

**UNITED STATES DISTRICT COURT
DISTRICT OF GUAM**

RAYMOND AGUON; JOHNNY ARCEO;)
BENNY BAZA; WILLIAM CASTRO;)
DAVID G. CEPEDA; GREYORIO CRUZ;)
MICHAEL CUASITO;)
FRANCISCO C. DUENAS;)
DELFINO V. GARCIA; STEVE HAGEN;)
ALFRED C. IGNACIO;)
JAMES T. LINNEL; MARK MERFALEN;)
ANDREW R. MESA; VAN W. MURER;)
RUDY PACO; VICENTE PEREZ;)
MICHAEL ROBERTO;)
RANDY SABLAN; LEWIS SANTOS;)
RAY TAITAGUE; EDWARD TERLAJE;)
ANTHONY QUINENE; for themselves)
and on behalf of all others similarly situated,)

Plaintiffs,)

vs.)

3M COMPANY (f/k/a Minnesota)
Mining and Manufacturing Co.);)
TYCO FIRE PRODUCTS LP;)
CHEMGUARD, INC.;)
BUCKEYE FIRE EQUIPMENT)
COMPANY;)
KIDDE-FENWAL, INC.;)
NATIONAL FOAM, INC. ;)
DYNAX CORPORATION;)
E.I. DU PONT DE NEMOURS AND CO.;)
THE CHEMOURS COMPANY;)
THE CHEMOURS COMPANY FC, L.L.C.)

Defendants.)

CIVIL CASE NO. _____

**CLASS ACTION COMPLAINT
AND DEMAND FOR JURY TRIAL**

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CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiffs, RAYMOND AGUON; JOHNNY ARCEO; BENNY BAZA; WILLIAM CASTRO; DAVID G. CEPEDA; GREYORIO CRUZ; MICHAEL CUASITO; FRANCISCO C. DUENAS; DELFINO V. GARCIA; STEVE HAGEN; ALFRED C. IGNACIO; JAMES T. LINNEL; MARK MERFALEN; ANDREW R. MESA; VAN W. MURER; RUDY PACO; VICENTE PEREZ; MICHAEL ROBERTO; RANDY SABLAN; LEWIS SANTOS; RAY TAITAGUE; EDWARD TERLAJE; ANTHONY QUINENE, for themselves and on behalf of all others similarly situated (collectively “Plaintiffs”), by and through their undersigned counsel, hereby file this Class Action Complaint and Demand for Jury Trial, and make these allegations based on information and belief against the Defendants, 3M COMPANY (f/k/a Minnesota Mining and Manufacturing Co.); TYCO FIRE PRODUCTS LP; CHEMGUARD, INC.; BUCKEYE FIRE EQUIPMENT COMPANY; KIDDE-FENWAL, INC.; NATIONAL FOAM, INC.; DYNAX CORPORATION; E.I. DU PONT DE NEMOURS AND CO.; THE CHEMOURS COMPANY; and THE CHEMOURS COMPANY FC, L.L.C., and allege as follows:

I. INTRODUCTION

1. The Plaintiffs, for themselves and on behalf of a Class of similarly-situated individuals, bring this action for medical monitoring and monetary damages resulting from exposure to aqueous film-forming foams (“AFFF”) containing the toxic chemicals perfluorooctane sulfonate (“PFOS”), perfluorooctanoic acid (“PFOA”), and/or other per- and polyfluoroalkyl substances (collectively with PFOS and PFOA, “PFAS”) and/or from exposure to groundwater, surface water, and affected areas contaminated with PFOS and/or PFOA from AFFF products and chemical feedstock¹ used in AFFF that were manufactured, designed, sold, supplied and/or

¹ The PFOA and PFAS chemicals utilized to manufacture AFFF products are generally referred

distributed by each of the above-named Defendants, individually or through their predecessors or subsidiaries.

2. PFOS and PFOA are fluorosurfactants that repel oil, grease, and water. PFOS and PFOA, and/or their precursors, are or were components of the Defendants' AFFF products and/or chemical feedstocks, which are firefighting suppressant agents used in training and firefighting activities for fighting Class B fires. Class B fires include fires involving hydrocarbon fuels such as petroleum or other flammable liquids.

3. PFOS and PFOA present a significant threat to Guam's residents, especially firefighters who directly handle and use AFFF. PFOS and PFOA 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 multiple and significant adverse health effects in humans including, but not limited to, kidney cancer, testicular cancer, high cholesterol, thyroid disease, ulcerative colitis, and pregnancy induced hypertension.

4. Since the creation of AFFF in the 1960s, Defendants have sold their AFFF products to military and industrial facilities, airports, firefighting training facilities, and fire departments in Guam and elsewhere. These entities used Defendants' AFFF products as they were intended to be used and in a foreseeable manner, which exposed the Plaintiffs and putative Class members to significant levels of PFOS and PFOA.

5. Defendants were aware of the toxic nature of PFOS and PFOA and the harmful impact these substances have on human health. Nevertheless, the Defendants knowingly and willfully manufactured, designed, marketed, sold, and distributed AFFF products and/or chemical feedstocks containing PFOS and/or PFOA when they knew or reasonably should have known that

to herein as "chemical feedstock."

these harmful compounds would be released into the air, soil, and groundwater during firefighting training exercises and in firefighting emergencies, and would threaten the health and welfare of firefighters and other individuals exposed to these dangerous and hazardous chemicals.

6. The threat to human health posed by PFOS and PFOA is also evident based upon injuries to Guam's natural resources as a result of Defendants' conduct. For years, even decades, the Defendants either manufactured and sold AFFF products to the U.S. Navy and U.S. Air Force for use at military bases, airports and/or naval ships, or manufactured and sold PFAS, including surfactants and stabilizers and/or chemical feedstock, for use in the AFFF products that was sold to the U.S. Navy and U.S. Air Force. Hagåtña, Ordot, and Guam International Airport (which includes the former Naval Air Station Agana) have been identified as having AFFF-related contamination. Due to elevated levels of PFOS in groundwater, the Guam Waterworks Authority ("GWA") was forced to place two wells connected to the Hagåtña Groundwater Basin offline, which remain offline today. PFOS has also been discovered in at least four other wells near Guam International Airport; two of which also show elevated levels of PFOA.

7. On September 5, 2019, The Government of Guam, through Leevin T. Camacho, The Attorney General of Guam, filed a complaint against the above-named Defendants due to Guam sustaining damages to its natural resources caused by the Defendants' conduct alleged herein. *See Gov't of Guam v. The 3M Company, et al.*, Civil Case No. 7080-19, Superior Court of Guam.

8. The Plaintiffs and putative Class members represent numerous firefighters who handled, trained, and otherwise utilized AFFF-containing PFAS, that included but was not limited to PFOA and PFOS, at any of the following sites in Guam: 1) Anderson Air Force Base, 2) Naval

Base Guam, and 3) Antonio B. Won Pat International Airport (“Guam International Airport”) (collectively “**Guam AFFF Sites**”).

9. The Plaintiffs and putative Class members also represent numerous military and civilian personnel, as well as many other residents in the communities that surround the Guam AFFF Sites, who have been exposed for years to drinking water contaminated with PFOA and PFOS well above a safe drinking level. The Plaintiffs and putative Class members had no way of knowing that they were consuming water contaminated with PFOA and PFOS until the contamination was recently disclosed to them by state and federal officials.

10. As investigation continues, it is expected that further contamination from storage, handling, use, training with, testing equipment with, other discharges, and disposal of Defendants’ AFFF products will be uncovered in Guam, especially given the U.S. military’s historical and current presence on Guam. Accordingly, the Guam AFFF Sites may expand.

11. Over the course of the past several decades, the Plaintiffs and putative Class members routinely used and were significantly exposed to the Defendants’ products and/or were significantly exposed to PFOS and PFOA contaminated water at the Guam AFFF Sites where the Defendants’ AFFF products and/or chemical feedstocks were used and stored, thus necessitating the need for medical monitoring.

12. Through this action, the Plaintiffs, for themselves and on behalf of the putative Class, seek an order directing the Defendants to create, fund and support a medical monitoring program.

II. JURISDICTION AND VENUE

13. This Complaint is filed as an original action in the United States District Court for the District of Guam (“Original District”).

14. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(a) because the parties are diverse and the amount in controversy exceeds \$75,000.

15. This Court also has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because members of the proposed Plaintiff classes are citizens of states different from at least some of the Defendants' home states, and the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs.

15. Further, the Court has supplemental jurisdiction over Plaintiffs' and putative Class Members' state law claims pursuant to 28 U.S.C. § 1367.

16. This Court has personal jurisdiction over Defendants by virtue of each Defendants' regular and systematic contacts with Guam, including, among other things, purposefully marketing, selling and/or distributing their AFFF products and/or their chemical feedstock used in AFFF to and within Guam, and because they have the requisite minimum contacts with Guam necessary to constitutionally permit the Court to exercise jurisdiction over them consistent with traditional notions of fair play and substantial justice.

17. Venue is proper in the United States District Court for the District of Guam pursuant to 28 U.S.C. § 1391 and 18 U.S.C. §1965, because a substantial part of the events or omissions giving rise to the claim occurred in Guam, have caused harm to Class Members residing in this District, and the above-named individual Plaintiffs reside in this District.

III. PARTIES

A. Plaintiffs and Class Representatives

18. Plaintiff Raymond Aguon is a resident of Talofofo, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Raymond Aguon worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Aguon's employment

as a firefighter, between approximately 1986 and 2015, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Aguon, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

19. Plaintiff Raymond Aguon, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

20. Plaintiff Johnny Arceo is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Johnny Arceo worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Arceo's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Arceo, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

21. Plaintiff Johnny Arceo, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

22. Plaintiff Benny Baza is a resident of Barrigada, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Benny Baza worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Baza's employment as a

firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Baza, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

23. Plaintiff Benny Baza, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

24. Plaintiff William Castro is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff William Castro worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Castro's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Castro, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

25. Plaintiff William Castro, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

26. Plaintiff David G. Cepeda is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff David G. Cepeda worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Cepeda's employment as a

firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Cepeda, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

27. Plaintiff David G. Cepeda, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

28. Plaintiff Greyorio Cruz is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Gregorio Cruz worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Cruz's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Cruz, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

29. Plaintiff Greyorio Cruz, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

30. Plaintiff Michael Cuasito is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Michael Cuasito worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Cuasito's employment as a

firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Cuasito, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

31. Plaintiff Michael Cuasito, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

32. Plaintiff Francisco C. Duenas is a resident of Barrigada, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Francisco C. Duenas worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Duenas's employment as a firefighter, between approximately 1979 and 2014, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Duenas, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

33. Plaintiff Francisco C. Duenas, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

34. Plaintiff Delfino V. Garcia is a resident of Barrigada, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Delfino V. Garcia worked as a firefighter

in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Garcia's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Garcia, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

