

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION

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IN RE: Case Number 7:23-CV-897  
CAMP LEJEUNE WATER LITIGATION

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JANUARY 9, 2026  
STATUS CONFERENCE  
BEFORE THE HONORABLE ROBERT B. JONES, JR.  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

On Behalf of the Plaintiffs:

Jenna Butler, Esquire  
A. Charles Ellis, Esquire  
Mona Lisa Wallace, Esquire (Via Telephone)  
Robin Greenwald, Esquire (Via Telephone)  
Elizabeth Cabraser, Esquire (Via Telephone)

On Behalf of the Defendant:

J. Adam Bain, Esquire  
Joshua Carpenito, Esquire  
David Ortiz, Esquire  
Giovanni Antonucci, Esquire  
Bridget Bailey Lipscomb, Esquire (Via Telephone)  
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10:45:54AM 1 (Friday, January 9, 2026 at 11:00 a.m.)

11:07:15AM 2 THE COURT: Good morning and happy new year.

11:07:18AM 3 All right. Mr. Ellis or Ms. Butler, what do you have for us?

11:07:22AM 4 MR. ELLIS: Good morning, Your Honor. As you

11:07:24AM 5 know, Mr. Bell is unable to be here. He is at a required

11:07:29AM 6 Fourth Circuit scheduling mediation conference. He regrets

11:07:32AM 7 that he cannot be here. I do not think he's on the call.

11:07:37AM 8 So Your Honor, from the PLG's perspective, just

11:07:41AM 9 a few things. One is, as Your Honor knows, there was a

11:07:45AM 10 motion to reserve -- PLG has filed a motion to reserve

11:07:48AM 11 admissibility rulings and to expedite trials. That has been

11:07:53AM 12 briefed. The PLG stands by its argument set forth in that

11:07:58AM 13 brief. That is ripe for ruling as it's fully briefed. As

11:08:03AM 14 concerns the Muster Rolls dispute, Your Honor --

11:08:08AM 15 THE COURT: You all are working on something;

11:08:10AM 16 right?

11:08:11AM 17 MR. ELLIS: We were and progress has been made.

11:08:13AM 18 THE COURT: Very good.

11:08:14AM 19 MR. ELLIS: As Your Honor knows, the motion to

11:08:15AM 20 compel was filed. And PLG had a meet and confer with the DOJ

11:08:20AM 21 in mid December, I believe it was. Agreed to a framework for

11:08:26AM 22 a review of certain Muster Roll documents, records. Limited

11:08:34AM 23 access. And subject to a protective order.

11:08:37AM 24 Your Honor knows there's a protective order in

11:08:38AM 25 place but it needs to be amended in order to allow the

11:08:43AM 1 appropriate access by PLG to those Muster Rolls. So we have  
11:08:48AM 2 had a joint motion that's been filed for a protective order.  
11:08:51AM 3 That's pending. Once that is entered, Your Honor, PLG will  
11:08:55AM 4 then review and DOJ will make those Muster Rolls records  
11:09:02AM 5 accessible. PLG will review them.

11:09:05AM 6 Subsequent to that, we will have another meet  
11:09:07AM 7 and confer to determine whatever the next steps would be  
11:09:10AM 8 depending upon the review. And then we will report back to  
11:09:13AM 9 the Court at that time.

11:09:15AM 10 THE COURT: Okay.

11:09:17AM 11 MR. ELLIS: The other issue is that there is  
11:09:20AM 12 currently a PLG motion to strike the DOJ expert Julie  
11:09:30AM 13 Goodman, her supplemental reports as being untimely and  
11:09:32AM 14 improper. That motion, Your Honor, has been fully briefed.  
11:09:36AM 15 It is ripe for review. Another issue is --

11:09:41AM 16 THE COURT: Now there's another one; right?  
11:09:43AM 17 There's another motion to strike, I think, Bailey; is that  
11:09:47AM 18 correct? Is that the Government's motion or is it your  
11:09:50AM 19 motion?

11:09:50AM 20 MS. BUTLER: That's our motion, Your Honor.

11:09:54AM 21 THE COURT: While we are on that subject, I  
11:09:56AM 22 think we would like to have a hearing on those. When would  
11:09:59AM 23 you all be available for that hearing?

11:10:04AM 24 MR. ELLIS: Your Honor, Mr. Bell -- did you say  
11:10:07AM 25 he's not on the call? We need to check with Mr. Bell. We do

11:10:11AM 1 know there was availability. He may be available to do it  
11:10:14AM 2 before then. But we do know that for purposes of the next  
11:10:15AM 3 status conference, he recommended the first week of February,  
11:10:20AM 4 anytime that week. February 2nd, I believe it is. So we  
11:10:25AM 5 know that's available. Otherwise we would need to get back  
11:10:29AM 6 to you on some other dates as concerns.

11:10:33AM 7 THE COURT: I was looking at the week of the  
11:10:35AM 8 19th or the 26th, the last two weeks of this month.

11:10:40AM 9 MR. ELLIS: Okay. With Your Honor's permission,  
11:10:41AM 10 we will check.

11:10:42AM 11 THE COURT: I will leave it up to you all to  
11:10:47AM 12 notify the Court. You can do that through email as to  
11:10:55AM 13 availability for the next status conference as well as a  
11:10:58AM 14 hearing on these motions, whether you want to do that in one  
11:11:01AM 15 single day. I am happy to hear from you on that as well.

11:11:05AM 16 MR. ELLIS: Okay. Makes sense as we think about  
11:11:09AM 17 it now. We will talk about that and make that decision and  
11:11:12AM 18 email you. Another issue that the Court is aware of is the  
11:11:21AM 19 issue with respect to the identifiers in Rubris.

