

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

In re

ALDRICH PUMP LLC, *et al.*,¹
Debtors.

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS,
Plaintiff,

v.

ALDRICH PUMP LLC, MURRAY
BOILER LLC, TRANE TECHNOLOGIES
COMPANY LLC, and TRANE U.S. INC.,
Defendants.

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS, on
behalf of the estates of Aldrich Pump LLC
and Murray Boiler LLC,
Plaintiff,

v.

INGERSOLL-RAND GLOBAL HOLDING
COMPANY LIMITED, TRANE
TECHNOLOGIES HOLDCO INC.,
TRANE TECHNOLOGIES COMPANY
LLC, TRANE INC., TUI HOLDINGS
INC., TRANE U.S. INC., and MURRAY
BOILER HOLDINGS LLC,
Defendants.

Chapter 11

Case No. 20-30608 (LMJ)

(Jointly Administered)

Adv. Pro. No. 21-03029 (LMJ)

Adv. Pro. No. 22-03028 (LMJ)

DEFENDANTS' MOTION TO STAY ADVERSARY PROCEEDINGS

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.



TABLE OF CONTENTS

	Page
PRELIMINARY STATEMENT	1
BACKGROUND	7
A. The Corporate Restructuring and Bankruptcy Filings	7
B. The Granting of the Preliminary Injunction.....	8
C. The Proposed Plan of Reorganization and Establishing the QSF Trust	10
D. The Adversary Proceedings	11
E. The Committee’s Dismissal Motion and the Debtors’ Motion to Withdraw Derivative Standing	14
F. The Committee’s Appeal of the Order Denying Dismissal	17
G. The Estimation Proceeding	19
H. The Committee’s Recent Proposal to Amend Adversary Proceedings CMO	21
ARGUMENT	23
I. THE COMMITTEE’S “TEXAS TWO-STEP HINDER AND DELAY CONTENTION” IS ALREADY AT ISSUE IN THE COMMITTEE’S PENDING APPEAL OF THE ORDER DENYING DISMISSAL.....	23
II. BECAUSE THE COMMITTEE’S “INSUFFICIENT ASSETS CONTENTION”—ENTIRELY DEPENDENT ON UNCERTAIN FUTURE EVENTS—IS NOT RIPE, THE ADVERSARY PROCEEDINGS SHOULD BE STAYED.....	31
III. AT MINIMUM, THE ADVERSARY PROCEEDINGS SHOULD BE STAYED UNTIL COMPLETION OF THE ESTIMATION PROCEEDINGS.....	35
CONCLUSION.....	38

TABLE OF AUTHORITIES

	Page
 CASES	
<u>Aaron Enters., Inc. v. Fed. Ins. Co.,</u> 415 F.Supp.3d 595 (E.D. Pa. 2019)	32
<u>Abram v. Charter Med. Corp. of Raleigh, Inc.,</u> 100 N.C.App. 718 (N.C. Ct. App. 1990)	33
<u>Alice L. v. Dusek,</u> 492 F.3d 563 (5th Cir. 2007)	24
<u>Am. Canoe Ass’n v. Murphy Farms, Inc.,</u> 326 F.3d 505 (4th Cir. 2003)	28
<u>Astor Holdings, Inc. v. Roski,</u> 325 F. Supp. 2d 251 (S.D.N.Y. 2003).....	30
<u>Bestwall LLC v. Off. Comm. of Asbestos Claimants of Bestwall, LLC,</u> 148 F.4th 233 (4th Cir. 2025)	18
<u>Carlson v. Boston Sci. Corp.,</u> 856 F.3d 320 (4th Cir. 2017)	23, 28
<u>Carolin Corp. v. Miller,</u> 886 F.2d 693 (4th Cir. 1989)	16, 29
<u>Casden v. Burns,</u> 504 F. Supp. 2d 272 (N.D. Ohio 2007).....	29, 30
<u>Charter Fed. Sav. Bank v. Office of Thrift Supervision,</u> 976 F.2d 203 (4th Cir. 1992)	31
<u>Cohen v. Bucci,</u> 905 F.2d 1111 (7th Cir. 1990)	28
<u>Columbus-Am. Discovery Grp. v. Atl. Mut. Ins. Co.,</u> 203 F.3d 291 (4th Cir. 2000)	24
<u>Cox v. Funk,</u> 42 N.C. App. 32 (N.C. Ct. App. 1979)	33

<u>Currier v. Virginia</u> , 585 U.S. 494 (2018).....	27
<u>David v. King</u> , 109 F.4th 653 (4th Cir. 2024)	30
<u>Doe v. Pub. Citizen</u> , 749 F.3d 246 (4th Cir. 2014)	24
<u>Edwards v. Proctor</u> , 173 N.C. 41 (1917)	33
<u>Ex parte Nat. Enameling & Stamping Co.</u> , 201 U.S. 156 (1906).....	24
<u>Fed. Reserve Bank v. Neuse Manufacturing Co.</u> , 213 N.C. 489 (1938)	33
<u>Garcia v. Burlington N. R. Co.</u> , 818 F.2d 713 (10th Cir. 1987)	24
<u>Gonzales v. Parks</u> , 830 F.2d 1033 (9th Cir. 1987)	30
<u>Griggs v. Provident Consumer Disc. Co.</u> , 459 U.S. 56 (1982).....	23, 24, 26
<u>In re Aldrich Pump LLC</u> , 2021 WL 3729335 (Bankr. W.D.N.C. Aug. 23, 2021).....	passim
<u>In re Aldrich Pump LLC</u> , 2023 WL 9016506 (Bankr. W.D.N.C. Dec. 28, 2023)	28, 29
<u>In re Bestwall LLC</u> , 658 B.R. 348 (Bankr. W.D.N.C. Feb. 21, 2024)	23, 24, 26, 27
<u>In re Bestwall LLC</u> , 71 F.4th 168 (4th Cir. 2023)	18
<u>In re Bryant</u> , 175 B.R. 9 (W.D. Va. 1994)	23, 25, 26
<u>In re Cleary Packaging, LLC</u> , 36 F.4th 509 (4th Cir. 2022)	30

