

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**NOTICE OF MOTION FOR
PRELIMINARY APPROVAL OF
CLASS SETTLEMENT,
PRELIMINARY CERTIFICATION OF
SETTLEMENT CLASSES, AND
APPROVAL OF NOTICE PLAN**

PLEASE TAKE NOTICE, that upon the annexed Joint Declaration of Stephen G. Schwarz, Hadley Lundback Matarazzo, James J. Bilsborrow, and Robin Greenwald in Support of Plaintiffs' Motion for Preliminary Approval of Class Settlement, Preliminary Certification of Settlement Classes, and Approval of Notice Plan, together with exhibits 1 through 6 annexed thereto, and the accompanying Memorandum of Law in Support of Plaintiffs' Motion for Preliminary Approval of Class Settlement, Preliminary Certification of Settlement Classes, and Approval of Notice Plan, and upon all of the pleadings and proceedings herein, Plaintiffs, by their

undersigned attorneys, move this Court for entry of the Preliminary Approval Order, attached as Exhibit C to the Settlement Agreement, which establishes the following:

- (1) Preliminary certification of the Municipal Water Property Settlement Class, the Private Well Water Property Settlement Class, the Nuisance Settlement Class, and the Medical Monitoring Settlement Class for purposes of settlement, all as defined in the Settlement Agreement, appointment of Plaintiffs as the Class Representatives, and appointment of their counsel as Interim Settlement Class Counsel;
- (2) Preliminary approval of the Settlement, attached hereto as Exhibit 1;
- (3) Approval of the Notice Program;
- (4) Appointment of KCC Class Action Services as the General Administrator and directions to KCC to commence the Notice Program;
- (5) Authority pursuant to Local Rule of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; and
- (6) A Final Approval Hearing to consider final approval of the Settlement and any application for attorneys' fees, expenses, and Class Representative Service Awards to be held approximately 180 days after the entry of the Preliminary Approval Order.

Plaintiffs further request the following schedule of deadlines to be entered by the Court:

Event	Date
Deadline for the Settling Defendants to pay \$10,000,000 in cash into the Escrow Account	No later than 20 days from the date of Preliminary Approval Order
Deadline for General Administrator to commence Notice Program	No later than 30 days from the date of the Preliminary Approval Order
Commencement of the Enrollment Period	30 days from the date of the Preliminary Approval Order
Opt Out Deadline	105 days from the date of the Notice Date
Objection Deadline	105 days from the date of the Notice Date

Deadline for filing a Motion for Final Approval and any petition for an award of attorneys' fees, costs, and Service Awards	No later than 150 days from the date of the Preliminary Approval Order
Final Approval Hearing	Approximately 180 days from the date of the Preliminary Approval Order

Dated: July 21, 2021
 Ridgely Park, New Jersey

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CERTIFICATE OF SERVICE

I certify that on July 21, 2021, a true and accurate copy of the foregoing Notice of Motion was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ James J. Bilsborrow

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NORTHERN DISTRICT OF NEW YORK**

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT, PRELIMINARY
CERTIFICATION OF SETTLEMENT CLASSES, AND APPROVAL OF NOTICE PLAN**

TABLE OF CONTENTS

	<u>Page(s)</u>
TABLE OF AUTHORITIES	iv
INTRODUCTION.....	1
BACKGROUND OF THE LITIGATION.....	2
MEDIATION AND SETTLEMENT NEGOTIATIONS	6
SUMMARY OF THE PROPOSED SETTLEMENT TERMS.....	7
I. The Settlement Class Definitions.....	8
A. Municipal Water Property Settlement Class:	8
B. Private Well Water Settlement Class:	8
C. Nuisance Settlement Class:	8
D. Medical Monitoring Settlement Class:.....	8
II. Excluded Persons	9
III. Benefits of the Settlement	9
A. The \$65.25 million Settlement.	9
B. Allocation of Settlement Fund	10
1. <u>Property Settlement Classes</u>	10
2. <u>Nuisance Settlement Class</u>	10
3. <u>Medical Monitoring Settlement Class</u>	11
4. <u>Attorneys’ Fees and Case Expenses</u>	11
5. <u>Service Awards</u>	11
6. <u>General Settlement Administration Costs</u>	12
7. <u>Excess Funds</u>	12
C. Class Member Payments	12

1.	<u>Property Settlement Class members</u>	12
2.	<u>Nuisance Class Members</u>	13
D.	Medical Monitoring Class Program	14
E.	General Settlement Administrator and Medical Monitoring Administrator	15
IV.	Class Notice.....	16
V.	Opt Out Procedures	17
VI.	Objection Procedures	18
VII.	Attorneys’ Fees, Costs, and Service Awards	18
VIII.	Releases	18
ARGUMENT		19
I.	The Court “will likely be able to” approve the Settlement as “fair, reasonable, and adequate” under Rule 23(e)(2).	20
A.	The legal standard for preliminary approval.	20
II.	The Proposed Settlement Meets the Requirements For Preliminary Approval.	21
A.	The Class Representatives and Interim Class Counsel have adequately represented the Class.	21
B.	The Settlement was negotiated at arm’s length.....	23
C.	The relief provided for the Settlement Classes is significant, taking into account the relevant factors.....	25
1.	The relief provided by the Settlement is significant.	25
i.	<u>Property Damage Settlement Classes</u>	26
ii.	<u>Nuisance Damage Settlement Class</u>	27
iii.	<u>Medical Monitoring Settlement Class</u>	28
2.	The costs, risks, and delay of trial and appeal make the relief provided by the Settlement even more valuable.....	30

3. The method of distributing the relief to the Settlement Class is highly effective..... 32

4. Attorneys’ fees will be paid only after Court approval and in an amount justified by the Settlement..... 34

5. Disclosure of side agreements..... 36

6. The Settlement treats Class Members equitably relative to each other..... 37

III. The Court will “likely be able to” certify the Settlement Class for purposes of entering judgment on the Settlement..... 38

A. The Settlement Classes meet the requirements of Rule 23(a)..... 38

1. The Settlement Classes are so numerous that joinder of all members is impracticable. 38

2. The Class Representatives’ claims are typical of the claims of the Settlement Classes..... 39

3. The Class Representatives will fairly and adequately protect the interests of the Settlement Classes. 41

4. The Settlement Classes are Ascertainable..... 41

B. The Settlement Classes meet the requirements of Rule 23(b)(3)..... 42

1. Common questions of law and fact predominate over any questions affecting only individual members of the Settlement Classes. 42

2. The Settlement Classes are superior to other methods for the fair and efficient adjudication of the controversy..... 44

IV. The Court should approve the form of notice and direct notice to be sent to the Settlement Classes..... 44

V. The Court should schedule a final approval hearing..... 45

CONCLUSION 46

TABLE OF AUTHORITIES

	<u>Page(s)</u>
CASES	
<i>532 Madison Gourmet Foods, Inc. v. Finlandia Center, Inc.</i> , 96 N.Y.2d 280 (2009)	1
<i>Air Cargo Shipping Servs. Antitrust Litig.</i> , 2015 WL 5918273 (E.D.N.Y. Oct. 9, 2015)	24
<i>Amchem Prod., Inc. v. Windsor</i> , 521 U.S. 591 (1997)	41, 42, 44
<i>AOL Time Warner, Inc.</i> , 2006 WL 903236 (S.D.N.Y. Apr. 6, 2006)	23
<i>Baker v. Saint-Gobain Performance Plastics Corp.</i> , No. 17-3942 (2d Cir.)	4
<i>Baker v. Saint-Gobain Performance Plastics Corp.</i> , 959 F.3d 70 (2d Cir. 2020)	4
<i>Benoit v. Saint-Gobain Performance Plastics Corp.</i> , 959 F.3d 491 (2d Cir. 2020)	1
<i>Blum v. Stenson</i> , 465 U.S. 886 (1984)	35
<i>Cardiology Assocs., P.C. v. Nat’l Intergroup, Inc.</i> , 1987 WL 7030 (S.D.N.Y. Feb. 13, 1987)	31
<i>Caronia v. Philip Morris USA, Inc.</i> , 22 N.Y.3d 439 (2013)	1
<i>Catholic Healthcare W. v. U.S. Foodservice Inc. (In re Foodservice Inc. Pricing Litig.)</i> , 729 F.3d 108 (2d Cir. 2013)	42
<i>Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck- Medco Managed Care, L.L.C.</i> , 504 F.3d 229 (2d Cir. 2007)	35
<i>Charron v. Wiener</i> , 731 F.3d 241 (2d Cir. 2013)	20, 41
<i>Checking Acct. Overdraft Litig.</i> , 275 F.R.D. 654 (S.D. Fla. 2011)	24

<i>City of Detroit v. Grinnell Corp.</i> , 495 F.2d 448 (2d Cir. 1974)	25, 31
<i>Clapp v. Accordia Life & Annuity Co.</i> , No. 2:17-cv-02097-CSB-EIL (C.D. Ill. June 23, 2020)	24
<i>Clark v. Ecolab Inc.</i> , 2010 WL 1948198 (S.D.N.Y. May 11, 2010)	24
<i>Consol. Rail Corp. v. Town of Hyde Park</i> , 47 F.3d 473 (2d Cir. 1995)	38
<i>Cordes & Co. Fin. Servs., Inc. v. A.G. Edwards & Sons, Inc.</i> , 502 F.3d 91 (2d Cir. 2007)	41
<i>EVCi Career Colls. Holding Corp. Sec. Litig.</i> , 2007 WL 2230177 (S.D.N.Y. July 27, 2007)	19, 35
<i>Fleisher v. Phoenix Life Ins. Co.</i> , 2015 WL 10847814 (S.D.N.Y. Sept. 9, 2015)	24
<i>Fort Worth Employees' Retirement Fund v. J.P. Morgan Chase & Co.</i> , 301 F.R.D. 116 (S.D.N.Y. 2014)	39
<i>Fresno Cty. Employees' Ret. Ass'n v. Isaacson/Weaver Fam. Tr.</i> , 925 F.3d 63 (2d Cir. 2019)	35
<i>Global Crossing Securities and ERISA Litig.</i> , 225 F.R.D. 436 (S.D.N.Y. 2004)	31
<i>Gortat v. Capala Bros.</i> , 257 F.R.D. 353 (E.D.N.Y. 2009)	38
<i>Gulbankian v. MW Mfrs., Inc.</i> , 2014 WL 7384075 (D. Mass. Dec. 29, 2014)	24
<i>Hadel v. Gaucho, LLC</i> , 2016 WL 1060324 (S.D.N.Y. Mar. 14, 2016)	19
<i>Hall v. Children's Place Retail Stores, Inc.</i> , 669 F. Supp. 2d 399 (S.D.N.Y. 2009)	26
<i>Handschu v. Special Services Div.</i> , 787 F.2d 828 (2d Cir. 1986)	45
<i>Hayes v. Harmony Gold Min. Co.</i> , 2011 WL 6019219 (S.D.N.Y. Dec. 2, 2011)	35, 36

<i>Hoosick Falls PFOA Cases</i> , No. 19-cv-018 (N.D.N.Y.)	5
<i>IMAX Sec. Litig.</i> , 283 F.R.D. 178 (S.D.N.Y. 2012).....	32
<i>Initial Public Offering Secs. Litig. (“In re IPO”)</i> , 671 F. Supp. 2d 467 (S.D.N.Y. 2009)	25, 26, 30
<i>Interpublic Sec. Litig.</i> , 2004 WL 2397190 (S.D.N.Y. Oct. 26, 2004)	26
<i>Lipuma v. Am. Express Co.</i> , 406 F. Supp. 2d 1298 (S.D. Fla. 2005).....	31
<i>Maley v. Del Global Techs. Corp.</i> , 186 F. Supp. 2d 358 (S.D.N.Y. 2002)	31
<i>Mandel v. Geloso</i> , 206 A.D.2d 699 (3d Dep’t 1994)	28
<i>Marisol A. v. Giuliani</i> , 126 F.3d 372 (2d Cir. 1997).....	38, 40
<i>Marsh & McLennan, Cos. Sec. Litig.</i> , 2009 WL 5178546 (S.D.N.Y. Dec. 23, 2009).....	31
<i>McBean v. City of New York</i> , 228 F.R.D. 487 (S.D.N.Y. 2005).....	43
<i>McReynolds v. Richards- Cantave</i> , 588 F.3d 790 (2d Cir. 2009).....	19
<i>Merrill Lynch Tyco Rsch. Sec. Litig.</i> , 249 F.R.D. 124 (S.D.N.Y. 2008).....	26
<i>Millien v. Madison Square Garden Co.</i> , 2020 WL 4572678 (S.D.N.Y. Aug. 7, 2020)	23
<i>Moore v. PaineWebber, Inc.</i> , 306 F.3d 1247 (2d Cir. 2002)	42, 43
<i>Morris v. Affinity Health Plan, Inc.</i> , 859 F. Supp. 2d 611 (S.D.N.Y. 2012).....	23
<i>Moukengeshcaie v. Eltman, Eltman & Cooper, P.C.</i> , 2020 WL 5995978 (E.D.N.Y. Apr. 21, 2020).....	36

<i>Nissan Radiator/Transmission Cooler Litig.</i> , 2013 WL 4080946 (S.D.N.Y. May 30, 2013).....	40
<i>Nobles v. MBNA Corp.</i> , 2009 WL 1854965 (N.D. Cal. June 29, 2009).....	31, 32
<i>PaineWebber Ltd. P’ships Litig.</i> , 171 F.R.D. 104 (S.D.N.Y. Mar. 20, 1997).....	23, 24
<i>Patriot Nat’l, Inc. Sec. Litig.</i> , 828 F. App’x 760 (2d Cir. 2020).....	25, 26
<i>Petrobas Securities</i> , 862 F.3d 250 (2d Cir. 2017).....	41
<i>Prudential Inc. Secs. Ltd. P’ships Litig.</i> , 1995 WL 798907 (S.D.N.Y. Nov. 20, 1995)	26
<i>Roach v. T.L. Cannon Corp.</i> , 778 F.3d 401 (2d Cir. 2015).....	42
<i>Robidoux v. Celani</i> , 987 F.2d 931 (2d Cir. 1993).....	40
<i>Rowe v. E.I. DuPont de Nemours & Co.</i> , 2008 WL 5412912 (D.N.J. Dec. 23, 2008)	43, 44
<i>Rubio-Delgado v. Aerotek, Inc.</i> , 2015 WL 3623627 (N.D. Cal. June 10, 2015)	24
<i>Saint-Gobain Performance Plastics Corp. et al. v. Baker et al.</i> , No. 17-493 (2d Cir.).....	3
<i>Seekamp v. It’s Huge, Inc.</i> , 2012 WL 860364 (N.D.N.Y. Mar. 13, 2012).....	40
<i>Stiglianese v. Vallone</i> , 168 Misc. 2d 446 (Civil Ct. Bronx Cnty. 1995).....	28
<i>Strougo ex rel. Brazilian Equity Fund, Inc. v. Bassini</i> , 258 F. Supp. 2d 254 (S.D.N.Y. 2003).....	31
<i>Sullivan v. Saint-Gobain Performance Plastics Corp.</i> , No. 16-cv-125 (D. Vt.).....	16
<i>Sykes v. Mel S. Harris & Assocs. LLC</i> , 780 F.3d 70 (2d Cir. 2015).....	39

<i>Taylor v. Leardi</i> , 120 A.D.2d 727 (2d Dep’t 1986)	28
<i>Telik Inc. Sec. Litig.</i> , 576 F. Supp. 2d 570 (S.D.N.Y. 2008)	37
<i>Trinidad v. Pret a Manger (USA) Ltd.</i> , 2014 WL 4670870 (S.D.N.Y. Sept. 19, 2014)	26
<i>Vargas v. Capital One Fin. Advisors</i> , 559 F. App’x 22 (2d Cir. 2014)	45
<i>Veeco Instruments Inc. Sec. Litig.</i> , 2007 WL 4115808 (S.D.N.Y. Nov. 7, 2007)	35
<i>Velez v. Novartis Pharm. Corp.</i> , 2010 WL 4877852 (S.D.N.Y. Nov. 30, 2010)	35
<i>Wal-Mart Stores, Inc. v. Dukes</i> , 564 U.S. 338 (2011)	39
<i>Wal-Mart Stores, Inc. v. Visa U.S.A., Inc. (“Visa”)</i> , 396 F.3d 96 (2d Cir. 2005)	<i>passim</i>
<i>Warner Commc’ns Sec. Litig.</i> , 618 F. Supp. 735 (S.D.N.Y. 1985)	23
<i>Zeltser v. Merrill Lynch & Co., Inc.</i> , 2014 WL 4816134 (S.D.N.Y. Sept. 23, 2014)	44
<i>Zivkovic v. Laura Christy LLC</i> , 329 F.R.D. 61 (S.D.N.Y. 2018)	39

STATUTES

28 U.S.C. § 1292(b)	3
Federal Rule of Civil Procedure 12(b)(6)	3
Federal Rule of Civil Procedure 23	<i>passim</i>
Federal Rule of Civil Procedure 30(b)(6)	4
Federal Rule of Civil Procedure 41(a)(2)	9

OTHER SOURCES

Federal Rule of Civil Procedure 23(C) advisory committee’s note to 2018 amendments.....	36
Federal Rule of Civil Procedure 23(e)(2) advisory committee’s note to 2018 amendments ..	20, 21
Federal Rule of Civil Procedure 23(e)(C) advisory committee’s note to 2018 amendments.....	32
Manual for Complex Litig. (Third) § 30.42 (1995).....	23

INTRODUCTION

The \$65,250,000 proposed settlement of this class action represents an excellent recovery for the Settlement Classes in a groundbreaking case—the first since the New York State Court of Appeals’ decision in *Caronia v. Philip Morris USA, Inc.*, 22 N.Y.3d 439 (2013), to assess whether asymptomatic individuals exposed to a toxic substance may seek consequential medical monitoring damages.¹ After this Court denied Defendants’ motion to dismiss Plaintiffs’ claims asserting a toxic injury caused by exposure and accumulation of perfluorooctanoic acid (PFOA) in their blood, the Plaintiffs successfully litigated the legal validity of their claims before the Second Circuit Court of Appeals, obtaining a decision affirming that “allegations of the physical manifestation of or clinically demonstrable presence of toxins in the plaintiff’s body are sufficient to ground a claim for personal injury and that for such a claim, if proven, the plaintiff may be awarded, as consequential damages for such injury, the costs of medical monitoring.” *Benoit v. Saint-Gobain Performance Plastics Corp.*, 959 F.3d 491, 501 (2d Cir. 2020). The Second Circuit’s ruling also firmly recognized and affirmed this Court’s order holding that under New York law, defendants have a duty to ensure their manufacturing processes do not contaminate drinking water and properties in the surrounding community and that the Court of Appeals’ decision in *532 Madison Gourmet Foods, Inc. v. Finlandia Center, Inc.*, 96 N.Y.2d 280 (2009), did not “relieve users of hazardous substances of any duty to avoid allowing those substances to contaminate residents’ drinking water.” *Benoit*, 959 F.3d at 504.

After extensive motion and appellate practice, discovery, expert analysis, three full-day sessions with a neutral and esteemed mediator, the proposed Settlement before the Court—which includes \$20,695,000 in cash payments to class members who asserted diminution in property value claims, \$7,761,683 in cash payments to class members who asserted private nuisance

¹ Terms that are capitalized in this memorandum shall be defined as they are in the Settlement Agreement.

claims, and \$22,825,000 to fund a ten-year medical monitoring program designed by Plaintiffs' expert and medical professional, Dr. Alan Ducatman—will provide Settlement Class Members with both monetary relief and medical screening for PFOA-related health conditions. This resolution is supported by each class representative Plaintiff and will assist the Hoosick Falls community as it continues to recover from the impacts of widespread PFOA contamination throughout the Village and Town. Moreover, the proposed Settlement represents a resolution with only three of four named Defendants; Defendant E.I. DuPont de Nemours & Co. (“DuPont”) is not be a party to this settlement and Plaintiffs will continue the litigation against DuPont while the approval process for this settlement proceeds.

Given the risks and uncertainties of continued litigation against all Defendants, including the uncertainties associated with continued delay of monetary and medical relief to the Settlement Class Members, the proposed Settlement easily meets the Second Circuit's standard for preliminary and, ultimately, final approval. Plaintiffs respectfully request that the Court grant preliminary approval and order notice to be distributed pursuant to the Notice Program.

BACKGROUND OF THE LITIGATION

On February 24, 2016, Plaintiffs Michele Baker, Angela Corbett, Michelle O'Leary, and Daniel Schuttig filed the first class action complaint alleging that Defendants Saint-Gobain Performance Plastics Corp. (“Saint-Gobain”) and predecessors of Honeywell International Inc. (“Honeywell”) caused community-wide water contamination with the toxic, man-made chemical PFOA. (Dkt. 1 at 4-5.) Three other putative class action lawsuits were subsequently filed. (*Id.* at 6-7.) On July 27, 2016, the Court consolidated these actions, appointed attorneys from Faraci Lange, LLP and Weitz & Luxenberg, P.C. as interim co-lead class counsel, and directed Plaintiffs to file a consolidated pleading. (*Id.* at 13-16.)

Plaintiffs filed a consolidated class action complaint on August 26, 2016. (Dkt. 9.) The

complaint asserted claims for negligence, trespass, nuisance, and strict liability, and sought monetary damages for diminution in property value, discomfort and inconvenience related to the deprivation of potable drinking water and installation of point-of-entry treatment (POET) systems, and a court-ordered medical monitoring program. (*Id.*) Defendants Saint-Gobain and Honeywell moved to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) on September 26, 2016. (Dkt. 13.) Among other things, Defendants argued that New York State law did not allow for asymptomatic plaintiffs exposed to toxic substances to seek consequential medical monitoring damages, (Dkt. 13-1 at 36-41), and that Defendants had no duty to prevent economic harm to neighboring properties, (*id.* at 31-35).

On February 6, 2017, the Court entered an order granting in part and denying in part the motion to dismiss. (Dkt. 33.) In particular, the Court ruled that plaintiffs who obtained their drinking water from the Village Municipal Water System could not state a claim for nuisance because they had not “suffered a unique wrong compared to the rest of the community.” (*Id.* at 23.) The Court denied the motion in all other respects. The Court further ruled that Defendants’ motion raised “several complex and novel issues of New York law as to which the existing case law is significantly muddled,” and *sua sponte* certified its order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). (*Id.* at 36-37.)

Shortly thereafter, Defendants petitioned the Second Circuit Court of Appeals for interlocutory review of this Court’s motion to dismiss order and moved to stay all proceedings pending such review. The Second Circuit granted a temporary stay of proceedings while it considered Defendants’ petition for review. (*See Saint-Gobain Performance Plastics Corp. et al. v. Baker et al.*, No. 17-493, Dkt. 38 (2d Cir.).) Over nine months later, on December 8, 2017, the Second Circuit denied Defendants’ motion to stay proceedings in the District Court but granted the petition for interlocutory review pursuant to 28 U.S.C. § 1292(b). (*Id.*, Dkt. 39.)

Following denial of Defendants’ motion to stay proceedings, discovery commenced before this Court. (Joint Declaration of Plaintiffs’ Counsel (“Joint Dec.”), attached hereto, at ¶¶ 10-14.) The parties engaged in significant discovery efforts, involving several sets of written discovery requests and interrogatories served by and on each party, voluminous document productions, quarterly conferences with Magistrate Judge Stewart, depositions of each Plaintiff as well as eleven depositions of current or former employees of Saint-Gobain and/or Honeywell, Rule 30(b)(6) depositions for each company, and one non-party witness. (*Id.*).

On February 23, 2018, Saint-Gobain and Honeywell filed an opening brief in the Second Circuit seeking reversal of this Court’s motion to dismiss order. (*Baker v. Saint-Gobain Performance Plastics Corp.*, No. 17-3942, Dkt. 51-1 (2d Cir.).) The Chamber of Commerce of the United States of America, Pharmaceutical Research and Manufacturers of America, and the Business Council for New York State, as well as the Product Liability Advisory Council and National Association of Manufacturers moved for leave to file two amicus briefs in Defendants’ support. (*See id.*, Dkts. 57-1, 66-1.) Plaintiffs opposed these motions, though they were ultimately granted. Plaintiffs filed their opening brief on May 29, 2018. (*Id.*, Dkt. 118.) The Natural Resources Defense Council and Public Justice P.C. each moved for leave to file an amicus brief in support of Plaintiffs. (*Id.*, Dkt. 129, 130.) Defendants filed a reply brief on June 22, 2018, (*id.*, Dkt. 139), and the Second Circuit held oral argument on April 17, 2019. On May 18, 2020, the Second Circuit affirmed this Court’s motion to dismiss ruling in all respects, holding that Plaintiffs pled viable common law claims seeking diminution in property value, private nuisance, and medical monitoring damages. *Benoit*, 959 F.3d 491; *see also Baker v. Saint-Gobain Performance Plastics Corp.*, 959 F.3d 70 (2d Cir. 2020).

On December 10, 2018, Plaintiffs filed their First Amended Master Consolidated Class Action Complaint, naming Defendants 3M Company (“3M”) and E.I. DuPont de Nemours & Co.

(“DuPont”) as additional Defendants. (Dkt. 79.) In this pleading, Plaintiffs alleged that 3M and DuPont manufactured PFOA and PFOA-containing products that were sold to Saint-Gobain and Honeywell’s predecessors. Plaintiffs further claimed that 3M and DuPont inadequately warned their customers of the dangers posed by PFOA’s use and thereby breached a duty to those living in proximity to where these products were used. Plaintiffs thereafter propounded discovery requests and interrogatories on each newly-named Defendant and engaged in motion practice with DuPont on the scope discovery. (*See In re Hoosick Falls PFOA Cases*, No. 19-cv-018, Dkt. 19 (N.D.N.Y.).) In response to Plaintiffs’ document requests, both 3M and DuPont made extensive document productions. (Joint Dec. at ¶ 13-14.) Between June 23, 2020 and September 2, 2020, Plaintiffs deposed seven former DuPont employees. Each of these depositions occurred via Zoom because of the limitations imposed by the COVID-19 pandemic. (*Id.* at ¶ 15.)

On April 6, 2020, Plaintiffs moved for class certification and served eight expert reports in support. (Dkt. 145.) In their motion, Plaintiffs sought to certify four classes: (i) property owners who obtained drinking water from the Village Municipal Water System and were seeking diminution in property value; (ii) property owners who obtained drinking water from contaminated privately owned wells and were seeking diminution in property value; (iii) property owners and renters who obtained drinking water from a privately owned contaminated well upon which a POET was installed and were seeking nuisance damages; and (iv) individuals exposed to PFOA in their drinking water who subsequently received blood test results demonstrating the presence of PFOA in their blood serum above background levels and were seeking consequential medical monitoring damages. On April 9, 2020, Plaintiffs filed their Second Amended Master Consolidated Class Action Complaint, which conformed the operative pleading to Plaintiffs’ motion for class certification.² (Dkt. 171.) Defendants answered the Second Amended Complaint

² Plaintiffs’ Second Amended Complaint modified the geographical scope of the proposed Private Well

on June 23, 2020. (Dkts. 187-190.)

On July 30, 2020, Defendants served eight expert reports. The parties thereafter commenced expert deposition discovery, during which sixteen expert witnesses were deposed between October 2020 and December 2020, all via Zoom. (Joint Dec. at ¶ 20.)

Following expert depositions, Defendants filed a joint opposition to Plaintiffs' motion for class certification on January 14, 2021. (Dkt. 230.) Defendants 3M and DuPont filed a separate opposition to class certification raising arguments specific to Plaintiffs' failure to warn claims. (Dkt. 234.) Finally, Defendants filed a joint motion to exclude all of Plaintiffs' expert testimony, as well as a separate motion to strike the testimony of Nicholas P. Cheremisinoff, who passed away in 2020 after authoring his expert report. (Dkts. 229, 232.) Plaintiffs filed replies in support of their motion for class certification and separate briefs in opposition to Defendants' motions to exclude and/or strike expert testimony on February 18, 2021. (Dkts. 244, 245, 247.) Defendants filed replies in support of their motions to exclude and/or strike on March 11, 2021. (Dkts. 260, 262.) On May 7, 2021, the Court denied Defendants' joint motion to exclude Plaintiffs' expert testimony in its entirety. (Dkt. 265.)

MEDIATION AND SETTLEMENT NEGOTIATIONS

After submission of all papers in support of or in opposition to Plaintiffs' motion for class certification and Defendants' motions to exclude and/or strike expert testimony, the Parties mutually agreed to attempt to mediate a resolution of this matter and each side proposed a list of three mediators. (Joint Dec. at ¶ 23.) The Parties mutually agreed to select Professor Eric Green of Resolutions, LLC as mediator. After an initial joint conference call with Professor Green, the parties were directed to submit Mediation Statements of no more than twenty-five double-spaced

Property Damage Class and the Nuisance Class to exclude certain property addresses in the Northeastern portion of the Town of Hoosick. The proposed Settlement, however, includes all contaminated properties in the Town of Hoosick and the owners and renters of those properties with nuisance claims.

pages to the mediator, with copies to all parties by April 2, 2021. The parties also were directed, at their discretion, to submit an ex parte memo to the mediator. After the summaries and ex parte memoranda were submitted, Professor Green spoke to the Plaintiffs' counsel and counsel for each of the Defendants independently in advance of the first scheduled day of mediation. (*Id.*)

On April 12, 2021, the Parties engaged in a full-day mediation before Professor Green. (*Id.* at ¶ 24.) The parties did not reach an agreement in principle by the end of the first day of mediation. When the session ended, Plaintiffs and the Settling Defendants agreed to schedule two additional dates to continue the mediation, April 30, 2021, and May 5, 2021. (*Id.*) Plaintiffs and the Settling Defendants negotiated for another full day on April 30, 2021, but again did not reach an agreement, although progress was made. At the end of the third day of mediation on May 5, 2021, Plaintiffs and the Settling Defendants believed they reached an agreement in principle. In multiple sessions between May 5 and the date the Settlement was executed, the Parties negotiated the detailed Settlement Agreement and associated exhibits, including the parameters of the Medical Monitoring Program. During this process, it became apparent that the parties had not reached agreement as to the geographic scope of the Private Well Water Settlement Class and the Nuisance Settlement Class. (*See* fn. 1, *supra.*) This led to further negotiations between Plaintiffs and the Settling Defendants and eventually to another session with Professor Green on June 29, 2021. During this final session, the settling parties reached agreement on all outstanding terms of the Settlement. (*Id.*)

SUMMARY OF THE PROPOSED SETTLEMENT TERMS

The proposed Settlement provides for agreed certification of four Settlement Classes, notice, and cash payments to Settlement Class Members as well as funding of the Medical Monitoring Program.

I. The Settlement Class Definitions

A. Municipal Water Property Settlement Class:

All Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015

B. Private Well Water Settlement Class:

All Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a private well in which PFOA was detected, and who owned that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015.

C. Nuisance Settlement Class

All Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015.

D. Medical Monitoring Settlement Class:

All individuals who, for a period of at least six months between 1996 and 2016, have (a) ingested water supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or Town of Hoosick in which PFOA has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L.

(Settlement at ¶ 1(gg), (jj), (oo), (iii).) The Parties agree, solely for the purposes of settlement, that the Settlement Classes meet the requirements for class certification under Federal Rules of Civil Procedure 23(a) and 23(b)(3).

II. Excluded Persons

Excluded from the Settlement Classes will be the following:

- i. any Person who has timely and validly excluded himself, herself or itself from the Settlement Classes, in accordance with Section 12 of the Agreement;
- ii. any Person who has previously filed a lawsuit alleging a PFOA-related injury or illness, including without limitation a spousal derivative claim, or seeking medical monitoring or property damages, related to the presence of PFOA in the Village Municipal Water System, in private wells in the Village or Town, on or at their property, and/or in their blood, except for the Action, that has not been dismissed and/or in which a request to dismiss pursuant to Fed. R. Civ. P. 41(a)(2) is not pending as of thirty (30) days prior to the Fairness Hearing;
- iii. the Settling Defendants, any entity or division in which the Settling Defendants have a controlling interest, their legal representatives in this Action, and their officers, directors, assigns and successors;
- iv. the judge to whom this Action is assigned, any member of the judge's immediate family and the judge's staff, or any other judicial officer or judicial staff member assigned to this case, any Class Counsel, including their partners, members, and shareholders, and any immediate family members of Class Counsel;
- v. any State, including without limitation the United States, or any of its agencies, and the Village of Hoosick Falls and the Town of Hoosick.

(Settlement at ¶ 1(r).)

III. Benefits of the Settlement

A. The \$65.25 million Settlement.

The Settling Defendants have agreed to pay the sum of \$65,250,000 into a common Settlement Fund to make cash payments to Settlement Class Members, fund the Medical Monitoring Program for ten years, pay attorneys' fees and case expenses, as well as Administrative Expenses associated with notice, claims administration, opt outs, and objectors.

(Settlement at ¶ 2(b).) The Settling Defendants will pay \$10 million within twenty (20) days of Preliminary Approval of this Settlement by the Court, which will represent the Preliminary

Settlement Fund. This Fund will be used to pay for the Notice Program and to process claims, opt-outs and objections. This fund will also earn interest that accrues to the benefit of the Nuisance Settlement Classes. (*Id.*) If the Settlement achieves Final Approval and becomes effective, the Settling Defendants will then pay the remaining \$55.25 million to create the Settlement Fund. After the Effective Date, not a single dollar will revert to the Settling Defendants under any circumstances. (*Id.*)

B. Allocation of Settlement Fund

The Parties propose that the Settlement Fund be allocated as follows between the four Settlement Classes, attorneys' fees, costs, Administrative Expenses and Class Representative Service Awards:

1. Property Settlement Classes

The sum of twenty million, seven hundred thousand dollars (\$20,700,000) shall be allocated from the Settlement Fund for distribution to Property Settlement Class Members who demonstrate eligibility for either the Municipal Water Property Settlement Class or the Private Well Water Property Settlement Class. This portion of the Settlement Fund represents cash payments to compensate class members for diminution of their property value due to the presence of PFOA. (Settlement ¶ 4(a).)

2. Nuisance Settlement Class

The sum of seven million, seven hundred sixty-one thousand, six hundred eighty-three dollars (\$7,761,683), plus the interest earned on the Preliminary Settlement Fund prior to Final Approval, will be allocated from the Settlement Fund for distribution to Nuisance Settlement Class Members who demonstrate eligibility. This portion of the Settlement Fund represents cash payments to compensate class members for the discomfort and inconvenience of temporarily losing their access to potable drinking water and the subsequent installation of POETs in their

homes. (Settlement ¶ 4(b).)

3. Medical Monitoring Settlement Class

The sum of twenty-two million, eight hundred thousand dollars (\$22,800,000), plus any other remaining portion of the Settlement Fund that is not utilized or allocated for other purposes, shall be allocated from the Settlement Fund to pay for the ten-year Medical Monitoring Program. (Settlement ¶ 4(c).) This portion of the Settlement Fund will provide a program of annual testing and observation for the medical conditions Plaintiffs' expert, Dr. David Savitz, testified are causally linked to PFOA exposure. (Dkt. 165.)

4. Attorneys' Fees and Case Expenses

Prior to the Final Approval hearing, Class Counsel will request attorneys' fees of twelve million, three hundred ninety-seven thousand, five hundred dollars (\$12,397,500) to be awarded to Class Counsel for their efforts in bringing about the Settlement. This amounts to 19% of the total Settlement Fund. The Settling Defendants have agreed not to oppose the application for attorneys' fees in this amount. (Settlement ¶ 5(a).) Class Counsel will request reimbursement of case expenses incurred to date in the amount of \$1,040,817. (*Id.*)

5. Service Awards

Class Counsel will request that each of the ten class representative Plaintiffs receive awards of \$25,000 for their service to the classes in this case. (Settlement ¶ 5(b).) Each Plaintiff responded to discovery and interrogatories served on them by Defendants, appeared for a deposition (some of which lasted a full seven hours) and represented absent class members by assisting counsel throughout this case and during settlement negotiations. The total of these proposed service awards will be \$250,000. The Settling Defendants have agreed not to oppose this application.

6. General Settlement Administration Costs

The General Settlement Administration Costs shall be paid from the Preliminary Settlement Fund and shall not exceed \$300,000.³ These costs shall include, but shall not be limited to, the costs incurred for the performance by the General Administrator of duties related to dissemination of Class Notice, administration of the Escrow Account, processing claims, opt-outs and objections, and administration of the Preliminary Settlement Fund and Settlement Fund in accordance with the Agreement. (Settlement ¶ 5(c).)

7. Excess Funds

To the extent that any amounts remain in the Settlement Fund after all payments have been made to fund all of the Settlement Classes, attorneys' fees and case expenses approved by the Court, and General Settlement Administrative Costs, as well as, any tax-related expenses, and any Court-approved Service Awards, those remaining amounts shall be added to the Medical Monitoring Settlement Class Allocation. (Settlement ¶ 4(d).)

C. Class Member Payments

The General Administrator will provide payments directly to each eligible Property Settlement Class and Nuisance Settlement Class member as follows:

1. Property Settlement Class members

To calculate the Property Settlement Class Member Payment for each class member, the General Administrator shall total the full market values of all Eligible Properties as determined by the 2015 Tax Assessment Roll for the Town of Hoosick, which will comprise the denominator of a fraction.⁴ The full market value of each Eligible Property, as determined by the 2015 Tax

³ In the event of exceptional circumstances, the Settlement provides that an additional amount of up to \$200,000 may be paid from the Preliminary Settlement Fund for General Administrative Costs. (Settlement, ¶ 5(c).)

⁴ The Settlement calls for use of the 2015 Tax Assessment because it is the last tax year prior to discovery of PFOA contamination in the Village Municipal Water System.

Assessment Roll, shall comprise the numerator of this fraction, which will then be multiplied by the Property Payment Allocation to yield the individual amount due to the Property Settlement Class Member(s) who owned the Eligible Property as of December 15, 2016. The amount payable for each Eligible Property shall be based upon this fraction regardless of the number of owners of such property. If there are multiple Property Settlement Class Members who owned an individual Eligible Property as of December 15, 2016, and demonstrate eligibility in accordance with Section 3(b)(i) or (ii) of the Settlement, the General Administrator shall either make a joint payment to all such Property Settlement Class Members or it shall pay all such members separately in equal shares. (Settlement ¶ 4(a)(i)-(ii).) It is estimated that this payment will equal approximately 63% of the midpoint of the three year and eight year diminution estimates determined by Plaintiffs' expert Dr. Jeffry Zable. (Joint Dec. ¶¶ 36-37.) This estimate is based upon the approximate number of potential Eligible Properties (approximately 1,800) and the average sale price of a home in the Town of Hoosick over the three-year period from 2017-2019. (See Expert Rpt. of Jeffrey E. Zabel, Ph.D., Dkt. 168; Joint Dec. ¶¶ 32-36.) If less than 100% of potentially eligible Property Damage Settlement Class members submit Claim Forms and other documents to demonstrate eligibility, then the payment for each property will be higher.

2. Nuisance Class Members

To calculate the Nuisance Settlement Class Member Payment, the Nuisance Payment Allocation shall be divided evenly by the General Administrator among all Nuisance Damage Settlement Class Members who demonstrate eligibility in accordance with Section 3(b)(iii) of the Settlement and an equal share shall be paid to each Nuisance Settlement Class Member. (Settlement ¶ 4(b)(i)-(ii).) It is estimated that each eligible Nuisance Settlement Class member will receive approximately \$10,000. (Joint Dec. ¶ 38.) POET systems were installed in approximately 500 homes in the Town of Hoosick and, for purposes of settlement, the Parties

assumed that there are approximately 1.5 residents per home. If less than 100% of potentially eligible Nuisance Settlement Class members submit Claim Forms and other documents to demonstrate eligibility, then the payment for each eligible class member will be slightly higher. If there are more eligible Nuisance Settlement Class members than estimated, the payment could be slightly lower.

D. Medical Monitoring Class Program

Following the Effective Date, the General Administrator shall pay \$22,800,000, plus any excess funds, into an account established by the Medical Monitoring Administrator for purposes of operating the Medical Monitoring Program. (Settlement ¶ 4(c)(i).) The Medical Monitoring Program shall begin on the Effective Date (as defined in the Settlement, ¶ 1(m)) and shall terminate at the earlier of (a) when the Medical Monitoring Allocation has been expended; or (b) when all bills submitted to the Medical Monitoring Administrator for services under the Medical Monitoring Program rendered on or before the ten (10) year anniversary of the Effective Date are paid. (Settlement ¶ 4(c)(ii).) The testing and services protocols provided by the Medical Monitoring Program, their frequency, and other details concerning the operation of the Medical Monitoring Program, are set forth in Appendix A to the Settlement.

The amount, if any, remaining of the Medical Monitoring Allocation when the Program terminates shall be distributed as follows:

- An amount equal to the Medical Monitoring Disbursement (the amount that has been expended under the Program during its operation) or to the Medical Monitoring Remainder (the amount of the Medical Monitoring Allocation that remains at the termination of the Program), whichever is less, shall be distributed on a pro-rata basis to all Participants in the Medical Monitoring Program based on their level of participation during its term, as determined by

the Medical Monitoring Administrator. For example, Participants who have participated in all services available to them under the Medical Monitoring Program shall receive one pro-rata share, while Participants who have participated in 50% of services available to them under the Medical Monitoring Program shall receive one-half of a pro-rata share. (Settlement ¶ 4(c)(v)(1).)

- In the event the Medical Monitoring Remainder is greater than the Medical Monitoring Disbursement, an amount equal to the difference between the Medical Monitoring Remainder and the Medical Monitoring Disbursement will be paid as a contribution to a not-for-profit organization that focuses on health and well-being of residents in or around the Town of Hoosick that serves the Town of Hoosick and/or Village of Hoosick Falls community. The Parties will work together to identify the appropriate recipient organization within 120 days of the Effective Date and thereafter seek Court approval of their selection. If the recipient organization identified by the Parties ceases to exist at any time after the Effective Date but before termination of the Medical Monitoring Program pursuant to Section 4(c)(ii), the Parties shall meet and confer in good faith to propose a reasonable substitute recipient organization and shall seek Court approval of their proposal.

(Settlement ¶¶ 4(c)(v)(1)-(2).)

E. General Settlement Administrator and Medical Monitoring Administrator

The Settlement provides that KCC Class Action Services LLC will serve as the General Administrator. (Settlement at ¶ 2(a)(i).) KCC is a leading class action notice and claims administrator comprised of seasoned class action practitioners. KCC has administered more than

7,000 settlements and has the largest domestic infrastructure in the industry with a large call center that can evaluate thousands of claims per day. (Settlement, Exhibits D & F.) The Settling Defendants do not object to the appointment of KCC as General Administrator.

The Settlement provides that the Medical Monitoring Administrator will be Edgar C. Gentle, Esq. (Settlement ¶ 2(a)(ii).) Mr. Gentle submitted an expert report in this case outlining his experience and skill in administering medical monitoring programs. (*See* Dkt. 163.) In particular, Mr. Gentle has been appointed administrator of four settlements that provide medical testing or access to medical clinics for classes of individuals. (*Id.*) He also provided expert testimony for the plaintiffs in *Sullivan v. Saint-Gobain Performance Plastics Corp.*, No. 16-cv-125 (D. Vt.), a factually similar PFOA class action pending in the District of Vermont. The Settling Defendants do not object to Mr. Gentle serving in this capacity. (Settlement ¶ 2(a)(ii).)

IV. Class Notice

Within thirty days of Preliminary Approval, or by the time specified by the Court, the General Administrator shall commence the Notice Program, including by mailing the Notice Form in such form as is approved by the Court. The General Administrator shall transmit the Notice Form via direct mail to all owners of Residential Properties that obtain drinking water from the Village Municipal Water System and owners and renters of Residential Properties in the Town of Hoosick or the Village that obtain drinking water from private wells in which PFOA was detected on or after December 2015. (Settlement ¶ 11(b).) The Settling Defendants have agreed to confidentially provide the General Administrator with the addresses of properties at which PFOA was detected in private wells so that each of these properties receives direct mail Notice. (*Id.* ¶ 11(a).) The Parties respectfully request that the Court approve the Notice form attached as Exhibit B to the Settlement (Exhibit 1 to the Joint Declaration).

Commencing on the Notice Date, the General Administrator will implement the Notice

Program. As set forth in more detail in Exhibit F to the Settlement (Exhibit 1 to the Joint Declaration), the Notice Program shall consist of direct mail; internet, national and social media impressions; a national press release; and a community outreach effort. (Settlement ¶ 11(c).) The General Administrator will also maintain a Settlement Website containing the Second Amended Complaint, this Agreement, the Notice Form, Plaintiffs' motion seeking Preliminary Approval, the Preliminary Approval Order, Plaintiffs' motion seeking Final Approval, the Final Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted. These documents shall remain on the Settlement Website for at least six months after Final Approval. The Settlement Website's URL will be www.hoosickfallspfoasettlement.com. (*Id.* ¶ 11(d).)

As set forth in the proposed Preliminary Approval Order, the Parties also respectfully request that the Court establish the following schedule after Preliminary Approval: (1) deadline for sending Class Notice (the Notice Date): thirty (30) days from Preliminary Approval; (2) Opt-Out Deadline: one hundred and five (105) days from the Notice Date; (3) Objection Deadline: one hundred and five (105) days from Notice Date; (4) deadline for filing motions for approval of Plaintiffs' Service Awards and attorneys' fees and costs: one-hundred fifty (150) days from Preliminary Approval; (5) Fairness Hearing: one-hundred eighty (180) days from Preliminary Approval, or as soon thereafter as is mutually convenient. (Settlement ¶ 8(d).)

V. Opt Out Procedures

A Settlement Class Member may opt-out of the Settlement Class at any time prior to the Opt-Out Deadline, which is 105 calendar days from the Notice Date (or such other date as ordered by the Court), provided the opt-out notice that must be sent to the Settlement Administrator is postmarked no later than the Opt-Out Deadline. (Settlement ¶ 12(a).) If a class member jointly owns an Eligible Property with another class member and elects to opt out from

the Settlement Class, then all owners of the property shall be deemed to have opted out of the Settlement with respect to that property. (*Id.* ¶ 12(d).)

VI. Objection Procedures

The Settlement also provides a procedure for Settlement Class Members to object to the Settlement, to the application for attorneys' fees and costs, and/or to the Service Awards. (Settlement ¶ 13.) Objections must be submitted no later than the Objection Deadline, as specified in the Notice, which is 105 days after the Notice Date (or such other date as ordered by the Court). (Settlement ¶ 1(tt).) If submitted by mail, an objection shall be deemed to have been submitted when postmarked.

VII. Attorneys' Fees, Costs, and Service Awards

Attorneys' fees and costs, as determined and approved by the Court, are to be paid out of the Settlement Fund. (Settlement ¶ 2(b)(ii).) Class Counsel intends to apply for an award of attorneys' fees of up to 19% of the \$65,250,000 million Settlement Fund, and reimbursement of reasonable litigation costs, to be approved by the Court. (*Id.* ¶ 5(a).) The Settling Defendants agree not to oppose an application for attorneys' fees of up to 19% of the Settlement. (*Id.*)

Subject to Court approval, the Class Representatives shall be entitled to receive a Service Award of up to \$25,000 each for their role as the Class Representatives. (*Id.* at ¶ 5(b).) The Service Award shall be paid from the Settlement Fund.

VIII. Releases

In consideration for the Settlement, Class Members are releasing claims relating to diminution in property value, nuisance damages and consequential medical monitoring damages arising out of any claims of PFAS exposure or contamination from the Hoosick Falls facilities. Class members will retain their rights to bring claims against the Settling Defendants for any damages (including for screenings, tests, examinations, and/or diagnostic procedures) related to

past, present, or future manifested bodily injuries that result in a medically diagnosed condition allegedly related to PFAS (including PFOA) exposure.⁵ In other words, no Settlement Class Member is releasing personal injury claims relating to diagnosed health conditions. The Release language is set forth in Section 6(b) of the Settlement.

ARGUMENT

Rule 23(e) requires judicial approval of a class action settlement. Fed. R. Civ. P. 23(e). Rule 23(e)(1)(B) directs a court to grant preliminary settlement approval and direct notice to the proposed class if the court “will likely be able to” grant final approval under Rule 23(e)(2) and “will likely be able to” certify a settlement class for purposes of entering judgment. Fed. R. Civ. P. 23(e)(1)(B).

In considering approval of a proposed settlement, courts are mindful of the “strong judicial policy in favor of settlements particularly in the class action context.” *McReynolds v. Richards-Cantave*, 588 F.3d 790, 804 (2d Cir. 2009). Given this policy, “[a]bsent fraud or collusion,” courts “should be hesitant to substitute [their] judgment for that of the parties who negotiated the settlement.” *In re EVCI Career Colls. Holding Corp. Sec. Litig.*, No. 05 Civ. 10240 (CM), 2007 WL 2230177, at *4 (S.D.N.Y. July 27, 2007). Moreover, “[c]ourts encourage early settlement of class actions, when warranted, because early settlement allows class members to recover without unnecessary delay and allows the judicial system to focus resources elsewhere.” *Hadel v. Gaucho, LLC*, No. 15 Civ. 3706, 2016 WL 1060324, at *2 (S.D.N.Y. Mar. 14, 2016) (collecting cases). This is particularly true in a case such as this one where medical monitoring is to be provided to class members who have been exposed to a toxic substance and where delay in the resolution of the case will lead to delay in providing the essential testing and monitoring needed to assure early diagnosis and treatment of related illnesses.

⁵ For purposes of the Settlement, “manifested bodily injuries that have resulted in a medically diagnosed condition” do not include the detection or accumulation of PFAS (including PFOA) in blood or other bodily tissue.

Here, the Court should grant preliminary approval because it “will likely be able to” both grant final approval to the Settlement as “fair, reasonable, and adequate” and certify the Settlement Classes for purposes of entering judgment after notice and a final approval hearing.

