

**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. 2:18-mn-2873-RMG

**This Document relates to**

***Campbell v. Tyco Fire Products LP et al.,  
No. 2:19-cv-00422-RMG***

**FINAL ORDER AND JUDGMENT OF DISMISSAL WITH PREJUDICE**

**WHEREAS** Plaintiffs RICHARD CAMPBELL and JOAN CAMPBELL (“Plaintiffs”), both individually and on behalf of all Settlement Class Members, and defendants TYCO FIRE PRODUCTS LP, CHEMGUARD INC., and CHEMDESIGN PRODUCTS INC. (“Defendants”), through their respective attorneys of record, having stipulated to the entry of this Final Order and Judgment of Dismissal with Prejudice (“Final Order and Judgment”) without the taking of proof, without trial or adjudication of any fact or law herein, without this Final Order and Judgment constituting evidence of or an admission by Defendants regarding any issue of fact or law alleged in the complaint herein, and without Defendants admitting any liability, and good cause appearing;

**WHEREAS**, by order dated January 25, 2021 (“Preliminary Approval Order”), this Court granted preliminary approval of the proposed class action settlement between the Parties;

**WHEREAS**, the Court also provisionally certified a Settlement Class and appointed Class Counsel and a class representative for settlement purposes only, and approved the procedure for giving notice and the forms of notice.

**WHEREAS**, on May 24, 2021, the Court held a duly noticed final fairness hearing (“Fairness Hearing”) to consider, among other things: (1) whether the terms and conditions of the settlement and First Amended Class Settlement Agreement are fair, reasonable, and adequate; (2) whether the Settlement Class should be finally certified for purposes of settlement only; (3) whether a judgment should be entered dismissing Plaintiffs’ complaint on the merits and with

prejudice in favor of Defendants and against all persons or entities who are Settlement Class Members as to class-wide Released Claims; and (4) whether and what amount to award attorneys' fees and expenses to counsel for the Settlement Class;

**WHEREAS**, the Court considered all matters submitted to it at the Fairness Hearing and otherwise, and it appears that notice substantially in the form approved by the Court in the Preliminary Approval Order was given in the manner that the Court ordered;

**WHEREAS**, on July 26, 2021, the parties submitted to the Court a Fourth Amended Class Settlement Agreement (the "Agreement") that contained certain revisions based on the Objectors' objections and comments at the Fairness Hearing;

**WHEREAS**, the settlement was the result of extended, arms'-length negotiations;

**WHEREAS**, counsel for the parties are highly experienced in this type of litigation, with full knowledge of the risks inherent in this Action, and independent investigations by counsel for the parties suffices to enable the parties to make informed decisions as to the fairness and adequacy of the Settlement;

**WHEREAS**, the Court has determined after careful consideration that the proposed settlement of the class-wide claims of the Settlement Class Members against Defendants, as well as the release of Defendants and the Released Parties, the significant relief provided to the Settlement Class Members—in the form of Defendants' agreement to distribute up to Fifteen Million Dollars (\$15,000,000.00) to eligible Settlement Class Members as described in the Agreement, and the award of attorneys' fees and expenses requested, are fair, reasonable and adequate;

**WHEREAS** the Court issued an order on August 4, 2021 addressing Class Counsel's request for attorneys' fees and costs.

**NOW, THEREFORE**, for the reasons stated herein, in the Preliminary Approval Order, on the record at the Fairness Hearing, and in the order on Class Counsel's request for attorneys'

fees and costs, it is hereby **ORDERED, ADJUDGED, AND DECREED** that:

1. **Incorporation of Settlement Agreement.** The Agreement, including any attachments thereto, is expressly incorporated by reference into this Final Order and Judgment and made a part hereof for all purposes. Except where otherwise noted, all capitalized terms used in this Final Order and Judgment shall have the meanings set forth in the Agreement.

2. **Jurisdiction.** This Court has subject-matter jurisdiction over this Action, including, without limitation, jurisdiction to approve the proposed settlement, to grant final certification of the Settlement Class, to settle and release all class-wide Released Claims as defined in the Agreement, and to dismiss this Action on the merits and with prejudice. This Court has personal jurisdiction over the parties to this action, including the Settlement Class Members.

