

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3 SOUTHERN DIVISION

4 IN RE:)
5)
6 CAMP LEJEUNE WATER LITIGATION) Docket No.
7) 7:23-cv-897
8)
9)

10 *****

11 MONDAY, JANUARY 13, 2025
12 STATUS CONFERENCE HEARING
13 BEFORE THE HONORABLE:
14 ROBERT B. JONES, JR., MAGISTRATE JUDGE
15 In Wilmington, NC

16 APPEARANCES:

17 On behalf of the Plaintiffs:

18 J. Edward Bell, III
19 Jenna Butler
20 Eric Flynn
21 A. Charles Ellis
22 By Telephone: Mona Lisa Wallace, Hugh Overholt

23 On Behalf of the Defendant:

24 John Adam Bain
25 Joshua Carpenito
By Telephone: Bridget Bailey Lipscomb, Sara Mirsky

Counsel for Settlement Master Team:

By telephone: Ken Knight, Kara Edwards

26 Court Reporter: Tracy L. McGurk, RMR, CRR
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31 Proceedings recorded by mechanical stenography,
32 transcript produced by notereading.

1 (Commenced at 11:08 a.m.)

2 THE COURT: Good morning, everyone.

3 For those attending on the phone, we had
4 this issue come up last time, and it caused some
5 difficulty here in the courtroom with hearing one
6 another, and I understand that the court reporter had
7 some challenges. But for those that are on the phone,
8 if you would mute your microphones. That was quite a
9 challenge last time.

10 Okay. Mr. Bell, Mr. Bain, how about giving
11 the Court an overview of what's going on in the case.
12 I think you all are in expert discovery?

13 MR. BELL: Good morning, Your Honor. We are
14 in the process of meeting the deadlines in discovery
15 with experts. I know tomorrow is water expert
16 rebuttal, I believe, is the deadline for that.

17 THE COURT: For Phase 1; is that right?

18 MR. BELL: Yes, sir. We're moving along.

19 We have a couple of issues that have come
20 up, Your Honor. I don't think it's anything that we
21 need the Court for because we can probably agree, but we
22 have -- Mr. Bain has an expert who recently had a
23 stroke; unexpected, of course. We'll work with them on
24 working through that.

25 One of our experts lost their home in the

1 California fire. I just mentioned that to Adam this
2 morning. We'll work through that, I'm sure.

3 So other than that, Your Honor, I think
4 things are moving along smoothly.

5 THE COURT: Mr. Bain?

6 MR. BAIN: Your Honor, there was one issue
7 in the status report that I wanted to alert you to that
8 I think has been resolved, which is we got a report from
9 the plaintiffs on their water modelling expert and a
10 report that was coauthored. We asked them to identify
11 who was responsible for which opinions in the report.
12 They provided us with some further information. I
13 think we've been able to resolve that issue. So that
14 issue has been resolved.

15 With respect to what Mr. Bell just
16 mentioned, we did have an expert who was our expert on
17 Parkinson's disease who recently suffered a stroke, was
18 diagnosed with cancer, so he won't be able to continue
19 working with us.

20 THE COURT: He will or will not?

21 MR. BAIN: Will not be able to continue
22 working with us.

23 We do think we've identified and we'll be
24 able to retain one or two experts to take his place.
25 His report is not due until April 8th, or that report

1 will not be due until April 8th. But we think that
2 we'll be able to meet that deadline, but we just wanted
3 to notify the Court that we're working through that
4 challenge right now.

5 THE COURT: That's for Phase 3, the
6 residual?

7 MR. BAIN: Yes.

8 And then there are a couple of other
9 discovery issues that Mr. Carpenito would like to give
10 the Court an update on.

