Docket #0895 Date Filed: 08/24/2026

THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Vanderbilt Minerals, LLC,[1]	Case No. 26-60110 (WAK)
Debtor.	

MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO TERMINATE THE DEBTOR'S EXCLUSIVE PERIODS PURSUANT TO 11 U.S.C. § 1121(d)(1)

The Official Committee of Unsecured Creditors (the "Committee") in the above-captioned chapter 11 case of Vanderbilt Minerals, LLC (the "Debtor" or "Minerals"), by and through its undersigned counsel, respectfully submits this motion (the "Motion") seeking entry of an order substantially in the form attached hereto as **Exhibit A**, terminating the Debtor's exclusivity periods pursuant to section 1121(d) of chapter 11 of title 11 of the United States Code (the "Bankruptcy Code" or the "Code"). In support of the Motion, the Committee respectfully states as follows.

PRELIMINARY STATEMENT

1. The Debtor is using exclusivity to pressure creditors to accept a plan that includes releases for its directors and officers (the "D&Os"), which this Court explicitly excluded from its Settlement Order.[2] The D&Os had longstanding knowledge regarding the presence of asbestos in products sold by the R.T. Vanderbilt Company and took affirmative actions to conceal health risks from its workers, its customers, and members of the community. The Debtor has failed to offer a

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this chapter 11 case is 33 Winfield Street, Norwalk, Connecticut 06855.

[2] "Settlement Order" refers to the *Court's Order (I) Authorizing and Approving the Global Settlement between the Debtor and R.T. Vanderbilt Holing Co., Inc. and Certain of Its Subsidiaries; and (II) Granting Related Relief* (Dkt. No. 493).

compelling reason why the Court should risk administrative insolvency by pursuing a plan not supported by the claimants that provides the D&Os with releases. The parties being harmed by the Debtor's conduct are, once again, the talc claimants.

2. A straightforward alternative exists. The Court can terminate exclusivity and permit the Committee to file a liquidating plan that places the remaining cash, insurance rights, and estate claims into a trust but does not provide the D&O releases. This would preserve appellate rights and reduce litigation costs.

3. The Debtor seeks a different outcome. The D&Os are using their positions to promote a plan that further insulates them from litigation. The Debtor's plan filed on August 6, 2026 (*see* Dkt. No. 857, the "Plan"), includes broad releases and exculpation provisions for the D&Os. *See* Plan at Art. 1.1.; 10.6.[3] These releases were expressly rejected by and excluded from the Settlement Order.[4] The Debtor now seeks to provide these excluded releases without providing additional consideration. The Debtor is unwilling to propose a plan without these provisions.

4. If exclusivity continues, claimants must choose between a plan granting broad D&O releases with less than $5.3 million available for distribution, or risk further depletion of the estate's cash on professional fees in litigating objections to the Plan. The Committee should be allowed to file a creditor plan that has overwhelming claimant support and mirrors the Debtor's Plan, but without the releases and exculpation provisions. Section 1129 of the Bankruptcy Code

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[3] "Released Parties" include, *inter alia,* "all of [the Debtor's] respective current and former officers, managers, directors, principals, [and] shareholders." Plan at Art. 1.1. The Plan further purports to "conclusively, absolutely, unconditionally, irrevocably, and forever release[]" the D&Os "from any and all Claims, counterclaims, disputes, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, Liens, remedies, losses, contributions, indemnities, costs, liabilities, attorneys' fees and expenses whatsoever, including any derivative claims . . . ." Plan at Art. 10.6.

[4] The Settlement Order states that "the Debtor Released Claims . . . shall not include . . . any claims against the Debtor's directors and/or officers, in their capacity as such, notwithstanding that such directors and/or officers may be Vanderbilt Entities Released Parties in any other capacity[.]" Settlement Order at ¶ 3.

does not require D&O releases or exculpation. The Debtor's remaining cash and insurance rights can be assigned to a liquidation trust without releasing the D&Os. The appeal (the "Appeal") of the Court's Settlement Order can proceed, allowing the District Court and the Second Circuit to address the statutory and constitutional issues raised by the Committee and claimants.

5. Allowing the Debtor to maintain exclusivity enables the Debtor to risk administrative insolvency unless the D&Os' demands are met. The Debtor has already benefited from exclusivity and proposed a Plan that creditors are likely to oppose due to the broad D&O releases. Prolonged litigation over a Plan that talc claimants are likely to reject, followed by a subsequent creditor plan, would unnecessarily delay resolution and further deplete limited estate resources through professional fees.

6. The D&Os prefer a plan that releases them and are willing to risk administrative insolvency to achieve this outcome. The Committee and the Court are not required to accept this preference. The Court should pursue the most cost-effective path to confirmation by terminating exclusivity, allowing the Committee to file a straightforward creditor plan and resolve this chapter 11 case promptly.

BACKGROUND

7. The Committee provides the following background not to re-litigate its objection to the Settlement, but to demonstrate how circumstances have changed post-sale and why permitting the Committee to file a creditor plan without D&O releases is the most logical and efficient resolution of this chapter 11 case, given the Court's prior ruling approving the Settlement and its stated concerns for the talc claimants.

I. The Settlement Opinion and Subsequent Developments

8. On April 27, 2026, the Court issued its Opinion[5] and approved the Settlement. The Court stated that "the record is clear that any ***direct claims*** by talc claimants against the parties to the Global Settlement are not being released." Op. at 11 (emphasis added).

9. But the Court found that the tort victims' state law claims based on the alter ego and veil piercing doctrines are Minerals' property in bankruptcy, which Minerals could release without the affected claimants' consent, based on its reading of Second Circuit precedent. *Id.* at 10-11. The Court also found that the "successor liability claims" were also estate claims that Minerals could release. *Id.* at 11. The Committee has appealed these rulings to the District Court,[6] and it recently filed its opening brief in that appeal.[7]

10. The Debtor's statements to the Court regarding the Settlement differ from the reality presented by its disclosure statement (*see* Dkt. No. 858, the "Disclosure Statement").

