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. 2873** **Master Docket No. 2:18-mn-2873** **This Document Relates to:** ***The People of the State of California, ex rel. Rob Bonta, Attorney General of California v. 3M Company et al.*** **Case No. 2:23-cv-01531-RMG**

MEMORANDUM OF LAW IN SUPPORT OF
THE PEOPLE OF THE STATE OF CALIFORNIA'S
MOTION FOR TEMPORARY RESTRAINING ORDER
AND FOR PRELIMINARY INJUNCTION

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INTRODUCTION

The People of the State of California, ex rel. Rob Bonta, Attorney General of California ("People" or "the State"), supported by 29 Sovereigns and Sub-Sovereigns,[1] bring this motion for the benefit of all MDL plaintiffs. The People seek redress for the DuPont Defendants'[2] long-running scheme to shield their valuable assets from their known liabilities. To prevent this and further unlawful conduct that harms the public interest, the People request that the Court issue a temporary restraining order as detailed below, until the Court can set an evidentiary hearing on the People's motion for preliminary injunction to freeze Corteva's assets. Unless the Court intervenes before October 1, 2026, Corteva, Old DuPont's holding company,[3] will complete the next step in the DuPont Defendants' continuing scheme to shed their profitable assets beyond the reach of creditors and all those harmed by the DuPont Defendants' conduct.

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[1] *See* Statement in Support of California's Motion for Temporary Restraining Order and for Preliminary Injunction, filed by the State of Wisconsin along with the States of Arizona, Arkansas, Colorado, Connecticut, Hawai'i, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Mexico, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, and Washington; the District of Columbia; the Commonwealth of Puerto Rico; the Counties of Los Angeles, California and King County, Washington; the City and County of San Francisco, California; and the Cities of Fresno, Los Angeles, Santa Clara, and San Diego, California, Denver, Colorado, and Philadelphia, Pennsylvania, by and through their respective attorneys general, county counsels, and city attorneys.

[2] "DuPont Defendants" include Corteva, Inc. ("Corteva"), E.I. du Pont de Nemours and Company (a/k/a EIDP, Inc., referred to herein as "Old DuPont"), the Chemours Company, the Chemours Company FC, LLC ("Chemours"), DuPont de Nemours, Inc. (f/k/a DowDuPont Inc., referred to herein as "New DuPont"), and Qnity Electronics Inc. ("Qnity"), which is subject to this Court's jurisdiction based on its contractual assumption of Old DuPont's liabilities, as set forth in ECF No. 8266 (PEC Status Report), and as discussed in the People's Second Amended Complaint ("SAC").

[3] *See* Declaration of Chiara Trabucchi ("Trabucchi Decl.") ¶ 18 n.11 ("There are no differences in reporting structure or segments between Corteva, Inc. and EID. In addition, there are no differences between Corteva, Inc. and EID segment net sales, segment operating [Earnings Before Interest, Taxes, Depreciation, and Amortization ('EBITD')] or pro forma segment operating EBITDA, segment assets, or significant items by segment.") (Citing Corteva, Inc., 2019 Form 10-K p. F-110).

That next step is to strip Corteva's highly profitable Seed business—worth $22 billion in assets and $17 billion in net value ($39 billion total)—out of Corteva and "spin" it into a new company, Vylor Inc. ("Vylor"). In doing so, Corteva will intentionally isolate Old DuPont's massive historic per- and polyfluoroalkyl substances ("PFAS") and pension liabilities in its declining Crop protection segment ("New Corteva")[4] without sufficient assets to cover those liabilities (hereinafter, "Vylor Spinoff"). Corteva plans to complete the Vylor Spinoff on October 1. Tellingly, Corteva's CEO and key board members plan to flee Corteva for Vylor. This transaction is unlawful and will harm the public and impede the Court's management of this MDL.

This Court has expressed concerns about the continuing financial viability of MDL defendants. Yet this transaction will leave New Corteva financially unstable with far fewer resources to satisfy known PFAS liabilities, bringing to fruition the DuPont Defendants' plan to systematically divest historic, profitable business lines to evade liability for the widespread contamination and public health crises they have caused. The People's finance and economic expert, who has studied the DuPont Defendants' extensive history of restructurings and divestitures for over a decade, opines that the impending Vylor Spinoff is "not only contrary to the public interest, but also adverse to the longer-term interests of unsecured creditors." Trabucchi Decl. ¶ 37. Neither the People, nor any plaintiff, have any interest in bankrupting the DuPont Defendants, and this Court should not permit Corteva to continue this fraudulent scheme that will make its own bankruptcy inevitable.

[4] Corteva as it is known today plans to remain under the same name post-Vylor Spinoff, but "New Corteva" is referred to herein (and in Corteva's and Vylor's public filings) as the post-separation company—a "new" Corteva stripped of its profitable Seed business yet saddled with Old DuPont's historic PFAS and pension liabilities and Corteva's pesticide liabilities.

At each step of the DuPont Defendants' years-long scheme, they have shed billions of dollars in assets, net worth, shareholder dividends, and share repurchases—intentionally moving that money out of creditors' reach. Now, Corteva plans to shed $39 billion to Vylor in exchange for a mere $3.56 billion cash distribution to New Corteva, which will substantially diminish the funds available to address the DuPont Defendants' massive liabilities. In California alone, those liabilities are estimated to be at least $88.3 billion. Accordingly, to maintain the status quo, the People respectfully request that the Court immediately issue a temporary restraining order ("TRO") to, at a minimum (1) restrain Corteva from effectuating the October 1 closing of the Vylor Spinoff, including pausing any asset transfers away from Corteva and forbidding any distributions, share repurchases, or other disposition of assets related to the Vylor Spinoff. The Court should also grant the People's motion for preliminary injunction and specifically issue, at a minimum (2) an asset-freezing injunction for the duration of this MDL covering *at least* the estimated diminution in total assets Corteva will likely realize immediately following the Vylor Spinoff (roughly $22 billion).[5]

The People seek this relief for the benefit of all MDL plaintiffs, to prevent Corteva from dissipating assets and avoiding known liabilities. The People, as movants, are likely to prevail on their equitable claims that Corteva is liable for creating a statewide public nuisance, violating California Government Code section 12607 and California's Unfair Competition Law, and engaging in a continuing scheme of fraudulent transfer. Yet, without Court intervention: (1) the People will be unable to secure through this litigation the remedies that are critical to preserving

[5] Additional relief is detailed in Argument § VI, *infra*. As noted herein, the People request an evidentiary or other hearing to further discuss how the Court can craft an injunction that protects the MDL process, plaintiffs, and all the DuPont Defendants' creditors.

and restoring public health and welfare; and (2) Corteva will immediately and irreparably harm *all plaintiffs* by stripping away the assets that it knows are necessary to satisfy its creditors' demands.

The injunctive relief can be narrowly tailored to preserve the status quo, resulting in no appreciable harm to Corteva's operations. The staggering public interest in favor of injunctive relief is plain: it will preserve all DuPont Defendant creditors' potential recovery and ability to improve public health and reduce PFAS exposure.

The People bring this motion for emergency and preliminary relief now—at a critical juncture before the Vylor Spinoff closes—to *prevent* Corteva from stripping its most valuable assets out of the reach of creditors in this MDL and beyond. The DuPont Defendants have already proven the speed at which they siphon off cash and other assets upon closing each of their fraudulent transactions. Thus, the People ask the Court to prevent this result and request that the Court issue a temporary restraining order to maintain the status quo until it can hold an evidentiary hearing on the requested asset-freezing injunction.

STATEMENT OF FACTS

I. The DuPont Defendants' Ongoing Fraudulent Transfer Scheme

Old DuPont has known about the toxicity of perfluorooctanoic acid ("PFOA"), since at least the 1960s. Declaration of Stephanie Biehl ("Biehl Decl.") ¶¶ 41–43, Exs. 8–10. Over the next several decades, Old DuPont amassed substantial internal knowledge about PFOA's health hazards, environmental harms, and associated liabilities. *Id.* ¶¶ 44–51, 58 Exs. 11–18, 25. But rather than warn the public or notify regulators about what it knew, Old DuPont doubled down—

[redacted]. *Id.* ¶¶ 55–57, Ex. 22–24; ¶¶ 59–64, Exs. 26–31. By 2013, however, Old DuPont itself began to phase out PFOA—and with liabilities mounting, it needed a plan.

