

# Exhibit 396

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

IN RE:	)	
	)	
CAMP LEJEUNE WATER LITIGATION	)	
	)	
This Document Relates to:	)	Case Nos.:
	)	
ALL CASES	)	7:23-CV-897
	)	
DAVID DOWNS	)	7:23-CV-01145-BO
	)	
DAVID WILLIAM FANCHER	)	7:23-CV-00275-BO-BM
	)	
ALLAN WAYNE HOWARD	)	7:23-CV-00490-BO
	)	
FRANK W. MOUSSER	)	7:23-CV-00667-BO-RN
	)	
JACQUELINE JORDAN TUKES	)	7:23-CV-01553-BO-BM

**PLAINTIFFS' DESIGNATION AND DISCLOSURE OF PHASE III EXPERT  
WITNESSES WITH RESPECT TO KIDNEY CANCER**

**MATERIALS CONSIDERED LIST FOR YAIR LOTAN'S REPORT ON PLAINTIFF  
DAVID DOWNS**

Pursuant to Fed. R. Civ. P. 26(a)(2)(B)(ii) and the Stipulated Order Regarding Expert Discovery (Case Management Order No. 17) (D.E. 305), Plaintiffs hereby identify the facts, data, and publications considered by Yair Lotan, MD ("Dr. Lotan") in forming his opinions set forth in his report concerning Plaintiff David Downs served on February 7, 2025 (the "Report").

Dr. Lotan's Report contains a thorough statement of the facts, data, and publications that he considered in forming his opinions. The present Material Considered List is the attachment referenced in the section of Dr. Lotan's Report entitled "Records Reviewed." Plaintiffs incorporate all facts, data, and publications referenced in Dr. Lotan's Report as if fully listed herein. Unless otherwise stated below, any facts, data or publications cited in Dr. Lotan's Report are either

publicly accessible or were previously produced to the government by Plaintiffs. Plaintiffs specifically identify the following facts, data, and publications considered by Dr. Lotan in forming his opinions for David Downs:

1. Declaration of David Downs, produced contemporaneously with the present Materials Considered List;

2. Transcripts of the depositions of Plaintiff David Downs (discovery deposition), David Downs (*de bene esse* deposition), Betty Owens, Mary Morgan, Craig Brown, MD, Matthew C. Becker, DO, Shejuti Guha, MD, Theresa Koppie, MD, Emily Brodin, FNP, and all documents marked as exhibits therein;

3. Defendant United States of America's Supplemental Response to Plaintiffs' Leadership Group's First Set of Interrogatories to Defendant United States of America Concerning Track 1 Discovery Pool Plaintiffs – David Downs (June 4, 2024);

4. Defendant United States of America's Second Supplemental Response to Plaintiff's Leadership Group's First Set of Interrogatories to Defendant United States of America Concerning Track 1 Discovery Pool Plaintiffs – David Downs (September 18, 2024);

5. Discovery Pool Profile Form for David Downs (bates number 01145\_DOWNS\_DPPF\_0000000001-0000000015);

6. David Downs Exposure Profile/Chart, produced contemporaneously herewith;

7. David Downs Military and/or Housing Records (01145\_DOWNS\_NARA\_0000000189, 01145\_DOWNS\_NARA\_0000000177, CLJA\_Housing-0000140628);

8. Kidney Cancer General Causation Expert Reports for Benjamin Hatten, MD, MPH, Kathleen M. Gilbert, PhD, Michael D. Freeman, MD, PhD, MScFMS, MPH, Steven B. Bird, MD, and Timothy M. Mallon, MD, MPH, MS;
9. Expert Report of Morris L. Maslia, PE, DWRE, DEE, Fellow EWRI, including Appendices H1, J, and K;
10. David Downs' Medical Records as set forth in Exhibit A hereto;
11. David Downs' Medical Expenses (bates numbers 01145\_DOWNS\_0000004673-0000004677 and 01145\_DOWNS\_MEDRECS\_0000002231-0000002277);
12. Blair, A., Petralia, S. A., & Stewart, P. A. (2003). Extended mortality follow-up of a cohort of dry cleaners. *Annals of Epidemiology*, 13(1), 50-56;
13. Bove FJ, Ruckart PZ, Maslia M, Larson TC. Evaluation of mortality among marines and navy personnel exposed to contaminated drinking water at USMC base Camp Lejeune: a retrospective cohort study. *Environ Health*. 2014 Feb 19 (bates number CLJA\_HEALTHEFFECTS-0000141103);
14. Calvert, G. M., Ruder, A.M., & Petersen, M. R. (2011). Mortality and end-stage renal disease incidence among drycleaning workers. *Occupational and Environmental Medicine*, 68(10), 709-716;
15. Seldén, A. I., & Ahlborg, G. (2011). Cancer morbidity in Swedish dry-cleaners and laundry workers: Historically prospective cohort study. *International Archives of Occupational and Environmental Health*, 84, 435-443;
16. EPA. Toxicological Review of Trichloroethylene. 2011 Sep;
17. EPA. Risk Evaluation for Trichloroethylene. 2020 Nov;