11. In its Opinion, the Court "found Mr. Pickering to be a qualified, experienced, credible witness," and that, based on his testimony, the Debtor would receive a "potential recovery at over ***$27 [million]***" if the Court approved the Settlement. Op. at 22 (emphasis added). The Court found that this supported its decision to approve the Settlement. *Id.*

12. But the Disclosure Statement indicates that the Settlement will make no more than ***$5.3 million*** in cash available to fund a liquidation trust responsible for liquidating over 1,400 asbestos claims. *See* Dkt. No. 858 at § 1.1. The proposed $5.3 million in cash funding is not the

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[5] "Opinion" or "Op." refers to the Court's *Memorandum Decision on Motion to Approve Global Settlement* (Dkt. No. 491).

[6] *See Notice of Appeal*, Dkt. No. 502.

[7] Br. of the Off. Comm. of Unsecured Creditors, *The Off. Comm. of Unsecured Creditors v. Vanderbilt Minerals, LLC (In re Vanderbilt Minerals, LLC)*, Case No. 26-cv-0986 (N.D.N.Y. Aug. 4, 2026), Dkt. No. 43.

amount that would be available to pay claimants, whose claims exceed $500 million in the aggregate, if the Debtor's Plan is confirmed. Their recovery would be net of trust administration costs including liquidating claims and pursuing recoveries under insurance policies.

13. In its Opinion, the Court found that the interests of the Debtor's employees and their communities were important, and that the Settlement would allow "the Debtor to acquire assets that are critical to its viability as a going concern, continuing to provide 125 jobs at various locations throughout the country" and benefit "customers, trade vendors, and the ultimate commercial and individual end users of the VEEGUM® products." Op. at 18-19.

14. But the sale of the Debtor's operating assets (the "Sale") closed on June 10, 2026. *See* Dkt. No. 732. These interests are no longer at issue in this case. The Debtor is now a shell with no employees and no business operations.

15. In its Opinion, the Court found, as a factor supporting approval of the Settlement, that "the record demonstrates that direct claims against officers and directors ***are not being released***." Op. at 11 (emphasis supplied). The Court directed that language be added to the Settlement Order making it clear that "the Debtor Released Claims . . . shall not include . . . ***any claims against the Debtor's directors and/or officers, in their capacity as such***, notwithstanding that such directors and/or officers may be Vanderbilt Entities Released Parties in any other capacity[.]" Settlement Order ¶ 3 (emphasis added).

16. Indeed, the Debtor's position was, as the Court found, that "[t]he Settlement does not release the Debtor's officers and directors from estate causes of action." Op. at 11. This statement was *technically* accurate. The Debtor did not seek releases for the D&Os *under the Settlement*. Instead, the Debtor is now seeking to release the D&Os from estate causes of action, including claims for breach of fiduciary duty, *under the Plan*. *See* Plan at Art. 10.6

17. In its Opinion, the Court stated that it is "sympathetic to the 1,400 talc claimants in this case and their families, many of whom have been suffering and seeking their day in court for justice for years." Op. at 24. The Court found that the claimants' loss of their state law right to "pursue the Alter Ego Claims against the affiliates is an extremely difficult situation." *Id.*

18. Indeed, R.T. Vanderbilt Holding Co., Inc.'s ("Holdings") and the Vanderbilt family members' (the "Vanderbilts") position is that the Settlement Order forecloses the tort claimants from exercising their right to a jury trial on account of claims based on New York's alter ego doctrine, which claims offered claimants a path to recover for their injuries from non-debtors.[8]

II. The Debtor's Plan and the D&O Releases

19. On August 6, 2026, the Debtor filed its proposed Plan. A creditor plan that excludes releases and preserves appellate rights would likely gain broad claimant support, significantly reduce professional fees, and maximize creditor value. However, a creditor plan would not grant the D&Os the releases they did not obtain under the Settlement Order.

20. The Debtor's Plan prioritizes the D&Os' objectives over the creditors' interests. Article 10.6 contains a page-long release for the benefit of the "Released Parties," including a release of claims "based on or relating to, or in any manner arising from, in whole or in part," the "conduct of the Debtor's business," the "Sale, the Asset Purchase Agreement, the Global Settlement," and the "restructuring of any Claim or Interest before or during the Chapter 11 Case." Plan at Art. 10.6.

21. The term "Released Parties" is defined to include the "Debtor's Related Parties," which, in turn, is defined to include the Debtor's "predecessors, successors and assigns, parents,

[8] *See Cohen v. Cohen*, 245 A.D.3d 508, 511 (1st Dep't 2026) (allegations that corporate funds were "diverted" to make the company "judgment proof" are sufficient to support an alter ego theory of liability). Most tort victims were exposed talc mined by the R.T. Vanderbilt Company ("RTVC"), a company owned and operated by the Vanderbilts, in New York.

subsidiaries, Affiliates, managed accounts or funds, and all of their respective current and former officers, managers, directors, principals, shareholders (and any fund managers, fiduciaries, or other agents of shareholders with any involvement related to the Debtor), members, partners, employees, agents, trustees, advisory board members, financial advisors, attorneys, accountants, actuaries, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such persons' respective heirs, executors, estates, servants, and nominees." Plan at Art. 1.1. Thus, the ***very*** claims against the D&Os that this Court found were not being released under the Settlement are being released under the Plan for no consideration.

22. The combined effect of the Plan and Settlement is as follows: [1] Mr. Pickering will have released the tort victims' state law claims against Holdings and the Vanderbilt family based on the alter ego and veil piercing doctrines; [2] the Plan will release the D&Os from all estate claims; and [3] the asbestos claimants will receive a *pro rata* share of $5.3 million in cash, less trust administration costs, which is to say, effectively nothing.

23. The Plan appears intended to shield the D&Os and their advisors from litigation related to the 2012 Transaction, the 2025 setoff transaction, and the Settlement if the Settlement Order is reversed on appeal, as well as to support the Debtor's efforts to moot the Appeal. The Debtor may argue that the appellate court cannot grant effective relief because the Plan releases breach of fiduciary duty claims that could be pursued if the Settlement Order is reversed. The Debtor appears to be attempting to create mootness by conducting transactions post-Appeal.

