

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

**IN RE: AQUEOUS FILM-FORMING
FOAMS PRODUCTS LIABILITY
LITIGATION**

MDL No. 2:18-mn-2873-RMG

**This Document relates to
ALL CASES**

**PLAINTIFFS' AND TURNOUT GEAR DEFENDANTS' JOINT MOTION
FOR ENTRY OF CASE MANAGEMENT ORDER RELATED TO
TURNOUT GEAR PLAINTIFF FACT SHEETS**

1. The parties met and conferred per the Court's instruction (Dkt. 3362 at 3 n.1) and believe that a turnout gear ("TOG")-specific Plaintiff Fact Sheet ("PFS") would be beneficial to this MDL. Following several months of good faith discussions, the Plaintiffs' Executive Committee ("PEC"), Defense Coordinating Committee, TOG Plaintiffs, and the TOG Defendants agree as to the form of a TOG PFS to be completed for all Member Actions brought by any TOG Plaintiff(s) against any TOG Defendant(s), including any Member Action(s) filed in or transferred to MDL 2873 after the date of this order.

2. The parties have also conferred and agreed on the entry of a corresponding Case Management Order No. 5F, attached here, which sets forth procedural, scheduling, and other provisions in addition to those in Case Management Order No. 5 (Dkt. 205) for the TOG PFS. A copy of the blank form of the TOG PFS is attached as Exhibit A to the agreed, proposed Case Management Order No. 5F, and TOG Defendants shall email to the PEC a native copy of the PFS for Plaintiffs to complete and serve.

Wherefore, with the parties agreeing to the entry of the enclosed Case Management Order No. 5F and the use of the attached form of TOG PFS, the parties respectfully request that the Court endorse and enter the enclosed proposed order.

Dated: February 21, 2024

Respectfully submitted,

/s/ Paul Napoli

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DCC Turnout Gear Defendants Liaison

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**IN RE: AQUEOUS FILM-FORMING
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Case Management Order No. 5F

**This Document relates to
ALL CASES**

TURNOUT GEAR PLAINTIFF FACT SHEETS

1. Per the Court’s instruction (Dkt. 3362 at 3 n.1), the parties met and conferred and believe that a turnout gear (“TOG”)-specific Plaintiff Fact Sheet (“PFS”) would be beneficial to this MDL. The Plaintiffs’ Executive Committee, Defense Coordinating Committee, TOG Plaintiffs, and the TOG Defendants agree as to the form of a PFS to be completed for all Member Actions brought by any TOG Plaintiff(s) against any TOG Defendant(s), including any Member Action(s) filed in or transferred to MDL 2873 after the date of this order. The TOG PFS must be completed only by Plaintiffs who bring claims against any TOG Defendant(s). For the avoidance of doubt, those Plaintiffs are separately also required to complete the Individual Plaintiff Personal Injury Fact Sheet pursuant to Case Management Order No. 5 (Dkt. 205).

2. A copy of the blank form of the TOG PFS is attached as Exhibit A. TOG Defendants shall email to the PEC a native (.docx) copy compatible with currently supported versions of Microsoft Word (Word 2016 through Word for Office 365 versions) for Plaintiffs to complete and serve (“TOG PFS”).

3. Case Management Orders No. 5, 5A, 5B, and 5E (collectively “CMO No. 5”) govern certain requirements for the form, procedure, and schedule to complete and serve PFSs as to all Member Actions of MDL 2873. The provisions of CMO No. 5 are incorporated herein with respect to the TOG PFS; provided that with respect to CMO 5B, TOG Defendants may elect to

retain (at their own expense) an independent third-party vendor to ingest and abstract data from the TOG PFSs and review the TOG PFS responses for deficiencies. If and to the extent TOG Defendants do so, then Litigation Management, Inc. (“LMI”) shall not perform those particular functions for TOG PFSs; however, TOG Defendants shall not be otherwise relieved of the other, non-duplicative shared costs of CMO 5B, including non-duplicative costs from CMO 5B, including but not limited to fees incurred by defendants associated with LMI hosting PFSs, TOG PFSs, and other litigation data, and shall export the ingested TOG PFS data to LMI for the access, use, and analysis of other defendants on that platform. On behalf of Defendants’ Liaison, a TOG Defendant who has been appointed to the Defense Coordinating Committee, or its designee, shall be authorized to follow the process and procedures for any delinquent or deficient TOG PFSs as outlined in CMO 5, including notification of those delinquencies and deficiencies, meet-and-confers with plaintiffs’ counsel, and any motions to compel and dismiss relating to those TOG PFSs that the Defense Co-Leads have consented to pursuant to the terms of CMO 2. This CMO 5F does not waive the right of the Co-Lead/Co-Liaison Counsel or the Defense Coordinating Committee to raise deficiencies as to any TOG PFS. Counsel for TOG defendants shall keep Defense Co-Lead/Co-Liaison Counsel or their designees apprised of such deficiencies and any meet and confers with Plaintiffs’ counsel.

