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NO.:
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

HIS MAJESTY THE KING IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA

PLAINTIFF

AND

3M COMPANY, 3M CANADA COMPANY, E.I. DUPONT DE
NEMOURS AND COMPANY d.b.a. EIDP, INC., DUPONT
CHEMICAL SOLUTIONS ENTERPRISE, E.I. DUPONT
CANADA – THETFORD INC., THE CHEMOURS
COMPANY, THE CHEMOURS COMPANY FC, LLC, THE
CHEMOURS COMPANY CANADA, TYCO FIRE
PRODUCTS L.P., BASF SE, BASF CORPORATION and
BASF CANADA INC.

DEFENDANTS

Brought under the Class Proceedings Act, R.S.B.C. 1996, c. 50

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (c) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

- (d) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,
- (b) if you were served the notice of civil claim anywhere in the United States of America, within 35 days after that service,
- (c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

PART 1: STATEMENT OF FACTS

Definitions

1. In this Notice of Civil Claim, in addition to the terms that are defined elsewhere herein, the following definitions apply:
 - (a) “**AFFF**” means aqueous film-forming foam;
 - (b) “**Defendants**” means, collectively, 3M Company, 3M Canada Company, E.I. DuPont De Nemours and Company d.b.a. EIDP, Inc., DuPont Chemical Solutions Enterprise, E.I. DuPont Canada – Thetford Inc., The Chemours Company, The Chemours Company FC LLC, The Chemours Company Canada, Tyco Fire Products LP, BASF SE, BASF Corporation, and BASF Canada Inc.;

- (c) **“Drinking Water System”** means a system for the provision of water to the public for human consumption through pipes or other constructed conveyances;
- (d) **“PFAS”** means the class of synthetic fluorochemicals and fluorosurfactants called per- and polyfluoroalkyl substances, and includes perfluorooctanoic acid (**“PFOA”**) and perfluorooctane sulfonate (**“PFOS”**);
- (e) **“PFAS-Containing Product”** means any product manufactured, imported, marketed or sold by the Defendants that contains PFAS, including AFFF containing PFAS, and the precursor PFAS chemicals manufactured by the Defendants that are intended to be incorporated into finished products (**“PFAS Components”**); and
- (f) **“Water Resources”** means all water resources, and includes water that supplies Drinking Water System.

Nature of the Action

2. For decades, the Defendants manufactured, marketed, distributed, and sold PFAS-Containing Products, including AFFF. At the same time that the Defendants were profiting from the supply of these PFAS-Containing Products, they knew that when these Products were used as directed, toxic PFAS chemicals would be released, would contaminate the environment for centuries, and would pose significant threats to human health.
3. The Defendants did not warn the Canadian public of the dangers posed by their PFAS-Containing Products or take any steps to modify or remove their Products to avoid these harms—instead, they concealed and affirmatively contradicted the known dangers in public statements and marketing campaigns designed to enrich themselves at the public’s expense.
4. As the Defendants were fully aware, PFAS is devastating to the environment and humans. When PFAS are released, they quickly migrate from soil to surface water

and groundwater, entering drinking water supplies. These chemicals wreak havoc at each level of the food chain, building up in plants, fish, wildlife, and eventually humans. These chemicals then endlessly continue their migratory cycle in the environment by being transported through water and persisting for centuries, leaving a toxic legacy for future generations.

5. The Defendants' PFAS-Containing Products have released PFAS contaminants into the environment within British Columbia and elsewhere in Canada. Because of the Defendants' unlawful conduct, the Plaintiff's natural resources—including its groundwater, surface water, soil, plants and animal life—and the Canadian public's drinking water are contaminated with toxic PFAS chemicals.
6. Because of the environmental and health hazards posed by PFAS, the Plaintiff has incurred, and will continue to incur, significant costs to address and abate the harms posed by PFAS contamination. Countless other similarly situated persons share these damages and consequences. They have expended and will continue to expend significant resources to investigate, treat, and remediate PFAS contamination in their natural resources and water systems.
7. As a result of their conduct and the harms they have caused, the Defendants are liable for: creating a public nuisance, private nuisances, negligently designing defective products, negligently failing to warn of the risks associated with their products, breaches of the *Competition Act*, RSC 1985, c c-34 (the "*Competition Act*"), and civil conspiracy.
8. The Plaintiff, His Majesty the King in Right of the Province of British Columbia, brings this class proceeding to hold the Defendants accountable for the long-lasting harms they have caused and profited from. It seeks recovery of the costs necessary to: (a) fully investigate, remediate, treat, assess, and restore the lands, waters, sediments and other natural resources of class members; and (b) to monitor and treat PFAS contamination in drinking water, wastewater, storm water discharges, and biosolids. The Plaintiff seeks damages, including property

damages, economic damages, punitive damages, and disgorgement of the Defendants' unjustly acquired profits.

The Representative Plaintiff

9. The plaintiff is His Majesty the King in Right of the Province of British Columbia ("**HMK**").
10. HMK holds significant and direct interests in the natural resources that are the subject of this dispute, including in its Water Resources. The *Water Sustainability Act*, SBC 2014, c. 15 ("**WSA**") provides that the property in and right to the use of and flow of all water in the Province of British Columbia is vested in HMK, except insofar as private rights have been established under authorizations.
11. HMK oversees and funds several ministries and agencies in the Province of British Columbia that are responsible for natural resource protection.
12. In particular, HMK spends millions of dollars each year funding water-related initiatives and services, including in collaboration with municipalities and other governance authorities and persons.
13. Through the Minister of Environment and Climate Change Strategy, the Ministry of Environment and Climate Change Strategy of the Province of British Columbia ("**MECCS**") oversees the protection of land and Water Resources and is responsible for the control of pollutants and administration of remediation activities. The MECCS also monitors water quality in British Columbia and sets water quality guidelines in collaboration with the Ministry of Health.
14. Through the Minister of Health, the Ministry of Health of the Province of British Columbia oversees British Columbia's health system and is responsible for drinking water protection planning. The Ministry of Health supports and funds the activities of all regional health authorities, which provide monitoring of drinking water systems in British Columbia.

15. Through the Minister of Water, Land and Resource Stewardship, the Ministry of Water, Land and Resource Stewardship of the Province of British Columbia (“**MWLRS**”) is responsible for integrating water, land, and natural resource management, including objective setting for environments and managing cumulative effects. The MWLRS is responsible for collecting well- and groundwater-related data and advancing policy regarding water-related legislation.
16. HMK also oversees and funds all other ministries and agencies in the Province of British Columbia. The amounts spent by HMK are, in large part, derived from taxpayer contributions.

The Class and Class Period

17. HMK brings this class proceeding to recover past and future expenditures incurred, or to be incurred, arising from the Defendants’ wrongdoing as particularized herein. These expenditures necessarily include the costs of addressing and abating a crisis of PFAS contamination, which necessarily includes defining, monitoring, treating, remediating, and removing PFAS, and the oversight of such activities.
18. HMK brings this action on its own behalf and on behalf of the following:
 - (a) all provincial and territorial governments in Canada that, during the period from February 18, 1970 to the present, incurred remediation, mitigation, prevention, treatment and other expenditures related to PFAS contamination of its Water Resources, and/or will do so in the future, up to and including the final determination of this Action (the “**Class Period**”); and
 - (b) all municipalities, regional districts, and other governance authorities and other persons in Canada that, during the Class Period, were responsible for a Drinking Water System (collectively, the “**Class**” or “**Class Members**”).

