

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

In re:

ALDRICH PUMP LLC and MURRAY  
BOILER LLC,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-30608

(Jointly Administered)

**MOTION BY OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY  
CLAIMANTS TO QUASH SUBPOENAS SENT TO DEBTORS**

The Official Committee of Asbestos Personal Injury Claimants (the “Committee”) in the above-captioned chapter 11 cases of Aldrich Pump LLC (“Aldrich”) and Murray Boiler LLC (“Murray,” and together with Aldrich, the “Debtors”), by and through its undersigned counsel, respectfully moves (the “Motion”) this Court to enter an order quashing the Subpoenas to Produce Documents, Information, or Objects or Permit Inspection of Premises in a Bankruptcy Case (or Adversary Proceeding) (the “Subpoenas”), copies of which are attached hereto as Exhibit A, served on the Debtors by DBMP LLC (“DBMP”), seeking the production of information about the Debtors’ asbestos claimants from the Debtors’ asbestos claim database. In support of the Motion, the Committee states as follows:

**INTRODUCTION**

1. As this Court is aware, Aldrich and Murray possess a combined asbestos claim database (the “Asbestos Claim Database”), which contains information about individuals that have, or had at one time, asserted asbestos claims against the Debtors or one of their predecessors.

<sup>1</sup> The last four digits of the Debtors’ taxpayer identification are 2990 (Aldrich) and 0679 (Murray). The Debtors’ address is 800-E. Beaty Street, Davidson, North Carolina 28036.



2. The information contained in the Asbestos Claim Database includes sensitive and confidential information about the Debtors' individual asbestos claimants. Information in the Asbestos Claim Database is protected from disclosure to third parties under settlement agreements between the Debtors' predecessors and asbestos claimants. Settlement agreements routinely contain confidentiality provisions, including provisions that may prohibit disclosure of terms and conditions, documents exchanged in connection with settlement negotiations, or the existence of the settlement. Other information in the Asbestos Claim Database was obtained by the Debtors or their predecessors through discovery in the underlying tort litigation and may be subject to protective orders or confidentiality agreements that prohibit disclosure to third parties. As such, the Debtors have a duty to maintain the confidentiality of the information sought under the Subpoenas. Moreover, those claimants whose information is included in the Asbestos Claim Database have an expectation of and/or right to privacy as to their information, and how it will be used and distributed.

3. The Subpoenas seek "all electronic information and data contained in any claims database within [Aldrich/Murray's] possession, custody or control whose purpose is or was to track mesothelioma claims against [the Debtors] or [their predecessors] before the Petition Date" for certain data fields related to what could become thousands of individuals identified in the Subpoenas who allegedly hold mesothelioma claims against DBMP and who match in the Debtors' Asbestos Claim Database. *See* Subpoenas, Ex. A ¶¶ 1, 8. Additionally, the Subpoenas specifically seek claims data related to settlements of claims against the Debtors or their predecessors. *See id.* at Ex. A ¶¶ 1, 4.

4. DBMP—who, like the Debtors, went through a pre-bankruptcy corporate restructuring isolating all asbestos claims against its predecessor, CertainTeed LLC ("Old CT"),

from that company's assets—served the Subpoenas on the Debtors, who like DBMP, are debtors in this Court. DBMP is represented by the same lawyers that represent the Debtors in this case. The Subpoenas call for the requested information to be delivered to Bates White, LLC, a professional retained by both DBMP and the Debtors. The same professionals that seek the Debtors' claims information will thus be advising the Debtors on their response to the Subpoenas. The potential for blurred lines is evident.

5. Given the wide-ranging collection of data DBMP has already accumulated from dozens of other sources, it has little need for additional information for the purposes of claims estimation. While this Court has recognized that claims data may be relevant for DBMP's estimation proceeding, there must be some outer limit on how much sensitive and confidential claims data is necessary and discoverable for an estimation proceeding in an asbestos bankruptcy. Accordingly, this Court should quash the Subpoenas because they exceed the scope of permissible nonparty discovery under Rule 26 of the Federal Rules of Civil Procedure, and prohibit the Debtors from providing any information from the Asbestos Claim Database to DBMP. As this Court noted previously, "all of this is ballooning up and we're getting more and more demands for a great deal of data and I want to make sure that we are mindful of costs in these cases and of the privacy concerns and that we're not getting any more than we need." Hr'g Tr. at 77:14-18, Nov. 30, 2022. At this point, there can be no debate that the Debtors are, in fact, seeking more than they need.

### **BACKGROUND**

7. DBMP filed for Chapter 11 bankruptcy in this Court on January 23, 2020, to purportedly address all present and future bankruptcy claims for which its predecessor, Old CT, would be liable. Likewise, the Debtors filed for Chapter 11 bankruptcy in this Court on June 18, 2020, also purporting to address asbestos claims against their predecessors, the former Trane

Technologies (“Old IRNJ”) and Trane U.S. Inc. (“Old Trane”), through a bankruptcy trust under section 524(g) of the Bankruptcy Code.

