

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

M.P. MOON, individually and as representative of a  
class of participants and beneficiaries in and on behalf  
of the DuPont Pension and Retirement Plan,

Plaintiff,

v.

E.I. du Pont de Nemours and Company,

Defendant.

C.A. No. 19-1856-SB

**NOTICE OF CLASS ACTION SETTLEMENT AND FAIRNESS HEARING**

**This is a notice of a proposed class action settlement in the above-referenced lawsuit. A  
Court authorized this notice; this is not a solicitation from a lawyer.**

**Your legal rights may be affected if you are a member of the following settlement class:**

All DuPont Pension and Retirement Plan (Title I) (the “Plan”) participants who (a) as of the last day of the Class Period have not been reported to the Plan administrator as deceased; (b) commenced receiving payment on or after October 1, 1999 or have terminated employment and are entitled to a future payment; (c) at the time of termination of employment had an earliest unreduced benefit commencement date (“EUBCD”) that fell between the date of the termination of their employment and their Normal Retirement Date; and (d) did not commence receiving their retirement benefit as of their EUBCD.

**PLEASE READ THIS SETTLEMENT NOTICE CAREFULLY.**

- The Court has given its preliminary approval to a proposed settlement (the “Settlement”) as a result of a class action lawsuit brought by a participant in the Plan against E.I. du Pont de Nemours and Company (“DuPont”), alleging violations of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). DuPont denies all claims, and nothing in the Settlement is an admission or concession on DuPont’s part of any fault or liability whatsoever.
- The Settlement will provide, among other things, for the allocation of monies to Class Members. Each Class Member will automatically receive a check, which will be mailed to their last known address.
- The terms and conditions of the Settlement are set forth in the Class Action Settlement Agreement dated August 24, 2022. Capitalized terms used in this Settlement Notice but not defined in this Settlement Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement is available at [www.DuPontERISAsettlement.com](http://www.DuPontERISAsettlement.com).

Certain other documents also will be posted on that website. You should visit that website if you would like more information about the Settlement or the lawsuit. All papers filed in this lawsuit are also available for review via PACER, at <http://www.pacer.gov>, and can also be reviewed in person during regular business hours at the Office of the Clerk of the United States District Court for the District of Delaware, 844 North King St., Unit 18, Wilmington, DE 19801.

- Your rights and the choices available to you—and the applicable deadlines to act—are explained in this Settlement Notice. Please note that neither DuPont nor the Plan administrator may advise you as to what the best choice is for you or how you should proceed.
- The Court still has to decide whether to give its final approval to the Settlement. Payments under the Settlement will be made only if the Court finally approves the Settlement, and that final approval is upheld in the event of any appeal.
- A Fairness Hearing will take place on February 3, 2023, at 9 A.M., before the Honorable Stephanos Bibas at the James A. Byrne U.S. Courthouse, 601 Market St, Philadelphia, PA 19106, to determine whether to grant final approval of the Settlement and approve the requested Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation.
- Any objections to the Settlement, or to the requested Attorneys’ Fees and Costs, or Class Representative Compensation, must be served in writing on Class Counsel and DuPont’s Counsel, as identified on page 7 of this Settlement Notice, no later than January 6, 2023.

<b>YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT:</b>	
<b>YOU CAN DO NOTHING</b>	<u>Our records indicate that you are a Class Member.</u> You do not need to do anything to receive your share of the Net Settlement Amount. If you do nothing, you will receive a check amounting to your share of the Net Settlement Amount and be bound by and will agree to all terms of the Settlement, including the release of claims as described below.
<b>YOU CAN OBJECT (NO LATER THAN JANUARY 6, 2023)</b>	If you wish to object to any part of the Settlement, or to the requested Attorneys’ Fees and Costs, or Class Representative Compensation, you must file an objection, explaining why you object, and any supporting documents with the Clerk of the Court and provide copies to Class Counsel and DuPont’s Counsel (as identified on page 7 below).
<b>YOU CAN ATTEND A HEARING ON FEBRUARY 3, 2023</b>	You may also attend the Fairness Hearing on February 3, 2023, but you may only speak at the Fairness Hearing if you file and serve a notice of intent to appear by January 6, 2023. You will not be permitted to make an objection if you do not comply with the requirements for making objections.