The Defendants

19. At all times relevant to this case, the Defendants designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, including in British Columbia.
20. During the Class Period, the Defendants, or any of them, substantially controlled the market for PFAS-Containing Products in British Columbia and elsewhere in Canada.
21. When a particular entity within a corporate family of Defendants engaged in unlawful conduct alleged in this Notice of Civil Claim, it did so on behalf of all entities within that corporate family.
22. As described in further detail at paragraphs 117 through 123 below, the Defendants conspired with each other, acted in concert, or substantially assisted each other in performing acts and omissions which furthered a common design to promote their PFAS-Containing Products despite knowledge that injury and damage to the Plaintiff and the Class would likely result.
23. Various persons, partnerships, sole proprietors, firms, corporations and individuals not named as defendants in this action, the identities of which are presently unknown, have participated with the Defendants in the unlawful behaviour alleged in this Notice of Civil Claim, and have performed acts and made statements in furtherance of the unlawful conduct for which the Defendants are vicariously liable. For the purposes of this claim, the term “**co-conspirator**” refers to any co-conspirator identified by name herein as well as any unnamed co-conspirator.

3M Defendants

24. The Defendant, **3M Canada Company**, is an extraprovincial company incorporated pursuant to the laws of Canada, with a registered and records office at 2200-700 West Georgia Street, Vancouver, BC.

25. The Defendant, **3M Company**, is a Delaware corporation that conducts business worldwide, including in Canada, with its principal place of business located at 3M Center, St. Paul, MN.
26. This Notice of Civil Claim uses the term “**3M Defendants**” to refer collectively to 3M Company, 3M Canada Company, and all of their related and predecessor corporations that are or were involved with the design, manufacture, import, marketing or sale of PFAS-Containing Products.
27. At all relevant times to this case, including during the Class Period, the 3M Defendants designed, manufactured, imported, marketed and sold PFAS-Containing Products across Canada, directly or indirectly, through agents, subsidiaries, affiliates, representatives, or predecessors. The PFAS-Containing Products manufactured by the 3M Defendants include AFFF branded as “Light Water” and over 24,000 different products, including widely used consumer products such as Scotch-Brite and Steri-Strip.
28. If and to the extent that any related corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, the 3M Company or 3M Canada Company is responsible for their conduct as master, employer, partner, joint venturer or alter ego. To the extent that any predecessor corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, the 3M Company or 3M Canada Company is responsible for their conduct as successor.
29. The business of the 3M Defendants is and was inextricably interwoven with that of the other and each is the agent of the other for the purposes of the design, manufacture, import, marketing or sale of PFAS-Containing Products in Canada. At all times relevant to this case, the 3M Defendants acted pursuant to a common design in developing, designing, manufacturing, formulating, importing, distributing, labelling, marketing, storing, loading, mixing, applying, using, selling, and conducting post-market surveillance of PFAS-Containing Products in Canada.

30. In view of the close relationship between the 3M Defendants and the foregoing, each of the 3M Defendants is jointly and severally liable for the acts and omissions of the other.

DuPont Defendants

31. The Defendant, **E.I. DuPont Canada – Thetford Inc.** (“**DuPont Canada**”), is an extraprovincial company incorporated pursuant to the laws of Canada, with a registered and records office at 1045 Rue Monfette Nord, Thetford Mines, QC.
32. The Defendant, **E.I. DuPont de Nemours & Company** d/b/a **EIDP, INC.** (“**DuPont**”), is a Delaware corporation with a principal place of business located at 974 Centre Road, Wilmington, DE. DuPont is a successor in interest to the Defendant, **Dupont Chemical Solutions Enterprise** (“**DuPont Chemical**”), a Delaware corporation with a principal place of business located at 1007 Market Street, Wilmington, DE.
33. In 2015, DuPont spun off its “performance chemicals” business and related environmental liabilities, including those related to PFAS Components, to the Defendant, **The Chemours Company** (“**Chemours**”), a Delaware corporation with a principal place of business at 1007 Market Street, Wilmington, DE.
34. The Defendant, **The Chemours Company FC, LLC** (“**Chemours FC**”), is a Delaware corporation with a principal place of business at 1007 Market St, Wilmington, DE. Chemours FC is a successor in interest to DuPont Chemical and operates as a subsidiary to Chemours.
35. The Defendant, **The Chemours Canada Company** (“**Chemours Canada**”), is an extraprovincial company incorporated pursuant to the laws of Canada, with a registered and records office at 2900-550 Burrard Street, Vancouver, BC.
36. This Notice of Civil Claim uses the term “**DuPont Defendants**” to collectively refer to DuPont, DuPont Chemical, DuPont Canada, Chemours, Chemours FC, Chemours Canada, and all of their related and predecessor corporations that are

or were involved in the design, manufacture, import, marketing or sale of PFAS-Containing Products.

37. At all relevant times to this case, including during the Class Period, the DuPont Defendants designed, manufactured, imported, marketed and sold PFAS-Containing Products in Canada, including PFAS Components that were incorporated into PFAS-Containing Products by the other Defendants and those presently unknown to the Plaintiff. This occurred directly or indirectly, through agents, subsidiaries, affiliates, representatives or predecessors.
38. If and to the extent that any related corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, the other DuPont Defendants, or any of them, are responsible for their conduct as master, employer, partner, joint venturer or alter ego. To the extent that any predecessor corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, the other DuPont Defendants, or any of them are responsible for their conduct as successor.
39. The business of the DuPont Defendants is and was inextricably interwoven with that of the other and each is the agent of the other for the purposes of the design, manufacture, import, marketing or sale of PFAS-Containing Products in Canada. At all times relevant to this case, the DuPont Defendants acted pursuant to a common design in developing, designing, manufacturing, formulating, importing, distributing, labelling, marketing, storing, loading, mixing, applying, using, selling, and conducting post-market surveillance of PFAS-Containing Products in Canada.
40. In view of the close relationship between the DuPont Defendants and the foregoing, each of the DuPont Defendants is jointly and severally liable for the acts and omissions of the other.

Tyco Defendants

41. The Defendant, **Tyco Fire Products L.P. ("Tyco")**, is a limited partnership registered under the laws of Delaware, with its principal place of business located

at One Stanton Street, Marinette, WI. Tyco is the successor in interest of The Ansul Company ("**Ansul**"), having acquired Ansul and the Ansul brand of PFAS-Containing Products in 1990.

42. In 2011, the Tyco Defendants acquired Chemguard Inc. ("**Chemguard**") and its PFAS-Containing Products business. The Tyco Defendants continued to design, manufacture, market, distribute and sell the Chemguard brand of PFAS-Containing Products.
43. This Notice of Civil Claim uses the term "**Tyco Defendants**" to refer collectively to Tyco and all of its related and predecessor corporations, including Ansul, that are or were involved with the design, manufacture, import, marketing or sale of PFAS-Containing Products in Canada.
44. At all times relevant to this case, including during the Class Period, the Tyco Defendants developed, designed, manufactured, formulated, distributed, labelled, and sold PFAS-Containing Products in Canada. Their products included the following name brands: "Ansulite," "AFC," and "Ansul AFFF".
45. If and to the extent that any related corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, Tyco is responsible for their conduct as a master, employer, partner, joint venturer or alter ego. To the extent that any predecessor corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, Tyco is responsible for their conduct as a successor.
46. The business of the Tyco Defendants is and was inextricably interwoven with that of the other and each is the agent of the other for the purposes of the design, manufacture, import, marketing or sale of PFAS-Containing Products in Canada. At all times relevant to this case, the Tyco Defendants acted pursuant to a common design in developing, designing, manufacturing, formulating, importing, distributing, labelling, marketing, storing, loading, mixing, applying, using, selling, and conducting post-market surveillance of PFAS-Containing Products in Canada.