<u>In re Cockey,</u>	
622 B.R. 178 (Bankr. D. Md. 2020)	31
<u>In re G-I Holdings, Inc.,</u>	
568 B.R. 731 (Bankr. D.N.J. 2017)	25
<u>In re Hoffman Assocs., Inc.,</u>	
194 B.R. 943 (Bankr. D.S.C. 1995)	27
<u>In re Montagne,</u>	
2010 WL 271347 (Bankr. D. Vt. Jan. 22, 2010)	28
<u>In re Owens Corning,</u>	
419 F.3d 195 (3d Cir. 2005)	36
<u>In re Pilgrim’s Pride Corp.,</u>	
442 B.R. 522 (Bankr. N.D. Tex. 2010)	28
<u>In re Scopac,</u>	
624 F.3d 274 (5th Cir. 2002)	27
<u>In re Smith,</u>	
449 B.R. 221 (Bankr. M.D. Pa. 2011)	30
<u>In re Summit Place, LLC,</u>	
298 B.R. 62 (Bankr. W.D.N.C. 2002)	31
<u>In re Toys “R” US, Inc.,</u>	
642 B.R. 727 (Bankr. E.D. Va. 2022)	23, 27, 28
<u>In re Whispering Pines Ests., Inc.,</u>	
369 B.R. 752 (B.A.P. 1st Cir. 2007)	24, 25, 26
<u>Kadel v. Folwell,</u>	
2021 WL 848203 (M.D.N.C. Mar. 5, 2021)	24
<u>Koffman v. Osteoimplant Tech., Inc.,</u>	
182 B.R. 115 (D. Md. 1995)	30
<u>Landis v. N. Am. Co.,</u>	
299 U.S. 248 (1936)	22
<u>Landress v. Tier One Solar LLC,</u>	
243 F. Supp. 3d 633 (M.D.N.C. 2017)	22

<u>Levin v. Alms & Assocs., Inc.,</u> 634 F.3d 260 (4th Cir. 2011)	24
<u>LNv Corp. v. Ad Hoc Group of Second Lien Creditors (In re La Paloma Generating Co.),</u> 2020 WL 224569 (Bankr. D. Del. Jan. 13, 2020)	27
<u>Love v. Edmonston,</u> 27 N.C. 354 (N.C. 1845)	33
<u>Lucas v. VHC Health,</u> 128 F.4th 213 (4th Cir. 2025)	30
<u>Matter of Baldwin-United Corp.,</u> 45 B.R. 382 (Bankr. S.D. Ohio 1984)	37
<u>Mayo v. Pioneer Bank & Tr. Co.,</u> 270 F.2d 823 (5th Cir. 1959)	31
<u>McFadyen v. Duke Univ.,</u> 2011 WL 13134315 (M.D.N.C. June 9, 2011)	24
<u>Miller v. Brown,</u> 462 F.3d 312 (4th Cir. 2006)	31
<u>Off. Comm. of Asbestos Claimants v. Bestwall LLC,</u> 144 S. Ct. 2519, 219 L. Ed. 2d 1199 (2024)	18
<u>Off. Comm. of Unsecured Creditors of Color Tile, Inc. v. Coopers & Lybrand, LLP,</u> 322 F.3d 147 (2d Cir. 2003)	28
<u>Pardee v. Consumer Portfolio Services, Inc.,</u> 344 F. Supp. 2d 823 (D.R.I. 2004)	passim
<u>Raymark Indus., Inc. v. Baron,</u> 1997 WL 359333 (E.D. Pa. June 23, 1997)	30
<u>Roosevelt Campobello Int’l Park Comm’n, Campobello Island, New Brunswick, Canada v. U.S. E.P.A.,</u> 684 F.2d 1034 (1st Cir. 1982)	35
<u>SEC v. Goto,</u> 2004 WL 2613915 (D. N.H. Nov. 18, 2004)	30

<u>Sejman v. Warner-Lambert Co., Inc.,</u> 845 F.2d 66 (4th Cir. 1988)	27
<u>Taylor v. Sterrett,</u> 640 F.2d 663 (5th Cir. 1981)	24
<u>Terra Nova Ins. Co. Ltd v. DiStefano,</u> 663 F. Supp. 809 (D.R.I. 1987).....	32
<u>Texas v. United States,</u> 523 U.S. 296 (1998).....	31
<u>TFWS, Inc. v. Franchot,</u> 572 F.3d 186 (4th Cir. 2009)	23, 27
<u>Toibb v. Radloff,</u> 501 U.S. 157 (1991).....	29
<u>United States v. Aramony,</u> 166 F.3d 655 (4th Cir. 1999)	27
<u>United States v. Ga. Pac. Corp.,</u> 562 F.2d 294 (4th Cir. 1977)	22
<u>United States v. Huebner,</u> 48 F.3d 376 (9th Cir. 1994)	31
<u>W.R. Grace & Co. – Conn. v. U.S. E.P.A.,</u> 959 F.2d 360 (1st Cir. 1992).....	32, 34
<u>Williford v. Armstrong World Indus., Inc.,</u> 715 F.2d 124 (4th Cir. 1983)	22

STATUTES

11 U.S.C. § 105(a)	22
11 U.S.C. § 109.....	4, 16, 28, 29
11 U.S.C. § 362(a)(1).....	8
11 U.S.C. § 524(g)	8, 10
11 U.S.C. § 544(b)(1)	11

