

COMMONWEALTH OF MASSACHUSETTS

**WORCESTER, SS.
SUPERIOR COURT**

Michele Burt; Christopher Cerasuolo;
Nancy Donovan; and Lauren Ladue)
)

Civil Action No:

Plaintiffs,

CLASS ACTION COMPLAINT

v.

Massachusetts Natural Fertilizer Company;)
Otter Farm Inc.;)
Seaman Paper Company)
of Massachusetts, Inc.; Greif, Inc.;)
Caraustar Custom Packaging)
Group, Inc.; The Newark)
Group, Inc.; 3M Company;)
and John Doe Companies)

**PLAINTIFFS DEMAND
A TRIAL BY JURY**

Defendants,

CLASS ACTION COMPLAINT

This class action is brought by Michele Burt, Christopher Cerasuolo, Nancy Donovan, and Lauren Ladue, individually and on behalf of all others similarly situated against: 1) Massachusetts Natural Fertilizer Company, 2) Seaman Paper Company of Massachusetts, Inc., 3) Otter Farm, Inc., 4) Greif, Inc., 5) Caraustar Custom Packaging Group, Inc., 6) Newark Group, Inc., and 7) 3M Company. The Plaintiffs, each a resident of Westminister, Massachusetts, bring claims for negligence, breach of warranty, private nuisance, trespass, strict liability for abnormally dangerous activity, and medical monitoring arising from the contamination of private drinking wells and properties with hazardous levels of various chemical compounds commonly referred to as PFAS, or “forever chemicals.” Plaintiffs seek both equitable and legal remedies, including but not limited to monetary damages for property damage and nuisance as well as the

equitable relief of establishment of a medical surveillance program for early detection of illnesses related to their exposure to PFAS and PFAS-contaminated water.

NATURE OF THE ACTION

1. Residents of the Town of Westminster, Massachusetts and the surrounding area (hereinafter, “Westminster”) draw their drinking water from private wells.¹ For many years, residents have unknowingly consumed water contaminated with a family of chemicals called perfluoroalkyl and polyfluoroalkyl substances, commonly referred to as PFAS. When consumed, PFAS can cause many serious illnesses.

2. PFAS are sometimes referred to as “forever chemicals” because they only dissipate or break down in the environment after an extraordinarily long time. As water-soluble compounds, they easily migrate from release sites, including that of Defendant Massachusetts Natural Fertilizer Company, through surface soils into surface water like rivers and lakes, and eventually into aquifers that feed drinking water wells.

3. There are thousands of different and discrete chemicals in the PFAS family of chemicals. Perfluorooctanoic acid (“PFOA”) and perfluorooctanoic sulfonic acid or (PFOS) are two members of the dangerous PFAS chemical family and may be the most extensively produced and studied of the family. PFOA and PFOS do not naturally degrade in the environment.

4. Although the health hazards of PFOA, PFOS and other PFAS have long been known to their makers (as detailed below) and others, the United States Environmental Protection Agency (EPA) issued a health advisory for PFOA and PFOS in 2016, advising against ingesting water

¹ Exceedances of PFAS have been detected in the wells of Westminster residents, and as of writing a few residents of the town of Fitchburg. Testing continues, and the scope of contaminated wells may increase with additional testing.

contaminated with PFOA and PFOS over 70 parts per trillion (ppt). In June 2022, the EPA issued an updated interim drinking water health advisory for PFOA and PFOS. The updated advisory levels, which consider lifetime exposure, indicate that some adverse health effects may occur with concentrations of PFOA or PFOS in water near zero.² At the same time, EPA also issued final health advisories for two other PFAS, perfluoro butane sulfonic acid and its potassium salt (PFBS) and for hexafluoropropylene oxide (HFPO) dimer acid and its ammonium salt. These chemicals are often referred to as “GenX chemicals”.³

5. The Commonwealth of Massachusetts, through the Massachusetts Department of Environmental Protection (“MassDEP”), published a PFAS drinking water standard or Massachusetts maximum contaminant level (“MMCL”) of 20 nanograms per liter (ng/L), or parts per trillion (ppt) applicable to drinking water sources such as private wells for the sum of the concentrations of six specific PFAS. The six PFAS are: (1) perfluorooctanesulfonic acid (PFOS); (2) perfluorooctanoic acid (PFOA); (3) perfluorohexanesulfonic acid (PFHxS); (4) perfluorononanoic acid (PFNA); (5) perfluoroheptanoic acid (PFHpA); and (6) perfluorodecanoic acid (PFDA). MassDEP abbreviates this set of six PFAS as “PFAS6.”⁴

6. The PFAS that contaminates Plaintiffs’ properties and wells entered the groundwater in Westminster at a Bean Porridge Hill area property operated by Defendant Massachusetts Natural Fertilizer Company (“Natural Fertilizer”) and owned by Defendants Seaman Paper Company of Massachusetts, Inc. (“Seaman Paper”) and Otter Farm, Inc. (“Otter Farm”). Natural Fertilizer operates this property as a dump and waste collection site for the

² Website accessed 7/26/2022 at <https://www.epa.gov/sdwa/drinking-water-health-advisories-pfoa-and-pfos>

³ Id.

⁴ Website accessed 7/26/2022 at <https://www.mass.gov/info-details/per-and-polyfluoroalkyl-substances-pfas#what-are-pfas-and-why-are-they-a-problem?>

purpose of making and selling compost. Natural Fertilizer received raw waste materials dumped at this site from both known and as yet undiscovered sources, including from associated Defendants Seaman Paper and Otter Farm who also own the property, and associated Defendants Greif Inc. (Greif) Caraustar Industries, Inc. (Caraustar) and Newark Group Inc. (Newark). Waste materials received at the property owned by Seaman Paper and Otter Farm and operated by Natural Fertilizer were contaminated with PFAS which then migrated from the site into the groundwater and eventually the wells of area residents who are the class members of this action.

7. The level of PFAS6 in many private wells in the area that were contaminated by waste from Natural Fertilizer far exceeds the MMCL, by as much as 250 times in at least one instance (65 Porridge Bean Hill Rd. well tested at 5,720 ng/L) and the vast majority of the private drinking water wells in the area exceed this standard by factors ranging from 10 to 100.⁵

8. Upon information and belief, the concentration of PFAS6 in these wells has been this high or higher for years, if not decades.

9. The Commonwealth of Massachusetts has identified Defendants Natural Fertilizer, Otter Farm, Seaman Paper, and Greif as four of the parties potentially responsible for the contamination of the groundwater in Westminster with PFAS.

10. Defendants Natural Fertilizer, Seaman Paper, Otter Farm, Greif, Caraustar and Newark in whole or in part, contaminated the aquifer beneath Westminster with PFAS by releasing or facilitating the release of PFAS into the environment.

11. In February 2022, MassDEP published a Release Log identifying an “Imminent Hazard” and “Substantial Release Migration” with a Reportable Release date of February 18,

⁵ Immediate Response Action Plan, MassDEP RTN: 2-21866, May 2022 (“IRA”).

2022 after a sample in a private well in the Bean Porridge Hill area showed a total PFAS⁶ concentration of 1,335 ng/L, more than 60 times the MMCL.⁶

12. The First Notices of Responsibility (“NOR”) were issued on March 31, 2022, identifying Defendants Natural Fertilizer and Otter Farm as Responsible Parties for the migration of PFAS from Natural Fertilizer’s dump and waste composting site at 65 Bean Porridge Hill Road in Westminster, Massachusetts to surrounding private drinking water wells.⁷

13. On May 13, 2022, MassDEP issued a Notice of Responsibility to Defendant Seaman Paper Company of Massachusetts, Inc. for the same release of PFAS.⁸

14. On July 20, 2022, MassDEP issued a Notice of Responsibility to Defendant Greif, Inc. for the same release of PFAS.⁹

15. MassDEP has required the Responsible Parties to engage a Licensed Site Professional (LSP) to manage, supervise, or perform all response actions at the disposal site.

16. Lessard Environmental Inc. (“Lessard”) was retained on behalf of the Responsible Parties as the LSP responsible for response actions at the site.

17. Upon information and belief Defendants Otter Farm and Seaman Paper own the property and deposit waste materials there, Defendants Greif, Caraustar and Newark deposit waste material there, and Defendant Natural Fertilizer accepts waste materials, makes and sells compost, and otherwise operates out of the property.

18. Testing of surrounding drinking water wells and surface water began immediately and has rapidly expanded in scope since. As of writing, testing has taken place or is planned at 281

⁶ IRA at 1.

