IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MULTNOMAH

STATE OF OREGON by and through Ellen F. Rosenblum, Attorney General, Plaintiff, v. 3M COMPANY; AGC CHEMICALS AMERICAS, INC.; AMEREX CORPORATION; ARCHROMA U.S., INC.; ARKEMA INC.; BASF CORPORATION; BUCKEYE FIRE EQUIPMENT COMPANY; CARRIER FIRE & SECURITY AMERICAS CORPORATION; CARRIER GLOBAL CORPORATION; CHEMDESIGN PRODUCTS, INC.; CHEMGUARD, INC.; CLARIANT CORPORATION; CORTEVA, INC.; DUPONT DE NEMOURS, INC.; DYNAX CORPORATION; EIDP, INC., F/K/A E.I. DU PONT DE NEMOURS AND COMPANY; KIDDE PLC, INC.; NATIONAL FOAM, INC.; THE CHEMOURS COMPANY; TYCO FIRE PRODUCTS LP; and ABC CORPORATIONS 1-10 (Names Fictitious), Defendants.	Case No. COMPLAINT (Public Nuisance, Trespass, Equitable Indemnity, Unjust Enrichment, Actual and Constructive Fraudulent Transfer) NOT SUBJECT TO MANDATORY ARBITRATION ORS 20.140 (State fees deferred at filing) JURY TRIAL DEMANDED

I. NATURE OF ACTION

1.

Plaintiff State of Oregon ("the State" or "Oregon"), by and through its Attorney General, Ellen F. Rosenblum, brings this action pursuant to the State's statutory and regulatory authority and common law for injuries to the State's lands, waters, wildlife, and other natural resources; property; residents; and consumers against Defendants 3M Company ("3M"); AGC Chemicals

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Americas, Inc. ("AGC Chemicals"); Amerex Corporation ("Amerex"); Archroma U.S., Inc. ("Archroma"); Arkema Inc. ("Arkema"); BASF Corporation ("BASF"); Buckeye Fire Equipment Company ("Buckeye"); Carrier Fire & Security Americas Corporation ("Carrier Fire"); Carrier Global Corporation ("Carrier"); ChemDesign Products, Inc. ("ChemDesign"); Chemguard, Inc. ("Chemguard"); Clariant Corporation ("Clariant"); Dynax Corporation ("Dynax"); EIDP, Inc. ("Old DuPont"), f/k/a E. I. du Pont de Nemours and Company; Kidde PLC, Inc. ("Kidde PLC"); National Foam, Inc. ("National Foam"); The Chemours Company ("Chemours"); and Tyco Fire Products LP ("Tyco") (the foregoing collectively referred to as the "Manufacturer Defendants"); Corteva, Inc. ("Corteva"); DuPont de Nemours, Inc. ("New DuPont"); and ABC Corporations 1-10 (names fictitious) (collectively with Manufacturer Defendants, "Defendants").

2.

For decades, Defendants have known of the dangers of toxic per- and polyfluoroalkyl substances, including but not limited to perfluorooctane sulfonic acid ("PFOS"), perfluorooctanoic acid ("PFOA"), perfluorohexane sulfonic acid ("PFHxS"), perfluorodecanoic acid ("PFDA"), perfluorononanoic acid ("PFNA"), perfluorobutane sulfonic acid ("PFBS"), and hexafluoropropylene oxide dimer acid ("HFPO-DA," known colloquially as "GenX") (collectively, "PFAS"), including the PFAS present in aqueous film-forming foam ("AFFF") used for firefighting training and emergency response at military and industrial facilities, airports, and other locations throughout the State.

3.

Despite this knowledge, Defendants chose not to take steps to reduce those risks and instead continued to manufacture and distribute AFFF that contains PFAS and PFAS-containing fluorochemicals and fluorosurfactants[1] (collectively, "Defendants' AFFF" or "Manufacturer

[1] Fluorochemicals, or fluorinated chemicals, are manmade organic compounds containing fluorine used in the manufacture of surfactants. Fluorosurfactants, or fluorinated surfactants, are synthetic organofluorine chemical compounds that have multiple fluorine atoms.

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Defendants' AFFF") to, inter alia, the State's governmental entities, counties, municipalities, local fire departments, businesses, entities, and residents so Defendants could reap enormous profits. Now that the State and the larger public are becoming aware of the massive harm Defendants have created while enriching themselves, Defendants seek to foist the equally enormous costs to address that harm back on the victims of their concealment.

4.

The U.S. Environmental Protection Agency ("USEPA") claims to have identified more than 12,000 PFAS compounds and has concluded that exposure to PFAS may lead to significant negative health effects, including but not limited to decreased fertility and preeclampsia/increased high blood pressure in pregnant women; adverse developmental effects in children such as low birth weight, accelerated puberty, bone variations, and behavioral changes; increased risk of certain cancers, including kidney and testicular cancers; reduced ability of the body's immune system to fight infections, including reduced vaccine response; interference with the body's natural hormones; increased ulcerative colitis; increased thyroid disease; and increased medically high cholesterol and/or risk of obesity.

5.

Defendants knew that their AFFF would harm the environment—and ultimately damage human health and the State's economy because remediation of PFAS requires enormous costs—but elected to conceal that information and even affirmatively contradict it in public statements and marketing campaigns, in order to reap vast profits.

6.

Defendants' tortious, deceptive, and unlawful actions have caused or contributed to significant known and likely PFAS contamination of the State's groundwater, drinking water, surface water, air, soil, sediment, biota, estuaries, submerged lands, wetlands, other natural resources, and property held in trust or otherwise owned by the State. These toxic and persistent

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"forever chemicals" are contaminating and will contaminate water supplies and will require significant expense to investigate, treat, and remediate.

7.

Because of Defendants' decades-long scheme to shield their PFAS from regulatory scrutiny and scientific understanding, the State's understanding of the nature and extent of the existing PFAS problem in Oregon is incomplete but continues to grow. Addressing the PFAS emergency that Defendants have caused requires substantial effort and expense to investigate, treat, and remediate the contamination. Defendants who created and profited from the creation of this problem, not the citizens of Oregon who suffer from it, must pay to address the PFAS contamination throughout the State.

8.

Many locations in the State have been identified as being contaminated with PFAS caused by Defendants' AFFF. For example, sites at Portland International Airport ("PDX") have recorded PFAS levels in the groundwater as high as 203,000 parts per trillion ("ppt") in 2021, many times higher than the State's Drinking Water Health Advisory Level of a cumulative 30 ppt.

9.

PFAS have also been detected in drinking water sources in multiple counties across Oregon, in fish, and in fish and wildlife habitats. As the State's investigation continues, more PFAS contamination caused by Defendants' AFFF in the State is being discovered and expected to continue to be discovered.

II. THE PARTIES

10.

Oregon brings this action in its authority to protect public trust resources and its police power, which includes, but is not limited to its power to prevent pollution of the State's property and waters; to prevent and abate nuisances; and to prevent and abate hazards to public health, safety, welfare, and the environment.

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11.

The State also brings this suit in its *parens patriae* capacity for the benefit of Oregonians.

12.

Defendant 3M Company 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. 3M has manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS that was transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. 3M is registered to do business in Oregon.

13.

Defendant AGC Chemicals Americas, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 5 East Uwchlan Avenue, Suite 201, Exton, Pennsylvania 19341. AGC Chemicals is the North American subsidiary of AGC Inc. (f/k/a Asahi Glass Co., Ltd.). AGC Chemicals and/or its affiliates have manufactured, marketed, promoted, distributed, and/or sold fluorochemicals that contained PFAS used to manufacture AFFF, and those fluorochemicals and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon.

14.

Defendant Amerex Corporation is a corporation organized and existing under the laws of the State of Alabama, with its principal place of business located at 2900 Highway 280 S, Suite 300, Birmingham, Alabama 35223. Amerex manufactures firefighting products. Beginning in 1971, it manufactured hand portable and wheeled extinguishers for commercial and industrial application. Amerex has manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS that was transported, stored, used, handled, trained with, used to test equipment,

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released, spilled, otherwise discharged, and/or disposed in Oregon. Amerex is registered to do business in Oregon, although its registration is inactive.

15.

Defendant Archroma U.S., Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 5435 77 Center Drive, Suite 10, Charlotte, North Carolina 28217. Archroma, a subsidiary of Archroma Management, LLC, has manufactured, marketed, promoted, distributed, and/or sold fluorochemicals that contained PFAS used to manufacture AFFF, and those fluorochemicals and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. On information and belief, Archroma is a successor to Clariant, which manufactured fluorochemicals used in AFFF and was formerly known as Sandoz Chemicals Corporation and as Sodeyeco, Inc. Archroma is registered to do business in Oregon, although its registration is inactive.

16.

Defendant Arkema Inc. is a corporation organized and existing under the laws of the State of Pennsylvania, with its principal place of business located at 900 First Avenue, King of Prussia, Pennsylvania 19406. Arkema is a successor in interest to Atochem North America Inc., Elf Atochem North America, Inc., and Atofina Chemicals, Inc. Arkema and/or its predecessors have manufactured, marketed, promoted, distributed, and/or sold fluorosurfactants that contained PFAS used to manufacture AFFF, and those fluorosurfactants and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. Arkema is registered to do business in Oregon.

17.

Defendant BASF Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 100 Park Avenue, Florham Park, New Jersey 07932. On information and belief, BASF is the successor in interest to Ciba Inc. (f/k/a/

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Ciba Specialty Chemicals Corporation). On information and belief, Ciba Inc. manufactured, marketed, promoted, distributed, and/or sold fluorochemicals and fluorosurfactants that contained PFAS used to manufacture AFFF, and those fluorochemicals, fluorosurfactants, and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. BASF is registered to do business in Oregon.

18.

Defendant Buckeye Fire Equipment Company is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business located at 110 Kings Road, Kings Mountain, North Carolina 28086. Buckeye has manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS that was transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon.

19.

Defendant Carrier Fire & Security Americas Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 13995 Pasteur Boulevard, Palm Beach Gardens, Florida 33418. Carrier Fire is the indirect parent of Kidde-Fenwal, Inc.,[2] which 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"). Carrier Fire is also the successor in interest to UTC Fire & Security Americas Corporation, Inc., following the spinoff transaction described immediately below. Carrier Fire, through Kidde/Kidde Fire, has manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS that was

[2] On May 14, 2023, Kidde-Fenwal, Inc. filed for bankruptcy in the case captioned *In re Kidde-Fenwal, Inc.*, Case No. 23-10638-LSS (D. Del. Bankr.). In light of the automatic stay of claims against Kidde-Fenwal, Inc. pursuant to 11 USC § 362, Kidde-Fenwal, Inc. is not named as a defendant herein.

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transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. Carrier Fire is registered to do business in Oregon.

20.

Defendant Carrier Global Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 13995 Pasteur Boulevard, Palm Beach Gardens, Florida 33418. On or around April 3, 2020, United Technologies Corporation completed the spinoff of one of its reportable segments into Carrier, a separate publicly traded company. Pursuant to the Separation and Distribution Agreement by and Among United Technologies Corporation, Carrier Global Corporation, and Otis Worldwide Corporation, Carrier assumed certain liabilities, including those related to the business operated by Kidde/Kidde Fire. Carrier's operations are classified into three segments: HVAC, Refrigeration, and Fire & Security. Carrier's Fire & Security products and services are sold under brand names that include Chubb and Kidde. At all relevant times, Carrier conducted business throughout the United States, including in Oregon. Carrier, through Kidde/Kidde Fire, manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS throughout the United States, including in Oregon.

21.

Defendant ChemDesign Products, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at Two Stanton Street, Marinette, Wisconsin 54143. On information and belief, ChemDesign manufactured, marketed, promoted, distributed, and/or sold fluorochemicals that contained PFAS used to manufacture AFFF, primarily to Chemguard, and those fluorochemicals and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon.

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22.

Defendant Chemguard, Inc. is a corporation organized and existing under the laws of the State of Texas, with its principal place of business located at One Stanton Street, Marinette, Wisconsin 54143-2542. Chemguard has manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS that was transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. Chemguard has also manufactured, marketed, and sold fluorosurfactants that contained PFAS used to manufacture AFFF, and those fluorosurfactants and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon.