11 U.S.C. § 548.....11

11 U.S.C. § 1112(b)15, 29

28 U.S.C. § 158(d)(2)(A).....18

OTHER AUTHORITIES

§ 4478 Law of the Case, 18B FED. PRAC. & PROC. JURIS. § 4478 (3d ed.).....27

Sources Of Doctrine, 13B FED. PRAC. & PROC. JURIS. § 3532.1 (3d ed.)32

Aldrich Pump LLC (“Aldrich”) and Murray Boiler LLC (“Murray”), as debtors and debtors in possession (together, the “Debtors”), and Trane Technologies Company LLC and Trane U.S. Inc. (the “NDAs” and together with the Debtors, “Defendants”) hereby move this Court for entry of an order staying the above-captioned Adversary Proceedings (as defined below). In support of this *Motion to Stay Adversary Proceedings* (the “Motion”), Defendants respectfully state as follows:

PRELIMINARY STATEMENT

The Official Committee of Asbestos Personal Injury Claimants (the “Committee”) has filed three adversary proceedings in these bankruptcy cases: (1) the “Sub Con Proceeding” (Adv. No. 21-03029); (2) the “Fraudulent Transfer Proceeding” (Adv. No. 22-03028); and (3) the “Fiduciary Duty Proceeding” (Adv. No. 22-03029) (collectively, the “Adversary Proceedings”). As detailed below, the Committee premises each proceeding on the same two underlying contentions, referred to herein as: (1) the “Texas Two-Step Hinder and Delay Contention” and (2) the “Insufficient Assets Contention.”

The “Texas Two-Step Hinder and Delay Contention.” In an unprecedented attempt to expand the scope of the substantive-consolidation doctrine and fraudulent-conveyance statutes, the Committee alleges what it refers to as the “Texas Two-Step”—step one being the 2020 corporate restructuring that created the Debtors (the “Corporate Restructuring”) and step two being the Debtors’ subsequent bankruptcy filings—constitutes a scheme to “hinder, delay and defraud asbestos victims.”² This so-called “stratagem” allegedly

² *Status Report and Statement of the Official Committee of Asbestos Personal Injury Claimants* [Dkt. 2376] at ¶¶ 1-6, 10-13, 23-42 (the “Committee Status Report”); *Complaint* [Adv. Dkt. 1] at ¶¶ 2, 26, 53-54, Adv. No. 21-03029 (the “Sub Con Complaint”); *Complaint* [Adv. Dkt. 1] at ¶¶ 1, 4-5, 7, Adv. No. 22-03028 (the

allows the Debtors “to engage in litigation tactics at a leisurely pace, while their non-bankrupt affiliates continue business as usual” over a “long-term bankruptcy” until claimants capitulate to a “bankruptcy discount.”³

The “Insufficient Assets Contention.” The Committee contends the Corporate Restructuring rendered the Debtors “insolvent,” “inadequately capitalized,” and unable to satisfy their asbestos liabilities.⁴ Those assertions are premised on the allegation that certain funding agreements (the “Funding Agreements”) between the Debtors and the NDAs, which function as backstops to the Debtors’ other assets, are “conditional agreements” that depend on the Debtors enforcing, and the NDAs performing, their respective rights and obligations under the Funding Agreements.⁵ Outside the Adversary Proceedings, by contrast, the Committee maintains the Debtors—by virtue of these same Funding Agreements—are, in fact, solvent, suffer from no financial distress, and are capable of paying their asbestos liabilities in full.⁶ Indeed, the Committee’s latest

“Fraudulent Transfer Complaint”); *Complaint* [Adv. Dkt. 1] at ¶¶ 2-4, 53, Adv. No. 22-03029 (the “Fiduciary Duty Complaint”).

³ Committee Status Rep. at ¶¶ 5, 13. The Committee has offered variations of this language—e.g., the bankruptcies were designed to “gain leverage” until claimants “knuckle under” and “settle for 524(g) trust funding that would be far less than warranted . . .” (*Motion of the Official Committee of Asbestos Personal Injury Claimants for Substantive Consolidation of Debtors’ Estates With Certain NonDebtor Affiliates or, Alternatively, to Reallocate Debtors’ Asbestos Liabilities to Those Affiliates* [Adv. Dkt. 2] at ¶ 2, Adv. No. 21-03029) (the “Sub Con Motion”)—but the underlying theory is the same.

⁴ See, e.g., *Fraudulent Transfer Compl.* at ¶ 67 (“As a result of the divisional merger, Aldrich was rendered insolvent, with no ability on its own to meet its existing liabilities to asbestos victims.”); *id.* at ¶¶ 10, 67, 75, 107, 146, 157, 176, 183 (alleging debtors were “rendered insolvent” by the Corporate Restructuring); *Fiduciary Duty Compl.* at ¶¶ 10, 81, 90, 124, 139, 167 (alleging debtors “rendered insolvent” by the Corporate Restructuring); *Sub Con Compl.* at ¶¶ 2, 26, 42, 52.

⁵ See, e.g., *Fraudulent Transfer Compl.* at ¶ 87 (“[T]he Funding Agreements are not unconditional promises to pay all of Aldrich’s and Murray’s asbestos liabilities”); *Sub Con Compl.* at ¶ 38 (same).

⁶ See *Motion of the Official Committee of Asbestos Personal Injury Claimants to Dismiss the Debtors’ Chapter 11 Cases* [Dkt. 1756] at ¶ 47 (the “Dismissal Motion”) (“[T]here was—and is—no credible threat to the Debtors’ continued economic viability or ability to fully and timely pay all their creditors.”); *id.* at ¶¶ 16-17 (arguing that the Debtors “are in no financial distress” due to the “‘uncapped’ Funding Agreements”).

position on this subject—conveyed as recently as August 28, 2025—is that it is “not disputed” that the Debtors “can pay all creditors in full, inside or outside of bankruptcy.”⁷

Until recently, the Committee has shown little interest, and certainly no urgency, in pursuing the Adversary Proceedings. This is unsurprising given, as discussed below, the fact that the “Texas Two-Step Delay and Hinder Contention” and “Insufficient Assets Contention” underlying the Adversary Proceedings are already being litigated in dismissal proceedings (both in these cases and in Bestwall) and turn on contingent future events.

