

RESOLUTION NO. 2023- 369

RESOLUTION AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT BY AND BETWEEN THE LAW FIRM OF WILENTZ, GOLDMAN & SPITZER, P.A., REDBANK, NEW JERSEY AND CO-COUNCIL KANNER AND WHITELEY, LLC, NEW ORLEANS, LOUISIANA AND THE CITY OF VINELAND TO LITIGATE CLAIMS AGAINST MANUFACTURERS OF PFAS FOR CHEMICAL CONTAMINATION IN THE CITY.

WHEREAS, Per-or-polyfluoroalkyl substances (PFAS) are man-made chemicals that have been used in various products since the 1940's such as nonstick cookware, water and stain-resistant fabrics, cleaning products and firefighting foam which have been released into the environment through training and waste disposal practices and referred to as "forever chemicals" as they do not break down readily; and

WHEREAS, PFAS has moved through soils and contaminate drinking water sources and is found in air, sediment, rivers, lakes, oceans and ground water and once consumed or inhaled, remain in the body for substantial amounts of time which potentially cause adverse health effects and is classified as a possible human carcinogen including kidney, testicular, prostate, thyroid and ulcerative cancers as well as other diseases; and

WHEREAS, substantial litigation is ongoing against PFAS manufacturers which provides an opportunity for water providers, such as the Vineland Water Utility, to recover some of the tremendous improvement costs incurred to remove the contaminant from the water supply and limit the burden on the rate payers and therefore filing suit against the manufacturers is necessary so as to remove the burden of the costs on the ratepayers; and

WHEREAS, the Law firm of Wilentz, Goldman and Spitzer, P.A., Red Bank, New Jersey is an experienced firm handling mass tort and environmental litigation in New Jersey and has partnered with the Law firm of Kanner and Whiteley LLC, New Orleans, Louisiana which is a premier toxic tort litigation firm in the country and has represented the City in past toxic tort litigation, and have submitted a proposal to serve the City as Special Counsel representing the City in litigation on a contingency fee of 33% plus costs of all sums collected on behalf of the City against all potential defendants in accordance with the Letter of Engagement attached hereto and made a part hereof, with no costs or fees being paid should no settlement or judgement be made in favor of the City.

WHEREAS, the Local Public Contract Law (N.J.S.A. 40 A: 11 – 1, et seq.) requires that the Resolution authorizing the award of contract for Professional Services without competitive bidding and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Vineland as follows:

1. That the Mayor and Clerk are hereby authorized and directed to execute a Non-Fair and Open Agreement pursuant to N.J.S.A. 19:44A – 20.5 with the Law Firm of Wilentz, Goldman and Spitzer, P.A., Red Bank, New Jersey and Co-council Kanner and Whiteley LLC, New Orleans, Louisiana for Professional Services for Special Legal Counsel for litigation on a contingency fee of 33% plus costs of all sums collected on behalf of the City against all potential defendants in PFAS litigation in accordance with the Letter of Engagement attached hereto and made a part hereof.

[Type text]

- 2. That this Professional Services Agreement is awarded without competitive bidding in accordance with NJSA 40 A: 11 – 5 (1)(a) of the Local Public Contracts Law because said services to be rendered or performed require knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction distinguished from general academic instruction or apprenticeship and training.
- 3. That the Business Disclosure Entity Certification, the Political Contribution Disclosure Form and the Determination of Value be placed on file with the Resolution.
- 4. That a notice of this action shall be printed once in the Daily Journal.

Adopted:

\_\_\_\_\_  
President of Council

ATTEST:

\_\_\_\_\_  
City Clerk

## **PFAS WATER PROVIDER BULLETIN**

### **1. Why are We Concerned About PFAS?**

Per- or polyfluoroalkyl substances, or PFAS, are man-made perfluorinated chemicals that have been used in various products since the 1940s. PFAS, include more commonly-known chemicals, such as PFOA (perfluorooctanoic acid) and PFOS (perfluorooctanesulfonic acid). PFAS have been used in the production of or incorporated into such differing products as nonstick cookware, water and stain-resistant fabrics, cleaning products, and firefighting foam. They have been and/or continue to be released into the environment through chemical and product manufacture, firefighting training and response and waste disposal practices.

