

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
_____ DIVISION

CASE NO.: _____
Electronically Filed

COMMONWEALTH OF KENTUCKY,
ENERGY AND ENVIRONMENT CABINET

PLAINTIFF

vs.

COMPLAINT WITH JURY DEMAND

E. I. DUPONT DE NEMOURS AND COMPANY
Chestnut Run Plaza 735/3150-8
974 Centre Road
Wilmington, DE 19805

DEFENDANTS

Serve: CT Corporation System
306 W. Main Street
Suite 512
Frankfort, KY 40601

And

THE CHEMOURS COMPANY
1007 Market Street
Wilmington, DE 19899

Serve: CT Corporation System
306 W. Main Street
Suite 512
Frankfort, KY 40601

And

THE CHEMOURS COMPANY FC, LLC
1007 Market Street
Wilmington, DE 19801

Serve: CT Corporation System
306 W. Main Street
Suite 512
Frankfort, KY 40601

And

DUPONT DE NEMOURS, INC.
974 Centre Road
Building 730
Wilmington, DE 19805

Serve: Secretary of State
700 Capital Avenue
Suite 86
Frankfort, KY 40601

And

CORTEVA, INC.
974 Centre Road
Wilmington, DE 19805

Serve: CT Corporation System
306 W. Main Street
Suite 512
Frankfort, KY 40601

PLAINTIFF'S ORIGINAL COMPLAINT

Plaintiff, the Commonwealth of Kentucky, Energy and Environment Cabinet files this Complaint and, in support thereof, states the following:

I. NATURE OF THIS ACTION

1. The Commonwealth of Kentucky, Energy and Environment Cabinet (“Plaintiff” or “Commonwealth”), brings this action against Defendants for contamination of the Waters of the Commonwealth, plant life, biota, and wildlife (collectively, “natural resources”), as a result of the release of per- and polyfluoroalkyl substances (“PFAS”) into the environment from the Washington Works Plant manufacturing facility located in Washington, West Virginia (“the Plant”).

2. PFAS are a class of man-made chemicals that include perfluoro-octane sulfonate (“PFOS”) and perfluoro-octanoic acid (“PFOA”).

3. PFAS are “hazardous substances,” “pollutants,” and “contaminants” as those terms are used in KRS 224.1-400; are substances that cause or contribute to the pollution of the waters of the Commonwealth in contravention of standards, rules, or regulations adopted by the Cabinet; and are substances that “injure or are chronically or acutely toxic to or produce adverse physiological or behavioral responses in humans, animals, fish, and other aquatic life” as used in 401 KAR 10:031.

4. At the Plant, Defendants used, handled, stored, transported, discharged, and/or disposed of PFAS and waste streams from these products in such a manner as to cause the introduction of PFAS into the environment.

5. PFAS have been detected in the Commonwealth’s surface water, groundwater, and fish. The presence of PFAS in the Ohio River aquifer degrades the Waters of the Commonwealth and impairs the value of the Commonwealth’s natural resources. Additional investigation and testing will undoubtedly uncover further contamination across the Commonwealth.

6. Through this action, Plaintiff seeks to require Defendants to pay all past and future costs incurred by the Commonwealth in investigating, monitoring, and otherwise responding to PFAS contamination throughout Kentucky, as well as damages for harm to the Commonwealth’s natural resources, caused by Defendants’ releases of PFAS.

II. SCOPE OF THIS ACTION

7. The Cabinet brings this action in its capacity as the agency charged with administering and enforcing the statutes, regulations, and rules providing for the prevention, abatement, and control of all water, land, and air pollution in the Commonwealth, including pursuant to its authority under KRS Chapter 224.

8. The Cabinet also acts to protect and conserve all property, including property rights and property interests held or owned by the Commonwealth, in remediating the contamination of its property, and in preventing its future contamination.