Thus, in [redacted], Old DuPont hatched a [redacted] to the detriment of the public interest. Biehl. Decl. ¶¶ 34–36, Exs. 1–3. As summarized below, each step builds upon the last in service of this common goal—spin off, move, or shed cash and corporate value at the expense of the public and to avoid paying known liabilities:

- In 2015, Old DuPont spun off its Performance Chemicals business segment to Chemours and attempted to saddle Chemours with its massive PFAS liabilities, with the express purpose of sheltering Old DuPont's profitable business segments from liability. Declaration of Travis Armstrong ("Armstrong Decl.") ¶¶ 11–18.
- In 2017, Old DuPont and The Dow Chemical Company formed a new holding company ("DowDuPont") via a "merger" to reorganize and protect Old DuPont's remaining reportable business segments and product lines. *See* Armstrong Decl. ¶ 71 & fig. 5.
- In 2019, DowDuPont spun off two publicly traded companies: Corteva, which holds Old DuPont as a wholly owned subsidiary and comprises Old DuPont's agriculture (Crop Protection and Seed) business segment; and Dow, Inc. ("New Dow"), which comprises Old DuPont's Performance Materials business segment. *See id.* ¶ 72.
- Also in 2019, DowDuPont was renamed "New DuPont" with the purpose of holding and systematically divesting Old DuPont's remaining business segments, thereby maximizing and returning shareholder value. Trabucchi Decl. ¶¶ 14–17, figs. 1–3. Since 2019, New DuPont has divested 70% of its total assets, worth \$48 billion, and returned \$18.2 billion to shareholders via dividends and stock buybacks. *Id.*
- In 2021, the DuPont Defendants entered a cost-sharing arrangement ("2021 MOU"), to fund future legacy PFAS liabilities, but capped the agreement at \$4 billion. *See* Armstrong Decl. ¶¶ 83–84. After that cap is imminently reached, Chemours will be on the hook to indemnify the DuPont Defendants for Old DuPont's legacy PFAS liabilities pursuant to the June 26, 2015 Separation Agreement. *Id.*
- In 2025, the DuPont Defendants entered a second agreement ("2025 MOU") under which Corteva and New DuPont paid Chemours \$150 million for Chemours' insurance proceeds for PFAS-related liabilities. *Id.* ¶ 87. After Corteva and New DuPont recoup this \$150 million, Chemours is entitled to just 50% of further insurance proceeds, despite its indemnification obligations under the 2021 MOU.[6] *Id.*

The net effect of these intentional restructurings, asset divestitures, shareholder distributions, and cost-sharing arrangements has been to diminish access to the DuPont

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[6] The facts underlying these transactions are presented in detail in the People's SAC and the *Stuart* bellwether Plaintiffs' Opposition to Motion to Dismiss and are hereby incorporated by reference. SAC ¶¶ 270–357; ECF No. 1601.

Defendants' assets and erode their capital structure, jeopardizing their ability to satisfy future claims arising from known PFAS liabilities. Since 2019, the DuPont Defendants have shed approximately $29 billion in combined distributions to shareholders via dividends and stock buybacks. Armstrong Decl. ¶¶ 96–114, fig. 6. These shareholder returns place "financial resources permanently out of reach" of creditors. Trabucchi Decl. ¶ 35. Further, once the DuPont Defendants reach the artificially low $4 billion cap in PFAS liabilities under the 2021 MOU, which is imminent, Chemours will be on the hook. Armstrong Decl. ¶ 84. Chemours [redacted] it is the least capitalized of the DuPont Defendants. *See id.* ¶¶ 66–70; Biehl Decl. ¶ 82, Ex. 49. The DuPont Defendants knowingly engaged in these transactions to avoid retaining access to the capital necessary to satisfy known liabilities.

Now, as part of the next phase of the DuPont Defendants' scheme, Corteva has announced its intention to separate one key business segment remaining in its wholly owned subsidiary, Old DuPont; Corteva will do so by spinning its highly profitable Seed segment (assets originating from Old DuPont) into a new publicly traded entity (Vylor) and isolating all PFAS liabilities into its waning Crop Protection segment.[7] Trabucchi Decl. ¶¶ 21–27. If this transaction proceeds as currently stated, experts opine Corteva will further constrain the DuPont Defendants' capital structure and place at greater risk the public's ability to redress decades of PFOA health and environmental impacts. *Id.* ¶¶ 11–13, 21–39. Following in the footsteps of New DuPont, Corteva will materially diminish its assets and enterprise value through the Vylor Spinoff, and likely siphon billions of dollars to shareholders rather than preserving those funds for future judgments. *Id.* ¶¶

[7] The Seed segment reported a FYE 2025 EBITDA of $2.5 billion, as compared to Crop Protection's $1.5 billion. Trabucchi Decl. ¶ 22 n.20. Corteva's June 29, 2026 Form 10 confirms that Corteva intends to spin-off Vylor separate from all PFAS and underfunded pension liabilities, which will be allocated to the smaller New Corteva. *Id.* ¶¶ 23–27.

11–39. Simply, "the seven-years' long wealth transfer of [Old DuPont] assets away from public reach will be another step closer to completion." *Id.* ¶ 36. Indeed, the Vylor Spinoff will materially reduce the DuPont Defendants' collective capacity to withstand PFAS-related judgments. Armstrong Decl. ¶¶ 137–46. Post-spin, they are estimated to be able to withstand only $9.7 to $18.9 billion before they become unstable. *Id.* As detailed below, California's estimated PFOA-related damages, alone, dwarf that amount at $88.3 to $166 billion. In sum, the planned Vylor Spinoff will render New Corteva undercapitalized and unstable and eliminate a critical source of potential relief for all DuPont Defendant creditors.

II. The DuPont Defendants' PFAS Contamination Harms California's Public Health and Natural Resources.

The DuPont Defendants' PFAS pervade California's waters, soil, and even its residents' bloodstreams, resulting in widespread harm to natural resources and public health. The State estimates its damages alone to be between $88.3 and $166 billion for just a subset of these harms.

More than 1,200 municipal drinking water sources in the State have had PFOA detections exceeding the maximum contaminant level ("MCL") for drinking water, and nearly 22,000 domestic wells are projected to have detections above the MCL. Declaration of Graham Fogg ("Fogg Decl.") ¶¶ 13(c)–(d). Additionally, PFOA severely harms public health in California, including by causing high rates of kidney cancer, testicular cancer, ulcerative colitis, and low birth weight in newborn babies. Declaration of Craig Steinmaus ("Steinmaus Decl.") ¶¶ 11, 37, 53, 59, 73. Biomonitoring has revealed near-universal PFAS contamination, including PFOA, in blood serum across diverse geographic and demographic populations in the state. SAC ¶¶ 101–03; *see* Steinmaus Decl. ¶ 17.

The State anticipates that it will cost $20.8 to $73.3 billion to treat PFOA in wastewater treatment plants over thirty years. Declaration of Issam Najm ("Najm Decl.") ¶ 11. Over the same period, domestic well PFOA treatment is anticipated to cost between $4.5 and $12 billion, while public drinking water treatment is estimated to cost between $6 and $16.7 billion. *See id.*[8] Compensation for PFOA injuries to the State's groundwater resources is valued at $24.5 billion. Declaration of Adam Domanski ("Domanski Decl.") ¶ 11. Finally, public health costs in California from cases of kidney and testicular cancers, ulcerative colitis, and low birth weight attributable to PFOA exposure are expected to be $32.5 billion. Steinmaus Decl. ¶ 11; Declaration of Paul Hinton ("Hinton Decl.") ¶ 74, Table 10. These costs represent a limited subset of injuries and damages attributable to PFOA. For instance, the foregoing estimates do not include costs for AFFF disposal, state oversight costs,[9] or additional sampling costs, which will likely cost billions more.

III. The Many Other Liabilities Facing the DuPont Defendants

The Vylor Spinoff does not merely jeopardize the People's ability to recover damages attributable to the DuPont Defendants. Tens of thousands of personal injury and other plaintiffs with pending or potential claims against the DuPont Defendants are also at risk. Indeed, this Court has recognized that requiring defendants to account for the full amount of harm they caused would push them into bankruptcy. ECF No. 5364 at 14:4–18. The goal of this motion is to mitigate that risk: Corteva should not be permitted to move or shed assets in ways that would result in New Corteva's (or any of the Dupont Defendants') bankruptcy.

Since at least the early 2000s, Old DuPont has known it would face billions of dollars in liabilities arising from its manufacture and sale of PFAS products. In 2005, Old DuPont agreed to

[8] Importantly, public drinking water providers have already requested $563.2 million in grants and loans from the State to help fund PFAS treatment project costs totaling $807.7 million for fiscal year 2026-27. Funding for operations and maintenance costs to run these treatment systems long-term are not included in these requests from public water providers. Biehl Decl. ¶ 37, Ex. 4.

[9] For example, the Water Board budgeted $25.3 million in 2025 for emerging contaminant oversight funds, with an focus on PFAS. Biehl Decl. ¶ 38, Ex. 5. And the Department of Toxic Substances Control will increase spending by 12% at regional groundwater PFOA cleanup projects, representing $42 million at just one site. *See* Declaration of Benjamin Stanphill ¶ 14.

pay over $100 million to settle 80,000 claims brought by residents exposed to PFOA in Ohio and West Virginia, fund the C8 Science Panel, and pay up to $235 million for medical monitoring. Biehl Decl. ¶ 39, Ex. 6. That same year, Old DuPont agreed to pay the U.S. EPA $10.25 million for withholding information about PFOA's risks and $6.25 million for supplemental environmental projects. *Id.* ¶ 40, Ex. 7. By 2013, personal injury plaintiffs began filing lawsuits in Ohio and West Virginia as permitted by the 2005 settlement, and over 3,500 suits were then consolidated in the multidistrict litigation titled *In re E.I. du Pont de Nemours and Company C-8 Personal Injury Litigation*, MDL No. 2433. *See* 2016 WL 659112, at *1 (S.D. Ohio Feb. 17, 2016) ("C8 MDL").

