ALERT
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Fourth Circuit Overturns Preliminary Injunction in Chemours PFAS Case

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Environmental Alert

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On June 3, 2026, the U.S. Court of Appeals for the Fourth Circuit overturned an Order enjoining Chemours from exceeding permit limits for HFPO-DA, a PFAS compound, stating that it was a "step too far" based on the record. The case, *West Virginia Rivers Coalition, Inc. v. Chemours Co. FC, LLC*, No. 25-1924, 2026 WL 1579491 (4th Cir. June 3, 2026), confirms that environmental plaintiffs seeking injunctive relief must establish irreparable harm to *themselves*, not just the general public. It also confirms that environmental plaintiffs cannot establish irreparable harm solely through Clean Water Act (CWA) violations or permit exceedances, either. *West Virginia Rivers Coalition* sets a high bar for obtaining a preliminary injunction and environmental plaintiffs must give more attention to their alleged irreparable harm before filing suit.

The case began in December 2024 when West Virginia Rivers Coalition (Rivers Coalition) sued the Chemours Company (Chemours) under the Clean Water Act's citizen-suit provision. Rivers Coalition alleged that Chemours was continuously violating its National Pollutant Discharge Elimination System (NPDES) permit by discharging HFPO-DA in excess of permit limits at its Washington Works plant in Parkersburg, West Virginia. Chemours manufacturers high performance polymers at the Washington Works plant with chemicals known as "processing aids," which included HFPO-DA. Under the permit, Chemours could not emit wastewater that contained more than 2,300 parts per trillion (ppt) of HFPO-DA per day. Chemours also could not exceed a 1,100 ppt monthly average concentration for one outfall and a 1,400 ppt for another outfall. (For reference, 1 ppt is comparable to a single drop of water in 20 Olympic-sized swimming pools.)

Rivers Coalition alleged that Chemours was in violation of its permit limits and moved for a preliminary injunction based on the irreparable harm suffered by its member, Charlise Robinson, via exposure to HFPO-DA through her tap water. The district court granted the injunction in August 2025. The district court enjoined Chemours from discharging HFPO-DA in excess of permit limits and ordered Chemours to take "any measures necessary to achieve and maintain compliance, including but not limited to production changes, process modifications, off-site treatment, or temporary cessation of operations." *W. Virginia Rivers Coal., Inc. v. Chemours Co. FC, LLC*, 793 F. Supp. 3d 790 (S.D.W. Va. 2025), *vacated*, No. 25-1924, 2026 WL 1579491.

Chemours challenged the preliminary injunction in the Fourth Circuit on two grounds: (1) that Rivers Coalition lacked Article III standing and (2) the district court erred in finding irreparable harm. After instructing the reader to "hang in there" through important statutory jargon and chemistry, the Fourth Circuit overturned the preliminary injunction based on legal and factual errors related to irreparable harm, one of the four requirements for a preliminary injunction. "A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. Natural Resources Defense Council, Inc.,* 555 U.S. 7, 20 (2008). The Fourth Circuit identified three legal errors in the lower court's ruling: (1) concluding that irreparable harm includes irreparable harm to the public; (2) presuming irreparable harm solely because a CWA violation occurred; and (3) concluding an excess discharge of HFPO-DA clearly caused irreparable harm. *W. Virginia Rivers Coal., Inc.*, 2026 WL 1579491, at *1. The key takeaway is that, in order to obtain a preliminary injunction, the movant must show irreparable harm *to the movant*, not to the public. Further, a CWA violation and/or a violation of permit limits does not constitute irreparable harm.

The Fourth Circuit also overturned the injunction because Rivers Coalition failed to demonstrate that it was more likely than not that its member. Ms. Robinson, would suffer harm based on a single exposure to tap water with more than 10 ppt of HFPO-DA. Rivers Coalition's expert testified that drinking water with more than 10 ppt of HFPO-DA made harm likelier, not more likely than not, as required for a preliminary injunction. And notably, Robinson did not drink the tap water; she only used it for brushing her teeth, bathing, laundry, cleaning, and watering plants. Therefore, the Fourth Circuit held that the district court made a clear error by relying on the expert's testimony to conclude that Ms. Robinson would more likely than not suffer irreparable harm without an injunction.

Numerical limits in NPDES permits for PFAS compounds are relatively rare but will likely become more common as time goes on. Cases like this offer insight into what numerical NPDES permit PFAS limits could be set at in the future, what enforcement for exceeding limits could look like, and the standard for obtaining a preliminary injunction to stop permit exceedances. The practical takeaways from this case are that permit exceedances alone will not constitute irreparable harm, and the person seeking an injunction must show irreparable harm to them personally, not just to the general public. Beyond that, a preliminary injunction will require reputable expert testimony that exposure to drinking water with PFAS levels above current drinking water maximum contaminant levels will more likely than not cause harm without an injunction. Obtaining this expert testimony may prove difficult.

Babst Calland's Litigation and Environmental Practice Groups are closely tracking the PFAS legal landscape, and our attorneys are available to provide strategic advice on how developing PFAS regulation may affect your business. For more information or answers to questions, please contact Joseph Schaeffer at (302) 276-6227 or **jschaeffer@babstcalland.com**, Ethan Johnson at (202) 853-3465 or **ejohnson@babstcalland.com**, or Alexandra Graf at (412) 394-6438 or **agraf@babstcalland.com**.