III. PARTIES

9. Plaintiff is the Energy and Environment Cabinet, an organizational unity within the Executive Branch of the state government. Plaintiff brings this action pursuant to authority granted by KRS 224.10-100, KRS 224.1-400, KRS 224.70-110, KRS 224.20-100, and KRS 224.99.

10. Manufacturing Defendant E. I. DuPont de Nemours and Company (“DuPont”) is a Delaware corporation with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805.

11. Defendant The Chemours Company (“Chemours”) is a Delaware corporation with its principal place of business located at 1007 Market Street, Wilmington, Delaware 19899.

12. In 2015, DuPont spun off its “Performance Chemicals” business to Chemours, along with certain environmental liabilities. Upon information and belief, at the time of the transfer of its Performance Chemicals business to Chemours, DuPont had been sued, threatened with suit and/or had knowledge of the likelihood of litigation to be filed regarding DuPont’s liability for damages and injuries arising from the production, manufacture, and sale of PFAS and from its use, handling, storage, discharge, and disposal of PFAS from the Plant.

13. Defendant The Chemours Company FC, LLC (“Chemours FC”) is a Delaware limited liability company with its principal place of business located at 1007 Market Street Wilmington, Delaware, 19899. Chemours FC operates as a subsidiary of Chemours. Upon information and belief, Chemours FC is the successor-in-interest to DuPont Chemical Solutions Enterprise.

14. Defendant DuPont De Nemours, Inc. (“New DuPont”) is a Delaware corporation with its principal place of business located at 974 Centre Road, Building 730, Wilmington, Delaware 19805. Upon information and belief, DowDuPont, Inc. was formed in 2017 as a result of the merger of Dow Chemical and DuPont. DowDuPont, Inc. was subsequently divided into three publicly traded companies and on June 1, 2019, DowDuPont, Inc. changed its registered name to DuPont de Nemours, Inc. Jurisdiction over this Defendant exists pursuant to KRS 454.210(2)(a)1, 3 and 4 because this Defendant transacts business in the Commonwealth, it caused tortious injury by an act in this Commonwealth, and it caused tortious injury by an act outside the Commonwealth, and it regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, and the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth.

15. Defendant Corteva, Inc. (“Corteva”) is a Delaware corporation with its principal place of business located at 974 Centre Road, Building 730, Wilmington, Delaware 19805. Upon information and belief, Corteva is one of the aforementioned spin-off companies from DowDuPont, Inc., and is believed to have assumed some of the PFAS liabilities of the former DuPont.

16. Any and all references to a Defendant or Defendants in this Complaint include any predecessors, successors, parents, subsidiaries, affiliates, and divisions of the named Defendants.

17. When the term “Defendants” is used alone, it refers to all Defendants named in this Complaint jointly and severally. When reference is made to any act or omission of the Defendants, it shall be deemed to mean that the officers, directors, agents, employees, or representatives of the

Defendants committed or authorized such act or omission, or failed to adequately supervise or properly control or direct their employees while engaged in the management, direction, operation or control of the affairs of Defendants, and did so while acting within the scope of their employment or agency.

IV. JURISDICTION AND VENUE

18. Jurisdiction and venue are vested in the Franklin County Circuit Court pursuant to KRS 224.99-010(9).

V. FACTUAL ALLEGATIONS

A. THE CONTAMINANTS: PFAS, INCLUDING PFOS AND PFOA

19. Located on a 1,200-acre site along the Ohio River, DuPont's Washington Works Plant has produced and used PFAS to manufacture Teflon-related products since 1951.¹ DuPont has admitted that the Plant vented PFAS into the air, disposed of PFAS-wastes in landfills, and discharged PFAS and PFAS-wastes into the Ohio River.²

20. PFAS move readily through soil and water and persist in the environment and present a significant threat to the Commonwealth's natural resources and residents.³

21. PFOS and PFOA are readily absorbed in animal and human tissues after oral exposure and accumulate in the serum, kidney, and liver. They have been found globally in water,

¹ EPA, *Hazardous Waste Cleanup: Chemours Company FC, LLC (Formerly: Dupont Washington Works) in Washington, West Virginia*, available at <https://www.epa.gov/hwcorrectiveactioncleanups/hazardous-waste-cleanup-chemours-company-fc-llc-formerly-dupont#Description>.