BASF Defendants

47. The Defendant, **BASF SE**, is a German corporation that conducts business worldwide, including in Canada, with its principal place of business located at Carl-Bosch-Str. 38, 67056 Ludwigshafen, Germany.
48. The Defendant, **BASF Canada Inc.**, is an extraprovincial company incorporated pursuant to the laws of Canada, with a registered and records office at 100 Milverton Drive, Mississauga, ON. BASF Canada Inc. is a subsidiary of BASF SE, and an affiliate of BASF Corporation.
49. The Defendant, **BASF Corporation**, is a Delaware corporation that conducts business worldwide, including in Canada, with its principal place of business located at 100 Park Avenue, Florham Park, NJ. BASF Corporation is the successor in interest to Ciba Inc. (f/k/a Ciba Specialty Chemicals Corporation) ("**Ciba**"). In July 2009, BASF acquired Ciba, retaining all Ciba liabilities.
50. Ciba designed, manufactured, marketed, distributed and sold PFAS-Containing Products, including PFAS Components, to AFFF manufacturers including the Tyco Defendants from the 1970s to 2003. For a period presently unknown to the Plaintiff, Ciba had an agreement to serve as the exclusive provider of PFAS-Containing Products to Ansul.
51. In March 2003, Ciba sold its name-brand "Lodyne" PFAS-Containing Product business to Chemguard, but retained pre-2003 liabilities, which were assumed by BASF Corporation in July 2009.
52. This Notice of Civil Claim uses the term "**BASF Defendants**" to refer collectively to BASF SE, BASF Canada Inc. and BASF Corporation, and all of their related and predecessor corporations that are or were involved with the design, manufacture, import, marketing or sale of PFAS-Containing Products.
53. At all relevant times to this case, including during the Class Period, the BASF Defendants designed, manufactured, imported, marketed, and sold PFAS-

Containing Products across Canada, directly or indirectly, through agents, subsidiaries, affiliates, representatives, or predecessors.

54. If and to the extent that any related corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, BASF SE, BASF Canada Inc., or BASF Corporation is responsible for their conduct as master, employer, partner, joint venturer or alter ego. To the extent that any predecessor corporations designed, manufactured, imported, marketed or sold PFAS-Containing Products in Canada, BASF SE, BASF Canada Inc., or BASF Corporation is responsible for their conduct as successor.
55. The business of the BASF Defendants is and was inextricably interwoven with that of the other and each is the agent of the other for the purposes of the design, manufacture, import, marketing or sale of PFAS-Containing Products in Canada. At all times relevant to this case, the BASF Defendants acted pursuant to a common design in developing, designing, manufacturing, formulating, importing, distributing, labelling, marketing, storing, loading, mixing, applying, using, selling, and conducting post-market surveillance of PFAS-Containing Products in Canada.
56. In view of the close relationship between the BASF Defendants and the foregoing, each of the BASF Defendants is jointly and severally liable for the acts and omissions of the other.

Factual Background

The “Forever” Contaminant: PFAS

i. Chemical Properties of PFAS

57. Poly- and perfluoroalkyl substances, or PFAS, are a family of highly fluorinated synthetic chemical compounds.
58. PFAS do not occur in nature. Rather, they are stable, human-manufactured chemicals.

59. PFOA and PFOS are within a smaller subcategory of PFAS chemicals known as perfluoroalkyl acids (“**PFAAs**”). The properties and effects of PFOA and PFOS have been extensively researched.
60. PFAAs are composed of a chain of carbon atoms in which one carbon atom is attached to a functional group while the rest are bonded to fluorine atoms. PFAAs are characterized by this carbon-fluorine (“**C-F**”) bond, as it is one of the strongest chemical bonds that occurs.
61. The chemical properties of PFAAs are, in part, related to the length of this C-F chain. As the size of the chain increases, the compound becomes more thermally, chemically, and biologically stable.
62. Once they enter the environment, “long-chain” PFAAs, such as PFOA and PFOS, can cause extensive and long-lasting environmental contamination due to their properties, including their:
 - (a) **Solubility:** Once introduced into the environment, PFOA and PFOS dissolve in water easily and spread quickly.
 - (b) **Mobility:** PFOA and PFOS do not adsorb (stick) to sediments or soil, so they are readily transported through the soil and stay in the water column, where they can migrate long distances
 - (c) **Persistence:** PFOA and PFOS do not readily biodegrade or chemically degrade in the environment or in conventional treatment systems for drinking water.
63. Additionally, once they are in the environment, other PFAS compounds can transform into more stable and long-chain PFAAs such as PFOA and PFOS.
64. The chemical properties, molecular architecture, and C-F bond of PFAS are unique to each proprietary manufacturer, such that the PFAS created and propagated by the Defendants, for example, can be identified as such by testing the affected environment and Drinking Water Systems.

ii. Health Risks of PFAS

65. The presence of PFAS in the environment, and particularly drinking water, presents a serious threat to public health.
66. PFOA and PFOS are bioaccumulative, meaning they are readily absorbed in animal and human tissues after oral exposure, extremely stable and persistent once ingested, and resistant to metabolic degradation. Any newly ingested PFOA and PFOS will be added to whatever is already present in the body.
67. Short-term exposure to PFOA and PFOS can result in a body burden that persists for years and increases with additional subsequent exposures. In humans, PFOA and PFOS remain in the body for years.
68. Additionally, PFOA and PFOS can also biomagnify, meaning their concentration in organic tissue increases as they are consumed up the food chain. This means that humans that eat animals will accumulate the highest levels of PFOA and PFOS in the food chain.
69. PFOA and PFOS are toxic and can cause significant adverse health effects in humans, including testicular cancer, kidney cancer, liver damage, autoimmune and endocrine disorders, preeclampsia, ulcerative colitis, thyroid disease, and others. These injuries may arise within months or years after exposure.
70. Substantial non-occupational routes for PFOS and PFOA human exposure are through ingesting contaminated drinking water and wildlife, such as seafood, with accumulated concentrations. Proximity to a PFOS or PFOA contamination site is associated with higher levels of contamination in water and wildlife, and as a result increases in PFOA and PFOS in the blood levels of humans.
71. Government agencies, regulators and scientific experts have concluded that PFAS are human health hazards that present a substantial danger when released into the environment.

History of the Defendants' PFAS and AFFF Design and Production

i. PFAS-Containing Products

72. The 3M Defendants first manufactured PFAS compounds through a process known as electrochemical fluorination in the 1940s. They subsequently received patents for PFOA and PFOS throughout the 1950s and 1960s.
73. The 3M Defendants initially struggled to find commercial applications for its PFAS Components. To promote the sale of their PFAS Components, the 3M Defendants employed a series of trade advertisements, referring to its molecules' "unique properties" to lure in business partners.
74. Beginning in 1951 until a time presently unknown to the Plaintiff, the DuPont Defendants began purchasing PFAS Components from the 3M Defendants for use in their manufacturing processes and PFAS-Containing Products.
75. Beginning in the 1970s until a time presently unknown to the Plaintiff, the BASF Defendants began supplying PFAS-Containing Products, including PFAS Components, to manufacturers for use in AFFFs in Canada.
76. In 2000, under pressure from the U.S. EPA, the 3M Defendants announced a phasing out of production of PFAS in the United States.
77. With the 3M Defendants ceasing the sale of PFOA in the early 2000s, the DuPont Defendants, who had been purchasing PFOA from the 3M Defendants since the early 1950s, no longer had a supplier for this chemical. As a result, DuPont began manufacturing PFAS Components for its own use in PFAS-Containing Products and for other manufacturers in the early 2000s.
78. In December 2022, the 3M Defendants announced they were going to exit PFAS Component manufacturing altogether by the end of 2025, in part due to regulations introduced around the world to restrict PFAS compounds.