I. The Court “will likely be able to” approve the Settlement as “fair, reasonable, and adequate” under Rule 23(e)(2).

A. The legal standard for preliminary approval.

Rule 23(e)(2) sets out the factors a court must consider in determining whether a proposed class action settlement is “fair, reasonable, and adequate.” Those factors are whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;
 - (iii) the terms of any proposed award of attorney’s fees, including timing of payment; and
 - (iv) any agreement required to be identified under Rule 23(e)(3); and
- (D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

As the Advisory Committee’s note to the 2018 Rule 23 Amendment explains, subsections (A) and (B) focus on the “procedural” fairness of a settlement and subsections (C) and (D) focus on the “substantive” fairness of the settlement. Fed. R. Civ. P. 23(e)(2) advisory committee’s note to 2018 amendments. These factors are similar to the “procedural” and “substantive” factors the Second Circuit developed prior to the amendment. *See Charron v. Wiener*, 731 F.3d 241, 247 (2d Cir. 2013) (explaining that courts evaluate procedural and substantive fairness of a class

settlement). The 2018 amendment, however, recognizes that “[t]he sheer number of factors” considered in various Circuits “can distract both the court and the parties from the central concerns that bear on review under Rule 23(e)(2).” Fed. R. Civ. P. 23(e)(2) advisory committee’s note to 2018 amendments. The 2018 Amendment “therefore directs the parties to present the settlement to the court in terms of a shorter list of core concerns, by focusing on the primary procedural considerations and substantive qualities that should always matter to the decision whether to approve the proposal.” *Id.*

II. The Proposed Settlement Meets the Requirements For Preliminary Approval.

The proposed Settlement with three of the four Defendants in this case is plainly “fair, reasonable, and adequate” considering the relevant factors, and the Court should grant preliminary approval and direct notice because the Court “will likely be able to” grant final approval after considering those factors.

A. The Class Representatives and Interim Class Counsel have adequately represented the Class.

First, the Class Representatives and Interim Class Counsel have adequately represented the Settlement Classes. *See* Fed. R. Civ. P. 23(e)(2)(A). Interim Class Counsel have extensive experience in class action litigation in general and in cases involving environmental contamination. (Joint Dec. §10, and Exhibits 4-6.) Here, Interim Class Counsels’ combined expertise allowed them to build a strong case in a highly complex area involving multiple areas of scientific and medical expertise. (*See id.*) Interim Class Counsel were able to develop evidence related to the liability of each Defendant, the fate and transport of PFOA in the environment after being released from aqueous fluoropolymer dispersions used to coat fabrics in Hoosick Falls, the epidemiology of PFOA exposure and appropriate medical monitoring procedures for PFOA-related illnesses. Without their persistence, expertise, and willingness to invest time and financial

resources in this matter, the Settlement Classes would have been left without legal recompense. (*Id.* at § XI.) Interim Class Counsel engaged in extensive written and oral advocacy on the claims, resulting in this Court's denial of Defendants' motion to dismiss and the Second Circuit's affirmance of this Court's Decision and Order. (*Id.* at ¶ 62.)

Interim Class Counsel aggressively pursued discovery of relevant evidence, obtaining millions of pages of documents and electronic files through requests for production served on Defendants and subpoenas served on State agencies, and then organized and reviewed this massive amount of data using a document review platform. (*Id.* ¶¶ 10-16.) Interim Class Counsel conducted nearly two dozen depositions of current and former employees of Defendants, as well as non-parties. (*Id.*) The results of Interim Class Counsel's efforts, along with their significant experience in this type of litigation, culminated in the Settlement for approximately 63% of estimated midpoint between the eight year and three year diminution estimates modeled by Plaintiffs real estate economics expert, Dr. Jeffrey Zabel, an additional reasonable settlement amount for annoyance and inconvenience suffered by Nuisance Class members for being deprived for approximately six months of the use of their private wells based upon past awards in nuisance cases and sufficient funding for a ten year medical monitoring program providing services for 2,000 participants. (Joint Dec. § IV.) Moreover, because Defendant DuPont is not participating in the Settlement, Interim Class counsel will continue to prosecute this case against DuPont with the potential for further recovery that will likely increase the final recovery for all class members.

Similarly, the class representative Plaintiffs timely responded to written discovery requests and produced hundreds of pages of documents. (*Id.* ¶ 28(F)). The class representative Plaintiffs also timely responded to alleged discovery deficiencies sent by Defendants, which required Plaintiffs to undertake additional time and effort to ensure

discovery compliance, including completing additional document searches and participating in multiple phone calls or in-person meetings with Interim Class Counsel. (*Id.*) Each Class Representative also sat for a full day deposition. (*Id.*) Through their service to the classes, the Class Representatives became the face of this litigation in Hoosick Falls. The Class Representatives also assisted Interim Class Counsel throughout negotiations providing important feedback and then reviewed and approved the terms of the Settlement. (*Id.*)

The class representative Plaintiffs and Interim Class Counsel “have obtained a sufficient understanding of the case to gauge the strengths and weaknesses of their claims and the adequacy of the settlement.” *In re AOL Time Warner, Inc.*, No. 02 CIV. 5575 (SWK), 2006 WL 903236, at *10 (S.D.N.Y. Apr. 6, 2006); *In re Warner Commc’ns Sec. Litig.*, 618 F. Supp. 735, 745 (S.D.N.Y. 1985), *aff’d*, 798 F.2d 35 (2d Cir. 1986) (approving settlement where “[d]iscovery is fairly advanced and the parties certainly have a clear view of the strengths and weaknesses of their cases”); *Millien v. Madison Square Garden Co.*, No. 17-CV-4000 (AJN), 2020 WL 4572678, at *5 (S.D.N.Y. Aug. 7, 2020) (same). Accordingly, Interim Class Counsel and the class representative Plaintiffs have adequately represented the Class. Fed. R. Civ. P. 23(e)(2)(A).

B. The Settlement was negotiated at arm’s length.

Next, the Settlement is the product of hard-fought, arm’s-length negotiations under a very experienced and well-respected mediator, Professor Eric Green. *See* Fed. R. Civ. P. 23(e)(2)(B). “To determine procedural fairness, courts examine the negotiating process leading to the settlement.” *Morris v. Affinity Health Plan, Inc.*, 859 F. Supp. 2d 611, 618 (S.D.N.Y. 2012). “A ‘presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm’s-length negotiations between experienced, capable counsel after meaningful discovery.’” *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.* (“Visa”), 396 F.3d 96, 116 (2d Cir. 2005) (quoting Manual for Complex Litig. (Third) § 30.42 (1995)). Moreover, in such circumstances, “great

weight is accorded to the recommendations of counsel, who are most closely acquainted with the facts of the underlying litigation.” *In re PaineWebber Ltd. P’ships Litig.*, 171 F.R.D. 104, 125 (S.D.N.Y. Mar. 20, 1997); *see also Clark v. Ecolab Inc.*, Nos. 07 Civ. 8623, 04 Civ. 4488, 06 Civ. 5672, 2010 WL 1948198, at *4 (S.D.N.Y. May 11, 2010) (“In evaluating the settlement, the Court should keep in mind the unique ability of class and defense counsel to assess the potential risks and rewards of litigation.”). Interim Class Counsel, who have extensive experience litigating and settling environmental contamination cases in New York and across the country, are of the opinion that the Settlement is an outstanding result for the Settlement Classes. (Joint Dec. at ¶ 68.)

Further, the Settlement was reached only after multiple mediation sessions with Professor Eric Green. Professor Eric Green has been recognized as “a highly experienced and very well-regarded mediator,” *Fleisher v. Phoenix Life Ins. Co.*, Nos. 11-CV-8405 (CM), 14-cv-8714 (CM), 2015 WL 10847814, at *1 (S.D.N.Y. Sept. 9, 2015). *See also In re Checking Acct. Overdraft Litig.*, 275 F.R.D. 654, 658 (S.D. Fla. 2011) (noting Professor Green is “an experienced and well-respected mediator”); *In re Air Cargo Shipping Servs. Antitrust Litig.*, No. 06-MD-1775 JG VVP, 2015 WL 5918273, at *2 n.3 (E.D.N.Y. Oct. 9, 2015) (same); *Gulbankian v. MW Mfrs., Inc.*, No. CIV.A. 10-10392-RWZ, 2014 WL 7384075, at *1 (D. Mass. Dec. 29, 2014) (same). As the Central District of Illinois observed, Professor Green’s “guidance and participation in mediating this matter between the parties, and reviewing their settlement agreement, demonstrates that this matter was negotiated at arm’s length and absent any collusion between the parties’ counsel to the detriment of the class.” *Clapp v. Accordia Life & Annuity Co.*, No. 2:17-cv-02097-CSB-EIL at 26–27 (C.D. Ill. June 23, 2020) (ECF 66). *See also Visa*, 396 F.3d at 117 (agreeing with Professor Green’s assessment that the settlement was negotiated at arm’s length and was procedurally fair); *Rubio-Delgado v. Aerotek, Inc.*, No. 13-CV-03105-SC, 2015

WL 3623627, at *4 (N.D. Cal. June 10, 2015) (same). *See also* Fed. R. Civ. P. 23(e)(2)(A) & (B) advisory committee’s note to 2018 amendments (“[T]he involvement of a neutral or court-affiliated mediator or facilitator in those negotiations may bear on whether they were conducted in a manner that would protect and further the class interests.”).

This Settlement was negotiated at arm’s length and was procedurally fair. *See* Fed. R. Civ. P. 23(e)(2)(B).

C. The relief provided for the Settlement Classes is significant, taking into account the relevant factors.

1. The relief provided by the Settlement is significant.

Perhaps the best indicator of the fairness of the Settlement is the significance of the relief it provides—\$65.25 million dollars in total value for the partial settlement of this litigation. This represents a recovery of approximately 63% of the midpoint damage calculation (the mid-point of the three-year analysis and the eight-year analysis) set forth in Dr. Zabel’s report. (Joint Dec. § IV(A).) for the Property Damage Settlement Class members, a significant recovery for the Nuisance Class members and a robust Medical Monitoring Program that will provide early diagnosis and opportunities of treatment for approximately 2,000 class members for ten years. (Joint Dec. §IV.)

The Second Circuit has recognized that “[t]here is no reason, at least in theory, why a satisfactory settlement could not amount to a hundredth or even a thousandth of a single percent of the potential recovery.” *City of Detroit v. Grinnell Corp.*, 495 F.2d 448, 455 n.2 (2d Cir. 1974). Consistent with that principle, courts often approve class settlements even where the benefits represent “only a fraction of the potential recovery.” *See, e.g., In re Initial Public Offering Secs. Litig. (“In re IPO”)*, 671 F. Supp. 2d 467, 483-85 (S.D.N.Y. 2009). In a recent decision, the Second Circuit upheld approval of a settlement that represented 6.1% of the class’s

maximum potential damages. *In re Patriot Nat'l, Inc. Sec. Litig.*, 828 F. App'x 760, 762 (2d Cir. 2020). And in *In re IPO*, the court approved a settlement that provided only 2% of defendants' maximum possible liability, observing that "the Second Circuit has held that . . . even a fraction of the potential recovery does not render a proposed settlement inadequate." 671 F. Supp. 2d at 484. *See, e.g., In re Prudential Inc. Secs. Ltd. P'ships Litig.*, MDL No. 1005, M-21-67, 1995 WL 798907 (S.D.N.Y. Nov. 20, 1995) (approving settlement of between 1.6 and 5% of claimed damages); *In re Merrill Lynch Tyco Rsch. Sec. Litig.*, 249 F.R.D. 124, 135 (S.D.N.Y. 2008) (approving settlement at 3% of estimated damages); *Hall v. Children's Place Retail Stores, Inc.*, 669 F. Supp. 2d 399, 402 (S.D.N.Y. 2009) (same, 5 to 12% of maximum damages); *In re Interpublic Sec. Litig.*, No. 02 CIV.6527(DLC), 2004 WL 2397190, at *8 (S.D.N.Y. Oct. 26, 2004) (same, 10 to 20% of damages estimate); *Trinidad v. Pret a Manger (USA) Ltd.*, No. 12 CIV. 6094 PAE, 2014 WL 4670870, at *7 (S.D.N.Y. Sept. 19, 2014) (same, 20 to 25% of maximum recovery). Here, the Settlement easily accords with Second Circuit authorities and will provide monetary relief and medical monitoring services to class members without further delay of this years-long litigation.

i. Property Damage Settlement Classes

Plaintiffs' expert real estate economist, Dr. Jeffrey Zabel of Tuft's University, has analyzed all real property sales in the Town of Hoosick and compared them to sales in comparable towns near Hoosick whose water was not contaminated with PFOA using what is referred to as the "hedonic regression method" of calculating the effect on the real estate market caused by the contamination. (*See* Zabel Rep., Dkt. 168.) For the four-year period prior to 2016, the year the contamination was discovered, the average sale price (controlling for other variables) between the Town of Hoosick and the control areas tracks similarly. When comparing the sales between the Town of Hoosick and the control group from 2016-2019, after discovery of PFOA,

the average sale price in Hoosick was 21.02% below the control group. When comparing the eight years from 2012-2019, the difference between the sale prices in the Town of Hoosick and the control group is 8.75%. The average sale price of homes in the Town of Hoosick from 2016-2019 was \$121,739. Using the 8.75% loss estimation, that translates to \$10,652.16 per home. Using the 21% loss estimate, this translates to \$25,565 per home. As this Court recognized, “[t]he exact diminution in value depends on how such diminution is defined.” (Dkt. 265 at 14.) The midpoint between these two estimated losses is \$18,108.68 per home. There are approximately 1300 homes serviced by the Hoosick Falls Village Water District. There are an additional approximately 500 homes in the class area that are serviced by private wells contaminated with PFOA. This Court has ruled that “Dr. Zabel’s methodology has been widely and accepted by courts,” and “the traditional Daubert factors support the admissibility of his testimony.” (Dkt. 265 at 15.)

The proposed settlement of \$20,700,000 represents approximately 63% of the midpoint damage calculation (the mid-point of the three-year analysis and the eight-year analysis) set forth in Dr. Zabel’s report. (Joint Dec. § IV(A).)

The significant recovery strongly supports preliminary approval of the Property Damage Settlement Class Settlement. *See* Fed. R. Civ. P. 23(e)(2)(C).

ii. Nuisance Damage Settlement Class

Nuisance damage estimates are subjective and left to the discretion of the jury. Eligible members of the Nuisance Settlement Class were deprived of the use of their drinking water for approximately 3-6 months in 2016 after their wells tested positive for PFOA and prior to the installation of a POET filtration system on their well water to remove the toxin. There are approximately 500 homes that may have had eligible Nuisance Settlement Class Members living in these homes, either as owners or renters, at or around the time PFOA was discovered in late

2015. To be eligible, the owner or renter had to inhabit the home during these months and thereafter when the POET systems were installed. It is estimated that each Nuisance Settlement Class Member will receive approximately \$10,000 for the annoyance and inconvenience they experienced as a result of the private nuisance created by the Processing Defendants (Honeywell and Saint-Gobain).⁶ In light of the fact-specific nature of nuisance damages, it is respectfully submitted that this is an appropriate recovery for this class with a total of \$7,761,683 to be distributed among eligible class members. *See, e.g., Taylor v. Leardi*, 120 A.D.2d 727 (2d Dep’t 1986) (\$60,000 awarded to plaintiff in nuisance for damage to home (\$18,000) and annoyance and inconvenience of being subjected to blasting); *Mandel v. Geloso*, 206 A.D.2d 699 (3d Dep’t 1994) (\$4,000 awarded to homeowner living next to motel due to nuisance caused by air conditioning unit noise and odor); *Stiglianese v. Vallone*, 168 Misc. 2d 446 (Civil Ct. Bronx Cnty. 1995) (\$25,000 awarded due to loud music causing a nuisance over a three-year period and more than 350 separate instances). The significant recovery strongly supports preliminary approval of the Nuisance Settlement Class. *See* Fed. R. Civ. P. 23(e)(2)(C).

iii. Medical Monitoring Settlement Class

The amount apportioned to the proposed Medical Monitoring Settlement Class will pay for medical monitoring services for all individuals who consumed contaminated water at their homes for at least six months between 1996 and 2016 and whose blood has been tested for PFOA and found to contain 1.86 ug/L (parts per billion) or more of this toxin. The threshold quantity of PFOA required for inclusion in the class was established by Plaintiffs’ expert, Dr. Alan Ducatman, and, as this Court explained, “is consistent with ATSDR regulations concerning medical monitoring.” (Dkt. 265 at 10.) In 2016, the NYSDOH provided free blood testing in Hoosick Falls and approximately 2,000 individuals tested above 1.86 ug/L. The Medical

⁶ Nuisance claims were not alleged against Defendants 3M and DuPont.

Monitoring Program will provide class members with testing and screening intended to provide early diagnosis and treatment of thyroid disease, ulcerative colitis, kidney cancer, testicular cancer, elevated uric acid level, abnormal liver function, hyperlipidemia, and hypertensive disorder related to pregnancy. (Appendix A ¶ d.) Plaintiffs' expert, Dr. David Savitz, has testified that these conditions are caused by exposure to PFOA. This Court ruled that Dr. Savitz's testimony was reliable and consistent with the findings of scientific authorities. (Dkt. 265 at 7-8.)

The Medical Monitoring Program is funded so that it will provide monitoring services for ten years. This represents approximately 40% of a 25 year program. Although it is anticipated that participation in the program will be high, based upon other similar programs previously established in other litigation, it is highly likely that participation will be somewhat less than 100% of those eligible, at least over the ten-year life of the Program. Any money remaining in the Program at its termination will not revert to the Settling Defendants. Instead, the Settlement requires any excess up to an amount equal to the amount expended during the Program's operation to be distributed pro-rata among the participants. (Settlement ¶ 4(c)(v).) These expected future cash payments may be used by participants to fund continuing monitoring for these individuals beyond ten years or for other purposes at the discretion of the recipient. This means that it is likely participants in the program will receive funding for future monitoring beyond ten years if they choose. In the unlikely event that there is still money remaining after this pro rata distribution, such funds will be provided to a worthy charitable institution in the area with a mission consistent with the goals of the medical monitoring program. (*Id.*)

A medical monitoring program funded for ten years to cover approximately 2,000 participants at a cost of \$22,800,000 is a significant recovery strongly supporting preliminary approval of the Medical Monitoring Settlement Class Settlement. *See* Fed. R. Civ. P. 23(e)(2)(C).

2. The costs, risks, and delay of trial and appeal make the relief provided by the Settlement even more valuable.

The amount of the Settlement is even more significant when considered against the substantial costs, risks, and delays of continued litigation. *See* Fed. R. Civ. P. 23(e)(2)(C)(i). The relief provided by the Settlement is concrete, guaranteed, and immediate, while the results from continued litigation against the Settling Defendants would be delayed at best and lower in value at worst. This is particularly important regarding the Medical Monitoring Settlement Class. More than five years have now elapsed since PFOA contamination was discovered in the Village of Hoosick Falls and the private wells in the Town of Hoosick. If approved, this Settlement will permit monitoring to begin immediately after Final Approval and eligible participants will obtain the benefits of early diagnosis and treatment of any PFOA-related illness. Without this Settlement, it could be several years before such a program could be established after trial.

The Settling Defendants are sophisticated and well-funded opponents with the resources to delay prosecution of the claims at every potential opportunity, through trial and potentially multiple appeals. There is little doubt that continued litigation against the Settling Defendants would likely span years and would be costly to the parties and a tax on judicial resources. Members of the Settlement Classes were likely unable to bring their own claims against the Settling Defendants due to the expense involved in proving these claims when compared to the damages recoverable by individual eligible class members.

Defeating summary judgment, achieving a litigated verdict at trial, and then sustaining any such verdict on appeal is a prolonged, complex, and risky proposition that would require substantial additional time and expense. *See In re IPO*, 671 F. Supp. 2d at 481 (finding that the complexity, expense, and duration of continued litigation supports approval where, among other things, “motions would be filed raising every possible kind of pre-trial, trial and post-trial issue

conceivable”). The substantial risk of continued litigation weighs in favor of approving the Settlement. *In re Global Crossing Securities and ERISA Litig.*, 225 F.R.D. 436, 459 (S.D.N.Y. 2004).

Apart from substantial risk and expense, courts overwhelmingly recognize that the delay of resolution of the litigation by itself is a significant consideration in approving a settlement. As the Court explained in *Strougo ex rel. Brazilian Equity Fund, Inc. v. Bassini*, 258 F. Supp. 2d 254, 261 (S.D.N.Y. 2003), “even if a [plaintiff] or class member was willing to assume all the risks of pursuing the actions through further litigation . . . the passage of time would introduce yet more risks . . . and would in light of the time value of money, make future recoveries less valuable than this current recovery.” Inevitable litigation delays “not just at the trial stage, but through post-trial motions and the appellate process, would cause Settlement Class Members to wait years for any recovery, further reducing its value.” *Maley v. Del Global Techs. Corp.*, 186 F. Supp. 2d 358, 362 (S.D.N.Y. 2002) (citing *Grinnell*, 495 F.2d at 467). See *In re Marsh & McLennan, Cos. Sec. Litig.*, No. 04 Civ. 8144(CM), 2009 WL 5178546, at *5 (S.D.N.Y. Dec. 23, 2009) (noting the additional expense and uncertainty of “inevitable appeals” and the benefit of Settlement, which “provides certain and substantial recompense to the Class members now”); *Lipuma v. Am. Express Co.*, 406 F. Supp. 2d 1298, 1322 (S.D. Fla. 2005) (likelihood that appellate proceedings could delay class recovery “strongly favor[s]” approval of a settlement); *Cardiology Assocs., P.C. v. Nat’l Intergroup, Inc.*, No. 85 CIV. 3048 (JMW), 1987 WL 7030, at *3 (S.D.N.Y. Feb. 13, 1987) (“[E]ven assuming a favorable jury verdict, if the matter is fully litigated and appealed, any recovery would be years away.”).

The \$65.25 million recovery readily falls within the range of reasonable results given the complexity of the case and the significant barriers that stand between today and a final, collected judgment. *Nobles v. MBNA Corp.*, No. C 06-3723 CRB, 2009 WL 1854965, at *2 (N.D. Cal. June

29, 2009) (“The risks and certainty of recovery in continued litigation are factors for the Court to balance in determining whether the Settlement is fair.”); Fed. R. Civ. P. 23(e)(2)(C)(i). Again, the added factor of this Settlement funding a medical monitoring program that can begin immediately after Final Approval presents a significant and tangible benefit to the Medical Monitoring Settlement Class members whose medical testing and surveillance for serious illnesses, including cancers, might have to wait years if this Settlement had not been reached.

3. The method of distributing the relief to the Settlement Class is highly effective.

In addition to the substantial Settlement Fund, the Settlement also effectively distributes the relief to the Settlement Class Members with only reasonable requirements imposed on class members to establish eligibility, a factor the Court must review under Fed. R. Civ. P. 23(e)(2)(C)(ii). A plan for allocating settlement proceeds, like the Settlement itself, should be approved if it is fair, reasonable, and adequate. *See, e.g., In re IMAX Sec. Litig.*, 283 F.R.D. 178, 192 (S.D.N.Y. 2012). “Measuring the proposed relief may require evaluation of any proposed claims process.” Fed. R. Civ. P. 23(e)(C) advisory committee’s note to 2018 amendments.

Here, the formula to determine the monetary relief to each member of the Property Settlement Classes is fair and equitable. The Town of Hoosick Tax Assessment Roll for 2015 and its assessment of the *full market value* for each Eligible Property provides an objective and consistent method of valuing properties prior to the discovery of PFOA in the drinking water in late 2015. The Settlement uses this value for each property as a numerator of a fraction and the total full market value of all Eligible Properties as a denominator to fairly apportion the amount allocated to these two classes. Once eligibility is determined, the General Administrator can quickly and easily compute each eligible class member’s payment and send that payment expeditiously.

The Settlement requires only that Property Damage Class Members complete a short Claim Form and provide proof of ownership during the relevant time period, water source, and, for Private Well Settlement Class Members, a well test showing PFOA contamination. The General Administrator is also permitted to obtain proof of public water service and contamination of a property's private well through public records or records provided by Defendants, thus eliminating the need for class members to provide such proof, and thereby simplifying and minimizing the burden on class members. (Settlement ¶ 3(b)(i)-(ii).)

Similarly, the Nuisance Settlement Class consists of individuals whose private wells were contaminated with PFOA and who have all suffered similar annoyance and inconvenience damages. Each of these eligible class members will receive a pro-rata share of the amount allocated to the Nuisance Settlement Class shortly after eligibility of all class members is determined by the General Administrator. The General Administrator will determine eligibility based upon documents submitted by the Claimant, publicly available information, information provided by the Settling Defendants concerning properties where POETs were installed, well testing data obtained from state agencies, and a simple declaration of residence signed by each class member at the time he or she submits a Claim Form. (Settlement ¶ 3(b)(iii).) Again, because the General Administrator can obtain certain confirmatory information from sources other than the Claimant, each Claimant's burden is substantially minimized and the likelihood of an eligibility determination increased.

Eligibility for the Medical Monitoring Settlement Class will be determined by proof of a blood test showing PFOA blood levels above 1.86 ug/L, reference to publicly available information regarding water source and testing provided by the Settling Defendants and state agencies, and a simple declaration attesting to residency at a home with contaminated drinking water for a period of at least six months between 1996 and 2016. (Settlement ¶ 3(b)(iv).) For

parents of children who were exposed, similar information will be required to establish the minor's blood level and source of exposure, as well as the mother's blood level if the exposure occurred in utero. (*Id.* ¶ 3(b)(iv). A parent or legal guardian submitting a claim on behalf of a minor must also complete a declaration, the form of which will be provided by the General Administrator, attesting to his or her legal right to submit a claim on the minor's behalf. (*Id.* ¶ 6(d).) Once qualified, the class members will be eligible to receive services outlined in Appendix A to the Settlement without cost to them, which will include blood and urine testing and clinical evaluations on an annual basis for ten years. If development of an illness is suspected, class members will be referred promptly for appropriate diagnosis and treatment. (See Settlement, Appendix A.)

The Settlement's distribution method is ideal and supports approval. *See* Fed. R. Civ. P. 23(e)(2)(C)(ii).

4. Attorneys' fees will be paid only after Court approval and in an amount justified by the Settlement.

Rule 23(e)(2)(C)(iii) requires evaluation of the terms of any proposed attorneys' fees, including timing of payment. The Settlement provides that attorneys' fees will be paid from the Settlement Fund only after a separate application is made, Settlement Class Members have a chance to object, and the Court determines the appropriate amount. Under the Settlement, Settling Defendants will not object to a fee request of up to 19% of the Settlement Fund. While an application for fees has yet to be made, the Notice will explain that Class Counsel will request no more than 19% the Settlement Fund.

A percentage-of the fund fee is appropriate here. As stated by the Second Circuit: "[t]he trend in this Circuit is toward the percentage method which directly aligns the interests of the class and its counsel and provides a powerful incentive for the efficient prosecution and early resolution

of litigation[.]” *Visa*, 396 F.3d at 121 (internal citations omitted). Indeed, “[t]his is consistent with the line of cases in which the Supreme Court held that in the case of a common fund, the fee awarded should be determined on a percentage-of-recovery basis.” *In re EVCI Career Colleges Holding Corp. Sec. Litig.*, No. 05 CIV 10240 CM, 2007 WL 2230177, at *15 (S.D.N.Y. July 27, 2007) (citing, e.g., *Blum v. Stenson*, 465 U.S. 886, 900 n.16 (1984)).

By contrast, the lodestar method “create[s] an unanticipated disincentive to early settlements, tempt[s] lawyers to run up their hours, and compel[s] district courts to engage in a gimlet-eyed review of line-item fee audits.” *Visa*, 396 F.3d at 121. The percentage approach remedies this central flaw in the lodestar method because class counsel’s recovery is linked to the benefit recovered for the class. It “provides class counsel with the *incentive* to maximize the settlement payout for the class because a larger settlement yields a proportionally larger fee.” *Fresno Cty. Employees’ Ret. Ass’n v. Isaacson/Weaver Fam. Tr.*, 925 F.3d 63, 71 (2d Cir. 2019), *cert. denied*, 140 S. Ct. 385, 205 L. Ed. 2d 218 (2019) (emphasis added). Accordingly, the percentage method is the better method for determining appropriate attorneys’ fees in this type of class action.

Moreover, the requested percentage is reasonable. “[F]ederal courts have established that a standard fee in complex class action cases like this one, where plaintiffs’ counsel have achieved a good recovery for the class, ranges from 20 to 50 percent of the gross settlement benefit,” and “[d]istrict courts in the Second Circuit routinely award attorneys’ fees that are 30 percent or greater.” *Velez v. Novartis Pharm. Corp.*, No. 04 CIV 09194 CM, 2010 WL 4877852, at *21 (S.D.N.Y. Nov. 30, 2010); *see also Cent. States Se. & Sw. Areas Health & Welfare Fund v. Merck-Medco Managed Care, L.L.C.*, 504 F.3d 229, 235–36 (2d Cir. 2007) (affirming 30% fee award of \$42.5 million to counsel); *In re Veeco Instruments Inc. Sec. Litig.*, No. 05 MDL 01695CM, 2007WL 4115808, at *1 (S.D.N.Y. Nov. 7, 2007) (awarding 30%); *Hayes v. Harmony Gold Min.*

Co., No. 08 CIV. 03653 BSJ, 2011 WL 6019219, at *1 (S.D.N.Y. Dec. 2, 2011) *aff'd*, 509 F. App'x 21 (2d Cir. 2013) (awarding one-third).

Furthermore, in the calculation of the “overall settlement value for purposes of the ‘percentage of the recovery’ approach, courts include the value of both the monetary and non-monetary benefits conferred on the Class.” *Fleischer v. Phoenix Life Ins. Co.*, Nos. 11-cv-8405 (CM), 14-cv-8714 (CM), 2015 WL 10847814, at *15 (S.D.N.Y. Sept. 9, 2015). Here, the \$65.25 million Settlement Fund, which includes notice and administration costs, is all properly considered part of the fund. *See, e.g., Moukengeshcaie v. Eltman, Eltman & Cooper, P.C.*, No. 14CV7539MKBCLP, 2020 WL 5995978, at *2 (E.D.N.Y. Apr. 21, 2020), report and recommendation adopted sub nom., 2020 WL 5995650 (E.D.N.Y. Oct. 8, 2020) (awarding percentage of overall value of fund that included debt forgiveness); *Velez*, 2010 WL 4877852, at *4, *18 (awarding fees on total value of fund, including monetary and nonmonetary relief). The Medical Monitoring Settlement Class allocation provides indirect financial benefit, but more importantly, the possibility of early diagnosis and treatment of illnesses related to consumption of contaminated drinking water.

Simply put, any request for fees will be supported by law and evidence, and such a request supports preliminary approval. *See* Fed. R. Civ. P. 23(e)(2)(C)(iii).

5. Disclosure of side agreements.

Rule 23(e)(2)(C)(iv) requires the Court to consider any side agreements that must be disclosed under Rule 23(e)(3). This is because side agreements can result in inequitable treatment of class members. Fed. R. Civ. P. 23(C) advisory committee’s note to 2018 amendments. Here, there are two side agreements that require disclosure. The first involves the percentage of opt-outs compared to the percentage of eligible class members. Under the terms of this side agreement, if a significant percentage of eligible class members opt out of the Settlement, the

Settling Defendants have the option to terminate the agreement. This percentage was placed in a side agreement so as not to incentivize any counsel or group of individuals to attempt to coerce payments of greater benefits or fees by organizing an effort to opt out en masse. (Settlement ¶ 18(b).) There is no cause to doubt the adequacy and fairness of the Settlement by putting this threshold percentage in a side agreement while at the same time alerting class members through the Notice that an unstated but significant percentage of potential class members must participate for the Settlement to proceed.

The second side agreement is an agreement among the Settling Defendants regarding each Defendant's responsibility to pay a percentage of the Settlement Fund. Plaintiffs are not aware of the terms of this agreement, but only its existence.

6. The Settlement treats Class Members equitably relative to each other.

The Court must also consider whether the Settlement treats Settlement Class Members equitably relative to one another. *See* Fed. R. Civ. P. 23(e)(2)(D). Here, the Settlement treats Settlement Class Members in all four classes equitably relative to one another because the amount each Property and Nuisance Settlement Class Member receives is based on a fair and transparent formula that guarantees equity. All Medical Monitoring Settlement Class members will also be treated the same and be entitled to the same monitoring protocol once eligibility is determined (with the exception of gender-specific conditions). *See Maley*, 186 F. Supp. 2d at 367 (“An allocation formula need only have a reasonable, rational basis, particularly if recommended by experienced and competent class counsel.”); *In re Telik Inc. Sec. Litig.*, 576 F. Supp. 2d 570, 580 (S.D.N.Y. 2008) (“A reasonable plan may consider the relative strengths and values of different categories of claims.”).

III. The Court will “likely be able to” certify the Settlement Class for purposes of entering judgment on the Settlement.

To determine whether the Court will “likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement, the Court looks to the requirements of Rule 23(a) (numerosity, commonality, typicality, and adequacy) and the requirements of any subsection of Rule 23(b), here subsection 23(b)(3) (predominance and superiority). The Second Circuit has emphasized that Rule 23 should be “given liberal rather than restrictive construction.” *Marisol A. v. Giuliani*, 126 F.3d 372, 377 (2d Cir. 1997). Indeed, it is “beyond peradventure that the Second Circuit’s general preference is for granting rather than denying class certification.” *Gortat v. Capala Bros.*, 257 F.R.D. 353, 361–62 (E.D.N.Y. 2009) (quotation omitted). For the reasons set forth below, the proposed Settlement Classes meet all of the requirements for certification.

A. The Settlement Classes meet the requirements of Rule 23(a).

1. The Settlement Classes are so numerous that joinder of all members is impracticable.

Rule 23(a)(1) requires that “the class be so numerous that joinder of all members is impracticable.” Numerosity does not require a fixed number of class members but “is presumed at a level of 40 members.” *Consol. Rail Corp. v. Town of Hyde Park*, 47 F.3d 473, 483 (2d Cir. 1995). The Second Circuit has found this requirement met where a class is “obviously numerous.” *Marisol A.*, 126 F.3d at 376. Here, each of the Settlement Classes encompasses at least several hundred members. There are approximately 1300 homes that obtain water from the Village Municipal Water System and another 500 homes whose private wells were contaminated with PFOA. In addition, approximately 2,000 individuals obtained blood serum tests demonstrating a PFOA blood level above 1.86 ug/L, which is the threshold for eligibility in the Medical Monitoring Program. Numerosity is easily met with each of the four Settlement Classes. *See Marisol A.*, 126 F.3d at 376. There are questions of law and fact common to the Settlement

Classes.

Rule 23(a)(2) requires that “there are questions of law or fact common to the class.” Rule 23(a)(2) is a “low hurdle,” *Fort Worth Employees’ Retirement Fund v. J.P. Morgan Chase & Co.*, 301 F.R.D. 116, 131 (S.D.N.Y. 2014), and “for purposes of Rule 23(a)(2) even a single common question will do.” *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 359 (2011). Commonality requires only that the proposed class members’ claims “depend upon a common contention,” which “must be of such a nature that it is capable of class wide resolution,” meaning that “determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Id.* at 350. Damages resulting from a “unitary course of conduct” are sufficient to show commonality. *Sykes v. Mel S. Harris & Assocs. LLC*, 780 F.3d 70, 85 (2d Cir. 2015). “The claims for relief need not be identical for them to be common.” *Zivkovic v. Laura Christy LLC*, 329 F.R.D. 61, 69 (S.D.N.Y. 2018).

Here, each of the Settlement Class Members share the common, class-wide question of whether and to what extent the Settling Defendants are liable for the presence of PFOA in the Village Municipal Water System, in private wells throughout the Town of Hoosick, on class members’ properties, and in Medical Monitoring Settlement Class Members’ blood; whether the Settling Defendants’ actions caused Plaintiffs’ property values to diminish; whether the presence of PFOA in a private well constitutes a private nuisance; and whether the Medical Monitoring Settlement Class Members are at increased risk of disease and harm as a result of exposure to PFOA in the class area warranting future medical surveillance. The commonality requirement is satisfied in this case.

2. The Class Representatives’ claims are typical of the claims of the Settlement Classes.

Rule 23(a)(3) requires that the class representatives’ claims be “typical” of the claims of

the class. The commonality and typicality requirements tend to merge, and demonstrating typicality under Rule 23(a)(3) requires only that “each class member’s claim arises from the same course of events, and each class member makes similar legal arguments to prove the defendant’s liability.” *Marisol A.*, 126 F.3d at 376. The typicality requirement “is not demanding.” *Seekamp v. It’s Huge, Inc.*, No. 1:09-cv-00018 (LEK/DRH), 2012 WL 860364, at *3 (N.D.N.Y. Mar. 13, 2012). “[D]ifferences in the degree of harm suffered, or even in the ability to prove damages, do not vitiate the typicality of a representative’s claims.” *In re Nissan Radiator/Transmission Cooler Litig.*, No. 10 CV 7493 VB, 2013 WL 4080946, at *19 (S.D.N.Y. May 30, 2013). Rather, “the typicality requirement requires that the disputed issue of law or fact occupy essentially the same degree of centrality to the named plaintiff’s claim as to that of other members of the proposed class.” *Id.* Typicality is therefore satisfied “irrespective of minor variations in the fact patterns underlying individual claims.” *Robidoux v. Celani*, 987 F.2d 931, 937 (2d Cir. 1993).

Here, the class representative Plaintiffs’ claims arise from the same course of conduct as the claims of the Settlement Classes. In particular, Plaintiffs and Settlement Class Members claim that PFOA contaminated their drinking water, properties, and bodies, causing diminution in property value, nuisance, and personal injury via toxic exposure. Plaintiffs and Settlement Class Members also seek the same damages for these harms. Plaintiffs and Property Settlement Class Members seek diminution in value for the contamination of their properties; Plaintiffs and Nuisance Settlement Class Members seek damages related to the annoyance and inconvenience of temporarily losing access to potable water and the subsequent installation of POETs in their homes; and Plaintiffs and Medical Monitoring Settlement Class Members seek the same medical monitoring relief as a result of exposure and blood accumulation of PFOA. Typicality is satisfied.

3. The Class Representatives will fairly and adequately protect the interests of the Settlement Classes.

Rule 23(a)(4) requires that the class representatives will “fairly and adequately protect the interests of the class.” This inquiry “serves to uncover conflicts of interest between named parties and the class they seek to represent.” *Amchem Prod., Inc. v. Windsor*, 521 U.S. 591, 625 (1997). Adequacy turns on “whether (1) plaintiff’s interests are antagonistic to the interest of other members of the class and (2) plaintiff’s attorneys are qualified, experienced and able to conduct the litigation.” *Cordes & Co. Fin. Servs., Inc. v. A.G. Edwards & Sons, Inc.*, 502 F.3d 91, 99 (2d Cir. 2007) (internal quotations omitted).

The first requirement is satisfied by showing that “the members of the class possess the same interests” and that “no fundamental conflicts exist” between the class members. *Charron*, 731 F.3d at 249. Here, the class representative Plaintiffs share the same interests as the Settlement Class in seeking monetary recoveries for property damage and nuisance and establishment of a medical monitoring program to provide regular testing and treatment. Plaintiffs, like all Settlement Class Members, were harmed by the same conduct of the Settling Defendants, and the class representatives have no interests antagonistic to the Settlement Classes. With respect to the second requirement, proposed Interim Settlement Class Counsel are highly qualified and experienced in environmental class actions generally and toxic tort litigation and have worked diligently to prosecute this case to a settlement. (See Joint Dec. at §X., Exhibits 4-6.)

4. The Settlement Classes are Ascertainable

The Second Circuit has recognized “an implied requirement of ascertainability in Rule 23, which demands that a class be sufficiently definite so that it is administratively feasible for the court to determine whether a particular individual is a member.” *In re Petrobas Securities*, 862 F.3d 250, 257 (2d Cir. 2017) (internal quotation and quotation marks omitted). This is a

“modest threshold requirement [that] will only preclude certification if a proposed class definition is indeterminate in some fundamental way.” *Id.* at 269. Here, the Settlement Classes are defined using objective criteria; class membership is based on property ownership or a leasehold interest in the Village of Hoosick Falls and Town of Hoosick, water tests demonstrating PFOA contamination, or blood serum tests demonstrating blood serum levels. These objective criteria allow Settlement Class Members to know whether they are in or out of the classes. Ascertainability is thus satisfied.

B. The Settlement Classes meet the requirements of Rule 23(b)(3).

Rule 23(b)(3) requires that common questions of law or fact “predominate over any questions affecting only individual members and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy.” Fed. R. Civ. P. 23(b)(3). This inquiry examines “whether proposed classes are sufficiently cohesive to warrant adjudication by representation.” *Amchem*, 521 U.S. at 623. As the Second Circuit has explained, “[p]redominance is satisfied ‘if resolution of some of the legal or factual questions that qualify each class member’s case as a genuine controversy can be achieved through generalized proof, and if these particular issues are more substantial than the issues subject only to individualized proof.’” *Roach v. T.L. Cannon Corp.*, 778 F.3d 401, 405 (2d Cir. 2015) (quoting *Catholic Healthcare W. v. U.S. Foodservice Inc. (In re Foodservice Inc. Pricing Litig.)*, 729 F.3d 108, 118 (2d Cir. 2013)). Here, the Rule 23(b)(3) requirements are met because the predominant issue in the litigation centers on Defendants’ joint and several liability for causing the community-wide contamination of Hoosick Falls with PFOA.

1. Common questions of law and fact predominate over any questions affecting only individual members of the Settlement Classes.

“Class-wide issues predominate if resolution of some of the legal or factual questions . . .

can be achieved through generalized proof, and if these particular issues are more substantial than the issues subject only to individualized proof.” *Moore v. PaineWebber, Inc.*, 306 F.3d 1247, 1252 (2d Cir. 2002). Where plaintiffs are “unified by a common legal theory” and by common facts, the predominance requirement is satisfied. *McBean v. City of New York*, 228 F.R.D. 487, 502 (S.D.N.Y. 2005).

Here, common questions of law and fact predominate for each of the Settlement Classes. The central issue in this case—Defendants’ liability for the community-wide contamination—is subject to classwide proof that would drive resolution of Plaintiffs’ claims. Plaintiffs allege that for decades, Saint-Gobain and Honeywell performed the same fabric coating operation at the same facility and allowed uncontrolled PFOA exhaust to exit the stacks and settle across the Hoosick Falls community, and also released liquid waste containing PFOA into the ground that migrated to the Village supply wells. Classwide proof would focus on appropriate pollution controls, or lack thereof, the fate and transport of PFOA to the environment, and the appropriate precautions, if any, taken to prevent widespread contamination. Common proof would likewise focus on knowledge that 3M had regarding PFOA but did not share, as well as the adequacy of any warnings conveyed by 3M to its customers, including Saint-Gobain and Honeywell’s predecessors. These central issues are by far the most important in the case and their common resolution would achieve important and dispositive efficiencies. *See Roach*, 778 F.3d at 405. With regard to the Medical Monitoring Settlement Class, Plaintiffs have proposed a class defined by demonstrable exposure provable on a classwide basis, rendering exposure (in addition to liability) a common issue of fact. *See Rowe v. E.I. DuPont de Nemours & Co.*, No. 06-1810 (RMB), 06-3080 (RMB), 2008 WL 5412912, at *14 (D.N.J. Dec. 23, 2008) (explaining that plaintiffs exposed to PFOA may have achieved class certification by “conduct[ing] blood serum tests of the proposed class members to determine whether they indeed have elevated levels of

PFOA above the general population, which is useful in determining historical exposure”). According to Plaintiffs’ experts, these exposures cause certain health conditions requiring regular monitoring in an exposed population. In short, the central issues in this case are common and provable classwide. Predominance is satisfied.

2. The Settlement Classes are superior to other methods for the fair and efficient adjudication of the controversy.

Resolving this litigation through the Settlement Classes is plainly superior to litigation by individual Settlement Class Members. Most Settlement Class Members lack the financial resources to prosecute individual actions, and the value of any individual claim is simply too low to justify individual cases. *See Amchem Prods.*, 521 U.S. at 617 (explaining that the “policy at the very core of the class action mechanism is to overcome the problem that small recoveries do not provide the incentive for any individual to bring a solo action prosecuting his or her rights” (internal quotation omitted)). This is especially true here against well-funded defendants like Saint-Gobain, Honeywell, and 3M. “Employing the class device here will not only achieve economies of scale for Class Members, but will also conserve judicial resources and preserve public confidence in the integrity of the system by avoiding the waste and delay of repetitive proceedings and preventing inconsistent adjudications.” *Zeltser v. Merrill Lynch & Co., Inc.*, No. 13 Civ. 1531(FM), 2014 WL 4816134, at *3 (S.D.N.Y. Sept. 23, 2014). Accordingly, the Settlement Classes are the superior method of adjudicating this action.

For all the reasons discussed above, the Settlement Classes meet all of the requirements for certification and the Court “will likely be able to” certify them for purposes of entering judgment on the Settlement.

IV. The Court should approve the form of notice and direct notice to be sent to the Settlement Classes.

Once the Court has determined that preliminary approval is appropriate, it must direct

notice to the proposed class that would be bound by the settlement. Fed. R. Civ. P. 23(e)(1). “The standard for the adequacy of a settlement notice in a class action under either the Due Process Clause or the Federal Rules is measured by reasonableness.” *Visa*, 396 F.3d at 113 (citations omitted). The Court is given broad power over which procedures to use for providing notice so long as the procedures are consistent with the standards of reasonableness that the Constitution’s due process guarantees impose. *See Handschu v. Special Services Div.*, 787 F.2d 828, 833 (2d Cir. 1986) (“[T]he district court has virtually complete discretion as to the manner of giving notice to class members.”). “When a class settlement is proposed, the court ‘must direct to class members the best notice that is practicable under the circumstances.’” *Vargas v. Capital One Fin. Advisors*, 559 F. App’x 22, 26 (2d Cir. 2014) (summary order) (quoting Fed. R. Civ. P. 23(c)(2)(B),(e)(1)). The notice must include: “(i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who request exclusions; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a class judgment on members under Rule 23(c)(3).” Fed. R. Civ. P. 23(c)(2)(B).

Here, the proposed form of notice, attached as Exhibit B to the Settlement Agreement, plans for disseminating the notice by direct mail, local and national news, and via social media, and proposal to establish a settlement website featuring the notice form constitute the best notice practicable. The form of notice is written in plain language and provides the required information.

V. The Court should schedule a final approval hearing.

The last step in the Settlement approval process is a final approval hearing at which the Court will make its final evaluation of the Settlement. Plaintiffs and Interim Class Counsel request that the Court schedule the final approval hearing 180 days after entry of the Preliminary

Approval Order.

CONCLUSION

The Settlement achieves an outstanding result in complex litigation that advanced the law and will provide class members with substantial monetary relief and a ten-year medical monitoring program. It was achieved after five years of litigation, an appeal to the Second Circuit, and full briefing of class certification and *Daubert* motions, significant discovery and depositions, and three hard-fought mediations that were presided over by a preeminent mediator. The resulting Settlement is fair, adequate and reasonable, and this Court should grant preliminary approval to the Settlement.

Dated: July 21, 2021
Rochester, New York

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***Attorneys for Plaintiffs and the Proposed
Settlement Classes***

CERTIFICATE OF SERVICE

I certify that on July 21, 2021, a true and accurate copy of the foregoing memorandum was filed electronically with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Stephen G. Schwarz

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of K.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**JOINT DECLARATION OF STEPHEN G. SCHWARZ, HADLEY
LUNDBACK MATARAZZO, JAMES J. BILSBORROW AND ROBIN
GREENWALD IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS SETTLEMENT,
PRELIMINARY CERTIFICATION OF SETTLEMENT CLASSES, AND
APPROVAL OF NOTICE PLAN**

We, Stephen G. Schwarz, Hadley Lundback Matarazzo, James J. Bilsborrow and Robin
Greenwald declare as follows:

1. Stephen G. Schwarz and Hadley Lundback. Matarazzo, attorneys of record for
Plaintiffs, are partners in Faraci Lange, LLP, appointed Co-Lead Interim Class Counsel by this

Court. Ms. Matarazzo and Mr. Schwarz submit this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Settlement, Preliminary Certification of Settlement Classes, and Approval of Notice Plan.

2. James J. Bilsborrow is a partner in Seeger Weiss LLP and is one of the attorneys of record for Plaintiffs. Mr. Bilsborrow submits this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Settlement, Preliminary Certification of Settlement Classes, and Approval of Notice Plan.

3. Robin Greenwald, is senior counsel and Environmental Department Manager at Weitz & Luxenberg, LLP, appointed Co-Lead Interim Class Counsel by this Court and is one of the attorneys of record for Plaintiffs. Ms. Greenwald submits this declaration in support of Plaintiffs' Motion for Preliminary Approval of Class Settlement, Preliminary Certification of Settlement Classes, and Approval of Notice Plan.

I. THE LITIGATION

4. This putative class action alleges negligence, nuisance, trespass and strict liability claims against four Defendants for allegedly contaminating the water supply of the Village of Hoosick Falls and numerous private drinking water wells in the Town of Hoosick with the chemical PFOA. Defendants Saint-Gobain Performance Plastics Corp., ("SGPP") and Honeywell International, Inc. ("Honeywell") operated (or purchased companies that formerly operated) facilities in the Village of Hoosick Falls that utilized PFOA in manufacturing ("Processing Defendants"). Defendant 3M Co., (3M) manufactured APFO used at the Processor Defendants' facilities in Hoosick Falls, which when released into the environment became PFOA. Defendant E.I. DuPont de Nemours Company, Inc. ("DuPont") manufactured aqueous fluoropolymer dispersions ("AFD") that were used by the Processor

Defendants to coat fabrics and other substrates and at times contained APFO manufactured by Defendant 3M that when heated was released as PFOA into the environment. DuPont and 3M are referred to collectively as the “Manufacturing Defendants”.

