

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

ALDRICH PUMP LLC, *et al.*,

Debtors.¹

Chapter 11

Case No. 20-30608 (LMJ)

(Jointly Administered)

**THE FUTURE ASBESTOS CLAIMANTS' REPRESENTATIVE'S
REPLY TO THE BANKRUPTCY ADMINISTRATOR'S OPPOSITION TO THE
DEBTORS' MOTION FOR BANKRUPTCY RULE 2004 EXAMINATION OF THE
OFFICIAL COMMITTEE OF PERSONAL INJURY CLAIMANTS**

Joseph W. Grier, III, the representative for future asbestos claimants in the above-captioned cases (the "FCR"), through counsel, hereby files this *Reply* to the Bankruptcy Administrator's *Opposition* (the "Rule 2004 Opposition")² to the *Debtors' Motion* (the "2004 Motion") for *Bankruptcy Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants* (the "ACC").³

Referencing admissions made at the October 23, 2025 hearing (the "Rule 2004 Hearing"), the Court's *Order Continuing Hearing on Motion for Bankruptcy Rule 2004 Examination and Requesting Appearance and Assistance of Bankruptcy Administrator* (the "2004 Order")⁴ observes that the ACC operated for more than two years with only three members because the other

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 Dkt. 2886.

³ Dkt. 2864.

⁴ Dkt. 2881.



members had died.⁵ The Court then requested the BA's assistance as to three issues: the "appropriateness and scope" of a Rule 2004 examination of the ACC; if a Rule 2004 examination is ordered, "the proper party to conduct" it; and "additional oversight measures" regarding ACC governance to address the Court's concerns.⁶

The Rule 2004 Opposition followed the Rule 2004 Hearing and entry of the 2004 Order. In her Rule 2004 Opposition, the BA presented a full-throated defense of past ACC governance and ACC actions, characterizing the 2004 Motion as an "inappropriate sideshow" and an effort to "recast the history of mass tort bankruptcy cases in this district."⁷ The 2004 Order, however, demonstrates that the Court recognizes the issues raised in the Debtors' motion requesting a Rule 2004 examination of the ACC⁸ and the FCR's joinder in that motion.⁹ In fact, the Court set out ACC counsel's acknowledgment that "[t]here were tort lawyers attending committee meetings after their client had passed away" in the 2004 Order.¹⁰ Thus, the questions as to ACC governance and appropriate oversight thereof are not easily dismissed.

The FCR finds much to quarrel with in the Rule 2004 Opposition. For example, the FCR takes issue with the portrayal of his role in this case¹¹ and wholeheartedly rejects the characterization of his motivations.¹² This Reply, however, focuses on the fact that the Rule 2004

⁵ 2004 Order at 2-3.

⁶ *Id.* at 3-4.

⁷ Rule 2004 Opposition at 2.

⁸ Dkt. 2824.

⁹ Dkt. 2839.

¹⁰ 2004 Order at 3 (quoting Oct. 23, 2025 Hr'g Tr. at 136:11-15).

¹¹ *See* Rule 2004 Opposition at 20-21 (expressing the BA's view of the FCR's role as a fiduciary for future claimants).

¹² *See, e.g., id.* at 6 (intimating that the FCR is attempting "to use untimely substitutions of committee members" to his advantage).

Opposition fails to fully respond to the Court’s concerns and its direction in the 2004 Order, in particular that the BA recommend “additional oversight measures” relative to the ACC’s operations.¹³

In 2023, long before entry of the 2004 Order, the FCR sounded the alarm as to absent ACC committee members after learning that the putative co-chair, Mr. Overton, was unaware of the committee’s existence, much less his fiduciary role.¹⁴ Indeed, issues regarding conflicts of interest with respect to the tort law firms remain very real as shown by the fact that ACC counsel has explicitly admitted that the tort firms are motivated to see these cases dismissed to avoid this Court making any findings of evidence suppression that could lead to RICO complaints being filed against them for their pre-petition conduct. In the *DBMP* case, Judge Whitley, took note of the tort firms’ personal motivations in avoiding adverse findings and realizing greater recoveries for themselves.¹⁵ Moreover, the Fourth Circuit has observed that conflicts between the interests of lawyers representing the *Bestwall* ACC and their constituency may be a factor in repeated efforts to obtain dismissal or to delay resolution of that case.¹⁶ In sum, conflicts, whether real or suspected, cannot be brushed aside as the Rule 2004 Opposition seems to suggest.¹⁷

¹³ Rule 2004 Order at 3-4.

¹⁴ *The Future Asbestos Claimants’ Representative’s Opposition to the Motion to Dismiss on Behalf of Robert Semian and Other Clients of MRHFM*, Dkt. 1779 (filed Jun. 6, 2023).

¹⁵ *In re DBMP LLC*, Case No. 20-30080, Dkt. 2280, Feb. 9, 2023 Hr’g Tr., at 92:22-25, 93:1-6 (the Court stating: “it is possible that the Matching Claimants are simply a representation of the tort firms themselves protecting their pecuniary interests” and “someone acknowledged that part of this was the fear that they were going to get tarred with the, with the Garlock brush that, of making nondisclosures.”)

