

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

Case No. 7:17-cv-00195-D

Case No. 7:17-cv-00209-D

CAPE FEAR PUBLIC UTILITY )  
AUTHORITY, BRUNSWICK COUNTY, )  
LOWER CAPE FEAR WATER & SEWER )  
AUTHORITY, and TOWN OF )  
WRIGHTSVILLE BEACH, )

Plaintiffs, )

v. )

THE CHEMOURS COMPANY FC, LLC, )  
E. I. DU PONT DE NEMOURS AND )  
COMPANY, and THE CHEMOURS )  
COMPANY, )

Defendants. )

**MOTION TO INTERVENE AND  
OBJECT TO DEFENDANTS’ MOTION  
TO MAINTAIN MATERIALS UNDER  
SEAL**

[Fed. R. Civ. P. 5.2(d)  
Local Civil Rule 7.1, 79.2  
CM/ECF Policy Manual § V.G.1.]

The NAACP New Hanover Branch hereby moves to intervene in the above-captioned case for the limited purpose of objecting to Defendants’, The Chemours Company FC, LLC, The Chemours Company, and EIDP, Inc., Motion to Maintain Materials Under Seal [D.E. 465].

As set forth in the accompanying Memorandum, members of the public, including the NAACP New Hanover Branch, hold a First Amendment and common law right to access judicial records. *Rushford v. New Yorker Magazine, Inc.*, 846 F.2d 249, 253 (4th Cir. 1988). To protect these rights, this Court must provide a reasonable opportunity for the public to voice objections to a motion to seal. *Id.* at 253–54. Pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure, Rule 79.2 of the Local Civil Rules, and section V.G.1. of the CM/ECF Policy Manual, the NAACP New Hanover Branch moves to object to maintaining seal of the records

appearing on the docket at [D.E. 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 371, 372, 373, 374, 375, 376, 377, 379, 381, 383, 385, 386, 387, 388, 389, 390, 453, 456].

WHEREFORE, based on the foregoing and good cause shown, the NAACP New Hanover Chapter respectfully requests that this Court grant its Motion to Intervene and Object to Defendants' Motion to Maintain Materials Under Seal and order Defendants to unseal their documents.

Conservation and Community Groups present that Plaintiff Cape Fear Public Utility Authority consents to this motion.

Respectfully submitted this the 29th day of April, 2025.

/s/ Anne Harvey

Anne Harvey

N.C. State Bar No. 56502

Email: [anne@scsj.org](mailto:anne@scsj.org)

SOUTHERN COALITION FOR SOCIAL JUSTICE

P.O Box 51280

Durham, NC 27717

Tel.: (919) 323-3380 ext. 152

Facsimile: (919) 323-3942

*Counsel for NAACP New Hanover Chapter*

## CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2025, I electronically filed the foregoing **MOTION TO INTERVENE AND OBJECT TO DEFENDANTS' MOTION TO MAINTAIN MATERIALS UNDER SEAL** with the Clerk of Court using the CM/ECF System, which will send notification of such filing to the users registered on the Court's CM/ECF System.

/s/ Anne Harvey  
Anne Harvey

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

Case No. 7:17-cv-00195-D

Case No. 7:17-cv-00209-D

CAPE FEAR PUBLIC UTILITY )  
 AUTHORITY, BRUNSWICK COUNTY, )  
 LOWER CAPE FEAR WATER & SEWER )  
 AUTHORITY, and TOWN OF )  
 WRIGHTSVILLE BEACH, )

Plaintiffs,

v.

THE CHEMOURS COMPANY FC, LLC, )  
 E. I. DU PONT DE NEMOURS AND )  
 COMPANY, and THE CHEMOURS )  
 COMPANY, )

Defendants.

