

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NORTH CAROLINA
3)
4 CAMP LEJEUNE WATER)
5 LITIGATION,) DOCKET NO. 7:23-CV-00897-RJ
6)
7 Plaintiffs,)
8)
9 vs.)
10)
11 UNITED STATE OF AMERICA,)
12)
13 Defendant.)

9
10 TRANSCRIPT OF STATUS CONFERENCE
11 BEFORE MAGISTRATE JUDGE ROBERT B. JONES, JR.
12 MONDAY, SEPTEMBER 21, 2026; 11:05 AM
13 WILMINGTON, NORTH CAROLINA

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1 P R O C E E D I N G S

2 THE CLERK: The Direct of North Carolina is now in
3 session. The Honorable Robert B. Jones presiding. Please be
4 seated. Come to order.

5 THE COURT: Good morning.

6 MR. BELL: Good morning.

7 MR. BAIN: Good morning.

8 MR. ROBERTS: Good morning, Your Honor.

9 THE COURT: Okay. With the pre-trial developments in
10 the kidney cancer cases before Judge Boyle, what -- I had some
11 questions regarding developments in those cases that may be
12 meaningful for the other cases in this litigation. What were
13 the stipulations in those pre-trial orders?

14 MR. BELL: Good morning, Your Honor. This is --
15 sorry.

16 THE COURT: Go ahead.

17 MR. BELL: We are presently working on stipulations,
18 Your Honor. I don't think they're finalized yet, but I do
19 think we're making progress.

20 THE COURT: So what I'm getting at is what have we
21 learned taking a step forward in those cases that may be
22 helpful in understanding how the other cases may move forward?
23 For example, what are the parties doing about supplementation
24 and the material -- materials consider list? That's been a
25 large part of the status reports in the past.

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1 I'm just curious of those developments and those two
2 or four cases that may be instructive on how we can move
3 forward or how the parties will be moved forward -- moving
4 forward in the other diseases.

5 MR. ROBERTS: Your Honor, on -- go ahead.

6 MR. BAIN: Well, I was just -- to your point, Your
7 Honor, I was just going to say that the parties were able with
8 the pre-trial orders to agree to a number of stipulations
9 concerning basic plaintiff specific facts and stipulations
10 regarding the history of Camp Lejeune and the water systems
11 there. So we were able to come to some, which we can probably
12 do the same for the other cases as well.

13 But to your last point, we have reached a situation
14 where we have gotten some proposed amendments to the
15 complaints in the kidney cancer cases that we believe are
16 material changes to the conditions that the plaintiffs are
17 seeking to recover for. And we feel like we're getting very
18 late notice of these.

19 So we're continuing to meet and confer with the
20 plaintiffs on that. We've had some productive exchanges.
21 We've each compromised some, but there's still a significant
22 issue about whether the plaintiffs can bring in some of these
23 conditions that we have never had prior notice, through an
24 expert report, that they were connected to either the Camp
25 Lejeune water or the kidney cancer that's allegedly caused by

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1 the Camp Lejeune water.

2 THE COURT: Mr. Roberts or Mr. Bell?

3 MR. ELLIS: Your Honor, with respect to the --

4 THE COURT: Or Mr. Ellis?

5 MR. ELLIS: -- proposed amendments to the short form
6 complaints, we've sent those -- Mr. Bain's correct. We've
7 sent those to DOJ redlining what we're proposing to add. This
8 information is -- the amendments are sought to conform the
9 short form complaints to the evidence that's been adduced
10 during the discovery.

11 And Your Honor's I know it's familiar with the fact
12 that DOJ and Jenna Butler was instrumental in this, was
13 producing medical records -- supplemental medical records
14 every three months with respect to those medical conditions
15 that have changed. And these folks are -- they're sick and
16 medical conditions change. They're not going to remain
17 stagnant.

18 And so this -- these complaints -- we seek to amend
19 these complaints to conform to the evidence that has been
20 adduced pursuant to Rule 15. They're freely allowed. If we
21 can't agree, Mr. Bain's correct, they're ongoing discussions.
22 If we can't agree, then we'll expeditiously file a motion to
23 amend and brief it. And then if Judge Boyle would like to
24 have an order, I mean --

25 THE COURT: Yeah, those would be in individual cases.

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1 MR. ELLIS: Individual cases.

2 THE COURT: Correct?

3 MR. ELLIS: That's correct. Yes, sir.

4 THE COURT: Okay.

5 MR. ROBERTS: Do you want to address that in your --

6 THE COURT: I mean, I don't need -- I don't know that
7 I need to get too far in the weeds on these things --

8 MR. ROBERTS: Okay. But --

9 THE COURT: -- because at this point it's really --
10 and before him.

11 MR. BAIN: I think the point though, is it affects a
12 larger litigation. We have been seeking a deadline for
13 supplementation, as you recall.

14 THE COURT: So what's going on in the supplement --
15 yeah, yeah. So what's going on in supplementation?

16 MR. BAIN: Well this is part of supplementation.

17 THE COURT: Uh-huh.

18 MR. BAIN: So the plaintiffs had been producing
19 medical records periodically to us, but they had told us they
20 had not been providing them to their experts. And we had a
21 communication with them in which we asked, why are you doing
22 this? And they said, we're doing this out of the abundance of
23 caution. We're not saying that these are necessarily
24 connected --

25 THE COURT: Uh-huh.

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1 MR. BAIN: -- to the underlying conditions that we're
2 seeking compensation for.

3 So that was our understanding. And so there has been
4 no, until this time, attempt by the plaintiffs to make this
5 part of their case. So for the broader cases, we think that
6 this is why having a deadline on supplementation and revising
7 expert opinions is important, because now the plaintiffs say
8 that they may provide supplemental material on October 16th,
9 which is just ten days before the first trial is going to
10 start. And that will end up prejudicing the United States.

11 So I think this is a situation that we were trying to
12 avoid for the past year or so by having a set process for
13 supplementing and finalizing expert opinions. Now, I don't
14 think any of us realize to the plaintiffs' fair point, Judge
15 Boyle would set these trial dates so quickly and give us such
16 little time before hand.

17 THE COURT: The dog has caught the car.

18 MR. BAIN: Yes, that's right. So I don't think any
19 of us anticipated we'd have such little time, but that's the
20 position that we're in right now. And so now the plaintiffs
21 want to supplement ten days before trial, and that will be a
22 great prejudice to the United States.

23 THE COURT: Did you file -- you'd filed a motion for
24 supplementation, correct?

25 MR. BAIN: We did file a motion for a deadline,

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1 and --

2 THE COURT: But I don't think this sort of scenario
3 was forecasted in that motion; was it?

4 MR. BAIN: Well, we didn't forecast that we'd get a
5 trial date set --

6 THE COURT: Right.

7 MR. BAIN: -- in less than two months from the point
8 where we are.

9 THE COURT: Okay.

10 MR. ROBERTS: Your Honor, briefly, we have amended
11 the discovery pool profile forms. We've continually updated
12 those. It's hard for me to see how the government can say
13 they're surprised here. They've had these medical records for
14 some period of time.

15 THE COURT: Yeah.

16 MR. ROBERTS: We have provided our supplemental MCLs
17 on September 18th for expert witnesses, Gilbert, Hatton (ph.),
18 Cooper, and Del Pizzo. So there's no effort to play got you
19 here. I can tell you that, Your Honor. And if they object to
20 what we plan to try in front of Judge Boyle, I would submit
21 to, Your Honor, that that would be a matter for Judge Boyle to
22 handle.

23 THE COURT: Well, I think it is. I think it is. I
24 just wonder whether there's -- there are things that has
25 happened since the last time we met with respect to these

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1 kidney cancer cases that will be helpful in moving the other
2 cases along.

3 MR. ROBERTS: Well, Your Honor, we went at breakneck
4 speed to put our pre-trial order together for our first
5 hearing before Judge Boyle. There were a lot of exhibits.
6 There were a lot of witnesses on the list. So we've agreed
7 with the government, we are now going to substantially reduce
8 the number of exhibits and witnesses. So hopefully it'll be
9 able to move forward in an expeditious manner.

10 THE COURT: Do you think that may happen in other
11 cases as well?

12 MR. ROBERTS: Your Honor, I'm not on the other cases.
13 I'm on the kidney trial team, but I would hope that the
14 stipulations and --

15 THE COURT: Yeah, the history of Camp Lejeune is not
16 is not changing. That --

17 MR. ROBERTS: Right, exactly. And --

18 THE COURT: -- will be the other --

19 MR. ROBERTS: And our hope and expectation would be
20 that we can develop other stipulations as we work through the
21 pre-trial order. I know some have been submitted. Matt Quinn
22 of my office has kind of been taking the lead on that, but our
23 hope would be that we can cut down on having to put people up
24 there to talk about things that ought to be stipulated to.

25 THE COURT: Yeah. Okay.



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1 MR. BAIN: One of the things that we've asked for
2 Your Honor, is that the plaintiffs provide us with their
3 reduced witness list before we have to provide our witness
4 list because we don't really know what we're responding to
5 until we know what witnesses that they intend to call. Judge
6 Boyle has told us that he wants a very streamlined trial, and
7 we're going to try to do that.

8 But we're still negotiating with plaintiffs how we
9 exchange witness lists and how we exchange exhibit lists.

10 THE COURT: Right.

11 MR. BAIN: We think that they should give us their
12 witness lists first so that we can respond to it. But we
13 haven't -- we're still meeting and conferring on that.

14 THE COURT: Okay. Okay. In the -- I believe it's
15 the government's portion of the stance report on page 11,
16 there is mention of the Court's order regarding the at least
17 as likely as not burden of proof. I believe this docket entry
18 886.

19 The government states that it believes that
20 resolution of this motion before trials is necessary to
21 clarify which experts, if any, may testify at trial. I
22 thought that the Court's order at 886 did resolve the motion.
23 And if it didn't, I would assume that you raised this issue
24 with Judge Boyle?

25 MR. BAIN: We did. We raised it last week with Judge

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1 Boyle. The order of the Court took the first step towards
2 resolution of that motion, but it didn't go the next step,
3 which is to decide which experts can testify and which can't
4 testify. We are required to meet and confer with the
5 plaintiff's counsel and try to come up with experts that were
6 covered by the Court's reasoning in that order.

7 Plaintiff said none of their experts were covered by
8 the reasoning in the Court's order. We said several of their
9 experts were covered by the reasoning. We each submitted
10 competing positions on that. There are several experts in the
11 kidney cancer trial that we believe are covered by the Court's
12 order.

13 And we think it would be more efficient for that to
14 be decided before we go to trial, because some of those
15 experts could be excluded. But we will do whatever -- of
16 course Judge Boyle wants to do. We'll bring that up during
17 the trial if he doesn't resolve it in a pre-trial way.

18 There's also several other pending Daubert motions in
19 each of the cases.

20 THE COURT: Uh-huh.

21 MR. BAIN: Including in some of Judge Boyle's cases
22 that are still pending, that we still think apply to many of
23 the experts. We'll just raise those in the trial if they're
24 not decided pre-trial.

25 THE COURT: Okay.

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1 MR. BAIN: But we do think it would be more efficient
2 if they were decided pre-trial.

3 THE COURT: Okay. There's no messaging going on
4 here. I just thought that was a curious statement, and just
5 wanted to know the status of it given that you've had a chance
6 to go before district judge and talk about trial specific
7 issues.

8 Muster rolls.

9 MR. CARPENITO: Your Honor, I can provide a brief
10 update. We have responded to plaintiffs most recent letter on
11 Friday the 18th to let them know that we are discussing this
12 internally with the relevant agencies, and we will reach out
13 to them when we are ready to meet and confer.

14 THE COURT: And the issues are?

15 MR. CARPENITO: So Your Honor may recall they filed a
16 motion to compel that they ultimately withdrew.

17 THE COURT: Correct.

18 MR. CARPENITO: We produced the muster rolls.

19 THE COURT: Right.

20 MR. CARPENITO: They now have that data, and the
21 parties are discussing if and how the records can be used,
22 both in the litigation and other processes as well.

23 THE COURT: Okay. Do you all have anything to add on
24 those?

25 MR. ROBERTS: Yes, sir, Your Honor, briefly. I'm

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1 sure the Court is tired of hearing about the muster rolls. As
2 we indicated in a couple of previous hearings, we've had an
3 individual spend a lot of time, money, and effort to have a
4 program in place where if we get someone's date of birth,
5 Social Security number, or service number, he can run that
6 through the system, okay?

7 That's important because it will allow us to show
8 when the individual was on base and where he was located on
9 base. And some of these folks were there decades ago. And if
10 you look at the first page of the joint status report --

11 THE COURT: I'm circling the word ninety percent.

12 MR. ROBERTS: Yes, sir. So they're saying ninety
13 percent of the folks have not been able to qualify for an EO
14 because they're not able to provide information, including
15 presence on Camp Lejeune during the statutory period.

16 And Your Honor, what I'm struggling with -- and I
17 spoke with Mr. Bain before the hearing today. We'd like to
18 meet and confer with him after the hearing today to figure out
19 what we need to do to get this information. It's critical
20 information.

21 And as Judge Devers said, the first hearing we had in
22 Raleigh, he said, role of PLG is to find a global resolution.
23 And I cannot think of a more important tool to do that than
24 the muster rolls.

25 And so I'm not really understanding the problem, but

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1 we can't keep kicking this can down the road. We've been
2 talking about it and talking about it. We need the
3 information to both confirm EO eligibility and also for
4 litigation in the cases that are coming behind. And so,
5 again, I'm hoping we can meet after the hearing today --

6 THE COURT: We can make the jury room available to
7 you.

8 MR. ROBERTS: Yes, sir, Your Honor. And I'm just
9 having a hard time understanding what the problem is. We will
10 agree to a confidentiality order, a protective order. And so
11 the intent is not to broadcast confidential information
12 regarding other Marines to people that have no involvement in
13 a case. That's not at all what we're doing.

14 But if someone calls up and says I'm having a hard
15 time determining where my client was on base and when he was
16 on base, our person can -- assuming he's got the Social
17 Security number, the service number, he can run that
18 information through the database and come up with that
19 information in a heartbeat. It will take a -- it will save a
20 lot of time and effort on both EO process and the future
21 litigation and other cases.

22 THE COURT: Mr. Carpenito, do you all want to talk
23 about it after this hearing?

24 MR. CARPENITO: Absolutely, Your Honor. If I could
25 just clarify a couple points. First, with respect to the

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1 records used in this litigation, we've asked the plaintiffs to
2 provide proposed amended protective order language. To date
3 we have not received any of that.

4 With respect to using these records and any other
5 process outside the litigation, I would just remind the Court
6 and the plaintiffs, again, that we're dealing with records
7 that involve folks not just at Camp Lejeune. We're talking
8 military wide here. So there are substantial PII concerns.

9 THE COURT: That's just the way they're maintained,
10 right?

11 MR. CARPENITO: That's right. But they involve folks
12 that were not just present at Camp Lejeune, and so we have
13 Privacy Act concerns. And to that end, we have other agency
14 counsel that we have to discuss this with, that is what we are
15 in the process of doing right now. And I just wanted to
16 provide that update to the Court. But we are happy to meet
17 and confer with them after the hearing.

18 THE COURT: Okay. Good. Just briefly the non-PLG
19 motion that is on the Court's docket, I believe that you --
20 the government has not responded to that motion, correct?

21 MR. BAIN: Well, there was a motion to expedite in
22 that -- in those cases. We responded to that motion to
23 expedite. We noted that the cases are all stayed. We also
24 noted that we believe the motion is futile because it
25 essentially involves a voluntary settlement process that's

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1 outside the jurisdiction of the Court.

2 But we will be responding, however, either in the
3 time allowed by the rules to the underlying motion or whatever
4 the Courts in those individual cases decide need to be done
5 for those motions.

6 But those essentially are questioning government
7 decisions under its voluntary elective option settlement
8 program. And we just don't think that there's merit to that.

9 THE COURT: My understanding is that in the -- in at
10 least one of the individual cases, a statement is made that
11 the PLG gave permission for those motions to be filed; is that
12 correct?

13 MR. ROBERTS: Your Honor, I don't think we opposed
14 it.

15 THE COURT: Okay.

16 MR. ROBERTS: I was not involved in those discussions
17 with Mr. Foster. Yeah, we just didn't oppose it as I
18 understood the situation, but I could stand corrected on that.

19 THE COURT: Okay. I don't really have any other
20 to -- any of the --

21 MR. ROBERTS: Okay.

22 THE COURT: -- to ask or inquire about other than
23 that. Okay. What were the parties like to discuss?

24 MR. BELL: Nothing else from the plaintiff, Your
25 Honor.

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1 THE COURT: Mr. Bain?

2 MR. BAIN: Your Honor, we have nothing else other
3 than I'd like to introduce you to two of our new attorneys in
4 our Raleigh office, which are Lauren Morris and John Leinicke.
5 They're in our office in Raleigh.

6 THE COURT: Okay.

7 MR. LEINICKE: Good morning, Your Honor.

8 THE COURT: Well, welcome. Where did you all come
9 from?

10 MR. LEINICKE: I came from the Southern District of
11 Florida. I was an AUSA down there.

12 THE COURT: Where?

13 MR. LEINICKE: In the Southern District -- in Miami.

14 THE COURT: Okay. One of your former colleagues is
15 up here.

16 MR. LEINICKE: I understand that we had a couple
17 people move up to the great State of North Carolina in the
18 last few years.

19 THE COURT: You described it correctly. Well, good.
20 Well, welcome.

21 MS. LEINICKE: Thank you, sir.

22 THE COURT: And Ms. Morris.

23 MS. MORRIS: I'm coming here from Washington, D.C.,
24 the National Security Division.

25 THE COURT: All right. Well, welcome aboard.

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1 MS. MORRIS: Thank you.

2 MR. LEINIKE: Pleasure, Your Honor.

3 THE COURT: Okay. I've got my calendar of October.

4 How do the parties feel about October 5th, 9th, 12th, or 16th?

5 That's a Monday, Friday, Monday, Friday.

6 MR. BELL: Your Honor, October 5th is out for me if
7 it's all possible. I've got a conflict on that day.

8 THE COURT: Okay.

9 MR. BELL: But the 9th -- let me check real quick.

10 MR. BAIN: Your Honor --

11 MR. BELL: The 9th looks pretty good.

12 MR. BAIN: Your Honor, I think the 12th or if you
13 mentioned the 16th or the 19th would be good for the United
14 States. Of course, we have the trial starting on the 26th of
15 October.

16 THE COURT: Of October?

17 MR. BAIN: October, yes.

18 THE COURT: Mr. Bell, how do you feel about the
19 October 12th? That's a Monday.

20 MR. BELL: It looks okay to me, Judge. I'm just
21 scanning real quick. That's fine. Thank you for allowing me
22 to attend by phone, Your Honor.

23 THE COURT: You're welcome.

24 Okay. 11 a.m. Monday, October the 12th.

25 MR. BELL: Very well.

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1 MR. OVERHOLT: Your Honor --

2 THE COURT: Yes, sir.

3 MR. OVERHOLT: -- is October 12th Columbus Day
4 Holiday.

5 THE COURT: That's right. All right. How about
6 Friday the 9th?

7 Mr. Bain, did you say that was okay with you?

8 MR. BAIN: I think we can do the 9th, Your Honor.

9 THE COURT: Mr. Bell, what do you think about the
10 Friday the 9th?

11 MR. BELL: Yeah, Friday the 9th sounds good, Your
12 Honor.

13 THE COURT: All right. We'll set it for 11 a.m.
14 Friday, the 9th of October.

15 MR. BELL: All right.

16 THE COURT: Okay. Thank you very much. We are in
17 recess, and I'll make sure that the jury room is available for
18 you all after this. All right. Thank you.

19 (Court is adjourned)

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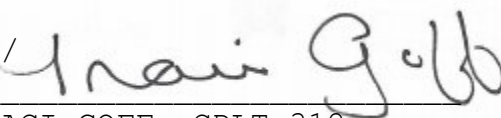
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