24. To render the Appeal moot, the Debtor must show that effective relief is unavailable.[9] This argument should fail.[10] Even if an appellate court declined to void the Settlement Order's releases on mootness grounds, which would be improper, effective relief would still be available. The estate or a trust could pursue breach of fiduciary duty claims against the D&Os for entering into the Settlement, as well as other pre-petition transactions.[11]

25. The D&Os can presently point to this Court's Settlement Order as a litigation shield,[12] which is a point that the Debtor acknowledges.[13] But that shield disappears if the

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[9] *See In re Charter Commc'ns, Inc*., 691 F.3d 476, 482 (2d Cir. 2012) (factors include whether "the court can still order some effective relief"); *In re Metromedia Fiber Network, Inc*., 416 F.3d 136, 143 (2d Cir. 2005) (where "a stay was sought," the Court "will provide relief if it is at all feasible," unless such relief would "knock the props out from under" a substantially consummated plan). The Committee expects the Debtor to argue that [1] the Sale approved by this Court (*see* Dkt. No. 576) cannot be set aside, [2] the Settlement and the Sale were intertwined, and [3] it would be inequitable to void the Settlement Order's releases if the assets Holdings contributed cannot be returned to it.

[10] The Appeal does not involve a substantially consummated plan or even a confirmed plan. The Committee sought a stay. Holdings has notice of the Appeal. *See In re LSC Commc'ns, Inc.*, 631 B.R. 818, 822 (S.D.N.Y. 2021) (appeal not equitably moot where affected parties had notice of the appeal and an opportunity to participate). The Settlement was approved on a standalone basis. *See In re Chateaugay Corp*., 167 B.R. 776 (S.D.N.Y. 1994) (finding appeal of order approving settlement not equitably moot). As a matter of law, a "hardship should be discounted when that hardship is self-inflicted." *IME Watchdog, Inc. v. Gelardi*, 732 F. Supp. 3d 224, 242 (E.D.N.Y. 2024). If the assets Holdings contributed cannot be returned, this alleged hardship is a direct result of Holdings' own conduct—*i.e.*, how it positioned assets pre-bankruptcy, structured the bankruptcy case, and voluntarily waived its right to a final, non-appealable order as a condition to closing.

[11] Many lawsuits alleging that an insider transaction did not satisfy the entire fairness standard and harmed the company seek damages against the directors and officers who authorized it. *See*, *e.g.*, *In re TransCare Corp*., 81 F.4th 37 (2d Cir. 2023) (directors and officers found liable for breach of fiduciary duties for undertaking insider transactions that did not satisfy the entire fairness standard).

[12] *See In re Yelverton*, No. 09-00414, 2014 WL 6980507, at *1 (Bankr. D.C. Dec. 9, 2014) ("The approval of a settlement amounts in substance to an order declaring that the trustee has acted reasonably, and barring creditors and the debtor from later suing the trustee for having entered into the settlement agreement.").

[13] *See* Dkt. No. 872 at ¶ 37 ("[I]f the Debtor prevails on its pending appeal and the Settlement is affirmed, or is separately approved by another court, any breach of fiduciary duty claim predicated on the allegedly improvident Settlement would be exceedingly difficult to establish because the Settlement terms would have been validated by multiple courts of competent jurisdiction.").

Settlement Order is reversed. This means that effective relief remains available, regardless of whether the tort victims' claims under alter ego doctrine are restored through the Appeal.[14]

26. The Plan's economic reality suggests that the 1,400 talc claimants and their families the best chance for obtaining a meaningful recovery is by regaining access to the civil justice system or, alternatively, by allowing the liquidation trust to pursue estate causes of action for which Mr. Pickering made no demand during his pre-petition negotiations.

27. Even if the Settlement Order is upheld on appeal, the claimants are far better off through a quick exit from bankruptcy through a creditor plan. Given this Court's recognition of the hardship imposed upon the tort victims by the Settlement Order, this Court should not compound their losses by allowing the D&Os to dictate the terms of the chapter 11 plan.

JURISDICTION

28. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a) and 1121(d) of the Bankruptcy Code.

RELIEF REQUESTED

29. By this Motion, the Committee seeks an order, pursuant to section 1121(d)(1) of the Bankruptcy Code, terminating the Debtor's exclusive periods to file a chapter 11 plan and solicit acceptances thereof under section 1121(a) so that the Committee can file, solicit, and prosecute its chapter 11 plan.

[14] The Debtor contends that "if the Settlement is reversed and unwound, the damages flowing from any alleged breach would presumably be limited to the harm caused by the unwinding, which may be minimal or nonexistent if claimants gain the ability to assert previously settled claims against Holdings." Dkt. No. 872 at ¶ 37. This contention is inaccurate and ignores the harm caused to the Debtor's estate resulting from Mr. Pickering's process and support for the Settlement.

ARGUMENT

30. The facts and circumstances of this case present compelling grounds to terminate exclusivity. Section 1121 recognizes that there comes a point in every chapter 11 case when the parties should be placed on equal footing. *See* 11 U.S.C. § 1121; *In re Pub. Serv. Co. of New Hampshire*, 99 B.R. 155, 176 (Bankr. D.N.H. 1989) (noting that a "level playing field is essential in the present circumstances of this case to foster a consensual plan.").

31. The Code does not define "cause" for modifying the exclusivity period, leaving the decision to the discretion of the Courts on a case-by-case basis. *See In re Adelphia Commc'ns Corp.*, 352 B.R. 578, 586 (Bankr. S.D.N.Y. 2006) ("A decision to extend or terminate exclusivity for cause is within the discretion of the bankruptcy court, and is fact-specific.").

32. In determining whether cause exists to terminate exclusivity or cause exists to extend exclusivity, the Courts have identified a variety of factors to consider, including: (a) the size and complexity of the debtor's case; (b) the necessity for sufficient time to permit the debtor to negotiate a plan of reorganization and prepare adequate information; (c) whether the debtor has demonstrated reasonable prospects for filing a viable plan; (d) the existence of good faith progress towards reorganization; (e) whether the debtor has made progress in negotiations with its creditors; (f) whether the debtor is seeking an extension of exclusivity to pressure creditors to submit to the debtor's reorganization demands; (g) whether the debtor is paying its bills as they come due; (h) the amount of time which has elapsed in the case; and (i) whether an unresolved contingency exists. *See In re GMG Cap. Partners III, L.P.*, 503 B.R. 596, 600-601 (Bankr. S.D.N.Y. 2014); *In re Borders Grp., Inc.*, 460 B.R. 818, 822 (Bankr. S.D.N.Y 2011); *Adelphia*, 352 B.R. at 586; *In re Curry Corp*., 148 B.R. 754, 756 (Bankr. S.D.N.Y. 1992); *In re McLean Indus., Inc.*, 87 B.R. 830, 834 (Bankr. S.D.N.Y. 1987).