But then, on August 7, 2025, after nearly five months of inactivity in the Adversary Proceedings, Committee counsel suddenly proposed amendments to the Case Management Order governing those proceedings. The Committee’s proposals would add aggressive and wholly unrealistic deadlines for fact discovery, expert reports, dispositive motions, and various pre-trial tasks and establish a trial date roughly a year from now (on or after October 15, 2026). The Committee’s proposed CMO amendments would result in the parties litigating, and the Court attempting to determine, the amount of the Debtors’ estimated asbestos liabilities in the context of the pending Adversary Proceedings, without such determination first having been made in the estimation proceeding. Today, the Committee filed a motion seeking approval of those amendments.

The Committee’s proposal ignores developments in these cases that render the “Texas Two-Step Hinder and Delay” and “Insufficient Assets” contentions underlying the Adversary

⁷ See *Consolidated Memorandum of Law to Support Motion for Leave to Appeal the Orders Denying Aldrich Committee’s, Mr. Robert Semian and Forty-Six Other MRHFM Plaintiffs’, and Mr. Wilson Buckingham and Ms. Angelika Weiss’s Motions to Dismiss* (filed in consolidated district court dismissal appeal for Bestwall and these cases), Aug. 28, 2025 (attached hereto as **Exhibit A**) at 4; see also *id.* at 7 (stating “[t]he bankruptcy court held that Aldrich and Murray, through their respective funding agreements with corporate affiliates, can ‘undisputably . . . fund their obligations’”); 8 (“Aldrich and Murry have the same ability to pay claimants as did their corporate predecessors, and that ability to pay is beyond doubt.”).

Proceedings not properly before the Court at this time. As a result, and given the current state and posture of these bankruptcy proceedings, the Court should stay the Adversary Proceedings.

First, this Court is currently divested of jurisdiction to adjudicate the Committee’s “Texas Two-Step Hinder and Delay Contention” because that contention is now on appeal. Regardless of how they are styled and in what context they are brought, the Committee’s attacks on the so-called “Texas Two-Step” challenge the nature of the bankruptcies and, more specifically, which entities and assets were put (and were not put) into bankruptcy. The Committee uses the Adversary Proceedings to advance the exact same attacks—typically using the same verbiage—on the “Texas Two-Step” that it employs in moving to dismiss these chapter 11 cases. A chart comparing the Committee’s core allegations regarding the “Texas Two-Step” across the Adversary Proceedings and the Committee’s motion to dismiss is attached hereto as **Exhibit B**. The chart demonstrates that the Committee’s attacks are effectively identical across the proceedings. In denying dismissal of these chapter 11 cases, Judge Whitley expressly rejected “Movants’ sundried arguments that the ‘Texas Two-Step’ is a manipulation of the bankruptcy process” and found that the Debtors **are** eligible to be in chapter 11 under 11 U.S.C. § 109 and that these chapter 11 cases should not be dismissed. *See Order Denying Motions to Dismiss* [Dkt. 2047] (“Order Denying Dismissal”) at 29, 33-35, 58.

The Committee has now filed a notice of appeal of the Order Denying Dismissal to the District Court—and unsuccessfully sought a direct appeal to the Fourth Circuit—and has sought leave to appeal that interlocutory order. The Committee’s notice of appeal divests the bankruptcy court of jurisdiction over the “Texas Two-Step” challenges at issue in that appeal, which requires, at the very least, a stay of the Adversary Proceedings. If the District Court **grants** the motion for leave to appeal, the Committee’s challenges to the “Texas Two-Step” in the Adversary

Proceedings would fall squarely within the divestiture rule because they indisputably concern aspects of the Order Denying Dismissal that are on appeal. If the District Court **denies** the Committee’s motion for leave, then the Order Denying Dismissal—which rejected the Committee’s attacks on the “Texas Two-Step” and other dismissal arguments—will remain law of the case and cannot be disturbed through a collateral attack via the Adversary Proceedings. Either event demonstrates the Committee’s attacks on “Texas Two-Step” through the Adversary Proceedings should not continue at this point.

Second, to the extent the Committee has not already abandoned the “Insufficient Assets Contention,” its ever-evolving, alternative positions on the Debtors’ solvency at a minimum demonstrate that the question of whether the Debtors possess sufficient assets and financial resources to fund their asbestos liability **depends on future contingencies**. First, the Committee must establish the estimated amount of the Debtors’ liability for the asbestos claims. Second, the Committee must prove that the Debtors’ liability to asbestos claimants will exceed the value of the Debtors’ existing assets and financial resources (including the Debtors’ insurance assets, a \$270 million Qualified Settlement Fund (the “**QSF Trust**”), and the value generated by their subsidiaries).⁸ Finally, assuming *arguendo* the Debtors’ existing assets prove insufficient, the Debtors can access additional financial resources through the Funding Agreements. Thus, the Committee would have to establish **now** that the NDAs will, at some point **in the future**, refuse to provide the Debtors with any necessary additional funding through the Funding Agreements. If the NDAs honor their Funding Agreement obligations—as they always have done, as the Debtors expect, and as the Court has recognized is a distinct possibility—there is **no question**

⁸ Even ignoring the Funding Agreements, the Debtors believe they currently have sufficient funding, through the fully-funded \$270 million QSF Trust, insurance, and other assets, to more than fully pay all asbestos claims.

that the Debtors possess sufficient funding. But until the Debtors' existing assets prove insufficient and the NDAs are called upon to perform their obligations under the Funding Agreements, the purported issue of whether the Debtors lack sufficient assets is simply not ripe for adjudication.

