Docket #0465 Date Filed: 4/24/2026

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

IN RE:	.	Case No. 26-60110-5-wak
	.	
VANDERBILT	.	James M. Hanley U.S.
MINERALS, LLC,	.	Courthouse and Federal Bldg.
	.	100 S. Clinton Street
	.	Syracuse, NY 13261
Debtor.	.	
	.	April 22, 2026
. . . . .	.	3:00 p.m.

TRANSCRIPT OF MOTION TO SETTLE (MOTION OF THE DEBTOR AT THE SOLE DIRECTION OF INDEPENDENT MANAGER AND SOLE MEMBER OF THE INDEPENDENT SPECIAL COMMITTEE OF THE DEBTOR FOR ENTRY OF AN ORDER (I) APPROVING THE GLOBAL SETTLEMENT BETWEEN THE DEBTOR AND R.T. VANDERBILT HOLDING CO., INC. AND CERTAIN OF ITS SUBSIDIARIES; AND (II) GRANTING RELATED RELIEF). FILED BY VANDERBILT MINERALS, LLC (DOC. NO. 22)

BEFORE THE HONORABLE WENDY A. KINSELLA
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For Debtor:	Bond, Schoeneck & King, PLLC By: CHARLES J. SULLIVAN, ESQ. GRAYSON T. WALTER, ESQ. BRENDAN M. SHEEHAN, ESQ. One Lincoln Center Syracuse, NY 13202-1355 Latham & Watkins LLP By: GEORGE A. DAVIS, ESQ. KIMBERLY A. POSIN, ESQ. JAMIE L. WINE, ESQ. 1271 Avenue of the Americas New York, NY 10020
Audio Operator:	Rachel Sugrue

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J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue
Hamilton, New Jersey 08619
E-mail: jjcourt@jjcourt.com

(609) 586-2311 Fax No. (609) 587-3599



APPEARANCES (Cont'd):

For Commodore Materials Funding, LLC, and Commodore Materials, LLC:	McDonald Hopkins PLC By: DAVID A. AGAY, ESQ. 300 North LaSalle Street, Ste 1400 Chicago, IL 60654
For Independent Manager and Sole Member of the Independent Special Committee:	Katten Muchin Rosenman LLP By: DAN BARNOWSKI, ESQ. 1919 Pennsylvania Ave. N.W. Suite 800 Washington, DC 20006-3404
For the U.S. Trustee:	Office of the U.S. Trustee U.S. Department of Justice By: ERIN CHAMPION, ESQ. 100 State Street, Room 4230 Rochester, NY 14614 Office of the U.S. Trustee U.S. Department of Justice By: PAULA BARBARUOLO, ESQ. Leo W. O'Brien Federal Building 11A Clinton Ave, Room 620 Albany, NY 12207
Official Committee of Unsecured Creditors:	Brown Rudnick LLP By: JEFFREY L. JONAS, ESQ. DAVID MOLTON, ESQ. Seven Times Square New York, NY 10036 Caplin & Drysdale, Chartered By: KEVIN DAVIS, ESQ. 1200 New Hampshire Ave NW, 8th Flr Washington, DC 20036
For United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union:	Cohen, Weiss and Simon LLP By: MATTHEW STOLZ, ESQ. 909 Third Avenue, 12th Floor New York, NY 10022
For R.T. Vanderbilt Holding Company, Inc.:	Vinson & Elkins LLP By: GEORGE R. HOWARD, ESQ. 1114 Avenue of the Americas, 32nd Fl. New York, NY 10036 Lemery Greisler, LLC By: PAUL A. LEVINE, ESQ. 677 Broadway, 8th Floor Albany, NY 12866

APPEARANCES (Cont'd)

For Twin City Fire Insurance Company:	Ruggeri Parks Weinberg LLP By: JOSHUA D. WEINBERG, ESQ. 1875 K Street NW Suite 600 Washington, DC 20006
For Pacific Indemnity Company:	Plevin & Turner LLP By: JACOB C. COHN, ESQ. 132 W. 31st Street, Ste 9th Floor New York, NY 10001
For Fidelity & Deposit Company of Maryland:	Chiesa Shahinian & Giantomasi PC By: SCOTT LICHTENSTEIN, ESQ. 105 Eisenhower Parkway Roseland, NJ 07068
For Kathleen Dole:	Weitz & Luxenberg P.C. By: ADAM DREKSLER, ESQ. 700 Broadway New York, NY 10003

(Proceedings commence at 3:00 p.m.)

(Call to Order)

THE CLERK: Continuing with the 3 p.m. calendar, Case Number 26-60110, Vanderbilt Minerals LLC, motion to settle and related relief. Please note your appearance for the record.

THE COURT: We'll start in the courtroom. Counsel for the Debtor?

MR. SULLIVAN: Good afternoon, Your Honor. Charles Sullivan, Bond, Schoeneck and King, appearing along with Grayson Walter and Brendan Sheehan from Bond, Schoeneck, and King for the debtor.

Your Honor, I'm also joined here today by proposed co-counsel for the Debtor from the firm of Latham & Watkins LLP, and I'd like to introduce them to the Court, Your Honor, if I may; George Davis, Kim Posin, and Jamie Wine are all with me today.

THE COURT: Thank you. I believe I just signed some pro hoc admissions, and those should hit the docket shortly, so welcome.

MR. SULLIVAN: Thank you.

MR. AGAY: Good afternoon, Your Honor. David Agay from McDonald Hopkins on behalf of the Commodore entities.

THE COURT: Good afternoon.

We'll now turn to counsel on the video. Counsel for Mr. Pickering?

MR. BARNOWSKI: Good afternoon, Your Honor. Dan Barnowski, Katten, Muchin, and Rosenman for Mr. Pickering.

THE COURT: Good afternoon.

The United States Trustee?

MS. CHAMPION: Good afternoon, Your Honor. Erin Champion on behalf of the United States Trustee, and I believe Paula Barbaruolo is also on the line.

THE COURT: Good afternoon.

Counsel for the Committee?

MR. MOLTON & MR. JONAS (IN UNISON): Good afternoon, Your Honor.

MR. MOLTON: Go ahead, Jeff.

MR. JONAS: Jeff Jonas from Brown Rudnick on behalf of the Committee, and I think the only others that, if they need to speak today, would be my partners, David Molton, and also our co-counsels on the line, Caplin Drysdale.

MR. DAVIS: Kevin Davis.

THE COURT: Good afternoon, Counselors.

Counsels for United Steelworkers?

MR. STOLZ: Good afternoon, Your Honor. Matt Stolz from Cohen, Weiss, and Simon on behalf of the United Steelworkers Union.

THE COURT: Good afternoon.

Counsel for R.T. Vanderbilt Holding Company?

MR. HOWARD: Good afternoon, Your Honor. It's George Howard, Vinson Elkins on behalf of non-Debtor R.T. Vanderbilt

Holding Company, Inc., and the other non-Debtor affiliates. I'm joined today also by our co-counsel, Paul Levine.

THE COURT: Good afternoon, Counselors.

Counsel for Twin City Fire Insurance Company?

MR. WEINBERG: Good afternoon, Your Honor. Joshua Weinberg on behalf of Twin City.

THE COURT: Good afternoon.

Counsel for Pacific Indemnity Company?

MR. COHN: Good afternoon, Your Honor. Jacob Cohn; I apologize for hiding, but I'm out of the country and not dressed for Court; but Jacob Cohn for the, well, basically the Chubb Insurers.

THE COURT: Good afternoon.

Any counsel for talc claimants?

(No verbal response)

THE COURT: Hearing none, then I will just open it up to other -- oh, go ahead.

MR. DREKSLER: Sorry. Good afternoon, Your Honor. Adam Dreksler from Weitz and Luxenberg on behalf of Committee Member Kathleen Dole.

THE COURT: Good afternoon.

MR. DREKSLER: Good afternoon.

THE COURT: Any other appearances for talc claimants?

I will open it up to anyone else by video who would like to have their appearance noted?

MR. LICHTENSTEIN: Good afternoon, Your Honor. Scott Lichtenstein from Chiesa Shahinian and Giantomasi for Zurich, North America, and Fidelity and Deposit Company of Maryland.

THE COURT: Good afternoon.

Go ahead; someone else wanted to note their appearance?

Okay, hearing none.

So, we are here on the motion to approve the global settlement that the court held a trial on last week. I ask the party's indulgence. This is a long read, a lot of work in the past several days, but I think it is important to get the full decision, most of the decision orally today, so the parties can determine how they're going to proceed going forward.

The motion before the Court today seeks approval of a global settlement between the Debtor and its affiliates, R.T. Vanderbilt Holding Company, Inc., Holding, Vanderbilt Chemicals, LLC, Chemicals, Vanderbilt Global Services, LLC, Global Services, Vanderbilt Worldwide, LLC, called Worldwide, and Advanced Milling Technologies, LLC, collectively the RTB entities.

Debtor is pursuing this motion through an independent manager, Ben Pickering, who after an investigation, entered into the global settlement that resolves claims due to the Debtor in exchange for certain settlement assets being transferred to the Debtor to be included in a pending 363 sale

of the Debtor's business as a going concern.

At contention are chiefly A, whether the global settlement as an insider transaction meets the heightened standard for approval under Rule 9019 and the Iridium factors; and B, the broad release of claims that Debtor is seeking to release against the RTB entities.

After the hearing was held on April 16 through 17, 2026, the Court carefully considered the arguments and makes the following ruling.

Before the Court reaches the analysis of the proposed settlement, it must address at the outset if the release is sought run afoul of Purdue Pharma, which prohibits nonconsensual releases of claims against non-Debtor third parties; Harrington v. Purdue Pharma LP, 603 U.S. 204.

The UCC and United States Trustee allege the Debtor is seeking to release claims against third parties that do not belong to the estate. The UCC argues that the motion should be rejected to the extent it seeks to settle and release the tort claimant state law claims, rights, and remedies against non-Debtor parties.

The UCC points to releases of the alter ego, veil-piercing, and successor liability claims, which the Court will collectively refer to as the alter ego claims, which it argues are not part of the estate. The Debtor counters that the alter ego claims are property of the estate, and it has the authority

to settle and release them.

This gate-keeping issue must be resolved first, as the remaining arguments would be rendered moot if the Court were to adopt this Purdue end run argument advanced by the UCC and the US Trustee.

Recently, the Second Circuit considered the authority of a Chapter 11 Trustee to recover assets from a Debtor's affiliate using alter ego and veil-piercing theories, and that is HK International Funds Investment, LTD, LLC v. Despins, In Re Kwok, 24-2504, 2026 WL 922975, from the Second Circuit on April 6, 2026.

The Second Circuit noted, section 544A permits the Trustee to assert any generalized claims that would belong to a hypothetical high priority lien creditor, and the determination of whether such a claim belongs to the estate is determined through state law.

The Court then reiterated the test to determine whether a claim belongs to the estate is to distinguish between personal and general claims. If a claim is a general one with no particularized injury arising from it, and if that claim could be brought by any creditor of the Debtor, the Trustee is the proper person to assert the claim.

And by contrast, creditors, not the Trustee, are exclusively entitled to pursue personal claims which belong only to specific sets of creditors harmed in particular ways.

The Kwok Court, citing In re Nordlicht, found that reverse veil-piercing claims are general. These reverse veil-piercing claims increase the basket of assets that could be used to satisfy any and all liabilities owed by the Debtor, and as such, they are general claims that enlarge the size of the Bankruptcy estate for all creditors, not particular claims that are only certain subsets of creditors could assert.

In concluding that veil-piercing and alter ego claims are general, In re Kwok conclusively established those claims belonged to the estate. This logic similarly applies to successor liability claims.

The record is clear that any direct claims by talc claimants against the parties to the global settlement are not being released; see, for example, Holdings' reply at paragraph 3. Direct claims held by third party individual plaintiffs are not impacted or released by the global settlement; or paragraph 18; the global settlement does not contain any Purdue-type nonconsensual third party releases, nor does it contain any release of direct liability claims against either the Debtor or R.T. Vanderbilt. No party is stripped of any direct claims without its consent.

In addition, the record is clear that direct claims against officers and directors are not being released; see the Debtor's reply at paragraph 7. The settlement does not release any claims, direct or derivative, against the Debtor's

directors or officers; see also paragraph 63.

The settlement does not release the Debtor's officers and directors from the state causes of action. To the extent any such individual qualifies as a representative of a released party, any release would run only in that capacity, not in his or her capacity as an officer or director of the Debtor.

Therefore, in the event the talc claimants intend to assert direct claims against Holding, non-Debtor affiliates, or directors and officers of the Debtor, those rights are preserved if the global settlement is approved. Thus, the U.S. Trustee and the UCC's position that the approval of the settlement would violate Purdue Pharma is in error, as direct claims are not being released here.

Having determined the proposed releases do not run afoul of Purdue Pharma, the Court turns to the proposed settlement. Settling a state claim to naturally implicate section 363, which states that the Trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.

The standard for determining whether to grant relief is considering whether the Debtor exercised sound business judgment. However, Courts have held that transactions that benefit insiders must withstand heightened scrutiny; see In re Enron Corp. 335 BR 22.

Given the insider transactions at issue, the parties

agreed at the hearing that the standard to be employed here is that of heightened scrutiny. Therefore, some skepticism must be applied when analyzing whether the motion should be granted; see In re Chassix Holding, Inc., 533 BR 64.

In applying heightened scrutiny, Courts analyze the integrity and entire fairness of the transaction at issue, examining whether the process and price of a proposed transaction not only appear fair, but are fair, and whether fiduciary duties are properly taken into consideration; see In re Innkeepers USA, 442 BR 227.

In applying heightened scrutiny, Courts assess the bona fides of the transaction among a Debtor and an insider of the Debtor, looking at the entire fairness of the transaction; see In re LATAM Airlines Group, S.A., 620 BR 722.

Turning to the merits of the motion, FRBP 9019A provides, in relevant part, that on the Trustee's motion and after notice in a hearing, the Court may approve a settlement or compromise.

Settlements and compromises are favored in Bankruptcy as they minimize costly litigation and further parties' interests in expediting the administration of the Bankruptcy estate; In re Dewey & Leboeuf, LLP, 478 BR 627.

As a general rule, it is not the Court's task to determine whether the settlement proposed by the parties is the best possible, or fairest, or most appropriate resolution of

the dispute; O'Connell v. Packles, 404 BR 58.

In the Second Circuit, the analysis to determine whether a settlement is fair and reasonable is dictated by the Iridium factors; see Motorola, Inc. v. Official Committee of Unsecured Creditors, In re Iridium, 478 F3d. 452.

Under In re Iridium, the following factors are considered: A comparison between the possibility of success and the benefits offered by the settlement; the likelihood of complex and protracted litigation in the absence of a settlement; the interests of creditors, including the degree to which creditors either do not object to or affirmatively support the proposed settlement; whether other parties and interests support the settlement; the competency and experience of counsel supporting the settlement; and the experience of the Bankruptcy Judge in reviewing the settlement; the nature and breadth of the releases to be obtained by officers and directors; and the extent to which the settlement is the result of arm's length bargaining.

Here, the Debtor argues that all of the Iridium factors are met. By contrast, the U.S. Trustee and the UCC argue none of the Iridium factors are met. The Court shall analyze each factor in turn.

In balancing the litigation, success, and settlement, the Debtor contends the settlement provides a mechanism to continue operations, consummate a sale, and maximize assets to

be distributed to creditors, such that the benefits from the settlement outweigh the potential for recovery if the claims were litigated.

The time, cost, and uncertainty in prosecuting the claims balanced against the terms of the settlement weigh in favor of the settlement. The U.S. Trustee argues that the record does not provide a sufficient basis for the Court to determine whether the consideration being provided exceeds the potential value of the claims being released.

The UCC agrees, noting that at this stage due to the significant intertwining of the Debtor and the non-Debtor affiliates, the Committee has been unable to perform proper due diligence into these intercompany claims or determine if there are other additional intercompany or shareholder transactions that should be investigated that may have similarly high chances of success.

The first factor comparing the possibility of success and the benefits offered by the settlement is one of the most important factors to consider; see In re LATAM Airlines Group SA, 2022 WL 272167.

It is important to note that the Court need not hold a mini-trial on the merits of the potential claims; In re Enron Corp., 2003 WL 203838. In fact, Courts have held that when claims at issue in a settlement raise complex questions of fact and law that are not easily decided, Courts find that the first

Iridium factor weighs toward approving the settlement.

Nevertheless, a Court should form an educated estimate of the complexity, expense, and likely duration of such litigation, the possible difficulties of collecting on any judgment which might be obtained, and all other factors relevant to a full and fair assessment; In re Comair Ltd., 2025 WL 3037797.

As the Debtor is a Delaware limited liability company, that state law governs the analysis of the alter ego claims. Delaware law contemplates a veil-piercing scenario in exceptional cases. The standard is high. Delaware public policy disfavors regarding the separate legal existence of business entities; and that is Paul Elton LLC v. Rommel Delaware LLC, 2020 WL 2023708.

Persuading a Delaware Court to disregard the corporate entity is a difficult task. Delaware Courts consider a number of factors in determining to pierce the corporate veil. One, whether the company was adequately capitalized for the undertaking. Two, whether the company was solvent. Three, whether corporate formalities were observed. Four, whether the dominant shareholder siphoned company funds. And five, whether in general, the company simply functioned as a facade for the dominant shareholder.

The Pickering Affidavit and Mr. Pickering's testimony detailed the underlying assumptions and analysis that he used

to assess the potential success of litigation on the alter ego claims under Delaware law and to evaluate all intercompany claims.

The Katten presentation from January 27, 2026 indicated Katten reviewed 1,782 pages of the Debtor's documents relating to the intercompany matters from 2013 to present, and reviewed 4,743 pages plus 340 Excel spreadsheets from Holdings and its subsidiaries in response to various due diligence requests; and that is the Special Committee Exhibit 3 at page 7 and 8.

After that extensive review, Mr. Pickering identified six related party transactions that he investigated and repeatedly testified that he did not believe they were viable and valuable causes of action with respect to four of those transactions including the alter ego claims.

He discussed Delaware's high standard that total dominance and control over the Debtor must be demonstrated to be successful on any such claims. Mr. Pickering testified about the separateness of the Debtor from the non-Debtor affiliates including operations, location, and corporate governance.

He noted the corporate structure and cash management systems were common with these types of companies. He, therefore, concluded the alter ego claims were not worth pursuing. After determining the intercompany note and

outstanding accounts receivables remain the only viable claims, Mr. Pickering provided an in-depth assessment of the possibility of success along with the risks of litigation and the time and expenses involved.

He discussed his rationale for settling those claims. He testified that the intercompany note was not in default and did not mature until 2037, so the Debtor lacked legal grounds to bring a cause of action to recover on that debt. He detailed his assumptions and methodology for discounting the accounts receivable because of the risk of litigation and accumulating attorney's fees.

He also reviewed the financial statements of the potential Defendants to properly consider the collectability of any judgment and he believed the benefit of having a bird in the hand with immediate funds was a benefit to the estate. After conducting that analysis, he concluded the benefits of the settlement outweighed any possibility of success in litigation.

The UCC repeatedly questioned why Mr. Pickering did not even attempt to make a specific settlement demand on the alter ego claims. He testified that they were not viable and valuable, so he did not make any such demand. He was also asked why he would not consider collectability of claims -- or he did not -- why he would consider collectability of claims before a lawsuit was even commenced, as that was allegedly not

common practice.

He believed that the ultimate recovery in litigation was a valid consideration when assessing whether to settle or pursue any claims. In light of Mr. Pickering's thorough analysis and credible testimony, this factor weighs in favor of approval of the settlement.

As to the second factor regarding the likelihood of protracted litigation, the Debtor contends that avoiding costly litigation that would unnecessarily waste resources is in the best interest of the estate. Further, the benefits and certainty derived from the global settlement outweigh the potential limited recovery in the event litigation is successful.

The U.S. Trustee repeats the argument that the Debtor is relying on speculative and generalized assertions. The UCC also argues the record is too devoid for the Court to make a ruling as to this factor.

Courts have found that if a settlement addresses not only current litigation, but also anticipated litigation as well, that this factor would weigh in support of said settlement as it mitigates legal uncertainty and legal expenses that would likely contribute to greater creditor recovery.

Here, Holdings and its affiliates filed the joinder in support of the settlement. Not surprisingly, they raised several of the defenses that Mr. Pickering considered and

stated they would vigorously defend any actions commenced by the Debtor if the settlement was not approved; see Holdings' reply, paragraph 23.

While the litigation may not be complex here, there are sufficient unsettled issues that it would be protracted and the likelihood of significant recovery is limited. Therefore, this factor also weighs in favor of settlement approval.

As to the third interest of creditors factor, the Debtor asserts it has liquidity constraints that could be amplified if the settlement is not approved. This, in turn, could reduce any recovery by creditors.

The U.S. Trustee argues that the global settlement extinguishes claims against affiliates and restructures intercompany obligations without a clear showing that creditors are receiving commensurate values and that the primary stakeholders in this case, the tort claimants, through the Creditors Committee, oppose the settlement agreement and seek dismissal of the case.

Similarly, the UCC strenuously objects to the motion, the de minimis compensation to claimants if approved, and the foreclosure of potential rights that claimants possess. In light of the talc creditors vehement objections to the proposed settlement, through both the UCC as well as the statements made at the hearing by talc claimants' counsel, this factor strongly weighs in favor of denying the motion.

When considering the support of parties in interest, the Debtor relies on the RTB affiliate's contributions that are in support of the settlement. While the talc claimants are the largest and arguably the most important parties in interest, the Court cannot overlook the Debtor's employees in their communities.

Even if a sale is not approved, the settlement allows the Debtor to acquire assets that are critical to its viability as a going concern, continuing 125 jobs. The Court also notes the support of the Debtor's various affiliates in the DIP lender, but it discounts that support, as the Court would expect that position from the beneficiaries of the settlement. Nevertheless, this factor overall weighs in favor of the settlement.

As to the fifth factor addressing the competency and experience of counsel, the Debtor argues each of the settlement parties had independent counsel negotiating in good faith and cited to the extensive negotiations that took place. The U.S. Trustee questions the disinterestedness of the independent counsel and whether the settlement agreement was indeed negotiated in good faith.

The UCC makes the same argument, but also argues that the Debtor's Board limited the scope of the investigation that Mr. Pickering and Katten undertook to intercompany matters; and that's the Committee's objections at paragraph 256 through 258.

At this juncture, Jones Day is no longer involved, and the testimony showed Mr. Pickering had no prior relationship with the Debtor, its affiliates, or their counsel. Any history with Mr. Vomero was solely related to prior professional engagements without a personal relationship.

Moreover, although the UCC alleged otherwise, Mr. Pickering stated his investigation was not limited in any manner, and Katten was the sole provider of legal advice to him. As a result, the competency and experience of counsel supporting the settlement weigh in favor of granting the motion.

As to the sixth factor, the nature and breadth of the releases, the Debtor asserts the releases are being given in exchange for substantial value and provide finality to all disputes between and among the settlement parties. The U.S. Trustee argues that the nature and breadth of the releases being offered by the Debtor are in violation of the Bankruptcy Code and applicable law. The UCC notes that the officers and directors have contributed nothing in return for the releases that they are receiving. This factor weighs in favor of denying approval of the settlement.

While the Court concluded the releases did not violate Purdue because the alter ego claims are generalized claims that belong to the estate, the Debtor's proposed broad release of the claims forecloses any future investigation and

potential recovery from Holdings and the affiliates on the insider transactions and any other matters that may not be known at this juncture.

The UCC has correctly pointed out it had only six weeks to investigate insider claims that Mr. Pickering reviewed for five months, effectively tying one arm behind the UCC's back in this fight. In addition, while the disclosure of information to the UCC was ongoing and generally uncontested, the UCC did not receive the three unredacted board presentations that Katten prepared for Mr. Pickering until the UCC brought a motion to compel and received it only days before the hearing.

Without significant time for a thorough investigation by the UCC, there is a very persuasive argument that the broad releases should not be approved. This factor is troubling. Releasing known and potential unknown causes of action against Holding in the affiliates under such tight timeframes is concerning. Nevertheless, the UCC had two large teams of very experienced and capable counsel who spent a tremendous amount of time and resources to review the transactions at issue.

Although the UCC and the U.S. Trustee made strenuous arguments that the settlement and releases were the result of a sham investigation, no investigation or testimony presented by the UCC or the U.S. Trustee supported that position.

Moreover, the Court notes that the officers and

directors are not being released, nor are any direct claims. The affiliates and their parent companies that are being released are contributing assets with significant value to the Debtor and agreeing to provide ongoing operational support to allow the Debtor to continue in business or be sold as a standalone operation. The record is clear that the Debtor's affiliates would not agree to a settlement without the broad releases being provided.

As to the final Iridium factor, the extent of arm's-length bargaining, the Debtor relies on the independent counsel's involvement of each settling party as support to demonstrate the settlement agreement was negotiated at arm's length and in good faith.

The U.S. Trustee argues that the record calls into question whether the settlement reflects a truly independent negotiation. The UCC agrees. At the hearing, the UCC also noted several areas that they allege imply a lack of independence by Mr. Pickering.

For one, they point to an email where it was alleged that by Mr. Johnson that Holdings pulls all the strings and that Debtor’s Board essentially provided a rubber stamp, but that Mr. Pickering did not properly follow up on those statements.

The UCC also elicited from Mr. Pickering the acknowledgment that, although he met with Mr. Vomero at least

four times during his investigation, he did not take notes regarding these meetings. These problems, the UCC argue, are further evidence of Mr. Pickering's investigation being a sham.

In spite of the U.S. Trustee and UCC's inferences, the record demonstrates the settlement was the result of arm's-length bargaining by Mr. Pickering and his counsel on one side and with Holdings, the affiliates, and their counsel on the other. Mr. Pickering testified he had no prior relationship with any of the parties, and here his counsel made settlement demands and attended a full-day settlement conference at the Katten offices in February. The timeline of events showed seven term sheets and multiple offers exchanged before an ultimate deal was reached, reflecting robust negotiations did take place.

This evidence persuades the Court to find the bargaining was done in good faith at arm's length. This factor weighs in support of the approval of the motion as the proposed settlement was the result of a vigorously negotiated process. Courts have also found this factor to weigh in favor when multiple parties gave concessions and agreement ultimately was reached by the parties with distinct fiduciary obligations, such as the case with Mr. Pickering here.

The UCC notes further that another factor Courts consider is whether the proposed settlement falls above the lowest point in the range of reasonableness. The UCC points

out to the fact that the claims being resolved may exceed the amount being paid into the global settlement and that there is a failure by the Debtor to include sufficient information for the Court to value such claims and assess whether the non-Debtor affiliates can, too, be held liable for such claims.

The UST similarly argued at the hearing that the Court has no ability to assess the value of the claims being released based on the record before it. The Court disagrees. The Court found Mr. Pickering to be a qualified, experienced, credible witness without any ties or loyalties to the Debtor's Board and management, nor to its affiliates and their professionals.

He stated unequivocally that he was a fiduciary for the Debtor and built in a fiduciary out in the settlement agreement if additional information came to light that would cause him to reconsider the settlement. His investigation, detailed in the board presentations and consultations with Katten, a firm unaffiliated with any of the other parties in this case, were thorough and appropriate.

He assessed the claims, used commercially reasonable assumptions, analyzed the potential for recovery under multiple legal theories, and quantified the viable and valuable claims. In person and through counsel, he negotiated a settlement that he believed was in the best interest of the estate.

Finally, the U.S. Trustee argues that the global

settlement is a sub rosa plan that is an attempt to circumvent the Bankruptcy Code. The U.S. Trustee cites to In Re Genesis Global Holding Company, LLC, and its factors in arguing that the global settlement dictates the Debtor's reorganization, bypasses voting rights of the creditors, the proposed sale process disposes large assets belonging to the Debtor, and the approval of the global settlement would effectively force the creditors to waive claims against the Debtor and its affiliates.

At the hearing, the Debtor argued the settlement is not such a sub rosa plan, as even if the motion and subsequent sale motion are granted, there are still large numbers of insurance policies that would remain in the estate, as would the capital that would result from the sale of the settlement assets.

The Court agrees with this position. The settlement does not dictate the Debtor's reorganization or liquidation, and it appears there are other material assets, such as insurance policies, that may further enhance the estate. The settlement brings assets into the estate that allow the Debtor to operate as a standalone business or be sold as a going concern. The creditors will still have the right to vote when a plan is proposed. Thus, the Court finds the settlement is not a sub rosa plan.

There were other considerations that the Court took

into account. The Court understands and is very sympathetic to the 1,400 talc claimants in this case and their families, many of which who have been suffering and sought their day in Court for justice for years.

The loss of the ability to sue the Debtor as a result of this Bankruptcy and to pursue alter-ego claims against the affiliates is an extremely difficult situation. This reality is not lost on the Court, and the creditors' opposition weighed very heavily against approving the settlement.

However, the Bankruptcy Code, Rules, and Second Circuit dictate the process and analysis for the settlement of claims, and the Court must adhere to them. While the claimants did not ask to be here, the Bankruptcy forum is designed to orderly liquidate and monetize the Debtor's assets, prevent a race to the courthouse, and provide a fair and equitable process for distribution on those claims.

As noted by the Debtor, there are a significant number of insurance policies which may be additional sources of recovery. While there is no amount of money that can ever compensate the talc claimants for their injuries and loss of life, much less make the claimants whole, the Court believes a process will be in place to provide the best chance of recovery for all claimants, not only those currently at the courthouse steps.

As a result of the foregoing in applying heightened

scrutiny to and balancing the Iridium factors that weigh in favor of and against approval of the settlement, the Court finds the factors overall weigh in favor of approval of the motion.

Even when viewing the settlement with discriminating skepticism, the Court concludes the settlement is fair and equitable, and therefore grants the motion. With that said, the Court is going to require that the order is very specific with respect to what direct claims are not being released pursuant to Mr. Pickering's supplemental affidavit specifying the direct claims and the claims against the officers and directors that are not being released. And I believe there were several references to the language in their affidavits of support of that.

So, what the Court would like to see with the order approving the settlement is some global statement of notwithstanding anything in this order or the underlying settlement agreement, these claims are not being released. So, no one needs to dig or look at that in the future and try to figure out what these broad releases really mean. That order needs to be crystal clear.

I will look to Katten for that order after reviewing it with all of the various parties that need to sign off on that.

MR. BARNOWSKI: Thank you, Your Honor.

THE COURT: Mr. Barnowski, did you have any questions for the Court?

MR. BARNOWSKI: No, not at this time. Thank you, Your Honor.

THE COURT: Thank you. The Court does intend to issue a written decision here at some point on these motions, but hasn't had a chance to really regroup and breathe to get those in final form. So, the Court hopes to do that in the next week.

MR. SULLIVAN: Your Honor, if I may, Charles Sullivan, for the Debtor. Thank you, Your Honor.

In terms of the Court's segue that you just gave me about an opportunity to regroup and breathe, Your Honor, I would like to give you a quick -- well, I'd like to introduce the fact that we have been in discussions with the Creditors Committee, with the U.S. Trustee, with the DIP lender and other parties, and we would like to propose an adjournment of the hearing that was to begin tomorrow concerning the motion for dismissal, as well as the final hearing on the DIP agreement.

And I believe Ms. Posin is going to address the Court on the particulars of that arrangement, Your Honor.

THE COURT: Thank you.

MS. POSIN: Good afternoon, Your Honor. Kim Posin of Latham and Watkins, proposed counsel for the Debtor.

Your Honor, very pleased to be before the Court here

today, and I appreciate the Court's very thoughtful reasoning of the opinion that you just read, and we look forward to getting an order entered.

Your Honor, as Mr. Sullivan just noted, in order to provide the parties with some additional time to try to reach a consensual resolution with respect to the motions that are currently before the Court and are set to be heard tomorrow, as well as the general path of this case generally, the Debtor, the DIP lender, the U.S. Trustee, and the Committee have agreed to an adjournment, as you just heard Mr. Sullivan note.

With respect to that adjournment, the parties have agreed that the motion to dismiss hearing would be adjourned from April 23rd to May 4th, or, if the Court is not available on May 4th, to May 5th, although I understand from your Clerk that you may not be available on May 5th, and May 4th may be the best date for the adjournment. And the final DIP hearing would be adjourned to the same date.

THE COURT: Thank you. Yes, the Court has a full calendar in Utica on the 5th, and that's all matters, so there's just no time in that day to properly address.

The Court can be available May 4th at 10 o'clock, if that -- does that time still works for everybody coming in without, hopefully, having to spend the night? I'm trying to minimize estate expenses and all of those things. That certainly works for the Court, and recognizing also we have the

sale hearing on May 7th, that obviously this would need some attention before, if an agreement is not able to be reached, the Court needs sufficient time to digest those arguments and whatever testimony is presented. So, I would suggest May 4th at 10 o'clock, if that works.

MS. POSIN: Your Honor, that works for the Debtor. I will note for the Court that the auction is also scheduled for May 4th. I don't think that's actually a conflict. I think that we have enough people on these matters to make it all work.

There was a couple of other points to the adjournment that I wanted to read into the record, if I may?

THE COURT: Certainly.

MS. POSIN: In addition, the DIP lender and the Debtor have agreed to file a fourth proposed interim DIP order, given that the hearing won't be going forward tomorrow, that would include the following changes.

First, the adjournment of the final hearing on the DIP motion. The second would be the inclusion of a default provision that would be added, whereby funding of additional amounts under the DIP will be contingent upon the following occurring by 5 p.m. Eastern on May 8th, 2026.

First, that the Court ruling on the Committee's motion to dismiss and the DIP lender receiving confirmation from the Debtor that no party of interest will appeal that

decision.

In addition, we intend to add a recital to the fourth interim DIP order to reflect the commitment by the DIP lender, the Debtor, the Committee, and the parent to immediately engage in negotiations on a consensual resolution of this case, and additional conforming changes to the fourth interim order will also be made.

We do anticipate filing a proposed interim order in the short term, hopefully tomorrow, once we are able to share it with all of the parties. In addition, the DIP credit agreement will have to be amended or will be amended to comply with these changes, including moving the final DIP order milestone out as appropriate.

And then, finally, the Committee asked us to make clear for the record that the Committee does not consent to and reserves all rights regarding any of the proposed default provisions or milestones for inclusion in a new interim DIP order, and fully reserves and does not waive its rights regarding the final DIP order in the adjourned hearing pertaining thereto, including without limitation the objections previously raised and-or made by the Committee to the DIP in the pleading submitted to in argument before the Court. And that is the end of the agreement, Your Honor.

THE COURT: Let me hear from Mr. Agay first, and then we'll turn to the Committee.

MR. AGAY: Thank you, Your Honor. David Agay on behalf of the Commodore entities. I agree with everything that Ms. Posin just said. I know we've had colloquy in the past regarding some of the milestones, and I just wanted to quickly elaborate on the May 8th milestone.

THE COURT: Yes; please do.

MR. AGAY: We're not trying to jam you, Your Honor.

THE COURT: Oh, yes, you are, Mr. Agay. With all due respect, yes, you are.

MR. AGAY: Well, here's the rationale, Your Honor. The Debtor's cash projections go through May 8th. That's the next date of a funding need. And my client is reluctant to fund if there's an overhang of a potential dismissal of the case.

So, that's why we picked that date, Your Honor. And, you know, if we get to May 4th and we have a trial and there's some delay, it gives us an opportunity to reassess at that point. But we at least wanted to have that marker in the stand, Your Honor.

THE COURT: Understood. Thank you.

Why don't we hear from counsel for the Committee?

MR. JONAS: Your Honor, it's Jeff Jones. I think my partner, Mr. Molton, may have some comments. If I may turn it over to him, Your Honor.

THE COURT: Certainly.

Mr. Molton?

MR. MOLTON: Your Honor, David Molton. Thank you, Your Honor, very much for having us here today. It's good to hear Ms. Posin's voice, and I see her in the courtroom.

In any event, Judge, I just want to confirm that the Committee is in agreement with the statement read by Ms. Posin into the record regarding the Committee's reservations and non-waiver of its rights with respect to the interim DIP, the new provisions in the interim DIP, and adhering to and basically preserving our objections that have been made before in front of Your Honor as well as in our pleadings.

And I believe the 4th is a good date for Mr. Jonas.

Am I right, Mr. Jonas?

MR. JONAS: Yes, I'll be ready.

THE COURT: I have no doubt, Mr. Jonas.

One thing that I would ask of the Committee and of the U.S. Trustee to simplify the pleadings and the history on the DIP objections going forward. Obviously, the Court shared some of the concerns, but if we can just do a very brief supplemental statement of what's outstanding, not only from the prior interim DIPs that I know you had submitted a proposed final order, that the Court also was -- shared some of the concerns that were addressed by that order.

And if there's additional concerns with respect to the most recent terms, just so the Court has updated what we're

still fighting over so the Court can focus on that in advance of the final order. If we could have that by, say, 4 p.m. on May 1st, that would be very helpful to give the Court a little bit of advance notice as to what provisions we're talking about and what the Court really needs to focus on because we've had a lot of different moving parts on the DIP motion.

MR. MOLTON: Sure, Judge. I appreciate that, and we'll get that done.

THE COURT: Thank you.

And that would also go for -- Ms. Champion, that would also go for the U.S. Trustee if you wanted to raise anything separate and distinct or join in the Committee's objections; that would be very helpful for the Court to narrow the issues.

MS. CHAMPION: Yes, thank you, Your Honor. We will consider doing that. Thank you.

THE COURT: Thank you.

MR. AGAY: I'm sorry, Your Honor. David Agay on behalf of the Commodore entities. Can I just clarify what Your Honor is asking for?

THE COURT: Yes.

MR. AGAY: Are you asking for more briefing?

THE COURT: No.

MR. AGAY: Okay.

THE COURT: No, I'm not asking for any more briefing.

I just want the, we still object to the Chapter 5 causes of action being included; we still object to the marshaling of asset, like what are the remaining issues?

MR. AGAY: Oh, I'm sorry. You're talking about the final DIP order?

THE COURT: Correct.

MR. AGAY: Yes.

THE COURT: The final DIP order.

MR. AGAY: And, of course, we had filed a brief in favor of those provisions.

THE COURT: Yes. Yes, I'm familiar with that.

MR. AGAY: So, you don't need anything more from us on that?

THE COURT: No, I don't need anything more from you or the Debtor. It's simply kind of identifying what narrow issues are still out there, several of them. The Court's already kind of ruled in favor of the DIP lender, and then also anything raised by these new terms that were just put on so the Court can understand whatever the reservation of rights are, where are the real sticking points for the Committee.

MR. AGAY: Understood, Your Honor.

THE COURT: Does that make sense?

MR. AGAY: Yes.

THE COURT: Okay.

The other question that I have on the DIP, Mr.

Sullivan, you complied with the Court's request in terms of where we stand for budgets and things, and you filed that timely, and I appreciate that.

MR. SULLIVAN: Yes, Your Honor.

THE COURT: I'm sure that was a scramble to get that together. But the Court was really looking for, from the commencement of the case to date as well, to understand what's been set aside for professional fees. I know there's an ongoing payment on some professional fees as well to the CRO, I assume, is getting paid. And I know Greenhill had some payments. So, I guess I need to know the status of the cash in light of the fact that really the DIP loan was primarily funding the restructuring professionals here.

So, how much money has been escrowed, how much has been spent, a breakdown of those fees would be very helpful.

MR. SULLIVAN: Yes, Your Honor. We can pull that together.

THE COURT: I'm sorry, Mr. Vomero is --

MR. VOMERO: I know what they are, Your Honor.

THE COURT: Well, let's file something on the Docket so we can make sure that all the parties have the same access to that information. That would be very helpful as well.

MR. SULLIVAN: Your Honor, we will attend to that.

THE COURT: Thank you.

So, is there anything else with respect to the

motion? So, we're going to adjourn the motion to dismiss in the final DIP hearing to Monday, May 4th at 10 o'clock in Syracuse.

We will have any, just, and again, when I say simple statement of outstanding DIP issues, it can be very simple. And then, I guess the question is, is there anything else that the Court needs to be aware of, or that's coming down the pike anymore; order-shortening time or anything else that you envision?

MR. AGAY: Your Honor, I don't want to say that there might not be something. There is one motion involving abandonment of some property, which we may have to bring on short notice. It will impact the timing of the sale.

We're still in the process of formulating that, and we'll get it to the Court as quickly as we can. That's the only thing that I'm aware of at present.

THE COURT: Okay. The Court is traveling for Court business from Tuesday through next Friday in Court-mandated matters. So, my team is still here. I can still be online to do whatever we need to do to keep this case moving. But I just wanted the parties to be aware of that.

MR. SULLIVAN: I'm so sorry, Your Honor. The Court is unavailable between what dates?

THE COURT: Tuesday through next Friday. Yes, April 28th through May 1st.

MR. SULLIVAN: Yes, Your Honor.

THE COURT: The Court will be engaged in other Court business that isn't case-related, shall we say.

MR. SULLIVAN: Yes, Your Honor. Understood.

THE COURT: And again, which if there's a delay in getting things --

MR. SULLIVAN: I don't think that'll be a problem, Your Honor.

THE COURT: Thank you.

And we expect applications to appoint Latham, I assume, at some point once that's up and running?

MR. SULLIVAN: They are in process, Your Honor, and they will be submitted as quickly as they're available.

THE COURT: Thank you.

Anything else from the Debtor’s perspective?

MR. SULLIVAN: Not from the Debtor, Your Honor. Thank you.

THE COURT: Okay.

Anything else from the Committee?

MR. JONAS: No, Your Honor.

THE COURT: Anything from any other counsel by video?

Okay. As I said, the court will endeavor to get some written decisions out on the Jones Day retention as well as this. I can't make any promises on time, but hopefully we can get those moving forward.

And the Court will look to Mr. Pickering's counsel for the order approving the settlement. Thank you.

MR. BARNOWSKI: Thank you, Judge.

MR. AGAY: Thank you, Judge.

THE CLERK: All rise. Court is adjourned.

(Proceedings conclude at 3:47 p.m.)

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C E R T I F I C A T I O N

I, TRACY E. VERGOLLO, court-approved transcriber, hereby certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.

/s/ Tracy E. Vergollo DATE: April 24, 2026

TRACY E. VERGOLLO, AAERT CET-836

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