

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re

ALDRICH PUMP LLC, et al.,

Debtors

Case No.: 22-cv-5116-MAS-TJB

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

Return Date: November 7, 2022

ORAL ARGUMENT REQUESTED

**VERUS CLAIM SERVICES, LLC'S REPLY MEMORANDUM OF LAW
IN FURTHER SUPPORT OF ITS MOTION TO QUASH**

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PRELIMINARY STATEMENT

Non-party Verus Claims Services, LLC (“Verus”), respectfully submits this reply memorandum of law in further support of its motion to quash (ECF Doc. No. 5) the subpoena (the “Subpoena”) served upon Verus by Debtors Aldrich Pump, LLC and Murray Boiler, LLC (collectively, the “Debtors”).

Debtors’ opposition only proves that Debtors’ claimed need for the requested information is not legitimate. Debtors misleadingly rely on the decisions of other courts that have no bearing on this case, and also mischaracterize the Subpoena itself.

Debtors emphasize the “extensive protections” in the Subpoenas. But these protections do not actually exist. Debtors readily admit that the requested data will be “de-anonymized,” and that anonymous data is actually worthless for their purposes. The opposition also betrays the very real risk that Debtors’ expert will use the data to reverse engineer Verus’s operations.

The Subpoena is also overbroad as Debtors have no “actual need” for the requested information. If the Subpoena were necessary for claims estimation, sampling would be acceptable and appropriate. In reality, Debtors are seeking a do-over of prior settlements, which has nothing to do with the stated purpose.

Last, the Subpoena imposes an undue burden on Verus because Verus cannot produce the requested information without an enormous disruption of its operations or without incurring a risk to its trade secrets. The Subpoena should be quashed.

BACKGROUND AND PROCEDURAL HISTORY

Verus hereby incorporates by reference the Factual Background and Procedural History set forth in the August 19, 2022 memorandum of law submitted by the Trusts in support of their motion to quash (ECF Doc. No. 1-1). All capitalized terms not otherwise defined herein have the same meaning as in Verus’s and the Trusts’ prior memoranda of law. Subsequent to the filing of Verus’s motion, the Third Circuit issued its decision in *In re Bestwall*. Additionally, various other courts issued decisions in matters involving other subpoenas. However, as described below, these decisions have no bearing on the motions before this Court.

ARGUMENT

I. DEBTORS MISCHARACTERIZE THE RECORD AND THE SUBPOENA ITSELF.

Debtors’ opposition (ECF Doc. No. 28, the “Opp. Br.”) is striking in its overstatement. Debtors rely on the mistaken arguments: (1) that this Court must parrot the findings of other courts that have no bearing on Verus’s motion and (2) that a seventeen-page, twenty-paragraph order is a routine subpoena. Neither is true.

A. None of the other cases cited by Debtors has any binding or preclusive effect because Verus was not party to any of those actions and its concerns were not litigated.

The keystone of Debtors’ opposition has nothing to do with this motion to quash. Rather, the focus is on other applications in other cases by other non-parties based on other concerns. Debtors prefer that those decisions – in which Verus did

not participate and Verus’s concerns were not litigated – simply be extended to bind Verus as well.

They argue, for example, that “multiple bankruptcy courts, reviewing nearly identical subpoenas, have found the requested discovery to be highly relevant to the Debtors’ cases, have authorized the Subpoenas’ issuance, and overruled identical objections” (Opp. Br., 3) and that “three different bankruptcy judges across four different cases have found that the same type of information sought by the Subpoenas was relevant.” *Id.* at 15. A subsequent tribunal is forbidden to conduct its own analysis. Instead, the Court should just “agree with the other Courts.” *Id.* at 3.

But these “multiple bankruptcy courts” did not decide as much as Debtors suggest. Debtors ignore the distinctions between the different cases, but these decisions are not binding or even relevant to Verus’s motion. Verus never appeared before any of those courts. Debtors even admit that the Bankruptcy Court in North Carolina did not have jurisdiction over Verus. *Id.* at 10 (“The Debtors are not suggesting that the Bankruptcy Court established jurisdiction over Verus...”). Verus never opposed Debtors’ Bankruptcy Court Motion. It certainly never “fully litigated” any of the issues raised in this motion. Nor were any of the concerns unique to Verus (or any “identical objections”) overruled in the Bankruptcy Court.

Next, Debtors argue that “the Third Circuit has ordered that the subpoenas be enforced, as originally drafted, without any sampling requirement or anonymization

procedures.” *Id.* at 23 (citing *In re Bestwall*, 47 F. 4th 233 (3d Cir. 2022)). However, this is a gross mischaracterization of *Bestwall*. There was no finding that those subpoenas were proper. Rather, the case was decided exclusively on procedural grounds not applicable here. The Court of Appeals did not opine whether the decision below was meritorious; it found only that the same issues could not be relitigated by the same parties in a second proceeding. *Bestwall*, 47 F. 4th at *13.

In the case at hand, in contrast, the Bankruptcy Court has not already ruled on any of the issues unique to Verus (which again, was not involved in those proceedings). There is no preclusive effect to bind Verus. The fact that the Bankruptcy Court ruled on the objections of some other party is a red herring.

B. The “Subpoena” is not a subpoena at all.

The term “Subpoena” is a misnomer for Debtors’ requests because their extensive demands are far beyond anything contemplated by Rule 45.

Debtors claim that “[t]he Subpoenas are no different than any other subpoena.” Opp. Br., 30. As Debtors tell it, the Bankruptcy Court “[a]id[ed] out what information the Debtors were permitted to request ... and identif[ed] the restrictions that were placed on the Debtors in doing so.” *Id.* Debtors even add that the Subpoena is particularly benign because “the court carefully proscribed what information the Debtors could request and provided significant limitations on the Debtors’ use of that information.” *Id.*

But this just is not so. The Bankruptcy Court did not “carefully proscribe what information Debtors could request.” Rather, the Order and the Subpoena – both of which were drafted by Debtors – simply lists everything that Debtors want. In reality, the Subpoena is “proscribed” only by the outer boundaries of Debtors’ desire.

And there certainly are no “significant limitations on the Debtors’ use” of the information. The Subpoena expressly permits Bates White broadly to “provide sufficient identifying information from the Matching Key to an Authorized Representative” in order to “analyze individual claims.” *See* Subpoena (Exhibit B. to Anselmi Decl. (ECF Doc. No. 5-3)), at 12(a)-(b). The Subpoena provides virtually no limitation on how Debtors, Bates White, or their “Authorized Representative” may use this data that they are able to de-anonymize at any time. Instead, the Order defines “Permitted Purposes” very broadly, including: “the determination of whether pre-petition settlements ... provide a reliable basis for estimating the Debtors’ asbestos liability; the estimation of the Debtors’ asbestos liability; and the development and evaluation of trust distribution procedures...” *See id.* at ¶ 5.

The Subpoena also imposes a compliance regime far beyond what is required by an ordinary Rule 45 subpoena. The Subpoena contains seventeen pages of instructions concerning when, how, and in what form Verus must make its response. *See* Subpoena. Specified actions are purportedly required on the twenty-first, thirty-fifth, forty-ninth, and sixtieth days following service. *Id.* at ¶¶ 7-9.

II. THE “EXTENSIVE PROTECTIONS” IN THE SUBPOENA ARE ILLUSORY.

Another superficial premise of Debtors’ opposition is that the Court should tolerate any amount of overreach because the Subpoena includes “extensive protections.” Opp. Br., 23, 36, 39. According to Debtors, these superficial references to “protections” *ipso facto* eliminate any cause for concern. They even argue that, in light of these “protections,” sampling “is unnecessary.” *Id.* at 24-25.

In reality, these sham “protections” are neither extensive nor protective. They do nothing to eliminate the concerns raised by Verus, and the other movants. Debtors are entitled to no deference merely for invoking the abstract idea of “protections.”

A. Debtors intend for the requested data to be anonymized temporarily and de-anonymized permanently, not the other way around.

Debtors contend that they “have a mechanism to anonymize all data before it is even produced.” *Id.* at 24. They claim that the claimant data is kept “separate” from the Matching Key. *Id.* at 37. They further claim that Bates White “routinely maintains similar information and has implemented extensive security measures that should eliminate any of Movants’ speculative concerns.” *Id.* at 39. No explanation is offered as to what those “security measures” are or how they could be sufficient.

Debtors’ contention that they are not assembling a “clearinghouse” because the information will be used by an unspecified, unnumbered group of parties, counsel, and experts and not by the public at large (*id.* at 39) is similarly thin. The

concerns of disclosing sensitive information are the same regardless of to whom the disclosure is made. Debtors also argue, circuitously, that the Subpoena was “tailored to match subpoenas approved by the Bankruptcy Court in *DBMP*, which post-dated the District Court’s decision in *Bestwall*.” *Id.* at 23. Debtors then note that the *DBMP* court overruled the objections made in that case, so it is not clear how exactly that decision resulted in any “tailoring” of the subpoenas.

Ultimately, Debtors confess that anonymization is nothing but a smokescreen: “without a Matching Key that temporarily *de-anonymizes* the data, Trust Discovery is useless.” *See id.* at 38 (emphasis added). This is because “the debtor needs to be able to match [Trust data with a specific claimant] or otherwise, this is unusable to it for its purposes.” *Id.* In other words, Debtors can have anonymous data, or they can useful data, but they cannot possibly have both – so the anonymization must go.

Debtors’ abstract “protections” lack any real-world value whatsoever. Debtors have not offered any explanation as to how the data, once “de-anonymized,” can ever be *re-anonymized*. They have not explained it because it cannot be done. Once the data is “de-anonymized” it is “de-anonymized” forever. The “Matching Key” prepared by Bates White already contains the Matching Claimants’ last names and SSNs. *See* Subpoena, ¶ 6. Once this information is linked to the corresponding data for each claimant, there is no meaningful way for it ever to be de-linked. *See* Reply Declaration of Mark T. Eveland (the “Eveland Reply Decl.”), ¶¶ 18-19.