33. "It is within the discretion of the bankruptcy court to decide which factors are relevant and give the appropriate weight to each." *In re Hoffinger Indus., Inc*., 292 B.R. 639, 644 (B.A.P. 8th Cir. 2003). And while the factors provide the framework, the ultimate inquiry is "a practical call," and "the primary consideration" for terminating exclusivity "should be whether or not doing so would facilitate moving the case forward." *In re Dow Corning Corp*., 208 B.R. 661, 670 (Bankr. E.D. Mich. 1997). Here, each factor weighs in favor of the termination of the Debtor's exclusive periods.

A. The Size and Complexity of the Debtor's Case

34. The size and complexity of this case support terminating exclusivity. Before the Sale, the Debtor leveraged Holdings' pre-bankruptcy asset positioning to create urgency around the Settlement and the need to preserve a going concern. After the Sale, the Debtor has no business to reorganize, no employees, and no operating assets. Courts recognize that such cases do not involve any going concern value to preserve in chapter 11.[15]

35. Although the Debtor is now a corporate shell, it contends that this case "presents complexities that justify" preventing the Committee from filing a straightforward liquidation plan transferring the Debtor's cash, insurance rights, and unsettled estate claims to a trust. *See* Dkt. No. 872 at ¶ 11. To support this position, the Debtor makes several assertions that are inaccurate.

36. **First**, the Debtor asserts that "[t]his is a complex chapter 11 case" because it involves "more than 1,400 asbestos personal-injury claims" with an aggregate value "of more than $500 million." *Id.* But the number and value of claims only affect the workload of the post-

[15] *See*, *e.g.*, *In re Integrated Telecom Express, Inc.*, 384 F.3d 108, 120 (3d Cir. 2004) ("Integrated is unquestionably 'out of business,' and therefore has no going concern value to preserve in Chapter 11 through reorganization or liquidation under the Bankruptcy Code."); *In re 15375 Memorial Corp. v. Bepco, L.P.*, 589 F.3d 605, 619 (3d Cir. 2009) (finding the debtor did not maintain a going concern where it had no employees, office, or business other than the handling of certain litigation).

confirmation trust, not the complexity of the chapter 11 case. While a higher number of claims can increase a trust's costs, in most asbestos cases the debtor is not responsible for evaluating trust claims after confirmation. This is why the number of claims that a post-confirmation trust must evaluate does not affect the complexity of the Debtor's chapter 11 case.

37. **Second**, the Debtor asserts that "[t]his is a complex chapter 11 case" because it "completed a $64 million asset sale." *Id.* But the Sale is complete, and complexity cannot be based on past events.[16] Post-Sale, the Debtor is a shell with no employees or ongoing operations.

38. **Third**, the Debtor asserts that "[t]his is a complex chapter 11 case" because there are "complex insurance-coverage considerations." *Id.* But the trust will pursue insurance coverage *after* confirmation and may need to liquidate asbestos claims before doing so. The main challenge is ensuring the trust has sufficient funding to pursue claims against insurers. Allowing the estate to be depleted by professional fees makes obtaining insurance coverage *more difficult*. Maintaining exclusivity may jeopardize the Debtor's insurance policies.

39. **Fourth**, the Debtor asserts that "[t]his is a complex chapter 11 case" because there are "multiple ongoing appeals." *Id.* But the Debtor should have minimal involvement in these appeals. A reversal would mean that Holdings, the Vanderbilts, Mr. Pickering, and their advisors could not point to the Settlement Order as a shield to litigation against them. But none of these parties are the Debtor. It is not clear why the Debtor's estate is spending its limited assets on the Appeal. Holdings and the Vanderbilts should incur such costs, making the Debtor's professional fees duplicative or unnecessary.

[16] *See Pub. Serv. Co. of New Hampshire*, 99 B.R. at 163 (noting that complexity "in the very early, initial stages of the chapter 11 proceeding" is not enough to warrant continued exclusivity, without more).

40. **Fifth**, the Debtor asserts that "[t]his is a complex chapter 11 case" because "[l]itigation has been prevalent in this Chapter 11 Case." *Id.* But, other than the pending appeal, litigation related to the Court's approval of the Settlement has concluded. Complexity cannot be based on past events. Again, post-Settlement, the Debtor is a corporate shell with no employees or ongoing business. Moreover, the Debtor's reliance on past-litigation ignores the Debtor's present demand for litigation over releases for the D&Os. The Committee seeks to propose a plan that *avoids* further litigation by excluding releases or exculpation provisions. In contrast, the Debtor insists on a plan offering releases to the D&Os, despite knowing the Committee and claimants do not support this approach.

41. **Sixth**, the Debtor asserts that "[t]his is a complex chapter 11 case" based on "the presence of numerous motions and stipulations considered by the [C]ourt, the retention of various professionals, the approval of debtor in possession financing, the negotiation of leases and contract modifications or rejections, and assets sales." *Id.* But, again, the Debtor is not addressing the issue. ***Today***, the Debtor's chapter 11 case is not complex.

42. **Seventh**, the Debtor asserts that "[t]his is a complex chapter 11 case" because "[t]he Debtor has accomplished much in only six months since the commencement of this Chapter 11 Case." *Id.* But, again, past accomplishments do not demonstrate current complexity. The case can now be concluded with a straightforward creditor plan.

B. The Debtor Does Not Need Additional Time to Negotiate a Plan

43. The Debtor does not require additional time to negotiate a plan or prepare further information. The Debtor's bankruptcy resulted from a multi-year restructuring process designed to shield Holdings and the Vanderbilts from their asbestos liability. The Debtor has filed a Plan and Disclosure Statement, but tort claimants do not support that Plan. The current impasse—

whether the D&Os should be released under the Plan—cannot be resolved by through the passage of time, and further delay will only deplete the estate and harm the estate's creditors.[17]

44. Notwithstanding this fact, the Debtor makes a series of assertions to support its contention that it requires additional time to negotiate a plan. *Id.* at ¶ 12.