⁷ Notices of Responsibility (“NOR”) to Otter Farm and Natural Fertilizer

⁸ NOR to Seaman

⁹ NOR to Greif

private wells, 184 wells have been tested, 117 POET system installed with an additional 4 scheduled for installation in the coming weeks. Excessive levels of PFAS were detected at the Crocker Pond swimming area and in both the raw waste piles at Natural Fertilizer and in Natural Fertilizer's finished and saleable compost piles.¹⁰

19. Area residents were notified, access for testing was requested, and results distributed in the community throughout the spring and summer of 2022. Such testing is ongoing and expanding as of writing.

20. The presence of PFAS in the drinking water supply immediately stigmatized the community. It has caused fears of present and future health concerns among residents, including residents who are pregnant, who are of childbearing age, who have young children and the elderly, and it has adversely impacted and continues to adversely impact property values, diminished residents' ability to use and enjoy their property and caused significant annoyance, inconvenience, and hardship. The continuing presence of PFAS in their drinking water has caused and continues to cause fear and uncertainty among Westminster residents regarding the safety of their water supply, even after filtration systems were installed (at least some of which have shown after initial testing not to have effectively removed all PFAS6 from the water). For each of these reasons, as well as those described in more detail below, residents of Westminster are entitled to compensation and other relief..

21. Furthermore, the people living in and around Westminster have been exposed to and ingested and absorbed in their bodies for years, if not decades, PFAS at concentrations well above a safe drinking level. These residents did not know they were consuming water contaminated with PFAS until state officials disclosed the contamination. While PFOA was found

¹⁰ August 5, 2022 Immediate Response Action (IRA) Update Letter No. 17.

in individuals nationwide at a geometric mean concentration of 1.86 ug/L in 2013-14, individuals in the Town of Westminster have had concentrations of PFAS6 in their blood detected at levels above 30 ug/L. Because the contamination in Westminster was only recently discovered, most residents have not had an opportunity to have blood tested for PFAS6 or are currently awaiting their results. However, upon information and belief, PFAS6 has thus infiltrated the bodies of Westminster residents, and such presence has placed them at significant risk of developing health conditions linked to PFAS exposure. They are entitled to biomonitoring and medical monitoring or surveillance to safeguard against such outcomes.

PARTIES AND JURISDICTION

PARTIES

Plaintiffs

22. Plaintiff Michele Burt is a resident of Westminster, Massachusetts with a mailing zip code of 01473. Ms. Burt has owned her home since 2003 and she and her family have consumed and ingested water from a private well on their property since that time. Lessard tested water from Ms. Burt's active well and determined that PFAS6 were present at 133.7 ppt. An independent test performed by Chem Serv and paid for by Ms. Burt at her own expense determined that PFAS6 were present at 158 ppt. On June 28, 2022, a contractor hired by Lessard installed a Point-of-Entry Treatment (POET) system on Ms. Burt's private well. Ms. Burt will require use of the POET indefinitely to filter PFAS from her water. As a consequence of those exposures, Ms. Burt is at an increased risk for a variety of adverse health outcomes due to exposure to PFAS. Upon information and belief, Ms. Burt's residential property has lost value since discovery of the PFAS contamination.

23. Plaintiff Christopher Cerasuolo is a resident of Westminister, Massachusetts with a mailing zip code of 01473. Mr. Cerasuolo has owned his home since 2003 and he and his family have consumed and ingested water from their private well. Lessard tested water from Mr. Cerasuolo's well and determined that PFAS6 were present at 33 ppt. An independent test performed by Chem Serv and paid for by Mr. Cerasuolo at his own expense determined that PFAS6 were present at 49.7 ppt. Subsequently, a contractor hired by Lessard installed a Point-of-Entry Treatment (POET) system on Mr. Cerasuolo's private well. Mr. Cerasuolo will require the use of the POET system indefinitely to filter PFAS from his water. As a consequence of those exposures, Mr. Cerasuolo is at an increased risk for a variety of adverse health outcomes due to exposure to PFAS. Upon information and belief, Mr. Cerasuolo's residential property has lost value since the discovery of PFAS contamination.

24. Plaintiff Nancy Donovan is a resident of Westminister, Massachusetts with a mailing zip code of 01473. Ms. Donovan has owned her home since 1998 and she and her family have consumed and ingested water from a private well. Lessard tested water from Ms. Donovan's well and determined that PFAS6 were present at 165 ppt. An independent test performed by Chem Serv and paid for by Ms. Donovan at her own expense determined that PFAS6 were present at 188 ppt. On or about June of 2022, a contractor hired by Lessard installed a Point-of-Entry Treatment (POET) system on Ms. Donovan's private well. Ms. Donovan will require the use of the POET system indefinitely to filter PFAS from her water. As a consequence of those exposures, Ms. Donovan is at an increased risk for a variety of adverse health outcomes due to exposure to PFAS. Upon information and belief, Ms. Donovan's residential property has lost value since the discovery of PFAS contamination. On or about June of 2022, Ms. Donovan had her blood tested by Quest Diagnostics and was informed that PFOA was present in her blood at a

level of 34 ug/L, and the presence of PFAS was detected at a level of 37.7. Further, Ms. Donovan's home requires a new septic system, but cannot have the system replaced due to the suspected contamination of the soil on the property. Ms. Donovan cannot sell her home without replacing her septic system in compliance with Title 5 (310 CMR 15.000).

25. Plaintiff Lauren Ladue is a resident of Westminister, Massachusetts with a mailing zip code of 01473. Ms. Ladue has lived in her family home since 2003 and she and her family have consumed and ingested water from a private well since that time. Ms. Ladue is a woman of childbearing age. Lessard tested water from the well at Ms. Ladue's residence and determined that PFAS⁶ were present at 324 ppt. In June, 2022, a contractor hired by Lessard installed a Point-of-Entry Treatment (POET) system on Ms. Ladue's private well. Ms. Ladue will require the use of the POET indefinitely to filter PFAS from her water. As a consequence of those exposures, Ms. Ladue is at an increased risk for a variety of adverse health outcomes due to exposure to PFAS⁶.

26. Plaintiffs bring this action on their own behalf and as representatives of a class of individuals defined further in Paragraph 148.

Defendants

27. Defendant Massachusetts Natural Fertilizer Company ("Natural Fertilizer") is and was at all times relevant hereto a corporation organized under the laws of Massachusetts with its principal executive office located at 65 Bean Porridge Hill Road, Westminister, MA 01437. Natural Fertilizer is registered to do business as a Domestic For Profit Corporation. At all times relevant hereto, Natural Fertilizer operated the composting facility and dump site at 65 Bean Porridge Hill Road.

28. Defendant Otter Farm, Inc. ("Otter Farm") is and was at all times relevant hereto a corporation organized under the laws of Massachusetts with its principal executive office

located at 35 Wilkins Road, Gardner, MA 01440. Otter Farm is registered to do business as a Domestic For Profit Corporation. At all times relevant hereto, Otter Farm operated the composting facility and dump site at 65 Bean Porridge Hill Road.

29. Defendant Seaman Paper Company of Massachusetts, Inc., (“Seaman Paper”), is and was at all times relevant hereto a corporation organized under the laws of Massachusetts with its principal executive office located at 35 Wilkins Road, Gardner, MA 01440. Seaman Paper is registered to do business as a Domestic For Profit Corporation. Upon information and belief, at all times relevant hereto, Seaman Paper dumped waste from its paper mills contaminated with PFAS at Natural Fertilizer for composting.

30. Defendant The Newark Group, Inc. (“Newark Group”), is and was at all times relevant hereto a corporation organized under the laws of New Jersey with its principal executive office located at 5000 Austell-Powder Springs Road, Suite 300, Austell, Georgia 30106. Newark Group is registered to do business in Massachusetts as a Foreign Corporation. Upon information and belief, at all times relevant hereto, Newark Group dumped waste from its paper mills in Massachusetts contaminated with PFAS at Natural Fertilizer for composting.

31. Defendant Greif, Inc. (“Greif”), is and was at all times relevant hereto a corporation organized under the laws of Delaware with its principal executive office located at 425 Winter Road, Delaware, Ohio 43015. Greif is registered to do business as a Foreign Corporation. Upon information and belief, at all times relevant hereto, Greif dumped waste from its paper mills in Massachusetts contaminated with PFAS at Natural Fertilizer for composting.