### **The Class Action**

The case is called *Moon v. E. I. du Pont de Nemours and Company*, Case No. 1:19-cv-01856 (D. Del.) (the “Class Action”, “Action”, or “lawsuit”). It has been pending since October 2, 2019. The Court supervising the case is the United States District Court for the District of Delaware. The individual who brought this lawsuit is called the Class Representative and the entity he sued is called the Defendant. The Class Representative’s claims are described below and additional information about them is available at [www.DuPontERISAsettlement.com](http://www.DuPontERISAsettlement.com).

### **The Settlement**

Following negotiations between Class Counsel and DuPont’s Counsel, a Settlement has been reached. As part of the Settlement, DuPont has agreed to a Gross Settlement Amount of \$7,000,000 to resolve the Class Action. The Net Settlement Amount—the amount to be allocated and distributed to Class Members—is \$7,000,000, plus any interest accrued, minus any Administrative Expenses (including taxes and tax expenses), Court-approved Attorneys’ Fees and Costs, and Class Representative Compensation. The Net Settlement Amount will be allocated to Class Members according to a Plan of Allocation to be approved by the Court and described in paragraph 5.

### **Attorneys’ Fees and Costs, Administrative Expenses, and Class Representative Compensation Sought in the Class Action**

Class Counsel has devoted many hours to investigating the facts, prosecuting the lawsuit, reviewing documents obtained from DuPont and third parties, taking other discovery, and negotiating the Settlement. During that time, they have advanced the costs necessary to pursue the case. Class Counsel took the risk of litigation and have not been paid for any of their time or for any of these costs throughout the time the case has been pending.

Class Counsel will apply to the Court for payment of Attorneys’ Fees and Costs for their work in the case. The amount of attorneys’ fees Class Counsel will request will not exceed one-third of the Gross Settlement Amount. The amount of costs Class Counsel will request will not exceed \$50,000. Any Attorneys’ Fees and Costs and Administrative Expenses of the Settlement Administrator awarded by the Court will be paid from the Settlement Fund.

Class Counsel also will ask the Court to approve payment, not to exceed \$25,000, for the Class Representative who took on the risk of litigation, participated in the lawsuit, and committed to spend the time necessary to bring the case to conclusion. His activities also included assisting in the factual investigation of the case by Class Counsel, producing documents, testifying at a deposition, and giving overall support to the case. Any Class Representative Compensation awarded by the Court will be paid from the Settlement Fund.

A full and formal application for Attorneys’ Fees and Costs, and Class Representative Compensation will be filed with the Court on or before January 6, 2023. This application will be made available at [www.DuPontERISAsettlement.com](http://www.DuPontERISAsettlement.com). You may also obtain a copy of this application through PACER at <http://www.pacer.gov>, or by appearing in person during regular business hours at the Office of the Clerk of the United States District Court for the District of Delaware, 844 North King St., Unit 18, Wilmington, DE 19801.

## **1. Why Did I Receive This Settlement Notice?**

The Court caused this Settlement Notice to be sent to you because DuPont's records indicate that you are a Class Member. If you fall within the definition of the Class, you have a right to know about the Settlement and about all of the options available to you before the Court decides whether to give its final approval to the Settlement. If the Court approves the Settlement, and after any objections and appeals are resolved, the Net Settlement Amount will be allocated among Class Members according to a Court-approved Plan of Allocation.

## **2. What Is The Class Action About?**

In the Class Action, the Class Representative claims that DuPont breached its ERISA fiduciary duties of prudence and loyalty owed to Plan participants by failing to adequately notify Plan participants when they are eligible for early unreduced retirement benefits from the Plan and by retaining the unclaimed benefits.

DuPont denies all claims and asserts that it has always acted loyally, prudently, and in the best interests of Plan participants.

## **3. Why Is There A Settlement?**

The Court has not reached a final decision as to the merits of the Class Representative's claims. Instead, the Class Representative and DuPont have agreed to the Settlement. The Settlement is the product of extensive negotiations between the Class Representative, DuPont, and their respective counsel. The parties to the Settlement have taken into account the uncertainty and risks of litigation and have concluded that it is desirable to settle on the terms and conditions set forth in the Settlement Agreement. The Class Representative and Class Counsel believe that the Settlement is best for all Class Members. Nothing in the Settlement Agreement is an admission or concession on DuPont's part of any fault or liability whatsoever. The Settlement has been entered into to avoid the uncertainty, expense, delays, and burden of additional litigation.