23.

Defendant Clariant Corporation is a corporation organized and existing under the laws of the State of New York, with its principal place of business located at 500 East Morehead Street, Suite 400, Charlotte, North Carolina 28202. Clariant has manufactured, marketed, promoted, distributed, and/or sold fluorochemicals that contained PFAS used to manufacture AFFF, and those fluorochemicals and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. Clariant is a predecessor to Archroma and was formerly known as Sandoz Chemicals Corporation and as Sodeyeco, Inc. Clariant is registered to do business in Oregon.

24.

Defendant Corteva, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. In 2019, New DuPont spun off a new, publicly traded company, Corteva, which currently holds Old DuPont as a subsidiary. In connection with these transfers, Corteva assumed certain Old DuPont liabilities—including those relating to PFAS. Corteva is registered to do business in Oregon.

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25.

Defendant DuPont de Nemours, Inc. (i.e., New DuPont), f/k/a DowDuPont Inc., is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. In 2015, after Old DuPont spun off Chemours, Old DuPont merged with The Dow Chemical Company and transferred Old DuPont's historic liabilities and assets to other entities, including New DuPont. In connection with these transfers, New DuPont assumed certain Old DuPont liabilities—including those relating to PFAS. New DuPont does business throughout the United States, including in Oregon.

26.

Defendant Dynax Corporation is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 79 Westchester Avenue, Pound Ridge, New York 10576. Dynax has manufactured, marketed, promoted, distributed, and/or sold fluorosurfactants that contained PFAS used to manufacture AFFF, and those fluorosurfactants and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon.

27.

Defendant EIDP, Inc. (i.e., Old DuPont), f/k/a E. I. du Pont de Nemours and Company, is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 974 Centre Road, Wilmington, Delaware 19805. Old DuPont has manufactured, marketed, promoted, distributed, and/or sold fluorochemicals and/or fluorosurfactants that contained PFAS used to manufacture AFFF, and those fluorochemicals, fluorosurfactants, and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon.

28.

Defendant Kidde PLC, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at Nine Farm Springs Road,

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Farmington, Connecticut 06032. Kidde PLC was part of United Technologies Corporation. At all relevant times, Kidde PLC conducted business throughout the United States, including in Oregon. Kidde PLC, through Kidde/Kidde Fire, manufactured, marketed, promoted, distributed, and/or sold AFFF that contained PFAS throughout the United States, including in Oregon.

29.

Defendant National Foam, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 141 Junny Road, Angier, North Carolina 27501. National Foam manufactures the Angus brand of products and is the successor in interest to Angus Fire Armour Corporation (collectively, "National Foam/Angus Fire"). National Foam/Angus Fire has manufactured, marketed, promoted, distributed, and/or sold AFFF containing PFAS that was transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. National Foam is registered to do business in Oregon, although is inactive.

30.

Defendant The Chemours Company is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 1007 Market Street, Wilmington, Delaware 19899. In 2015, Old DuPont spun off its performance chemicals business to Chemours, along with vast environmental liabilities. Chemours has manufactured, marketed, promoted, distributed, and/or sold fluorosurfactants that contained PFAS used to manufacture AFFF, and those fluorosurfactants and AFFF were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. Chemours is registered to do business in Oregon.

31.

Defendant Tyco Fire Products, LP is a limited partnership organized and existing under the laws of the State of Delaware, with its principal place of business located at One Stanton Street, Marinette, Wisconsin 54143-2542. Tyco manufactures the Ansul brand of products and is the

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successor in interest to Ansul Company (together, "Tyco/Ansul"). Tyco/Ansul has manufactured, marketed, promoted, distributed, and/or sold AFFF and fluorosurfactants that contained PFAS that were transported, stored, used, handled, trained with, used to test equipment, released, spilled, otherwise discharged, and/or disposed in Oregon. Tyco is registered to do business in Oregon.

32.

Defendants ABC Corporations 1 through 10, unknown at this time, are manufacturers of AFFF, manufacturers of fluorochemicals and fluorosurfactants that contained PFAS used to make AFFF, and/or distributors of Defendants' AFFF that have resulted in injuries to the State's natural resources or otherwise share responsibility for such injuries. When these ABC Corporations are identified, they will be added by name.

III. JURISDICTION AND VENUE

33.

The natural resources that are the subject of this suit are all within the State of Oregon. The State of Oregon is not a citizen of any state for diversity purposes, and thus, no diversity jurisdiction exists as a basis for federal jurisdiction. No federal subject matter jurisdiction is invoked herein.

34.

As described above, each Defendant named here maintains sufficient minimum contacts with the State such that this Court's exercise of jurisdiction over it is not contrary to the provisions of the Constitution or laws of the United States, and this Court therefore has jurisdiction pursuant to Oregon.

35.

Venue is proper in Multnomah County pursuant to ORS 14.040 because some part of the property that is subject to the action is located there and because some part of the causes of action arose there. Property contaminated by Defendants' AFFF is located throughout the State, including in Multnomah County. The injury caused by Defendants' conduct is located throughout the State,

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including Multnomah County. The property and injury in question include, but are not limited to, water, wildlife, land, and submerged lands, including those within Multnomah County. Defendants' AFFF was sold, used, leaked, and likely disposed in Multnomah County.

IV. STATUTORY AND REGULATORY BACKGROUND

A. Regulation of PFAS, Including Defendants' AFFF

36.

The State of Oregon passed a ban on PFAS in food containers, effective January 1, 2025. Enrolled Senate Bill 543 (2023), available at https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB543/Enrolled (last accessed May 30, 2023).

37.

Through the Oregon Health Authority, the State has established drinking water Health Advisory Levels ("HALs") for 4 PFAS constituents, PFOS, PFOA, PFNA, and PFHxS. These HALs are nonregulatory and do not mandate a required action, but the Oregon Health Authority expects that public water systems will notify their customers if a HAL is exceeded.

Type of PFAS	Limit
PFOA	30 ppt
PFOS	30 ppt
PFNA	30 ppt
PFHxS	30 ppt

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38.

As part of its Toxics Reduction Strategy, the State Department of Environmental Quality ("DEQ") has designated PFAS[3] as one group of chemicals on its "priority" list. Through its air, land, and water programs, DEQ is taking the following steps to investigate and remediate PFAS contamination in Oregon:

a. Identifying sites that may use PFAS in their operations;

b. Overseeing site testing and assessment of impacts;

c. Testing PFAS in drinking water;

d. Using Cleaner Air Oregon's data on requested toxic pollutant emissions reports from industries that included PFAS; and

e. Coordinating with federal, state, and local agency partners.

39.

PFAS, including Defendants' AFFF, are subject to federal regulation.[4]

[3] DEQ has prioritized the following PFAS chemicals: PFOS, PFOA, PFNA, PFHxS, Perfluoroheptanoic acid ("PFHpA"), Perfluorooctane sulfonamide ("PFOSA"), 4-Fluorobenzoic acid ("PFBA"), 6:2 fluorotelomer sulfonate ("6:2 FTS"), Perfluorohexanoic acid ("PFHxA"), and Perfluorotetradecanoic acid ("PFTeA"). *See* State of Oregon DEQ, 2019 Base List for DEQ Priority Toxics, *available at* https://www.oregon.gov/deq/Hazards-and-Cleanup/Documents/2019BaseListPriorityToxics.pdf (last visited May 30, 2023).

[4] Some significant past USEPA efforts to regulate PFAS include an effort in 2006 to limit PFOA in the United States by engaging the industry in a stewardship program with two primary goals: (1) to commit to achieve, no later than 2010, a 95% reduction, measured from a year 2000 baseline, in (a) facility emissions to all media of PFOA, precursor chemicals that can break down to PFOA, and related higher homologue chemicals and (b) product content levels of these chemicals; and (2) to commit to working toward the elimination of these chemicals from emissions and products by 2015. *See* USEPA, Fact Sheet 2010/2015 PFOA Stewardship Program, *located at* https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/fact-sheet-20102015-pfoa-stewardship-program (last visited May 23, 2023).

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40.

For example, with respect to PFAS in drinking water: (1) in March 2021, USEPA issued a final determination to regulate PFOA and PFOS as contaminants under the Safe Drinking Water Act ("SDWA"), 42 USC §§ 300f *et seq.*; (2) in December 2021, USEPA published the final fifth Unregulated Contaminant Monitoring Rule, which will require public water systems around the country to monitor for 29 PFAS compounds between 2023 and 2025; (3) in June 2022, USEPA issued interim health advisory levels for PFOA at 0.004 ppt, for PFOS at 0.02 ppt, and for GenX at 10 ppt; and (4) in March 2023, USEPA released proposed maximum contaminant levels ("MCLs") for PFOA, PFOS, PFNA, PFHxS, PFBS, and GenX in drinking water pursuant to the SDWA. Once enacted, the MCLs will require public water systems across the United States to monitor for these PFAS, notify the public of detections, and take action to remove PFAS concentrations above those levels.[5]

41.

Additionally, with respect to remediation of contaminated sites: (1) in October 2021, USEPA announced important steps toward evaluating the existing data for four PFAS under the Resource Conservation and Recovery Act ("RCRA"), 42 USC §§ 6901 *et seq*., and strengthening the ability to clean up PFAS contamination across the country through the RCRA corrective action process; (2) in May 2022, USEPA added five PFAS to a list of risk-based values for site cleanups known as Regional Screening Levels and Regional Remedial Management Levels; (3) in August 2022, USEPA issued a proposed rule that would designate PFOA and PFOS as "hazardous substances" under the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 USC §§ 9601 *et seq*.; and (4) in April 2023, USEPA issued an Advance Notice

[5] USEPA's efforts to set MCLs this year are part of the October 18, 2021 "PFAS Strategic Roadmap." *See* USEPA, PFAS Strategic Roadmap: EPA's Commitments to Action 2021-2024, *located at* https://www.epa.gov/pfas/pfas-strategic-roadmap-epas-commitments-action-2021-2024 (last visited May 23, 2023).

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of Proposed Rulemaking asking the public for input regarding potential future hazardous substance designations of additional PFAS compounds under CERCLA.

42.

With respect to the use of PFAS in products and processes in January 2023, USEPA proposed a rule pursuant to the Toxic Substances Control Act ("TSCA"), 15 USC §2601 *et seq.*, that would prevent anyone from starting or resuming, without a complete USEPA review and risk determination, the manufacture, processing, or use of an estimated 300 PFAS that have not been made or used for many years, known as "inactive PFAS."

43.

With respect to PFAS in discharges of wastewater: (1) in December 2022, USEPA issued a memorandum providing guidance to states on how to use the National Pollutant Discharge Elimination System permitting program of the Federal Water Pollution Control Act (a/k/a the Clean Water Act), 33 USC §§ 1251 *et seq*., to reduce harmful PFAS pollution; and (2) in January 2023, USEPA released its final Effluent Limitations Guidelines ("ELGs") Plan 15, including a determination that revised ELGs and pretreatment standards are warranted for reducing PFAS in leachate discharges from landfills, an announcement of an expansion of the ongoing study of PFAS discharges from textile manufacturers, and a new study of waste streams to wastewater treatment plants.

44.

With respect to reporting releases of PFAS to the environment, in December 2022, USEPA proposed a rule that would improve reporting PFAS to the Toxics Release Inventory ("TRI") by, among other proposed changes, eliminating an exemption that allows facilities to avoid reporting information on PFAS when those chemicals are used in small, or de minimis, concentrations. Because PFAS are used at low concentrations in many products, this rule would ensure that covered industry sectors and federal facilities that make or use TRI-listed PFAS will no longer be

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able to rely on the de minimis exemption to avoid disclosing their PFAS releases and other waste management quantities for these chemicals.

B. Oregon's Uniform Fraudulent Transfers Act

45.

