

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

<b>P&amp;H INDUSTRIES, LLC, a California limited liability company,</b>	}	
	}	
<b>Plaintiff,</b>	}	<b>CIVIL ACTION NO. _____</b>
	}	
<b>vs.</b>	}	
	}	
<b>CIRCLE CITY, INC., a California corporation, NMORE, INC., a California corporation, and ORANGE CITY CA, LLC, a California limited liability company,</b>	}	
	}	
<b>Defendants.</b>	}	<b>JURY TRIAL DEMANDED</b>
	}	

**PLAINTIFF’S AMENDED ORIGINAL COMPLAINT**

NOW COMES P&H INDUSTRIES, LLC (“P&H” or “Plaintiff”), by and through its attorneys, to make and file its Plaintiff’s Amended Original Complaint against Defendants, CIRCLE CITY, INC., NMORE, INC., and ORANGE CITY CA, LLC (hereinafter referred to as “Defendants”), and for cause of action would respectfully show the Court as follows:

**PARTIES**

1. Plaintiff, P&H INDUSTRIES, LLC is a limited liability company, organized under the laws of the State of California, having its principal place of business at 41570 Reagan Way, Murrieta, CA 92563.
2. Defendant, CIRCLE CITY, INC. is a corporation, organized under the laws of the State of California, having its principal place of business at 2201 Long Beach

Ave., Los Angeles, CA 90058. Circle City may be served with process through its registered agent Warren Choi at 2201 Long Beach Ave., Los Angeles, CA 90058.

3. Defendant, NMORE, INC. is a corporation, organized under the laws of the State of California, having its principal place of business at 2201 Long Beach Ave., Los Angeles, CA 90058. Circle City may be served with process through its registered agent Warren Choi at 2201 Long Beach Ave., Los Angeles, CA 90058.

4. Defendant, ORANGE CITY CA, LLC, is a limited liability company, organized under the laws of the State of California, having its principal place of business at 2201 Long Beach Ave., Los Angeles, CA 90058. Circle City may be served with process through its registered agent Warren Choi at 2201 Long Beach Ave., Los Angeles, CA 90058.

### **JURISDICTION AND VENUE**

5. This is an action for infringement of at least a United States patent. The Court has jurisdiction over the subject matter in this case based upon federal question under 28 U.S.C. §1338(a).

6. The Defendants do business nationally and in Texas. The Defendants advertise, offer for sale, and sell products, including the accused product, nationally, including in Texas, including without limitation, in the Eastern District of Texas and is thus engaging in infringement in the Eastern District. Defendants advertise the accused product through its website e-nsupply.com. A copy of the Defendants' web site e-nsupply.com is attached as **Exhibit "1."** Defendants also advertise the accused product in a national publication, "American Coin-Op". A copy of the Defendants' ad in "American Coin-Op" is attached as **Exhibit "2."** Jurisdiction over Defendants is proper

in Texas and therefore pursuant to 28 U.S.C. §1391(c)(2). Defendants reside in the Eastern District of Texas. Venue is proper in this district and division under 28 USC §1391(b)(1) and (2); and 28 U.S.C. §1400(b).

### **PATENT INFRINGEMENT**

7. U.S. Patent No. 7,143,472 (the “472 Patent”), entitled “Caster Thread Guard and Caster Assembly” was duly and legally issued by the United States Patent and Trademark Office on December 5, 2006. Casters are commonly used on carts, such as laundry carts, to allow the carts to be easily moved around. As the caster wheel rolls over a floor, it may pick up threads. Threads wrap around the wheel axle, impairing the free rotation of the wheel. The inventor, Gary Hicks, designed a thread guard that prevents threads from wrapping around axles.

8. Gary Hicks has assigned all of his interest in the ‘472 Patent to the Plaintiff.

9. The Defendants are selling, offering to sell and using laundry carts with casters equipped with dust protectors. The carts and casters equipped with dust protectors are available for sale on-line throughout the United States, including Texas and specifically within the Eastern District of Texas. A copy of the Defendants’ web site e-nsupply.com is attached as **Exhibit “1.”**

10. By reason of the Defendants’ commercial activities relating to the carts and the casters equipped with dust protectors, the Defendants are directly infringing one or more claims of the ‘472 Patent, as well as contributorily infringing and inducing infringement of one or more claims of the ‘472 Patent.

11. Defendants will continue to infringe unless enjoined by the Court pursuant

to 35 U.S.C. §283. Plaintiff has suffered damages due to the Defendants' infringing actions pursuant to 35 U.S.C. §284.

12. Defendants' infringement is, on information and belief, willful, making this an exceptional case.

13. As a result of the exceptional case of infringement, Plaintiff has incurred reasonable attorney's fees and costs to which it is entitled to recover. Further, in the event of an appeal, Plaintiff will incur additional attorney's fees and costs to which it's entitled to recover pursuant to 35 U.S.C. §285.

14. Plaintiff requests a trial by jury in this case.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, the Plaintiff, P&H INDUSTRIES, LLC, respectfully prays that upon trial on the merits this Court render judgment in Plaintiff's favor and against the Defendants, CIRCLE CITY, INC., NMORE, INC. and ORANGE CITY CA, LLC, as follows:

A. Defendants be preliminarily and permanently enjoined from infringing U.S. Patent No. 7,143,472 in any manner;

B. Defendants be ordered to deliver up for destruction all articles that infringe the Patent;

C. Defendants be ordered to pay Plaintiff's actual damages for infringing the Patent;

D. Defendants be ordered to pay Plaintiff three (3) times the amount of actual damages for willfully infringing the Patent;

E. Defendants be ordered to pay interest, costs and attorney's fees to Plaintiff; and

F. For general and such further and other relief, at law or in equity, as to which Plaintiff may show itself to be entitled.

Date: March 28, 2014

Respectfully submitted,

/s/ Daniel L. Bates

Daniel L. Bates  
State Bar No. 01899900  
Email: [dbates@deckerjones.com](mailto:dbates@deckerjones.com)

Geoffrey A. Mantooth  
State Bar No. 12957530  
Email: [gmantooth@deckerjones.com](mailto:gmantooth@deckerjones.com)

DECKER, JONES, McMACKIN,  
McCLANE, HALL & BATES, P.C.  
801 Cherry Street, Suite 2000, Unit #46  
Fort Worth, Texas 76102  
Telephone: (817) 336-2400  
Telecopier: (817) 336-2181

ATTORNEYS FOR PLAINTIFF