

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

In re	:	
ALDRICH PUMP LLC, <i>et al.</i> ,	:	Chapter 11
Debtors,	:	No. 20-30608 (JCW)
	:	(Jointly Administered)
	:	
ALDRICH PUMP LLC and MURRAY BOILER LLC,	:	
Plaintiffs,	:	Adversary Proceeding
v.	:	No. 20-03041 (JCW)
THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000.	:	
Defendants.	:	

**NOTICE OF FILING OF UNREDACTED DEBTORS’ OBJECTION  
TO OFFICIAL COMMITTEE OF ASBESTOS PERSONAL  
INJURY CLAIMANTS’ MOTION TO COMPEL  
AND PARTIALLY REDACTED EXHIBITS THERETO**

**PLEASE TAKE NOTICE OF THE FOLLOWING:**

1. On April 14, 2021, the Debtors filed their *Objection to Official Committee of Asbestos Personal Injury Claimants’ Motion to Compel* (“Debtors’ Objection”) [Adv. Dkt. 173], which included Exhibits A through M. Portions of the Debtors’ Objection were redacted, and some of the Exhibits were filed under seal, pursuant to the Agreed Protective Order Governing Confidential Information (the “Protective Order”) [Dkt. 345]. On April 14, 2021, the Debtors filed a *Motion to File Confidential Documents Under Seal* (the “Motion to Seal”) [Adv. Dkt. 174] related to the redacted portions of the Motion to Compel and the sealed Exhibits. On April



30, 2021, the Court granted the Debtors' Motion to Seal in relation to the Debtors' Objection [Adv. Dkt. 216].

2. Exhibits B through E to the Objection, consisting of the Debtors' Joint Board Meeting Minutes for May 15, May 22, May 29, and June 5 meetings, were filed under seal because they were produced and marked "Confidential" by the Debtors under the Protective Order. Since the filing of the Objection, however, Debtors waived confidentiality related to the Board Materials, with limited redactions for privilege. Exhibits B through E can therefore be unsealed, with limited redactions for privilege.

3. Exhibit F is the Debtors' May 15 PowerPoint. The Debtors agree to waive confidentiality as to this exhibit while retaining redactions of privileged information.

4. Exhibits H and I to the Objection, which consist of excerpts from deposition transcripts, were filed under seal because the thirty-day time period following the receipt of the transcript by the Designating Party (as defined in the Protective Order) had not expired at the time that the Objection was filed. See Protective Order at 7. Since the filing of the Objection, the parties have finalized designations of confidential information for all of the deposition transcripts from which excerpts were attached as Exhibits H and I. Based upon such designations, the redactions in Exhibits H and I can be removed.

5. Accordingly, attached hereto is an unredacted copy of the Debtors' Objection and unsealed Exhibits B, C, D, E, F, H, and I.

Dated: June 4, 2021  
Charlotte, North Carolina

Respectfully submitted,

/s/ Morgan R. Hirst

C. Richard Rayburn, Jr. (NC 6357)  
John R. Miller, Jr. (NC 28689)  
RAYBURN COOPER & DURHAM, P.A.  
227 West Trade Street, Suite 1200  
Charlotte, North Carolina 28202  
Telephone: (704) 334-0891  
Facsimile: (704) 377-1897  
E-mail: rrayburn@rcdlaw.net  
jmiller@rcdlaw.net

-and-

Brad B. Erens (IL Bar No. 6206864)  
David S. Torborg (DC Bar No. 475598)  
Robert W. Hamilton (OH Bar No. 0038889)  
Morgan R. Hirst (IL Bar No. 6275128)  
Caitlin K. Cahow (IL Bar No. 6317676)  
JONES DAY  
77 West Wacker  
Chicago, Illinois 60601  
Telephone: (312) 782-3939  
Facsimile: (312) 782-8585  
E-mail: bberens@jonesday.com  
dstorborg@jonesday.com  
rwhamilton@jonesday.com  
mhirst@jonesday.com  
ccahow@jonesday.com  
(Admitted *pro hac vice*)

-and-

Gregory M. Gordon (TX Bar No. 08435300)  
JONES DAY  
2727 N. Harwood Street  
Dallas, Texas 75201  
Telephone: (214) 220-3939  
Facsimile: (214) 969-5100  
E-mail: gmgordon@jonesday.com  
(Admitted *pro hac vice*)

ATTORNEYS FOR DEBTORS  
AND DEBTORS IN POSSESSION

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

In re	:	Chapter 11
ALDRICH PUMP LLC, <i>et al.</i> ,	:	No. 20-30608 (JCW)
Debtors,	:	(Jointly Administered)
ALDRICH PUMP LLC and MURRAY BOILER LLC,	:	
Plaintiffs,	:	Adversary Proceeding
v.	:	No. 20-03041 (JCW)
THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000.	:	
Defendants.	:	

**THE DEBTORS' OBJECTION TO OFFICIAL COMMITTEE OF ASBESTOS  
PERSONAL INJURY CLAIMANTS' MOTION TO COMPEL**

Plaintiffs Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), debtors in these chapter 11 cases (collectively, the "Debtors")<sup>1</sup>, object to the *Motion of the Official Committee of Asbestos Personal Injury Claimants to Compel the Debtors and Non-Debtor Affiliates to (i) Provide Testimony Regarding Certain Matters and (ii) Produce Certain Withheld Documents* [Adv. Dkt. 141] (the "Motion to Compel").

**PRELIMINARY STATEMENT**

The Official Committee of Asbestos Personal Injury Claimants (the "Committee") sought extensive discovery in this adversary proceeding. It targeted not just the extent and historical

---

<sup>1</sup> The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.

management of the asbestos liabilities that the Debtors seek to address and resolve in their chapter 11 cases, but the Debtors' decisions to make their chapter 11 filings and the planning and implementation of the corporate restructurings that preceded those decisions. The Debtors and Non-Debtor Affiliates<sup>2</sup> have responded completely and transparently, producing many thousands of documents and making available for deposition officers, board members, corporate designees, and still others, all on a compressed time table and at no small expense.

This effort has produced evidence of nothing more than what the Debtors set forth in their first day pleadings: Following corporate restructurings to facilitate flexibility to consider the option, the Boards of Managers of these two Debtors determined that the most practicable way to resolve their asbestos liabilities fully, finally, and globally was through reorganization under Section 524(g) of the Bankruptcy Code and the establishment and funding of trusts from which all legitimate claimants can seek and receive appropriate compensation.

The Committee, unsatisfied with this record as it developed, opted to deploy discovery in search of a dispute. The Committee serially challenged more-than-credible privilege assessments made during production, questioned every claw-back of an inadvertently produced privileged document, and directed deposition inquiry to matters that were unquestionably privileged. The Committee now expresses consternation, moves to compel, and argues that the Debtors have impeded the Committee's legitimate discovery efforts. But all of the Committee's legitimate discovery efforts have been accommodated (and then some). What the Committee seeks is this Court's aid in the Committee's tactical effort to invade the privilege. The Court should decline the request and deny the Committee's Motion to Compel.

---

<sup>2</sup> For purposes of this Objection, the "Non-Debtor Affiliates" consist of Trane Technologies Company LLC and Trane U.S. Inc.

The Committee, in the main, seeks to compel the production of an unredacted copy of a May 15, 2020 PowerPoint presentation (the "May 15 PowerPoint") drafted and delivered by counsel to the Boards of Managers of the Debtors (during meetings held before their decisions to authorize the filings of these cases)<sup>3</sup> and additional testimony from two of the Debtors' Board members, Manlio Valdes and Robert Zafari.<sup>4</sup> The vast majority of the May 15 PowerPoint is unredacted. These unredacted slides address various aspects of the Debtors' asbestos liability and the management of it—a topic on which the Debtors also provided page after page of unimpeded deposition testimony.

The redactions in the presentation that the Committee now seeks to remove concern only privileged content and advice prepared and given by counsel; the testimony the Committee seeks would reveal privileged communications between Board members and counsel about that privileged content and other privileged matters. The Debtors' effort to produce all material that is non-privileged is evident. The Committee's effort to invade privilege is equally clear. It should not be countenanced.

The Committee's effort to probe that which is privileged goes further. It extends beyond pre-petition matters to deposition preparation efforts in this adversary proceeding. That is, the Committee seeks disclosure of the selection of documents made by Debtors' counsel in their efforts to ready Debtors' Board members and officers to testify in deposition. The attorney work

---

<sup>3</sup> The Debtors will make an unredacted copy of the May 15, 2020 PowerPoint presentation available to the Court for in-camera review upon request.

<sup>4</sup> While the Committee complains generally about instructions not to answer questions that occurred at other depositions about advice and attorney mental impressions shared during Debtors' Board meetings, the Committee offers no reason why the instructions at those depositions were improper or why those deponents should be compelled to sit for additional depositions. See Mot. to Compel at 6, n.7. The Motion to Compel also referenced an Asbestos Tender Agreement entered into as part of an unrelated Reverse Morris Trust transaction involving the sale of Trane Technologies, plc's industrial businesses in early 2020. See Mot. to Compel at 18, n.14. The Non-Debtor Affiliates produced the Asbestos Tender Agreement on April 1, 2021.

product protection for this selection is patent; the Committee's continued effort to pierce this recognized protection is just as plainly impermissible.

The Committee's Motion to Compel should be denied in its entirety.

### **BACKGROUND**

The Committee has undertaken in this adversary proceeding to probe the genesis of two corporate restructurings and the decisions of two Boards to file these two chapter 11 cases. These are matters that obviously involve lawyers and legal advice and no small number of the former or measure of the latter. The Committee cannot claim surprise that much of what it seeks to examine involves counsel, their communications and work product, and, therefore, privilege. This said, the Debtors have not asserted privilege protection for information "simply because it [was] funneled through a lawyer or because a lawyer was copied on a communication," as the Committee charges. Mot. to Compel at 2. In fact, the Debtors and Non-Debtor Affiliates have provided an enormous amount of information to the Committee, including producing more than 90,000 pages of documents, and with producing witnesses to sit for a total of 19 depositions.

The Debtors and Non-Debtor Affiliates have produced hundreds of documents in which lawyers are either senders or recipients. The Debtors and Non-Debtor Affiliates presented four in-house lawyers involved in these matters for deposition, only limitedly asserting privilege objections: Allan Tananbaum, the Debtors' Chief Legal Officer (who was deposed twice); Robb Sands, an in-house attorney seconded to the Debtors; Evan Turtz, the General Counsel of the Non-Debtor Affiliates; and Sara Walden-Brown, another in-house attorney for the Non-Debtor Affiliates.

The Debtors have not attempted to fend off disclosure by funneling anything through lawyers or anyone else. The Debtors have sought to protect only that which is privileged.

The Board meetings about which these lawyers and the Board members gave testimony unquestionably included topics on which the elicitation and provision of legal advice was appropriate and, indeed, occurred. Advice came both from certain of the in-house lawyers mentioned above and from outside counsel. The Board minutes themselves reflect the topics of advice provided:

- Outside counsel to the Debtors, Michael Evert, and Chief Legal Officer Tananbaum advised regarding "current asbestos-related lawsuits." See DEBTORS\_00050787, May 15, 2020 Debtors' Joint Meeting Minutes, attached as Ex. B, at 789.
- Mr. Tananbaum and Mr. Evert advised regarding "the experience of the Companies in the tort system...." Id.
- "Mr. Tananbaum reviewed options available to the Companies with respect to the resolution of current and future asbestos claims...." Id. at 790.
- "Mr. Tananbaum briefly reviewed the strategic options for addressing current and future asbestos claims... [and] with the assistance of Mr. Erens [outside counsel to the Debtors], Mr. Turtz, Mr. Evert and Mr. Lewis [additional outside counsel], responded to questions from members of the Board and Mr. Pittard." See DEBTORS\_00050796, May 29, 2020 Debtors' Joint Meeting Minutes, attached as Ex. D, at 798.
- "Mr. Tananbaum asked Mr. Erens and Mr. Cody [additional outside counsel] to review the chapter 11 bankruptcy process...." See DEBTORS\_00050802, June 5, 2020 Debtors' Joint Meeting Minutes, attached as Ex. E, at 805.

But, as noted, the Debtors did not withhold production of these minutes; they did not seek to avoid or to impede testimony about these meetings. They merely withheld or redacted (and then logged) privileged information, and, likewise cautioned or instructed witnesses not to reveal privileged communications. The above-referenced in-house lawyers testified at length. So did all of the Board members. The Debtors have provided and the Committee has learned the facts. What the Committee seeks now are privileged communications or attorney work product to which it is not entitled.



The Committee, as noted, focuses much of its argument on a May 15, 2020 PowerPoint presentation delivered to the Debtors' Boards and titled "Overview of the Companies' Experience as Asbestos Defendants in the Tort System." See May 15 PowerPoint, attached as Ex. F. The May 15 PowerPoint consists of 49 slides and indicates on its cover page that it is "privileged and confidential." Id. It was drafted and presented by three of the Debtors' attorneys: Mr. Tananbaum, the Debtors' Chief Legal Officer; Phyllis Morey, an attorney seconded to the Debtors; and Michael Evert, the Debtors' outside national coordinating counsel for asbestos litigation. See id.; see also Ex. B, DEBTORS\_00050787, May 15, 2020 Debtors' Joint Meeting Minutes. The meeting minutes of the May 15 Board of Managers Meeting note that the presentation

addressed, among other things, the historical use of asbestos-containing components in products of each of the Companies, the relevant product lines of each of the Companies, the evolution of asbestos-related lawsuits in the tort system, the experience of the Companies in the tort system, challenges faced by the Companies in the tort system, historical and forecasted costs and insurance reimbursements of the Companies associated with asbestos-related lawsuits.

See id. at 789. The authors and topics are noteworthy for the likely inclusion of privileged content, and the Debtors produced a copy of the May 15 PowerPoint, limitedly redacted for privilege, in October 2020. See October 2020 Production Correspondence, attached as Ex. G; Ex. F, May 15 Powerpoint. The Committee waited some five months before moving to compel its production in unredacted form.

And to be clear, the Debtors did not in the interim foreclose the Committee from inquiring about the non-privileged portions of the May 15 PowerPoint. Each of the Debtors' Board members testified at length regarding the content of the May 15 PowerPoint. See Deposition of Robert Zafari March 2, 2021, excerpts attached as Ex. H at 78-99; Deposition of

Marc DuFour, March 3, 2021, excerpts attached as Ex. I at 97-116; Deposition of Amy Roeder, March 16, 2021, excerpts attached as Ex. J at 138-41; Deposition of Manlio Valdes, March 1, 2021, excerpts attached as Ex. K at 232-36. Likewise, Mr. Tananbaum and Ray Pittard, the Debtors' Chief Restructuring Officer, also testified concerning the presentation. Deposition of Ray Pittard, March 17, 2021, excerpts attached as Ex. M at 261-77; Deposition of Allan Tananbaum, March 22, 2021, excerpts attached as Ex. L at 282-87.

Nor did the Debtors otherwise impair or impede the Committee from examining Board members regarding other topics of interest to the Committee. All of the Board members testified on the strategic options they considered for addressing asbestos liability. Ex. K, Valdes Dep. at 167-69; Ex. H, Zafari Dep. at 103-04, 114; Ex. I, Dufour Dep. at 124-28; Ex. J, Roeder Dep. at 139-40. Messrs. Pittard and Tananbaum testified regarding the strategic options and implications of a Section 524(g) bankruptcy. Ex. M, Pittard Dep. at 95-96; Ex. L, Tananbaum Dep. at 268-88.

On these and other matters, the Debtors' redactions of documents for privilege and their objections regarding the same at depositions were limited. There is just one privilege redaction to the minutes for the nine Board meetings from May to mid-June 2020. Ex. C, DEBTORS\_00050791, May 22, 2020 Debtors' Joint Meeting Minutes. The Debtors produced all three of the presentations made to their Boards before the decisions to file for bankruptcy, among them, the May 15 PowerPoint. Ex. F, May 15 PowerPoint; see also DEBTORS\_00051657, May 29 PowerPoint; DEBTORS\_00051663, June 12 Communications Update.

In depositions, counsel for the Debtors objected or cautioned witnesses regarding privilege only when questions implicated privilege and, offering explanations for the objections

lodged. Counsel for the Debtors often instructed the witnesses to answer as much of the questions as they could without revealing legal advice or attorney work product.<sup>5</sup>

Some of the Committee's questions, particularly those posed at the depositions of Board members Robert Zafari and Manlio Valdes, were framed to elicit privileged information and necessarily drew objections and instructions not to answer. Committee counsel, referring to Board minutes that described a "robust discussion of the benefits and challenges associated with the use of 524(g) bankruptcy," a discussion led by and involving counsel for the Debtors, asked Mr. Valdes: "What was the substance of the robust discussion of the benefits...?" See Ex. K, Valdes Dep. at 256. Debtors' counsel objected and properly instructed Mr. Valdes not to reveal the "substance" of his discussions with counsel. Id.

Counsel for the Committee asked Mr. Zafari questions about a different presentation made at the May 15, 2020 Board meeting—this one given by Debtors' outside counsel, Brad Erens of Jones Day, concerning the "experience of companies that recently made Chapter 11

---

<sup>5</sup> See e.g. Ex. I, Dufour Dep. at 68-69 (MR. GOLDMAN: "So what is your memory of what – of the subjects that were discussed at this meeting?" MR. HIRST: "Let me interject an objection and caution. Objection on the basis of attorney-client privilege. I will caution Mr. Dufour not to reveal any specific communications provided by counsel or specific questions that you have asked counsel in the way of receiving legal advice. You can answer at a high level your understanding, I believe, is Mr. Goldman's question, as long as you don't reveal any of those communications.").

Ex. K, Valdes Dep. at 249-50 ("MR. GOLDMAN: And what were your questions?" MR. HAMILTON: "Object. And to the extent that your questions were questions to the lawyers for legal advice, I'm going to instruct you not to disclose those questions in the answer to the pending question by Mr. Goldman. If you had questions that were not for legal advice, but to others, like Mr. Pittard, you can go ahead and answer.").

Ex. L, Tananbaum Dep. at 273-74 (MR. PHILLIPS: "What were those post restructuring activities you were reviewing [at the Debtors' board meeting]?" MR. HIRST: "Let me interject an objection. I want to ensure, Mr. Tananbaum, you don't reveal any legal advice that was provided to the board on that. But if you can answer that and answer as to the facts presented to the board, you can do so.").

Ex. J, Roeder Dep. at 77 (MR. LIESEMER: "As you sit here today as CFO of Aldrich and Murray, do you know how close Aldrich and Murray are to having a plan of reorganization." MR. HIRST: "I'll object – let me also object and caution to the extent this answer implicates legal advice you've received from counsel, I'll instruct you not to answer on that part, but you can certainly answer your overall understanding if you have one.").

Ex. M, Pittard Dep. at 41-42 (MR. GOLDMAN: "And what was the idea that was brought to you, to the best you remember it." MR. JONES: "I'm going to object, and caution the witness not to share communications with counsel other than the topic if you – or the advice – or elicitation of advice. So if you can briefly state the topic of the idea more than you already have, Mr. Pittard, that's fine. But I caution you not to share communications with counsel.").

filings in an effort to finally resolve their current and future asbestos claims utilizing Section 524(g) of the bankruptcy code." See Ex. H, Zafari Dep. at 102. Among counsel's questions to Mr. Zafari were:

- "What did [Mr. Erens] say about that?"
- "What did Mr. Erens say about the Georgia Pacific, LLC restructuring?"
- "How about the DBMP restructuring?"

