

INDIANA COMMERCIAL COURT

STATE OF INDIANA; STATE OF
ALASKA; STATE OF FLORIDA;
TERRITORY OF GUAM; STATE OF
MAINE; STATE OF MARYLAND;
COMMONWEALTH OF
MASSACHUSETTS; STATE OF NEW
HAMPSHIRE; STATE OF NEW MEXICO;
STATE OF OREGON; COMMONWEALTH
OF PENNSYLVANIA; STATE OF RHODE
ISLAND; STATE OF TENNESSEE; STATE
OF TEXAS; STATE OF VERMONT; and
STATE OF WASHINGTON,

Plaintiffs,

v.

EIDP, INC., formerly known as E.I. du Pont
de Nemours and Co.; CORTEVA, INC.; and
VYLOR, INC.,

Defendants.

In the Marion County Superior Court

Cause No. _____

BRIEF IN SUPPORT OF MOTION FOR A TEMPORARY RESTRAINING ORDER

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Plaintiffs State of Indiana, State of Alaska, State of Florida, Territory of Guam, State of Maine, State of Maryland, Commonwealth of Massachusetts, State of New Hampshire, State of New Mexico, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of Tennessee, State of Texas, State of Vermont, and State of Washington (“Plaintiffs”) submit this memorandum of law in support of Plaintiffs’ Motion for a Temporary Restraining Order against Defendants EIDP, Inc., formerly known as E.I. du Pont de Nemours and Co. (“Old DuPont”), Corteva, Inc. (“Corteva”), and Vylor, Inc. (“Vylor”).

INTRODUCTION

For decades, Old DuPont saturated our nation’s natural resources and drinking water with per- and polyfluoroalkyl substances (“PFAS”). That includes perfluorooctanoic acid (“PFOA”)—a PFAS so toxic that Old DuPont dubbed it “the devil we know” as Old DuPont continued to dump it into the environment and use it in commercial and industrial products. Betz Decl. Ex. 29.¹ As a result of Old DuPont’s prolific pollution, PFOA is now found in the blood of almost every American. And unsurprisingly, Old DuPont finds itself a defendant in courts in almost every state. It is defending myriad claims brought by public and private plaintiffs harmed by its PFAS, including environmental, personal injury, and consumer protection claims. Old DuPont and its corporate parent, Corteva, have agreed to pay billions of dollars to settle a small subset of those claims, and thousands of additional claims remain pending.

Against this backdrop, Old DuPont and Corteva spun off Old DuPont’s lucrative Seed business to newly formed Vylor on October 1, 2026 (“Vylor Spinoff”). The Seed business

¹ Four affidavits/declarations and three expert reports support this Motion: the Declaration of Tracy Betz (“Betz Decl.”); the Affidavit of Professor Jack F. Williams (“Williams Aff.”) and Professor Williams’ annexed report (“Williams Report”); the Affidavit of Dr. Mark J. Benotti (“Benotti Aff.”) and Dr. Benotti’s annexed report (“Benotti Report”); and the Affidavit of Dr. David Sunding (“Sunding Aff.”) and Dr. Sunding’s annexed report (“Sunding Report”).

transferred to Vylor holds approximately three-quarters of Old DuPont's pre-Spinoff assets, yet Vylor did not assume **any** of Old DuPont's massive PFAS liabilities. The Vylor Spinoff is not the first time Old DuPont has attempted to restructure its way around its liabilities, but it is the first time an entity received Old DuPont's assets free and clear of its PFAS liabilities. The entities involved in past restructurings assumed Old DuPont's PFAS liabilities, such that its PFAS creditors can pursue those entities too. The Vylor Spinoff, in contrast, accomplished "complete liability avoidance." Betz Decl. Ex. 37 at 5. By design, the transaction placed Old DuPont's most valuable assets outside the reach of tens of thousands of creditors who seek to hold Old DuPont accountable for knowingly polluting the environment and poisoning people with PFAS.

Plaintiffs are 16 states and sovereigns, and Plaintiffs are all creditors of Old DuPont. PFAS manufactured, used, or discharged by Old DuPont have harmed Plaintiffs' citizens, economic interests and natural resources, including Plaintiffs' groundwater, surface water, drinking water, air, soil, sediment, biota, wetlands, and state-owned properties within Plaintiffs' jurisdictions. Plaintiffs are prosecuting lawsuits against Old DuPont in courts across the country, in which Plaintiffs seek billions of dollars in damages and assert various environmental, consumer, tort, and product liability claims arising from Old DuPont's use and manufacture of PFAS. Betz Decl. Ex. 1-20. Plaintiffs came together to bring this action in Indiana—the locus of the Vylor Spinoff—to unwind the Spin and require Vylor to answer for Plaintiffs' claims against Old DuPont.

As shown in the affidavits of Plaintiffs' experts submitted herewith, the Vylor Spinoff is a fraudulent transfer. Old DuPont's and Corteva's executives announced the transaction on October 1, 2025, on the heels of a record-setting PFAS settlement between Old DuPont and the State of New Jersey valued at \$2 billion. At that time, Old DuPont held two business lines: Seed and Crop Protection. The Seed business is far and away more valuable. The fair value of the Seed business

is \$40.66 billion and the fair value of the Crop Protection business is \$13.95 billion, representing a 75/25 split. Williams Report at ¶¶ 72, 66. In connection with the Spinoff, Vylor took the more valuable Seed business and Old DuPont retained the smaller Crop Protection business—plus all of Old DuPont’s PFAS liabilities. Under a conservative approach, the fair value of Old DuPont’s nationwide PFAS liabilities sits in a range of \$34.9 billion to \$55.9 billion. Sunding Report at ¶ 11. All points on that range far outstrip the fair value of the Crop Protection business. The Spinoff also stranded an additional \$3.95 billion in pension liabilities and other debt in Old DuPont. Accounting for any indemnification assets Old DuPont may hold from other entities that previously assumed its PFAS liabilities, the Vylor Spinoff rendered Old DuPont insolvent in an amount of \$20.17 billion. Williams Report at ¶ 328.

Old DuPont also did not receive reasonably equivalent value for the Seed business. As consideration, Vylor paid a \$3.5 billion distribution to Old DuPont and assumed \$1.6 billion in debt from Old DuPont—for a total of \$5.1 billion. *Id.* at ¶ 390. That is not reasonably equivalent value for a business valued at \$40.66 billion. Moreover, it is unclear whether all of the distribution will remain with Old DuPont. Leading up to the Spinoff, Corteva announced that its board will consider a buyback program for Corteva shareholders at an upcoming meeting in October. If part of the proceeds of the Spinoff are used to fund a buyback program for Corteva shareholders, Old DuPont will have received less than \$5.1 billion for the \$40.66 billion Seed business. And Plaintiffs will be irreparably harmed, because proceeds of the Spinoff will have dissipated.

Plaintiffs seek two forms of preliminary relief. First, Plaintiffs seek a temporary restraining order barring Old DuPont and Corteva from dissipating Old DuPont’s remaining assets outside the ordinary course of business, including the proceeds of the Vylor Spinoff. Second, Plaintiffs seek an order barring Vylor from dissipating the assets it received from Old DuPont outside the ordinary

course of business. The Indiana Uniform Voidable Transfer Act (“UVTA”)—under which all Plaintiffs’ claims arise—expressly provides for this relief. And Plaintiffs show all elements required to obtain it: a reasonable likelihood of success on the merits, irreparable harm that money damages cannot remedy, equities that favor them, and a public interest in preventing a prolific polluter from engineering its own insolvency at the expense of Plaintiffs’ citizens.

Absent a restraining order, Old DuPont and Corteva will be free to dissipate Old DuPont’s remaining assets in ways that bring no value to Old DuPont—such as through share buybacks and shareholder dividends—and Vylor will be free to encumber or dispose of the Seed business assets that Plaintiffs need to satisfy their claims. Given the stark inequities of the Vylor Spinoff and the risk of irreparable harm to Old DuPont’s creditors, the Court should enter a temporary restraining order and preserve the status quo until the parties can be heard on Plaintiffs’ forthcoming motion for a preliminary injunction.

STATEMENT OF FACTS

A. PFAS are Harmful to the Environment and to Human Health

PFAS are a suite of manmade chemical compounds. Benotti Report at 8; Sunding Report at ¶ 17. PFAS have been used for decades to produce commercial and industrial products that are, among other properties, heat resistant, stain resistant, long lasting, and water and oil repellent. Benotti Report at 18–19; Sunding Report at ¶ 17.

PFAS can enter the environment in a number of ways, including from their manufacture or use at industrial sites and from use or disposal of PFAS-containing products. Benotti Report at 17. PFAS have characteristics that cause extensive environmental contamination. *Id.* at 15. PFAS are generally mobile and can migrate in the environment, including through surface water, soil, and groundwater. *Id.* at 14–15. PFAS also are persistent, in that they do not readily degrade in the environment, either biologically or chemically, or in conventional treatment systems for drinking

water. *Id.* at 13. In short, once PFAS are released onto land or into air or water, PFAS move through the environment and are difficult and costly to remove. *Id.* at 13–15; *see also* Sunding Report at ¶ 17; Betz Decl. Ex. 45.²

PFAS also are harmful to human health. Benotti Report at 16. Certain PFAS bioaccumulate and biopersist in people and other organisms. *Id.* PFOA, one of the most widely studied PFAS, has been shown to be toxic at very low concentrations. *Id.* at 16–17. Exposure to PFOA is linked to multiple human diseases, including kidney cancer, testicular cancer, ulcerative colitis, pregnancy-induced hypertension (including preeclampsia), thyroid disease, and high cholesterol. *Id.*; *see also* Sunding Report at ¶ 19. People can be exposed to PFAS in a number of ways, including through contaminated drinking water, contaminated food, dermal contact, and inhalation. Benotti Report at 16.

Because of the threat posed by PFAS, the federal government and state governments across the country have adopted regulations establishing maximum contaminant levels (“MCLs,” which are drinking water standards) and specific groundwater criteria for PFOA and other PFAS. Sunding Report at ¶¶ 20–21. In 2024, the U.S. Environmental Protection Agency (“U.S. EPA”) finalized a federal rule under the Safe Drinking Water Act setting MCLs of 4 parts per trillion for PFOA in public water systems across the United States. *Id.* at ¶ 20. Also in 2024, U.S. EPA designated PFOA as a “hazardous substance” under the Comprehensive Environmental Response, Compensation, and Liability Act. *Id.* at ¶ 22.

² PFOA is called “C8” in several of Old DuPont’s older documents. Benotti Report at 10.

B. For Decades, Old DuPont Contaminated Our Nation's Natural Resources with PFAS and Exposed Americans to PFAS

Today, nearly all people in the United States have measurable amounts of PFOA or other PFAS in their blood. *See* Benotti Report at 17; Betz Decl. Ex. 25; Betz Decl. Ex. 32. The story of how that came to be is the story of Old DuPont.

