

US Law Week
Jan. 4, 2024, 5:05 AM EST

Quick Camp Lejeune Payout Unlikely for Most, Claim Data Shows

By Kaustuv Basu and Jon Meltzer

Exclusive

- Lawsuits poised to surge after filing deadline
- More than 40% of claimants cite two or more illnesses

More than 85% of the people seeking compensation for exposure to toxic water at Camp Lejeune wouldn't qualify for the early resolution payouts offered by the government, according to preliminary data culled from thousands of potential claimants.

The small pool of eligible applicants, as determined in an analysis by data management firm SimplyConvert, suggests an additional tens or even hundreds of thousands of claims filed with the Navy before the August deadline might be disputed and end up in court. It could also mean many claimants will die before collecting a payout.

"So many of these claimants are older, are very sick, and likely do not have years to wait for a trial," Jessie Hoerman, the founder and CEO of SimplyConvert, told Bloomberg Law.

The firm, which calls itself "the premier legal tech platform" for personal injury and mass tort plaintiffs lawyers, built a database of more than 123,000 potential Camp Lejeune claimants, including those who haven't yet filed with the government, based on client information supplied by more than 220 law firms.

It declined to release the raw data or the names of its firms or their clients, citing confidentiality. But in response to a request from Bloomberg Law, SimplyConvert analyzed the self-reported information and attempted to offer a glimpse of the potential claimants and their common illnesses in a case likely to rival the largest mass torts in history.

Few Quick Settlements?

An early resolution program, also known as the elective option, offers quick payouts, but has requirements that significantly limit the pool of eligibility.

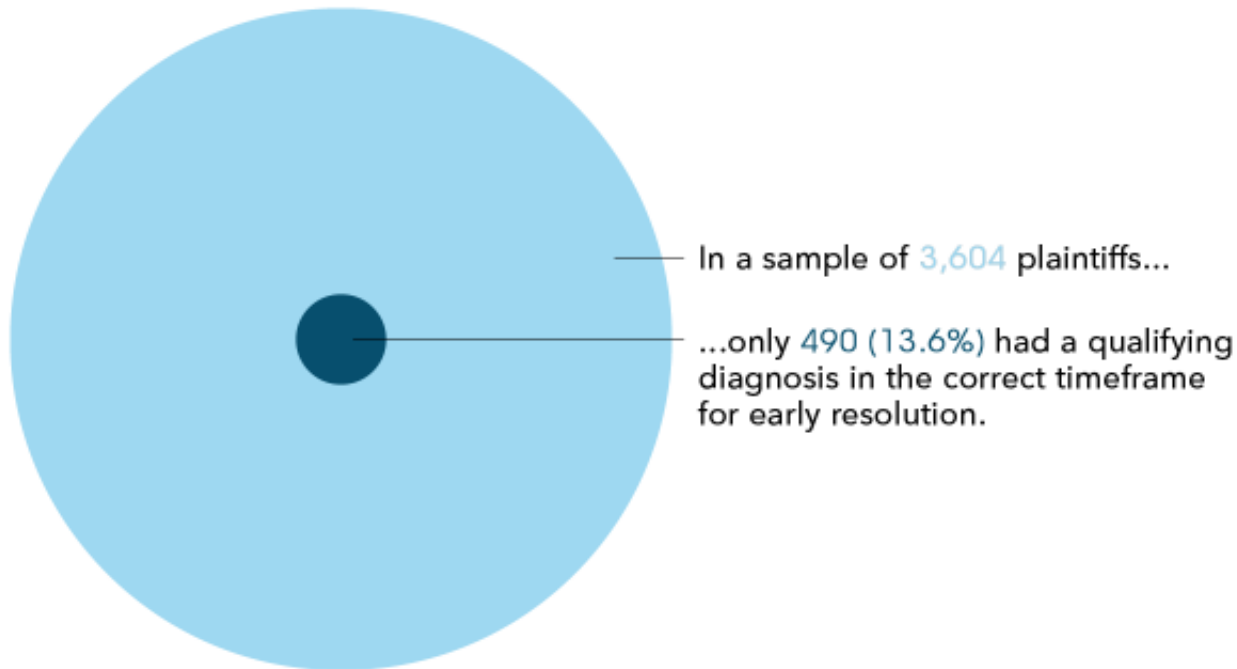


Chart: Jon Meltzer/Bloomberg Law
Source: SimplyConvert

Bloomberg Law

In court filings, the Navy said it has received at least 152,000 claims for compensation on behalf of Camp Lejeune veterans, workers, or other people who spent at least a month on the base when its water was contaminated.

