STATE OF NEW MEXICO
COUNTY OF DOÑA ANA
THIRD JUDICIAL DISTRICT COURT

THE STATE OF NEW MEXICO, ex rel. HECTOR BALDERAS, ATTORNEY GENERAL,	§	
Plaintiff,	§	**No.: D-307-CV-2020-02629**
v.	§	Hon. Marci Beyer
STERIGENICS U.S., LLC, SOTERA HEALTH HOLDINGS, LLC, SOTERA HEALTH LLC, and SOTERA HEALTH COMPANY,	§	
Defendants.	§	

[PROPOSED] ORDER ON MOTIONS TO DISMISS

THIS MATTER having come before the Court upon defendants Sterigenics U.S., LLC ("Sterigenics"), Sotera Health Holdings, LLC, Sotera Health LLC, and Sotera Health Company's (collectively "Sotera Defendants," and with Sterigenics, "Defendants") Motion to Dismiss Under Rule 1-012(B)(6) for failure to state a claim ("Rule 1-012(B)(6) Motion") and the Sotera Defendants' Motion to Dismiss Under 1-012(B)(2) for lack of personal jurisdiction ("Personal Jurisdiction Motion"), and the Court being fully advised of the issues and arguments presented therein, as well as the arguments presented by the parties during the October 28, 2021 motion hearing, the Court rules as follows:

1. Defendants' Personal Jurisdictional Motion is held in abeyance. Plaintiff and the Sotera Defendants shall conduct jurisdictional discovery and, if a dispute over personal jurisdiction as to one or more Sotera Defendants remains at the conclusion of jurisdictional discovery, the Sotera Defendants may re-file a Rule 1-012(B)(2) motion.

2. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's request for public health monitoring remedies. *See, e.g.*, Complaint, ¶¶ 177, 201. The Court finds Plaintiff's request for "an order requiring Defendants to fund a public health monitoring program designed to detect, assess, and treat medical disorders associated with EtO exposure, under State supervision" and "to abate the public nuisance" is adequately pleaded.
3. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's statutory and common law public nuisance claims (Counts I and II) for failure to state a claim upon which relief may be granted. The Court finds Plaintiff's statutory and common law public nuisance claims adequately pleaded.
4. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's strict liability claim (Count III) for failure to state a claim upon which relief may be granted. The Court finds Plaintiff's strict liability claim adequately pleaded.
5. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's claim for negligence (Count IV) for failure to state a claim upon which relief may be granted. The Court finds Plaintiff's negligence claim adequately pleaded.
6. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's claim under the Unfair Practices Act ("UPA") (Count VI). The Court finds Plaintiff's UPA claim adequately pleaded.

For these reasons, as well as the reasons set forth during the October 28, 2021 hearing, Defendants' Rule 1-012(B)(6) Motion is **DENIED**.

Defendants shall answer the Complaint no later than 30 days from entry of this Order.

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IT IS SO ORDERED.

Date: _____ _____

Marci Beyer, District Judge

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