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**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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**In re:**

**HOPEMAN BROTHERS, INC.,**

**Debtor.**

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: **Chapter 11**  
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: **Case No. 24-32428 (KLP)**  
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**MOTION IN *LIMINE* OF THE DEBTOR TO EXCLUDE  
THE EXPERT TESTIMONY OF MARC C. SCARCELLA**

Hopeman Brothers, Inc. (“Hopeman” or the “Debtor”),<sup>1</sup> the debtor and debtor-in-possession in the above-captioned chapter 11 case, through its undersigned counsel, hereby submits this motion in *limine* (this “Motion”) seeking entry of an order, substantially in the form attached hereto as **Exhibit B** (the “Proposed Order”), precluding the Chubb Insurers’ proposed expert witness, Marc C. Scarcella (“Mr. Scarcella”),<sup>2</sup> from offering opinions regarding the Best

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<sup>1</sup> Capitalized terms used, but not otherwise defined herein, have the meaning assigned in the *Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code*, dated May 21, 2025 [Docket No. 766] (as may be amended, modified, or supplemented from time to time, the “Plan”).

<sup>2</sup> The Chubb Insurers have filed a motion to seal [Docket No. 956] (the “Chubb Motion to Seal”) the Chubb Insurers Plan Objection and certain exhibits thereto, which remains pending. The Chubb Motion to Seal seeks to seal the Chubb Insurers Plan Objection and certain exhibits thereto because the “Chubb Insurers’ Objection quotes relevant portions from the Chubb Confidential Agreements, which will be attached to the Objection and are considered ‘Protected Material’ under the Insurance-Related Protective Order ... .” Chubb Motion to Seal, ¶ 2. This Motion does not quote or reference portions of the Chubb Insurers Plan Objection that quote, or otherwise reference such material, and, as a result, the Debtor is not seeking to file this Motion under seal.



Interests Test (as defined below), including the Liquidation Analysis,<sup>3</sup> at the Combined Hearing,<sup>4</sup> and, in support thereof, respectfully states as follows:

**I. PRELIMINARY STATEMENT**

1. This Motion seeks the Court's exclusion of a purported expert witness the Chubb Insurers<sup>5</sup> intend to call to testify on matters completely irrelevant to a proper analysis of the "Best Interests Test" of section 1129(a)(7) of the Bankruptcy Code. The proposed expert, Mr. Scarcella, an economist, is prepared to offer opinions on a proposed chapter 11 liquidation analysis he prepared – an exercise he has never performed before – based on assumptions provided by the Chubb Insurers' counsel that do not match up with what section 1129(a)(7) requires. In short, the Chubb Insurers asked Mr. Scarcella to assume the Plan would have a three-year bar date for Asbestos Claims, which it does not contemplate, and to compare the recoveries of holders of only those Asbestos Claims (*i.e.*, those submitted by Mr. Scarcella's non-existent three year bar date) against their expected recoveries in a chapter 7 case with the same three-year bar date. That is not consistent with the Best Interests Test, which requires a comparison of recoveries by claimants under the proposed Plan with recoveries in a hypothetical liquidation of the Debtor in a chapter 7 case for the same claimants.

2. For that reason alone (although there are other important reasons addressed below), Mr. Scarcella's proposed testimony should be excluded as not helpful to the Court in adjudicating

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<sup>3</sup> "Liquidation Analysis" means the Liquidation Analysis attached to the Disclosure Statement as Exhibit 2 [Docket No. 767].

<sup>4</sup> "Combined Hearing" means the hearing set for August 25, 2025, at 10:00 a.m. (prevailing Eastern Time) at which the Court will consider approval of the Disclosure Statement, on a final basis, and confirmation of the Plan.

<sup>5</sup> "Chub Insurers" means, collectively, (i) Century Indemnity Company, in its capacity as the successor to CCI Insurance Company, as the successor to Insurance Company of North America; and (ii) Westchester Fire Insurance Company.

whether the Plan satisfies the Best Interests Test. Accordingly, the Court should exclude Mr. Scarcella from testifying as an expert witness under Federal Rule of Evidence 702.

## II. JURISDICTION AND VENUE

3. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334(b). This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

## III. BACKGROUND

### A. The Chubb Insurers Inform the Court They Should Not Need Any Witnesses While Their Undisclosed Expert Witness Is Actively Preparing His Expert Report

4. On June 17, 2025, the Chubb Insurers filed the *Chubb Insurers' Motion to Adjourn Plan Confirmation Hearing and Related Deadlines* [Docket No. 882] (the “Motion to Adjourn”). Travelers<sup>6</sup> and LMIC<sup>7</sup> each joined in the Motion to Adjourn,<sup>8</sup> seeking, among other things, an adjournment of their deadline to object to the Plan, which was then June 24, 2025, for “at least sixty (60) days.”<sup>9</sup>

5. The Chubb Insurers claimed that the Debtor and the Committee (together, the “Plan Proponents”) “stonewalled” their legitimate discovery requests and otherwise failed to comply with discovery obligations such that the Chubb Insurers would be deprived of the opportunity to be fully heard on their objections without their requested sixty-day adjournment.<sup>10</sup> Of importance here, the Chubb Insurers reported that:

The Chubb Insurers also have been unable to identify an expert witness to address the proposed Plan’s impacts on the Chubb Insurers’ rights, as the potential experts

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<sup>6</sup> “Travelers” means, collectively, (i) The Travelers Indemnity Company, (ii) Travelers Casualty and Surety Company, and (iii) St. Paul Fire and Marine Insurance Company.

<sup>7</sup> “LMIC” means Liberty Mutual Insurance Company.

<sup>8</sup> Docket Nos. 884 and 897, respectively.

<sup>9</sup> Motion to Adjourn, p. 1.

<sup>10</sup> *Id.*

they contacted both declined specifically because of the extremely limited window between entry of the Scheduling Order and the Objection Deadline.

Motion to Adjourn, p. 1; *see also* Motion to Adjourn, ¶ 35 (stating that Chubb Insurers had been unable to locate an expert witness due to the “highly compressed timeframe between the Solicitation Procedures Order and the currently scheduled Confirmation Hearing.”).

6. The Plan Proponents and the Future Claimants’ Representative opposed the Motion to Adjourn.<sup>11</sup> The Plan Proponents responded that they had fully complied with the Solicitation Procedures Order<sup>12</sup> and applicable Bankruptcy Rules in scheduling the Combined Hearing, so “there is no basis now to deviate from the schedule permitted by the Bankruptcy Rules and previously established by the Court.”<sup>13</sup> Moreover, the Plan Proponents confirmed they went above and beyond their discovery obligations by diligently responding to the insurers’ voluminous discovery requests on the expedited timelines that the insurers unilaterally sought to impose. Indeed, the Plan Proponents expeditiously responded rather than seeking relief from the overburdensome discovery requests because the Plan Proponents wanted to *avoid further delay*.<sup>14</sup> Thus, the Plan Proponents submitted that adjourning the Combined Hearing would only “result in more fees and less funding of the proposed Asbestos Trust, which ultimately will harm asbestos claimants.”<sup>15</sup>

7. At the June 24 hearing on the Motion to Adjourn (the “Adjournment Hearing”), the necessity of avoiding further delay and expense was a focal point of the discussion. The Court

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<sup>11</sup> See Docket Nos. 905 (the “Debtor’s Opposition to Motion to Adjourn”), 914, and 912.

<sup>12</sup> Docket No. 782.

<sup>13</sup> Debtor’s Opposition to Motion to Adjourn, ¶ 2.

<sup>14</sup> *Id.* at ¶ 4.

<sup>15</sup> *Id.* at ¶ 8.

astutely observed that the insurers' complaints appeared to be little more than the result of their own dilatory efforts in pursuing discovery:

[The Court]: I do agree that *it's largely the insurance companies' own making that they've gotten to this point*. The term sheet was filed March 7th. *And for some reason, there was no discovery commenced for, it looks like, two-and-a-half months*.

June 24, 2025 Hr'g Tr. at 40:14-17 (emphases added). Nonetheless, while maintaining that the adjournment should be denied, the Debtor offered its view of a reasonable adjournment:

But if the Court were to consider granting a continuance, I think it ought to be no more than about two weeks out. But I think it's important that *you would condition it, which is there should be no new discovery served on us. We should be done with this*.

*Id.* at 35: 19-23 (emphasis added). The Court agreed.<sup>16</sup> Thus, the Court conditionally adjourned the Combined Hearing — *i.e.*, prohibiting further discovery beyond what was pending — for 13 days to prevent further delay and expense.

8. In considering, and ultimately granting, the Chubb Insurers' an adjournment, the Court inquired whether the parties could complete the anticipated depositions in time for a July 14 Combined Hearing. Counsel to the Debtor noted that none of the Non-Settling Asbestos Insurers had disclosed *any* witnesses in discovery responses, despite, at that time, being a mere seven days away from the scheduled Combined Hearing:

[Mr. Brown]: And we should complete the depositions that have already been noticed. We would have a little bit more time to get them, I suppose. That would be helpful, because I've got some folks who are out on vacation this week. *But there should be no new experts. There should be no new witnesses*. By the way, *we've gotten no disclosure of any witnesses from any insurers. So as far as we're aware, there's the debtor's two witnesses and there's Conor Tully from FTI. And that's all that we're aware of that have been noticed up for confirmation. So we*

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<sup>16</sup> June 24, 2025 Hr'g Tr. at 40:5-8 ("I would think that, if I'm willing to continue or give a couple more weeks to the insurance companies, that it would be *contingent on no further discovery being issued, at least*." (emphasis added)).

**hope, Judge, that if there's a movement out, we're not going to suddenly get new witnesses that nobody's disclosed in the past.**<sup>17</sup>

9. Counsel to the Chubb Insurers, after requesting an opportunity to respond to various statements by Debtor's counsel, stated as follows to the Court about the Chubb Insurers' anticipated witnesses:

[Ms. Davis]: And finally, my last point is it is correct that we have not identified witnesses yet in response to the debtor's interrogatory, but that's largely because discovery has not yet been completed. We are trying to complete what we have outstanding, and only then will we know what witnesses we need, specifically. ***I mean, as far as the Chubb Insurers go, we are hoping to enter a fact stipulation with respect to certain of our issues so that we won't even need to call a Chubb witness, for example. But we are going to propose that to the Debtor.***

*Id.* at 43:15-25 (emphasis added).

10. The Court will, of course, understand the Debtor's surprise when it learned — ***for the first time*** — of Mr. Scarcella when the Chubb Insurers attached his expert report to the Chubb Insurers' Plan Objection filed on July 7. *See* Chubb Insurers' Plan Obj. [Docket Nos. 958-960], Ex. I (the "Scarcella Report"). Naturally, the Chubb Insurers' eleventh-hour disclosure forced yet another adjournment of the Combined Hearing (inching them ever-closer to the sixty-day adjournment they asked for in their Motion to Adjourn).

11. Unbeknownst to the Plan Proponents — much less the Court — the Chubb Insurers, in fact, already had retained Mr. Scarcella as an expert witness ***in May*** to testify on the Liquidation Analysis and the related Best Interests Test before they even filed the Motion to Adjourn.<sup>18</sup> Notwithstanding the statement on the record from the Chubb Insurers that they would not need to call a witness if they merely obtained a ***fact*** stipulation from the Debtor, the Chubb Insurers had already engaged Mr. Scarcella to offer expert testimony regarding the Liquidation Analysis. At

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<sup>17</sup> *Id.* at 36:9-13 (emphasis added).

<sup>18</sup> July 23, 2025 Scarcella Dep. Tr., attached hereto as **Exhibit A**, at 18:22 – 19:5.

the time of the Adjournment Hearing, Mr. Scarcella already was working hard to have his expert report ready to file with the Chubb Insurers' Plan Objection on the original timeline if the Motion to Adjourn was denied.<sup>19</sup>

12. In sum, (a) Debtor's counsel informed the Court that neither the Chubb Insurers nor any Non-Settling Asbestos Insurer had disclosed any witnesses, specifically noting that the Plan Proponents would hope that "*we're not going to suddenly get new witnesses that nobody's disclosed in the past*"; (b) Chubb Insurers' counsel *asked* for an opportunity to address the Debtor's comments, told the Court that if a *fact* stipulation was obtained from the Debtor, the Chubb Insurers would not need to call a witness; and (c) the Chubb Insurers had not only engaged Mr. Scarcella at the time of those statements, he was *actively* working to finish his expert report in time to file alongside the Chubb Insurers' objection to the Plan by the original deadline if the Motion to Adjourn was denied.<sup>20</sup>

**B. The Opinions Offered in the Belatedly Disclosed Scarcella Report**

13. Mr. Scarcella is an economist with experience providing expert and consulting services regarding "damages estimation and complex insurance coverage allocation involving a variety of underlying toxic tort and personal injury claims in both a bankruptcy and non-

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<sup>19</sup> *Id.* at 47:1 – 48:5.

<sup>20</sup> On these facts, it is indisputable that Chubb Insurers' counsel failed to be candid with the Court. Counsel's statements — and more importantly, the omissions — were, at best, disingenuous, and, quite likely, gamesmanship. This is no trivial matter, as courts have recognized:

*A duty of candor to the court is among an attorney's most solemn obligations. That duty is breached even when a failure to disclose is negligent rather than a deliberate attempt to pull the wool over the court's eyes,* although obviously lack of willfulness will be an important factor in determining the character and extent of any sanctions to be imposed.

*In re Head*, No. 09-15856, 2010 WL 2622960, at \*3 (Bankr. E.D. Va. June 24, 2010) (emphasis added). Critically, it was Ms. Davis — not another member of the Chubb Insurers' legal team — that contacted and engaged Mr. Scarcella. Ex. A (Scarcella Dep. Tr.) at 16:17 – 18:11. Thus, it cannot be the case that Ms. Davis was unaware that her representations to the Court at the Adjournment Hearing were misleading,

bankruptcy context.”<sup>21</sup> Mr. Scarcella was engaged by the Chubb Insurers in May 2025,<sup>22</sup> and he was asked to do three things:

- First, to “[e]stimate the value of asbestos personal injury claims that were previously filed against [the Debtor] but remained unresolved as of June 30, 2024, when [the Debtor] filed for bankruptcy petition [sic] (the ‘Pending Claims’);
- Second, to “[e]stimate the value of asbestos personal injury claims projected to be filed against [the Debtor] *within three years of the petition date on June 30, 2027, which was the proposed claims bar date under the Debtor’s original plan of liquidation* (‘Bankruptcy Claims’).”; and
- Third, to “[d]etermine if the Pending Claims and Bankruptcy Claims would financially benefit from a Chapter 7 Plan of Liquidation, as compared to a competing Plan of Reorganization under Section 524(g) that is currently proposed.”

Scarcella Report, ¶ 1 (emphases added).

14. Much of Mr. Scarcella’s report is devoted to the first two issues, *see id.* at pp. 8-25, but it is the third and final issue that matters here. Mr. Scarcella’s estimation of the value of the “Pending Claims” and the “Bankruptcy Claims” serve as the numbers Mr. Scarcella plugged into<sup>23</sup> his version of a liquidation analysis which is embodied in Figure 22 of the Scarcella Report (the “Scarcella Liquidation Analysis”), which is intended to support the following conclusion:

[T]he [Scarcella] Liquidation Analysis ... shows that the holders of unsecured asbestos claims *either pending or expected to be filed as of June 30, 2027 will be impaired by the proposed 524(g) option while compensated in full under the Chapter 7 liquidation option.*

Scarcella Report, ¶ 46 (emphasis added).

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<sup>21</sup> Scarcella Report, ¶ 6.

<sup>22</sup> Ex. A (Scarcella Dep. Tr.) at 18:22 – 19:5.

<sup>23</sup> *See* Ex. A (Scarcella Dep. Tr.) at 70:1 – 71:6.

#### IV. ARGUMENT

15. Even setting aside the Chubb Insurers’ conduct in hiding the ball on their intention to belatedly add an expert witness, that expert, Mr. Scarcella, proposes to offer opinions that plainly misapply the test set forth in section 1129(a)(7), the Best Interests Test, rendering his opinions irrelevant and unhelpful to the Court. In addition, Mr. Scarcella simply is not qualified to opine on the Liquidation Analysis because he lacks any specialized knowledge, skill, education, experience, or training that would qualify him to offer expert testimony on it. As a result, the *Daubert*<sup>24</sup> standard is not met, and Mr. Scarcella should be prohibited from offering any purported expert opinions under Rule 702.

##### A. The Court’s Gatekeeping Role on Expert Testimony

16. Trial courts serve an important “gatekeeping” role with respect to the admissibility of expert testimony.<sup>25</sup> “Under [Federal Rule of Evidence 702], ‘a district court must ensure that the expert is qualified and that the expert’s testimony is both relevant and reliable.’”<sup>26</sup> “Rule 702 further requires that the evidence or testimony ‘assist the trier of fact to understand the evidence or to determine a fact in issue,’”<sup>27</sup> which “condition goes primarily to relevance.”<sup>28</sup> Thus, “[e]xpert testimony which does not relate to any issue in the case is not relevant and, ergo, non-helpful.”<sup>29</sup>

17. Mr. Scarcella’s conclusion that “the holders of unsecured asbestos claims either pending or expected to be filed as of June 30, 2027 will be impaired by the proposed 524(g) option

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<sup>24</sup> *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1999).

<sup>25</sup> *Kumho Tire Co. Ltd. v. Carmichael*, 536 U.S. 137, 147 (1999); *Daubert*, 509 U.S. 579 (1999).

<sup>26</sup> *Plyler v. Cox*, Nos. 24-1445, 24-1488, 2025 WL 2112823, at \*9 (4th Cir. July 29, 2025) (quoting *United States v. Smith*, 919 F.3d 825, 835 (4th Cir. 2019)).

<sup>27</sup> *Daubert*, 509 U.S. at 591 (quoting Fed. R. Evid 702).

<sup>28</sup> *Daubert*, 509 U.S. at 591.

<sup>29</sup> *Id.* (internal citation omitted).

while compensated in full under the Chapter 7 liquidation option” is not relevant, and, thus, not helpful because that is not the correct inquiry under the Best Interests Test.

**B. The Best Interests Test Compares the Plan’s Treatment of Claimants against the Hypothetical Chapter 7 Treatment of those *Same* Claimants**

18. “Section 1129(a)(7) imposes as a requirement for confirmation that each holder of a claim or interest in an impaired class either accept the plan or ‘receive or retain *under the plan* ... property of a value, as of the effective date *of the plan*, that is not less than the amount such holder would so receive or retain if the debtor were liquidated under chapter 7 of this title ....”<sup>30</sup> “This test requires that each holder of an impaired claim or interest either accept the plan *or receive under the plan not less than it would receive in a Chapter 7 liquidation.*”<sup>31</sup> The Scarcella Liquidation Analysis makes no such comparison.

**C. Scarcella’s Critical Mistake in Applying the Best Interests Test**

19. Instead of comparing recoveries by claims addressed by the actual Plan to a hypothetical liquidation, the Scarcella Report *creates* a hypothetical version of the Plan (hereinafter, the “Scarcella Plan”) by limiting the inquiry to “claims projected to be filed against [the Debtor] within three years of the petition date.”<sup>32</sup> The Scarcella Plan, thus, effectively rewrites the Plan by adding a bar date that does not exist.<sup>33</sup> Tellingly, the Scarcella Report expressly provides that the arbitrary June 30, 2027 bar date he inserts into the Plan was chosen because it “was the proposed claims bar date under the Debtor’s original plan of liquidation.” There is no legal or factual basis for grafting a fictitious bar date onto the Plan. In his deposition, Mr. Scarcella

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<sup>30</sup> *In re Smith*, 357 B.R. 60, 67 (Bankr. M.D.N.C. 2006) (quoting 11 U.S.C. § 1129(a)(7)) (emphases added).

<sup>31</sup> *ReGen Cap. I, Inc. v. Halperin (In re Wireless Data, Inc.)*, 547 F.3d 484, 495 (2d Cir. 2008) (emphasis added).

<sup>32</sup> Scarcella Report, ¶ 1.

<sup>33</sup> Mr. Scarcella readily acknowledged that the Plan does *not* impose any such bar date. Ex. A (Scarcella Dep. Tr.) at 30:10 – 31:7.

candidly admits he used that fictitious bar date because Chubb Insurers' counsel asked him to assume such a bar date applied for purposes of his work, not because in his expertise that was the appropriate bar date to apply.<sup>34</sup>

**D. Case Law Condemns the Approach Taken by Mr. Scarcella**

20. The Scarcella Liquidation Analysis improperly imposes the same non-existent bar date on the hypothetical liquidation it purports to illustrate. That too is impermissible. *See In re W.R. Grace & Co.*, 475 B.R. 34, 144-45 (D. Del. 2012).

21. The *W.R. Grace* court explained the problem with the chapter 7 comparison incorrectly adopted by Mr. Scarcella at the urging of Chubb Insurers' counsel in a chapter 11 bankruptcy involving asbestos personal injury claims:

[T]he Libby Claimants fail to take into account the practical implications of what Chapter 7 liquidation would entail in this case. As the Bankruptcy Court properly noted, valuation of Grace creditors' claims under Chapter 7 is highly speculative due to the uncertainty associated with future claims related to latent pleural disease. These future claims are not and cannot yet be known. The Joint Plan accounts for this uncertainty in its proposed structure, and guarantees all claimants—both current and future—some degree of recovery. ***In contrast, a liquidation under Chapter 7 has no such reassurance in place. Rather, creditors' claims in a Chapter 7 proceeding would be put into a pool that would not distribute payments until all claims in the class were liquidated and all the assets were reduced to cash value. See In re Kiwi Int'l Air Lines, Inc.***, 344 F.3d 311, 318 n. 6 (3d Cir.2003); *see also In re Baker & Getty Fin. Servs., Inc.*, 106 F.3d 1255, 1259 n. 7 (6th Cir.1997). ***Given the latent nature of asbestos-related pleural disease, excessive time could pass until all future claims are ascertained. Thus, a Chapter 7 liquidation would need to be held open for a seemingly indefinite amount of time while all personal injury claimants pursued jury trials and settlements in the tort system. Such a process would result in inevitable delay and disparate—or, even worse, unavailable—recovery amongst personal injury claimants. Such uncertainty is certainly not within the creditors' best interests.***

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<sup>34</sup> Ex. A (Scarcella Dep. Tr.) at 26:12 – 28:11. In fact, Mr. Scarcella acknowledged that he **would** expect individuals to manifest asbestos-related diseases caused by Hopeman-related activities after the fictitious bar date at least through 2037, and that Mr. Scarcella himself had, in connection with this engagement, modeled or estimated claims through at least 2037. *Id.* at 27:8 – 28:11.

*Id.* (emphases added) (footnote omitted).<sup>35</sup>

22. Moreover, and notwithstanding the Chubb Insurers' prior assertions to the contrary,<sup>36</sup> courts have determined that "it is appropriate to take the value of future Asbestos Personal Injury Claims into account in determining the Claims that would be required to be paid in a liquidation under chapter 7 of the Bankruptcy Code."<sup>37</sup> For example, the *W.R. Grace* court, in affirming the bankruptcy court's determination that the Best Interests Test was satisfied, rejected an objecting party's assertion "that there would be no distribution to future claimants under Chapter 7 ... ."<sup>38</sup> In rejecting that assertion, the *W.R. Grace* court, *inter alia*, pointed to the Third Circuit's recent decision in *Grossman*,<sup>39</sup> which "held that 'claims' under the Bankruptcy Code arise 'when an individual is exposed pre-petition to a product or other conduct giving rise to injury,' even if the injury manifested after the petition date."<sup>40</sup>

23. In *Grossman*, the Third Circuit — recognizing the widespread criticism of the accrual test it previously followed — elected to adopt the Fourth Circuit's "conduct" test from *Grady*,<sup>41</sup> holding "[w]e agree ... that a 'claim' arises when an individual is exposed pre-petition to a product or other conduct giving rise to an injury, which underlies a 'right to payment' under the Bankruptcy Code."<sup>42</sup> Indeed, in so holding the Third Circuit reasoned that "various bankruptcy courts have followed a form of the conduct test when considering the existence of an asbestos-

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<sup>35</sup> Mr. Scarcella, similarly, acknowledged that he had never been involved in a chapter 7 liquidation of an asbestos case, noting "[i]f I have, it would be **very rare**. Most of the cases I'm involved in are 524(g) because **it was effectively designed for asbestos defendants**." Ex. A (Scarcella Deposition Tr.) at 120:10-15 (emphases added).