79. At all relevant times, including during the Class Period, the 3M Defendants designed, manufactured, imported, marketed, supplied or sold PFAS-Containing Products in Canada, including PFAS Components used in manufacturing processes or incorporated into PFAS-Containing Products. From the 1940s until a time presently unknown to the Plaintiff, the 3M Defendants were the primary supplier of PFAS Components in Canada.
80. At all relevant times, including during the Class Period, the DuPont Defendants designed, manufactured, imported, marketed, supplied or sold PFAS-Containing Products in Canada, including PFAS Components used in manufacturing processes or incorporated into PFAS-Containing Products.
81. At all relevant times, including during the Class Period, the BASF Defendants designed, manufactured, imported, marketed, supplied or sold PFAS-Containing Products in Canada, including PFAS Components used in manufacturing processes or incorporated into PFAS-Containing Products.
82. Safer reasonable alternative designs for PFAS-Containing Products, including their PFAS Components, exist. Despite knowledge of this, as well as knowledge of the toxic nature of the PFAS compounds, the Defendants continued to develop, manufacture, formulate, distribute, market and sell their PFAS-Containing Products, including their PFAS Components.

ii. AFFF Products

83. AFFFs are one type of product that was manufactured using the Defendants' PFAS Components.
84. AFFF is a water-based firefighting foam that was first developed by the 3M Defendants using PFAS Components in the 1960s. It is used to extinguish flammable liquid fuel fires at military bases, aircraft carrier locations, and airports, among others. It is typically sprayed directly onto a fire, where it works by coating the ignited fuel source to suppress combustion.

85. The 3M Defendants worked together with the Tyco Defendants to develop an effective firefighting system for naval applications. In 1963, the 3M Defendants created AFFF formulation FX183 (called “Light Water”) and established pricing for sale to the Tyco Defendants.
86. In 1964, the 3M and Tyco Defendants entered into an agreement for testing and finalizing the 3M Defendants’ AFFF formulations for sale to the military and commercial markets. Over the following decade, the 3M and Tyco Defendants continued collaborating to reformulate, manufacture, distribute and sell Light Water throughout the next decade.
87. At all relevant times, including during the Class Period, the 3M, Tyco, and BASF Defendants designed, manufactured, imported, marketed, supplied or sold AFFFs in Canada. From 1963 until a time presently unknown to the Plaintiff, the 3M Defendants were the primary supplier of AFFFs in Canada.
88. AFFFs can be made without PFOA, PFOS or other PFAS compounds. Despite knowledge of this, as well as knowledge of the toxic nature of the PFAS compounds, the Defendants continued to develop, manufacture, formulate, distribute, market and sell their PFAS Components to be used in AFFFs.

The Defendants’ Products are the Leading Contributor to PFAS Contamination

89. The Defendants’ PFAS-Containing Products, including the PFAS Components used in manufacturing processes and in finished products, are the cause of all or substantially all of the PFAS Contamination in Canada, and have specifically caused the contamination affecting the Plaintiff and the Class. At all material times, the Defendants were the dominant manufacturers and/or suppliers of PFAS-Containing Products in Canada.
90. AFFFs are a substantial contributor to PFAS contamination. The most significant imports of PFAS into Canada during the Class Period were through its use in AFFFs manufactured and/or supplied by the Defendants, or the Defendants’ PFAS Components incorporated into AFFFs used, applied or disposed of in Canada.

91. AFFF supplied by the Defendants, or some of them and particularly the 3M Defendants, has been used for decades by the Canadian military, commercial airports, fire departments, and other commercial and industrial facilities. The vast majority of AFFFs were used in training to fight fires, which was an activity promoted by the 3M Defendants.
92. The design of AFFF augments the most hazardous characteristics of PFAS compounds, resulting in large-scale and substantial PFAS contamination. When AFFFs are used as intended, thousands of gallons of water laced with PFAS enter the environment. Once in the environment, they readily infiltrate the groundwater and runoff into surface water or sewage systems, where they persist for centuries if not remediated.
93. During the Class Period, when AFFFs were applied, used or disposed of as directed, instructed or intended, the AFFFs released PFAS into the environment.
94. Once the Defendants' PFAS were free in the environment, they did not hydrolyze, photolyze, or biodegrade under typical environmental conditions. Instead, they were and still are extremely persistent in the environment. As a result of their persistence, they are widely distributed through groundwater, soil and air.
95. The application, use or disposal of AFFFs as directed, instructed or intended by the Defendants allowed PFAS to enter into and onto the properties of the Plaintiff and Class. The Defendants' PFAS then migrated through the subsurface and into the groundwater, thereby contaminating the surface, soil, sediment and water, as well as causing other extensive and ongoing damage to their respective properties.
96. The use of AFFFs for firefighter training, emergency response, and equipment maintenance has resulted in concentrated PFAS contamination in areas throughout British Columbia and Canada. Substantial PFAS contamination is expected wherever AFFFs were discharged, including fire training areas, military sites, and major airports.

97. The Defendants' PFAS-Containing Products are widespread in thousands of consumer products available in Canada, other than AFFFs. The application, use or disposal of said products as directed, instructed or intended by the Defendants allowed PFAS to enter into and onto the properties of the Plaintiff and Class. The Defendants' PFAS then migrated through the subsurface and into the groundwater, thereby contaminating the surface, soil, sediment and water, as well as causing other extensive and ongoing damage to their respective properties.
98. Given the half-life of PFAS, the estimated existing stock of AFFFs in Canada, and its continued use throughout the country, AFFFs remain a significant source of PFAS and ongoing cause of damages to the Class.

The Defendants' Concealment of the Dangers of PFAS

99. In the several decades that the Defendants have manufactured and sold PFAS Components and PFAS-Containing Products, including AFFFs, they have investigated them extensively, generating hundreds of studies and reports relating to their toxicology, pharmacology, epidemiology, teratology, carcinogenicity, fate, transport, and human exposure, among other topics.
100. During the Class Period, all Defendants knew or should have known that PFAS-Containing Products would:
- (a) release PFAS into the environment and travel through soil, sediment, Water Resources and Drinking Water Systems;
 - (b) resist degradation, persist in the environment and bioaccumulate and biomagnify;
 - (c) cause the type of contamination now found in Water Resources and Drinking Water Systems of the Plaintiff and the Class; and
 - (d) cause adverse health effects in humans and animals.

