

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT F. COCKERILL and CHRISTOPHER  
WILLIAM NEWTON, individually and as  
representatives on behalf of a class of similarly  
situated persons,

Plaintiffs,

vs.

CORTEVA, INC.; DUPONT SPECIALTY  
PRODUCTS USA, LLC; DUPONT DE  
NEMOURS, INC.;  
E.I. DU PONT DE NEMOURS AND  
COMPANY; THE PENSION AND  
RETIREMENT PLAN<sup>1</sup>; THE  
ADMINISTRATIVE COMMITTEE

Defendants.

Case No.:

**Complaint – Class Action**

**CLASS ACTION COMPLAINT FOR  
VIOLATIONS OF ERISA AND STATE  
LAW**

**JURY TRIAL DEMANDED AS TO  
STATE LAW CLAIMS**

Plaintiffs, Robert F. Cockerill and Christopher Newton (“Plaintiffs”), individually and on behalf of all others similarly situated, by and through their undersigned attorneys, allege the following:

**I. PRELIMINARY STATEMENT**

1. Plaintiffs are participants in the Pension and Retirement Plan, formerly titled the U.S. DuPont Pension and Retirement Plan (the “Plan”), a “defined benefit pension plan” within the meaning of 29 U.S.C. § 1002(35). Plaintiffs bring this action on their own behalf and on behalf of all similarly situated participants, their beneficiaries and estates, pursuant to the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.* (“ERISA”) and seek, for themselves and on behalf of one or more classes of Plan participants

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<sup>1</sup> Previously named as “U.S. DUPONT PENSION AND RETIREMENT PLAN.”

and their beneficiaries, declaratory, permanent injunctive and other appropriate equitable and remedial plan-wide relief as follows.

## **II. JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over Plaintiffs' federal claims under 28 U.S.C. § 1331 and under the specific jurisdictional statute for claims brought under ERISA, 29 U.S.C. § 1132(e), (f). The Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a) because the state law claims form part of the same case or controversy. Additionally, the Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 because the case involves citizens of different states and the amount in controversy exceeds the sum or value of \$75,000.

3. Pursuant to 29 U.S.C. § 1132(e)(2), venue is proper in this District, in that the Defendants may be found in this District and/or because one of the Plaintiffs and other participants in the Plan earned and accrued pension benefits while residents within this district, and pursuant to 28 U.S.C. § 1391(b).

## **III. PARTIES**

### **A. Plaintiffs**

4. Plaintiff Robert F. Cockerill is a participant in the Plan, within the meaning of 29 U.S.C. § 1002(7). He resides in Landenberg, Pennsylvania.

5. Plaintiff Christopher William Newton is a participant in the Plan, within the meaning of 29 U.S.C. § 1002(7). He resides in Richmond, Virginia.

### **B. Defendants**

6. Defendant Corteva, Inc., ("Corteva") is a Delaware corporation with its corporate headquarters located at 974 Centre Road, Building 735, Wilmington, DE 19805. As of June 1,

2019, Corteva is the parent company of the historical E.I. du Pont de Nemours and Company (“historical DuPont”) and is the entity with responsibility for the administration of the Plan. Since that time, Corteva has been responsible to appoint the members of the Administrative Committee that is the named Plan Administrator. In these roles, Corteva is a fiduciary under ERISA with respect to the Plan.

7. Defendant DuPont Specialty Products USA, LLC (“Specialty Products”), is a Delaware corporation and now a subsidiary of DuPont de Nemours, Inc. Prior to June 1, 2019, Specialty Products was a subsidiary of DowDuPont Inc. (“DowDuPont”). Prior to the merger of Dow and DuPont on August 31, 2017, Specialty Products was a subsidiary of historical DuPont. Specialty Products was, at all relevant times, the company for which Mr. Newton worked and for which Mr. Cockerill worked and continues to work. In this capacity, Specialty Products made numerous misrepresentations to both Mr. Newton, Mr. Cockerill and members of the Class over many years leading up to the merger of Dow and DuPont and continuing after the merge of Dow and DuPont, about their eligibility for early retirement benefits if they fulfilled certain conditions.

