

STATE OF NORTH CAROLINA
COUNTY OF WAYNE

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

21CS1937

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STATE OF NORTH CAROLINA, *ex rel.*)
JOSHUA H. STEIN, ATTORNEY GENERAL,)
GENERAL,)

Plaintiff,)

v.)

ORIGINAL COMPLAINT

THE 3M COMPANY; TYCO FIRE)
PRODUCTS LP; CHEMGUARD, INC.;)
BUCKEYE FIRE EQUIPMENT)
COMPANY; KIDDE-FENWAL, INC.;)
NATIONAL FOAM, INC.; E. I. DU)
PONT DE NEMOURS AND COMPANY;)
THE CHEMOURS COMPANY;)
ARKEMA, INC.; AGC CHEMICALS)
AMERICAS, INC.; DYNAX)
CORPORATION; CLARIANT)
CORPORATION; DUPONT DE)
NEMOURS, INC.; CORTEVA, INC.; and)
"ABC CORPORATIONS" 1-10 (Names)
Fictitious),)

JURY TRIAL DEMANDED

Defendants.

COMPLAINT

Plaintiff, the State of North Carolina ("Plaintiff" or the "State"), by and through its Attorney General, Joshua H. Stein, brings this action against Defendants THE 3M COMPANY ("3M"); TYCO FIRE PRODUCTS LP ("Tyco"); CHEMGUARD, INC. ("Chemguard"); BUCKEYE FIRE EQUIPMENT COMPANY ("Buckeye"); KIDDE-FENWAL, INC. ("Kidde-Fenwal"); NATIONAL FOAM, INC. ("National Foam"); E. I. DU PONT DE NEMOURS AND COMPANY ("Old DuPont"); THE CHEMOURS COMPANY ("Chemours"); ARKEMA, INC. ("Arkema"); AGC CHEMICALS AMERICAS, INC. ("AGC Chemicals"); DYNAX

CORPORATION (“Dynax”); CLARIANT CORPORATION (“Clariant”) (collectively, “Manufacturer Defendants”); DUPONT DE NEMOURS, INC. (“New DuPont”); CORTEVA, INC. (“Corteva”); and ABC CORPORATIONS 1-10 (Names Fictitious) (collectively with Manufacturer Defendants, “Defendants”), and allege as follows:

INTRODUCTION AND SUMMARY

1. The State brings this civil action against Manufacturer Defendants pursuant to the State’s general statutes and common law for injuries to North Carolina’s natural resources, including groundwater, surface water, sediments, soils, and biota. The State seeks property damages, economic damages, remediation and restoration costs, and all other relief available as a result of releases of perfluorooctane sulfonic acid (“PFOS”) and perfluorooctanoic acid (“PFOA”) into the environment due to the use, release, spill, transport, storage, disposal, and/or handling of aqueous film-forming foam (“AFFF”) at Seymour Johnson Air Force Base (“Seymour Johnson”), located near Goldsboro in Wayne County, North Carolina.

2. PFOS and PFOA are two persistent, bioaccumulative, and toxic substances within the class of man-made chemicals known as per- and polyfluoroalkyl substances (“PFAS”). The Manufacturer Defendants are manufacturers of AFFF and/or PFAS-containing fluorochemicals and/or fluorosurfactants used to make AFFF (collectively, “AFFF Products”). The Manufacturer Defendants’ AFFF Products were used at Seymour Johnson, causing contamination of the State’s natural resources with PFOS and PFOA. The State thus seeks to require Manufacturer Defendants to pay all costs necessary to fully investigate, remediate, treat, assess, and restore groundwater beneath Seymour Johnson and off-site areas, including North Carolina’s groundwater, surface waters, drinking water, and other natural resources, contaminated by their AFFF Products.

3. AFFF is used to fight fuel and other flammable liquid fires. When the AFFF

concentrate is mixed with water, a foam solution is formed. The foam is sprayed onto fire to produce an aqueous film, which blocks the fire's supply of oxygen, generates a cooling effect, creates an evaporation barrier, and prevents re-ignition.

4. Manufacturer Defendants designed, manufactured, marketed, and sold AFFF Products throughout the United States, including to the Air Force and in North Carolina. These AFFF Products contained PFOS, PFOA, and/or their precursors (*i.e.*, substances that break down in the environment into PFOS or PFOA). When used, the AFFF Products released PFOS and PFOA into the environment. At all times relevant, Manufacturer Defendants together controlled all, or substantially all, of the military and North Carolina markets for AFFF Products.

5. PFOS and PFOA present a significant threat to North Carolina's environment and residents. They are mobile, persist indefinitely in the environment, bioaccumulate in individual organisms and humans, and biomagnify up the food chain. PFOS and PFOA are also associated with a long list of adverse health effects in humans. For example, PFOS is associated with, among other things, immune system suppression, including decreases in antibody responses to vaccines and increases in risk of childhood infections, and PFOA is associated with, among other things, high cholesterol, increased liver enzymes, pregnancy-induced hypertension, thyroid disease, ulcerative colitis, and testicular and kidney cancers. Based on these adverse health effects, in 2016, the U.S. Environmental Protection Agency ("EPA") established a health advisory level ("HAL") for combined PFOS and PFOA in drinking water at 70 parts per trillion ("ppt"), or 70 nanograms per liter ("ng/L").

6. Since the creation of AFFF in the 1960s, Manufacturer Defendants have sold their AFFF Products to military and industrial facilities, airports, firefighting training academies, commercial and industrial users, and local fire departments in North Carolina and elsewhere. These

entities, including Seymour Johnson, used Manufacturer Defendants' AFFF Products as they were intended to be used and in a foreseeable manner, which introduced PFOS and PFOA into the environment and contaminated North Carolina's natural resources. For example, a single firefighting training event can release thousands of gallons of AFFF-laced water into the environment.

7. For decades, Manufacturer Defendants were fully aware of the toxic nature of PFOS and PFOA and the harmful and negative impact these substances have on the environment, wildlife, and human health. Nevertheless, they continued to manufacture, market, and sell their AFFF Products in North Carolina and elsewhere, and concealed the threat associated with use of their products.

8. Seymour Johnson encompasses 3,216 acres in central Wayne County. Seymour Johnson is surrounded by the city of Goldsboro to the north, the Neuse River to the southwest, Stoney Creek to the northwest, and other developed areas to the east and south. The Air Force has tested six areas within Seymour Johnson for PFOS and PFOA contamination. All six areas had PFOS and PFOA in the groundwater. For example, the combined PFOS and PFOA concentration in groundwater reached 200,000 ppt in the Former Fire Training Area 3—*more than 2,857 times* the EPA's 70 ppt HAL—and 312,000 ppt in the area of Building 4735—*more than 4,457 times* the EPA's HAL. Five of the six areas also had PFOS and PFOA in surface and subsurface soils. Moreover, contaminated groundwater and storm water from at least three of the six areas have migration pathways to the Neuse River or Stoney Creek, which, according to the Air Force Final Site Inspections Report of Fire Fighting Foam Usage at Seymour Johnson ("AF SI Report"), "provide a potential direct human exposure pathway to off-base personnel."

9. Accordingly, this action seeks to require Manufacturer Defendants to pay all costs

necessary to investigate, assess, remediate, and restore groundwater beneath Seymour Johnson and all the off-site areas and natural resources that have been contaminated by their AFFF Products at Seymour Johnson. Likewise, the State seeks to require the Manufacturer Defendants to pay all future costs for the investigation, treatment, operation, and maintenance of all drinking water wells and sources of drinking water impacted by PFOA and PFOS from AFFF Products used at Seymour Johnson. These costs are rightfully borne by Manufacturer Defendants.

10. The State also seeks from Manufacturer Defendants all damages, including damages to North Carolina's natural resources, property damages, economic damages, restitution and disgorgement of Manufacturer Defendants' ill-gotten profits, punitive damages, and all other damages, fees, costs, and equitable relief to which the State may be entitled, resulting from transporting, storing, using, handling, releasing, spilling, and/or disposing of AFFF Products at Seymour Johnson.

11. The State also asserts claims in its capacity as a creditor under North Carolina's Uniform Voidable Transactions Act, N.C.G.S. §§ 39-23.4, -23.5, and -23.7, and Delaware's Uniform Fraudulent Transfer Act, Delaware Code Title 6, §§ 1301 to 1312, based on a web of transactions that Old DuPont orchestrated over the past decade, all designed to shield significant assets from the State and other creditors.

12. Old DuPont has known for decades that it faces unprecedented environmental and tort liabilities for PFAS that it released into the environment in numerous parts of the country, including in North Carolina. For years, Old DuPont has sought to hinder this State, and many other states facing massive harm to the well-being of their citizens and natural resources, from being able to recover on their eventual judgments by attempting to put assets outside the reach of creditors.

13. Old DuPont has sought to limit its PFAS and environmental liabilities by engaging in a series of complex restructuring transactions, including (i) the spinoff of its performance chemicals business (which included the manufacture of products which involved the use of PFOA and other PFAS) into Defendant Chemours, (ii) a purported merger with The Dow Chemical Company (“Old Dow”), (iii) the transfer of Old DuPont’s historic assets to other entities, including Defendant New DuPont, and, ultimately, (iv) the spinoff of Old DuPont to a new parent company, Defendant Corteva. These transactions were all designed to shield billions of dollars in assets from the PFAS and environmental liabilities that Old DuPont tried to isolate in Chemours.

14. Old DuPont also sought to hide critical details of these transactions by burying them in non-public schedules to agreements in an attempt to keep the State and other creditors in the dark. What is clear, however, is that Old DuPont shed more than \$20 billion in tangible assets as a result of its restructuring efforts and attempted to put those assets outside of the State’s reach. This is the exact type of scheme that the Uniform Voidable Transactions Act is designed to prevent.

PARTIES

15. Plaintiff, the State of North Carolina, acting on relation of its Attorney General, Joshua H. Stein, brings this action in its own capacity, as trustee, and in its *parens patriae* capacity. Plaintiff is represented by and through the Attorney General of the State of North Carolina with principal offices at 114 West Edenton Street, Raleigh, North Carolina 27603. *See* N.C.G.S. § 114-2. The State is the trustee, for the benefit of its citizens, of all natural resources within its jurisdiction. The State may also act in its *parens patriae* capacity to protect and promote the State’s “quasi-sovereign” interests, including its interest in the health, safety, security, and well-being of its residents and the integrity of its natural resources.

16. The State, acting on relation of its Attorney General, Joshua H. Stein, also brings

this case in its capacity as an owner of real property, including submerged lands underlying surface water near Seymour Johnson, and asserts its fraudulent transfer claims in its capacity as a creditor.

17. Defendant The 3M Company (“3M”) is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 3M Center, St. Paul, Minnesota 55144-1000. On information and belief, 3M has designed, manufactured, marketed, and sold AFFF containing PFOS, PFOA, and/or their precursors that was transported, stored, handled, used, released, spilled, and/or disposed in North Carolina at Seymour Johnson. 3M does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. 3M may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

18. Defendant Tyco Fire Products LP (“Tyco”) is a limited partnership organized under the laws of the State of Delaware, with its principal place of business located at One Stanton Street, Marinette, Wisconsin 54143-2542. On information and belief, Tyco manufactures the Ansul brand of products and is the successor-in-interest to Ansul Company (collectively, “Tyco/Ansul”). On information and belief, Tyco/Ansul has designed, manufactured, marketed, and sold AFFF containing PFOA and/or its precursors that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Tyco does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Tyco may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

19. Defendant Chemguard, Inc. (“Chemguard”) is a corporation organized under the laws of the State of Texas, with its principal place of business located at One Stanton Street,

Marinette, Wisconsin 54143-2542. On information and belief, Chemguard has designed, manufactured, marketed, and sold AFFF containing PFOA and/or its precursors that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Further, on information and belief, Chemguard has designed, manufactured, marketed, and sold fluorosurfactants containing PFOA and/or its precursors used to manufacture AFFF that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Chemguard acquired Ciba Specialty Chemical Corporation's ("Ciba") fluorosurfactants business in 2003. Chemguard does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Chemguard may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

20. Defendant Buckeye Fire Equipment Company ("Buckeye") is a corporation organized under the laws of the State of Ohio, with its principal place of business located at 110 Kings Road, Kings Mountain, North Carolina 28086. On information and belief, Buckeye has designed, manufactured, marketed, and sold AFFF containing PFOA and/or its precursors that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Buckeye does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Buckeye may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

21. Defendant Kidde-Fenwal, Inc. ("Kidde-Fenwal") is a corporation organized under the laws of the State of Delaware, with its principal place of business located at One Financial Plaza, Hartford, Connecticut 06101. On information and belief, Kidde-Fenwal is the successor-in-

interest to Kidde Fire Fighting, Inc. (f/k/a Chubb National Foam, Inc. f/k/a National Foam System, Inc.) (collectively, “Kidde/Kidde Fire”). On information and belief, Kidde/Kidde Fire has designed, manufactured, marketed, and sold AFFF containing PFOA and/or its precursors that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Kidde-Fenwal does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Kidde-Fenwal may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

22. Defendant National Foam, Inc. (“National Foam”) is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 141 Junny Road, Angier, North Carolina 27501. On information and belief, National Foam manufactures the Angus brand of products and is the successor-in-interest to Angus Fire Armour Corporation (collectively, “National Foam/Angus Fire”). On information and belief, National Foam/Angus Fire has designed, manufactured, marketed, and sold AFFF containing PFOA and/or its precursors that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. National Foam does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. National Foam may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

23. Defendant E. I. du Pont de Nemours and Company (“Old DuPont”) is a corporation duly organized under the laws of the State of Delaware, with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. On information and belief, Old DuPont has designed, manufactured, marketed, and sold fluorochemicals and/or fluorosurfactants containing

PFOA and/or its precursors used to manufacture AFFF that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Old DuPont does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Old DuPont may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

