

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

Case No. 7:23-CV-897

IN RE: )  
)  
CAMP LEJEUNE WATER LITIGATION )  
)  
This Document Relates to: )  
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ALL CASES )  
)

ORDER

This matter comes before the court on the United States’ (“Defendant”) motion to amend the pretrial scheduling orders [DE-270, -332, -414, -630, -831] (collectively “Pretrial Scheduling Order”) to include supplementation deadlines concerning fact and expert discovery [DE-827] (“Motion”). For the following reasons, the Motion is denied.

**I. Background**

On February 2, 2024, the court entered a “Track 1 Order establishing deadlines and procedures for the Track 1 Discovery Pool.” [DE-130] 3 (“February 2024 Order”).<sup>1</sup> The February 2024 Order lifted a stay on cases in the Track 1 Discovery Pool and set deadlines for both fact and expert discovery. *Id.* at 3–4. On July 9, 2024, the court designated twenty-five Track 1 Trial Plaintiffs.<sup>2</sup> [DE-250] 3. Fact discovery for Track 1 Trial Plaintiffs closed August 11, 2024. *Id.* at 4; *see also* [DE-270] 1. To promote efficient resolution of this consolidated litigation, the court

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<sup>1</sup> The court selected 100 Track 1 Discovery Pool cases based on Defendant’s Notice of Revised Track 1 Discovery Plaintiffs Selection [DE-123]. [DE-130] 3.

<sup>2</sup> Three Track 1 Trial Plaintiffs reached a settlement and dismissed all claims asserted against Defendant United States of America. *See Fiolek v. United States of America*, No. 4:23-CV-00062 (E.D.N.C. February 25, 2026); *Vidana v. United States of America*, 7:23-CV-1575 (E.D.N.C. March 5, 2026); *Raymond v. United States of America*, No. 7:23-cv-00546 (E.D.N.C. April 13, 2026).

entered and thereafter revised a pretrial scheduling order governing phased expert discovery. *See* [DE-270; -332; -414; -630; -831]. Expert discovery has proceeded in three phases: Phase I (water contamination), Phase II (general causation), and Phase III (specific causation, damages, and residual issues). *Id.* Expert discovery is closed for Phases I–III. *Id.*<sup>3</sup> The court’s orders have not set its own supplementation deadline for fact or expert discovery. *See generally* [DE-250; -270; -305; -332; -414; -630; -831]. Defendant moves the court to amend the Pretrial Scheduling Order to include a supplementation discovery deadline [DE-827] and has filed a memorandum in support [DE-828]. The Plaintiffs’ Leadership Group (“PLG” or “Plaintiffs”) has filed a response [DE-848]. The Motion is ripe.

## II. Legal Standard

A pre-trial scheduling order may modify the timing of disclosures under Rules 26(a) and 26(e)(1). Fed. R. Civ. P. 16(b)(3). The court may modify an existing pre-trial schedule “for good cause,” *id.* at 16(b)(4), and has broad discretion to set discovery deadlines, *see id.* at 1, 16(c)(2).

## III. Discussion

Defendant moves to amend the Pretrial Scheduling Order to include a deadline for the supplementation of discovery [DE-827]. Defendant proposes the Pretrial Scheduling Order include

- (i) date certain on or before which fact discovery must be supplemented, subject to a good cause exception under Rule 16(b)(4);
- (ii) any supplemental expert reports limited to addressing supplemental materials disclosed after the expert’s last report must be disclosed within 30 days of the deadline for supplementation of fact discovery; and

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<sup>3</sup> Federal Rule of Evidence 702 (“*Daubert*”) and summary judgment motion briefing is ongoing which relates to "damages and offsets," "life care planning," and "home renovation" (collectively referred to as “Phase IIIb”). *See* [DE-831] 1–2 (opposition briefs due June 2, 2026); *see also* Def.’s Phase IIIb Motions [DE-856, -858] (filed April 27, 2026); Pls.’ Phase IIIb Motions [DE-860, -864] (filed April 27, 2026).

(iii) any supplemental depositions of experts limited to supplemental opinions and supplemental materials considered must be completed within 30 days of the deadline for supplemental opinions.

[DE 827] 1.

“At the appropriate time, the court will schedule Track 1 bellwether trial dates in a manner consistent with the court's prior Case Management Orders and according to each judge's schedule.” *In re Camp Lejeune Water Litig.*, No. 7:23-CV-897, 2026 WL 561123, at \*11 (E.D.N.C. Feb. 27, 2026). “Each judge retains the inherent power to manage their assigned Track 1 Trial Plaintiffs subject to determinations made on the Master Docket.” *Id.* at \*7 (citing Case Management Order No. 2 [DE-23] 3 (“CMO 2”)). Here, Defendant requests the court to determine and set a single, final date for supplementation of fact and expert discovery for all Track 1 Trial Plaintiffs. *See* [DE-827, -828]. The court declines to do so.

