

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:23-CV-897**

IN RE:

CAMP LEJEUNE WATER LITIGATION

**This Document Relates To:
ALL CASES**

**MEMORANDUM IN SUPPORT OF
DEFENDANT UNITED STATES OF
AMERICA'S MOTION FOR ENTRY OF A
LONE PINE ORDER**

(Fed. R. Civ. P. 16(b)(3) & 16(c)(2)(L))

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INTRODUCTION

In Plaintiffs' Leadership Group's own words, global resolution efforts in the Camp Lejeune Justice Action litigation have revealed that "there might be a significant number of people that don't have valid claims." Nov. 14, 2025, Stat. Conf. Tr., [D.E. 734](#), at 13:9–16. Currently, there are over 3,800 CLJA lawsuits pending before this Court and approximately 408,500 CLJA administrative claims pending with the Department of the Navy, making the CLJA litigation arguably the largest mass tort case in United States history. *See* Oct. 2, 2026, Joint Stat. Rep., [D.E. 926](#), at 1. Collectively, CLJA lawsuits and administrative claims seek compensation for a stated amount exceeding \$335 trillion, related to thousands of illnesses allegedly caused by exposure to contaminated water at Camp Lejeune. This Court held that "individuals pursuing actions under the Camp Lejeune Justice Act of 2022 . . . bear the burden of demonstrating their harm was caused by exposure, necessitating they establish both general and specific causation." *In re Camp Lejeune Water Litig.*, 736 F. Supp. 3d 311, 317 (E.D.N.C. 2024). Yet, in the more than four years since the CLJA passed in 2022, over 75 percent of CLJA claimants have failed to submit sufficient documentation or evidentiary support to the Navy to substantiate the good-faith basis for their individual claims. *See* Oct. 2, 2026, Joint Stat. Rep., [D.E. 926](#), at 1.¹

What's more is that the overwhelming majority of CLJA lawsuits and administrative claims fall outside the scope of PLG's theory of exposure and causation. PLG's central evidence in the case consists of the Agency for Toxic Substance and Disease Registry's Camp Lejeune water models and 2017 Assessment of the Evidence, making clear that the scope of the CLJA litigation is about: (1) whether and to what extent CLJA plaintiffs and claimants were exposed to contaminated water from one or more of three Camp Lejeune water distribution systems, rather than to water from the six Camp Lejeune water

¹ For years, the United States has repeatedly urged CLJA claimants and their counsel to obtain and submit substantiating documentation expeditiously. *See, e.g.*, Aug. 10, 2026, Joint Stat. Rep., [D.E. 909](#), at 2 ("Filers are encouraged to submit substantiating documentation expeditiously so that the [Department of Navy Camp Lejeune Claims Unit] can confirm substantiation of those alleged [Elective Option (EO) Settlement Program] injuries and the DOJ can approve settlement offers to as many claimants who qualify for the EO as possible."); Aug. 1, 2025, Joint Stat. Rep., [D.E. 449](#), at 2 (similar).

distribution systems that were not contaminated; and (2) whether exposure to contaminated water caused CLJA plaintiffs and claimants to suffer one or more of the ten illnesses identified in the Assessment of the Evidence as having some evidence of a causal connection to the contaminants in Camp Lejeune water.² Yet, many CLJA plaintiffs and claimants seek compensation without evidence of exposure to water from a contaminated Camp Lejeune water distribution system or for illnesses that no federal government agency reviewing the scientific literature has found to be causally connected to the contaminants in Camp Lejeune water. Indeed, PLG admitted that the majority of CLJA lawsuits and claims do not involve an illness identified in ATSDR's Assessment of the Evidence. Apr. 5, 2023, Stat. Conf. Tr., [D.E. 81-14](#), at 44:20–45:9.

This Court has expressed the importance of global resolution efforts on multiple occasions, most recently in an Order stating that “the court expects the PLG and DOJ leadership to continue to use their best efforts to achieve a global settlement by October 30, 2026.” Sept. 29, 2026, PLG Reappointment Order, [D.E. 925](#), at 2; *see also* June 30, 2026, PLG Reappointment Order, [D.E. 893](#), at 2. The United States has worked tirelessly and in good faith to advance global resolution efforts. However, the fact that the overwhelming majority of CLJA lawsuits and administrative claims remain unsupported presents a significant obstacle to global resolution, specifically impeding efforts to distinguish meritorious claims from non-meritorious claims and discussions about the universe of alleged injuries for which there is reliable scientific evidence to support causation. Indeed, at the September 9, 2026, Pretrial Conference before Judge Boyle, PLG commented on global resolution that “[t]he way things are going, Judge, I

² The United States does not concede that ATSDR's Camp Lejeune water models can be relied on in litigation to establish individual plaintiff exposure to contaminated Camp Lejeune water or that the Assessment of the Evidence can be relied on to establish general causation with respect to the ten illnesses identified as having some evidence of a causal connection to contaminants in Camp Lejeune water. To the contrary, the United States will demonstrate in the Track 1 bellwether trials that ATSDR's Camp Lejeune water models are unreliable for use in litigation and that Track 1 plaintiffs cannot meet their burden to prove general and specific causation with respect to the alleged Track 1 illnesses, including with respect to ATSDR illnesses.

wouldn't give a lot of hope for anything to happen” *See Exhibit 1*, Sept. 9, 2026, Pre-Trial Conf. Tr., 18:23–4.

The United States has made every effort to do right by veterans, their families, and civilian workers who may have been harmed by exposure to contaminated water at Camp Lejeune. To date, the United States has made over 4,200 settlement offers totaling over one billion dollars and has paid nearly one billion dollars in accepted settlement offers to resolve more than 3,300 CLJA lawsuits and administrative claims under the Elective Option, a voluntary settlement program created by the Department of Justice and the Department of the Navy. *See* EO Notice, [D.E. 20](#). Moreover, the United States, through the Department of Veterans Affairs, has paid billions of dollars in disability and medical health care benefits for illnesses based on policy-based VA presumptions related to Camp Lejeune water exposure. However, the United States cannot discard statutory requirements and use taxpayer funds to globally resolve the CLJA litigation when it is filled with unsupported CLJA lawsuits and administrative claims.³ The United States is duty-bound to ensure that taxpayer funds are used to resolve only lawsuits and administrative claims with evidentiary support and for values that can be justified under the law.

Once the Navy starts denying administrative claims, a tidal wave of CLJA lawsuits could flood the Court’s docket before the six-month statute of limitations for filing a lawsuit expires. At the opening CLJA status conference, Judge Dever observed that trying every CLJA lawsuit could take as long as the lifespan of the Roman Empire, stating that “[w]e’re going to need to kind of work through a process to try and get these cases resolved in something hopefully short[er] than all of our lifetimes; and to do that, we’re going to have to find and seize the elasticity in Rule 16 of the Federal Rules of Civil Procedure in managing the cases.” *See* Apr. 5, 2023, Stat. Conf. Tr., [D.E. 81-14](#), at 5:23–10:2, 9:19–24. Accordingly, in order to advance global resolution efforts, to manage the size and scope of the litigation, and to reduce the potential burdens placed on the Court, the United States now moves, pursuant to Federal Rules of Civil Procedure

³ During the course of the Navy’s review of CLJA administrative claims for EO eligibility, multiple potentially fraudulent claims were discovered that appeared to include forged or doctored medical records, military service records, and other substantiating documents.

16(b)(3) and 16(c)(2)(L), for entry of a case vetting or screening order called a “*Lone Pine* order.” The United States’ proposed *Lone Pine* order would require both new and existing CLJA plaintiffs to provide basic threshold documentation and expert evidence that all CLJA plaintiffs should already have to support the factual and good-faith basis for their claims pursuant to Federal Rule of Civil Procedure 11(b)(3). Requiring CLJA plaintiffs to provide basic threshold documentation and expert evidence would promote fairness⁴ to the American taxpayer and to those CLJA plaintiffs with meritorious claims, whose timely recoveries are impeded by the presence of unsupported claims. The United States’ proposed *Lone Pine* order would not preclude Track 1 bellwether trials from moving forward.⁵

BACKGROUND

I. Global Resolution Efforts Revealed that the Collective CLJA Case and Administrative Claim Pool Contains a Significant Number of Unsupported Claims.

A. The Questionnaire Process Revealed That “There Might Be a Significant Number of People That Don’t Have Valid Claims.”

As part of global resolution efforts, PLG and the United States negotiated a questionnaire, overseen by the Settlement Masters, to be sent to a random sample of 2,500 CLJA claimants currently in the administrative process. Mar. 21, 2025, SM Report, [D.E. 340](#), at 6; Oct. 8, 2025, SM Report, [D.E. 647](#), at 2 (“[T]he Parties and the SMs finalized the questionnaire . . . Pursuant to that process, a random sample of approximately 2,500 claimants has been asked to complete a detailed questionnaire that will provide additional information about the characteristics of the entire claimant population.”); Oct. 23, 2025, Order, [D.E. 652](#). The purpose of the questionnaire was to inform “a matrix that would define compensation based on a set of factors” and “a matrix for assigning values to claims and claimants . . . such that a global settlement and settlement process could be agreed upon” Mar. 21, 2025, SM Report, [D.E. 340](#), at 5;

⁴ The United States’ proposed *Lone Pine* order does not impose any new substantive burden on CLJA claimants. The costs associated with developing factual and expert evidence are inevitable, not unfair, because claimants would need to substantiate their claims to obtain compensation through litigation or a merits-based global settlement.