35. Plaintiff Delfino V. Garcia, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

36. Plaintiff Steve Hagen is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Steve Hagen worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Hagen's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Hagen, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

37. Plaintiff Steve Hagen, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

38. Plaintiff Alfred C. Ignacio is a resident of Yigo, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Alfred C. Ignacio worked as a firefighter

in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Ignacio's employment as a firefighter, between approximately 1962 and 1985, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Ignacio, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

39. Plaintiff Alfred C. Ignacio, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

40. Plaintiff James T. Linnel is a resident of Guam, who has resided at all material times in Dededo, Guam. At all material times, Plaintiff James T. Linnel worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Linnel's employment as a firefighter, between approximately 1969 and 1996, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Linnel, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

41. Plaintiff James T. Linnel, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

42. Plaintiff Mark Merfalen is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Mark Merfalen worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Merfalen's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Merfalen, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

43. Plaintiff Mark Merfalen, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

44. Plaintiff Andrew R. Mesa is a resident of Santa Rita, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Andrew R. Mesa worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Mesa's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Mesa, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

45. Plaintiff Andrew R. Mesa, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the

liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

46. Plaintiff Van W. Murer is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Van W. Murer worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Murer's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Murer, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

47. Plaintiff Van W. Murer, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

48. Plaintiff Rudy Paco is a resident of Hagatna, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Rudy Paco worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Paco's employment as a firefighter, between approximately 1986 and 2010, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Paco, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

49. Plaintiff Rudy Paco, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver

and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

50. Plaintiff Vicente Perez is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Vicente Perez worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Perez's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Perez, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

51. Plaintiff Vicente Perez, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

52. Plaintiff Michael Roberto is a resident of Talofofo, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Michael Roberto worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Roberto's employment as a firefighter, between approximately 2000 and 2019, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Roberto, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

53. Plaintiff Michael Roberto, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the

liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

54. Plaintiff Randy Sablan is a resident of Talofofo, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Randy Sablan worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Sablan's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Sablan, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

55. Plaintiff Randy Sablan, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

56. Plaintiff Lewis Santos is a resident of Guam, who has resided at all material times in Guam. At all material times, Plaintiff Lewis Santos worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Santo's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Santos, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

57. Plaintiff Lewis Santos, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the

liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

58. Plaintiff Ray Taitague is a resident of Inarajan, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Ray Taitague worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Taitague's employment as a firefighter, between approximately 1982 and 2002, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Taitague, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

59. Plaintiff Ray Taitague, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

60. Plaintiff Edward Terlaje is a resident of Hagatna, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Edward Terlaje worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Terlaje's employment as a firefighter, between approximately 1975 and 1985, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Terlaje, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

61. Plaintiff Edward Terlaje, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

62. Plaintiff Anthony Quinene is a resident of Hagatna, Guam, who has resided at all material times in Guam. At all material times, Plaintiff Anthony Quinene worked as a firefighter in Guam and worked as a firefighter at the Guam AFFF Sites. During Mr. Quinene's employment as a firefighter, he was significantly exposed to elevated levels of PFOS and PFOA in their concentrated form as a result of regular contact with the Defendants' AFFF products and through PFOS and PFOA having contaminated the Guam water supply. Mr. Quinene, all times material, obtained his drinking water from the GWA and/or drank water that was supplied from the wells at the Guam AFFF Sites.

63. Plaintiff Anthony Quinene, as a direct result of his exposure to PFOA and PFOS, is at a significantly increased risk of several health effects, including but not limited to effects on the liver and immune system, kidney cancer, testicular cancer, high cholesterol, colitis, and autoimmune diseases.

64. Each of the aforementioned proposed class representatives, at all material times, have been exposed to greater than normal background levels of PFOS and PFOA as a result of their consumption, inhalation and dermal absorption of PFOS and PFOA from the Defendants' AFFF products. Consequently, they are at a significantly increased risk of developing serious adverse health effects.

B. Defendants

65. Defendant 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 products containing PFOS, PFOA, and/or their precursors that were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

66. Beginning before 1970 and until at least 2002, 3M manufactured, distributed, and sold AFFF-containing PFAS, that included but was not limited to PFOA and PFOS.

67. 3M designed, distributed, manufactured, and/or sold AFFF-containing PFAS and/or PFAS constituents in AFFF that was used at the Guam AFFF Sites.

68. 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”).

69. Beginning in or around 1975, Ansul manufactured and/or distributed and sold AFFF-containing PFAS, that included but was not limited to PFOA and PFOS.

70. After Tyco acquired Ansul in 1990, Tyco/Ansul continued to design, manufacture, market, and sell AFFF products containing PFOS, PFOA, and/or their precursors that were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

71. 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. On information and belief, Chemguard has designed, manufactured, marketed, and sold AFFF products containing PFOS, PFOA, and/or their precursors that were

stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

72. Further, on information and belief, Chemguard has supplied fluorosurfactants to manufacturer AFFF products containing PFOS, PFOA, and/or their precursors, and such products were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

73. 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 products containing PFOS, PFOA, and/or their precursors that were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

74. Defendant Kidde-Fenwal, Inc. (“Kidde-Fenwal”) is a corporation organized under the laws of the State of Delaware, with its principal place of business 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 products containing PFOS, PFOA, and/or their precursors that were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

75. 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”).

76. On information and belief, National Foam/Angus Fire has designed, manufactured, marketed, and sold AFFF products containing PFOS, PFOA, and/or their precursors that were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

77. Defendant Dynax Corporation (“Dynax”) is a corporation organized under the laws of the State of Delaware, with its principal place of business located at 103 Fairview Park Drive, Elmsford, New York 10523. On information and belief, Dynax entered into the AFFF business on or about 1991 and quickly became a leading global producer of fluorosurfactants and fluorochemical stabilizers containing PFOS, PFOA, and/or their precursors that was sold and/or supplied to manufacturers of AFFF products, and such AFFF products were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

78. On information and belief, Dynax designed, manufactured, marketed, and sold AFFF products containing PFOS, PFOA, and/or their precursors that were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

79. Defendant E.I. du Pont de Nemours & Company (“DuPont”) is a corporation 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, DuPont has supplied fluorosurfactants containing PFOS, PFOA, and/or their precursors to manufacturers of AFFF products, and such AFFF products were stored, handled, used, trained with, tested equipment with,

otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

80. Defendant The Chemours Company (“Chemours Co.”) is a limited liability company organized under the laws of the State of Delaware, with its principal place of business located at 1007 Market Street, P.O. Box 2047, Wilmington, Delaware, 19899. In 2015, DuPont spun off its performance chemicals business to Chemours Co., along with vast environmental liabilities which Chemours Co. assumed, including those related to PFOS and PFOA and fluorosurfactants. Further, on information and belief, Chemours Co. has supplied fluorosurfactants containing PFOS and PFOA, and/or their precursors to manufacturers of AFFF products, and such AFFF products were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

81. On information and belief, Chemours Co. was incorporated as a subsidiary of DuPont as of April 30, 2015. From that time until July 2015, Chemours Co. was a wholly-owned subsidiary of DuPont. In July 2015, DuPont spun off Chemours Co. and transferred to Chemours Co. its “performance chemicals” business line, which includes its fluoroproducts business, distributing shares of the Chemours Co. stock to DuPont stockholders, and Chemours Co. has since been an independent, publicly traded company.

82. Defendant The Chemours Company FC, LLC (“Chemours FC”) is a limited liability company organized under the laws of the State of Delaware, with its principal place of business located at 1007 Market Street, Wilmington, Delaware, 19899. On information and belief, Chemours FC has supplied fluorosurfactants containing PFOS and PFOA, and/or their precursors to manufacturers of AFFF products, and such AFFF products were stored, handled, used, trained with, tested equipment with, otherwise discharged, and/or disposed at the Guam AFFF Sites and/or in Guam.

83. Chemours and Chemours FC are collectively referred to throughout this Complaint as “Chemours”).

84. On information and belief, some or all of the AFFF manufactured and sold by the Defendants contained fluorosurfactants manufactured by DuPont and/or Chemours.

85. Defendants represent all or substantially all of the market for AFFF products, and their key ingredients (fluorosurfactants), in Guam.

IV. FACTUAL ALLEGATIONS RELEVANT TO ALL CAUSES OF ACTION

A. Manufacture and Use of Aqueous Film-Forming Foam (“AFFF”)

86. AFFF formulations are chemical mixtures used to extinguish hydrocarbon fuel-based fires.

87. AFFF containing fluorinated surfactants have a better firefighting capability than plain water due to their surface-tension lowering properties, essentially smothering the fire and starving it of oxygen.

88. However, some fluorinated surfactants have unique properties that cause some of the compounds to not biodegrade and to bioaccumulate, and are toxic to animals and humans.

89. AFFF is a Class-B firefighting foam. It is mixed with water and used to extinguish fires that are difficult to fight, particularly those that involve petroleum or other flammable liquids.

90. AFFF was introduced commercially in the mid-1960s and rapidly became the primary firefighting foam in the U.S. and in many parts of the world.

91. AFFF is synthetically formed by combining fluorine free hydrocarbon foaming agents with surfactants. When mixed with water, the resulting solution produces an aqueous film that spreads across the surface of hydrocarbon fuel. This film provides fire extinguishment and is the source of the designation aqueous film forming foam.

92. The Defendants manufactured AFFF products that contained fluorocarbon surfactants believed to include PFOS, PFOA, and/or certain other perfluorinated compounds (“PFCs”) that degrade into PFOS and PFOA.

93. PFCs are manmade chemicals that do not exist in nature.

94. In the foam industry, concentrates are typically referred to as “3%” or “6%” concentrate, depending on the mixture rate with water. AFFF concentrates contain about 60-90% water and have a fluorine content of about 0.3 – 1.8%.

95. Defendants 3M, Tyco/Ansul, National Foam, Chemguard, Buckeye, and Dynax designed, manufactured, and sold AFFF that was used at Guam AFFF Sites for use in training operations and for emergency fire-fighting situations.

96. 3M manufactured, marketed and sold AFFF and the chemical feedstock and/or raw materials for production of AFFF from the 1960s to early 2000s.

97. National Foam and Tyco/Ansul began to manufacture, market and sell AFFF in the 1970s.

98. Angus Fire and Chemguard began to manufacture, market and sell AFFF in the 1990s.

99. Dynax began to manufacture, market and sell the chemical feedstock and/or raw materials for production of AFFF in the 1990s and quickly became a leading global producer of fluorosurfactants and fluorochemical foam stabilizers used in firefighting foam agents.

100. Buckeye began to manufacture, market and sell AFFF in the 0s.

101. PFCs used in 3M’s AFFF were produced by a unique and patented process known as electrochemical fluorination (“ECF”). The ECF process resulted in a product that contains PFOS, some of which degrades into PFOA.

102. 3M was the only company to manufacture PFOS-containing AFFF.

