

No. _____

In the
Supreme Court of the United States

JAMES NATHANIEL DOUSE,
Petitioner,
v.

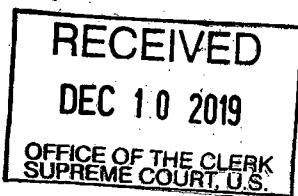
UNITED STATES OF AMERICA, *et al.*,
Respondents.

On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Eleventh Circuit

PETITION FOR WRIT OF CERTIORARI

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Petitioner Pro Se



QUESTIONS PRESENTED

QUESTIONS A through K. Pursuant to Rule 10 and Rule 11. Answering these short questions will resolve our issues and concerns with The Eleventh Circuit Court of Appeals, The Federal District Court of Northern Georgia and The Intent of North Carolina State Legislator.

I am currently 100% permanently and Total Disabled because of my consumption of Camp Lejeune Toxic Water, November 1976 to January 1977 as a Private Citizen. See N.C. Disability Statutes See Appendix, App.47-52.

While the Camp Lejeune North Carolina Toxic Water situation was tragic, the North Carolina Disability Laws enclosed and North Carolina Failure to Warn Statutes enclosed are Mandatory Directives, enacted before year 1961, . . . in which both of these Laws and Statutes were ignored by both the District Court and Eleventh Circuit Court of Appeals. These North Carolina Disability Laws and North Carolina Failure to Warn Statutes will ultimately show that my Claim is Timely, Filed in year 2012, and the cause of my Disabilities and Injuries as a Private Citizen where the many negligent decisions made by the Defendants. See Camp Lejeune Toxic-Water-Map, App. 53.

A). Petitioner seeks review of North Carolina State Disability Law § 1-17(a) Disabilities. Whether this Statute is applicable to an ex-serviceman and or private citizen living as a private citizen on a U.S. Military Base that was Not engaged in Military Activities nor Duties.

The Statute Provides: "A person entitled to commence an action who is under a disability at the time the cause of action accrued may bring his or her action within the time limited in this Subchapter, after the disability is removed, except in an action for the recovery of real property, or to make an entry or defense founded on the title of real property, or to rents and services out of the property, when the person must commence his or her, or make the entry, within three years next after the removal of the disability, and no time thereafter.

For the purpose of the section, a person is under a disability if the person meets one or more of the following conditions:

- (1) The person is within the age of 18 years.
- (2) The person is insane.
- (3) The person is incompetent as defined in G.S. § 35A-1101(7)(8)."

Subchapter I. Proceedings to Determine
Incompetence
Article 1.

Determination of incompetence

Gen Stat § 35A-1101.—Definitions

When used in this Subchapter

- (7) "Incompetent adult" means an adult or emancipated minor who "lacks sufficient capacity to manage the adult's own affairs or to make or communicate important decisions concerning the

adult's person, family or property whether the lack of capacity is due to mental illness, mental retardation, **epilepsy**, cerebral palsy, autism, inebriety, senility, **disease, injury, or similar cause or condition**"

(8) "Incompetent child" means a minor who is at least 17 1/2 years of age and who, other than by reason of minority lacks sufficient capacity to make or communicate the important decision concerning the child's person, family, or property, whether the lack of capacity is due to mental illness, mental retardation, **epilepsy**, cerebral palsy, autism, inebriety, **disease, injury, or similar cause or condition**.

B). Petitioner seeks review of the North Carolina Law § 1-19. Cumulative disabilities.

(Does Supervenes Diseases include Latent Diseases?) seeing that This Statute Provides: "When two or more disabilities coexist at the time the right of action accrues, or when one disability supervenes an existing one, the limitation does, North Carolinas' Statute of Limitation nor and North Carolinas' Statute of Repose, not attach until they all are (Disabilities) removed."

Under North Carolina Law § 1-19 is "Supervenes Diseases" constructed or Interpreted as Latent Diseases? and Does Latent Diseases includes Supervenes Diseases?

C). Petitioner seeks review Whether A Petitioner at age 19 years old in December 1976 and Pursuant to North Carolina State Disability Law § 1-17(a).

Would that person be considered disabled if he met one or more of the following condition: (1) the person is within the age of 18 years; (2) the person is insane; (3) the person is incompetent as defined in N.C. Gen Stat § 35A-1101(7) or (8). In general, the Federal Tort Claims Act (“FTCA”) waives the United States’ sovereign immunity when its employees act negligently within the scope of their official duties. See 39 U.S.C. § 409 (c); 28 U.S.C. § 1346(b)(1).

The Petitioner Claim arose out of the Personal Injury . . . as a Private Citizen.

D). Petitioner seeks review Whether the United States is liable. . . .

Where a Claim is Timely filed under North Carolina Disability Laws: North Carolina Disability § 1-17; North Carolina Disability § 1-19; North Carolina Disability § 1-20; AND North Carolina Law § 35A-1101(7) and (8). Definitions., Where North Carolina Disability Laws allow the Timeliness of Petitioners Claim and govern the Timeliness of a Petitioner’s Claim even if the petitioner file his claim more than 12 years after unknowingly consumed Camp Lejeune Toxic Water?

