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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:)	Chapter 11
HOPEMAN BROTHERS, INC.,)	Case No. 24-32428 (KLP)
Debtor.)	

**HUNTINGTON INGALLS
INDUSTRIES, INC.’S OBJECTION TO
MOTION OF DEBTOR FOR ENTRY OF
ORDER (I) ESTABLISHING PROCEDURES TO
SCHEDULE HEARINGS TO CONSIDER INSURER
SETTLEMENT MOTIONS; (II) APPROVING FORM AND
MANNER OF NOTICE THEREOF; AND (III) GRANTING RELATED RELIEF**

Huntington Ingalls Industries, Inc. (“**HI**”), by and through undersigned counsel, pursuant to Fed.R.Bankr.P. 9014, hereby files its objection (the “**Objection**”) to the *Motion of the Debtor for Entry of an Order (I) Establishing Procedures to Schedule Hearings to Consider the Insurer Settlement Motions; (II) Approving the Form and Manner of Notice Thereof; and*



(III) *Granting Related Relief* [ECF No. 54] (the “**Procedures Motion**”) filed by Hopeman Brothers, Inc. (the “**Debtor**”).¹ In support of the Objection, HII respectfully states as follows:

BACKGROUND

1. The Debtor filed the Procedures Motion on July 10, 2024. The Procedures Motion seeks entry of an order approving: (1) the form and manner of noticing the Chubb Insurers Settlement Motion, the Certain Settling Insurers Settlement Motion, and “any other motions to be filed by the Debtor during the pendency of this chapter 11 case seeking Court approval of settlement agreements entered into between the Debtor and the various insurance companies . . . that issued the Debtor insurance policies related to the Debtor’s asbestos-related liabilities” (together with the Chubb Insurers Settlement Motion and the Certain Settling Insurers Settlement Motion, the “**Insurer Settlement Motions**”). See Procedures Motion ¶ 1, ECF No. 54 at 4-5.² On August 26, 2024, the Official Committee of Unsecured Creditors filed the *Motion of the Official Committee of Unsecured Creditors to Extend the Response Deadline and Continue the Hearing on the Debtor’s Insurance Settlement Procedures* [ECF No. 120] (the “**UCC Motion**”), whereby it sought to extend the Committee’s deadline to object to the Procedures Motion through and including October 1, 2024 and adjourn the currently-scheduled hearing on the Procedures Motion to October 8, 2024, at 10:00 a.m. See UCC Motion, ECF No. 120 at 11. On August 28, 2024, Janet Rivet, Kayla Rivet, Maxine Becky Polkey Ragusa, Valerie Ann Ragusa Primeaux, Stephanie Jean Ragusa Connors, Erica Dandry Constanza and Monica Dandry

¹ As provided in the *Notice of Adjournment of Matters Scheduled for Hearing on August 6, 2024* [ECF No. 89], “[e]xcept as expressly agreed by the Debtor and any applicable party in interest,” the deadline to file an objection to the Procedures Motion passed on July 30, 2024. Prior to expiration of that deadline, the Debtor and HII agreed that HII may file an objection to, *inter alia*, the Procedures Motion through and including August 30, 2024.

² Terms capitalized herein but not otherwise defined shall have the meaning given to them in the Procedures Motion.

Hallner (the “**Louisiana Plaintiffs**”) filed their *Motion to Extend the Response Deadline and Continue Hearing on the Debtor’s Insurance Settlement Procedures Motion* [ECF No. 122] (the “**Louisiana Plaintiffs’ Motion**”) whereby the Louisiana Plaintiffs likewise sought to extend their deadline to object to the Procedures Motion through and including October 1, 2024 and adjourn the currently-scheduled hearing on the Procedures Motion to October 8, 2024, at 10:00 a.m. *See* Louisiana Plaintiff’s Motion, ECF No. 122 at 12.³

2. By its Procedures Motion, the Debtor seeks permission to schedule hearings and notice periods for the consideration of the Insurer Settlement Motions, which the Debtor contends are the “lynchpin” of this bankruptcy case. *See* Chubb Insurers Settlement Motion ¶ 2, ECF No. 9 at 2 (“Approval of the Chubb Insurer Settlement Agreement is the lynchpin of the Debtor’s Plan to maximize recoveries paid to valid Asbestos-Related Claims.”). The requested procedures would provide, *inter alia*, (i) a hearing on one or more insurer settlement motions will be held a date that is only fourteen (14) days following the date that the Debtor provides notice required by these procedures, (ii) any objections to such motion must be filed seven (7) days before such hearing, and (iii) the deadline for the Debtor to file any reply to such objections shall be 12:00 p.m. (prevailing Eastern Time) on the date that is at least one business day before the scheduled hearing (the “**Proposed Procedures**”). Procedures Motion ¶ 14, ECF No. 54 at 9-10.⁴

³ HII files this Objection in accordance with its negotiated deadline extension. *See supra* n.1. HII does not oppose an adjournment of the hearing on the Procedures Motion.

