

No. B140226C

ACME IRON & METAL COMPANY, a d/b/a	§	IN THE DISTRICT COURT OF
of TXALLOY, INC., and	§	
MAYFIELD PAPER COMPANY, INC.,	§	
ON THEIR OWN BEHALF AND	§	
ON BEHALF OF THOSE	§	
SIMILARLY SITUATED,	§	
Plaintiffs,	§	
	§	
v.	§	TOM GREEN COUNTY, TEXAS
	§	
REPUBLIC WASTE SERVICES OF TEXAS,	§	
LTD., sometimes d/b/a	§	
TRASHAWAY SERVICES and	§	
DUNCAN DISPOSAL,	§	
Defendant.	§	119th JUDICIAL DISTRICT

**PLAINTIFF ACME IRON & METAL COMPANY'S SECOND INTERROGATORIES  
TO DEFENDANT REPUBLIC WASTE SERVICES OF TEXAS, LTD**

TO: Defendant, Republic Waste Services of Texas, Ltd., by and through its attorneys of record:  
Don W. Griffis, Jackson Walker LLP, 301 W. Beauregard Ave., Suite 200, San Angelo, Texas 76902; and  
Charles L. Babcock, Patrick R. Cowlshaw, John K. Edwards, and Edwin Buffmire, Jackson Walker LLP, 901 Main Street, Suite 6000, Dallas, Texas 75202.

Pursuant to Rule 197 of the Texas Rules of Civil Procedure, Plaintiff Acme Iron & Metal Company hereby serves its Second Interrogatories on Defendant Republic Waste Services of Texas, Ltd.

Dated: December 23, 2015.

Respectfully Submitted,

GRAVES DOUGHERTY HEARON & MOODY, P.C.  
401 Congress Avenue, Suite 2200  
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By: /s/ James A. Hemphill

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ATTORNEYS FOR PLAINTIFFS

### CERTIFICATE OF SERVICE

I hereby certify that this document was served on counsel of record for Defendant via certified mail, return receipt requested, with courtesy copies transmitted via email, on this 23rd day of December, 2015 as follows:

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/s/ James A. Hemphill  
James A. Hemphill

## DEFINITIONS AND INSTRUCTIONS

1. The definitions and rules of construction set forth in the Texas Rules of Civil Procedure are incorporated herein by reference. In addition, as used in these interrogatories, the following words have the following meaning:

- a) "You," "your," or "Republic" refers to Defendant Republic Waste Services of Texas, Ltd., and all of its attorneys, authorized agents, representatives or employees.
- b) "Plaintiffs" refers to Plaintiffs Acme Iron & Metal Company, a d/b/a of Txalloy, Inc. and Mayfield Paper Company, Inc.
- c) "Acme" refers to Plaintiff Acme Iron & Metal Company, a d/b/a of Txalloy, Inc.
- d) "Mayfield Paper" refers to Plaintiff Mayfield Paper Company, Inc.
- e) "Putative Class Members" refers to all commercial waste hauling and disposal customers of Republic in the City of San Angelo from January 1, 2000 to the present subject to the commercial service rates established by the City's ordinance, including without limitation all customers using roll-off containers.
- f) "City" refers to the City of San Angelo, Texas.
- g) "Lawsuit" shall mean the above-captioned action.
- h) "Person" means the singular as well as the plural and the masculine as well as the feminine, and includes any natural person, corporation, partnership, association or other business or legal entity, and the officers, employees, agents, servants, attorneys or representatives of such entities, as the context requires.
- i) "Document" includes without limitation papers, books, accounts, drawings, graphs, charts, photographs, electronic, magnetic, or audio or videotape records or recordings, and any other data compilations from which information can be obtained and translated, if necessary, by you into reasonably usable form, and any other tangible thing meeting the definition of a "document" discoverable under the Federal Rules of Civil Procedure and case law interpreting those Rules.
- j) A document or communication "relating to," "related to," "relates to," "evidencing" or "concerning" a given subject means any documents or communication that constitutes, contains, embodies, comprises, reflects, identifies, states, refers to, deals with, comments on, responds to, describes, involves or is in any way pertinent to that subject, including without limitation, documents concerning the presentation of other documents.

- k) "Communication" shall mean and include every manner or means of disclosure, transfer, or exchange of words or information, whether orally or by document or whether face-to-face, by telephone, mail, e-mail, personal delivery, or otherwise.
- l) "Statement" means and includes any written statement signed or otherwise adopted or approved by the user in making it, and any stenographic, mechanical, electrical, or other recording or transcription thereof which is a substantially verbatim recital of an oral statement made by the person and contemporaneously recorded.
- m) "Fuel/Environmental Recovery Fees" means and includes fees charged to Putative Class Members by Republic since January 1, 2000 that were characterized as "Temporary Fuel Cost," "Fuel Cost," "Fuel Surcharge," "Fuel/Environmental Fee," "Fuel/Environmental Charge," "Environmental Recovery Fee," "Fuel Recovery Fee," "Fuel/Environmental Recovery Fee," or any other similar name, and also includes all fees referred to as "environmental recovery fees (ERF)" and "all fuel recovery fees, above the amounts expressly authorized by ordinance (FRF)," in the September 26, 2014 letter from Don W. Griffis to Ms. Lysia H. Bowling, City Attorney, City of San Angelo, a copy of which is attached hereto as Exhibit A.

2. Unless otherwise specified, the time period for these interrogatories encompasses January 1, 2000 through the present.

## **SECOND SET OF INTERROGATORIES**

### **Interrogatory No. 3:**

Do you contend that any of Plaintiffs' claims fail to meet the prerequisites to a class action under Texas Rule of Civil Procedure 42(a)? If so, please provide a brief summary of the factual and legal bases for such a contention.

This Interrogatory is specifically propounded pursuant to Rules 192.3(j), 192.5(c)(1), and 197.1, Texas Rules of Civil Procedure, and is not intended to call for the marshaling of evidence.

### **Response:**

### **Interrogatory No. 4:**

Do you contend that any of Plaintiffs' claims fail to meet the requirements for maintaining a class action under either Texas Rule of Civil Procedure 42(b)(1) or 42(b)(3)? If so, please provide a brief summary of the factual and legal bases for such a contention.

This Interrogatory is specifically propounded pursuant to Rules 192.3(j), 192.5(c)(1), and 197.1, Texas Rules of Civil Procedure, and is not intended to call for the marshaling of evidence.

### **Response:**

### **Interrogatory No. 5:**

Do you contend that Plaintiffs' counsel fails to meet the requirements of Texas Rule of Civil Procedure 42(g) to serve as class counsel? If so, please provide a brief summary of the factual and legal bases for such a contention.

This Interrogatory is specifically propounded pursuant to Rules 192.3(j), 192.5(c)(1), and 197.1, Texas Rules of Civil Procedure, and is not intended to call for the marshaling of evidence.

### **Response:**

**Interrogatory No. 6:**

Please state the date(s) when you (1) began charging Fuel/Environmental Recovery Fees to Putative Class Members, and (2) stopped charging Fuel/Environmental Recovery Fees to Putative Class Members.

**Response:**

**Interrogatory No. 7:**

Please identify the time period, if any, during which you charged Fuel/Environmental Recovery Fees to Putative Class Members and for which you have not refunded such Fees to Putative Class Members.

**Response:**