3. **Final Certification of Settlement Class.** The Court finds, for settlement purposes only and conditioned upon the entry of this Final Order and Judgment and upon occurrence of the Effective Date, that the prerequisites for a class action under Federal Rule of Civil Procedure 23(a) and (b)(3) have been satisfied as provided for in the Preliminary Approval Order. The Court hereby finds that the Settlement Class meets all requirements of Federal Rule of Civil Procedure 23(a) and (b)(3) for certification of the class claims alleged in the Action, including: (a) numerosity; (b) commonality; (c) typicality; (d) adequacy of the class representative and Class Counsel; (e) predominance of common questions of fact and law among the Settlement Class; and (f) superiority.

4. The Court hereby finally certifies this Action for settlement purposes only as a class action on behalf of the following settlement class (the "Settlement Class"):

All persons who, during the period between January 1, 1965 and December 31, 2020, currently reside or formerly resided in or currently own or formerly owned, (i) a property with a Private Well Drinking Water Source; (ii) within the area bounded in the north by University Drive, in the south by Heath Lane, in the west

by Roosevelt Road and in the east by the Bay of Green Bay, all in the Town of Peshtigo, Wisconsin; (iii) for at least one (1) year during the Class Period. Excluded from the Settlement Class are Defendants, any entity in which any of them has a controlling interest, and any of their legal representatives, employees, corporate officers, heirs, successors, or assigns; the undersigned Judge and any member of the undersigned Judge's immediate family, and any other judicial officer who is or was assigned to this Action; and any attorneys who are employees, partners, members or shareholders of Class Counsel.

5. As defined in the Agreement, "Settlement Class Member(s)" means any member of the Settlement Class who did not elect exclusion or opt out from the Settlement Class during the Notice period pursuant to the terms and conditions for exclusion set out in the Agreement, the Preliminary Approval Order, and the Notice. Pursuant to Federal Rule of Civil Procedure 23(c)(3), all Settlement Class Members are bound by this Final Order and Judgment.

6. Pursuant to Federal Rule of Civil Procedure Rule 23(a), the Court finds that the Plaintiffs in the Action, Richard Campbell and Joan Campbell, are Settlement Class Members, their claims are typical of the Settlement Class, and they have fairly and adequately protected the interests of the Settlement Class throughout the proceedings in the Action. Accordingly, the Court hereby appoints Richard Campbell and Joan Campbell as class representatives.

7. Having considered the factors set forth in Federal Rule of Civil Procedure 23(g)(1), the Court finds that Class Counsel has fairly and adequately represented the Settlement Class for purposes of entering into and implementing the Settlement, and thus, hereby appoints Class Counsel as counsel to represent the Settlement Class Members.

8. Having considered their respective qualifications and experience, the Court hereby confirms the appointment of David R. Cohen, Esq. as Settlement Administrator and Matthew Garretson, Esq. as Class Notice Administrator for purposes of this Settlement.

9. **Final Approval of Notice.** The Court finds that notice was provided in accordance with the terms of the Agreement and this Court's Preliminary Approval Order and that such notice:

(a) constituted the best practicable notice under the circumstances of this Action to the Settlement Class, Settlement Class Members, and all other all persons and entities entitled to be provided with such notice;

(b) fully satisfied the requirements of Federal Rule of Civil Procedure 23, the requirements of due process, 28 U.S.C. § 1715, and any other applicable law(s); and

(c) was reasonably calculated, under the circumstances, to apprise the Settlement Class and Settlement Class Members of the (i) the nature and pendency of this class action, (ii) the definition of the class certified; (iii) the class claims, issues, and/or defenses; (iv) their right to enter an appearance through an attorney; (v) their right to exclude themselves from the Settlement Class and the proposed settlement upon request, (vi) their right to object to any aspect of the proposed settlement, (vii) the time and manner for requesting exclusion; (viii) their right to appear at the Fairness Hearing, and (ix) the binding effect of the orders and Final Order and Judgment in this Action, whether favorable or unfavorable, on all persons who do not request exclusion from the Settlement Class under Rule 23(c)(3).