⁴ It is unclear how this interacts with the proposal that “The Insurer Settlement Notice will be mailed on or before a date that is not less than twenty-one (21) days prior to the hearing on an Insurer Settlement Motion.” Procedures Motion ¶ 19, ECF No. 54 at 11-12. It is further unclear how any of the foregoing squares with the language of the proposed order that provides “[a] hearing on an Insurer Settlement Motion shall be held on a date that is at least thirty (30) days following the date the Debtor files such motion(s), or as soon thereafter as counsel may be heard, and at least 14 days following the Debtor providing service of the Insurer Settlement Motion as contemplated by this Order.” ECF No. 54 at 14.

3. HII is the largest military shipbuilding company in the United States and has more than a 135-year history of advancing U.S. national defense. *See Who We Are, Huntington Ingalls Inc.*, <https://hii.com/who-we-are/>. HII is regularly named as a co-defendant alongside the Debtor and non-debtor Wayne Manufacturing Corporation (“**Wayne**”) in asbestos-related actions. These actions implicate insurance policies that may be affected by the Procedures Motion due to factors such as Louisiana’s direct action statute and virile share liability system, as more fully described in *Huntington Ingalls Industries Inc.’s Preliminary Objection and Reservation of Rights Regarding Motion of Debtor for Entry of Interim and Final Orders Extending Automatic Stay to Stay Asbestos-Related Actions Against Non-Debtor Defendants* (the “**Stay Objection**”) filed contemporaneously herewith. *See Stay Objection* ¶¶ 3-5.⁵ These features of Louisiana law vest HII with an interest in the resolution of—and distributions on the basis of—the Debtor’s asbestos litigation liability. However, HII is unable to evaluate fully the propriety of the Debtor’s skeletal (and, apparently in some cases, even incipient and unfiled) Insurer Settlement Motions due to the unnecessary opacity and breakneck speed of the Proposed Procedures.

OBJECTION

4. In a mad rush with little to no public disclosure of material documents and facts, the Debtor seeks to settle its interests in decades of unfiled and undisclosed insurance policies without providing creditors or the Court any insight into the fairness of the proposed settlements, the value of the policies (some of which, on information and belief, have **no applicable policy**

⁵ These portions of the Stay Objection are incorporated by references as if fully set forth herein.

limits, a fact not disclosed to the Court by the Debtor),⁶ the effect on third parties such as HII with pending or potential direct claims against the settling insurers, and how much estate value is being depleted by such settlements. The Debtor views the Insurer Settlement Motions as the lynchpin of this bankruptcy case, and yet provides for an extremely expedited settlement process that provides parties in interest and the Court with little to no visibility into what value is leaving the estate. Moreover, the proposed procedures deprive the Court of the ability to establish the requisite evidentiary record to approve any settlements under Federal Rule of Bankruptcy Procedure 9019. As such, any fair procedures for the consideration of the Insurer Settlement Motions consistent with the Fed.R.Bankr.P. and due process must include a reasonable and appropriate discovery schedule, including sufficient notice and objection periods, to provide interested parties with a meaningful opportunity to evaluate the factual underpinnings of the ground-shifting and undisclosed relief the Debtor seeks. HII therefore objects to the Procedures Motion on the grounds that the proposed procedures are unnecessarily expedited and opaque and will harm the ability of parties in interest to adequately protect their interests and ensure property of the estate is best marshalled for the benefit of creditors.

5. Under Fed.R.Bankr.P. 9019, “[t]he proponent of [a] settlement has the burden of proving that the settlement is fair and equitable.” *In re Alpha Nat. Res. Inc.*, 544 B.R. 848, 857 (Bankr. E.D. Va. 2016). In making this determination, bankruptcy courts must apply “exacting” scrutiny of any proposed settlement using the so-called *Austin* factors, which “include (1) the probability of success in any ensuing litigation; (2) any collection difficulties; (3) the complexity, likely duration and expense of the litigation; and (4) whether the proposed compromise qualifies

⁶ HII is engaged in informal discovery with the Debtor and is reviewing certain policies recently provided by the Debtor.