To date, the DuPont Defendants have agreed to pay more than $4 billion in settlements for their PFAS-related conduct, including $670.7 million from claims related to the C8 MDL, $75 million to Delaware; $110 million to Ohio related to the Washington Works facility; $1.2 billion for the Public Water Systems in this MDL; a settlement valued at over $2 billion with the New Jersey; and $455 million to North Carolina and public water systems around the former DuPont Fayetteville Works facility. Biehl Decl. ¶¶ 78–83, Exs. 45–50. The DuPont Defendants know that these settlements represent only a small portion of their PFAS liabilities. Biehl Decl. ¶ 77, Ex. 44.

PROCEDURAL BACKGROUND

The People filed suit in California state court on November 17, 2022 (Case No. 22CV021745). Following removal and amendments, the operative complaint is California's SAC filed on September 10, 2026 (ECF No. 58). The People seek relief for the full scope of PFAS contamination caused by the DuPont Defendants' fraudulent transfers and manufacture, use, and sale of PFAS and PFAS-containing products, including AFFF. Relevant here, the People bring equitable claims for public nuisance, violation of California Government Code section 12607, violation of California's Unfair Competition Law ("UCL"), and fraudulent transfer, and seek nuisance abatement, remediation of natural resources, restitution (and other remedies) for unfair competition, and injunctive relief and a constructive trust over fraudulently transferred assets.

ARGUMENT

IV. Legal Standard

Courts have equitable authority to issue preliminary injunctive relief, including TROs and asset-freezing injunctions, consistent with Federal Rule of Civil Procedure 65. Where any of the plaintiff's claims seek "cognizable relief in equity involving assets of the defendant" or "a remedy involving those assets," courts may "invoke equity to preserve the *status quo* pending judgment." *United States ex rel. Rahman v. Oncology Assocs.*, 198 F.3d 489, 496– 97 (4th Cir. 1999); *compare with Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308, 333 (1999) (asset freeze unavailable where a plaintiff seeks *only* money damages).

Courts may grant preliminary injunctive relief where a plaintiff demonstrates: (1) a likelihood of success on the merits; (2) likelihood of irreparable harm in the absence of preliminary relief; (3) the balance of equities tips in the plaintiff's favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); *see also U.S. Dep't of Labor v. Wolf Run Mining Co.*, 452 F.3d 275, 281 n.1 (4th Cir. 2006) (standards governing TROs and preliminary injunctions are the same). In establishing those factors, the movant may rely on "affidavits and other evidence that might otherwise be inadmissible," including hearsay, but "genuine issues of material fact raised in opposition to a motion for a preliminary injunction [require] an evidentiary hearing." *Imagine Medispa, LLC v. Transformations, Inc.*, 999 F.Supp.2d 862, 868–69 (S.D. W.Va. 2014); *see also G.G. ex rel. Grimm v. Gloucester Cnty. Sch. Bd.*, 822 F.3d 709, 725 (4th Cir. 2016), *vacated and remanded on other grounds*, 580 U.S. 1168 (2017);

Democratic Nat'l Comm. v. Bostelmann, 447 F. Supp. 3d 757, 764 (W.D. Wis. 2020) ("Given the emergency nature of [a TRO], a relaxed evidentiary standard is appropriate").

Where the public interest is involved, courts go "much farther both to give and withhold relief in furtherance of the public interest than . . . when only private interests are involved." *Oncology Assocs.*, 198 F.3d at 497 (citation modified). In such cases where the plaintiff moves to enforce important public interests, courts "consistently waive[] the bond requirement" under Rule 65(c) "or require[] only a nominal bond." *Defs. of Wildlife v. U.S. Fish & Wildlife Serv.*, 539 F. Supp. 3d 543, 560–61 (D.S.C. 2021) (citation omitted).

V. The People Seek Equitable Relief Involving Corteva's Assets.

A TRO and prejudgment asset freeze are necessary to preserve Corteva's assets for all creditors' claims. Among others, the People bring four equitable claims authorizing this relief. Three claims seek remedies for environmental harms: public nuisance, violation of California Government Code section 12607, and the UCL (together, "Environmental Claims"). The fourth is a fraudulent transfer claim and seeks imposition of a constructive trust. Each "asserts a cognizable claim to specific assets of [Corteva] or seeks a remedy involving those assets." *See Oncology Assocs.*, 198 F.3d at 496. The Court "possesses inherent equitable powers to order preliminary relief, including an asset freeze, in order to assure the availability of permanent relief." *CFTC v. Kimberlynn Creek Ranch, Inc.*, 276 F.3d 187, 193 (4th Cir. 2002) (quotation omitted); *Turnkey v. JAB Energy Sols., LLC*, 2021 WL 3509677, at *8 (E.D. La. Aug. 10, 2021) (an asset freeze is proper over funds "subject to the equitable claim as necessary to satisfy the potential judgment").

First, the People have an equitable interest in Corteva's assets through their Environmental Claims. The People seek (1) an abatement fund to abate the public nuisance, *see, e.g.*, *People v. ConAgra Grocery Prods. Co.*, 227 Cal. Rptr. 3d 499, 568–71 (Ct. App. 2017) (abatement fund is an equitable remedy); Cal. Civ. Code §§ 3491, 3494; SAC ¶¶ 439, p. 125; (2) equitable relief to protect natural resources, Cal. Gov't. Code § 12607; SAC ¶¶ 449, 458–59, p. 125; and (3) restitution (and other remedies) for unfair competition that led to the creation of a public nuisance, Cal. Bus. & Prof. Code § 17203; SAC ¶¶ 509–12 & p. 125–26. Any dissipation of Corteva's assets will hinder the ability to establish an abatement fund, meaningfully fund natural resource remediation, and provide restitution for unfair competition. *See HUD v. Cost Control Mktg. & Sales Mgmt. of Va., Inc.*, 64 F.3d 920, 927 (4th Cir. 1995) (asset freeze remedy appropriate upon showing that "absent the freeze order, the assets would be depleted or otherwise become unavailable") (quoting *Kemp v. Peterson*, 940 F.2d 110, 114 (4th Cir. 1991)). The DuPont Defendants' PFOA has infiltrated the State's groundwater, pervaded ecosystems, and impaired Californians' health, leading to an estimated $88.3 to $166 billion in damages. *Supra* Statement of Facts § II. The Court should therefore "enjoin[] [Corteva] from secreting those assets necessary to preserve the possibility of equitable relief." *Reebok Int'l, Ltd. v. Marnatech Enters., Inc.*, 970 F.2d 552, 559–60 (9th Cir. 1992) (quotation omitted).

Second, the People's fraudulent transfer claim entitles them to an equitable interest in Corteva's assets. The People seek to void the DuPont Defendants' fraudulent transfer scheme and establish a constructive trust. Cal. Civ. Code § 3439.07(a)(3)(A) (Uniform Voidable Transfer Act ("UVTA") authorizes injunctions against disposition of fraudulently transferred assets); *e.g.*, SAC ¶ 562 & p. 126. These equitable remedies "require[] preservation of [Corteva's] assets" to preserve any possibility of relief. *Oncology Assocs.,* 198 F.3d at 498. The Vylor Spinoff threatens to further dissipate assets as part of a multi-year scheme designed to shield valuable assets from creditors. Trabucchi Decl. ¶¶ 21–39. Freezing Corteva's assets before they are split from its PFAS liabilities is necessary to secure a constructive trust over those assets and is within the Court's discretion to impose. *See, e.g.*, *In re Focus Media Inc.*, 387 F.3d 1077, 1084–87 (9th Cir. 2004).

VI. The People are Likely to Succeed on the Merits of Their Equitable Claims.

To secure relief here, the People need only demonstrate a likelihood of success on a single cause of action. *Salomon & Ludwin, LLC v. Winters*, 150 F.4th 268, 273 n.1 (4th Cir. 2025). Prevailing on any of the three Environmental Claims is sufficient because the assets Corteva is now attempting to shed are the assets it needs to satisfy its own liability to equitably redress environmental harms. Likewise, prevailing on the fraudulent transfer claim is sufficient because the assets Corteva would now divest constitute part of the assets that should be placed in a constructive trust. As detailed below, the People are likely to succeed on all four equitable claims.

A. The People are Likely to Succeed on Their Public Nuisance Claim.

The DuPont Defendants' contribution to widespread contamination in California has and continues to create a public nuisance. Old DuPont promoted its PFAS products to Californians for over half a century without warning of their known toxicity, causing pervasive PFAS contamination and unlawfully harming Californians' health and public resources.