In 1951, Old DuPont began purchasing PFOA from the 3M Company (“3M”) for use in the manufacturing process for Old DuPont’s name brand product Teflon®. Betz Decl. Ex. 32 at 4; Betz Decl. Ex. 44; Benotti Report at 22–23. From 1951 to 2015—when Old DuPont spun off its PFAS business lines, *see* p. 15–18, *infra*—Old DuPont used, produced, or manufactured PFOA and other PFAS at major manufacturing sites across the country and abroad. Sunding Report at ¶¶ 56, 60. Old DuPont’s major U.S. sites included Washington Works in West Virginia, Chambers Works and Parlin in New Jersey, and Fayetteville Works in North Carolina. *Id.* at ¶¶ 57, 61.

Old DuPont manufactured an array of PFAS and products containing PFOA and other PFAS at these sites and sold those products to downstream manufacturers. *Id.* at ¶¶ 58, 63; Benotti Report at 18–20, 23. These PFAS and PFAS-containing products included fluoropolymers like Teflon® (used for products such as nonstick cookware, carpets, wire coatings, and consumer and technical fabrics), and fluorotelomers like Zonyl® (primarily used as a coating for food packaging). Benotti Report at 18–19, 25–26; Sunding Report at ¶ 63. Old DuPont fluorotelomers were also sold under brand names like Stainmaster®, including Stainmaster®-branded carpets, which were soil and stain resistant. Benotti Report at 25 n. 65.

The downstream manufacturers that used Old DuPont’s PFAS and PFAS-containing products operated in assorted industries and included, for example, firefighting foam manufacturers, textile manufacturers, carpet manufacturers, paper mills, and semi-conductor manufacturers. Benotti Report at 26. Among many other uses, downstream manufacturers used

Old DuPont’s PFOA-containing products to make aqueous film-forming foam (“AFFF”)—a firefighting foam. *Id.* at 26, 29; *see also* Sunding Report at ¶ 111. Once released into the environment, certain AFFF breaks down to PFOA and other PFAS. Benotti Report at 29.

Old DuPont also made its own PFOA. Benotti Report at 25. When 3M phased out its production of PFOA in 2002, Old DuPont doubled down. Betz Decl. Ex. 51. Old DuPont began making its own PFOA at Fayetteville Works, which it used in its own manufacturing processes. Benotti Report at 25; Sunding Report at ¶¶ 53, 59.

Old DuPont contaminated our nation’s natural resources and drinking water with PFAS and exposed people across the country to PFAS in a variety of different ways. It discharged millions of pounds of PFAS from its manufacturing sites in wastewater effluent and air emissions. Sunding Report at ¶¶ 58–61; Benotti Report at 21–22. It accepted PFAS-containing waste from other manufacturers and discharged that PFAS, too, into the environment. Betz Decl. Ex. 47. Firefighting foam made with its PFAS-containing products was used at firefighting academies, airports, military bases, and other industrial sites across the country, causing massive contamination. Benotti Report at 29; Sunding Report at ¶ 111. Old DuPont’s sale of PFAS-containing products to consumers and third-party manufacturers resulted in additional releases to the environment and additional human exposure through downstream manufacturing discharges, product degradation, and ultimate disposal of products in landfills. Sunding Report at ¶ 64; Benotti Report at 22–23.

Old DuPont did all of this knowing that PFAS are harmful to human health and the environment. As early as 1961, Old DuPont’s in-house scientists determined that PFOA is “toxic,” and that dermal contact should be “strictly avoided.” Betz Decl. Ex. 21. In the decades that followed, Old DuPont made disturbing discovery after disturbing discovery about the dangers of

PFOA—yet it publicly disclosed nothing. Old DuPont knew that PFOA released from its sites had contaminated drinking water and bodies of water from which drinking water is drawn. Betz Aff Ex. 23 at 2; Betz Decl. Ex. 24 at 11. It knew that PFOA was in the blood of the general public. Betz Aff Ex. 25; Betz Decl. Ex. 32 at 7; Sunding Report at ¶¶ 48–49. It knew that PFOA exposure was associated with a higher incidence of health problems in exposed persons. Betz Aff Ex. 32. It knew that PFOA can travel from pregnant mothers to their babies. Betz Aff Ex. 27 at 9. It knew that PFOA accumulates in human blood. Betz Aff Ex. 24 at 25; Betz Decl. Ex. 28. In internal documents, Old DuPont employees referred to PFOA as “the devil we know.” Betz Decl. Ex. 29. And Old DuPont’s legal department anticipated that “toxicity issues” associated with PFOA “could turn it into the #1 DuPont torte [*sic*] issue.” Betz Decl. Ex. 26.

Despite what it knew about PFOA, Old DuPont made a conscious decision to prioritize its profits over human health and the environment. In 1984, after learning it had contaminated drinking water sources near Washington Works with PFOA, Old DuPont held a meeting to discuss PFOA. Betz Aff Ex. 23; Sunding Report at ¶ 50. Old DuPont determined that it faced “incremental liability from this point on if we do nothing,” because it was “already liable for the past 32 years of operation.” Sunding Report at ¶ 50. Old DuPont knew that its legal and medical departments would recommend that Old DuPont stop using PFOA, but Old DuPont rejected that recommendation and declined to implement abatement measures due to concerns about the economic impact on its business. Sunding Report at ¶¶ 51–52; Betz Decl. Ex. 23.

To the public, Old DuPont presented its products containing PFAS as having remarkable benefits that made them ideal for integration into the American home, such as resistance to sticky food, grease, and stains. Advertisements for Teflon® and Stainmaster® told mothers not to worry because their kids’ cookies would not stick to cookie pans and their carpets would be protected

from messy babies and toddlers. Betz Decl. Ex. 31. Old DuPont launched an aggressive (and award-winning) marketing campaign to entice all Americans to buy their products and put PFAS-treated carpets, textiles, paper products, and pans into their homes, with a carpet advertising campaign leaving “8.7 billion impressions” in just one year and ads featuring small children and babies playing, sleeping, and eating on Stainmaster® carpets. *Id.* at 4, 5, 9, 57, 58, 70-73. Meanwhile, Old DuPont had determined that PFOA—which is in Teflon® and Stainmaster®—is “unaffected by the manufacturing process” and “ends up as part” of the products. Betz Decl. Ex. 48; Betz Decl. Ex. 32 at 3.

Ultimately, it was a farmer who brought Old DuPont’s bad acts to light. In 1999, Wilbur Tennant—a farmer who lived near Washington Works—sued Old DuPont. Betz Decl. Ex. 46 at 1-3, 7; *see Tennant, et al. v. E. I. DuPont de Nemours & Co., Inc.*, No. 6:99-cv-00488 (S.D.W. Va. filed October 21, 1999). Mr. Tennant’s cows died after drinking water from a creek contaminated with Old DuPont’s PFOA. Betz Decl. Ex. 46 at 1-4. Mr. Tennant did not know it was PFOA that killed his cows because Old DuPont had not disclosed the releases from its site, but Mr. Tennant suspected the deaths were related to Washington Works. *Id.* Over Old DuPont’s objection, Mr. Tennant’s attorney obtained documents in discovery that revealed PFOA as the culprit. *Id.* at 8–10. Those same documents revealed that Old DuPont had known for decades that PFOA is harmful to human health and the environment, yet had continued to emit it in substantial quantities. *Id.* In the words of Old DuPont’s in-house counsel, “the sh*t is about to hit the fan.” Betz Decl. Ex. 27.

The *Tennant* litigation settled in 2001—but not before it “lifted the curtain” on Old DuPont. Betz Decl. Ex. 27 at 10, 12. PFAS had become an existential threat to Old DuPont, and Old DuPont knew it:

[T]he biopersistence issue will kill us ... We are going to spend millions to defend these lawsuits and have the additional threat of

punitive damages hanging over our head ... 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.

Betz Aff, Ex. 34.

In the years that followed, the tidal wave of litigation that Old DuPont anticipated began to form. *See* Williams Report at ¶¶ 150–183; Betz Decl. Ex. 55 at F-73-77, F-21.

C. Old DuPont Faces a Barrage of PFAS Litigation

Today, Old DuPont is a defendant in thousands of lawsuits brought by public and private plaintiffs in courts across the country. *See, e.g., In re Aqueous Film-Forming Foams Prods. Liab. Litig.* (“*In re AFFF*”), 2:18-mn-02873 (D.S.C.); *see also* Betz Decl. Ex. 55 at F-21. The litigation pending against Old DuPont includes actions by states and other sovereigns seeking damages and costs for PFAS and AFFF; actions by local or municipal governments seeking damages and costs for PFAS and AFFF; actions by public water systems seeking investigation, treatment, and remediation costs for PFAS and AFFF; consumer protection actions; individual and class action personal injury and medical monitoring suits; and individual property damage actions (among others). *Id.*; *see also* Williams Report at ¶¶ 150–83.

The surge of sovereign suits began in 2018. *In re AFFF*, 357 F. Supp. 3d 1391, 1392 (J.P.M.L. 2018); *see generally In Re AFFF*, 2:18-mn-02873 (D.S.C.). These suits—past and present—seek damages for harm that Old DuPont’s PFAS caused to statewide natural resources, remediation and clean-up costs, investigation and response costs, and damages associated with public health impacts (among other damages). *See, e.g., Indiana v. 3M Co. et al.*, 2:24-cv-03124 (D.S.C.). The first sovereign PFAS suit against Old DuPont was filed by Ohio in 2018 and settled in 2023 for \$110 million. Sunding Report at ¶ 69. In 2019, New Jersey filed four suits against Old DuPont—one for each Old DuPont site in the state—and named Old DuPont in its separate

statewide lawsuit for contamination from PFAS-containing AFFF. *Id.* at ¶ 70. The cases settled in 2025 on record-breaking terms: Old DuPont and related entities agreed to pay \$875 million and establish remediation funding sources of up to \$1.2 billion. *Id.* The four sites also must be remediated to New Jersey’s satisfaction, and Old DuPont’s financial responsibility for that remediation is absolute and uncapped. Betz Decl. Ex. 36. In 2020, North Carolina filed suit against Old DuPont for contamination stemming from the Fayetteville Works site. *North Carolina v. EIDP, Inc. et al.*, 20-CVS-5612 (N.C. Super. Ct.). That suit settled in 2026, weeks prior to the Vylor Spinoff. Old DuPont and related entities agreed to pay \$455 million and establish a \$135 million remediation funding source. Sunding Report at ¶ 71.

