

Exhibit 2

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

IN RE: AQUEOUS FILM-FORMING * MDL No. 2:18-mn-2873
FOAMS PRODUCTS LIABILITY *
LITIGATION * June 20, 2025

TRANSCRIPT OF STATUS CONFERENCE

BEFORE THE HONORABLE RICHARD M. GERGEL
UNITED STATES DISTRICT JUDGE, presiding

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1 Friday, June 20, 2025

2 (WHEREUPON, court was called to order at 9:22 AM)

3 **THE COURT:** Good morning. Please be seated.

4 Okay. I figured we must be giving something
5 away today with everybody here. Everybody heard what a
6 great city Charleston is to visit.

7 Okay. We're going to, sort of the order of
8 things, I think we mostly know this. We're going to go
9 through the status conference first. And then we're going
10 to break. I understand y'all want to do a little setup
11 here. And then we'll proceed to the Science Day. And
12 just for everyone's information, we'll do liver cancer
13 first, plaintiff, defendant. Then we'll do thyroid
14 cancer, plaintiff, defendant.

15 Okay. Could counsel for the plaintiff who will
16 be speaking identify for the record?

17 **MR. LONDON:** Good morning, Your Honor. Michael
18 London for the PEC.

19 **MR. SUMMY:** Scott Summy, Your Honor.

20 **MR. RICE:** Joe Rice, Your Honor.

21 **THE COURT:** Thank you.

22 Okay. And for the defense?

23 **MR. RING:** Good morning, Your Honor. Dan Ring
24 on behalf of the defense and 3M. And with me is Mr. Duffy
25 standing in for Mr. Olsen and Mr. Petrosinelli and

1 Mr. Dukes today.

2 THE COURT: He's got big shoes to fill.

3 MR. DUFFY: Battlefield promotion, Your Honor.

4 THE COURT: Yes. You know, those are the first
5 guys that get shot. (Laughter)

6 MR. RING: Thank you for that, Your Honor.

7 THE COURT: But you're second, you know.
8 Revolutionary War they look for the generals, and then
9 they got the brigadiers next.

10 And for the United States?

11 MR. ANWAR: Good morning, Your Honor. Haroon
12 Anwar. I'm here with my colleague, Michele Greif, and my
13 ENRD colleague Shari Howard, who is here in place of
14 Mr. Knudsen.

15 THE COURT: Well, first of all, welcome.

16 MR. ANWAR: Thank you.

17 THE COURT: And if you hide at the back row,
18 we'll still find you.

19 MR. ANWAR: Noted.

20 THE COURT: Okay. Let me just for a moment talk
21 a little bit about our calendar. Most of these things are
22 known, but a few may not be.

23 Of course, we received the summary judgment
24 motions and Daubert motions. And the responses are due on
25 July 17 and replies are due on July 31. Now, folks, let

1 me just make it very clear. At that point, if this case
2 is not resolved, I'm digging in to those motions and I am
3 going to decide them. Okay? We're not messing around
4 with this. So I know y'all are in active discussions. I
5 would not dither. Okay? Because we're going to -- I've
6 got a trial in October and I've got to make -- get in
7 through those documents and make rulings.

8 I'm going to schedule oral argument on the
9 Daubert and summary judgment motions on September 18. And
10 my goal is to have orders out by September 29 or earlier,
11 so four weeks out from trial. And at that point I will
12 designate whether we're doing one, two, or three kidney
13 cancer cases and which ones we will be doing.

14 And I'm holding off for the obvious reasons, I
15 need to get through Daubert to see if anything survives.
16 And then I've got to sort out, I'll have a deeper
17 understanding of the cases and the appropriateness of it
18 by then. And then we're going to have a pretrial
19 conference on October 16. And I draw a jury on
20 October 20.

21 Now, I know there is this request for
22 supplemental jury questionnaires. And maybe it is the
23 backwardness of our court, but I don't think it's just
24 that. I'm not going to send out questionnaires and let me
25 tell you why. I've only done supplemental questionnaires

1 in 15 years on one case, the United States vs. Dylann
2 Roof, for obvious reasons. I brought the jurors to the
3 courthouse to fill out the questions because I wanted some
4 control over them because I was worried everybody would
5 start doing Google searches. If I send out questionnaires
6 relating to PFAS, we're going to have everybody doing
7 Google searches. And the last I checked, that does not
8 meet the legal standards for admission. And I'm just not
9 going to do it.