45. **First**, the Debtor contends that it needs additional time to "finalize the terms of its proposed Plan" by addressing "insurance-coverage concerns," seeking "approval of its disclosure statement," soliciting "votes for its proposed Plan," and resolving "any confirmation issues." *Id.*

46. The Debtor continues to avoid addressing the central issue. The Committee can prepare a plan promptly by removing the releases and exculpation provision from the Debtor's Plan. Insurance coverage matters should be addressed by the liquidation trust. The Debtor is aware that no asbestos claimants support its Plan to provide free releases to the D&Os. Although the Debtor may wish to spend additional time litigating over these releases, it has not explained how this would benefit the estate or its creditors.

47. **Second**, the Debtor contends that it needs additional time to obtain "[t]his Court's approval of the Solicitation Procedures Motion" and "solicit votes in favor of the Plan, to the benefit of all constituencies." *Id.* at ¶ 13. But providing the D&Os with free releases does not benefit all constituencies. The Debtor is seeking to drive up administrative costs through litigation aimed at benefiting the D&Os. The Debtor has not offered the claimants any reason to support such releases or vote in favor of its Plan.

[17] *See R.G. Pharmacy*, 374 B.R. at 488 (noting that "[t]he breakdown of negotiations between the debtor and the objecting creditors . . . mak[es] the requested extension unlikely to significantly improve progress toward an effective reorganization"); *Pub. Serv. Co. of N.H.*, 99 B.R. at 172 (declining to extend exclusivity where "the filing of a plan" that was vehemently opposed by the state of New Hampshire, a key creditor, showed that negotiations were "at an impasse").

48. **Third**, the Debtor contends that it needs additional time to "ensure an orderly confirmation process" so that "it may seek confirmation of its proposed Plan without the concerns of competing plans driving up administrative costs in this Chapter 11 Case." *Id.* at ¶ 14.

49. But the Committee's plan represents the least costly option. The Committee's plan mirrors the Debtor's Plan, except it does not include free releases for the D&Os. Allowing the Debtor to pursue a contested plan would increase administrative costs and could render the case administratively insolvent. The Committee seeks to avoid this outcome by proposing a straightforward creditor plan.

C. The Debtor Has Not Shown a Reasonable Prospect for Filing a Viable Plan

50. The Debtor has not demonstrated a reasonable prospect of filing a viable plan. The current Plan lacks claimant support and prioritizes the D&Os' interests in obtaining a release over the claimants' right to recovery. There is no valid bankruptcy reason for the Court to favor the Debtor's Plan, which benefits the D&Os and seeks to moot appellate rights, over a creditor plan that does not include releases for the D&Os.

51. In *Mid-State Raceway*, the Court declined to extend exclusivity after a debtor had filed a plan and disclosure statement because, among other things, "it appears that the plan and disclosure statement, in their current form, may not be satisfactory to the creditor body" and there was "the prospect of alternative plans being filed." 323 B.R. at 69-70. In such circumstances, the court found it improper to extend exclusivity. *Id.* This is all the more true here where impending administrative insolvency sets an outer date for any solicitation and acceptance of a plan.

52. Notwithstanding this fact, the Debtor makes various assertions to support its contention that it has filed a viable plan that are inaccurate. *See* Dkt. No. 872 at ¶ 19.

53. **First**, the Debtor asserts that "[a] confirmable plan need not secure universal approval nor demonstrate it has exhausted every conceivable negotiation; objecting creditors,

including tort claimants, may be bound by a plan that satisfies the statutory requirements for confirmation, even if they would prefer a different outcome." *Id.* at ¶ 20. But, in this case, the Debtor faces near-universal opposition. This is not a matter of a minority dissenting; the largest creditor group opposes the Debtor's Plan.

54. **Second**, the Debtor contends that its Plan is not inconsistent with any "provisions of the Bankruptcy Code." *Id.* at ¶ 21. But the Plan lacks support from any impaired class of claimants, which precludes confirmation under section 1129(a)(10). The Debtor also has not explained how the Plan could be confirmed over the asbestos claimants' opposition under section 1129(b), or how it meets the entire fairness standard regarding releases that shield the D&Os from litigation. The Plan is therefore inconsistent with the Bankruptcy Code.

55. **Third**, the Debtor contends that "relevant inquiry is whether a debtor is making good-faith progress toward a plan that can be confirmed, not whether that plan maximizes recovery for a particular class of creditors." *Id.* But the Debtor has not demonstrated good-faith progress. Additionally, the proposed Plan may reduce claimant recoveries by mooting their appellate rights.

56. **Fourth**, the Debtor contends that it has shown a reasonable prospect of confirming a viable plan because it "will soon appear before the Court for approval to commence solicitation of a viable, confirmable plan that would provide substantial value to all creditor constituencies, including tort claimants." *Id.* at ¶ 23. But the tort claimants do not accept the Plan. Soliciting votes would waste estate resources. A straightforward creditor plan could resolve this case without litigation over improper releases.

D. Lack of Good Faith and Progress in Negotiations with Creditors

57. The Debtor has not made good faith progress in negotiations with creditors. The Debtor's conduct to date has hindered negotiations with creditors and the parties are at an impasse, which militates in favor of denying the Motion. *R.G. Pharmacy*, 374 B.R. at 488.

58. Although the Court approved the Settlement providing Holdings and the Vanderbilts with their desired releases, the fact remains that RTVC knowingly exposed individuals living in this community to asbestos for decades, which conduct let to litigation.[18]

59. The litigation history shows that RTVC attempted to conceal the dangers of their products from the public.[19] RTVC then engaged in pre-bankruptcy asset transfers to hinder and delay claimant recoveries. Subsequently, Holdings and its advisors spent over a year positioning certain assets needed to operate Minerals' business among Holdings and its affiliates to make the sale of Minerals' operating assets contingent upon this Court's approval of the Settlement.