32. Defendant Caraustar Custom Packaging Group, Inc. (“Caraustar”), is and was at all times relevant hereto a corporation organized under the laws of Delaware with its principal executive office located at 5000 Austell-Powder Springs Road, Suite 300 Austell, Georgia

30106. Caraustar is registered to do business as a Foreign Corporation. Upon information and belief, at all times relevant hereto, Caraustar dumped waste from its paper mills in Massachusetts contaminated with PFAS at Natural Fertilizer for composting.

33. Defendant 3M Co. ("3M") is and was at all times relevant hereto a corporation organized under the laws of Minnesota with its principal executive office located at 3M Center Building 220-11W-02, Saint Paul, Minnesota. Upon information and belief, Defendant 3M manufactured and sold PFAS to defendant paper manufacturers and other entities that was used at defendant's facilities in their manufacturing processes as described herein and otherwise manufactured PFAS that contaminated the private property of putative class members.

34. Defendants John Doe Entities #1-10 are fictitious names of corporations, companies, partnerships, or other business entities or organizations whose identities cannot be ascertained as of the filing of this Complaint, certain of which are successors to, predecessors or alter egos of, or are otherwise related to, the identified Defendants in this matter or which are otherwise liable pursuant to the causes of action set forth herein. Upon information and belief, additional companies disposed of waste at Natural Fertilizer that may have been contaminated with PFAS. Investigation continues into the identify of those companies and the composition of waste dumped at Natural Fertilizer.

JURISDICTION

35. This court has jurisdiction pursuant to G. L. c. 223A, *et seq.*

36. Upon information and belief, more than two-thirds of presently known class members are residents of Massachusetts. Further, key defendants including Natural Fertilizer, Otter Farm and Seaman Paper, responsible for the improper disposal of PFAS chemicals leading to the contaminated drinking water in Westminster are Massachusetts corporations

with a principal place of business in Worcester County, and other defendants, including Greif, Caraustar, and Newark own property in Massachusetts which was the intermediate source of PFAS contamination dumped at the Natural Fertilizer site.

37. As a land-based action involving injuries to residents of the Commonwealth as well as multiple defendants based in the Commonwealth whose conduct forms a significant basis for the claims asserted herein, the Commonwealth has a substantial interest in adjudicating this action. As such, any removal to Federal Court under the Class Action Fairness Act, or “CAFA” (28 USC 1332 sec.(D)(4)(A) and (B)) is not appropriate and shall result in remand.

STATEMENT OF FACTS

I. Background Information Regarding PFAS

38. PFAS have been manufactured and used in the United States since the 1940’s.

39. PFAS have a multitude of uses and properties, including fire-resistant properties.

40. PFAS act as oil, grease, and water repellants and have been used in paper packaging for food and other materials resistant to water, grease or stains.

41. PFAS have been used to make many household products such as Teflon®, Gore-Tex® Stainmaster®, Scotchgard®, and Tyvek®.

42. PFAS compounds are a substantial threat to the environment and human health.

43. Some PFAS have been classified as carcinogenic.

44. Studies report that PFAS exposure and exposures to the other toxins can cause, among other things: testicular cancer, kidney cancer, liver cancer, brain cancer, lymphomas, leukemia, breast cancer, lung cancer, autoimmune disorders, endocrine disorders, reduced fertility, increased incidence of gestational diabetes, developmental and genetic defects to

fetuses, developmental defects to breastfed babies, reduced vaccine response, neurological damage, central nervous system damage, cognitive impairment, increased cholesterol, and increased liver enzymes and a host of other disorders and other adverse health conditions.

45. PFAS compounds and certain other toxins are resistant to degradation.

46. PFAS compounds and certain other toxins persist indefinitely in the environment.

47. PFAS compounds and certain other toxins or their metabolites bioaccumulate in living tissue.

48. People who consume PFAS and other toxins via drinking water and are otherwise exposed accumulate increasing concentrations of PFAS and other toxins or metabolites in their blood.

49. For decades, Defendants and their predecessors in interest have known (or should have known) the highly toxic characteristics of PFAS and other toxins.

50. The Massachusetts Department of Environmental Protection (“MassDEP”) has devoted time to investigating and is continuing to identify and investigate the presence of PFAS and other toxins in Massachusetts’ environment, as well as monitor, treat, clean up, and remove PFAS or other toxins in impacted areas.

51. With respect to the PFOA, PFNA and PFOS chemicals included in the PFAS family of chemicals described above, the United States Environmental Protection Agency (“EPA”) has identified 3M as the dominant global producer of PFOA and related chemicals.

52. 3M manufactures at least eighty-five (85%) percent of worldwide volumes of PFOA and related chemicals. Poly- and perfluoroalkyl substances (“PFAS”) are artificial chemicals.

53. Chemicals including but not limited to “GenX” have been substituted by Defendant 3M instead of their PFAS chemicals.

54. These replacement chemicals are inaccurately touted as short-chain and having shorter half-lives.

55. These replacement chemicals do not break down in the environment.

56. They have also been detected in drinking water, groundwater, and surface waters.

57. In 2009, EPA issued preliminary health advisory values for PFOA and PFOS in drinking water of 400 parts per trillion (“ppt”) and 200 ppt, respectively.

58. In 2016, EPA lowered its advisories for PFOA and PFOS to 70 ppt total, further recognizing of their extreme danger at even the most minuscule doses.

59. In 2018 the United States Department of Health and Human Services, Agency for Toxic Substances and Disease Registry (“ATSDR”) released a draft minimum risk level of 21 ppt for PFOA and PFNA, and 14 ppt for PFOS.

60. On October 2, 2020, MassDEP published its PFAS public drinking water standard or Massachusetts Maximum Contaminant Level (MMCL) of 20 nanograms per liter (ng/L), or parts per trillion (ppt) applicable to community (COM) and non-transient non-community (NTNC) systems for the sum of the concentrations of six specifics PFAS.

61. The six PFAS are: perfluorooctane sulfonic acid (PFOS); perfluorooctanoic acid (PFOA); perfluorohexane sulfonic acid (PFHxS); perfluorononanoic acid (PFNA); perfluoroheptanoic acid (PFHpA); and perfluorodecanoic acid (PFDA). MassDEP abbreviates this set of six PFAS as “PFAS6.” This drinking water standard is set to be protective against adverse health effects for all people consuming the water.

62. On June 15, 2022, EPA released four drinking water health advisories for PFAS contaminants. These health advisories are:

- Interim updated Health Advisory for PFOA = 0.004 nanograms per liter (ng/L), or parts per trillion (ppt)
- Interim updated Health Advisory for PFOS = 0.02 ng/L
- Final Health Advisory for GenX chemicals = 10 ng/L
- Final Health Advisory for PFBS = 2,000 ng/L

II. Defendants Contamination of Groundwater, Surface Water, Drinking Water, Air and Soil

63. Defendant Natural Fertilizer operates a dump and waste collection site in the Bean Porridge Hill area of Westminster for the purpose of making and selling compost. Natural Fertilizer received raw waste materials which were dumped at this site from various sources, known and as yet undiscovered, including from Defendant Seaman Paper who also owns the property. Natural Fertilizer converts the raw waste material it receives and turns it into a saleable compost material which it distributes to customers. Both the raw materials received, and the saleable compost sold at Natural Fertilizer are and have been contaminated with very high levels of PFAS. Upon information and belief Natural Fertilizer has operated a compost operation at this site in some form since 1987.

64. Defendant Seaman Paper began operation in 1946.

65. Defendant Seaman Paper manufactures various paper products throughout Massachusetts and the world, including Gardner, MA; Otter River, MA; Orange, MA; China, Vietnam, Germany, and Italy.

66. One of Seaman Paper's brands manufactured in Gardener, MA, "Restaurant Wraps," is a foodservice division creating custom sandwich wraps, basket and tray liners, and bakery tissue for grease resistance.

67. Upon information and belief, Seaman Paper trucked thousands of tons of waste materials over many years from their paper mills and other manufacturing facilities to Natural Fertilizer.

68. Ken Winterhalter, Seaman Paper's CEO has publicly stated only that they've tested mill wastewater and other byproducts of the paper-making process and found no evidence of "high concentrations" of PFAS.¹¹

69. On or about February of 2015, Caraustar Industries, Inc. acquired the Newark Group, Inc.

70. Defendant Newark Group is a manufacturer of recycled paperboard, linerboard, industrial tubes, cores and other converted products including book covers and packaging solutions.¹²

71. Caraustar Industries, Inc. is an integrated manufacturer of 100% recycled paperboard and converted paperboard products.¹³ Caraustar serves the four principal recycled boxboard product end-use segments: tubes and cores; folding cartons; gypsum facing paper and specialty paperboard products.

