

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
MACON COUNTY, ILLINOIS

ANTONIO MCELRATH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 24-LA-
	)	
ARCHER- DANIELS- MIDLAND	)	
COMPANY, a Delaware Corporation,	)	
	)	
Defendant.	)	

COMPLAINT AT LAW

NOW COMES the Plaintiff, ANTONIO MCELRATH, by his attorneys, SHAY & ASSOCIATES, and for his Complaint at Law against the Defendant, ARCHER- DANIELS- MIDLAND COMPANY, states as follows:

JURISDICTION

1. That at all times relevant to this Complaint, Plaintiff ANTONIO MCELRATH (hereinafter "MCELRATH"), was a resident of the City of Decatur, County of Macon, State of Illinois.
2. At all times relevant hereto, the Defendant, ARCHER-DANIELS-MIDLAND COMPANY (hereinafter "ADM"), was a Delaware Corporation doing business throughout the State of Illinois, and whose corporate headquarters and principal place of business was in the City of Decatur, County of Macon, State of Illinois.
3. That on April 20, 2023, MCELRATH was seriously injured in an explosion ("EXPLOSION") that occurred at the ADM West Plant at 43883 E. Fairies Parkway, Decatur, Illinois 62526 ("WEST PLANT").

4. As all parties reside in or do business in Decatur, and the EXPLOSION took place in Decatur, Illinois, Macon County is the appropriate venue, and this Honorable Court does possess lawful jurisdiction to hear any and all claims and matters arising from the EXPLOSION.

PREFERATORY ALLEGATIONS

ADM's Control and Direction of Antonio McElrath

5. On the date of the EXPLOSION, MCELRATH was employed by the Defendant, ADM, as a production worker in the WEST PLANT.

6. On the date of the EXPLOSION, Plaintiff was assigned to work in the corn germ unloading and elevating operation in the WEST PLANT by ADM.

7. ADM controlled or had the right to control the conduct of MCELRATH, and did in fact control and affirmatively direct the conduct and specific location where MCELRATH was to stand at the time of the EXPLOSION.

The West Plant Facility

8. ADM owns, maintains, and controls the WEST PLANT, and the equipment and systems contained therein, that was the location of the EXPLOSION on April 20th, 2023.

9. Among other designations and functions, the WEST PLANT is an Agricultural and Food Processing Facility within the meaning of the definition as ascribed by the National Fire Protection Association.

10. The WEST PLANT contains a corn germ unloading and elevating operation on the North end of the Elevator A section of the facility.

11. An indoor bucket elevator referred to as “Leg 1” (“LEG 1”) is located within this section of the WEST PLANT facility. The EXPLOSION occurred in this area.

12. LEG 1 contained a deflagration detection system and a chemical suppression system for explosion protection/deflagration propagation protection (“SAFETY SYSTEMS”) on the date of the EXPLOSION.

13. The SAFETY SYSTEMS require specific maintenance actions, inspections, tests, and simulated discharges at regular intervals for the SAFETY SYSTEMS to be considered to be in a fully operable condition.

14. The parameters, timing, and other guidance surrounding the requirements of these inspections, tests, and simulated discharges are outlined in the following materials:

- i. The SAFETY SYSTEMS’ manufacturer’s manuals; and
- ii. The National Fire Protection Association Standards 61 (Standards for the Prevention of Fires and Dust Explosions in Agricultural and Food Processing Facilities, 2020 Edition), including:
 - a. Section 8.7 (Management Systems – Inspection, Testing, and Maintenance); and
- iii. The National Fire Protection Association Standards 69, (Standard on Explosion Prevention Systems, 2019 Edition), including:
 - a. Section 10.4.3.4 (Deflagration Control by Suppression – Maintenance and Inspection);
 - b. Section 11.4.2.4 (Deflagration Control by Active Isolation – Maintenance);

- c. Section 11.4.2.5 (Deflagration Control by Active Isolation – Inspection); and
- d. Section 15.7 (Explosion Prevention System – Inspection).

15. At the time of the EXPLOSION, and at all times relevant hereto, the manufacturer of the SAFETY SYSTEMS required certain interim inspections to be performed at least on a quarterly basis.

16. In addition to these quarterly inspections, more targeted inspections and actions around specifically identified components of the SAFETY SYSTEMS were required to be performed on an annual basis, including a simulated discharge.

17. The manufacturers' requirements addressing inspections and specific maintenance actions of the SAFETY SYSTEMS are in-line with those found in NFPA 69.

18. On the date of the EXPLOSION of April 20th, 2023, no such inspections, tests, or necessary maintenance actions to keep the SAFETY SYSTEMS in a fully operable condition had occurred since late 2016.