24. Defendant The Chemours Company (“Chemours”) is a corporation duly organized under the laws of the State of Delaware, with its principal place of business located at 1007 Market Street, Wilmington, Delaware 19899. In 2015, Old DuPont spun off its performance chemicals business to Chemours, along with vast environmental liabilities. On information and belief, Chemours has designed, manufactured, marketed, and sold fluorosurfactants containing PFOA and/or its precursors used to manufacture AFFF that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Chemours does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Chemours may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

25. Defendant Arkema, Inc. (“Arkema”) is a corporation organized under the laws of the State of Pennsylvania, with its principal place of business located at 900 First Avenue, King of Prussia, Pennsylvania 19406. On information and belief, Arkema is a successor in interest to Atochem North America Inc., Elf Atochem North America, Inc., and Atofina Chemicals, Inc. On information and belief, Arkema and/or its predecessors have designed, manufactured, marketed, and sold fluorosurfactants containing PFOA and/or its precursors used to manufacture AFFF that

was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Arkema does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Arkema may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

26. Defendant AGC Chemicals Americas, Inc. (“AGC Chemicals”) is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 5 East Uwchlan Avenue, Suite 201 Exton, Pennsylvania 19341. On information and belief, AGC Chemicals is the North American subsidiary of AGC Inc. (f/k/a Asahi Glass Co., Ltd.). On information and belief, AGC Chemicals and/or its affiliates have designed, manufactured, marketed, and sold fluorochemicals containing PFOA and/or its precursors used to manufacture AFFF that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. AGC Chemicals does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. AGC Chemicals may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

27. Defendant Dynax Corporation (“Dynax”) is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 79 Westchester Avenue, Pound Ridge, New York 10576. On information and belief, Dynax has designed, manufactured, marketed, and sold fluorosurfactants containing PFOA and/or its precursors used to manufacture AFFF that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Dynax does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North

Carolina with the Secretary of State. Dynax may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

28. Defendant Clariant Corporation (“Clariant”) is a corporation organized under the laws of the State of New York, with its principal place of business located at 4000 Monroe Road, Charlotte, North Carolina 28205. On information and belief, Clariant has designed, manufactured, marketed, and sold fluorochemicals containing PFOA and/or its precursors used to manufacture AFFF that was transported, stored, used, handled, released, spilled, and/or disposed in North Carolina, including at Seymour Johnson. Clariant does business throughout the United States, including conducting business in North Carolina, and it is registered to do business in North Carolina with the Secretary of State. Clariant may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

29. The above Manufacturer Defendants represent all or substantially all of the military and North Carolina markets for AFFF Products.

30. Defendant DuPont de Nemours, Inc., formerly known as DowDuPont Inc. (“New DuPont”) is a corporation duly organized under the laws of the State of Delaware, with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. In 2015, after Old DuPont spun off Chemours, Old DuPont merged with Old Dow and transferred Old DuPont’s historic assets and liabilities to other entities, including New DuPont. In connection with these transfers, on information and belief, New DuPont assumed certain Old DuPont liabilities – including those relating to PFAS. New DuPont does business throughout the United States, including conducting business in North Carolina. New DuPont may be served at its principal place of business, or wherever it may be found.

31. Defendant Corteva, Inc. (“Corteva”) is a corporation duly organized under the laws

of the State of Delaware, with its principal place of business located at P.O. Box 80735, Chestnut Run Plaza 735, Wilmington, Delaware 19805. In 2019, New DuPont spun off a new, publicly-traded company, Corteva, which currently holds Old DuPont as a subsidiary. In connection with these transfers, on information and belief, Corteva assumed certain Old DuPont liabilities—including those relating to PFAS. Corteva does business throughout the United States, including conducting business in North Carolina, and is registered to do business in North Carolina with the Secretary of State. Corteva may be served at its principal place of business, through the North Carolina Secretary of State, or wherever it may be found.

32. The true names and capacities, whether corporate, associate, partnership, or otherwise, of Defendants sued herein as ABC CORPORATIONS 1 through 10, inclusive, are unknown to Plaintiff. As such, Plaintiff references said Defendants by fictitious names. Plaintiff alleges that Defendants ABC CORPORATIONS 1 through 10 are manufacturers of AFFF, manufacturers of PFAS-containing fluorochemicals and/or fluorosurfactants used to make AFFF, and/or distributors of AFFF Products that are in some manner responsible for its injuries and losses and are named in accordance with the provisions of N.C.G.S. § 1-166. Plaintiff will amend its complaint to show the true names and capacities of such fictitiously named Defendants as they are ascertained.

JURISDICTION

33. The Superior Court has jurisdiction over this action for costs, damages, and injunctive relief stemming from the Defendants' actions because the amount in controversy exceeds twenty-five thousand dollars (\$25,000). *See* N.C.G.S. § 7A-243.

VENUE

34. Wayne County, North Carolina is a proper venue for this action because Seymour Johnson is located in Wayne County, such that the causes of action asserted herein, or some part

thereof, arose in Wayne County. *See* N.C.G.S. § 1-77. Further, as described herein, real property and natural resources in Wayne County have suffered, and continue to suffer, injuries as a result of the conduct of the Defendants. *See id.* § 1-76.

FACTUAL ALLEGATIONS

A. Affected Natural Resources

35. The natural resources of this State include all land (including submerged lands), water, air, biota, and other such resources owned, managed, held in trust, or otherwise controlled by the State. *See, e.g.*, N.C.G.S. § 143-211(a) (“[r]ecognizing that the water and air resources of the State belong to the people, [and affirming] the State's ultimate responsibility for the preservation and development of these resources in the best interest of all its citizens . . .”). The State’s policy is to “provide for the conservation of its water and air resources,” including by “maintain[ing], protect[ing], and enhanc[ing] water quality within North Carolina.” *Id.* § 143-211(a), (b). The protection of these natural resources and their “prudent utilization” is “essential to the general welfare” of the State’s citizens. *Id.* § 143-211(a).

36. The State’s natural resources include water, such as springs, streams, wetlands, bodies of surface water, groundwater, ocean waters, and estuaries within the boundaries of this State or otherwise subject to its jurisdiction. They also include North Carolina’s habitats and ecosystems—forests, lakes, rivers, wetlands, agricultural lands, coastal estuaries, pinelands, and grasslands—and the flora and fauna—animals, birds, fish, biota—that live in these habitats and ecosystems. These natural resources have been injured by past and ongoing contamination caused by PFOS, PFOA, and/or their precursors attributable to AFFF Products.

37. PFOS, PFOA, and/or their precursors attributable to AFFF Products have been found in groundwater, surface water, sediments, and soils at and around Seymour Johnson, where AFFF Products were transported, stored, used, handled, released, spilled, and/or disposed. Further

AFFF Products-related contamination to natural resources will be uncovered as investigation continues.

38. AFFF Products-related PFOS, PFOA, and/or their precursors contamination biopersist in North Carolina's natural resources and damages their intrinsic (*i.e.*, inherent existence) and use values. The current and future residents of North Carolina have a substantial interest in a clean environment, as does the tourism industry that relies upon maintaining a clean environment for its business and for tourists to visit and enjoy.

Groundwater

39. Groundwater—that is, water that exists beneath the Earth's surface—is an extremely important natural resource for the people of North Carolina. North Carolinians use more than 476 million gallons of groundwater per day for drinking water, irrigation, and agriculture.

40. The State's Groundwater Rules, found at 15A N.C.A.C. 2L .0103, “maintain and preserve the quality of the groundwaters, prevent and abate pollution and contamination of the waters of the state, protect public health, and permit management of the groundwaters for their best usage by citizens of North Carolina.” *Id.* r. 2L .0103(a). The North Carolina Environmental Management Commission has established that the “best usage of the groundwaters of the state is as a source of drinking water.” *Id.* More than 327 million gallons of groundwater per day are used as potable water by North Carolinians.

41. Private wells, which provide access to groundwater, are widely used in residential communities in North Carolina, including near Seymour Johnson, where AFFF Products were transported, stored, used, released, spilled, and/or disposed. These wells are used for drinking water, irrigation, watering livestock, and filling swimming pools, among other things.

42. In addition to serving as a source of potable water, groundwater is an integral part of North Carolina's overall ecosystem. Groundwater provides base flow to streams and influences

surface water quality, wetland ecological conditions, and the health of the aquatic ecosystem. Groundwater also provides cycling and nutrient movement within and among North Carolina's bodies of water and wetlands and helps to maintain critical water levels in freshwater wetlands.

43. Groundwater and the other natural resources of North Carolina are unique resources that help sustain the State's economy.

44. AFFF Products are a significant source of PFOS and PFOA contamination in groundwater, which mobilize in and through groundwater sources to reach areas beyond the location of the AFFF Products' use. This contamination adversely affects the groundwater.

45. The Air Force's investigation at Seymour Johnson revealed elevated levels of PFOS and PFOA in the groundwater at all six areas tested.

46. Investigation of AFFF Products-related contamination in groundwater on and off site resulting from the use of AFFF-Products at Seymour Johnson is ongoing.

Surface Water

47. Surface water is a critical ecological resource of North Carolina. The State's surface water—which includes all water in the State's rivers, lakes, streams, and wetlands—is a primary source of drinking water in the State. The Neuse River, located along Seymour Johnson's southwest boundary, is one example of a surface water.

48. Surface water in North Carolina is also used for recreational, commercial, and industrial purposes, such as swimming, boating, and fishing. The tourism and recreation industries, which are dependent on clean water, are vital to the State's economy. Surface water also provides aesthetic and ecological value, including by supporting aquatic ecosystems, nearby communities, and the citizens of the State.

49. PFAS, including PFOS and PFOA, are mobile in water and can spread great

distances from the point of discharge. PFOS and PFOA contamination attributable to the use of AFFF Products at Seymour Johnson has reached and adversely affected on and off-site surface water, including the Neuse River, used for recreation.

50. Investigation of AFFF Products-related contamination in surface water on and off site resulting from the use of AFFF-Products at Seymour Johnson is ongoing.

Sediments, Soils, and Submerged Lands

51. North Carolina's land and aquatic resources are composed of unique and complex ecosystems. Sediments, soils, and submerged lands are critical components of North Carolina's ecological resources. Sediments, soils, and submerged lands sustain a wide diversity of plants and animals that are essential in a healthy ecosystem. They provide a living substrate for submerged and emergent flora, which in turn support diverse invertebrate species, wading birds, and fish and shellfish populations.

52. Sediments and soils serve as a long-term reservoir of PFAS, where PFAS are stored and released over time, impacting biota and increasing PFAS concentration in fish tissue and wildlife.

53. PFOS and PFOA contamination attributable to the use of AFFF Products at Seymour Johnson has reached and adversely affected soil and sediment on and off site. Additionally, PFOS and PFOA in the soil column serve as a continuing source of contamination of groundwater and other resources of the State. Upon information and belief, PFOS and PFOA in sediments, as well as surface water, increases PFOS and PFOA concentrations in fish.

54. Investigation of AFFF Products-related contamination in sediments, soils, and submerged lands on and off site resulting from the use of AFFF-Products at Seymour Johnson is ongoing.

Biota

55. Biota, including the State's flora and fauna, are critical ecological resources. North Carolina is home to more than 4,000 plant species, which include entire communities of rare flora that cannot be found anywhere else in the world. North Carolina's wildlife includes nearly 1,000 species, including 120 mammal species, 160 reptile and amphibian species, more than 230 fish species, and nearly 500 species of birds. North Carolina's biodiversity provides a wealth of ecological, social, and economic goods and services that are an integral part of the ecological infrastructure for all cultural and economic activity in the State.

56. Contamination by pollutants is one of the major causes of biodiversity loss. Over 60 of North Carolina's species are at risk of extinction.

57. Natural resource injuries to biota in North Carolina negatively impact not only the individual species directly involved, but also the capacity of the injured ecosystems to regenerate and sustain such life into the future.

58. Upon information and belief, PFOS and PFOA contamination attributable to the use of AFFF Products at Seymour Johnson has reached and adversely affected biota on and/or off site.

59. Investigation of AFFF Products-related contamination in biota on and off site resulting from the use of AFFF-Products at Seymour Johnson is ongoing.

B. The Harmful Impacts of AFFF on the Environment and Human Health

60. AFFF is a fire suppressing foam used to extinguish flammable liquid fires, including jet-fuel fires, aviation-related fires, hangar fires, ship fires, and chemical fires, and is routinely used to train firefighters and test firefighting equipment. When used as intended during a firefighting event or training exercise, AFFF Products can cause hundreds, if not thousands, of gallons of foamy water laced with PFOS and/or PFOA to enter the environment in a variety of

ways, including, but not limited to, through soils, sediment, surface water, and groundwater.

61. AFFF contains PFAS, which are highly fluorinated synthetic chemical compounds that include carbon chains containing at least one carbon atom on which all hydrogen atoms are replaced by fluorine atoms. The carbon-fluorine bond is one of the strongest bonds in chemistry and imparts to PFAS their unique chemical properties. The carbon-fluorine bond in PFAS does not occur naturally. All PFAS chemicals are entirely manmade and do not occur in nature.

62. The PFAS family includes PFOS and PFOA. PFOS and PFOA have characteristics that cause extensive and long-lasting environmental contamination.

63. PFOS and PFOA are mobile and persistent in the environment. Once introduced into the environment, PFOS and PFOA quickly spread because they easily dissolve in water and, thus, have reached numerous water systems within North Carolina. PFOS and PFOA also persist in the environment indefinitely because their multiple fluorine-carbon bonds, which are exceptionally strong and stable, are resistant to metabolic and environmental degradation processes. Similarly, they are not removed by conventional drinking water treatment systems. In short, once PFOS and PFOA are applied, discharged, disposed of, or otherwise released onto land or into the air or water, they migrate through the environment and into groundwater, resist natural degradation, contaminate groundwater and drinking water, and are difficult and costly to remove.