5. Four separate class actions were filed in this Court in 2016 all seeking similar relief against Honeywell and SGPP. On July 27, 2016 the Hon. Daniel J. Stewart granted a motion to consolidate the four actions and appointed Weitz & Luxenberg, P.C. and Faraci Lange, LLP as Co- Lead Interim Class Counsel. (Dkt. 1). Thereafter, on August 26, 2016, a Master Consolidated Class Action Complaint was filed against SGPP and Honeywell on behalf of Michelle Baker, Charles Carr, Angela Corbett, Pamela Forrest, Michael Hickey, individually and as parent and natural guardian of O.H., Kathleen Main-Lingener, Kristin Miller, as parent and natural guardian of K.M., James Morier, Jennefer Plouffe, Silvia Potter, individually and as parent and natural guardian of K.PI and Daniel Schuttig, all individually and on behalf of others similarly situated. (Dkt. 9).

6. On September 26, 2016, Defendants Saint-Gobain and Honeywell filed a Motion to Dismiss Plaintiffs’ Master Consolidated Class Action Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), which the Parties fully briefed. (Dkt. 13.) On February 6, 2017, the Court entered a Memorandum-Decision and Order granting in part and denying in part the Motion to Dismiss. In particular, the Court denied Defendants’ motion to dismiss Plaintiffs’ claims for negligence and trespass, as well as nuisance claims brought by Plaintiffs who obtain drinking water from a private well, but granted the motion to dismiss nuisance claims alleged by Plaintiffs who obtain drinking water from the Village Municipal Water System. The Court also certified its order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). (Dkt. 33.) On February 16, 2017, Saint-Gobain and Honeywell petitioned the Second

Circuit Court of Appeals for permission to appeal pursuant to 28 U.S.C. § 1292(b) and to temporarily stay proceedings in the District Court pending determination of the petition for leave to appeal. Separately, Saint-Gobain and Honeywell each filed an Answer and Affirmative Defenses to the Master Consolidated Class Action Complaint on February 28, 2017.

7. On March 1, 2017, the Second Circuit granted a temporary stay of proceedings in the District Court pending disposition of the motion to stay by the Court. On December 8, 2017, the Second Circuit denied the motion to stay proceedings in the District Court but granted the petition to appeal this Court's motion to dismiss order pursuant to 28 U.S.C. § 1292(b).

8. On December 10, 2018 Plaintiffs filed a First Amended Master Consolidated Class Action Complaint adding 3M and DuPont as Defendants and removing Plaintiff James Morier as a class representative.

9. On February 23, 2018, Saint-Gobain and Honeywell filed an opening brief in the Second Circuit. This was followed by full briefing as well as multiple amicus briefs and oral argument. The Second Circuit ultimately affirmed this Court's motion to dismiss order on May 18, 2020.

A. Discovery

10. Following denial of Defendants' motion to stay proceedings, discovery commenced before this Court.

11. The parties thereafter engaged in significant discovery efforts, involving several sets of written discovery served by and on each party including interrogatories and requests for document production. Interrogatories were answered, voluminous document productions and the parties frequently met and conferred in an attempt to avoid discovery disputes requiring court intervention. Quarterly conferences with Magistrate Judge Stewart were held to discuss

progress as well as any unresolved discovery issues.

12. Depositions of each Plaintiff as well as 11 depositions of current or former employees of Saint-Gobain and/or Honeywell, Rule 30(b)(6) deponents for each company, and one third-party witness were held beginning in December of 2018.

13. After Answers were served by 3M and DuPont, Plaintiffs propounded document requests and interrogatories these Defendants and engaged in motion practice with DuPont on the scope of discovery before Magistrate Judge Stewart. In response to Plaintiffs' document requests, both 3M and DuPont made extensive document productions.

14. Several million pages of documents were produced collectively by Defendants and reviewed and analyzed by Plaintiffs' counsel through the use of a digital document review platform and third-party host system that allowed multiple counsel access from different locations. Documents were also subpoenaed from the New York State Department of Environmental Conservation and the New York State Health Department relevant to the litigation. These were also reviewed and analyzed by Plaintiffs' counsel and experts retained by Plaintiffs' Counsel.

15. Between June 23, 2020 and September 2, 2020, Plaintiffs deposed seven former DuPont employees. Each of these depositions occurred via Zoom because of the limitations imposed by the COVID-19 pandemic.

16. The depositions of witnesses lasted between 7 and 9 hours each and for most defense witnesses spanned more than one day.

B. Motion for Class Certification

17. On April 6, 2020, Plaintiffs filed a Notice of Motion for Class Certification. In their motion, Plaintiffs sought to certify four classes, as follows: (i) a class of property owners

who obtain drinking water from the Village Municipal Water System; (ii) a class of property owners who obtain drinking water from privately owned wells; (iii) a class of property owners and renters who obtain drinking water from a privately owned well upon which a point-of-entry treatment (POET) system was installed; and (iv) a class of individuals exposed to PFOA in their drinking water who subsequently received blood tests demonstrating the presence of PFOA in their blood serum. On April 9, 2020, Plaintiffs filed their Second Amended Master Consolidated Class Action Complaint. All Defendants filed an Answer and Affirmative Defenses to this pleading on July 23, 2020.

18. Defendants filed a joint opposition to Plaintiffs' Motion for Class Certification on January 14, 2021. Defendants 3M and DuPont filed a separate opposition to class certification raising additional, distinct arguments on the same date. Plaintiffs filed replies in support of their Motion for Class Certification to each opposition brief on February 18, 2021.

C. Experts and Expert Depositions

19. Plaintiffs' counsel retained eight different experts and produced reports from these experts at the time the Class Certification motion was filed on April 6, 2020. These experts spanned the following disciplines: environmental engineering and fate and transport of PFOA in the environment; hydrogeology; environmental medicine; epidemiology; pollution control and industrial standard of care, real estate economics; particulate air modeling; and medical monitoring program design and administration.

20. On July 30, 2020, Defendants served eight responsive expert reports. The parties thereafter commenced expert deposition discovery, during which sixteen expert depositions were conducted between October 2020 and December 2020, all via Zoom.

D. *Daubert* Motions

21. Following completion of expert depositions, on January 14, 2021 Defendants filed a joint Motion to Exclude Plaintiffs' Expert Testimony against all of Plaintiffs' experts. Plaintiffs filed an opposition to Defendants' motion to exclude expert testimony on February 18, 2021. Defendants filed a reply in support of their Motion to Exclude Plaintiffs' Expert Testimony on March 11, 2021.

22. On May 7, 2021 this Court issued a Decision and Order denying Defendants' motions to exclude Plaintiffs' experts under *Daubert*. (Dkt. 265.)

II. MEDIATION AND SETTLEMENT NEGOTIATIONS

23. After submission of all supporting and opposition papers on Plaintiffs' Motion for Class Certification and Defendants' Motion to Exclude Expert Testimony, the Parties mutually agreed to attempt to mediate a resolution of this matter and each side proposed a list of three mediators to select from. The Parties mutually agreed to select Professor Eric Green of Resolutions, LLC as mediator. After an initial joint conference call with Prof. Green, the parties were directed to submit Mediation Summaries of no more than twenty-five (25) double-spaced pages to the mediator, with copies to all parties by April 2, 2021. The parties also were directed, at their discretion, to submit an ex parte memo to the mediator. After the summaries and ex parte memos were submitted, Prof. Green spoke to the Plaintiffs' counsel and counsel for each of the four Defendants independently in advance of the first scheduled day of mediation.

24. On April 12, 2021, the Parties engaged in a full-day mediation before Prof. Green. When the session ended on April 2 the Plaintiffs and the Settling Defendants agreed to schedule two additional dates to continue the mediation, April 30, 2021 and May 5, 2021.

Plaintiffs and the Settling Defendants negotiated for another full day on April 30, 2021 but again did not reach an agreement, although progress was made. At the end of the third day of mediation on May 5, 2021, Plaintiffs and the Settling Defendants believed they reached an agreement in principle. In multiple sessions between May 5 and the date the Settlement was executed, the Parties negotiated the detailed Settlement. During this process it became apparent that the parties had not reached agreement as to the geographical scope of the Private Well Water Settlement Class, the Nuisance Settlement Class and the Medical Monitoring Settlement class. This led to further negotiations between the three Settling Defendants and Plaintiffs and eventually another session with Professor Green on June 29, 2021. During this final session, the parties reached agreement on all outstanding terms of the Settlement that is being presented to the Court for preliminary approval. However, several other sessions were required to work out the final language for the Settlement Agreement and related documents.

III. THE PROPOSED SETTLEMENT

25. The terms of the settlement are set forth in the executed Settlement Agreement (“Settlement”) attached as Exhibit 1 to this Declaration including Exhibits A-F to that Agreement which are identified in Appendix B to the Agreement. The Settlement before this Court is between Plaintiffs and Defendants SGPP, Honeywell and 3M (“Settling Defendants”).

The Settlement seeks approval of four settlement classes:

A. Municipal Water Property Settlement Class:

All Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015;

B. Private Well Water Settlement Class

All Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a

private well in which PFOA was detected, and who owned that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015;

C. Nuisance Settlement Class

All Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015

D. Medical Monitoring Settlement Class:

All Persons who, for a period of at least six months between 1996 and 2016, have (a) ingested water supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or Town of Hoosick in which PFOA has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L;

26. Excluded from the Settlement Classes will be the following:

- i. any Person who has timely and validly excluded himself, herself or itself from the Settlement Classes, in accordance with Section 12 of the Settlement,
- ii. any Person who has previously filed a lawsuit alleging a PFOA-related injury or illness, including without limitation a spousal derivative claim, or seeking medical monitoring or property damages, related to the presence of PFOA in the Village Municipal Water System, in private wells in the Village or Town, on or at their property, and/or in their blood, except for the Action, that has not been dismissed and/or in which a request to dismiss pursuant to Fed. R. Civ. P. 41(a)(2) is not pending as of thirty (30) days prior to the Fairness Hearing,
- iii. the Settling Defendants, any entity or division in which the Settling Defendants

have a controlling interest, their legal representatives in this Action, and their officers, directors, assigns and successors;

- iv. the judge to whom this Action is assigned, any member of the judge's immediate family and the judge's staff, or any other judicial officer or judicial staff member assigned to this case, (vi) any Class Counsel, including their partners, members, and shareholders, and any immediate family members of Class Counsel,
- v. any State, including without limitation the United States, or any of its agencies, and (viii) the Village of Hoosick Falls and the Town of Hoosick.

27. The Settling Defendants have agreed to pay the sum of \$65.25 Million Dollars into a common Settlement Fund to fund all of the Settlement Classes, attorneys' fees and case expenses, as well as Administrative Expenses associated with notice, opt outs and objectors. (Exhibit 1, Settlement at §2(b).) The Settling Defendants will pay \$10 million dollars within twenty (20) days of preliminary approval. This Fund will be used to pay administration expenses for providing notice to potential class members and processing claims, opt-outs and objections. This fund will also earn interest that accrues to the benefit of the Nuisance Settlement Classes. (*Id.*) In the event that the Settlement is not ultimately approved, the remainder of this fund will be returned to the Settling Defendants. (*Id.* at §18(e)(ii).) Under no other circumstances will any of this fund revert to the Settling Defendants. The remaining \$55.25 million dollars will be paid into the common Settlement Fund by the Settling Defendants within twenty (20) days of this Court granting final approval of the Settlement. (*Id.* at §2(b)(ii).)

28. The Parties propose that the Settlement Fund be allocated as follows between the four Settlement Classes, Attorneys' Fees, Costs, Administrative Expenses and Class

Representative Service Awards:

A. Property Settlement Classes

The sum of TWENTY MILLION, SIX HUNDRED NINETY-FIVE THOUSAND, DOLLARS (\$20,700,000) shall be allocated from the Settlement Fund for distribution to Property Settlement Class Members who demonstrate eligibility for either the Municipal Water Property Settlement Class or the Private Well Water Property Settlement Class.

B. Nuisance Settlement Class

The sum of SEVEN MILLION, SEVEN HUNDRED SIXTY-ONE THOUSAND, SIX HUNDRED EIGHTY-THREE DOLLARS (\$7,761,683) plus the interest earned on the Settlement Fund prior to final approval shall be allocated from the Settlement Fund for distribution to Nuisance Settlement Class Members who demonstrate eligibility.

C. Medical Monitoring Settlement Class

The sum of TWENTY-TWO MILLION, EIGHT HUNDRED THOUSAND, DOLLARS (\$22,800,000) plus any other remaining portion of the Settlement Fund that is not utilized or allocated for other purposes shall be allocated to the Medical Monitoring Program from the Settlement Fund.

D. Attorneys' Fees

Class Counsel will request at final approval that attorneys' fees of TWELVE MILLION THREE HUNDRED NINETY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$12,397,500), be awarded to Class Counsel for their efforts in bringing about the Settlement. This amounts to 19% of the total Settlement Fund. The Settling Defendants have agreed not to oppose the application for attorneys' fees in this amount.

E. Case Expenses

Class Counsel will request reimbursement of case expenses in the amount of \$1,040,817.

F. Service Awards

Class Counsel will request that each of the ten class representatives receive awards of \$25,000 each for their service in responding to discovery and interrogatories served on them by Defendants, appearing for full day depositions in this matter and serving as representatives of class members to assist counsel throughout this case and during settlement negotiations. The total of these proposed service awards will be \$250,000. The Settling Defendants have agreed not to oppose this application.

G. General Settlement Administration Costs

The General Settlement Administration Costs shall be paid from the Settlement Fund and shall not exceed \$300,000. (Exhibit 1, Settlement, §5(c).) An additional \$200,000 may be paid for these expenses in exceptional circumstances. (*Id.*) These costs shall include, but shall not be limited to, the costs incurred for the performance by the General Administrator of duties related to dissemination of Class Notice, administration of the Escrow Account, processing claims, opt-outs and objections and administration of the Settlement Fund in accordance with the Agreement.

H. Excess Funds

To the extent that any amounts remain in the Settlement Fund after all payments have been made to fund all of the Settlement Classes, Attorneys' Fees and Case Expenses approved by the Court at Final Approval and General Settlement Administrative Costs as well as, any tax-related expenses, and any Court-approved Service Awards, those remaining amounts shall be added to the Medical Monitoring Settlement Class Allocation. (*Id.* at §4(d).)

29. Although the class definitions for the Private Well Property Damage Class, the Nuisance Class and the Medical Monitoring Class proposed in Plaintiffs' motion for class certification designated a class area of less than the entire Town of Hoosick, the parties have negotiated a settlement that includes the entire Town of Hoosick for these three proposed Settlement Classes.

30. The proposed claims process and determination of what each eligible class member will receive is as follows:

- A. Property Damage Settlement Classes – The Town of Hoosick has publically available tax rolls for each year in which the full market value as determined by the Town Assessor is listed for each property. It is proposed that the tax year 2015 be selected for use in the property damage allocation process because this was the most recent year full market values of properties in the Town were determined prior to the discovery of the drinking water contamination. The Settlement provides that a fraction be created for each eligible property in the Property Settlement Classes with the numerator of this fraction being the full market value of the property as set forth on the Town of Hoosick Tax Roll for 2015 and the denominator of the fraction being the total full market value of all eligible properties. This fraction will then be multiplied by the total amount allocated to the Property Settlement Classes (\$20,700,000) to determine the amount the owner(s) of each eligible property will receive. The claims process will require the property owners to complete a simple Claim Form and provide proof of ownership, unless ownership can be determined by the General Administrator through public records, and proof of contamination, in the case

of a private well, or proof that the property is serviced by the Village of Hoosick Falls municipal water system. (*Id.* at §4(a).)

B. Nuisance Settlement Class – Each eligible member of the Nuisance Settlement Class will receive a pro-rata share of the total amount allocated to this class (\$7,761,683). To be eligible, a class member must submit a declaration that establishes they resided at a property serviced by a private well at the time it was discovered to be contaminated with PFOA and proof of either an ownership or leasehold interest in such property at such time. (*Id.* at §4(b).).

C. Medical Monitoring Settlement Class – All members of the Medical Monitoring Settlement Class will be eligible to receive the same testing and clinical services except those that are specific to gender. (*Id.*, Appendix A).

IV. ADEQUACY OF THE SETTLEMENT

A. Property Damage Settlement Classes

31. As stated above, the Settlement is with three of the four Defendants in this case. Plaintiffs' counsel will continue to pursue the fourth Defendant, DuPont, through trial unless a resolution with this defendant is reached sooner. As a result, the amount being offered by the Settling Defendants must be viewed as only a partial recovery on all property damage and medical monitoring claims and further recovery for these classes is probable.

32. To assist in evaluating the reasonableness of the amount apportioned to the Property Damage Settlement Classes, Plaintiffs utilized information and opinions developed by their retained expert, Dr. Jeffrey Zabel. Dr. Zabel is an expert in real estate economics and is well-qualified and has extensive experience analyzing the environmental impacts on real estate markets using econometric models. He is a professor of economics at Tufts University and co-director of its Masters' Program in Data Analytics. (Dkt. 168, Zabel Rpt. at 1.) Dr.

Zabel has published over 35 articles in peer-reviewed economics journals, as well as several book chapters, a number of which analyze the impacts of Superfund designations or other environmental pollution on real estate markets. (*Id.*) To isolate and measure the average percent diminution in value attributable to the market's perception of PFOA contamination in Hoosick Falls, Dr. Zabel designed and applied a hedonic regression model. A hedonic regression model is a statistical tool used to measure the price impact associated with a particular attribute by isolating that attribute from other variables that may affect value.

33. Dr. Zabel collected data on all single-family home sales in Rensselaer and Washington Counties from 1998 through September 2019. (Dkt. 168, Zabel Rpt. at 3.) He removed “outlier” properties from this data set—those for which certain data was missing, homes outside the 1st and 99th percentile in square footage, parcels in excess of 10 acres, and foreclosure sales. (*Id.* at 3-4.) Dr. Zabel then designed a hedonic model, “which explains variations in sales price as a function of property characteristics, location (jurisdiction) attributes, and changes over time.” (*Id.* at 4.) The model specifically includes several property characteristics that typically influence value, such as the age of the home, lot size, the number of bedrooms and bathrooms, and square footage. (*Id.* at 4-5.)

34. Dr. Zabel defined the Town of Hoosick as the relevant market after reviewing state and federal communications, advisories, and media reports that described PFOA contamination throughout both the Village and Town. (Dkt. 168, Zabel Rpt. at 3.) He then identified five “control towns”—nearby communities with real estate markets comparable to Hoosick Falls—and compared sales prices in the Town of Hoosick to those in the controls.¹ Prior to 2016, before information regarding PFOA contamination in Hoosick Falls was widely

¹ The “control towns” consist of Jackson, Easton, Schaghticoke, Brunswick, and Poestenkill. (Dkt. 168, Zabel Rpt. at 5.)

available to the market, property values in Hoosick and the control towns were comparable. (*Id.* at 7-8) Beginning in 2016, however, property values in Hoosick deviated sharply from the control towns, a trend that continue through the end of September 2019. (Dkt. 168, Zabel Rpt. at 7-9.) “The results indicate that properties in Hoosick have been depressed by at least 8.75 percent, and as much as 20 percent or more” as a result of the market’s perception of PFOA contamination. (*Id.* at 1.) The exact diminution in value depends on how such diminution is defined: whether one considers the price impact only in 2016 (24%); whether one considers the price impact since the discovery of PFOA (2016-2019) (21%); or whether one determines price impact by considering a period both before and after discovery of PFOA (2012-2019) (8.75%). (*Id.* at 8-9.) Each output shows that the widespread contamination in Hoosick diminished property values, results that are statistically significant. (*Id.* at 8-9.)

35. From the data analyzed, Dr. Zabel was also able to calculate the average sale price of a home in Town of Hoosick (which includes the Village of Hoosick Falls) since the contamination was discovered (2016-2019), which was \$121,739. Using Dr. Zabel’s hedonic model valuation at 8.75% diminution estimate, this translates to an average loss per home of \$10,652.16. Using the 21% diminution estimate, this translates to an average loss of \$25,565.19 per home. The midpoint between these two estimates, is \$18,108.68 per home.

36. It is estimated that there are approximately 1,300 homes serviced by the Hoosick Falls Village water system and an additional 500 homes with contaminated private wells in the Town of Hoosick with POET systems installed. If the total amount allocated to the Property Damage Settlement Classes (\$20,700,000) is divided by 1800 it yields an average recovery of \$11,500 per home. This represents 63% of the average loss per home at the midpoint between the 21% diminution estimate and the 8.75% diminution estimate. These are

estimates based upon currently available data, and the methodology outlined above. But each property owner will in all cases receive a share of the recovery based upon the full market value of her property prior to the contamination being discovered as compared to the full market value of all eligible properties. In this way each property owner will be treated fairly with owners of more valuable properties receiving a higher dollar amount but each class member will receive an equal percentage of full market value.

37. Accordingly, in this partial settlement it is projected that the Property Damage Settlement Class members will recover 63% of the midpoint estimate by Dr. Zabel of damages for diminution of property values.

B. Nuisance Settlement Class

38. As mentioned above, it is estimated that there are approximately 500 residential homes with private contaminated wells. Owners who resided in these homes at the time the contamination was discovered and lessors of such homes who occupied the homes at that time would be eligible for the Nuisance Damage Settlement Class. It is unknown how many owners/lessors would qualify per property. Assuming that there is an average of 1.5 eligible nuisance class members per home, each nuisance class member would receive \$10,348 per class member.²

39. Damages recoverable in nuisance are for annoyance and inconvenience experienced by class members as a result of the nuisance allegedly created by defendants SGPP and Honeywell by releasing PFOA into the community. These damages are intended to compensate for the loss of use of their usual source of drinking water for several months between the time the contamination was discovered and the time the Village water system and

² New York law restricts nuisance claims to individuals with a property interest in the affected property. *See Swearingen v. Long*, 889 F.Supp. 587, 592-593 (N.D.N.Y. 1995).

the private wells were provided with filtration systems. This period varied between three and six months for all class members. Accordingly, \$10,348 per class member is a reasonable recovery based upon past reported nuisance jury awards. Because there is no claim in nuisance alleged against DuPont, this would be the entire recovery for each nuisance class member. Nevertheless, this is a reasonable recovery based upon the damages suffered.

C. Medical Monitoring Settlement Class

40. Plaintiffs' expert, Dr. Alan Ducatman, has proposed a medical monitoring program for those exposed to PFOA through contaminated drinking water in the class area who are measured to have over 1.86 ug/L of PFOA in their blood. It is believed that approximately 2,000 people from the Town of Hoosick area tested with greater than 1.86 ug/L in testing performed in 2016 and 2018.

41. Plaintiffs have also retained experts on health economics to estimate the cost of a 30 year medical monitoring program. Based upon these cost estimates, the amount allocated to the Medical Monitoring Settlement Class of \$22,800,000 will be sufficient to pay for a medical monitoring program lasting at least ten years assuming 2000 participants.

42. The Settlement provides that any funds left over after the ten year program ends will be distributed pro-rata to the participants in the program based upon their level of participation over the ten year duration. In other words, someone who participated in all benefits of the program for ten years would receive a full pro-rata share, but someone who participated in only 50% of the services offered would receive a ½ pro-rata share. This additional cash distribution to class members, if it occurs, may be used to continue their monitoring beyond ten years or for other purposes at the participant's discretion. Based upon participation rates in other similar programs, it is unlikely that 100% of those eligible will participate in the entire program, so those that do participate are likely to receive significant

cash payments at the end of ten years that will fund additional monitoring and provide further benefit. Moreover, it is expected that the opportunity for a cash payment at the end of ten years will encourage participation, which will benefit more eligible class members.

43. Additionally, as mentioned above, this is only a partial settlement and further recovery is anticipated.

44. The Settlement further provides that in the event the amount left over in the fund from this Settlement after the ten year program ends exceeds the amount that was expended from that fund during this ten year period, the amount of this differential would be paid to a health oriented charitable organization selected by the parties with a mission consistent with the goals of the program.

45. Based upon all of the above, the proposed settlement is reasonable and adequate for the Medical Monitoring Settlement Class.

V. SIDE AGREEMENTS

46. The Settlement incorporates a Supplemental Agreement that will not be publically disclosed. This agreement establishes a threshold for opt outs that if exceeded provides the Settling Defendants option to void the settlement. It was jointly agreed that making this specific threshold number public could potentially encourage an organized effort to solicit opt outs to try to gain additional benefits for a small group of class members to the detriment of the majority of class members. The Settling Defendants have also entered into a confidential agreement specifying the relative share of the Settlement Fund that will be contributed by each Settling Defendant and when. The existence of such agreement has been disclosed to Plaintiffs' counsel but not its terms.

VI. CLASS NOTICE

47. The Settlement provides that KCC Class Action Services LLC will serve as the General Administrator. (Exhibit A, Settlement at §1(x)). Before selecting KCC, Class Counsel contacted and discussed proposals from leading class action settlement notice and administration firms, including KCC. Class Counsel then compared proposals for any inconsistency in services delivered and price, and selected KCC as the best candidate. KCC is a leading class action notice and claims administrator comprised of seasoned class action practitioners. KCC has administered more than 7,000 settlements and has the largest domestic infrastructure in the industry with a large call center that can evaluate thousands of claims per day. (*Id.*, Exhibit D). The Settling Defendants have consented to the appointment of KCC.

48. The Medical Monitoring Administrator will be Edgar C. Gentle, Esq. Mr. Gentle submitted an expert report in this case outlining his experience and skill in administering medical monitoring programs. (*See* Dkt. 163.) In particular, Mr. Gentle has been appointed administrator of four settlements that provide medical testing or access to medical clinics. (*Id.*) He also provided expert testimony for the plaintiffs in *Sullivan v. Saint-Gobain Performance Plastics Corp.*, No. 16-cv-125 (D. Vt.), a factually similar PFOA class action pending in the District of Vermont. The Settling Defendants have consented to Mr. Gentle serving in this capacity. (*See also, Id.*, Exhibit E for Mr. Gentle's qualifications.)

49. The Parties respectfully request that the Court approve the proposed Notice form attached as Exhibit 1, Settlement, Exhibit B. The Settling Defendants will provide the General Administrator with (i) confidential private well testing data provided by the NYSDEC and/or New York State Department of Health, including property addresses, from testing performed on properties within the Town of Hoosick and Village of Hoosick Falls since

December 2015, and (ii) confidential records provided by the NYSDEC and/or New York State Department of Health of all properties within the Town of Hoosick and Village of Hoosick Falls at which POETs have been installed since December 2015. The General Administrator shall use this information solely for the purposes of providing Notice and administering the Settlement, including making eligibility determinations, as described in Section 3.

50. Within twenty (20) days of Preliminary Approval, or by the time specified by the Court, the General Administrator shall commence the Notice Program, including by mailing the Notice Form in such form as is approved by the Court. The General Administrator shall transmit the Notice Form via direct mail to all owners of Residential Properties that obtain drinking water from the Village Municipal Water System and owners of Residential Properties in the Contamination Zone that obtain drinking water from private wells in which PFOA was detected on or after December 2015.

51. Commencing on the Notice Date, the General Administrator will implement the Notice Program. As set forth in more detail in Exhibit F to the Settlement (Exhibit 1 to this Declaration), the Notice Program shall consist of direct mail; internet, national and social media impressions; a national press release; and a community outreach effort. The General Administrator will also maintain a Settlement Website containing the Second Amended Complaint, this Agreement, the Notice Form, Plaintiffs' motion seeking Preliminary Approval, the Preliminary Approval Order, Plaintiffs' motion seeking Final Approval, the Final Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted. These documents shall remain on the Settlement Website for at least six months after Final Approval. The Settlement Website's URL will be www.hoosickfallspfoasettlement.com.

52. The Parties also respectfully request that the Court establish the following schedule after Preliminary Approval: (1) deadline for sending Class Notice (the Notice Date): twenty (20) days from Preliminary Approval; (2) Opt-Out Deadline: one hundred and five (105) days from the Notice Date; (3) Objection Deadline: one hundred and five (105) days prior to the Fairness Hearing; (4) deadline for filing motions for approval of Plaintiffs' Service Awards and attorneys' fees and costs awards: one-hundred twenty (120) days from Preliminary Approval; (5) Fairness Hearing: one-hundred fifty (150) days from Preliminary Approval, or as soon thereafter as is mutually convenient.

VII. OPT OUT PROCEDURES

53. A Settlement Class Member may opt-out of the Settlement Class at any time prior to the Opt-Out Deadline, which is 105 calendar days from the Notice Date (or other date as ordered by the Court), provided the opt-out notice that must be sent to the Settlement Administrator is postmarked no later than the Opt-Out Deadline. (Exhibit 1, Settlement at §12.) If a Property that qualifies for either Property Damage Settlement Class has more than one owner, and if one owner of such property excludes himself or herself from either Property Damage Settlement Class, then all owners of such property shall be deemed to have opted out of the Settlement with respect to that property. (*Id.* at §12(d).)

VIII. OBJECTION PROCEDURES

54. The Settlement also provides a procedure for Settlement Class Members to object to the Settlement, to the application for attorneys' fees and costs, and/or to the Service Awards. (*Id.* at §13). Objections must be submitted no later than the Objection Deadline, as specified in the notice, which is 105 days prior to the Fairness Hearing (or other date as ordered by the Court). (*Id.*) If submitted by mail, an objection shall be deemed to have been submitted

when posted if received with a postmark date indicated on the envelope if mailed first-class postage prepaid and addressed in accordance with the Settlement's instructions. (*Id.*) If submitted by private courier (*e.g.*, Federal Express), an objection shall be deemed to have been submitted on the shipping date reflected on the shipping label. (*Id.*)

IX. INFANTS, INCOMPETENTS AND DECEDENTS

55. Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor will apply to the Court individually or jointly for approval of the settlement on behalf of the Minor class representatives and all absent Minor Settlement Class Members. It is anticipated by the parties that an Order from this Court approving the Settlement for all named Minor Plaintiffs and absent Minor Settlement Class Members will provide authority under Local Rules of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Settlement Class Members to sign Claim Forms and releases on behalf of their Minor children and wards shall effectuate a settlement under Local Rules of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1207 for all named Minor Plaintiffs and absent Minor Settlement Class Members. Proposed Declarations by the Plaintiff parents of the infant representative Plaintiffs and by Interim Class Counsel supporting approval of the Settlement on behalf of all infant Plaintiffs and absent infant class members are attached as Exhibits 2 & 3. Executed versions of these declarations will be filed separately after Preliminary Approval is granted.

56. The legal representatives of deceased or incompetent absent Settlement Class Members shall have authority to sign Claims Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of a deceased or incompetent absent Settlement Class Member submits a Claim Form on that Settlement Class

Member's behalf, that legal representative shall attest to their authority to act for the deceased or incompetent absent Settlement Class Member. With respect to any incompetent Settlement Class Members identified during the claims process, Interim Settlement Class Counsel shall apply for an Order from this Court providing authority for such legal representative to sign the Claim Form and release on behalf of the incompetent Settlement Class Member he or she represents. It is anticipated by the parties that an Order from the Court finally approving the Settlement shall effectuate a settlement under Local Rules of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1207 for all absent incompetent Settlement Class Members.

X. CLASS COUNSEL

57. The Settlement in this action provides meaningful relief to Settlement Class Members and was made possible only by Interim Class Counsel's extensive experience in class action litigation in general and in litigation involving environmental contamination in particular.

58. Class Counsel have emerged as leaders in environmental and class litigation. As detailed in Class Counsel's firm resumes, attached hereto as Exhibits 4-6, Interim Class Counsel also have extensive experience in a wide range of class and environmental litigation.

59. As recognized by Hon. Daniel J. Stewart in his order appointing Weitz & Luxenberg P.C. and Faraci Lange, LLP as interim counsel, both firms, individually and together, have had extensive experience in class action and environmental litigation and this experience has only increased since the time of that order in 2016. (Doc. No. 20). The recent experience is detailed further in Exhibits 4 & 5.

60. James Bilsborrow was with Weitz & Luxenberg until March of 2021 when he became a partner at Seeger Weiss, LLP another highly experienced firm in the field of class

actions. See Exhibit D. Mr. Bilsborrow has worked extensively on this case and it is requested that his new firm in addition to Weitz & Luxenberg, PC and Faraci Lange, LLP, be appointed Class Counsel for the four settlement classes. See Exhibit 6.

XI. INTERIM CLASS COUNSEL'S EFFORTS IN THIS ACTION

61. Interim Class Counsel's combined expertise allowed them to build a strong case of both liability and damages against all four Defendants in this action. The skill, knowledge and innovation on the part of Interim Class Counsel and the extensive effort and investment made by these firms were instrumental in the result achieved.

62. Interim Class Counsel not only successfully defeated Defendants' motion to dismiss in this Court but were successful in the Second Circuit on the appeal of that motion. Interim Class counsel briefed and argued the consolidated appeal of this Court's ruling in this case and its similar ruling in *Benoit v. Saint-Gobain*. The Second Circuit issued its main opinion in the consolidated appeals in the Benoit case with that opinion incorporated by reference into its decision in this case. The Second Circuit's decision has established important precedent for environmental contamination actions and particularly those seeking medical monitoring consequential damages. Interim Class Counsel's novel argument establishing exposure to PFOA as an injury under New York law sufficient to support a negligence claim was a landmark ruling that directly impacted the settlement of this case.

63. As mentioned above, Interim Class Counsel has spent years and thousands of hours pursuing discovery in this case, including organizing and reviewing hundreds of thousands of documents, conducting over two dozen fact witness depositions, over a dozen expert witness depositions, filing an extensive and detailed motion for class certification and successfully defending Defendants' multiple motions to exclude the testimony of Plaintiffs'

experts on *Daubert* grounds.

64. Interim Class Counsel also skillfully negotiated the Settlement in this case. This successful negotiation required extensive experience and unique skills as the Settling Defendants are represented by some of the most experienced and skilled firms and attorneys in the nation. Interim Class Counsel have obtained a resolution that provides a certain recovery of a significant percentage of the best-case recovery against three of the four Defendants in this case with the opportunity for further recovery against Defendant DuPont.

65. Over the five years, Interim Class Counsel have devoted substantial attorney and staff time and over \$1,000,000 of out-of-pocket expenses to develop and prosecute this litigation to a successful conclusion against three major corporations with virtually unlimited resources. Interim Class Counsel have at all times represented Plaintiffs and the Settlement Class on a contingent basis and thus took an enormous risk in investing substantial resources on a highly complex action where the outcome was uncertain.

66. The litigation tasks that Class Counsel performed include:

- A. Researching and preparing the complaints and other pleadings;
- B. Briefing and arguing the opposition to the motion to dismiss;
- C. Briefing and arguing the appeal of the denial of the motion to dismiss in the Second Circuit;
- D. Developing discovery plans, a protective order, and a protocol for the identification and production of highly relevant ESI;
- E. Substantial offensive and defensive party and nonparty discovery, including reviewing millions of pages of documents;
- F. Working with experts to establish liability, causation and damages;
- G. Preparing for and defending dozens of fact and expert depositions;

H. Preparing for and attending three full-day mediations in addition to one supplemental mediation session after an initial agreement had been reached; and

I. Negotiating and preparing documentation for the settlement.

67. In addition to the time already spent on this case over the five years of its existence, Interim Class Counsel estimate that collectively they will spend at least an additional 200-400 hours on this case administering the Settlement and seeking final approval of the Settlement.

XII. CONCLUSION AND RECOMMENDATION

68. As set forth in more detail above and in Exhibit 4-6, Interim Class Counsel in this case have more than fifty (50) years of combined experience representing plaintiffs in environmental contamination mass tort cases and class actions. It is our combined judgment, based upon this experience and our extensive knowledge of the facts of this case that the Settlement with the Settling Defendants is in the best interests of all members of the four proposed settlement classes and preliminary approval should be granted. If approved, this settlement will provide immediate cash payments to class members for their property diminution due to the contamination and their nuisance damages and will also provide ten years of medical monitoring for medical monitoring class members, which will allow for early diagnosis and treatment of diseases and conditions related to PFOA exposure. If Preliminary Approval is not granted, it is likely this litigation will continue for at least two more years and potentially longer delaying any recovery for diminution of property value and nuisance, and delaying the commencement of medical monitoring, which could delay diagnosis and treatment of serious illnesses including cancers. This settlement also avoids the risks of an adverse jury verdict, even though this is not highly likely, it is certainly possible for a jury to

award damages of less than the amount offered and even for a jury to find no liability for one or more of these defendants. Moreover, Interim Class Counsel will continue to litigate this case against Defendant DuPont with the expectation of further recovery for the Property Damage Class Members and the Medical Monitoring Class Members. For all of these reasons, it is respectfully requested that the Court grant Preliminary Approval of this Settlement.

We declare under the penalty of perjury that the foregoing is true and correct.

Dated: July 21, 2021


STEPHEN G. SCHWARZ

Dated: July 21, 2021


HADLEY LUNDBACK MATTARAZZO

Dated: July 21, 2021


ROBIN GREENWALD

Dated: July 21, 2021



JAMES J. BILSBORROW

EXHIBIT 1

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

CLASS SETTLEMENT AGREEMENT

This Class Settlement Agreement is entered into as of the 16th day of July, 2021, by, between and among Plaintiffs, on behalf of themselves and the Settlement Class Members, by and through Class Counsel, and the Settling Defendants, by and through their counsel of record in this Action.

RECITALS

WHEREAS, Plaintiffs have asserted claims against the Defendants in this Action on behalf of four putative classes, including owners and renters of properties supplied with drinking water either by the Village Municipal Water System or by private wells in the Village or the Town of Hoosick in which PFOA has been detected, and current and former residents of the Village and Town with PFOA detected in their blood;

WHEREAS, Plaintiffs allege that the Defendants are liable under several tort theories for various damages and other relief based on the presence of PFOA in the Village Municipal Water System, in private wells, on or at their properties, and/or in their blood;

WHEREAS, Plaintiffs allege that PFOA detected in the Village Municipal Water System and private wells was released from facilities in the Village of Hoosick Falls, which Plaintiffs allege that Saint-Gobain and/or Honeywell's predecessors or their affiliates currently or formerly owned or operated;

WHEREAS, Plaintiffs allege that 3M manufactured certain APFO- or PFOA-containing products supplied to (or that others used in the manufacture of products supplied to), used at, and/or disposed or discharged at facilities in the Village of Hoosick Falls and Town of Hoosick, including those which Plaintiffs allege that Saint-Gobain and/or Honeywell's predecessors or their affiliates currently or formerly owned or operated;

WHEREAS, the Settling Defendants have denied and continue to deny Plaintiffs' allegations, any alleged wrongdoing in connection with any PFOA or other PFAS present in the Village Municipal Water System, in private wells in the Village of Hoosick Falls and Town of Hoosick, on or at Plaintiffs' properties, or in Plaintiffs' blood, and any liability in connection with Plaintiffs' claims; dispute the factual, legal, scientific, and other bases for Plaintiffs' claims and the appropriateness of certifying any putative class for litigation; and maintain that they have meritorious defenses to class certification and to the claims of liability and damages asserted by Plaintiffs; and

WHEREAS, after carefully considering the facts and applicable law and the risks, costs, delay, inconvenience, and uncertainty of continued and protracted litigation, and after engaging in extensive, arm's-length negotiations, with the assistance of a mediator, the Parties desire to settle the Action as to the Settling Defendants and the related claims of Plaintiffs and the Settlement Classes on the terms and conditions stated herein, which Plaintiffs and Co-Lead Interim Class Counsel believe are fair, reasonable, adequate, and beneficial to and in the best interests of the Settlement Class Members;

NOW THEREFORE, subject to approval by the Court pursuant to Federal Rule of Civil Procedure 23, the Parties hereby agree that, in consideration of the promises and mutual covenants set forth in this Agreement and upon occurrence of the Effective Date, the Action and the related claims of Plaintiffs and the Settlement Classes shall be settled, compromised, dismissed on the merits and with prejudice, and released as to the Settling Defendants on the following terms and conditions:

1. Definitions

In addition to the terms defined at various points within this Agreement, the following defined terms shall apply throughout this Agreement:

- a. "3M" means the 3M Company.
- b. "Action" means the putative consolidated class action lawsuit captioned *Baker v. Saint-Gobain Performance Plastics Corporation et al.*, No. 1:16-cv-917, currently

pending in the Court, including without limitation Nos. 1:16-cv-220, 1:16-cv-292, 1:16-cv-394, and 1:16-cv-476.

- c. **“Agreement”** means the Class Settlement Agreement between and among Plaintiffs, on behalf of themselves and the Settlement Class Members, and the Settling Defendants, including all exhibits and addenda thereto, and the supplemental agreements set forth in Section 19 herein.
- d. **“APFO”** means, for purposes of this Agreement only, ammonium perfluorooctanoate and all its chemical precursors and degradants. For purposes of this Agreement, the definition of “APFO” is intended to be as broad and inclusive as possible and includes, without limitation, all APFO-containing substances and all products manufactured with APFO, or which used APFO as a processing aid in connection with such manufacturing, their precursors, and their degradants.
- e. **“CAFA Notice”** means the notice to be disseminated to appropriate federal and state officials pursuant to the requirements of 28 U.S.C. § 1715(b) and in accordance with Section 10 of this Agreement.
- f. **“Claim Form”** means the form in substantially the same form as Exhibit A to this Agreement that must be completed by any Person seeking to receive payment and/or participate in the Medical Monitoring Program as a Settlement Class Member.
- g. **“Claimant”** means any Person who submits a Claim Form to the General Administrator.
- h. **“Class Counsel” or “Co-Lead Interim Class Counsel”** means:

Stephen G. Schwarz
Hadley L. Matarazzo
FARACI LANGE, LLP
28 E. Main St., Suite 1100
Rochester, New York 14614

James J. Bilsborrow
SEEGER WEISS LLP
55 Challenger Road
Ridgefield Park, New Jersey 07660

Robin L. Greenwald
WEITZ & LUXENBERG, P.C.
700 Broadway
New York, New York 10003

as counsel for Plaintiffs and in their capacity as Co-Lead Interim Class Counsel appointed by the Court pursuant to its July 27, 2016 Order, and any other attorney or

law firm that represents any of the Plaintiffs and seeks to receive any portion of the attorneys' fees that may be awarded by the Court in connection with this Settlement.

- i. **"Class Notice"** means the notice of the Settlement that will be provided to prospective Settlement Class Members in accordance with Section 11 of this Agreement.
- j. **"Court"** means the United States District Court for the Northern District of New York, the Honorable Lawrence E. Kahn presiding.
- k. **"Defendants"** means Saint-Gobain, Honeywell, 3M, and E.I. DuPont de Nemours and Company.
- l. **"Effective Date"** means the date on which the last of the following has occurred: (1) twenty-one (21) days following the expiration of the deadline for appealing the Final Approval Order, if no timely appeal is filed; (2) if an appeal of the Final Approval Order is taken, the date upon which all appeals (including any requests for rehearing or other appellate review), as well as all further appeals therefrom (including all petitions for certiorari), have been finally resolved without the Final Approval Order having been materially changed, reversed, vacated, or otherwise overturned in whole or in part, such that no future appeal is possible; or (3) such date as the Parties otherwise agree in writing.
- m. **"Eligible Property"** means any Residential Property that either (1) one or more Municipal Water Property Settlement Class Members demonstrates that he or she owned as of December 16, 2015, and that the property obtained its drinking water from the Village Municipal Water System, in accordance with Section 3(b)(i); or (2) one or more Private Well Property Settlement Class Members demonstrates that he or she owned at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015, and that is in the Village of Hoosick Falls or Town of Hoosick and obtained its drinking water from a private well in which detectable levels of PFOA were discovered through a water test on or after December 16, 2015, in accordance with Section 3(b)(ii).
- n. **"Enrollment Period"** means the period within which potential Settlement Class Members must submit a Claim Form and any supporting documentation so that the General Administrator may determine whether they are eligible to receive payment or participate in the Medical Monitoring Program as Settlement Class Members. The Enrollment Period shall commence thirty (30) calendar days after Preliminary Approval and shall conclude one hundred and fifty (150) days from the Notice Date. Claim Forms postmarked on the date the Enrollment Period closes shall be deemed timely submitted so long as received by the General Administrator within fourteen (14) days thereof.
- o. **"Escrow Account"** means the account established and administered by the General Administrator, into which the Total Settlement Payment, including the Preliminary Settlement Fund Payment, will be deposited as set forth in Section 2(b).

- p. **“Escrow Agent”** means the General Administrator.
- q. **“Excluded Persons”** means (i) any Person who has timely and validly excluded himself, herself or itself from the Settlement Classes, in accordance with Section 12 of this Agreement, (ii) any Person who has previously filed a claim against any Settling Defendant alleging a PFOA-related injury or illness, including without limitation a spousal derivative claim, or seeking medical monitoring or property damages, related to the presence of PFOA in the Village Municipal Water System, in private wells in the Village or Town, on or at their property, and/or in their blood, except for the Action, that has not been dismissed and/or in which a request to dismiss pursuant to Fed. R. Civ. P. 41(a)(2) is not pending as of thirty (30) days prior to the Final Approval Hearing, (iii) the Defendants, any entity or division in which the Defendants have a controlling interest, their legal representatives in this Action, and their officers, directors, assigns and successors, (iv) the judge to whom this Action is assigned, any member of the judge’s immediate family and the judge’s staff, or any other judicial officer or judicial staff member assigned to this case, (v) any Class Counsel, including their partners, members, and shareholders, and any immediate family members of Class Counsel, (vi) any State, including without limitation the United States, or any of its agencies, and (vii) the Village of Hoosick Falls and the Town of Hoosick.
- r. **“Execution Date”** means the date on which the last of Plaintiffs, Class Counsel, Saint-Gobain, Honeywell, and 3M executes this Agreement.
- s. **“Facility”** shall have the same meaning as set forth in 42 U.S.C. § 9601(9) and shall include but not be limited to the sites (and any improvements or modifications thereon) located at 14 McCaffrey Street (DEC Site No. 442046), 1 Liberty Street (DEC Site No. 442048), John Street/3Lyman Street (DEC Site No. 442049), and River Road (DEC Site No. 442008).
- t. **“Final Approval”** means the date that the Court enters the Final Approval Order.
- u. **“Final Approval Hearing”** means the hearing at which the Court will consider whether to give final approval to the Settlement and make such other rulings as are contemplated in the Final Approval Order, including determining the amount of attorneys’ fees and costs awarded to Class Counsel, any General Settlement Administration Costs, and the amount of any Service Awards to the Plaintiffs.
- v. **“Final Approval Order”** means the Court’s order (a) granting final approval to the Settlement; (b) directing that the Agreement be implemented in accordance with its terms; (c) dismissing the Action as against each of the Settling Defendants with prejudice, and without costs; (d) determining pursuant to Rule 54(b) of the Federal Rules of Civil Procedure that there is no just reason for delay and directing entry of a final judgment as to the Settling Defendants; (e) ruling that each of the Releasing Parties has expressly, intentionally, fully, finally, and forever released, waived, compromised, settled, and discharged all Released Claims; (f) barring each of the Releasing Parties from asserting any of the Released Claims against any of the

Released Parties; (g) barring claims by any Person against the Released Parties for contribution or similar claims (however denominated) for all or a portion of any amounts paid or awarded in the Action by way of settlement, judgment, or otherwise; (h) finding that each of the Settling Defendants has complied with and otherwise discharged its obligations under the Class Action Fairness Act, 28 U.S.C. § 1715(b); (i) awarding any attorneys' fees, costs, and expenses payable in connection with the Settlement or the Action; (j) finding that the Class Notice complied with Federal Rule of Civil Procedure 23 and the U.S. Constitution; (k) establishing and approving the Settlement Fund; and (l) reserving exclusive and continuing jurisdiction over the Settlement Fund and the interpretation, performance, implementation, administration, and enforcement of this Agreement and the Court's orders in the Action.

- w. **"General Administrator"** means KCC, the claims administrator for the Municipal Water Property Settlement Class, Private Well Water Property Settlement Class, and Nuisance Settlement Class, and who shall determine the eligibility of Medical Monitoring Settlement Class Members for the Medical Monitoring Program. The General Administrator will also be responsible for performing duties related to dissemination of Class Notice, administration of the Escrow Account, and administration of the Settlement Fund in accordance with this Agreement. Class Counsel and Settling Defendants may, by agreement, substitute a different organization as General Administrator, subject to approval by the Court if the Court has previously entered the Preliminary Approval Order or Final Approval Order. In the absence of agreement, either Class Counsel or any Settling Defendant may move the Court to substitute a different organization as General Administrator, upon a showing that the responsibilities of the General Administrator have not been adequately executed by the incumbent.
- x. **"General Settlement Administration Costs"** means the costs and fees of the General Administrator to effectuate the Notice Program and to administer the Municipal Water Property Settlement Class, Private Well Water Property Settlement Class, and Nuisance Settlement Class, and to determine the eligibility of Medical Monitoring Settlement Class Members for the Medical Monitoring Program. The General Settlement Administration Costs includes the Preliminary Administrative Expenses.
- y. **"Honeywell"** means Honeywell International Inc.
- z. **"Medical Monitoring Administration Costs"** means the costs and fees of the Medical Monitoring Administrator to administer the Medical Monitoring Program.
- aa. **"Medical Monitoring Administrator"** means the administrator for the Medical Monitoring Program, Edgar C. Gentle III, Esq., whose responsibilities shall include those defined herein and in Appendix A to this Agreement.
- bb. **"Medical Monitoring Disbursement"** means the total sum disbursed from the Medical Monitoring Allocation, as defined below, prior to the Program's termination pursuant to Section 4(c)(ii).

