

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:22-CV-125-D**

JOHN BELT, JR.; JOYCE LUKEN, as
representative of the estate of JOHN B.
LUKEN; and BEVERLY MCCLAIN, on her
own behalf and as representative of the estate
of RUDY MCCLAIN,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

**UNITED STATES' RESPONSIVE
MEMORANDUM ON
ADMINISTRATIVE EXHAUSTION**

Case No. 7:22-cv-00125-D-RJ

INTRODUCTION

Plaintiffs have failed to show that they have exhausted administrative remedies as required by the Court's September 29, 2022 Order. The Order asked Plaintiffs to demonstrate that they had submitted an administrative claim and had that claim denied after enactment of the Camp Lejeune Justice Act ("CLJA") or to explain why the submission of a claim under 28 U.S.C. § 2675 before the CLJA became law complies with the CLJA's administrative exhaustion requirement. ECF 14 at 1-2. Plaintiffs admit that they have not exhausted their claims after the CLJA's enactment. ECF 15 at 7. Instead, Plaintiffs assert that the prior submission of a claim years before enactment of the CLJA is sufficient to satisfy the CLJA's administrative exhaustion requirement, even though the Navy never had the opportunity to evaluate the claim under the standards of the CLJA.

Plaintiffs' argument largely nullifies the administrative exhaustion requirement. Congress expressly required parties who invoke the CLJA to first file an administrative claim with the Navy to allow claimants and the agency to resolve claims without resort to litigation. Plaintiffs make no argument that this goal would be served by allowing Plaintiffs to rely on their prior administrative claims before the CLJA was enacted: the government's assessment of its liability on pre-CLJA claims was based entirely on grounds that have been abrogated by the CLJA. Nor do they even attempt to demonstrate that anyone would suffer prejudice from having Plaintiffs engage in a meaningful administrative exhaustion process, as has long been required under the Federal Tort Claims Act ("FTCA") provision that Congress cross-referenced. The Complaint should be dismissed.

BACKGROUND

The Camp Lejeune Justice Act of 2022, Pub. L. No. 117-168, § 804, 136 Stat. 1802,

1802-04 (2022), concerns tort claims related to harm allegedly caused by exposure to contaminated water at Marine Corps Base Camp Lejeune between 1953 and 1987. The CLJA abrogates various defenses that the United States for many years had successfully invoked in FTCA litigation premised on water contamination at Camp Lejeune. *See, e.g., Gros v. United States*, 2005 WL 6459834 (S.D. Tex. Sept. 27, 2005), *aff'd*, 232 Fed. App. 417 (5th Cir. 2007); *Snyder v. United States*, 504 F. Supp. 2d 136 (S.D. Miss. 2007), *aff'd*, 2008 WL 4601686 (5th Cir. 2008).

Before the CLJA's enactment, several Camp Lejeune cases were consolidated in a Multi-District Litigation ("MDL") in the Northern District of Georgia (MDL No. 2218). Ultimately, the MDL district court dismissed the cases on jurisdictional grounds, finding that the claims were barred by: (1) the North Carolina ten-year statute of repose, N.C. GEN. STAT. § 1-52(16) (2010), which bars injury claims accruing more than ten years after the act or omission giving rise to the action; (2) the discretionary function exception of the FTCA, 28 U.S.C. § 2680(a), which bars tort claims challenging discretionary, policy-based conduct; and (3) the *Feres* doctrine, *Feres v. United States*, 340 U.S. 135 (1950), which bars tort claims incident to military service. *See In re Camp Lejeune N.C. Water Contamination Litig.*, 263 F. Supp. 3d 1318, 1332-60 (N.D. Ga. 2016), *aff'd*, 774 F. App'x 564 (11th Cir. 2019).

In 2019, after the Eleventh Circuit affirmed the MDL court's judgment, the Navy denied over 4,000 pre-CLJA administrative claims that had been submitted pursuant to the administrative claim presentment requirement of 28 U.S.C. § 2675. Ex. A ¶ 4 (1st Decl. of Randall Russell). In the letter denying the claims, the Navy stated that "your clients' claims do not meet the requirements under the FTCA for compensation." Ex. A at Attachment 1 (Navy Denial Letter). Among the reasons that the Navy cited were the North Carolina statute of repose,

the FTCA's discretionary function exception, and, for individuals serving in the military and stationed at Camp Lejeune, the *Feres* doctrine. See Ex. A at Attachment 1.

Shortly before the CLJA was signed into law, the Navy denied the last pending administrative claims submitted under the then-existing standards of the FTCA for a group of claimants that had sought reconsideration of the Navy's 2019 denial. Ex. A ¶ 5. In again denying the claims, the Navy stated that "we have determined the denial of your claims was appropriate under the FTCA for the reasons given in the original denial letters, including the FTCA's discretionary function exception, the North Carolina statute of repose and the *Feres* doctrine." Ex. A at Attachment 2 (Navy Response to Reconsideration Request). The Navy also stated in the letter,

Note that your claim has not, and will not, be considered sufficient to meet the requirements of any other statute, including the Camp Lejeune Justice Act. To meet the requirements of the Camp Lejeune Justice Act, you must submit a claim signed and dated after the date of enactment of that statute so that this office can consider the claim under the substantive requirements of that statute.