64. PFOS and PFOA bioaccumulate and biopersist in animals and are toxic to their health. Because PFOS and PFOA are very slowly excreted from individual organisms, ongoing low-level exposure results in a build-up in body burden (*i.e.*, levels of PFOS and PFOA remaining within the body). Thus, they also biomagnify, meaning their concentration in organic tissue increases as they are consumed up the food chain. PFOS and PFOA are also deleterious to the environment and animal health.

65. PFOS and PFOA are toxic and cause significant adverse effects to human health. The presence of these chemicals in drinking water presents a serious threat to public health.

66. PFOS exposure is associated with numerous adverse health effects, including increases in serum lipids (*i.e.*, high cholesterol), decreases in antibody response to vaccines, increases in risk of childhood infections, and adverse reproductive and developmental effects, along with pregnancy-induced hypertension and preeclampsia.

67. PFOA exposure is associated with numerous adverse health effects, including increases in serum lipids and certain liver enzymes (indicating liver damage), decreases in antibody response to vaccines, impact to immune system function, pregnancy-induced hypertension and preeclampsia, decreased birthweight, testicular and kidney cancers, ulcerative colitis, and thyroid disease.

C. Manufacturer Defendants' History of Manufacturing and Selling AFFF Products

68. 3M began to produce PFOS and PFOA by electrochemical fluorination in the 1940s. In the 1960s, 3M used its fluorination process to develop AFFF.

69. 3M manufactured, marketed, and sold AFFF from the 1960s to the early 2000s. National Foam and Tyco/Ansul began to manufacture, market, and sell AFFF in the 1970s. Angus Fire and Chemguard began to manufacture, market, and sell AFFF in the 1990s. Buckeye began to manufacture, market, and sell AFFF in the 2000s.

70. Arkema's predecessors supplied fluorosurfactants used to manufacture AFFF beginning in the 1970s. Ciba supplied fluorosurfactants used to manufacture AFFF beginning in the 1970s. Dynax supplied fluorosurfactants used to manufacture AFFF beginning in the 1990s. Old DuPont acquired Arkema's predecessors' fluorosurfactants business in 2002, after which it supplied fluorosurfactants used to manufacture AFFF. Chemguard acquired Ciba's

fluorosurfactants business in 2003, after which it supplied fluorosurfactants used to manufacture AFFF. Following Chemours' spin-off from Old DuPont, Chemours supplied fluorosurfactants used to manufacture AFFF.

71. At varying times, AGC Chemicals, Clariant, and Old DuPont supplied fluorochemicals used to make AFFF.

72. From the 1960s through 2001, the United States Department of Defense purchased AFFF exclusively from 3M and Tyco/Ansul.

73. In 2000, 3M announced it was phasing out its manufacture of PFOS, PFOA, and related products, including AFFF. In its press release announcing the phase out, 3M stated "our products are safe," and that 3M's decision was "based on [its] principles of responsible environmental management." 3M further stated that "the presence of these materials at . . . very low levels does not pose a human health or environmental risk." In communications with the EPA at that time, 3M stated that it had "concluded that . . . other business opportunities were more deserving of the company's energies and attention"

74. After 3M exited the AFFF market, the remaining Manufacturer Defendants continued to manufacture and sell AFFF Products that contained PFOA and/or its precursors. Remarkably, Old DuPont saw an opportunity to grab a share of the AFFF market when 3M exited, although Old DuPont had decades of evidence that PFOA and PFOS were highly toxic and incredibly dangerous in the environment.

75. 3M's AFFF, created using an electrochemical fluorination process, contains PFOS and PFOA. The remaining Manufacturer Defendants' AFFF Products, created using a telomerization process, contain or break down into PFOA. On information and belief, AFFF Products manufactured by Manufacturer Defendants other than 3M are a fungible product and lack

traits that would make it possible to identify the product as being manufactured, distributed, or sold by a particular Manufacturer Defendant. Due to this fungibility, it may not be possible to identify the original manufacturer of the AFFF Products released at any particular site. Any inability of the State to identify the original manufacturer of the specific AFFF Products released into North Carolina's natural resources in particular instances at particular sites is a result of the fungibility of the products, and not as a result of any action or inaction by the State.

76. Manufacturer Defendants advertised, offered for sale, and sold AFFF Products to federal and state government entities, including the Air Force, counties, municipalities, local fire departments, and/or other governmental entities and quasi-governmental entities for use at Seymour Johnson and in North Carolina.

77. Manufacturer Defendants knew their customers warehoused large stockpiles of AFFF Products. In fact, Manufacturer Defendants marketed their AFFF Products by promoting their shelf life. Even after Manufacturer Defendants fully understood the toxicity of PFOS and PFOA—and their deleterious impacts when released directly into the environment through use and disposal of AFFF Products exactly as they had marketed them and intended that they be used—Manufacturer Defendants concealed the true nature of PFOS and PFOA. While Manufacturer Defendants phased out production or transitioned to other formulas, they did not instruct their customers that they should not use AFFF Products that contained PFOS, PFOA, and/or their precursors. Manufacturer Defendants further did not act to get their harmful products off the market. Manufacturer Defendants did not warn the State or others that, if they used AFFF Products with PFOS, PFOA, and/or their precursors, they would harm the environment, endanger human health, or incur substantial costs to investigate and clean up contamination of groundwater and other natural resources and to dispose of AFFF Products.

78. Accordingly, for many years after the original sale of AFFF Products that contained PFOS, PFOA, and/or their precursors, these AFFF Products were still being applied directly to the ground and washed into sediments, soils, and waters, harming the environment and endangering human health. Manufacturer Defendants never instructed their customers that they needed to properly dispose of their stockpiles of AFFF Products or how to properly dispose of AFFF Products.

D. Manufacturer Defendants Knew, or at the Very Least Should Have Known, That Their AFFF Products Containing PFOS, PFOA, and/or Their Precursors Were Harmful to the Environment and Human Health

- i. 3M knew, or should have known, of the harm caused by PFOS and PFOA and attempted to suppress negative information about these chemicals

79. 3M has known for decades that the PFAS, including PFOS and PFOA, contained in its AFFF are toxic and negatively impact the environment and human health.

80. By 1956, 3M's PFAS were found to bind to proteins in human blood, resulting in bioaccumulation of those compounds in the human body.

81. 3M knew as early as 1960 that its PFAS waste could leach into groundwater and otherwise enter the environment. An internal memo from 1960 described 3M's understanding that such wastes "[would] eventually reach the water table and pollute domestic wells."

82. As early as 1963, 3M knew that its PFAS products were stable in the environment and did not degrade after disposal.

83. By the 1970s, 3M had become concerned about exposure to fluorochemicals in the general population.

84. By no later than 1970, 3M was aware that its PFAS products were hazardous to marine life. One study of 3M's fluorochemicals around this time had to be abandoned to avoid severe pollution of nearby surface waters.

85. In 1975, 3M found there was a “universal presence” of PFOA in blood serum samples taken from across the United States. Since PFOA is not naturally occurring, this finding reasonably alerted 3M to the high likelihood that its products were a source of this PFOA—a possibility that 3M considered internally but did not share outside the company. This finding also alerted 3M to the likelihood that PFOA is mobile, persistent, bioaccumulative, and biomagnifying, as those characteristics would explain the presence of PFOA in human blood.

86. As early as 1976, 3M began monitoring the blood of its employees for PFAS because the company was concerned about PFAS’s health effects.

87. In 1978, 3M conducted PFOS and PFOA studies in monkeys and rats. All monkeys died within the first few days or weeks after being given food contaminated with PFOS. The studies also showed that PFOS and PFOA affected the liver and gastrointestinal tract of the species tested.

88. In the late 1970s, 3M studied the fate and transport characteristics of PFOS in the environment, including in surface water and biota. A 1979 report drew a direct line between effluent from 3M’s Decatur, Alabama plant and fluorochemicals bioaccumulating in fish tissue taken from the Tennessee River.

89. According to a 3M environmental specialist who resigned his position due to the company’s inaction over PFOS’s environmental impacts, 3M had resisted calls from its own ecotoxicologists going back to 1979 to perform an ecological risk assessment on PFOS and similar chemicals. At the time of the specialist’s resignation in 1999, 3M continued its resistance.

90. In 1983, 3M scientists opined that concerns about PFAS “give rise to legitimate questions about the persistence, accumulation potential, and ecotoxicity of fluorochemicals in the environment.”

91. In 1984, 3M's internal analyses demonstrated that fluorochemicals were likely bioaccumulating in 3M's employees.

92. Despite its understanding of the hazards associated with the PFOS and PFOA in its products, 3M actively sought to suppress scientific research on the hazards associated with them, and mounted a campaign to control the scientific dialogue on the fate, exposure, analytics, and effects to human health, and the ecological risks of PFOS and PFOA.

93. At least one scientist funded by 3M saw his goal as "keep[ing] 'bad' papers [regarding PFAS] out of the literature" because "in litigation situations" those articles "can be a large obstacle to refute."

94. 3M engaged in a variety of tactics to deceive others and to hide the negative effects of PFAS. For example, Dr. Rich Purdy, a former environmental specialist with 3M, wrote a letter detailing: (1) 3M's tactics to prevent research into the adverse effects of its PFOS; (2) 3M's submission of misinformation about its PFOS to the EPA; (3) 3M's failure to disclose substantial risks associated with its PFOS to the EPA; (4) 3M's failure to inform the public of the widespread dispersal of its PFOS in the environment and population; (5) 3M's production of chemicals it knew posed an ecological risk and a danger to the food chain; and (6) 3M's attempts to keep its workers from discussing the problems with the company's fluorochemical projects to prevent their discussions from being used in the legal process.

95. Despite all of its knowledge, when 3M announced it would phase out its PFOS, PFOA, and related products (including AFFF), it falsely asserted "our products are safe," instead of fully disclosing the substantial threat posed by PFOS and PFOA.

96. 3M knew, or at the very least should have known, that its AFFF, in its intended use, would release PFOS and/or PFOA in such a way that would significantly threaten the environment

and public health. Such knowledge was accessible to 3M, but not to Plaintiff until 3M's acts and omissions came to light and the State developed its own understanding of the toxicity of PFOS and PFOA.

- ii. The remaining Manufacturer Defendants knew, or should have known, of the harm caused by the release of PFOA from their AFFF Products

97. The remaining (non-3M) Manufacturer Defendants knew, or at the very least should have known, that in their intended and/or common use, their AFFF Products containing or breaking down into PFOA would harm the environment and human health.

98. The remaining Manufacturer Defendants knew, or at the very least should have known that, their AFFF Products released PFOA that would dissolve in water, reach water systems across the State, resist degradation, bioaccumulate and biomagnify, and harm animal and human health due to their toxicity.

99. Information regarding PFOA as well as other PFAS—like PFOS—was readily accessible to each of the above-referenced Manufacturer Defendants for decades, and particularly Old DuPont, because each is an expert in the field of AFFF Products manufacture and/or the PFAS-containing materials needed to manufacture AFFF Products, and each has detailed information and understanding about the PFAS in AFFF Products. The State, by contrast, did not have access to such information.

- iii. Old DuPont knew, or should have known, of the harms caused by PFOA, and it concealed its knowledge from regulators and users of AFFF Products

100. Old DuPont began using PFOA and other PFAS in the 1950s and, quickly thereafter, developed an understanding of the dangers of using these chemicals.

101. During this time, Old DuPont was aware that PFOA was toxic to animals and humans and that it bioaccumulates and biopersist in the environment. Old DuPont also knew that

it had emitted and discharged PFOA and other PFAS from its Teflon® and related industrial facilities in large quantities into the environment and that tens of thousands of people had been exposed to its PFOA, including via public and private drinking water supplies.

102. Old DuPont scientists issued *internal* warnings about the toxicity associated with its PFOA products as early as 1961, including that PFOA caused adverse liver reactions in rats and dogs. Old DuPont's Toxicology Section Chief opined that such products should be "handled with extreme care," and that contact with the skin should be "strictly avoided."

103. In 1978, based on information it received from 3M about elevated and persistent fluoride levels in workers exposed to PFOA, Old DuPont initiated a plan to review and monitor the health conditions of potentially exposed workers in order to assess whether any negative health effects were attributable to PFOA exposure. This monitoring plan involved obtaining blood samples from the workers and analyzing the samples for the presence of fluorine.

104. By 1979, Old DuPont had data indicating that its workers exposed to PFOA had a significantly higher incidence of health issues than did unexposed workers. Old DuPont did not report these data or the results of its worker health analysis to any government agency or community at that time.

105. The following year, Old DuPont *internally* confirmed that PFOA "is toxic," that humans accumulate PFOA in their tissues, and that "continued exposure is not tolerable."

106. Not only did Old DuPont know that PFOA accumulated in humans, but it was also aware that PFOA could cross the placenta from an exposed mother to her gestational child. In 1981, Old DuPont conducted a blood sampling study of pregnant or recently pregnant employees. Of the eight women in the study who worked with fluoropolymers, two—or 25%—had children with birth defects in their eyes or face, and at least one had PFOA in the umbilical cord.

107. In fact, Old DuPont reported to EPA in March 1982 that results from a rat study showed PFOA crossing the placenta if present in maternal blood, but Old DuPont concealed the results of the study of its own plant workers.

108. While Old DuPont knew about PFOA's toxicity danger as early as the 1960s, Old DuPont was also aware that PFAS was capable of contaminating the surrounding environment, leading to human exposure. No later than 1984, Old DuPont was aware that PFOA is biopersistent.

109. Old DuPont was long aware that the PFAS it was releasing from its facilities could leach into groundwater used for public drinking water. After obtaining data on these releases and the consequent contamination near Old DuPont's plant in West Virginia, Old DuPont, in 1984, held a meeting at its corporate headquarters in Wilmington, Delaware to discuss health and environmental issues related to PFOA. Old DuPont employees in attendance spoke of the PFOA issue as "one of corporate image, and corporate liability." They were resigned to Old DuPont's "incremental liability from this point on if we do nothing" because Old DuPont was "already liable for the past 32 years of operation." They also stated that the "legal and medical [departments within Old DuPont] will likely take the position of total elimination" of PFOA use in Old DuPont's business and that these departments had "no incentive to take any other position."

