



Court Continues AFFF MDL Bellwether Trial to Provide Time to Reach Settlement

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June 5, 2023

This morning, Judge Richard Gergel of the US District Court for the District of South Carolina—the judge presiding over multidistrict litigation (MDL) concerning Aqueous Film Forming Foam (AFFF)—continued the *City of Stuart* trial that was scheduled to start jury selection today. The *City of Stuart* case is the first bellwether trial in the AFFF MDL, and could have a significant impact on the remaining MDL claims, as well as other litigation involving per- and polyfluoroalkyl substances (PFAS). More than 4,000 claims have been filed to date in the AFFF MDL. Those claims allege environmental harm and bodily injury as a result of PFAS contained in AFFF. The city of Stuart filed its case against a number of manufacturers and distributors of AFFF in 2018, alleging that use of AFFF contaminated the city's water supply.

The court continued the trial in response to a joint motion to continue filed by the parties on June 2. The 21-day continuance is to allow the parties time to attempt to finalize a settlement, not only of the *City of Stuart* matter, but also of all claims brought by public water suppliers across the country. On June 2, DuPont de Nemours Inc., Chemours Company and Corteva Inc. announced that they reached an agreement to resolve claims alleging that the companies' products contaminated US public water systems with PFAS. The proposed agreement, worth \$1.185 billion, would resolve all AFFF-related drinking water claims brought by a class of public water systems that serve the vast majority of the US population. As a part of the settlement, the three companies will collectively establish a water district settlement fund by which to fund the removal of PFAS from public drinking water systems. Of the \$1.185 billion, Chemours will contribute approximately \$592 million, DuPont approximately \$400 million, and Corteva approximately \$193 million. Any settlement is subject to the approval of the US District Court for the District of South Carolina. That agreement was announced hours before it was reported that plaintiffs were engaged in negotiations with another defendant and were close to resolution that could be worth more than \$10 billion to resolve similar AFFF claims of public water suppliers.

These tentative settlements are limited to claims brought by public water suppliers, and consequently do not include a number of other pending AFFF MDL claims, including claims for the recovery of cleanup and abatement costs made by states and airports and individual bodily injury claims. Moreover, the water supplier settlements do not include certain other AFFF manufacturers and/or distributors that were previously dismissed from the *City of Stuart* matter. As a result, future bellwether trials are expected to move forward.

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