- cc. **“Medical Monitoring Participant”** or **“Participant”** means a Medical Monitoring Settlement Class Member who has demonstrated his or her eligibility, as determined by the General Administrator in accordance with Section 3(b)(iv), and participated in screening offered under the Medical Monitoring Program, including submission of an Informational Survey or receipt of a Consultation or Program Services as set forth in Appendix A.
- dd. **“Medical Monitoring Program”** or **“Program”** means the program described in Appendix A.
- ee. **“Medical Monitoring Remainder”** means the total amount of funds remaining in the Medical Monitoring Allocation when the Program terminates pursuant to Section 4(c)(ii).
- ff. **“Medical Monitoring Settlement Class”** means the putative class consisting of all individuals who, for a period of at least six months between 1996 and 2016, have (a) ingested water at their residence(s), which was supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or Town of Hoosick in which PFOA has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child’s birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L; provided, however, that the “Medical Monitoring Settlement Class” shall not include Excluded Persons.
- gg. **“Medical Monitoring Settlement Class Member”** means any member of the Medical Monitoring Settlement Class who has not timely and validly excluded himself, herself, or itself, in an individual or representative capacity, from the Medical Monitoring Settlement Class, in accordance with Section 12 of this Agreement.
- hh. **“Minor”** means a natural Person who is less than eighteen (18) years old.
- ii. **“Municipal Water Property Settlement Class”** means the putative class consisting of all Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015; provided, however, that the “Municipal Water Property Settlement Class” shall not include Excluded Persons.
- jj. **“Net Settlement Fund”** means the portion of the Settlement Fund available for payment to the Settlement Class Members (in accordance with this Agreement) after the payment of any General Settlement Administration Costs, attorneys’ fees, any tax-related expenses, any Court-approved Service Awards to the Plaintiffs, and other costs and expenses payable from the Settlement Fund.
- kk. **“Notice Date”** means the deadline set by the Court by which the General Administrator must send the Class Notice or, if the Court sets no such deadline, thirty

(30) calendar days after Preliminary Approval.

- ll. **“Notice Form”** means the form of notice that shall be posted on the Settlement Website created by the General Administrator and shall be provided by mail to Municipal Water Property Settlement Class Members, Private Well Water Property Settlement Class Members, Nuisance Settlement Class Members, and certain Medical Monitoring Settlement Class Members, as set forth in Section 11 of this Agreement. The Notice Form is attached hereto as Exhibit B.¹
- mm. **“Notice Program”** means the methods provided for in Section 11 of this Agreement for giving notice to potential Settlement Class Members.
- nn. **“Nuisance Settlement Class”** means the putative class consisting of all Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015; provided, however, that the “Nuisance Settlement Class” shall not include Excluded Persons.
- oo. **“Nuisance Settlement Class Member”** means any member of the Nuisance Settlement Class who has not timely and validly excluded himself, herself, or itself, in an individual or representative capacity, from the Nuisance Settlement Class, in accordance with Section 12 of this Agreement.
- pp. **“Nuisance Settlement Class Member Payment”** means the cash distribution that will be made from the Net Settlement Fund to each Nuisance Settlement Class Member pursuant to the allocation terms of the Settlement.
- qq. **“NYSDEC”** means the New York State Department of Environmental Conservation.
- rr. **“Objection”** means a challenge to the Settlement asserted by a Settlement Class Member pursuant to Section 13 of this Agreement.
- ss. **“Objection Deadline”** means the deadline to submit an Objection set by the Court or, if the Court sets no such deadline, one hundred and five (105) days after the Notice Date.
- tt. **“Opt Out”** means the choice of a Settlement Class Member to exclude himself, herself, or itself (in an individual or representative capacity, as appropriate) from the Settlement in accordance with Section 12 of this Agreement.

¹ All Exhibits to this Agreement are appended hereto in Appendix B.

- uu. **“Opt Out Deadline”** means the deadline to Opt Out set by the Court or, if the Court sets no such deadline, one hundred and five (105) days after the Notice Date.
- vv. **“Party”** means any one of the Plaintiffs or any one of Honeywell, Saint-Gobain, and 3M.
- ww. **“Parties”** means all of the Plaintiffs, on behalf of themselves and the Settlement Class Members, and all of Honeywell, Saint-Gobain and 3M.
- xx. **“Person”** means a natural person, guardian, corporation, professional corporation, association, limited liability company, limited company, partnership, limited partnership, joint venture, affiliate, joint-stock company, estate, legal representative, trust, proprietorship, any other type of private entity, states, counties, municipalities, any other public or quasi-public entity, or their respective spouses, heirs, predecessors, successors, executors, administrators, representatives, or assigns.
- yy. **“PFAS”** means, for purposes of this Agreement only, any fluorinated organic substance that contains one or more carbon atoms on which at least one of the hydrogen substituents has been replaced by a fluorine atom. For purposes of this Agreement, the definition of “PFAS” is intended to be as broad and inclusive as possible and includes, without limitation, all per- and poly-fluoroalkyl substances and their chemical precursors and degradants, including PFOA and APFO, as well as all products manufactured with or containing such substances, their precursors, or their degradants.
- zz. **“PFOA”** means, for purposes of this Agreement only, perfluorooctanoic acid and all its chemical precursors and degradants, including without limitation APFO. For purposes of this Agreement, the definition of “PFOA” is intended to be as broad and inclusive as possible and includes, without limitation, all PFOA-containing substances and all products manufactured with or containing such substances, their precursors, and their degradants.
- aaa. **“Plaintiffs”** means any of Michele Baker, Charles Carr, Angela Corbett, Pamela Forrest, Michael Hickey (individually and as parent and natural guardian of O.H., infant), Kathleen Main-Lingener, Kristin Miller (also known as Kristin Harrington) (as parent and natural guardian of K.M., infant), Jennifer Plouffe, Silvia Potter (individually and as parent and natural guardian of C.P., infant), and Daniel Schuttig.
- bbb. **“POET”** means a point-of-entry treatment system.
- ccc. **“Preliminary Administrative Expenses”** shall mean any expenses necessary to obtaining Final Approval of the Settlement after Preliminary Approval is granted, including, but not limited to, expenses associated with providing Class Notice, determining class member eligibility, processing Opt Out requests and Objections, and establishing a qualified settlement fund within the meaning of 26 C.F.R. § 1.468B-1(a) and (c).

- ddd. **“Preliminary Approval”** means the date that the Court enters the Preliminary Approval Order.
- eee. **“Preliminary Approval Order”** means the Court’s order (i) granting preliminary approval to the Settlement; (ii) approving the Class Notice; (iii) finding that it will be likely to certify the Settlement Classes under Federal Rule of Civil Procedure 23; (iv) appointing Plaintiffs as class representatives; (v) appointing Class Counsel to represent the Settlement Classes; and (vi) setting the Opt Out Deadline, the Objection Deadline, the date and time for the Final Approval Hearing, and other appropriate deadlines; which order will be proposed in substantially the same form as Exhibit C and as agreed upon by the Parties.
- fff. **“Preliminary Settlement Fund”** means the common fund or account established to receive the Preliminary Settlement Fund Payment, and to make payments authorized by this Agreement. The fund shall become part of the Settlement Fund upon Final Approval of the Settlement, or, in the case of termination in accordance with Section 18, any unused portion, including interest accrued thereon, shall be returned to the Settling Defendants.
- ggg. **“Preliminary Settlement Fund Payment”** means the payment by the Settling Defendants after Preliminary Approval is granted. The amount of the Preliminary Settlement Fund Payment shall be deducted from the Settling Defendants’ Total Settlement Payment.
- hhh. **“Private Well Water Property Settlement Class”** means the putative class consisting of all Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a private well in which PFOA was detected, and who owned that property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015; provided, however, that the “Private Well Water Property Settlement Class” shall not include Excluded Persons.
- iii. **“Property Settlement Class”** means, collectively, the Municipal Water Property Settlement Class and the Private Well Water Property Settlement Class.
- jjj. **“Property Settlement Class Member”** means any member of either the Municipal Water Property Settlement Class or the Private Well Water Property Settlement Class who has not timely and validly excluded himself, herself, or itself, in an individual or representative capacity, from the Municipal Water Property Settlement Class or the Private Well Water Property Settlement Class, respectively, in accordance with Section 12 of this Agreement.
- kkk. **“Property Settlement Class Member Payment”** means the cash distribution that will be made from the Net Settlement Fund to each Property Settlement Class Member pursuant to the allocation terms of the Settlement.
- lll. **“Released Claims”** shall have the meaning set forth in Section 6 of this Agreement.

- mmm. **“Released Parties”** means Settling Defendants and their current, former, and future direct and indirect parents, subsidiaries, divisions, affiliates, affiliated business entities, joint ventures, successors, predecessors, including without limitation, Dyneon, LLC, Allied-Signal Inc., AlliedSignal Laminate Systems, Inc., Furon Company, and any entity identified as a predecessor to any Settling Defendant in the Second Amended Complaint and/or for which the Second Amended Complaint alleges that any Settling Defendant has succeeded to liability on the basis of any legal theory; and all of their current, former, and future agents, employees, officers, directors, partners, shareholders, owners, members, promoters, representatives, distributors, trustees, attorneys, insurers, subrogees, and assigns, individually or in their corporate or personal capacity, and anyone acting on their behalf, including in a representative or derivative capacity.
- nnn. **“Releasing Parties”** means the Plaintiffs and all other Settlement Class Members and any Person or entity with the right, capacity, or obligation to assert any claim by, on behalf of, for the benefit of, or derived from any alleged damage or injury to the Settlement Class Members, including without limitation any guardians, next friends, trusts, corporate parents, subsidiaries, divisions, affiliates, affiliated business entities, predecessors, successors, and all of their current or former agents, employees, officers, directors, partners, shareholders, owners, members, promoters, representatives, trustees, executors, heirs, attorneys, insurers, subrogees, and assigns, individually or in their corporate or personal capacity, and anyone acting on their behalf, including in a representative or derivative capacity. Notwithstanding that the United States government is excluded from the Settlement Classes, with respect to any Settlement Class Member that is a government entity, Releasing Parties includes any Settlement Class Member as to which the government entity has the legal right to release such claims.
- ooo. **“Residential Property”** means private structures and real property used for residential purposes and shall exclude properties utilized solely for commercial, industrial and agricultural purposes.
- ppp. **“Saint-Gobain”** means Saint-Gobain Performance Plastics Corporation.
- qqq. **“Second Amended Complaint”** or **“Complaint”** means the Second Amended Master Consolidated Class Action Complaint filed in the Action (ECF Dkt. 171) on April 9, 2020.
- rrr. **“Service Award”** means any Court-approved payment to Plaintiffs for serving as class representatives, which is in addition to any Property Settlement Class Member Payment, Nuisance Settlement Class Member Payment, or payment due to them under this Agreement as members of the Medical Monitoring Settlement Class.
- sss. **“Settlement”** means the settlement and compromise reflected in this Agreement.
- ttt. **“Settlement Administration Costs”** means all General Settlement Administration Costs and Medical Monitoring Administration Costs.

uuu. **“Settlement Classes”** means all Persons who are members of the Municipal Water Property Settlement Class, Private Well Water Property Settlement Class, Nuisance Settlement Class, and/or Medical Monitoring Settlement Class.

vvv. **“Settlement Class Member”** means a member of one or more of the Settlement Classes who has not timely and validly excluded himself, herself, or itself (in an individual or representative capacity, as appropriate) from the Settlement Classes, in accordance with Section 12 of this Agreement.

www. **“Settlement Fund”** means the common fund or account established pursuant to and approved by an order of the Court to resolve and satisfy the Released Claims as a qualified settlement fund within the meaning of 26 C.F.R. § 1.468B-1(a) and (c), to receive the Total Settlement Payment, including any unused portion of the Preliminary Settlement Fund Payment, and to make payments authorized by this Agreement.

xxx. **“Settlement Website”** means the website that the General Administrator will establish as a means for Settlement Class Members to obtain notice of and information about the Settlement, through and including hyperlinked access to this Agreement, the Notice Form, the Second Amended Complaint, Plaintiffs’ motion seeking Preliminary Approval, Preliminary Approval Order, Plaintiffs’ motion seeking Final Approval, the Final Approval Order, and the Claim Form and such other documents as the Parties agree to post or that the Court orders posted on the website. These documents shall remain on the Settlement Website for at least six months after Final Approval. The Settlement Website’s URL will be www.hoosickfallspfoasettlement.com.

yyy. **“Settling Defendant”** means any one of Saint-Gobain, Honeywell, and 3M.

zzz. **“Settling Defendants”** means Saint-Gobain, Honeywell, and 3M.

aaaa. **“Total Settlement Payment”** means the SIXTY-FIVE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (\$65,250,000) total cash payment that the Settling Defendants collectively are obligated to make under the terms of this Settlement in accordance with Section 2 of this Agreement.

bbbb. **“Village Municipal Water System”** means the municipal water system for the Village of Hoosick Falls, New York, including the sources of water for the system.

2. **Settlement Payment and Settlement Funds**

a. Settlement Administration.

- i. In connection with the motion for Preliminary Approval of the Settlement, Class Counsel has selected and shall propose KCC (whose qualifications are set forth in Exhibit D) to serve as an independent, third-party General Administrator, to administer the Settlement Fund. Settling Defendants do not object to Class Counsel’s proposal for the General Administrator.

- ii. In connection with the motion for Preliminary Approval of the Settlement, Class Counsel has selected and shall propose Edgar C. Gentile, III, Esq. (whose qualifications are set forth in Exhibit E) to serve as an independent, third-party Medical Monitoring Administrator, to administer the Medical Monitoring Program. Settling Defendants take no position with regard to Class Counsel's proposal for the Medical Monitoring Administrator.

b. Settlement Consideration.

- i. Within twenty (20) days of Preliminary Approval, Settling Defendants shall pay TEN MILLION DOLLARS (\$10,000,000) in cash (the Preliminary Settlement Fund Payment) into the Escrow Account to create the Preliminary Settlement Fund for the benefit of the Settlement Class Members to pay Preliminary Administrative Expenses. Interest accrued will follow the principal amount and shall be added to the Nuisance Settlement Class Allocation, as set forth below.
- ii. Within twenty-one (21) days of the Effective Date, Settling Defendants shall pay the remaining FIFTY-FIVE MILLION TWO HUNDRED FIFTY THOUSAND (\$55,250,000) in cash (which combined with the Preliminary Settlement Fund Payment shall constitute the Total Settlement Payment) into the Escrow Account to create the Settlement Fund for the benefit of the Settlement Class Members. The Settlement Fund shall be used to pay Property Settlement Class Member Payments and Nuisance Settlement Class Member Payments; to fund the Medical Monitoring Program, including to pay incentive payments and distributions to Participants in the Medical Monitoring Program as provided in Sections 4(c)(iv) and (v) herein, as well as all Medical Monitoring Administration Costs; to pay any and all attorneys' fees and costs awarded to Class Counsel; to pay any Service Award to Plaintiffs; and to pay all General Settlement Administration Costs. All funds held by the General Administrator shall remain subject to the jurisdiction of the Court until distributed pursuant to this Agreement.
- iii. All costs of the Notice Program and of other General Settlement Administration Costs shall be paid from the Settlement Fund. Prior to the Effective Date, any General Settlement Administration Costs must be approved by Class Counsel before incurred.

- c. No Liability for Distribution of Settlement Funds. Once the Total Settlement Payment is paid to the Escrow Account, Settling Defendants shall have no liability arising from the allocation or distribution of the Settlement Funds to Settlement Class Members, the Medical Monitoring Program, or anyone else. In no event shall Settling Defendants or their counsel have any liability for the administration of the Settlement Fund or for acts or omissions of the General Administrator or the Medical Monitoring Administrator. Payment of the Total Settlement Payment shall constitute Settling Defendants' sole monetary obligation under the Settlement. In no circumstances shall the Settling Defendants be required to pay anything more than the Total Settlement Payment in relation to this Agreement.

d. Nature of the Settlement Payment and Settlement Funds.

- i. The Settlement Fund and Preliminary Settlement Fund at all times is intended to be a “qualified settlement fund” within the meaning of United States Treasury Regulation § 1.468B-1, 26 C.F.R. § 1.468B-1 and shall be established pursuant to an order of the Court and will be subject to the continuing jurisdiction of Court for the life of the Settlement Fund. Neither the Parties nor the General Administrator shall take a position in any filing or before any tax authority that is inconsistent with such treatment. Each Settling Defendant is a “transferor” within the meaning of United States Treasury Regulation § 1.468B-1(d)(1) to the Settlement Fund. The General Administrator shall be the “administrator” of the Settlement Fund within the meaning of United States Treasury Regulation § 1.468B-2(k)(3) and, as the administrator, the General Administrator shall: (a) timely make or join in any and all filings or elections necessary to make the Settlement Fund a qualified settlement fund at the earliest possible date (including, if requested by any Settling Defendant, a relation-back election within the meaning of United States Treasury Regulation § 1.468B-1(j)); (b) timely file all necessary or advisable tax returns, reports, or other documentation required to be filed by or with respect to the Settlement Fund; (c) timely pay any taxes (including any estimated taxes, and any interest or penalties) required to be paid by or with respect to the Settlement Fund; and (d) comply with any applicable information reporting or tax withholding requirements imposed by applicable law, in accordance with United States Treasury Regulation § 1.468B-2(l). Any such taxes, as well as all other costs incurred by the General Administrator in performing the obligations created by this subsection, shall be paid out of the Settlement Fund. Settling Defendants shall have no responsibility or liability for paying such taxes and no responsibility to file tax returns with respect to the Settlement Fund or to comply with information-reporting or tax-withholding requirements with respect thereto. Settling Defendants shall provide the General Administrator with the combined statement described in United States Treasury Regulation § 1.468B-3(e)(2)(ii).
- ii. Settling Defendants make no representations to Settlement Class Members concerning any tax consequences or treatment of any allocation or distribution of funds to Settlement Class Members pursuant to this Agreement.
- iii. The Total Settlement Payment, including the Preliminary Settlement Fund Payment, constitutes remediation (as defined in 26 U.S.C. § 162(f)) for the claims alleged by Plaintiffs on behalf of themselves and the Settlement Class Members. No portion of the Total Settlement Payment, including the Preliminary Settlement Fund Payment, constitutes a fine, penalty, punitive damages, disgorgement of profits, or reimbursement for investigation or litigation costs within the meaning of 26 U.S.C. § 162(f), or an amount paid in settlement of any claim for any of the foregoing; and if a determination were made to the contrary, the amounts paid would qualify under the exceptions in Subsections 162(f)(2) and (3).

3. **Class Enrollment and Eligibility**

a. Submission of Claim Form and Review.

- i. To become eligible to receive Property Settlement Class Member Payments or Nuisance Settlement Class Member Payments and/or to participate in the Medical Monitoring Program pursuant to this Agreement, Claimants must submit a Claim Form and, if necessary, supporting documents, to the General Administrator during the Enrollment Period. The Claimant shall identify on the Claim Form the Settlement Classes to which he, she, or it, or in their capacity as a representative, purports to belong. The General Administrator shall review the Claim Form and any supporting documentation and determine whether the Claimant is an eligible Settlement Class Member of the Settlement Classes in which he, she, or it, or in their capacity as a representative, purports to belong. A Claim Form postmarked after the Enrollment Period concludes will be rejected by the General Administrator as untimely, and the Claimant submitting such Claim Form cannot qualify to receive payment, participate in the Medical Monitoring Program and/or otherwise qualify for Settlement benefits pursuant to this Agreement.
- ii. The Claim Form shall be in substantially the same form as Exhibit A attached hereto. The Claim Form shall be available on the Settlement Website. To become eligible to receive Property Settlement Class Member Payments or Nuisance Settlement Class Member Payments and/or to participate in the Medical Monitoring Program pursuant to this Agreement, Claimants may be required to submit certain qualifying documentary support, as set forth below. The General Administrator shall be entitled to verify the identity of any Claimant and any information required by the Claim Form.
- iii. If the General Administrator determines that a Claimant has submitted insufficient proof of eligibility, the General Administrator will provide an opportunity for the Claimant to cure the submission to the extent practicable.
- iv. Payments to Settlement Class Members who demonstrate eligibility as determined by the General Administrator and this Agreement shall be paid from the Settlement Fund as set forth in Section 4. The General Administrator shall use reasonable efforts to complete payment then due in accordance with Section 4 within 90 days of the Effective Date.

b. Eligibility Determination.

- i. Municipal Water Property Settlement Class. To demonstrate eligibility to receive payment as a Municipal Water Property Settlement Class Member, Claimants must complete the Claim Form and provide proof of ownership as of December 16, 2015 of Residential Property that obtained its drinking water from the Village Municipal Water System. Proof of ownership may include a combination of the following: 1) a copy of the deed to the property; 2) a copy

of a tax bill demonstrating ownership of the property as of December 16, 2015; and/or 3) any other form of proof deemed appropriate by the General Administrator. If the Claimant does not submit documentary proof of ownership, or does not submit documentary proof sufficient to show ownership as of December 16, 2015, the Claimant's eligibility may also be determined by the General Administrator's reference to public property records. Proof of water source may be provided by a copy of a Village Municipal Water System water bill (of any date) or any other form of proof deemed appropriate by the General Administrator. If the General Administrator is able to obtain public records that establish property ownership as of December 16, 2015, and/or water source of the property, the obligation of the Claimant to provide such proof may be waived by the General Administrator.

- ii. Private Well Water Property Settlement Class. To demonstrate eligibility to receive payment as a Private Well Water Property Settlement Class Member, Claimants must complete the Claim Form and provide proof that they owned Residential Property in the Village of Hoosick Falls or Town of Hoosick that obtained its drinking water from a private well and that they owned that property at the time at which detectable levels of PFOA were discovered in the property's private well through a water test on or after December 16, 2015. Proof of ownership may include a combination of the following: 1) a copy of the deed to the property; 2) a copy of a tax bill demonstrating ownership of the property as of the date when PFOA was discovered in the private well through a water test; and/or 3) any other form of proof deemed appropriate by the General Administrator. If the Claimant does not submit documentary proof of ownership, the Claimant's eligibility may also be determined by the General Administrator's reference to public property records. Proof of detectable levels of PFOA in the property's private well water may be demonstrated by a copy of test results reporting a detectable level of PFOA in the property's private well water on or after December 16, 2015 from a qualified laboratory or from the State of New York, or any other form of proof deemed appropriate by the General Administrator. If the General Administrator is able to obtain public records and/or confidential records and data provided by the NYSDEC that establish property ownership as of December 16, 2015 and/or detectable levels of PFOA in the property's private well on or after December 16, 2015, the obligation of the Claimant to provide such proof may be waived by the General Administrator.
- iii. Nuisance Settlement Class. To demonstrate eligibility to receive payment as a Nuisance Settlement Class Member, Claimants must complete the Claim Form and provide proof of ownership of, or leasehold interest in, Residential Property in the Village of Hoosick Falls or Town of Hoosick 1) that obtained its drinking water from a private well in which detectable levels of PFOA were discovered through a water test on or after December 16, 2015; 2) that had a POET installed to filter water from that private well; and 3) on which the Claimant resided at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015. Proof of ownership or leasehold interest

may include a combination of the following: 1) a copy of the deed to the property; 2) a copy of a tax bill demonstrating ownership at the time that detectable levels of PFOA were discovered through a water test on or after December 16, 2015; 3) a copy of the lease for such property; 4) a sworn declaration confirming a leasehold interest at the time that detectable levels of PFOA were discovered through a water test on or after December 16, 2015; and/or 5) any other form of proof deemed appropriate by the General Administrator. Proof of detectable levels of PFOA in the property's private well water may be demonstrated by a copy of test results reporting a detectable level of PFOA in the property's private well water on or after December 16, 2015 from a qualified laboratory or from the State of New York, or any other form of proof deemed appropriate by the General Administrator. Proof of the installment of a POET may be demonstrated through documentation from the State of New York showing the installation or testing of such POET or through any form of proof deemed appropriate by the General Administrator. Proof of residency at the time on or after December 16, 2015 that test results showed a detectable level of PFOA in the property's private well may be provided by a declaration of residency sworn to by the Claimant. If the General Administrator is able to obtain public records and/or confidential records and data provided by the New York State Department of Health and/or NYSDEC that establish property ownership, residency, detectable levels of PFOA in the property's private well water on or after December 16, 2015, and/or installation of a POET at the property, the obligation(s) of the Claimant to provide such proof may be waived by the General Administrator.

- iv. Medical Monitoring Settlement Class. To demonstrate eligibility to participate in the Medical Monitoring Program as a Medical Monitoring Settlement Class Member, a Claimant must complete the Claim Form and provide proof that (a) for a period of at least six months between 1996 and 2016, he or she ingested water at his or her Residential Property that was supplied with drinking water by the Village Municipal Water System or a private well in the Village of Hoosick Falls or Town of Hoosick in which PFOA was detected; and (b) had a serum PFOA concentration of more than 1.86 µg/L. A Claimant may also establish eligibility by demonstrating that he or she is a natural child (i) born to a female who meets and/or met these criteria at the time of his or her birth and (ii) whose blood serum was tested after birth, disclosing a serum PFOA concentration of more than 1.86 µg/L. Proof of residence at a Residential Property for at least six months between 1996 and 2006 may be provided by a sworn declaration. Proof of drinking water supplied by the Village Municipal Water System can be demonstrated through a copy of a water bill (of any date) for such residence or such other proof as the General Administrator deems appropriate. Proof of drinking water supplied by a private well in which PFOA was detected may be demonstrated by a copy of test results reporting a detectable level of PFOA in the property's private well water on or after December 16, 2015 from a qualified laboratory or from the State of New York, or any other form of proof deemed appropriate by the General Administrator. The General Administrator may also obtain such information by reference to

public records and/or confidential records and data provided by the New York State Department of Health and/or NYSDEC. Proof of a serum PFOA concentration above 1.86 µg/L may be demonstrated by a copy of a serum PFOA test result from a qualified laboratory or from the State of New York.

4. **Calculation of Class Member Payments**

a. Property Settlement Classes

- i. Property Payment Allocation. The sum of TWENTY MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$20,700,000) shall be allocated from the Settlement Fund for distribution to Property Settlement Class Members who demonstrate eligibility in accordance with Section 3(b)(i) or (ii). This shall be referred to as the “Property Payment Allocation.”
- ii. Calculation of Settlement Payment for Each Property. The General Administrator shall total the full market values of all Eligible Properties as determined by the 2015 County Assessment Roll for the Town of Hoosick, which will comprise the denominator of a fraction. For calculating the distribution for each Eligible Property, the full market value of that Eligible Property as determined by the 2015 County Assessment Roll for the Town of Hoosick shall comprise the numerator of this fraction, which will then be multiplied by the Property Payment Allocation to yield the individual amount due to the Property Settlement Class Member(s) who owned the Eligible Property as of December 15, 2016. The amount payable for each Eligible Property shall be based upon this fraction regardless of the number of owners of such property. If there are multiple Property Settlement Class Members who owned an individual Eligible Property as of December 15, 2016 and demonstrate eligibility in accordance with Section 3(b)(i) or (ii), the General Administrator shall pay this amount in equal shares to each such Property Settlement Class Member.

b. Nuisance Settlement Class

- i. Nuisance Payment Allocation. The sum of SEVEN MILLION SEVEN HUNDRED AND SIXTY-ONE THOUSAND SIX HUNDRED AND EIGHTY-THREE DOLLARS (\$7,761,683) shall be allocated from the Settlement Fund for distribution to Nuisance Settlement Class Members who demonstrate eligibility in accordance with Section 3(b)(iii). This shall be referred to as the “Nuisance Payment Allocation.” All interest earned on the Preliminary Settlement Fund Payment deposited in the Escrow Account shall after Final Approval also be allocated to the Nuisance Settlement Class and be added to this allocation.
- ii. Calculation of Nuisance Damage Settlement Class Member Payment. The Nuisance Payment Allocation shall be divided evenly by the General Administrator among all Nuisance Damage Settlement Class Members who

demonstrate eligibility in accordance with Section 3(b)(iii), and an equal share shall be paid to each Nuisance Settlement Class Member who demonstrates eligibility in accordance with Section 3(b)(iii).

c. Medical Monitoring Settlement Class

- i. Medical Monitoring Allocation. The sum of TWENTY-TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$22,800,000) shall be allocated to the Medical Monitoring Program from the Settlement Fund. This shall be referred to as the “Medical Monitoring Allocation.” The Medical Monitoring Administrator shall establish an account into which the Medical Monitoring Allocation shall be deposited by the General Administrator, and the Medical Monitoring Allocation shall thereafter be used to pay all expenses related to the Medical Monitoring Program as further delineated in Appendix A, including payments to Participating and Non-Participating Physicians, laboratories, and all Medical Monitoring Administration Costs.
- ii. Term. The Medical Monitoring Program shall begin on the Effective Date and shall terminate at the earlier of (a) when the Medical Monitoring Allocation has been expended; or (b) when all bills submitted to the Medical Monitoring Administrator for services under the Medical Monitoring Program rendered on or before the ten (10) year anniversary of the Effective Date are paid.
- iii. Medical Monitoring Program Provisions. The testing and services protocols under the Medical Monitoring Program, their frequency, and other details concerning the operation of the Medical Monitoring Program are set forth in Appendix A, attached hereto and incorporated herein.
- iv. Incentive Payments. A maximum incentive payment of ONE HUNDRED DOLLARS (\$100) shall be paid to any Medical Monitoring Settlement Class Member who completes both the Initial Informational Survey and the Initial Screening Consultation as described in Appendix A within twelve (12) months of the Effective Date. No other incentive payments shall be made at any time for participation in the Medical Monitoring Program.
- v. Distribution of Remainder of Funds at Termination of the Medical Monitoring Program. The amount, if any, remaining of the Medical Monitoring Allocation when the Program terminates pursuant to Section 4(c)(ii) shall be distributed as follows:
 1. An amount equal to the Medical Monitoring Disbursement or to the Medical Monitoring Remainder, whichever is less, shall be distributed on a pro-rata basis to all Participants in the Medical Monitoring Program based on their level of participation during its term, as determined by the Medical Monitoring Administrator. For example, Participants who have participated in all services available to them under the Medical Monitoring Program as determined by the Medical Monitoring Administrator shall receive one pro-

rata share, while Participants who have participated in 50% of services available to them under the Medical Monitoring Program shall receive one-half of a pro-rata share.

2. In the event the Medical Monitoring Remainder is greater than the Medical Monitoring Disbursement, an amount equal to the difference between the Medical Monitoring Remainder and the Medical Monitoring Disbursement will be paid as a contribution to a not-for-profit organization that focuses on health and well-being of residents in or around the Town of Hoosick that serves the Town of Hoosick and/or Village of Hoosick Falls community. The Parties will work together to identify the appropriate recipient organization within 120 days of the Effective Date and thereafter seek Court approval of their selection. If the recipient organization identified by the Parties ceases to exist at any time after the Effective Date but before termination of the Medical Monitoring Program pursuant to Section 4(c)(ii), the Parties shall meet and confer in good faith to propose a reasonable substitute recipient organization and shall seek Court approval of their proposal.
3. Nothing in this Agreement or in Appendix A shall be construed as Settling Defendants' agreement with or endorsement of any oral or written statements made by or the selection of the General Administrator, the Medical Monitoring Administrator, an Overseeing Program Physician or a Program Physician (as those terms are defined in Appendix A), or the Medical Monitoring Program itself, including as to any purported health or environmental risks associated with PFOA (or PFAS).
- d. Excess Settlement Funds. To the extent that any amounts remain in the Settlement Fund after all payments have been made pursuant to Section 4(a)-(c) herein, and following disbursement of Court-approved attorneys' fees and costs, General Settlement Administration Costs, any tax-related expenses, and any Court-approved Service Awards, those remaining amounts shall be added to the Medical Monitoring Allocation.

5. **Attorneys' Fees, Costs, and Expenses**

- a. Class Counsels' Fees and Costs. Class Counsels' reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid from the Settlement Fund no later than twenty-eight (28) days after the Effective Date. Class Counsel shall apply for an award of attorneys' fees up to 19% of the Total Settlement Payment, or TWELVE MILLION THREE HUNDRED NINETY-SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$12,397,500), and reimbursement of reasonable litigation costs of ONE MILLION FORTY THOUSAND EIGHT HUNDRED AND SEVENTEEN DOLLARS (\$1,040,817), to be approved by the Court. Settling Defendants agree not to oppose an application for attorneys' fees and costs in those amounts. Settling Defendants shall not be responsible for any attorneys' fees,

expenses, or costs in this Action beyond the amounts allocated for these purposes in this paragraph.

- b. Service Awards. Subject to Court approval, each Plaintiff shall be entitled to receive a Service Award of up to \$25,000 each for his or her role as a class representative. The Service Awards shall not exceed \$250,000 in the aggregate and shall be paid from the Settlement Fund no later than twenty-eight (28) days from the Effective Date.
- c. Administrative Fees and Costs. The General Settlement Administration Costs shall be paid from the Preliminary Settlement Fund and, after Final Approval, the Settlement Fund within ten (10) days after invoicing to and written approval by Class Counsel. Total General Settlement Administration Costs, including Preliminary Administrative Expenses, shall not exceed \$300,000, except that, in the event of exceptional circumstances, an additional amount not to exceed \$200,000 may be paid from the Preliminary Settlement Fund for General Settlement Administration Costs, including Preliminary Administrative Expenses.
- d. Total Settlement Payment. When combined with the amounts set forth in Sections 4(a)(i), (b)(i), and (c)(i), the sum of amounts set forth in Sections 5(a)-(c) shall not exceed the Total Settlement Payment amount set forth in Section 1(aaaa).

6. **Dismissal, Release of Claims, and Related Provisions**

- a. Dismissal. In the motion for final approval of the Settlement, Plaintiffs, on behalf of themselves and the Settlement Classes, shall request that the Final Approval Order dismiss the Action with prejudice as to the Settling Defendants and enter a final judgment as to them.
- b. Release. Upon the Effective Date, the Releasing Parties shall have expressly, intentionally, voluntarily, fully, finally, irrevocably, and forever released, relinquished, waived, compromised, settled, and discharged the Released Parties from each and every past, present, and future claim and cause of action, including without limitation causes of action and/or relief created or enacted in the future—whether known or unknown, whether direct or indirect, individual or class, in constitutional, federal, state, local, statutory, civil, or common law or in equity, or based on any other law, rule, regulation, ordinance, directive, contract, or the law of any foreign jurisdiction, whether fixed or contingent, known or unknown, liquidated or unliquidated, suspected or unsuspected, asserted or unasserted, matured or unmatured, or for compensatory damages, consequential damages, incidental damages, statutory damages, punitive, special, multiple, treble, or exemplary damages, nominal damages, disgorgement, restitution, indemnity, contribution, penalties, injunctive relief, declaratory relief, attorneys’ fees, court costs, or expenses—that were or could have been asserted in the Action or any other forum, arising out of or related to, either directly or indirectly or in whole or in part: (i) the subject matter of any allegations contained in the Second Amended Complaint, any allegations otherwise asserted in the Action, or the subject matter of any discovery

obtained in the Action; (ii) the alleged presence of PFAS (including PFOA) in drinking water or the environment (including but not limited to in air, groundwater, surface water, municipal water, private well water, or soil) within the Village of Hoosick Falls or the Town of Hoosick; (iii) the sale, purchase, use, handling, transportation, release, discharge, migration, emission, spillage, or disposal of PFAS (including PFOA) to, at, or from a Facility in or near the Village of Hoosick Falls or the Town of Hoosick, including any such PFAS (including PFOA) present as a result of disposal at or discharge to, directly or indirectly, any landfill, sewage system, water treatment facility, or any other location in and around the Village of Hoosick Falls or Town of Hoosick, and/or resulting in any alleged exposure of any Settlement Class Member to PFAS (including PFOA) through drinking water, inhalation, dermal contact, or otherwise; (iv) for any type of relief with respect to the acquisition, installation, maintenance, operation, or presence of, including the cost or purported inconvenience or loss of enjoyment of, property associated with whole-house filters, point-of-entry (POET) filters, point-of-use filters, municipal water, private well water, bottled water, alternative water supplies, or remediation; (v) for property damage or property-value diminution, including without limitation stigma, purportedly attributable to the alleged presence of PFAS (including PFOA) in the Village Municipal Water System or any private well, or in the air, groundwater, surface water, municipal water, private well water, or soil in or around the Village of Hoosick Falls or the Town of Hoosick; and/or (vi) based on PFAS (including PFOA) in the blood or tissue of any Settlement Class Member (the “**Released Claims**”); provided, however, that the “Released Claims” do not include any individual claims of the Releasing Parties (a) for any damages (including for screenings, tests, examinations, and/or diagnostic procedures) related to past, present, or future manifested bodily injuries that have resulted in a medically diagnosed condition, or (b) to enforce the terms of this Agreement or the Final Approval Order. For purposes of this Agreement, “manifested bodily injuries that have resulted in a medically diagnosed condition” do not include the detection or accumulation of PFAS (including PFOA) in blood or other bodily tissue.

- c. N.Y. Gen. Oblig. § 15-108: The releases set forth herein are given pursuant to New York law and shall be construed under New York law, including N.Y. General Obligations Law § 15-108, which bars claims for contribution by joint tortfeasors as provided for in article fourteen of the New York Civil Practice Law and Rules, without regard to New York’s conflict or choice of law principles. This Agreement is expressly intended to absolve the Released Parties from any claims for contribution (however denominated) by any other Defendant(s), any other Person that might be subsequently added or joined as a party in the Action, or any other Person sued or deemed responsible for any claim or damages arising out of or related to the Released Claims, in the manner and to the fullest extent permitted under the law of New York, including N.Y. General Obligations Law § 15-108, or of any other jurisdiction that might be construed or deemed to apply for claims of contribution (however denominated) against any Released Party. Notwithstanding the foregoing, should any court determine that any Defendant or any other Person subsequently added or joined as a party in the Action is or was legally entitled to any kind of contribution from the Settling Defendants arising out of or related to Released Claims, the

Releasing Parties agree that any money judgment subsequently obtained by the Releasing Parties against any Defendant or any other Person subsequently added or joined as a party in the Action shall be reduced to an amount such that, upon paying the entire amount, the Defendant or any other Person subsequently added or joined as a party in the Action would have no claim for contribution (however denominated) against the Released Parties.

- d. Minor Plaintiffs: Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor will apply to the Court individually or jointly for approval of the settlement on behalf of the Minor class representatives and all absent Minor Settlement Class Members. It is contemplated by the Parties that the Preliminary Approval Order will provide authority under Local Rules of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Settlement Class Members to sign Claim Forms and releases on behalf of their Minor children and wards. It is further contemplated by the Parties that an Order from the Court finally approving the Settlement shall effectuate a settlement under Local Rule 17.1 and N.Y. C.P.L.R. § 1207 for all named Minor Plaintiffs and absent Minor Settlement Class Members.
- e. Incompetent Absent Class Members: It is contemplated by the Parties that legal representatives of incompetent absent Settlement Class Members shall have authority to sign Claim Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of an incompetent absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the incompetent absent Settlement Class Member. It is contemplated by the Parties that the Preliminary Approval Order will provide authority under Local Rule 17.1 and N.Y. C.P.L.R. § 1201 for such legal representatives to sign the Claim Forms and releases on behalf of the incompetent Settlement Class Members they represent. It is contemplated by the Parties that an Order from the Court finally approving the Settlement shall effectuate a settlement under Local Rule 17.1 and N.Y. C.P.L.R. § 1207 for all absent incompetent Settlement Class Members.
- f. Deceased Absent Class Members: It is contemplated by the Parties that legal representatives of deceased absent Settlement Class Members shall have authority to sign Claim Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of a deceased absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the deceased absent Settlement Class Member.
- g. No Waiver of Defenses: The Settling Defendants do not waive or forfeit any claims, defenses or arguments that they could assert, including as to any claims or causes of action that are outside the definition of "Released Claims."
- h. Exclusive Remedy: The relief provided for in this Agreement shall be the sole and exclusive remedy for all Releasing Parties with respect to any Released Claims, and

the Released Parties shall not be subject to liability or expense of any kind with respect to any Released Claims other than as set forth in this Agreement.

- i. Covenant Not To Sue: Each of the Releasing Parties shall forever refrain from instituting, maintaining, prosecuting, or continuing any suit, action, arbitration, or proceeding against any of the Released Parties with respect to the Released Claims.
- j. Waiver of Statutory Rights: To the extent the provisions apply, the Releasing Parties expressly, knowingly, and voluntarily waive the provisions of Section 1542 of the California Civil Code, which provides as follows:

A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

To the extent the provisions apply, the Releasing Parties likewise expressly, knowingly, and voluntarily waive the provisions of Section 20-7-11 of the South Dakota Codified Laws, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

To the extent the laws apply, the Releasing Parties expressly waive and relinquish all rights and benefits that they may have under, or that may be conferred upon them by, Section 1542 of the California Civil Code, Section 20-7-11 of the South Dakota Codified Laws, and all similar laws of other States, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Releasing Parties acknowledge that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe to exist with respect to the Released Claims, but that it is their intention to accept and assume that risk and fully, finally, and forever release, waive, compromise, settle, and discharge all of the Released Claims against Released Persons. The release thus shall remain in effect notwithstanding the discovery or existence of any additional or different claims or facts.

- k. Full and Complete Defense: To the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against, any action, suit, arbitration, or other proceeding that may be instituted, prosecuted, or attempted in breach of or contrary to this Settlement Agreement, or that asserts any Released Claims against any of the Released Parties.

7. **No Admission of Wrongdoing or Liability**

- a. The Settling Defendants do not admit or concede any liability, fault, omission, or wrongdoing, acknowledge any validity to the allegations or claims asserted in the

Action, acknowledge that certification of any litigation class is appropriate as to any claim, admit, concede or acknowledge that the Medical Monitoring Program is medically necessary, or acknowledge any weakness in the defenses asserted in the Action, and nothing in this Agreement, the Preliminary Approval Order, or the Final Approval Order shall be interpreted to suggest anything to contrary.

- b. Nothing in this Agreement, any negotiations, statements, communications, proceedings, filings, or orders relating thereto, or the fact that the Parties entered the Agreement and settled the Action shall be construed, deemed, or offered as an admission or concession by any of the Parties, Settlement Class Members, or Settling Defendants or as evidentiary, impeachment, or other material available for use or subject to discovery in any suit, action, or proceeding (including this Action) before any civil or criminal court, administrative agency, arbitral body, or other tribunal, except (i) as required or permitted to comply with or enforce the terms of this Agreement, the Preliminary Approval Order, or the Final Approval Order, or (ii) in connection with a defense based on *res judicata*, claim preclusion, collateral estoppel, issue preclusion, release, or other similar theory asserted by any of the Released Parties. The limitations described in this paragraph shall apply whether or not the Court enters the Preliminary Approval Order or the Final Approval Order, or any such order is affirmed, reversed, vacated, or overturned by an appellate court.

8. **Preliminary Approval**

- a. Upon execution of this Agreement by all Parties, Class Counsel shall promptly move the Court for a Preliminary Approval Order. The proposed Preliminary Approval Order shall be attached to the motion, or otherwise filed with the Court, and shall be in a form attached hereto as Exhibit C.
- b. The motion for Preliminary Approval shall, among other things, request that the Court: (1) preliminarily approve the terms of the Settlement as being within the range of fair, adequate, and reasonable; (2) find that it will be likely to certify the Municipal Water Property Settlement Class, the Private Well Water Property Settlement Class, the Nuisance Settlement Class, and the Medical Monitoring Settlement Class pursuant to Federal Rule of Civil Procedure 23, for settlement purposes only, appoint the Plaintiffs as representatives of the appropriate Settlement Classes, and appoint Co-Lead Interim Settlement Class Counsel as counsel for the Settlement Classes; (3) appoint the General Administrator; (4) approve the Notice Program set forth herein and approve the form and content of the Class Notice; (5) approve the procedures set forth herein in Sections 12 and 13 for Settlement Class Members to Opt Out or object to the Settlement; (6) provide the requisite authority for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; (7) stay further proceedings against Settling Defendants pending Final Approval of the Settlement; and (8) schedule a Final Approval Hearing for a time and date mutually convenient for the Court, Class Counsel, and counsel for Settling Defendants, at which the Court will conduct an inquiry into the fairness of the Settlement, determine

whether it was made in good faith, and determine whether to approve the Settlement and Class Counsels' application for attorneys' fees and costs and for a Service Award to Plaintiffs.

- c. In Plaintiffs' motion seeking Preliminary Approval, Plaintiffs shall request that the Court approve the Notice Form attached at Exhibit B and approve the Notice Program. The Court will ultimately determine and approve the content and form of the Notice Form to be distributed to the Settlement Class Members.
- d. The Parties further agree that in Plaintiffs' motion seeking Preliminary Approval, Plaintiffs will request that the Court enter the following schedule governing the Settlement: (1) deadline for commencing Class Notice (the Notice Date): thirty (30) days from Preliminary Approval; (2) Opt Out Deadline: one hundred and five (105) days from the Notice Date; (3) Objection Deadline: one hundred and five (105) days from the Notice Date; (4) deadline for filing motions for approval of Plaintiffs' Service Awards and attorneys' fees and costs awards: one-hundred fifty (150) days from Preliminary Approval; (5) deadline for filing motion for final approval: one-hundred fifty (150) days from Preliminary Approval; (6) Final Approval Hearing: one-hundred eighty (180) days from Preliminary Approval, or as soon thereafter as is mutually convenient.

9. **Class Certification for Settlement Purposes**

- a. In the motion for preliminary approval of the Settlement, Plaintiffs shall propose certification of the Settlement Classes, solely for purposes of the Settlement, pursuant to Federal Rules of Civil Procedure 23(b)(3) and 23(e), with Plaintiffs as the proposed class representatives, which the Settling Defendants will not oppose.
- b. If this Agreement is terminated or the Court (or an appellate court) declines to approve the Settlement as proposed by the Plaintiffs, the Settling Defendants shall retain all of the rights to oppose class certification (and assert all other arguments and defenses) that they had prior to execution of this Agreement.
- c. Nothing in this Agreement, the Settlement, or the orders, filings, proceedings, or negotiations related to this Agreement or the Settlement shall prejudice the Settling Defendants' rights to oppose class certification, for purposes of litigation, in the Action or any other lawsuit. This section does not prevent this Agreement and the related orders, filings and proceedings from being used as evidence or argument concerning whether the Action or any other lawsuit may be certified for solely settlement purposes.

10. **CAFA Notice**

- a. Within ten (10) days after Plaintiffs file the motion for preliminary approval of the Settlement, each Settling Defendant shall provide CAFA Notice to the appropriate officials of the United States, the State of New York, the other forty-nine states, and the territories. Settling Defendants shall bear the costs of such notice.

- b. When each Settling Defendant provides CAFA Notice in accordance with Section 10(a) of this Agreement, it shall provide copies of the CAFA Notice to Plaintiffs.

11. Class Notice

- a. Provision of Information to the General Administrator. The proposed General Administrator shall execute a Written Assurance of compliance with the Amended Stipulated Protective Order of Confidentiality in this Action (ECF Dkt. 131) on or before the filing of Plaintiffs' motion seeking Preliminary Approval. Within twenty (20) days of the filing of Plaintiffs' motion seeking Preliminary Approval, the Settling Defendants will provide the General Administrator with (i) confidential private well testing data provided by the NYSDEC and/or New York State Department of Health, including property addresses, from testing performed on properties within the Town of Hoosick and Village of Hoosick Falls since December 2015, and (ii) confidential records provided by the NYSDEC and/or New York State Department of Health of all properties within the Town of Hoosick and Village of Hoosick Falls at which POETs have been installed since December 2015. The General Administrator shall use this information solely for the purposes of providing Class Notice and administering the Settlement, including making eligibility determinations, as described in Section 3.
- b. Within thirty (30) days of Preliminary Approval, or by the time specified by the Court, the General Administrator shall commence the Notice Program, including by mailing the Notice Form in such form as is approved by the Court. The General Administrator shall transmit the Notice Form via direct mail to all owners of Residential Properties that obtain drinking water from the Village Municipal Water System and owners and renters of Residential Properties in the Town of Hoosick or Village of Hoosick Falls that obtain drinking water from private wells in which PFOA was detected on or after December 2015.
- c. Commencing on the Notice Date, the General Administrator shall implement the Notice Program. As set forth in more detail in Exhibit F, the Notice Program shall consist of direct mail; internet, national and social media impressions; a national press release; and a community outreach effort. As set forth in more detail in Exhibit F, the Notice Program will feature a media campaign with the following features:
 - i. A digital media plan will achieve approximately 54.2 million impressions, targeting adults eighteen and over by geo-targeting New York State, Albany-Troy-Schenectady, and Hoosick Falls on desktop and mobile devices via various websites and Facebook. A supplemental digital media plan will target adults eighteen and over nationwide via various websites and adults eighteen and over on Facebook and Instagram who have Bennington College listed as part of their education, and will use IP targeting to reach devices mapped to approximately 1700 postal addresses in Hoosick Falls.

- ii. A newspaper campaign will feature one quarter-page ad to be published in the Main News section of the *Bennington Banner* (on any one Tuesday through Saturday) and *Eastwick Press* (on any one Friday).
 - iii. A nationwide press release.
 - iv. A community outreach plan will work with prominent news organizations, agencies, and community organizations to disseminate notice of the Settlement to their audiences and networks.
- d. The General Administrator shall maintain a Settlement Website containing the Second Amended Complaint, this Agreement, the Notice Form, Plaintiffs' motion seeking Preliminary Approval, the Preliminary Approval Order, Plaintiffs' motion seeking Final Approval, the Final Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted. These documents shall remain on the Settlement Website for at least six months after Final Approval. The Settlement Website's URL will be www.hoosickfallspfoasettlement.com.
- e. The General Administrator shall send the Notice Form and Claim Form by mail to any potential Settlement Class Member who requests a copy. It will be conclusively presumed that the intended recipients received the Notice Form and Claim Form if the Notice Form and/or Claim Forms have not been returned to the General Administrator as undeliverable within fifteen (15) calendar days of mailing.
- f. The Parties may by mutual written consent make non-substantive changes to the Notice Form without Court approval after the Court's approval of the Notice Form.
- g. A Spanish-language translation of the Notice Form agreed upon by the Parties shall be available on the Settlement Website and will be provided to Settlement Class Members who request it from the General Administrator.

