UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NORTH CAROLINA SOUTHERN DIVISION

Case No. 7:23-cv-897

IN RE: CAMP LEJEUNE TOXIC WATER	PLAINTIFFS'	C	<b>PPOSIT</b>	ION	TO
EXPOSURE LITIGATION	DEFENDANT'S	MO	TION	TO	<b>AMEND</b>
	TRACK 1 ORDE	R TO	PRIOR	ITIZE	E TRIALS
		1	SINGL	E	DISEASE
This document relates to:	PLAINTIFFS				
ALL CASES					

The Plaintiffs' Leadership Group (the "PLG") respectfully opposes the Defendant's Motion to Amend Track 1 Order to Prioritize Trials of Track 1 Single Disease Plaintiffs (the "Motion").

As set forth in Case Management Order No. 2 (D.E. 23) ("CMO 2") and the Track 1 Order (D.E. 130) (the "Track 1 Order"), "At the appropriate time, the court and the Parties shall discuss the selection of certain Track 1 Discovery Plaintiffs for a Bellwether trial or trials." We agree with the Defendant that the time has come to have those discussions. Indeed, the interests of plaintiffs, the Defendant, and the Court are identical: to conduct a series of bellwether trials that are efficient, cost-effective, representative of the larger claimant population, and hence informative to the global-resolution process without unduly delaying or burdening that process.

While the PLG agrees that it is "the appropriate time" to discuss the selection of Plaintiffs for bellwether trials, it is premature to set limits on that selection before knowing how trials will proceed—for example, whether trials will be single-plaintiff trials or multi-plaintiff trials, or a mix, or whether multiple judges will conduct trials for the same set of diseases. It may be true that the best approach would be to prioritize a particular "Single Disease" plaintiff, as the Defendant describes the term, but that decision should be made after we have more information about trial

processes, and—if the Court agrees it would be fruitful—a discussion among the Court and the parties.

Additionally, the deposition transcripts the Defendant attached to the Motion, and the Defendant's references to Track 1 Discovery Pool Profile Forms make clear that the Defendant has ample information about the illness(es) alleged by each Track 1 Discovery Pool Plaintiff to have been caused by the water on Camp Lejeune. Given the ample amount of data it has collected to date, the Defendant should be ready to engage in discussions to select bellwether trial Plaintiffs. As an aside, the allegations of Plaintiffs Mr. Cagiano, Mr. Hunt, Mr. Doup and Mr. McTiernan that the water on Camp Lejeune caused various diseases are representative of a great many individuals seeking justice under the Camp Lejeune Justice Act. Indeed, an informal survey of cases indicates that potentially half of individuals with Track 1 or Track 2 illnesses have multiple diseases caused by the Camp Lejeune water (unsurprising given that exposure to toxic chemicals attacks the body as a whole, not a single organ or function). Trying their cases will help, not hinder, resolution.

Given the above, the PLG proposes that—if the Court is amenable to it—the Court convene the parties to discuss trial process and the bellwether Plaintiffs to be tried. By selecting the individuals who will proceed to trial, the parties will be able to focus their discovery and expert efforts on those cases, accomplishing a goal the parties appear to share. Selecting individuals for trial can help the parties identify which experts will be needed, how many experts will be needed on a given subject matter (for example if there are three trials on Parkinson's disease scheduled on the same day, the parties may need three Parkinson's experts), what those experts will need to focus on, and trial logistics (e.g. trial location, technology, accommodations, etc.).

For the foregoing reasons, the PLG respectfully requests that the Court deny the Defendant's Motion to Amend Track 1 Order to Prioritize Trials of Track 1 Single Disease

Plaintiffs and set a schedule to discuss the selection of certain Track 1 Discovery Plaintiffs for a bellwether trial or bellwether trials.

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# Date: April 29, 2024 Respectfully Submitted

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