60. The Settlement itself was negotiated by Mr. Pickering behind closed doors, without the tort victims' input,[20] and its approval was sought and obtained over the tort victims' strong objections. The Debtor and Mr. Pickering had every opportunity to include the tort victims and their counsel in negotiations before they elected to settle their state law claims and made a deliberate decision not to do so. Any difficulty the Debtor faces today in negotiations with creditors is attributable to the Debtor's own actions.

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[18] *See* Dkt. No. 3 at ¶ 53; *see also Weaver v. Vanderbilt Minerals LLC*, 2025 LexisNexis Jury Verdicts & Settlements 221, EFCV-22-164221 (Aug. 28, 2025); *Boney v. Gouverneur Talc Co*., 77 A.D.2d 702 (N.Y. App. Div. 1980).

[19] *See R.T. Vanderbilt Co. v. Franklin*, 290 S.W.3d 654, 660-663 (Ky. Ct. App. 2009) (sanctioning RTVC for withholding incriminating evidence).

[20] *See* Pickering Tr. 181:4-17, Apr. 16, 2026. Mr. Pickering testified that he understood "that outside of bankruptcy talc claimants could pursue alter ego, piercing corporate veil, [and] successor liability claims against the parent and affiliates," and that it would be "[Minerals'] position that in bankruptcy those claims" would "belong to the estate" and that Mr. Pickering could "settle those claims" for the talc claimants and without their consent. *Id.* at 173:24-174:8. Mr. Pickering, however, did not seek any recovery on account of such claims, even though Holdings admitted in open court that obtaining a release of such claims was critical to its bankruptcy strategy. Apr. 17, 2026, Hr'g Tr. at 78-79.

61. It is a fundamental precept that a bankruptcy case should be used to maximize value for creditors.[21] By seeking to include releases expressly excluded from the Settlement Order for no consideration, the Debtor is refusing to act in the best interest of its creditor body.

62. In choosing to fight to obtain releases for the D&Os, the Debtor is not permitting this case to move forward and wasting the limited estate resources on an issue that need not be resolved for a confirmable plan to move forward. Exclusivity has been lifted where a debtor's two directors were engaged in "bitter feuding not only at their own expense, but at the expense of all creditors of the debtor."[22] The Court should authorize the Committee, who is not dominated by the D&Os, to file a confirmable plan that is in the best interest of the estate's creditors.

63. Notwithstanding the availability of this option, the Debtor makes a series of assertions to support its contention that it has made good faith progress. *See* Dkt. No. 872 at ¶ 15.

64. **First**, the Debtor notes that fact that it obtained "first day relief" and this Court's approval of the "Settlement" and the "Sale," established a "bar date for filing proofs of claim," and has proposed a plan that "would distribute the Debtor's remaining assets through a liquidation trust for the benefit of all of its creditors." *Id.* But these actions do not demonstrate good faith progress in negotiations with creditors.

65. The Debtor did not negotiate with claimants regarding first-day relief, which was obtained before the Committee was formed. The Settlement was negotiated behind closed doors and excluded the claimants whose state law claims were settled for no consideration by

[21] *See Neilson v. Est. of Benedict*, No. 1:18-CV-1101, 2020 WL 1140493, at *5 (N.D.N.Y. Mar. 9, 2020) ("As the bankruptcy court correctly noted, this debtor-in-possession . . . status imposes on a debtor certain obligations, including an obligation to act in ways that maximize the value of the bankruptcy estate for creditors.").

[22] *In re Crescent Beach Inn, Inc.*, 22 B.R. 155, 160 (Bankr. D. Me. 1982).

Mr. Pickering. The Court approved the Settlement and the Sale despite objections from the Committee, tort claimants, and the United States Trustee.

66. The Committee supports confirming a plan that distributes the Debtor's remaining assets through a liquidation trust for all creditors. However, the Debtor will not permit this unless its D&Os receive a full release. The Debtor's actions to date show an unwillingness to consider the creditors' concerns. The Debtor insists that the Committee and claimants support its Plan or risk administrative insolvency. The Committee does not consider this good faith negotiation.

67. **Second**, the Debtor cites to *In re Grossinger* and *GMG Capital Partner* and acknowledges "that the failure of a debtor to engage meaningfully with its primary creditor constituency demonstrate[s] a lack of good faith effort toward reorganizations." *Id.* at ¶ 16. But the Debtor does not explain why its lack of engagement with the asbestos claimants does not also indicate a lack of good faith.

68. **Third**, the Debtor contends that it "has been proactively engaging with the Committee and with other key constituents on plan negotiations for at least three months prior to filing its proposed Plan." *Id.* at ¶ 17. But during these negotiations, the Debtor threatened to seek dismissal of the Appeal and demanded full releases for the D&Os. After the Committee rejected this demand, the Debtor proceeded to file its Plan. Providing term sheets for a plan that the Committee and claimants will not support does not constitute good faith negotiations.

69. **Fourth**, the Debtor asserts that negotiations with the Committee are ongoing and that the Debtor has arranged for an in-person meeting on September 1, 2026, in New York. *Id.* at ¶ 24. The Committee will continue to urge the Debtor to file a chapter 11 plan that aligns with the Committee's preferred exit. The Committee remains open to dialogue, consistent with its fiduciary obligations. However, this openness should not be used by the Debtor to justify efforts to leverage

the case for the D&Os' benefit. The hearing on this Motion is set for September 14th. If the Motion proceeds, it will be because the parties did not reach a resolution and the Debtor remains committed to a hostile stance toward the Committee and the asbestos claimants.

E. The Debtor Is Seeking an Extension to Pressure Creditors to Submit to the Debtor's Restructuring Demands

70. The Debtor is using exclusivity to pressure creditors to accept the D&Os' demands. Exclusivity exists to foster the "negotiation and compromise" necessary to reach a plan that can be "confirmed without opposition." *All Seasons*, 121 B.R. at 1005. A debtor's use of exclusivity to force creditors to accept its restructuring demands is cause for termination.[23]

71. Indeed, "[a]n extension [to the debtor's exclusivity period] should not be employed as a tactical device to put pressure on parties in interest to yield to a plan they consider unsatisfactory." *Mid-State Raceway*, 323 B.R. 63 at 69 (quoting *S.* Rep. No. 95–989, at 118 (1978), reprinted in 1978 U.S.C.C.A.N. 5787, 5904).