¹⁶ *See In re Bestwall LLC*, 71 F.4th 168, 184 (4th Cir. 2023) (noting that “[i]t is not clear why Claimant Representatives’ counsel have relentlessly attempted to circumvent the bankruptcy proceeding, but we note that aspirational greater fees that could be awarded to the claimants’ counsel in the state-court proceedings is not a valid reason to object to the processing of the claims in the bankruptcy proceeding”); *see also Bestwall LLC v. Official Committee of Asbestos Claimants of Bestwall, LLC*, 148 F.4th 233, 246 n.2 (4th Cir. Aug. 1, 2025) (J. Agee, concurring) (inquiring whether committee-imposed delays in *Bestwall* relate “to valid claims or the desire for perceived higher attorneys’ fees should the claims be removed and adjudicated outside the bankruptcy”).

¹⁷ Rule 2004 Opposition at 21-22.

The 2004 Order rejects the notion that the record supports the allegation that the ACC’s “past operations are typical in an asbestos case.”¹⁸ But the Rule 2004 Opposition, argues at length to the contrary.¹⁹ If the BA rather than the Court is correct, query whether such “typical” operations are appropriate.²⁰ In any event, presumably by way of response to two of the Court’s requests, the BA makes clear her view that a Rule 2004 examination of the ACC is not called for, which likewise obviates the need to suggest which party should be charged with conducting such an exam.²¹ Indeed, the BA refers to the proposed Rule 2004 examination of the ACC as an “unfounded” attempt to advance the Debtors’ and the FCR’s “respective case strategies,” a characterization that falls flat in view of the ACC counsel’s admissions on the record during the Rule 2004 Hearing.

With respect to the Court’s request for assistance as to any “additional oversight measures” relative to the ACC, the Rule 2004 Opposition only suggests that, going forward, the ACC adopt certain principles to be incorporated in its governing documents.²² The stated principles reflect a good start. As a minimum, for example, ACC members should—more accurately, must—be made

¹⁸ *Id.* at 2.

¹⁹ Rule 2004 Opposition at 2-16.

²⁰ See S. Todd Brown, *Section 524(g) Without Compromise: Voting Rights and the Asbestos Bankruptcy Paradox*, 2008 Colum. Bus. L. Rev. 841, 855-6, 902-04 (2008) (detailing how tort firms have exercised substantial control over trust claim qualification criteria, settlement values, key appointments, and trust governance provisions to preserve their influence); *The More Things Change: Bankruptcy Trust Reform and the Status Quo in Asbestos Litigation*, 85 Def. Couns. J. 4 (2020) (discussing, at p. 12, the domination of the nation’s leading tort firms and identifying the top five firms that appear in multiple asbestos cases); *In re Congoleum Corp.*, 426 F.3d 675, 693 (3d Cir. 2005) (“As this case demonstrates, leaving the procedures for allocation of resources predominantly in the hands of private, conflicting interests has led to problems of fair and equal resolution. The need for counsel with undivided loyalties is more pressing in cases of this nature than in more familiar conventional litigation. Correspondingly, the level of court supervision must be of a high order.”); *In re Combustion Eng’g Inc.*, 391 F.3d 190, 240-42 (3d Cir. 2004) (noting the inequities and self-dealing concerns in a “two-tier” bankruptcy trust model, where plan appeared to “impermissibly discriminate against certain asbestos personal injury claimants.”).

²¹ Rule 2004 Opposition at 2.

²² *Id.* at 23-25.

to understand their role in decision-making, as well as be “encouraged” to participate, and to “remain informed.”²³ Without question, counsel for the ACC not only should but must ensure that their actions have been authorized by the ACC members going forward.²⁴ Indeed, the rules of professional conduct demand no less.²⁵

But while making broad suggestions that minimally address the ACC members’ fiduciary roles and duties, the BA offers no recommendation as to “additional oversight measures.” That is, what level of oversight would be appropriate? What party should provide “oversight” as to whether the ACC members and their counsel are, in fact, operating within the structure of those principles? And how will such “oversight” be implemented? Those questions remain and warrant thoughtful consideration and further exploration given the Court’s finding, noted above, that the ACC’s past operations thus far have not been “typical in an asbestos case.”

Limited Rule 2004 discovery will provide the Court with a record to support “additional oversight measures” necessary to address the Court’s stated real and legitimate ACC governance concerns, and ensure that the ACC, going forward, can function properly in alignment with the interests of the creditor class. For these reasons and those stated in the FCR’s earlier joinder, the FCR respectfully requests that the Court grant the 2004 Motion subject to any additional provisions as to ACC governance and oversight as the Court deems appropriate.

²³ *Id.* at 24.

²⁴ *See id.*

²⁵ *See, e.g.*, Rule 1.2, North Carolina State Bar Rules of Professional Conduct (stating in part, “a lawyer shall abide by a client’s decisions concerning the objectives of representation and . . . shall consult with the client as to the means by which they are to be pursued”).

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Charlotte, North Carolina

Respectfully submitted,

/s/ A. Cotten Wright

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