



Lena M. James
United States Bankruptcy Judge

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

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-30608 (LMJ)

(Jointly Administered)

**CONSENT ORDER PURSUANT TO
RULE 502(d) OF THE FEDERAL RULES OF EVIDENCE**

This matter coming before the Court pursuant to the *Case Management Order for Estimation of Asbestos Claims* [D.I. 1302] (the "Estimation CMO") and the *Agreed Order With Respect to Resolved Claims Sampling for Purposes of Estimation Discovery* [Dkt 2048] (the "Aldrich Murray Sample") and the agreement of (a) the Debtors, Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), as debtors and debtors in possession (together, the "Debtors"), (b) Trane U.S. Inc. and Trane Technologies LLC (the "Non-Debtor-Affiliates") (c) the official committee of asbestos personal injury claimants appointed in the Debtors' Chapter 11 cases (the "Committee"), and (d) Joseph Grier, the legal representative for future asbestos claimants (the "FCR," and collectively with the other listed parties, the "Parties") each of which

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.



is a party to the estimation proceeding established by the *Order Authorizing Estimation of Current and Future Mesothelioma Claims* [Dkt. 1127]) (the "Estimation Proceeding"), and the Court hereby finds and concludes as follows:

RECITALS

A. This Order shall govern either the intentional or inadvertent disclosure by the Debtors to the ACC and the FCR of certain documents or information as described below that the Debtors would otherwise withhold from production or refuse to disclose, in part or in full, under assertions of the attorney-client privilege, the work product doctrine, and/or other protections from disclosure in connection with the estimation of all of the Debtors' current and future mesothelioma claims as provided in the Estimation Proceeding.

B. Upon the terms and conditions set forth below, the Debtors have agreed to produce and shall produce the categories of documents described below.

C. The Court finds good cause to enter this Order pursuant to Rule 502(d) of the Federal Rules of Evidence.

NOW, THEREFORE, THE PARTIES AGREE, AND THE COURT HEREBY ORDERS THAT:

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, and this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Rules 502(d) and 502(f) of the Federal Rules of Evidence and the protections set forth in the *Agreed Protective Order Governing Confidential Information* [Dkt. 345] (the "Protective Order") shall apply to and govern the terms of this Order. All capitalized terms not defined herein shall have the definitions provided in the Protective Order. The provisions of Rule 502(b) shall not apply.

3. Subject to the provisions of this Order, the Protective Order and the Agreement as to Claims File Discovery Collection, the Debtors shall produce to counsel to the ACC and the FCR the following documents² relating to the claims identified in Exhibit A to the Aldrich Murray Sample:

- a. Documents that reflect the evaluation of individual or groups of claims in the Aldrich Murray Sample for settlement (collectively, the "Settlement Evaluation Documents"); and
- b. Documents that reflect the Debtors' efforts in the defense of claims in the Aldrich Murray Sample to discover evidence of specific claimants' exposures to asbestos from products or sources for which other companies were responsible (collectively, the "Alternate Exposure Documents").
- c. The Settlement Evaluation Documents and Alternative Exposure Documents, less the documents removed, or redactions made, by the Debtors prior to production pursuant to paragraphs 4 and 8 below, are referred to herein as the "Rule 502(d) Documents."

4. Prior to production, the Debtors will remove from the Settlement Evaluation Documents and the Alternate Exposure Documents the following categories of documents (collectively, the "Exempted Documents") that are, or relate, in whole or in part, to any of the following:

- a. Expert witnesses or the presentation of scientific issues;

² The Debtors shall have the right to redact information from any Rule 502(d) Document or portion thereof (a) that contains privileged or non-responsive information other than that which relates to the evaluation of individual or groups of Aldrich/Murray Mesothelioma Claims for settlement or to the Debtors' efforts to discover evidence of specific claimants' exposures to asbestos from products or sources for which other companies were responsible or (b) that falls within the categories for Exempted Documents as defined in paragraph 4.