The FTCA makes the United States liable “in the same manner and to the same extent as a private individual under like circumstances.” 28 U.S.C. § 2674; see also id. § 1346(b)(1) (the United States may be held liable in tort for the actions or omissions of its employees “under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place

where the act or omission occurred). . . which would be The State of North Carolina Law is what Governs Timeliness of a claim and is where the act occurred.

E). Petitioner seeks review whether North Carolina Statutes:

North Carolina State Disability Law § 1-17 together with

North Carolina State Disability Law § 1-19.
Cumulative disabilities and

North Carolina State Disability Law § 1-20

Preempt North Carolina's 10-year Statute of Repose.

Respectfully, The Eleventh Circuit and Federal District Court of North Georgia's Ruling is not legal
The N.C. Disability Statutes (a Mandatory Directive)
Does Not support its Rulings . . . as it related to:

Case 12-15424 Date File 10/14/2014 Page 1 thru 15.

An Eleventh Circuit Court of Appeal October 14, 2014 Ruling? (See Appendix, App. 19).

An Eleventh Circuit Court of Appeals Ruling for Case 16-17573 Date File 05/22/2019 Page 1 thru 6.
(See Appendix, App. 1-6).

And THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA Atlanta Division Ruling for Case 1:11-MD-2218-TWT (See Appendix, App. 7-18).

The case below shows that North Carolina's 10-year Statute of Repose nor The Discretionary Function Exception are not applicable to my existing Claim see APPENDIX-G.

North Carolina State Rule of Law Case Dated: December 20, 2016, Case No. COA16-481 Court of Appeals of North Carolina on page 6; *DELVON R. GOODWIN v. FOUR COUNTY ELECTRIC CARE TRUST, INC*, Where PETITIONER Claim would be GRANTED under NC Disability Laws.

F). Petitioner seeks review As Georgia State Case, 16EV004542, was in Default Judgement in Favor of Petitioner for \$20,000,000 but that Georgia State Case was Illegally Removed to District Court. See Appendix, App. 37-44.

See State of Georgia lawsuit case no. 16EV004542. . . . as This lawsuit was spawn off from my Camp Lejeune Toxic Water Lawsuit, case 1:11-md-02218-TWT and Appeals number 16-17573 where the Defendant's attorney, Adam Bain, violated Fourth Amendment Constitutional Rights and Federal Statutes. This case was in clear Default it was Illegally Removed to Federal District Court and Docketed as 1:16-cv 04195-TWT and later Dismissed in Error as was Appeal Case number 18-12179. Per Federal Statute "Removal must be done within 30 days" and Removal is not allowed if Defendant violated Protected constitutional Rights; Georgia Constitutional Rights; Federal Statutes "28 U.S.C. § 2679(b)(2)(A) Exclusiveness of remedy" and "28 U.S.C. § 2679(b)(2)(B) Exclusive ness of remedy" and "18 U.S.C. § 2724. Civil action. See Appendix "E"

Federal and States governments with sovereignty. . . . check each other and whether the misapplication of a properly stated rule of law applies here.

* State of Georgia Constitution and it's Bill of Rights: Section 1.

* Paragraph XIII. Searches, seizures, and warrants. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue except upon probable cause supported by oath or affirmation particularly describing the place or places to be searched and the persons or things to be seized."

DENIED PETITIONERS CLAIM

* Paragraph II. Protection to person and property; equal protection. Protection to person and property is the paramount duty of government and shall be impartial and complete. No person shall be denied the equal protection of the laws."

* And *Austin v. Morland*, 288 Ga App. 270 (653 SE2d 347) (2007) Page 39, 40, 41.

* Social Security Administration Sec. 1177 [42 U.S.C. 1320D](a) Offense – "A person who knowingly and in violation of this part"

* See Appeal Number: 18-12179 Date Filed 01/24/2019 Page: 1 Thru 13 [DO NOT PUBLISH] is noted

All Evidence found in Petitioners' claim should be considered and weighted Equally under the Law.

Lower Court's Misapplication of Law See Appendix, App. 45-46.

THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT and THE UNITED STATES DISTRICTS COURT FOR THE NORTHERN DISTRICT OF GEORGIA Both entered Decision, Opinions and Ruling. . . . That is in conflict with another United States court of appeals on the same important matter; Also they disregarded N.C. Disability Statutes (a Mandatory Directive) See Appendix App. 47-52. In doing so they Greatly aided the Defense arguments.

G). Petitioner seeks review Whether this "NEW" Judge Advocate General/Government's Attorney's Defense is applicable to this Petitioner's Claim 18-12179 where this claim is a HIPPA Violation and a 4th Amendment Violation. . . . The Judge Advocate General/Defendant is stating that the Government Employee was acting within the scope of his/her employment if a Director of a federal agency certifies that the employee was acting within the scope of his/her employment, However, Per Statute: Only the "Attorney General of the United States may certify that an employee was acting within the scope of his/her Employment at the time the negligent incident occurred.

H). Petitioner seeks review Whether This "NEW" Judge Advocate General/Government's Attorney's Defense is applicable to this Petitioner's Claim 16- 17573 as this is a Camp Lejeune Toxic Water Claim; The Judge Advocate General/Defendant is stating that the Government Employee was acting

within the Scope of his/her employment . . . if a Director of a Federal agency certifies that the employee was acting within the scope of his/her employment. . . . Here also Per Statute: Only the "Attorney General of the United States may certify that an Employee was acting within the scope of his/her employment at the time the negligent incident occurred.