The CLJA was signed into law shortly thereafter. The CLJA specifically precludes jurisdictional defenses that are otherwise available under the FTCA and that the Navy cited in its denial letters, including the North Carolina statute of repose, see CLJA § 804(j)(2) & (3), and the FTCA's discretionary function exception, see *id.* § 804(f). And the CLJA expressly applies to claims by "veteran[s]," see *id.* § 804(b), thus showing that Congress did not likely intend for the *Feres* doctrine (which would generally preclude such claims) to apply.

Congress did not dispense, however, with the FTCA's requirement that claims cannot be pursued in court without first being presented to the relevant agency. Subsection 804(h) of the CLJA includes an administrative exhaustion requirement to give claimants and the Navy an opportunity to administratively resolve claims under the standards of the CLJA before the filing

of suit in federal court. The provision states:

(h) DISPOSITION BY FEDERAL AGENCY REQUIRED.— An individual may not bring an action under this section before complying with section 2675 of title 28, United States Code.

The referenced FTCA provision states:

[a]n action shall not be instituted upon a claim against the United States for money damages for injury . . . caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, unless the claimant shall have first presented the claim to the appropriate Federal agency and his claim shall have been finally denied by the agency in writing The failure of an agency to make final disposition of a claim within six months after it is filed shall, at the option of the claimant any time thereafter, be deemed a final denial of the claim for purposes of this section.

28 U.S.C. § 2675(a).

ARGUMENT

Although the CLJA expressly overrode various aspects of the FTCA, it did not dispense with the requirement that claims be administratively exhausted. To the contrary, Congress expressly reaffirmed that requirement, cross-referencing the relevant requirement and prohibiting the filing of suits in federal court before it is satisfied. The purpose of that requirement is to allow the relevant agency (here, the Navy) to assess claims and consider whether they are meritorious and should be paid or settled before the claimant proceeds to litigation. Plaintiffs make no attempt to explain why that purpose, which self-evidently underlay Congress's decision not to eliminate the administrative-exhaustion requirement as it had for other features of the FTCA, would be served by allowing claims to come to court when the Navy's only consideration of them was a blanket reliance on various doctrines that, under the CLJA, no longer apply. Nor do Plaintiffs make any attempt to explain why any party would be prejudiced by allowing the administrative-claim process to go forward in an orderly fashion, as Congress directed. And Plaintiffs' technical arguments provide no basis for overriding the statutory scheme.

I. A Pre-CLJA Claim Did Not Give the Claimant and the Navy the Opportunity to Resolve Claims Administratively Under the Standards of the CLJA and thus Does Not Satisfy the Administrative Exhaustion Requirement.

Congress expressly reaffirmed that parties who invoke the CLJA must comply with the administrative presentment requirement in 28 U.S.C. § 2675, which takes its present form by virtue of a 1966 amendment to the FTCA. Prior to 1966, a claimant seeking to bring a tort claim against the United States could file an action directly in federal district court. *See* Pub. L. No. 79-601, 60 Stat. 812, 842-47. In 1966, Congress amended the FTCA by changing 28 U.S.C. § 2675, to “require that an administrative claim be filed with the agency or department in each instance prior to filing a court action against the United States.” S. Rep. No. 1327, 89th Cong., 2d Sess. Reprinted in 1966 U.S. Code Cong. & Admin. News. 2515, 2521. This amendment was “to ease court congestion and avoid unnecessary litigation, while making it possible for the Government to expedite the fair settlement of tort claims asserted against the United States.” *Id.* at 2516. As the congressional reports explained:

This procedure would make it possible for the claim first to be considered by the agency whose employee’s activity allegedly caused the damage. That agency would have the best information concerning the activity which gave rise to the claim. Since it is the one directly concerned, it can be expected that claims which are found to be meritorious can be settled more quickly without the need for filing suit and possible expensive and time-consuming litigation.

Id. at 2517.

In *McNeil v. United States*, 508 U.S. 106, 112 (1993), the Supreme Court stated that this section of the FTCA indicated that “Congress intended to require complete exhaustion of Executive remedies before invocation of the judicial process.” The Court elaborated:

Every premature filing of an action under the FTCA imposes some burden on the judicial system and on the Department of Justice which must assume the defense of such actions. Although the burden may be slight in an individual case, the statute governs the processing of a vast multitude of claims. The interest in

orderly administration of this body of litigation is best served by adherence to the straightforward statutory command.

Id. (footnote omitted).

As the Fourth Circuit and other courts have recognized, an administrative claim is sufficient under 28 U.S.C. § 2675 if it affords the United States with adequate notice to properly investigate the claim. *See Ahmed v. United States*, 30 F.3d 514, 516-17 (4th Cir. 1994) (collecting cases). Here, the pre-CLJA administrative claims in no sense gave the government notice that it needed to reasonably assess its liability for the claims currently before this Court. To the contrary, the government's assessment of its liability for those claims was based entirely on grounds that have been abrogated by the CLJA. The Navy denied Plaintiffs' pre-CLJA claims based on the North Carolina statute of repose, the FTCA's discretionary function exception, and the *Feres* doctrine, each of which has been precluded by the CLJA. *See* CLJA § 804(j) (statutes of repose); *id.* § 804(f) (discretionary function); *id.* § 804(b) (*Feres* doctrine). The government thus had no need to evaluate whether the claims that Plaintiffs currently pursue would be meritorious.

