

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re	:	Chapter 11
ALDRICH PUMP LLC, <i>et al.</i> , ¹	:	Case No. 20-30608
Debtors.	:	
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ALDRICH PUMP LLC, <i>et al.</i> ,	:	
Plaintiffs,	:	
v.	:	Adv. Pro. No. 20-03041
THOSE PARTIES LISTED ON APPENDIX	:	
A TO COMPLAINT and JOHN AND JANE	:	
DOES 1-1000,	:	
Defendants.	:	
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**NOTICE OF FILING OF UNREDACTED MOTION OF THE OFFICIAL COMMITTEE
OF ASBESTOS PERSONAL INJURY CLAIMANTS TO COMPEL THE DEBTORS
AND NON-DEBTOR AFFILIATES TO (I) PROVIDE TESTIMONY REGARDING
CERTAIN MATTERS AND (II) PRODUCE CERTAIN WITHHELD DOCUMENTS
AND PARTIALLY REDACTED EXHIBITS THERETO**

The Official Committee of Asbestos Personal Injury Claimants (the “Committee” or “ACC”) of Aldrich Pump LLC and Murray Boiler LLC (the “Debtors”), by and through its undersigned counsel, hereby files this Notice of Filing Unredacted Motion of the Official Committee of Asbestos Personal Injury Claimants to Compel the Debtors and Non-Debtor Affiliates to (I) Provide Testimony Regarding Certain Matters and (II) Produce Certain Withheld

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



Documents, and Partially Redacted Exhibits Thereto (the “Notice”). In support of the Notice, the Committee respectfully states as follows:

1. On March 24, 2021, the Committee filed its *Motion of the Official Committee of Asbestos Personal Injury Claimants to Compel the Debtors and Non-Debtor Affiliates to (I) Provide Testimony Regarding Certain Matters and (II) Produce Certain Withheld Documents* (the “Motion to Compel”)[Adv. Dkt. 141], which included Exhibits A through K. Portions of the Motion to Compel were redacted, and all of the Exhibits were filed under seal, pursuant to the Agreed Protective Order Governing Confidential Information (the “Protective Order”) [Case No. 20-30608; ECF 345]. On April 8, 2021, the Committee filed a *Motion to File Confidential Documents under Seal* (the “Motion to Seal”)[Adv. Dkt. 169] related to the redacted portions of the Motion to Compel and the sealed Exhibits. On April 29, 2021, the Court granted the Committee’s Motion to Seal in relation to the Motion to Compel [Adv. Dkt. 208].

2. Exhibits B through K to the Motion to Compel, which consist of excerpts from deposition transcripts, were filed under seal because the thirty day time period following the receipt of the transcript by the Designating Party (as defined in the Protective Order) had not expired at the time that the Motion to Compel was filed. See Protective Order at 14-15.

3. Since the filing of the Motion to Compel, the Committee has received designations of confidential information for all of the deposition transcripts from which excerpts were attached as Exhibits B through K. Based upon such designations, all redactions in the body of the Motion to Compel can be removed, and Exhibits B through K can be unsealed, with limited redactions in several of the Exhibits. Additionally, it has been determined that Exhibit A can be unsealed.

4. Accordingly, attached hereto is an unredacted copy of the Motion to Compel and unsealed Exhibits A through K.

Dated: May 19, 2021

HAMILTON STEPHENS STEELE
+ MARTIN, PLLC

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**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

ALDRICH PUMP LLC, *et al.*,

Plaintiffs,

V.

THOSE PARTIES LISTED ON APPENDIX
A TO COMPLAINT and JOHN AND JANE
DOES 1-1000,

Defendants.

Chapter 11

Case No. 20-30608

Adv. Pro. No. 20-03041

**MOTION OF THE OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY
CLAIMANTS TO COMPEL THE DEBTORS AND NON-DEBTOR AFFILIATES TO
(I) PROVIDE TESTIMONY REGARDING CERTAIN MATTERS AND
(II) PRODUCE CERTAIN WITHHELD DOCUMENTS**

The Official Committee of Asbestos Personal Injury Claimants (the “Committee” or “ACC”) of Aldrich Pump LLC and Murray Boiler LLC (the “Debtors”), by and through its undersigned counsel, hereby moves this Court (the “Motion”) pursuant to Rules 26, 34 and 37 of the Federal Rules of Civil Procedure (the “Civil Rules”), made applicable by Rules 7026, 7034 and 7037 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and sections 105(a) and 1103 of title 11 of the United States Code (the “Bankruptcy Code”), for an order (I)

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

compelling the Debtors and any producing non-debtor affiliates (collectively, the “Producing Parties”) to propound testimony related to, *inter alia*, conversations held during the Debtors’ Board of Managers meetings and conversations held during meetings concerning “Project Omega;”² (II) compelling the Producing Parties to produce an unredacted version of the May 2020 PowerPoint presentation identified by Bates Nos. Debtors_00050712-60 (the “PowerPoint”);³ and (III) granting related relief. In support of this Motion, the Committee respectfully states as follows:

INTRODUCTION⁴

As this Motion will demonstrate, the Debtors’ assertion of the attorney-client privilege is overbroad and improper for several reasons.

First, factual information does not become privileged simply because it is funneled through a lawyer or because a lawyer was copied on a communication or participated in a discussion about those facts. It is plainly evident that the various attorneys which played a role in the subject meetings were acting primarily in a business role, as their foremost function was to educate and prime the Board members—some of whom were formerly retired and/or new employees of the Debtors—of the facts and business strategies pertinent to the Debtors’ ultimate decision to seek bankruptcy relief 48 days after formation.

Second, even if legal advice was sought and rendered during the subject board meetings (as the Debtors will undoubtedly contend), the attorney client privilege does not apply to legal advice that can only be regarded as incidental to the primary business purpose of the meetings. *See United States v. Cohn*, 303 F. Supp. 2d 672, 683–84 (D. Md. 2003). The Debtors paint with

² The exhibits submitted herewith identify the excerpts from the deposition of each witness which includes the question posed, counsel’s instruction not to answer, the witness’s decision not to answer, and any pertinent dialogue on the record.

³ The redacted version of the produced PowerPoint is attached as Exhibit A.

⁴ Capitalized terms not defined in the Introduction shall have the meaning ascribed to them elsewhere in this Motion.

an improperly broad brush, giving no regard to the narrow construction applied to the privilege. Thus, even where incidental legal advice may have been sought or rendered in the context of business strategy, the privilege protects primarily the client's communication *to the attorney*; testimony concerning statements made *by* attorneys may be discoverable provided they do not reveal the substance of the *client's* communications.

Third, the overbreadth and impropriety of the Producing Parties' assertions of privilege are even more evident from their withholding of portions of the PowerPoint, and related testimony, as well as testimony related to a certain a document referred to as an "asbestos tender agreement" (the "Asbestos Tender Agreement"). The PowerPoint was presented at the Debtors' joint board meeting on May 15, 2020, but the version produced to the Committee redacts the most relevant information contained therein—namely, an evaluation of the future liability payments and defense costs for the two entities which became the Debtors. (See Ex. A.) This is clearly not "legal" advice. Moreover, a board member considered this very information as critical to the board members' deliberations regarding bankruptcy. (See Ex. C, Zafari Dep. 94:21 – 95:16.) Nevertheless, the Producing Parties have redacted this document by relying on a dubious privilege assertion. The Producing Parties also obstructed testimony concerning the substantive terms of the Asbestos Tender Agreement, which was negotiated as part of the larger transaction of finalizing the Reverse Morris Trust between the Trane Entities⁵ and then-Gardner Denver. Yet, it is unclear how the substance of an agreement between two distinct and unrelated entities in a business transaction which the Debtors purport was arms-length in nature could be privileged.

⁵ The term "Trane Entities" refers to Trane Technologies, PLC, Trane Technologies Company LLC, and Trane U.S. Inc.

Fourth, the courts in this jurisdiction have held that the identity of documents presented to deponents for their review in preparation for a deposition are not protected by the attorney-client privilege or work product doctrine. *E.g., Fort v. Leonard*, 2006 WL 8444690, at *3 (D.S.C. Oct. 11, 2006). Notwithstanding this settled aspect of law, counsel for the Producing Parties uniformly instructed witnesses not to respond to questions eliciting the identity of the documents (or even the *categories* of documents) they reviewed, even where the witness testified that their review refreshed their recollection. It is noteworthy that no claim was made that the documents in question were privileged.

JURISDICTION

1. This Court has subject matter 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). For purposes of a hearing on this Motion, venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory authorities for the relief requested are sections 105(a) and 1103 of the Bankruptcy Code, Bankruptcy Rules 7026, 7034 and 7037, and Civil Rules 26, 34 and 37.

PERTINENT FACTUAL BACKGROUND

2. In addition to written discovery, the Committee has deposed several current employees, board members of Debtors and former officers, directors, board members, and employees of the Trane Entities with respect to the 2020 Corporate Restructuring⁶. At the instruction of counsel, the witnesses consistently and repeatedly refused to answer questions regarding the following subjects: (i) inquiries made to counsel at board meetings in connection with Project Omega and planning for the 2020 Corporate Restructuring and information and advice

⁶ “2020 Corporate Restructuring” refers to the twin divisive mergers effectuated under Texas law by Trane Technologies, PLC which allowed it to isolate the asbestos claims of its subsidiaries, Trane Technologies Company LLC and Trane U.S. Inc., into Aldrich and Murray, respectively, while segregating and protecting valuable operating assets within the “new”, post-merger subsidiary entities.

relayed to deponents by counsel regarding the same; (ii) inquiries made to counsel at board meetings in connection with deliberations regarding the Debtors' bankruptcy filing, and information and advice relayed to deponents by counsel regarding the same; (iii) the substantive terms and conditions of the Asbestos Tender Agreement; and (iv) the redacted portions of the PowerPoint (collectively, the "At Issue Discovery").

3. It is clear from the witnesses' testimony that many of the attorneys in question engaged in business roles. For example, deponents Mr. Valdes and Mr. Zafari testified that it was Attorney Evan Turtz who called to inquire whether they each would be willing to serve on the board of managers of the Debtors. (Ex. C, Zafari Dep. 24:10-17; Ex. D, Valdes Dep. 133:17-21.) Mr. Zafari also testified that Mr. Turtz briefed him on the "asbestos situation" and sent him a publicly filed document concerning the Bestwall bankruptcy that "retraced what some of the companies had done". (Ex. C, Zafari Dep. 24:18-24). Mr. Zafari was retired at the time and was not an employee of the Debtors. (*Id.* at 29:13-18.) Yet, counsel instructed Mr. Zafari not to reveal what questions he asked Mr. Turtz after reading the Bestwall document on the purported ground that the "training" of Mr. Zafari in anticipation of his hiring constituted "legal advice":

Q: Did you -- so could you tell me what the questions were in your e-mail?

MR. HAMILTON: Object, instruct the witness not to answer on grounds of attorney/client privilege.

MR. GOLDMAN: Who is the attorney and who is the client that you instruct on?

MR. HAMILTON: I don't think it's productive to argue on the record now. There's two people to the conversation; one's an attorney and I think you know the answer.

MR. GOLDMAN: I don't know the answer. That's why I asked the question...

...

MR. HAMILTON: The client was trained at the time and it was in anticipation of hiring or employing Mr. Zafari as a director of the company. And the purposes of the questions were done in connection with providing legal advice if he

took that job. I think that's privileged. I may be wrong, but that's my position. I've instructed him not to answer. We can spend another 20 minutes arguing about it if you want.

(Ex. C, Zafari Dep. 29:19 – 30:19.)

4. Moreover, it is clear that the board meetings primarily concerned high-level business information, not legal advice. Mr. Valdes testified that “the amounts of [asbestos] claims and liabilities were discussed in the normal course of business”. (Ex. D, Valdes Dep. 154:21-24.) The board meetings did not concern updates regarding specific litigations. (*Id.* at 155:3 – 156:8.) Rather, the board members were in “learning mode” and received an “overview of things we didn’t know” and had “a broader discussion” concerning the handling of asbestos claims. (*Id.* at 157:11 – 158:17; 211:22-212:9.) A board member testified that the “the questions being asked [by the board] were being asked to help make a decision” about whether to file bankruptcy. (*Id.* at 251:13-20.) Yet, counsel instructed the witnesses not to answer questions regarding the factors that the boards took into consideration in deciding to file for bankruptcy, (*id.* at 212:14-213:12), regarding what they learned concerning forecasts of future asbestos liabilities, (Ex. C, Zafari Dep. 94:10 - 96:22), and regarding what they learned concerning the Georgia-Pacific, DBMP and Paddock Enterprises reorganizations. (*Id.* at 102:9 – 103:10.)⁷

5. For example, counsel instructed Mr. Valdes not to reveal anything concerning the “brief overview of the restructuring and its effects” provided by counsel to the board members:

Q. Okay. And without specifically asking you what Mr. Erens said, what did you learn at this meeting about the restructuring and its effects that you did not previously know?

⁷ Other deponents similarly observed an instruction given by the Debtors’ counsel at the depositions not to answer questions concerning Project Omega and the decision to file bankruptcy, citing the attorney-client privilege. *See, e.g.* Dufour Dep. 114:20–115:12, 134:16-135:24, 150:16-151:6; 155:4-15 (attached as Exhibit B); Pittard Dep. 208:2-16, 245:18-246:14 (attached as Exhibit E); Majocha Dep. 30(b)(6) Dep. 198:20–199:14 (attached as Exhibit F); Bowen Dep. 227:2-9 (attached as Exhibit I); Kuehn Dep. 120:13-121:15 (attached as Exhibit J); Sands Dep. 113:24-115:5 (attached as Exhibit K).

MR. HAMILTON: I'm going to object and instruct the witness not to answer on the grounds that it calls for disclosure of communications protected by the attorney-client privilege.

Q. Did you learn things from this overview that were important factors you took into consideration in ultimately deciding to the decision to file for bankruptcy?

A. Yes.

Q. And what were those things?

MR. HAMILTON: Object; instruct the witness not to answer on privilege grounds.

Q. Did you get any information about the restructuring and its effects that you have not already testified to?

MR. HAMILTON: Object and instruct the witness not to answer on attorney-client privilege grounds.

(Ex. D, Valdes Dep. 212:14 – 213:12.)

6. Counsel also broadly instructed the witnesses not to reveal any questions they asked to counsel concerning “strategic options” discussed at the board meeting, *whether or not* those options called for or encompassed legal advice. (Ex. D, Valdes Dep. 249:8-251:20.) Counsel interrupted a witness mid-sentence as he provided an answer that did not concern attorney-client communications. (*Id.* at 251:21 – 253:13.) Counsel declined to provide the witness guidance on distinguishing between questions for legal and non-legal advice:

Q: Did you have any questions following the May 15 meeting about strategic options?

A. I believe I had -- I believe I had one or two questions. Maybe more than that, but I believe I had at least one or two questions.

Q. And what were your questions?

MR. HAMILTON: Object. And to the extent that your questions were questions to the lawyers for legal advice, I'm going to instruct you not to disclose those questions in the answer to the pending question by Mr. Goldman. If you had questions that were not for legal advice but to others, like Mr. Pittard, you can go ahead and answer that.

MR. GOLDMAN: Any question to a lawyer -- let's get some clarification here in terms of what you're instructing the witness so we know. So if he asked a question of someone who happens to have a law degree, are you telling him not to answer as to that question, or only if he's seeking legal

advice? And then we ought to give some guidance to the witness as to what you mean by "legal advice," because I don't know if he's -- he's primed on that.

MR. HAMILTON: I'm not going to get into that level of detail with my instructions. If his questions were for counsel, I'm instructing him not to answer what those questions were. I don't believe I have to be any more clear than that, so...

(Ex. D, Valdes Dep. 249:15-251:3.)

7. Counsel also uniformly instructed witnesses not to identify the documents which counsel presented to them for their review in preparation of their depositions, even where the witnesses testified that the only reason they reviewed the documents presented by counsel was to refresh their memories. (Ex. C, Zafari Dep. 13:22-14:7.)⁸ Indeed, counsel even refused to allow witnesses to testify about the *categories* of documents they had reviewed (emails, memoranda, etc.), even where the questioner was clear that they were not looking for any substantive information about what was contained in those documents. (Ex. G, Regnery Dep. 21:12-25.)

8. With respect to the Asbestos Tender Agreement, counsel instructed the witness not to testify regarding its substance.⁹ The Asbestos Tender Agreement was negotiated as part of the larger transaction of finalizing the Reverse Morris Trust between the Trane Entities and then-Gardner Denver, an unrelated entity. (Ex. F, Majocha Dep. 82:18-83:10; 84:4-84:21.) After an opportunity to review¹⁰ the Asbestos Tender Agreement, the Producing Parties were unable to explain how the document itself could be covered by the attorney client privilege and attorney

⁸ Other deponents similarly observed instructions given by the Debtors' counsel not to identify the documents counsel presented for their review in preparation of the deposition. *See, e.g.*, Majocha 30(b)(6) Dep. 139:5 – 140:9 (attached as Exhibit F); Valdes Dep. 24:17 – 25:24 (attached as Exhibit D); Regnery Dep. 19:11 – 22:7 (attached as Exhibit G); Howlett Dep. 18:19 -19:7 (attached as Exhibit H); Bowen Dep. 17:15-25 (attached as Exhibit I).

⁹ Counsel instructed the witness not to answer the following questions: (1) "And do you have a general understanding of how [the Asbestos Tender Agreement] provided the [asbestos] claims would be handled?" (Ex. F, Majocha 30(b)(6) Dep. 93:7-15); (2) "And the tender agreement provided a mechanism for handling those asbestos liabilities – the legacy asbestos liabilities of both companies; is that right?" (*Id.* at 97:13-20.)

¹⁰ Counsel took a 30-minute break during which time Debtors' counsel reviewed the document in order to articulate their purported reasons for withholding the document and obstructing related testimony.

work product—when it was part of a purportedly arms-length business transaction between two then-unrelated entities (and an exhibit in the closing binder)—other than to make a conclusory statement that the it was covered by a common interest agreement (which has never been produced¹¹ or tested). (*Id.* at 86:2-96:11).

RELIEF REQUESTED

9. The Committee requests that the Court compel the production of the unredacted PowerPoint and second depositions of the witnesses in question concerning the At Issue Discovery, which depositions will occur remotely over video teleconferencing and will be limited to the At Issue Discovery and questioning arising therefrom. Courts in this jurisdiction have frequently compelled additional hours of deposition to address questions previously blocked by an invalid assertion of privilege. *E.g., Prowess, Inc. v. RaySearch Labs. AB*, 2013 WL 1856348, at *5 (D. Md. Apr. 30, 2013); *Neuberger Berman Real Estate Income Fund v. Lola Brown Trust No. 1B*, 230 F.R.D. 398, 423 (D. Md. 2005).

10. It is noteworthy that the Producing Parties, at no time during or after the twelve (12) depositions (and counting), made a motion for a protective order based on the applicability of the purported privilege, as is their obligation.¹² Instead, they have continuously asserted privilege objections and interrupted depositions with improper witness coaching and instructions not to respond to questions concerning highly relevant topics. Moreover, the Producing Parties have withheld information and documents based on facially invalid assertions of privilege, which they failed to correct or withdraw upon the Committee's request.

¹¹ "In the Fourth Circuit, the proponent of the common interest privilege must produce evidence of an agreement between the individuals with the common legal interest." *Hempel v. Cydan Development, Inc.*, 2020 WL 4933634, at *8 (Aug. 24, 2020) (*citing In re Sanctuary Belize Litig.*, 2019 WL 6717771, at *3 (D. Md. Dec. 10, 2019)).

¹² "It is improper to assert a privilege and then sit back and require the opposing side to file a motion to compel; when a party instructs a witness not to answer on the grounds of privilege, it is that party's obligation to file a motion for protective order." *Moloney v. United States*, 204 F.R.D. 16, 21 (D. Mass. 2001).

ARGUMENT

11. Bankruptcy Rule 7037 provides that “Rule 37 Fed.R.Civ.P. applies in adversary proceedings.” Pursuant to Civil Rule 37(a)(3)(B)(i), a party in interest may seek to compel discovery if “a deponent fails to answer a question asked under Rule 30” (governing depositions upon oral examination). Pursuant to Civil Rule 37(a)(3)(B)(iv), a party in interest may seek to compel production if “a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.” Further, Civil Rule 37(a)(4) provides that an evasive or incomplete response must be treated as a failure to respond.

12. The attorney-client privilege “affords confidential communications between lawyer and client complete protection from disclosure.” *Hawkins v. Stables*, 148 F.3d 379, 383 (4th Cir.1998). The attorney-client privilege applies only if “(1) the asserted holder of the privilege is or sought to become a client; (2) the person to whom the communication was made (a) is a member of the bar of a court, or his subordinate and (b) in connection with this communication is acting as a lawyer; (3) the communication relates to a fact of which the attorney was informed (a) by his client (b) without the presence of strangers (c) for the purpose of securing primarily either (i) an opinion on law or (ii) legal services or (iii) assistance in some legal proceeding, and not (d) for the purpose of committing a crime or tort; and (4) the privilege has been (a) claimed and (b) not waived by the client.” *Id.*

13. Where the privilege is asserted as to factual communications by the attorney to the client, the application of the privilege is narrower in scope, and applies only to facts which state or imply facts communicated to the attorney in confidence.” *SCM Corp. v. Xerox Corp.*, 70 F.R.D. 508, 516 (D. Conn. 1976) (citing *United States v. Silverman*, 430 F.2d 106, 122 (2d Cir. 1970)). Moreover, where the deponent is asked to reveal the rationale underlying a given decision, only those reasons which are “*limited* to reliance on protected legal advice” are privileged. *Id.* at 516-

17 (emphasis in original). The business rationale behind the decision, even one informed by legal counsel, should be disclosed. *Id.*

14. The attorney-client privilege is to be narrowly construed and recognized “only to the very limited extent that . . . excluding relevant evidence has a public good transcending the normally predominant principle of utilizing all rational means for ascertaining truth.” *Trammel v. United States*, 445 U.S. 40, 50 (1980) (internal quotation marks omitted); *see also Hawkins v. Stables*, 148 F.3d 379, 382–83 (4th Cir. 1998); *United States v. Oloyede*, 982 F.2d 133, 141 (4th Cir. 1993) (noting narrow construction of privilege); *In re Grand Jury Subpoenas*, 902 F.2d 244, 248 (4th Cir. 1990) (same); *In re Grand Jury Proceedings*, 727 F.2d 1352, 1355 (4th Cir. 1984) (same).

15. “The party asserting an attorney-client privilege must prove its applicability as well as its non-waiver.” *United States v. Jones*, 696 F.2d 1069, 1072 (4th Cir. 1982); *see also U.S. v. Cohn*, 303 F.Supp.2d 672, 679 (D. Md. 2003). “It is improper to assert a privilege and then sit back and require the opposing side to file a motion to compel; when a party instructs a witness not to answer on the grounds of privilege, it is that party’s obligation to file a motion for protective order.” *Moloney v. United States*, 204 F.R.D. 16, 21 (D. Mass. 2001) (citing *American Hangar, Inc. v. Basic Line, Inc.*, 105 F.R.D. 173, 175 (D. Mass. 1985) and Lauriat, Massachusetts Deposition Practice Manual (MCLE, 1992 & Supp.1996, 1998 & 2000) at Ch. 18, pp. 14–15).

16. “When a party withholds information otherwise discoverable by claiming that the information is privileged . . . , the party must (i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed-and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.” Fed. R. Civ. P. 26(b)(5)(A).

A. Factual Information and Advice which is Predominantly Business-Related Are Not Protected by the Attorney-Client Privilege

17. The attorney-client privilege attaches in those instances where an attorney is acting to provide primarily legal services, assistance or opinions. *United States v. Jones*, 696 F.2d 1069, 1072 (4th Cir. 1982). It is well settled that communications are not privileged merely because one of the parties is an attorney or because an attorney was present when the communications were made. *U.S. v. Cohn*, 303 F.Supp.2d 672, 683 (D. Md. Oct. 7, 2003); *Neuder v. Battelle Pacific Northwest National Laboratory*, 194 F.R.D. 298, 293 (D.D.C. 2000). “When the legal advice is merely incidental to business advice, the privilege does not apply.” *Cohn*, 303 F. Supp. 2d at 683 (internal citation omitted). The privilege also does not apply to communications “as to which a business purpose would have served as a sufficient cause, i.e., any communication that would have been made because of a business purpose even if there had been no perceived additional interest in securing legal advice.” *Id.* at 684 (citing *McCaugherty v. Sifferman*, 132 F.R.D. 234, 238 (N.D. Cal. 1990)).

18. “To determine whether communications were made primarily for the purpose of providing legal services, the court must consider the context in which they were made.” *Id.* at 684. For example, in *Cohn, supra*, the Court analyzed an in-house attorney’s role and purpose in reviewing telemarketing scripts for Four Star and held that Four Star, which sought to assert the attorney-client privilege over the attorney’s emails, had failed to establish that the attorney’s services were primarily for legal rather than business purposes. *Id.* at 684.

19. Similarly, in *SCM Corp. v. Xerox Corp.*, 70 F.R.D. 508, 516 (D. Conn. 1976), the Court recognized that although business interests “might ultimately be influenced by the strictures of law, basic business effects, considerations and policy should be disclosed”. *Id.* at 518. In that case, the deponent testified that the legal and business reasons involved in a licensing matter “were

so interwoven that he could not answer without disclosing privileged conversations”. *Id.* at 517.

In its analysis, the Court noted that while licensing decision “may contain a legal component, they are essentially business decisions.” *Id.* The Court reasoned that when the “ultimate decision”

requires the exercise of business judgment and when what were relevant nonlegal considerations incidental to the formulation of legal advice emerge as the business reasons for and against a course of action, those business reasons considered among executives are not privileged. They are like any other business evaluations and motivations and do not enjoy any protection because they were alluded to by conscientious counsel. To protect the business components in the decisional process would be a distortion of the privilege.

