

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

<p>City of Stuart, Florida</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.); Tyco Fire Products LP, successor-in-interest to The Ansul Company; Buckeye Fire Equipment Company; Chemguard; and National Foam, Inc.,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No.</p> <p style="text-align: center;">COMPLAINT AND JURY DEMAND</p>
---	---

Plaintiff City of Stuart, Florida (“Stuart” or “Plaintiff”), by and through its attorneys, Weitz & Luxenberg, P.C. and Morgan & Morgan, P.A., as and for its complaint against defendants, The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.), Tyco Fire Products LP, successor-in-interest to The Ansul Company, Buckeye Fire Equipment Company, Chemguard, and National Foam, Inc. (collectively, “Defendants”), alleges as follows:

I. INTRODUCTION

1. Plaintiff City of Stuart owns and operates a public drinking water system and supplies drinking water to thousands of residents and businesses that depend on the City of Stuart for their water needs. Plaintiff seeks to recover by this action the substantial costs necessary to protect the public and restore certain of its water supply wells, which are contaminated by the toxic chemicals perfluorooctane sulfonate (“PFOS”) and perfluorooctanoic acid (“PFOA”).

2. PFOS and PFOA are highly toxic and carcinogenic chemicals that are or were components of Aqueous Film Forming Foam (“AFFF”), a firefighting suppressant agent used by the Stuart Fire Rescue, before PFOS- and PFOA-based AFFF was taken off the market.

3. In years past, PFOS- and PFOA-based AFFF was used in training and firefighting activities and thereby released and discharged into the environment. The PFOS and PFOA in the AFFF have migrated through the subsurface and into the groundwater, and now contaminate the water in Plaintiff’s drinking water wells.

4. The defendants in this action are the manufacturers and distributors of the AFFF that contaminated Plaintiff’s wells. The Defendants manufactured AFFF that contained “fluorocarbon surfactants,” believed to include PFOS, PFOA, and/or certain other perfluorinated compounds (“PFCs”) that degrade into PFOS or PFOA. (PFOS, PFOA and the PFCs that degrade into PFOS or PFOA are hereinafter referred to as “Toxic Surfactants.”)

5. Among other things, the manufacturer defendants knowingly and willfully manufactured, promoted, and sold PFOS- and PFOA-based AFFF when they knew or reasonably should have known that this harmful compound would reach groundwater, pollute drinking water supplies, render drinking water unusable and/or unsafe, and threaten public health and welfare, as it has done with respect to Plaintiff’s water supply.

6. Plaintiff brings this lawsuit to recover compensatory and punitive damages, including all necessary funds to compensate Plaintiff for the costs of designing, constructing, installing, operating and maintaining the treatment facilities and equipment to remove PFOS and PFOA from its water supply, and to ensure that the responsible parties bear such expense, rather than Plaintiff, its tax-payers and its ratepayers.

II. PARTIES

Plaintiff

7. Plaintiff City of Stuart is an incorporated municipality of the State of Florida, with its municipal offices located at 121 SW Flagler Ave Stuart, FL 34994.

8. Stuart, known as the “Sailfish Capital of the World”, is home to more than 17,000 residents as well as businesses, and hosts a thriving tourism industry.

Defendants

9. Defendant The 3M Company (f/k/a Minnesota Mining and Manufacturing Company) (“3M”) is a corporation organized and existing under the laws of the state of Delaware, having its principal place of business at 3M Center, St. Paul, Minnesota 55133.

10. According to 3M, 3M was the only known manufacturer of PFOS and PFOS precursors in the United States.

11. 3M also manufactured PFOA.

12. Through at least 2002, 3M commercially manufactured PFOS for AFFF and it manufactured AFFF that contained fluorocarbon surfactants according to its own formula.

13. Defendant Tyco Fire Products LP (hereinafter “Tyco”) is a Delaware corporation, having a principal place of business at 1400 Pennbrook Parkway, Lansdale, PA 19446..

14. Tyco manufactures the Ansul brand of products and AFFF, and upon information and belief, is the successor-in-interest to the corporation formerly known as The Ansul Company (hereinafter “Ansul”).

15. At all times relevant, Tyco and/or Ansul commercially manufactured fire suppression products, including AFFF that contained fluorocarbon surfactants.

16. Defendant Buckeye Fire Equipment Company (“Buckeye”) is an Ohio corporation, with its principal place of business at 110 Kings Road, Kings Mountain, NC 28086.