<sup>36</sup> See Chubb Insurers Plan Obj., ¶ 94.

<sup>37</sup> *In re Eagle-Picher Indus., Inc.*, 203 B.R. 276 (Bankr. S.D. Ohio 1996).

<sup>38</sup> *In re W.R. Grace & Co.*, 475 B.R. at 144 n.110.

<sup>39</sup> *Jeld-Wen, Inc. v. Van Brunt (In re Grossman's Inc.)*, 607 F.3d 114 (3d Cir. 2010).

<sup>40</sup> *In re W.R. Grace & Co.*, 475 B.R. at 144 n.110 (quoting *Grossman*, 607 F.3d at 125).

<sup>41</sup> *Grady v. A.H. Robins Co., Inc.*, 839 F.2d 198 (4th Cir. 1988).

<sup>42</sup> *Grossman*, 607 F.3d at 125 (internal citation omitted).

related claim.”<sup>43</sup> While the decisions in *W.R. Grace* and *Grossman* do not bind this Court, the Fourth Circuit’s decision in *Grady* does.

24. The *Grady* court affirmed the bankruptcy court’s determination that “Mrs. Grady’s claim against Robins arose when the acts giving rise to Robins’ liability were performed, not when the harm caused by those acts was manifested.”<sup>44</sup> In support of its holding, the *Grady* court reasoned:

Mrs. Grady’s claim, as well as whatever rights the other Future Tort Claimants have, is undoubtedly “contingent.” It depends upon a future uncertain event, that event being the manifestation of injury from use of the Dalkon Shield. We do not believe that there must be a right to the immediate payment of money in the case of a tort or allied breach of warranty or like claim, as present here, when the acts constituting the tort or breach have occurred prior to the filing of the petition, to constitute a claim under § 362(a)(1). It is at once apparent that there can be no right to the immediate payment of money on account of claim, the existence of which depends upon a future uncertain event. But it is also apparent that Congress has created a contingent right to payment as it has the power to create a contingent tort or like claim within the protection of § 362(a)(1). We are of the opinion that it has done so.

*Not only do we think that a literal reading of the statute requires the result we have reached, our reading is fortified by other considerations. The broad reading of the word “claim” required by the legislative history and cases, see, e.g., Ohio v. Kovacs, is considerable support. That the legislative history contemplates “the broadest possible relief in the bankruptcy court” also enters our reasoning. If Mrs. Grady and the Future Tort Claimants, who had no right to the immediate payment of money at the time of the filing of the petition, were participants in a Chapter 7 proceeding, the chances are that they would receive nothing, for no compensable result had manifested itself prior to the filing.*

*Grady*, 839 F.2d at 202-203 (bolded emphasis added). Accordingly, under *Grady* even those individuals who have not yet manifested an injury as a result of exposure to asbestos attributable to the Debtor have “claims,” and, as a result, such claims **must** be considered for purposes of the Best Interests Test. One cannot simply impose an artificial bar date in the chapter 7 scenario in an

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<sup>43</sup> *Id.* (collecting cases).

<sup>44</sup> *Grady*, 839 F.2d at 199 (internal citation omitted).

attempt to show that noncontingent tort claimants would be better off if future claimants were not considered in the Best Interests Test as contemplated by a proposed plan.<sup>45</sup>

**E. Mr. Scarcella also Is Not Qualified to Testify on the Best Interests Test**

25. The Court also should exclude Mr. Scarcella's testimony because he is not qualified to testify on the subject that matters. Mr. Scarcella acknowledged that he has *never* testified as an expert on the Best Interest Test or otherwise prepared a Liquidation Analysis,<sup>46</sup> and he has no specialized knowledge, skill, experience, training or education that would qualify him to do so. Therefore he is not qualified to offer expert opinions on the Liquidation Analysis offered by the Plan Proponents to satisfy the Best Interests Test.

26. "Before a district court may allow a witness to testify as an expert, it must be assured that the proffered witness is qualified to testify by virtue of his 'knowledge, skill, experience, training, or education.'" *U.S. v. Cooks*, 589 F.3d 173, 179 (5th Cir. 2009) (quoting Fed. R. Evid. 702). "A district court should refuse to allow an expert witness to testify if it finds that the witness is not qualified to testify in a particular field or on a given subject." *Id.*

27. Mr. Scarcella acknowledged that he has no prior experience testifying on liquidation analyses or the Best Interests Test.<sup>47</sup> While Mr. Scarcella may be qualified to offer expert opinions regarding claim valuation in asbestos and other mass-tort cases, as noted above, his estimation of the claims that may be filed by a non-existent three-year bar date is worthless as it makes assumptions not present in the Plan. Having never offered expert testimony on a

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<sup>45</sup> During his deposition, Mr. Scarcella made a number of statements that suggest he does not understand how a chapter 7 liquidation works, including statements suggesting there would be a "plan" or "trust" in a chapter 7. *See, e.g.*, Ex. A (Scarcella Dep. Tr.) at 110:2 – 113:9.

<sup>46</sup> *Id.* at 54:2 – 56:12.

<sup>47</sup> Ex. A (Scarcella Dep. Tr.) at 54:2 – 56:12.

liquidation analysis or the Best Interests Test, it is no surprise that Mr. Scarcella readily accepted erroneous assumptions supplied by his client, the Chubb Insurers, in preparing his report.

28. At best, the Scarcella Liquidation Analysis merely purports to “show[] that the holders of unsecured asbestos claims either pending or expected to be filed *as of June 30, 2027 will be impaired by the proposed 524(g) option while compensated in full under the Chapter 7 liquidation option.*”<sup>48</sup> Whether Mr. Scarcella’s contention is correct or not is irrelevant, because that is not the correct test. The Best Interests Test mandates that the holders of impaired claims receive at least as much under *the Plan* as they would in a hypothetical liquidation of the Debtor under chapter 7 of the Bankruptcy Code. The Scarcella Liquidation Analysis makes no such comparison. This rudimentary error renders Mr. Scarcella’s testimony irrelevant and unhelpful, but it also demonstrates that he is not qualified to render an opinion on the Best Interests Test, which he clearly does not understand.<sup>49</sup>

## V. CONCLUSION

29. In sum, Mr. Scarcella is *not* qualified to offer expert opinions on the Liquidation Analysis, or the Best Interests Test, and his opinions expressed on claims valuation (which only

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<sup>48</sup> Scarcella Report, ¶ 46 (emphasis added).

<sup>49</sup> The Scarcella Report also notes that the Scarcella Liquidation Analysis applies, among others, an assumption that:

Under the 524(g) option, the current Plan proposes to fund the pursuit of non-settled insurance assets from Chubb and other non-settling insurers by imposing a 33.3% contingency fee on the portion claim values that are recovered from insurance.

*Id.* at ¶ 45. Mr. Scarcella’s conclusion demonstrates that he fundamentally misunderstands not only the Best Interests Test, but also the terms of the Plan given his inaccurate assumption regarding the Litigation Trustee’s Compensation, which will not be paid upon a claimant’s pursuit of an Asbestos Related Claim in the tort system. *See Plan Proponents’: (I) Memorandum of Law in Support of: (A) Final Approval of the Disclosure Statement With Respect to the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code, and (B) Confirmation of the Amended Plan of Reorganization of Hopeman Brothers, Inc. Under Chapter 11 of the Bankruptcy Code; and (II) Omnibus Reply to Plan Objections* [Docket No. 1076] at ¶¶ 77-80 (explaining why the Chubb Insurers’ contention that claimants recoveries will always be reduced by the “Litigation Trustee’s Compensation” (as defined in the Asbestos Trust Agreement) is inaccurate).

serve as the inputs for the Scarcella Liquidation Analysis) are irrelevant and unhelpful. Accordingly, the Court should exercise its authority as a gatekeeper to prohibit his testimony. Doing so will focus the Confirmation Hearing on the issues that really matter and avoid the Debtor having to expend additional resources unnecessarily in response to the litigation gamesmanship by the Chubb Insurers.

30. For the foregoing reasons, the Debtor respectfully requests that the Court enter the Proposed Order precluding Mr. Scarcella from testifying on the Liquidation Analysis or the Best Interests Test.

*[Remainder of this page left intentionally blank.]*

Dated: August 7, 2025  
Richmond, Virginia

/s/ Henry P. (Toby) Long, III

Tyler P. Brown (VSB No. 28072)

Henry P. (Toby) Long, III (VSB No. 75134)

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Catherine A. Rankin (admitted *pro hac vice*)

Brandon Bell (*pro hac vice* forthcoming)

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*Counsel for the Debtor and Debtor in Possession*

**Exhibit A**  
**(July 23, 2025, Scarcella Deposition Transcript)**

**Exhibit B**

**(Proposed Order)**

**HUNTON ANDREWS KURTH LLP**

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*Counsel for Debtor and Debtor in Possession*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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**In re:**

**HOPEMAN BROTHERS, INC.,**

**Debtor.**

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:  
: **Chapter 11**  
:  
: **Case No. 24-32428 (KLP)**  
:  
:  
:

**ORDER GRANTING MOTION IN *LIMINE* OF THE DEBTOR TO EXCLUDE THE  
EXPERT TESTIMONY OF MARC C. SCARCELLA**

1. Upon the motion (the “Motion”)<sup>1</sup> of the above-captioned debtor (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”) for entry of an order (this “Order”) precluding the Chubb Insurers’ expert witness, Marc C. Scarcella, from offering opinions regarding the Best Interests Test, including the Liquidation Analysis, at the Combined Hearing; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein and after due deliberation thereon, the Court having determined, for the reasons set forth on the record in the hearing on the Motion, that the opinions expressed in the Scarcella Report are unhelpful to the Court and, thus, irrelevant and not admissible under Federal Rule of Evidence 702, and the Court having further determined that Mr. Scarcella lacks the knowledge, skill, experience, training, or education that would qualify him to offer expert opinions on the Best Interests Test or the Liquidation Analysis under both the Supreme Court's decision in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1999) and under Federal Rule of Evidence 702, the Court has determined that the Motion should be granted. Accordingly, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

2. The relief requested in the Motion is hereby granted.
3. Accordingly, Mr. Scarcella shall not be permitted to testify on, or otherwise offer expert opinions regarding, the Best Interests Test or the Liquidation Analysis at the Combined Hearing.
4. The Court retains exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: \_\_\_\_\_, 2025  
Richmond, Virginia

---

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ Henry P. (Toby) Long, III

Tyler P. Brown (VSB No. 28072)

Henry P. (Toby) Long, III (VSB No. 75134)

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*Counsel for the Debtor and Debtor in Possession*

**CERTIFICATION OF ENDORSEMENT  
UNDER BANKRUPTCY LOCAL RULE 9022-1(C)**

I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Henry P. (Toby) Long, III

Henry P. (Toby) Long, III

**Exhibit A**

**(July 23, 2025, Scarcella Deposition Transcript)**

Page 1

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION

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

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DEPOSITION OF  
MARC C. SCARCELLA

DATE: Wednesday, July 23, 2025  
TIME: 12:07 p.m.  
LOCATION: Remote Proceeding  
Veritext Legal Solutions  
106 Coleman Lane  
Lavallette, NJ 08735  
REPORTED BY: Samuel Pachon  
JOB NO.: 7487875

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES</p> <p>2 ON BEHALF OF DEBTOR HOPEMAN BROTHERS, INC.:</p> <p>3 TYLER BROWN, ESQUIRE (by videoconference)</p> <p>4 Hunton Andrews Kurth LLP</p> <p>5 200 Park Avenue</p> <p>6 New York, NY 10166</p> <p>7 tpbrown@hunton.com</p> <p>8 (804) 788-8674</p> <p>9</p> <p>10 KATHRYN L. HARRISON, ESQUIRE (by videoconference)</p> <p>11 Campbelle &amp; Levine, LLC</p> <p>12 310 Grant Street, Suite 1700</p> <p>13 Pittsburgh, PA 15219</p> <p>14 kharrison@camlev.com</p> <p>15 (412) 261-0310</p> <p>16</p> <p>17 JOSEPH P. ROVIRA, ESQUIRE (by videoconference)</p> <p>18 Hunton Andrews Kurth LLP</p> <p>19 600 Travis Street, Suite 4200</p> <p>20 Houston, TX 77002</p> <p>21 josephrovira@huntonak.com</p> <p>22 (713) 220-4200</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES (Cont'd)</p> <p>2 ON BEHALF OF DEBTOR HOPEMAN BROTHERS, INC.:</p> <p>3 PATRICIA B. SANTELLE, ESQUIRE</p> <p>4 (by videoconference)</p> <p>5 White and Williams LLP</p> <p>6 1650 Market Street, One Liberty Place, Suite 1800</p> <p>7 Philadelphia, PA 19103</p> <p>8 santellep@whiteandwilliams.com</p> <p>9 (215) 864-6205</p> <p>10</p> <p>11 JONATHAN CLEMENT, ESQUIRE (by videoconference)</p> <p>12 Roussel &amp; Clement</p> <p>13 1550 West Causeway Approach</p> <p>14 Mandeville, LA 70471</p> <p>15 jbclement12@yahoo.com</p> <p>16 (985) 651-6591</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES (Cont'd)</p> <p>2 ON BEHALF OF DEBTOR HOPEMAN BROTHERS, INC.:</p> <p>3 HENRY P. LONG, III, ESQUIRE (by videoconference)</p> <p>4 Hunton Andrews Kurth LLP</p> <p>5 951 East Byrd Street</p> <p>6 Richmond, VA 23219</p> <p>7 hlong@huntonak.com</p> <p>8 (804) 787-8036</p> <p>9</p> <p>10 DAVID SEAN COX, ESQUIRE (by videoconference)</p> <p>11 Morgan Lewis &amp; Bockius LLP</p> <p>12 300 South Grand Avenue, 22nd Floor</p> <p>13 Los Angeles, CA 90071</p> <p>14 dcox@morganlewis.com</p> <p>15 (213) 612-7315</p> <p>16</p> <p>17 JAMES W. BURKE, ESQUIRE (by videoconference)</p> <p>18 Ruggeri Parks Weinberg LLP</p> <p>19 1875 K Street Northwest, Suite 800</p> <p>20 Washington, D.C. 20006</p> <p>21 jburke@ruggierilaw.com</p> <p>22 (202) 984-1400</p>	<p style="text-align: right;">Page 5</p> <p>1 APPEARANCES (Cont'd)</p> <p>2 ON BEHALF OF THE OFFICIAL COMMITTEE OF UNSECURED</p> <p>3 CREDITORS:</p> <p>4 JEFFREY LIESEMER, ESQUIRE (by videoconference)</p> <p>5 Caplin &amp; Drysdale</p> <p>6 1200 New Hampshire Avenue NW, 8th Floor</p> <p>7 Washington, DC 20036</p> <p>8 jliesemer@capdale.com</p> <p>9 (202) 862-5007</p> <p>10</p> <p>11 NATHANIEL MILLER, ESQUIRE (by videoconference)</p> <p>12 Caplin &amp; Drysdale</p> <p>13 Chartered Counsel to the Official Committee of</p> <p>14 Unsecured Creditors</p> <p>15 1200 New Hampshire Avenue Northwest, 8th Floor</p> <p>16 Washington, D.C. 20036</p> <p>17 nmiller@capdale.com</p> <p>18 (202) 862-7829</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">Page 6</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 ON BEHALF OF CENTURY INDEMNITY COMPANY AND WESTCHESTER</p> <p>3 FIRE INSURANCE COMPANY:</p> <p>4 LESLIE DAVIS, ESQUIRE (by videoconference)</p> <p>5 Troutman Pepper Locke LLP</p> <p>6 401 9th Street Northwest, Suite 1000</p> <p>7 Washington, D.C. 20004</p> <p>8 leslie.davis@troutman.com</p> <p>9 (202) 274-2958</p> <p>10</p> <p>11 ON BEHALF OF LIBERTY MUTUAL INSURANCE COMPANY:</p> <p>12 ALEXANDRA THOMAS, ESQUIRE (by videoconference)</p> <p>13 Choate, Hall &amp; Stewart LLP</p> <p>14 2 International Place</p> <p>15 Boston, MA 02110</p> <p>16 athomas@choate.com</p> <p>17 (617) 248-4089</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 8</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 ALSO PRESENT:</p> <p>3 Mike Berkin, Observing Counsel, FTI Counseling</p> <p>4 (by videoconference)</p> <p>5 K. Elizabeth Sieg, Observing Counsel,</p> <p>6 McGuireWoods, LLP (by videoconference)</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p style="text-align: right;">Page 7</p> <p>1 A P P E A R A N C E S (Cont'd)</p> <p>2 ON BEHALF OF TRAVELERS INDEMNITY COMPANY, TRAVELERS</p> <p>3 CASUALTY AND SURETY COMPANY, AND ST. PAUL FIRE AND</p> <p>4 MURRAY INSURANCE COMPANY:</p> <p>5 JOSHUA TAYLOR, ESQUIRE (by videoconference)</p> <p>6 Steptoe, LLP</p> <p>7 1330 Connecticut Avenue, Northwest</p> <p>8 Washington, D.C. 20036</p> <p>9 jrtaylor@steptoe.com</p> <p>10 (202) 429-6281</p> <p>11</p> <p>12 ON BEHALF OF HARTFORD:</p> <p>13 JOSHUA D. WEINBERG, ESQUIRE (by videoconference)</p> <p>14 Ruggeri Parks Weinberg LLP</p> <p>15 1875 K Street Northwest, Suite 800</p> <p>16 Washington, D.C. 20006</p> <p>17 jweinberg@ruggerilaw.com</p> <p>18 (202) 984-1400</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 9</p> <p>1 I N D E X</p> <p>2 EXAMINATION: PAGE</p> <p>3 By Mr. Brown 13</p> <p>4</p> <p>5 E X H I B I T S</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Exhibit 1 Executive Summary 24</p> <p>8 Exhibit 2 Excel Valuation 129</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p style="text-align: right;">Page 10</p> <p>1 PROCEEDINGS</p> <p>2 THE REPORTER: Good morning. My name</p> <p>3 is Samuel Pachon; I am the reporter assigned by</p> <p>4 Veritext to take the record of this proceeding. We're</p> <p>5 now on the record at 12:07 p.m.</p> <p>6 This is the deposition of Marc</p> <p>7 Scarcella taken in a matter of In Re: Hopeman</p> <p>8 Brothers, Incorporated on Wednesday, July 23, 2025, at</p> <p>9 Veritext Legal Solutions at 106 Coleman Lane,</p> <p>10 Lavallette, New Jersey 08735, remote via Zoom.</p> <p>11 I'm a notary authorized to take</p> <p>12 acknowledgement and administer oaths in Virginia.</p> <p>13 Parties agree that I will swear in the witness</p> <p>14 remotely.</p> <p>15 Additionally, absent an objection on</p> <p>16 the record before the witness is sworn, all parties</p> <p>17 and the witness understand and agree that any</p> <p>18 certified transcript produced from the recording of</p> <p>19 this proceeding:</p> <p>20 - is intended for all uses permitted</p> <p>21 under applicable procedural and</p> <p>22 evidentiary rules and laws in the</p>	<p style="text-align: right;">Page 12</p> <p>1 Pepper Locke on behalf of Century Indemnity Company</p> <p>2 and Westchester Fire Insurance Company.</p> <p>3 MR. TAYLOR: Joshua Taylor from</p> <p>4 Steptoe, LLP, on behalf of Travelers Indemnity</p> <p>5 Company, Travelers Casualty and Surety Company, and</p> <p>6 St. Paul Fire and Murray Insurance Company.</p> <p>7 MS. THOMAS: Alexander Thomas of</p> <p>8 Choate, Hall &amp; Stewart, LLP on behalf of Liberty</p> <p>9 Mutual Insurance Company.</p> <p>10 MR. WEINBERG: Joshua Weinberg on</p> <p>11 behalf of Hartford, Joshua Weinberg on behalf</p> <p>12 Hartford.</p> <p>13 THE REPORTER: All right. Thank you.</p> <p>14 Hearing no objection, I will now swear in a witness.</p> <p>15 Mr. Scarcella, please raise your right</p> <p>16 hand?</p> <p>17 WHEREUPON,</p> <p>18 MARC C. SCARCELLA,</p> <p>19 called as a witness and having been first duly sworn</p> <p>20 to tell the truth, the whole truth, and nothing but</p> <p>21 the truth, was examined and testified as follows:</p> <p>22 THE REPORTER: Thank you.</p>
<p style="text-align: right;">Page 11</p> <p>1 same manner as a deposition recorded</p> <p>2 by stenographic means; and</p> <p>3 - shall constitute written stipulation</p> <p>4 of such.</p> <p>5 At this time, will everyone in</p> <p>6 attendance please identify yourself for the record.</p> <p>7 MR. BROWN: This is Tyler Brown. I'm</p> <p>8 with Hunton Andrews and Kurth, and I represent Hopeman</p> <p>9 Brothers, Inc., the debtor in this case.</p> <p>10 MR. LIESEMER: This is Jeffrey Liesemer</p> <p>11 of this of Caplin &amp; Drysdale Chartered, and I</p> <p>12 represent the Official Committee of Unsecured</p> <p>13 Creditors in this Casee.</p> <p>14 MR. COX: This is David Cox of Morgan</p> <p>15 Lewis, for the same clients as Mr. Liesemer.</p> <p>16 MR. MILLER: Nathaniel Miller also from</p> <p>17 Caplin &amp; Drysdale, also for the Official Committee of</p> <p>18 Unsecured Creditors.</p> <p>19 MS. HARRISON: Kathryn Harrison of</p> <p>20 Campbelle &amp; Levine, on behalf of the future claimant's</p> <p>21 representative.</p> <p>22 MS. DAVIS: Leslie Davis from Troutman</p>	<p style="text-align: right;">Page 13</p> <p>1 EXAMINATION</p> <p>2 BY MR. BROWN:</p> <p>3 Q Good afternoon, Mr. Scarcella. This is</p> <p>4 Tyler Brown. I think you heard I represent Hopeman</p> <p>5 Brothers, Inc., the Chapter 11 debtor in this case.</p> <p>6 And do you understand you're here for a deposition in</p> <p>7 that case; correct?</p> <p>8 A Correct.</p> <p>9 Q And how many times have you been deposed</p> <p>10 before in other cases?</p> <p>11 A Few dozen.</p> <p>12 Q Do you need a refresher on how a deposition</p> <p>13 works?</p> <p>14 A I do not. But I procedurally, if you'd like</p> <p>15 to go over some of the ground rules, I'm more than</p> <p>16 happy to participate.</p> <p>17 Q Happy to remind you. Just I'm going to ask</p> <p>18 you the questions and if you'll wait for me to finish</p> <p>19 my question and then answer it verbally so the court</p> <p>20 reporter can catch it, that would be great. I'll try</p> <p>21 to extend the same courtesy to you to not interrupt,</p> <p>22 try to keep the transcript straight. If you don't,</p>