10 We'll do voir dire. Let me say, do not try
11 proposed voir dire questions to do what I call push
12 polling where you're trying to get the jurors to think a
13 certain way. I'm very familiar with how to scratch
14 through those. Okay? And use a little proportionality.
15 I'm not going to let you do a colonoscopy on my jurors.
16 We're looking for general -- we're looking for neutral
17 people, people who don't have a dog in the fight. So I
18 will ask questions that get to that.

19 But most people, if you -- I'm sure all of you
20 who are involved in this will say -- friends will say what
21 are you working on? I'm working on this thing with AFFF
22 or PFAS. And they look at you bewildered. Okay? They
23 have no idea what you're talking about. Maybe if you say
24 forever chemicals they go, oh, I've heard about that. So
25 we're not talking about people who are carrying around I

1 think a lot of baggage on these issues, unlike my death
2 penalty case which was loaded with all kinds of potential
3 issues.

4 So we're going to do it, voir dire. You'll
5 submit your voir dire to me. I will have my red pencil
6 out. And I will often rephrase questions so they are not
7 push polling. But there are issues y'all will point out
8 to me that I think are useful to issues that are useful
9 for further juror inquiry.

10 Now, with that Mr. London, please proceed.

11 **MR. LONDON:** Good morning, Your Honor. Michael
12 London. And I'm going to run through the Joint Status
13 Report for Your Honor.

14 **THE COURT:** Yes.

15 **MR. LONDON:** I trust those binders are not
16 too -- not related to our status report.

17 **THE COURT:** Well, you know, they're not. But
18 let me make a small comment about these binders. I've
19 done multiple Science Days. And I've always done ten
20 articles on each side. Thoroughly digestible, right?
21 Even very complicated issues. That's been fine. Somehow
22 these morphed out into 22 articles per cancer.
23 Eighty-eight articles. Ridiculous, folks. Ridiculous.
24 And at least the defendants gave me some mercy. They
25 attached on some of their 22 supplemental data relating to

1 articles they thought particularly important.

2 Thank y'all for that.

3 I still read over 80 articles. I am convinced
4 having read them now y'all could have given me ten total
5 each side and been just fine. Okay? But they are done.
6 The good news is I've read them. The bad news is I've
7 read them. Okay?

8 Okay. But so the answer, Mr. London, is yes,
9 all these are related to this monstrous production y'all
10 have given me. And this is my total notebook for the
11 status conference. Very typical. Okay. Please proceed.

12 **MR. LONDON:** Thank you, Your Honor. To move to
13 the Joint Status Report relatively quickly, the updates
14 since the last case management conference in April,
15 document production continues, depositions continue. I
16 believe there were 19 taken since last April.

17 Moving on to the settlement report, we are happy
18 to report that the 3M first payments, the Phase One Action
19 Fund, have started to go out.

20 **THE COURT:** The check's cleared?

21 **MR. LONDON:** Checks have cleared, checks have
22 gone out, and they're rolling out to the Phase One class
23 members, which is terrific. The Dupont payments are
24 following very shortly behind, very, very soon. The Tyco
25 and BASF claim forms have been submitted and are done.

1 The special needs form deadline was extended until August.
2 But the special master and claims administrator believe
3 that they are on target to be paid this year as well. So
4 that's really terrific news. And they have worked
5 expeditiously and incredibly to oversee a really complex
6 claims form. This is not just simple do you have an
7 injury or did you use a product? So it's really been a
8 Herculean task and they've done it efficiently and
9 effectively I think.

10 Moving forward, Your Honor, the bellwether
11 report in the Joint Status Report I think Your Honor is
12 well abreast on the Group A cases and has --

13 **THE COURT:** More than I want to know.

14 **MR. LONDON:** -- addressed everything that I
15 would have commented on including the dates of the
16 oppositions and the replies. And thank you for telling us
17 when Your Honor will be winnowing the cases from below
18 three, if at all.

19 The Group B cases, which is the thyroid disease
20 and ulcerative colitis, those are still moving forward
21 through discovery. The Court added a few more ulcerative
22 colitis cases. We'll work with the defense to get expert
23 dates probably in the late fall for those.