11 THE COURT: Yes, sir.

12 MR. CARPENITO: Good morning, Your Honor.
13 Joshua Carpenito on behalf of the United States.

14 The United States has encountered some
15 deficiencies and delays with respect to the PLG'S
16 production of certain Phase 2 reliance materials. The
17 parties are actively corresponding in an effort to
18 resolve these issues without Court intervention.
19 However, Your Honor, if these issues are not resolved or
20 remain unresolved, the United States may seek relief
21 from the Court to address any resulting prejudice.

22 THE COURT: Okay. And that's sort of the
23 status of it as reflected in this status report, right?

24 MR. CARPENITO: That's correct, Your Honor.

25 THE COURT: Mr. Bell, any thoughts on that?

1 MR. BELL: They're working through it, Your
2 Honor, obviously. I wish we could push a button and
3 make things happen. We've both encountered that on both
4 sides in this case. So we are cognizant of our duty to
5 respond, and we're doing really the best we can.

6 THE COURT: Okay. Well, I'm available if
7 there's the anything the Court needs to work out.

8 Anything else?

9 MR. CARPENITO: Your Honor, with respect to
10 the IMEs, the United States had contacted the PLG back
11 in November to begin scheduling these. Following the
12 updated expert disclosure deadlines, the United States
13 has once again reached out to the PLG to schedule
14 examinations. We have proposed dates for the first two
15 weeks following PLG'S residual expert disclosure
16 deadline. The parties have agreed to a number of dates
17 for a number of these exams. And we are scheduling a
18 meet-and-confer this week to discuss the duration of the
19 United States's exams.

20 THE COURT: How many are left?

21 MR. CARPENITO: Your Honor, I believe at
22 this point we have five on the calendar. We are working
23 to get three more on the calendar. And to the extent
24 at that PLG notifies us of any new examination, we'll
25 continue to work with them to get them scheduled.

1 THE COURT: Is that right, Mr. Bell?

2 MR. BELL: Yes, sir, Your Honor.

3 THE COURT: Anything else?

4 MR. CARPENITO: Lastly, Your Honor, with
5 respect to the depository, the parties had agreed that
6 the United States would have a member of our processing
7 team at PLG'S depository this past week. Our team
8 member was unable to finish the scanning by the end of
9 the week. So the United States will reach out to PLG
10 to finalize the -- finalize getting this project done
11 shortly. We do not anticipate a discovery dispute.

12 THE COURT: Is this the two boxes that you
13 referenced in the status report?

14 MR. CARPENITO: Yes, sir; that's correct.

15 THE COURT: So he or she just has more of
16 what's left of those two boxes to go?

17 MR. CARPENITO: That's correct, Your Honor.
18 I anticipate about half of one of the boxes left.

19 THE COURT: All right.

20 MR. BELL: Can we finish scanning those for
21 you?

22 MR. CARPENITO: I think we'd be agreeable to
23 that.

24 (Discussion had off the record.)

25 MR. CARPENITO: The parties may agree

1 ultimately to let PLG finish scanning those documents
2 for the United States.

3 THE COURT: Great.

4 What's next?

5 MR. CARPENITO: That's all that I have, Your
6 Honor. Thank you.

7 THE COURT: Okay. I think earlier the Court
8 had asked the parties to submit a proposal regarding the
9 elements of the CLJA claims and general framework for
10 the trial. It looks like from the status report
11 that -- it looked like there was going to be some
12 agreement as to what that would look like, that there is
13 not an agreement, and now there's some reconsideration
14 of whether that needs to be submitted.

15 Where are the folks on that? Because I
16 think the Court would benefit. The Court started this
17 conversation and would still benefit from knowing what
18 the parties think.

19 MR. BAIN: Yes, Your Honor, we agree with
20 that. I believe we are very close on the language,
21 agreeing on the language. There were just some minor
22 issues that we were continuing to discuss. I think the
23 plaintiffs thought that that was -- I won't speak for
24 them, but I believe they thought that was overcome by
25 the issuance of the expert reports. But we still think

1 that it would be helpful for the parties and the Court
2 to know through this language what is going to be
3 offered in each phase of the case.