8. After the Court authorized the estimation proceeding, DBMP sought and received authorization to serve Rule 2004 subpoenas on numerous asbestos bankruptcy trusts, *Order Granting Debtor’s Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts and Governing Confidentiality of Information Provided in Response* [DBMP, No. 20-30080, Dkt. No. 1340], as well as PIQs from all claimants that asserted a pre-petition mesothelioma claim against DBMP, *Order (I) Establishing a Bar Date for Pending Mesothelioma Claims, (II) Approving Proof of Claim Form, (III) Approving Notice to Claimants, and (IV) Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants* [DBMP, No. 20-30080, Dkt. No. 1461]. DBMP has represented on the record that it views the progress achieved in both of these processes positively. *See* Hr’g Tr. at 35:19-20, DBMP, No. 20-30080 (Bankr. W.D.N.C. Oct. 12, 2023) (“I think we’ve come to the end of the road on the anonymity issues” in trust discovery (Mr. Gordon)); *id.* at 35:8-10 (“[W]e’ve made good progress to date [with the PIQs], but we’re not quite across the finish line. But that’s, that’s gone reasonably well, from our perspective.” (Mr. Gordon)).

9. On February 28, 2024, DBMP issued subpoenas to Aldrich and Murray. *See* Subpoenas, Ex. A. The Subpoenas seek “Claims Data” for certain identified fields for thousands of identified “DBMP Claimants” who have asserted a mesothelioma claim against DBMP or Old CT and who match the Debtors’ own Asbestos Claim Database. *Id.* Specifically, the Subpoenas seek the following fields from the Asbestos Claim Database: law firm, jurisdiction and state in which claim was filed, claim status, date of resolution, date(s) on which settlement or judgment was paid, and exposure-related information for the injured party, including date(s) exposure(s)

began, date(s) exposure(s) ended, manner of exposure, location of exposure, occupation and industry when exposed, and products to which the injured party was exposed. *Id.* “Claims Data” is defined broadly in each Subpoena as “all electronic information and data contained in any claims database within [Aldrich/Murray’s] possession, custody, or control whose purpose is or was to track mesothelioma claims asserted against [Aldrich/Murray or their predecessors] before the Petition Date.” *Id.* at Ex. A ¶ 8.

10. As of the date of this Motion, the Committee is not aware of any objection to the Subpoenas that has been made by Aldrich, Murray, their non-Debtor affiliates, or any other party.

### **RELIEF REQUESTED**

11. The Committee requests entry of an order quashing the Subpoenas, or, in the alternative, a protective order directing that any information produced pursuant to the Subpoenas would be governed by the terms of the Aldrich Order (defined below) and granting such other relief as the Court deems just and proper.

### **ARGUMENT**

#### **I. THE COMMITTEE HAS STANDING TO CHALLENGE THE SUBPOENAS THROUGH A MOTION TO QUASH**

12. As DBMP, Aldrich, and Murray are represented by the same law firm, it is unlikely that Aldrich and Murray will refuse to comply with the Subpoenas. On behalf of the interests it represents, the Committee has an overarching concern over protection of the highly sensitive and confidential information of asbestos claimants contained in the Asbestos Claim Database. Because the Subpoenas seek distribution and disclosure of this information, the Committee is compelled to file this motion to quash to protect the distribution and use of the sensitive and confidential information of members of the constituency it represents in this case.

13. Normally, the person to whom a subpoena is directed is the party with standing to object to the subpoena or to move to quash. *Constellium Rolled Prods. Ravenswood, LLC. v. Rogers*, No. 2:15-CV-13438, 2016 WL 10789857, at \*2 (S.D. W.Va. Dec. 6, 2016). As an initial matter, here no notice has been provided to the individuals whose personal information is at risk—either by DBMP, the issuer of the subpoena, or by the Debtors, as entities that possess the subpoenaed information. The individual claimants listed on Schedule 1 to each Subpoena (collectively, the “Schedule 1 Claimants”) are “affected by the subpoena” and are entitled to protect their rights by moving to quash or modify the Subpoenas.

14. Because the victims of these companies have been afforded no notice or opportunity to protect their individual rights, the Committee as the fiduciary appointed to represent the rights of the Debtors’ current claimants is the only entity with notice that can protect this most personal and confidential information. “[An] exception [to the usual standing rule] exists when the person objecting to the subpoena has a personal right or privilege in the information sought by the requester.” *Id.*; see also *Duffy v. Kent Cnty. Levy Ct.*, 800 F. Supp. 2d 624, 628 (D. Del. 2011) (a party has standing to “quash or modify a non-party subpoena when the party seeking to quash or modify the subpoena claims a privilege or privacy interest in the subpoenaed information.”).

15. This exception applies here. The Subpoenas seek to have certain personal information of claimants in the Asbestos Claim Database turned over to DBMP. The individual asbestos claimants of the Debtors clearly have a personal right in their personal information contained in the Asbestos Claim Database. The fact that this information was previously produced to a litigation party opponent does not erase this personal right; such a production does not function as a blanket consent to share the information with third parties, especially where much of the

information is protected from disclosure to third parties pursuant to confidentiality provisions in settlement agreements.