Old DuPont remains a defendant in **forty-six** sovereign suits seeking damages for PFAS and/or AFFF contamination or deceptive trade practices, twenty of which were brought by Plaintiffs. Betz Decl. Exs. 1–20; *In re AFFF*, 2:18-mn-02873. Thirty-eight states and sovereigns have one or more actions pending against Old DuPont that seek damages and cleanup costs related to PFAS released from any source, including AFFF.³ *Id.* In addition, eight states and sovereigns have separate actions pending against Old DuPont for contamination from non-AFFF sources or

³ These plaintiffs include: the State of Alaska, State of Arkansas, State of Arizona, State of California, State of Colorado, State of Connecticut, State of Delaware, State of Florida, State of Hawai’i, State of Illinois, State of Indiana, State of Kentucky, Commonwealth of Massachusetts, State of Maryland, State of Maine, State of Mississippi, State of New Hampshire, State of New Mexico, State of New York, State of Oklahoma, State of Oregon, Commonwealth of Pennsylvania, State of Rhode Island, State of South Carolina, State of Tennessee, State of Texas, State of Vermont, State of Washington, State of Wisconsin, the Miccosukee Tribe of Indians, the Seminole Tribe, the Fond Du Lac Band of Lake Superior Chippewa, the Leech Lake Band of Ojibwe, the Red Cliff Band of Lake Superior Chippewa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the United States Virgin Islands, and the Government of Guam.

for deceptive trade practices.⁴ The sovereign suits have largely been consolidated in a federal multidistrict litigation in the District of South Carolina, formed to address claims arising from contamination caused by the release of PFAS from AFFF (“AFFF MDL”). *In re AFFF*, 2:18-mn-02873.⁵ However, at least four such suits—including three by Plaintiffs in this action—are not consolidated in the AFFF MDL.⁶

Several states—including Indiana, Alaska, Rhode Island, and Washington—have consumer protection claims incorporated into their AFFF MDL suits. *Indiana v. 3M*, 2:24-cv-03124; *Alaska v. 3M Co. et al.*, 2:21-cv-02804 (D.S.C.); *Rhode Island v. 3M Co. et al.*, 2:23-cv-03634 (D.S.C.); *Washington v. 3M Co. et al.*, 2:23-cv-03262 (D.S.C.). Other states—including Texas—have separate consumer protection actions pending against Old DuPont based on Old

⁴ Non-AFFF cases have been filed by the State of Illinois, State of Maryland, State of Maine, State of New Hampshire, State of South Carolina, and State of Vermont.

⁵ On September 14, 2026, California filed a motion in the AFFF MDL seeking to enjoin the Vylor Spinoff—*i.e.*, to stop the Spinoff from happening at all. *In re AFFF*, 2:18-mn-02873, Dkt. No. 11748, at 2. On September 30, the AFFF MDL court denied California’s motion. *Id.* at 5. The court noted that California’s operative complaint included fraudulent transfer claims based on past DuPont restructurings, but **not** the Vylor Spinoff. *Id.* at 2 (“The recently filed Second Amended Complaint makes no mention, however, of the Corteva/Vylor transaction”). The court held that California could not show irreparable harm if the Vylor Spinoff closed because “[t]o the extent [the Vylor Spinoff] is consummated on October 1, 2026, [California] can seek the identical relief against the new entities it already seeks, in its operative complaint, against the existing DuPont Entities.” *Id.* (emphasis added). In other words, the court found that California could bring fraudulent transfer claims after the Vylor Spinoff is complete. The court further held that California could not show irreparable harm because it delayed unreasonably in attempting to stop the transaction altogether, given that the transaction was announced in 2025. *Id.* at 2–4.

In contrast, Plaintiffs here assert fraudulent transfer claims against Vylor based on the Vylor Spinoff. And Plaintiffs did not delay in any sense of the word, as they filed this action and brought this motion immediately after the Vylor Spinoff closed and their fraudulent transfer claims became ripe.

⁶ Of the pending sovereign suits against Old DuPont, four have not been consolidated into the AFFF MDL to date. These are lawsuits by New Hampshire, Vermont, Texas, and New York for statewide PFAS contamination from sources other than AFFF or for deceptive trade practices. *New Hampshire v. 3M Co.*, No. 216-2019-CV-00445 (N.H. Super. Ct.) (Betz Decl. Ex. 10); *Vermont v. 3M Co.*, 2:25-cv-00660 (D. Vt.) (Betz Decl. Ex. 19); *Texas v. 3M*, No. DC-C202400996 (Betz Decl. Ex. 17); *New York v. 3M Co.*, No. 1:26-cv-01401 (S.D.N.Y.).

DuPont’s deceptive business practices in marketing and advertising PFAS-containing products more broadly. *Texas v. 3M Co.*, No. DC-C202400996 (Tex. 18th Dist. Ct.). These claims and actions seek damages, restitution, and other financial penalties relating to misrepresentations and key omissions that Old DuPont made when advertising the safety of products such as Teflon® and Stainmaster®. *Id.* Texas’s consumer protection action is set for trial in Texas state court in 2028. *Texas v. 3M*, No. DC-C202400996.

In addition to the statewide suits, hundreds of local or municipal governments have actions pending against Old DuPont seeking damages and cleanup costs for PFAS and AFFF. *In re AFFF*, 2:18-mn-02873.

Old DuPont also has been named as a defendant in thousands of suits by public water systems that serve communities across the country. Betz Decl. Ex. 54 at F-21. In 2023, on the eve of the first bellwether trial, Old DuPont and related entities agreed to a \$1.185 billion settlement to resolve drinking water claims pending in the AFFF MDL brought by a class of public water systems. Sunding Report at ¶ 68. At a fairness hearing concerning the public water systems class settlement, the presiding judge repeatedly warned class members who were considering opting out of the settlement that there is considerable risk that the defendants could end up in bankruptcy.⁷ While the settlement resolved the drinking water claims of many public water systems, additional claims remain pending. Sunding Report at ¶ 89.

Old DuPont also is a defendant in personal injury actions pending in the AFFF MDL and individual and class action personal injury or medical monitoring claims pending elsewhere across

⁷ Betz Decl. Ex. 49 at 25 (“By the way, a risk here for people who want to stick around is having parties go into bankruptcy”), 29 (“But when you look at this holistically, the only thing that makes sense in this instance is ... these class action settlements. Otherwise, they’ll have no choice but to go bankrupt.”).

the country. Sunding Report at ¶¶ 190–91. The AFFF MDL is not the first MDL in which Old DuPont faced personal injury claims: from 2013 to 2025, Old DuPont was the marquee defendant in an MDL formed in Ohio to handle at least 3,500 personal injury claims of plaintiffs living near Washington Works who became sick after drinking water contaminated with PFOA (“Ohio MDL”). Sunding Report at ¶¶ 67, 189. Old DuPont lost every case to go to verdict and received multiple punitive damages awards. Williams Report at ¶¶ 82–83. The claims pending in the Ohio MDL settled for an aggregate \$812.7 million. *Id.*

Thousands of additional personal injury and medical monitoring actions are pending against Old DuPont in the AFFF MDL. Sunding Report at ¶ 191. Outside the AFFF MDL, individuals who get their water from the Cape Fear Public Water utility in North Carolina are pursuing a putative class action against Old DuPont relating to the release of PFAS from Fayetteville Works and seeking compensatory and punitive damages and medical monitoring. Betz Decl. Ex. 54 at F-24. And individuals residing near Fayetteville Works have brought an action against Old DuPont alleging negligence, nuisance, and other claims related to the release of PFAS. *Id.* Those individuals seek compensatory property damages, punitive damages, and medical monitoring. *Id.* Similar actions were instituted in New Jersey. Betz Decl. Ex. 57 at F-68. An additional proposed class action pending appeal in the Sixth Circuit seeks to pursue nationwide claims against Old DuPont for PFAS blood contamination it caused across the country. Betz Decl. Ex. 54 at F-22, F-75.

Most recently, in August 2026, a multidistrict litigation against Old DuPont and other defendants was centralized in the District of Minnesota to host claims for harm caused by PFAS in turnout gear for firefighters. *In re Non-AFFF Firefighter Turnout Gear Mktg., Sales Pracs., and Prods. Liab. Litig.*, MDL No. 0:26-md-03191 (D. Minn.).

D. The Vylor Spinoff Separated Old DuPont's Most Valuable Assets from Its PFAS Liabilities

Faced with these growing liabilities for the massive harm that Old DuPont caused, Old DuPont and Corteva elected to separate three-quarters of Old DuPont's assets from its PFAS liabilities. Old DuPont's and Corteva's executives announced the transaction in October 2025, on the heels of Old DuPont's record-breaking \$2 billion settlement with New Jersey. Betz Decl. Ex. 35, 36.

Before the Vylor Spinoff, Old DuPont and Corteva operated through two principal business lines: Seed and Crop Protection. Williams Report at ¶ 29. The Seed business sat inside a subsidiary of Old DuPont called Pioneer Seeds ("Pioneer"). *Id.* at ¶ 125. Corteva itself is a mere holding company; its primary assets are its shares in Old DuPont. *Id.* at ¶ 120. Prior to the Spinoff, Pioneer was Old DuPont's and Corteva's flagship seed brand and the number one seed corn and soybean brand by market share in the United States. *Id.* at ¶ 125. The Seed business made twice the profits and had higher projected future growth opportunities than the Crop Protection business. *Id.* at ¶ 29, 123.

When Corteva announced the spinoff of the Seed business, it also announced that the leadership of Old DuPont and Corteva—including their shared CEO and board Chairman—would leave Corteva and take the helm at Vylor. Betz Decl. Ex. 35; Williams Report at ¶ 138. That announcement signaled to market analysts that Vylor would be the "prioritized business." Betz Decl. Ex. 37 at 5.

Corteva's executives who jumped ship for Vylor stressed that the weight of Old DuPont's legacy liabilities was a driving force behind the Spinoff. Betz Decl. Ex. 38. Corteva's CFO—who also now sits at Vylor—stated that one of the "major considerations" in the Spinoff was "where the liabilities sit," and that the "liabilities will stay with the company that they are in today." *Id.* at

15; *see also* Betz Decl. Ex. 55. Corteva’s CEO emphasized that “the DuPont pension and PFAS” obligations will “remain in [] Corteva in the future.” Betz Decl. Ex. 56 at 7. Market analysts uniformly recognized that Vylor would be the “clear winner” in the transaction, stating that Vylor received “premium assets, superior margins, and complete liability avoidance” and a “high-return, faster-growth business” unburdened by Old DuPont’s legacy costs and liabilities. Betz Aff Ex. 37 at 5; Betz Decl. Ex. 39 at 3.

The separation of Vylor (and with it, the Seed business) from Corteva and Old DuPont is governed by a separation agreement (“Vylor Separation Agreement”). Betz Decl. Ex. 50. The separation agreement has schedules that Defendants have withheld and not made public. However, the terms of the agreement itself reflect that Vylor will not assume Old DuPont’s PFAS liabilities—consistent with the statements of Old DuPont’s (now Vylor’s) executive team. *Id.* at §§ 1.1, 8.2, 7.6.

The separation of Vylor from Old DuPont and Corteva occurred in a series of steps. Corteva incorporated Vylor as a subsidiary in November 2025. Betz Decl. Ex. 53. This made Old DuPont and Vylor sister subsidiaries of Corteva. Next, Old DuPont—which consolidated the Seed business in its subsidiary Pioneer—transferred its shares in Pioneer to Vylor. Williams Report at ¶ 143(a), (b). In exchange, Vylor issued its own shares to Old DuPont, making Vylor a subsidiary of Old DuPont. *Id.* at ¶ 143(c). Old DuPont then distributed the shares of Vylor up to Corteva, which resulted in Old DuPont and Vylor again being sister subsidiaries of Corteva. *Id.* at ¶ 143(e). Except now, it was Vylor and not Old DuPont that held the Seed business. *Id.* at ¶ 394.