To start, the court has addressed the scope and timeliness of proposed Rule 26(e) expert supplementations. *See In re Camp Lejeune Water Litig.*, No. 7:23-CV-897, 2026 WL 736761, at \*3–5 & n.1 (E.D.N.C. Mar. 16, 2026). Essentially, “Rule 26(e)(1) requires a party to supplement its experts' reports and deposition testimony *when the party learns of new information.*” *S. States Rack & Fixture, Inc. v. Sherwin-Williams Co.*, 318 F.3d 592, 595–96 (4th Cir. 2003) (emphasis added); *see also In re Camp Lejeune Water Litig.*, 2026 WL 736761 at \*4 (explaining supplement was disclosed “[o]ver nine months after the deadline for Defendant to disclose Dr. Goodman's Phase II reports had passed and over six months after Defendant was made aware of apparent inaccuracies in Dr. Goodman's February Reports”). “Rule 26(e) [also] requires parties supplement or correct disclosures or responses to interrogatories or discovery requests ‘in a timely manner . . . .’” *Exclaim Mktg., LLC v. Directv, LLC*, No. 5:11-CV-684-FL, 2014 WL 12626359, at \*1 (E.D.N.C. Nov. 18, 2014) (citing Fed. R. Civ. P. 26(e)(1)). “[T]he timeliness of a [fact or expert] supplemental disclosure is not keyed solely to the deadline for pretrial disclosures, but rather keyed

to the overall requirement that supplementation be made ‘in a timely manner.’” *Lightfoot v. Georgia-Pac. Wood Prods., LLC*, No. 7:16-CV-244, 2018 WL 4517616, at \*7 (E.D.N.C. Sept. 20, 2018) (citing Fed. R. Civ. P. 26(e)(1)).

Next, Defendant reminds the court that it has raised concerns about determining an end date for supplementation of discovery for over a year. *See* [DE-828] 5; *see also id* at 7 (“Absent a single, final date for supplementation of discovery across all of the Track 1 bellwether cases, the Parties risk significant disruption of trial preparations if, for example, fact discovery materials were supplemented shortly before trial”). Defendant also argues that setting a final supplementation deadline encourages the Parties to supplement in a timely fashion. *Id.* However, since the close of fact discovery, “[t]he Parties have periodically supplemented fact discovery . . . as required under Federal Rules of Civil Procedure 26 and 34.” *Id.* at 4. Defendant’s concrete example concerns plaintiffs’ medical records, which the PLG has agreed to update periodically. *See id.* at 8; *see also* [DE-848] (“The PLG also agreed to . . . promptly requesting and producing medical records reflecting new medical conditions/providers relevant to the case and notifying [] Defendant of any significant medical updates when significant health diagnoses/events occur” (footnote omitted)); Pls. Resp. Ex. A [DE-848-1] 2 (email correspondence about Discovery Plaintiff Profile Form Updates).<sup>4</sup>

Finally, Defendant argues the requested relief will aid in trial preparations, be fair to both Parties, and facilitate ongoing global resolution and settlement negotiations. *See* [DE-828] 6–9. The court acknowledges the potential benefits of Defendant’s proposal in the abstract. However, the proposal is effectively a request to reopen discovery to any supplemental fact materials, i.e., disclosure of fact discovery followed by expert reports and expert depositions. As Defendant

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<sup>4</sup> For clarity, the court does not decide whether the “supplement medical information,” [DE-848] 9, complies with Fed. R. Civ. P. 26(e).

describes, and the court agrees, this litigation is “large and complex” [DE-828] 7. As mentioned, “[t]he Parties have periodically supplemented fact discovery . . . as required under Federal Rules of Civil Procedure 26 and 34.” *Id.* at 4. Considering the ongoing supplementation and litigation complexity, the court is reluctant to enter a final supplementation deadline across five Track 1 diseases with twenty-two Track 1 bellwether plaintiffs, which involve numerous and overlapping scientific disciplines, when the concerns highlighted by Defendant are only abstract. The court agrees with Plaintiffs that Defendant has not shown that the applicable rules are insufficient. *See* [DE-848] 3–7.<sup>5</sup> At this stage, it is not certain when and how each district court judge will manage their Track 1 cases. *See In re Camp Lejeune Water Litig.*, 2026 WL 561123, at \*7, 11; *c.f.* [DE-828] n.4. Rather than setting a final supplementation deadline across five Track 1 diseases with twenty-two Track 1 bellwether plaintiffs, the court finds it prudent to let each district court judge set supplementation procedures for their respective Track 1 Trial Plaintiffs. *See* CMO 2 [DE-23] 3 (“Each individual Plaintiff’s action shall maintain its own individual docket and remain assigned to a single Judge of this District. Each Judge assigned to actions on an individual docket shall retain the inherent power to manage such actions, subject to determinations made on the Master Docket”). Thus, the court finds that Defendant has not shown good cause to modify the Pretrial Scheduling Order.

#### **IV. Conclusion**

Good cause has not been shown pursuant to Fed. R. Civ. P. 16(b)(4) to modify the Pretrial Scheduling Order. Accordingly, the Motion is DENIED.

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<sup>5</sup> The court does not agree with the PLG’s characterization of Defendant’s motion as seeking to circumvent, disregard, or supplant the Federal Rules of Civil Procedure or the Local Civil Rules. *See id.* at 4–6.

SO ORDERED. This 15 day of May, 2026.



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Robert B. Jones, Jr.  
United States Magistrate Judge