Plaintiffs argue that the United States already had the opportunity to resolve the claims through the prior administrative claim submissions, and urge, in particular, that the government's threshold defenses were not vindicated through final court judgments until well after Plaintiffs' administrative claims were submitted. ECF 15 at 8-9. But the relevant point is that the Navy correctly determined that it was not liable based on threshold defenses—which have consistently been upheld by courts in the course of various litigation—rather than assessing the claim based on the assumption that those threshold defenses were unavailable. Also, more to the point for present purposes, Plaintiffs do not explain why Congress would have reaffirmed the exhaustion requirement if it merely meant for Plaintiffs to rely on an already-completed process that sheds

no light on the value of Plaintiffs' current claims and provides no mechanism for settlement through an orderly administrative process.

The Navy needs to investigate and evaluate claims under the standards of the CLJA, and the administrative process allows the time and the procedural mechanism for that to occur. That is the process that Congress reaffirmed in the CLJA. According to Plaintiffs, that process will only apply to those claimants who have not previously submitted administrative claims for their Camp Lejeune claims, and will not apply to those claimants who have submitted such claims but have never had them assessed on the merits because of the threshold defenses that Congress has now abrogated. Plaintiffs provide no basis for attributing to Congress such a nonsensical scheme.

In addition, Plaintiffs have not acted consistent with the position they have taken here. In the first several weeks since enactment of the CLJA, at least 62 of the 86 individuals who have filed lawsuits in this district have submitted new administrative claims. Ex. A ¶ 6. And Plaintiffs did not merely refile their previous claim forms out of an abundance of caution. Instead, the new filings differ from those submitted before the CLJA. Ex. B ¶ 4 (Corrected 2d Decl. of Randall Russell). Some state additional injuries; some have changed the value of the claim demand. Ex. B ¶¶ 17, 31, & 34 (discussing all these Plaintiffs). Plaintiffs do not explain why these new claims would be proper if the exhaustion requirement were satisfied by the prior claims (unless they think claimants can raise the same claims multiple times). Nor do they explain why Congress would have deprived the Navy of the opportunity contemplated by the CLJA to evaluate and resolve the claim of each claimant pursuant to the standards of the CLJA, and instead allowed immediate lawsuits based on stale claims.

II. Plaintiffs' Technical Arguments Are Without Merit.

As discussed, the CLJA expressly cross-references the exhaustion requirement of 28 U.S.C. § 2675, which can only be sensibly applied here by requiring the filing of new administrative claims to allow the government to account for the CLJA. Unable to provide any explanation for why Congress would have wanted to impose such a requirement without making the administrative process meaningful for the thousands of claimants whose claims had already been denied, Plaintiffs resort to a series of technical justifications for their position that are inadequate to override the clearly stated congressional desire for an administrative process, and are, in any event, mistaken on their own terms.

Plaintiffs first contend that because the CLJA states in the statute-of-limitations provision, CLJA § 804(j), that the statute is applicable “only to a claim accruing before the date of the enactment of this Act,” the CLJA did not create a “new claim,” but rather created a new way to vindicate preexisting claims. ECF 15 at 4. There is no basis for allowing Congress’s treatment of the claim for purposes of timing provisions to undermine the very purpose of the exhaustion requirement, and, technicalities aside, there is no dispute that the substantive standards applicable to the claim were significantly altered in the same set of provisions that reaffirmed the need for administrative exhaustion.

Further relying on the statute of limitations, Plaintiffs contend that it would be “arbitrary” to provide claimants whose claims were denied within 18 months after the CLJA’s enactment a longer limitations period than other claimants. ECF 15 at 7. It is not arbitrary to ensure that all claimants have at least two years after a new statute is enacted to file claims in court regardless of when they file their administrative claims (which need not be done through counsel at all), and also to ensure that all claimants have six months to file after their claim is denied as is the case

with all other FTCA claims. What would be arbitrary, as discussed above, would be to have a meaningful administrative process only for claimants who had not previously presented claims, but not for claimants whose claims were denied on (now superseded) threshold grounds.

Plaintiffs argue that because some courts, in assessing the sufficiency of an administrative claim, do not require a recitation of the legal theory for recovery, the CLJA's abrogation of otherwise-available defenses under the FTCA cannot affect the administrative exhaustion requirement. ECF 15 at 4-5. The Seventh Circuit case on which Plaintiffs rely stands for the proposition that the claim need not lay out the legal theory on which it depends, because "the claim encompasses any cause of action fairly implicit in the facts." *Khan v. United States*, 808 F.3d 1169, 1172-73 (7th Cir. 2015) (quotation marks omitted). But the remedy of the CLJA could not have been implicit in the facts of a claim presented to the Navy years ago because the CLJA did not yet exist. The holding cannot stand for the proposition that a new administrative claim is unnecessary when there is such a substantial change to the nature of the cause of action.

Plaintiffs resist the clear language of the CLJA in suggesting that Congress should have specifically provided that those who previously submitted administrative claims under the FTCA were required to submit new claims under the CLJA. ECF 15 at 4. Just the opposite is true. When Congress intends to give retroactive effect to prior claims, it specifically so states. For example, when Congress amended the Black Lung Benefits Act to expand benefits eligibility to certain survivors, it specified that the new eligibility standards would retroactively apply "with respect to claims filed . . . after January 1, 2005, that are pending on or after the date of enactment of this Act [March 23, 2010]." *See* Pub. L. No. 111-148, § 1556(c), 124 Stat. 119, 260 (2010). Had Congress intended that the prior administrative presentment of an administrative claim years before enactment of the CLJA could satisfy the CLJA's "disposition

by federal agency” requirement, it could have easily said so. This is especially true where such a result would contradict the clear intent of the administrative claim requirement: to promote efficiency and avoid unnecessary expense by providing an opportunity for the claimant and the Navy to resolve a claim under the applicable standards of the CLJA.

