

**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

SUPPLEMENTAL PRELIMINARY APPROVAL ORDER

Reference is made to the Preliminary Approval Order this Court entered on July 27, 2021 (Dkt. 291). 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”),

by and through Interim Settlement Class Counsel,¹ and with the consent of Defendants Saint-Gobain Performance Plastics Corp., Honeywell International Inc., and 3M Company (the “Settling Defendants”), have agreed upon an Addendum to Class Settlement Agreement to this Court (1) clarifying the definition of “Excluded Persons” in Section 1(q) of the Settlement Agreement to read as follows:

“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, nuisance 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, where, as of thirty (30) days prior to the Final Approval Hearing:

(a) such claim or request for medical monitoring, nuisance, and/or property damages has not been dismissed and/or a request to dismiss the claim pursuant to Fed. R. Civ. P. 41(a)(2) or N.Y. C.P.L.R. § 3217(b) is not pending; or

(b) such Person has not filed an amended complaint or a motion for leave to file an amended complaint that does not assert against any Settling Defendant a nuisance claim or a claim or request for medical monitoring relief 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;

(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;

¹ Capitalized terms not otherwise defined in this Order have the definitions set forth in the Class Settlement Agreement, Dkt. 286-3.

(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; and

(2) adding Section 22(w), which provides as follows:

w. Claim-Splitting Defense Waiver. In the event any plaintiff in an individually filed action against one or more Settling Defendants dismisses, or chooses to amend his or her complaint to remove, claims against the Settling Defendants for property damage, nuisance and/or medical monitoring in order to participate in this Class Action Settlement and to continue such individually filed action only for alleged personal injury or a spousal derivative claim, each Settling Defendant hereby waives and agrees not to assert in such individual action a defense of claim-splitting based on participation in the Class Action Settlement.

Plaintiffs have also moved pursuant to Federal Rule of Civil Procedure 23 for an order approving Supplemental Notice, which is attached to their letter motion, to individuals and their attorneys who have filed separate actions pending in this Court or in Supreme Court, Rensselaer County asserting claims against one or more of the Settling Defendants related to the presence of PFOA in the Village of Hoosick Falls or Town of Hoosick. The Court has considered the terms of the Addendum to Class Settlement Agreement, and the record of proceedings, and now finds that the motion should be, and for the following reasons hereby is, **GRANTED**.

1. Section 48 of the Preliminary Approval Order permits the Parties to make “non-material modification[s]” to the Settlement Agreement without leave of Court. (Dkt. 291.)

2. In addition, the Settlement Agreement permits the Parties “to amend th[e] Agreement for any reason at any time” and, prior to the entry of the Final Approval Order, to do so by a writing executed by all Parties. (Dkt. 286-3 § 17(a)-(b).)

3. The Settlement Agreement expressly contemplates that Persons who previously filed a claim against any Settling Defendant alleging a PFOA-related injury or illness may dismiss (or request to dismiss) that claim as of thirty (30) days prior to the Final Approval Hearing in order so that they may seek to participate in the Settlement. (Dkt. 286-3 § 1(q).)

4. The revised definition of Excluded Persons clarifies the mechanism by which such Persons may dismiss (or request to dismiss) a nuisance claim or a claim or request for medical monitoring relief 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 as against Settling Defendants as of thirty (30) days prior to the Final Approval Hearing, so that they may pursue benefits related to those claims or requests for relief under the Settlement, but continue to pursue claims against the Settling Defendants related to manifested bodily injuries that have resulted in a medically diagnosed condition.

5. The clarification thus does not increase the number of potentially eligible Settlement Class Members in any Settlement Class or differentiate among potential Settlement Class Members with regard to claims or requests for relief not compensated by the Settlement.

6. The Court finds that the clarification to Section 1(q) and the corresponding addition of Section 22(w) is a non-material modification to the Settlement Agreement that is consistent with the Preliminary Approval Order.

7. The Court also finds that the Supplemental Notice is appropriate and hereby directs Interim Settlement Class Counsel to deliver to the General Administrator a list of Persons with a

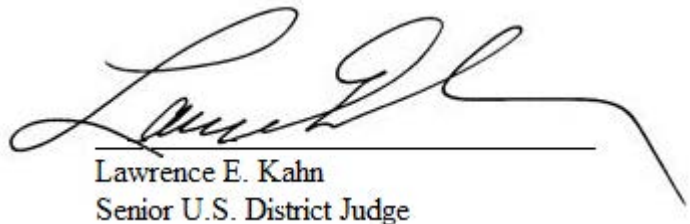
pending lawsuit against any Settling Defendant asserting a claim or request for medical monitoring relief, nuisance or property damages related to the presence of PFOA in the Village Municipal Water System, in private wells in the Village or Town, on or at their property, and/or in their blood as against Settling Defendants alleging a PFOA-related injury or illness, and directs the General Administrator to forthwith mail the Supplemental Notice to those identified Persons, and to post the Supplemental Notice on the Settlement Website.

8. The Court further directs Interim Settlement Class Counsel to deliver the Supplemental Notice to each attorney representing those identified Persons.

9. The Preliminary Approval Order (Dkt. 291) shall otherwise remain in effect and unchanged.

SO ORDERED.

Date: October 26,2021



Lawrence E. Kahn
Senior U.S. District Judge