<p style="text-align: right;">Page 14</p> <p>1 you know, understand any questions I'm asking, please</p> <p>2 help ask me to rephrase and I'll do my best. If you</p> <p>3 need to take a break at any time, let me know that.</p> <p>4 Okay?</p> <p>5 A Thank you.</p> <p>6 Q Great. Do you have with you a copy of your,</p> <p>7 what's called the Affirmative Expert Report of Mark</p> <p>8 Scarcella that was dated July 7th? Do you happen to</p> <p>9 have that with you? If not, I can show you on the</p> <p>10 screen when it's appropriate.</p> <p>11 A You can pull a local copy up. If you think</p> <p>12 that would be easier for me to be able to scroll</p> <p>13 through it on my own, I'm happy to do that.</p> <p>14 Q Okay. Well, how about this, let me ask you</p> <p>15 this: Do you have any other papers in front of you</p> <p>16 that you are relying on, or are you just waiting for</p> <p>17 me to show you documents?</p> <p>18 A But if there's certain documents you'd like</p> <p>19 me to pull up to maybe make the deposition go a little</p> <p>20 easier or smoother, I'm happy to do so.</p> <p>21 Q Okay.</p> <p>22 THE REPORTER: Mr. Scarcella, please</p>	<p style="text-align: right;">Page 16</p> <p>1 prepare for today?</p> <p>2 A -- counsel.</p> <p>3 Q I'm sorry. Did you say you met with</p> <p>4 counsel?</p> <p>5 A Yes.</p> <p>6 Q Okay. When did you meet with counsel?</p> <p>7 A I spoke with counsel yesterday afternoon, as</p> <p>8 well as last week.</p> <p>9 Q How many hours do you think you put in in</p> <p>10 preparation for the deposition today?</p> <p>11 A Eight hours total.</p> <p>12 Q Sorry. Came through garbled.</p> <p>13 A Oh, I apologize. Maybe eight hours total.</p> <p>14 Q How much of that was spent with counsel</p> <p>15 talking through it?</p> <p>16 A Three, maybe three and a half hours.</p> <p>17 Q Okay. Your report indicates you were</p> <p>18 retained by counsel to the Chubb Insurers to perform</p> <p>19 the work regarding your report; is that correct?</p> <p>20 A Yes. I was retained on behalf of those</p> <p>21 insurers, yes.</p> <p>22 Q Okay. Who called you or contacted you to</p>
<p style="text-align: right;">Page 15</p> <p>1 repeat the first part of that?</p> <p>2 THE WITNESS: I do not. I -- well,</p> <p>3 this is what I believe the first part was. I do not</p> <p>4 have anything else up on my screen at the moment or</p> <p>5 papers in front of me or papers.</p> <p>6 THE REPORTER: Thank you.</p> <p>7 BY MR. BROWN:</p> <p>8 Q Great. Then I'll just put on my screen</p> <p>9 anything I need to show you, that way we can do it</p> <p>10 together. Have you read your expert report since</p> <p>11 July 7?</p> <p>12 A Yes.</p> <p>13 Q When was the last time you read it?</p> <p>14 A Over sections within the last couple days.</p> <p>15 Just in preparation and refresher for today.</p> <p>16 Q Okay. Did you review anything else other</p> <p>17 than your report to prepare for today?</p> <p>18 A Claim data plan as proposed and its</p> <p>19 accompanying TDP, the claim analysis and some other</p> <p>20 material that was produced by the parties in this</p> <p>21 case.</p> <p>22 Q What, if anything, else did you do to</p>	<p style="text-align: right;">Page 17</p> <p>1 retain you?</p> <p>2 A Leslie Davis.</p> <p>3 Q Did you know Ms. Davis from some prior</p> <p>4 arrangement or engagement?</p> <p>5 A Yes. I've known Ms. Davis for many years</p> <p>6 now.</p> <p>7 Q Have you had any prior engagements working</p> <p>8 for one of Mrs. Davis's clients?</p> <p>9 A Certainly her clients, though, I'm not sure</p> <p>10 if we have worked together on many cases in the past.</p> <p>11 Q Okay. What were the engagements you</p> <p>12 remember where you were working for one of Ms. Davis's</p> <p>13 clients?</p> <p>14 A Well, in this instance, the Chubb Insurers.</p> <p>15 I've done a number of engagements for various</p> <p>16 insurers, including Chubb. Oftentimes, especially in</p> <p>17 a bankruptcy context, they could be joint retention.</p> <p>18 So it's not just Chubb who's retaining me, but maybe</p> <p>19 other insurers as well. So I've certainly worked with</p> <p>20 Chubb before on other engagements. They're not a</p> <p>21 client that I work with as much as others, but I've</p> <p>22 certainly worked with them before.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q Okay. And how about specifically with</p> <p>2 Ms. Davis? What other engagements do you remember</p> <p>3 where she was involved?</p> <p>4 A It's difficult for me to say again because</p> <p>5 of the joint retention nature of some of my projects,</p> <p>6 particularly in the bankruptcy context. It's quite</p> <p>7 possible that Ms. Davis and her clients report part of</p> <p>8 a larger joint defense group, but I had limited to no</p> <p>9 direct interaction with her on that particular case.</p> <p>10 So it's a little bit hard to nail down exactly which</p> <p>11 projects I might have worked with her.</p> <p>12 Q Okay. How about her co-counsel,</p> <p>13 Ms. Santelle at White and Williams? Do you know her?</p> <p>14 A I do.</p> <p>15 Q Have you worked for her or for her clients</p> <p>16 under her direction previously?</p> <p>17 A I believe this is the first time I've ever</p> <p>18 worked with her.</p> <p>19 Q Okay. How do you know her then?</p> <p>20 A I -- I'm familiar with her name and her</p> <p>21 firm, but I had never worked with her before.</p> <p>22 Q When were you first contacted about working</p>	<p style="text-align: right;">Page 20</p> <p>1 pre-petition claim data, I would say, that's when more</p> <p>2 of our analysis kind of got underway in preparation</p> <p>3 for what ultimately became the report dated July 14th</p> <p>4 or so, sorry, July 7th.</p> <p>5 Q Are you being paid -- is your firm being</p> <p>6 paid on an hourly basis?</p> <p>7 A Yes.</p> <p>8 Q Did you record any time during the month of</p> <p>9 May 2025 for this matter?</p> <p>10 A I did. It would be for the initial call</p> <p>11 with counsel, which I believe would've taken place</p> <p>12 after Memorial Day, so that last week in May. And</p> <p>13 possibly looking at some of those bankruptcy</p> <p>14 disclosures that they provided, then the following</p> <p>15 week would've been June and that's when any follow up</p> <p>16 calls and the receiving of data and things of that</p> <p>17 nature would've started. So I think that would've</p> <p>18 been the only time I would've billed in that last week</p> <p>19 of May.</p> <p>20 Q So by early June, you were definitely</p> <p>21 engaged and working on the matter?</p> <p>22 A Yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 for the Chubb Insurers in this matter?</p> <p>2 A The end of May of this year.</p> <p>3 Q And when were you actually retained?</p> <p>4 A Say, towards the end of May, maybe beginning</p> <p>5 of June.</p> <p>6 Q Do you have a written engagement letter?</p> <p>7 A I'd have to check.</p> <p>8 Q So you don't remember whether you have one</p> <p>9 or not?</p> <p>10 A My colleague Peter Kelso, if there was an</p> <p>11 engagement agreement, would've taken care of that. So</p> <p>12 I'd have to check our file to see if we have one on</p> <p>13 record.</p> <p>14 Q When did you begin work on the engagement?</p> <p>15 A viewing material that counsel provided to</p> <p>16 me, things like the proposed plan of reorganization,</p> <p>17 shortly after our first conversation towards the end</p> <p>18 of May. At some point in early June, I believe we</p> <p>19 were provided with the claims data, which I'll call</p> <p>20 the pre-petition claims data, that it's my</p> <p>21 understanding it was managed by Specialty Claim</p> <p>22 Services, specialty claims. And once we received that</p>	<p style="text-align: right;">Page 21</p> <p>1 Q And have you presented any bills for your</p> <p>2 work today?</p> <p>3 A I don't believe any invoices have been sent</p> <p>4 to counsel yet. I believe they were just being</p> <p>5 processed this week.</p> <p>6 Q Do you know the approximate amount of those</p> <p>7 bills today that are in process?</p> <p>8 A Through last Friday, I don't know the exact</p> <p>9 amount, but I would say somewhere around \$65,000.</p> <p>10 Q And what is your hourly rate?</p> <p>11 A \$625</p> <p>12 Q Okay. What does that tell you then in terms</p> <p>13 of how many hours were put in on a matter, at least</p> <p>14 included in the most recent bill you're preparing?</p> <p>15 A I'd have look back because I wasn't the only</p> <p>16 one billing to the matter. I had staff that has</p> <p>17 different bill rates, as well as colleagues. So I'd</p> <p>18 have to look back at the invoice to see exactly how</p> <p>19 many hours we billed.</p> <p>20 Q Okay. Does it sound like at least roughly</p> <p>21 90 or more?</p> <p>22 A Well, certainly, if it was exclusively me,</p>

<p style="text-align: right;">Page 22</p> <p>1 yes, at my bill rate. But like I said, we had other</p> <p>2 staff at much lower bill rates than mine providing</p> <p>3 some support. So that would increase the hours</p> <p>4 without us increasing the invoice amount as much.</p> <p>5 Q Okay. Let's talk about who worked on it for</p> <p>6 you or with you. How many staff members working under</p> <p>7 you have been on this project?</p> <p>8 A I'd have to look back at the invoices. I</p> <p>9 know my colleague, Peter Kelso, who is another</p> <p>10 principal in our practice, he put some hours towards</p> <p>11 the engagement, largely in reviewing the plan and</p> <p>12 other case documents. As well as Drew Howard, who's a</p> <p>13 director in our practice. He would've spent some time</p> <p>14 with the claim data and supporting me in that regard.</p> <p>15 As far as more junior staff, I'd have to look back at</p> <p>16 the invoices to see who, if any, may have supported</p> <p>17 me.</p> <p>18 Q So how many approximately do you think</p> <p>19 helped you with this project?</p> <p>20 A Maybe one other person.</p> <p>21 Q Okay. Did you divide up the work in some</p> <p>22 fashion work?</p>	<p style="text-align: right;">Page 24</p> <p>1 THE REPORTER: Let me verify that you</p> <p>2 were able.</p> <p>3 MR. BROWN: Okay.</p> <p>4 THE REPORTER: Try now.</p> <p>5 MR. BROWN: can you all see my screen?</p> <p>6 MS. DAVIS: Yes.</p> <p>7 (Exhibit 1 was marked for</p> <p>8 identification.)</p> <p>9 BY MR. BROWN:</p> <p>10 Q Okay. And Mr. Scarcella, is this your</p> <p>11 report dated July 7?</p> <p>12 A Yes.</p> <p>13 Q I'm going to take you down to Executive</p> <p>14 Summary 1.1. It says Scope of Charge. Do you see</p> <p>15 that?</p> <p>16 A Yes.</p> <p>17 Q Does this accurately reflect what you were</p> <p>18 retained to do on behalf of the Chubb insurers?</p> <p>19 A Yes.</p> <p>20 Q I didn't hear you.</p> <p>21 A Yes.</p> <p>22 Q Thanks. Were you retained to do anything</p>
<p style="text-align: right;">Page 23</p> <p>1 A I'd say the lion's share of the work was</p> <p>2 done by me.</p> <p>3 Q So then what were the other others helping</p> <p>4 you with?</p> <p>5 A As I mentioned, Mr. Kelso would've helped</p> <p>6 with the review of some of the case material,</p> <p>7 including plan documents. Mr. Howard would've helped</p> <p>8 with some data analysis, particularly more on a</p> <p>9 quality control basis, checking the work that I had</p> <p>10 done. And then if I had any more junior staff</p> <p>11 supporting me, it would be in a similar quality</p> <p>12 control capacity, going over some of the forecasting</p> <p>13 models and other analysis that I've produced.</p> <p>14 Q Okay. Let me -- I'm going to get in front</p> <p>15 of you a copy of your report.</p> <p>16 MR BROWN: Samuel, do you need to</p> <p>17 authorize me to share my screen or can I go ahead and</p> <p>18 just do it?</p> <p>19 THE REPORTER: Well, let me -- let me</p> <p>20 verify that -- that you are able.</p> <p>21 MR. BROWN: I didn't hear him.</p> <p>22 MS. DAVIS: Me neither.</p>	<p style="text-align: right;">Page 25</p> <p>1 else beyond what's in Section 1.1?</p> <p>2 I'm having a hard time hearing</p> <p>3 Mr. Scarcella. Did you respond? Did you</p> <p>4 A I said no. But if you'd like, let me check</p> <p>5 -- test an alternative microphone to see if that</p> <p>6 helps.</p> <p>7 Q I think it's working well when you lean into</p> <p>8 it, but it may not be picking you up from afar. Try</p> <p>9 that again. I didn't hear your last word.</p> <p>10 A How does that sound?</p> <p>11 Q It's taking about two seconds maybe to kick</p> <p>12 in. So maybe there's a better microphone. I don't</p> <p>13 know. You tell me.</p> <p>14 A How about now?</p> <p>15 Q That worked well.</p> <p>16 A Okay. We'll go with that.</p> <p>17 Q Okay. Great. Thank you. All right. In in</p> <p>18 the second bullet of this Section 1.1, it states that</p> <p>19 part of your charge was to estimate the value of</p> <p>20 asbestos personal injury claims projected to be filed</p> <p>21 against Hopeman within a bar date of three years after</p> <p>22 the petition date. Do you see that?</p>

<p style="text-align: right;">Page 26</p> <p>1 A Yes.</p> <p>2 Q So by June 30, 2027; right? And, and that</p> <p>3 bullet also states that answer that was the --</p> <p>4 THE REPORTER: Please repeat -- please</p> <p>5 repeat your answer, Mr. Scarcella. It did not come</p> <p>6 through.</p> <p>7 THE WITNESS: Correct.</p> <p>8 THE REPORTER: Repeat it again.</p> <p>9 THE WITNESS: Correct.</p> <p>10 THE REPORTER: Proceed.</p> <p>11 BY MR. BROWN:</p> <p>12 Q And your report states that that bar date,</p> <p>13 the June 30, 2027 date was the proposed claims bar</p> <p>14 date under the debtor's original plan of liquidation;</p> <p>15 is that right?</p> <p>16 A Yes.</p> <p>17 Q Why did you assume a June 30, '27 asbestos</p> <p>18 claim bar date for your work on this matter?</p> <p>19 A That was an assumption provided to me by</p> <p>20 counsel.</p> <p>21 Q You were told to use that date; correct?</p> <p>22 A Yes. Correct.</p>	<p style="text-align: right;">Page 28</p> <p>1 A For -- from years thereafter, yes.</p> <p>2 Q So at least through 2037?</p> <p>3 A Yes.</p> <p>4 Q Is it possible even longer than that?</p> <p>5 A Certainly longer, though at a diminishing</p> <p>6 rate as we move further and further away from</p> <p>7 Hopeman's period of operations.</p> <p>8 Q Do you recall in your modeling that you did,</p> <p>9 or your work in this case, estimating claims through</p> <p>10 at least 2037?</p> <p>11 A Yes.</p> <p>12 Q So do you agree that using a June 30, 2027,</p> <p>13 bar day would re result in a lower estimate of the</p> <p>14 value of asbestos claims asserted against Hopeman than</p> <p>15 if there were no end date or bar date for the claims</p> <p>16 being estimated? Do you need me to repeat that?</p> <p>17 A Yeah. Repeat that one more time.</p> <p>18 Q Sure. Yeah. Do you agree that using a</p> <p>19 June 30 bar date, June 30, 2027, bar date, would</p> <p>20 result in a lower estimate of the value of asbestos</p> <p>21 claims asserted against Hopeman than if there had been</p> <p>22 no bar date used in your estimation?</p>
<p style="text-align: right;">Page 27</p> <p>1 Q And did you have some understanding of why</p> <p>2 you were going to use that bar date for your work on</p> <p>3 this matter?</p> <p>4 A The bullet indicates it was my understanding</p> <p>5 and -- and also reviewing the original plan of</p> <p>6 liquidation under this bankruptcy that that June 30,</p> <p>7 2027 date was established as a potential bar date.</p> <p>8 Q Do do you expect that people will continue</p> <p>9 to manifest asbestos-related diseases caused by</p> <p>10 Hopeman related activities after June 30, '27?</p> <p>11 A Yes.</p> <p>12 Q And do you expect that more asbestos claims</p> <p>13 would be asserted against Hopeman after June 30, 2027,</p> <p>14 if there was no such bar date?</p> <p>15 A Yes.</p> <p>16 Q Do you have some sense of how long after</p> <p>17 June 30, 2027, persons may be first diagnosed with an</p> <p>18 asbestos-related disease related to exposure to</p> <p>19 Hopeman supplied or installed asbestos products?</p> <p>20 A And your question was asking in terms of how</p> <p>21 much longer, such as in years?</p> <p>22 Q Yes.</p>	<p style="text-align: right;">Page 29</p> <p>1 A Well, with -- with the qualifier there that</p> <p>2 using the bar date limits the number of future claims</p> <p>3 as it relates to this particular liquidation analysis.</p> <p>4 It doesn't suggest that there wouldn't be claims</p> <p>5 beyond June 30, 2027, against Hopeman or any other</p> <p>6 entities related to Hopeman. It's just talking about</p> <p>7 in context of a bankruptcy liquidation with an assumed</p> <p>8 bar date of June 30, 2027.</p> <p>9 Q Right. And my question was: If you did not</p> <p>10 assume that bar date of 2027, would you expect the</p> <p>11 estimates of the claims against Hopeman for asbestos</p> <p>12 related diseases would be higher?</p> <p>13 MS. DAVIS: Object to form.</p> <p>14 BY MR. BROWN:</p> <p>15 Q Do you understand the question?</p> <p>16 A I do. but my answer would be no. Because</p> <p>17 the claims that arise against Hopeman after June 30,</p> <p>18 2027, I assume would arise regardless of the nature of</p> <p>19 the bankruptcy proceeding and the bar date as of</p> <p>20 June 30, 2027. If that bar date were to be extended,</p> <p>21 then that would allow for more of those Hopeman claims</p> <p>22 to be included within the bankruptcy construct. But</p>

<p style="text-align: right;">Page 30</p> <p>1 regardless of the bar date, the claims against Hopeman 2 can arise in the future just the same. 3 Q Are you aware, Mr. Scarcella, whether there 4 is a bar date for asbestos claims in the Hopeman 5 bankruptcy? 6 A You're standing under the current proposed 7 plan of reorganization through 524(g) that there is no 8 bar date given the nature of 524(g) bankruptcy 9 organizations. 10 Q Now, my question really was is there a bar 11 date currently in place in the Hopeman bankruptcy for 12 asbestos claims? 13 A I'm not aware of a bar date in terms of 14 claims being able to file against a reorganized 15 Hopeman trust or reorganized Hopeman in the Tort 16 System. Whether or not there's a bar date for, let's 17 say, voting purposes, I can't really speak to that. 18 Q Okay. So you're not aware of whether or not 19 there is a bar date currently applicable to asbestos 20 claims in the Hopeman and case; is that correct? 21 A Under the current proposed plan. 22 Q Well the proposed plan you're talking about</p>	<p style="text-align: right;">Page 32</p> <p>1 claims or those that were pending resolution as of the 2 petition date and then those defined as bankruptcy 3 claims would be the claims that would file by June 30, 4 2027. So those collectively are the claims I'm 5 talking about in that third bullet and doing this 6 analysis as to whether or not they would be better off 7 under a liquidation or the currently proposed plan of 8 reorganization. 9 Q So you're comparing the claims that come in 10 by 2027, June 3, 2027 under the chapter 7 versus under 11 the plan, current plan; is that correct? 12 A Yes. 13 Q And does the current plan provide for a bar 14 date? 15 MS. DAVIS: Asked and answered. 16 BY MR. BROWN: 17 Q Do you understand my question? 18 A Yes. I'm not aware of a bar date, and -- 19 and by nature of 524(g) which allows for future claim 20 filings, I wouldn't expect there to be a bar date on 21 claim filings. Though as I mentioned earlier, I'm not 22 sure if that relates to a bar date, let's say, on</p>
<p style="text-align: right;">Page 31</p> <p>1 in bullet, the second bullet under 1.1, that's not the 2 current plan, is it? 3 A Correct. It is not. 4 Q Okay. So you're using a bar date from a 5 plan that's not being put forward currently; is that 6 right? 7 A Yes. 8 Q Okay. And then in your third bullet, you 9 say one of your charges is to determine if the pending 10 claims in bankruptcy claims would financially benefit 11 from a chapter 7 plan of liquidation as of compared to 12 a competing plan of reorganization under section 13 524(g) that is currently proposed. Do you see that? 14 A Yes. 15 Q So in the pending and claims and bankruptcy 16 claims you're talking about in that bullet, are you 17 referring to those that come in by June 30, 2027, or 18 those that come in under the plan? 19 MS. DAVIS: Object to form. 20 BY MR. BROWN: 21 Q Do you understand my question? 22 A Yes. As defined in my report, the pending</p>	<p style="text-align: right;">Page 33</p> <p>1 creditor voting claims. 2 Q Well, I'm trying to understand, 3 Mr. Scarcella, then how in your third bullet are you 4 comparing the claims that would come in by a bar day 5 in a chapter 7 versus claims that would come in under 6 a 524(g) plan that has no bar day? Can you reconcile 7 that for me? 8 MS. DAVIS: Object to form. 9 THE WITNESS: Certainly. I'm not 10 comparing different sets of claims. I'm taking the 11 single set of claims, those that are pending as of the 12 petition date and those that file as of June 30, 2027, 13 that set of claimants, and comparing whether that set 14 of claimants, you know, potential creditor claimants, 15 would be better off under a liquidation or would that 16 same set of claimants be better off under a 17 reorganization. So it's the same exact group of 18 claimants. 19 BY MR. BROWN: 20 Q Okay. Let me ask you a different question 21 then. Did you do an analysis of what the claims -- 22 the claimant's treatment would be under the 524(g)</p>

<p style="text-align: right;">Page 34</p> <p>1 plan and compare that group of claimants against what</p> <p>2 they would get in a chapter 7?</p> <p>3 MS. DAVIS: Object to form.</p> <p>4 BY MR. BROWN:</p> <p>5 Q Do you understand the question?</p> <p>6 A Let me -- let me ask this qualifier. When</p> <p>7 you say "the claimants," you're now talking about</p> <p>8 claimants both as of June 30, 2027, as well as</p> <p>9 claimants thereafter?</p> <p>10 Q Yes.</p> <p>11 A And so you're asking if I did an analysis of</p> <p>12 how those claims would be treated?</p> <p>13 Q Correct. You know, in the plan that's</p> <p>14 proposed versus a chapter 7, did you do that analysis?</p> <p>15 A -- any analysis in my report.</p> <p>16 Q I did not hear the beginning of that. Can</p> <p>17 you repeat that?</p> <p>18 A It -- it's not an analysis that I've</p> <p>19 memorialized here in my report.</p> <p>20 Q Thank you. Now, whether or not it's</p> <p>21 memorialized, did you do that analysis?</p> <p>22 A I've looked into that based on the plan</p>	<p style="text-align: right;">Page 36</p> <p>1 if those same claimants were treated under the</p> <p>2 hypothetical chapter 7?</p> <p>3 A In your previous question, you qualified</p> <p>4 that with -- with tying it to my report that's in</p> <p>5 front of us. So are you no longer tying it to my</p> <p>6 report that's in front of us?</p> <p>7 Q I'm asking you. I'm simply asking you</p> <p>8 whether you formed an opinion about that?</p> <p>9 A I penalized it. I didn't produce an</p> <p>10 opinion, nor was I asked to by counsel in my report.</p> <p>11 Q Okay. All right. You indicated you have</p> <p>12 read the plan, the current plan; correct?</p> <p>13 A Yes.</p> <p>14 Q And could you summarize it for me briefly?</p> <p>15 MS. DAVIS: Object to form.</p> <p>16 Are you asking about specific parts of</p> <p>17 the plan?</p> <p>18 MR. BROWN: No.</p> <p>19 BY MR. BROWN:</p> <p>20 Q Can you provide just a key, just an overview</p> <p>21 with the key treatment that the plan provides?</p> <p>22 A Well, I'll focus on the treatment of</p>
<p style="text-align: right;">Page 35</p> <p>1 proponents disclosure of the information that they</p> <p>2 relied on informing their liquidation analysis.</p> <p>3 That's on, I believe, it's page 214 of the current</p> <p>4 disclosure statement. And so I've looked at that</p> <p>5 supporting material and analyzed the impact it would</p> <p>6 have on the assets and liabilities of a 524(g) plan.</p> <p>7 Q But are you expressing an opinion in this</p> <p>8 report about that analysis?</p> <p>9 A As I said, I did not memorialize that</p> <p>10 analysis in this report. I am just looking at the</p> <p>11 same set of claims as of June 30, 2027, and comparing</p> <p>12 their financial outcomes under both plans.</p> <p>13 Q I guess my question, though, is you keep</p> <p>14 saying you didn't memorialize it. Did you draw an</p> <p>15 opinion about the treatment of the claimants included</p> <p>16 in the currently proposed 524(g) plan? That same</p> <p>17 group of claimants, their treatment versus -- let me</p> <p>18 rephrase.</p> <p>19 Rather than just talking about whether</p> <p>20 you're memorialized, I want to know whether you formed</p> <p>21 an opinion that the claimants in the currently</p> <p>22 proposed 524(g) plan would be treated better or worse</p>	<p style="text-align: right;">Page 37</p> <p>1 claimants since that's the focus of my analysis and</p> <p>2 report. It's my understanding that under the current</p> <p>3 proposed 524(g) plan that there'll be, say, three</p> <p>4 general buckets of claimant. You would have the</p> <p>5 uninsured claims that are defined in the plan. I'd</p> <p>6 say, generally as claims that have exposures</p> <p>7 exclusively after 1984 or post the insurance coverage</p> <p>8 block. There's some nuance in there as well as other</p> <p>9 periods of uninsured time.</p> <p>10 But generally speaking, that's how the plan</p> <p>11 looks at uninsured claims. And those uninsured</p> <p>12 claims, as I understand it, will be liquidated from</p> <p>13 the assets that are held by the trust which are</p> <p>14 limited assets, but they would be the assets that are</p> <p>15 held by the trust after the trust, you know, the</p> <p>16 estate compensates professionals in the bankruptcy and</p> <p>17 other financial requirements. And again, this is all</p> <p>18 laid out in page 214 of the disclosure statement and</p> <p>19 the liquidation analysis.</p> <p>20 But so there's that one group of claimants</p> <p>21 and those uninsured claims, because they are</p> <p>22 restricted to a finite set of trust assets, they could</p>