18. Alanee S, Clemons J, Zahnd W, Sadowski D, Dynda D. Trichloroethylene Is Associated with Kidney Cancer Mortality: A Population-based Analysis. *Anticancer Res.* 2015 Jul
19. Andrew AS, Li M, Shi X, Rees JR, Craver KM, Petali JM. Kidney Cancer Risk Associated with Historic Groundwater Trichloroethylene Contamination. *Int J Environ Res Public Health.* 2022 Jan 6;
20. Anttila, A., Pukkala, E., Sallmen, M., Hernberg, S., & Hemminki, K. (1995). Cancer incidence among Finnish workers exposed to halogenated hydrocarbons. *J Occup Environ Med, 37(7), 797-806;*
21. ATSDR Assessment of the Evidence for the Drinking Water Contaminants at Camp Lejeune and Specific Cancers and Other Diseases, 2017 (bates number CLJA\_VA-RFP11-0000000131);
22. Axelson, O., Selden, A., Andersson, K., & Hogstedt, C. (1994). Updated and expanded Swedish cohort study on trichloroethylene and cancer risk. *J Occup Med, 36(5), 556-562;*
23. Blair, A., Hartge, P., Stewart, P. A., McAdams, M., & Lubin, J. (1998). Mortality and cancer incidence of aircraft maintenance workers exposed to trichloroethylene and other organic solvents and chemicals: extended follow up. *Occup Environ Med, 55(3), 161-171;*
24. Boice, J. D., Jr., Marano, D. E., Cohen, S. S., Mumma, M. T., Blot, W. J., Brill, A. B., Fryzek, J. P., Henderson, B. E., McLaughlin, J. K. (2006). Mortality among Rocketdyne workers who tested rocket engines, 1948-1999. *J Occup Environ Med, 48(10), 1070-1092;*
25. Bove FJ, Ruckart PZ, Maslia M, Larson TC. Evaluation of mortality among marines and navy personnel exposed to contaminated drinking water at USMC base Camp

Lejeune: a retrospective cohort study. Environ Health. 2014 Feb 19 (bates number CLJA\_HEALTHEFFECTS-0000141103);

26. Bove FJ, Ruckart PZ, Maslia M, Larson TC. Mortality study of civilian employees exposed to contaminated drinking water at USMC Base Camp Lejeune: a retrospective cohort study. Environ Health. 2014 Aug 13 (bates number CLJA\_VA\_RFP\_4THSET\_0000135084);

27. Bruning, T., Pesch, B., Wiesenhutter, B., Rabstein, S., Lammert, M., Baumuller, A., & Bolt, H. M. (2003). Renal cell cancer risk and occupational exposure to trichloroethylene: results of a consecutive case-control study in Arnsberg, Germany. *Am J Ind Med*, 43(3), 274-285;

28. Buhagen, M., Gronskag, A., Ragde, S. F., & Hilt, B. (2016). Association Between Kidney Cancer and Occupational Exposure to Trichloroethylene. *J Occup Environ Med*, 58(9), 957-959;

29. IARC Working Group on the Evaluation of Carcinogenic Risks to Humans. Trichloroethylene, Tetrachloroethylene, and Some Other Chlorinated Agents, 2014;106:1-512;

30. Chang, Y. M., Tai, C. F., Yang, S. C., Chen, C. J., Shih, T. S., Lin, R. S., & Liou, S. H. (2003). A cohort mortality study of workers exposed to chlorinated organic solvents in Taiwan. *Ann Epidemiol*, 13(9), 652-660;