B. Debtors’ opposition brief only confirms the threat of reverse engineering by Bates White.

In its motion to quash, Verus explained the risk that if a competitor or third party – such as Bates White – were provided with the data requested in the Subpoena, they could potentially “reverse engineer” the data to recreate Verus’s proprietary algorithms. *See* Verus’s Moving Brief (ECF Doc. No. 5-1, the “Moving Br.”), 24. Debtors, as usual, provide only a conclusory response to this concern.

Debtors argue that the information they seek “is strictly limited” and does not include “the valuation of any trust claims.” Opp. Br., 34-35. They add, “Without any information related to the valuation of any trust claims, Bates White ‘could not “reverse engineer” any algorithms proprietary to Verus.’” *Id.* Critically, Verus never identified reverse engineering of *claim valuation* as the risk of disclosure. Rather, Verus noted that its proprietary algorithms give it a competitive advantage with respect to claims administration, processing, and communications. Moving Br., 23. Yet, Debtors uncannily appear to understand that the more valuable malicious use of the requested data would be for the purposes of claims valuation. The opposition thus only underscores the risk of reverse engineering rather than diminishing it.

Debtors argue that Bates White “does not compete with Verus” because it “does not provide third-party claims administration services [or] process trust claims.” Opp. Br., 34. It is true that Bates White does not process trust claims. However, Bates White works for other asbestos defendants and trusts (such as

Debtors here). Therefore, its interests and the interests of its clients are directly adverse to the interests of Verus. Eveland Reply Decl., ¶¶ 20-21.

III. THE SUBPOENA IS UNREASONABLY AND OPPRESSIVELY OVERBROAD.

A. The Subpoena bears no reasonable relation to its stated purpose.

Debtors’ claim that the Subpoena seeks information in order to “estimate the Debtors’ aggregate liability for asbestos claims against them” for the purposes of “negotiation, formulation, and confirmation of a plan of reorganization in” the Bankruptcy Action. Opp. Br., 10.

Asbestos claimants typically sue many defendants because it is in the nature of their work – *e.g.*, as a union steamfitter – to be exposed to numerous companies’ products over the course of their careers. In their Informational Brief in the Bankruptcy Action, the Debtors note:

From 2001 to 2002, the number of mesothelioma claims asserted against each of the Debtors doubled in the span of one year. ... ***A typical complaint indiscriminately named the Debtors alongside scores of other defendants***, without any pleading of specific facts alleging exposure to any defendant's products.

Informational Brief (*In re Aldrich Pump, LLC et al.*, No. 20-30608 (Bankr. W.D.N.C.), ECF Doc. No. 5), 5. (emphasis added). Thus, when a claimant makes claims against multiple defendants for the same asbestos disease, that is not surprising – it is “typical.” For decades, Debtors settled these claims anyway. Knowing of the other alleged exposures did not affect their willingness to settle.

Practically speaking, the causation of an asbestos plaintiff's disease often cannot be allocated among the various potential exposure sources. Defendants settle claims without knowing what other defendants have paid or what their own "fair share" might be. That information was irrelevant then and is irrelevant now.

Debtors state that, instead, pre-bankruptcy settlements were made to save defense costs.¹ But Debtors face the same defense costs regardless of the number of co-defendants and regardless of how much other defendants have paid that claimant.

Therefore, determining whether some claimants asserted claims against both the Debtors and the Trusts is completely unrelated to the stated purpose of claims estimation. Debtors have no legitimate or actual need for the information sought. *In re Lazaridis*, 865 F. Supp. 2d 521, 528 (D.N.J. 2011).

B. The Subpoena is unreasonably overbroad in the absence of a provision for statistical sampling.

The estimation of potential liability – especially in the context of asbestos-related mass torts – is an actuarial task. It requires only sufficient data from which Debtors can underwrite its risk with reasonably accuracy. Debtors have not articulated any reason that the estimation task requires data from every single

¹ Indeed, Debtors identify this as the "critical factor" in resolving claims. Claims were routinely settled "in the mid-five figures, a small fraction of the multi-million dollar award that a plaintiff might receive ... and also a small fraction of the likely legal fees the Debtors would incur to take a case through trial." *Id.* at 7.

Matching Claimant and not a sample instead. In fact, Debtors again acknowledge that estimation can be achieved through sampling. Opp. Br., 25 n.15, 28.

Debtors argue instead that “because of the protections provided ... and the fact that no PII will be produced ... sampling is unnecessary.” Opp. Br., 24-25. However, this is no basis to avoid sampling because the cited “protections” actually offer no protection at all. The assertion that the Subpoena does not seek PII is likewise not credible on its face. The Subpoena demands “all exposure-related” data without limitation. *See* Subpoena, ¶ 10(g). Debtors also admit that this information will be used specifically to match “Trust data with a specific claimant” and that “otherwise, [the data] is unusable to it for its purposes.” Opp. Br., 38.

Debtors then argue that “the costs associated with sampling outweigh any marginal benefit.” *Id.* at 4. They contend that the number of claimants at issue does not matter because “the burden of electronically extracting data from a database and using an automated program is not significantly impacted by the number of claimants whose data is extracted.” *Id.* at 26-27. Debtors also contend that, in prior cases, data has been produced relatively quickly. *See id.* at 27. Last, Debtors claim that any burden borne by Verus is negligible because Debtors will reimburse Verus for its compliance costs. *Id.* at 21, 28.

This argument has two fatal flaws. First, the burden to Verus consists of more than just the economic costs associated with compliance. As described below, the

Subpoena seeks disclosure of Verus’s protected trade secret information. Even assuming, *arguendo*, that sampling would not reduce the time or effort necessary for compliance (which is not true in any event), sampling would dramatically reduce the commercial and competitive risks posed by exposure of Verus’s trade secrets.

Further, as described below and despite Debtors’ baseless conjecture to the contrary, compliance with the Subpoena will have very real economic costs to Verus. The fact that Verus’s compliance with the Subpoena will in fact be costly (and will cost more the more claimants for whom information is sought) eliminates Debtors’ concerns that sampling will be too costly to be worthwhile. Because, as Debtors note, they will be paying the costs of compliance anyway, there is no reason why they should be paying Verus’s costs for providing information for more than twelve thousand claimants (sixty thousand claim files) instead of paying for Bates White to design an appropriate sample for a far smaller set of claimants.

IV. THE SUBPOENA WILL IMPOSE AN UNDUE BURDEN UPON VERUS.

A. This Subpoena would cause a severe disruption of Verus’s operations – far beyond the costs acknowledged by Debtors.

Debtors and their expert opine that “retrieving the factual and discrete data fields ‘should involve a relatively straightforward, automated search and extraction of data.’” *Id.* at 26. Despite having no relevant knowledge, Debtors presume that compliance requires only that “Verus extract certain data fields from within the

database it admits it possesses (which should be an entirely automated process) and place that data in an excel or database file for production.” *Id.* at 19.

This is not true. Verus cannot simply “export” the data without a labor-intensive review and redaction process. Eveland Reply Decl., ¶¶ 3-4. Claimants submit, *inter alia*, private and personal, medical, family, and financial information. *Id.* at ¶ 5. Claim files also include comments and notes from claim processors and counsel – all within the broad request for “all exposure-related” data. *Id.* at ¶¶ 6-7.

Exporting this “exposure-related” data for the approximately 12,000 claimants (and 63,000 claim files) at issue requires a time-consuming review. Because the requested data is voluminous and contains sensitive information, it cannot be exported without being reviewed to ensure that: (1) responsive information is included; and (2) confidential information is not. *Id.* at ¶¶ 8-10.

Most of this review must be conducted by a human data analyst. *Id.* at ¶ 11. Estimating the necessary time and costs is difficult because the time to review any particular claim is highly variable and there is an enormous number of claimants at issue. *Id.* at ¶ 12. Verus cannot allocate the resources needed for this task without severely disrupting the performance of its duties. The same critical employees who would have to devote their time and attention exclusively to this task for several days are also critical to day-to-day operations. *Id.* at ¶¶ 13-15, 17. Staffing and executing this review is also problematic in the current tight labor market. *Id.* at ¶ 16.

B. The Subpoena imposes an undue burden upon Verus because it seeks material that does not belong to Verus and that should have been sought from other custodians instead.

As previously noted in Verus’s moving papers, the requested information does not even belong to Verus. The information and documents submitted by the claimants are the property of the trusts themselves. Thus, it is unreasonable and oppressive for Debtors to seek this information from Verus instead of directing the Subpoena directly to counsel for the various claimants.

V. THE SUBPOENA SHOULD BE QUASHED BECAUSE IT SEEKS DISCLOSURE OF TRADE SECRETS AND OTHER PROTECTED INFORMATION.

Finally, the Subpoena should be quashed under Rule 45(d)(3)(b) because it requires “disclosing a trade secret or other confidential research, development, or commercial information.” As explained in its moving brief, Verus expended substantial effort and money in developing its proprietary software, databases, algorithms, and claims processing procedures. This information, which is extremely valuable and vital to Verus’s business, is protected by New Jersey law. *See* N.J.S.A. §§ 56:15-1 et seq. Courts often recognize the protectability of such information.²

² *See, e.g., Alifax Holding SpA v. Alcor Sci. Inc.*, 404 F. Supp. 3d 552, 567 (D.R.I. 2019) (upholding jury finding that the plaintiff’s proprietary algorithm used in laboratory analysis was a trade secret); *PTT, Ltd. Liab. Co. v. Gimmie Games*, No. 13-7161, 2014 U.S. Dist. LEXIS 158058, at *14 (D.N.J. Nov. 6, 2014) (finding that complaint “sufficiently alleges the existence of [plaintiff’s slot machine gameplay] algorithms as a trade secret.”); *Watts v. Metro. Life Ins. Co.*, No. 09-829, 2010 U.S. Dist. LEXIS 107201, at *9 (S.D. Cal. Oct. 7, 2010) (granting motion to seal with respect to exhibit that consisted of insurer’s “claim management guidelines, [which]

Disclosure of the information requested by Debtors will therefore “work a clearly defined and serious injury to” Verus.

