



IN THE CIRCUIT COURT OF MORGAN COUNTY, ALABAMA

JAMES ST. JOHN, JR,)
CHRISTI DOLBEER,)
JOHN AND)
KIMBERLY SCHERFF,)
Individuals; DARDEN)
BRIDGEFORTH AND SONS)
LAND COMPANY, an Alabama)
Company,)
HILLSBORO GIN)
COMPANY, INC., an Alabama)
Corporation,)
HAMILTON FARMS,)
an Alabama Partnership;)
G.T. HAMILTON,)
MARK HAMILTON,)
LISHA FELKINS;)
Individually and as partners;)
KATHLEEN HAMILTON,)
MICHAEL LETSON)
Individually,)
AND)
DON ALEXANDER .)
REDA ALEXANDER)
Individually)

PLAINTIFFS,)

v.)

CIVIL ACTION NO.: CV-02-000408

3M COMPANY; DAIKIN AMERICA, INC.; DYNEON, LLC; SYNAGRO WWT, INC.; SYNAGRO SOUTH, LLC; TORAY CARBON FIBERS AMERICA, INC.; TORAY FLUOROFIBERS (AMERICA) Inc.; TORAY INDUSTRIES, INC.; BFI WASTE SYSTEMS OF ALABAMA, LLC.; BFI WASTE SYSTEMS OF NORTH AMERICA, LLC.; THE CITY OF DECATUR, ALABAMA; MORGAN COUNTY, ALABAMA; MUNICIPAL UTILITIES BOARD OF DECATUR, MORGAN COUNTY, ALABAMA D/B/A DECATUR UTILITIES; Fictitious Defendant A, whether singular or plural, being that person, corporation or other entity which is known to the Plaintiff only as 3M Company.; Fictitious Defendant B, whether singular or plural, being that person, corporation or other entity who or which was the Plaintiff's employer when he was exposed to and/or contracted an occupational disease; Fictitious Defendant C, whether singular or plural, being that person, corporation or other entity which was the workmen's compensation carrier for the Plaintiff's employer when he was exposed to and/or contracted an occupational disease; Fictitious Defendant D, whether singular or plural, being that person, corporation or other entity who or which was the administrator of workmen's compensation for the Plaintiff's employer

when he was exposed to and/or contracted an occupational disease; Fictitious Defendant E, whether singular or plural, being that person, corporation or other entity who or which manufactured the perfluronated chemicals, compounds or products complained of in the Complaint; Fictitious Defendant F, whether singular or plural, being that person, corporation or other entity on whose behalf any of the named or fictitious parties Defendant was acting at any of the relevant times; Fictitious Defendant G, whether singular or plural, being that person, corporation or other entity who or which is the predecessor in interest of any of the named or fictitious party Defendants herein; Fictitious Defendant H, whether singular or plural, being that person, corporation or other entity who or which is the successor in interest of any of the named or fictitious party Defendants herein; Fictitious Defendant I, those entities which sold chemicals and compounds to 3M Company which were used in the recipe for the perfluorinated products, chemicals and compounds, knowing that such chemicals and compounds were unsafe. Plaintiff avers that the identities of the fictitious party Defendants herein are otherwise unknown to the Plaintiff at this time, or, if their names are known to the Plaintiff, their identities as proper parties Defendant are not known to the Plaintiff at this time, and their true names will be substituted by amendment when ascertained.

DEFENDANTS.

SIXTH AMENDED COMPLAINT

COME NOW the Plaintiffs in the above-styled case and file this sixth amendment to the complaint. The Amended Complaint adds additional defendants to the existing claims. In addition, this amendment provides additional factual detail regarding the continuing tortious conduct of the defendants. The plaintiffs amend their complaint, as follows:

PARTIES

1. By adding as a party defendant, BFI WASTE SYSTEMS OF ALABAMA, LLC.

(Hereinafter “BFI Alabama”). BFI Alabama is a limited liability corporation organized under and existing pursuant to the laws of Delaware with its principal place of business in Huntsville, Alabama. Primary acts of BFI Alabama specific to this action occurred in Morgan County, Alabama.