In the meantime, nothing would be gained by engaging in cumulative, wasteful discovery in the Adversary Proceedings based on unripe claims for a hypothetical injury. All of the material facts regarding the Corporate Restructuring and the financial condition of Debtors and the NDAs were the subject of a lengthy and fulsome discovery process in the PI Proceeding (defined below) and are fully known by all parties. And is undisputed the NDAs possess the financial wherewithal to fully satisfy any obligations arising under the Funding Agreements.⁹

Third, the Committee's proposal to accelerate litigation of the Adversary Proceedings puts the cart before the horse. The Debtors agree with the Court's recent comments that estimation and associated settlement efforts should be "the focus of what we're doing in this courtroom." Mar. 27, 2025 Hr'g Tr. [Dkt. 2622] at 8:4-12. Indeed, it is impossible to answer a fundamental question asked by the Committee in the Adversary Proceedings—whether the Debtors' existing assets (even disregarding their rights under the Funding Agreements) are sufficient to satisfy their alleged asbestos liability—without first estimating the amount of that liability. In short, the Adversary Proceedings should await a decision in the estimation proceedings.

⁹ In denying dismissal of the bankruptcies, Judge Whitley squarely held that, "[u]ndisputably, New TTC and New Trane can fund their obligations under the two Funding Agreements." Order Denying Dismissal at 13. As discussed below, unfortunately this has not stopped certain of the Committee's professionals from billing the estates hundreds of thousands of dollars in unnecessary fees to analyze the periodic financial statements of the Trane enterprise and prepare valuations of that entity.

Finally, in light of the Committee’s recent admission that a majority of its membership passed away years ago, the Debtors have contemporaneously herewith filed a motion seeking a Bankruptcy Rule 2004 examination of the Committee to determine, in part, whether the Adversary Proceedings were even authorized. This critical issue of authorization further weighs in favor of staying the Adversary Proceedings.

For all of the foregoing reasons, the Court should stay Adversary Proceedings. More specifically, the Debtors propose that the Court amend the existing CMO to provide an interim stay of the Adversary Proceedings to be reassessed at a status conference held approximately 60 days after the Court’s opinion in the estimation proceeding.

BACKGROUND

A. The Corporate Restructuring and Bankruptcy Filings

1. The Debtors’ predecessors are the former Trane Technologies Company LLC, successor by merger to Ingersoll-Rand Company (collectively, “Old IRNJ”), and the former Trane U.S. Inc. (“Old Trane”). Pursuant to a prepetition corporate initiative known as “Project Omega,” Old IRNJ and Old Trane underwent the Corporate Restructuring on May 1, 2020, whereby Old IRNJ divided itself into New TTC and Aldrich, and Old Trane divided into New Trane and Murray, both in accordance with the Texas divisional merger statute. See In re Aldrich Pump LLC, 2021 WL 3729335, at *1 (Bankr. W.D.N.C. Aug. 23, 2021). Aldrich and Murray were allocated certain of Old IRNJ’s and Old Trane’s assets, respectively, and became solely responsible for all asbestos-related claims against Old IRNJ and Old Trane (except claims for which the exclusive remedy is provided under workers’ compensation statutes and similar laws). Id. at *6-11.

2. The Corporate Restructuring created various intercompany contracts, including the Funding Agreements, which require the NDAs to transfer funds to Aldrich and Murray,

respectively, to pay any “Permitted Funding Use.” A Permitted Funding Use includes: (a) the costs of administering the Debtors’ chapter 11 cases; (b) amounts necessary to satisfy each Debtor’s “Asbestos Related Liabilities” in connection with funding a section 524(g) trust to the extent their own assets are insufficient; and (c) the Debtors’ indemnification obligations to their NDAs, as provided in the plans of divisional mergers. *Id.* at *12. The NDAs are also obligated to provide backstop funding at any time the Debtors are not in bankruptcy. *Id.* at n.104.

3. On June 18, 2020 (the “Petition Date”), Aldrich and Murray filed voluntary chapter 11 petitions.

B. The Granting of the Preliminary Injunction

4. On the Petition Date, the Debtors initiated an adversary proceeding seeking a temporary restraining order, a preliminary injunction, and a request for declaratory relief as to application of the automatic stay, in each case to stay asbestos-related suits against certain “protected parties,” including various non-debtor affiliates.¹⁰

5. The Committee conducted substantial discovery in the PI Proceeding, focused primarily on Project Omega, the Corporate Restructuring, and the Debtors’ bankruptcy filings. After an eight-month period of discovery, which included 22 depositions and the production of over 10,000 documents (and more than 94,000 pages of documents), Judge Whitley held a three-day evidentiary hearing. *See In re Aldrich Pump LLC*, 2021 WL 3729335, at *2. On August 23, 2021, Judge Whitley issued a decision (the “PI Ruling”) finding any claims that asbestos claimants could file against the protected parties “are subject to the automatic stay under Bankruptcy Code Sections 362(a)(1) and/or Section 105.” *Id.* at *3. Judge Whitley also found

¹⁰ *Aldrich Pump LLC and Murray Boiler LLC v. Those Parties to Actions Listed on Appendix A to Complaint and John and Jane Does 1-1000*, Adv. No. 20-03041 (Bankr. W.D.N.C. 2020) (the “PI Proceeding”).

that “[e]ssentially what the [Committee] seek[s] by their opposition to the Preliminary Injunction is an end to this Chapter 11 Case,” which he found “problematic” given the lack of a pending motion to dismiss at the time and the Fourth Circuit’s “exacting Carolyn standard” for dismissal of a chapter 11 case. Id.

6. Although Judge Whitley granted the relief requested in the PI Proceeding, he observed that the Corporate Restructuring “may constitute avoidable fraudulent transfers and/or be subject to attack under remedial creditor doctrines such as alter ego and successor liability.” Id. (emphasis in original); see also id. at *24 (finding “there may be problems with the way in which the Debtor’s [*sic*] predecessors restructured their corporations”) (emphasis added). His observations were grounded in the possibility that the Debtors might be unwilling to enforce, and the NDAs might refuse to honor, the Funding Agreements. Id. at *29. “In sum,” the Court found, “the Funding Agreements are not unconditional promises to pay Aldrich/Murray Asbestos Liabilities,” but “are instead conditional agreements dependent on New TTC/New Trane’s approval of any reorganizational plan and upon New TTC/New Trane’s continued good financial health.” Id. at *15.

