

KRISTEN GIOVANNI

vs.

OF THE NAVY UNITED STATES DEPARTMENT

NO. 2016-20600

NOTICE TO DEFEND - CIVIL

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

LAWYER REFERENCE SERVICE
MONTGOMERY BAR ASSOCIATION
100 West Airy Street (REAR)
NORRISTOWN, PA 19404-0268

(610) 279-9660, EXTENSION 201

KRISTEN GIOVANNI

vs.

OF THE NAVY UNITED STATES DEPARTMENT

NO. 2016-20600

CIVIL COVER SHEET

State Rule 205.5 requires this form be attached to any document commencing an action in the Montgomery County Court of Common Pleas. The information provided herein is used solely as an aid in tracking cases in the court system. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Name of Plaintiff/Appellant's Attorney: MARK R CUKER, Esq., ID: 21182

Self-Represented (Pro Se) Litigant

Class Action Suit Yes No

MDJ Appeal Yes No

Money Damages Requested

Commencement of Action:

Amount in Controversy:

Complaint

More than \$50,000

Case Type and Code

Miscellaneous:

Other

Other: HSCA

WILLIAMS CUKER BEREZOFSKY, LLC

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Attorneys for Plaintiffs

*Kristen Giovanni, Charles Giovanni,
Anthony Giovanni, V.G., a minor, and
D.G., a minor*

KRISTEN GIOVANNI, individually and
as parent and natural guardian of V.G., a
minor, and D.G., a minor,
57 Poplar Road
Warrington, PA 18976

and

CHARLES GIOVANNI, individually and
as parent and natural guardian of V.G., a
minor, and D.G., a minor,
57 Poplar Road
Warrington, PA 18976

and

ANTHONY GIOVANNI
57 Poplar Road
Warrington, PA 18976

Plaintiffs,

vs.

UNITED STATES DEPARTMENT
OF THE NAVY
1000 Navy Pentagon
Washington, D.C. 20350

Defendants.

MONTGOMERY COUNTY
COURT OF COMMON PLEAS

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

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NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

- (i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.
- (ii) actions for support, Rules 1910.1 et seq.
- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

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*Attorneys for Plaintiffs,
Kristin Giovanni, Charles Giovanni,
Anthony Giovanni, V.G., a minor, and
D.G., a minor*

KRISTEN GIOVANNI, individually and
as parent and natural guardian of V.G., a
minor, and D.G., a minor,
57 Poplar Road
Warrington, Pennsylvania 18976

CHARLES GIOVANNI, individually and
as parent and natural guardian of V.G., a
minor, and D.G., a minor,
57 Poplar Road
Warrington, Pennsylvania 18976

ANTHONY GIOVANNI
57 Poplar Road
Warrington, Pennsylvania 18976,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
THE NAVY
1000 Navy Pentagon
Washington, D.C. 20350,

Defendant.

MONTGOMERY COUNTY
COURT OF COMMON PLEAS

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Kristen Giovanni, individually and as parent and natural guardian of V.G., a minor, and D.G., a minor; Charles Giovanni, individually and as parent and natural guardian of V.G., a minor, and D.G., a minor; and Anthony Giovanni, individually (“Plaintiffs” or the “Giovanni Family”); bring this action under the Pennsylvania Hazardous Sites Cleanup Act (“HSCA”), 35 P.S. § 6020.101 *et seq.*, for declaratory, injunctive and other relief as a result of the improper disposal of contaminants and hazardous substances at the Naval Air Station Joint Reserve Base Willow Grove (“Willow Grove”) and Naval Air Warfare Center Warminster (“Warminster”), which has contaminated and polluted public and private water sources for area residents, including Plaintiffs. In support of their Complaint, Plaintiffs aver as follows:

STATEMENT OF CASE

1. This is a civil action arising from the improper disposal of contaminants and hazardous substances at Naval facilities in Willow Grove and Warminster by the United States Department of the Navy resulting in the contamination and pollution of public and private water sources with perfluoroochemical compounds (“PFCs”) such as perfluorooctanoic acid (“PFOA”), perfluorooctanesulfonic acid (“PFOS”) and other known or suspected toxic compounds. These toxic PFCs have entered the groundwater at Warminster, Warrington and Horsham Townships and polluted public and private drinking wells.

