which Defendants had contracts to provide waste removal and disposal services, or as contract employees stationed at these locations, were intended Third Party Beneficiaries of these contracts.

93. Defendants breached their obligations under these contracts by failing to dispose of waste, including medical waste, safely and in accordance with the requirements of the contract and military standards.

94. Plaintiffs were injured by exposure to hazardous substances in the smoke, haze and fumes from the waste burn pit operated by Defendants in breach of Defendants' contractual obligations.

95. Plaintiffs' injuries were directly and proximately caused by Defendants' breaches of their contractual obligations.

JURY DEMAND

Plaintiffs request a Jury Trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

Award Plaintiffs monetary damages to compensate each Plaintiff for his or her 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, wanton and outrageous misconduct and callous disregard and utter indifference to the welfare of Americans serving and working in Iraq and Afghanistan who depend on Defendants to properly and safely dispose of various forms of waste and who depend on Defendants not to create hazardous conditions and not to release toxins into the air;

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.

Respectfully submitted on behalf of Plaintiffs and
all others similarly situated,

By: s/Trudy H. Robertson
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Dated: June 10, 2009

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