31. Charbotel, B., Fevotte, J., Hours, M., Martin, J. L., & Bergeret, A. (2006). Case-control study on renal cell cancer and occupational exposure to trichloroethylene. Part II: Epidemiological aspects. *Ann Occup Hyg*, 50(8), 777-787;

32. Dosemeci, M., Cocco, P., & Chow, W. H. (1999). Gender differences in risk of renal cell carcinoma and occupational exposures to chlorinated aliphatic hydrocarbons. *Am J Ind Med*, 36(1), 54-59;

33. Guha N, Loomis D, Grosse Y, Lauby-Secretan B, El Ghissassi F, Bouvard V, Benbrahim-Tallaa L, Baan R, Mattock H, Straif K; International Agency for Research on Cancer Monograph Working Group. Carcinogenicity of trichloroethylene, tetrachloroethylene, some other chlorinated solvents, and their metabolites. *Lancet Oncol.* 2012 Dec;13(12):1192-3;
34. Henschler, D., Vamvakas, S., Lammert, M., Dekant, W., Kraus, B., Thomas, B., & Ulm, K. (1995). Increased incidence of renal cell tumors in a cohort of cardboard workers exposed to trichloroethene. *Arch Toxicol*, 69(5), 291-299;
35. Kelsh, M. A., Alexander, D. D., Mink, P. J., & Mandel, J. H. (2010). Occupational trichloroethylene exposure and kidney cancer: a meta-analysis. *Epidemiology*, 21(1), 95-102;
36. Moore LE, Boffetta P, Karami S, Brennan P, Stewart PS, Hung R, Zaridze D, Matveev V, Janout V, Kollarova H, Bencko V, Navratilova M, Szeszenia-Dabrowska N, Mates D, Gromiec J, Holcatova I, Merino M, Chanock S, Chow WH, Rothman N. Occupational trichloroethylene exposure and renal carcinoma risk: evidence of genetic susceptibility by reductive metabolism gene variants. *Cancer Res.* 2010 Aug 15;
37. Moore, L. E., Boffetta, P., Karami, S., Brennan, P., Stewart, P. S., Hung, R., et al. (2010). Occupational trichloroethylene exposure and renal carcinoma risk: evidence of genetic susceptibility by reductive metabolism gene variants. *Cancer Res*, 70(16), 6527-6536;
38. Morgan, R. W., Kelsh, M. A., Zhao, K., & Heringer, S. (1998). Mortality of aerospace workers exposed to trichloroethylene. *Epidemiology*, 9(4), 424-431;
39. Pesch B, Haerting J, Ranft U, Klimpel A, Oelschlägel B, Schill W, MURC Study Group. Occupational risk factors for urothelial carcinoma: agent-specific results from a case-control study in Germany. 2000;

40. Press, D. J., McKinley, M., Deapen, D., Clarke, C. A., & Gomez, S. L. (2016). Residential cancer cluster investigation nearby a Superfund Study Area with trichloroethylene contamination. *Cancer Causes Control*, 27(5), 607-613;
41. Program, NTP (2015). Report on Carcinogens Monograph on Trichloroethylene (RoC Monograph 05);
42. Purdue, M. P., Rhee, J., Moore, L., Gao, X., Sun, X., Kirk, E., et al. (2021). Differences in risk factors for molecular subtypes of clear cell renal cell carcinoma. *Int J Cancer*, 149(7), 1448-1454;
43. Raaschou-Nielsen, O., Hansen, J., McLaughlin, J. K., Kolstad, H., Christensen, J. M., Tarone, R. E., & Olsen, J. H. (2003). Cancer risk among workers at Danish companies using trichloroethylene: a cohort study. *Am J Epidemiol*, 158(12), 1182-1192;
44. Radican, L., Blair, A., Stewart, P., & Wartenberg, D. (2008). Mortality of aircraft maintenance workers exposed to trichloroethylene and other hydrocarbons and chemicals: extended follow-up. *J Occup Environ Med*, 50(11), 1306-1319;
45. Scott, C. S., & Jinot, J. (2011). Trichloroethylene and cancer: systematic and quantitative review of epidemiologic evidence for identifying hazards. *Int J Environ Res Public Health*, 8(11), 4238-4272;
46. Spirtas, R., Stewart, P. A., Lee, J. S., Marano, D. E., Forbes, C. D., Grauman, D. J., et al. (1991). Retrospective cohort mortality study of workers at an aircraft maintenance facility. I. Epidemiological results. *Br J Ind Med*, 48(8), 515-530;
47. Vamvakas, S., Bruning, T., Thomasson, B., Lammert, M., Baumuller, A., Bolt, H. M., et al. (1998). Renal cell cancer correlated with occupational exposure to trichloroethene. *J Cancer Res Clin Oncol*, 124(7), 374-382;