**[PROPOSED] ORDER GRANTING  
MOTION TO INTERVENE AND  
OBJECT TO DEFENDANTS' MOTION  
TO MAINTAIN MATERIALS UNDER  
SEAL**

Before the Court is the NAACP New Hanover Branch's Motion to Intervene and Object to Defendants' Motion to Maintain Materials Under Seal. Upon reviewing the Motion and finding good cause for the same, the Court has determined that the Motion is GRANTED.

Accordingly, IT IS HEREBY ORDERED that Cape Fear River Watch, Environmental Justice Community Action Network and North Carolina Coastal Federation's Motion to Intervene and Object to Defendants' Motion to Maintain Materials Under Seal is GRANTED.

It is further ORDERED that the records filed at [D.E. 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 371, 372, 373, 374, 375, 376, 377, 379, 381, 383, 385, 386, 387, 388, 389, 390, 453, 456] be unsealed.

SO ORDERED. This \_\_\_\_ day of \_\_\_\_\_, 2025.

---

JAMES C. DEVER III  
United States District Judge

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION**

Case No. 7:17-cv-00195-D

Case No. 7:17-cv-00209-D

CAPE FEAR PUBLIC UTILITY  
AUTHORITY, BRUNSWICK COUNTY,  
LOWER CAPE FEAR WATER & SEWER  
AUTHORITY, and TOWN OF  
WRIGHTSVILLE BEACH,

Plaintiffs,

v.

THE CHEMOURS COMPANY FC, LLC,  
E. I. DU PONT DE NEMOURS AND  
COMPANY, and THE CHEMOURS  
COMPANY,

Defendants.

---

**MEMORANDUM IN SUPPORT OF  
MOTION TO INTERVENE AND IN  
OPPOSITION TO DEFENDANTS'  
MOTION TO MAINTAIN  
MATERIALS UNDER SEAL**

[Fed. R. Civ. P. 5.2(d)  
Local Civil Rule 7.1, 79.2  
CM/ECF Policy Manual § V.G.1.]

**TABLE OF CONTENTS**

**I. INTRODUCTION** ..... 1

**II. FACTUAL BACKGROUND** ..... 2

    A. The factual and historical context underscores the inherent public interest in this matter. 2

    B. The Branch has long sought to educate, empower, and protect its members who are exposed to dangerous PFAS from the Companies’ environmental contamination. .... 3

**III. ARGUMENT** ..... 5

    A. The public, including the members of the Branch, has a constitutional right to the materials the companies seek to seal. .... 5

    B. Common law likewise establishes a presumption in favor of public access. .... 7

    C. Any intrusion on the public’s First Amendment and common law rights of access must be narrowly tailored; Defendants must redact each document individually, line-by-line. .... 9

**IV. CONCLUSION** ..... 10

**TABLE OF AUTHORITIES**

**Cases**

*Co. Doe v. Pub. Citizen*, 749 F.3d 246 (4th Cir. 2014)..... *passim*

*In re Knight Publ’g Co.*, 743 F.2d 231 (4th Cir. 1984) ..... 5

*In re NC Swine Farm Nuisance Litig.*, No. 5:15-CV-00013-BR, 2017 U.S. Dist. LEXIS 185089 (E.D.N.C. Nov. 8, 2017)..... 5, 6, 9, 10

*Nallapati v. Justh Holdings, LLC*, 637 F. Supp. 3d 357 (E.D.N.C. 2002) ..... 5

*Rushford v. New Yorker Mag., Inc.*, 846 F.2d 249 (4th Cir. 1988)..... 5,7

*Silicon Knights, Inc. v. Epic Games, Inc.*, No. 5:07-CV-275-D, 2011 WL 901958 (E.D.N.C. Mar. 14, 2011) ..... 8

*Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178 (4th Cir. 1988)..... 5

*United States v. Appelbaum (In re United States)*, 707 F.3d 283 (4th Cir. 2013) ..... 10

*United States v. Moussaoui*, 65 F. App’x 881 (4th Cir. 2003)..... 10

*United States ex rel. Oberg v. Nelnet, Inc.*, 105 F.4th 161 (4th Cir. 2024)..... 6