103. In an attempt to limit liability, 3M opted to stop producing PFOS in 2002 because it was aware of the looming chemical exposure and health effects on the public.

104. Similarly, PFOA is a man-made, manufactured chemical not found in nature. PFOA was used to make household and commercial products that resist heat and chemical reactions, and has many uses, including repelling oil, stains, grease, and water.

105. In 1947, 3M began producing PFOA via ECF.

106. In 1951, 3M began selling its PFOA to other chemical companies, including DuPont.

107. Other companies, such as Defendants Tyco/Ansul, Buckeye, National Foam, and Chemguard began manufacturing AFFF using PFOA that they produced themselves or purchased from other companies. Defendants' AFFF was then used at airports, fire departments and industrial facilities across the nation.

108. The chemical structure of PFOS and PFOA makes them resistant to breaking down or environmental degradation. As a result, they are persistent when released into the environment. Some PFC's, such as PFOS and PFOA, have been found to bioaccumulate in humans and animals. In 2005, the U.S. Department of Health and Human Services found that "human exposure to PFOA and PFOS lead to the buildup of these chemicals in the body."

109. By at least the end of the 1960s, additional research and testing performed by 3M and DuPont Chemical Solutions Enterprise indicated that such materials, including at least PFOA, because of their unique chemical structure, were resistant to environmental degradation and would persist in the environment essentially unaltered if allowed to enter the environment.

110. Early studies showed that PFC's accumulated in the human body and were "toxic." 3M studies from the 1970s concluded that PFC's were "even more toxic" than previously believed.

111. In 1976, 3M found PFOA was persistent in the blood of its workers. This should have alerted 3M to the same issue raised by findings regarding PFOS in the prior year. 3M communicated its findings to DuPont Chemical Solutions Enterprise, but not to industry regulatory agencies.

112. Upon information and belief, by the 1970's, 3M and DuPont Chemical Solutions Enterprise knew that their PFC's (PFOA and PFOS) were widely present in the blood of the general U.S. population and would accumulate and build up in the blood/body of the exposed individuals with each additional exposure. Upon information and belief, 3M and DuPont Chemical Solutions Enterprise concealed this knowledge from the public and government regulators.

113. In or about 1977, Tyco/Ansul was also aware of the environmental and toxic concerns of its AFFF and undertook a study and investigation on more environmentally improved AFFF.

114. By at least the end of the 1980s, additional research and testing performed by Defendants manufacturing and/or using PFAS materials, including at least 3M and DuPont Chemical Solutions Enterprise, indicated that elevated incidence of certain cancers and other adverse health effects, including elevated liver enzymes and birth defects, had been observed among workers exposed to such materials, including at least PFOA, but such data was not published, provided to governmental entities as required by law, or otherwise publicly disclosed at the time.

115. By at least the end of the 1990s, additional research and testing performed by Defendants manufacturing and/or using PFAS materials, including at least 3M and DuPont

Chemical Solutions Enterprise, indicated that at least one such PFAS material, PFOA, had caused a triad of tumors (Leydig cell (testicular), liver and pancreatic) in a second chronic cancer study in rats.

116. PFOS and PFOA are readily absorbed after consumption, inhalation or dermal absorption, and accumulate primarily in the blood stream, kidney, and liver.

117. Because of its toxicity, eight major PFOA manufacturers agreed in 2006 to participate in the EPA's PFOA Stewardship Program. The participating companies made voluntary commitments to reduce product content and facility emissions of PFOA and related chemicals by 95%, no later than 2010.

118. PFOA can remain in the environment, particularly in water, for many years and can move through air, soil, and into groundwater.

119. Human studies show associations between increased PFOA levels in blood and an increased risk of several health conditions, including high cholesterol levels, changes in thyroid hormone, ulcerative colitis (autoimmune disease), pre-eclampsia (a complication of pregnancy that includes high blood pressure), and kidney and testicular cancer.

120. These injuries can arise months or years after exposure to PFOA.

121. According to the EPA's Lifetime Health Advisories (HAs), the adverse health effects observed following exposure to PFOS are the same as those observed with PFOA, meaning injuries associated with PFOS exposure and accumulation similarly manifest themselves months or years after initial exposure.

122. Due to the extreme persistence of PFOS and PFOA in the environment, these chemicals' toxicity, mobility, and bioaccumulation potential pose ongoing and probable adverse effects to human health.

123. Consumption of elevated levels of PFOS and/or PFOA from contaminated water will lead to elevated serum PFOS and/or PFOA levels with evidence that for every 10 ppt consumed from contaminated water, serum levels increase by 25%, thereby causing a doubling of serum levels at 40 ppt. Once biological uptake occurs, the clinical effect can be proximate to the exposure or following a latency or both.

B. Health Advisories and Health Effects relating to PFOS and PFOA

124. Many parties have studied PFOS and PFOA, sometimes referred to as C8, including a Science Panel formed out of a class action settlement arising from contamination from DuPont's Washington Works located in Wood County, West Virginia.

125. The C8 panel consisted of three epidemiologists specifically tasked with determining whether there was a probable link between PFOA exposure and human diseases. In 2012, the panel found probable links between PFOA and kidney cancer, testicular cancer, ulcerative colitis, thyroid disease, pregnancy induced hypertension (including preeclampsia), and hypercholesterolemia.

126. The non-cancer health effects of PFOS are the same as PFOA.

127. In the May 2015 "Madrid Statement on Poly- and Perfluoroalkyl Substances (PFAS's)," scientists and other professionals from a variety of disciplines, concerned about the production and release into the environment of PFOA, called for greater regulation, restrictions, limits on the manufacture and handling of any PFOA containing product, and to develop safe non-fluorinated alternatives to these products to avoid long-term harm to human health and the environment.²

² Blum A, Balan SA, Scheringer M, Trier X, Goldenman G, Cousins IT, Diamond M, Fletcher T, Higgins C, Lindeman AE, Peaslee G, de Voogt P, Wang Z, Weber R. 2015. The Madrid statement on poly- and perfluoroalkyl substances (PFASs). *Environ Health Perspect* 123:A107–A111;

128. On May 25, 2016, the EPA released a lifetime health advisory (HAs) and health effects support documents for PFOS and PFOA.³ See Fed. Register, Vol. 81, No. 101, May 25, 2016. The EPA developed the HAs to assist governmental officials in protecting public health when PFOS and PFOA are present in drinking water. The EPA HAs identified the concentration of PFOS and PFOA in drinking water at or below which adverse health effects are not anticipated to occur over a lifetime of exposure at 0.07 ppb or 70 ppt. The HAs were based on peer-reviewed studies of the effects of PFOS and PFOA on laboratory animals (rats and mice) and were also informed by epidemiological studies of human populations exposed to PFOS. These studies indicate that exposure to PFOS and PFOA over these levels may result in adverse health effects, including:

- a. Developmental effects to fetuses during pregnancy or to breastfed infants (e.g., low birth weight, accelerated puberty, skeletal variations);
- b. Cancer (testicular and kidney);
- c. Liver effects (tissue damage);
- d. Immune effects (e.g., antibody production and immunity);
- e. Thyroid disease and other effects (e.g., cholesterol changes).

129. In addition, PFOS and PFOA are hazardous materials because they pose a “present or potential threat to human health.” *Id*; see also, *National Ass'n for Surface Finishing v. EPA*, 795 F.3d 1, 3, 6 (D.C. Cir. 2015) (referring to PFOS as a “toxic compound” and a “hazardous chemical.”)

<http://dx.doi.org/10.1289/ehp.1509934>.

³ See Fed. Register, Vol. 81, No. 101, May 25, 2016, Lifetime Health Advisories and Health Effects Support Documents for Perfluorooctanoic Acid and Perfluorooctane Sulfonate.

130. On May 2, 2012, the EPA published its Third Unregulated Contaminant Monitoring Rule (“UCMR3”), requiring public water systems nationwide to monitor for thirty contaminants of concern between 2013 and 2015.

131. PFOS and PFOA are such contaminants. *Revisions to the Unregulated Contaminant Monitoring Regulation (UCMR 3) for Public Water Systems*, 77 Fed. Reg. 26072 (May 2, 2012).

132. In 2016, the National Toxicology Program of the United States Department of Health and Human Services (“NTP”) and the International Agency for Research on Cancer (“IARC”) both released extensive analyses of the expanding body of research regarding the adverse effects of PFCs. The NTP concluded that both PFOA and PFOS are “presumed to be an immune hazard to humans” based on a “consistent pattern of findings” of adverse immune effects in human (epidemiology) studies and “high confidence” that PFOA and PFOS exposure was associated with suppression of immune responses in animal (toxicology) studies.⁴

133. The IARC concluded that there is “evidence” of “the carcinogenicity of . . . PFOA” in humans and in experimental animals, meaning that “[a] positive association has been observed between exposure to the agent and cancer for which a causal interpretation is . . . credible.”⁵

134. California has listed PFOA and PFOS to its Proposition 65 list as a chemical known to cause reproductive toxicity under the Safe Drinking Water and Toxic Enforcement Act of 1986.

⁴ See U.S. Dep’t of Health and Human Services, Nat’l Toxicology Program, *NTP Monograph: Immunotoxicity Associated with Exposure to Perfluorooctanoic Acid or Perfluorooctane Sulfonate* (Sept. 2016), at 1, 17, 19, https://ntp.niehs.nih.gov/ntp/ohat/pfoa_pfos/pfoa_pfosmonograph_508.pdf

⁵ See Int’l Agency for Research on Cancer, *IARC Monographs: Some Chemicals Used as Solvents and in Polymer Manufacture* (Dec. 2016), at 27, 97, <http://monographs.iarc.fr/ENG/Monographs/vol110/mono110.pdf>.

135. The United States Senate and House of Representatives passed the National Defense Authorization Act in November, 2017, which included \$42 Million to remediate PFC contamination from military bases, as well as devoting \$7 Million toward the Investing in Testing Act, which authorizes the Center for Disease Control and Prevention (“CDC”) to conduct a study into the long-term health effects of PFOA and PFOS exposure.

136. In June, 2018, the Agency for Toxic Substances and Disease Registry (“ATSDR”) and EPA released a draft toxicological profile for PFOS and PFOA and recommended the drinking water advisory levels be lowered to 11 ppt for PFOA and 7 ppt for PFOS.

C. Defendants’ Knowledge of the Threats to Public Health and the Environment Posed by PFOS and PFOA

137. On information and belief, by at least the 1970s 3M and DuPont Chemical Solutions Enterprise knew or should have known that PFOA and PFOS are mobile and persistent, bioaccumulative and biomagnifying, and toxic.

138. Upon information and belief, 3M and DuPont Chemical Solutions Enterprise concealed from the public and government agencies its knowledge of the risk of harm posed by PFCs.