See id. at 102-03. All of these questions were necessarily, and perhaps intentionally, designed to elicit privileged communications with Debtors' counsel. Objections and instructions not to answer these questions were more than warranted.

So were those few instructions directed to protecting the selection of documents counsel for the Debtors assembled to assist Debtors' witnesses in preparing to testify.<sup>6</sup> That selection is core attorney work product, the protection for which is recognized in scores of cases and, therefore, is not a matter over which this Court's docket should have been burdened.

### **ARGUMENT**

The Supreme Court, in Upjohn, "expressly recognized that the attorney-client privilege enjoys a special position as 'the oldest of the privileges for confidential communications known to the common law' and that the privilege serves a salutary and important purpose: to encourage 'full and frank communication between attorneys and their clients and thereby promote public interest in the observance of law and administration of justice.'" In re Allen, 106 F.3d 582, 600 (4th Cir. 1997) (quoting Upjohn Co. v. United States, 449 U.S. 383, 389 (1981)). "[I]f the purpose of the attorney-client privilege is to be served, the attorney and client must be able to

---

<sup>6</sup> See, e.g., Ex. L, Tananbaum Dep. at 23-24 (MR. PHILLIPS: "What documents did you flip through [to prepare for deposition]?" MR. HIRST: "Let me just object real quickly, and Allan, you'll be able to answer this question. Any documents you reviewed in preparation please identify for Mr. Phillips. Things that we preselected for you and only discussed during our meetings based on our selection I would object based on privilege. But I think you can answer the question based on the way it was put and the way you testified earlier.")

predict with some degree of certainty whether particular discussions will be protected. An uncertain privilege, or one which purports to be certain but results in widely varying applications by the courts, is little better than no privilege at all." Upjohn, 449 U.S. at 393.

"The importance of the attorney client and work product privileges cannot be understated." Ferry v. BJ's Wholesale Club, No. 3:06 CV 226-C, 2007 WL 75375, at \*3 (W.D.N.C. Jan. 8, 2007). A party seeking to overcome the attorney-client privilege bears the burden of establishing an applicable exception. Peters v. Aetna, Inc., No. 1:15-cv-00109-MR, 2018 WL 3616923, at \*4 (W.D.N.C. July 27, 2018). It is a "significant cornerstone of our justice system," and "hard cases should be resolved in favor of the privilege, not in favor of disclosure." Id. at \*5 (citation omitted). If work product were regularly ordered to be produced to opposing counsel, "much of what is now put down in writing would remain unwritten" and "[i]nefficiency, unfairness and sharp practices would inevitably develop in the giving of legal advice and in the preparation of cases for trial." Hickman v. Taylor, 329 U.S. 495, 511 (1947).

The Committee has not met its burden to pierce privilege here. Its Motion to Compel should be denied.

**I. LEGAL ADVICE PROVIDED TO THE DEBTORS' BOARDS OF MANAGERS IS NOT SUBJECT TO DISCOVERY.**

The Motion to Compel, fairly read, seeks two things concerning the Debtors' board of managers meetings: (i) production of an unredacted copy of the May 15, 2020 PowerPoint provided to the Boards of the Debtors; and (ii) additional deposition testimony from two Aldrich Board members, Messrs. Valdes and Zafari, regarding that presentation and related matters. See Mot. to Compel at 3.<sup>7</sup>

---

<sup>7</sup> The Committee's separate complaint in the Motion to Compel about instructions concerning documents selected by counsel and reviewed by witnesses in advance of their depositions are addressed in Section II, page 14 infra.

The Committee argues that it is entitled to this information because the Boards' consideration of their options to address asbestos liabilities and their decision to file for bankruptcy protection were "business" decisions and any advice provided by lawyers to the Debtors' Boards in aid of making those decisions somehow must only be non-legal advice about factual matters or "business strategies." Mot. to Compel at 2. In the alternative (and perhaps acknowledging the implausibility of this first proposition), the Committee argues that even if the advice provided by counsel were legal, that legal advice could only be "incidental" to the "primary business purpose of the meetings," and, therefore, is not entitled to protection. Id. at 2-3.

The Committee is wrong on both counts. The Board meetings in May and early June 2020, as noted at the outset, focused on how to resolve the Debtors' asbestos liabilities and the tens of thousands of lawsuits concerning those liabilities, including through the potential filing of bankruptcy proceedings.<sup>8</sup> In addressing that resolution of those liabilities, lawsuits, and, ultimately, the decision to file, the Board understandably sought and received legal advice.

The minutes of the Board meetings reveal the topics on which the Board sought that legal advice; they identify the team of in-house and outside counsel who provided it. The decisions the Board faced and made may have involved what the Committee characterizes as business matters, but the advice conveyed was decidedly legal. "No reasonable interpretation of [the attorney's] communications with [the client] regarding the legal obligations involved in filing a

---

<sup>8</sup> Ex. B, DEBTORS\_00050787, May 15, 2020 Debtors' Joint Meeting Minutes at 789 (Mr. Evert and Mr. Tananbaum advised regarding "current asbestos-related lawsuits"); id. (Strategies the Debtors had historically taken to resolve those liabilities); id. at 790 (Options moving forward to address and potentially resolve those liabilities, including a potential bankruptcy filing); Ex. D, DEBTORS\_00050796, May 29, 2020 Debtors' Joint Meeting Minutes at 798 ("Mr. Tananbaum briefly reviewed the strategic options for addressing current and future asbestos claims... [and] with the assistance of Mr. Erens, Mr. Turtz, Mr. Evert and Mr. Lewis, responded to questions from members of the Board and Mr. Pittard"); Ex. E, DEBTORS\_00050802, June 5, 2020 Debtors' Joint Meeting Minutes at 805 ("Mr. Tananbaum asked Mr. Erens and Mr. Cody to review the chapter 11 bankruptcy process...").

bankruptcy petition would characterize them as anything other than legal advice." United States v. Bauer, 132 F.3d 504, 509 (9th Cir. 1997).

The Committee's complaints about privilege instructions to Board members Messrs. Valdes and Zafari are unwarranted. The fact that legal advice informed business decisions does not vitiate privilege protection for the legal advice. See e.g. Digital Vending Servs. Int'l, Inc. v. Univ. of Phoenix, Inc., No. 2:09-cv-555, 2013 WL 1560212, at \*5 (E.D. Va. Apr. 12, 2013) ("Similar to communications between counsel and employees, communications between counsel and current members of a Board of Directors are generally protected."); see also Great Plains Mut. Ins. Co. v. Mut. Reinsurance Bureau, 150 F.R.D. 193, 198 (D. Kan. 1993) (collecting cases from multiple jurisdictions denying discovery of legal advice or information conveyed by a corporation's attorney to its Board of Directors). Protected, too, is legal advice shared and work product generated in connection with the earlier review of whether and how a corporate restructuring might provide advantageous options for addressing burdensome asbestos liabilities through a later bankruptcy filing or otherwise. See Motley v. Marathon Oil Co., 71 F.3d 1547, 1550-51 (10th Cir. 1995) (no abuse of discretion in concluding that memorandum and lists containing legal advice for corporate restructuring were privileged).<sup>9</sup>

The May 15, 2020 PowerPoint, prepared and presented by counsel, does not lose applicable privilege protection merely because the slides may have been used to aid the Board in making business decisions. In re Smith & Nephew Birmingham Hip Resurfacing Hip Implant Prods. Liab. Litig., No. 1:17-MD-2775, 2019 WL 2330863, at \*2 (D. Md. May 31, 2019)

---

<sup>9</sup> The Committee's cited authority has nothing to do with corporate restructurings or bankruptcy filings and is otherwise inapposite. See United States v. Cohn, 303 F. Supp. 2d 672, 684-85 (D. Md. 2003) (attorney review of telemarketing scripts not protected because attorney's advice related to sales and profit increases); SCM v. Xerox Corp., 70 F.R.D. 508, 517 (D. Conn. 1976) (review of license grants not privileged when decisions were not of the kind that called for consultation with counsel).

("Because the Briefing Document and the PowerPoint presentation appear to have been developed in conjunction with each other in order to provide legal advice to the board and in anticipation of pending litigation, both the attorney-client privilege and the work-product protection apply."); In re Sulfuric Acid Antitrust Litig., 235 F.R.D. 407, 426 (N.D. Ill. 2006) (finding PowerPoint presentation slide entitled "Business environment-legal considerations" privileged as attorney-client communication).

While the majority of the May 15 PowerPoint was produced, the following slides were redacted for the following reasons:

Slides 4-5, 21-24, and 26-28 were redacted because the redacted contents reveal counsel's mental impressions concerning litigation of asbestos claims and legal strategies concerning the resolution of those claims in the tort system.

Slides 32-35 were redacted because they reveal the Debtors' confidential, non-public future liability and insurance recovery projections, which were themselves a product of models based on legal advice and attorney work product.

See Ex. F.

Both sets of redactions were appropriate, and the Committee's demand that those redactions be removed should be denied. The Debtors limited their redactions to text that would reveal either legal advice or attorney mental impressions. Duplan Corp. v. Deering Milliken, Inc., 540 F.2d 1215, 1223 (4th Cir. 1976) (opinion work product contains the "mental impressions, opinions, and legal theories" of counsel). All of the redactions to Slides 4-5, 21-24, and 26-28 protect the legal advice and strategies of counsel concerning litigating and resolving asbestos cases in the tort system. In re Martin Marietta Corp., 856 F.2d 619, 626 (4th Cir. 1988) ("[T]he plain language of Fed. R. Civ. P. 26(b)(3) suggests especial protection for opinion work product."); Carolina Power & Light Co. v. 3M Co., 278 F.R.D. 156, 159 (E.D.N.C. 2011) ("The privilege with respect to opinion work-product is nearly absolute.").



The redactions on Slides 32-35 all protect information concerning the Debtors' future asbestos liability and insurance coverage projections. These projections were originally prepared by outside consultants (NERA in the case of liability projections, and Claro in the case of insurance projections), both of whom were retained by counsel. See April 2021 Declaration of Allan Tananbaum, attached as Ex. A ¶ 6. These consultants were retained to assist the Debtors' (and the Debtors' predecessors) in-house and outside counsel in providing legal advice concerning the management of asbestos liabilities, pursuit of related insurance recoveries, and any resulting legal implications for corporate reporting requirements (e.g., those required by the Securities and Exchange Commission's regulations) concerning those same liabilities. Id. ¶¶ 6-9. Assumptions and other inputs for the methodologies used by all three consultants to estimate future asbestos liability and insurance recoveries were derived, in part, with the assistance of the Debtors' in-house and outside counsel and based on the mental impressions of that counsel, which are integral to the projections. Id. ¶ 8.<sup>10</sup> The slides were properly redacted to protect only that which is privileged, and the Committee nowhere troubles itself to suggest their relevance to any issue to be resolved at the hearing on the preliminary injunction.

The Committee suggests that the May 15 PowerPoint redactions "are not protected as attorney work product because there is no basis to assert that the redacted information was prepared in anticipation of litigation." See Mot. to Compel at 16. But the Debtors' Boards met on May 15 to determine how to address the Debtors' asbestos liabilities that were the product of tens of thousands of active lawsuits and those that would follow. Counsel prepared the redacted

---

<sup>10</sup> The Debtors' position on privilege here with respect to the work of these outside consultants is consistent with the positions their predecessors previously advanced, and successfully litigated, with respect to the work of NERA and Ankura in litigation with their asbestos liability insurers in state court in New Jersey. See Ingersoll-Rand Company v. Affiliated FM Insurance Company, et al., case no. MID-L-252-12 (Superior Ct. of NJ, Middlesex Cty.) As the Debtors' disclosed to the Committee in this case, the New Jersey court's March 26, 2019 opinion on those privilege assertions remains under seal and cannot be disclosed absent agreement of the various insurance carriers that were litigants and/or permission of the New Jersey court in that case.

slides for the purpose of advising those boards on how to address those liabilities and lawsuits. There can be no question that they were prepared in anticipation of litigation—anticipated and actual. See In re Grand Jury Subpoena, 201 F. Supp. 3d 767, 772 (W.D.N.C. Aug. 16, 2016) ("[I]n determining whether a document has been prepared 'in anticipation of litigation,' most courts look to whether or not the document was prepared because of the prospect of litigation. . . . The 'prospect of litigation' refers to whether the document's preparer 'faces an actual claim or a potential claim.'") (quoting Nat'l Union Fire Ins. Co. of Pittsburgh, Pa. v. Murray Sheet Metal Co., Inc., 967 F.2d 980, 984 (4th Cir. 1992)).

The Committee also contends, in passing and without any support, that the "privilege protects primarily the client's communications *to the attorney*, testimony concerning statements made *by* the attorneys may be discoverable provided they do not reveal the substance of the *client's* communications." See Mot. to Compel at 3. The Committee is wrong. This Court has held that "[t]he privilege protects both the giving of legal advice to those who can act on it and the giving of information to the lawyer to enable him to give sound and informed advice." In re Wolbert, No. 09-30765, 2010 WL 8971772, \*3 (Bankr. W.D.N.C. Feb. 17, 2010) (Whitley, J.) (internal citations omitted); see also Digital Vending Servs. Int'l, Inc. v. Univ. of Phoenix, Inc., No. 2:09-cv-555, 2013 WL 1560212, at \*5 (E.D. Va. Apr. 12, 2013) (citing Fourth Circuit precedent noting that the attorney-client privilege can apply to the downward flow of legal advice from counsel to client).

The Debtors' Boards were called upon to address extensive liabilities and legal strategies to resolve them. They called upon counsel to advise them. That advice and the mental impressions of the lawyers (and their retained consultants) that provided it are protected from disclosure by privilege. The Committee has asked for much—essentially all documents related

to these filings, the restructurings that came before, and day after deposition-day of testimony on both topics—and the Debtors and Non-Debtor Affiliates have done all they practicably could to provide it.

What the Committee is not entitled to is the privileged advice shared with the Board or the protected work product of the counsel who shared it.

**II. THE COMMITTEE MAY NOT INVADE WORK PRODUCT PROTECTION FOR AN ATTORNEY'S SELECTION OF DOCUMENTS BY ASKING QUESTIONS OF WITNESSES CALCULATED TO REVEAL IT.**

The Committee cannot invade attorney work product by impermissibly asking deponents questions calculated to reveal it.

The Fourth Circuit has held that the "choice and arrangement [of interview notes and summaries] constitutes opinion work product because [counsel's] selection and compilation of these particular documents reveals her thought processes and theories regarding this litigation." In re Allen, 106 F.3d at 608. The same rule has been widely adopted by other circuits, and in Allen, the Fourth Circuit specifically cited Third and Eighth Circuit decisions holding the same. See id. (citing Sporck v. Peil, 759 F.2d 312, 316 (3d Cir. 1985) ("We believe that the selection and compilation of documents in this case in preparation for pretrial discovery falls within the highly-protected category of opinion work product."); Shelton v. Am. Motors Corp., 805 F.2d 1323, 1329 (8th Cir. 1986) ("In cases that involve reams of documents and extensive document discovery, the selection and compilation of documents is often more crucial than legal research. . . We believe [counsel's] selective review of [her clients'] numerous documents was based on her professional judgment of the issues and defenses involved in this case.")).

Courts throughout this circuit have acknowledged that attorney work product includes document selection. See In re Int'l Payment Grp., Inc., No ADV 10-80049-HB, 2011 WL 4738321, at \*2 (Bankr. D.S.C. Oct. 6, 2011) (writing that opinion work product is "not limited to

those containing opinions or analysis only" and acknowledging that the choice and arrangement of documents constitutes opinion work product); Weintraub v. Mental Health Auth. of St. Mary's Inc., No. DKC 2008-2669, 2010 WL 347882, at \*7 (D. Md. Jan. 22, 2010) ("[Movant] appears to claim that simply because the document was reviewed by Plaintiff in preparing for her deposition, it is discoverable. This is a gross oversimplification of the relevant considerations, however."); Proa v. NRT Mid-Atlantic, Inc., No. AMD-05-2157, 2008 WL 11363286, at \*22 (D. Md. June 20, 2008) ("The Fourth Circuit has extended work product protection to documents culled from a larger group of documents.").<sup>11</sup>

The one exception to the general prohibition is that set forth in Federal Rule of Evidence 612 for documents that a witness relies on to refresh his or her recollection. See Nutramax Lab'ys, Inc. v. Twin Lab'ys Inc., 183 F.R.D. 458, 467-68 (D. Md. 1998) (explaining elements that must be met before applying Rule 612 to documents reviewed by a witness prior to a deposition). The Committee fails to show any instance in which it laid the foundation that would allow it to rely on Rule 612. "The party who is seeking to invoke Rule 612 has the burden of showing that the documents at issue were actually used by a deponent to refresh his or her recollection while testifying or in preparation for testifying." Brown v. Tethys Bioscience, Inc., No. 3:11-MC-11, 2011 WL 4829340, at \*1 (E.D. Va. Oct. 11, 2011).

Counsel for the Debtors and Non-Debtor Affiliates instructed witnesses not to reveal the identity of documents selected by counsel for the witnesses to review in preparation for their depositions but allowed the witnesses to testify about: (i) any documents they chose to

---

<sup>11</sup> The Committee does not mention, much less attempt to distinguish, this authority. Instead, the Committee relies on one case from within this circuit, the District of South Carolina's decision in Fort v. Leonard, to support its position. But Fort is an outlier and distinguishable. The defendants in Fort sought much broader protection than here and objected to deposition questions ranging from "Have you read any transcripts?" to "Did you review the transcripts of any 2004 examinations that were not provided to you by [the defense attorney]?" Fort v. Leonard, No. 7:05-1028-HFF-WMC, 2006 WL 8444690, at \*1-\*2 (D.S.C. Oct. 11, 2006).

independently review (which would not reveal counsel's mental impressions) and (ii) any documents that refreshed the witnesses' memories.<sup>12</sup>

The Debtors' efforts to preserve protection for attorney work product and attorney-client communications during these depositions (and after) complied, at all times, with the Federal Rules of Civil Procedure. The Rules expressly authorize counsel to "instruct a witness not to answer . . . when necessary to preserve a privilege" and correspondingly authorize opposing counsel, who believe such an instruction improper, to "move for an order compelling an answer." Fed. R. Civ. P. 30(a) & 37(a)(3); see Fed. R. Bankr. P. 7030 & 7037. The District of Massachusetts decision cited by the Committee, see Mot. to Compel at p. 9, n.12, which decision appears to call upon an objecting party to file a motion for protective order, is at odds with the plain words of the Rules.

The Committee moved to compel, as was its obligation if it determined to raise the matter. That motion should now be overruled.

### **CONCLUSION**

For all of these reasons, the Committee's Motion to Compel should be denied.