I). Petitioner seeks review Whether Petitioner is entitled to Monetary Damages for Injuries, compensatory damages and Punitive damages (under Georgia Law and for pain and suffering) and Whether Petitioner is entitled to Equitable relief Demographics such as New Social Security Number and Date of Birth. Seeing the individuals in Witness Protection acquire the same benefits. . . . Where punitive damages cannot be recovered under the FTCA.

J). Petitioner seeks review of Judgement by Default at Georgia State Court. See APPENDIX "A"; APPENDIX "B"; APPENDIX "C"; APPENDIX "D"; Whether an Awarded for this petitioner is due. . . . seeing Removal was illegal. Petitioner's Favor should be granted for case 16EV004542 as it was Removed to Federal District Court as 1:16-cv-04195-TWT it was Removed Late and illegal. Statute Provides that "Removal must be done within 30 Days, and it was not. After case 16EV004500 was in Default, Petitioner file for Motion for Default Judgment but it was ignored by District Court. As Removal nor Substitution are not permissible when Defendant has clearly violated my Protected Constitutional Amendment Right and State Constitutional Rights and violated more than one Federal Statutes, The District Court knows this.

K). Petitioner seeks review Whether North Carolina Statutes N.C.G.S. § 99B-5(a)(1) and § 99B-5(a)(2): Claims based on inadequate warning or instruction are applicable to: FAILURE TO WARN Petitioner's FAMILY MEMBERS and Whether Post-Discharge Failure To Warn is applicable here where a failure to address an identified danger is in consistent with regulations and therefore would not be covered under the FTCA's discretionary function exception to liability.

PARTIES TO THE PROCEEDING

The Petitioner is James Nathaniel Douse, a Plaintiff-Appellant below.

Additional Plaintiffs-Appellants below were Andrew Straw, Erica Y. Bryant, Robert Burns, Daniel J. Gross, II, Robert Park, Sharon Kay Boling, Linda Jones, Estelle Rivera.

Leandro Perez, et al. were Plaintiffs below.

The Respondents and Defendants-Appellees below are the United States of America, Department of the Navy, United States of America, Administrator of the Environmental Protection Agency, Division Director, Department of Environmental Protection Agency, Department of Defense, Secretary of the Navy.

LIST OF DIRECTLY RELATED PROCEEDINGS

United States Court of Appeals for the Eleventh Circuit
No. 16-17573

In Re: Camp Lejeune North Carolina Water Contamination Litigation, Leandro Perez, et al. Plaintiffs Appellants, v. United States of America, et al., Defendants.

Opinion Date: May 22, 2019

Rehearing Date: September 5, 2019 Denied

United States District Court,
Northern District of Georgia, Atlanta Division

In Re: Camp Lejeune North Carolina Water Contamination Litigation.

Multidistrict Litigation No. 1:11-MD-2218-TWT

Decision Date: December 5, 2016

Georgia State Case

James Nathaniel Douse, Plaintiff, Pro Se v. Adam Bain, Defendant

Case Number: 16EV004542

Federal District Court James

Nathaniel Douse, Plaintiff, Pro Se v. Adam Bain, Defendant

Case Number: 16:CV-04195-TWT.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit, which is unpublished, is attached to the Petition at App. 1. The decision of the United States District Court for the District of Georgia, Atlanta division is attached to the Petition at App. 7.

JURISDICTION

This Court Jurisdiction is invoked under 28 U.S.C. § 1254(1).

Again, Petitioner seeks Review of this Georgia State case, a HIPAA violation, and Fourth Constitutional Amendment violation. This case, 16EV004542, was spun-off from a Camp Lejeune Toxic Water case, 1:11:md02218- TWT, 12/05/2016, Circuit Appeal number 18-12179.

Pursuant to 28 U.S.C. § 1446—Procedure for removal of civil actions, which demands within 30 day notice to be given, and It was Removed after 33 days. Also and Removal is not allowed if Defendant violated Protected constitutional Rights; Georgia Constitutional Rights; Federal Statutes “28 U.S. Code § 2679(b)(2)(A) Exclusiveness of remedy” and “28 U.S. Code § 2679(b)(2)(B) Exclusiveness of remedy “ and “18 U.S. Code § 2724. Civil action. See Appendix “E”.

Respectfully, The Eleventh Circuit Court of Appeals and Federal District Court of Atlanta Georgia several times have disregarded North Carolina State Statutes thereby giving favor and an unfair, unwarranted advantage to the defendant and also where it's Ruling multiple times have clearly been inconsistent and

conflicts with other State Appeals Courts on the same important matter.

My Georgia State Court case is Docketed as 16EV004542 and even though the case was officially in Default at the time of Removal and Judgement by Default was warranted to the Petitioner. The Federal District Court of Atlanta Georgia still allowed the illegally Removed to Federal District Court and Docket No. 1:16-cv-04195-TWT.

Petitioner seeks review of the illegally Removal allowed by Federal District Court of Atlanta Georgia and these North Carolina Statutes that have been consistently disregarded

North Carolina State Disability Law § 1-17.

North Carolina State Disability Law § 1-19.
Cumulative disabilities and

North Carolina State Disability Law § 1-20.