12. Opt Outs

- a. A Settlement Class Member may Opt Out by submitting to the General Administrator a timely and valid request that complies with the Opt Out procedure described in the Class Notice. To be timely and valid, an Opt Out request must have a verified submission date on or before the Opt Out Deadline and must include (i) the full name, current address, and telephone number of the requestor; (ii) a statement of the facts that make the requestor a Settlement Class Member; (iii) a statement requesting exclusion from the Settlement Classes; and (iv) the signature of the requestor.
- b. Any Settlement Class Member that submits a timely and valid Opt Out request shall not (i) be bound by any orders or judgments entered in the Action to implement and effectuate the Settlement and this Agreement; (ii) be entitled to any of the relief or other benefits provided under this Agreement; (iii) gain any rights by virtue of this Agreement; or (iv) be entitled to submit an Objection.

- c. Any Settlement Class Member that does not submit a timely and valid Opt Out request submits to the jurisdiction of the Court and shall be bound by the terms of this Agreement and by all orders and judgments in the Action to implement and effectuate the Settlement and this Agreement.
- d. If a Property Settlement Class Member submits a timely and valid Opt Out request, and that Settlement Class Member owns a Residential Property jointly with one or more other Property Settlement Class Members, all Settlement Class Members owning such property shall be deemed to have submitted a timely and valid Opt Out request.
- e. No “mass” or “class” Opt Out requests shall be valid, and no Settlement Class Member may submit an Opt Out request on behalf of any other Settlement Class Member; provided, however, that a Settlement Class Member who is the legal guardian of a Minor Settlement Class Member or the legal representative of an incompetent or deceased Settlement Class Member may submit an Opt Out request on behalf of that Settlement Class Member.
- f. Any Settlement Class Member that submits an Opt Out request may revoke the request by submitting to the General Administrator a statement of revocation with a verified submission date no later than forty (40) days before the Final Approval Hearing; provided, however, that Class Counsel shall have discretion to extend this deadline on a case-by-case basis.
- g. As soon as practicable and no later than thirty (35) days before the Final Approval Hearing, the General Administrator shall furnish the Parties with a final list of all timely and valid Opt Out requests that have been submitted and not revoked.

13. **Objections**

- a. A Settlement Class Member may make an Objection by serving on the Parties a timely and valid statement of Objection that complies with the Objection procedure described in the Class Notice. Class Counsel shall file all such Objections with the Court at least twenty (20) days prior to the Final Approval Hearing.
- b. To be timely and valid, a statement of Objection must be postmarked or received on or before the Objection Deadline and must include (i) the full name, current address, and telephone number of the objector; (ii) a statement of the facts that make the objector a Settlement Class Member; (iii) a statement describing all of the objector’s challenges to this Agreement or the Settlement and the reasons for those challenges; (iv) all of the papers and evidence the objector intends to submit in support of those challenges; (v) a statement of whether the objector intends to appear at the Final Approval Hearing; (vi) the signature of the objector; (vii) a statement that the objector is willing to be deposed, upon request, on a mutually acceptable date at least ten (10) days before the Final Approval Hearing; (viii) the caption of each case in which the objector or counsel representing the objector have objected to a class action settlement within the preceding five years and a copy of all orders related to or ruling upon those

objections; and (ix) all agreements that relate to the Objection, whether written or verbal, between or among the objector, counsel for the objector, and/or any other Person.

- c. No “mass” or “class” Objections shall be valid, and no Settlement Class Member may submit a statement of Objection on behalf of any other Settlement Class Member; provided, however, that a Settlement Class Member who is the legal guardian of a Minor Settlement Class Member or the legal representative of an incompetent or deceased Settlement Class Member may submit a statement of Objection on behalf of that Settlement Class Member.
- d. Unless the Court orders otherwise, only those Settlement Class Members whose statements of Objection express an intention to appear at the Final Approval Hearing shall have the right to present their Objections orally at the Final Approval Hearing.
- e. Plaintiffs and the Settling Defendants shall have the right, but not the obligation, to respond to any timely-filed objection no later than seven (7) days prior to the Final Approval Hearing. Any Party who wishes to respond shall file a copy of the written response with the Court, and shall serve a copy, by hand or overnight delivery, to the objecting Settlement Class Member (or his or her counsel) and by email to counsel for Plaintiffs and/or the Settling Defendants.
- f. A Settlement Class Member that does not submit a timely and valid Objection shall have waived, and shall be foreclosed from making, any challenge to this Agreement or the Settlement in the Action or any other proceeding.

14. **Final Approval and Entry of Final Judgment**

- a. The Parties shall jointly seek a Final Approval Order and entry of final judgment from the Court that:
 - i. Approves the Settlement Agreement in its entirety pursuant to Federal Rule of Civil Procedure 23(e) as fair, reasonable, and adequate;
 - ii. Certifies the Settlement Classes, for settlement purposes only;
 - iii. Confirms appointment of the General Administrator and Medical Monitoring Administrator;
 - iv. Confirms the appointment of Class Counsel;
 - v. Finds that the Class Notice has satisfied the requirements set forth in Federal Rule of Civil Procedure 23(c)(2)(B);
 - vi. Settles the claims of all named Minor Plaintiffs, absent Minor Settlement Class Members, and absent incompetent Settlement Class Members;

- vii. Bars and enjoins each Settlement Class Member from commencing, asserting, and/or prosecuting any and all Released Claims against any Released Party;
 - viii. Dismisses with prejudice all claims in the Second Amended Complaint asserted against Settling Defendants, without further costs, including claims for interest, penalties, costs, and attorneys' fees;
 - ix. Enters final judgment as to the Settling Defendants and the claims against them in the Action pursuant to Federal Rule of Civil Procedure 54(b);
 - x. Confirms that each of the Settling Defendants has complied with and otherwise discharged its obligations under the Class Action Fairness Act, 28 U.S.C. § 1715(b);
 - xi. Confirms that it retains continuing jurisdiction over the Medical Monitoring Program and the Settlement Fund; and
 - xii. Expressly incorporates the terms of this Agreement and provides that the Court retains continuing and exclusive jurisdiction over the Parties, the Settlement Class Members, and this Agreement, to interpret, implement, administer and enforce the Agreement in accordance with its terms.
- b. The motion for Final Approval of this Settlement shall include a request that the Court enter the Final Approval Order and, if the Court grants Final Approval of the Settlement and incorporates the Agreement into the final judgment, that the Court shall dismiss Settling Defendants from this Action with prejudice, and enter final judgment as to them, subject to the Court's continuing jurisdiction to enforce the Agreement.
 - c. In the event the Court certifies one or more Settlement Classes in connection with this Agreement and grants Final Approval of the Settlement, Settling Defendants will not oppose a motion brought by Class Counsel in this Action seeking to certify a litigation or settlement class against E.I. du Pont de Nemours & Co., where consistent with Section 20.

15. Representations and Warranties

- a. Plaintiffs represent and warrant to the Settling Defendants as follows:
 - i. Each of the Plaintiffs is a Settlement Class Member.
 - ii. Each of the Plaintiffs has received legal advice from Class Counsel regarding the advisability of entering into this Agreement and the legal consequences of this Agreement.
 - iii. No portion of any of the Released Claims possessed by any of the Plaintiffs and no portion of any relief under this Agreement to which any of the Plaintiffs may be entitled has been assigned, transferred, or conveyed by or for any of the

Plaintiffs to any other Person, except pursuant to any contingency fee agreement with Class Counsel.

- iv. None of the Plaintiffs is relying on any statement, representation, omission, inducement, or promise by any of the Settling Defendants, their agents, or their representatives, except those expressly stated in this Agreement.
 - v. Each of the Plaintiffs, through Class Counsel, has investigated the law and facts pertaining to the Released Claims and the Settlement.
 - vi. Each of the Plaintiffs, or for named Minor Plaintiffs their legal guardians, has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having consulted with Class Counsel or other attorneys.
 - vii. Each of the Plaintiffs, or for named Minor Plaintiffs their legal guardians, has all necessary competence and authority to enter into this Agreement on his or her own behalf or on behalf of any named Minor Plaintiffs, and on behalf of the respective Settlement Classes they represent. Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor has complied, and for purposes of this Settlement will comply, with all applicable state and federal laws pertaining to Minors and legal representative and guardianship laws, and has the authority and capacity to bind the named Minor Plaintiff to this Agreement.
 - viii. None of the Plaintiffs will Opt Out or file an Objection.
- b. Class Counsel represents and warrants to the Settling Defendants as follows:
- i. Class Counsel believes the Settlement is fair, reasonable, adequate, and beneficial to each Settlement Class Member and that participation in the Settlement would be in the best interests of each Settlement Class Member.
 - ii. Class Counsel does not currently represent any client or clients that plan to, or are considering whether to, Opt Out, file an Objection, or otherwise challenge the Settlement or this Agreement.
 - iii. Class Counsel recognizes the risk that they could have a conflict of interest if they represented (directly or indirectly) any client in connection with an effort to Opt Out, file an Objection, or otherwise challenge the Settlement or this Agreement.
 - iv. Because Class Counsel believes that the Settlement is in the best interests of each Settlement Class Member, Class Counsel will not solicit, or assist others in soliciting, Settlement Class Members to Opt Out, file an Objection, or otherwise challenge the Settlement or this Agreement.

- v. Class Counsel has all necessary authority to enter into and execute this Agreement on behalf of Plaintiffs and the Settlement Classes.
 - vi. Each of the Plaintiffs, or for Minor Plaintiffs their legal guardians, has approved and agreed to be bound by this Agreement.
 - vii. The representations in Section 15(a) of this Agreement are true and correct to the best of Class Counsel's knowledge.
- c. The Settling Defendants represent and warrant to Plaintiffs as follows:
- i. Each of the Settling Defendants has received legal advice from its attorneys regarding the advisability of entering into this Agreement and the legal consequences of this Agreement.
 - ii. None of the Settling Defendants is relying on any statement, representation, omission, inducement, or promise by Plaintiffs, Settlement Class Members, or Class Counsel, except those expressly stated in this Agreement.
 - iii. Each of the Settling Defendants, with the assistance of its attorneys, has investigated the law and facts pertaining to the Released Claims and the Settlement.
 - iv. Each of the Settling Defendants has carefully read, and knows and understands, the full contents of this Agreement and is voluntarily entering into this Agreement after having consulted with its attorneys.
 - v. Each of the Settling Defendants has all necessary authority to enter into this Agreement, has authorized the execution and performance of this Agreement, and has authorized the Person signing this Agreement on its behalf to do so.

16. Liens and Medicare Obligations

- a. Any liens or subrogation interests as to any damage to real property or other property of a Settlement Class Member shall be the responsibility of that Settlement Class Member.
- b. Any liens or subrogation interests as to any costs, expenses, or fees incurred by a Settlement Class Member in connection with any alleged exposure to PFAS (including PFOA) shall be the responsibility of that Settlement Class Member.
- c. Nothing in this Agreement is intended to create or give rise to any liens or subrogation claims not otherwise provided by law or contract.
- d. Due to the nature of the claims at issue in the Action and the Released Claims, the Parties agree that the Settlement does not give rise to any reporting requirements under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007, and therefore that no Party will make any such report.

- e. The Parties have sought to draft this Settlement to avoid any impacts to the rights of any public or private program (e.g. Medicare) or to Settlement Class Members' rights thereunder. However, by choosing not to Opt Out, Settlement Class Members acknowledge that (i) the Settlement could impact, limit, or preclude their rights to receive certain future Medicare benefits arising out of the allegations in this lawsuit; and (ii) they want to proceed with the Settlement and voluntarily waive any and all claims against the Settling Defendants for denial of Medicare benefits related to the Settlement. It is understood that the intent of this Agreement is that the Releasing Parties will protect, defend, and hold the Released Parties harmless from any future or further payments or exposure with regard to claims for reimbursement of public or private medical insurance benefits paid on behalf of the Releasing Parties. The Releasing Parties voluntarily waive any and all claims of any nature against the Settling Defendants related to any effort by Medicare or a Medicare Advantage Organization to demand payment of covered medical expenses that are asserted to be related to this Settlement, including but not limited to a private cause of action under 42 U.S.C. § 1395y(b)(3)(A).
- f. The Parties have considered Medicare's interest in any potential Medicare-covered medical expenses occurring before or after the Effective Date. The Parties are satisfied that no allocation for expenses to protect Medicare's interest now or in the future is necessary and will not allocate any amount of the proceeds of this Settlement for past or future medical expenses, but reserve the right to do so in the future if necessary and appropriate in the sole discretion of the Medical Monitoring Administrator.

17. Amendment of Agreement

- a. The Parties may agree to amend this Agreement for any reason at any time.
- b. Prior to entry of the Final Approval Order, this Agreement may be amended only by a writing executed by all Parties.
- c. After entry of the Final Approval Order, this Agreement may be amended only by a writing executed by all Parties and approved by the Court.

18. Termination Rights and Effect of Termination

- a. Any of the Parties may terminate this Agreement if any of the following events happen: (i) the Court declines to approve any part of the Settlement; (ii) the Court declines to approve or changes a material term of the requested Preliminary Approval Order or the requested Final Approval Order; (iii) an appellate court reverses, vacates, or otherwise overturns the Final Approval Order in whole or in part; (iv) another of the Parties materially breaches this Agreement before the Effective Date and fails to promptly cure the breach after receiving written notice of the breach; or (v) the Effective Date otherwise does not come to pass; provided, however, that none of the Parties may terminate this Agreement because the Court or any appellate court awards less than the requested amount of attorneys' fees, costs, and expenses. To terminate

the Agreement under this section, Settling Defendants must unanimously agree to terminate the Agreement in writing.

- b. After receipt of the final Opt Out list provided by the General Administrator pursuant to Section 12 of this Agreement, Settling Defendants may terminate this Agreement based on the number of Settlement Class Members who Opt Out, pursuant to the Supplemental Agreement Regarding Settlement Termination Rights discussed in Section 19.
- c. In order to exercise a right to terminate this Agreement, a Party must deliver written notice of termination to counsel for all other Parties within ten (10) days after the later of the event creating the right to terminate or the Party learning of the event creating the right to terminate, unless that deadline is extended by written consent of counsel for all Parties.
- d. If a Party exercises a right to terminate this Agreement, (i) the Parties shall have thirty (30) days to resume settlement negotiations and determine if the Parties can reach an amended agreement, including without limitation with the assistance of a mediator; (ii) all deadlines under this Agreement shall be stayed for the duration of the negotiations; (iii) the Parties shall jointly request a stay of all Court deadlines for the duration of the negotiations; and (iv) the Parties shall jointly advise the Court of the status of this Agreement or any amendment to this Agreement within seven (7) days after the conclusion of the thirty-day negotiation period.
- e. Unless the Parties agree otherwise in writing, thirty-one (31) days after a Party exercises a right to terminate this Agreement:
 - i. The Agreement (except for Sections 7(a), 7(b), 9(b), 9(c), 18(a)-(f), 21(a), 21(c), 22(a), and 22(b)) shall become null and void and of no further force and effect.
 - ii. Any unused portion of the Preliminary Settlement Fund Payment, including interest accrued thereon, shall be returned to the Settling Defendants.
 - iii. The Action shall resume as if the Parties never entered into the Agreement.
 - iv. The Parties shall be restored to their respective positions in the Action as of the Execution Date, with all of their respective legal claims and defenses preserved as they existed on that date.
 - v. The Parties shall jointly move to vacate any orders entered in connection with the Settlement.
 - vi. The Parties shall jointly move for the entry of a scheduling order establishing procedures and deadlines for, among other things, a class certification hearing.
 - vii. No Party shall be deemed to have waived any claims, objections, rights or defenses, or legal arguments or positions, including but not limited to, claims

or objections to class certification, or claims or defenses on the merits. Each Party reserves the right to prosecute or defend this Action in the event that this Agreement does not become final and binding.

- f. If a Party breaches the Agreement after the Effective Date, none of the Parties may terminate the Agreement and any aggrieved Parties may seek relief only from the breaching Party. In no event shall any non-breaching Party have any liability arising out of or related to a breach of the Agreement by any other Party.

19. Supplemental Agreements

- a. In addition to the provisions contained in Section 18, the Settling Defendants shall have the right, but not the obligation, in their sole discretion, to terminate this Agreement pursuant to the Supplemental Agreement Regarding Settlement Termination Rights to be executed by the Parties contemporaneously with the execution of this Agreement. This Supplemental Agreement shall not be submitted to the Court except in the event of a dispute thereunder, in which case the Parties shall seek to file it only under seal. The Supplemental Agreement Regarding Settlement Termination Rights is expressly incorporated into this Agreement. The Settling Defendants have also entered into a confidential Settlement Allocation Agreement among themselves regarding the amount of the Total Settlement Payment for which each Settling Defendant shall be responsible in accordance with Section 2. The Settlement Allocation Agreement also shall not be submitted to the Court unless there is a separate Court order, in which case the Settling Defendants shall seek to file it only under seal.

20. Impact of Any Other Settlement

- a. If Plaintiffs reach any other settlement of this Action with another Defendant or Person prior to the Final Approval Hearing, the Release, Covenant Not to Sue, and Termination provisions herein (Sections 6(b), 6(i), and 18) shall be no less favorable to Settling Defendants than the corresponding term or provision applicable to any other settlement. If Settling Defendants believe one or more terms or provisions referenced above are less favorable than a corresponding term or provision in any other settlement reached by Plaintiffs, then Settling Defendants will provide written notice of such belief to Class Counsel within ten (10) days of the filing of such other settlement with the Court. Following receipt of the written notice, Settling Defendants and Class Counsel will confer as to whether the relevant term or provision in this Agreement is less favorable as compared to the other settlement. If there is agreement between Settling Defendants and Class Counsel that the provision at issue is less favorable, then Settling Defendants and Class Counsel will execute an amendment to this Agreement, adopting and incorporating the more favorable provision as drafted in the other settlement into the Agreement, and will submit the amendment to the Court for its approval. If Settling Defendants and Class Counsel are unable to reach an agreement on the relevant provision, Settling Defendants or Class Counsel may move the Court to resolve the dispute.

21. **Publicity and Confidentiality**

- a. The Parties, Class Counsel, counsel for the Settling Defendants, the General Administrator, and the Medical Monitoring Administrator shall keep strictly confidential and not disclose to any third party any non-public information received during litigation of the Action or negotiation or implementation of the Settlement. All agreements made and orders entered during the course of the Action relating to the confidentiality of information will survive this Settlement Agreement.
- b. Within one hundred eighty (180) days after the latest of (i) the Effective Date, (ii) any final judgment in the Action, (iii) expiration or exhaustion of opportunities for appellate review of any final judgment without the final judgment having been reversed, vacated, or otherwise overturned in whole or in part, or (iv) entry of final judgment or an order of dismissal in the last-related action in *In re Hoosick Falls PFOA Cases*, No. 1:19-cv-215-LEK-DJS, Class Counsel, on behalf of Plaintiffs and the Settlement Classes, the General Administrator, and the Medical Monitoring Administrator shall return or destroy (and certify in writing that they have destroyed upon a request to so certify) the Settling Defendants' confidential documents produced in connection with the Action, settlement discussions, or the negotiation or performance of this Agreement.
- c. Recognizing that all Parties negotiated in good faith to reach an arms-length settlement, the Parties and their counsel agree that their public statements will not disparage the Settlement Agreement, or any Party's motivations, reasons, or decision to enter into the Settlement Agreement.

22. **Miscellaneous**

- a. Jurisdiction and Venue. The United States District Court for the Northern District of New York shall retain jurisdiction over the Parties and Settlement Class Members to interpret, implement, administer, and enforce the terms of this Agreement and resolve any dispute regarding this Agreement, the Settlement, the Preliminary Approval Order, or the Final Approval Order. All proceedings related to this Agreement, the Settlement, the Preliminary Approval Order, or the Final Approval Order shall be initiated and maintained in the United States District Court for the Northern District of New York.
- b. Governing Law. The Agreement shall be governed by and construed in accordance with the law of the State of New York without regard for choice-of-law or conflict-of-laws principles.
- c. All Reasonable Efforts. The Parties agree to cooperate with one another and use all reasonable efforts to support, promote, and obtain court approval and finality, and to exercise reasonable efforts to accomplish the terms and conditions of this Agreement.
- d. Voluntary Settlement: The Parties and their counsel agree that, in consideration of all the circumstances, and after significant, adversarial arm's-length settlement negotiations among counsel and with the assistance of a mediator, the proposed Settlement embodied in this Agreement is fair, reasonable, adequate, and in the best

interests of the Settlement Classes, and was reached voluntarily after consultation with competent legal counsel.

- e. Binding Nature. This Agreement shall be binding upon and inure to the benefit of the Parties, the Settlement Class Members, and their respective agents, employees, representatives, heirs, executors, administrators, successors, and assigns.
- f. Failure of Plaintiff to be Appointed Class Representative. In the event that one or more Plaintiffs fails to secure Court approval to act as a class representative, the validity of this Agreement as to the remaining class representatives and the Settlement Classes shall be unaffected.
- g. Mistake. Each of the Parties to the Agreement has investigated the facts pertaining to it to the extent each Party deems necessary. In entering into this Agreement, each Party assumes the risk of mistake with respect to such facts. This Agreement is intended to be final and binding upon the Parties regardless of any claim of mistake.
- h. Finality. This Agreement is intended to be final and binding among the Parties, and is further intended to be a full and final accord and satisfaction between and among each of them. Each Settling Defendant and Plaintiff rely on the finality of this Agreement as a material factor inducing that Party's execution of this Agreement.
- i. Authorization to Settle. Each of the Parties (or, for Minor Plaintiffs, their legal guardians) has all necessary authority to enter into this Agreement, has authorized the execution and performance of this Agreement, and has authorized the Person signing this Agreement on its behalf to do so.
- j. Construction. This Agreement was drafted jointly by the Parties and, in construing and interpreting this Agreement, no provision of this Agreement shall be construed or interpreted against any of the Parties based upon the contention that this Agreement or a portion of it was purportedly drafted or prepared by one of the Parties. The Parties agree that the language in all parts of this Agreement shall be construed as a whole, according to its fair meaning. Any captions, titles, headings, or subheadings in this Agreement have been inserted for convenience of reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.
- k. Execution. This Agreement may be executed in counterparts, including via electronic signature, and shall be binding once all Parties have executed the Agreement. The Parties further agree that signatures provided by portable document format (PDF) or other electronic transmission shall have the same force and effect as original signatures.
- l. Dispute Resolution. The Parties will attempt to resolve any disputes regarding this Agreement in good faith. If unable to so resolve a dispute, the Parties will refer the matter to the United States District Court for the Northern District of New York for resolution.
- m. No Liability. No Person shall have any claim against any Plaintiffs, Settlement Class Members, Class Counsel, Released Parties, counsel for the Settling Defendants, the

General Administrator, or the Medical Monitoring Administrator based on actions that any Plaintiffs, Settlement Class Members, Class Counsel, Released Parties, counsel for Settling Defendants, the General Administrator, or the Medical Monitoring Administrator were required or permitted to take under this Agreement, the Preliminary Approval Order, or the Final Approval Order. No Person shall have any claim against any Released Parties or counsel for Settling Defendants related to administration of the Settlement, including the Medical Monitoring Program or the allocation or distribution of the Settlement Funds. No Person shall have any claim against Plaintiffs, Class Counsel, the General Administrator, or the Medical Monitoring Administrator related to the administration of the Settlement (including making payments to Settlement Class Members), except for in the presence of proven willful misconduct. No Person shall have any claim against Class Counsel, the General Administrator, the Medical Monitoring Administrator, the Released Parties, or counsel for Settling Defendants related to representations made by a parent or guardian pursuant to Section 15(a) or by a parent, guardian, or legal representative on the Claim Form regarding a Minor, incompetent, or deceased Settlement Class Member, including without limitation purported inaccuracies or misstatements regarding the parent's, guardian's, or legal representative's legal relationship to and authority relative to that Settlement Class Member.

- n. Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter thereof, and it supersedes all prior and contemporaneous oral and written agreements and discussions among them on that subject matter. The Settlement is not subject to any condition, representation, warranty, or inducement not expressly provided for herein, and, except as identified in Section 19, there exist no collateral or oral agreements, promises, conditions, representations, warranties, or inducements among any of the Parties, Class Counsel, Settling Defendants, or counsel for the Settling Defendants relating to the subject matter of the Agreement that supersede or supplement the Agreement.
- o. Deadlines. If the last date for the performance of any action required or permitted by this Agreement falls on a Saturday, Sunday, or Court or public holiday, that action may be performed on the next business day as if it had been performed within the time period provided for performance of the action.
- p. Reasonable Extensions. Unless the Court orders otherwise, the Parties may agree in writing to any reasonable extensions of time to carry out any of the provisions of this Agreement.
- q. Notices. Any notice, demand, or other communication under this Agreement (other than the Class Notice) shall be in writing and shall be deemed duly given if it is addressed to the intended recipient as set forth below and personally delivered, sent by registered or certified mail (postage prepaid), sent by confirmed email, or delivered by reputable express overnight courier:

To Plaintiffs or Settlement Class Members:

Stephen G. Schwarz
Faraci Lange, LLP
28 E. Main Street, Suite 1100
Rochester, NY 14614
sschwarz@faraci.com

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55 Challenger Road
Ridgefield Park, NJ 07660
jbilsborrow@seegerweiss.com

To Honeywell:

Charles Anthony
General Counsel - Health, Safety, Environment, Product Stewardship, and
Sustainability
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Charles.Anthony@Honeywell.com

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Michael D. Daneker
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To Saint-Gobain:

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To 3M:

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3M Legal Affairs
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St. Paul, MN 55144-1000
lhammargren@mmm.com

Andrew Calica
Mayer Brown LLP
1221 Avenue of the Americas
New York, NY 10020
acalica@mayerbrown.com

Any notice required to be sent to the General Administrator shall be delivered to his, her, or its official business address.

- r. Waiver. The provisions of this Agreement may be waived only by written agreement signed by the waiving party. The waiver by any Party of any breach of this Agreement shall not be deemed to be or construed as a waiver of any other breach of this Agreement.
- s. Materiality of Appendices and Exhibits. All of the Appendices and Exhibits to the Settlement Agreement are material and integral parts hereof.
- t. Severability. The provisions of this Agreement are not severable, except as provided in the Agreement.
- u. Third-Party Beneficiaries. This Agreement does not create any third-party beneficiaries, except Settlement Class Members and the Released Parties other than the Settling Defendants, who are intended third-party beneficiaries.
- v. Force Majeure. The failure of any Party to perform any of its obligations hereunder shall not subject any Party to any liability or remedy for damages, or otherwise, where such failure is occasioned in whole or in part by Acts of God, fires, accidents, pandemics, other natural disasters, interruptions or delays in communications or transportation, labor disputes or shortages, shortages of material or supplies, governmental laws, rules or regulations of other governmental bodies or tribunals, acts

or failures to act of any third parties, or any other similar or different circumstances or causes beyond the reasonable control of such Party.

[SIGNATURES ON NEXT PAGE]

APPROVED AND AGREED TO:

Plaintiff Michele Baker

Date:

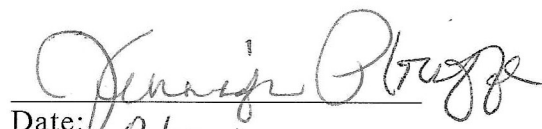
Plaintiff Kathleen Main-Lingener

Date:

Plaintiff Charles Carr


Date: 7/20/21

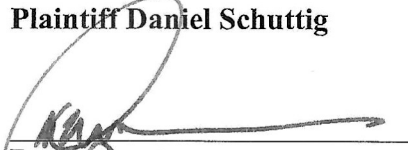
Plaintiff Jennifer Plouffe


Date: 7/20/2021


Plaintiff Angela Corbett

Date:

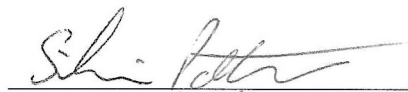
Plaintiff Daniel Schuttig


Date: July 20, 2021

Plaintiff Pamela Forrest


Date: 7/20/2021

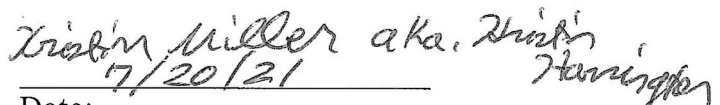
Plaintiff Silvia Potter, individually and as parent and natural guardian of C.P., infant


Date: 07/20/2021

Plaintiff Michael Hickey, individually and as parent and natural guardian of O.H., infant

Date:

Plaintiff Kristin Miller, as parent and natural guardian of K.M., infant


Date: 7/20/21

APPROVED AND AGREED TO:

Plaintiff Michele Baker



Date:

Plaintiff Kathleen Main-Lingener

Date:

Plaintiff Charles Carr

Date:

Plaintiff Jennifer Plouffe

Date:

Plaintiff Angela Corbett

Date:

Plaintiff Daniel Schuttig

Date:

Plaintiff Pamela Forrest

Date:

**Plaintiff Silvia Potter, individually and as
parent and natural guardian of C.P.,
infant**

Date:

**Plaintiff Michael Hickey, individually and
as parent and natural guardian of O.H.,
infant**

Date:

**Plaintiff Kristin Miller, as parent and
natural guardian of K.M., infant**

Date:

APPROVED AND AGREED TO:

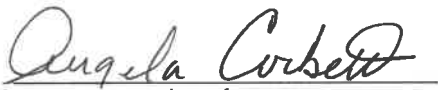
Plaintiff Michele Baker

Date:

Plaintiff Charles Carr

Date:

Plaintiff Angela Corbett


Date: 7/20/2021

Plaintiff Pamela Forrest

Date:

**Plaintiff Michael Hickey, individually and
as parent and natural guardian of O.H.,
infant**

Date:

Plaintiff Kathleen Main-Lingener

Date:

Plaintiff Jennifer Plouffe

Date:

Plaintiff Daniel Schuttig

Date:

**Plaintiff Silvia Potter, individually and as
parent and natural guardian of C.P.,
infant**

Date:

**Plaintiff Kristin Miller, as parent and
natural guardian of K.M., infant**

Date:

APPROVED AND AGREED TO:

Plaintiff Michele Baker

Date:

Plaintiff Kathleen Main-Lingener

Date:

Plaintiff Charles Carr

Date:

Plaintiff Jennifer Plouffe

Date:

Plaintiff Angela Corbett

Date:

Plaintiff Daniel Schuttig

Date:

Plaintiff Pamela Forrest

Date:

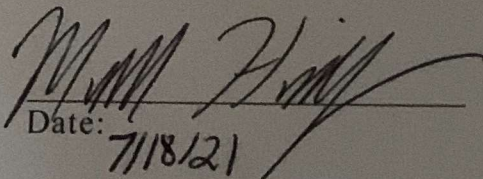
**Plaintiff Silvia Potter, individually and as
parent and natural guardian of C.P.,
infant**

Date:

**Plaintiff Michael Hickey, individually and
as parent and natural guardian of O.H.,
infant**

**Plaintiff Kristin Miller, as parent and
natural guardian of K.M., infant**

Date:


Date: 7/18/21

APPROVED AND AGREED TO:

Plaintiff Michele Baker

Date:

Plaintiff Charles Carr

Date:

Plaintiff Angela Corbett

Date:

Plaintiff Pamela Forrest

Date:

**Plaintiff Michael Hickey, individually and
as parent and natural guardian of O.H.,
infant**

Date:

Plaintiff Kathleen Main-Lingener

Kathleen Main-Lingener
Date: *July 19th, 2021*

Plaintiff Jennifer Plouffe

Date:

Plaintiff Daniel Schuttig

Date:


**Plaintiff Silvia Potter, individually and as
parent and natural guardian of C.P.,
infant**

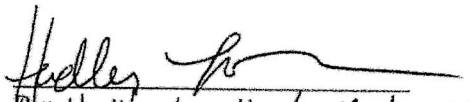
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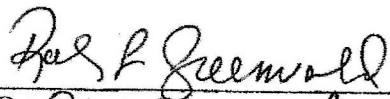
**Plaintiff Kristin Miller, as parent and
natural guardian of K.M., infant**


Date:

Class Counsel


By: Stephen G. Schwarz
Date: July 20, 2021


By: Hadley Lundbach Mustarino
Date: 7/20/2021


By: Robin Greenwald
Date: 7/21/21


By: James J. Bilsborough
Date: 7/21/21

**Defendant Saint-Gobain Performance
Plastics Corp.**

By:
Position:
Date:

Defendant Honeywell International Inc.

By:
Position:
Date:

Defendant 3M Company

By:
Position:
Date:

Class Counsel

By:
Date:

By:
Date:

By:
Date:

By:
Date:

**Defendant Saint-Gobain Performance
Plastics Corp.**

DocuSigned by:

Marc A. Aerts

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By: **Marc A. Aerts**
Position: **Vice President**
Date: 7/19/2021

Defendant Honeywell International Inc.

By:
Position:
Date:

Defendant 3M Company

By:
Position:
Date:

Class Counsel

By:
Date:

By:
Date:

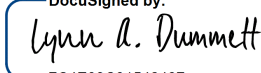
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**Defendant Saint-Gobain Performance
Plastics Corp.**

By:
Position:
Date:

Defendant Honeywell International Inc.

DocuSigned by:

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By: Lynn A. Dummett
Position: Vice President & General Counsel - Litigation
Date: July 19, 2021

Defendant 3M Company

By:
Position:
Date:

Class Counsel

By:
Date:

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Date:

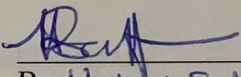
**Defendant Saint-Gobain Performance
Plastics Corp.**

By:
Position:
Date:

Defendant Honeywell International Inc.

By:
Position:
Date:

Defendant 3M Company



By: Hedy Schaffer
Position: Associate General Counsel
Date: 7/19/2021

APPENDIX A

HOOSICK FALLS CLASS ACTION MEDICAL MONITORING PROGRAM

a) Definitions

All capitalized terms not otherwise defined herein shall have the same meaning as defined in the Class Settlement Agreement (“Agreement”) between and among the Plaintiffs, on behalf of themselves and the Settlement Class Members, and the Settling Defendants in the putative consolidated class action lawsuit captioned *Baker v. Saint-Gobain Performance Plastics Corporation et al.*, No. 1:16-cv-917, including without limitation Nos. 1:16-cv-220, 1:16-cv-292, 1:16-cv-394, and 1:16-cv-476. In addition to the terms defined at various points within the Agreement, the following defined terms shall apply throughout this Appendix A:

1. The “Annual Informational Survey” means the annual survey designed by the Overseeing Program Physician during the first year of the Program as described below in section (e)(2)(ii).
2. “Annual Financial Disbursement Report” means the annual report prepared by the Medical Monitoring Administrator, consisting of (1) an aggregated summary of the disbursements made for the Medical Monitoring Program, including identification of the Consultations and/or Program Services rendered by the Program Physicians, Non-Program Physicians, and/or laboratories for which disbursements were made, (2) participation rates and/or the number of Participants in the Medical Monitoring Program, and (3) the median, mean, and average serum PFOA level of Participants as a whole in a given reporting year and the percentage change in such level since the prior reporting year, as well as the range of PFOA serum levels (lowest data

point and highest data point) for each quartile of Participants. Any and all Participant data, including Protected Health Information, related to participation or use of the Medical Monitoring Program contained in the Annual Disbursement Report shall be presented in an aggregated, de-identified form and shall not include the results of any Consultation or Program Services, except that the summary statistics of serum PFOA levels described in this paragraph will be included.

3. “Annual Participant Report” means the annual report prepared by the Medical Monitoring Administrator for dissemination only to Participants, consisting of (1) participation rates and/or the number of Participants in the Medical Monitoring Program, and (2) the median, mean, and average serum PFOA level of Participants as a whole in a given reporting year and the percentage change in such level since the prior reporting year, as well as the range of PFOA serum levels (lowest data point and highest data point) for each quartile of Participants. Any and all Participant data, including Protected Health Information, contained in the Annual Participant Report shall be presented in an aggregated, de-identified form.
4. The “Annual Surveillance Consultation” means the activities described in section (e)(4), including the provision of Program Services performed by, or under the supervision of, a Program Physician or Non-Program Physician.
5. “Consultation” means the Initial Screening Consultation or Annual Surveillance Consultation for a Participant.
6. “Health Condition” means any of thyroid disease, ulcerative colitis, kidney cancer, testicular cancer, elevated uric acid level, abnormal liver function, hyperlipidemia, and hypertensive disorder related to pregnancy.

7. The “Initial Screening Consultation” means the activities described in section (e)(3), including the provision of Program Services performed by, or under the supervision of, a Program Physician or Non-Program Physician.
8. “Informational Survey” means the Initial Informational Survey or Annual Informational Survey.
9. The “Initial Informational Survey” means the informational survey designed by the Overseeing Program Physician as described below and will be substantially similar to the form attached as Exhibit A.
10. “Non-Program Physician” means a third-party licensed primary care physician approved by the Medical Monitoring Administrator and Overseeing Program Physician to provide Consultations and to provide or prescribe Program Services to Medical Monitoring Settlement Class Members who reside more than 50 miles from a Program Physician, and who agrees to do so at the request of the Medical Monitoring Administrator. No Non-Program Physician shall be a Medical Monitoring Settlement Class Member or have a pending claim for medical monitoring or personal injury against any Settling Defendant.
11. “Overseeing Program Physician” shall be the physician to fulfill the responsibilities set forth in section (a)(11)(ii). Class Counsel has selected Alan Ducatman, M.D., to serve as Overseeing Program Physician until such time as he becomes unwilling or unable to continue to serve in that role. Class Counsel, in consultation with Settling Defendants, may substitute a different physician with medical monitoring experience as Overseeing Program Physician, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the

absence of agreement, either Class Counsel or any Settling Defendant may move the Court to substitute a different physician as Overseeing Program Physician upon a showing that the responsibilities of the Overseeing Program Physician have not been adequately executed by the incumbent.

- i. **Compensation:** The Overseeing Program Physician shall invoice the Medical Monitoring Administrator monthly with descriptions of the services provided and the time incurred. The Overseeing Program Physician shall be compensated on an hourly basis at a rate of \$280 per hour for the first year of the Program and that rate shall be increased by an amount not to exceed five (5) percent per year in each subsequent year of the program. In the first year of the Medical Monitoring Program, the Overseeing Program Physician shall not be paid for in excess of 150 hours unless approved by Class Counsel and counsel for the Settling Defendants. If no agreement can be reached between counsel, Class Counsel may make application to the Court for approval of this excess amount to be paid out of the Medical Monitoring Fund. In each subsequent year of the Program, the Overseeing Program Physician shall not be paid in excess of 35 hours unless approved by Class Counsel and counsel for the Settling Defendants. If no agreement can be reached between counsel, Class Counsel may make application to the Court for approval of this excess amount to be paid out of the Medical Monitoring Fund.
- ii. **Responsibilities:** The Overseeing Program Physician shall have the following responsibilities:

1. Assist in selecting and approving Program Physicians;
 2. Training Program Physicians and Non-Program Physicians on the Medical Monitoring Program design and implementation by (A) developing Physician Training Materials and (B) meeting virtually with Program Physicians and Non-Program Physicians by web conference or telephone conference to provide a one-time training at the inception of the Medical Monitoring Program or, in the case of any Program Physician or Non-Program Physician who is selected and approved after inception of the Program, prior to their participation in the Program;
 3. Develop Participant Program Materials; and
 4. Designing the Initial Informational Survey to be completed by Participants at the initiation of the Program and the Annual Informational Survey to be completed annually by Participants who have received an Initial Screening Consultation.
- iii. The Overseeing Program Physician shall not receive or have access to data regarding the identity, laboratory testing results, or other medical information of Medical Monitoring Settlement Class Members, except that the Medical Monitoring Administrator may (but need not) consult with the Overseeing Program Physician when the Medical Monitoring Administrator compiles Participant serum PFOA level data to prepare the Annual Participant Report or Annual Financial Disbursement Report and only to the extent that the data has been anonymized.

12. “Participant” means a Medical Monitoring Settlement Class Member who has enrolled in the Medical Monitoring Program by scheduling and receiving a Consultation.
13. “Participant Program Materials” means written materials to be provided to Participants, which shall consist of a list of the Health Conditions, a list of what the Overseeing Program Physician contends are clinical signs and symptoms of the Health Conditions, and reference to the availability of Consultations and Program Services for the Health Conditions and any other general health information related to reducing risks of developing the Health Conditions. Neither the preparation nor dissemination of Participant Program Materials shall be construed as the Settling Defendants’ agreement with or endorsement of the content thereof, including the scientific basis for offering any Consultations or Program Services, and the Participant Program Materials shall contain an express disclaimer to such effect.
14. “Physician Training Materials” means written materials to be provided to Program Physicians and Non-Program Physicians, which shall consist of a list of the Health Conditions, a list of what the Overseeing Program Physician contends are clinical signs and symptoms of the Health Conditions, the Consultations and Program Services available for the Health Conditions, and the laboratory reference range, if any, associated with each Program Service. Neither the preparation nor dissemination of Physician Training Materials shall be construed as the Settling Defendants’ agreement with or endorsement of the content thereof, including but not limited to the scientific basis for offering any Consultations or Program

Services, and the Physician Training Materials shall contain an express disclaimer to such effect.

15. “Program Physician” shall be a third-party licensed medical doctor within 50 miles of the Village of Hoosick Falls or Town of Hoosick, New York who has been approved by the Overseeing Program Physician and Medical Monitoring Administrator to provide Consultations and to provide or prescribe Program Services to Medical Monitoring Settlement Class Members, and who agrees to do so at the request of the Medical Monitoring Administrator. No Program Physician shall be a Medical Monitoring Settlement Class Member or have a pending claim for medical monitoring or personal injury against any Settling Defendant.

16. “Program Services” means the services listed in section (e)(6)(i)-(ix) below.

17. “Protected Health Information” shall be defined consistent with 45 C.F.R § 160.103 as individually identifiable health information that is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any other form or medium.

b) Scope of the Program

1. The Medical Monitoring Program shall consist solely of the approved Consultations for the Health Conditions with Medical Monitoring Settlement Class Members, and related administrative activities, as described herein. The Medical Monitoring Program shall not include the treatment of any Health Condition or any other medical condition.

2. Only Medical Monitoring Settlement Class Members who have demonstrated their eligibility as determined by the General Administrator in accordance with Section 3(b)(v) of the Agreement may participate in the Medical Monitoring Program.
3. The Consultations described herein shall be administered by or under the supervision of a Program Physician or Non-Program Physician. Where Program Services are deemed appropriate for a Participant by a Program Physician or Non-Program Physician and are agreed to by a Participant, that Program Physician or Non-Program Physician shall cause such Program Services to be performed. Such Consultations are intended to establish a physician/patient relationship and may include a physical examination of the patient at the discretion of the physician.

c) Program Administration

1. Class Counsel has selected Edgar C. Gentle, III, Esq. as the Medical Monitoring Administrator until such time as he becomes unwilling or unable to continue to serve in that role. Class Counsel, in consultation with Settling Defendants, may substitute a different administrator as Medical Monitoring Administrator, subject to approval by the Court if the Court has previously approved the Settlement preliminarily or finally. In the absence of agreement, either Class Counsel or any Settling Defendant may move the Court to substitute a different administrator as Medical Monitoring Administrator upon a showing that the responsibilities of the Administrator have not been adequately executed by the incumbent.
2. The Medical Monitoring Administrator shall oversee enrollment in the Medical Monitoring Program for Medical Monitoring Settlement Class Members who the

General Administrator determines to be eligible in accordance with Section (b)(2) above and Section 3(b)(v) of the Agreement.

3. Before being approved to participate in the Program, all Program Physicians, Non-Program Physicians, and laboratories shall be required to sign an agreement warranting that all services rendered as part of the Medical Monitoring Program shall be billed to the Medical Monitoring Administrator only and will not be billed to Medicare, Medicaid or any private health insurer. In the event the Medical Monitoring Administrator becomes aware of an inadvertent or erroneously submitted billing to Medicare, Medicaid, or other private health insurer, the Medical Monitoring Administrator shall take all necessary and reasonable steps to insure that said bill is withdrawn from submission to Medicare, Medicaid or other private insurer. All Program Participants shall waive any and all claims against Released Parties for any Private Cause of Action, as that term is defined under 42 U.S.C § 1395y(b)(3)(A) of the Medicare Secondary Payer Act, 42 U.S.C § 1395y(b).
4. The Medical Monitoring Administrator shall prepare a Medical Monitoring Program budget and financially administer the Medical Monitoring Program.
5. The Medical Monitoring Administrator shall review, approve, and pay Program expenses using sound accounting internal controls.
6. The Medical Monitoring Administrator shall produce an Annual Financial Disbursement Report once each calendar year, which shall be available, upon request, to Class Counsel, counsel for the Settling Defendants, and the Court. The Annual Financial Disbursement Report shall be treated as confidential and not for public disclosure.

7. The Medical Monitoring Administrator, pursuant to Section (f), shall facilitate the compilation of information or data required by Section (f)\, while safeguarding Participant confidentiality, for limited use as described in Section (f).

d) Medical Service Providers

1. The Medical Monitoring Administrator shall contract with the Overseeing Program Physician to provide the services set forth above under the limitations set forth above.
2. For any Medical Monitoring Settlement Class Member who resides within 50 miles of a Program Physician, as determined by the Medical Monitoring Administrator, Consultations shall be performed by a Program Physician. For any Medical Monitoring Settlement Class Member who resides more than 50 miles from a Program Physician, as determined by the Medical Monitoring Administrator, Consultations may be performed by an approved Non-Program Physician. Such approval must occur before Consultations are provided.
3. The Medical Monitoring Administrator with the assistance of the Overseeing Physician shall identify and approve up to five (5) Program Physicians. The Medical Monitoring Administrator shall negotiate and execute contracts or memoranda of understanding with the Program Physicians to provide Consultations to Participants and to seek disbursements for Consultations from the Medical Monitoring Program.
4. The Medical Monitoring Administrator will negotiate and execute contracts or memoranda of understanding with Non-Program Physicians, as necessary, to provide Consultations to Participants who reside more than 50 miles from a

Program Physician and to seek disbursements for Consultations from the Medical Monitoring Program.

5. The Medical Monitoring Administrator, at his discretion, may negotiate contracts with medical laboratories for approved Program Services requiring laboratory testing conducted under this Medical Monitoring Program for purposes of reducing costs to the Program.

e) Consultations under the Medical Monitoring Program

1. Consultations under the Medical Monitoring Program shall consist solely of the Initial Informational Survey, Annual Informational Surveys, the Initial Screening Consultation, and Annual Surveillance Consultations as described herein.

2. Informational Surveys.

- i. At the time a Medical Monitoring Settlement Class Member makes an appointment with a Program Physician or Non-Program Physician for an Initial Screening Consultation as set forth in Section (e)(3) below, the Medical Monitoring Settlement Class Member shall be directed by the Program Physician or Non-Program Physician to complete the Initial Informational Survey prior to the Initial Screening Consultation.
- ii. At the time a Medical Monitoring Settlement Class Member who has received an Initial Screening Consultation makes an appointment for an Annual Surveillance Consultation after year one of the Program, the Medical Monitoring Settlement Class Member shall be directed to complete the Annual Informational Survey prior to the Annual Surveillance Consultation.

3. Initial Screening Consultation.

- i. At commencement of the Medical Monitoring Program as defined in Section 4(c)(ii) of the Agreement, each Medical Monitoring Settlement Class Member determined to be eligible under Section 3(b)(v) of the Agreement will have the opportunity to schedule an appointment for an Initial Screening Consultation with a Program Physician or Non-Program Physician.
- ii. The Initial Screening Consultation of a Participant shall be performed by a Program Physician or Non-Program Physician and shall consist of a discussion of the Initial Informational Survey and where appropriate, as determined by the Program Physician or Non-Program Physician based on the Participant's responses to the Initial Informational Survey and/or physical examination, the provision of Program Services as set forth in Section (f) below or referral to see another physician of the Participant's choosing outside the Medical Monitoring Program.

4. Annual Surveillance Consultation:

- i. In each calendar year after the first year of the Medical Monitoring Program, each Participant who has received an Initial Screening Consultation will have the opportunity to schedule an appointment for an Annual Surveillance Consultation, with a Program Physician or Non-Program Physician.
- ii. The Annual Surveillance Consultation of a Participant shall be performed by a Program Physician or Non-Program Physician and shall consist of a discussion of the Annual Informational Survey and where appropriate, as

determined by the Program Physician or Non-Program Physician based on the Participant's responses to the Annual Informational Survey and/or physical examination, the provision of Program Services as set forth in Section (f) below or referral to see another physician of the Participant's choosing outside the Medical Monitoring Program.

5. Follow-Up Notification/Consultation:

- i. Following a Participant's Initial Screening Consultation and any Annual Surveillance Consultations, the Program Physician or Non-Program Physician shall notify the respective Participant of the results of the Consultation.
- ii. Based on the results of the Consultation, pursuant to Sections (e)(3)(ii) and (e)(4)(ii), the Program Physician or Non-Program Physician shall determine whether Program Services shall be provided or a referral provided to see another physician of the Participant's choosing for additional testing or treatment outside the Medical Monitoring Program.