110. Old DuPont's own Epidemiology Review Board ("ERB") repeatedly raised concerns about Old DuPont's statements to the public that there were no adverse health effects associated with human exposure to PFOA. For example, in February 2006, the ERB "strongly advise[d] against any public statements asserting that PFOA does not pose any risk to health" and questioned "the evidential basis of [Old DuPont's] public expression asserting, with what appears to be great confidence, that PFOA does not pose a risk to health."

111. In 2004, the EPA filed an action against Old DuPont based on its failure to disclose

toxicity and exposure information for PFOA, in violation of the Toxic Substances Control Act (“TSCA”) and Resource Conservation and Recovery Act (“RCRA”). Old DuPont eventually settled the action by agreeing to pay over \$16 million in civil administrative penalties and supplemental environmental projects. EPA called the settlement the “largest civil administrative penalty EPA has ever obtained under any federal environmental statute.”

112. Despite all of its knowledge regarding PFOA’s toxicity, Old DuPont continued to claim that PFOA posed no health risks and, in fact, only got into the AFFF market after 3M announced it was leaving the market (because PFOA and PFOS were so toxic). In 2008, Old DuPont literature is quoted in an article on AFFF appearing in *Industrial Fire World* magazine, stating that Old DuPont “believes the weight of evidence indicates that PFOA exposure does not pose a health risk to the general public” because “there are no human health effects known to be caused by PFOA.”

iv. Old DuPont worked in concert with other Manufacturer Defendants and the Firefighting Foam Coalition to protect AFFF Products from regulatory scrutiny

113. The Firefighting Foam Coalition (“FFFC”), an AFFF trade group, was formed in 2001 to advocate for AFFF’s continued viability. National Foam, Kidde-Fenwal, Tyco/Ansul, Chemguard, Dynax, Old DuPont, and Chemours (“FFFC Defendants”), among others in the industry, were members of the FFFC. Through their involvement in the FFFC, as well as a variety of other trade associations and groups, FFFC Defendants shared knowledge and information regarding PFOA and its precursors released from AFFF Products.

114. The FFFC Defendants worked together to protect AFFF Products from scrutiny, including by coordinating their messaging on PFOA’s toxicological profile and their AFFF Products’ contribution of PFOA into the environment. All of this was done as a part of the FFFC’s efforts to shield its members and the AFFF industry from the detrimental impact of the public and

regulators learning the truth about the harms of PFOA to the environment and human health. FFFC Defendants regularly published newsletters bolstering their AFFF Products. FFFC Defendants also regularly attended conferences.

115. FFFC Defendants' coordinated messaging and publishing efforts were meant to dispel concerns about the impact AFFF Products had on the environment and human health. They worked in concert to conceal known risks of their AFFF Products and the PFOA and its precursors contained therein from the government and public. On information and belief, they either had an express or tacit understanding to conceal such risks.

116. FFFC Defendants repeated the same message for years: Only one PFAS chemical, PFOS, had been taken off the market. Because the FFFC Defendants' products did not contain PFOS, they claimed their products were safe.

117. Among other things, FFFC Defendants persuaded the EPA that their AFFF Products should be excluded from EPA's enforceable consent agreement process related to PFOA and fluorinated telomer production by arguing that the products were not likely to be a source of PFOA in the environment.

118. FFFC Defendants knew, however, that their messaging regarding their AFFF Products was false. Each of the FFFC Defendants knew that PFOA was released—*directly into the environment*—from the use of their AFFF Products, and that PFOA presented a similar threat to the environment and public health as that posed by PFOS. While this was known to FFFC Defendants, it was not fully understood by the public and regulators, including the State.

E. AFFF Products Have Resulted in PFOS and PFOA Contamination on and off Seymour Johnson

119. North Carolina's natural resources on and off Seymour Johnson have been contaminated with PFOS and PFOA through the storage, handling, use, training with, testing

equipment with, otherwise discharging, and/or disposing of AFFF Products at Seymour Johnson, and investigation of the contamination is ongoing. Manufacturer Defendants' designing, manufacturing, marketing, and selling of AFFF Products throughout North Carolina, including to the military at Seymour Johnson, have been a substantial factor in causing injuries to the natural resources of North Carolina due to PFOS and PFOA contamination.

120. Seymour Johnson is located approximately 25 miles east of the boundary between the Piedmont Upland and Atlantic Coastal Plain. There are three aquifers beneath Seymour Johnson. Groundwater flow in the uppermost aquifer is influenced by topography, so the overall direction of flow is from the higher central portion of the base, northward into Stoney Creek, westward into the Neuse River, or southward into the southern drainage ditch.

121. Seymour Johnson is a training and operations facility for the 4th Fighter Wing. The site contains four fighter squadrons. Two squadrons are operational units, capable of deploying worldwide on short notice and immediately generating combat power. Two squadrons are responsible for training all F-15E aircrews. The site also contains the 916th Air Refueling Wing, which is an Air Force Reserve Command Wing under the Air Mobility Command.

122. The Air Force began using AFFF to extinguish petroleum fires in 1970. Since then, Manufacturer Defendants' AFFF Products caused PFOS, PFOA, and/or their precursors to enter the environment during routine fire training, equipment maintenance, storage, and use.

123. AFFF Products containing PFOS, PFOA, and/or their precursors have contaminated Seymour Johnson. PFOA and PFOS have been detected at all six on-site areas where the Air Force tested for these chemicals: Former Fire Training Area 3, Building 4522, Building 4537, Building 4735, Aircraft Tire Fire area, and KC-135 Crash Site. According to the AF SI Report, with the exception of the Aircraft Tire Fire area, each site presents a potential hazard to

human health.

124. Former Fire Training Area 3 is located near the northwestern boundary of Seymour Johnson. This area was used for fire training activities from 1956 to 1992. After 1970, AFFF was released in this area. Samples from this area show the presence of PFOS and PFOA in surface soil, subsurface soil, and groundwater. One groundwater sample shows the concentration of PFOS and PFOA reaching 200,000 ppt—*more than 2,857 times* the EPA's 70 ppt HAL. From the Former Fire Training Area 3, groundwater flows west towards Stoney Creek and the Neuse River.

125. Building 4522 is a five-bay hangar near the south end of the runway. Two releases of AFFF—one in 2000, the other in 2001—were reported in this area. Both releases were, at least partially, captured in the hangar's floor drains. Samples from the Building 4522 area show the presence of PFOS and PFOA in surface soil, subsurface soil, and groundwater. One groundwater sample shows the concentration of PFOS and PFOA reaching 56,400 ppt—*more than 805 times* the EPA's 70 ppt HAL. From Building 4522, groundwater runs southwest towards the Neuse River.

126. Building 4537 is a three-bay hangar near the south end of the runway. The hangar's AFFF system in Bay B (middle bay) accidentally discharged in 1998. The foam reportedly remained inside the hangar doors and collected in the floor drains. Samples from the Building 4537 area show the presence of PFOS and PFOA in subsurface soil and groundwater. One groundwater sample shows the concentration of PFOS and PFOA reaching 157.5 ppt—*more than twice* the EPA's 70 ppt HAL. From Building 4537, groundwater runs southwest towards the Neuse River.

127. Building 4735 is a two-bay hangar near the middle of the runway. Two releases of AFFF—both in early 2015—were reported in this area. Both releases were, at least in part,

captured by floor drains. An AFFF holding pond is located northeast of the building. Samples from this area show the presence of PFOS and PFOA in surface and subsurface soils, sediment, surface water, and groundwater. One groundwater sample shows the combined concentration of PFOS and PFOA reaching 312,000 ppt—*more than 4,457 times* the EPA’s 70 ppt HAL. From Building 4735, groundwater runs southwest towards the Neuse River.

128. The Aircraft Tire Fire area is the site of a 2004 aircraft tire fire on the runway. Approximately 20 gallons of a mixture of AFFF and water was used to extinguish the fire. The foam was left to evaporate on the runway. Samples from this area show the presence of PFOS and PFOA in surface soil, subsurface soil, and groundwater. From this area, groundwater runs southwest towards the Neuse River.

129. The KC-135 Crash Site area is the site of a 1973 KC-135 refueling aircraft crash near the west end of the runway. Approximately 1,700 gallons of JP-4 aviation fuel were spilled and retained in a deep trench excavated down gradient from the crash site. The fuel was then burned on location. The Air Force typically sprayed AFFF on crash sites, fuel releases, and fires, so it is likely that an unknown quantity of AFFF was released during the incident. Samples from this area show the presence of PFOS and PFOA in surface soil, subsurface soil, and groundwater. One groundwater sample shows the concentration of PFOS and PFOA reaching 147.8 ppt—*more than twice* the EPA’s 70 ppt HAL. From the KC-135 Crash Site, groundwater runs southwest towards the Neuse River.

130. The PFOS and PFOA contamination described above has also contaminated North Carolina’s natural resources near Seymour Johnson.

131. Groundwater wells in the areas of Former Fire Training Area 3, Building 4522, Building 4537, Building 4735, and KC-135 Crash Site “present a potential hazard to human

health.” The nearest off-site drinking water well is a mere 3,840 feet from contaminated groundwater under Building 4522. Upon information and belief, off-site drinking water wells have been impacted by the PFOS and PFOA contamination at Seymour Johnson.

132. The Neuse River and Stoney Creek are the two surface waters that border Seymour Johnson. Unlike the majority of Wayne County, the City of Goldsboro’s drinking water supply comes from the Neuse River, not groundwater. According to the AF SI Report, groundwater or storm water contaminated with PFOS and PFOA can migrate from Former Fire Training Area 3, Building 4735, and KC-135 Crash Site to the Neuse River and/or Stoney Creek. The discharge of these contaminated waters into the Neuse River and/or Stoney Creek “provide[s] a potential direct human exposure pathway to off-base personnel.” Upon information and belief, the Neuse River, Stoney Creek, and other surface water bodies near Seymour Johnson, including their submerged lands and biota, have been impacted by the PFOS and PFOA contamination at Seymour Johnson.

133. Upon information and belief, Seymour Johnson’s PFOS and PFOA contamination has affected State-owned properties in the path of the groundwater flow and downstream of contaminated surface water bodies. These properties include, but are not limited to, Cliffs of the Neuse State Park and Prices Landing Access Area.

134. As investigation of AFFF Products-related contamination continues, additional contamination areas will be discovered. Such investigation is necessary to ascertain the scope of AFFF Products-related contamination and to return the natural resources impacted to levels that are safe for human health and the environment as well as to the condition they were in prior to the impact of these contaminants. Manufacturer Defendants are liable for the cost of such investigation, remediation, and restoration of all of the property, soils, waters, and other natural resources contaminated with PFAS from AFFF Products.

135. The PFOA and PFOS in groundwater and surface waters is likewise impacting North Carolina's drinking water sources. The Manufacturer Defendants are liable for all of the costs necessary to investigate and treat (in perpetuity) any and all drinking water wells and sources of drinking water impacted by PFOA and PFOS from AFFF Products used at Seymour Johnson.

F. Old DuPont's Multi-Step, Fraudulent Scheme to Isolate Its Valuable Tangible Assets from Its PFAS Liabilities and Hinder Creditors

136. Old DuPont sought to insulate itself from billions of dollars of legacy environmental liabilities, especially those arising from PFOA and other PFAS contamination at chemical plants that it owned and operated throughout the country, and these efforts have included unlawful attempts to shield assets from liability for AFFF contamination.

137. Upon information and belief, Old DuPont's potential cumulative liability related to PFOA and other PFAS is likely billions of dollars due to the persistence, mobility, bioaccumulative properties, and toxicity of these "forever" compounds, as well as Old DuPont's decades-long attempt to hide the dangers of PFAS from the public.

138. For more than five decades, Old DuPont manufactured, produced, or utilized PFOA and other PFAS at plants in New Jersey and West Virginia, and at Fayetteville Works in North Carolina. As alleged above, throughout this time, Old DuPont was aware that PFOA was toxic, harmful to animals and humans, bioaccumulative, and biopersistent in the environment. Old DuPont also knew that it had emitted and discharged PFOA and other PFAS in large quantities into the environment, and that tens of thousands of people had been exposed to PFOA, including through public and private drinking water supplies, which Old DuPont had contaminated. Thus, Old DuPont knew, or reasonably should have known, that it faced billions of dollars in liabilities arising from its use of PFAS.

139. For example, in 1999, members of the Tennant family, who owned property

impacted by PFOA contamination adjacent to Old DuPont's Washington Works plant in West Virginia, sued Old DuPont in West Virginia federal court.

140. Old DuPont's in-house counsel was very concerned about Old DuPont's exposure related to PFOA. In November 2000, one of Old DuPont's in-house counsel handling PFOA issues wrote to his co-counsel: "We are going to spend millions to defend these lawsuits and have the additional threat of punitive damages hanging over our head. Getting out in front and acting responsibly can undercut and reduce the potential for punitives Our story is not a good one, we continued to increase our emissions into the river in spite of internal commitments to reduce or eliminate the release of this chemical into the community and the environment because of our concern about the biopersistence of this chemical."

141. In 2005, after settling the *Tennant* case, Old DuPont agreed to pay \$10.25 million to resolve eight counts brought by EPA alleging violations of TSCA and RCRA. Old DuPont also was required to commit an additional \$6.25 million to supplemental environmental projects.