The North Carolina State Statutes Preempt North Carolina's 10-year Statute of Repose. . . and rather Petitioner's Claim is Timely See Eleventh Circuit Case 16-17573 May 22, 2019 Ruling on N.C. Statute of Repose, App. 1-6.

STATEMENT OF THE CASE

I. Factual Background

1). My Active Duty Military Service was from approx. August 1976 to November 1976. I Served Active Duty at Camp Geiger Marine. As a Private

Citizen, I live at Camp Lejeune Marine Base North Carolina. See CL Toxic-Water-Map. Disability Map.

I was never injured nor sick at Camp Geiger. **Petitioner is an Honorably Discharged United States Marine Corps VETERAN.** It was in January 1977, living on Camp Lejeune as a Private Citizen. Within a few weeks, after unknowingly ingesting unlabeled Camp Lejeune's Toxic water that I began to feel ill and dizzy not knowing what was the cause. Almost immediately I know something was wrong . . . but I did not know what. After Discharged, I yet lived as a Private Citizen at Camp Lejeune where I perform no Military Duties at Camp Lejeune North Carolina. As a Private citizen, I was there waiting to enter college for the Winter Semester. Thus, The Feres Doctrine absolutely does not apply to me as I was not driving any military vehicle nor performing any military activities but rather as a private citizen watching cartoons and playing basketball all day and of course drinking water after every game of basketball. I just had just turned 19 years old December 1976.

2). This Petitioner timely file a F-95 Administrative Claim 2010. This Petitioner file suit in Federal District Court in 2012, in Federal District Court, Atlanta Division. Because they know that my claim is Timely, Valid and Payable.

Now, They Judge Advocate General, single me out and sent me 2nd Administrative Adjudication denial letter, 9 years Later. Asking me to File Again. The letter is dated January 25, 2019, and references my Personal Injuries and indicating its

exceptions as to why my claim was denied. The letter was sent January 25, 2019, and was finally forwarded to me at my Tennessee address and should not be mailed me at an old address In spite of North Carolina's Mandatory Directive, this Judge Advocate General insists that my Claim is untimely because of:

3). Again, As of January 25, 2019, The Judge Advocate General is requesting that I REFILE my lawsuit within appropriate District Court. . . . (i) That case is Close; (ii) Judge Thomas Thrash does not have jurisdiction over that case; (iii) The Judge Advocate General letter in my view is partly informative in addition to being sent to the wrong address. Circuit and District Clerk of Courts have my current correct mailing address. See Judge Advocate General Letter enclosed Dated January 25, 2019. (iv) to "Refile" within 6 months Thus, that would possibly amount to *Doctrine of Res Judicata.

4). While at Camp Lejeune Petitioners' injuries was almost immediate, such Migraines Headaches, Severe headaches, Stomach problem, Irritable Bowel Syndrome. Months later, these injuries condition became progressively worse and developed into Seizures, (epilepsy with abnormal body jerking, arms waving etc) Severe Migraines headaches (frontal) Fainting, Unexplained Dizziness and Vertigo Problems. Later I found out I was having Complex Partial Seizures and other Neurological Injuries and Neurological Effects. **The Petitioner is currently taking 2 prescription medications for these conditions and I see my Neurologist 2 times a year every year to monitor my Neurological and**

Epileptic Injury condition. From my freshman year in college at South Georgia College, Douglas Georgia, until now All Camp Lejeune Toxic Water Injuries and Disabilities I still from January 1977 to today May 2019. I am now Permanently and Totally Disabled because of this Toxic Water Injuries. I want to Compensatory Damages for my Injuries. Years later, I also have incurred a Liver disease called Hepatic Steatosis (a Toxic Water Fatty Liver Injury and Disease). I have worked in Data Processing/ Information Technology and Computer Science all my life. I have never smoked, did illegal drugs nor Drank alcohol (except a few glasses of wine on occasion for my blood pressure). I have never work with nor intentionally came in contact with Toxic Chemicals nor Drugs, except when I unknowingly consumed Toxins at Camp Lejeune Marine Base. The Evidence is clear and can be easily traced back to Camp Lejeune Toxic Water ingesting January 1977.

“Medical Experts within the Science community including The Agency for Toxic Substances and Disease Registry (ATSDR) released it’s Summary and Findings” water modeling report for the Hadnot Point and Holcomb Boulevard Water Treatment Plants and Vicinities for Marine Corps Base Camp Lejeune, N.C. see <http://www.atsdr.cdc.gov/sites/lejeune/>

Thus, These Medical Experts have concluded that Supervenes Diseases are Latent Diseases. Furthermore, there was no Post Discharge Failed to Warn as a Camp Lejeune as serviceman was discharged in November 1976. servicemen about the

toxic exposure to those chemicals both during service and following discharge from service. as a proximate result of the government's failure to warn Mr. Douse. The Petitioner, about the toxic chemical exposure following his discharge from the military. North Carolina law substantive law governs Petitioner's FTCA claim. See *Franklin v. United States*, 992 F.2d 1492, 1495 (10th Cir. 1993)

II. Finding

Pursuant to 10 U.S.C. § 1207 **Disability from Intentional Misconduct or Willful Neglect**. This Petitioner is seeking Relief for Violation of 28 U.S.C. § 2679 **intentional Infliction of Emotional Distress**. Pursuant to The Federal Tort Claims Act, (FTCA) as a Private Citizen, I incurred Personal Injuries, Property Damages and under the Laws, I am entitled to Monetary Damages.