⁵ Judge Boyle has scheduled the first two Track 1 bellwether trials to start on October 26, 2026, and November 9, 2026, respectively.

see also Oct. 8, 2025, SM Report, [D.E. 647](#), at 1 (“A questionnaire process . . . would provide detailed information about a sample of cases that the Parties could extrapolate to the population as a whole (more than 400,000 claims including the administrative process).” (emphasis omitted)).

At PLG’s insistence, the questionnaire included many alleged illnesses beyond the ten identified in ATSDR’s Assessment of the Evidence as having some evidence of a causal connection to contaminants in Camp Lejeune water. At the April 5, 2023, status conference, PLG stated that approximately 70 percent of CLJA plaintiffs and claimants do not allege an illness identified by ATSDR. PLG stated:

MR. BELL: We don’t believe our clients are commodities, and we don’t want to lose those **70 percent of people** that most likely have a compensable disease but is **not part of the ATSDR**. So our database is a little different, our proposed database. We’ve already started that. We started that years ago.

And our questionnaire goes along with the ATSDR epidemiological study so that we can utilize the database as a way to determine whether Mrs. Jones’s illness [that] is not part of the presumed illnesses could very well be a compensable disease.

Apr. 5, 2023, Stat. Conf. Tr., [D.E. 81-14](#), at 44:20–45:9 (emphasis added).

On October 23, 2025, Judge Gates, as Settlement Liaison, entered an Order requiring questionnaire responses from the 2,500 randomly selected claimants to be submitted by November 24, 2025. Oct. 23, 2025, Order, [D.E. 652](#). Judge Gates emphasized in his Order that the questionnaire process was “a critical part of the path toward settlement.” The Order stated:

This case comes before the court in connection with the questionnaire process for seeking resolution of the claims under the Camp Lejeune Justice Act before this court, along with such claims in the Navy’s administrative forum.

The questionnaire process is a critical part of the path toward settlement. It will allow the Plaintiffs’ Leadership Group (“PLG”), the government (through the Department of Justice (“DOJ”)), and the Settlement Masters to more fully understand the wide scope of claims that would need to be resolved in a global settlement framework. Completion of the questionnaire process on the timetable established by the court and the Settlement Masters is therefore essential to timely pursuit of settlement.

Id. at 1 (emphasis added). Judge Gates stated that “refusal to participate and/or use reasonable diligence in completing the questionnaire will materially harm the settlement process and, the court understands, could result in adverse treatment or decision, at the Navy’s discretion, in the administrative process.” *Id.* at 2.

Approximately ten days before questionnaire responses were due, PLG reported at the November 14, 2025, status conference that the questionnaire process had revealed that “there might be a significant number of people that don’t have valid claims.” PLG stated:

MR. BELL: Your Honor. You know, a lot of the folks are not – we’re learning now **through our process of this questionnaire, there might be a significant number of people that don’t have valid claims.**

Nov. 14, 2025, Stat. Conf. Tr., [D.E. 734](#), at 13:12–16 (emphasis added). Indeed, a significant number of the 2,500 randomly selected CLJA claimants failed to respond to the questionnaire at all; and many of the CLJA claimants that did respond failed to provide substantiating documentation.⁶

B. Bellwether Mediations Revealed that the CLJA Case Pool Appears to Have the Same Issues as the CLJA Administrative Claim Pool.

During the summer of 2025, after the completion of Track 1 fact and expert discovery on water contamination and causation, PLG and the United States participated in Track 1 bellwether mediations conducted by the Settlement Masters and Judge Gates. *See* Mar. 21, 2025, SM Report, [D.E. 340](#), at 6; Sealed Orders Regarding Mediation, [D.E. 426](#) [429](#), [452](#). Like the questionnaire process, the bellwether mediation process was intended to “inform the matrix” and “to allow the Parties to value individual cases and understand the impact of factual differences, confounders, etc.” *See* Mar. 21, 2025, SM Report, [D.E. 340](#), at 5–6; *see also* Oct. 8, 2025, SM Report, [D.E. 647](#), at 1 (“Bellwether mediations . . . would help the Parties to value specific types of cases and to identify the variables that might impact settlement values in any matrix that they would develop.” (emphasis omitted)). As the result of these mediations and subsequent post-mediation discussions, three Track 1 bellwether cases were settled for very low values: in *Vidana v. United States*, 7:23-cv-01575-D-BM (non-Hodgkin’s lymphoma) the plaintiff settled for \$405; in *Fiolek v.*

⁶ The United States is willing to provide a detailed breakdown of the results from the questionnaire process at the Court’s request. The lack of response and substantiation during the questionnaire process reflects the larger issue of lack of substantiation for the 408,500 pending CLJA administrative claims. *See* Dec. 3, 2025, Stat. Conf. Tr., [D.E. 735](#), at 26:20–27:9 (MR. BELL: “I noticed in the status report there is a significant number of people that have not given the minimum information to the Department of Navy . . . The Government has said there are 177,478 claims that have at least one supporting document. And there are 65,000 that could be under the Elective Option. If you take 177,000 out of 409,000, that’s a significant number of claims that may not be eligible, Judge.”).

United States, 4:23-CV-00062-D-BM (leukemia) the plaintiff settled for \$10,000; and in *Raymond v. United States*, 7:23-CV-546-M-KS (bladder cancer) the plaintiff settled for \$24,000.⁷ Notably, Mr. Vidana lived at Camp Lejeune in an area of the base that was not supplied with contaminated drinking water, and his case settled for the value of the Court’s filing fee.⁸

In short, global resolution efforts have revealed that the collective CLJA case and administrative claim pool appears to be filled with unsupported CLJA lawsuits and claims, including CLJA lawsuits and claims that fall outside the scope of PLG’s own theories of exposure and causation.

II. PLG Has Asked the Court to Adopt ATSDR’s Camp Lejeune Water Models to Prove Individual Exposure to Contaminated Water from Three Camp Lejeune Water Distribution Systems Only.

To prove exposure, PLG initially asked the Court to adopt a “base-wide model” whereby exposure to contaminated water at Camp Lejeune would be presumed for any individual CLJA plaintiff or claimant that spent at least 30 days anywhere at Camp Lejeune during the CLJA’s statutory period. *See* PLG Mot. Partial Summ. J., [D.E. 111](#), at 14 (“Instead of requiring exposure to be established case-by-case, the CLJA enacts a bright-line rule: a plaintiff must have ‘resided, worked, or [been] otherwise exposed (including in utero exposure) for not less than 30 days during the period beginning on August 1, 1953, and ending on December 31, 1987, to water at Camp Lejeune.’” (emphasis omitted)); *see also* Oct. 30, 2023, Stat. Conf. Tr., [D.E. 38](#), at 10:4–7; 12:2–4 (MR. BELL: “And then we have a pretty important issue, Your Honor,

⁷ These settlements did not include confidentiality provisions because “[i]t is the policy of the Department of Justice that, in any civil matter in which the Department is representing the interests of the United States or its agencies, it will not enter into final settlement agreements or consent decrees that are subject to confidentiality provisions, nor will it seek or concur in the sealing of such documents. This policy flows from the principle of openness in government and is consistent with the Department’s policies regarding openness in judicial proceedings (*see* 28 CFR 50.9) and the Freedom of Information Act.” 28 CFR § 50.23(a).

⁸ More recently, DOJ made offers of judgment in all Track 1 bellwether cases. PLG accepted an offer of judgment to resolve an additional Track 1 bellwether case for \$100,000: *Howard v. United States*, 7:23-cv-00490-BO-RN (kidney cancer). *See* Judgment, [D.E. 94](#) (Case No. 7:23-cv-490). While the United States disputes that exposure to contaminated water at Camp Lejeune could cause kidney cancer or did cause Mr. Howard’s kidney cancer, the United States made this offer of judgment based on an evaluation of litigation risk and for an amount that reflects the United States’ view that Mr. Howard’s case was PLG’s strongest Track 1 bellwether case for kidney cancer.

having to do with what we're calling a base-wide model versus a site-specific model of exposure."); July 16, 2024, Stat. Conf. Tr., [D.E. 258](#), at 35:21–25 (MR. BELL: "So basically the statute says if you were there 30 days, our position is you're presumed to have been exposed."). However, the Court rejected PLG's "base-wide model," making clear that "[i]ndividual exposure is essential to the CLJA's causation requirement." *See In re Camp Lejeune Water Litig.*, 736 F. Supp. 3d at 321 ("Someone who stands outside during a thunderstorm has been 'exposed' to lightning. Such exposure does not mean the person was struck.").