142. Also, in 2005, a West Virginia court entered a final order approving a 2004 settlement with Old DuPont of a class action lawsuit filed on behalf of 70,000 Ohio and West Virginia residents who had been exposed to PFOA that Old DuPont had discharged from Washington Works. Under the terms of the settlement, which provided class benefits in excess of \$300 million, Old DuPont agreed to fund a panel of scientists (the "Science Panel") to confirm which diseases were linked to PFOA exposure, to filter local water from impacted public and private drinking water supplies, and to pay up to \$235 million for medical monitoring of the affected community for any diseases that the Science Panel linked to PFOA exposure. The settlement also provided that any class members who developed the linked diseases would be entitled to sue for personal injury, and Old DuPont agreed not to contest the fact that the class

members' exposure to PFOA could cause each of the linked diseases.

143. By 2012, after seven years of studies, the Science Panel confirmed "probable links" between class member exposure to PFOA and the following serious human diseases: medically-diagnosed high cholesterol; ulcerative colitis; pregnancy-induced hypertension; thyroid disease; testicular cancer; and kidney cancer.

144. After probable links with disease had been confirmed by the Science Panel, more than 3,500 personal injury claims were filed against Old DuPont in Ohio and West Virginia by class members with one or more of those linked diseases under the terms of the 2005 class settlement. In 2013, these claims were consolidated in federal multidistrict litigation styled *In Re: E. I. du Pont de Nemours and Company C-8 Personal Injury Litigation* (MDL No. 2433) in the United States District Court for the Southern District of Ohio. A number of trials were scheduled to take place in 2015 and 2016.

145. Old DuPont knew that it faced substantial exposure at these trials, as well as liability related to PFOA and other PFAS contamination at other sites throughout the country, including in North Carolina, and that its liability was likely billions of dollars.

146. In light of this significant exposure, upon information and belief, by 2013, Old DuPont's management began to consider restructuring the company in order to, among other things, avoid responsibility for the widespread environmental harm that Old DuPont's PFAS had caused and shield billions of dollars in assets from these substantial liabilities. Old DuPont referred to this initiative internally as "Project Beta."

147. Upon information and belief, Old DuPont contemplated various restructuring opportunities, including potential merger structures. In that connection, in or about 2013, Old DuPont and Old Dow began discussions about a possible "merger of equals."

148. On information and belief, Old DuPont recognized that neither Old Dow, nor any other rational merger partner, would agree to a transaction that would result in exposing Old Dow, or any other merger partner, to the substantial PFAS and environmental liabilities that Old DuPont faced.

149. Accordingly, Old DuPont's management decided to pursue a corporate restructuring strategy specifically designed to isolate Old DuPont's massive legacy liabilities from its valuable tangible assets in an attempt to shield those assets from creditors and entice Old Dow to pursue the proposed merger.

150. Old DuPont engaged in a three-part restructuring plan, which in summary proceeded as follows:

151. The first step in Old DuPont's plan was to transfer its performance chemicals business (which included Teflon® and other products, the manufacture of which involved the use of PFOA and other PFAS) ("Performance Chemicals Business") into its wholly owned subsidiary, Chemours. And then, in July 2015, Old DuPont "spun-off" Chemours as a separate public entity and saddled Chemours with Old DuPont's massive legacy liabilities (the "Chemours Spinoff").

152. Old DuPont knew that Chemours was undercapitalized and could not satisfy the massive liabilities that it caused Chemours to assume. Old DuPont also knew that the Chemours Spinoff alone would not isolate its own assets from its PFAS liabilities, and that Old DuPont still faced direct liability for its own conduct.

153. Accordingly, Old DuPont moved on to the next step of its plan, designed to further distance itself from the exposure it had created over its decades-long bad conduct with regard to the environment and PFAS.

154. The second step involved Old DuPont and Old Dow entering into an "Agreement

and Plan of Merger” in December 2015, pursuant to which Old DuPont and Old Dow merged with subsidiaries of a newly formed holding company, DowDuPont, Inc. (“DowDuPont”), which was created for the sole purpose of effectuating the merger. Old DuPont and Old Dow became subsidiaries of DowDuPont.

155. Then, through a series of subsequent agreements, DowDuPont engaged in numerous business segment and product line “realignments” and “divestitures.”

156. The net effect of these transactions was to transfer, either directly or indirectly, a substantial portion of Old DuPont’s assets to DowDuPont.

157. The third step involved DowDuPont spinning off two new publicly traded companies: (i) Corteva, which currently holds Old DuPont as a subsidiary, and (ii) Dow, Inc. (“New Dow”) which currently holds Old Dow. DowDuPont was then renamed DuPont de Nemours, Inc. (*i.e.*, New DuPont).

158. As a result of these transactions, between December 2014 (pre-Chemours Spinoff) and December 2019 (post-Dow merger), the value of Old DuPont’s tangible assets decreased by \$20.85 billion, or approximately one-half.

159. New DuPont and New Dow now hold the vast majority of the tangible assets that Old DuPont formerly owned.

160. Many of the details about these transactions are hidden from the public in confidential schedules and exhibits to the various restructuring agreements. Upon information and belief, Old DuPont, New DuPont, and Corteva have intentionally buried these details in an attempt to hide from creditors, like the State, where Old DuPont’s valuable assets went and the inadequate consideration that Old DuPont received in return.

161. In greater detail, the restructuring was implemented as follows:

Step 1: the Chemours Spinoff

162. In February 2014, Old DuPont formed Chemours as a wholly owned subsidiary.

163. On April 30, 2015, it was converted from a limited liability company to a corporation named “The Chemours Company.”

164. On July 1, 2015, Old DuPont completed the spinoff of its Performance Chemicals Business, and Chemours became a separate, publicly traded entity.

165. At the time of the spinoff, the Performance Chemicals Business consisted of Old DuPont’s Titanium Technologies, Chemical Solutions, and Fluoroproducts segments, which included the business units that had manufactured, used, and discharged PFOA into the environment.

166. Prior to the Chemours Spinoff, Chemours’ Board of Directors had three members, all of whom were Old DuPont employees.

167. On June 19, 2015, a fourth member of the Board was appointed, and, upon information and belief, this fourth member had served as a member of Old DuPont’s Board of Directors from 1998 to 2015.

168. On July 1, 2015, effective immediately prior to the Chemours Spinoff, the size of the Chemours Board of Directors was expanded to eight members. The three initial Old DuPont employees resigned from the Board, and seven new members were appointed to fill the vacancies.

169. To effectuate the Chemours Spinoff, Old DuPont and Chemours entered into the June 26, 2015 Separation Agreement (the “Chemours Separation Agreement”).

170. Pursuant to the Chemours Separation Agreement, Old DuPont agreed to transfer to Chemours all businesses and assets related to the Performance Chemicals Business, including 37 active chemical plants, which included Fayetteville Works.

171. Old DuPont completed a significant internal reorganization prior to the Chemours Spinoff to ensure the transfer of all of its Performance Chemicals Business assets to Chemours.

172. At the same time, Chemours accepted a broad assumption of Old DuPont's massive liabilities relating to Old DuPont's Performance Chemicals Business. The specific details regarding the nature and value of probable maximum loss, and anticipated timing of the liabilities that Chemours assumed are set forth in the non-public schedules and exhibits to the Chemours Separation Agreement.

173. Notwithstanding the billions of dollars in environmental and PFAS liabilities that Chemours would face, on July 1, 2015, Chemours transferred to Old DuPont approximately \$3.4 billion as a cash dividend, along with a "distribution in kind" of promissory notes with an aggregate principal amount of \$507 million.

174. Thus, in total, Chemours distributed approximately \$3.9 billion to Old DuPont. Chemours funded these distributions by entering into approximately \$3.995 billion of financing transactions, including senior secured term loans and senior unsecured notes, on May 12, 2015. Also, Chemours distributed approximately \$3.0 billion in common stock to Old DuPont's shareholders on July 1, 2015 (181 million shares at \$16.51 per share price).

175. Accordingly, most of the valuable assets that Chemours may have had at the time of the Chemours Spinoff were unavailable to creditors with current or future PFAS claims, and Old DuPont stripped Chemours' value for itself and its shareholders. Old DuPont, however, only transferred \$4.1 billion in net assets to Chemours. The Chemours Separation Agreement also required Chemours to assume billions of dollars of Old DuPont's PFAS liabilities and includes an indemnification of Old DuPont in connection with these liabilities, which is uncapped and does not have a survival period.

176. Specifically, the Chemours Separation Agreement requires Chemours to indemnify Old DuPont against, and assume for itself, all “Chemours Liabilities,” which are defined broadly to include, among other things, “any and all Liabilities relating . . . primarily to, arising primarily out of or resulting primarily from, the operation or conduct of the Chemours Business, as conducted at any time prior to, at or after the Effective Date . . . including . . . any and all Chemours Assumed Environmental Liabilities,” which includes Old DuPont’s historic liabilities relating to and arising from its decades of emitting pollution, including PFOA, into the environment from its dozens of facilities.

177. Chemours must indemnify Old DuPont against, and assume for itself, the Chemours Liabilities regardless of: (i) when or where such liabilities arose; (ii) whether the facts upon which they are based occurred prior to, on, or subsequent to the effective date of the spinoff; (iii) where or against whom such liabilities are asserted or determined; (iv) whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of law, fraud or misrepresentation by any member of the Old DuPont group or the Chemours group; (v) the accuracy of the maximum probable loss values assigned to such liabilities; and (vi) which entity is named in any action associated with any liability.

178. The Chemours Separation Agreement also requires Chemours to indemnify Old DuPont from, and assume all, environmental liabilities that arose prior to the Chemours Spinoff if they were “primarily associated” with the Performance Chemicals Business.

179. In addition, Chemours agreed to use its best efforts to be fully substituted for Old DuPont with respect to “any order, decree, judgment, agreement or Action with respect to Chemours Assumed Environmental Liabilities”

180. Notably, Chemours sued Old DuPont in Delaware state court in 2019, alleging,

among other things, that if (i) the full value of Old DuPont's PFAS and environmental liabilities were properly estimated, and (ii) the Court does not limit Chemours' liability that the Chemours Separation Agreement imposes, then Chemours would have been insolvent at the time it was spun off from Old DuPont.

181. There was no meaningful, arms-length negotiation of the Chemours Separation Agreement and Old DuPont largely dictated its terms.

182. In its Delaware lawsuit, Chemours alleged that Old DuPont refused to allow any procedural protections for Chemours in the negotiations, and Old DuPont and its outside counsel prepared all the documents to effectuate the Chemours Spinoff. Indeed, during the period in which the terms of commercial agreements between Chemours and Old DuPont were negotiated, Chemours did not have an independent board of directors or management independent of Old DuPont.

183. Chemours' independent board, newly appointed on July 1, 2015, immediately prior to the Chemours Spinoff, did not participate in the negotiations of the terms of the separation.

184. It is apparent that Old DuPont's goal with respect to the Chemours Spinoff was to segregate a large portion of Old DuPont's legacy environmental liabilities, including liabilities related to its PFAS chemicals and products, and, in so doing, shield Old DuPont.

185. Not surprisingly, given Old DuPont's extraction of nearly \$4 billion from Chemours immediately prior to the Chemours Spinoff, Chemours was thinly capitalized and unable to satisfy the substantial liabilities that it assumed from Old DuPont. Indeed, Chemours disclosed in public filings with the U.S. Securities and Exchange Commission ("SEC") that its "significant indebtedness" arising from its separation from Old DuPont restricted its current and future operations.

186. Shortly after the Chemours Spinoff, market analysts described Chemours as “a bankruptcy waiting to happen” and a company “purposely designed for bankruptcy.”

187. At the end of December 2014, Chemours reported it had total assets of \$5.959 billion and total liabilities of \$2.286 billion. At the end of 2015, following the Chemours Spinoff, Chemours reported that it had total assets of \$6.298 billion and total liabilities of \$6.168 billion, yielding a total net worth of \$130 million.

188. For the year 2015, Chemours reported \$454 million in “other accrued liabilities,” which in turn included \$11 million for accrued litigation and \$68 million for environmental remediation. Chemours separately reported \$553 million in “other liabilities,” which included an additional \$223 million for environmental remediation and \$58 million for accrued litigation.

189. Chemours significantly underestimated its liabilities, including the liabilities that it had assumed from Old DuPont with respect to PFAS, and which Old DuPont and Chemours knew or should have known would be billions of dollars in addition to other environmental liabilities for other contaminants discharged at Old DuPont and Chemours facilities.

190. For example, in 2017, Chemours and Old DuPont amended the Chemours Separation Agreement in connection with the settlement of the personal injury multi-district litigation brought by thousands of residents who had been exposed to PFOA from Old DuPont’s Washington Works plant. Per the amendment, Chemours paid \$320.35 million to the plaintiffs in the settlement on August 21, 2017, and Old DuPont paid an additional \$320.35 million on September 1, 2017.

191. Had the full extent of Old DuPont’s legacy liabilities been taken into account, as they should have been at the time of the Chemours Spinoff, Chemours would have had negative equity (that is, total liabilities greater than total assets), not only on a tangible basis, but also on a

total equity basis, Chemours would have been rendered insolvent at that time.

Step 2: the Old Dow/Old DuPont “merger”

192. After the Chemours Spinoff, Old DuPont took the untenable position that it was somehow no longer responsible for the widespread PFAS contamination that it had caused over several decades.

193. Of course, Old DuPont could not contractually discharge all of its historical liabilities through the Chemours Spinoff, and Old DuPont remained liable for the liabilities it had caused and Chemours had assumed.

194. Old DuPont knew that it could not escape liability and would still face exposure for PFAS liabilities, including for potentially massive punitive damages. So Old DuPont moved to the next phase of its fraudulent scheme.