Pursuant to Mandatory Directives of North Carolina Disability laws N.C.G.S. § 1-17; § 35A-1101. DEFINITIONS; § 1-19; § 1-20; and Pursuant to Mandatory Directives North Carolina's Failure to Warn Statute § 99B-5(a)(1) and § 99B-5(a)(2).

Petitioner Claim was Timely and properly served and is entitle to Damages for Personal Injuries and Property Damages and Compensatory Damages. *N.C.G.S. Disability Law and N.C. legislature gave fair notice of redress which can be clearly traced back to the Defendant as the Proximate cause. Pursuant to the Intent of the United States Congress and North Carolina General Assembly.

* Mandatory Directives of North Carolina Disability laws precludes North Carolina Statute of Limitation and North Carolina Statute of Repose

- * **The duty or Liability** of the United States in a tort action is defined in accordance with the law of the state where the negligence occurred. *Richards v. United States*, 369 U.S. 1 (1962) (negligence occurred in Oklahoma, aircraft crashed in Missouri). Neither federal statutes nor the Constitution create a cause of action under the FTCA. Thus, plaintiffs attempting to assert constitutionally based claims do not state a claim within the jurisdiction of the court under the FTCA unless **they can point to an actionable tort duty recognized under** the law of the state where the act or omission **occurred**. *Jaffee v. United States*, 592 F.2d 712 (3d Cir.), *cert. denied*, 441 U.S. 961 (1979); *Lombard v. United States*, 690 F.2d 215 (D.C. Cir. 1982), *cert. denied*, 462 U.S. 1118 (1983); *Clemente v. United States*, 766 F.2d 1358, 1363 (9th Cir. 1985); *Pereira v. United States Postal Service*, 964 F.2d 873, 876 (9th Cir. 1992).
- * The Mandatory Directives of North Carolina Disability laws N.C.G.S. § 1-17; § 35A-1101. **DEFINITIONS; § 1-19; § 1-20 Preclude Feres Doctrine**....also see Disability Map where my Military service took place. App. 53. See North Carolina's Mandatory Directives Failure to Warn Statutes § 99B-5(a)(1) and § 99B5(a)(2), App. 47-52.

- * Where North Carolina Disability law as its **Mandatory Directives of N.C.G.S. § 1-17; and § 35A-1101. DEFINITIONS; and § 1-19; and § 1-20** collectively Preclude North Carolina Statue of Repose.
- * Where North Carolina's Failure to Warn Statutes **§ 99B-5(a)(1) and § 99B-5(a)(2)** Preclude North Carolina Statue of Repose.
- * **In Support of this Petitioner Petition is The United States Supreme Court's Holding in *Berkovitz by Berkovitz v. United States*, 486 U.S. 531, 535, 108 S. Ct. 1954, 1958, 100 L.Ed. 2d 531 (1988), and it Preclude Discretionary Function Exception. "In accordance with the Supreme Court's decision in *Berkovitz by Berkovitz v. United States*, 486 U.S. 531, 535, 108 S. Ct. 1954, 1958, 100 L.Ed.2d 531 (1988), this court utilizes a two-step test to determine whether the FTCA discretionary function exception applies in a given case. See *Kennewick Irrigation District v. United States*, 880 F.2d 1018, 1025 (9th Cir. 1989). We must consider first whether the challenged action is a matter of choice for the acting employees: "[T]he discretionary function exception will not apply when a federal statute, regulation, or policy specifically prescribes a course of action for an employee to follow".**

This Petitioner has taken a legal position in these Appeal cases: 18-12179 and 16-17573 as the Circuit Court and District Court and Judge Advocate General are excluding/ignoring North Carolina's Mandatory

Directives and are employing none applicable defensive exceptions used to dismiss case District C. case 1:11-md-02218-TWT; Appeals case number 18-12179 and, in my view will use the same none applicable defensive exceptions to dismiss 16-17573 (Re-hearing has been denied).

Again, in the Eleventh Circuit Court October 14, 2014, ruling and December 05, 2016 District Court ruling it did not include nor Reference any of the. . . . Mandatory Directives of North Carolina Disability laws N.C.G.S. § 1-17; § 35A-1101. DEFINITIONS; § 1-19; § 1-20; North Carolina's Mandatory Directive § 99B-5(a)(1) and § 99B-5(a)(2).

However, N.C. Mandatory Directive gives clear guidance regarding its Disability Laws and Failure to warn and Fail to provide adequate instructions Claims. Note: October 14, 2014, The Eleventh Circuit reviewed the application of the Statutes in *Bryant v. United States*, Case No. 12-15424, and agreed that the Legislative amendment substantially amended the law. . . . Per The Eleventh Circuit, cases were Remanded to lower court." See Georgia State Case "16EV004542" Default Judgement

"Questions of liability are resolved under the FTCA in accordance with the law of the state where the allegedly tortious activity took place."