16. The Committee’s grant of authority under section 1103 of the Bankruptcy Code is “broad,” *Vasconi & Assocs., Inc. v. Credit Manager Ass’n of Cal.*, No. 94-52142, 1997 WL 383170, at \*3 (N.D. Cal. July 1, 1997) and “flexible,” *Off. Comm. of Unsecured Creditors of Cybergenics Corp. ex rel. Cybergenics Corp. v. Chinery*, 330 F.3d 548, 563 (3d Cir. 2003). As the fiduciary appointed by this Court to represent the collective interests of those creditors currently holding asbestos-related claims against Aldrich and Murray, the Committee has standing to challenge the Subpoenas on behalf of the current asbestos claimants. *See, e.g.*, Letter Ruling, *In re Paddock Enters., LLC*, No. 20-10028 [Dkt. No. 1632] (Bankr. D. Del. Sept. 22, 2022) (holding that the trust advisory committee on behalf of current claimants has standing to object to identical subpoenas served on debtor Paddock by the Debtors and Bestwall); *see also Mem. Order re Standing of NARCO TAC, In re W.R. Grace & Co.*, No. 01-01139-KG [Dkt. No. 32775] (Bankr. D. Del. Aug. 29, 2016) (holding that trust advisory committee has standing to challenge motions by asbestos defendants seeking access to Rule 2019 exhibits containing sensitive claims and medical data of asbestos claimants); Hr’g Tr. at 113:8-9, *Aldrich*, No. 20-30608 (Bankr. W.D.N.C., May 26, 2022), (“As to standing, I believe that the Committees have standing here.”); *EEOC v. Bojangles’ Rests., Inc.*, No. 5:16-CV-654-BO, 2017 WL 2889493 (E.D.N.C. July 6, 2017) (finding EEOC had standing to assert privacy rights of employees in seeking to quash subpoena).

17. The “slippery slope” the Committee warned about following Bestwall’s subpoenas (*see Motion by Official Committee of Asbestos Personal Injury Claimants to Quash Subpoenas Sent to Debtors* ¶ 16 [Dkt. No. 1056]) has now manifested. The Bestwall subpoenas sought

information from Aldrich, Murray, and DBMP; DBMP now seeks the same information from Aldrich, Murray, and Bestwall.

18. That DBMP is seeking this information without providing any notice to the claimants affected by the Subpoenas is troubling. The Subpoenas issued by DBMP follow the same blueprint Bestwall used in its bankruptcy case. DBMP’s decision not to subpoena any of its current, solvent co-defendants in active litigation—and, rather, to seek the information only from three other active debtors (represented by the same bankruptcy counsel and estimation expert)—seems to confirm an effort to misuse the bankruptcy process to circumvent the confidentiality protections promised to the claimants by these very same debtors.

## **II. THE CONFIDENTIAL, SENSITIVE, AND PERSONAL INFORMATION REQUESTED BY DBMP WARRANTS DISALLOWING THE SUBPOENAS ON MULTIPLE GROUNDS**

19. Rule 45(d)(3)(A) provides that upon a “timely motion, the court for the district where compliance is required must quash or modify a subpoena that . . . requires disclosure of privileged or other protected matter, if no exception or waiver applies . . . .” Fed. R. Civ. P. 45(d)(3)(A). Rule 45(d)(3)(B) also provides that “[t]o protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires[] disclosing a trade secret or other confidential research, development, or commercial information . . . .” Fed. R. Civ. P. 45(d)(3)(B). Similarly, Rule 26(c)(1) authorizes a court to issue a protective order to “protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including . . . requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way . . . .” Fed. R. Civ. P. 26(c)(1); *see also Mannington Mills, Inc. v. Armstrong World Indus., Inc.*, 206 F.R.D. 525, 529 (D. Del. 2002) (stating that the standards under Rules 26



and 45 are overlapping and that a “nonparty moving to quash a subpoena, in essence, is the same as moving for a protective order that such discovery not be allowed.”).

20. Under Rule 45, a court can quash a subpoena that seeks highly personal or confidential personal information. *Wilshire v. Love*, No. 3:14-CV-08374, 2015 WL 1482251, at \*6 (S.D. W.Va. Mar. 31, 2015) (quashing subpoena requesting records that may contain “highly personal, highly sensitive, or embarrassing information”); *Bojangles’ Rests., Inc.*, 2017 WL 2889493 (granting EEOC motion to quash as to private employment records); *Hukman v. Sw. Airlines Co.*, No. 18CV1204-GPC (RBB), 2019 WL 2289390 (S.D. Cal. May 28, 2019) (quashing subpoena that sought private employment information).

21. In addition, it is well-established that “[t]here is a strong public interest in encouraging settlements and in promoting the efficient resolution of conflicts . . . [which] outweighs any general public interest in providing litigants broad discovery of facts to support their claims and defenses.” *Hasbrouck v. BankAmerica Hous. Servs.*, 187 F.R.D. 453, 461-62 (N.D.N.Y.) (granting protective order precluding discovery of confidential settlement information based on “the substantial public interest in maintaining confidentiality of settlements, and the slight, if any, relevance demonstrated”), *aff’d sub nom. Hasbrouck v. BankAmerica Hous. Servs., Inc.*, 190 F.R.D. 42 (N.D.N.Y. 1999). In fact, the very purpose of Federal Rule of Evidence 408—which makes evidence of settlement negotiations inadmissible—“is to encourage settlements.” *See Fed. R. Evid. 408 advisory committee’s note to 1974 enactment.* As such, “[t]he secrecy of a settlement agreement and the contractual rights of the parties thereunder deserve court protection.” *Kalinauskas v. Wong*, 151 F.R.D. 363, 365 (D. Nev. 1993).

