IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:24-CV-00976

IN RE:

CAMP LEJEUNE WATER LITIGATION

This Document Relates to:
Charles Metcalfe, No. 7:24-cv-00976
Larry Abrams, No. 7:24-cv-00982
Tony Griffin, No. 7:24-cv-00973
Estate of Mark Kopp, No. 7:24-cv-00969
Estate of Timothy Coon, No. 7:24-cv-00978
Steven Janovitch, No. 7:24-cv-00919

MOVANTS' REPLY IN SUPPORT OF MOTION TO EXPEDITE CONSIDERATION OF MOTION FOR HEARING AND FOR INTERIM RELIEF

The most telling feature of the United States' Memorandum in Opposition (the "Response") is what it does not say. The Motion rests on a specific factual claim: that the Department of Justice priced four Tier 1 offers in the 30-to-364-day exposure band for Marines whose certified Records of Service show well over one year at Camp Lejeune, short-changing each veteran or estate by $150,000; and that it found two more ineligible without identifying a single missing record. The Response disputes none of it. It does not say the day counts are wrong, identify the exposure dates DOJ used or the records it relied on, or defend the "Evidence Sufficiency" findings. It does not explain how a claimant with roughly 386 days was placed in the one-to-five-year band on September 10 while claimants with far more were placed below it. The United States' position is not that it got these determinations right. It is that no one may ask.[1]

[1] Since the Motion was filed, undersigned counsel has been contacted by other attorneys and claimants describing the same experience: the government priced the EO offer below what the records show and then refused to look at the records when the error was pointed out. Movants raise this for one reason—the Court should understand that what happened to these six Marines is not a clerical accident confined to six cases. The government alone holds the records that decide these determinations. It has used them to place veterans in exposure bands its own files contradict, and it has answered every request for correction with a form email declaring the result "final." A veteran in that position cannot appeal, cannot obtain the government's exposure findings, and cannot get a second offer once the first lapses. If this Court does not act, there is no one who will. Movants respectfully submit that this is exactly the circumstance that warrants the Court's involvement.

That silence answers the Motion to Expedite. Asked to hold four offers open long enough for the Court to consider a Motion whose factual premise it does not contest, the United States declines, and proposes a schedule under which its response falls due four days *after* the offers expire. This is precisely why the Motion to Expedite was filed.

I. The United States cannot demand that Movants file on the individual dockets and then invoke the stay on those dockets.

At the United States' insistence that non-PLG members not file on the Master Docket, [D.E. 916] at 15 n.1, Movants re-filed the Motion on their individual dockets. The United States now answers that those dockets are stayed and that it is "not required to file responsive pleadings" there. Resp. at 1. That leaves no docket on which the Motion may be heard.

Neither half is correct. CMO 2 excuses "responsive pleadings"—answers under Rule 7(a)—not memoranda opposing motions, which are not pleadings. Fed. R. Civ. P. 7(a)–(b). And the stay did not prevent the United States from filing a seven-page opposition within two days, or from announcing that it "is preparing a response" to the Motion. Resp. at 1. To the extent leave under CMO 2 or a limited lift of the stay is required, Movants already requested it (*see* Mot. at 1 n.1) and renew that request here.

II. Movants do not ask the Court to force a settlement.

The Response answers an argument Movants never made: that the Court should "force the United States to settle their cases on their preferred terms." Resp. at 3. The authorities it cites, *id.*, hold that a court may not compel a party to make an offer or punish it for declining. Movants agree, and have asked for neither.

The United States has already made offers to four of the Movants. Movants ask only that the Court hear why they were treated differently from other claimants under the same program—and that the offers not be deemed declined while the Court considers that question. The first is an

inquiry; the second preserves the status quo, a routine exercise of the Court's inherent authority to protect its ability to grant effective relief.

The United States concedes the Court may order it into settlement conferences, Resp. at 3 n.2, and has not objected to the June 30, 2026 Order requiring weekly meetings with the Settlement Masters and reserving "other action relating to . . . the Department of Justice." [D.E. 893] at 2. The rulings it cites as the Court "declin[ing] to involve itself," Resp. at 3, predate that Order and concern status-conference agendas—case management, not jurisdiction.

III. The Guidance's disclaimers do not answer the question presented.

The Guidance's disclaimers—"voluntary," no "force and effect of law," "confers no rights," Resp. at 2, 4—do not address whether the Department may administer its program unevenly among plaintiffs before this Court and decline to say why. Indeed, the United States stresses that Movants' cases "were considered by the Department of Justice—not the Navy—as their cases are now in litigation." Resp. at 4 n.3. Determinations made by the litigating party in cases pending before this Court fall within, not outside, the Court's supervision.

IV. The United States does not deny what happened in *Hughes*—it says it need not explain it.

The Response disputes no fact about the *Estate of Hughes*—not that the offer issued fifteen days after the arbitrary "deadline" invoked against Movants and one hour and forty minutes after the Motion was filed, and not that the government relied entirely on its own files in making it. The United States instead asserts that it "is not required to explain or justify its internal decision-making process," and acknowledges that it has reconsidered determinations "in other cases." Resp. at 4.

To be clear, Movants do not ask the Department to withdraw the *Hughes* EO offer, *see* Resp. at 4 n.4[2]; they ask only that the government open the same records for Movants, and that the Court hear why it has not.

V. Neither the CMO 14 footnote nor "futility" is a ground to deny expedition.

The United States suggests in a footnote, without seeking relief, that the Motion discloses "Confidential Settlement Information." Resp. at 2 n.1. The program terms at issue appear in the "*Public* Guidance" and FAQs the United States quotes; it has not moved to strike or seal anything. Movants will file any portion of the Motion under seal if the Court directs. CMO 14 protects the candor of negotiation—it does not immunize the administration of a settlement program.

The remaining objection is that the underlying Motion is "unfounded," so that expedition "would be futile." Resp. at 1, 4. That is an argument for denying the Motion after hearing it, not for letting the relief it seeks expire first. Having set out its position twice, in [D.E. 916] and again here, the United States has already borne the burden of expedition. What remains is a ruling.

CONCLUSION

The United States controls the acceptance deadline. It could hold the offers open through the Court's ruling with a one-line letter, and has declined. Movants respectfully renew their request that the Court set the Motion for hearing before September 27, 2026, or at the earliest available date; order that, pending disposition, no Movant shall be deemed to have declined an EO offer and that the acceptance period in the August 28, 2026 offer letters be held in abeyance; and grant such further relief as the Court deems just.

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[2] The United States asks whether Movants are "suggesting that the United States withdraw its offer in the *Hughes* matter." Resp. at 4 n.4. They are not, and the question should not have been asked. Movants cited *Hughes* because it shows the government determining exposure from its own records after the deadline it invoked against Movants—not because anything about that offer should change. Virginia Hughes lost her husband, Thomas, to multiple myeloma after a long illness that included the amputation of his foot. The offer she received does not approach what she lost, but it may be the only one she ever receives in her lifetime. Movants raised *Hughes* so that the six Marines before the Court would be treated as Mr. Hughes was—not so that Ms. Hughes would be treated worse.

Respectfully submitted, this the 17th day of September, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 17th day of September, 2026, I electronically filed the foregoing Reply with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record, including Lead Counsel, Co-Lead Counsel, and Liaison Counsel for the Plaintiffs' Leadership Group and counsel for the United States.

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