

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

**ARMSTRONG WORLD INDUSTRIES,
INC. ASBESTOS PERSONAL INJURY
SETTLEMENT TRUST *et al.***

Plaintiffs,

v.

ALDRICH PUMP LLC, *et al.*

Defendants.

In re:

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Miscellaneous Proceeding

No. 22-00303 (JCW)

(Transferred from District of Delaware)

Chapter 11

Case No. 20-30608

**THIRD PARTY ASBESTOS TRUSTS’ MOTION FOR ADJOURNMENT AND
RELATED RELIEF**

On March 9, 2023, Aldrich Pump LLC and Murray Boiler LLC (together, the “**Debtors**”) filed a Motion for Rehearing Concerning the Issue of Sampling on DCPF’s Subpoena-Related Motions (the “**Motion**”). (Dkt. No. 54.) A hearing on the Motion is scheduled for Thursday, March 30th at 9:30 AM.

The eight third-party asbestos settlement trusts identified below² (collectively, the “**Verus Trusts**”), by and through undersigned counsel, hereby move the court for an order adjourning the hearing scheduled for March 30, 2023, and for an order directing the Debtors to

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.

² 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.



set forth their reasoning if they wish to bind the Verus Trusts to the outcome of their Motion. The Verus Trusts are parties in the associated matter of *AC&S Asbestos Settlement Trust v. Aldrich Pump LLC* (the “**Trust Matter**”) (Case No. 23-00300) but were not named, or otherwise identified, in the Motion.

The Verus Trusts move to intervene in this matter under Fed. R. Civ. P. 24 to the extent that the Debtors continue to take the position that the Verus Trusts should be, or will be, bound by the outcome of the Motion. Due process demands that the Verus Trusts be given an opportunity to be heard after the Debtors articulate the basis for their position that the Verus Trusts can be bound by a motion in which it is not named or otherwise involved.

BACKGROUND

1. The Trust Matter originated in the District of New Jersey but was transferred to this Court. (Declaration of Lynda A. Bennett, Esq., (hereinafter “**Bennett Decl.**”), Exhibit A at 3.) Before the case was transferred to this Court, the Debtors served subpoenas (the “**Trust Subpoenas**”) on Verus Claims Services, LLC (“**Verus**”), the claims processing service for the Verus Trusts. (*Id.* at 1.) The Trust Subpoenas sought discovery of thousands of confidential asbestos claims submitted to the Verus Trusts. Shortly thereafter, the Verus Trusts moved to quash the Trust Subpoenas. (*Id.* at 2.) The Debtors then filed a motion to transfer the case to this Court, which the Verus Trusts opposed. (Trust Matter Dkt. No. 5.)

2. On November 30, 2022, this Court ruled on similar subpoenas issued to the Delaware Claims Processing Facility (the “**DCPF Subpoenas**”), finding that the Debtors would receive a 10% sampling of claimant information, not the full claimant dataset requested in the DCPF Subpoenas (the “**November Ruling**”). (Dkt. No. 35.) In that ruling, the Court expressed sensitivity to the disclosure of non-parties’ information and “adopt[ed] the 10 percent sampling.” (*Id.* at 76:12–17.)

3. With the motion to transfer pending before the District of New Jersey, the Verus Trusts, Verus, the Claimants' Counsel and the Debtors met and conferred about how to proceed with the Trust Subpoenas in light of the November Ruling, which appeared to address many of the concerns that the Verus Trusts had with respect to the burden associated with responding to the Trust Subpoenas and the Debtors' stated need for the information requested therein. In exchange for the Verus Trusts, Verus and the Matching Claimants consenting to the transfer of their pending New Jersey action to this Court, the Debtors represented that they would abide, and be bound, by the November Ruling as it related to sampling. On December 19, 2022, counsel for the Verus Trusts wrote to Debtors' counsel:

We will withdraw our opposition to your motion to transfer - eliminating the need for oral argument on Wednesday – according to the following terms: (1) all parties to the subpoenas at issue in this matter will be subject to the same 10 percent sampling requirement that Judge Whitley recently imposed in another matter involving your clients in North Carolina[.]

(Bennett Decl. Ex B at 5.)

4. Debtors' counsel agreed to this offer and responded:

In regard to the subpoenas at issue in the New Jersey matter, the Trusts, Verus, and Claimants on the one hand, and the Aldrich/Murray Debtors on the other hand, will agree that any production pursuant to said subpoenas will be made consistent with whatever rulings Judge Whitley has made or makes in regard to the terms of compliance/production associated with our virtually identical subpoenas on DCPF and its member Trusts[.]

(*Id.* at 4.)

5. The Verus Trusts understood that—except for the sampling issue—the specifics of the production were yet to be decided by this Court, but the Debtors expressly agreed that the production of information for the Trust Subpoenas would be made pursuant to “whatever rulings [this Court] *has made* or makes.” (*Id.*) Based on the Debtors' representations and

acceptance of the Court's 10% sampling determination, the Verus Trusts consented to the transfer of the action from New Jersey to this Court. (Bennett Decl. Ex. A at 3.)

6. As part of the negotiations, the Debtors also expressly agreed that the Verus Trusts would have the right to participate in future proceedings that affected the Trust Subpoenas. On December 20, 2022, counsel for the Debtors wrote:

we agree that the Trusts, Verus and the Claimants shall have the right to be included in ongoing discussions with DCPF and others involving those topics, and we agree that the Trusts, Verus, and Claimants shall have the right to appear and participate in any further hearings, litigation, or other court proceedings before Judge Whitley on the terms of compliance/production (including the terms of any sample) for the subpoena served on DCPF and its member Trusts.

(Bennett Decl. Ex. B at 2.)

7. On February 10, 2023, Debtors counsel emailed counsel for the Verus Trusts and other parties, stating for the first time that they were *considering* moving the court for a reconsideration of its November Ruling but had not committed to making any such motion. (Bennett Decl. Ex. C at 1.) In this email, counsel for debtors characterized the motions to quash the Trust Subpoenas as being “fully briefed.” (*Id.*)

8. On February 14, 2023, the Debtors informed the Court of their *intention* to move for reconsideration of the Court's prior ruling on the 10% sampling issue. (Bennett Decl. Ex. D at 23:24–24:8.) At that hearing, which counsel for the Verus Trusts was not present at,³ the Court asked Debtors' counsel how this motion for reconsideration would impact the pending Verus matters. The Court stated it “thought there was a consent order entered in New Jersey that basically said these motions would stand or fall based on the way that they had been

³ The Verus Trusts did not engage local counsel or otherwise appear for that motion because they understood, notwithstanding the February 10 email from Debtors' counsel, that the Debtors and Claimants' counsel were actively negotiating a resolution for the Subpoenas that would include a 10% sample and agreed upon datafields. Given that the Verus Trusts – non-parties to this action – already had incurred substantial legal fees in connection with the Trust Subpoenas, they hoped that additional costs could be avoided and an agreed upon resolution would be achieved.

handled in the earlier DCPF hearing.” (*Id.* at 30:20–23.) Debtors counsel stated: “And, and that is that I, *I’m not sure*. We have that -- that’s our view. *I’m not sure that Verus agrees* because *they’ve . . . continued to be sure that they could reserve all of their rights.*” (*Id.* at 31:3–9.) (emphasis added.)

9. At the hearing, the Debtors also represented that the Verus Trusts’ motions to quash were already on file and asked the Court if it wanted to rule on those motions “on the papers.” (*Id.* at 30:12–17.)

10. At the close of the hearing, the Court expressed a willingness to allow the Verus Trusts to have an opportunity to be fully heard on the issue:

One of the -- as to the, having heard this several times before, I have, but at the same time one of the things you learn quickly in this job is that the arguments you may be hearing in a case one day, it may have been the 20th time you've heard it, but for the lawyers arguing it is not and Verus is new to this game. So we'll, we'll give them a, a full listening to at that event and I'll try to keep an open mind based on where we are as opposed to where we've been, okay?