22. “When the requested discovery concerns a confidential settlement agreement, the majority of courts considering the issue have required the requesting party to meet

a heightened standard, in deference to Federal Rule of Evidence 408, and the public policy to encourage settlements and to uphold confidentiality provisions.” *Auto-Owners Ins. Co. v. Mid-Am. Piping, Inc.*, No. 4:07 CV 00394, 2008 WL 2570820, at \*2 (E.D. Mo. June 26, 2008) (citations omitted). The Subpoenas potentially implicate thousands of settlements between the Debtors’ predecessors and asbestos claimants. As such, the strong public interest in preserving the confidentiality of settlement agreements is exponentially heightened here. Indeed, if the Subpoenas are not disallowed by this Court, not only would the confidentiality rights of thousands of asbestos victims be discarded, but such a ruling could also discourage future settlements of asbestos claims, as asbestos victims would be understandably concerned that any confidential information exchanged during settlement negotiations may ultimately be produced to interested parties. *See, e.g., Kalinauskas*, 151 F.R.D. at 365-67 (holding that deposition of employee “must not . . . disclose any substantive terms of the [] settlement agreement” because “[t]o allow full discovery into all aspects of [the employee’s] case could discourage similar settlements.”).

23. DBMP’s countervailing interests in obtaining this material to support its claims and defenses in ongoing estimation proceedings simply cannot justify this massive incursion, especially considering the overwhelming amount of claims data that DBMP has already accumulated from numerous other sources. DBMP bears the burden of proof to make a particularized showing that the confidential information it seeks is likely to lead to the discovery of admissible evidence at its estimation hearing. *See Fid. Fed. Sav. & Loan Ass’n v. Felicetti*, 148 F.R.D. 532, 534 (E.D. Pa. 1993) (characterizing effect of the heightened standard for discovery of confidential settlement information as “switch[ing] the burden of proof from the party in opposition to the discovery to the party seeking the information” to “make a particularized showing that the evidence is likely to lead to the discovery of admissible evidence.”). DBMP has

not satisfied its burden here. There is no basis to conclude that the requested discovery is likely to lead to any admissible evidence at the forthcoming estimation hearings.

24. Moreover, the Subpoenas at issue seek information from the Asbestos Claim Database that is highly personal and confidential. The claimants with private and confidential data in the Asbestos Claim Database have an expectation that such information will remain confidential and protected from disclosure. The claimants would not expect that such information would be disclosed to an unrelated asbestos debtor for use by the common professionals representing both DBMP and Aldrich/Murray in DBMP's estimation proceeding. There is clearly potential harm to the Aldrich/Murray asbestos claimants in allowing such highly personal and confidential information to be shared with another company that has no relation to the Debtors (besides being represented by common professionals). This third-party expectation of confidentiality—and the Debtors' contractual duty to maintain this confidentiality—should be given deference by this Court, especially where, as here, the requesting party cannot establish a clear need for the discovery. *See, e.g., Mannington Mills, Inc.*, 206 F.R.D. at 529.

25. It bears emphasizing that the Committee's confidentiality concerns are heightened here because the information sought by DBMP is in an aggregated database. This aggregated information would not be available to DBMP had it remained in the tort system, and failing to quash the Subpoenas would certainly lead to co-defendants in the tort system misusing the bankruptcy process to seek this data. The significant potential for inadvertent or intentional disclosure of such aggregated claims information further justifies quashing the Subpoenas.

26. Fundamental public policy considerations and the heightened discovery standard weigh in favor of proscribing the discovery requested by the Subpoenas.

**III. THE SUBPOENAS EXCEED THE PERMISSIBLE SCOPE OF DISCOVERY UNDER RULE 26 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

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27. “All civil discovery, whether sought from parties or nonparties, is limited in scope by Rule 26(b)(1) . . . .” *Va. Dep’t of Corrections v. Jordan*, 921 F.3d 180, 188 (4th Cir. 2019). Discovery must be “proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.” Fed. R. Civ. P. 26(b)(1); *Va. Dep’t of Corrections*, 921 F.3d at 188-189; *see also Stone v. Trump*, 453 F. Supp. 3d 758, 766 (D. Md. 2020) (“To be relevant, the information must relate to a claim or defense and be proportional to the needs of the case.”). The Subpoenas represent yet another unexplained expansion of asbestos claims data that is alleged to be necessary for estimation purposes.

28. Indeed, Rule 26 expressly recognizes that the Court may limit unreasonably cumulative discovery when the requests “can be obtained from some other source that is more convenient, less burdensome, or less expensive . . . .” Fed. R. Civ. P. 26(b)(2)(C)(i). As a co-defendant with the Debtors in asbestos cases, DBMP had access to the same sources of information as the Debtors, rendering the information in the Debtors’ hands of little to no additional value. Further, as described above, DBMP has already successfully sought and received significant information about the claimants identified in Schedule 1 through the trust discovery process, the PIQ process, and from other asbestos debtors. In contrast, when Bestwall sought discovery from Aldrich, Murray, and DBMP, it had faced significant challenges in the trust discovery and PIQ process. *See Hr’g Tr. at 23:22-24:1, In re Bestwall LLC*, No. 17-31795 (Bankr. W.D.N.C. May 18, 2022) (“And it appears that the discovery was largely precipitated by the fact that the debtor

has been entirely unsuccessful in getting discovery from the trusts and stonewalled in its efforts to get the PIQ discovery from the non-compliant claimants.” (the Court)).

29. At this point, any value added by the requested discovery to resolving the issues in DBMP’s estimation proceeding is marginal—even the minimal burden and expense Aldrich and Murray will likely assert here is outweighed by any benefit. These additional Subpoenas are the epitome of cumulative discovery that not only *can* be obtained from alternative sources, but in large part likely *has* been obtained from alternative sources.