7. Nonetheless, Judge Whitley acknowledged the Funding Agreements very well could provide the Debtors with sufficient funding to pay all asbestos claims:

Perhaps Aldrich/Murray and New TTC/New Trane mean exactly what they say. Perhaps these jointly administered Debtors will negotiate a fair plan that is acceptable to the claimants. Perhaps New TTC and New Trane will fund that plan, and all of these liabilities will be funded. **It is too early to say.**

Id. at *29 (emphasis added); see also id. at *22 (“Perhaps that funding will be forthcoming. Thus far, New TTC and New Trane have fulfilled their obligations under the Funding Agreements.”).

C. The Proposed Plan of Reorganization and Establishing the QSF Trust

8. On September 24, 2021, the Debtors, the NDAs, and the FCR (representing approximately 80% of all asbestos claimants) reached agreement on a *Joint Plan of Reorganization of Aldrich Pump LLC and Murray Boiler LLC* [Dkt. 831] (the “Proposed Plan”) and *Plan Support Agreement* [Dkt. 832]. Under the Proposed Plan, a section 524(g) trust (the “Trust”) to resolve current and future asbestos claims would be funded by an “Initial Cash Funding” of \$540 million (\$495 million for payment of claims and \$45 million for administrative expenses) and a \$5 million promissory note for payment of claims. The Proposed Plan provides for the assignment of the Debtors’ insurance assets to the Trust. As is customary in section 524(g) plans, the Proposed Plan provides for a channeling injunction barring the filing of asbestos-related claims against certain protected parties, including the Debtors and their affiliates.

9. Also on September 24, 2021, the Debtors filed their *Motion for an Order Authorizing Establishment of a Qualified Settlement Fund for Payment of Asbestos Claims* [Dkt. 834] (the “QSF Motion”), which sought to establish a qualified settlement fund of \$270 million irrevocably set aside for payment of claims either through the Proposed Plan, another confirmed plan, or the tort system. The proposed qualified settlement fund was sized to fully fund the Proposed Plan (without the need to further access the Funding Agreements) after accounting for likely recoveries from the Debtors’ insurers, which historically have covered approximately half of the Debtors’ asbestos claim indemnity and defense costs. Judge Whitley granted the QSF Motion on February 15, 2022 [Dkt. 994] over the Committee’s opposition [Dkt. 891], and the QSF Trust was funded on March 2, 2022 [Dkt. 1728].

10. Between the Debtors’ insurance assets, the QSF Trust, and the value of their subsidiaries, the Debtors possess more than sufficient assets to fund the Proposed Plan, **before**

taking into account the additional financial resources available to the Debtors through the Funding Agreements.

D. The Adversary Proceedings

11. On October 18, 2021, the Committee initiated the Sub Con Proceeding. The Committee's core contentions in the Sub Con Proceeding are that the Corporate Restructuring "placed virtually all of the assets of Ingersoll-Rand and Trane beyond the reach of asbestos creditors," leaving the Debtors "inadequately capitalized" (i.e. the "Insufficient Assets Contention") and that the so-called "Texas Two-Step" stratagem constitutes a "legal strategy to disadvantage asbestos claimants and gain leverage over them" until they "eventually knuckle under and settle for 524(g) trust funding that would be far less than warranted in light of the extensive asbestos liabilities" (i.e. the "Texas Two-Step Hinder and Delay Contention"). See Sub Con Compl. at ¶¶ 2-5, 53-54; Sub Con Mot. at ¶¶ 2, 52-55, 60-63. The Debtors and the NDAs moved to dismiss the Sub Con Proceeding on December 20, 2021. See [Adv. Dkts. 17-18], Sub Con Proceeding.

12. On the same day it filed the Sub Con Proceeding, the Committee also filed a motion seeking authority to investigate and commence certain causes of action related to the Corporate Restructuring [Dkt. 848] (the "Standing Motion"). The Standing Motion focused primarily on fraudulent-transfer claims under sections 544(b)(1) and 548 of the Bankruptcy Code and state-law claims under the Uniform Fraudulent Transfer Act. See Standing Mot. at ¶¶ 55-60. The Debtors opposed the Standing Motion, principally citing the Committee's prior statements that these were "full-pay" cases; the Committee's failure to show any clear benefit to the estates of pursuing the actions in light of existing funding available to claimants (including the \$270 million QSF Trust) and the Debtors' insurance assets and rights under the Funding Agreements; and the inappropriateness of pursuing fraudulent-transfer claims as an end-around of the Fourth

Circuit's Carolin standard for dismissal (the Committee had not yet filed motions to dismiss).

See generally [Dkt. 893].

13. On January 27, 2022, Judge Whitley orally granted the Standing Motion, citing his PI Ruling in finding the Committee had advanced colorable claims. See Jan. 27, 2022 Hr'g Tr. [Dkt. 976] at 16:11-23, 18:1-2. As to whether the proposed action satisfied the cost-benefit test (required for derivative standing), the Court found that challenging the Corporate Restructuring “potentially would make more assets available” to the estates. Id. at 20:5-7. On February 15, 2022, the Debtors moved to define the scope of claims the Committee could bring related to the Corporate Restructuring, including as to whether they had standing to bring certain secondary breach of fiduciary duty claims against the Debtors' officers and directors and parent companies (the “Secondary Claims”). See generally [Dkt. 995].