24 And lastly, the Group C cases we are remiss, the
25 high cholesterol and pre-eclampsia. We owe the Court --

1 we, the royal we here, plaintiffs and defendants, the
2 Court a CMO on how to address those. We'll get something
3 to the Court. If we can't, we'll get a proposal from each
4 side to the Court in short order.

5 **THE COURT:** Let me just say, folks, sitting here
6 without a dog in the fight, just trying to make sure
7 everyone has a fair field to fight on, I think y'all would
8 be extremely prudent to be flexible enough to look for a
9 global settlement. You really want to spend the rest of
10 your life litigating these claims? I mean, really? I
11 think it's like your grandchildren's lives. This thing is
12 going go on forever unless you folks have the vision and
13 imagination and flexibility to find some path that
14 everyone feels like it may not be the perfect deal, but
15 it's the most reasonable under the circumstances. I know
16 y'all are working towards that.

17 And I just think the highlight when we're
18 sitting there going through all these -- we've still got
19 testicular cancer. We've got sovereign claims. We've got
20 other claims.

21 I'm just saying to you, folks, making some
22 incremental progress is going to end up being -- at some
23 point, let me just say, guys, at some point this goes back
24 to the district court that sent me these cases. And that
25 is not a good situation for anyone. In fact, it's a

1 disaster for everyone, right? Including my colleagues who
2 are going to get all these cases. Okay? But it is going
3 to be, I think, financially ruinous to everyone.

4 The one propitious moment I view in getting this
5 done might be in the next 60 days. I really do. And I
6 know some of y'all are warriors. You're used to fighting
7 and litigating. That's why y'all were hired by your
8 clients. But you need some negotiators and diplomats in
9 this as well because y'all need to find a path to get this
10 done. And that's my two cents worth.

11 **MR. LONDON:** Thank you, Your Honor. Noted and
12 we'll work towards that.

13 I think then moving forward, Your Honor,
14 somewhat apropos to that but not moving forward on the
15 CMO 32 cases, those are the dirt cases, the product ID
16 cases, those are -- parties have served written discovery
17 back and forth, that's being answered. I believe
18 depositions are on target to start being noticed soon, but
19 July and August, those are the property damage cases. The
20 parties have a bit of an ongoing dispute over the scope of
21 two of the plaintiffs that are in the cases. We met last
22 night. Again --

23 **THE COURT:** What do you mean the scope of the
24 two plaintiffs?

25 **MR. LONDON:** So there are two plaintiffs, Palm

1 Beach Airport and Fire Training Center, and it's at both
2 entities, and Shreveport Airport Fire Training Center, and
3 it's at both entities. We are not -- it is not ripe I
4 think for the Court. We spoke last night. We spoke again
5 this morning. And we'll try and come to agreement of how
6 that scope works out. And if we can't agree, we have --
7 if we cannot agree, we have agreed to submit our proposals
8 to the Court by next Thursday.

9 **THE COURT:** That's fine. I know how to say no.
10 I'm a parent.

11 **MR. LONDON:** Well, good, now I know how to
12 phrase the request. (Laughter)

13 Your Honor, moving forward, I don't think
14 there's much to talk about beyond the Joint Status Report
15 other than defendant discovery status for the Turnout Gear
16 and the other foam defendants.

17 Which then brings us, Your Honor, to the United
18 States section. There are a few issues to update there.
19 Haroon Anwar is here from the United States. Okay. Your
20 Honor, I could start basically with --

21 **THE COURT:** Let me hear what you've got to say.
22 Let me just say, when I heard there were 400 -- is it 400
23 interrogatories and 400 requests to produce or are they
24 800 total?

25 **MR. LONDON:** It's 400 and 400.

1 **THE COURT:** Somebody hadn't read my order.
2 Okay? This is a narrow issue of discovery. Are there
3 policies at other bases like the one we had in our
4 principal case? You know, are there -- is there -- do we
5 have information in other places for accidental
6 discharges? Mistaken neglectful discharges?

7 I thought this was a fairly limited scope we
8 were looking at. You know, as we dug into this issue, it
9 was more nuanced I think than all of us appreciated.
10 There's a lot of baggage in the case law, difficult for
11 the plaintiffs. I confront this all the time in cases
12 about discretionary review and discretionary decisions and
13 so forth.