139. In 1975, 3M concluded that PFOS was present in the blood of the general population. Since PFOA and PFOS are not naturally occurring, this finding should have alerted 3M to the possibility that their products were a source of this PFOS. The finding also should have alerted 3M to the possibility that PFOS might be mobile, persistent, bioaccumulative, and biomagnifying, as those characteristics could explain the absorption of PFOS in blood from 3M's products.

140. In 1976, 3M found PFOA in the blood of its workers. This finding should have alerted 3M to the same issues raised by the findings regarding PFOS in the prior year.

141. A 1978 study by 3M showed that PFOA reduced the survival rate of fathead minnow fish eggs.

142. Other studies by 3M in 1978 showed that PFOS and PFOA are toxic to rats, and that PFOS is toxic to monkeys. In one study in 1978, all monkeys died within the first few days of being given food contaminated with PFOS.

143. Studies by 3M after the 1970s also showed adverse effects from exposure to PFOA and PFOS.

144. In a 1983 study, for example, 3M found that PFOS caused the growth of cancerous tumors in rats.

145. A study proposal by 3M in 1983 stated that the resistance to degradation of PFOS and PFOA made them “potential candidates for environmental regulations, including further testing requirements under laws such as the Toxic Substances Control Act.” 3M Environmental Laboratory (EE & PC), Fate of Fluorochemicals - Phase II, at p.6 (E. A. Reiner, ed. May 20, 1983).

146. A 1997 material safety data sheet (“MSDS”) for a non-AFFF product made by 3M listed its only ingredients as water, PFOA, and other per-fluoroalkyl substances and warned that the product includes “a chemical which can cause cancer.” The MSDS cited “1983 and 1993 studies conducted jointly by 3M and DuPont” as support for this statement. On information and belief, 3M’s MSDSs for AFFF did not provide similar warnings.

147. Federal law requires chemical manufacturers and distributors to immediately notify the EPA if they have information that “reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment.” Toxic Substances Control Act (“TSCA”) § 8(e), 15 U.S.C. § 2607(e).

148. 3M did not comply with its duty under TSCA, and in April 2006 it agreed to pay EPA a penalty of more than \$1.5 million for its failure to disclose studies regarding PFOS or PFOA and other per-fluoroalkyl substances dating back decades, among other things.

149. By December 2005, the EPA uncovered evidence that DuPont concealed the environmental and health effects of PFOA, and the EPA announced the “Largest Environmental Administrative Penalty in Agency History.” The EPA fined DuPont for violating the Toxic Substances Control Act “Section 8(e)—the requirement that companies report to the EPA. substantial risk information about chemicals they manufacture, process or distribute in commerce.”

150. On information and belief, all Defendants knew or should have known that in its intended and/or common use, AFFF containing PFOA or PFOS would very likely injure and/or threaten public health and the environment. On information and belief, this knowledge was accessible to all defendants. For example, in 1970 a well-established firefighting trade association was alerted to the toxic effects on fish of a chemical compound related to PFOS. On information and belief, at least the following Defendants are and/or were members of this trade association: 3M, Tyco/Ansul, Chemguard, and National Foam/Angus.

151. Additionally, on information and belief, all Defendants knew or should have known that their AFFF and/or chemical feedstocks and the PFOA and PFOS the products contained, easily dissolve in water, because the products were designed to be mixed with water; are mobile, because the products were designed to quickly form a thin film; resist degradation, because that is the nature of the products' chemical composition, and on information and belief the products had long shelf-lives; and tend to bioaccumulate, because studies regarding the presence of substances with carbon-fluorine bonds in the blood of the general population were publicly available beginning in at least 1976.

152. The Defendants failed to warn and share information with all of its customers on the impacts of their products to the quality of unprotected water sources.

153. The Defendants' products created major waste management problems which they absolved themselves of, providing their customers with no practical guidance and instructions on how to deal with.

154. Some or all of the defendants understood how stable the fluorinated surfactants used in their AFFF formulations are when released into the environment from the first sale to their customers but neither warned customers nor provided reasonable instruction on how to manage wastes generated from use of their products. The persistence and contaminating nature of the perfluorinated surfactant 3M made that went into its AFFF products was well understood prior to the commercial applications of these surfactants at 3M's Cottage Grove facility in Minnesota.

155. The inventor of 3M's surfactants was J. H. Simons. Simons' 1948 patent (Simons⁶) reports: PFCs are "non-corrosive, and of little chemical reactivity"; "do not react with any of the metals at ordinary temperatures and react only with the more chemically reactive metals such as sodium, at elevated temperatures."

156. Simons reported that the surfactants that 3M specified for its AFFF do not react with other compounds or reagents due to the blanket of fluorine atoms surrounding the carbon skeleton of the molecule. These highly stable chemicals were developed to provide non-reactive solid and liquid chemicals with low surface tensions that could withstand high temperatures and

⁶ Simons, J. H., U.S. Patent No. 2,447,717. August 24, 1948.

would not react with highly reactive materials such as oxygen (see Simons⁷, Bryce⁸). 3M understood that the stability of the carbon-to-fluorine bonds and the lack of attraction for other chemical species prevent these surfactants from undergoing further chemical reactions or degrading under natural processes in the environment (see Simons 1950 published work⁹).

157. Bryce an employee of 3M, published an authoritative treatise stating “[t]his chemical stability also extends itself to all types of biological processes; there are no known biological organisms that are able to attack the carbon-fluorine bond in a fluorocarbon” (Bryce (1964)).

158. The thermal stability of 3M’s surfactants was understood prior to commercial production. In 1947, two researchers reported that fluorocarbon compounds did not degrade at temperatures as high as 500° C (932°F), even in the presence of catalytic materials (Grosse, et al.¹⁰). Simons’ patent application further discloses that the chemicals he invented were thermally stable at temperatures up to 750° C (1382° F) (see Simons (1948); Simons et al., (1949)). These chemicals are non-reactive and thermally stable due to the strength and stability of the carbon-to-fluorine bonds (Simons (1949); Bryce (1950)¹¹). Additional research by 3M expanded the understanding of the thermal stability of perfluorocarbon compounds. Bryce explained that the fracture of the carbon-to-carbon bonds may take place at very high temperatures from 600 to 1000°

⁷ Simons, J. H., 1949. Fluorocarbons. Scientific American, Inc., 181(5): 44-47.

⁸ Bryce, H. G., 1964. Industrial and Utilitarian Aspects of Fluorine Chemistry. Fluorine Chemistry, 5(4): 295-498.

⁹ Simons, J. H., 1950. Fluorocarbons and Their Production. Fluorine Chemistry, 1(12): 401-422.

¹⁰ Grosse, A. V., et al., 1947. Properties of Fluorocarbons. Industrial and Engineering Chemistry, 39(3): 367-374. March.

¹¹ Bryce, T. J., 1950. Fluorocarbons - Their Properties and Wartime Development. Fluorine Chemistry, 1(13): 423-462.

C (1112 to 1832° F) depending on the carbon chain length. He also reported that the carbon-to-fluorine bond is much stronger and can require temperatures of 1200° C (2192° F) to break (Bryce, 1964).

159. Nowhere in any Material Safety Data Sheet for any of the defendants' products is information on the thermal stability of their surfactants disclosed. Failure to disclose knowledge of how stable the chemical ingredients in the AFFF product to customers is a failure to warn just how indestructible the surfactant ingredients are when released to unprotected water sources and even treatment plants. The remarkable thermal stability of the surfactants used in defendants' formulations means that there is a risk that the customer has to deal with because the surfactant ingredients are incredibly stable. The surfactant additive is so stable that it is indestructible under normal use and environmental conditions; facts which are known by AFFF and chemical feedstock manufacturers and not apparent to the users of these products.

160. Defendant 3M was capable of producing a variety of perfluorinated products at its Cottage Grove facility (PFOS, PFOA, and PFBA, in addition to the salts of PFOS, PFOA, and PFBA). All of these surfactants were understood by 3M to readily dissolve in water. In 1962, testing of PFOS-based surfactants indicated that these compounds were very soluble (Guenthner, et al.¹²). Numerous PFCs manufactured by 3M, including fluorocarbon carboxylic acids and fluorocarbon sulfonic acids such as PFOA and PFOS readily dissolve when mixed with water (Bryce (1964)). 3M knew by 1964 that when dissolved, fluorocarbon carboxylic acids and fluorocarbon sulfonic acids dissociated to form highly stable perfluorocarboxylate and perfluorosulfonate ions (Bryce (1964)). Later studies by 3M on the adsorption and mobility of FC-

¹² Guenther, R. A., et al., 1962. Surface Active Materials From Perfluorocarboxylic and Perfluorosulfonic Acids, 1(3): 165-168.

95 and FC-143 (the ammonium salt of PFOA) in soils indicated very high solubility and very high mobility in soils for both compounds.¹³

161. Defendant 3M understood from the earliest days it acquired the Simons' patents that the surfactants it commercialized had extremely limited reactivity and that the high thermal stability of the perfluorinated carbon chain inhibited degradation in the environment (Bryce, 1950). The breaking of a carbon-to-fluorine bond requires the input of large amounts of energy to overcome the chemical bond between carbon and fluorine. Chemical and physical processes occurring in nature lack sufficient energy to break carbon-to-fluorine bonds and without this input of energy, the carbon-to-fluorine bonds remain intact.

162. Bryce wrote "This chemical stability also extends itself to all types of biological processes; there are no known biological organisms that are able to attack the carbon-fluorine bond in a fluorocarbon" (Bryce, 1964). 3M had understanding of the chemical stability of the carbon-to-fluorine bond. It knew that its surfactants were immune to chemical and biological degradation in soils and groundwater.

163. A 1971 internal memo by H.G. Bryce states that "the thesis that there is 'no natural sink' for fluorocarbons obviously demands some attention." Hence, 3M understood at the very least that when its AFFF product ingredient was released to the environment it basically will never degrade¹⁴.

164. In natural environments, the surfactants do not undergo degradation of the carbon-to-fluorine bonds of the perfluorinated carbon chain. The non-fluorinated, functional group of the chemical will partially degrade, yielding recalcitrant products such as PFOS, PFOA, and PFBA,

¹³ 3M, 1978 [3MA10036129].

¹⁴ 3M, 1971 [3MA02496587].

which then resist further degradation. Basic weathering and degradation reactions, such as hydrolysis, occur at the non-fluorinated, functional group end of the molecule, producing the original fluorocarbon compound (Pearlson¹⁵). Depending on the surfactant these reduce to PFOS, PFOA, or PFBA.

165. Defendant 3M knew that the perfluorinated components in its AFFF product(s) when released to the environment would not degrade the perfluorinated carbon structure, but would remain intact and persist (Bryce, 1950). Nearly 30 years later and after the establishment of a robust market of AFFFs using such ingredients, defendant 3M finally got around to looking at the environmental risks its products pose. See a 1979 3M study¹⁶ which reports on its surfactant FC95 citing multiple studies on toxicity and biodegradability. The study reports that “F-95 was found to be completely resistant to biological test conditions... it appears that waterways are the environmental sink for FC95...”