17. At all times relevant, Buckeye commercially manufactured fire suppression products, including AFFF that contained fluorocarbon surfactants.

18. Chemguard is a Texas corporation, having a principal place of business at One Stanton Street, Marinette, WI 54143.

19. At all times relevant, Chemguard commercially manufactured fire suppression products, including AFFF that contained fluorocarbon surfactants.

20. National Foam, Inc. (“National Foam”) is a Delaware corporation, having a principal place of business at 350 East Union Street, West Chester, Pennsylvania 19382.

21. At all times relevant, National Foam commercially manufactured fire suppression products, including AFFF that contained fluorocarbon surfactants.

22. National Foam and its predecessors have also used the “Angus Fire” trade name and brand name for sales of AFFF in the United States for a number of decades. References to “National Foam” herein shall also refer to AFFF commercially manufactured, marketed and sold under the “Angus” name and “Angus Fire” brand.

III. JURISDICTION AND VENUE

23. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 inasmuch as the Plaintiff and all the Defendants are citizens of different states and the amount in controversy in this matter, exclusive of interest and costs, exceeds the sum of \$75,000.

24. This Court has personal jurisdiction over Defendants by virtue of each Defendant’s regular and systematic contacts with the State of Florida, including, among other things, each Defendant’s marketing, sale and/or distribution of AFFF within the State of Florida.

25. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) inasmuch as a substantial part of the events or omissions giving rise to the claims herein occurred in this district and because the property that is the subject of this action is situated within this district.

IV. GENERAL FACTUAL ALLEGATIONS

Background Regarding PFOS and PFOA

26. PFCs are manmade chemicals that do not exist in nature.

27. There are numerous chemicals in the PFC family, two of which are PFOS and PFOA.

28. PFOS and PFOA have also been widely used in industry and in commercial products due to their quality to repel water, dirt, oil, and grease.

29. Companies also used PFOS, PFOA and other Toxic Surfactants specifically to commercially make AFFF.

30. PFOS and PFOA have unique properties that make them persistent, bioaccumulative, and toxic.

31. First, PFOS and PFOA can persist in the environment.

32. Due to the strength of multiple carbon-fluorine bonds, PFOS and PFOA break down very slowly in the environment, if at all.

33. PFOS and PFOA are thermally, chemically, and biologically stable and resistant to biodegradation, atmospheric photooxidation, direct photolysis, and hydrolysis.

34. PFOS and PFOA are also water soluble, making them mobile in groundwater and the environment, and because they repel organic materials, they readily leach through soil impacting groundwater.

35. Typical municipal water treatment plants did not and do not filter PFOS and PFOA from contaminated water due to the chemicals' physical and chemical properties.

36. Similarly, chlorine and other disinfectants that are typically added to municipal drinking water systems did not and do not remove PFOS or PFOA from contaminated water.

37. Second, PFOS and PFOA are bioaccumulative.

38. Toxicology studies show that PFOS and PFOA are readily absorbed after oral exposure and accumulate primarily in the serum, kidney, and liver.

39. PFOS and PFOA have a half-life within the human body of 2 to 9 years.

40. PFOS and PFOA can bioaccumulate up the food chain; can cross the placenta from mother to fetus; and can be passed to infants through breast milk.

41. Third, PFOS and PFOA are toxic.

42. There are a number of health risks associated with exposure to PFOS and PFOA, and these risks are present even when PFOS and PFOA are ingested at seemingly low levels.

43. PFOS and PFOA exposure is associated with, among other injuries, increased risk in humans of testicular cancer and kidney cancer, disorders such as thyroid disease, high cholesterol, ulcerative colitis, and pregnancy-induced hypertension, as well as other conditions.

44. Injuries occur months or years after exposure to PFOS and/or PFOA.

PFCs in AFFF

45. AFFF is a Class-B firefighting foam. AFFF concentrate is mixed with water and air that may be used to extinguish Class B fires.

46. In the field, firefighting personnel use specially designed equipment to mix a small amount of AFFF concentrate with water and air. The resulting foam forms a blanket over

combustible liquids, which helps to suppress the flames, cool the liquids, and limit vapor production and re-ignition.

47. AFFF containing PFCs was developed in the 1960s as an alternative to existing firefighting foams, and quickly became the primary firefighting foam used in the U.S.

48. One of the key differences between the AFFF developed in the 1960s and the prior firefighting foams was the inclusion of a fluorocarbon surfactant.