14 So I wasn't expecting -- I thought this was a
15 pretty discrete set of issues. And so here's what I'm
16 saying to you is, Joint Status Reports aren't ways to
17 resolve issues if we've got to -- if we have a real
18 dispute that can't be resolved. I've read -- both sides
19 are saying we are optimistic about it. We're working on
20 it. We're optimistic about it. I'm hoping my statements
21 here will give some guidance.

22 But somebody needs to file either from the
23 plaintiff's side a motion to compel, from defense side a
24 motion for protective order and I'll rule on it. But I
25 don't even have the discovery requests. It's just when I

1 hear there are 800 out there, it just seems to me, hold on
2 a minute, that's way overboard.

3 And we're not relitigating the issue. We spent
4 an exhaustive amount of time -- and I want y'all to
5 remember Ms. Falk, our issues about causation, we're not
6 even there yet that are really, really complicated if you
7 have, say, some accidental discharges and a lot of ones
8 that wouldn't -- that wouldn't be -- that wouldn't fall
9 within the Tort Claims Act. And how do you sort all that
10 out? I'm just saying we've got lots of issues in this
11 case. And I just think y'all do not, despite the fact
12 you've packed a couple courtrooms, you don't have enough
13 resources endlessly to litigate things.

14 And I just say to you, Mr. London, you'll
15 remember at our first status conference in this case I
16 said to y'all, all this talent in the room and y'all are
17 going to be trying to tear each other's eyes out. You
18 need to be working together to educate Congress the issues
19 here. Because the Tort Claims Act is really a challenge
20 to get the kind of relief that the water districts in
21 particular need. And that something like a 9/11 kind of
22 structure with Congress seems like a particularly
23 appropriate approach. I've thought that then from the
24 beginning of this. And I'm sure y'all have made some
25 efforts. I understand there were some efforts with

1 firefighters and some early efforts with that, which is a
2 very sympathetic group and a group that's had a lot of
3 exposure.

4 But I'm just saying to you, you know, there are
5 limits. The law has put some practical limits on your
6 ability to recover, though the Government appears to have
7 some role and some hand in this. But getting it and
8 you'll probably now move on to CERCLA, I think y'all are
9 having issues with CERCLA, right, getting progress in
10 CERCLA?

11 **MR. LONDON:** That's right, Your Honor. And that
12 is helpful. And you have certainly made those statements
13 and views known from the beginning. And I think we echo
14 them. I think everybody does agree.

15 It is somewhat misleading to just cast that it's
16 800 demands and 400 and 400. And I only say that because
17 there's about two dozen sites at play. And 18
18 interrogatories per site per plaintiff were issued. So 18
19 times 24, 430 something. So that's where that comes from.
20 I will say -- and the Court's order said complete the
21 discovery in 90 days, which would have been May --

22 **THE COURT:** Because I thought we were dealing
23 with give me all your policies in these -- I think we were
24 talking about 12 sites or something?

25 **MR. LONDON:** It's a little bit more than that.

1 **THE COURT:** Okay. And give me all your
2 accidental discharges or mistaken or neglected -- that's
3 what I thought was coming. And I thought 90 days was
4 plenty. But that's not -- that doesn't sound like 18 per
5 site. That's a little beyond what I was talking about.

6 **MR. LONDON:** So what I think, though, Judge, the
7 good news is out of this, what the parties realize is it's
8 a lot. Whether it's ten interrogatories, 18
9 interrogatories, ten document demands, 18 document
10 demands, it's a lot. So the proposal of the CMO the Court
11 will be getting from the parties is to triage the sites.
12 Do four of them now.

13 **THE COURT:** Right. Four of them --

14 **MR. LONDON:** Four of them following that. If
15 necessary, four more.

16 **THE COURT:** But you need to narrow -- you need
17 to read my order and they need to be tailored to my order
18 whether there are four or 24. Okay?

19 **MR. LONDON:** And that's helpful, Your Honor.
20 The teams that are prosecuting those cases have heard
21 this.

22 **THE COURT:** For teams, that's their baby. Okay?
23 But there's got to be command and control in this thing.
24 And that's what I'm looking for my leadership to provide.

25 **MR. LONDON:** And I think the narrowing of the

1 four was very helpful. And we're glad -- that was a great
2 first step.