as fair and equitable to a debtor, the creditors and other interested parties.” *MarkWest Liberty Midstream & Res., LLC v. Meridien Energy, LLC*, No. 3:23CV593 (DJN), 2024 WL 3345342, at *17, 2024 U.S. Dist. LEXIS 120599, at **42, 66 (E.D. Va. July 9, 2024). “[T]he Bankruptcy Court must look under the hood of the settlement vehicle, for ‘[t]here can be no informed and independent judgment as to whether a proposed compromise is fair and equitable until the bankruptcy judge has apprised himself of all facts necessary for an intelligent and objective opinion of the probabilities of ultimate success should the claim be litigated.’” *Id.* 2024 WL 3345342, at **22, 2024 U.S. Dist. LEXIS 120599, at *51. The Debtors seek to settle and sell back to the insurers decades of undisclosed insurance policies without providing parties in interest the opportunity to review the policies—including whether they have finite policy limits. Under these circumstances, it would be impossible for any party or the Court to know whether the value provided by the settling insurer is reasonable in light of the value of the policy to the estate. Here, without even knowing the policy limit (if any) of the subject insurance policies, parties are left to guess as to whether the Debtor is satisfying its burden that the settlements are fair and reasonable.

6. For these same reasons, meaningful discovery must be allowed before any hearing or objection deadline related to any of the Insurer Settlement Motions. Any procedures should include a discovery plan that provides ample time for parties in interest to become aware of the motion, review the relevant and necessary documentation before the expiration of any objection deadline, and take appropriate depositions, including, at a minimum, the Debtor and the relevant insurers.

7. Consistent with the foregoing, there must also be a rational and fair notice period for parties in interest to review any insurance settlement before objecting. While it is unclear

what exact schedule the Debtor is proposing or why this non-operating business is in such a rush, given the need for discovery and potential need for an evidentiary hearing, it is inappropriate to proceed on *any* of the condensed timelines that may be suggested by the Debtor.⁷ HII submits that, while the objection and reply deadlines may remain the same with respect to the noticed hearing date, the period between notice and hearing should be no fewer than ninety (90) days.

8. In addition to the practical considerations addressed above, the Insurance Settlement Motions currently seek relief under sections 363, 365, and 105 of Title 11 of the United States Code (the “**Bankruptcy Code**”). More specifically, the Chubb Insurers Settlement Motion seeks assumption of a pre-petition settlement agreement under section 365, sale free-and-clear under section 363(f), the finding that the Chubb Insurers are good-faith purchasers under section 363(m), and an injunction of certain third-party claims against Chubb under section 105. *See* Chubb Insurers Settlement Motion ¶¶ 33-46, ECF No. 9 at 13-18. Likewise, the Certain Insurers Settlement Motion seeks approval of a sale free-and-clear under section 363(f), the finding that the Certain Settling Insurers are good-faith purchasers under section 363(m), and a third-party injunction under section 105. *See* Certain Settling Insurers Settlement Motion ¶¶ 33-43, ECF No. 13-18. Under the federal and local rules, the Insurance Settlement Motions require a minimum notice period of twenty-one (21) days. *See* Fed. R. Bankr. P. 2002(a)(2) (“Except as provided in subdivisions (h), (i), (l), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 21 days’ notice by mail of . . . a proposed use, sale, or lease of property of the estate other than in the ordinary course of business, unless the court for cause shown shortens the time or directs another method of giving notice.”); Local Rule 9013-1 (“The moving party must provide a

⁷ *See supra* at n. 3.

deadline to file a response or objection, of at least . . . 21 days after service of the motion unless the motion relates to a matter for which another notice period is specified under the Federal Rules of Bankruptcy Procedure or these Local Bankruptcy Rules, or the time is shortened or extended by the order of the Court, in which case no later than the period set forth in such rule or order.”). At minimum, the Debtor has offered no argument (in this non-operating case) why such minimal noticing periods should be ignored. More realistically, however, a longer-than-minimal noticing period is required to properly allow the parties to conduct discovery and protect due process.

RESERVATION OF RIGHTS

9. HII reserves all right to amend or supplement this Objection on any available grounds.

CONCLUSION

10. For the foregoing reasons, HII respectfully requests that the Court deny the Procedures Motion in its entirety and grant such other and further relief as the Court deems appropriate.

Dated: August 30, 2024
Richmond, Virginia

Respectfully submitted,

/s/ Dion W. Hayes

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 30th day of August 2024, a true and correct copy of the foregoing was served via the Court's electronic case filing system (CM/ECF) to all parties registered to receive such notice in the above-captioned case.

/s/ Dion W. Hayes

 Dion W. Hayes