

STATE OF NEW YORK
SUPREME COURT

COUNTY OF RENSSELAER

JAY BURDICK, CONNIE PLOUFFE,
EDWARD PLOUFFE, FRANK
SEYMOUR, EMILY MARPE, as parent and
natural guardian of E.B., an infant, and, G.Y.,
an infant, JACQUELINE MONETTE, WILLIAM
SHARPE, EDWARD PERROTTI-SOUSIS,
MARK DENUÉ and MEGAN DUNN,
individually, and on behalf of all similarly situated,

**ATTORNEY'S
AFFIDAVIT OF
JAMES J.
BILSBORROW**

Plaintiffs,

v.

Index No.: 00253835

TONOGA INC., (d/b/a TACONIC),

Hon. Patrick J. McGrath

Defendant.

State of New York)

ss:

County of New York)

JAMES J. BILSBORROW, being duly sworn, deposes and says:

I am an attorney duly admitted to practice before the Courts of the State of New York and am a member of the law firm of Weitz & Luxenberg, P.C., appointed co-lead class counsel along with Faraci Lange, LLP for the four certified classes in the above-captioned matter. I am fully familiar with the facts and circumstances surrounding this action. Throughout this affidavit I refer to the defendant in the above-captioned matter, Tonoga Inc. as Taconic, the name by which it is commonly known. I make this affidavit in support of Plaintiffs' Memorandum of Law in Opposition to Defendant's Motion for Summary Judgment.

1. Attached hereto as **Exhibit 1** is a true and correct copy of relevant excerpts from the deposition of Larry Carroll, conducted on August 22, 2018.

2. Attached hereto as **Exhibit 2** is a true and correct copy of Taconic's Responses to Interrogatories served by the New York State Senate, Senate Health Committee, on September 6, 2016 (TAC-SEN-LTR-00001 to 00014).

3. Attached hereto as **Exhibit 3** is a true and correct copy of relevant excerpts from the deposition of Kevin Stevens, conducted on June 18, 2018.

4. Attached hereto as **Exhibit 4** is a true and correct copy of relevant excerpts from the deposition of Carol Goodermote, conducted on April 26, 2018.

5. Attached hereto as **Exhibit 5** is a true and correct copy of relevant excerpts from the deposition of Timothy Kosto, conducted on July 26, 2018.

6. Attached hereto as **Exhibit 6** is a true and correct copy of Exhibit 18 to the deposition of Carol Goodermote, TACONIC_Paper-0034258 to 0034265, a Material Safety Data Sheet for FC-118 Fluorad.

7. Attached hereto as **Exhibit 7** is a true and correct copy of relevant excerpts from the deposition of Malcolm Green, conducted on September 21, 2018.

8. Attached hereto as **Exhibit 8** is a true and correct copy of relevant excerpts from the deposition of Tad Hewitt, conducted on April 25, 2018.

9. Attached hereto as **Exhibit 9** is a true and correct copy of relevant excerpts from the deposition of Andrew Kawczak, conducted on August 21, 2018.

10. Attached hereto as **Exhibit 10** is a true and correct copy of Exhibit 16 to the deposition of Carol Goodermote, TACONIC_Paper-0034211 to 0034219, a Material Safety Data Sheet for DuPont "Teflon" PTFE Fluoropolymer Dispersions All In Synonym List TEF027, dated January 1996.

11. Attached hereto as **Exhibit 11** is a true and correct copy of relevant excerpts from the deposition of Ray Guber, conducted on July 18, 2018.

12. Attached hereto as **Exhibit 12** is a true and correct copy of relevant excerpts from the deposition of Harvey Teal, conducted on July 19, 2018.

13. Attached hereto as **Exhibit 13** is a true and correct copy of Exhibit 309 to the deposition of Malcolm Green, TACONIC_Paper-0080315, Memorandum of March 25, 1997 to Andy Russell from Jerry Henry re Encon Visit 3/25/97.

14. Attached hereto as **Exhibit 14** is a true and correct copy of Exhibit 142 to the deposition of Karen Toth, TACONIC_Paper-0037295 to 0037297, DEC Memorandum of March 21, 1997 from Arline Sumner, Toxic Assessment Section, to Robert Warland, Regional Air Pollution Control Engineer re Taconic Plastics – Neighborhood Complaints.