Conditions of Leg 1 and the West Plant Facility on April 20th, 2023

19. On the date of the EXPLOSION on April 20th, 2023, and at all times relevant hereto, combustible agricultural dust, including but not limited to dehydrated corn germ, had accumulated within the indoor LEG 1 bucket elevator, and in the surrounding area.

20. On the date of the EXPLOSION, this combustible agricultural dust exceeded the 1/8-inch accumulation threshold that required immediate removal pursuant to 29 CFR 1910.272(j)(2)(ii).

21. On the date of the EXPLOSION, the SAFETY SYSTEMS in and around LEG 1 were not in a fully operable condition due to the six plus years gap in the required quarterly and annual inspections and maintenance actions required by the manufacturers' manuals, National Fire Protection Association Standard 61, and National Fire Protection Association Standard 69.

22. On the date of the EXPLOSION, LEG 1 was operating in a manner that allowed the presence of combustible grain dust to be exposed to fuel, oxygen, containment, suspension, and ignition sources that would naturally and predictably result in an explosion or fire event. ADM knew that these factors would lead to the EXPLOSION.

23. On the date of the EXPLOSION, and at all other times relevant hereto, MCEL RATH was unaware of the unsafe conditions present in LEG 1, including the non-fully operable status of the SAFETY SYSTEMS because ADM had affirmatively denied him access to this information and knowledge.

24. On the date of the EXPLOSION, and at all other times relevant hereto, ADM was fully aware of the unsafe conditions present in LEG 1, including the non-fully operable status of the SAFETY SYSTEMS due to the six plus year gap in required quarterly and annual inspections and maintenance actions that it had deliberately failed to conduct, and knew that an explosion was going to occur due to these factors.

The Explosion

25. MCEL RATH arrived at the WEST PLANT to work at approximately 2:50 p.m. on the date of the EXPLOSION.

26. Andrew Duncan ("DUNCAN") was MCEL RATH's direct supervisor on the date of the EXPLOSION.

27. MCEL RATH received no notice from the outgoing shift that there was anything unusual occurring in LEG 1 prior to the EXPLOSION and performed his normal job duties until the time of the EXPLOSION.

28. Just prior to the EXPLOSION, DUNCAN noticed smoke emanating from LEG 1, thereby becoming aware of the presence of an ignition hazard in LEG 1. ADM, through its employees and or agents, knew that the EXPLOSION was imminent and would occur when LEG 1 was opened and the ignition source was exposed to oxygen.

29. DUNCAN directed MCEL RATH to go to a specific location within the WEST PLANT and shut down LEG 1 due to the presence of smoke inside LEG 1, and to remain in that location while LEG 1 was opened.

30. DUNCAN then directed LEG 1 to be opened, resulting in a popping sound followed immediately by the EXPLOSION.

31. At the express direction of ADM via its employee/agent DUNCAN, MCEL RATH was standing in the direct path of the EXPLOSION when it occurred, due to the intentional acts of ADM via its employees and/or agents directing MCEL RATH to stand in that location.

The Aftermath of the Explosion

32. MCEL RATH was immolated by the EXPLOSION, resulting in grievous and life-threatening injuries in the form of third-degree burns to his face, head, eyes, neck, scalp, hands, arms, legs, and abdomen.

33. Due to the severity of these third-degree burns, MCEL RATH was placed into a medically induced coma for three weeks following the EXPLOSION.

34. Following the EXPLOSION, OSHA became aware of the incident and performed inspections of the WEST PLANT.

35. OSHA's subsequent inspections of the WEST PLANT have resulted in four Citations to date, including two Citations categorized by OSHA as "Willful" violations of the OSH Act of 1970 and the Code of Federal Regulations, one Citation for a "Serious" violation of the CFR, and one Citation classified as "Other" for violation of the CFR.

36. These Citations resulted in a total of \$312,518 in penalties assessed to ADM, as well as a written abatement plan requiring ADM to address its willful violations of the OSH Act of 1970 and the CFR, and to comply with the maintenance and inspection routines as required by the manufacturer and the guidance of the NFPA.

37. Citation 02001 specifically concerned LEG 1, and the conditions that led to the EXPLOSION, and resulted in an individual penalty in the amount of \$156,259 to ADM.

38. Citation 02001 found that ADM's conduct related to the conditions of LEG 1 was a "Willful" violation of the OSH Act of 1970, and that this willful conduct caused the EXPLOSION.