2. As a result of the contamination and pollution of their water supplies, Plaintiffs seek medical monitoring for themselves, in addition to requiring the Navy to perform a health assessment and health effects study including, but not limited to, blood testing for both themselves and other individuals exposed to the contamination and pollution of public and private water sources with PFCs such as PFOA and PFOS, as authorized by the HSCA, 35 P.S. 6020.702(a)(5).

3. A Notice of Intent to Sue was sent pursuant to Section 7002(a)(1)B) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6972(a)(1)(B) on June 10, 2016 via Certified Mail – Return Receipt Requested.

THE PARTIES

4. Plaintiffs are individuals and residents of the Commonwealth of Pennsylvania with an address of 57 Poplar Road, Warrington, PA 18976.

5. Defendant United States Department of the Navy (“Defendant” or “Navy”) is an agency and instrumentality of the United States of America headquartered at 1000 Navy Pentagon, Washington, D.C. 20350. At all relevant times, Defendant was the owner or past owner and operator of the facilities at Willow Grove and Warminster.

6. Defendant has waived its sovereign immunity pursuant to Section 6001(a) of the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6961(a).

7. Defendant has waived its sovereign immunity pursuant to Section 120(a)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9601 *et seq.*

JURISDICTION AND VENUE

8. Jurisdiction is proper pursuant to the HSCA, 35 P.S. § 6020.1115(b).

9. Venue is proper in Montgomery County, Pennsylvania pursuant to Pennsylvania Rule of Civil Procedure 1006(a)(1) and (2) because the causes of action asserted in this lawsuit arose in Bucks County and the Willow Grove facility is located in Montgomery County.

DEFENDANT’S CONTAMINATION OF THE WATER SUPPLY

The Navy’s Improper Disposal of Hazardous Waste Contaminated Local Water Supplies

10. Defendant is the current and past owner and operator of Naval facilities located at Willow Grove and Warminster (collectively, the “Facilities”).

11. Defendant improperly disposed of contaminants and hazardous substances at the Facilities for decades.

12. Upon information and belief, the hazardous substances included PFCs such as PFOA and PFOS, among other known and suspected toxic compounds.

13. Numerous health risks are associated with chronic exposure to, for example, PFOA. These risks are present even where PFOA is ingested at very low levels such as less than 1.0 part per billion (ppb).

14. The health risks associated with PFOA are exacerbated by the fact that it can stay in the environment and in the human body for extended periods of time.

15. Studies show that PFOA is readily absorbed after oral exposure and accumulates primarily in the serum, kidneys and liver. The half-life of PFOA in the human body is two to nine years.

16. Studies further found that individuals who have had occupational exposure to PFOA run a higher risk of bladder and kidney cancer.

17. In studies involving laboratory animals, PFOA exposure led to an increased risk of tumors in the liver, testicles, mammary glands and pancreas.

18. PFOA exposure over 0.5 ppb is associated with increased risks of testicular cancer, kidney cancer, thyroid cancer, high cholesterol, ulcerative colitis and pregnancy-induced hypertension.

19. These diseases and health problems can manifest themselves months or years after an individual is exposed to PFOA.

20. These toxic PFCs have entered the groundwater of Warminster, Warrington and Horsham Townships contaminating and polluting public and private drinking wells.

21. According to the Environmental Protection Agency (the “EPA”), “PFOA and PFOS pose potential adverse effects for the environment and human health.” Such adverse health effects include, but are not limited to, kidney cancer, testicular cancer, thyroid disease, ulcerative colitis, pregnancy-induced hypertension, high cholesterol and other diseases.

22. Notwithstanding the Facilities’ presence on the EPA’s National Priorities List (the “NPL”) for over two decades, direct EPA oversight has:

- a. failed to prevent ongoing PFC use and disposal at the Facilities;
- b. failed to prevent and abate contamination and migration of these toxic contaminants to local public and private drinking water sources;
- c. failed to prevent and abate drinking water contamination by PFCs; and
- d. failed to prevent ingestion and bioaccumulation of PFCs by the local population, including sensitive sub-populations of infants and children.