72. Greif officially acquired Caraustar Industries in February 2019. Greif's website touts the facility in Fitchburg, MA as one of Greif's new facilities.¹⁴

¹¹ Boston Globe, "When Organic is Toxic," July 6, 2022

¹² Website Accessed 8/9/2022 <https://www.prnewswire.com/news-releases/caraustar-industries-announces-closing-of-the-newark-group-inc-acquisition-300038369.html>

¹³ Id.

¹⁴ Website Accessed 8/9/2022 <https://www.greif.com/signs-of-new-greif/>

73. Defendant Newark Group operates a containerboard mill located at 100 Newark Way in Fitchburg, Massachusetts, and is a producer of pulp, mechanical pulp, paper and board.

74. On July 20, 2022, MassDEP issued a Notice of Responsibility to Greif, Inc. with respect to the 65 Bean Porridge Hill Road site operated by Natural Fertilizer.

75. On July 22, 2022, The Newark Group responded to the Notice of Responsibility, acknowledging a business relationship with Natural Fertilizer and claiming ownership and operation of the paper mill in Fitchburg located at 100 Newark Way.

76. Upon information and belief, Defendants Newark Group, Greif, and Caraustar were responsible for trucking thousands of tons of waste materials over many years from their paper mills in Fitchburg, Massachusetts and other manufacturing facilities to Natural Fertilizer.

77. Waste materials received at the property owned by Seaman, used as a dump by Seaman Paper and others, and operated by Natural Fertilizer were contaminated with PFAS which then migrated from the site into the groundwater and eventually the wells of area residents who are the class members of this action.

78. For decades, Defendant Natural Fertilizer sold and distributed compost contaminated with PFAS throughout Westminister, Massachusetts and the surrounding area.

79. For decades, Defendants knew or should have known of the severe and adverse health and environmental effects and impacts of PFAS and other toxins.

80. Despite that knowledge, Defendants continued to use PFAS and other toxins in products and release them into the environment.

III. PFOA-Associated Health Risks

81. Several health risks are associated with exposure to PFOA, and these risks are present even when PFOA is ingested at seemingly very low levels (less than 1.0 part per billion (ppb)).

82. In 1976 researchers from the University of Rochester, New York published a report that showed widespread contamination of human tissues with organofluorine compounds (organic compounds that contain the carbon-fluorine bond) which likely derived from commercial sources such as PFOA. The authors contacted defendant 3M questioning whether its consumer products containing these compounds could be the source. J.D. LaZerte of 3M advised W. S. Guy, one of the researchers on the project, “not to speculate” on the source of the organofluorine compounds found in human tissues and, upon information and belief, 3M took no further action to investigate this issue.

83. By 1978, defendant 3M had found elevated organic fluorine levels in the blood of its workers exposed to fluorinated surfactants such as PFOA.

84. In the late 1970’s defendant 3M consulted with Dr. Harold C. Hodge of the University of Rochester. At a meeting in 1978, Dr. Hodge told 3M’s Medical Director, Dr. F.A. Ubel, that physical examination results of employees should be compared with controls. “There appears to be indications of liver change from the physical examination results. In terms of indicators of liver disorder, there are [sic] a higher percentage of Chemolite [one 3M facility] than at Decatur [another 3M facility] and the organically bound fluorine level at Chemolite is correspondingly higher.” Dr. Hodge indicated to 3M at this time that a potential hazard was present regarding organofluorine chemical exposure to its workers.

85. Early PFOA toxicology studies commissioned by defendant 3M were summarized in 1980 and the liver was highlighted as a target organ, while effects on the immune system were also reported. The study reports were not submitted to the EPA until 2000, the year defendant 3M decided to stop manufacturing PFOA.

86. In 1980 PFOA animal toxicity studies were published by Griffith and Long in the JAIHA.

87. By 1981 defendant 3M was aware that PFOA ingestion caused birth defects in rats.

88. An experimental study conducted by defendant 3M in 1981 showed birth defects in the eye lens of rats exposed to PFOA. A total of three teratology studies were carried out, all of them finding lens abnormalities in exposed animals.

89. A cross-sectional study of worker health at 3M's Chemolite plant in Cottage Grove, Minnesota was summarized by a 3M medical officer in 1982 as showing a high prevalence of high blood pressure and elevation of cholesterol. No apparent effort was made to compare the incidence of these conditions to PFOA or PFOS blood levels and the authors concluded that this observation was caused by worker lifestyle, not occupational exposures.

90. By September of 1984 defendant 3M's medical service team noticed an increasing trend in worker organic fluorine concentrations in blood testing that had begun eight years earlier. The team advised "we must view this present trend with serious concern . . . exposure opportunities are providing a potential uptake of fluorochemicals that exceeds excretion capabilities of the body."

91. Thereafter, defendant 3M decided to search to see if it could find any blood samples among its workers that were free of organofluorine compounds. When this was unsuccessful, an internal 3M document proposed: "It is in the interest of 3M to strengthen the evidence of nonindustrial sources of organic fluorine in normal human blood." 3M initiated efforts beginning in 1993 to show that organic fluorine in blood could be from entirely natural sources, but was unable to find any data to support this hypothesis.

92. In the unpublished 1992 thesis of Frank Gilliland, MD who studied the clinical pathology parameters of 111 male workers at defendant 3M's Chemolite plant in Cottage Grove, MN, Dr. Gilliland found a positive correlation between PFOA exposure measured as serum total organic fluorine and estradiol (an adverse effect) and a negative correlation with free testosterone (also an adverse effect) with this association being stronger in older men. Dr. Gilliland concluded that PFOA may affect male reproductive hormones.

93. Dr. Gilliland's 1992 unpublished thesis from his 3M worker study also showed thyroid effects in 3M production workers that were associated with organofluorine concentrations in worker blood serum. A positive correlation was seen between organic fluorine and the thyroid stimulating hormone in serum, a sign of thyroid deficiency.

94. By 1993 defendant 3M began to monitor PFOA levels in the blood serum of its production workers and conducted a mortality study of such workers showing a 3-fold excess occurrence of prostate cancer in workers employed more than ten years.

95. When defendant 3M discussed study results on cancer in male rats with colleagues from the UK company ICI in 1995, the latter strongly espoused that APFO should be considered an animal carcinogen, as the benign tumors observed are simply early lesions that ultimately lead to malignant tumors, but 3M representatives disagreed.

96. In or about 1996 defendant 3M commissioned studies to assess the effects of PFOA on humans by exposing monkeys to the chemical. By November of 1998 Defendant 3M was aware that monkeys in this study were suffering from severe health effects. By 1999 even the monkeys receiving the lowest dose of PFOA were suffering adverse health effects, including liver toxicity, and it was determined that there was no exposure level at which no observable effects could be found (NOEL) in non-human primates.

97. In 1999 Dr. Richard Purdy of Defendant 3M wrote to his 3M colleagues, Drs. John Buitenhoff and Andrew Seacat that his calculations showed that a “general population member with [PFOA levels of] 70 ppb (in one’s blood) could have 36 times more in his liver” due to lifetime accumulation.

98. In or about 2000 the United States Environmental Protection Agency notified defendant 3M that it intended to pursue more rigorous regulation of the perfluorinated chemicals manufactured by this defendant. Shortly thereafter defendant 3M publicly announced that it was voluntarily withdrawing from the perfluorinated chemical market, including its manufacturing of PFOA. Two of the reasons for defendant 3M’s decision were PFOA’s bio-persistence and toxicity.

99. In October of 2001 Paul M. Hinderliter, Ph.D. and Gary W. Jepson, Ph.D. of the DuPont Haskell Laboratory, drafted a paper entitled: A Simple, Conservative Compartmental Model to Relate Ammonium Perfluorooctanoate (APFO) Exposure to Estimates of Perfluorooctanoate (PFO) Blood Levels in Humans.” The paper described calculations which showed that ingestion of 1 part per billion of PFOA in drinking water corresponded to human PFOA blood levels 300 times higher.

100. In 2003 defendant 3M conducted a mortality study of its workers exposed to PFOS, a chemical closely related to PFOA, and reported excess bladder cancer incidence with high exposure jobs.