10. **Final Approval of Settlement.** Because it appears that (1) settlement negotiations occurred at arms' length; (2) there was sufficient discovery and investigation of claims; (3) the proponents of the settlement are highly experienced in similar litigation; and (4) most of the Settlement Class did not object, the Court will apply a presumption of fairness to the settlement. *See Brunson v. Louisiana-Pac. Corp.*, 818 F. Supp. 2d 922, 927 (D.S.C. 2011) (citing Newberg & Conte, *Newberg on Class Actions* (3d ed. 1992) § 11.41). In addition, because settlement in this matter preceded class certification, the Court has applied a heightened standard and has carefully assessed whether the terms of the settlement, as reflected in the Fourth Amended Settlement Agreement, are fair, reasonable, and adequate pursuant to Federal Rule of Civil Procedure

23(e)(2). *See In re: Lumber Liquidators Chinese-Manufactured Flooring Prod. Mktg., Sales Practices & Prod. Liab. Litig.*, 952 F.3d 471, 484 (4th Cir. 2020). After application of the relevant factors, the Court finds that the terms and provisions of the Settlement, as set forth in the Fourth Amended Settlement Agreement, including any and all amendments and exhibits, have been entered into in good faith and are hereby fully and finally approved as fair, reasonable and adequate as to, and in the best interests of, Plaintiff and the Settlement Class Members.

11. **Final Approval of Plan of Allocation.** The Court finds that the plan of allocation of the settlement fund, as described in the Settlement Agreement, is fair, reasonable, and adequate as to all Settlement Class Members and therefore approves the same pursuant to Federal Rule of Civil Procedure 23(e).

12. **Dismissal.** With the sole exception of the Class Representatives' Manifest Personal Injury/Disease claims asserted in the Action, this Action is hereby DISMISSED WITH PREJUDICE and without costs as against Defendants and the Released Parties. All Settlement Class Members who have not timely and validly opted out of this settlement are hereby bound by this Final Order and Judgment and the Release provided herein.<sup>1</sup>

13. **Release.** Upon the Effective Date, the Releasing Parties (as that term is defined in the Agreement) shall be deemed to have, and by operation of this Final Order and Judgment shall have, fully, finally, and forever released, relinquished, and discharged all Released Claims against the Released Parties (as those terms are defined in the Agreement). As stated in the Agreement, Released Claims shall not include any presently known or future discovered Manifest Personal Injury/Disease claims. Released Claims otherwise means and includes any and all past, present or

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<sup>1</sup> For the avoidance of doubt, the claims being released and dismissed with prejudice do not include any individual's known or future discovered Manifest Personal Injury/Disease claims.

future claims, demands, obligations, causes of action, rights, damages, costs, attorneys' fees, loss of services, earnings or consortium, future medical expenses, expenses and compensation of any nature whatsoever, whether based on tort, contract (express, implied or otherwise), statute or any other theory of recovery, and whether for compensatory or punitive damages, that the Class Members now have or may hereafter accrue or otherwise be acquired, in any way, including those arising out of or relating to (i) the acts, omissions or events alleged in the Action, (ii) the Class Members' alleged exposure to or consumption of PFAS, (iii) the alleged presence of PFAS in, on, or around any property owned or occupied by the Class Members, including the Class Members' homes and drinking water wells, and (iv) the alleged presence of PFAS in the Class Members' water supply.

14. The Released Claims include any and all known and unknown claims arising out of or relating to (i) the acts, omissions or events alleged in the Action, (ii) the Releasing Parties' alleged exposure to or consumption of PFAS, (iii) the alleged presence of PFAS in, on, or around any property owned or occupied by the Releasing Parties, including the Releasing Parties' homes and drinking water wells, and (iv) the alleged presence of PFAS in the Releasing Parties' water supply, and the Agreement is expressly intended to cover and include all such injuries or damages, including all rights of action thereunder, except for presently known or future discovered Manifest Personal Injury/Disease claims. To the fullest extent possible, Settlement Class Members have expressly, knowingly, intelligently, and voluntarily waived any and all rights they may have with respect to the Released Claims under applicable state or federal laws restricting or limiting the scope and effect of the release given herein to claims known, suspected, or unknown by Settlement Class Members at the time the Agreement was executed with the sole exception of future discovered Manifest Personal Injury/Disease claims, which are not released. Settlement Class