101. At all relevant times, the Defendants were sophisticated and knowledgeable in the art, science and research of PFAS Components and PFAS-Containing Products. The Defendants understood far more about the properties of PFAS and their potential hazards than the purchasers and users of their PFAS-Containing Products, including the Class.
102. Despite their knowledge and sophistication, the Defendants declined to warn the public of the risks arising from the PFAS Components and PFAS-Containing Products. The Defendants also chose not to develop safer alternatives or recall their PFAS-Containing Products from the market and out of customers' stockpiles.
103. The Defendants' lack of transparency regarding the risks arising from the PFAS, and indeed their intentional non-disclosure of those risks for decades, is the cause for regulatory and government ignorance. The risks arising from PFAS were known to the Defendants as early as the 1950s. There is no reasonable explanation for the Defendants' delayed disclosure.

i. 3M and DuPont Knew of the Risks as Early as the 1950s

104. Well before PFAS-Containing Products were first introduced into the market, the 3M Defendants knew that PFAS was resistant to environmental degradation and would persist essentially unaltered if allowed to enter the environment.
105. As early as 1948, the 3M Defendants understood that the stability of C-F bonds prevented PFAS from degrading under ordinary and natural processes in the environment.
106. By the mid-1960s when the 3M Defendants had developed and begun selling AFFF, the 3M and DuPont Defendants had over a decade of knowledge and scientific studies showing that the PFAS contained in their products could cause significant harm to human health and the environment. Despite this knowledge, the 3M Defendants chose to sell AFFFs without warning the public of the long-term consequences.

107. After the mid-1960s, the 3M and Dupont Defendants continued to conduct studies that showed the hazard of PFAS to human health and the environment. Despite finding relevant evidence of the significant adverse effects of PFAS, the 3M and DuPont Defendants did not publish their data, provide it to government entities as required by law, or otherwise publicly disclose the evidence of adverse health effects. In the few instances where the 3M and DuPont Defendants did provide information to the relevant government authorities, they did so in an incomplete and misleading manner.
108. In 2005 and 2006, the U.S. Environmental Protection Agency reached agreements with DuPont and 3M Company related to their concealment of the environmental and health effects of PFAS and violations for failing to disclose studies regarding PFOS and PFOA.

ii. Defendants Decided to Increase Production After Several Decades of Evidence on the Risks

109. When other AFFF manufacturers began to enter the market in the 1970s and 1980s, the Defendants' internal evidence on the harms of PFAS and AFFF continued to increase. For example, in 1977, the Tyco Defendants acknowledged that releasing AFFF into the environment could pose potential negative impacts to groundwater quality which would need to be reduced.
110. In the early 2000s, despite decades of evidence that PFAS were harmful to human health and the environment, the DuPont Defendants decided to enter into the PFAS market and began producing PFAS Components.
111. In the early 2000s, the DuPont and Tyco Defendants formed a group with unnamed manufacturers called the Fire Fighting Foam Coalition ("**FFFC**") to protect their business opportunity and advocate for the continued use of AFFFs containing PFAS Components.
112. The DuPont and Tyco Defendants, through the FFFC, made several representations regarding the safety of AFFF that were either misleading or

contrary to their internal knowledge. For example, in 2001, the FFFC told regulators and the public that their “telomer-based” AFFF did not contain any PFOA-based component, while the Defendants were aware that the PFAS present in their AFFF could readily transform into PFOA in the environment.

113. The DuPont and Tyco Defendants, through the FFFC, forestalled regulatory investigations and government restrictions on AFFF Products, thereby prolonging the use of AFFF in Canada.
114. At all relevant times to this case, including during the Class Period, the Defendants made representations regarding the safety of their PFAS-Containing products that were either misleading, deceptive or contrary to their internal knowledge.

iii. Particulars are not Exhaustive

115. The above-mentioned particulars of the Defendants’ knowledge of the risks of and representations related to AFFFs is not meant to be exhaustive.
116. The Plaintiff expressly reserves the right to provide further particulars of the Defendants’ conduct as they become known.

The Defendants’ Common Design and Unlawful Collusion

117. The Defendants form an inextricably interwoven corporate structure designed to advance their common PFAS business through their wrongful and deceptive introduction, regulatory approval, design, manufacturing, importing, marketing, promotion and sale of PFAS-Containing Products. Namely, at all material times, each Defendant:
 - (a) was the agent, servant, employee, partner, alter ego, aider and abettor, co-conspirator or joint venturer of each of the other Defendants, and they were at all times operating and acting within the purpose and scope of said agency, service, employment, partnership, conspiracy or joint venture;
 - (b) ratified and approved the acts of each of the other Defendants; and

- (c) acted in concert, or substantially assisted each other in performing acts and omissions which furthered a common design to misrepresent the known risks of PFAS-Containing Products and to deceptively promote PFAS-Containing Products in order to maximize their profits.
118. The arrangement between the Defendants ensured that all parties to the common design had an incentive to maximize profit from sales of PFAS-Containing Products in Canada.
119. Beginning in the 1940s and continuing through at all times material to this case, the Defendants, or any of them, conspired to engage in unlawful and wrongful acts with respect to the design, manufacture, import, marketing, and sale of PFAS-Containing Products in Canada, both with each other and their co-conspirators.
120. The conspiracy described above was unlawful because it was intended to cause harm to the Plaintiff and the Class through, *inter alia*:
- (a) intentionally misrepresenting to the public that PFAS-Containing Products were safe and did not pose a risk to human health or the environment; and
 - (b) concealing from the public the characteristics of PFAS-Containing Products, including their propensity to contaminate soil and groundwater, their bioaccumulative nature in humans, and how they were being disposed of.
121. The predominant purpose of the conduct of the Defendants and their co-conspirators was to cause injury to the Plaintiff and members of the Class, by maximizing profits from the sale of PFAS-Containing Products in Canada, when they knew or ought to have known the risks posed by the intended use of PFAS-Containing Products.
122. Each of the Defendants performed overt acts in furtherance of the conspiracy, including, but not limited to, the following activities:
- (a) the Dupont and 3M Defendants sharing research and scientific findings on the risks associated with PFAS;

- (b) the Dupont and 3M Defendants sharing market data, sales data, sales forecasts, marketing plans and demand estimates for PFAS-Containing Products in Canada;
- (c) the 3M Defendants collaborating with the DuPont Defendants in their safety and hazard representations regarding PFAS-Containing Products to the public, governments and regulators;
- (d) the Dupont and Tyco Defendants collaborating with the FFFC in their safety and hazard representations regarding PFAS-Containing Products to the public, governments, and regulators; and
- (e) the DuPont and Tyco Defendants collaborating in their lobbying of governments to fight restrictions concerning PFAS.

123. The Defendants are jointly liable for their wrongful acts.

Damages Suffered by HMK and the Class

124. As a direct and proximate result of the Defendants' wrongful conduct alleged herein, the Defendants' PFAS posed and continues to pose a threat to Water Resources and Drinking Water Systems owned and/or operated by the Plaintiff and the Class.
125. The Defendants' PFAS contaminated, and will imminently continue to contaminate, the Water Resources and Drinking Water Systems owned and/or operated by the Plaintiff and the Class.
126. HMK and the Class have sustained, and will continue to sustain, substantial damages and expenses resulting from the loss of the safety, use, benefit and enjoyment of their Water Resources and Drinking Water Systems. Such damages include the expenditures associated with testing, preventing, mitigating, and treating the effects of actual or impending PFAS contamination resulting from the Defendants' wrongful conduct, for example:

- (a) the costs and expenses related to the past, present and future investigation, sampling, testing, assessment and monitoring of the Water Resources and/or Drinking Water Systems for contamination with PFAS;
- (b) the costs and expenses related to the past, present and future treatment and remediation of PFAS contamination of Water Resources and/or Drinking Water Systems, or where remediation is impracticable or insufficient, removal and disposal of the contamination;
- (c) the costs and expenses related to the past, present, and future installation and maintenance of monitoring mechanisms to assess and evaluate PFAS on and within Water Resources and/or Drinking Water Systems;
- (d) the diminished value of Water Resources or Drinking Water Systems as a result of PFAS contamination; and
- (e) other expenditures for programs, services, benefits or similar matters associated with PFAS contamination.

