

Verus Claim Services, LLC (“Verus”), a claims processing service for the eight third-party asbestos settlement trusts commonly referred to as the Verus Trusts², by and through undersigned counsel, hereby moves the court for an order adjourning the hearing scheduled for March 30, 2023, and for an order directing the Debtors to set forth their reasoning if they wish to bind Verus to the outcome of their Motion. Verus is a party in the associated matter of *AC&S Asbestos Settlement Trust v. Aldrich Pump LLC* (the “Trust Matter”), Case No. 22-00300, but it was not named, or otherwise identified, in the Motion.

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

BACKGROUND

1. Verus’ interests in this bankruptcy and the related asbestos litigation and involvement with the Debtors largely mirror those of the Verus Trusts, and as such, Verus echoes and incorporates by reference the procedural and factual history set forth in the Verus Trusts’ related Third Party Asbestos Trusts’ Motion for Adjournment and Related Relief (the “Versus Trusts’ Motion”) (Dkt. No. 58).
2. Prior to the transfer of the Trust Matter to this Court, Debtors served subpoenas on Verus which sought discovery of thousands of confidential asbestos claims submitted to the Verus Trusts (the “Trust Subpoenas”).

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. Verus and the Verus Trusts challenged the scope of the Trust Subpoenas before the United States District Court for the District of New Jersey. As more fully described in the Verus Trusts' Motion, this case was ultimately transferred to this Court prior to a resolution on the scope of the Trust Subpoenas – with the Debtors agreeing to be bound by a November 30, 2022 ruling from this Court related to same.

4. Verus, like the Verus Trusts, understood that – except for the sampling issue – the specifics of the production were yet to be decided by this Court, and that the Debtors expressly agreed that the production of information for the Trust Subpoenas would be made pursuant to rulings previously made by this Court.

5. Notwithstanding the foregoing, Debtors informed this Court at a February hearing, as more fully described in the Verus Trusts' Motion, of their intent to move for reconsideration of the Court's prior ruling on the 10% sampling issue. At the time, Verus had not obtained local counsel or otherwise appeared for that motion because of its understanding that Debtors and Claimants' counsel were actively negotiating a resolution for the Trust Subpoenas. Nor had Verus been provided with any notice that the prior ruling on the 10% sampling issue – or any other issue that might affect Verus' interests – would be discussed during the February hearing.

6. Similar to the Verus Trusts, Verus attempted to resolve this dispute and gain Debtors' consent to adjourn the March 30, 2023 hearing. The parties were unable to resolve their dispute, and Debtors have confirmed they do not intend to honor the 10% sampling agreement that the Verus Trusts and Verus detrimentally relied upon when they consented to the transfer to this Court.

ARGUMENT

7. Verus expressly relies upon and incorporates by reference all arguments set forth in, and exhibits attached to, the Verus' Trusts Motion.

8. Verus, like the Verus Trusts, seeks a brief adjournment of the March 30, 2023 hearing so that the Debtors can state their positions in relation to the Trust Subpoenas and Verus can have a reasonable opportunity to respond and be heard on the Motion.³

9. For the same reasons stated by the Verus Trusts in the Verus Trusts' Motion, Verus wishes to intervene in this action pursuant to Federal Rule of Civil Procedure 24. *See* Fed. R. Civ. P. 24(a) (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.")

10. To the extent the Court determines that intervention as of right is not proper, Verus should nevertheless be allowed permissive intervention because it has a "claim or defense that shares with the main action a common question of law or fact." Fed. R. Civ. P. 24(b). Specifically, the Debtors have taken the position that Verus will be bound by this Court's ruling on the rehearing, and Debtors contend that the Trust Subpoenas should be treated in the same manner as the DCPF Subpoenas.

11. Verus likewise echoes those arguments raised by the Verus Trusts as it relates to Verus having an opportunity to be heard, and the Debtors' attempts to circumvent same. Due process requires that Verus be given notice and an opportunity to be heard, particularly when the Trust Subpoenas were directed at it and the Court will be effectively ruling on Verus' rights and obligations vis-à-vis the Trust Subpoenas. *See In re Mileski*, 416 B.R. 210, 220 (Bankr. W.D.N.C. 2009) (quoting *Rosenfield v. Wilkins*, 280 Fed. Appx. 265, 283-84 (4th Cir. 2008)). Verus has not

³ Verus reserves all rights to participate in and argue the merits of any action that may affect its interests after the Debtors disclose the basis for their positions.

had the opportunity to prepare for a hearing on its positions and the issues – which directly affect Verus – are not fully briefed by the parties as more fully described in the Verus Trusts’ Motion. The record is not complete, and Verus should be given the opportunity to respond and be heard on the sampling issue before this Court.

CONCLUSION

For the foregoing reasons, Verus respectfully requests that this Court enter an order briefly adjourning the March 30, 2023 hearing while the Debtors, the Verus Trusts, and Verus supplement the record with respect to the Trust Subpoenas. This will ensure that Verus has a full and fair opportunity to be heard before the Motion is decided.

Respectfully submitted, this the 22nd day of March, 2023.

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