Id.

20. Communications which aid a committee, such as a Board of Directors or management team, in making a business decision are outside the scope of the attorney client privilege. *Johnson v. Bd. of Pensions of the Evangelical Lutheran Church in America*, 2012 WL 5985600, at *4 (D. Minn. Sept. 5, 2012) (board sought counsel’s advice with “corporate-wide business interests in mind”; allegedly privileged documents related to possible changes to retirement plan and business ramifications, not to the “legality of the various options for restoring the plan’s fund”); *In re FiberMark, Inc.*, 330 B.R. 480, 499-500 (Bankr. D. Vt. 2005) (communications not privileged where they concerned a corporate governance issue which was a business decision, not a legal issue); *Neuder v. Battelle Pacific Northwest Nat. Laboratory*, 194 F.R.D. 289, 295 (D.D.C. 2000) (communications were statements of fact provided to committee to assist them in making a personnel decision); *see Alomari v. Ohio Dep’t of Pub. Safety*, C/A No. 2:11-cv-00613, 2013 WL 4499478, at *4 (S.D. Ohio Aug. 21, 2013) (“Rather, the attorney-client privilege “applies only to communications made to an attorney in his capacity as legal advisor. Where business and legal advice are intertwined, the legal advice must predominate for the communication to be protected.”)

21. Here, the context in which the various board meetings occurred, and which the At Issue Discovery concerns, clearly indicate the predominantly business purpose of those meetings and communications. First, there are clear indications that counsel took on a heavily business role that went far beyond that of a legal advisor. Counsel was involved in staffing the Debtors' boards, including personally making calls to the prospective directors concerning the positions that they were being asked to take and the circumstances surrounding the formation and composition of those boards. Counsel was also chiefly in charge of educating the new board members concerning the Debtors' finances, corporate structure and governance, asbestos liabilities and the various business options and strategies available to address them. One of those board members had been previously retired and admitted that he needed to be educated as to the Debtors' operations; another new member, who was a current employee of the Producing Parties, testified that the board was in "learning mode" and engaged in "broad" discussions regarding the Debtors' business. There is no indication that communications with counsel at these meetings were made or received for the purpose of receiving legal advice, and indeed, the deponents testified that they did not receive updates or information concerning specific litigations during the board meetings.

22. Just like the boards in the cases cited above, which were involved in making personnel decisions, licensing decisions and decisions concerning retirement plans, the boards here were involved in business deliberations regarding the Debtors' (and their ultimate parent companies') business strategy for addressing the enterprise's aggregate asbestos liabilities. It is clear from the context of these meetings that counsel were charged with equipping the board members with the *factual* information concerning Debtors' asbestos liabilities and potential strategies so that those board members could engage in such strategic deliberations. Although it is conceivable that the lawyers present at these meetings may have referenced certain legal

considerations, such as the interpretation or impact of certain Bankruptcy Code sections, this does not render all communications to or from counsel during those meetings privileged. Yet this is precisely the position the Debtors have taken, repeatedly coaching witnesses not to divulge anything which may have been discussed during a meeting at which a lawyer was merely present, or, in certain instances, simply instructing them not to answer questions. As the Fourth Circuit noted in *Cohn*, the business purpose of deliberating whether to file bankruptcy “would have served as a sufficient cause” for the communications in question to have been made, without any secondary interest in securing heretofore unidentified legal advice.

23. Moreover, there is no indication that the deponents’ responses to the At Issue Discovery would reveal communications relating to legal advice. On the record, counsel failed to identify the topics on which the Board purportedly sought legal advice, let alone any connection between those topics and the questions posed to the deponents. (*See* Ex. D, Valdes 249:15 -251:3, excerpted above); *Nix v. Holbrook*, No. CIV.A. 5:13-02173-JM, 2015 WL 631155, at *6 (D.S.C. Feb. 13, 2015) (holding that deposition questions related to business decisions were not protected because they did “not suggest a response containing extensive legal advice”). Counsel objected and instructed the witnesses not to answer questions regarding the factors that the board considered during their deliberations, factual information concerning forecasts of future asbestos liabilities, and factual information concerning the Georgia-Pacific, DBMP and Paddock Enterprises reorganizations. In the case of Mr. Zafari, counsel instructed the deponent not to reveal any communication with Attorney Turtz at a time when the deponent was *not even an employee* of the Debtors. None of these topics reveal any apparent connection to the seeking or rendering of legal advice.

B. The PowerPoint and Testimony Related to the Asbestos Tender Agreement are Not Protected by Attorney Client Privilege or Attorney Work Product

24. The PowerPoint redactions are neither protected by the attorney client privilege nor constitute attorney work product. The redactions pertain to evaluations of the future liability payments and defense costs for the two entities which became the Debtors. (*See* Ex. A.) This information constitutes factual information provided to the Debtors to assist them in their business decision-making, not constitute legal advice. The PowerPoint redactions are not protected as attorney work product because there is no basis to assert that the redacted information was prepared in anticipation of litigation. *E.g., In re Grand Jury Proceedings*, 102 F.3d 748, 750 (4th Cir. 1996).

25. Similarly, witnesses should be compelled to testify concerning their understanding of the terms and conditions of the Asbestos Tender Agreement. (*See* Ex. F, Majocha 30(b)(6) Dep. 93:7-15, 97:13-20). The Asbestos Tender Agreement was negotiated between Gardner Denver and the unrelated Trane Entities as part of the Reverse Morris Trust transaction and allocated asbestos liabilities between the preexisting and newly created entities. Clearly, the terms of an agreement do not constitute attorney-client communications. Moreover, testimony concerning the Asbestos Trust Agreement is not protected by the work-product privilege; an agreement entered into by two unrelated parties as part of a purportedly arms-length business transaction is not an attorney's "work product" in anticipation of litigation.

C. Documents Presented to Deponents for their Review in Preparation for Depositions are not Protected by the Attorney-Client Privilege or Work Product Doctrine

26. The identity of documents presented to a deponent by their counsel for review in preparation of a deposition is not protected by the attorney client privilege or as attorney work product. *Fort v. Leonard*, 2006 WL 8444690, at *3 (D.S.C. Oct. 11, 2006). In *Fort*, the Court rejected the asserting party's arguments that by inquiring into the identity and contents of the

documents presented to the deponent, opposing counsel “could gain insight into the documents and other aspects of the case defense counsel believe are more important.” *Id.*

27. Decisions from other jurisdictions are consistent with *Fort. See Am. Automobile Ins. Co. v. First Mercury Ins. Co.*, 2016 WL 7395219, at *3 (D.N.M. Oct. 22, 2016) (witness required to identify and produce the documents provided to her for review in anticipation of deposition); *Christison v. Biogen Idec*, 2014 WL 3749191, *2 (D. Utah July 29, 2014) (“[T]his Court could not locate Tenth Circuit case law recognizing a work-product privilege for an attorney's compilation of select documents. In fact, cases from district courts within the Tenth Circuit question such a privilege.”); *Williams v. Sprint/United Mgmt. Co.*, 2007 WL 634873, at *4 (D. Kan. Feb. 27, 2007) (concluding “that mere selection and grouping of information does not transform discoverable documents into work product”); *Resolution Trust Corp. v. Heiserman*, 151 F.R.D. 367, 374 (D. Colo. 1993) (cautioning that “[t]aken to its logical conclusion,” the claim that “selecting documents represents counsel's mental impressions and legal opinions” would “render[] virtually all document requests ... opinion work-product ...”); *Audiotext Commc'ns Network, Inc.*, 164 F.R.D. at 253 (“Collecting and organizing discoverable documents in a notebook does not make the notebook protected work product.”).

28. Moreover, Rule 612 of the Federal Rules of Evidence (“Evidence Rules”) permits discovery of documents reviewed or relied upon by a witness to refresh their recollection in advance of a deposition, even where those documents are privileged (which has not been alleged here). *Brown v. Tethys Bioscience, Inc.*, No. CIV.A. 3:11MC11, 2011 WL 4829340, at *1–2 (E.D. Va. Oct. 11, 2011). Certainly, if privileged documents reviewed by a witness in preparation can be discoverable under such circumstances, the Committee should be entitled to inquire as to *nonprivileged* documents. Yet, here, even after deponents confirmed the only reason for reviewing

the documents was to refresh their recollection, counsel still instructed the deponent not to identify the documents reviewed. (*See* Ex. C, Zafari Dep 14:2-21.)¹³ In one instance, counsel obstructed questioning meant to lay a foundation under Rule 612:

Q: **Mr. Regnery, did any of the emails that you review during your deposition prep session refresh your recollection; yes or no?**

Mr. Mascitti: Objection; privilege. Direct the witness not to answer.

(Ex. G, Regnery Dep. 25:4-8.)

29. Here, counsel made blanket objections instructing witnesses not to identify the documents they reviewed in preparation of their depositions. No claim was made that those unidentified documents are privileged. Even if they were, however, the witnesses testified that the only reason they reviewed the documents presented by counsel was to refresh their memories. Accordingly, even if the identity of these documents constitutes attorney work product, they are nonetheless discoverable under Rule 612.

FED. R. CIV. P. 37(a)(1) CERTIFICATION

30. Pursuant to Civil Rule 37(a)(1), the undersigned hereby certifies that the Committee has, in good faith, conferred with the Producing Parties concerning the At Issue Discovery and the issues raised in this Motion on March 15, 2021, March 18, 2021 and March 24, 2021. The Producing Parties' assertion the Asbestos Tender Agreement¹⁴ is privileged was also addressed during the deposition of Mark Majocha on March 18, 2021. (Ex. F, Majocha Dep. 97:13-106:19).

¹³ Q: So the only reason to look at the documents was to refresh your recollection; is that correct? A: **Yes.** Q: What documents did you review? **Mr. Hamilton: Object, instruct the witness not to answer.**

¹⁴ During the parties' March 24, 2021 meet and confer, the Producing Parties stated they would reconsider their earlier withholding of the Asbestos Tender Agreement (which appears as No. 3317 on the Producing Parties' Privilege Log) (the "Agreement"). Thus, while the Committee does not seek to compel production of the Agreement in this Motion, it does reserve its right to seek the Agreement's production in the event the Producing Parties continue to withhold the Agreement or produce it with overbroad or unwarranted redactions.

CONCLUSION

For the reasons set forth above, the Committee requests that this Court enter an order granting the relief requested herein and providing such other and further relief as this Court deems just and proper.

Dated: March 24, 2021

HAMILTON STEPHENS STEELE
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EXHIBIT A

May 2020 PowerPoint Presentation

Aldrich Pump LLC
Murray Boiler LLC
Overview of the Companies' Experience as
Asbestos Defendants in the Tort System

PRIVILEGED AND CONFIDENTIAL

Board of Managers meeting

May 15, 2020

EXHIBIT 42

AGENDA

- *Introduction*
- *Asbestos – General Background Information*
- *Aldrich's and Murray's Use of Asbestos and Respective Products*
- *Evolution of Asbestos Litigation*
- *Aldrich's and Murray's Positioning in the Tort System and Claims Filings*
- *Tort System Realities*
- *Data: Dismissals, Settlements, Indemnity*
- *Defense Costs*
- *Insurance Reimbursements*
- *Future Projections*

Introduction

- Asbestos litigation is the longest-running mass tort in U.S. history – currently in its 5th decade – and shows no signs of abating
- Although Aldrich and Murray have been in the litigation since the 1980s, the litigation against them increased significantly ~20 years ago
- Over time, Aldrich and Murray have spent approximately \$2B to defend and settle asbestos litigation
 - **Aldrich \$1.13B** (through 9/2019)
 - **Murray \$637M** (through 9/2019)
- On average in recent years, Aldrich and Murray have spent approximately \$100M annually defending and settling asbestos claims
 - **Aldrich \$62.4M**
 - **Murray \$35.4M**

Introduction

- There is no end in sight for Aldrich and Murray in the tort system: the companies project they will be settling asbestos cases for 30+ more years
 - Mesothelioma, a fatal cancer primarily of the lining of the lung associated with asbestos exposure, drives asbestos litigation and has not reduced in incidence as quickly as previously forecast
 - Claims of asbestos-related lung cancers are also possibly increasing

Redacted - Privileged

Redacted - Privileged

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Introduction

- **Redacted - Privileged**
- Tort system drives inefficient transaction costs and misallocation of resources
- Nor is the tort system the most efficient mechanism to pay sick claimants who may have legitimate claims
 - 2005 RAND study estimates for every dollar spent by defendants on asbestos litigation:
 - Claimants receive 42 cents
 - Plaintiff's attorneys receive 27 cents on fees and costs
 - Defense attorneys, experts and vendors receive 31 cents
 - Asbestos lawsuits can take years from filing to resolution, and some plaintiffs die in the interim (though their families can recover)

Asbestos—General Background Information

- A naturally occurring mineral with good insulating properties
- Used in a variety of products, principally from the 1900s-1970s
- Eventually, certain forms became medically linked to development of mesothelioma, a rare and fatal cancer
 - Only 3,000 diagnoses of mesothelioma annually
- Exposure also linked to lung cancer in individuals who smoke as well as those with asbestosis (a lung disease caused by asbestos exposure)
- Asbestos stopped being widely used in industrial products by the mid-1980s
 - Phased out in thermal insulation by 1973
 - Banned in joint compound by CPSC in 1978
 - Largely eliminated from sealing products in early 1990's

§

Asbestos—General Background Information

- Nonetheless, diagnoses of asbestos-related diseases still occur
 - Some industrial products/equipment remained in service for many years
 - Long latency period between exposure and development of disease—typically at least 30 years
- Data strongly suggests that not all mesotheliomas are caused by asbestos exposure
 - Diagnoses of people with no industrial exposures
 - Relatively steady rate of incidence of mesothelioma among women without changes consistent with asbestos use
 - Background level of asbestos fibers detectable in the ambient air makes epidemiological study of “unexposed” impossible
 - Nevertheless, widespread misconception that all mesotheliomas are caused by asbestos

Aldrich's and Murray's Use of Asbestos

- Neither Aldrich nor Murray mined, milled, or distributed raw asbestos fibers
- Aldrich and Murray manufactured and distributed products that incorporated asbestos-containing materials as component parts which were supplied by other parties – typically gaskets or packing.
- The asbestos was encapsulated inside the gaskets and then enclosed inside metal equipment
- Exposure could only occur when the equipment was repaired or maintained
- The asbestos material used in gaskets was largely chrysotile, a form much less likely to cause cancer than amphibole fibers

Aldrich's and Murray's Use of Asbestos

- Some early Murray products incorporated external product insulation
 - External insulation was typically “friable” and provided more opportunity for exposure than gaskets
 - This type of insulation generally contained a more dangerous form of asbestos known as amphibole
 - Murray sold some boilers with asbestos insulation, but stopped in the mid-1950s
 - Other Murray boilers may have been insulated after distribution, e.g., by customers at job sites.
- The asbestos products that were associated with Aldrich and Murray equipment were, at all times, industry standard
 - Awareness of hazards associated with asbestos products evolved over time

Aldrich Pump Products

Major Product Lines including asbestos components

- **Pumps**

- Brands included Ingersoll Rand, Aldrich, Cameron and Ingersoll Dresser Pump

- **Compressors**

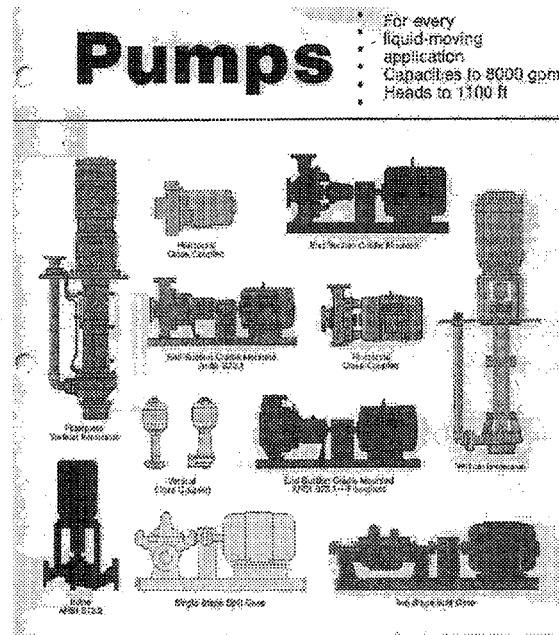
- Brands included Ingersoll Rand, Dresser Rand

Asbestos-containing parts in Aldrich products were generally gaskets and packing

- Aldrich phased out asbestos gaskets beginning in the late 1970s and mostly completed process by 1986
- Aldrich manufactured other equipment that may have incorporated asbestos components (e.g., ejectors, condensers, blowers, etc.), but those products have not had significant claiming history

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Aldrich Pump Products



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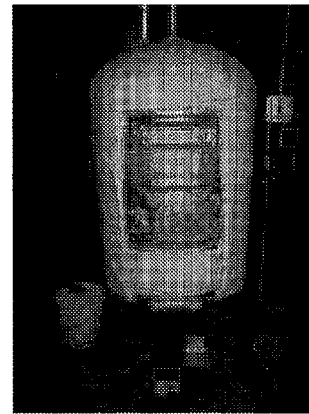
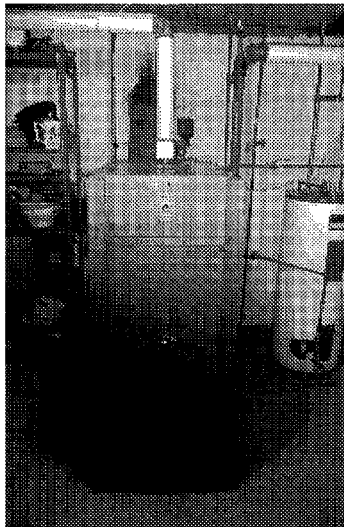
Murray Boiler Products

Major Product Lines including asbestos components

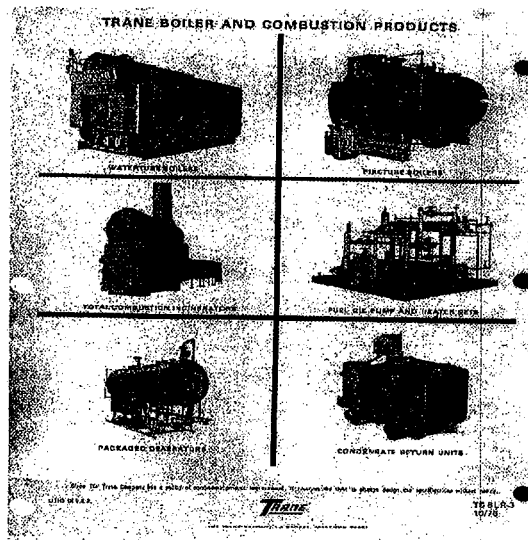
- **Boilers—Commercial and Residential**
 - Asbestos-containing gaskets, rope packing, fire brick, external insulation
 - Key brands: American Standard, Arco, Ideal, Murray, Kewanee
- **HVAC Equipment (Chillers, Absorbers, Air Handling Units, Cooling Towers)**
 - Asbestos-containing gaskets
 - Trane brand
- **Fans – forced draft and induced draft**
 - American Blower brand
- Murray manufactured/sold other equipment that may have incorporated asbestos components (e.g., railroad brake shoes, furnaces, etc.), but those products have not had significant claiming history
- Murray stopped using asbestos in much equipment during the 1970s and largely eliminated the use of asbestos in the latter half of the 1980s

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Murray Boiler Products



Murray Boiler Products



Evolution of Asbestos Litigation

First Wave of lawsuits: 1970s—Late 1990s

- Target defendants: the companies that mined and sold raw asbestos, as well as companies that used raw asbestos to manufacture thermal insulation and other products
- These companies (collectively the “asbestos industry”) paid hundreds of millions of dollars annually to resolve claims.
- Bankruptcies ensued – Johns Manville (1982), followed by others in the early 1990s (e.g., Celotex, National Gypsum, Eagle Picher)
- A second round of bankruptcies occurred in 2000 and 2001 (e.g., US Gypsum, Pittsburgh Corning, W.R. Grace, Federal Mogul)
- The bankruptcies resulted in Trusts with over \$35B available to asbestos claimants pursuant to an administrative process.
 - >130 companies have filed asbestos-related bankruptcies
 - Asbestos trusts operate separately from the tort system

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Evolution of Asbestos Litigation

Second Wave of Lawsuits: Early 2000s--Current

- Claims surged against companies with no connection to the “asbestos industry”
 - Many were companies that manufactured equipment that incorporated industry-standard asbestos-containing components
 - Litigation became the “endless search for the solvent bystander”
- Product exposure allegations in the tort system shifted in wake of bankruptcies
 - Allegations of exposure to the asbestos products of bankrupt companies drastically reduced
 - Garlock bankruptcy litigation explored this phenomenon
 - Discovery showed the testimony of many claimants in the tort system was inconsistent with submissions to asbestos trusts
 - Court found exposure evidence was withheld by the plaintiffs and unfairly inflated recoveries in the tort system

Aldrich's and Murray's Positioning in the Tort System

Pre-2000

- Focus of the litigation at that time was on large volumes of non-malignant claims
- Most lawsuits were filed by unimpaired plaintiffs, resulting in many dismissals, deferred dockets and low individual settlements
- From the first cases filed in the 1980s to 2000, Aldrich and Murray combined paid roughly \$2.5M to resolve mesothelioma cases

Aldrich's and Murray's Positioning in the Tort System

Post-2000

- Between 2001 and 2002, mesothelioma (as well as lung cancer) case filings more than doubled against both Aldrich and Murray
- Settlement costs increased dramatically in 2002 as well

Aldrich

- Increase of \$12.5M paid on mesothelioma cases

Murray

- Increase of \$4M paid on mesothelioma cases
- In the mid-2000s, mesothelioma claims started to become the primary focus of the litigation

Claims Filings

- Total asbestos filings from Inception of asbestos cases-Q1 2020
 - Aldrich 176,394
 - Murray 116,790
- Recent average number of annual asbestos filings
 - Aldrich 2,715
 - Murray 2,223
- Aldrich and Murray are now among a small group of companies most frequently sued in asbestos cases
- Based on third-party data estimates, Aldrich and Murray are currently named in a majority of the mesothelioma claims filed annually in the U.S. – in 2019, Aldrich was named in 80% of all mesothelioma claims, and Murray in 57%; implausible given products involved
- Recent average annual mesothelioma filings
 - Aldrich 1,504
 - Murray 1,129

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Tort System Realities

Redacted - Privileged

Tort System Realities

Redacted - Privileged

22

Tort System Realities

Redacted - Privileged

23

Tort System Realities

■

Redacted - Privileged

Claims Dismissals

- Aldrich and Murray successfully obtain dismissals without payment in substantial percentages of asbestos cases annually
 - Significant defense costs are expended in order to obtain many dismissals
- **Total dismissal rates**
 - **Aldrich**
 - Total dismissal rate Inception-9/2019 48%
 - Recent average annual overall dismissal 61%
 - **Murray**
 - Total dismissal rate Inception-9/2019 85%
 - Recent average annual dismissal rate 77%
- **Mesothelioma dismissal rates**
 - **Aldrich**
 - Mesothelioma dismissal rate Inception-9/2019 45%
 - Recent average annual meso dismissal rate 52%
 - **Murray**
 - Mesothelioma dismissal rate Inception-9/2019 78%
 - Recent average annual meso dismissal rate 79%

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Settlements—Average Annual Number of Resolutions

Redacted - Privileged

- Murray has not tried a case to verdict, and Aldrich has tried only one, resulting in a \$5.5M verdict against it. With costs and interest, the verdict was \$9.5M. The case settled while on appeal for \$9.2M.

Redacted - Privileged

- **Aldrich**

- Recent average number annual settlements 1261
- Recent average number annual meso settlements 675

- **Murray**

- Recent average number annual settlements 538
- Recent average number annual meso settlements 232

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Settlements—Average Payments

- **Redacted - Privileged**
- 99% of cases settled for <\$250K
- Average Overall Settlement Rate
 - **Aldrich**
 - Average overall settlement Inception-9/2019 **\$10K**
 - Recent average overall settlement rate **\$38K**
 - **Murray**
 - Average overall settlement Inception-9/2019 **\$28K**
 - Recent average overall settlement rate **\$46K**
- Average Mesothelioma Settlement Rate
 - **Aldrich**
 - Average meso settlement Inception-9/2019 **\$49K**
 - Recent average meso settlement rate **\$59K**
 - **Murray**
 - Average meso settlement Inception-9/2019 **\$89K**
 - Recent average meso settlement rate **\$89K**

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Total Indemnity Over Time

Redacted - Privileged

- Approximate total indemnity paid from Inception of asbestos cases-Q1 2020
 - Aldrich \$835M
 - Murray \$406M
- Approximate total mesothelioma indemnity paid from Inception of asbestos cases-Q1 2020
 - Aldrich \$651M
 - Murray \$322M

Average Indemnity Rates

- Recent average total indemnity paid annually
 - Aldrich \$48M
 - Murray \$25M
- Recent average indemnity paid annually on mesothelioma cases
 - Aldrich \$40M
 - Murray \$21M
- 83%--84% of settlement dollars are paid on mesothelioma cases

Costs of Defense

- Legal fees
 - National coordinating counsel
 - Local law firms in every jurisdiction in which lawsuits are filed against Aldrich and Murray
- Expert witnesses, court reporters, document management firms
- Other service providers
 - Claims and settlement database (PACE)
- Total defense costs paid from Inception of asbestos cases-2/29/2019
 - Aldrich **\$323.5M**
 - Murray **\$246.4M**
- Recent average annual legal fees
 - Aldrich **\$14.4M**
 - Murray **\$10.4M**

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Insurance Reimbursements

- Total Insurance Reimbursements to date
 - **Aldrich** **\$604.5M**
 - **Murray** **\$516.4M**
- These amounts did not come steadily over time as costs were incurred
 - Aldrich engaged in litigation with its insurers twice, once in the early 1990s, which led to an interim agreement with certain insurers, and then again more comprehensively in 2012 in a case that did not fully settle until November 2019.
 - Murray engaged in litigation with its insurers through much of the 2000s, and fully settled in 2008
 - Some deals were cash buy-outs of policy limits; most are coverage-in-place arrangements under which Aldrich and Murray get reimbursed on a case-by-case basis subject to policy limits

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Future Liability Forecasts

Redacted - Privileged

Redacted - Privileged

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Future Defense-Cost Forecasts

Redacted - Privileged

Redacted - Privileged

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Future Insurance-Reimbursement Forecasts

Redacted - Privileged

- Forecasted insurance reimbursements in the tort system*
 - Value of future insurance indemnity reimbursements
 - Aldrich \$163.1M (as of 3/31/2019)
 - Murray \$112.8M (as of 2/29/2019)

Redacted - Privileged

*Excludes Clark Equipment liability projections.