14. On April 1, 2022, Judge Whitley orally denied motions to dismiss the Sub Con Proceeding, reiterating his prior observations concerning the conditional nature of the Funding Agreements in finding the Committee had sufficiently asserted “injury in fact” necessary for standing. Apr. 1, 2022 Hr'g Tr. [Dkt. 1099] at 21:17-21. He also remarked, however, that depending on “what might happen . . . at the end of the day, [it] may [be] . . . unnecessary to bring the claim.” Id. at 21:10-11. Judge Whitley also commented that the Sub Con Proceeding was a “longshot” and a litigation of last resort. Id. at 30:5-9 (“I think this is the last arrow in the quiver, not the first shot that you should take.”).¹¹

15. On June 18, 2022, the Committee filed both the Fraudulent Transfer Proceeding and the Fiduciary Duty Proceeding, both of which again advanced the same underlying “Texas

¹¹ Judge Whitley likewise denied the Debtors' March 14, 2022 motion to authorize the Debtors to enter into tolling agreements and/or to stay litigation relating to the Corporate Restructuring [Dkt. 1044], as well as the motion [Dkt. 995] to define the scope of the Committee's claims. Apr. 1, 2022 Hr'g Tr. [Dkt. 1099] at 7:5-20, 10:8-17:14.

Two-Step Hinder and Delay” and “Insufficient Assets” contentions discussed above. See generally Fraudulent Transfer Compl. at ¶¶ 4-10; Fiduciary Duty Compl. at ¶¶ 3-10.¹²

16. On January 10, 2023, the Court entered the case management order for the three Adversary Proceedings. See Case Management Order [Adv. Dkt. 39], Adv. No. 22-03028 (the “Adversary Proceedings CMO”), Adv. No. 22-03028. The Adversary Proceedings CMO stayed the Fiduciary Duty Proceeding in its entirety pending entry of final orders in the Fraudulent Transfer and Sub Con Proceedings. Id. at 5. On April 24, 2023, the Court entered an *Order Establishing Joint Discovery Plan and Report (ESI Protocol)* (the “Discovery Order”) governing the proceedings. See [Adv. Dkt. 69], Adv. No. 22-03028.

17. In accordance with the Adversary Proceedings CMO, all depositions and document discovery previously taken in the PI Proceeding that has occurred and will occur in the estimation proceeding is deemed to have been conducted in the Adversary Proceedings.

18. Since entry of the Discovery Order in April 2023, activity in the Adversary Proceedings has been limited to written discovery requests and episodic meet and confers and related discovery correspondence concerning the responses to such requests. The Committee’s discovery requests overlap almost entirely with discovery already taken in the PI Proceeding (it simply demands more custodians and search terms retreading the same ground), while the Committee’s responses to written discovery simply parrot the allegations made in its Adversary Proceeding complaints. This inactivity was underscored by the issuance by the clerk of Court on August 27, 2024 of a *Notice of Intent to Dismiss* in all three Adversary Proceedings, which noted that “[n]o activity has occurred in this proceeding in more than four months.” See, e.g., [Adv.

¹² Effectively, the “Texas Two-Step Hinder and Delay Contention” and the “Insufficient Assets Contention” provide the basis for the Committee’s actual fraudulent transfer and constructive fraudulent transfer counts, respectively. See Fraudulent Transfer Compl. at ¶¶ 159, 173 (actual), ¶¶ 176, 183 (constructive).

Dkt. 146], Adv. No. 21-03029; [Adv. Dkt. 75], Adv. No. 22-03028; [Adv. Dkt. 146] , [Adv. Dkt. 60], Adv. No. 22-03029.

19. The Committee’s lack of urgency in prosecuting the Adversary Proceedings is a natural reflection of the facts that (a) there is nothing left to learn about the Corporate Restructuring, which was the subject of extensive discovery in the PI Proceedings, (b) events have not yet transpired to render claims asserted in the Adversary Proceedings ripe for adjudication, and (c) the Committee’s challenges to the “Texas Two-Step” and the nature of these bankruptcies were the subject of dismissal proceedings that are now on appeal.¹³

20. This lack of progress, however, has not occurred without significant expense. For example, in addition to the discovery sought by the parties, the Committee’s financial advisor, FTI Consulting, has billed the estates over \$1.6 million dollars over the last two years largely on projects related to the Adversary Proceedings, including periodic reviews of the “Trane Parent” financial statements; preparing “valuation analyses” of the “Trane Parent;” preparing analyses “re: fraudulent transfer proceeding;” and drafting an “expert report” for the Adversary Proceedings.¹⁴ Given the “undisputed” ability of the NDAs to satisfy their commitments under the Funding Agreements, see Order Denying Dismissal at 13, these projects lack any useful purpose.

E. The Committee’s Dismissal Motion and the Debtors’ Motion to Withdraw Derivative Standing

¹³ It is likely no coincidence that the Committee’s recent renewed interest in the Adversary Proceedings followed the Fourth Circuit’s recent decision in Bestwall affirming Judge Beyer’s order denying dismissal of that case. This further indicates the purpose of the Adversary Proceedings here is to effectuate dismissal of these cases.

¹⁴ See [Dkts. 2033, 2125, 2297, 2489, 2572, 2723] (FTI interim fee applications for the period June 1, 2023 to May 31, 2025, specifically time billed under “Current Operating Results & Events” and “Potential Avoidance Actions & Litigation” task descriptions).