With no "base-wide model" to rely on, PLG and their experts have now offered ATSDR's Camp Lejeune water models to establish individual plaintiff exposure to contaminated water at Camp Lejeune. Mar. 25, 2025, Hr'g Tr., [D.E. 343](#), at 16:13–20. (MR. DOWLING: "And we will ask the Court at the appropriate time – and we hope soon – to use [ATSDR's water models] as the baseline, as the cornerstone and the foundation, to resolve these cases."); *see also* Apr. 26, 2024, Stat. Conf. Tr., [D.E. 182](#), at 21:17–24 ("MR. BELL: Judge, it – the water modeling files are what ATSDR has said this entire case is about . . . Congress used it to pass a statute."); PLG Rule 16 Statement, [D.E. 117](#), at 5 ("Similarly, the PLG asks the Court to consider pretrial procedures to include a directive that the ATSDR assessment regarding the chemicals in the water at Camp Lejeune during the relevant time period . . . as well as the concentrations of those chemicals during the relevant time-period, are presumed for Track 1 cases and, in fact, for all CLJA cases.").

ATSDR's Camp Lejeune water models were developed to estimate monthly historical contaminant concentration levels for three Camp Lejeune water distribution systems only: Tarawa Terrace, Hadnot Point, and Holcomb Boulevard. *See* Tarawa Terrace Model Report, Chapter A, [D.E. 370-3](#); Hadnot Point/Holcomb Boulevard Model Report, Chapter A, [D.E. 371-3](#); *see also* Dec. 12, 2025, Order, [D.E. 777](#), at 5. The water model for Tarawa Terrace was completed by 2009, and the water model for Hadnot Point/Holcomb Boulevard was completed by 2013. ATSDR did not develop water models for the six other Camp Lejeune water distribution systems that were not contaminated. ATSDR's Camp Lejeune water models were developed for the purpose of informing population level epidemiological studies, and even

ATSDR did not use the water models to inform study periods outside of the period of 1968 to 1985. *See* Tarawa Terrace Model Report, Chapter A, [D.E. 370-3](#), at iii (“The study includes births occurring during the period 1968-1985 to women who were pregnant while they resided in family housing at the base.”); Hadnot Point/Holcomb Boulevard Model Report, Chapter A, [D.E. 371-3](#), at A1 (“The core period of interest for the epidemiological studies is 1968-1985.”); *see also* 2017 Assessment of the Evidence, [D.E. 472-3](#), at 149–50 (summarizing water modeling results for Tarawa Terrace and Hadnot Point from 1975 to 1985).

Ultimately, ATSDR’s Camp Lejeune water models and the epidemiological studies they informed were developed using a conservative, health protective approach to inform policy decisions about presumptions related to VA disability benefits. *See* 2017 Public Health Assessment, [D.E. 397-3](#), at xix (“When such data limitations appeared, ATSDR chose conservative (health-protective) data-interpretation options that were estimates of exposure in the upper end of the range of recommended values.”); Mar. 25, 2025, Hr’g Tr., [D.E. 343](#), at 16:6–12 (MR. DOWLING: “[T]he Department of Veterans Affairs[] is relying at least in part on this water model to make determinations about was something service connected, who should receive disability benefits.”); *see also* Jan. 16, 2013 Letter from ATSDR to Veteran Affairs, [D.E. 368-4](#); Aug. 3, 2015, Veterans Affairs Press Release, [D.E. 368-5](#).

Notably, ATSDR stated that its Camp Lejeune water models cannot be used to determine whether an individual suffered health effects as the result of exposure to Camp Lejeune water. *See, e.g.*, Tarawa Terrace Model Report, Chapter A, [D.E. 370-3](#), at A98 (“ATSDR’s exposure assessment cannot be used to determine whether you, or your family, suffered any health effects as a result of past exposure to PCE-contaminated drinking water at Camp Lejeune.”); Jan. 13, 2007 Faye Email to Maslia, [D.E. 372-11](#) (member of ATSDR’s water modeling team and current PLG non-testifying expert Robert Faye: “I will find it very difficult to defend these results to my technical peers or in a court of law.”).

Regardless of the intended use of ATSDR’s Camp Lejeune water models, PLG has offered no other evidence on water contamination at Camp Lejeune and no evidence related to the six other Camp Lejeune water distribution systems. Thus, the issues to be determined on exposure are

limited to whether and to what extent CLJA plaintiffs and claimants were exposed to contaminated water from the Tarawa Terrace, Hadnot Point, and Holcomb Boulevard water distribution systems.

III. PLG Has Relied on the ATSDR's 2017 Assessment of the Evidence as the Most Important Evidence Indicating a Connection Between Exposure to Camp Lejeune Water and Causation of Ten Particular Diseases.

To prove causation, PLG and their experts have repeatedly pointed to ATSDR's Assessment of the Evidence as CLJA plaintiffs' most important piece of evidence on causation in the entire CLJA litigation. *See* Assessment of the Evidence, [D.E. 472-3](#). The Assessment of the Evidence was ATSDR's review of the existing scientific literature "to assess the strength of the evidence supporting causality of adverse health effects from exposures to the drinking water contaminants at Camp Lejeune." *Id.* at 2. According to ATSDR, the Assessment of the Evidence relied on a relaxed classification scheme that gave the benefit of the doubt to veterans for the purpose of making policy decisions about presumptions related to VA disability benefits. *Id.* at 5. Notably, the Assessment of the Evidence's relaxed classification scheme did not require evidence of a statistical association in an epidemiological study to conclude that a chemical could cause a particular illness in humans:

The classification scheme adopted for this report is the one recommended by an [Institute of Medicine] panel that reviewed the VA's presumptive disability decision-making process for veterans (IOM 2008). This scheme makes clear when the evidence for causality is "at least as likely as not" or at the level of "equipoise and above." ATSDR adopted this scheme because of its focus on the epidemiological evidence for causation (i.e., there is no category for evidence of a statistical association). Additionally, the scheme is one that is already in use by the U.S. Department of Veterans Affairs (VA) in its decision-making concerning compensation for service-related disability compensation claims. The issue of compensation has been of major concern for the Camp Lejeune community.

In our assessment, we did not use confidence intervals to determine whether a finding was "statistically significant" nor did we use significance testing to assess the evidence for causality (Rothman et al. 2008).

Id. at 5, 8. Using this relaxed classification scheme, the Assessment of Evidence found evidence of a causal connection between certain contaminants in Camp Lejeune water and ten illnesses.⁹ *Id.* at 13–14. Notably,

⁹ Those illnesses are: kidney cancer, bladder cancer, Parkinson's disease, non-Hodgkin's lymphoma, leukemia, multiple myeloma, liver cancer, kidney disease, systemic sclerosis/systemic scleroderma, and

even using a relaxed classification scheme, the Assessment of the Evidence specifically found “below equipoise evidence for causation” between contaminants in Camp Lejeune water and six illnesses: pancreatic cancer, prostate cancer, breast cancer (male and female), esophageal cancer, rectal cancer, and brain/CNS cancers. *Id.* at 13–14. The Assessment of the Evidence did not find a causal connection between contaminants in Camp Lejeune water and any of the thousands of other illnesses that CLJA plaintiffs and claimants allege were caused by exposure to contaminated water at Camp Lejeune. *Id. passim.*

Relying on the Assessment of the Evidence, PLG filed a summary judgment motion asking the Court to rule that individuals with diseases covered by the Assessment of the Evidence be presumed to have established causation under the CLJA. *See* PLG Mot. Partial Summ. J., [D.E. 111](#), at 5; *see id.* at 21 (“Congress was keenly aware of IOM’s recommendations, the 2017 *Assessment of Diseases*, and the VA presumptions when it enacted the CLJA.”); *see also* PLG Rule 16 Statement, [D.E. 117](#), at 5 (“The PLG also requests that the Court consider pretrial procedures that would include a directive that causation is presumed for Track 1 diseases based on the 2017 ATSDR Report.”). According to PLG, the very passage of the CLJA was based on the Assessment of the Evidence. *See, e.g.,* Jan. 24, 2024, Stat. Conf. Tr., [D.E. 125](#), at 11:11–25 (MR. BELL: “Judge, this statute was based upon the ATSDR model. ATSDR report of 2017 is where the information – was where that statute was born.”); Oct. 30, 2023, Stat. Conf. Tr., [D.E. 38](#), at 9:18–23 (MR. BELL: “[W]e asked the Government to stipulate to the ATSDR 2017 health study. This was the study upon which the statute was based. It’s the largest epidemiological study in U.S. history.”). However, the Court rejected PLG’s request, making clear that CLJA plaintiffs “bear the burden of demonstrating their harm was caused by exposure, necessitating they establish both general and specific causation.” *In re Camp Lejeune Water Litig.*, 736 F. Supp. 3d at 317; *see also id.* at 327 (“But VA benefits and potential tort damages differ in kind, not degree. Interpreting the CLJA to require less from claimants than a veteran must

cardiac birth defects. 2017 Assessment of the Evidence, [D.E. 472-3](#), at 13–14. Track 1 consists of CLJA cases involving five of those illnesses: kidney cancer, bladder cancer, Parkinson’s disease, non-Hodgkin’s lymphoma, and leukemia. *See* CMO 2, [D.E. 23](#), at 8. Additionally, the Court selected, *inter alia*, liver cancer and kidney disease for Track 2. *See* Track 2 Discovery Plan Order, [D.E. 144](#).

show to recover VA benefits defies the plain language of the statute and would produce ‘absurd results’”) (internal citation omitted).