That is a 2nd Related situation. Petitioner filed a motion for default judgment. A judgment should have been entered due to Defendant's Failure to comply and it is not reversed on request of the defendant, it is

considered a final judgment. There was a State of Georgia lawsuit case no. 16EV004542. This lawsuit was spun-off from my Camp Lejeune Toxic Water Lawsuit, case 1:11-md-02218-TWT where the Defendant's attorney, Adam Bain, violated my Constitutional Rights and Federal Statutes. When the case was in clear Default it was **Illegally Removed to Federal District Court and Docketed as 1:16-cv-04195-TWT and later Dismissed in Error as was Appeal Case number 18-12179**. The conflict and misapplication of law is (a) whether HIPAA preempts Georgia State law for waiving an individual's Right to Privacy, when the Defendant is required to do, according to statute, prior to release was supposed to contact Petitioners' Physicians for permission to release, Defendant never contacted Petitioners Physicians. . . when means the Defendant's release was Unauthorized, Without consent to release an individual's Personal information on the internet it is a clear violation of HIPAA Laws, Privacy Laws (rights to privacy) and Georgia State Laws a waiver of rights for personal information is not applicable See *Moreland v. Austin* caselaw. (b) Removal must be done within 30 days **and** Removal is not allowed if Defendant violated Protected constitutional Rights; Georgia Constitutional Rights; Federal Statutes "28 U.S.C. § 2679(b)(2)(A) Exclusiveness of remedy" and "28 U.S.C. § 2679(b)(2)(B) Exclusiveness of remedy" and "18 U.S.C. § 2724. Civil action. See Appendix "E".

This HIPAA Violation Lawsuit is not about a government agency having my personal information in hand, the suit is for illegally disclosing, transferring my personal information

unredacted, without consent and without authorization by my Physicians or myself and See United States 4th Amendments of the Constitution. See United States 14th Amendments of the Constitution, Georgia's Constitution Bill of Rights. "State of Georgia Constitution . . . and violation of Federal Statutes in the process."

Petitioner is entitled to relief and proper Judgement, as Defendant was properly and timely served with Summon and Complaint. In the sum of an Outstanding balance of \$20,000,000.00 (Twenty-Million Dollars). Petitioner also ask for Punitive Damages under Georgia Law in the sum of \$250,000.00 (Two Hundred Fifty-Thousand and zero cents). See: Appendix "A"; Appendix "B"; Appendix "C"; Appendix "D"; Appendix "F"

Petitioner has an Injury Claim and Is Entitled to All: RELIEF SOUGHT

"North Carolina law substantive law governs Plaintiff's FTCA claim. See *Franklin v. United States*, 992 F.2d 1492, 1495 (10th Cir. 1993) ("Questions of liability are resolved under the FTCA in accordance with the law of the state where the alleged tortious activity took place."). North Carolina Law requires Plaintiff to establish proof of the following three elements to support a claim of negligence:

- (1) a duty owed by the defendant to protect the plaintiff from injury;
- (2) a breach of that duty by the defendant; and

(3) the plaintiff's injury was proximately caused by the defendant's breach of that duty.

Beugler v. Burlington Northern & Santa Fe Ry. Co., 490 F.3d 1224, 1227 (10th Cir. 2007) (quoting *Iglehart v. Board of County Comm'r's of Rogers County*, 60 P.3d 497, 502 (Okla. 2002)).

Petitioner's Injuries, Diseases, (Losses) and Monetary Request for Damages: Claims for damages caused, Although not barred by a legislative exception to the FTCA, suits by members of the military or naval service arising out of acts incident to service are barred". This Plaintiff was clearly a Private Citizen at the time of injury.

A. There Is Not a Statutory Limit on These Economic Damages

The Federal Tort Claims Act waives sovereign immunity, and gives federal district courts jurisdiction, with respect to claims for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. This exclusivity is a condition in which one party grants another party Rights with regard to a particular remedies available for an Injured party for a particular event.

B. Attorney's Fees and Punitive Damages under Georgia State Statutes

Recognizing under FTCA Attorney Fees, Punitive Damages nor interest prior to judgment are allowed. However, the FTCA "makes the United States 'liable in the same manner and to the same extent as a private individual under like circumstances, Reasonable Attorney Fees to date Pursuant to O.C.G.A. § 9-15-14 \$1,444,722.00; O.C.G.A. 51-12-5.1 (2010) 51-12-5.1. Punitive damages

C. Intention Inflection of Emotional Distress

Seeking Injury Damages My Camp Lejeune Toxic Water Medication for Injuries as a Private Citizen and Diseases such as: Neurological Effects

*Trileptal 300mg: Neurological Epilepsy/Seizure Disorder

*Sertraline 100mg: PTSD, Anxiety Disorder, Depression

*Trazadone HCL 50mg PTSD, Anxiety Disorder, Depression

*Gabapentin 300mg: Chronic Migraine Headaches

*Trazadone HCL 50mg Sleep Apnea; Sleep Deprivation and Vertigo

*Meloxicam 15mg: Fibromyalgia

*Naproxen 500mg: Fibromyalgia

*Pantoprazole 40mg Stomach Indigestion problems

*Nexium Stomach Indigestion problems

*IBUPROFEN 800mg for constant Pain over my entire body.

*Irritable Bowel Syndrome, IBS.