² EPA, Memorandum, *Consent Agreement and Proposed Final Order to resolve DuPont's Alleged Failure to submit Substantial Risk Information Under the Toxic Substances Control Act (TSCA) and Failure to Submit Data Requested Under the Resource Conservation and Recovery Act (RCRA)*, available at <https://www.epa.gov/sites/default/files/2013-08/documents/eabmemodupontpfoasettlement121405.pdf>.

³ EPA, *Drinking Water Health Advisory for Perfluorooctanoic Acid (PFOA)*, 822-R-16-005; *Drinking Water Health Advisory for Perfluorooctane Sulfonate (PFOS)*, 822-R-16-004, available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

soil and air, as well as in human food supplies, breast milk, umbilical cord blood, and human blood serum.⁴

22. DuPont admits that PFOS and PFOA bioaccumulate and persist in the human body. A short-term exposure can result in a body burden that persists for years and can increase with additional exposures.⁵

23. Since they were first produced, information has emerged showing negative health effects caused by exposure to PFOS and PFOA.

24. According to the United States Environmental Protection Agency (“EPA,”) “...studies indicate that exposure to PFOA and PFOS over certain levels may result in...developmental effects to fetuses during pregnancy or to breastfed infants (e.g., low birth weight, accelerated puberty, skeletal variations), cancer (e.g., testicular, kidney), liver effects (e.g., tissue damage), immune effects (e.g., antibody production and immunity), thyroid effects and other effects (e.g., cholesterol changes).”⁶

25. EPA has also warned that “there is suggestive evidence of carcinogenic potential for PFOS.”⁷

B. DEFENDANTS’ KNOWLEDGE OF THE HAZARDS OF PFOS AND PFOA

26. On information and belief, at the times of the Plant’s discharges and disposal of PFAS, Defendants knew or reasonably should have known, among other things, that: (a)

⁴ *Id.* EPA 822-R-16-005 at 18-20, 25-27; and 822-R-16-004 at 19-21, 26 28.

⁵ EPA, Memorandum, *supra* note 2; *see also* EPA 822-R-16-005 at 55; and EPA 822-R-16-004 at 55.

⁶ EPA, *Fact Sheet PFOA & PFOS Drinking Water Health Advisories*, 800-F-16-003, available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

⁷ EPA, *Health Effects Support Document for Perfluorooctane Sulfonate (PFOS)*, 822-R-16-002, available at <https://www.epa.gov/ground-water-and-drinking-water/supporting-documents-drinking-water-health-advisories-pfoa-and-pfos>.

discharges from the Plant contaminated drinking water in homes and businesses nearby; (b) blood sampling showed elevated PFOA levels in the blood of people in the community near the Plant; (c) blood sampling of individuals who drank water from private wells near the Plant showed elevated blood levels of PFOA; (d) PFAS may be absorbed into the lungs and gastrointestinal tract, potentially causing severe damage to the liver, kidneys, and central nervous system, in addition to other toxic effects, and that PFOS and PFOA can persist in the body for prolonged periods of time.

27. DuPont had been studying the potential toxicity of PFOA since at least the 1960s and knew that it was contaminating drinking water drawn from the Ohio River and did not disclose to the public or to government regulators what they knew about the substance's potential effects on humans, animals, or the environment.⁸

28. During the 1960s, DuPont had knowledge that PFOA had adverse liver reactions in dogs and rats. By 1961, DuPont's own researchers had concluded that PFOA was toxic and, according to its Toxicology Section Chief, should be "handled with extreme care."

29. By 1976, DuPont was aware of research reports that detected organic fluorine in blood bank samples in the United States, which the researchers believed to be a potential result of human exposure to PFOA.