Other Recent Fires and Explosions at the West Plant

39. On information and belief, the WEST PLANT has experienced multiple agricultural dust fires and explosions since at least 2018, including dust explosions on November 3, 2018 and January 4, 2019, and dust fires on May 9th, 2019 and October 20th, 2019.

40. Another "smoldering event" occurred on or about July 28th, 2024 at the ADM facility, which involved smoke being detected in a grain elevator. The facility was then

evacuated, indicating that ADM was expressly aware that smoldering inside of a grain elevator would produce an explosion.

COUNT I
WILLFUL AND WANTON MISCONDUCT
INTENT TO HARM

1-40. The Plaintiff hereby reasserts and realleges paragraphs 1-40 of this Complaint at Law as paragraphs 1-40 of this Count I.

41. ADM has an affirmative duty under the OSH Act of 1970(5)(a)(1) to furnish employment and a place of employment which are free from recognized hazards likely to cause death or serious physical harm.

42. ADM was aware that LEG 1 and its accompanying SAFETY SYSTEMS required quarterly and annual inspections in order to maintain the equipment in a fully operable condition.

43. ADM knowingly and intentionally failed to conduct the immediately preceding at least twenty-four (24) quarterly inspections and maintenance actions of LEG 1 and its SAFETY SYSTEMS.

44. ADM knowingly and intentionally failed to conduct the immediately preceding at least six (6) annual inspections, specific maintenance actions, and simulated discharges of LEG 1 and its SAFETY SYSTEMS.

45. ADM was aware of the manufacturers' requirements concerning the necessity of these inspections, simulated discharges, and other specific maintenance actions required to maintain LEG 1 and its SAFETY SYSTEMS in a fully operable condition.

46. ADM knew that the failure to meet these manufacturers' requirements would result in LEG 1 becoming dangerous to persons working in the area, including MCEL RATH, due to ADM's knowledge and certainty that the SAFETY SYSTEMS were not fully operable.

47. ADM was aware of the NFPA's standards concerning the necessity of these inspections, simulated discharges, and other specific actions required to maintain LEG 1 and its SAFETY SYSTEMS in a fully operable condition.

48. ADM knew that the failure to meet these NFPA standards would result in LEG 1 becoming dangerous to persons working in the area, including MCEL RATH, due to ADM's knowledge and certainty that the SAFETY SYSTEMS were not fully operable.

49. ADM knew that at least two dust fires and two dust explosions had occurred in the WEST PLANT since 2018 due to its refusal to follow the requirements of 29 CFR 1910.272(j)(2)(ii) and clear out all agricultural dust accumulations exceeding a height of 1/8 of an inch or greater in the relevant areas.

50. ADM knew that agricultural dust had exceeded 1/8 of an inch at LEG 1 and/or its surrounding areas immediately prior to the EXPLOSION on April 20, 2023.

51. ADM knew that the accumulation of this amount of agricultural dust presented a dangerous condition that would lead to a fire or an explosion if exposed to an ignition source.

52. ADM, through its employee and/or agent DUNCAN, actually witnessed smoke emanating from LEG 1 immediately prior to its affirmative decision to open the LEG 1 door and cause the EXPLOSION.

53. ADM therefore knew that an ignition source was present in LEG 1 immediately prior to the EXPLOSION.

54. ADM knew that its SAFETY SYSTEMS were not fully operable prior to the EXPLOSION due to the more than twenty-four consecutively missed required quarterly inspections and maintenance procedures, as well as the six consecutively missed annual inspections and maintenance procedures, and simulated discharges.

55. ADM knew that the combination of an ignition source with unsafe levels of agricultural dust paired with non-fully operable SAFETY SYSTEMS in LEG 1 would produce an explosion or a fire, precisely like those dust fires/explosions that had been occurring regularly at the WEST PLANT since 2018.

56. ADM, through its employee and/or agent DUNCAN, directed MCELRATH to stand in a specific location near LEG 1 immediately prior to the EXPLOSION.

57. ADM knew that MCELRATH would be immolated by an agricultural dust fire/explosion if he was forced to stand in this location.