49. There are numerous fluorocarbon surfactants, and the Defendants had the choice to manufacture their AFFF with a formula that did not include PFOS, PFOA or another Toxic Surfactant.

50. For example, upon information and belief, each of the Defendants, except for 3M, which no longer manufactures AFFF, manufacture AFFF today without PFOS, PFOA or another Toxic Surfactant.

51. Upon information and belief, Defendants had the ability during all relevant times to manufacture AFFF without PFOS, PFOA or another Toxic Surfactant.

52. Nonetheless, despite their options and their knowledge of the dangers that PFOS and PFOA posed to human health and the environment, upon information and belief, Defendants manufactured AFFF that contained PFOS, PFOA or another Toxic Surfactant.

53. Defendants knew or should have known that the products they manufactured and sold were harmful to human health and the environment.

54. Despite their superior knowledge, the Defendants did not timely inform those that used their AFFF of the dangers to human health and the environment.

The contamination of the Surficial Aquifer

55. The City of Stuart prides itself on providing its residents and businesses with outstanding drinking water of the highest quality, purity and taste.

56. The City of Stuart obtains its drinking water supply from the Surficial Aquifer, which underlies the City of Stuart.

57. To access the Surficial Aquifer, the City of Stuart relies on a system of 30 interconnected groundwater wells, which transmit raw water to a central Water Treatment Facility.

58. There, the water is aerated, lime softened, settled, filtered, disinfected, and pumped through water distribution mains and service lines into approximately 4,000 residential and 500 commercial connections.

59. Although the Water Treatment Facility contains various technologies to ensure high quality water, it does not contain the specialized filtration technology required to remove PFOS and PFOA from a water supply.

60. Stuart has the ability to pump its wells at varying levels, and to shut off wells if they show an unacceptable level of contaminants.

61. Regardless of how many wells it pumps at any given time, however, Stuart must still provide, on an average, 3.5 million gallons of water a day to its residents and businesses.

62. The Stuart Fire Rescue takes similar pride in its service to the community.

63. The Stuart Fire Rescue is committed to proving the residents of Stuart with the highest level of safety and protection.

64. To accomplish its mission, the Stuart Fire Rescue provides its emergency personnel with extensive education and training on the latest firefighting technology and procedures, including on the use of AFFF.

65. For example, Stuart Fire Rescue purchased the Defendants' AFFF, trained its personnel in the use of AFFF, and routinely practiced applying AFFF so that its personnel would be ready to respond in an emergency.

66. Stuart Fire Rescue typically conducted its training sessions in the open space behind its headquarters, located at 800 SE M.L.K. Jr. Blvd., Stuart, FL 34994.

67. Indeed, Stuart Fire Rescue conducted training exercises in or around the property at 800 SE M.L.K. Jr. Blvd. for decades using AFFF manufactured by Defendants.

68. Instructions and warning labels affixed to the AFFF containers by the Defendants did not adequately describe the scope of danger associated with storage, use, clean up, and disposal of AFFF, or the procedures necessary for the safe storage, use, clean up, and disposal of AFFF.

69. Defendants were aware of the health risks associated with use, disposal and bioaccumulation of AFFF components, but did not warn the users of the AFFF, including City of Stuart and Stuart Fire Rescue.

70. Defendants were aware of the health risks of introducing AFFF into the environment, but did not warn the users of the AFFF, including the City of Stuart and Stuart Fire Rescue.

71. At no time during the relevant period did the Defendants warn Stuart Fire Rescue that the ingredients in the AFFF were persistent, bioaccumulative, and toxic, or that, once introduced into the environment, its chemical components would readily mix with ground water,

contaminate the aquifer located beneath Stuart, thereby contaminating the Stuart drinking water and exposing thousands of innocent residents to water contaminated with dangerous chemicals.

72. In 2002, 3M ceased production of AFFF manufactured with PFOS due to health and environmental concerns.

73. 3M and the other defendants had known of these dangers for years.

74. Even though 3M ceased production of PFOS-based AFFF in 2002, neither 3M nor any other Defendant that used manufactured, sold, distributed and/or redistributed a Toxic Surfactant-based AFFF recalled its dangerous products or warn users of AFFF of its toxic danger, including City of Stuart and Stuart Fire Rescue.

75. To the contrary, the other Defendants willingly stepped-in to fill the void left when 3M exited the market.

Plaintiff's Discovery of Toxic Chemicals in Their Drinking Water.