101. In 2006, the U.S. EPA reached a settlement agreement with Defendant 3M to resolve 3M’s alleged reporting violations under the Toxic Substances Control Act regarding its fluorochemicals. The agreement did not require 3M to admit the violations, but the company agreed to pay a penalty in excess of \$1.5 Million Dollars for 244 separate alleged violations.

102. In 2009 Defendant 3M performed a follow-up study of its workers exposed to PFOA which showed an increase in prostate cancer incidence in workers with moderate to high exposures.

103. Toxicology studies show that PFOA is readily absorbed after ingestion or inhalation exposure. PFOA has a half-life in the human body of 2 to 9 years. PFOA binds to albumen in the blood serum and is concentrated in the liver and kidneys. Indeed, PFOA is especially concerning from a human health standpoint precisely because it can stay in the environment and in the human body for long periods of time.

104. PFOA is associated in the medical literature with increased risk in humans of testicular cancer, kidney cancer, prostate cancer, non-Hodgkin's lymphoma, pancreatic cancer and ovarian cancer, as well as thyroid disease, high cholesterol, high uric acid levels, elevated liver enzymes, ulcerative colitis, and pregnancy-induced hypertension, as well as other conditions. Studies of PFOA exposure in animals have shown the ability to cause other cancers not yet associated with human exposure. The EPA has also advised that exposure to PFOA may result in developmental effects to fetuses during pregnancy or to breastfed infants, liver damage, and various immunological effects.

105. In May 2006, the EPA Science Advisory Board stated that PFOA cancer data are consistent with guidelines suggesting exposure to the chemical is "likely to be carcinogenic to humans." These health conditions can arise months or years after exposure to PFOA.

IV. Knowledge of PFOA Environmental Contamination

106. In late 1998 defendant 3M environmental scientist Richard Purdy wrote to his 3M colleague Georjean Adams and suggested that his food chain risk assessment of fluorochemicals produced by 3M once they entered the environment demonstrated a risk that

could not be kept confidential. In another email, Purdy stated “For 20 years the division has been stalling in the collection of data needed for evaluating the environmental impact of fluorochemicals. PFOS is the most onerous pollutant since PCB and you want to avoid collecting data that indicates it is probably worse.”

107. In 1999 Purdy drafted a resignation letter that stated: “3M told those of us working on the fluorochemical project not to write down our thoughts or have email discussions on issues because of how our speculations could be viewed in a legal discovery process. This has stymied intellectual development on the issue and stifled discussion of the serious ethical implications of decisions.”

108. Shortly after Defendant 3M decided to terminate its production of PFOA in 2000, groundwater near the 3M Cottage Grove facility in Minnesota was discovered to be highly contaminated with PFOA. Subsequently, perfluorinated compound (PFC) contamination including PFOA and PFOS was found in groundwater further away from the facility, in Washington and Dakota Counties. In Oakdale, MN the average PFOA concentration in the municipal water was 570 ppt. Closer to the Cottage Grove facility groundwater levels were measured as high as 619 ppb (619,000 ppt).

109. The State of Minnesota has determined that over 100 square miles of groundwater have been contaminated by defendant 3M’s disposal of PFCs and the source of residential drinking water for over 125,000 Minnesotans has been affected by PFC waste disposal.

V. PFOA and PFOS Drinking Water Limits

110. In 2009, the EPA identified PFOA as an emerging contaminant of concern and issued a provisional health advisory stating that short-term (weeks to months) exposure to

PFOA at a concentration of 400 ppt can cause human health effects. The provisional health advisory stated that the discovery of PFOA in water above the advisory level should result in the discontinued use of the water for drinking or cooking. Following EPA's action, in 2013, New Jersey established a preliminary health-based guidance level of 0.04 ppb (40 ppt) in drinking water.

111. In 2016, Vermont established a drinking water advisory of 0.02 ppb (20 ppt).

112. In May 2016, EPA replaced its 2009 provisional health advisory with a new lifetime advisory. The 2016 lifetime health advisory established that PFOA in drinking water at a concentration greater than 70 ppt should require water systems to undertake remediation, and public health officials to promptly notify consumers about the health risks associated with exposure to PFOA. EPA health advisories are non-enforceable on the states. EPA also established a Reference Dose (RfD) of 0.000002 mg/kg/day. EPA defines the The Reference Dose as an “estimate[] (with uncertainties spanning perhaps an order of magnitude) of the daily exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.” United States EPA, Health Effects Support Document for Perfluorooctanoic Acid (PFOA), p. 4-1 (May 2016).

113. In May 2017, Minnesota established a health guidance value for PFOA in drinking water of 0.035 ppb (35 ppt).

114. In November 2017, the State of New Jersey announced it would adopt a new health-based Maximum Contaminant Level (MCL) for PFOA in drinking water to 14 ppt from its previously set level of 40 ppt based upon the recommendation of the New Jersey Drinking Water Quality Institute, which was based upon the latest research on the adverse health effects of PFOA.

115. In December 2018, the New York State Drinking Water Quality Council recommended that the state adopt an MCL of 10 ppt for PFOA and 10 ppt for PFOS.

116. On October 2, 2020, MassDEP published its PFAS public drinking water standard or Massachusetts Maximum Contaminant Level (MMCL) of 20 nanograms per liter (ng/L), or parts per trillion (ppt) applicable to community (COM) and non-transient non-community (NTNC) systems for the sum of the concentrations of six specific PFAS.

117. At the time of this filing, numerous states are considering imposing limitations for the presence of PFOA in drinking water.

VI. The Town of Westminster and Surrounding Area

118. The Town of Westminster has a population of approximately 8,000 individuals and is located about fifty-two miles west of Boston.

119. Upon information and belief, there are approximately 3,000 private households in the Town of Westminster. Most of these private households in Westminster obtain drinking water from private wells.

120. Approximately 281 private wells have been sought for testing for PFAS6 as of the date of this filing.

121. Approximately 117 POET systems have been installed as of the date of this filing with four more scheduled for installation.

VII. PFAS Detection in Westminster

122. Laboratory analysis of a sample collected by a nearby homeowner on Bean Porridge Hill Road on January 31, 2022, showed a PFAS6 concentration of 1,332 ng/L in the drinking water drawn from a private well.

123. MassDEP performed confirmatory sampling at the private drinking water well on February 24, 2022, receiving the laboratory results on March 15, 2022, confirming elevated concentrations of PFAS6 at 1,021 ng/L in the private drinking water well.

124. On February 24, 2022, MassDEP also contracted Environmental Strategies and Management, Inc. to sample five private residential wells within 500 feet of the detection at 1,335 ng/L on Bean Porridge Hill Road. MassDEP received results of the additional private drinking water well sampling efforts between March 11, 2022, and March 14, 2022, the results indicated PFAS6 in drinking water at concentrations in all private wells sampled by MassDEP at concentrations between 333 and 1,815 ng/L.

125. The concentrations in the private wells of the properties exceeded 90 ng/L. representing an Imminent Hazard to human health, requiring an IRA to abate, eliminate, or prevent the Imminent Hazard condition.

126. MassDEP immediately distributed bottled water to the six residences initially tested to mitigate the exposures.

127. Based on the information available, MassDEP has determined that a release of PFAS had come to be located at the property at 65 Bean Porridge Hill Road and that the release of these substances occurred through the composting operation performed by Natural Fertilizer on the site owned by Otter Farm, Inc.

128. On March 31, 2022, MassDEP issued a Notice of Responsibility (NOR) to Defendants Natural Fertilizer, Seaman Paper, and Otter Farm. The purpose of the NOR was to inform Defendants that MassDEP considered Defendants parties with potential liability for response action costs and damages under M.G.L. c. 21E § 5 for the disposal site located at 65 Bean Porridge Hill Road.

CLASS ACTION ALLEGATIONS

129. Plaintiffs incorporate the foregoing paragraphs as though the same were set forth at length herein.

130. Plaintiffs bring this lawsuit as a class action on their own behalf and on behalf of all similarly situated as members of the proposed classes pursuant to Massachusetts Rules of Civil Procedure 23(a), and 23 (b). This action satisfies the numerosity, commonality, typicality, and adequacy, requirements of those provisions.

131. Plaintiffs bring this class action on behalf of the following classes:

(i) Property Damage Class

All current Massachusetts residents who are or were owners of real property on or after January 31, 2022, which property is within the Contamination Zone, and supplied with water from a well contaminated with PFAS6.

(ii) Nuisance Damage Class

All current Massachusetts residents who are or were owners or lessors of real property and occupied that property on or after January 31, 2022, which property is within the Contamination Zone, supplied with water from a well contaminated with PFAS6, and had a point-of-entry treatment (POET) system installed to filter water from that well.

