**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

**MOTION TO EXPEDITE CONSIDERATION OF MOTION FOR HEARING AND FOR INTERIM RELIEF**

Movants respectfully ask the Court to take up their Motion for Hearing Regarding the Department of Justice's Administration of Elective Option Determinations [D.E. 913] and Memorandum in Support [D.E. 914] (the "Motion") before September 27, 2026, and, until it does, to order that no Movant be deemed to have declined an Elective Option offer.[1]

## I. The offers expire before the Motion is briefed.

The four Elective Option ("EO") offer letters dated August 28, 2026 give thirty days to respond and provide that an offer not accepted "is considered declined and another EO offer will not be made." That date is September 27, 2026.

[1] The Motion for Hearing was initially filed on September 10, 2026 the Master Docket [D.E. 913 and D.E. 914]. Subsequently, the undersigned learned for the first time in a recent status report that the United States took issue with the location of the filing—not because the Motion may impact other similarly situated plaintiffs but because the undersigned is not a member of the Plaintiff Leadership Group [D.E. 916]. To hopefully alleviate the concerns expressed by United States in the recent status report, Movants have opted to re-file the Motion for Hearing and this Motion to Expedite on the individual case dockets instead. The PLG previously approved the undersigned's Motion for Hearing before it was originally filed on the Master Docket; however, to the extent required by CMO 2, Movants respectfully seek leave of Court to file this Motion here.

Under Local Civil Rule 7.1(f)(1), the United States' response is due on or about October 1, 2026. The offers expire before the Motion is ripe. Movants do not ask the Court to decide the Motion on a truncated record, only to preserve its ability to grant effective relief.

## II. The United States has already stated its position.

The United States has advised the Court that it "is preparing a response to this motion, but maintains that, among other issues with the Motion, this Court lacks jurisdiction over disputes related to the EO process." [D.E. 916] at 15. That question is purely legal. It requires no discovery and no evidentiary record. Nothing is gained by waiting twenty-one days for the United States to say what it has already said.

The United States' position is also not confined to these six Movants. It would foreclose review of every EO determination in this Litigation, however administered. The United States advanced it on the Master Docket, in the same filing in which it maintained that Movants must proceed on their individual dockets. [D.E. 916] at 15 & n.1. Movants do not ask the Court to resolve that tension. They ask only that a position of that breadth be heard, and answered, before the offers expire.

## III. The Court already supervises the settlement process the United States says is beyond its reach.

By Order entered June 30, 2026, the Court addressed the conduct of settlement in this Litigation. [D.E. 893]. The Order expects the PLG and DOJ to "use their best efforts to achieve a global settlement by October 30, 2026"; directs that those efforts include "streamlining . . . their approaches to settlement"; requires "appropriate counsel from the PLG and the DOJ" to attend weekly meetings with the Settlement Masters, with "no exception . . . for any week" absent the Masters' written approval; and reserves for later evaluation "other action relating to either the PLG or the Department of Justice." *Id.* at 2.

The United States has never objected to that Order and presumably attends the meetings it requires. A party that meets weekly with Settlement Masters by court order, on terms it may not vary without their written approval, and whose settlement conduct the Court has reserved for evaluation, is poorly placed to say the Court "lacks jurisdiction" over how it administers a settlement program in cases pending before it.

## IV. On September 10, 2026, the United States did for *Hughes* what it refused to do for Movants.

Movants filed the Motion on September 10, 2026 at 3:38 p.m. Eastern Time. At 5:18 p.m. that afternoon, one hour and forty minutes later, the Department of Justice transmitted to undersigned counsel an EO settlement offer in *Hughes v. United States*, No. 7:24-cv-00252, a case pending in litigation before this Court.

Eight days earlier the United States had written that it would not "consider additional documentation or re-evaluate any of the cases reviewed for EO eligibility," and that all determinations were "final" with the exception of the *Glen Ripley* case. The next morning it added that it was "not considering additional materials submitted after the deadline." [D.E. 914], Ex. G.

The *Hughes* offer exposes two flaws in that position.

The first is timing. The United States extended a new EO offer fifteen days after the August 26 deadline it invoked to refuse Movants. The review was open. It was not open to Movants.

The second is the source of the determination. Neither the undersigned nor his firm ever submitted anything to the Department of Justice for *Hughes*: no Elective Option package, no service records, no medical records, at any time. The exposure and eligibility findings behind the September 10 offer came from the government's own files. Those are the same files the United States refused to open for Movants.

The numbers make the point. In *Hughes*, the United States found approximately 386 days on base and placed the claimant in the one-to-five-year band, working only from its own records. Thirteen days earlier it placed four claimants with 510, 641, 737, and 1,156 certified days in the 30-to-364-day band, and then refused to look at its own records that show it.[2]

Movants ask one question: *why?*

The United States has never answered it. Movants ask to be heard on why they were treated differently from other Marines who served at Camp Lejeune and sought relief under the same program. That inquiry is well within this Court's jurisdiction. A full briefing schedule would not aid the Court, and would outlast the relief Movants seek.

**RELIEF REQUESTED**

WHEREFORE, Movants respectfully request that the Court:

1. Shorten the United States' time to respond to the Motion to seven days from the date of its initial filing on September 10, 2026, or to such period as will permit disposition before September 27, 2026;
2. Set the Motion for hearing before September 27, 2026;
3. Order, pending disposition, that 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
4. Grant such further relief as the Court deems just.

Respectfully submitted, this the 15th day of September, 2026.

/s/ *James Z. Foster*
James Z. Foster
NC Bar No. 60197
FOSTER LAW LLC

[2] The Department of Justice states that it works "to earn the public's trust by following the facts and the law wherever they may lead." U.S. Dep't of Justice, *About DOJ*, https://www.justice.gov/about (last visited Sept. 15, 2026).

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## CERTIFICATE OF SERVICE

I hereby certify that on this the 15th day of September, 2026, I electronically filed the foregoing Motion to Expedite 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.

/s/ *James Z. Foster*
James Z. Foster
NC Bar No. 60197

*Counsel for Plaintiffs Metcalfe, Abrams, Griffin, Kopp, Coon, and Janovitch*