4. TOG Plaintiffs whose cases are docketed in this MDL as of the date of this Order shall serve their completed TOG PFS, together with records, if any, called for in the TOG PFS, according to the following schedule:

Event	Deadline
20% of TOG Plaintiffs serve TOG PFS papers	120 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above
50% of TOG Plaintiffs serve TOG PFS papers	200 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above
75% of TOG Plaintiffs serve TOG PFS papers	280 days after Court approves this Order and

	TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above
100% of TOG Plaintiffs serve TOG PFS papers	360 days after Court approves this Order and TOG Defendants transmit the native copy of the TOG PFS per paragraph 2 above

5. Any TOG Plaintiff(s) whose cases are docketed in this MDL after the date of this Order shall have 98 days from the date the Court docketed a direct-filed or transferred action into MDL 2873 to serve their completed TOG PFS, together with (as applicable) completed and signed medical authorizations and records called for in the TOG PFS.

6. Plaintiffs must type responses into the TOG PFS, unless Plaintiffs are not represented by counsel and unable to use a suitable computer, in which case those Plaintiffs may submit a completed TOG PFS in a fully legible form. Service of completed TOG PFSs and associated materials, if any, shall be made by email in accordance with CMO 5 (Dkt. 205) and with a copy emailed to AFFF-TOG-PFS-Service@Dechert.com.

AND IT IS SO ORDERED.

Richard Mark Gergel
United States District Judge

_____, 2024
Charleston, South Carolina

EXHIBIT A

In RE: Aqueous Film-Forming Foams (AFFF) Products Liability Litigation**Plaintiff Fact Sheet – Turnout Gear Plaintiffs**

In completing this Turnout Gear (“TOG”) Plaintiff Fact Sheet, you are under oath, subject to the penalties of perjury, and must provide information that is true and correct to the best of your knowledge. If you are filling this form out on behalf of someone who has died, is incapacitated, or is a minor, the questions relate to the deceased person, incapacitated person, or minor asserting claims in the lawsuit. “You” or “Your” refer to either the plaintiff who is seeking recovery for alleged personal injury or the person responding to the questions below, depending on the context of the questions.

This TOG Plaintiff Fact Sheet is intended to cover any plaintiff making allegations based upon use of turnout, bunker, proximity, or incident gear (“Turnout Gear”). This TOG Plaintiff Fact Sheet should address all Turnout Gear that is the basis for your claims.

Where information is requested, you are required to respond by providing the information available or accessible to you, including information available to you in a representative capacity if you are completing this TOG Plaintiff Fact Sheet for another (*e.g.*, for an incapacitated adult or minor). If you cannot recall all the details requested, please provide as much information as you can. Materials prepared by your attorneys for use in the litigation (Attorney Work Product) are not required to be produced. You must complete the TOG Plaintiff Fact Sheet in accordance with the requirements and guidelines set forth in the applicable Case Management Orders.

Because you were required by Case Management Order No. 5 to submit medical authorizations in connection with your personal injury claims with a prior fact sheet, and are required to update those authorizations as appropriate, separate medical authorizations are not requested with this supplement.

**ALL ASPECTS OF THIS FACT SHEET ARE DESIGNATED CONFIDENTIAL
AND SUBJECT TO THE PROTECTIVE ORDER.**

1. CASE INFORMATION

1.1. Caption:		1.2. Docket No.:	
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2. FIREFIGHTER PLAINTIFF INFORMATION**2.1 Plaintiff’s full name:**

First	Middle	Last	Suffix

2.2 Plaintiff’s date of birth:

MM	DD	YYYY

3. PERSONAL PROTECTIVE EQUIPMENT AND TURNOUT GEAR

Turnout Gear may include, among other equipment, a helmet, hood, jacket, pants, overalls, boots, and/or gloves. Any individual one of these is a “**Piece**” of Turnout Gear. A group of Pieces made

by the same manufacturer and provided to you together is a “Set” of Turnout Gear. The questions below refer to and intend to elicit responses regarding all Pieces and Sets of Turnout Gear that are the subject of your claims.

