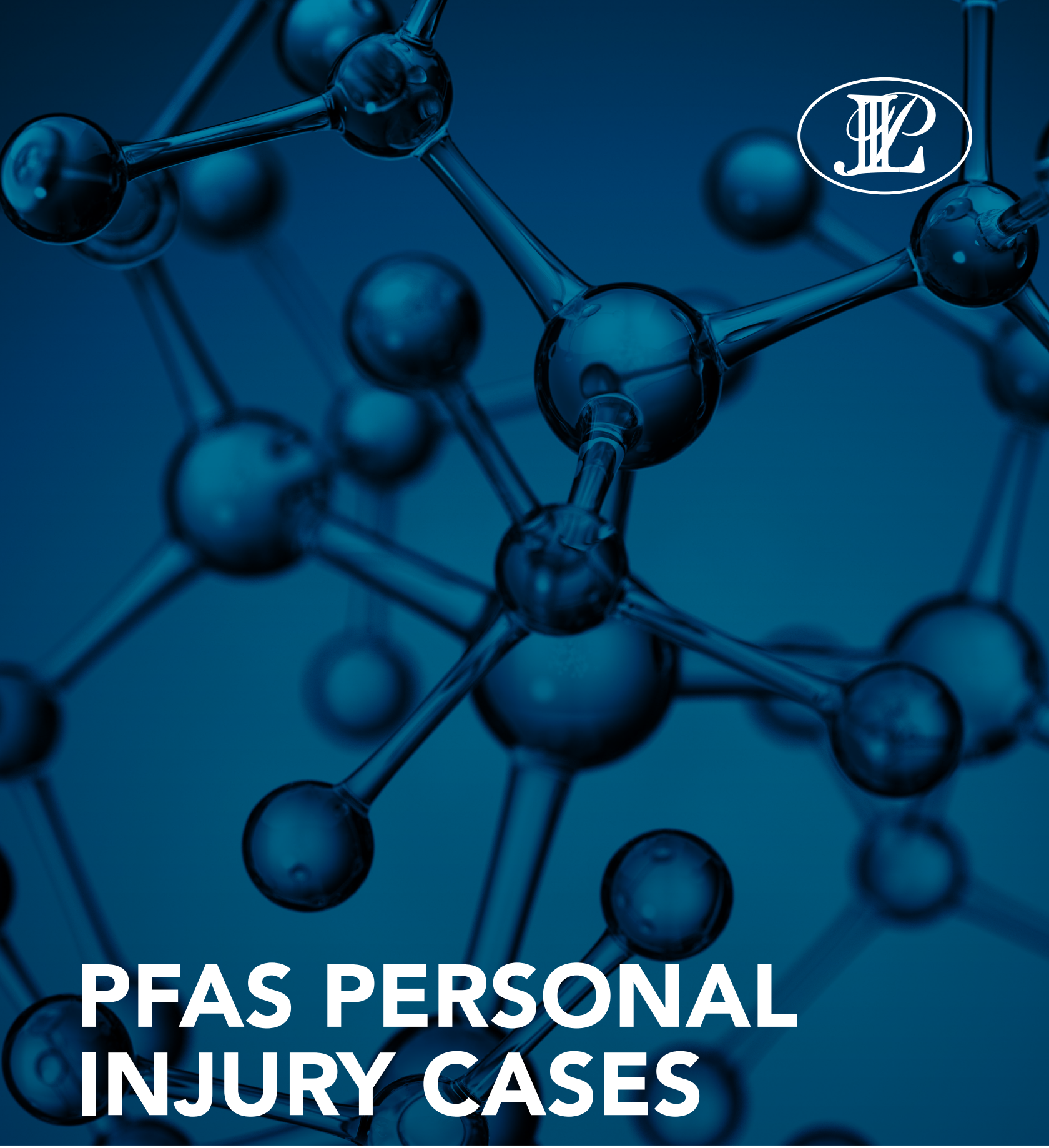

# PFAS PERSONAL INJURY CASES

LEVIN PAPANTONIO
PROCTOR | BUCHANAN | O'BRIEN
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**FOR POTENTIAL CLAIM REVIEW PLEASE CONTACT PFASGROUP@LEVINLAW.COM OR CALL 800.403.1349**

# $11 BILLION-DOLLAR SETTLEMENT MOVES FORWARD

You have probably seen the news reports of the approximately $11 billion-dollar settlement that we are involved with on behalf of water providers affected by PFAS. While that portion of the current multidistrict litigation moves forward, the court and litigants are beginning to turn their attention to the next phase of the project: personal injury. These cases are next-up for trial and the court is clearing a path for the litigation to proceed. The PFAS project is unique in that it is based on science, studies, and information which has resulted from the preceding decades of litigation. Litigation that our firm has been at the forefront of.

