

Court Allows Expert Testimony in First AFFF Bellwether Trial Against 3M

U.S. District Court for the District of South Carolina Charleston Division validates reliability of principles and methodology used by Plaintiffs' experts.

PENSACOLA, FL, UNITED STATES, May 4, 2023 /EINPresswire.com/ -- Levin Papantonio Rafferty (LPR) law firm announced that the U.S. District Court for the District of South Carolina Charleston Division has rejected 3M's omnibus motion to exclude expert testimony at a trial in which the City alleges that the Defendants' [aqueous film-forming foam](#) (AFFF) contaminated the city's water supply with per- and polyfluoroalkyl substances ([PFAS](#)).



All eyes are on the first bellwether trial (City of Stuart v. 3M) set in the aqueous film-forming foam (AFFF) multidistrict litigation (MDL) against 3M (MDL 2873).

District Court Judge Richard Gergel's [order](#) affirmed that the testimony presented by experts on behalf of the City of Stuart is "the product of reliable principles and methods," as governed by the Daubert standard.

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We were steadfast in our commitment, and we established the relevance and reliability of our experts' testimony.”

Wes Bowden, Attorney, Levin Papantonio Rafferty

"Winning a Daubert motion requires a hyper-focus on methodology," said LPR Attorney and Shareholder Wes Bowden, who together with LPR Attorney and Shareholder Ned McWilliams, is representing the City of Stuart (Plaintiff) in multidistrict litigation (MDL No. 2873) against 3M and other Defendants.

"We had a strong offense strategy going into this hearing," Bowden continued. "We had to prove by a preponderance

of the evidence that our experts possess the level of expertise required by law and that their testimony is based on reliable methodologies. We were committed, and we established the relevance and reliability of our experts' testimony."

The outcome of a Daubert challenge in *City of Stuart v. 3M* is significant on many levels, according to McWilliams. "This is a scientifically complex case, and moving through this challenge has given us valuable insight as to what extent the jury will understand the elements of issue," McWilliams said. "It's incredibly significant, especially in the first bellwether trial for this MDL."

About City of Stuart vs. 3M

City of Stuart, Fl. v. 3M Co. et al., (No. 2:18-cv-03487) is a bellwether case in MDL No. 2873, In Re: Aqueous Film-Forming Foams Products Liability Litigation. More than 4,100 cases have been filed in the MDL and centralized in the U.S. District Court District of South Carolina for pretrial proceedings presided over by Judge Richard Gergel.

The AFFF MDL is a mass tort brought on behalf of water providers and other individuals who have been harmed by exposure to AFFF and/or required to incur cost associated with its remediation.

Three bellwether cases were selected to proceed to trial in 2023. The City of Stuart was chosen to be the first bellwether trial. Municipalities in all the bellwether cases allege that PFAS manufacturers, AFFF manufacturers, and suppliers are liable for remediation costs from drinking water sources being polluted with PFAS AFFF.

About Wes Bowden

Wes Bowden is a shareholder at Levin Papantonio Rafferty. He has been involved in multiple mass tort cases involving environmental contamination.

In 2019, Bowden was appointed to the AFFF MDL's Plaintiffs' Executive Committee.

In 2017, he served as co-lead counsel in *Vigneron v. E.I. DuPont*, obtaining a \$12.5 million verdict on behalf of a client who suffered from cancer after drinking water contaminated with the chemical PFOA (C8) discharged by DuPont's Washington Works Teflon manufacturing plant.

In 2016, Bowden worked as part of the trial team that secured a \$5.6 million verdict on behalf of an Ohio resident who developed cancer after consuming PFOA (C8) discharged by DuPont into the air and drinking water of the surrounding community.

About Ned McWilliams

Ned McWilliams is a shareholder at Levin Papantonio Rafferty. He litigates pharmaceutical, environmental, mass tort and personal injury cases throughout the country. He has been appointed to leadership in many of the largest mass tort cases in the country.

McWilliams is presently serving on the Science and Discovery Committees in the Aqueous Film-

Forming Foams (AFFF) Products Liability Litigation (MDL 2873).

On March 7, 2022, Mr. McWilliams was appointed as class counsel in *Hardwick v. 3M Co. et al.*, case number 2:18-cv-01185, in the U.S. District Court for the Southern District of Ohio. The Hardwick class consists of every individual in the state of Ohio with measurable concentrations of certain PFAS chemicals. The case seeks redress in the means of requiring the manufactures of these chemicals to conduct robust comprehensive human testing to determine whether continued exposure is deemed safe.

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