3 So, Your Honor, now pivoting to CERCLA, I guess
4 I'll start with the good news. I was going to finish with
5 this, that we've taken nine months but a tolling agreement
6 has been reached.

7 **THE COURT:** Good.

8 **MR. LONDON:** And I think will be submitted to
9 the Court shortly. The not so good news, and I'm sure
10 Your Honor saw from the Joint Status Report, we had picked
11 these four exemplar cases almost a year ago to issue
12 demands, do settlement discovery. That was the four
13 cases, the Bakman case, New Mexico Highland Dairy, and
14 Westfield. The pace of resolution or discussions was --

15 **THE COURT:** Drip, drip, drip.

16 **MR. LONDON:** Right. And the plaintiffs
17 complained about that in JSR after JSR after JSR.

18 **THE COURT:** And I've told you that they don't
19 have an obligation to settle with you. And y'all can
20 litigate it.

21 **MR. LONDON:** Unfortunately, Mr. Knudsen, who was
22 in charge of resolution has moved on within the DOJ. We
23 do not yet know his replacement. So at this point,
24 without somebody --

25 **THE COURT:** I think we have someone. I think we

1 were introduced to him. You can go introduce yourself to
2 him in a minute.

3 **MR. LONDON:** Certainly will. We intend -- I
4 think some of the plaintiffs intend to file affirmative
5 motions for summary judgment --

6 **THE COURT:** That's fine.

7 **MR. LONDON:** -- shortly.

8 **THE COURT:** I just sort of feel like, you know,
9 from time to time I have in my civil cases I have lawyers
10 complaining, you know, the guy won't settle with me. And
11 I'll say, well, that's why we have juries. We try cases
12 around here. Nobody has to settle and make your motions.

13 So, yeah, I know y'all are frustrated. And I
14 know that it's disappointing that when you finally felt
15 like you had at least a working model with Mr. Knudsen,
16 he's moved on. Okay? But let me say this, about half the
17 DOJ lawyers have either left or moved on to other
18 departments. So everybody's facing this when litigating
19 against DOJ.

20 **MR. LONDON:** We just wish they didn't take
21 Mr. Knudsen. He had the checkbook.

22 **THE COURT:** Yes.

23 **MR. LONDON:** Well, be that as it may, we'll be
24 -- two plaintiffs I believe will be filing motions for
25 summary judgment. I think a few others may need some

1 affirmative discovery before they file.

2 And Your Honor, I think that concludes the PEC's
3 comments. I don't know if --

4 **THE COURT:** Tell me on the bellwethers, I saw
5 y'all were dismissing -- and I'll bring the Government up
6 after I do the defense. Y'all were dismissing certain
7 parties from the bellwether. Where does that stand?

8 **MR. LONDON:** So moving back to the personal
9 injury, the leach cases?

10 **THE COURT:** Yeah, specifically our three kidney
11 cancer bellwethers. I saw that there was -- there was a
12 mention to stipulations of dismissal, which doesn't
13 surprise me because there are probably going to be product
14 ID issues on a number of these defendants. But who looks
15 like they're still sort of look like going to be in the
16 case?

17 **MR. LONDON:** So, Your Honor, there are five that
18 are still in the case. 3M, Tyco, Chemguard, Dupont
19 Chemours family, BASF, Ciba Geigy defendants, and I guess
20 technically the Kidde, KFI defendants, they're stayed but
21 they're in.

22 **THE COURT:** That's it?

23 **MR. LONDON:** That's it. The others have been
24 either previously dismissed or dismissed recently.

25 **THE COURT:** Are you in discussions about

1 narrowing that further?

2 **MR. LONDON:** You know, Your Honor, I talked to
3 Mr. Douglas, I don't believe so. That looks like that's
4 the folks that will be there.

5 **THE COURT:** Okay. Because I've got to figure
6 out space in courtrooms and all that stuff for that many
7 parties. I don't think these lawyers are going to come
8 just like one solo practitioner for each defendant.
9 Somehow I don't think that's happening.

10 **MR. LONDON:** That's fine.

11 Absent anything from the United States on the
12 United States section, Your Honor, that probably -- the
13 rest of the Joint Status Report absent any comments from
14 Mr. Ring, I don't think there's anything to supplement.

15 **THE COURT:** Very good.