Moreover, nearly all PLG’s general and specific causation experts used the CLJA’s “at least as likely as not” burden of proof to relax their causation methodology for reaching their conclusions. PLG asked the Court to find that the CLJA allows for a relaxed causation methodology, and that causation opinions based on such a methodology are admissible, once again pointing to the Assessment of the Evidence’s relaxed classification scheme. *See* PLG Mot. Lim., [D.E. 568](#), at 3 (“The ‘as likely as not’ standard is sometimes described as evidence being in ‘equipoise.’” (citing, *inter alia*, Assessment of the Evidence at 5–6)); *see also* Oct. 30, 2023, Stat. Conf. Tr., [D.E. 38](#), at 12:15–22 (MR. BELL: “ATSDR has this unique causation, as you’re aware, it’s called in there equipoise.”). Chief Judge Myers, Judge Boyle, and Judge Dever rejected PLG’s request for a relaxed methodological standard for expert testimony admissibility. June 5, 2026, Order, [D.E. 886](#), at 16 (“Some experts in this litigation may have modified their methodological thresholds to track the CLJA’s legal standard rather than the standards of their fields. The PLG defends this move as the natural consequence of Congress’s decision to relax the common-law preponderance standard for a CLJA claim. Not so.”).¹⁰

Thus, the Assessment of the Evidence underpins PLG’s entire theory of causation in the CLJA litigation. To be clear, however, the Assessment of the Evidence was not a robust epidemiological or toxicological study, but rather a document created to inform policy decisions about presumptive illnesses for VA disability benefits. Former senior ATSDR epidemiologist, Dr. Frank Bove, authored the Assessment of the Evidence. *See* Nov. 21, 2023, Stat. Conf. Tr., [D.E. 76](#), at 44:4–10 (MS. GREENWALD: “Mr. Bell just mentioned Dr. Bove who actually was, as he said, the author of the 2017 report. He’s the senior epidemiologist at the ATSDR”); Mar. 5, 2024, Stat. Conf. Tr., [D.E. 161](#), at 65:10–19 (MR. BELL: “Dr. [Frank] Bove is the primary scientist that authored ATSDR 2017”); Nov. 21, 2023, Stat. Conf.

¹⁰ The June 5, 2026, Order indicated that “Judge Flanagan will separately resolve these issues in her cases.” [D.E. 886](#), at 20.

Tr., [D.E. 76](#), at 43:7–10 (MR. BELL: “The author of that study is the same author of the 2017 health study, which is the famous study.”). Dr. Bove’s deposition testimony confirms that the Assessment of the Evidence was created to inform policy decisions about presumptions related to VA disability benefits. Dr. Bove testified:

Q Exhibit 5. Okay. Are you one of the principal authors of the 2017 assessment?

A I am the author.

Q You are the sole author?

A (Nods head affirmatively.)

Q Okay. Can you just sort of give, like, an overview of what you were – why you did this study and what you were trying to accomplish? And then I’m going to ask you some questions specifically.

A Well, first of all, it’s not a study. It’s an assessment.

Q Assessment. I’m so sorry.

A It’s not a meta-analysis.

Q Right. Correct.

A It’s not – it’s sort of, kind of, a systematic review, but the whole – but we don’t normally – ATSDR doesn’t normally do this. What happened was the VA decided, with a lot of pressure being put on them, to list kidney cancer, acute myeloid leukemia, and angiosarcoma of the liver as the three presumptive diseases that they wanted to do. And that was not acceptable to the [Community Assistance Panel, or “CAP”] or to the three senators in this room that we were in Washington – in Congress.

Bove Dep. Tr. (Oct. 17, 2024), [D.E. 540-2](#), at 104:19–105:22. According to Dr. Bove, there were only two illnesses for which VA presumptions made sense: kidney cancer in relation to TCE and acute myeloid leukemia (or “AML”) in relation to benzene. Dr. Bove testified:

And if you looked at – kidney cancer, for sure, should be on a presumption list, there’s no question about that, when dealing with trichloroethylene. Acute myeloid leukemia makes a lot of sense if we’re talking about benzene, for sure . . . so there were really only two diseases, really, that made any sense to be on that list that the VA was proposing. And so they were – the senators pushed them hard. The VA secretary looked to me and Dr. Breyse, who was the head of the agency at that point, and said, “Can you help us?” And we said, “Yes.” “Can you give us something in six weeks?” “Yeah, we’ll do it.” So I dropped everything and – most of the tables you see in here were done within that six-week period.

Id. at 105:23–106:25. Dr. Bove also testified that there were disagreements about the findings for other illnesses identified in the Assessment of the Evidence. Dr. Bove testified:

During that [six-week] period, I had enough material together so that it was peer-reviewed by two people to give their advice. One person liked it, one person didn’t like it, but that – so – and I took their comments into account. And we briefed the VA researchers/scientists. So this was, I think, in – July 2015 was the meeting with the senators, somewhere around there. The briefing was six weeks later. It was, roughly, in the middle of September 2015.

And for the most part, they agreed with what my – with what my assessment was. There were some disagreements. Bladder cancer was a disagreement. Scleroderma was a disagreement. Chronic kidney disease was a disagreement. Cardiac defects at the end was put in there because a CAP member wanted me to address it, but it was really not something the VA was concerned about.

Id. at 107:1–18.

Regardless of the meaning or significance of the findings in the Assessment of the Evidence, PLG has presented the Assessment of the Evidence as their most important piece of evidence on causation in the CLJA litigation. The Assessment of the Evidence identified only ten illnesses as having any evidence of a causal connection to the contaminants in Camp Lejeune water. Thus, absent some scientific evidence to support other illnesses, these ten ATSDR illnesses should be the focus of whether exposure to contaminated water at Camp Lejeune caused any CLJA plaintiff's alleged harm.

IV. The United States' Proposed *Lone Pine* Order Would Require CLJA Plaintiffs to Provide Basic Threshold Evidence to Substantiate Their Exposure, Alleged Harms, and Causation.

To substantiate exposure, the United States' proposed *Lone Pine* order would require both new and existing CLJA plaintiffs (excluding Track 1 bellwether plaintiffs) to provide documentation substantiating that they lived, worked, or were otherwise present at Camp Lejeune for at least 30 days during the CLJA's statutory period of August 1, 1953 through December 31, 1987, *and* that they were exposed to water from one of the three Camp Lejeune water distribution systems at issue: Tarawa Terrace, Hadnot Point, or Holcomb Boulevard. Acceptable documentation could include but is not limited to: military records, employment records, school records, court records, and housing records. Military and housing records are readily available, for example, through the U.S. National Archives and Records Administration's website.¹¹ Individuals can also make a request to the VA for a veteran's file, which often includes military records.¹²

¹¹ See NARA, "Military Service Records," <https://www.archives.gov/veterans/military-service-records> (last visited Oct. 23, 2026).

¹² See VA, "Request personal records online," <https://www.va.gov/forms/20-10206/request-personal-records/introduction> (last visited Oct. 23, 2026).

To substantiate their alleged harms, new and existing CLJA plaintiffs would be required to provide a complete set of medical records that document the diagnosis, management, and treatment of the plaintiff's alleged harms or illnesses.

To substantiate causation, CLJA plaintiffs alleging any harms other than the ten illnesses identified in ATSDR's Assessment of the Evidence would also be required to substantiate general and specific causation by providing Rule 26(a)(2) expert reports that comply with Federal Rule of Evidence 702. With respect to the ten ATSDR illnesses, the United States' proposed *Lone Pine* order would have no effect on the progress of pending Track 1 litigation and would not preclude Track 1 bellwether trials from moving forward. Further it would not preclude the Parties from considering, or the Court from determining, whether there is sufficient scientific evidence that any of the remaining ATSDR illnesses can be caused by Camp Lejeune water under the appropriate tort causation standard.

All CLJA plaintiffs would have 180 days to provide this evidence to the United States. CLJA claimants whose administrative claims are denied by the Navy would have 180 days to file their lawsuits and provide the necessary evidence at the time of filing their lawsuits. CLJA § 804(j)(2)(B). Likewise, the United States' proposed *Lone Pine* order would give existing CLJA plaintiffs 180 days to provide the required evidence. All CLJA plaintiffs who fail to provide the required evidence would be subject to dismissal with prejudice upon motion by the United States, but only after the United States sends a deficiency letter allowing for an additional 30 days to correct deficiencies and comply with the United States' proposed *Lone Pine* order.

The requirements imposed by the United States' proposed *Lone Pine* order would be in addition to applicable requirements under the Court's existing Case Management Orders.