**Federal Register**

PFAS National Primary Drinking Water Regulation, 89 Fed. Reg. 32532, 32567 (Apr. 26, 2024)..... 3

**Other Authorities**

U.S. Env’tl. Prot. Agency, Office of Water, EPA Doc. No. 815R24006, Human Health Toxicity Assessment for Perfluorooctanoic Acid (PFOA) and Related Salts (2024)..... 2

Suzanne E Fenton et. al., Per- and Polyfluoroalkyl Substance Toxicity and Human Health Review: Current State of Knowledge and Strategies for Informing Future Research, 40(3) Env’tl. Toxicol. & Chem. 606, 608-16 (2021) ..... 2-3

The NAACP New Hanover Branch (“the Branch”), by and through undersigned counsel, hereby moves to intervene in the above-captioned case for the limited purpose of objecting to Defendants’, The Chemours Company FC, LLC, The Chemours Company and E.I. Du Pont de Nemours, Inc. (collectively, “Chemours and DuPont” or “the Companies” or “Defendants”), Motion to Maintain Materials Under Seal [D.E. 465]. Pursuant to Rule 5.2(d) of the Federal Rules of Civil Procedure, Rule 79.2 of the Local Civil Rules, and section V.G.1. of the CM/ECF Policy Manual, the NAACP New Hanover Branch simultaneously moves to object to maintaining seal of the records appearing on the docket at [D.E. 351, 352, 353, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 371, 372, 373, 374, 375, 376, 377, 379, 381, 383, 385, 386, 387, 388, 389, 390, 453, 456]. For the reasons below, the NAACP New Hanover Branch, on behalf of its members, respectfully requests this Court grant its Motion to Intervene and Object to Defendants’ Motion to Maintain Materials Under Seal and order Defendants to unseal their documents. The Branch respectfully submits this Memorandum in support of its Motion.

### **I. INTRODUCTION**

The NAACP New Hanover Branch and its members have a public interest in and First Amendment right to access the materials that Chemours and DuPont seek to hide. The Companies have a high bar to clear to overcome the public’s First Amendment right to the records at issue. “It is well settled that the public and press have a qualified right of access to judicial documents and records filed in civil and criminal proceedings.” *Co. Doe v. Pub. Citizen*, 749 F.3d 246, 265 (4th Cir. 2014) (citations omitted). “The right of public access springs from the First Amendment and the common law tradition that court proceedings are presumptively open to public scrutiny.” *Id.* (citing *Va. Dep’t of State Police v. Wash. Post*, 386 F.3d 567, 575 (4th Cir. 2004)).

There is no question that there has been widespread PFAS contamination of the Cape Fear River Basin. Ongoing testing continues to find an expanding field of affected drinking supply

wells, but the full scope of the contamination is as yet unknown. At the very least, the public has a right to know what the Companies know about the harm their communities are suffering. The public has a right to the information to enable them to make informed decisions about their homes, drinking water use, and health care. That information is particularly essential in light of the Companies' plans to expand operations at the Fayetteville Works facility.

The Companies are taking a page from their standard playbook, attempting to undermine the public interest to conceal the information that the public needs to protect themselves, their families, and their communities. To seal these documents, the Companies must show a compelling government interest to override the First Amendment, or, at a minimum, that the Companies countervailing interests heavily outweigh the public's interest. The Companies have failed to meaningfully address—let alone meet—that burden.