15. Attached hereto as **Exhibit 15** is a true and correct copy of Exhibit 310 to the deposition of Malcolm Green, TACONIC_Paper-0080312 to 0080314, Letter of April 14, 1997 from Malcolm Green (Taconic) to Robert Warland (DEC).

16. Attached hereto as **Exhibit 16** is a true and correct copy of Exhibit 312 to the deposition of Malcolm Green, TACONIC_Paper-0017712 to 0017719, Adirondack Environmental Services Letter of April 23, 1997 re Testing of the Process Scrubber Exhaust – Taconic.

17. Attached hereto as **Exhibit 17** is a true and correct copy of TACONIC_Paper-0039453 to 0039462, In the Matter of the Violations of Article 19 of the Environmental Conservation Law of the State of New York by Taconic Plastics, Ltd., Order on Consent, dated August 17, 2000.

18. Attached hereto as **Exhibit 18** is a true and correct copy of Exhibit 287 to the deposition of Malcolm Green, TACONIC_Paper-0080336 to 0080337, Memorandum of January 24, 1996 from Malcolm Green (Taconic) to Dennis Carroll (DEC) re Installation of Evaporator.

19. Attached hereto as **Exhibit 19** is a true and correct copy (redacted) of Exhibit 36 to the deposition of Carol Goodermote, O'Keefe_Jim-00000052 to 00000053, Memorandum of June 13, 2001 from Carol Goodermote to Various Taconic Employees re Notes from Meeting with Doug Hayes and Danielle Lindner with DuPont 6/4/01.

20. Attached hereto as **Exhibit 20** is a true and correct copy (redacted) of Exhibit 38 to the deposition of Carol Goodermote, TACONIC_Paper-0040759 to 0040760, Memorandum of March 20, 2002 from Carol Goodermote to Various Taconic Employees re Notes from Meeting with Doug Hayes, DuPont 3/19/02.

21. Attached hereto as **Exhibit 21** is a true and correct copy of Exhibit 39 to the deposition of Carol Goodermote, TACONIC_Paper-0003389, Email of May 31, 2002 from Carol Goodermote to Various Taconic Employees re C8 environmental issues.

22. Attached hereto as **Exhibit 22** is a true and correct copy (redacted) of Exhibit 42 to the deposition of Carol Goodermote, TACONIC_Paper-0033371 to 0033372, Memorandum of December 5, 2002 from Carol Goodermote to Various Taconic Employees re Notes from Meeting with Doug Hayes from DuPont on 12/4/02.

23. Attached hereto as **Exhibit 23** is a true and correct copy of Exhibit 42 to the deposition of Carol Goodermote, TAC-SEN 04298, Memorandum of February 11, 2003 from Carol Goodermote to Various Taconic Employees re Notes from Meeting with Doug Hayes, DuPont, 2/6/03.

24. Attached hereto as **Exhibit 24** is a true and correct copy of Exhibit 173 to the deposition of Timothy Kosto, TACONIC_Paper-0044357 to 0044360, Proposal of April 21, 2003 from TRC to Taconic re PFOA Monitoring Proposal.

25. Attached hereto as **Exhibit 25** is a true and correct copy of Exhibit 198 to the deposition Andrew Kawczak, TACONIC_ESI-00001395, Email of April 8, 2003 from Andy Kawczak to James O'Keefe re C8 sampling/analysis.

26. Attached hereto as **Exhibit 26** is a true and correct copy of Exhibit 197 to the deposition of Andrew Kawczak, TACONIC_ESI-00001390 TO 00001392, Email of March 31, 2003 from Andy Kawczak to Philippe Heffley re NYTimes.com Article: Chemical Might Pose Health Risk to Younger Women and Girls.

27. Attached hereto as **Exhibit 27** is a true and correct copy (redacted) of Exhibit 12 to the deposition of Tad Hewitt, TACONIC_ESI-00060237, Memo re May 2, 2003 Meeting re PFOA discussions and agreements.

28. Attached hereto as **Exhibit 28** is a true and correct copy of Exhibit 174 to the deposition of Timothy Kosto, TACONIC_ESI-0040696, Email of July 27, 2004 from Timothy Kosto to Ian Molyneux re APFO tests.