Those whose claims are rejected or unresolved can sue. More than 1,550 lawsuits have already been filed in the Eastern District of North Carolina.

The early resolution program, also called the “elective option,” was announced by the Navy in September. It’s designed to improve the pace of compensating sick or dying veterans by expediting payouts of between \$100,000 and \$550,000 to those who qualify based on their time at the base and their illness. Confirmed diagnoses must typically occur within 35 years after a claimant left Camp Lejeune.

The elective option was unveiled months after Judge James C. Dever III, one of four North Carolina judges overseeing the Camp Lejeune lawsuits, had warned lawyers that resolving all the claims might take the length of the Roman Empire if they didn’t seek to streamline the process.

Multiple Diagnoses

Of 123,236 possible claimants, more than 40%, or 50,915, report having at least two illnesses that could make them eligible for compensation.

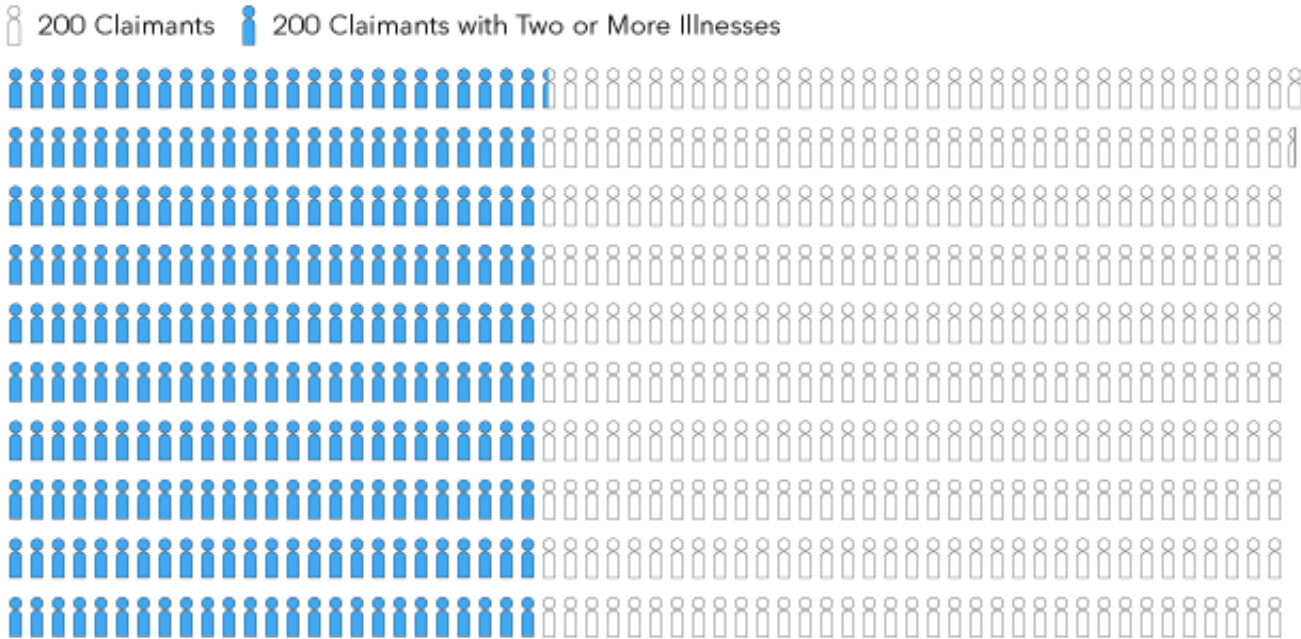


Chart: Jon Meltzer/Bloomberg Law
Source: SimplyConvert

Bloomberg Law

The Justice Department declined to comment on the data analysis. In court filings, its lawyers said the department had approved 52 early resolution offers and that 28 other claims currently in litigation appear to meet the criteria for an expedited payout. They also said \$2.05 million has already been paid to resolve eight claims.

A Navy spokesperson said in an email that “more robust metrics related to the new Elective Option framework are anticipated after the New Year.”