#### **IV. UNDER THE *BARTON* DOCTRINE, THE SUBPOENAS CANNOT BE ISSUED WITHOUT LEAVE OF THIS COURT**

30. The Subpoena should also be quashed because DBMP failed to obtain leave of this Court to serve the Subpoenas on the Debtors, thereby violating longstanding jurisdictional principles established by the *Barton* Doctrine over a century ago. The *Barton* Doctrine, adopted from the Supreme Court’s decision in *Barton v. Bardour*, 104 U.S. 126 (1881), “bars a party from bringing suit against a court-appointed receiver without first obtaining leave of the appointing court.” *In re Circuit City Stores, Inc.*, 557 B.R. 443, 449 (Bank. E.D.N.C. 2016). The *Barton* doctrine has been imposed in an “unbroken line of cases . . . as a matter of federal common law.” *In re Linton*, 136 F.3d 544, 545 (7th Cir. 1998). Over time, the doctrine has been “expanded to include other types of court-appointed parties, such as bankruptcy trustees and counsel for trustee.” *In re Eagan Avenatti, LLP*, 637 B.R. 502, 506 (Bankr. C.D. Cal. 2022). “The [*Barton*] doctrine protects any fiduciary of the estate, including a debtor-in-possession . . . .” *In re Gen. Growth Props., Inc.*, 426 B.R. 71, 75 (Bankr. S.D.N.Y. 2010); *In re Summit Metals, Inc.*, 477 B.R. 484, 495 (Bankr. D. Del. 2012) (“Although *Barton* involved a receiver in state court, the doctrine has long been applied to the trustee in bankruptcy.”).

31. In a recent decision out of the Bankruptcy Court of the Central District of California, the court applied the *Barton* Doctrine in finding that leave of the bankruptcy court was a “condition” for a bankruptcy fiduciary’s compliance. *In re Eagan Avenatti*, 637 B.R. at 508. There, a chapter 7 trustee was served with two subpoenas issued by the District Court for the Southern District of New York directing him to appear at trial and produce materials he obtained by virtue of his position as trustee. *Id.* at 503-04. The trustee subsequently filed a motion in the bankruptcy court seeking authorization to use estate property to respond to the subpoenas. *Id.* at 504. The bankruptcy court, *sua sponte*, held that a *Barton* determination was necessary and denied the trustee’s motion with prejudice. *Id.* at 505. The court determined that the *Barton* doctrine required leave of the court before the subpoenas could be served on the trustee, reasoning that application of the doctrine in connection with a subpoena served on a trustee “follows the same principles as where the trustee becomes a party to a suit or adversary proceeding . . . .” *Id.* at 508. The court also expounded upon the policy concerns underlying the *Barton* doctrine:

[T]he purposes of the Barton Doctrine include reduction of needless costs and inefficiencies in the bankruptcy process and to allow the bankruptcy courts unimpeded supervision of the administration of estates. . . . A court issued subpoena targeting a bankruptcy professional or property within the bankruptcy estate without requiring leave of the bankruptcy court at the outset, is simply a waste of time and effort. For several practical reasons, a trustee cannot comply without leave of the bankruptcy court to expend estate funds to comply with a subpoena or to turn over estate property. . . . As all avenues to the desired discovery necessitate the Bankruptcy Court’s leave, it is needlessly expensive and time-consuming not to require the approval of the Bankruptcy Court as a condition for the validity of the subpoena in the first instance.

*Id.*

32. The *Barton* Doctrine applies to the Subpoenas served on the Debtors, who are fiduciaries of these bankruptcy estates. DBMP’s failure to seek leave from this Court before serving the Subpoenas on the Debtors interferes with this Court’s supervision over the administration of these chapter 11 cases. Accordingly, the Subpoenas should be quashed for

violating the *Barton* doctrine. See *In re Summit Metals, Inc.*, 477 B.R. at 498 (noting that “the *Barton* doctrine alone provides adequate grounds for dismissal”).

**V. GIVEN THAT THE SUBPOENAS SEEK PERSONAL AND CONFIDENTIAL INFORMATION FROM THE ASBESTOS CLAIM DATABASE, THE ASBESTOS CLAIMANTS IDENTIFIED IN THE SUBPOENAS SHOULD RECEIVE NOTICE AND AN OPPORTUNITY TO CHALLENGE**

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33. The Debtors’ asbestos claimants, whose personal information is contained in the Asbestos Claim Database, have received no notice of the Subpoenas. Such claimants therefore do not know that DBMP is attempting to obtain certain information regarding the Schedule 1 Claimants.

34. Given the privacy rights and expectations that the Debtors’ claimants have in the Asbestos Claim Database, the claimants identified in the Subpoenas should have a right to notice and an opportunity to challenge the Subpoenas. See Fed. R. Civ. P. 45 advisory committee’s note to 1991 amendment (“The purpose of such notice is to afford other parties an opportunity to object to the production or inspection, or to serve a demand for additional documents or things.”).

35. The Court should therefore order that notice of any re-issued Subpoena(s) be provided to those individual Schedule 1 Claimants.