6. Program Services. At the time of an Initial Screening Consultation or Annual Surveillance Consultation, or as follow up to such Consultations in accordance with Section (e)(5) above, Participants may receive Program Services, which shall consist solely of the following:

- i. For PFOA blood level, blood serum test for PFOA level once every other calendar year;
- ii. For thyroid disease, thyroid stimulating hormone blood test once annually;

- iii. For ulcerative colitis, consultation with Program Physician or Non-Program Physician once annually;
- iv. For kidney cancer, urinalysis once annually;
- v. For testicular cancer, scrotal examination once annually for male Participants;
- vi. For elevated uric acid levels, uric acid and creatinine blood test once annually;
- vii. For hyperlipidemia, fasting total and LDL cholesterol blood test once annually;
- viii. For abnormal liver function, ALT, AST, GGT and bilirubin blood test once annually; and
- ix. For pregnant Participants, consultation with Program Physician or Non-Program Physician regarding hypertensive disorders during pregnancy and breastfeeding, once per pregnancy.

7. Limitations.

- i. Medical Monitoring Settlement Class Members may receive no services under the Medical Monitoring Program after the earlier of (a) the Medical Monitoring Allocation being expended or (b) the ten (10) year anniversary of the Effective Date.
- ii. Where a Medical Monitoring Settlement Class Member has received a diagnosis or treatment for any Health Condition prior to a Consultation, that Medical Monitoring Settlement Class Member shall not be prescribed or receive Program Services for that Health Condition under the Medical

Monitoring Program, nor shall such Program Services be approved for disbursement under the Medical Monitoring Program, except that if it is determined by a treating physician that such Health Condition has resolved and requires no further follow up, the Medical Monitoring Settlement Class Member will once again be permitted to receive Program Services for such Health Condition under the Program if the Program Physician or Non-Program Physician determines such testing and/or services are warranted.

- iii. Disbursements from the Medical Monitoring Program shall not be made to pay costs arising from (A) examinations and laboratory testing other than those enumerated in Section (e)(2)-(6); (B) imaging; (C) treatment; or (D) any services performed by, or under the supervision of, a physician other than a Program Physician or Non-Program Physician.

f) Confidentiality, Collection, Retention, and Use of Participant Information

1. The selection, role, and experience of, and/or any oral or written statements made by the Medical Monitoring Administrator, an Overseeing Program Physician, a Program Physician, or a Non-Program Physician in this Program or in any other connection or capacity therewith shall not be offered as evidence or otherwise utilized to support any contention, including but not limited to, as to his or her qualifications to fulfill this role or the alleged appropriateness of medical screening or surveillance due to PFOA exposure in any litigation or other proceeding, other than to enforce the Agreement. Nor shall any data or information received by any of the foregoing be used in any testimony before courts or administrative agencies or otherwise made public, subject to the terms of section (f)(4)(a)-(c) and (f)(5)

below. As a condition of accepting his or her appointments, each of the foregoing individuals shall agree to be bound by this term and all other terms herein that are applicable to him or her. Such obligations shall survive the duration of their work under and responsibilities to the Program.

2. All information relating to a Medical Monitoring Settlement Class Member that is disclosed or obtained by the Overseeing Program Physician, the Program Physicians, any Non-Program Physicians, the Medical Monitoring Administrator, or any other authorized entity as part of the Medical Monitoring Program shall be deemed confidential and shall be treated as Protected Health Information subject to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and other applicable privacy laws.
3. Program Physicians and Non-Program Physicians shall retain all medical records of any Participants received or prepared in connection with an Initial Screening Consultation, an Initial Informational Survey, an Annual Surveillance Consultation, an Annual Informational Survey, or Program Services in compliance with the recordkeeping practices and state and federal laws applicable to each Program Physician or Non-Program Physician.
4. No reports, health information, or health data related to the Medical Monitoring Program shall be distributed or disclosed to anyone by the Medical Monitoring Program, the Medical Monitoring Administrator, the Overseeing Program Physician, any Program Physician, or any Non-Program Physician, except: (a) Protected Health Information with respect to a particular Participant may be disclosed to that Participant or to his or her authorized medical providers upon

receipt of appropriate and valid authorization; (b) that the Medical Monitoring Administrator shall facilitate the collection of data that will be disclosed annually to Participants in the Annual Participant Report, as set forth in section (f)(5) below, or that will be contained in the Annual Financial Disbursement Report, as set forth in section (c)(6) above; or (c) as otherwise required by law. For purposes of this Appendix A, health information and health data includes, but is not limited to, Participants' names and addresses, PFOA blood levels, demographic information, Informational Survey responses, personal or family medical history, information provided or created during or further to Consultations, Program Services and the results thereof, recommended testing, test results, and past, current, or recommended treatment information.

5. In addition to each Participant's right to receive his or her specific health data and information, the Medical Monitoring Administrator shall prepare an Annual Participant Report once each calendar year, which may be provided only to Participants and, at one or more Settling Defendants' request, to state or federal governmental authorities with regulatory oversight responsibility for PFAS remediation on the geographic area of the Property Settlement Class.
6. After the Medical Monitoring Program has terminated and any remainder of the Medical Monitoring Allocation has been disbursed in accordance with Section 4(c) of the Agreement, the Medical Monitoring Administrator shall arrange for all databases and/or data repositories created or used as part of the Medical Monitoring Program for the collection or organization of information relating to Participants to be destroyed, and shall certify to the Parties in writing that such databases and/or

data repositories have been destroyed upon a request to so certify. This provision will not require the Medical Monitoring Administrator to destroy any records that are otherwise required to be retained under state or federal law.

7. The limitations described in Section (f) are not intended to prevent the Medical Monitoring Administrator or Class Counsel from providing Medical Monitoring Settlement Class Members with information regarding enrollment and participation in the Medical Monitoring Program or the consultations and Program Services available thereunder.

g) Miscellaneous

1. Nothing in the Agreement or in this Appendix A shall be construed as Settling Defendants' agreement with or endorsement of any oral or written statements, including but not limited to as to any purported health or environmental risks associated with PFOA or the appropriateness of any medical screening, surveillance, or treatment therefor, (i) made by the Medical Monitoring Administrator, the Overseeing Program Physician, a Program Physician, a Non-Program Physician, or the Medical Monitoring Program itself, or (ii) otherwise provided to Participants.

APPENDIX B

EXHIBITS TO CLASS SETTLEMENT AGREEMENT

Exhibit A: Claim Form with associated Declarations

Exhibit B: Notice Form

Exhibit C: Proposed Preliminary Approval Order

Exhibit D: Qualifications of KCC

Exhibit E: Qualifications of Edgar C. Gentle, III, Esq.

Exhibit F: Declaration of Carla A. Peak in Support of Settlement Notice Program

EXHIBIT A

SETTLEMENT CLAIM FORM AND RELEASE

Baker v. Saint-Gobain Performance Plastics Corp. et al., United States District Court for the Northern District of New York, Case No. 16-cv-917 (LEK/DJS)

INSTRUCTIONS FOR SUBMITTING A SETTLEMENT CLAIM FORM

There has been a settlement of the above-referenced Action between and among Plaintiffs and the Settling Defendants (Saint-Gobain Performance Plastics Corporation, Honeywell International Inc., and the 3M Company). If you are a member (or representative) of one or more of the Settlement Classes (defined below), you may be eligible for a payment from the Net Settlement Fund and/or to participate in the Medical Monitoring Program if you comply with the instructions in this Settlement Claim Form and Release ("Claim Form") and submit it in a timely manner. Details regarding the Medical Monitoring Program, including the services offered as part of the program, can be found in Appendix A to the Class Settlement Agreement, a copy of which is available at www.hoosickfallsfoasettlement.com, or upon request to the General Administrator at the contact information below. Payments from the Net Settlement Fund will be made only to eligible Claimants and in accordance with and pursuant to a plan of distribution approved by the Court.

Your participation in this Settlement may offer the best, and possibly only, chance for you to receive a monetary recovery and/or medical monitoring as against the Settling Defendants in this Action. Submission of this Claim Form, however, does not assure that you will share in the Net Settlement Fund and/or be deemed eligible to participate in the Medical Monitoring Program.

Please review the following instructions before proceeding:

YOUR COMPLETED SETTLEMENT CLAIM FORM AND SUPPORTING DOCUMENTATION MUST BE SUBMITTED ELECTRONICALLY AND/OR POSTMARKED BEFORE _____, 2022 [180 DAYS AFTER ENTRY OF PRELIMINARY APPROVAL ORDER].

ELIGIBILITY:

You are a Settlement Class Member (or you are a parent or legal guardian of a minor less than 18 years of age who is a Class Member, or you are the legal representative appointed to represent (i) the Estate of a deceased Class Member, or (ii) an incompetent Class Member) in one or more Settlement Classes and you are eligible to submit this Settlement Claim Form **only if** you (or the minor, deceased or incompetent person you represent) fall within one or more of the following three groups:

PROPERTY SETTLEMENT CLASS:

- 1) Municipal Water Property Settlement Class: You owned a property used for residential purposes in the Village of Hoosick Falls that obtained its drinking water from the Village

Municipal Water System, and purchased that property on or before December 16, 2015 and owned that property on December 16, 2015; **OR**

- 2) Private Well Water Property Settlement Class: You owned a property used for residential purposes in the Village of Hoosick Falls or Town of Hoosick that obtained its drinking water from a privately owned well in which PFOA was detected, and you owned that property at the time PFOA in the property's well was discovered through a water test on or after December 16, 2015.

NUISANCE SETTLEMENT CLASS:

- 3) You owned a property used for residential purposes in the Village of Hoosick Falls or the Town of Hoosick that obtained its drinking water from a privately owned well in which PFOA was detected, and you **owned and resided in** that residence at the time PFOA in the property's well was discovered through a water test on or after December 16, 2015, and a point-of-entry treatment (POET) system was installed to filter water from the well; **OR**
- 4) You rented a property used for residential purposes in the Village of Hoosick Falls or the Town of Hoosick that obtained its drinking water from a privately owned well in which PFOA was detected, and you **rented and resided in** that residence at the time PFOA in the property's well was discovered through a water test on or after December 16, 2015, and a point-of-entry treatment (POET) system was installed to filter water from the well.

MEDICAL MONITORING SETTLEMENT CLASS:

- 5) For at least six months between 1996 and 2016, you lived at a residence(s) in the Village of Hoosick Falls or the Town of Hoosick, where you ingested water that was supplied by either the Village Municipal Water System or from a privately owned well in which PFOA has been detected, and your blood serum was tested, which showed PFOA in your blood above 1.86 µg/L (parts per billion); **OR**
- 6) You are the parent or guardian of a child born to a female who meets the criteria in (5) and the child's blood serum was tested after birth, which showed PFOA in the child's blood above 1.86 µg/L (parts per billion).

If you are eligible to do so, you may submit a Claim to receive benefits as a member of more than one Settlement Class. Each Settlement Class Member must submit this Claim Form. You can only submit Claim Forms for yourself **and** another person if you are a parent or legal guardian of a minor or legal representative of a deceased or incompetent person who is also a Settlement Class Member. In such case, you **must** submit a Claim Form for yourself and a **separate** Claim Form for the minor, deceased person, or incompetent person. If you owned more than one property that would qualify you for the Property Settlement Class, you **must** submit a **separate** Claim Form for each property.

Capitalized terms not defined in this Claim Form have the same meaning as set forth in the Class Settlement Agreement, a copy of which is available at www.hoosickfallspfoasettlement.com.

ADDITIONAL INFORMATION:

- 1) You may obtain additional information about your submission of a Claim or about this Settlement at www.hoosickfallspfoasettlement.com or by calling _____.
- 2) You must review, sign and date Section V below.
- 3) Your completed Settlement Claim Form and supporting documentation must be submitted electronically and/or postmarked before _____, 2022 **[180 days after entry of Preliminary Approval Order]**. You may submit your Settlement Claim Form and supporting documentation, as indicated below:
 - a. Electronically at: www.hoosickfallspfoasettlement.com. You are encouraged to submit your claim online for easy verification and processing.
 - b. By mail to:

General Administrator
[Address]
[City, State, Zip Code]
 - c. By email to: **[General Administrator's email address]**.

SECTION I: Claimant's Information

Last Name	First Name	Middle Initial
_____	_____	_____

Your Current Address (Number/Street/P.O. Box No.):

City:	State:	Zip Code
_____	_____	_____

Telephone Number:	Email Address:
_____	_____

Are you filing this Claim on your own behalf? (Yes/No) _____

If No, provide the following information about the person on whose behalf you are completing this Form:

Last Name	First Name	Middle Initial
_____	_____	_____

Current Address (if person is living):

City:	State:	Zip Code
_____	_____	_____

Telephone Number:	Email Address:
_____	_____

Is this person: A Minor / Deceased / Incompetent? _____

Are you the parent or legal guardian of this person? (Yes/No) _____

If you are a legally appointed representative of this person, provide the following information:

Nature of Legal Representation (Estate Representative/Guardian/Conservator):

Court that appointed you legal representative and date of appointment:

Submit with this Claim Form a copy of documentation from the Court reflecting your appointment.

If you are filing this Claim on behalf of yourself, or as a legal representative of a minor, deceased person, or incompetent person who is/was a Settlement Class Member in the Property Settlement Class, Nuisance Settlement Class, or Medical Monitoring Settlement Class, please complete **Section II**.

SECTION II: Information on Class Member and Claims

To the best of your knowledge and belief, to which of the following Settlement Classes do you or the person you are representing belong? (Please refer to the Instructions on pages 1-2 of this Claim Form for a description of the Settlement Classes.)

Check any that apply:

1. _____ Property Settlement Class (if selecting this class, also check (a) or (b) below)
 - a. _____ Municipal Water Property Settlement Class
 - b. _____ Private Well Water Property Settlement Class
2. _____ Nuisance Settlement Class
3. _____ Medical Monitoring Settlement Class

Based on what you checked above, please complete the appropriate section(s) below:

PROPERTY SETTLEMENT CLASS

Address of the property for which you are seeking benefits as a member of the Municipal Water Property Settlement Class or the Private Well Water Property Settlement Class, as described on pages 1-2 of this Claim Form (Number/Street/City/Zip Code):

As of December 16, 2015, did this property obtain drinking water from the Village Municipal Water System?

If the property obtained drinking water from the Village Municipal Water System as of December 16, 2015, **submit with this Claim Form (1) proof of your ownership of the property as of December 16, 2015 and (2) proof of its water source.** Proof of ownership can include a combination of the following: (a) a copy of the deed to the property; (b) a copy of a tax bill demonstrating ownership of the property as of December 16, 2015; and/or (c) any other form of proof deemed appropriate by the General Administrator. Proof of water source can include a water bill. Identify below what, if anything, you are submitting as proof of ownership and proof of your water source. (Note: If you do not have a document showing your ownership and/or water source, the General Administrator may still be able

to verify your ownership and/or water source and/or may contact you for additional information.)

Did this property obtain drinking water from a privately owned well that was tested for PFOA on or after December 16, 2015?

If the property obtained drinking water from a privately owned well, **submit with this Claim Form (1) proof of your ownership of the property as of the date that a water test detected PFOA in the property's private well on or after December 16, 2015, and (2) a copy of PFOA well testing results obtained on or after December 16, 2015.** Proof of ownership can include combination of the following: (a) a copy of the deed to the property; (b) a copy of a tax bill demonstrating ownership of the property as of the date when PFOA was discovered in the private well through a water test, and/or (c) any other form of proof deemed appropriate by the General Administrator. Identify below what, if anything, you are submitting as proof of ownership and proof of your well testing results. (Note: If you do not have a document showing your ownership and/or well testing results, the General Administrator may still be able to verify your ownership and/or well testing results and/or may contact you for additional information.).

If you co-owned this property with another individual, please state their name and relation to you or the person you represent:

NUISANCE SETTLEMENT CLASS

Address of the property for which you are seeking benefits as a member of the Nuisance Settlement Class, as described on page 2 of this Claim Form (Number/Street/City/Zip Code):

Submit with this Claim Form (1) proof of ownership of or leasehold interest in the property as of the date of that detectable levels of PFOA were discovered through a water test on or after December 16, 2015 and (2) a copy of well testing results if you have them. Proof of ownership or leasehold interest may include a combination of the following: (a) a copy of the deed to the property; (b) a copy of a tax bill demonstrating ownership at the time that detectable levels of PFOA were discovered through a water test on or after December 16, 2015; (c) a copy of the lease for such property; (d) a sworn declaration confirming a leasehold interest at the time that detectable levels of PFOA were discovered through a water test on or after December 16, 2015; and/or 5) any other form of proof deemed appropriate by the General Administrator. (Note: If you do not have a document showing your ownership or leasehold interest and/or your well testing results, the General Administrator may still be able to verify your ownership or leasehold interest and/or well testing results and/or may contact you for additional information.).

Submit with this Claim Form proof of the installment of a POET system on the property's private well (such as documentation from the State of New York showing installation or testing of such POET) if you have it.

You must also complete either a (i) Declaration of Residency for Nuisance Settlement Class Eligibility or (ii) Declaration of Residency for Nuisance Settlement Class Eligibility On Behalf Of Representative Of Estate Or Incompetent Person, stating that you or the person you represent resided at the property at the time when PFOA was detected in the property's private well. The Declarations of Residency for Nuisance Settlement Class Eligibility are attached to this Claim Form.

MEDICAL MONITORING SETTLEMENT CLASS

To qualify as a member of this class, you must meet the criteria for the Medical Monitoring Settlement Class described on page 2 of this Claim Form.

Identify all residence(s) where you or the person you represent lived for at least six months (can be a combination of residences to reach six months cumulatively) between 1996 and 2016, the timeframe that you or the person you represent lived there (months and years), and the water source at that residence (municipal or private well). If the person you represent is a minor who was exposed to PFOA in utero, identify all residences where that minor's mother lived for at least six months between 1996 and 2016, the timeframe that she lived there (months and years), and the water source at that residence (municipal or private well).

_____	_____	_____
Property Address	Dates (M/Y to M/Y)	Water source (Municipal or well)

_____	_____	_____
Property Address	Dates (M/Y to M/Y)	Water source (Municipal or well)

_____	_____	_____
Property Address	Dates (M/Y to M/Y)	Water source (Municipal or well)

_____	_____	_____
Property Address	Dates (M/Y to M/Y)	Water source (Municipal or well)

_____	_____	_____
Property Address	Dates (M/Y to M/Y)	Water source (Municipal or well)

Has your blood or the blood of the person you represent been tested for the presence of PFOA?

_____ (Yes/No)

What was the PFOA blood serum level? _____

If you are representing a minor who was exposed to PFOA in utero, has the blood of that minor's mother been tested for the presence of PFOA?

_____ (Yes/No)

What was the minor's mother's PFOA blood serum level?

You must submit a copy of your blood test or the blood test of the person you represent along with this Claim Form. If you do not submit a copy of your blood test, your Claim will be

deficient and you may not be eligible to participate in the Medical Monitoring Program. If you do not have a copy of a blood test, but your blood was tested by the NYS Department of Health (or another physician), please contact the General Administrator at _____ for information on how to obtain a copy of your blood test results.

If your residence(s) obtained drinking water from a privately owned well, submit with this Claim Form a copy of PFOA well testing results. (Note: If you do not have a document showing your well testing results, the General Administrator may still be able to verify your well testing results and/or may contact you for additional information.)

If your residence(s) obtained drinking water from the Village Municipal Water System, submit with this Claim Form proof of its water source. Proof of water source can include a water bill. (Note: If you do not have a document showing your water source, the General Administrator may still be able to verify your water source and/or may contact you for additional information.)

You must also complete one of the following stating that you or the person you represent ingested municipal or private well water at the residence(s) listed above for a period of at least six months between 1996 and 2016: (i) Declaration of Residency for Medical Monitoring Class Eligibility, (ii) Declaration of Residency for Medical Monitoring Class Eligibility On Behalf of Person Less than 18 Years of Age, or (iii) Declaration of Residency for Medical Monitoring Class Eligibility On Behalf of Legal Guardian Or Representative Of Person Less Than 18 Years Of Age Or Person Declared Incompetent. The Declarations of Residency for Medical Monitoring Class Eligibility are attached at the end of this Claim Form.

SECTION IV: Release and Warranties

The Claimant (or Claimant's Representative) hereby acknowledges that he, she or it has read and agrees to be bound by the terms of the Release (set forth below), the definition of Released Claims, the Exclusive Remedy, Covenant Not to Sue, Waiver of Statutory Rights, and all other provisions of the Settlement Agreement, including in Section 6 (Dismissal, Release of Claims, and Related Provisions).

The Claimant (or Claimant's Representative) hereby warrants and represents that he, she or it is, to the best of their belief, a Settlement Class Member (or a parent or legal guardian of a minor less than 18 years of age who is a Class Member, or the legal representative appointed to represent (i) the Estate of a deceased Class Member, or (ii) an incompetent Class Member) in one or more Settlement Classes as defined in the Settlement Agreement and Notices, and that the Claimant believes that he, she or it is eligible to receive a distribution from the Net Settlement Fund under the terms and conditions of the Settlement Agreement and/or to participate in the Medical Monitoring Program.

The Claimant (or Claimant's Representative) agrees to the release and covenant not to sue in conformity with the Settlement Agreement in order to, in an individual or representative capacity, receive the Claimant's share of the Net Settlement Fund and/or to participate in the Medical Monitoring Program.

The Claimant (or Claimant's Representative) agrees that the submission of this Claim Form constitutes a full release of and covenant not to sue on the Released Claims against the Released Parties as set forth in the Settlement Agreement (and below).

The release shall be of no force or effect unless and until the Court grants Final Approval of the Settlement and the Settlement becomes effective on the Effective Date.

The Claimant (or Claimant's Representative) hereby warrants and represents that he, she or it has not yet assigned or transferred or purported to assign or transfer, voluntarily or involuntarily, any right of action or claim released pursuant to this release or any other part or portion thereof.

Release. Upon the Effective Date, the Releasing Parties shall have expressly, intentionally, voluntarily, fully, finally, irrevocably, and forever released, relinquished, waived, compromised, settled, and discharged the Released Parties from each and every past, present, and future claim and cause of action, including without limitation causes of action and/or relief created or enacted in the future—whether known or unknown, whether direct or indirect, individual or class, in constitutional, federal, state, local, statutory, civil, or common law or in equity, or based on any other law, rule, regulation, ordinance, directive, contract, or the law of any foreign jurisdiction, whether fixed or contingent, known or unknown, liquidated or unliquidated, suspected or unsuspected, asserted or unasserted, matured or unmatured, or for compensatory damages, consequential damages, incidental damages, statutory damages, punitive, special, multiple, treble, or exemplary damages, nominal damages, disgorgement, restitution, indemnity, contribution, penalties, injunctive relief, declaratory relief, attorneys' fees, court costs, or expenses—that were or could have been asserted in the Action or any other forum, arising out of or related to, either directly or indirectly or in whole or in part: (i) the subject matter of any allegations contained in the Second Amended Complaint, any allegations otherwise asserted in the Action, or the subject matter of any discovery obtained in the Action, (ii) the alleged presence of PFAS (including PFOA) in drinking water or the environment (including but not limited to in air, groundwater, surface water, municipal water, private well water, or soil) within the Village of Hoosick Falls or the Town of Hoosick, (iii) the sale, purchase, use, handling, transportation, release, discharge, migration, emission, spillage, or disposal of PFAS (including PFOA) to, at, or from a Facility in or near the Village of Hoosick Falls or the Town of Hoosick, including any such PFAS (including PFOA) present as a result of disposal at or discharge to, directly or indirectly, any landfill, sewage system, water treatment facility, or any other location in and around the Village of Hoosick Falls or Town of Hoosick, and/or resulting in any alleged exposure of any Settlement Class Member to PFAS (including PFOA) through drinking water, inhalation, dermal

contact, or otherwise; (iv) for any type of relief with respect to the acquisition, installation, maintenance, operation, or presence of, including the cost or purported inconvenience or loss of enjoyment of, property associated with whole-house filters, point-of-entry (POET) filters, point-of-use filters, municipal water, private well water, bottled water, alternative water supplies, or remediation; (v) for property damage or property-value diminution, including without limitation stigma, purportedly attributable to the alleged presence of PFAS (including PFOA) in the Village Municipal Water System or any private well, or in the air, groundwater, surface water, municipal water, private well water, or soil in or around the Village of Hoosick Falls or the Town of Hoosick; and/or (vi) based on PFAS (including PFOA) in the blood or tissue of any Settlement Class Member (the “**Released Claims**”); provided, however, that the “Released Claims” do not include any individual claims of the Releasing Parties (a) for any damages (including for screenings, tests, examinations, and/or diagnostic procedures) related to past, present, or future manifested bodily injuries that have resulted in a medically diagnosed condition, or (b) to enforce the terms of this Agreement or the Final Approval Order. For purposes of this Agreement, “manifested bodily injuries that have resulted in a medically diagnosed condition” do not include the detection or accumulation of PFAS (including PFOA) in blood or other bodily tissue.

Covenant Not To Sue: Each of the Releasing Parties shall forever refrain from instituting, maintaining, prosecuting, or continuing any suit, action, arbitration, or proceeding against any of the Released Parties with respect to the Released Claims.

SECTION V: Claimant or Claimant’s Representative Signature

I declare that the information provided in this Claim Form is true and accurate to the best of my knowledge. I understand that the General Administrator may need to verify some of the information that I submitted.

Signature

Date

IF YOU ARE A MEMBER OF THE NUISANCE SETTLEMENT CLASS OR MEDICAL MONITORING SETTLEMENT CLASS, OR IF YOU ARE SUBMITTING THIS CLAIM ON BEHALF OF A MINOR OR INCOMPETENT PERSON, YOU MUST COMPLETE ONE OR MORE DECLARATIONS THAT FOLLOW.

For additional information or assistance in completing this Claim Form, please contact the General Administrator at _____

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**DECLARATION OF RESIDENCY FOR NUISANCE SETTLEMENT CLASS
ELIGIBILITY**

Pursuant to 28 U.S.C. § 1746, I, _____, declare
as follows:

1. I am over eighteen years of age.
2. In late 2015 and/or 2016 I had an **owned or rented** [circle which applies] property
located at _____, in the Village of Hoosick Falls and/or
Town of Hoosick, New York.

3. This property obtained drinking water from a private well that was found to contain PFOA.

4. I resided at this property at the time PFOA was discovered in the property's private well.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**DECLARATION OF RESIDENCY FOR NUISANCE SETTLEMENT CLASS
ELIGIBILITY ON BEHALF OF REPRESENTATIVE
OF ESTATE OR INCOMPETENT PERSON**

Pursuant to 28 U.S.C. § 1746, I, _____, declare
[Name of person signing declaration]
as follows:

1. I am over eighteen years of age.
2. I am the legally appointed representative of _____, having been
[Name of person/decedent you represent]
appointed by the _____ Court in _____.
[Name of Court] [Date of appointment]

3. In late 2015 and/or 2016 _____
[name of person/decedent you represent]

owned or rented [circle which applies] property located at

_____, in the Village of Hoosick Falls and/or Town of
Hoosick, New York.
[Property address with PFOA contaminated well]

4. This property obtained drinking water from a private well that was found to contain
PFOA.

5. _____ resided at this property at the time PFOA
[Name of person/decedent you represent]

was discovered in the property's private well.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**DECLARATION OF RESIDENCY FOR MEDICAL MONITORING CLASS
ELIGIBILITY**

Pursuant to 28 U.S.C. § 1746, I, _____, declare
as follows:

1. I am over eighteen years of age.
2. I resided and consumed municipal water or water from a private well in which PFOA was
detected at the following residence(s) located in the Village of Hoosick Falls and/or the

Town of Hoosick, New York on the date(s) listed below **[dates on or after January 1, 1996 and before 2017]**:

_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**DECLARATION OF RESIDENCY FOR MEDICAL MONITORING CLASS
ELIGIBILITY ON BEHALF OF PARENT
OF PERSON LESS THAN 18 YEARS OF AGE**

Pursuant to 28 U.S.C. § 1746, I, _____, declare
as follows:

1. I am over eighteen years of age.
2. I am the parent of _____, who is less than eighteen years of
age.

3. My child or, if I am representing a child exposed to PFOA in utero, my child's mother, resided and consumed municipal water or water from a private well in which PFOA was detected at the following residence(s) located at

_____ in the Village of Hoosick Falls and/or the
Town of Hoosick, New York on the date(s) listed below [**dates on or after January 1, 1996 and before 2017**]:

_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**DECLARATION OF RESIDENCY FOR MEDICAL MONITORING CLASS
ELIGIBILITY ON BEHALF OF LEGAL GUARDIAN OR REPRESENTATIVE OF
PERSON LESS THAN 18 YEARS OF AGE OR PERSON DECLARED INCOMPETENT**

Pursuant to 28 U.S.C. § 1746, I, _____, declare
as follows:

1. I am over eighteen years of age.

2. I am the legally appointed representative of _____, having been
 [Name of child or incompetent person]
 appointed by the _____ Court in _____.
 [Name of Court] [Date of appointment]

3. This person who I represent or, if I am representing a child exposed to PFOA in utero, that child's mother, resided and consumed municipal water or water from a private well in which PFOA was detected at the following residence(s) in the Village of Hoosick Falls and/or the Town of Hoosick, New York on the date(s) listed below **[dates on or after January 1, 1996 and before 2017]**:

_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)
_____ Property Address	_____ Dates (M/Y to M/Y)	_____ Water source (Municipal or well)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of _____, 2021.

[Sign]

[Print name]

EXHIBIT B

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF NEW YORK

If you drank water supplied by the Village of Hoosick Falls Municipal Water System or from a private well in the Village of Hoosick Falls or the Town of Hoosick, or owned or rented property in the Village of Hoosick Falls or the Town of Hoosick, you could get benefits from a class action settlement.

A federal court authorized this Notice. It is not a solicitation from a lawyer.

- A Settlement has been reached with Saint-Gobain Performance Plastics Corporation (“Saint-Gobain”), Honeywell International Inc. (“Honeywell”), and the 3M Company (“3M”) (the “Settling Defendants”) in a class action lawsuit about the effects of perfluorooctanoic acid (PFOA) contamination in and around Hoosick Falls.
- The Settlement includes:
 - Individuals who for a period of at least six months between 1996 and 2016, lived at a residence(s) in the Village of Hoosick Falls or Town of Hoosick where they ingested water that was supplied by the Village Municipal Water System or from a private well in which PFOA has been detected, *and* underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L (parts per billion); *or* any natural child who was born to a female who meets and/or met the above criteria at the time of the child’s birth *and* whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L (“Medical Monitoring Settlement Class Members”);
 - Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, *and* who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015 (“Municipal Water Property Settlement Class Members”);
 - Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who *either* owned and occupied that property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015; *or* rented and occupied the property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015 (“Nuisance Settlement Class Members”); and
 - Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a private well in which PFOA was detected, *and* who owned that property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015 (“Private Well Water Property Settlement Class Members”).
- Your legal rights are affected regardless of whether you act or don’t act. Read this notice carefully.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
SUBMIT A CLAIM FORM	This is the only way you can get a payment or other benefits from this Settlement.
EXCLUDE YOURSELF FROM THE SETTLEMENT	Do not get a payment or other settlement benefits. This is the only option that allows you to be part of any other lawsuit against the Released Parties, including the Settling Defendants, for the legal claims made in this lawsuit and released by the Settlement.
OBJECT TO THE SETTLEMENT	Write to the Court with reasons why you do not agree with the Settlement.
GO TO THE FINAL APPROVAL HEARING	You may ask the Court for permission for you or your attorney to speak about your objection at the Final Approval Hearing.
DO NOTHING	You will not get a payment or other benefits from this Settlement and you will give up certain legal rights.

- These rights and options—and the deadlines to exercise them—are explained in this Notice.
- The Court overseeing this case still has to decide whether to approve the Settlement.

BASIC INFORMATION

1. Why is this Notice being provided?

The Court directed that this Notice be provided because you have a right to know about a proposed settlement that has been reached in this class action lawsuit and about all of your options before the Court decides whether to grant final approval to the Settlement. This Notice explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of this case is the United States District Court for the Northern District of New York. The case is known as *Baker v. Saint-Gobain Performance Plastics Corporation*, No. 1:16-cv-917, including Nos. 1:16-cv-220, 1:16-cv-292, 1:16-cv-394, and 1:16-cv-476 (the “Action”). U.S. District Court Judge Lawrence Kahn is presiding over the Action. The people who filed the lawsuit are called Plaintiffs. The companies they sued, Saint-Gobain, Honeywell, 3M, and E.I. DuPont de Nemours and Company, are called Defendants. This Settlement is between Plaintiffs and the Settling Defendants.

2. What is this lawsuit about?

Plaintiffs claim that Saint-Gobain and Honeywell contaminated the aquifer beneath Hoosick Falls with perfluorooctanoic acid, commonly referred to as PFOA, by releasing PFOA into the environment. As a result, people living in and around the Village of Hoosick Falls and the Town of Hoosick allege that they unknowingly consumed drinking water containing PFOA and have concentrations of PFOA in their blood that are higher than average. In addition, Plaintiffs allege that the presence of PFOA has negatively impacted individuals’ ability to use and enjoy their properties, caused residents to fear the safety of their water supply, and negatively impacted property values. Plaintiffs further allege that 3M sold PFOA and/or PFOA-containing products to Saint-Gobain and Honeywell but failed to warn those companies of the dangers associated with PFOA and PFOA-containing products.

The Settling Defendants deny all of the claims made in the Action, and dispute all allegations of wrongdoing or liability against them.

PFOA is a man-made chemical historically used to manufacture products that were resistant to sticking, heat, water, stains, and grease.

3. What is a class action?

In a class action, one or more people called representative Plaintiffs (in this case, Michele Baker, Charles Carr, Angela Corbett, Pamela Forrest, Michael Hickey (individually and as parent and natural guardian of O.H., infant), Kathleen Main-Lingener, Kristin Miller (also known as Kristin Harrington) (as parent and natural guardian of K.M., infant), Jennifer Plouffe, Silvia Potter (individually and as parent and natural guardian of C.P., infant), and Daniel Schuttig) sue on behalf of people who have similar claims. Together, all these people and the Persons that they represent are called Settlement Class Members. One Court resolves the issues for all Settlement Class Members, except for those who exclude themselves from the Settlement Classes.

4. Why is there a Settlement?

The Court did not decide in favor of the Plaintiffs or the Settling Defendants. Instead, the Plaintiffs and Settling Defendants agreed to a settlement. This way, they avoid the cost and burden of a trial and eligible Settlement Class Members can get benefits and more quickly. The class representative Plaintiffs and their attorneys (“Class Counsel”) think the Settlement is best for all Settlement Class Members.

WHO IS INCLUDED IN THE SETTLEMENT?

5. How do I know if I am part of the Settlement?

You are part of the Settlement as a Settlement Class Member if you fit within one or more of the four Settlement Class definitions below (unless you fall into one of the exclusions described in Section 6):

1. Medical Monitoring Settlement Class: all individuals who, for a period of at least six months between 1996 and 2016, have (a) ingested water at their residence(s), which was supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or Town of Hoosick in which PFOA has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child’s birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L.
2. Municipal Water Property Settlement Class: all Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015. This group, together with the Private Well Water Property Settlement Class, is also referred to as the “Property Settlement Class.”
3. Nuisance Settlement Class: all Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property’s private well was discovered through a water test on or after December 16, 2015.

4. **Private Well Water Property Settlement Class:** all Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a private well in which PFOA was detected, and who owned that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015. This group, together with the Municipal Water Property Settlement Class, is also referred to as the "Property Settlement Class."

6. Are there exceptions to being included in the Settlement?

Yes. The Settlement does not include (i) anyone who timely and validly requests to be excluded from the Settlement (see Question 18) (ii) anyone who previously filed a claim against any Settling Defendant alleging a PFOA-related injury or illness, including a spousal derivative claim, or seeking medical monitoring or property damages, related to the presence of PFOA in the Village Municipal Water System, in private wells in the Village of Hoosick Falls or Town of Hoosick, on or at their property, or in their blood, in a lawsuit (other than this lawsuit) that has not been dismissed or does not have a request to dismiss pursuant to Fed. R. Civ. P. 41(a)(2) pending as of 30 days prior to the Final Approval Hearing, (iii) the Settling Defendants, any entity or division in which the Settling Defendants have a controlling interest, their legal representatives in this lawsuit, and their officers, directors, assigns and successors, (iv) the judge to whom this lawsuit is assigned, any member of the judge's immediate family and the judge's staff, or any other judicial officer or judicial staff member assigned to this case, (v) Class Counsel, including their partners, members, and shareholders, and any immediate family members, (vi) any State, the United States, or any of its agencies, and (vii) the Village of Hoosick Falls and the Town of Hoosick.

7. I am still not sure if I am included.

If you are still not sure whether you are included, you can call 1-____-____-____ or visit www.hoosickfallspfoasettlement.com for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET IF YOU QUALIFY

8. What does the Settlement provide?

The Settling Defendants have agreed to pay \$65,250,000 into a Settlement Fund. After deducting attorneys' fees and costs, the class representatives' service awards, and the costs of notice and administration, the balance of the fund will be allocated among the Property Settlement Class (\$20,700,000) and Nuisance Settlement Class (\$7,761,683), and the Medical Monitoring Program (\$22,800,000).

9. How much will the Property Settlement Class payments be?

The full market values of all Eligible Properties as determined by the 2015 County Assessment Roll will be totaled and used as the denominator of a fraction. The full market value of the Settlement Class Member's Eligible Property will be the numerator of this fraction. The fraction will be multiplied by \$20,700,000 to determine the amount due to the Property Settlement Class Member or Members who owned the Eligible Property as of December 15, 2016.

Payment = (Market value of Settlement Class Member's Eligible Property x \$20,700,000) / Total market value of all Eligible Properties

An Eligible Property is a Residential Property that either (1) one or more Municipal Water Property Settlement Class Members demonstrates that he/she owned as of December 16, 2015, and obtained its drinking water from the Village Municipal Water System; or (2) one or more Private Well Property Settlement Class Members demonstrates that he/she owned as of December 16, 2015, that is located in the Village of Hoosick Falls or Town of Hoosick, and obtained its drinking water from a private well with detectable levels of PFOA discovered through a water test on or after December 16, 2015.

10. How much will the Nuisance Settlement Class payments be?

Nuisance payment amounts will be calculated by dividing the total number of valid Nuisance claims from Settlement Class Members by the Settlement amount allocated for the Nuisance Settlement Class (\$7,761,683). Payments will be distributed evenly among all eligible Nuisance Settlement Class Members who submit a valid Claim Form.

11. Tell me more about the Medical Monitoring Program.

The Medical Monitoring Allocation will be used to pay all expenses related to medical monitoring, including payments to Participating and Non-Participating Physicians, the Overseeing Program Physician, laboratories, and all Medical Monitoring Administration Costs. The Medical Monitoring Program will begin after the Settlement becomes final and will end on the earlier of (a) when the \$22,800,000 Medical Monitoring Allocation has been fully used; or (b) when all bills incurred on or before the ten-year anniversary of the date the Settlement becomes final are paid. Complete details about the testing and services protocols covered by the Medical Monitoring Program are attached to the Class Settlement Agreement as Appendix A.

Medical Monitoring Settlement Class Members who complete both the Initial Informational Survey and the Initial Screening Consultation within 12 months of the date the Settlement becomes final will receive a \$100 (maximum) incentive payment. If money

QUESTIONS? CALL 1-____-____-____ TOLL-FREE OR VISIT WWW.HOOSICKFALLSPFOASETTLEMENT.COM

remains in the allocation at the end of the Medical Monitoring Program, additional payment may be made to Medical Monitoring Settlement Class Members who have participated in all services available to them and under certain circumstances may also be paid as a contribution to a not-for-profit organization that focuses on health and well-being of residents in or around the Town of Hoosick.

HOW TO GET SETTLEMENT BENEFITS—SUBMITTING A CLAIM FORM

12. How do I get a payment and participate in the Medical Monitoring Program?

To qualify for a Settlement payment and/or participate in the Medical Monitoring Program, you must complete and submit a Claim Form by **Month __, 2021**. You may use the Claim Form enclosed with this notice and return it in the pre-paid postage envelope, complete and submit a Claim Form online at www.hoosickfallspfoasettlement.com, or email a completed Claim Form to _____. Claim Forms are also available by calling 1-____-____-____ or by writing to *Baker v. Saint-Gobain Performance Plastics Corporation* Settlement Administrator, P.O. Box _____, City, ST _____-____.

13. When will I get my payment and when will the Medical Monitoring Program begin?

The Court will hold a Final Approval Hearing at __:00 a.m. on Month __, 2021 to decide whether to approve the Settlement. If the Court approves the Settlement, there may be appeals. It is always uncertain whether any appeals will be filed and, if so, how long it will take to resolve them. Settlement payments will be distributed, and the Medical Monitoring Program will begin, as soon as possible, if and when the Court grants final approval to the Settlement and after any appeals are resolved.

14. What am I giving up to get a payment or stay in the Settlement?

Unless you exclude yourself, you are staying in the Settlement. If the Settlement is approved and becomes final, all of the Court's orders will apply to you and legally bind you. You won't be able to sue or be part of any other lawsuit against the Settling Defendants and the Released Parties (see next question) about the legal issues resolved by this Settlement. The rights you are giving up are called Released Claims.

15. What are the Released Claims?

If the Settlement is approved and becomes final, Settlement Class Members will have expressly, intentionally, voluntarily, fully, finally, irrevocably, and forever released, relinquished, waived, compromised, settled, and discharged the Released Parties (Settling Defendants and their current, former, and future direct and indirect parents, subsidiaries, divisions, affiliates, affiliated business entities, joint ventures, successors, predecessors, including Dyneon, LLC, Allied-Signal Inc., AlliedSignal Laminate Systems, Inc., Furon Company, and any entity identified as a predecessor to any Settling Defendant in the Second Amended Complaint or for which the Second Amended Complaint alleges that any Settling Defendant has succeeded to liability on the basis of any legal theory; and all of their current, former, and future agents, employees, officers, directors, partners, shareholders, owners, members, promoters, representatives, distributors, trustees, attorneys, insurers, subrogees, and assigns, individually or in their corporate or personal capacity, and anyone acting on their behalf, including in a representative or derivative capacity) from each and every past, present, and future claim and cause of action, including causes of action and relief created or enacted in the future—whether known or unknown, whether direct or indirect, individual or class, in constitutional, federal, state, local, statutory, civil, or common law or in equity, or based on any other law, rule, regulation, ordinance, directive, contract, or the law of any foreign jurisdiction, whether fixed or contingent, known or unknown, liquidated or unliquidated, suspected or unsuspected, asserted or unasserted, matured or unmatured, or for compensatory damages, consequential damages, incidental damages, statutory damages, punitive, special, multiple, treble, or exemplary damages, nominal damages, disgorgement, restitution, indemnity, contribution, penalties, injunctive relief, declaratory relief, attorneys' fees, court costs, or expenses—that were or could have been asserted in the Action or any other forum, arising out of or related to, either directly or indirectly or in whole or in part: (i) the subject matter of any allegations contained in the Second Amended Complaint, any allegations otherwise asserted in the Action, or the subject matter of any discovery obtained in the Action; (ii) the alleged presence of PFAS (including PFOA) in drinking water or the environment (including, for example, air, groundwater, surface water, municipal water, private well water, or soil) within the Village of Hoosick Falls or the Town of Hoosick; (iii) the sale, purchase, use, handling, transportation, release, discharge, migration, emission, spillage, or disposal of PFAS (including PFOA) to, at, or from a Facility in or near the Village of Hoosick Falls or the Town of Hoosick, including any such PFAS (including PFOA) present as a result of disposal at or discharge to, directly or indirectly, any landfill, sewage system, water treatment facility, or any other location in and around the Village of Hoosick Falls or Town of Hoosick, and/or resulting in any alleged exposure of any Settlement Class Member to PFAS (including PFOA) through drinking water, inhalation, dermal contact, or otherwise; (iv) for any type of relief with respect to the acquisition, installation, maintenance, operation, or presence of, including the cost or purported inconvenience or loss of enjoyment of, property associated with whole-house filters, point-of-entry (POET) filters, point-of-use filters, municipal water, private well water, bottled water, alternative water supplies, or remediation; (v) for property damage or property-value diminution, including without limitation stigma, purportedly attributable to the alleged presence of PFAS (including PFOA) in the Village Municipal Water System or any private well, or in the air, groundwater, surface water, municipal water, private well water, or soil in or around the Village of Hoosick Falls or the Town of Hoosick; and/or (vi) based on PFAS (including PFOA) in the blood or tissue of any Settlement Class Member.

The Released Claims do not include any individual claims for any damages (including for screenings, tests, examinations, and/or diagnostic procedures) related to past, present, or future manifested bodily injuries that have resulted in a medically diagnosed condition, or to enforce the terms of this Agreement or the Final Approval Order. “Manifested bodily injuries that have resulted in a medically diagnosed condition” do not include the detection or accumulation of PFAS (including PFOA) in blood or other bodily tissue.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

Yes. The Court appointed Stephen G. Schwarz and Hadley L. Matarazzo of Faraci Lange, LLP, James J. Bilsborrow of Seeger Weiss LLP, and Robin L. Greenwald of Weitz & Luxenberg, P.C. as “Class Counsel” to represent you and other Settlement Class Members. These lawyers and their firms are experienced in handling similar cases. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will Class Counsel be paid?

Class Counsel will ask the Court for an award of attorneys’ fees of up to 19% of the Settlement Fund (up to \$12,397,500), plus reimbursement of reasonable litigation costs. They will also ask the Court to approve \$25,000 service awards to be paid to each of the class representative Plaintiffs (a total payment of \$250,000). The Court may award less than these amounts. If approved, these fees, costs, and awards will be paid from the Settlement Fund before making payments and the Medical Monitoring Program available to Settlement Class Members.

EXCLUDING YOURSELF FROM THE SETTLEMENT

18. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send a letter by mail stating (1) you want to be excluded from *Baker v. Saint-Gobain Performance Plastics Corporation*, No. 1:16-cv-917 (N.D.N.Y.), (2) your full name, current address, and telephone number, (3) facts that prove you are a Settlement Class member, and (4) your signature. You must mail your exclusion request postmarked no later than **Month __, 2021** to:

Baker v. Saint-Gobain Performance Plastics Corporation
Settlement Administrator
P.O. Box ____
City, ST ____-____

The Settling Defendants have the right to terminate the settlement if an undisclosed number of class members choose to exclude themselves from the Settlement. If this occurs, the Settlement will be terminated, and no class member will receive any benefits.

19. If I exclude myself, can I still get a payment or other benefits from the Settlement?

No. If you exclude yourself, you are telling the Court that you don’t want to be part of the Settlement. You can only get a payment and/or participate in the Medical Monitoring Program if you stay in the Settlement and submit a valid Claim Form.

20. If I do not exclude myself, can I sue the Settling Defendants for the same thing later?

No. If you stay in the Settlement (*i.e.*, do nothing or do not exclude yourself), you give up any right to separately sue any of the Released Parties, including the Settling Defendants, for the claims made in this lawsuit and released by the Class Settlement Agreement. If you are a Property Settlement Class Member and you submit a timely and valid exclusion request for a Residential Property that you own jointly with one or more other Settlement Class Members, all Settlement Class Members owning the property will be considered to have submitted a timely and valid exclusion request.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

21. How do I tell the Court that I do not agree with the Settlement?

If you are a Settlement Class Member, you can object to the Settlement if you do not agree with it or a portion of it. You can give reasons why you think the Court should not approve it. The Court will consider your views. Your objection must include: (1) your full name, current address, and telephone number; (2) a statement of facts that indicate you are a Settlement Class Member; (3) a statement of your objections and the reasons for them; (4) copies of any papers and evidence you intend to submit to support your objection; (5) a statement indicating whether you plan appear at the Final Approval Hearing; (6) a statement indicating that you are willing to be deposed, upon request, on a mutually acceptable date at least 10 days before the Final Approval Hearing; (7) a list containing the case name, court, and docket number of any other class action settlements in which you or your counsel have filed an objection in the past

five years, and a copy of all orders related to or ruling upon those objections; (8) all written and verbal agreements between you, your counsel or any other person related to your objection; and (9) your signature.

Your objection must be mailed to Class Counsel and Defense Counsel so it is postmarked no later than **Month __, 2021**.

Class Counsel	Defense Counsel
James J. Bilsborrow Seeger Weiss, LLP 55 Challenger Road Ridgefield Park, NJ 07660	Douglas Fleming Dechert LLP 1095 6th Ave. New York, New York 10036 Elissa Preheim Arnold & Porter 601 Massachusetts Ave., NW Washington, DC 20001 Andrew J. Calica Mayer Brown LLP 1221 Avenue of the Americas New York, New York 10020

22. May I come to Court to speak about my objection?

Yes. You or your attorney may request to speak at the Final Approval Hearing about your objection. To do so, you must include a statement in your objection indicating that you or your attorney intend to appear at the Final Approval Hearing.

23. What is the difference between objecting to the Settlement and asking to be excluded from it?

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you remain in the Settlement Class (that is, do not exclude yourself). Excluding yourself is telling the Court that you don't want to be part of the Settlement. If you exclude yourself, you cannot object because the Settlement no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court will hold a hearing to decide whether to approve the Settlement. You may attend and you may ask to speak, but you don't have to.

24. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at __:0 a.m. on Month __, 202__, at the United States District Court for the Northern District of New York, James T. Foley Courthouse, Suite 509, 445 Broadway, Albany 12207. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. It will also consider whether to approve Class Counsel's request for an award of attorneys' fees and costs, as well as the class representative Plaintiffs' service awards. If there are objections, the Court will consider them. The Court may listen to people who have asked to speak at the hearing (see Question 22 above). After the hearing, the Court will decide whether to approve the settlement.

25. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. However, you are welcome to come to the hearing at your own expense. If you send an objection, you do not have to come to court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it is not required that you do so.