The State has adopted the Uniform Fraudulent Transfer Act ("UFTA") to prevent the fraudulent transfer of property by a debtor who intends to defraud creditors by placing assets beyond their reach. *See* ORS 95.200-95.310. The UFTA has been enacted by a majority of states in substantively identical form, including the State of Delaware where the fraudulent transfers that form the basis for the State's claims occurred. *See* DEL. CODE tit. 6, §§ 1301-1311.

46.

Under the UFTA's actual fraudulent transfer provision, a transaction made by a debtor "with actual intent to hinder, delay, or defraud any creditor of the debtor" is voidable as to the creditor's claim. ORS 95.230, 95.260.

47.

UFTA's constructive fraudulent transfer provision provides that a transaction made by a debtor "without receiving a reasonably equivalent value in exchange for the transfer or obligation" is voidable if "the debtor: (1) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or (2) intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due"; or (3) "was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation." *See id.* §§ 95.230(1)(b), 95.240(1).

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V. FACTUAL ALLEGATIONS

A. The Harmful Impacts of Defendants' AFFF on the Environment, Animals, and Public Health

48.

AFFF is a fire-suppressing foam used to extinguish flammable liquid fires, including jet-fuel fires, aviation-related fires, hangar fires, ship fires, and chemical fires and is routinely used to train firefighters and test firefighting equipment.

49.

When used as intended during a firefighting event or training exercise, Defendants' AFFF can cause hundreds, if not thousands, of gallons of foamy water laced with PFAS to enter the environment in a variety of ways, including but not limited to through soils, sediment, surface water, and groundwater.

50.

AFFF contains PFAS. PFAS are highly fluorinated synthetic chemical compounds that include carbon chains containing at least one carbon atom on which all hydrogen atoms are replaced by fluorine atoms. The carbon-fluorine bond is one of the strongest bonds in chemistry and gives PFAS their unique chemical properties. The carbon-fluorine bond in PFAS generally does not occur in nature.

51.

The PFAS family, including PFOS, PFOA, PFHxS, PFNA, PFBS, and GenX, can cause extensive and long-lasting environmental contamination.

52.

PFAS are mobile and persist in the environment. Once introduced into the environment, PFAS quickly spread because they easily dissolve in water and, thus, have reached numerous water systems within the State. PFAS also persist in the environment indefinitely because of their multiple carbon-fluorine bonds, which are exceptionally strong and stable and resistant to

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metabolic and environmental degradation processes. Similarly, removal of PFAS from drinking water sources requires specialized, and expensive, drinking water treatment systems. In short, once PFAS are used, they migrate through the environment, resist natural degradation, contaminate groundwater and drinking water, and are difficult and costly to remove. Some PFAS bioaccumulate and biopersist in animals and are toxic to their health. Because humans and some other organisms slowly excrete certain PFAS, ongoing low-level exposure results in a buildup in body burden (i.e., levels of PFAS remaining within the body). Thus, they also can biomagnify, meaning their concentration in organic tissue increases as they are consumed up the food chain. PFAS also are harmful to the environment and can build up in sediments and soils over time, impacting plants, fish, and animals.

53.

PFAS are toxic and cause significant adverse effects to human health. The presence of these chemicals in drinking water presents a serious threat to public health. For example, PFOS exposure is associated with numerous adverse health effects in humans, including increases in serum lipids (i.e., high cholesterol); decreases in antibody response to vaccines; increases in risk of childhood infections; and adverse reproductive and developmental effects, along with pregnancy induced hypertension and preeclampsia. PFOA exposure is associated with, among other things, decreased birthweight, testicular and kidney cancers, ulcerative colitis, medically diagnosed high cholesterol, and thyroid disease.

54.

These persistent "forever chemicals" have caused and will continue to cause long-lasting contamination in Oregon that adversely impacts human health and harms Oregon's natural resources.

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B. Affected Natural Resources

55.

The State of Oregon owns in trust for the benefit of the public approximately 2.8 million acres of land, including approximately 1.2 million acres of submerged and submersible lands underlying the waters of navigable and tidally influenced rivers, waterways, and lakes within the State. Surface water and groundwater within the State, from all sources of supply and prior to capture, are also held in trust by the State for the benefit of the public. The State, as trustee, holds such waters subject to the public's right to use the water for various beneficial purposes.

56.

Accordingly, as trustee of all natural resources situated within its borders, the State has the authority to protect public ownership interests in those natural resources, including public waters, from interference, impairment, and harm.

57.

As a result of Defendants' manufacture and distribution of PFAS throughout the United States, including in Oregon, PFAS continue to persist throughout Oregon's natural environment.

58.

Pursuant to its authority under state law, the State has investigated, monitored, and detected the presence of PFAS on its lands, in its waters, and in various wildlife species and other public trust resources within its borders.

59.

PFAS in Defendants' AFFF have injured these natural resources, and such injury is continuing.

60.

PFAS attributable to Defendants' AFFF have been found in groundwater, surface water, sediments, and soils in the State where their AFFF was used, stored, disposed, or otherwise

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discharged. Furthermore, it is likely that additional contamination to natural resources from PFAS attributable to Defendants' AFFF will be uncovered as its investigation continues.

61.

Contamination from PFAS attributable to Defendants' AFFF persists in the State's natural resources (i.e., it does not break down in the environment); damages their intrinsic (i.e., inherent existence) value; and impairs the public benefits derived from access to, use, and enjoyment of the State's natural resources.

62.

The current and future residents of the State have a substantial interest in having natural resources uncontaminated by PFAS, as do the tourism, recreation, fishing, and other industries that rely upon maintaining a clean environment for their tourists, recreational visitors, fishermen, and other patrons to enjoy.

i. Groundwater

63.

Groundwater is a critical ecological natural resource for the people of the State, as the State relies on groundwater for, among other uses, drinking, irrigation, and agriculture.

64.

Groundwater is the primary source of drinking water in Oregon. More than 90% of public water systems in Oregon rely on groundwater for drinking water, and 23% of Oregonians rely on private wells, which are generally supplied by groundwater aquifers, as their primary source of drinking water. Groundwater accounts for roughly 95% of available freshwater resources in Oregon. Approximately 30% of all water used in Oregon is groundwater, the only practical source of water in many areas of the State. Groundwater is used in Oregon industries, including agriculture and livestock, breweries, computer chip production, food processing, and manufacturing.

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65.

Many military and industrial facilities, airports, and firefighting training academies where Defendants' AFFF was used also rely on Oregon's groundwater. For example, the Kingsley Field Air National Guard Base sources drinking water from groundwater. PFAS have been detected in the groundwater at the Kingsley Field Air Natural Guard Base, with maximum PFAS levels of approximately 400,000 ppt.

66.

Oregon's groundwater is also used for irrigation, agriculture, and industry. Oregon is a major producer of agricultural commodities, including nursery products, cattle and calves, grass seed, milk, wheat, wine, grapes, hazelnuts, and blueberries. Groundwater is essential to the State's $50 billion agriculture industry.

67.

Groundwater provides base flow to streams and influences surface water quality, wetland ecological conditions, and the health of aquatic ecosystems. In addition to serving as a source of water for drinking, agriculture, and other uses, groundwater is an integral part of the overall ecosystem in the State. Groundwater also keeps water in rivers during times of drought. During the summer months, and when there is little rain, salmon and other fish rely on groundwater to support stream flow, modulate temperatures, and regulate nutrients.

68.

Groundwater promotes cycling and nutrient movement within and among the State's bodies of water and wetlands, prevents saltwater intrusion, provides groundwater stabilization, prevents sinkholes, and helps to maintain critical water levels in freshwater wetlands.

69.

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

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70.

Investigation in the State has revealed elevated levels of PFAS in the groundwater, and Defendants' AFFF is a significant source of that contamination. PFAS mobilize in and through groundwater sources to reach areas beyond the location of Defendants' AFFF's use. This contamination has had and will continue to have severe and adverse effects on the State's groundwater.

71.

Investigation of contamination from Defendants' AFFF in groundwater in the State is ongoing.

ii. Surface Water

72.

Surface water is a critical ecological resource of the State. Surface water includes all water in the State's rivers, lakes, streams, and wetlands. Roughly 20% of Oregon community public water systems, including in municipalities such as Portland, Salem, and Eugene, get their water from surface water, but these water systems serve 80% of the State's population. The State's surface water has been contaminated by PFAS as a result of Defendants' AFFF.

73.

In addition to drinking water, surface water in the State is also used for recreational, industrial, agricultural, and other commercial purposes, including swimming, boating, and recreational fishing.

74.

PFAS are mobile in water and can spread great distances from the point of discharge. PFAS contamination attributable to the use of Defendants' AFFF in the State has reached and contaminated surface water throughout the State.

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75.

Investigation of contamination from Defendants' AFFF in surface water in the State is ongoing.

iii. Coastal Resources and Estuaries

76.

The State's coastal area stretches more than 350 miles from the mouth of the Columbia River in the north to the State's border with California in the south. The coastal zone generally extends seaward by three nautical miles and inland to the crest of the coast range. There are more than 600,000 people that live in the State's coastal area, and Oregon's ocean economy employment generated an estimated GDP of $3.1 billion in 2019.

77.

The State has 22 major estuaries and at least 15 minor estuaries, all of which are ecological transition zones and harbor rich biodiversity. Estuaries are partially enclosed bodies of water surrounding coastal habitats where saltwater from the ocean mixes with fresh water from rivers and streams within the State. Oregonians use estuaries for commercial and recreational fishing, navigation, and shipping, as well as for other recreational and commercial activities such as sailing, bird watching, and shellfish aquaculture.

78.

Estuaries provide habitat for many kinds of marine life and commercially important species. This habitat is vital for salmon, crabs and other shellfish, juvenile marine fish, marine mammals, and birds. Many species rely on Oregon's estuaries for certain parts of their lives, such as the migratory or reproductive stage. For example, Chinook salmon tend to use estuaries for juvenile rearing, and many shorebirds rely on estuaries as a wintering habitat and migration feeding area.

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79.

These coastal habitats and estuaries are imperiled due to contamination from Defendants' AFFF as they serve as long-term reservoirs of PFAS, where PFAS are stored and released over time, adversely affecting the estuaries and increasing PFAS concentrations in the cells and tissue of the shellfish and other wildlife that people eat. PFAS from the use of AFFF at PDX and the adjacent Portland Air National Guard Base ("PANG") have been detected in sediment and fish tissue from the Columbia Slough, which receives stormwater runoff from both PDX and PANG. The Columbia Slough flows into the Willamette River and, shortly thereafter, the Columbia River, eventually forming the Columbia River Estuary. Potential PFAS release into the Columbia River Estuary has also been identified from the potential use or storage of AFFF at Camp Rilea in Warrenton, with potential release sites into the Columbia River Estuary.

80.

Investigation of contamination related to Defendants' AFFF in the coastal areas, estuaries, and surrounding lands in the State is ongoing.

iv. Sediments, Soils, and Submerged Land

81.

The State's sediments, soils, and submerged lands are essential components of the State's complex ecological resources. Sediments, soils, and submerged lands sustain a wide diversity of plants and animals that are essential to a healthy ecosystem. They provide a living substrate for submerged and emergent flora, which in turn support diverse invertebrate species, wading birds, and fish and shellfish populations.

82.

Sediments and soils serve as a long-term reservoir of PFAS, where PFAS are stored and released over time, damaging biota and increasing PFAS concentrations in fish tissue, other wildlife, and plants.

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83.

PFAS contamination caused by the use of Defendants' AFFF in the State has reached and adversely affected soil and sediment throughout the State. Additionally, PFAS in the soil column serve as a continuing source of contamination of groundwater and other resources of the State. PFAS in sediments, as well as in surface water, increase PFAS concentrations in fish.

84.

Investigation of contamination from Defendants' AFFF in sediments, soils, and submerged lands in the State is ongoing.

v. Biota

85.

Biota, including the State's flora and fauna, are critical ecological resources. The State is home to more than 4,000 plant species and subspecies, including the Willamette Valley ponderosa pine, the Oregon grape, and the coastal wood fern. The State's wildlife numbers around 700 species, including the American beaver, Chinook salmon, and pronghorn antelope.