11:11:26AM 20 Your Honor is aware there was an order requiring  
11:11:30AM 21 all Plaintiffs who filed short form complaints to provide  
11:11:34AM 22 information with respect to dates of birth and social  
11:11:37AM 23 security numbers. A lot -- I say a lot. Some. A good  
11:11:42AM 24 number of the Plaintiffs have not provided one or both.

11:11:47AM 25 And so PLG is working with DOJ, but PLG is

11:11:55AM 1 reaching out to those folks who those Plaintiffs who have not  
11:11:58AM 2 provided complete information through their counsel if they  
11:12:02AM 3 are represented by Plaintiffs, if they are pro se directly  
11:12:05AM 4 with the pro se to encourage them to submit the missing  
11:12:10AM 5 information. Progress is being made on that.

11:12:15AM 6 THE COURT: Okay.

11:12:16AM 7 MR. ELLIS: Similar to that, Your Honor, the  
11:12:18AM 8 questionnaires that were sent to 2,500 or so of the  
11:12:25AM 9 claimants, PLG is also working with Rubris at Rubris' request  
11:12:31AM 10 to reach out to folks who are missing information in those  
11:12:36AM 11 questionnaires.

11:12:37AM 12 Rubris will contact us, tell us this is a list  
11:12:41AM 13 of folks who are missing information in the questionnaires  
11:12:47AM 14 and here is the information the categories are missing. And  
11:12:51AM 15 then PLG will reach out through a liaison. Will reach out to  
11:12:56AM 16 those pro se Plaintiffs and encourage them to get the  
11:12:59AM 17 information submitted.

11:13:01AM 18 In that same vein, I guess, Your Honor asked in  
11:13:05AM 19 the past bring you up to date in terms of the communications  
11:13:08AM 20 with the pro se Plaintiffs and claimants. Keep up on  
11:13:15AM 21 activity in the case.

11:13:16AM 22 It's at least weekly or biweekly information  
11:13:20AM 23 will be sent. Updates with documents that have been filed in  
11:13:26AM 24 the case are sent to pro se Plaintiffs who have no access to  
11:13:30AM 25 PACER, and weekly updates generally are sent. Certainly the

11:13:37AM 1 updates from the status conferences are sent to those pro se  
11:13:40AM 2 Plaintiffs.

11:13:42AM 3 In addition, there's regular postings on the  
11:13:45AM 4 Plaintiffs' website accessible not just to the pro se but  
11:13:49AM 5 also to the Plaintiffs' counsel. And we continue to field  
11:13:55AM 6 calls from pro se litigants and Plaintiffs' counsel almost  
11:13:59AM 7 daily. Sometimes multiple times a day depending on what's  
11:14:04AM 8 happening.

11:14:05AM 9 When something happens, that increases. And so  
11:14:10AM 10 those communications are continuing to take place with  
11:14:14AM 11 regularity and frequently. I will be glad to answer any  
11:14:19AM 12 questions you have about any of that.

11:14:20AM 13 There is an offset of damages issue, the issues  
11:14:23AM 14 with respect to discovery and briefing. And Ms. Butler is  
11:14:27AM 15 front and center with that and is prepared to address that  
11:14:30AM 16 with the Court's permission.

11:14:31AM 17 THE COURT: Okay.

11:14:33AM 18 MS. BUTLER: Your Honor, thank you.

11:14:35AM 19 First of all, as far as scheduling -- and I did  
11:14:38AM 20 discuss this with Mr. Bain and his team ahead of time.  
11:14:42AM 21 Currently so expert reports were initially served. The DOJ's  
11:14:47AM 22 responsive reports were served, and our rebuttals are due on  
11:14:50AM 23 January 19th which is the MLK holiday.

11:14:54AM 24 This has arisen with respect to support staff  
11:14:57AM 25 not being available and things of that nature. And so we had

11:15:00AM 1 asked if I think in accordance with the rules we can roll  
11:15:03AM 2 that over to January 20th. And Mr. Bain has indicated that  
11:15:08AM 3 the Government does not have an objection to that. So with  
11:15:11AM 4 your permission --

11:15:12AM 5 THE COURT: That's fine.

11:15:14AM 6 MS. BUTLER: Thank you. Also the parties are in  
11:15:17AM 7 the process as noted in the status conference of conferring  
11:15:21AM 8 about a briefing schedule for Daubert motions and summary  
11:15:25AM 9 judgment motions.

11:15:26AM 10 THE COURT: On offsets?

11:15:27AM 11 MS. BUTLER: Yes. A couple of things I just  
11:15:30AM 12 wanted to clarify on with respect to that. First of all, as  
11:15:35AM 13 you may recall from the last status conference, I know it was  
11:15:45AM 14 -- I know that status conference was over a month ago, but we  
11:15:48AM 15 had a pretty robust discussion about the fact that there are  
11:15:51AM 16 some threshold statutory interpretation type of issues having  
11:15:57AM 17 to do with damages and offsets that we do think would benefit  
11:16:00AM 18 both sides to have decided. And you had given us the green  
11:16:03AM 19 light.

11:16:04AM 20 Let me back up. The Government had indicated  
11:16:06AM 21 they just can't stipulate to statutory interpretation issues.  
11:16:11AM 22 And you had given us the green light to file a motion on  
11:16:15AM 23 threshold issues. We are in the process of preparing that  
11:16:18AM 24 and hope to have that in the next couple weeks.

11:16:22AM 25 So this briefing schedule that is noted in the

11:16:25AM 1 status conference report has to do with admissibility of  
11:16:29AM 2 experts, Daubert motions, and summary judgment but not the  
11:16:33AM 3 threshold evidence.

11:16:33AM 4 THE COURT: Not the threshold.