A nuisance includes "[a]nything which is injurious to health," or is "an obstruction the free use of property, so as to interfere with the comfortable enjoyment of life or property." Cal. Civ. Code § 3479. A public nuisance is a nuisance that affects a "considerable number of persons," *id.* § 3480, such that it "interfere[s] with[] the exercise of *rights common to the public*," *People ex rel. Gallo v. Acuna*, 929 P.2d 596, 603 (Cal. 1997). California courts require a defendant's conduct be a "substantial factor in causing the nuisance." *E.g.*, *ConAgra*, 227 Cal. Rptr. 3d at 543 (emphasis omitted). "Affirmative promotion" of a product for a use that a defendant "*knew to be hazardous*" will satisfy this element, *id.* at 529, which "require[es] only that the contribution of the individual cause be more than negligible or theoretical," *id.* at 543 (quotation omitted). "[T]he critical question is *whether the defendant created or assisted in the creation of the nuisance*." *Citizens for*

Odor Nuisance Abatement v. City of San Diego, 213 Cal. Rptr. 3d 538, 546 (Cal. Ct. App. 2017) (quotation omitted). Old DuPont undeniably did so here.

1. The DuPont Defendants' Affirmative Promotion of PFAS, Despite Knowledge of Its Toxicity, Satisfies Substantial Factor Causation.[10]

The DuPont Defendants' conduct was a substantial factor in causing the PFAS contamination California now faces. As early as 1954, Old DuPont received "[a]n inquiry . . . as to the possible toxicity of [PFOA]." Biehl Decl. ¶ 41, Ex. 8. Old DuPont spent the next four decades confirming the toxicity, bio-persistence, and environmental and health consequences of PFOA. *Id.* ¶¶ 42–43, Exs. 9–10. For instance, Old DuPont knew in 1961 that PFOA could cause liver enlargement in rats at low doses and by 1979 that exposed workers may face "an excess risk of developing liver disease." *Id.* ¶¶ 44–45, Exs. 11–12. Old DuPont also knew PFOA would bio-accumulate and contaminate water supplies, air, land, and natural resources. *Id.* ¶¶ 46–52, Exs. 13–19. And it knew that the only way to prevent harm from these chemicals was by discontinuing their use. *Id.* ¶¶ 53–54, Exs 20–21. Yet it opted "[redacted]" instead continuing to affirmatively promote products it knew were hazardous. *Id.* ¶ 55, Ex. 22. Indeed, already among the world's largest PFOA users, Old DuPont also became one of the largest manufacturers after 3M left the market in the early 2000s. *See id.* ¶¶ 56–57, Exs. 23–24.

Time and again, Old DuPont failed to warn customers and regulators about PFAS toxicity for fear of the "incremental liability" it faced for "do[ing] nothing" and because it was "already liable for the past 32 years of operation." *Id.* ¶ 58, Ex. 25. As early as 1979, Old DuPont considered issuing an 8E notification under the Toxic Substances Control Act ("TSCA")[11] for their PFAS

[10] While the *ConAgra* court found liability based on the promotion of a hazardous use of a product, the People maintain that affirmative promotion for hazardous use is not a required element of nuisance liability, but merely one way to prove nuisance liability.

[11] *See* 15 U.S.C. § 2607(e) (requiring notification where chemical manufacturer knows that a "substance or mixture presents a substantial risk of injury to health or the environment. . . .").

products due to "their potential for bioaccumulation." *Id.* ¶ 59, Ex. 26. In 1993, [redacted]. *Id.* ¶ 60, Ex. 27. That same year, Old DuPont considered and then rejected a carcinogen warning for a PFOA product for optics reasons. *Id.* ¶ 61, Ex. 28. Instead, the DuPont Defendants repeatedly and deceptively assured consumers that its PFAS products [redacted] *Id.* ¶¶ 62–64, Exs. 29–31.

This pattern played out in California too, where Old DuPont conducted substantial PFAS-related business. Between [redacted] alone, Old DuPont sold at least [redacted] of its PFAS products into California, *id.* ¶ 65, Exs. 32a–32b, and at least [redacted] California plants appear to have used these products, *id.* ¶¶ 66–67, Exs. 33–34. Old DuPont thus indisputably knew its PFAS products were in California. As elsewhere, Old DuPont affirmatively promoted those products in California and misrepresented their toxicity and potential health impacts to both customers and regulators. For instance, Old DuPont [redacted] just months after its own Epidemiology Review Board "strongly advise[d] against any public statements" making such assertions due to questions about Old DuPont's "evidential basis." *Id.* ¶¶ 68–69, Exs. 35–36. Old DuPont continued [redacted] *See id.* ¶ 70, Ex. 37.

Courts have found substantial factor causation for analogous conduct. *E.g.*, *ConAgra*, 227 Cal. Rptr. 3d at 529 (defendants' "affirmative promotion of lead paint for interior use" created a public nuisance where defendants knew the hazards of indoor lead paint); *Cnty. of Los Angeles v. Monsanto Co.*, 2019 WL 13064885, at *10 (C.D. Cal. Nov. 21, 2019) (defendants' affirmative promotion of PCBs while downplaying risks supported public nuisance liability where defendants knew of PCBs' toxicity for decades).[12] Here, Old DuPont's conduct satisfies substantial factor causation, rendering the DuPont Defendants—including Corteva, which expressly assumed Old DuPont's PFAS liabilities (*infra* Argument § III.A.3)—jointly and severally liable for the entire harm.[13] Even under such a theory, the Vylor Spinoff would impair the People's right to equitable relief, especially given the multitude of liabilities Corteva faces.

2. PFAS Contamination Unreasonably Interferes with Public Rights.

As a result of the DuPont Defendants' deceptive conduct, PFAS have contaminated State resources without the People's knowledge or consent. PFAS contamination is now ubiquitous in California, contaminating nearly all tested Californians' blood and the State's public drinking water sources, fish, wildlife, water bodies, and soil. *Supra* Statement of Facts § II. Such widespread contamination poses a "substantial and unreasonable interference with a public right." *ConAgra*, 227 Cal. Rptr. 3d at 525; *see also, e.g.*, *Monsanto*, 2019 WL 13064885, at *11 (fish contamination sufficient to warrant consumption advisories constituted an interference with public rights).

The DuPont Defendants can claim no social utility from deceiving customers about the harmful nature of their products. *See San Diego Gas & Elec. Co. v. Super. Ct.*, 920 P.2d 669, 697 (Cal. 1996) ("The primary test for determining whether the invasion is unreasonable is whether the gravity of the harm outweighs the social utility of the defendant's conduct . . . ."); Rest. (2d) Torts § 826. Socially useful business practices involve disclosing, not concealing, known hazards to consumers, who can then make informed decisions. State statutes exist "to protect consumers

[12] The *Monsanto* court explained that "Monsanto purportedly instructed its customers to dispose of PCB containing wastes in local landfills, knowing that landfills were not suitable for PCB-contaminated waste." *Id.* Here, too, Old DuPont knew "undesirable materials such as . . . [PFOA]" could make their way from landfills to groundwater sources, Biehl Decl. ¶ 46, Ex. 13, and that their PFAS-containing products would commonly be placed in landfills or soil, *id.* ¶ 70, Ex. 37.

[13] Alternatively, the People may proceed on a market share theory of liability, which would hold the DuPont Defendants liable for their share of the PFAS market, rather than the whole harm facing the People. *See Sindell v. Abbott Lab'ys*, 607 P.2d 924, 937 (Cal. 1980).

from unfair or deceptive business practices and advertising" precisely because deceptive business practices—like those here—are socially disadvantageous. *Nationwide Biweekly Admin., Inc. v. Super. Ct.*, 462 P.3d 461, 488 (Cal. 2020). Regardless, any conceivable social utility of the DuPont Defendants' deception is outweighed by the severe environmental and human health impacts described in this motion. *Supra* Statement of Facts § II. As Old DuPont explained, "the only sure way achieve to no detectable [PFOA in human blood] is to stop using [it]." Biehl Decl. ¶ 54, Ex. 21.

But the Dupont Defendants did not, and have not, stopped using PFAS. *E.g.*, *id.* ¶¶ 71–72, Exs. 38–39. [redacted]. *Id.* ¶¶ 73–75, Exs. 40–42. The DuPont Defendants (including Chemours) continue to manufacture PFAS chemicals including GenX. *Id.* ¶ 76, Ex. 43. Rather than abate the nuisance they created, the DuPont Defendants are aggravating it by continuing to manufacture, market, and sell PFAS.

Even had the DuPont Defendants stopped dispersing PFAS-containing products, the harm created would be ongoing. PFAS are known as "forever chemicals" because they bioaccumulate in people and wildlife in the State and do not biodegrade. *Supra* Statement of Facts § II. As the *ConAgra* court explained in the context of lead paint exposure, a nuisance is continuing when the contaminant "will not disappear on its own." 227 Cal. Rptr. 3d at 551 (quotation omitted). Here, too, the public nuisance is continuous and ongoing.

3. Because Corteva Assumed Old DuPont's PFAS Liabilities, It Is Liable for Nuisance and Other Environmental Claims Regardless of Fraud Transfer.