Referred to as "forever chemicals," these substances do not break down readily in the environment and move through soils and contaminate drinking water sources. PFAS has been found in air, sediment, rivers, lakes, oceans and ground water. Additionally, once consumed, inhaled or absorbed, PFAS remain within the body for substantial amounts of time. As PFAS accumulate in the body, the potential for adverse health effects greatly increases. In 2020, the International Agency for Research on Cancer (IARC) officially classified PFAS as a possible human carcinogen, which means that exposure to such chemicals may cause cancer in humans. Specific cancers and illnesses linked to AFFF exposure include, but may not be limited to:

- Kidney Cancer;
- Testicular Cancer;
- Prostate Cancer; and
- Thyroid Disease and Cancer; and
- Ulcerative Colitis.

Moreover, the scientific community is continuing its investigation into associations between PFAS and other adverse health effects, including liver disease and cancer, pancreatic, bladder, and colon cancer, lymphoma, and leukemia, among others.

### **2. What Do the New PFAS Standards Mean to Water Providers?**

The Environmental Working Group estimates that 1,500 drinking water systems across the country may be contaminated with PFAS, affecting hundreds of millions of Americans. Many of these systems are located in New Jersey. In 2019, the New Jersey Department of Environmental Protection established maximum contaminant levels (MCLs) of 14 parts per trillion (ppt) for PFOA and 13 ppt. for PFOS. In March of 2023, however, the federal Environmental Protection Agency (EPA) proposed to set nationwide MCLs for PFOA and PFOS at 4 ppt. It also proposed limiting any mixture containing PFNA, PFHxS, PFBS and/or Gen X to a hazard calculation index of 1. As explained by the EPA, a hazard calculation index "helps to account for the increased risk from mixtures of PFAS that may be found in contaminated drinking water. The Hazard Index is a long-established tool that EPA regularly uses, for example, to inform risks of chemical mixtures. . . . A Hazard Index considers how toxic each of the four PFAS are and allows a site-specific

determination based on the specific drinking water concentrations." If finalized, water providers will need to meet these federal standards.

In New Jersey, beginning in the first quarter of 2021, all public community water systems and all public non-transient non-community water systems were required to begin quarterly PFAS monitoring. If a system's finished drinking water exceeds a MCL, it is required to take corrective measures, including taking valuable wells out of service and/or modifying the treatment systems. Additionally, the water system has only one year from the MCL violation to come into compliance. Many systems, however, currently are unable to sufficiently remove PFAS from their water supplies and meet these new substantially-more stringent standards. Consequently, they, and the towns they supply, must invest in expensive technology.

Associated costs include engineering and investigations expenses and fees, temporary filtration systems, capping or shutting down wells, purchasing water from other sources, construction, modification and installation of new water filtration systems, including granulated activated carbon (GAC) or anion exchange, and operation, maintenance, disposal and upgrade expenses for many years afterwards. **Depending on the extent of contamination and size of the system, these upgrades can cost millions, if not tens of millions of dollars.**

### 3. Why Should My Board or Council Consider Litigation Now?

Substantial litigation is ongoing against PFAS manufacturers, such as 3M, DuPont de Nemours, Chemours, and Tyco, regarding their knowledge and responsibility for New Jersey's and the country's PFAS contamination. To date, water providers have filed hundreds of claims against these and other PFAS manufacturers. The vast majority of these lawsuits are consolidated in Charleston, South Carolina in a Multi-District Litigation (MDL) in the District of South Carolina. In a MDL, a single judge manages pre-trial discovery and may resolve common legal or factual issues for the litigation. These lawsuits may provide an opportunity for water providers to recover some of the tremendous improvements costs and simultaneously limit the burden on their tax or rate payers. Without filing suit, water providers will be left shouldering these costs on their own.

Additionally, the first bellwether, or test, water provider trial was scheduled to begin in the AFFF MDL in Charleston, South Carolina. On June 2, 2023, 3M and Chemours/DuPont separately announced that they had reached tentative settlements of certain water provider claims for \$10 billion and \$1.19 billion, respectively. Based upon these tentative settlements, the parties requested and the Court granted a continuance of the trial. **The settlements' details have not been publicly announced, but time may be of the essence to file a lawsuit. In other prior litigations, nationwide settlements restricted recovery, in part, when a plaintiff filed its case, which means sitting on your rights may cost you and your tax and rate payers substantial funds to pay for mandated PFAS treatment and facilities.**