(iii) Medical Monitoring Class

All current Massachusetts residents who resided at a home within the Contamination Zone between 1987 and present, which home was supplied by a well found to be contaminated by PFAS6, and who ingested PFAS6 contaminated water such that PFAS6 accumulated in their body and tissue, or any natural child born to a resident who meets and/or met these criteria at the time of the child's birth.

132. As referred to in the class definitions above, the “Contamination Zone” shall mean, “All properties within the Town of Westminster or surrounding area that are included within the “study area” as further described in MassDEP RTN 2-0021866.”

133. Excluded from the classes set forth above are: (a) Defendants, any entity or division in which Defendants have a controlling interest, and their legal representatives, officers, directors, assigns, and successors; (b) the Judge to whom this case is assigned and the Judge’s staff; (c) any class counsel or their immediate family members; (d) any State or any of its agencies; and (e) the Town of Westminster. In addition, any property legally authorized for use in a commercial capacity shall be excluded from the Property Damage Class, and the Nuisance Damage Class.

134. Plaintiffs reserve the right to amend the class definitions set forth above if discovery or further investigation reveals that any class should be expanded, divided into subclasses or modified.

Numerosity

135. Although the exact number of class members is uncertain and can be ascertained only through appropriate discovery, the number is great enough such that joinder is impracticable. Indeed, there are approximately 8,000 individuals who live in the Town of Westminster and about 3,000 housing units. Already, Lessard has identified more than 280 homes from which it has or seeks testing, and that number is growing. Nearly all the residents of Westminster are dependent on private wells. Each of the classes set forth above is sufficiently numerous to warrant class treatment, and the disposition of the claims of these class members in a single action will provide substantial benefits to all parties and to the Court.

136. Further, class members are readily identifiable from publicly available property ownership and residential history information.

Common Questions of Law or Fact

137. Plaintiffs bring this action under Rule 23(b) because numerous questions of law and fact common to Plaintiffs and the class members predominate over any question affecting only individual class members. The answers to these common questions will advance resolution of the litigation for all class members. These common legal and factual issues include:

- a. Whether Defendant Natural Fertilizer, Seaman Paper, and Otter Farm negligently and/or improperly emitted PFAS6 from the facility they operated at 65 Bean Porridge Hill Road in Westminister, Massachusetts;
- b. Whether Defendants Natural Fertilizer, Seaman Paper, and Otter Farm negligently and/or improperly discharged PFAS6 to the groundwater beneath the facility they operated at 65 Bean Porridge Hill Road in Westminister;
- c. Whether Defendants Seaman Paper, Natural Fertilizer and Otter Farm handled and disposed of PFAS6 waste appropriately;
- d. Whether Defendants Seaman Paper, Natural Fertilizer and Otter Farm utilized appropriate pollution controls at the facility they operated at 65 Bean Porridge Hill Road in Westminister;

- e. Whether Defendants Seaman Paper, Natural Fertilizer, Otter Farm, Greif, Caraustar, and Newark knew or should have known that it was unreasonably dangerous to dispose of PFAS6 into the environment;
- f. Whether Defendants Seaman Paper, Natural Fertilizer, Otter Farm, Greif, Caraustar, and Newark breached a legal duty to Plaintiffs and the classes by disposing of PFAS6 in the manner described herein;
- g. Whether Defendants Seaman Paper, Natural Fertilizer, Otter Farm, Greif, Caraustar, and Newark's breach of a legal duty caused class members' drinking water to become contaminated with PFAS6;
- h. Whether it was foreseeable that Defendants Seaman Paper, Natural Fertilizer, Otter Farm, Greif, Caraustar, and Newark's use and disposal of PFAS6 would cause class members' drinking water to become contaminated and/or unreasonably dangerous for normal and foreseeable human consumption or use;
- i. Whether Defendants Seaman Paper, Natural Fertilizer, Otter Farm, Greif, Caraustar, and Newark were negligent with respect to their manufacturing operations and pollution controls used at the facilities they operated in Westminster;
- j. Whether Defendant 3M knew or should have known that its PFAS6 and PFAS6-containing products posed a risk to the environment and the health of people living in the communities where these products were used, such as the community of Westminster;

- k. Whether Defendant 3M failed to adequately warn of the health and environmental hazards potentially caused by their products containing PFAS6;
- l. Whether Defendant 3M breached its continuing duty to warn of dangers of their products discovered after manufacture and sale;
- m. Whether the PFAS6 contamination described herein substantially interfered with Plaintiffs' and class members' use and enjoyment of their property;
- n. Whether the PFAS6 contamination described herein caused, and continues to cause, a continuous invasion of the property rights of Plaintiffs and the classes;
- o. Whether Defendants caused the devaluation of Plaintiffs' and class members' property;
- p. Whether Defendants caused PFAS6 to enter, invade, intrude upon or injure the property rights of Plaintiffs and the classes;
- q. Whether the toxic invasion and accumulation of PFAS6 in class members' blood constitutes an injury under Massachusetts law;
- r. Whether Plaintiffs, Infant Plaintiffs, and the classes are at increased risk of illness and harm because of the PFAS6 accumulation they have sustained in their bodies from drinking private well water;
- s. Whether medical monitoring and surveillance is reasonable and necessary to assure early diagnosis and treatment of PFAS6-related illnesses and conditions;

- t. Whether early diagnosis and treatment of the conditions caused by PFAS6 will be beneficial to Plaintiffs, Infant Plaintiffs, and the PFAS6 Invasion Injury Class.

Typicality

138. Plaintiffs' claims are typical of the claims of the classes in that Plaintiffs, like all class members, are owners or lessors of real property that have experienced a diminution in value and/or nuisance due to the actions of the Defendants. Further, Plaintiffs, like the PFAS6 Medical Monitoring Class, have been exposed to drinking water contaminated with PFAS6, Plaintiffs and the PFAS6 Medical Monitoring Class are at significant risk of developing medical conditions associated with exposure to PFAS6.

139. Moreover, the factual bases of Defendants' misconduct are common to all class members and represent a common thread of misconduct resulting in injury to all members of the classes.

Adequate Representation

140. Plaintiffs will fairly and adequately represent and protect the interests of the classes. Plaintiffs have retained counsel with substantial experience litigating both environmental torts and class actions, including actions, like this one, representing putative classes whose property has been devalued by the actions of a polluter and/or who have been exposed to dangerous chemicals and need of biomonitoring. The undersigned counsel have the skill and experience necessary to litigate this action on behalf of the classes.

141. Plaintiffs and their counsel are committed to vigorously prosecuting this action on behalf of the classes and have the financial resources to do so. Neither Plaintiffs nor their counsel has interests adverse to the classes.

FIRST CAUSE OF ACTION

(Negligence Against All Defendants)

142. Plaintiffs hereby incorporate the allegations contained in the preceding paragraphs of this Complaint as if they were set forth at length herein.

143. Defendants knew or should have known that the use of PFAS6 and/or discharge of PFAS6 and other toxins into the air, soil, groundwater and drinking or household water are hazardous to human health and the environment.

144. Defendants further knew or should have known that it was unsafe and/or unreasonably dangerous to discharge PFAS6 and other toxins into the environment near surrounding residential communities, including Plaintiffs' residences.

145. Defendants Natural Fertilizer, Seaman Paper, Otter Farm, Greif, Caraustar, and Newark had a duty to take all reasonable measures to ensure that PFAS6 and other toxins would be effectively contained and not discharged into the surrounding environment.

146. Defendants Natural Fertilizer, Seaman Paper, Otter Farm, Greif, Caraustar, and Newark had a duty to operate and manage their facilities and the related wastes so as not to create a nuisance or dangerous condition that could cause injury or damage to human health and the environment.

147. Defendants Natural Fertilizer, Seaman Paper, Otter Farm, Greif, Caraustar, and Newark further had a duty to ensure that the disposal and composting processes they chose to employ did not unreasonably endanger the drinking water relied upon by residents in the surrounding community, including Plaintiff's residence(s).

148. Defendant 3M had a duty to warn users of its PFAS6 and other relevant products of the dangers of releasing PFAS6 and other toxins into the environment.

149. Defendant 3M breached the above-stated duty by failing to adequately warn and provide sufficient instructions to purchasers such as Defendant Seaman Paper, Greif, Caraustar and Newark to avoid discharging PFAS6 and other toxins into the environment where it was likely to enter the environment including soil, air, and water (including groundwater) and be inhaled, absorbed and/or ingested by residents including Plaintiffs and others in the surrounding communities.