CONCLUSION

For the reasons set forth above, Verus respectfully submits that Debtors’ Subpoena should be quashed in its entirety. In the alternative, the Subpoena should be modified to: (1) require production for no more than a statistically significant sample (e.g., ten percent) of claimants and (2) allow Verus to perform anonymization prior to production to Debtors or Bates White.

Respectfully Submitted,

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Dated: October 11, 2022

contain[ed] trade secret information regarding Defendants’ claim administration process which could be used by business competitors to circumvent the considerable time and resources necessary to develop such guidelines.”); *Stafford v. Rite Aid Corp.*, No. 17-1340, 2019 U.S. Dist. LEXIS 137609, at *3 (S.D. Cal. Aug. 14, 2019) (applying *Watts* in similar context); *Altavion, Inc. v. Konica Minolta Sys. Lab., Inc.*, 171 Cal. Rptr. 3d 714, 738 (Cal. Ct. App. 2014) (observing that while plaintiff’s “general idea” for document self-authentication technology was not a protectable trade secret, the “algorithms and source code that execute [that technology] ... is unquestionably protectable by trade secret law.”).

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re

ALDRICH PUMP LLC, et al.,

Debtors.

Case No.: 22-cv-5116

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for
the Western District of North Carolina)

**REPLY DECLARATION
OF MARK T. EVELAND**

MARK T. EVELAND, of full age hereby declares under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am the president of Verus Claims Services, LLC (“Verus”). I submit this declaration in reply to the Debtors’ brief and the supporting declaration of Charles. H. Mullin, Ph.D. in opposition to the motions to quash filed by Verus (ECF Doc. No. 5) and the Trusts (ECF Doc. No. 1). I make this declaration based on my own personal knowledge, and the facts stated herein are true and correct to the best of my knowledge, information and belief.

2. Debtors' Subpoena seeks information regarding approximately twelve thousand (12,000) claimants who may have submitted asbestos-related personal injury claims to one or more of the Trusts.

3. In their brief and in the supporting declaration of Dr. Mullin, Debtors contend that compliance with the Subpoena will require Verus to only "extract certain data fields from within the database it admits it possesses (which should be an entirely automated process) and place that data in an excel or database file for production." This is not the case.

4. As a result of how information is submitted to the Trusts and how that information is maintained by Verus, compliance would necessarily require a labor-intensive review and redaction process for each claim record.

5. As I explained in my prior declaration, when a claimant asserts a claim against a Trust, that person is required to provide data and documentation sufficient to support the claim. This information routinely includes private and personal, medical, family and financial information of the claimants and third parties such as their spouses, dependents, other family members, co-workers and personal representatives.

6. Verus's claim files include this confidential information, and also contain the claim processors' claim notes and comments, as well as privileged communications with the Trusts and their counsel. Verus's comments, notes and

annotations are added to the information supplied by the claimant. Claim records can have numerous such annotations in multiple data fields.

7. While the Debtors' subpoena specifies certain data fields to be produced, it casts a broad net for "all exposure-related" data without limitations.

8. There is no practical way for Verus to ensure that all of its work-product, notes, thought-process, comments, evaluations and determinations in processing claims have been extracted from each and every data field across all eight Trust databases. In order to minimize this risk, a time-consuming review is required.

9. Claimants' exposure histories are often quite extensive, consisting of multiple exposure records spanning decades in the workforce. Each of the Trusts at issue require claimants to provide only sufficient evidence of exposure to prove the minimum requirements for compensation according to the exposure requirements of that Trust's Trust Distribution Procedures; thus, comprehensive exposure histories are not required and a specific claimant may submit a different subset of exposure data to each Trust.

10. For example, the Debtors' supposedly anonymized "Matching Key" of approximately 12,000 claimants corresponds to over 63,000 unique claims filed with the Trusts. The exposure records related to these over 63,000 unique claims number approximately 200,000 – the rough equivalent of over 3,300 pages of densely printed tabular information just for the exposure data. Because the requested claim data is

voluminous and may contain sensitive information, data cannot be exported without being reviewed first to ensure that: (1) information responsive to the Subpoena is included; and (2) confidential information is not being disclosed. I understand that this process is roughly similar to attorney review of document productions to ensure that responsive documents are captured but that any privileged material is withheld.

11. This review, for the most part, cannot be automated. Although simple tasks like the identification of Social Security Numbers (“SSNs”) within claim files could possibly be automated, the narrative information submitted by the claimants must be reviewed by a human data analyst. Complying with the Subpoena will therefore be labor-intensive and expensive.

12. Estimating the costs of this process is difficult because the time necessary to review any particular claim is highly variable and highly dependent on what information the corresponding claimant included in their submissions. This highly variable per-claimant cost must then be multiplied by the enormous number of claimants for whom the Debtors seek information (more than twelve thousand). The exercise of comparing the debtor’s Matching Key to the databases that Verus maintains on behalf of the eight trusts which are subject to the subpoena has already required approximately 80 hours of labor and cost the Trusts over \$15,000. The total labor for identifying claimant records and extracting, reviewing and redacting data

for other recent third-party subpoenas has ranged from 350 hours to over 975 hours, at a cost to the Trusts ranging from approximately \$51,000 to over \$162,000.

13. Additionally, Verus cannot allocate the resources needed to respond to the Subpoena without severely disrupting the performance of its duties required under its contracts with the various Trusts.

14. Verus employs one data analyst and three statisticians who are familiar with the data at issue here and have the skills necessary to extract the data as the first step in responding to this subpoena. These critical employees would have to devote their time and attention exclusively to responding to the Subpoena for a period of several days. These same resources are critical to the day-to-day operations of the trusts for which Verus works, having responsibility for providing updated analyses of operational issues, liability forecasts, and anticipated cash flows that are necessary for the trusts to make key decisions regarding payment of claims.

15. While some of the data analysis tasks required to respond to this subpoena could be assisted by Verus's software engineers, they too would have to turn their attention to the Subpoena instead of their normal work. Since these individuals do not specialize in database work and are primarily engaged in developing software unrelated to the trust databases, they are not familiar with the structure of the data requested in this subpoena. As such, if engaged in production of this data, their work would have to be closely reviewed by someone with

knowledge and experience of the data, thus adding to the expense of the process. This disruption would also put at risk key deadlines for data collection, analysis and production in unrelated litigation projects for which Verus is routinely engaged by other clients.

16. Also, as a very real practical matter, the labor market for the skilled labor required for requested production is unprecedentedly tight. It is unrealistic to think that Verus could demand significantly more effort or time from its employees (even if overtime is paid) in order to meet current contractual obligations without risking staff resignations.

17. Besides the obvious delays in claims processing and payment, it is anticipated that the time expended to respond to the Subpoena will cause Verus delays in: (i) improving its software applications; (ii) performing needed system maintenance and re-design; (iii) generating audits and reports; (iv) implementing policies and performing data analysis which will result in significant delays in processing, making offers on, and paying compensable claims for certain Trusts; (v) invoice production; (vi) monthly new code releases; (vii) administrative work; (viii) responding to claimant inquiries; and (ix) responding to internal requests for assistance.

18. Debtors' brief and the Subpoena itself also demonstrate how the "anonymization" procedures that Debtors refer to are of no practical value.

19. The Matching Key already contains the SSN and surname for each claimant, which are connected to a “numerical pseudonym.” Responding to the Subpoena with then requested information for each pseudonym will necessarily allow Debtors to link each pseudonym to the corresponding SSN and surname, thereby destroying any anonymity. Once the information is linked to the corresponding claimant, there is no meaningful way to ensure that it can ever be re-anonymized.

20. I am aware that Debtors have argued that disclosure of the requested information to Bates White poses no risk to Verus because Bates White does not compete with Verus. While it is true that Bates White does not process trust claims, it does work for numerous asbestos defendants and insurance carriers. Therefore, its interests and the interests of its clients are potentially adverse to those of Verus’ trust clients, to which Verus bears contractual and other obligations.

21. Therefore, separate from the economic costs of compliance, using a statistical sample would dramatically reduce the commercial and competitive risks posed by the requested disclosure.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 11, 2022

By: 

Mark T. Eveland

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re

ALDRICH PUMP LLC, et al.,

Debtors

Case No.: 22-cv-5116-MAS-TJB

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

Return Date: November 7, 2022

ORAL ARGUMENT REQUESTED

**VERUS CLAIM SERVICES, LLC'S REPLY MEMORANDUM OF LAW
IN FURTHER SUPPORT OF ITS MOTION TO QUASH**

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PRELIMINARY STATEMENT

Non-party Verus Claims Services, LLC (“Verus”), respectfully submits this reply memorandum of law in further support of its motion to quash (ECF Doc. No. 5) the subpoena (the “Subpoena”) served upon Verus by Debtors Aldrich Pump, LLC and Murray Boiler, LLC (collectively, the “Debtors”).

Debtors’ opposition only proves that Debtors’ claimed need for the requested information is not legitimate. Debtors misleadingly rely on the decisions of other courts that have no bearing on this case, and also mischaracterize the Subpoena itself.

Debtors emphasize the “extensive protections” in the Subpoenas. But these protections do not actually exist. Debtors readily admit that the requested data will be “de-anonymized,” and that anonymous data is actually worthless for their purposes. The opposition also betrays the very real risk that Debtors’ expert will use the data to reverse engineer Verus’s operations.

The Subpoena is also overbroad as Debtors have no “actual need” for the requested information. If the Subpoena were necessary for claims estimation, sampling would be acceptable and appropriate. In reality, Debtors are seeking a do-over of prior settlements, which has nothing to do with the stated purpose.

Last, the Subpoena imposes an undue burden on Verus because Verus cannot produce the requested information without an enormous disruption of its operations or without incurring a risk to its trade secrets. The Subpoena should be quashed.