---

<sup>12</sup> See, e.g., Ex. I, Dufour Dep. at 18-19 (MR. HIRST: "I'm going to object to the extent that any of the documents – object on the attorney-client privilege grounds to the extent the documents were documents provided to you by counsel. If Mr. Dufour independently chose any documents to review, I'll let him answer that question."); id. at 20 (same); id. at 21 (same); id. at 23 (MR. GOLDMAN: "What documents did you review that were of assistance to you in refreshing your recollection?" MR. HIRST: "Go ahead.")

Ex. H., Zafari Dep. at 13 (MR. HAMILTON: I disagree. The rule [612] only addresses documents that refresh the witness's recollection. You haven't established that he looked at any documents that refreshed his recollection.)

Ex. L, Tananbaum Dep. at 23-24 (MR. HIRST: "Any documents you reviewed in preparation please identify for Mr. Phillips. Things that were preselected for you and only discussed during out meetings based on our selection I would object based on privilege. But I think you can answer the question...").

Dated: April 14, 2021  
Charlotte, North Carolina

Respectfully submitted,

/s/ John R. Miller, Jr.

C. Richard Rayburn, Jr. (NC 6357)  
John R. Miller, Jr. (NC 28689)  
RAYBURN COOPER & DURHAM, P.A.  
227 West Trade Street, Suite 1200  
Charlotte, North Carolina 28202  
Telephone: (704) 334-0891  
Facsimile: (704) 377-1897  
E-mail: rrayburn@rcdlaw.net  
jmiller@rcdlaw.net

-and-

Brad B. Erens (IL Bar No. 6206864)  
David S. Torborg (DC Bar No. 475598)  
Robert W. Hamilton (OH Bar No. 0038889)  
Morgan R. Hirst (IL Bar No. 6275128)  
Caitlin K. Cahow (IL Bar No. 6317676)  
JONES DAY  
77 West Wacker  
Chicago, Illinois 60601  
Telephone: (312) 782-3939  
Facsimile: (312) 782-8585  
E-mail: bberens@jonesday.com  
dstorborg@jonesday.com  
rwhamilton@jonesday.com  
mhirst@jonesday.com  
ccahow@jonesday.com  
(Admitted *pro hac vice*)

-and-

Gregory M. Gordon (TX Bar No. 08435300)  
JONES DAY  
2727 N. Harwood Street  
Dallas, Texas 75201  
Telephone: (214) 220-3939  
Facsimile: (214) 969-5100  
E-mail: gmgordon@jonesday.com  
(Admitted *pro hac vice*)

ATTORNEYS FOR DEBTORS  
AND DEBTORS IN POSSESSION

**EXHIBIT B**

Debtors' May 15 Joint Board of Managers Meeting Minutes.

**MINUTES OF JOINT MEETING  
OF  
BOARDS OF MANAGERS**

**ALDRICH PUMP LLC,  
a North Carolina limited liability company**

**MURRAY BOILER LLC,  
a North Carolina limited liability company**

The board of managers (the “Aldrich Board”) of Aldrich Pump LLC, a North Carolina limited liability company (“Aldrich Pump”), and the board of managers (the “Murray Board,” together with the Aldrich Board, the “Boards”) of Murray Boiler LLC, a North Carolina limited liability company (“Murray Boiler”, together with Aldrich Pump, the “Companies”) met jointly on Friday, May 15, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Phyllis Morey, a lawyer seconded to the Companies, pursuant to a written secondment agreement that the Companies have with Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies (“TTC”); (2) Evan M. Turtz and Sara



Walden Brown, in-house lawyers at TTC, who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a South Carolina corporation and subsidiary of Aldrich Pump (“200 Park”), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler (“ClimateLabs”), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (3) partners Mark Cody, Brad Erens and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (4) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum, with the assistance of Mr. Evert and Ms. Morey, would make a presentation regarding the history of each of the Companies with asbestos and (3) then, Mr. Tananbaum, with the assistance of Mr. Erens, would review potential strategic options for addressing current and future asbestos claims. Mr. Tananbaum confirmed that the members of each of the Boards and Mr. Pittard had received the slide presentation regarding the history of each of the Companies with asbestos, which had been circulated to them in advance of the meeting.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE  
CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert, with the assistance of Mr. Tananbaum, provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits, addressing activities in the court system and communications with defense counsel and insurers. Following the update, Mr. Tananbaum, with the assistance of Mr. Evert and Mr. Erens, responded to questions from members of the Boards.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for leading the presentation.

**(REVIEW OF THE HISTORY OF THE COMPANIES WITH ASBESTOS)**

Mr. Tananbaum, with the assistance of Mr. Evert and Ms. Morey, then reviewed a slide presentation with respect to the history of the Companies with asbestos, noting that the slides being presented electronically at the meeting reflected minor updates to the version thereof circulated in advance of the meeting. The presentation addressed, among other things, the historical use of asbestos-containing components in products of each of the Companies, the relevant product lines of each of the Companies, the evolution of asbestos-related lawsuits in the tort system, the experience of the Companies in the tort system, challenges faced by the Companies in the tort system, historical and forecasted costs and insurance reimbursements of the Companies associated with asbestos-related lawsuits. Throughout the presentation, Mr. Tananbaum, Mr. Evert and Ms. Morey responded to questions from members of the Boards and Mr. Pittard.

After confirming there were no additional questions regarding the presentation, Mr. Tananbaum began a review of potential strategic options for addressing current and future asbestos claims against the Companies.

**(REVIEW OF POTENTIAL STRATEGIC OPTIONS FOR ADDRESSING  
CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum reviewed options available to the Companies with respect to the resolution of current and future asbestos claims, including the potential use of section 524(g) of Bankruptcy Code. Mr. Tananbaum then asked Mr. Erens to provide an overview of section 524(g) of the Bankruptcy Code.

Mr. Erens, with the assistance of Mr. Cody, then made a presentation regarding section 524(g) of the Bankruptcy Code and the potential use thereof as a mechanism to finally resolve current and future asbestos claims against the Companies. Following the presentation, Mr. Erens, with the assistance of Mr. Lewis, responded to questions from, and engaged in discussions with, members of the Board and Mr. Pittard regarding the use of section 524(g) of the Bankruptcy Code as a mechanism to finally resolve current and future asbestos claims.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum then discussed briefly with members of the Boards the schedule for future meetings and confirmed there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.



Allan Tananbaum  
Chief Legal Officer and Secretary

**EXHIBIT C**

Debtors' May 22 Joint Board of Managers Meeting Minutes.

**MINUTES OF JOINT MEETING**

**OF**

**BOARDS OF MANAGERS**

**ALDRICH PUMP LLC,  
a North Carolina limited liability company**

**MURRAY BOILER LLC,  
a North Carolina limited liability company**

The board of managers (the “Aldrich Board”) of Aldrich Pump LLC, a North Carolina limited liability company (“Aldrich Pump”), and the board of managers (the “Murray Board,” together with the Aldrich Board, the “Boards”) of Murray Boiler LLC, a North Carolina limited liability company (“Murray Boiler”, together with Aldrich Pump, the “Companies”) met jointly on Friday, May 22, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari—and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Phyllis Morey, a lawyer seconded to the Companies, pursuant to a written secondment agreement that the Companies have with Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies (“TTC”); (2) Evan M. Turtz and Sara

Walden Brown, in-house lawyers at TTC, who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a South Carolina corporation and subsidiary of Aldrich Pump (“200 Park”), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler (“ClimateLabs”), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (3) partners Mark Cody, Brad Erens and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (4) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum, with the assistance of Mr. Erens, would review and further discuss the strategic options for addressing current and future asbestos claims that were presented at the joint meeting of the Boards held on May 15, 2020 (the “May 15 Joint Meeting”), and (3) then, Mr. Erens and Mr. Cody would provide a review of preparations for the potential use of section 524(g) of the Bankruptcy Code as a mechanism to finally resolve current and future asbestos claims against the Companies.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE  
CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits, addressing activities in the court system and communications with defense counsel and insurers. Following the update, Mr. Evert, with the assistance of Mr. Tananbaum and Mr. Erens, responded to questions from members of the Boards and Mr. Pittard.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for leading the presentation.

**(REVIEW AND FURTHER DISCUSSION OF STRATEGIC OPTIONS FOR  
ADDRESSING CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum briefly reviewed the topics presented at the May 15 Joint Meeting and noted the numerous questions received from members of the Boards and Mr. Pittard both at and after the May 15 Joint Meeting. After thanking members of the Boards for their engagement on these topics, Mr. Tananbaum began a review and further discussion of the strategic options for addressing current and future asbestos claims that were presented at the May 15 Joint Meeting, indicating that he, with the assistance of Mr. Erens and other meeting participants, would attempt to respond to the questions already received and encouraging members of the Board and Mr. Pittard to raise any additional questions they may have.

Mr. Tananbaum then asked Mr. Erens to review the experience of companies that recently made chapter 11 filings in an effort to finally resolve their current and future asbestos claims utilizing section 524(g) of the Bankruptcy Code. As requested, Mr. Erens reviewed the history of the chapter 11 cases of each of Bestwall LLC (which made its chapter 11 filing following a

restructuring of Georgia-Pacific LLC), DBMP LLC (which made its chapter 11 filing following a restructuring of CertainTeed Corporation), and Paddock Enterprises LLC (which made its chapter 11 filing following a restructuring of Owens-Illinois, Inc.). Throughout his presentation, Mr. Erens, with the assistance of Mr. Tananbaum, Mr. Evert and Mr. Lewis, responded to questions from members of the Board and Mr. Pittard regarding these chapter 11 cases and the chapter 11 process and use of section 524(g) of the Bankruptcy Code generally.

Following a lengthy and robust discussion of the benefits and challenges associated with the use of section 524(g) of the Bankruptcy Code, Mr. Tananbaum then reviewed the other strategic options for addressing current and future asbestos claims that were presented at the May 15 Joint Meeting. During his review, Mr. Tananbaum, with the assistance of Mr. Evert, Mr. Erens, Ms. Morey and Mr. Turtz, responded to questions from members of the Boards and Mr. Pittard, resulting in a lengthy and robust discussion of the mechanics and limitations of these other options. As part of such discussion, it was noted for the members of the Board that, in contrast to the use of section 524(g) of the Bankruptcy Code, none of the other available options provide the

**Redacted - Privileged**



# Redacted - Privileged

**(REVIEW OF PREPARATIONS FOR THE POTENTIAL USE OF SECTION 524(G) OF THE BANKRUPTCY CODE)**

Mr. Erens provided a general overview regarding the preparations that had been undertaken as contingency planning in case the Boards were ultimately to determine to make pursue a strategy of using section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies. At the request of Mr. Erens, Mr. Cody then reviewed more specifically the documentation and pre-filing activities required in order for the Companies to commence chapter 11 cases and the status thereof. Following such review, Mr. Erens and Mr. Cody responded to questions.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum then discussed briefly with members of the Boards the schedule for future meetings and confirmed there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.



Allan Tananbaum  
Chief Legal Officer and Secretary

**EXHIBIT D**

Debtors' May 29 Joint Board of Managers Meeting Minutes.

**MINUTES OF JOINT MEETING**

**OF**

**BOARDS OF MANAGERS**

**ALDRICH PUMP LLC,  
a North Carolina limited liability company**

**MURRAY BOILER LLC,  
a North Carolina limited liability company**

The board of managers (the “Aldrich Board”) of Aldrich Pump LLC, a North Carolina limited liability company (“Aldrich Pump”), and the board of managers (the “Murray Board,” together with the Aldrich Board, the “Boards”) of Murray Boiler LLC, a North Carolina limited liability company (“Murray Boiler”, together with Aldrich Pump, the “Companies”), met jointly on Friday, May 29, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari—and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of the Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Phyllis Morey, a lawyer seconded to the Companies, pursuant to a written secondment agreement that the Companies have with Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies (“TTC”); (2) Evan M. Turtz and Sara

Walden Brown, in-house lawyers at TTC who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a South Carolina corporation and subsidiary of Aldrich Pump (“200 Park”), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler (“ClimateLabs”), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (3) partners Mark Cody, Brad Erens, Jim Jones and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (4) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum, with the assistance of Mr. Erens, would review and further discuss the strategic options for addressing current and future asbestos claims that were presented at the joint meeting of the Boards held on May 15, 2020 (the “May 15 Joint Meeting”) and discussed again at the joint meeting of the Boards held on May 22, 2020 (the “May 22 Joint Meeting”), (3) then, the Jones Day lawyers would provide an update regarding preparations for the potential use of section 524(g) of the Bankruptcy Code as a mechanism to finally resolve current and future asbestos claims against the Companies and (4) finally, Ms. Roeder would provide a review of (a) the final opening balance sheets of the Companies and (b) the businesses and operating results of 200 Park and ClimateLabs.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE  
CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits. Following the update, Mr. Evert, with the assistance of Mr. Tananbaum, Mr. Turtz and Mr. Erens, responded to questions from members of the Boards and Mr. Pittard.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for his update.

**(REVIEW AND FURTHER DISCUSSION OF STRATEGIC OPTIONS FOR  
ADDRESSING CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum briefly reviewed the strategic options for addressing current and future asbestos claims presented at the May 15 Joint Meeting and further discussed at the May 22 Joint Meeting, noting that he had received requests from members of the Boards at and after the May 22 Joint Meeting to prepare for review with the Boards a side-by-side comparison of such options. Mr. Tananbaum then reviewed a slide presentation, which was shared electronically by internet, that analyzed such options on a side-by-side basis, all as compared to the status quo of remaining in the tort system. Throughout his presentation, Mr. Tananbaum, with the assistance of Mr. Erens, Mr. Turtz, Mr. Evert and Mr. Lewis, responded to questions from members of the Boards and Mr. Pittard. Following lengthy and robust discussion of the strategic options, Mr. Tananbaum confirmed there were no additional questions regarding his presentation and asked Mr. Erens to

provide an overview of preparations for the potential use of section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies.

**(UPDATE REGARDING PREPARATIONS FOR THE POTENTIAL USE OF  
SECTION 524(G) OF THE BANKRUPTCY CODE)**

Mr. Erens began his presentation by asking Mr. Jones to provide a brief overview of potential factual inquiries that could be expected in the event the Boards were ultimately to determine to pursue a strategy of using section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies. Mr. Jones completed his presentation and confirmed that there were no questions.

Mr. Erens then reviewed certain proposed amendments to the funding agreements to which the Companies are party. Mr. Erens, with the assistance of Mr. Turtz, Mr. Tananbaum and Mr. Lewis, responded to questions from members of the Boards and Mr. Pittard regarding the proposed amendments. The Boards were not asked to take action with respect to the proposed amendments, and it was noted that appropriate written consents with respect to the proposed amendments to the funding agreements would be circulated in due course.

Mr. Erens then described information proposed to be included in documents being prepared for submission to the bankruptcy court as part of the contingency planning in case the Boards were ultimately to determine to pursue a strategy of using section 524(g) of the Bankruptcy Code to finally resolve current and future asbestos claims against the Companies. Throughout his presentation, Mr. Erens, with the assistance of Mr. Evert, responded to questions asked by the members of the Boards and Mr. Pittard.

Finally, at the request of Mr. Erens, Mr. Cody provided an update regarding the status of the other documentation required in order for the Companies to commence chapter 11 cases.

**(REVIEW OF FINAL OPENING BALANCE SHEETS OF THE COMPANIES  
AND THE BUSINESSES AND OPERATING RESULTS OF 200 PARK AND  
CLIMATELABS)**

Mr. Tananbaum then invited Ms. Roeder to begin the review of (a) the final opening balance sheets of the Companies and (b) the businesses, financial condition and operating results of 200 Park and ClimateLabs. At this time, Eric Hankins, who provides finance services to Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC, joined the meeting at the invitation of the Boards to assist Mr. Roeder with her presentation. Ms. Roeder then reviewed the final opening balance sheets of each of the Companies, sharing the same electronically by internet. Ms. Roeder then shared select financial and operating data regarding 200 Park and ClimateLabs electronically by internet, and Mr. Hankins provided a brief overview of the businesses of 200 Park and ClimateLabs.

During the presentation, Ms. Roeder and Mr. Hankins responded to questions from members of the Boards. After confirming there were no further questions for Ms. Roeder and Mr. Hankins, Mr. Tananbaum thanked them for the presentation and Mr. Hankins departed from the meeting.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum then discussed briefly with members of the Boards the schedule for future meetings and confirmed there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.



Allan Tananbaum  
Chief Legal Officer and Secretary



**EXHIBIT E**

Debtors' June 5 Joint Board of Managers Meeting Minutes.

**MINUTES OF JOINT MEETING**

**OF**

**BOARDS OF MANAGERS**

**ALDRICH PUMP LLC,  
a North Carolina limited liability company**

**MURRAY BOILER LLC,  
a North Carolina limited liability company**

The board of managers (the “Aldrich Board”) of Aldrich Pump LLC, a North Carolina limited liability company (“Aldrich Pump”), and the board of managers (the “Murray Board,” together with the Aldrich Board, the “Boards”) of Murray Boiler LLC, a North Carolina limited liability company (“Murray Boiler”, together with Aldrich Pump, the “Companies”), met jointly on Friday, June 5, 2020, by means of conference telephone and internet communications equipment whereby all persons participating in the meeting were able to hear each other. All members of the Aldrich Board—Amy Roeder, Manlio Valdes and Robert Zafari—and all members of the Murray Board—Marc Dufour, Amy Roeder and Manlio Valdes—were in attendance.

At the invitation of the Boards, all non-manager officers of the Companies—Allan Tananbaum, the Chief Legal Officer and Secretary of each of the Companies, and Ray Pittard, Vice President of each of the Companies—participated in the meeting. Mr. Tananbaum presided at, and acted as secretary for, the meeting.

In addition, at the invitation of the Boards, the following persons participated in the meeting: (1) Evan M. Turtz and Sara Walden Brown, in-house lawyers at Trane Technologies Company LLC, a Delaware limited liability company and affiliate of each of the Companies (“TTC”) who provide general corporate legal services to each of Aldrich Pump, 200 Park, Inc., a

South Carolina corporation and subsidiary of Aldrich Pump (“200 Park”), Murray Boiler and ClimateLabs LLC, a North Carolina limited liability company and subsidiary of Murray Boiler (“ClimateLabs”), pursuant to written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC; (2) partners Mark Cody, Brad Erens and Troy Lewis and associate Alex Kerrigan from Jones Day, outside counsel for each of the Companies, and (3) Michael Evert of Evert Weathersby Houff, outside national coordinating counsel for each of the Companies with respect to asbestos-related lawsuits.

**(INTRODUCTORY REMARKS AND CALL TO ORDER)**

Mr. Tananbaum welcomed the members of the Boards and other meeting participants. A roll call was then taken by Mr. Tananbaum, and it was confirmed that a quorum for each of the Boards was present and the meeting could be called to order.

