

EXHIBIT D

From: Bain, Adam (CIV) <Adam.Bain@usdoj.gov>
Sent: Wednesday, December 6, 2023 4:02 PM
To: James Foster; Criteria Committee
Cc: Fob James IV; William Foster; Elliot Abrams; Dean, Kevin R.; mike@dowlingfirm.com; Zina Bash; Ed Bell; Brian Barr; CampLejeuneCaseHubZ2137789@fosterlaw.filevineapp.com
Subject: RE: Camp Lejeune Water Litigation v. United States of America -- Notice of Opting Out Per CMO 2

James,

Thanks for reaching out, but, unfortunately, our deadline for selecting Track 1 Discovery Plaintiffs was yesterday. May we ask why we did not receive your decision to rescind your clients' opt-out until shortly after the Track 1 selections had been filed on the docket? The United States did not have a sufficient opportunity to consider including these cases among its Track 1 discovery selections and thus did not include them. If you and PLG were to file a motion to extend all deadlines in the CMO so that we could have some time to reassess our Track 1 discovery picks to consider your cases, we may not oppose that motion.

Otherwise we will consider any of your cases that have eligible (have not opted out and have selected diseases) for Tracks 2 and 3.

Best,

Adam



Adam Bain
Environmental Torts Litigation
U.S. Department of Justice
Washington, DC
202-616-4209 (Voice)
202-598-0930 (Mobile)
adam.bain@usdoj.gov

From: James Foster <James@foster-law.com>
Sent: Tuesday, December 05, 2023 9:14 PM
To: Criteria Committee <CriteriaCommittee@belllegalgroup.com>; Bain, Adam (CIV) <Adam.Bain@usdoj.gov>
Cc: Fob James IV <fob@fobjameslaw.com>; William Foster <william@foster-law.com>; Elliot Abrams <elliott.abrams@cheshirepark.com>; Dean, Kevin R. <kdean@motleyrice.com>; Mike Dowling <mike@dowlingfirm.com>; Zina Bash <zina.bash@kellerpostman.com>; Ed Bell <ed.bell1@icloud.com>; Brian Barr <bbarr@levinlaw.com>; CampLejeuneCaseHubZ2137789@fosterlaw.filevineapp.com
Subject: [EXTERNAL] Re: Camp Lejeune Water Litigation v. United States of America -- Notice of Opting Out Per CMO 2

Adam,

To be perfectly clear, all 56 of these cases are eligible for the government to pick if you so choose.

--

James Z. Foster
Owner/Attorney
www.Foster-Law.com
(404) 800-0050 | Office
(919) 357-7224 | Cell

On Dec 5, 2023, at 8:05 PM, James Foster <James@foster-law.com> wrote:

Based on the recent filings regarding the “right to a jury trial” being in question and other concerns regarding the legitimacy of the discovery/bellwether selection process, we would like to opt all of these cases back in for Track 1 consideration to the extent they otherwise qualify.

On Dec 5, 2023, at 8:52 AM, James Foster <James@foster-law.com> wrote:

Good morning everyone. Just to clarify, we are only opting these 56 cases out from the initial round of Track 1 discovery. All of the below cases can be considered in future Track 1 discovery and bellwether rounds as well as for the initial round of Track 2 and 3 (unless later opted out). Thank you.

--

James Z. Foster
Owner/Attorney
www.Foster-Law.com
(404) 800-0050 | Office
(919) 357-7224 | Cell

On Nov 6, 2023, at 2:13 PM, James Foster <James@foster-law.com> wrote:

In addition to the cases in my prior email, we are also opting out these 2 cases from Track 1 Discovery.

1. Arthur Lovell
2. Fred Newell

Lastly, to clarify from my previous email, the case “James Hines” is referring to *Richard Jarvis Hines v. United States of America*, Case No. 7:23-cv-01260-BO.

--

James Foster
Owner/Attorney
1201 West Peachtree St, NW
Suite 2300
Atlanta, GA 30309
www.Foster-Law.com
Office: (404) 800-0050
Direct: (404) 586-4442
Fax: (404) 493-2322
Cell: (919) 357-7224
Email: James@Foster-Law.com

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From: James Foster
Sent: Sunday, November 5, 2023 9:12 PM
To: Criteria Committee <CriteriaCommittee@belllegalgroup.com>; adam.bain@usdoj.gov
Cc: Fob James IV <fob@fobjameslaw.com>; William Foster <william@foster-law.com>; Elliot Abrams <elliott.abrams@cheshirepark.com>; Dean, Kevin R. <kdean@motleyrice.com>; Mike Dowling <mike@dowlingfirm.com>; Zina Bash <zina.bash@kellerpostman.com>; Ed Bell <ed.bell1@icloud.com>; Brian Barr <bbarr@levinlaw.com>; CamplejeuneCaseHubZ2137789@fosterlaw.filevineapp.com
Subject: Camp Lejeune Water Litigation v. United States of America -- Notice of Opting Out Per CMO 2

In accordance with Section XI.A.ii.b of CMO 2 [DE 23], we hereby opt out the following cases from consideration of Selection for the Track 1 Discovery Pool:

1. Mark Luth
2. Brian Buckley
3. Arthur Harrison
4. Troy Gibbs
5. Jerry Stewart
6. Johnny Fredell
7. Charles Plavcan
8. Donna Rojas

9. Victor Bradley
10. Darla Arreguin
11. Alex Rodriguez
12. David Topper
13. Barbara Reeves
14. Russell Redhouse
15. Jackie Mendheim
16. Dr. Robert Rothman
17. Cathy M Smith
18. Estate of Dexter Brumley
19. Alan Brady
20. Jeff Reed
21. John Mussery
22. James Riley
23. Jeff Roden
24. Dawn Vallely
25. James Hines
26. Eduardo Bustamante
27. Peter Devita
28. John Neuman
29. Donald Wagner
30. Steven Russell
31. Rodger Michael
32. William Berry
33. Ralph Yehle
34. Paul Ulmer
35. Patrick David
36. Robert Hinson
37. Harold Darr
38. Barry Lancette
39. Bernard Parrish
40. Gary Little
41. Kevin Hopson
42. Greg Globus
43. Joseph Depasquale
44. Mark Bozek
45. William Berry
46. Glenn Allison
47. Donald Durrett
48. Denny Keeler
49. John Clanton
50. William Marshall
51. Vincent Gallagher
52. Philip Cascavilla
53. David G. Bailey
54. Dr. William Shuford

--

James Foster
Owner/Attorney

1201 West Peachtree St, NW
Suite 2300
Atlanta, GA 30309
www.Foster-Law.com
Office: (404) 800-0050
Direct: (404) 586-4442
Fax: (404) 493-2322
Cell: (919) 357-7224
Email: James@Foster-Law.com

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