*Auto-Immune Deficiency

*Left Breast Collapses

D. Diseases

- Compensatory Damages

- Hepatitis "C"

- Hepatic steatosis (a Toxic Water Fatty Liver Injury and Disease)

E. Damages for Negligent Infliction of Emotional Distress

\$1,875,000.00

F. 9 years of Litigation Expenses Supplies to date

\$7,302.47

G. Compensatory Damages

\$57,417,000.00

H. Equitable relief-New Demographic as in witness protection New Social Security, New Date of Birth

... as of now . . . Petitioner has no privacy.

**I. Toxic Water Pre and Post Discharge
Failure warn and Did not Provide
adequate Instructions**

\$20,000,000.00 (Twenty-Million Dollars)

**J. Default Judgement for Georgia Case
16EV004542**

\$20,000,000.00 (Twenty-Million Dollars)

**III. OTHER MATERIAL AND FACTS
PETITIONER BELIEVES IS ESSENTIAL**

This "New" Defense is being raised against Petitioner's Claim 18-12179 and was raised in Petitioner's Claim 16-17573. See Judge Advocate General January 25, 2019 letter which references my Personal Injuries. My Military duties were at Camp Giger, not Camp Lejeune.

See the Camp Lejeune Disability map See *Summer v. U.S.*, 905 F.2d 1212 (9th Cir. 1990).

Yet, Both Lower Courts did not now allow Petitioner to introduce New Finding of North Carolina Mandatory Directive, Disability Laws and case law all of which Favor petitioners Petition.

The Lower Court is Partial and incomplete.

January 24, 2019, The Eleventh Circuit denied Petitioner Claim, 18-12179 which is a suit for a HIPPA Violation and 4th Amendment violation lawsuit. February 07, 2019, Petitioner file a PETITION FOR RE HEARING AND REHEARING EN BANC. Since

March 18, 2019, the request was still pending in the Eleventh Circuit Court of Appeals.

September 5, 2019, the Eleventh Circuit Court of Appeals denied my Motion for Rehearing.

GRANTING this Writ of Certiorari is paramount as the Eleventh Circuit's Ruling/Decision will clearly negatively affect our Camp Lejeune Toxic Water Claims, 16-17573 as well as Appeal number 18-12179. We must bring resolution to these cases. Cases To be Reviewed: The Eleventh Circuit Court of Appeals judgment on January 24, 2019 (which is a HIPPA Violation and 4th Amendment Violation) Appeal Number 18-12179 and Georgia State Court and Docketed as: 16EV004542 additionally, that January 24, 2019, Ruling will directly and negatively affect a Pending The Eleventh Circuit case 16-17573 case Pending at the Eleventh Circuit Court of Appeals)

1. The Eleventh Circuit Court of Appeals entered its judgment on October 14, 2014 Appeal Number 12-15424 (Camp Lejeune Toxic Water) and on May 22, 2019, for Appeal Number 16-17573 which is inconsistent with other Appeal Courts

2. On January 25, 2019, The Judge Advocate General submitted a denial letter, Personal injuries On January 24, 2019, The Eleventh Circuit Court of Appeals Entered a judgment of denial. In coordination, both notifications use the exact same Defense/reason as to why my Claims were denied. In my view, those same Defense raised in the other cases will be used against Pending Appeal 16-17573.

3. That exact same Defense/reason use for Cases 1:11-md-02218, 12/05/2016 Appeal number 18-12179 and will negatively affect a pending appeal with in the Eleventh Circuit which is 16-17573. See HIPAA ruling which is inconsistent with Eleventh Circuit January 24, 2019 ruling. Also See its January 24, 2019 ruling and Judge Advocate General Denial exceptions in its Denial letter. See Judge Advocate General Denial letter—June 2012 for Property Damage. See Judge Advocate General Denial letter—January 25, 2019, for Personal Injuries.

Other Facts Petitioner believes is essential:

Status of Eleventh Circuit cases

- * PETITION FOR REHEARING AND RE HEARING EN BANC For Appeal No. 18- 12179-FF was filed February 7, 2019, . . . pending.
- * PETITION FOR REHEARING AND RE HEARING EN BANC For Appeal No. 18- 12179-FF was DENIED APRIL 02, 2019
- * PETITION FOR REHEARING AND RE HEARING EN BANC MANDATE ISSUED for Appeal No. 18-12179-FF APRIL 10, 2019.
- * PETITION FOR REHEARING AND RE HEARING EN BANC A family member deceased March 30, 2019, prevented Petitioner from Responding Timely. . . . as I was out of Town in South Florida (Fort Lauderdale, FL.).

Showing good cause, Petitioner kindly requested Eleventh Circuit Court of Appeals to Stay/Recall of Mandate.

- a). Pursuant to Federal Rules of Appellate Procedure Rule 41(b) and Pursuant to Federal 7. Rules of Appellate Procedure Rule 41(d).
- b). The Eleventh Circuit Court of Appeals was previously advised March 19, 2019 of a Pending Certiorari;
- c). The Certiorari Notice was Docketed on March 19, 2019.

See Exhibit Motion to Recall and Motion to Stay mandate issued April 10, 2019.

See *U.S. v. Olson*, 546 U.S. 43 (2005). . . . *U.S. v. Olson*—Holding that the United States' liability under the FTCA is to be based on the state law liability of a private party.