76. Prior to 2012, municipal water providers, such as the City of Stuart, were not required to test their drinking water for the presence of PFOS or PFOA, and tests for PFOS and PFOA were rare.

77. In 2012, the EPA included PFOS and PFOA in its Third Unregulated Contaminant Monitoring Rule ("UCMR3"), which thereby required certain water providers across the country, including the City of Stuart, to test their water for the presence of PFOS and PFOA at the point of entry to the water distribution system.

78. Plaintiff first learned of the presence of PFOS and PFOA in its water in May 2016 when the Florida Department of Environmental Protection informed the City that the test results taken in response to the "UCMR3" exceeded the Water Health Advisory that the EPA had

identified at 70 parts per trillion as recorded at the City's point of entry to the water distribution system.

79. Those tests showed the presence of PFOS and PFOA above the 2016 Health Advisory Levels at the point of entry to the water distribution system.

80. Upon finding PFOS and PFOA at the point of entry to the water distribution system, Plaintiff subsequently tested its individual wells.

81. Plaintiff thereafter learned that several of its wells, especially those in the vicinity of its Fire Rescue Station, had high levels of PFOS and PFOA. Plaintiff immediately took those wells out of production.

82. In addition, Plaintiff also learned that nearly all of its wells had some level of PFOS and/or PFOA.

83. Plaintiff has since determined that the source of the contamination is the use of AFFF at the Stuart Fire Rescue property.

84. As set forth herein, Defendants knowingly manufactured, sold, and distributed a dangerous and defective product, failed to provide proper warnings, and failed to recall their products when they took them off the market.

V. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

Defective Product – Strict Liability Failure to Warn

85. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-84 of this Complaint as if they were set forth at length herein.

86. At all times relevant, Defendants were in the business of, among other things, manufacturing, selling, or otherwise distributing AFFF.

87. At all times relevant to this litigation, Defendants' AFFF reached its intended consumers and users without substantial change in its condition as designed, manufactured, sold, distributed, labeled and marketed by Defendants.

88. As manufacturers, sellers, or distributors of a commercial product, the Defendants had a duty to warn of the foreseeable risks associated with the reasonably foreseeable uses of their products.

89. As manufacturers, sellers, or distributors of a commercial product, the Defendants had a duty to provide reasonable instructions on the proper and safe use, storage and disposal of their AFFF.

90. Defendants, as manufacturers, sellers, and distributors of AFFF placed into the stream of commerce, are deemed experts with respect to their product.

91. The generally recognized and prevailing best scientific and medical knowledge at all times relevant demonstrated that the Toxic Surfactants in Defendants' AFFF could contaminate groundwater and local drinking water supplies with toxic and carcinogenic chemicals.

92. The generally recognized and prevailing best scientific and medical knowledge at all times relevant demonstrated that the Toxic Surfactants in Defendants' AFFF had the capacity to enter the water supply, to persist there for decades, and to cause harm to human health and the environment.

93. The Defendants failed to provide warnings of the reasonably foreseeable risk that use of Defendants' AFFF could result in the contamination of groundwater and, ultimately, drinking water supplies.

94. Defendants knew or should have known that the minimal warnings disseminated with their AFFF were inadequate.

95. Adequate instructions and warnings would have reduced or avoided the foreseeable risks of harm posed by Defendants' AFFF.

96. Had Defendants provided adequate instructions and warnings, the contamination of the groundwater and drinking water supply with toxic and carcinogenic chemicals would have been reduced or eliminated.

97. Defendants' failure to provide adequate warnings and instructions renders Defendants' AFFF unreasonably dangerous and defective products.

98. Plaintiff could not have reasonably discovered the defects and risks associated with use of Defendants' AFFF.

99. As a result of Defendants' manufacture, sale, or distribution of a defective product, Defendants are strictly liable in damages to the Plaintiff.

100. As a direct and proximate result of Defendants' failure to warn against the likelihood of contamination from their AFFF, the groundwater and drinking water in and around the City of Stuart became contaminated with PFOS and PFOA.

101. As a direct and proximate result of Defendants' failure to warn of the potential for groundwater and drinking water contamination, the City of Stuart has had to remove some of its wells from service, expend significant sums to investigate the source and extent of the contamination, and expend significant sums to plan for treatment of its water to make it safe.