### 4. Why Should My Board or Council Retain Wilentz, Goldman & Spitzer, P.A.

If a water provider is confronted with PFAS contamination, it may want to consider consulting with an attorney regarding whether litigation is appropriate. As in all legal matters, the

selection of any attorney is an important decision and should be given careful thought. Wilentz, Goldman & Spitzer, P.A. (Wilentz) is among the largest and most established laws firms handling mass tort and environmental litigation in New Jersey. For more than twenty years, John E. Keefe, Jr. and Stephen T. Sullivan, Jr. have litigated and successfully resolved pollution and mass tort claims against national and multi-national corporations, including, for example, serving as lead counsel against Ciba Geigy Corporation for its contamination in Toms River, New Jersey. They now are representing water providers across this State, who face the burden and specter of PFAS contamination.<sup>1</sup> They are prepared to speak to your board or council about the possibility of filing suit and recovering your water systems' costs and damages and may be contacted at:

A. John E. Keefe, Jr.:  
Office Number: 732-855-6005  
Email: [jkeefe@wilentz.com](mailto:jkeefe@wilentz.com)

B. Stephen T. Sullivan, Jr.  
Office Number: 732-855-6060  
Email: [ssullivan@wilentz.com](mailto:ssullivan@wilentz.com)

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<sup>1</sup> John E. Keefe, Jr. is a Shareholder with Wilentz, Goldman & Spitzer, P.A. and a Certified Trial Attorney by the New Jersey Supreme Court of New Jersey and former President of the New Jersey State Bar Association. Stephen T. Sullivan, Jr. is Counsel with Wilentz, Goldman & Spitzer, P.A. Messrs. Keefe and Sullivan conduct a diverse practice in personal and catastrophic injury, mass torts, class actions and consumer fraud actions. They currently represent water providers, firefighters and military members from across the country in the AFFF/PFAS litigation. For more information on the AFFF/PFAS litigation, please go to [www.representingpeople.com](http://www.representingpeople.com).

# WILENTZ

## ATTORNEYS AT LAW -

### Firm Resume Class Action / Mass Tort Team

Wilentz, Goldman & Spitzer, P.A. is among the largest and most established law firms handling class action and mass tort litigation in New Jersey, and throughout the country. Since 1977, we have been at the forefront of landmark cases arising from a variety of areas of law. Wilentz has several offices in New Jersey, and also maintains offices in Manhattan and Philadelphia. We have approximately 100 lawyers and 200 paraprofessional/support staff.

Our Class Action / Mass Tort lawyers have many years of experience handling a wide variety of class action matters focused on consumer fraud, products liability, employment discrimination, wage and hour litigation, securities fraud, anti-trust, health care, Racketeer Influenced and Corrupt Organizations Act (RICO), Employee Retirement Income Security Act (ERISA), insurance bad faith and corporate misconduct. We have also managed mass tort injury cases arising from defective products, dangerous drugs and medical devices, environmental contamination and other toxic exposures. We have recovered in excess of \$2 Billion in aggregate settlements and verdicts on behalf clients and victims. Below are some of the notable class actions and mass torts in which our current and past lawyers have served in leadership roles:

- Class Action — appointed as Plaintiffs Liaison Counsel in consumer fraud national class action against Cooper Tire & Rubber Co, with a settlement valued at between \$1 and \$3 Billion.
- Class Action Co-Lead Counsel — Depuy ASR Hip Implant Multi-County Litigation in New Jersey, with a settlement valued at \$2.5 Billion.
- Class Action Co-Lead Counsel - \$30 Million nationwide settlement with Osram Sylvania, Inc. for consumers who purchased allegedly defective headlight bulbs.
- Class Action - \$120 Million settlement in a securities fraud/RICO class action against general partner of a limited partnership formed to purchase and lease jet aircraft.
- Class Counsel — New Jersey Fen Phen Litigation
- Class Action Co-Counsel — obtained 100% reimbursement for plaintiffs across the country who purchased Akavar 20/50, a weight loss supplement, based on false claims of efficacy.
- Class Action Co-Counsel - \$350 Million settlement with United Health Care, and \$225 Million settlement with Health Net, Inc., on behalf of health care providers and subscribers for improper reimbursement on insurance claims for "out of network" medical treatment.
- Class Action Co-Lead and Trial Counsel— four state settlement in a landmark product liability case for a million plaintiff consumers who purchased Ford Explorers, following a 51-day trial.
- Class Action Co-Lead Counsel — \$30 Million settlement for California purchasers of hormone-replacement pharmaceutical product alleged to have been falsely and deceptively advertised.
- Member of Plaintiffs Steering Committee — National Rezulin Litigation.
- Co-Lead Counsel — environmental mass tort separate actions against DuPont and Ciba-Geigy.