In connection with the Spinoff, Vylor agreed to exchange \$1.6 billion in outstanding notes issued by Old DuPont with new notes issued by Vylor. Williams Report at ¶¶ 32, 73. Vylor and its new subsidiary Pioneer also distributed \$3.499 billion to Old DuPont. *Id.* at ¶¶ 34, 144.

On October 1, 2026, Corteva made a pro rata distribution of all common stock of Vylor to Corteva’s shareholders of record, such that Vylor became an independent public company. *Id.* at ¶ 143(f). This act was the Spinoff—and it was the final separation of the Seed business from Old DuPont. *Id.* The \$40.66 billion in assets that were available to Old DuPont’s PFAS creditors prior to the Spinoff now are out of their reach. *Id.* at ¶ 72.

The Vylor Spinoff is far from Old DuPont’s first restructuring. It is, however, the first time an entity that received the assets of Old DuPont did not also assume Old DuPont’s PFAS liabilities. And that is what makes the Vylor Spinoff particularly pernicious.

In 2015, with bellwether trials looming in the Ohio MDL, Old DuPont spun off its PFAS business lines to The Chemours Company (“Chemours”). Betz Decl. Ex. 40; Williams Report at ¶¶ 85–92. The agreement that governed the spinoff required Chemours to assume Old DuPont’s PFAS liabilities Betz Decl. Ex. 41. Because Old DuPont could not contractually pardon itself of its PFAS liabilities as a matter of law, Old DuPont also remained directly liable. *See State ex rel. Stein v. E. I. du Pont de Nemours & Co.*, 382 N.C. 549, 561 (2022). In fact, Old DuPont has asserted that the Chemours spin was not a fraudulent transfer precisely because Old DuPont retained its PFAS liabilities and thus remained a debtor on PFAS claims. *See* Defs.’ Br. Supp. Mot. Summ. J. at 8–9, *State ex rel. Stein v. E.I. du Pont de Nemours & Co.*, No. 20 CVS 5612 (N.C. Super. Ct. May 7, 2025), Dkt. No. 399.

In 2019, Old DuPont completed a second restructuring—and this is how Corteva came to exist. Williams Report at ¶ 20. Old DuPont first agreed to a consolidation “merger” with the Dow Chemical Company (“Old Dow”). *Id.* at ¶ 93. The two companies became sister subsidiaries of a newly formed holding company called DowDuPont. *Id.* at ¶ 94. DowDuPont reorganized the assets of Old DuPont and Old Dow into three business lines: materials science, specialty products, and

agriculture. *Id.* DowDuPont spun off the materials science business to the newly formed Dow Inc. *Id.* DowDuPont retained for itself the specialty products business and renamed itself DuPont de Nemours (“New DuPont”). *Id.* at ¶ 95. And it spun off the agriculture business to the newly formed Corteva, which held Old DuPont as a subsidiary. *Id.*

The agreements that governed these spinoffs required New DuPont and Corteva to assume Old DuPont’s PFAS liabilities, as multiple courts have held. *State ex rel. Stein v. E.I. du Pont de Nemours & Co.*, 2021 WL 4127106, at *7 (N.C. Super. Ct. Sept. 9, 2021), *aff’d*, 382 N.C. 549, 563 (2021) (“[The Business Court’s interpretation of the plain language of the Agreements is well supported, and we uphold its finding that Corteva and New DuPont expressly assumed Old DuPont’s PFAS liabilities”); *Ohio v. E.I. DuPont de Nemours and Co., et al.*, No. 180T32 (Oh. Ct. Comm. Pleas) (Order Denying Defendants’ Motion to Dismiss and Granting Plaintiffs’ Cross-Motion for Partial Summary Judgment filed Aug. 4, 2021).

Also in 2019, Chemours sued Old DuPont, Corteva, and New DuPont. Betz Aff Ex 42. In a verified complaint, Chemours alleged that the PFAS liabilities that Old DuPont “dumped” on Chemours in connection with the Chemours spinoff were so massive that—unless the court capped those liabilities—Chemours was “insolvent” as of the spin date. *Id.* at ¶ 10; Williams Report at ¶ 100. The parties settled Chemours’s claims in 2021, in a memorandum of understanding (“MOU”). Betz Aff Ex. 43; Williams Report at ¶ 105. Under the MOU, New DuPont and Corteva agreed to contribute \$2 billion, collectively, toward the next \$4 billion in PFAS liabilities that Chemours assumed from Old DuPont and Chemours agreed to contribute the other \$2 billion. Williams Report at ¶ 106. That \$4 billion cost-sharing agreement is nearing exhaustion, which will leave Chemours again exposed to 100% of Old DuPont’s PFAS liabilities. Williams Report at ¶¶ 27, 111.

E. The Fair Value of Old DuPont’s Contingent PFAS Liabilities is \$34.9 to \$55.9 Billion

Plaintiffs’ fraudulent transfer claims based on the Vylor Spinoff are governed by a “fair value” standard: Old DuPont is insolvent if the fair value of its liabilities exceeds the fair value of its assets, *see* p. 29–30, *infra* (citing cases). Fair value asks what a reasonable buyer would be willing to pay for Old DuPont’s entire package of assets and liabilities. *Id.* (citing cases). As the cases instruct, a reasonable buyer would not limit her analysis to liquidated liabilities or liabilities for which Old DuPont has established a reserve in its financial statements. *Id.* (citing cases).⁸ Instead, the reasonable buyer would consider the fair value of all debts Old DuPont faces—including contingent claims. *Id.* (citing cases).

Plaintiffs retained Dr. David Sunding to estimate the fair value of certain categories of Old DuPont’s contingent PFAS liabilities that have not been settled and are not accounted for in its financial statement reserves. Sunding Report at ¶¶ 8–11.⁹ Dr. Sunding analyzed the following categories of liabilities: (i) treatment costs for PFAS-contaminated private drinking water wells; (ii) treatment costs for PFAS-contaminated public water systems not covered by existing public water system settlements; (iii) remediation costs for PFAS-contaminated sites; (iv) abatement costs for PFAS-contaminated wastewater treatment plants; (v) anticipated costs to be incurred by

⁸ As also discussed *infra*, a reserve is the amount a company accrues for a liability on the company’s financial statement. The process of setting a reserve is governed by restrictive standards that are irrelevant to a solvency analysis.

⁹ Dr. Sunding is an economist specializing in the area of environmental economics and natural resource economics, including water resources. Sunding Report at ¶¶ 1–4. He is the Thomas J. Graff Professor emeritus at the University of California, Berkeley, and Vice Chairman and Managing Director of Berkeley Research Group. *Id.* at ¶ 1. Dr. Sunding has prepared numerous expert reports and has been qualified by a court as an expert on numerous occasions on subject matters relevant to his analysis in this case, including the valuation of natural resource damages, present valuation of remediation costs, assessment of health impacts, and property value diminution. *Id.* at ¶ 4. He also has prepared expert reports and given expert testimony in several matters pertaining to PFAS contamination, including *State of Minnesota v. 3M*. *Id.* at Appx. A.

state agencies in addressing PFAS contamination; (vi) interim losses, a category of natural resource damages; (vii) personal injury damages; and (viii) anticipated legal defense costs for claims that remain pending against Old DuPont. *Id.* at ¶¶ 9–10. In connection with his analysis, Dr. Sunding relied on publicly available evidence of the extent of PFAS contamination across the United States, which he then paired with category-specific cost benchmarks drawn from actual past and ongoing remediation efforts, prior litigation against Old DuPont, and academic literature. *Id.* at ¶ 10.¹⁰

Where appropriate, Dr. Sunding allocated only a portion of the overall PFAS-related costs to Old DuPont to account for other potentially liable parties. Sunding Report at ¶¶ 81–88. For that allocation, Dr. Sunding relied on the analysis of Dr. Mark J. Benotti.¹¹ *Id.* at ¶ 85. Plaintiffs retained Dr. Benotti to conduct an analysis of Old DuPont’s share of nationwide PFAS liability for environmental contamination. Benotti Report at ii, 6. Using only publicly available information, including published studies conducted by Old DuPont’s own scientists, Dr. Benotti calculated that Old DuPont is responsible for **at least** 32.1% of nationwide PFOA releases from 1951 to 2002. *Id.* at 7. Dr. Sunding used this calculation to allocate a portion of nationwide PFAS liability to Old DuPont. Sunding Report at ¶¶ 85–87.

¹⁰ Dr. Sunding’s analysis draws on—and accounts for—existing settlements that Old DuPont has finalized with the states of Delaware, Ohio, New Jersey, and North Carolina. Liabilities associated with those states have been excluded from Dr. Sunding’s fair value estimate. Sunding Report at ¶ 10 n.2.

¹¹ Dr. Benotti is an environmental chemist with a specialization in environmental forensics. He has over 20 years of experience analyzing the occurrence, fate, transport, and source attributions of anthropogenic chemicals, including PFAS, in the environment. Dr. Benotti has prepared numerous expert reports and has been qualified by a court as an expert on subject matters relevant to his analysis in this case. Benotti Aff. at ¶¶ 4–8. For example, in May 2025, he was qualified as an expert and testified at trial in the U.S. District Court for the District of New Jersey in the State of New Jersey’s lawsuit related to Old DuPont’s Chambers Works facility.

Further, Dr. Sunding applied a conservative discount to the sole category of compensatory damages in his model—namely, interim losses—to account for litigation risk. Sunding Report at ¶¶ 185–88. This discount was applied for the limited purpose of supporting the analysis of Plaintiffs’ solvency expert. The fair value estimates presented by Dr. Sunding are significantly lower than the full damages that any individual Plaintiff could seek to recover against Old DuPont. See Sunding Report at ¶ 13 n. 5.

Dr. Sunding estimates an aggregate \$34.9 to \$55.9 billion in U.S. contingent PFAS liabilities for Old DuPont that have not been settled and that are not accounted for in its financial statement reserves. *Id.* at ¶¶ 11, 208. Dr. Sunding conducted his analysis on a nationwide basis using only public data and using conservative inputs and assumptions where appropriate; thus, his estimates provide **low-end** estimates of Old DuPont’s remaining PFAS liabilities. Sunding Report at ¶¶ 13, 97, 106, 122, 138.