For the above reasons, the People are likely to succeed on their public nuisance claim—and are entitled to the creation of an equitable abatement fund to remedy the nuisance—because the DuPont Defendants wrongfully promoted PFAS products for decades, causing substantial contamination of State resources and serious injuries to public health. Irrespective of the merits of the People's fraudulent transfer claim (an additional basis for liability), Corteva is liable for nuisance abatement because, despite Old DuPont's efforts to foist PFAS liabilities onto Chemours through the 2015 spinoff, Corteva expressly assumed Old DuPont's PFAS liabilities. Armstrong Decl. ¶¶ 73–74. Several courts have made this determination at various procedural postures, including the North Carolina Supreme Court, which rejected the argument "that Chemours validly assumed all PFAS-related liabilities to the exclusion of all parties that would otherwise be liable," and affirmed that "Corteva and New DuPont expressly assumed Old DuPont's PFAS-related liabilities." *State ex rel. Stein v. E. I. du Pont de Nemours & Co.*, 879 S.E.2d 537, 546–47 (N.C. 2022); *see also New Hampshire v. 3M et al.*, No. 216-2019-CV-00445, Merrimack Cnty. Super. Ct. Order at 20–21 (N.H. Super. Ct. July 7, 2021) (same); *Ohio ex rel. Yost v. E.I. DuPont de Nemours and Co., et al.*, Washington C.P., No. 18OT32, Order (Aug. 2, 2021) (granting cross motion for partial summary judgment on assumption of liabilities). Corteva thus assumed Old DuPont's liabilities for the People's nuisance and other Environmental Claims.

B. The People are Likely to Succeed on Their Government Code section 12607 Claim.

The DuPont Defendants' affirmative and deceptive promotion of PFAS products, despite their knowledge of PFAS toxicity, bio-persistence, and resulting contamination, has caused and continues to cause "pollution, impairment, [and] destruction" of California's natural resources. Cal. Gov't Code § 12607. As such, the People are likely to succeed on their claim seeking equitable relief (like an order for environmental remediation) under this statute.

California law "recognize[s] the Attorney General's unique authority to protect the environment of the State of California." *City of Long Beach v. City of Los Angeles*, 228 Cal. Rptr.

3d 23, 33 (Cal. Ct. App. 2018). Specifically, section 12607 of the California Government Code authorizes the Attorney General to "maintain an action for equitable relief in the name of the people of the State of California against any person for the protection of the natural resources of the state from pollution, impairment, or destruction." This statute "shall be liberally construed and applied to promote its underlying purposes." Cal. Gov't Code § 12603.

All threshold statutory requirements are satisfied: the DuPont Defendants are "person[s]" within the meaning of section 12604, and section 12605 defines "natural resource" to include the very resources for which the People seek redress here: land, water, air, and California's other ecological resources, including those which may contribute to public health. Further, the DuPont Defendants' deceptive conduct has caused or contributed to the impairment and destruction of the State's natural resources—and will continue to do so.[14] As discussed above, Old DuPont marketed and distributed PFAS products to California knowing that, when used as directed, they would contaminate California's natural resources. Biehl Decl. ¶¶ 45, 47–51, 64, Exs. 13, 15–19, 32. In doing so, the DuPont Defendants have polluted, impaired, and destroyed California's natural resources. The People therefore easily meet the elements of section 12607.

[14] An affirmative defense is available for defendants who show "there is no more feasible and prudent alternative to [their] conduct," and "such conduct is consistent with the protection of the public health, safety, and welfare." Cal. Gov't Code § 12608. DuPont Defendants are expected to assert an affirmative defense that their PFAS intermediates used in Mil-Spec AFFF were beneficial to military personnel. However, even if some PFAS-containing products had some public benefit, deceptive promotion and concealment of the hazards of these products is not beneficial to the public. DuPont Defendants could have feasibly promoted and sold their PFAS products without reliance on their campaigns of deception, and they could have provided adequate warnings about the harms of their products and promoted their products without, for example, advertising that they were safe for their intended use—when they were not. Furthermore, defendants have the burden to prove affirmative defenses at the preliminary injunction stage. *Real Time Med. Sys., Inc. v. PointClickCare Techs., Inc.*, 131 F.4th 205, 223 (4th Cir. 2025).

C. The People are Likely to Succeed on Their Unfair Competition Claim.

The People are likely to prevail on their UCL claim for two independent reasons. First, because the People are likely to prevail on their public nuisance claim, they are likely to prevail on their UCL claim, entitling them to restitution and other equitable remedies. *See* Cal. Bus. & Prof. Code § 17203. Section 17200's "unlawful" business acts or practices language, *id.* § 17200, "borrows violations of other laws," such as statutory public nuisance, "and treats them as unlawful practices" that are "independently actionable." *Cel- Tech Comms., Inc. v. L.A. Cellular Tel. Co.*, 973 P.2d 527, 539–40 (Cal. 1999) (quotations omitted). Thus, statutory public nuisance is one basis for a violation of the UCL. *E.g.*, *People ex rel. Trutanich v. Joseph*, 140 Cal. Rptr. 3d 9, 18–19 (Cal. Ct. App. 2012).[15] Accordingly, because the People are likely to prevail on their nuisance claim, they will also prevail on their UCL claim.

Second, the People are likely to prevail under the UCL because the UCL also bars "fraudulent" business practices. *Stop Youth Addiction, Inc. v. Lucky Stores, Inc.*, 950 P.2d 1086, 1097 (Cal. 1998). The UCL's fraud element "only requires a showing [that] members of the public are likely to be deceived." *Saunders v. Superior Ct.*, 33 Cal. Rptr. 2d 438, 441 (Cal. Ct. App. 1994) (quotations omitted). The DuPont Defendants [redacted], despite knowing for decades that PFAS are toxic and cause adverse health impacts. Biehl Decl. ¶¶ 41–48, Exs. 8–15; ¶¶ 62–64, Exs. 29–31. The DuPont Defendants' conduct was likely to and did deceive the public, and as such, constitutes fraudulent business practices under the UCL entitling the People to restitution and other UCL remedies.

[15] Likewise, the UCL violation may be predicated on the DuPont Defendants' fraudulent transfers. *E.g.*, *In re Yoon*, No. 19-42763, 2025 WL 52552, at *12 (Bankr. N.D. Cal. Jan. 8, 2025) (tying UCL to UVTA violation).

D. The People are Likely to Succeed on Their Fraudulent Transfer Claim.

The People will also establish that the DuPont Defendants are engaged in a continuing scheme of fraudulent transactions to shield their valuable assets from their PFAS liabilities.

To prove a transfer is voidable under a constructive fraud theory, a creditor[16] must show (1) the debtor did not receive "reasonably equivalent value" in exchange for the transfer; and (2) either the debtor's remaining assets were "unreasonably small in relation to" the transaction, or the debtor "[i]ntended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due." Cal. Civ. Code § 3439.04(a)(2); *see also id.* § 3439.05 (present creditors may also establish that the debtor was insolvent at the time of the transfer or "became insolvent as a result"). To prove a transfer is voidable under an actual fraud theory the creditor must show that the debtor had "actual intent to hinder, delay, or defraud any creditor." *Id.* § 3439.04(a)(1), (b). Courts consider circumstantial evidence to evince actual intent, focused on myriad "badges of fraud." *In re Fox Ortega Enters.*, 631 B.R. 425, 445 (Bankr. N.D. Cal. 2021); *Filip v. Bucurenciu*, 28 Cal. Rptr. 3d 884, 890 (2005); *In re Medina*, 619 B.R. 236, 242–43 (B.A.P. 9th Cir. 2020), *aff'd*, 2021 WL 3214757 (9th Cir. July 29, 2021). For example, courts may consider whether "the debtor had been sued or threatened with suit" before the transfer; "the transfer or obligation was to an insider"; or whether the debtor received reasonably equivalent value. Cal. Civ. Code § 3439.04(b). "There is no minimum number of factors that must be present before the scales tip in favor of finding actual fraud." *Filip*, 28 Cal. Rptr. 3d at 890. Indeed, "fraudulent intent may be found even where no badges of fraud are found, when otherwise supported by the evidence." *In re Fox Ortega*, 631 B.R. at 445 (citation omitted).

[16] *See* § 3439.04(a). A creditor need not have a judgment to have a claim. *Potter v. Alliance United Ins. Co.*, 250 Cal. Rptr. 3d 282, 294–95 (Cal. Ct. App. 2019). The People are creditors of the DuPont Defendants through their PFAS claims.

"Where a transfer is only a step in a general plan, the plan must be viewed as a whole. . . ." *Orr v. Kinderhill Corp.*, 991 F.2d 31, 35 (2d Cir. 1993) (citation modified); *In re DSI Renal Holdings, LLC*, 574 B.R. 446, 467 (Bankr. D. Del. 2017) (explaining that courts will "collapse" "a series of transactions upon a showing that the transactions were part of an overall scheme to defraud" creditors). The related transactions "may be independent or distinct from one another," or separated by "the passage of some time," but this is "not fatal" because "courts focus their analysis not on the structure but the knowledge and intent of the parties involved." *In re Maxus Energy Corp.*, 641 B.R. 467, 531–32 (Bankr. D. Del. 2022) (citation modified). Evaluating each transfer in the scheme separately, by contrast, would give "a shrewd and unscrupulous enterprise . . . free reign to hinder and delay creditors so long as they could do it in [multiple] steps several years apart." *In re Tronox Inc.*, 503 B.R. 239, 271 (Bankr. S.D.N.Y. 2013).