Finally, Plaintiffs argue that the Court should adopt their interpretation of the CLJA based on a canon of construction that favors benefits for members of the armed services. ECF 15 at 7-8. Even if this canon applied to the CLJA—and there are several reasons why it should not, including that the CLJA encompasses many potential claimants who are not servicemembers—requiring an administrative process under the CLJA standards would benefit servicemembers. “[C]laims which are found to be meritorious can be settled more quickly without the need for filing suit and possible expensive and time-consuming litigation.” *See* 1966 U.S. Code Cong. & Admin. News. 2515, 2517. Unlike the case Plaintiffs cite, *Henderson v. Shinseki*, 562 U.S. 428, 433-34 (2011), a servicemember’s rights will not be cut off by this interpretation. The servicemember will retain the right to file an action in federal court if dissatisfied with the administrative process after six months.

The relevant canon of construction is that Plaintiffs’ action requires a waiver of sovereign immunity, and Plaintiffs must therefore file the action “in careful compliance with [the statute’s] terms,” including its administrative presentment requirement. *See Willis v. U.S. Postal Serv.*, No. 5:19-CV-16-BO, 2019 WL 1429593, at *1 (E.D.N.C. March 29, 2019) (quoting *Kokotis v. U.S. Postal Serv.*, 223 F.3d 275, 278 (4th Cir. 2000)). Because Plaintiffs have failed to do so for these claims, their action should be dismissed.

Dated: November 10, 2022

Respectfully Submitted

BRIAN BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

J. PATRICK GLYNN
Director, Torts Branch

BRIDGET BAILEY LIPSCOMB
Assistant Director

ADAM BAIN
Senior Trial Counsel

/s/ Frederick G. Hall
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Facsimile: (202) 616-4473

Attorney inquiries to DOJ regarding CLJA:
(202) 353-4426

CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2022, a copy of the foregoing document was served on all counsel of record by operation of the court's electronic filing system and can be accessed through that system.

/s/ Frederick G. Hall _____
FREDERICK GASTON HALL

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

DECLARATION OF RANDALL D. RUSSELL

I, Randall D. Russell, declare as follows:

1. I currently serve as the head of the Torts Claims Branch in the Admiralty and Claims Division of the Office of the Judge Advocate General, Department of the Navy. I have served in this position since 2009.
2. In my position, I have responsibility for the receipt and consideration of tort claims that are filed with the Department of the Navy pursuant to 28 U.S.C. § 2675. In the years prior to the enactment of the Camp Lejeune Justice Act, my office received over 4,000 administrative claims pursuant to 28 U.S.C. § 2675 that claimed personal injury or wrongful death resulting from exposure to contaminated water at Camp Lejeune. These claims were filed under the then existing provisions of the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b)(1), 2671-80. Some of these claimants elected to file suit in federal court, and several of these actions were combined in a multi-district litigation (MDL) in the Northern District of Georgia.
3. Ultimately, the MDL district court dismissed the cases on jurisdictional grounds, finding that the claims were barred by: (1) the North Carolina ten-year statute of repose, N.C. GEN. STAT. § 1-52(16) (2010), which bars injury claims accruing more than ten years after the act or omission giving rise to the action; (2) the discretionary function exception of the FTCA, 28 U.S.C. § 2680(a), which bars tort claims challenging discretionary, policy-based conduct; and (3) the *Feres* doctrine, *Feres v. United States*, 340 U.S. 135

(1950), which bars tort claims incident to military service. *See In re Camp Lejeune North Carolina Water Contam. Litig.*, 263 F. Supp. 3d 1318, 1332-60 (N.D. Ga. 2016), *aff'd*, 774 F. App'x. 565 (11th Cir. May 22, 2019). On appeal, the Eleventh Circuit upheld the dismissal.

4. In 2019, following this decision, our office denied all remaining claims pending with the Navy alleging personal injury or death as a result of exposure to contaminated water at Camp Lejeune; this consisted of over 4,000 claims. In the letter denying the claims, we cited the grounds on which the MDL court had relied in dismissing the federal court actions. An example of one of these letters is attached as Exhibit 1 to this Declaration. Given these jurisdictional grounds for dismissal of the actions, we did not consider the substantive merits of whether any claimant had an injury or death related to exposure to contaminated water at Camp Lejeune as part of our consideration of these claims.
5. Subsequently two law firms, representing approximately 900 claimants, requested reconsideration of the Navy's decision to deny the claims of their claimants. On August 5, 2022, our office sent a letter to each of the law firms stating that upon reconsideration of the claims, the claims were appropriately denied for the reasons given in the original denial letters. A copy of one of those letters is attached as Exhibit 2 to this declaration.
6. Since the enactment of the Camp Lejeune Justice Act our office has received several thousand administrative claims pursuant to 28 U.S.C. § 2675. To date, our office has determined that at least 170 individuals who had filed claims before enactment of the Camp Lejeune Justice Act have already resubmitted claims since the passage of the Camp Lejeune Justice Act. This includes at least 62 of the 86 individuals who have filed lawsuits in federal court. Our office has not yet taken action on any claim submitted

since the passage of the Camp Lejeune Justice Act, and no claim has been pending for six months or longer.

