

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

ELIZABETH GIRARD; BEULAH
SLESSER; and SUZANNE MCLEOD, as
Personal Representative of the Estate of
Hansell B. Malone, III,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

GISELE GUTHRIE; SANDRA GORDON;
BRENDA BRUNDAGE; CARLEEN
BURWELL; DONNA ALTMAN; and
JOANN DUNCAN,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

DAVID FANCHER; LEE FUTRELL;
JOHN ORUE; CRAIG UNTERBERG;
ARIEL ALVARADO; DENNIS TOLES;
CAROLE CARLSON; and DENNIS
MONROE,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Civil Action No.: 2:22-cv-00022-FL

Civil Action No.: 4:22-cv-00097-D-RN

Civil Action No.: 5:22-cv-00315-D-RN

Defendant.

ISAIAH WILSON, JR., as Personal
Representative of the Estate of
Jerone Wilson; and THELMA S. FIGGS, as
Personal Representative of the Estate of
Robert A. Figgs, Sr.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Civil Action No.: 5:22-cv-00316-M-RJ

Defendant.

GLANZER FLOYD JOLLY; ANTHONY
TAYLOR; PETER OPTEKAR; RONNIE
BROPHY; DENNIS PETERSON;
SILAS ROLLINS; and DONALD
STRINGFELLOW,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Civil Action No.: 5:22-cv-00317-M-RN

Defendant.

CYNTHIA BLACKMER, AS
REPRESENTATIVE OF THE ESTATE
OF DAVID F. BLACKMER,
FELICIA BAZEMORE, AS
REPRESENTATIVE OF THE ESTATE
OF ALLEN RAY HARDY,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Civil Action No.: 7:22-cv-00123-FL

Defendant.

TIMOTHY PUGH,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

JOHN BELT, JR., JOYCE LUKEN, and
BEVERLY MCCLAIN,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

THOMAS WHATLEY and FRED
PALUMBO as personal representative of
the estate of JOAN S. PALUMBO,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

PHOEBE LYNN HEDGES

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Civil Action No.: 7:22-cv-00124-BO-BM

Civil Action No.: 7:22-cv-00125-D-RJ

Civil Action No.: 7:22-cv-00126-D-BM

Civil Action No.: 7:22-cv-00127-BO-BM

Defendant.)	
)	
)	
)	
SHARON MASON as the Administrator for)	
the Estate of RITA ROSEBERRY,)	Civil Action No.: 7:22-cv-00128-FL
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
JERRY DEFORGE, JAMES FLENOURY,)	
DAVID SHARPE, FRANCES CARTER as)	Civil Action No.: 7:22-cv-00129-D-RN
Administrator for the Estate of RONALD)	
CARTER, and JOEL PEDALINE,)	
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
JACK GONZALEZ, WILLIAM)	
MCDOWELL and KATHRYN PIRNIA,)	Civil Action No.: 7:22-cv-00130-D-KS
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
JEROME M. ENSMINGER, as Personal)	
Representative of the Estate of Jane)	Civil Action No.: 7:22-cv-00131-BO-RJ
Ensminger; ISIAH LAWSON, as Personal)	
Representative of the Estate of Gertrude)	

Lawson; KERRICK W. BREEN, as Personal
Representative of the Estate of Christine M.
Breen; DANIEL WAX; and
RANDY FLOYD,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

MICHAEL SEAN PARTAIN; DARLENE
BROOKS, as Personal Representative of the
Estate of James Brooks, Jr.; LAWRENCE
EVANS; and KRIS THOMAS,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

WILSON MERCADO

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

CLAUDIA MCCLARRIN, LINDA CRISP
as representative of the Estate of Michelle
Causey and PATRICIA WARREN as
Representative of the estate of ROSEANNE
WARREN

Civil Action No.: 7:22-cv-00132-D-RJ

Civil Action No.: 7:22-cv-00133-BO-RJ

Civil Action No.: 7:22-cv-00135-FL

Plaintiff,
vs.
UNITED STATES OF AMERICA,

Defendant.

RONNIE MANNS,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

TAMMY PRISNER,
EDWARD LUTHY, JR., as the Administrator
for the Estate of Charlotte Luthy, Deceased,
MELODY RICHARDS,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

ANDREA WEINER f/k/a ANDREA
MICHELE BYRON,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Civil Action No.: 7:22-cv-00136-M-RJ

Civil Action No.: 7:22-cv-00137-BO-RJ

Civil Action No.: 7:22-cv-00139-FL

ALFRED BENSON; JOSEPHINE
DELVALLE, as Personal Representative
of the Estate of Raymond DelValle;
THOMAS CLARK; JOHN ROY,
and PATTY JESSUP, as Personal
Representative of the Estate of Gary
Jessup, Sr.