166. A 1978 3M biodegradation study¹⁷ reports “... the results of the quite extensive study strongly suggests that FM3422 is likely to persist in the environment for extended period unaltered by metabolic attack.”

167. 3M and other defendants chose not to disclose their knowledge of the inability of their surfactants to break down in the natural environment. They failed to warn that their products can contaminate drinking water sources for many decades despite their knowledge that this was a likely outcome from the use of their products.

¹⁵ Pearlson, W. H., 1950. Fluorocarbon Derivatives. *Fluorine Chemistry*, 1(14): 463-522.

¹⁶ 3MA10066577.

¹⁷ 3MA00717615.

168. All of the Defendants are sophisticated and knowledgeable in the art and science of formulating AFFF products and/or chemical feedstocks. They understood far more about the properties of and the biodegradability of their additives than any other customer. They chose not to use their knowledge to design safer products. See Ansul¹⁸ which wrote the following about the biodegradation of AFFF: Biodegradation is a “measure of how completely a substance breaks down in the environment. The biodegradability of a chemical is expressed as a percentage determined by dividing the BOD by the COD and multiplying by 100. The chemical oxygen demand, COD, is the amount of oxygen needed to completely break a chemical down to its most oxidized state (for example: CO₂, H₂O, and HF) and is a measured analytical value. The biochemical oxygen demand, BOD, is an empirical test that measures a relative oxygen requirement. This test measures the oxygen required for the biochemical degradation of organic and inorganic material... For firefighting foams, this test is conducted for 20 days as opposed to the usual five days for other chemicals because the bacteria require a longer time to acclimate to the test solution of the foam... B[b]iodegradation is the percentage ratio of BOD/COD. If that resulting number is higher than 50%, the chemical is determined to be readily biodegradable. If it is below 15%, the chemical is determined to be not biodegradable. Ansul summarized its explanation by noting: If BOD/COD > 50%, then biodegradable; If BOD/COD < 15%, then NOT biodegradable.

169. The information that Ansul published and widely distributes to its customers is both misleading and deceitful. Ansul’s explanation ignores the fact that while the foam stabilizer additives biodegrade, perfluorinated surfactants do not. Dimitrov, et al.¹⁹ report that PFAS when

¹⁸ Ansul Inc., Environmental Aspects of AFFF and AR-AFFF, White Paper 1017, 2003.

¹⁹ *Ibid*, Dimitrov, S., et al. 2004.

present in the environment does not undergo any further chemical, microbial or photolytic degradation or breakdown. Long before Dimitrov, 3M understood this as shown by its explanation of biodegradability in a 1976 study, noting that hydrocarbon components of a perfluorinated admixture will degrade leaving behind the perfluorinated components which do not biodegrade.²⁰ Once these substances undergo biotic or abiotic degradation, the perfluorinated moiety that remains will be PFOS. The rate of degradation to PFOS is not considered significant and over time these substances are all expected to degrade in the environment to environmentally persistent PFOS. These were facts that were known by 3M in the 1960s. These were facts that other AFFF and chemical feedstocks manufacturers knew or should have known; and if they didn't then they simply created their products blindly and without concern as to whether they could cause harm to unprotected water resources and place communities at risk.

170. Defendant 3M along with Ansul and likely others had intimate understanding of the poor biodegradation of their fluorochemical compounds. A 1976 study, for example, observed no biodegradation of FC-95, the potassium salt of PFOS. 3M characterized the result of the study “unsurprising” in light of the fact that “[b]iodegradation of FC 95 is improbable because it is completely fluorinated”.²¹

171. The Ansul Company (Tyco), published a report in 1977 titled Environmentally Improved AFFF.²² This report acknowledges that AFFFs were understood to be environmentally damaging and could pose potential negative impacts to groundwater quality. Ansul wrote: “The

²⁰ 3MA01252037.

²¹ 3M, 1976 [3MA01252037].

²² Ansul Co., Final Report: Environmentally Improved AFFF, N00173-76-C-0295, Marinette, WI, Dec. 13, 1977.

purpose of this work is to explore the development of experimental AFFF formulations that would exhibit reduced impact on the environment while retaining certain fire suppression characteristic...improvements [to AFFF formulations] are desired in the environmental area, i.e., development of compositions that have a reduced impact on the environment without loss of fire suppression effectiveness.” Its study showed it had the ability to reformulate its AFFF products to be biodegradable, but there is no evidence that any company bothered to do so.

172. Also, in 1979 Defendant 3M carried out a comprehensive biodegradation and toxicity study covering investigations between 1975 and 1978.²³ More than 10 years after 3M began selling its AFFF products it wrote “there has been a general lack of knowledge relative to the environmental impact of these chemicals.” This report ominously discloses “If these materials are not biodegradable, what is their fate in the environment?”

173. As discussed above, neither 3M nor, on information and belief, the other defendants, complied with their obligations to notify EPA about the “substantial risk of injury to health or the environment” posed by their AFFF products containing PFOS/A. See TSCA § 8(e).

D. The Plaintiffs and Putative Class Members’ Exposures to PFOS and PFOA and Damages

174. The Plaintiffs and putative Class members are at a significantly increased risk of contracting diseases as a result of their unknowing consumption, inhalation and/or dermal absorption of PFOS and/or PFOA from Defendants’ AFFF products at concentrations hazardous to their health.

²³ 3MA00326828.

175. On information and belief, at any given time during their operation, the Guam AFFF Sites housed hundreds to thousands of gallons of AFFF concentrate manufactured by the Defendants, stored in buckets, drums, tankers, tanks, and sprinkler systems.

176. U.S. Navy, Air Force, and/or Marines (collectively referred to as “military”) personnel, as well as civilian firefighters, conducted training exercise at some or all of the Guam AFFF Sites.

177. For decades, firefighting activities, including training activities, took place at some or all of the Guam AFFF Sites.

178. On information and belief, the use of AFFF for training purposes included suppressing fires and explosions on the ground, as well as coating runways in anticipation of difficult landings, all of which resulted in acres of foam-covered soil and blanketed wreckages.

179. As a result of the activities at the Guam AFFF Sites, groundwater and surface water became contaminated with PFOA and PFOS.

180. Further, the PFOA and PFOS contaminated the aquifer that supplied drinking water for the Guam AFFF Sites as well as the surrounding communities.

181. The GWA has had to take action to address the AFFF-related contamination in its drinking water sources. GWA has taken wells near Hagåtña offline because of PFOS contamination, and also detected elevated levels of PFOA and PFOs near the Guam International Airport. PFOA and PFOS contamination related to AFFF poses a significant threat to Guam’s groundwater supplies, which supply 80% of the drinking water to approximately 150,000 residents.

182. The military and civilian personnel at the Guam AFFF Sites, as well as the residents in the surrounding communities (hereinafter referred to as “the Affected Areas”), were thereby exposed to drinking water contaminated with PFOA and PFOS.

183. The Plaintiffs and putative Class members have suffered from bioaccumulation of PFOS and/or PFOA in their bodies as a result of their frequent contact, proximity to, use, and/or handling of AFFF in the course of their employment and/or training at the Guam AFFF Sites, and/or drinking PFOA and PFOS contaminated water. The Plaintiffs and each of the putative Class members have been contaminated with PFOS and/or PFOA due to their exposure to the PFCs in their concentrated forms through their use of AFFF. Additionally, or alternatively, the Plaintiffs and putative Class members have suffered from bioaccumulation of PFOS and/or PFOA in their bodies as a result of the PFOS and PFOA contamination of the water supplies by AFFF releases that contaminated Guam’s water supply.

184. The Plaintiffs and putative Class members who trained or worked at the Guam AFFF Sites and/or drank the PFOS and PFOA contaminated water related to AFFF, have been unknowingly exposed to significantly elevated PFCs including at concentrations hazardous to their health.

185. Given that the long-term health effects of PFOS and/or PFOA have not been exhaustively studied, and given that, based on studies that have been done, there is compelling evidence that both malignant and nonmalignant effects result from PFOS and/or PFOA exposure, and because the full extent of latency of such effects has not yet been determined, periodic diagnostic medical exams for populations with PFOS and/or PFOA exposure from contaminated water are reasonably necessary.

186. Sustained exposure to PFOS and/or PFOA substantially increases the risk to the Plaintiffs and the putative Class members of contracting the serious latent diseases alleged herein.

187. As a result of the sustained exposure and substantial increased risk of contracting the serious latent diseases alleged herein, periodic medical examinations by qualified licensed medical professionals are both reasonable and necessary to permit early detection of latent diseases in the Plaintiffs and the putative Class members.

E. AFFF Containing PFOS and PFOA is Fungible and Commingled in the Groundwater

188. AFFF containing PFOS and/or PFOA, once it has been released to the environment, lacks characteristics that would enable identification of the company that manufactured that particular batch of AFFF or chemical feedstock.

189. A subsurface plume, even if it comes from a single location, such as a retention pond or fire training area, originates from mixed batches of AFFF and chemical feedstock coming from different manufacturers.

190. Because precise identification of the specific manufacture of any given AFFF or chemical feedstock that was the source of PFOS and PFOA found in a Class members' blood, a water well, or the groundwater, is nearly impossible, given certain exceptions, Plaintiffs must pursue all Defendants, jointly and severally, for those indivisible injuries which Defendants have collectively visited upon Plaintiffs and the putative Class.

191. Defendants are also jointly and severally liable because they conspired to conceal the true toxic nature of PFOS and PFOA, to profit from the use of AFFF containing PFOS and PFOA, at Plaintiffs' and the putative Class members' expense, and to attempt to avoid liability for poisoning the Plaintiffs and the putative Class members.

F. Market Share Liability, Alternative Liability, Concert of Action, Enterprise Liability

192. Defendants in this action are manufacturers that control a substantial share of the market for AFFF and/or chemical feedstock containing PFOS and/or PFOA in the United States and are jointly responsible for the use of AFFF at the Guam AFFF Sites. Market share liability attaches to all Defendants and the liability of each should be assigned according to its percentage of the market for AFFF-containing PFOS and/or PFOA at issue in this Complaint. PFOS and PFOA are fungible; it is nearly impossible to identify the exact Defendant who manufactured any given batch of AFFF or chemical feedstock containing PFOS and/or PFOA found free in the air, soil or groundwater, and each of these Defendants participated in a territory-wide and U.S. national market for AFFF and/or chemical feedstock containing PFOS and/or PFOA during the relevant time.

193. Concert of action liability attaches to all Defendants, each of which participated in a common plan to commit the torts alleged herein and each of which acted tortuously in pursuance of the common plan to knowingly manufacture and sell inherently dangerous AFFF or chemical feedstock containing PFOS and/or PFOA.

194. Enterprise liability attaches to all of the named Defendants for casting defective products into the stream of commerce.