11:16:36AM 5 MS. BUTLER: Correct. So we are working on that  
11:16:38AM 6 threshold motion. And because of that, the briefing schedule  
11:16:43AM 7 for damages and offsets should be limited really to  
11:16:47AM 8 admissibility of experts and also any summary judgment  
11:16:53AM 9 motions that might still remain after the motion in limine,  
11:16:57AM 10 the threshold issue motion is decided. So I don't think it  
11:17:01AM 11 will be as robust of a briefing situation as has occurred in  
11:17:07AM 12 other phases.

11:17:09AM 13 In addition, consistent with our motion to  
11:17:11AM 14 expedite trials, those admissibility determinations on those  
11:17:15AM 15 experts, as we have suggested for other experts, can be  
11:17:20AM 16 reserved for determination at the trial. And any summary  
11:17:24AM 17 judgment issues could be decided during the trials as well or  
11:17:32AM 18 do not need to be completed as far as briefing because  
11:17:35AM 19 damages and offsets will come toward the end of those trials.

11:17:38AM 20 So any damages and offset briefing schedule that  
11:17:43AM 21 we will be proposing to the Court for admissibility of expert  
11:17:49AM 22 motions like Daubert motions and summary judgment motions  
11:17:52AM 23 should in no way prevent the Court from scheduling these  
11:17:56AM 24 trials expeditiously. We do not see that as any reason for  
11:17:59AM 25 delay.

11:18:00AM 1 And we believe that that briefing could even be  
11:18:03AM 2 going on at the same time as the trials commence depending if  
11:18:07AM 3 the Court starts with one disease or all diseases. And  
11:18:12AM 4 consistent with our motion to expedite, I wanted to note  
11:18:15AM 5 that, for example, we have proposed that one disease go  
11:18:19AM 6 forward first. And we have used kidney as an example.

11:18:24AM 7 Similar to what we have argued in that motion to  
11:18:27AM 8 expedite which I understand we are not arguing today but any  
11:18:32AM 9 issues that might arise with damages and offsets in the  
11:18:35AM 10 kidney situation would be crosscutting across diseases. So  
11:18:40AM 11 again, it would serve as an exemplary basis for the other  
11:18:45AM 12 trials.

11:18:45AM 13 So I just want to be abundantly clear that any  
11:18:50AM 14 proposed briefing schedule for admissibility of expert  
11:18:53AM 15 motions and summary judgment motions on damages and offsets  
11:18:58AM 16 should be no cause for delay in setting trials.

11:19:01AM 17 And we will be getting this threshold motion  
11:19:05AM 18 filed very soon, we hope, so that the kind of threshold  
11:19:10AM 19 statutory interpretation issues like what evidence should be  
11:19:13AM 20 precluded or allowed can be determined in advance.

11:19:17AM 21 THE COURT: In advance of?

11:19:18AM 22 MS. BUTLER: Even completion of expert  
11:19:21AM 23 depositions because they are evidentiary issues and statutory  
11:19:25AM 24 interpretation issues. They don't rely on expert testimony.

11:19:29AM 25 THE COURT: And that's a decision for the entire

11:19:31AM 1 Court; right?

11:19:32AM 2 MS. BUTLER: I would think so because it's, I  
11:19:35AM 3 mean, it's statutory interpretation.

11:19:37AM 4 THE COURT: It's going to affect every case;  
11:19:40AM 5 right?

11:19:40AM 6 MS. BUTLER: Yes, Your Honor. And not just --

11:19:43AM 7 THE COURT: May have different damages in each  
11:19:45AM 8 case but the interpretation --

11:19:47AM 9 MS. BUTLER: The issues that we will be raising  
11:19:49AM 10 in this threshold motion are crosscutting against all  
11:19:52AM 11 diseases and all tracks.

11:19:54AM 12 THE COURT: Okay.

11:19:55AM 13 MS. BUTLER: So that was the first thing. And  
11:19:57AM 14 we do have a meet and confer scheduled for Monday. And they  
11:20:02AM 15 have gotten us a proposed motion on the Daubert and summary  
11:20:07AM 16 judgment briefing schedule, and we need to get back to them.

11:20:11AM 17 We just haven't had a chance to do that yet, but  
11:20:14AM 18 we are in the process. But I just wanted to be very clear  
11:20:17AM 19 that that does not include this threshold motion which we are  
11:20:20AM 20 preparing expeditiously.

11:20:22AM 21 THE COURT: When do you think that will be  
11:20:23AM 22 filed, your threshold motion?

11:20:25AM 23 MS. BUTLER: We are hoping by the week of the  
11:20:28AM 24 26th, if not before. We were hoping to get it filed around  
11:20:34AM 25 the same time as our rebuttal reports are served which is the

11:20:39AM 1 20th. But I can't make any promises because there's a lot  
11:20:44AM 2 going on right now. But that week I would anticipate that  
11:20:49AM 3 week of the 19th.

11:20:56AM 4 THE COURT: Okay.

11:20:58AM 5 MS. BUTLER: So that's the first issue. Second,  
11:21:05AM 6 we had noted in the status report -- and it is not an issue  
11:21:09AM 7 that I am bringing before you. It's an issue that I am  
11:21:11AM 8 forecasting could be a problem. We are continuing to get  
11:21:16AM 9 additional offset data.

11:21:20AM 10 In the status report for the December 3rd  
11:21:25AM 11 conference and, again, in this status report, the DOJ has  
11:21:28AM 12 stated that they are still in the process of updating certain  
11:21:33AM 13 previously gathered offset information.

11:21:35AM 14 THE COURT: What's the nature of that  
11:21:36AM 15 information?