30. In 1978, DuPont's Medical Director authorized a plan to review and monitor the health conditions of potentially-exposed workers in order to assess whether any negative health effects could be attributed to PFOA exposure. This monitoring plan involved obtaining blood samples from the workers and analyzing them for the presence of organic fluorine content.

⁸ EPA, Memorandum, *supra* n.2

31. In 1981, DuPont tested for and found PFOA in the blood of female plant workers in Parkersburg, West Virginia. DuPont observed and documented pregnancy outcomes in exposed workers, finding two of seven children born to female plant workers between 1979 and 1981 had birth defects – one an “unconfirmed” eye and tear duct defect, and one a nostril and eye defect.⁹

32. In 1983, DuPont started evaluating the concentration of PFOA in the Ohio River caused by the Plant's operations and began conducting ground-level modeling for potential levels of PFOA discharged into the air from the Washington Works Plant. DuPont did not disclose its data or results to the U.S. EPA, State governmental agencies, or the general public.

33. By 1984, DuPont began a program involving the covert collection of tap water samples sourced from public drinking water supplies near the Plant. DuPont asked Plant employees to collect the samples from local businesses or their own homes. DuPont then analyzed these samples internally to assess their PFOA content. DuPont developed a method for analyzing water samples and assess their PFOA content with a detection limit of 0.6 parts per billion ("ppb") or 600 parts per trillion ("ppt").

34. DuPont's analysis revealed that PFOA was present in public water sources in both Ohio and West Virginia. DuPont was also aware that the Ohio wells were located upstream, but downwind, from the Plant, indicating that air emissions of PFOA contaminated public water supplies. Testing of wells located downstream of the Plant's discharge point into the Ohio River likewise detected PFAS. DuPont did not disclose its data or results to the U.S. EPA, State governmental agencies, or the general public.

35. Although technologies for reducing emissions from the Plant, DuPont did not employ any available techniques to prevent discharges of PFAS.

⁹ EPA, Memorandum, *supra* n.2.

36. The Plant continued to produce PFAS and increased discharges into the environment.

37. In August, 2003, the “Groundwater Investigation Steering Team,” a collaborative effort among EPA, DuPont, the West Virginia Department of Environmental Protection, West Virginia Bureau for Public Health, and Ohio EPA.¹⁰ The Team concluded that discharges into the Ohio River and air emissions allowed PFAS to migrate onto adjacent soils, surfaces, and groundwater.

38. 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.”¹¹ The EPA fined DuPont \$16,500,000 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.”¹² EPA found that DuPont had long known of, and concealed, knowledge about human exposure at the Plant.¹³

39. By July 2011, DuPont could no longer credibly dispute the human toxicity of PFOA, which it continued to manufacture. The “C8 Science Panel” created as part of the settlement of a class action over DuPont’s releases from the Washington Works plant had reviewed the

¹⁰ West Virginia Department of Environmental Protection, *Ammonium Perfluorooctanoate (C-8) Groundwater Investigation Steering Team Report*, available at https://dep.wv.gov/wwe/watershed/wqmonitoring/documents/c-8/c-8_gistreport.pdf.

¹¹ EPA, *E.I. DuPont de Nemours and Company PFOA Settlements*, available at <https://www.epa.gov/enforcement/ei-dupont-de-nemours-and-company-pfoa-settlements>.

¹² *Id.*

¹³ See generally EPA, Memorandum, Consent Agreement and Proposed Final Order to resolve DuPont’s Alleged Failure to submit Substantial Risk Information Under the Toxic Substances Control Act (TSCA) and Failure to Submit Data Requested Under the Resource Conservation and Recovery Act (RCRA), available at <https://www.epa.gov/sites/default/files/2013-08/documents/eabmemodupontpfoasettlement121405.pdf>.

available scientific evidence and notified DuPont of a “probable link” between PFOA exposure and the serious (and potentially fatal) conditions of pregnancy-induced hypertension and preeclampsia.^{14,15} By October 2012, the C8 Science Panel had notified DuPont of a probable link between PFOA and five other conditions—high cholesterol, kidney cancer, thyroid disease, testicular cancer, and ulcerative colitis.