150. Defendant 3M further breached a duty by neglecting to inform itself of the improper way its purchasers, including the other Defendants mishandled highly toxic 3M products.

151. As a direct and proximate result of these acts and omissions, Defendants individually and collectively wrongfully caused the environment to be contaminated with PFAS6 and other toxins, thereby exposing Plaintiffs to these chemicals and substances, and causing injury as described above.

152. All Defendants contributed to the contamination of the environment with PFAS6 and other harmful substances, and all subsequently contributed to Plaintiffs' exposure to these chemicals, thereby causing injury to them.

153. The acts and omissions of Defendants were negligent. As a result, Plaintiffs have suffered and/or will in the future suffer damage in the form of bodily injuries, emotional distress, economic loss, medical expenses and otherwise, for which Defendants are liable.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendants for compensatory and non-compensatory damages, together with interest, costs, attorneys' fees, and all such other relief as the Court deems proper.

SECOND CAUSE OF ACTION

(Breach of Warranty for Failure to Warn as to Defendant 3M)

154. Plaintiffs incorporate the allegations contained in all preceding paragraphs as if fully restated herein.

155. Defendant 3M developed, tested, assembled, manufactured, packaged, labeled, prepared, distributed, marketed, and supplied PFAS and other toxins for sale and sold such products to Defendants Seaman Paper, Greif, Newark, and Caraustar in the ordinary course of their businesses.

156. Upon information and belief, Defendants Seaman Paper, Otter, Farm, Greif, Caraustar, and Newark utilized the PFAS chemicals and other toxins supplied by Defendant 3M in a reasonably foreseeable and intended manner.

157. The PFAS and other toxins sold by Defendant 3M were unreasonably dangerous to surrounding community residents, including Plaintiffs, without adequate warnings and instructions to prevent discharge of PFAS and other toxins into the environment and accumulation inside the bodies of residents in surrounding communities, including Plaintiffs.

158. Defendant 3M knew or should have known that the PFAS and other toxins they sold would be discharged into the environment and cause contamination of residents' water supply and accumulation in the blood serum and bodily tissues of residents living in the surrounding communities, including Plaintiffs.

159. Defendant 3M failed to advise Plaintiffs as well as Defendants Natural Fertilizer, Seaman Paper, Otter, Farm, Greif, Caraustar, and Newark which were purchasers, users or those foreseeably exposed, to their PFAS and other toxins about the risks these

products posed to foreseeable third parties, such as Plaintiffs, and about techniques that could be employed to reduce or eliminate these risks.

160. Defendant 3M had actual knowledge of the health hazards associated with PFAS and other toxins through both animal studies conducted by researchers employed or contracted by such Defendant and through experience with Defendant's own workers, but, upon information and belief, failed to share such information with purchasers, users or those foreseeably exposed to their products, including Plaintiffs, Defendants Natural Fertilizer, Seaman Paper, Otter, Farm, Greif, Caraustar, and Newark or with governmental agencies.

161. Defendant 3M acted with reckless indifference to the health and safety of residents in surrounding communities where its PFAS and other toxins were used by failing to provide adequate warnings of the known dangers of such products when discharged into the environment and ingested by nearby residents, such as Plaintiff.

162. Defendant 3M had a duty to warn users of their PFAS products and other toxins of the dangers of releasing PFAS and other toxins into the environment.

163. Defendant 3M breached the above-stated duty by failing to adequately warn and provide sufficient instructions to purchasers such as Defendants Seaman Paper, Otter, Farm, Greif, Caraustar, and Newark, to avoid discharging PFAS and other toxins into the environment where it was likely to enter groundwater and be ingested by residents in surrounding communities, including Plaintiffs.

164. As a direct and proximate result of Defendant 3M's acts and omissions, Plaintiffs have and will continue to suffer damages.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendant for compensatory and non-compensatory damages, together with interest, costs, attorneys' fees, and all such other relief as the Court deems proper.

THIRD CAUSE OF ACTION

(Breach of Warranty for Defective Design as to Defendant 3M)

165. Plaintiffs incorporate the allegations contained in all preceding paragraphs as if fully restated herein.

166. Defendant 3M engaged in testing, developing, designing, marketing, distributing, manufacturing, promoting, and selling PFAS and other toxins used at the Seaman Paper, Greif, Newark and Caraustar facilities and elsewhere by Defendants.

167. As a manufacturer and seller of PFAS and other toxins, Defendant 3M had a duty to make and sell reasonably fit, suitable, and safe products for their intended or foreseeable uses.

168. Defendant 3M owed that duty to direct users of its products, to reasonably foreseeable users of its products, and also to any person who might reasonably be expected to come into contact with these products, such as Plaintiffs.

169. Defendant 3M's PFAS products and other toxins were used in a reasonably foreseeable manner and without substantial change in the condition of such products and were defective and unfit for their reasonable use.

170. Defendant 3M knew or should have known that use of its PFAS and other toxins by Defendants Seaman Paper, Otter, Farm, Greif, Caraustar, and Newark would result in the spillage, discharge, and/or release of PFAS and other toxins into the environment and would contaminate the environment including the groundwater, air, soil, and drinking water of surrounding communities, including Plaintiffs'.

171. Defendant 3M knew or should have known that its PFAS and other toxins would eventually come into contact with and harm residents in surrounding communities, including Plaintiffs.

172. Defendant 3M's PFAS products were defective in design and unreasonably dangerous because, among other things:

- a. PFAS and other toxins cause extensive and persistent contamination when used in a reasonably foreseeable and intended manner; and
- b. PFAS and other toxins' contamination in the environment, including the air, soil, and groundwater, which are the drinking water sources to citizens in the surrounding communities, including Plaintiffs, poses significant threats to their health, safety, and welfare.

173. At all relevant times, Defendant 3M's PFAS and other toxins they designed, manufactured, and sold were dangerous beyond what the ordinary consumer would contemplate.

174. The foreseeable risk to public health and welfare, including that of Plaintiffs, posed by Defendant 3M's PFAS and other toxins outweighed the cost to Defendant 3M of reducing or eliminating such risk.

175. Defendant 3M knew or should have known about reasonably safer and feasible alternatives to PFAS and other toxins.

176. As a direct and proximate result of Defendant 3M's acts and omissions, Plaintiff has and will continue to suffer injuries and damages.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendant for compensatory and non-compensatory damages, together with interest, costs, attorneys' fees and all such other relief as the Court deems proper.

FOURTH CAUSE OF ACTION

**(Private Nuisance against Defendants Natural Fertilizer,
Seaman Paper, Otter Farm, Greif, Caraustar, and Newark)**

177. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully restated herein.

178. Defendants' acts and omissions with respect to the release of PFAS6 and other toxins in the environment resulted in the contamination of the air, soil, and water, including but not limited to Plaintiff's water supply, and have thus unreasonably interfered with Plaintiffs' use and enjoyment of their property, invading the home and body of Plaintiffs.

179. Defendants' acts and omissions with respect to the release of PFAS6 and other toxins have made Plaintiffs' water supply unfit for consumption and other domestic purposes.

180. Defendants' unreasonable interference with the use and enjoyment of Plaintiff's property constitutes a continuous invasion of their rights.

181. Defendants, Natural Fertilizer, Seaman Paper, Otter Farm, Greif, Caraustar, and Newark all contributed to the contamination of the environment with PFAS6 and other toxins, and all substantially contributed to a private nuisance on Plaintiffs properties causing Plaintiffs' injuries and damages as stated above.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendants for compensatory and non-compensatory damages, together with interest, costs, attorneys' fees, and all such other relief as the Court deems proper.

FIFTH CAUSE OF ACTION

**(Past and Continuing Trespass Against Defendants Seaman Paper,
Otter Farm, Natural Fertilizer, Greif, Newark, and Caraustar)**

182. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully restated herein.

183. As related above, Plaintiffs are and have been the owners and possessors of real property and reside or resided on those properties.

184. Defendants negligently, recklessly, and intentionally failed to adequately control, apply, use and dispose of PFAS6 and other toxins resulting in their discharge into the environment entering, invading, intruding, and injuring the rights of Plaintiffs to possess and enjoy their properties.

185. Plaintiffs have not consented and do not consent to the contamination alleged herein, and Defendants knew or reasonably should have known that Plaintiffs would not consent to such.

