

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:23-CV-897**

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

**UNITED STATES' MEMORANDUM IN
OPPOSITION TO PLAINTIFFS' MOTION
FOR LEAVE TO FILE MOTION FOR
HEARING REGARDING ELECTIVE
OPTION DETERMINATIONS PURSUANT
TO CASE MANAGEMENT ORDER NO. 2**

Plaintiffs in the above-captioned cases have not demonstrated good cause to file any of their duplicative filings in the stayed individual cases—not their Motion for Hearing, not their Motion to Expedite, not their Motion to Stay, and not their latest Reply in Support. The United States respectfully urges the Court to deny Plaintiffs' Motion for Leave.

BACKGROUND

On September 10, 2026, Plaintiffs filed the Motion for Hearing Regarding the Department of Justice's Administration of Elective Option Determinations on the Court's Master Docket ("Motion for Hearing"), D.E. [913](#), despite the fact that Counsel is not part of the Plaintiffs' Leadership Group ("PLG"), and therefore is not "permitted to file in the Master Docket." *See* Case Management Order No. 2, ("CMO No. 2"), D.E. [23](#), at 3. On September 15, 2026, Counsel filed the Motion for Hearing in the above-captioned individual dockets, even though these cases are stayed. On that same date, Counsel also filed a Motion to Expedite consideration of the Motion for Hearing in each of the individual dockets. Two days later, the United States filed a response in opposition to the Plaintiffs' Motion to Expedite in the individual dockets. Plaintiffs filed a reply

that same day. On September 23, 2026, Plaintiffs filed an emergency motion on the Master Docket requesting similar relief, including a stay of the deadline for acceptance of EO offers (“Motion to Stay”). *See In re Camp Lejeune Water Litig.*, D.E. [919](#), [920](#). The next day, on September 24, 2026, the United States filed a response in opposition to Plaintiffs’ Motion to Stay. *See id.*, D.E. [922](#). That same day, the Court denied the Motion for Hearing and the Motion to Stay filed in the Master Docket without prejudice, finding, *inter alia*, that Counsel had violated CMO No. 2. *See id.*, D.E. [923](#).

On September 25, 2026, Chief Judge Myers entered an Order in one of the above Plaintiffs’ cases, Charles Metcalfe, holding that the Court “[did] not find good cause for Plaintiff to file the Motion to Expedite in Plaintiff’s stayed case involving a settlement offer.” *See Metcalfe v. United States*, No. 7:24-cv-976, D.E. 12 at 1. The Court also wrote: “If the court were to consider the merits of the Motion to Expedite, the court would decline to exercise its discretion to expedite, set a hearing, or shorten the response deadline. On the settlement offer, the court would find Plaintiff provided an insufficient basis for the requested relief.” *Id.* at 2 n.3. The Order further noted that the Court “shall consider the procedural and substantive arguments of the [Motion for Hearing] after the United States provides its response.” *Id.* at 1-2. The United States filed a response to the Motion for Hearing in the individual dockets that same day. Plaintiffs now move for leave of Court to file their original Motion for Hearing, Memorandum in Support, and a new Reply to the United States’ opposition, in the individual dockets (“Motion for Leave”).

ARGUMENT

Plaintiffs have not demonstrated good cause to this Court to file their Motion for Hearing and accompanying memoranda in the above stayed individual cases regarding the United States’ discretionary settlement program and resulting settlement offers. As laid out above, Plaintiffs have now filed four substantive, duplicative motions that assert the same arguments and request the

same relief. In their latest Reply in Support of their Motion for Hearing, Plaintiffs forecast a fifth motion. *See, e.g., Metcalfe v. United States*, 7:24-cv-976, D.E. [15-3](#) at 4 n.8 (“Should the United States decline to honor [Movants’ proposed] acceptances, Movants will move separately to enforce them; they do not seek that relief on this Motion.”).

Counsel for Plaintiffs represents to this Court that Plaintiffs Abrams, Metcalfe, and the Estate of Kopp “accepted, on September 24 and within the thirty-day period, the offers to settle ‘consistent with the CLJA Elective Option’ in the amounts the grid provides for their documented exposure, reserving all rights.” *Id.* As the correspondence attached to Plaintiffs’ Reply demonstrates, *see id.* at Exs. J and K, Counsel and Plaintiffs attempted to circumvent the deadline to respond to the United States’ August 28, 2026 offers by “accepting” offers that were never made. Plaintiffs do so under the guise that their counter amounts are, in their view, “consistent with the EO” and that the United States’ original offers “reflect a computational error.” *Id.* Plaintiffs are not in the position to determine what is consistent with the United States’ voluntary and discretionary settlement program, nor can they force the United States to offer, let alone honor an “acceptance” of, Plaintiffs’ preferred settlement amount. While Plaintiffs’ correspondence on September 24, 2026, clearly constitutes a rejection of the United States’ offers made on August 28, 2026, the United States afforded Plaintiffs the remaining time before the September 27, 2026 deadline to accept the offers the United States *actually* made. *See id.* at Ex. K. Plaintiffs did not. Because Plaintiffs chose not to accept the United States’ offers made on August 28, 2026, by the deadline, their present Motion for Leave is moot, as these offers have now expired.

In their Motion for Leave, Plaintiffs essentially suggest that the Court should consider imposing sanctions against the United States and its counsel after “a hearing to help the Court determine whether the United States and its counsel acted in bad faith while administering the EO

program to Movants.” *Id.* at 3. The United States disagrees with Plaintiffs’ characterization of the United States’ administration of its voluntary settlement program and asserts that it has acted in good faith throughout the litigation.

The United States otherwise stands on its arguments laid out in its briefs in opposition to Plaintiffs’ multiple motions on this matter. *See id.*, D.E. [10](#) (United States’ Response in Opposition to Plaintiffs’ Motion to Expedite); *id.* at D.E. [14](#) (United States’ Response in Opposition to Plaintiffs’ Motion for Hearing); *In re Camp Lejeune Water Litig.*, D.E. [922](#) (United States’ Response in Opposition to Plaintiffs’ Motion to Stay). In the interest of judicial economy, the United States does not repeat those same arguments here.

CONCLUSION

For the foregoing reasons, Plaintiffs’ Motion for Leave should be denied.

Dated: September 29, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2026, I electronically filed the foregoing using the Court's Electronic Case Filing system, which will send notice to all counsel of record.

/s/ Megan R. Gaddy
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