Following the roll call, Mr. Tananbaum called the meeting to order and reviewed the agenda, indicating that (1) first, there would be an update regarding activities in connection with the current asbestos-related lawsuits against the Companies; (2) then, Mr. Tananbaum would summarize (a) the activities of the Boards since the creation of the Companies on May 1, 2020, including discussions regarding strategic options for addressing current and future asbestos claims that occurred at the joint meetings of the Boards held on May 15, 2020 (the “May 15 Joint Meeting”), on May 22, 2020 (the “May 22 Joint Meeting”) and on May 29, 2020 (the “May 29 Joint Meeting”), and (b) the anticipated request for action by the Boards to authorize the Companies to file chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims using section 524(g) of the Bankruptcy Code, (3) then, the Jones Day lawyers would review the chapter 11 bankruptcy process generally and section 524(g) of the Bankruptcy Code specifically, (4) then, the Jones Day lawyers would provide an update regarding preparations

for the potential use of section 524(g) of the Bankruptcy Code and (5) finally, Mr. Tananbaum would provide an overview of the communications plan in connection with the potential use of section 524(g) by the Companies. Mr. Tananbaum confirmed the receipt by members of the Boards of the section 524(g) overview and draft informational brief sent to them in advance of the meeting.

Mr. Tananbaum then introduced Mr. Evert and asked that he begin the update regarding activities in connection with the asbestos-related lawsuits against the Companies.

**(UPDATE REGARDING ACTIVITIES IN CONNECTION WITH THE  
CURRENT ASBESTOS-RELATED LAWSUITS)**

Mr. Evert provided an update regarding the activities of the Companies in connection with their current asbestos-related lawsuits. Mr. Tananbaum then provided a brief update regarding coordination and recent discussions with the Companies' insurers. Following Mr. Tananbaum's report, Mr. Evert, with the assistance of Mr. Erens, responded to questions from members of the Boards and Mr. Pittard regarding activities in the tort system.

After confirming there were no additional questions regarding these activities, Mr. Tananbaum thanked Mr. Evert for his update.

**(REVIEW OF ACTIVITIES OF THE BOARDS SINCE MAY 1, 2020,  
INCLUDING DISCUSSIONS OF STRATEGIC OPTIONS FOR ADDRESSING  
CURRENT AND FUTURE ASBESTOS CLAIMS)**

Mr. Tananbaum summarized the activities of the Boards since May 1, 2020. As part of his presentation, Mr. Tananbaum reviewed the strategic options for addressing current and future asbestos claims against the Companies that were discussed at each of the May 15 Joint Meeting, the May 22 Joint Meeting and the May 29 Joint Meeting. Throughout his presentation, Mr.

Tananbaum, with the assistance of Mr. Erens, Mr. Evert and Mr. Turtz, responded to numerous questions from, and observations of, members of the Boards and Mr. Pittard and there was robust discussion regarding the various options.

Mr. Tananbaum then indicated that, while the Boards were not currently being asked to take any action, he anticipated management of the Companies would soon ask the Boards to authorize the Companies to file chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims using section 524(g) of the Bankruptcy Code. Mr. Tananbaum, in his capacity as Chief Legal Officer of each of the Companies, then provided his analysis of the strategic options discussed with the Boards and his preliminary recommendation that the Companies file chapter 11 bankruptcy and pursue final resolution of their current and future asbestos claims against them using section 524(g) of the Bankruptcy Code. At the request of Mr. Tananbaum, Mr. Pittard, in his capacity as Vice President of each of the Companies, similarly provided his analysis of the strategic options and his preliminary recommendation that the Companies file chapter 11 bankruptcy and attempt to use section 524(g) of the Bankruptcy Code to finally resolve their current and future asbestos claims. Following Mr. Pittard's remarks, Mr. Tananbaum and Mr. Pittard answered questions from, and engaged in discussion with, members of the Boards.

Following extended discussion of the strategic options and the preliminary recommendations of Mr. Tananbaum and Mr. Pittard, Mr. Tananbaum asked Mr. Erens and Mr. Cody to review the chapter 11 bankruptcy process generally and section 524(g) of the Bankruptcy Code specifically and thereafter to provide an update regarding preparations for the potential use by the Companies of section 524(g) of the Bankruptcy Code and facilitate a discussion of the draft informational brief that had been sent to the members of the Boards in advance of the meeting.

**(REVIEW OF THE CHAPTER 11 BANKRUPTCY PROCESS AND SECTION  
524(G) OF THE BANKRUPTCY CODE AND UPDATE REGARDING PREPARATIONS  
FOR THE POTENTIAL USE OF SECTION 524(G))**

After initial remarks by Mr. Erens, Mr. Cody provided an in-depth description of the chapter 11 bankruptcy process. Mr. Erens then reviewed section 524(g) of the Bankruptcy Code. Throughout the presentation, Mr. Cody and Mr. Erens, with the assistance of Mr. Tananbaum and Mr. Turtz, responded to questions from members of the Boards and Mr. Pittard. After confirming that there were no further questions, Mr. Erens asked Mr. Lewis to provide an update regarding the proposed amendments to the funding agreements discussed at the May 29 Joint Meeting and to review certain proposed amendments to the written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC.

Mr. Lewis then reviewed the proposed amendments to the funding agreements discussed at the May 29 Joint Meeting and summarized certain proposed amendments to the written service agreements that Aldrich Pump, 200 Park, Murray Boiler and ClimateLabs have with TTC. Following discussion of the proposed amendments, Mr. Lewis explained that the Boards were not currently being asked to take action with respect to the proposed amendments and that appropriate written consents with respect to the proposed amendments would be circulated following the meeting.

Mr. Tananbaum then suggested that, in light of the time, the update regarding preparations for the potential use of section 524(g) of the Bankruptcy Code, including the discussion of the draft informational brief sent to the members of the Boards in advance of the meeting, and the review of the communications plan in connection with the potential use of section 524(g) each be deferred

and presented at a joint meeting of the Boards on Friday, June 12, 2020. Following a brief discussion, the members of the Board concurred with Mr. Tananbaum's suggestion.

**(REVIEW OF SCHEDULE FOR FUTURE BOARD MEETINGS AND ADJOURNMENT)**

Mr. Tananbaum confirmed that there were no further questions. Having no other business to consider, Mr. Tananbaum thanked the participants for their participation, and the meeting was adjourned.



Allan Tananbaum  
Chief Legal Officer and Secretary

**EXHIBIT F**

Debtors' May 15 PowerPoint.



Aldrich Pump LLC  
Murray Boiler LLC  
Overview of the Companies' Experience as  
Asbestos Defendants in the Tort System

---

**PRIVILEGED AND CONFIDENTIAL**

Board of Managers meeting  
May 15, 2020

## AGENDA

---

- *Introduction*
- *Asbestos – General Background Information*
- *Aldrich’s and Murray’s Use of Asbestos and Respective Products*
- *Evolution of Asbestos Litigation*
- *Aldrich’s and Murray’s Positioning in the Tort System and Claims Filings*
- *Tort System Realities*
- *Data: Dismissals, Settlements, Indemnity*
- *Defense Costs*
- *Insurance Reimbursements*
- *Future Projections*

## Introduction

---

- Asbestos litigation is the longest-running mass tort in U.S. history – currently in its 5<sup>th</sup> decade – and shows no signs of abating
- Although Aldrich and Murray have been in the litigation since the 1980s, the litigation against them increased significantly ~20 years ago
- Over time, Aldrich and Murray have spent approximately \$2B to defend and settle asbestos litigation
  - **Aldrich \$1.13B** (through 9/2019)
  - **Murray \$637M** (through 9/2019)
- On average in recent years, Aldrich and Murray have spent approximately \$100M annually defending and settling asbestos claims
  - **Aldrich \$62.4M**
  - **Murray \$35.4M**

## Introduction

---

- There is no end in sight for Aldrich and Murray in the tort system: the companies project they will be settling asbestos cases for 30+ more years
  - Mesothelioma, a fatal cancer primarily of the lining of the lung associated with asbestos exposure, drives asbestos litigation and has not reduced in incidence as quickly as previously forecast
  - Claims of asbestos-related lung cancers are also possibly increasing

**Redacted - Privileged**

**Redacted - Privileged**

4

## Introduction

---

- **Redacted - Privileged**
- Tort system drives inefficient transaction costs and misallocation of resources
- Nor is the tort system the most efficient mechanism to pay sick claimants who may have legitimate claims
  - 2005 RAND study estimates for every dollar spent by defendants on asbestos litigation:
    - Claimants receive 42 cents
    - Plaintiff's attorneys receive 27 cents on fees and costs
    - Defense attorneys, experts and vendors receive 31 cents
  - Asbestos lawsuits can take years from filing to resolution, and some plaintiffs die in the interim (though their families can recover)

§

## Asbestos—General Background Information

---

- A naturally occurring mineral with good insulating properties
- Used in a variety of products, principally from the 1900s-1970s
- Eventually, certain forms became medically linked to development of mesothelioma, a rare and fatal cancer
  - Only 3,000 diagnoses of mesothelioma annually
- Exposure also linked to lung cancer in individuals who smoke as well as those with asbestosis (a lung disease caused by asbestos exposure)
- Asbestos stopped being widely used in industrial products by the mid-1980s
  - Phased out in thermal insulation by 1973
  - Banned in joint compound by CPSC in 1978
  - Largely eliminated from sealing products in early 1990's

§

## Asbestos—General Background Information

---

- Nonetheless, diagnoses of asbestos-related diseases still occur
  - Some industrial products/equipment remained in service for many years
  - Long latency period between exposure and development of disease—typically at least 30 years
- Data strongly suggests that not all mesotheliomas are caused by asbestos exposure
  - Diagnoses of people with no industrial exposures
  - Relatively steady rate of incidence of mesothelioma among women without changes consistent with asbestos use
  - Background level of asbestos fibers detectable in the ambient air makes epidemiological study of “unexposed” impossible
  - Nevertheless, widespread misconception that all mesotheliomas are caused by asbestos

## Aldrich's and Murray's Use of Asbestos

---

- Neither Aldrich nor Murray mined, milled, or distributed raw asbestos fibers
- Aldrich and Murray manufactured and distributed products that incorporated asbestos-containing materials as component parts which were supplied by other parties – typically gaskets or packing.
- The asbestos was encapsulated inside the gaskets and then enclosed inside metal equipment
- Exposure could only occur when the equipment was repaired or maintained
- The asbestos material used in gaskets was largely chrysotile, a form much less likely to cause cancer than amphibole fibers



## Aldrich's and Murray's Use of Asbestos

---

- Some early Murray products incorporated external product insulation
  - External insulation was typically “friable” and provided more opportunity for exposure than gaskets
  - This type of insulation generally contained a more dangerous form of asbestos known as amphibole
  - Murray sold some boilers with asbestos insulation, but stopped in the mid-1950s
  - Other Murray boilers may have been insulated after distribution, e.g., by customers at job sites.
- The asbestos products that were associated with Aldrich and Murray equipment were, at all times, industry standard
  - Awareness of hazards associated with asbestos products evolved over time

§

## Aldrich Pump Products

---

### ***Major Product Lines including asbestos components***

#### ▪ **Pumps**

- Brands included Ingersoll Rand, Aldrich, Cameron and Ingersoll Dresser Pump

#### ▪ **Compressors**

- Brands included Ingersoll Rand, Dresser Rand

### ***Asbestos-containing parts in Aldrich products were generally gaskets and packing***

- Aldrich phased out asbestos gaskets beginning in the late 1970s and mostly completed process by 1986
- Aldrich manufactured other equipment that may have incorporated asbestos components (e.g., ejectors, condensers, blowers, etc.), but those products have not had significant claiming history



# Aldrich Pump Products

**INGERSOLL-RAND  
AIR COMPRESSORS**

**Class ESH-ESV Air Compressors**  
Water Cooled, Single Stage  
Variable Capacity, Inflight Type  
Compressors  
400 to 1000 cfm  
20 through 100 horsepower  
50 to 100 psig



Class ESH-ESV air compressors.

**Class ESH-ESV air-cooled  
air compressors**

**Type PHE Air Compressors**  
Water Cooled, Two Stage  
Simplified Operation Compressors.  
500 to 800 cfm  
75, 100 and 125 horsepower  
80 to 100 psig



Type PHE compressors are built on electric motor drive.

**Air Cube Air Compressors**  
Two Stage, Water Cooled Package  
300 to 500 cfm  
75 to 100 horsepower  
80 to 100 psig  
20 to 100 psig

Class U.S. Air Cube  
air compressors  
completely factory  
assembled and tested  
ready to run.



**Type XLE Air Compressors**  
Water Cooled, Single Stage  
Single and Two Stage  
Compressors with Integral  
Machinery and Motors.  
500 to 800 cfm  
75 through 100 horsepower  
80 to 100 psig



Type XLE compressors, the most  
efficient air compressors.

**Water Cooled, Single and Two  
Stage Compressors with  
Integral Motor Drive.**  
500 to 800 cfm, Two Stage  
600 through 1000 horsepower  
80 to 100 psig



**Super 200, horizontal, integrated  
compressor with synchronous  
motor drive.**

**Type XLE and compact package  
with closed coupling motor system  
for installation in prime location.**



**Super XLE single type air compressor  
with synchronous motor drive.**



## Murray Boiler Products

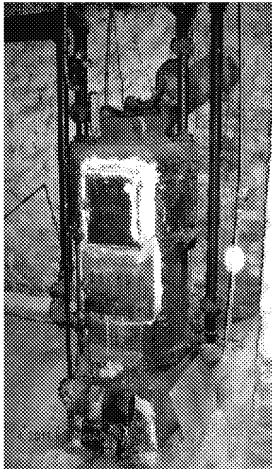
---

### ***Major Product Lines including asbestos components***

- **Boilers—Commercial and Residential**
  - Asbestos-containing gaskets, rope packing, fire brick, external insulation
  - Key brands: American Standard, Arco, Ideal, Murray, Kewanee
- **HVAC Equipment (Chillers, Absorbers, Air Handling Units, Cooling Towers)**
  - Asbestos-containing gaskets
  - Trane brand
- **Fans – forced draft and induced draft**
  - American Blower brand
- Murray manufactured/sold other equipment that may have incorporated asbestos components (e.g., railroad brake shoes, furnaces, etc.), but those products have not had significant claiming history
- Murray stopped using asbestos in much equipment during the 1970s and largely eliminated the use of asbestos in the latter half of the 1980s

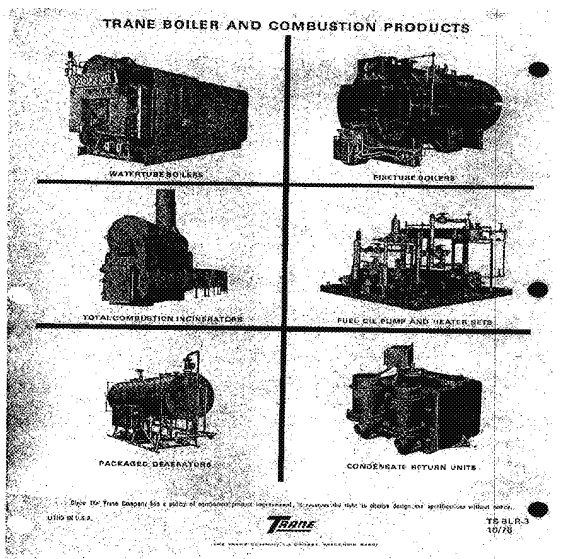
# Murray Boiler Products

---



# Murray Boiler Products

---



## Evolution of Asbestos Litigation

---

### First Wave of lawsuits: 1970s—Late 1990s

- Target defendants: the companies that mined and sold raw asbestos, as well as companies that used raw asbestos to manufacture thermal insulation and other products
- These companies (collectively the “asbestos industry”) paid hundreds of millions of dollars annually to resolve claims.
- Bankruptcies ensued – Johns Manville (1982), followed by others in the early 1990s (e.g., Celotex, National Gypsum, Eagle Picher)
- A second round of bankruptcies occurred in 2000 and 2001 (e.g., US Gypsum, Pittsburgh Corning, W.R. Grace, Federal Mogul)
- The bankruptcies resulted in Trusts with over \$35B available to asbestos claimants pursuant to an administrative process.
  - >130 companies have filed asbestos-related bankruptcies
  - Asbestos trusts operate separately from the tort system



## Evolution of Asbestos Litigation

---

### Second Wave of Lawsuits: Early 2000s--Current

- Claims surged against companies with no connection to the “asbestos industry”
  - Many were companies that manufactured equipment that incorporated industry-standard asbestos-containing components
  - Litigation became the “endless search for the solvent bystander”
- Product exposure allegations in the tort system shifted in wake of bankruptcies
  - Allegations of exposure to the asbestos products of bankrupt companies drastically reduced
    - Garlock bankruptcy litigation explored this phenomenon
    - Discovery showed the testimony of many claimants in the tort system was inconsistent with submissions to asbestos trusts
    - Court found exposure evidence was withheld by the plaintiffs and unfairly inflated recoveries in the tort system

## Aldrich's and Murray's Positioning in the Tort System

---

### ***Pre-2000***

- Focus of the litigation at that time was on large volumes of non-malignant claims
- Most lawsuits were filed by unimpaired plaintiffs, resulting in many dismissals, deferred dockets and low individual settlements
- From the first cases filed in the 1980s to 2000, Aldrich and Murray combined paid roughly \$2.5M to resolve mesothelioma cases

## Aldrich's and Murray's Positioning in the Tort System

---

### ***Post-2000***

- Between 2001 and 2002, mesothelioma (as well as lung cancer) case filings more than doubled against both Aldrich and Murray
- Settlement costs increased dramatically in 2002 as well

#### **Aldrich**

- Increase of \$12.5M paid on mesothelioma cases

#### **Murray**

- Increase of \$4M paid on mesothelioma cases
- In the mid-2000s, mesothelioma claims started to become the primary focus of the litigation

## Claims Filings

---

- Total asbestos filings from Inception of asbestos cases-Q1 2020
  - Aldrich 176,394
  - Murray 116,790
- Recent average number of annual asbestos filings
  - Aldrich 2,715
  - Murray 2,223
- Aldrich and Murray are now among a small group of companies most frequently sued in asbestos cases
- Based on third-party data estimates, Aldrich and Murray are currently named in a majority of the mesothelioma claims filed annually in the U.S. – in 2019, Aldrich was named in 80% of all mesothelioma claims, and Murray in 57%; implausible given products involved
- Recent average annual mesothelioma filings
  - Aldrich 1,504
  - Murray 1,129

## Tort System Realities

**Redacted - Privileged**

Tort System Realities

**Redacted - Privileged**

Tort System Realities

**Redacted - Privileged**

## Tort System Realities

■

**Redacted - Privileged**



## Claims Dismissals

---

- Aldrich and Murray successfully obtain dismissals without payment in substantial percentages of asbestos cases annually
  - Significant defense costs are expended in order to obtain many dismissals
- **Total dismissal rates**
  - **Aldrich**
    - Total dismissal rate Inception-9/2019 48%
    - Recent average annual overall dismissal 61%
  - **Murray**
    - Total dismissal rate Inception-9/2019 85%
    - Recent average annual dismissal rate 77%
- **Mesothelioma dismissal rates**
  - **Aldrich**
    - Mesothelioma dismissal rate Inception-9/2019 45%
    - Recent average annual meso dismissal rate 52%
  - **Murray**
    - Mesothelioma dismissal rate Inception-9/2019 78%
    - Recent average annual meso dismissal rate 79%

## Settlements—Average Annual Number of Resolutions

**Redacted - Privileged**

- Murray has not tried a case to verdict, and Aldrich has tried only one, resulting in a \$5.5M verdict against it. With costs and interest, the verdict was \$9.5M. The case settled while on appeal for \$9.2M.