186. Defendants, Natural Fertilizer, Seaman Paper, Otter, Farm, Greif, Caraustar, and Newark, all contributed to the contamination of the environment with PFAS6 and other toxins, and all subsequently contributed to the past and continuing trespass imposed on Plaintiffs.

187. As a direct and proximate result of Defendants' acts and omissions as alleged herein, the soil and drinking water wells applicable to Plaintiffs' properties have been contaminated with PFAS6, and other toxins, causing significant personal injuries and damage, including actual, consequential, and nominal damages as described above.

WHEREFORE, Plaintiffs requests that this Court enter judgment against Defendants for compensatory and non-compensatory damages, together with interest, costs, attorneys' fees, and all such other relief as the Court deems proper.

SIXTH CAUSE OF ACTION

(Strict Liability Due to the Abnormally Dangerous Activity on the Premises of the Defendants Natural Fertilizer, Seaman Paper, Otter Farm,)

188. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully restated herein.

189. At all relevant times, Defendants Natural Fertilizer, Seaman Paper, Otter Farm, Greif, Caraustar, and Newark sold, disposed of, discharged, and emitted hazardous substances from facility that they owned, controlled, and operated at 65 Bean Porridge Hill Road.

190. As a result of Defendant 3M selling and Defendants Natural Fertilizer, Seaman Paper, and Otter Farm, discharging such substances from their site, the groundwater under Plaintiffs' properties was contaminated with hazardous substances, creating actual harm to Plaintiffs.

191. The manufacturing, utilization, disposal, and discharge of PFAS6 and other toxins constitute abnormally dangerous activities that introduce an unusual danger in the community.

192. Defendants' activities in selling, manufacturing, utilizing, disposing, and discharging these products presented a high risk of harm to the person, land, and chattels of others.

193. It was likely that the harm resulting from Defendants' activities would be great.

194. The exercise of reasonable care does not eliminate the risk of harm posed by Defendants' activities.

195. Defendants' activities are not a matter of common usage in the areas in which they were carried out.

196. Defendants' activities were inappropriate to the locations where they were carried out.

197. The dangerous attributes of and risk posed by Defendants' activities outweighed their value to the community.

198. The manufacturing, utilization, disposal, and discharge of these products are not matters of common usage in the areas where these activities were carried out.

199. At all relevant times, the risk of the Defendants' abnormally dangerous activities outweighed the value to the community.

200. Defendants' acts and omissions in selling, manufacturing, utilizing, disposing, and discharging hazardous chemicals proximately caused the contamination to Plaintiff's properties and injuries and damages to Plaintiffs, making them strictly liable for the harm caused by such contamination.

201. Defendants Natural Fertilizer, Seaman Paper, and Otter Farm, foreseeably contributed to the contamination of the environment with PFAS⁶ and other toxins, and all subsequently contributed to Plaintiffs' exposure to these chemicals, thereby causing injury and damages to them as set forth above.

202. As a direct and proximate result of Defendants' discharges of hazardous substances and contaminants, Plaintiffs have and will continue to suffer damages.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendants for compensatory and non-compensatory damages, together with interest, costs, attorneys' fees, and all such other relief as the Court deems proper.

SEVENTH CAUSE OF ACTION

(MEDICAL MONITORING AGAINST ALL DEFENDANTS)

203. Plaintiffs incorporate the allegations in all preceding paragraphs as if fully restated herein.

204. As a direct and proximate cause of Defendants' negligent conduct, including discharges of hazardous substances and contaminants into the environment, Plaintiffs have been exposed to hazardous levels of PFAS6 through their well water.

205. As a result of hazardous levels of PFAS6 on their properties including in their wells, Plaintiffs' have ingested and absorbed PFAS6 into their bodies and tissue where it is known to and has bio accumulated over time. The presence of this manmade foreign substance, PFAS, in their bodies and tissue leaves Plaintiffs at an increased risk of serious disease, illness, or injury. Some Plaintiffs and other residents have had their blood tested, and detected the presence of PFAS6 in their blood above the background level of 1.86 ug/L.

206. Medical testing presently exists for serious diseases, illnesses and injuries associated with exposure to and the presence of PFAS6 in the human body. Early detection, combined with prompt and effective treatment, will significantly decrease the risk of death or the severity of disease, illness or injury for all putative medical monitoring class members. Such testing is not routinely performed in the absence of the known exposure to PFAS, but conform with standard of medical and scientific care when such exposures are known.

207. A medical monitoring program will allow for early detection and prompt and effective treatment of any serious disease, illness, or injury caused by PFAS6 exposure. A medical monitoring program will save lives, decrease the severity of illness, decrease the impact of illness on lives and families, and reduce the costs associated with caring for such illnesses, and are periodically necessary.

208. The present value of the reasonable cost of such tests now and into the future can be calculated and known with reasonable certainty after further discovery is made. Comparable programs, including programs approved by Courts in this and neighboring states have seen costs in excess \$13,000 per eligible class member.

WHEREFORE, Plaintiffs request that this Court enter judgment against Defendants and grant the equitable relief of establishment of a medical monitoring program and all such other relief as the Court deems proper.

PLAINTIFFS' REMEDIES

209. Plaintiffs and Class Members are at an increased risk of developing cancer and other disease and adverse health outcomes as a result prolonged exposure to hazardous levels of PFAS6 and other PFAS and the bioaccumulation of PFAS6 in their bodies.

210. Early detection of cancer and other disease will significantly improve prognosis for PFAS related injuries, and will ultimately save lives.

211. Various programs have now been designed to institute screening for various cancers and other adverse health outcomes.

212. These programs involve:

- a. Outreach and education to inform people in the class of the availability of this screening program and of its potential benefits and harms.
- b. Informed consent procedures to advise potential members of the screening program of the possible harms or consequences of the screening so that they might make an educated and informed decision about whether to participate in the program.

- c. Uniform practices respecting the manner and the timing or interval in which the screening technique will be administered.
- d. Uniform practices respecting the manner in which these findings are to be interpreted and what steps need to be taken to follow-up in those individuals where the findings are equivocal and require further investigation.
- e. Medical counseling respecting the results of the screening.

213. The cost of this screening program on an annualized per patient basis, including all administrative and educational expenses, can be ascertained with reasonable particularity and certainty.

214. As a matter of Massachusetts law, Defendants, given their misconduct, are legally and equitably responsible to provide Plaintiffs and the proposed class with a medical monitoring or surveillance program.

215. Plaintiffs have experienced and suffered other damages, including diminution in the value of their property, loss of use and enjoyment of their property, caused significant annoyance, inconvenience, and hardship and other damages as more fully alleged herein, damages which may be redressed through legal remedies including but not limited to monetary compensation.

216. By this Complaint, Plaintiffs' do not seek damages for past and/or present compensable personal injuries. Plaintiffs and putative class members all reserve their right to bring separate individual actions for any past, present and/or future personal injuries for which remedy and redress may be available under the law, including such injuries as may be discovered through a medical monitoring or surveillance program.

PRAYER FOR RELIEF

Plaintiffs, on behalf of themselves and all others similarly situated, request the Court to enter judgment against the Defendants, as follows:

- A. an order certifying the proposed Property Damage Class, Nuisance Damage Class, and Medical Monitoring Class, designating Plaintiffs as the named representatives of the respective classes, and designating the undersigned as Class Counsel;
- B. a declaration that Defendants acted with negligence for failure to take reasonable care regarding the health, safety, and property of Plaintiffs and members of the classes;
- C. an equitable order requiring Defendants to establish and fund a medical monitoring protocol for Plaintiffs and PFAS6 Invasion Injury Class Members to monitor their health and diagnose at an early stage any ailments associated with exposure, inhalation or ingestion of PFAS6;
- D. an award to Plaintiffs and class members of compensatory, exemplary, and consequential damages, including interest, in an amount to be proven at trial;
- E. an award of attorneys' fees and costs, as permitted by law;
- F. an award of pre-judgment and post-judgment interest, as provided by law;
- G. leave to amend this Complaint to conform to the evidence produced at trial; and
- H. such other relief as may be appropriate under the circumstances and permitted by law or as the Court deems just and proper.

- I. By filing this complaint, Plaintiffs and members of the class do not seek redress for personal injuries that may have been caused by exposure to PFAS6 and PFAS6-contaminated water.

JURY DEMAND

Under Massachusetts Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any issues in this action so triable of right.

Dated: August 12, 2022

Respectfully submitted,
Plaintiffs, by their attorneys

/s/ Leah M. McMorris
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