102. As a direct and proximate result of Defendants' failure to warn of the potential for groundwater and drinking water contamination, the City of Stuart will incur additional costs for the construction of a water treatment facility capable of removing PFOS and PFOA from its

water supply, and additional costs in the future for the operation and maintenance of that water treatment facility.

103. Defendants' distribution of their defective products, despite their knowledge of the defects, including the increased risks of widespread contamination of the groundwater, surface water, and drinking water supplies with toxic and carcinogenic chemicals and the risks to the unsuspecting residents in surrounding areas was so reckless or wanting in care that it constituted a conscious disregard and/or indifference to the life, safety, or rights of the Plaintiff and the residents and businesses who rely on the drinking water that Plaintiff provides.

104. Defendants' conduct was so reckless or wanting in care that it constituted intentional or grossly negligent conduct.

105. Defendants' contamination of the public water supply constituted a public wrong.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor for compensatory and punitive damages, together with prejudgment interest, costs herein incurred, attorneys' fees, and all such other and further relief that this Court deems just and proper.

SECOND CLAIM FOR RELIEF

Negligent Failure to Warn

106. A product is defective when the foreseeable risks of harm from the product could have been reduced or avoided by providing reasonable instructions or warnings, and the failure to provide those instructions or warnings makes the product unreasonably dangerous.

107. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-84 of this Complaint as if they were set forth at length herein.

108. At all times relevant, Defendants were in the business of, among other things, manufacturing, selling, or otherwise distributing AFFF.

109. At all times relevant to this litigation, Defendants' AFFF reached its intended consumers and users without substantial change in its condition as designed, manufactured, sold, distributed, labeled and marketed by Defendants.

110. As manufacturers, sellers, or distributors of a commercial product, the Defendants had a duty to warn of the foreseeable risks associated with the reasonably foreseeable uses of their products.

111. As manufacturers, sellers, or distributors of a commercial product, the Defendants had a duty to provide reasonable instructions on the proper and safe use, storage and disposal of their AFFF.

112. Defendants, as manufacturers, sellers, and distributors of AFFF placed into the stream of commerce, are deemed experts with respect to their product.

113. Defendants knew or should have known that the Toxic Surfactants contained in their AFFF could contaminate groundwater and local drinking water supplies with toxic and carcinogenic chemicals.

114. Defendants knew or should have known that the foreseeable storage, use and disposal of the AFFF that they manufactured, sold, and distributed had the capacity to enter the water supply, to persist there for decades, and to cause harm to human health and the environment.

115. The Defendants failed to provide warnings of the reasonably foreseeable risk that use of Defendants' AFFF could result in the contamination of groundwater and, ultimately, drinking water supplies.

116. Defendants knew or should have known that the minimal warnings disseminated with their AFFF were inadequate.

117. Adequate instructions and warnings would have reduced or avoided the foreseeable risks of harm posed by Defendants' AFFF.

118. Had Defendants provided adequate instructions and warnings, the contamination of the groundwater and drinking water supply with toxic and carcinogenic chemicals would have been reduced or eliminated.

119. Defendants' failure to provide adequate warnings and instructions renders Defendants' AFFF an unreasonably dangerous and defective product.

120. Plaintiff could not have reasonably discovered the defects and risks associated with AFFF use.

121. As a result of Defendants' manufacture, sale, or distribution of a defective product, Defendants are liable in damages to the Plaintiff.

122. As a direct and proximate result of Defendants' failure to warn against the likelihood of contamination from their AFFF, the groundwater and drinking water in and around the City of Stuart was contaminated with PFOS and PFOA.

123. As a direct and proximate result of Defendants' failure to warn of the potential for groundwater and drinking water contamination, the City of Stuart has had to remove some of its wells from service, expend significant sums to investigate the source and extent of the contamination, and expend significant sums to plan for treatment of its water to make it safe.

124. As a direct and proximate result of Defendants' failure to warn of the potential for groundwater and drinking water contamination, the City of Stuart will incur additional costs for the construction of a water treatment facility capable of removing PFOS and PFOA from its

water supply, and additional costs in the future for the operation and maintenance of that water treatment facility.

125. Defendants' distribution of their defective products, despite their knowledge of the defects, including the increased risks of widespread contamination of the groundwater, surface water, and drinking water supplies with toxic and carcinogenic chemicals and the risks to the unsuspecting residents in surrounding areas was so reckless or wanting in care that it constituted a conscious disregard and/or indifference to the life, safety, or rights of Plaintiff City of Stuart and the residents and businesses who rely on the drinking water that Plaintiff provides.