40. In July 2015, DuPont spun off its chemicals division by creating Chemours as a new publicly traded company, once wholly owned by DuPont. By mid-2015, DuPont had dumped its perfluorinated-chemical liabilities into the lap of the new Chemours.

41. As a direct and proximate result of Defendants’ actions and/or inactions alleged in this Complaint, Plaintiff’s property and natural resources have been and will continue to be contaminated with PFAS, creating an environmental hazard, unless such contamination is remediated. As a direct and proximate result of Defendants’ actions and/or inactions, Plaintiff must assess, evaluate, investigate, monitor, treat, remove, clean up, correct, and/or remediate PFAS contamination within the Commonwealth at significant expense, loss, and damage to Plaintiff.

C. THE IMPACT OF PFOS AND PFOA ON THE COMMONWEALTH OF KENTUCKY

42. PFOS and PFOA have been detected in varying amounts, at varying times, in the Commonwealth’s natural resources. Plaintiff contends that any detectible level of PFAS on its property and in its natural resources requires investigation, treatment, remediation, and monitoring.

43. In 2019, the Energy and Environment Cabinet sampled finished drinking water from 81 public drinking water treatment plants for eight PFAS compounds:

¹⁴ Under the settlement, “probable link,” means that given the available scientific evidence, it is more likely than not that among class members a connection exists between PFOA/C8 exposure and a particular human disease.

¹⁵ The C8 Science Panel, Status Report: PFOA (C8) exposure and pregnancy outcome among participants in the C8 Health Project (July 15, 2011), http://www.c8sciencepanel.org/pdfs/Status_Report_C8_and_pregnancy_outcome_15July2011.pdf (last viewed January 28, 2018).

Perfluorobutanesulfonic acid (PFBS); Perfluoroheptanoic acid (PFHpA); Perfluorohexanesulfonic acid (PFHxS); Perfluorononanoic acid (PFNA); Perfluorooctanesulfonic acid (PFOS); Perfluorooctanoic acid (PFOA); 4,8-dioxa-3H-perfluorononanoic acid (ADONA); and Hexafluoropropylene oxide dimer acid (HFPO-DA).

44. One or more PFAS compounds were detected in 41 of the 81 samples. PFOS was detected in 33 samples; PFOA was detected in 24 samples. These systems serve drinking water to approximately 1.7 million people.

45. In 2021, the Cabinet sampled surface waters at monitoring stations established in various streams and rivers across Kentucky for the same eight PFAS analytes.

46. One or more PFAS compound was detected at 36 of the 40 monitoring sites. PFOS was detected in 36 stations; PFOA was found at 31 stations. The single highest detection was PFOS, measured at 249 ng/L (equivalent to parts per trillion) in the Cumberland River Basin.

47. The detection and/or presence of PFOS and/or PFOA, and the threat of further detection and/or presence of PFOS and/or PFOA, in the Commonwealth and its natural resources in varying amounts and at varying times has resulted, and will continue to result, in significant injuries and damage to Plaintiff.

48. On information and belief, the invasion of the Commonwealth and its natural resources with PFOS and PFOA is recurring, resulting in new harm to Plaintiff on each occasion.

49. The injuries to Plaintiff caused by Defendants' conduct constitute an unreasonable interference with, and damage to, Plaintiff, its property, its natural resources, and its citizens. Plaintiff's interests in protecting its property, natural resources, and citizens constitute a reason for seeking the relief and damages described herein.

VI. CAUSES OF ACTION

COUNT ONE --- VIOLATION OF KRS 224.1-400.

50. Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

51. As described in this Complaint, PFAS are persistent, toxic, and bioaccumulative. Because of these characteristics, PFAS pose substantial present and potential hazards to human health or the environment.