I declare that the foregoing is true and correct under penalty of perjury.

Dated: October 13, 2022

Randall D. Russell

RANDALL D. RUSSELL



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE SUITE 3000
WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO:

5890
Ser 00CL
January 24, 2019

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stack & Associates P.C.
260 Peachtree Street Ste 1200
Atlanta, GA 30303

Dear Sir or Madam:

SUBJECT: CAMP LEJEUNE CONTAMINATED WATER CLAIMS

This responds to your clients' claims submitted for personal injuries and/or wrongful death allegedly resulting from the exposure to contaminated water at Camp Lejeune, North Carolina. Your clients' names are listed on the enclosure to this letter.

Your clients' claims were considered under the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671-2680. In accordance with the FTCA, the United States can only be held liable under limited circumstances where the negligent acts or omissions of United States employees acting within the scope of their employment proximately caused the alleged injuries.

The government's investigation has determined that your clients' claims do not meet the requirements under the FTCA for compensation. Among the reasons why the claims do not meet the requirements, is that the claims are barred by the North Carolina statute of repose which provides that no claim for personal injury "shall accrue more than 10 years from the last act or omission of the defendant giving rise to the cause of action" N.C. Gen. Stat. Section 1-52(16). Because your clients did not file their claims within 10 years of the last act or omission related to contaminated water at Camp Lejeune, their actions are untimely. See *In re Camp Lejeune North Carolina Water Contam. Litig.*, 263 F. Supp. 3d 1318, 1332-40 (N.D. Ga. 2016) appeal docketed 16-17573 (11th Cir.); *Bryant v. United*

States, 768 F.3d 1378 (11th Cir. 2014). Additionally, your clients' claims are barred by the FTCA's discretionary function exception, which provides the United States immunity for tort claims challenging discretionary, policy-based conduct. 28 U.S.C. Section 2680(a). See *In re Camp Lejeune*; 263 F. Supp. 3d at 1343-60; *Snyder v. United States*, 504 F. Supp. 2d 136 (S.D. Miss. 2007), *aff'd* 2008 WL 4601686 (5th Cir. 2008).

If any of your clients were serving in the military and stationed at Camp Lejeune, another independent reason that their claims do not meet the FTCA requirements for compensation is that they were in the service at the time of their stated exposure to contaminated water at Camp Lejeune; therefore, they must pursue an administrative remedy for service-connected injury rather than an FTCA action. See *Feres v. United States*, 340 U.S. 135 (1950); *In re Camp Lejeune*, 263 F. Supp. 3d at 1341-43; *Gros v. United States*, 2005 WL 6459834 (E.D. Tex. Sept. 27, 2005), *aff'd* 232 Fed. App. 417 (5th Cir. 2007).

This notice constitutes final action on your clients' claims. If they are dissatisfied with the action taken they may file suit in the appropriate U.S. District Court no later than six months from the date of the mailing of this letter. By law, failure to comply with this six-month time limit may forever bar them from filing a lawsuit.

Sincerely,



H.H. DRONBERGER
Director
Claims & Tort Litigation

Enclosure



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
1322 PATTERSON AVENUE SE, SUITE 3000
WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO:

5890
Ser RDR/RF/0042
August 5, 2022

BY E-MAIL/FAX AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED

EDWARD BELL
LORI K.CROMARTIE
BELL LEGAL GROUP
219 N. Ridge St.
Georgetown, SC 29440

Dear Mr. Bell & Ms. Cromartie:

SUBJECT: CLAIMS FOR WHICH BELL LEGAL GROUP SOUGHT
RECONSIDERATION ON JULY 17, 2019 AND JULY 23, 2019

This is in reference to the administrative claims you submitted pursuant to the Federal Tort Claims Act (FTCA) related to contaminated water at Camp Lejeune. Your letters of July 17, 2019 and July 23, 2019 requested reconsideration of the denial of claims for certain claimants. Your request for reconsideration was granted.

We have reviewed the files and related correspondence, the investigation conducted into the matters raised in your claims, and the issues raised in your letter requesting reconsideration. Upon completion of that review, we have determined the denial of your claims was appropriate under the FTCA for the reasons given in the original denial letters, including the FTCA's discretionary function exception, the North Carolina statute of repose and the *Feres* doctrine. Accordingly, upon reconsideration, any and all claims for which you requested reconsideration are denied.

This denial constitutes the final action on these claims. If you choose to file suit under the Federal Tort Claims Act, you must do so in the appropriate United States District Court within six months of the date of the mailing of this letter.

5890
Ser RDR/RF/0042
August 5, 2022

Failure to file suit within the six-month period will result in the claims being forever barred.

Note that your claims have not, and will not, be considered sufficient to meet the requirements of any other statute, including the Camp Lejeune Justice Act. To meet the requirements of the Camp Lejeune Justice Act, you must submit a claim signed and dated after the date of enactment of that statute so that this office can consider the claim under the substantive requirements of that statute.