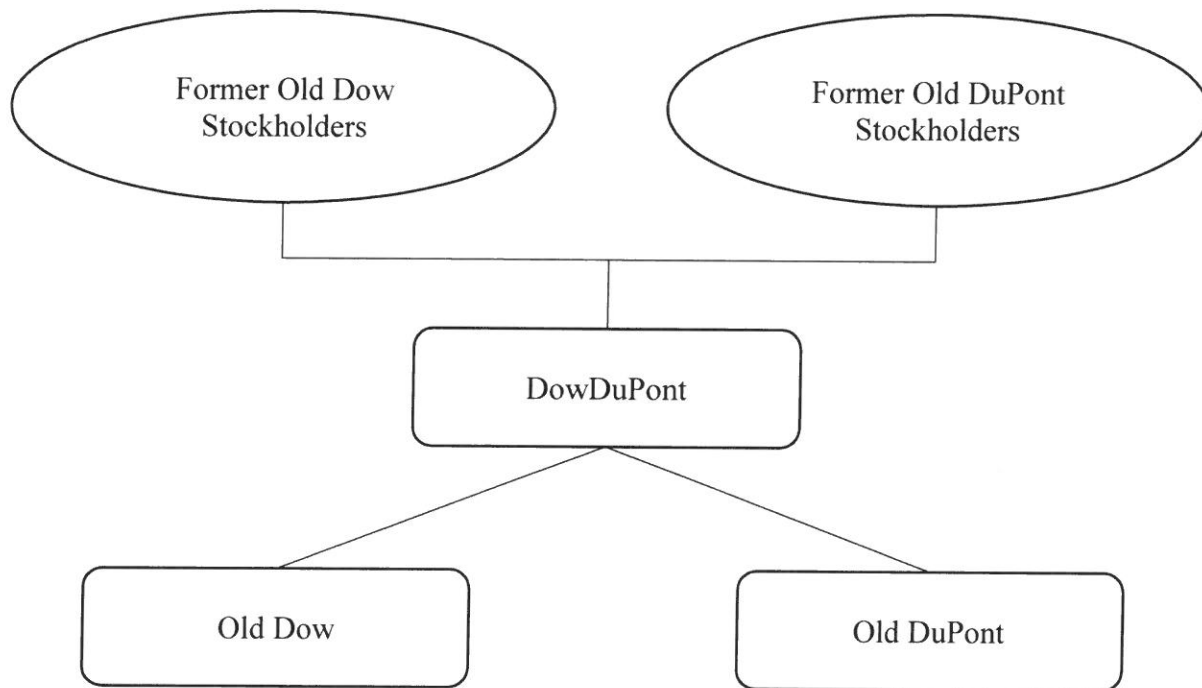
195. On December 11, 2015, less than six months after the Chemours Spinoff, Old DuPont and Old Dow announced that their respective boards had approved an agreement “under which the companies [would] combine in an all-stock merger of equals” and that the combined company would be named DowDuPont, Inc. (the “Dow-DuPont Merger”). The companies disclosed that they intended to subsequently separate the combined companies’ businesses into three publicly-traded companies through further spinoffs, each of which would occur 18 to 24 months following the closing of the merger.

196. To effectuate the transaction, Old DuPont and Old Dow entered into an Agreement and Plan of Merger (the “Dow-DuPont Merger Agreement”) that provided for: (i) the formation of a new holding company – Diamond-Orion HoldCo, Inc., later named DowDuPont, and then renamed DuPont de Nemours, Inc. (*i.e.*, New DuPont), and (ii) the creation of two new merger subsidiaries into which Old Dow and Old DuPont each would merge.

197. Thus, as a result of the Merger, and in accordance with the DowDuPont Merger Agreement, Old Dow and Old DuPont each became wholly owned subsidiaries of DowDuPont.

198. Although Old DuPont and Old Dow referred to the transaction as a “merger of equals,” the two companies did not actually merge at all, because doing so would have infected Old Dow with all of Old DuPont’s historical PFAS liabilities. Rather, Old DuPont and Old Dow became affiliated sister companies that were each owned by the newly formed DowDuPont. DowDuPont was aware of Old DuPont’s historical PFAS liabilities, including those in North Carolina.

199. The below image reflects the corporate organization following the “merger”:



Step 3: the shuffling, reorganization, and transfer of valuable assets away from Old DuPont and separation of Corteva and New Dow

200. Following the Dow-DuPont Merger, DowDuPont underwent a significant internal reorganization, and engaged in numerous business segment and product line “realignments” and “divestitures.” The net effect of these transactions has been the transfer, either directly or

indirectly, of a substantial portion of Old DuPont's assets out of the company.

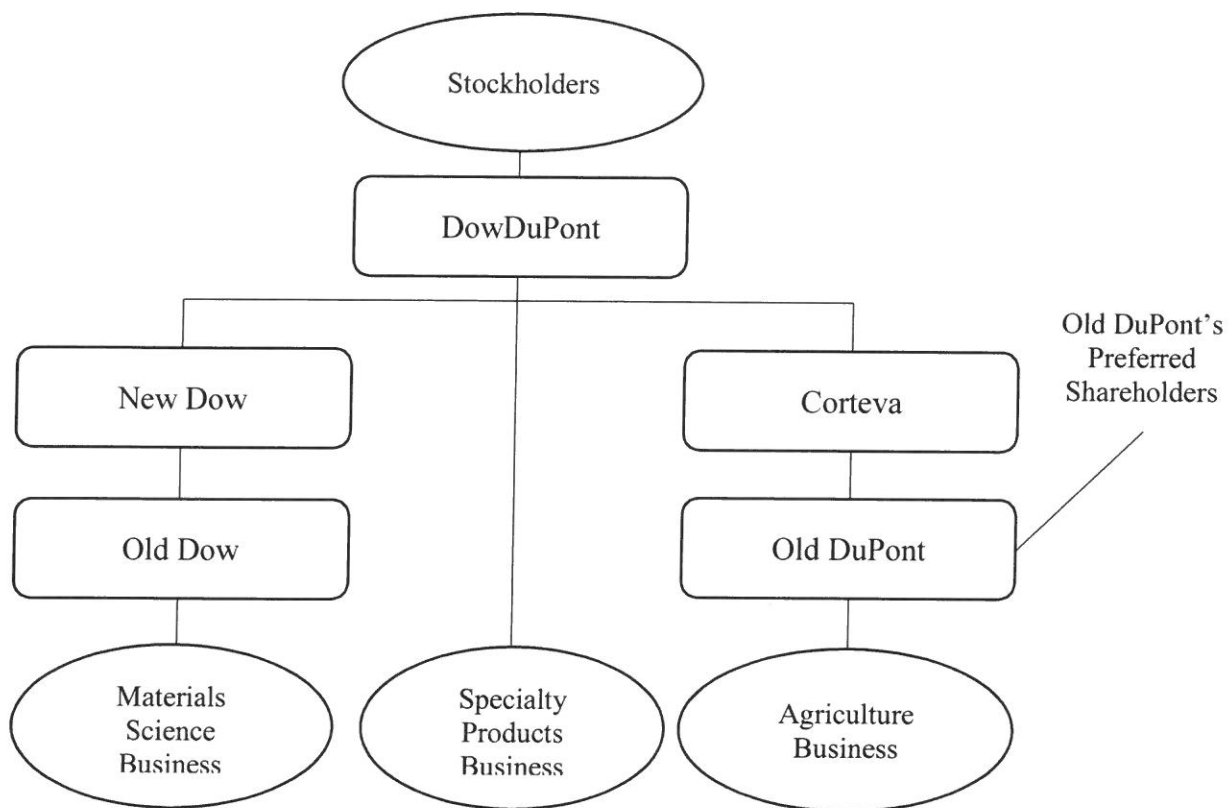
201. While, again, the details of these transactions remain hidden from the State and other creditors, it is apparent that the transactions were intended to frustrate and hinder creditors with claims against Old DuPont, including with respect to its substantial environmental and PFAS liabilities.

202. Old DuPont's assets, including its remaining business segments and product lines, were transferred either directly or indirectly to DowDuPont, which reshuffled the assets and combined them with the assets of Old Dow, and then reorganized the combined assets into three distinct divisions: (i) the "Agriculture Business," (ii) the "Specialty Products Business," and (iii) the "Material Sciences Business."

203. While the precise composition of these divisions, including many details of the specific transactions, the transfer of business segments, and the divestiture of product lines during this time, are not publicly available, it is apparent that Old DuPont transferred a substantial portion of its valuable assets to DowDuPont, for far less than the assets were worth.

204. Once the assets of Old DuPont and Old Dow were combined and reorganized, DowDuPont incorporated two new companies to hold two of the three newly formed business lines: (i) Corteva, which became the parent holding company of Old DuPont, which in turn holds the Agriculture Business, and (ii) New Dow, which became the parent holding company of Old Dow, and which holds the Materials Science Business. DowDuPont retained the Specialty Products Business, and prepared to spin off Corteva and New Dow into separate, publicly traded companies.

205. The below graph depicts the structure of DowDuPont after the internal reorganization and realignment:



206. The mechanics of the separations are governed by the April 1, 2019 Separation and Distribution Agreement among Corteva, New Dow, and DowDuPont (the “DowDuPont Separation Agreement”).

207. The agreement generally allocates the assets primarily related to the respective business divisions to Corteva (Agriculture Business), New Dow (Materials Science Business), and New DuPont (Specialty Products Business). New DuPont also retained several “noncore” business segments and product lines that once belonged to Old DuPont.

208. Similarly, Corteva, New Dow, and New DuPont each retained the liabilities primarily related to the business divisions that they retained, *i.e.*, (i) Corteva retained and assumed the liabilities related to the Agriculture Business, (ii) New DuPont retained and assumed the liabilities related to the Specialty Products Business, and (iii) New Dow retained and assumed the

liabilities related to the Materials Science Business.

209. Corteva and New DuPont also assumed direct financial liability of Old DuPont that was not related to the Agriculture, Material Science, or Specialty Products Businesses, including, on information and belief, the PFAS liabilities. These assumed PFAS liabilities are allocated on a *pro rata* basis between Corteva and New DuPont pursuant to the DowDuPont Separation Agreement, such that, after both companies have satisfied certain conditions, future liabilities are allocated 71% to New DuPont and 29% to Corteva.

210. This “allocation” applies to Old DuPont’s legacy liabilities for PFAS contamination and its former Performance Chemicals Business, including the State’s claims in this case.

211. While New DuPont and Corteva have buried the details in non-public schedules, upon information and belief, New DuPont and Corteva each assumed these liabilities under the DowDuPont Separation Agreement, along with other liabilities related to Old DuPont’s discontinued and divested businesses. The State can therefore bring claims against New DuPont and Corteva directly for Old DuPont’s contamination of North Carolina’s natural resources.

212. The separation of New Dow was completed on or about April 1, 2019, when DowDuPont distributed all of New Dow’s common stock to DowDuPont stockholders as a *pro rata* dividend.

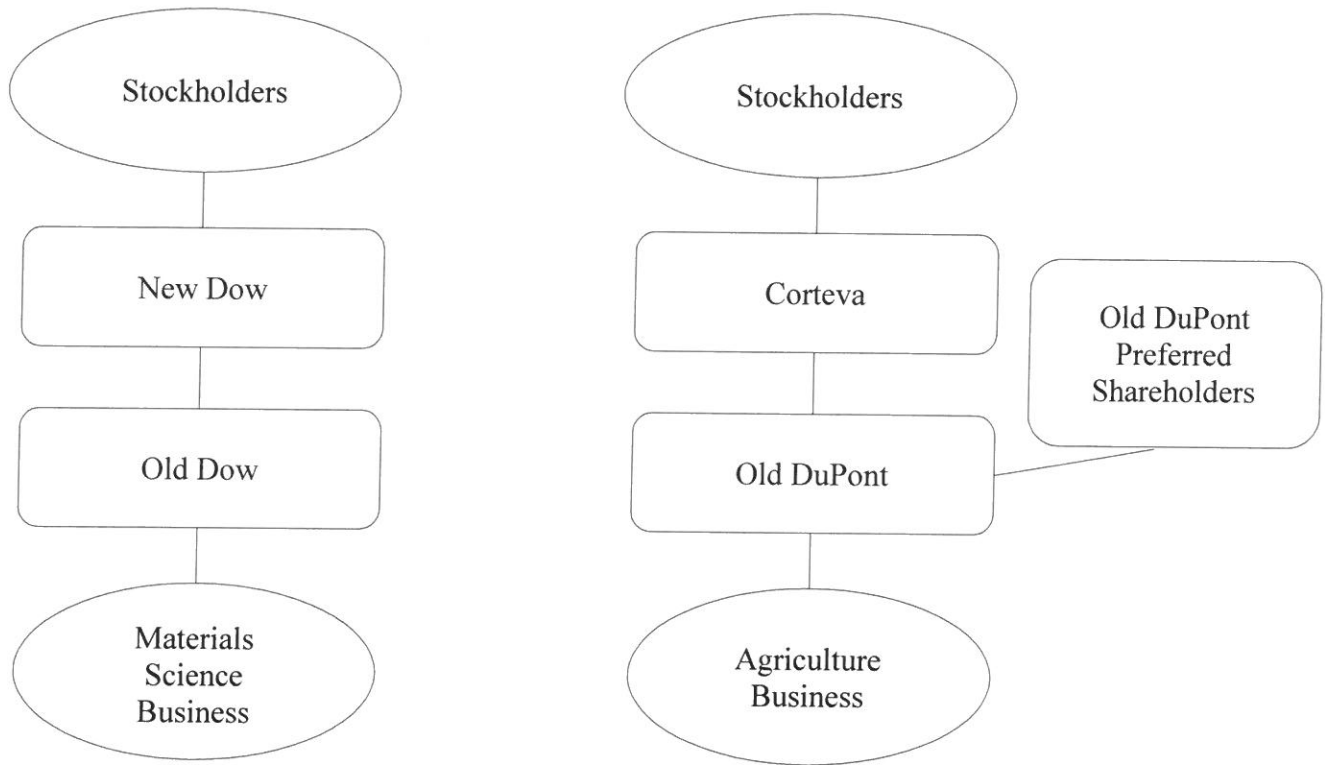
213. On or about May 2, 2019, DowDuPont consolidated the Agricultural Business line into Old DuPont, and then, on or about May 31, 2019, it “contributed” Old DuPont to Corteva. The following day, on June 1, 2019, DowDuPont spun off Corteva as an independent public company.