# EXPERIENCE MATTERS

Levin Papantonio has been fighting large, negligent corporations since 1955. Our firm has a strong track record of delivering results, having helped to secure verdicts and settlements totaling more than $80 billion.

Our PFAS lawyers bring a unique set of experience and knowledge to these cases, as our law firm has already been representing states, municipal governments, and private entities in recovering costs associated with removal and remediation of PFAS. We have more than two decades' worth of experience litigating PFAS matters and are one of the only firms in the country to successfully litigate a PFAS matter.

We serve on a multitude of committees, including the Plaintiff's Executive Committee, and are active in the current multidistrict litigation.

# A TOXIC TORT

Per and Polyfluoroalkyl substances ("PFAS") are a group of man-made chemicals that have captured the attention of regulators and public health officials around the world. These substances are used far and wide, including in everyday household products, such as Teflon non-stick pans and microwave popcorn bags, and in fire fighting foams. A growing body of toxicological and epidemiological data has linked exposure to these chemicals to a number of diseases, cancers and other adverse health outcomes. Consequently, the manufacturers of these chemicals are facing a tsunami of lawsuits in various jurisdictions in and outside the United States.

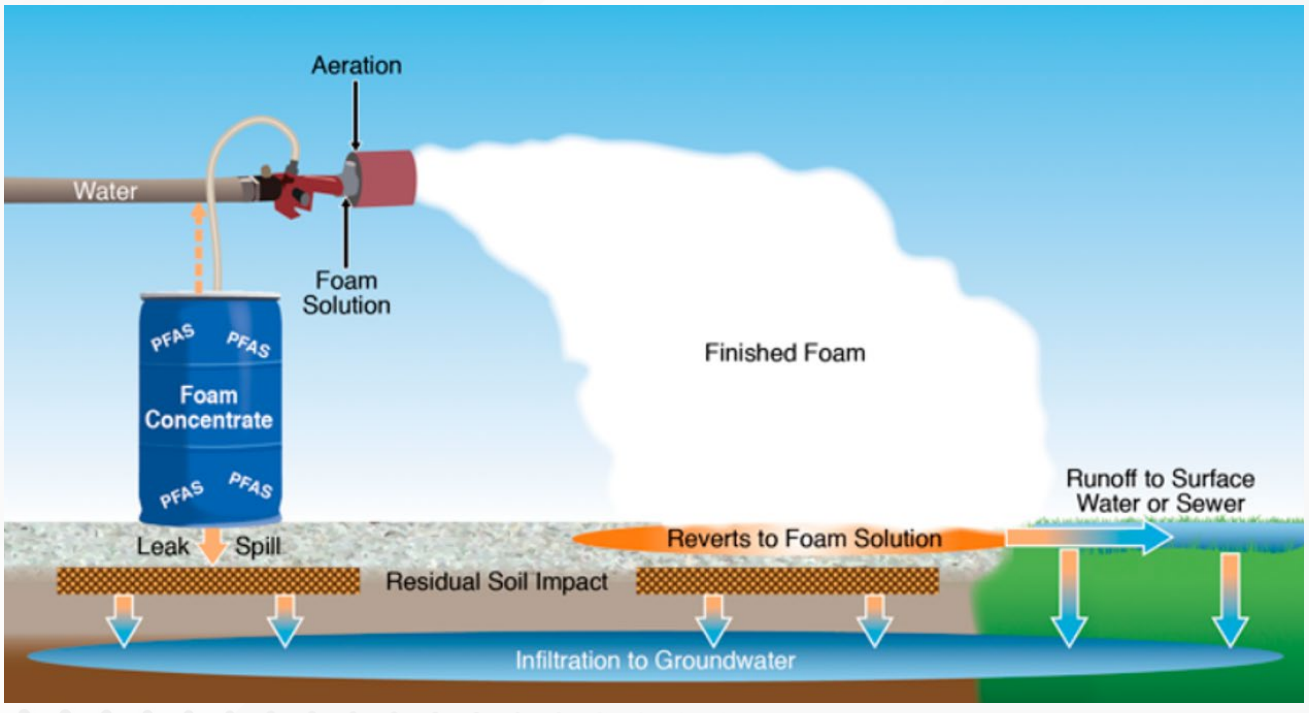
This type of litigation, commonly referred to as toxic torts, is by no means a new area of law. Litigators have tackled a myriad of corporate polluters in our environment – PCBs, MTBE, dioxin and asbestos to name a few. But PFAS chemicals stand out due to their deadly trifecta of attributes:

