

Broad, But Not Boundless: The Eleventh Circuit Gets Federal Officer Removal Right in *Pine Hill v. 3M*

by Joelle Webb

The debate about the federal government's proper role has made its way into virtually every legal and political debate. Likewise, what role federal courts should play in disputes involving private companies that perform work for the federal government remains an important jurisdictional question.

Under [28 U.S.C. § 1441](#), defendants can seek removal of a case if there is diversity of jurisdiction or a federal question. However, if the defendant is a federal contractor—or acting under the color of federal office—the “federal officer removal” statute, [28 U.S.C. § 1442](#), applies. This is where lines can become blurred, as the court must then decide whether the defendant qualifies for federal officer removal.

The U.S. Supreme Court's latest decision on federal officer removal is [Chevron U.S.A. Inc. v. Pfaquemines Parish](#), 608 U.S. ____ (2026), published on April 17, 2026. Federal courts have since begun applying the Court's reasoning. Late last month, the U.S. Court of Appeals for the Eleventh Circuit became the first federal appellate court to apply *Pfaquemines Parish*, ruling in favor of federal officer removal in [Town of Pine Hill, Alabama v. 3M](#).

The Contamination Controversy

The town of Pine Hill, Alabama, sits in the southwest corner of the State and obtains much of its drinking water from the Alabama River. The town's water department found high levels of per- and poly-fluoroalkyl substances (PFAS) as early as 2020. An International Paper industrial plant sits just miles outside the town of Pine Hill, and it buys products from 3M—a Minnesota-based company that produces tens of thousands of everyday industrial items. Some of 3M's products contain PFAS.

In July of 2024, Pine Hill sued International Paper and 3M in Alabama state court, alleging state-law claims of negligence, wantonness, private nuisance, public nuisance, and trespass for the companies' discharge of wastewater that contained PFAS into the Alabama River. Pine Hill concluded a new water filtration system is required to properly remove the chemical from the drinking water.

Pine Hill expressly stated it was not relying on any federal causes of action. That disclaimer, and the lack of diversity jurisdiction, left the federal officer removal statute as 3M's only option for removal to federal court.

3M doesn't deny its PFAS-containing products potentially contaminated the Alabama River. It did, however, push back on Pine Hill's assertion that the relevant contamination could be isolated

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to International Paper. 3M argued that because Pine Hill could not adequately isolate the source of the PFAS, it cannot accurately assume the presence of all the chemicals that contaminated the river originated from International Paper's discharged wastewater.

3M also cited its long-standing relationship with the federal government through which it manufactured and supplied Aqueous Film-Forming Foam (AFFF) for more than 30 years, including, it plausibly alleged, to Maxwell Air Force Base just outside Montgomery, Alabama. 3M pointed to a government report showing the groundwater at Maxwell as containing PFAS from AFFF-release areas that flowed toward the Alabama River. This is important because it provided another potential source of the PFAS contamination—one that connected 3M's work to the federal government.

3M filed a notice of removal in the U.S. District Court for the Southern District of Alabama. Pine Hill asked the federal court to remand the case, and the district court granted Pine Hill's request. 3M then appealed the remand order to the Eleventh Circuit.

Federal Officer Removal Statute: When Does it Apply?

Courts can apply the federal officer removal statute when federal officers, agencies, or other persons acting under them seek to transfer a civil action or criminal prosecution from state court to a federal district court. The ultimate purposes this serves are to protect federal operations and ensure federal supremacy.

To apply the statute correctly, the defendant must pass the statute's three-prong test. It first requires the defendant to be a person "acting under" the color of federal office. In *Pine Hill*, the court held that the company's relationship with Maxwell Air Force Base was enough to establish that first part of the test.

Second, the defendant must adequately prove it performed the conduct for which it is being sued while it was acting under the color of federal office. In other words, the suit must be "for or relating to" an act performed under the color of a federal office.