2. By adding as a party defendant, BFI WASTE SYSTEMS OF NORTH AMERICA, LLC.

(Hereinafter “BFI Arizona”). BFI Arizona is a limited liability corporation organized under and existing pursuant to the laws of Delaware with its principal place of business in

Phoenix, Arizona. BFI Arizona is a registered LLC with the State of Alabama and does business by agent in Alabama. Primary acts of BFI Arizona specific to this action occurred in Morgan County, Alabama.

3. By adding as a party defendant, THE CITY OF DECATUR, ALABAMA. (Hereinafter “City of Decatur”). Defendant City of Decatur is a municipality incorporated in Morgan County, Alabama.
4. By adding as a party defendant, MUNICIPAL UTILITIES BOARD OF DECATUR, MORGAN COUNTY, ALABAMA d/b/a Decatur Utilities. (Hereinafter Decatur Utilities”). Decatur Utilities is a municipal utility service owned and operated by the City of Decatur in Morgan County, Alabama, including a Waste Water Treatment Plant.
5. By adding as a party defendant, MORGAN COUNTY, ALABAMA. Morgan County is a body corporate, operated by the Morgan County Commission.

FACTS – DEFENDANTS

6. The Plaintiffs re-allege all prior paragraphs as if fully set out herein.
7. BFI Alabama and BFI America own and operate Morris Farm Sanitary Landfill. Morris Farm is a landfill that receives commercial and industrial wastes. Since 1996, the landfill, has received wastes from multiple sources that contained PFCs. Morris Farm’s landfill and its leachate are contaminated with PFCs. Morris Farm collected and disposed of its landfill leachate through publically owned wastewater treatment plants. Morris Farm discharged its leachate to the Decatur Dry Creek Wastewater Treatment Plant (WWTP) and the City of Moulton, Alabama Wastewater Treatment Plant (WWTP). In doing so, it has contributed to the PFC contamination of the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the

plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.

8. The City of Decatur owns and operates the Morgan County Sanitary Landfill on land owned by Morgan County. The Morgan County Landfill is an area of land that receives commercial and industrial wastes. For over three decades, this landfill has received wastes from multiple sources that contained PFCs. The Morgan County Landfill and its leachate are contaminated with PFCs. Morgan County Landfill has collected and disposed of its landfill leachate through the Decatur WWTP. In doing so, these defendants have contributed to the PFC contamination of the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.
9. The City of Decatur owns and operates Decatur Utilities Dry Creek Waste Water Treatment Plant. (Hereinafter DU WWTP). DU's WWTP received and treated industrial and commercial wastewater. DU WWTP discharges treated wastewater into Baker's Creek and the Wheeler Lake of the Tennessee River. The DU WWTP is contaminated with PFCs. Its discharges and land applied biosolids were contaminated with PFCs. In doing so, it has contributed to the PFC contamination of the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.
10. The Alabama Department of Public Health conducts sampling of fish in order to provide people who eat fish from Alabama's rivers and lakes with information on chemical

concentrations that can pose health risk to people who eat them. Based on this sampling, ADPH issues "Fish Consumption Advisories." PFCs were included in the 2014 ADPH Fish Consumption Advisory. The Advisory issued included:

- a. An advisory for Baker's Creek at Wheeler Reservoir in Morgan County. People were advised due to the concentration of PFOS in fish not to eat more than one meal a month of any species of fish from this area.
 - b. An advisory for areas of Wheeler Reservoir. People were advised due to the concentration of PFOS in largemouth bass not to eat more than one meal a month from certain areas.
11. PFOS, manufactured by 3M, likely would have accumulated in sediments, and these would likely be serving as long term sources of PFOS to the river. Since it is biopersistent, it will remain unless removed.
12. The Clean Water Act requires all states to submit to EPA every two years a list of waters (303(d) List) "impaired" or "threatened," "where required pollution controls **are not sufficient** to attain or maintain applicable water quality standards" for their uses. In 2014, Alabama added 25 miles, 20,633 acres of the Tennessee River (Wheeler Lake) to the 303(d) list of impaired or threatened waterways attributing the decision to the ADPH PFOS Fish Advisory. Alabama is required to establish "TMDL" a total maximum daily load for PFOS. The State will have to implement a plan to lower the levels so that the waters do meet water quality standards. Once a waterway has made the list, it cannot be removed until changes to correct have been made. All Defendants have contributed in the past and continue to contribute to the contamination of the Tennessee River with PFCs, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned

or used by the plaintiffs. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.

AMENDMENT TO COUNT ONE – NEGLIGENCE AND/OR WANTONNESS

13. Plaintiffs re-allege all prior paragraphs and Count One of the Fourth Amended Complaint as if set forth fully herein.
14. As a result of their operation and ownership of Morris Farm, BFI Alabama and BFI Arizona are liable for negligence or wantonness in the methods they employed to process, contain, discharge, or deposit PFOS, PFOA, and other perfluronated chemicals, compounds and products. The BFI defendants have committed culpable acts in the past and continue their negligent or wanton conduct in causing and allowing these dangerous chemicals to pollute the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.
15. As a result of their ownership and operation of DU WWTP and the Morgan County Landfill, the The City of Decatur, Decatur Utilities, and Morgan County are liable for negligence or wantonness in the methods they have employed to sell, use, distribute, process, contain, discharge, or deposit PFOS, PFOA, and other perfluronated chemicals, compounds and products. The Decatur defendants and Morgan County committed culpable acts and continue their negligent or wanton conduct in causing and allowing these dangerous chemicals to pollute the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the

citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.

16. BFI Alabama, BFI Arizona, the City of Decatur, Decatur Utilities, and Morgan County's continuing negligence or wantonness have caused injury and damage to the plaintiffs through PFC contamination of the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced. The plaintiffs' real and personal property are polluted with likely human carcinogens. The use of the plaintiffs' land has been impaired and its value diminished. The land will continue in this state until the PFCs are removed. Plaintiffs seek compensatory damages and equitable relief requiring the defendants to remediate and clean up all property and water contaminated by their negligent or wanton conduct.

17. **WHEREFORE**, plaintiffs, St. John, John and Kimberly Scherff, Christi Dolbeer, Darden Bridgeforth and Sons Land Company, Hillsboro Gin Company, Inc., G.T. Hamilton, Kathleen Hamilton, Mark Hamilton, Lisha Felkins, Michael Letson, Don Alexander, Reda Alexander on-behalf of themselves and others similarly situated, demand judgment against defendants in such amount of compensatory and punitive damages as a jury may award and the costs of this action. Plaintiffs also seek appropriate equitable and injunctive relief.

AMENDMENT TO COUNT TWO – TRESPASS

18. Plaintiffs re-allege all prior paragraphs and Count Two of the Fourth Amended Complaint as if set forth fully herein.

19. As a result of their operation and ownership of Morris Farm, BFI Alabama and BFI Arizona are liable for creating a continuing trespass in the methods employed to process, contain, discharge, or deposit PFOS, PFOA, and other perfluronated chemicals, compounds, and products. The defendants have committed acts constituting trespass in the past and continue this trespass in causing and allowing these dangerous chemicals to pollute the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.
20. As a result of their ownership and operation of DU WWTP and the Morgan County Landfill , the City of Decatur, Decatur Utilities, and Morgan County are liable for creating a continuing trespass in the methods employed to manufacture, sell, use, distribute, process, contain, discharge, or deposit PFOS, PFOA, and other perfluronated chemicals, compounds, and products. These defendants have committed and continue this trespass in causing and allowing these dangerous chemicals to pollute the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.
21. BFI Alabama, BFI Arizona, the City of Decatur, Decatur Utilities, and Morgan County's continuing trespass have caused injury and damage to the plaintiffs through PFC contamination to the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they

represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced. The plaintiffs' real and personal property are polluted with likely human carcinogens. The use of the plaintiffs' land has been impaired and its value diminished. The land and water will continue in this state until the PFCs are removed. Plaintiffs seek compensatory damages and equitable relief requiring the defendants to remediate and clean up all property and water contaminated by their trespass.

22. **WHEREFORE**, plaintiffs, St. John, John and Kimberly Scherff, Christi Dolbeer, Darden Bridgeforth and Sons Land Company, Hillsboro Gin Company, Inc., G.T. Hamilton, Kathleen Hamilton, Mark Hamilton, Lisha Felkins, Michael Letson, Don Alexander, and Reda Alexander on-behalf of themselves and others similarly situated, demand judgment against defendants in such amount of compensatory and punitive damages as a jury may award and the costs of this action. Plaintiffs also seek appropriate equitable and injunctive relief.

AMENDMENT TO COUNT THREE – NUISANCE

23. Plaintiffs re-allege all prior paragraphs and Count Three of the Fourth Amended Complaint as if set forth fully herein.
24. As a result of their operation and ownership of Morris Farm, BFI Alabama and BFI Arizona are liable for creating a continuing nuisance in the methods employed to process, contain, discharge, or deposit PFOS, PFOA, and other perfluronated chemicals, compounds, and products. The BFI defendants' continuing nuisance has caused or allowed these dangerous chemicals to pollute the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they

represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.

25. As a result of their ownership and operation of DU WWTP and the Morgan County Landfill, the City of Decatur and Decatur Utilities are liable for creating a continuing nuisance in the methods they have employed to manufacture, sell, use, distribute, process, contain, discharge or deposit PFOS, PFOA, and other perfluronated chemicals, compounds and products. These defendants' continuing nuisance has caused or allowed these dangerous chemicals to pollute the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced.

26. The continuing nuisance created by the BFI Alabama, BFI Arizona, the City of Decatur, and Decatur Utilities has caused injury and damage to the plaintiffs through PFC contamination to the Tennessee River, as well as the soil, groundwater, surface water, sediment, air, and fish consumed, owned or used by the plaintiffs and the citizens they represent. That contamination persists today and will until PFCs are removed and mitigation/remediation efforts are enforced. The plaintiffs' real and personal property are polluted with likely human carcinogens. The use of the plaintiffs' land has been impaired and its value diminished. The land and water will continue in this state until the PFCs are removed. Plaintiffs seek compensatory damages and equitable relief requiring the defendants to remediate and cleanup all property contaminated by their continuing nuisance.

27. **WHEREFORE**, plaintiffs, St. John, John and Kimberly Scherff, Christi Dolbeer, Darden Bridgeforth and Sons Land Company, Hillsboro Gin Company, Inc., G.T. Hamilton, Kathleen Hamilton, Mark Hamilton, Lisha Felkins, Michael Letson, Don Alexander, and Reda Alexander on-behalf of themselves and others similarly situated, demand judgment against defendants in such amount of compensatory and punitive damages as a jury may award and the costs of this action. Plaintiffs also seek appropriate equitable and injunctive relief.

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PLAINTIFFS DEMAND TRIAL BY STRUCK JURY IN THIS CAUSE

s/D. Leon Ashford
D. Leon Ashford ASH001

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on the following via electronic transmission using the AlaFile Court filing systems and/or vial United States mail, properly addressed, postage prepaid on this 15th day of June, 2015, as follows:

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THE CITY OF DECATUR, ALABAMA
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MUNICIPAL UTILITIES BOARD OF DECATUR
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