LEGAL STANDARD

Under Federal Rule of Civil Procedure 16(b)(3), district courts are permitted to modify the timing and extent of the disclosures required under Federal Rule of Civil Procedure 26(a). Under Federal Rule of Civil Procedure 16(c)(2)(L), district courts are further permitted to adopt "special procedures for managing potentially difficult or protracted actions that may involve complex issues, multiple parties, difficult legal

questions, or unusual proof problems.” As this Court recently recognized, “[c]ourts in mass tort cases ‘routinely’ issue *Lone Pine* orders, often under Federal Rule of Civil Procedure 16(b)(3) and 16(c)(2)(L).” *Conklin v. Corteva, Inc.*, 782 F. Supp. 3d 268, 274 (E.D.N.C. 2025) (Dever, J.) (citations omitted).¹³ The Court explained that “*Lone Pine* orders are regularly used in, and were specifically created for, cases alleging mass environmental contamination.” *Id.* at 279 (quoting *Abner v. Hercules, Inc.*, No. 14-CV-63, 2014 WL 5817542, at *5 (S.D. Miss. Nov. 10, 2014)). “*Lone Pine* orders assist in managing ‘complex issues and potential burdens on defendants and the court in mass tort litigation, essentially requiring plaintiffs to produce a measure of evidence to support their claims at the outset.’” *Id.* at 274 (citation omitted); *see also id.* (collecting cases on the same proposition). “*Lone Pine* orders ‘identify and cull potentially meritless claims and streamline litigation in complex cases.’” *Id.* (quoting *In re Vioxx Prods. Liab. Litig.*, 557 F. Supp. 2d 741, 743 (E.D. La. 2008)).

This Court set forth the following factors to consider in deciding whether to issue a *Lone Pine* order: “(1) the posture of the action, (2) the peculiar case management needs presented, (3) external agency decisions impacting the merits of the case, (4) the availability and use of other procedures explicitly sanctioned by the federal rules or statutes that would accomplish the same goals as the proposed *Lone Pine* order, and (5) the type of injury alleged by plaintiffs and its cause.” *Conklin*, 782 F. Supp. 3d at 275 (citing *Steering Comm. v. Exxon Mobil Corp.*, 461 F.3d 598, 604 n.2 (5th Cir. 2006)). “In addition to these five factors, ‘case complexity and pleading defects are additional factors worth considering in advance of entering a *Lone Pine* order.’” *Id.* (citation omitted). “In issuing a *Lone Pine* order, a court must take care not to vitiate existing procedural rules and safeguards.” *Id.* (citation omitted).

ARGUMENT

In *Conklin*, Judge Dever entered a pre-discovery *Lone Pine* order in a water contamination case that required sixty plaintiffs to provide expert declarations confirming their injuries and causation. 782 F.

¹³ These case management orders are called “*Lone Pine* orders,” after the case *Lore v. Lone Pine Corp.*, No. L-33606-85, 1986 WL 637507 (N.J. Super. Ct. Law Div. Nov. 18, 1986). *See Conklin*, 782 F. Supp. 3d at 274.

Supp. 3d at 279–80. Here, the CLJA litigation is arguably the largest mass tort case in United States history, and CLJA plaintiffs and claimants have had more than four years since the CLJA’s passage to obtain the basic threshold documentation and evidentiary support necessary to support the basis for their claims. Given the CLJA litigation’s size, complexity, and maturity, the factors are even more compelling for entering the United States’ proposed *Lone Pine* order here than they were in *Conklin*.

I. The First Factor Favors Entry of a *Lone Pine* Order Because at This Stage of the Litigation, a *Lone Pine* Order Can Advance Global Resolution Efforts, and CLJA Plaintiffs and Claimants Have Had Years to Obtain the Basic Threshold Documentation and Evidentiary Support Necessary to Support Their Claims.

A. Entering the United States’ Proposed *Lone Pine* Order Would Advance Global Resolution Efforts.

“The first factor requires the court to examine the posture” of the litigation. *Conklin*, 782 F. Supp. 3d at 275 (citing *Acuna v. Brown & Root, Inc.*, 200 F.3d 335, 340 (5th Cir. 2000)). The Court has repeatedly emphasized the importance of global resolution efforts. However, the overwhelming majority of CLJA lawsuits and claims remain unsupported, presenting a significant obstacle to global resolution.

After years of litigation and repeated documentation requests from the Navy and DOJ, over 75 percent of the 408,500 administrative claims pending with the Navy have submitted little to no documentation or evidentiary support to substantiate their individual claims. Moreover, the overwhelming majority of CLJA lawsuits and administrative claims fall outside the scope of PLG’s theory of exposure and causation. Indeed, PLG previously admitted that the majority of CLJA lawsuits and claims involved an illness that was not even identified in the ATSDR’s Assessment of the Evidence as having “sufficient” or “equipoise and above” scientific evidence of causation for a Camp Lejeune contaminant under the relaxed classification scheme that ATSDR used. *See* Apr. 5, 2023, Stat. Conf. Tr., [D.E. 81-14](#), at 44:4–45:9. After years of discovery, litigation, and global resolution efforts, PLG also admitted that “there might be a significant number of people that don't have valid claims.” Nov. 14, 2025, Stat. Conf. Tr., [D.E. 734](#), at 13:9–16. As three Track 1 bellwether cases were settled for very low values, the CLJA case pool appears to have the same issues as the CLJA administrative claim pool. This is particularly noteworthy because (1) PLG had the ability to handpick the CLJA case pool by choosing which cases to bring out of the

administrative claim process and into litigation, and (2) Track 1 bellwether cases were selected because they involve five of the ten illnesses for which ATSDR found at least some evidence of a causal connection to Camp Lejeune water. In other words, Track 1 bellwether cases are likely among PLG's strongest cases, and yet even those cases include weak and unsupported claims, calling into question the integrity of the collective CLJA case and administrative claim pool.

Moreover, expert discovery in Track 1 revealed that nearly all PLG's dozens of general and specific causation experts relied on the CLJA's "at least as likely as not" burden of proof standard to reduce their methodological rigor employed to reach their causation opinions. Notably, during the early stages of the litigation, and before the completion of fact and expert discovery, PLG wanted fast-tracked trials. *See, e.g.*, PLG Discovery and Trial Plan Proposal, [D.E. 17-1](#), at 11 ("The Parties should be prepared to commence trials for some of the above diseases beginning in the first quarter of 2024."); Jan. 24, 2024, Stat. Conf. Tr., [D.E. 125](#), at 8:12-15 ("MR. BELL: From a litigation standpoint, Judge, we're very satisfied with it. We think it ought to be hastened. We think we ought to have trials as quickly as we can."). Following the completion of fact and expert discovery, however, PLG has repeatedly sought to delay rulings on the United States' *Daubert* and dispositive motions in favor of global resolution efforts. *See, e.g.*, PLG Opp. to Mot. for Leave to File Resp. to Notice of Proposed Order re Order 886, [D.E. 902](#), at 3 ("[T]he PLG respectfully requests that the Court deny any further briefing on this issue so that the parties may focus their time and efforts on global resolution per this Court's June 30, 2026 Order."). "Courts must be exceedingly wary of mass litigation in which plaintiffs are unwilling to move their cases to trial." *In re FEMA Trailer Formaldehyde Prods. Liab. Litig.*, 628 F.3d 157, 163 (5th Cir. 2010).

In the Mentor ObTape MDL, Judge Clay Land recognized that the possibility of global resolution in mass tort litigation may lead some lawyers to fail to scrutinize the merits of their individual cases as closely as they would if those cases were proceeding separately as individual actions. The Order states:

[T]he evolution of the MDL process toward providing an alternative dispute resolution forum for global settlements has produced incentives for the filing of cases that otherwise would not be filed if they had to stand on their own merit as a stand-alone action. **Some lawyers seem to think that their case will be swept into the MDL where a global settlement will be reached, allowing them to obtain a recovery without the individual**

merit of their case being scrutinized as closely as it would if it proceeded as a separate individual action. This attitude explains why many cases are filed . . . with so little pre-filing preparation that counsel apparently has no idea whether or how she will prove causation.

In re Mentor Corp. ObTape Transobturator Sling Prods. Liab. Litig., No. 4:08–MD–2004 (CDL), 2016 WL 4705827, at *1 (M.D. Ga. Sept. 7, 2016) (emphasis added).

Likewise, the Duke Law Guidelines recognize that requiring plaintiffs in mass tort litigation to produce information about their individual claims is vital to informing the bellwether process, preventing delay in settlement discussions, and addressing concerns about unsubstantiated claims. The Duke Guidelines specifically state:

In non-MDL cases, plaintiffs are required to produce information about their claims from the outset, and that requirement should not change simply because a claim becomes part of an MDL proceeding. Such a balanced approach will ensure that both sides obtain information critical to claims or defenses. Moreover, **development of plaintiffs’ individual claims is vital to the establishment of a fair and informative bellwether trial process and is indispensable to any settlement discussions in which the parties may engage. In fact, settlement talks are often delayed because the parties have not anticipated the time needed to assemble information necessary to assess the strengths and weaknesses of the global litigation and examine the potential value of individual claims. Finally, requiring plaintiffs at an early juncture to produce information verifying their basic factual allegations addresses concerns that MDL proceedings invite unsubstantiated claims.**

See Bolch Judicial Institute, Duke Law School, *Guidelines and Best Practices for Large and Mass-Tort MDLs* (2d ed.), p. 9, <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1004&context=bolch> (emphasis added).

Consistent with the Duke Law Guidelines, the United States’ proposed *Lone Pine* order would require CLJA plaintiffs to provide basic threshold information about their claims by substantiating exposure, their alleged harms, and causation. This would advance global resolution efforts by helping the Parties to distinguish between CLJA claims and illnesses that are compensable and those that are not. In turn, this would allow the Parties to more accurately value individual claims, as well as value the entire pool of CLJA lawsuits and administrative claims.