Summary of Forecasts for Future Costs in Tort System

Redacted - Privileged

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Appendix 1

Aldrich Data

Aldrich's Claims History – Filings Per Year

<u>File Year</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	1,336	3,005	62,414
2000	435	677	7,905
2001	488	577	7,977
2002	1,189	1,237	13,332
2003	1,316	1,044	9,549
2004	1,153	707	10,543
2005	1,290	884	11,125
2006	1,191	920	6,439
2007	1,337	735	4,523
2008	1,424	830	5,004
2009	1,465	809	3,774
2010	1,575	895	4,978
2011	1,575	1,040	3,956
2012	1,596	916	4,059
2013	1,450	662	2,951
2014	1,506	651	2,900
2015	1,644	828	3,070
2016	1,543	705	3,094
2017	1,410	770	2,610
2018	1,421	751	2,515
2019	1,682	960	3,021
<u>Q1 2020</u>	<u>341</u>	<u>243</u>	<u>655</u>
Total	28,367	19,846	176,394

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Aldrich Dismissal Rates (as % of Overall Resolutions)

<u>Year Resolved</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	32.6%	21.2%	56.6%
2000	18.9%	24.8%	10.4%
2001	27.0%	12.1%	7.7%
2002	50.2%	22.1%	18.1%
2003	42.7%	18.7%	23.4%
2004	30.5%	15.9%	19.7%
2005	38.2%	16.4%	42.4%
2006	31.7%	19.3%	38.3%
2007	33.3%	23.5%	43.7%
2008	42.1%	44.2%	56.0%
2009	44.7%	39.9%	58.0%
2010	38.0%	40.4%	45.7%
2011	47.3%	52.6%	63.1%
2012	45.0%	45.1%	58.7%
2013	43.5%	50.3%	65.6%
2014	53.4%	48.5%	63.5%
2015	49.3%	54.9%	56.0%
2016	58.5%	55.1%	70.9%
2017	47.1%	44.8%	48.2%
2018	55.2%	47.1%	56.0%
2019	58.2%	52.7%	80.0%
Q1 2020	48.0%	45.0%	55.0%

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Aldrich – Average Settlement Figures

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$3,302	\$854	\$615
2000	\$4,673	\$2,010	\$974
2001	\$5,495	\$1,346	\$1,199
2002	\$45,032	\$14,512	\$5,028
2003	\$42,801	\$9,581	\$4,635
2004	\$43,220	\$17,480	\$10,802
2005	\$43,574	\$7,269	\$7,810
2006	\$50,354	\$9,316	\$9,055
2007	\$48,296	\$6,673	\$13,311
2008	\$54,907	\$14,913	\$16,205
2009	\$55,744	\$15,929	\$22,977
2010	\$62,577	\$23,712	\$30,905
2011	\$59,051	\$25,632	\$32,590
2012	\$53,796	\$15,498	\$28,774
2013	\$49,726	\$16,277	\$29,082
2014	\$50,283	\$13,967	\$23,821
2015	\$42,345	\$17,345	\$27,316
2016	\$55,696	\$18,079	\$34,393
2017	\$66,880	\$19,857	\$39,363
2018	\$55,943	\$20,041	\$37,183
2019	\$53,806	\$19,714	\$36,697
Q1 2020	\$56,758	\$19,037	\$30,349

39

Aldrich – Annual Number of Settlements

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	445	1,393	20,378
2000	185	237	5,226
2001	195	444	4,592
2002	301	357	4,635
2003	472	522	6,540
2004	638	412	3,435
2005	642	672	4,628
2006	659	677	4,740
2007	839	680	3,583
2008	712	528	3,044
2009	746	472	2,233
2010	724	384	1,815
2011	832	397	1,871
2012	731	482	1,662
2013	686	394	1,435
2014	594	511	1,607
2015	883	363	1,649
2016	696	324	1,339
2017	687	380	1,399
2018	680	368	1,257
2019	657	304	1,126
Q1 2020	196	108	349
Total	13,200	10,409	78,543

40

Aldrich –Annual Indemnity Payments

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$1,469,287	\$1,189,800	\$12,527,517
2000	\$864,495	\$476,375	\$5,087,562
2001	\$1,071,588	\$597,639	\$5,505,239
2002	\$13,554,601	\$5,180,722	\$23,304,166
2003	\$20,202,289	\$5,001,376	\$30,311,538
2004	\$27,574,613	\$7,201,611	\$37,105,647
2005	\$27,974,575	\$4,884,944	\$36,146,676
2006	\$33,183,233	\$6,306,827	\$42,920,604
2007	\$40,520,679	\$4,537,482	\$47,764,320
2008	\$39,093,596	\$7,874,225	\$49,327,136
2009	\$41,584,766	\$7,518,607	\$51,308,248
2010	\$45,305,675	\$9,105,337	\$56,093,149
2011	\$49,130,549	\$10,175,819	\$60,976,251
2012	\$39,324,700	\$7,470,150	\$47,822,450
2013	\$34,111,917	\$6,413,200	\$41,733,317
2014	\$29,868,300	\$7,137,050	\$38,280,075
2015	\$37,390,644	\$6,296,394	\$45,043,680
2016	\$38,764,238	\$5,857,695	\$46,051,997
2017	\$45,946,525	\$7,545,825	\$55,068,944
2018	\$38,041,125	\$7,375,117	\$46,738,792
2019	\$35,350,750	\$5,993,116	\$42,515,041
<u>Q1 2020</u>	<u>\$11,124,550</u>	<u>\$2,056,000</u>	<u>\$13,558,750</u>
Total	\$651,452,695	\$126,195,310	\$835,191,098

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Aldrich Defense Costs

<u>Year Paid</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1992	\$6,770,000	2009	\$19,211,626
1993	\$2,980,000	2010	\$16,799,523
1994	\$1,350,000	2011	\$17,160,442
1995	\$2,580,000	2012	\$16,932,606
1996	\$4,140,000	2013	\$15,214,056
1997	\$5,160,000	2014	\$13,091,973
1998	\$4,710,000	2015	\$13,735,182
1999	\$6,770,000	2016	\$16,227,087
2000	\$6,920,000	2017	\$14,383,210
2001	\$5,270,000	2018	\$14,915,470
2002	\$8,340,000	2019	\$13,915,003
2003	\$16,520,000	<u>2020 through 2/29</u>	<u>\$3,213,729</u>
2004	\$21,490,000	Total	\$323,514,314
2005	\$19,803,891		
2006	\$39,210,031		
2007	\$21,274,631		
2008	\$21,450,591		

Appendix 2

Murray Data

Murray's Claims History – Filings Per Year

<u>File Year</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	432	691	29,810
2000	175	301	5,056
2001	301	369	9,680
2002	678	898	13,526
2003	794	498	7,827
2004	882	477	8,235
2005	974	613	6,652
2006	829	498	3,523
2007	915	495	2,751
2008	1,033	494	3,514
2009	1,054	472	2,254
2010	1,127	616	2,367
2011	1,184	693	2,598
2012	1,262	671	3,049
2013	1,248	466	2,205
2014	1,164	467	2,067
2015	1,296	612	2,320
2016	1,178	558	2,177
2017	1,130	616	2,300
2018	1,063	619	1,980
2019	1,194	864	2,389
<u>Q1 2020</u>	<u>253</u>	<u>222</u>	<u>510</u>
Total	20,166	12,210	116,790

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Murray Dismissal Rates (as % of Overall Resolutions)

<u>Year Resolved</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	74.3%	64.2%	88.5%
2000	75.0%	62.5%	92.9%
2001	31.2%	21.8%	23.7%
2002	56.3%	80.4%	66.0%
2003	71.8%	71.7%	74.2%
2004	69.6%	65.3%	92.4%
2005	74.5%	61.4%	73.4%
2006	74.8%	67.9%	77.2%
2007	68.2%	63.6%	77.2%
2008	80.8%	78.5%	93.5%
2009	82.4%	76.0%	91.3%
2010	77.1%	65.4%	87.8%
2011	79.1%	74.4%	78.6%
2012	77.3%	74.6%	95.4%
2013	79.3%	67.0%	74.0%
2014	81.8%	73.4%	85.0%
2015	83.5%	77.4%	82.0%
2016	76.0%	71.6%	79.5%
2017	79.0%	64.0%	71.3%
2018	78.9%	65.8%	75.7%
2019	79.0%	64.0%	83.0%
Q1 2020	78.0%	64.0%	72.0%

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Murray – Average Settlement Figures

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$43,378	\$2,691	\$3,099
2000	\$18,437	\$3,391	\$3,627
2001	\$38,938	\$13,244	\$3,869
2002	\$94,258	\$48,938	\$27,961
2003	\$76,955	\$13,464	\$20,714
2004	\$88,644	\$37,946	\$33,056
2005	\$73,316	\$15,305	\$15,149
2006	\$76,467	\$11,688	\$16,151
2007	\$112,894	\$29,511	\$34,547
2008	\$89,635	\$10,769	\$27,634
2009	\$100,329	\$24,388	\$33,215
2010	\$109,263	\$42,872	\$40,390
2011	\$94,855	\$30,103	\$32,821
2012	\$94,847	\$17,453	\$39,162
2013	\$97,488	\$21,890	\$40,006
2014	\$89,359	\$33,161	\$39,758
2015	\$76,239	\$27,000	\$35,220
2016	\$77,826	\$26,905	\$39,025
2017	\$99,513	\$27,075	\$46,550
2018	\$85,648	\$23,670	\$46,229
2019	\$82,163	\$23,928	\$46,320
Q1 2020	\$86,912	\$28,964	\$31,927

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Murray – Annual Number of Settlements

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	19	19	611
2000	7	9	84
2001	97	97	2,069
2002	83	48	394
2003	71	28	327
2004	177	85	620
2005	139	147	876
2006	143	128	821
2007	187	137	751
2008	182	117	666
2009	229	138	822
2010	208	149	743
2011	214	178	819
2012	257	201	724
2013	212	173	630
2014	190	168	579
2015	202	139	559
2016	278	164	687
2017	229	173	605
2018	247	183	565
2019	221	144	444
Q1 2020	34	14	76
Total	3,626	2,639	14,472

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Murray – Annual Indemnity Payments

<u>Year Paid</u>	<u>Mesothelioma</u>	<u>Lung Cancer</u>	<u>All</u>
Pre-2000	\$824,173	\$51,121	\$1,893,639
2000	\$129,056	\$30,520	\$304,677
2001	\$3,776,940	\$1,284,654	\$8,004,320
2002	\$7,823,435	\$2,349,004	\$11,016,738
2003	\$5,463,833	\$377,000	\$6,773,538
2004	\$15,689,918	\$3,225,422	\$20,494,881
2005	\$10,190,867	\$2,249,897	\$13,270,441
2006	\$10,934,760	\$1,496,000	\$13,259,710
2007	\$21,111,250	\$4,043,000	\$25,944,800
2008	\$16,313,500	\$1,259,967	\$18,404,150
2009	\$22,975,400	\$3,365,500	\$27,302,500
2010	\$22,726,750	\$6,387,900	\$30,009,750
2011	\$20,298,900	\$5,358,250	\$26,880,550
2012	\$24,375,700	\$3,508,100	\$28,353,100
2013	\$20,667,500	\$3,787,000	\$25,203,950
2014	\$16,978,250	\$5,571,000	\$23,019,625
2015	\$15,400,300	\$3,753,000	\$19,688,100
2016	\$21,635,650	\$4,412,500	\$26,810,300
2017	\$22,788,500	\$4,684,000	\$28,162,475
2018	\$21,155,000	\$4,331,600	\$26,119,400
2019	\$18,158,000	\$3,445,600	\$21,950,950
Q1 2020	\$2,955,000	\$405,500	\$3,459,500
Total	\$322,372,681	\$65,376,534	\$406,327,094

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Murray Defense Costs

<u>Year Paid</u>	<u>Amount</u>
Pre-2008	\$96,756,666
2008	\$15,535,553
2009	\$13,521,518
2010	\$17,465,042
2011	\$14,526,517
2012	\$12,834,536
2013	\$12,228,264
2014	\$9,644,265
2015	\$10,081,131
2016	\$11,313,682
2017	\$10,506,653
2018	\$11,271,639
2019	\$9,327,095
<u>2020 through 2/29</u>	<u>\$1,345,495</u>
Total	\$246,358,054

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EXHIBIT B

Excerpted Transcript of the Deposition of Marc DuFour

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----x
IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,
Debtors.

-----x
ALDRICH PUMP LLC and
MURRAY BOILER LLC,
Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

-----x
REMOTE VIDEOTAPED DEPOSITION OF

MARC DUFOUR

MARCH 3, 2021

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 190524

1
2
3
4
5 MARCH 3, 2021

6 9:35 a.m. EST
7
8

9 Remote Videotaped Deposition of
10 MARC DUFOUR, held at the location of the
11 witness, taken by the Committee of Asbestos
12 Personal Injury Claimants, before Sara S. Clark,
13 a Registered Professional Reporter, Registered
14 Merit Reporter, Certified Realtime Reporter, and
15 Notary Public.
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25

(M. DUFOUR - 3/3/21)

I then rose up through the ranks. And basically from 2000 to 2006, ran the compressor businesses for Ingersoll Rand, portions of the compressor businesses.

In 2006, I was named president of The Americas, which means I ran all of the industrial businesses for Ingersoll Rand, including the compressor tool material-handling businesses, and did that for six years. And then in 2011, I was then president and CEO of Club Car.

Q. And when did you become aware that your deposition was going to be taken in this case?

A. When did I become aware? Probably about a month ago.

Q. Okay. And since that time, have you reviewed any documents in order to prepare yourself for this deposition?

A. The only documents --

MR. HIRST: Hold on, Marc. Let me cast an objection.

I'm going to object to the extent that any of the documents -- object on the

(M. DUFOUR - 3/3/21)

attorney-client privilege grounds to the extent the documents were documents provided to you by counsel.

If Mr. Dufour independently chose any documents to review, I'll let him answer that question.

MR. GOLDMAN: I don't think Rule 612 has a limitation on whether -- who showed him the documents. Anything that refreshed -- you reviewed or refreshed your recollection should --

MR. HIRST: Well, you haven't established that he needed his recollection refreshed yet, so that's the first step of 612. We're certain the law is pretty clear that counsel's selection of documents is privileged.

So my objection stands. He can testify as to anything he chose --

MR. GOLDMAN: Do you have any authority for the proposition counsel's selection of documents that a witness reviews is privileged?

MR. HIRST: It's pretty much clear

(M. DUFOUR - 3/3/21)

law. I don't need a bunch of case law to --

MR. GOLDMAN: Can you give me one? I don't need a bunch.

MR. HIRST: In a deposition? No. And I'm not the one under examination. If we want to duke this out later, I'm happy to.

MR. GOLDMAN: This interrupts the whole deposition and then we have to go back and do the witness again, ask him what he looked at, which seems a little burdensome.

MR. HIRST: If that's a motion you want to bring, Steve, that's fine. The instruction stands, which is counsel's selection of documents I'm not going to let him testify to over the attorney-client privilege and work product doctrine. He can testify as to any documents he independently chose to review. If there's further questions that you want to ask, they may not be privileged, so let's lay that out.

BY MR. GOLDMAN:

Q. Let me just be clear, Mr. Dufour. I'm not asking you which documents counsel asked you to select as opposed to which, if any, you

1 (M. DUFOUR - 3/3/21)

2 decided to review yourself.

3 But what documents did you review in
4 preparation for this deposition?

5 MR. HIRST: And my objection stands,
6 and the same instruction stands, which is
7 the documents, to the extent they were
8 provided to you and selected by counsel, I'm
9 instructing you not to answer. To the
10 extent you independently chose to review any
11 other documents, Mr. Dufour, you can answer
12 that question.

13 Q. If you can go ahead and answer.

14 THE WITNESS: Pardon me?

15 MR. HIRST: You can answer as to
16 whether --

17 A. No.

18 MR. HIRST: -- you chose any documents
19 independently.

20 A. No.

21 Q. Were there documents that were
22 provided to you by counsel to review? You can
23 answer that yes or no.

24 MR. HIRST: Go ahead, Marc.

25 A. Yes.

1 (M. DUFOUR - 3/3/21)

2 Q. And I gather you did not know him
3 before this meeting.

4 A. No.

5 Q. And if we go to Page 2 of the
6 document, it indicates there, the first agenda
7 item was "Review of post-restructuring
8 activities in connection with the company's
9 asbestos-related lawsuits."

10 By this time, did you have -- that is,
11 by the time of the meeting, did you have an
12 understanding of what Murray Boiler Inc.'s
13 asbestos-related lawsuits were or would be?

14 A. No.

15 Q. So what did you learn about that
16 subject, the post-restructuring activities in
17 connection with the company's asbestos-related
18 lawsuits, from this meeting?

19 MR. HIRST: So I'm going to object
20 here on the basis of the attorney-client
21 privilege and work product doctrine.

22 I believe what Mr. Goldman is asking
23 is what was communicated to him by lawyers
24 at this board meeting concerning litigation
25 activity, and so I will instruct him not to

1 (M. DUFOUR - 3/3/21)

2 answer on that basis.

3 Q. At the end of the meeting, did you
4 have an understanding of the asbestos-related
5 lawsuits as they related to Murray Boiler?

6 A. In what way? I mean, specifically,
7 what --

8 Q. What -- let me ask it a different way.

9 A. I mean --

10 Q. What did you know about those lawsuits
11 by the time the meeting was over?

12 MR. HIRST: Let me interject here.

13 Mr. Dufour, you can answer as to your
14 understanding. I would caution you not to
15 provide any specific communications at the
16 meetings by lawyers, but you can answer as
17 to your own understanding.

18 A. From what I recall, I mean, there was
19 no specificity of the specific cases. It was
20 just strictly a high-level overview as to what
21 the total liability was. Because that was --
22 that was in the financials that I believe were
23 presented to us.

24 Q. But there were no financials presented
25 to you at this meeting, were there?

(M. DUFOUR - 3/3/21)

I'm going to object on the basis of attorney-client privilege and work product. I will let you testify as to your understanding. Again, I don't want you to reveal any communications or information based on legal advice received from counsel in responding to Mr. Goldman's questioning.

A. Yeah. I mean, I'm basically going to take your advice. I can't answer that question because it was contained in discussions we had -- detailed discussions about why the structure was put together.

Q. Well, I'm not asking you specifically what you were told, but I'm just asking you your current understanding of why Murray Boiler was -- LLC was converted from a Texas company to a North Carolina company.

MR. HIRST: And let me reiterate my objection on privilege again.

And, Mr. Dufour, if you have an understanding separate and apart from the legal advice you received, please testify to it. But if your understanding on this particular question is completely reliant on

1 (M. DUFOUR - 3/3/21)

2 the legal advice you received, then I will
3 instruct you not to answer.

4 A. It's relying on the legal advice we
5 received.

6 Q. Okay. Well, who -- did you have any
7 say in that -- the decision to do that?

8 A. To do what?

9 Q. To convert Murray Boiler LLC from a
10 Texas limited liability company into a
11 North Carolina limited liability company?

12 A. The board --

13 MR. HIRST: I'm sorry. I just want to
14 make sure I understand the question.

15 The question is, did he or the board
16 have any say in that decision?

17 MR. GOLDMAN: Well, I asked about if
18 he --

19 A. Yes.

20 Q. Okay.

21 A. And I would say since we approved it,
22 we did.

23 Q. Okay.

24 A. But we were relying on excellent legal
25 advice.

1 (M. DUFOUR - 3/3/21)

2 Q. So -- and why did you approve it?

3 A. Because of the excellent legal advice
4 we received.

5 Q. Any other reason?

6 A. No. That was the excellent -- that's
7 why we had outside counsel advising us.

8 Q. Okay. Did -- before approving it, did
9 you ask any questions about it?

10 A. Sure.

11 MR. HIRST: Hold on. This is a -- let
12 me get my objection in.

13 This is a yes-or-no question.

14 Objection on the basis of
15 attorney-client privilege and work product.

16 You can respond to that, Mr. Dufour,
17 "yes," "no," or "I don't remember."

18 Go ahead. I think you just did
19 respond.

20 A. Yes.

21 Q. And what questions did you have?

22 MR. HIRST: And here, let me -- I will
23 instruct the witness not to answer on the
24 basis of --

25 THE WITNESS: I can't answer.

1 (M. DUFOUR - 3/3/21)

2 Q. Okay. So the only --

3 MR. HIRST: Sorry, Steve. Just for
4 the record, on the basis of the
5 attorney-client privilege and work product
6 doctrine.

7 Go ahead.

8 Q. So the only basis for your decision
9 was what you learned from your lawyers; is that
10 right?

11 A. That's correct.

12 Q. Let me go back to the document.

13 If we go to Page 10, which is the last
14 page of this exhibit, is that the current -- is
15 that outline consistent with your understanding
16 of the current corporate structure as it relates
17 to Murray --

18 A. Yes.

19 Q. -- Boiler?

20 A. Yes.

21 Q. And you see at the bottom there, it
22 says Climate Labs LLC, in this chart, is a
23 separate LLC than Murray Boiler; is that
24 correct?

25 A. Are you looking at Slide 9?

(M. DUFOUR - 3/3/21)

with asbestos. And then Mr. Tananbaum, with the assistance of Mr. Erens, would review potential strategic options for addressing current and future asbestos claims.

So, I mean, that's -- I'm just reading it to you because that's what happened. Okay?

Q. Got it.

Is that consistent with your memory of the meeting?

A. Yes. Yeah.

Q. Let's go through the different items.

The update regarding activities in connection with current asbestos-related lawsuits, do you recall what subjects were discussed as part of that?

MR. HIRST: Hold on, Marc. Before you do so, I'm going to object on the basis of privilege again. Please answer this particular question so we can make sure we keep the privilege out correctly, "yes," "no," or "I don't recall."

A. Yes.

Q. And what do you recall being discussed in that regard?

(M. DUFOUR - 3/3/21)

MR. HIRST: At this point, I'm going to object on the basis of privilege and instruct the witness not to answer on the basis of the attorney-client privilege and work product doctrine.

Q. Do you recall who did the speaking during this part of the meeting?

A. I think you could see in the notes, I think the notes refer to -- I think it was Mr. Tananbaum with some support probably from outside counsel.

Q. And then in the second subject in the meeting minutes, which are "Review of the History of the Companies with Asbestos," the first sentence says "Mr. Tananbaum, with the assistance of Mr. Evert and Ms. Morey, then reviewed a slide presentation with respect to the history of the companies with asbestos, noting that the slides being presented electronically at the meeting reflected minor updates of the version thereto circulated in advance of the meeting."

Did you receive a slide deck or PowerPoint in advance of the meeting?

(M. DUFOUR - 3/3/21)

"Mr. Erens, with the assistance of Mr. Cody,
then made a presentation regarding
Section 524(g) of the bankruptcy code and the
potential use thereof as a mechanism to finally
resolve current and future claims against the
company."

Do you recall that presentation?

A. As I said earlier --

MR. HIRST: Again, Marc, real quick.

THE WITNESS: Sorry.

MR. HIRST: Same objection on the
basis of privilege.

Same caution. Please answer
Mr. Goldman's question "yes," "no," or "I
don't recall," and then we can work from
there.

A. I'll say yes, I recall the
presentation.

Q. Okay. And what was said during the
presentation?

MR. HIRST: Okay. So here I'm going
to object --

THE WITNESS: I can't -- I can't
answer.

(M. DUFOUR - 3/3/21)

MR. HIRST: Here, I'm going to object on the basis of privilege. Calls for information protected by the attorney-client privilege and work product doctrine and ask the witness not to answer.

THE WITNESS: Yeah.

BY MR. GOLDMAN:

Q. And just so we're clear, Mr. Dufour, you said you can't answer. Do you mean you can't answer because your counsel's instructing you not to answer, or you can't answer because --

A. That's correct. I can't answer because my counsel's instructing me not to answer.

Q. Okay. It's not because you don't have a memory of the presentation. It's because your counsel's instructing you not to answer, just so we're clear?

A. Correct.

Q. Okay.

MR. GOLDMAN: If we could look at the next exhibit, which is Exhibit 42, which I believe is parts of the slide presentation,

(M. DUFOUR - 3/3/21)

number of lawsuits -- asbestos-related lawsuits
filed against -- or relating to the
Murray Boiler asbestos liabilities for each
year; is that right?

A. That's what it says. That's correct.

Q. Do you know why the number was lower
in 2018?

A. No.

Q. Do you expect it to go -- in the
absence of bankruptcy, did you expect it to go
up or down in the future?

MR. HIRST: Hold on one second.

Objection -- objection on the basis of
the attorney-client privilege and work
product doctrine.

A. I would agree. I can't answer that.

Q. You can't --

MR. HIRST: Hold on. Let me finish my
instruction, Steve.