**Redacted - Privileged**

- **Aldrich**

- Recent average number annual settlements 1261
- Recent average number annual meso settlements 675

- **Murray**

- Recent average number annual settlements 538
- Recent average number annual meso settlements 232

26

## Settlements—Average Payments

- **Redacted - Privileged**
- 99% of cases settled for <\$250K
- Average Overall Settlement Rate
  - **Aldrich**
    - Average overall settlement Inception-9/2019 **\$10K**
    - Recent average overall settlement rate **\$38K**
  - **Murray**
    - Average overall settlement Inception-9/2019 **\$28K**
    - Recent average overall settlement rate **\$46K**
- Average Mesothelioma Settlement Rate
  - **Aldrich**
    - Average meso settlement Inception-9/2019 **\$49K**
    - Recent average meso settlement rate **\$59K**
  - **Murray**
    - Average meso settlement Inception-9/2019 **\$89K**
    - Recent average meso settlement rate **\$89K**

## Total Indemnity Over Time

---

**Redacted - Privileged**

- Approximate total indemnity paid from Inception of asbestos cases-Q1 2020
  - Aldrich \$835M
  - Murray \$406M
- Approximate total mesothelioma indemnity paid from Inception of asbestos cases-Q1 2020
  - Aldrich \$651M
  - Murray \$322M

## Average Indemnity Rates

---

- Recent average total indemnity paid annually
  - **Aldrich**           **\$48M**
  - **Murray**           **\$25M**
- Recent average indemnity paid annually on mesothelioma cases
  - **Aldrich**           **\$40M**
  - **Murray**           **\$21M**
- 83%--84% of settlement dollars are paid on mesothelioma cases

## Costs of Defense

---

- Legal fees
  - National coordinating counsel
  - Local law firms in every jurisdiction in which lawsuits are filed against Aldrich and Murray
- Expert witnesses, court reporters, document management firms
- Other service providers
  - Claims and settlement database (PACE)
- Total defense costs paid from Inception of asbestos cases-2/29/2019
  - **Aldrich**                    **\$323.5M**
  - **Murray**                    **\$246.4M**
- Recent average annual legal fees
  - **Aldrich**                    **\$14.4M**
  - **Murray**                    **\$10.4M**

## Insurance Reimbursements

---

- Total Insurance Reimbursements to date
  - **Aldrich**            **\$604.5M**
  - **Murray**            **\$516.4M**
- These amounts did not come steadily over time as costs were incurred
  - Aldrich engaged in litigation with its insurers twice, once in the early 1990s, which led to an interim agreement with certain insurers, and then again more comprehensively in 2012 in a case that did not fully settle until November 2019.
  - Murray engaged in litigation with its insurers through much of the 2000s, and fully settled in 2008
  - Some deals were cash buy-outs of policy limits; most are coverage-in-place arrangements under which Aldrich and Murray get reimbursed on a case-by-case basis subject to policy limits

34

## Future Liability Forecasts

**Redacted - Privileged**

**Redacted - Privileged**

32



## Future Defense-Cost Forecasts

**Redacted - Privileged**

**Redacted - Privileged**

83

## Future Insurance-Reimbursement Forecasts

▪ **Redacted - Privileged**

▪ Forecasted insurance reimbursements in the tort system\*

▪ Value of future insurance indemnity reimbursements

▪ **Aldrich**      **\$163.1M**      (as of 3/31/2019)

▪ **Murray**      **\$112.8M**      (as of 2/29/2019)

▪ **Redacted - Privileged**

\*Excludes Clark Equipment liability projections.

## Summary of Forecasts for Future Costs in Tort System

**Redacted - Privileged**

88

## Appendix 1

---

### Aldrich Data

## Aldrich's Claims History – Filings Per Year

<u>File Year</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	1,336	3,005	62,414
2000	435	677	7,905
2001	488	577	7,977
2002	1,189	1,237	13,332
2003	1,316	1,044	9,549
2004	1,153	707	10,543
2005	1,290	884	11,125
2006	1,191	920	6,439
2007	1,337	735	4,523
2008	1,424	830	5,004
2009	1,465	809	3,774
2010	1,575	895	4,978
2011	1,575	1,040	3,956
2012	1,596	916	4,059
2013	1,450	662	2,951
2014	1,506	651	2,900
2015	1,644	828	3,070
2016	1,543	705	3,094
2017	1,410	770	2,610
2018	1,421	751	2,515
2019	1,682	960	3,021
<u>Q1 2020</u>	<u>341</u>	<u>243</u>	<u>655</u>
<b>Total</b>	<b>28,367</b>	<b>19,846</b>	<b>176,394</b>

37

## Aldrich Dismissal Rates (as % of Overall Resolutions)

<u>Year Resolved</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	32.6%	21.2%	56.6%
2000	18.9%	24.8%	10.4%
2001	27.0%	12.1%	7.7%
2002	50.2%	22.1%	18.1%
2003	42.7%	18.7%	23.4%
2004	30.5%	15.9%	19.7%
2005	38.2%	16.4%	42.4%
2006	31.7%	19.3%	38.3%
2007	33.3%	23.5%	43.7%
2008	42.1%	44.2%	56.0%
2009	44.7%	39.9%	58.0%
2010	38.0%	40.4%	45.7%
2011	47.3%	52.6%	63.1%
2012	45.0%	45.1%	58.7%
2013	43.5%	50.3%	65.6%
2014	53.4%	48.5%	63.5%
2015	49.3%	54.9%	56.0%
2016	58.5%	55.1%	70.9%
2017	47.1%	44.8%	48.2%
2018	55.2%	47.1%	56.0%
2019	58.2%	52.7%	80.0%
Q1 2020	48.0%	45.0%	55.0%

38

## Aldrich – Average Settlement Figures

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$3,302	\$854	\$615
2000	\$4,673	\$2,010	\$974
2001	\$5,495	\$1,346	\$1,199
2002	\$45,032	\$14,512	\$5,028
2003	\$42,801	\$9,581	\$4,635
2004	\$43,220	\$17,480	\$10,802
2005	\$43,574	\$7,269	\$7,810
2006	\$50,354	\$9,316	\$9,055
2007	\$48,296	\$6,673	\$13,311
2008	\$54,907	\$14,913	\$16,205
2009	\$55,744	\$15,929	\$22,977
2010	\$62,577	\$23,712	\$30,905
2011	\$59,051	\$25,632	\$32,590
2012	\$53,796	\$15,498	\$28,774
2013	\$49,726	\$16,277	\$29,082
2014	\$50,283	\$13,967	\$23,821
2015	\$42,345	\$17,345	\$27,316
2016	\$55,696	\$18,079	\$34,393
2017	\$66,880	\$19,857	\$39,363
2018	\$55,943	\$20,041	\$37,183
2019	\$53,806	\$19,714	\$36,697
Q1 2020	\$56,758	\$19,037	\$30,349

38

## Aldrich – Annual Number of Settlements

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	445	1,393	20,378
2000	185	237	5,226
2001	195	444	4,592
2002	301	357	4,635
2003	472	522	6,540
2004	638	412	3,435
2005	642	672	4,628
2006	659	677	4,740
2007	839	680	3,583
2008	712	528	3,044
2009	746	472	2,233
2010	724	384	1,815
2011	832	397	1,871
2012	731	482	1,662
2013	686	394	1,435
2014	594	511	1,607
2015	883	363	1,649
2016	696	324	1,339
2017	687	380	1,399
2018	680	368	1,257
2019	657	304	1,126
Q1 2020	196	108	349
<b>Total</b>	<b>13,200</b>	<b>10,409</b>	<b>78,543</b>

40



## Aldrich –Annual Indemnity Payments

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$1,469,287	\$1,189,800	\$12,527,517
2000	\$864,495	\$476,375	\$5,087,562
2001	\$1,071,588	\$597,639	\$5,505,239
2002	\$13,554,601	\$5,180,722	\$23,304,166
2003	\$20,202,289	\$5,001,376	\$30,311,538
2004	\$27,574,613	\$7,201,611	\$37,105,647
2005	\$27,974,575	\$4,884,944	\$36,146,676
2006	\$33,183,233	\$6,306,827	\$42,920,604
2007	\$40,520,679	\$4,537,482	\$47,764,320
2008	\$39,093,596	\$7,874,225	\$49,327,136
2009	\$41,584,766	\$7,518,607	\$51,308,248
2010	\$45,305,675	\$9,105,337	\$56,093,149
2011	\$49,130,549	\$10,175,819	\$60,976,251
2012	\$39,324,700	\$7,470,150	\$47,822,450
2013	\$34,111,917	\$6,413,200	\$41,733,317
2014	\$29,868,300	\$7,137,050	\$38,280,075
2015	\$37,390,644	\$6,296,394	\$45,043,680
2016	\$38,764,238	\$5,857,695	\$46,051,997
2017	\$45,946,525	\$7,545,825	\$55,068,944
2018	\$38,041,125	\$7,375,117	\$46,738,792
2019	\$35,350,750	\$5,993,116	\$42,515,041
Q1 2020	\$11,124,550	\$2,056,000	\$13,558,750
<b>Total</b>	<b>\$651,452,695</b>	<b>\$126,195,310</b>	<b>\$835,191,098</b>

## Aldrich Defense Costs


<u>Year Paid</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1992	\$6,770,000	2009	\$19,211,626
1993	\$2,980,000	2010	\$16,799,523
1994	\$1,350,000	2011	\$17,160,442
1995	\$2,580,000	2012	\$16,932,606
1996	\$4,140,000	2013	\$15,214,056
1997	\$5,160,000	2014	\$13,091,973
1998	\$4,710,000	2015	\$13,735,182
1999	\$6,770,000	2016	\$16,227,087
2000	\$6,920,000	2017	\$14,383,210
2001	\$5,270,000	2018	\$14,915,470
2002	\$8,340,000	2019	\$13,915,003
2003	\$16,520,000	2020 through 2/29	\$3,213,729
2004	\$21,490,000	<b>Total</b>	<b>\$323,514,314</b>
2005	\$19,803,891		
2006	\$39,210,031		
2007	\$21,274,631		
2008	\$21,450,591		

Appendix 2

---

Murray Data

## Murray's Claims History – Filings Per Year

<u>File Year</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	432	691	29,810
2000	175	301	5,056
2001	301	369	9,680
2002	678	898	13,526
2003	794	498	7,827
2004	882	477	8,235
2005	974	613	6,652
2006	829	498	3,523
2007	915	495	2,751
2008	1,033	494	3,514
2009	1,054	472	2,254
2010	1,127	616	2,367
2011	1,184	693	2,598
2012	1,262	671	3,049
2013	1,248	466	2,205
2014	1,164	467	2,067
2015	1,296	612	2,320
2016	1,178	558	2,177
2017	1,130	616	2,300
2018	1,063	619	1,980
2019	1,194	864	2,389
<u>Q1 2020</u>	<u>253</u>	<u>222</u>	<u>510</u>
<b>Total</b>	<b>20,166</b>	<b>12,210</b>	<b>116,790</b> 

## Murray Dismissal Rates (as % of Overall Resolutions)

<u>Year Resolved</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	74.3%	64.2%	88.5%
2000	75.0%	62.5%	92.9%
2001	31.2%	21.8%	23.7%
2002	56.3%	80.4%	66.0%
2003	71.8%	71.7%	74.2%
2004	69.6%	65.3%	92.4%
2005	74.5%	61.4%	73.4%
2006	74.8%	67.9%	77.2%
2007	68.2%	63.6%	77.2%
2008	80.8%	78.5%	93.5%
2009	82.4%	76.0%	91.3%
2010	77.1%	65.4%	87.8%
2011	79.1%	74.4%	78.6%
2012	77.3%	74.6%	95.4%
2013	79.3%	67.0%	74.0%
2014	81.8%	73.4%	85.0%
2015	83.5%	77.4%	82.0%
2016	76.0%	71.6%	79.5%
2017	79.0%	64.0%	71.3%
2018	78.9%	65.8%	75.7%
2019	79.0%	64.0%	83.0%
Q1 2020	78.0%	64.0%	72.0%

45

## Murray – Average Settlement Figures

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$43,378	\$2,691	\$3,099
2000	\$18,437	\$3,391	\$3,627
2001	\$38,938	\$13,244	\$3,869
2002	\$94,258	\$48,938	\$27,961
2003	\$76,955	\$13,464	\$20,714
2004	\$88,644	\$37,946	\$33,056
2005	\$73,316	\$15,305	\$15,149
2006	\$76,467	\$11,688	\$16,151
2007	\$112,894	\$29,511	\$34,547
2008	\$89,635	\$10,769	\$27,634
2009	\$100,329	\$24,388	\$33,215
2010	\$109,263	\$42,872	\$40,390
2011	\$94,855	\$30,103	\$32,821
2012	\$94,847	\$17,453	\$39,162
2013	\$97,488	\$21,890	\$40,006
2014	\$89,359	\$33,161	\$39,758
2015	\$76,239	\$27,000	\$35,220
2016	\$77,826	\$26,905	\$39,025
2017	\$99,513	\$27,075	\$46,550
2018	\$85,648	\$23,670	\$46,229
2019	\$82,163	\$23,928	\$46,320
Q1 2020	\$86,912	\$28,964	\$31,927

## Murray – Annual Number of Settlements

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	19	19	611
2000	7	9	84
2001	97	97	2,069
2002	83	48	394
2003	71	28	327
2004	177	85	620
2005	139	147	876
2006	143	128	821
2007	187	137	751
2008	182	117	666
2009	229	138	822
2010	208	149	743
2011	214	178	819
2012	257	201	724
2013	212	173	630
2014	190	168	579
2015	202	139	559
2016	278	164	687
2017	229	173	605
2018	247	183	565
2019	221	144	444
Q1 2020	34	14	76
<b>Total</b>	<b>3,626</b>	<b>2,639</b>	<b>14,472</b>

47

## Murray – Annual Indemnity Payments

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$824,173	\$51,121	\$1,893,639
2000	\$129,056	\$30,520	\$304,677
2001	\$3,776,940	\$1,284,654	\$8,004,320
2002	\$7,823,435	\$2,349,004	\$11,016,738
2003	\$5,463,833	\$377,000	\$6,773,538
2004	\$15,689,918	\$3,225,422	\$20,494,881
2005	\$10,190,867	\$2,249,897	\$13,270,441
2006	\$10,934,760	\$1,496,000	\$13,259,710
2007	\$21,111,250	\$4,043,000	\$25,944,800
2008	\$16,313,500	\$1,259,967	\$18,404,150
2009	\$22,975,400	\$3,365,500	\$27,302,500
2010	\$22,726,750	\$6,387,900	\$30,009,750
2011	\$20,298,900	\$5,358,250	\$26,880,550
2012	\$24,375,700	\$3,508,100	\$28,353,100
2013	\$20,667,500	\$3,787,000	\$25,203,950
2014	\$16,978,250	\$5,571,000	\$23,019,625
2015	\$15,400,300	\$3,753,000	\$19,688,100
2016	\$21,635,650	\$4,412,500	\$26,810,300
2017	\$22,788,500	\$4,684,000	\$28,162,475
2018	\$21,155,000	\$4,331,600	\$26,119,400
2019	\$18,158,000	\$3,445,600	\$21,950,950
Q1 2020	\$2,955,000	\$405,500	\$3,459,500
<b>Total</b>	<b>\$322,372,681</b>	<b>\$65,376,534</b>	<b>\$406,327,094</b>



## Murray Defense Costs

---

<u>Year Paid</u>	<u>Amount</u>
Pre-2008	\$96,756,666
2008	\$15,535,553
2009	\$13,521,518
2010	\$17,465,042
2011	\$14,526,517
2012	\$12,834,536
2013	\$12,228,264
2014	\$9,644,265
2015	\$10,081,131
2016	\$11,313,682
2017	\$10,506,653
2018	\$11,271,639
2019	\$9,327,095
<u>2020 through 2/29</u>	<u>\$1,345,495</u>
<b>Total</b>	<b>\$246,358,054</b>

**EXHIBIT H**

Excerpts of the March 2 Robert Zafari Deposition Transcript.

1 UNITED STATES BANKRUPTCY COURT  
2 FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
3 CHARLOTTE DIVISION  
4

5 IN RE: )  
6 )  
7 ALDRICH PUMP LLC, et al., ) Chapter 11  
8 Debtors, ) No. 20-30608 (JCW)  
9 ) (Jointly Administered)  
10 )  
11 ALDRICH PUMP LLC and )  
12 MURRAY BOILER LLC, ) Adversary Proceeding  
13 Plaintiffs, ) No. 20-03041 (JCW)  
14 )  
15 V. )  
16 )  
17 THOSE PARTIES TO ACTIONS )  
18 LISTED ON APPENDIX A TO )  
19 COMPLAINT and JOHN AND )  
20 JANE DOES 1-1000, )  
21 Defendants. )  
22 )  
23 )  
24 )  
25 )

20 REMOTE DEPOSITION OF ROBERT ZAFARI

21 TUESDAY, MARCH 2, 2021

22 8:29 A.M.

24 REPORTED BY: KATHERINE FERGUSON, CSR NO. 12332

25 JOB NO. 190522

1 at any documents that refreshed his recollection.  
2 There's established case law in this jurisdiction and  
3 other jurisdictions that states that questions asking  
4 what documents were shown to the witness by counsel  
5 is privileged and work product and the only exception  
6 is if it refreshes his recollection. You haven't  
7 established that. So I disagree strongly that I have  
8 violated any rule at all.

9 BY MR. GOLDMAN:

10 Q Sir, what was your purpose in reviewing the  
11 documents?

12 A The minutes of --

13 MR. HAMILTON: Again, I'm going to object  
14 and instruct the witness not to answer that question.  
15 If you want to ask him if his recollection was  
16 refreshed, that's fine, but I'm not going to let you  
17 ask any more questions about what I chose to show him  
18 in preparing him for his deposition.

19 THE WITNESS: I'll follow my counsel's  
20 advice then.

21 BY MR. GOLDMAN:

22 Q Did you review the document -- did you  
23 review the documents for any purpose other than  
24 refreshing your recollection? You can answer that  
25 yes or no.

1 said as part of this discussion?

2 A I think this is probably the meeting where  
3 I can recognize --

4 MR. HAMILTON: Excuse me. I was on mute.  
5 My fault. I'm objecting and instructing the witness  
6 not to answer on the grounds that it requires  
7 disclosure of communications protected by the  
8 attorney/client privilege.

9 BY MR. GOLDMAN:

10 Q If you look at the second section of the  
11 subject, the discussion, it says there,  
12 "Mr. Tananbaum, with the assist of Mr. Evert and  
13 Ms. Morey, then reviewed a slide presentation with  
14 respect to the history of the companies with  
15 asbestos."