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

SANDRA CLINE and MARK PERRY,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

DONALD STRINGFELLOW, ON BEHALF
OF HIMSELF AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

CATHLENE BREWER, JEFFREY
HOPKINS, JAMES T. MAXWELL,
SHERRY A. MILLER,

Civil Action No.: 7:22-cv-00140-BO-KS

Civil Action No.: 7:22-cv-00141-D-RN

Civil Action No.: 7:22-cv-00145-M-KS

Civil Action No.: 7:22-cv-00150-M-BM

GENA M. PARKHURST,)	
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
STEPHEN ISAKSEN,)	
as representative of the estate of PATRICIA)	Civil Action No.: 7:22-cv-00153-D-KS
A. ISAKSEN,)	
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
ELIZABETH S. AKERS as Personal)	
Representative of the Estate of PAUL C.)	Civil Action No.: 7:22-cv-00154-M-RJ
AKERS)	
)	
Plaintiff,)	
)	
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

PLAINTIFFS' AND DEFENDANT'S JOINT MOTION FOR CONSOLIDATION

Plaintiffs in the above-captioned cases (“Plaintiffs”), together with the Defendant United States of America (the “government”), hereby submit the following Joint Motion for Consolidation regarding current and future cases brought under the Camp Lejeune Justice Act of 2022 (the “CLJA”), pursuant to Federal Rule of Civil Procedure 42(a).

The Motion

1. Plaintiffs have filed suit under the CLJA.
2. The government has previously stated that over one million Marines and their families were potentially affected by the toxic drinking water at Camp Lejeune. Plaintiffs believe that hundreds of thousands of additional individuals have claims and may ultimately file suit against the government asserting a cause of action under the CLJA.
3. The CLJA creates a new and unique cause of action for exposure to toxic water supplied by the government at Camp Lejeune, North Carolina.
4. Cases under the CLJA, including Plaintiffs' cases, will involve numerous common issues of law and fact.
5. Consolidation will not prejudice any party, including the government. To the contrary, consolidation will save the Court and the parties considerable time and expense and will limit the risk of duplication and inconsistent rulings.

For the reasons stated herein and in the accompanying Memorandum, the Plaintiffs, together with the United States, jointly request that the Court adopt and enter the proposed order, attached as Exhibit A, consolidating cases brought under the CLJA, which is filed simultaneously herewith.¹

Respectfully submitted by each Plaintiff's counsel, as docketed in their respective cases, and by the United States.

¹ The United States maintains that Plaintiffs have not yet complied with section 2675 of title 28 of the United States Code, as required by the CLJA. Plaintiffs disagree and maintain that they have already presented their claims to the Department of the Navy once and are therefore not required to present them a second time. Nevertheless, Plaintiffs and the government jointly ask the Court to consolidate all CLJA cases in anticipation of such disputes, to expedite proceedings and save the parties and the Court significant time and expense.

Date: August 26, 2022

BELL LEGAL GROUP, LLC

/s/ Eric Flynn

Eric W. Flynn (N.C. Bar No.: 57615)

eflynn@belllegalgroup.com

J. Edward Bell, III (to make special appearance)

jeb@belllegalgroup.com

219 Ridge Street

Georgetown, SC 29440

P: 843-546-2408

F: 843-546-9604

WAGSTAFF LAW FIRM

/s/ Aimee Wagstaff

Aimee H. Wagstaff, Esq.

Colorado Bar No. 36819

awagstaff@wagstafflawfirm.com

Kristen Alkire, Esq. (NCSB 44168)

kalkire@wagstafflawfirm.com

WAGSTAFF LAW FIRM

940 N. Lincoln Street

Denver, CO 80203

Phone: 303-376-6360

QUINN EMANUEL URQUHART & SULLIVAN, LLP

/s/John. F. Bash

John F. Bash

Texas Bar No. 24067504

johnbash@quinnemanuel.com

300 W. 6th St.

Austin, TX 78701

Phone (737) 667-6100

Adam Wolfson, California Bar No. 262125

adamwolfson@quinnemanuel.com

865 S. Figueroa St., 10th Floor

Los Angeles, CA 90017

Phone (213) 443-3000

LIEFF CABRASER HEIMANN &

KELLER POSTMAN LLC

/s/ Zina Bash

Zina Bash

zina.bash@kellerpostman.com

111 Congress Avenue, Suite 500

Austin, TX 78701

Phone: 512-620-8275

Texas State Bar No. 24067505

MOTLEY RICE LLC

/s/ Kevin R. Dean

Kevin R. Dean, Esq.