THE WITNESS: I should say I'm not
answering it on the advice of the attorney.

MR. HIRST: Let me give that advice
first.

To the extent you have independent

(M. DUFOUR - 3/3/21)

knowledge beyond what your attorneys told
you, Mr. Dufour, you can answer the
question. To the extent all of your
knowledge is based on advice of counsel,
then I instruct you not to answer.

A. Which I decline to answer because of
advice of counsel.

Q. I'd ask you to turn to Page 47 --
excuse me -- 48. I'm sorry.

A. I've got it.

Q. Okay. And that's titled
"Murray - Annual Indemnity Payments."

Is that a chart showing the amount of
indemnity payments paid to claimants, either in
settlements or judgments in favor of those
claimants?

A. Yes. I'm assuming that's what it was
referencing.

Q. Okay. And do you have an
understanding -- when you agreed to support the
Murray bankruptcy filing, did you expect that
number to -- in the absence of a bankruptcy, to
go up or down moving forward?

MR. HIRST: And I'll object on the

(M. DUFOUR - 3/3/21)

basis of the attorney-client privilege, work product doctrine.

And my instruction will be, Mr. Dufour, if you had an independent understanding in response to Mr. Goldman's question, please provide it. Otherwise, if your understanding is entirely based on the advice of counsel, I will instruct you not to answer.

A. I will not answer on the advice of counsel.

Q. I will ask you to look at the last page of the exhibit, which is Page 49, which is titled "Murray Defense Costs."

Are those the numbers for -- per year, spent on either legal fees or expenses related to defending claims and the litigation?

A. That's correct.

Q. And at the time you elected to support the bankruptcy filing of Murray Boiler, did you have an expectation that number would go up or down in future years?

MR. HIRST: And same objection.

Objection on the basis of the

(M. DUFOUR - 3/3/21)

attorney-client privilege and work product
doctrine.

Again, Mr. Dufour, if you had
independent knowledge not provided by
counsel in response to Mr. Goldman's answer,
please provide it. If all of your
information was information provided by
counsel, then I would instruct you not to
answer.

A. I will not answer on the advice of
counsel.

Q. Have you read any of the filings in
the Murray bankruptcy -- filings in the
bankruptcy court?

A. If it was presented to us in a board
meeting, I would have. If it was not presented
to us in a board meeting, I would not have.

Q. And we have minutes, which have been
marked and we can go through, for board meetings
on every -- every sort of seven days, May --
after the May 15th board meeting, May 22nd,
May 29, June 5, June 12, and, I believe,
June 17.

Is there -- have there been other

1 (M. DUFOUR - 3/3/21)

2 you know, because of attorney-client privilege.

3 It was explained to us, but I can't reveal why.

4 Okay? And so it's a "how," not "whether".

5 Q. Do you have an understanding that the
6 restructuring made it more likely that you'd be
7 able to successfully pursue an insurance option?

8 A. Again --

9 MR. HIRST: Hold on, Marc. That's a
10 yes-or-no question. The question is, do you
11 have an understanding. If the answer is
12 yes, then --

13 THE WITNESS: Yes.

14 MR. HIRST: Okay.

15 BY MR. GOLDMAN:

16 Q. And why? Why would the restructuring
17 make it easier to pursue an insurance option?

18 MR. HIRST: And I'll object on the
19 basis of the attorney-client privilege. And
20 if you have any independent knowledge, Marc,
21 that wasn't provided by attorneys that is
22 responsible for Mr. Goldman's question, you
23 can answer. If not, then I'll instruct you
24 not to answer on the basis of privilege.

25 A. I will not answer on the basis of

(M. DUFOUR - 3/3/21)

attorney-client privilege.

MR. GOLDMAN: Mr. Hirst, I assume the debtor will not be offering any evidence to that effect.

MR. HIRST: I didn't stipulate to that one way or the other. I'm protecting the debtors' attorney-client privilege and casting my objections as a result of that.

MR. GOLDMAN: Okay. Well, is this witness going to testify at a later date as to why the insurance -- why he believes the insurance option was more likely to be successful if -- because of the reorganization?

MR. HIRST: I don't know one way or the other what he's going to testify to. I'm telling you that given that he has indicated, in response to your specific question in the record -- I'll explain what that specific question was -- that his knowledge on that is entirely the result of privileged information, I'm instructing him not to answer on the basis of privilege.

1 (M. DUFOUR - 3/3/21)

2 BY MR. GOLDMAN:

3 Q. Are you able to tell me what insurance
4 or products were looked into?

5 A. No.

6 Q. Did anyone on the board have any
7 information or offer any information about an
8 insurance product or products that should be
9 looked into?

10 A. As I said earlier, we instructed our
11 legal counsel to go out and do some research on
12 it and come back to us and tell us what he found
13 out.

14 Q. You said there was a robust
15 discussion. It sounds hard to have a robust
16 discussion about is there a product available.

17 What other questions were asked about
18 products -- insurance products?

19 MR. HIRST: Let me object here.

20 Mr. Dufour, I'm going to instruct you
21 not to answer as to specific questions. I
22 will allow you to testify as to the subject
23 matter of the questions that were asked, but
24 I do not want you to testify as to specific
25 questions that were asked of legal counsel

1 (M. DUFOUR - 3/3/21)

2 in aid of seeking legal advice.

3 So with that instruction, you can go
4 ahead if you can answer.

5 THE WITNESS: I can't answer. I mean,
6 if you can go back and rephrase the question
7 for me again because I kind of forgot what
8 it was. So is it, what did we talk about,
9 or -- what do you want to know, Steve?

10 MR. GOLDMAN: I can just ask the
11 reporter to read the question.

12 THE WITNESS: Yeah, okay.

13 MR. GOLDMAN: That would probably be
14 the best way.

15 (Record read as follows:

16 "Question: You said there was a
17 robust discussion. It sounds hard to have a
18 robust discussion about is there a product
19 available.

20 "What other questions were asked about
21 products -- insurance products?")

22 THE WITNESS: Okay.

23 A. So at a high -- what I would say is
24 that because no one -- as I explained, no one --
25 we were talking about hypotheticals, about

1 (M. DUFOUR - 3/3/21)

2 side-by-side basis."

3 Do you recall that side-by-side
4 presentation?

5 A. I do.

6 Q. And how many -- was that a PowerPoint?

7 A. Yeah. I'm 80 percent sure it is.

8 Q. And roughly how many slides was that?

9 A. I can't remember. I think it was
10 pretty simple. I didn't think it was multiple,
11 multiple slides, but it could have been two or
12 three. I can't remember.

13 Q. And were the side-by-side the
14 insurance option and the bankruptcy option?

15 A. I think all three were put down there.

16 Q. If we go to the next page, Page 4, it
17 says "Mr. Erens began his presentation by asking
18 Mr. Jones to provide a brief overview of
19 potential factual inquiries that could be
20 expected in the event the boards were ultimately
21 determined to pursue a strategy using 524(g) of
22 the bankruptcy code."

23 What were those factual inquiries?

24 MR. HIRST: Object, and based on the
25 attorney-client privilege and work product

(M. DUFOUR - 3/3/21)

doctrine. Mr. Jones is counsel to the
debtors, and I'll instruct the witness not
to answer.

A. I can't answer on the basis of
attorney-client privilege.

MR. GOLDMAN: Let's look at
Exhibit 34.

Mr. Hirst, I assume, just in the
interest of time -- but tell me if I'm
incorrect -- that if I ask this witness the
same questions I asked of Mr. Valdes and/or
Mr. Zafari -- I'm trying to remember.

MR. HIRST: Zafari.

MR. GOLDMAN: -- Zafari, where
Mr. Hamilton instructed them to not answer
on the grounds of attorney-client privilege,
that you would give the same instruction, so
I don't have to go back through the same
questions on the same subject?

MR. HIRST: I think that's -- if we're
doing our job, Mr. Goldman, I think that's
fair. If you ask the same questions, then,
yeah, the objections, one presumes and holds
to be the same. And so I'm happy to, in the

1 (M. DUFOUR - 3/3/21)

2 interest of time, stipulate to that.

3 MR. GOLDMAN: Thank you. I think that
4 will make all of our lives today shorter --

5 THE WITNESS: Thank you.

6 MR. GOLDMAN: Not our lives shorter,
7 but the time on the deposition shorter --
8 our lives simpler.

9 Appreciate it.

10 BY MR. GOLDMAN:

11 Q. Okay. So if we look at Exhibit 34 --
12 do you have that up?

13 A. This was the board meeting of
14 June 5th?

15 Q. Right.

16 A. Yeah, I've got it.

17 Q. What's your memory of this meeting?

18 A. If you give me a minute and let me
19 review the notes.

20 Q. Okay.

21 (Witness reviews document.)

22 A. Yeah. I mean, basically it was the --
23 kind of the precursor meeting, and I believe
24 this was a joint meeting, if I'm not mistaken.
25 Let me just see.

(M. DUFOUR - 3/3/21)

Q. And just take a minute and look at those and tell me what you remember from this meeting, the June 5, 2020 meeting.

MR. HIRST: I'm going to object to the form on that.

Go ahead.

(Witness reviews document.)

A. I remember it was the discussion, if we were to file bankruptcy, what the process would be to go through that.

Q. Okay. Any other memory of that meeting?

A. No. It was just, you know, then once we went through that, then it was the follow-up where they actually have the independent board meetings to devote.

Q. So on the third page, middle of the page, it says "Mr. Evert" -- under "Update Regarding Activities In Connection with the Current Asbestos-Related Lawsuits," it says that "Mr. Evert provided an update regarding the activities of the companies in connection with their current asbestos-related lawsuits." And then "Mr. Tananbaum then provided a brief update

(M. DUFOUR - 3/3/21)

regarding coordination and recent discussions
with the companies' insurers."

What did Mr. Tananbaum say was the
substance of his recent discussions with the
companies' insurers or substance of -- somebody
speaking on behalf of the companies' recent
discussions with the companies' insurers if it
wasn't Mr. Tananbaum?

MR. HIRST: I'm going to object on the
basis of privilege, and as to that specific
question, I'm going to instruct the witness
not to answer on that basis. There are
questions around that you can ask,
Mr. Goldman, that I won't object to.

Q. Did Mr. Tananbaum say that he had had
recent discussions with the companies' insurers?

MR. HIRST: You can answer that.

A. I can't recall if it was him or
somebody in his organization had recent
discussions with them.

Q. Okay. And what did -- I'm not asking
about his advice. I'm just asking about what
did he say was said during those recent
discussions with the companies' insurers?

EXHIBIT C

Excerpted Transcript of the Deposition of Robert Zafari

UNITED STATES BANKRUPTCY COURT

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

CHARLOTTE DIVISION

IN RE:

ALDRICH PUMP LLC, et al.,

Debtors,

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

V.

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A TO

COMPLAINT and JOHN AND

JANE DOES 1-1000,

Defendants.

)
)
) Chapter 11
) No. 20-30608 (JCW)
) (Jointly Administered)

)
)
) Adversary Proceeding
) No. 20-03041 (JCW)

REMOTE DEPOSITION OF ROBERT ZAFARI

TUESDAY, MARCH 2, 2021

8:29 A.M.

REPORTED BY: KATHERINE FERGUSON, CSR NO. 12332

JOB NO. 190522

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March 2, 2021

8:29 a.m.

Deposition of ROBERT ZAFARI, held remotely,
before Katherine Ferguson, Certified Shorthand
Reporter.

1 documents?

2 A Yeah, the minutes of the meetings that we
3 had essentially.

4 Q Okay. Besides the meetings of -- you're
5 talking about the minutes of the board meetings?

6 A Yes.

7 Q Besides the minutes of the board meetings,
8 were there any other documents you reviewed in
9 preparation for your --

10 MR. HAMILTON: I'm going to object and
11 instruct the witness not to answer on the grounds
12 that it calls for the disclosure of -- it's protected
13 by the attorney/client privilege and attorney/client
14 work product.

15 MR. GOLDMAN: I'm going to draw your
16 attention to Rule 612 of the Federal Rules
17 Procedures. It specifically allows inquiry of a
18 witness in terms of what documents they prepared, and
19 I'm not asking him at all about meetings with counsel
20 at this point or what counsel told him to review or
21 didn't review. So you're just violating the rules
22 of civil procedures.

23 MR. HAMILTON: I disagree. The rule only
24 addresses documents that refresh the witness's
25 recollection. You haven't established that he looked

1 at any documents that refreshed his recollection.
2 There's established case law in this jurisdiction and
3 other jurisdictions that states that questions asking
4 what documents were shown to the witness by counsel
5 is privileged and work product and the only exception
6 is if it refreshes his recollection. You haven't
7 established that. So I disagree strongly that I have
8 violated any rule at all.

9 BY MR. GOLDMAN:

10 Q Sir, what was your purpose in reviewing the
11 documents?

12 A The minutes of --

13 MR. HAMILTON: Again, I'm going to object
14 and instruct the witness not to answer that question.
15 If you want to ask him if his recollection was
16 refreshed, that's fine, but I'm not going to let you
17 ask any more questions about what I chose to show him
18 in preparing him for his deposition.

19 THE WITNESS: I'll follow my counsel's
20 advice then.

21 BY MR. GOLDMAN:

22 Q Did you review the document -- did you
23 review the documents for any purpose other than
24 refreshing your recollection? You can answer that
25 yes or no.

1 A No.

2 Q So the only reason to look at the documents
3 was to refresh your recollection; is that correct?

4 A Yes.

5 MR. HAMILTON: And I'm going to object and
6 instruct the witness not to answer on the grounds of
7 attorney/client privilege.

8 BY MR. GOLDMAN:

9 Q What documents did you review?

10 MR. HAMILTON: Object, instruct the witness
11 not to answer.

12 MR. GOLDMAN: What's the basis now?

13 MR. HAMILTON: You haven't established that
14 he refreshed -- that any of the documents he looked
15 at refreshed his recollection. (Inaudible) I'll let
16 him answer it.

17 MR. GOLDMAN: He just testified the reason
18 he reviewed them was to refresh his recollection.

19 MR. HAMILTON: What his purpose was doesn't
20 change the fact that you haven't established that it
21 actually refreshed his recollection.

22 MR. GOLDMAN: Good luck with that one.
23 Let's keep going.

24 BY MR. GOLDMAN:

25 Q Is there anything you didn't remember that

1 the documents you reviewed refreshed your memory?

2 A Can you repeat the question?

3 Q Yeah.

4 So you've testified earlier that you
5 reviewed the documents for the purpose of refreshing
6 your recollection; is that correct?

7 A Yes.

8 Q And did they in fact -- did those
9 documents, in fact, refresh your recollection as to
10 certain facts and events that you thought you might
11 be questioned about?

12 A Basically my recollections are pretty much
13 what I remember from the meetings we had.

14 Q So they were consistent?

15 A They were consistent.

16 Q And did the documents help you to be ready
17 to testify?

18 A I haven't spent hours doing this. Just
19 browsing through the minutes.

20 Q And did you look at any other documents
21 besides the minutes?

22 MR. HAMILTON: Object, instruct the witness
23 not to answer.

24 MR. GOLDMAN: Okay.

25 BY MR. GOLDMAN:

1 Q Were they all lawyers, as far as you know?

2 A As far as I know, yes.

3 Q Okay. And do you remember any of their
4 names?

5 A Well, one is -- is with us right now.

6 Q Yeah.

7 A And there was also the CLO, the chief legal
8 officer (inaudible). Those two I remember because
9 they're the main actors.

10 Q Now, how did it come about that you ended
11 up as a director at Aldrich Pump; how did that
12 opportunity first come to your attention?

13 A I got a phone call from Evan Turtz, who is
14 the general counsel for Trane Technologies now, and
15 he briefed me very shortly on what the asbestos
16 situation was and we talked about eventually having
17 me as part of the board for this unit.

18 Q And you said he briefed you on the asbestos
19 situation. Can you tell me what your memory is of
20 what he said?

21 A Well, it was a phone call, so it was a very
22 short conversation, again, but he -- he suggested to
23 send me a document that sort of retraced what some of
24 the companies had done, the history of asbestos in
25 general. So as far as I can remember, it was what

1 the history of asbestos was from the early days and
2 the -- the first -- in the '80s, '90s and until the
3 mid early 2000s, how that was run, and then how
4 things evolved eventually later. And there was
5 basically a brief of a document from Bestwall that he
6 sent me for reading. And that essentially gave me
7 sort of the big picture on what the situation was
8 with regard to asbestos, the claim for, in general,
9 because we at that point, we weren't sure -- I didn't
10 know what the structure would be, who the players
11 would be or any of that. That was in, my best
12 recollection, in February of last year.

13 Q February of 2020?

14 A '20.

15 Q Do you recall what Mr. Turtz specifically
16 said to you during that call -- that was a phone
17 call?

18 A A phone call, yeah, because middle of --
19 beginning of COVID or whatever, very quickly switched
20 to everything phone calls. Just for the record, for
21 the rest of this conversation, we haven't had any
22 meetings in person for the last 12 months.

23 Q Nor have I.

24 A So that's clear, everything was by video or
25 phone call. I mean, the good thing is I know some of

1 A I probably sent him a list of questions
2 after reading the case, you know, these are the sort
3 of things I'd like to know.

4 MR. HAMILTON: I'm going to -- at this
5 point I'm going to interject, Mr. Zafari. I'm going
6 to caution you, you can answer his question yes or
7 no, but I'm cautioning you not to disclose what your
8 questions were to Mr. Turtz or what his answers were
9 on the grounds of communications covered by the
10 attorney/client privilege.

11 THE WITNESS: I understand.

12 BY MR. GOLDMAN:

13 Q Let me ask, Mr. Zafari, at the time you
14 sent these questions, was Mr. Turtz your lawyer?

15 A No.

16 Q And you were not employed by his company;
17 is that correct, at that time?

18 A I was not employed by his company.

19 Q Did you -- so could you tell me what the
20 questions were in your e-mail?

21 MR. HAMILTON: Object, instruct the witness
22 not to answer on grounds of attorney/client
23 privilege.

24 MR. GOLDMAN: Who is the attorney and who
25 is the client that you instruct on?

1 MR. HAMILTON: I don't think it's
2 productive to argue on the record now. There's two
3 people to the conversation; one's an attorney and I
4 think you know the answer.

5 MR. GOLDMAN: I don't know the answer.
6 That's why I asked the question. I don't usually ask
7 questions I know the answer to.

8 MR. HAMILTON: Now you are.

9 MR. GOLDMAN: At least not of counsel. In
10 any event --

11 MR. HAMILTON: The client was trained at
12 the time and it was in anticipation of hiring or
13 employing Mr. Zafari as a director of the company.
14 And the purposes of the questions were done in
15 connection with providing legal advice if he took
16 that job. I think that's privileged. I may be
17 wrong, but that's my position. I've instructed him
18 not to answer. We can spend another 20 minutes
19 arguing about it if you want.

20 BY MR. GOLDMAN:

21 Q Mr. Zafari, are you going to follow
22 Mr. Hamilton's advice and refuse to tell me what
23 questions you asked of Mr. Turtz in that e-mail?

24 MR. HAMILTON: He's not refusing to do
25 anything. He's following counsel's instruction,

1 Mr. Goldman.

2 MR. GOLDMAN: Are you instructing him to
3 refuse to answer that question?

4 MR. HAMILTON: He's not refusing to answer.
5 He's following his counsel's instruction.

6 THE WITNESS: I'm following my counsel's
7 instruction.

8 BY MR. GOLDMAN:

9 Q So are you not willing to answer my
10 question as to what the substance of your -- based on
11 your attorney's advice, are you not willing to answer
12 the questions as to what was the substance of your
13 questions of Mr. Turtz?

14 MR. HAMILTON: Object and instruct the
15 witness not to answer. That's been asked and
16 answered. He said he's following counsel's
17 instruction. Now you're just badgering him.

18 BY MR. GOLDMAN:

19 Q So you sent Mr. Turtz questions but you
20 won't tell me what they were.

21 Did you receive a response from him?

22 A I don't think I have a written response. I
23 think we had a high-level conversation again on the
24 phone subsequent to this.

25 Q Okay. And you --

1 A But again, I do not recall that it was
2 any -- any written answers to my e-mail.

3 Q Okay. And the time you had this high-level
4 conversation or discussion --

5 A Could have been toward the end of February,
6 could have been early March. I don't recall.

7 Q At that time, Mr. Turtz was not your
8 counsel; is that correct?

9 A Mr. Turtz was not my counsel at that time.

10 Q And you were not employed by any company
11 that he was affiliated with at that time?

12 A Yeah, we said that before.

13 Q Just so we lock the time down.

14 When did you first become retained as a
15 director or manager of Aldrich?

16 A I think it's manager it's called.

17 Q Manager. Okay.

18 A Sometime I believe in March.

19 Q Okay.

20 A I don't have the exact date.

21 Q Okay. So what was -- could you tell me,
22 the best you remember, the conversation or the
23 substance of the conversation you had with Mr. Turtz
24 in -- towards the end of February in which you had a
25 high-level discussion?

1 MR. HAMILTON: Object, instruct the witness
2 not to answer on the grounds of attorney/client
3 privilege.

4 BY MR. GOLDMAN:

5 Q Are you going to follow your counsel's
6 instruction?

7 A I'll follow my counsel's instruction.

8 Q Okay. How long did that conversation take?

9 A It was short. Again, we talked about the
10 retainer, for example, how much time would be
11 involved in this, et cetera, very high-level. So
12 that's it. I mean, pretty -- that's a minimum.

13 Q Did he tell you about how much time would
14 be involved?

15 A Not exactly, but it just varies, the answer
16 I gave you earlier, which is there's going to be
17 busier times than others, certainly more at the
18 beginning than later. So talked about the nature of
19 this work.

20 Q More time --

21 A You can't have a board member without
22 having some conversation about the conditions.

23 Q I understand.

24 When you say more time in the beginning
25 than later, is that what you anticipated that being a

1 check. We did have -- let me see if we did it here
2 or not. Because we did have a meeting on corporate
3 guidance and guidelines, et cetera. I'm not sure it
4 was here at this one specifically.

5 Q If I can draw your attention to the third
6 page of the exhibit towards the middle of the page.
7 It says, Mr. Lewis, then summarize the corporate
8 governance guidelines.

9 A Yeah, okay. So it was here probably, yeah.

10 Q What do you recall being discussed about
11 the corporate governance guidelines?

12 MR. HAMILTON: Object and instruct the
13 witness not to answer on the grounds that it calls
14 for the disclosure of communications protected by the
15 attorney/client privilege.

16 BY MR. GOLDMAN:

17 Q In the next paragraph down, it says
18 "Mr. Jones then summarized guidelines for privileged
19 communications and guidelines for the use of e-mail
20 and other electronic communications."

21 What you do recall being discussed about
22 that?

23 MR. HAMILTON: Actually, it continues, "set
24 forth in the privileged memo," and I'm going to
25 instruct the witness not to answer that question on

1 the grounds that it calls for the disclosure of
2 communications protected by the attorney/client
3 privilege.

4 BY MR. GOLDMAN:

5 Q Towards the top of the page, same page, the
6 first --

7 A Page 4?

8 Q Still on page 3.

9 A Page 3. Mr. Evert with the assistance --

10 Q Right. It said, "reviewed the companies'
11 post-structuring activities in connection with its
12 asbestos-related lawsuits".

13 Do you remember what was said about that?

14 MR. HAMILTON: Object and instruct the
15 witness not answer on the grounds that it calls for
16 the disclosure of communications protected by the
17 attorney/client privilege.

18 BY MR. GOLDMAN:

19 Q Just going through the three sections of
20 discussion from this meeting, the first section is
21 the review of post-restructuring activities in
22 connection with the companies' asbestos-related
23 lawsuits.

24 What do you remember being said during that
25 discussion?

1 MR. HAMILTON: Object and instruct the
2 witness not to answer on the grounds that it requires
3 disclosure of communications protected by the
4 attorney/client privilege.

5 BY MR. GOLDMAN:

6 Q And let's go to the second section for
7 discussion during this meeting which is titled "A
8 review of the post restructuring protocols and
9 guidelines set forth in privileged memo."

10 What do you recall being said at the
11 meeting in connection with that -- that agenda item?

12 MR. HAMILTON: Object to that question and
13 instruct the witness not to answer on the grounds
14 that it requires disclosure of communications
15 protected by the attorney/client privilege.

16 BY MR. GOLDMAN:

17 Q Let's go to the third subject of discussion
18 that's identified in these minutes which is a review
19 of status of opening balance sheet of the company.

20 What do you recall being said at the
21 meeting on that subject?

22 MR. HAMILTON: And Mr. Zafari, you can go
23 ahead and answer that question.

24 THE WITNESS: Very high-level, these were
25 the review by Amy Roeder of the balance sheet that

1 A Yes. And sometimes we'd have a meeting in
2 common and separate for a second part where we do
3 separate activities, reviewing numbers or having a
4 discussion that could be specific to either one. So
5 we had a mix of both for some time.

6 MR. GOLDMAN: Let's go to exhibit -- you
7 can close that Exhibit and go to Exhibit 31.

8 MR. DEPEAU: Exhibit 31 is up in the chat.

9 (Exhibit 31 was marked for identification.)

10 THE WITNESS: Okay. What's the date here?

11 BY MR. GOLDMAN:

12 Q May 15, 2020.

13 A Yes.

14 Q This one says it's a joint meeting --
15 meeting of joint meeting?

16 A Yes.

17 Q And --

18 A I can see Mark.

19 Q If I could ask you to look at the third
20 page of this document.

21 A Starts with Mr. Evert?

22 Q Yes. That relates to the first subject of
23 discussion at the meeting that's detailed in the
24 minutes.

25 Can you tell me what you remember being

1 said as part of this discussion?