Sincerely,

Randall D. Russell

Randall D. Russell
Head, Tort Claims Branch
Admiralty & Claims Division

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

CORRECTED SECOND DECLARATION OF RANDALL D. RUSSELL

I, Randall D. Russell, declare as follows:

1. I currently serve as the head of the Torts Claims Branch in the Admiralty and Claims Division of the Office of the Judge Advocate General, Department of the Navy. I have served in this position since 2009.
2. In my position, I have responsibility for the receipt and consideration of tort claims that are submitted to the Department of the Navy pursuant to 28 U.S.C. § 2675. In the years prior to the enactment of the Camp Lejeune Justice Act, my office received over 4,000 administrative claims pursuant to 28 U.S.C. § 2675 that claimed personal injury or wrongful death resulting from alleged exposure to contaminated water at Camp Lejeune.
3. As stated in my first declaration, since the enactment of the Camp Lejeune Justice Act our office has received several thousand administrative claims pursuant to 28 U.S.C. § 2675. To date, our office has determined that at least 170 individuals who had submitted claims before enactment of the Camp Lejeune Justice Act have already resubmitted claims since the passage of the Camp Lejeune Justice Act. This includes at least 62 of the 86 individuals who have already filed CLJA lawsuits in federal court.
4. I have been able to examine the claims of some individuals who submitted claims after enactment of the Camp Lejeune Justice Act and compare those claims to claims that were submitted for the same individuals prior to enactment of the Camp Lejeune Justice Act. As detailed in the following paragraphs, some claims that I have reviewed that were

submitted after enactment of the Camp Lejeune Justice Act are different from claims for the same individuals submitted before enactment of the Camp Lejeune Justice Act. Some claims state additional injuries; some claims have changed the value of the claim demand.

5. The claim of Sandra Cline signed on June 15, 2016, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of Parkinson's disease, fibromyalgia, and neurological disorders, and stated the amount of claim of \$20 million. But the claim for Sandra Cline signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, asthma and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
6. The claim of Lawrence Evans signed on March 30, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of stage two breast cancer, which involved a mastectomy and removal of his lymph nodes, and stated the amount of claim of \$30 million. But the claim for Lawrence Evans signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, diabetes and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
7. The claim of Glanzer Jolly signed on March 3, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of hypertension, prostate cancer, depression, diabetes, peripheral neuropathy, asthma, and colon polyps, and stated the amount of claim of \$20 million. But the claim for Glanzer Jolly signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million

for personal injury and \$25 million for wrongful death, but did not list hypertension, depression, diabetes, or asthma as an injury.

8. The claim of Ronnie Manns signed on July 11, 2012, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of aplastic anemia, dental loss, MERS and inflammation, and stated the amount of claim of \$350,000. But the claim for Ronnie Manns signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, medical monitoring, myelodysplastic syndrome, normocytic anemia, and children born prematurely with medical problems, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list aplastic anemia, MERS, or inflammation as an injury.
9. The claim of Sherry Miller signed on March 10, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of congenital spine disorder, supraventricular tracia mitro valve prolapse, bony growths on the back of the skull, heavy/painful menstrual periods, and lactose and gluten intolerance, and stated the amount of claim of \$20 million. But the claim for Sherry Miller signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, birth defect, medical monitoring, irregular menstrual cycle, mitral valve prolapse, osteomas, and spinal problems, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
10. The claim of Peter Optekar signed on October 17, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of prostate cancer, loss of renal function, son born with supraventricular tachycardia, and other son born prematurely and only living three hours, further causing emotional distress, loss of companionship, care, and

comfort from his son, and stated the amount of claim of \$20 million. But the claim for Peter Optekar signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, diabetes, hypertension, renal toxicity, sleep apnea and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list, loss of renal function, his son being born with supraventricular tachycardia or his other son being born prematurely and only living three hours, further causing emotional distress, loss of companionship, care, or comfort from his son as an injury.

11. The claim of Gena Parkhurst signed on April 19, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of spina bifida occulta, low birth weight, rheumatoid arthritis, malformation in back hips, multiple chemical sensitivities, digestive disorder, maxillofacial, skeletal anomalies with maxillary and mandibular asymmetry and malalignment, and stated the amount of claim of \$15 million. But the claim for Gena Parkhurst signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, birth defects, autoimmune or immunodeficiency disorders, cognitive disability, digestive problems, neurobehavioral effects, and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list skeletal anomalies with maxillary as an injury.

12. The claim of Silas Rollins signed on March 11, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of prostate cancer and impotence, and stated the amount of claim of \$20 million. But the claim for Silas Rollins signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional

injuries, heart murmur and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

13. The claim of Darlene Brooks signed on April 30, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of husband suffering from breast cancer, which lead to his death and caused her to experience emotional distress, loss of companionship, care and comfort from him, and stated the amount of claim of \$10 million. But the claim for Darlene Brooks signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list emotional distress, loss of companionship, care, or comfort from her husband as an injury.
14. The claim of Ronnie Brophy signed on December 14, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of bladder cancer, prostate cancer, and kidney disease, and stated the amount of claim of \$25 million. But the claim for Ronnie Brophy signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
15. The claim of Thomas Clark signed on August 4, 2016, before enactment of the Camp Lejeune Justice Act, stated the specific injury of bladder cancer, and stated the amount of claim of \$20 million. But the claim for Thomas Clark signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical

monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

16. The claim of Dennis Petersen signed on August 29, 2016, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of prostate cancer and neurological issues, and stated the amount of claim of \$20 million. But the claim for Dennis Petersen signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, tinnitus and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list neurological issues as an injury.
17. The claim of Beverly McClain for the Estate of Rudy McClain signed on June 25, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of liver cancer, hepatitis C, and death, and stated the amount of claim of \$20 million, \$10 million for personal injury and \$10 million for wrongful death. But the claim for the Estate of Rudy McClain signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
18. The claim of Richard Henderson signed on May 28, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of renal cell cancer, short term memory impact, and an adverse effect on subsequent medical procedures and treatments, and stated the amount of claim of \$100 million. But the claim for Richard Henderson signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, stated a decreased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not

list short term memory impact or an adverse effect on subsequent medical procedures and treatments as an injury.