11:21:37AM 16 MS. BUTLER: Well, so for example, just this  
11:21:40AM 17 week on the 7th, we received a whole new Excel for Medicare.  
11:21:49AM 18 The problem is that we have -- it's been -- we have gotten  
11:21:53AM 19 this big Excel that has all these names and data and it's  
11:21:58AM 20 incumbent now on us because we haven't received any  
11:22:02AM 21 indication as to what's new and what's old.

11:22:05AM 22 We are having to compare it against their last  
11:22:07AM 23 production, and that's very burdensome on us while we are  
11:22:10AM 24 still in the process of preparing rebuttal reports. After  
11:22:13AM 25 the last status conference on December 5th, we received

11:22:18AM 1 similar information for TRICARE.

11:22:20AM 2 THE COURT: These are payments made by Medicare  
11:22:22AM 3 and TRICARE?

11:22:23AM 4 MS. BUTLER: Yes. For example, for TRICARE,  
11:22:25AM 5 there was a Plaintiff that had been inadvertently per the DOJ  
11:22:31AM 6 inadvertently left off but we still we received all this  
11:22:35AM 7 information. And we had to go through and say, okay, is this  
11:22:37AM 8 the only new information.

11:22:39AM 9 THE COURT: These are just the Track 1; right?

11:22:42AM 10 MS. BUTLER: Correct.

11:22:43AM 11 THE COURT: So it's what now? 22?

11:22:48AM 12 MS. BUTLER: Yes. 21. How many do we have?  
11:22:53AM 13 22. Sorry. Yes, 22. So anyway, we are working with what  
11:23:00AM 14 they are giving us. I just wanted to note that it concerns  
11:23:02AM 15 us that they say they are still -- and I think we have  
11:23:06AM 16 indicated that we would like to have a discussion with them  
11:23:09AM 17 about deadlines for damages and offset information.

11:23:13AM 18 They have indicated they want deadlines for  
11:23:15AM 19 damages information. But, I mean, offsets should  
11:23:18AM 20 correspondingly be cut off at some point, too. So I am just  
11:23:23AM 21 forecasting this. We are working with what we have received.

11:23:26AM 22 We hope that perhaps these are the only two big  
11:23:31AM 23 additional data sets we are going to receive. But the status  
11:23:36AM 24 report kind of indicates otherwise, and so I am just kind of  
11:23:39AM 25 noting for the Court that we may have to bring this before

11:23:42AM 1 you but we hope not. We hope we can discuss with them and  
11:23:45AM 2 work things out as we have on a number of issues.

11:23:49AM 3 THE COURT: Okay.

11:23:50AM 4 MS. BUTLER: So I think those were the primary  
11:23:54AM 5 issues that I wanted to bring before the Court on damages and  
11:23:57AM 6 offsets. And, of course, if there's anything additional, I  
11:24:00AM 7 will be glad to answer any questions.

11:24:01AM 8 THE COURT: Is it just payment information? Is  
11:24:03AM 9 that what the nature of all of this supplementation is?

11:24:07AM 10 MS. BUTLER: So, for example, if you have  
11:24:10AM 11 TRICARE, it's their billing data.

11:24:12AM 12 THE COURT: Which is what?

11:24:13AM 13 MS. BUTLER: Which is this Plaintiff came in for  
11:24:16AM 14 this procedure and here is the amount that was billed for  
11:24:23AM 15 that visit. But it's these big Excel spreadsheets primarily.  
11:24:27AM 16 It's data extractions that they have had agencies pull  
11:24:32AM 17 running ICD-9, ICD-10 codes, social security numbers, and  
11:24:36AM 18 Plaintiff names.

11:24:39AM 19 So they are these big data sets that like, for  
11:24:44AM 20 example, it would have been nice if we had only received that  
11:24:48AM 21 one Plaintiff instead of the whole data set again because  
11:24:51AM 22 then we had to go back and try to compare. Anyway, we will  
11:24:55AM 23 discuss that with them and hopefully these are limited  
11:24:58AM 24 circumstances and we can work this out.

11:25:01AM 25 THE COURT: So you don't know whether it's new

11:25:02AM 1 information. You know it's information. You don't know if  
11:25:06AM 2 it's new information or whether it's new information plus  
11:25:10AM 3 previously produced information.

11:25:12AM 4 MS. BUTLER: And to date it appears that it's  
11:25:14AM 5 the old plus some new. And they can clarify.

11:25:20AM 6 THE COURT: What you are doing is comparing a  
11:25:23AM 7 document, a bill, to one you received previously.

11:25:27AM 8 MS. BUTLER: We are comparing the data extract  
11:25:30AM 9 they had produced previously with the new data extract they  
11:25:33AM 10 are sending to us. And these are big data extracts, and it  
11:25:37AM 11 is beyond my capability to tell you how we are going about  
11:25:39AM 12 that, but we have somebody going about that.

11:25:42AM 13 And point being that hopefully we are not going  
11:25:46AM 14 to be receiving a lot more new information and hopefully when  
11:25:49AM 15 we do receive it, it's in a kind of more narrow category of  
11:25:54AM 16 so and so had an appointment a month ago and here is some  
11:25:59AM 17 additional billing. Because we understand that treatment is  
11:26:05AM 18 ongoing. I mean, we have the same issue with damages.

11:26:08AM 19 THE COURT: Billing doesn't always keep up with  
11:26:11AM 20 treatment.

11:26:12AM 21 MS. BUTLER: Correct. It comes later sometimes.

11:26:14AM 22 THE COURT: Billing comes the day of and then  
11:26:16AM 23 maybe a few months later.

11:26:19AM 24 MS. BUTLER: I think that's part of the problem  
11:26:20AM 25 is that it's all ongoing and obviously these are very sick

11:26:26AM 1 individuals who are increasing in age and have ongoing  
11:26:30AM 2 treatment. And so this is a continuing issue that we both  
11:26:36AM 3 need to deal with and discuss.