4 MR. BELL: I don't disagree with that, Your
5 Honor. The timing of that, I think, is important
6 because we don't actually know a lot about the experts
7 on the other side, and vice versa.

8 There appears to me to be a chance -- I
9 can't speak for the government, but looking at it from
10 our standpoint -- that some of these experts and some of
11 the issues may resolve themselves before getting to
12 court. So if you will bear with us, Your Honor, we're
13 cognizant the Court needs something, but maybe right now
14 is a little bit too early.

15 THE COURT: Again, the thought here is that
16 the Court would just kind of benefit knowing where you
17 all are on these ideas. I don't think the Court is
18 looking for -- necessarily looking for a particular
19 outcome. I'm not asking you to agree to a certain
20 proposal. If you disagree, that's perfectly fine. I
21 think the Court would just benefit from knowing what
22 your thoughts are on what the elements and order of
23 proof looks like, irrespective of whether you agree or
24 not.

25 MR. BAIN: Would you like us to submit

1 something by the next status conference?

2 THE COURT: Well, if it's a timing issue,
3 the question becomes: When do you all think you'll be
4 in a position, having kind of fleshed out perhaps these
5 issues with experts, when do you think the parties are
6 best positioned to submit that to the Court?

7 MR. BELL: Judge, I think after the
8 depositions of the water experts would be the best time
9 to look at it. Because not knowing what the Court's
10 going to do with the water and what rulings they're
11 going to make, how we follow those rulings is kind of up
12 in the air right now. So if you could bear with us a
13 little bit on that.

14 THE COURT: Okay.

15 The last thing I had on my list here was
16 what has been described as I think additional proposals
17 for subgroup management with respect to Track 1. What
18 does that look like?

19 MR. BELL: Your Honor, you'll recall in the
20 blood cancers we have three of the ten blood cancers, we
21 have three groups. And we are looking forward to
22 talking to the government after maybe some of these
23 expert reports are in to maybe see if we can split them
24 up as well.

25 THE COURT: Okay.

1 MR. BELL: We see a natural break for a
2 couple of them, so maybe we could have two and three,
3 for example, tried.

4 THE COURT: If you think there's a best way
5 to go about trying those cases in these groups, then I
6 think the Court would be interested in knowing what that
7 is.

8 MR. BELL: That's correct, Judge.

9 MR. BAIN: We'll discuss that, Your Honor.

10 THE COURT: That's all I've got. Anything
11 else?

12 MR. BELL: Not from the plaintiff, Your
13 Honor.

14 MR. BAIN: No, Your Honor.

15 THE COURT: Thoughts on our next meeting?

16 MR. BELL: Whenever you'd like it, Your
17 Honor. Two, three weeks, whatever you think.

18 MR. BAIN: May I suggest maybe around
19 February 11th? It's the week before the President's Day
20 holiday.

21 THE COURT: Apparently I'm not available.
22 Give me some dates.

23 MR. BAIN: Are you not available anytime
24 that week?

25 THE COURT: I neglected to bring my

1 calendar.

2 I'm available the 10th and the 14th.

3 MR. BAIN: I think either of those are fine,
4 Your Honor.

5 MR. BELL: Either one, Your Honor.

6 THE COURT: I'll take a look at those and
7 notice it up.

8 MR. BELL: In the meantime, Judge, if we
9 have any issues to bring up, we'll, as your invitation
10 has indicated, we'll give you a call.

11 THE COURT: Yes, sir.

12 MR. BAIN: Your Honor, I think we would
13 prefer the 10th if possible.

14 THE COURT: The 10th is your first choice,
15 then Valentine's Day is your second. Thank you.

16 We're adjourned.

17 (Concluded at 11:20 a.m.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/s/ Tracy L. McGurk_____

____1/14/2025____

Tracy L. McGurk, RMR, CRR

Date