<p style="text-align: right;">Page 38</p> <p>1 be subject to what we call a payment percentage under  2 524(g) to try and preserve the requirement that  3 current and future claims be treated in a equitable  4 manner.  5 So depending on how many uninsured claims  6 are expected, not only currently but in the future,  7 there might have to be a set aside of some of those  8 assets through the use of a payment percentage. So  9 that's one general category or group of claimants that  10 the plan allows for. Then you have two groups or  11 buckets of insured claims. There's the claims that I  12 understand to be direct insured claims.  13 I'm not an -- an attorney, so I won't try  14 and dive too far into the nuance of what makes a  15 direct insured claim. But my basic understanding is  16 there are claims that plaintiff firms believe can be  17 brought directly against the insurers in particular  18 jurisdictions. I've heard quite a bit about Louisiana  19 and in particular, the Hopeman involvement at the  20 Avondale Shipyard.  21 So you have that group of claimants where  22 they are more or less handled outside or regardless of</p>	<p style="text-align: right;">Page 40</p> <p>1 insurers for that default judgment for a fee of one  2 third or 33.3 percent of any recovered funds from  3 insurance. So that's my basic understanding of how  4 the different types of current and future asbestos  5 claimants would be treated under the plan.  6 Q Did you get all of that by simply reviewing  7 the plan, or did someone help you with interpreting  8 the plan?  9 MS. DAVIS: Object to form.  10 THE WITNESS: The TDP is well laid out  11 in that regards in the current disclosure statement,  12 as well as some of the footnotes in the liquidation  13 analysis, though it's certainly helpful to review  14 other documents and consult with counsel. 'Cause  15 again, I'm not an attorney. These are at the Hart  16 legal documents. So while I'm able to provide my  17 interpretation of them, it's always good to verify  18 that with counsel.  19 BY MR. BROWN:  20 Q Which particular provisions did you verify  21 with counsel regarding your reading of them?  22 MS. DAVIS: Objection.</p>
<p style="text-align: right;">Page 39</p> <p>1 the trust, if you will, because they would be direct  2 claims against certain insurance carriers. So the  3 trust doesn't have to worry about evaluating those  4 claims. They don't have to worry about resolving  5 those claims and liquidating those claims from the  6 finite assets that it has. And then the -- the final  7 bucket, or the second bucket of insured claims, are  8 those claims that did have exposures that overlap with  9 the coverage of Hopeman historically.  10 So pre-1985 exposures that can be brought  11 against not the trust, but reorganized Hopeman in the  12 Tort System, reorganized Hopeman and/or the trust  13 would effectively serve as a noticing agent to  14 insurance carriers. And insurance carriers can either  15 choose to defend those cases, resolve those cases in  16 the Tort System, just as they would in the absence of  17 a bankruptcy plan, or those claims could be left at  18 the risk of maybe going to default judgment.  19 Which in that instance, if there is a  20 default judgment against reorganized Hopeman, then  21 that default judgment would be tendered to the trust.  22 The trust would then pursue recovery from non-settling</p>	<p style="text-align: right;">Page 41</p> <p>1 THE WITNESS: Oh, go ahead, Leslie.  2 MS. DAVIS: Go ahead.  3 THE WITNESS: Well, just generally the  4 specifics of how, let's say, that last part I  5 mentioned or one of the last parts I mentioned about  6 noticing. how would a lawsuit naming reorganized  7 Hopeman, how would that then end up in the purview of  8 the non-settling insurers. And so little nuances like  9 that to understand how the process would work because  10 these claims aren't going to be resolved under an  11 administrative trust. That is a little bit more  12 typical, at least in my experience, in 524(g)  13 reorganization and their post-confirmation trusts.  14 BY MR. BROWN:  15 Q Other than what you've mentioned, are there  16 any other provisions of how this plan is to work that  17 you were provided by counsel as opposed to read  18 yourself?  19 MS. DAVIS: Object to form.  20 BY MR. BROWN:  21 Q You understand the question?  22 A Just keep thinking because, again, not to</p>

<p style="text-align: right;">Page 42</p> <p>1 try and interpret some of the legal aspects of the</p> <p>2 plan, but it does seem like there may be some</p> <p>3 limitations for non-settling insurers to seek</p> <p>4 contribution or judgment reductions from certain</p> <p>5 settled insurance policies. Not those that were</p> <p>6 settled more recently with resolute, but maybe ones</p> <p>7 that were settled years ago with the London Market or</p> <p>8 I believe the other insurance carrier was MMO. So</p> <p>9 these are what I would maybe think of as older or</p> <p>10 legacy insurance settlements.</p> <p>11 Q Anything else?</p> <p>12 A There's the liquidation analysis on page 214</p> <p>13 of the disclosure statement. There's obviously some</p> <p>14 assumptions that plan proponents have put into that</p> <p>15 summary table and the notes that correspond to that</p> <p>16 table. So there's other details there that I'm aware</p> <p>17 of.</p> <p>18 Q All right. Let's shift gears for section.</p> <p>19 Did counsel to the Chubb insurers ask you to assume in</p> <p>20 your analysis that the proposed thirty-one and a half</p> <p>21 million-dollar settlement between Hopeman and Chubb</p> <p>22 would be approved in the chapter 7 scenario?</p>	<p style="text-align: right;">Page 44</p> <p>1 that's the foundation of the plan proponents</p> <p>2 assumption. It's not an instruction that was given to</p> <p>3 me by counsel.</p> <p>4 Q Okay. So did you conclude it was reasonable</p> <p>5 to assume in the chapter 7 scenario that the court</p> <p>6 would approve the thirty-one and a half million</p> <p>7 dollars proposed settlement between Hopeman and Chubb?</p> <p>8 MS. DAVIS: Object to form.</p> <p>9 THE WITNESS: Assumption. It's an</p> <p>10 assumption adopted by the plan proponents in their own</p> <p>11 liquidation analysis.</p> <p>12 BY MR. BROWN:</p> <p>13 Q So you're not making that assumption here?</p> <p>14 A It's beyond my scope and that has to do with</p> <p>15 legal findings and has to do with other aspects that</p> <p>16 are beyond my scope.</p> <p>17 Q Okay. Other than what we've talked about so</p> <p>18 far, were there any other things counsel asked you to</p> <p>19 assume as part of your work?</p> <p>20 A Other assumption? In my liquidation</p> <p>21 analysis that wasn't explicitly adopted by the plan</p> <p>22 proponent's own liquidation analysis was the component</p>
<p style="text-align: right;">Page 43</p> <p>1 A That assumption is tied to the liquidation</p> <p>2 analysis on page 214 of the disclosure statement. In</p> <p>3 fact, I -- I took the low end of that range of 31.5,</p> <p>4 as opposed to the high end of that range, which was 40</p> <p>5 million.</p> <p>6 Q That was not my question. My question is</p> <p>7 did counsel to the Chubb insurers ask you to assume</p> <p>8 that the thirty-one and a half million dollars</p> <p>9 settlement that had been proposed between Hope and</p> <p>10 Chubb would be approved in the chapter 7 scenario?</p> <p>11 A And as I answered, it wasn't as explicit</p> <p>12 request that 31.5 million to \$40 million range is in</p> <p>13 the plan proponents liquidation analysis. And that's</p> <p>14 what counsel, as part of my scope that we just</p> <p>15 discussed, asked me to do, which was take that</p> <p>16 liquidation analysis and kind of fill in some of the</p> <p>17 blanks, some of the missing assumptions and figures</p> <p>18 that weren't present in that liquidation analysis on</p> <p>19 page 214.</p> <p>20 Now, if that number of 31.5 million to 40</p> <p>21 million per the plan proponent's assumption is</p> <p>22 consistent with the Chubb settlement, again, that's --</p>	<p style="text-align: right;">Page 45</p> <p>1 of recoveries from non-settling insurers and what that</p> <p>2 would look like over the period through June 30, 2027.</p> <p>3 And I should clarify that claims filed as of June 30,</p> <p>4 2027, because clearly, those claims can be resolved</p> <p>5 and ultimately liquidated at some point thereafter</p> <p>6 June 30, 2027.</p> <p>7 But that assumption about what the</p> <p>8 non-settling insurance recoveries could be under a</p> <p>9 524(g) was an assumption that I had to make, and I</p> <p>10 made that as I note in my report, based on the</p> <p>11 recoveries from Chubb insurers in the year prior to</p> <p>12 Hopeman's bankruptcy.</p> <p>13 Q Okay. We'll come back to those. Were you</p> <p>14 asked from the outset of your engagement to prepare a</p> <p>15 written report or did that come later?</p> <p>16 A If it came later, it wasn't much later after</p> <p>17 my initial -- initial retention. I think it became</p> <p>18 clear that there would be some type of report filed.</p> <p>19 Though, I believe there was a question when I was</p> <p>20 first retained in early June as to whether or not</p> <p>21 there was going to be time be allotted for in this</p> <p>22 bankruptcy proceeding for expert disclosures. Because</p>

<p style="text-align: right;">Page 46</p> <p>1 I believe there was an original confirmation date</p> <p>2 scheduled sometime maybe July 1st. And ultimately,</p> <p>3 that got pushed to, I think, the 14th, which allowed</p> <p>4 time for me to put together an expert disclosure in</p> <p>5 the form of the report we have in front of us.</p> <p>6 Q What did you understand was the purpose of</p> <p>7 the report you were going to prepare for the Chubb</p> <p>8 insurers?</p> <p>9 A What the scope we just reviewed was, which</p> <p>10 was to fill in the blanks of the plan's liquidation</p> <p>11 analysis on page 214 with expectations of what the</p> <p>12 claims would look like through June 30, 2027, what the</p> <p>13 value of those claims would be, as well as what the</p> <p>14 insurance recoveries could be just for those claims</p> <p>15 from non-settling insurance.</p> <p>16 Because you may recall that the liquidation</p> <p>17 analysis on 214 of the disclosure statement, they are</p> <p>18 not just isolating claims through June 30, 2027. So</p> <p>19 the insurance recovery assumption under the 524(g)</p> <p>20 plan is not isolated just to those claims. So that</p> <p>21 was the reason for the assumption I just discussed a</p> <p>22 little bit earlier, maybe two questions ago or so.</p>	<p style="text-align: right;">Page 48</p> <p>1 continued to work on it until it was finally filed on</p> <p>2 the 7th.</p> <p>3 Q Did you share drafts of the report with</p> <p>4 counsel before July 7th?</p> <p>5 A Yes.</p> <p>6 Q Did you receive comments on the draft?</p> <p>7 A We discussed it. There weren't very many</p> <p>8 comments. Just making sure things like defined terms</p> <p>9 were consistent with what has already been a defined</p> <p>10 term either in the plan or in their own filings. So</p> <p>11 that was the type of discussions we had.</p> <p>12 Q Did any of those comments change any of your</p> <p>13 opinions in your report?</p> <p>14 A Terms of the one assumption I mentioned</p> <p>15 earlier, which is the potential recovery of these,</p> <p>16 what I'll call current claimants or creditor claimants</p> <p>17 as of June 30, 2027, the potential insurance recovery.</p> <p>18 There was some back and forth as to what would be the</p> <p>19 -- the most appropriate assumption.</p> <p>20 And counsel was able to provide me with the</p> <p>21 source information for the percent of claim valuation</p> <p>22 that Chubb had reimbursed in the period leading up to</p>
<p style="text-align: right;">Page 47</p> <p>1 Q Okay. You said that the continuance of the</p> <p>2 confirmation hearing from July 1 to July 14 allowed</p> <p>3 you to finish your report. Is that accurate?</p> <p>4 A If we had to and it was requested by</p> <p>5 counsel, we would've filed something whenever they</p> <p>6 needed us to file it. Certainly, getting the two-week</p> <p>7 extension made it a little bit easier to put together</p> <p>8 a report. But if I was asked to have something ready</p> <p>9 before July 1st, we would've pushed to try and get</p> <p>10 something ready before July 1st.</p> <p>11 Q When did you first produce a draft of your</p> <p>12 report?</p> <p>13 A I know I worked on it quite a bit through</p> <p>14 the month of June, and report generally also includes</p> <p>15 the analysis that goes into the report. So as we</p> <p>16 discussed earlier, as soon as I got the claims data, I</p> <p>17 think, in early June, all of that analysis started in</p> <p>18 earnest because we knew it was potentially a tight</p> <p>19 turnaround.</p> <p>20 I probably started drafting the report in</p> <p>21 the weekend before July 1st. So that weekend before</p> <p>22 the July 4th holiday. Once we got an extension, I</p>	<p style="text-align: right;">Page 49</p> <p>1 bankruptcy. So that was one assumption that I was</p> <p>2 able to refine through counsel directing me to a -- a</p> <p>3 more reliable reference or source of that 33.52</p> <p>4 percent.</p> <p>5 Q And what did counsel provide you that help</p> <p>6 you verify the 33.52 percent you're talking about?</p> <p>7 A It's footnoted in my report, so you can</p> <p>8 scroll down to it. I can't remember exactly what case</p> <p>9 document it was, but it's -- it's cited.</p> <p>10 Q Okay. Were you provided a copy of an</p> <p>11 agreement? Is that what you're talking about?</p> <p>12 A No. I -- I'd have to look down at the -- at</p> <p>13 the citation. It might have been disclosures by</p> <p>14 someone for the debtors describing the recoveries from</p> <p>15 the Chubb insurers in the period leading up to</p> <p>16 bankruptcy. But again, it's all cited and footnoted</p> <p>17 in the report.</p> <p>18 Q Okay. But what you're saying counsel</p> <p>19 pointed you to that or provided that information to</p> <p>20 you?</p> <p>21 A That I was looking for what would be the</p> <p>22 most appropriate assumption for what the potential</p>

<p>Page 50</p> <p>1 recoveries could be, and the most clear cut one at the</p> <p>2 time seemed to be a -- a number that was consistent</p> <p>3 with what Chubb was providing in the -- in the period</p> <p>4 immediately before bankruptcy.</p> <p>5 Since I was talking about a window of only</p> <p>6 three years post-petition for filing. So I wanted to</p> <p>7 look at what was the most recent reimbursement</p> <p>8 percentage by Chubb on claim valuation and it was</p> <p>9 memorialized in one of the -- the case documents</p> <p>10 already. So that served as a very good foundation and</p> <p>11 reliable citation for that assumption.</p> <p>12 Q Okay. Any other things that counsel pointed</p> <p>13 out for you or gave to you after you had produced the</p> <p>14 initial draft of the report?</p> <p>15 A Citation that's included in the report that</p> <p>16 relates to the -- the assumption that bifurcates</p> <p>17 claims between assumed products claims, as well as</p> <p>18 non-products or operations claims. It's a number, I</p> <p>19 think, 14 percent because it's -- it's in the report</p> <p>20 and cited. And so I just needed the formal citation</p> <p>21 or document that related to that assumption of 14</p> <p>22 percent.</p>	<p>Page 52</p> <p>1 was asking you, other than talking in a conversation</p> <p>2 that your counsel was involved in or your own staff</p> <p>3 was involved in, did you ever talk with anybody else</p> <p>4 without those people present?</p> <p>5 A No. None come to mind.</p> <p>6 Q In your review of the report getting ready</p> <p>7 to testify today, did, did you note any things that</p> <p>8 needed to be corrected in your report?</p> <p>9 A Nothing that I can think of.</p> <p>10 Q So you stand by all of the statements in</p> <p>11 your report as of today?</p> <p>12 A As of today.</p> <p>13 Q Okay.</p> <p>14 MR. BROWN: We've been going about an</p> <p>15 hour. Leslie, let me suggest we took a five- or</p> <p>16 ten-minute break.</p> <p>17 MS. DAVIS: That would be great.</p> <p>18 MR. BROWN: I was just thinking about</p> <p>19 ten after. Does that work? Okay. Thanks.</p> <p>20 MS. SANTELLE: Hey, Tyler?</p> <p>21 MR. BROWN: Yes.</p> <p>22 MS. SANTELLE: Can we go off the</p>
<p>Page 51</p> <p>1 So that was something that was very helpful</p> <p>2 to have counsel be able to provide the backup so I can</p> <p>3 view it with my own eyes, see what the source of the</p> <p>4 assumption was so I could feel more comfortable not</p> <p>5 only using that in my analysis, but also having the</p> <p>6 proper citation for that.</p> <p>7 Q Okay. So was that a copy of an agreement or</p> <p>8 some other type of document?</p> <p>9 A Again, you'd have to look at the footnote.</p> <p>10 It's -- it's cited.</p> <p>11 Q Okay. Anything else that you were provided</p> <p>12 by counsel after you drafted the report?</p> <p>13 A Not that I can think of.</p> <p>14 Q Okay. Besides talking with your counsel or</p> <p>15 those who worked on your team directly, did you speak</p> <p>16 with anybody else for purposes of carrying out your</p> <p>17 engagement working for the Chubb Insurers?</p> <p>18 A I'd have to pause there and maybe consult</p> <p>19 with counsel because any of those discussions would've</p> <p>20 taken place with counsel present, and so I don't know</p> <p>21 what under privilege I'm allowed to disclose.</p> <p>22 Q Well, let's make it easy. I wanted to -- I</p>	<p>Page 53</p> <p>1 record? I have a question which I can ask in front of</p> <p>2 everybody else.</p> <p>3 MR. BROWN: Sure.</p> <p>4 MS. SANTELLE: So we have a request</p> <p>5 from --</p> <p>6 THE REPORTER: One moment. One moment.</p> <p>7 Let me -- let me be the one to -- to go off the</p> <p>8 record. We are off the record at 1:02 p.m.</p> <p>9 (Off the record.)</p> <p>10 THE REPORTER: All right. We are back</p> <p>11 on the record, 1:12 p.m. Sorry.</p> <p>12 MR. BROWN: My bad.</p> <p>13 BY MR. BROWN:</p> <p>14 Q Mr. Scarcella, before we broke, I asked you</p> <p>15 a couple of questions about who else you might have</p> <p>16 talked with about this engagement. Did you ever have</p> <p>17 any conversations with any insurers other than the</p> <p>18 Chubb Insurers with or without Ms. Davis or your other</p> <p>19 counsel on the line?</p> <p>20 A No.</p> <p>21 Q Do you consider your engagement currently</p> <p>22 still just by the Chubb Insurers, not other insurers?</p>

<p style="text-align: right;">Page 54</p> <p>1 A That is my understanding.</p> <p>2 Q All right. Your CV that you included within</p> <p>3 your report shows that you've testified in a lot of</p> <p>4 bankruptcy cases; is that correct?</p> <p>5 A Yes.</p> <p>6 Q Okay. And what types of testimony have you</p> <p>7 provided in those cases?</p> <p>8 A Generally it's either-or combination of</p> <p>9 claim valuation of present and future claims, as well</p> <p>10 as general analysis of the proposed plans and the</p> <p>11 implications it could have on future claim valuations,</p> <p>12 whether or not those valuations would be consistent</p> <p>13 with pre-petition valuations.</p> <p>14 And so I would more or less categorize the</p> <p>15 latter as analyzing issues of the plan structure and</p> <p>16 whether or not it will treat claims in a manner</p> <p>17 consistent with the Tort System. So that's a little</p> <p>18 bit different than an exercise of going through the</p> <p>19 actuarial forecasting and valuation of claims, let's</p> <p>20 say, for an estimation hearing or a confirmation</p> <p>21 hearing.</p> <p>22 Q Okay. Do you know what the best interest</p>	<p style="text-align: right;">Page 56</p> <p>1 A No. Not in the bankruptcy context. Though,</p> <p>2 this type of liquidation analysis would be consistent</p> <p>3 with a lot of the work I've done in the past in</p> <p>4 determining things like payment percentages, which</p> <p>5 would be considered liquidation percentages that try</p> <p>6 and balance the expected assets and expected</p> <p>7 liabilities of a post-confirmation trust.</p> <p>8 Q Have you ever been put forward as an expert</p> <p>9 witness in connection with a confirmation plan</p> <p>10 relating to a liquidation analysis, whether for or</p> <p>11 against?</p> <p>12 A I don't believe so.</p> <p>13 Q All right. Let me get back up on the screen</p> <p>14 your report.</p> <p>15 MR. BROWN: See if this will allow me</p> <p>16 to share again, or Samuel may need to give me</p> <p>17 permission.</p> <p>18 THE REPORTER: You should be able to</p> <p>19 share.</p> <p>20 MR. BROWN: Okay. Let's see if I've</p> <p>21 got the right one.</p> <p>22 Can you see that, Leslie? Can you see</p>
<p style="text-align: right;">Page 55</p> <p>1 test is in a chapter 11 bankruptcy case?</p> <p>2 A Really, it's something I would kind of put</p> <p>3 in the bucket of legal issues that counsel deals with.</p> <p>4 Q Okay. To your knowledge, have you ever</p> <p>5 testified in a chapter 11 bankruptcy case regarding</p> <p>6 the best interest test?</p> <p>7 A The best way to answer that is I don't know</p> <p>8 if I've ever done analysis specific for that purpose.</p> <p>9 I've done my analysis like I described, whether it's</p> <p>10 valuation or assessing the reasonableness of the plan.</p> <p>11 Whether or not counsel has used any of that analysis</p> <p>12 and any briefings that may relate to the type of</p> <p>13 analysis you're talking about, it's hard for me to</p> <p>14 say.</p> <p>15 Q Do you know what a liquidation analysis is</p> <p>16 in the context of a chapter 11 bankruptcy case?</p> <p>17 A Speaking, it involves balancing current and</p> <p>18 prospective assets versus current and prospective</p> <p>19 liabilities.</p> <p>20 Q Have you ever testified in a bankruptcy</p> <p>21 court in connection with a chapter 11 plan</p> <p>22 confirmation concerning those issues?</p>	<p style="text-align: right;">Page 57</p> <p>1 the report?</p> <p>2 MS. DAVIS: I can see it.</p> <p>3 MR. BROWN: Okay. Great. Thank you.</p> <p>4 BY MR. BROWN:</p> <p>5 Q All right. Let's go to 1.3. Summary of</p> <p>6 Opinions. Is that in front of you?</p> <p>7 A Yes.</p> <p>8 Q Okay. All right. Your first opinion is</p> <p>9 here, the summary of it at least, is in paragraph 4.</p> <p>10 And here you're providing an estimate of the nominal</p> <p>11 value and the present value of pending in bankruptcy</p> <p>12 claims against Hopeman; is that right?</p> <p>13 A Yes.</p> <p>14 Q Okay. And the last sentence I want to ask</p> <p>15 you about this phrase, "but for the bankruptcy," you</p> <p>16 say, "Conversely, these same pending and bankruptcy</p> <p>17 claims will be liquidated discount to their respective</p> <p>18 values but for the bankruptcy under the competing</p> <p>19 524(g) option." What do you mean by that term "but</p> <p>20 for the bankruptcy"?</p> <p>21 A So it's -- it's common, at least, in -- in</p> <p>22 my experience, when looking at estimation issues of</p>