214. Corteva now holds 100% of the outstanding common stock of Old DuPont.

215. The separation of Corteva was completed on or about June 1, 2019, when

DowDuPont distributed all of Corteva’s common stock to DowDuPont stockholders as a *pro rata* dividend.

216. The corporate structures of New Dow and Old Dow, and Corteva and Old DuPont, respectively, following the separations are depicted below:



217. Also, on or about June 1, 2019, DowDuPont changed its registered name to DuPont de Nemours, Inc. (*i.e.*, New DuPont).

The effect of the years-long scheme to defraud the State and other creditors and avoid financial responsibility for legacy liabilities

218. The net result of these transactions was to strip away valuable tangible assets from Old DuPont and transfer those assets to New DuPont and Corteva for far less than the assets are worth.

219. Old DuPont estimated that the Dow-DuPont Merger created “goodwill” worth

billions of dollars. When the Corteva separation was complete, a portion of this “goodwill” was assigned to Old DuPont in order to prop up its balance sheet. But, in reality, Old DuPont was left with substantially fewer tangible assets than it had prior to the restructuring.

220. In addition, Old DuPont owes a debt to Corteva of approximately \$4 billion. SEC filings demonstrate the substantial deterioration of Old DuPont’s finances and the drastic change in its financial condition before and after the above transactions.

221. For example, for the fiscal year ended 2014, prior to the Chemours Spinoff, Old DuPont reported \$3.6 billion in net income and \$3.7 billion in cash provided by operating activities. For the 2019 fiscal year, just months after the Corteva separation, however, Old DuPont reported a net loss of \$1 billion and only \$996 million in cash provided by operating activities. That is a decrease of 128% in net income and a decrease of 73% in annual operating cash flow.

222. Additionally, Old DuPont reported a significant decrease in Income from Continuing Operations Before Income Taxes (a/k/a Earnings Before Tax, or “EBT”). Old DuPont reported \$4.9 billion in EBT for the period ending December 31, 2014. For the period ending December 31, 2019, Old DuPont reported EBT of negative \$422 million.

223. Also, for the fiscal year ended 2014, prior to the Chemours Spinoff, Old DuPont owned nearly \$41 billion in tangible assets. For the fiscal year ended 2019, Old DuPont owned just under \$21 billion in tangible assets.

224. That means in the five-year period over which the restructuring occurred, when Old DuPont knew that it faced billions of dollars in environmental and PFAS liabilities, Old DuPont transferred or divested approximately half of its tangible assets—totaling \$20 billion.

225. As of September 2019, just after the Corteva spinoff, Old DuPont reported \$43.251 billion in assets. But, almost \$21.835 billion of these assets were comprised of intangible assets,

including “goodwill” from its successive restructuring activities.

226. At the same time, Old DuPont reported liabilities totaling \$22.060 billion. Thus, when the Corteva spinoff was complete, Old DuPont’s tangible net worth (excluding its intangible assets) was *negative* \$644 million.

227. In addition, the State cannot take comfort in the “allocation” of liabilities to New DuPont and Corteva. Neither of those Defendants has publicly conceded that they assumed Old DuPont’s historical environmental and PFAS liabilities. And it is far from clear that either entity will be able to satisfy future judgments.

228. Indeed, New DuPont is in the process of divesting numerous business segments and product lines, including tangible assets that it received from Old DuPont and for which Old DuPont has received less than reasonably equivalent value.

229. New DuPont has received or will receive significant proceeds on the sales of Old DuPont’s former business segments and product lines.

230. In September 2019, New DuPont sold the Sustainable Solutions business for \$28 million to Gyrus Capital.

231. On December 15, 2019, New DuPont agreed to sell the Nutrition and Biosciences business to International Flavors & Fragrances for \$26.2 billion. That transaction closed in February 2021.

232. In March 2020, New DuPont completed the sale of Compound Semiconductor Solutions for \$450 million to SK Siltron.

233. In addition, New DuPont has issued Notices of Intent to Sell relating to six non-core segments (estimated by market analysts at approximately \$4.5 billion), as well as the Transportation and Industrial Chemicals business, which had reported net sales revenue in 2019

of \$4.95 billion and estimated annual operating earnings before interest, taxes, depreciation, and amortization of \$1.3 billion.

234. Old DuPont's parent holding company, Corteva—to which 29% of PFAS liabilities are “allocated” under the DowDuPont Separation Agreement once certain conditions are satisfied—holds as its primary tangible asset the intercompany debt owed to it by its wholly owned subsidiary, Old DuPont. But Old DuPont does not have sufficient tangible assets to satisfy this debt obligation.

FIRST CAUSE OF ACTION

(Product Liability: Design Defect – As Against All Defendants)

235. Plaintiff repeats each allegation of Paragraphs 1 through 234 above as though fully set forth in its entirety herein.

236. Manufacturer Defendants designed, manufactured, marketed, and sold AFFF Products containing PFOS, PFOA, and/or their precursors that were transported, stored, used, handled, released, spilled, and/or disposed at Seymour Johnson during the relevant period.

237. As designers, manufacturers, marketers, and sellers of AFFF Products, Manufacturer Defendants had a duty to make and sell products that are reasonably fit, suitable, and safe for their intended or reasonably foreseeable uses. Manufacturer Defendants owed that duty both to reasonably foreseeable users of their products and also to any person or property that might reasonably be expected to come into contact with those products.

238. Manufacturer Defendants' AFFF Products containing PFOS, PFOA, and/or their precursors were used in a reasonably foreseeable manner and without substantial change in the condition of such products. These products were defective and unfit for their reasonable use. Manufacturer Defendants' AFFF Products foreseeably contaminated groundwater, surface water,

sediments, soils, biota, and other natural resources at and around Seymour Johnson where they were used. Manufacturer Defendants knew or reasonably should have known that their manufacture, marketing, and/or sale, as well as their customers' transport, storage, use, handling, release, spilling and/or disposal of AFFF Products in an intended or reasonably foreseeable manner, would result in the release of PFOS and PFOA in the environment, including at Seymour Johnson and in North Carolina.

239. AFFF Products containing PFOS, PFOA, and/or their precursors used at Seymour Johnson have injured and are continuing to injure groundwater, surface water, submerged lands, sediments, soils, biota, and other natural resources at and/or around the site.

240. Manufacturer Defendants' AFFF Products were defective in design and unreasonably dangerous because, among other things:

- 1) Manufacturer Defendants' AFFF Products cause extensive and persistent PFOS and PFOA contamination when used in a reasonably foreseeable and intended manner;
- 2) PFOS and PFOA released into the environment from Manufacturer Defendants' AFFF Products cause contamination in groundwater and surface water that are the sources of drinking water and pose significant threats to public health and welfare; and
- 3) Manufacturer Defendants failed to disclose reasonable, appropriate, or adequate scientific studies to evaluate the environmental fate and transport and potential ecological and human health effects of PFOS and PFOA.

241. At all times relevant to this action, the AFFF Products that Manufacturer Defendants designed, manufactured, marketed, and sold were dangerous to an extent beyond that

which would be contemplated by the ordinary consumer.

242. At all times relevant to this action, the foreseeable risk to the environment and public health and welfare posed by Manufacturer Defendants' AFFF Products containing PFOS, PFOA, and/or their precursors outweighed the cost to Manufacturer Defendants of reducing or eliminating such risk.

243. At all times relevant to this action, Manufacturer Defendants knew or should have known about reasonably safer and feasible alternatives to their AFFF Products, and the omission of such alternative designs rendered their AFFF Products not reasonably safe. While Manufacturer Defendants have recently transitioned to short-chain PFAS-based AFFF Products, which they claim are safer, they could have made this transition earlier. Moreover, AFFF Products can be designed with fluorine-free compounds, which do not contain or break down into PFAS.

244. As a direct and proximate result of the defects in Manufacturer Defendants' design, manufacture, marketing, and sale of AFFF Products containing PFOS, PFOA, and/or their precursors, groundwater, surface water, submerged lands, sediments, soils, biota, and other natural resources at and/or near Seymour Johnson where the AFFF Products were used have become contaminated with PFOS and/or PFOA, causing the State and its citizens significant injury and damage.

245. As a direct and proximate result of Manufacturer Defendants' acts and omissions, as alleged herein, the State has incurred, is incurring, and will continue to incur damages in an amount to be proved at trial related to PFOS and PFOA contamination of groundwater, surface water, submerged lands, sediment, soils, biota, and other natural resources and State-owned lands at and/or near Seymour Johnson where Manufacturer Defendants' AFFF Products were transported, stored, used, handled, released, spilled, and/or disposed.

246. Moreover, as a further direct and proximate result of Manufacturer Defendants' acts and omissions, the State will incur costs and expenses related to contamination of the groundwater, surface waters, submerged lands, sediments, soils, biota, and other natural resources at and/or near Seymour Johnson where Manufacturer Defendants' AFFF Products were transported, stored, used, handled, released, spilled, and/or disposed, for which Manufacturer Defendants are strictly, jointly, and severally liable. The State hereby seeks all such past and future costs associated with the investigation, remediation, treatment, and restoration due to the use of AFFF Products used at Seymour Johnson from the Manufacturer Defendants, jointly and severally.

247. In *parens patriae*, the State also seeks all future costs necessary to investigate, treat, filter, and replace all private and public water wells and systems contaminated from the AFFF used at Seymour Johnson, as well as associated future operation and maintenance costs.

248. Manufacturer Defendants knew it was substantially certain that their acts and omissions described above would cause the contamination and harms described herein. Manufacturer Defendants committed each of the above-described acts and omissions with actual malice or with a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

249. Manufacturer Defendants have thus violated N.C.G.S. § 99B-1 et. seq., including § 99B-6, and are liable for all such damages, and the State is entitled to recover all such damages and other relief.

250. On information and belief, New DuPont and Corteva assumed Old DuPont's design defect liability described above.

SECOND CAUSE OF ACTION

(Products Liability: Failure to Warn – As Against All Defendants)

251. Plaintiff repeats each allegation of Paragraphs 1 through 250 above as though fully set forth in its entirety herein.

252. As designers, manufacturers, marketers, and sellers of AFFF Products containing PFOS, PFOA, and/or their precursors, Manufacturer Defendants had a duty to the State and to those who were at risk of being harmed by AFFF Products to warn users of those products and the State of the foreseeable harms associated with them.

253. Manufacturer Defendants had a duty to warn the State about the dangers of their AFFF Products because, among other things, the State protects, for the benefit of its citizens, all natural resources within its jurisdiction and maintains a “quasi-sovereign” interest in the well-being of its residents.

254. Manufacturer Defendants inadequately warned of the likelihood that PFOS and/or PFOA would be released into the environment during the normal use of Manufacturer Defendants’ AFFF Products, and of the widespread, toxic, and persistent effects of such releases. Manufacturer Defendants failed to provide such warnings to (i) users and buyers of their AFFF Products containing PFOS, PFOA, and/or their precursors, (ii) the State, and (iii) others to which it was reasonably foreseeable Manufacturer Defendants’ AFFF Products would cause harm. To the extent Manufacturer Defendants provided any warnings about their products, they were not warnings that a reasonably prudent person in the same or similar circumstances would have provided with respect to the danger posed by AFFF Products containing PFOS, PFOA, and/or their precursors, and the warnings did not convey adequate information on the dangers of AFFF Products containing these chemicals to the mind of a reasonably foreseeable or ordinary user or bystander.

255. Despite the fact that Manufacturer Defendants knew or should have known about the risks of AFFF Products containing PFOS, PFOA, and/or their precursors, Manufacturer

Defendants withheld such knowledge from Plaintiff, regulators, and the public. Moreover, Manufacturer Defendants affirmatively distorted and/or suppressed the information known to them and the scientific evidence linking their products to the unreasonable dangers they pose.

256. At no time relevant to this action did Manufacturer Defendants warn users and buyers of their AFFF Products, the State, and others who it was reasonably foreseeable would be harmed by AFFF Products, that Manufacturer Defendants' AFFF Products would release PFOS and/or PFOA into the environment during the products' normal use, and of the widespread, toxic, and persistent effects of such releases.

257. Manufacturer Defendants' AFFF Products were in the same condition when they were purchased and/or used as they were when they left Manufacturer Defendants' control. Manufacturer Defendants' customers used the AFFF Products in a reasonably foreseeable manner and without any substantial change in the condition of the products.

258. As a direct and proximate result of Manufacturer Defendants' failure to warn of the hazards of AFFF Products containing PFOS, PFOA, and/or their precursors, groundwater, surface water, submerged lands, sediments, soils, biota, and other natural resources at and around Seymour Johnson where Manufacturer Defendants' AFFF Products were transported, stored, used, handled, released, spilled, and/or disposed have become contaminated with PFOS and PFOA.

259. As a direct and proximate result of Manufacturer Defendants' acts and omissions, as alleged herein, the State has incurred, is incurring, and will continue to incur damages in an amount to be proved at trial related to PFOS and PFOA contamination of groundwater, surface water, submerged lands, sediment, soils, biota, and other natural resources and State-owned lands at and/or near Seymour Johnson where Manufacturer Defendants' AFFF Products were transported, stored, used, handled, released, spilled, and/or disposed.

260. Moreover, as a further direct and proximate result of Manufacturer Defendants' acts and omissions, the State has incurred, and will continue to incur, investigation, cleanup and removal, restoration, treatment, monitoring, and other costs and expenses related to contamination of the groundwater, surface waters, submerged lands, sediments, soils, biota, and other natural resources at and/or near Seymour Johnson where Manufacturer Defendants' AFFF Products were transported, stored, used, handled, released, spilled, and/or disposed, for which Manufacturer Defendants are strictly, jointly, and severally liable. The State hereby seeks all such past and future costs associated with the investigation, remediation, treatment, and restoration due to the use of AFFF Products used at Seymour Johnson from the Manufacturer Defendants, jointly and severally.