Attached are the Biographies of some of the current members of our Class Action / Mass Tort Team.



# WILENTZ

-ATTORNEYS AT LAW-

John E. Keefe, Jr.

Shareholder

T: 732.855.6005

F: 732.726.4705

[jkeefeld2wilentz.com](mailto:jkeefeld2wilentz.com)



## Practices

Personal Injury

Toxic Exposures

Defective Drug and Device Injury

Class Action

## Education

**J.D.**, Seton Hall University School of Law, 1990

**B.A.**, Gettysburg College, 1987, English

## Clerkships

Honorable Kenneth C. MacKenzie, Superior Court of New Jersey, Chancery Division, 1990-1991

Honorable Harold A. Ackerman, United States District Court, Newark, New Jersey Judicial Extern

## Admissions

New Jersey, 1990

United States District Court, District of New Jersey, 1990

United States District Court, District of Columbia, 2005

United States District Court, Northern District of Florida, 2005

## Memberships

New Jersey State Bar Association, President (2018-2019); Treasurer

John E. Keefe, Jr. is a Shareholder at Wilentz, Goldman & Spitzer, PA. and a member of the Management Committee, resident in the Red Bank office. Prior to joining Wilentz in 2021, John served as the Managing Shareholder of Keefe Law Firm, a litigation boutique he founded in 2005, known for achieving top verdicts and settlements in complex litigation.

John is the former president of the New Jersey State Bar Association. As president, his significant achievements included building diversity and inclusion in the legal profession, launching a mentoring program for new lawyers and leveling the malpractice playing field.

As a Certified Civil Trial Attorney, John has devoted much of his time to civil trial practice throughout the State and Federal Courts of New Jersey specializing in negligence and product liability as well as complex mass tort and class action litigation. John has tried numerous matters to verdict and prosecuted hundreds of cases on behalf of victims of catastrophic loss.



## Significant Representations

- Appointed by the Superior Court as plaintiffs liaison counsel in a historic consumer fraud national class action, Talelai v. Cooper Tire & Rubber Co. (Docket No.: MID-L-8830-00-MT ) the settlement of which is valued at between \$1,000,000,000 and \$3,000,000,000 to consumers.
- Lead counsel on behalf of plaintiffs in one of the largest pollution cases in **New Jersey, Janes v. Ciba Geigy Corporation (Docket No.: MID-L- 1669-01-MT)**.
- Served as local counsel in the securities class action litigation, In Re Sears, Roebuck & Co. Securities Litigation (Docket No. 02007527) which resulted in a \$215,000,000 cash settlement.
- Resolved a complex wrongful death case on behalf of a young widow and small children against New Jersey Transit Corporation for Wrongful Death Caused by Electrocution and Severe Burns for \$10,000,000.00.

and Secretary (2013)

New Jersey State Bar Association  
Civil Trial Bar Section, Executive  
Committee (1998-Present); Chair  
(2010-2012)

New Jersey State Bar Foundation,  
Trustee

Middlesex County Bar Association

Monmouth County Bar Association

American Bar Foundation New  
Jersey Chapter, Fellow

American Association for Justice

Trial Attorneys of New Jersey,

Member (1999-2010); Past  
President (2007)

Million Dollar Advocates Forum

- Served as liaison counsel in In Re Royal Dutch/Shell Transport Securities Litigation — (Civil Action No.: 04-374 (JWB)) before Judge Joel Pisano and the Hormone Replacement Therapy Litigation (Docket No.: ATL-2093-04 MT) before Judge Carol E. Higbee.
- Served as co-counsel in a national consumer fraud class settlement in Chicago, Illinois on behalf of thousands of consumers nationwide.
- Co-counsel in \$30 million false advertising class action lawsuit *Imran Chaudhri v. Osram Sylvania Inc.*, in the U.S. District Court for the District of New Jersey.
- Additional matters include: motor vehicle wrongful death, product liability, premises liability, burn injuries, worksite OSHA violations, hospital negligence wrongful death and long term care negligence involving burns and wrongful death.