BACKGROUND AND PROCEDURAL HISTORY

Verus hereby incorporates by reference the Factual Background and Procedural History set forth in the August 19, 2022 memorandum of law submitted by the Trusts in support of their motion to quash (ECF Doc. No. 1-1). All capitalized terms not otherwise defined herein have the same meaning as in Verus's and the Trusts' prior memoranda of law. Subsequent to the filing of Verus's motion, the Third Circuit issued its decision in *In re Bestwall*. Additionally, various other courts issued decisions in matters involving other subpoenas. However, as described below, these decisions have no bearing on the motions before this Court.

ARGUMENT

I. DEBTORS MISCHARACTERIZE THE RECORD AND THE SUBPOENA ITSELF.

Debtors' opposition (ECF Doc. No. 28, the "Opp. Br.") is striking in its overstatement. Debtors rely on the mistaken arguments: (1) that this Court must parrot the findings of other courts that have no bearing on Verus's motion and (2) that a seventeen-page, twenty-paragraph order is a routine subpoena. Neither is true.

A. None of the other cases cited by Debtors has any binding or preclusive effect because Verus was not party to any of those actions and its concerns were not litigated.

The keystone of Debtors' opposition has nothing to do with this motion to quash. Rather, the focus is on other applications in other cases by other non-parties based on other concerns. Debtors prefer that those decisions – in which Verus did

not participate and Verus's concerns were not litigated – simply be extended to bind Verus as well.

They argue, for example, that “multiple bankruptcy courts, reviewing nearly identical subpoenas, have found the requested discovery to be highly relevant to the Debtors’ cases, have authorized the Subpoenas’ issuance, and overruled identical objections” (Opp. Br., 3) and that “three different bankruptcy judges across four different cases have found that the same type of information sought by the Subpoenas was relevant.” *Id.* at 15. A subsequent tribunal is forbidden to conduct its own analysis. Instead, the Court should just “agree with the other Courts.” *Id.* at 3.

But these “multiple bankruptcy courts” did not decide as much as Debtors suggest. Debtors ignore the distinctions between the different cases, but these decisions are not binding or even relevant to Verus’s motion. Verus never appeared before any of those courts. Debtors even admit that the Bankruptcy Court in North Carolina did not have jurisdiction over Verus. *Id.* at 10 (“The Debtors are not suggesting that the Bankruptcy Court established jurisdiction over Verus...”). Verus never opposed Debtors’ Bankruptcy Court Motion. It certainly never “fully litigated” any of the issues raised in this motion. Nor were any of the concerns unique to Verus (or any “identical objections”) overruled in the Bankruptcy Court.

Next, Debtors argue that “the Third Circuit has ordered that the subpoenas be enforced, as originally drafted, without any sampling requirement or anonymization

procedures.” *Id.* at 23 (citing *In re Bestwall*, 47 F. 4th 233 (3d Cir. 2022)). However, this is a gross mischaracterization of *Bestwall*. There was no finding that those subpoenas were proper. Rather, the case was decided exclusively on procedural grounds not applicable here. The Court of Appeals did not opine whether the decision below was meritorious; it found only that the same issues could not be relitigated by the same parties in a second proceeding. *Bestwall*, 47 F. 4th at *13.

In the case at hand, in contrast, the Bankruptcy Court has not already ruled on any of the issues unique to Verus (which again, was not involved in those proceedings). There is no preclusive effect to bind Verus. The fact that the Bankruptcy Court ruled on the objections of some other party is a red herring.

B. The “Subpoena” is not a subpoena at all.

The term “Subpoena” is a misnomer for Debtors’ requests because their extensive demands are far beyond anything contemplated by Rule 45.

Debtors claim that “[t]he Subpoenas are no different than any other subpoena.” *Opp. Br.*, 30. As Debtors tell it, the Bankruptcy Court “[a]id[ed] out what information the Debtors were permitted to request ... and identif[ed] the restrictions that were placed on the Debtors in doing so.” *Id.* Debtors even add that the Subpoena is particularly benign because “the court carefully proscribed what information the Debtors could request and provided significant limitations on the Debtors’ use of that information.” *Id.*

But this just is not so. The Bankruptcy Court did not “carefully proscribe what information Debtors could request.” Rather, the Order and the Subpoena – both of which were drafted by Debtors – simply lists everything that Debtors want. In reality, the Subpoena is “proscribed” only by the outer boundaries of Debtors’ desire.

And there certainly are no “significant limitations on the Debtors’ use” of the information. The Subpoena expressly permits Bates White broadly to “provide sufficient identifying information from the Matching Key to an Authorized Representative” in order to “analyze individual claims.” *See* Subpoena (Exhibit B. to Anselmi Decl. (ECF Doc. No. 5-3)), at 12(a)-(b). The Subpoena provides virtually no limitation on how Debtors, Bates White, or their “Authorized Representative” may use this data that they are able to de-anonymize at any time. Instead, the Order defines “Permitted Purposes” very broadly, including: “the determination of whether pre-petition settlements ... provide a reliable basis for estimating the Debtors’ asbestos liability; the estimation of the Debtors’ asbestos liability; and the development and evaluation of trust distribution procedures...” *See id.* at ¶ 5.

The Subpoena also imposes a compliance regime far beyond what is required by an ordinary Rule 45 subpoena. The Subpoena contains seventeen pages of instructions concerning when, how, and in what form Verus must make its response. *See* Subpoena. Specified actions are purportedly required on the twenty-first, thirty-fifth, forty-ninth, and sixtieth days following service. *Id.* at ¶¶ 7-9.

II. THE “EXTENSIVE PROTECTIONS” IN THE SUBPOENA ARE ILLUSORY.

Another superficial premise of Debtors’ opposition is that the Court should tolerate any amount of overreach because the Subpoena includes “extensive protections.” Opp. Br., 23, 36, 39. According to Debtors, these superficial references to “protections” *ipso facto* eliminate any cause for concern. They even argue that, in light of these “protections,” sampling “is unnecessary.” *Id.* at 24-25.

In reality, these sham “protections” are neither extensive nor protective. They do nothing to eliminate the concerns raised by Verus, and the other movants. Debtors are entitled to no deference merely for invoking the abstract idea of “protections.”

A. Debtors intend for the requested data to be anonymized temporarily and de-anonymized permanently, not the other way around.

Debtors contend that they “have a mechanism to anonymize all data before it is even produced.” *Id.* at 24. They claim that the claimant data is kept “separate” from the Matching Key. *Id.* at 37. They further claim that Bates White “routinely maintains similar information and has implemented extensive security measures that should eliminate any of Movants’ speculative concerns.” *Id.* at 39. No explanation is offered as to what those “security measures” are or how they could be sufficient.

Debtors’ contention that they are not assembling a “clearinghouse” because the information will be used by an unspecified, unnumbered group of parties, counsel, and experts and not by the public at large (*id.* at 39) is similarly thin. The

concerns of disclosing sensitive information are the same regardless of to whom the disclosure is made. Debtors also argue, circuitously, that the Subpoena was “tailored to match subpoenas approved by the Bankruptcy Court in *DBMP*, which post-dated the District Court’s decision in *Bestwall*.” *Id.* at 23. Debtors then note that the *DBMP* court overruled the objections made in that case, so it is not clear how exactly that decision resulted in any “tailoring” of the subpoenas.

Ultimately, Debtors confess that anonymization is nothing but a smokescreen: “without a Matching Key that temporarily *de-anonymizes* the data, Trust Discovery is useless.” *See id.* at 38 (emphasis added). This is because “the debtor needs to be able to match [Trust data with a specific claimant] or otherwise, this is unusable to it for its purposes.” *Id.* In other words, Debtors can have anonymous data, or they can useful data, but they cannot possibly have both – so the anonymization must go.

Debtors’ abstract “protections” lack any real-world value whatsoever. Debtors have not offered any explanation as to how the data, once “de-anonymized,” can ever be *re-anonymized*. They have not explained it because it cannot be done. Once the data is “de-anonymized” it is “de-anonymized” forever. The “Matching Key” prepared by Bates White already contains the Matching Claimants’ last names and SSNs. *See* Subpoena, ¶ 6. Once this information is linked to the corresponding data for each claimant, there is no meaningful way for it ever to be de-linked. *See* Reply Declaration of Mark T. Eveland (the “Eveland Reply Decl.”), ¶¶ 18-19.

B. Debtors’ opposition brief only confirms the threat of reverse engineering by Bates White.

In its motion to quash, Verus explained the risk that if a competitor or third party – such as Bates White – were provided with the data requested in the Subpoena, they could potentially “reverse engineer” the data to recreate Verus’s proprietary algorithms. *See* Verus’s Moving Brief (ECF Doc. No. 5-1, the “Moving Br.”), 24. Debtors, as usual, provide only a conclusory response to this concern.

Debtors argue that the information they seek “is strictly limited” and does not include “the valuation of any trust claims.” *Opp. Br.*, 34-35. They add, “Without any information related to the valuation of any trust claims, Bates White ‘could not “reverse engineer” any algorithms proprietary to Verus.’” *Id.* Critically, Verus never identified reverse engineering of *claim valuation* as the risk of disclosure. Rather, Verus noted that its proprietary algorithms give it a competitive advantage with respect to claims administration, processing, and communications. *Moving Br.*, 23. Yet, Debtors uncannily appear to understand that the more valuable malicious use of the requested data would be for the purposes of claims valuation. The opposition thus only underscores the risk of reverse engineering rather than diminishing it.

Debtors argue that Bates White “does not compete with Verus” because it “does not provide third-party claims administration services [or] process trust claims.” *Opp. Br.*, 34. It is true that Bates White does not process trust claims. However, Bates White works for other asbestos defendants and trusts (such as

Debtors here). Therefore, its interests and the interests of its clients are directly adverse to the interests of Verus. Eveland Reply Decl., ¶¶ 20-21.

III. THE SUBPOENA IS UNREASONABLY AND OPPRESSIVELY OVERBROAD.

A. The Subpoena bears no reasonable relation to its stated purpose.

Debtors’ claim that the Subpoena seeks information in order to “estimate the Debtors’ aggregate liability for asbestos claims against them” for the purposes of “negotiation, formulation, and confirmation of a plan of reorganization in” the Bankruptcy Action. Opp. Br., 10.