V. CLASS ALLEGATIONS

Class Definition

195. The Plaintiffs, for themselves and on behalf of a Class of similarly-situated individuals (“putative class members”), bring this action seeking medical monitoring resulting from their substantial exposure to PFOS- and/or PFOA-containing AFFF products (and/or chemical feedstocks) and from exposure to groundwater, surface water, and affected areas

contaminated with PFOS- and/or PFOA-containing AFFF products (and/or chemical feedstocks) at the Guam AFFF Sites and/or in the Affected Areas that were manufactured, designed, sold, supplied and/or distributed by each of the above-named Defendants.

196. Plaintiffs seek to certify and maintain a class action under Rules 23(a); (b)(1) and/or (b)(2); and (b)(3) of the Federal Rules of Civil Procedure, subject to amendment and additional discovery. The proposed medical monitoring subclasses²⁴, and the Plaintiffs who seek to represent those classes are as follows:

A. Guam AFFF Sites Sub-Classes:

(1) Firefighter Sub-Class: All individuals employed as firefighters on Guam who handled, trained with, used, and/or disposed of AFFF at the Guam AFFF Sites and/or were exposed to PFOS- and/or PFOA- contaminated water at the Guam AFFF Sites, and who sustained bioaccumulation of PFOS and/or PFOA in their bodies.

(2) Non-Firefighter Sub-Class: All non-firefighter military and civilian personnel who sustained bioaccumulation of PFOS and/or PFOA in their bodies and were exposed to PFOS- and/or PFOA- contaminated water at the Guam AFFF Sites.

B. Residential/Community Sub-Class: All individuals who reside or resided in the Affected Areas who sustained bioaccumulation of PFOS and/or PFOA in their bodies and were exposed to PFOS- and/or PFOA- contaminated water supplied by wells from the Guam AFFF Sites and/or from a well within the Affected Areas.

The proposed class representatives for these sub-classes are Plaintiffs, RAYMOND AGUON; JOHNNY ARCEO; BENNY BAZA; WILLIAM CASTRO; DAVID G. CEPEDA; GREYORIO CRUZ; MICHAEL CUASITO; FRANCISCO C. DUENAS; DELFINO V. GARCIA; STEVE HAGEN; ALFRED C. IGNACIO; JAMES T. LINNEL; MARK MERFALEN; ANDREW R. MESA; VAN W.

²⁴ Under Guam law, plaintiffs are entitled to bring a claim for medical monitoring despite absence of physical injury and the court may create, supervise, and implement a medical monitoring plan under certain guidelines and circumstances. *See Abuan v. General Electric Co.*, 3 F.3d 329 (9th Cir. 1993).

MURER; RUDY PACO; VICENTE PEREZ; MICHAEL ROBERTO; RANDY SABLAN; LEWIS SANTOS; RAY TAITAGUE; EDWARD TERLAJE; and ANTHONY QUINENE.

197. Plaintiffs are members of the proposed class they seek to represent. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions.

198. Excluded from the Class are:

- a. Defendants, their officers, directors, management, legal representatives, employees, assigns, heirs, successors, and wholly owned or partly owned subsidiaries and affiliates;
- b. Any judges or justices involved in this action and any members of their immediate families;
- c. Any Class counsel or their immediate family members; and
- d. All governmental entities.

199. Plaintiffs reserve the right to amend the Class definition if discovery and further investigation reveal that the Class should be expanded, divided into sub-classes, or modified in any other way.

Numerosity and Ascertainability

200. This action meets the numerosity requirement of Federal Rule of Civil Procedure 23(a)(1) because the number of impacted individuals, upon information and belief, has reached the hundreds making individual joinder of class members' respective claims impracticable. While the exact number of Class members is not yet known, a precise number may be ascertained from United States Military personnel records, Guam International Airport employment records, Government of Guam Department of Administration records, Guam Fire Department employment records, and through other appropriate discovery.

201. The resolution of the claims of the Class members in a single action will provide substantial benefits to all parties and the Court. It is expected that the Class members will number in the hundreds.

202. Finally, Class members can be notified of the pendency of this action by Court-approved notice methods.

Typicality

203. Pursuant to Federal Rule of Civil Procedure 23(a)(3), Plaintiffs' claims are typical of the claims of Class members, and arise from the same course of conduct by Defendants. Plaintiffs' persons, like all Class members, have been damaged by Defendants' misconduct in that they have consumed, inhaled, and absorbed PFOS and/or PFOA from the Defendants' AFFF products and/or chemical feedstocks and as a result of exposure to the PFOS- and PFOA-contaminated water at the Guam AFFF Sites.

204. Furthermore, the factual bases of Defendants' actions and misconduct are common to all Class members and represent a common thread of misconduct resulting in the common need for medical monitoring for all Class members. The relief Plaintiffs seek is typical of the relief sought for absent Class members.

Adequacy of Representation

205. Plaintiffs will serve as fair and adequate class representatives as their interests, as well as the interests of their counsel, do not conflict with the interest of other members of the Class they seek to represent.

206. Further, Plaintiffs have retained counsel competent and well experienced in class action litigation, mass tort litigation, and environmental tort litigation.

207. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the Class and have the financial resources to do so. Neither the Plaintiffs nor their counsel have interests adverse to the Class.

Predominance of Common Issues

208. There are numerous questions of law and fact common to Plaintiffs and Class members that predominate over any question affecting only individual Class members, making it appropriate to bring this action under Federal Rules of Civil 23(b)(3). The answers to these common questions will advance resolution of the litigation as to all Class members. These common legal and factual issues include the following:

- a. Whether Defendants engaged in the conduct alleged herein;
- b. Whether Defendants knew or should have known that their manufacture of AFFF and/or chemical feedstock containing PFOS and PFOA was unreasonably dangerous;
- c. Whether Defendants failed to sufficiently warn users of the potential for harm that resulted from use of their products;
- d. Whether Defendants knew or should have known that exposure to PFOS and PFOA could increase health risks;
- e. Whether Defendants knew or should have known that their AFFF contained persistent, stable and mobile chemicals that were likely to contaminate groundwater water supplies;
- f. Whether Defendants became aware of health and environmental harm caused by PFOS and PFOA in their AFFF products and/or chemical feedstocks and failed to warn Plaintiffs and the Class of same;
- g. The extent to which Defendants knew about the PFOS and PFOA contamination throughout Guam and the Guam AFFF Sites;
- h. Whether the Defendants owed a duty to the Plaintiffs and the Class to refrain from the actions that caused the contamination of the water with PFOS and PFOA;

- i. Whether Defendants made unlawful and misleading representations or material omissions with respect to the health impacts of PFOS and PFOA;
- j. Whether the risk of any health issue or bodily injury of Plaintiffs and the Class are attributable to exposure of PFOS and PFOA in the Defendants' AFFF products and/or chemical feedstocks and/or to exposure to the PFOS and PFOA contamination at the Guam AFFF Sites.

Superiority

209. The class action mechanism is superior to any other available means of the fair and efficient adjudication of this case. Further, no unusual difficulties are likely to be encountered in the management of this class action. Given that a great number of individuals have been impacted by the Defendants' conduct, it is impracticable for Plaintiffs and the Class to individually litigate their respective claims individually due to the risk of producing inconsistent or contradictory judgments, generating increased delays and expense, and wasting judicial resources. No unusual difficulties are likely to be encountered in the management of this class action. Therefore, the class action mechanism minimizes prospective management challenges and provides the efficiency of a single adjudication under the comprehensive oversight of a single court.

VI. CAUSES OF ACTION

COUNT I – MEDICAL MONITORING

210. Plaintiffs and putative Class members adopt, reallege and incorporate the allegations in paragraphs 1 through 209 above, and further allege the following:

211. Medical monitoring is available to Plaintiffs and putative Class members who have yet to sustain a present injury as a stand-alone cause of action as the increased risk of developing the diseases and conditions discussed *supra* constitute an injury-in-fact.

212. Under Guam law, a claim for medical monitoring requires plaintiffs to prove that:
(1) Plaintiffs were significantly exposed to a proven hazardous substance through the negligent

actions of the Defendants; (2) as a proximate result of such exposure, Plaintiffs suffer a significantly increased risk of contracting a serious latent disease; (3) that increased risk makes periodic diagnostic medical examinations reasonably necessary; and (4) and monitoring and testing procedures exist which make the early detection and treatment of the disease possible and beneficial. *See Abuan v. General Electric Co.*, 3 F.3d 329 (9th Cir. 1993); *Krottner v. Starbucks Corp.*, 628 F.3d 1139, 1142 (9th Cir. 2010); *In re Paoli R.R. Yard PCB Litig.*, 916 F.2d 829, 852 (3rd Cir. 1990).

213. Defendants knew or should have known that the manner in which they were manufacturing, marketing, and selling AFFF and/or chemical feedstock containing PFC's would subject Plaintiffs and Class members to significant exposure to PFOA and PFOS.

214. Defendants knew or should have known that exposing humans to PFOA and PFOS would be hazardous to human health.

215. Here, the Plaintiffs and Class members have been exposed to PFOA and PFOS at levels greater than normal background levels of PFOS and PFOA, as a direct and proximate result of their consumption, inhalation or dermal absorption of PFOS and/or PFOA from the Defendants' AFFF products.

216. As such, the Plaintiffs and Class members are at a significantly increased risk of developing serious adverse health effects that resulted from the handling, use, storage, and discharge of AFFF at the Guam AFFF Sites.

217. As described more fully above, PFOA and PFOS exposure leads to the bioaccumulation of PFOA and PFOS in the blood, seriously increasing the risk of contracting serious adverse and latent diseases, including, but not limited to, kidney and testicular cancer and related diseases, liver damage, thyroid disease, ulcerative colitis, immune effects and deficiencies,

and/or developmental effects to fetuses during pregnancy or to breastfed infants, as a result of being exposed to PFOS and/or PFOA emitted from each Defendants' products. Medical tests currently exist that can determine the level of PFOS and PFOA in the blood.

218. Given that exposure to and bioaccumulation of PFOA and PFOS significantly increases the risk of contracting a serious medical condition, periodic medical examinations to detect latent diseases are both reasonable and necessary. A thorough medical monitoring plan, following common and accepted medical practices, can and should be developed for the Plaintiffs and putative Class members to assist in the early detection and beneficial treatment of the diseases that can develop as a result of exposure to PFOS and PFOA.

219. Medical monitoring and testing protocols and procedures exist that make the early detection of the diseases correlated to the exposure to PFOS and PFOA possible and beneficial. These may include a comprehensive medical questionnaire completed by the patient; periodic and comprehensive medical examinations by qualified licensed medical professionals; and specific testing based on the patient's history, PFOS and/or PFOA exposure, symptoms or health consequences, clinical considerations and/or medical examination results. Available laboratory testing includes, but is not limited to, testing of biomarker and organ system function.