John Masslon, a senior litigation counsel for the Washington Legal Foundation, which advocates for limited government and free markets, said limiting options for quick resolutions will likely benefit only the plaintiffs’ lawyers.

“Most plaintiffs are going to have to go through the lengthy administrative process and sue,” Masslon said. “This costs taxpayers a lot of money because they must pay for the administrative process, the legal process, the defense, and any potential judgment.”

J. Edward Bell III, the South Carolina attorney leading the group of plaintiffs’ lawyers overseeing the litigation, declined to comment on the data findings and referred Bloomberg Law to a public relations firm, the Dewey Square Group, that didn’t respond to a request for comment.

The SimplyConvert analysis also found that 50,915, or 41.3% of all the potential claims in its database, cite two or more diseases that could make them eligible for compensation.

Common Illnesses

Below are some of the serious conditions most often reported from a sample of 46,567 potential claimants.

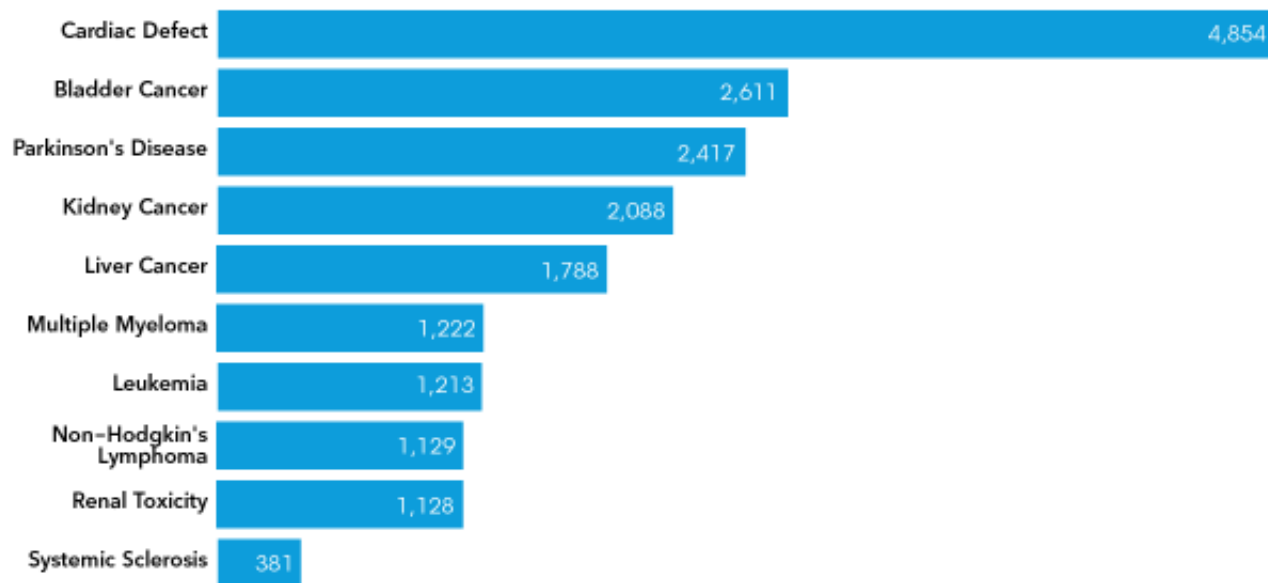


Chart: Jon Meltzer/Bloomberg Law
Source: SimplyConvert

Bloomberg Law

Some are from people still living with their illnesses; others come from the relatives of former Camp Lejeune veterans or workers who have since died. The average age of death for most of the deceased claimants was in the mid-60s, the data shows.

Compensating the families of decedents presents another challenge, according to Samir Parikh, a professor at the Lewis & Clark Law School in Portland, Ore.

"Their relatives will still hold a claim but bills and expenses pending today cannot be addressed with some vague promise of future recovery," said Parikh, who has researched mass tort cases and reviewed the SimplyConvert summary data.