**VI. ALTERNATIVELY, IF THE COURT DENIES THIS MOTION, IT SHOULD ORDER THAT THE *ALDRICH* CONFIDENTIALITY PROVISIONS GOVERN ANY PRODUCTION MADE PURSUANT TO THE SUBPOENAS**

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36. Alternatively, if the Court declines to quash the Subpoenas, it should order that the confidentiality provisions in this Court’s *Order Granting Motion of the Debtors for an Order Authorizing the Debtors to Issue Subpoenas on Asbestos Trusts and Paddock Enterprises, LLC* [Dkt. No. 1240] (the “Aldrich Order”) should govern any claims data produced to DBMP pursuant to the Subpoenas. DBMP has agreed to designate any information produced pursuant to the Subpoenas as “confidential” under the protective order entered in the DBMP bankruptcy (the

“DBMP PO”). *See* Subpoenas, Ex. A ¶ 14. The DBMP PO, however, is not tailored to address or protect the highly sensitive claims data sought by DBMP. Among other things, the DBMP PO does not: (i) include provisions requiring anonymization of claims data; (ii) establish appropriate conditions before claims data can be used in the bankruptcy case; or (iii) include appropriate restrictions on the use of the claims data, such as limiting use to only the estimation proceeding. *See generally* DBMP PO [*DBMP*, No. 17-30080, Dkt. No. 251].

37. Conversely, the Aldrich Order—which was the product of extensive litigation—is tailored to protect the confidentiality of claims data. Among other things, the Aldrich Order contains the following essential protections: (i) limiting use of the data to specific “Permitted Purposes” relating to claims estimation and negotiation, formulation, and confirmation of a plan of reorganization (Aldrich Order ¶¶ 5, 13); (ii) keeping the data confidential and limiting access to professionals with a “clear need to know or access the data” (*id.* at ¶ 13); (iii) anonymization of the data (*id.* at ¶¶ 6-12); and (iv) requiring the data to be deleted within 30 days after the effective date of a confirmed plan or entry of a final order confirming such a plan (whichever is later) (*id.* at ¶ 15). Accordingly, if the Court declines to quash the Subpoenas, at a minimum, the protections in the Aldrich Order<sup>2</sup> should attach to any productions made to DBMP pursuant to the Subpoenas.

### **RESERVATION OF RIGHTS**

38. The Committee reserves the right to amend, modify, or supplement this motion as necessary to fully address the Committee’s concerns with the Subpoenas.

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<sup>2</sup> The notice provisions in paragraph 9 of the Aldrich Order—which would require DBMP to provide notice to the Debtors’ affected claimants and to provide them with an opportunity to challenge the Subpoenas—should apply to any productions made by the Debtors in the event the Court declines to quash the Subpoenas. Under Rule 45 of the Federal Rules of Civil Procedure, notice should be provided to affected claimants in order to provide such claimants an opportunity to challenge the Subpoenas. *See supra* ¶ 34.



**CONCLUSION**

WHEREFORE, for the reasons noted above, the Committee respectfully requests that this Court enter an order (i) quashing the Subpoenas, or (ii) alternatively, entering a protective order directing that any information produced pursuant to the Subpoenas be governed by the terms of the Aldrich Order, and (iii) granting such other and further relief as this Court deems just and appropriate.

Dated: March 20, 2024

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# EXHIBIT A

# UNITED STATES BANKRUPTCY COURT

Western District of North Carolina

In re DBMP LLC

Debtor

Case No. 20-30080 (JCW)

(Complete if issued in an adversary proceeding)

Chapter 11

Plaintiff

v.

Adv. Proc. No. \_\_\_\_\_

Defendant

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Aldrich Pump LLC c/o Officer, Director or Agent, 800-E Beaty Street, Davidson, NC 28036  
(Name of person to whom the subpoena is directed)

**Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: **See Exhibit A attached**

PLACE	Robinson Bradshaw 101 N. Tryon St., Suite 1900 Charlotte, NC 28246	DATE AND TIME	4/1/2024 by 5 p.m.
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**Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

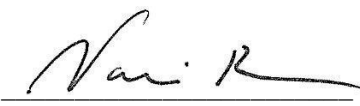
The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: February 29, 2024

CLERK OF COURT

OR

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

  
\_\_\_\_\_  
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) DBMP LLC, who issues or requests this subpoena, are:

Valerie Ross, ArentFox Schiff LLP, 1717 K Street, NW Washington DC 20006, valerie.ross@afslaw.com, (202) 778-6453

### Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for *(name of individual and title, if any)*: \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information concerning attempted service, etc.:

**Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)**  
**(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)**

**(c) Place of compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...  
(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**EXHIBIT A**

**DEFINITIONS AND INSTRUCTIONS**

1. “*DBMP Claimants*” shall mean, collectively, the individuals identified on Schedule 1 to this Exhibit, each of whom either (a) resolved a mesothelioma claim asserted against DBMP or Old CT and is identified on Exhibit A to the *Agreed Order with Respect to Resolved Claims Sampling for Purposes of Estimation Discovery* [Dkt. 2506], or (b) has a Pending Claim, as defined below, against DBMP or Old CT.
2. “*DBMP*” shall mean DBMP LLC.
3. “*Old CT*” shall mean the former CertainTeed Corporation.
4. “*Pending Claim*” shall mean an asbestos claim described in any proof of claim form timely filed by a claimant against Old CT or DBMP, which proof of claim was not subsequently withdrawn.
5. “*Aldrich Pump*” shall mean Aldrich Pump.
6. “*Trane Technologies*” shall mean Trane Technologies Company, LLC.
7. “*Ingersoll-Rand*” shall mean Ingersoll-Rand Company.
8. “*Claims Data*” shall mean all electronic information and data contained in any claims database within Aldrich Pump’s possession, custody, or control whose purpose is or was to track mesothelioma claims asserted against Aldrich Pump, Ingersoll-Rand, or Trane Technologies before the Petition Date.
9. “*Aldrich Pump Claim*” shall mean a mesothelioma claim asserted against Aldrich Pump, Ingersoll-Rand, or Trane Technologies, or for which Aldrich Pump, Ingersoll-Rand, or Trane Technologies was alleged to be responsible, before the Petition Date.

