

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3)
4 CAMP LEJEUNE WATER)
5 LITIGATION,) DOCKET NO. 7:23-CV-897-RJ
6)
7 Plaintiffs,)
8)
9 vs.)
10)
11 UNITED STATES OF AMERICA,)
12)
13 Defendant.
14 _____

9 TRANSCRIPT OF STATUS CONFERENCE
10 BEFORE MAGISTRATE JUDGE ROBERT B. JONES, JR.
11 MONDAY, AUGUST 17, 2026; 11:13 AM
12 WILMINGTON, NORTH CAROLINA

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1 P R O C E E D I N G S

2 THE BAILIFF: The Honorable Robert Jones, Jr.

3 presiding. Please be seated and come to order.

4 THE COURT: Good morning, everybody.

5 IN UNISON: Good morning.

6 THE COURT: All right. Mr. Bell, if you want to
7 start off.

8 MR. BELL: Yes, Your Honor. We have a couple of
9 things, Your Honor. Nothing earth shattering, but we do have
10 a question or two on some individual issues. And Ms. Wallace
11 is going to talk about the first one.

12 THE COURT: Okay.

13 MS. WALLACE: Good morning, Your Honor.

14 THE COURT: Good morning.

15 MS. WALLACE: Your Honor, we're back here yet again
16 talking about what I think this Court has called the muster
17 rolls. But just for the record, what we're referring to are
18 the U.S. Marine Corps digitization records.

19 If the Court recalls, back in February there was a
20 status report, that would be at docket 817, pages 14 and 15.
21 And in our February status report, we agreed that once the PLG
22 gets the production of the five hard drives, which are these
23 digitized records that we've been waiting on for months, then
24 once we receive those, then we would discuss with the DOJ any
25 proposed use of those records. And the language in the status

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1 order, the language in the motion to compel, which was being
2 held in abeyance, was that, once we received these records,
3 that we would discuss the use of those for both the litigation
4 and for the administrative process.

5 So Your Honor, we received the last of the five hard
6 drives. Bill Williams received those. He's our technical
7 contractor. We got those about a week or so ago.

8 On August the 7th, PLG wrote a letter to the DOJ. We
9 thanked them for sending them to us. We told them that in
10 compliance with the motion to compel and our joint agreement,
11 that Mr. Williams had now reviewed those -- there's a
12 stringent protective order in place. We shared that he had
13 reviewed those for the purpose of assessing the nature and the
14 utility and the relevance of those documents, not just for, of
15 course, the litigation, but these documents are important, as
16 the Court is aware, for the EO and also for the global
17 resolution. And we're in negotiations involving that, as
18 well. We told them in our letter that they were relevant,
19 necessary, that we needed them. We needed them quickly to be
20 able to use them.

21 Your Honor, about I think it was on July 27th, the
22 DOJ sent out approximately 5,000 letters to claimants who had
23 pending EO claims. I am told this letter shared that if these
24 5,000 or so claimants with pending EO claims did not
25 substantiate those claims within thirty days -- and the thirty

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1 days would run unless it's extended on August 27th -- that if
2 they didn't extend it, it appears that those may be withdrawn.

3 And these documents, these muster rolls, Your Honor,
4 they would be so incredibly important to the claimants,
5 because the muster rolls document if the claimant was at Camp
6 Lejeune and they document, for the most part, how many days or
7 how many years or exactly when they were there. And the EO
8 offered amounts is dependent upon the claimant being able to
9 show that he was at the base and the dates that he was there.
10 Meaning, you're paid more if you're there for a year, for
11 example, as opposed to thirty or ninety days.

12 So in this August 7th letter, we asked if we could
13 meet before the hearing today and try to work out a process to
14 make these records available in controlled use for all three,
15 for the litigation, for the EO, and for the resolution
16 process.

17 We received the response from the Government this
18 past Wednesday, August 12th. Your Honor, their response
19 caused us to have concerns. They intimated in that response
20 that if we, PLG, would send them more information telling them
21 how we assessed the use of the nature and utility of the data,
22 that the DOJ would consider our request to use these documents
23 in litigation. It appears from the letter that we received
24 that the DOJ, and they did state some reasons, are not willing
25 to allow the use of these documents that we've waited on for

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1 months, that we asked for in discovery, for either the EO or
2 the global resolution.

3 We, yesterday, sent a very detailed letter back to
4 the DOJ. We again expressed our concern about the fact that
5 for the EO, the deadline runs August 27th. And that's again
6 for the EO. Of course, the government's aware we're meeting
7 regularly for the global resolutions. And we asked them if we
8 could, again, meet, and they suggested that we meet after the
9 hearing today. So we haven't had the opportunity before today
10 to speak with them about it.