(*Id.* at 33:15–23.)

11. As a result of the hearing, the Court set a March 9, 2023 deadline for the Debtors to file whatever motion(s) they wanted to address the sampling issue. The Debtors chose to file the Motion only with respect to the DCPF Subpoenas, not the Trust Subpoenas served on Verus.

12. On March 16, 2023, the Verus Trusts sent the Debtors a letter seeking confirmation that “regardless of Judge Whitley’s determination on the pending Motion, that the Debtors will honor their commitment to the 10% sampling limitation in connection with the Verus Trust Subpoenas.” (Bennett Decl. Ex. E.)

13. The next day, the Debtors responded to the Verus Trusts’ letter. (Bennett Decl. Ex. F.) Despite having expressly agreed just months earlier to be bound by the 10% sampling

limitation, the Debtors’ counsel—confoundingly—represented that there was “no such agreement.” (*Id.* at 2–3.) Counsel for the Verus Trusts replied and asserted that the same email thread Debtors were relying on to argue that there was “no such deal” with respect to the 10% sampling issue, showed that the Verus Trusts had made the sampling issue an express condition of the agreement the Debtors accepted. (*Id.* at 2; Bennett Decl. Ex. B at 5.)

14. On March 20, 2023, Debtors replied and refused to consent to an adjournment of the March 30 Hearing. (Bennett Decl. Ex. F at 1.) Debtors simply reiterated their incorrect understanding of the parties’ transfer agreement and asserted that they would “stand by that agreement.” (*Id.* at 1.) Debtors also acknowledged that they previously agreed to allow the Verus Trusts to participate “in any further hearings, litigation, or other court proceedings” that affected the Trust Subpoenas. (*Id.* at 1.) The Debtors did not, however, explain why they did not notice the Verus Trusts or name them in the Motion. While the Debtors stated they anticipated that the Verus Trusts would participate in the March 30 Hearing, “including being heard on the issues raised by the Debtors’ Motion for Rehearing,” the Verus Trusts have nothing to respond to since the Motion does not address the Trust Subpoenas in any respect nor does it address the fact that the Verus Trusts detrimentally relied on the Debtors’ representation that the subpoenas would be resolved through a production that would include a 10% sample dataset, and not all claimant records as the subpoenas demanded. (*Id.*) The Debtors’ representation to include the Verus Trusts in matters affecting their interest rings hollow. This is a problem of the Debtors’ own making, which stemmed from their intentional and strategic decision not to include the Verus Trusts within the scope of the Motion. This is not how due process works and it does not honor the letter or spirit of the agreement previously reached between the parties.

15. Now that the Debtors have confirmed that they do not intend to honor the 10% sampling agreement that the Verus Trusts detrimentally relied upon when they consented to a transfer to this Court, the Verus Trusts must file this motion seeking a brief adjournment so that Debtors can state their positions in relation to the Trust Subpoenas and the Verus Trusts can have a reasonable opportunity to respond and be heard on the issues related to the Motion.⁴

ARGUMENT

A. Intervention is Proper Under Rule 24.

16. A party may intervene in an action as of right when that party has an interest in the “transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest unless the applicant's interest is adequately represented by existing parties.” Fed. R. Civ. P. 24(a). Intervention as of right is proper here. The Debtors have taken the position that the Verus Trusts “will be bound by whatever terms of production Judge Whitley orders in regard to the DCPF subpoena.” (Bennett Decl. Ex. F at 3.) Yet, although acknowledging their prior agreement to allow the Verus Trusts to participate in future “hearings, litigation, or other court proceedings,” they did not serve the Verus Trusts with, or name them, in the Motion. (*Id.* at 1.) The Debtors have not explained why the Verus Trusts should be treated the same as the DCPF Trusts, especially given the different circumstances under which the Verus Trusts and the Trust Subpoenas have come before this Court.

17. If the Court concludes that intervention as of right is not proper, it should nevertheless allow permissive intervention. A court may grant permissive intervention when a party “has a claim or defense that shares with the main action a common question of law or fact.” Fed. R. Civ. P. 24(b). The Debtors represented as much during the February 14 Hearing,

⁴ The Verus Trusts reserve all rights to participate in and argue the merits of any action that may affect their interests after the Debtors disclose the basis for their positions.

in which counsel stated that the Verus Trusts' motions were "highly similar" to the ones related to the DCPF Subpoenas. And further, the Debtors have taken the position that the Verus Trusts will be bound by this Court's ruling on the rehearing. (*See* Bennett Decl. Ex. D at 25:11–14.) Permissive intervention should be granted to allow the Verus Trusts the opportunity to protect their interests.

B. This Court Should Reject Debtors' Attempt to Deny the Verus Trusts an Opportunity to Be Heard.

18. "The essential requirements of procedural due process are notice and an opportunity to be heard." *In re Mileski*, 416 B.R. 210, 220 (Bankr. W.D.N.C. 2009) (quoting *Rosenfield v. Wilkins*, 280 Fed. Appx. 275, 283–84 (4th Cir. 2008)). Having received no notice that the Debtors would move to renege on their agreement to abide by this Court's ruling on the 10% sampling issue with respect to the Trust Subpoenas, and having detrimentally relied on the Debtors' representation that the 10% sampling issue had been decided, a brief adjournment and an order directing the Debtors to disclose their reasons for seeking to bind the Verus Trusts to the outcome of the Motion is required to allow the Verus Trusts the time and ability to respond appropriately.

19. This Court should reject the Debtors' plan to bind the Verus Trusts to the outcome of a Motion to which they are not a party. It is unclear to the Verus Trusts why—after a deal had been made in New Jersey—the Debtors are now seeking to renege on that agreement. What is clear is that the Verus Trusts reasonably relied, to their detriment, on the Debtors' representation that a deal was in place with respect to the 10% sampling issue. While the Debtors said that the Verus Trusts would have the right to participate in the proceedings that would impact the Trust Subpoenas, (*See* Bennett Decl. Ex. B at 2), their actions show otherwise. The Debtors did not serve the Verus Trusts with the Motion nor do they make *any*

reference to the Trust Subpoenas or the Verus Trusts in the Motion. Basic fairness and due process do not permit the Debtors to proceed in this manner.

20. Further, the Debtors' position that the Verus Trusts' motions to quash the Trust Subpoenas are "fully briefed" and thus require no further argument strains credulity. (Bennett Decl. Ex. C.) The motions were "fully briefed" when a far different set of facts existed. Since then, the Verus Trusts have detrimentally relied on Debtors' representations that the 10% sampling issue had been decided. The record is not, and cannot be deemed, complete until the Debtors disclose their reasons for renegeing on the agreement previously reached with the Verus Trusts and those trusts are provided with the opportunity to respond and be heard on the sampling issue that is going to be addressed in the Motion.

CONCLUSION

21. For the foregoing reasons, the Verus Trusts respectfully request that this Court enter an order briefly adjourning the March 30 Hearing while the Debtors and the Verus Trusts supplement the record with respect to the Trust Subpoenas. This will ensure that the Verus Trusts have a full and fair opportunity to be heard before the Motion is decided.

