

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	)	<b>PLAINTIFFS' LEADERSHIP GROUP'S</b>
	)	<b>NOTICE OF PROPOSED ORDER</b>
This Document Relates To:	)	<b>RE: ORDER 886</b>
ALL CASES	)	

Pursuant to Order 886 (“Order 886”), the Plaintiffs’ Leadership Group (“PLG”) met and conferred with the Defendant United States (the “Defendant”, together the “Parties”) to identify the expert opinions to which the Order applies and how to implement the Order.

The Parties were unable to reach agreement. The PLG proffered a joint proposed order substantially in the form attached hereto as Exhibit A wherein the experts below are identified and potential challenges under Order 886 are resolved by each trial judge, pursuant to the Order entered at Docket Entry 818. The Defendant disagreed and at the first meet and confer proposed the parties submit simultaneous briefs. Ultimately, on June 23, 2026, the Defendant insisted on the proposed order it has submitted at D.E. 890 Ex. C, which included inappropriate briefing and quotations the Court did not request, and would strike the identified experts rather than identify them for the Court’s consideration at trial. In response to the Defendant’s proposed order, which is in fact substantive briefing, the PLG attaches its response hereto as Exhibit B.<sup>1</sup>

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<sup>1</sup> The PLG wishes to explain to the Court why Exhibit B is a lengthy document. The DOJ’s submission, as explained in Exhibit B, takes soundbites of experts out of context. The PLG Exhibit B provides the full context to the experts’ statements – providing the Court with that necessary context to show that the experts followed sound methodology when their testimony is considered as a whole. But providing that context takes many more words than cherry-picking an out-of-context statement.

The experts the Defendant seeks to strike under Order 886 are as follows:<sup>2</sup>

<b>Disease group (by judge)</b>	<b>General causation expert opinions Defendant seeks to strike</b>
Bladder cancer (C.J. Myers)	Drs. Bird, Culp, and Hatten
Kidney cancer (J. Boyle)	Drs. Bird, Freeman, Hatten, and Mallon
Leukemia and NHL (J. Dever)	Drs. Bird, Gondek, and Mallon

The PLG agrees that these experts' opinions are subject to the requirements of Rule 702 but contends that these identified opinions, and all of their experts' opinions, meet Rule 702 including Order 886 requirements.

As set forth in Exhibit B in more detail, the PLG asserts four reasons the Defendant's arguments in its proposed order are misplaced. First, the PLG shows that the citations used by the Defendant in its proposed order do not capture the full context surrounding the citations. Rather, when the citations are placed in their full context, it is clear that the PLG's experts utilized standard, reliable methodologies consistent with the requirements of Rule 702. Second, the PLG shows that all of the experts above considered statistical significance when evaluating the evidence. Third, the PLG shows that the Defendant mischaracterizes the experts' consideration of a risk estimate of 1.1 as a threshold or gatekeeper for causation, when in fact the experts weighed every study regardless of the study's risk estimate. Fourth, most of the experts above reached conclusions that causation was "more likely than not," using the same rigorous methodologies they used in the instances when they reached conclusions that causation was "at least as likely as not." Order 886 recognized that the CLJA's standard could be incorporated into an opinion's "ultimate

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<sup>2</sup> The Defendant does not move to exclude the PLG's other general causation experts under Order 886: Drs. Felsher (Leukemia and NHL), Hu (NHL), Gilbert (NHL, Leukemia, Kidney Cancer, Bladder cancer, and Blood Cancer), Madigan (rebuttal expert), Plunkett (Bladder Cancer), and Savitz (rebuttal expert regarding the lack of importance on statistical significance in the contemporary scientific community).

conclusion,” just not its methodology. Order 886 at 17. None of these experts reduced their methodological rigor as a result of the CLJA’s standard of proof.

For the foregoing reasons, and as set forth in Exhibit B, the PLG asserts that its proposed order attached as Exhibit A complies with Order 886. Conversely the PLG asserts the Defendant’s proposed order amounts to renewed Daubert briefing and exceeds the scope of the Court’s direction in Order 866.

Dated: June 26, 2026.

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