86.

There are 90 species—30 species of animals and 60 species of plants—in the State at risk of extinction. Contamination attributable to PFAS from Defendants' AFFF compounds this risk because PFAS can cause damage to the liver and immune system in animals and has been shown to damage cell structure and organelle functions in plants. PFAS have been detected in tissue samples of largemouth bass, largescale sucker, and goldfish/carp from the Columbia Slough.

87.

Natural resource injuries to biota in the State hurt not only the individual species directly involved, but also the capacity of the injured ecosystems to regenerate and sustain life into the future.

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88.

PFAS contamination likely attributable to Defendants' AFFF has reached and adversely affected biota in the State, such as fish and osprey that live in and depend on fresh water bodies.

89.

Investigation of contamination related to Defendants' AFFF in biota in the State is ongoing.

C. Manufacturer Defendants' History of Manufacturing and Selling PFAS-Containing AFFF

90.

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

91.

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

92.

Arkema's predecessors supplied fluorosurfactants used to manufacture AFFF beginning in the 1970s. Ciba Corporation ("Ciba") supplied fluorosurfactants used to manufacture AFFF beginning in the 1970s. Dynax supplied fluorosurfactants used to manufacture AFFF beginning in the 1990s. Old DuPont acquired Arkema's predecessors' fluorosurfactants business in 2002, after which it supplied fluorosurfactants used to manufacture AFFF. Chemguard acquired Ciba's fluorosurfactants business in 2003, after which it supplied fluorosurfactants used to manufacture AFFF. Following Chemours's spinoff from Old DuPont, Chemours supplied fluorosurfactants used to manufacture AFFF.

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93.

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

94.

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

95.

In 2000, 3M announced it was phasing out its manufacture of PFOS, PFOA, and related products, including AFFF. In communications with USEPA at that time, 3M stated that it had "concluded that . . . other business opportunities were more deserving of the company's energies and attention." In its press release announcing the phase out, 3M stated "our products are safe" and that 3M's decision was "based on [its] principles of responsible environmental management." 3M further stated that "the presence of these materials at . . . very low levels does not pose a human health or environmental risk." 3M made no mention in its press releases or regulatory statements of the risks to human health and the environment posed by the chemicals, although those risks were known at the time.

96.

After 3M exited the AFFF market, the remaining Manufacturer Defendants continued to manufacture and sell AFFF. Indeed, Old DuPont saw an opportunity to grab a share of the AFFF market when 3M exited, although Old DuPont had decades of evidence that PFAS were highly toxic and dangerous to the environment and human health.

97.

Manufacturer Defendants advertised, offered for sale, and sold their AFFF to federal, state, and territory government entities, including the military, counties, municipalities, airports, fire departments, and/or other governmental or quasi-governmental entities, for use in the State.

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98.

3M's AFFF was created using an electrochemical fluorination process. The remaining Manufacturer Defendants' AFFF was created using a telomerization process and contain or break down into PFOA.

99.

Manufacturer Defendants knew their customers stored large stockpiles of their AFFF. In fact, Manufacturer Defendants marketed their AFFF by promoting its long shelf life. Even after Manufacturer Defendants fully understood the toxicity of PFAS—and their injurious impacts when released into the environment through use of Manufacturer Defendants' AFFF exactly as they had marketed and intended for it to be used—Manufacturer Defendants concealed the true injurious nature of PFAS. Even while Manufacturer Defendants phased out production or transitioned to other formulas, they did not advise their customers that they should not use Manufacturer Defendants' AFFF or otherwise reveal the dangers posed by their AFFF.

100.

Manufacturer Defendants further did not attempt to remove their harmful products from the market. Manufacturer Defendants did not warn the State or consumers that the use of their AFFF would harm the environment, endanger human health, or result in substantial costs to investigate and clean up groundwater contamination and damage to other natural resources.

101.

Accordingly, for many years after its original sale, Manufacturer Defendants' AFFF was still being applied directly to the ground and washed into sediments, soils, and waters of the State, harming the environment and endangering human health. Manufacturer Defendants never advised their customers that they needed to properly dispose of their stockpiles of AFFF, and they did not advise their customers on how to properly dispose of their stockpiles of AFFF.

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D. Manufacturer Defendants Knew, or Should Have Known, That Their AFFF Was Harmful to the Environment and Human Health

i. 3M Knew, or Should Have Known, of the Harm Caused by PFAS, and 3M Suppressed Negative Information About These Chemicals

102.

3M has known for decades that the PFAS contained in its AFFF are toxic and adversely affect the environment and human health.

103.

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

104.

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

105.

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

106.

By the 1970s, 3M had become concerned about the risks posed to the general population by exposure to 3M's fluorochemicals.

107.

By no later than 1970, 3M knew that its PFAS were hazardous to marine life. Still, 3M refused to take any steps to mitigate these hazards. In fact, around this time, 3M abandoned a study of its fluorochemicals after the company's release of the chemicals during the study caused severe pollution of nearby surface waters.

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108.

In 1975, 3M found there was a "universal presence" of PFAS (PFOA and/or PFOS) in blood serum samples taken from across the United States. Since PFAS are not naturally occurring, this finding reasonably alerted 3M to the high likelihood that its chemicals were a source of this PFAS, a scenario 3M discussed internally but did not share outside the company. This finding also alerted 3M to the likelihood that PFAS are mobile, persistent, bioaccumulative, and biomagnifying because these characteristics would explain the presence of PFAS in human blood.

109.

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

110.

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

111.

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

112.

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

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113.

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

114.

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

115.

Despite its understanding of the hazards associated with the PFAS in its AFFF, 3M suppressed scientific research on the hazards associated with them and mounted a campaign to control the scientific dialogue on the fate, exposure, analytics, and effects to human health and the ecological risks of PFAS.

116.

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

117.

Thus, 3M deceived others and hid the negative effects of PFAS. For example, Dr. Rich Purdy, a former environmental specialist with 3M, wrote a letter detailing, without limitation: (1) 3M's tactics to prevent research into the adverse effects of its PFOS; (2) 3M's submission of misinformation about its PFOS to EPA; (3) 3M's failure to disclose substantial risks associated with its PFOS to EPA; (4) 3M's failure to inform the public of the widespread dispersal of its PFOS in the environment and population; (5) 3M's production of chemicals it knew posed an ecological risk and a danger to the food chain; and (6) 3M's attempts to keep its workers from discussing the problems with the company's fluorochemical projects to prevent their discussions from being used in the legal process.

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118.

By the late 1990s, 3M's own toxicologist had calculated a "safe" level for PFOS in human blood to be 1.05 parts per billion ("ppb"), at a time when 3M was well aware that the average level of PFOS being found in the blood of the general population of the United States was approximately 30 times higher than this "safe" blood level, but 3M did not disclose that information to regulatory authorities or the public.

119.

3M knew, or should have known, that the intended use of its AFFF would release PFAS that would dissolve in water; reach water systems and the environment in the State; resist degradation; bioaccumulate and biomagnify; and harm ecological, animal, and human health in the State due to their toxicity. Such knowledge was accessible to 3M, but not to the State until 3M's acts and omissions came to light, and the State developed its own understanding of the toxicity of PFAS.

120.

Despite its knowledge of the risks associated with exposures to its PFAS, when 3M announced it would phase out its PFOS, PFOA, and related chemicals (including AFFF) in 2000, it falsely asserted "our products are safe," instead of disclosing what it knew about the substantial threat posed by PFOS and PFOA.

ii. Old DuPont Knew, or Should Have Known, of the Harms Caused by PFOA, and It Concealed Its Knowledge from Regulators and Users

121.

In the 1950s, Old DuPont began using PFOA and other PFAS in its specialty chemical production applications, including household products, like Teflon, and quickly thereafter, developed an understanding of the dangers of using these chemicals.

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122.

During this time, Old DuPont was aware that PFOA was toxic to animals and humans and that it bioaccumulates and persists in the environment. Old DuPont also knew that its Teflon manufacturing—which was manufactured using PFOA and other PFAS— and related industrial facilities emitted and discharged PFOA and other PFAS in large quantities into the environment and that many people had been exposed to its PFAS, including via public and private drinking water supplies.

123.

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

124.

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

125.

By 1979, Old DuPont had data indicating that, not only was organic fluorine/PFOA building up in the blood of its exposed workers (and was, thus, "biopersistent"), but those workers exposed to PFOA had a significantly higher incidence of health issues than did unexposed workers. Old DuPont did not share these data or the results of its worker health analysis with the general public or government entities, including the State, at that time.

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126.

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

127.

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

128.

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

129.

Not only did Old DuPont know about PFOA's toxicity as early as the 1960s, it was also aware that PFAS was capable of contaminating the surrounding environment, leading to human exposure. For example, no later than 1984, Old DuPont was aware that PFOA released from its manufacturing operations was contaminating local drinking water supplies, but said nothing to regulators or the impacted communities.

130.

Old DuPont was long aware that the PFAS it was releasing from its facilities could leach into groundwater used for public drinking water. After obtaining data on these releases and the consequent contamination near Old DuPont's Washington Works plant in West Virginia, Old DuPont held a meeting at its corporate headquarters in Wilmington, Delaware in 1984 to discuss health and environmental issues related to PFOA. Old DuPont employees in attendance spoke of

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the PFOA issue as "one of corporate image, and corporate liability." They were resigned to Old DuPont's "incremental liability from this point on if we do nothing" because Old DuPont was "already liable for the past 32 years of operation." They also stated that the "legal and medical [departments within Old DuPont] will likely take the position of total elimination" of PFOA use in Old DuPont's business and that these departments had "no incentive to take any other position." Nevertheless, Old DuPont not only decided to keep using and releasing PFOA, but affirmatively misrepresented to regulators, the scientific community, and the public that its PFOA releases presented no risks to human health or the environment.

131.

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

132.

In 2004, USEPA filed an administrative enforcement action against Old DuPont based on its failure to disclose toxicity and exposure information for PFOA in violation of the TSCA and RCRA. Old DuPont eventually settled the lawsuit by agreeing to pay over $16 million in civil administrative penalties and supplemental environmental projects. USEPA called the settlement the "largest civil administrative penalty USEPA has ever obtained under any federal environmental statute."

133.

Despite its knowledge regarding PFOA's toxicity, Old DuPont continued to claim that PFOA posed no health risks and, in fact, began to sell AFFF after 3M announced its phase out of PFOA and PFOS in 2000 (due to 3M's knowledge of the compounds' toxicity as well as threats

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of further enforcement action by USEPA). In 2008, Old DuPont literature was quoted in an Industrial Fire World magazine article regarding AFFF, stating that Old DuPont "believes the weight of evidence indicates that PFOA exposure does not pose a health risk to the general public" because "there are no human health effects known to be caused by PFOA." Old DuPont knew these statements were not true but did not correct them.

iii. The Remaining Manufacturer Defendants Knew, or Should Have Known, of the Harm Caused by the Release of PFOA from Their AFFF

134.

The remaining (non-3M) Manufacturer Defendants knew, or should have known, that, in their intended and/or common use, their AFFF would harm the environment and human health.

135.

The remaining Manufacturer Defendants knew, or should have known, that their AFFF released PFAS would dissolve in water; reach water systems and the environment in the State; resist degradation; bioaccumulate and biomagnify; and harm ecological, animal, and human health in the State due to their toxicity.

136.

Information regarding PFAS was readily accessible to each of the remaining Manufacturer Defendants for decades. Each is an expert in the field of AFFF manufacture and/or the materials containing PFAS that are needed to manufacture AFFF, and each has detailed information and understanding about the PFAS in their AFFF, including that the intended and instructed use and disposal of AFFF would result in contamination by PFAS. The State, by contrast, did not have access to such information.

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E. Defendants' AFFF Has Caused PFAS Contamination in the State, Including Sources of Drinking Water, and Defendants Are Liable for Costs to Remediate and Restore Contaminated Natural Resources

137.