SC Fed. Bar No. 70347

Admitted GA, MS, SC Bar

John D. Hurst, Esq.

N.C. Bar No.: 37680

W. Christopher Swett, Esq.

28 Bridgeside Boulevard

Mount Pleasant, South Carolina 29464

Phone: (843) 216-9000

Fax: (843) 216-9450

kdean@motleyrice.com

jhurst@motleyrice.com

cswett@motleyrice.com

ONDER LAW, LLC

/s/James G. Onder

James G. Onder

Missouri State Bar No. 38049

onder@onderlaw.com

Michael C. Pagan

Missouri State Bar No. 54827

pagan@onderlaw.com

110 East Lockwood, 2nd Floor

Saint Louis, MO 63119

(314) 963-9000

Fax: (314) 963-1700

LEVIN PAPANTONIO RAFFERTY

BERNSTEIN, LLP

/s/Elizabeth J. Cabraser

Elizabeth J. Cabraser

ecabraser@lchb.com

Lexi J. Hazam

lhazam@lchb.com

275 Battery Street, 29th Floor

San Francisco, CA 94111

Phone: (415) 956-1000

Fax: (415) 956-1008

THE NATIONS LAW FIRM

/s/Howard L. Nations

Howard L. Nations

Texas State Bar No. 14823000

Nations@howardnations.com

9703 Richmond Ave, Suite 200

Houston, TX 77042

Phone: (713) 807-8400

PARKER WAICHMAN LLP

/s/Jerrold S. Parker

Jerrold S. Parker

Raymond C. Silverman

6 Harbor Park Dive

Port Washington, NY 11050

Tel: (516) 466-6500

Fax: (516) 466-6665

jerry@yourlawyer.com

rsilverman@yourlawyer.com

ROMANO LAW GROUP

/s/John F. Romano

John F. Romano

Florida Bar No. 175700

john@romanolawgroup.com

Marjorie Levine

Florida Bar No. 96413

marjorie@romanolawgroup.com

P.O. Box 21349

West Palm Beach, FL 33416

Phone: 561-533-6700

Fax: 561-533-1285

LEWIS & ROBERTS, PLLC

/s/James A. Roberts, III

James A. Roberts, III (N.C. Bar No. 10495)

jar@lewis-roberts.com

PROCTOR BUCHANAN O'BRIEN

BARR & MOUGEY, P.A.

/s/Brian Barr

Brian Barr

bbarr@levinlaw.com

Sara Papantonio

spapantonio@levinlaw.com

316 S. Baylen Street, Suite 600

Pensacola, FL 32502

850-435-7000

WATTS GUERRA LLC

/s/Mikal Watts

Mikal Watts

Texas State Bar No. 20981820

5726 W. Hausman Dr., Suite 119

San Antonio, Texas 78249

Tel: (210) 447-0500

Fax: (210) 447-0501

mcwatts@wattsguerra.com

**MARCARI RUSSOTTO SPENCER &
BALABAN**

/s/Jonathan W. Martin

David W. Spencer

NC State Bar No.: 21053

Donald W. Marcari

NC State Bar No.: 13029

Jonathan W. Martin

NC State Bar No.: 49381

2443 Lynn Road, Suite 208

Raleigh, NC 27612

Tel: (919) 787-0989

Fax: (919) 845-5500

Email: davids@mrslawfirm.com

Email: donm@mrslawfirm.com

Email: jonathanm@mrslawfirm.com

WARD AND SMITH, P.A.

/s/A. Charles Ellis

A Charles Ellis

N.C. State Bar ID No.: 010865

Matthew D. Quinn (N.C. Bar No. 40004)
mdq@lewis-roberts.com
3700 Glenwood Avenue, Suite 410
P.O. Box 17529
Raleigh, NC 27619-7529
(919) 981-0191
Fax: (919) 981-0199

Post Office Box 8088
Greenville, NC 27835-8088
Tel: (252) 215-4000
Fax: (252) 215-4077

**COUNSEL FOR THE DEFENDANT,
UNITED STATES OF AMERICA**

BRIAN BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

J. PATRICK GLYNN
Director, Torts Branch

BRIDGET BAILEY LIPSCOMB
Assistant Director

/s Adam Bain
ADAM BAIN
Senior Trial Counsel
IN Bar No. 11134-49
Civil Division, Torts Branch
U.S. Department of Justice
P.O. Box 340
Washington, D.C. 20044
E-mail: adam.bain@usdoj.gov
Telephone: (202) 616-4209

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA**

IN RE: CAMP LEJEUNE TOXIC WATER
EXPOSURE LITIGATION

Case No.:

Case Management Order No. 1

This document relates to all cases.