3.1 Total Number of Turnout Gear

How many Turnout Gear Sets and Pieces did you use during your career as a firefighter to the best of your knowledge?	Sets	Pieces

3.2 Turnout Gear Pieces and Sets

For each Set or Piece of Turnout Gear, provide the following details to the best of your knowledge. If you run out of space in the table below, add additional pages that contain the same table, or add additional rows to the table.

- “Type of Turnout Gear”: please identify one Set or Piece of Turnout Gear. A Piece may include a helmet, hood, jacket, pants, overalls, gloves, boots, or other Piece. If you refer to a Set, then in the “Description of Turnout Gear” also identify for that Set each Piece that makes up the Set.
- “Years of Use”: please state the approximate start year (“YYYY”) and end year (“YYYY” or “Present”) that you used the Set or Piece.
- “Description of Turnout Gear”: please provide a general description of the Set or Piece, including any model, style, or number if available.
- “Manufacturer”: please name who made the Piece or Set.
- “Do you have this TOG”: please state whether or not you currently have the Piece or Set by putting an X in the space for either “Yes” or “No.”

Type of Turnout Gear	Years of Use		Description of Turnout Gear	Manufacturer	Do you have this TOG?	
	Start	End			Yes	No

3.3 Turnout Gear Provider

To the best of your knowledge, please identify who provided you with each Set or Piece of Turnout Gear that you identified in response to Question 3.2. If you run out of space in the table below, add additional pages that contain the same table, or add additional rows to the table below using your word processor.

- “Type of Turnout Gear”: please use the Type of Turnout Gear responses from Question 3.2 and in the same order from that question (you may cut and paste from that table).
- “Provider Name”: please state the name of who provided or sold you each Piece or Set, such as a fire department or station, union, store, base, vessel, individual, or other provider.
- “Provider Address”: please state the Provider’s street address or vessel name; the Provider’s city, state (e.g., “NY”), and zip code; and the Provider’s country (if not the United States). Please provide what address information you know.

Type of Turnout Gear	Provider Name	Provider Address

3.4 Turnout Gear Use

3.4.1: Please state generally the circumstances and frequency in which you would regularly wear each Set or Piece of Turnout Gear. If you run out of space in the table below, add additional pages that contain the same table or add additional rows to the table below.

- “Type of Turnout Gear”: please use the Type of Turnout Gear responses from Question 3.2 above and in the same order from that question (you may cut and paste from that table).
- “Circumstances of Use”: please explain generally the situations in which you used the Turnout Gear.
- “Frequency of Use”: please state approximately how often you regularly wore the Turnout Gear, such as how many days per week, days per month, or similar.

Type of Turnout Gear	Circumstances of Use	Frequency of Use

3.4.2: Did you ever wear any Set or Piece of Turnout Gear when not responding to calls. Place an X for either “Yes,” “No,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If Yes, then describe below the instances and frequency in which you would wear Turnout Gear when not responding to a call:

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3.4.3: Please state whether you ever wore any Set or Piece of Turnout Gear when responding to calls for a military base or airport fire, hazardous materials calls, or overhauling work. Place an X for either “yes,” “no,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If yes, then for each such Piece or Set, please identify the “Type of Turnout Gear” using your responses to Question 3.2 to identify which Set or Piece you reference from that question. For “Years,” please state the approximate start year (“YYYY”) and end year (“YYYY” or “Present”) you wore the Turnout Gear for the Type of Call. If you run out of space in the table below, add additional pages that contain the same table, or add additional rows to the table below.