Asbestos claimants typically sue many defendants because it is in the nature of their work – *e.g.*, as a union steamfitter – to be exposed to numerous companies’ products over the course of their careers. In their Informational Brief in the Bankruptcy Action, the Debtors note:

From 2001 to 2002, the number of mesothelioma claims asserted against each of the Debtors doubled in the span of one year. ... ***A typical complaint indiscriminately named the Debtors alongside scores of other defendants***, without any pleading of specific facts alleging exposure to any defendant's products.

Informational Brief (*In re Aldrich Pump, LLC et al.*, No. 20-30608 (Bankr. W.D.N.C.), ECF Doc. No. 5), 5. (emphasis added). Thus, when a claimant makes claims against multiple defendants for the same asbestos disease, that is not surprising – it is “typical.” For decades, Debtors settled these claims anyway. Knowing of the other alleged exposures did not affect their willingness to settle.

Practically speaking, the causation of an asbestos plaintiff's disease often cannot be allocated among the various potential exposure sources. Defendants settle claims without knowing what other defendants have paid or what their own "fair share" might be. That information was irrelevant then and is irrelevant now.

Debtors state that, instead, pre-bankruptcy settlements were made to save defense costs.¹ But Debtors face the same defense costs regardless of the number of co-defendants and regardless of how much other defendants have paid that claimant.

Therefore, determining whether some claimants asserted claims against both the Debtors and the Trusts is completely unrelated to the stated purpose of claims estimation. Debtors have no legitimate or actual need for the information sought. *In re Lazaridis*, 865 F. Supp. 2d 521, 528 (D.N.J. 2011).

B. The Subpoena is unreasonably overbroad in the absence of a provision for statistical sampling.

The estimation of potential liability – especially in the context of asbestos-related mass torts – is an actuarial task. It requires only sufficient data from which Debtors can underwrite its risk with reasonably accuracy. Debtors have not articulated any reason that the estimation task requires data from every single

¹ Indeed, Debtors identify this as the "critical factor" in resolving claims. Claims were routinely settled "in the mid-five figures, a small fraction of the multi-million dollar award that a plaintiff might receive ... and also a small fraction of the likely legal fees the Debtors would incur to take a case through trial." *Id.* at 7.

Matching Claimant and not a sample instead. In fact, Debtors again acknowledge that estimation can be achieved through sampling. Opp. Br., 25 n.15, 28.

Debtors argue instead that “because of the protections provided ... and the fact that no PII will be produced ... sampling is unnecessary.” Opp. Br., 24-25. However, this is no basis to avoid sampling because the cited “protections” actually offer no protection at all. The assertion that the Subpoena does not seek PII is likewise not credible on its face. The Subpoena demands “all exposure-related” data without limitation. *See* Subpoena, ¶ 10(g). Debtors also admit that this information will be used specifically to match “Trust data with a specific claimant” and that “otherwise, [the data] is unusable to it for its purposes.” Opp. Br., 38.

Debtors then argue that “the costs associated with sampling outweigh any marginal benefit.” *Id.* at 4. They contend that the number of claimants at issue does not matter because “the burden of electronically extracting data from a database and using an automated program is not significantly impacted by the number of claimants whose data is extracted.” *Id.* at 26-27. Debtors also contend that, in prior cases, data has been produced relatively quickly. *See id.* at 27. Last, Debtors claim that any burden borne by Verus is negligible because Debtors will reimburse Verus for its compliance costs. *Id.* at 21, 28.

This argument has two fatal flaws. First, the burden to Verus consists of more than just the economic costs associated with compliance. As described below, the

Subpoena seeks disclosure of Verus’s protected trade secret information. Even assuming, *arguendo*, that sampling would not reduce the time or effort necessary for compliance (which is not true in any event), sampling would dramatically reduce the commercial and competitive risks posed by exposure of Verus’s trade secrets.

Further, as described below and despite Debtors’ baseless conjecture to the contrary, compliance with the Subpoena will have very real economic costs to Verus. The fact that Verus’s compliance with the Subpoena will in fact be costly (and will cost more the more claimants for whom information is sought) eliminates Debtors’ concerns that sampling will be too costly to be worthwhile. Because, as Debtors note, they will be paying the costs of compliance anyway, there is no reason why they should be paying Verus’s costs for providing information for more than twelve thousand claimants (sixty thousand claim files) instead of paying for Bates White to design an appropriate sample for a far smaller set of claimants.

IV. THE SUBPOENA WILL IMPOSE AN UNDUE BURDEN UPON VERUS.

A. This Subpoena would cause a severe disruption of Verus’s operations – far beyond the costs acknowledged by Debtors.

Debtors and their expert opine that “retrieving the factual and discrete data fields ‘should involve a relatively straightforward, automated search and extraction of data.’” *Id.* at 26. Despite having no relevant knowledge, Debtors presume that compliance requires only that “Verus extract certain data fields from within the

database it admits it possesses (which should be an entirely automated process) and place that data in an excel or database file for production.” *Id.* at 19.

This is not true. Verus cannot simply “export” the data without a labor-intensive review and redaction process. Eveland Reply Decl., ¶¶ 3-4. Claimants submit, *inter alia*, private and personal, medical, family, and financial information. *Id.* at ¶ 5. Claim files also include comments and notes from claim processors and counsel – all within the broad request for “all exposure-related” data. *Id.* at ¶¶ 6-7.

Exporting this “exposure-related” data for the approximately 12,000 claimants (and 63,000 claim files) at issue requires a time-consuming review. Because the requested data is voluminous and contains sensitive information, it cannot be exported without being reviewed to ensure that: (1) responsive information is included; and (2) confidential information is not. *Id.* at ¶¶ 8-10.

Most of this review must be conducted by a human data analyst. *Id.* at ¶ 11. Estimating the necessary time and costs is difficult because the time to review any particular claim is highly variable and there is an enormous number of claimants at issue. *Id.* at ¶ 12. Verus cannot allocate the resources needed for this task without severely disrupting the performance of its duties. The same critical employees who would have to devote their time and attention exclusively to this task for several days are also critical to day-to-day operations. *Id.* at ¶¶ 13-15, 17. Staffing and executing this review is also problematic in the current tight labor market. *Id.* at ¶ 16.

B. The Subpoena imposes an undue burden upon Verus because it seeks material that does not belong to Verus and that should have been sought from other custodians instead.

As previously noted in Verus’s moving papers, the requested information does not even belong to Verus. The information and documents submitted by the claimants are the property of the trusts themselves. Thus, it is unreasonable and oppressive for Debtors to seek this information from Verus instead of directing the Subpoena directly to counsel for the various claimants.

V. THE SUBPOENA SHOULD BE QUASHED BECAUSE IT SEEKS DISCLOSURE OF TRADE SECRETS AND OTHER PROTECTED INFORMATION.

Finally, the Subpoena should be quashed under Rule 45(d)(3)(b) because it requires “disclosing a trade secret or other confidential research, development, or commercial information.” As explained in its moving brief, Verus expended substantial effort and money in developing its proprietary software, databases, algorithms, and claims processing procedures. This information, which is extremely valuable and vital to Verus’s business, is protected by New Jersey law. *See* N.J.S.A. §§ 56:15-1 et seq. Courts often recognize the protectability of such information.²

² *See, e.g., Alifax Holding SpA v. Alcor Sci. Inc.*, 404 F. Supp. 3d 552, 567 (D.R.I. 2019) (upholding jury finding that the plaintiff’s proprietary algorithm used in laboratory analysis was a trade secret); *PTT, Ltd. Liab. Co. v. Gimmie Games*, No. 13-7161, 2014 U.S. Dist. LEXIS 158058, at *14 (D.N.J. Nov. 6, 2014) (finding that complaint “sufficiently alleges the existence of [plaintiff’s slot machine gameplay] algorithms as a trade secret.”); *Watts v. Metro. Life Ins. Co.*, No. 09-829, 2010 U.S. Dist. LEXIS 107201, at *9 (S.D. Cal. Oct. 7, 2010) (granting motion to seal with respect to exhibit that consisted of insurer’s “claim management guidelines, [which]

Disclosure of the information requested by Debtors will therefore “work a clearly defined and serious injury to” Verus.

CONCLUSION

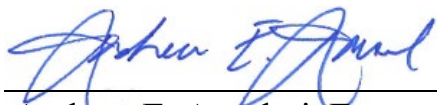
For the reasons set forth above, Verus respectfully submits that Debtors’ Subpoena should be quashed in its entirety. In the alternative, the Subpoena should be modified to: (1) require production for no more than a statistically significant sample (*e.g.*, ten percent) of claimants and (2) allow Verus to perform anonymization prior to production to Debtors or Bates White.

Respectfully Submitted,

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By: 

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Dated: October 11, 2022

contain[ed] trade secret information regarding Defendants’ claim administration process which could be used by business competitors to circumvent the considerable time and resources necessary to develop such guidelines.”); *Stafford v. Rite Aid Corp.*, No. 17-1340, 2019 U.S. Dist. LEXIS 137609, at *3 (S.D. Cal. Aug. 14, 2019) (applying *Watts* in similar context); *Altavion, Inc. v. Konica Minolta Sys. Lab., Inc.*, 171 Cal. Rptr. 3d 714, 738 (Cal. Ct. App. 2014) (observing that while plaintiff’s “general idea” for document self-authentication technology was not a protectable trade secret, the “algorithms and source code that execute [that technology] ... is unquestionably protectable by trade secret law.”).

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

In re

ALDRICH PUMP LLC, et al.,

Debtors.

Case No.: 22-cv-5116

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for
the Western District of North Carolina)

**REPLY DECLARATION
OF MARK T. EVELAND**

MARK T. EVELAND, of full age hereby declares under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am the president of Verus Claims Services, LLC (“Verus”). I submit this declaration in reply to the Debtors’ brief and the supporting declaration of Charles. H. Mullin, Ph.D. in opposition to the motions to quash filed by Verus (ECF Doc. No. 5) and the Trusts (ECF Doc. No. 1). I make this declaration based on my own personal knowledge, and the facts stated herein are true and correct to the best of my knowledge, information and belief.

