Marine Sees Finish Line in Camp Lejeune Fight but Hurdles Remain

By Kaustuv Basu

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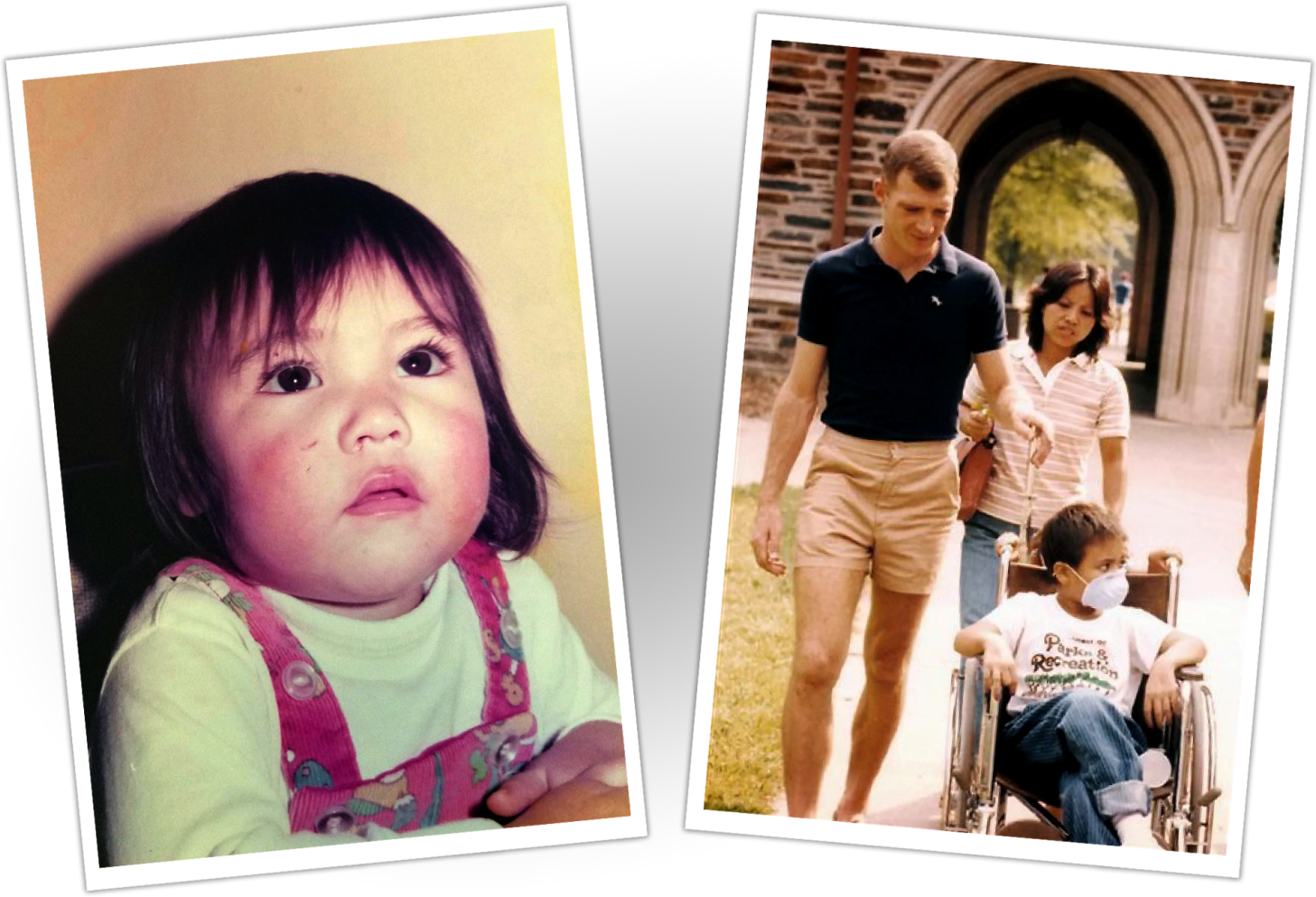
Onslow Beach stretches for miles along the North Carolina coast, oceanfront where American troops trained for the D-Day landings in Normandy.

It's here that Jerry Ensminger would take walks with his young daughter, Janey, scouring the sand for shells and shark teeth as the two grappled with the leukemia that was slowly killing her.

Chemotherapy had made her hair fall out, and she'd come home crying from school after being relentlessly teased. "We'd ride out there to the beach and try to make some sense of what the hell she was going through," her father said.

Nearly 40 years have passed but Ensminger returns every so often to the same shore, at the edge of Camp Lejeune, and did so again one day last month. The lapping waves have a calming effect, and bring him a sense of communing with Janey, who died at the age of nine.