11 I'd like to just tell the Court, just briefly, if the
12 Court will allow it, why these documents are so useful, and
13 the scope of the documents. And Your Honor, I recall you've
14 asked about that in the past, but we couldn't candidly tell
15 you because we were unsure. Your Honor, these documents,
16 there were over three million files, over 99,000 pages of
17 documents -- there were three million files and 99,000 pages,
18 I guess, of the documents. But it's five hard drives.

19 They contain muster rolls, unit records, and they
20 also, once we received them, we found out they have five
21 additional sources of information that we set out in the
22 letter yesterday to the DOJ on what they are and why those
23 records are important. Just to make it a little bit common
24 sense, there was approximately 46,000 muster rolls, about
25 5,000 of those pertained solely to Camp Lejeune. But they're

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1 extremely important because they are monthly records putting
2 an individual present at Camp Lejeune. It shows as of that
3 date, if that individual is there, the date that he's there,
4 and it shows what unit that he's in.

5 And just as someone that represents a lot of these
6 Marines, the unit diary information, it's important. I'll
7 give you an example. Cherry Point's forty-five minutes away.
8 A lot of the training for Cherry Point was often done at Camp
9 Lejeune. By having all those unit diaries, then we can see
10 when that Marine from Cherry Point was here training, and
11 where he trained generally. So the information, it doesn't
12 tell us where these Marines were every day, but it certainly
13 gives us a very good viewpoint of where they were, generally,
14 and exactly the dates that they were there.

15 And then, these other five sets of documents fill in
16 the gaps. So you might see from them, well, they were --
17 January 1st, 1975, a muster roll will show they are here. But
18 these other documents show other places they were, where they
19 trained, and what they were doing while they were present at
20 Camp Lejeune.

21 So I think the issue -- one more thing that might
22 help the Court, these documents, once we received them, Bill
23 Williams spent hundreds and hundreds of hours digitizing them.
24 So literally, he can take a pre-'72 gentlemen, type in his
25 name, get his service number, and then, run all hits or the

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1 data for that gentleman, pre-'72 by service record. Post-'72,
2 he is able to use and go through all of the data and type in a
3 Social Security Number with the name and use that same source.

4 So it's going to spit out Bates stamp numbers, and
5 it's going to generally tell us for every purpose, for the EO
6 purpose, for the resolution, for the litigation, it's going to
7 put them there, and it is going -- all of this data is going
8 to build, each on the other, to help us, hopefully, Your
9 Honor, we're trying to get these cases resolved. And surely
10 this data helps us with the EOs as well, because that's been a
11 problem.

12 So we're here. We do intend to speak with them
13 afterwards, but because of the time frame, how long it took us
14 to get them, we need the Court's guidance on how we should
15 proceed if we don't get this resolved after the hearing today
16 when we meet. And I'll ask Mr. Bell to elaborate.

17 Your Honor, you may want to attend the meeting
18 afterwards. That might be helpful. But we should appreciate
19 whatever you suggest.

20 THE COURT: Well, there was a motion to compel that
21 was filed on these earlier, right?

22 MS. WALLACE: Yes, sir. And we agreed to hold off on
23 having that heard when the DOJ agreed to give us the
24 documents. They agreed to give them to us by the end of June.
25 They were late getting them to us, but --

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1 THE COURT: There was some delay due to something, I
2 remember.

3 MS. WALLACE: Your Honor, in fairness to --

4 THE COURT: There was a problem in the digitization
5 process.

6 MS. WALLACE: For the Government it was, yes sir.
7 And then, actually, it was just last week that they sent us
8 corrected -- another hard drive, I think, with the corrected
9 data. So I just want the Court to know; we moved immediately
10 on this issue when we were able to move on it, because it is
11 so important for both administrative and litigation.

12 THE COURT: Okay. Well, I'll say this about them and
13 then I don't know that I need to hear any more. We've talked
14 about muster rolls, if not in every status conference,
15 sometimes more substantively than others. They do seem to
16 have bearing on the litigation. As far as the other matters,
17 pre-litigation, I don't know that I'd have anything to say
18 about that, but it seems that these would be important
19 information to have.

20 MS. WALLACE: Your Honor, I didn't mention it, but a
21 lot of records have been lost or illegible or destroyed. So I
22 mean, for some people these may be all we have for them.

