



## **ADDENDUM TO COMPLAINT**

This complaint is being submitted by Trabajadores Por Igualdad (“TPI”), an independent mutual assistance association consisting of Latino-seasonal workers employed by Nassau County. Members of TPI submit their concerns to advance their collective interests and to assert group protection under Labor Laws. LatinoJustice PRLDEF serves as TPI’s legal representation in this matter and is authorized to receive and tender communications stemming from this complaint. We reserve the right to supplement and amend this complaint as required by the New York State Department of Labor- Division of Safety and Health (“DOSH”) and as more facts become available.

TPI’s concerns arise from workplace health and safety issues they face during their courses of employment with Nassau County’s Department of Parks, Recreation and Museums (“Nassau Parks”). The County does not provide TPI workers with healthcare benefits or paid sick leave, thus amplifying the effects these safety conditions have on the workers livelihood and ability to earn income.

Nassau Parks encompasses over 70 parks, preserves, museums and athletic facilities spanning over 6,000 acres throughout the County. Eisenhower, North Woodmere, Bay, and Cantiague Parks all maintain golf courses on their ground. Eisenhower Park covers 930 acres of land, on Merrick and Stewart Avenues of East Meadow, NY 11554. It encompasses 3 golf courses, red, blue and white. Cantiague Park located at 480 West John St., Hicksville, NY 11801, with a mini-golf course available. North Woodmere Park located at Branch Boulevard and Hungry Harbor Road, North Woodmere, NY 11581 hosts a golf course and driving range on the premise. Bay Park is located at 198 First Avenue, East Rockaway, located in the Southwest corner of Nassau County Mineola, NY 11501 encompasses a golf course and putting green. The County golf courses are profitable and require extensive maintenance.

Upon information and belief, there are at least 60 municipal workers who attend to these public golf courses and grounds. The workers’ duties include but are not limited to, specialized manicuring of the greens, fairways, high grass, and tee marks, designing and digging sand dunes/traps, cutting trees, weeding, changing the tee cups, fixing sprinklers and watering the grounds. Additionally, workers are occasionally taken from their stations in Eisenhower Park and other Parks to work on other County grounds.

TPI workers have performed work on other County properties which also allow for some of the safety hazards described below.

### **Improper Spraying of Toxic Chemicals:**

TPI workers are assigned to and work in proximity to chemical spraying during their duties involved in the daily maintenance, care and operation of the public grounds for Nassau Parks. These workers are regularly exposed to the widespread open-air spraying of known toxic grade herbicides, insecticides, pesticides and fungicides. First, these concentrated compounds are in powder form and later mixed with water. This liquid is poured into a vehicle that produces a mist that covers the acres of golfing grounds and green areas. Two examples of these toxic compounds include Armor-Tech’s Sonnet, a fungicide, and Armor-Tech’s IMD2 SC, an insecticide.

Labeling on containers of Armor Tech's IMD 2 SC state that the product not be applied "...in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application."<sup>1</sup> Also, the label indicates that in the event the chemical comes into contact with skin or clothing, contaminated persons should remove their clothing, rinse their skin immediately for 15-20 minutes and call poison control center or a doctor for treatment advice.<sup>2</sup> Product handling instructions for these chemicals which are under federal regulation, further describe necessary restrictions and quantity used for these products.<sup>3</sup>

Armor Tech's Sonnet's labeling similarly requires that unprotected persons be kept out of treated areas until sprays have dried and for the application to avoid contact with workers or other persons either directly or through drift and prohibitions, even in mild windy conditions<sup>4</sup>. Only adequately protected handlers may be in the area during application.<sup>5</sup>

Other chemicals are used for the various duties assigned to TPI workers, including chemicals used for hardening soil and changing golf cups in the field. Workers report irritated skin, eyes and throats.

TPI workers do not receive any Personal Protective Equipment ("PPE") to shield themselves from the chemicals sprayed on the grounds neither when they are located next to or in the vicinity of active chemical spraying. TPI workers have not received health and safety trainings regarding the chemical use and disposal of these chemicals on the grounds. Machines used to spray chemicals are cleaned in open air next to the workers' lunch room. Workers can smell the chemicals while they eat, and at times the chemicals are left out in the heat next to the lunch room. Workers may be inhaling these chemicals while they eat. Further, the remaining drain created from cleaning the machine is not designated to a specific area and at times is directly dumped on the grounds. Labeling from the two products mentioned above specify methods for disposing of excess chemical.<sup>6</sup>

TPI workers have reacted to the chemicals in various ways. Some reactions as extreme as hospitalizations from inability to properly breathe, skin infections from physical contact with chemicals, dizziness, headaches, cough and body itch and irritated eyes and throat. The County has not administered testing to determine employees' exposure levels to the hazardous conditions or substance.

Attached as Exhibit C are photos of the chemicals sprayed in Nassau Parks.

### **Errant Golf Balls:**

All TPI workers have experienced multiple near-miss encounters with high-speed golf balls striking their bodies. As these are the working conditions TPI workers are often on alert in dodging from golf balls that fly or whisk by from any and all directions while working in the fully exposed and open golf course areas. Various TPI workers have sustained physical injuries from being struck by golf balls in the

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<sup>1</sup> See Ex. A at 7. <sup>1</sup>; See also <https://www.utaarmortech.com/wp-content/uploads/2015/11/armortech-imd-2sc-label.pdf>

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *Id.* at 2-3, 7, 11.