Dated: Charlotte, North Carolina
March 21, 2023

MOON WRIGHT & HOUSTON, PLLC

/s/ Andrew T. Houston

Andrew T. Houston (NC Bar No. 36208)
212 N. McDowell Street, Suite 200
Charlotte, NC 28204
Telephone: main 704.944.6560
ahouston@mwhattorneys.com

-and-

Lynda A. Bennett, Esq. (to apply for admission Pro
Hac Vice)

LOWENSTEIN SANDLER LLP

One Lowenstein Drive

Roseland, NJ 07068

973.597.2500

lbennett@lowenstein.com

Attorneys for the Verus Trusts

Exhibit A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

<p>ARMSTRONG WORLD INDUSTRIES, INC. ASBESTOS PERSONAL INJURY SETTLEMENT TRUST <i>et al.</i></p> <p>Plaintiffs,</p> <p>v.</p> <p>ALDRICH PUMP LLC, <i>et al.</i></p> <p>Defendants.</p>	<p>Miscellaneous Proceeding</p> <p>No. 22-00303 (JCW)</p> <p>(Transferred from District of Delaware)</p>
<p>In re:</p> <p>ALDRICH PUMP LLC, <i>et al.</i>,¹</p> <p>Debtors.</p>	<p>Chapter 11</p> <p>Case No. 20-30608</p>

DECLARATION OF LYNDA A. BENNETT

I, **Lynda A. Bennett, Esq.**, hereby declares under penalty of perjury:

1. I am a Partner at the law firm Lowenstein Sandler LLP, and counsel for the eight third-party asbestos settlement trusts identified below² (collectively, the “Verus Trusts”).
2. Attached hereto as **Exhibit A** is a true and correct copy of the Consent Order transferring this matter from the District of New Jersey to the Western District of North Carolina, dated January 4, 2023.

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.

² 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.

3. Attached hereto as **Exhibit B** is a true and correct copy of email communications between the Verus Trusts and Debtors regarding the transfer of this case to the Western District of North Carolina, dated December 19–20, 2022.

4. Attached hereto as **Exhibit C** is a true and correct copy of an email from Debtors counsel to counsel for the Verus Trusts and other parties, dated February 10, 2023.

5. Attached hereto as **Exhibit D** are true and correct excerpts from the transcript of the February 14, 2023 hearing in *In re Aldrich Pump LLC*, No. 20-30608 (JCW) (Bankr. W.D.N.C.) and *Armstrong World Industries, Inc. Asbestos Personal Injury Settlement Trust v. Aldrich Pump LLC*, Misc. No. 22-00303 (JCW) (Bankr W.D.N.C.).

6. Attached hereto as **Exhibit E** is a true and correct copy of a letter from counsel for the Verus Trusts to Debtors' counsel, dated March 16, 2023.

7. Attached hereto as **Exhibit F** is a true and correct copy of email communications between counsel for the Verus Trusts and counsel for the Debtors, dated March 16–20, 2023.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the forgoing is true and correct to the best of my knowledge and belief.

Dated: March 21, 2023

s/ Lynda A. Bennett
Lynda A. Bennett, Esq.

EXHIBIT A

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

IN RE:

ALDRICH PUMP LLC, *et al.*,

Debtor.

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,

NON-PARTY CERTAIN MATCHING
CLAIMANTS,

Interested Party.

Chapter 11

Underlying Case No.: 20-30608

(JCW)

(United States Bankruptcy Court
for the Western District of North
Carolina)

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

Honorable Michael A. Shipp

Honorable Tonianne J.
Bongiovanni

**CONSENT ORDER REGARDING RESPONDENTS
ALDRICH PUMP LLC AND MURRAY BOILER LLC’S
MOTION TO TRANSFER SUBPOENA-RELATED MOTIONS TO
THE ISSUING COURT, THE UNITED STATES BANKRUPTCY
COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

WHEREAS, on July 5, 2022, Aldrich Pump LLC and Murray Boiler LLC (together, “Respondents”) served subpoenas (the “Subpoenas”) to produce documents on each of the Trusts¹ and Verus Claims Services, LLC (“Verus”);

WHEREAS, on August 19, 2022, the Trusts initiated this action by filing a motion to quash the Subpoenas and stay [Dkt. No. 1] (the “Trusts’ Motion to Quash”);

WHEREAS, on August 19, 2022, Verus filed a motion to quash Subpoena and stay [Dkt. No. 5] (the “Verus Motion to Quash”);

WHEREAS, on September 2, 2022, Non-Party Certain Matching Claimants (“Matching Claimants”) filed a motion to quash or modify the Subpoenas and joinder [Dkt. No. 13] (the “Matching Claimants’ Motion to Quash” and together with the Trusts’ Motion to Quash and the Verus Motion to Quash, the “Motions to Quash”);

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.

WHEREAS, on September 2, 2022, Matching Claimants filed a motion to proceed anonymously [Dkt. No. 14] (the “Motion to Proceed Anonymously”);

WHEREAS, on September 9, 2022, Respondents filed a motion to transfer the Motions to Quash and Motion to Proceed Anonymously to the United States Bankruptcy Court for the Western District of North Carolina [Dkt. No. 20] (the “Motion to Transfer”);

WHEREAS, counsel for the Respondents, Trusts, Verus, and Matching Claimants having conferred and reached certain agreements governing the terms of transfer of all matters currently pending before this Court, including all parties mutually reserving all rights with respect to the pending Motions to Quash referenced above and the Motion to Proceed Anonymously, except to the extent set forth herein; and

NOW, THEREFORE, with the consent of the parties and the Court having found that good cause exists for the entry of this Order;

IT IS, on this 4th day of January, 2023, ORDERED, that

1. Pursuant to Federal Rule of Civil Procedure 45(f), the Motion to Transfer is granted on consent of all parties, and the Motions to Quash and Motion to Proceed Anonymously are hereby transferred to the United States Bankruptcy Court for the Western District of North Carolina, Honorable J. Craig Whitley, for further proceedings.

2. The Respondents, Trusts, Verus, and Matching Claimants agree that any production pursuant to the Subpoenas will be made consistent with any rulings the Honorable J. Craig Whitley has made or makes regarding the terms of compliance and/or production associated with the similar subpoenas issued by Respondents to Delaware Claims Processing Facility and its member trusts in the underlying action pending in the United States Bankruptcy Court for the Western District of North Carolina.

3. Upon transfer, this case shall be closed.

4. A copy of this Consent Order shall be served on the parties of record via the Court's CM/ECF system.

s/Tonianne J. Bongiovanni

Hon. Tonianne J. Bongiovanni
United States Magistrate Judge

[Docket Entry No. 20 is terminated].

The parties hereby consent to the form and entry of the within Order:

Dated: Bedminster, New Jersey
January 4, 2023

**WOLLMUTH MAHER &
DEUTSCH LLP**

By: /s/ Paul R. DeFilippo

Paul R. DeFilippo
Joseph F. Pacelli
90 Washington Valley Road
Bedminster, NJ 07921
Telephone: (973) 733-9200
pdefilippo@wmd-law.com
jpacelli@wmd-law.com

JONES DAY
Brad B. Erens
Morgan R. Hirst
Caitlin K. Cahow
110 North Wacker Drive, Suite 4800
Chicago, IL 60606
Telephone: (312) 782-3939
Facsimile: (312) 782-8585
bberens@jonesday.com
mhirst@jonesday.com
ccahow@jonesday.com

EVERT WEATHERSBY HOUFF
C. Michael Evert, Jr.
3455 Peachtree Road NE, Suite 1550
Atlanta, GA 30326
Telephone: (678) 651-1200
CMEvert@ewhlaw.com

(Admitted *pro hac vice*)

*Attorneys for Aldrich Pump LLC and
Murray Boiler LLC*

LOWENSTEIN SANDLER LLP

By: /s/ Lynda A. Bennett

Lynda A. Bennett
Michael A. Kaplan
Rachel M. Dikovics
One Lowenstein Drive
Roseland, New Jersey 07068
Telephone: (973) 597-2500
lbennett@lowenstein.com
mkaplan@lowenstein.com
rdikovics@lowenstein.com

Attorneys for the Trusts

ANSEMI & CARVELLI, LLP

By: /s/ Andrew E. Anselmi

Andrew E. Anselmi
56 Headquarters Plaza
West Tower, Fifth Floor
Morristown, NJ 07960
Telephone: (973) 635-6300
AAnselmi@acllp.com

*Attorneys for Verus Claim Services,
LLC*

STARK & STARK, PC

By: /s/ Joseph H. Lemkin

Timothy P. Duggan
Joseph H. Lemkin
993 Lenox Drive, Bldg. 2
Lawrenceville, NJ 08648
Telephone: 609-895-7353
tduggan@stark-stark.com
jlemkin@stark-stark.com

*Attorneys for Non-Party Certain
Matching Claimants*

EXHIBIT B

Velez, Nicholas

From: C. Michael Evert, Jr. <CMEvert@ewhlaw.com>
Sent: Tuesday, December 20, 2022 3:55 PM
To: Bennett, Lynda A.; Hirst, Morgan R.; Pacelli, Joseph F.; Andrew Anselmi; Zachary D. Wellbrock; Timothy P. Duggan; Joseph H. Lemkin; Erens, Brad B.; Seiden, Mark R.; Hart, Robert F.; DeFilippo, Paul
Cc: Kaplan, Michael A.; Dikovics, Rachel
Subject: RE: [External]AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al., Case No. 22-05116-MAS-TJB

Lynda:

Apologies that you found my original response repetitive, but I'm glad Morgan was able to provide the necessary clarification.