PART 2: RELIEF SOUGHT

127. HMK claims on his own behalf and on behalf of the Class Members:

- (a) an order certifying this action as a class proceeding and appointing HMK as the representative plaintiff under the *Class Proceedings Act*, R.S.B.C. 1996 c. 50 (“**CPA**”);
- (b) a declaration that the Defendants’ conduct caused all or substantially all of the PFAS contamination in Water Resources and Drinking Water Systems owned and/or operated by the Plaintiff and the Class Members (the “**PFAS Contamination**”)
- (c) a declaration that the PFAS Contamination is a public nuisance;

- (d) a declaration that the Defendants breached duties owed in the development, design, manufacture, import, marketing and sale of PFAS-Containing Products;
- (e) a declaration that the Defendants engaged in conduct contrary to Part VI of the *Competition Act*;
- (f) an accounting, and disgorgement of the Defendants' ill-gained profits or restitution;
- (g) general damages, including nominal damages, calculated on an aggregate basis or otherwise, in an amount sufficient to compensate the Plaintiff and the Class Members for the harm done to them as a result of the Defendants' unlawful conduct, including as a result of conduct contrary to Part VI of the *Competition Act*;
- (h) damages equal to the present value of the estimated total expenditures by the Plaintiff and the Class Members that could reasonably be expected to prevent, mitigate and treat the PFAS Contamination;
- (i) damages to abate the public nuisance of the PFAS Contamination;
- (j) punitive damages;
- (k) special damages;
- (l) costs of the investigation and prosecution of these proceedings pursuant to section 36(1) of the *Competition Act*;
- (m) interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c. 79; and
- (n) Such further and other relief this Honourable Court may deem just.

PART 3: LEGAL BASIS

128. HMK realleges and reaffirms herein all factual pleadings set forth in paragraphs 1 to 126.
129. HMK pleads and relies on the *CPA*, the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 (the “**CJPTA**”), the *Court Order Interest Act*, RSBC 1996, c 79; the *Competition Act*; the *Negligence Act*, RSBC 1996, c 333 (the “**Negligence Act**”), the *Limitation Act*, SBC 2012, c 13, the *Limitation Act*, RSBC 1996, c 266, the *Supreme Court Civil Rules*, BC Reg 168/2009, equivalent provincial and territorial legislation as may be enacted, and such further and other statutes as counsel may advise.

Causes of Action

Public Nuisance

130. The conduct of the Defendants, as described above, individually and in concert with each other, has caused PFAS contamination across Canada, including in British Columbia, which constitutes a public nuisance that is harmful to health and obstructs the use of the Water Resources and Drinking Water Systems of the Plaintiff and the Class.
131. The Defendants’ conduct was a substantial factor in causing harm to the Plaintiff and the Class.
132. The Plaintiff and the Class did not consent to the conduct that resulted in the PFAS Contamination.
133. The Defendants’ conduct unreasonably interferes with the Water Resources and Drinking Water Systems of the Plaintiff and the Class. Additionally, the Defendants’ conduct interferes with the Canadian public’s health, safety, morality, comfort, convenience and right to clean water. Further, the Defendants’ conduct has amounted to an attack upon the rights of Canadians, including British Columbians,

to live their lives unaffected by the inconvenience and discomfort caused by PFAS Contamination that is plaguing all of Canada.

134. The Defendants' unlawful acts and omissions of their duties annoy, injure, or endanger the comfort, health and safety of Canadians.
135. Particulars of the annoyance, injury and danger to the comfort, health and safety of the Canadian public includes, but is not limited to, the costs associated with supply clean and potable drinking water—free of PFAS contaminants—to persons throughout Canada.
136. At all relevant times, the Defendants knew or should have known that (a) the PFAS-Containing Products would cause the type of contamination now suffered by the Plaintiff and the Class; (b) the PFAS Contamination was associated with serious illnesses in humans; and (c) the PFAS Contamination would seriously and unreasonably interfere with the ordinary comfort, use, and enjoyment of Water Resources and Drinking Water Systems.
137. As a direct and proximate result of the Defendants' creation of a public nuisance, the Plaintiff and the Class have suffered and continue to suffer damages. Such damages were foreseeable by the Defendants.
138. The Defendants' conduct and resulting PFAS Contamination has caused the Plaintiff and Class Members to bear enormous social and economic costs including increased testing, monitoring and remediation of contaminated Water Resources and Drinking Water Systems, as manifested by the Defendants' wrongful conduct.
139. The Defendants' conduct was malicious, oppressive, wanton, willful, intentional, and shocks the conscience, warranting punitive and exemplary damages, because they developed, manufactured, formulated, distributed, sold, transported, stored, loaded, mixed, applied and/or used PFAS-Containing Products knowing that toxic PFAS would be released, could not be contained, and would last for centuries.

140. The Plaintiff seeks to abate the public nuisance the Defendants created and seeks all necessary relief to abate such public nuisance.

Private Nuisance

141. The Water Resources and Drinking Water Systems of the Plaintiff and the Class have been contaminated by the Defendants' PFAS-Containing Product, as a direct and proximate result of the unreasonable acts and omissions of the Defendants alleged herein, which constitute a private nuisance.
142. PFAS contamination caused by the Defendants' unreasonable conduct has substantially damaged the Water Resources and Drinking Water Systems of the Plaintiff and the Class, and interfered with the ordinary safety, use, benefit and enjoyment of those resources and supplies.
143. The Defendants' conduct was a substantial factor in causing harm to the Plaintiff and the Class.
144. The Plaintiff and the Class did not consent to the conduct that resulted in the PFAS contamination.
145. At all relevant times, the Defendants knew or should have known that (a) the PFAS-Containing Products would cause the type of contamination now suffered by the Plaintiff and the Class; and (b) the PFAS contamination would seriously and unreasonably interfere with the ordinary comfort, use, and enjoyment of public Water Resources and Drinking Water Systems.
146. As a direct and proximate result of the Defendants' creation of private nuisances, the Plaintiff and the Class have suffered and continue to suffer damages. Such damages were foreseeable by the Defendants.
147. The Defendants' conduct was malicious, oppressive, wanton, willful, intentional, and shocks the conscience, warranting punitive and exemplary damages, because they developed, manufactured, formulated, distributed, sold, transported, stored,

loaded, mixed, applied and/or used PFAS-Containing Products knowing that toxic PFAS would be released, could not be contained, and would last for centuries.

148. The Plaintiff seeks to abate the private nuisances the Defendants created and seeks all necessary relief to abate these private nuisances.

Negligence

i. Negligent Design

149. At all material times, the Defendants, and each of them, owed a duty of care to the Plaintiff and Class Members to, *inter alia*:

- (a) undertake sufficient studies and testing to determine whether PFAS were safe for those using or exposed to them, and whether they were suitable for their intended use in fire suppression;
- (b) design, manufacture, produce, promote, formulate, create, develop, sell or distribute PFAS-Containing Products after thorough and adequate pre- and post-market testing;
- (c) adequately test PFAS-Containing Products to fully reveal the magnitude of the risks associated with their use and exposure, including, but not limited to, the increased risk of environmental contamination of Drinking Water Systems of the plaintiff and Class, and risks to human health;
- (d) design and manufacture PFAS-Containing Products to ensure that they are at least as safe and effective as other products on the market;
- (e) not assert that PFAS-Containing Products were safe and suitable for their intended use when, in fact, the Defendants knew or should have known that this was not the case;
- (f) conduct adequate testing to determine the extent to which the intended use, application or disposal of PFAS-Containing Products were likely to

contaminate the environment, including Water Resources and Drinking Water Systems;

- (g) conduct adequate testing to determine the extent to which spray from PFAS-Containing Products were likely to drift, including their propensity to drift and the distance over which they were likely to drift;
- (h) provide timely recalls of PFAS-Containing Products that were unsafe in their intended use, application and disposal; and
- (i) conduct adequate tests to determine the extent to which PFAS-Containing Products, when used as intended are likely to cause or contribute to clinically significant adverse health effects.