<sup>4</sup> See Ex. B at 1-3; See also <https://www.utaarmortech.com/wp-content/uploads/2015/12/armortech-sonnet-fungicide-label.pdf>

<sup>5</sup> *Id.*

<sup>6</sup> See Ex. A at 5; See also Ex. B at 7.

head, neck, chest, stomach, legs, groin and other body parts. Workers struck by golf balls while walking and operating machines on the grounds. Workers who have been struck by a golf ball while operating machinery have fallen from the machinery as a result of the injury.

Employees struck by golf balls has led to hospitalizations, vision impairment, sutures, the need for physical therapy and ongoing pain manifested in various manners. In at least one case, a worker was permanently disabled after being hit in the head by a golf ball during his course of employment.

The County has not provided the workers with any PPE to prevent and protect their workers from golf ball injuries, such as protective helmets, goggles and padding. Notably, the County does not encage, or shield machines operated on the golf courses despite, TPI workers having demonstrated the need for these protections. TPI workers have not received training on preventing these possible life-threatening injuries faced during the course of their employment.

### **Tree Cutting:**

TPI workers are required to cut trees throughout the County's property despite never having received training on how to cut trees. Further, they do not receive the appropriate PPE including, hard hats, adequate gloves, sturdy non-slip boots, climbing equipment including safety harnesses, belts, ropes, lanyards, slings, and carabiners. Moreover, they are not provided with leg protection such as cut resistant pants, safety boots, goggles or safety glasses, face shields or hearing protection. TPI workers use heavyweight and lightweight handheld machinery to cut trees, e.g. chainsaws without having received training in this machinery. Workers' have identified different types of injuries from machinery use, including encounters with falling tree limbs while cutting trees during the course of their employment.

Attached as Exhibit D is a manual generated by K-State Research and Extension titled, "Tree Trimming Safety" that indicates the level of training, skill, and safety precautions required for doing this work.

### **PPE:**

TPI workers' positions consist of various specialized tasks which require specialized machinery in order to maintain fairways, greens, shrubbery, edging, bunkers, and tees as well as other tasks such as changing cups on golf courses throughout the County golf course and imposed working locations. When TPI workers are given PPE such as gloves, goggles or hearing protection it is flimsy and unreliable. When TPI workers ask for replacement of worn out gloves or goggles, management will inform them there is no more in supply.

Thus, TPI workers are expected to operate different kinds of equipment without receiving proper training or supervision, and without PPE such as safety goggles, gloves and hearing protection.

Furthermore, TPI workers who clean up animal feces on the grounds and who clean rest room facilities by hand with detergents do not receive adequate PPE such as gloves, nor do they receive protective face masks to complete their work.

The failure to provide adequate PPE has led to TPI workers experiencing bodily injuries, such as deep cuts, lacerations, blisters, skin and respiratory inflammation from chemical exposure, coughing, and bouts of nausea.

### **Heat Stress:**

The County has not trained TPI workers in avoiding heat stress despite the facts that, the job requires nearly exclusive outdoor tasks, and that New York Law 218-A commonly known as “the Sun Safety Law” imposes a legal obligation on the employer to provide such training.

### **Machine Inspection:**

TPI workers indicate that multiple types of machinery would not be able to pass safety and use inspection, including transport vehicles on the grounds, and machines used for maintaining the various greens on a golf course. One TPI worker provided an example that occurred about a year ago when a machine’s brakes malfunctioned causing a worker to be hit and sustained a back injury. TPI workers indicate that the age and quality of the machinery they use contributes to reduced quality of work because they have to stop work to have their machines checked and fixed, or repeat the work because the machine is not effective in its cutting function.

### **Employer Thwarts Employees from Receiving Workers Compensation Benefits**

There have been various incidents where the supervisors or managers have thwarted efforts or actively discouraged injured workers from seeking medical care when they are notified of work injuries. In 2017, one TPI worker had a metal stake driven through his foot but his immediate supervisor did not permit him to go to the hospital on the same day in spite of a supervisor witnessing the injury. The delay in receiving this urgent medical care cost the worker three days of income, hospitalization, and unnecessary pain and suffering.

Supervisors have misrepresented to workers that they can have their injuries cared for at a hospital and if they indicate they work for the County they will not receive a bill. The County fails to maintain adequate first-aid supplies, they are antiquated, dusty and deficient in stock of supply. Attached as Exhibit E are photos of a County first-aid kit offered to a worker.

TPI workers have alleged multiple incidents of workplace accidents and physical injuries where management failed to file or document a report of workplace injuries; furthermore, some make discouraging comments about the utility in filing accident reports to the State’s Workers’ Compensation system, which an employer is obligated to do, upon employees reporting their injuries.

### **Conclusion:**

DOSH has the legal jurisdiction to receive complaints, initiate and conduct investigations, evaluate and issue remedial orders through enforcement of Public Employee Safety and Health Act. (“PESHA”). N.Y. Lab. Law § 27-a (McKinney).

DOSH has a statutory obligation to ensure that public workers receive full protections and proper recourse upon the timely investigation and evaluation of a complaint. Complainants request: 1) an inspection of the grounds by DOSH inspectors; 2) requisite training for management and employees regarding chemical use on the grounds, 3) compliance with providing work safety PPE; 4) regular monitoring of the County's compliance under public health and safety standards and New York State Workers' Compensation Law, and 4) other remedies offered by DOSH to address these health and safety hazards in the workplace.