23 THE COURT: I guess my response would be, you filed a
24 motion on this before. That was withdrawn. To the extent
25 they're remaining or new issues, then just renew the motion.

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1 MS. WALLACE: Yes, sir. Thank you. I will say that
2 in all the status reports and in our motion, the agreement was
3 that once the documents were produced, they would be
4 considered for both litigation and/or the administrative
5 process. So we've anticipated all along that these would be
6 used for the administrative process as well.

7 THE COURT: Okay.

8 MS. WALLACE: Thank you.

9 THE COURT: Anything else?

10 MS. WALLACE: No, sir.

11 THE COURT: Anything else, Mr. Bell?

12 MR. BELL: I'm sorry. No, sir. That's it, Your
13 Honor.

14 THE COURT: That's all you have for today?

15 MR. BELL: I think so.

16 THE COURT: All right.

17 Mr. Bain?

18 MR. BAIN: Your Honor, Ms. Mirsky will address the
19 muster roll issue.

20 THE COURT: I don't want to hear about muster rolls.

21 MR. BAIN: You don't want to hear that? Okay.

22 THE COURT: Do not want to hear.

23 MR. BAIN: Then, we don't have anything else.

24 THE COURT: I mean, unless there is a motion filed.

25 And that's my message to the PLG, is file a motion.

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1 MR. BAIN: Understood, Your Honor.

2 THE COURT: All right.

3 MR. BAIN: We don't have anything else.

4 THE COURT: That's it?

5 MR. BAIN: Yes.

6 THE COURT: Okay. So tell me, this is my thought
7 after reviewing the status report. You all have done a
8 fantastic job of laying out all of the motions that are
9 pending before the Court. I would like to know, in a
10 nutshell -- identify global issues that remain before the
11 judges can take up the individual cases. And what I mean by
12 that is, before the judges can address all the dispositive
13 motions and extra motions that have been filed in those
14 individual cases.

15 In other words, let's take kidney cancer, for
16 example. What's next for kidney cancer? Does that judge need
17 to address any global issues before turning to the motions
18 that have been filed in his or her case?

19 MR. BAIN: There are a few global issues that are
20 still outstanding. One thing is the Court's ruling on June
21 5th on the motion regarding the CLJA standard and whether the
22 plaintiff's experts used that as part of their methodology.
23 The Court issued a ruling, but there were some follow-up to
24 that as to which experts that might apply to. And so the
25 parties have served their respective pleadings on that. And

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1 so that's ripe to be decided by the Court. But that's a
2 global issue that goes across a lot of the different cases.

3 MR. BELL: I'm sorry, Your Honor. Let me address
4 that. I think that was -- our position is that's an
5 individual judge's decision, not all four of the judges, with
6 respect. And you remember, we've talked about this
7 extensively. Can you imagine all four of the judges having to
8 read all of the expert opinions on all of the diseases when
9 each judge is kind of concentrating on one? It's easier to
10 grasp and I can't imagine all four being -- I can't imagine
11 the Government asking all four to do that. That's just --

12 THE COURT: Okay. I'll note that one.

13 MR. BELL: -- kind of silly to me.

14 THE COURT: Are there any others?

15 MR. BAIN: Well, there is a motion for partial
16 summary judgment on whether the chemical dichloroethylene,
17 DCE, is part of the case. It's none of the plaintiffs'
18 experts, in our view.

19 THE COURT: And which case -- are those all cases?

20 MR. BAIN: Yes.

21 THE COURT: Are those all diseases or --

22 MR. BAIN: Yes, all cases and all diseases, the
23 chemical dichloroethylene.

24 THE COURT: But that's a decision that an individual
25 judge can make in that disease.

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1 MR. BELL: Yes, sir.

2 THE COURT: Correct?

3 MR. BAIN: It could be. But to avoid inconsistent
4 rulings, we believe that it should be a global issue that
5 should be decided by all the judges. So it's whether or not
6 there's any evidence in the case, any expert evidence at all
7 regarding this one chemical dichloroethylene. And whether --

8 THE COURT: Why would they be inconsistent if each
9 judge is ruling per that disease?

10 MR. BAIN: Well, because it's an issue we don't think
11 any of the experts have given admissible expert opinions on.
12 And so I mean, I guess the Courts could address it, but some
13 of these experts go across and they have the same analysis
14 across different reports and different diseases. So we
15 believe it is one of the issues that we think is a global
16 issue. It's not a major issue. It's a minor issue, but it's
17 something that we believe is teed up across all of the
18 diseases. And that's the way it was filed.

