

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

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

Plaintiff(s),

vs.

ALDRICH PUMP LLC, *et al.*,

Defendant(s).

In re:

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Miscellaneous Proceeding

Case No. 22-00303 (JCW)

(Transferred from District of Delaware)

Chapter 11

Case No. 20-30608

**NON-PARTY CERTAIN MATCHING CLAIMANTS’ OPPOSITION TO THE
DEBTORS’ MOTION TO STRIKE**

The Certain Matching Claimants, as non-parties, by and through the undersigned counsel, hereby object to the Debtors’ Motion to Strike Pleadings filed by Non-Party Certain Matching Claimant (Dkt. 84) (the “Motion for Strike”).²

1. Debtors’ Motion to Strike attacks the following pleadings: *Non-Party Certain Matching Claimants’ Opposition to the Debtors’ Motion for Rehearing Concerning the Issue of Sampling on DCPF’s Subpoena-Related Motions* [Docket No. 63]; *Joinder to Motion of Third Party Asbestos Trusts’ Motion for Adjournment and Related Relief* [Docket No. 64] filed on behalf of all Non-Party Certain Matching Claimants in AC&S Asbestos Settlement Trust et al. v. Aldrich

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 Capitalized terms not otherwise defined have the meanings given to them in the Motion to Strike.



Pump et al., Case No. 23-300; *Joinder to Motion Third Party Motion for Adjournment on Behalf of Verus Trust* [Docket No. 65] filed on behalf of all Non-Party Certain Matching Claimants in AC&S Asbestos Settlement Trust et al. v. Aldrich Pump et al., Case No. 23-300; *Joinder to Motion of Third-Party Asbestos Trusts' Motion for Adjournment and Related Relief* [Docket No. 66] filed on behalf of Certain Matching Claimants; *Joinder to Motion of Third-Party Motion for Adjournment on Behalf of Verus Trust* [Docket No. 67] filed on behalf of Certain Matching Claimants; and *Joinder to Non-Party Certain Matching Claimants' Opposition to the Debtors' Motion for Rehearing Concerning the Issue of Sampling on DCPF's Subpoena-Related Motions* [Docket No. 68] filed on behalf of all Non-Party Certain Matching Claimants in AC&S Asbestos Settlement Trust et al. v. Aldrich Pump et al., Case No. 23-300 (collectively, the "Certain Matching Claimants' Pleadings").

2. On February 6, 2023, the Court entered its *Order Denying Non-Party Certain Matching Claimants' Motion to Proceed Anonymously and Joinder of the Kazan McClain Matching Claimants to Non-Party Certain Matching Claimants' Reply in Support of Motion to Proceed Anonymously* [Docket No. 42] (the "Delaware Proceeding Order") in the proceeding transferred from the District of Delaware. The Delaware Proceeding Order provided that "[t]he requirement that any Movants identify themselves shall be stayed until the 31st day following entry of this Order to permit such Movants (if desired) to seek a stay pending appeal from the district court."

3. On February 20, 2023, the Non-Party Certain Matching Claimants filed their Notice of Appeal of the Delaware Proceeding Order and on March 8, 2023, the Non-Party Certain Matching Claimants filed a *Motion for Stay Pending Appeal* [District Ct. Case No. 23-00099, Docket No. 2]. The Debtors filed the Debtors' *Opposition to Motion for Stay Pending Appeal*

[District Ct. Case No. 23-00099, Docket No. 3] on March 22, 2023. The District Court has not yet ruled on the *Motion for Stay Pending Appeal*.

4. As to the *Non-Party Certain Matching Claimants' Opposition to the Debtors' Motion for Rehearing Concerning the Issue of Sampling on DCPF's Subpoena-Related Motions* [Docket No. 63], as well as the various Joinders, Debtors' Motion to Strike ignores two important realities.

5. First, the Non-Party Certain Matching Claimants originally filed a *Motion to Quash* [Docket No. 5-3] opposing the underlying Subpoenas and the Non-Party Certain Matching Claimants, through counsel, argued in opposition to the Subpoenas and for sampling at the November 30, 2022, hearing. By the Motion for Rehearing, the Debtors are attempting to relitigate the Court's well-reasoned determination that DCPF's response to the Subpoenas be limited to a ten percent (10%) sample. To the extent that the Court hears argument again on those issues at the hearing on the Motion for Rehearing, the Non-Party Certain Matching Claimants should be allowed to oppose the Subpoenas and the Debtors' proposed elimination of sampling, as they had opposed the Subpoenas and they had actively participated in the November 30, 2022 hearing. The *Non-Party Certain Matching Claimants' Opposition to the Debtors' Motion for Rehearing Concerning the Issue of Sampling on DCPF's Subpoena-Related Motions* [Docket No. 63] merely seeks to address the Debtors' rehashed arguments that were made at the November 30, 2022 hearing.

6. Second, Debtors' arguments for striking the Certain Matching Claimants' Pleadings give no weight to the active appeal of the Order Denying Anonymity or to the Motion to Stay Pending Appeal. Both the appeal and the Motion to Stay Pending Appeal are properly before the District Court, and they have not been ruled upon. Absent a ruling from the District

Court, the appeal and the Motion to Stay Pending Appeal are unresolved. Debtors' argument that the Non-Party Certain Matching Claimants failed to obtain a stay pending appeal ignore the reality that an application for a stay has been made and is pending before the District Court.

CONCLUSION

Debtors' Motion to Strike seeks to improperly silence the Non-Party Certain Matching Claimants even though they opposed the Subpoenas at the November 30, 2022 hearing. Debtors are improperly attempting to relitigate the Court's prior rulings on random sampling, by advancing new theories, in an attempt to reargue the merits of the case without demonstrating the necessary grounds to warrant a reconsideration of the Court's oral ruling. If the Court determines to reconsider the Court's oral rulings, it must deny Debtors' Motion to Strike and allow the Non-Party Certain Matching Claimants to oppose the relief sought by the Debtors.

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

Respectfully submitted,

**WALDREP WALL BABCOCK
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing NON-PARTY CERTAIN MATCHING CLAIMANTS' OPPOSITION TO THE DEBTORS' MOTION TO STRIKE was filed in accordance with the local rules and served upon all parties registered for electronic service and entitled to receive notice thereof through the CM/ECF system.

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

**WALDREP WALL BABCOCK
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