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**NEWS**

# What's in your blood? Attorney suing chemical companies wants to know if it can kill you

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The movie “Erin Brockovich” told the real-life story of a California town whose residents went to court and won big after being exposed to a toxic chemical.

While Cincinnati-based attorney Robert Bilott doesn't have the same name recognition, he too has a movie dramatizing his courtroom battles. And now he may be on to something even bigger: a fight over a contaminated nation.

In the 2000s, Bilott sued the chemical company DuPont after discovering it contaminated the drinking water of communities along the Ohio-West Virginia border with a chemical called perfluorooctanoic acid (PFOA). The litigation took a novel approach by creating an independent panel of scientists who studied residents there for years and found “probable links” to six health effects, including kidney and testicular cancer.

DuPont later settled the litigation for \$671 million, a result chronicled in a book Bilott wrote on the trial and a 2019 Hollywood film “Dark Waters,” starring actors Mark Ruffalo and Anne Hathaway.

Now Bilott, 56, is working on a real-life sequel.

While American companies have phased out PFOA, they still use a wider class of hundreds of sister chemicals called PFAS in consumer products like nonstick pans, food packaging, and waterproof products and clothing. More than 97% of Americans have some form of

PFAS in their blood, and most of them have not been as extensively studied as PFOA.

**What are PFAS?:** A guide to understanding chemicals behind nonstick pans, cancer fears

In 2018, Bilott filed a lawsuit against corporate entities tied to DuPont — which became defunct in 2017 — as well as 3M and other major chemical companies. The suit seeks to explore the health effects of these alternative PFAS. Initial motions by the companies to dismiss the suit were denied, and in early March the court certified the case's class-action status, setting it up as potentially one the largest ever filed in the United States.

Defendants filed an appeal to the U.S. Court of Appeals for the Sixth Circuit. Among other arguments, the companies claim that the hundreds of PFAS chemicals are too diverse in their properties to be analyzed together.

USA TODAY conducted a telephone interview with Bilott to learn more about the lawsuit. The conversation has been edited for length and clarity.

**USAT:** The benefits of products like nonstick pans and rain gear that use PFAS chemicals have been a part of our world for decades now. Why should the average American care about exposure to them?

**Bilott:** We're talking about completely man-made chemicals that didn't exist on the planet before World War II. They're chemicals that we can't smell, we can't taste, we can't see, and we don't know when we're being exposed to them. Their man-made structure makes them almost impossible to break down in the natural world. That's why we hear them referred to now as “forever chemicals.”

But the most disturbing aspect of these chemicals is not only their ability to stay out contaminating the water, soil, plants, and wildlife, but that they get into people. They accumulate in us. They get into our bodies, stay in our blood, and circulate throughout our entire body. Our bodies don't really know how to process them.

And because of that incredible persistence, scientists have been studying how these chemicals behave in the body. They pass from mother to child. We have children being born pre-polluted with these chemicals. We need to understand: What's the scope of the potential health threat here?

**USAT:** The movie “Dark Waters” concludes with legal victories for your clients in Leach v.

E.I. du Pont de Nemours & Co. The court ordered DuPont to pay for studies to examine the toxic effects of PFOA, and the company settled for \$671 million to pay for personal injuries to impacted residents in Ohio and West Virginia. It seemed resolved.

So what is this new litigation about?

**Bilott:** The story that you see portrayed in the movie really shows what it took to finally confirm what one PFAS chemical -- PFOA -- could do to people who were exposed to it and how that process took some 20 years. And what it took for the exposed people to have to take on the burden of being able to confirm that that chemical was in fact a threat to their health and the environment.

What was frustrating, though, is when we finally got to that point with this one chemical, we started to realize that there were a lot of them. PFOA was one of hundreds, if not thousands of this completely man-made class of chemicals ... going into the same products, into the same markets. Once again, as the sampling started showing that this wider group of PFAS were out there, the manufacturers were telling people exposed, "It's your burden to show that these are causing any harm to you."

The idea was, how can we cut through this? How do we address this in a way that doesn't require millions of people all over the world to fight through the courts for decades about whether these chemicals really pose threats to human health or not?

**More on this topic:** Is EPA putting interests of chemical companies ahead of your health? These experts think so

**USAT:** And how does this case seek to do this?

**Bilott:** The idea was to try and set up something similar to what had been done with (PFOA) in one community along the Ohio River, and to try to do that on an expanded, nationwide basis. Where you have an independent panel of scientists appointed by a court who will look at this group of chemicals that is now being found in human blood. Let's look at what having PFOA, mixed with these other PFAS chemicals, can do to people.

So we filed a case in 2018 in federal court in Ohio with a plaintiff who was an Ohio firefighter who has these chemicals in his blood, seeking to represent folks across the country who have at least PFOA and one or more of these PFAS chemicals in their blood. To ask the court to issue an order to set up a process where these types of studies and monitoring can be done, and have the companies fund it.

**USAT:** What is the significance of the court ruling to certify a class action status for the case?

**Bilott:** Being certified as a class allows the case to move forward on behalf of many people at the same time. This allows this common claim for the monitoring, the studies, the scientific work that millions of people may ask. It allows the claims of all of those people to proceed through one case. So all those people don't have to bring their own separate claims.

**USAT:** Who is eligible for the class? What's next?

**Bilott:** The ruling specified the class to include those subject to Ohio laws with certain PFAS in their blood. The court did clarify it would be issuing a briefing schedule to address what the scope of that class would be, with respect to people in which other states would be included. So that will be the next step.