<p style="text-align: right;">Page 58</p> <p>1 claim valuation. One of the approaches is to value  2 claims but for the bankruptcy. What would their tort  3 value be but for the bankruptcy? And that kind of  4 serves as a foundation for comparative analysis to  5 what the value of those claims might be. Let's say,  6 post-bankruptcy, is it going to differ from the Tort  7 System?  8 But if you look at the details of my report  9 and how I generate those nominal and present value  10 figures you just referenced, I'm basing it on  11 Hopeman's own tort experience. So those projections  12 are based on an extrapolation of Hopeman's tort  13 experience prior to bankruptcy. So those valuations  14 would otherwise represent a, but for the bankruptcy,  15 how would've Hopeman resolved cases and received cases  16 going forward.  17 Q Okay. Thank you. Does anything in your  18 report address how bankruptcy might impact those  19 claims?  20 MS. DAVIS: Object to form.  21 BY MR. BROWN:  22 Q Do you understand the question?</p>	<p style="text-align: right;">Page 60</p> <p>1 But at least in terms of mesothelioma  2 claims, claims file, I think 75 percent of them  3 roughly, file within 12 months of being diagnosed. So  4 it seems like there isn't much of a delay historically  5 in mesothelioma claims being brought against Hopeman.  6 So I don't think there would be much room for there to  7 be an acceleration of diagnoses filing with Hopeman.  8 In terms of seeing increased claims, there's  9 a chance that more claimants to preserve rights will  10 file before a bar date, but that's where the analysis  11 of those claims post-confirmation or -- or post-bar  12 date is important. Because typically, when you see  13 that type of acceleration of claims, you're seeing  14 that acceleration not on your strong claims or not on  15 the claims that historically had been compensated by  16 the debtor, but it's usually in claims that on balance  17 are weaker or have less merit against the debtors.  18 Because effectively, what you're describing  19 in an acceleration kind of context is you're seeing  20 more claims than the debtors experienced prior to  21 bankruptcy. And if you're seeing more claims, they  22 tend to be weaker on balance because they really are</p>
<p style="text-align: right;">Page 59</p> <p>1 A I think so. It's -- it's a little broad.  2 But I don't believe anywhere in my report I'm talking  3 about, you know, the specifics of how different claims  4 might be resolved. You know, we talked about before  5 the break, the plan and how the plan will treat  6 different subgroups of asbestos claimants.  7 None of that is -- is really discussed in  8 detail in my report other than a breakout between,  9 let's say, those non-products claims and products  10 claims that we discussed before the break and that I  11 note in my liquidation analysis at the end of the  12 report.  13 Q Well, as an example, did you take into  14 consideration the possibility that setting a bar date  15 may result in an acceleration of claims against  16 Hopeman?  17 A Didn't build in an acceleration effect. But  18 one thing that I noted in Hopeman's historical claim  19 experience is that at least in terms of mesothelioma  20 claims, which is the main driver of their claim  21 valuation, everything else seems to be more peripheral  22 at best.</p>	<p style="text-align: right;">Page 61</p> <p>1 just placeholder claims because the otherwise, would  2 not have filed against Hopeman, but for the the bar  3 date or some other petition date.  4 So it's a long way of saying any  5 acceleration in claims would be at the weaker level of  6 claim and they might not even be compensable as is  7 against Hopeman because if they were, then they  8 would've filed against Hopeman prior to bankruptcy  9 just like everyone else. There would be no need for  10 this kind of acceleration or inflation of claim  11 filings.  12 Q Well, no one has been able to file against  13 Hopeman for the last year; isn't that right?  14 A Oh, of course.  15 Q Right. So you might may have in fact a lot  16 of filers built up that haven't filed yet. So the bar  17 date is set or the stay is relieved; right? Is  18 extinguished; isn't that right?  19 A Correct. And that's accounted for in my  20 analysis.  21 Q Okay. Well, that was kind of back to my  22 question, which is you talked about, but for the</p>

<p style="text-align: right;">Page 62</p> <p>1 bankruptcy, your analysis is based on historical 2 pre-bankruptcy numbers; correct? 3 A Yes. 4 Q And my question then was: Did you account 5 for anything affected by the bankruptcy in your 6 analysis. What was your answer? 7 MS. DAVIS: Object to form. 8 THE WITNESS: Well, that's a little 9 different, at least as I interpreted your question. 10 By doing things based on if the bankruptcy didn't 11 happen, it actually accounts for the very situation 12 you just described, which is, if I'm going to properly 13 quantify the number of claims that would likely come 14 against Hopeman, meritorious claims you try and, you 15 know, identify as best you can with historical 16 pre-petition filing rates and settlement rates. 17 But if I'm going to identify those 18 claims, I want to identify those claims as if there 19 were no bankruptcy; so no pause in claim filings. So 20 I'm going to calculate claims that otherwise or, but 21 for the bankruptcy, would've filed against Hopeman, 22 let's say, in the past nearly 12 months or so, or just</p>	<p style="text-align: right;">Page 64</p> <p>1 A Well, I would leave that to more of a legal 2 interpretation. But for what I was asked to do as we 3 spoke about earlier today, it was comparing what I'll 4 call creditor claimants, if you will, those pending 5 and bankruptcy claims as of June 30, 2027. How would 6 those claimants fair under a liquidation or a 524(g). 7 So those are the claims I was asked to isolate and 8 examine. 9 And as I say here in paragraph 5, Exhibit B, 10 that plan liquidation analysis into disclosure 11 statement does not do that. They don't isolate 12 insurance assets recoverable from that set of 13 claimants or value that set of claimants through June 14 30, 2027. So that's what I'm examining in my report, 15 and that's the foundation for that first sentence in 16 paragraph 5. 17 Q Okay. So if the claims are the same, 18 meaning the pending in bankruptcy claims as of June 19 30, '27, they're the same claims you're examining in 20 seven, chapter 7 as you're examining chapter 11. How 21 does showing the claim values change anything in the 22 analysis?</p>
<p style="text-align: right;">Page 63</p> <p>1 more than 12 months since their bankruptcy petition, 2 as well as claims that would arise through June 30, 3 2027. 4 So in doing it that way, I don't lose 5 anybody. It's not like I say, well, there were no 6 claim filings over the last 13 months, so I guess 7 there are no -- no claims that would come forward. 8 That's not what I'm doing. I'm making sure we account 9 for all the claims that would have filed against 10 Hopeman, but for the bankruptcy, assuming that they 11 will file before any applicable bar date. 12 BY MR. BROWN: 13 Q In your summary of opinions in paragraph 5, 14 appears to be a a different or second opinion. You 15 opine in paragraph 4 that the debtor's liquidation 16 analysis is incomplete because it does not provide an 17 estimate of the value of the asbestos claims it is 18 intended to examine. Did I state that correctly? 19 A Yes. 20 Q And are the estimated claims to be examined 21 the same claims under chapter 11 as in the chapter 7 22 scenario?</p>	<p style="text-align: right;">Page 65</p> <p>1 A Are you asking how does quantifying the size 2 of the claims change? 3 Q Yeah. If they're the same claims. 4 A Well, we'd want to know the size of the 5 claims because you want to be able to balance that 6 against the assets available under either scenario. 7 Q Okay. So the claims are the same but the 8 assets may change, is that what you're saying in a 7 9 versus an 11? 10 A And -- 11 Q I didn't hear the beginning of that. Can 12 you start over? 13 A I'm sure they could. But as we discussed 14 before the break, you know, I am, and as I described 15 in the report, I am filling in the blanks of that 16 liquidation analysis that the debtors and plan 17 proponents presented in the disclosure statement. 18 So when I see an assumption of thirty-one 19 and a half to 40 million insurance recoveries, what is 20 that being balanced against in terms of claim 21 valuation? That's the -- that's the missing piece I 22 had to estimate. And then under a chapter 11, what</p>

<p style="text-align: right;">Page 66</p> <p>1 would be the balance of assets versus liabilities for  2 that specific set of claimants. 'Cause again, in that  3 value liquidation analysis in the disclosure  4 statement, they didn't isolate just claims through  5 June 30, 2027, under the 524(g) column.  6 So I don't know what subset of the assets  7 are associated with cases as of June 30, 2027, under  8 the planned proponent's liquidation analysis. So  9 that's why I say what I wrote there in the beginning  10 of paragraph 5, which is to try and analyze and  11 isolate apples to apples in terms of the set of  12 claims.  13 Q Okay. In paragraph 5, you also make  14 reference to an October 23 Stout Report and to style  15 Stout analysis prepared in November of 2024. Do you  16 see those references?  17 A Yes.  18 Q And have you reviewed both of those reports?  19 A Yes.  20 Q Did those reports provide an estimate of the  21 value of asbestos claims expected to be asserted  22 against Hopeman?</p>	<p style="text-align: right;">Page 68</p> <p>1 A With the caveat that it was starting in  2 2021.  3 Q Right.  4 A So, you know, you might have to remove some  5 dollars to calibrate to, let's say, petition date, but  6 the indemnity number projected in nominal terms, I  7 believe, was \$231.5 million roughly.  8 Q Okay. And was there some estimate contained  9 therein of what Chubb's responsibility would be for  10 those claims?  11 A Their estimate in on nominal terms, to  12 compare apples to apples would be, I think, roughly  13 \$99 million.  14 Q Okay. And you said in the November 24  15 report, the claims were estimated over a different  16 period of time; correct?  17 A Yes.  18 Q And they were estimated to be, what, through  19 June of 2027; is that right?  20 A Yes. That's my understanding.  21 Q Now, that report was prepared in connection  22 with the original plan of liquidation filed by Hopeman</p>
<p style="text-align: right;">Page 67</p> <p>1 A They both did.  2 Q Did the two reports estimate the value of  3 claims over the same time period or different time  4 periods?  5 A The same as they relate to the two different  6 Stout analyses?  7 Q Yeah. Let me rephrase the question. Let's  8 do start with the October 2023 Stout Report. Were  9 claims estimated then over the entire time claims were  10 expected to come into Hopeman?  11 A Let me say it this way: The October 2023  12 presentation summarized analysis that staff put  13 together that looked at future Hopeman claim  14 valuations through 2047. I believe it started with  15 2021, which I found a little bit strange since it was  16 supposed to be an October 2023 report. But  17 nonetheless, it had forecasted claim amounts starting  18 in 2021 and the November 2024 report by Stout that  19 only looked at cases through June 30, 2027.  20 Q Okay. Let's stick with the October 23  21 report. How much were the estimated claims expected  22 to come in against Hopeman through 2047?</p>	<p style="text-align: right;">Page 69</p> <p>1 in the bankruptcy; is that right?  2 A That's my understanding.  3 Q It was not prepared in connection with the  4 524(g) plan; correct?  5 A That's my understanding.  6 Q Okay. Now, let me go to this Figure 22 at  7 the back of your analysis here. That's Figure 22, you  8 recognize that?  9 A Yes.  10 Q All right. Does that represent your attempt  11 to, what you call, complete the liquidation analysis  12 that you say was incomplete in the disclosure  13 statement?  14 MS. DAVIS: Object to form.  15 BY MR. BROWN:  16 Q Do you understand my question?  17 A Yes, I do.  18 Q And what's your answer?  19 A Yes. This is a summary of my update to the  20 liquidation analysis that is in the disclosure  21 statement.  22 Q Okay. All right. We will come back to that</p>

<p style="text-align: right;">Page 70</p> <p>1 shortly. Let's go back to the beginning of this</p> <p>2 Section 4. Or I should say, let me ask you first: So</p> <p>3 up until the top of page 25, above Number 4, this is</p> <p>4 all related to your estimation analysis; right?</p> <p>5 A Yes. I believe the -- the first section is</p> <p>6 looking at the pending claims, those that were</p> <p>7 unresolved as of the petition date. And then the next</p> <p>8 section was looking at expected future claims or</p> <p>9 claims that, to your point earlier, would have been</p> <p>10 filed against Hopeman during the bankruptcy period.</p> <p>11 Q Right. And then you come -- you finish up</p> <p>12 with your discount rate analysis to get to present</p> <p>13 value; correct?</p> <p>14 A Correct.</p> <p>15 Q And so that analysis continues over to the</p> <p>16 top of page 25. What do you describe -- how do you</p> <p>17 describe what you're doing in Section 4 here called</p> <p>18 Bankruptcy Liquidation Analysis?</p> <p>19 A As the report lays out in that section, I'm</p> <p>20 taking inputs from the liquidation analysis in the</p> <p>21 disclosure statement on page 214. And as I note there</p> <p>22 at the bottom of paragraph 45, there are certain</p>	<p style="text-align: right;">Page 72</p> <p>1 Q I see. You were referring to the footnotes?</p> <p>2 A Yes.</p> <p>3 Q Okay. I want you to focus instead just on</p> <p>4 the first sentence. The first sentence isn't</p> <p>5 footnoted. What's your understanding of that first</p> <p>6 sentence that those historical non-product claims, as</p> <p>7 you define them, are anticipated to be pursued</p> <p>8 directly from available non-product insurance limits.</p> <p>9 Where did you get that understanding?</p> <p>10 A So that was an understanding in talking to</p> <p>11 counsel about how claims had been handled and</p> <p>12 reimbursed by insurance in the periods before</p> <p>13 bankruptcy petition. And as the bullet continues to</p> <p>14 describe that there was an understanding that a</p> <p>15 certain percentage of claims would fall under the kind</p> <p>16 of non-product or operations category, which would</p> <p>17 have the potential to be reimbursed by insurance other</p> <p>18 than the products insurance that was still available</p> <p>19 to Hopeman.</p> <p>20 Q Okay. Well, you jumped ahead. Let's</p> <p>21 continue to focus for a minute on the first sentence.</p> <p>22 Now, you said your understanding came from counsel.</p>
<p style="text-align: right;">Page 71</p> <p>1 assumptions that I had to apply in order to complete</p> <p>2 the missing pieces. And -- and some of those missing</p> <p>3 pieces as we talked about, were the valuation of the</p> <p>4 claims, as well as in, at least in the 524(g) option,</p> <p>5 what's the insurance recoveries for that isolated set</p> <p>6 of claims through June 30, 2027.</p> <p>7 Q Okay. Let's get into the details on some of</p> <p>8 your assumptions. You say in the first bullet on</p> <p>9 page 25 in this section, "It is my understanding." I</p> <p>10 want to come back to that phrase. "It is my</p> <p>11 understanding that pending and bankruptcy claims based</p> <p>12 on allegations of asbestos exposure to HBI historical</p> <p>13 operations are anticipated to be pursued directly from</p> <p>14 available non-product insurance limits." What's the</p> <p>15 basis for your understanding on that sentence?</p> <p>16 A That's the -- the reference that we talked</p> <p>17 about before the break, the 14 percent. It's cited</p> <p>18 there if you just scroll down.</p> <p>19 Q Well, I have -- can you see the entire</p> <p>20 bullet on page 25?</p> <p>21 A I can only see -- now I can see the -- the</p> <p>22 Footnote 37. Yes. I was only -- 35.</p>	<p style="text-align: right;">Page 73</p> <p>1 But what do you mean when you say "those non-product</p> <p>2 claims are anticipated to be pursued directly from</p> <p>3 available non-product insurance limits"? What do you</p> <p>4 mean by "directly"?</p> <p>5 A Well, it might not always be the case, but</p> <p>6 it was my understanding that a lot of the non-products</p> <p>7 cases that Hopeman had been resolving historically</p> <p>8 were involved the Avondale Shipyard in Louisiana. And</p> <p>9 so those claims, if they were being brought on a</p> <p>10 non-products theory of exposure, that those claims</p> <p>11 would be reimbursed by non-products insurance limits</p> <p>12 that were still available, as opposed to the products</p> <p>13 limits that Hopeman had available to it.</p> <p>14 So it's really just a -- an issue of when</p> <p>15 you're doing a liquidation analysis and trying to line</p> <p>16 up assets and liabilities, is trying to identify,</p> <p>17 well, what portion of the claims historically were</p> <p>18 potentially reimbursed by products insurance versus</p> <p>19 non products insurance. 'Cause then you'd want to</p> <p>20 bifurcate the projections of those claims into those</p> <p>21 two buckets 'cause it would change the recoveries or</p> <p>22 potential recoveries from insurance.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q Okay. Still focusing on that first  2 sentence, who are the carriers that provided available  3 non-product insurance limits that you're referring to  4 at the end of that first sentence?  5 A It's my understanding that Liberty Mutual  6 may have non-exhausted non-products limits still  7 available. I'm not sure if any other carriers do.  8 That really wasn't the focus of my analysis. It was  9 more just to be able to split in between the claims  10 that would otherwise go to, let's say, one bucket of  11 insurance versus another bucket of potential insurance  12 recoveries.  13 Q Who provided to you the understanding you  14 have about Liberty Mutual's potential exposure to  15 non-product claims?  16 A Those would be discussions with counsel.  17 But also, I can't remember if it's in the discussion  18 of the settlement agreement from the Van Epps  19 deposition that I cite there in Footnote 37 because  20 that's where this kind of bifurcation or split between  21 products and non-products comes from that 14 percent.  22 So there may be more details in that deposition or in</p>	<p style="text-align: right;">Page 76</p> <p>1 A Not that I'm aware of.  2 Q You're not aware of any non-product coverage  3 available through Chubb? I can't hear you.  4 A No. That -- that hasn't really been an  5 issue for my analysis as to what non-products would be  6 available. It's just bifurcating the claims into  7 products or non-products.  8 Q Okay. Still focused on the first sentence.  9 Are you then referring only to these Louisiana direct  10 action claims? Is that all you're talking about in  11 the first sentence?  12 A I need to look back at how the 14 percent  13 was determined. If it was, in fact, predicated on the  14 expected level of claim indemnity arising from  15 Louisiana and the Avondale Shipyard. But that's  16 the -- the foundation is the 14 percent that was  17 agreed to prior to bankruptcy with Chubb.  18 So I'm not making any assumption as to what  19 the only source of non-products claims are going to  20 be. It's more that if I had to bifurcate a hundred  21 dollars in claim valuation, \$14 or 14 percent would be  22 split to the non-product claims and the remaining \$86</p>
<p style="text-align: right;">Page 75</p> <p>1 the agreement that is being discussed in that  2 deposition testimony.  3 Q Okay. Other than Liberty, are you including  4 within the available non-product insurance limits any  5 other carriers?  6 A Well, for purpose of my analysis, it's not a  7 a function of including any carriers. It's just  8 noting that there are two types of exposure claims.  9 One for products and one for non-products or  10 operations claims. And because those two different  11 types of claims may have different recoveries  12 available to them from insurance.  13 So none of what I did relies on an  14 assumption as to whether or not it's just Liberty or  15 Liberty and other insurers. It was really more just  16 to bifurcate the liability line item into those two  17 different buckets of claims so then I can properly  18 line up their potential asset recoveries.  19 Q Do the Chubb insurers have non-product  20 coverage for Hopeman?  21 A -- aware of.  22 Q I didn't hear you.</p>	<p style="text-align: right;">Page 77</p> <p>1 or 86 percent would be apportioned over to the product  2 side, which is to say a majority of the expected claim  3 valuation would go against the products limits.  4 Q Okay. But you're 14 versus 86 percent split  5 in the types of claims is a product of your review of  6 an agreement between the Chubb Insurers and Hopeman;  7 is that right?  8 A That was the foundation. And I also looked  9 at the claim data to see how reasonable that  10 percentage still is, given 'cause I don't know when  11 that percentage was first developed or projected. But  12 in looking at the claim information available to me in  13 the pre-position claim data, I was able to closely  14 verify that 14 percent number in terms of looking at  15 Louisiana cases for particular law firms that to date,  16 have brought non-product claims against -- against  17 Hopeman and its insurers.  18 Q Did you look at claims being filed in other  19 states besides Louisiana?  20 A For that analysis, I was just looking  21 Louisiana. 'Cause it was my understanding from  22 counsel that to date, it was Louisiana and specific</p>

<p style="text-align: right;">Page 78</p> <p>1 plaintiff law firms that were bringing these types of  2 actions. So it just allowed me to verify whether or  3 not that 14 percent was still applicable. And so  4 that's -- that's just a separate analysis that I did.  5 Q Okay. Then you say in the second sentence,  6 in this bullet in paragraph 45 on page 25, that  7 conversely, pending in bankruptcy claims based on  8 allegations of asbestos exposure to HBI installed  9 products after the completion of HBI products, which  10 you define in product claims, will be pursued by the  11 trust. Do you see that?  12 A Yes.  13 Q How did you come to that conclusion?  14 A Well it's -- it's a little bit of a  15 generalization. But it's -- it's saying that they  16 could be pursued by the trust. We talked about this  17 before the break; right? An insured product claim;  18 right. They -- they're going to sue reorganized  19 Hopeman under the current proposed plan. They'll sue  20 reorganized Hopeman. Hopeman will serve notice maybe  21 to the trust or the trust serves notice to the  22 insurers.</p>	<p style="text-align: right;">Page 80</p> <p>1 choose to defend and resolve the cases directly for  2 those, but that's not mandated. So there are  3 scenarios where all of those claims effectively work  4 their way through the trust.  5 Q But you are saying that claimants could  6 bring product claims against reorganized debtor under  7 the 524(g) plan; correct?  8 A Yes.  9 Q And they may, in fact, recover directly from  10 insurers without going through the trust; correct?  11 A Yes. That is a possibility.  12 Q Okay. And the products insurance limits  13 that they would be pursuing here, are they also, like  14 you said earlier from potentially Liberty, Chubb,  15 other insurers? Do you have any particular insurers  16 in mind?  17 A I think the plan describes them as  18 non-settling insurers. I don't know who all is  19 included in non-settling insurers.  20 Q But you're contemplating these claims might  21 be brought against Hopeman, reorganized Hopeman, or  22 potentially against the non-settling insurers; is that</p>
<p style="text-align: right;">Page 79</p> <p>1 But those claims will either have to be  2 defended directly by the insurers in the Tort System  3 or they will fall risk to maybe default judgments,  4 which then those default judgments would be tendered  5 to the trust in order to pursue insurance recoveries.  6 So the only distinction I'm making there is  7 those non-products claims could be handled completely  8 independent of the trust and that they'd be brought  9 directly against the insurers, whereas the products  10 claims, they may not be brought directly against  11 insurers. They might be brought against reorganized  12 Hopeman and under -- depending on how those cases are  13 resolved, they could implicate the trust in terms of  14 trying to recover insurance for default judgements.  15 Q But that's not what your sentence says.  16 Your sentence says it will be pursued by the trust.  17 Now, you're saying they might be?  18 A Depends on how those cases are resolved. If  19 all those cases are resolved through default judgment,  20 then they will all have to go through the trust for  21 potential insurance recovery.  22 There is a hypothetical where insurers</p>	<p style="text-align: right;">Page 81</p> <p>1 correct?  2 A Could be wrong about the nuance of the plan,  3 but I believe the plan as currently proposed under the  4 524(g) option says that the claimant has to name  5 reorganized Hopeman in the Tort System. Hopeman's not  6 going the -- reorganized Hopeman isn't going to defend  7 the cases. The trust isn't going to spend its assets  8 to defend the cases.  9 So either the insurers defend the cases and  10 resolve the cases or they run the risk of them going  11 to default judgment. If they go to default judgment,  12 then those judgments are provided to the trust for  13 potential recovery from insurance. So that's the way  14 the plan is laid out.  15 Q Under the plan, is it your understanding  16 that some claimants could have direct action claims  17 for product claims?  18 A They certainly could. I don't see any  19 reason why that wouldn't be an option.  20 Q If the claimant pursues a claim and recovers  21 directly from an insurer, does the claimant incur a 33  22 percent litigation trustee fee?</p>

<p style="text-align: right;">Page 82</p> <p>1 A No. They would not have to go through the</p> <p>2 trust process. They might have to pay some other</p> <p>3 coverage counsel to help recover that money, but they</p> <p>4 wouldn't have to do it through the trust.</p> <p>5 Q So potentially the claimants that are</p> <p>6 pursuing the claims you're talking about in the second</p> <p>7 sentence of this bullet may not all have to pay the</p> <p>8 litigation trustee fee; is that right?</p> <p>9 A Yes. There is a hypothetical where the</p> <p>10 524(g) functions similar to a liquidation, in that</p> <p>11 future claims would go directly against insurers and</p> <p>12 resolve cases directly with the insurers in the Tort</p> <p>13 System.</p> <p>14 Q Isn't that if in effect what's contemplated</p> <p>15 by this plan that those claims would pass through to</p> <p>16 the Tort System?</p> <p>17 A If that is the goal of the plan. The plan</p> <p>18 certainly allows for scenarios where that's not the</p> <p>19 case. That there are default judgments that the</p> <p>20 trustee is going to have to pursue recovery for those</p> <p>21 default judgments and incur costs in hiring coverage</p> <p>22 counsel, as well as other expenses to try and recover</p>	<p style="text-align: right;">Page 84</p> <p>1 to try and pursue recovery from insurance assets and</p> <p>2 that could come at an added cost of 33.3 percent.</p> <p>3 Q It could come at that cost but not</p> <p>4 necessarily. Is that what you're saying?</p> <p>5 A Yes. Not necessarily.</p> <p>6 Q Okay. All right. Let's go to the last</p> <p>7 sentence and you touched on this. You've assumed the</p> <p>8 14 percent of the pending claims will be associated</p> <p>9 with non-products, and you say in this, the very last</p> <p>10 sentence, the balance of 86 percent is presumed to be</p> <p>11 product claims. And this is where you referenced in</p> <p>12 Footnote 37 an agreement; correct?</p> <p>13 A Yes.</p> <p>14 Q And that agreement you call the</p> <p>15 Hopeman-Century Settlement Agreement; correct?</p> <p>16 A Yes.</p> <p>17 Q Who are the parties to that agreement?</p> <p>18 A I don't know, as I sit here. I didn't</p> <p>19 memorize the agreement. But my -- just by looking at</p> <p>20 the name, I would assume it's the debtors Hopeman and</p> <p>21 -- and at least Century. I don't know if that would</p> <p>22 include other Chubb Insurers such as Westchester.</p>
<p style="text-align: right;">Page 83</p> <p>1 that insurance. So I don't know if that's necessarily</p> <p>2 intent of the plan.</p> <p>3 Q What is your assumption then? In reading</p> <p>4 the plan, you said there are options available for</p> <p>5 either, for either the pursuit through the trust or</p> <p>6 pursuit through the claimants; is that right?</p> <p>7 A Yes.</p> <p>8 Q And so what assumptions are you making in</p> <p>9 your analysis as to the trust pursuing the claims</p> <p>10 instead of claimants pursuing the claims?</p> <p>11 A Well, in terms of the -- the set of claims</p> <p>12 that I'm comparing here, these claims as of June 30,</p> <p>13 2027, it's what their potential recoveries could be</p> <p>14 under either option.</p> <p>15 As I sit here, I don't know to the extent</p> <p>16 insurers will actively defend and resolve cases in the</p> <p>17 Tort System, particularly if they don't feel like</p> <p>18 their particular policies should be allocated those</p> <p>19 types of expenses. All I know is that for this set of</p> <p>20 claims through June 30, 2027, there is the reality</p> <p>21 that any default judgments they receive in the Tort</p> <p>22 System, they're going to have to go through the trust</p>	<p style="text-align: right;">Page 85</p> <p>1 Q You don't know sitting here today?</p> <p>2 A Oh, I don't -- I don't have the document in</p> <p>3 front of me.</p> <p>4 Q Do you know whether any of the other</p> <p>5 insurers to the debtor have signed on to that</p> <p>6 agreement?</p> <p>7 A I do not.</p> <p>8 Q Do you know whether the claimants that might</p> <p>9 assert claims against the carriers have signed onto</p> <p>10 that agreement?</p> <p>11 A I would doubt that the claimants have. But</p> <p>12 again, this is just an assumption based on what the</p> <p>13 potential split between products and non-products</p> <p>14 claims moving forward can be. 'Cause it's my</p> <p>15 understanding that the 14 percent wasn't just an</p> <p>16 arbitrary figure. It was based on some history of</p> <p>17 claims and claim activity that could reasonably split</p> <p>18 claims between products and non-products.</p> <p>19 Q Who told you it was based on that?</p> <p>20 A That was my understanding from counsel. And</p> <p>21 again, I did my own claim data analysis to show that</p> <p>22 given some of the parameters, it was about 14 percent.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q What parameters are you talking about?</p> <p>2 A The ones I mentioned earlier. I looked at</p> <p>3 cases involving the Avondale Shipyard and -- and two</p> <p>4 plaintiff law firms, whose names escaped me at this</p> <p>5 time, who had been active in bringing non-products</p> <p>6 claims directly against insurers.</p> <p>7 So I looked at the proportional share of the</p> <p>8 indemnity paid to those claimants relative to all</p> <p>9 indemnity over the recent period and it -- it bared</p> <p>10 out about 14 percent.</p> <p>11 Q So the historical numbers you believe the</p> <p>12 agreement was based on was that pre-2009 historical</p> <p>13 information?</p> <p>14 A I can't remember when that agreement was</p> <p>15 made.</p> <p>16 Q Well, let me tell you, it was 2009. So as</p> <p>17 of the time of the agreement, any information they</p> <p>18 relied on was prior to the agreement; correct?</p> <p>19 A Yes.</p> <p>20 Q Right. And since then, are you saying the</p> <p>21 claims data that you reviewed since 2009 continues to</p> <p>22 support the 14 percent versus 86 percent split?</p>	<p style="text-align: right;">Page 88</p> <p>1 I wanted to at least look at more contemporaneous</p> <p>2 experience of Hopeman and the claim data to try and</p> <p>3 see if the 14 percent still made sense. 'Cause</p> <p>4 certainly it would -- it would, you know, potentially</p> <p>5 influence the liquidation analysis and how you would</p> <p>6 bifurcate claim stream products and non products if it</p> <p>7 was a different split.</p> <p>8 BY MR. BROWN:</p> <p>9 Q Yeah. Over time, would you expect that more</p> <p>10 claims would be product claims rather than non-product</p> <p>11 claims as we move farther from the time that Hopeman</p> <p>12 actually was doing shipbuilding work?</p> <p>13 A Well, I would expect no claims arising from</p> <p>14 periods when Hopeman wasn't doing shipbuilding work.</p> <p>15 The question becomes, really, about how many people</p> <p>16 were exposed to Hopeman's operations versus being</p> <p>17 exposed to a product that was present on a ship after</p> <p>18 Hopeman's operations were completed; right? The -- an</p> <p>19 installed product exposure but.</p> <p>20 Q Right. So my question maybe rephrasing it,</p> <p>21 my question is over time, would you expect the mix</p> <p>22 would change as you got farther away from the time</p>
<p style="text-align: right;">Page 87</p> <p>1 A In -- in the period leading up to</p> <p>2 bankruptcy. Yes. Because I knew that was one of the</p> <p>3 questions, which was this is what they estimated in</p> <p>4 2009, and I believe there was a shift. I -- I'd have</p> <p>5 to go back and look at the agreement. But I don't</p> <p>6 think it was necessary 1486 from the -- the beginning</p> <p>7 of the agreement. I think it might have trended down</p> <p>8 over time, or at least expected to.</p> <p>9 But the current 14 percent is what I</p> <p>10 analyzed over the more current period leading up to</p> <p>11 Hopeman's bankruptcy petition.</p> <p>12 Q Well, it was actually the opposite, wasn't</p> <p>13 it? It was a smaller percentage estimated early in</p> <p>14 the agreement, then 14 percent became the fixed number</p> <p>15 after a period of time; isn't that correct?</p> <p>16 MS. DAVIS: Object. If you can show</p> <p>17 him the document. I don't know why we're arguing</p> <p>18 about what Marc remembers.</p> <p>19 MR. BROWN: I'm just asking for his</p> <p>20 recollection.</p> <p>21 THE WITNESS: No. I -- I don't recall</p> <p>22 and how it shifted, but it was part of the reason why</p>	<p style="text-align: right;">Page 89</p> <p>1 that Hopeman was operating?</p> <p>2 A It could be. But more so, in the out-years</p> <p>3 because -- what I mean by "out-years" is further out</p> <p>4 in time when you look at a forecast. Because there's</p> <p>5 going to be a period where Hopeman stopped its</p> <p>6 operations and there's going to be a period after they</p> <p>7 stopped their operations where products could still be</p> <p>8 there. But that also brings in a lot of nuance about,</p> <p>9 well, which of Hopeman's operations were still</p> <p>10 involved asbestos products; right?</p> <p>11 As you move further and further in time,</p> <p>12 historically from the sixties to the seventies to the</p> <p>13 eighties, there's going to be less involvement of</p> <p>14 Hopeman working with asbestos containing-products,</p> <p>15 certainly not insulation products. So there is that</p> <p>16 added nuance of being around Hopeman operations in the</p> <p>17 mid-eighties might not actually expose you to any</p> <p>18 asbestos. And being around a product that Hopeman</p> <p>19 installed in the early eighties might not be, or even</p> <p>20 the late seventies, might not even contain asbestos to</p> <p>21 begin with.</p> <p>22 So there's -- there's a -- there's -- it's a</p>

<p style="text-align: right;">Page 90</p> <p>1 little bit more difficult than just saying that as  2 time goes on, you're going to see a higher proportion  3 of completed ops claims. You know, there's -- there's  4 other things to consider about Hopeman's actual  5 operations.  6 Q Well, do you know when Hopeman stopped using  7 asbestos products?  8 A I need to look back at some of their  9 bankruptcy filings. It might have been, I can't  10 remember if it was in the first day filings, but there  11 is a discussion about Hopeman moving away from certain  12 types of asbestos insulation products at some point in  13 the seventies, which would correspond with generally  14 the -- the removal of asbestos and installation  15 products manufactured at points after the early to  16 mid-1970s.  17 But then also discussions about different  18 procedures on installation of asbestos  19 containing-products. So that's all, I believe, in the  20 first eight filings, but I'd have to look back to see  21 maybe other places in the planned disclosures, they  22 talk a little bit about the history of Hopeman's</p>	<p style="text-align: right;">Page 92</p> <p>1 Chubb per the cost-sharing arrangement to HBI's  2 petition that is based on a time on the risk pro rata  3 allocation subject to each claim's date of first  4 exposure, and under this arrangement, Chubb covered  5 33.52 percent of HBI's claim indemnity in 2023, which  6 I have assumed for my analysis." That's what you  7 state in the first bullet; correct?  8 A Yes.  9 Q Are you then assuming that Chubb will  10 continue to pay claim indemnities at that rate in your  11 analysis under the 524(g) scenario?  12 A Under the 524(g) scenario for claims filed  13 as of June 30, 2027. You know, as we've talked about  14 quite a bit today, focusing on a more contemporaneous  15 set of claims allows me to use more contemporaneous  16 assumptions.  17 Certainly, over time, if you go out 10  18 years, 20 years, that percentage share could shift.  19 It could shift as dates of first exposure become later  20 and later. It could shift because policies exhaust.  21 But for the purposes of my analysis and looking at a  22 shorter window, it wasn't something that I needed to</p>
<p style="text-align: right;">Page 91</p> <p>1 operations and -- and their use of asbestos  2 containing-products over time.  3 Q All right. Do you have any opinion about  4 what the percentage of products claims versus  5 non-products claims allocable -- let me rephrase that.  6 Do you have any opinion about the percentage of claims  7 that would be products claims versus non-products  8 claims that might be brought against Liberty Mutual as  9 opposed to brought against Chubb?  10 A I don't have any opinion on that. I just  11 did what the bullet says is try and bifurcate the  12 liability side of the ledger between products versus  13 non-products.  14 Q Okay. All right. Let's move over to page  15 26.  16 MR. BROWN: And, Leslie, we've come up  17 on another hour when you all want to take a break  18 maybe five or ten minutes. You good? Okay.  19 THE WITNESS: Yeah.  20 BY MR. BROWN:  21 Q The first bullet talks about under the  22 524(g) option, "Claim indemnity will be allocated to</p>	<p style="text-align: right;">Page 93</p> <p>1 get as granular with.  2 Q Well, is your answer "yes" to my question?  3 A Well, I only qualified it because you said  4 under the 524(g) analysis. I want to make sure it was  5 clear that it's the 524(g) liquidation analysis of  6 claims through June 30, 2027, as opposed to, you know,  7 a forecast going out, you know, decades, if you will.  8 Q Okay. Well, using your product -- I'm  9 sorry. We use your definition. Sorry. The pending  10 and bankruptcy claims, those are the ones that go  11 through June 30, '27; correct? And we're only talking  12 about that set of claims. Are you assuming that Chubb  13 will continue to pay claim and entities at the 33.52  14 percent rate for those claims?  15 A 33.52 percent of the products claims.  16 Q Of the products claims only. Right. But  17 your analysis that you do and and shown in Figure 22,  18 assumes that Chubb continues to make those payments at  19 that rate; is that correct?  20 A Yes.  21 Q Why do you assume that they will do that?  22 A Well, depending on whether or not all the</p>

<p style="text-align: right;">Page 94</p> <p>1 parties continue to operate under the Wellington</p> <p>2 Agreement, which as I understand it, is governed a lot</p> <p>3 of the allocation and reimbursement from insurance</p> <p>4 prior to bankruptcy. I felt it was a reasonable</p> <p>5 assumption that Chubb would continue to provide that</p> <p>6 level of reimbursement because they had -- they had</p> <p>7 agreed to do it previously.</p> <p>8 Q Has anyone told you that Chubb, the Chubb</p> <p>9 Insurers will do that post-effective date?</p> <p>10 A No.</p> <p>11 Q But you made the assumption?</p> <p>12 A Yes.</p> <p>13 Q And you did that based on their past</p> <p>14 practice of doing so?</p> <p>15 A Yes.</p> <p>16 Q Does your analysis assume that Hopeman will</p> <p>17 pay the asbestos claims before Chubb is asked to</p> <p>18 contribute 33.52 percent of those claims?</p> <p>19 A I didn't make any such assumption.</p> <p>20 Q Does it matter in your analysis whether</p> <p>21 Hopeman pays first?</p> <p>22 A Well, it -- it would matter in that, I don't</p>	<p style="text-align: right;">Page 96</p> <p>1 you assuming is going to pay the other 66.48 percent</p> <p>2 of the claims to the claimants?</p> <p>3 A So that really relies on what other</p> <p>4 insurance is available. You know, at the and on the</p> <p>5 risk under the current coverage block. And what I</p> <p>6 mean by current there, taking into account, exhausted</p> <p>7 limits and who might be on the risk. There's been</p> <p>8 some settlements by Hopeman with various insurance</p> <p>9 carriers.</p> <p>10 We talked earlier today about, you know,</p> <p>11 kind of the legacy settlements with London Market and</p> <p>12 MMO as well as the more recent settlement with certain</p> <p>13 resolute managed carriers. So those settlements would</p> <p>14 account for some of the pro rata share within a</p> <p>15 coverage block.</p> <p>16 Q Okay. Do you expect that Chubb would get a</p> <p>17 release from claimants for only paying 33.52 percent</p> <p>18 of valid asbestos claims presented?</p> <p>19 MS. DAVIS: Object. Hypothetical.</p> <p>20 MR. BROWN: It is.</p> <p>21 BY MR. BROWN:</p> <p>22 Q But do you understand the question?</p>
<p style="text-align: right;">Page 95</p> <p>1 believe Hopeman's going to have enough assets to front</p> <p>2 the money and then to -- to insurers. So, but I</p> <p>3 didn't -- I didn't go into that level of granularity</p> <p>4 in terms of timing and short-term liquidity issues.</p> <p>5 It's more of at the end of the day; how much will be</p> <p>6 in reimbursed by non-settling insurance.</p> <p>7 Q So it didn't matter to your analysis whether</p> <p>8 Hopeman paid first or not. Is that what you're</p> <p>9 saying?</p> <p>10 A It didn't. And that would probably make the</p> <p>11 524(g) option look less favorable for the set of</p> <p>12 claims that we analyzed because of this. It adds that</p> <p>13 extra layer of liquidity and timing to the cash flows</p> <p>14 that we're modeling.</p> <p>15 Q But you didn't render any opinion about</p> <p>16 that; correct?</p> <p>17 A Whether or not the sequencing or timing of</p> <p>18 payments? No, I didn't.</p> <p>19 Q Whether that matter. Correct. You did not?</p> <p>20 A I did not.</p> <p>21 Q Now, if you are assuming Chubb is paying</p> <p>22 33.52 percent of a valid claim, product claim, who are</p>	<p style="text-align: right;">Page 97</p> <p>1 A I think I do. I think it -- it -- and I</p> <p>2 might be wrong here, I think it dives a little bit</p> <p>3 into legal opinion and analysis in terms of a release</p> <p>4 and what claimants would do. So I'm not sure it's --</p> <p>5 it's -- I'm the right person to answer that question.</p> <p>6 Q Well, let me ask you about that. Have you</p> <p>7 been in a situation advising an insurer in a situation</p> <p>8 like this, where they're asked to pay a percentage and</p> <p>9 are looking for a release? Have any experience in</p> <p>10 that?</p> <p>11 MS. DAVIS: And to be clear, when</p> <p>12 you're saying "a situation like this," what are we</p> <p>13 talking about?</p> <p>14 BY MR. BROWN:</p> <p>15 Q Yeah. The one I'm describing. So let me</p> <p>16 back up and start over, Mr. Scarcella. So have you</p> <p>17 been in a situation advising any type of client</p> <p>18 insurance or claimant or any other group in a</p> <p>19 bankruptcy scenario in which an insurer is paying a</p> <p>20 percentage of a claim, not the full claim. Have you</p> <p>21 been in that situation?</p> <p>22 A Just to clarify, you said when the insured</p>

<p style="text-align: right;">Page 98</p> <p>1 or insurer?</p> <p>2 Q Insurer.</p> <p>3 A Insurer. Well, generally, and -- and</p> <p>4 hopefully this answers your question. Generally, I've</p> <p>5 done quite a bit of work in insurance allocation, both</p> <p>6 in the bankruptcy context and outside of bankruptcy</p> <p>7 context and in, you know, state court coverage</p> <p>8 dispute.</p> <p>9 And typically, those cases involve the</p> <p>10 allocation of losses across a applicable coverage</p> <p>11 block, which may or may not include periods of</p> <p>12 coverage gaps. So in that respect, not the full value</p> <p>13 of a claim or set of claims may not be covered by</p> <p>14 available insurance.</p> <p>15 Q Right. And my question went would in</p> <p>16 advising one of your clients in that scenario, would</p> <p>17 you expect that you're going to get a release from the</p> <p>18 claimant unless the claimant receives the full value</p> <p>19 of the claim?</p> <p>20 A I have no -- I have no opinion on that.</p> <p>21 I -- I do the math. I let the figure out -- I -- I</p> <p>22 let the attorneys figure out things like getting</p>	<p style="text-align: right;">Page 100</p> <p>1 MR. BROWN: All right.</p> <p>2 THE REPORTER: The permissions already</p> <p>3 established?</p> <p>4 MR. BROWN: Okay. I tried it again one</p> <p>5 time on a break, it didn't work. So I wanted to make</p> <p>6 sure.</p> <p>7 So did everyone see we're looking at</p> <p>8 the, the bullets above paragraph 46?</p> <p>9 See that, Leslie?</p> <p>10 MS. DAVIS: Yes.</p> <p>11 MR. BROWN: Okay. Great. All right.</p> <p>12 I'm shifting to another one of these bullets.</p> <p>13 BY MR. BROWN:</p> <p>14 Q You say in the second bullet on this page,</p> <p>15 and again, we've touched on this subject under the</p> <p>16 chapter 7 liquidation option, Chubb will contribute</p> <p>17 \$31.5 million per the bankruptcy settlement with HBI</p> <p>18 that is currently pending. You mentioned earlier that</p> <p>19 you were assuming that because that was at the low end</p> <p>20 of the chapter 7 range of values in the proponent's</p> <p>21 liquidation analysis; is that right?</p> <p>22 A Yes.</p>
<p style="text-align: right;">Page 99</p> <p>1 releases and other types of terms in their settlement</p> <p>2 negotiations.</p> <p>3 Q Your work is focused on understanding what</p> <p>4 each of the carriers on the risk may be assigned as</p> <p>5 their eligible share. Is that what you're saying?</p> <p>6 A Generally speaking, these types of</p> <p>7 allocation analyses that I've done over my career,</p> <p>8 yes.</p> <p>9 Q Okay. Thanks.</p> <p>10 MR. BROWN: This is probably a good</p> <p>11 time to take a break. I'm shifting to another</p> <p>12 subject, Leslie. So if everybody's okay. And,</p> <p>13 Samuel, let's take a ten-minute break.</p> <p>14 THE REPORTER: Certainly. Off the</p> <p>15 record, 2:13 p.m.</p> <p>16 (Off the record.)</p> <p>17 THE REPORTER: We are back on the</p> <p>18 record, 2:24 p.m.</p> <p>19 MR. BROWN: Okay. Samuel, I want to</p> <p>20 share my screen again. Admit that.</p> <p>21 THE REPORTER: Yes. You can go ahead</p> <p>22 and share your screen.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q All right. But you're making no assumption</p> <p>2 in your analysis about whether the bankruptcy court</p> <p>3 will approve of that?</p> <p>4 A No.</p> <p>5 Q Why do you not assume that Chubb would</p> <p>6 contribute thirty-one and a half million dollars in</p> <p>7 the chapter 11 scenario in your analysis?</p> <p>8 A Chapter 11 524(g) option, I don't</p> <p>9 necessarily know if there's any agreement in place.</p> <p>10 And again, looking at the chapter 7 column under the</p> <p>11 plan proponent's liquidation analysis, they're the</p> <p>12 ones assuming a range of 31.5 million to 40 million in</p> <p>13 recoveries from Chubb.</p> <p>14 So I don't necessarily know if that would</p> <p>15 transfer over to the 524(g) option because, I -- I</p> <p>16 believe, the plan proponents are assuming that that's</p> <p>17 based on a settlement with Chubb, whether it's for</p> <p>18 31.5 million or 40 million. I don't know what they're</p> <p>19 assuming under their 524(g) option because they simply</p> <p>20 point to a Stout presentation from 2023. That is the</p> <p>21 basis for their expected insurance recoveries, not</p> <p>22 just for claims through June 30, 2027, but for all</p>