Here, the People are likely to succeed on their claim that the DuPont Defendants' ongoing scheme to shield their assets from their PFAS liabilities is voidable as a constructive and actual fraudulent transfer.[17]

1. Constructive fraudulent transfer

Extensive evidence demonstrates that the DuPont Defendants' ongoing conduct constitutes a constructive fraudulent transfer. The DuPont Defendants did not receive "reasonably equivalent value" for the transactions in their fraudulent scheme, and they knew they would incur debts beyond their ability to pay, specifically and intentionally their PFAS debts. Cal. Civ. Code § 3439.04(a)(2)(B); SAC ¶¶ 545–54, 564–73, 585–92.

[17] Notably, this Court previously ruled that the *Stuart* bellwether plaintiff made a prima facie showing of fraudulent transfer. *See* ECF No. 2222 at 11–12 ("Old DuPont entered into the 2015 Chemours transfer fraudulently to escape liability"). That finding, based on the same operative facts here, is sufficient to establish the People's likelihood of success. *See* 11A Charles Alan Wright & Arthur R. Miller, Fed. Prac. & Proc. § 2948.3 (3d ed.) (plaintiff "must present a prima facie case but need not show a certainty of winning").

Prior to the Chemours Spinoff, [redacted]. SAC ¶¶ 294–95, 312; Armstrong Decl. ¶¶ 11–14, 20. [redacted] Armstrong Decl. ¶ 30 n.34. In 2015, Chemours paid $3.9 billion for Old DuPont's Performance Chemicals assets and agreed to a broad assumption of—and uncapped indemnification for—Old DuPont's liabilities for its historical use, manufacture, and discharge of PFAS. SAC ¶¶ 291–321; Armstrong Decl. ¶¶ 15–17. Post-spin events, however, demonstrate [redacted]. Armstrong Decl. ¶¶ 25–70. Within months, Chemours [redacted] publicly acknowledged that it did not have sufficient cash flow. *Id.* ¶¶ 61–64, 70. [redacted]. *Id.* ¶¶ 34–56.[18] As such, Chemours did not receive reasonably equivalent value and intended to or knew it would incur debts beyond its ability to pay as a result of the 2015 Chemours Spinoff.

From 2015 to 2019, the DuPont Defendants implemented the next steps in their scheme to isolate and divest Old DuPont's assets from their PFAS liabilities. SAC ¶¶ 322–43. Through various reorganizations, Old DuPont transferred the majority of its non-PFAS assets to New DuPont and Dow. *Id.* ¶¶ 328–32; Armstrong Decl. ¶¶ 71–74. Corteva received Old DuPont's Seed

[18] Thus, taking into account the full value of Old DuPont's PFAS liabilities, Chemours would have been insolvent at spin. *See* Cal. Civ. Code § 3439.05; *In re W.R. Grace & Co.*, 281 B.R. 852, 856, 867–68 (Bankr. D. Del. 2002) (Insolvency at the time of transfer can be proven by evidence that comes to light later—*i.e.*, evidence of actual liabilities—regardless of what the debtor "may have known about those liabilities on the transfer date").

and Crop Protection assets and holds Old DuPont as a wholly owned subsidiary. Armstrong Decl. ¶¶ 71–72. Through these transactions, Old DuPont gave roughly half its assets to Corteva and New DuPont for which it did not receive reasonably equivalent value. *See* Armstrong Decl. ¶ 76.

Finally, Chemours did not receive reasonably equivalent value for the release of certain rights under the 2021 and 2025 MOUs and intended to or knew it would incur debts beyond its ability to pay as a result. *See* SAC ¶¶ 344–57. Under the 2021 MOU, Chemours waived its rights to bring claims related to the Chemours Spinoff in exchange for a cost-sharing arrangement under which it is responsible for 50% of future PFAS liabilities arising out of pre-July 1, 2015 conduct, while Corteva and New DuPont are collectively responsible for the other 50%, up to a $4 billion cap. Armstrong Decl. ¶¶ 83–84. After the cap is reached, Chemours' *un*capped indemnification obligations under the Chemours Separation Agreement will resume. *Id.* Under the 2025 MOU, Chemours waived its rights to insurance proceeds for PFAS-related liabilities, valued at approximately $375 million, in exchange for $150 million and future rights to just 50% of insurance proceeds once Corteva and New DuPont recoup that $150 million, plus a fee. *Id.* ¶ 87. Chemours did not receive reasonably equivalent value for the 2021 and 2025 MOUs because Chemours will be responsible for indemnifying Corteva and New DuPont for *all* PFAS liabilities above the $4 billion cap set by the 2021 MOU, which is grossly undervalued, yet it will only be entitled to 50% of future insurance payouts.

Chemours knew it would incur debts beyond its ability to pay as a result of the 2021 and 2025 MOUs. Notably, Chemours was aware at the time of the 2021 and 2025 MOUs that thousands of cases were pending against the DuPont Defendants, likely seeking tens (if not hundreds) of billions of dollars, and that the $4 billion liability cap under the 2021 MOU was therefore grossly undervalued. Biehl Decl. ¶ 77, Ex. 44. Chemours knew or reasonably should have known this undervalued liability cap would likely cause it to incur debts beyond its ability to pay once the cap was reached. *See* Armstrong Decl. ¶¶ 25–70.

The People are likely to succeed on the merits of their fraudulent transfer claim under a constructive fraud theory. Absent the relief requested by this motion, the DuPont Defendants would be allowed to complete a culminating step in their fraudulent scheme whose purpose and effect—as discussed in more detail below, *infra* § IV—would be to further insulate assets from the People and other creditors by leaving New Corteva inadequately capitalized and unable to pay its liabilities—especially its PFAS liabilities.

2. Actual fraudulent transfer

Additionally, there is ample evidence showing actual intent, demonstrating that Old DuPont created Chemours, Corteva, New DuPont, and Qnity and entered various agreements in a years-long scheme designed to transfer valuable assets beyond the reach of known creditors. Most significantly, as discussed above, the net result of the DuPont Defendants' multi-step scheme, which continues today, is a material diminution in assets, net worth, and enterprise value.[19] Indeed, since the 2019 Corteva Spinoff, New DuPont, Chemours, Corteva, and Qnity have shed nearly $29 billion to shareholders via stock buybacks and dividends. Armstrong Decl. ¶¶ 96–114; *see* Cal. Civ. Code § 3439.04(b)(7) ("remov[ing] or conceal[ing] assets" indicates actual fraudulent intent). These actions evince actual fraudulent intent.

The DuPont Defendants also made these transactions "with the presence of numerous 'badges of fraud,'" which "support inferences that the transactions were made with actual intent to defraud." *See In re Fox Ortega*, 631 B.R. at 432. For instance, the DuPont Defendants faced

[19] For example, since 2019, Old DuPont has shed $48 billion in assets, $28 billion in net worth, and returned $18.2 billion to shareholders through dividends and stock buybacks, equating to a 70% diminution in total assets, 67% diminution in net worth, and 70% diminution in enterprise value. Trabucchi Decl. ¶¶ 12–15.

thousands of pending lawsuits and mounting liabilities at the time of each transaction or agreement in their multi-step scheme to shield their assets from their PFAS liabilities. *E.g.*, Statement of Facts § III, *supra*; Armstrong Decl. ¶¶ 34–48; Cal. Civ. Code § 3439.04(b)(4) (debtor being "sued or threatened with suit" indicates actual fraudulent intent). Old DuPont knew its liabilities were massive when it spun off Chemours, and litigation was continuously mounting leading up to the 2019 Corteva Spinoff and 2021 and 2025 MOUs. *Id.*

Additionally, DuPont Defendant insiders controlled each transaction in their multi-step scheme: [redacted]; New DuPont controlled Old DuPont and Corteva when Old DuPont became a wholly owned subsidiary of Corteva; and the DuPont Defendants drafted the MOUs and control every aspect of those agreements (*e.g.*, Corteva and New DuPont control Chemours' rights to insurance proceeds for PFAS-related liabilities under the 2025 MOU). *See* Armstrong Decl. ¶¶ 11–14, 20, 71–75, 83–84, 87; Cal. Civ. Code § 3439.04(b)(1) (transfer or obligation to "insider" indicates actual fraudulent intent). The same is true for the upcoming Vylor Spinoff: Corteva's CEO and key board members are moving to Vylor, with Corteva controlling the entire transaction. Armstrong Decl. ¶ 117. Moreover, the lack of reasonably equivalent value exchanged during the DuPont Defendants' ongoing, multi-step scheme and insolvency issues double as badges of fraud indicating actual fraudulent intent. Cal. Civ. Code § 3439.04(b)(8)-(9).

The People are therefore likely to succeed on their fraudulent transfer claim under both constructive and actual fraud theories.

VII. The People Will Suffer Immediate and Irreparable Harm Absent Preliminary Relief.

Allowing Corteva to transfer its most valuable business lines to Vylor—comprised of legacy assets originating from Old DuPont—while stranding Old DuPont's historic PFAS and pension liabilities with its less profitable business lines in New Corteva will result in a destabilized

New Corteva that is unable to satisfy PFAS judgments. Trabucchi Decl. ¶¶ 11–13, 22–26, 34; Armstrong Decl. ¶¶ 124–136. Additionally, the Vylor Spinoff will materially diminish Corteva's total assets and net worth and allow New Corteva to follow in the footsteps of its predecessors by rapidly dissipating the Vylor cash dividend to shareholders post-spin. Trabucchi Decl. ¶¶ 33–36; Armstrong Decl. ¶¶ 96–114, 124–36. Thus, the Vylor Spinoff will immediately and irreparably harm the People and all MDL plaintiffs by eliminating a massive and critical source of potential relief. Biehl Decl. ¶¶ 11–32.