29. Attached hereto as **Exhibit 29** is a true and correct copy of Exhibit 228 to the deposition of Andrew Kawczak, TACONIC_ESI-00001461 to 00001462, Email of July 22, 2003 from Jim O'Keefe to Various Taconic Employees re PFOA results – by Adirondack sampling & testing.

30. Attached hereto as **Exhibit 30** is a true and correct copy of Exhibit 175 to the deposition of Timothy Kosto, TACONIC_Paper-0044555 to 0044560, October 17, 2003 Letter

from Donald Duncan to Dr. Tom McCarthy re Request for Participation in Dispersion Processors Material Study.

31. Attached hereto as **Exhibit 31** is a true and correct copy of Exhibit 176 to the deposition of Timothy Kosto, TACONIC_Paper-0041774 to 0041785, Email of November 5, 2003 from Timothy Kosto to Various Taconic Employees re FPG Meeting.

32. Attached hereto as **Exhibit 32** is a true and correct copy of TACONIC_ESI-00095208 to 00095209, Email of May 7, 2005 from Allen Weidman to Various Recipients re Royalty-free.doc; Royalty-free LTR.pdf.

33. Attached hereto as **Exhibit 33** is a true and correct copy of Exhibit 191 to the deposition of Timothy Kosto, TACONIC_ESI-00001806, Email of January 12, 2004 from Timothy Kosto to Various Taconic Employees re EPA Roadmap.

34. Attached hereto as **Exhibit 34** is a true and correct copy of Exhibit 280 to the deposition of Larry Carroll, TACONIC_ESI-00001807, Powerpoint Presentation titled, "Flouropolymers in the Environment: EPA's Current Understanding of Sources and Pathways, December 9, 2003, A "Road Map" for a Path Forward."

35. Attached hereto as **Exhibit 35** is a true and correct copy of Exhibit 161 to the deposition of Timothy Kosto, TACONIC_Paper-0024951 to 0024962, Taconic Analysis of APFO in Wastewater Samples, September 2004.

36. Attached hereto as **Exhibit 36** is a true and correct copy of Exhibit 162 to the deposition of Timothy Kosto, TAC-SEN_03625 TO 03638, Taconic Analysis of PFOA in Water Samples, November 2004.

37. Attached hereto as **Exhibit 37** is a true and correct copy of Exhibit 164 to the deposition of Timothy Kosto, TAC-SEN_03524 to 03539, Taconic Analysis of PFOA in Water Samples, January 2005.

38. Attached hereto as **Exhibit 38** is a true and correct copy of TACONIC_Paper-0044009 to 0044039, EPA Science Advisory Board Draft Report dated 6/27/2005.

39. Attached hereto as **Exhibit 39** is a true and correct copy of TACONIC_ESI-00095281 to 00095282, Email of July 11, 2005 from Allen Weidman to Various Recipients re WV health screenings.

40. Attached hereto as **Exhibit 40** is a true and correct copy of Exhibit 14 to the deposition of Tad Hewitt, TAC-SEN 0400 to 04001, Taconic Memorandum of July 7, 2005 re Taconic PFOA summary and assessment.

41. Attached hereto as **Exhibit 41** is a true and correct copy of relevant excerpts from the deposition of Suzanne Seymour, dated August 7, 2018.

42. Attached hereto as **Exhibit 42** is a true and correct copy of Exhibit 232 to the deposition of Andrew Kawczak, TAC-SEN 04249 to 04253, Taconic and Surrounding Area Maps.

43. Attached hereto as **Exhibit 43** is a true and correct copy of Exhibit 186 to the deposition of Timothy Kosto, TAC-SEN 04274 to 04275, Email of August 3, 2005 from Andy Kawczak to Larry Carroll re communication strategy.

44. Attached hereto as **Exhibit 44** is a true and correct copy of Exhibit 269 to the deposition of Andrew Kawczak, TAC-SEN_00035, Letter of August 3, 2005 from Andrew Kawczak to Frederick Sievers (DEC) re Taconic, Petersburg, NY.

45. Attached hereto as **Exhibit 45** is a true and correct copy of Exhibit 139 to the deposition of Karen Toth, TACONIC_Paper-0041139 to 0041145, PFOA white paper, compiled by Andy Kawczak.