72. The Debtor asserts that "[t]he Debtor does not seek an extension to leverage or pressure creditors, and creditors will not be prejudiced by extending the Debtor's exclusivity." Dkt. No. 872 at ¶ 27. But the Debtor fails to offer any support for this false assertion.

73. The Debtor is using exclusivity to prevent the Committee from proposing a plan that does not include releases for the D&Os. The Debtor is aware that a prolonged proceeding, which reduces net Sale proceeds, will not benefit creditors. If exclusivity continues, claimants must choose between a Plan that grants releases to the D&Os and provides less than $5.3 million

[23] *See In re Naturals*, 669 B.R. 326, 339 (Bankr. C.D. Cal. 2025) (terminating exclusivity where the "Debtors were using exclusivity to pressure creditors to submit to Debtors' chapter 11 plan."); *Jourdanton*, 84 B.R. at 453 ("A debtor may not employ an extension as a tactical device to put pressure on parties in interest to yield to a plan they consider unsatisfactory.").

in cash for distribution or risk the estate's remaining cash being spent on professional fees before conversion or dismissal.

74. This risk is significant given the current rate of professional spending that has already been noted to the Court. *See* [Dkt. No. 867 ¶ 49]. Critically, this case does not have an ongoing funding mechanism that allows for the payment of these professional fees, meaning that every additional professional fee eats into the claimants' recovery. The Debtor's implicit threat is that failure to accept the D&Os' restructuring demands will result in the estate's cash being exhausted. The Debtors' conclusory statements cannot be reconciled with the economic reality of this chapter 11 case.

F. Payment of Ongoing Administrative Expenses

75. The Debtor is currently meeting its financial obligations; however, this is not sustainable for the reasons discussed above.[24] The Debtor's estate may become administratively insolvent within a few months, potentially preventing confirmation of a chapter 11 plan.

76. The Debtor does not dispute this fact. *See* Dkt. No. 872 at ¶ 18 ("[T]he Debtor faces impending administrative insolvency."). Notwithstanding this fact, the Debtor is pressing forward with a Plan that has little to no creditor support. This conduct does not reflect a good faith effort to maximize value for all constituencies.

G. Sufficient Time Has Elapsed in this Case

77. The Debtor does not need additional time to negotiate a reorganization plan or prepare further information. A Plan is on file, but the majority of unsecured creditors do not support it. Maintaining exclusivity will not produce new information or a consensual resolution.

[24] *See In re EUA Power Corp.*, 130 B.R. 118, 118 (Bankr. D.N.H. 1991) (declining to extend exclusivity where the debtor was "operating at a loss" and had no plan in place to obtain money for "a substantial cash payment that will be required" in the near future).

The current impasse, driven by the D&Os' demand for releases, will not be resolved by continued exclusivity. Ending exclusivity would simply "returns the parties to a level playing field after the period of debtor control intended by Congress has expired." *Mid-State Raceway*, 323 B.R. at 70 (quoting *Public Serv. Co. of N.H.*, 88 B.R. at 540).

H. <u>There Is No Unresolved Contingency in this Case that Prevents Confirmation</u>

78. There is no unresolved contingency in this case that would prevent the confirmation of a creditor plan. The pending appeals do not create an obstacle to confirmation.[25] Again, a chapter 11 plan can be proposed that transfers the Debtor's remaining cash, estate claims, and insurance rights to a liquidation trust. The parties' appellate rights can be preserved.

79. Terminating the exclusive period will not prejudice the Debtor; instead, it simply opens the process for competing proposals and levels the playing field.[26] Parties who typically oppose ending exclusivity often claim it will create disorder in a bankruptcy case. However, in this instance, terminating exclusivity would restore order to a process disrupted by the Debtor's attempt to use bankruptcy to obtain improper releases for the D&Os. Failing to terminate exclusivity would harm the Debtor's creditors and its estate.

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[25] *See Jourdanton*, 84 B.R. at 452 ("The ordinary Chapter 11 debtor is expected to bring with it litigation, or the potential for it . . . . Only under extreme circumstances would the existence of litigation constitute cause for an extension [of exclusivity] . . . .); *see also All Seasons*, 121 B.R. at 1005 (denying extension of exclusivity and noting that, "[w]hile the court can understand that it might be more convenient to know the results of the litigation, it does not seem that this Chapter 11 proceeding must be placed in limbo until that time"); *In re AFTRA*, 30 B.R. 772, 774 (Bankr. S.D.N.Y. 1983) (finding that the existence of a pending appeal in the bankruptcy case is not sufficient cause to extend the debtor's exclusive periods).

[26] *See R.G. Pharmacy*, 374 B.R. at 488 ("The fact that the debtor no longer has the exclusive right to file a plan does not affect its concurrent right to file a plan."); *All Seasons*, 121 B.R. at 1005 (denial of request for extension of the exclusive periods is not "a death knell" for a debtor's reorganization; the debtor "remains free to take as long as it feels appropriate to develop and propose its own plan," though from that point onward, creditors have the same rights).

I. The Committee's Alternative Plan Is Superior

80. Finally, the Debtor contends that the Committee's alternative plan is not superior to the Debtor's Plan. *See* Dkt. No. 872 at ¶ 33. But, again, the Debtor cannot credibly complain about any aspect of the Committee's plan because the Committee's plan would mirror the Debtor's plan, except the Committee's plan would not include free releases for the D&Os.

81. The Debtor fails to explain why a Plan that includes free releases for the D&Os and invites more litigation is superior to a creditor plan that does not include such releases. Rather than address this issue, the Debtor elects to change the subject.

82. **First**, the Debtor points to the Committee's professional fees and then offers a defense of the Debtor's professional fees. *See* Dkt. No. 872 at ¶ 34. The Debtor protests too much.