Lone Pine orders are utilized by federal district courts handling mass tort cases for exactly this purpose. For example, in the longstanding talc litigation, global resolution was not reached until after a

Lone Pine order was entered. The talc litigation involved 69,000 plaintiffs alleging that talc exposure caused their ovarian cancer. *See In re Johnson & Johnson Talcum Powder Prods. Mktg., Sales Pracs., & Prod. Liab. Litig.*, MDL No. 16-2738 (MAS) (RLS), 2026 WL 2111340, at *5 (D.N.J. July 22, 2026) (Singh, Mag. J.). After the plaintiffs’ specific causation experts admitted at a Rule 702 hearing that they did not separately consider or quantify the relevant risk factors for individual plaintiffs and could not do so, the plaintiffs withdrew their specific causation experts in all bellwether cases. *Id.* at *1–2. In response, Johnson & Johnson moved for an order to show cause as to why all 69,000 cases should not be dismissed due to an inability to prove specific causation. *Id.* The district court treated Johnson & Johnson’s requested show cause order as a *Lone Pine* order, stating that “[c]ase management orders, including *Lone Pine* orders or similar mechanisms, facilitate the goals of distinguishing meritorious claims from non-meritorious claims and efficiently reaching a resolution on the merits of the issues presented.” *Id.* at *4. In granting Johnson & Johnson’s motion, the district court stated that “[t]hrough the order to show cause process, all Plaintiffs, including the bellwether Plaintiffs, as well as Defendants, will have an opportunity to be heard. The Court will then be able to determine which claims are, or are not, meritorious.” *Id.* at *9. Less than a week after a *Lone Pine* order was entered, global resolution was reached in the talc litigation. *See* Dietrich Knauth, *J&J Reaches Sweeping Talc Deal that Could End Decade of Litigation*, REUTERS (July 27, 2026), <https://perma.cc/HU9T-EHQC>.

B. CLJA Plaintiffs and Claimants Have Had Years to Obtain Basic Threshold Evidence to Substantiate Their Claims on Exposure and Causation.

The United States’ proposed *Lone Pine* order would require CLJA plaintiffs to provide basic threshold evidence that all CLJA plaintiffs should have to support the factual basis for their claims pursuant to Federal Rule of Civil Procedure 11(b)(3). PLG’s central evidence on exposure and causation was available for many years before the CLJA’s passage in 2022. ATSDR’s Camp Lejeune water models were completed and publicly available no later than 2013, and ATSDR’s Assessment of the Evidence was published and publicly available in 2017. CLJA plaintiffs and claimants have had years to determine

whether their claims fit within the scope of PLG's theories of exposure and causation and to gather the necessary evidence to prove their claims.

Federal district courts handling mass tort cases have entered *Lone Pine* orders requiring plaintiffs to provide substantiating documentation and expert evidence even before discovery has taken place. *See, e.g., Conklin*, 782 F. Supp. 3d at 276 ("Thus, the information sought by defendants' proposed *Lone Pine* order is the same 'information which plaintiffs should have had before filing their claims pursuant to Fed. R. Civ. P. 11(b)(3).'" (quoting *Acuna*, 200 F.3d at 340) (Dever, J.); *Acuna*, 200 F.3d at 340 ("Each plaintiff should have had at least some information regarding the nature of his injuries, the circumstances under which he could have been exposed to harmful substances, and the basis for believing that the named defendants were responsible for his injuries."); *Abner*, 2014 WL 5817542, at *2–4 (entering pre-discovery *Lone Pine* order where "the parties entered into this matter armed with significant history, information[, and documentation.']), *amended in part*, 2015 WL 13821942 (S.D. Miss. Feb. 5, 2015).¹⁴

Here, the United States' request for a *Lone Pine* order comes over four years after the CLJA's passage and years into the litigation because it is now readily apparent that the universe of CLJA lawsuits and administrative claims is made up largely of unsupported claims. In addition to requiring CLJA plaintiffs to provide documentation substantiating exposure and diagnosis of the alleged illness, the United States' proposed *Lone Pine* order would require CLJA plaintiffs to provide Rule 26(a)(2) expert reports that comply with Federal Rule of Evidence 702 to substantiate general and specific causation for any illness other than the ten illnesses identified in ATSDR's Assessment of the Evidence. Requiring CLJA plaintiffs to provide Rule 26(a)(2) expert reports, rather than mere expert declarations, is warranted here given the maturity of the CLJA litigation. In *Conklin*, the defendants sought, and Judge Dever entered, a *Lone Pine* order that only required expert declarations before discovery had taken place. Here, by contrast, PLG has conducted

¹⁴ *See also* *McManaway v. KBR, Inc.*, 265 F.R.D. 384, 385 (S.D. Ind. 2009); *Abbatiello v. Monsanto Co.*, 569 F. Supp. 2d 351, 353–54 (S.D.N.Y. 2008); *Burns v. Universal Crop Prot. All.*, No. 4:07-CV-00535-SWW, 2007 WL 2811533, at *2–3 (E.D. Ark. Sept. 25, 2007); *In re 1994 Exxon Chem. Plant Fire Litig.*, Master Docket No. 94-MS-3-C-1, 2005 WL 6252312, at *2 (M.D. La. Apr. 7, 2005), *modified by*, 2005 WL 6252291 (M.D. La. Apr. 29, 2005).

extensive fact and expert discovery, and CLJA plaintiffs and claimants have had years to obtain the basic threshold evidence to support their allegations on exposure and causation related to their alleged harms. Even so, the United States' proposed *Lone Pine* order would not require CLJA plaintiffs to immediately provide documentation and expert reports to substantiate their claims. Rather, CLJA plaintiffs would be given another 180 days to obtain the necessary evidence. In short, the advanced posture of the litigation makes the United States' proposed *Lone Pine* order particularly appropriate now because CLJA claimants have had a meaningful opportunity to obtain the evidence they need to remain in the case. Thus, it is the right time to establish a meaningful claims-screening process so that the parties can negotiate a global resolution.

Numerous federal district courts handling toxic and mass tort cases have entered *Lone Pine* orders requiring the production of substantiating documentation and expert evidence after years of discovery and litigation has revealed that the case pool was filled with unsupported claims. *See, e.g., In re Johnson & Johnson*, 2026 WL 2111340, at *5 (When entering a show cause order, the court observed that “[t]his MDL, presently consisting of over 69,000 claimants, has remained pending for over a decade. The Parties have completed all factual and expert discovery for the six bellwether cases. There is nothing nascent about this litigation.”); *Johnson v. SmithKline Beecham Corp.*, No. 11-5782, 2026 WL 1481223, at *1 (E.D. Pa. May 27, 2026) (“Indeed, such a *Lone Pine* Order is particularly suited to this case. Defendants have been trying since 2011 to learn: whether Plaintiffs have evidence that Defendants’ products caused their injuries” (citing *Conklin*, 782 F. Supp. 3d at 277)); *Avila v. Willits Env’tl. Remediation Tr.*, 633 F.3d 828, 834 (9th Cir. 2011) (affirming district court’s entry of a *Lone Pine* order in a toxic tort case, stating “given seven years to develop a case, we cannot say that they lacked a full and fair opportunity to marshal facts in support of their position”); *In re Vioxx Prods. Liab. Litig.*, 557 F. Supp. 2d at 744 (entering *Lone Pine* order and stating that “[t]he Court finds that at this advanced stage of the litigation, it is not too much to ask a Plaintiff to provide some kind of evidence to support their claim that Vioxx caused them personal injury . . .”), *aff’d* 338 F. App’x 391 (5th Cir. 2010) (per curiam).

Moreover, federal district courts have held that dismissal is an appropriate sanction for failure to comply with a *Lone Pine* order. *See, e.g., In re AFFF*, No. 2:18-mn-02873-RMG, [D.E. 11730](#), at 1 (D.S.C. Sept. 28, 2026) (in adopting a Report and Recommendation to dismiss thousands of toxic tort cases, the Court noted “Plaintiffs’ argument through counsel that they needed additional time to obtain information from their clients and to ‘finish evaluating claims,’ or were unable to contact clients despite repeated attempts” but concluded that “The R&R correctly determined these excuses rang hollow because ‘Counsel identified in Category B on both Exhibits have had months, if not years, to obtain and supply to the court information about their clients.’”); *Johnson*, 2026 WL 1481223, at *2; *In re Avandia Mktg., Sales Practices & Prods. Liab. Litig.*, 687 F. App’x 210 (3rd Cir. Apr. 19, 2017); *Avila*, 633 F.3d at 833–34; *Wilcox v. Homestake Mining Co.*, No. CIV 04–534 JC/WDS, 2008 WL 4697013, at *1 (D.N.M. Oct. 23, 2008).

II. The Second Factor Favors Entering the United States’ Proposed *Lone Pine* Order Because of the Peculiar Needs of this Mass Tort Litigation, Which Involves Hundreds of Thousands of Claims Alleging Thousands of Different Illnesses.

“The second factor requires the court to consider the peculiar case management needs” of the litigation. *Conklin*, 782 F. Supp. 3d at 276. With nearly 3,800 lawsuits and 408,500 administrative claims alleging that exposure to contaminated water at Camp Lejeune caused thousands of illnesses, the CLJA litigation is arguably the largest mass tort action in United States history. Indeed, Judge Dever recognized the peculiar or extraordinary case management needs at the outset of the CLJA litigation. *See* Apr. 5, 2023, Stat. Conf. Tr., [D.E. 81-14](#), at 5:23–10:2.