19 There's also some individual issues that go across,
20 like, all the cases which have been filed in individual cases,
21 and I suppose individual judges can decide them. For example,
22 whether loss of consortium is a claim that can be brought
23 under the statute. That is raised in one of the cases --

24 THE COURT: Um-hmm.

25 MR. BAIN: -- but it impacts all the claims out

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1 there, and it's something that would impact global resolution
2 of the case.

3 There's also an issue regarding whether experts who
4 use a substantial contributing factor standard for causation
5 have met what the substantive requirements of the Act are,
6 which we believe is but for causation. The Court actually
7 deferred ruling on those --

8 THE COURT: Um-hmm.

9 MR. BAIN: -- along with all the Dauberts, but we
10 filed a motion to reconsider deferring rulings on those,
11 because we think that's a global issue that applies across the
12 board to all experts.

13 THE COURT: So all of the judges -- well, you're not
14 going to see that, right? Because three judges have made a
15 ruling on that.

16 MR. BAIN: Not on that particular issue.

17 THE COURT: Not on that one?

18 MR. BAIN: No. That's still a standard of causation
19 issue that involves interpretation of the statute, that will
20 have global impact on all the cases.

21 MS. WALLACE: But again, it will be case by case,
22 expert by expert, depending on their particular opinions with
23 respect to that case. And so a lot of those, in our view, are
24 part of the order to hold those in abeyance for the individual
25 trial judges. I do want to mention also that we have a motion

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1 for partial summary judgment regarding future offsets. That's
2 at docket 860. And I believe that has broad application.

3 THE COURT: Okay. Any others?

4 MS. WALLACE: Those are the only ones that we know
5 that would not be specific to each judge and their particular
6 cases, based on the existing orders.

7 THE COURT: Okay. Is there anything else from
8 anybody?

9 MR. BELL: Nothing for the plaintiff, Your Honor.

10 MR. BAIN: Nothing further, Your Honor.

11 THE COURT: Did you all want to look at the next
12 meeting time?

13 Q. Your Honor, if we're going to do Mondays at 2, that would
14 work for the Government on September 14th and September 21st.

15 THE COURT: Mr. Bell, what do you think?

16 MR. BELL: I'm going to take a quick look here.

17 Excuse me. Either one of those -- excuse me -- either one of
18 those two would work, Your Honor.

19 THE COURT: Okay. Today is the 17th. Is there some
20 value in waiting to the 21st?

21 MR. BELL: I think the value, Your Honor, is we're in
22 literally daily discussions on global resolution, and a lot of
23 this other stuff is not necessarily going to be brought to
24 your attention.

25 THE COURT: Right.

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1 MR. BELL: The only thing I could see would if we
2 filed a motion on the muster rolls.

3 THE COURT: Right.

4 MR. BELL: Other than that, Your Honor, I'm not sure
5 there's a lot --

6 THE COURT: Okay. Well, maybe we should have a
7 hearing if you can file your motion. If a motion needs to be
8 filed --

9 MS. WALLACE: It does. Your Honor, I think it would
10 be very helpful to go ahead and get -- we can get that motion
11 filed, at the very latest, by Thursday of this week.

12 MR. BELL: Well, Judge, I hope we'll be able to
13 resolve that.

14 THE COURT: Okay. Well, maybe we can hear. All
15 right. We'll see. We'll set it for -- we'll set a status
16 conference on Monday the 21st. And as of right now, that's
17 the scope of the -- it'll be just a status conference.

18 MS. WALLACE: Your Honor, could you give us another
19 date? If we cannot resolve the muster roll before September
20 21st?

21 THE COURT: I've got a jury trial from the 22nd to
22 the 30th, so I got no room.

23 MS. WALLACE: What about, sir, September 14th; is
24 that still available?

25 THE COURT: I've got a criminal term in New Bern most

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1 of that week. My availability is September 1st, 2nd and 21st.

2 MS. WALLACE: Thank you, sir.

3 THE COURT: So you picked the right date for the 21st
4 on the roulette wheel?

5 MS. WALLACE: Thank you so much for trying. Thank
6 you.

7 THE COURT: So that's what I've got. But if
8 something comes up, we can maybe do a teleconference or
9 something. I'm running out of days in September.

10 MS. WALLACE: Yes, sir. Thank you very much.

11 THE COURT: All right. Anything else?

12 MR. BELL: No, Your Honor.

13 MR. BAIN: No, Your Honor.

14 THE COURT: Okay. Thanks a lot. We are in recess.

15 THE BAILIFF: All rise. The Court will be in recess
16 until 1 p.m.

17 (Court is adjourned)

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