26. May I speak at the hearing?

Yes. You may ask the Court for permission to speak at the Final Approval Hearing (see Question 22 above).

IF YOU DO NOTHING

27. What happens if I do nothing at all?

If you are Settlement Class Member and you do nothing, you will give up the rights explained in Question 14, including your right to start a lawsuit or be part of any other lawsuit against the Released Parties, including the Settling Defendants, about the legal issues resolved by this Settlement. In addition, you will not receive a payment from the Settlement or be eligible to participate in the Medical Monitoring Program.

GETTING MORE INFORMATION

28. How do I get more information?

This Notice summarizes the proposed Settlement. Complete details are provided in the Class Settlement Agreement. The Settlement Agreement and other documents are available at www.hoosickfallsfpoasettlement.com. Additional information is also available by calling 1-____-____-____ or by writing to *Baker v. Saint-Gobain Performance Plastics Corporation* Settlement Administrator, P.O. Box _____, City, ST _____-_____. Publicly-filed documents can also be obtained by visiting the office of the Clerk of the United States District Court for the Northern District of New York or reviewing the Court's online docket.

EXHIBIT C

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

PRELIMINARY APPROVAL ORDER

Plaintiffs Michele Baker, Charles Carr, Angela Corbett, Pamela Forrest, Michael Hickey, individually and as parent and natural guardian of O.H., infant, Kathleen Main-Lingener, Kristin Miller, as parent and natural guardian of K.M., infant, Jennifer Plouffe, Silvia Potter, individually and as parent and natural guardian of C.P., infant, and Daniel Schuttig (“Plaintiffs”), on behalf of themselves and the Settlement Class Members, and Defendants Saint-Gobain Performance Plastics Corp., Honeywell International Inc., and 3M Company (“Settling Defendants”), by their respective counsel, have submitted a Settlement Agreement to this Court, and Plaintiffs have moved under

Federal Rule of Civil Procedure 23(e) for an order: (1) preliminarily certifying the Municipal Water Property Settlement Class, the Private Well Water Property Settlement Class, the Nuisance Settlement Class, and the Medical Monitoring Settlement Class for purposes of settlement, and appointing Plaintiffs as the Class Representatives and their counsel as Interim Settlement Class Counsel; (2) preliminarily approving the Settlement; (3) approving the Notice Program; (4) appointing KCC as the General Administrator and directing it to commence the Notice Program; (5) providing authority pursuant to Local Rule of Civil Practice, Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Minor Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent; and (6) scheduling a Final Approval Hearing to consider final approval of the settlement and any application for attorneys' fees, expenses, and Class Representative Service Awards. The Court has considered the terms of the Settlement, the exhibits to the Settlement Agreement, the record of proceedings, and all papers and arguments submitted in support, and now finds that the motion should be, and hereby is, **GRANTED**.

ACCORDINGLY, THE COURT FINDS AND ORDERS:

1. This Court has jurisdiction over the subject matter of this lawsuit and jurisdiction over the Plaintiffs and Settling Defendants (the "Parties") for purposes of the Settlement.
2. Capitalized terms not otherwise defined in this Order have the definitions set forth in the Settlement Agreement.

SUMMARY OF THE LITIGATION AND SETTLEMENT

3. On August 26, 2016, Plaintiffs filed their Master Consolidated Class Action Complaint alleging tort theories of negligence, trespass, nuisance, and strict liability based on the

presence of PFOA in the Village Municipal Water System, in private wells, on or at their properties, and/or in their blood. This pleading named Saint-Gobain Performance Plastics Corp. (“Saint-Gobain”) and Honeywell International Inc. (“Honeywell”) as Defendants.

4. On September 26, 2016, Defendants Saint-Gobain and Honeywell filed a Motion to Dismiss Plaintiffs’ Master Consolidated Class Action Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), which the Parties fully briefed. On February 6, 2017, the Court entered a Memorandum-Decision and Order granting in part and denying in part the Motion to Dismiss. In particular, the Court denied Defendants’ motion to dismiss Plaintiffs’ claims for negligence and trespass, as well as nuisance claims brought by Plaintiffs who obtain drinking water from a private well, but granted the motion to dismiss nuisance claims alleged by Plaintiffs who obtain drinking water from the Village Municipal Water System. The Court also certified its order for interlocutory appeal pursuant to 28 U.S.C. § 1292(b). On February 16, 2017, Saint-Gobain and Honeywell petitioned the Second Circuit Court of Appeals for permission to appeal pursuant to 28 U.S.C. § 1292(b) and to temporarily stay proceedings in the District Court pending determination of the petition for leave to appeal. Separately, Saint-Gobain and Honeywell each filed an Answer and Affirmative Defenses to the Master Consolidated Class Action Complaint on February 28, 2017.

5. On March 1, 2017, the Second Circuit granted a temporary stay of proceedings in the District Court pending disposition of the motion to stay by the Court. On December 8, 2017, the Second Circuit denied the motion to stay proceedings in the District Court but granted the petition to appeal this Court’s motion to dismiss order pursuant to 28 U.S.C. § 1292(b).

6. Following denial of Defendants’ motion to stay proceedings, discovery commenced before this Court. The parties thereafter engaged in significant discovery efforts, involving several sets of written discovery served by and on each party, voluminous document productions, quarterly

conferences with Magistrate Judge Stewart, depositions of each Plaintiff as well as 11 depositions of current or former employees of Saint-Gobain and/or Honeywell, Rule 30(b)(6) deponents for each company, and one third-party witness.

7. On February 23, 2018, Saint-Gobain and Honeywell filed an opening brief in the Second Circuit. This was followed by full briefing as well as multiple amicus briefs and oral argument. The Second Circuit ultimately affirmed this Court's motion to dismiss order on May 18, 2020.

8. On December 10, 2018, Plaintiffs filed their First Amended Master Consolidated Class Action Complaint, naming Defendants 3M Company ("3M") and E.I. DuPont de Nemours and Company ("DuPont") as additional Defendants. Each Defendant filed an Answer and Affirmative Defenses on February 26, 2019.

9. Plaintiffs thereafter propounded document requests and interrogatories on 3M and DuPont and engaged in motion practice with DuPont on the scope of discovery before Magistrate Judge Stewart. In response to Plaintiffs' document requests, both 3M and DuPont made extensive document productions.

10. On April 6, 2020, Plaintiffs filed a Notice of Motion for Class Certification and served eight supporting expert reports. In their motion, Plaintiffs sought to certify four classes, as follows: (i) a class of property owners who obtain drinking water from the Village Municipal Water System; (ii) a class of property owners who obtain drinking water from privately owned wells; (iii) a class of property owners and renters who obtain drinking water from a privately owned well upon which a point-of-entry treatment (POET) system was installed; and (iv) a class of individuals exposed to PFOA in their drinking water who subsequently received blood tests demonstrating the presence of PFOA in their blood serum. On April 9, 2020, Plaintiffs filed their

Second Amended Master Consolidated Class Action Complaint. All Defendants filed an Answer and Affirmative Defenses to this pleading on July 23, 2020.

11. Between June 23, 2020 and September 2, 2020, Plaintiffs deposed seven former DuPont employees. Each of these depositions occurred via Zoom because of the limitations imposed by the COVID-19 pandemic.

12. On July 30, 2020, Defendants served eight responsive expert reports. The parties thereafter commenced expert deposition discovery, during which sixteen expert depositions were conducted between October 2020 and December 2020, all via Zoom.

13. Following expert depositions, Defendants filed a joint opposition to Plaintiffs' Motion for Class Certification on January 14, 2021. Defendants also filed a joint Motion to Exclude Plaintiffs' Expert Testimony on the same date. Finally, Defendants 3M and DuPont filed a separate opposition to class certification raising additional, distinct arguments. Plaintiffs filed replies in support of their Motion for Class Certification and an opposition to Defendants' motion to exclude expert testimony on February 18, 2021. Defendants filed a reply in support of their Motion to Exclude Plaintiffs' Expert Testimony on March 11, 2021.

14. On April 12, 2021, the Parties engaged in a full-day mediation at arms-length before Professor Eric Green of Resolutions, LLC. The Parties participated in two additional full-day mediation sessions on April 30, 2021 and May 5, 2021. At the end of the third day of mediation on May 5, 2021, Plaintiffs and the Settling Defendants reached an agreement in principle. They then negotiated the detailed written Settlement Agreement and exhibits that are now before the Court.

15. The Settlement resolves claims alleged by Plaintiffs against the Settling Defendants. This Settlement does not affect the claims alleged by Plaintiffs against the non-settling

Defendant, DuPont, and Plaintiffs are not resolving or releasing any claims against DuPont by entering into the Settlement Agreement.

16. The Settlement provides, among other things, that as consideration for the release from Settlement Class Members, the Settling Defendants will pay \$65,250,000 in cash into a Settlement Fund (the Total Settlement Payment). Of this amount, \$20,700,000 will be allocated to members of the Property Settlement Classes; \$7,761,683 will be allocated to members of the Nuisance Settlement Class; and \$22,800,000 will be allocated to fund a ten-year medical monitoring program to benefit members of the Medical Monitoring Class.

17. The Settlement also provides for Notice to be mailed directly to property owners in the Village of Hoosick Falls and Town of Hoosick, as well as an extensive Notice Program consisting of outreach via local media, national press release, and millions of social media impressions.

PRELIMINARY APPROVAL

18. Federal Rule of Civil Procedure 23(e) requires court approval of class action settlements. In general, the approval process involves three stages: (1) notice of the settlement to the class after “preliminary approval” by the Court; (2) an opportunity for class members to opt out of, or object to, the proposed settlement; and (3) a subsequent hearing at which the Court grants “final approval” upon finding that the settlement is “fair, reasonable, and adequate,” after which judgment is entered, class members receive the benefits of the settlement, and the settling defendants obtain a release from liability. Fed. R. Civ. P. 23(e)(1)-(2), (4)-(5).

19. In deciding whether to grant “preliminary approval” of a proposed settlement, the Court evaluates two issues: (1) whether “the court will likely be able to” grant final approval to the settlement as a “fair, reasonable, and adequate” compromise, such that it makes sense to give

notice to the proposed class members; and (2) whether “the court will likely be able to” certify the classes for purposes of entering judgment on the settlement. Fed. R. Civ. P. 23(e)(1)(B).

I. The Court will “likely be able to” grant final approval to the Settlement as “fair, reasonable, and adequate.”

20. This Circuit has recognized a “strong judicial policy in favor of settlements, particularly in the class action context.” *McReynolds v. Richards-Cantave*, 588 F.3d 790, 803 (2d Cir. 2009). “The compromise of complex litigation is encouraged by the courts and favored by public policy.” *Story v. SEFCU*, No. 1:18-CV-764 (MAD/DJS), 2021 WL 736962, at *7 (N.D.N.Y. Feb. 25, 2021) (quoting *Wal-Mart Stores, Inc. v. Visa U.S.A., Inc.*, 396 F.3d 96, 117 (2d Cir. 2005) (internal quotation omitted)). A “presumption of fairness, adequacy, and reasonableness may attach to a class settlement reached in arm’s-length negotiations between experienced, capable counsel after meaningful discovery.” *Wal-Mart Stores*, 396 F.3d at 116 (quoting *Manual for Complex Litigation (Third)* § 30.42 (1995)).

21. Under Federal Rule of Civil Procedure 23(e)(2), as amended in December 2018, in considering whether a proposed settlement is “fair, reasonable, and adequate,” the Court considers whether:

- (A) the class representatives and class counsel have adequately represented the class;
- (B) the proposal was negotiated at arm’s length;
- (C) the relief provided for the class is adequate, taking into account:
 - (i) the costs, risks, and delay of trial and appeal;
 - (ii) the effectiveness of any proposed method of distributing relief to the class, including the method of processing class-member claims;

(iii) the terms of any proposed award of attorneys' fees, including timing of payment; and

(iv) any agreement required to be identified under Rule 23(e)(3); and

(D) the proposal treats class members equitably relative to each other.

Fed. R. Civ. P. 23(e)(2).

22. Under this standard, the Court finds that it will "likely be able to" grant final approval to the Settlement as "fair, reasonable, and adequate," such that the Settlement, its terms and conditions, including releases of the Released Parties, warrants preliminary approval and dissemination of notice to the Settlement Classes so that Settlement Class Members may express any objections to the Settlement or decide whether to opt out of the Settlement or participate in it. The Settlement appears at this preliminary approval stage to be procedurally fair, reasonable, and adequate in that the Plaintiffs and Class Counsel have adequately represented the Settlement Classes in litigating the merits of the dispute and in obtaining a Settlement of significant value through arm's-length negotiations between and among sophisticated counsel and under the auspices of a sophisticated mediator. Fed. R. Civ. P. 23(e)(2)(A)-(B).

23. Likewise, the Settlement appears at this preliminary approval stage to be substantively fair, reasonable, and adequate in that the relief provided is substantial particularly when taking into account the costs, risks, and delays of trial. Fed. R. Civ. P. 23(e)(2)(C). The proposed method of distributing monetary relief to the Property Settlement Class Members and Nuisance Settlement Class Members is relatively streamlined, requiring only submission of a simple Claim Form, a declaration attesting to residency, and few, if any, supporting documents, as specified in the Settlement. *Id.* Similarly, after submission of the Claim Form, blood test results demonstrating the presence of PFOA in a Claimant's blood serum above the designated level, and

a declaration attesting to exposure, the Medical Monitoring Settlement Class Members will have access to ten years of consultations and testing from multiple physicians in close proximity to Hoosick Falls; former residents who have moved from the area, and who are Medical Monitoring Settlement Class Members, will also have access to the program. *Id.* Attorneys' fees will be paid only after Final Approval and only by approval of the Court, which will consider any request for fees in conjunction with final approval. *Id.* The Parties have represented that there are two agreements to be identified under Fed. R. Civ. P. 23(e)(3). *Id.*

24. Finally, the proposal treats members of each Settlement Class equitably relative to one another. Property Settlement Class Members will receive a proportion of the Property Payment Allocation based on the full market value of their property (as determined by the Town of Hoosick Tax Assessor in 2015 in the Final Assessment Roll) relative to all other properties owned by the Property Settlement Class Members. The Nuisance Payment Allocation will be divided evenly among all Nuisance Settlement Class Members who demonstrate eligibility. Finally, all Medical Monitoring Settlement Class Members will have equal access to the consultations and, as appropriate, testing benefits provided by the Medical Monitoring Program. Fed. R. Civ. P. 23(e)(2)(D).

II. The Court will “likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement.

25. In considering whether the Court will “likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement, the Court must determine whether the Settlement Classes likely meet the requirements for class certification under Federal Rule of Civil Procedure 23(a) (numerosity, commonality, typicality, and adequacy) and any one of the subsections of Federal Rule of Civil Procedure 23(b), here subsection 23(b)(3).

26. The Court finds, for settlement purposes only, that the Settlement Classes satisfy the requirements of Fed. R. Civ. P. 23(a)(1)-(4) and 23(b)(3) and that it will likely be able to certify each of the proposed Settlement Classes, which are defined as:

Municipal Water Property Settlement Class

All Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015; provided, however, that the Municipal Water Property Settlement Class shall not include Excluded Persons.

Private Well Water Property Settlement Class

All Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a private well in which PFOA was detected, and who owned that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; provided, however, that the Private Well Water Property Settlement Class shall not include Excluded Persons.

Nuisance Settlement Class

All Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; provided, however, that the Nuisance Settlement Class shall not include Excluded Persons.

Medical Monitoring Settlement Class

All individuals who, for a period of at least six months between 1996 and 2016, have (a) ingested water at their residence(s) supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or the Town of Hoosick in which PFOA has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L; provided, however, that the Medical Monitoring Settlement Class shall not include Excluded Persons.

27. Additionally, the Court finds, for purposes of settlement only, that the Settlement Classes are ascertainable because each is defined by objective criteria, *In re Petrobas Secs. Litig.*,

862 F.3d 250, 257 (2d Cir. 2017), and that it will likely be able to appoint Plaintiffs' Counsel as Class Counsel under Federal Rule of Civil Procedure 23(g).

28. The Settlement Classes, if certified in connection with Final Approval, shall be for settlement purposes only and without prejudice to the Parties in the event the Settlement is not finally approved by this Court or otherwise does not take effect.

29. Accordingly, the Court preliminarily certifies, for purposes of settlement only, each of the respective Settlement Classes identified above.

30. The Court, for settlement purposes only, appoints the following Plaintiffs as interim Class Representatives for the Settlement Classes:

Municipal Water Property Settlement Class: Pamela Forrest, Kathleen Main-Lingener, Jennifer Plouffe, Silvia Potter, and Daniel Schuttig;

Private Well Property Settlement Class: Michele Baker, Charles Carr, and Angela Corbett;

Nuisance Settlement Class: Michele Baker, Charles Carr, and Angela Corbett; and

Medical Monitoring Settlement Class: Charles Carr, Angela Corbett, Michael Hickey, individually and as parent and natural guardian of O.H., infant, Kathleen Main-Lingener, Kristin Miller, as parent and natural guardian of K.M., infant, and Silvia Potter, individually and as parent and natural guardian of C.P., infant.

31. The Court appoints, for settlement purposes only, Stephen G. Schwarz and Hadley L. Matarazzo of Faraci Lange LLP, James J. Bilsborrow of Seeger Weiss LLP, and Robin L. Greenwald of Weitz & Luxenberg, P.C., as Interim Settlement Class Counsel under Federal Rule of Civil Procedure 23(g)(3). Interim Settlement Class Counsel are authorized to act on behalf of the Settlement Classes with respect to all acts required by, or which may be given pursuant to, the

Settlement or such other acts that are reasonably necessary to consummate the proposed Settlement set forth in the Settlement Agreement.

32. Having found that (1) “the court will likely be able to” grant final approval to the settlement as a “fair, reasonable, and adequate” compromise, so that it makes sense to give notice to the proposed class members; and (2) “the court will likely be able to” certify the Settlement Classes for purposes of entering judgment on the Settlement, the Court hereby **GRANTS** preliminary approval to the Settlement.

NOTICE TO THE SETTLEMENT CLASSES

33. Upon granting preliminary approval under Federal Rule of Civil Procedure 23(e)(1), the Court “must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice may be by one or more of the following: United States mail, electronic means, or other appropriate means.” Fed. R. Civ. P. 23(c)(2)(B).

34. The notice must clearly and concisely state in plain, easily understood language:
- (i) the nature of the action;
 - (ii) the definition of the class certified;
 - (iii) the class claims, issues, or defenses;
 - (iv) that a class member may enter an appearance through an attorney if the member so desires;
 - (v) that the court will exclude from the class any member who requests exclusion;
 - (vi) the time and manner for requesting exclusion; and
 - (vii) the binding effect of a class judgment on members under Rule 23(c)(3).

Fed. R. Civ. P. 23(c)(2)(B).

35. “There are no rigid rules to determine whether a settlement notice to the class satisfies constitutional or Rule 23(e) requirements; the settlement notice must fairly apprise the prospective members of the class of the terms of the proposed settlement and of the options that are open to them in connection with the proceedings.” *Wal-Mart Stores*, 396 F.3d at 114 (quotation omitted).

36. The Court finds that the Notice Program, including the Class Notice, the Notice Form attached to the Settlement, and the particulars of the Notice Program described in the Declaration of Carla A. Peak in Support of Settlement Notice Program, satisfy these requirements and Due Process and constitute “the best notice that is practicable under the circumstances.” The Court appoints KCC as General Administrator and directs that the Notice Program be implemented as set forth in the Settlement.

37. All fees, costs, and expenses incurred in implementing the Notice Program shall be paid solely from the Preliminary Settlement Fund as set forth in the Settlement.

SETTLEMENT OF CLAIMS OF INFANT, INCOMPETENT AND DECEASED CLASS MEMBERS

38. Each of the Plaintiffs who filed this Action as parent and natural guardian of a Minor will apply to the Court individually or jointly for approval of the Settlement on behalf of the Minor class representatives and all absent Minor Settlement Class Members. This Preliminary Approval Order provides authority pursuant to Local Rule 17.1 and N.Y. C.P.L.R. § 1201 for parents and guardians of all named Minor Plaintiffs and absent Settlement Class Members, and for legal representatives of absent incompetent Settlement Class Members, to sign Claim Forms and releases on behalf of the Settlement Class Members they represent. An Order from this Court finally approving the Settlement shall effectuate a settlement under Local Rule 17.1 and N.Y.

C.P.L.R. § 1207 for all named Minor Plaintiffs, absent Minor Settlement Class Members, and absent incompetent Settlement Class Members.

39. The legal representatives of deceased absent Settlement Class Members shall have authority to sign Claims Forms and releases on behalf of the absent Settlement Class Members they represent. Where a legal representative of a deceased absent Settlement Class Member submits a Claim Form on that Settlement Class Member's behalf, that legal representative shall attest to their authority to act for the deceased absent Settlement Class Member.

PROCEDURES FOR REQUESTING EXCLUSION FROM OR OBJECTING TO THE SETTLEMENT

40. A Settlement Class Member may request exclusion from the Settlement at any time prior to the Opt Out Deadline, provided an opt-out notice is sent to the General Administrator in accordance with the procedures set forth in the Settlement Agreement. Any Settlement Class Member who elects to opt out of the Settlement shall not be entitled to receive any benefits conferred by the Settlement. Any Settlement Class Member who does not timely and validly request to opt out shall be bound by the terms of the Settlement, including the Release. If a Residential Property that is encompassed by one of the Property Settlement Classes has more than one legal owner and one of those owners excludes himself or herself from the relevant Settlement Class, then all owners of that Residential Property shall be deemed to have opted out of the Settlement, and no owner of the Residential Property shall be entitled to a payment under the Settlement.

41. Objections to the Settlement, to the application of attorneys' fees and costs, and/or to the Service Award must be served on the Parties in accordance with the Settlement. Interim Settlement Class Counsel and/or the Settling Defendants may conduct limited discovery on any objector or objector's counsel consistent with the Federal Rules of Civil Procedure.

42. Except for Settlement Class Members who have timely asserted an objection to the Settlement, all Settlement Class Members shall be deemed to have waived all objections and opposition to the fairness, reasonableness, and adequacy of the Settlement.

MOTIONS FOR FINAL APPROVAL, FEES, EXPENSES, AND SERVICE AWARDS

43. Plaintiffs shall file their Motion for Final Approval of the Settlement, appointment as Settlement Class Counsel as well as Class Counsel's application for attorneys' fees and costs, for a Service Award to the Plaintiffs, and for all Settlement Administration Costs, no later than 150 days after this Order is entered. At the Final Approval Hearing, the Court will hear argument on Plaintiffs' Motion for Final Approval of the Settlement, and on Class Counsel's application for attorneys' fees and expenses, for the Service Award for the Plaintiffs, and for all Settlement Administration Costs.

FINAL APPROVAL HEARING

44. The Court will hold a Final Approval Hearing on _____, 2021, at ____ a.m./p.m., at the James T. Foley U.S. Courthouse, 445 Broadway, Albany, New York 12207-2926, or by videoconference or teleconference if determined by separate order, to assist the Court in determining whether to grant Final Approval to the Settlement, enter the Final Approval Order and Judgment, and grant any motions for fees, expenses and the Service Award.

OTHER PROVISIONS

45. Plaintiffs' Interim Settlement Class Counsel and counsel for the Settling Defendants are authorized to take, without further approval of the Court, all necessary and appropriate steps to implement the Settlement according to its terms, including implementing the Notice Program.

46. Pending determination whether the Settlement Agreement should be granted Final Approval, further proceedings against the Settling Defendants are stayed in this Action, other than proceedings necessary to carry out or enforce the terms of the Settlement. Nothing in this Order shall stay further proceedings in this Action against any non-settling Defendant.¹ For purposes of the continued prosecution of this case against any non-settling Defendant, the Order of the Hon. Daniel J. Stewart dated July 27, 2016, appointing Weitz & Luxenberg, P.C. and Faraci Lange, LLP as Co-Lead Interim Class Counsel (Dkt. 1) shall remain in effect until this Court rules on Plaintiffs' pending motion for class certification regarding any non-settling Defendant, with the exception that James J. Bilsborrow of Seeger Weiss, LLP shall now be appointed as a third Co-Lead Interim Class Counsel pursuant to Fed. R. Civ. P. 23(g)(3).

47. The Settling Defendants shall serve the appropriate government officials with the notice required by 28 U.S.C. § 1715, within the time provided by statute.

48. Without further orders of the Court, the Parties may agree to make non-material modifications to the Settlement Agreement (including the exhibits thereto) in implementing the Settlement that are not inconsistent with this Preliminary Approval Order, including making minor changes to the Settlement Agreement, to the form or content of the Notice Form, or to any other exhibits that the Parties jointly agree in writing are reasonable or necessary.

49. The Court shall retain jurisdiction over the Settlement Agreement and shall consider all further matters arising out of or connected with the Settlement.

¹ The Settlement with the Settling Defendants is not and does not constitute a settlement with any non-settling Defendant (*e.g.*, named Defendants who are not the Settling Defendants) and the Settlement is not dispositive of any Plaintiff's claim against any non-settling Defendant.

SCHEDULE OF DEADLINES

50. The Court sets the following deadlines:

Event	Date
Deadline for the Settling Defendants to pay \$10,000,000 in cash into the Escrow Account	No later than 20 days from the date of this Order
Deadline for General Administrator to commence Notice Program	No later than 30 days from the date of this Order
Commencement of the Enrollment Period	30 days from the date of this Order
Opt Out Deadline	105 days from the date of the Notice Date
Objection Deadline	105 days from the date of the Notice Date
Deadline for filing a Motion for Final Approval and any petition for an award of attorneys' fees, costs, and Service Awards	No later than 150 days from the date of this Order
Final Approval Hearing	_____ (approximately 180 days from the date of this Order)

SO ORDERED.

Date:

HON. LAWRENCE E. KAHN
United States District Judge

EXHIBIT D



KCC Class Action Services Resume

KCC is an industry leader in class action settlement administration. We administer claims processes and distribute funds in a vast array of varying matters, ranging from small and simple settlements to multi-year complex settlements involving millions of claimants.

KCC's parent company, Computershare, is a publicly traded company which, among its many business lines, provides global financial services centering on communications with customers on behalf of our corporate clients. Computershare employs over 12,000 people and does business with more than 25,000 clients in more than 21 countries. KCC's operations are regulated by federal agencies, including both the SEC and OCC. KCC has the largest infrastructure in the class action industry, and is backed by superior data security, call center support and technology. In addition to the immense resources and capabilities brought to bear through Computershare, KCC can execute all operations in-house with zero outsourcing; a capacity which allows for full quality control over each aspect of service.

KCC has administered over 7,200 class action matters and handled thousands of distribution engagements in other contexts as well. Our call centers handle 13.9 million calls each year. Our domestic infrastructure can open and scan 200,000 claims in a single day, and we have document production capabilities that print and mail millions of documents annually. Last year, our disbursement services team distributed more than \$1.6 billion (USD) across four million class payments.

Locations

KCC has an administrative office in El Segundo, CA, operation offices in San Rafael, CA, and Louisville, KY, and presence in the East Coast, South and Midwest. In addition to these offices, KCC has the global support of Computershare. In the United States Computershare has more than 20 offices.

KCC Personnel

KCC's experienced team of experts knows first-hand the intricacies contained in every aspect of settlement administration, and approach each matter with careful analysis and procedural integrity. Each client is assigned a team of experienced consultants, specialists and technology experts who serve as knowledgeable, reliable and accessible partners that have earned a reputation for exceeding clients' expectations. KCC's executive team – Eric Barberio, President; Patrick Ivie, Senior Executive Vice President; and Daniel Burke, Executive Vice President – are experienced industry leaders.

Our personnel have considerable experience which includes years of practice with KCC and related endeavors. KCC's professionals have extensive training, both on-the-job and formal, such as undergraduate and advanced business, information technology and law degrees, and they possess and/or have had licenses and certificates in disciplines that are relevant to class action administration.

Recognition

Our settlement administration services have been recognized by *The National Law Journal*, *The New York Law Journal*, *The New Jersey Law Journal*, *The Recorder*, *Legal Intelligencer*, *Legal Times* and other leading publications. KCC has earned the trust and confidence of our clients with our track record as a highly-responsive partner.



Settlement Value	
Case	Value
Fortis Settlement	\$1,572,690,000
Ramah Navajo Chapter v. Jewell	\$940,000,000
U.S.A. v. The Western Union Company	\$586,000,000
Vaccarino v. Midland National Life Ins. Co	\$555,000,000
In re Facebook Biometric Info. Privacy Litig.	\$550,000,000
Safeco v. AIG	\$450,000,000
Johnson v. Caremark Rx, LLC	\$310,000,000
In re Activision Blizzard, Inc. Stockholder Litigation	\$275,000,000
Harborview MBS	\$275,000,000
Dial Corp. v. News Corporation, et al.	\$244,000,000
In re Medical Capital Securities Litigation Settlement	\$219,000,000
In Re: NCAA Athletic Grant-In-Aid Antitrust Litigation	\$208,664,445
Gutierrez v. Wells Fargo Bank, N.A	\$203,000,000
Postmates Mass Arbitration Settlement	\$179,000,000
BlueCrest Capital Management Limited	\$170,000,000
Bell v. Farmers - Bell III	\$170,000,000
In Re Diamond Foods, Inc. Securities Litigation	\$167,000,000
In re JPMorgan Chase & Co. Securities Litigation	\$150,000,000
Haddock v. Nationwide Life Insurance Co. Settlement	\$140,000,000
In re Freeport-McMoran Copper & Gold Inc. Derivative Litigation Notice	\$137,500,000
Bank of America, et al. v. El Paso Natural Gas Company, et al.	\$115,000,000
In re Anthem, Inc. Data Breach Litigation	\$115,000,000
In re Medical Capital Securities Litigation Settlement	\$114,000,000
Drywall Acoustic Lathing v. SNC Lavalin	\$110,000,000
In re Automotive Parts Antitrust Litigation III	\$103,000,000
Rural/Metro Corporation Stockholders Litigation	\$97,793,880
J.C. Penney Securities Litigation	\$97,500,000
Smokeless Tobacco Cases	\$96,000,000
Oubre v. Louisiana Citizens	\$92,865,000
Ardon v. City of Los Angeles	\$92,500,000
Nishimura v. Gentry Homes, Ltd. II	\$90,341,564
In Re: Potash Antitrust Litigation (II) (Escrow)	\$90,000,000
Ormond, et al, v. Anthem, Inc.	\$90,000,000
In re DRAM Antitrust Litigation	\$87,750,000
In re: Morning Song Bird Food Litigation	\$85,000,000
Ideal v. Burlington Resources Oil & Gas Company LP	\$85,000,000
Willoughby v. DT Credit Corporation, et al. (Drivetime)	\$78,000,000
In Re Tesla Motors, Inc. Stockholder Litigation	\$60,000,000



Class Members	
Case	Volume
Edwards v. National Milk Producers Federation et al.	90,000,000
In re Anthem, Inc. Data Breach Litigation	80,000,000
Carrier IQ Inc. Consumer Privacy Litigation	47,300,000
The Home Depot, Inc. Customer Data Security Breach Litigation	40,000,000
In re Facebook Biometric Info. Privacy Litig.	30,000,000
In Re Midland Credit Management, Inc. TCPA Litigation	30,000,000
Golden v. ContextLogic Inc. d/b/a Wish.com	29,222,936
Cassese v. WashingtonMutual	23,200,344
In re Wawa, Inc. Data Security Litigation	22,000,000
Rael v. The Children's Place, Inc.	22,000,000
In Re Optical Disk Drive Antitrust Litigation	20,000,000
In re UltraMist Sunscreen Litigation	20,000,000
Torres v. Wendy's International, LLC	18,000,000
In Re Lithium Ion Batteries Antitrust Litigation	16,000,000
Gordon v. Verizon Communications, Inc.	15,236,046
Experian Data Breach Litigation	15,000,000
Opperman v. Kong Technologies, Inc. et al.	13,279,377
Lerma v Schiff Nutrition International, Inc.	12,000,000
Kolinek v. Walgreen Co.	10,213,348
Dunstan v. comScore, Inc.	10,000,000
Sprint Government Restitution Program	9,500,000
Steinfeld v. Discover Financial Services	9,088,000
Cohen, et al. v. FedEx Office and Print Services, Inc., et al.	9,000,000
Elvey v. TD Ameritrade, Inc.	8,639,226
In Re: Monitronics International, Inc. Telephone Consumer Protection Act Litigation	7,789,972
In re Portfolio Recovery Associates Telephone Consumer Protection Act Litigation	7,395,511
Morrow v. Ascena Retail Group, Inc. and Ann Inc.	7,277,056
Shames v. The Hertz Corporation	7,271,238
In Re Facebook Biometric Information Privacy Litigation	7,000,000
Roberts, et al. v. Electrolux Home Products, Inc.	6,305,000
Chambers v. Whirlpool Corporation, et al.	5,788,410
Martin v. Safeway Inc.	5,610,739
Morales v. Conopco Inc. dba Unilever (TRESemmé Naturals)	5,000,000
Murray v. Grocery Delivery E-Services USA Inc. dba Hello Fresh	5,000,000

EXHIBIT E

November 2, 2017

CURRICULUM VITA

Name of Attorney: Edgar C. Gentle, III, Esq.

Name of Firm: Gentle, Turner, Sexton & Harbison, LLC

Profession: Attorney

Date of Birth: February 17, 1953

Years with Firm: 25

Nationality: U.S.A.

Memberships in Professional Societies: Admitted to Alabama State Bar (1981) and various Federal District Court and Appellate Court Bars

A. Key Qualifications

Ed Gentle was born in Birmingham, Alabama, February 17, 1953. He graduated summa cum laude in 1975 from Auburn University—where he was a Danforth Scholar and earned a Bachelor of Science degree. In 1977 he received a Master of Science (summa cum laude) from the University of Miami as a Maytag Fellow—where he became familiar with the law of the sea and international resource planning issues involving competing nations.

He was a Rhodes Scholar (Auburn's second and Miami's first) at Oxford University—where he earned a B.A. degree with honors in Jurisprudence in 1979 and a M.A. degree in 1980. He then attended the University of Alabama School of Law as a Hugo Black Scholar. He earned his J.D. and was admitted to the Alabama State Bar in 1981.

Mr. Gentle has comprehensive experience in serving as Special Master and Claims Administrator in Mass Tort Litigation, and providing claims administration and financial and business advice to Courts, Settling Parties, and Mass Tort Settlements. Approximately 90% of his professional time is devoted to this practice. He has helped create and administer over \$2 Billion in Settlements during the past 25 years. He has also provided affidavit, deposition and hearing testimony on the fairness of Mass Tort Settlements.

From 1992 to 2014, Mr. Gentle served as Special Master and Escrow Agent for the MDL 926 Global Breast Implant Settlement, paying \$1.2 Billion in claims for 300,000 claimants. From 2001 until 2003, he was Interim Financial Advisor for the Settlement Facility - Dow Corning Trust (the Dow

Corning Breast Implant Settlement) overseeing the investment of over \$1 Billion and providing tax and accounting support for the Settlement, during part of Dow Corning's Chapter 11 Bankruptcy. Commencing in December 2003, Mr. Gentle was appointed as the Settlement Administrator in the \$300 Million Anniston, Alabama Tolbert PCB Settlement with Monsanto and Solutia in connection with the administration of a Global Settlement before the Federal District Court for the Northern District of Alabama applicable to 18,000 claimants with respect to PCB contamination of property and PCB personal injury claims. In administering the \$300 Million settlement, Mr. Gentle designed the claimant payment program for property damage and personal injury, collected criteria for payments to each of the 18,000 claimants, ranked the claimants for payment amounts, satisfied private and government liens, and remitted payments to each of the claimants. The Settlement also provided primary medical and dental care and prescriptions to claimants, with this portion of the settlement being completed in 2016.

One of Mr. Gentle's specialties is serving as Settlement Administrator for Community Tort Settlements, such as a C-8 groundwater contamination case in Camden, New Jersey (with water filtration and damages), Warehouse Fire Settlements in Conyers, Georgia and Louisville, Kentucky (personal injury and property claims), Zinc Smelter Settlements in Spelter, West Virginia (medical monitoring and property remediation) and Blackwell, Oklahoma (property remediation), a coal slurry groundwater contamination Settlement in Mingo County, West Virginia (medical monitoring), and two train wrecks in Kentucky, one in Alabama and one in West Virginia (personal injury and property claims).

In November, 2009, Mr. Gentle was appointed Claims Administrator in the Jefferson County, Alabama, Occupation Tax Refund Case before the Honorable David Rains, in the Circuit Court of Jefferson County. On May 14, 2010, the Supreme Court of Alabama upheld the \$37 Million Judgment. The Parties entered into a Settlement, which was approved by the Court, and tax refunds were issued to over 300,000 claimants. The case was completed in 2014.

In June 2010, Mr. Gentle was appointed Special Master and Settlement Administrator in the Total Body Multi-district Litigation, MDL 1985. Working closely with the Court, Mr. Gentle facilitated the aggregate settlement of all cases, in August 2010. Mr. Gentle and his staff determined the value of each of the settled cases, which was consented to by all Plaintiffs, and Mr. Gentle administered the Settlement, satisfied private and government liens, and paid all claimants, which was completed in 2013.

Mr. Gentle is Special Master in the national MDL Blue Cross Antitrust Litigation, MDL 2406, with putative provider and subscriber classes, before the Honorable R. David Proctor, having been appointed in 2012. The case has 3 groups of litigants: the Policy Subscribers, the Medical Providers and the 37 Blue Cross cases.

From 2012 to 2014, Mr. Gentle, as Special Master, facilitated the creation and administration of a 93 claimant settlement with an undisclosed manufacturer and hospital concerning CT-Scan radiation exposure.

In 2013 and 2014, Mr. Gentle administered four separate Pfizer Chantix Aggregate Settlements, designing the payment matrix, handling claimant appeals, resolving liens, and paying claimants.

In 2014, Mr. Gentle was appointed Plaintiff Lien Administrator for the Hydroxycut Settlement.

In 2015, 2016, and 2017, Mr. Gentle was hired by Smith & Nephew and Plaintiffs' Counsel to facilitate three Memphis, Tennessee aggregate settlements involving artificial hips and to resolve related plaintiff liens.

In May 2016, Mr. Gentle was appointed Claims Administrator by the Escambia County, Florida, Circuit Court in Allen v. A.E. New, the Pensacola jail fire and explosion case, to facilitate the potential settlement of the case.

In October 2016, Mr. Gentle was appointed Special Master by the Fulton County, Georgia, Circuit Court in Smart v. Brenntag, to carry out the administration of a chemical spill settlement.

In September 2017, Mr. Gentle was appointed Claims Administrator for a GE factory fire in Louisville, Kentucky.

In October 2017, Mr. Gentle was appointed Special Master by the West Virginia Federal District Court for the Southern District of West Virginia to administer the Mt. Carbon 400 claimant aggregate trail derailment settlement with Sperry (personal injury and property damage).

In October 2017, Mr. Gentle was appointed Escrow Agent for the Common Benefit Fund in the Storz Morcellator Litigation in the Superior Court of California, of Los Angeles County.

B. Education

<u>Class Rank</u>	<u>School</u>
4	J.D., University of Alabama School of Law 1981 (Hugo Black Scholarship)
Middle	M.A., Jurisprudence, Oxford University 1980 (Rhodes Scholarship)
Middle	B.A., Honours Jurisprudence, Oxford University 1979 (Rhodes Scholarship)
1	M.S., <u>Summa Cum Laude</u> , University of Miami 1977 (Maytag Fellowship [washing machines])
1	B.S., <u>Summa Cum Laude</u> , Auburn University 1975 (Danforth Scholarship [Purina])

C. Employment Record

June 1992 - Present	Gentle, Turner, Sexton & Harbison, LLC Managing Partner Birmingham, Alabama
September 1991 - June 1992	Miller, Hamilton, Snider & Odom Partner Manager of Birmingham, Alabama Office
January 1987 - September 1991	Schoel, Ogle, Benton, Gentle & Centeno Partner Birmingham, Alabama
December 1985 - January 1987	Law Offices of James L. North Associate Birmingham, Alabama
June 1983 - December 1985	AT&T Senior Staff Attorney Atlanta, Georgia
May 1981 - June 1983	North, Haskell, Slaughter, Young & Lewis Associate Birmingham, Alabama

D. Contact Information

Website: www.gtandslaw.com

E-mail address: egentle@gtandslaw.com

Telephone number: 205-716-3000

Fax number: 205-716-3010

Cell Phone: 205-560-2533

E. References

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(205) 870-0555
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Van Bunch, Esq.
Bonnett, Fairbourn, Friedman & Balint, P.C.
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The Honorable U. W. Clemon
Retired Federal District Court Judge
5202 Mountain Ridge Parkway
Birmingham, Alabama 35222
(205) 837-2898
Email address: clemonu@bellsouth.net

The Honorable R. David Proctor
United States District Court Judge
Hugo L. Black U. S. Courthouse, 7th Floor
1729 Fifth Avenue North
Birmingham, Alabama 35203
(205) 278-1982

The Honorable Karon O. Bowdre
United States District Court Judge
Hugo L. Black U. S. Courthouse
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Birmingham, Alabama 35203
(205) 278-1802

The Honorable T. Michael Putnam
Magistrate Judge
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EXHIBIT F

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**DECLARATION OF CARLA A. PEAK
IN SUPPORT OF SETTLEMENT
NOTICE PROGRAM**

I, Carla A. Peak, declare as follows:

1. My name is Carla A. Peak. I have personal knowledge of the matters set forth herein, and if called as a witness I could and would testify competently to them.
2. I am a nationally recognized expert in the field of legal notice, and I have served as an expert in dozens of federal and state cases involving class action notice plans.
3. I am the Vice President of Legal Notification Services for KCC Class Action Services, LLC ("KCC"), a firm that provides comprehensive class action services, including claims administration, legal notification, email and postal mailing campaign implementation,

website design, call center support, class member data management, check and voucher disbursements, tax reporting, settlement fund escrow and reporting, and other related services critical to the effective administration of class action settlements. Our experience includes many of the largest and most complex settlement administrations of both private litigation and of actions brought by state and federal government regulators. KCC has been retained to administer more than 7,000 class actions and distributed settlement payments totaling well over a trillion dollars in assets.

4. This Declaration describes KCC's experience, as well as the proposed notice plan (the "Notice Program") designed to provide notice to class members for this class action settlement.

RELEVANT EXPERIENCE

5. KCC has administered class action administrations for such defendants as HP-Compaq, LensCrafters, United Parcel Service, Ford, Mitsubishi, Nissan, Whirlpool, ATI Video Cards, and Twentieth Century Fox. Some relevant case examples which KCC has been involved with include: *Alvarez v. Haseko Homes, Inc.*, No. 09-1-2691-11 (Cir. Ct. Hawai'i); *Campos v. Calumet Transload Railroad, LLC*, No. 1:13-cv-08376 (S.D.N.Y.); *Charles v. Haseko Homes, Inc.*, No. 09-1-1932-08 (Cir. Ct. Hawai'i); *Eck v. City of Los Angeles*, No. BC577028 (Sup. Ct. Cal.); *Eubank v. Pella Corporation*, No. 1:06-cv-04481 (N.D. Ill.); *Houze v. Brasscraft Manufacturing Co. (EZ-FLO)*, No. BC493276 (Sup. Ct. Cal.); *In Re: Rust-Oleum Restore Marketing, Sales Practices and Products Liability Litig.*, No. 1:15-cv-01364 (N.D. Ill.); *In Re: Uponor, Inc., F1807 Plumbing Fittings Products Liab. Litig.*, No. 11-MD-2247 (D. Minn.); *Kai v. Haseko Homes, Inc.*, No. 09-1-2834-12 (Cir. Ct. Hawai'i); *Lavinsky v. City of Los Angeles*, No. BC542245 (Sup. Ct. Cal.); *Loftus v. SunRun, Inc.*, No. 3:19-cv-01608 (N.D. Cal.); *Nishimura v.*

Gentry Homes, Ltd., No. 11-1-1522 (Cir. Ct., Hawai'i); *Slovin v. Sunrun, Inc.*, No. 4:15-cv-05340 (N.D. Cal.); and *Thomas v. Lennox Industries Inc.*, No. 1:13-cv-07747 (N.D. Ill.).

NOTICE PROGRAM DETAILS

Class Definition

6. The Settlement Classes consist of (1) individuals who, for a period of at least six months between 1996 and 2016, have (a) ingested water at their residence(s), which were supplied by the Village Municipal Water System or from a private well in the Village of Hoosick Falls or Town of Hoosick in which perfluorooctanoic acid (PFOA) has been detected, and (b) underwent blood serum tests that detected a PFOA level in their blood above 1.86 µg/L; or any natural child (i) who was born to a female who meets and/or met the above criteria at the time of the child's birth and (ii) whose blood serum was tested after birth and detected a PFOA level above 1.86 µg/L ("Medical Monitoring Settlement Class"); (2) Persons who are or were owners of Residential Property that was supplied with drinking water from the Village Municipal Water System, and who purchased that property on or before December 16, 2015 and owned that property as of December 16, 2015 ("Municipal Water Property Settlement Class"); (3) Persons who are or were owners or renters of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick that was supplied with drinking water from a privately owned well in which PFOA was detected, had a point-of-entry treatment (POET) system installed to filter water from that well, and who either (i) owned and occupied that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015; or (ii) rented and occupied the property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015 ("Nuisance Settlement Class"); and (4) Persons who are or were owners of Residential Property located in the Village of Hoosick Falls or the Town of Hoosick

that was supplied with drinking water from a private well in which PFOA was detected, and who owned that property at the time PFOA in the property's private well was discovered through a water test on or after December 16, 2015 ("Private Well Water Property Settlement Class").

7. Given the length of the class period, geographic mobility data was studied among people residing in the Village of Hoosick Falls and Town of Hoosick area. This data indicates that, of the individuals who have left the Village of Hoosick Falls and Town of Hoosick area, the majority tend to move to a new location within the same county.¹ To ensure appropriate coverage, the Notice Program has been designed to provide notice to individuals in the Village of Hoosick Falls, the Town of Hoosick, the Albany-Troy-Schenectady designated market area, as well as the state of New York.

Individual Notice

8. KCC will send a detailed Notice and Claim Form along with a postage pre-paid envelope via United States Postal Service (USPS) to all Settlement Class Members for whom a postal address is provided by the parties. The Settling Defendants have agreed to provide records for all properties within the Town of Hoosick and Village of Hoosick Falls on which point-of-entry treatment (POET) systems have been installed since December 2015. Interim Class Counsel have agreed to provide property addresses, based on the 2015 public Tax Rolls for all Residential Properties in the Village of Hoosick Falls. These records and postal addresses will encompass all Residential Properties included in the Property Settlement Classes and the Nuisance Settlement Class.

¹ American Community Survey, 2019: ACS 5-Year Estimates Detailed Tables, TableID B07001.
<https://www.census.gov/topics/population/migration/guidance/metro-to-metro-migration-flows.html>.

9. Prior to mailing, the postal addresses will be checked against the National Change of Address (NCOA)² database maintained by USPS; certified via the Coding Accuracy Support System (CASS);³ and verified through Delivery Point Validation (DPV).⁴

10. Notices returned by USPS as undeliverable will be re-mailed to any address available through postal service forwarding order information. For any returned mailing that does not contain an expired forwarding order with a new address indicated, KCC will conduct further address searches using credit and other public source databases to attempt to locate new addresses and will re-mail these notices where possible.

Media Campaign

11. In addition to the individual notice effort described above, KCC will implement a media campaign consisting of newspapers, digital media, a press release, and a consumer outreach effort. Specifically, KCC will place a quarter page Summary Notice in the *Bennington Banner* and *Eastwick Press*. KCC will also cause approximately 54.2 million digital impressions to be distributed via various websites and social media platforms, including Facebook and Instagram. The impressions will be (1) geographically targeted to adults in the state of New York, the Albany-Troy-Schenectady designated market area, the Town of Hoosick, and Village of Hoosick Falls, (2) targeted to adults nationwide, (3) targeted to internet users who have Bennington College listed as part of their Education as part of their social media profile, and (4) targeted using IP addresses to reach devices mapped to approximately 1,700 postal addresses in Hoosick Falls.

² The NCOA database contains records of all permanent change of address submissions received by the USPS for the last four years. The USPS makes this data available to mailing firms, and lists submitted to it are automatically updated with any reported move based on a comparison with the person's name and last known address.

³ Coding Accuracy Support System is a certification system used by the USPS to ensure the quality of ZIP+4 coding systems.

⁴ Records that are ZIP+4 coded are then sent through Delivery Point Validation to verify the address and identify Commercial Mail Receiving Agencies. DPV verifies the accuracy of addresses and reports exactly what is wrong with incorrect addresses.

12. KCC will also cause a press release to be distributed nationwide to a variety of press outlets.

13. KCC will contact a variety of local organizations and request their assistance in sharing information with their members and audiences. Organizations include radio stations, local newspapers, news stations, and social media groups. For example, Village of Hoosick Falls (villageofhoosickfalls.com/Water), Town of Hoosick, New York (townofhoosick.org), Rensselaer County (rensko.com/departments), WAMC Northeast Public Radio, Troy Record, WRBG News 6, The Legislative Gazette, The New York Times, WNYT 13, City & State New York, ABC 33/40, and Facebook groups such as Hoosick Falls NY Past & Present, Hoosick Area Here & Now, Hoosick Falls Environmental Conservation, Hoosick Falls Water Pollution, Village of Hoosick Falls, NY, and Hoosick Falls Parents.