16 Let me hear from the defense.

17 **MR. RING:** Briefly, Your Honor, on the jury
18 questionnaire issue you raised at the beginning. The
19 parties did not intend to ask the Court to send it out in
20 advance. It was only a suggestion to use it with the
21 panel once they're here --

22 **THE COURT:** Very good.

23 **MR. RING:** -- to screen. And we'll submit
24 those. And we do think --

25 **THE COURT:** Y'all are a little lengthy. Okay?

1 And think about this issue that the jurors don't sign up
2 for this gross invasion of their privacy. Okay?

3 And by the way, the questionnaire we use
4 standard is pretty good. I mean, it's -- I did a lot
5 of -- I always liked litigating in federal court because I
6 thought the questionnaire was so good. And most state
7 judges wouldn't give me the -- let me do all I needed to
8 do. So it's a pretty good start. A lot of times people
9 submit questions as if they hadn't read the questionnaire.

10 **MR. RING:** And we'll bear that in mind, Your
11 Honor. I think we thought that there may be some things
12 that would be helpful to have in advance that may actually
13 expedite the process in cancer cases where in an open
14 setting that may be more difficult for people to deal
15 with.

16 **THE COURT:** Let me tell you how I normally do
17 that. Rather than saying do you have kidney cancer? I
18 don't ask that question. But I do say this, something to
19 the effect of this case involves issues related to kidney
20 cancer. If there's anything about that subject that
21 troubles you one way or the other in which you don't think
22 you could be a fair and impartial juror, please stand.
23 And then they come up and they tell me privately, you
24 know, what the issue is. And that's when it comes out, my
25 husband has kidney cancer, I have kidney cancer, my dad

1 died of kidney cancer, all that kind of stuff. And then
2 we sort of inquire, you know, whether that fact would
3 affect you to be a fair and impartial juror. So that's
4 normally the way I handle it, rather than ask, you know,
5 please publish to these strangers your health information.

6 **MR. RING:** We appreciate that, Your Honor, and
7 will bear in mind as we think about the proposed voir dire
8 and see if we can work out an agreement.

9 **THE COURT:** Why don't y'all submit it as sort of
10 voir dire rather than the juror questionnaire. Because
11 it's going to be -- it's a little different when I'm doing
12 it to the group like that.

13 **MR. RING:** We'll take that into account, Your
14 Honor, and we'll do that.

15 With respect to CM0 32 and the sites, we have
16 been going back and forth on that for awhile. So we will
17 get that to resolution either by agreement, or if not,
18 we'll submit things next Thursday. And we know where to
19 find you, Your Honor.

20 **THE COURT:** Thank you. Everyone else does, too,
21 apparently.

22 **MR. RING:** And I think that's it. No other
23 issues.

24 **THE COURT:** Very good.

25 The United States, please? Come forward. I'm

1 not going to let you speak from the back row.

2 MR. ANWAR: Good morning, Your Honor.

3 THE COURT: Good morning.

4 MR. ANWAR: As Mr. London stated, we have been
5 working hard with the --

6 THE COURT: First of all, why don't you just
7 introduce again and have them stand up so these lawyers
8 can know who your new team is.

9 MR. ANWAR: Sure. My ENRD colleague, who will
10 be stepping in for Mr. Knudsen, Shari Howard.

11 THE COURT: Good.

12 MS. HOWARD: Good morning, everyone.

13 THE COURT: And how about -- do you any others?

14 MR. ANWAR: Yes. My colleague who has worked on
15 this case as well with me for a number of years, Michele
16 Greif.

17 THE COURT: Good to have you both here.

18 MR. ANWAR: Thank you, Your Honor. As
19 Mr. London stated, we've been working hard with the PEC to
20 come to an agreement on a CMO that would sort of
21 methodically move things forward. Your guidance here
22 today is extremely helpful. And I think it will go a long
23 way in resolving any remaining issues we have. The
24 proposal we received earlier this week just before the
25 status conference did include withdrawing a number of the

1 discovery requests that had been served. So we are moving
2 forward and getting closer and closer to an agreement.
3 And we will work very hard to have something submitted to
4 the Court by the end of next week.

5 **THE COURT:** And I like y'all's idea about doing
6 a limited number, because not only does it make it more
7 manageable for you, but it might help you learn more
8 efficiently how to get to what's important. And it might
9 resolve after sort of a sampling that we don't need more.
10 We've got enough. I just think that all that is
11 worthwhile.