## **II. FACTUAL BACKGROUND**

### **A. The factual and historical context underscores the inherent public interest in this matter.**

The underlying facts in this matter are well-established. Chemours and DuPont have, for decades, knowingly exposed communities in eastern North Carolina, including those where Branch members reside, to toxic per- and polyfluoroalkyl substances (“PFAS”) from their Fayetteville Works Facility. Indeed, the companies have been quietly polluting numerous communities nationwide with these “forever chemicals.” These forever chemicals invade and accumulate in human tissue when people are exposed to contaminated air, water, soil, and household materials, causing a range of deleterious health conditions, including developmental and birth defects, cancers, liver disease, hypothyroidism, ulcerative colitis, and immunological and hormone deficiencies. *See* U.S. Evtl. Prot. Agency, Office of Water, EPA Doc. No. 815R24006, Human Health Toxicity Assessment for Perfluorooctanoic Acid (PFOA) and Related Salts (2024); Suzanne E Fenton et. al., *Per- and Polyfluoroalkyl Substance Toxicity and Human Health Review:*

*Current State of Knowledge and Strategies for Informing Future Research*, 40(3) *Envtl. Toxicol. & Chem.* 606, 608-16 (2021).

PFAS comprise thousands of synthetic chemical variants not found in nature. Even trace levels of exposure can be toxic, and some PFAS have no safe exposure threshold. *See* PFAS National Primary Drinking Water Regulation, 89 Fed. Reg. 32532, 32567 (Apr. 26, 2024). Yet the companies knowingly and willfully concealed the discharge of PFAS into the environment in communities across the country, including in eastern North Carolina. Moreover, as various Conservation and Community Groups highlight in their filing [D.E. 504], Chemours is now seeking—incredibly—to expand its facility and potentially increase pollution levels further. The proposal to expand chemical production underscores the imperative need for public access to the information the companies seek to conceal. This is essential so that impacted communities can meaningfully advocate for themselves during the facility expansion’s approval process.

**B. The Branch has long sought to educate, empower, and protect its members who are exposed to dangerous PFAS from the Companies’ environmental contamination.**

The 430 members of the Branch are directly affected by the Companies’ discharge of pollutants into the Cape Fear River Basin. The members consume, bathe in, and cook with the water contaminated by Chemours and DuPont’s PFAS. Some are on private well systems. Other members are customers of the Cape Fear Public Utility Authority. Speaking through their Branch, the members move to intervene in this matter because of their direct, personal interest in the documents that the Companies seek to hide.

The Branch works with and within the national NAACP’s mission to ensure political, educational, social, and economic rights for all, and to eliminate race-based discrimination. One of its key issue areas is public health. Black Americans continue to have the highest incidence, prevalence, and mortality rates from chronic diseases, in part because they are disproportionately

affected by environmental contamination associated with chronic illness. Race remains the number one indicator for the placement of toxic facilities.

The Branch's work to remedy the disproportionate impact of environmental toxins on Black Americans includes advocacy on PFAS and impacts of the Chemours/DuPont Fayetteville Works plant. Since 2018, the Branch has worked with NC State University's Center for Human Health and the Environment to invite Branch members to participate in a GenX exposure study to assess PFAS toxicity in their blood and has spread awareness of opportunities for well water testing. As part of this partnership, the lead researcher from NC State presented a webinar to discuss the findings regarding testing of members' blood toxicity levels. The blood toxicity webinar discussed PFAS, how they impact public health, and what community members could do to protect themselves. The study has been fundamental to understanding PFAS exposure in the community, but the work is ongoing. Information contained in the documents that the Companies seek to conceal may provide additional insights that will protect the lives, health, and quality of life of Branch members who have been exposed to these dangerous chemicals.

The Branch's mission also includes economic development, recognizing the challenging economic realities facing rural, lower-income, and racial minority communities. The widespread pollution from the Fayetteville Works plant poses serious economic risks to the affected communities. Property value diminution and community attrition are natural outcomes of the highly publicized contamination. Businesses need clean water to operate. Communities need clean water and air to attract new residents. The records at issue in this matter will likely provide additional information as to how dangerous—or, ideally, how safe—the chemicals produced at Fayetteville Works are. Empowered with these records, the Branch will communicate this

additional information to the affected communities and broader public and ensure appropriate safety measures are in place to support the communities' physical health and economic growth.

