 KeyCite Red Flag - Severe Negative Treatment
Reversed and Remanded by [Adinolfi v. United Technologies Corp.](#),
11th Cir.(Fla.), October 6, 2014

2011 WL 240512

Only the Westlaw citation is currently available.
United States District Court,
S.D. Florida.

Magaly PINARES and Marcos Pinares, Plaintiffs,
v.
UNITED TECHNOLOGIES CORPORATION,
d/b/a Pratt & Whitney, Defendant.

No. 10–80883–CIV.

|
Jan. 19, 2011.

Attorneys and Law Firms

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ORDER GRANTING MOTION FOR LONE PINE CASE MANAGEMENT ORDER

[KENNETH L. RYSKAMP](#), District Judge.

*1 THIS CAUSE comes before the Court pursuant to Defendant's motion for *Lone Pine* case management order, filed October 21, 2010 [**DE 17**]. Plaintiffs responded on November 8, 2010 [**DE 18**]. Defendant replied on November 18, 2010 [**DE 19**]. This motion is

ripe for adjudication.

Plaintiffs purport to allege environmental contamination. Nevertheless, as detailed in the order granting the motion to dismiss, Plaintiffs have not alleged that their property is contaminated, much less that Defendant contaminated their property. Despite the scant nature of these allegations, Plaintiffs have served massive discovery requests seeking essentially every environmental record for Defendant's Florida facility for the last 60 years. Plaintiffs' interrogatories seek the identity of employees and contracts at Defendant going back 60 years, without any allegation that the people relate to the Acreage. The interrogatories seek every environmental consultant employed or retained by Defendant over 60 years, seek every document relating to environmental issues, and seek the name of every employee who participated in any clean-up at Defendant's facility. Other interrogatories seek detailed information regarding any conversation regarding contamination or spills over a 60-year period. To put these requests in perspective, if someone spilled ten gallons of diesel fuel at Defendant in 1970, and the fuel was cleaned up immediately and had no environmental impact, that accident would be covered by Plaintiffs' discovery requests even if the fuel had been cleaned immediately and never left Defendant's property.

Courts routinely enter *Lone Pine* case management orders in toxic tort class action cases. These orders, which take their name from  [Lore v. Lone Pine Corp.](#), Case No. L–33606–85, 1986 WL 637507 (N.J.Super.Law.Div. Nov. 18, 1985), require plaintiffs to produce basic *prima facie* evidence of causation before discovery may begin. “*Lone Pine* orders are designed to handle the complex issues and potential burdens on defendants and the court in mass tort litigation. In the federal courts, such orders are issued under the wide discretion afforded district judges over the management of discovery under Fed.R.Civ.P. 16.”  [Acuna v. Brown & Root, Inc.](#), 200 F.3d 335, 340 (5th Cir.2000). *Lone Pine* orders have been issued in this Circuit. See [Tatum v. Pactiv Corp.](#), Case No. 2:06CV83–LES, 2007 WL 60931 (M.D.Ala.2007) (ordering each plaintiff claiming property damage from environmental contamination to provide certain preliminary information).

This case involves only two **Plaintiffs** and is not a putative class action. Nevertheless, its companion case, [Adinolfi, et al. v. United Technologies Corp.](#), Case No. 10–80840–CIV–RYSKAMP, is a putative class action.

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Pinares v. United Technologies Corp., Not Reported in F.Supp.2d (2011)

Plaintiffs have the same counsel in both actions. The complaints in both cases include identical allegations and causes of action, except that the instant case is more complex because it involves allegations of personal injury that will require expert medical, toxicological and other evidence. Although this case may appear simple, it will require as much effort as its companion.

*2 This case will be the classic expansive, time-consuming, and highly expert dependent case that gave birth to the *Lone Pine* case management method. It is neither efficient nor fair to require Defendant to proceed on the issues implicated by Plaintiffs' discovery until after Plaintiffs have adequately demonstrated a *prima facie* basis for the allegations in their complaint. Plaintiffs do not need discovery to be able to state whether their own properties are contaminated. Plaintiffs do not need discovery to state the factual basis on which they filed this action. Accordingly, it is hereby

ORDERED AND ADJUDGED that Defendant's motion for *Lone Pine* case management order, filed October 21, 2010 [DE 17], is GRANTED. A *Lone Pine* case management order will be entered separately. It is further

ORDERED AND ADJUDGED that Defendant's motion to stay discovery or for protective order, filed August 18, 2010 [DE 7], is DENIED AS MOOT.

DONE AND ORDERED at Chambers in West Palm Beach, Florida, this 18th day of January, 2011.

All Citations

Not Reported in F.Supp.2d, 2011 WL 240512

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