58. ADM therefore did willfully and wantonly, and with an intention to cause harm to MCELRATH, knowingly intend to injure the Plaintiff in the following ways:

a. Willfully and wantonly directed and required ADM employees, including Plaintiff, ANTONIO MCELRATH, to work in and around the corn germ unloading and elevating operation on the North end of Elevator A while exposed to combustible agricultural dust deflagration and explosion hazards associated with an indoor bucket elevator LEG 1, in willful violation of the OSH Act of 1970 Section (5)(a)(1);

b. Willfully and wantonly failed to ensure that employees, including Plaintiff, ANTONIO MCELRATH, who worked in buildings with indoor bucket elevators with combustible agricultural dust deflagration/ explosion hazards were adequately

protected from those hazards, in willful violation of OSH Act of 1970 Section (5)(a)(1);

c. Willfully and wantonly failed to inform its employees, including Plaintiff, ANTONIO MCEL RATH, who worked in buildings with indoor bucket elevators with combustible agricultural dust deflagration/ explosion hazards were adequately protected from those hazards, of the non-operable status of the SAFETY SYSTEMS due to six plus years and deliberately skipped inspections, maintenances, and simulated discharges, in willful violation of OSH Act of 1970 Section (5)(a)(1);

d. Willfully and wantonly exposed employees, including Plaintiff, ANTONIO MCEL RATH, to combustible agricultural dust deflagration and explosion hazards from the unloading and elevating of dehydrated corn germ materials and associated dust within the indoor LEG 1 bucket elevator that presented un-mitigated deflagration and explosion hazards, in willful violation of OSH Act of 1970 Section (5)(a)(1);

e. Willfully and wantonly operated LEG 1 in a manner that presented combustible grain dust deflagration and explosion hazards in that fuel, oxygen, containment, suspension, and ignition sources were capable of being present at the same time within the system, in willful violation of OSH Act of 1970 Section (5)(a)(1);

f. Willfully and wantonly failed to maintain LEG 1's deflagration detection and chemical suppression system for explosions in a fully operable condition, in willful violation of OSH Act of 1970 Section (5)(a)(1);

- g. Willfully and wantonly failed to perform at least the immediately preceding six consecutive required annual inspections, maintenance, and tests of the LEG 1's deflagration detection and chemical suppression system since late 2016, in willful violation of OSH Act of 1970 Section (5)(a)(1);
- h. Willfully and wantonly failed to perform at least the immediately preceding twenty-four consecutive required interim inspections on a quarterly basis of the deflagration and chemical suppression system, as set forth by the National Fire Protection Association Standards 69, and in willful violation of OSH Act of 1970 Section (5)(a)(1);
- i. Willfully and wantonly failed to perform a simulated discharge of the deflagration and chemical suppression system every fourth quarter after installation for the immediately preceding six years, in willful violation of OSHA Act of 1970 Section (5)(a)(1);
- j. Willfully and wantonly failed to ensure that employees, including the Plaintiff, ANTONIO MCEL RATH, working in buildings with indoor bucket elevators having combustible agricultural dust deflagration/ explosion hazards were adequately protected from those hazards, in willful violation of 29 CFR 1910.272(m)(1)(i);
- k. Willfully and wantonly prevented to remove the more than 1/8 inch of accumulated agricultural dust in and/or around LEG1 in willful violation of 29 CFR 1910.272(j)(2)(ii);
- l. Willfully and wantonly, with deliberate intent to harm, directed MCEL RATH to stand in an area that ADM knew would be affected by the

EXPLOSION, as ADM was aware that an active ignition source was present in LEG 1 immediately before the EXPLOSION, and that the presence of that active ignition source was certain to produce the EXPLOSION due to ADM's willful and wanton failure to maintain the SAFETY SYSTEMS in an operable condition.

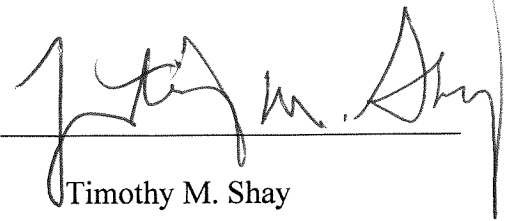
59. That ADM's actions and omissions were of a deliberate nature which displayed actual intent to harm its employees, including Plaintiff, ANTONIO MCEL RATH.

60. That as a direct and proximate cause of the aforementioned intentional conduct of the Defendant, ADM, the Plaintiff, ANTONIO MCEL RATH, sustained severe and permanent injuries to his body; further, the Plaintiff has in the past and will in the future sustain pain and suffering as a result of his injuries; further, the Plaintiff has in the past and will in the future sustain loss of enjoyment of a normal life; further, the Plaintiff has in the past and will in the future incur lost wages as a result of his injuries; further, the Plaintiff has in the past and will in the future incur medical expenses in an effort to be cured and healed of his injuries, and further has in the past and will in the future sustain disfigurement to his face and body.

WHEREFORE, the Plaintiff, ANTONIO MCEL RATH, prays that this honorable court enter a judgment in an amount in excess of \$50,000.00 against the Defendant, ARCHER-DANIELS-MIDLAND, plus cost of suit.

ANTONIO MCELRATH, Plaintiff

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By: 
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