2. Debtors' Subpoena seeks information regarding approximately twelve thousand (12,000) claimants who may have submitted asbestos-related personal injury claims to one or more of the Trusts.

3. In their brief and in the supporting declaration of Dr. Mullin, Debtors contend that compliance with the Subpoena will require Verus to only "extract certain data fields from within the database it admits it possesses (which should be an entirely automated process) and place that data in an excel or database file for production." This is not the case.

4. As a result of how information is submitted to the Trusts and how that information is maintained by Verus, compliance would necessarily require a labor-intensive review and redaction process for each claim record.

5. As I explained in my prior declaration, when a claimant asserts a claim against a Trust, that person is required to provide data and documentation sufficient to support the claim. This information routinely includes private and personal, medical, family and financial information of the claimants and third parties such as their spouses, dependents, other family members, co-workers and personal representatives.

6. Verus's claim files include this confidential information, and also contain the claim processors' claim notes and comments, as well as privileged communications with the Trusts and their counsel. Verus's comments, notes and

annotations are added to the information supplied by the claimant. Claim records can have numerous such annotations in multiple data fields.

7. While the Debtors' subpoena specifies certain data fields to be produced, it casts a broad net for "all exposure-related" data without limitations.

8. There is no practical way for Verus to ensure that all of its work-product, notes, thought-process, comments, evaluations and determinations in processing claims have been extracted from each and every data field across all eight Trust databases. In order to minimize this risk, a time-consuming review is required.

9. Claimants' exposure histories are often quite extensive, consisting of multiple exposure records spanning decades in the workforce. Each of the Trusts at issue require claimants to provide only sufficient evidence of exposure to prove the minimum requirements for compensation according to the exposure requirements of that Trust's Trust Distribution Procedures; thus, comprehensive exposure histories are not required and a specific claimant may submit a different subset of exposure data to each Trust.

10. For example, the Debtors' supposedly anonymized "Matching Key" of approximately 12,000 claimants corresponds to over 63,000 unique claims filed with the Trusts. The exposure records related to these over 63,000 unique claims number approximately 200,000 – the rough equivalent of over 3,300 pages of densely printed tabular information just for the exposure data. Because the requested claim data is

voluminous and may contain sensitive information, data cannot be exported without being reviewed first to ensure that: (1) information responsive to the Subpoena is included; and (2) confidential information is not being disclosed. I understand that this process is roughly similar to attorney review of document productions to ensure that responsive documents are captured but that any privileged material is withheld.

11. This review, for the most part, cannot be automated. Although simple tasks like the identification of Social Security Numbers (“SSNs”) within claim files could possibly be automated, the narrative information submitted by the claimants must be reviewed by a human data analyst. Complying with the Subpoena will therefore be labor-intensive and expensive.

12. Estimating the costs of this process is difficult because the time necessary to review any particular claim is highly variable and highly dependent on what information the corresponding claimant included in their submissions. This highly variable per-claimant cost must then be multiplied by the enormous number of claimants for whom the Debtors seek information (more than twelve thousand). The exercise of comparing the debtor’s Matching Key to the databases that Verus maintains on behalf of the eight trusts which are subject to the subpoena has already required approximately 80 hours of labor and cost the Trusts over \$15,000. The total labor for identifying claimant records and extracting, reviewing and redacting data

for other recent third-party subpoenas has ranged from 350 hours to over 975 hours, at a cost to the Trusts ranging from approximately \$51,000 to over \$162,000.

13. Additionally, Verus cannot allocate the resources needed to respond to the Subpoena without severely disrupting the performance of its duties required under its contracts with the various Trusts.

14. Verus employs one data analyst and three statisticians who are familiar with the data at issue here and have the skills necessary to extract the data as the first step in responding to this subpoena. These critical employees would have to devote their time and attention exclusively to responding to the Subpoena for a period of several days. These same resources are critical to the day-to-day operations of the trusts for which Verus works, having responsibility for providing updated analyses of operational issues, liability forecasts, and anticipated cash flows that are necessary for the trusts to make key decisions regarding payment of claims.

15. While some of the data analysis tasks required to respond to this subpoena could be assisted by Verus's software engineers, they too would have to turn their attention to the Subpoena instead of their normal work. Since these individuals do not specialize in database work and are primarily engaged in developing software unrelated to the trust databases, they are not familiar with the structure of the data requested in this subpoena. As such, if engaged in production of this data, their work would have to be closely reviewed by someone with

knowledge and experience of the data, thus adding to the expense of the process. This disruption would also put at risk key deadlines for data collection, analysis and production in unrelated litigation projects for which Verus is routinely engaged by other clients.

16. Also, as a very real practical matter, the labor market for the skilled labor required for requested production is unprecedentedly tight. It is unrealistic to think that Verus could demand significantly more effort or time from its employees (even if overtime is paid) in order to meet current contractual obligations without risking staff resignations.

17. Besides the obvious delays in claims processing and payment, it is anticipated that the time expended to respond to the Subpoena will cause Verus delays in: (i) improving its software applications; (ii) performing needed system maintenance and re-design; (iii) generating audits and reports; (iv) implementing policies and performing data analysis which will result in significant delays in processing, making offers on, and paying compensable claims for certain Trusts; (v) invoice production; (vi) monthly new code releases; (vii) administrative work; (viii) responding to claimant inquiries; and (ix) responding to internal requests for assistance.

18. Debtors' brief and the Subpoena itself also demonstrate how the "anonymization" procedures that Debtors refer to are of no practical value.

19. The Matching Key already contains the SSN and surname for each claimant, which are connected to a “numerical pseudonym.” Responding to the Subpoena with then requested information for each pseudonym will necessarily allow Debtors to link each pseudonym to the corresponding SSN and surname, thereby destroying any anonymity. Once the information is linked to the corresponding claimant, there is no meaningful way to ensure that it can ever be re-anonymized.

20. I am aware that Debtors have argued that disclosure of the requested information to Bates White poses no risk to Verus because Bates White does not compete with Verus. While it is true that Bates White does not process trust claims, it does work for numerous asbestos defendants and insurance carriers. Therefore, its interests and the interests of its clients are potentially adverse to those of Verus’ trust clients, to which Verus bears contractual and other obligations.

21. Therefore, separate from the economic costs of compliance, using a statistical sample would dramatically reduce the commercial and competitive risks posed by the requested disclosure.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 11, 2022

By: 

Mark T. Eveland

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November 3, 2022

Via ECF

Honorable Michael A. Shipp
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Courtroom 5W
Trenton, NJ 08608

Honorable Tonianne J. Bongiovanni
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Courtroom 6E
Trenton, NJ 08608

**Re: AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al.,
Case No. 22-05116-MAS-TJB**

Dear Judges Shipp and Bongiovanni:

This firm is co-counsel to Aldrich Pump LLC and Murray Boiler LLC, respondents in the above referenced action (“Respondents”). Before the Court are (i) motions to quash the subpoenas [ECF Nos. 1, 5, 13] (together, the “Motions to Quash”) served on the Trusts,¹ Verus Claims Services, LLC, and Certain Matching Claimants, (ii) Certain Matching Claimants’ motion to proceed anonymously [ECF No. 14] (the “Motion to Proceed”), and (iii) Respondents’ motion to transfer to the United States Bankruptcy Court for the Western District of North Carolina [ECF No. 20] (the “Motion to Transfer” and together with the Motions to Quash and Motion to Proceed, the “Motions”).

Pursuant to the Letter Order dated September 21, 2022 [ECF No. 26], the Motions have been assigned to Judge Bongiovanni and the return date for the Motions is November 7, 2022. A review of the docket indicates that the Motions are to be heard on the papers. Respondents see no need to request oral argument on the Motion to Transfer. However, in the event the Motions to Quash and Motion to Proceed are not transferred to the North Carolina Bankruptcy Court,

¹ The “Trusts” are, collectively, AC&S Asbestos Trust, Combustion Engineering 524(g) Asbestos PI Trust, G-I Holdings Inc. Asbestos Personal Injury Settlement Trust, GST Settlement Facility, Kaiser Aluminum & Chemical Corp. Asbestos Personal Injury Trust, Quigley Asbestos Trust, THAN Asbestos Personal Injury Trust, and Yarway Asbestos Personal Injury Trust.

Respondents request that this Court hear oral argument on those motions and hold an evidentiary hearing with respect to the Motions to Quash. If such arguments and hearing were to be set, Respondents would ask for at least two weeks' notice of the date selected by the Court in order that Respondents can ensure the attendance of necessary witnesses.

Please do not hesitate to contact me should you have any questions. We thank the Court for its consideration of this matter.

Respectfully submitted,

/s/ Paul R. DeFilippo

Paul R. DeFilippo

cc: Counsel of Record (via ECF)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

IN RE:

ALDRICH PUMP LLC, et al.,

Civil Action No. 22-cv-05116 MAS-TJB

Underlying Case. No. 20-30608(JCW)

(U.S. Bankruptcy Court for the Western
District of North Carolina)

**CERTIFICATON OF JOSEPH H.
LEMKIN ESQ.**

I, **Joseph H. Lemkin**, of full age certify as follows:

1. I am an attorney-at- law of the State of New Jersey and a Shareholder with the law firm of Stark & Stark, P.C., counsel to certain matching claimants¹ (the “Certain Matching Claimants”). I make this certification in order to supplement **Exhibit “A”** to the Certification of Timothy Duggan in support of Certain Matching Claimants’ (I) Motion to Quash or Modify Subpoenas, and (II) Joinders and Certain Matching Claimants and (I) Motion to Proceed Anonymously [Doc. 13-2].