<p style="text-align: right;">Page 102</p> <p>1 claims under 524(g) option.</p> <p>2 So it -- there's less transparency as to</p> <p>3 what the plan proponents were intending under the</p> <p>4 524(g) option in terms of whether or not there'd be a</p> <p>5 settlement with Chubb or not.</p> <p>6 Q Do you believe that the same Chubb policies</p> <p>7 that would be compromised in the chapter 7 would be</p> <p>8 worth a similar amount in a chapter 11?</p> <p>9 A I think that depends if, in under a</p> <p>10 chapter 11, if Chubb is being allocated its continued</p> <p>11 pro rata share as it was prior to bankruptcy, then the</p> <p>12 proceeds from Chubb could be less than the assumption</p> <p>13 the plan proponents have made under the chapter 7</p> <p>14 liquidation analysis of 31.5 million to 40 million.</p> <p>15 Q Isn't there a possibility under the</p> <p>16 chapter 11 plan as written that there could be a</p> <p>17 settlement reach with Chubb and the asbestos trust to</p> <p>18 resolve their policies?</p> <p>19 A Sure. Anything could happen. This kind of</p> <p>20 goes back to the discussion earlier about what -- how</p> <p>21 the insurers might respond to claims in the Tort</p> <p>22 System. It's kind of hypothetical, but anything's</p>	<p style="text-align: right;">Page 104</p> <p>1 could be recovered from insurance because you might</p> <p>2 have a claim. This kind of goes back to that nuance</p> <p>3 we talked about a little bit earlier today on what</p> <p>4 makes a -- an uninsured claim versus an insured claim.</p> <p>5 You know, in very simple terms, it could be</p> <p>6 anybody who has a date of first exposure that</p> <p>7 post-dates any available insurance. But there could</p> <p>8 be some other factors that could determine whether or</p> <p>9 not a claim is covered or not or insured or not. But,</p> <p>10 you know, there I'm just talking about what the</p> <p>11 portion of claim values that are being recovered from</p> <p>12 insurance; right?</p> <p>13 Q So by the trust?</p> <p>14 A By the trust. Right. I -- I'm not assuming</p> <p>15 that -- that the contingency fee is going to be</p> <p>16 applied on something other than what the trust is</p> <p>17 ultimately able to recover.</p> <p>18 Q Okay. And we talked about this earlier. So</p> <p>19 if there are lawsuits or claims brought, not by the</p> <p>20 trust but by the claimants, the 33 percent fee would</p> <p>21 not be deducted by the -- on behalf of the trust in</p> <p>22 that scenario; right?</p>
<p style="text-align: right;">Page 103</p> <p>1 possible.</p> <p>2 Q Well, is it possible that Chubb would be</p> <p>3 paying thirty-one and a half million dollars for a</p> <p>4 bankruptcy settlement in the chapter 7 that's not been</p> <p>5 approved by the bankruptcy court?</p> <p>6 A It's not my assumption. It's an assumption</p> <p>7 that the plan proponents put into their liquidation</p> <p>8 analysis. I'm just adopting that, and in fact I'm</p> <p>9 adopting at the low end not even considering their \$40</p> <p>10 million high-end for that line item in the liquidation</p> <p>11 analysis, which would just be to the benefit of</p> <p>12 claimants through June 30, 2027.</p> <p>13 Q Okay. Let's move on. The third bullet on</p> <p>14 page 26, I believe, it is. Yes, it is. Says, "Under</p> <p>15 the 524(g) option, the current plan proposes to fund</p> <p>16 the pursuit of non-settled insurance assets from Chubb</p> <p>17 and other non-settling insurers by posing a 33.3</p> <p>18 percent contingency fee on the portion claim values</p> <p>19 that are recovered from insurance." So word "portion"</p> <p>20 in that sentence, is that correct? Did you mean</p> <p>21 "product"?</p> <p>22 A Well, it's the portion of claim values that</p>	<p style="text-align: right;">Page 105</p> <p>1 A You're -- you're saying if the claim is</p> <p>2 ultimately resolved between claimant and non-settling</p> <p>3 insurer independent of the trust?</p> <p>4 Q Correct.</p> <p>5 A Yes. It's my understanding that if the</p> <p>6 trust does not have to get involved and the trust does</p> <p>7 not need a contingency fee on recoveries.</p> <p>8 Q Right. Okay. Why don't we turn then into</p> <p>9 your actual Figure 22 here. The table you have here</p> <p>10 is divided into chapter 11 and chapter 7 columns on</p> <p>11 the right; correct?</p> <p>12 A Yes.</p> <p>13 Q Does the chapter 11 column represent your</p> <p>14 understanding of what the 524(g) plan proposes, one</p> <p>15 that's currently before the court?</p> <p>16 A It represents what is in the liquidation</p> <p>17 analysis in the current 524(g) plan on page 214. Most</p> <p>18 of these numbers other than some of the assumptions</p> <p>19 we've already discussed today, come directly from that</p> <p>20 liquidation analysis.</p> <p>21 Q Okay. This chapter 11 column, are you</p> <p>22 assuming a bar date of June 30, '27, in this column?</p>

<p style="text-align: right;">Page 106</p> <p>1 A I'm assuming claims. I'm -- I'm only  2 analyzing claims as of June 30, 2027. Whether you  3 want to say that is a bar date or not, I'm just  4 looking at claims filed against Hopeman as of that  5 date.  6 Q All right. And if you do that, is that a  7 fair representation of the 524(g) plan that's on file?  8 A I think it's a fair representation of how  9 claims through June 30, 2027. These potential group  10 of creditor claims would be treated under our chapter  11 11 plan versus a chapter 7 plan.  12 Q Okay. Okay. Then let's compare the  13 chapter 11 and chapter 7 line items in this Figure 22  14 that you've prepared. The numbers don't change at all  15 in the first two lines; correct?  16 A Correct.  17 Q And then the third line is an ongoing  18 business investment you wouldn't have in the  19 chapter 7; correct? I -- I couldn't hear you. You  20 still didn't come through. Can you get closer to the  21 mic?  22 A Correct.</p>	<p style="text-align: right;">Page 108</p> <p>1 will never be any Chubb settlement proceeds coming in  2 to the estate?  3 A Oh, not at all. You just have to go further  4 down in the table to show where the Chubb recoveries  5 come in. This is just saying that under the chapter 7  6 plan, there was an assumption that \$31.5 million would  7 be provided by way of the Chubb pre-bankruptcy  8 settlement agreement.  9 I'm not saying one way or the other whether  10 or not a bankruptcy court's going to approve it, but  11 that's at least something that's being considered  12 under the liquidation plan. But there is further down  13 on the table, an accounting of what the Chubb  14 recoveries might be on claims.  15 Q Okay. In the chapter 7 column, though, if  16 we instead assume that as of the effective date of the  17 chapter 11 plan, there is no approved Chubb  18 settlement, then the column under chapter 7 would be  19 zero at that point, would it not?  20 A Yes.  21 Q Okay. Now, let's get to the next section,  22 which is what you call the liabilities net of</p>
<p style="text-align: right;">Page 107</p> <p>1 Q And then the resolute settlement proceeds  2 are the same 18395; correct?  3 A Yes.  4 Q And in the next line, you have Chubb  5 settlement proceeds. And we just talked about this,  6 you've put them in the chapter 7, but you didn't put  7 them in chapter 11; correct?  8 A Correct.  9 Q And the reason you used it in the 7 because  10 that was the low range of the value of the insurance;  11 correct?  12 A Correct.  13 Q And in the chapter 11, there was a higher  14 range, wasn't there? There was 80 to \$120 million in  15 the liquidation analysis in the disclosure statement;  16 isn't that right?  17 A There was, but that's not tethered to the  18 set of claims that I'm examining here. I don't -- you  19 know, that's -- it's not an apples-to-apples  20 comparison.  21 Q I agree. So with respect to this zero  22 you've put in here, are you assuming that there are</p>	<p style="text-align: right;">Page 109</p> <p>1 unsecured claims. Professional fees of the same.  2 Then you've got the asbestos trust startup costs and  3 the ongoing business investment and that only applies  4 in the 11; correct?  5 A Correct.  6 Q Priority tax claims are the same, priority  7 non-tax claims are the same. Secured claims are the  8 same. That's this trustee fees are the same; correct?  9 A Yes.  10 Q Now, then you get to chapter 7 trustee fees  11 and chapter 7 trustee professional fees and expenses.  12 And they are only in the 7 column, not in the chapter  13 11 column; correct?  14 A Correct.  15 Q And you agreed with the estimates that were  16 in the liquidation analysis with respect to the  17 chapter 7 trustee fees and the professional fees and  18 expenses of the Chapter 7 trustee by using the same  19 numbers from their liquidation analysis; correct?  20 MS. DAVIS: Object to form.  21 MR. BROWN: Yeah. Let me ask it again  22 better way.</p>

<p style="text-align: right;">Page 110</p> <p>1 BY MR. BROWN:</p> <p>2 Q You don't dispute that these are appropriate</p> <p>3 estimates for purposes of your chapter 7 analysis of</p> <p>4 the trustee fees and the trustee professional fees in</p> <p>5 the 7 scenario, do you?</p> <p>6 MS. DAVIS: Objection.</p> <p>7 THE WITNESS: I'd be a little more</p> <p>8 nuanced than that. I'm saying I'm not agreeing with</p> <p>9 them. I'm just for purposes of this exposition of the</p> <p>10 liquidation analysis and -- and kind of filling in the</p> <p>11 blanks, I've adopted them, but I -- I don't -- I don't</p> <p>12 know if they're appropriate or not. They -- they may</p> <p>13 be a little heavy-handed, if you will. It really</p> <p>14 would depend on how the liquidation process is handled</p> <p>15 under the original plan of liquidation that predated</p> <p>16 the current 524(g) option.</p> <p>17 There was a more developed trust</p> <p>18 distribution procedure that included qualification</p> <p>19 criteria, scheduled values for payouts, things that</p> <p>20 could really expedite the resolution and liquidation</p> <p>21 of claims. And, really, these amounts, if you look at</p> <p>22 the footnote to the debtor's liquidation analysis and</p>	<p style="text-align: right;">Page 112</p> <p>1 debtors are providing under this chapter 7 process.</p> <p>2 Whether it's done through a -- a liquidation trust or</p> <p>3 other administrative construct. I don't know, it's at</p> <p>4 least how they proposed it as I started my -- prior</p> <p>5 answer. They at least proposed such a structure under</p> <p>6 their original liquidation plan.</p> <p>7 Q Okay. That was the plan of liquidation in</p> <p>8 chapter 11; correct?</p> <p>9 A Correct.</p> <p>10 Q We're talking about a chapter 7 scenario.</p> <p>11 Are you assuming that these numbers are correct for</p> <p>12 purposes of your chapter 7 scenario?</p> <p>13 A I'm -- I'm adopting them as assumptions plan</p> <p>14 proponents have used for the liquidation analysis.</p> <p>15 I'm not challenging them. But the way you originally</p> <p>16 asked this line of questioning, it was almost as if I</p> <p>17 was endorsing them, and I just wanted to make it clear</p> <p>18 that there's a distinction there between adopting them</p> <p>19 for -- for purposes of the analysis versus endorsing</p> <p>20 the accuracy of them.</p> <p>21 Q Are you expressing any opinion that these</p> <p>22 numbers are incorrect?</p>
<p style="text-align: right;">Page 111</p> <p>1 the disclosure statement, they're really talking about</p> <p>2 fees incurred when dealing with maybe like an opt-out</p> <p>3 claimant who doesn't get resolved through the</p> <p>4 liquidation trust, but requires additional resolution</p> <p>5 expenses on behalf of the trust. They have to go out</p> <p>6 and hire defense counsel, things of that nature.</p> <p>7 So it's certainly hypothetical. I've</p> <p>8 adopted it for purposes of this analysis, but I</p> <p>9 wouldn't say I necessarily endorse it.</p> <p>10 BY MR. BROWN:</p> <p>11 Q Mr. Scarcella, we're not talking about a</p> <p>12 trust in the chapter 7 column, are we?</p> <p>13 A I don't know to what extent it would be</p> <p>14 liquidated through a -- a liquidation trust or some</p> <p>15 other mechanism. But there's going to be some</p> <p>16 mechanism under the chapter 7 plan to resolve cases,</p> <p>17 and the -- the debtor's own liquidation analysis</p> <p>18 contemplates the fact that resolution with all</p> <p>19 claimants might not be seamless. It might require</p> <p>20 additional expenditures, defense counsel, things of</p> <p>21 that nature to resolve cases.</p> <p>22 So these are just assumptions that the</p>	<p style="text-align: right;">Page 113</p> <p>1 A I'm just simply pointing out why I may not</p> <p>2 be endorsing them that they could be maybe inflated.</p> <p>3 Q Okay. All right. Then we get down to what</p> <p>4 you call the non-settled insurance asset line. Do you</p> <p>5 see that?</p> <p>6 A Yes.</p> <p>7 Q Let's walk through these numbers. So on the</p> <p>8 first line under that title it says, let's see, go</p> <p>9 back to your present value of non-products asbestos</p> <p>10 indemnity allocation to Chubb. Is that just the</p> <p>11 product of 14 percent of the line down below the PV?</p> <p>12 I'm sorry, the total claim projections?</p> <p>13 A Yeah. And that might be -- it might be</p> <p>14 mislabeled; right? Because that's -- that's</p> <p>15 non-product asbestos indemnity to Chubb. I think</p> <p>16 that's -- that -- that row header might be mislabeled</p> <p>17 there because --</p> <p>18 Q We're just --</p> <p>19 A Trying to be specific to Chubb is just that</p> <p>20 discussion we had earlier about the 86/14 percent</p> <p>21 split.</p> <p>22 Q Okay. Well, let's break that down a little</p>

<p style="text-align: right;">Page 114</p> <p>1 bit. So you're saying your title is wrong, it should  2 be PV of non-products asbestos indemnity period or  3 allocation?  4 A Allocation.  5 Q Okay. But it's not an allocation to Chubb?  6 A That's correct. That's a typo.  7 Q Okay. It is an allocation, though, pursuant  8 to the Chubb agreement with the debtor regarding how  9 you allocate product versus non-product claims; is  10 that correct?  11 A Well, it ties to the next sub-table directly  12 where I have the present value of asbestos on products  13 claims as of June 30, 2027. If you see those two  14 amounts, what I'm assuming is that those amounts would  15 be brought against -- directly against non-products  16 insurance. And I'm assuming that a hundred percent of  17 that claim valuation will be recovered ultimately from  18 that non products insurance. It's a simplifying  19 assumption, but I think one that's favorable to  20 certainly, the non-products claimants, as I'm assuming  21 a hundred percent of their claim value will be  22 covered.</p>	<p style="text-align: right;">Page 116</p> <p>1 all you've done at this point?  2 A Yes.  3 Q Okay. And then you walked down to the next  4 number and the 7, 000,946 number, is that an  5 allocation of 33.52 percent of the liability that's  6 down below of the 23 707, is that what that is?  7 A Yes.  8 Q Okay. And then you've got in the next line  9 less 33 percent contingency, and we talked about that  10 earlier, that may or may not apply depending on who  11 the plaintiff is; right?  12 MS. DAVIS: Objected form.  13 THE WITNESS: It may or may not apply  14 depending on how insurers respond. Do they respond to  15 defending the cases and resolving the cases in the  16 Tort System, or do they respond by negotiating  17 recoveries with the bankruptcy trust for judgments and  18 things of that nature.  19 BY MR. BROWN:  20 Q Let's go back up to that first line under  21 non-settled insurance assets. You've got the same  22 numbers, the 3859312 to 4462940 in both the chapter 11</p>
<p style="text-align: right;">Page 115</p> <p>1 Q Yeah, let's do it a little simpler than  2 that. If you take the 3,859,312 on the PV of  3 non-products asbestos indemnity line. You see that  4 one first number? Is that a yes?  5 A Yes.  6 Q Okay. And you add to that the third line in  7 the next section, the PV of asbestos prior claims  8 indemnity as of 6/30/27, the 23,707,203 number. You  9 see that?  10 A Yes.  11 Q If you add those two numbers, you get to the  12 total claim projections of 27,688,215; correct?  13 A With the one caveat, you -- you do have in  14 that total line item.  15 Q The general unsecured?  16 A Yes.  17 Q You leave that out, those two together  18 total, the 27 less the unsecured; right?  19 A Yes.  20 Q All you've done is you've allocated 14  21 percent in the first line and 86 percent in the PV  22 asbestos product claim indemnity line; right? That's</p>	<p style="text-align: right;">Page 117</p> <p>1 and chapter 7 columns. Do you see that?  2 A Yes.  3 Q You're assuming in the chapter 7, are you  4 not, that Chubb is getting a release of the payment of  5 the thirty-one and a half million dollars?  6 MS. DAVIS: Object to form.  7 BY MR. BROWN:  8 Q Is that what your assumption is that when  9 Chubb pays thirty-one and a half million dollars or a  10 settlement, that it gets a release?  11 A I -- it's not a necessary component of my  12 analysis. I'm just assuming that the 31.5 million  13 that Chubb provides would be what Chubb would provide  14 to these current claimants. There would be no other  15 contribution from Chubb.  16 Q Okay. So that means that they're being  17 released. Is that what you're saying? They're not  18 going to have any more liability?  19 MS. DAVIS: Object to form.  20 THE WITNESS: In -- in terms of these  21 claims through June 30, 2027 and --  22 MR. BROWN: Correct.</p>


<p style="text-align: right;">Page 118</p> <p>1 THE WITNESS: Yeah. That's -- I don't</p> <p>2 necessarily I'm -- that I'm saying that they're going</p> <p>3 to be released, whatever legal term you want to use,</p> <p>4 but for purpose of this analysis, they've already</p> <p>5 contributed up in that Chubb settlement line item.</p> <p>6 BY MR. BROWN:</p> <p>7 Q Okay. Let me come at it a different way.</p> <p>8 Who is paying the 3859312 to 4462940 that you've put</p> <p>9 in this line?</p> <p>10 A I'm assuming that's coming from available</p> <p>11 non-products insurance, which we talked about a little</p> <p>12 bit earlier. I understand Liberty Mutual has some of</p> <p>13 those policies. I don't know who else has those</p> <p>14 policies, so I'm not really making an opinion or</p> <p>15 conducting analysis of which non products claim is</p> <p>16 paying that amount, but I'm assuming that claimants</p> <p>17 with such claims will receive a hundred percent of the</p> <p>18 value of their claims.</p> <p>19 Q Are you assuming that Chubb has no such</p> <p>20 coverage?</p> <p>21 A I'm not making any assumption there. I</p> <p>22 don't know if Chubb has -- has that type of coverage.</p>	<p style="text-align: right;">Page 120</p> <p>1 analysis, they're assuming 31.5 million to \$40 million</p> <p>2 in Chubb's settlement proceeds. That's at least on</p> <p>3 the low end based on the existing settlement</p> <p>4 agreement. And I don't know where they got the 40</p> <p>5 million from. If that's assumption that they made</p> <p>6 that maybe they'll get an increase. I'm not sure</p> <p>7 where the 40 million comes from, but that's a line</p> <p>8 item in their own liquidation analysis in the</p> <p>9 disclosure statement.</p> <p>10 Q Have you ever been involved in an actual</p> <p>11 chapter 7 liquidation in an asbestos case?</p> <p>12 A Not that I can think of. If I have, it</p> <p>13 would be very rare. Most of the cases I'm involved in</p> <p>14 are 524(g) because it was effectively designed for</p> <p>15 asbestos defendants.</p> <p>16 Q Okay. Then in the scenario you're</p> <p>17 envisioning in this chapter 7 column, what are you</p> <p>18 anticipating happens in this chapter 7? How do you</p> <p>19 anticipate it gets wound down?</p> <p>20 MS. DAVIS: Object to form.</p> <p>21 THE WITNESS: Making any assumption to</p> <p>22 how it gets wound down. In fact, we just talked about</p>
<p style="text-align: right;">Page 119</p> <p>1 But if they do, it would be separate from the products</p> <p>2 coverage settlement of 31.5 million. And I'm not</p> <p>3 saying that it's just for products. I don't know the</p> <p>4 terms of that settlement. I'm just saying that if, in</p> <p>5 fact, there is Chubb non-products coverage out there</p> <p>6 and it hasn't been previously settled out, it would be</p> <p>7 part of that line item.</p> <p>8 Q So you don't know if the thirty-one and a</p> <p>9 half million dollars that you're showing at the top of</p> <p>10 your chart that Chubb is paying is getting them a</p> <p>11 release, and you don't know if it's getting them a</p> <p>12 release for both products and non-products claims. Is</p> <p>13 that what you're saying?</p> <p>14 MS. DAVIS: Object to form.</p> <p>15 THE WITNESS: Not my assumption. It's</p> <p>16 the debtor's assumption.</p> <p>17 BY MR. BROWN:</p> <p>18 Q Where is it the debtor's assumption?</p> <p>19 A What's that?</p> <p>20 Q Where is it the debtor's assumption that</p> <p>21 Chubb is settling?</p> <p>22 A Well, they have the -- in their liquidation</p>	<p style="text-align: right;">Page 121</p> <p>1 this a few questions ago. I don't know if they're</p> <p>2 going to do some sort of administrative liquidation</p> <p>3 trust, or they're going to use some other mechanism</p> <p>4 to, you know, receive claims through June 30, 2027,</p> <p>5 resolve those claims. So I don't know exactly what</p> <p>6 mechanism they plan on using.</p> <p>7 BY MR. BROWN:</p> <p>8 Q You didn't have a particular scenario you</p> <p>9 envisioned how this would work in the chapter 7; is</p> <p>10 that correct?</p> <p>11 A The scenario is laid out by the plan</p> <p>12 proponents in their liquidation analysis, which</p> <p>13 includes most of these inputs, including, you know,</p> <p>14 chapter 7 trustee fees, chapter 7 trustee professional</p> <p>15 fees. They're the ones accounting for what it might</p> <p>16 cost to wind down, as you put it, this liquidation,</p> <p>17 however they decide to wind it down.</p> <p>18 Q In your chapter 7 analysis here, how much</p> <p>19 does Chubb pay under the chapter 7 scenario?</p> <p>20 A In -- in this scenario, \$31.5 million.</p> <p>21 Q And how much do you envision Chubb pays in</p> <p>22 the chapter 11 scenario?</p>

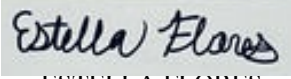
<p>Page 122</p> <p>1 A If you -- if you go down, scroll a little</p> <p>2 bit more down.</p> <p>3 Q Sure.</p> <p>4 A So here in terms of the line-item present</p> <p>5 value of asbestos products claim indemnity as of June</p> <p>6 30, 2027; right? That's the products liability. And</p> <p>7 then if you go up, you see present value of products</p> <p>8 indemnity recoveries. That's the contribution from</p> <p>9 Chubb there, the 33.52 percent of the products claims.</p> <p>10 Q So what's the total approximately they pay</p> <p>11 in the chapter 11 you've envisioned here?</p> <p>12 MS. DAVIS: Object to form.</p> <p>13 THE WITNESS: That Chubb has paid?</p> <p>14 MR. BROWN: Yes.</p> <p>15 THE WITNESS: It would be the \$7.9</p> <p>16 million number on the low end; the \$9.2 million on the</p> <p>17 high end for product indemnity recoveries.</p> <p>18 BY MR. BROWN:</p> <p>19 Q And you don't know whether they pay anything</p> <p>20 in the non-products payments; correct?</p> <p>21 A They don't. I'd have to ask counsel whether</p> <p>22 or not they have any non-products insurance limits</p>	<p>Page 124</p> <p>1 A If -- if there's no settlement of the</p> <p>2 lump-sum of 31.5 million or 40 million, whatever</p> <p>3 the -- the plan proponents liquidation analysis had in</p> <p>4 their table, if that doesn't exist, then the insurance</p> <p>5 recoveries from Chubb would -- could theoretically,</p> <p>6 rely on their pro rata share of liability that had</p> <p>7 been allocated to them, at least in the immediate term</p> <p>8 leading up to bankruptcy, this 33.52 percent.</p> <p>9 So if there is no settlement and you're</p> <p>10 under a chapter 11 plan, those claimants as of June</p> <p>11 30, 2027, may actually receive less from Chubb because</p> <p>12 they'll be limited to just that 33.52 percent.</p> <p>13 Q And, if as reflected in the actual 524(g)</p> <p>14 plan that's filed, there is no bar date, would Chubb's</p> <p>15 liability be higher than what you've set forth here in</p> <p>16 the chapter 11 column?</p> <p>17 A Well, so had this been filled out in the</p> <p>18 disclosure statement by the debtors, it seems what the</p> <p>19 numbers they would be put in there because they --</p> <p>20 they eventually, as we talked about earlier, claim</p> <p>21 that they relied on the Stout 2023 analysis for their</p> <p>22 liquidation analysis. And so they say that that's</p>
<p>Page 123</p> <p>1 left. But if they do happen to have non-products</p> <p>2 insurance limits left, they would possibly paying a</p> <p>3 portion of that line item. Though, I'm not aware of</p> <p>4 that, as I sit here, and not aware of that as I did</p> <p>5 this analysis.</p> <p>6 Q But either way, under your analysis, Chubb</p> <p>7 pays less in the chapter 11 than they would pay in the</p> <p>8 chapter 7. Is that what you're saying?</p> <p>9 MS. DAVIS: Object form.</p> <p>10 THE WITNESS: I'm saying they paid less</p> <p>11 under the chapter 11 for this subset of claims through</p> <p>12 June 30, 2027. Because you don't have a settlement in</p> <p>13 hand, so you're going to have to allocate claims</p> <p>14 individually to the insurance block, and Chubb is only</p> <p>15 a portion of that block. So your recoveries from</p> <p>16 Chubb actually might be worse for this subset of</p> <p>17 claimants under the chapter 11 versus the chapter 7.</p> <p>18 BY MR. BROWN:</p> <p>19 Q I'm sorry I missed that. How are you saying</p> <p>20 that Chubb's payments may be worse under this chapter</p> <p>21 11 scenario you've laid out versus the chapter 7</p> <p>22 scenario you laid out?</p>	<p>Page 125</p> <p>1 where they got that 80 million to \$120 million number</p> <p>2 under their 524(g), which again is not limited to just</p> <p>3 claims as of June 30, 2027, but let's say of all time;</p> <p>4 right?</p> <p>5 They say in interrogatory responses, "they"</p> <p>6 being the debtors, that the 80 to \$120 million range</p> <p>7 was born out of the allocation results that Stout put</p> <p>8 together in that October 2023 presentation. It was</p> <p>9 approximately \$99 million nominally to Chubb. And</p> <p>10 they say in their interrogatory responses that they</p> <p>11 did like a 20 percent plus or minus to get their 80 to</p> <p>12 \$120 million range.</p> <p>13 But the corresponding indemnity forecast</p> <p>14 figure for that type of recovery would be nominally</p> <p>15 231.5 million. We -- we actually discussed that</p> <p>16 number earlier today when we -- when we talked about</p> <p>17 that Stout 2023 presentation.</p> <p>18 So in your question, if you're not trying to</p> <p>19 limit things to just June 30, 2027, and I take the</p> <p>20 debtors at their face that they relied on Stout's</p> <p>21 October, 2023 analysis, well, then we would be putting</p> <p>22 in numbers that include 80 to 120 million up at the</p>