### **III. ARGUMENT**

The public has well-established First Amendment and common law rights to judicial records and documents. *In re Knight Publ'g Co.*, 743 F.2d 231, 235 (4th Cir. 1984) (citing *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978)). This right generally applies to documents filed in conjunction with summary judgment. *Rushford v. New Yorker Mag., Inc.*, 846 F.2d 249, 253 (4th Cir. 1988). Members of the public, such as those represented through the Branch's involvement, may intervene to object to the sealing of records. *See Stone v. Univ. of Md. Med. Sys. Corp.*, 855 F.2d 178, 181 (4th Cir. 1988); *Rushford*, 846 F.2d at 252. Any decision to seal records should not be made lightly. *Stone*, 855 F.2d at 182. Courts may seal records in exceptional circumstances, but only if the sealing is "essential to important, *higher interests* . . . and *narrowly tailored* to serve that interest." *Nallapati v. Justh Holdings, LLC*, 637 F. Supp. 3d 357, 362 (E.D.N.C. 2002) (emphasis added) (citations omitted). The Companies in this case have neither presented a higher interest than the public's First Amendment and common law rights, nor requested narrowly tailored relief to protect their averred interests.

#### **A. The public, including the members of the Branch, has a constitutional right to the materials the companies seek to seal.**

The bar to overcome a First Amendment right of access is high, and "the burden of establishing the showing necessary to overcome [that] right of access falls upon the party seeking to keep the information sealed." *In re NC Swine Farm Nuisance Litig.*, No. 5:15-CV-00013-BR, 2017 U.S. Dist. LEXIS 185089, at \*17 (E.D.N.C. Nov. 8, 2017) (citation omitted). The right of access applies to judicial records, including documents filed in summary judgment proceedings. *Rushford*, 846 F.2d at 253. This rule applies regardless of whether the Court relies on the

documents at issue in ruling on summary judgment and whether those documents were under seal in previous stages of litigation. *United States ex rel. Oberg v. Nelnet, Inc.*, 105 F.4th 161, 171–72 (4th Cir. 2024).

The right of access granted by the First Amendment “may be restricted only if closure is necessitated by a compelling government interest and the denial of access is narrowly tailored to serve that interest.” *Pub. Citizen*, 749 F.3d at 266 (internal citations and quotations omitted). That burden is not met in the present case, nor do the Companies make a meaningful argument that it is. Rather, the Companies seem to make their case for concealing the documents on conclusory statements that the records were produced and intended for “internal use,” or broadly conclusory statements that disclosure would cause them “competitive harm.” *See* [D.E. 466-1, *passim*].

Presumably, certain documents were designated for internal use because the Companies are worried about the reputational harm of having thousands of pages of materials released to the public that may detail strategies to keep the public in the dark, or to avoid the financial cost of cleaning up its PFAS discharges. However, “[a]djudicating claims that carry the potential for embarrassing or injurious revelations about a corporation’s image. . . are part of the day-to-day operations of federal courts. But. . . the public and press enjoy a presumptive right of access to civil proceedings and documents filed therein, notwithstanding the negative publicity those documents may shower upon a company.” *See id.* at 269. And while the strong presumption in favor of public access “may be overcome if the movant sufficiently demonstrates that the documents in question contain confidential and proprietary information relating to alleged trade secrets and other highly sensitive financial and business information...which is of the utmost importance to them but not generally available to the public or bearing importance to any public matters,” *In re NC Swine Farm Nuisance Litig.*, LEXIS 185089, at \*17-18, the movant must

provide specific reasons, not simply conclusory assertions, to justify restricting access to information. *Id.* at \*17. The broad, sweeping generalizations in the Companies’ filings do not meet the high standard for overcoming the presumption of access guaranteed by the First Amendment.

