

**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'
EMERGENCY MOTION FOR INTERIM
RELIEF STAYING SEPTEMBER 27, 2026
DEADLINE TO RESPOND TO ELECTIVE
OPTION OFFERS**

Over the last three years since the Elective Option (“EO”) program’s creation, the United States has reviewed hundreds of cases in the Camp Lejeune Justice Act (“CLJA”) litigation for possible EO settlements. The implementation of the EO program has resulted in over 1.1 billion dollars in settlement offers for cases in the CLJA litigation and claims in the CLJA administrative process. Plaintiffs in the above-captioned cases challenge the United States’ evaluations of their cases under this voluntary settlement framework.¹ In the present Motion, Plaintiffs claim that “the issues raised by the Motion for Hearing bear on similarly situated plaintiffs, and the United States’ position that the Court lacks jurisdiction over the EO process would foreclose review for all of them.” D.E. 920 at 1, n.1. Plaintiffs therefore ask this Court to open the door for judicial review of hundreds, if not thousands, of EO settlement determinations. Judicial review of EO determinations

¹ The United States’ response to Plaintiffs’ Motion for Hearing is forthcoming and will be filed on the Master Docket and the individual dockets of the above-captioned cases. Although, under Local Civil Rule 7.1(f)(1), the response is not due until October 1, 2026, the United States intends to file its response expeditiously.

would not only be inconsistent with the Court’s practice of not probing into the EO process— it would be impracticable.

BACKGROUND

Plaintiffs filed a Motion for Hearing Regarding the Department of Justice’s Administration of Elective Option Determinations (“Motion for Hearing”) on the Master Docket on September 10, 2026. D.E. 913, 914. The United States is preparing its response to that motion, which is due by October 1, 2026. *See* Loc. Civ. R. 7.1(f)(1). Plaintiffs filed the same motion on the individual dockets of the above-captioned cases, along with a Motion to Expedite Consideration of Motion for Hearing and for Interim Relief (“Motion to Expedite”) on September 15, 2026. *See, e.g.*, D.E. 920-2 (“Mot. To Expedite”), *Janovitch*, No. 7:24-cv-00919, [D.E. 7]. The United States filed a response in opposition to the Motion to Expedite in the individual dockets on September 17, 2026. *See, e.g.*, D.E. 920-3 (“Resp.”), *Janovitch*, No. 7:24-cv-00919, [D.E. 10]. Plaintiffs filed their reply on September 17, 2025. *See, e.g.*, D.E. 920-4 (“Reply”), *Janovitch*, No. 7:24-cv-00919, [D.E. 11]. Plaintiffs filed the present Motion, Emergency Motion for Interim Relief Staying September 27, 2026 Deadline to Response to Elective Option Offers (“Motion to Stay”), on September 23, 2026, on the Court’s Master Docket. D.E. 919, 920.

ARGUMENT

Plaintiffs’ latest Motion to Stay recycles the same arguments presented in their Motion to Expedite. Plaintiffs readily admit this: “The Motion to Expedite sought the same interim relief requested here— that the acceptance period be held in abeyance and that no Movant be deemed to have declined an EO offer.” D.E. 902 at 4, n. 2. Apparently dissatisfied that the Court has not yet ruled on their earlier motion, Plaintiffs filed a duplicative motion asserting the same arguments and seeking the same relief. Only this time, the Motion to Stay requests that this Court not allow the United States the opportunity to respond. *Id.* (“Because the United States has already stated its

position on the relief Movants seek, this Motion is ripe for ruling, and the Court need not await a further response under Local Civil Rule 7.1(f)(1)...”). That the United States responded in an expedited fashion to Plaintiffs’ separately filed Motion to Expedite does not render the Motion for Hearing or the present Motion ripe for ruling. Nevertheless, the United States is responding expeditiously to the present Motion and is preparing a response to the Plaintiffs’ Motion for Hearing that it intends to file before the October 1, 2026 filing deadline.

Plaintiffs fashion the present Motion as a motion to stay. But, it is not a motion to stay any proceeding or judgment from this Court, but rather a motion to force the United States, a party in this litigation, to keep its offers of settlement on the table for however long is convenient for Plaintiffs. Plaintiffs do not cite any support in the law for such a remedy because there is none. Rather, Plaintiffs appeal to the Court’s “power and discretion” to oversee the implementation of settlement agreements in litigation. D.E. 920 at 6 (citing *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) (internal citations omitted); *Wood v. Va. Hauling Co.*, 528 F.2d 423, 425 (4th Cir. 1975); *Hensley v. Alcon Labs., Inc.*, 277 F.3d 535, 540 (4th Cir. 2002)). Plaintiffs’ multiple duplicative motions, including the present motion and the preceding two motions, fail to appreciate the distinction between a settlement *agreement* and a settlement *offer* made through a party’s voluntary, non-binding settlement program. The cases cited by Plaintiffs further elucidate the overreaching nature of their request of this Court. *See id.*; *Hensley*, 277 F.3d at 540 (“Because *exercise of the authority to enforce settlement agreements depends on the parties’ agreement to a complete settlement*, the court cannot enforce a settlement until it concludes that a complete agreement has been reached and determines the terms and conditions of that agreement.”) (emphasis added); *Dietz*, 579 U.S. at 43 (not addressing a settlement agreement at all, but holding that “a federal district court has the inherent power to rescind a jury discharge order and recall a jury for further deliberations after

identifying an error in the jury’s verdict”); *Wood*, 528 F.2d at 425 (holding that the “task of the district court upon remand is to find, if he can, the terms of the *complete settlement agreement*, or determine that there was none”) (emphasis added).

There is no settlement agreement here for the Court to enforce, as Plaintiffs have not yet accepted the offers made to them on August 28, 2026. Plaintiffs do not dispute that a complete settlement agreement has not been reached in any of these cases. The very title of their present Motion requests interim relief with respect to the “Elective Option *Offers*.” D.E. 919, 920 (emphasis added); *see Hensley*, 277 F.3d at 541 (“If a district court concludes that no settlement agreement was reached or that agreement was not reached on all material terms, then it must deny enforcement.”). If Plaintiffs are not willing to agree to the amount or terms of the United States’ settlement offer, they are not forced to accept. Plaintiffs’ choice to either accept the offer as made on August 28, 2026, or “await a global resolution on an uncertain timetable” is a calculus often faced by parties in litigation. D.E. 920 at 5. It is not grounds for Court interference or review.²

CONCLUSION

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

² Plaintiffs claim that Magistrate Judge Jones indicated at the September 21, 2026 Status Conference that he will take up the Motion for Hearing at the October 9, 2026 Status Conference. D.E. 920 at 1, n. 1. Counsel for the above-captioned Plaintiffs was not present at the September 21, 2026 conference and is basing this assertion on what was relayed to him by members of the Plaintiffs’ Leadership Group (“PLG”). *Id.* at 4. The United States does not share the understanding of the unnamed “members of the PLG” that Magistrate Judge Jones intends to “take the matter up at the next settlement conference.” *Id.* Rather, the extent of Judge Jones’ inquiry was whether PLG had given Counsel for Plaintiffs’ permission to file the Motion for Hearing on the Master Docket.

Dated: September 24, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 24, 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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