In the four years since the CLJA’s passage, the Parties have spent an enormous amount of time, energy, and resources to complete Track 1 discovery and briefing related to water contamination, general causation for five identified diseases, and specific causation for twenty-five bellwether trial plaintiffs. The Parties deposed approximately 400 fact witnesses, disclosed approximately 300 expert reports, deposed over 50 experts, and filed dozens of important pretrial motions on issues of statutory interpretation and admissibility of expert opinions. Likewise, the Court has expended significant resources to manage this massive litigation and to decide numerous legal and discovery issues. This is all before Track 1 bellwether trials have even taken place. Track 1 involves only five of the thousands of illnesses allegedly caused by

exposure to contaminated water at Camp Lejeune. Track 1 started out as 100 discovery pool cases before being narrowed down to 25 bellwether cases of the hundreds of thousands of pending CLJA lawsuits and administrative claims.¹⁵ If the rest of the litigation were to unfold like Track 1, the CLJA litigation could take many more years to complete

The United States' proposed *Lone Pine* order would assist in managing the extraordinary needs of the CLJA litigation by vetting the universe of remaining CLJA lawsuits and administrative claims, and shortcutting what could otherwise take years of litigation to accomplish. Not only would this vetting process advance global resolution efforts by helping the Parties to distinguish between viable and unviable CLJA claims, but it would reduce the burden placed on the Court and the Parties in having to individually litigate thousands of CLJA lawsuits. In other words, the United States' proposed *Lone Pine* order would ensure that the Court and the Parties do not expend additional time and resources to litigate CLJA lawsuits that lack the evidentiary support to move forward. Moreover, the United States' proposed *Lone Pine* order would not prevent global resolution efforts from continuing or Track 1 bellwether trials from moving forward. Once the *Lone Pine* vetting process is completed, the Court and the Parties can then decide whether it is necessary to move forward with litigating cases involving illnesses beyond the ten identified in ATSDR's Assessment of the Evidence in Tracks 2 and 3, and if so, how to efficiently manage the remaining cases.

Courts have routinely entered *Lone Pine* orders to reduce the burden on the parties and the court and to manage the massive scale and complexity of mass tort cases. For example, a *Lone Pine* order was recently entered in another massive toxic tort case pending in the Fourth Circuit, under circumstances similar to those in the CLJA litigation. In the AFFF MDL pending before Judge Richard Gergel in the District of South Carolina, the parties were preparing for the first bellwether trials related to thousands of personal injury claims allegedly stemming from exposure to PFAS contaminated water. *See, e.g., In re*

¹⁵ Currently, there are 21 pending Track 1 bellwether cases because three Track 1 bellwether cases were settled and one accepted an Offer of Judgment, as outlined above.

AFFF, No. 2:18-mn-02873-RMG, [D.E. 4149](#), at 1 (D.S.C. Dec. 5, 2023) (“The *AFFF* multi-district litigation now includes more than 20,000 cases, the great bulk of which raise individual personal injury claims.”). At a status conference held on June 20, 2025, approximately four months before the first bellwether trial was scheduled to begin, Judge Gergel made comments, similar to Judge Dever’s comments, about the importance of global resolution efforts to avoid spending a lifetime litigating cases. The Court stated:

THE COURT: Let me just say, folks, sitting here without a dog in the fight, just trying to make sure everyone has a fair field to fight on, I think y’all would be extremely prudent to be flexible enough to look for a global settlement. You really want to spend the rest of your life litigating these claims? I mean, really? I think it’s like your grandchildren’s lives. This thing is going [to] go on forever unless you folks have the vision and imagination and flexibility to find some path that everyone feels like it may not be the perfect deal, but it’s the most reasonable under the circumstances. I know y’all are working towards that.

Exhibit 2, *AFFF* June 20, 2025, Stat. Conf. Tr. at 10:5–16. After the June 20, 2025, status conference, the parties engaged in mediation, where it was revealed that, like CLJA administrative claims, there were a large number of unfiled claims, raising concerns about case management and the bellwether process. *See, e.g., In re AFFF*, No. 2:18-mn-02873-RMG, [D.E.7518](#) (D.S.C. July 15, 2025) (“The sudden aggregating of a large number of unfiled personal injury claims has the potential of disrupting the orderly operation of the MDL and undermining ongoing settlement discussions among the parties.”).

To manage the large number of unfiled claims, Judge Gergel entered a *Lone Pine* order aimed at ferreting out and vetting the unfiled claims, again emphasizing the need to efficiently manage the litigation. *See In re AFFF*, No. 2:18-mn-02873-RMG, Case Management Order No. 35, [D.E. 7823](#) at 1 (D.S.C. Aug. 15, 2025).¹⁶ In doing so, Judge Gergel stated that “[t]he existence of these unfiled claims, many of which

¹⁶ Prior to entering this *Lone Pine* order, Judge Gergel developed a process to narrow the many illnesses or injuries alleged in the *AFFF* MDL to six injuries that are currently being pursued. *See In re AFFF*, No. 2:18-mn-02873-RMG, Case Management Order No. 35, [D.E. 7823](#), at 1 (D.S.C. Aug. 15, 2025). That process culminated with the entry of a separate *Lone Pine* order requiring production of medical records and Rule 26(a)(2) expert reports on general and specific causation as to all alleged illnesses or injuries other than the six illnesses being pursued. *See In re AFFF*, No. 2:18-mn-02873-RMG, Case Management Order No. 28, [D.E.4681](#) (D.S.C. Mar. 13, 2024). Here, such a narrowing process is unnecessary because the contaminants in Camp Lejeune water have been studied for decades (unlike PFAS), and the fact that

may not be vetted, creates challenges for the Court's continued efficient management of this MDL docket" and "[g]iven the complexity of this MDL, the Court has established the requirements of this Order for the purpose of ensuring that cases are filed and properly vetted to aid in the ongoing management of this MDL."

Id. The *Lone Pine* order entered in the AFFF MDL currently requires new plaintiffs bringing personal injury lawsuits to produce medical records substantiating the plaintiff's alleged injury and Rule 26(a)(2) expert reports supporting the plaintiff's allegations on general and specific causation related to the alleged injury.

It states:

A. The plaintiff shall have 90 days from the date the action is filed in or transferred to this MDL to serve (to the extent not already provided via a Plaintiff Fact Sheet) on Defendants named in the action a complete set of medical records that document the diagnosis, management, and treatment of plaintiff's alleged injury.

B. The plaintiff shall have 120 days from the date the action is filed in or transferred to this MDL to serve on Defendants named in the action expert disclosures compliant with Federal Rule of Civil Procedure 26(a)(2) that support plaintiff's allegation of general causation and specific causation for the specific disease(s) or condition(s) he or she alleges.

Id. at 9. This is in addition to fact sheet and proof requirements (including on exposure) set forth in the other case management orders in the AFFF MDL. *Id.* In the same *Lone Pine* order, Judge Gergel emphasized the importance of investigating and vetting unfilled claims. The Court stated:

This Court trusts it does not need to remind plaintiffs' counsel of their obligations to investigate their clients' claims, both prior to and upon retention as well as throughout the course of their representation. To the extent that the large number of unfilled cases is the result of aggressive case acquisition advertising and marketing efforts, plaintiffs' counsel are reminded that they should not accept more cases than they can reasonably investigate and prosecute (*see* ABA Model Rules of Professional Conduct 1.1, 1.3).

Id. at 8–9.¹⁷ Currently, the AFFF MDL stands at well over 10,000 personal injury lawsuits involving tens of thousands of plaintiffs.

ATSDR's Assessment of the Evidence underpins PLG's entire theory on causation narrows the focus of the litigation to the ten illnesses identified by ATSDR.

¹⁷ *See also* Kaustuv Basu, *Camp Lejeune Legal Fees Under Fire as Veterans' Claims Spike*, BLOOMBERG LAW (Dec. 29, 2022), [D.E. 34-1](https://perma.cc/6PW3-ZQU5), <https://perma.cc/6PW3-ZQU5> ("The law has unleashed a barrage of advertising as lawyers jockey for clients.").

Judge Gergel is not the only federal district court judge to recognize the utility of *Lone Pine* orders to manage the peculiar needs of mass tort litigation. In entering *Lone Pine* orders, numerous other federal district courts have recognized the same. *See, e.g., Conklin*, 782 F. Supp. 3d at 277 (“Whether to enter a *Lone Pine* order is a case specific inquiry, and courts have issued *Lone Pine* orders in cases involving as few as 15 plaintiffs.”) (citation omitted); *In re Vioxx Prods. Liab. Litig.*, 557 F. Supp. 2d at 744 (“*Lone Pine* orders often benefit the Plaintiffs as well as the Defendants. Based on the Court’s experience in the six Vioxx trials, these cases are difficult and costly. It seems reasonable that, before both sides start incurring the costs involved with taking a Vioxx case to trial, the Plaintiffs show that there is a basis for the Plaintiffs’ claims.”); *In re Complaint of AET Inc. Ltd.*, No. 1:10-CV-51, 2011 WL 13557980, at *1 (E.D. Tex. Mar. 22, 2011) (“Imposition of a *Lone Pine* order will simplify the case, streamline costs to both the claimants and the Shipowner, conserve judicial resources, and aid the Court in preparing a plan for trial of this case.”); *Avila*, 633 F.3d at 833–34 (The Ninth Circuit affirmed the district court’s entry of *Lone Pine* order in toxic tort case, stating “[n]o basis appears for us to cordon off one type of order—a *prima facie* order on exposure and causation in toxic tort litigation—from the universe of case management orders that a district court has discretion to impose. We decline to do so.”).