52. Defendants admitted that the Plant vented PFAS into the air, disposed of PFAS-wastes in landfills, and discharged PFAS and PFAS-wastes into the Ohio River.¹⁶ These practices resulted in PFAS contamination of the Ohio River, soils, other surface waters, and air, which resulted in PFAS contamination of Commonwealth resources.

53. PFAS compounds in water injure or are chronically or acutely toxic to or produce adverse physiological or behavioral responses in humans, animals, fish, and other aquatic life, as prohibited by 401 KAR 10:031.

54. Defendants did not report their releases or provide any information characterizing the locations and extent of releases as required by KRS 224.1-400.

55. Pursuant to KRS 224.99-010, each Defendant in violation of KRS 224.1-400 and is liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which such violation continues.

56. Defendants used, handled, or stored PFAS, and waste streams in such a manner that resulted in the introduction of PFAS compounds into the waters of the Commonwealth in violation of KRS 224.70-110.

¹⁶ EPA, Memorandum, Consent Agreement and Proposed Final Order to resolve DuPont's Alleged Failure to submit Substantial Risk Information Under the Toxic Substances Control Act (TSCA) and Failure to Submit Data Requested Under the Resource Conservation and Recovery Act (RCRA), available at <https://www.epa.gov/sites/default/files/2013-08/documents/eabmemodupontpfoasettlement121405.pdf>.

57. Pursuant to KRS 224.99-010, each Defendant in violation of KRS 224.70-110 and is liable for a civil penalty not to exceed the sum of twenty-five thousand dollars (\$25,000) for each day during which such violation continues.

COUNT TWO – NEGLIGENCE

58. Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

59. Defendants had a duty to exercise due or reasonable care in the production, use, handling, storage, and disposal of PFAS to avoid harm to those who would be foreseeably injured by PFAS environmental contamination.

60. Defendants knew that their admitted discharges, improper disposal, and direct releases of PFAS into the Ohio River would contaminate natural resources in Kentucky.

61. By failing to exercise due care in the operation of the Plant and use, handling, storage and disposal of PFAS, Defendants breached their duty to avoid harm to Plaintiff.

62. As a direct and proximate result of Defendants' actions and omissions, Plaintiff has suffered and continues to suffer damages. Plaintiff has incurred, and will continue to incur, investigation, cleanup, remediation, abatement, and removal costs and damages related to PFAS contamination.

63. Defendants' acts were willful, wanton, or reckless and conducted with a reckless indifference to the rights of Plaintiff.

64. Defendants intentionally, recklessly, and negligently failed to share, publish, or otherwise concealed their internal testing, employee health information, fate and transport studies, and knowledge of the adverse effect PFAS on human, animal, and aquatic life.

65. Defendants' reprehensible, outrageous, and fraudulent conduct justifies an award of punitive damages as against Defendants.

COUNT THREE – PRIVATE NUISANCE

66. Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs

67. Through Defendants’ acts and omissions at the Plant, PFAS physically invaded Plaintiff’s natural resources, and unreasonably interfered with, and continues to interfere with, Plaintiff’s use and enjoyment of the natural resources and Waters of the Commonwealth, recreational fishing areas, and commercial fisheries.

68. The private nuisance created by Defendants is continuing.

69. Defendants have failed, and continue to fail, to abate the private nuisance.

70. As a result of the private nuisance, Plaintiff has suffered and continues to suffer, significant harm and damages, including investigation, cleanup, remediation, and removal costs and damages related to the detection, treatment, and removal of PFAS constituents that have and will continue to migrate into Plaintiff’s natural resources.

COUNT FOUR – PUBLIC NUISANCE

71. Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

72. Through Defendants’ acts and omissions at the Plant, PFAS contamination in the Commonwealth unreasonably interfered with, and continues to interfere with, Plaintiff’s right, and the right of the public, to a clean environment free of industrial pollution.

73. Through Defendants’ acts and omissions at the Plant, PFAS contamination in the Commonwealth has unreasonably interfered with, and continues to interfere with, Plaintiff’s right, and the right of the public, to the use of natural resources including waterbodies, recreational fishing areas, and commercial fisheries.