Unless you tell us that we need to wait for counsel for Verus and the Claimants to reconfirm their consent, we will notify the Court that there is no need for the hearing tomorrow and will provide a draft Order of Transfer for your review in the near term.

Happy Holidays.

Michael



C. Michael Evert, Jr.
Attorney at Law
Evert | Weathersby | Houff
3455 Peachtree Road NE, Suite 1550 | Atlanta | GA | 30326
o: 678.651.1200 | f: 678.651.1201 | d: 678.651.1250
✉ CMEvert@ewhlaw.com | 🌐 www.ewhlaw.com

From: Bennett, Lynda A. <LBennett@lowenstein.com>
Sent: Tuesday, December 20, 2022 3:17 PM
To: Hirst, Morgan R. <mhirst@JonesDay.com>; C. Michael Evert, Jr. <CMEvert@ewhlaw.com>; Pacelli, Joseph F. <JPacelli@WMD-LAW.com>; Andrew Anselmi <AAnselmi@acllp.com>; Zachary D. Wellbrock <zwellbrock@acllp.com>; Timothy P. Duggan <tduggan@stark-stark.com>; Joseph H. Lemkin <jlemkin@stark-stark.com>; Erens, Brad B. <bberens@JonesDay.com>; Seiden, Mark R. <mrseiden@JonesDay.com>; Hart, Robert F. <rhart@jonesday.com>; DeFilippo, Paul <PDefilippo@wmd-law.com>
Cc: Kaplan, Michael A. <MKaplan@lowenstein.com>; Dikovics, Rachel <rdikovics@lowenstein.com>
Subject: RE: [External]AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al., Case No. 22-05116-MAS-TJB

Settlement Communication Subject to Fed. R. E. 408

Thank you Morgan. We are saying the same thing. We are aware that no determination has been made yet with respect to how the sampling will be performed and that there are other logistics to be ironed out with respect to the production. The Trusts, Verus and Claimants expect to be included in those ongoing discussions and then will abide by

the outcome of the proceeding in North Carolina. We also understand that Debtors, the Trusts, Verus and Claimants mutually reserve rights with respect to all open and unresolved issues.

You can provide us with a draft order to review.

Thank you,

Lynda

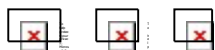
Lynda A. Bennett

Chair, Insurance Recovery Practice
Lowenstein Sandler LLP

T: 973.597.6338

M: 908.693.1704

F: 973.597.6339



From: Hirst, Morgan R. <mhirst@JonesDay.com>

Sent: Tuesday, December 20, 2022 1:05 PM

To: Bennett, Lynda A. <LBennett@lowenstein.com>; C. Michael Evert, Jr. <CMEvert@ewhlaw.com>; Pacelli, Joseph F. <JPacelli@WMD-LAW.com>; Andrew Anselmi <AAnselmi@acllp.com>; Zachary D. Wellbrock <zwellbrock@acllp.com>; Timothy P. Duggan <tduggan@stark-stark.com>; Joseph H. Lemkin <jlemkin@stark-stark.com>; Erens, Brad B. <bberens@JonesDay.com>; Seiden, Mark R. <mrseiden@JonesDay.com>; Hart, Robert F. <rhart@jonesday.com>; DeFilippo, Paul <PDefilippo@wmd-law.com>

Cc: Kaplan, Michael A. <MKaplan@lowenstein.com>; Dikovics, Rachel <rdikovics@lowenstein.com>

Subject: RE: [External]AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al., Case No. 22-05116-MAS-TJB

Subject to FRE 408

Lynda:

Thank for your note- Michael is tied up for a couple hours, but we did want to respond. We do see our proposal as different than the one you provided yesterday and want to ensure there is no confusion before the parties agree to resolve the transfer motion.

To be clear, no sample or other production specifics has yet been agreed with regard to the DCPF subpoena- the parties have been ordered to meet and confer on that topic by Judge Whitley, and those discussions are just commencing. Our proposal is that Verus and the Trusts (with the Matching Claimants' agreement) will, in responding to the Subpoenas, abide by the same production specifics (including the terms of any sample) ultimately ordered by Judge Whitley concerning the DCPF subpoenas. As noted in Michael's email, we agree that the Trusts, Verus and the Claimants shall have the right to be included in ongoing discussions with DCPF and others involving those topics, and we agree that the Trusts, Verus, and Claimants shall have the right to appear and participate in any further hearings, litigation, or other court proceedings before Judge Whitley on the terms of compliance/production (including the terms of any sample) for the subpoena served on DCPF and its member Trusts.

Assuming what we have written above is consistent with Verus, the Trusts, and the Matching Claimants own understanding of the proposal, then we have an agreement. In that event, we will let Judge Bongiovanni's chambers know that tomorrow's hearing can be adjourned and will draft the order transferring that matters. Please let us know.

Morgan R. Hirst
Partner
[JONES DAY® - One Firm WorldwideSM](#)
110 North Wacker Drive
Suite 4800
Chicago, Illinois 60606
Office +1.312.269.1535
Mobile +1.773.490.2039
mhirst@jonesday.com

From: Bennett, Lynda A. <LBennett@lowenstein.com>
Sent: Tuesday, December 20, 2022 11:16 AM
To: C. Michael Evert, Jr. <CMEver@ewhlaw.com>; Pacelli, Joseph F. <JPacelli@WMD-LAW.com>; Andrew Anselmi <AAnselmi@aclp.com>; Zachary D. Wellbrock <zwellbrock@aclp.com>; Timothy P. Duggan <tduggan@stark-stark.com>; Joseph H. Lemkin <jlemkin@stark-stark.com>; Erens, Brad B. <bberens@JonesDay.com>; Seiden, Mark R. <mrseiden@JonesDay.com>; Hart, Robert F. <rhart@jonesday.com>; Hirst, Morgan R. <mhirst@JonesDay.com>; DeFilippo, Paul <PDefilippo@wmd-law.com>
Cc: Kaplan, Michael A. <MKaplan@lowenstein.com>; Dikovics, Rachel <rdikovics@lowenstein.com>
Subject: RE: [External]AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al., Case No. 22-05116-MAS-TJB

**** External mail ****

Settlement Communication Subject to Fed. R. E. 408

Michael,

Thank you for repeating my proposal back to me. The Trusts are prepared to proceed in that manner. I would ask that counsel for Verus and the Claimant reconfirm their consent and then we will contact the Court to advise that no argument is necessary for tomorrow and we will prepare and circulate an Order that confirms the terms and conditions of the agreed upon transfer.