## **4. What Does The Settlement Provide?**

Under the Settlement, DuPont has agreed to a Gross Settlement Amount of \$7,000,000 to resolve the claims of the Class. The Net Settlement Amount (which is the Gross Settlement Amount plus interest accrued and minus any Court-approved Attorneys' Fees and Costs, Administrative Expenses, and Class Representative Compensation) will be allocated to Class Members according to a Plan of Allocation to be approved by the Court (as explained further in paragraph 5 below). Allocations to Class Members will be distributed via checks mailed to their last known address.

In addition, the Settlement provides that on or before December 31, 2022, the Plan will start providing an additional notice to terminated Plan participants who have not yet commenced receiving their benefit, have an EUBCD that falls between the date of the termination of their employment and their Normal Retirement Date, and are approaching their EUBCD. The additional notice will be sent to these Plan participants approximately sixty (60) days before their EUBCD.

All Class Members will fully release the Plan as well as DuPont and the Released Parties from Released Claims. The governing releases are found within the Settlement Agreement at [www.DuPontERISAsettlement.com](http://www.DuPontERISAsettlement.com). Generally, the release means that Class Members will not have the right to sue DuPont, the Plan, or related parties for conduct during the Class Period arising out of or relating to the allegations in the lawsuit. The entire Settlement Agreement is available at [www.DuPontERISAsettlement.com](http://www.DuPontERISAsettlement.com).

## **5. How Much Will My Distribution Be?**

The amount, if any, that will be allocated to you will be based upon records maintained by DuPont or the Plan. Calculations regarding the individual distributions will be performed by DuPont, whose determinations will be final and binding, pursuant to the Court-approved Plan of Allocation.

To receive a distribution from the Net Settlement Amount, you must be a Plan participant who (a) as of the last day of the Class Period has not been reported to the Plan administrator as deceased; (b) commenced receiving payment on or after October 1, 1999 or has terminated employment and is entitled to a future payment; (c) at the time of termination of employment had an EUBCD that fell between the date of the termination of your employment and your Normal Retirement Date; and (d) did not commence receiving your retirement benefit as of your EUBCD.

The Net Settlement Amount will be divided *pro rata* among Class Members based on the estimated amount of additional monthly benefits each Class Member would have received had they commenced receiving their retirement benefit as of their EUBCD. This amount will be calculated by first determining the number of months from the Class Member's EUBCD to the earliest of (a) the date they commenced receiving their benefit, (b) their Normal Retirement Date, or (c) the end of the Class Period. For Class Members who commenced receiving their retirement benefit at any time within the Class Period, their number of months will be multiplied by the monthly amount they received as of their benefit commencement date. For Class Members who have not commenced receiving their retirement benefit as of the end of the Class Period, their number of months will be multiplied by the amount of their monthly accrued benefit. There are approximately 300 Class Members.

The Net Settlement Amount is the Gross Settlement Amount (\$7,000,000) plus any interest earned (or negative interest) thereon and minus (a) all Attorneys' Fees and Costs approved by the Court, (b) the Class Representative Compensation approved by the Court, and (c) all Administrative Expenses approved by the Court. Class Counsel will file a motion for an award of Attorneys' Fees and Costs, and Class Representative Compensation at least 28 days before the Fairness Hearing. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for attorneys' fees to not more than one-third of the Gross Settlement Amount and will limit their application for reimbursement of costs incurred in the litigation to not more than \$50,000. In addition, Class Counsel will seek compensation for the Class Representative of no more than \$25,000. The Court will determine the amount of fees, costs, and Class Representative Compensation that will be awarded, if any. All papers filed in this Action, including Class Counsel's motion for Attorneys' Fees and Costs, and Class Representative Compensation, will be available for review via PACER at <http://www.pacer.gov>.

## **6. How Can I Receive My Distribution?**

**According to our records, you are a Class Member. Therefore, you do not need to do anything to receive a check for your share of the Settlement.** If the Settlement is approved by the Court, the Settlement Administrator will mail you a check for your share of the Net Settlement Amount. The check will be mailed to your last known address. You may contact the Settlement Administrator to confirm or update your mailing address. The Settlement Administrator may be contacted by phone at (888) 766-7538 or by mail at Moon v DuPont Administrator, PO Box 23369, Jacksonville, Florida 32241-3369. If you believe you are not a Class Member, please contact the Settlement Administrator and explain why you believe you are not a Class Member.

## **7. When Will I Receive My Distribution?**

The timing of the distribution of the Net Settlement Amount is conditioned on several matters, including the Court's final approval of the Settlement and any approval becoming final and no longer subject to any appeals in any court. An appeal of the Final Approval Order may take several years. If the Settlement is approved by the Court, and there are no appeals, the Settlement distribution likely will occur within two months of the Court entering the Final Approval Order. You can check the Settlement Website for updates about the status of the case.

