



Robert Bilott (USA)

“for exposing a decades-long history of chemical pollution, winning long-sought justice for the victims, and setting a precedent for effective regulation of hazardous substances.”

Robert Bilott is one of the world’s finest environmental lawyers. With a combination of innovative litigation, scientific understanding, and extraordinary perseverance, he has achieved one of the most significant victories for environmental law and corporate accountability of this century. In a legal battle lasting 19 years, he represented 70,000 citizens whose drinking water had been contaminated with Perfluorooctanic acid (PFOA) by the chemical giant DuPont. Expanding upon the concept of class-action litigation, he set up a 7-year toxicological study of the 70,000 victims, which contributed significantly to the scientific understanding of the global health risks associated with Polyfluoroalkyl Substances (PFAS). This class of substances, which do not break down in the environment or the human body, are ubiquitous in our societies today. At a time when environmental regulation is under serious threat of being watered down in the United States and elsewhere, Bilott successfully won compensation for his clients and continues to call for better regulation of toxic substances.

Environmental law: Bilott’s early career

Robert Bilott was born on August 2, 1965, and graduated with a law degree from The Ohio State University College of Law in Columbus, Ohio, in 1990. Since then, he has practised law with the firm Taft Stettinius & Hollister LLP, where he has been a partner since 1998. Focusing in environmental law, Bilott played a key role in helping Taft’s corporate clients to understand and comply with environmental legislation related to toxic materials.

In 1998, Bilott was contacted by a farmer from Parkersburg, West Virginia, whose cattle were dying with horrific symptoms: their eyes had turned blueish, blood was dripping from their noses, and froth was coming out of their mouths. This previously unheard-of condition had started sometime after the farmer’s brother had sold part of their family property to the chemical company DuPont, which had been operating a plant in Parkersburg since 1948. DuPont had turned this land, with a creek running right through it, into a landfill and dumped thousands of tons of chemical waste there.

Taking on the case, Bilott found out about an unregulated chemical called PFOA, which DuPont used in massive quantities in the production of anti-stick substances like Teflon. He secured a court order forcing DuPont to reveal what they knew about PFOA. Meticulously going through the ultimately millions of pages of paper that the company was compelled to send to his office, he learnt that DuPont had long known about PFOA’s toxicity, but still exposed their workers to it and dumped massive quantities in the environment. Bilott got an out-of-court



settlement for his client, who died a few years later (as did his wife, from cancer). But he could not forget what he had learnt about PFOA and its health risks.

PFAS: an unregulated class of environmental toxins

Since World War 2, more than 100 000 new chemicals have been introduced in industrialised countries. Some are designed for application in consumer products, whereas others are used in industrial processes. Even the latter frequently end up in the environment or human body, either as residues in the end product or as environmental contamination from landfills, incineration or sewage treatment plants.

Many of the artificial compounds designed by the chemical industry exhibit a much greater stability than most naturally occurring substances. This is useful in applications such as insulation, fire protection, or non-stick and waterproof materials. However, stability comes with a downside: these substances do not break down in the environment, and they accumulate in animals and humans.

One way to make a chemical substance extremely stable is by building elements such as chlorine, fluorine or bromine (“halogens”) into its molecular structure. The resulting substances are called “poly-chlorinated”, “poly-fluorinated”, or “poly-brominated” meaning that several chlorine, fluorine or bromine atoms have been introduced into their structure. Whereas polychlorinated substances (like DDT, PCB, and dioxins) have been the focus of toxicological research and environmental regulation since the 1960s, the last decades have seen growing concern about the environmental and health effects of poly-fluorinated and poly-brominated substances also.

One of these is PFOA, which Bilott suspected had killed his client’s cattle. Evaluating the documents that DuPont had turned over to him, he realised that many more people were affected in the Parkersburg area, across the US, and, indeed, globally. But PFOA was not regulated: legally, it was considered as harmless as water. Thus, in a 972-page submission to the Environmental Protection Agency (EPA) and other relevant authorities, Bilott demanded immediate action be taken to regulate PFOA and provide clean water to those living near the factory. The EPA then accused DuPont of concealing its knowledge of PFOA’s toxicity and presence in the environment, which constituted a violation of the Toxic Substances Control Act. But DuPont, in 2005, got away with paying a fine of 16.5 million USD to settle the EPA case – less than 2 percent of the profits the company earned on PFOA that year.

Representing 70,000 victims: Bilott’s landmark case

Bilott decided he needed to take the case further. In August 2001, he filed a class-action suit against DuPont, on behalf of almost 70,000 people in the Parkersburg area who had been drinking water contaminated with PFOA. In September 2004, DuPont agreed to settle the case and install filtration plants in the six affected water districts and pay a cash award of \$70 million.



Such settlements are not uncommon under US law, and the case could have ended here. However, Bilott and his legal team convinced the representatives of the victims that only those who agreed to have blood samples taken and medical tests done would receive their share of the money. In this way, they made sure that a large quantity of data was produced that would allow for high-quality epidemiological studies of PFOA's health effects. The studies were conducted over a period of seven years by an expert panel of toxicologists and had to be financed by DuPont under the settlement.

The panel found that there was a probable link between drinking PFOA and kidney cancer, testicular cancer, thyroid disease, high cholesterol, pre-eclampsia, and ulcerative colitis. The findings were published in a number of reports and peer-reviewed scientific articles and contributed enormously to the understanding of PFOA's toxicity. They also formed the basis for personal-injury lawsuits against DuPont, filed so far by some 3500 victims who have developed illnesses they suspect have been caused by their decade-long exposure to PFOA. Bilott is co-lead counsel handling the litigation against DuPont for the plaintiffs. After the first three trials, all of which resulted in verdicts against DuPont on behalf of cancer survivors (for \$1.6 million, \$5.6 million, and \$12.5 million), including punitive damages in the last two cases (as high as \$10.5 million in the third case), DuPont agreed to settle all the existing cases for \$671.7 million.

The impact of Bilott's work in reducing a threat to global public health

Public interest in the case and the scientific findings generated by it has led to a large number of new toxicological studies of PFOA and other poly-fluorinated chemicals. DuPont ceased production and use of PFOA in 2013. The five other companies in the world that produce PFOA are also phasing out production.

In May 2016, the EPA announced its first long-term health advisory on PFOA and the related substance PFOS in drinking water. Though this advisory is non-binding, affected people have to be notified. In this way, communities across the US suddenly learnt that their water contained PFOA above acceptable limits, and many demanded action. It is estimated that more than five million American citizens have been drinking PFOA-contaminated water. The story of the Bilott litigation became one of the prime examples for journalists and policy makers examining the failures of the Toxic Substances Control Act, building support for the sweeping reform of the law passed last year that brought greater regulation of PFOA nationwide.

PFOA has been detected in the blood of more than 98% of the general US population, but the problem is by no means limited to the US. There are communities affected by PFOA contamination even in many other countries, and the chemical is now ubiquitous in the human food chain.