

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CENTER FOR ENVIRONMENTAL HEALTH)	
)	
and)	
)	
PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	Civil Action No. 1:22-cv-03819 (JEB)
)	
INHANCE TECHNOLOGIES USA,)	
)	ORAL ARGUMENT REQUESTED
<i>Defendant.</i>)	
)	

INHANCE TECHNOLOGIES LLC’S MOTION TO DISMISS

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), Inhance Technologies LLC (Inhance) respectfully moves this Court to dismiss Plaintiffs’ Complaint. This lawsuit purports to be a citizen suit under the Toxic Substances Control Act (TSCA). But that statute contains a “diligent prosecution bar” which bars Plaintiffs’ claims. Eight days before Plaintiffs filed their Complaint, the Department of Justice (DOJ) filed a TSCA complaint against Inhance in the U.S. District Court for the Eastern District of Pennsylvania. DOJ is diligently prosecuting that lawsuit. Plaintiffs’ claims are thus incurably statutorily barred and should be dismissed without leave to amend.

Plaintiffs’ Complaint includes additional overreach. Among other things, Plaintiffs allege a “continuing violation” due to a failure to submit significant new use notices to EPA. But Inhance

filed those notices before Plaintiffs filed their Complaint, depriving this Court of jurisdiction over that claim. Plaintiffs also seek relief far in excess of that permitted in citizen suits.

On December 23, 2022, in advance of the filing of a complaint in this matter, Inhance's counsel notified Plaintiffs' counsel that the United States had already filed a complaint against Inhance pursuant to TSCA. On January 18, 2023, Inhance's counsel notified Plaintiffs' counsel of their intent to file this motion to dismiss.

Further grounds for this motion are set forth in the accompanying memorandum in support. A proposed order is attached.

Respectfully submitted,

/s/ Catherine E. Stetson

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