11:26:38AM 4 But we were surprised to receive these two big  
11:26:42AM 5 data set productions recently, and we are hopeful that we are  
11:26:48AM 6 not going to keep receiving these big productions where it's  
11:26:51AM 7 old information combined with possibly some new and that we  
11:26:55AM 8 can limit it to something similar that we have been doing  
11:26:58AM 9 with the DPPF forms where we update just with more recent  
11:27:03AM 10 information that we have acquired.

11:27:06AM 11 THE COURT: Okay.

11:27:09AM 12 MS. BUTLER: If that makes sense.

11:27:12AM 13 THE COURT: Yes.

11:27:13AM 14 MS. BUTLER: I was just flagging that.

11:27:14AM 15 Hopefully it's not anything we have to bring before you  
11:27:17AM 16 again.

11:27:17AM 17 THE COURT: Okay. Thank you.

11:27:19AM 18 MS. BUTLER: And I think that addresses the  
11:27:22AM 19 issues. We hope to be getting you that motion on the expert  
11:27:27AM 20 motion and summary judgment briefing schedule. But again, I  
11:27:31AM 21 just want to reiterate that it is the PLG's position that  
11:27:34AM 22 none of that should prevent trials from being set.

11:27:37AM 23 THE COURT: How should the Court consider those  
11:27:39AM 24 proposed deadlines, the Daubert on the experts? How should  
11:27:46AM 25 the Court consider those proposed deadlines and the briefing

11:27:52AM 1 that you are going to be doing, the parties will be doing on  
11:27:54AM 2 the threshold issue?

11:27:55AM 3 MS. BUTLER: So the threshold issues, as you  
11:27:59AM 4 noted, are --

11:28:01AM 5 THE COURT: How does the threshold decision  
11:28:02AM 6 affect your deadlines on the Daubert?

11:28:08AM 7 MS. BUTLER: It should not affect those  
11:28:10AM 8 deadlines, although we would hope to have a determination on  
11:28:13AM 9 the threshold issues before that briefing because  
11:28:18AM 10 determination on the threshold issues could preclude a lot of  
11:28:21AM 11 that briefing.

11:28:22AM 12 THE COURT: Yeah. That's what I am asking. All  
11:28:26AM 13 right.

11:28:26AM 14 MS. BUTLER: That's the hope, and that's the  
11:28:27AM 15 reason we want to file this threshold motion because we think  
11:28:30AM 16 it could save a lot of judicial time and time and expense of  
11:28:34AM 17 the parties. And that was the point that was argued the last  
11:28:37AM 18 time and the green light that was given because these  
11:28:41AM 19 evidentiary issues could really prevent a lot of waste of  
11:28:46AM 20 resources.

11:28:47AM 21 THE COURT: Okay. Is that it from PLG?

11:28:51AM 22 MR. ELLIS: Yes, Your Honor.

11:28:52AM 23 THE COURT: All right. Mr. Bain?

11:28:55AM 24 MR. BAIN: Your Honor, I am glad that Ms. Butler  
11:28:56AM 25 said that resolution of evidentiary issues could save

11:29:01AM 1 resources of the parties. That is exactly the reason that we  
11:29:04AM 2 are opposing their motion to expedite trials and upset the  
11:29:08AM 3 Court's determination of threshold issues on water  
11:29:09AM 4 contamination and general causation first before trials on  
11:29:16AM 5 individual cases.

11:29:17AM 6 As Plaintiffs have suggested, their motion to  
11:29:23AM 7 expedite trials has been fully briefed. The Daubert motions  
11:29:26AM 8 on Phase II and Phase III have been fully briefed and are  
11:29:29AM 9 before the Court. And we think that those should proceed as  
11:29:32AM 10 the Court has planned to deal with the threshold issues, the  
11:29:35AM 11 water contamination, and general causation before proceeding  
11:29:39AM 12 to trials.

11:29:42AM 13 With respect to the motions for Dr. Goodman and  
11:29:46AM 14 Dr. Bailey, we weren't prepared to address those today but we  
11:29:49AM 15 are certainly prepared to come to a hearing within the next  
11:29:51AM 16 few weeks. Those experts are incredibly important for the  
11:29:55AM 17 opinions that they offer.

11:29:57AM 18 We could be available any time during the week  
11:29:59AM 19 of January 19th. Unfortunately, the 28th and 29th will not  
11:30:04AM 20 work for me but we can confer with the Plaintiffs on the best  
11:30:09AM 21 date for that particular hearing.

11:30:12AM 22 I'd like Mr. Ortiz to address the damages issues  
11:30:16AM 23 that Ms. Butler just addressed.

11:30:20AM 24 MR. ORTIZ: David Ortiz on behalf of the United  
11:30:23AM 25 States. Your Honor, just on the supplementation piece, Your

11:30:26AM 1 Honor will recall there were two data sets as Ms. Butler  
11:30:30AM 2 described, TRICARE and Medicare. TRICARE was produced in  
11:30:35AM 3 early December, on December 5th, and then an ESI protocol  
11:30:41AM 4 conversion on December 9th. So that was out in December.

11:30:45AM 5 THE COURT: So that's been produced. Is it  
11:30:47AM 6 current?

11:30:47AM 7 MR. ORTIZ: Correct. It is with the caveat so  
11:30:51AM 8 as Ms. Butler described, as a general matter, these folks we  
11:30:56AM 9 will need to supplement both damages and offsets generally  
11:31:00AM 10 before trial. And we are happy to and welcome an opportunity  
11:31:05AM 11 to discuss with Plaintiffs some sort of final supplementation  
11:31:10AM 12 date for both damages and offsets.