220. For the early detection of the latent diseases alleged herein, the qualified licensed medical professionals may utilize specific evaluations and/or laboratory testing of biomarker and organ system function as follows:

a. **Thyroid function:**

- (1) Thyroid stimulating hormone (TSH);
- (2) Triiodothyronine, known as T3;
- (3) Thyroxine or T4; and
- (4) Free Thyroxine Index (FTI).

b. **Liver function:**

- (1) Albumin;
- (2) Aspartate Aminotransferase (AST/SGOT);
- (3) Alanine Aminotransferase (ALT/SGPT);
- (4) γ -glutamyltransferase (GGT);
- (5) Bilirubin; and
- (6) Alkaline Phosphatase

c. **Uric Acid:**

- (1) Serum

d. **Kidney Cancer:**

- (1) Urinalysis

e. **Lipids:**

- (1) Total cholesterol;
- (2) High-density lipoprotein (HDL);
- (3) Low-density lipoprotein (LDL); and
- (4) Total triglycerides

f. **Evaluation for testicular cancer:**

- (1) Scrotal ultrasound followed by radiographic testing, measurement of serum tumor markers;
- (2) Radical inguinal orchiectomy; and/or
- (3) Retroperitoneal lymph node dissection

g. **Evaluation for kidney cancer:**

- (1) Urine culture;
- (2) Ultrasound of kidneys;
- (3) Abdominal pelvic CT scan; and/or
- (4) Cystoscopy

h. **Reproductive/infertility issues:**

- (1) Evaluation by a fertility specialist if, after 12 months, a couple has failed to conceive

i. **Gestational hypertension:**

- (1) Screening for evidence of gestational hypertension and pre-eclampsia for women in their second and third trimesters of pregnancy
- j. **Androgen dysregulation:**
 - (1) Evaluations to assess androgen levels
- k. **Indications of ulcerative colitis:**
 - (1) Evaluation of erythrocyte sedimentation rate;
 - (2) Evaluation of serum C-reactive protein; and/or
 - (3) Colonoscopic evaluation

221. Using the data collected from comprehensive medical questionnaires completed by the patients, periodic and comprehensive medical examinations, laboratory testing and results, and other specialized evaluations, as alleged herein, qualified licensed medical professionals may predict, detect, and treat these diseases early, thus benefiting the Plaintiffs and Class Members and reducing the likelihood of their premature morbidity, disability, or mortality.

222. Accordingly, Plaintiffs and the Class seek damages from the Defendants, including an order requiring them to fund a medical monitoring program to be created, supervised and implemented by the court in equity.

COUNT II – STRICT LIABILITY

223. Plaintiffs and putative Class members adopt, reallege and incorporate the allegations in paragraphs 1 through 209 above, and further allege the following:

224. Each Defendant, their predecessors-in-interest and/or their alter egos are and/or have been a manufacturer, distributor, supplier, retailer, wholesaler and/or assembler of AFFF products containing PFOS and/or PFOA.

225. The products complained of were manufactured, designed, sold, supplied and/or distributed by each of the Defendants and used by and/or in the vicinity of the Plaintiffs and Class

members during their lifetime and/or they were exposed to PFOS- and PFOA- contaminated water at the Guam AFFF Sites and/or in the Affected Areas.

226. Defendants knew or should have reasonably known that exposure to PFOS and PFOA was hazardous to the environment and to human health.

227. Defendants knew or should have reasonably known that the manner in which they were manufacturing, marketing, and selling AFFF, containing concentrated PFC's, was hazardous to human health and the environment.

228. Defendants knew or should have reasonably known that the manner in which they were manufacturing, marketing, and selling AFFF containing PFC's would result in the contamination of those who handled, used, came into contact with, transported, etc., the product, as well as the contamination at fire training facilities, like the Guam AFFF Sites and surrounding communities.

229. Knowing of the dangerous and hazardous properties of the AFFF, Defendants could have manufactured, marketed, and sold alternative designs or formulations of AFFF that did not contain PFOS and/or PFOA.

230. These alternative designs and/or formulations were already available, practical, similar in cost, and technologically feasible.

231. The use of these alternative designs would have reduced or prevented the reasonably foreseeable harm to the Plaintiffs that was caused by the Defendants' manufacture, marketing, and sale of AFFF that contained PFOS and/or PFOA.

232. Additionally, the AFFF that was manufactured, marketed, and sold by the Defendants contained PFOS and PFOA that were so toxic and unreasonably dangerous to human health and the environment, with the toxic chemicals being so mobile and persistent, that the act

of designing, formulating, manufacturing, marketing, and selling this product was unreasonably dangerous under the circumstances.

233. Further, this contamination then led to the exposure of the Firefighter instructors, trainees and other firefighter personnel who used the AFFF to the toxins and increased their risk of contracting numerous diseases as more fully set forth above.

234. The AFFF manufactured, marketed, and sold by the Defendants was dangerous and defective because the foreseeable risk of harm could have been reduced or eliminated by the adoption of a reasonable, alternative design that was not unreasonably dangerous.

235. Defendants' products were in a defective condition and unreasonably dangerous, in that those products²⁵:

- a. Did not provide an adequate warning of the potential harm that might result from exposure to PFOS and/or PFOA emitted from the AFFF products and, alternatively, did not have adequate instructions for safe use of the products;
- b. Did not have warnings to persons, such as Plaintiffs and the Class members who had been, or reasonably may have been, exposed to Defendants' AFFF products, of their disease potential, the proper steps to take to reduce the harmful effects of previous exposure, the need to have periodic medical examinations including the giving of histories which revealed the details of the previous exposure, and the need to have immediate and vigorous medical treatment for all related adverse health effects, including, but not limited to, kidney and testicular cancer and related diseases, liver damage, thyroid disease, ulcerative colitis, immune effects and deficiencies, and/or developmental effects to fetuses during pregnancy or to breastfed infants, as a result of being exposed to PFOS and/or PFOA emitted from each Defendant's products;
- c. By design contained PFCs, including PFOS and/or PFOA, toxic chemicals that are deleterious, poisonous, and highly harmful to Plaintiffs and the Class members;
or

²⁵ The following subsections (a-d) contain allegations of fact (not allegations of law) supporting Plaintiffs' claim for strict liability. Thus, Plaintiffs are not alleging that Defendants are subject to any legal requirement or legal duty not recognized under the law of Guam.

- d. Contained PFCs, including PFOS and/or PFOA, when and after it became feasible to design, manufacture and market reasonably comparable products not containing PFCs, including PFOS and/or PFOA.

236. Plaintiffs and the Class members, unaware of the defective and unreasonably dangerous condition of Defendants' products at a time when such products were being used for the purposes for which they were intended, were exposed to PFCs, including PFOS and/or PFOA, released from the Defendants' AFFF products.

237. Each Defendant knew that their products would be used without inspection for defects, and by placing them on the market, represented that they would safely do the job for which they were intended, which must necessarily include the safe handling, installation and replacement of said AFFF products.

238. Defendants' defective design and formulation of AFFF was a direct and proximate cause of the environmental and health impacts from PFOS, PFOA, and potentially other toxic substances, that came from the use and storage of AFFF at the Guam AFFF Sites.

239. As a result of Defendants' defective design and formulation of AFFF, the resulting contamination, the Plaintiffs have been injured in that their exposure to PFOS, PFOA, and potentially other toxic substances has increased their risk of developing illnesses associated with this exposure as more fully described and/or significantly increased their fear of developing those illnesses.

240. As a result of Defendants' design and formulation of a defective product, Defendants are strictly liable in damages to the Plaintiffs.

241. As a direct and proximate result of the acts and/or omissions described in this Count, the Plaintiffs and putative Class members have suffered and continue to suffer damages,

including, but not limited to, medical monitoring damages and monetary damages, all for which the Plaintiffs and putative Class members are entitled to recover damages.

242. Defendants' acts were willful, wanton or reckless and conducted with a reckless indifference to the rights of the Plaintiffs and putative Class members.

COUNT III – NEGLIGENCE AND GROSS NEGLIGENCE

243. Plaintiffs and putative Class members adopt, reallege and incorporate the allegations in paragraphs 1 through 209 above, and further allege the following:

244. At all times material, the Defendants manufactured, designed, formulated, marketed, tested, promoted, supplied, sold, and/or distributed their respective PFOS- and PFOA-containing AFFF products in the regular course of business. Defendants knew or should have known that exposure to PFOS and PFOA was hazardous to the environment and to human health.

245. Defendants also knew or should have known that the manner in which they were manufacturing, marketing, and selling AFFF, containing PFC's, was hazardous to human health, bioaccumulated in the blood, and caused serious health effects, including cancer.

246. Defendants knew or should have known that firefighters working with and using their AFFF products would be exposed to PFOS and PFOA released from the AFFF.

247. At all times material, the Plaintiffs and putative members of the Firefighter sub-class consumed, inhaled and/or suffered dermal absorption of these hazardous PFOS and PFOA contaminants released from the Defendants' AFFF products. Plaintiff's and putative members of the Firefighter sub-class's exposure to each Defendant's products, which were connected to and incidental to Defendants' manufacture, design, sale, supply and/or distribution of its products, was harmful and substantially increased the risk of injuries to each of the Plaintiffs and putative Class members.

248. Defendants also knew or should have known that PFC's are highly soluble in water, highly mobile, extremely persistent in the environment, and high likely to contaminate water supplies if released into the environment.

249. Defendants knew or should have known that the manner in which they were manufacturing, marketing, and selling AFFF containing PFC's would result in the contamination of the drinking supplies at military and airport facilities, like the Guam AFFF Sites.

250. Defendants designed, manufactured, formulated, handled, labeled, instructed, controlled and/or sold PFOA/PFOS contaminants and/or negligently, carelessly and recklessly recommended application and disposal techniques for products containing PFOA and/or PFOS that directly and proximately caused contamination at the Guam AFFF Sites and at the Affected Areas.

251. At all times material, Plaintiffs and the putative members of the Non-Firefighter Sub-class and Residential/Community Sub-class, sustained bioaccumulation of PFOS and/or PFOA in their bodies and are at increased risk of suffering personal injury as a result of their exposure to the PFOS- and/or PFOA- contaminated water at the Guam AFFF Sites and/or at the Affected Areas.

252. Plaintiffs, and putative members of the Non-Firefighter Sub-class and Residential/Community Sub-Classes' exposure to PFOS- and PFOS- contaminated water at the Guam AFFF Sites and/or the Affected Areas released from the Defendants' AFFF products, were connected to and incidental to Defendants' manufacture, design, sale, supply and/or distribution of its products, was harmful and substantially increased the risk of injuries to each of the Plaintiffs and putative Class members.

253. Defendants owed a duty to Plaintiffs and the putative Class members to act reasonably and not place inherently dangerous AFFF into the marketplace when its release into the drinking water supplies was imminent and certain.

254. Defendants marketed and sold their products with knowledge that AFFF containing large quantities of toxic PFC's would be used in training exercises and in emergency situations at military bases and airports, like the Guam AFFF Sites, in such a manner that dangerous chemicals would be released into the environment.