Members have expressly waived and relinquished any and all rights and benefits that they may have under, or that may be conferred upon them by, such state or federal laws, to the fullest extent that they may lawfully waive such rights or benefits pertaining to the Released Claims. In connection with such waiver and relinquishment, the Settlement Class Members have acknowledged that they are aware that they or their attorneys may hereafter discover claims or facts in addition to or different from those that they now know or believe exist with respect to Released Claims, but that it is their intention to hereby fully, finally, and forever settle and release all of the Released Claims, known or unknown, suspected or unsuspected, that they have against the Released Parties, with the sole exception of future discovered Manifest Personal Injury/Disease claims. In furtherance of such intention, the Release herein given by the Settlement Class Members to the Released Parties shall be and will remain in effect as a full and complete release as to the Released Claims notwithstanding the discovery or existence of any such additional different claims or facts. Each of the parties has expressly acknowledged that it was advised by its attorney of the contents and effect of any state or federal law restricting or limiting the scope and effect of the release given herein as to the Released Claims with respect to claims known or suspected at the time the Agreement was executed, and with knowledge, each of the parties has expressly waived whatever benefits it may have had pursuant to such laws as to such Released Claims. Plaintiffs have acknowledged, and the Settlement Class Members shall be deemed by operation of the Final Order and Judgment to have acknowledged, that the foregoing waiver as to Released Claims was separately bargained for and a material element of the Settlement of which this Release is a part.

15. The Settlement Class Members understand and acknowledge that they may hereafter discover facts in addition to or different from those that are currently known or believed



to be true with respect to the subject matter of the foregoing Release, but agree that they have taken that possibility into account in reaching this Agreement and that, notwithstanding the discovery or existence of any such additional or different facts, as to which the Settlement Class Members expressly assume the risk, they fully, finally, and forever settle and release any and all Released Claims, known or unknown, suspected or unsuspected, which now exist, or heretofore existed, or may hereafter exist, and without regard to the subsequent discovery or existence of such additional or different facts; provided that the Parties agree and acknowledge that such Released Claims shall not include any presently known or future discovered Manifest Personal Injury/Disease claims

16. The Parties agree that this Release will not affect the bottled water and/or Point of Entry Treatment system Tyco has offered or been providing to residents in the Class Area (as defined herein). The Release will not affect the ability of eligible households to be connected to a municipal water line or other permanent drinking water remediation measure, which Tyco is separately providing in cooperation with the Wisconsin Department of Natural Resources.

17. Members of the Settlement Class who have opted out of or sought exclusion from the settlement by the date set by the Court do not release their claims and will not obtain any benefits of the settlement.

18. **Other Actions.** The Court orders that, upon the Effective Date, the Agreement shall be the exclusive remedy for any and all Released Claims of Settlement Class Members. The Court thus hereby permanently bars and enjoins Plaintiffs, all Settlement Class Members, and all persons acting on behalf of, or in concert or participation with such Plaintiffs or Settlement Class Members (including but not limited to the Releasing Parties), from: (a) filing, commencing, asserting, prosecuting, supporting, maintaining, pursuing, continuing, intervening in, or participating in, or receiving any benefits from, any lawsuit, arbitration, or administrative,

regulatory or other proceeding or order in any jurisdiction based upon or asserting any of the Released Claims; (b) bringing a class action on behalf of Plaintiffs or Settlement Class Members, seeking to certify a class that includes Plaintiffs or Settlement Class Members, or continuing to prosecute or participate in any previously filed and/or certified class action, in any lawsuit based upon or asserting any of the Released Claims.

19. **No Admission.** Neither the Agreement, nor any of its terms and provisions, nor any of the negotiations or proceedings connected with it, nor any of the documents or statements referred to therein, nor any of the documents or statements generated or received pursuant to the claims administration process, shall be:

(a) offered by any person or received against Defendants as evidence or construed as or deemed to be evidence of any presumption, concession, or admission by Defendants of the truth of the facts alleged by the Plaintiff or any Settlement Class Member or the validity of any claim that has been or could have been asserted in the Action or in any litigation, or other judicial or administrative proceeding, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault or wrongdoing of Defendants;

(b) offered by any person or received against Defendants as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by Defendants or any other wrongdoing by Defendants;

(c) offered by any person or received against Defendants or as evidence of a presumption, concession, or admission with respect to any default, liability, negligence, fault, or wrongdoing, or in any way interpreted, construed, deemed, invoked, offered, received in evidence, or referred to for any other reason against any of the Parties, in any civil, criminal, or administrative

action or proceeding; provided, however, that nothing contained in this paragraph shall prevent the Agreement (or any agreement or order relating thereto) from being used, offered, or received in evidence in any proceeding to approve, enforce, or otherwise effectuate the Settlement (or any agreement or order relating thereto) or this Final Order and Judgment, or in which the reasonableness, fairness, or good faith of the Parties in participating in the settlement (or any agreement or order relating thereto) is an issue, or to enforce or effectuate provisions of the Agreement or this Final Order and Judgment; or

(d) offered by any person or received against Plaintiffs as evidence or construed as or deemed to be evidence that any of Plaintiffs' claims lack merit.