**There will be no payments under the Settlement if the Settlement Agreement is not approved by the Court, or if the Settlement Agreement is terminated or rescinded.**

## **8. Can I Get Out Of The Settlement?**

No. If the Court approves the Settlement, you will be bound by it and will receive whatever benefits you are entitled to under its terms. You cannot exclude yourself from the Settlement, but you may notify the Court of any objection you might have to the Settlement. If the Court approves the Settlement, it will do so under Federal Rule of Civil Procedure 23(b)(1), which does not permit class members to opt out of the Settlement Class.

## **9. Do I Have A Lawyer In The Case?**

The Court has appointed the law firms deLeeuw Law LLC in Wilmington, Delaware and McKay Law, LLC in Scottsdale, Arizona as Settlement Class Counsel in the Class Action. If you want to be represented by your own lawyer, you may hire one at your own expense.

## **10. How Will The Lawyers Be Paid?**

Class Counsel will file a motion for an award of Attorneys' Fees and Costs, and Class Representative Compensation at least 28 days prior to the Fairness Hearing. This motion will be considered at the Fairness Hearing. Class Counsel will limit their application for Attorneys' Fees to not more than one-third of the Gross Settlement Amount; Class Counsel will limit their application for reimbursements of costs incurred to \$50,000. In addition, Class Counsel will seek compensation for the Class Representative of no more than \$25,000. The Court will determine the amount of fees, costs, and Class Representative Compensation that will be awarded, if any. All

papers filed in this Action, including Class Counsel’s motion for Attorneys’ Fees and Costs, and Class Representative Compensation, will be available for review via PACER at <http://www.pacer.gov>.

**11. How Do I Tell The Court If I Don’t Like The Settlement?**

If you are a Class Member, you can object to the Settlement or the request by Class Counsel for attorneys’ fees and costs or the request for Class Representative Compensation by filing a written objection and any papers submitted in support thereof with the Clerk of the Court and sending copies to Class Counsel and to DuPont’s Counsel at the addresses below. Your written objection must be filed with the Clerk of the Court at the United States District Court for the District of Delaware, 844 North King St., Room 4209, Wilmington, DE 19801, no later than January 6, 2023 to be considered.

<b>CLASS COUNSEL</b>	<b>DUPONT’S COUNSEL</b>
P. Bradford deLeeuw DELEEUEW LAW LLC 1301 Walnut Green Road Wilmington, Delaware 19807  Michael C. McKay MCKAY LAW, LLC 5635 N. Scottsdale Road, Suite 170 Scottsdale, Arizona 85258	David S. Fryman BALLARD SPAHR LLP 1735 Market St., 51st Floor Philadelphia, PA 19103

**12. When And Where Will The Court Decide Whether To Approve The Settlement?**

The Court will hold a Fairness Hearing on February 3, 2023, at 9 A.M., before the Honorable Stephanos Bibas at the James A. Byrne U.S. Courthouse, 601 Market St, Philadelphia, PA 19106. At the Fairness Hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the motion for Attorneys’ Fees and Costs, and Class Representative Compensation. If there are objections, the Court will consider them then.

**13. Do I Have To Attend The Fairness Hearing?**

No, but you are welcome to come at your own expense. You may also make an appearance through an attorney. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time, the Court will consider it.

**14. May I Speak At The Fairness Hearing?**

Yes, but you may only speak at the Fairness Hearing if you file and serve a notice of intent to appear by January 6, 2023, and you must comply with the requirements for making an objection (set forth above) if you wish to object.

**15. What Happens If I Do Nothing At All?**

**If you do nothing, you will receive your *pro rata* share of the Net Settlement Amount, if the Settlement is finally approved. If you do nothing and the Settlement is finally approved, you will also be bound by and will agree to all terms of the Settlement, including the release of claims as described in the Settlement Agreement.**

**16. How Do I Get More Information?**

If you have questions regarding the Settlement, you can visit [www.DuPontERISAsettlement.com](http://www.DuPontERISAsettlement.com), call (888) 766-7538, or write to Moon v DuPont Administrator, PO Box 23369, Jacksonville, Florida 32241-3369. All papers filed in this lawsuit are also available for review via PACER at <http://www.pacer.gov> and can be reviewed in person during regular business hours at the Office of the Clerk of the United States District Court for the District of Delaware, 844 North King St., Unit 18, Wilmington, DE 19801.