

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
Case No. 7:23-cv-897

IN RE:)
)
CAMP LEJEUNE WATER LITIGATION)
) **STATUS REPORT ON RESOLUTION**
This Document Relates To:) **DISCUSSIONS BETWEEN PLAINTIFFS’**
ALL CASES) **LEADERSHIP AND DEFENDANT**
)

Plaintiffs’ Lead and Co-Lead Counsel (“Plaintiffs’ Leadership”) and Defendant jointly provide this Honorable Court this Status Report on Resolution Discussions.

(1) The Court’s September 26, 2023, Case Management Order No. 2 instructed the Parties to “meet and confer regarding a process for global resolution and report status of those discussions to the Court within 30 days from the entry” of the Order. (DE 23)

(2) Plaintiffs’ Resolution Subcommittee and Defendant met in Washington, DC, on September 20, 2023, to discuss resolution.

(3) At that meeting, the Resolution Subcommittee proposed to Defendant, for consideration, a “resolution roadmap” for global resolution, see Exhibit A, which Defendant has not yet agreed to. The Resolution Subcommittee believes it important to have a roadmap with concrete markers to expedite real progress.

(4) The parties are actively negotiating a questionnaire to establish the data fields that we expect to ultimately populate the resolution matrix. This process first began when Defendant presented an initial draft of the questionnaire to members of Plaintiffs’ Leadership on February 23, 2023, before the appointment of Plaintiffs’ Leadership. Members of Plaintiffs’ Leadership provided feedback to the questionnaire on March 20, 2023, before Defendant paused the process for several months in April 2023, pending the appointment of Leadership. Shortly after Leadership

was appointed on July 19, 2023, Defendant met with members of Plaintiffs' Leadership to re-engage on the questionnaire and other matters.

(5) Aside from negotiating the data fields that could apply to all cases, the parties are currently focused on establishing data fields relevant to the diseases set for trial under Track 1. The Resolution Subcommittee, working with Plaintiffs' Science Subcommittee and medical experts, proposed revisions to Defendant's latest draft of the questionnaire on October 6, 2023. Defendant provided preliminary feedback on October 25, 2023, and plans to provide a complete, revised draft to Plaintiffs' Leadership by November 10, 2023.

(6) The next step for the parties will be to determine the type of documentation that will be needed to answer, or prove, each data field. For example, for the data field regarding duration on base, the parties will negotiate what type of documentation will be sufficient to establish a Plaintiff's time on base.

(7) Relatedly, the parties will also establish which party—Plaintiffs or Defendant—may provide that documentation.

(8) In completing the underlying legal substance of the resolution matrix, the parties will negotiate valuation formulas for the various data fields, to enable parties to ultimately place values on overall claims. Defendant believes that court rulings on Daubert and other motions, and perhaps some bellwether trials, may be required to complete the valuation process.

(9) To prepare for housing the information discussed above, the Database and Resolution Subcommittees have interviewed several vendors to provide the technology and services needed for the ultimate resolution facility. Defendant informed members of Plaintiffs' Leadership on January 20, 2023, of its view regarding the legal requirements related to certification under the Federal Risk and Authorization Management Program, or "FedRAMP," for any vendor

who might supply a database used by the government, in order to safeguard sensitive personal information or personally identifiable information (“PII”). The Government Liaison has met several times with Defendant and, in particular, with the Chief Information Officer for the Civil Division of the Department of Justice, to further understand FedRAMP requirements. The parties are attempting to coordinate the vendor-selection process, while Plaintiffs’ Leadership investigates potential workarounds.

(10) While the parties have made progress, as described above, Defendant has not provided Plaintiffs’ Leadership with certain information that could help expedite the work of the Resolution Subcommittee. Plaintiffs’ Leadership issued Fed. R. Civ. P. 34 Requests for Production (“RFPs”) on September 28, 2023, after first requesting the same information informally. In particular, Plaintiffs’ Leadership requested that Defendant provide specified data from Agency for Toxic Substances and Disease Registry (“ATSDR”) databases, which Plaintiffs’ Leadership understands to be readily available and shareable. Rather than providing that information to Plaintiffs’ Leadership, Defendant said that it would not respond until required to by the Federal Rules (30 days later). Defendant stated that, because the requested information includes sensitive PII from individuals not involved in this litigation and information that is subject to the Privacy Act, Defendant was working with ATSDR to expeditiously provide the requested relevant information in accordance with applicable laws and ATSDR’s legal obligations. Plaintiffs’ Leadership then narrowed the request informally, indicating that before receiving a response to the official request, Plaintiffs’ Leadership would appreciate receiving the information limited to individuals involved in the litigation. Plaintiffs’ Leadership has still not received any information. The Resolution Subcommittee believes that cooperative engagement by Defendant in this matter would expedite the work of the Subcommittee. Defendant’s position is that it has sought to

coordinate with Plaintiffs' Leadership and accommodate reasonable requests under applicable rules and regulations concerning government information.

DATED this 26th day of October 2023.

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CLJA Litigation: Towards Global Resolution

September 20, 2023

We need to jointly create 8 elements

Category	Element	Task for plaintiffs and DOJ
Legal substance	Fields	Develop a list of data points necessary and sufficient to establish the <u>viability</u> and <u>value</u> of a claim.
	Documentation requirements	For each data point, agree on (1) what documentation must support the data point for it to “count” and (2) which party is responsible for supplying that documentation.
	Valuation formulas	Design condition-specific formulas that take in certain of the agreed-upon data points and generate sum-certain settlement offers.
Process	Claim workflow	Design the specific processes through which (1) claimants will populate fields and supply required documentation and (2) the administrator will review submissions and make offers.
	Exceptional processes	Explore and agree on processes for claimants to seek additional review of extraordinary injuries.
	Validation & disbursement	Set up the mechanism through which clients will be validated, settlements will be offered, and accepted settlements will be paid.
Infrastructure	Staff/administrator	Select an administrator to design the workflow in detail, hire staff to process claims, manage implementation, and report back to the parties.
	Data & reporting	Build a data & reporting system to store claim submissions, generate analytics, and track progress.

High-level roadmap