A Ticking Clock

For some diagnoses eligible for early resolution, approximately half the claims involve Camp Lejeune residents or workers who have died. Among claimants with:

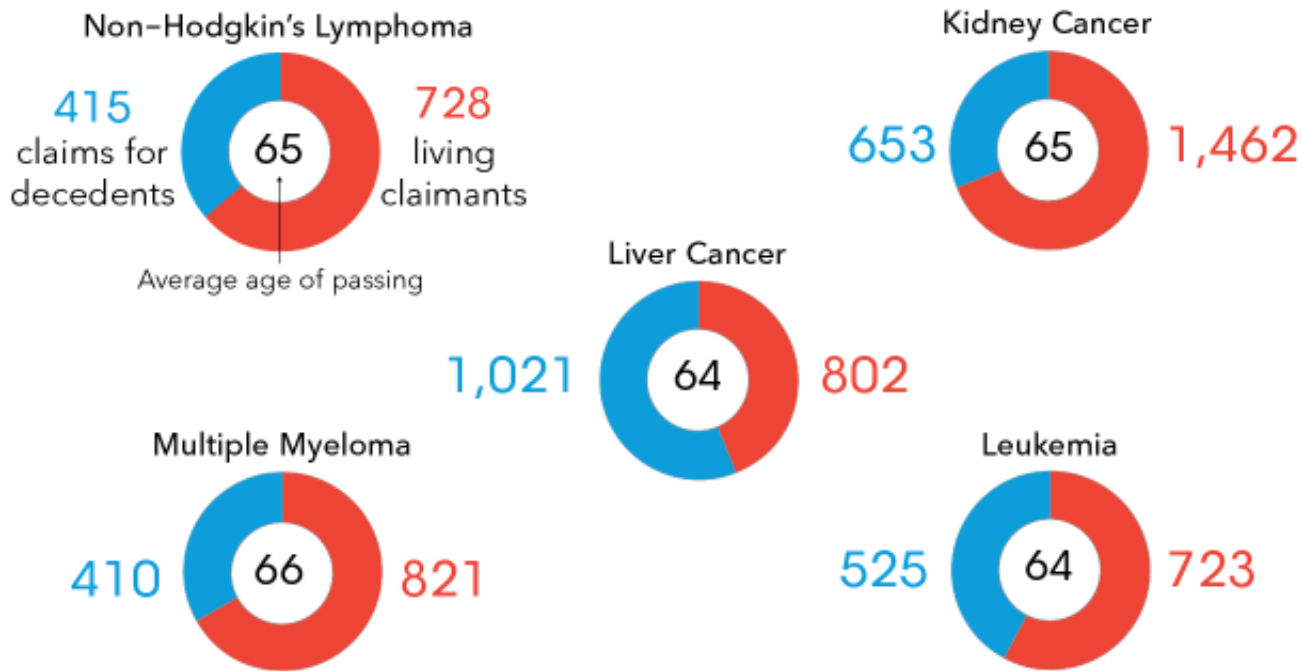


Chart: Jon Meltzer/Bloomberg Law
Source: SimplyConvert

Bloomberg Law

The data also shows at least 19 different medical diagnoses cited by potential claimants. The most common illnesses include various forms of cancer, cardiac defects, and Parkinson's disease. A government-funded study released in spring 2023 found higher-than-normal rates of Parkinson's among Camp Lejeune veterans, and the Department of Veterans Affairs in November expanded health coverage for such veterans.

The North Carolina court is expected to move forward on a handful of bellwether trials, possibly later in 2024. The results of those trials could help accelerate broader settlement talks, but a timeline remains uncertain.

One unresolved legal battle is whether claimants who sue will get jury trials or have their cases decided by a judge. Government attorneys contend Congress didn't intend for jury trials when it passed the Camp Lejeune Justice Act in August 2022. Some claimants and their lawyers say that would rob them of the opportunity to publicly share the impact of the contamination.

The government has projected it could pay as much as \$21 billion to compensate hundreds of thousands of people sickened by the toxic water on the Marine base between the 1950s and 1980s. Barely a year after Congress approved the program, the compensation demands already filed had topped \$3 trillion, government lawyers said.

Hoerman, the SimplyConvert CEO, said she hopes the data analysis will help identify which cases are appropriate for settlement and which cases need to move forward in the courts. For some claimants, she said, the best outcome will be to help them be comfortable in the short term.

— With assistance from Nicole Sadek.

To contact the reporters on this story: Kaustuv Basu in Washington at kbasu@bloombergindustry.com; Jon Meltzer in Washington at jmeltzer@bloombergindustry.com

To contact the editors responsible for this story: John P. Martin at jmartin1@bloombergindustry.com; Nicholas Datlowe at ndatlowe@bloombergindustry.com

© 2024 Bloomberg Industry Group, Inc. All Rights Reserved