Dr. Sunding’s estimates are conservative for multiple additional reasons. He did not include several categories of PFAS liabilities, such as: (i) on-site remediation at Old DuPont’s own sites for which reserves already have been established;¹² (ii) damages asserted by certain other plaintiff groups who have filed suit against Old DuPont, such as claims for diminution of property value by private property owners; (iii) damages for violation of consumer protection statutes, including but not limited to civil penalties or disgorgement remedies; (iv) medical monitoring costs; and (v) punitive damages. *Id.* Dr. Sunding also did not estimate non-U.S. liabilities, such as

¹² Plaintiffs do not suggest that the reserves equate to the fair value of Old DuPont’s remediation liabilities—let alone that the reserves are sufficient for the amount of remediation required any given site. However, for purposes of this Motion, Plaintiffs have not estimated additional expected remediation costs.

liabilities arising from operations at Old DuPont's Dordrecht Works site in the Netherlands. *Id.* at ¶ 13 n.6.¹³

F. The Fair Value of Old DuPont's Liabilities Exceeds the Fair Value of Its Assets

Plaintiffs retained Professor Williams to conduct an independent assessment of the impact of the Vylor Spinoff on the solvency of Old DuPont and the adequacy of the consideration Old DuPont received in connection with the transaction. Williams Report at ¶ 1.¹⁴

In accordance with the UVTA, Professor Williams performed a balance sheet test to determine whether, at fair valuation, the sum of Old DuPont's debts is greater than the sum of Old DuPont's assets following the Vylor Spinoff. *Id.* at ¶ 188. Professor Williams concluded that the sum of Old DuPont's debts exceeds the sum of its assets by an estimated \$20.17 billion, rendering Old DuPont insolvent. *Id.* at 329. Furthermore, because Corteva is directly liable for a percentage of Old DuPont's PFAS liabilities and holds virtually no assets other than its stock in Old DuPont (an insolvent company), the Vylor Spinoff rendered Corteva insolvent as well. *Id.* at ¶ 67.

¹³ In 2023, a Dutch court issued a decision finding Old DuPont liable for massive PFAS contamination caused by its operations at Dordrecht Works. Sunding Report at ¶ 62 n.109. The court found that Old DuPont knew about the severe health and environmental risks but failed to properly inform neighboring municipalities. *Id.*

¹⁴ Professor Williams has over thirty-five years of experience providing valuation, solvency, and other related financial services. Williams Report at ¶ 12. He is a professor at Georgia State University College of Law, where he teaches (among other things) bankruptcy accounting and finance. *Id.*, at Curriculum Vitae, at 2. Professor Williams also is a certified insolvency and restructuring advisor, a certified turnaround professional, and holds a certification in distressed business valuation. *Id.* at 7. He has been appointed as an examiner in several Chapter 11 bankruptcy cases or as the financial advisor to an examiner, and has authored numerous articles on subjects relevant to this litigation. *Id.* at 47, 9–14. Professor Williams has been qualified as an expert and testified on more than 20 occasions in federal bankruptcy courts, federal district courts, state courts, and before administrative agencies. Williams Report at ¶ 12.

As discussed *supra*, Old DuPont’s assets following the Vylor Spinoff consisted of the Crop Protection business. To estimate the fair value of the Crop Protection business, Professor Williams performed a discounted cash flow analysis (“DCF”), which is a common approach to estimating the fair market value of going-concern business operations. *Id.* at ¶ 212. The DCF approach calculates the fair market value of Old DuPont’s Crop Protection operations based on the present value of the cash flows the business is projected to generate into perpetuity. *Id.* at ¶ 217. Professor Williams developed projected cash flows for the Crop Protection business by examining Old DuPont’s publicly reported historical financials and projections created by financial analysts who closely follow Old DuPont’s business. *Id.* Professor Williams discounted those future cash flows back to present value using the weighted average cost of capital (“WACC”) of 8.7%, which takes into account Old DuPont’s business risk and cost of debt. *Id.* at ¶ 215. Professor Williams then added the value of Old DuPont’s non-operating assets (\$68 million) and concluded that the total fair value of Old DuPont’s assets is \$13.95 billion. *Id.* at ¶ 61, Table 6.

After establishing a fair market value of \$13.95 billion, Professor Williams deducted its debts and liabilities. *Id.* at ¶ 329, Table 6. As part of the debts and liabilities, Professor Williams considered (i) \$670 million in short-term debt, (ii) \$795 million in long-term debt, (iii) \$819 million in pension and other post-employment benefits (“OPEB”), (iv) \$108.5 million in future costs associated with an ongoing crop protection restructuring plan, (v) \$1.56 billion in accrued environmental and other litigation liabilities, and (vi) \$45.4 billion in PFAS liabilities, which is the mid-point of the present fair value estimate prepared by Dr. Sunding. *Id.* at ¶ 322, Table 6.

Additionally, Professor Williams valued indemnification assets that Old DuPont could potentially collect from Chemours, New DuPont, and Qnity, Inc. (“Qnity”), to offset its PFAS

liabilities.¹⁵ Professor Williams valued Old DuPont's indemnification assets by performing a cash flow analysis on the indemnifying parties to determine their ability to fund their indemnification obligations to Old DuPont. Applying this approach, Professor Williams valued Old DuPont's indemnification assets at \$12.78 billion and applied that amount as an offset against Old DuPont's PFAS liabilities. *Id.* at ¶ 327, Table 34.

Based on these figures, Professor Williams concluded that the fair value of the sum of Old DuPont's liabilities (\$34.12 billion) exceeds the fair value of the sum of its assets (\$13.95 billion) by \$20.17 billion—such that Old DuPont is insolvent. *Id.* at ¶ 329.

Professor Williams also compared the value of what Old DuPont transferred away in the Vylor Spinoff to the value of what Old DuPont received and concluded that Old DuPont did not receive reasonably equivalent value. *Id.* at ¶ 395–96.

The value of what Old DuPont transferred away is the value of the Seed business. *Id.* at ¶ 342. Professor Williams used the same approach to value the Seed business as for the Crop Protection business: he assessed the fair market value of the Seed business by estimating the present value of the cash flows that the Seed business is projected to generate into perpetuity. *Id.* at ¶¶ 71, 343–56. Using this approach, Professor Williams concluded that the Seed business assets are worth \$40.66 billion. *Id.* at ¶¶ 390–91.

Professor Williams compared that outgoing value to the value Old DuPont received in connection with the Vylor Spinoff. *Id.* at ¶ 394. The value received consists of the approximate \$3.5 billion distribution and the \$1.6 billion debt exchange. *Id.* at ¶ 393. The total value that Old DuPont received in connection with the Vylor Spinoff is therefore approximately \$5.1 billion. *Id.*

¹⁵ Qnity is a separate public company that was spun-off from New DuPont in 2025, years after New DuPont separated from Corteva and Old DuPont. Williams Report at ¶¶ 22-23. As part of the Qnity spinoff, Qnity assumed 44% of New DuPont's 71% share of Old DuPont's PFAS liabilities. *Id.*

at ¶ 394. Professor Williams concluded that \$5.1 billion falls outside the range of values that one would expect reasonable parties, acting at arm's length, to exchange for the Seed business assets that Old DuPont transferred away, worth \$40.66 billion. *Id.* at ¶¶ 331, 395.

G. Plaintiffs Incurred at Least \$30.3 to \$44.4 Billion in Damages Arising from Old DuPont's PFAS Contamination

Plaintiffs also retained Dr. David Sunding to prepare a conservative estimate of the damages incurred by Plaintiffs due to Old DuPont's PFAS contamination. Sunding Report at ¶ 15.¹⁶ To prepare this estimate, Dr. Sunding extracted the following categories from his estimate of Old DuPont's contingent PFAS liabilities, only using inputs for the Plaintiff states and sovereigns: public water system treatment costs, private well remediation costs, PFAS site remediation costs, wastewater treatment abatement costs, state program costs, and interim losses. *Id.* Using the same methodology as his liability analysis, Dr. Sunding apportioned part of the total PFAS damages to Old DuPont. *Id.* at ¶¶ 81–88. Unlike the liability analysis, however, Dr. Sunding did not discount any of the damages to fair value, because discounts are not appropriate in determining actual damages. *Id.* at ¶ 185. Dr. Sunding estimated that the aggregate damages incurred by Plaintiffs as a result of Old DuPont's PFAS contamination are ***no less than*** \$30.3 to \$44.4 billion. *Id.* at ¶ 15.

ARGUMENT

A temporary restraining order maintains the status quo existing when a complaint is filed until the parties can be heard on a preliminary injunction motion. *City of Boonville v. Anderson*,

¹⁶ This analysis is conducted for purposes of this Motion only and does not purport to reflect the case-specific damages that any individual plaintiff, including any Plaintiff in this lawsuit, may present in its underlying lawsuit(s). Multiple scientifically recognized and approved methodologies exist for analyzing or calculating each of the damages categories discussed herein. Each individual Plaintiff reserves the right to conduct its own damages analysis using these or other methodologies and using these or other data sources.

263 N.E.3d 727, 737 (Ind. Ct. App. 2025); *Whitesell Precision Components, Inc. v. Autoform Tool & Mfg., LLC*, 110 N.E.3d 380, 383 n.5 (Ind. Ct. App. 2018). Because this Motion is made on notice, it is governed by the same standard as a preliminary injunction motion. *GEFT Outdoors, LLC v. City of Westfield*, 922 F.3d 357, 371 n.11 (7th Cir. 2019). Plaintiffs must show four elements: (i) a reasonable likelihood of success on Plaintiffs’ fraudulent transfer claims; (ii) that Plaintiffs will suffer irreparable harm absent preliminary relief; (iii) that the threatened injury to Plaintiffs outweighs the potential harm to Defendants from entering preliminary relief; and (iv) that preliminary relief will not “disserve” the public interest. *Abercrombie & Fitch Stores, Inc. v. Simon Property Group, L.P.*, 160 N.E.3d 1003, 1108 (Ind. Ct. App. 2020); *see also* Ind. R. Trial P. 65(B).

Plaintiffs’ claims all arise under the UVTA, which expressly permits the preliminary relief Plaintiffs seek.¹⁷ Among other remedies, the UVTA allows “an attachment or other provisional remedy against the asset transferred or other property of the transferee”—*i.e.*, Vylor. I.C. § 32-18-2-17(a)(1)(2). The UVTA also allows “[a]n injunction against further disposition by the debtor or a transferee, or both”—*i.e.*, Old DuPont or Vylor, or both—“of the asset transferred, its proceeds, or of other property.” I.C. § 32-18-2-17(a)(3)(A). Although the UVTA does not expressly state that the latter remedy is provisional as well as final, “[a] preliminary injunction is always appropriate to grant intermediate relief of the same character as that which may be granted finally.” *U.S. ex rel. Rahman v. Oncology Assocs.*, 198 F.3d 489, 497 (4th Cir. 1999) (quotation omitted);

¹⁷ Regarding choice of law, a fraudulent transfer claim under the UVTA “is governed by the law of the jurisdiction in which the debtor is located[.]” I.C. § 32-18-19.3(b). A debtor that is a corporation and has more than one place of business is located “at its chief executive office.” *Id.* at § 32-18-19.3(a)(3). The debtor here is Old DuPont, and Old DuPont is an organization with its chief executive office in Indiana. Compl. ¶ 14. Accordingly, Indiana law applies to all Plaintiffs’ claims.

see also *SRB Inv. Servs., LLLP v. Branch Banking & Tr. Co.*, 289 Ga. 1, 4 (2011) (“Fraudulent transfer cases are especially amenable to interlocutory injunctive relief”).

