

# PFAS Litigation

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## Deltona, Florida



December 3, 2024

THE  
**FERRARO**  
LAW FIRM

# THE FERRARO LAW FIRM

- Founded in 1985; based in South Florida but handle cases nationwide
- 2nd office in Cleveland, Ohio
- 30+ attorneys
- Primary practice area: Toxic tort litigation
- Toxic tort jury verdicts in the past 10 years:
  - \$70,102,000; \$36,984,000; \$28,000,000; \$20,646,000; \$17,175,000
- Appellate practice:
  - In-house appellate team and handle other firms' appeals
  - Over 26 successful toxic tort appeals in the Florida appellate courts and Florida Supreme Court
  - 3 for 3 at the Florida Supreme Court (all toxic tort cases)
    - *Castillo v. E.I. DuPont* (Fla. 2003), *Aubin v. Union Carbide* (Fla. 2015), *Delisle v. Crane* (Fla. 2018), *Ripple v. CBS Corp.* (Fla. 2024)

- AFFF Plaintiffs' Executive Committee
  - *In re Aqueous Film-Forming Foams Products Liability Litigation* (MDL 2873)
  - Since its formation in 2018
  
- Extensive experience representing municipalities in outside counsel litigation
  - Opioids (e.g., Palm Beach County, FL, San Juan, PR)
  - Insulin Price Fixing (e.g., Cleveland, OH, Cuyahoga County, OH, Cobb County, GA)

➤ **Florida PFAS Clients:**

- Fort Lauderdale, FL
- Boca Raton, FL
- Hollywood, FL
- North Miami Beach, FL
- North Miami, FL
- Hialeah, FL
- Hallandale Beach, FL
- Cooper City, FL
- Tamarac, FL
- Dania Beach, FL
- Homestead, FL
- Marco Island, FL
- Sunrise, FL
- Port St. Lucie, FL
- Fort Pierce, FL

➤ **Non-FL PFAS Clients:**

- Fulton County, GA
- DeKalb County, GA
- Cobb County Marietta Water Authority (Georgia)
- Columbus Water Works (Georgia)
- Athens-Clarke County, GA
- Upper Oconee Basin Water Authority (Georgia)
- Ellijay-Gilmer County Water & Sewerage Authority (Georgia)
- Harris County, GA
- Nolta Water Authority (Georgia)
- Martha's Vineyard Airport Commission (Massachusetts)
- West Tisbury, MA
- Oak Bluffs Water District (Massachusetts)

# What are PFAS chemicals?

## Common Items with PFAS



**FOOD PACKAGING**  
microwave popcorn bags, sandwich wrappers, takeout containers, fast food wrappers



**HOUSEHOLD ITEMS**  
makeup, floss, waxes, paints, stains



**STAIN-RESISTANT**  
carpets, rugs, and furniture



**NONSTICK COOKWARE**



**OUTDOOR GEAR**  
with a "durable water repellent" coating



**FIREFIGHTING FOAM**

- Not organic (man-made chemicals)
- Used for decades in industrial settings and in the production of thousands of household and commercial products that are heat resistant, stain resistant or repel water and oil
- In the blood of >97% of U.S. population
- Bioaccumulate (stay in the body for ~5 years)
- Highly mobile, do not readily biodegrade in the environment ("forever chemicals")
- Costly to remove
- Most problematic in AFFF (class B foam used for petroleum liquid fires)

# Why are PFAS dangerous?

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## Examples of PFAS-related Injuries:

- Kidney cancer
- Testicular cancer
- Ulcerative colitis
- Thyroid disease
- Preeclampsia (hypertension during pregnancy)
- Lower chance of pregnancy

# PFAS Defendants



3M™



Dupont™



Chemguard™



Tyco Fire Products™



Kidde-Fenwal™



Buckeye Fire Equipment™





# AFFF MDL 2873

2018 - Present

- Administrative orders in place:
  - ESI; Confidentiality; Preservation
- Work Accomplished
  - PEC has reviewed millions of documents
  - PEC has taken more than 100 depositions in General Discovery Phase
  - 13 expert witnesses retained (e.g., fate and transport, toxicologists, industrial hygienists, hydrologists)
- Bellwether trial (City of Stuart, FL) postponed due to DuPont and 3M settlements



# EPA PFAS Regulations

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**U.S. ENVIRONMENTAL  
PROTECTION AGENCY**

- ✓ On April 10, 2024, EPA announced its final National Primary Drinking Water Regulation (NPDWR) for 6 PFAS
- ✓ NPDWR includes a MCL of 4 ppt
- ✓ In April 2024, EPA also designated PFOA and PFOS as a hazardous substances

# How to Solve the PFAS Problem

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- **Baseline Testing**
  - Different from UCRM5 testing
  - UCRM5 testing reflected in 2023 water quality report
- **Treating PFAS in drinking water**
  - Granular activated carbon (GAC)
  - Ion Exchange
  - Reverse Osmosis
  - Initial capital expenditures + yearly maintenance for well over a decade
- **Soil treatment: Contain, excavate, off-site disposal**
  - Off-site disposal usually performed via incineration (e.g., Florida Fire College)
- **File a lawsuit against PFAS defendants to recover current and future PFAS-related costs**



# Current Settlement Status

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- 1<sup>st</sup> Settlement announced 6/2/2023 with DuPont, Chemours and Corteva for \$1.185 billion for affected public water systems
- 2<sup>nd</sup> Settlement announced 6/22/2023 with 3M for between \$10 billion - \$12.5 billion for affected public water systems
- Only cover drinking water claims, not soil (e.g., Hialeah)
- 3 recent settlements: Tyco/Chemguard, BASF, Carrier (and Kidde Bankruptcy)
- DuPont & 3M Phase Two deadlines: January 2026 (testing fund) and June 2026 (claims form deadline)