48. Wartenberg, D., Reyner, D., & Scott, C. S. (2000). Trichloroethylene and cancer: epidemiologic evidence. *Environ Health Perspect*, 108 Suppl 2, 161-176;
49. Zhao, Y., Krishnadasan, A., Kennedy, N., Morgenstern, H., & Ritz, B. (2005). Estimated effects of solvents and mineral oils on cancer incidence and mortality in a cohort of aerospace workers. *Am J Ind Med*, 48(4), 249-258;
50. ATSDR. Morbidity Study of Former Marines, Employees, and Dependents Potentially Exposed to Contaminated Drinking Water at U.S. Marine Corps Base Camp Lejeune, April 2018 (bates number CLJA\_HEALTHEFFECTS-0000000214);
51. Jones P, Purdue, M. Invited Perspective: Insights into Exposure to Industrial Solvents and Cancer Risk at Camp Lejeune. 2024 Oct;
52. Alanee S, Clemons J, Zahnd W, Sadowski D, Dynda D. Trichloroethylene Is Associated with Kidney Cancer Mortality: A Population-based Analysis. *Anticancer Res*. 2015 Jul.;
53. Andrew AS, Li M, Shi X, Rees JR, Craver KM, Petali JM. Kidney Cancer Risk Associated with Historic Groundwater Trichloroethylene Contamination. *Int J Environ Res Public Health*. 2022 Jan 6;
54. Aschengrau A, Ozonoff D, Paulu C, Coogan P, Vezina R, Heeren T, Zhang Y. Cancer risk and tetrachloroethylene-contaminated drinking water in Massachusetts. *Arch Environ Health*. 1993 Sep-Oct;
55. ATSDR Public Health Assessment, 2017 (bates number CLJA\_HEALTHEFFECTS-0000000011);

56. ATSDR Assessment of the Evidence for the Drinking Water Contaminants at Camp Lejeune and Specific Cancers and Other Diseases, 2017 (bates number CLJA\_VA-RFP11-0000000131);

57. EPA. Biden-Harris Administration Announces Latest Actions under Nation's Chemical Safety Law to Protect People from Cancer-Causing Chemicals Trichloroethylene and Perchloroethylene. December 2024;

58. Bove FJ, Ruckart PZ, Maslia M, Larson TC. Evaluation of mortality among marines and navy personnel exposed to contaminated drinking water at USMC base Camp Lejeune: a retrospective cohort study. Environ Health. 2014 Feb 19 (bates number CLJA\_HEALTHEFFECTS-0000141103);

59. Bove FJ, Ruckart PZ, Maslia M, Larson TC. Mortality study of civilian employees exposed to contaminated drinking water at USMC Base Camp Lejeune: a retrospective cohort study. Environ Health. 2014 Aug 13 (bates number CLJA\_VA\_RFP\_4THSET\_0000135084);

60. Bove FJ. Evaluation of cancer incidence among Marines and Navy personnel and civilian workers exposed to contaminated drinking water at USMC Base Camp Lejeune: a cohort study (Published). 2024 Jan 29 (bates number CLJA\_ATSDR\_BOVE-0000060101);

61. Bove FJ. Evaluation of cancer incidence among Marines and Navy personnel and civilian workers exposed to contaminated drinking water at USMC Base Camp Lejeune: a cohort study (Unpublished). 2024 Jan 29 (bates number CLJA\_ATSDR\_BOVE-0000060101);

62. Bove FJ, Greek A, Gatiba R, Boehm RC, Mohnsen MM. Evaluation of mortality among Marines, Navy personnel, and civilian workers exposed to contaminated drinking water at USMC base Camp Lejeune: a cohort study. Environ Health. 2024 Jul 3;