- b. The May 1, 2020 Corporate Restructuring or Project Omega;
- c. The filing of these Chapter 11 cases;
- d. The Debtors' Board of Managers;
- e. Tort reform;
- f. Corporate witness preparation; and/or
- g. Communications with insurance companies or representatives thereof solely with regard to the Debtors' efforts to obtain insurance coverage. For the avoidance of doubt, communications with insurance companies or representatives thereof that discuss the substantive merits of the claims identified in Exhibit A to the Aldrich Murray Sample, including, but not limited to, documents that are Settlement Evaluation Documents or Alternative Exposure Documents are not within the scope of Exempted Documents and shall instead be subject to the remaining provisions of this Order.

5. Subject to the provisions of paragraph 8 below and the protections of paragraph 10 below, the Debtors, Trane Technologies Company LLC, Trane U.S. Inc., the ACC and the FCR may examine witnesses in the Estimation Proceeding, including in deposition or at the estimation hearing, regarding the Rule 502(d) Documents. To the extent that the questions asked are confined to the purpose, content, and use of the Rule 502(d) Documents, the Debtors shall not instruct witnesses, on the ground of privilege, not to answer the questions posed, and the Debtors' failure to so instruct those witnesses not to answer shall not be evidence of or otherwise constitute a waiver of any privilege.

6. The Rule 502(d) Documents produced shall be stamped with the designation: "Produced Subject to Rule 502(d) Consent Order entered in Aldrich/Murray" and shall, along with

any testimony elicited at any deposition or court hearing described in Paragraph 5 above, be treated as "Professional Eyes Only" under Paragraph J of the Protective Order and subject to the corresponding non-disclosure, use, and access restrictions and other protections set forth in the Protective Order; *provided, however*, that such non-disclosure, use, and access restrictions and other protections shall not be invoked with respect to such document's use in any deposition. In addition to those individuals authorized to receive Professional Eyes Only materials under Paragraph J of the Protective Order, the Rule 502(d) Documents and any testimony elicited at any deposition or court hearing described in Paragraph 5 above may be made available to (1) individuals affiliated with any law firm(s) whose retention by the ACC and/or the FCR to serve as special medical science litigation counsel (the "Claimants' Medical Science Counsel") has been approved by this Court, or (2) any consultant or expert engaged by the ACC or the FCR to consult or testify regarding medical science matters (the "Claimants' Medical Science Experts"), subject to the limitation in the following sentence. For 30 days after the production of the Rule 502(d) Documents contemplated by this Order, these documents may not be shared with or accessed by the Claimants' Medical Science Counsel or the Claimants' Medical Science Experts (the "Sequestration Restriction"); provided that (i) after 30 days, the Sequestration Restriction shall no longer apply unless a document has been subject to the exercise of the Debtors' clawback rights described in paragraph 8 below; and (ii) the Sequestration Restriction shall not apply to any 502(d) Document produced within 60 days prior to the Written Discovery Deadline (as defined in the Estimation CMO).

7. The Rule 502(d) Documents shall be disclosed and may be used solely in and for the Estimation Proceeding in the above captioned case. Within ninety (90) days of the later of either (1) the effective date of a plan of reorganization in the Chapter 11 Cases or (2) the entry of

an order dismissing the Chapter 11 Case, all Rule 502(d) Documents shall be destroyed or returned consistent with the terms of Paragraph L of the Protective Order.