Oregon's natural resources have been contaminated with PFAS by the use of Defendants' AFFF. Investigation of that contamination is ongoing. Defendants' manufacture, use, release, and sale of AFFF in the State, including to the U.S. military, have been substantial factors in causing PFAS contamination and its injuries to the natural resources of the State. As investigation continues, additional locations are identified, and on- and offsite AFFF-related contamination is delineated, it is expected that significant further PFAS contamination from Defendants' AFFF will be discovered.

i. AFFF-related PFAS Contamination Is Widespread in Oregon

138.

Although the contamination from Defendants' AFFF is widespread in the State, the detection of AFFF-related PFAS contamination at the following sites exemplify the variety and breadth of the contamination these chemicals have caused in the State:

Portland International Airport Sites

139.

The City of Portland and Air National Guard have stored and used AFFF manufactured and distributed by Defendants at various sites located at PDX. Significant PFAS contamination likely caused by AFFF has been detected at several sites at or near PDX, including the Portland Air National Guard Base and the Portland Fire & Rescue Bureau Training Facilities.

140.

PFAS were detected in surface water, stormwater, and groundwater in and around the PDX sites. The highest levels of PFAS were detected in the groundwater, reaching up to 203,000 ppt. The PDX sites are proximate to the Columbia South Shore Wellfield, which serves as a supplemental source of Portland's drinking water. The Portland Fire & Rescue Bureau Training

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Facility specifically is located within the boundaries of the Columbia South Shore Wellfield Wellhead Protection Area. The Wellhead Protection Area was established to protect drinking water wells within the Wellfield from potential sources of contamination.

141.

The PDX sites are also in close proximity to the Columbia Slough. Drainage from the PDX sites was historically directed through stormwater pipes and drainage ditches that discharged to the Slough. According to DEQ, some contaminated groundwater also discharges to stormwater ditches, some of which in turn discharge to the Columbia Slough.

142.

The western portion of the Columbia South Shore Wellfield overlaps with the eastern portion of PDX, and serves as a supplemental and emergency supply of municipal water for the Portland Metro area. Separately from the Columbia South Shore Wellfield, ground water in the area is used for industrial purposes, irrigation, and landscaping. Two residential areas southwest of PDX and two marinas north of PDX use groundwater for domestic purposes.

Kingsley Field Air National Guard Base

143.

Kingsley Field Air National Guard Base is at the City of Klamath Falls Airport in Klamath Falls. In 2018, DEQ completed a site inspection for eight locations at the base. At all eight locations, PFAS contamination was detected. PFAS were detected at particularly high concentrations in the groundwater, at levels reaching 401,000 ppt.

144.

Ongoing and planned investigation activities include the sampling of offsite private wells in the vicinity. The area surrounding the Base consists of agricultural land, with some limited residential and industrial uses.

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AFFF-Related PFAS Contamination at Other Military Sites

145.

Testing by various agencies has also shown that PFAS are present at other military sites with a history of AFFF storage and use:

a. Central Oregon Unit Training Equipment Site east of Redmond. PFAS levels were detected in groundwater and soil. Levels of PFAS in the soil reached as high as 2,500 ppt;

b. Salem AASF – McNary Field in Salem. PFAS levels were detected as high as 149 ppt in groundwater in 2019;

c. Lane County Air Force Reserve Command FMS5 in Springfield. PFAS levels were detected in a groundwater well as high as 5.8 ppt;

d. Bends National Guard Site (COTEF) in Deschutes County. PFAS levels were detected in a groundwater well as high as 15.8 ppt;

e. Christmas Valley Radar Site in Lake County. PFAS levels were detected in a groundwater well as high as 14.3 ppt.

PFAS Contamination at Other Locations in Oregon

146.

In 2021, the Oregon Health Authority, in conjunction with DEQ, began a PFAS drinking water monitoring project at various small public water systems in Oregon. The sites were selected based on their proximity to known or suspected PFAS use or contamination, aquifer vulnerability (for groundwater systems), and system size. PFAS were present in seven drinking water samples in Linn, Tillamook, Marion, and Lane Counties. Several public drinking water wells with PFAS signatures below the reporting level are currently being resampled with lower detection limits.

147.

Fish collected from the Columbia Slough in 2019 and 2020 were analyzed for the presence of PFAS, including PFOS, and PFAS were detected in Largemouth Bass, Largescale Sucker, and

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Carp. Levels of PFOS in liver tissue and blood of these fish were particularly high, with levels as high as 855,630 ppt.

148.

In addition, dozens of potential PFAS contamination sites exist in Oregon that have not yet been investigated. These sites include airports, wastewater treatment facilities, military facilities, industrial-commercial operations, fire training sites, and landfills. PFAS contamination is also likely to exist in proximity to facilities that store, use, or process flammable liquids, such as railyards, bulk plants, and power plants, and therefore, frequently have AFFF onsite.

149.

As investigation of AFFF-related PFAS contamination continues, additional contaminated areas will be discovered. Such investigation is necessary to ascertain the scope of AFFF-related PFAS contamination and to return the affected natural resources to levels that are safe for human health and the environment and to the condition they were in prior to the impact of these contaminants.

ii. Oregon Has or Is Expected to Incur Significant Costs Related to the Investigation, Remediation, and Abatement of PFAS Contamination

150.

As part of its Toxics Reduction Strategy and through implementation of its HALs, the State has or is expected to incur expenses associated with investigation of the scope of PFAS contamination.

151.

Defendants are liable for the cost of investigation, remediation, and restoration of all the property, soils, sediments, waters, and other natural resources contaminated with PFAS from Defendants' AFFF, as well as for the State's loss of past, present, and future use of such contaminated natural resources.

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152.

The PFAS contamination in groundwater and surface water is likewise impacting the State's drinking water sources. Defendants are liable for all of the costs necessary to investigate and treat (in perpetuity) any and all drinking water wells and sources of drinking water adversely affected by PFAS from Defendants' AFFF in the State.

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

153.

Beginning in or about 2013 and continuing through at least June 2019, Old DuPont planned and executed a series of corporate restructurings designed to separate its valuable assets from its billions of dollars of legacy environmental liabilities—especially those arising from PFOA and other PFAS contamination.

154.

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

155.

For more than five decades, Old DuPont manufactured, produced, or utilized PFOA and other PFAS at plants in New Jersey, West Virginia, and North Carolina, among others. As alleged above, throughout this time, Old DuPont was aware that PFOA was toxic, harmful to animals and humans, bioaccumulative, and persistent in the environment. Old DuPont also knew that it had emitted and discharged PFOA and other PFAS in large quantities into the environment and that many people had been exposed to PFOA, including through public and private drinking water supplies, like those in the State, which Old DuPont had contaminated. Thus, Old DuPont knew, or

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reasonably should have known, that it faced billions of dollars in liabilities arising from its use of PFAS, including AFFF that contained PFAS.

156.

Beginning in at least 1999 and continuing to the present, Old DuPont has faced mounting litigation arising from its historic manufacture, production, and use of PFAS. In 1999, members of the Tennant family, who owned property affected by contamination from a landfill that had accepted PFOA wastes from Old DuPont's nearby Washington Works plant, sued Old DuPont in West Virginia federal court.

157.

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

158.

In 2005, after settling the Tennant case, Old DuPont settled the claims brought by USEPA for violations of TSCA and RCRA related to its failure to disclose toxicity and exposure information for PFOA, as discussed in ¶ 132.

159.

Also in 2005, a West Virginia court entered a final order approving a 2004 settlement of a class action lawsuit filed against Old DuPont on behalf of 70,000 Ohio and West Virginia residents who had been exposed to PFOA that Old DuPont had discharged from Washington Works.

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160.

Under the terms of the settlement, which provided class benefits in excess of $300 million, Old DuPont agreed to fund a panel of scientists (the "Science Panel") to confirm which diseases were linked to PFOA exposure, to filter local water from impacted public and private drinking water supplies, and to pay up to $235 million for medical monitoring of the affected community for any diseases that the Science Panel linked to PFOA exposure. The settlement also provided that any class members who developed the diseases linked by the Science Panel would be entitled to sue for personal injury, and Old DuPont agreed not to contest the fact that the class members' exposure to PFOA could have caused each of the linked diseases.

161.

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

162.

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

163.

The first three trials in the Ohio MDL ended in plaintiff's verdicts. Each jury awarded damages in a larger amount than the one before it—the first awarded $1.6 million; the second awarded $5.6 million; and the third awarded $12.5 million. The second and third jury awards

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included punitive damages. Old DuPont then settled the remaining, pending claims for $670.7 million.

164.

Old DuPont knew or should have known that it faced substantial exposure at these trials, as well as the liability related to PFOA and other PFAS contamination caused by its manufacturing operations at other sites throughout the country, its releases and disposal of PFAS chemicals globally, and for toxic PFAS chemicals in its own products and the myriad of products into which its toxic PFAS were incorporated, and that its liability likely measured in the billions of dollars.

165.

Anticipating this significant liability exposure, Old DuPont convened an internal initiative known as "Project Beta" in or about 2013 for Old DuPont's management to consider restructuring the company in order to, among other things, avoid responsibility for the widespread environmental harm that Old DuPont's PFAS had caused and shield billions of dollars in assets from these substantial liabilities.

166.

In furtherance of possible restructuring opportunities, including potential mergers, Old DuPont and The Dow Chemical Company ("Old Dow") began to discuss a possible "merger of equals" in or about 2013.

167.

However, neither Old Dow, nor any other rational merger partner, would agree to a transaction that would result in exposing it to the substantial PFAS and environmental liabilities that Old DuPont faced.

168.

Accordingly, Old DuPont's management decided to pursue a multi-year corporate restructuring specifically orchestrated to isolate Old DuPont's massive legacy liabilities from its

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valuable tangible assets in an attempt to shield those assets from creditors and entice Old Dow to pursue the proposed merger.

169.

Old DuPont engaged in a coordinated three-part restructuring plan that consisted of (1) Old DuPont's attempt to cast off its massive environmental liabilities onto Chemours and spinning off Chemours as a separate publicly traded company; (2) the creation of New DuPont to facilitate a purported merger with Old Dow; and (3) a series of internal restructurings and divestitures that culminated with the spinoff of Old DuPont to its newly formed parent, Corteva.

170.

The first step in Old DuPont's fraudulent scheme was to transfer its performance chemicals business, which included Teflon and other products ("Performance Chemicals Business") into its wholly owned subsidiary, Chemours. Then, in July 2015, Old DuPont "spun off" Chemours as a separate public entity and saddled Chemours with Old DuPont's massive legacy liabilities (the "Chemours Spinoff").

171.

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

172.

The second step involved Old DuPont and Old Dow entering into an "Agreement and Plan of Merger" in December 2015, pursuant to which Old DuPont and Old Dow merged with subsidiaries of a newly formed holding company, DowDuPont, Inc. ("DowDuPont"), which was created for the sole purpose of effectuating the merger. Old DuPont and Old Dow became subsidiaries of DowDuPont.

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173.

In the third step, DowDuPont engaged in numerous business segment and product line "realignments" and "divestitures."

174.

Those realignments and divestitures culminated in DowDuPont spinning off two new publicly traded companies: (1) Corteva, which currently holds Old DuPont as a subsidiary, and (2) Dow, Inc. ("New Dow"), which currently holds Old Dow. DowDuPont was then renamed DuPont de Nemours, Inc. (i.e., New DuPont).

175.

Old DuPont's restructuring—beginning with the spinoff of Chemours in 2015 and ending with the spinoff of Corteva in 2019—was designed to separate Old DuPont's massive historic PFAS liabilities from its valuable, non-PFAS assets and thereby hinder, delay, and defraud creditors.

176.

As a result of this restructuring, between December 2014 (i.e., before the Chemours Spinoff) and December 2019 (i.e., after the Dow merger), the value of Old DuPont's tangible assets decreased by $20.85 billion, or by approximately one-half.

177.

New DuPont and Corteva now hold a significant portion of the tangible assets that Old DuPont formerly owned.

178.

Many of the details about these transactions are hidden from the public in confidential schedules and exhibits to the various restructuring agreements. Old DuPont, New DuPont, and Corteva have, likely intentionally, buried these details in an apparent attempt to hide from creditors (like Oregon) where Old DuPont's valuable assets went and the inadequate consideration that Old DuPont received in return.

