

FILED & JUDGMENT ENTERED
Steven T. Salata

January 10 2023

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.*,¹

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS

Plaintiff,

v.

ALDRICH PUMP LLC, MURRAY BOILER
LLC, TRANE TECHNOLOGIES COMPANY
LLC, and TRANE U.S. INC.,

Defendants.

Adv. Pro. No. 21-03029

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS, on behalf
of the estates of Aldrich Pump LLC and Murray
Boiler LLC,

Plaintiff,

v.

INGERSOLL-RAND GLOBAL HOLDING
COMPANY LIMITED, TRANE

Adv. Pro. No. 22-03028

¹ 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.



TECHNOLOGIES HOLDCO INC., TRANE TECHNOLOGIES COMPANY LLC, TRANE INC., TUI HOLDINGS INC., TRANE U.S. INC., and MURRAY BOILER HOLDINGS LLC,

Defendants.

OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS on behalf of the estates of Aldrich Pump LLC and Murray Boiler LLC,

Plaintiff,

Adv. Pro. No. 22-03029

v.

TRANE TECHNOLOGIES PLC, INGERSOLL-RAND GLOBAL HOLDING COMPANY LIMITED, TRANE TECHNOLOGIES HOLDCO INC., TRANE TECHNOLOGIES COMPANY LLC, TRANE INC., TUI HOLDINGS INC., TRANE U.S. INC., MURRAY BOILER HOLDINGS LLC, SARA BROWN, RICHARD DAUDELIN, MARC DUFOUR, HEATHER HOWLETT, CHRISTOPHER KUEHN, MICHAEL LAMACH, RAY PITTARD, DAVID REGNERY, AMY ROEDER, ALLAN TANANBAUM, EVAN TURTZ, MANLIO VALDES, and ROBERT ZAFARI

Defendants.

CASE MANAGEMENT ORDER

This matter coming before the Court on the motion filed by the Plaintiff (the “**Plaintiff’s Motion**”)² and defendants’ letters (the “**Defendants’ Letters**”³) (collectively, the “**Pleadings**”)⁴ in the above-captioned adversary proceedings (collectively, the “**Adversary Proceedings**”) and

² See Adv. Pro. No. 3:21-ap-03029, Dkt. No. 109; Adv. Pro. No. 3:22-ap-03028, Dkt. No. 26; Adv. Pro. No. 3:22-ap-03029, Dkt. No. 22.

³ See Adv. Pro. No. 3:21-ap-03029, Dkt. Nos. 106 & 107; Adv. Pro. No. 3:22-ap-03028, Dkt. Nos. 24 & 25; Adv. Pro. No. 3:22-ap-03029, Dkt. Nos. 20 & 21.

⁴ Capitalized terms used but not otherwise defined herein shall have the meanings given to such terms in the Motion.

the above-captioned base case (the “**Bankruptcy Case**”); the Court having reviewed the Pleadings and the other papers filed related thereto and having considered the statements of counsel related thereto at a hearing before the Court on November 30, 2022 (the “**Hearing**”); the Court finding that (a) the Court has jurisdiction for purposes of entering this Order pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue for purposes of entering this Order is proper in this district pursuant to 28 U.S.C. § 1409, (c) notice of the Pleadings and the Hearing was sufficient under the circumstances, and (d) implementation of the case management procedures described herein in connection with the Adversary Proceedings⁵ is (i) fair and reasonable, (ii) consistent with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Local Rules, and (iii) appropriate under the circumstances; and the Court having determined that just cause exists for the relief granted herein;

IT IS HEREBY ORDERED THAT:

A. The Plaintiff’s Motion

1. The Plaintiff’s Motion is GRANTED to the extent set forth herein and on the record of the Hearing (which is incorporated herein by reference).
2. Entry of this Case Management Order and agreement to the provisions set forth herein are not intended to be a waiver of any right to timely challenge the jurisdiction of the Bankruptcy Court, including, without limitation, the jurisdiction of the Bankruptcy Court to enter final orders in non-core matters, or the waiver of a right to a jury trial, all of which are expressly reserved. Defendants further reserve the right to request the District Court withdraw the reference in any matter subject to mandatory or discretionary withdrawal and reserve all other rights, claims, actions, defenses, setoffs or recoupments to which Defendants are or may be entitled under agreements, in law, in equity, or otherwise, all of which rights, claims, actions, defenses, setoffs and recoupments are expressly reserved. To the extent applicable or not previously waived, the deadline to file a motion pursuant

⁵Adv. Pro. No. 3:21-ap-03029, Dkt. No. 1, ¶ 11; Adv. Pro. No. 3:22-ap-03028, Dkt. No. 1, ¶ 11; Adv. Pro. No. 3:22-ap-03029, Dkt. No. 1, ¶ 11.

to Local Rule 7007-1(b) will be established in a separate case management order negotiated by the parties and/or ordered by the Court.