Best regards,

Lynda

Lynda A. Bennett
Chair, Insurance Recovery Practice
Lowenstein Sandler LLP

T: 973.597.6338
M: 908.693.1704
F: 973.597.6339



From: C. Michael Evert, Jr. <CMEvent@ewhlaw.com>

Sent: Tuesday, December 20, 2022 11:09 AM

To: Bennett, Lynda A. <LBennett@lowenstein.com>; Pacelli, Joseph F. <JPacelli@WMD-LAW.com>; Andrew Anselmi <AAnselmi@acllp.com>; Zachary D. Wellbrock <zwellbrock@acllp.com>; Timothy P. Duggan <tduggan@stark-stark.com>; Joseph H. Lemkin <jlemkin@stark-stark.com>; Erens, Brad B. <bberens@JonesDay.com>; Seiden, Mark R. <mrseiden@JonesDay.com>; Hart, Robert F. <rhart@jonesday.com>; Hirst, Morgan R. <mhirst@JonesDay.com>; DeFilippo, Paul <PDefilippo@wmd-law.com>

Cc: Kaplan, Michael A. <MKaplan@lowenstein.com>; Dikovics, Rachel <rdikovics@lowenstein.com>

Subject: RE: [External]AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al., Case No. 22-05116-MAS-TJB

Lynda:

Please consider this a response to your e-mail of below, likewise subject to FRE 408.

As the Aldrich/Murray Debtors expressed in their motion to transfer, we believe that judicial economy, among other factors, strongly favors transfer in this instance. We were prepared to have the Judge rule on the motion to transfer without oral argument, so it should be no surprise that we would like to avoid the time and expense of the oral argument on Wednesday. We would think that the Trusts and claimants would similarly like to avoid that time and expense, as well as the time and expense associated with further litigation of our discovery. To that end, should you withdraw your opposition to the motion to transfer and obviate the need for oral argument this Wednesday, we would agree to the following:

1. In regard to the subpoenas at issue in the New Jersey matter, the Trusts, Verus, and Claimants on the one hand, and the Aldrich/Murray Debtors on the other hand, will agree that any production pursuant to said subpoenas will be made consistent with whatever rulings Judge Whitley has made or makes in regard to the terms of compliance/production associated with our virtually identical subpoenas on DCPF and its member Trusts;
2. The Trusts, Verus, and Claimants will be included in ongoing discussions with DCPF and others seeking to reach agreement on the terms of compliance/production regarding the subpoena served on DCPF and its member Trusts (including, but not limited to, discussions regarding any sampling methodology associated with that production); and
3. The Trusts, Verus, and Claimants shall have the right to appear and participate in any further hearings, litigation, or other court proceedings before Judge Whitley on the terms of compliance/production for the subpoena served on DCPF and its member Trusts.

We are glad to meet and confer later today if that would be helpful. However, given the delay that has already occurred in this matter, we believe the hearing on Wednesday should go forward if we are unable to reach some agreement before then.

Regards,

Michael



C. Michael Evert, Jr.

Attorney at Law

Evert | Weathersby | Houff

3455 Peachtree Road NE, Suite 1550 | Atlanta | GA | 30326

o: 678.651.1200 | f: 678.651.1201 | d: 678.651.1250

✉ CMEvent@ewhlaw.com | 🌐 www.ewhlaw.com

From: Bennett, Lynda A. <LBennett@lowenstein.com>
Sent: Monday, December 19, 2022 12:26 PM
To: Pacelli, Joseph F. <JPacelli@WMD-LAW.com>; Andrew Anselmi <AAnselmi@acllp.com>; Zachary D. Wellbrock <zwellbrock@acllp.com>; Timothy P. Duggan <tduggan@stark-stark.com>; Joseph H. Lemkin <jlemkin@stark-stark.com>; Erens, Brad B. <bberens@JonesDay.com>; Seiden, Mark R. <mrseiden@JonesDay.com>; Hart, Robert F. <rhart@jonesday.com>; Hirst, Morgan R. <mhirst@JonesDay.com>; C. Michael Evert, Jr. <CMEvent@ewhlaw.com>; DeFilippo, Paul <PDefilippo@wmd-law.com>
Cc: Kaplan, Michael A. <MKaplan@lowenstein.com>; Dikovics, Rachel <rdikovics@lowenstein.com>
Subject: [External]AC&S Asbestos Settlement Trust v. Aldrich Pump LLC, et al., Case No. 22-05116-MAS-TJB
Importance: High

Settlement Communication Subject to Fed. R. E. 408

Counsel:

I write on behalf of third-party asbestos trusts ACandS Asbestos Settlement Trust, Combustion Engineering 524(g) Asbestos PI Trust, G-I 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 Injury Trust, and Yarway Asbestos Personal Injury Trust (together, the “Trusts”), Verus Claims Services, LLC (“Verus”), and Certain Matching Claimants (“Claimants”) regarding your pending motion to transfer. As you know, oral argument on the motion is currently scheduled for this Wednesday at 11:00am.

The Trusts, Verus, and Claimants propose the following, **subject to FRE 408**. We will withdraw our opposition to your motion to transfer - eliminating the need for oral argument on Wednesday – according to the following terms: (1) all parties to the subpoenas at issue in this matter will be subject to the same 10 percent sampling requirement that Judge Whitley recently imposed in another matter involving your clients in North Carolina; (2) all parties will be included in ongoing discussions about how the 10 percent sample will be achieved (i.e., whether it is a random sample or a selected sample); and (3) the Trusts, Verus, and Claimants reserve their rights on the motion to quash in North Carolina, specifically as to pre-production anonymization of claimant data.

If the above meets with your approval, we will prepare a stipulation for your review and will provide notice to the court immediately. In light of the holidays and varying schedules, we are also happy to meet and confer at a mutually convenient time, and can contact the court to suspend the argument in the meantime.

Best regards,

Lynda

Lynda A. Bennett
Chair, Insurance Recovery Practice
Lowenstein Sandler LLP

T: 973.597.6338
M: 908.693.1704
F: 973.597.6339



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EXHIBIT C

Velez, Nicholas

From: Hirst, Morgan R. <mhirst@JonesDay.com>
Sent: Friday, February 10, 2023 11:33 AM
To: Guerke, Kevin A.; Ramsey, Natalie D.; Guy, Jonathan P.
Cc: moskowschnollb@ballardspahr.com; Burns, Tyler; dkhogan@dkhogan.com; bsullivan@sha-llc.com; Harron, Edwin; Wright, Davis L.; Kevin C. Maclay; Todd E. Phillips; Glenn C. Thompson; Robert A. Cox, Jr.; Felder, Debra L.; James Wehner; Enright, Michael; Erens, Brad B.; Cahow, Caitlin K.; Michael Evert (CMEvert@ewhlaw.com); Clare M. Maisano; C. Richard Rayburn, Jr.; Jack Miller; Dikovics, Rachel; Bennett, Lynda A.; Andrew Anselmi; Zachary D. Wellbrock; Timothy P. Duggan; Joseph H. Lemkin
Subject: RE: In re Aldrich Pump LLC et al (Case No. 20-30608)

Counsel:

Our negotiations with the ACC and FCR regarding sampling in the Aldrich/Murry bankruptcies are continuing. However, as the DCPF and Verus related parties have elected not to participate in those discussions, we wanted to make you aware of recent communication on the topic we have had with the ACC.

As we have made clear throughout, and as Mr. Evert told Judge Whitley multiple times during our last omnibus hearing on January 30, the Debtors disagree with the Court's oral ruling on November 30 ordering that the Debtors be limited to a ten percent sample on their subpoenas to DCPF and the associated trusts. After further discussion with our client, we are strongly considering seeking reconsideration of Judge Whitley's November 30 sampling ruling. We will make a decision one way or the other before our omnibus hearing next Tuesday. If we elect to seek reconsideration, we will so inform the Court at next Tuesday's omnibus hearing (which I should note is scheduled to begin at 1pm, not 9:30 as is our customary time) and file our motion in ample time to have it heard at the next omnibus hearing on March 30. For your information, the standing order in this bankruptcy provides that any such Motion would be due to be filed on March 9, with responses due on March 23. We will also ask the Court to order the parties to disclose by March 23 any witnesses they intend to have testify at the March 30 hearing to allow time for any necessary discovery.

In addition, to the extent Verus, its related trusts, and its related Matching Claimants seek to prosecute their Motions to Quash/Motions to Proceed Anonymously that have been transferred to Judge Whitley, we will ask the Court to set them for hearing for the same March 30 omnibus hearing. Those motions are fully briefed, but we will ask the Court to set a March 16 witness disclosure deadline to, again, allow time for any necessary discovery.