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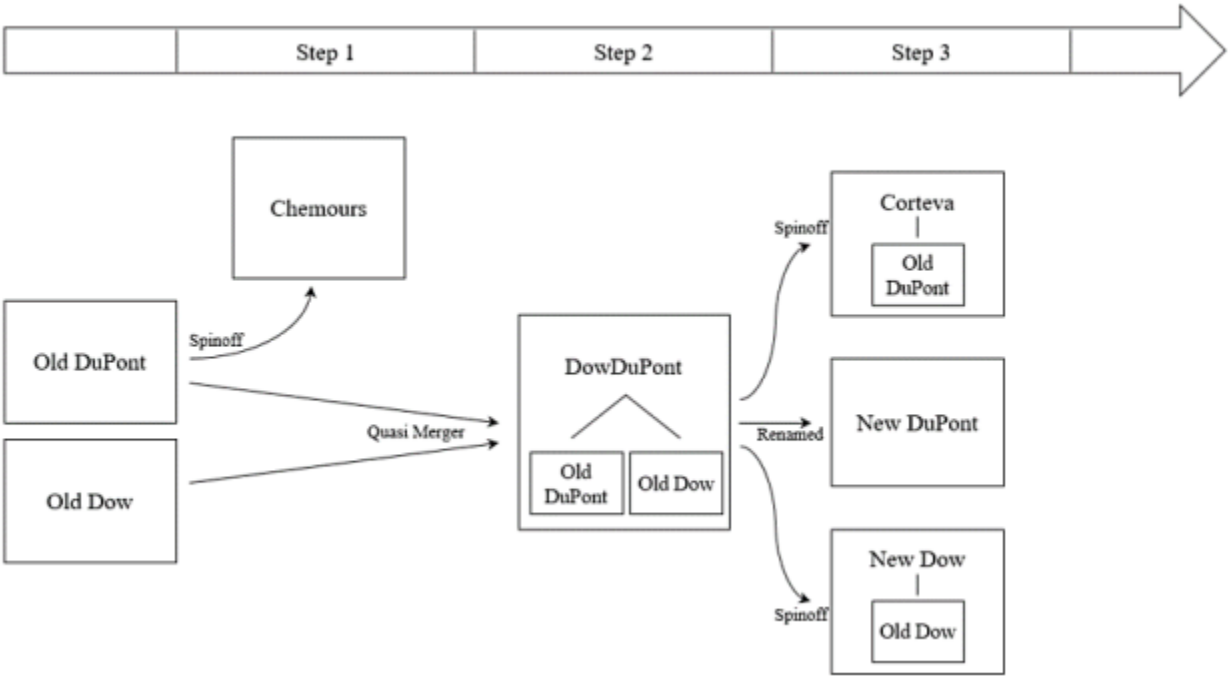
179.

The below graphic depicts the restructuring as it progressed through each of the three steps:



180.

In greater detail, the restructuring scheme was implemented as follows.

i. Step 1: The Chemours Spinoff

181.

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

182.

On April 30, 2015, Chemours was converted from a limited liability company to a corporation named "The Chemours Company."

183.

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

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184.

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

185.

Prior to the Chemours Spinoff, Chemours's Board of Directors was dominated by Old DuPont employees. As a result, during the period of time that the terms of its separation from Old DuPont were being negotiated, Chemours did not have an independent Board of Directors or management independent of Old DuPont.

186.

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

187.

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

188.

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

189.

Notwithstanding the billions of dollars in environmental and PFAS liabilities that Chemours would face, on July 1, 2015, Old DuPont caused Chemours to transfer to Old DuPont

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approximately $3.4 billion as a cash dividend, along with a "distribution in kind" of promissory notes with an aggregate principal amount of $507 million.

190.

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

191.

Accordingly, most of the valuable assets that Chemours may have had at the time of the Chemours Spinoff were unavailable to creditors with current or future PFAS claims, like those of the State, and Old DuPont stripped Chemours's value for itself and its shareholders. Old DuPont, however, transferred only $4.1 billion in net assets to Chemours.

192.

In addition to requiring Chemours to assume billions of dollars of Old DuPont's PFAS liabilities, the Chemours Separation Agreement includes an indemnification of Old DuPont in connection with those liabilities, which is uncapped and does not have a survival period.

193.

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

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194.

Under the Chemours Separation Agreement, Chemours must indemnify Old DuPont against and assume for itself the Chemours Liabilities regardless of (1) when or where such liabilities arose; (2) whether the facts upon which they are based occurred prior to, on, or subsequent to the effective date of the Chemours Spinoff; (3) where or against whom such liabilities are asserted or determined; (4) whether arising from or alleged to arise from negligence, gross negligence, recklessness, violation of law, fraud, or misrepresentation by any member of the Old DuPont group or the Chemours group; (5) the accuracy of the maximum probable loss values assigned to such liabilities; and (6) which entity is named in any action associated with any liability.

195.

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

196.

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

197.

In May 2019, Chemours sued Old DuPont, New DuPont, and Corteva in Delaware Chancery Court. *See The Chemours Company v. DowDuPont, et al.*, C.A. No. 2019-0351 (Del. Ch. Ct., filed May 13, 2019).

198.

In its Amended Complaint—which was verified by Chemours's current Chief Executive Officer, Mark Newman—Chemours alleged that the primary motivation for the Chemours Spinoff,

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the subsequent creation of New DuPont, and the final separation of Corteva was to enable Old DuPont to "wash its hands of its environmental liabilities."

199.

Chemours also alleged, among other things, that if (1) the full value of Old DuPont's PFAS and environmental liabilities was properly estimated and (2) the Delaware court did not limit the liability that the Chemours Separation Agreement imposed on it, then Chemours would have been insolvent at the time it was spun off from Old DuPont.

200.

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

201.

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

202.

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

203.

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

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indebtedness" arising from its separation from Old DuPont restricted its current and future operations.

204.

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

205.

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

206.

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

207.

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

208.

For example, in 2017, Chemours and Old DuPont amended the Chemours Separation Agreement in connection with the settlement of the Ohio MDL brought by thousands of residents who had been exposed to PFOA from Old DuPont's Washington Works plant. Per the amendment,

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Chemours paid $320.35 million to the plaintiffs in the settlement on August 21, 2017, and Old DuPont paid an additional $320.35 million on September 1, 2017.

209.

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

ii. Step 2: The Old Dow/Old DuPont "Merger"

210.

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

211.

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

212.

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

213.

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

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companies through further spinoffs, each of which would occur 18 to 24 months following the closing of the merger.

214.

To effectuate the transaction, Old DuPont and Old Dow entered into an Agreement and Plan of Merger (the "DowDuPont Merger Agreement") that provided for (1) the formation of a new holding company Diamond-Orion HoldCo, Inc., later named DowDuPont and then renamed DuPont de Nemours, Inc. (i.e., New DuPont), and (2) the creation of two new merger subsidiaries into which Old Dow and Old DuPont each would merge.

215.

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

216.

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

217.

The corporate organization following the "merger" is depicted under "Step 2" in the graphic in ¶ 179.

iii. Step 3: The Shuffling, Reorganization, and Transfer of Valuable Assets Away from Old DuPont and Separation of Corteva and New Dow

218.

Following the DowDuPont Merger, DowDuPont underwent a significant internal reorganization and engaged in numerous business segment and product line "realignments" and

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"divestitures." The net effect of these transactions has been the transfer, either directly or indirectly, of a substantial portion of Old DuPont's assets out of the company.

219.

It is apparent that the transactions were intended to further frustrate and hinder creditors with claims against Old DuPont, including with respect to its substantial environmental and PFAS liabilities.

220.

Old DuPont's assets, including its remaining business segments and product lines, were transferred either directly or indirectly to DowDuPont, which reshuffled the assets and combined them with the assets of Old Dow, and then reorganized the combined assets into three distinct divisions: (1) the "Agriculture Business," (2) the "Specialty Products Business," and (3) the "Materials Science Business."

221.

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

222.

Once the assets of Old DuPont and Old Dow were combined and reorganized, DowDuPont incorporated two new companies to hold two of the three newly formed business lines: (1) Corteva, which became the parent holding company of Old DuPont, which in turn holds the Agriculture Business, and (2) New Dow, which became the parent holding company of Old Dow and holds the Materials Science Business. DowDuPont retained the Specialty Products Business and prepared to spin off Corteva and New Dow into separate, publicly traded companies.

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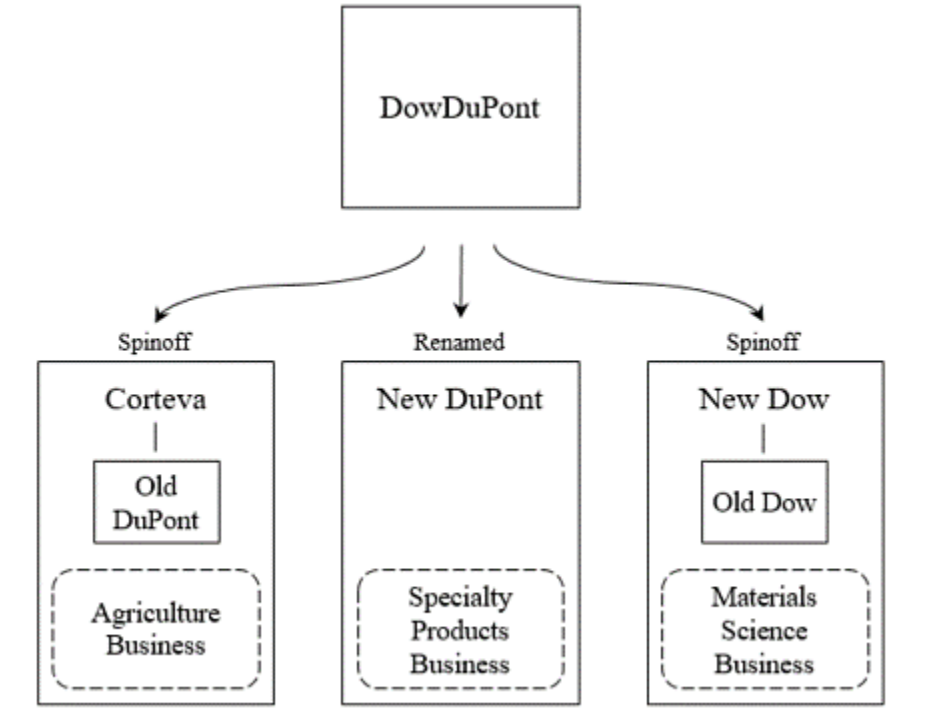
223.

The below graphic depicts the structure of DowDuPont after the internal reorganization and realignment (and notes the planned disposition of the new companies):



224.

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

225.

The DowDuPont Separation Agreement generally allocates the assets primarily related to the respective business divisions to Corteva (Agriculture Business), New Dow (Materials Science

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Business), and New DuPont (Specialty Products Business). New DuPont also retained several "non-core" business segments and product lines that once belonged to Old DuPont.

226.

Similarly, Corteva, New Dow, and New DuPont each retained the liabilities primarily related to the business divisions that they retained—(1) Corteva retained and assumed the liabilities related to the Agriculture Business; (2) New DuPont retained and assumed the liabilities related to the Specialty Products Business; and (3) New Dow retained and assumed the liabilities related to the Materials Science Business.

227.

Corteva and New DuPont also assumed direct financial liability of Old DuPont that was not related to the Agriculture, Materials Science, or Specialty Products Businesses, including the PFAS liabilities. These assumed PFAS liabilities are allocated between Corteva and New DuPont pursuant to the DowDuPont Separation Agreement.

228.

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

229.

While New DuPont and Corteva have buried the details in nonpublic schedules, New DuPont and Corteva each assumed these liabilities under the DowDuPont Separation Agreement, along with other liabilities related to Old DuPont's discontinued and divested businesses. The State can therefore bring claims against New DuPont and Corteva directly for Old DuPont's contamination of and damage to the State's natural resources.