126. Defendants' conduct was so reckless or wanting in care that it constituted intentional or grossly negligent conduct.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor for compensatory and punitive damages, together with prejudgment interest, costs herein incurred, attorneys' fees, and all such other and further relief that this Court deems just and proper.

THIRD CLAIM FOR RELIEF

Defective Product - Design Defect

127. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-84 of this Complaint as if they were set forth at length herein.

128. At all times relevant, Defendants were in the business of, among other things, manufacturing, selling, or otherwise distributing AFFF.

129. As manufacturers, sellers, or distributors, Defendants had a duty to make and/or market AFFF that was free from a defective condition unreasonably dangerous to persons that foreseeably would come into contact with it.

130. Defendants breached that duty because the AFFF that they manufactured, sold or distributed was dangerous to an extent beyond that contemplated by an ordinary consumer when used in its intended and reasonably foreseeable manner.

131. Defendants, as manufacturers, sellers, and distributors of AFFF placed into the stream of commerce, are deemed experts with respect to their product.

132. Defendants knew or should have known that the Toxic Surfactants contained in their AFFF were toxic and carcinogenic and could lead those exposed to those toxic chemicals and/or their breakdown products to develop serious medical conditions.

133. Defendants knew or should have known that the foreseeable storage, use and disposal of the AFFF that they manufactured, sold, and distributed had the capacity to enter the water supply, to persist there for decades, and to cause harm to human health and the environment.

134. Defendants knew or should have known that the foreseeable storage, use and disposal of the AFFF that they manufactured, sold, and distributed would require those who used groundwater in the vicinity of AFFF, including Plaintiff, to design, install, operate and maintain costly filtration devices to make the water safe for human use and consumption.

135. The risks of AFFF were not obvious to Plaintiff.

136. Plaintiff could not have reasonably discovered the defects and risks associated with AFFF use.

137. Defendants' AFFF was far more dangerous than an ordinary consumer would expect when used, as designed, in its intended or reasonably foreseeable manner.

138. Defendants' AFFF was, therefore, unreasonably dangerous.

139. Defendants' AFFF was, therefore, defective.

140. As a result of Defendants' manufacture, sale, or distribution of a defective product, Defendants are strictly liable in damages to the Plaintiff.

141. As a direct and proximate result of Defendants' manufacture, sale, or distribution of a defective product, the City of Stuart has had to remove some of its wells from service, expend significant sums to investigate the source and extent of the contamination, and expend significant sums to plan for treatment of its water to make it safe for human use and consumption.

142. As a direct and proximate result of Defendants' failure to warn of the potential for groundwater and drinking water contamination, the City of Stuart will incur additional costs for the construction of a water treatment facility capable of removing PFOS and PFOA from its water supply, and additional costs in the future to operate and maintain that water treatment facility.

143. Defendants' distribution of their defective products, despite their knowledge of the defects, including the increased risks of widespread contamination of the groundwater, surface water, and drinking water supplies with toxic and carcinogenic chemicals and the risks to the unsuspecting residents in surrounding areas was so reckless or wanting in care that it constituted a conscious disregard and/or indifference to the life, safety, or rights of the Plaintiff and the residents and businesses who rely on the drinking water that Plaintiff provides.

144. Defendants' conduct was so reckless or wanting in care that it constituted intentional or grossly negligent conduct.

145. Defendants' contamination of the public water supply constituted a public wrong.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor for compensatory and punitive damages, together with prejudgment interest, costs herein

incurred, attorneys' fees, and all such other and further relief that this Court deems just and proper.

FOURTH CLAIM FOR RELIEF

Negligence

146. Plaintiff hereby incorporates by reference the allegations contained in paragraphs 1-84 of this Complaint as if they were set forth at length herein.

147. The Defendants had a duty to manufacture, market, and sell their AFFF in a manner that avoided harm to those who foreseeably would come into contact with it.

148. Defendants knew or should have known that the manufacture of AFFF containing Toxic Surfactants was hazardous to human health and the environment.

149. Defendants further knew or should have known that it was unsafe and/or unreasonably dangerous to manufacture AFFF using Toxic Surfactants because it was a near certainty that the chemicals would migrate from the locations where it is used and contaminate the ground water and drinking water supply in the surrounding areas.