#### Publications

- NJSBA, Presidents Perspective, Author: Chapter 11, "Attorney's Fees in Class Actions" in *'2620 New Jersey i'vias Torts Class Actions Treatise*
- Commitment to Professionalism Critical for All Attorneys, *New Jersey Lawyer No. 315/December 2018*
- Tree of Life Synagogue, Words Matter, New Jersey State Bar Association President's Message/October 2018
- NJSBA Mentor Match Needs You, *New Jersey Lawyer No. 314/October 2018*
- Doing Good Together, for the NJSBA and Profession, *New Jersey Lawyer No. 313/August 2018*
- Leading Lawyers Forward, Together, *New Jersey Lawyer No. 312/June 2018*
- "The New Jersey Trainer Absolute Insurer Rule: Burning Down the House to Roast the Pig," *Seton Hall Journal of Sport Law* 6188/1991

#### Appointments & Recognition

New Jersey State Bar Association

- Immediate Past President, May 2019
- President, May 2018
- Treasurer, Secretary 2013

Civil Trial Section Executive Committee, 1998-

Present Civil Trial Section Chair, 2010-2012

New Jersey State Bar Foundation

- Trustee

Trial Attorneys of New Jersey, 1999 - 2010

- Past President 2007

New Jersey Governor Phil Murphy

- Transition Team Member



- Judicial Appointments Advisory Committee, Executive Order 16

New Jersey State Bar James J. McLaughlin Award: Professional in Civil Trial Law

Friendly Sons of Saint Patrick, Central Jersey, Irishman of the Year 2020/2021

Irish Legal 100, Irish Voice 2020

Biden 2020: New Jersey Lawyers for Biden, Co-Chair

#### Speaking Engagements

- "New Knowledge for the New Normal: Civil Litigation in the Pandemic," NJSBA Annual Meeting, May 2020
- "A Trial Lawyer's Perspective — Opioids, tobacco, Vaping, Critical Thinking, Life in the Law," Gettysburg College, PA February 2019 and St Peter's University, Jersey City, NJ, October 2019
- Mentoring at NJ Judicial College, November 2018
- Opioid Discussion/Kolodny, October 2018
- "Opioid Panel," NJSBA Annual Meeting
- "Everything You Need to Know About Successfully Managing Track I & Track II Cases Under the New Mandatory Expedited Handling Program," Civil Trial Bench Bar Conference, NJSBA Annual Meeting, May 2014
- "Civil Litigation a La Italiana," Rome, Italy, November 2013
- "So You Think You Want To Be A Lawyer," CBA High School Future Business Leaders of America, October 2013
- "Class Action Update," NJAJ Boardwalk Seminar 2013, April 18, 2013
- NJSBA Best Practices Civil Trial Bench-Bar Conference, Moderator, May 18, 2012
- "Class Action Update," NJAJ Boardwalk Seminar 2012, April 25, 2012
- "So You Think You Want To Be A Lawyer," New Egypt High School Business Law Class, May 23, 2011
- "Solo Firm Marketing Paner, Water Club at the Borgata Hotel Atlantic City, NJ, May 18, 2011— Present
- "Successfully Working with a Special Master for Maximum Results" Webinar, May 3, 2011
- Experts by Experts/Class Action Symposium/Hot Topic Seminars, CLE/NJSB, 1998 - 2005
- "Environmental Meetings," Chicago, Illinois, 2005
- "Natural Resource Damage Cases," Houston, Texas

# WILENTZ

— ATTORNEYS AT LAW —

## Stephen T. Sullivan, Jr.

Counsel

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### Practices

Personal Injury  
Wrongful Death  
Class Action  
Defective Drug and Device Injury  
Toxic Exposures

### Education

**J.D.**, Villanova University Charles Widger School of Law, 1997, *Cum Laude*, Villanova Law Review, Villanova Moot Court Board  
B.A., Trenton State College, 1994, Political Science, *Magna Cum Laude*, Pi Kappa Phi Honor Society, President; Blue Key Honor Society, President; Phi Kappa Psi Fraternity

### Clerkship

Honorable Marina Corodemus, Superior Court of New Jersey, Law Division, Middlesex County, Law Clerk, 1997-1998

### Admissions

New Jersey, 1997  
Pennsylvania, 2000  
United States District Court, District of New Jersey, 1997  
Third Circuit Court of Appeals, 2011

Stephen Sullivan is Counsel on the Personal Injury and Product Liability Group at Wilentz, Goldman & Spitzer, P.A. Stephen concentrates his practice in the areas of personal injury, wrongful death, consumer fraud, toxic tort, mass tort and class action litigation. He has successfully litigated multiple substantial catastrophic injury and wrongful death cases, as well as state and national class actions.