23. These decades-long failures have left the Giovanni Family, their neighbors and workers at the Facilities exposed to the toxic hazards from these contaminants and hazardous substances.

Contamination of the Giovanni Family’s Private Well

24. Beginning in December 2003, the Giovanni Family has resided virtually across the street from the Willow Grove facility.

25. The Giovanni Family’s water supply came directly from a private well located on the premises.

26. The Giovanni Family used its well for all domestic water uses until December 2014, at which time they learned that the levels of PFOA and PFOS in their water far

exceeded the EPA's then provisional Health Advisory Level ("HAL") of 0.2 ug/l for PFOS and 0.4 ug/l for PFOA.

27. The PFOS level in the Giovanni Family's water was recorded at 2.4 ug/l in or around October 2014.

28. The PFOA level in the Giovanni Family's water was recorded at 0.48 ug/l in or around October 2014.

29. The EPA has since reassessed the health advisory for PFCs and set a combined HAL of 0.07 ug/l for PFOA and PFOS (approximately one-sixth of the previous HAL).

30. The combined PFOA/PFOS level in the Giovanni Family well — 2.88 ug/l — was over *forty* times the EPA's new HAL.

31. As a result, the Giovanni Family was provided with bottled water by the Navy, which it used for drinking, cooking and brushing teeth for approximately six months.

32. The Giovanni Family then was connected to the Warrington Township Water & Sewer Department's ("WTWSD") public water supply.

Contamination of the Public Water Supply

33. Notwithstanding the switch to the WTWSD water supply, the Giovanni Family continued to be exposed to PFCs from the Facilities.

34. The WTWSD also has been plagued by PFC contamination from the Willow Grove facility.

35. Originally, WTWSD Well Nos. 1, 2 and 6 were closed in late October 2014 when they were found to be contaminated with PFOS at levels reaching 1.6 ug/l. After the EPA lowered the HAL in May 2016, WTWSD Well Nos. 3 and 9, which exceeded the new HAL, were taken off line.

36. Accordingly, the Giovanni Family was exposed to unsafe levels of PFCs from both private and public water supplies.

The Facilities Continue to Discharge Contaminants into the Groundwater

37. The discharge of contaminants and hazardous substances from the Facilities into the groundwater continues to this day.

38. High levels of PFCs are migrating from discharge points at the Willow Grove facility to Park Creek, Little Neshaminy Creek and various unnamed tributaries thereof.

39. These surface water bodies regularly recharge with groundwater and act as continuing sources of contamination of groundwater used for public and private water supplies.

40. This contamination of public and private water supplies presents an imminent and substantial danger to the public's health and the environment.

41. A total of 16 municipal wells and approximately 150 private wells in Horsham, Warrington and Warminster Townships have had to be closed due to the PFCs levels recorded in their water.

42. The drinking water and health of almost 70,000 current area residents, in addition to untold numbers of past residents and former workers at the Facilities, has been jeopardized.

The Commonwealth Demands Relief from the Department of Defense

43. The Pennsylvania House of Representatives has called for the Department of Defense "to take all necessary action to ... fully evaluate the health consequences and provide ongoing biomonitoring to residents and military personnel who have been exposed to the water contamination."

44. Further, Governor Wolf has asked for biomonitoring and blood testing for persons exposed to the contaminated water.

45. These calls have been rejected.

COUNT I

(HAZARD SITES CLEANUP ACT)

(Medical Monitoring, Health Assessment, Health Effects Study)

46. Plaintiffs incorporate their allegations from paragraphs 1 through 37 above by reference as if fully set forth at length herein.

47. The Facilities are sites where contaminants and hazardous substances such as PFCs were deposited, stored, treated, released, disposed of, placed or otherwise came to be located.

48. The contaminants and hazardous substances such as the PFCs were spilled, leaked, pumped, poured, emitted, emptied, discharged, injected, escaped, leached and/or dumped from the Facilities into the environment, including, but not limited to, the public and private water supplies of Horsham, Warrington and Warminster Townships.