150. Defendants knew or should have known that the Toxic Surfactants used in the manufacture of their AFFF do not degrade, remain in the environment for decades, and bioaccumulate, thereby creating a potential health risk that could last for many years.

151. Plaintiff was a foreseeable victim of the harm caused by Defendants' AFFF.

152. As a result of Defendants' breach of their legal duties, the drinking water wells on which Plaintiff relies to provide potable water to its customers became contaminated with unsafe levels of PFOS and PFOA.

153. Plaintiff will continue to suffer damages and expenses in the future.

154. Defendants' manufacture, marketing, and sale of AFFF, despite their knowledge of the risks of widespread contamination of the groundwater and drinking water supplies with toxic and carcinogenic chemicals, including Plaintiff's, among other reasons, demonstrates that Defendants' conduct was willful, wanton or reckless, and undertaken with a reckless indifference to the rights of Plaintiff.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor for compensatory and punitive damages, together with prejudgment interest, costs herein incurred, attorneys' fees, and all such other and further relief that this Court deems just and proper.

FIFTH CLAIM FOR RELIEF

Private Nuisance

155. Plaintiffs hereby incorporate by reference the allegations set forth in paragraphs 1-84 of this Complaint as if they were set forth at length herein.

156. Defendants' wrongful conduct resulted in the interference with Plaintiff's usufructuary right to the use of groundwater for providing potable water to its customers through the invasion of hazardous and toxic substances into the Plaintiff's wells.

157. The Defendants are liable for a nuisance because their conduct was the legal cause of an invasion of the Plaintiff's interest in the use of groundwater, and the invasion was intentional and otherwise actionable under the rules controlling liability for negligent or reckless conduct.

158. Defendants' negligent, reckless and wanton acts proximately caused Plaintiff's property damage.

159. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff has suffered damages including, but not limited to, the following: (1) loss of the beneficial use of its groundwater for serving water to its customers; and (2) past and/or future costs for appropriate testing to determine contamination and remediation.

160. Defendants' manufacture, marketing, and sale of AFFF, despite their knowledge of the risks of widespread contamination of the groundwater and drinking water wells with toxic and carcinogenic chemicals, including Plaintiff's, among other reasons, demonstrates that Defendants' conduct was willful, wanton or reckless, and undertaken with a reckless indifference to the rights of Plaintiff.

WHEREFORE, Plaintiff respectfully requests that the Court enter judgment in its favor for compensatory and punitive damages, together with prejudgment interest, costs herein incurred, attorneys' fees, and all such other and further relief that this Court deems just and proper.

VI. DAMAGES

161. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint as if they were set forth at length herein.

162. Plaintiff seeks monetary damages for each violation of the First through Fifth Claims for Relief. In particular, Plaintiff seeks monetary damages:

- a. to compensate Plaintiff for the increased costs to obtain drinking water, including the costs of alternative drinking water sources and/or the installation and maintenance of an adequate filtration system;

- b. for such other monetary damages as are required to fully compensate Plaintiff for the losses they have and will continue to suffer as a result of Defendants' conduct;
- c. for delay damages, including pre-judgment and post-judgment interest according to law; and
- d. Plaintiff seeks punitive damages in an amount sufficient to deter Defendants' similar wrongful conduct in the future.

VII. PRAYER FOR RELIEF

Plaintiff City of Stuart seeks judgment against all Defendants for:

1. Compensatory damages arising from PFOA and PFOS contamination of groundwater and drinking water supply wells, including but not limited to:
 - (i) costs of investigation of contamination;
 - (ii) costs of testing and monitoring;
 - (iii) costs of providing water from an alternate source;
 - (iv) costs of installing and maintaining a wellhead treatment and adequate filtration system;
 - (v) costs of installing and maintaining a wellhead protection program;
 - (vi) costs of installing and maintaining an early warning system to detect PFOA and/or PFOS before it reaches wells;
 - (vii) any other response costs or other expenditures incurred to address PFOA and/or PFOS contamination; and
 - (viii) interest on the damages according to law;

2. Punitive damages in an amount sufficient to deter Defendants' similar wrongful conduct in the future;
3. Costs (including reasonable attorney fees, court costs, and other expenses of litigation);
4. Prejudgment interest; and
5. Any other and further relief as the Court deems just, proper, and equitable.

VIII. JURY TRIAL DEMANDED

Plaintiff City of Stuart demands a trial by jury as to all issues and defenses.