19. The claim of Isaiah Wilson Junior for the Estate of Jerone Wilson signed on March 27, 2012, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of ovarian cysts/tumors and complete kidney failure, and stated the amount of claim of \$10 million for wrongful death. But the claim for the Estate of Jerone Wilson signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, renal cancer and death, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list kidney failure as an injury.
20. The claim of Anthony Taylor signed on February 16, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of prostate cancer, heart disease resulting in stroke with left side hemiplegia, PTSD, mood disorder, Osteochondroma, Type II Diabetes with peripheral neuropathy and loss of vision in left eye, tumor in left shoulder, memory loss, and visual impairment, and stated the amount of claim of \$40 million. But the claim for Anthony Taylor signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, chronic obstructive pulmonary disease, neurobehavioral effects, and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list prostate cancer, heart disease resulting in stroke with left side hemiplegia, PTSD, mood disorder, Type II Diabetes with peripheral neuropathy and loss of vision in left eye, tumor in left shoulder, memory loss, or visual impairment as an injury.

21. The claim of Dennis Toles signed on September 7, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of kidney cancer, skin rashes, dental problems, gouty arthritis, TB, and carpal tunnel, and stated the amount of claim of \$15 million. But the claim for Dennis Toles signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, colon cancer and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list skin rashes, dental problems, TB, or carpal tunnel as an injury.
22. The claim of Craig Unterberg signed on January 30, 2017, before enactment of the Camp Lejeune Justice Act, stated the specific injury of kidney cancer, and stated the amount of claim of \$20 million. But the claim for Craig Unterberg signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
23. The claim of Cathlene Brooks Brewer signed on June 3, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of blindness due to retina defects at birth, detached retinas (both eyes), and hearing impairment, and stated the amount of claim of \$20 million. But the claim for Cathlene Brooks Brewer signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list detached retinas (both eyes) as an injury.

24. The claim of Dan Wax signed on December 2, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injury of leukemia, and stated the amount of claim of \$30 million. But the claim for Dan Wax signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
25. The claim of Thomas Whatley signed on April 7, 2017, before enactment of the Camp Lejeune Justice Act, stated the specific injury of multiple myeloma, and stated the amount of claim of \$10 million. But the claim for Thomas Whatley signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
26. The claim of Brenda Brundage signed on February 5, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injury of breast cancer, and stated the amount of claim of \$20 million. But the claim for Brenda Brundage signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, meningitis, irritable bowel syndrome, anxiety, and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
27. The claim of Donna Altman signed on May 28, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injury of breast cancer, and stated the amount of claim of \$20 million. But the claim for Donna Altman signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical

monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

28. The claim of Ariel Alvarado signed on February 18, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injury of kidney cancer, and stated the amount of claim of \$30 million. But the claim for Ariel Alvarado signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, prostate cancer, kidney cyst(s), and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list kidney cancer as an injury.
29. The claim of Josephine DelValle signed on October 14, 2002, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of bladder cancer, and death, and stated the amount of claim of \$10.1 million, \$100,000 for personal injury and \$10 million for wrongful death. But the claim of Josephine DelValle for the Estate of Raymond DelValle signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, chromosome abnormalities, stomach problems, and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list bladder cancer as an injury.
30. The claim of Isiah Lawson for the Estate of Gertrude Lawson signed on February 16, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of leukemia and a miscarriage, and stated the amount of claim of \$20 million, \$10 million for personal injury and \$10 million for wrongful death. But the claim for the Estate of Gertrude Lawson signed on August 10, 2022, after enactment of the Camp Lejeune

Justice Act, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list a miscarriage as an injury.

31. The claim of Joyce Luken for the Estate of John Luken signed on March 29, 2012, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of liver cancer, neuropathy, hepatitis C, erectile dysfunction, nerve damage, and weakness in lower limbs, and stated the amount of claim of \$10 million for wrongful death. But the claim for the Estate of John Luken signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list hepatitis C, erectile dysfunction, nerve damage, or weakness in lower limbs as an injury.
32. The claim of Charlotte Luthy signed on February 14, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of ovarian and other cancers, and stated the amount of claim of \$20 million. But the claim of Edward Luthy for the Estate of Charlotte Luthy signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list other cancers as an injury.
33. The claim of Kris Thomas signed on September 17, 2009, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of gangrene, sinus cavity tumor, male breast cancer, and memory loss, and stated the amount of claim of \$5 million. But the claim for Kris Thomas signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated an additional injury, medical monitoring, stated an increased amount

of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list gangrene, sinus cavity tumor, or memory loss as an injury.

