

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:23-CV-897

IN RE:

CAMP LEJEUNE WATER LITIGATION

This Document Relates to:
Charles Metcalfe, No. 7:24-cv-00976
Larry Abrams, No. 7:24-cv-00982
Tony Griffin, No. 7:24-cv-00973
Estate of Mark Kopp, No. 7:24-cv-00969
Estate of Timothy Coon, No. 7:24-cv-00978
Steven Janovitch, No. 7:24-cv-00919

**MOTION FOR HEARING REGARDING
THE DEPARTMENT OF JUSTICE’S
ADMINISTRATION OF ELECTIVE
OPTION DETERMINATIONS**

Plaintiffs Charles Metcalfe, Larry Abrams, Tony Griffin, the Estate of Mark Kopp, the Estate of Timothy Coon, and Steven Janovitch (collectively, “Movants”), by and through the undersigned counsel, respectfully move the Court for a hearing regarding the manner in which the Department of Justice (“DOJ”) has administered Elective Option determinations in these six cases.¹ In support of this Motion, and as set forth more fully in the accompanying Memorandum of Law, Movants state as follows:

1. The Elective Option (“EO”) is the settlement program that the Department of the Navy and DOJ adopted on September 6, 2023 for claims under the Camp Lejeune Justice Act. Its terms are set out in the Public Guidance on Elective Option for Camp Lejeune Justice Act Claims and the accompanying Frequently Asked Questions, both of which the government published and continues to publish. The published framework directs the government to develop a claimant’s exposure record from its own holdings, provides a sixty-day period to accept or decline an offer, and provides that an offer “based on incorrect information, such as an

¹ The undersigned is not a member of the Plaintiffs’ Leadership Group. However, CMO 1 preserves “the right of any plaintiff’s counsel to present any non-repetitive positions that uniquely affect an individual plaintiff,” leaves individual counsel “responsible for each individual plaintiff’s case,” and requires only that direct correspondence with the Court be served simultaneously on Lead, Co-Lead, and Liaison Counsel, as this Motion has been. [D.E. 10] at 2, 10. The determinations at issue are specific to the six Movants. Should the Court regard the categorical refusal to correct or revisit any EO determination as an issue common to all plaintiffs, Movants raise it on the Master Docket so that Plaintiffs’ Leadership, the Settlement Masters, and the Court may address it more broadly. Leave is requested under Part VII of CMO 2 to the extent required. [D.E. 23] at 6. Should the Court prefer for the Motion to be filed on the individual case dockets as opposed to the Master Docket, then Movants will withdraw the Motion and follow the Court’s directive.

incorrect length of residence or employment at Camp Lejeune,” may be corrected upon a written submission made within sixty days of the offer.

2. On August 28, 2026, DOJ issued EO determinations for each of the six Movants. Movants Metcalfe, Abrams, and Griffin and the Estate of Mark Kopp received offers priced in the 30-to-364-day exposure band, although the certified Records of Service produced by the National Personnel Records Center, and the ATSDR/DMDC data already in DOJ’s possession, establish that each was on base for more than one year and is therefore entitled to an offer in the one-to-five-year band. The offer letters allow thirty days, rather than the sixty days the published guidance provides, and state that the offers will be deemed declined on September 27, 2026 if not accepted. Movants Estate of Timothy Coon and Steven Janovitch were found ineligible based on “Evidence Sufficiency.”
3. On September 1, 2026, counsel wrote to DOJ regarding each Movant, supplied the supporting records, and asked DOJ to extend to the four Movants the offers its published grid prescribes for the exposure those records establish, and to revisit the two findings of ineligibility. On September 2 and 3, 2026, DOJ responded that it “will not consider additional documentation or re-evaluate any of the cases reviewed for EO eligibility” and that all determinations “are final.” DOJ identified no exposure date, no record source, and no ground of ineligibility for any Movant. Five weeks earlier, in a matter on the administrative track, the same agencies revisited an EO offer on the same ground, increased it, and confirmed a fresh sixty-day acceptance period.
4. DOJ’s determinations depart from the published framework in four respects: they disregard the government records the framework directs DOJ to use; they refuse to correct offers priced on an incorrect length of residence, the very error FAQ No. 13 says the program will correct; they halve the sixty-day acceptance period; and they impose terms that are contradicted by the guidance documents DOJ itself enclosed with the offer letters. An agency of the government “must scrupulously observe rules, regulations, or procedures which it has established.” *United States v. Heffner*, 420 F.2d 809, 811 (4th Cir. 1969); *see Morton v. Ruiz*, 415 U.S. 199, 235 (1974). In the alternative, the process afforded was inadequate under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
5. Counsel’s letters of September 1, 2026 asked DOJ to correct the exposure band on the strength of the enclosed records and extend the offers its own guidelines prescribe, and DOJ neither withdrew any offer nor extended a new one in response. Nothing in those letters, this Motion, or the accompanying Memorandum of Law is, or should be construed as, a withdrawal, declination, or rejection of any offer.
6. Because the offers extended to four of the Movants are, by their own terms, deemed declined on September 27, 2026, Movants respectfully request that the Court take up this Motion at its earliest convenience.

WHEREFORE, Movants respectfully request that the Court:

1. Set this matter for hearing at the Court's earliest convenience, or refer it to the Settlement Masters with a direction to report to the Court, and direct that it be placed on the agenda of the next weekly meeting convened under [D.E. 893];
2. Order the United States, within fourteen days, to state in writing for each of the six Movants the determinations the Public Guidance requires at Step 3a, namely the qualifying injury, the date of diagnosis, the date of first exposure, the date of last exposure, the days absent, and whether the qualifying injury resulted in death, together with the specific record source relied upon for each, and for each finding of ineligibility the ground relied upon and the evidence supporting it;
3. Order that the deadline to accept or decline the offers extended to Metcalfe, Abrams, and Griffin and to the Estate of Mark Kopp be tolled until thirty days after the United States complies with paragraph 2; and
4. Grant such further relief as the Court deems just.

Pursuant to Local Civil Rule 7.1(e), this Motion is accompanied by a supporting Memorandum of Law and exhibits, which are incorporated herein by reference.

CERTIFICATION OF CONFERRAL

Pursuant to Part VII of CMO 2, the undersigned certifies that he conferred with counsel for the United States regarding the substance of this Motion by letters dated September 1, 2026 and by electronic correspondence dated September 2, 2026, and that the United States declined to revisit any determination other than that of Plaintiff Glen Ripley. The undersigned further certifies that a copy of this Motion and the accompanying Memorandum of Law has been provided to Lead Counsel, Co-Lead Counsel, and Liaison Counsel as [D.E. 10] at 10 requires.

Respectfully submitted, this the 10th day of September, 2026.

/s/ James Z. Foster

James Z. Foster

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Griffin, Kopp, Coon, and Janovitch*

CERTIFICATE OF SERVICE

I hereby certify that on this the 10th day of September, 2026, I electronically filed the foregoing Motion with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record, including Lead Counsel, Co-Lead Counsel, and Liaison Counsel for the Plaintiffs' Leadership Group and counsel for the United States.

/s/ James Z. Foster

James Z. Foster

NC Bar No. 60197

*Counsel for Plaintiffs Metcalfe, Abrams, Griffin,
Kopp, Coon, and Janovitch*