255. Further, Defendants marketed and sold their products with knowledge that AFFF containing large quantities of toxic PFC's would be stored in fire suppressant systems and tanks and that such systems and storage were used and maintained in such a manner that dangerous chemicals would be released into the environment.

256. Knowing of the dangerous and hazardous properties of AFFF, and the manner in which AFFF would be used, stored, and maintained at military bases and airports, like the Guam AFFF Sites, it was foreseeable that AFFF would contaminate the surrounding environment, groundwater, and drinking water supplies of the Guam AFFF Sites and/or in the Affected Areas.

257. Defendants therefore knew or should have known that safety precautions would be required to prevent the release of PFOS and PFOA into the surrounding environment, groundwater, and drinking water supplies.

258. The magnitude of the burden on the Defendants to guard against this foreseeable harm to Plaintiffs and the Class was minimal, as the practical consequences of placing this burden on the Defendants amounted to a burden to provide adequate instructions, proper labeling, and sufficient warnings about their AFFF products.

259. As manufacturers, Defendants were in the best position to provide adequate instructions, proper labeling, and sufficient warnings about their AFFF products.

260. Considering the above factors related to risk, foreseeability, social utility, burden of guarding against the harm, and the practical consequences of placing that burden on the Defendants, the Defendants therefore owed a cognizable duty to Plaintiffs and the Class not to contaminate their water supplies and the surrounding environment and groundwater with AFFF, containing dangerous levels of PFC's.

261. Defendants had a duty to warn of the hazards associated with AFFF, containing PFC's, entering and poisoning the environment and groundwater.

262. Defendants, as manufacturers, marketers, and sellers of AFFF owed Plaintiffs and the Class a cognizable duty to exercise reasonable care to ensure that AFFF was manufactured, marketed, and sold in such a way as to ensure that the end users of AFFF were aware of the potential harm PFOS and PFOA can cause to human health and the environment.

263. Upon learning of the release of the contaminants, all Defendants owed Plaintiffs and the Class a duty to warn and notify Plaintiffs and the Class of the release of the contamination before it injured Plaintiffs and the Class and their property and/or to act reasonably to minimize the damage to Plaintiffs and their property.

264. Defendants breached their duty by allowing PFOS and PFOA to be released into the water supplies at the Guam AFFF Sites and/or in the Affected Areas, and through their failure to warn and notify the end users of AFFF of the danger that PFOS and PFOA would enter into the environment and groundwater.

265. Each Defendant who was in the business of manufacturing, designing selling, supplying and/or distributing AFFF products during the times pertinent to this suit was negligent

and/or failed to exercise reasonable care in one, some and/or all of the following respects, the same being the proximate cause of Plaintiffs' and the Class' injuries²⁶:

- a. In failing to adequately warn Plaintiffs and the Classes of the dangerous characteristics of their products in that each Defendant failed to warn Plaintiffs and the Class members that they he could develop serious adverse health effects including, but not limited to, kidney and testicular cancer and related diseases, liver damage, thyroid disease, ulcerative colitis, immune effects and deficiencies, and/or developmental effects to fetuses during pregnancy or to breastfed infants, as a result of being exposed to PFOS and/or PFOA emitted from each Defendant's products;
- b. In failing to place adequate warnings on or in the containers of said AFFF products containing PFCs to warn of the dangers to one's health of coming in contact with said PFCs, including PFOS and PFOA, and of the gravity of the risk and extent of danger that Plaintiffs were exposing themselves by working with and being exposed to said products;
- c. In failing to take reasonable precautions or exercise reasonable care to publish, adopt and enforce a safety plan and a safe method of handling and disposing of AFFF products;
- d. In failing to develop and utilize a substitute material to eliminate PFCs, including PFOS and PFOA, in the AFFF products manufactured, designed, sold, supplied and/or distributed;
- e. In failing to utilize the available substitute materials for PFCs, including PFOS and PFOA, in the AFFF products manufactured, designed, sold, supplied and/or distributed by the Defendants;
- f. In continuing to sell and otherwise distribute AFFF products when each Defendant knew at the time of sale and/or distribution of said products, that such products caused injuries including, but not limited to, kidney and testicular cancer and related diseases, liver damage, thyroid disease, ulcerative colitis, immune effects and deficiencies, and/or developmental effects to fetuses during pregnancy or to breastfed infants, as a result of being exposed to PFOS and/or PFOA emitted from each Defendant's products; and
- g. In failing to adequately test their respective AFFF products before offering them for sale and use so that Plaintiffs and other persons similarly situated, would not

²⁶ The following subsections (a-g) contain allegations of fact (not allegations of law) supporting Plaintiffs' claim for negligence. Thus, Plaintiffs are not alleging that Defendants are subject to any legal requirement or legal duty not recognized under the law of Guam.

consume, inhale, or sustain dermal absorption of PFOS and/or PFOA released from the ordinary and foreseeable use of said products and thereby exposing the Plaintiffs and Class members to the development of fatal injuries including, but not limited to, kidney and testicular cancer and related diseases, liver damage, thyroid disease, ulcerative colitis, immune effects and deficiencies, and/or developmental effects to fetuses during pregnancy or to breastfed infants, as a result of being exposed to PFOS and/or PFOA emitted from each Defendant's products.

266. As such, the Defendants, negligently, grossly negligently, recklessly, willfully, wantonly, and/or intentionally breached their legal duties to the Plaintiffs and the Class, causing the contamination of the water supplies in and around the Guam AFFF Sites and/or in the Affected Areas.

267. Defendants further breached the duties owed to the Plaintiffs and the Class by failing to take reasonable, adequate, and sufficient steps or actions to eliminate, correct, or remedy any contamination after it occurred.

268. Defendants' breaches of their duties were direct and proximate causes of Plaintiffs' and the Class' injuries, damages, and the imminent, substantial, and impending harm to their health.

269. Defendants' breaches of their duties caused the water in well supplies at the Guam AFFF sites and/or in the Affected Areas to become contaminated with unsafe and dangerous levels of PFOS and PFOA.

270. Plaintiffs and the Class suffered foreseeable injuries and damages as a proximate result of said Defendants' negligent breach of their duties as set forth above. At the time Defendants breached their duties to Plaintiffs and the Class, Defendants' acts and/or failures to act posed recognizable and foreseeable possibilities of danger to Plaintiffs and the Class so apparent as to entitle them to be protected against such actions or inactions.

271. As a direct and proximate result of the negligent acts and/or omissions described in this Count, the Plaintiffs and putative Class members have suffered and continue to suffer damages, including, but not limited to, medical monitoring damages and monetary damages, all for which the Plaintiffs and putative Class members are entitled to recover damages.

272. Defendants' acts were willful, wanton or reckless and conducted with a reckless indifference to the rights of the Plaintiffs and putative Class members.

COUNT IV – ACTUAL FRAUDULENT TRANSFER (DuPont and Chemours)

273. Plaintiffs adopt, reallege and incorporate the allegations in paragraphs 1 through 209 above, and further allege the following:

274. Through their effectuation of the Spinoff, Chemours and DuPont (the “Fraudulent Transfer Defendants”) caused Chemours to transfer valuable assets to DuPont, including but not limited to the \$3.9 billion dividend (the “Transfers”), while simultaneously assuming significant liabilities (the “Assumed Liabilities”).

275. The Transfers and Assumed Liabilities were made for the benefit of DuPont.

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

277. The Fraudulent Transfer Defendants made the Transfers and incurred the Assumed Liabilities with the actual intent to hinder, delay and defraud the creditors or future creditors of Chemours.

278. Plaintiffs and the Class have been harmed as a result of the conduct of the Fraudulent Transfer Defendants.

279. Under 20 GCA §§ 6101 and 6103 and Del. Code Tit. 6 Sec 1301 to 1312, Plaintiffs and the Class are entitled to avoid the Transfers and to recover property or value transferred to DuPont.

COUNT V – CONSTRUCTIVE FRAUDULENT TRANSFER (DuPont and Chemours)

280. Plaintiffs adopt, reallege and incorporate the allegations in paragraphs 1 through 209 above, and further allege the following:

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

282. Each of the Transfers and Chemours' assumption of the Assumed Liabilities was made to or for the benefit of DuPont.

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

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

285. Chemours was insolvent or in contemplation of insolvency at the time of the Transfers, or became insolvent as a result of the Transfers and its assumption of the Assumed Liabilities.

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

287. Plaintiffs and the Class have been harmed as a result of the Transfers.

288. Under 20 GCA §§ 6101 and 6103 and Del. Code Tit. 6 Sec 1301 to 1312, Plaintiffs and the Class are entitled to avoid the Transfers and to recover property or value transferred to DuPont.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, RAYMOND AGUON; JOHNNY ARCEO; BENNY BAZA; WILLIAM CASTRO; DAVID G. CEPEDA; GREYORIO CRUZ; MICHAEL CUASITO; FRANCISCO C. DUENAS; DELFINO V. GARCIA; STEVE HAGEN; ALFRED C. IGNACIO; JAMES T. LINNEL; MARK MERFALEN; ANDREW R. MESA; VAN W. MURER; RUDY PACO; VICENTE PEREZ; MICHAEL ROBERTO; RANDY SABLAN; LEWIS SANTOS; RAY TAITAGUE; EDWARD TERLAJE; ANTHONY QUINENE, for themselves and on behalf of all others similarly situated, demand judgment against Defendants, and each of them, jointly and severally, and request the following relief from the Court:

- a. certification of the proposed Class;
- b. an order establishing a medical monitoring protocol for Plaintiffs and the Class;
- c. an order requiring that Defendants to fund the medical monitoring protocol;
- d. an order barring the transfer of DuPont's liabilities for the claims brought in this Complaint;
- e. Plaintiffs and the putative Class members seek punitive damages in an amount sufficient to deter Defendants' similar wrongful conduct in the future;
- f. an order for an award of attorney fees and costs, as provided by law;
- g. an award of pre-judgment and post-judgment interest as provided by law; and
- h. an order for all such other relief the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs, RAYMOND AGUON; JOHNNY ARCEO; BENNY BAZA; WILLIAM CASTRO; DAVID G. CEPEDA; GREYORIO CRUZ; MICHAEL CUASITO; FRANCISCO C. DUENAS; DELFINO V. GARCIA; STEVE HAGEN; ALFRED C. IGNACIO; JAMES T. LINNEL; MARK MERFALEN; ANDREW R. MESA; VAN W. MURER; RUDY PACO; VICENTE PEREZ; MICHAEL ROBERTO; RANDY SABLAN; LEWIS SANTOS; RAY TAITAGUE; EDWARD TERLAJE; ANTHONY QUINENE, for themselves and on behalf of all others similarly situated, demand a trial by jury of all issues so triable as a matter of right.

DATED this 3rd day of October, 2019.

Respectfully submitted,

THE FERRARO LAW FIRM

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