11:31:11AM 13 So we don't have another TRICARE data set in  
11:31:16AM 14 coming down the works. But generally, yes, it will need to  
11:31:20AM 15 between now and the appropriate time need to be supplemented  
11:31:24AM 16 so that the Court has the most current data at the  
11:31:27AM 17 appropriate time.

11:31:28AM 18 And then with respect to the Medicare data, we  
11:31:32AM 19 got that out as soon as we could earlier this week as soon as  
11:31:36AM 20 it had been received. And it is a large data sheet. So for  
11:31:43AM 21 Medicare, we became aware that there were a couple Plaintiffs  
11:31:48AM 22 who had enrolled in Medicare and had Medicare claims after we  
11:31:53AM 23 had previously gathered that data. So that's why we went  
11:31:56AM 24 back and refreshed that data, so to speak.

11:31:59AM 25 THE COURT: Is that current?

11:32:00AM 1 MR. ORTIZ: It is.

11:32:01AM 2 THE COURT: As far as you know.

11:32:03AM 3 MR. ORTIZ: Yes, yes. And same caveat but it is

11:32:06AM 4 and it includes there were originally 10 Plaintiffs who were

11:32:11AM 5 enrolled in Medicare and had Medicare claims and then there

11:32:14AM 6 were 3 more who had enrolled since we originally identified

11:32:18AM 7 those 10. So those are on there as well.

11:32:21AM 8 Some of that information was a little bit

11:32:24AM 9 duplicative of records that the PLG had produced to us,

11:32:29AM 10 billing records and such. But that is current.

11:32:31AM 11 THE COURT: Can you point out to them when you

11:32:33AM 12 make a production that this information, this part, Pages 1

11:32:40AM 13 through 80 may be duplicative of what you already have?

11:32:45AM 14 MR. ORTIZ: We will have to discuss that. I

11:32:47AM 15 don't know technically if we can. I certainly understand the

11:32:49AM 16 concern, and it's not something on our part where we are

11:32:52AM 17 trying to burden them unnecessarily.

11:32:54AM 18 THE COURT: I mean, I think you do under the

11:32:56AM 19 rules; right? When you produce documents, you have the

11:32:59AM 20 burden of identifying what it is you are producing.

11:33:02AM 21 MR. ORTIZ: I believe that's correct, Your

11:33:04AM 22 Honor, and we would be welcome to have that discussion with

11:33:06AM 23 them about ways we can do that. Perhaps similar to DPPF as

11:33:12AM 24 well as a final supplementation date and not just for damages

11:33:16AM 25 but for all expert issues as well and we have that I believe

11:33:19AM 1 in the joint status report for some time.

11:33:23AM 2 And then with respect to the briefing schedule,

11:33:26AM 3 I don't think we disagree with what Ms. Butler outlined. I

11:33:31AM 4 think we would note that the motion on threshold statutory

11:33:35AM 5 interpretation issues would fall as a non-discovery motion.

11:33:39AM 6 And so our understanding was it would be subject to the

11:33:45AM 7 default rules for time to respond.

11:33:48AM 8 THE COURT: That's a good point. You all have

11:33:50AM 9 been talking about this. This is not a new, novel issue, I

11:33:53AM 10 would imagine.

11:33:55AM 11 MR. ORTIZ: The statutory interpretation issues?

11:33:58AM 12 Correct. Yes. And I think under the --

11:33:59AM 13 THE COURT: It's a novel statute, but you all

11:34:02AM 14 have been talking about it for a while.

11:34:04AM 15 MR. ORTIZ: Correct. We know what some of those

11:34:05AM 16 are, and we don't know exactly what they will raise. And we

11:34:08AM 17 are evaluating ourselves whether we want to file something on

11:34:11AM 18 similar lines. But under the local civil rules, it would be

11:34:16AM 19 three weeks to respond and two weeks for any replies.

11:34:21AM 20 THE COURT: Do you have an opinion whether that

11:34:22AM 21 should be shortened?

11:34:24AM 22 MR. ORTIZ: I don't think we have discussed it.

11:34:28AM 23 I think we would be happy to discuss it. I think we want to

11:34:33AM 24 make sure those issues are adequately briefed. They are

11:34:38AM 25 really important to the issues and the scope of the statute,

11:34:40AM 1 so we would be happy to discuss that.

11:34:42AM 2 THE COURT: I have no doubt that you can  
11:34:47AM 3 advocate effectively in a motion. I don't know that you need  
11:34:54AM 4 two weeks to do that. Again because it sounds like you all  
11:34:58AM 5 have been discussing this already.

11:35:03AM 6 MS. BUTLER: Your Honor, we have proposed  
11:35:04AM 7 stipulations on two occasions, and those stipulations largely  
11:35:09AM 8 address a lot of the issues that will be in our motion. And  
11:35:13AM 9 it is because of their inability to stipulate that this  
11:35:17AM 10 threshold motion is --

11:35:18AM 11 THE COURT: I understand. But my concern is the  
11:35:20AM 12 time.

11:35:21AM 13 MS. BUTLER: Right.

11:35:21AM 14 THE COURT: My concern is the time.

11:35:23AM 15 MS. BUTLER: I was just looking. So let's just  
11:35:25AM 16 say we get our motion filed by the 23rd. I mean, three weeks  
11:35:32AM 17 would be February 13 and then two weeks for reply it would be  
11:35:36AM 18 all briefed by the end of February.

11:35:37AM 19 THE COURT: But if it's going to affect your  
11:35:39AM 20 proposed schedule.

11:35:41AM 21 MS. BUTLER: I agree.

11:35:41AM 22 THE COURT: I want to be mindful of the  
11:35:44AM 23 schedule.

11:35:44AM 24 MS. BUTLER: I think we can shorten those  
11:35:46AM 25 deadlines and tighten them up.