74. The public nuisance created by Defendants is continuing.

75. Defendants have failed, and continue to fail, to abate the public nuisance.

76. As a result of the public nuisance, Plaintiff has suffered and continues to suffer, significant harm and damages that will continue until the nuisance is abated.

COUNT FIVE – VOIDABLE TRANSACTION VIOLATIONS

77. Plaintiff realleges and reaffirms all allegations set forth in the preceding paragraphs.

78. Plaintiff seeks all relief available under the Kentucky Uniform Voidable Transactions Act for the Defendants' violations of the Kentucky UVTA, KRS 378.005 et seq. for their voidable transactions as part of their various spinoff transactions.

79. Defendants engaged in acts in furtherance of a scheme to transfer DuPont's assets so that parties in PFAS litigation, such as Plaintiff, could not obtain funds or collect a judgment which they are or will be owed. As a result of Defendants' acts, omissions, and other conduct described herein, Plaintiff has been damaged.

80. At all relevant times, the Defendants have (1) acted with actual intent to hinder, delay, and defraud parties; (2) acted without receiving a reasonably equivalent value in exchange for the transfer obligation arising out of the DuPont-Chemours spinoff; and/or (3) were engaged or were about to engage in a business for which the remaining assets of Chemours were unreasonably small in relation to the business or that the business intended to incur, or those liabilities the Defendants believed or reasonably should have believed that Chemours would incur.

81. For decades, DuPont's Plant used, handled, discharged, and disposed of PFAS in a way that would foreseeably impact Plaintiff's natural resources.

82. As a result of the transfer of assets and liabilities described herein, Defendants have attempted to limit the availability of assets to cover judgments for all of the

liability for damages and injuries from use, handling, discharge, and disposal of PFAS at the Plant.

83. At the time of the transfer of its performance chemical business to Chemours, DuPont had been sued, had notice of suits, and/or had knowledge of likely litigation regarding DuPont's liability from its use, handling, discharge, and disposal of PFAS at the Plant.

84. The DuPont Defendants acted without receiving consideration and/or a reasonably equivalent value in exchange for the transfer or obligation, and DuPont believed or reasonably should have believed that Chemours would incur debts beyond Chemours' ability to pay when those debts became due.

85. The claims, judgment, and potential judgments against Chemours potentially exceed its ability to pay. Accordingly, Plaintiff seeks avoidance of the transfer of DuPont's liabilities for the claims brought herein and seeks to hold the DuPont Defendants liable for any damages or other remedies that may be awarded by the Court or jury arising from this Complaint. Plaintiff further seeks all other rights and remedies that may be available to it, including prejudgment remedies as available under applicable law, as may be necessary for full compensation of damages and injuries Plaintiff has suffered as alleged herein.

VII. PRAYER FOR RELIEF

WHEREFORE, the Commonwealth prays that this Complaint be received and filed and that, after consideration hereof, the Court enter its Order granting unto the Commonwealth of Kentucky and its citizens the following relief:

1. A judgment against the Defendants, jointly and severally, for all relief prayed for herein;
2. Compensatory damages according to proof including, but not limited to:

- a. costs and expenses related to the past, present, and future investigation, sampling, testing, and assessment of the extent of PFAS contamination within the Commonwealth;
 - b. costs and expenses related to the past, present, and future treatment and remediation of PFAS contamination, including removal, treatment, and disposal costs;
 - c. costs of loss of use of natural resources due to PFAS contamination;
 - d. costs of restoring natural resources to their pre-contamination condition.
3. Diminution of property value;
 4. Statutory penalties under KRS 224.99-010;
 5. Punitive damages;
 6. Consequential damages;
 7. Costs, disbursements, and attorneys' fees of this lawsuit;
 8. Pre-judgment and post-judgment interest;
 9. Trial by jury; and
 10. Any other and further relief as the Court deems just, proper, and equitable.

Respectfully submitted,

HENDY JOHNSON VAUGHN EMERY, PSC

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