Pine Hill asserted the precedent set in *The State of Georgia v. Meadows*, 88 F.3d 1331 (11th Cir. 2023), claiming the federal officer removal statute cannot be applied to *former* federal officers—alluding to the fact that 3M had not supplied AFFF to the military since the 2000s. The majority, however, cited reports of over 2,000 contracts 3M has with the federal government as of 2026, therefore qualifying 3M as still acting under the "color of federal office."

In *Plaquemines Parish*, the Supreme Court indicated that lower courts should refrain from reading the statute too narrowly. There, Chevron invoked the federal-officer-removal statute because the activity it is being sued over, they argued, is closely connected to the conduct it performed for the federal government during World War II. As a result, Chevron argued the case should be heard in federal court. The Eleventh Circuit followed the Supreme Court's lead from *Plaquemines Parish* in *Pine Hill*, rejecting the district court's narrower characterization of the conduct underlying Pine Hill's claims.

Finally, to meet the third part of the federal officer test, the defendant must raise a "colorable federal defense." In *Pine Hill*, 3M sufficiently defended its first two claims that it was acting under the color of federal office and that the conduct for which it was sued relates to its federal obligations.

Judge Newsom authored a concurrence in *Pine Hill* which explained how he would apply parts of the federal-officer test "a bit differently than the majority seems to." He agreed with the majority's distinction of *Meadows* when applying the first part of the text but wrote that doing so was unnecessary.

Judge Newsom reasoned that Section 1442(a)(1) of the statute only requires “that the case be ‘against . . . any person acting under’ a federal officer ‘for or relating to any act under color of such office’” To him, 3M’s tailoring of products to the federal government’s specifications and the company’s past and present contracts with the government are sufficient to pass the “acting under” prong.

On the second, or the “relates to” prong of the test, Judge Newsom stressed that the causation standard the defendant must meet is “*very* generous” (emphasis his). The preponderance-of-the-evidence standard Pine Hill argued 3M must meet at the pleading stage, he reasoned (citing *Jefferson Cnty. v. Acker*, 527 U.S. 423, 432 (1999)), “would ‘defeat the purpose of the removal statute.’” “At the pleadings stage,” Judge Newsom concluded, “it seems to me, 3M need only make a plausible showing that at least some of the alleged pollution of the Alabama River is attributable to its Maxwell-related AFFF sales. And it has done so.”

Although Pine Hill argued the PFAS contamination from International Mills relates directly to 3M’s private-sector relationship, Judge Newsom concurs that because 3M adequately established that the water contamination could be from the AFFF contamination from Maxwell Air Force Base, the federal statute was applicable.

“As I see it, no matter how Pine Hill’s complaint is conceptualized, the town’s suit meets the statutory standard,” Judge Newsom writes. He claims that “product liability does not exist in the air,” and because Pine Hill was unable to pinpoint the exact location of origin for the PFAS contamination, 3M’s colorable defense claim was legitimate.

The Circuit Court Made the Right Decision

On appeal, 3M argued that the circumstances in the case met the key requirements underlying the federal officer removal statute. The Eleventh Circuit properly followed the Supreme Court’s approach in *Plaquemines Parish*, declining Pine Hill’s demands that the court require greater specificity from 3M in its arguments on the removal statute’s three prongs. The court explained, “While Pine Hill states that the act is the PFAS contamination from paper mills, its claims center on a much broader act—the overall PFAS contamination of the Alabama River.” The court concluded that the district court “impermissibly narrowed” the conduct and should have credited 3M’s theory that the contamination related to PFAS contamination “as a whole.”

The Eleventh Circuit’s *Pine Hill* decision will be a useful precedent for defendants in removal fights in other federal circuits. When federal courts consider similar removal requests, they should resist requiring defendants to prove ultimate causation at the jurisdictional stage while still demanding a meaningful connection between federally directed conduct and the alleged harm.

3M’s status as a longtime military supplier, standing alone, would not satisfy the statute. What matters is that 3M plausibly connected its federally directed manufacture of AFFF to the same general PFAS contamination underlying Pine Hill’s claims. The Eleventh Circuit’s approach was broad, but it was not boundless.