Docket #3350 Date Filed: 08/21/2026

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re	Chapter 11
ALDRICH PUMP LLC, *et al.*,[1]	Case No. 20-30608 (LMJ)
Debtors.	(Jointly Administered)

SUPPLEMENT TO THE OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS' OBJECTIONS TO CERTAIN UNDISCLOSED TESTIMONY OF CHARLES H. MULLIN AND DENISE NEUMANN MARTIN

The Official Committee of Asbestos Personal Injury Claimants ("**Committee**") of Aldrich Pump LLC, *et al.* hereby submits its supplement to its objections entered during the hearing on estimation before this court from August 10, 2026, through August 14, 20206 (the "**Phase I Estimation Hearing**") as to certain testimony by Charles H. Mullin, PhD and Denise Martin, PhD on the basis of the lack of pre-trial disclosure under Rule 26 (the "**Objections**").[2]

SUPPLEMENT TO OBJECTION

A. Legal Standard

1. Federal Rule of Civil Procedure 26 requires an expert report to disclose "a complete statement of all opinions the [expert] witness will express and the basis and reasons for them." Fed. R. Civ. P. 26(a)(2)(b). This disclosure obligation is essential: it ensures that opposing parties have a fair opportunity to evaluate, test, and rebut expert opinions before those opinions are presented to the Court. *See Saudi v. Northrop Grumman Corp.*, 427 F.3d 271, 278 (4th Cir. 2005)

[1] The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.

[2] The relevant objection against Dr. Mullin's testimony is in the trial record at Hr'g Tr. 62:15-66:16, Aug. 11, 2026. *See also id.* 238:1-10. The relevant objection for Dr. Martin's testimony is in the trial record at Hr'g Tr. 232:6-19, Aug. 13, 2026. *See also* Hr'g Tr. 30:10-13, 18-23, Aug. 15, 2026.

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(noting that a party that fails to provide Rule 26 disclosures unfairly inhibits its opponent's ability to properly prepare). Accordingly, when a party fails to disclose an expert opinion as required by Rule 26, Rule 37(c)(1) presumptively bars the party from using that opinion "to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless." Fed. R. Civ. P. 37(c)(1); *Southern States Rack and Fixture, Inc. v. Sherwin-Williams Co.*, 318 F.3d 592, 595-96 (4th Cir. 2003). Moreover, the Fourth Circuit has made clear that exclusion does not require a finding of bad faith; rather, the nondisclosing party bears the burden of establishing substantial justification and harmlessness. *Southern States*, 318 F.3d at 596.

B. Dr. Mullin's Alleged "Mapping" Analysis of Unknown Disease Claims Was Not Disclosed

2. At the Phase I Estimation Hearing, Dr. Mullin provided undisclosed testimony describing an analysis where he purportedly estimated what proportion of unknown disease claims against the Debtors are mesothelioma by: (1) matching claims where the debtor's database showed a claimant had brought claims against both debtors but labeled only one as "unknown disease," and (2) matching claims with "Garlock data."[3] The Dr. Mullin Undisclosed Testimony does not appear in either of Dr. Mullin's reports or deposition testimony and should be excluded for non-disclosure under Rules 26 and 37(c)(1).

3. Dr. Mullin's reports contain no description of any claims-matching analysis done to estimate the proportion of unknown disease claims. His initial report contains no analysis of claims coded as "unknown" in the Debtors' database at all.[4] In his rebuttal report, he addressed

[3] *See* Hr'g Tr. 62:10-70:23, Aug. 11, 2026. The relevant testimony has been highlighted in an excerpted transcript, attached hereto as Exhibit A. Slide 57 of Dr. Mullin's demonstrative slides should be excluded. *See* ALD-D5 at 57. Both the highlighted testimony and ALD-D5 at 57 shall collectively be referred to as the "**Dr. Mullin Undisclosed Testimony**."

[4] *See generally* Mullin Initial Expert Report (Ex. A to Committee's Mot. Lim. Exclude Certain Expert Test. of Dr. Charles C. Mullin, Dkt. No. 3189). The word "unknown" appears only twice in Dr. Mullin's initial report, both times in a footnote describing John Crane, Inc.'s litigation history.

unknown disease claims only with respect to his opinion that they are disproportionately long-pending claims.[5]

4. While the Debtors claimed that Dr. Mullin's claim-matching analysis could have been predicted or inferred from his reliance material,[6] that assertion—even if correct, which the Committee disputes[7]—misses the point, as Rule 26 requires an expert's report to contain "a *complete* statement of . . . the basis and reasons for" his opinions and the "facts or data considered . . . in forming" the opinions. *See* Fed. R. Civ. P. 26(a)(2)(B)(i)-(ii) (emphasis added). Even if the other party has notice of the underlying information, an expert may not present an undisclosed opinion based on that information absent explicit pre-trial disclosure of the opinion. *See Dolan v. Ford Motor Co.*, Civil Action No. 3:23cv512, 2026 WL 1230674, at *8 (E.D. Va. May 5, 2026) (holding that disclosure of potentially relevant witnesses was not sufficient disclosure for an undisclosed opinion based on an expert's interviews of those witnesses).

C. Dr. Martin's Future Settlement Value Opinions Were Not Disclosed

5. At the Phase I Estimation Hearing, Dr. Martin provided undisclosed testimony regarding projecting future settlement values and their effect on the inflation rate analysis.[8] This included an opinion regarding the relevance of an aging claimant population to future changes in settlement values. The Dr. Martin Undisclosed Testimony does not appear in her rebuttal expert report or deposition testimony and should be excluded for non-disclosure under Rules 26 and 37(c)(1).

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[5] *See* Mullin Rebuttal Expert Report 22-25 (Ex. B to Committee's Mot. Lim., Dkt. No. 3189) (addressing "Long Pendency Claims with unknown disease").

[6] *See* Hr'g Tr. 63:4-64:4, Aug. 11, 2026.

[7] *See id.* at 64:5-12.

[8] Hr'g Tr. 230:11-17; 231:8-232:5; 232:23-234:21, Aug. 13, 2026. The relevant testimony has been highlighted in an excerpted transcript, attached hereto as Exhibit B. Slide 24 of Dr. Mullin's demonstrative slides should be excluded. *See* ALD-D8 at 24. Both the highlighted testimony and ALD-D8 Slide 24 shall collectively be referred to as the "**Dr. Martin Undisclosed Testimony**."

6. Dr. Martin's expert report contains no discussion or analysis of the potential of an aging claimant population to affect average settlement values to decline in the future. No criticism of Dr. Sackett's forecast of average settlement values appears in her expert report.[9] While the Debtors argued that the Dr. Martin Undisclosed Testimony was inquired about at her deposition,[10] Rule 26 "does not allow parties to cure deficient expert reports by supplementing them with later deposition testimony." *Ciomber v. Coop. Plus, Inc.*, 527 F.3d 635, 642 (7th Cir. 2008).

D. The Failure to Disclose Dr. Mullin's and Dr. Martin's Opinion Testimony Is Not Harmless

7. The pre-trial failures to disclose here are highly prejudicial to the Committee. Absent a justification or showing of harmlessness, which the Debtors bear the burden of establishing, the exclusion of previously undisclosed evidence is not discretionary, but is mandated by the Federal Rules. Fed. R. Civ. P. 37(c)(1). Because the Debtors presented the Dr. Mullin Undisclosed Testimony and the Dr. Martin Undisclosed Testimony for the first time at the Phase I Estimation Hearing, the Committee had no opportunity to review, consider, test, challenge, or otherwise counter those opinions either prior to or at the Phase I Estimation Hearing. The introduction by a party of new evidence without their opponent's accompanying opportunity to contravene the same is the very sort of trial by ambush that the adversary system seeks to avoid, and it is neither justifiable nor harmless in this instance. Accordingly, the Court should exclude both the Dr. Mullin Undisclosed Testimony and the Dr. Martin Undisclosed Testimony.

RESERVATION OF RIGHTS

8. Nothing contained herein shall constitute a waiver of any arguments concerning the Committee's pending objections regarding either the Dr. Mullin Undisclosed Testimony or the Dr.

[9] *See generally* Martin Rebuttal Report (Ex. F to Committee's Mot. Lim., Dkt. No. 3189)

[10] Hr'g Tr. 232:11-16, Aug. 13, 2026.

Martin Undisclosed Testimony, or any rights of the Committee with respect thereto. The Committee expressly reserves all rights with respect thereto, including to further supplement its objections in response to any filing by the Debtors, the Future Claims Representative, or any other party in interest in these chapter 11 cases.

CONCLUSION

For the reasons stated above, the Committee respectfully requests that the Court sustain its Objections and exclude the Dr. Mullin Undisclosed Testimony and the Dr. Martin Undisclosed Testimony.

Dated: August 21, 2026
Charlotte, North Carolina

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EXHIBIT
A

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* * * * *

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REPORTER'S TRANSCRIPT

OF

BENCH TRIAL

BEFORE THE HONORABLE LENA MANSORI JAMES

CHARLES R. JONAS FEDERAL BUILDING

POTTER COURTROOM

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CHARLOTTE, NORTH CAROLINA

DATED TUESDAY, AUGUST 11, 2026

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I N D E X

Witness:	Direct:	Cross:	Redirect:	Recross:
C. Mullin	8	122, 123	226	
D. McKnight	241			

E X H I B I T S

Number:	Marked:	Admitted:	Joint:
197	128		

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mismatch of taking old claims that were filed during the nonmalignant era and imputing the disease as though they had been filed during the mesothelioma era. That's -- conceptually, that's just wrong.

Q. Now, there are a few hundred claims in the graph here in the 2010 to 2014 period, little later time. So did you just assume that all of these were nonmalignant?

A. No.

Q. So what did you do to attempt to verify that your expectation was accurate?

A. So the first thing I did is inconsistent with what Dr. Sackett said he expected his staff to do, which is frequently --

MR. CORDANI: Your Honor, we note an objection to this slide, and the testimony that we think is going to be given here as being outside the scope of Dr. Mullin's initial report and rebuttal report. It's not disclosed.

THE COURT: All right. Do you want to explain further?

MR. CORDANI: I guess the rebuttal report doesn't contain this analysis or the opinion here. I notice he is citing some work paper, but there was no opinion in the report or the rebuttal report that

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criticizes Dr. Sackett's opinion based on whatever it is this is going to show.

THE COURT: Do you have --

MR. EVERT: Your Honor, the rebuttal report doesn't say he used multiplication either. I mean, this is -- this was all disclosed in Dr. Mullin's reliance materials. All they had to do was look at the database that he produced in association with his reliance material, as we did, and see that there's a -- there's a difference between the data in Dr. Sackett's database and Dr. Mullin's database.

So the fact of the matter is, is that in all of those materials, one can easily see that this mapping and matching was performed. We didn't disclose it in the reports because there was no reason to say, oh, yes, we actually looked to see what the unknown disease category maps to within our own database. This is primarily from the fact that the Aldrich and Murray claimants are two separate records within the database.

And we went to the trouble to actually see if a disease was known in one record for a claimant and unknown in the other record. And when we did that, we matched them to make sure that the disease then was known in both records.

It's all in the data that was given to both

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the FCR and the ACC. So it's -- it's one of those things. It's not a new opinion. It is, in fact, just the actuality of the work that we performed in preparing Dr. Mullin's opinion.

MR. CORDANI: It sounds like, Your Honor, that they wanted us to discern this opinion from a massive database, and that's not proper disclosure under Rule 26, Your Honor. To look at the -- he addresses this issue of unknown disease claims in his rebuttal report in paragraphs 41 through 49. Nothing about this is in there. This opinion was not disclosed.

THE COURT: Mr. Guy.

MR. GUY: Your Honor, from my understanding, we were going to talk when Mr. McKnight is on the stand about the unknown claims. And it reminds me of when we were before Judge Hargiss, and the discussion was admissible, and Judge Hargiss said I would pet a dead cat if someone asked me to.

But the relevance here, Your Honor, is, A, as you just said this morning on the verdict issue, let's bring it in. The unknown issue has been teed up by Dr. Sackett. He talked about how he derived what he didn't do in terms of determining whether those are mesothelioma claims.

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All this does is show that they're not mesothelioma claims, which is directly relevant to the unknown claim issue. Dr. Sackett said, oh, I think they're mesothelioma claims. This shows they are not.

I understand why counsel doesn't want this testimony to be before the Court because it's prejudicial, but under Rule 43, just because it's prejudicial doesn't mean it's not relevant and doesn't mean it's not coming in. Thank you.

MR. CORDANI: Respectfully, Your Honor, this is not a relevance objection. This is a disclosure under Rule 26. They are testifying to an opinion that they did not disclose in the reports. We didn't have a chance to depose Dr. Mullin on this, and the other experts did not have a chance to review such an opinion ahead of -- the trial is today. This is the first time I'm seeing this.

MR. EVERT: Your Honor, I'm sorry. I'll add, it's not an opinion. It's a reflection of what's in the database. And just like yesterday, Dr. Sackett said, for the very first time, that his expectation would have been that his people would have mapped these to each other. I asked him if he was sure, and he said, "Well, I'm not sure, but that would have been my expectation."

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This is exactly the same issue. So if it wasn't disclosed, they opened the door. But my position is, it's not a new opinion. It is, in fact, just merely the database extract numbers, which, again, we didn't -- we did not identify every single database number or that we did math or we multiplied. That's -- that's ridiculous.

MR. CORDANI: How could they open the door if it was cross-examination on this issue? He brought it up yesterday, and that was my first hint that this was going to be brought up today. Then I saw it in the PowerPoint presentation for the first time.

THE COURT: Any other comments?

MR. CORDANI: No.

THE COURT: I'm going to hear the evidence, and I will give you a decision on it later.

MR. EVERT: Thank you, Your Honor.

BY MR. EVERT:

Q. All right. Dr. Mullin, let's return to Slide 57. What's the -- what did you do to try to ascertain that your expectation about the old unknown claims was correct?

A. So I did what is standard, which is when you have an unknown claim, the disease of the claim is unknown, you attempt to see if there was information

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elsewhere that could inform you about that disease. So the easiest places to look in this case were if they filed a PIQ, and there was an unknown disease, and in the PIQ they disclosed the disease, we updated it.

If it had an unknown disease for Murray, but the Aldrich claim had a known disease, we updated the Murray data with the Aldrich value. Similar, if it was unknown in Aldrich but known in Murray, for the same claimant, we updated the value. So that was the first step.

That step alone filled in, of the 45,000 that I was able to map, 82 percent of that comes directly from the Aldrich data. So 36,000, 37,000 of that 45,000 is just it's an unknown disease in the Murray data. But if you just go look in the Aldrich data, it shows the disease. So that's all you're doing.

The database mapped those together, and we did that updated. We also merged with the Garlock data, which was disclosed in all of my work. The database has that. And similarly, if the Garlock data had a known disease and the debtor data claim didn't, we brought the disease over for that. That's the remaining basically 18 percent for Murray is coming from the Garlock data.

And then, that's the basic process. It's

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really the standard approach that's been done by experts for a long time of trying to fill in for unknown disease. If you -- if it's known elsewhere, that's better than trying to guess or impute through some other process.

Q. So these are -- really, these are much bigger numbers. This includes non-mesotheliomas, but can you explain what these -- what these large numbers represent?

A. So really this is -- in the debtor's databases, there's actually 140,000 claims with unknown disease. It's just most of those are resolved. So Dr. Sackett focused on 7,000 pending or open claims with unknown disease. There's actually 140,000 instances where a disease is unknown in the database. About 70,000 of those I was able to identify; that's about half. It's also about a half the pending if you just look at the pending claims in the data.

So we don't have to estimate for half of them. We can just go look elsewhere and see what it is. And when we do that, we see, as you would expect from the prior slide, close to 95 percent of these are nonmalignant claims because they really come from that time period when nonmalignant claims dominated the tort filings. And about 2.4 percent of those are

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mesothelioma claims, which is also consistent with the filing rates that were observed during the nonmalignant era. You had under 3 percent of the claims being filed were mesothelioma.

So if he'd aligned this time period for the imputation, he would have had about these numbers. His misalignment of taking recent -- recently filed claims to impute the disease claims filed from 15-plus years ago for the most part, that conceptual mismatch is what really led him astray.

Q. And how does this large sample size of looking at the full 150,000 unknown claims, how does that help inform your confidence in the validity of the conclusions?

A. The lower probability of an event, the more data you have, you need to estimate it precisely. So we could focus on just the 7,200 unknown disease claims that are pending, and you get a very similar 2 and a half percent number for those. It should give comfort that when we expand that from a little over 3,000 pending claims, with unknown disease, to the 70,000 that we can find in an old database, we really get that same number of 2 and a half percent. So we're really on the order of 2 and a half percent of these claims should be mesothelioma, not what Dr. Sackett did, which

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was 20 percent to the Murray claims and about 30 percent to the Aldrich claims he imputed as mesothelioma.

Q. And if we look at Slide 58, are these the numbers that Dr. Sackett imputed to mesothelioma from the unknown claims?

A. Correct. So these come from his report. They are how he did it for the kind of more recent claims that -- recent pending claims that he's really focused on.

Q. And how does that compare to your findings from the actual matching?

A. If you were to pool these together, he's really saying about 25 percent of the claims, 1800 out of 7200. It's close to 25 percent. The right answer is 2 and a half percent. So he's overstated tenfold the number of pending claims that would have these mesothelioma, and his estimate for that was $44 million for the pending claims.

So if you just correct this imputation error and you divide by 10. So what he has as a $44 million issue for pending claims here becomes a $4.4 million issue.

Q. Is that the only distinction between you and Dr. Sackett in terms of the valuing of the unknown

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claims?

A. No. That's --

Q. So looking at Slide 59, what does that tell us?

A. So Slide 59 is saying it's got a row for each debtor or a column for each debtor. If we focus on Aldrich initially in the tort system, if a claim is resolved relatively quickly within the first three years of filing, around 46 percent of them receive payment, 54 percent would be dismissed. And what you see is, the longer a claim stays pending, the longer that pendency period, the odds that when it's resolved that it gets paid keeps going down.

You see this for almost every single asbestos case. The more valuable claims get prioritized. Makes sense for plaintiff counsel to push their strongest claims first to get more money in the door earlier. You see that.

And so in years three to five, that falls to about half, is about a 22 percent pay rate. By the time you get to claims that are more than ten years old, that pay rate has dropped all the way to 2.4 percent.

And this is just the debtor's own history; right? So now remember those -- most of those unknown

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disease claims are in that settlement that's more than ten years old. So if you're really going to follow their history, when a claim that's more than ten years old gets resolved, about 2 and a half percent of them get paid. Dr. Sackett treats them as though they are a brand-new claim that's in that first year over three years and says about half of them will get paid.

So he's overstated that about 20-fold; right? The pay rate. It should be 2 and a half percent, not 50 percent. You can see similar for Murray, it's about a 24 difference between the actual pay rate in the tort system for claims with ten-plus years is 1.2 percent versus his treatment of 21.4 percent.

Q. And when you -- what happens when you combine those two treatments by Dr. Sackett together? What is the impact of combining those two?

A. So roughly you're going from 44 million for the pendings down to 4.4 million. When you correct for the tenfold overstatement in count, you have about a 20-fold overstatement in pay rate. So now you're taking the 4.4 million, dividing by 20, you're down to $220,000. So this almost $50 million issue has become about a quarter-million-dollar issue, and that's still too high, because that assumes 100 percent of them resolve.

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And so before you have an inventory of -- let's see. So it would be even less than that if you took into account resolution rate, but really it shows why this issue is immaterial to if you're talking of numbers that are 400-, $500 million in total expenditure. This is an issue that's under a quarter million dollars.

Q. Earlier you referred to the data truncation issue. Is this -- is this related? I know it relates to the pay rate. Is this related to this issue?

A. You can see what happened. So when Dr. Sackett computes a -- he looks at 2017 to 2019 resolutions, but if the claimant's filed before 2013, he excludes it. So he has no claims that are older than ten years in his pay rate. All of those claims were filed before 2013 if they were resolved in 2017 or '19. So this group of claims with very low pay rate of 2.5 percent for Aldrich, he excludes from the calculation. He excludes virtually all of the claims in the five- to ten-year window from his calculation.

Because if you were paid in 2018, five years ago is 2013, more than five years he excludes. So these bottom two rows he omits from the calculation. And the bottom two rows, even though we resolved claims that are that old, he just excludes those, which, of

EXHIBIT
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DATED THURSDAY, AUGUST 13, 2026

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I N D E X

Witness:	Direct:	Cross:	Redirect:	Recross:
Y. Austin	12	88		
D. Martin	153	257		

A. We don't need to do that explicitly. What we know from the law and economics literature and common sense is that settlements embed verdict risk; right? How settlements are determined is the parties do cost benefit analyses, and consider, hey, is this -- should I take this settlement, or should I go to trial where I risk -- where I risk this verdict -- a verdict of this amount at this probability.

So when the parties agree on a settlement, that settlement embeds -- already embeds the risk of a verdict. We don't need to then layer additional verdicts on top of that. In fact, to do that is double counting. It's already in there. We don't need to add additional verdicts on top the way that Dr. Sackett is doing.

Q. Have you -- have you ever seen a forecast that has treated verdicts in the manner that you see Dr. Sackett do so here?

A. I have not.

Q. All right. Back to our main slide. Your Honor cut off some of your testimony by ruling in the motion in limine a couple weeks ago on the defense cost, so we can skip Deviation 4. Move to Slide 23, which is the 5th Deviation, which is inflation and discount rates.

The Court has definitely heard this --

THE COURT: Let's go slowly through it, really.

THE WITNESS: We're going quickly. I will slow down.

MR. HIRST: We're at Deviation --

THE COURT: If we need to go to 5:30, we can go to 5:30.

MR. HIRST: I was going tell you, we're at Deviation 5 of 5, but we're not 80 percent of the way through the exam. This is where most of the action will be, so ...

BY MR. HIRST:

Q. All right. I think you said this, but because I do want to kind of go back to basics here, if you could remind the Court once again why we're considering inflation and discount rates. What is the purpose of this when it comes to forecasting?

A. Right. So we're at the stage in my chart where we have estimated the number of claims, and we have assigned an average settlement value. So we have the value of those claims in today's dollars, and now we want to know, first, what's the debtor actually going to pay each year in the future? What's the -- what's the cash that's going to go out the door?

And to estimate that, we need to understand, are those claims going to inflate? Is the value that is assigned to those claims going to increase over time? So that's the inflation -- inflation factor.

And then, once I have that stream of future cash flows, I want to discount it back to today so I can understand how much money would need to be invested at that discount rate to let me pay that stream of future claims as they come due.

Q. And, I guess, are the inflation rate and the nominal discount rate related in some way?

A. This is something that I think is very confusing. We're going to come back to it, but they are related. It's -- so what the -- what the -- the real rate -- we've talked about -- I think we've heard about that a bunch, but the real rate is the discount rate minus the inflation rate. We're going to delve into that more down the road in just a little bit.

Q. We definitely will, but let's break that down just real quickly here in the beginning. We have -- on Slide 23, you have inflation, you have discount rate. When you're referring to discount rate there, what is it you're referring to?

In other words, we've heard the word "nominal discount rate." Is that what's going on?

A. It should read "nominal discount rate." You're absolutely right.

Q. I think you were briefly describing the real discount rate, but if you can explain the difference between the real discount rate on the one hand and the nominal discount rate on the other hand.

A. Right. The nominal discount rate -- I'm going to use this example in a little bit, but is the rate that you get on your savings account, for example. What's the bank going to pay you?

The real discount rate says, okay, I'm going to invest in -- I'm going to get 3 percent on my savings account, but the price of the things I want to buy is going to go up by 2 percent. So the real rate is just 3 percent minus 2 percent. It's just the net. So you're -- what you're going to earn in real terms on your savings is not 3 percent because inflation is going to take away a percentage point. You're going to earn 2 percent.

Q. We will definitely come back to that before we finish.

Let's go -- let's break down the components kind of one by one. Start with inflation on Slide 24. And as an economist, how would you -- how would you select an appropriate inflationary rate in terms of

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valuing asbestos liabilities?
A. Important to understand here, considering these are long-tailed liabilities. They're going to extend out 40, 50 years into the future. We need to take that into consideration when we're choosing the right inflation rate because the inflation has to be correct on average, reasonable on average, not just today, not just next year, but reasonable over the life of the -- of the liability. So it has to be reasonable inflation over the next 40, 50 years.
So that's one consideration. Another consideration -- and, again, because it's a long-term liability, we have to think about is what we're inflating going to change over time. Are the characteristics of the claims in this case going to change over time in a way that would affect the inflation?
So those two, like, factors, those two questions help us figure out what an appropriate inflation rate would be.
Q. Is this just a simple -- the Court's heard the references to CPI or CPIU as a proxy for inflation. Is this as easy as simply picking the CPIU and applying it as a inflation rate to these -- to these liabilities in these claims?

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A. That's what Dr. Sackett did. He took CPI plus. He took other measures too. But no, that's just one piece; right? That's the part about we know the prices of the things we want to buy are going to go up over time. The CPI gives us a measure or forecasts CPI, gives us a measure of how much the things you want to buy are going to go up over time; that's piece 1.
Piece 2, though, is the claims are going to change in a way that we can anticipate. And, in particular, it's going to be the average age is going to go up, and that's going to pull down -- that's going to mitigate or even offset entirely the -- the general inflation that we would expect to see in the settlement values.
Q. And I know the Court has heard this one, but given you're the last witness, I want to make sure this point was kind of clear. No. 1, why is the average age of a claimant going up? What does that mean?
A. Asbestos exposure by and large ended in, let's say, the mid '80s. So there's nobody new entering into the pool of people who can bring claims; right? So we have an exposed population, and nobody new is entering that population group.
So as we move through time, the average age of the people in that group has to be going up; right?

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We know today it's about 74 years old. But, you know, ten years from now, it's going to be higher. It can't be lower because nobody new is coming in. So we know for sure that the average age of the claimants is going to increase with time.
MS. BARNETT: Your Honor, I'm going to lodge an objection. Testimony about the value of claims going down by claimant age is not part of Dr. Martin's rebuttal report. It's not part of the opinion that she disclosed, so we would ask that you exclude that.
MR. HIRST: Your Honor, Dr. Martin's rebuttal report speaks extensively about how you choose an inflation, how you choose a discount rate. All of this is heavily disclosed and was furthermore inquired about in her deposition, so it's fully within the scope of her rebuttal.
THE COURT: I'll hear the evidence. If you want to pursue it further, we can -- you can submit papers next week on it. Can you tell me your name.
MS. BARNETT: Wendy Barnett.
THE COURT: Thank you.
BY MR. HIRST:
Q. All right. Dr. Martin, on your Slide 24 here, you have under the bullet "Analyze," you have two items. Debtors' historical average settlement values.

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Let's start with 1.
Again, what are you referring to there?
A. Part of the accepted method is to examine trends in average settlement values. But rather than just blindly assuming the settlement values increased by the CPI, we look and see; right? We look and see our average settlement values going up at the rate of general economic inflation, or alternatively, are they not.
And, again, because the population is aging, the average person is -- the average age of the -- of the remaining population is -- is aging, we have reason to believe that it might not be going up at the rate of inflation. So we -- that's -- Part 1 is let's investigate where we are historically. Let's look at the trends in -- in settlement values to see whether they're exhibiting the same general inflation level as, you know, the food we're buying or whether they're not.
Q. Then last bullet on Slide 24, Dr. Martin, the impact of changing claims mix. What does that refer to?
A. That it's only going to get -- only going to get older as time goes on; right? This group, this fixed group of people who might bring a claim going forward are 74 today, and they're just going to get

older as we move through time. So their age is just going to be increasing.

That's important because we know -- and I think Dr. Mullin and Mr. McKnight had slides on this, but we know older people get lower settlement values; right? People in their 70s get more than people in their 80s, and more than people in their -- again, the people in their 90s. So -- yeah, sorry.

Q. We have heard the testimony that says that, but why is that? What in the -- what in your experience of valuing asbestos claims makes it so that a 70-year-old gets more -- all things equal -- gets more money than a 90-year-old?

A. Particularly for mesos, which are quickly fatal, the primary driver of, like, a verdict or settlement values is the loss of life. They've lost a certain number of years of their life, sometimes of their income, but really it's the years of lost life.

So a 50-year-old who has meso is going to get more in the way of an award than an 80-year-old just because that's how we measure economic damages.

Q. Moving, then, to Slide 25. And this is where you define the Sackett approach. I think we've heard about the Sackett approach before, but why don't you describe to the Court what you understood Dr. Sackett

did here when it related to inflation.

A. Yes. He just took Part 1 of the inflation exercise that I have been describing. He took a CPI, and we'll talk about how he didn't just take a CPI, but he took a CPI and assumed that was the -- the average claim value was going to continue to escalate with the CPI every year from -- from today or from when he took his forecast through 40 years, 50 years from now.

Q. And you referenced and we've heard about the blend of three rates. Putting aside -- sounds like Issue 1 you had is he only took the step of applying an inflation rate without considering the data. But just even focusing on the inflation rate, he chose to do it. Do you have an opinion about the propriety of what Dr. Sackett did there?

A. I do. He did take a simple average of the three rates, the CPI, which is the basket of goods and services, he took an average of that plus medical cost inflation and then employment cost inflation.

And both of those -- medical costs and employment costs are higher. The inflation expected in those is higher than in the CPI on its own.

Q. Let's talk about medical costs and inflation. To me, that sounds like it would make sense to take account of given what we're talking about here, which

is terrible disease that results in a terrible medical condition. So why is Dr. Sackett's inclusion of the medical cost CPI inappropriate?

A. A few reasons. One is that medical costs are already embedded in the CPI. I think it's 10 percent of the CPI is attributed to medical costs, so it's double counting to layer that in again. But another reason is that medical costs are not a big component of what drives verdicts and settlements for -- particularly for mesothelioma claims.

Again, it's a terrible disease. There's not a treatment. It's one that people die quickly from. So medical costs are not the driver of the -- of the settlement. So using a medical cost inflation, it just doesn't have relevance here.

Q. You write in your Slide 25, "This is inconsistent with prior LAS approach."

What has been your experience as to how LAS has approached inflation in the past?

A. They -- in all of the reports we reviewed, they used either the long-run CPI going back in time or the CBO's projected inflation going forward. So in every -- in every case, they use just the first part of what Dr. Sackett is using here, essentially the CPI.

Q. And, again, understanding that you take issue

with Dr. Sackett's inflation component beyond what he chose from the CPI rate perspective, had he simply done what LAS did in the past and rather than using the blended rate, just use the CPI, how would that have impacted his forecast here?

A. Right. The medical inflation, I think, is 3.4 percent, and he also uses this employment cost inflation, which is about 4 percent. That's where he gets his average up to 3.2. Without that, his inflation would have been 2.3. So in-line with the fed target rate of 2 percent or close to that and what the CBO was expecting at the -- at the time, so it would have been a full percentage point lower if he had just used the CPI.

Q. Dr. Sackett testified that he saw -- when it comes to average settlement values. So kind of he was taking a step back -- he saw no clear trends, I believe, or saw them as stable settlement values across these debtors. Dr. Mullin says they're declining. I know you didn't analyze for these debtors, but you have analyzed it in other -- for other defendants in the asbestos tort system.

Does that testimony, either whether it's Dr. Sackett or Dr. Mullin, does that surprise you based on what you know about asbestos settlement value claim