

# CAMP LEJEUNE PLAINTIFFS' LEADERSHIP COUNSEL

REPORT ON THE STATUS OF THE CAMP LEJEUNE WATER LITIGATION  
AUGUST 28, 2024

Dear Counsel and *Pro Se* Plaintiffs:

The Court conducted a status conference on Tuesday, August 27, 2024, attended by Plaintiffs' Leadership Group and DOJ counsel. The Honorable Magistrate Judge Robert Jones presided. The Court heard updates from the parties regarding several matters, including:

## 1. Motions/Matters Pending and Ripe for Determination

- Plaintiffs' Leadership Group's Motion for Rule 16 Conference. [D.E. 155]
- The Parties' Respective Proposed Discovery Plans for Track 2 Illnesses. [D.E. 155, 156]
- Plaintiffs' Leadership Group's Motion for Partial Summary Judgment on CLJA Legal Representative Procedure. [D.E. 184]
- Plaintiffs' Leadership Group's Motion to Compel Document Production in Response to Seventh Set of Request for Production [D.E. 272]

As to the last bullet point [D.E. 272], the Court indicated that it will soon determine whether or not it will request supplemental briefing. If not, the Court anticipates that the Order will be issued soon.

## 2. Stipulations

- As to the 25 Track 1 Trial Plaintiffs, the parties have stipulated to the threshold elements of a CLJA claim. The parties also agreed and stipulate that each of the 25 Track 1 Trial Plaintiffs has satisfied his or her burden of production and persuasion regarding the first element and no further proof regarding such element shall be required of any Track 1 Plaintiff unless ordered by the Court. The parties also agreed and stipulate that each of the 25 Track 1 Trial Plaintiffs properly presented their administrative claims in compliance with § 2675 of Title 28, United State Code, before bringing their action under the CLJA.
- Plaintiffs' Leadership Group also noted for the Court that there are admissions in the record as a result of the DOJ's Answer to the Master Complaint. The DOJ further noted that admissions also have been made in response to Requests for Admissions. The foregoing will be included with other stipulations in the Pretrial Order at the appropriate time.

## 3. Discovery Issues

- With respect to the dispute related to Plaintiffs' Leadership Group's subpoena to the National Academy of Sciences ("NAS"), the NAS withheld a significant number of documents asserting privilege. NAS recently submitted its privilege log. Plaintiffs' Leadership Group believes the privilege log is insufficient. The parties are working on resolving the issues. If not, the parties will present supplemental briefs and request the Court to rule on the pending Motion to Compel.
- With respect to economic damages, Plaintiffs' Leadership Group has provided DOJ with fact sheets for all 25 Trial Plaintiffs.

- With respect to Plaintiffs' Leadership Group's production, DOJ has raised concerns regarding deficiencies in the productions to date. Plaintiffs' Leadership Group has provided the DOJ with a DAT file and load files and the DOJ is reviewing those items. The parties will continue to meet and confer.

#### 4. General Framework for Trial

- Plaintiffs' Leadership Group raised the issue with the Court as to the scope of the Water Contamination Phase of the trial framework. Plaintiffs' Leadership Group expressed the importance of including in the Water Contamination Phase a presentation on the various methods by which people were exposed to the water (*i.e.*, drinking, showering, inhalation, etc.). Plaintiffs' Leadership Group indicated to the Court that it is important for the Court to understand that there are multiple pathways of exposure.
- Plaintiffs' Leadership Group also raised the issue as to whether the Court would be making findings after the Water Contamination Phase is complete because if findings are made, any findings will be important for the experts to consider before issuing reports. The Court indicated that it is contemplated that findings will be issued after the Water Contamination Phase is complete.
- The parties also discussed disagreement as to the scope of the General Causation Phase which is to be decided by the individual trial judge and not *en banc*. Plaintiffs' Leadership Group expressed that evidence as to chemical levels and causation should not be part of the Water Contamination Phase but should be presented in the General Causation Phase before the individual trial judges. The DOJ suggested that the issue of whether the proven chemical levels at Camp LeJeune are capable of causing the disease at issue should be decided first, as part of the General Causation Phase, before the issue of specific causation is heard. The Plaintiffs' Leadership Group expressed concern that the cases the DOJ is relying on for their position combine general and specific causation and the two issues are hard to split and will likely need to be combined.
- The Plaintiffs' Leadership Group suggested that the Court consider having the same judge hear the Non-Hodgkins Lymphoma cases and the Leukemia cases, or combining them for trial, since there are 5 Track 1 diseases and 4 judges.

#### 5. Other Issues

- Document Depository. Plaintiffs' Leadership Group is in the process of creating the Document Depository. Plaintiffs' Leadership Group will provide DOJ with an index of the documents in the Document Depository.

The transcript of the August 27, 2024 status conference will be posted by Plaintiffs' Leadership Group on its website upon receipt of same.

The next status conference with the Honorable Magistrate Judge Robert Jones has been scheduled for **Tuesday, September 17, 2024**, at 11:00 a.m. in Wilmington.

Please continue to monitor our website for real-time updates: <https://camplejeunecourtinfo.com/>.

Respectfully  
Plaintiffs' Leadership,

---

A. Charles Ellis  
Ward and Smith, P.A.  
Post Office Box 8088  
Greenville, NC 27835-8088  
*Liaison Counsel*

---

Hugh R. Overholt  
Ward and Smith, P.A.  
Post Office Box 867  
New Bern, NC 28563-0867  
*Liaison Counsel*

---

Ed Bell  
Bell Legal Group, LLC  
219 Ridge Street  
Georgetown, SC 29440  
*Lead Counsel*

---

Zina Bash  
Keller Postman LLC  
111 Congress Avenue, Suite 500  
Austin, TX 78701  
*Government Liaison & Co-Lead Counsel*

---

Elizabeth Cabraser  
Leiff Cabraser Heimann & Bernstein, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111  
*Co-Lead Counsel*

---

Mike Dowling  
The Dowling Firm PLLC  
Post Office Box 27843  
Raleigh, NC 27611  
*Co-Lead Counsel*

---

Robin Greenwald  
Weitz & Luxenberg, P.C.  
700 Broadway  
New York, NY 10003  
*Co-Lead Counsel*

---

Jim Roberts  
Lewis & Roberts, PLLC  
Post Office Box 17529  
Raleigh, NC 27619-7529  
*Co-Lead Counsel*

---

Mona Wallace  
Wallace & Graham, P.A.  
525 North Main Street  
Salisbury, NC 28144  
*Co-Lead Counsel*

ND:4874-2534-9597, v. 1