14. The media campaign is expected to reach approximately 80% of likely Settlement Class Members.

Response Mechanisms

15. KCC will establish and maintain a case specific website to allow Settlement Class Members to obtain additional information and documents about the Settlement, including the Second Amended Complaint, the Settlement Agreement, the Notice Form, Plaintiffs' motion seeking Preliminary Approval, the Preliminary Approval Order, Plaintiffs' motion seeking Final Approval, the Final Approval Order, the Claim Form, and such other documents as the Parties agree to post or that the Court orders posted. Settlement Class Members will also be able to review a list of "Frequently Asked Questions and Answers" and file a Claim Form online.

16. KCC will establish a case-specific toll-free number to allow Settlement Class Members to call to learn more about the case in the form of Frequently Asked Questions and

Answers. It will also allow Settlement Class Members to request to have additional information mailed to them.

CONCLUSION

17. In my opinion, the Notice Program proposed for this case is consistent with other effective settlement notice programs. It is the best notice practicable and meets the “desire to actually inform” due process communications standard of *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). It provides the same reach and frequency evidence that Courts have approved and that has withstood appellate scrutiny, other expert critiques, as well as collateral review.⁵ The Notice Program and notice documents are consistent with the guidelines set forth in Rule 23, the Manual for Complex Litigation, Fourth, and the Federal Judicial Center’s 2010 Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 21 day of July 2021, at Ocean City, New Jersey.

Carla A. Peak

⁵ See for example, *Friend v. FGF Brands (USA), Inc.*, No. 1:18-cv-07644 (N.D. Ill.), *In re Trader Joe’s Tuna Litigation*, No. 2:16-cv-01371 (C.D. Cal.), *In re Thalomid and Revlimid Antitrust Litigation*, No. 2:14-cv-06997 (D. N.J.), *Cicciarella v. Califia Farms, LLC*, No. 7:19-cv-08785 (S.D.N.Y.), *Suchanek v. Sturm Foods, Inc.*, No. 3:11-cv-00565 (S.D. Ill.), *In re Morning Song Bird Food Litigation*, No. 3:12-cv-01592 (S.D. Cal.), *Alvarez v. Haseko Homes, Inc.*, No. 09-1-2691-11 (Cir. Ct. Hawai’i), *Eubank v. Pella Corporation*, No. 1:06-cv-04481 (N.D. Ill.), *Houze v. Brasscraft Manufacturing Co. (EZ-FLO)*, No. BC493276 (Sup. Ct. Cal.), *In Re: Rust-Oleum Restore Marketing, Sales Practices and Products Liability Litig.*, No. 1:15-cv-01364 (N.D. Ill.) and *Lavinsky v. City of Los Angeles*, No. BC542245 (Sup. Ct. Cal.).

EXHIBIT 2

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P., infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

**JOINT DECLARATION OF MICHAEL HICKEY,
KRISTIN MILLER AND SILVIA POTTER**

We, Michael Hickey, Kristin Miller and Silvia Potter, declare as follows:

1. We are over the age of eighteen (18) and reside at 30 Albany Street, County of Rensselaer, Village of Hoosick Falls, State of New York, 10 Oneil Way, County of Rensselaer, Village of Hoosick Falls, State of New York, and 34 Albany Street, County of Rensselaer, Village of Hoosick Falls, State of New York, respectively.
2. We are named plaintiffs and proposed class representatives in this Action, and have brought claims individually and as a parent and natural guardian of O.H., K.M. and C.P., our respective children over whom we have legal custody. O.H., K.M. and C.P. are less than eighteen (18) years of age.
3. O.H. resides with Michael Hickey at 30 Albany Street, County of Rensselaer, Village of Hoosick Falls, State of New York. K.M. resides with Kristin Miller at 10 Oneil Way,

County of Rensselaer, Village of Hoosick Falls, State of New York. C.P. resides with Silvia Potter at 34 Albany Street, County of Rensselaer, Village of Hoosick Falls, State of New York.

4. As set forth in the Class Settlement Agreement, Plaintiffs allege that the Defendants are liable under several tort theories for various damages and other relief based on the presence of perfluorooctanoic acid ("PFOA") in the Village Municipal Water System, in private wells, on or at their properties, and/or in their blood. Plaintiffs have asserted claims against the Defendants in this Action on behalf of four proposed but not certified classes, including on behalf of a proposed class of current and former residents of the Village of Hoosick Falls and Town of Hoosick with PFOA detected in their blood at a level greater than 1.86 ug/L.
5. This Action asserts claims against the Settling Defendants on behalf of O.H., K.M. and C.P. as members of the proposed Medical Monitoring Settlement Class. Plaintiffs allege that O.H., K.M. and C.P. have been exposed to PFOA, and that due to the presence of PFOA detected in their blood at a level above 1.86 ug/L, they are at an increased risk of developing certain health conditions.
6. In our roles as parents and natural guardians, and as proposed class representatives, we have reviewed, fully understand and approve of both the terms of the Class Settlement Agreement between Plaintiffs and the Settling Defendants and its proposed distribution of Settlement Funds to fund the Medical Monitoring Program set forth in Appendix A to the Class Settlement Agreement because they are in the best interests of O.H., K.M., C.P. and all absent infant class members. In doing so, we have had the opportunity to consult with Class Counsel.
7. No reimbursement of past medical or other expenses has been received from any source.
8. We are also members of the proposed Medical Monitoring Settlement Class that is being settled. Our claims for medical monitoring are being settled on the same terms as the infant class representatives' claims and the absent infant class member claims. O.H.'s paternal grandmother, Sue Hickey, has separately filed a lawsuit against the Defendants on behalf of the Estate of her late husband (O. H.'s paternal grandfather), John Hickey, and individually for loss of consortium. The lawsuit filed by Sue Hickey is a pending personal injury case, and therefore not part of this class Action.
9. No previous application for the relief herein prayed for has been made.

WHEREFORE, Declarants respectfully ask for an order approving the proposed Class Settlement Agreement, authorizing the parents and natural guardians of all infant class representatives and absent infant class members to settle the Action and releasing the Settling Defendants (and other Released Parties) from any further liability to the infant Plaintiffs and absent infant class members, consistent with Section 6(b)-(d) of the Class Settlement Agreement.

We declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of July, 2021.

Michael Hickey

Executed on this: _____ day of July, 2021

Kristin Miller

Executed on this: _____ day of July, 2021.

Silvia Potter

EXHIBIT 3

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MICHELE BAKER; CHARLES CARR;
ANGELA CORBETT; PAMELA FORREST;
MICHAEL HICKEY, individually and as parent
and natural guardian of O.H., infant;
KATHLEEN MAIN-LINGENER; KRISTIN
MILLER, as parent and natural guardian of
K.M., infant; JENNIFER PLOUFFE; SILVIA
POTTER, individually and as parent and natural
guardian of C.P, infant; and DANIEL
SCHUTTIG, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

SAINT-GOBAIN PERFORMANCE PLASTICS
CORP., and HONEYWELL INTERNATIONAL
INC. f/k/a ALLIED-SIGNAL INC. and/or
ALLIEDSIGNAL LAMINATE SYSTEMS,
INC., E.I. DUPONT DE NEMOURS AND
COMPANY, INC., and 3M CO.,

Defendants.

Case No. 1:16-CV-00917-LEK-DJS

DECLARATION OF STEPHEN G. SCHWARZ

I, Stephen G. Schwarz, declare as follows:

1. I am co-lead interim class counsel and as such the attorney for minor Plaintiffs O.H., K.M. and C.P., as well as their parents and natural guardians, Plaintiffs Michael Hickey, Kristin Miller and Silvia Potter, and I am fully familiar with all the facts and circumstances heretofore and herein. I make this Declaration in support of the Court's Approval of this Settlement for O.H., K.M., C.P. and all absent infant class members.
2. Interim Class counsel were retained by the parents and natural guardians of the three infant class representative plaintiffs, with expenses and fees to be paid out of either any settlement or verdict obtained, as approved by the Court.

3. As set forth in the Class Settlement Agreement, Plaintiffs allege that the Defendants are liable under several tort theories for various damages and other relief based on the presence of perfluorooctanoic acid ("PFOA") in the Village Municipal Water System, in private wells, on or at their properties, and/or in their blood. Plaintiffs have asserted claims against the Defendants in this Action on behalf of four proposed but not certified classes, including on behalf of a proposed class of current and former residents of the Village and Town with PFOA detected in their blood at a level greater than 1.86 ug/L.
4. The terms of the settlement are fully set forth in the Class Settlement Agreement between Plaintiffs and the Settling Defendants.
5. I recommend the proposed settlement on behalf of O.H., K.M. and K.P. and all absent infant Class members, because it is a fair settlement and it protects the interests of the infants by ensuring that they can participate in the Medical Monitoring Program set forth in Appendix A to the Class Settlement Agreement and funded by Settlement Funds.
6. I have neither directly nor indirectly become concerned in the settlement of this action at the instance of a party or person opposing, or with interest adverse to, the infants, nor received nor will receive any compensation from such a party.
7. I have prosecuted this case on behalf of the infant Plaintiffs, all absent infant class members, the other proposed Plaintiffs, and all of the other absent class members for the past five years. I have engaged in discovery against all Defendants, procured expert reports and defended expert depositions in support of class certification, and fully briefed a motion in support of class certification. I participated in negotiation of the Class Settlement Agreement, including several days of mediation.
8. As set forth in the Class Settlement Agreement, Class Counsel will apply for an award of attorneys' fees up to 19% of the Total Settlement Amount, or \$12,397,500, and reimbursement of reasonable litigation costs of \$1,040,817, to be approved by the Court. These fees and costs also relate to the claim on behalf of the infant Plaintiffs and all absent infant class members.
9. In addition to the infant Plaintiffs, I represent other Plaintiffs and proposed class representatives in this Action, including on behalf of the proposed Medical Monitoring Settlement Class, the Property Settlement Classes, and the Nuisance Settlement Class. The infant Plaintiffs and absent infant class members are proposed members of the Medical Monitoring Settlement Class. I also represent plaintiffs pursuing individual personal injury claims against the Defendants arising from certain alleged occurrences that are the basis of this Actions, whose personal injury claims are excluded from the Settlement.

10. No previous application for the relief herein prayed for has been made.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this: _____ day of July, 2021.

STEPHEN G. SCHWARZ

EXHIBIT 4

Faraci Lange

ATTORNEYS

Faraci Lange, LLP has served injured individuals and families throughout New York and nationally since 1968. The firm is headquartered in Rochester, New York and also has an office in Buffalo, New York. Faraci Lange has 13 attorneys with nine attorneys listed in the prestigious Best Lawyers in America directory under personal injury law and 12 attorneys listed in the Upstate New York Super Lawyers directory. Five of the firm's attorneys have been elected to the American Board of Trial Advocates, and two attorneys are members of the American College of Trial Lawyers. Faraci Lange is also listed on Martindale Hubbell's list of America's Preeminent Law Firms. The firm has a stellar reputation in both the legal and broader community, and the attorneys pride themselves on providing individualized service and top-notch representation to every client no matter how big or small the case. Its attorneys are experienced trial attorneys who litigate and try all types of cases, including complex medical malpractice cases, environmental toxic tort cases, mass tort product liability cases, consumer and employment class actions, and contract cases. The firm operates on the principle that no litigation challenge is too difficult for its team of dedicated, hardworking, and caring trial attorneys.

Faraci Lange has nearly 50 years of experience handling complex litigation in western New York and has been involved in nationwide complex mass tort litigation for more than three decades, including asbestos, breast implant, Vioxx, birth control, four different hip implant litigations, IVC filter, consumer class actions and environmental toxic mass tort litigation. The firm enjoys an unparalleled reputation in western New York for complex, multiparty litigation and its attorneys are well-respected by colleagues in the legal community in upstate New York and throughout the country. The firm and its partners have also been chosen to act in a leadership

role by Federal and State Courts in Western, Central and Northern New York for several mass tort litigations involving asbestos and zinc exposures.

Stephen G. Schwarz

Stephen Schwarz has been representing clients and trying cases throughout upstate New York for more than 30 years. He has been lead counsel for hundreds of toxic tort plaintiffs including in asbestos and zinc exposure cases and numerous multi-party environmental contamination cases involving personal injuries, property damages, nuisance damages and medical monitoring damages. Schwarz and Faraci Lange have been at the forefront of the evolution of New York law in the environmental toxic tort field. *See Allen v. General Elec. Cos.*, 32 A.D.3d 1163 (4th Dept. 2006); *Baity v. General Elec. Co.*, 86 A.D.3d 948 (4th Dept. 2011); *Ivory v. International Business Machines Corp.*, 116 A.D.3d 121 (3d Dept. 2014). Mr. Schwarz has previously served in leadership roles in mass tort litigation and has in the past been appointed as co-lead counsel for plaintiffs in the Western District of New York Asbestos Litigation, as well as the Northern District of New York Asbestos Litigation and the Seventh Judicial District Asbestos Litigation, and as lead counsel for plaintiffs in a consolidated action involving zinc exposure in the Western District of New York and New York Supreme Court, Monroe County.

Mr. Schwarz is a member of the American Board of Trial Advocates and served as the Rochester Chapter President in 2001-2002. He was elected to the American College of Trial Lawyers (ACTL) in 2005 and has served on its Board of Regents.

Mr. Schwarz has extensive experience in complex, multi-party litigation. Mr. Schwarz and his partner, Hadley Lundback Matarazzo, tried an 80 plaintiff drinking water contamination case in 2012 against General Electric Company involving ground water contamination south of Auburn, New York. Mr. Schwarz previously prosecuted a groundwater and surface soil contamination case

against General Electric and 3M Corporation in New York State Supreme Court on behalf of residents of Brockport, New York. Most recently, he and Ms. Lundback Matarazzo partnered with Weitz & Luxenberg and six other firms including Williams, Cuker Berezofsky of Philadelphia, Pennsylvania, in nine coordinated actions and more than 900 plaintiffs alleging damages related to environmental contamination filed in Broome County. After seven years of litigation, these cases recently resolved. Mr. Schwarz is currently prosecuting two consumer class actions in the Western District of New York involving overcharges for medical records.

Hadley Lundback Matarazzo

Hadley Lundback Matarazzo is a partner with the law firm Faraci Lange, LLP in Rochester, New York, and oversees the firm's defective drug and medical practice. She litigates cases involving medical device and pharmaceutical liability, environmental toxic torts, medical malpractice and catastrophic personal injury.

Ms. Lundback Matarazzo has tried multiple cases involving complex medical and technical scientific issues. In 2012, she tried a three month environmental toxic tort case against General Electronic Company involving more than 80 plaintiffs with her partner Stephen Schwarz. She and Mr. Schwarz also partnered with Weitz & Luxenberg and six other firms in nine coordinated actions and over 900 plaintiffs alleging damages related to environmental contamination filed in New York State Supreme Court, Broome County. After seven years of litigation, these claims have recently resolved in plaintiffs' favor.

Ms. Lundback Matarazzo has represented close to 100 clients in various hip implant litigations, and one of her client's cases was chosen from thousands filed to be one of two bellwether cases in the *In re DePuy Orthopaedics, Inc., ASR Hip Implant Products Liability Litigation* (MDL 2197) in the Northern District of Ohio. She and her partner Stephen Schwarz

were chosen to be a part of the four-member trial team of the first ASR bellwether trial. On the eve of trial, a global settlement was reached resolving the entire litigation.

Ms. Lundback Matarazzo has been appointed by the Court and served on the Plaintiffs' Steering Committee in *In re Bard IVC Filters Products Liability Litigation* (MDL 2641) ("Bard MDL") where she was a member of the bellwether trial team that obtained a significant verdict for the first bellwether client. She was also appointed to the Plaintiffs' Steering Committee in *In re Biomet M2A Magnum Hip Implant Products Liability Litigation* (MDL 2391) ("Biomet MDL") and the Science Committee in the Stryker Rejuvenate/ABG II Multi County Litigation ("Stryker MCL"). These litigations resolved favorably for plaintiffs.

Ms. Lundback Matarazzo also serves as co-lead counsel with James Bilsborrow of Seeger Weiss in a data breach class action in the Western District of New York involving more than 10 million consumers. She and her term succeed in getting an injunctive relief class certified, and the litigation is ongoing.

Ms. Lundback Matarazzo is a member in good standing and licensed to practice law in New York since January 2006 and New Jersey since November 2005 as well as the Western, Eastern, Northern and Southern Districts of New York and the District of New Jersey. She has served as President of the New York State Academy of Trial Lawyers (NYSATL) and remains on the Board of Directors. In 2011, she was awarded The Daily Record's Up & Coming Attorney Award in 2011 and Top Women in the Law Award in 2014. Ms. Lundback Matarazzo has been listed in the prestigious Best Lawyers in America directory since 2016 and the Upstate New York Super Lawyers directory since 2013.

EXHIBIT 5

WEITZ & LUXENBERG

Based in New York City, Weitz & Luxenberg is one of the nation's leading plaintiffs' law firms specializing in complex litigation, mass torts, and consumer class actions. For more than 30 years, we have built upon our early successes, which began when founding partners Perry Weitz and Arthur Luxenberg teamed up to fight at the forefront of asbestos litigation in the late 1980s.

One of the firm's first court victories — a \$75 million verdict for clients exposed to asbestos while working at the Brooklyn Navy Yard — turned out to be a historic case that changed the landscape of asbestos litigation. Over the years, Weitz & Luxenberg's initial two-person team-to-beat has expanded dramatically along with our firm's reputation. We are fortunate to have access to top-flight resources and exceptional attorneys and support staff.

Besides its New York City headquarters, Weitz & Luxenberg has offices in Cherry Hill, New Jersey; Detroit, Michigan and Los Angeles, California with close to 100 attorneys and nearly 400 dedicated support staff.

We have played leading roles in national and local litigations representing individuals and municipalities involving asbestos, toxic herbicides, heavy metals, solvents, improperly marketed opioids and electronic cigarettes; defective medicines and medical devices, general negligence, among others claims.

One of our most rewarding successes was helping to secure a jury verdict of \$9 billion against Takeda Pharmaceuticals and Eli Lilly on behalf of a client who developed bladder cancer after taking the diabetes drug Actos. In addition, we have played a key role as court appointed lead counsel in negotiating multi-billion-dollar settlements with DePuy/Johnson & Johnson and also Stryker Orthopedics on behalf of clients who suffered severe medical complications after being implanted with defective hip metal on metal implants causing corrosion and release of cobalt and chromium. These separate settlements for substantial six figures per case benefited more than 10,000 plaintiffs.

Securing a just verdict or settlement on behalf of our clients comes first and foremost. However, we are always striving to bring about lasting change for the betterment of all. An example of this is our role in advocating to the U.S. Food & Drug Administration on behalf of women stricken by cancer due to the use of power morcellators in gynecological surgeries. Potentially due in part to this advocacy, the FDA issued updated

draft guidelines to better inform health care providers and their patients about the dangers of using these devices in gynecological surgeries.

Similarly, in November, 2019 year Ellen Relkin, head of the Drug and Medical Device Unit was invited to testify before the House Judiciary Committee along with two law professors and a defense lawyer on the topic of “*Examining the Use of “Snap” Removals to Circumvent the Forum Defendant Rule*” in efforts to support legislation to address this procedural loophole that deprives the ability to sue in state court.

See <https://judiciary.house.gov/calendar/eventsingle.aspx?EventID=2279>

As leader in the legal fight against environmental polluters, Weitz & Luxenberg represented many clients harmed by the BP/Deepwater Horizon oil spill disaster in the Gulf of Mexico, the TVA coal ash sludge spill in Tennessee, industrial degreasers PCE/TCE in groundwater and indoor air, the gasoline additive MTBE in water supply wells, and PERC/PCE in coal float-sink test operations.

One of our greatest sources of pride continues to be our premier standing in the area of asbestos litigation. Since its inception in 1986, Weitz & Luxenberg has overseen more than 33,000 asbestos cases and continues to receive national recognition for its efforts. We have also ranked as the #1 firm in New York City for volume of mesothelioma case filings and #2 nationwide.

In the process of litigating negligent and sometimes reckless corporations and other entities, Weitz & Luxenberg’s specialized attorneys have helped secure approximately \$17 billion in verdicts and settlements for more than 55,000 clients across the United States, including individuals and their families, government bodies., and other entities in cases involving:

- Dangerous and Defective Drugs & Medical Devices
- Product Liability
- Personal Injury and Negligence
- Asbestos Exposure (Mesothelioma, Lung Cancer)
- Medical Malpractice
- Environmental and Toxic Pollution
- Consumer Fraud and Protection
- Antitrust Violations
- Securities Fraud and Shareholder Protection

Currently, we are the largest mass tort and personal injury litigation law firm in New York.

In 2017, Weitz & Luxenberg was designated as the National Law Firm of the Year by U.S. News & World Report and the peer-review publication Best Lawyers in the category of Mass Tort Litigation/Class Actions – Plaintiffs. The distinction was given as part of their “Best Law Firms Rankings,” which also gave Weitz & Luxenberg several regional honors. U.S. News & World Report continues to rank our firm among the best in its class.

In addition, all three of our partners have been named “Mass Torts Lawyer of the Year in New York” in U.S. News & World Report’s “Best Lawyers.” Super Lawyers Magazine has also designated many of our lawyers “Super Lawyers,” and the National Law Journal named us one of the “Elite Trial Law Firms in the United States.”

Weitz & Luxenberg was also ranked in the "AmLaw400" by The American Lawyer magazine — including us among the top 400 largest firms in the U.S.

Weitz & Luxenberg attorneys have been at the forefront and leading some of our country’s largest complex litigation in recent history including:

Mass Tort and Class Action

- *In Re: Stryker Rejuvenate Hip Stem and ABG II Modular Hip Stem Litigation* (plaintiff liaison and lead counsel for New Jersey Multi-County Litigation)
- *In Re: Stryker L Fit CoCr V40 Femoral Heads Hip Implant Litigation* (plaintiff liaison and lead counsel for New Jersey Multi-County Litigation)
- *In Re: National Prescription Opiate Litigation* (plaintiffs’ executive committee, in progress)
- *In Re: Proton-Pump Inhibitor Products Liability Litigation (No. II)*, (plaintiffs’ executive committee, in progress)
- *In Re: Ethicon, Inc., Power Morcellator Products Liability Litigation* (co-lead counsel)
- *In Re: JUUL Labs, Inc., Marketing, Sales Practices, and Products Liability Litigation* (co-lead counsel, in progress)

Consumer Protection

- Volkswagen “Clean Diesel” Marketing (plaintiff steering committee for a \$327.5 million settlement)
- Wells Fargo Collateral Protection Insurance Litigation (plaintiffs’ executive committee)
- General Motors LLC Ignition Switch Litigation (plaintiffs’ liaison counsel)
- Excellus Blue Cross & Blue Shield data breach litigation, Western District of New York (co-lead counsel)

Natural Resources and Environmental Damages

- Roundup® Products Liability Litigation (co-lead counsel)
- Flint Water Class Action Litigation, Carthan v. Snyder (plaintiffs’ executive committee)

ASBESTOS LITIGATION

Weitz & Luxenberg has long been at the vanguard of asbestos litigation. We attribute our continued success in this area to a \$75 million landmark victory dating back to 1991.

This \$75 million landmark Brooklyn Navy Yard verdict established Weitz & Luxenberg as a firm and a bedrock of asbestos litigation. Just a few years after our founding in 1986, Weitz & Luxenberg was firmly established as a leader in asbestos litigation with this \$75 million verdict in 1991. In this historic consolidated trial, Weitz & Luxenberg represented 36 shipbuilders exposed to asbestos at the Brooklyn Navy Yard in the 1940s and 50s. This victory changed the landscape of asbestos litigation. All at once, Weitz & Luxenberg Co-Founder Perry Weitz was a force in the asbestos bar, and New York was a center of asbestos litigation.

Since then, and throughout the more than 33,000 asbestos cases we have litigated, attorneys at Weitz & Luxenberg have committed ourselves to achieving what some may call a formidable track record. We try more asbestos cases than all other firms in New York combined. We have also ranked #1 in New York City for volume of mesothelioma case filings and #2 nationwide.

Today, the crowning achievement of our firm's well-rounded practice is that Weitz & Luxenberg has received national acclaim for our pioneering work in asbestos litigation. We owe much of our success to our Founding Partners—Perry Weitz, Arthur Luxenberg and Robert J. Gordon—who have all been named “Mass Torts Lawyer of the Year in New York” in U.S. News & World Report's “Best Lawyers.” Charles M. Ferguson, practice group chair of our Mesothelioma and Asbestos Litigation department, also received that accolade.

Mr. Weitz plays a leading role in New York State and national asbestos litigation. He is also the court-appointed liaison counsel for asbestos litigation in New York City, and the Eastern and Southern Districts of New York. As a pioneer of asbestos practice and frequent lecturer on the litigation, Mr. Weitz regularly serves as a chair for the Perrin Conferences annual asbestos litigation symposium. In addition, our lawyers hold leadership positions on the Trust Advisory Committees of several large asbestos bankruptcy trusts.

Some of our firm's other most notable wins include the following:

\$190 Million Verdict—This 2013 win was the largest verdict in New York history at that time for a consolidated asbestos case. Weitz & Luxenberg represented five former boiler company workers who were exposed to asbestos while on the job and later developed mesothelioma. The trial lasted just 11 weeks.

\$104 Million Verdict—Weitz & Luxenberg Partner Perry Weitz served as one of the main attorneys in the case, which involved approximately 100 men who had been exposed to asbestos while working at the Brooklyn Navy Yard years earlier.

\$91 Million Win—In this consolidated asbestos case, Weitz & Luxenberg Partner Robert Gordon achieved a \$91 million win on behalf of 45 former powerhouse workers, 28 of them were Weitz & Luxenberg clients. This victory helped open doors to recovery for thousands of families whose loved ones were victims of asbestos exposure.

\$75 Million Verdict—In 2017, a jury awarded \$75 million to our clients, a husband and wife, the largest single case verdict ever for Weitz & Luxenberg. The husband was exposed to asbestos for roughly 20 years while on the job as a mechanic, as well as through his hobby as a car enthusiast, which involved overhauling racecar engines. His wife assisted him at home, not knowing she was being exposed to potentially deadly asbestos dust. Ultimately, it was she who developed malignant peritoneal mesothelioma, a cancer of the abdominal lining.

\$64.65 Million Verdict—Weitz & Luxenberg achieved this victory in 2001 on behalf of four plaintiffs diagnosed with mesothelioma. Two clients worked at various New York construction sites, one as a former pipe coverer, the other as a carpenter. A third plaintiff was a former sheet metal worker at the Brooklyn Navy Yard. The fourth served as a former Coast Guard engineman; he developed the rarest form, peritoneal mesothelioma, a cancer of the lining of the abdomen. More than 20 makers of asbestos were sued.

\$53 Million Verdict—In one of the largest compensatory verdicts for a single plaintiff in the history of asbestos litigation, a jury awarded a mesothelioma victim and his family \$53 million. Our client had been exposed to asbestos as a brake mechanic at a gas station, as well as through the work he did in engine and boiler rooms while in the Coast Guard. The family successfully sued 36 companies.

DEFECTIVE DRUGS & MEDICAL DEVICES LITIGATION

The Weitz & Luxenberg Drug and Medical Device Litigation unit is nationally recognized for its experience and knowledge in handling large, complex litigation involving multiple defendants and thousands of parties.

Over the years, this litigation unit has won billions of dollars on behalf of our clients. Much of our success can be credited to our practice group chair Ellen Relkin who has served on numerous Plaintiffs' Steering Committees and in other court-appointed leadership roles as well as her team of dedicated lawyers and support staff. She is certified by the New Jersey Supreme Court as a Certified Civil Trial Attorney. She has been elected as a "Super Lawyer" of New Jersey and New York including Top 50 Women Lawyers in NYC ("Best Lawyer) in New York, as well as AV rated by Martindale-Hubbell.

Ms. Relkin serves as Co-Lead counsel in the In Re: JUUL MDL, and also sits on the Executive Committee of the *Prescription Opiate* MDL, the *In Re: Invokana* MDL, *In Re: Stryker LFIT V 40 Femoral Head Products Liability* MDL and is co-lead counsel in the

DePuy ASR MDL Litigation. In that capacity she played a key role in negotiating the \$2.5 billion settlement for 8,000 victims of the failed hip implant. As Chair of the Plaintiffs' Steering Committee (PSC) and Liaison counsel in the New Jersey Multi-County *Stryker Rejuvenate/ABG II Hip Implant Litigation* she helped negotiate a \$1.5 billion settlement that was expanded by hundreds of millions of additional dollars to compensate more recently injured plaintiffs.

She was a member of the trial team in the landmark Vioxx case *McDarby v. Merck*, that obtained a \$13.5 million verdict and successfully defended the compensatory verdict on appeal before the New Jersey Appellate Division, 949 A.2d 2232008.

Ms. Relkin is an elected member of the American Law Institute, an invited Fellow of the American Bar Foundation and serves on the Board of Governors of the New Jersey Association for Justice, is a Past President of the Roscoe Pound Civil Justice Institute and chairs the *Amicus* Committee of the American Association for Justice. She also co-chairs the MDL Roundtable of the Emory Law School Institute for Complex Litigation.

ENVIRONMENTAL LITIGATION

The Weitz & Luxenberg Environmental litigation unit is nationally recognized for its experience and knowledge of environmental toxic tort issues. A forerunner in the legal fight against environmental polluters, Weitz & Luxenberg has worked on behalf of thousands of clients harmed by hazardous chemicals and toxic waste leached into our groundwater and spewed into the air we breathe as well as into the vast oceans that support our health, livelihoods, and oceanic ecosystems.

We have fought for those harmed by:

- Oil spills, most ignominiously the BP/Deepwater Horizon oil spill disaster in the Gulf of Mexico.
- TVA coal ash sludge spill in Tennessee.
- PCE/TCE, industrial de-greasers contaminating groundwater and indoor air.
- MTBE, a gasoline additive poisoning water supply wells.
- PFOS and PFOA contaminating water supplies.
- PERC/PCE in coal float-sink test operations.

Environmental Practice Group Chair Robin Greenwald has spent three decades prosecuting environmental crimes and enforcing civil environmental laws; for close to two of those decades she was with the Department of Justice. With Robin Greenwald at the helm, our Environmental litigation unit has represented hundreds of water providers and has or is serving in positions of leadership on some of the largest environmental mass torts for the past 10-plus years. These include:

- *In re: Roundup Products Liability Litigation*, MDL 2741 (N.D. Cal.), Weitz & Luxenberg was one of three firms leading litigation against Monsanto Company

for injuries caused by its popular herbicide, Roundup®, for which the active ingredient is glyphosate. The lawsuit is brought by farmers, farmworkers, landscapers, and home users who used the product frequently and have been diagnosed with non-Hodgkin lymphoma. In June 2020, we reached a settlement with Monsanto.

- *In re: Methyl Tertiary Butyl Ether (MTBE) Products Liability Litigation*, MDL 1358 (SDNY), Weitz & Luxenberg represented more than 150 public water providers and state governments whose water supply wells were contaminated with the gasoline additive MTBE. In this litigation against the petroleum industry, Robin Greenwald served as the Liaison Counsel. After five years of litigation, the refiners paid over \$435,000,000 to remove existing contamination and to guarantee payment for future treatment of wells that later became contaminated with MTBE.
- The 2010 BP oil spill multidistrict litigation which settled civil claims against the company for a total of \$18.7 billion. Ms. Greenwald served on the Plaintiffs' Steering Committee where she was the lead negotiator on the Medical Benefits Class Action Settlement and one of the lead trial attorneys in the Phase Two trial in October 2013. At the time, it was the largest environmental settlement in the history of the U.S. and the largest ever civil settlement with a single entity by the Department of Justice.
- The consolidated action in Los Angeles, California, against Southern California Gas Company for causing the largest methane gas storage well blowout in United States history. Weitz & Luxenberg is co-chair of the Plaintiffs' Steering Committee overseeing litigation on behalf of more than 30,000 residents and businesses.
- Consolidated actions in Hoosick Falls, New York, and Petersburg, New York, for damages caused by PFOA contamination in municipal and private drinking water wells. Ms. Greenwald was appointed by the federal district court for the Northern District of New York as Co-Lead Interim Class Counsel representing a putative class of several thousand property owners and residents who have been exposed to PFOA.
- Consolidated action in the townships of Horsham and Warminster, Pennsylvania, for damages caused by PFOS in municipal and private drinking water wells.

Other Environmental Litigation

- Bethpage Water District in New York lawsuit for cost recovery for contamination of drinking water wells with trichloroethylene (TCE) and radium from the Northrop Grumman Aerospace facility and the United States Navy operations in Bethpage.

- Suffolk County Water Authority in New York lawsuit for cost recovery for contamination of drinking water wells with perchloroethylene (PCE) contamination from dry cleaner operations in the county.
- City of Bethany, Oklahoma lawsuit for cost recovery for contamination of drinking water wells with perchloroethylene (PCE) and trichloroethylene (TCE) from the Rockwell Automation, Inc., and Gulfstream Aerospace Corporation facilities in Oklahoma City.
- *In re: Bates v. 3M Company, et al.*, Case No. 16-cv-4961-PBT (E.D. Pa), Weitz & Luxenberg is the court-appointed Interim Lead Counsel for a class action lawsuit against six companies that manufactured and sold aqueous firefighting foam (AFFF) containing PFOS and PFOA to the U.S. military, including two Pennsylvania Naval bases.
- *In re: Village Shores LLC v. Lockwood, Andrews & Newnam, P.C. et al.*, 5:16-cv-14498-JEL-APP (E.D. Mich.), Weitz & Luxenberg represented residents of Flint, Michigan, for the contamination of their drinking water with lead, Legionella, and other substances.
- *In re Alleged Environmental Contamination of Pompton Lakes MCL* Case No. 290 (N.J.), Weitz & Luxenberg represented residents and former residents in the vicinity of a former DuPont explosives plant in Pompton Lakes, N. J. For decades, DuPont disposed of chlorinated solvents in unlined lagoons and disposal sumps on its property. Those solvents, including trichloroethylene (TCE) and perchloroethylene (PCE), contaminated the groundwater below the site and migrated, producing the potential for vapor intrusion for hundreds of industry.
- *In re: Franco, et al. v. Coronet Industries, et al.*, Case no. 04-ca-002576 (Fla. 13th Dist. Ct.), the firm resolved the claims of more than 500 residents in Plant City, Florida, whose air and water was contaminated by a facility that defluorinated phosphate rock for use as an animal feed supplement. Plaintiffs resolved their claims against four of six prior owners of the facility for \$20 million.
- *In re: Auchard et al. v. Tennessee Valley Authority*, Case no. 3:09-cv-54 (W.D. Tenn.), In the December 2008 disaster in Kingston, Tennessee, a failure of the waste impoundment at TVA's fossil fuel plant caused the release of over one billion gallons of sludge over more than 300 acres. The residents and businesses of the Kingston community retained Weitz & Luxenberg to represent them to recover damages for the harm they suffered. We settled the case through mediation for \$28 million.
- *In re: Abicht, et al. v. Republic Services, Inc., et al.*, Case no. 2008 CT 10 0741 (Court of Common Pleas, Cuyahoga County, Ohio), Weitz and Luxenberg represented 800 landowners in the vicinity of a solid waste landfill in Stark

County, Ohio. A subsurface fire had raged for many years, caused by defendants mixing aluminum dross with leachate. Because of the fire, the landfill spewed overwhelming odors. Our Environmental team settled the suit for \$5.85 million.

- *In re: Avila, et al. v. CNH America LLC, et al.*, Case no. 4:04-CV-3384 (D. Neb.) and *Schwan, et al. v. Cargill, Inc., et al.*, Case no. 4:07-CV-3170 (D. Neb.), the firm represented residents of a community in Nebraska who were exposed to industrial degreasing chemicals, including perchloroethylene (PCE), DCE and DCA, that were dumped on and into the ground, and then migrated to the residents' private drinking water wells. The firm settled the cases for \$2.3 million.

CONSUMER PROTECTION LITIGATION

For more than 30 years, Weitz & Luxenberg has been litigating consumer protection, fraud and product liability cases. Weitz & Luxenberg has worked at the forefront of national litigation aimed at obtaining justice for thousands of motorists and passengers killed or injured because of defective automotive equipment:

- **Volkswagen.** Weitz & Luxenberg was one of the first law firms to take legal action against Volkswagen for its consumer fraud debacle. Volkswagen programmed vehicles to override emissions tests, deceiving the public about vehicles that did not meet industry standards for noxious emissions. Along with other leading plaintiffs firms, we helped achieve a **\$14.7 billion settlement**.
- **General Motors.** GM recalled millions of vehicles because of the company's faulty ignition switch. These defective switches would unexpectedly rotate, turning the vehicle off while in motion
- **Takata.** The company's faulty airbags were installed in millions of vehicles nationwide. Defective airbags could potentially explode upon inflation, and many did. Some consumers were seriously injured, and other people even died from their injuries.

Other areas of consumer protection litigation include:

Price Gouging

Weitz & Luxenberg filed a class action complaint in U.S. federal district court for the District of New Jersey challenging the legality of the enormous price hikes for insulin instituted by Eli Lilly, Sanofi, and Novo Nordisk. In recent years, the price of insulin in the United States has skyrocketed, with annual per-patient spending increasing from \$231 to \$736 in a little more than a decade. The case is pending as we participate in discovery.

Data Breaches

Weitz & Luxenberg has taken legal action and obtained results for clients affected by these data breaches:

- **Premera Blue Cross.** Weitz & Luxenberg filed a class action lawsuit against Premera Blue Cross based in Seattle, Washington, on behalf of policyholders whose private information was compromised due to a huge, sustained hacking of Premera's computer systems. Up to 11 million Premera policyholders are subject to potential monumental future economic losses as a result.
- **Anthem Blue Cross Blue Shield.** Weitz & Luxenberg filed a class action lawsuit against Indianapolis-based Anthem Inc. after learning that the private information of 80 million Anthem customers was stolen in a colossal online data breach. Security professionals feared this breach could result in billions of dollars in losses to customers.
- **Excellus BlueCross BlueShield.** Robin L. Greenwald, head of Weitz & Luxenberg's Environmental, Toxic Tort & Consumer Protection litigation unit, served as interim co-lead counsel in the Excellus BlueCross BlueShield data breach class action lawsuit. This suit included at least 14 consolidated matters. The plaintiffs are among the 10+ million Excellus and Lifetime customers whose personal information was exposed in this massive data breach.

EXHIBIT 6

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SEEGERWEISS_{LLP}

One of the preeminent trial law firms in the nation, Seeger Weiss is known for its landmark verdicts and settlements in multidistrict mass tort and class action litigation on behalf of consumers, athletes, farmers, municipalities, and other injured parties. Since its founding in 1999, the firm has led and tried some of the most complex and high-profile litigations in the nation, including multiple bellwether trials, in both state and federal courts.

Team	Languages	Offices
Managing partners: <ul style="list-style-type: none"> • Christopher A. Seeger • Stephen A. Weiss • David R. Buchanan 	<ul style="list-style-type: none"> • English • German • Hebrew 	New Jersey 55 Challenger Road Ridgefield Park, NJ 07660
Total partners: 11	<ul style="list-style-type: none"> • Hindi • Korean 	New York 100 Church Street New York, NY 10007
Total lawyers: 39	<ul style="list-style-type: none"> • Russian • Spanish • Urdu 	Pennsylvania 1515 Market Street Suite 1380 Philadelphia, PA 19102
		Massachusetts 1280 Centre Street Suite 230 Newton, MA 02459

Representative Cases

Consumer Protection / Product Liability

3M Combat Arms Earplug Products Liability Litigation

NORTHERN DISTRICT OF FLORIDA – MDL No. 2885

Co-lead counsel in MDL prosecuting product liability claims arising from product.

Intel Corp. CPU Marketing, Sales Practices & Products Liability Litigation

DISTRICT OF OREGON – MDL No. 2828

Co-lead counsel in class action prosecuting consumer fraud, product defect and related claims.

American Medical Collection Agency, Inc. Customer Data Security Breach Litigation

DISTRICT OF NEW JERSEY – MDL No. 2904

Co-lead counsel (Quest Track) in class action prosecuting consumer data privacy claims.

Davol, Inc. / C.R. Bard Inc. Polypropylene Hernia Mesh Products Liability Litigation

SOUTHERN DISTRICT OF OHIO – MDL No. 2846

Executive Committee member in MDL prosecuting product liability claims arising from medical product.

Volkswagen “Clean Diesel” Marketing, Sales Practices, & Products Liability Litigation

NORTHERN DISTRICT OF CALIFORNIA – MDL No. 2672

Steering Committee in class action arising from consumer fraud. Over \$20 billion settlement on behalf of over 500,000 class members.

Mercedes-Benz Emissions Litigation

DISTRICT OF NEW JERSEY

Co-counsel prosecuting class action alleging consumer fraud, RICO, and related claims. \$700 million settlement on behalf of class members.

Fenner et al. v. General Motors LLC et al.

EASTERN DISTRICT OF MICHIGAN

Co-counsel prosecuting class action alleging consumer fraud, RICO, and related claims.

Counts et al. v. General Motors, LLC

EASTERN DISTRICT OF MICHIGAN

Co-counsel prosecuting class action alleging consumer fraud, RICO, and related claims.

Representative Cases, continued

Bledsoe et al. v. FCA US LLC et al.

EASTERN DISTRICT OF MICHIGAN

Co-counsel prosecuting class action alleging consumer fraud, RICO, and related claims.

Gamboa et al. v. Ford Motor Company et al.

EASTERN DISTRICT OF MICHIGAN

Co-counsel prosecuting class action alleging consumer fraud, RICO, and related claims.

Rickman v. BMW of North America

DISTRICT OF NEW JERSEY

Co-counsel prosecuting class action alleging consumer fraud, RICO, and related claims.

Syngenta AG MIR 162 Corn Litigation

DISTRICT OF KANSAS – MDL No. 2591

Member of Plaintiffs' Executive Committee. Certification of eight statewide and one nationwide class. Member of Plaintiffs' Settlement Negotiating Committee and principal negotiator. \$1.51 billion nationwide settlement.

FieldTurf Artificial Turf Marketing & Sales Practices Litigation

DISTRICT OF NEW JERSEY – MDL No. 2779

Co-lead counsel prosecuting class action for fraud, product defect, and related claims.

Chinese-Manufactured Drywall Products Liability Litigation

EASTERN DISTRICT OF LOUISIANA – MDL No. 2047

Lead trial counsel and trial committee chair in MDL prosecuting fraud, product defect, and related claims. Over \$1 billion settlement on behalf of nearly 5,000 plaintiffs.

Depuy Orthopaedics, Inc. ASR Hip Implant Products Multidistrict Litigation

NORTHERN DISTRICT OF OHIO – MDL No. 2197

Executive Committee in MDL prosecuting fraud, product defect, and related claims. \$2.5 billion settlement.

Catastrophic Injury

NFL Players' Concussion Injury Litigation

EASTERN DISTRICT OF PENNSYLVANIA – MDL No. 2323

Co-lead counsel and chief negotiator for class of former NFL players. Over \$1 billion uncapped settlement fund plus medical testing program on behalf of over 20,000 plaintiffs.

Representative Cases, continued

Wildcats Bus Crash Litigation

NEW YORK SUPREME COURT OF LIVINGSTON COUNTY

Lead counsel. \$2.25 million verdict followed by \$36 million settlement on behalf of 11 plaintiffs.

Drug Injury

National Prescription Opiate Litigation

NORTHERN DISTRICT OF OHIO – MDL No. 2804

Member of Plaintiffs' Executive Committee, Settlement Committee, Manufacturers' Committee, Law and Briefing Committee, as well as co-lead counsel for Negotiation Class in MDL prosecuting RICO, public nuisance, and related claims on behalf of local governments.

Proton-Pump Inhibitor Products Liability Litigation (No. II)

DISTRICT OF NEW JERSEY – MDL No. 2789

Co-lead counsel in ongoing MDL representing individuals injured by gastric acid reduction medication.

Testosterone Replacement Therapy Products Liability Litigation

NORTHERN DISTRICT OF ILLINOIS – MDL No. 2545

Co-lead counsel and lead trial counsel in MDL representing individuals injured by testosterone medication. \$140 million verdict in bellwether case Konrad v. AbbVie Inc. and \$150 million verdict in bellwether case Mitchell v. AbbVie Inc.

Invokana Products Liability Litigation

DISTRICT OF NEW JERSEY – MDL No. 2750

Co-lead counsel in MDL representing individuals injured by diabetes medication. Confidential settlement on behalf of plaintiffs.

Vioxx Products Liability Litigation

EASTERN DISTRICT OF LOUISIANA – MDL No. 1657

Co-lead counsel in MDL representing individuals injured by pain medication. \$4.85 billion global settlement on behalf of more than 45,000 plaintiffs in approximately 27,000 claims.

Zyprexa Products Liability Litigation

EASTERN DISTRICT OF NEW YORK – MDL No. 1596

Liaison counsel. \$700 million first-round settlement and \$500 million second-round settlement.

Representative Cases, continued

Kendall v. Hoffman-La Roche, Inc.

SUPREME COURT OF NEW JERSEY

Co-trial counsel. \$10.6 million verdict on behalf of plaintiff.

McCarrell v. Hoffman-La Roche, Inc.

SUPREME COURT OF NEW JERSEY

Liaison counsel. \$25.16 million verdict on behalf of plaintiff.

Rossitto & Wilkinson v. Hoffmann La Roche, Inc.

NEW JERSEY SUPERIOR COURT

Lead trial counsel. \$18 million verdict on behalf of two plaintiffs.

Accutane Litigation

NEW JERSEY SUPERIOR COURT – MDL No. 2523

Lead trial counsel. \$25.5 million verdict on behalf of plaintiff.

Humeston v. Merck & Co.

NEW JERSEY SUPERIOR COURT

Co-trial counsel. \$47.5 million verdict on behalf of plaintiff.

Vytorin/Zetia Marketing, Sales Practices, & Products Liability Litigation

DISTRICT OF NEW JERSEY – MDL No. 1938

Co-liaison counsel and principal negotiator. \$41.5 million settlement.

Phenylpropanolamine (PPA) Products Liability Litigation

WESTERN DISTRICT OF WASHINGTON – MDL No. 1407

Co-lead counsel and principal negotiator. Over \$40 million nationwide settlement.

Xarelto (Rivaroxaban) Products Liability Litigation

EASTERN DISTRICT OF LOUISIANA – MDL No. 2592

Plaintiffs' Steering Committee member in MDL. \$775 million settlement on behalf of more than 25,000 plaintiffs.

Representative Cases, continued

Opioids Liability

National Prescription Opiate Litigation

NORTHERN DISTRICT OF OHIO – MDL No. 2804

Member of Plaintiffs' Executive Committee, Settlement Committee, Manufacturers' Committee, and Law & Briefing Committee in multidistrict litigation prosecuting RICO, public nuisance and related claims on behalf of local governments. Co-lead counsel for Negotiation Class.

Bergen County v. Purdue Pharma, L.P., et al.

NORTHERN DISTRICT OF OHIO

Co-counsel prosecuting nuisance, negligence, fraud, and related claims.

Camden County v. Purdue Pharma, L.P., et al.

NORTHERN DISTRICT OF OHIO

Co-counsel prosecuting nuisance, negligence, fraud, and related claims.

Essex County v. Purdue Pharma, L.P., et al.

NORTHERN DISTRICT OF OHIO

Co-counsel prosecuting nuisance, negligence, fraud, and related claims.

City of Jersey City v. Purdue Pharma, L.P., et al.

NORTHERN DISTRICT OF OHIO

Co-counsel prosecuting nuisance, negligence, fraud, and related claims.

Township of Bloomfield v. Purdue Pharma, L.P., et al.

NORTHERN DISTRICT OF OHIO

Co-counsel prosecuting nuisance, negligence, fraud, and related claims.

Township of Irvington v. Purdue Pharma, L.P., et al.

NORTHERN DISTRICT OF OHIO

Co-counsel prosecuting nuisance, negligence, fraud, and related claims.

Representative Cases, continued

Antitrust

Humira (Adalimumab) Antitrust Litigation

NORTHERN DISTRICT OF ILLINOIS

Executive Committee member in class action prosecuting antitrust claims for end-payors.

German Automotive Manufacturers Antitrust Litigation

NORTHERN DISTRICT OF CALIFORNIA – MDL No. 2796

Plaintiffs' Steering Committee member in class action prosecuting consumer antitrust claims.

Liquid Aluminum Sulfate Antitrust Litigation

DISTRICT OF NEW JERSEY – MDL No. 2687

Plaintiffs' Steering Committee member in class action prosecuting antitrust claims on behalf of water treatment chemical purchasers. \$33 million settlement.

Polyurethane Foam Antitrust Litigation

NORTHERN DISTRICT OF OHIO – MDL No. 2196

Executive Committee member in class action prosecuting antitrust claims on behalf of direct purchasers. Approximately \$428 million settlement.

Securities

Potter v. Valeant Pharmaceuticals International, Inc. et al.

DISTRICT OF NEW JERSEY

Liaison counsel in class action prosecuting securities fraud claims. \$1.2 billion settlement.

Novo Nordisk Securities Litigation

DISTRICT OF NEW JERSEY

Co-liaison counsel and member of Executive Committee in securities fraud class action.

Pfizer Inc. Securities Litigation

SOUTHERN DISTRICT OF NEW YORK

Class and science counsel, lead counsel for class plaintiffs in Daubert hearing, and designated trial counsel. Case resolved with a \$486 million cash settlement fund for the aggrieved investors.

SEGERWEISS_{LLP}

Representative Cases, continued

Toxic Exposure

Bayer CropScience Rice Contamination Litigation

EASTERN DISTRICT OF MISSOURI – MDL No. 1811

Executive Committee in MDL. \$750 million settlement.

“StarLink” Corn Products Litigation

NORTHERN DISTRICT OF ILLINOIS – MDL No. 1403

Co-lead counsel in class action MDL. \$110 million settlement.

Owens v. ContiGroup Companies

WESTERN DISTRICT OF MISSOURI

Lead trial counsel. \$11 million settlement for 15 plaintiffs.