B. Adversary Proceedings Deadlines

1. *Substantive Consolidation Proceeding*

- i. Defendants in the Substantive Consolidation Proceeding answered the Complaint in that proceeding. The filing of such answers in the Substantive Consolidation Proceeding shall not trigger the entry of any pre-trial orders or deadlines until ordered by the Court.
- ii. Discovery in the Substantive Consolidation Proceeding shall proceed according to the Discovery Protocol set forth in Section C below.
- iii. No notice of the Substantive Consolidation Proceeding shall be served on creditors of New TTC and New Trane at this time, and no list of creditors shall be provided by New TTC and New Trane to the Committee, all of which shall be held in abeyance subject to further order of the Court on a motion by one or more of the parties. The timing and content of any such notice, if needed, shall be agreed upon by the parties and/or ordered by the Court after notice and a hearing.
- iv. Defendants are not precluded from filing timely dispositive motions (other than motions to dismiss in lieu of an answer pursuant to Fed. R. Civ. P. 12(b)(6), made applicable by Fed. R. Bankr. P. 7012). A briefing schedule for any such dispositive motion(s) shall be negotiated by the parties and/or ordered by the Court.

2. *Fraudulent Transfer Proceeding*

- i. All defendants to the Fraudulent Transfer Proceeding have executed consents to acceptance of service and, thus, are deemed duly served.
- ii. Defendants to the Fraudulent Transfer Proceeding filed an answer and affirmative defenses on **September 9, 2022**.
- iii. Discovery in the Fraudulent Transfer Proceeding shall proceed according to the Discovery Protocol set forth in Section C below.
- iv. Defendants are not precluded from filing timely dispositive motions (other than motions to dismiss in lieu of an answer pursuant to Fed. R. Civ. P. 12(b)(6), made applicable by Fed. R. Bankr. P. 7012). A briefing schedule for any such dispositive motion(s) shall be negotiated by the parties and/or ordered by the Court.

3. *Fiduciary Duty Proceeding*

- i. All defendants to the Fiduciary Duty Proceeding have executed consents to acceptance of service and, thus, are deemed duly served.

- ii. The Fiduciary Duty Proceeding shall be stayed in its entirety, including with respect to all discovery, pending the entry of final orders resolving the Fraudulent Transfer Proceeding and the Substantive Consolidation Proceeding. “**Final**” means, with respect to any order of court, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. Without limitation, an order becomes “**Final**” when: (a) no appeal has been filed and the prescribed time for commencing any appeal has expired; or (b) an appeal has been filed and either (i) the appeal has been dismissed and the prescribed time, if any, for commencing any further appeal has expired, or (ii) the order has been affirmed in its entirety and the prescribed time, if any, for commencing any further appeal has expired. For purposes of this Paragraph, an “**appeal**” includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus, and any other proceedings seeking review, alteration, amendment or appeal of a court’s order.
- iii. Each defendant to the Fiduciary Duty Proceeding and the Committee covenants and agrees that (a) any of the findings of fact or conclusions of law set forth in any Final order in the Fraudulent Transfer Proceeding or Substantive Consolidation Proceeding shall be binding as to all Parties in the Fiduciary Duty Proceeding, except with respect to any finding of fact as to any individual Fiduciary Duty Defendant with respect to any action or inaction such individual Fiduciary Duty Defendant took or did not take, and that (b) he, she or it shall not challenge such binding finding of fact or conclusion of law on any basis.

C. **Discovery Protocol**

1. *Applicability of Discovery*

- i. All discovery conducted after the date of this Order as part of the Fraudulent Transfer Proceeding and the Substantive Consolidation Proceeding (collectively, the “**Post-CMO Discovery**”) shall be deemed to have occurred in all Adversary Proceedings, including, without limitation, the Fiduciary Duty Proceeding that has been stayed in its entirety pending the entry of Final orders resolving the Fraudulent Transfer Proceeding and the Substantive Consolidation Proceeding.
- ii. To avoid duplicative discovery, (a) all parties in the Adversary Proceedings shall have the right to participate in the Post-CMO Discovery; (b) each party that elects to participate in the Post-CMO Discovery consents to the jurisdiction of the Court as a party solely for the purpose of Post-CMO Discovery; and (c) except as set forth herein, each party to the Adversary Proceedings reserves all rights, remedies, defenses and objections with respect to any such Post-CMO Discovery, except with respect to those rights, remedies, defenses and objections that were waived by such party’s non-participation in any such Post-CMO Discovery.

2. *Prior Discovery in Preliminary Injunction Proceeding*

- i. All discovery (production of documents and deposition testimony) conducted in the adversary proceeding captioned *ALDRICH PUMP LLC and MURRAY BOILER LLC v. Those Parties Listed on Appendix A to Complaint*, Adv. Pro. No. 20-03041 (JCW) and all other discovery that has occurred in the above-captioned Chapter 11 bankruptcy case (collectively, the “**Prior Discovery**”) shall be deemed to have been conducted in connection with the Adversary Proceedings.
- ii. The incorporation of the Prior Discovery into the Adversary Proceedings shall not preclude or prejudice any party’s (a) ability to seek further Post-CMO Discovery from parties, entities, or individuals who received discovery requests in connection with the Prior Discovery, or (b) right to object to any such Post-CMO Discovery on any ground. For the avoidance of doubt, each party to the Adversary Proceedings that did not participate in the Prior Discovery reserves all rights with respect to any such Prior Discovery. Notwithstanding the foregoing, the parties shall negotiate a discovery protocol and/or seek relief from the Court, as set forth in Paragraph C.3.i below.

