

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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

REPLY OF THIRD PARTY VERUS CLAIM SERVICES, LLC IN FURTHER SUPPORT OF MOTION FOR ADJOURNMENT AND RELATED RELIEF

Verus Claim Services, LLC (“Verus”) files this Reply in further support of its Motion of Third Party Verus Claim Services, LLC for Adjournment and Related Relief filed March 22, 2023 (the “Motion”), and 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 requesting a rehearing on the sampling issue (the

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.



“Rehearing 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. Verus further states:

1. On March 21, 2023, the Verus Trusts filed their Third Party Asbestos Trusts’ Motion for Adjournment and Related Relief (the “Trusts’ Motion”) (Dkt. No. 58) seeking, among other things, to have the March 30, 2023 hearing on the Rehearing Motion adjourned, an order directing the Debtors to set forth their reasoning if they wish to bind Verus to the outcome of their Rehearing Motion, and to intervene in this matter. Ultimately, the Verus Trusts sought an order denying the Debtors’ request for a rehearing.

2. On March 22, 2023, Verus filed its Motion, (Dkt. No. 61), joining in on the arguments raised by the Trusts in the Trusts’ Motion and requesting the same relief sought by the Trusts.

3. The Debtors filed responses to the Trusts’ Motion and Verus’ Motion on March 27, 2023. (Dkt No. 89), The Trusts responded with their Non-Party Trusts’ Opposition to Debtors’ Motion for Rehearing Concerning the Issue of Sampling on DCPF’s Subpoena-Related Motion on March 28, 2023. In their response, the Verus’ Trusts articulated arguments in support of the Court denying the Debtors’ Motion for Rehearing and, at a minimum, adjourning the hearing on March 30, 2023 for a limited period of time.

4. As stated in Verus’ Motion, Verus’ interests in this bankruptcy and the related asbestos litigation and involvement with the Debtors largely mirror those of the Verus Trusts.

5. Accordingly, Verus reiterates and incorporates by reference the Verus’ Trusts March 28, 2023 response including those exhibits and supporting affidavits thereto.

6. Further, Verus underscores the request that the Court adjourn the hearing on the Rehearing Motion.

7. Debtors argue that “there is absolutely no basis to adjourn or continue the Motion for Rehearing” because they provided notice of the motion hearing “[m]ore than six weeks ago.” *See* Debtors’ Opposition to Verus Claim Services, LLC’s and the Verus Trusts’ Motion for Adjournment and Related Relief (Dkt. No. 89, at 6, ¶ 14) (hereinafter, “Debtors’ Opposition”).

8. However, Debtors’ position is premised on a characterization of the record that is not at all accurate, which Debtors attempt to bolster with red herrings.

9. For example, Debtors claim that they “previewed” their motion and provided notice of the upcoming hearing in February 2023. (*Id.* at ¶¶ 2, 9). Yet, the very email cited by Debtors unambiguously demonstrates that Debtors never provided any notice of a filing, of a pending motion, or of a scheduled hearing. What the email discloses is that Debtors were “strongly considering seeking reconsideration of Judge Whitley’s November 30 sampling ruling.” (Dkt. No. 58, Ex. C, Dec. of Lynda A. Bennett).

10. Critically, this comment was made in the same email that began with a statement that “negotiations ... regarding sampling in the Aldrich/Murry bankruptcies are continuing.” (*Id.*).

11. So, while Debtors perhaps communicated an undecided ambivalence and the hypothetical possibility of a motion for reconsideration, they most certainly did not provide notice that a motion actually had been filed or that such a request would actually be forthcoming at the March 30th (or any other) hearing. Debtors did, however, expressly confirm that negotiations – which would obviate the need for any such motion – were continuing.

12. Because the Verus Parties were not served with any notice of a filed motion or the inclusion of the motions to quash on any agenda, and had instead been advised that negotiations

were continuing, the Verus Parties did not appear in any of the bankruptcy proceedings pending in the Western District of North Carolina prior to March 22, 2023.

13. It is irrelevant, then, that the Debtors announced their intentions “in open court at the February 14, 2023 hearing.” (Debtors’ Opposition, at 2). Obviously, such an announcement can provide no notice to parties that the speaker knows are not present. It is likewise irrelevant that the Verus Parties’ “motions to quash were on the agenda” (*id.*), as that agenda was also never provided to the Verus Parties.

14. After Debtors eventually did file their motion on March 9th, they declined to provide notice of the filing. As Debtors readily admit, they had been in ongoing conversations with the Verus Parties via email. (Debtors’ Opposition, at 3, ¶ 3) (“All negotiations were conducted by email.”). Thus, the sudden cessation of email communications when Debtors finally filed the Rehearing Motion, which they had theretofore only been “considering,” is puzzling and conspicuous. One expects that, if Debtors had obtained an order granting their request for reconsideration and rescission of the prior sampling order, Debtors surely would have provided that order to the Verus Parties via email.

15. Further, the Rehearing Motion, itself, makes no reference at all to the Verus Parties, and it was filed in the DCPF matter, not in the Verus Parties’ proceeding transferred from the District of New Jersey.

16. Nor did Debtors provide any notice that the previously filed motions to quash would be presented at the same hearing – another event that was described in explicitly conditional and hypothetical terms in Debtors’ email.

17. In any other context, a litigant seeking relief against a non-party is expected to promptly serve a copy of filed motion papers on that non-party. It is also reasonable to expect that

a litigant seeking relief from a party to a foreign proceeding pending in another district provide notice of a filed motion when the moving litigant is fully aware that the other party has not yet appeared in the local proceeding.

18. Despite Debtors' protestation that the pending motions to adjourn reflect "seemingly endless delay tactics", (*id.* at ¶14), the fact is Debtors followed a bizarre and unreasonable course of action that has resulted in a completely unnecessary and avoidable failure to provide adequate notice and due process. Thus, while Debtors claim that "this Court is once again forced to weigh in on motion practice" (*id.* at 1), the present posture was created by Debtors themselves.

WHEREFORE, for the reasons set forth above, Verus respectfully requests that the Court enter an order:

1. Adjourning the hearing on the Debtors' Rehearing Motion; and
2. To the extent the Court allows the hearing on the Debtors' Rehearing Motion to proceed, Verus respectfully requests that this Court deny the Rehearing Motion and confirm that the Verus Subpoenas will be subject to a 10% sampling production in full compliance with those subpoenas; and
3. Granting such other and further relief as the Court deems just and proper.

Respectfully submitted, this the 29th day of March, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of March, 2023, a true and correct copy of the foregoing was served electronically by the Court's CM/ECF system on those parties that have filed a notice of appearance in this case and have agreed to accept service via CM/ECF.

/s/Anna-Bryce Hobson
Anna-Bryce Hobson