49. Defendant owned and/or operated, or was the past owner and operator of, the Facilities at all relevant times.

50. Defendant is responsible for the release of the contaminants and hazardous substances such as PFCs from the Facilities.

51. As set forth above, Defendant has caused and continues to cause the release, or the substantial threat of release, of contaminants and hazardous substances such as PFCs from the Facilities, which present a substantial danger to the public health and safety of area residents, including Plaintiffs, and the environment.

52. Pursuant to Sections 507, 702 and 1101 of the HSCA, Defendant is strictly liable for the costs incurred by the Giovanni Family to respond to the release and threatened release of

contaminants and hazardous substances, including, but not limited to, medical monitoring, a health assessment and/or health effects study, including, but not limited to, blood testing.

53. The releases and threatened releases of contaminants and hazardous substances from the Facilities by Defendant constitute public nuisances under Section 1101 of the HSCA.

54. The releases and threatened releases of contaminants and hazardous substances by Defendant constitute unlawful conduct under Section 1108 of the HSCA.

55. Plaintiffs' consumption and use of water from private and public sources has resulted in significant exposure to one or more PFCs, relative to the general population.

56. PFCs are proven hazardous substances.

57. Plaintiffs' exposure was the result of improper disposal of contaminants and hazardous substances from the Facilities.

58. As a result of their exposure to the PFCs, Plaintiffs have a significantly increased risk of contracting kidney cancer, testicular cancer, thyroid disease, ulcerative colitis, pregnancy-induced hypertension, high cholesterol and other diseases.

59. The increased risk of contracting the aforementioned latent diseases make it reasonably necessary for each Plaintiff to undergo periodic diagnostic medical examinations different from what would be prescribed in the absence of such exposure to PFCs.

60. Monitoring procedures exist that make possible the early detection of the diseases referenced in the paragraphs above.

61. Indeed, the C8 Panel — created as part of the settlement in *Leach v. E.I. du Pont de Nemours & Co.* — has established a medical monitoring program for those exposed to PFCs by consuming water for at least one-year from a contaminated water source.

62. The prescribed monitoring regime differs from that typically recommended in the absence of exposure to PFCs.

63. The prescribed monitoring regime is reasonably necessary according to contemporary scientific principles.

64. Plaintiffs bring this medical monitoring claim on behalf themselves and their minor children.

65. Plaintiffs bring this claim for the performance of a health assessment and/or health effects study on behalf of themselves and their minor children, and on behalf of all individuals exposed to the contaminants and hazardous substances released from Willow Grove and Warminster.

WHEREFORE, Plaintiffs demand judgment in their favor and against Defendant on Count I of the Complaint under the Pennsylvania Hazardous Sites Cleanup Act for:

- (i) the costs of medical monitoring for Plaintiffs and their minor children;
- (ii) a health assessment and/or a health effects study, including, but not limited to, blood testing, for Plaintiffs and their minor children and others exposed to the contaminants and hazardous substances released from Willow Grove and Warrington; and
- (iii) their reasonable attorneys' fees and costs, and any other relief that the Court deems just and proper.



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Attorneys for Plaintiffs,

Dated: August 23, 2016

*Kristen Giovanni, Charles Giovanni,
Anthony Giovanni, V.G, a minor, and
D.G., a minor*

VERIFICATION

Charles Giovanni hereby states that he is the plaintiff in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of his knowledge, information and belief. The undersigned understands that the statements therein are made subject to penalties of 18 Pa.C.S.A. Sec. 4904 relating to unsworn falsification to authorities.




Charles Giovanni

Dated: 8/18/16

VERIFICATION

Kristen Giovanni hereby states that she is the plaintiff in this action and verifies that the statements made in the foregoing pleading are true and correct to the best of her knowledge, information and belief. The undersigned understands that the statements therein are made subject to penalties of 18 Pa.C.S.A. Sec. 4904 relating to unsworn falsification to authorities.


Kristen Giovanni

Dated: 8/18/16