11:35:48AM 1 THE COURT: It's their brief; right?

11:35:50AM 2 MS. BUTLER: Well, they are talking about also

11:35:52AM 3 filing one so which is the first I heard of that. So I guess

11:35:57AM 4 it might run both ways. But yes, as proposed right now, we

11:36:03AM 5 are working on a motion. We will be filing a motion. So the

11:36:06AM 6 response to that motion would be theirs. Yes, Your Honor.

11:36:11AM 7 MR. ORTIZ: If I may, Your Honor, I agree

11:36:13AM 8 certainly these issues aren't novel. There are many damages

11:36:18AM 9 depositions that are probably going to all be clustered into

11:36:23AM 10 February. So there's a lot going on, and I would be

11:36:25AM 11 concerned to make sure that's fully and adequately briefed.

11:36:30AM 12 THE COURT: Keep in mind these are briefs that

11:36:35AM 13 four different chambers are going to be reading and there are

11:36:42AM 14 four different Judges weighing in on it, not just one. So

11:36:45AM 15 that may take some time.

11:36:50AM 16 MR. ORTIZ: Understood, Your Honor.

11:36:53AM 17 MS. BUTLER: We will try to file our motion as

11:36:56AM 18 quickly as possible. I do think the deadlines could be

11:37:01AM 19 tightened up. But again, as you noted, if they don't file a

11:37:07AM 20 motion, it's their response. If they do file a motion, we

11:37:10AM 21 will also have a response. We are working very hard to try

11:37:14AM 22 to get this motion filed as quickly as possible.

11:37:20AM 23 THE COURT: What kind of motion would it be?

11:37:22AM 24 MS. BUTLER: So we have looked at a motion in

11:37:24AM 25 limine which is what was used for vapor intrusion to exclude

11:37:29AM 1 evidence, for example --

11:37:30AM 2 THE COURT: And you saw how long that took.

11:37:32AM 3 MS. BUTLER: Well, that's a concern, of course.

11:37:37AM 4 THE COURT: That involved recommendations. I

11:37:40AM 5 don't know that this would.

11:37:42AM 6 MS. BUTLER: Right. But we are looking at the  
11:37:43AM 7 motion in limine vehicle to exclude evidence, for example, of  
11:37:47AM 8 TRICARE as an offset because the statute does not allow for  
11:37:51AM 9 TRICARE as an offset. That's an example.

11:37:56AM 10 THE COURT: So it would be an exclusion motion.

11:38:04AM 11 MS. BUTLER: For example, we will be asking that  
11:38:09AM 12 the Court exclude evidence of future disability payments as  
11:38:13AM 13 an offset because the statute says that offsets are allowed  
11:38:18AM 14 for disability awards or payments provided which we believe  
11:38:22AM 15 means already provided at the time and does not extend to the  
11:38:27AM 16 future.

11:38:28AM 17 So, for example, if the Court were to agree with  
11:38:30AM 18 us, that would exclude which they are now claiming offsets  
11:38:38AM 19 for future disability. We also have other issues with regard  
11:38:43AM 20 to even trying to calculate future disability given the  
11:38:48AM 21 fluctuations and lack of reliability in doing that. But the  
11:38:52AM 22 threshold issue would be is it even allowed under the  
11:38:55AM 23 statute.

11:38:56AM 24 THE COURT: So the parties need clarification on  
11:38:58AM 25 what is and what are, what are not damages so that they can

11:39:04AM 1 most effectively depose their experts.

11:39:09AM 2 MS. BUTLER: It's really what offsets are

11:39:10AM 3 allowed. And then if an offset is allowed, it is our

11:39:15AM 4 position that that thereby is proof of the corresponding

11:39:22AM 5 damage and they should wash out.

11:39:23AM 6 So if all of that is ruled upon and the Court

11:39:30AM 7 agrees with our interpretation, it does away with a lot of

11:39:34AM 8 the evidence and the time and the expense that we are going

11:39:39AM 9 through right now because if an offset is allowed and we

11:39:46AM 10 believe it shows because proof of an offset means that the

11:39:50AM 11 Government has reliably proven that that amount was incurred

11:39:55AM 12 for the medical care of the Plaintiff, that same proof should

11:40:01AM 13 demonstrate that the Plaintiff incurred that medical care.

11:40:06AM 14 And, therefore, those numbers should wash. And,

11:40:10AM 15 in fact, the parties are in the process that particular past

11:40:14AM 16 medical care example which also applies to disability but the

11:40:18AM 17 past medical care we are still working on trying to find some

11:40:22AM 18 stipulations on those issues because it should be a wash.

11:40:26AM 19 And we are still in communication and I think

11:40:34AM 20 the Government would agree that we are still trying really

11:40:38AM 21 hard to reach agreement on that. But because we haven't so

11:40:41AM 22 far, we really want to get those issues before the Court.

11:40:46AM 23 Because if it's all a wash, it saves a lot of time and

11:40:49AM 24 expense.

11:40:50AM 25 THE COURT: Okay. Mr. Ortiz, back to you.

11:40:53AM 1 MR. ORTIZ: Your Honor, we did receive some  
11:40:55AM 2 proposed stipulations, as Ms. Butler referenced, earlier this  
11:40:59AM 3 week, Wednesday evening. So we are looking at those. Your  
11:41:03AM 4 Honor might recall there was some discussion about what we  
11:41:05AM 5 could stipulate to. And our position is we can't stipulate  
11:41:09AM 6 to pure questions of statutory interpretation. Those are for  
11:41:14AM 7 the Court.