10. “*Injured Party*” shall mean the injured party diagnosed with mesothelioma related to an Aldrich Pump Claim.

11. “*Related Party*” shall mean an individual who is not the Injured Party but who is asserting an Aldrich Pump Claim based on or derived from the Injured Party’s mesothelioma, either in a representative capacity (*e.g.*, the personal representative of the Injured Party’s estate suing for the Injured Party’s injuries), or in an independent capacity (*e.g.*, a family member suing for his or her own losses based on the alleged personal injury to or wrongful death of the Injured Party).

12. “*Petition Date*” shall mean June 18, 2020, the date when Aldrich Pump commenced a chapter 11 bankruptcy case, Case No. 20-30608, in the United States Bankruptcy Court for the Western District of North Carolina.

13. To the extent any Claims Data are not produced on the basis of a claim of privilege or immunity:

(a) submit a list identifying such Claims Data or nature of such Claims Data not produced in a manner that, without revealing the data or information itself privileged or protected, will enable other parties to assess the claimed privilege or immunity;

(b) identify the basis for the privilege (including work product) that is being claimed; and

(c) identify each person having knowledge of the factual basis, if any, on which the claim of privilege or immunity is based.

14. DBMP will deem the information produced in response to this subpoena “confidential” pursuant to the *Agreed Protective Order Governing Confidential Information* [Dkt. 251].

**ELECTRONIC INFORMATION TO BE PRODUCED PURSUANT TO SUBPOENA**

1. Fields containing the following Claims Data for each Aldrich Pump Claim asserted by a DBMP Claimant (to the extent they exist):

- Law firm(s) representing Injured Party or any Related Party
- Jurisdiction and state in which claim was filed
- Claim status (*e.g.*, settled, dismissed, plaintiff verdict, defense verdict, settled pending payment, open, etc.)
- Date of resolution (if applicable)
- Date(s) on which settlement or judgment was paid (if applicable)
- Exposure-related information for Injured Party, including fields reflecting the following data:
  - Date(s) exposure(s) began
  - Date(s) exposure(s) ended
  - Manner of exposure
  - Location of exposure
  - Occupation and industry when exposed
  - Products to which Injured Party was exposed

**RESPONSE:**



# UNITED STATES BANKRUPTCY COURT

Western District of North Carolina

In re DBMP LLC

Debtor

Case No. 20-30080 (JCW)

(Complete if issued in an adversary proceeding)

Chapter 11

Plaintiff

v.

Adv. Proc. No.

Defendant

## SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A BANKRUPTCY CASE (OR ADVERSARY PROCEEDING)

To: Murray Boiler LLC c/o Officer, Director or Agent, 800-E Beaty Street, Davidson, NC 28036  
(Name of person to whom the subpoena is directed)

**Production:** YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Exhibit A attached

PLACE	Robinson Bradshaw 101 N. Tryon St., Suite 1900 Charlotte, NC 28246	DATE AND TIME	4/1/2024 by 5 p.m.
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**Inspection of Premises:** YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

PLACE	DATE AND TIME
-------	---------------

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: February 29, 2024

CLERK OF COURT

OR

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

  
Attorney's signature

The name, address, email address, and telephone number of the attorney representing (name of party) DBMP LLC, who issues or requests this subpoena, are:

Valerie Ross, ArentFox Schiff LLP, 1717 K Street, NW Washington DC 20006, valerie.ross@afslaw.com, (202) 778-6453

### Notice to the person who issues or requests this subpoena

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**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)**

I received this subpoena for *(name of individual and title, if any)*: \_\_\_\_\_  
on *(date)* \_\_\_\_\_ .

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information concerning attempted service, etc.:

**Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)**  
**(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)**

**(c) Place of compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
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  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
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(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

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(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

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(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...  
**(g) Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**EXHIBIT A**

**DEFINITIONS AND INSTRUCTIONS**

1. “*DBMP Claimants*” shall mean, collectively, the individuals identified on Schedule 1 to this Exhibit, each of whom either (a) resolved a mesothelioma claim asserted against DBMP or Old CT and is identified on Exhibit A to the *Agreed Order with Respect to Resolved Claims Sampling for Purposes of Estimation Discovery* [Dkt. 2506], or (b) has a Pending Claim, as defined below, against DBMP or Old CT.
2. “*DBMP*” shall mean DBMP LLC.
3. “*Old CT*” shall mean the former CertainTeed Corporation.
4. “*Pending Claim*” shall mean an asbestos claim described in any proof of claim form timely filed by a claimant against Old CT or DBMP, which proof of claim was not subsequently withdrawn.
5. “*Murray Boiler*” shall mean Murray Boiler LLC.
6. “*Trane U.S.*” shall mean Trane U.S. Inc.
7. “*Claims Data*” shall mean all electronic information and data contained in any claims database within Murray Boiler’s possession, custody, or control whose purpose is or was to track mesothelioma claims asserted against Murray Boiler or Trane U.S. before the Petition Date.
8. “*Murray Boiler Claim*” shall mean a mesothelioma claim asserted against Murray Boiler or Trane U.S., or for which Murray Boiler or Trane U.S. was alleged to be responsible, before the Petition Date.
9. “*Injured Party*” shall mean the injured party diagnosed with mesothelioma related to a Murray Boiler Claim.