The People therefore request a TRO to prevent this result, including an asset freeze for the duration of this MDL to maintain all MDL plaintiffs' ability to seek relief. *See Solar Eclipse Inv. Fund XXXV, LLC v. $5,000,000.00 U.S. Dollars Deposited to IOLTA Acct. of Strauss L. Firm, LLC*, 2019 WL 1930752, at *2 (D.S.C. Apr. 30, 2019) (finding irreparable harm and issuing a TRO where the defendant provided no "assurance of non-disbursement" of the assets at issue); *Ashmore v. Carr*, 2012 WL 1032548, at *2–3 (D.S.C. Mar. 27, 2012) (finding irreparable harm and issuing TRO to prevent defendant from encumbering or transferring property and depriving the plaintiff of a remedy); *see also Hendricks v. Bank of Am., N.A.*, 408 F.3d 1127, 1141 (9th Cir. 2005) (finding irreparable injury where defendants were "in serious financial straits" and would likely "dissipate" the funds before judgment could be obtained); *Amazon.com, Inc. v. WDC Holdings LLC*, 2021 WL 3878403, at *8 (4th Cir. Aug. 31, 2021) (per curiam) (preliminary injunction proper where money damages are inadequate due to defendant's impending insolvency or where defendant's assets likely to be dissipated before judgment).

A. New Corteva Will Be Unstable as a Result of the Transaction.

The Vylor Spinoff will remove $22 billion in assets and $17 billion in net worth from Corteva's coffers. Trabucchi Decl. ¶ 24. Yet Vylor plans to pay just $3.56 billion in consideration for Corteva's Seed segment, despite Seed being the primary driver behind Corteva's $38.7 billion growth in enterprise value and $21.3 billion in total operating EBITDA since 2019. *Id.* ¶¶ 30–33, figs. 4 & 5. Because the Vylor Spinoff will intentionally isolate all historic PFAS liabilities in New Corteva, this material diminution in assets and net worth and "particularly *de minimis*" consideration will leave New Corteva inadequately capitalized post-spin. *Id.* ¶¶ 13, 32. Indeed, New Corteva will have at least $9.5 billion in reported liabilities upon spinoff. Armstrong Decl. ¶ 129. Even in conservative scenarios, the DuPont Defendants (including New Corteva) will also face an estimated $12 to $73 billion in contingent liabilities for mass tort exposure, and it will face additional exposure to remaining Sovereign suits—all liabilities that Corteva did not disclose in the financial documents underlying this transaction. Hinton Decl. ¶¶ 16, 71–73, Tables 8–9; Biehl Decl. ¶¶ 78–81, 83, 85, Exs. 45–48, 50. Yet New Corteva will only be able to sustain between $6.1 and $6.7 billion in additional PFAS-related judgments post-spin before becoming unstable. Armstrong Decl. ¶¶ 124–36. California's damages for PFOA impacts are estimated at $88.3 to $166 billion. *Supra* Statement of Facts § II. These liabilities therefore dwarf the total assets of all the DuPont Defendants combined.[20] *See* Armstrong Decl. ¶ 138.

As another example, once the DuPont Defendants' cost-sharing obligations under the 2021 MOU imminently terminate, their ability to pay creditors will be further eroded. *See* Armstrong Decl. ¶¶ 83–84, 92–95 (as of June 30, 2026, New DuPont and Corteva only have an estimated $862 million in remaining qualified spend contributions).[21] Chemours is responsible for indemnifying the other DuPont Defendants for all PFAS liabilities once they reach $4 billion in contributions. *Id.* ¶ 84. Yet under the 2025 MOU, Chemours is prohibited from receiving PFAS-

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[20] New Corteva can be held jointly and severally liable, along with all DuPont Defendants, for harms stemming from Old DuPont's conduct. *ConAgra*, 227 Cal. Rptr. 3d at 525, 548–49, 556–58 (upholding joint and several liability for public nuisance).

[21] This estimate does not account for the North Carolina settlement announced just last week, totaling $455 million, meaning the remaining qualified spend is now $407 million.

related insurance proceeds until certain conditions are met and thereafter will only be entitled to 50% of such proceeds. *Id.* ¶ 87. Chemours is already highly undercapitalized and will not be able to shoulder the DuPont Defendants' massive PFAS liabilities.[22] In any case, collectively the DuPont Defendants are estimated to be able to withstand a judgment of only $9.7 to $18.9 billion before they become unstable. Armstrong Decl. ¶¶ 137–46. Because the DuPont Defendants will not be able to satisfy a judgment for the full amount of recovery sought by the People, the Vylor Spinoff as presently planned will eliminate a substantial source of potential relief, irreparably harming the People and all MDL plaintiffs.

B. Corteva's Continuing Asset Dissipation Scheme Impairs the People's Relief.

The DuPont Defendants have engaged in a series of transactions that have siphoned billions of dollars from the reach of creditors. The People—and all DuPont Defendant creditors—will suffer immediate, irreparable harm if Corteva is permitted to repeat this pattern through the Vylor Spinoff. *See Time 2 Shine BMX LLC v. McEvoy*, 2025 WL 2099956 at *4 (D.S.C. July 25, 2025) (finding irreparable harm requirement satisfied when a defendant, based on prior conduct, "appears likely to attempt to use and deplete or transfer" the money it obtained fraudulently).

New DuPont provides a cautionary tale. Through systematic divestitures of business lines it inherited from Old DuPont, New DuPont has shed approximately $48 billion in assets and $28 billion in net worth and returned $18.2 billion to shareholders via dividends or stock buybacks since 2019, resulting in a nearly 70% diminution in assets and enterprise value and 67% diminution in net worth. Trabucchi Decl. ¶¶ 14–17, 35. Now, Corteva plans to shed another $39 billion in assets and net worth through the Vylor Spinoff. *Id.* ¶¶ 24; *supra* at 1. This will result in an immediate 53% diminution in assets and 67% diminution in net worth. *Id.* ("By these measures,

[22] The United States "determined that [Chemours] ha[d] a limited ability to pay" civil penalties as part of a consent decree relating to certain manufacturing facilities. Biehl Decl. ¶ 82, Ex. 49.

New Corteva will be a much smaller enterprise with far fewer resources available to redress environmental harm"); *id.* ¶¶ 21–29.

New Corteva will receive just $3.56 billion in consideration for the Vylor Spinoff—yet even those funds are not safe from dissipation. *Id.* ¶¶ 33–36. Nothing prevents New Corteva, for example, from immediately returning this cash to shareholders, a tactic the DuPont Defendants have historically opted for at the expense of creditors. *See id.* Collectively, they have returned nearly $29 billion to shareholders through dividends or stock buybacks since 2019. Armstrong Decl. ¶¶ 96–114. Those funds are now "permanently out of reach." Trabucchi Decl. ¶ 35.

The Vylor Spinoff will severely diminish the People's ability to secure compensation for natural resources and public health injuries and will put at risk its requested relief for a nuisance abatement fund, equitable remedies under California Government Code section 12607 and the unfair competition law, and a constructive trust. *Thrailkill v. Gordon*, 2010 WL 11552964, at *4 (C.D. Cal. July 27, 2010) (plaintiff alleged insolvent defendant was in "serious financial straits" and court found plaintiff had an interest in the assets to be frozen because plaintiff requested restitution/disgorgement and injunctive relief under the unfair competition law). A freeze order is "supported by a showing of fraud, mismanagement, or other reason to believe that, absent the freeze order, the assets would be depleted or otherwise become unavailable." *Kemp*, 940 F.2d at 114. Because the People seek equitable relief, and dissipation of assets would impair such relief, the risk of dissipation is sufficient to justify an asset-freezing preliminary injunction. *See Bellis v. Kelly*, 797 F. Supp. 3d 431, 437 (D.N.J. 2025) ("[I]rreparable harm exists where, absent an asset freeze, defendants are likely to dissipate or fraudulently convey the very assets necessary to satisfy a judgment."); *Johnson v. Couturier*, 572 F.3d 1067, 1085 (9th Cir. 2009) (same).

VIII. Granting a TRO and Asset-Freezing Injunction Serves a Significant Public Interest.

The Court should grant the requested relief because of the strong public interest in the People's case and potential benefits for all plaintiffs in the MDL and the general public. The Court has "enhanced authority" to issue an asset freezing injunction because a significant "public interest is at stake." *Oncology Assocs.*, 198 F.3d at 497, 499.