16 Do you recall that?

17 A Yes.

18 Q We'll look at parts of that in a minute.

19 But before we do that, what do you -- what  
20 is your memory of that slide presentation?

21 A As it says, history of the companies with  
22 asbestos. Starts very early for both companies, very  
23 early in the '80s where the products were used and  
24 what type of asbestos was used, the -- the number of  
25 claims before and after the asbestos industry

1 transformation of the late '90s. I remember --  
2 there's a lot of -- probably even the -- some about  
3 the Morey and Aldrich activities. It's a pretty  
4 heavy presentation, maybe 20, 30 pages. So it's in  
5 the beef of the matter, very informational and very  
6 useful.

7 Q And the third subject of discussion that  
8 was identified in the minutes is the review of  
9 potential strategic options for addressing current  
10 and future liabilities, and that indicates that one  
11 of the options discussed was the potential use of  
12 524(g) of the bankruptcy code; is that correct?

13 A Yes, that's correct.

14 Q And what do you recall being said during  
15 that discussion?

16 MR. HAMILTON: Object and instruct the  
17 witness not to answer on the grounds that it calls  
18 for the disclosure of communications protected by the  
19 attorney/client privilege.

20 BY MR. GOLDMAN:

21 Q Let me just ask you: Was that discussion  
22 important to you in making your decision as to  
23 whether to approve the filing of the bankruptcy early  
24 on; is that part of the information you received  
25 important to you?

1 A The history is extremely important to  
2 understand what the -- you know, what the evolution  
3 of things are and how to try to resolve it, because  
4 instead of going away, these things have tended to  
5 inflate over the years. That's the sort of thing  
6 that we saw in some of the historical facts. Now we  
7 spent more time and I think it was in a separate  
8 meeting where we went about the various alternatives  
9 that are in front of us and the choices and the --  
10 but that was -- I don't recall that we mixed those  
11 meetings up. It was not done in one meeting, it was  
12 done in several meetings where we dug deeper and  
13 deeper to see what the options were in front of us.

14 Q Okay. If we can turn -- you can close that  
15 document now and if we could turn to the debtors  
16 50712 through 506 -- excuse me, 50760.

17 MR. DEPEAU: Steve, can you read off the  
18 beginning Bates number.

19 MR. GOLDMAN: 50712.

20 MR. DEPEAU: Thanks. It's up in the chat  
21 now. It will be Exhibit 42.

22 (Exhibit 42 was marked for identification.)

23 THE WITNESS: Yes, this is the  
24 presentation.

25 BY MR. GOLDMAN:

1 Q This is the presentation from the board  
2 meeting on May 15th, 2020?

3 MR. HAMILTON: I'm going to have to  
4 interject here, Mr. Goldman. I think I've got this  
5 right and maybe Ms. Cahow can help me with this, but  
6 it's my understanding that this particular version of  
7 the document was clawed back by the debtors and  
8 replaced with one that we had redacted inadvertently  
9 privileged material.

10 MR. GOLDMAN: Is there --

11 MR. HAMILTON: It's page 35. And I assume  
12 that in the clawback letter we asked that all copies  
13 of the one produced be destroyed. That would include  
14 the one just put up on the screen.

15 MR. GOLDMAN: Wait a minute. It should  
16 have been destroyed if that's the case.

17 MR. HAMILTON: Let me confirm this. I have  
18 to check an e-mail.

19 MR. GOLDMAN: I think it's --

20 MR. HAMILTON: Hold on. Let me just check.

21 MR. GOLDMAN: Do you want to take a break?

22 MR. HAMILTON: Yeah, give me five minutes.

23 MR. GOLDMAN: Yeah, we'll straighten it  
24 out. Whatever is clawed back, tell me what, I won't  
25 ask him about that and get rid of it.



1 MR. HAMILTON: Okay. Five minutes.

2 MR. GOLDMAN: Yeah.

3 THE VIDEOGRAPHER: The time is 10:54 a.m.

4 and we're going off the record.

5 (Brief recess.)

6 THE VIDEOGRAPHER: The time is 11:03 a.m.

7 and we're back on the record.

8 BY MR. GOLDMAN:

9 Q Mr. Zafari, we've got a new version of this  
10 exhibit.

11 MR. GOLDMAN: What Exhibit Number is this  
12 again?

13 MR. DEPEAU: Exhibit 42.

14 BY MR. GOLDMAN:

15 Q And do you recognize this document?

16 A Yes.

17 Q And what do you recognize it as?

18 A I recognize a document that we reviewed, as  
19 it says, I think May 15th, during a board, and we  
20 went in length through the history of the asbestos  
21 claim for the two companies and -- and all that, you  
22 know. So pretty long document.

23 Q Have you reviewed this document at any time  
24 since May 15th?

25 A No. I browsed through it.

1 Q Browsed through it.

2 When did you browse through it?

3 A Maybe a few weeks ago.

4 Q Was that for the purpose of refreshing your  
5 recollection of the presentation?

6 A Yes.

7 Q When you browsed through it, were there any  
8 parts -- let me, for example, draw your attention to  
9 page 4.

10 A Page 4. Introduction?

11 Q Yes. Do you see towards the bottom, the  
12 blocked out area "redacted-privileged"?

13 A Yes, I see that, yeah.

14 Q Was that in what you reviewed or did you  
15 review the document without that redaction?

16 A No, always with the redaction.

17 Q And when was it that you -- you looked at  
18 this document?

19 A Maybe a couple of weeks ago.

20 Q Let's go to page 3, if we could.

21 A Three?

22 Q Yes.

23 A Okay. Starts with "asbestos litigation".

24 Q Yes.

25 A Okay.

1 Q It says "over time" on the third bullet.  
2 Over time approximately 2B -- did you understand that  
3 to mean billion?

4 A Yes.

5 Q -- to defend and settle the asbestos  
6 litigation.

7 And then -- was that the first time -- when  
8 this presentation was made, was that the first time  
9 you learned that?

10 A Definitely.

11 Q Okay. So when you became a manager of  
12 Aldrich, you were not aware of that?

13 A No.

14 Q And then the last bullet says, "On average  
15 in recent years, Aldrich and Murray have spent  
16 approximately 100 million dollars annually defending  
17 and settling asbestos claims."

18 Is that the first time -- when you saw this  
19 presentation on May 15, 2020, is that the first time  
20 you learned of that?

21 A Yes, my recollection is no such numbers  
22 were shared at any time before this meeting. They  
23 were probably being pulled together for us, so --

24 Q Okay. And if we could go to page --  
25 withdrawn.

1 And that also is something you were not  
2 aware of when you first became a manager of Aldrich?

3 A No, definitely not these numbers. I don't  
4 think we discussed any specific numbers.

5 Q If we could scroll down to page 5. Okay.  
6 At the top, it's "redacted-privileged".

7 Was that redacted when you reviewed the  
8 document two weeks ago or so?

9 A Yes.

10 Q Okay. The first bullet that's not redacted  
11 says, The tort system derives inefficient transition  
12 cost and misallocation of resources.

13 MR. HAMILTON: I think you misread it.  
14 It's transaction, not transition.

15 MR. GOLDMAN: Excuse me, you're right.

16 BY MR. GOLDMAN:

17 Q The second bullet says, "tort system  
18 derives inefficient transaction costs and  
19 misallocation of resources?"

20 What did you understand inefficient  
21 transaction costs to refer to?

22 A It's so variable, depending on which court  
23 you're in or what state. So that's part of it which  
24 every case is different and results in costs that are  
25 unpredictable. And so it's basically inefficient.

1 That was my understanding.

2 Q The last bullet on this page says,  
3 "asbestos lawsuits can take years from filing to  
4 resolution and some plaintiffs die in the interim,  
5 though their families can recover."

6 What importance, if any, did that have to  
7 you when you read this or it was presented to you at  
8 the May 15th meeting?

9 A Naturally it's important because we --  
10 whatever view we've had on this, we're looking for  
11 equitable outcome for everybody. So that's the --  
12 that's the fact -- I don't know how -- how frequent  
13 it is, I don't know -- it doesn't qualify it. It's  
14 just that it occurred. It could be one, could be  
15 ten. I don't know. It's definitely something we  
16 take into consideration.

17 Q Why?

18 A Why? Because it's just written there. You  
19 want the most efficient system so that the legitimate  
20 claimants receive their legitimate dues in the most  
21 efficient way.

22 Q And did you -- sorry to interrupt.

23 A That's all right.

24 Q And would you agree that it is important to  
25 get these claims resolved while plaintiffs are still

1 alive?

2 A It is important to resolve the claims as  
3 best as possible, as efficiently as possible.

4 Q Is it important to resolve them while  
5 plaintiffs are still alive?

6 MR. HAMILTON: Objection, asked and  
7 answered. You can answer again.

8 THE WITNESS: Again, we want to resolve  
9 them as fast as possible, as efficiently as possible  
10 for legitimate claims.

11 BY MR. GOLDMAN:

12 Q When you say "as efficiently as possible",  
13 what do you mean by that?

14 MR. HAMILTON: Objection, asked and  
15 answered. You can answer again.

16 THE WITNESS: Same. I don't know. I  
17 cannot define it. As fast as possible. I'm not --  
18 I'm not an expert, for example, in the tort system to  
19 know if it can last three months or 10 years. I  
20 don't know. As fast as possible. As fast as the  
21 system in which we're operating allows.

22 BY MR. GOLDMAN:

23 Q I'm sorry, I was asking about when you said  
24 "as fast as possible" and "as efficiently as  
25 possible". I understand the as fast as possible

1 part. I was really asking about when you say "as  
2 efficiently as possible".

3 What do you mean?

4 A It's related. I mean, it's probably  
5 related because if things drag on for 10 years, they  
6 definitely tend to be less efficient than if they're  
7 dealt with amicably in six months, for example. I  
8 don't know. It's a broad question so I can only  
9 answer it in broad sort of common sense answers. I  
10 cannot give a scientific answer to that question. As  
11 fast as possible in the system --

12 Q Scroll down to page 7, please.

13 A Seven?

14 Q Yeah.

15 A Yes.

16 Q The last bullet on there says,  
17 "Nevertheless, widespread misconception that all  
18 mesotheliomas is caused are asbestos."

19 Do you know the source of that statement?

20 A No.

21 Q Was that explained to you at all during the  
22 board of managers meeting on May 15th?

23 A We may have had a question or two. I know  
24 through the various readings, we read at that time  
25 that there's mesothelioma that is called, quote,

1 naturally, but again, there's no quantification of  
2 that or anything like that. So when I see the  
3 sentence, when I saw the sentence "nevertheless,  
4 widespread misconception", it may be. It doesn't  
5 shock me. And it is definitely before I even knew  
6 more about the asbestos industry in general. It was  
7 clear in my own mind that all the mesothelioma was  
8 asbestos. I mean, it could not be -- I didn't know  
9 that there was natural occurrence of that. And I've  
10 seen it here or there, but I cannot name a source. I  
11 could find it again. There are studies. There are  
12 tons of studies on asbestos and various types and all  
13 of that, which we were made aware of as part of these  
14 meetings.

15 Q If you could turn to page 17, please.

16 A We learned that not all asbestos were equal  
17 and that sort of thing. So again, it's here.

18 Q And who explained that to you?

19 A We read this. We talked with, you know,  
20 the people present, you know, Ken Bowman, others as  
21 part of the reports that we had read. Part of it, if  
22 I go back to the earlier document I referenced, which  
23 was the Bestwall case, for example, there's a lot of  
24 references there that I had read at that time.

25 Q A lot of references to what?



1 A To sources of, you know, where the, you  
2 know, the different -- how the different -- how the  
3 different asbestos are, et cetera, scientific  
4 literature. I know how I can find some of those  
5 references. Here we talked with the -- the people,  
6 again, including Alan Tananbaum about some of these  
7 points here.

8 Q Okay. If you could scroll down to page 17;  
9 are you there? Okay.

10 A A very important one was also where the  
11 asbestos was used and what quantity, et cetera, which  
12 were specific to us, to Aldrich.

13 17, I'm going there. Claims served against  
14 company --

15 Q I'm going to ask you to look down at the  
16 section there on -- it says "allegations of exposure  
17 to the asbestos products of bankruptcy companies  
18 drastically reduced"; do you see that?

19 A Uh-huh.

20 Q What do you recall being said at the  
21 meeting about that?

22 A Basically written there. We came over on  
23 the same -- to get this phenomenon and this  
24 documented some of that. So I think a lot of this  
25 were in the same document that I referenced earlier.

1 Q I'm trying to understand what that document  
2 was a little better. I understand it was from the  
3 Bestwall bankruptcy case; is that right?

4 A Yes.

5 Q What -- there have been many, many, many  
6 filings in the asbestos -- in the Bestwall bankruptcy  
7 case.

8 Do you remember the title of this document  
9 you reviewed or what --

10 A No, I don't remember.

11 Q Do you recall who prepared it?

12 A I think it's a document -- I think I  
13 mentioned it earlier. It's a brief for a case that  
14 Bestwall had submitted to some court. I think it's a  
15 40- or 50-page document which details a lot of the  
16 environment, what is called the asbestos industry or  
17 lack of better words. So a lot of it is documented  
18 there and mentioned here, including the -- the  
19 various points that are here at the bottom.

20 Q Okay. Let me ask you to turn to page --  
21 scroll down to page 21, which is mostly redacted.  
22 But the very top of it says "tort system realities".  
23 Tell me when you're there.

24 A Say again.

25 Q Tell me when you're there, let me know

1 when --

2 A Yeah, I'm there.

3 Q Okay. Do you recall what -- what was said  
4 about the tort system realities at this meeting on  
5 May 15th?

6 A I'm not an expert, so basically I think  
7 what was --

8 MR. HAMILTON: I'm sorry, I was on mute. I  
9 have to object and instruct the witness not to answer  
10 on the grounds that the answer would require  
11 disclosure of communications protected by the  
12 attorney/client privilege.

13 BY MR. GOLDMAN:

14 Q Do you recall who presented this section of  
15 the presentation on tort system realities?

16 A No, I don't.

17 Q Do you recall whether it was an attorney?

18 A I don't remember. I can't remember if it's  
19 an attorney or not. I just can't remember. I have  
20 to assume it could be. But I don't remember.

21 Q And at the end of this meeting, did you  
22 have an understanding about some realities of the  
23 tort system that were important to you as takeaways  
24 from the meeting?

25 A I think there was nothing of a big surprise

1 in terms of the variability, the length, the  
2 efficiency of the tort system, because even though  
3 I'm not a specialist, but through different  
4 businesses I've been exposed to this in the past. So  
5 I think it may be more of a confirmation than  
6 discovery. But this sets it in more in the -- the  
7 environment in which Aldrich operates, so --

8 Q If I could ask you to scroll down to page  
9 30.

10 A I'm there.

11 Q Okay. This page is titled "Cost of  
12 defense" and it says, the first bullet is "legal  
13 fees" and then it mentions "national coordinating  
14 counsel".

15 Do you know who the national coordinating  
16 counsel is or was?

17 A No. I didn't and I still don't.

18 Q A little bit further down this page, it  
19 looks like you've got total defense costs paid from  
20 inception of asbestos cases, 2/29/19, which total  
21 about five hundred and something million dollars.

22 Were those numbers new to you during this  
23 presentation?

24 A Yes. I thought it was closer to 600.

25 Q And then if we go to page 31, next page, it

1 says "total insurance reimbursements to date".

2 Were those numbers new to you as well?

3 A Yes.

4 Q So was pursuing these claims further with  
5 various insurance companies an option that was  
6 pursued?

7 A It was an option we looked at. I'm not  
8 sure in this meeting, but definitely the insurance  
9 path was a clear option to investigate.

10 Q I'll ask you to look at page 32, which is  
11 redacted except for the title. It says there,  
12 "Future liability forecasts"; do you see that?

13 A Yes.

14 Q And what do you remember being said at the  
15 meeting about future liability forecasts?

16 MR. HAMILTON: Object and instruct the  
17 witness not to answer on the grounds that answering  
18 it would require disclosure of communications  
19 protected by the attorney/client privilege.

20 BY MR. GOLDMAN:

21 Q Mr. Zafari, is the potential future  
22 liability of the company for asbestos liabilities  
23 important to you and the decisions that you would  
24 make to make on behalf of Aldrich?

25 A The -- I'm trying to look for the right

1 impression that I had at that time. It was  
2 definitely one to find a way -- given the history and  
3 where we came from, to find a way that -- to find a  
4 solution not to kick the can, you know, down the road  
5 and come up with a solution that could be permanent.  
6 That was definitely part of the objectives that I  
7 personally had in mind.

8 Q Was it important to you to know what the  
9 probable liabilities would amount to in dollars if  
10 you kept going the way that the companies had been  
11 going?

12 A Yes, but -- yes, but at the same time  
13 nobody could really say what it would be, the range  
14 of forecast, et cetera, was sort of make that  
15 question almost unanswerable, and because it's so  
16 unpredictable again. So that was definitely part of  
17 how can we make this, you know, 30 years ago would  
18 know where the evolution of things would be, we would  
19 make the decision differently. Now we don't want to  
20 make a decision for the next 30 years and wake up in  
21 the next 20 years and wake up with absolutely  
22 unpredicted outcome, not only -- bearing in mind  
23 current claimants and future claimants. Also, that  
24 was part of the logic that we were played.

25 Q Is that one of the things you learned from

1 the future of liability forecasts, that future  
2 liabilities would be unanswerable and unpredictable?

3 MR. HAMILTON: Hold on, Mr. Zafari. One of  
4 the things you learned -- I'm going to instruct the  
5 witness not to answer that question on the grounds  
6 that it would require disclosure of communications  
7 protected by the attorney/client privilege.

8 BY MR. GOLDMAN:

9 Q At the end of this presentation, did you  
10 believe that future liabilities were unpredictable  
11 and unanswerable?

12 MR. HAMILTON: You can answer that  
13 question, Mr. Zafari.

14 THE WITNESS: Yeah, unpredictable, at least  
15 we can say, very broad range unpredictable, yes.

16 BY MR. GOLDMAN:

17 Q Were there attempts to predict future  
18 liability forecasts made during this meeting?

19 MR. HAMILTON: Object and instruct the  
20 witness not to answer on the grounds that it would  
21 require of communications protected by the  
22 attorney/client privilege.

23 BY MR. GOLDMAN:

24 Q If I could ask you to look -- scroll down  
25 to page 34.

1 A Yes.

2 Q That third -- the part that's not redacted,  
3 it says, "forecast and insurance reimbursements in  
4 the tort system", and then there's an asterisk at the  
5 become of the page, the asterisk says "excludes Clark  
6 Equipment liability projections."

7 Do you know what Clark Equipment is or was?

8 A Clark Equipment is an old division of  
9 Ingersoll that was acquired in the mid '90s and sold  
10 with -- when the Bobcat business was sold, roughly.  
11 Bobcat was part of Clark Equipment when it was  
12 acquired, so very historical. I don't think anybody  
13 asked questions there. I don't know what it relates  
14 to exactly.

15 Q Do you know why it was excluded from the  
16 liability projections?

17 A No, I don't know.

18 Q The part that's not redacted says, "value  
19 of future insurance indemnity reimbursements", and  
20 then it lists figures for Aldrich and Murray.