¹ The Certain Matching Claimants are a discrete subset of 12,000 individual mesothelioma claimants in the Trusts’ databases whose injured party datafields or related claimant datafields match (or may match) any (a) nine-digit Social Security numbers (“SSN”) and (b) last name associated with a Aldrich claimant in Aldrich’s database who asserted mesothelioma claims against the Debtors and Aldrich’s predecessors that were resolved by settlement or verdict and who did not file their Trust claims pro se. See *In re Aldrich Pump LLC*, No. 20-30608, Bankr. W.D.N.C., D.I. 1111, *Motion of the Debtors for an Order Authorizing the Debtors to Issue Subpoenas on Asbestos Trusts and Paddock Enterprises, LLC*, at 1; and D.I. 1240 (“Aldrich Subpoena Motion”), *Order Granting Motion of the Debtors for an Order Authorizing Debtors to Issue Subpoenas on Asbestos Trusts and Paddock Enterprises, LLC*, at ¶ 6, (“Order Authorizing Subpoenas”). The Bankruptcy Court has forbidden the disclosure of any claimant information, including name, on this docket. See *id.* at ¶ 13(e) (“No claimant-specific data from or derived from any Confidential Data shall be ... (ii) placed on the public record or (iii) filed with this Court, the District Court, or any reviewing court (including under seal ...)”).

2. By way of supplement, the law firm of Belluck & Fox, LLP (the “Belluck Firm”) is hereby included in the list of Certain Matching Claimants’ counsel of record as notified by Verus pursuant to the Order Authorizing Subpoenas.

3. The Belluck Firm hereby joins and adopts all pleadings filed in this case by Matching Claimant’s, in their entirety.

I certify that the foregoing statements made herein are true. I am aware that if any of the foregoing statements made herein are willfully false, I am subject to punishment.

Respectfully submitted,
STARK & STARK
A Professional Corporation

Dated: November 7, 2022

/s/ Joseph H. Lemkin
JOSEPH H. LEMKIN
P.O. Box 5315, 993 Lenox Drive, Bldg. 2
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Telephone: (609) 896-9060

Attorneys for Certain Matching Claimants

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*Co-Counsel for Aldrich Pump LLC and
Murray Boiler LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:

ALDRICH PUMP LLC, et al.,

Debtor.

Chapter 11

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

AC&S ASBESTOS SETTLEMENT TRUST,
COMBUSTION ENGINEERING 524(G)
ASBESTOS PI TRUST, GI HOLDINGS INC.
ASBESTOS PERSONAL INJURY SETTLEMENT
TRUST, GST SETTLEMENT FACILITY, KAISER
ALUMINUM & CHEMICAL CORPORATION
ASBESTOS PERSONAL INJURY TRUST,
QUIGLEY COMPANY, INC. ASBESTOS PI
TRUST, T H AGRICULTURE & NUTRITION,
L.L.C. ASBESTOS PERSONAL TRUST, and
YARWAY ASBESTOS PERSONAL INJURY
TRUST,

Case No.: 22-05116 (MAS-TJB)

Honorable Michael A. Shipp

Petitioners,

v.

ALDRICH PUMP LLC and MURRAY BOILER
LLC,

Respondents,

VERUS CLAIMS SERVICES, LLC,

Interested Party.

ORDER ADMITTING JOSEPH F. PACELLI TO APPEAR *PRO HAC VICE*

This matter having been brought before the Court on Motion for an Order Admitting Joseph F. Pacelli to Appear *Pro Hac Vice*; and the Court having reviewed the moving papers of the applicant, out-of-state attorney, and considered this matter pursuant to Fed. R. Civ. P. 78, D.N.J. L. Civ. R. 101.1(c), and good cause having been shown; it is

ORDERED that Joseph F. Pacelli be permitted to appear *pro hac vice*; provided that pursuant to D.N.J. L. Civ. R. 101.1(c)(4), an appearance as counsel of record shall be filed promptly by a member of the bar of this Court upon whom all notices, orders and pleadings may be served, and who shall promptly notify the out-of-state attorney of their receipt. Only an attorney at law of this Court may file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees or orders; and it is further

ORDERED that Joseph F. Pacelli shall arrange with the New Jersey Lawyers' Fund for Client Protection for payment of the annual fee, for this year and for any year in which the out-of-state attorney continues to represent a client in a matter pending in this Court in accordance with New Jersey Court Rule 1:28-2(a) and D.N.J. L. Civ. R. 101.1(c)(2), said fee to be deposited via check payable to "Clerk, USDC" within twenty (20) days of the date of the entry of this Order; and it is further

ORDERED that Joseph F. Pacelli shall be bound by the Local Rules of the United States District Court for the District of New Jersey.

Dated: November 15, , 2022

s/Tonianne J. Bongiovanni
Honorable Tonianne J. Bongiovanni
United States Magistrate Judge

[Docket Entry No. 12 is terminated].

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*Co-Counsel for Aldrich Pump LLC and
Murray Boiler LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:

ALDRICH PUMP LLC, et al.,

Debtor.

Chapter 11

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

AC&S ASBESTOS SETTLEMENT TRUST,
COMBUSTION ENGINEERING 524(G)
ASBESTOS PI TRUST, GI HOLDINGS INC.
ASBESTOS PERSONAL INJURY SETTLEMENT
TRUST, GST SETTLEMENT FACILITY, KAISER
ALUMINUM & CHEMICAL CORPORATION
ASBESTOS PERSONAL INJURY TRUST,
QUIGLEY COMPANY, INC. ASBESTOS PI
TRUST, T H AGRICULTURE & NUTRITION,
L.L.C. ASBESTOS PERSONAL TRUST, and
YARWAY ASBESTOS PERSONAL INJURY
TRUST,

Petitioners,

v.

ALDRICH PUMP LLC and MURRAY BOILER
LLC,

Respondents,

VERUS CLAIMS SERVICES, LLC,

Interested Party.

Case No.: 22-05116 (MAS-TJB)

Honorable Michael A. Shipp

ORDER ADMITTING C. MICHAEL EVERT, JR. TO APPEAR *PRO HAC VICE*

This matter having been brought before the Court on Motion for an Order Admitting C. Michael Evert, Jr. to Appear *Pro Hac Vice*; and the Court having reviewed the moving papers of the applicant, out-of-state attorney, and considered this matter pursuant to Fed. R. Civ. P. 78, D.N.J. L. Civ. R. 101.1(c), and good cause having been shown; it is

ORDERED that C. Michael Evert, Jr. be permitted to appear *pro hac vice*; provided that pursuant to D.N.J. L. Civ. R. 101.1(c)(4), an appearance as counsel of record shall be filed promptly by a member of the bar of this Court upon whom all notices, orders and pleadings may be served, and who shall promptly notify the out-of-state attorney of their receipt. Only an attorney at law of this Court may file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees or orders; and it is further

ORDERED that C. Michael Evert, Jr. shall arrange with the New Jersey Lawyers' Fund for Client Protection for payment of the annual fee, for this year and for any year in which the out-of-state attorney continues to represent a client in a matter pending in this Court in accordance with New Jersey Court Rule 1:28-2(a) and D.N.J. L. Civ. R. 101.1(c)(2), said fee to be deposited via check payable to "Clerk, USDC" within twenty (20) days of the date of the entry of this Order; and it is further

ORDERED that C. Michael Evert, Jr. shall be bound by the Local Rules of the United States District Court for the District of New Jersey.

Dated: November 15, 2022

s/Tonianne J. Bongiovanni
Honorable Tonianne J. Bongiovanni
United States Magistrate Judge

[Docket Entry No. 16 is terminated].

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Co-Counsel for Aldrich Pump LLC and

Murray Boiler LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:

ALDRICH PUMP LLC, et al.,

Debtor.

Chapter 11

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

AC&S ASBESTOS SETTLEMENT TRUST,
COMBUSTION ENGINEERING 524(G)
ASBESTOS PI TRUST, GI HOLDINGS INC.
ASBESTOS PERSONAL INJURY SETTLEMENT
TRUST, GST SETTLEMENT FACILITY, KAISER
ALUMINUM & CHEMICAL CORPORATION
ASBESTOS PERSONAL INJURY TRUST,
QUIGLEY COMPANY, INC. ASBESTOS PI
TRUST, T H AGRICULTURE & NUTRITION,
L.L.C. ASBESTOS PERSONAL TRUST, and
YARWAY ASBESTOS PERSONAL INJURY
TRUST,

Petitioners,

v.

ALDRICH PUMP LLC and MURRAY BOILER
LLC,

Respondents,

VERUS CLAIMS SERVICES, LLC,

Interested Party.

Case No.: 22-05116 (MAS-TJB)

Honorable Michael A. Shipp

ORDER ADMITTING BRAD B. ERENS TO APPEAR *PRO HAC VICE*

This matter having been brought before the Court on Motion for an Order Admitting Brad B. Erens to Appear *Pro Hac Vice*; and the Court having reviewed the moving papers of the applicant, out-of-state attorney, and considered this matter pursuant to Fed. R. Civ. P. 78, D.N.J. L. Civ. R. 101.1(c), and good cause having been shown; it is

ORDERED that Brad B. Erens be permitted to appear *pro hac vice*; provided that pursuant to D.N.J. L. Civ. R. 101.1(c)(4), an appearance as counsel of record shall be filed promptly by a member of the bar of this Court upon whom all notices, orders and pleadings may be served, and who shall promptly notify the out-of-state attorney of their receipt. Only an attorney at law of this Court may file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees or orders; and it is further

ORDERED that Brad B. Erens shall arrange with the New Jersey Lawyers' Fund for Client Protection for payment of the annual fee, for this year and for any year in which the out-of-state attorney continues to represent a client in a matter pending in this Court in accordance with New Jersey Court Rule 1:28-2(a) and D.N.J. L. Civ. R. 101.1(c)(2), said fee to be deposited via check payable to "Clerk, USDC" within twenty (20) days of the date of the entry of this Order; and it is further

ORDERED that Brad B. Erens shall be bound by the Local Rules of the United States District Court for the District of New Jersey.

Dated: November 15, 2022

s/Tonianne J. Bongiovanni

Honorable Tonianne J. Bongiovanni
United States Magistrate Judge

[Docket Entry No. 17 is terminated].