- their persistence in the environment
- their exceptionally long half-lives in humans
- their toxicity

# PERSISTENCE IN THE ENVIRONMENT

PFAS chemicals are commonly referred to as '**forever chemicals**' due to their ability to persist in nature. Whereas most chemical compounds degrade over time in the environment after exposure to sunlight, microorganisms, water or heat, PFAS chemicals can survive in the environment for centuries. This is because PFAS chemicals have incredibly strong carbon-fluorine bonds that render Mother Nature ineffective at naturally decomposing them, and it is this quality that makes them so useful to their chemical industry inventors. As a consequence of this chemical attribute, virtually every molecule of this class of chemicals is still in existence, somewhere on this planet, working its way through our environment.

One of the primary ways PFAS has been introduced into the environment is through the use of aqueous film-forming foam (AFFF). AFFF is a type of water-based foam that was first developed in the 1960s to extinguish flammable liquid fuel fires at airports and military bases, among other places. Based on development, marketing, training, sale, handling, and use, AFFF introduced PFAS in extraordinary amounts to the environment.



# EXCEPTIONALLY LONG HALF-LIFE

Next in the PFAS chemicals' deadly trifecta is their exceptionally long half-life. Half-life is a fundamental component of pharmacology, measuring how long it takes for half of a substance to leave the body. Most medicines dispensed at a pharmacy work their way through your body in a matter of hours. "Long-acting" versions of medicines are engineered to stay in the body longer, i.e. to have a longer half-life. Environmental toxins are no different. The environmental toxin mercury has a half-life of one to three weeks. The half-life of some PFAS chemicals is measured in years. One of the worst PFAS chemicals, known as Perfluorooctanesulfonic acid ("PFOS"), has a half-life of approximately 5 years. This means that after a single exposure the human body will retain appreciable quantities of this chemical for more than 25 years. As a result, to the extent these chemicals are harmful, they have a long time to be able to cause that harm.

# TOXIC TO HUMANS

Relative to other families of chemicals, public health officials and toxicologists had a late start in assessing PFAS chemicals and their risk of harm to humans. This is because the few companies that made and used PFAS chemicals limited access to information about them. For example, until recently, it was nearly impossible for the scientific community and regulators to obtain samples of many of these chemicals that would be necessary to conduct routine toxicology testing.

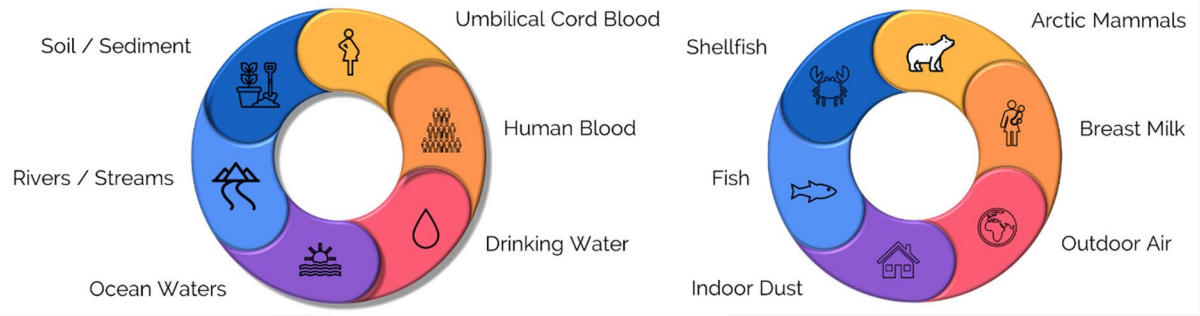
That is no longer the case and a consensus has been reached about their impacts on human health: PFAS chemicals are incredibly toxic. PFOS and PFOA are carcinogens. They have been linked to various cancers, including kidney cancer, testicular cancer, breast cancer and prostate cancer. Similarly, PFAS exposure has been associated with liver damage, thyroid disease and preeclampsia in pregnant women.