150. The Defendants breached the standard of care expected in the circumstances, and were therefore negligent in the research, development, design, manufacture, testing, distribution, sale and marketing of PFAS-Containing Products by, *inter alia*:

- (a) failing to undertake sufficient studies and testing to determine whether PFAS-Containing Products were safe for those using or exposed to them and whether they were suitable for their intended use;
- (b) designing, manufacturing, producing, promoting, formulating, creating, developing, selling or distributing PFAS-Containing Products without thorough and adequate pre- and post-market testing;
- (c) failing to adequately test PFAS-Containing Products to fully reveal the magnitude of the risks associated with their use and exposure;
- (d) failing to design and manufacture PFAS-Containing Products while ensuring that they are at least as safe and effective as other products on the market;

- (e) asserting that PFAS-Containing Products were safe and suitable for its intended use when, in fact, the Defendants knew or should have known that this was not the case;
 - (f) failing to conduct adequate testing to determine the extent to which the intended use, application or disposal of PFAS-Containing Products were likely contaminate the environment, including Water Resources and Drinking Water Systems;
 - (g) failing to conduct adequate testing to determine the extent to which the spray from PFAS-Containing Products were likely to drift, including their propensity to drift and the distance over which they were likely to drift;
 - (h) failing to provide timely recalls of PFAS-Containing Products that were unsafe in their intended use, application and disposal; and
 - (i) failing to conduct adequate testing to determine the extent to which PFAS-Containing Products, when used as intended are likely to cause or contribute to clinically significant adverse health effects.
151. At all material times, the Defendants knew or ought to have known that exposure to PFAS-Containing Products cause environmental contamination and adverse human health effects, and therefore creates a dangerous and unreasonable risk of harm to the Plaintiff and Class Members. Furthermore, the Defendants knew or ought to have known that further testing and study was required in order to assess the safety of PFAS-Containing Products.
152. PFAS-Containing Products were more dangerous than products using non-PFAS formulations. For example, products such as AFFFs can be made without PFAS or their dangerous precursor chemicals, and without posing an increased risk of harm to the Plaintiff and Class Members.

ii. Negligent Failure to Warn

153. As the manufacturers, developers, distributors, labelers or importers of PFAS-Containing Products, the Defendants were in such a close and proximate relationship to the Plaintiff and Class Members, as to owe them a duty of care. The Defendants caused PFAS-Containing Products to be introduced into the stream of commerce in Canada, Water Resources, and Drinking Water Systems, and they knew that any damages or adverse effects related to PFAS-Containing Products would cause foreseeable injury to the Plaintiff and Class Members.
154. At all material times, the Defendants also owed a duty of care to the Plaintiff and Class Members to, *inter alia*:
- (a) inform purchasers and users of PFAS-Containing Products, including provincial and municipal government, civilian fire departments, and other governance authorities and persons of the risks associated with the use or exposure to PFAS-Containing Products;
 - (b) properly and appropriately amend labels of PFAS-Containing Products in a timely manner, to reflect the numerous studies and information available on the risk of environmental contamination arising from PFAS and its significant adverse health effects;
 - (c) provide adequate instructions, guidance and safety measures to persons who could reasonably be expected to use or be exposed to PFAS-Containing Products;
 - (d) provide directions for use that would have made it unlikely that PFAS-Containing Products would be inhaled, ingested, applied or absorbed into the body by persons who used them, were in the vicinity of it during their use, or entered locations where PFAS-Containing Products were used or the areas near where PFAS-Containing Products were used;

- (e) warn that when used, applied or disposed of as intended, PFAS-Containing Products were likely to cause or substantially contribute to environmental contamination, including of Water Resources, and to clinically significant adverse health effects;
 - (f) disclose to purchasers, users of PFAS-Containing Products and the general public the increased risks associated with the use of and exposure to PFAS-Containing Products;
 - (g) adequately monitor, investigate, evaluate and follow-up on reports of potential risks associated with PFAS-Containing Products;
 - (h) provide adequate, timely warnings about the increased risks associated with PFAS-Containing Products;
 - (i) provide timely recalls of PFAS-Containing Products that were unsafe in their intended use, application and disposal; and
 - (j) direct that PFAS-Containing Products be used in a manner that would have made them unlikely to contaminate the environment, including Water Resources.
155. The Defendants breached the standard of care expected in the circumstances, and therefore were negligent in failing to take adequate and appropriate steps, in a timely manner, to warn users, including the Plaintiff and Class Members, about the risks associated with use of or exposure to AFFF containing PFAS by, *inter alia*:
- (a) failing to disclose or otherwise inform the public of the risks associated with the use or exposure to PFAS-Containing Products;
 - (b) failing to properly and appropriately amend labels of PFAS-Containing Products in a timely manner, to reflect the numerous studies available on the risk of environmental contamination and adverse human health effects arising from the intended use, application and disposal of PFAS-Containing Products;

- (c) failing to provide adequate instructions, guidance and safety measures to persons who could reasonably be expected to use or be exposed to PFAS-Containing Products;
 - (d) failing provide directions for use that would have made it unlikely that PFAS-Containing Products would be inhaled, ingested, applied to or absorbed into the body by persons who used them, were in the vicinity of them during their use, or entered locations where PFAS-Containing Products were used or the areas near where they were used;
 - (e) failing to warn that when used, applied or disposed of as intended, PFAS-Containing Products were likely to cause or substantially contribute to environmental contamination, including of Water Resources, and to clinically significant adverse health effects;
 - (f) failing to disclose to purchasers, users of PFAS-Containing Products and the general public the increased risks associated with the use of and exposure to PFAS-Containing Products;
 - (g) failing to adequately monitor, investigate, evaluate and follow-up on reports of potential risks associated with PFAS-Containing Products;
 - (h) failing to provide adequate, timely warnings about the increased risks associated with PFAS-Containing Products;
 - (i) failing to provide timely recalls of PFAS-Containing Products that were unsafe in their intended use, application and disposal; and
 - (j) failing to direct that PFAS-Containing Products be used in a manner that would have made them unlikely to contaminate the environment, including Water Resources.
156. At no time did Defendants disclose to users of PFAS-Containing Products and the general public of the increased risks associated with exposure to PFAS-Containing Products, including, but not limited to the increased risk of environmental

contamination and adverse human health effects. The Defendants knew or ought to have known that the Plaintiff, the Class, the purchasers and users of PFAS-Containing Products as well as the general public were unaware of the risks and the magnitude of the risks caused by exposure to PFAS-Containing Products.