As noted, we have shared the above with the ACC and FCR (who are copied on this message) and wanted to keep you aware of the discussions. If you have questions, please let us know. Thanks, and have a good weekend.

Morgan R. Hirst
Partner
[JONES DAY® - One Firm WorldwideSM](#)
110 North Wacker Drive
Suite 4800
Chicago, Illinois 60606
Office +1.312.269.1535
Mobile +1.773.490.2039
mhirst@jonesday.com

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^[1] The original matching key sent to DCPF was already limited to a subset of claimants. While there are about 28,000 claimants with resolved mesothelioma claims in the Debtors' data, the original matching key was restricted to approximately 12,000 claimants—or about 40% of resolved mesothelioma claimants—by limiting to mesothelioma claims resolved through settlement or verdict, since 2005, and with a full SSN available. Therefore, a limitation to 10% of the 12,000 claimants originally sent to DCPF would actually correspond to a sample of only 4% of overall mesothelioma claimants.

EXHIBIT D

1 MR. EVERT: So obviously, whatever direction the Court
2 has to the clerk on that is, is, is fine with us, but that's, I
3 have no more status on No. 9.

4 THE COURT: Right.

5 MR. EVERT: As to Items No. 3 through 8, we, we
6 reached out to the Trusts to ascertain whether they wanted to
7 participate in our discussions with the ACC over sampling and
8 they indicated that they did not have any new proposals that
9 they wanted to raise and they wanted to follow discussions and,
10 and reserve all rights.

11 So although the -- so the Trusts have not been
12 involved in those discussions.

13 THE COURT: Uh-huh (indicating an affirmative
14 response).

15 MR. EVERT: And I -- and I -- I don't -- I don't know
16 how to characterize it beyond that other than there -- there
17 were --

18 THE COURT: Uh-huh (indicating an affirmative
19 response).

20 MR. EVERT: I, I don't know if they're communicating
21 with the ACC or not.

22 THE COURT: Uh-huh (indicating an affirmative
23 response).

24 MR. EVERT: As the, as the Court knows and as I
25 probably irritatingly made evident at our last hearing, we, we

1 disagree with the Court's ruling on, on sampling for the trust
2 discovery. We don't think it's appropriate. So we've, we've
3 continued to ponder it with our client, your Honor. And so
4 last Friday we, or Friday just a, Friday morning a few days
5 ago, we advised the ACC and the Trusts that our, our current
6 intention is to move for reconsideration of that particular
7 order. And I call it a motion for reconsideration. I guess
8 that's what it is. The Court --

9 THE COURT: Uh-huh (indicating an affirmative
10 response).

11 MR. EVERT: -- ruled orally. No order has been
12 entered. So --

13 THE COURT: Uh-huh (indicating an affirmative
14 response).

15 MR. EVERT: -- maybe we can talk about that in a
16 minute. But -- and, and obviously, I talked a little bit about
17 it at the last hearing and you don't want to hear it again. So
18 I'm not going to belabor where the, where the disagreement is.

19 But our intention would be to make that motion
20 according to the schedule for the March 30 hearing, which would
21 be filing the motion or whatever we call it and at the Court's
22 preference by March 9th. And we thought it important to, to
23 notify the ACC, in particular, that we were considering that
24 because obviously, we were in the midst of negotiations about a
25 sample and, and our goal, as we said at the time, has been to,

1 to try to hear the Court and try to work on sampling, although
2 we don't feel like it's appropriate in this particular
3 instance. And the ACC acknowledged that, that we'd let them
4 know and said they certainly reserve their right to oppose and
5 would oppose, in all likelihood, any, any motion for
6 reconsideration.

7 Now technically, and, and sort of going back to the
8 agenda, there are a number of New Jersey matters, which you'll
9 see starting at No. 6, that relate to Verus --

10 THE COURT: Right.

11 MR. EVERT: -- that are still pending, motions to
12 quash and related. And of course, these are highly similar
13 motions to quash that the Court heard and, and has already
14 heard in Items 3 through 5, which are the --

15 THE COURT: Uh-huh (indicating an affirmative
16 response).

17 MR. EVERT: -- DCPF motions.

18 So we're talking about two different trust -- and I
19 know the Court knows this, but just to be clear -- we're
20 talking about two different trust claims facilities' highly
21 similar motions, one of which the Court has tentatively ruled
22 on or orally ruled on, I should say, denying the motion to
23 quash, but granting, with the exception of granting the 10
24 percent sample.

25 THE COURT: Uh-huh (indicating an affirmative

1 Is there no one else at your firm who could handle
2 the, the argument or Mr. Parrish, either one?

3 MR. GUERKE: I don't think so, your Honor, but I'd be,
4 be happy to look into it.

5 THE COURT: Okay.

6 Well, the, the problems we run into, folks, in these
7 cases are that there's so many of you and so many attorneys
8 working on the files that if we start picking out and changing
9 hearing dates based on one person, well, there'll be no end of
10 it. I'll just refer you since I mentioned the Kaiser case of
11 all the efforts that were made by the parties to schedule a
12 hearing with the Fourth Circuit and how many conflicts were,
13 were noted there. I just don't think on a retail level doing
14 these cases month to month that I can do anything, but say
15 we've got local counsel for a reason and it's not just to, to
16 earn a *pro hac vice* fee for the, for the District Court's
17 coffers. It's basically so that if there is a need to stand
18 in.

19 So I would suggest that you -- you've got plenty of
20 time to prepare. If there's going to be a rehearing motion --
21 and that's sort of what I think it is since I announced a
22 ruling, but nothing written has been entered. So I, I would
23 view it as a rehearing motion -- let's go ahead and do that on
24 the 30th and just send who you can, all right? Okay.

25 MR. GUERKE: Understood. Thank you, your Honor.

1 THE COURT: Mr. Evert?

2 MR. EVERT: Thank you, your Honor.

3 So picking up on the Court's comment, I think what I'm
4 hearing is style that as a motion for rehearing. The -- I
5 mean, the, the, the real issue is sampling and the
6 appropriateness of it. And so I, I think that probably what
7 the Court would like to hear is why we believe sampling is
8 inappropriate for that and -- and -- but we, we also have this
9 issue of the, of the Verus motions which sort of cover the
10 whole panoply.

11 THE COURT: Right.

12 MR. EVERT: Those papers are already on file, of
13 course, because they were filed in New Jersey.

14 THE COURT: Right.

15 MR. EVERT: So does the Court just want to hear it all
16 on the 30th? Does the Court want to rule on the papers on the,
17 on the Verus motions? I'm, I'm trying to be -- look --

18 THE COURT: Let me ask a question.

19 MR. EVERT: Sure.

20 THE COURT: 'Cause I thought there was a consent order
21 entered in New Jersey that basically said these motions would
22 stand or fall based on the way that they had been handled in
23 the earlier DCPF hearing.

24 Is it -- can anyone clue me in there? Was it January
25 5th?

1 MR. EVERT: I -- I -- I think I can --

2 THE COURT: Or --

3 MR. EVERT: -- clue you in, your Honor. And, and that
4 is that I, I'm not sure. We have that -- that's our view. I'm
5 not sure that Verus agrees because they've --

6 THE COURT: Uh-huh (indicating an affirmative
7 response).

8 MR. EVERT: -- continued to be sure that they could
9 reserve all of their rights.

10 THE COURT: Okay.

11 MR. EVERT: And so I, it may not be appropriate for me
12 to speak for them. That was our intent in our discussions with
13 them, but I'm, I'm not certain that all the parties would agree
14 on that. I don't know if there's anybody from Verus on the
15 phone or not.

16 THE COURT: Anyone?

17 (No response)

18 THE COURT: Okay. We don't want to talk too much
19 about it, then.

20 But the bottom line is that I was under that
21 impression, just having seen the order, that, that the parties
22 had, had agreed to that. I'll go back and study the order in
23 greater detail.