REASONS FOR GRANTING THIS WRIT

These conditions are applicable, Allowable of the Writ Under Rule 11 and Rules 10 and 14.1(h)" (a) because of the misapplication Laws of North Carolina State Disability Mandates and its Mandate for Failure to Warn Claims. See APPENDIX "G". (b)These cases involve different ruling on the exact same subject matter, North Carolina State Disability Laws. (c) This petition complies with Supreme Court Rule 10 and Rule 11 as Eleventh Circuit appeals number 18-12179 decision on Jan. 24, 2019 and appeals number 16-17573 Denied September 5, 2019 in

Eleventh Circuit Court of Appeals. (d) Default Judgement is warranted to Petitioner and is still outstanding. (e) The cases Involves an unusually important legal principle regarding two or more appellate courts have interpreted a law differently, Namely the North Carolina's Disability Law Mandatory Directives, The North Carolina's Disability Law Mandatory Directives Failure to Warn Statues; Whether HIPAA laws preempts The State of Georgia Right Waiver of Right to Personal. (f) To avoid injustice and a continuous erroneous, deprivations of the Petitioners Rights to Justice. (g) To correct the misapplication of the same North Carolina State Disability Laws which are applicable and have been applied here in this Court Case Dated: December 20, 2016, Case No. COA16-481 Court of Appeals of North Carolina (see page 6).

CONCLUSION

North Carolina State Disability Laws substantive law governs the Plaintiff's FTCA claim. See *Franklin v. United States*, 992 F.2d 1492, 1495 (10th Cir. 1993)

These Questions of "liability under the FTCA in accordance with the law of the state where the alleged tortious activity took place (1) a duty owed by the defendant to protect the Petitioner from injury; (2) a breach of that duty by the defendant; and (3) the Petitioner's injury was proximately caused by the defendant's breach of that duty. *Beugler v. Burlington Northern & Santa Fe Ry. Co.*, 490 F.3d 1224, 1227 (10th Cir. 2007) (quoting *Iglehart v. Board of County Comm'r's of Rogers County*, 60 P.3d 497, 502 (Okla. 2002)).

We are Asking The United States Supreme Court to exert oversight and its Supervisory Authority over the Lower where applicable according to state laws. Again, FTCA liability "turns on the relevant substantive state law applicable to private individuals under like circumstances." The Eleventh Circuit states that it currently has not a way to submit questions directly to the North Carolina State Supreme Court. Adhering to the Constitution of the United States and Laws of the State of North Carolina State and of Georgia is paramount. North Carolina State gives clear Mandatory Directives.

Petitioner is unaware rather this Eleventh Circuit Court of Appeal certified to the State Attorney General of North Carolina the fact that the constitutionality of a statute of that State was drawn into question. Petitioner is unaware rather this Eleventh Circuit Court of Appeal certified to the State Attorney General of Georgia the fact that the constitutionality of a statute of that State was drawn into question. *N.C.G.S. Disability Laws has been enacted earlier than the year 1960.

The North Carolina legislature gave fair notice of redress which can be clearly traced back to the Defendant even though there will a deliberate indifference is Proximate cause. See "N.C. Disability Enactment 1975 Obeying the United States Constitution and Laws of the State of North Carolina is paramount. This question regards The Power of Democracy as well as call for an exercise of this Court's Supervisory Power in an effort to enforce compliance with the United States Constitution and Laws of the

State of North Carolina and the State of Georgia. Using your Supervisory Powers to direct the Eleventh Circuit how to proceed in regards to North Carolina State Disability Laws Mandatory Directives.

Lastly, Petitioner has properly alleged which specific action caused injuries . . .

Seeing that:

N.C. Disability laws a Mandatory Directive preclude Statute of Limitation and

N.C. Disability laws a Mandatory Directive preclude Statute of Repose and

N.C. Disability Maps, laws and Mandatory Directive preclude Feres Doctrine and N.C. Disability laws a Mandatory Directive preclude Discretionary Function.

Defendant's new Defensive Maneuver seeking to affirm its decision by stating a Director of a Federal Agency affirms its employee as acting within the scope of employment when the wrong occurred, . . . is in Direct Conflict with the Federal Law, FTCA and N.C. Mandatory Directive.

Pursuant to Rule 14.1(i) and Supreme Court Clerk's March 29, 2019 correction Request to include: To order The Default Judgement for Georgia State case 16EV004542 which was Illegally Removed to Federal District Court as 1:16-cv-04195-TWT.

State courts of last resort mean in-laws.....The United States Supreme Court is the court of last

resort.....and Final Court to Appeal to....in our cases and in this jurisdiction.

Even though...

“Circuit Courts, duty to protect those who have been adjudged incompetent extends beyond the trial courts to the appellate courts. See id. (exercising supervisory power to assume jurisdiction without an appeal and review errors committed against an incompetent “individual”,

So, Prayerfully I, Adjure Thee and solicit your Direct Favor and Help.....as we Love our God and our Country, United States of America, we did nothing wrong.

Micah 6:8, What does The Lord Require of Thee.....
Do Justly, Love Mercy and Walk Humbly with Thy God.

“He hath shewed thee, O man, what is good; and what doth the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God.”

Respectfully Submitted,

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Petitioner Pro Se