



***Precedent setting case regarding Navy contamination of drinking water supplies
issues out of the U.S. Court of Appeals for the Third Circuit.
Statement from the Delaware Riverkeeper Network – Amicus on the Case***

Attorneys Mark Cuker and Steven Angstreich for the Giovanni and Palmer families from Bucks County, Pennsylvania, supported by amicus briefs, including filed by the Delaware Riverkeeper Network, achieved a stunning legal victory on October 2, 2018 issued out of the U.S. Court of Appeals for the Third Circuit. The decision in the case *Kristen Giovanni, et al v. United States Department of Navy*, allows two families to continue in their quest to require the US Navy, which is responsible for exposing these families and countless others to toxic perfluorinated compounds (PFCs) in their drinking water, create a trust fund that will help the families cover the costs of medical monitoring so they can properly assess and respond to the health harms they may suffer as a result of the toxic exposure.

In a brief filed by the organization's attorney Deanna Tanner, the Delaware Riverkeeper Network helped make the case that supported this important victory.

"I am proud that the Delaware Riverkeeper Network filed an amicus brief that helped to support this positive and important legal outcome," said **Maya van Rossum, the Delaware Riverkeeper and leader of the Delaware Riverkeeper Network**. "It was shocking that the US Navy would seek to deny the families it harmed with its PFC contamination (including perfluorooctanoic acid, "PFOA", and perfluorooctanesulfonic acid, "PFOS") any of these basic requests to that would help them understand how their health, and the health of their neighbors, has been harmed by the Navy's prolific use of these dangerous chemicals. It is the direct result of the Navy's actions that the health of these families, and millions more across the nation, have been threatened and harmed; the least the Navy can do is cover the costs of helping these families understand how they have been impacted and what steps they can and/or should be taking to protect their very lives. While we are disappointed that the Third Circuit justices have not agreed to advance the request for a health assessment (provided for under Pennsylvania's Hazardous Sites Cleanup Act (HSCA)) that would include all impacted members of the community, we are pleased that the justices agreed that the request that the Navy foot the bill for the private medical monitoring is not jurisdictionally barred by federal law under the Comprehensive Response, Compensation and Liability Act (CERCLA). It seems the Third Circuit justices are seeking in their decision to find a path to help these families understand and address the health problems they now face. As a result of this decision, the claims of the Giovanni's and the Palmer's that the Navy should be required to set up a trust fund to help cover the costs of medical monitoring to help them understand and respond to the health problems they now face as the result

of exposure to Navy-caused PFC contamination are able to proceed forward. This decision certainly does not make things right for the hundreds of families in Bucks County, and thousands nationwide, that have been so devastatingly impacted by the Navy's actions, but it is a step in the direction of help that is the bare minimum the government owes these impacted communities. We and others across the nation will continue to follow this case closely as it is setting precedent that others impacted by PFC contamination due to government activities will be able to follow," van Rossum added.

Basics of the case:

The drinking water of the Giovanni and Palmer families was highly contaminated with PFCs, at levels well above the EPA non-binding provisional health advisory recommending a maximum combined PFOA/PFOS concentration in public drinking water of 70 parts per trillion (0.07 µg/L). The drinking water supply for the Giovanni family, which includes a husband, wife and three children had a combined PFOA/PFOS level of 2.88 µg/L; the Palmers, a mother and son, had PFOA/PFOS level of 0.62 µg/L in their drinking water supply. Both families were ultimately hooked into the local public water system which later was also found to be contaminated with PFCs. The two families subjected to this dangerous toxin filed in court making a few simple and more than reasonable requests, that the Navy cover costs of medical monitoring for their families and that it conduct a health assessment or health effects study that would include blood testing for themselves, and others exposed to the contaminants released from the Warminster and Willow Grove Naval facilities. The Navy opposed both requests.

While the Third Circuit agreed with the lower court that the request for a health assessment or health effects study was barred by federal law, it agreed "the requests for the costs associated with private party medical monitoring are not barred by ... CERCLA because that relief does not interfere with or alter the ongoing cleanup efforts."

####