2 A I think this is probably the meeting where
3 I can recognize --

4 MR. HAMILTON: Excuse me. I was on mute.
5 My fault. I'm objecting and instructing the witness
6 not to answer on the grounds that it requires
7 disclosure of communications protected by the
8 attorney/client privilege.

9 BY MR. GOLDMAN:

10 Q If you look at the second section of the
11 subject, the discussion, it says there,
12 "Mr. Tananbaum, with the assist of Mr. Evert and
13 Ms. Morey, then reviewed a slide presentation with
14 respect to the history of the companies with
15 asbestos."

16 Do you recall that?

17 A Yes.

18 Q We'll look at parts of that in a minute.

19 But before we do that, what do you -- what
20 is your memory of that slide presentation?

21 A As it says, history of the companies with
22 asbestos. Starts very early for both companies, very
23 early in the '80s where the products were used and
24 what type of asbestos was used, the -- the number of
25 claims before and after the asbestos industry

1 transformation of the late '90s. I remember --
2 there's a lot of -- probably even the -- some about
3 the Morey and Aldrich activities. It's a pretty
4 heavy presentation, maybe 20, 30 pages. So it's in
5 the beef of the matter, very informational and very
6 useful.

7 Q And the third subject of discussion that
8 was identified in the minutes is the review of
9 potential strategic options for addressing current
10 and future liabilities, and that indicates that one
11 of the options discussed was the potential use of
12 524(g) of the bankruptcy code; is that correct?

13 A Yes, that's correct.

14 Q And what do you recall being said during
15 that discussion?

16 MR. HAMILTON: Object and instruct the
17 witness not to answer on the grounds that it calls
18 for the disclosure of communications protected by the
19 attorney/client privilege.

20 BY MR. GOLDMAN:

21 Q Let me just ask you: Was that discussion
22 important to you in making your decision as to
23 whether to approve the filing of the bankruptcy early
24 on; is that part of the information you received
25 important to you?

1 when --

2 A Yeah, I'm there.

3 Q Okay. Do you recall what -- what was said
4 about the tort system realities at this meeting on
5 May 15th?

6 A I'm not an expert, so basically I think
7 what was --

8 MR. HAMILTON: I'm sorry, I was on mute. I
9 have to object and instruct the witness not to answer
10 on the grounds that the answer would require
11 disclosure of communications protected by the
12 attorney/client privilege.

13 BY MR. GOLDMAN:

14 Q Do you recall who presented this section of
15 the presentation on tort system realities?

16 A No, I don't.

17 Q Do you recall whether it was an attorney?

18 A I don't remember. I can't remember if it's
19 an attorney or not. I just can't remember. I have
20 to assume it could be. But I don't remember.

21 Q And at the end of this meeting, did you
22 have an understanding about some realities of the
23 tort system that were important to you as takeaways
24 from the meeting?

25 A I think there was nothing of a big surprise

1 says "total insurance reimbursements to date".

2 Were those numbers new to you as well?

3 A Yes.

4 Q So was pursuing these claims further with
5 various insurance companies an option that was
6 pursued?

7 A It was an option we looked at. I'm not
8 sure in this meeting, but definitely the insurance
9 path was a clear option to investigate.

10 Q I'll ask you to look at page 32, which is
11 redacted except for the title. It says there,
12 "Future liability forecasts"; do you see that?

13 A Yes.

14 Q And what do you remember being said at the
15 meeting about future liability forecasts?

16 MR. HAMILTON: Object and instruct the
17 witness not to answer on the grounds that answering
18 it would require disclosure of communications
19 protected by the attorney/client privilege.

20 BY MR. GOLDMAN:

21 Q Mr. Zafari, is the potential future
22 liability of the company for asbestos liabilities
23 important to you and the decisions that you would
24 make to make on behalf of Aldrich?

25 A The -- I'm trying to look for the right

1 impression that I had at that time. It was
2 definitely one to find a way -- given the history and
3 where we came from, to find a way that -- to find a
4 solution not to kick the can, you know, down the road
5 and come up with a solution that could be permanent.
6 That was definitely part of the objectives that I
7 personally had in mind.

8 Q Was it important to you to know what the
9 probable liabilities would amount to in dollars if
10 you kept going the way that the companies had been
11 going?

12 A Yes, but -- yes, but at the same time
13 nobody could really say what it would be, the range
14 of forecast, et cetera, was sort of make that
15 question almost unanswerable, and because it's so
16 unpredictable again. So that was definitely part of
17 how can we make this, you know, 30 years ago would
18 know where the evolution of things would be, we would
19 make the decision differently. Now we don't want to
20 make a decision for the next 30 years and wake up in
21 the next 20 years and wake up with absolutely
22 unpredicted outcome, not only -- bearing in mind
23 current claimants and future claimants. Also, that
24 was part of the logic that we were played.

25 Q Is that one of the things you learned from

1 the future of liability forecasts, that future
2 liabilities would be unanswerable and unpredictable?

3 MR. HAMILTON: Hold on, Mr. Zafari. One of
4 the things you learned -- I'm going to instruct the
5 witness not to answer that question on the grounds
6 that it would require disclosure of communications
7 protected by the attorney/client privilege.

8 BY MR. GOLDMAN:

9 Q At the end of this presentation, did you
10 believe that future liabilities were unpredictable
11 and unanswerable?

12 MR. HAMILTON: You can answer that
13 question, Mr. Zafari.

14 THE WITNESS: Yeah, unpredictable, at least
15 we can say, very broad range unpredictable, yes.

16 BY MR. GOLDMAN:

17 Q Were there attempts to predict future
18 liability forecasts made during this meeting?

19 MR. HAMILTON: Object and instruct the
20 witness not to answer on the grounds that it would
21 require of communications protected by the
22 attorney/client privilege.

23 BY MR. GOLDMAN:

24 Q If I could ask you to look -- scroll down
25 to page 34.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 MR. GOLDMAN: If we could -- you can close
11 that exhibit now. If we could look at Exhibit 32
12 next.

13 MR. DEPEAU: Exhibit 32 is in the chat.
14 (Exhibit 32 was marked for identification.)

15 THE WITNESS: I have it. It's the board of
16 directors meeting. I'm trying to look for the date
17 here.

18 BY MR. GOLDMAN:

19 Q It's right -- appears to be May 22?

20 A May 22, yeah, okay.

21 Q If I can ask you to turn to the third page,
22 please.

23 A Yes.

24 Q Okay. And the first subject of discussion
25 that is -- that is outlined in these minutes is

1 "update regarding activities in connection with the
2 current asbestos-related lawsuits."

3 Can you tell me what you recall being said
4 about that at this meeting on May 22?

5 MR. HAMILTON: Object and instruct the
6 witness not to answer on the grounds it would require
7 disclosure of communications protected by the
8 attorney/client privilege.

9 BY MR. GOLDMAN:

10 Q The second subject of discussion described
11 in these minutes is "review and further discussion of
12 strategic options for discussing current and future
13 asbestos claims." And the first sentence after that
14 heading states, "Mr. Tananbaum briefly reviewed the
15 topics presented at the May 15 joint meeting and
16 noted the numerous questions received from members of
17 the board and Mr. Pittard both at and after the May
18 15th meeting."

19 Did you have any of those questions that
20 are described there or any of those --

21 MR. HAMILTON: You can answer that question
22 yes or no, Mr. Zafari.

23 THE WITNESS: Yes.

24 BY MR. GOLDMAN:

25 Q What were your questions?

1 MR. HAMILTON: And I object and instruct
2 the witness not to answer on the grounds that require
3 disclosure of communications protected by the
4 attorney/client privilege.

5 BY MR. GOLDMAN:

6 Q Did you receive responses to your
7 questions?

8 MR. HAMILTON: You can answer that question
9 yes or no.

10 THE WITNESS: Yes.

11 BY MR. GOLDMAN:

12 Q And what were the responses you received?

13 MR. HAMILTON: Object and instruct not to
14 answer on the same grounds.

15 BY MR. GOLDMAN:

16 Q Do you know who else had questions, what
17 other board members had questions?

18 A Board members, Manuel definitely had
19 questions, I'm sure for Morey. Mark DeFore, he was
20 there. He was with joint meeting. I don't recall.
21 I can check it. So we basically -- all board members
22 had questions but pretty extensive discussion.

23 Q And what were the questions of the other
24 board members?

25 MR. HAMILTON: Object and instruct the

1 witness not answer on the grounds it requires
2 disclosure of communications protected by the
3 attorney/client privilege.

4 BY MR. GOLDMAN:

5 Q Can you describe the extensive discussions?

6 MR. HAMILTON: Object and instruct not to
7 answer.

8 BY MR. GOLDMAN:

9 Q The bottom of this page states, "Mr.
10 Tananbaum then asked Mr. Erens to review the
11 experience of companies that recently made Chapter 11
12 filings in an effort to finally resolve their current
13 and future asbestos claims utilizing section 524(g)
14 of the bankruptcy code."

15 Did Mr. Erens do that review?

16 A Yes.

17 Q What did he say about that?

18 MR. HAMILTON: Object and instruct the
19 witness not to answer on the ground its requires
20 disclosure of information protected by the
21 attorney/client privilege.

22 BY MR. GOLDMAN:

23 Q What did Mr. Erens say about the Georgia
24 Pacific, LLC restructuring?

25 MR. HAMILTON: Object and instruct the

1 witness not to answer on the same grounds.

2 BY MR. GOLDMAN:

3 Q How about the DPMP restructuring?

4 MR. HAMILTON: Object, instruct the witness
5 not to answer on the same grounds.

6 BY MR. GOLDMAN:

7 Q How about the Paddock Enterprises
8 reorganization?

9 MR. HAMILTON: Object and instruct the
10 witness not to answer on the same grounds.

11 BY MR. GOLDMAN:

12 Q Further down, the next paragraph, it says
13 "Mr. Tananbaum then reviewed the other strategic
14 options for addressing current and future asbestos
15 claims that were presented at the May 15th joint
16 meeting."

17 What strategic -- what other strategic
18 options were those?

19 MR. HAMILTON: You can answer that
20 question, Mr. Zafari.

21 THE WITNESS: Pretty broad range, but to
22 sum it up, of course on the one hand you have the
23 524(g), but then we had the -- some options with
24 further insurance and probably a third range of
25 options around optimization, organizational

1 evolution of this into the 2050s or past that. We
2 don't know.

3 Q When you say -- when you said the
4 discussion took place, are you talking about the
5 discussion of what would be done if the claims were
6 measurable or future liabilities were measurable?

7 A No, are they measurable. If we think
8 they're not measurable, that's not even a scenario,
9 because we're just perpetuating.

10 Q Now, you also discussed an insurance option
11 of some sort, if I understand you.

12 A Yeah, high-level, yes.

13 Q All right. And could you tell me what was
14 discussed in that high-level?

15 MR. HAMILTON: Wait, wait, wait. I'm going
16 to object and instruct the witness not to answer on
17 the grounds it requires disclosure of communications
18 protected by the attorney/client privilege.

19 MR. GOLDMAN: He's just been testifying for
20 the last five minutes about discussions at this
21 meeting about the -- what the options were and why
22 they could be pursued or couldn't be pursued and now
23 we're going to the next option and you're telling him
24 now not to answer?

25 MR. HAMILTON: He has disclosed what the

1 topics were that were discussed. He has not
2 disclosed what statements were made in the discussion
3 of each topic and that is how we're drawing a line.

4 MR. GOLDMAN: The record will speak for
5 itself.

6 MR. HAMILTON: That's right, it will. And
7 it doesn't need you to speak for it.

8 MR. GOLDMAN: It doesn't need you either.

9 BY MR. GOLDMAN:

10 Q Mr. Zafari, could you tell me what the
11 insurance option that was considered was?

12 A From insurance, different policy, et
13 cetera.

14 Q How was that an option to address the --
15 potential option to address the asbestos liabilities?

16 A Well, it's an option because insurance are
17 with us in this journey. That's how it becomes an
18 option, is there a different way of dealing with it.
19 But it still bumps into the next, the same test which
20 is still unpredictable, whatever policy you're going
21 to put in place. You don't know if it's going to run
22 out, it's going to be more efficient. And my belief
23 is that by introducing more people, you're not going
24 to make it more efficient, probably going to make it
25 less efficient. So that's the, in very broad terms,

1 the option that we looked at, why it didn't seem that
2 it would help us in any way get a better answer in
3 terms of efficiencies and permanency of the solution.

4 Q And who explained that to you?

5 MR. HAMILTON: Object and instruct the
6 witness not to answer on the grounds of
7 attorney/client privilege.

8 MR. GOLDMAN: Let's go to the next Exhibit,
9 Exhibit 33, if we could pull that up or put that in
10 the chat.

11 (Exhibit 33 was marked for identification.)

12 THE WITNESS: Can I close this one?

13 MR. GOLDMAN: You can close it.

14 MR. DEPEAU: Exhibit 33 is up there,
15 Mr. Zafari.

16 THE WITNESS: May 29, yes.

17 BY MR. GOLDMAN:

18 Q These are the minutes from May 29; is that
19 correct?

20 A Yes.

21 Q Towards the bottom of the second page -- if
22 you go to the second page, the item -- fifth line
23 from the bottom, it says, "then the Jones Day lawyers
24 would provide an update regarding preparations for
25 the potential use of section 524(g) of the bankruptcy

1 code as a mechanism to finally resolve current and
2 future asbestos claims against the companies."

3 As of May 29, 2020, had the decision been
4 made to pursue section 524(g) of the bankruptcy code?

5 A I don't think so, no.

6 Q So despite the fact that the other options
7 had been found on May 22nd to be not liable, it still
8 hadn't not been (inaudible) to use 524(g)?

9 A Yeah. Oh, yeah. I don't think that's when
10 we had made the resolution. It was still work in
11 progress to look at the different options.

12 Q Okay.

13 A Still making sure we reviewed them and
14 understood them and all of that.

15 Q If you could turn to page 3, please.

16 A Yes.

17 Q The first section discussion that's
18 outlined in the minutes is an update regarding
19 activities and connection with the current
20 asbestos-related lawsuits.

21 Could you tell me what was said on that
22 subject?

23 MR. HAMILTON: Object and instruct not to
24 answer on the grounds it requires disclosure of
25 communications protected by the attorney/client

1 privilege.

2 BY MR. GOLDMAN:

3 Q The second section describes a review and
4 further discussion of strategic options to addressing
5 current and future asbestos claims.

6 Could you tell me what you recall being
7 said on that subject?

8 MR. HAMILTON: Object and instruct the
9 witness not to answer that question because it
10 requires disclosure of communications protected by
11 the attorney/client privilege. As we did in the
12 prior meetings, I will not object to questions that
13 ask what were the subject -- or what were the
14 strategic options that were considered, but if the
15 question is what was said, I'm objecting and
16 instructing the witness not to answer.

17 BY MR. GOLDMAN:

18 Q In this section, it says, Mr. Tananbaum
19 briefly reviewed the strategic options for addressing
20 current and future asbestos claims presented June 15
21 -- excuse me, make sure -- at the May 15th joint
22 meeting and further discussed at the May 22 joint
23 meeting noting that it received requests from members
24 of the boards at and after the May 22 joint meeting
25 to prepare for review with the boards a side-by-side

1 A It was basically what we discussed before,
2 the headlines were organizational, optimization,
3 insurance and 524(g). And the outcome of possible
4 permanent, efficient, et cetera. I think that's --
5 those are the discussions. They weren't held only
6 during this meeting. They were held -- this whole
7 thing traveled over time, on the 15th onward. We
8 were digging into each scenario to make sure we're
9 making the right decision. So side by side would
10 definitely look at the credibility, the cost and
11 things of that sort, all of the things we underlined
12 earlier in our conversation and the efficiency,
13 permanency, all of that.

14 Q Did you have any questions about side by
15 side?

16 MR. HAMILTON: You can answer that question
17 yes or no.

18 THE WITNESS: I probably did. I'm sure I
19 did.

20 BY MR. GOLDMAN:

21 Q What were those questions?

22 MR. HAMILTON: Objection, instruct the
23 witness not to answer on the grounds it requires
24 disclosure of communications protected by the
25 attorney/client privilege.

1 BY MR. GOLDMAN:

2 Q Did you learn anything in this meeting that
3 was helpful to your discussion as to whether to
4 pursue 524(g)?

5 MR. HAMILTON: You can answer that yes or
6 no.

7 THE WITNESS: Yes.

8 BY MR. GOLDMAN:

9 Q What did you learn?

10 MR. HAMILTON: Object and instruct not to
11 answer on the grounds it requires disclosure of
12 communications protected by attorney/client
13 privilege.

14 BY MR. GOLDMAN:

15 Q If we go to page 4, the title saying,
16 "Update regarding preparations for the potential use
17 of section 524(g) of the bankruptcy code." It starts
18 with, "Mr. Erens began his presentation by asking
19 Mr. Jones to provide a brief overview of potential
20 factual inquiries that could be expected in the event
21 the boards will ultimately determine to pursue a
22 strategy of using of 524(g) of the bankruptcy code."

23 What factual inquiries were those?

24 MR. HAMILTON: Object and instruct the
25 witness not to answer on the grounds it requires

1 disclosure of communications protected by the
2 attorney/client privilege.

3 BY MR. GOLDMAN:

4 Q The next paragraph is, "Mr. Erens then
5 reviewed certain proposed amendments to the funding
6 agreements to which the companies are party."

7 What were those amendments?

8 MR. HAMILTON: You can answer that
9 question, Mr. Zafari.

10 THE WITNESS: I don't recall specifically
11 sitting here what those amendments were.

12 BY MR. GOLDMAN:

13 Q Do you recall any amendments made to the
14 funding agreement after May 29, 2020?

15 A I think there was a series of amendments --
16 again, that's my recollection -- that were made maybe
17 later in June. But as far as I can recall, they were
18 just adapting or to the new -- changing the names of
19 the companies, et cetera, versus the first set of
20 amendments that were put in place earlier in May. So
21 as far as I can remember, it was just an adaptation
22 with the final things of company -- I don't know if
23 in content they were any different from the earlier
24 documents that we had signed, agreements.

25 Q If we could go to Exhibit 34, please. You

1 substance of what was said to the insurers or what
2 the insurers said in reply?

3 A No, I -- again, I think it must have been a
4 followup on a question we may have had on the
5 side-by-side comparison of the options and may have
6 explored that and then reported back to us. That's
7 as far as I can remember.

8 Q But you don't remember what the questions
9 were or the subjects were?

10 A I do not remember. I know the probability
11 to our exploration of that scenario. That's what I
12 can recall today.

13 Q Do you recall what questions then were
14 asked about this -- about this conversation with the
15 insurers?

16 A Specifically, no. But it's probably around
17 the area --

18 MR. HAMILTON: I'm sorry, I have to object
19 to that question and instruct you not to answer on
20 the grounds that it requires disclosure of
21 communications that are protected by the
22 attorney/client privilege.

23 BY MR. GOLDMAN:

24 Q Do you recall anything else said in this
25 meeting regarding an update regarding activities in

1 connection with the current asbestos-related
2 lawsuits?

3 MR. HAMILTON: I'm going to object and
4 instruct the witness not to answer on the grounds
5 that it requires disclosure of communications
6 protected by the attorney/client privilege.

7 BY MR. GOLDMAN:

8 Q Go to the next section of the minutes. It
9 references a review of activities of the boards since
10 May 1, 2020 including discussion of strategic options
11 towards addressing current and future asbestos
12 claims.

13 What's your recollection of that part of
14 the board meeting?

15 MR. HAMILTON: Object and instruct the
16 witness not to answer that question on the grounds
17 that it requires disclosure of communications
18 protected by the attorney/client privilege. As I
19 said before, we'll allow inquiry into what the
20 subjects were that were discussed. We're not going
21 to waive the privilege and allow testimony about what
22 was said to or by the attorneys for the company.

23 BY MR. GOLDMAN:

24 Q Did you learn anything new at this meeting
25 that caused you to believe that the options for

EXHIBIT D

Excerpted Transcript of the Deposition of Manilo Valdes

1
2 UNITED STATES BANKRUPTCY COURT
3 FOR THE WESTERN DISTRICT OF NORTH CAROLINA
4 CHARLOTTE DIVISION

5 -----x
6 IN RE: Chapter 11
7 No. 20-30608 (JCW)
8 (Jointly Administered)

9 ALDRICH PUMP LLC, et al.,
10 Debtors.

11 -----x
12 ALDRICH PUMP LLC and
13 MURRAY BOILER LLC,
14 Plaintiffs,

15 v. Adversary Proceeding
16 No. 20-03041 (JCW)

17 THOSE PARTIES TO ACTIONS

18 LISTED ON APPENDIX A

19 TO COMPLAINT and

20 JOHN and JANE DOES 1-1000,

21 Defendants.

22 -----x
23 REMOTE VIDEOTAPED DEPOSITION OF

24 MANILO VALDES

25 MARCH 1, 2021

26 Reported by:
27 Sara S. Clark, RPR/RMR/CRR/CRC
28 JOB No. 190521

1
2
3
4
5 MARCH 1, 2021

6 8:35 a.m. EST
7
8

9 Remote Videotaped Deposition of
10 MANILO VALDES, held at the location of the
11 witness, taken by the Committee of Asbestos
12 Personal Injury Claimants, before Sara S. Clark,
13 a Registered Professional Reporter, Registered
14 Merit Reporter, Certified Realtime Reporter, and
15 Notary Public.
16
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MANILO VALDES

then we had a Friday session just to check. I did not have the Zoom connectivity link and just wanted to make sure I had the schedule correctly, so we reviewed the general logistics, if you will, on the second session.

Q. Okay. So the meeting the week before last, is that -- was that a two-hour meeting, approximately?

A. It was somewhere between an hour and a half to two hours, approximately, yes.

Q. And the meeting last Friday, which would have been February 26th, I guess, that was -- how long was that for?

A. I believe it was maybe 25 minutes, 30 minutes, maybe, if that.

Q. And going back to the first of those two meetings, the one the week before last, did you review any documents during that meeting?

MR. HAMILTON: I'm going to allow --

Mr. Valdes, you can answer that question.

It's a yes-or-no question, so you can answer yes or no to that question.

A. Yes.

Q. All right. And how about the meeting

1 MANILO VALDES

2 last Friday? Did you review any documents
3 during that meeting?

4 MR. HAMILTON: Again, it's a yes-or-no
5 question.

6 A. Yes.

7 Q. Okay. Now, what documents did you
8 review -- regardless of whether they were during
9 the meeting with counsel or not, what documents
10 did you review in preparation for this
11 deposition?

12 MR. HAMILTON: I'm going to object and
13 instruct the witness --

14 Mr. Valdes, I'm objecting.

15 And I'm instructing the witness not to
16 answer on the ground that that question asks
17 the witness to disclose communications that
18 are protected by the attorney-client
19 privilege and attorney work product.

20 MR. GOLDMAN: Those disclosures are
21 specifically required under the federal
22 rules, so -- I believe it's Rule 612, but I
23 would have to go back to my -- and check the
24 number.

25 But if you're instructing him not to

1 MANILO VALDES

2 answer, we'll just...

3 On what --

4 BY MR. GOLDMAN:

5 Q. Did you review any documents when you
6 were not in the presence of counsel, or --
7 either -- well, let me back up for a second.

8 Were those two meetings with counsel
9 virtual or face-to-face?

10 A. They were virtual.

11 Q. Okay. Did you review any documents in
12 preparation at any time for the deposition other
13 than the time you were with counsel?

14 A. I did not.

15 Q. So regardless of whether you also
16 reviewed the documents while you were with
17 counsel, you did not -- if I understand you
18 correctly, you did not spend any time at all
19 looking at documents other than the time when
20 you were with counsel; is that right?

21 A. That is correct.

22 Q. Do you have any documents with you
23 that -- paper documents with you today in the
24 room with you?

25 A. No.

MANILO VALDES

corporate placement of the Canadian entity
was discussed?")

A. I was not, no.

Q. And I gather from what you've said, no
one has told you why the Canadian entity was
placed wherever it ended up being placed in the
Trane corporate structure; is that correct?

MR. HAMILTON: I'm going to object and
instruct the witness not to answer to the
extent it calls for disclosure of
communications by attorneys providing legal
advice. If you want to exclude attorneys
from your question, I'll let him answer.

MR. GOLDMAN: I think I can find out
if anybody's told him or not.

MR. HAMILTON: I disagree.

MR. GOLDMAN: It's a yes-or-no answer.

BY MR. GOLDMAN:

Q. Did anyone tell you, anyone, at any
point tell you why the Canadian entity was
placed where it was placed within the corporate
structure?

MR. HAMILTON: I object and instruct
the witness not to answer on the grounds

MANILO VALDES

that the question asks him to disclose
communications protected by the
attorney-client privilege.

Q. Did anyone other than a lawyer tell
you why the Canadian entity was placed where it
was placed within the corporate structure of
Trane?

A. No.

Q. Approximately -- and what are the
operations of Aldrich Pump LLC?

A. The operations of Aldrich Pump LLC are
basically as a holding company of Park 200.

Q. So Aldrich Pump LLC does not
manufacture any products of its own; is that
correct?

A. The way I understand it, no. The
actual operating entity is Park 200.

Q. Okay. And does Aldrich Pump have any
employees?

A. I couldn't answer with 100 percent
certainty. There may be some people seconded to
work for Aldrich, but I'm not sure. I wouldn't
be able to answer with 100 percent certainty.

Q. Other than those seconded, if there

MANILO VALDES

said these things will happen.

Between December 4 and the time you received this e-mail and attachments on April 21 of the following year, had you had further discussions about the possibility of bankruptcy for Aldrich Pump and/or Murray Boiler?

MR. HAMILTON: I'm going to object to the form of that question.

You can go ahead and answer it, Mr. Valdes.

A. I don't recall at that point in time other than the initial conversation with Mr. Paeper, the e-mail that you showed. I don't recall if there were any other conversations that I had with him.