230.

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

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231.

DowDuPont then consolidated the Agricultural Business line into Old DuPont and "contributed" Old DuPont to Corteva.

232.

On June 1, 2019, DowDuPont spun off Corteva as an independent public company, when DowDuPont distributed all of Corteva's common stock to DowDuPont stockholders as a pro rata dividend.

233.

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

234.

The corporate structures of New DuPont, New Dow and Old Dow, and Corteva and Old DuPont, respectively, following the separations are depicted in Step 3 of the graphic in ¶ 229.

235.

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

236.

On or about January 1, 2023, Old DuPont changed its registered name to EIDP, Inc.

G. The Effect of the Years'-Long Conspiracy to Defraud the State and Other Creditors and Avoid Financial Responsibility for Legacy Liabilities

237.

The net result of these transactions, including the June 1, 2019 Corteva spinoff, was to strip away valuable tangible assets from Old DuPont and transfer those assets to New DuPont and Corteva for far less than the assets are worth.

238.

Old DuPont estimated that the DowDuPont Merger created "goodwill" worth billions of dollars. When the Corteva separation was complete, a portion of this "goodwill" was assigned to

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Old DuPont in order to prop up its balance sheet. But, in reality, Old DuPont was left with substantially fewer tangible assets than it had prior to the restructuring.

239.

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

240.

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

241.

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

242.

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

243.

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

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244.

As of September 2019, just after the Corteva spinoff, Old DuPont reported $43.251 billion in assets. But almost $21.835 billion of these assets were composed of intangible assets, including "goodwill" from its successive restructuring activities.

245.

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

246.

In addition, neither New DuPont nor Corteva has publicly conceded that it assumed Old DuPont's historical environmental and PFAS liabilities. And it is far from clear that either entity will be able to satisfy future judgments.

247.

Indeed, New DuPont—to which PFAS liabilities are allocated under the DowDuPont Separation Agreement—has divested numerous business segments and product lines, including tangible assets that it received from Old DuPont and for which Old DuPont has received less than reasonably equivalent value and is in the process of divesting even more.

248.

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

249.

The Chemours Spinoff constitutes a fraudulent transfer, which entitles the State to, among other things, void the transaction and recover property or value transferred from Chemours in the transaction. The DowDuPont Merger and separation of Corteva from New DuPont likewise

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constitute a voidable transaction that entitles the State to, among other things, recover property and value transferred to New DuPont and Corteva.

250.

The Chemours Spinoff, the DowDuPont Merger and the final separation of Corteva were part of a single coordinated fraudulent scheme to hinder, delay, and defraud Old DuPont's creditors. The Chemours Spinoff constitutes a fraudulent transfer, which entitles the State to, among other things, void the transaction and recover property or value transferred from Chemours in the transaction. The DowDuPont Merger and separation of Corteva from New DuPont likewise constitute a fraudulent transfer that entitles the State to, among other things, recover property and value transferred to New DuPont and Corteva.

VI. CLAIMS

CLAIM 1
PUBLIC NUISANCE
(ALL DEFENDANTS)

251.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

252.

Manufacturer Defendants' production and use of AFFF in the various applications described above—including but not limited to in fire-response and training scenarios when AFFF is poured directly onto the ground, as instructed by Manufacturer Defendants—caused the continuous presence of PFAS on lands and in waters owned, controlled, or held in trust by the State.

253.

The continuous presence of PFAS on lands and in waters that the State owns or holds in trust for the benefit of the public presents significant risks to the health of humans, fish, wildlife, and the environment in the State of Oregon and constitutes an unreasonable and unnatural

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interference with the use of such lands and waters, which is contrary to the public policy of the State.

254.

The continuous presence of PFAS on lands and in rivers, waterways, and lakes that the State owns or holds in trust for the benefit of the public constitutes a per se public nuisance.

255.

The continuous presence of PFAS on lands and in rivers, waterways, and lakes that the State owns or holds in trust for the benefit of the public substantially, continuously, and unreasonably interferes with interests and rights of the general public to be free from injury to public health, safety, and welfare. It further interferes with the interests of the general public in the preservation of Oregon's natural resources—including fish, wildlife, and habitat—which the State is obligated to hold in trust for the benefit of, and for use by, members of the general public. As alleged above, Oregon has also incurred significant costs investigating the extent of PFAS contamination.

256.

Manufacturer Defendants knew, should have known, or were reckless in not knowing that once the PFAS from AFFF that they had produced was released into the environment, such interferences with the interests of the general public were substantially certain to occur.

257.

Manufacturer Defendants' internal communications about the toxic and carcinogenic properties of PFAS make clear that they understood that, once their AFFF was released into the environment, it was highly probable that PFAS would persist in the environment and present serious risks to the health of humans, wildlife, and the environment. Manufacturer Defendants continued, however, to make, sell, and use PFAS in their AFFF without informing the general public of those toxic and carcinogenic properties.

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258.

By way of their decisions to release AFFF into the environment on a widespread basis without informing the general public of the risks that their AFFF presented to the health of humans, fish, wildlife, and the environment, Manufacturer Defendants engaged in ultrahazardous conduct and acted in a manner that was consciously indifferent to the health, safety, and welfare of the general public and the natural environment.

259.

As a result of Manufacturer Defendants' conduct, the State has or is expected to incur damages and is entitled to compensation therefore. The State also seeks abatement of the nuisance caused by Manufacturer Defendants that has not yet been mitigated or remediated.

260.

Manufacturer Defendants were recklessly and outrageously indifferent to the highly unreasonable risk of harm that would result to Oregon and Oregonians as a result of selling their AFFF, all while knowing their PFAS would escape into the environment as an inevitable result of its intended uses. In addition, despite knowing of the serious risks that their AFFF presented, Manufacturer Defendants concealed those risks and affirmatively contradicted them in public statements and marketing campaigns. Manufacturer Defendants acted with a conscious indifference to the health, safety, and welfare of Oregon and Oregonians.

261.

As described above, New DuPont and Corteva assumed Old DuPont's public nuisance liability.

CLAIM 2
TRESPASS
(ALL DEFENDANTS)

262.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

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263.

Manufacturer Defendants' production and use of their AFFF in the various applications described above—including but not limited to fire-response and training scenarios when AFFF is poured directly onto the ground, as instructed by Manufacturer Defendants—has resulted in the continuous presence of PFAS on lands, in waters, and in other public trust resources that the State owns, possesses, controls, or holds in trust for the benefit of the public.

264.

The presence of PFAS on the State's property—including land, waters, and other public trust resources—interferes with the State's interest in the exclusive possession of that property and thereby constitutes a trespass. Manufacturer Defendants' conduct allowed or caused that interference to occur. Their conduct was and is negligent, reckless, intentional, and/or abnormally dangerous. Manufacturer Defendants had no license or other authorization to enter onto or leave contaminants on property that the State possesses. Any compliance by Manufacturer Defendants with applicable laws or permit conditions does not excuse Manufacturer Defendants' interference.

265.

PFAS have serious deleterious effects on nearly every living thing in Oregon and the habitats that support them, and Manufacturer Defendants' AFFF has caused the damages sought by the State for harms to its fish and wildlife.

266.

Manufacturer Defendants knew that once the PFAS from AFFF that they produced were released into the environment, they were likely to remain in, and be transported throughout, the environment on a widespread basis. Thus, Manufacturer Defendants knew, should have known, or were reckless in not knowing, that Manufacturer Defendants' decision to continue to release their AFFF into the environment would likely result in interference with the interests that the State has in the exclusive possession of its property.

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267.

The interference that Manufacturer Defendants' conduct has caused with the State's exclusive possession of property that it owns, possesses, controls, or holds in trust for the benefit of the public is a continuing interference that Manufacturer Defendants have known of or have allowed to persist.

268.

By way of their decisions to release their AFFF into the environment on a widespread basis without informing the State or general public of the risks that their AFFF presents to the health of humans, fish, wildlife, and the environment, Manufacturer Defendants engaged in ultrahazardous conduct.

269.

As a result of Manufacturer Defendants' conduct, the State has or is expected to incur damages and is entitled to compensation therefore.

270.

Manufacturer Defendants were recklessly and outrageously indifferent to the highly unreasonable risk of harm that would result to Oregon and Oregonians as a result of selling their AFFF. Despite knowing the grave risks their AFFF posed to human health and the environment, they chose to continue to manufacture and sell their AFFF, all while knowing PFAS would escape into the environment as an inevitable result of its intended uses. In addition, despite knowing of the serious risks their AFFF presented, Manufacturer Defendants concealed those risks and affirmatively contradicted them in public statements and marketing campaigns. Manufacturer Defendants acted with a conscious indifference to the health, safety and welfare of Oregon and Oregonians.

271.

As described above, New DuPont and Corteva assumed Old DuPont's trespass liability.

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CLAIM 3
EQUITABLE INDEMNITY
(ALL DEFENDANTS)

272.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

273.

The State has or is expected to incur significant costs to monitor, investigate, and remediate the existence of Manufacturer Defendants' AFFF at certain sites, including but not limited to those discussed above where the State and/or its political subdivisions have used AFFF for fire-fighting and/or fire training activities. Given the scope of PFAS contamination the State expects to discover and for which the State may assume responsibility in the immediate future, the State anticipates that it will incur significant additional investigation and remedial action costs.

274.

Manufacturer Defendants, not the State, are responsible for the presence of their AFFF, and the contamination, trespass, and nuisance resulting therefrom, on each site throughout the State for which the State has or is expected to incur or will incur remedial action, toxic monitoring, or other costs. The State did not contribute in any way to the presence of PFAS in AFFF. Accordingly, it is Manufacturer Defendants that are liable for associated damages arising from the presence of their AFFF throughout Oregon.

275.

As a result, as between Manufacturer Defendants and the State, Manufacturer Defendants should ultimately be responsible for the payment of remedial action costs, including costs to monitor, investigate, and clean up PFAS contamination in the areas described above.

276.

As described above, New DuPont and Corteva assumed Old DuPont's equitable indemnity liability.

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CLAIM 4
UNJUST ENRICHMENT
(ALL DEFENDANTS)

277.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

278.

Under the laws of Oregon, Manufacturer Defendants owed a duty to the State and to the public to prevent Manufacturer Defendants' AFFF from interfering with the use and/or possession of property Manufacturer Defendants do not own and from causing harm to human health and the environment.

279.

Manufacturer Defendants' production and use of their AFFF in the various chemical and industrial applications described above have resulted in the continuous presence of PFAS on lands and in waters that the State owns, possesses, controls, or holds in trust for the benefit of the public, including but not limited to State-owned lands and State-owned waterways.

280.

The presence of Manufacturer Defendants' AFFF on lands and in waters that the State owns, possesses, controls, or holds in trust for the benefit of the public poses an ongoing, serious threat to Oregon's public health, safety, welfare, and the environment. As described above, Manufacturer Defendants' AFFF already has caused, and will continue to cause, significant damage to, among other resources, Oregon's fish and wildlife and habitat areas.

281.

Manufacturer Defendants were and are legally obligated to prevent the PFAS contamination that now exists in Oregon's natural environment and to prevent the harm that has resulted from that contamination. For example, and without limitation, Manufacturer Defendants had and continue to have a common law obligation to prevent their AFFF from creating a public

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nuisance and from trespassing on the State's property—including the State's land, waters, and public trust resources. Manufacturer Defendants failed to meet those legal obligations and, as a result, are responsible for remediation of the PFAS contamination and environmental monitoring associated with the impacts of their AFFF on the State's property, including the State's land, waters, and other public trust resources.

282.

Because of the damage that Manufacturer Defendants' AFFF has caused to the natural environment, and in order to abate continuing hazards that their AFFF poses to public health, safety, welfare, and the environment, the State has undertaken remedial actions to monitor, investigate, and remove the PFAS in contaminated areas. As a result, the State has or is expected to incur significant remedial action costs. Based on information gathered through monitoring and investigation, the State anticipates that it will incur additional remedial action and other costs to monitor, investigate, and abate continuing hazards to public health, safety, welfare, and the environment.