**Order Consolidating All Camp Lejeune
Toxic Water Exposure Cases and
Establishing a Master Docket**

On August 10, 2022, President Biden signed the Camp Lejeune Justice Act of 2022 (the “CLJA”), creates a new cause of action that permits

an individual[s], including a veteran (as defined in section 101 of title 38, United States Code), or the legal representative[s] of such an individual, who resided, worked, or was otherwise exposed (including in utero exposure) for not less than 30 days during the period beginning on August 1, 1953, and ending on December 31, 1987, to water at Camp Lejeune, North Carolina, that was supplied by, or on behalf of, the United States [to] bring an action in the United States District Court for the Eastern District of North Carolina to obtain appropriate relief for harm that was caused by exposure to the water at Camp Lejeune.

Honoring our PACT Act § 804(b).

Before the Court is a joint motion for consolidation brought by the United States of America and Plaintiffs who have filed pending cases under the CLJA. The Court finds that consolidation would achieve significant efficiencies without prejudicing any of the parties. In particular, the Court concludes that there is at least one issue of fact or law common to all cases filed under the CLJA. *See* Fed. R. Civ. P. 42(a). The CLJA supplies a new and unique cause of action for Plaintiffs who were impacted by the same toxic water in the same location over the same general period of time. The CLJA also

establishes a uniform causation standard for all such claims. Cases under the CLJA will therefore present common legal and factual questions under the same legal standard. Consolidation before a single judge will serve to limit duplication and avoid disparate rulings. Such considerations are particularly important in these cases given that the number of claimants could be in the hundreds of thousands, if not over a million.

The Court likewise concludes that there are no specific risks of prejudice or confusion from consolidating all cases asserting claims under the CLJA, that the burden of consolidation will be minimal as to both the parties and the Court, that the time and expense saved by consolidation will be substantial, and that the cost of consolidation will be minimal. *See Arnold v. Eastern Air Lines, Inc.*, 681 F.2d 186, 193 (4th Cir. 1982) (setting out factors for consolidation). Consolidating all actions asserting a claim under the CLJA will similarly minimize duplication and promote efficiency. It will not impair any claimant's substantive rights. Nor will it impose any specific risk of prejudice to the government.

In furtherance of this consolidation order, the Clerk is directed to establish a master docket. The master docket shall serve as a central location for filings affecting multiple cases making a claim under the CLJA and shall be denominated *In re: Camp Lejeune Toxic Water Exposure Litigation* and numbered 22-CL-01. Filings on the master docket shall note the cases to which they apply (e.g., "this document relates to all cases"). The Clerk shall continue to docket individual cases asserting any claim under the CLJA. Those individual "member cases" shall have their own dockets and their own case numbers. Filings affecting only an individual member case shall be made on that member

case's docket, not the master docket. The Clerk is directed to note the opening or closing of any member case on the master docket with a short text entry.

Accordingly, the Court orders:

- (1) All actions currently on file in this District that assert any claim under the CLJA are hereby consolidated before Judge _____.
- (2) All future actions filed in this District that assert any claim under the CLJA are ordered consolidated before Judge _____.
- (3) The Clerk is directed to establish a master docket for this consolidated litigation. The master docket shall be labeled *In re: Camp Lejeune Toxic Water Exposure Litigation* and numbered 22-CL-01.
- (4) Whenever a case making any claim under the CLJA is filed, the Clerk is directed to docket said member case under its own case number. The Clerk is directed to thereafter make the following text entry in the new member case:
“Pursuant to CMO No. 1 entered in *In re: Camp Lejeune Toxic Water Exposure Litigation*, No. 22-CL-01, the Court has consolidated all cases making a claim under section 804 of the Honoring our Promise to Address Comprehensive Toxics Act of 2022. This case has been added to that consolidated proceeding and its opening has been noted on the master docket, No. 22-CL-01. Filings having to do with this member case shall be filed only on this docket, not the master docket. Case management orders and other orders pertaining to multiple cases in this consolidated litigation are filed on the master docket, No. 22-CL-01.”

(5) The Clerk is directed to note the opening or closing of any member case on the master docket with a short text entry. Member cases already on file with the Court shall be noted on the master docket as opened today.

IT IS SO ORDERED, this _____ day of _____, 2022.

United States District Judge