24 But why don't we put everything on the 30th, then, and
25 just go ahead and knock it out and try to get us moving again.

1 MR. EVERT: Yeah. That's certainly fine with us, your
2 Honor. I'm -- I'm -- I'm trying to be sensitive to the Court.
3 You've now heard these motions a number of times. And so, in
4 various cases and various, at various times. So whatever the
5 Court prefers. We'll, we'll put them all on. We'll move to
6 rehear focused on the sampling issue.

7 THE COURT: Uh-huh (indicating an affirmative
8 response).

9 MR. EVERT: And then the Verus papers are there and
10 the Court can, can seek whatever information from us that would
11 be helpful for the Court.

12 THE COURT: Okay.

13 Anyone else got a view? That work?

14 MR. BURNS: Your Honor, Tyler Burns.

15 THE COURT: Yes, sir.

16 MR. BURNS: Your Honor, Tyler Burns on behalf of the
17 DCPF Trusts.

18 Just, just for the record and, you know, for the
19 benefit of the Court, I just wanted to note that the DCPF
20 Trusts, if the debtors move for a rehearing, we'll be filing an
21 objection to it and would oppose any such motion.

22 THE COURT: Okay. Not a problem.

23 MR. GUY: Your Honor?

24 THE COURT: Mr. Guy.

25 MR. GUY: The, the only concern we have here is we

1 don't want the whale to swallow the, the minnow that is the
2 sampling protocol that everybody's been working on. We see the
3 trust discovery as a separate issue. That's obvious from DBMP.
4 They have the trust discovery and they also are going to need a
5 sample. That's true in Bestwall as well.

6 THE COURT: Uh-huh (indicating an affirmative
7 response).

8 MR. GUY: So we just gently encourage the parties to
9 close the sample issue off before the 30th.

10 Thank you, your Honor.

11 MR. EVERT: Gentle nudge accepted, your Honor, and,
12 and we'll, we'll, we'll certainly continue to, I mean, we made
13 progress. We're going to continue to try to do so.

14 THE COURT: Okay, very good.

15 One of the -- as to the, having heard this several
16 times before, I have, but at the same time one of the things
17 you learn quickly in this job is that the arguments you may be
18 hearing in a case one day, it may have been the 20th time
19 you've heard it, but for the lawyers arguing it is not and
20 Verus is new to this game.

21 So we'll, we'll give them a, a full listening to at
22 that event and I'll try to keep an open mind based on where we
23 are as opposed to where we've been, okay?

24 Anything else on those --

25 MR. EVERT: No, sir.

EXHIBIT E



Lynda A. Bennett
Partner

One Lowenstein Drive
Roseland, New Jersey 07068

T: 973-597-6338
F: 973-597-6339
E: lbennett@lowenstein.com

March 16, 2023

VIA EMAIL

Morgan Hirst, Esq.
Jones Day
110 N. Wacker Drive, Suite 4800
Chicago, Illinois 60606
mhirst@jonesday.com

C. Michael Evert, Jr., Esq.
Evert Weathersby Houff
3455 Peachtree Road NE, Suite 1550
Atlanta, GA 30326
cmevert@ewhlaw.com

Paul DeFilippo, Esq.
Wollmuth Maher & Deutsch LLP
90 Washington Valley Road
Bedminster, New Jersey 07921
pdefilippo@wmd-law.com

**Re: Armstrong World Industries, Inc. Asbestos Personal Injury Settlement Trust, et al.
v. Aldrich Pump LLC, et al.
Case No.: 22-00303**

Dear Mr. Hirst:

This law firm represents the eight third-party asbestos settlement trusts identified below¹ (collectively, the “**Verus Trusts**”) in the associated matter of *AC&S Asbestos Settlement Trust v. Aldrich Pump LLC* (the “**Trust Matter**”) (Case No. 23-00300). We write regarding the Motion for Rehearing Concerning the Issue of Sampling on DCPF’s Subpoena-Related Motions (the “Motion”) (Dkt. No. 54) that Aldrich Pump LLC and Murray Boiler LLC (together, the “**Debtors**”)

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.

Morgan Hirst, Esq.
C. Michael Evert, Jr., Esq.
Paul DeFilippo, Esq.

March 16, 2023
Page 2

filed on March 9, 2023. We note that the Motion does not address the subpoenas that the Debtors have served on the Verus Trusts (the “**Verus Trust Subpoenas**”) and that our motion to quash those subpoenas remains pending. (Trust Matter Dkt. No. 2.)

The Verus Trusts ask the Debtors to confirm immediately that — notwithstanding their recently filed Motion against DCPF only — the Debtors intend to honor their prior agreement with the Verus Trusts to accept a 10% sampling of claimant information to the extent any production is required for the Verus Trust Subpoenas.

As you know, the Trust Matter originated in the District of New Jersey but was transferred to the Western District of North Carolina. (Trust Matter Dkt. No. 1 at 3.) Before the case was transferred to North Carolina, the Debtors served the Verus Trust Subpoenas on Verus Claims Services, LLC (“**Verus**”), the claims processing service for the Verus Trusts. (*Id.* at 1.) The Verus Trust Subpoenas sought discovery of thousands of confidential asbestos claims submitted to the Verus Trusts. Shortly thereafter, the Verus Trusts moved to quash the Verus Trust Subpoenas. (*Id.* at 2.) The Debtors then filed a motion to transfer the case to the Western District of North Carolina, which the Verus Trusts opposed. (Trust Matter Dkt. No. 5.)

On November 30, 2022, Judge Whitley ruled on similar subpoenas the Debtors issued to the Delaware Claims Processing Facility (the “**DCPF Subpoenas**”), finding that the Debtors would receive a 10% sampling of claimant information, not the full claimant dataset requested in the DCPF Subpoenas (the “**November Ruling**”). (Dkt. No. 35.)

With the motion to transfer pending, we met and conferred about how to proceed with the Verus Trust Subpoenas in light of the November Ruling. We ultimately reached an agreement where the Verus Trusts would consent to the transfer with the express understanding that Judge Whitley’s prior ruling on the 10% sampling issue would apply to the Verus Trust Subpoenas. Thereafter, for three months, the Debtors moved forward with negotiating the nature of information that would be produced in response to the Verus Trust Subpoena and how the 10% sampling would be selected directly with the ACC and the Verus Trusts were prepared to abide by the agreed upon production protocol. The Verus Trusts did not actively participate in those discussions because they were hopeful to avoid further expense and distraction from conducting the actual business of the Verus Trusts.

Because the November Ruling served as the lynchpin for the parties’ agreement on the transfer motion, the Verus Trusts were surprised to learn that the Debtors are now seeking a rehearing on that ruling. The Verus Trusts ask the Debtors to confirm immediately that, regardless of Judge Whitley’s determination on the pending Motion, that the Debtors will honor their commitment to the 10% sampling limitation in connection with the Verus Trust Subpoenas in the event that any production is ordered by the Court.

Morgan Hirst, Esq.
C. Michael Evert, Jr., Esq.
Paul DeFilippo, Esq.

March 16, 2023
Page 2

Please confirm at your earliest convenience so that we may avoid having to burden the Court with this matter in advance of the upcoming March 30, 2023 hearing date.

Pending final resolution of the Trust Subpoenas, the Verus Trusts continue to reserve all rights.