Type of Call	Type of Turnout Gear	Years	
		Start	End
Military Base			
Airport fire			
Hazardous Materials			
Overhauling work			

3.5 Waterproofing and Flame Retarding

To the best of your knowledge, did you ever apply (or have anyone else apply for you) any water proofing or flame-retardant coating (“Coating”) to any Set or Piece of Turnout Gear? Place an X for either “Yes,” “No,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If yes, then for each such Piece or Set where Coating was applied, please provide the following to the best of your knowledge:

- “Type of Turnout Gear”: please use information from Question 3.2 to identify which Set or Piece you reference from that question.
- “Coating Type”: please state “Water Proofing,” “Flame-Retardant Coating,” or “Unknown.”.
- “Manufacturer”: please name the Coating manufacturer.
- “Brand Name”: please state the Coating brand.
- “Years”: please state the approximate start year (“YYYY”) and end year (“YYYY” or “Present”) that the Coating was applied.

If you run out of space in the table below, add additional pages that contain the same table, or add additional rows to the table below.

Type of Turnout Gear	Coating Type	Manufacturer	Brand Name	Years	
				Start	End

3.6 Cleaning

To the best of your knowledge, was the Turnout Gear that you identified in Question 3.2 cleaned? Place an X for either “Yes,” “No,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If yes, then for each Piece or Set of Turnout Gear that was cleaned, please provide the following:

- “Type of Turnout Gear”: please use the information from Question 3.2 to identify which Set or Piece you reference.
- “Cleaning Location”: describe the location where each Type of Turnout Gear was cleaned.
- “Years”: please state the approximate start year (“YYYY”) and end year (“YYYY” or “Present”).

“Present”).

If you run out of space in the table below, add additional pages that contain the same table, or add additional rows to the table below.

Type of Turnout Gear	Cleaning Location	Years	
		Start	End

3.7 Protective Breathing Equipment

Please state whether you ever wore a face mask, respirator, or any other protective breathing equipment while on duty, responding to a call, or participating in an exercise. Place an X for either “Yes,” “No,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If yes, then please identify each type of protective equipment you wore to the best of your knowledge:

- **“Type of Equipment”**: please state “Face Mask,” “Respirator,” or “Other Protective Breathing Equipment.”
- **“Manufacturer”**: please name who made the breathing equipment.
- **“Call Type Used”**: please state the types of calls during which you wore the breathing equipment.
- **“Years”**: please state the approximate start year (“YYYY”) and end year (“YYYY” or “Present”) that you used the breathing equipment.

If you run out of space in the table below, add additional pages that contain the same table or add additional rows to the table below.

Type of Breathing Equipment	Manufacturer	Call Type Used	Years	
			Start	End

3.8 Alternative Garments

Please state whether you ever respond to a call while not wearing Turnout Gear. Place an X for either “Yes,” “No,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If yes, then to the best of your knowledge, please describe (i) the type of call, (ii) the garments you would typically wear instead of Turnout Gear, (iii) the manufacturer of those garments, and (iv) the years of you used those garments.

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3.9 Garments Under Turnout Gear

Please state whether you ever wore garments under your Turnout Gear? Place an X for either “yes,” “no,” or “I don’t know.”

Yes:		No:		I don’t know:	
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If yes, then to the best of your knowledge, please describe the garments you wore under your Turnout Gear, including the manufacturer of the garments and the years of use.

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4. HEALTH AND FAMILY HISTORY

4.1 Diseases, Injuries, or Damages

Are you relying entirely on your answer to questions in Section IV of your Individual Plaintiff Personal Injury Fact Sheet for a complete statement of all of the injuries you claim were caused by Turnout Gear? Place an X for either “Yes” or “No.”	Yes	No

If no, then identify the injury, disease, and damages that you allege resulted from exposure to PFAS from your use of Turnout Gear.

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5. RECORDS

To the extent not already provided in this lawsuit, please provide records in your possession that you used or relied upon to complete this PFS form or that support or relate to your claimed injuries, diseases, or damages.

Are you submitting records used or relied upon to complete this Plaintiff Fact Sheet – Turnout Gear Plaintiffs? Place an X for either “Yes” or “No.”	Yes	No

6. ASSISTANCE WITH FACT SHEET

Did you consult with anyone other than your attorneys to answer any question in this fact sheet? Place an X for either “yes” or “no.”	Yes	No
If yes, with whom did you consult?		

7. VERIFICATION

I declare under penalty of perjury subject to all applicable laws that I have carefully reviewed the final copy of this Plaintiff Fact Sheet – Turnout Gear Plaintiffs and verified that all of the information provided is true and correct to the best of my knowledge, information, and belief.

 Signature of Plaintiff

 Print Name

 Date