283.

Manufacturer Defendants have been unjustly enriched by being relieved of their duties relating to remediation or environmental monitoring to the extent that those duties have been or will be performed by the State.

284.

Because the State has or will have to undertake remedial actions necessary to abate the hazard created by Manufacturer Defendants' AFFF, certain economic benefits, including but not limited to the following, have been conferred upon or acquired by Manufacturer Defendants:

a. Reduction in the costs Manufacturer Defendants would have incurred, or in the future will incur, to monitor and investigate the existence of and damages caused by the presence of PFAS in Oregon's natural environment;

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b. Reduction in the costs that Manufacturer Defendants would have incurred, or in the future will incur, to remediate the damages caused by the presence of PFAS in the natural environment, including damages to Oregon's lands, waters, fish, wildlife, and habitat areas; and

c. Other and further economic benefits relating to the existence of Manufacturer Defendants' AFFF in Oregon's natural environment, the retention of which by Manufacturer Defendants would be unjust.

285.

Given their duty and otherwise legally enforceable obligation to prevent their AFFF from interfering with the use and/or possession of property they do not own and from causing harm to human health and the environment, Manufacturer Defendants' retention of the benefits described above, without compensation therefore, would be unjust.

286.

As a result, and to prevent Manufacturer Defendants from being unjustly enriched by their retaining the economic benefits described above, the State seeks restitution and/or imposition of a constructive trust.

287.

As described above, New DuPont and Corteva assumed Old DuPont's unjust enrichment liability.

CLAIM 5
ACTUAL FRAUDULENT TRANSFER (CHEMOURS SPINOFF) – UFTA
(OLD DUPONT, CHEMOURS, CORTEVA, AND NEW DUPONT)

288.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

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289.

Under UFTA's actual fraudulent transfers provision, a transaction made by a debtor "with actual intent to hinder, delay, or defraud any creditor of the debtor" is voidable as to the creditor's claim. *See* ORS 95.230.

290.

Under UFTA, a "creditor" is "a person who has a claim against a debtor." *Id.* § 95.200(4). A "claim" is "a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured." *Id.* § 95.200(3).

291.

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

292.

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

293.

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

294.

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

295.

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

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296.

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

297.

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

298.

Under ORS 95.200 to 95.310 and DEL. CODE tit. 6, §§ 1301 to 1312, the State is entitled to void the Chemours Transfers and to recover property or value transferred to Old DuPont.

299.

The State also seeks to enjoin Old DuPont, as transferee, from distributing, transferring, capitalizing, or otherwise disposing of any property or value that Chemours transferred to Old DuPont, and seeks a constructive trust over such property or value for the benefit of the State.

300.

As described above, Corteva and New DuPont assumed Old DuPont's actual fraudulent transfer liability.

CLAIM 6
CONSTRUCTIVE FRAUDULENT TRANSFER (CHEMOURS SPINOFF) – UFTA
(OLD DUPONT, CHEMOURS, CORTEVA, AND NEW DUPONT)

301.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

302.

Under UFTA's constructive fraudulent transfer provision, a transaction made by a debtor "without receiving a reasonably equivalent value in exchange for the transfer or obligation" is voidable if "the debtor: (1) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or

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transaction; or (2) intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due"; or (3) "was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation." ORS 95.230(1)(b), 95.240(1).

303.

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

304.

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

305.

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

306.

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

307.

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

308.

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

309.

At the time that the Chemours Transfers were made and Chemours assumed the Assumed Liabilities, Old DuPont and Chemours intended Chemours to incur or believed or reasonably

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should have believed that Chemours would incur debts beyond its ability to pay as they became due.

310.

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

311.

Under ORS 95.200 to 95.310 and DEL. CODE tit. 6, §§ 1301 to 1312, the State is entitled to void the Chemours Transfers and to recover property or value transferred to Old DuPont.

312.

The State also seeks to enjoin Old DuPont, as transferee, from distributing, transferring, capitalizing, or otherwise disposing of any property or value that Chemours transferred to Old DuPont, and seeks a constructive trust over such property or value for the benefit of the State.

313.

As described above, Corteva and New DuPont assumed Old DuPont's constructive fraudulent transfer liability.

CLAIM 7
ACTUAL FRAUDULENT TRANSFER (DOW-DUPONT MERGER AND SUBSEQUENT REORGANIZATIONS, DIVESTITURES, AND SEPARATION OF CORTEVA) – UFTA
(OLD DUPONT, CORTEVA, AND NEW DUPONT)

314.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

315.

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

316.

Old DuPont knew that the Chemours Spinoff alone would not isolate its valuable assets and business lines from the Chemours Assumed Liabilities. Thus, the Chemours Spinoff was the first step in the overall scheme to separate Old DuPont's assets from its massive liabilities. Through its participation in the DowDuPont Merger and the subsequent reorganizations, divestitures, and

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separation of Corteva, Old DuPont sold or transferred, directly or indirectly, valuable assets and business lines to Corteva and New DuPont (the "Old DuPont Transfers").

317.

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

318.

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

319.

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

320.

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

321.

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

322.

Under ORS 95.200 to 95.310, the State is entitled to void the Old DuPont Transfers and to recover property and value transferred to New DuPont and Corteva.

323.

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

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CLAIM 8
CONSTRUCTIVE VOIDABLE TRANSACTION (DOW-DUPONT MERGER AND SUBSEQUENT REORGANIZATIONS, DIVESTITURES, AND SEPARATION OF CORTEVA) – UFTA
(OLD DUPONT, CORTEVA, AND NEW DUPONT)

324.

The State realleges and reaffirms each and every allegation set forth in all preceding paragraphs as if fully restated in this claim.

325.

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

326.

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

327.

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

328.

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

329.

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

330.

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

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331.

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

332.

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

333.

Under ORS 95.200 to 95.310 and DEL. CODE tit. 6, §§ 1301 to 1312, the State is entitled to void the Old DuPont Transfers and to recover property or value transferred to New DuPont and Corteva.

334.

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

VII. REQUEST FOR RELIEF

WHEREFORE, the State asks that this Court:

A. Order Defendants to abate the public nuisance caused by the continuous presence of PFAS on lands and in waters that the State owns, possesses, controls, or holds in trust for the benefit of the public; order Defendants to remove and remediate Defendants' AFFF-related PFAS contamination on all lands and in all waters that the State owns, possesses, controls, or holds in trust for the benefit of the public; order restitution in an amount be proven at trial; and/or award damages in an amount to be proven at trial. These damages include but are not limited to:

1. All past and future costs that have been or could be expended by the State or public for the investigation, remediation, and/or removal of AFFF-related PFAS contamination from the soils, sediments and other natural resources

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serving as an ongoing source of AFFF-related PFAS contamination to the waters of the State;

2. All past and future costs that have been or could be expended by the State or public for the investigation, testing, treatment, remediation and restoration of drinking water impacted by AFFF-related PFAS contamination in the State;

3. All property damages and other economic damages suffered directly by the State arising from AFFF-related PFAS contamination on the State-owned lands, submerged lands, or other direct impacts to the State;

4. Restitution damages and disgorgement of the benefits the Defendants obtained from their intentional and tortious conduct as described herein;

5. All past and future costs necessary to investigate, test and monitor the State's natural resources at and around the sites throughout the State where Manufacturer Defendants' AFFF products were transported, stored, used, handled, released, spilled, and/or disposed as long as there is a detectable presence of PFAS, and restoration of such natural resources to their pre-discharge condition;

6. All damages for the lost use and value of contaminated natural resources, including the State's loss of tax revenue and other economic benefits of such natural resources, during all times of injury caused by PFAS; and

7. All costs related to the collection, return, and/or disposal of existing stocks of Manufacturer Defendants' AFFF products;

B. Award the State prejudgment interest on all claims as provided by law;

C. Award the State post-judgment interest on all claims as provided by law;

D. Award the State attorneys' fees and litigation costs as provided by law;

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E. Void the Chemours Transfers and recover property and value transferred to Old DuPont;

F. Void the Old DuPont Transfers and recover property and value transferred to New DuPont;

G. Void the Old DuPont Transfers and recover property and value transferred to Corteva;

H. Enjoin Old DuPont, as transferee, from distributing, transferring, capitalizing, or otherwise encumbering any proceeds from the sale of any business lines, segments, divisions, or other assets that formerly belonged to Chemours;

I. Enjoin New DuPont, as transferee, from distributing, transferring, capitalizing, or otherwise disposing of any proceeds from the sale of any business lines, segments, divisions, or other assets that formerly belonged to Old DuPont;

J. Enjoin Corteva, as transferee, from distributing, transferring, capitalizing, or otherwise encumbering of any proceeds from the sale of any business lines, segments, divisions, or other assets that formerly belonged to Old DuPont;

K. Impose a constructive trust over the proceeds of the Chemours Transfers to Old DuPont for the benefit of the State;

L. Impose a constructive trust over the proceeds of the Old DuPont Transfers to New DuPont for the benefit of the State;

M. Impose a constructive trust over the proceeds of the Old DuPont Transfers to Corteva for the benefit of the State;

N. Award the State such other relief as this Court deems just and proper.

O. The State further intends to amend this Complaint to seek punitive damages pursuant to ORS 31.725 as a result of Manufacturer Defendants' willful, reckless, and wanton conduct.

Oregon Department of Justice
100 SW Market Street
Portland, OR 97201
(971) 673-1880

JURY DEMAND

Plaintiff hereby demands a trial by jury.

DATED this 31st day of May, 2023.

RESPECTFULLY SUBMITTED,

ELLEN F. ROSENBLUM
Attorney General

By: 

Lisa Udland, OSB No. 964444
Deputy Attorney General
Sheila Potter, OSB No. 993485
Deputy Chief Trial Counsel
Oregon Department of Justice
100 SW Market Street
Portland, OR 97201
Telephone: (971) 673-1880
Email: lisa.udland@doj.state.or.us
sheila.potter@doj.state.or.us

-and-

Keith A. Ketterling, OSB No. 913368
Lydia Anderson-Dana, OSB No. 166167
Elizabeth K. Bailey, OSB No. 172956
Madeleine C. Holmes, OSB No. 193803
STOLL STOLL BERNE LOKTING & SHLACHTER P.C.
209 SW Oak Street, Suite 500
Portland, OR 97204
Telephone: (503) 227-1600
Facsimile: (503) 227-6840
Email: kketterling@stollberne.com
landersondana@stollberne.com
ebailey@stollberne.com
mholmes@stollberne.com

William J. Jackson (*pro hac vice* forthcoming)
John D.S. Gilmour (*pro hac vice* forthcoming)
Lauren H. Shah (*pro hac vice* forthcoming)
Ivan F. Morales, OSB No. 181460

KELLEY DRYE & WARREN LLP
515 Post Oak Blvd., Suite 900
Houston, TX 77027
Telephone: (713) 355-5000
Email: BJackson@kelleydrye.com
jgilmour@kelleydrye.com
lshah@kelleydrye.com
imorales@kelleydrye.com

David Zalman (*pro hac vice* forthcoming)
Levi Downing (*pro hac vice* forthcoming)
Elizabeth Krasnow (*pro hac vice* forthcoming)
Julia Schuurman (*pro hac vice* forthcoming)
KELLEY DRYE & WARREN LLP
3 World Trade Center
175 Greenwich Street
New York, NY 10007
Telephone: (212) 808-7800
Email: dzalman@kelleydrye.com
ldowning@kelleydrye.com
ekrasnow@kelleydrye.com
jschuurman@kelleydrye.com

Matthew K. Edling (*pro hac vice* forthcoming)
Victor M. Sher (*pro hac vice* forthcoming)
Stephanie D. Biehl (*pro hac vice* forthcoming)
Ashley B. Campbell (*pro hac vice* forthcoming)
SHER EDLING LLP
100 Montgomery Street, Suite 1410
San Francisco, CA 94104
Telephone: (628) 231-2500
Email: matt@sheredling.com
vic@sheredling.com
stephanie@sheredling.com
ashley@sheredling.com

Special Assistant Attorneys General for the State of Oregon