**B. Common law likewise establishes a presumption in favor of public access.**

Nor have the Companies met the lower threshold for overcoming the public’s common law right to access the documents. This lower threshold applies only where records are considered as something other than judicial records. “The common-law presumptive right of access extends to all judicial documents and records, and the presumption can be rebutted *only by showing that countervailing interests heavily outweigh the public interests in access.*” *Pub. Citizen*, 749 F.3d at 265-66 (quoting *Rushford*, 846 F.2d at 253) (internal quotation marks omitted) (emphasis added). Reputational harm does not qualify under this less demanding standard. *Id.* at 269. The “wholesale sealing of documents based upon unsubstantiated or speculative claims of harm . . . [or] harm to a company’s reputation” is impermissible. *Id.* at 270. Rather, only a “strong interest” in keeping confidential any “proprietary and trade-secret information... may justify partial sealing of court records.” *Id.* at 269.

The documents that the Companies seek to conceal self-evince their public importance, outweighing any reputational or competitive harm to the Companies. Defendants seek broadly to seal vast categories of documents—some 21,000 pages by their own assessment—without any justification for why their business interests should supersede the public’s First Amendment and common law interest in judicial records and documents. Among these documents are records including information regarding the chemical byproducts and intermediaries produced [D.E. 266 at 5], which would potentially reveal other contaminants that the public should be aware of and seek testing for, and are thus of crucial public significance. The sealed records also evaluate options for assessing and addressing the environmental impacts of those processes [D.E. 266 at 5-

6]. The public has perhaps the greatest interest in this information, which is needed to ascertain and advocate for potential remediation options. The documents also contain information about capital outlays with respect to prevention or remediation of environmental impacts [D.E. 266 at 6], providing crucial information regarding future costs. These documents would also reveal the Companies' corporate character, showing how the Companies made determinations as to how and whether avoided costs outweighed the public's health. Such information is relevant to how carefully the public must act as a watchdog and advocate for themselves and their communities against the Companies as the Companies seek to expand the Fayetteville Works plant.

As justification for concealing these documents of clear public import, the Companies broadly assert that the information is "competitively sensitive, because, in the hands of a competitor, it could be used to disadvantage Defendants." *See* [D.E. 266 at 7]. Yet nowhere in its memorandum do Defendants attempt to justify how a competitive business advantage outweighs the public's First Amendment and common law rights where important public health issues are implicated. Defendants rely for their argument on *Silicon Knights, Inc. v. Epic Games, Inc.*, but the Court in that unpublished case found specifically that the documents in that matter did *not* "bear[] importance to any public matters." No. 5:07-CV-275-D, 2011 WL 901958, at \*1-2 (E.D.N.C. Mar. 14, 2011). Here, the Companies do not argue that the present matter has no bearing on public matters, but simply gloss over that portion of the Court's reasoning in *Silicon Knights*. Several of the categories cited above for which the Companies seek maintenance of a seal are of critical public importance, but Defendants make no attempt to weigh the public interest or argue that their business interest should come before public health. And for good reason: such an argument, stated openly, would be facially absurd. Thus, the Companies' only recourse is to turn a blind eye to the public implications of these documents.

The most important category that the Companies seek to maintain under seal is of documents assessing environmental impacts and remediation options. While it may be beneficial to the Companies' profit margins, and therefore to their competitive advantage, to continue to hide this information from the public, the importance of this information for public health and policy far outweighs the improvidently gained competitive advantage in knowing the scope of pollution and necessity of and methods for cleaning it up.

Under the circumstances, the Companies simply cannot circumvent the presumption that their competing business interests outweigh the public's First Amendment or common law rights to access on a matter of greatest importance to the public health of hundreds of thousands of people.