Very Truly Yours,

s/ Lynda A. Bennett

Lynda A. Bennett, Esq.

cc: Andrew E. Anselmi, Esq. (aanselmi@acllp.com)
Joseph H. Lemkin, Esq. (jlemkin@stark-stark.com)
Paul R. Defilippo, Esq. (pdefilippo@wmd-law.com)
Timothy P. Duggan, Esq. (tduggan@stark-stark.com)
Zachary D. Wellbrock, Esq. (zwellbrock@acllp.com)

EXHIBIT F

Velez, Nicholas

From: Hirst, Morgan R. <mhirst@JonesDay.com>
Sent: Monday, March 20, 2023 9:31 AM
To: Bennett, Lynda A.; cmevert@ewhlaw.com; pdefilippo@wmd-law.com; Erens, Brad B.; Jack Miller; C. Richard Rayburn, Jr.; Seiden, Mark R.; Joseph F. Pacelli
Cc: aanselmi@acllp.com; jlemkin@stark-stark.com; pdefilippo@wmd-law.com; tduggan@stark-stark.com; zwellbrock@acllp.com; Velez, Nicholas
Subject: RE: Armstrong World Industries, Inc. Asbestos Personal Injury Settlement Trust, et al. v. Aldrich Pump LLC, et al.; Case No. 22-00303

Lynda:

Your email, and in particular, your summary of the Debtors' supposed position, is incorrect. Let me reiterate, and quote from our prior e-mail exchanges, that the Debtors "agree that the Trusts, Verus, and Claimants shall have the right to appear and participate in any further hearings, litigation, or other court proceedings before Judge Whitley on the terms of compliance/production (including the terms of any sample) for the subpoena served on DCPF and its member Trusts."

The Debtors stand by that agreement. In short, we fully anticipate Verus and the Trusts (and the Matching Claimants in the event they disclose themselves consistent with Judge Whitley's order) to appear and participate at the hearing before Judge Whitley on March 30, including being heard on the issues raised by the Debtors' Motion for Rehearing. We do not agree to any request for continuance of those motions, and Judge Whitley made quite clear at our last hearing that these issues would be heard on March 30.

Finally, the only party attempting to walk back its agreement on the Motion to Transfer is you. The language of the parties' emails and Judge Bongiovanni's order is very clear, and quoted in my email below. The Debtors stand by the agreements they made in our correspondence and in the Court's order. We look forward to seeing you on March 30. We are happy to meet and confer on any of the issues raised by any of the motions in advance.

Morgan R. Hirst

Partner

[JONES DAY® - One Firm WorldwideSM](#)

110 North Wacker Drive

Suite 4800

Chicago, Illinois 60606

Office +1.312.269.1535

Mobile +1.773.490.2039

mhirst@jonesday.com

From: Bennett, Lynda A. <LBennett@lowenstein.com>
Sent: Friday, March 17, 2023 3:14 PM
To: Hirst, Morgan R. <mhirst@JonesDay.com>; cmevert@ewhlaw.com; pdefilippo@wmd-law.com; Erens, Brad B. <bberens@JonesDay.com>; Jack Miller <jmiller@rcdlaw.net>; C. Richard Rayburn, Jr. <rarryburn@rcdlaw.net>; Seiden, Mark R. <morseiden@JonesDay.com>; Joseph F. Pacelli <JPacelli@WMD-LAW.com>
Cc: aanselmi@acllp.com; jlemkin@stark-stark.com; pdefilippo@wmd-law.com; tduggan@stark-stark.com; zwellbrock@acllp.com; Velez, Nicholas <NVelez@lowenstein.com>
Subject: RE: Armstrong World Industries, Inc. Asbestos Personal Injury Settlement Trust, et al. v. Aldrich Pump LLC, et al.; Case No. 22-00303

**** External mail ****

Morgan,

It is disappointing that the Debtors have chosen to ignore the actual record of the circumstances under which the Verus Trusts agreed to transfer their motion to the NC Bankruptcy Court, which is confirmed through the exchange of emails that you've attached. Those emails make clear that the Verus Trusts understood that: (a) the 10% sample ruling applied; (b) the Verus Trusts would remain involved in the discussions related to the production for the Subpoenas; and (c) the Verus Trusts continued to reserve rights with respect to the pending motions to quash that were being transferred to Judge Whitley (a point which Judge Whitley recognized and acknowledged when Debtors were last in front of him).

Based on your response below, we understand that the Debtors are seeking to prevent the Verus Trusts from having their opportunity to be heard on the reconsideration of the 10% sampling ruling, something to which the Verus Trusts never agreed. The Verus Trusts will now file an objection to the pending motion and request that the Court direct the Debtors to file motion papers that address their attempt to walk back from the agreement that led the Verus Trusts to consent to the transfer of venue before any determination is made with respect to the 10% sample ruling. Alternatively, if the Debtors would like to agree to adjourn the pending motion until they file their papers in relation to the Verus Trusts and set a reasonable briefing schedule with respect to such a filing, we would be happy to discuss it.

Regards,

Lynda

Lynda A. Bennett
Partner
Chair, Insurance Recovery Practice
Lowenstein Sandler LLP

T: (973) 597-6338
M: (908) 693-1704



From: Hirst, Morgan R. <mhirst@JonesDay.com>
Sent: Friday, March 17, 2023 11:55 AM
To: Gordon, Wendy L. <WGordon@lowenstein.com>; cmevert@ewhlaw.com; pdefilippo@wmd-law.com; Erens, Brad B. <bberens@JonesDay.com>; Jack Miller <jmiller@rcdlaw.net>; C. Richard Rayburn, Jr. <rreyburn@rcdlaw.net>; Seiden, Mark R. <mrseiden@JonesDay.com>; Joseph F. Pacelli <JPacelli@WMD-LAW.com>
Cc: aanselmi@aclip.com; jlemkin@stark-stark.com; pdefilippo@wmd-law.com; tduggan@stark-stark.com; zwellbrock@aclip.com; Bennett, Lynda A. <LBennett@lowenstein.com>
Subject: RE: Armstrong World Industries, Inc. Asbestos Personal Injury Settlement Trust, et al. v. Aldrich Pump LLC, et al.; Case No. 22-00303

Lynda:

I wanted to get back to you quickly.

I'm not sure where the confusion arises, but we made no such agreement described in your letter. Attached are the e-mail exchanges between the parties and the consent Order ultimately entered by Judge Bongiovanni. In short, you proposed that the parties be bound by Judge Whitley's oral "10% sample" ruling, we rejected that proposal twice in the e-mail exchanges, you agreed to our proposal, and the parties then agreed on the language in the attached Order. What we consistently proposed throughout, and which you agreed to, as demonstrated by the language of the Consent Order, is the following: "The Respondents, Trusts, Verus, and Matching Claimants agree that any production pursuant to the Subpoenas **will be made consistent with any rulings the Honorable J. Craig Whitley has made or makes regarding the terms of compliance and/or production associated with the similar subpoenas issued by Respondents to Delaware Claims Processing Facility** and its member trusts in the underlying action pending in the United States Bankruptcy Court for the Western District of North Carolina." See Consent Order at Paragraph 2.

In sum, per our agreement, we have agreed with Verus that the parties will be bound by whatever terms of production Judge Whitley orders in regard to the DCPF subpoena.

Regards,

Morgan

Morgan R. Hirst
Partner
[JONES DAY® - One Firm WorldwideSM](#)
110 North Wacker Drive
Suite 4800
Chicago, Illinois 60606
Office +1.312.269.1535
Mobile +1.773.490.2039
mhirst@jonesday.com

From: Gordon, Wendy L. <WGordon@lowenstein.com>
Sent: Thursday, March 16, 2023 4:13 PM
To: Hirst, Morgan R. <mhirst@JonesDay.com>; cmevert@ewhlaw.com; pdefilippo@wmd-law.com
Cc: aanselmi@acllp.com; jlemkin@stark-stark.com; pdefilippo@wmd-law.com; tduggan@stark-stark.com; zwellbrock@acllp.com; Bennett, Lynda A. <LBennett@lowenstein.com>
Subject: Armstrong World Industries, Inc. Asbestos Personal Injury Settlement Trust, et al. v. Aldrich Pump LLC, et al.; Case No. 22-00303

**** External mail ****

The attached is being sent on behalf of Lynda Bennett.

Regards,

Wendy

Wendy Gordon 
Executive Assistant
Lowenstein Sandler LLP

T: (862) 926-2788



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