10. “*Related Party*” shall mean an individual who is not the Injured Party but who is asserting a Murray Boiler Claim based on or derived from the Injured Party’s mesothelioma, either in a representative capacity (*e.g.*, the personal representative of the Injured Party’s estate suing for the Injured Party’s injuries), or in an independent capacity (*e.g.*, a family member suing for his or her own losses based on the alleged personal injury to or wrongful death of the Injured Party).

11. “*Petition Date*” shall mean June 18, 2020, the date when Murray Boiler commenced a chapter 11 bankruptcy case, Case No. 20-30609, in the United States Bankruptcy Court for the Western District of North Carolina.

12. To the extent any Claims Data are not produced on the basis of a claim of privilege or immunity:

(a) submit a list identifying such Claims Data or nature of such Claims Data not produced in a manner that, without revealing the data or information itself privileged or protected, will enable other parties to assess the claimed privilege or immunity;

(b) identify the basis for the privilege (including work product) that is being claimed; and

(c) identify each person having knowledge of the factual basis, if any, on which the claim of privilege or immunity is based.

13. DBMP will deem the information produced in response to this subpoena “confidential” pursuant to the *Agreed Protective Order Governing Confidential Information* [Dkt. 251].

**ELECTRONIC INFORMATION TO BE PRODUCED PURSUANT TO SUBPOENA**

1. Fields containing the following Claims Data for each Murray Boiler Claim asserted by a DBMP Claimant (to the extent they exist):

- Law firm(s) representing Injured Party or any Related Party
- Jurisdiction and state in which claim was filed
- Claim status (*e.g.*, settled, dismissed, plaintiff verdict, defense verdict, settled pending payment, open, etc.)
- Date of resolution (if applicable)
- Date(s) on which settlement or judgment was paid (if applicable)
- Exposure-related information for Injured Party, including fields reflecting the following data:
  - Date(s) exposure(s) began
  - Date(s) exposure(s) ended
  - Manner of exposure
  - Location of exposure
  - Occupation and industry when exposed
  - Products to which Injured Party was exposed

**RESPONSE:**

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

In re:

ALDRICH PUMP LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-30608

(Jointly Administered)

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that the Official Committee of Asbestos Personal Injury Claimants filed a *Motion by Official Committee of Asbestos Personal Injury Claimants to Quash Subpoenas Sent to Debtors* (the "Motion") in this case.

PLEASE TAKE FURTHER NOTICE that your rights may be affected by the Motion. You should read the Motion carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult with one.

PLEASE TAKE FURTHER NOTICE that, pursuant to Fed. R. Bankr. P. 9006 and the Case Management Order, written responses, if any, must be filed on or before **April 3, 2024**, (the "Response Deadline"), in order to be considered. If you do not want the Court to grant the relief requested in the Motion, or if you oppose it in any way, you **MUST**:

1. File a formal, written response with the Bankruptcy Court at:  
  
Clerk, United States Bankruptcy Court  
Charles Jonas Federal Building  
401 West Trade Street  
Charlotte, North Carolina 28202
2. Serve a copy of your response on all parties in interest, including:
  - a) U.S. Bankruptcy Administrator  
401 West Trade Street, Suite 2400  
Charlotte, NC 28202

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<sup>1</sup> The Debtors are the following entities (the last four digits of Debtors' taxpayer identification follow in parenthesis) Aldrich Pump LLC (2290) (hereinafter, "Aldrich") and Murray Boiler LLC (0679) (hereinafter, "Murray"). The Debtors' address is 800-E. Beaty Street, Davidson, North Carolina 28036.

- b) HAMILTON STEPHENS STEELE + MARTIN, PLLC  
Glenn C. Thompson  
Robert A. Cox, Jr.  
525 North Tryon Street, Suite 1400  
Charlotte, North Carolina 28202
  
- c) ROBINSON & COLE LLP  
Natalie D. Ramsey  
Davis Lee Wright  
1000 N. West Street, Suite 1200  
Wilmington, Delaware 19801
  
- d) CAPLIN & DRYSDALE, CHARTERED  
Kevin C. Maclay  
Todd E. Phillips  
Jeffrey A. Liesemer  
One Thomas Circle NW, Suite 1100  
Washington, DC 20005

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will be held on **April 25, 2024 at 9:30 a.m. (ET)** before the Honorable J. Craig Whitley at the United States Bankruptcy Court, Charles Jonas Federal Building, Courtroom 2B, 401 West Trade Street, Charlotte, North Carolina 28202.

PLEASE TAKE FURTHER NOTICE that, if you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an Order granting the relief requested. No further notice of the hearing will be given.

Dated: March 20, 2024  
Charlotte, North Carolina

HAMILTON STEPHENS  
STEELE + MARTIN, PLLC

/s/ Robert A. Cox, Jr.  
Glenn C. Thompson (Bar No. 37221)  
Robert A. Cox, Jr. (Bar No. 21998)  
525 North Tryon Street, Suite 1400  
Charlotte, North Carolina 28202  
Telephone: (704) 344-1117  
Facsimile: (704) 344-1483  
gthompson@lawhssm.com  
rcox@lawhssm.com

*Local Counsel for the Official Committee of  
Asbestos Personal Injury Claimants*