This trifecta of attributes makes PFAS chemicals particularly troublesome. Once released into the environment, they will remain there indefinitely, traveling through the environment until they find their way into humans, where their levels will accumulate and effectuate their toxic effects. Unfortunately, vast amounts of PFAS chemicals have already been released into the environment and as a result have contaminated the entire planet.

# GLOBAL CONTAMINATION

Ever since PFAS burst into the environmental scene in the late 1990s, scientists have been scouring the planet evaluating the scope and degree of PFAS contamination. What they've discovered is startling. Unlike most contaminants, where the scope of contamination is limited in its geographic proximity to the sites of manufacturing or discharge into the environment, PFAS contamination is global.

PFAS has been detected in virtually every environmental media around the world ranging from rivers and streams to air samples collected in the middle of the Pacific Ocean. It has been detected in dust samples collected from day care facilities in Europe. It has famously even been detected in the blood of Polar Bears.




However, the most concerning of all the various places PFAS has been detected is in the blood of human beings. According to a 2019 Centers for Disease Control study that evaluated PFAS chemicals in the blood of Americans, more than 90% of Americans had detectable levels of PFAS chemicals in their blood. In stark contrast to most other emerging contaminants, this finding removes any doubt with respect to whether exposure to humans has actually occurred.

# REGULATORY RESPONSE

In response to this growing body of knowledge of the harmful attributes of PFAS chemicals, regulators have begun to take meaningful action to minimize or prevent additional future exposures to these chemicals. For instance, in 2002, the United States Environmental Protection Agency ("USEPA") banned the manufacturing and importation of certain PFAS chemicals into the United States. In 2016, the United States Food and Drug Administration revoked authorization for the use of certain PFAS chemicals in food packing materials. In May 2016, the USEPA established a drinking water health advisory for the combined concentrations of two PFAS chemicals (PFOA and PFOS) of 70 parts per trillion (ppt). Above these levels the USEPA "recommends that drinking water systems take steps to assess contamination, inform consumers and limit exposure." In 2022, the EPA updated the Health Advisory Level to less than 1 ppt.

# NEW REGULATIONS


Effective early 2023, the EPA has introduced The Fifth Unregulated Contaminant Monitoring Rule (UCMR 5). This regulation applies to any system serving more than 3,300 people (and a randomly selected 800 smaller systems).

The new regulation caps PFAS at 4 parts per trillion.

# LITIGATION BROUGHT ON BEHALF OF WATER PROVIDERS

Recently, water providers have begun required testing and many are finding PFAS chemicals in their water supply. Because of the changing regulatory landscape, water providers are grappling with how to address the presence of PFAS chemicals. Proposed regulations will require action to protect Americans from these toxic chemicals. Some customers may not want to consume water tainted with cancer-causing chemicals – notwithstanding the absence of any binding regulations to remove these chemicals from the water. Likewise, customers may not take solace in the fact that there is an "acceptable" amount of these chemicals in their water.

Consequently, public and private water providers have brought lawsuits against the manufacturers and others responsible for failing to instruct and warn end users of their products about the presence of PFAS and the harm it poses to the environment and our communities. These lawsuits seek costs associated with removing PFAS chemicals from the water supply.

The parties have a negotiated settlement that is moving forward in the legal process. The litigants in court are now turning more of their attention to the next phase of the MDL: personal injury cases.

# DECADES OF PFAS LITIGATION

Our Attorneys have actively litigated PFAS cases for over a decade, having reviewed millions of pages of corporate documents, retained world renowned experts, and successfully recovered economic and punitive damages.

Recently released documents illustrate the depths to which industry was willing to hide the truth - even from its own scientists - about the toxic nature and widespread harm resulting from PFAS.

28 March 1999

To: 3M

I resign my position as Environmental Specialist effective 6 April 1999. My resignation is prompted by my profound disappointment in 3M's handling of the environmental risks associated with the manufacture and use of perfluorinated sulfonates (PFOS)(CAS# 29081-56-9) and its precursors, such as ethyl FOSE alcohol (CAS #1691-99-2) and methyl FOSE alcohol (CAS #24448-09-7).