Because the UVTA is a uniform statute and has been adopted by most states, there is considerable caselaw supporting the relief sought in this Motion. Courts presented with claims under the UVTA often enter preliminary relief freezing or enjoining assets of parties to the transfer where the plaintiff makes a prima facie showing that the debtor became insolvent as a result of the transfer and did not receive reasonably equivalent value. See, e.g., *In re Vital Pharms., Inc.*, 2026 WL 1244593, at *14–15 (Bankr. S.D. Fla. May 5, 2026); *Ocean Garden Prods. Inc. v. Blessings Inc.*, 2019 WL 4752096, at *6 (D. Ariz. Sept. 27, 2019); *Rodriguez v. Montalvo*, 371 F. Supp. 2d 3, 5–6 (D. Mass. 2005); *Nastro v. D’Onofrio*, 263 F. Supp. 2d 446, 460–61 (D. Conn. 2003). Likewise, courts routinely enter preliminary relief where the plaintiff makes a prima facie showing of fraudulent intent by marshalling evidence that tracks the “badges of fraud” in the UVTA. See, e.g., *Vital Pharms.*, 2026 WL 1244593, at *15–16; *In re BYJU’s Alpha, Inc.*, 661 B.R. 109, 123–24 (Bankr. D. Del. 2024); *Jet Midwest Int’l Co., Ltd. v. Jet Midwest Grp., LLC*, 953 F.3d 1041, 1044–45 (8th Cir. 2020); *Ocean Garden*, 2019 WL 4752096, at *5; *McGirr v. Rehme*, 891 F.3d 603, 610–15 (6th Cir. 2018); *SRB*, 289 Ga. at 4; *S. New England Tel. Co. v. Global Naps, Inc.*, 595 F. Supp. 2d 155, 159–60 (D. Mass. 2009); *Tel. Equip. Network, Inc. v. TA/Westchace Pl., Ltd.*, 80 S.W.3d 601, 609 (Tex. Ct. App. 2002).¹⁸

¹⁸ Forty-six states have adopted either the UVTA or its predecessor, the Uniform Fraudulent Transfer Act (“UFTA”). *United States v. Miller*, 604 U.S. 518, 524 (2025). These statutes are substantially similar, *id.*, and courts recognize that cases interpreting other states’ versions of the UVTA/UFTA are instructive due to the Act’s uniformity. See, e.g., *Creditor’s Comm. of Jumer’s Castle Lodge, Inc. v. Jumer*, 472 F.3d 943, 947 (7th Cir. 2007); *In re Image Worldwide, Ltd.*, 139 F.3d 574, 577 (7th Cir. 1998). Courts also often look to cases applying the federal Bankruptcy Code, because many UVTA/UFTA provisions derive from that code. See, e.g., *IGF Ins. Co. v. Cont’l Cas. Co.*, 2009 WL 4016608, at *29 (S.D. Ind. Oct. 19, 2009); *In re Viscount Air Servs., Inc.*, 232 B.R. 416, 434 (Bankr. D. Ariz. 1998) (“In states which

As discussed *infra*, the circumstances of this case meet each element for preliminary relief.

I. PLAINTIFFS HAVE SHOWN A REASONABLE LIKELIHOOD OF SUCCESS ON THE MERITS OF THEIR FRAUDULENT TRANSFER CLAIMS

The bar to show reasonable likelihood of success on the merits is not high, and Plaintiffs clear it handily. Plaintiffs do not need to prove their fraudulent transfer claims at this stage, nor must they show a right to judgment. *Hannum Wagle & Cline Eng'g, Inc. v. Am. Consulting, Inc.*, 64 N.E.3d 863, 874 (Ind. Ct. App. 2016). Instead, Plaintiffs only must show a “prima facie case” of fraudulent transfer through “substantial evidence”—which the Court of Appeals has described as “more than a scintilla and less than a preponderance” of evidence. *Indiana High Sch. Athletic Ass’n, Inc. v. Martin*, 731 N.E.2d 1, 7 (Ind. Ct. App. 2000). In *Martin*, the court clarified that Indiana’s standard on this element matches the federal standard, which requires a “better than negligible chance of succeeding on the merits.” *Id.* (quoting *Washington v. Indiana High Sch. Athletic Ass’n, Inc.*, 181 F.3d 840, 846 (7th Cir. 1999)).

As shown in Subpart A, *infra*, the Vylor Spinoff is fraudulent with respect to Plaintiffs because Plaintiffs are “present creditors” of Old DuPont within the meaning of the UVTA. And as shown in Subparts B and C, *infra*, Plaintiffs have established a prima facie case of constructive fraudulent transfer based on Dr. Williams’ and Dr. Sunding’s affidavits and a prima facie case of actual fraudulent transfer based on evidence of multiple “badges of fraud” set forth in the UVTA.

A. Plaintiffs are Creditors of Old DuPont Under the UVTA

The UVTA defines “creditor” as “a person that has a claim.” I.C. § 32-18-2-2(3). The term “claim,” in turn, is defined to mean “a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed,

have adopted the uniform act, the two statutes [the UFTA and Bankruptcy Code] have been interpreted similarly by the courts”).

legal, equitable, secured, or unsecured.” I.C. § 32-18-2-2(2). Interpreting these terms, the Indiana Court of Appeals has held that “[a] creditor who has filed suit against a potential debtor possesses a disputed right to payment which has not yet been reduced to judgment and, therefore, has a present ‘claim’ against the debtor.” *Keltner Prop. Grp. LLC v. Southard*, No. 22A-PL-2683, at *4 (Ind. Ct. App. Jan. 25, 2024) (mem.); *see also Foisie v. Worcester Polytechnic Inst.*, 967 F.3d 27, 45 (1st Cir. 2020) (“As the statutory definition of ‘claim’ makes luminously clear, the plaintiff is not barred from creditor status merely because her claims are disputed or have not been reduced to judgment”). And as explained in *Trafalgar Power, Inc. v. Aetna Life Ins. Co.*, a creditor who has filed suit against a debtor “may properly maintain a separate action attacking [a transaction involving the debtor] as a fraudulent conveyance[.]” 131 F. Supp. 2d 341, 348 (N.D.N.Y. 2001).

As discussed *supra*, Plaintiffs are prosecuting lawsuits against Old DuPont in courts across the country asserting various environmental, consumer, tort and product liability claims arising out of Old DuPont’s use and manufacture of PFAS. Those lawsuits were pending at the time of the Vylor Spinoff, such that Plaintiffs are present creditors of Old DuPont.

B. Plaintiffs Have Established a Prima Facie Case of Constructive Fraudulent Transfer Under the UVTA

A claim for constructive fraudulent transfer is based on the financial impact of the transfer on the debtor. Relevant here, the claim has two elements: (1) the transfer rendered the debtor insolvent; and (2) the debtor received less than reasonably equivalent value for the transfer. I.C. § 32-18-2-15(a).¹⁹

¹⁹ In lieu of insolvency, a plaintiff may show that the debtor is undercapitalized or unable to pay its debts as they become due. I.C. § 32-18-2-14 (a)(2)(A) and (B). Because Plaintiffs have shown likelihood of success on their claim that the Vylor Spinoff rendered Old DuPont insolvent, there is no need for the Court to consider these alternative avenues for relief in connection with this Motion.

Regarding the first element, a debtor is insolvent if the sum of its debts is greater than the sum of its assets, “at fair valuation.” I.C. § 32-18-2-12; *Freeland v. Enodis Corp.*, 540 F.3d 721, 730 (7th Cir. 2008). Fair value is based on what a reasonable buyer would be willing to pay “for the debtor’s entire package of assets and liabilities[.]” *Covey v. Com. Nat. Bank of Peoria*, 960 F.2d 657, 660 (7th Cir. 1992). “If the price is positive, the firm is solvent; if negative, insolvent.” *Id.*; see also *In re Tronox*, 503 B.R. 239, 313 (Bankr. S.D.N.Y. 2013). A solvency analysis must account for contingent liabilities, because “the object of a solvency analysis is to assign a fair valuation to all debts, with the term ‘debt’ defined as a liability on a claim, and ‘claim’ defined in the broadest possible sense to include contingent, unmatured and unliquidated claims.” *Tronox*, 503 B.R. at 313 (quotation omitted); I.C. § 32-18-2-2(2) and (4) (defining “debt” and “claim”). Likewise, a solvency analysis cannot be cabined to a debtor’s financial statement reserves, because financial statement standards require the debtor to report only a “limited subclass” of liabilities. *Tronox*, 503 B.R. at 301.²⁰

Regarding the second element of a constructive fraudulent transfer claim, the debtor must get “roughly the same value it gave.” *In re Terry Mfg. Co., Inc.*, 2008 WL 4493240, at *6 (M.D. Ala. Sept. 30, 2008) (quotation omitted). In analyzing this element, courts compare the fair value of what was transferred to the fair value of what was received. *Creditor’s Comm. of Jumer’s Castle Lodge, Inc. v. Jumer*, 472 F.3d 943, 947 (7th Cir. 2007). Courts conduct this comparison “from the perspective of the creditors,” *In re Pajaro Dunes Rental Agency, Inc.*, 174 B.R. 557, 578 (Bankr. N.D. Cal. 1994), and scrutinize transfers to affiliated entities “much more closely.” *In re Advanced Telecomm. Network, Inc.*, 490 F.3d 1325, 1336–37 (11th Cir. 2007).

²⁰ In particular, companies set their financial statement reserves in accordance with generally accepted accounting principles (“GAAP”), and GAAP require reserves “only for claims that are probable and reasonably estimable.” *Id.*

Turning to the first element, Plaintiffs marshal substantial evidence that the Vylor Spinoff rendered Old DuPont—the debtor responsible for decades of PFAS contamination—insolvent. As established through Professor Williams’s analysis, the fair value of the Seed business transferred to Vylor is \$40.66 billion, whereas the fair value of the Crop Protection business retained by Old DuPont is \$13.95 billion. Williams Report at Table 8, Table 6. As established through Dr. Sunding’s analysis, the fair value of a subset of Old DuPont’s PFAS liabilities sits on a range of \$34.9 to \$55.9 billion. Sunding Report at ¶ 11. Beyond that, Old DuPont has at least \$3.95 billion in debt and accrued liabilities, including \$819 million in pension and OPEB liabilities. Williams Report at Table 6. Even factoring in an indemnification asset from all entities that may be obligated to indemnify Old DuPont for its PFAS liabilities, the fair value of its liabilities exceeds the fair value of its assets by at least \$20.17 billion—and thus the transaction rendered Old DuPont insolvent. *Id.* The same is true for Corteva, which holds Old DuPont as its primary asset. *Id.* at ¶ 120.

Turning to the second element, Old DuPont did not receive reasonably equivalent value. The Seed business has a fair value of \$40.66 billion and holds approximately three-quarters of Old DuPont’s pre-Spinoff assets. *Id.* at ¶ 72. In exchange for the Seed business, Old DuPont received \$5.1 billion in value in the form of the distribution and erased debt—a value difference of 87.5%. *Id.* at ¶ 74. And it appears Old DuPont may not retain the entire distribution, as Corteva’s leadership has announced that its board will consider a stock buyback program at its upcoming October meeting. Betz Decl. Ex. 52 at 3.