Prior to joining Wilentz in 2021, Stephen was a partner at Keefe Law Firm, where he focused on personal and catastrophic injury litigation, class action litigation, mass tort litigation, consumer fraud and environmental litigation. Prior to that, he practiced law at Wasserman & Cooke from 1998-2000.

### Significant Representations

- Asiedu v. Garden Savings Federal Credit Union, ESX-L-3570-15
- Carton v. Choice Point, Inc., No. 05-5489 (D. N.J.)
- Clemente v. New Jersey Transit, ESX-L-8977-08
- Di Maria v. Manchester Little League, OCN-L-4376-08
- Eisele v. Sunrise at Jefferson, MRS-L-2045-06
- Ervins v. United Teletech Federal Financial Credit Union, MID-L-5477-12
- Frank K. Cooper Real Estate #1, Inc. v. Cendant Corp., MRS-L-377-02
- Gosselin v. Passaic Valley Sewerage Commission, 156528 (D.N.J.)
- In re Royal Dutch/Shell Transport Securities Litig., 04-374 (D. N.J.)
- In re Sears, Roebuck & Co. Securities Litigation 02-C07527 (N.D. Ill.)
- In re Vonage Initial Public Offering (IPO) Sec. Litig., 07-177 (D. N.J.)
- Janes v. Ciba-Geigy Corp., MID-L-1669-01 MT
- Kernahan v. Choice Home Warranty, MID-L-7052-15
- Local 68 v. AstraZeneca, MON-L-3136-05
- Miller v. Chrysler Group, L.L.C., 12-760 (D. N.J.)
- Talalai v. Cooper Tire & Rubber Co., MID-L-8830-00-MT

- Wrobel v. Sears, Roebuck & Co., 2-CH-23058 (Ch. Div. III)

#### **Memberships**

Middlesex County Bar Association  
New Jersey State Bar Association,  
Class Action Committee;  
Professional Responsibility  
Committee, Amicus Curiae Award,  
2016

#### **Speaking Engagements**

- "Arbitration Agreements in Consumer and Employment Contracts," Monmouth County Bar Association, 2021
- "Technology and 21st Century Small Firm Practice — Ethical Considerations for Inadvertent Disclosure of Metadata," Seton Hall University School of Law, 2017
- "Mass Torts Update," NJAJ Meadowlands Seminar, 2015
- "Successfully Litigation New Jersey Wrongful Death Cases," Lawline, 2013

#### **Community Service**

- Trustee, Our Lady of Lourdes, Milltown, NJ
- Treasurer, Our Lady of Lourdes Council 7250 of the Knights of Columbus

**LETTER OF ENGAGEMENT**  
(PRIVILEGED AND CONFIDENTIAL)

**Purpose and Scope of Representation**

The City of Vineland (hereinafter "You" or "Client") hereby agrees to retain Wilentz, Goldman & Spitzer, P.A. (hereinafter the "Firm") and Co-Counsel, Kanner and Whiteley, LLC ("KW") as the Client's attorneys for the purpose of reviewing and analyzing the Client's Confidential Information as defined below, in order to investigate and evaluate potential environmental claims, based in statute or common law, for, among other things, the contribution, reimbursement and/or recovery of costs, expenses or damages related to investigation, evaluation, preparation, construction, operation, improvement, maintenance, upgrade, removal and/or remediation of/for PFAS contamination. (hereinafter, "the Matter(s)"). The Firm and KW's representation does not include, and the Firm and KW is not responsible for the costs and expenses of, the Client's actual investigation, evaluation, preparation, construction, operation, maintenance, upgrade, improvement, removal and/or remediation of any environmental contamination or pollution.

If, after the investigation described above, the Firm and KW believes the Client has viable existing claim(s) against one or more responsible parties, the Firm and KW, after consultation with and approval of the Client, will file and prosecute such Matter(s) as are necessary on the Client's behalf against any responsible parties. The Firm and KW will submit any proposed complaint or claim to the Client for approval before filing. The Firm and KW have made and make no promises or guarantees as to the probabilities of outcomes or the amounts recoverable in connection to the Client's claim(s) or Matter(s). If the Firm and KW and Client agree to file such Matter(s), claim(s) or complaint(s) on Client's behalf, the remaining sections of this agreement shall apply and the parties shall not be required to enter into an additional retainer agreement regarding such Matter(s), claim(s) or complaint(s).