261. In *parens patriae*, the State also seeks all future costs necessary to investigate, treat, filter, and replace all private and public water wells and systems contaminated from the AFFF used at Seymour Johnson, as well as associated future operation and maintenance costs.

262. Manufacturer Defendants knew it was substantially certain that their acts and omissions described above would cause the State's injury and damage. Manufacturer Defendants committed each of the above-described acts and omissions with actual malice or with a wanton and willful disregard of persons who foreseeably might be harmed by those acts or omissions.

263. Manufacturer Defendants have thus violated N.C.G.S. § 99B-1 et. seq., including § 99B-5, and are liable for all such damages, and the State is entitled to recover all such damages and other relief.

264. On information and belief, New DuPont and Corteva assumed Old DuPont's failure to warn liability described above.

THIRD CAUSE OF ACTION

(Public Nuisance – As Against All Defendants)

265. Plaintiff repeats each allegation of Paragraphs 1 through 264 above as though fully set forth in its entirety herein.

266. The Manufacturer Defendants' AFFF Products have caused and continue to cause PFOS and PFOA contamination of the State's air, soil, sediments, biota, surface waters, submerged lands, wetlands, groundwater, and property held in trust or otherwise owned by the State, rendering these natural resources unfit for their uses.

267. The State is entitled to the full use and enjoyment of the natural resources it holds in trust for its citizens. These natural resources include, among other things, air, soils, sediments, biota, surface waters, wetlands, and groundwater. The State and its citizens have been deprived of the use and enjoyment of these natural resources by the Manufacturer Defendants' acts and omissions. Likewise, the State's lands have been contaminated, causing the State property and economic damages.

268. The Manufacturer Defendants' acts and omissions affect a substantial number of people—the community at large—who use these trust resources for commercial, subsistence, passive use, and recreational purposes and interferes with the rights of the public to clean and safe natural resources and the environment, including but not limited to the right to safe, uncontaminated drinking water.

269. The gravity of the environmental and human health risks created by the Manufacturer Defendants' conduct and their concealment of the dangers to human health and the environment far outweigh any social utility of the Manufacturer Defendants' conduct.

270. The actions of the Manufacturer Defendants have caused and/or allowed an unreasonable interference with the health, wealth, welfare, and property of the public and constitute a common law public nuisance for which the Manufacturer Defendants are liable and

subject to injunctive relief prohibiting the creation and continuance of said nuisance, and the State is entitled to all direct and consequential damages as described herein. Manufacturer Defendants are also liable for any other relief that will abate and remediate the nuisance and its short-term and long-term effects.

271. In *parens patriae*, the State also seeks all future costs necessary to investigate, treat, filter, and replace all private and public water wells and systems contaminated from the AFFF used at Seymour Johnson, as well as associated future operation and maintenance costs.

272. Upon information and belief, Corteva and New DuPont assumed Old DuPont's liability described above.

FOURTH CAUSE OF ACTION

(Actual Fraudulent Transfer in Relation to the Chemours Spinoff – As Against Old DuPont, Chemours, Corteva, and New DuPont)

273. Plaintiff repeats each allegation of Paragraphs 1 through 272 above as though fully set forth in its entirety herein.

274. The State is and was a creditor of Chemours at all relevant times.

275. Through its participation in the Chemours Spinoff, as detailed above, Chemours transferred valuable assets to Old DuPont, including the \$3.9 billion dividend (the "Chemours Transfers"), while simultaneously assuming significant liabilities pursuant to the Separation Agreement (the "Assumed Liabilities").

276. The Chemours Transfers and Assumed Liabilities were made for the benefit of Old DuPont.

277. At the time that the Chemours Transfers were made and the Assumed Liabilities were assumed, and until the Chemours Spinoff was complete, Old DuPont was in a position to, and in fact did, control and dominate Chemours.

278. Chemours made the Chemours Transfers and incurred the Assumed Liabilities with the actual intent to hinder, delay, and defraud the creditors or future creditors of Chemours.

279. The State has been harmed as a result of the Chemours Transfers.

280. Under N.C.G.S. §§ 39-23.4, -23.5, and -23.7 and Del. Code tit. 6 §§ 1301 to 1312, the State is entitled to void the Chemours Transfers and to recover property or value transferred to Old DuPont.

281. Upon information and belief, Corteva and New DuPont assumed Old DuPont's liability described above.

FIFTH CAUSE OF ACTION

(Constructive Fraudulent Transfer in Relation to the Chemours Spinoff – As Against Old DuPont, Chemours, Corteva, and New DuPont)

282. Plaintiff repeats each allegation of Paragraphs 1 through 281 above as though fully set forth in its entirety herein.

283. The State is and was a creditor of Chemours at all relevant times.

284. Chemours did not receive reasonably equivalent value from Old DuPont in exchange for the Chemours Transfers and Assumed Liabilities.

285. Each of the Chemours Transfers and Chemours's assumption of the Assumed Liabilities was made to benefit, or for the benefit of, Old DuPont.

286. At the time that the Chemours Transfers were made and the Assumed Liabilities were assumed, and until the Spinoff was complete, Old DuPont was in a position to, and in fact did, control and dominate Chemours.

287. Chemours made the Chemours Transfers and assumed the Assumed Liabilities when it was engaged or about to be engaged in a business for which its remaining assets were unreasonably small in relation to its business.

288. Chemours was insolvent at the time or became insolvent as a result of the Chemours Transfers and its assumption of the Assumed Liabilities.

289. At the time that the Chemours Transfers were made and Chemours assumed the Assumed Liabilities, Old DuPont and Chemours intended Chemours to incur or believed or reasonably should have believed that Chemours would incur debts beyond its ability to pay as they became due.

290. The State has been harmed as a result of the Chemours Transfers.

291. Under N.C.G.S. §§ 39-23.4, -23.5, and -23.7 and Del. Code tit. 6 §§ 1301 to 1312, the State is entitled to void the Chemours Transfers and to recover property or value transferred to Old DuPont.

292. Upon information and belief, Corteva and New DuPont assumed Old DuPont's liability described above.

SIXTH CAUSE OF ACTION

(Actual Fraudulent Transfer in Relation to the Dow-DuPont Merger and Subsequent Restructurings, Asset Transfers, and Separations – As Against Old DuPont, New DuPont, and Corteva)

293. Plaintiff repeats each allegation of Paragraphs 1 through 292 above as though fully set forth in its entirety herein.

294. The State is and was a creditor of Old DuPont at all relevant times.

295. Through its participation in the Dow-DuPont Merger, and through the separations of New DuPont, New Dow, and Corteva, Old DuPont sold or transferred, directly or indirectly, valuable assets and business lines to Corteva and New DuPont (the "Old DuPont Transfers").

296. The Old DuPont Transfers were made for the benefit of New DuPont and/or Corteva.

297. At the time that the Old DuPont Transfers were made, New DuPont was in a position to, and in fact did, control and dominate Old DuPont and Corteva.

298. Old DuPont, New DuPont, and Corteva acted with the actual intent to hinder, delay, and defraud creditors or future creditors, including the State.

299. The State has been harmed as a result of the Old DuPont Transfers.

300. Old DuPont engaged in acts in furtherance of a scheme to transfer its assets out of the reach of parties such as the State that have been damaged as a result of the actions described in this Complaint.

301. Under N.C.G.S. §§ 39-23.4, -23.5, and -23.7 and Del. Code tit. 6 §§ 1301 to 1312, the State is entitled to void the Old DuPont Transfers and to recover property and value transferred to New DuPont and Corteva.

302. The State also seeks to enjoin New DuPont and Corteva, as transferees, from distributing, transferring, capitalizing, or otherwise disposing of any proceeds from the sale of any business lines, segments, divisions, or other assets that formerly belonged to Old DuPont, and seeks a constructive trust over such proceeds for the benefit of the State.

SEVENTH CAUSE OF ACTION

(Constructive Fraudulent Transfer in Relation to the Dow-DuPont Merger and Subsequent Restructurings, Asset Transfers, and Separations – As Against Old DuPont, New DuPont, and Corteva)

303. Plaintiff repeats each allegation of Paragraphs 1 through 302 above as though fully set forth in its entirety herein.

304. The State is and was a creditor of Old DuPont at all relevant times.

305. Old DuPont did not receive reasonably equivalent value from New DuPont and Corteva in exchange for the Old DuPont Transfers.

306. Each of the Old DuPont Transfers was made to benefit, or for the benefit of, New DuPont and/or Corteva.

307. At the time that the Old DuPont Transfers were made, New DuPont was in a position to, and in fact did, control and dominate Old DuPont and Corteva.

308. Old DuPont made the Old DuPont Transfers when it was engaged or about to be engaged in a business for which its remaining assets were unreasonably small in relation to its business.

309. Old DuPont was insolvent at the time or became insolvent as a result of the Old DuPont Transfers.

310. At the time that the Old DuPont Transfers were made, Old DuPont intended to incur, or believed, or reasonably should have believed that it would incur debts beyond its ability to pay as they became due.

311. The State has been harmed as a result of the Old DuPont Transfers.

312. Under N.C.G.S. §§ 39-23.4, -23.5, and -23.7 and Del. Code tit. §§ 1301 to 1312, the State is entitled to void the Old DuPont Transfers and to recover property or value transferred to New DuPont and Corteva.

313. The State also seeks to enjoin New DuPont and Corteva, as transferees, from distributing, transferring, capitalizing, or otherwise disposing of any proceeds from the sale of any business lines, segments, divisions, or other assets that formerly belonged to Old DuPont, and seeks a constructive trust over such proceeds for the benefit of the State.

JURY DEMAND

314. The State demands trial by jury on all issues so triable.

REQUEST FOR RELIEF

315. WHEREFORE, the State respectfully requests that this Court enter judgment against Defendants:

1. Finding Defendants liable for all costs to investigate, clean up and remove, restore, treat, monitor, and otherwise respond to PFOS and PFOA contamination resulting from Manufacturer Defendants' AFFF Products, so the contaminated natural resources are restored to their original condition, and for all damages to compensate the residents of the State for the lost use and value of these natural resources during all times of injury caused by PFOS and PFOA, and for such orders as may be necessary to provide full relief to address the threat of contamination to the State, including the costs of:

- a. Past and future testing of natural resources at and around Seymour Johnson where Manufacturer Defendants' AFFF Products were stored, handled, used, trained with, tested equipment with, otherwise discharged, and disposed of at the site and thus likely caused PFOS and/or PFOA contamination;
- b. Past and future investigation, remediation, and treatment of all natural resources at and around Seymour Johnson where Manufacturer Defendants' AFFF Products were stored, handled, used, trained with, tested equipment with, otherwise discharged, and disposed of and which contain detectable levels of PFOS and/or PFOA until restored to non-detectable levels; and
- c. Past and future monitoring of the State's natural resources at and around Seymour Johnson where Manufacturer Defendants' AFFF Products were stored, handled, used, trained with, tested equipment with, otherwise discharged, or disposed of and as long as there is a detectable presence of PFOS and/or PFOA, and restoration of such natural resources to their pre-discharge condition.

2. Ordering Defendants to pay for all costs related to the investigation, cleanup, restoration, treatment, and monitoring of the PFOS, PFOA, and other PFAS from AFFF contamination of the State's natural resources at and around Seymour Johnson where Manufacturer Defendants' AFFF Products were stored, handled, used, trained with, tested equipment with, disposed of, or otherwise discharged.

3. Ordering Defendants to pay for the full cost of restoring the State's natural resources at and around Seymour Johnson to their original condition prior to the PFOS and/or PFOA contamination resulting from Manufacturer Defendants' AFFF Products.

4. Ordering Defendants to pay the State all future costs necessary to investigate, treat, filter, and replace all private and public water wells and systems contaminated with PFOS, PFOA, and other PFAS from AFFF used at the Seymour Johnson, as well as associated future operation and maintenance costs for such systems.

5. Ordering Defendants to pay for all compensatory damages, economic damages, property damages, and lost value (including lost use) related to the State's natural resources as a result of the PFOS and/or PFOA contamination resulting from Manufacturer Defendants' AFFF Products at and around Seymour Johnson.

6. Ordering Defendants to pay for all other damages sustained by the State in its public trustee, *parens patriae*, and other capacities as a direct and proximate result of Defendants' acts and omissions alleged herein.

7. Ordering Defendants to reimburse the State for its costs of abatement, without regard to fault, including but not limited to all costs to investigate, clean up, restore, treat, monitor, and otherwise respond to contamination of the State's natural resources resulting from Manufacturer Defendants' AFFF Products so that such natural resources are restored to their

original condition.

8. Compelling Defendants to abate the nuisance by investigating, cleaning up, restoring, treating, monitoring, and otherwise responding to contamination of the State's natural resources resulting from Manufacturer Defendants' AFFF Products so that such natural resources are restored to their original condition.

9. Ordering Defendants to pay restitution to the State.

10. Ordering Defendants to disgorge all ill-gotten gains.

11. Ordering the Chemours Transfers and Old DuPont Transfers void to the extent necessary to satisfy the State's claims.

12. Enjoining New DuPont and Corteva from selling, distributing, transferring, capitalizing, or otherwise disposing of any proceeds from the sale of any business line, segment, division, or other asset that formerly belonged to Old DuPont, and/or imposing a constructive trust over any such proceeds for the benefit of the State.

13. Ordering Defendants to pay exemplary or punitive damages as the trier of fact deems just and proper.

14. Ordering Defendants to pay the State's fees and costs of court.

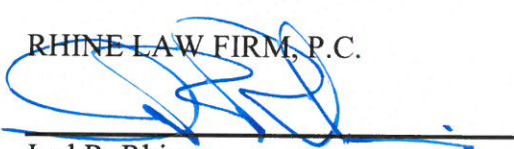
15. Granting the State all other relief to which it is entitled.

This is the 4th day of November, 2021.

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