Even if Old DuPont retains the entire distribution, \$5.1 billion is nowhere near reasonably equivalent value for the \$40.66 billion Seed business transferred to Vylor. *Id.* at ¶¶ 74, 395–96. Courts routinely find that such a wide gap between the value of what was received and what was

transferred means that the debtor did not receive reasonably equivalent value, including in scenarios that, unlike this case, involved an arms-length transaction. In *In re McCook Metals, LLC*, for example, the court held that receipt of \$7.8 million in return for an asset worth \$11.1 million—a value difference of 70%—was not reasonably equivalent value. 319 B.R. 570, 589–90 (Bankr. N.D. Ill. 2005). Likewise, in *In re Pajaro Dunes Rental Agency, Inc.*, the court held that receipt of an asset worth \$541,895 in return for assuming an obligation worth \$1 million—a value difference of 54%—was not reasonably equivalent value. 174 B.R. 557, 589–90 (Bankr. N.D. Cal. 1994). And in *In re Lindell*, the court held that receipt of \$50,000 in return for an asset worth \$130,000—a value difference of 39%—in an **arms-length** transaction was not reasonably equivalent value. 334 B.R. 249, 255–56 (Bankr. D. Minn. 2005).

That reasoning applies here. Old DuPont received a small fraction of the value it transferred to Vylor, putting Old DuPont’s creditors in a far worse position. Vylor also is an affiliated entity, as Old DuPont and Vylor were under Corteva’s common control at the time of the transfer and the executives who planned the transaction followed the Seed business to Vylor. Thirteen cents on the dollar would not be reasonably equivalent value for an arms-length transaction—and it certainly is not under the close scrutiny that applies to affiliated-entity transactions. Plaintiffs thus are likely to prevail on this element of their constructive fraudulent transfer claim.

C. Plaintiffs Have Established a Prima Facie Case of Actual Fraudulent Transfer Under the UVTA

Distinct from constructive fraudulent transfer, an actual fraudulent transfer claim is based on the intent of the debtor. In particular, an actual fraudulent transfer occurs if the debtor acted “with actual intent to hinder, delay, or defraud any creditor of the debtor.” I.C. § 32-18-2-14. Fraudulent intent can be established in two ways. First, a plaintiff can offer direct evidence that the debtor acted to hinder or defraud creditors, although such evidence is difficult to obtain because

corporate officers rarely admit to intentionally structuring transactions to avoid liabilities. *In re Tronox Inc.*, 503 B.R. 239, 282 (Bankr. S.D.N.Y. 2013). Second, the UVTA alternatively allows a plaintiff to marshal circumstantial evidence bearing on non-exhaustive “badges of fraud” listed in the statute, from which fraudulent intent may be inferred. *Id.*; *see also* I.C. § 32-18-2-14. “The presence of a number of badges is said to create an overwhelming presumption of fraud or to raise a strong inference of fraudulent intent.” *Freeland v. Enodis Corp.*, 540 F.3d 721, 733 (7th Cir. 2008) (cleaned up).

This case is unique because Old DuPont’s and Corteva’s executives did what corporate officers rarely do: they publicly admitted that Old DuPont’s legacy liabilities were a driving force behind the Vylor Spinoff. Mr. Magro, Old DuPont’s and Corteva’s CEO, stated that “where the liabilities sit” was a “major consideration” in the Spinoff and that the “liabilities will stay with the company that they are in today.” Betz Decl. Ex. 38 at 15. Intentionally structuring a transaction to separate a debtor’s valuable assets from the debtor’s liabilities is the hallmark of a fraudulent transfer. As multiple market analysts recognized, Vylor was the “clear winner” in the Spinoff because Vylor achieved “complete liability avoidance.” Betz Decl. Ex. 37 at 5; *see also* Betz Decl. Ex. 39 at 3 (Corteva will ... retain[] the historical PFAS liabilities ... The base case is for a faster rate of growth of SpinCo because it is unburdened from Corteva’s legacy costs”).

Mr. Magro’s admission, standing alone, establishes a reasonable likelihood of success. In *ASARCO LLC v. Americas Mining Corp.*, the court found that similar statements from executives constituted direct evidence of fraudulent intent. 396 B.R. 278, 375, 394 (S.D. Tex. 2008) (finding ASARCO’s parent company liable for actual fraudulent transfer based, in part, on the parent company’s CEO’s expressed desire to separate ASARCO’s most valuable asset from its environmental liabilities—which the parent company accomplished by transferring the asset out

of ASARCO). Likewise, in *Kelley v. Thomas Solvent Co.*, the court determined that the transfers at issue were fraudulent as a matter of law since directors of the company admitted that the transaction “was motivated by concern about environmental liabilities arising from the [retained site].” 725 F. Supp. 1446, 1453, 1455 (W.D. Mich. 1988) (finding it undisputed that “one reason” for the spinoffs “was to avoid potential [environmental] liability” when the company spun off its most valuable industrial sites and retained the sole site associated with environmental liabilities).

In addition to Mr. Magro’s admission, the evidence in this case meets multiple badges of fraud listed in the UVTA. Importantly, the badges of fraud include whether the debtor “became insolvent” as a result of the transfer and whether the consideration received by the debtor was “reasonably equivalent” to the value of the asset transferred. I.C. §§ 32-18-2-14(b)(7), (8). Plaintiffs have established both of these badges through the affidavits of Professor Williams and Dr. Sunding, as set forth in Subpart B, *supra*.

A third badge of fraud in the UVTA is whether the transfer was of “substantially all the debtor’s assets.” I.C. § 32-18-2-14(b)(4). This badge asks whether the transfer “fundamentally changed” the debtor. *In re Vaso Active Pharms., Inc.*, 2012 WL 4793241, at *14 (Bankr. D. Del. Oct. 9, 2012); *see also In re Mallinckrodt PLC*, 2024 WL 206682, at *30 (Bankr. D. Del. Jan. 18, 2024). In *Vaso*, the court found this badge satisfied as a matter of law where the debtor transferred between 44% and 58% of its assets. 2012 WL 4793241, at *13-14. The court rejected the notion that the transfer must be more than half the debtor’s assets, noting that “the law is not ‘majority of,’ but the more amorphous ‘substantially all’” and “one can easily imagine substantially all of a company’s asset being less than a majority.” *Id.* (cleaned up). Likewise, in *Mallinckrodt*, the court found this badge satisfied where a spinoff left the debtor facing a “tidal wave of litigation” without the benefit of valuable assets retained by its counterparty. 2024 WL 206682, at *12, 30. As in *Vaso*

and *Mallinckrodt*, the Vylor Spinoff fundamentally changed Old DuPont’s business. The Seed assets transferred to Vylor represent 75% of Old DuPont’s pre-Spinoff value and Old DuPont is left to face its massive PFAS liabilities without the benefit of those assets.

A fourth badge of fraud in the UVTA asks whether litigation was pending against the debtor before the transfer was made. I.C. § 32-18-2-14(b)(3). The evidence supporting this badge is overwhelming. During the planning and execution of the Vylor Spinoff, Old DuPont faced—and continues to face—thousands of claims in courts in almost every State in the nation arising from its historic use and manufacture of PFAS. Relatedly, a fifth badge of fraud in the UVTA asks whether the transfer occurred shortly after a “substantial debt was incurred.” I.C. § 32-18-2-14(b)(9). As discussed *supra*, Old DuPont announced the Vylor Spinoff mere months after its agreement to a record-setting \$2 billion PFAS settlement with the State of New Jersey and completed the Spinoff weeks after its agreement to another massive PFAS settlement with the State of North Carolina.

A sixth badge of fraud in the UVTA is whether the “debtor retained possession or control of the property transferred after the transfer.” I.C. § 32-18-2-14(1). In *Trafalgar Power*, for example, the court found that this badge was met with evidence that the debtor transferred its right in a \$7.6 million judgment to an entity that was controlled by the same person who controlled the debtor. 131 F. Supp. 2d at 351. Similarly, here, Old DuPont transferred its Seed business to an entity—Vylor—that is controlled by the same executives who controlled Old DuPont prior to the Spinoff.

In addition to the badges of fraud listed in the UVTA, courts also consider non-statutory badges relevant to fraudulent intent such as whether the transfer was to an insider of the debtor. *See Holland v. Ketcham*, 181 N.E.3d 1030, 1036 (Ind. Ct. App. 2021); *Cont’l Cas. Co. v. Symons*,

817 F.3d 979, 989 (7th Cir. 2016). Insider status arises “when [two] corporations are under the control of the same officers and directors.” *Vital Pharms.*, 2026 WL 1244593, at *15 n.107 (quotation omitted). In *Symons*, for example, the court found this non-statutory badge of fraud satisfied where the debtor transferred assets to corporations under common management with the debtor. 817 F.3d at 982. As discussed *supra*, the Vylor Spinoff likewise is an insider transfer given that all entities involved operated under common management during the planning and execution of the transaction.

Coupled with the direct evidence of Old DuPont’s intent to strand its legacy liabilities in the Crop Protection business, these badges of fraud are more than sufficient evidence to show that Plaintiffs are likely to succeed on their actual fraudulent transfer claim. *Cf., e.g., Vital Pharms.*, 2026 WL 1244593, at *16 (“The concurrence of these four badges—insider status, absence of reasonably equivalent value, insolvency at the time of the transfers, and pending litigation—supports a strong inference of actual fraudulent intent for preliminary injunction purposes”); *Trafalgar Power*, 131 F. Supp. 2d at 347 (granting preliminary injunction and finding likelihood of success based on evidence of insider status, transferor’s retention of control over transferred assets, absence of reasonably equivalent value, and pending litigation).

II. PLAINTIFFS WILL SUFFER IRREPARABLE HARM IF PRELIMINARY RELIEF IS NOT ENTERED

“Irreparable harm is that harm which cannot be compensated for through damages upon resolution of the underlying action.” *Simon Prop. Grp.*, 160 N.E.3d at 1110. “The test is whether later money damages would be as full and adequate as the equitable remedy.” *Id.* (quotation omitted). Here, as noted, Plaintiffs seek two forms of preliminary relief: an order barring Corteva and Old DuPont from dissipating Old DuPont’s remaining assets outside the normal course of

business and an order barring Vylor from dissipating the assets it received from Old DuPont outside the ordinary course of business.

