

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT  
CASE NO. 216-2019-CV-00445

STATE OF NEW HAMPSHIRE AND THE NEW HAMPSHIRE DRINKING WATER AND  
GROUNDWATER ADVISORY COMMISSION,  
Plaintiffs,

v.

3M COMPANY, E.I. DU PONT DE NEMOURS AND COMPANY, THE CHEMOURS  
COMPANY f/k/a THE CHEMOURS COMPANY, LLC, CORTEVA, INC., AND DUPONT DE  
NEMOURS, INC.,  
Defendants.

3M COMPANY'S JOINDER IN MOTION OF DEFENDANTS E.I. DU PONT DE NEMOURS  
AND COMPANY AND CHEMOURS COMPANY, L.L.C.

3M Company ("3M"), by and through its attorneys, McLane Middleton, Professional Association, joins in the legal arguments and relief sought in the motion filed by E.I. DuPont De Nemours and Company ("DuPont") and Chemours Company, LLC, ("Chemours") to clarify defendants' time to answer the First Amended Complaint. In support thereof, 3M states as follows:

1. 3M, like DuPont and Chemours, is evaluating the State's First Amended Complaint to determine whether to file a further motion to dismiss newly added claims. If it decides to file such a motion, 3M will face the same issue as DuPont and Chemours, namely the need for clarity about whether the filing of such a motion stays the time to answer other claims which are not subject to the motion to dismiss. Accordingly, 3M joins in DuPont's and Chemours' motion for clarification, and, for the reasons set forth in that motion, requests that the Court grant the same relief it previously granted when faced with such a question—to stay the need for filing an answer pending a decision on a motion to dismiss.

2. In addition to the rationales expressed in the pending motion, 3M points out that the changes to the First Amended Complaint were no mere technicalities or procedural corrections. In the First Amended Complaint, the State adds the New Hampshire Drinking Water and Groundwater Advisory Commission (“Commission”) as a new plaintiff, without providing any factual or legal basis for the Commission’s putative standing to bring suit on each of the claims. The State alleges that the Commission is “bringing this action to recover costs paid from the Fund pursuant to RSA 485-F:3 for which the Manufacturer Defendants would otherwise be liable” (First Am. Compl. ¶ 28), but fails to allege how or why the Commission has standing to pursue claims that were already in the initial complaint, *i.e.*, for negligence, defective design, failure to warn, violations of the public trust doctrine or enhanced compensatory damages. Adding the Commission as a party in the First Amended Complaint presents new complications that may warrant the filing of a motion to dismiss. Further, the substance of 3M’s answer may be substantially different depending on the disposition of such a motion to dismiss.

3. Moreover, the State has also added Corteva, Inc. and DuPont de Nemours, Inc. as defendants. With the new defendants in this suit, each of whom may also file its own dispositive motion, the structure of this litigation risks diverging onto multiple tracks with regard to deadlines for response times if different defendants are subject to different deadlines depending on whether they have filed motions to dismiss.

WHEREFORE, defendant 3M respectfully requests that this Court:

- A. Grant the motion to clarify that any defendants need not answer the First Amended Complaint until after the Court rules on its respective motion to dismiss; and
- B. Grant such other and further relief as may be just.

Respectfully submitted,

Attorneys for Defendant 3M Company

By its Attorneys,

McLANE MIDDLETON  
PROFESSIONAL ASSOCIATION

Dated: October 30, 2020 By: /s/ Mark C. Rouvalis

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**CERTIFICATE OF SERVICE**

I certify that on October 30, 2020, I served 3M Company's Joinder in Motion of Defendants E.I. Du Pont de Nemours and Company and Chemours Company, L.L.C. by serving all parties of record through the Court's electronic filing system.

/s/ Mark C. Rouvalis

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Mark C. Rouvalis