From recollection, the next conversation that I had, I believe, was with Evan Turtz when he called me to ask me if I was willing to serve on the board of managers of both of these companies.

Q. And was that before you got the documents from Sara Brown on April 21st?

A. That is correct.

Q. And what's -- so that was sometime

MANILO VALDES

between December 4 and April 21?

A. I believe so. From memory, I don't recall the exact dates. I believe it was sometime -- I'm going to say sometime first quarter or April of 2020, but I may -- you know, it's a fuzzy recollection, so I don't recall the exact date.

Q. And can you describe what was said in that conversation the best you can remember?

MR. HAMILTON: Well, now I'm going to -- I'm going to -- hold on, Mr. Valdes. He's asking you about the conversation that you had with Mr. Turtz.

I'm going to object to the extent the question calls for disclosure of communications protected by the attorney-client privilege. I think there are questions that can be asked and answered regarding that conversation, but I don't think an open-ended question about everything that was discussed is appropriate.

So I would instruct you not to answer that question.

MANILO VALDES

Q. Let's first start with, do you recall what was said during that conversation?

A. Not 100 percent, no.

Q. Do you have some general recollection of what was said?

A. I do.

Q. Okay. And you already said that he asked you whether you would be -- what did he ask you specifically?

A. If I would be willing to serve on the board of managers for both Aldrich and Murray.

Q. And did he ask you whether you would -- and did you tell him yes?

A. Obviously I said yes, yeah.

Q. Did he also ask you whether you would be willing to serve as the president for both Aldrich and Murray?

A. I think he did.

Q. Did he also ask you whether you would be willing to serve on the board of managers and the president of the -- of 200 Park, Inc., and Climate Labs LLC?

A. He did.

Q. And I gather you said yes to both of

1 MANILO VALDES

2 June 18, 2020?

3 MR. HAMILTON: Before you answer --

4 before you answer, Mr. Valdes --

5 Do you mean reports from Navigant or
6 from anybody?

7 MR. GOLDMAN: From anybody.

8 A. So from anybody, the answer's yes, as
9 part of the normal course of board meetings
10 within that time period.

11 Q. Okay. So let's talk about Navigant.

12 Did you receive any reports from --
13 that were created by anyone at Navigant
14 between -- or at any time before June 18 of
15 2020?

16 A. I do not believe so, no.

17 Q. Okay. And other than at board
18 meetings, did you receive any reports from
19 anybody prior to June 18, 2020 relating to
20 asbestos liabilities or claims?

21 A. Once again, within the context of
22 board meetings, the amounts of claims and
23 liabilities were discussed as a normal course of
24 business. But I do not recall receiving
25 anything that came directly from Navigant or any

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written or spoken communications.

Q. Did you receive any reports from any of the counsel who were defending lawsuits against any of the Trane entities during that same time period?

A. From counsel who were defending lawsuits? I wouldn't know which counsel was actually defending specific lawsuits. We had counsel come into various meetings to give updates, answer questions, you know, in all kinds of forms within the board meetings.

But as far as specific attorneys or anybody that specifically was dealing with litigation at that point in time, I wouldn't know that, and I never asked that directly.

Q. Okay. So if I understand you correctly, you personally -- other than board meetings -- withdrawn.

When we're talking about board meetings, we're talking about board meetings of Aldrich LLC and Murray Boiler LLC?

A. That is correct, Mr. Goldman, yes.

Q. Okay. And we have the minutes of those board meetings we'll look at in a little

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while.

But other than at those board meetings, did you receive any reports of any type from counsel who were actually defending any of the lawsuits against any of the Trane entities?

A. I did not.

Q. And do you know to whom those reports were submitted when there were developments in these different lawsuits?

A. I do not know, you know, if -- for context, I would have to assume that if I needed to know, I'd go to our chief legal counsel. So I would go to Allan Tananbaum, and he would potentially get me that information. But I didn't receive any specifics.

Q. Okay. And you did not have the need to go to Mr. Tananbaum to ask him for any specific questions about specific asbestos-related cases; is that correct?

A. I did not. That's correct.

Q. Now, do you know who -- before June 18, 2020, do you know who within the Trane organization made decisions as to whether or not

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to settle specific cases and for what amount?

A. I do not.

Q. Do you know whether that function was centralized within the Trane organization so there was a defined group of people with those responsibilities, person or group?

A. I actually do not. I would assume it's within a legal function, but I don't know that factually.

Q. Was the subject of how your -- the company of which you're president, Aldrich Pump LLC, was going to handle these asbestos claims and lawsuits discussed at any time after May 1, 2020?

A. There were ongoing discussions at the board meetings. I don't recall the specific questions or, you know, the individual items, but I do remember the general context and some of my thoughts around that.

Obviously at that point in time, the board members, you know, got involved in just a broader discussion. From my viewpoint, my concern at the time, I recall, being making sure that there was enough cash and enough funding in

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order for us to fulfill all of the obligations all the way around it. The discussions earlier on in the services agreement in general were to the tune of the claims that are coming in are being fulfilled; in other words, the obligations are being met. And from my viewpoint, both as president and board member -- and there's a little bit of a distinction in some of my concerns there -- but being a single individual with a single brain, my thought was, do we have enough cash to operate in a sensible way to keep customers, employees, suppliers, and claimants in good shape knowing that we're in the middle of making deliberations and understanding what the options available to us were at that point in time.

Q. Aldrich Pump LLC did not have any customers; is that right?

A. Aldrich itself, no, but Park 200 does.

Q. Okay. And Murray Boiler LLC did not have any operations either; is that right?

A. Once again, no. Climate Labs would be the entity that actually does the transactions with customers.

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Q. And if -- in the bankruptcy option, are you aware that there was initially an injunction stopping the claimants from -- or halting the claimants' suits against certain other Trane affiliates and other insurers and other entities? Are you aware of that at all, or no?

A. I believe that it was brought up as an update in one of our board meetings.

Q. Okay. And was there any discussion that you remember as to what would happen if that injunction were not issued?

MR. HAMILTON: Object and instruct the witness not to answer that question on the grounds that it asks for communications that are protected by the attorney-client privilege.

Q. Do you have an understanding of what would happen if that injunction were not issued?

A. Not with 100 percent certainty, no.

Q. Well, what is your belief as to what, more likely than not, would happen if that injunction were not issued?

MR. HAMILTON: I'm going to object to

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Q. If we look at the top of Page 3, it says "Mr. Evert, with the assistance of Mr. Tananbaum and Ms. Morey, reviewed the company's post-restructuring activities in connection with its asbestos-related lawsuits, addressing activities in the court system."

Do you recall what was said about activities in the court system?

MR. HAMILTON: I think he's already answered that, but I -- I'm going to object and instruct the witness not to answer that question on the grounds that it's calling for communications protected by the attorney-client privilege.

Q. Do you know what the company did with regard to activities in the court system?

A. I do not.

Q. So -- and you can answer this yes or no -- do you have a recollection of what Mr. Evert, Mr. Tananbaum, and/or Ms. Morey said about activities in the court system?

A. You're asking me about this specific meeting, no.

Q. Yes.

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A. Specifically at this meeting, no.

Q. Okay. And do you have an understanding of what was done -- as of May 8, 2020, the date of this meeting, what was done with regard to communications with the company's defense counsel and insurers regarding the restructuring?

A. I do not.

Q. Do you know whether anytime before the bankruptcy there were discussions with the company's insurers regarding the restructuring?

A. I do not know that, no.

Q. The next paragraph says "After confirming there were no questions regarding these post-restructuring activities..."

If I understand you correctly, you don't recall specifically what the post-restructuring activities referenced were; is that correct?

A. That is correct.

Q. Now let's go back to the next section. It says "To begin, Mr. Erens provided a brief overview of the restructuring and its effects."

And I'll ask you, could you tell me,

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did you learn anything from that overview that
you were not already aware of?

MR. HAMILTON: Not already aware of?

I guess you can answer that question.

Go ahead. It's a yes-or-no question.

A. The simple answer has to be yes. At
this point in time, we're in learning mode.
It's an overview of things we didn't know, so we
weren't involved in the day-to-day or the legal
proceedings that Mr. Erens was involved with.
So I'm -- I'm going to say yes, there was an
update.

Q. Okay. And without specifically asking
you what Mr. Erens said, what did you learn at
this meeting about the restructuring and its
effects that you did not previously know?

MR. HAMILTON: I'm going to object and
instruct the witness not to answer on the
grounds that it calls for disclosure of
communications protected by the
attorney-client privilege.

Q. Did you learn things from this
overview that were important factors you took
into consideration in ultimately deciding to

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support the decision to file for bankruptcy?

A. Yes.

Q. And what were those things?

MR. HAMILTON: Object; instruct the witness not to answer on privilege grounds.

Q. Did you get any information about the restructuring and its effects that you have not already testified to?

MR. HAMILTON: Object and instruct the witness not to answer on attorney-client privilege grounds.

Q. What were all of your reasons for supporting the restructuring that you have not yet testified, regardless of whether you learned them at this meeting or anyplace else?

MR. HAMILTON: Object to form.

You can answer the question if you understand it, Mr. Valdes.

A. So your question, to be clear, Mr. Goldman, is what other factors did I take into account in order to make the decision that I made?

Q. Yes. If you -- in addition to the ones you've already testified to. You don't

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have to repeat all of those.

MR. HAMILTON: I object; asked and
answered.

You can answer again, Mr. Valdes.

A. I can't think of any.

Q. You can't think of any you've not
already testified to?

A. The answer's no. I mean, everything
that you've asked I've answered, and I explained
to you how I reached my decisions at the time.

Q. Okay. The next paragraph begins
"Mr. Lewis then summarized the corporate
governance guidelines set forth in the
privileged memo."

What corporate governance guidelines
were those?

MR. HAMILTON: Hold on a second. Hold
on a second, Mr. Valdes.

I'm going to -- that question, I'm
going to object and instruct the witness not
to answer on the grounds it requires
disclosure of communications protected by
the attorney-client privilege.

Q. What did Mr. Lewis say about the

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corporate governance guidelines?

MR. HAMILTON: Object.

Instruct not to answer.

Q. Did you ever review any written
corporate governance guidelines?

MR. HAMILTON: You can answer that
question, Mr. Valdes.

A. None that I can recall. I remember
his verbal.

Q. This sentence references a privileged
memo.

Did you ever read that privileged
memo?

A. Insomuch as that I read everything
sent to me, I would have to answer yes; however,
just mentioning privileged memo is a little
generic. But the answer is I read all of the
privileged memos and communications sent by any
member of the board or counsel.

Q. And do you know one way or the other
whether that privilege memo referenced here is
one of the things that you reviewed?

A. That, I don't recall, Mr. Goldman.
The minutes seem to reflect that there is a

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connection there.

Q. The next paragraph says "Mr. Jones then summarized guidelines for privileged communications and guidelines for the use of e-mail and other electronic communications set forth in the privileged memo."

Do you have any recollection of what those guidelines were?

MR. HAMILTON: You can answer that yes or no.

A. Yes, I recall.

Q. And what is your recollection?

MR. HAMILTON: I'm going to object and instruct the witness not to answer on the grounds that it calls for disclosure of communications protected by the attorney-client privilege.

MR. GOLDMAN: If we can go to the next document, which bears Bates Number --

MR. HAMILTON: If you're going to go to a new document, Mr. Goldman, could we take a -- we've been going a little over an hour and a half. Could we take a break now?

MR. GOLDMAN: Sure.

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Q. And what was that?

MR. HAMILTON: Well, I'm going to object to the extent that you're asking him to disclose communications by attorneys, either with -- said by attorneys or asked of attorneys.

But if you want to, like, inquire as to what the topic was, we would let him answer that question, but I'm not going to -- I'm going to instruct him not to answer with respect to what was specifically said by either two or by an attorney at the meeting.

Q. How about by anybody else at the meeting?

A. Yeah, there were certainly different things asked. Very -- very different businesses in a lot of ways.

Q. Okay.

A. So the -- there were questions that particularly Mr. DuFor had about the Climate Labs and Murray business that he was not familiar with that we spent a fair amount just answering basic questions so he could grow

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2 A. I can't recall any specific questions.

3 Q. Do you recall anyone else saying
4 anything at the Murray Boiler board meeting that
5 was not said at the Aldrich board meeting?

6 A. I don't.

7 Q. And how about --

8 MR. HAMILTON: I'm sorry. I was on
9 mute.

10 I need to object and instruct the
11 witness not to answer that question to the
12 extent you would disclose any questions
13 asked of attorneys or any answers given by
14 attorneys at that meeting.

15 Q. Do you recall anything said at the
16 Aldrich Pump LLC board meeting that was not said
17 at the Murray Boiler LLC board meeting?

18 MR. HAMILTON: Same objection and same
19 instruction to the witness.

20 Q. Could you go ahead --

21 A. I'm sorry. Did I leave a question
22 hanging? I'm sorry.

23 Q. Yeah, there's a question that I think
24 your counsel gave you some -- some -- I don't
25 think you were instructed not to answer the

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2 A. 787. Okay. Let me open that up.

3 MR. HAMILTON: And that will be
4 Committee Exhibit 31.

5 - - -

6 (Committee Exhibit 31 marked.)

7 - - -

8 THE WITNESS: And that's minutes of
9 the joint meeting, Mr. Goldman?

10 MR. GOLDMAN: Thank you. Yep.

11 BY MR. GOLDMAN:

12 Q. Now, in the second page, middle of the
13 page, under the "Introductory Remarks," again,
14 there was an indication that there first would
15 be an update regarding activities in connection
16 with the current asbestos-related lawsuits
17 against the companies.

18 Do you recall any new update or
19 receiving any information at this meeting that
20 you had not received at the meeting before this?

21 MR. HAMILTON: You can answer that
22 question yes or no, Mr. Valdes.

23 A. The answer's yes.

24 Q. And what do you recall learning at
25 this meeting?

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MR. HAMILTON: I'm going to object and instruct the witness not to answer on the grounds that it calls for the disclosure of communications protected by the attorney-client privilege.

Q. Was the information that you received in connection with the current asbestos-related lawsuits against the companies a factor that went into your ultimate decision to file the two bankruptcies?

A. Yes.

Q. Okay. And let me ask you, going back to some of the reasons you gave me before for not -- for pursuing the bankruptcy options as opposed to other options you described, you described an insurance option and said that, you know, what you were contemplating as an option was seeing if you could get some new insurance coverage that might pick up some or all of these liabilities.

Is that -- did I state that correctly?

A. Let me maybe answer it this way. We were looking for any and all available opportunities with insurance being one of the

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Q. I think you testified earlier that the conclusion was that that was not a viable option; is that right?

A. Correct.

MR. HAMILTON: I'm going to object about his characterizing his prior testimony. But if you want to ask him if that's his conclusion, I won't object to that.

Q. Was that your conclusion?

A. Yeah, that was my conclusion, sir, yes.

Q. And what was your basis for that conclusion? What caused you to have that conclusion?

MR. HAMILTON: I'm going to object. To the extent that in answering that question, Mr. Valdes, if you have to disclose communications by your attorneys, then I instruct you not to answer the question. If you can describe what your understanding was for your conclusion without disclosing communications from your counsel, you should go ahead and do so.

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asbestos claims, including the potential use of
Section 524(g) of the bankruptcy code."

Now, this is something that had been
discussed with you in the past; is that correct?

A. You mean by Mr. Tananbaum, or --

Q. By Mr. Tananbaum, or Mr. -- who sent
you that e-mail back in December -- Mr. Paeper?

A. Oh, Mr. Paeper. That's correct. The
answer is yes.

Q. And what information did you learn at
this meeting about potential use of
Section 524(g) of the bankruptcy code that you
were not previously aware of?

MR. HAMILTON: I'm going to object and
instruct the witness not to answer on the
grounds that the question asks him to
disclose communications protected by the
attorney-client privilege.

MR. GOLDMAN: I'm sorry. You're
instructing the witness not to answer the
question at all? I -- somehow I didn't hear
you.

MR. HAMILTON: Yes, that's correct.

MR. GOLDMAN: Sorry. I saw your lips

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recall whether it was -- it was certainly more than -- from vague recollection, more than a couple months for meeting at least once a week.

Q. And if we go to Page 3 of the exhibit, which is -- has Number 50793 affixed to it.

A. Correct.

Q. The second section there, "Review and further discussion of strategic options," below there, it says "Mr. Tananbaum briefly reviewed the topics presented at the May 15 joint meeting and noted the numerous questions received from members of the board and Mr. Pittard both at and after the May 15 joint meeting."

Did you have any questions following the May 15 meeting about strategic options?

MR. HAMILTON: I believe you should answer that question yes or no, Mr. Valdes.

THE WITNESS: I'm trying -- thank you, Mr. Hamilton. I'm trying to recall.

A. I believe I had -- I believe I had one or two questions. Maybe more than that, but I believe I had at least one or two questions.

Q. And what were your questions?

MR. HAMILTON: Object. And to the

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2 extent that your questions were questions to
3 the lawyers for legal advice, I'm going to
4 instruct you not to disclose those questions
5 in the answer to the pending question by
6 Mr. Goldman. If you had questions that were
7 not for legal advice but to others, like
8 Mr. Pittard, you can go ahead and answer
9 that.

10 MR. GOLDMAN: Any question to a
11 lawyer -- let's get some clarification here
12 in terms of what you're instructing the
13 witness so we know.

14 So if he asked a question of someone
15 who happens to have a law degree, are you
16 telling him not to answer as to that
17 question, or only if he's seeking legal
18 advice? And then we ought to give some
19 guidance to the witness as to what you mean
20 by "legal advice," because I don't know if
21 he's -- he's primed on that.

22 MR. HAMILTON: I'm not going to get
23 into that level of detail with my
24 instructions. If his questions were for
25 counsel, I'm instructing him not to answer

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what those questions were. I don't believe
I have to be any more clear than that, so...

A. Let me reflect a little bit.

So both questions were for
Mr. Tananbaum, so I believe that's probably
where I should stop at this stage.

Q. The questions were for Mr. Tananbaum?

A. They were, yes. Correct.

Q. His position at the time was what?

A. Chief legal counsel of Aldrich and
Murray Boiler.

Q. And were the answers that you received
from Mr. Tananbaum important to your decision to
ultimately elect to file bankruptcies for
Murray Boiler and Aldrich?

A. Within the context that most of the
questions being asked were being asked to help
make a decision, the answer would have to be
yes.

Q. Okay. Now, towards the bottom of the
page, the last paragraph on this page, it says
"Mr. Tananbaum then asked Mr. Erens to review
the experience of companies that recently made
Chapter 11 filings in an effort to finally

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resolve their current and future asbestos claims utilizing Section 524(g) of the bankruptcy code." And then "As requested, Mr. Erens reviewed the history of the Chapter 11 cases of each of Bestwall LLC, DBMP, and Paddock Enterprises."

What importance, if any, did those cases and what you learned about them have to your decision to elect to file bankruptcy for Aldrich and Murray Boiler?

A. All those things were building blocks to decision-making. One of the questions that was in my mind --

MR. HAMILTON: Again, I'm going to --

THE WITNESS: Go ahead.

MR. HAMILTON: I'm going to instruct the witness not to disclose what your questions were to counsel. You can disclose what your conclusions were in answering questions by Mr. Goldman, but it is important that you -- in your answers, you do not disclose what your questions were to your counsel or what their answers were.

MR. GOLDMAN: Well, you just

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interrupted him when he started to say "what was in my mind." So I would like the witness to finish answering the question as to what was in his mind, and answer the question which didn't ask for attorney-client communications at all.

MR. HAMILTON: I agree. And I didn't object -- Counsel, I didn't object to your question, sir, but he was starting to disclose what his questions were to counsel, and I interrupted to preserve the privilege. I don't think I interrupted inappropriately.

MR. GOLDMAN: Well, I don't want to debate that.

Look, I'll just ask the reporter to read back the question and ask the witness to answer it. And if you could start by -- read back as far as the witness got in the answer before counsel interjected.

(Record read as follows:

"Question: What importance, if any, did those cases and what you learned about them have to your decision to elect to file bankruptcy for Aldrich and Murray Boiler?"

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assure you it was not necessarily the most polite conversations. There was plenty of exchange of ideas as to whether there were any other options that we should consider, and we weren't going to move until we had examined all of the potential combinations that we had potentially available to us.

Q. What was the substance of the robust discussion of the benefits of -- of the benefits? Because it says "discussion of benefits and challenges."

MR. HAMILTON: I'm going to object and instruct the witness not to answer on the grounds that it asks the witness to disclose communications protected by the attorney-client privilege.

Q. What were the challenges discussed?

MR. HAMILTON: Same objection; same instruction not to answer.

Q. Do you know -- the section below that paragraph is redacted. Do you know, without -- what subject that discussed?

MR. HAMILTON: I'm going to object.

A. Not offhand, Mr. Goldman.

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MR. HAMILTON: I'm going to object and
instruct the witness not to answer on the
grounds of privilege.

Q. If we go to the next page after the
redactions, it says "Mr. Erens provided a
general overview regarding the preparations that
had been undertaken as contingency planning in
case the boards were ultimately to determine to
make pursue [sic] a strategy of using 524(g) of
the bankruptcy code to finally resolve current
and future asbestos claims against the
companies."

What is your recollection of when
those preparations were begun?

MR. HAMILTON: Object to form.

You can answer, Mr. Valdes.

A. I don't recall the exact meeting,
Mr. Goldman, but it was -- I remember that it
was -- I don't believe it was the first meeting,
and my memory may not serve me well, but it was
fairly early on when the discussion focused
around the complexity of any bankruptcy filing,
the timelines, you know, that it would take, how
long it would take, that that discussion took

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Did that presentation take place?

A. Yes, it did.

Q. Okay. If we go to the next page,
about two-thirds of the way down that page, it
indicates that Mr. Tananbaum reviewed a slide
presentation, which was a side-by-side
comparison of the different options.

Do you recall that presentation?

A. I recall the general format and some
of the discussion.

Q. And was that kind of a pros and cons
type presentation, or...

A. It was, from recollection,
Mr. Goldman, but in general, it was that, and it
also represented some of the potential ranges
and financial implications.

Q. Do you recall if the side-by-side
comparison led to the conclusion that the Trane
entities would end up paying out more money for
asbestos claims if there were business as usual
approach as opposed to filing of bankruptcy?

MR. HAMILTON: I'm going to object and
instruct the witness not to answer on the
grounds that it calls for the disclosure of

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communications protected by the
attorney-client privilege.

Q. Following this presentation, did you
have the understanding that the Trane -- various
Trane entities would end up paying out less
money if bankruptcies were filed than they would
if no bankruptcies were filed?

MR. HAMILTON: I'm going to object to
form.

But you can answer that question,
Mr. Valdes.

A. So let me make sure I'm addressing
your question properly.

Was the presentation clear that we
would pay less under bankruptcy to claimants
than under -- not doing anything? Is that the
question? Am I interpreting it correctly?

Q. Yes.

MR. HAMILTON: No, I'm going to object
and instruct the witness not to answer the
question as he reworded it.

I'm not going to let the witness
answer what was in the presentation, or what
it said, or what it concluded. If the

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question is at the end of that meeting, what was Mr. Valdes' understanding of a certain fact, then I'll let him answer that question. But I'm not going to let him answer the question of what was said by his attorneys to him at that meeting.

Q. Mr. Valdes, at the end of that meeting, did you have an understanding as to whether the various Trane entities would pay out more or less to asbestos claimants if there were a bankruptcy filed?

MR. HAMILTON: Object to form.

You can answer, if you have an answer, Mr. Valdes.

A. Not certainty. There were certainly, at least in what I remember of my thinking, more of a dialing in of where the risks may be.

Q. I'm sorry. More of a what? Dialing in?

A. What the risks would be.

Q. Could you explain what you mean by that?

A. Let me try to answer it this way.

None of the options -- there was -- as

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Let me first ask you about the
proposed amendments to the funding agreements.

What provisions in the funding
agreements were being proposed to be amended?

A. I don't recall the specific items or
articles in the funding agreements. I recall
asking a question about how that would affect --

MR. HAMILTON: Mr. Valdes --

THE WITNESS: Okay.

MR. HAMILTON: -- Mr. Valdes, I'm
going to instruct you not to disclose the
questions you asked of your counsel at the
meeting.

THE WITNESS: Okay.

Q. Do you recall what was said about the
proposed amendments to the funding agreements?

MR. HAMILTON: I'm going to object and
instruct the witness not to answer on the
grounds of attorney-client privilege.

Q. Do you know whether the funding
agreements were, in fact, amended at some point
after this meeting?

A. I believe there's been at least one
amendment, that I can recall.

EXHIBIT E

Excerpted Transcript of the Deposition of Ray Pittard

RAY PITTARD

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----x
IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,
Debtors.

-----x
ALDRICH PUMP LLC and
MURRAY BOILER LLC,
Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

-----x
MARCH 17, 2021

REMOTE VIDEOTAPED DEPOSITION OF

RAY PITTARD

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB NO: 191084

RAY PITTARD

MARCH 17, 2021

9:34 a.m. EST

Remote Videotaped Deposition of
RAY PITTARD, held at the location of the
witness, taken by the Committee of Asbestos
Personal Injury Claimants, before Sara S. Clark,
a Registered Professional Reporter, Registered
Merit Reporter, Certified Realtime Reporter, and
Notary Public.

RAY PITTARD

Q. I'm not asking about your conversation. I'm asking about what your purpose in reading them was.

MR. JONES: And he's telling you, I think, Steve, that he can't reveal that purpose without revealing the communication. And he has every right to protect the communication, and, therefore, he will. He's told you that he read them to inform himself. That's as far as he's going to go without revealing a communication.

You see the topic. You see what the attachments were. He's confirmed that he read them. That's as far as he's going to go.

MR. GOLDMAN: If we could look at the document with Number TRANE_125 through 129.

MR. DEPEAU: Okay. The document is up in the chat.