III. The Third Factor Favors Entering the United States’ Proposed *Lone Pine* Order Because PLG Has Relied on ATSDR’s Camp Lejeune Water Models and Assessment of the Evidence to Prove Their Case.

“The third factor requires the court to consider any external agency decisions affecting the merits” of CLJA lawsuits and claims. *Conklin*, 782 F. Supp. 3d at 277. Here, PLG’s central evidence on exposure and causation consists of ATSDR’s Camp Lejeune water models and 2017 Assessment of the Evidence. The Camp Lejeune water models and Assessment of the Evidence were developed using a health protective or relaxed approach to inform policy decisions about presumptions related to VA disability benefits under an explicitly permissive statutory benefits scheme. Reliance on public health agencies or regulatory risk assessments alone are insufficient to establish causation in toxic tort litigation. *See, e.g.*, June 5, 2026, Order, [D.E. 884](#), at 6 (“Courts have rejected attempts to use regulatory standards, screening levels, or risk-assessment outcomes, without more, to establish causation in toxic tort litigation.”) (collecting cases); *see*

also *Henderson v. Lockheed Martin Corp.*, No. 6:21-cv-1363, 2023 WL 9468273, at *4 n.15 (M.D. Fla. Dec. 26, 2023) (“As to his reliance on public health agencies, their conclusions are entitled to less weight given their role in recommending protective standards rather than determining causation as a predictive matter.”) (citing *McClain v. Metabolife Int’l, Inc.*, 401 F.3d 1233, 1249-50 (11th Cir. 2005)).

Regardless, PLG’s reliance on ATSDR’s Camp Lejeune water models and Assessment of the Evidence defines the outer limits of CLJA claims that may be viable. On exposure, the only CLJA lawsuits that may be viable are those filed by CLJA plaintiffs that can prove exposure to Camp Lejeune water from one of the three Camp Lejeune water distribution systems at issue: Tarawa Terrace, Hadnot Point, and Holcomb Boulevard. PLG has offered no other evidence on water contamination at Camp Lejeune and no evidence related to the six other Camp Lejeune water distribution systems. On causation, the only illnesses for which PLG has identified any factual basis or evidentiary support for causation are the ten illnesses identified in the Assessment of the Evidence. The Assessment of the Evidence did not find a causal connection for the thousands of other illnesses that CLJA plaintiffs and claimants allege were caused by exposure to Camp Lejeune water. The United States’ proposed *Lone Pine* order would require CLJA plaintiffs to provide basic threshold evidence, consistent with the scope of PLG’s theories of exposure and causation, to support the factual basis for their claims.

IV. The Fourth Factor Favors Entering the United States’ Proposed *Lone Pine* Order Because the Use of Other Procedures to Eliminate Unsupported CLJA Cases Will Require Extraordinary Additional Time, Resources, and Expenses of the Court and the Parties.

“The fourth factor requires the court to consider the availability and use of other procedures under the federal rules or statutes that would accomplish the same goals as the proposed *Lone Pine* order.” *Conklin*, 782 F. Supp. 3d at 278 (citations omitted). “Multiple courts have found that *Lone Pine* orders are appropriate only where other available procedural devices such as summary judgment, motions to dismiss, motions for sanctions, and other similar rules are insufficient to address the issues at hand.” *Id.* (quoting *Abner*, 2014 WL 5817542, at *4). “Moreover, ‘multiple courts have interpreted Federal Rule of Civil Procedure 16 to confer’ the power to issue a *Lone Pine* order in ‘complex litigation.’” *Id.* (quoting *Abner*, 2014 WL 5817542, at *2).

Here, allowing thousands of CLJA lawsuits involving thousands of alleged illnesses to advance to summary judgment is impracticable and would not suffice to address the needs of the CLJA litigation. If Track 1 provides any indication of the time and resources that may be necessary to litigate the remaining thousands of CLJA lawsuits, summary judgment motions would only come after the extraordinary expense, time, and resources are expended to complete fact and expert discovery and briefing on *Daubert* and dispositive motions. For just Track 1 cases, and despite the Parties' diligent efforts and the Court's tight scheduling, it took nearly three years to complete fact and expert discovery, as well as briefing on *Daubert*, summary judgment, and other pretrial motions. The United States had to file multiple *Daubert* challenges to address PLG's many duplicative Phase 2 and Phase 3 expert reports containing unreliable, deficient, and results-driven opinions. In asking the Court to reserve decisions on admissibility determinations, PLG specifically complained about resources and time required to decide *Daubert* motions and dispositive motions. PLG Mot., [D.E. 721](#), at 2 ("[T]heir adjudication will have wasted a huge amount of resources and time by the Court and the parties, delaying trial and resolution for naught."). In short, there are no adequate means for efficiently advancing the thousands or potentially hundreds of thousands of lawsuits in the CLJA litigation except for entering the United States' proposed *Lone Pine* order, which would provide a procedure for distinguishing those CLJA claims that are viable from those that are not.

In entering *Lone Pine* orders, numerous federal district courts have recognized that the use of other procedural devices is insufficient in mass tort cases. For example, Judge Dever entered a pre-discovery *Lone Pine* order in *Conklin*, and held that the available procedural tools were insufficient for a litigation involving 60 plaintiffs and eight related actions. The Court stated:

Given the numerous plaintiffs and claims and that plaintiffs have chosen to pursue individual actions, proceeding along the usual discovery path will unduly burden the defendants and the court and will not permit these eight related cases to progress efficiently. The court rejects plaintiffs' argument that defendants have not exhausted the tools available under the Federal Rules of Civil Procedure. *See Abner*, 2014 WL 5817542, at *4. Here, the available procedural tools "are insufficient to address the issues at hand." [D.E. 56] 15 (quotation omitted). Thus, the fourth factor weighs in favor of granting defendants' motion for entry of a *Lone Pine* order requiring plaintiffs to submit expert declarations confirming their injuries and proximate causation.

Conklin, 782 F. Supp. 3d at 279; *see also In re Johnson & Johnson*, 2026 WL 2111340, at *8 (“It is true that each of the over 69,000 Plaintiffs here could attempt to dispel the evidentiary concerns surrounding specific causation through Rule 702 and/or summary judgment motions. Yet, having extensive motion practice in each member case is neither practical nor efficient.”).

V. The Fifth Factor Favors Entering the United States’ Proposed *Lone Pine* Order Because the Type of Injuries and Claims Alleged, Which Involve Personal Injuries Based on Environmental Exposure, Requires Threshold Evidentiary Showings to Move Forward with the Action.

“The fifth factor requires the court to consider the type of injury alleged by plaintiffs and its cause.” *Conklin*, 782 F. Supp. 3d at 279 (citations omitted). The CLJA litigation involves hundreds of thousands of personal injury claims stemming from alleged exposure to contaminated water at Camp Lejeune. The United States’ proposed *Lone Pine* order would require CLJA plaintiffs to provide basic threshold documentation and expert evidence on exposure, causation, and the alleged injuries that all CLJA plaintiffs would need to prove their case. As Judge Dever determined in *Conklin*, “*Lone Pine* orders are regularly used in, and were specifically created for, cases alleging mass environmental contamination.” *Id.* (quoting *Abner*, 2014 WL 5817542, at *5). Indeed, this is exactly the type of massive toxic tort case involving many different alleged injuries and claims in which district courts typically enter *Lone Pine* orders. *See, e.g., Acuna*, 200 F.3d at 340; *Burns*, 2007 WL 2811533, at *3.

CONCLUSION

To advance global resolution efforts, to manage the size and scope of the litigation, and to reduce the potential burdens placed on the Court, the United States urges the Court to enter its proposed *Lone Pine* order, pursuant to Federal Rules of Civil Procedure 16(b)(3) and 16(c)(2)(L).

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Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

JONATHAN D. GUYNN
Deputy Assistant Attorney General
Torts Branch

BRIDGET BAILEY LIPSCOMB
Chief, Camp Lejeune Justice Act Section

ADAM BAIN
Chief Litigation Counsel

SARA J. MIRKSY
Assistant Director

ELIZABETH K. PLATT
TRACI C. MCKEEVER
Senior Trial Counsel

/s/ Haroon Anwar
HAROON ANWAR
Assistant Director
United States Department of Justice
Civil Division, Torts Branch
Camp Lejeune Justice Action Section
1100 L Street, NW
Washington, DC 20005
(202) 598-3946
haroon.anwar@usdoj.gov

Attorney inquiries to DOJ regarding CLJA:
(202) 353-4426

*Attorneys for Defendant
United States of America*

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2026, I electronically filed the foregoing using the Court's Electronic Case Filing system, which will send notice to all counsel of record.

/s/ Haroon Anwar

HAROON ANWAR