34. The claim of John Belt, Jr. signed on September 30, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of colon cancer, kidney problems, and thyroid lesion, and stated the amount of claim of \$20 million. But the claim for John Belt, Jr. signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injuries, kidney cancer, liver cancer, throat cancer, esophageal cancer, and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list colon cancer as an injury.
35. The claim of JoAnn Duncan signed on June 21, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of breast cancer and double mastectomy, and stated the amount of claim of \$80,000. But the claim for JoAnn Duncan signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated additional injury, medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
36. The claim of David Fancher received in February 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injury of kidney cancer, and stated the amount of claim of \$50 million. But the claim for David Fancher signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of degenerative disc disease, Parkinson's Disease, and medical monitoring, and stated a claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

37. The claim of James Flenoury signed on April 19, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of Non-Hodgkin's lymphoma, neuropathy, and low testosterone, and stated the amount of claim of \$10 million. But the claim for James Flenoury signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of neurobehavioral problems, diabetes, and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
38. The claim of Lee Futrell signed on April 23, 2015, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of kidney cancer, neuropathy, and low bone density, and stated the amount of claim of \$20 million. But the claim for Lee Futrell signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of malignant neoplastic disease, neurobehavioral problems, and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
39. The claim of Gisele Guthrie signed on July 28, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injury of breast cancer, and stated the amount of claim of \$20 million. But the claim for Gisele Guthrie signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injury of medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.
40. The claim of James Maxwell signed on January 27, 2012, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of birth defects, kidney failure, enlarged kidney with blockage, and excruciating pain, and stated the amount of claim of \$5.5

million. But the claim for James Maxwell signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of neurological problems and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list enlarged kidney with blockage or excruciating pain as injuries.

41. The claim of Claudia McClarrin signed on May 3, 2012, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of endometriosis, skin rashes, cervical cancer, hysterectomy, breathing problems, ovarian tumors, two miscarriages, and sarcoma on the left shoulder, and stated the amount of claim of \$20 million. But the claim for Claudia McClarrin signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of cervical tumor, infertility, ovarian cancer, lung cancer, and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list hysterectomy as an injury.

42. The claim of Dennis Monroe received November 2010, before enactment of the Camp Lejeune Justice Act, stated the specific injury of kidney/renal cancer, and stated the amount of claim of \$50 million. But the claim for Dennis Monroe signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of neurobehavioral problems and medical monitoring, stated a claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list renal cancer as an injury.

43. The claim of John Orue signed on June 21, 2010, before enactment of the Camp Lejeune Justice Act, stated the specific injury of kidney damage, and stated the amount of claim

of \$20 million. But the claim for John Orue signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of kidney cancer and medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

44. The claim of Michael Partain signed on February 25, 2009, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of chronic rash, chronic ear infections, chronic sinus infections, chronic throat infections, chronic allergies, kidney infection, chronic epididymitis, increased fatigue, weakness, high blood pressure, Grade III invasive ductal carcinoma in the right breast, breast mastectomy, neuropathy, chronic pain due to abnormal bone growth, torn left meniscus and joint damage, loss of companionship and consortium, mental anguish, emotional distress, and loss of enjoyment of life, and stated the amount of claim of \$7 million. But the claim for Michael Partain signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of autoimmune disorder and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list chronic rash, chronic ear infections, chronic sinus infections, chronic throat infections, chronic epididymitis, increased fatigue, weakness, high blood pressure, chronic pain due to abnormal bone growth, torn left meniscus and joint damage, chronic allergies, kidney infection, or emotional distress as injuries.

45. The claim of Mark Perry signed on February 13, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injury of Parkinson's disease, and stated the amount of claim of \$10 million. But the claim for Mark Perry signed on August 10,

2022, after enactment of the Camp Lejeune Justice Act, stated the additional injury of medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

46. The claim of Kathryn Pirnia signed on March 19, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of Hodgkin's lymphoma, hearing loss and chronic ear infections requiring surgery, and sleep apnea, and stated the amount of claim of \$5 million. But the claim for Kathryn Pirnia signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injuries of neuropathy and medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list chronic ear infections as an injury.
47. The claim of Melody Richards signed on April 28, 2014, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of ovarian cancer and infections/discharge, and stated the amount of claim of \$20 million. But the claim for Melody Richards signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injury of medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list infections/discharge as an injury.
48. The claim of Donald Stringfellow signed on March 19, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injury of prostate cancer, and stated the amount of claim of \$10 million. But the claim for Donald Stringfellow signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injury of

medical monitoring, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

49. The claim of Elizabeth Girard signed on February 4, 2011, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of lung cancer, a tumor in the left lung, and infertility, and stated the amount of claim of \$30 million. But the claim for Elizabeth Girard signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injury of medical monitoring, stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death, but did not list a tumor in the left lung as an injury.
50. The claim of Linda Crisp for the Estate of Michelle Causey signed on November 4, 2013, before enactment of the Camp Lejeune Justice Act, stated the specific injuries of cervical cancer, and death, and stated the amount of claim of \$20 million, \$5 million for personal injury and \$15 million for wrongful death. But the claim for the Estate of Michelle Causey signed on August 10, 2022, after enactment of the Camp Lejeune Justice Act, stated the additional injury of liver cancer, and stated an increased amount of the claim of \$50 million, \$25 million for personal injury and \$25 million for wrongful death.

I declare that the foregoing is true and correct under penalty of perjury.

Dated: November 10, 2022

Randall D. Russell

RANDALL D. RUSSELL