Janey was the second of Ensminger's four daughters. Photos: Courtesy of Jerry Ensminger

His journey that started with her 1985 death feels like it's nearing a finish line: Since Congress agreed last year to compensate veterans, workers or their relatives who contracted cancer, Parkinson's, or other diseases from toxic water at the base, more than 129,000 have submitted claims, with thousands more expected before the deadline in August.

The airwaves and internet are saturated with ads seeking claimants and promising quick settlements of at least $100,000; the government has issued its first few payouts; and the lawyers and judges are negotiating a plan to manage what could be tens of thousands of lawsuits over disputed claims.

The case is poised to rival the largest-ever mass torts, with a key difference. Those

pitted victims against multinational corporations like Bayer and 3M, whose lawyers battled for years over claims before reaching settlements.

In this one, a decades-long campaign by veterans and others led the government to finally acknowledge wrongdoing and agree to compensate those who were sickened or died. Then the claims started rolling in. (Congressional analysts projected the US would ultimately pay out as much as $21 billion; Justice Department lawyers have since disclosed that paying the claims filed so far would cost more than $3 trillion.)

Tainted Waters

No single source has been blamed for the Camp Lejeune contamination. The government points to underground storage tanks, spills, and improper disposal of chemical solvents by the Marine Corps and an off-base dry cleaner.

Contamination areas

Graphic: David Evans/Bloomberg Law
Sources: Department of Health and Human Services and the US Department of Veteran Affairs.

Bloomberg Law

Still, hurdles remain. Unresolved is whether veterans whose compensation claims are rejected by the government can request jury trials, as well as a provision to limit the fees charged by plaintiffs' lawyers. Bogus claims have also been sneaking into the pipeline.

The Navy, which oversees the Marine Corps, has also been slow to respond to veterans. It had hoped to launch an online portal by summer for quick filing of claims; by late fall that had not happened.

Ensminger, a former Marine drill instructor, has been arguably the most visible and vocal veteran on the issue, testifying nine times on Capitol Hill since 2004, and meeting with presidents Barack Obama and Joe Biden as each signed legislation to help Camp Lejeune victims.

The one-time master sergeant turned 71 on July 4 and has watched as fellow veterans died of illnesses they blamed on Camp Lejeune. Meanwhile, Janey's case file sits with the others waiting for action in court.

"I wish I could see the end of it," Ensminger said after walking the beach a few days before Veterans' Day. "Right now, I'm not sure."

Living a 'Nightmare'

Ensminger lives in Elizabethtown, N.C., about 100 miles west of Camp Lejeune, with his wife Stephanie and their two dogs on a seven-acre property. When he's not tending to his four beehives, or his plots of mustard, sweetcorn, and blueberries, he retreats to a small office in the Modern Victorian-style house.

There, documents and CDs about the water contamination on the base jostle for space with his collection of muzzleloaders and rifles. A red medallion on his desk says "LIVING THE CAMP LEJEUNE NIGHTMARE."

Leaning against one wall is a framed poster touting “Semper Fi: Always Faithful,” a documentary that chronicled the battle by Ensminger and others to hold the Marine Corps and the government accountable. When it came out, he took one of the shark teeth Janey found on the beach, put it on a gold chain and presented it to Rachel Libert, one of the directors. That was more than a decade ago.

About one million people were potentially exposed to the contaminated drinking and bath water at the base from the 1950s to the 1980s. No single source has been blamed. The government has cited leaks from underground storage tanks and drums, spills, and improper disposal of chemical solvents by the Marine Corps and an off-base dry cleaner, ABC One-Hour Cleaners.

Documented diseases from those leakages include kidney cancer, liver cancer, leukemia, and bladder cancer.

Ensminger, the son of a union pipe fitter and part-time farmer, grew up in Chambersburg, Pa., about 20 miles west of Gettysburg. He was inspired to serve by his older brother, a Marine who was seriously injured by an explosion in Vietnam. Ensminger joined the corps in 1970 and never got to Vietnam. But he spent the next two decades-and-a-half as a Marine, serving in Japan and Norway, and at Camp Lejeune.

Janey, he has pointed out, was the only one of his four daughters to be conceived, carried, or born at the base. Twelve years after her death, a government study concluded that Camp Lejeune residents and workers had been exposed to harmful contaminants. Ensminger was retired by then and poured his energy into getting more answers.

These days, he relentlessly monitors the court dockets. About 1,400 lawsuits have been filed so far in the US District Court for the Eastern District of North Carolina, most of them claims that the Navy had rejected or failed to act on within six months of receiving them.

A handful of bellwether trials—whose outcomes could shape broader settlement talks—are expected to begin next year.

Two unsettled disputes could slow the process.

The first is a bid to limit legal fees in the case.

