

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re:

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-30608

(Jointly Administered)

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS,

Plaintiff,

v.

ALDRICH PUMP LLC, MURRAY BOILER
LLC, TRANE TECHNOLOGIES COMPANY
LLC, and TRANE U.S. INC.,

Defendants.

Adv. Pro. No. 21-03029

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS, on behalf
of the estates of Aldrich Pump LLC and Murray
Boiler LLC,

Plaintiff,

v.

INGERSOLL-RAND GLOBAL HOLDING
COMPANY LIMITED, TRANE
TECHNOLOGIES HOLDCO INC., TRANE
TECHNOLOGIES COMPANY LLC, TRANE
INC., TUI HOLDINGS INC., TRANE U.S. INC.,
and MURRAY BOILER HOLDINGS LLC,

Defendants.

Adv. Pro. No. 22-03028

¹ 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.



OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS on behalf of
the estates of Aldrich Pump LLC and Murray
Boiler LLC,

Plaintiff,

v.

Adv. Pro. No. 22-03029

TRANE TECHNOLOGIES PLC, INGERSOLL-
RAND GLOBAL HOLDING COMPANY
LIMITED, TRANE TECHNOLOGIES HOLDCO
INC., TRANE TECHNOLOGIES COMPANY
LLC, TRANE INC., TUI HOLDINGS INC.,
TRANE U.S. INC., MURRAY BOILER
HOLDINGS LLC, SARA BROWN, RICHARD
DAUDELIN, MARC DUFOUR, HEATHER
HOWLETT, CHRISTOPHER KUEHN,
MICHAEL LAMACH, RAY PITTARD, DAVID
REGNERY, AMY ROEDER, ALLAN
TANANBAUM, EVAN TURTZ, MANLIO
VALDES, and ROBERT ZAFARI

Defendants.

**PLAINTIFF OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY
CLAIMANTS' OBJECTION AND RESPONSE TO NOTICES OF INTENT TO DISMISS**

Now comes the Official Committee of Asbestos Personal Injury Claimants on behalf of the estates of Aldrich Pump LLC and Murray Boiler LLC, plaintiff in the above-captioned actions (“Plaintiff”), and files this Objection and Response (the “Response”) to the Notices of Intent to Dismiss filed in each of the above-referenced adversary proceedings (collectively, the “Notices”)² stating the Court’s intent to dismiss the adversary proceedings because no activity has occurred in the proceedings on the docket in more than four months. In support of the Response, Plaintiff states as follows:

² See Adv. Proc. 21-03029, ECF No. 146; Adv. Proc. 22-03028, ECF No. 75; Adv. Proc. 22-03029, ECF No. 60.

BACKGROUND

1. On October 18, 2021, Plaintiff commenced Adversary Proceeding Number 21-3029 by filing its *Complaint for Substantive Consolidation of Debtors' Estates with Certain Nondebtor Affiliates, or Alternatively, to Reallocate Debtors' Asbestos Liabilities to Those Affiliates* against the above-captioned Debtors and certain non-debtor affiliates of the Debtors (the "SubCon Proceeding").

2. On June 18, 2022, Plaintiff commenced Adversary Proceeding No. 22-3028 by filing a *Complaint* asserting causes of action including, without limitation, actual and constructive fraudulent transfer under federal and applicable state law against certain affiliates of the above-captioned Debtors (the "Fraudulent Transfer Proceeding").

3. Also on June 18, 2022, the Plaintiff commenced Adversary Proceeding No. 22-3029 by filing a *Complaint* asserting causes of action including, without limitation, breach of fiduciary duty, aiding and abetting a breach of fiduciary duty, and civil conspiracy against certain affiliates of the above-captioned Debtors (the "Fiduciary Duty Proceeding," together with the SubCon Proceeding and the Fraudulent Transfer Proceeding, the "Committee Proceedings").

4. On January 10, 2023, the Court entered a *Case Management Order* applicable in all three of the Committee Proceedings.³ Among other relief, the Case Management Order stayed the Fiduciary Duty Proceeding in its entirety, including with respect to discovery, pending final orders resolving the Fraudulent Transfer Proceeding and the Substantive Consolidation Proceeding. Case Management Order ¶ B.3.ii. The Case Management Order further provided that the parties should meet and confer to create a discovery protocol applicable to the Fraudulent Transfer Proceeding and Substantive Consolidation Proceeding. Case Management Order ¶ C.3.i.

³ Adv. Proc. 21-03029, ECF No. 117; Adv. Proc. 22-03028, ECF No. 39; Adv. Proc. 22-03029, ECF No. 35.

5. After entry of the Case Management Order, the parties met and conferred on numerous occasions regarding a discovery plan and protocol. To address certain remaining issues related to the discovery plan, Plaintiff filed on March 9, 2023 *Plaintiff's Motion on Discovery Procedures* ("Plaintiff's Discovery Motion")⁴ to which the non-Debtor defendants and the Debtor defendants filed objections.⁵

6. After a hearing on Plaintiff's Discovery Motion on March 30, 2023, the Court entered an *Order Establishing Joint Discovery Plan and Report (ESI Protocol)* (the "Discovery Plan Order") in the SubCon Proceeding and the Fraudulent Transfer Proceeding on April 24, 2023.⁶ The Discovery Plan Order addresses various discovery matters, including limitations on discovery, document production, and an electronically stored information protocol. The Discovery Plan Order does not set any discovery deadlines but provides that the "Parties shall meet and confer to agree upon production completion deadlines." Discovery Plan Order ¶ 7.

**STATUS OF SUBCON PROCEEDING AND
FRAUDULENT TRANSFER PROCEEDING**

7. Since entry of the Discovery Plan Order, written discovery and document production have commenced and are on-going in the SubCon Proceeding and the Fraudulent Transfer Proceeding. In accordance with the Discovery Plan, the parties have met and conferred on numerous occasions to discuss various discovery matters, and continue to confer to try and resolve any disputes related to discovery. At the present time, no production completion deadline has been agreed to by the parties.

8. Given that SubCon Proceeding and the Fraudulent Transfer Proceeding remain active, with discovery on-going in accordance with the Case Management Order and the Discovery

⁴ Adv. Proc. 21-03029, ECF No. 119; Adv. Proc. 22-03028, ECF No. 50; Adv. Proc. 22-03029, ECF No. 46.

⁵ Adv. Proc. 21-03029, ECF No. 121; Adv. Proc. 22-03028, ECF No. 52.

⁶ Adv. Proc. 21-03029, ECF No. 142; Adv. Proc. 22-03028, ECF No. 69.

Plan Order, such proceedings should not be dismissed for failure to prosecute. *See, e.g., Void v. Orangeburg Cnty. Disabilities & Special Needs Bd.*, No. 5:14-CV-02157-JMC, 2015 WL 4112099, at *3 (D.S.C. July 8, 2015) (“Significant time between filings with the court are not uncommon during the discovery period and do not constitute a failure to take action within a reasonable time.”).

STATUS OF FIDUCIARY DUTY PROCEEDING

9. The Fiduciary Duty Proceeding remains stayed as and to the extent set forth in the Case Management Order. Accordingly, such proceeding also should not be dismissed for failure to prosecute.

WHEREFORE, Plaintiff objects to the Notices and respectfully requests that the SubCon Proceeding, the Fraudulent Transfer Proceeding, and the Fiduciary Duty Proceeding not be dismissed for failure to prosecute and that the Committee Proceedings remain open.

Dated: September 5, 2024

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