And it's Committee Exhibit 149.

- - -

(Committee Exhibit 149 marked.)

- - -

MR. GOLDMAN: Mr. Pittard, just let me

RAY PITTARD

A. She shared it in this meeting. I don't remember the way that she shared it. It may have been a virtual sharing on the screen, like we're doing today. But she did share the preliminary opening balance sheet, and there was nothing to be concerned about, as I recall.

Q. Okay. Now, this -- there's several mentions in these minutes of a memorandum regarding post-restructuring protocols and guidelines. I'm not going to ask you right now exactly what those protocols or guidelines were, but what was the -- what are the subjects that they addressed?

MR. JONES: I believe that the memorandum has been withheld because it is privileged communication from counsel to client, although I am not certain.

So I'm going to caution you, Mr. Pittard, if you have a recollection, you may answer yes or no. If you don't have a recollection, that's fine. And if you do, you may only state topically if you have a recollection. Please don't convey any advice that you received.

RAY PITTARD

A. Yeah, it -- I don't recall the specifics of it without the documents. So I think it's privileged communication from counsel as to what the protocols and guidelines were.

Q. You believe it was privileged communications from --

A. It was advice from counsel as to what protocols and guidelines should be put forth post the restructuring. So that -- I'm not a legal expert, but that seems to be guidance from the -- our counsel. So it seems to be privileged to me.

Q. Do you have any memory -- you can answer this yes or no -- do you have a memory of what we're talking about here or what these protocols and guidelines are?

A. Yes, I remember. I do remember. Or some of them I remember in general.

Q. All right. And, again, without telling me exactly specifically what's in them, what subjects did they address? Was it -- for example, you know, communications with counsel shouldn't be disclosed, or should -- I mean, just what subjects?

RAY PITTARD

caution, Mr. Pittard. If you recall subjects beyond that reflected in the minutes, I want you to consider whether they would convey any advice of counsel, and, therefore, not to disclose the same.

A. What I recall from the presentation is consistent with what you would find in the Tananbaum declaration, the kind of statistics around the history of claims, the cost of the claims, and the subsequent increase of claims over time, and that our current amount of claims is approximately 100,000 in backlog, 5,000 new ones per year, and costs us roughly \$100 million. Some of the, you know, information that you would find in the Tananbaum declaration. So that's what I recall.

Q. And the minutes indicate that the presentation addressed, among other things, the challenges faced by the companies in the tort system.

What do you recall the presentation saying about challenges faced by the companies in the tort system?

MR. JONES: So I'm going to ask you,

RAY PITTARD

Mr. Pittard, not to share what Mr. Evert or
Mr. Tananbaum said to you in that regard.

If you have an understanding from your
experience with Project Omega, you may share
it, but I do not -- I ask you not to share
what they communicated to you because it
would be privileged.

A. Yeah, I think I -- I think simply put,
it's -- the document in the Tananbaum
declaration would give you some insight on that,
that there was challenges within the tort
system, but I wouldn't go further than that from
advice of counsel here.

Q. Okay. Now, was -- in order to make --
withdrawn.

Was one of the purposes of this
meeting to decide or begin the decision-making
process as to how these two entities, Aldrich
and Murray, should address the problem of
asbestos liabilities?

A. Well, if you go back to the document,
the document is clear about what the agenda was.
And it was about, you know, the topics listed
earlier. It mentions it specifically on Page 2,

RAY PITTARD

A. Correct.

MR. LEVEY: Mr. Jones, is that your
position as well?

MR. JONES: It is my position.

MR. LEVEY: Okay.

BY MR. LEVEY:

Q. Okay. Can you tell me, if you know,
how much funding was contemplated as available
through the insurance option?

A. I don't recall the amount. It was --
it was -- the intent was to have a sufficient
amount to solve the problem, of course. But I
don't recall the specific.

Q. And just to be clear, it was insurance
that was already purchased or that was
contemplated?

THE WITNESS: Again, we're getting
into privilege, I think here, Mr. Jones.

MR. JONES: That's -- and that's fair.

MR. LEVEY: Okay.

BY MR. LEVEY:

Q. Did you discuss the option and -- with
any insurers?

A. Did I personally discuss with any

EXHIBIT F

Excerpted Transcript of the Deposition of Mark Majocha

MARK MAJOCHA

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----x
IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,
Debtors.

-----x
ALDRICH PUMP LLC and
MURRAY BOILER LLC,
Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS
LISTED ON APPENDIX A
TO COMPLAINT and
JOHN and JANE DOES 1-1000,
Defendants.

-----x
REMOTE VIDEOTAPED DEPOSITION OF
MARK MAJOCHA

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191085

MARK MAJOCHA

MARCH 18, 2021

9:33 a.m. EST

Remote Videotaped Deposition of
MARK MAJOCHA, held at the location of the
witness, taken by the Committee of Asbestos
Personal Injury Claimants, before Sara S. Clark,
a Registered Professional Reporter, Registered
Merit Reporter, Certified Realtime Reporter, and
Notary Public.

1 MARK MAJOCHA

2 - - -

3 MR. GOLDMAN: 11626? Let me see if
4 I've got the right -- I'm not sure if that's
5 the right document.

6 I don't know that this is the --

7 You don't have to review this whole
8 PowerPoint in detail because I'm just going
9 to ask you in general what it is and if it
10 confirms your belief that "Mode" is the term
11 used for the Arctic Chill transaction.

12 THE WITNESS: I have it open.

13 BY MR. GOLDMAN:

14 Q. Okay. Have you seen this before?

15 A. Yeah. This looks like our normal --
16 we call it an FEP, or final executive
17 presentation, used to get final approval from
18 either the chairman CEO, depending on the size
19 of the acquisition, or potentially up to the
20 board.

21 Q. Okay. And looking -- and it's titled
22 "Project Mode"; is that correct?

23 A. It is titled that, sir.

24 Q. And the third page, you see the
25 initial reference to Arctic Chiller Group,

1 MARK MAJOCHA

2 correct?

3 A. Yes, sir.

4 Q. Okay. So is that consistent with your
5 belief that "Mode" was the term used for the
6 Arctic Chiller Group transaction?

7 A. It is.

8 MR. GOLDMAN: If we could look at the
9 document that bears TRANE_10661.

10 MR. DEPEAU: Okay. That document is
11 up in the chat.

12 And it will be Committee Exhibit 161.

13 - - -

14 (Committee Exhibit 161 marked.)

15 - - -

16 THE WITNESS: I have it open. Please
17 give me a minute to read it.

18 (Witness reviews document.)

19 THE WITNESS: I've had a chance to
20 read it.

21 BY MR. GOLDMAN:

22 Q. Okay. Does this -- what is the FL --
23 withdrawn.

24 What is the "Corporate FLT Team"?

25 A. "FLT" stands for finance leadership

MARK MAJOCHA

team.

Q. Okay. And as of March of 2020, were you part of the FLT team?

A. I was still part of the team, yes.

Q. And was this in your old job or your new job capacity?

A. This would have been in my old job capacity.

Q. I notice in the second-to-the-top email in the page, there's a notation "I think you could just add a line for Omega with key dates of April 1/May 1 and a two-hour weekly meeting each week of April."

Were you at those -- at meetings in April and May discussing Project Omega with the FLT team?

MR. MASCITTI: Objection; form.

A. No, I was not.

Q. And do you know why?

A. I transitioned to my new role in April, and I was never part of a Project Omega team to begin with.

Q. Okay.

MR. GOLDMAN: Let's look at the

MARK MAJOCHA

still on the commercial HVAC payroll, but doing projects on behalf of corporate and getting ready to transition into a new role.

Q. All right. So -- and then what's his current role, or what's his current position?

A. He is the global -- global director of credit for the enterprise.

Q. No. So this communication string looks like it started on April -- and is this -- withdrawn.

Is this a printout of an exchange of text messages you had with Eric Hankins? Shots, or what is it?

A. Yeah, I'm scanning through. It looks like it could be one of two things. We previously used Skype as a tool for chatting as well as our phone service and have since switched to Teams. I'm not sure which one it would be.

Q. In any event, it's an exchange of communications between you and Mr. Hankins --

A. Yeah.

Q. -- on April 24th.

So he starts this string of

MARK MAJOCHA

communications saying "It looks like you may have a little time around 5:00 p.m. to talk about the furlough."

Do you know what he was speaking about when he referenced "the furlough"?

A. I think this is related to the fact when COVID hit, all salaried people within Trane U.S. were furloughed for two weeks in the second quarter.

Q. And then you responded and say "I have my schedule blocked to work on transformation."

What was "transformation"? What did you mean by "transformation"?

A. Sure. From my perspective, what "transformation" means is looking at the finance function and understanding future state org model designs around how we can support the business at a lower cost.

Q. And was that in regard to the Project Omega initiatives or just enterprise-wide initiatives, or both?

A. It was not related to Project Omega.

Q. Okay. And you then said "Did Lisa reach out to you today on restructuring?"

MARK MAJOCHA

And who were you referring to by
"Lisa"?

A. She's the HR leader for our business.

Q. Okay. And "restructuring," what were
you referring to in the context of this
communication?

A. Yeah. Our business unit went through
a reorganization from a structure perspective --
operating structure perspective -- nothing legal
entity structure perspective -- where we used to
operate in 24 distinct districts across
North America, and we rationalized it down to
13 regions as a way to take out -- for lack of
any better terminology, it was head count
savings associated with leadership and
management positions.

Q. And what restructuring were you
referring to there when you asked if Lisa
reached out on restructuring?

A. Specifically, that restructuring was a
corporate restructuring document that we had
approved to execute the head count
consolidation. The code name was "Brave New
World," and it was all around the moving from

MARK MAJOCHA

24 districts to 13 regions, and it was a detailed list of people being made redundant with severance calculations and payback savings.

Q. Okay. If we scroll down to Eric Hankins' communication of 8:48 p.m. [sic], he says "Meant to mention this yesterday, but I have an Omega meeting that conflicts with this morning's staff call."

And you responded "NP."

What -- I'm not familiar with that acronym. What -- what did you mean by "NP"?

A. Do you mean 8:48 a.m., just for clarity?

Q. 8:48 a.m. If I said p.m., yeah, I misspoke.

A. "No problem."

MR. TORBORG: You obviously don't have a teenager, Mr. Goldman, or you would know that.

MR. GOLDMAN: You got that exactly. I just got "LOL" under control.

THE WITNESS: I still haven't figured that one out.

1 MARK MAJOCHA

2 BY MR. GOLDMAN:

3 Q. And then he says "I may be able to
4 join late."

5 You say "Let me know the date when
6 they have it."

7 Did you mean Project Omega "have it,"
8 or what did you mean by "Let me know the date
9 when they have it"?

10 A. That one's strange. I don't know what
11 I meant by that text.

12 Q. Well, he responds "Looks like 5/1.
13 There are go/no-go meetings next
14 Wednesday/Thursday."

15 And then you respond "Should make for
16 an interesting discussion during the earnings
17 release."

18 What were you referring to?

19 A. I would assume that I was referring to
20 something to do with Omega just based off the
21 lead-in from the 8:48 a.m. chat.

22 Q. Yeah.

23 If it's helpful, the divisive merger
24 was -- is -- documents are dated May 1 --

25 A. Okay.

1 MARK MAJOCHA

2 Q. -- of 2020.

3 So with that information, does that
4 cause you to believe that's what you were
5 referring to, or --

6 A. It's potential, yes. Potentially what
7 I was referring to.

8 Q. And why might the decision on the
9 divisive merger make for an interesting
10 discussion during the earning release?

11 A. My assumption, after reading through
12 the message, if the divisional merger was
13 completed, I thought -- I thought -- again, I'm
14 not an expert in investor relations or SEC
15 reporting -- that an 8-K would go out. And I
16 believe that was the same day -- or shortly
17 before our earnings release.

18 Q. Okay. And just for clarification,
19 what is an 8-K? It's an SEC -- it's an SEC
20 filing?

21 A. It's a -- yes, it's an SEC term for
22 announcement of public nature.

23 Q. Who is the "Zac" that's referred to in
24 this chain here?

25 A. Zac manages investor relations for the

MARK MAJOCHA

enterprise.

Q. And then Mr. Hankins says at 8:51,
"Yep. When Mike was talking, he was saying he
thought the investors will generally view this
positively."

And "Mike" -- who is Mike?

A. I would have to assume it's our
chairman and CEO.

Q. And then you say "They will, I'm sure
of that. Others will not, including the IR team
on campus."

What did you mean by that?

A. Yes. Specifically, I think I -- I've
shared with you I led the separation, which
included the Reverse Morris Trust merger of our
industrial businesses with Gardner Denver to
form new Ingersoll Rand. As part of that
process, to get the merger complete, our legal
department spends months negotiating an asbestos
tender agreement with Gardner Denver.

Q. What is an asbestos tender agreement?

MR. MASCITTI: Objection; foundation.

Q. You can go ahead and answer.

A. It was a two-way agreement between the

MARK MAJOCHA

current Trane Technologies and the new
Ingersoll Rand Company of how asbestos claims
would be managed between the two organizations
as they came in. That is my general
understanding of the agreement.

Q. Okay. And do you have a general
understanding of how that agreement provided the
claims would be handled?

MR. MASCITTI: So I'm going to object
on the grounds of privilege. I believe that
particular document has been withheld as
privileged.

I will direct the witness not to
answer that question.

MR. GOLDMAN: An agreement with a
third party, you're claiming a privilege to?

MR. MASCITTI: I believe that's our
position.

MR. GOLDMAN: Okay. All right. Well,
let me just ask some more questions about
the agreement.

BY MR. GOLDMAN:

Q. This was an agreement between who and
who?

MARK MAJOCHA

A. I believe I previously stated, as part of finalizing the Reverse Morris Trust with Gardner Denver, which is now -- we refer to as new Ingersoll Rand and Trane Technologies.

Q. So -- and Gardner Denver, at the time of this negotiation, was not yet a part of Trane Technologies; is that correct?

A. Not sure that I really understand the question.

Q. Okay. When does that -- okay. When did these negotiations take place?

A. Well, they took place -- the Reverse Morris Trust transaction was signed April 30th, 2019 and closed February 29th, 2020. There was a series of negotiations on various topics that took place throughout that 10-month period.

Q. And one of those negotiations -- withdrawn.

And the negotiations were negotiations between -- well, let me -- rather than putting words in your mouth, who were the parties to those negotiations?

A. Those negotiations were with Gardner Denver, specifically their general

MARK MAJOCHA

counsel and attorneys, and the former
Ingersoll Rand legal team and our external
attorneys, as well as some business leadership,
when required.

Q. And were you part of the business
leadership that was required from time to time?

A. I was.

Q. And were you involved in the
negotiations of this asbestos tender agreement?

A. No, sir.

Q. Who was involved in those
negotiations?

A. I'm not 100 percent certain, but it
would have been somebody within Evan Turtz's
legal organization.

Q. Were there any business people on the
former Ingersoll Rand legal -- withdrawn.

Were there any business people on the
former Ingersoll Rand team involved in those
negotiations?

A. For clarity, is your question
specifically related to the asbestos tendering
agreement --

Q. Yes.

1 MARK MAJOCHA

2 A. -- that we're speaking of?

3 Q. Yes. And by "business people," I'm
4 saying anybody other, you know, than Mr. Turtz
5 or someone in his office.

6 A. I believe it was just within the legal
7 organization.

8 Q. Okay. And those negotiations led to a
9 written agreement?

10 A. Yes.

11 Q. And was that written agreement
12 executed at the time the Reverse Morris Trust
13 transaction was consummated or before?

14 A. Thinking through the sequence of
15 events, that was one of, if not the last,
16 agreement completed prior to the closing of the
17 RMT transaction on February 29th, 2020.

18 Q. And was it signed on the same day but
19 just before the final closing documents, or was
20 it signed at an earlier date?

21 A. I don't know. I didn't sign the
22 documents.

23 Q. [REDACTED]

24 [REDACTED]

25 [REDACTED]

MARK MAJOCHA

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Q. And the tender agreement provided a mechanism for handling those asbestos liabilities -- the legacy liabilities of both companies; is that right?

MR. MASCITTI: Objection; form.

And, again, I'm going to object because we've withheld the document on the grounds of privilege.

Mr. Goldman, I have no issue at all with you asking Mr. Majocha about how asbestos liabilities were treated in connection with the RMT transaction. As to the terms of that specific document, though,

1 MARK MAJOCHA

2 because it's been withheld, I would direct
3 him not to answer that particular question.

4 MR. GOLDMAN: Just so that I'm clear
5 and maybe keep my questions focused, because
6 I haven't heard any testimony that would
7 establish any kind of a privilege, are you
8 claiming an attorney-client privilege or
9 some other type of privilege or protection?

10 MR. MASCITTI: I'd have to get back to
11 you on that after we review why we withheld
12 it.

13 MR. GOLDMAN: Well, the problem is
14 that makes it difficult to ask questions
15 that might be relevant to the claim of
16 privilege.

17 Do you want to take a short break and
18 check what your claim was when you withheld
19 on the privilege log? I don't know if it's
20 identified.

21 MR. MASCITTI: We can take a break.

22 MR. GOLDMAN: Yeah. Why don't we do
23 that, rather than quiz you by memory on what
24 claims you made.

25 Let's take 15 -- it's five of noon

MARK MAJOCHA

anyway. Should we just take a lunch break
now and maybe that gives you a chance to
open it?

MR. MASCITTI: That works.

MR. GOLDMAN: Okay. So why don't we
resume at 12:30. Does that work?

MR. MASCITTI: Yes.

MR. GOLDMAN: Thank you.

VIDEOGRAPHER: We are pausing the
recording in the second media.

Going off record at 11:55 a.m.

- - -

Thereupon, the luncheon recess was
taken at 11:55 a.m.

- - -

1 MARK MAJOCHA

2 MARCH 18, 2021

3 THURSDAY AFTERNOON SESSION

4 12:33 P.M.

5 - - -

6 VIDEOGRAPHER: We are back on record,
7 still in the second media, at 12:33 p.m.

8 MR. GOLDMAN: Okay. During the break,
9 I gave counsel for Trane and counsel for the
10 debtor -- I assume, also has this
11 document -- an opportunity to review the
12 document and review the basis for not
13 producing it.

14 MR. MASCITTI: Yes, Mr. Goldman.
15 Thank you for the opportunity to review the
16 basis for withholding that document on
17 privilege.

18 Effectively, that document is a common
19 interest agreement. Our position is it
20 contains attorney-client privileged
21 information and work product information for
22 which we share a common interest with
23 Gardner Denver with respect to the defense
24 of claims, and that's the basis for that
25 document being withheld.

MARK MAJOCHA

For purposes of the deposition, my understanding is Mr. Majocha testified he's never seen the agreement. My instruction to him was to not testify to any specific terms in the agreement, but given that he hasn't seen it, I'm not sure that's much of an issue.

And as I previously indicated, you know, you are certainly free to ask Mr. Majocha his understanding of how asbestos claims were treated in connection with the RMT transaction.

MR. GOLDMAN: So --

MR. TORBORG: And let me just -- sorry, Steve, to --

MR. GOLDMAN: Go ahead.

MR. TORBORG: -- interrupt you, but the debtors have an interest in this as well.

We join in Mr. Mascitti's description of the basis of the privilege, and would also not have a problem with Mr. Majocha testifying along the lines that Mr. Mascitti just said.

1 MARK MAJOCHA

2 MR. GOLDMAN: Okay. Just before we
3 get to the deposition question, I just want
4 to better understand the reason. And I'd
5 like to -- this to be considered to be our
6 meet-and-confer so we don't have to have a
7 separate meet-and-confer since you've now
8 had a half an hour to look at it and think
9 about it.

10 But the basis is not attorney-client
11 privilege; is that correct? Or is there an
12 attorney-client privilege claim for
13 withholding this?

14 MR. MASCITTI: I'm not going to engage
15 in a meet-and-confer during Mr. Majocha's
16 deposition. I'm more than happy to have
17 this conversation with you when his
18 deposition is complete.

19 MR. GOLDMAN: Well, that is the
20 problem, because we've got these
21 depositions, and this is one of them, and
22 you want us to take a 30(b)(6) today about
23 essentially the same subjects, and we don't
24 have the document. We don't know why it's
25 being -- we don't understand without further

MARK MAJOCHA

discussion why it's being withheld. I hear what you said, but I don't understand it. And you're saying, well, we need to then delay, and even moving the Court on it, unless we have further discussions on it. Let's have those further discussions now. I'd like to understand what the problem is with producing the document.

Are you claiming it's subject to the attorney-client privilege?

MR. MASCITTI: Yes, that the document contains information that is attorney-client privileged and work product.

MR. GOLDMAN: Okay. In an arm's length transaction between one entity and another?

MR. MASCITTI: For which we share a common interest in defending claims.

MR. GUY: This is Jonathan.

Do we know if the witness knows anything about this agreement? In the other depositions where privilege questions have come up, counsel has allowed us to ask that preliminary question, yes or no. If the

1 MARK MAJOCHA

2 answer's no, then we don't need to take up
3 the witness's time.

4 MR. GOLDMAN: He's already -- there's
5 already quite a bit of discussion on the
6 record about what the witness knows, and
7 we'll explore that further. But,
8 nonetheless, I think we're entitled to see
9 the document and ask the witness questions
10 about the document, so...

11 MR. MASCITTI: The document's been
12 withheld as privileged, so that's our
13 position.

14 MR. GOLDMAN: Is there any other claim
15 other than attorney-client privilege as a
16 reason for withholding it?

17 MR. MASCITTI: As I said, it's a
18 common interest agreement. It has
19 attorney-client privileged information, work
20 product information, for which we share a
21 common interest in defending claims.

22 MR. GOLDMAN: So you're making a work
23 product claim also, that it's prepared in
24 anticipation of litigation?

25 MR. MASCITTI: That's correct.

1 MARK MAJOCHA

2 MR. GOLDMAN: Okay. And you can have
3 common interests in things, that doesn't
4 make them privileged. So other than you
5 claiming to have a common interest with
6 somebody else in creating the document that
7 you negotiated with them, is there any other
8 reason for withholding it other than
9 attorney-client privilege and work product?

10 MR. MASCITTI: As I said, the document
11 is being withheld based on the assertion of
12 privilege. It's in the privilege log. I'm
13 not going to engage in any further
14 discussion about the basis for withholding
15 it during this deposition.

16 MR. GOLDMAN: And --

17 MR. MASCITTI: I would be happy to
18 meet and confer with you after this
19 deposition, take your request under
20 advisement as to whether or not you would
21 like us to reconsider that designation. But
22 as of right now, it's been designated and
23 withheld as privileged. And I suggest that
24 you proceed with Mr. Majocha's deposition.

25 MR. GOLDMAN: Could you identify the

MARK MAJOCHA

Bates number in the privilege log so that we
can identify it in the privilege log? Do
you have that?

MR. MASCITTI: I believe it's entry
3317 on the privilege log.

MR. GOLDMAN: 3317?

MR. MASCITTI: Correct.

MR. GOLDMAN: And that's -- does that
have a producer prefix to that, or not?

MR. MASCITTI: It's the entry on the
privilege log, 3317.

MR. GOLDMAN: Okay. I haven't
personally reviewed the privilege log.
Other people have been doing that.

So it's the -- okay. That -- I assume
that will enable us to find it on the
privilege log. If it doesn't, we can get
back to you.

All right. Let's go back on the
record with the witness. I think we're
already on the record, correct?

BY MR. GOLDMAN:

Q. Mr. Majocha, let me ask you, this
asbestos tender agreement that we've been

MARK MAJOCHA

talking about, what is your understanding of
what it provides?

MR. MASCITTI: Again, I'm going to
object to the question on the grounds of
privilege to the extent that you're asking
him about that particular document. If you
want him to provide an understanding of how
asbestos claims were treated in connection
with the RMT transaction, that's a question
that I think he can answer.

MR. GOLDMAN: So you're instructing
him not to answer that question that I just
asked?

MR. MASCITTI: Well, I think it --
there's also a foundational objection,
because I think he's testified already that
he hasn't seen the document.

MR. TORBORG: Yeah, there's two entity
objections in the instruction.

MR. GOLDMAN: Okay.

MR. TORBORG: Why don't we lay some
foundation first like we have in other
depositions just to see if this is really an
issue.

1 MARK MAJOCHA

2 MR. GOLDMAN: I laid the foundation --
3 I think I've laid the foundation for the
4 production of the document pretty clearly,
5 so I don't think I need to do that.

6 MR. TORBORG: It's foundation for your
7 question, not foundation for the request of
8 the document. Different issue.

9 MR. GOLDMAN: And I think the
10 foundation was proper for the question. But
11 you can object -- your objection as to the
12 form is noted.

13 BY MR. GOLDMAN:

14 Q. Mr. Majocha, were you consulted in
15 connection with the negotiation of the asbestos
16 tender agreement?

17 A. Specifically what do you mean by
18 "consulted"?

19 Q. Well, did you provide information to
20 the people who were negotiating it?

21 A. Okay. Thank you for the
22 clarification.

23 I did not provide any information.

24 Q. Okay. Did you have communications
25 about the agreement during the time period that

1 MARK MAJOCHA

2 reviewed as part of his deposition
3 preparation or are you referring to other
4 documents?

5 Q. What documents did you review to
6 prepare for the deposition today?

7 MR. MASCITTI: I'm going to direct the
8 witness not to answer that question to the
9 extent that you're asking him what documents
10 he reviewed as part of his deposition
11 preparation.

12 To the extent he reviewed documents
13 outside of his deposition preparation with
14 counsel, he can answer that question.

15 MR. GOLDMAN: Let me just understand
16 this here. You're telling him not to tell
17 me what documents he reviewed to prepare for
18 his deposition?

19 MR. MASCITTI: To the extent it was
20 part of his deposition preparation with
21 counsel, yes. If it was not part of his
22 deposition preparation with counsel, he can
23 answer that question.