Respectfully Submitted,

Dated: October 18, 2018

/s/ Frank Petosa
Frank M. Petosa
FL Bar No. 972754
MORGAN & MORGAN, P.A.
fpetosa@forthepeople.com
600 N. Pine Island Road, Suite 400
Plantation, FL 33324
Telephone: (954) 318-0268
Facsimile: (954) 327-3018

WEITZ & LUXENBERG, P.C.
Robin L. Greenwald
(pro hac vice anticipated)
rgreenwald@weitzlux.com
700 Broadway
New York, NY 10003
Tel.: 212-558-5500
Fax: 212-344-5461

Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.

I. (a) PLAINTIFFS City of Stuart, Florida

DEFENDANTS The 3M Company (f/k/a Minnesota Mining & Manufacturing Company), Tyco Fire Products, LP,

(b) County of Residence of First Listed Plaintiff Martin County, FL (EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Ramsey County, MN (IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number) Frank M. Petosa, Esquire, Morgan & Morgan Complex Litigation Group, 600 North Pine Island Road, #400, Plantation, FL 33324;

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known)

(d) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Grid of categories: CONTRACT, REAL PROPERTY, PERSONAL INJURY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, LABOR, IMMIGRATION, FORFEITURE/PENALTY, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN

- 1 Original Proceeding
2 Removed from State Court
3 Re-filed (See VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation Transfer
7 Appeal to District Judge from Magistrate Judgment
8 Multidistrict Litigation - Direct File
9 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case YES NO b) Related Cases YES NO

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Section 1332

VIII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE October 18, 2018 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFP JUDGE MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked. Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

City of Stuart, Florida

Plaintiff(s)

v.

Civil Action No.

The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.); Tyco Fire Products LP, successor-in-interest to The Ansul Company; Buckeye Fire Protection Company; Chemguard; and

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) The 3M Company (f/k/a Minnesota Mining & Manufacturing Co.)

by serving its registered agent:
Corporate Service Company
2345 Rice Street, Suite 230
Roseville, MN 55113-5603

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frank M. Petosa, Esquire
Morgan & Morgan Complex Litigation Group
600 North Pine Island Road, Suite 400
Plantation, Florida 33324
fpetosa@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

City of Stuart, Florida

Plaintiff(s)

v.

The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.); Tyco Fire Products LP, successor-in-interest to The Ansul Company; Buckeye Fire Equipment Company; Chemguard; and

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Tyco Fire Products, LP
by serving its registered agent:
CT Corporation Systems
600 North Second Street, #400
Harrisburg, PA 17101

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frank M. Petosa, Esquire
Morgan & Morgan ComplexLitigation Group
600 North Pine Island Road, Suite 400
Plantation, Florida 33324
fpetosa@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

City of Stuart, Florida

Plaintiff(s)

v.

The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.); Tyco Fire Products LP, successor-in-interest to The Ansul Company; Buckeye Fire Equipment Company; Chemguard; and

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Buckeye Fire Equipment Company by serving its registered agent: Thomas J. Bower 110 Kings Road Kings Mountain, NC 28086

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frank M. Petosa, Esquire
Morgan & Morgan ComplexLitigation Group
600 North Pine Island Road, Suite 400
Plantation, Florida 33324
fpetosa@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

City of Stuart, Florida

Plaintiff(s)

v.

Civil Action No.

The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.); Tyco Fire Products LP, successor-in-interest to The Ansul Company; Buckeye Fire Protection Company; Chemguard; and

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) ChemGuard

by serving its registered agent:
CT Corporation Systems
1999 Bryan Street, Suite 900
Dallas, TX 75201

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frank M. Petosa, Esquire
Morgan & Morgan Complex Litigation Group
600 North Pine Island Road, Suite 400
Plantation, Florida 33324
fpetosa@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date:

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Southern District of Florida

City of Stuart, Florida

Plaintiff(s)

v.

Civil Action No.

The 3M Company (f/k/a Minnesota Mining and Manufacturing Co.); Tyco Fire Products LP, successor-in-interest to The Ansul Company; Buckeye Fire Protection Company; Chemguard; and

Defendant(s)

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) National Foam, Inc.

by serving its registered agent:
The Corporation Trust Company
1209 Orange Street
Wilmington, DE 19801

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Frank M. Petosa, Esquire
Morgan & Morgan Complex Litigation Group
600 North Pine Island Road, Suite 400
Plantation, Florida 33324
fpetosa@forthepeople.com

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: