



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Tommy Tuberville
United States Senate
Washington, DC 20510

Dear Senator Tuberville:

Thank you for your letter to the Department of Justice (Department), dated January 26, 2024, regarding the implementation of the Camp Lejeune Justice Act of 2022 (CLJA) and the Department's views on approaches to provide eligible veterans with equitable compensation for their injuries. The Department shares your interest in ensuring the fair, efficient, and cost-effective implementation of the CLJA.

Your letter asks whether the Department is exploring administrative settlement processes, such as those that have been utilized in mass tort cases. The answer is yes. We are trying to do whatever we can to streamline the process of resolving lawful claims within the adversarial litigation process Congress adopted. The litigation remedy provided for in the CLJA leaves open individualized questions (including causation and damages) that necessarily require more time-consuming and adversarial procedures. But we are taking every step we can to promote efficient resolution of CLJA claims.

For example, the Department developed the Elective Option (EO) as an "off-ramp" to litigation for individuals who wanted an early settlement. The Department and the Navy jointly announced the EO on September 6, 2023.¹ The EO provides a framework for the Navy to resolve certain CLJA administrative claims quickly, equitably, and transparently. Within that framework, the Navy can make settlement offers to claimants with qualifying diseases that the Agency for Toxic Substances and Disease Registry has determined may be linked to chemicals found in the water at Camp Lejeune. Award amounts are tiered based on classification of the strength of evidence linking one of the chemicals detected in the Camp Lejeune water with a particular disease and the amount of time an individual spent at Camp Lejeune. Tier 1 diseases, for example, include kidney, liver, and bladder cancers and make claimants eligible for settlement offers up to \$550,000, depending upon the length of exposure and whether the individual who was exposed at Camp Lejeune died due to the disease.

¹ U.S. Dep't of Just., Press Release, September 6, 2023, "Justice Department and Department of the Navy Announce Voluntary Elective Option for More Efficient Resolution of Camp Lejeune Justice Act Claims," *available at* <https://www.justice.gov/opa/pr/justice-department-and-department-navy-announce-voluntary-elective-option-more-efficient>.

The EO process is available to all qualifying individuals. Under the EO, once the Department of the Navy receives substantiation information for the claim from an individual, the federal government will review the claim and make a settlement offer where appropriate under the EO framework. With respect to the approximately 2,000 cases filed in federal district court to date, the Department has extended EO settlement offers to all eligible cases. For the status of the Navy's review of administrative tort claims pending before it for EO settlement eligibility, we respectfully refer you to the Navy.

To date, 279 EO offers have been extended. Of these, 142 offers have been accepted, 13 have been rejected, 61 have expired without a response, and 63 remain pending. Payments have been sent for 134 accepted settlement offers— 76 from the Navy's review of administrative claims and 58 from the Department's review of pending cases. The total payments made to date amount to more than \$33.05 million. We hope the pace of settlement offers under the Elective Option will increase now that the statute of limitations has expired and the Navy's portal for claims is functional. Considering the volume of these cases and the need to expeditiously address them, the Department feels strongly that the EO process is in the best interest of many claimants.

In addition to the EO, the Department has been pursuing a potential global resolution similar to the resolution in the World Trade Center Litigation. The Department's efforts to establish a global resolution process began even before the passage of the CLJA and progressed with the drafting of a claimant questionnaire on December 7, 2022, which the Department shared with Plaintiffs' attorneys on January 20, 2023. In late 2023, the Department recommended that the Court appoint a Settlement Master to help the parties resolve any obstacles to a global resolution. As a result of these efforts, on July 9, 2024, the Court appointed Thomas Perrelli of Jenner & Block, LLP and Chris Oprison of DLA Piper LLP (US) as Settlement Masters and Magistrate Judge James Gates as Settlement Liaison.² The Parties finalized their contracts with the Settlement Masters on September 17, 2024. We hope these appointments will assist the Parties in creating and finalizing a global settlement matrix after the Court rules on important factual issues and questions of law.

The EO and the potential global resolution approach are not part of the CLJA statute.³ The CLJA established an adversarial process for resolving claims by relying on the existing tort claims process under the Federal Tort Claims Act. In that process, a claimant must first submit an administrative tort claim to the relevant federal agency before they can file a complaint in federal court. In this case, the appropriate agency is the Department of the Navy.⁴ If the Navy denies the administrative claim, or does not issue a decision within six months of the claim being presented, the claimant can then file a complaint in federal district court.⁵ Once filed in federal district court, the case proceeds in an adversarial process like any other litigation in that forum.

² *In re: Camp Lejeune Water Litigation*, No. 7:23-cv-00897-RJ, at Doc. 251 (E.D.N.C. July 19, 2023).

³ Pub. L. No. 117-168, title VIII, § 804, 136 Stat. 1802.

⁴ *Id.* § 804(h).

⁵ *Id.*; 28 U.S.C. § 2675.

Approximately 500,000 administrative claims have been submitted to the Navy, and 2,121 lawsuits have been filed in the Eastern District of North Carolina. To manage the influx of CLJA cases, the four judges of the Eastern District of North Carolina have issued orders addressing case management matters. On September 26, 2023, the Court issued an order staging discovery and trials by “tracks” of illnesses.⁶ Track 1 included 100 Plaintiffs with kidney cancer, bladder cancer, leukemia, non-Hodgkin’s Lymphoma, or Parkinson’s disease. On June 10, 2024, the Court reduced the number of Track 1 Discovery Plaintiffs from 100 to 25.⁷ On June 28, 2024, the Court further ordered that before Track 1 trials commence, it will resolve two threshold issues: (1) toxic chemical exposure from Camp Lejeune water and (2) general causation.⁸ Discovery for Track 1 Plaintiffs closed on August 11, 2024, and trials for these plaintiffs are expected to begin in mid-2025.

The Department is committed to moving the CLJA litigation toward an equitable resolution as efficiently and quickly as possible, and we will continue to work with the Navy, other relevant federal agencies, and Plaintiffs’ counsel in litigation to obtain a just resolution to the claims and lawsuits, in accordance with the law.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

**THEODORE
SCHROEDER**

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Ted Schroeder
Deputy Assistant Attorney General

⁶ *In re: Camp Lejeune Water Litigation*, No. 7:23-cv-00897-RJ, at Doc. 23 (E.D.N.C. July 19, 2023).

⁷ *Id.* at Doc. 232.

⁸ *Id.* at Doc. 247.