Perfluorooctansefulfonate is the most insidious pollutant since PCB. It is probably more damaging than PCB because it does not degrade, whereas PCB does; it is more toxic to wildlife; and its sink in the environment appears to be biota and not soil and sediment, as is the case with PCB.

I have worked within the system to learn more about this chemical and to make the company aware of the dangers associated with its continued use. But I have continually met roadblocks, delays, and indecision. For weeks on end I have received assurances that my samples would be analyzed soon--never to see results. There are always excuses and little is accomplished. I can illustrate with several examples.

# FAQS

## WHAT INJURIES ARE BEING LITIGATED?

The EPA has said that there is no safe level of exposure to PFAS chemicals like PFOtA and PFOS. Many studies have linked exposure to PFAS with a number of dangerous health effects. Our firm is investigating cases involving testicular and kidney cancer and ulcerative colitis. We are also continuing to evaluate the science for clients who have been diagnosed with liver, prostate, or pancreatic cancer.

## WHERE ARE PFAS CASES FILED?

Most PFAS cases are filed in a Multi-District Litigation centralized in the District of South Carolina in front of Judge Richard M. Gergel – In Re: Aqueous Film-Forming Foams (AFFF) Products Liability Litigation, MDL No. 2:18-mn-2873-RMG.

## HOW WILL A CLIENT KNOW IF THEY HAVE BEEN EXPOSED TO PFAS-CONTAMINATED DRINKING WATER?

Many people still have no idea about PFAS contamination and the health hazards it can pose. Thus, potential clients may be unsure if they have been exposed. However, if a client falls into one of the following categories, it is more likely than not that they have been exposed:

- They have received a letter or notice from their water provider(s) notifying them of elevated PFAS levels in their drinking water.
- They are from an area of the country known to be a PFAS "hot spot," or an area where elevated PFAS test results have been reported by regulatory and/or environmental groups.
- They use a water provider that publishes detectable levels of PFAS chemicals in online water quality reports.
- They live near any major airports, fire departments, or military bases where AFFF has been utilized.

Upon accepting a case, our qualified team at Levin Papantonio will fully investigate each client's current and former addresses and water providers. This list of water providers with known contamination is ever-growing as more and more results are returned from contaminate testing.

## HAS THERE BEEN A SETTLEMENT AGAINST THE MANUFACTURERS OF PFAS?

You may have heard recent announcements related to settlements from defendants like DuPont and 3M. Those settlements pertain only to water providers and municipalities, not individuals with personal injuries. We anticipate litigation in the near future regarding general causation.

## HOW LONG DOES A CLIENT HAVE TO BRING A CLAIM?

Each state controls the statute of limitations for a client's claims. Levin Papantonio is unable to accept potential clients where the statute of limitations may have expired, or may expire in the near future. The following considerations should be given before contracting cases, as Levin Papantonio will be unable to confirm acceptance for investigation until after reviewing the initial intake.

# FAQS

## WHAT IS LP'S CRITERIA FOR ACCEPTING A PFAS PI CASE?

We will accept cases for further work-up and review when clients meet the following criteria:

- Diagnosed in 2000 or later with one of the following:
  Injuries: testicular cancer, kidney cancer, or ulcerative colitis
- Drank from PFAS-contaminated water supply for at least 6 consecutive months from 1990 to present.
- No statute of limitation issues.

Our criteria is based on the science which has developed over the decades of litigation and accepting cases we believe most likely to prevail.

## ARE THERE ANY OTHER SPECIAL CONSIDERATIONS FOR REFERRALS IN THIS PROJECT?

This project, unlike many others, requires a great deal of work to prove exposure. Many clients have no idea they were ever exposed to PFAS. Our dedicated team must confirm injury information and publically available information about contamination in the water source(s) the client was exposed to. All of this work is time consuming and costly, as it involves comparing information that the client provides with testing levels and water quality data published by various municipalities and providers.

### Contact one of our dedicated attorneys to discuss working with us on PFAS personal injury cases today!

Mike Papantonio

Ned McWilliams

Wes Bowden

Madeline Pendley

Caleb Cunningham

LEVIN PAPANTONIO
PROCTOR | BUCHANAN | O'BRIEN
BARR | MOUGEY | P.A.

800.403.1349 | LEVINLAW.COM