24 MR. GOLDMAN: And the basis for that
25 instruction is what?

1 MARK MAJOCHA

2 MR. MASCITTI: Work product. What
3 documents I showed him is my work product.

4 MR. GOLDMAN: Okay. I didn't ask him
5 what documents you showed him. I just asked
6 him what documents he reviewed.

7 MR. MASCITTI: That's why I was
8 clarifying your question so that I could
9 give it a scope that he could answer.

10 BY MR. GOLDMAN:

11 Q. Okay. So independent of who showed
12 them to you or when you looked at them, what
13 documents did you review to prepare for this
14 deposition?

15 A. I reviewed --

16 MR. TORBORG: Hold on.

17 You're asking the same question in a
18 different way.

19 MR. MASCITTI: Yeah.

20 MR. TORBORG: Mr. Majocha is not going
21 to testify about what documents counsel
22 showed him and that he reviewed in
23 connection with his deposition.

24 MR. GOLDMAN: You guys ought to talk
25 to one another, because, like, some

MARK MAJOCHA

depositions you're telling witnesses not to tell me what they reviewed; other depositions you're telling them to testify to -- you know, you're not being consistent, and you're just flat-out wrong. You know, I'm entitled to know what he reviewed before testifying.

But if the claim is -- I want to make clear the claim is that's your litigation work product, and you're instructing a witness in a federal deposition not to answer on the grounds that's your litigation work product? I just want to make clear that's what the claim is, so if I've misstated it --

MR. MASCITTI: It is. With respect to documents that were shown to him at his deposition preparation, yes.

MR. GOLDMAN: Is that your claim as well, Mr. Torborg?

MR. TORBORG: Absolutely.

MR. GOLDMAN: All right.

BY MR. GOLDMAN:

Q. So given that your counsel's

1 MARK MAJOCHA

2 Q. You don't know what business segment
3 it had been in?

4 A. No.

5 Q. You said during your individual
6 deposition that you were asked in the second
7 half of 2020 to do an analysis of the -- what
8 the effects would be if the -- if there were
9 a -- if either the whole Trane enterprise or
10 some larger portion of it filed for bankruptcy;
11 is that correct?

12 A. I --

13 MR. MASCITTI: That's a yes-or-no
14 answer.

15 A. Yes.

16 Q. Okay. And when you did that -- and I
17 think you said it was a -- you never completed
18 it, if I recall. Is that correct as well?

19 A. Correct.

20 Q. When you worked on it, what assumption
21 were you making about the size of the entity
22 that would hypothetically file for bankruptcy?

23 MR. MASCITTI: I'm going to object on
24 the grounds that this is work product that
25 you're asking the witness about and direct

MARK MAJOCHA

him not to answer the question as it relates to that analysis as it was done as part of work product.

But to the extent that you have questions for the topics that are listed, feel free to ask him those questions about the topics that he's been designated for.

MR. GOLDMAN: It is one of the topics. I'm asking him what he knows about it.

MR. MASCITTI: You're asking him about an analysis that he did at the request of counsel. That's not one of the topics listed.

BY MR. GOLDMAN:

Q. You've said that you're prepared to testify as to the debtors' contention that the negative consequences of bankruptcy filings by old IRNJ and old Trane would have outweighed any potential benefits of placing both entities in bankruptcy.

Why would the negative consequences of bankruptcy filings by old IRNJ and old Trane have outweighed any potential benefits of placing both entities in bankruptcy?

MARK MAJOCHA

Q. [REDACTED]

██████████

Q. So the tender agreement does not provide for any rights to insurance that would relate to asbestos?

MR. MASCITTI: I'm going to object, again, on the grounds of privilege, work

MARK MAJOCHA

product, common interest doctrine, and
direct the witness not to answer the
question as it relates to the specific terms
of the asbestos tender claims agreement.

Q. Mr. Majocha, would you be able to
answer that question but for counselor's
instruction for you not to answer?

MR. TORBORG: Excuse me. Before he
answers, I would also add the joint defense
privilege as well.

A. I'm choosing not to answer your
question, Ms. Jennings.

Q. Is that at the instruction of counsel?

MR. MASCITTI: That is my instruction,
that he is directed not to answer that
question.

MS. JENNINGS: No, my last question
was whether he would be able to answer --

MR. TORBORG: Join the instruction.

MS. JENNINGS: -- but for the
instruction.

MR. MASCITTI: I mean, if you'd like
him to ask him the question that's already
been asked and answered as to whether or not

MARK MAJOCHA

he has knowledge as to the specific terms of the asbestos claims tender agreement, you can ask him that question again, and he can answer it again. But the way you phrased your question I'm going to object to and ask him not to answer that question.

MS. JENNINGS: The difference right now is that we're in a 30(b)(6) deposition. And as I'm sure Mr. Majocha is aware, he's representing the company right now in responding, and certainly the company is aware of this agreement. So whether he has particular knowledge about the agreement is not really the question right now under the 30(b)(6).

MR. MASCITTI: The asbestos claims tender agreement was not a topic for the 30(b)(6) deposition of Mr. Majocha. So on that issue, we can just move on.

MS. JENNINGS: I disagree.

MR. MASCITTI: Okay.

MS. JENNINGS: He's already testified -- Mr. Majocha's already testified that he's been served the 30(b)(6)

MARK MAJOCHA

notification for his line of question on
Topic 3, which is the Reverse Morris Trust
transaction. He's already testified that
includes insurance assets. So to the extent
that the tender agreement includes rights to
insurance assets, it is part of the scope.

MR. GOLDMAN: Well, as a party who
noticed the deposition, it's a little tough
to include it as one of a specific --
specifically identified 30(b)(6) topics
since we were unaware of the existence of
the document because it hadn't been
produced.

MS. JENNINGS: I'm sorry.

Ms. Clark, could you repeat what was
just said? I'm not sure I understood the
objection.

(Record read as follows:

"MR. GOLDMAN: Well, as a party who
noticed the deposition, it's a little
tough to include it as one of a
specific -- specifically identified
30(b)(6) topics since we were unaware
of the existence of the document

MARK MAJOCHA

because it hadn't been produced.")

MR. MASCITTI: To be clear,

Mr. Goldman, I believe the issue that you raised would likely fall within one of the other 59 topics that have been noticed for purposes of a 30(b)(6) deposition. I don't believe it falls within the specific scope of the one that you've identified for Topic 3 and the ones for which we've designated Mr. Majocha.

MR. GOLDMAN: Look, I don't want to debate this while we're on the record, but if we're being told that we can't inquire of a witness because we didn't specifically identify this agreement as a 30(b)(6) subject, I'm just pointing out that that would have been impossible to do because it wasn't produced. That's all.

MS. JENNINGS: And I would add to that that this particular document, this tender agreement, is listed as an exhibit to the agreement and plan of merger for the Reverse Morris Trust transaction. So I'm not sure what the basis is for stating that an

MARK MAJOCHA

exhibit that's attached to the agreement and plan of merger for the exact transaction that he's being deposed about as a 30(b)(6) witness is outside the scope.

MR. TORBORG: So the agreement is something you were aware of before the deposition today; that's what you're saying? Something you could have designated and made specific in your 30(b)(6), but you didn't.

MS. JENNINGS: I don't see a reason why we would put that as a separate 30(b)(6) notification when, again, it is part of the Reverse Morris Trust transaction and the documents included therein.

But I will move on.

MR. MASCITTI: Okay. Good.

BY MS. JENNINGS:

Q. So I want to go back to this work stream on insurance, and I want to talk specifically about the asbestos liabilities and the insurance that covers those asbestos liabilities.

So earlier you stated, Mr. Majocha, that all of the insurance policies were retained

EXHIBIT G

Excerpted Transcript of the Deposition of David Regnery

DAVID REGNERY

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----x

IN RE: Chapter 11
No. 20-30608
(Jointly Administered)

ALDRICH PUMP LLC, et al.,
Debtors.

-----x

ALDRICH PUMP LLC and
MURRAY BOILER LLC,
Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS
LISTED ON APPENDIX A
TO COMPLAINT and
JOHN and JANE DOES 1-1000,
Defendants.

-----x

REMOTE VIDEOTAPED DEPOSITION OF

DAVID REGNERY

MARCH 12, 2021

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191081

1 DAVID REGNERY

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6 9:31 a.m. EST
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9 Remote Videotaped Deposition of
10 DAVID REGNERY, held at the location of the
11 witness, taken by the Committee of Asbestos
12 Personal Injury Claimants, before Sara S. Clark,
13 a Registered Professional Reporter, Registered
14 Merit Reporter, Certified Realtime Reporter, and
15 Notary Public.
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DAVID REGNERY

Q. In the course of preparing for your deposition, did you review any documents?

A. I was sent a binder, but I did not have an opportunity to review the binder.

Q. And when you say you didn't have the opportunity to review the binder, do you mean before you actually had your preparation sessions with counsel?

A. No. At all. It's quite thick.

Q. So during the course of your preparation, your counsel did not show you or ask you to look at a single document; is that your testimony?

A. No. They did ask me to look at documents. I don't know if those documents were, in fact, in the binder or not, but they did ask me to look at documents.

MR. MASCITTI: Dave -- just to clarify, Dave, please don't identify any of the documents that we did review.

THE WITNESS: Okay.

MR. MASTORIS: I'm not sure that instruction is warranted as of yet, and I haven't asked that question. We'll get

1 DAVID REGNERY

2 there, Greg.

3 BY MR. MASTORIS:

4 Q. So when you say that you reviewed
5 documents but you didn't look at the binder,
6 does that -- am I correct in assuming that
7 counsel or someone working with counsel uploaded
8 the documents to your screen so you could review
9 them on the screen?

10 A. Yes. I just don't recall the media we
11 used. I don't know if it was in the chat
12 function, or -- but it was viewed on screen.

13 Q. But it was virtual?

14 A. Correct.

15 Q. Okay. Did any of the documents that
16 you looked at refresh your recollection with
17 regard to anything that had transpired relevant
18 to this case?

19 A. To be honest with you, I don't -- I'm
20 going to say I don't remember, to be honest.

21 Q. Did you look at any -- well, strike
22 that.

23 What sorts of documents do you recall
24 looking at?

25 MR. MASCITTI: Objection.

1 DAVID REGNERY

2 Q. And I'm not asking you --

3 MR. MASTORIS: Hold on, Greg. Can I
4 finish my question?

5 MR. MASCITTI: You can answer.

6 MR. MASTORIS: Greg, could I finish my
7 question?

8 MR. MASCITTI: I thought you were
9 done.

10 MR. MASTORIS: I wasn't.

11 BY MR. MASTORIS:

12 Q. My question is, when I say what sorts
13 of documents, I mean -- I'm not asking you to
14 identify the documents for me, but I'm asking
15 you to tell me what types of documents. Were
16 there emails? Were they contractual documents?
17 If you could just give me a sense of the
18 categories in which these documents fall into.
19 That's what I'm looking for with this question.

20 MR. MASCITTI: Objection; privilege.
21 Direct the witness not to answer.

22 MR. MASTORIS: That's an absurd
23 objection, Greg. Are you really standing on
24 it?

25 MR. MASCITTI: I am.

1 DAVID REGNERY

2 MR. MASTORIS: Okay.

3 BY MR. MASTORIS:

4 Q. Mr. Regnery, are you going to follow
5 your counsel's advice not to answer that
6 question?

7 A. Yes.

8 Q. Okay.

9 MR. MASTORIS: You do realize,
10 Mr. Mascitti, that's the type of information
11 which is on a privilege log and is
12 disclosed? And I've never, in 20 years of
13 practice, had an objection to that question.

14 I'll take that as a no.

15 MR. MASCITTI: You can continue.

16 MR. MASTORIS: I will. We'll take
17 that up with the Court.

18 MR. MASCITTI: You may.

19 BY MR. MASTORIS:

20 Q. Approximately how many documents did
21 you look at in connection with your deposition
22 preparation, Mr. Regnery?

23 A. I don't remember the exact amount.

24 Q. Could you give me a ballpark estimate
25 of how many documents there were?

1 DAVID REGNERY

2 A. I don't want to guess.

3 Q. Okay. But can you tell me whether or
4 not it was less than 10?

5 A. That is probably a good estimate.

6 Q. Were any of those documents emails, as
7 you recall?

8 MR. MASCITTI: Objection; privilege.

9 Direct the witness not to answer.

10 Q. Mr. Regnery, are you going to follow
11 your counsel's instruction?

12 A. Yes.

13 Q. Did any of the emails that you looked
14 at refresh your recollection about events that
15 had transpired?

16 MR. MASCITTI: Objection; form.

17 Q. You can answer the question.

18 MR. MASCITTI: I'll object on
19 privilege grounds, too, to the extent that
20 you're asking what he reviewed at the
21 deposition prep session.

22 MR. MASTORIS: I asked whether they
23 refreshed his recollection, Mr. Mascitti.
24 That is a different question.

25 MR. MASCITTI: You've already asked

DAVID REGNERY

that question before, and I believe he answered that.

MR. MASTORIS: Well, I asked it differently this time. And it's not quite the same question I asked in the first instance.

MR. MASCITTI: I know. Because you misquoted what he had previously testified to.

MR. MASTORIS: I didn't actually quote him. But, look, you have your objection and it's on the record.

BY MR. MASTORIS:

Q. Mr. Regnery, can you answer my question, which is did any of the emails that you looked at in preparing for your deposition refresh your recollection?

MR. MASCITTI: I don't believe Mr. Regnery testified that he reviewed any emails because I directed --

MR. MASTORIS: Mr. Mascitti, speaking objections are improper. So I would ask you to make your objection to the form and move on.

1 DAVID REGNERY

2 MR. MASCITTI: I'll note my objection.

3 BY MR. MASTORIS:

4 Q. Mr. Regnery, did any of the emails
5 that you reviewed during your deposition prep
6 session refresh your recollection; yes or no?

7 MR. MASCITTI: Objection; privilege.
8 Direct the witness not to answer.

9 Q. Other than --

10 MR. MASCITTI: And --

11 Q. -- counsel --

12 MR. MASTORIS: Mr. Mascitti, I'm going
13 to move on to my next question.

14 Q. Other than counsel, did you discuss
15 your deposition with anybody else?

16 A. No. Only to make people aware that I
17 was having a deposition.

18 Q. So you didn't talk about the substance
19 of anything that was covered during your prep
20 session with anybody at your company, for
21 instance?

22 A. That is correct.

23 Q. In connection with this bankruptcy and
24 this litigation proceeding, did you -- were you
25 asked to collect any documents?

EXHIBIT H

Excerpted Transcript of the Deposition of Heather Howlett

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----X

IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

-----X

ALDRICH PUMP LLC and

MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS

LISTED ON APPENDIX A

TO COMPLAINT and

JOHN and JANE DOES 1-1000,

Defendants.

-----X

REMOTE VIDEOTAPED DEPOSITION OF

HEATHER HOWLETT

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 190511

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FEBRUARY 26, 2021

6

9:40 a.m. EST

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Remote Videotaped Deposition of

10 HEATHER HOWLETT, held at the location of the

11 witness, taken by the Committee of Asbestos

12 Personal Injury Claimants, before Sara S. Clark, a

13 Registered Professional Reporter, Registered Merit

14 Reporter, Certified Realtime Reporter, and Notary

15 Public.

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1 HEATHER HOWLETT

2 go through the list of attendees.

3 For yesterday's meeting, it was your
4 legal team, two lawyers who are listen only, you
5 think were Jones Day, and Ms. Brown and
6 Mr. Sands; is that correct?

7 A. No. I don't actually know if the
8 other two were from Jones Day or from M&E.

9 Q. Okay. Got it.

10 So did Ms. Brown and Mr. Sands attend
11 both meetings or just yesterday's meeting?

12 A. Both meetings.

13 Q. Anyone else that attended those
14 meetings?

15 A. No.

16 Q. Okay. Did you review any documents in
17 preparation for today's deposition?

18 A. I'm sorry?

19 Q. Did you review any documents in
20 preparation for today's deposition?

21 A. Yes.

22 MR. MASCITTI: We're going to object
23 on privilege grounds.

24 You can answer that you reviewed
25 documents, but don't get into what documents

1 HEATHER HOWLETT

2 you reviewed, please.

3 THE WITNESS: Sure.

4 Q. How many documents did you review?

5 MR. MASCITTI: I'm going to object;
6 privilege.

7 Instruct you not to answer.

8 Q. Did your counsel provide you documents
9 in preparation for today's deposition?

10 THE WITNESS: Greg? Are you --

11 MR. MASCITTI: You can answer that
12 question.

13 THE WITNESS: Okay.

14 A. Yes.

15 Q. Okay. And you don't know how many
16 documents your counsel provided you?

17 MR. MASCITTI: Again, I'm going to
18 object; privilege.

19 Direct the witness not to answer.

20 Q. Generally, how many documents did you
21 review prior to today's deposition?

22 A. To be fair, I didn't count. It was a
23 range.

24 Q. Was it more than 10? More than 50?

25 A. If I answered, I would be guessing.

1 HEATHER HOWLETT

2 well as the various aspects of the
3 reorganization from an entity perspective would
4 kind of transpire within the -- or as those
5 reorganizations were executed, we would just
6 have to make sure that the entities were put in
7 the right place within our entity structure.

8 Q. Who is the external auditor that
9 you're referring to?

10 A. PwC.

11 Q. And who are they employed by?

12 A. Technically by our audit committee of
13 Trane Technologies PLC.

14 Q. Could anyone -- let's go back.

15 You mentioned that sometimes you would
16 receive legal updates in connection with
17 Project Omega meetings?

18 A. Uh-huh.

19 Q. And that counsel would be at these
20 meetings; is that right?

21 A. I mean, if it was an update from the
22 legal team, somebody from the legal team would
23 be there, yes.

24 Q. Were they -- what kind of update were
25 they providing you with?

1 HEATHER HOWLETT

2 MR. MASCITTI: Objection. To the
3 extent that you're asking for the witness to
4 testify as to what the lawyers advised them
5 at these meetings, I'm going to instruct the
6 witness not to answer.

7 Q. I think I forgot what you had
8 previously testified.

9 Outside counsel did attend these
10 meetings -- Project Omega meetings?

11 A. Which meetings specifically?

12 Q. Generally, how would -- would outside
13 counsel attend meetings relating to
14 Project Omega?

15 A. Legal counsel would not -- well, I
16 don't recall if legal counsel attended our --
17 yeah, I don't recall to what extent legal was,
18 you know, included in some of our accounting
19 discussions or meetings.

20 Q. Okay.

21 MS. CALVAR: Let's go to Tab 9, which
22 is -- which will be Exhibit 3.

23 - - -

24 (Committee Exhibit 3 marked.)

25 - - -

EXHIBIT I

Excerpted Transcript of the Deposition of Cathleen Bowen

CATHLEEN BOWEN

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----x
IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,
Debtors.

-----x
ALDRICH PUMP LLC and
MURRAY BOILER LLC,
Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS
LISTED ON APPENDIX A
TO COMPLAINT and
JOHN and JANE DOES 1-1000,
Defendants.

-----x
REMOTE VIDEOTAPED DEPOSITION OF
CATHLEEN BOWEN

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 190525

CATHLEEN BOWEN

MARCH 5, 2021

9:32 a.m. EST

Remote Videotaped Deposition of
CATHLEEN BOWEN, held at the location of the
witness, taken by the Committee of Asbestos
Personal Injury Claimants, before Sara S. Clark,
a Registered Professional Reporter, Registered
Merit Reporter, Certified Realtime Reporter, and
Notary Public.

1 CATHLEEN BOWEN

2 A. About four hours.

3 Q. Four hours. Okay.

4 And when was the -- and Greg was the
5 only one in the meeting?

6 A. No. Caitlin was in the meeting, and
7 there was, I think, another gentleman from
8 Jones Day. I can't remember.

9 Q. Okay. So it was the three of you --
10 or four of you?

11 A. Yes.

12 Q. And during that meeting, did you
13 review any documents? Just yes or no.

14 A. Yes.

15 Q. Okay. And were those documents
16 provided to you by your counsel?

17 A. Yes.

18 Q. Okay. And was the purpose of those
19 documents to refresh your recollection?

20 A. I believe so, yes.

21 MR. MASCITTI: Objection; form.

22 Q. Okay. And what were the documents
23 that you reviewed during that first meeting?

24 MR. MASCITTI: I'm going to object and
25 direct the witness not to answer;

1 CATHLEEN BOWEN

2 privileged.

3 Q. Okay. Was the -- did you review any
4 other documents on your own in preparation for
5 this deposition?

6 A. No.

7 Q. Okay. Were you asked to bring any
8 documents to the deposition -- I'm sorry.
9 Strike that question.

10 Were you asked to bring or review any
11 documents at that first meeting?

12 A. No.

13 MR. MASCITTI: Object. To the extent
14 that you're asking for her to testify as to
15 communication made by an attorney, I'm going
16 to object and instruct the witness not to
17 answer.

18 Q. Okay. And when was the second
19 meeting?

20 A. Yesterday.

21 Q. Yesterday. Okay.

22 And about how long was that meeting?

23 A. Two hours.

24 Q. Two hours.

25 And were the same people in that

1 CATHLEEN BOWEN

2 to?

3 A. Again, I didn't --

4 MR. MASCITTI: Objection to form.

5 A. I didn't create this document, so I'm
6 not sure.

7 Q. You understand what is meant by
8 "trust" here?

9 A. I'm not really sure.

10 Q. Have you -- to your knowledge, have
11 any of the insurance rights been assigned to a
12 trust?

13 A. I don't know that.

14 Q. To your knowledge, has a trust been
15 created?

16 A. I am not aware of that.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

CATHLEEN BOWEN

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Okay. Line 19 says "Finalize the
scope for environmental liabilities."

Were you responsible for finalizing
the scope for environmental liabilities?

A. No.

Q. Is it your understanding that Aldrich
and Murray have environmental liabilities?

A. I am not aware of any.

Q. To your knowledge, does Trane have
environmental liabilities?

A. Yes.

Q. During your discussions with the
Project Omega team, was it ever discussed that
environmental liabilities would be transferred
to Aldrich and Murray?

A. I don't recall.

CATHLEEN BOWEN

Q. Do you recall any discussion of environmental liabilities at the Project Omega meeting?

MR. MASCITTI: I'm going to object to the extent that there was any communication regarding environmental liabilities with attorneys, and directing the witness not to answer the question.

Q. Did you discuss environmental liabilities with anyone who is not an attorney with regard to Project Omega?

A. I don't recall.

Q. Do you know who -- with regard to these open questions -- well, strike that.

EXHIBIT J

Excerpted Transcript of the Deposition of Chris Kuehn

CHRIS KUEHN

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

-----x

IN RE: Chapter 11
No. 20-30608 (JCW)
(Jointly Administered)

ALDRICH PUMP LLC, et al.,

Debtors.

-----x

ALDRICH PUMP LLC and
MURRAY BOILER LLC,

Plaintiffs,

v. Adversary Proceeding
No. 20-03041 (JCW)

THOSE PARTIES TO ACTIONS
LISTED ON APPENDIX A
TO COMPLAINT and
JOHN and JANE DOES 1-1000,

Defendants.

-----x

REMOTE VIDEOTAPED DEPOSITION OF

CHRIS KUEHN

Reported by:
Sara S. Clark, RPR/RMR/CRR/CRC
JOB No. 191086

CHRIS KUEHN

MARCH 19, 2021

9:37 a.m. EST

Remote Videotaped Deposition of
CHRIS KUEHN, held at the location of the
witness, taken by the Committee of Asbestos
Personal Injury Claimants, before Sara S. Clark,
a Registered Professional Reporter, Registered
Merit Reporter, Certified Realtime Reporter, and
Notary Public.

CHRIS KUEHN

What does "NDA" mean to you?

A. NDA means non-disclosure agreement.

Q. Okay. And were non-disclosure agreements required with respect to Project Omega?

A. To my knowledge, yes.

Q. Did you sign one?

A. I believe I did.

Q. When did you first learn of Project Omega?

A. I first learned of Project Omega around the summer of 2019.

Q. And how did you learn about it?

A. I believe it was from the legal department of Trane Technologies or at that time, Ingersoll Rand PLC. So it would have been, you know, Evan Turtz, I believe, and/or Sara Brown would have brought me under the loop -- or in the loop on the project.

Q. And did Mr. Turtz or Ms. Brown discuss any business purpose with respect to

CHRIS KUEHN

Project Omega --

MR. MASCITTI: Objection.

To the extent that you have a general understanding of the business purpose of Project Omega, you can answer that question. But as to specific discussions with Ms. Brown or Mr. Turtz, I'll direct the witness not to answer.

MS. HARDMAN: I'm asking about a statement from a lawyer with respect to the business purpose itself, not any legal advice.

MR. MASCITTI: And I'm going to direct the witness not to answer that question.

A. I recall discussing with a group of people, you know, what Project Omega would be and what alternatives would be evaluated.

Q. Okay. Let's talk about the purpose generally.

What did you understand the purpose of Project Omega to be?

A. I understood it to be an evaluation of our asbestos matters and whether to remain in the tort system or to evaluate an alternative to

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to being the debtor entities themselves?

MR. MASCITTI: Objection; form.

MR. HAMILTON: I object on the grounds
that it's asking for the disclosure of
communications protected by the
attorney-client privilege, because you're
asking --

MS. HARDMAN: I'm asking if the
question was asked.

MR. HAMILTON: You asked him if he
ever asked that question, and if he asked
that question of an attorney, that would be
a privileged conversation.

MS. HARDMAN: The question would be
just because he asked a lawyer? What if he
asked the lawyer a question that was
business related as to why the subsidiary
can't be the actual entity?

MR. HAMILTON: I think that's a
request for legal advice. I think that's a
question asking for legal advice, and I
believe it -- I think that's asking for
testimony that's covered by the
attorney-client privilege.