21 Do you know what the -- how those were  
22 calculated?

23 A No. Definitely no. Not an expert.

24 Q Ask you to look at page 38. Are you there?

25 A Yes, I'm there.



1 Q Thank you. This looks like -- the title of  
2 this slide is "Aldrich average settlement figures."  
3 And they go -- they appear to go up for at least in  
4 the "all" category.

5 MR. HAMILTON: I'm on the wrong page. What  
6 page are you on?

7 MR. GOLDMAN: Page 39.

8 THE WITNESS: Oh, I was on 38 you said. I  
9 was on dismissal rate. Okay. Yes. What was the  
10 question?

11 BY MR. GOLDMAN:

12 Q Yeah. The average settlement figures  
13 appear to -- well, they go up and down, but they --  
14 the 2019, it looks like it's 36 million -- excuse me,  
15 36,697; is that right?

16 A That sounds very low to me. This is the  
17 average. Yeah, it could be, yeah, uh-huh.

18 Q Okay. Was there -- did you make a  
19 determination whether filing bankruptcy, the average  
20 payments would be more or less than that amount?

21 A We haven't even discussed any of this, the  
22 numbers per se. And again, it's -- who knows. I  
23 mean, it's unpredictable. I mean, if anybody was  
24 sitting in 2004 and having this discussion, they  
25 wouldn't know where it was headed, okay. And the

1 same, I think, applies today. That's my view. So my  
2 understanding is really that the way to go about  
3 getting to these reimbursements or settlements,  
4 whatever, is not efficient, either time or cost wise,  
5 et cetera. But we didn't go around, you know,  
6 guessing what the average would be in five years or  
7 10 years. That's not part of the exercise at all.  
8 We're looking for a -- sort of a more permanent and  
9 efficient way of doing it.

10 MR. GOLDMAN: If we could -- you can close  
11 that exhibit now. If we could look at Exhibit 32  
12 next.

13 MR. DEPEAU: Exhibit 32 is in the chat.  
14 (Exhibit 32 was marked for identification.)

15 THE WITNESS: I have it. It's the board of  
16 directors meeting. I'm trying to look for the date  
17 here.

18 BY MR. GOLDMAN:

19 Q It's right -- appears to be May 22?

20 A May 22, yeah, okay.

21 Q If I can ask you to turn to the third page,  
22 please.

23 A Yes.

24 Q Okay. And the first subject of discussion  
25 that is -- that is outlined in these minutes is

1 witness not answer on the grounds it requires  
2 disclosure of communications protected by the  
3 attorney/client privilege.

4 BY MR. GOLDMAN:

5 Q Can you describe the extensive discussions?

6 MR. HAMILTON: Object and instruct not to  
7 answer.

8 BY MR. GOLDMAN:

9 Q The bottom of this page states, "Mr.  
10 Tananbaum then asked Mr. Erens to review the  
11 experience of companies that recently made Chapter 11  
12 filings in an effort to finally resolve their current  
13 and future asbestos claims utilizing section 524(g)  
14 of the bankruptcy code."

15 Did Mr. Erens do that review?

16 A Yes.

17 Q What did he say about that?

18 MR. HAMILTON: Object and instruct the  
19 witness not to answer on the ground its requires  
20 disclosure of information protected by the  
21 attorney/client privilege.

22 BY MR. GOLDMAN:

23 Q What did Mr. Erens say about the Georgia  
24 Pacific, LLC restructuring?

25 MR. HAMILTON: Object and instruct the

1 witness not to answer on the same grounds.

2 BY MR. GOLDMAN:

3 Q How about the DPMP restructuring?

4 MR. HAMILTON: Object, instruct the witness  
5 not to answer on the same grounds.

6 BY MR. GOLDMAN:

7 Q How about the Paddock Enterprises  
8 reorganization?

9 MR. HAMILTON: Object and instruct the  
10 witness not to answer on the same grounds.

11 BY MR. GOLDMAN:

12 Q Further down, the next paragraph, it says  
13 "Mr. Tananbaum then reviewed the other strategic  
14 options for addressing current and future asbestos  
15 claims that were presented at the May 15th joint  
16 meeting."

17 What strategic -- what other strategic  
18 options were those?

19 MR. HAMILTON: You can answer that  
20 question, Mr. Zafari.

21 THE WITNESS: Pretty broad range, but to  
22 sum it up, of course on the one hand you have the  
23 524(g), but then we had the -- some options with  
24 further insurance and probably a third range of  
25 options around optimization, organizational

1 optimization, et cetera. So those were the  
2 headlines, if you will.

3 BY MR. GOLDMAN:

4 Q I'm sorry, the third one is what?

5 A I don't know how we called it exactly, but  
6 it was around optimization of -- organization  
7 optimization.

8 Q Can you explain what that was?

9 A I think a way of trying -- maybe  
10 organization to handle this with more efficiency.

11 Q And how would that be done?

12 A Maybe more centralization of how we handle  
13 this and a couple of options like that.

14 Q What other options besides more  
15 centralization?

16 A Trying to find maybe other ways of -- how  
17 do you say this -- maybe better ways of understanding  
18 what the full liability would be over time and  
19 address it that way. But every time we looked at the  
20 future, the inconsistency of the system, of the  
21 current system, makes it difficult to project  
22 anything, going back to the discussions we had on  
23 forecasts earlier.

24 Q I'm sorry, go ahead.

25 A So it's just whichever way we looked at it,

1 A It was basically what we discussed before,  
2 the headlines were organizational, optimization,  
3 insurance and 524(g). And the outcome of possible  
4 permanent, efficient, et cetera. I think that's --  
5 those are the discussions. They weren't held only  
6 during this meeting. They were held -- this whole  
7 thing traveled over time, on the 15th onward. We  
8 were digging into each scenario to make sure we're  
9 making the right decision. So side by side would  
10 definitely look at the credibility, the cost and  
11 things of that sort, all of the things we underlined  
12 earlier in our conversation and the efficiency,  
13 permanency, all of that.

14 Q Did you have any questions about side by  
15 side?

16 MR. HAMILTON: You can answer that question  
17 yes or no.

18 THE WITNESS: I probably did. I'm sure I  
19 did.

20 BY MR. GOLDMAN:

21 Q What were those questions?

22 MR. HAMILTON: Objection, instruct the  
23 witness not to answer on the grounds it requires  
24 disclosure of communications protected by the  
25 attorney/client privilege.

**EXHIBIT I**

Excerpts of the March 3 Marc Dufour Deposition Transcript.

1  
2 UNITED STATES BANKRUPTCY COURT  
3 FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
4 CHARLOTTE DIVISION

4 -----x  
5 IN RE: Chapter 11  
6 No. 20-30608 (JCW)  
7 (Jointly Administered)

8 ALDRICH PUMP LLC, et al.,  
9 Debtors.

9 -----x  
10 ALDRICH PUMP LLC and  
11 MURRAY BOILER LLC,  
12 Plaintiffs,

13 v. Adversary Proceeding  
14 No. 20-03041 (JCW)

15 THOSE PARTIES TO ACTIONS  
16 LISTED ON APPENDIX A  
17 TO COMPLAINT and  
18 JOHN and JANE DOES 1-1000,  
19 Defendants.

20 -----x  
21 REMOTE VIDEOTAPED DEPOSITION OF

22 MARC DUFOUR

23 MARCH 3, 2021

24 Reported by:  
25 Sara S. Clark, RPR/RMR/CRR/CRC  
JOB No. 190524



1 (M. DUFOUR - 3/3/21)

2 I then rose up through the ranks. And  
3 basically from 2000 to 2006, ran the compressor  
4 businesses for Ingersoll Rand, portions of the  
5 compressor businesses.

6 In 2006, I was named president of The  
7 Americas, which means I ran all of the  
8 industrial businesses for Ingersoll Rand,  
9 including the compressor tool material-handling  
10 businesses, and did that for six years. And  
11 then in 2011, I was then president and CEO of  
12 Club Car.

13 Q. And when did you become aware that  
14 your deposition was going to be taken in this  
15 case?

16 A. When did I become aware? Probably  
17 about a month ago.

18 Q. Okay. And since that time, have you  
19 reviewed any documents in order to prepare  
20 yourself for this deposition?

21 A. The only documents --

22 MR. HIRST: Hold on, Marc. Let me  
23 cast an objection.

24 I'm going to object to the extent that  
25 any of the documents -- object on the

1 (M. DUFOUR - 3/3/21)  
2 attorney-client privilege grounds to the  
3 extent the documents were documents provided  
4 to you by counsel.

5 If Mr. Dufour independently chose any  
6 documents to review, I'll let him answer  
7 that question.

8 MR. GOLDMAN: I don't think Rule 612  
9 has a limitation on whether -- who showed  
10 him the documents. Anything that  
11 refreshed -- you reviewed or refreshed your  
12 recollection should --

13 MR. HIRST: Well, you haven't  
14 established that he needed his recollection  
15 refreshed yet, so that's the first step of  
16 612. We're certain the law is pretty clear  
17 that counsel's selection of documents is  
18 privileged.

19 So my objection stands. He can  
20 testify as to anything he chose --

21 MR. GOLDMAN: Do you have any  
22 authority for the proposition counsel's  
23 selection of documents that a witness  
24 reviews is privileged?

25 MR. HIRST: It's pretty much clear

1 (M. DUFOUR - 3/3/21)

2 law. I don't need a bunch of case law to --

3 MR. GOLDMAN: Can you give me one? I  
4 don't need a bunch.

5 MR. HIRST: In a deposition? No. And  
6 I'm not the one under examination. If we  
7 want to duke this out later, I'm happy to.

8 MR. GOLDMAN: This interrupts the  
9 whole deposition and then we have to go back  
10 and do the witness again, ask him what he  
11 looked at, which seems a little burdensome.

12 MR. HIRST: If that's a motion you  
13 want to bring, Steve, that's fine. The  
14 instruction stands, which is counsel's  
15 selection of documents I'm not going to let  
16 him testify to over the attorney-client  
17 privilege and work product doctrine. He can  
18 testify as to any documents he independently  
19 chose to review. If there's further  
20 questions that you want to ask, they may not  
21 be privileged, so let's lay that out.

22 BY MR. GOLDMAN:

23 Q. Let me just be clear, Mr. Dufour. I'm  
24 not asking you which documents counsel asked you  
25 to select as opposed to which, if any, you

1 (M. DUFOUR - 3/3/21)

2 decided to review yourself.

3 But what documents did you review in  
4 preparation for this deposition?

5 MR. HIRST: And my objection stands,  
6 and the same instruction stands, which is  
7 the documents, to the extent they were  
8 provided to you and selected by counsel, I'm  
9 instructing you not to answer. To the  
10 extent you independently chose to review any  
11 other documents, Mr. Dufour, you can answer  
12 that question.

13 Q. If you can go ahead and answer.

14 THE WITNESS: Pardon me?

15 MR. HIRST: You can answer as to  
16 whether --

17 A. No.

18 MR. HIRST: -- you chose any documents  
19 independently.

20 A. No.

21 Q. Were there documents that were  
22 provided to you by counsel to review? You can  
23 answer that yes or no.

24 MR. HIRST: Go ahead, Marc.

25 A. Yes.

1 (M. DUFOUR - 3/3/21)

2 Q. And what documents were those?

3 MR. HIRST: Same objections as before.  
4 Again, the documents we selected for him to  
5 review are protected by work product and  
6 attorney-client privilege.

7 I instruct you not to answer.

8 Q. The documents that you did review, did  
9 you review them for the purpose of refreshing  
10 your recollection to be able to testify in this  
11 deposition?

12 A. Yes.

13 Q. And did they, in fact, refresh your  
14 recollection as to certain facts and  
15 circumstances relating to Murray Boiler?

16 A. Because of the complexities of all of  
17 the things that went on almost a year ago, they  
18 did, to some extent.

19 MR. GOLDMAN: I'm going to renew my --  
20 Mr. Hirst, are you still going to -- so we  
21 don't have to go around and around -- are  
22 you still going to instruct him not to  
23 answer as to what documents he reviewed that  
24 did, in fact, refresh his recollection?

25 MR. HIRST: You haven't asked him that

1 (M. DUFOUR - 3/3/21)

2 question yet, Steve. If you ask that  
3 question, I may very well let him answer.

4 MR. GOLDMAN: All right.

5 BY MR. GOLDMAN:

6 Q. What documents did you review that  
7 were of assistance to you in refreshing your  
8 recollection?

9 MR. HIRST: Go ahead.

10 A. I reviewed the May 15th, 2020 board  
11 meeting notes.

12 Q. Any others?

13 A. No.

14 Q. And was that in a PowerPoint form or  
15 was that the minutes, or both?

16 A. What I reviewed was in a PowerPoint  
17 form, but I think it was part of the minutes  
18 also.

19 Q. Okay. And were there redactions in  
20 what you reviewed?

21 A. Yes.

22 Q. In the notes or in the PowerPoint?

23 A. The PowerPoint.

24 Q. When did you -- sorry. You said you  
25 retired in 20- --

1 (M. DUFOUR - 3/3/21)

2 And please restrict your answer to  
3 "yes," "no," or "I don't recall," and then  
4 we can piece --

5 A. I don't recall. I don't recall.

6 Q. Okay. When you say you don't recall  
7 whether there was such a discussion, is it your  
8 belief that there was not such a discussion?

9 MR. HIRST: Objection.

10 A. No. As I said earlier --

11 THE WITNESS: Morgan? Do you want to  
12 weigh in?

13 MR. HIRST: Objection to the form of  
14 the question.

15 You can answer.

16 THE WITNESS: Okay.

17 A. As I said earlier, my recollection  
18 would be if there was discussion, it wasn't a  
19 detailed discussion.

20 Q. Okay. So you're uncertain whether  
21 there was any discussion, but you are certain  
22 that if there was any discussion at all, it was  
23 not detailed; is that right?

24 A. Yes. That's correct.

25 Q. So what is your memory of what -- of

1 (M. DUFOUR - 3/3/21)

2 the subjects that were discussed at this  
3 meeting?

4 MR. HIRST: Let me interject an  
5 objection and caution.

6 Objection on the basis of the  
7 attorney-client privilege.

8 I will caution Mr. Dufour not to  
9 reveal any specific communications provided  
10 by counsel or specific questions that you  
11 may have asked questions in the way of  
12 receiving legal advice. You can answer at a  
13 high level your understanding, I believe, is  
14 Mr. Goldman's question, as long as you don't  
15 reveal any of those communications.

16 THE WITNESS: Yeah.

17 A. I think -- my biggest recollection of  
18 that meeting is it was kind of a "get started"  
19 and how we would function and how we would work  
20 together, and exchanging phone numbers and  
21 e-mail addresses and things like that. There  
22 was some discussion of the work at hand. But as  
23 I've said earlier, my recollection is that was  
24 very, very high level, and the -- those  
25 discussions about consideration of what we would



1 (M. DUFOUR - 3/3/21)

2 MR. HIRST: At this point, I'm going  
3 to object on the basis of privilege and  
4 instruct the witness not to answer on the  
5 basis of the attorney-client privilege and  
6 work product doctrine.

7 Q. Do you recall who did the speaking  
8 during this part of the meeting?

9 A. I think you could see in the notes, I  
10 think the notes refer to -- I think it was  
11 Mr. Tananbaum with some support probably from  
12 outside counsel.

13 Q. And then in the second subject in the  
14 meeting minutes, which are "Review of the  
15 History of the Companies with Asbestos," the  
16 first sentence says "Mr. Tananbaum, with the  
17 assistance of Mr. Evert and Ms. Morey, then  
18 reviewed a slide presentation with respect to  
19 the history of the companies with asbestos,  
20 noting that the slides being presented  
21 electronically at the meeting reflected minor  
22 updates of the version thereto circulated in  
23 advance of the meeting."

24 Did you receive a slide deck or  
25 PowerPoint in advance of the meeting?

1 (M. DUFOUR - 3/3/21)

2 A. I can't recall if I saw it in advance  
3 of meeting. Probably not. We didn't get a lot  
4 of information prior to the meetings. So I  
5 can't say. I don't remember.

6 Q. And then it says the slides -- the  
7 presentation, which I think is also referred to  
8 as slides, "addressed, among other things," and  
9 then there's a list of things, but one of them  
10 is "historical and forecasted cost and insurance  
11 reimbursements of the companies associated with  
12 asbestos-related lawsuits."

13 Do you recall that subject being  
14 discussed during the presentation?

15 A. Yes. I think it's included in that  
16 May 15 presentation I referred to.

17 Q. Were the forecasted future costs and  
18 insurance reimbursements associated with  
19 asbestos-related lawsuits important to you?

20 A. Obviously, yes.

21 Q. Why?

22 A. As I said earlier, it's really two  
23 reasons. We wanted to make sure that we created  
24 an efficient system for people that had  
25 legitimate claims to get their money fairly and

1 (M. DUFOUR - 3/3/21)  
2 fastly and as much money as possible. We also  
3 wanted to take care of the outstanding  
4 liabilities that Trane had incurred over the  
5 years to try to get an idea and a cap on what  
6 that might be.

7 Q. With regard to the second thing you  
8 mentioned, what were the reasons for that?

9 A. I think as the presentation explains  
10 that you have, at that time, you can see the  
11 steep increase in costs and claims that these  
12 businesses had incurred.

13 Q. If we go to the last page of this  
14 exhibit of the minutes, it's titled "Review of  
15 Potential Strategic Options for Addressing  
16 Current and Future Asbestos Claims," and it  
17 states there "Mr. Tananbaum reviewed options  
18 available to the company with respect to  
19 resolution of current and future asbestos  
20 claims, including the potential use of Section  
21 524(g), the bankruptcy code."

22 Do you recall that?

23 A. I recall that we went through -- and  
24 I'm not sure if it was in this meeting or a  
25 future meeting, a detailed discussion on

1 (M. DUFOUR - 3/3/21)

2 strategic options that we had to work through  
3 the asbestos issue.

4 Q. Do you recall Mr. Tananbaum reviewing  
5 the option of using 524(g) of the bankruptcy  
6 code during this meeting?

7 MR. HIRST: Let me, for the purposes  
8 of privilege, let me object and ask you to  
9 restrict your answer to this question to  
10 "yes," "no," or "I don't recall."

11 A. I don't recall.

12 Q. Do you recall there being a  
13 presentation at this meeting regarding  
14 Section 524(g) of the bankruptcy code?

15 A. I recall there being a presentation on  
16 three strategic options that the board needed to  
17 consider. I do not recall if it was that  
18 specific meeting or future meeting.

19 Q. Okay. If I could draw your -- I'm  
20 sorry.

21 A. I'm sorry.

22 And I know that we had a very vigorous  
23 and detailed discussion about those options.

24 Q. I'd like to draw your attention to the  
25 second paragraph of this where it says

1 (M. DUFOUR - 3/3/21)

2 "Mr. Erens, with the assistance of Mr. Cody,  
3 then made a presentation regarding  
4 Section 524(g) of the bankruptcy code and the  
5 potential use thereof as a mechanism to finally  
6 resolve current and future claims against the  
7 company."

8 Do you recall that presentation?

9 A. As I said earlier --

10 MR. HIRST: Again, Marc, real quick.

11 THE WITNESS: Sorry.

12 MR. HIRST: Same objection on the  
13 basis of privilege.

14 Same caution. Please answer  
15 Mr. Goldman's question "yes," "no," or "I  
16 don't recall," and then we can work from  
17 there.