20. Notwithstanding the foregoing, Defendants may file the Agreement, this Final Order and Judgment, and/or any of the documents or statements referred to therein in support of any defense or claim that the Agreement and/or this Final Order and Judgment are binding on and shall have *res judicata*, *collateral estoppel*, and/or preclusive effect in all pending and future lawsuits or other proceedings maintained by or on behalf of Plaintiff and/or any other Settlement Class Members, and each of them, as well as their heirs, executors, administrators, successors, assigns, and/or any other of the Releasing Parties, as to Released Claims.

21. **Retention of Jurisdiction.** Without in any way affecting the finality of this Final Order and Judgment, this Court retains exclusive and continuing jurisdiction over the Parties, including the Settlement Class, and all matters relating to the administration, consummation, validity, enforcement and interpretation of the Agreement and of this Final Order and Judgment, including, without limitation, for the purpose of:

(a) enforcing the terms and conditions of the Agreement and resolving any disputes, claims or causes of action that, in whole or in part, are related to or arise out of the Agreement, and/or this

Final Order and Judgment (including, without limitation, whether a person or entity is or is not a Settlement Class Member; whether claims or causes of action allegedly related to this Action are or are not barred or released by this Final Order and Judgment; and whether persons are enjoined from pursuing any claims against Defendants);

(b) enabling any party to this Final Order and Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Judgment;

(c) entering such additional orders, if any, as may be necessary or appropriate to protect or effectuate this Final Order and Judgment and the Agreement (including, without limitation, orders enjoining persons from pursuing any claims against Defendants), or to ensure the fair and orderly administration of the Settlement; and

(d) entering any other necessary or appropriate orders to protect and effectuate this Court's retention of continuing jurisdiction over the Agreement, the Parties, and the Settlement Class Members.

22. **Disputes.** The Parties agree to negotiate in good faith to try to resolve any disputes that may arise relating to this Final Order and Judgment. Plaintiffs shall give Defendants twenty-one (21) days' notice before filing an application or other pleading seeking contempt of court or other sanctions for any purported violation of this Final Order and Judgment.

23. **Effective Date.** This Final Order and Judgment shall take effect immediately upon entry thereof, without further notice to Plaintiffs, Defendants, or Settlement Class Members.

24. **Approval of Attorneys' Fees, Costs, and Incentive Award.** After considering the parties' submissions and all relevant factors, including the result achieved by Class Counsel on behalf of Settlement Class Members, for the reasons set forth in the Court's order, the Court

finds that an attorneys' fee award of \$4,999,500.00 is fair and reasonable and awards same to Class Counsel, which is in lieu of any other fees Plaintiffs and/or their attorneys might otherwise have been entitled to recover as to the class-wide Released Claims, and this amount shall be inclusive of any and all reimbursements to Class Counsel for litigation costs and expenses. The Settlement Amount is also subject to a "Common Benefit Holdback Assessment" under Case Management Order No. 3 entered by this Court on April 26, 2019. Such Order requires a holdback assessment of 6% allotted for common benefit attorneys' fees and 3% allotted for reimbursement of permissible common benefit costs and expenses from any settlements(s). Such monies shall be paid directly into an interest-bearing account established by future order of the Court.

25. The attorneys' fee award and reimbursement of expenses shall be paid within the time provided for in Section 4.6 of the Agreement.

26. **Miscellaneous.** Without further order of the Court, the Parties may agree to reasonably necessary extensions of time to carry out any provisions of the Agreement.

27. In the event that the Effective Date does not occur, class certification shall be automatically vacated and this Final Order and Judgment, and all other orders entered and releases delivered in connection herewith, shall be vacated and shall become null and void.

28. The Clerk shall enter this Final Order and Judgment forthwith.

**AND IT IS SO ORDERED.**

s/ Richard Mark Gergel  
Richard Mark Gergel  
United States District Judge

August 4, 2021  
Charleston, South Carolina