Regarding the first form of relief, Plaintiffs have established a prima facie case that Old DuPont and Corteva are insolvent. “[A] defendant’s insolvency is a standard ground for concluding that a plaintiff’s harm if the preliminary injunction is denied will not be cured by an award of damages at the end of the trial[.]” *American Hosp. Supply Corp. v. Hosp. Prods. Ltd.*, 780 F.2d 589, 596 (7th Cir. 1986); *see also Peabody v. Davis*, 2007 WL 9817825, at *3 (N.D. Ill., Mar. 30, 2007). In fraudulent transfer cases in particular, courts often find irreparable harm where the plaintiff may be unable to collect on the underlying debt because the debtor-defendant is insolvent. *See, e.g., BYJU’s Alpha*, 661 B.R. 109; *Ocean Garden*, 2019 WL 4752096, at *6; *SRB*, 289 Ga. at 6 (“When a money judgment is likely to be uncollectable because a debtor has fraudulently moved its assets ... [the UVTA] gives the creditor the right to seek interlocutory relief by freezing the assets where they are”); *Mitsubishi Power Sys. Am., Inc. v. Babcock & Brown Infrastructure Grp. U.S., LLC*, 2009 WL 1199588, at *4 (Del. Ch. Apr. 24, 2009); *Rodriguez*, 371 F. Supp. 2d at 6; *Tel. Equip. Network*, 80 S.W.3d at 611 (“[A] plaintiff does not have an adequate remedy at law if [the] defendant is insolvent”). As the court explained in *Mitsubishi*, “**any future transfer**” by an insolvent defendant for less than reasonably equivalent value “would be fraudulent as to [the plaintiff].” 2009 WL 1199588, at *4 (emphasis added). Because Old DuPont and Corteva are insolvent, future transfers by either defendant for less than reasonably equivalent value would be fraudulent as to Plaintiffs—and thus would cause Plaintiffs irreparable harm.

Additionally, weeks prior to the Spinoff, Corteva stated its commitment to return capital to shareholders through dividends and stock buybacks and announced that its board will consider a buyback program at a meeting in late October. Betz Decl. Ex. 52 at 3. If Corteva uses the proceeds

of the Vylor Spinoff to fund a buyback program or issue shareholder dividends, it will be dissipating proceeds of a prima facie fraudulent transfer for no value to Corteva or Old DuPont—and Plaintiffs will be irreparably harmed. *Cf., e.g., Rodriguez*, 371 F. Supp. 2d at 6 (finding irreparable harm based on dissipation of the proceeds of a fraudulent transfer; entering preliminary injunction freezing the proceeds).

Regarding the relief sought with respect to Vylor, the “dissipation of assets likely obtained through fraud constitutes irreparable harm for the purposes of issuing a preliminary injunction.” *McGirr v. Rehme*, 891 F.3d 603, 613 (6th Cir. 2018). Plaintiffs have established a prima facie case that Vylor obtained the assets of the Seed business through an intentional fraudulent transfer. Old DuPont’s fraudulent intent in placing three-quarters of its assets outside the reach of its PFAS creditors necessarily is shared by Vylor, because the same executives who planned the Spinoff now lead Vylor. Vylor now can pay shareholder dividends, fund stock buybacks, issue secured debt, and sell assets—and the persons poised to take such actions are the same persons who put \$40.66 billion in assets outside the reach of PFAS creditors for less than reasonably equivalent value. The further dissipation of assets needed to satisfy future judgments against Old DuPont will irreparably harm Plaintiffs. *Cf. SRB*, 289 Ga. at 6 (finding irreparable harm based on transferee’s participation in intentional fraudulent transfer); *S. New England Tel. Co.*, 595 F. Supp. 2d at 159 (same); *Caterpillar Inc. v. Jerryco Footwear, Inc.*, 880 F. Supp. 578, 587 (C.D. Ill. 1994) (same).

Moreover, as a general matter, the dissipation of assets subject to a fraudulent transfer claim impedes the court’s ability to grant final relief. *Janvey v. Alguire*, 647 F.3d 585, 600-01 (5th Cir. 2011); *see also Trafalgar Power*, 131 F. Supp. 2d at 350. Plaintiffs seek multiple forms of final equitable relief with respect to Old DuPont, Corteva, and Vylor, including: (i) unwinding the Vylor Spinoff to the extent necessary to satisfy Plaintiffs’ claims against Old DuPont; (ii) a

permanent injunction barring Old DuPont and Corteva from dissipating Old DuPont's assets, including proceeds of the Spinoff; (iii) a permanent injunction barring Vylor from dissipating the Seed business assets it received from Old DuPont; and (iv) a constructive trust over the transferred assets. *See* Compl. at 35. If the assets subject to these final remedies are transferred to third parties during the pendency of this action, the Court may be unable to grant Plaintiffs final relief. That is irreparable harm, as courts recognize. In *Trafalgar Power*, for example, the court entered a preliminary injunction freezing the asset subject to the plaintiff's fraudulent transfer claim. 131 F. Supp. 2d at 343, 350, 353. The court reasoned that "the main relief [plaintiff] seeks [is] to set aside the allegedly fraudulent conveyance"; thus, absent a freeze, "[plaintiff] will clearly suffer irreparable harm because the potential relief it seeks may well be a nullity[.]" *Id.* at 350; *see also Janvey*, 647 F.3d at 600-01 (finding irreparable harm for the same reason).

III. THE BALANCE OF THE EQUITIES FAVORS PRELIMINARY RELIEF

In balancing the equities, courts consider whether the threatened injury to the plaintiff outweighs the potential harm to the defendant from the granting of preliminary relief. *Apple Glen Crossing, LLC v. Trademark Retail, Inc.*, 784 N.E.2d 484, 490 (Ind. 2003). Here, the balance tips heavily in Plaintiffs' favor.

The threatened injury to Plaintiffs is grave. If no restraints are placed on Defendants' ability to dissipate the assets subject to Plaintiffs' fraudulent transfer claims, Plaintiffs could lose the ability to reach assets needed to fund the cleanup of massive environmental contamination and redress other PFAS-related injuries. That harm is concrete and impacts millions of people. By contrast, the burden on Defendants is modest. Plaintiffs' proposed injunction is tailored to allow Defendants' ordinary business operations to continue while preventing Defendants from placing assets needed to grant final relief outside the reach of Plaintiffs or this Court.

In similar circumstances, courts have found that the defendant cannot show material harm.

In *Caterpillar Inc.*, for example, the terms of the preliminary injunction order left the defendants “in possession of their property” and “merely establishe[d] controls to prevent fraudulent transfers of assets.” 880 F. Supp. at 587. The court found that the balance of equities favored the plaintiffs because, among other things, the order enabled the defendants “to carry on their ordinary business subject only to reasonable safeguards.” *Id.*; see also, e.g., *Goldstein v. Batista Contracting LLC*, 671 F. Supp. 3d 68, 75 (D. Mass. 2023); *S. New England Tel. Co.*, 595 F. Supp. 2d at 159-60. The same is true here. Plaintiffs’ proposed temporary restraining order will not require any Defendant to stop operating its business. Instead, the order will maintain the status quo by preventing the dissipation of assets that are the subject of this fraudulent transfer action outside the ordinary course of business. The balance of the equities therefore weighs in favor of entering the preliminary relief Plaintiffs seek.

IV. **THE PUBLIC INTEREST SUPPORTS PRELIMINARY RELIEF**

The final element—whether or not the public interest will be served by preliminary relief—also weighs heavily in Plaintiffs’ favor.

Plaintiffs are 16 states and sovereigns attempting to protect their ability to recover on significant claims against Old DuPont based on Old DuPont’s long history of PFAS contamination and public misrepresentations regarding PFAS’s safety. And Plaintiffs brought their underlying lawsuits pursuant to their *parens patriae* authority and in their capacity as trustees for public resources, Sunding Report at ¶ 168, meaning that Plaintiffs brought their underlying claims explicitly on behalf of their citizens and the natural resources within their borders. Where, as here, states enforce laws on behalf of the public, courts “presume” that states represent the public interest. *New York v. Actavis, PLC*, 2014 WL 7015198, at *45 (S.D.N.Y. Dec. 11, 2014), *aff’d sub nom.*, 787 F.3d 638 (2d Cir. 2015); see also *Tenn. ex rel. Skrmetti v. Ideal Horizon Benefits, LLC*, 2023 WL 2299570, at *10 (E.D. Tenn. Feb. 28, 2023). The public interest in ensuring that assets

needed to fund the cleanup of natural resources and redress PFAS-related harms are not placed outside the reach of Plaintiffs or this Court is self-evident. *Cf. Rahman*, 198 F.3d at 499 (in fraudulent transfer action brought by government to recover funds needed to redress Medicare fraud, finding that “[t]he justification for a preliminary injunction in this case is heightened by the fact that the public interest is at stake”). On the other hand, “there is hardly a conceivable public interest in enabling [a defendant] to evade [its] creditors.” *Gilead Scis., Inc. v. Safe Chain Sols., LLC*, 684 F. Supp. 3d 51, 68 (E.D.N.Y. 2023) (quotation omitted).

Plaintiffs also have proffered affidavits and annexed reports from eminently qualified experts establishing that the Vylor Spinoff is a fraudulent transfer. *See* Sunding Aff.; Williams Aff.; Benotti Aff. As the court found in *New York v. Trump*, “[t]he fact that the States have shown a likelihood of success on the merits strongly suggests that a TRO would serve the public interest.” 764 F. Supp. 3d 46, 52 (D.R.I. 2025).

CONCLUSION

The fraudulent nature of the Vylor Spinoff is unmistakable: at a time when Old DuPont’s PFAS liabilities have never been greater, Old DuPont moved three-quarters of its assets outside the reach of its PFAS creditors. For the reasons set forth in this brief and in the affidavits of their experts, Plaintiffs have satisfied all elements required to obtain preliminary equitable relief in aid of the final equitable relief sought in their Complaint. And, because each Plaintiff is a “government organization,” no bond is required for a temporary restraining order to issue. Ind. R. Trial P. 65 (“No such security shall be required of a governmental organization”).

Accordingly, Plaintiffs respectfully request that this Court enter a temporary restraining order:

- (i) enjoining Corteva and Old DuPont—along with Corteva’s and Old DuPont’s officers, directors, principals, agents, representatives, employees, affiliates, and any

person or entity acting on its behalf, in concert with, or in participation with Corteva or Old DuPont—from selling, transferring, encumbering, pledging, distributing, assigning, conveying, spinning off, or otherwise disposing of any assets outside of the ordinary course of Corteva’s or Old DuPont’s business operations absent a valid court order. For the avoidance of doubt, the issuance of dividends to shareholders and repurchasing of company stock are transactions that occur outside of the ordinary course of Corteva’s or Old DuPont’s business operations; and

- (ii) enjoining Vylor—along with its officers, directors, principals, agents, representatives, employees, affiliates, and any person or entity acting on its behalf, in concert with, or in participation with it—from selling, transferring, encumbering, pledging, distributing, assigning, conveying, spinning off, or otherwise disposing of any of the assets it received in connection with the Vylor Spinoff outside of the ordinary course of its business operations absent a valid court order. For the avoidance of doubt, the issuance of dividends to shareholders and repurchasing of company stock are not transactions that occur outside of the ordinary course of Vylor’s business operations. The assets subject to this restraint include, without limitation, all stock, equity interests, and assets of Pioneer Hi-Bred International, Inc. and its subsidiaries; and
- (iii) granting such other and further relief as this Court deems just and proper.

Date: October 1, 2026

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