18 A. I'll say yes, I recall the  
19 presentation.

20 Q. Okay. And what was said during the  
21 presentation?

22 MR. HIRST: Okay. So here I'm going  
23 to object --

24 THE WITNESS: I can't -- I can't  
25 answer.

1 (M. DUFOUR - 3/3/21)

2 MR. HIRST: Here, I'm going to object  
3 on the basis of privilege. Calls for  
4 information protected by the attorney-client  
5 privilege and work product doctrine and ask  
6 the witness not to answer.

7 THE WITNESS: Yeah.

8 BY MR. GOLDMAN:

9 Q. And just so we're clear, Mr. Dufour,  
10 you said you can't answer. Do you mean you  
11 can't answer because your counsel's instructing  
12 you not to answer, or you can't answer  
13 because --

14 A. That's correct. I can't answer  
15 because my counsel's instructing me not to  
16 answer.

17 Q. Okay. It's not because you don't have  
18 a memory of the presentation. It's because your  
19 counsel's instructing you not to answer, just so  
20 we're clear?

21 A. Correct.

22 Q. Okay.

23 MR. GOLDMAN: If we could look at the  
24 next exhibit, which is Exhibit 42, which I  
25 believe is parts of the slide presentation,

1 (M. DUFOUR - 3/3/21)

2 and it bears Bates Numbers DEBTORS\_50712  
3 through --

4 MR. HIRST: Real quickly, Steve.  
5 Before we get into this one, I know there  
6 was an issue with this document yesterday.

7 Is this, for lack of a better term,  
8 the right version, the one that -- the  
9 corrected one that was sent to you guys a  
10 week and a half or so ago?

11 MR. DEPEAU: Yes, it is.

12 MR. GOLDMAN: I will defer to  
13 Mr. DePeau.

14 MR. HIRST: Okay.

15 MR. GOLDMAN: It's above or below, but  
16 it's not my pay grade.

17 MR. DEPEAU: No, I think we confirmed  
18 this yesterday, and the one that we actually  
19 submitted to be marked was the correct  
20 version.

21 MR. HIRST: Thank you.

22 Steve, we can go back to your pay  
23 grade now, if you want.

24 BY MR. GOLDMAN:

25 Q. Okay. Are these the minutes -- excuse

1 (M. DUFOUR - 3/3/21)

2 me. Withdrawn.

3 Is this the slide deck or PowerPoint  
4 that was referred to in the May 15th minutes?

5 A. You're asking me?

6 Q. Yes.

7 A. Yes. Sorry. Yes.

8 Q. And did you review this before today  
9 in preparation for your deposition?

10 A. As I said earlier, I don't recall --  
11 we had a couple presentations sent in advance,  
12 usually a day before. But on this one, I can't  
13 remember if it was sent -- I doubt it. I don't  
14 think we saw it the day before. I thought we  
15 just -- we went to that meeting to listen and  
16 hear the presentation.

17 Q. Was this -- let's turn to Page 3 of  
18 the exhibit, which is titled "Introduction."

19 A. "Introduction"?

20 Q. Yeah.

21 A. Okay.

22 Q. You see the third bullet, it says  
23 "Over time, Aldrich and Murray have spent  
24 approximately \$2 billion to defend and settle  
25 asbestos litigation."



1 (M. DUFOUR - 3/3/21)

2 Was this the first time -- when this  
3 was presented to you or sent to you and you read  
4 it, is this the first time you were aware of  
5 that?

6 A. I'm sorry. You're looking at what  
7 page, 3?

8 Q. Page 3 of the exhibit.

9 A. Yeah. It's -- that -- that was the  
10 first time we saw that specific number.

11 Q. Okay. And that would be true of this  
12 breakdown between Aldrich and Murray?

13 A. Yes.

14 Q. If we can turn to Page 5. It says in  
15 the first part that's not redacted, "Tort system  
16 drives inefficient transaction costs and  
17 misallocation of resources."

18 What is -- do you agree with that  
19 statement?

20 A. I think if --

21 MR. HIRST: Go ahead.

22 THE WITNESS: Go ahead.

23 MR. HIRST: No, go ahead.

24 Withdraw the objection.

25 A. At the time, I was just looking at the

1 (M. DUFOUR - 3/3/21)

2 next, you know, RAND study. So to see that, I  
3 would say, I mean, yeah. Meaning if I'm reading  
4 this correctly, the attorneys get 58 cents on  
5 the dollar, and claimants get 42 cents on the  
6 dollar.

7 Q. And is that what you understand  
8 "inefficient transaction costs" to mean?

9 A. Yeah. I mean, from my personal basis,  
10 yeah.

11 Q. Okay.

12 A. I would think the focus would be the  
13 claimants get everything they deserve, and it  
14 doesn't -- more than 50 percent goes to somebody  
15 else.

16 Q. And then "misallocation of resources,"  
17 what did you understand to be meant by  
18 misallocation of resources?

19 A. 58 versus 42.

20 Q. So the same thing?

21 A. Same thing.

22 Q. And the last bullet point says  
23 "Asbestos lawsuits can take years from filing to  
24 resolution, and some plaintiffs die in the  
25 interim."

1 (M. DUFOUR - 3/3/21)

2 What significance, if any, did that  
3 have to you in your role as a manager of Murray?

4 A. Again, it's -- you know, having worked  
5 in organizations our whole lives, it's making  
6 sure that these claimants get the money as fast  
7 as possible and as much as they can get before  
8 they would pass away. It would be a crime, you  
9 know, to see somebody die waiting years to get  
10 40 cents on the dollar that -- you know, when  
11 they should be getting the whole dollar.

12 Q. So do you believe it would be  
13 inequitable to do anything to delay their  
14 recovery?

15 MR. HIRST: Object to the form.

16 A. Yes. I think, as I've stated earlier,  
17 the whole focus -- a lot of our focus was how we  
18 get them the money faster, and more of it.

19 Q. Turn to Page 17.

20 A. Got it.

21 Q. Okay. Do you see around the middle of  
22 the page there, it says "Litigation became the  
23 'endless search for the solvent bystander'?"

24 A. Yes.

25 Q. What did you understand that to mean?

1 (M. DUFOUR - 3/3/21)

2 A. That as companies started to declare  
3 bankruptcy, there was people looking for  
4 additional companies, basically not only to  
5 benefit from the trust created, but also to file  
6 claims on those companies that were not in the  
7 trust.

8 Q. If we could turn to Page -- I'm having  
9 trouble reading this -- 21, which I think is  
10 mostly redacted, but there's a title on the top.

11 A. Yeah. All I have is the title.

12 Q. The title.

13 And the title is "Tort System  
14 Realities," correct?

15 A. That's correct.

16 Q. And that title goes over on the next  
17 few pages.

18 And what is your understanding of the  
19 realities of the tort system as it relates to  
20 Murray?

21 A. I don't recall.

22 MR. HIRST: Never mind.

23 Marc, was your answer --

24 THE WITNESS: I just said I couldn't  
25 recall.

1 (M. DUFOUR - 3/3/21)

2 Q. How about now?

3 A. At the time, you know, the  
4 presentation was made, so I don't -- my opinion  
5 now is -- I can't really say what my opinion is  
6 because I don't know what tort -- what this  
7 particular title specifically means and the  
8 basis of your question. Okay? So if you want  
9 to ask me a more specific question, then maybe I  
10 can give you an answer. But that whole topic is  
11 a pretty big one.

12 Q. Can you turn to Page 26.

13 A. I've got it.

14 Q. Okay. And the first bullet that's not  
15 redacted says "Murray has not tried a case to  
16 verdict, and Aldrich has tried only one,  
17 resulting in a \$5.5 million verdict against it.  
18 With costs and interest, the verdict was  
19 \$9.5 million. The case was settled on appeal  
20 for \$9.2 million."

21 Did that have any significance to you  
22 when you ultimately decided to support the  
23 filing of a bankruptcy for Murray?

24 A. I think back to your earlier question,  
25 it's probably what would be categorized as the

1 (M. DUFOUR - 3/3/21)

2 tort realties. Okay?

3 So, no, it didn't surprise me. Did it  
4 have an impact on the decision-making you're  
5 trying to get to? Yes. But, I mean, it didn't  
6 have a -- you know, it wasn't a surprise.

7 Q. Okay. If we could turn to Page 30.  
8 I'm sorry. This looks -- I'm sorry. 31. I'm  
9 sorry. I meant 31.

10 A. Yes.

11 Q. I'm sorry. If we can go back to  
12 Page 30.

13 A. 30 or 31?

14 Q. Let's look at 30.

15 A. Okay. I'm sorry.

16 Q. No, it's my fault.

17 A. Okay.

18 Q. There is a reference "legal fees" and  
19 "national coordinating counsel."

20 Did Murray have national coordinating  
21 counsel?

22 A. I don't know what a national  
23 coordinating counsel is.

24 Q. Okay. So I assume from that, you  
25 don't know who it is if there is one; is that

1 (M. DUFOUR - 3/3/21)

2 correct?

3 A. Right, right. I mean, did we have  
4 lawyers there? Yes. Which ones was -- defined  
5 as that? I couldn't -- and I don't really know  
6 what that specific term means.

7 Q. Let's look at the next page, Page 31,  
8 which is where we were.

9 A. I do have that.

10 Q. Okay. That has the -- explains how  
11 much of the liabilities have been paid for by  
12 insurance; is that correct?

13 A. That's correct.

14 Q. Was there discussion at this meeting  
15 about how much more insurers may pay sometime in  
16 the future?

17 MR. HIRST: Marc, let me object on the  
18 basis of privilege again, and ask you to  
19 answer that question "yes," "no," or "I  
20 don't recall," and then we can go from  
21 there.

22 A. Yes.

23 Q. Okay. And then if we can look at  
24 Page 34, is that the -- are those the numbers  
25 you were given as to how much insurers were

1 (M. DUFOUR - 3/3/21)

2 likely to pay into the future?

3 A. Yes.

4 Q. And there's an asterisk there that at  
5 the bottom of the page that says "Excludes  
6 Clark Equipment Company liability projections."

7 What is or what was Clark Equipment?

8 A. Clark Equipment was a company that the  
9 parent, Ingersoll Rand, purchased in the  
10 mid-'90s, which included Club Car. And so it  
11 was part of that acquisition. And the other  
12 business that was included with it was -- I  
13 don't remember. I know Club Car was part of the  
14 Clark acquisition.

15 Q. Do you know why Clark Equipment's  
16 liability projections are not included in this  
17 analysis?

18 A. No, I would not know.

19 Q. Do you know whether it had --  
20 Clark Equipment has asbestos-related lawsuits  
21 pending against it?

22 A. No, I would not know.

23 Q. If I can ask you to turn to Page 44.

24 A. I've got it.

25 Q. Okay. And this is a chart of the



1 (M. DUFOUR - 3/3/21)  
2 number of lawsuits -- asbestos-related lawsuits  
3 filed against -- or relating to the  
4 Murray Boiler asbestos liabilities for each  
5 year; is that right?

6 A. That's what it says. That's correct.

7 Q. Do you know why the number was lower  
8 in 2018?

9 A. No.

10 Q. Do you expect it to go -- in the  
11 absence of bankruptcy, did you expect it to go  
12 up or down in the future?

13 MR. HIRST: Hold on one second.

14 Objection -- objection on the basis of  
15 the attorney-client privilege and work  
16 product doctrine.

17 A. I would agree. I can't answer that.

18 Q. You can't --

19 MR. HIRST: Hold on. Let me finish my  
20 instruction, Steve.

21 THE WITNESS: I should say I'm not  
22 answering it on the advice of the attorney.

23 MR. HIRST: Let me give that advice  
24 first.

25 To the extent you have independent

1 (M. DUFOUR - 3/3/21)

2 knowledge beyond what your attorneys told  
3 you, Mr. Dufour, you can answer the  
4 question. To the extent all of your  
5 knowledge is based on advice of counsel,  
6 then I instruct you not to answer.

7 A. Which I decline to answer because of  
8 advice of counsel.

9 Q. I'd ask you to turn to Page 47 --  
10 excuse me -- 48. I'm sorry.

11 A. I've got it.

12 Q. Okay. And that's titled  
13 "Murray - Annual Indemnity Payments."

14 Is that a chart showing the amount of  
15 indemnity payments paid to claimants, either in  
16 settlements or judgments in favor of those  
17 claimants?

18 A. Yes. I'm assuming that's what it was  
19 referencing.

20 Q. Okay. And do you have an  
21 understanding -- when you agreed to support the  
22 Murray bankruptcy filing, did you expect that  
23 number to -- in the absence of a bankruptcy, to  
24 go up or down moving forward?

25 MR. HIRST: And I'll object on the

1 (M. DUFOUR - 3/3/21)

2 basis of the attorney-client privilege, work  
3 product doctrine.

4 And my instruction will be,

5 Mr. Dufour, if you had an independent  
6 understanding in response to Mr. Goldman's  
7 question, please provide it. Otherwise, if  
8 your understanding is entirely based on the  
9 advice of counsel, I will instruct you not  
10 to answer.

11 A. I will not answer on the advice of  
12 counsel.

13 Q. I will ask you to look at the last  
14 page of the exhibit, which is Page 49, which is  
15 titled "Murray Defense Costs."

16 Are those the numbers for -- per year,  
17 spent on either legal fees or expenses related  
18 to defending claims and the litigation?

19 A. That's correct.

20 Q. And at the time you elected to support  
21 the bankruptcy filing of Murray Boiler, did you  
22 have an expectation that number would go up or  
23 down in future years?

24 MR. HIRST: And same objection.

25 Objection on the basis of the

1 (M. DUFOUR - 3/3/21)

2 attorney-client privilege and work product  
3 doctrine.

4 Again, Mr. Dufour, if you had  
5 independent knowledge not provided by  
6 counsel in response to Mr. Goldman's answer,  
7 please provide it. If all of your  
8 information was information provided by  
9 counsel, then I would instruct you not to  
10 answer.

11 A. I will not answer on the advice of  
12 counsel.

13 Q. Have you read any of the filings in  
14 the Murray bankruptcy -- filings in the  
15 bankruptcy court?

16 A. If it was presented to us in a board  
17 meeting, I would have. If it was not presented  
18 to us in a board meeting, I would not have.

19 Q. And we have minutes, which have been  
20 marked and we can go through, for board meetings  
21 on every -- every sort of seven days, May --  
22 after the May 15th board meeting, May 22nd,  
23 May 29, June 5, June 12, and, I believe,  
24 June 17.

25 Is there -- have there been other

1 (M. DUFOUR - 3/3/21)

2 it.

3 MR. GOLDMAN: Okay.

4 BY MR. GOLDMAN:

5 Q. And what is your memory of this  
6 meeting?

7 A. I recall this meeting, we went  
8 through -- just give me a moment and let me just  
9 review the notes real quick, if you don't mind.

10 Q. Sure.

11 (Witness reviews document.)

12 A. Yeah. I mean, this is -- I've read up  
13 to probably Page 3.

14 This was the meeting where we -- they  
15 presented the Bestwall case, and then we went  
16 through the strategic options that we would go  
17 through in terms of the three strategic options  
18 that were in front of us to move forward.

19 Q. And what were the three strategic  
20 options?

21 A. There was -- it was insurance, it was  
22 bankruptcy, and the other one was called  
23 strategic restructuring.

24 Q. Okay. So let me just -- and the  
25 bankruptcy option is the one that was ultimately

1 (M. DUFOUR - 3/3/21)

2 pursued; is that correct?

3 A. That's correct.

4 Q. So let's go over the other two.

5 And before doing that, would it be  
6 correct that the purpose for creating  
7 Murray Boiler LLC as a separate entity was to  
8 address the asbestos-related claims and lawsuits  
9 that were being made that related to the  
10 Murray Boiler -- historic Murray Boiler product?

11 A. Yeah.

12 MR. HIRST: Object to form and  
13 foundation.

14 Go ahead. I'm sorry.

15 A. Yes.

16 Q. Okay. So I take it with these three  
17 options still open, the idea would be that that  
18 restructuring was designed to make any of these  
19 options more -- easier to accomplish; is that  
20 correct?

21 A. That's correct.

22 Q. Okay. So let's -- let me ask you  
23 about what you've described as the insurance  
24 option.

25 What was that?

1 (M. DUFOUR - 3/3/21)

2 MR. HIRST: Just to interject before  
3 you answer, Marc, an objection, similar to  
4 the ones as before.

5 I'm going to object on the basis of  
6 attorney-client privilege and work product  
7 doctrine.

8 Marc, please provide your  
9 understanding. I just caution you to not  
10 reveal specific attorney-client  
11 communications concerning the same.

12 With that instruction, you can answer.

13 Q. In light of that instruction, let me  
14 just ask you a foundational question.

15 Before this meeting, had you had any  
16 discussions with anyone about this insurance  
17 option you just described?

18 A. Not the specific option, but we were  
19 aware that insurance was involved in paying out  
20 on these claims, as you saw in the previous  
21 presentation.

22 Q. Okay. But you were not -- before this  
23 meeting, you were not aware of an insurance  
24 option that would be an alternative to the  
25 bankruptcy option; is that correct?

1 (M. DUFOUR - 3/3/21)

2 A. Right. In fact, I think during this  
3 meeting, we talked about it so much that we  
4 instructed Allan, legal counsel, to go back, and  
5 we asked a bunch of specific questions related  
6 to that option that actually he needed to go  
7 research and look into. And I believe he  
8 reported back on those in the following board  
9 meeting.

10 Q. Okay.

11 A. So there was quite a long, very  
12 detailed discussion. Board members such as  
13 Ray Pittard, Manilo Valdes. I asked a lot of  
14 questions, because we just didn't understand  
15 that insurance. And, actually, if we could have  
16 found somebody that could have provided the  
17 insurance to us, we thought that might be an  
18 easier path to follow.

19 Q. Okay. What was that path? What was  
20 the insurance option? I understand that it  
21 involves insurance companies and hoped they'd  
22 somehow pay for some, all, or most of it, but  
23 can you give me a little more specificity?

24 A. Well, I think that's kind of it. I  
25 mean, we really didn't know. Like I told you,



1 (M. DUFOUR - 3/3/21)

2 we were -- you know, obviously you're sitting  
3 there wondering, okay, who carries this kind of  
4 insurance, and what would it cost, and how does  
5 it work. And that's what all of the questions  
6 were about. Okay? Because none of us really  
7 understood. In fact, you know, I don't think,  
8 you know, our legal team had really done -- they  
9 needed to do more due diligence on it, which  
10 they went back and did, and then we had an even  
11 more robust discussion about it when they came  
12 back the following meeting and reported out.

13 Q. Was the question whether the existing  
14 historical insurance policies would pay for  
15 these asbestos liabilities, or was the question  
16 whether there were new insurance products that  
17 you might be able to purchase to pay for some or  
18 all of these liabilities?

19 A. New --

20 MR. HIRST: Hold on, Marc.

21 THE WITNESS: Okay.

22 MR. HIRST: Let me just think about  
23 the question real quick.

24 THE WITNESS: Okay.

25 MR. HIRST: You can go ahead and