11:41:14AM 8 This is a little bit different. It's along the  
11:41:16AM 9 lines we've been inviting for some time so we certainly  
11:41:20AM 10 welcome engaging in that process for PLG to try to narrow the  
11:41:24AM 11 issues while remaining faithful to the text of the statute.  
11:41:29AM 12 So I agree on that. We are still working hard on  
11:41:32AM 13 stipulations there.

11:41:35AM 14 THE COURT: Okay.

11:41:38AM 15 MR. ORTIZ: I don't know that we disagree about  
11:41:39AM 16 a motion in limine being an appropriate vehicle for these  
11:41:43AM 17 statutory interpretation questions. We definitely agree they  
11:41:48AM 18 are important questions about the scope of the statute and  
11:41:50AM 19 its text and its purpose that should be resolved and would be  
11:41:54AM 20 beneficial, mutually beneficial to the parties if it were.

11:42:00AM 21 THE COURT: Okay.

11:42:01AM 22 MR. ORTIZ: I am happy to address any other  
11:42:02AM 23 questions Your Honor may have.

11:42:05AM 24 THE COURT: No. I just have a concern about  
11:42:09AM 25 timing. All right. Continue to confer and see if you can

11:42:15AM 1 reach some agreement on these so that you wouldn't have to  
11:42:22AM 2 spend time filing a motion and the Court delaying the case.

11:42:27AM 3 MR. ORTIZ: Thank you, Your Honor.

11:42:28AM 4 MS. BUTLER: Yes, Your Honor.

11:42:30AM 5 THE COURT: Anything else?

11:42:33AM 6 MR. CARPENITO: Your Honor, if I may, Joshua  
11:42:34AM 7 Carpenito for the United States. With respect to the Muster  
11:42:37AM 8 Rolls, I generally agree with the update that the Plaintiffs  
11:42:40AM 9 provided. There are a couple of details that I want to  
11:42:42AM 10 ensure that the Court is aware of.

11:42:44AM 11 Plaintiffs have agreed to carry the cost and pay  
11:42:47AM 12 for any of the downloading of these records. They have also  
11:42:51AM 13 agreed to produce to the United States any of the records  
11:42:53AM 14 that are downloaded pursuant to the ESI protocol at the time  
11:42:59AM 15 they go in and do this initial records review to essentially  
11:43:03AM 16 determine if and how they want to use these documents.

11:43:06AM 17 We will need to confer on a separate and  
11:43:09AM 18 subsequent amendment to the protective order depending on  
11:43:12AM 19 PLG's proposed use and disclosure of those records.

11:43:19AM 20 THE COURT: You are waiting on a protective  
11:43:21AM 21 order; right? From this Court?

11:43:23AM 22 MR. CARPENITO: That's correct.

11:43:24AM 23 THE COURT: But that's not the one you are  
11:43:25AM 24 referring to.

11:43:26AM 25 MR. CARPENITO: That is correct.

11:43:26AM 1 MS. BUTLER: That's correct.

11:43:29AM 2 MR. CARPENITO: Your Honor, that's all that I

11:43:30AM 3 have. Thank you.

11:43:33AM 4 MR. BAIN: The other things I would like to

11:43:35AM 5 bring up, Your Honor, is that with respect to all this

11:43:38AM 6 discussion about damages, the United States would be prepared

11:43:41AM 7 to go forward with an evidentiary hearing on Phase I if the

11:43:44AM 8 Court deems that's necessary while this damages discovery and

11:43:48AM 9 briefing is going on to keep moving this case forward.

11:43:51AM 10 So I wanted to make it clear that we are still

11:43:54AM 11 able to go forward with that hearing expeditiously to try to

11:43:59AM 12 move this case along. We believe that resolution of the

11:44:01AM 13 water contamination will -- contamination issue will greatly

11:44:04AM 14 assist in global resolution.

11:44:07AM 15 The other thing I wanted to mention with respect

11:44:09AM 16 to global resolution was that you may recall Mr. Bell

11:44:14AM 17 requested at the last hearing that a Navy representative come

11:44:18AM 18 to the court and discuss the Elective Option process with

11:44:21AM 19 you. We mentioned that such individual would be available at

11:44:24AM 20 the mediation that we had. So that did occur on December

11:44:27AM 21 17th.

11:44:29AM 22 We had a mediation with PLG and the settlement

11:44:33AM 23 masters. The head of the Camp Lejeune Claim Unit came to

11:44:38AM 24 that virtually and discussed many statistics with respect to

11:44:44AM 25 the Elective Option process and how it was going with respect

11:44:47AM 1 to different injuries and different law firms and the  
11:44:50AM 2 substantiation that they were providing.

11:44:53AM 3 The Plaintiffs Leadership Group was offered the  
11:44:55AM 4 opportunity to ask questions and did so for an extended  
11:44:59AM 5 period of time. So I just wanted to inform the Court that  
11:45:02AM 6 that had taken place.

11:45:04AM 7 THE COURT: Thank you. Anything else?

11:45:19AM 8 MR. ELLIS: No, sir.

11:45:19AM 9 THE COURT: Let's look at the week of the 19th,  
11:45:21AM 10 the week of the 26th for a date that we can have another  
11:45:30AM 11 status conference and a hearing on those motions to strike.  
11:45:32AM 12 And if you would just email Mr. Sotelo with available dates,  
11:45:38AM 13 of course, keeping everybody on the email chain. Okay?  
11:45:45AM 14 Thank you very much.

11:45:55AM 15 (The status conference concluded at 11:45 a.m.)

16 C E R T I F I C A T I O N

17  
18 I certify that the foregoing is a correct  
19 transcript from the record of proceedings in the  
20 above-entitled matter.

21  
22 /s/ Bobbie J. Shanfelder

23 Bobbie J. Shanfelder, RDR, CRR

24 Official Court Reporter

25 Date: January 12, 2026