63. The Camp Lejeune Justice Act;

64. Cohn P, Klotz J, et al. Drinking Water Contamination and the Incidence of Leukemia and Non-Hodgkin's Lymphoma. *Environ. Health Perspect.* 1994;102(6-7):556-561;
65. EPA. Pre-Publication Notice for Final Rule on Perchloroethylene; Regulation under the Toxic Substances Control Act. December 6, 2024;
66. EPA. Pre-Publication Notice for Final Rule on Trichloroethylene; Regulation under the Toxic Substances Control Act. December 6, 2024;
67. Fagliano J, Berry M, Bove F, Burke T. Drinking water contamination and the incidence of leukemia: an ecologic study. *Am J Public Health.* 1990 Oct;
68. Gérin M, Siemiatycki J, Désy M, Krewski D. Associations between several sites of cancer and occupational exposure to benzene, toluene, xylene, and styrene: results of a case-control study in Montreal. *Am J Ind Med.* 1998 Aug;
69. Greenland S, Salvan A, Wegman DH, Hallock MF, Smith TJ. A case-control study of cancer mortality at a transformer-assembly facility. *Int Arch Occup Environ Health.* 1994;
70. Hu J, Mao Y, White K. Renal cell carcinoma and occupational exposure to chemicals in Canada. *Occup Med (Lond).* 2002 May;
71. Lynge E, Andersen A, Nilsson R, Barlow L, Pukkala E, Nordlinder R, Boffetta P, Grandjean P, Heikkilä P, Hörte LG, Jakobsson R, Lundberg I, Moen B, Partanen T, Riise T. Risk of cancer and exposure to gasoline vapors. *Am J Epidemiol.* 1997 Mar 1;
72. Moore LE, Boffetta P, Karami S, Brennan P, Stewart PS, Hung R, Zaridze D, Matveev V, Janout V, Kollarova H, Bencko V, Navratilova M, Szeszenia-Dabrowska N, Mates D, Gromiec J, Holcatova I, Merino M, Chanock S, Chow WH, Rothman N. Occupational trichloroethylene exposure and renal carcinoma risk: evidence of genetic susceptibility by reductive metabolism gene variants. *Cancer Res.* 2010 Aug 15;

73. Parker S, Rosen S. Woburn: Cancer Incidence and Environmental Hazards 1969-1978. 1981 Jan 23;

74. Pesch B, Haerting J, Ranft U, Klimpel A, Oelschlägel B, Schill W, MURC Study Group. Occupational risk factors for urothelial carcinoma: agent-specific results from a case-control study in Germany. 2000;

75. ATSDR. Chapter A Report Camp Lejeune. Appendix A8. Reconstructed (simulated) monthly mean concentrations of tetrachloroethylene (PCE), trichloroethylene (TCE), trans-1,2-dichloroethylene (1,2-tDCE), vinyl chloride (VC), and benzene in finished water distributed to Holcomb Boulevard family housing areas, Hadnot Point–Holcomb Boulevard study area, U.S. Marine Corps Base Camp Lejeune, North Carolina, 1972–1985;

76. ATSDR. Chapter A Report Camp Lejeune. Appendix A7. Reconstructed (simulated) monthly mean concentrations in finished water for tetrachloroethylene (PCE), trichloroethylene (TCE), trans-1,2-dichloroethylene (1,2-tDCE), and vinyl chloride (VC) at the Hadnot Point water treatment plant, Hadnot Point–Holcomb Boulevard Study Area, U.S. Marine Corps Base Camp Lejeune, North Carolina, January 1942 – June 2008;

77. ATSDR. Chapter A Report Camp Lejeune. Appendix A2. Simulated PCE and PCE Degradation By-Products in Finished Water, Tarawa Terrace Water Treatment Plant, January 1951–March 1987;

78. Rosenfeld P, Spaeth K, McCarthy S, Winter S, Wilson M, Hagemann M. Camp Lejeune Marine Cancer Risk Assessment for Exposure to Contaminated Drinking Water from 1955 to 1987. 2023 Mar 21;

79. Wong O. An industry wide mortality study of chemical workers occupationally exposed to benzene. I. General results. Br J Ind Med. 1987 Jun;

80. All facts and data listed herein are either identified by bates number or are otherwise accessible by Defendant United States of America;

81. Dr. Lotan reserves the right to review and consider additional facts, data and publications;

82. Dr. Lotan reserves the right to consider the report of any other witness in this action; and

83. Dr. Lotan reserves the right to supplement this Materials Considered List.

# EXHIBIT A

<b>MEDICAL RECORD BATES NUMBER RANGES</b>
01145 DOWNS 000000001-4
01145 DOWNS 000000005
01145 DOWNS 000000017-880
01145 DOWNS 0000000881-3053
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