

FILED & JUDGMENT ENTERED
Steven T. Salata

August 23 2021

Clerk, U.S. Bankruptcy Court
Western District of North Carolina



J. Craig Whitley
J. Craig Whitley
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH
CAROLINA CHARLOTTE DIVISION**

In re:

ALDRICH PUMP LLC, et al.,

Debtors.

Chapter 11

Case No. 20-30608

ALDRICH PUMP LLC and MURRAY

BOILER LLC,

Plaintiffs,

v.

Adv. Pro. No. 20-03041

THOSE PARTIES TO ACTIONS LISTED ON
APPENDIX A TO COMPLAINT and JOHN AND
JANE DOES 1-1000,

Defendants.

**ORDER DECLARING THAT THE AUTOMATIC STAY APPLIES TO
CERTAIN ACTIONS AGAINST NON-DEBTORS, PRELIMINARILY
ENJOINING SUCH ACTIONS, AND GRANTING IN PART DENYING IN
PART THE MOTION TO COMPEL**



This matter coming before the Court on the *Debtors' Complaint for Injunctive and Declaratory Relief (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) Declaring that the Automatic Stay Applies to Such Actions, and (III) Granting a Temporary Restraining Order Pending a Final Hearing* [Adv. Pro. Dkt. 1], the *Motion of the Debtors for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) Declaring that the Automatic Stay Applies to Such Actions, and (III) Granting a Temporary Restraining Order Pending a Final Hearing* [Adv. Pro. Dkt. 2] (the "PI Motion"), the *Debtors' Motion for Partial Summary Judgment That All Actions Against the Protected Parties to Recover Aldrich/Murray Asbestos Claims Are Automatically Stayed by Section 362 of the Bankruptcy Code* [ECF Dkt. 90] (the "Summary Judgment Motion"), and 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. Pro. Dkt. 141] (the "Motion to Compel"); and for the reasons set forth in the Court's *Findings of Fact and Conclusions of Law Regarding Order: (I) Granting Plaintiff's Motion For Summary Judgment (Declaring That The Automatic Stay Applies To Certain Actions Against Non-Debtors), (II) Preliminarily Enjoining Such Actions regarding Order Preliminarily Enjoining Such Actions, and (III) Granting in Part Denying in Part the Motion to Compel* (the "Findings and Conclusions"),¹ which are incorporated herein by reference, it is hereby **ORDERED** as follows:

¹ Capitalized terms not otherwise defined herein have the meanings given to them in the Findings and Conclusions.

1. The Summary Judgment Motion and the PI Motion are **GRANTED**, the ACC's Objection, Supplemental ACC Objection, and any other oppositions to the Motions are **OVERRULED**, as set forth herein. The Motion to Compel is **GRANTED** in part and **DENIED** in part, for the reasons stated in paragraphs 103-104 of the Findings and Conclusions.

2. The commencement or continued prosecution of any Aldrich/Murray Asbestos Claim against any of the Protected Parties while the Chapter 11 Cases remain pending, including the actions listed in the last sentence of paragraph 3, *infra*, would violate the automatic stay imposed by sections 362(a)(1) and 362(a)(3) of the Bankruptcy Code and therefore are prohibited.

3. In addition, and without limiting the foregoing, the Defendants are prohibited and enjoined, pursuant to sections 105 and 362 of the Bankruptcy Code, from commencing or continuing to prosecute any Aldrich/Murray Asbestos Claim against any of the Protected Parties, on any theory of liability, whether direct, derivative, joint and several, successor liability, vicarious liability, fraudulent or voidable transfer or conveyance, alter ego or otherwise, for the period this Order is effective pursuant to paragraph 11, below. This injunction includes, without limitation: (a) the pursuit of discovery from the Protected Parties or their officers, directors, employees, or agents; (b) the enforcement of any discovery order against the Protected Parties; (c) further motions practice related to the foregoing; and (d) any collection activity on account of an Aldrich/Murray Asbestos Claim against any Protected Party or its officers, directors, employees, or agents or its respective assets.

4. This Order is entered without prejudice to the Debtors' right to request that this Court extend this Order to include other entities or persons not previously identified in Appendix A to the Motion ("Appendix A") or Revised Appendix B. In the event that the Debtors

seek to supplement either Appendix A or Revised Appendix B, the Debtors shall file with the Court and serve a notice, together with a proposed order, setting forth any such modifications to Appendix A or Revised Appendix B. Parties shall have 14 days from the date of service of the notice to object to the modification(s) to Appendix A or Revised Appendix B, and the Debtors shall have 7 days from the service of such objection to file and serve a response. Absent a timely objection, the Debtors' proposed modifications to Appendix A or Revised Appendix B shall be approved by order of the Court without the necessity of a hearing. For the avoidance of doubt, the inclusion of an asbestos-related claim on Appendix A is not an admission that such Defendant holds a currently pending claim against either the Debtors or the Protected Parties.

5. Any party subject to this Order may seek relief from any of the provisions of this Order for cause shown and on proper notice to the Debtors and an opportunity to be heard. This Order is without prejudice to the Debtors' or others' rights to seek relief pursuant to section 362 of the Bankruptcy Code.

6. Notwithstanding anything to the contrary in this Order, any party asserting Aldrich/Murray Asbestos Claims, without leave of the Court, may take reasonable steps to perpetuate the testimony of any person subject to this Order who is not expected to survive the duration of this Order or who otherwise is expected to be unable to provide testimony if it is not perpetuated during the duration of this Order. Notice shall be provided to the Debtors by notifying counsel for the Debtors of the perpetuation of such testimony. The Debtors shall have the right to object to the notice on any grounds they would have had if they were parties to the underlying proceeding and not subject to the terms of this preliminary injunction, and the Debtors may raise any such objection with this Court. The use of such testimony in any appropriate jurisdiction shall be subject to the applicable procedural and evidentiary rules of such jurisdiction. All parties

reserve and do not waive any and all objections with respect to such testimony. The Defendants or other individuals asserting Aldrich/Murray Asbestos Claims may not seek to perpetuate the testimony of representatives, including directors, officers, employees, and agents, of Aldrich, Murray, or the Protected Parties without the consent of the Debtors or an order of the Court.

7. Pursuant to Bankruptcy Rule 7065, the Debtors are relieved from posting any security pursuant to Civil Rule 65(c).

8. This Order shall be immediately effective and enforceable upon its entry.

9. This Order shall toll any applicable non-bankruptcy law, any order entered in a non-bankruptcy proceeding, or any agreement that fixes a period under which an enjoined Defendant is required to commence or continue a civil action in a court other than this Court on any Aldrich/Murray Asbestos Claim asserted against the Debtors or any of the Protected Parties until the later of: (a) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or (b) 30 days after notice of the termination or expiration of the preliminary injunction issued by this Order.

10. The Debtors shall cause a copy of this Order to be served via e-mail, facsimile, hand delivery, or overnight carrier on counsel for the known Defendants and the Bankruptcy Administrator within three business days of its entry on the Court's docket.

11. This Order shall be promptly filed in the Clerk of Court's office and entered into the record, and it shall remain effective for the period through and including 30 days after the effective date of a confirmed plan of reorganization in the Chapter 11 Cases that is no longer subject to appeal or discretionary review.

12. This Court retains exclusive jurisdiction over this Order and any and all matters arising from or relating to the implementation, interpretation, or enforcement of this Order.

SO ORDERED.

This Order has been signed electronically.
The Judge's signature and Court's seal appear
at the top of the Order.

United States Bankruptcy Court