8. Defendant E.I. Du Pont de Nemours and Company is a Delaware company founded more the 200 years ago and, as such, was one of the oldest companies in the United States. For over 110 years, E.I. Du Pont de Nemours and Company sponsored the Plan, one of the oldest pension plans in this country. Historical DuPont also acted as a fiduciary under ERISA with respect to its appointment of the members of the Committee that is the named Plan Administrator. Historical DuPont, through its former subsidiary Specialty Products, also employed Mr. Cockerill, Mr. Newton and many other Class members and Plan participants and communicated with these employees about the Plan. As of June 1, 2019, Historical DuPont has

ostensibly ceased to exist except as a paper subsidiary of Corteva, although most of its businesses continue to operate under the similarly named DuPont de Nemours, Inc. (“new DuPont”).

9. Defendant DuPont de Nemours, Inc. is a Delaware corporation with its corporate headquarters located at 974 Centre Road, Building 730, Wilmington, Delaware, 19805.

10. The Pension and Retirement Plan, previously named the U.S. DuPont Pension and Retirement Plan (“Plan”) is an “employee pension benefit plan” within the meaning of ERISA § 3(2)(A), 29 U.S.C. § 1002(2)(A). It is also a “defined benefit pension plan” within the meaning of ERISA § 3(35), 29 U.S.C. § 1002(35).

11. Defendant Administrative Committee is the “Plan Administrator” and “named fiduciary” of the Plan, pursuant to Title I, Section II of the Plan documents. Under the Plan, the Administrator has authority to adopt rules, regulations, and policies for the Plan’s administration, to make eligibility and other benefits determinations under the Plan, and to interpret and/or effectuate the Plan. Thus, the Administrative Committee is the “Administrator” of the Plan, within the meaning of 29 U.S.C. § 1002(16)(A)(i); a plan fiduciary with discretionary authority to manage and administer the plan within the meaning of 29 U.S.C. § 1002(21)(A); and a named fiduciary of the Plan with the authority and control to manage the operation and administration of the Plan within the meaning of 29 U.S.C. § 1102(a)

#### **IV. FACTS**

##### **History of the Plan**

12. The Plan was originally adopted effective September 1, 1904, making it one of the oldest defined benefit pension plans in the United States.

13. On December 11, 2015, the 217-year-old historical DuPont announced its intent to merge with Dow Chemical Company.

14. In November 2016, participants were notified of DuPont's intent to freeze the Plan so that no new benefits would accrue to participants in the Plan and no new employees would become eligible to participate in the Plan. Frequently Asked Questions and Answers were distributed to the participants explaining the "freeze." Question 9 asked "What is changing with the Pension Plan?" The answer stated:

The Pension Plan benefit is calculated using pay and years of service. The pay and service amounts used to calculate your pension benefit will stop growing on November 30, 2018. Your Pension Plan benefit formula will use your pay and years of service as of November 30, 2018 to calculate your benefit. **Your Pension Plan will continue to recognize growth in age and service with the company after November 30, 2018 to determine any applicable early retirement reduction factors.** Continuing service with the company, even after November 30, 2018, may ensure you receive 100% of your benefit. (Emphasis Added).

15. Question 10 asked "How do I find out if early retirement reduction factors will be applied to my Pension Plan benefit?" The answer stated:

Depending on the age at which you retire and your years of service, you may receive less than 100% of the value of your benefit (reduced pension). The amount by which your Pension Plan benefit is reduced to reflect early commencement is known as an early retirement reduction factor. Continuing service with the company, even after November 30, 2018, may ensure you receive 100% of your benefit.

Generally, as an employee who participates in the DuPont (parent company) section of the Pension Plan, you can receive a reduced pension at age 50 and 15 years of service and may be able to receive 100% of the value of your benefit as early as age 58 depending on your service when you terminate employment and your age when you begin payments. The table below illustrates how the early retirement reduction factors are applied to your Pension Plan benefit.

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