46. Attached hereto as **Exhibit 46** is a true and correct copy of Exhibit 243 to the deposition of Andrew Kawczak, TAC-SEN 04234, Maintenance PFOA/PPE Review presentation dated 12/7/05.

47. Attached hereto as **Exhibit 47** is a true and correct copy of Exhibit 58 to the deposition of Carol Goodermote, TACONIC_Paper-0041612, Letter of December 27, 2005 from Solvay Solexis to Carol Goodermote re Conversion of PTFE Dispersion Grades to “Lite” APFO Grades.

48. Attached hereto as **Exhibit 48** is a true and correct copy of Exhibit 63 to the deposition of Carol Goodermote, TACONIC_Paper-0044735 to 0044736, Letter of October 11, 2007 from Daikin America, Inc. to Carol Goodermote re Daikin PTFE Aqueous Dispersion Product Line.

49. Attached hereto as **Exhibit 49** are true and correct copies of the following: Email of July 14, 2011 from Andy Kawczak re teflon/pfoa stuff (TACONIC_ESI-00029541); Email of January 25, 2012 from Larry Carroll to Andy Russell re PFC Study (TACONIC_ESI-00032758); Email of March 20, 2009 from Andy Kawczak re c8 stuff (TACONIC_ESI-00096682); Email of July 20, 2011 from Andy Kawczak re pfoa stuff (TACONIC_ESI-00037933); Email of January 29, 2009 from Andy Kawczak re pfoa stuff (TACONIC_ESI-00096802); Email of September 7, 2010 from Andy Kawczak re pfoa (TACONIC_ESI-00100219); Email of August 19, 2011 from Andy Kawczak re pfoa / c-8 stuff (TACONIC_ESI-00100251); Email of December 6, 2011 from

Andy Kawczak re PFOA stuff (TACONIC_ESI-00100261); Email of April 30, 2012 from Andy Kawczak re pfoa stuff (TACONIC_ESI-00100265).

50. Attached hereto as **Exhibit 50** is a true and correct copy of Exhibit 184 to the deposition of Timothy Kosto, TAC-SEN -4351 TO 04352, Email of January 15, 2009 from Larry Carroll to Andy Kawczak re pfoa strategy meeting????.

51. Attached hereto as **Exhibit 51** is a true and correct copy of Exhibit 189 to the deposition of Timothy Kosto, TAC-SEN 04320, Email of February 3, 2009 from Andy Kawczak to Andy Kawczak re strategy meeting.

52. Attached hereto as **Exhibit 52** is a true and correct copy of Exhibit 254 to the deposition of Andrew Kawczak, TAC-SEN 04346, Email from Andy Kawczak to Larry Carroll and Timothy Kosto re pfoa/C8 and drinking water monitoring.

53. Attached hereto as **Exhibit 53** is a true and correct copy of Exhibit 255 to the deposition of Andrew Kawczak, TAC-SEN 04321 to 04322, Email of January 25, 2012 from Andy Kawczak to Timothy Kosto and Larry Carroll re vaccines.

54. Attached hereto as **Exhibit 54** is a true and correct copy of Exhibit 256 to the deposition of Andrew Kawczak, TAC-SEN 04324, Email from Andy Kawczak to Timothy Kosto and Larry Carroll re just fyi.


55. Attached hereto as **Exhibit 55** is a true and correct copy of In the Matter of a Remedial Program for Taconic, Order on Consent and Administrative Settlement, Index No. CO-4-20160519-01, dated November 10, 2016.

56. Attached hereto as **Exhibit 56** is a true and correct copy of Exhibit 119 to the deposition of Harvey Teal, TACONIC-Paper-0039092 to 0039123, Taconic Permit Application Package.

57. Attached hereto as **Exhibit 57** are true and correct copies of Affidavits by Plaintiffs Jay Burdick, Connie Plouffe, Edward Plouffe, Frank Seymour, Emily Marpe, as parent and natural guardian of E.B., an infant, and G.Y., an infant, Jacqueline Monette, William Sharpe, Edward Perrotti-Sousis, Mark Denué, and Megan Dunn.


JAMES J. BILSBORROW

Sworn to me this 3rd
day of May, 2019


Notary Public

DAVID ROSENBAND
Notary Public, State of New York
No. 02RO6092812
Qualified in Nassau County
Commission Expires May 27, 2019