8. Consistent with Paragraph M of the Protective Order, the Debtors shall have the right after production to claw back any Rule 502(d) Document or portion thereof: (a) that contains privileged information other than that which relates to the evaluation of individual or groups of Aldrich/Murray Mesothelioma Claims for settlement from the Aldrich Murray Sample or to the Debtors' efforts to discover evidence of specific claimants' exposures to asbestos from products or sources for which other companies were responsible from the Aldrich Murray Sample or (b) that falls within the categories for Exempted Documents in paragraph 4 above. Within ten days of receipt of the demand to return or destroy, the Committee and the FCR shall either (a) return or destroy the document (and shall not retain any electronic or hard copy), or (b) if the Committee or the FCR contend that the document is a Rule 502(d) Document or if the Committee or the FCR contend that the document is not privileged, the Committee and the FCR shall sequester the document and any copies, will not use or disclose the information until the claim is resolved, and will meet and confer with the Debtor concerning whether the document is a Rule 502(d) Document or whether the document is not privileged. If the dispute cannot be resolved consensually, the parties shall present the documents to the Court under seal and, if the Court determines the document is not a Rule 502(d) Document and is privileged, the Committee and the FCR shall return or destroy the documents and shall not retain any electronic or hard copy. Within ten (10) days of being notified by the Committee and the FCR that a document subject to the Debtor Clawback Right because it contained unredacted Exempted Information has been returned or destroyed, the Debtor shall provide a redacted version of such document to the Committee and the FCR redacting the Exempted Information.

9. The ACC and FCR reserve their rights to (a) assert that some or all of the Rule 502(d) Documents are not protected from disclosure by the asserted privileges and protections (though they may not use production of the Rule 502(d) Documents under this Order as a basis for any such assertion); (b) seek the production of other documents withheld on the basis of privilege, including Exempted Documents, other than on the grounds that the Court entered this Order or that the Debtors produced Rule 502(d) Documents under this Order; (c) seek the Court's *in camera* review of any document withheld under subparagraph (b); and (d) assert waiver, including, but not limited to, at-issue, selective, or subject matter waiver, if the Debtors offensively use a Rule 502(d) Document (*i.e.* use, before any other party, a Rule 502(d) Document with a witness at deposition or trial of the Estimation Proceeding or introduce a Rule 502(d) document into evidence at the Estimation Proceeding), as opposed to defensively (*i.e.*, use in response to the use of a Rule 502(d) Document by the ACC or the FCR). Any such challenge by the ACC and/or FCR shall not disclose the privileged content of any Rule 502(d) Document produced to the ACC and FCR pursuant to this Order.

10. The Debtors reserve their rights to: (a) assert that the Rule 502(d) Documents are protected from disclosure by the asserted privileges and protections; (b) object to the introduction into evidence at the Estimation Hearing of any Rule 502(d) Documents; and (c) object to the production of any other privileged communications or work product, including, without limitation, other logged documents.

11. The Debtors need not include any Rule 502(d) Documents on any Privilege Log provided pursuant to Paragraph 7 of the Estimation Proceeding Joint Discovery Plan and Report (ESI Protocol) [Dkt. 1302], other than those Rule 502(d) Documents that are produced in redacted form.

12. This Order shall be interpreted to provide the maximum protection to the Rule 502(d) Documents allowed by Federal Rule of Evidence 502(d) and the Court's inherent powers to manage proceedings before it. Pursuant to Rule 502(d) of the Federal Rules of Evidence, the attorney-client privilege, protection for work product, and all other applicable privileges or protections from disclosure afforded by law are not waived by any production or disclosure under this Order, and any such production or disclosure subject to this Order is not a waiver of the privilege or protection from discovery/admission in any other federal or state proceeding. These protections afforded to the Debtors shall apply to both intentional and unintentional disclosures of privilege and protected documents, and the Debtors expressly rely upon that protection in agreeing to produce the Rule 502(d) Documents.

13. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, enforcement, or interpretation of this Order, including the resolution of any disputes concerning the extent to which any use by the Debtors of a Rule 502(d) Document is offensive or defensive.

Dated: _____, 2025
Charlotte, North Carolina

AGREED AND CONSENTED TO BY:

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This Order has been signed electronically.
The Judge’s signature and Court’s seal
appear at the top of the Order.

United States Bankruptcy Court
Western District of North Carolina