In order to investigate and evaluate the potential claim(s) or Matter(s), the Client agrees to share Confidential Information with the Firm and KW, which includes, but may not be limited to, (a) data pertaining to substances present in any relevant property or drinking water sources that are required by law to be removed or remediated by Client, (b) past and present expenses for costs of removing and/or remediating those substances from any relevant property or drinking water source, as well as projections for future removal expenses or costs, (c) all records and other sources of information relevant to determining the source of the substances being removed or remediated from property or drinking water supply and responsible parties and (d) any other records or documents that the Firm and KW deem necessary for their investigation and evaluation. The Firm and KW shall use the Confidential Information in good faith and solely for the purpose of the Matter(s) and shall not disclose it to anyone, with the exception of the Firm and KW's staff members, any other associated and/or retained counsel, and outside experts or consultants retained by the Firm and KW for the purpose of the Matter(s), unless and until the Client expressly authorizes in writing further disclosure. The Client agrees that the Firm and KW's analysis compiled in connection with the Firm and KW's investigation and evaluation of the Matter(s), which will be shared with the Client, constitutes work product, except that the Firm and KW agrees to use and disclose such work product only as set forth above.



The Firm and KW may associate with and/or retain other counsel as necessary to investigate and evaluate this Matter(s), but only with the Client's prior express approval. The Firm and KW will enter into separate agreements with counsel regarding their participation and compensation in this Matter(s). The division of fees among any such counsel does not change the total Contingency Fee described below.

### **Fees and Expenses**

The Client shall not be responsible for legal fees, costs and expenses incurred by the Firm and KW or associate counsel in connection with the previously-described investigation and/or potential litigation unless there is a settlement, judgment and/or resolution on the Client's behalf. The Client agrees to pay the Firm and KW and associate counsel a total Contingency Fee of one-third (or 33.33%) of the total amount of money or other items of value obtained in connection with a settlement, judgment and/or resolution on the Client's behalf. If there is no recovery, the Client shall not be responsible to reimburse the Firm and KW for any fees, costs or expenses.

### **Costs and Expenses**

In the event of a settlement, judgment or resolution in Client's favor, in addition to the Contingency Fee defined above, the Firm and KW will require that you reimburse any costs and expenses incurred in order to investigation and prosecution of the Matter(s) out of the monies recovered on your behalf. These costs and expenses include but are not limited to: court filing fees; process serving fees; witness fees; private investigator fees; photographer/graphic artist fees; expert or consultation fees; reasonable matter-related travel, consultation and/or appearance fees; mail, messenger and other delivery charges; parking and other local travel; transportation, meals, lodging and all other costs of necessary for out-of-town travel; photocopying, scanning, and faxing charges; and computerized legal research charges. Costs will be limited to reasonable and customary rates within the legal industry. If it is deemed necessary by the Firm and KW to utilize a lien resolution service, this charge will be an expense against any settlement proceeds. This list is not exhaustive. In addition to the foregoing costs and expenses, other charges may be incurred in connection with the performance of the services described herein by the Firm and KW. The Firm and KW may employ such technical experts or investigators who, in their opinion, are necessary to investigate the facts surrounding the Matter(s) or necessary to prosecute any claim(s) or Matter(s) on behalf of the Client. The Firm and KW may hire experts, investigators or consultants at reasonable and customary rates within the legal industry. All such experts, investigators or consultants shall report exclusively to the Firm and KW. It is agreed that the Firm and KW may decline in their sole discretion, to advance such costs and disbursements for expert, investigator or consultant testimony, investigation or other services.

### **Law Firm's Right to Withdraw as Counsel**

The Firm and KW agrees to initially investigate the Client's potential claim(s). The Firm and KW reserves the right to withdraw from the engagement and from the representation of Client, subject to the ethical restrictions imposed upon law firms by the applicable Code of Professional Responsibility. For example, and without limitation, if Client fails to cooperate, if Client misrepresents material facts, if Client fails to follow the advice of the Firm and KW (other than with respect to settlement, which is solely for the Client to decide), or if Client requests the Firm and KW to take any position or action that in the Firm and KW's good faith opinion requires or permits our withdrawal because of professional duties imposed upon us by the applicable Code of Professional Responsibility Law, the Firm and KW may withdraw. If the Firm and KW seeks to terminate this engagement for any reason, written notice will be given to Client.