An early draft of what would become the 2022 Camp Lejeune Justice Act barred lawyers from charging fees greater than 25% of the payouts to victims. But that provision was dropped from the final bill after a million-dollar lobbying campaign by J. Edward Bell III, the South Carolina plaintiffs lawyer who worked for years on legislation for victims and ultimately was appointed the lead counsel for the lawsuits.

Critics in Congress, outraged by reports of lawyers asking sick or dying veterans to fork over 40% or more of any award, succeeded in persuading the Justice Department this fall to make a move to limit attorney fees, again no higher than 25%, as a condition of any payout.

Ensminger is more focused on the second issue, the possibility that veterans who sue won't get to present their cases to a jury.

Government attorneys argued in a filing last month that plaintiffs have a right to a jury trial "only where Congress has affirmatively and unambiguously granted that right." It claimed that the Camp Lejeune Justice Act didn't specify that.

Lawyers for the victims urged the court in a reply to reject what they called the government's "misguided" effort to ensure the cases are decided by judges alone.

To Ensminger, it's an affront.

"We're military people. We serve to protect this democracy," he said over lunch at a Mexican restaurant in Elizabethtown. "Our Constitution guarantees us a right by trial by a jury of our peers."

An Unexpected Pairing

Mike Partain was born on the base in 1968 and developed male breast cancer as an adult. In 2007, he was at the doctor's office for post-operative care when his dad, a Marine officer, saw Ensminger talking on CNN about Camp Lejeune babies affected by the toxic water.

Soon, Ensminger and Partain were talking nightly on the phone, sometimes until 3 a.m.

Mike Partain / Photographer: Kaustuv Basu/Bloomberg Law

Partain, who has worked as a high school history teacher and insurance claims adjuster, brought computer skills and a gift for understanding complex documents. He created a 56-page timeline outlining the contamination at Camp Lejeune, the subsequent environmental studies, and investigations.

The pair traveled together to Washington, D.C., more than 50 times as they pressed for legislation. Both say the illnesses and the stress of battling the government played roles in ending their first marriages.

They now work for Perfected Claims, a company that helps mass tort law firms find clients. Their main job: to educate attorneys about the history of water contamination on the base and hold informational meetings about the Camp Lejeune Justice Act.

Partain is cancer-free, but still goes every year for scans and a checkup. “That is when I feel it the most … survivors call it scan-xiety,” he said.

He lives about an hour north of Tampa, Fla., but has returned to the sprawling 240-square mile base so many times that he seems to know the streets, the checkerboard water towers, and the water-monitoring wells by heart. He spews a torrent of information on Well 651, a contaminated water source on the base, and Hadnot Point and Tarawa Terrace, where volatile organic compounds were detected in the water treatment plants.

When he and Ensminger go to Camp Lejeune these days, they make sure to bring along bottled water.

A Deep Disdain

Jacksonville, the small North Carolina city where the base is located, is a military town. It’s home to more than 100,000 active and retired Marines, their families, and civilian workers, and an economic engine for the region.

Marines are everywhere, so the talk of the toxic water is never too far away.

Marines participate in combat training at Camp Lejeune. Photographer: Scott Olson/Getty Images

Partain was poking at his provolone and ham Italian sub at a Jersey Mike's sandwich shop in Jacksonville one afternoon last month when two women at the next table joined the conversation. They had overheard him reminiscing about David Bedworth, a Camp Lejeune veteran who died in 2013 of prostate cancer and a brain tumor. Partain had visited him the day before his death.

"He was in a hospital bed in his home," Partain said. "He was just a shell of a man."

The women, Jodie Davis and Lisa Ortiz, are sisters who said they grew up on the base. Their father, Earl Lawson, a Camp Lejeune veteran, was battling bone and prostate cancer when he died in a vehicle crash in 2020, they said.

And they too have endured a litany of health problems, they told Partain. Between them, they have had four miscarriages, Davis and Ortiz said. One said she has advanced kidney failure.

The sisters plan to file compensation claims before the August deadline, they said.

After a few minutes, Davis realized she had seen Partain before, as an organizer of Camp Lejeune Toxic Water Survivors, a Facebook group with more than 20,000 members. “I know you!” she said.

Both Partain and Ensminger have grown accustomed to the occasional attention, and a steady stream of questions from veterans and their relatives.

They understand, given their backgrounds. Partain likes to say that there’s been a family member in uniform since the Civil War.

But those family traditions are withering. Partain’s son and daughter quickly gave up on their ambitions of enlisting once they found out more about Camp Lejeune and their dad’s cancer, he said.

Ensminger’s disdain runs as deep.

“I never thought I’d say this. But I can honestly say that I would not recommend people allow their kids to join the military,” the former drill instructor said. “Not until they can stand up and say that they’re going to do what’s right.”

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