



Leveraging *Lone Pine*: Using Case Management Orders to Cull Meritless PFAS Claims

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Rooted in the court's inherent authority and consistent with the principles underlying Federal Rule of Civil Procedure 11—which prohibits filing baseless claims without factual support—*Lone Pine* orders strike a balance between efficiency and fairness, ensuring that only claims with a minimum threshold of merit proceed toward trial. *Lone Pine* orders continue to be a powerful procedural tool for managing complex litigation, particularly in multidistrict proceedings, to address potentially meritless claims early in the case. These case management orders require plaintiffs, for example, to produce evidence of injury, exposure, and causation before proceeding to discovery, effectively filtering out unsupported claims.

Earlier *WLF Legal Pulse* posts examined court decisions entering *Lone Pine* orders in traditional product liability cases. Given the scientific complexity and volume of PFAS-related cases, courts should strongly consider *Lone Pine* orders to manage and streamline PFAS litigation. A recent ruling in *Conklin v. Corteva*, No. 7:23-CV-1114-D 2025 LX 92028, 2025 WL 1402696 (E.D.N.C. May 14, 2025), reinforces this approach by holding plaintiffs to an evidentiary standard early in the case lifecycle.

In *Conklin*, 60 plaintiffs across eight related cases alleged claims for personal and property damage due to alleged PFAS contamination of the Cape Fear River. After the parties failed to agree about whether each plaintiff should be required to submit “an expert declaration confirming injury and proximate causation” concerning their alleged personal injuries, defendants moved for entry of a *Lone Pine* order. Defendants argued that “all [p]laintiffs would need to do is furnish an expert declaration supporting their allegations that [d]efendants’ [Fayetteville Works] PFAS caused their alleged personal injuries.” 2025 WL 1402696 *3.

Earlier this year, the court granted defendants’ motion, noting that courts in mass torts cases “routinely” issue *Lone Pine* orders to “identify and cull potentially meritless claims and streamline litigation in complex cases.” 2025 WL 1402696 *3. In considering whether to enter *Lone Pine* orders, courts considered five factors: (1) posture of the case, (2) case management needs presented, (3) external agency decisions impacting the merits of the case, (4) the availability of other procedures under the federal rules or statutes that would accomplish the same goals, and (5) the type of injury alleged by plaintiffs and its cause. Additionally, courts also consider “case complexity and pleading defects.” 2025 WL 1402696 *3.

The *Conklin* court concluded that all five factors supported entry of a *Lone Pine* order. *Id.* at *9. First, although no significant discovery had taken place, the court found that a pre-discovery *Lone Pine* order was appropriate because the information requested was the same evidence plaintiffs were required to have under Rule 11(b)(3) when they filed suit. *Id.* at *5. Second, the court rejected

the plaintiffs' claim that *Lone Pine* orders are only appropriate in sprawling mass torts involving hundreds of plaintiffs, noting that such orders have been issued in cases involving as few as 15 plaintiffs. *Id.* at *6. Third, while acknowledging ongoing regulatory and scientific developments, the court emphasized that evolving PFAS research affects claim viability, and plaintiffs who file early must accept that risk. Fourth, allowing discovery to proceed in the ordinary course would impose undue burdens on both defendants and the court. *Id.* at *7. Finally, the court held that PFAS contamination claims fit squarely within the type of litigation where *Lone Pine* orders are typically warranted. *Id.*

As numerous courts have noted, *Lone Pine* orders share a conceptual foundation with Rule 11 of the Federal Rules of Civil Procedure, which requires that factual contentions in a complaint have evidentiary support or, at a minimum, will likely have such support after a reasonable opportunity for investigation. *Lone Pine* orders extend that principle by requiring plaintiffs actually to produce such support—often in the form of expert declarations—before moving forward with burdensome discovery. In this way, *Lone Pine* orders operationalize Rule 11's intent by enforcing an early evidentiary threshold, particularly in complex cases where the risk of speculative or unsupported claims is high. Courts issuing *Lone Pine* orders essentially reinforce that plaintiffs should not be permitted to initiate or maintain litigation based solely on unverified allegations, especially in matters involving novel scientific or technical issues like PFAS exposure.

The *Conklin* decision highlights how defendants can use *Lone Pine* orders to expose meritless claims early. As proposed Federal Rule 16.1 contemplates more structured pretrial management in multidistrict and complex cases, *Lone Pine* orders offer a powerful tool. Defendants should consider seeking them strategically to streamline discovery, reduce litigation costs, and compel plaintiffs to substantiate their claims at the outset.