### **Discharge of Law Firm by Client**

If the Firm and KW is discharged by the Client, the Firm and KW will receive, at the election of the Firm and KW, either (1) the reasonable and fair value of the services provided by the Firm and KW prior to such discharge or (2) a proportional share of the contingency fee portion of the ultimate recovery by the Client, such proportional share to be determined by comparing the amount of value of work done by the Firm and KW to the amount or value of work performed by other counsel, or as otherwise determined by the Court. If no election is made by the Firm and KW at the time of discharge, the Firm and KW shall be presumed to have elected option (2).

If Client discharges the Firm and KW, Client understands that, in consideration for the services the Firm and KW provided up to the time of such discharge, the Firm and KW also will be entitled to be reimbursed for all costs and expenses advanced by the Firm and KW on behalf of Client with respect to Client's claim(s) or Matter(s) immediately following such discharge, and that Client will be obligated to reimburse the Firm and KW for such costs or expenses.

### **Claims Excluded From this Engagement**

This Agreement does not include any contract or agreement for any other legal representation not expressly referenced in this Agreement. The Client understands that the Firm and KW will not provide any tax, accounting, engineering, scientific, regulatory, technical, or financial advice or services regarding any claim(s) or Matter(s). If additional legal services are necessary in connection with or beyond the scope of the engagement reflected herein and the Client requests an attorney to perform such services, separate and additional fee arrangements will be made between the Client and the Firm and KW. Any requests for legal services unrelated to this engagement must be set forth in a separate written agreement signed by the Client and the Firm and KW.

### **Arbitration of Disputes**

Any disputes arising out of, based upon or otherwise regarding the Agreement shall be submitted to arbitration pursuant to the laws of the State of New Jersey. If the parties to the dispute are unable to agree upon an arbitrator, such arbitration shall be submitted to the American

Arbitration Association ("AAA"). Such arbitration shall be governed by and subject to the substantive and procedural laws of the State of New Jersey. The selection of the arbitrator by AAA shall be limited to retired New Jersey Supreme or Superior Court Judges. The parties agree that any disputes as to the breach of this Agreement shall be resolved by arbitration. All decisions absent fraud will be deemed final with no right of appeal by either party.

**By agreeing to arbitration, each party understands that it shall not be permitted to bring a lawsuit or any other equitable, injunctive or legal action or proceeding in any state or federal court, and expressly and voluntarily waives any right to have any dispute decided by a judge or jury.**

### New Jersey Law

This Investigation Letter of Engagement shall be construed in accordance with the laws of the State of New Jersey and all parties consent to jurisdiction and venue in the State of New Jersey.

### Acknowledgement

The undersigned on behalf of the Client hereby acknowledges that he/she has read and fully understands the foregoing, that he/she has had an opportunity to consult with independent counsel, that he/she is authorized to enter into this agreement, and that he/she agrees to the representation on the terms set forth in this Letter of Engagement. The undersigned acknowledges receipt of a fully executed copy of this agreement.

This Letter of Engagement constitutes the entire agreement between the Client and the Firm and KW regarding the Matter(s). It can only be amended by a written document signed by both the Client and the Firm and KW that explicitly indicates the intent to modify the agreement.

Should any portion of this agreement be found unenforceable by a court of competent jurisdiction, the remaining portions of the agreement shall remain in full effect.

You understand that the Firm and KW represents other clients in other matters, and it is possible that the Firm and KW may have clients, now or in the future, with a claim against You or Your employees, insureds, principals and/or agents stemming from matters unrelated to the subject of this Agreement. Should a conflict arise in the Firm and KW's representation of the Client in this Matter(s), the Firm and KW reserves the right to seek appropriate conflict waivers from the Client pursuant to the Rules of Professional Conduct.

DATED: \_\_\_\_\_, 2023

BY: \_\_\_\_\_  
Name:

Position:

On behalf of the of City of Vineland

DATED: \_\_\_\_\_, 2023

BY: \_\_\_\_\_  
John E. Keefe, Jr.  
Wilentz, Goldman & Spitzer, P.A.  
125 Half Mile Road, Suite 100  
Red Bank, NJ 07701

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