**C. Any intrusion on the public's First Amendment and common law rights of access must be narrowly tailored; Defendants must redact each document individually, line-by-line.**

A corporation's strong interest in preserving the confidentiality of its proprietary and trade secret information *may* justify a *partial* sealing of court records. *Pub. Citizen*, 749 F.3d at 266 (citing *Nixon*, 435 U.S. at 598) (emphases added). Where the Court finds a compelling government interest sufficient to justify maintaining a company's records under seal, the Court must consider less drastic alternatives to sealing, and any decision to allow seal must be supported by specific findings and the reasons for rejecting alternatives. *In re NC Swine Farm Nuisance Litig.*, LEXIS 185089, at \*18 (citation omitted). "Less drastic alternatives to sealing entire documents include filing redacted versions of the documents." *Id.* Yet here, not only have the Companies not made the case for the compelling interest overriding that of the public, but they have requested the complete sealing of some 21,000 pages of records. Sealing the entire record is the most drastic option available.

The Companies' argument that it would be *burdensome* to redact documents or portions of documents in the narrowly tailored manner required by law is not persuasive. The burden is on the

party seeking seal to review, redact, and provide justification for the requested redactions. *In re NC Swine Farm Nuisance Litig.*, LEXIS 185089, at \*17 (“[T]he burden of establishing the showing necessary to overcome the First Amendment right of access falls upon the party seeking to keep the information sealed.”) (citation omitted). The fact that the documents are voluminous rather cuts *against* the request for a blanket seal in light of the presumption favoring disclosure and access. A “strong interest” in keeping confidential any “proprietary and trade-secret information” only justifies a “*partial* sealing of court records,” *Pub. Citizen*, 749 F.3d at 270 (emphasis added), because the restriction of the public’s First Amendment right must be “narrowly tailored.” *Id.* at 266. Thus, if any portion of the records at issue are to be sealed, Chemours and DuPont must redact the relevant lines of its documents—and only those lines, leaving the rest of their documents available for the public. *See United States v. Appelbaum (In re United States)*, 707 F.3d 283, 294 (4th Cir. 2013) (finding no error when judge sealed certain documents, including because judge approved redactions and released redacted version of other documents); *United States v. Moussaoui*, 65 F. App’x 881, 889 (4th Cir. 2003) (unpublished) (“[S]ealing an entire document is inappropriate when selective redaction will adequately protect the interests involved.”).

#### **IV. CONCLUSION**

The Companies have failed to meet their burden to demonstrate a sufficiently compelling or overriding interest to overcome the presumption of the public's First Amendment and common law rights of access to the records at issue in this matter. Reputational harm and the intent to produce documents “for internal use only” are irrelevant considerations for this analysis. Any competitive harm to the Companies from disclosure is far outweighed by the public interest in and need for this information to advance public health and develop policies and plans to remediate the ongoing harm from the Companies’ contamination of Eastern North Carolina communities. This

public interest is of particular importance in light of the Companies' plans to expand the Fayetteville Works facility.

Accordingly, the NAACP New Hanover Branch respectfully requests that its Motion to Intervene and Object to Defendants' Motion to Materials Under Seal be granted, and the Companies' documents be unsealed.

Respectfully submitted this the 29th day of April, 2025.

/s/ Anne Harvey

Anne Harvey

N.C. State Bar No. 56502

Email: [anne@scsj.org](mailto:anne@scsj.org)

SOUTHERN COALITION FOR SOCIAL JUSTICE

P.O Box 51280

Durham, NC 27717

Tel.: (919) 323-3380 ext. 152

Facsimile: (919) 323-3942

*Counsel for NAACP New Hanover Chapter*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of April, 2025, I electronically filed the foregoing **MEMORANDUM OF LAW IN SUPPORT OF MOTION TO INTERVENE AND OBJECT TO DEFENDANTS' MOTION TO MAINTAIN MATERIALS UNDER SEAL** with the Clerk of Court using the CM/ECF System, which will send notification of such filing to the users registered on the Court's CM/ECF System.

*/s/ Anne Harvey*

\_\_\_\_\_  
Anne Harvey