12 **MR. ANWAR:** Thank you, Your Honor. That was our
13 thinking as well.

14 **THE COURT:** So what about the CERCLA stuff?
15 What's going on with CERCLA?

16 **MR. ANWAR:** For that I would ask my colleague,
17 Ms. Howard.

18 **THE COURT:** Ms. Howard, you thought you were
19 just going to come in and observe, come to Charleston and
20 have a good meal. Come forward.

21 **MS. HOWARD:** Thank you, Your Honor. We are also
22 in the middle of completing the site-specific discovery
23 that you ordered on the CERCLA sites that are at issue.
24 We completed the first round of global discovery for the
25 written discovery on Wednesday the 18th. So we've turned

1 that over to plaintiffs counsel. And we have one other
2 set of written discovery that we are working on that is
3 specific to New Jersey. We plan to start with other
4 depositions and further discovery very soon, as soon as we
5 can get it scheduled.

6 **THE COURT:** You know, obviously, settlement's
7 always, if there's a path, is always good to explore. But
8 at some point, if people -- if the parties can't work it
9 out, we litigate it. Right?

10 **MS. HOWARD:** Yes, Your Honor.

11 **THE COURT:** And that's the next stage here. And
12 we've got a lot on our plate here. But I see it as a
13 plausible thing to litigate a CERCLA case at some point if
14 we can't find a path to -- I mean, I knew enough from our
15 review of the Federal Tort Claims Act and of the certain
16 things that led to my two orders. There are some -- you
17 know, there are, obviously, folks like farmers adjacent to
18 military bases and so forth who have potentially very
19 serious claims. And it just seems to me if there's a path
20 to work that out, y'all need to be looking for it because
21 that's the kind of case I'm going to try first, something
22 like that.

23 **MS. HOWARD:** Yes, Your Honor. And we are
24 reviewing the CERCLA settlement demand letters that we
25 received. We have our experts also reviewing those

1 claims. But we are aware that EPA has announced that they
2 are reviewing the PFOA and PFAS hazardous substance
3 designations under CERCLA. So we are trying to consider
4 all of those things as we consider these demand letters
5 that have been submitted to us.

6 **THE COURT:** So the EPA is considering
7 withdrawing the hazardous designation, is that what you're
8 telling me?

9 **MS. HOWARD:** Yes, Your Honor. And we don't have
10 knowledge whether they will or not. So we are waiting to
11 learn what EPA's decision will be.

12 **THE COURT:** I do remember, if my memory is
13 correct, that one of the leaders in Congress for PFAS
14 protection was the present EPA Director. Is my memory
15 right about that?

16 **MS. HOWARD:** Yes, Your Honor, I believe your
17 memory is correct.

18 **THE COURT:** Y'all do what you've got to do,
19 obviously, and the parties will respond. That is
20 something that materially affects the CERCLA claim,
21 obviously.

22 **MS. HOWARD:** Yes, Your Honor.

23 **THE COURT:** Mr. London, you've got something?

24 **MR. LONDON:** And Your Honor, yes. The EPA has
25 indicated that they would re-evaluate, but there's no

1 evidence -- and I think it's Mr. Zeldin you're referring
2 to?

3 **THE COURT:** Yes.

4 **MR. LONDON:** No evidence that they intend to
5 change this. This is an EPA -- they sought a 60-day
6 abeyance, then a 30-day abeyance. So it's just, in our
7 view, this is just one more opportunity, we think, to
8 delay assessment of the evaluation of these claims for
9 resolution. They are assessing it, but they are not
10 changing, revoking, there's been no evidence to suggest
11 that except requests to delay.

12 **THE COURT:** I thought there was some action in
13 which the water districts were given some additional time
14 to comply. Am I remembering that right?

15 **MR. LONDON:** Yes.

16 **THE COURT:** But others actually were, other
17 families of chemicals related to PFAS were actually taken
18 off of a designation of some type. Is my memory right
19 about that, too?

20 **MR. LONDON:** That's correct. That's correct.

21 **THE COURT:** Okay. Well, we'll stand by. Okay?
22 But at some point, to the extent CERCLA has a viable
23 claim, I'm going to -- if y'all don't work it out, I am
24 going to set it on a course for trial.

25 **MS. HOWARD:** Yes, Your Honor. Thank you.