3. *Discovery Protocol*

- i. The parties in the Fraudulent Transfer Proceeding and Substantive Consolidation Proceeding shall conduct an initial meet-and-confer to create a discovery protocol applicable in the Fraudulent Transfer Proceeding and Substantive Consolidation Proceeding, with additional meet and confers as necessary. Should the parties be unable to reach agreement on the terms of a discovery protocol, the parties shall coordinate in providing submissions to the Court and a relevant briefing schedule in advance of filing.
- ii. The following shall be included in any list of not reasonably accessible electronically stored information (“**ESI**”) for purposes of search and identification of responsive documents in any discovery protocol for the Fraudulent Transfer Proceeding and Substantive Consolidation Proceeding:
 - a. Mobile devices and ESI or other data stored on mobile devices, including smart phones and tablets,⁶ subject to each custodian certifying (the “**Mobile Telephone Certification**”) under penalty of perjury either that (A) they did not use a mobile telephone for business purposes⁷ during the relevant date range other than making or receiving calls, or (B) if they use a mobile telephone for such business purposes, that all data and information used for such purposes is otherwise stored in the responding party’s systems and will be

⁶ For the avoidance of doubt, the term “mobile devices” does not include laptop computers.

⁷ For the avoidance of doubt, business purposes include, without limitation, the taking of notes, creation or editing of documents, and communications thereto, in each case for work-related purposes.

collected from another source or is *de minimis*.⁸ This Mobile Telephone Certification shall be provided to the requesting party within 30 days of service of written discovery or within 30 days after such later date that the custodian is identified and agreed upon or ordered by the Court. In any case, this subparagraph also is subject to the requesting party's reservation of right to seek such data from individual custodians where discovery indicates that data or information on mobile devices may exist responsive to the information requested and the responding party's reservation of right to object to any such request.

- b. Instant/chat messaging (including, e.g., Slack or WhatsApp), subject to each custodian certifying (the "**Instant Message Certification**") under penalty of perjury that they did not, during the relevant date range, use any instant messaging program, application, or platform for business purposes, other than use that was *de minimis*. This Instant Message Certification shall be provided to the requesting party within 30 days of service of written discovery or within 30 days after such later date that the custodian is identified and agreed upon or ordered by the Court. In any case, this subparagraph also is subject to the requesting party's reservation of right to seek such data and information from individual custodians where discovery indicates that data or information in instant messaging programs, applications, or platforms may exist responsive to the information requested and the responding party's reservation of right to object to any such request.

4. *Privilege Logs*

- i. The Debtors, New Trane, New TTC, and the Committee shall meet and confer on potential revisions to the privilege logs submitted with the Prior Discovery (the "**Privilege Logs**") in advance of any motion practice thereon. If no agreement is reached in connection with such meet and confer, a briefing schedule for presenting the issues to the Court for a ruling shall be established. The parties reserve all rights regarding the privilege assertions contained in the Privilege Logs and otherwise.

5. *Additional Discovery*

- i. The parties to the Fraudulent Transfer Proceeding and the Substantive Consolidation Proceeding shall conduct a conference pursuant to Fed. R. Civ. P. 26(f) (the "**Rule 26(f) Conference**") within **fifteen (15) business days** after entry of this Order.
- ii. All parties in the Fraudulent Transfer Proceeding and the Substantive Consolidation Proceeding shall make initial disclosures required by Fed. R.

⁸ "*De minimis*," as used in this Paragraph C.3.ii.a and in Paragraph C.3.ii.b below, refers to a use that is negligible and, in any event, unrelated to any substantive work on Project Omega or the Debtors' chapter 11 case.

Civ. P. 26(a)(1) within **twenty (20) business days** after the entry of this Order.

- iii. Except as set forth in Section B.3.ii and Section C.5.i and subject to Section C.2.ii, the parties are not foreclosed from proceeding with Post-CMO Discovery, and all parties' rights to object to any Post-CMO Discovery on any ground are fully preserved.
- iv. Disputes related to the provision of Post-CMO Discovery, including privilege disputes with respect to Post-CMO Discovery, shall be resolved among the parties or pursuant to further order of the Court.

D. Miscellaneous

1. Notwithstanding anything to the contrary in this Order, the deadlines specified herein may be extended by consent of the parties, except that leave of Court shall be required to alter, adjourn or extend the date of any hearing before the Court. In addition, upon a showing of good cause by any party and after notice and a hearing, the Court may alter or extend any of the deadlines specified herein. The Court may consider whether the parties have complied with the terms of this Order when considering any request for a change in the deadlines.
2. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation or enforcement of this Order.

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