WOLLMUTH MAHER & DEUTSCH LLP

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Co-Counsel for Aldrich Pump LLC and

Murray Boiler LLC

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:

ALDRICH PUMP LLC, et al.,

Debtor.

Chapter 11

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

AC&S ASBESTOS SETTLEMENT TRUST,
COMBUSTION ENGINEERING 524(G)
ASBESTOS PI TRUST, GI HOLDINGS INC.
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TRUST, GST SETTLEMENT FACILITY, KAISER
ALUMINUM & CHEMICAL CORPORATION
ASBESTOS PERSONAL INJURY TRUST,
QUIGLEY COMPANY, INC. ASBESTOS PI
TRUST, T H AGRICULTURE & NUTRITION,
L.L.C. ASBESTOS PERSONAL TRUST, and
YARWAY ASBESTOS PERSONAL INJURY
TRUST,

Petitioners,

v.

ALDRICH PUMP LLC and MURRAY BOILER
LLC,

Respondents,

VERUS CLAIMS SERVICES, LLC,

Interested Party.

Case No.: 22-05116 (MAS-TJB)

Honorable Michael A. Shipp

ORDER ADMITTING CAITLIN K. CAHOW TO APPEAR *PRO HAC VICE*

This matter having been brought before the Court on Motion for an Order Admitting Caitlin K. Cahow to Appear *Pro Hac Vice*; and the Court having reviewed the moving papers of the applicant, out-of-state attorney, and considered this matter pursuant to Fed. R. Civ. P. 78, D.N.J. L. Civ. R. 101.1(c), and good cause having been shown; it is

ORDERED that Caitlin K. Cahow be permitted to appear *pro hac vice*; provided that pursuant to D.N.J. L. Civ. R. 101.1(c)(4), an appearance as counsel of record shall be filed promptly by a member of the bar of this Court upon whom all notices, orders and pleadings may be served, and who shall promptly notify the out-of-state attorney of their receipt. Only an attorney at law of this Court may file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees or orders; and it is further

ORDERED that Caitlin K. Cahow shall arrange with the New Jersey Lawyers' Fund for Client Protection for payment of the annual fee, for this year and for any year in which the out-of-state attorney continues to represent a client in a matter pending in this Court in accordance with New Jersey Court Rule 1:28-2(a) and D.N.J. L. Civ. R. 101.1(c)(2), said fee to be deposited via check payable to "Clerk, USDC" within twenty (20) days of the date of the entry of this Order; and it is further

ORDERED that Caitlin K. Cahow shall be bound by the Local Rules of the United States District Court for the District of New Jersey.

Dated: November 15, 2022

s/Tonianne J. Bongiovanni
Honorable Tonianne J. Bongiovanni
United States Magistrate Judge

[Docket Entry No. 18 is terminated].

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*Co-Counsel for Aldrich Pump LLC and
Murray Boiler LLC*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:

ALDRICH PUMP LLC, et al.,

Debtor.

Chapter 11

Underlying Case No.: 20-30608 (JCW)
(United States Bankruptcy Court for the
Western District of North Carolina)

AC&S ASBESTOS SETTLEMENT TRUST,
COMBUSTION ENGINEERING 524(G)
ASBESTOS PI TRUST, GI HOLDINGS INC.
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ASBESTOS PERSONAL INJURY TRUST,
QUIGLEY COMPANY, INC. ASBESTOS PI
TRUST, T H AGRICULTURE & NUTRITION,
L.L.C. ASBESTOS PERSONAL TRUST, and
YARWAY ASBESTOS PERSONAL INJURY
TRUST,

Petitioners,

v.

ALDRICH PUMP LLC and MURRAY BOILER
LLC,

Respondents,

VERUS CLAIMS SERVICES, LLC,

Interested Party.

Case No.: 22-05116 (MAS-TJB)

Honorable Michael A. Shipp

ORDER ADMITTING MORGAN R. HIRST TO APPEAR *PRO HAC VICE*

This matter having been brought before the Court on Motion for an Order Admitting Morgan R. Hirst to Appear *Pro Hac Vice*; and the Court having reviewed the moving papers of the applicant, out-of-state attorney, and considered this matter pursuant to Fed. R. Civ. P. 78, D.N.J. L. Civ. R. 101.1(c), and good cause having been shown; it is

ORDERED that Morgan R. Hirst be permitted to appear *pro hac vice*; provided that pursuant to D.N.J. L. Civ. R. 101.1(c)(4), an appearance as counsel of record shall be filed promptly by a member of the bar of this Court upon whom all notices, orders and pleadings may be served, and who shall promptly notify the out-of-state attorney of their receipt. Only an attorney at law of this Court may file papers, enter appearances for parties, sign stipulations, or sign and receive payments on judgments, decrees or orders; and it is further

ORDERED that Morgan R. Hirst shall arrange with the New Jersey Lawyers' Fund for Client Protection for payment of the annual fee, for this year and for any year in which the out-of-state attorney continues to represent a client in a matter pending in this Court in accordance with New Jersey Court Rule 1:28-2(a) and D.N.J. L. Civ. R. 101.1(c)(2), said fee to be deposited via check payable to "Clerk, USDC" within twenty (20) days of the date of the entry of this Order; and it is further

ORDERED that Morgan R. Hirst shall be bound by the Local Rules of the United States District Court for the District of New Jersey.

Dated: November 15, 2022

s/Tonianne J. Bongiovanni
Honorable Tonianne J. Bongiovanni
United States Magistrate Judge

[Docket Entry No. 19 is terminated].



Lynda A. Bennett
Partner

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December 20, 2022

VIA ECF

Hon. Tonianne J. Bongiovanni, U.S.M.J.
District of New Jersey
Clarkson S. Fisher Building and U.S. Courthouse
402 East State Street
Trenton, New Jersey 08608

Re: AC&S Asbestos Settlement Trust, et al. v. Aldrich Pump LLC et al.
Case No.: 3-22-cv-05116

Dear Judge Bongiovanni:

This law firm represents the eight third-party asbestos settlement trusts identified below¹ (collectively, the “**Trusts**”) in the above-captioned action. We write regarding Aldrich Pump LLC and Murray Boiler LLC’s (together, the “**Debtors**”) pending Motion to Transfer the Case. (Dkt. No. 20.) Oral argument on the Motion to Transfer is currently scheduled for Wednesday, December 21 at 11:00 AM.

With the consent of Verus Claims Services LLC (“**Verus**”) and Certain Matching Claimants (“**Claimants**”), we write to respectfully request an adjournment of tomorrow’s scheduled hearing to allow the parties time to discuss a potential resolution of the Motion to Transfer. We contacted the Debtors’ counsel on Monday morning to make an offer of settlement but have not yet received a response or scheduled a meet and confer. A recent decision in another matter involving the same Debtors in North Carolina has presented what the Trusts, Verus, and Claimants believe to be a reasonable path forward and our settlement proposal was based on that decision. Accordingly, we respectfully seek to adjourn tomorrow’s scheduled hearing so that the parties may pursue settlement discussions.

We thank the Court for its time and consideration.

Respectfully submitted,

s/ Lynda A. Bennett

Lynda A. Bennett, Esq.

cc: All Counsel of Record (via ECF and email)

¹ The eight trusts are: (i) ACandS Asbestos Settlement Trust; (ii) Combustion Engineering 524(g) Asbestos PI Trust; (iii) G-I Holdings Inc. Asbestos Personal Injury Settlement Trust; (iv) GST Settlement Facility; (v) Kaiser Aluminum & Chemical Corporation Asbestos Personal Injury Trust; (vi) Quigley Company, Inc. Asbestos PI Trust; (vii) T H Agriculture & Nutrition, L.L.C. Asbestos Personal Injury Trust; and (viii) Yarway Asbestos Personal Injury Trust.

WOLLMUTH MAHER & DEUTSCH LLP

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December 20, 2022

Via ECF

Honorable Michael A. Shipp
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402 East State Street
Courtroom 5W
Trenton, NJ 08608

Honorable Tonianne J. Bongiovanni
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Courtroom 6E
Trenton, NJ 08608

**Re: AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al.,
Case No. 22-05116-MAS-TJB**

Dear Judges Shipp and Bongiovanni:

We represent Aldrich Pump LLC and Murray Boiler LLC, the movants on the pending Motion to Transfer (Dkt. 20). We write concerning the letter filed by Ms. Bennett on behalf of the Trusts¹ earlier this morning (Dkt 46). These subpoenas were served by our clients in July 2022, and our clients are anxious to reach resolution on the various motions concerning the subpoena, including the Motion to Transfer. Just after noon yesterday, we received an offer to resolve the Motion to Transfer from Ms. Bennett, and we have responded to that offer. We are hopeful the parties can reach a resolution before tomorrow's hearing.

However, if the parties do not, we would like to obtain some resolution of these issues. These subpoenas are now five months old and the various motions concerning those subpoenas have been fully briefed for over two months. As we indicated previously, our clients are agreeable to the Court ruling on the Motion to Transfer on the papers, and dispensing with oral argument (Verus, the Trusts and the Claimants, the opponents of the Motion to Transfer, requested oral argument). If the parties cannot reach a consensual resolution to the Motion to Transfer, we

¹ The "Trusts" are, collectively, AC&S Asbestos Trust, Combustion Engineering 524(g) Asbestos PI Trust, G-I Holdings Inc. Asbestos Personal Injury Settlement Trust, GST Settlement Facility, Kaiser Aluminum & Chemical Corp. Asbestos Personal Injury Trust, Quigley Asbestos Trust, THAN Asbestos Personal Injury Trust, and Yarway Asbestos Personal Injury Trust.

believe that oral argument should move forward, as scheduled, tomorrow morning. What we oppose is any further delay.

Please do not hesitate to contact me should you have any questions. We thank the Court for its consideration of this matter.

Respectfully submitted,

/s/ Paul R. DeFilippo

Paul R. DeFilippo

cc: Counsel of Record (via ECF)