83. The Committee did not criticize Latham. The point made by the Committee in its opposition to the Debtor's motion to extend exclusivity is that "[t]he implicit threat is that failure to accept the D&Os' restructuring demands will result in the estate's cash being exhausted." Dkt. No. 867 at ¶ 50. As support for this contention, the Committee stated the amount set forth in Latham's first monthly fee statement. *Id.* at ¶ 49. The Committee did not offer this as a criticism of Latham's work in this case, but to demonstrate that it is clear to everyone that the longer this case goes on, creditors will see diminished recoveries due to professional fees incurred, and thus exclusivity incentivizes creditors to submit to the D&Os' demands.

84. **Second**, the Debtor attempts to defend the Plan releases for the D&Os, but the Debtor does not explain why the estate should bear the litigation costs related to obtaining these releases over the Committee's and the claimants' objection. Additionally, the Debtor cannot

credibly suggest that claims against the D&Os have value when seeking Court approval of the Settlement, only to disregard that value when filing a chapter 11 plan.[27]

85. **Third**, the Debtor argues that "the Committee's pending appeals are likely already moot." Dkt. No. 867 at ¶ 42. This issue should be addressed by the District Court. The Committee's position is it is improper for the Debtor to attempt to buttress its already weak mootness argument by attempting to secure releases for the D&Os under the Plan.

86. The Debtor has sold its operating assets. The Debtor has filed its Plan without any creditor support. The Debtor has reached an impasse over releases for the D&Os. The Debtor will not propose a plan that does not release "claims against the Debtor's directors and/or officers, in their capacity as such." Settlement Order ¶ 3. And, the Debtor has acknowledged the risk of administrative insolvency. *See* Dkt. No. 872 at ¶ 18. The Committee's plan would offer essentially the same liquidation structure and eliminate litigation over the D&O releases.

87. The Debtor has failed to offer a compelling reason why the Court should risk administrative insolvency so that the D&Os can seek the very releases that were carved out of the Settlement Order. The parties being harmed by the Debtor's conduct are once again the talc claimants. Ample cause exists for this Court to terminate exclusivity under section 1121(d)(1) of the Bankruptcy Code.

NOTICE

88. Notice of this Motion has been served on: (a) the U.S. Trustee; (b) counsel to the Debtor; and (c) all persons who have formally appeared in this chapter 11 case and requested

[27] *See id.* at ¶ 38 ("The Debtor's LLC Agreement contains exculpation provisions that shield directors and officers from personal liability for acts taken in good faith"). Exculpation provisions in a Delaware LLC agreement, however, are not an automatic bar to breach of fiduciary duty claims. *See*, *e.g.*, *In re Cornerstone Therapeutics Inc., Shareholder Litig.*, 115 A.3d 1173, 1186-1187 (Del. 2015); *Gatz Props., LLC v. Auriga Cap. Corp*., 59 A.3d 1206, 1215-1217 (Del. 2012).

service pursuant to Bankruptcy Rule 2002. Considering the nature of the relief requested herein, the Committee respectfully submits that no other or further notice need be provided.

PRIOR REQUEST

89. The relief sought in this Motion is consistent with the positions advanced by the Committee in its objection (Dkt. No. 867) to the Debtor's *Motion to Extend Exclusive Periods Pursuant to 11 U.S.C. § 1121(d) and for Entry of Bridge Order* (Dkt. No. 605).

CONCLUSION

WHEREFORE, based on the foregoing, the Committee respectfully requests that the Court grant the Motion and grant such other and further relief as the Court deems necessary and appropriate.

Dated: August 24, 2026

Respectfully submitted,

BROWN RUDNICK LLP

/s/ *David J. Molton*

David J. Molton, NY Bar No. 1867944
Jeffrey L. Jonas (*pro hac vice*)
Eric R. Goodman (*pro hac vice*)
D. Cameron Moxley (*pro hac vice*)
Gerard T. Cicero (*pro hac vice*)
Susan Sieger-Grimm (*pro hac vice*)
Seven Times Square
New York, NY 10036
Telephone: (212) 209-4800
Facsimile: (212) 209-4801
Email: dmolton@brownrudnick.com
jjonas@brownrudnick.com
egoodman@brownrudnick.com
cmoxley@brownrudnick.com
gcicero@brownrudnick.com
ssieger-grimm@brownrudnick.com

-AND-

CAPLIN & DRYSDALE, CHARTERED

Kevin C. Maclay (*pro hac vice*)

Todd E. Phillips, NY Bar No. 5470950
Kevin M. Davis (*pro hac vice*)
1200 New Hampshire Avenue NW, 8th Floor
Washington, DC 20036
Telephone: (202) 862-5000
Facsimile: (202) 429-3301
Email: kmaclay@capdale.com
tphillips@capdale.com
kdavis@capdale.com

COUNSEL FOR THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS

EXHIBIT A

PROPOSED ORDER

THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF NEW YORK

In re:	Chapter 11
Vanderbilt Minerals, LLC,[1]	Case No. 26-60110 (WAK)
Debtor.	

PROPOSED ORDER GRANTING MOTION OF THE OFFICIAL COMMITTEE OF UNSECURED CREDITORS TO TERMINATE THE DEBTOR'S EXCLUSIVE PERIODS PURSUANT TO 11 U.S.C. § 1121(d)(1)

This matter coming before the Court on the *Motion of the Official Committee of Unsecured Creditors to Terminate the Debtor's Exclusive Periods Pursuant to 11 U.S.C. § 1121(d)(1)* (the "Motion")[2] filed by the Official Committee of Unsecured Creditors (the "Committee"); the Court having reviewed the Motion and having heard the statements of counsel and the evidence

[1] The Debtor is Vanderbilt Minerals, LLC (EIN 13-1432885). The Debtor's noticing address in this chapter 11 case is 33 Winfield Street, Norwalk, Connecticut 06855.

[2] Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Motion.

introduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court having found that (a) the Court has jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157 and 1334; (b) venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b); and (d) cause exists within the meaning of 11 U.S.C. § 1121(d)(1) for the termination of the exclusive periods granted herein; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.

2. The exclusive periods of section 1121(d) of the Bankruptcy Code are hereby terminated as to the Committee.

3. The Committee may file, solicit acceptances of, and prosecute confirmation of its plan.

4. This Court shall retain jurisdiction to hear and determine all matters arising from or related to the interpretation, implementation, or enforcement of this Order.