

# Exhibit 398

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 W. FANCHER**

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 W. Fancher 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 and Material." 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 W. Fancher:

1. Plaintiff David W. Fancher's Short Form Complaint;
2. Declaration of David W. Fancher, produced contemporaneously with the present Materials Considered List;
3. Transcripts of the depositions of Plaintiff David W. Fancher, Bridget Fancher, Camilla Fancher, Jaqueline Oladipo, ARNP-BC, Richard Gray, MD, Ziyad H. Mugharbil, MD, and all documents marked as exhibits therein;
4. 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 W. Fancher (April 19, 2024);
5. 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 W. Fancher (September 20, 2024);
6. Discovery Pool Profile Form for David W. Fancher (bates number 00275\_FANCHER\_DPPF\_0000000001-0000000016);
7. David W. Fancher Exposure Profile/Chart, produced contemporaneously herewith;
8. David W. Fancher Military and/or Housing Records (00275\_FANCHER\_0000000296, 00275\_FANCHER\_0000000307, 00275\_FANCHER\_0000000385, 00275\_FANCHER\_0000000312, 00275\_FANCHER\_0000001787);
9. Expert Report of Morris L. Maslia, PE, DWRE, DEE, Fellow EWRI, including Appendices H1, J, and K;

10. David W. Fancher's Medical Records as set forth in Exhibit A hereto;
11. David W. Fancher's Medical Expenses (bates number 00275\_FANCHER\_0000002623-0000002654);
12. Photos of Deformity for David W. Fancher (00275\_FANCHER\_0000006487-0000006520);
13. 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;
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17. EPA. Toxicological Review of Trichloroethylene. 2011 Sep;
18. EPA. Risk Evaluation for Trichloroethylene. 2020 Nov;
19. 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

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22. 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);
23. 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;
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27. 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);
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58. 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;

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76. 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;

77. 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;

78. 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;

79. 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;

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

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

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

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

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

# EXHIBIT A

<b>MEDICAL RECORD BATES NUMBER RANGES</b>
00275_FANCHER_000000010-24
00275_FANCHER_000000025-85
00275_FANCHER_000000086-261
00275_FANCHER_000000262-402
00275_FANCHER_000000403-404
00275_FANCHER_000000405-2608
00275_FANCHER_0000002609
00275_FANCHER_0000002610-2611
00275_FANCHER_0000002614
00275_FANCHER_0000002615-2616
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