<p style="text-align: right;">Page 126</p> <p>1 top, but then a negative liability number, or a number</p> <p>2 that would have to be deducted of 231 million, which</p> <p>3 would still put a chapter 11 scenario underwater, if</p> <p>4 you will.</p> <p>5 Q I'm asking --</p> <p>6 A For current claimants, but for all claimants</p> <p>7 because under 524(g), the current claimants and the</p> <p>8 future claimants are supposed to be treated in an</p> <p>9 equitable manner as much as possible. So -- so</p> <p>10 that's, that's the one caveat about that insurance</p> <p>11 recovery number of 80 to 120 million, it corresponds</p> <p>12 to a much greater claim valuation. So it -- it's not</p> <p>13 saying anything about how much would be recovered by</p> <p>14 claims that arise just through June 30, 2027.</p> <p>15 Q My question's a lot simpler than that,</p> <p>16 Mr. Scarcella. I asked you whether or not if on -- if</p> <p>17 under the currently proposed 524(g) plan, there is no</p> <p>18 bar date and you reflected that in your chapter 11</p> <p>19 analysis here, isn't it true that Chubb would pay more</p> <p>20 than you've got reflected here in this chapter 11</p> <p>21 column?</p> <p>22 A By function of there being more claims</p>	<p style="text-align: right;">Page 128</p> <p>1 correct?</p> <p>2 A Yes.</p> <p>3 Q And Stout assessed that maybe they would</p> <p>4 continue through 2047; isn't that right?</p> <p>5 A Yes.</p> <p>6 Q Okay. Let me ask you about some working</p> <p>7 papers that I received yesterday afternoon from</p> <p>8 Ms. Davis. We were provided copies of some of your</p> <p>9 modeling yesterday. Are you familiar with that,</p> <p>10 Mr. Scarcella?</p> <p>11 A Yes.</p> <p>12 Q Okay. I'm going to actually drop this</p> <p>13 screen and pull up a different screen. And let's see</p> <p>14 if I can get this shared. Okay. Do you see that one?</p> <p>15 A Yes.</p> <p>16 Q Okay. This is pulled from the model that we</p> <p>17 got yesterday. It's an Excel spreadsheet, and I'm on</p> <p>18 the liquidation analysis tab. You see that at the</p> <p>19 bottom?</p> <p>20 A Yes.</p> <p>21 Q Okay. Can you explain to me why there are</p> <p>22 two tables that look like your Figure 22, but in the</p>
<p style="text-align: right;">Page 127</p> <p>1 funneled through --</p> <p>2 Q Yes.</p> <p>3 A -- the trust. But even if there is no -- it</p> <p>4 really depends on whether or not there is a</p> <p>5 settlement. And to your point, a release to Chubb;</p> <p>6 right?</p> <p>7 Q I'm talking about in the chapter 11, not the</p> <p>8 chapter 7 scenario. Let's not go back to the talking</p> <p>9 about a Chubb settlement in the 7. I'm talking about</p> <p>10 in chapter 11. Okay. That you've assumed no</p> <p>11 settlement with Chubb; correct?</p> <p>12 A Correct.</p> <p>13 Q And I'm not simply asking you if instead of</p> <p>14 this artificial bar date of June 30, 2027, you</p> <p>15 reflected the actual 524(g) plan that's on file that</p> <p>16 has no bar date, would Chubb pay more than you</p> <p>17 reflected in this chapter 11 column?</p> <p>18 A Yes. They would pay more as a function of</p> <p>19 there being more claims beyond just the current claims</p> <p>20 through June 30, 2027.</p> <p>21 Q Right. And, in fact, as as you said before,</p> <p>22 claims might continue for as long as until maybe 2037;</p>	<p style="text-align: right;">Page 129</p> <p>1 first side, first table on the left, it doesn't appear</p> <p>2 that there are ranges, there are fixed numbers. Can</p> <p>3 you explain the difference between these two tables?</p> <p>4 (Exhibit 2 was marked for</p> <p>5 identification.)</p> <p>6 A Sure. The first table is what I would call</p> <p>7 a live table, meaning it's linked to whatever scenario</p> <p>8 from a forecast perspective is being put through that</p> <p>9 table. Whereas the one to the right is a fixed table</p> <p>10 that I use to format for purposes of putting into the</p> <p>11 report with the -- the two ranges that we've</p> <p>12 discussed.</p> <p>13 Q Okay. So the one on your right that matches</p> <p>14 your Figure 22; correct?</p> <p>15 A Yes.</p> <p>16 Q And that is the figure you're putting</p> <p>17 forward as your opinion?</p> <p>18 A Yes.</p> <p>19 Q And the one on the left is a working model.</p> <p>20 It's not part of your opinion today; is that right?</p> <p>21 A No. If you scroll down to the bottom, what</p> <p>22 that one on the left is being a live model, meaning it</p>

<p>Page 130</p> <p>1 changes based on the scenario. You see that the</p> <p>2 bottom outcome is corresponding to the 53 percent and</p> <p>3 103 percent scenarios in the table to the right. So</p> <p>4 they match depending on which scenario you plug in.</p> <p>5 Right now, the scenario that's being plugged in is the</p> <p>6 scenario that yields to 53 percent and the 103</p> <p>7 percent.</p> <p>8 Q Okay. And going over to the right-hand</p> <p>9 column, again, the one that matches Figure 22, if in</p> <p>10 the Chubb settlement proceeds line under chapter 7, if</p> <p>11 you replace that with zero instead of thirty-one and a</p> <p>12 half, do you have any understanding or opinion as to</p> <p>13 what the bottom-line unsecured claim liquidation</p> <p>14 percentage would be in the Chapter 11 scenario?</p> <p>15 A If you take away the 31.5 million on the</p> <p>16 asset side, then that's going to make the overall</p> <p>17 balance go down.</p> <p>18 Q Okay.</p> <p>19 MR. BROWN: Let me take a break here,</p> <p>20 Leslie, because I think I'll have a quick wrap-up</p> <p>21 after that. I just got to pull my notes together.</p> <p>22 Okay. So let's do another ten minutes.</p>	<p>Page 132</p> <p>1 the balance, you said there could be claims with</p> <p>2 respect to other carriers; is that right?</p> <p>3 A That's possible. It's also possible that</p> <p>4 portions of a claim will overlap with insurance assets</p> <p>5 that have been previously settled out between Hopeman</p> <p>6 and those carriers.</p> <p>7 Q Sure. But there could be also be other</p> <p>8 carriers that are on the risk through the way</p> <p>9 Wellington has allocated the risk; is that right?</p> <p>10 A Yes.</p> <p>11 Q Okay. What numbers did you put into your</p> <p>12 analysis here to account for contributions by other</p> <p>13 insurers?</p> <p>14 A For this analysis 'cause it's only looking</p> <p>15 over the first, or I should say, the -- the first</p> <p>16 three years post-petition. So it's -- it's a very</p> <p>17 short window of time. Just looking at the coverage</p> <p>18 chart, it seems like claims that touch Chubb or</p> <p>19 overlap with Chubb policies are largely going to also</p> <p>20 be overlapping with previously settled insurance. So</p> <p>21 there might not be, at least in the short term, other</p> <p>22 insurance available for claims.</p>
<p>Page 131</p> <p>1 MS. DAVIS: Ten minutes. Okay.</p> <p>2 MR. BROWN: Yeah. Ten minutes would be</p> <p>3 great. Thank you.</p> <p>4 THE REPORTER: We are now off the</p> <p>5 record, 3:02 p.m.</p> <p>6 (Off the record.)</p> <p>7 THE REPORTER: We are now back on the</p> <p>8 record, 3:17 p.m.</p> <p>9 MR. BROWN: I'm going to go back to the</p> <p>10 report. See if I get the right one. There we go.</p> <p>11 Leslie, can you see that?</p> <p>12 MS. DAVIS: I can.</p> <p>13 BY MR. BROWN:</p> <p>14 Q Okay. I'm back to Figure 22, Mr. Scarcella.</p> <p>15 And I want to just get some clarity. In the unsecured</p> <p>16 claims box non-settled insurance assets, second line</p> <p>17 says PV of product indemnity recoveries. And my</p> <p>18 understanding is that reflects the 33.52 percent that</p> <p>19 Chubb historically has paid of indemnity claims; is</p> <p>20 that right? Of the product claims?</p> <p>21 A Yes.</p> <p>22 Q Okay. And when I asked you who might pay</p>	<p>Page 133</p> <p>1 I'm not saying that's -- that's an absolute.</p> <p>2 I'd have to do a more exhaustive allocation analysis,</p> <p>3 but it -- it is possible that the primary source of</p> <p>4 recoveries as of June 30, 2027, might be the Chubb</p> <p>5 recoveries or policies that have already settled.</p> <p>6 Q Okay. But if the claim horizon were longer</p> <p>7 than the June 30, 2027, you might then reach other</p> <p>8 policies that are on exhausted; isn't that right?</p> <p>9 A Yes. That is true.</p> <p>10 Q Okay. And your line here doesn't account</p> <p>11 for that because you have the truncated claim process</p> <p>12 through '27; correct?</p> <p>13 MS. DAVIS: Object to form.</p> <p>14 THE WITNESS: Yes. The window is</p> <p>15 shorter for this analysis.</p> <p>16 BY MR. BROWN:</p> <p>17 Q Okay. I want to go back to something we</p> <p>18 talked about previously, which is the product versus</p> <p>19 non-product allocation onto the Century Hopeman</p> <p>20 Agreement. Do you recall that discussion?</p> <p>21 A Yes.</p> <p>22 Q And you said that you did a little digging</p>

<p style="text-align: right;">Page 134</p> <p>1 into the historical claims to test whether or not the  2 14 percent allocation seemed fairly correct. Do you  3 recall that?  4 A Yes.  5 Q And I think you mentioned the database you  6 looked at that SCS maintained. Is that one of the  7 things you looked at?  8 A Yes.  9 Q And does the SCS Database delineate between  10 product claims and non-products claims?  11 A Not as far as I could tell. And -- and  12 that's why I described the way I did this check  13 previously.  14 Q Well, help me because I didn't quite then  15 understand it. I thought you were referred to the  16 database. Was there some other source of information  17 beyond the Century Hopeman Agreement that you looked  18 to, to determine whether the 14 percent allocation was  19 fairly accurate?  20 A Your understanding was correct. I looked at  21 the claims data that was maintained by Specialty  22 Claims Services and I looked at the claims data. But</p>	<p style="text-align: right;">Page 136</p> <p>1 section.  2 Q So you're comparing the claims brought by  3 those law firms related to Avondale claims versus all  4 kinds of claims that were paid by Hopeman?  5 MS. DAVIS: Object form.  6 BY MR. BROWN:  7 Q Do you understand the question?  8 A I understand your question. I just wanted  9 to clarify and I was looking at the Mesotheliomas  10 as -- as the kind of lion's share driver of all the  11 claim valuations.  12 Q Okay. With that qualifier, just looking at  13 meso claims, are you saying that 14 percent of the  14 claims that were meso claims were filed by Louisiana  15 law firms for Avondale Shipyard claims?  16 A A little bit more specifically, it's the  17 settlement dollars paid to those claims relative to  18 all settlement dollars paid over the -- the recent  19 period.  20 Again, I can't remember exactly what time  21 period I looked at 'cause it was really more just a  22 kind of a sanity check, if you will, of that</p>
<p style="text-align: right;">Page 135</p> <p>1 to your question, as far as I could tell, that claim  2 data didn't have a field that would distinguish  3 between a products or a non-products claim. I had a  4 lot of fields of information, but I didn't know of a  5 specific field that did that categorization already.  6 So what I did was I looked and said, well,  7 as I understand from counsel, that a lot of these  8 direct non-products claims have come from the Avondale  9 Shipyard from, I think, one of two plaintiff law  10 firms, whose names escape me at the moment. So I  11 looked at the SCS data and I looked for claims with  12 allegations of either working at Avondale as a site or  13 having Avondale as a employer. And I looked at those  14 claims, I cross sectioned that with these two  15 plaintiff firms.  16 And I looked in the recent history, probably  17 going back 36 months or so, and tried to isolate the  18 total settlement dollars that would fall into one of  19 those claims versus all claims settled, I should say,  20 mesothelioma claim settled. And the proportion I was  21 getting was just about 14 percent would fall into this  22 kind of Avondale associated plaintiff law firm cross</p>	<p style="text-align: right;">Page 137</p> <p>1 14 percent. 'Cause I was curious to see if it had  2 gone up or down. But I did it based on dollars, what  3 percent of dollars are associated with those claims,  4 versus the overall meso settlements in that same time  5 period.  6 Q Okay. Was there anything else that you  7 looked to, to derive the historical information that  8 you relied on for the 14 percent allocation?  9 A That would've been the only information  10 available to me.  11 Q Okay. All right. Are you planning to put  12 forth any other opinions at the confirmation hearing  13 beyond what's in your report?  14 A As I sit here, I don't anticipate to. But  15 procedurally, I don't know what options there are for  16 giving additional opinions based on rebuttal reports  17 and things like that. But as I sit here right now,  18 these are -- these are my opinions.  19 Q You've not been asked at this point to do  20 any more work to develop new opinions; is that right?  21 A That's correct.  22 MR. BROWN: Okay. Leslie, those are</p>

<p style="text-align: right;">Page 138</p> <p>1 all the questions I have. I've turned it over to 2 anybody else who might be asking questions today, but 3 I'm not aware whether anybody else is or not. 4 MR. COX: This is David Cox for the 5 Committee and I'm not going to turn my camera on 6 because I don't have any additional questions. 7 MS. DAVIS: I don't have any questions. 8 MR. BROWN: Sounds like we're done 9 then. 10 Thank you, Mr. Scarcella. I appreciate 11 your time. 12 THE WITNESS: Thank you, Mr. Brown. 13 THE REPORTER: All right. Before -- 14 before we -- before we get off the record, I just want 15 to confirm if there will be any transcript orders for 16 this particular deposition? 17 MS. DAVIS: Yes. 18 MR. BROWN: Yeah. Did you say 19 transcripts orders? Yes. 20 THE REPORTER: Yes. 21 MR. BROWN: We'll want one as well for 22 the debtor.</p>	<p style="text-align: right;">Page 140</p> <p>1 But for the purposes of this 2 deposition, as we are completed, we are now off the 3 record, 3:27 p.m. 4 (Signature reserved.) 5 (Whereupon, at 3:27 p.m., the 6 proceeding was concluded.) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22</p>
<p style="text-align: right;">Page 139</p> <p>1 MR. TAYLOR: Travelers will want one. 2 We are not in a rush for it. 3 MR. LIESEMER: And the Committee will 4 want one too. 5 THE REPORTER: So that was Joshua 6 Taylor and Jeffrey -- 7 MR. LIESEMER: Liesemer. 8 THE REPORTER: Liesemer. Will there be 9 any other counsel ordering? 10 MR. BROWN: Samuel, you got Leslie and 11 me as well; right? 12 THE REPORTER: That's correct. 13 MR. BROWN: Okay. Great. 14 THE REPORTER: And do you know if -- 15 I'm hearing no more orders. 16 Do you know if Mr. Scarcella will be 17 reading or waving status on read and sign? 18 MS. DAVIS: We'll read and sign. 19 THE REPORTER: Understood. In that -- 20 in that case, I would -- I would ask that counsel 21 remain in the call for any spellings I may have, and I 22 do have some spellings.</p>	<p style="text-align: right;">Page 141</p> <p>1 CERTIFICATE OF DEPOSITION OFFICER 2 I, SAMUEL PACHON, the officer before whom 3 the foregoing proceedings were taken, do hereby 4 certify that any witness(es) in the foregoing 5 proceedings, prior to testifying, were duly sworn; 6 that the proceedings were recorded by me and 7 thereafter reduced to typewriting by a qualified 8 transcriptionist; that said digital audio recording of 9 said proceedings are a true and accurate record to the 10 best of my knowledge, skills, and ability; that I am 11 neither counsel for, related to, nor employed by any 12 of the parties to the action in which this was taken; 13 and, further, that I am not a relative or employee of 14 any counsel or attorney employed by the parties 15 hereto, nor financially or otherwise interested in the 16 outcome of this actio  17 SAMUEL PACHON 18 Notary Public in and for the 19 Commonwealth of Virginia 20 21 [X] Review of the transcript was requested. 22</p>

<p style="text-align: right;">Page 142</p> <p>1 CERTIFICATE OF TRANSCRIBER</p> <p>2 I, ESTELLA FLORES, do hereby certify that</p> <p>3 this transcript was prepared from the digital audio</p> <p>4 recording of the foregoing proceeding, that said</p> <p>5 transcript is a true and accurate record of the</p> <p>6 proceedings to the best of my knowledge, skills, and</p> <p>7 ability; that I am neither counsel for, related to,</p> <p>8 nor employed by any of the parties to the action in</p> <p>9 which this was taken; and, further, that I am not a</p> <p>10 relative or employee of any counsel or attorney</p> <p>11 employed by the parties hereto, nor financially or</p> <p>12 otherwise interested in the outcome of this action.</p> <p>13</p> <p>14  ESTELLA FLORES</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	<p style="text-align: right;">Page 144</p> <p>1 In Re: Hopeman Brother Inc</p> <p>2 Marc C. Scarcella (#7487875)</p> <p>3 E R R A T A S H E E T</p> <p>4 PAGE____ LINE____ CHANGE____</p> <p>5 _____</p> <p>6 REASON_____</p> <p>7 PAGE____ LINE____ CHANGE____</p> <p>8 _____</p> <p>9 REASON_____</p> <p>10 PAGE____ LINE____ CHANGE____</p> <p>11 _____</p> <p>12 REASON_____</p> <p>13 PAGE____ LINE____ CHANGE____</p> <p>14 _____</p> <p>15 REASON_____</p> <p>16 PAGE____ LINE____ CHANGE____</p> <p>17 _____</p> <p>18 REASON_____</p> <p>19 _____</p> <p>20 _____</p> <p>21 _____</p> <p>22 Marc C. Scarcella Date</p>
<p style="text-align: right;">Page 143</p> <p>1 Leslie Davis, Esq.</p> <p>2 leslie.davis@troutman.com</p> <p>3 August 6, 2025</p> <p>4 RE: Hopeman Brother Inc</p> <p>5 7/23/2025, Marc C. Scarcella (#7487875)</p> <p>6 The above-referenced transcript is available for</p> <p>7 review.</p> <p>8 Within the applicable timeframe, the witness should</p> <p>9 read the testimony to verify its accuracy. If there are</p> <p>10 any changes, the witness should note those with the</p> <p>11 reason, on the attached Errata Sheet.</p> <p>12 The witness should sign the Acknowledgment of</p> <p>13 Deponent and Errata and return to the deposing attorney.</p> <p>14 Copies should be sent to all counsel, and to Veritext at</p> <p>15 cs-midatlantic@veritext.com.</p> <p>16 Return completed errata within 30 days from</p> <p>17 receipt of testimony.</p> <p>18 If the witness fails to do so within the time</p> <p>19 allotted, the transcript may be used as if signed.</p> <p>20</p> <p>21 Yours,</p> <p>22 Veritext Legal Solutions</p>	<p style="text-align: right;">Page 145</p> <p>1 In Re: Hopeman Brother Inc</p> <p>2 Marc C. Scarcella (#7487875)</p> <p>3 ACKNOWLEDGEMENT OF DEPONENT</p> <p>4 I, Marc C. Scarcella, do hereby declare that I</p> <p>5 have read the foregoing transcript, I have made any</p> <p>6 corrections, additions, or changes I deemed necessary as</p> <p>7 noted above to be appended hereto, and that the same is</p> <p>8 a true, correct and complete transcript of the testimony</p> <p>9 given by me.</p> <p>10 _____</p> <p>11 _____</p> <p>12 Marc C. Scarcella Date</p> <p>13 *If notary is required</p> <p>14 SUBSCRIBED AND SWORN TO BEFORE ME THIS</p> <p>15 _____ DAY OF _____, 20____.</p> <p>16 _____</p> <p>17 _____</p> <p>18 _____</p> <p>19 NOTARY PUBLIC</p> <p>20 _____</p> <p>21 _____</p> <p>22 _____</p>

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**Exhibit B**

**(Proposed Order)**

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*Counsel for Debtor and Debtor in Possession*

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

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**In re:**

**HOPEMAN BROTHERS, INC.,**

**Debtor.**

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:  
: **Chapter 11**  
:  
: **Case No. 24-32428 (KLP)**  
:  
:  
:

**ORDER GRANTING MOTION IN *LIMINE* OF THE DEBTOR TO EXCLUDE THE  
EXPERT TESTIMONY OF MARC C. SCARCELLA**

1. Upon the motion (the “Motion”)<sup>1</sup> of the above-captioned debtor (the “Debtor”) in the above-captioned chapter 11 case (the “Chapter 11 Case”) for entry of an order (this “Order”) precluding the Chubb Insurers’ expert witness, Marc C. Scarcella, from offering opinions regarding the Best Interests Test, including the Liquidation Analysis, at the Combined Hearing; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334 and the *Standing Order of Reference from the United States District Court for the Eastern District of Virginia*, dated August 15, 1984; and the Court having found that this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and that the Court may enter a final order consistent with Article III of the United States Constitution; and the Court having

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<sup>1</sup> Capitalized terms used but not otherwise defined herein shall have the respective meanings ascribed to such terms in the Motion.

found that venue of this proceeding and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that proper and adequate notice of the Motion has been given and that no other or further notice is necessary; and upon the record herein and after due deliberation thereon, the Court having determined, for the reasons set forth on the record in the hearing on the Motion, that the opinions expressed in the Scarcella Report are unhelpful to the Court and, thus, irrelevant and not admissible under Federal Rule of Evidence 702, and the Court having further determined that Mr. Scarcella lacks the knowledge, skill, experience, training, or education that would qualify him to offer expert opinions on the Best Interests Test or the Liquidation Analysis under both the Supreme Court's decision in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1999) and under Federal Rule of Evidence 702, the Court has determined that the Motion should be granted. Accordingly, it is hereby

**ORDERED, ADJUDGED, AND DECREED THAT:**

2. The relief requested in the Motion is hereby granted.
3. Accordingly, Mr. Scarcella shall not be permitted to testify on, or otherwise offer expert opinions regarding, the Best Interests Test or the Liquidation Analysis at the Combined Hearing.
4. The Court retains exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation or enforcement of this Order.

Dated: \_\_\_\_\_, 2025  
Richmond, Virginia

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UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ Henry P. (Toby) Long, III

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**CERTIFICATION OF ENDORSEMENT  
UNDER BANKRUPTCY LOCAL RULE 9022-1(C)**

I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Henry P. (Toby) Long, III

Henry P. (Toby) Long, III