157. Despite the Defendants' ability and means to investigate, study, and test PFAS-Containing Products, and to provide adequate warnings of the risks associated with them, the Defendants failed to do so.

iii. Causation and Damages arising from the Defendants' Negligence

158. The Plaintiff and Class Members did not know the nature and extent of the injuries and damages that could result from the intended and foreseeable uses of or exposures to PFAS-Containing Products. They would not have allowed themselves to be subjected to exposure to PFAS-Containing Products had they known of the risks.
159. The injuries, harm, and losses, past and future, suffered by the Plaintiff and Class Members were caused by the negligence of the Defendants, their servants and their agents.
160. The Defendants' conduct was malicious, oppressive, wanton, willful, intentional, and shocks the conscience, warranting punitive and exemplary damages, because they developed, manufactured, formulated, distributed, sold, transported, stored, loaded, mixed, applied and/or used PFAS-Containing Products knowing that toxic PFAS would be released, could not be contained, and would last for centuries.
161. The Plaintiff pleads and relies upon the provisions of the *Negligence Act*.

Breach of the Competition Act

162. The *Competition Act* applies to business transacted in Canada.
163. The PFAS-Containing Products are "products" within the meaning of sections 2 and 52 of the *Competition Act*.

164. The wrongful conduct of the Defendants includes both express misrepresentations to PFAS-Containing Product users regarding the safety and efficacy of the Products, as well as omissions, including the failure to warn of risks to human health and the environment.
165. The Defendants knew, or ought to have known, that their representations and omissions were false and misleading in a material respect. As a result, the Defendants breached section 52 of the *Competition Act* and committed an unlawful act because their representations and omissions:
- (a) were made for the purpose of promoting, directly or indirectly, the use of PFAS-Containing Products;
 - (b) were made for the purpose of promoting, indirectly or directly, any business interests of the Defendants;
 - (c) were made to the public;
 - (d) were made knowingly and recklessly; and
 - (e) were false and misleading in a material respect.
166. As a result of the Defendants' breaches of s. 52 of the Competition Act, consumers in British Columbia and Canada chose to use PFAS-Containing Products, when they otherwise would not have.
167. The Plaintiff and the Class Members suffered damages as a result of the Defendants' unlawful breach of section 52 of the Competition Act.
168. The Plaintiff and Class Members also seek their costs of investigation, pursuant to section 36 of the Competition Act.

Civil Conspiracy

169. The Defendants and their co-conspirators are liable for the tort of civil conspiracy—both under unlawful means conspiracy and predominant purpose conspiracy.

170. The Defendants and their co-conspirators entered into agreements with each other to use unlawful means which resulted in the loss, injury and damage, including special damages, to the Plaintiff and other members of the Class.
171. The unlawful means used include, but are not limited to, the activities and arrangements pled at paragraphs 117 to 123 above. In furtherance of the conspiracy, the defendants, along with their agents, servants, and unnamed co-conspirators, carried out the unlawful acts.
172. The unlawful acts particularized herein were directed towards the Plaintiff and the Class.
173. The Defendants and their co-conspirators knew that their unlawful acts would likely cause injury to the Plaintiff and the Class.
174. The Defendants and their co-conspirators were motivated to conspire. Their predominant purpose was to harm the Plaintiff and other members of the Class, in the form of environmental contamination and other damages, by maximizing profits from the sale of PFAS-Containing Products in Canada when they knew or ought to have known of the risks posed by the intended use of their Products.
175. The Defendants and their co-conspirators intended to cause loss, injury and damage to the Plaintiff and the Class. In the alternative, the Defendants and their co-conspirators knew in the circumstances that their unlawful acts would likely cause injury.
176. As a result of the Defendants' unlawful conduct, the Plaintiff and the Class have suffered damages and losses.
177. Further, and in the alternative, the Plaintiff pleads that it and the Class Members are entitled to the remedies of accounting and disgorgement of profits or revenues, based on equitable and restitutionary principles.
178. As a result of the Defendants' conduct described herein, the Plaintiff and the Class have a legitimate interest in preventing the Defendants' profit-making activity and

to have monetary relief assessed in an amount equal to the gross revenues earned by the Defendants, or the net income received by the Defendants or a percentage of the proceeds from the sale of PFAS-Containing Products, as a result of the Defendants' conduct. As an expected and intended result of their unlawful conduct, the Defendants' have profited and benefitted from the sales of PFAS-Containing Products that would not have been made but for the unlawful conduct.

Fraudulent Concealment and Discoverability

179. The Defendants intentionally and fraudulently concealed the existence of their unlawful conduct and the dangers of PFAS from the public, including the Plaintiff and the Class.
180. The affirmative acts of the Defendants alleged herein were fraudulently concealed and carried out in a manner that precluded detection.
181. The Plaintiff and the Class did not discover, and could not have discovered through the exercise of reasonable diligence, the existence of the Defendants' wrongful conduct particularized herein, the loss or damage having occurred or that it was caused or contributed to by the Defendants' actions or inactions, or that a court proceeding would be an inappropriate means to seek to remedy the injury until this action was filed.

Joint and Several Liability

182. The Defendants are jointly and severally liable for the actions and damages attributable to any of them.

Jurisdiction

183. Without limiting the foregoing, the Plaintiff relies on ss. 7, 10 and 13 of the *Court Jurisdiction and Proceedings Transfer Act*, S.B.C. 2003, c. 28 and pleads that there is a real and substantial connection between the facts on which this proceeding is based and the Province of British Columbia because this proceeding concerns:

- (a) restitutionary obligations that, to a substantial extent, arose in British Columbia;
- (b) a tort committed in British Columbia;
- (c) a business carried on in British Columbia;
- (d) a claim for an injunction ordering a party to do or refrain from doing anything in British Columbia; and
- (e) is for the recovery of indebtedness and is brought by the Government of British Columbia or by a local authority in British Columbia.

Form 11 (Rule 4-5(2))

**ENDORSEMENT ON ORIGINATING PLEADING OR PETITION
FOR SERVICE OUTSIDE BRITISH COLUMBIA**

The Plaintiff claims the right to serve this pleading/petition on the Defendants outside British Columbia on the ground that:

The Plaintiff has at all material times been a resident of British Columbia and has suffered loss in British Columbia. The Supreme Court of British Columbia has jurisdiction with respect to this matter and the Plaintiff pleads the *Court Jurisdiction and Proceedings Transfer Act*, 2003, SBC Chapter 28 and amendments thereto.

Plaintiff's address for service:	RICE HARBUT ELLIOTT LLP 820 - 980 Howe Street Vancouver, BC V6Z 0C8 CAMP FIORANTE MATTHEWS MOGERMAN 400 – 856 Homer Street Vancouver, BC V6B 2W5 SOTOS LLP 1200 – 180 Dundas Street West Toronto, ON M5G 1Z8
Fax number address for service (if any):	Nil
E-mail address for service (if any):	service@rhelaw.com
Place of trial:	Vancouver
The address of the registry is:	800 Smithe Street, Vancouver

Date: June 21, 2024


Signature of ☐ plaintiff ☒ lawyers for plaintiff
Reidar M. Mogerman, K.C.
John M. Rice, K.C.
Anthony Leoni
Louis Sokolov
Mohsen Seddigh

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

Appendix

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

A claim on behalf of persons in Canada that, during the Class Period, were responsible for the maintenance and operation of Drinking Water Systems, to recover costs of testing and remediation related to contamination arising from the Defendants' PFAS-Containing Products, with loss and damages to the Plaintiff and a class of similarly situated persons resident in Canada.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☒ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☐ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☒ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☐ none of the above
- ☐ do not know

Part 4:

1. *Water Sustainability Act*, SBC 2014, c. 15 and analogous legislation in the other Provinces and Territories;
2. *Competition Act*, R.S.C., 1985, c. C-34
3. *Class Proceedings Act*, R.S.B.C. 1996, c. 50