Here, the People are harmed by widespread PFAS contamination that affects the State's waters, land, and resources, and presents ongoing harm to public health. Preserving Corteva's assets to remediate and abate the contamination caused by their wrongful conduct therefore benefits public health and the environment. *See Pioneer Hi-Bred Int'l, Inc. v. AltEn, LLC*, 2023 WL 1822724, at *24 (D. Neb. Feb. 8, 2023) (asset freeze served public interest by "preserv[ing] monetary assets that could be used to further remediation efforts"); *Oncology Assocs.*, 198 F.3d at 499 (heightened public interest where money diverted from government programs was involved). In addition, preventing further fraud or misappropriation of funds by Corteva also serves the public interest. *See Time 2 Shine*, 2025 WL 2099956, at *5 (public interest served by preventing companies from "escaping responsibility through insolvency, gamesmanship with entities, and otherwise rending themselves judgment proof"); *Van Horn, Metz & Co., Inc. v. Crisafulli*, 2021 WL 4317186, at *8 (D.N.J. Sept. 23, 2021) (the public interest is "clearly served by preserving a potential judgment against claims of . . . fraudulent transfer").

The People, Sovereigns and Sub-Sovereigns supporting this motion, and tens of thousands of MDL plaintiffs and other DuPont Defendant creditors would benefit from a TRO and asset-freezing injunction because this relief would preserve potential relief for their claims, and simultaneously protect their ability to secure future abatement of toxic PFAS contamination.

IX. The Balance of Equities Tips Sharply in Favor of the People.

Any burden of a TRO or preliminary injunction is outweighed by the substantial public interest and the immediate and irreparable harm to the People in the absence of Court intervention.

The People do not seek to stop Corteva from operating, employing workers, or manufacturing or selling products. Instead, they seek injunctive relief to preserve the status quo and to prevent Corteva from evading its liabilities by putting its most valuable assets out of reach of the PFAS creditors in this MDL. The Fourth Circuit has upheld a preliminary injunction in circumstances just like these to prevent a liquidation of assets while litigation was pending, finding harm to the company speculative where it could proceed in the "regular course of business" and seek court approval of any extraordinary transactions. *U.S. ex rel. Taxpayers Against Fraud v. Singer Co.*, 889 F.2d 1327, 1335 (4th Cir. 1989); *see also, e.g.*, *State v. Paramount Skydance Corp.*, --- F.Supp.3d ---, 2026 WL 2088291 at *5 (N.D. Cal. July 20, 2026) (enjoining $110 billion merger as defendants would suffer "no apparent harm in the near term" and would "continue to operate . . . in the marketplace" while awaiting court's decision). Similarly, the Court could fashion both the TRO and asset freeze in a way that allows Corteva to engage in its ordinary course of business and to seek Court approval for transactions involving funds above a certain threshold.

The Court has several options under its broad, discretionary injunctive relief authority to protect and preserve assets for California's and other plaintiffs' remedies. The People request the Court immediately issue a temporary restraining order to, at a minimum, (1) restrain Corteva from effectuating the October 1 close of the Vylor Spinoff, including pausing any asset transfers away from Corteva and forbidding any distributions, share repurchases, or other disposition of assets related to the Vylor Spinoff. The Court should also issue a preliminary injunction that, at a minimum, orders (2) an asset-freezing injunction for the duration of this MDL covering at least the estimated diminution in total assets Corteva will likely realize immediately following the Vylor Spinoff (roughly $22 billion).[23] In addition to this primary relief, the People also request the Court:

(a) Enjoin Corteva from shielding Vylor from Old DuPont's long-tailed environmental obligations: Vylor's capital structure will comprise assets originating from Old DuPont's legacy Pioneer product line. *See* Trabucchi Decl. ¶¶ 21 n.16, 32; Armstrong Decl. ¶ 72 n.102. Thus, Vylor should assume historic liabilities associated with those assets.

(b) Enjoin EIDP, Inc., Corteva, or New Corteva from using the estimated $3.56 billion "Vylor cash distribution" to pay down Vylor's debt, including without limitation debt related to the Vylor Spinoff (assumed by or secured by Corteva, Vylor, or New Corteva), or returning the cash distribution to Vylor, Vylor's shareholders, Corteva, or New Corteva's shareholders, which would further "undermine the strength of New Corteva's capital structure." Trabucchi Decl. ¶¶ 34, 36.

(c) Enjoin a proportion of Vylor's future cash flow that is representative of the historic cash flow attributable to Old DuPont's Seed segment: from 2019 to 2025, Corteva realized a total operating EBITDA of $21.3 billion, with the Seed segment accounting for nearly 60%, or $12.4 billion. *Id.* ¶¶ 18–20, 33–34, Fig. 5. This represents, on average, approximately $1.8 billion per year attributable to Seed over a seven-year period.[24] Experts estimate that PFAS-related damages will be incurred in California for at least the next 30 years—and likely decades longer. *See, e.g.*, Fogg Decl. ¶ 14; Domanski Decl. ¶ 48; Steinmaus Decl. ¶ 11; Hinton Decl. ¶¶ 21, 44, 74 . Thus, to account for the historic cash flow attributable to Old DuPont's Seed segment, the Court should conservatively freeze $54 billion of Vylor's future cash flow (calculated as $1.8 billion per year over the next 30 years).

If the Court declines to issue a TRO or asset freeze prior to close of the Vylor Spinoff, the People request that the Court order New Corteva to set aside funds equivalent to the value of assets transferred to Vylor (approximately $22 billion) and secure those funds via surety bond and/or escrow to be held for the People and other creditors. The Fourth Circuit recently upheld a similar preliminary injunction that ordered defendants to secure funds "through the combination of a

[23] *See* Trabucchi Decl. ¶ 24, Fig. 7. The final the amount of diminution in total assets realized through the Vylor Spinoff, if permitted to close, will require a re-calculation of Vylor's post-spin Enterprise Value, benchmarked against New Corteva's post-spin Enterprise Value.

[24] This $1.8 billion figure is conservative, as it likely underestimates Vylor's future cash-generating potential—the Seed segment realized a compound *annual growth* rate in reportable segment operating EBITDA of 11.22% from 2019 to 2025, from $2.1 billion in 2019 to nearly $4 billion in 2025. Trabucchi Decl. ¶ 18, Fig 5.

surety bond and escrow through the entry and execution of final judgment." *Amazon.com, Inc.*, 2021 WL 3878403, at *3; *see id.* at *1. This alternative relief would have even less impact on Corteva. Securing funds equivalent to the value of Vylor's assets would not prevent the transaction from ultimately closing. Nor would it stop Vylor or New Corteva from engaging in business operations that grow the company's assets, now or in the future. The relief would simply set aside funds to be held to satisfy liabilities and prevent their dissipation—Corteva's current intent.

X. The Court Should Waive the Rule 65(c) Security Requirement.

The Court should either waive the bond requirement or set the bond at zero because the State seeks to preserve the status quo in pursuit of the public interest, and the risk of harm to Corteva is remote. Courts routinely waive the security requirement under Rule 65(c) or set nominal bonds in public interest litigation, *e.g. Planned Parenthood S. Atl. v. Wilson*, 520 F. Supp. 3d 823, 827 (D.S.C. 2021); *Paramount Skydance Corp.*, 2026 WL 2088291 at *5 (security waived where states sought to "enforce important public interests" by enjoining $110 billion merger), and where "the risk of harm is remote," *Hoechst Diafoil Co. v. Nan Ya Plastics Corp.*, 174 F.3d 411, 421 n.3 (4th Cir. 1999); *Solar Eclipse Inv. Fund*, 2019 WL 1930752, at *3 (setting bond at zero where there was no risk of material harm). For public interest environmental cases in particular, "[f]ederal courts have consistently waived the bond requirement," or set "only a nominal bond," because of "the potential chilling effect on litigation to protect the environment and the public interest." *Defs. of Wildlife*, 539 F. Supp. 3d at 561 (quoting *Landwatch v. Connaughton*, 905 F. Supp. 2d 1192, 1198 (D. Or. 2012), and setting nominal $100 bond).

Here, the People seek to stop the latest step in an ongoing fraudulent transfer scheme that has already depleted assets that should have been available to claimants like the People to remedy the public health and environmental harms of PFAS. The People do not seek to prevent Corteva from continuing to operate. The People merely seek to preserve funds that would leave Corteva's control through the Vylor Spinoff, to be held for potential payment of massive PFAS liabilities. Because the People's requested relief will not impact Corteva's day-to-day operations or operating capital, the People request that the Court waive the bond requirement.

CONCLUSION

For the foregoing reasons, the People respectfully request that the Court issue a temporary restraining order to, at a minimum (1) restrain Corteva from effectuating the October 1 closing of the Vylor Spinoff, including pausing any asset transfers away from Corteva and forbidding any distributions, share repurchases, or other disposition of assets related to the Vylor Spinoff. The Court should also grant the People's motion for preliminary injunction and specifically issue, at a minimum (2) an asset-freezing injunction for the duration of this MDL covering at least the estimated diminution in total assets Corteva will likely realize immediately following the Vylor Spinoff (roughly $22 billion) and additional relief set forth in section VI, *supra*. The People further request that the Court waive Rule 65(c)'s security requirement. Although the People have demonstrated sufficient grounds supporting preliminary injunctive relief, the People request an evidentiary hearing to present argument and evidence supporting the relief requested herein, and request further discovery regarding the Vylor Spinoff to the extent necessary.

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