21. On May 15, 2023, approximately 18 months after it filed the Sub Con Complaint and Standing Motion, the Committee moved to dismiss these bankruptcies, arguing the Court lacked subject-matter jurisdiction and that “cause” existed for dismissal under 11 U.S.C. § 1112(b). See [Dkt. 1756] at 1 (the “Dismissal Motion”).¹⁵ Prior to that time, when Judge Whitley granted the Committee derivative standing to pursue fraudulent transfer claims and denied motions to dismiss the Sub Con Complaint, the Committee had indicated that it **would not** seek to dismiss the cases presumably because, as Judge Whitley had already indicated, he was not likely to dismiss them based on the Carolin standard for dismissal in the Fourth Circuit.¹⁶ The Committee argued the “Texas Two-Step” nature of the bankruptcy filings provided grounds to dismiss for lack of good faith. See, e.g., Dismissal Mot. at ¶ 81 (arguing “the Debtors and their affiliates have used the Two Step to manipulate the bankruptcy process in order to gain litigation advantages over claimants”); id. at ¶ 82 (“The Corporate Restructuring and follow-on bankruptcies have enabled the Debtors to run their chapter 11 cases for the benefit of their non-debtor insiders and affiliates, not their asbestos creditors.”); id. at ¶ 87 (“The Corporate Restructuring created two Debtors bearing the hallmarks of ‘new debtor syndrome’ . . .”). Further, in a 180-degree reversal of the position it takes in the Adversary Proceedings, the Committee asserted that, due to the “uncapped” Funding Agreements, the Debtors are “solvent,”

¹⁵ The Dismissal Motion followed a motion to dismiss filed on April 6, 2023, on behalf of Robert Semian and other clients of Maune Raichle Hartley French & Mudd, LLC (“MRHFM”) [Dkt. 1712].

¹⁶ See Mar. 3, 2022 Hr’g Tr. [Dkt. 1049] at 63:22-64:5 (“THE COURT: Or, perhaps, you file the motion to dismiss in this case and we see where we go there. MR. NEIER: We could do that, your Honor. If -- if you -- if you ask us to do that, we could, but we declined in this case and DBMP and, and, and these cases to do so based on existing Fourth Circuit law”); In re Aldrich Pump LLC, 2021 WL 3729335, at *26 (“There is no pending motion to dismiss the cases as ‘bad faith’ filings. Even if there were, it would likely fail as it did in Bestwall due to the exacting Carolin requirements of subjective bad faith and objective futility.”). The Committee apparently changed its mind after the Third Circuit dismissed the LTL Management divisional merger chapter 11 asbestos case in New Jersey effective April 4, 2023, two days before MRHFM filed its motion to dismiss these chapter 11 cases on April 6, 2023 and 39 days before the Committee followed up with its motion to dismiss on May 15, 2023.

capable of paying all creditors in full, and not in financial distress. Id. at ¶¶ 16-17, 32-57, 80 & n.171. According to the Committee, “there was—and is—no credible threat to the Debtors’ continued economic viability or ability to fully and timely pay all their creditors.” Id. at ¶ 47; see also id. at ¶¶ 17, 41, 45. As noted, the Committee recently reiterated that position in its brief supporting its request for leave to appeal the Order Denying Dismissal. See n. 7, *supra*.

22. Given the unqualified assertions in the Committee’s Dismissal Motion that the Debtors were solvent, the Debtors thereafter filed a motion to withdraw derivative standing from the Committee to pursue claims relating to the Corporate Restructuring. [Dkt. 1814]. In response, the Committee stated it “has not conceded any facts regarding the Debtors’ financial health” and that the assertions in the Dismissal Motion were based “on the Debtors’ facts, while also reserving the right to contest those facts at other points in the case.” [Dkt. 1886] at ¶ 12.

23. On December 28, 2023, Judge Whitley issued the Order Denying Dismissal and an order denying the Debtors’ motion to withdraw derivative standing. [Dkt. 2046] (the “Order Denying Withdrawal of Standing”). In the Order Denying Dismissal, the Court found there are “no cases holding ‘financial distress’ to be a constitutional requirement for filing a chapter 11 case, much less a ‘jurisdictional prerequisite’” and, furthermore, that the case could not be dismissed under the test established in Carolin Corp. v. Miller, 886 F.2d 693 (4th Cir. 1989). Order Denying Dismissal at 7. The Court explicitly held that Aldrich and Murray—even as by-products of a “Texas Two-Step”—were eligible debtors under 11 U.S.C. § 109. Id. at 26-27 (“In section 109(d) of the Bankruptcy Code, Congress determined which entities are eligible to file cases under chapter 11. 11 U.S.C. § 109(d). These Debtors satisfy those requirements.”).

24. The Court also separately rejected the Committee’s “assertions about the “Texas Two-Step” and “new debtor syndrome.” Id. at 7; see also id. at 56 (“The ACC’s arguments about

the propriety [of the] ‘Texas Two-Step’ and the ‘New Debtor Syndrome’ Fail.”), id. at 58 (finding “Movants’ sundried arguments” that the “‘Texas Two-Step’ is a manipulation of the bankruptcy process,” designed to create “prejudicial delays,” cannot form the basis for dismissal under the Carolin standard, and noting “[t]hat which cannot be done directly cannot be done indirectly”).

25. In addition, Judge Whitley found that, “[u]ndisputably, New TTC and New Trane can fund their obligations under the Two Funding Agreements.” Id. at 13. While Judge Whitley repeated his prior observation that the Debtors were reliant on the Funding Agreements to pay liabilities not covered by insurance, he concluded that “there is no reason to doubt that if a deal were struck with the ACC, Aldrich/Murray would have, or could, secure from its affiliates the wherewithal to fund the Trust.” Id. at 54.

26. In the Order Denying Withdrawal of Standing, Judge Whitley again noted the “contingent” nature of the Funding Agreements and reasoned that as a result the Debtors are “currently insolvent.” [Dkt. 2046] at 2-3.

F. The Committee’s Appeal of the Order Denying Dismissal

27. On January 11, 2024, the Committee and MRHFM filed notices of appeal of the Order Denying Dismissal, accompanied by motions for leave to appeal. See [Dkts. 2058, 2059, 2063, 2065]. The Committee’s appeal once again challenged the “controversial stratagem known as the ‘Texas Two-Step,’” claiming it “threatens the integrity of, and public confidence in, the bankruptcy system.” [Dkt. 2065] at ¶¶ 1, 3; see also generally id. at ¶¶ 1-5, 17, 25-27. The Committee and MRHFM appeals of the Order Denying Dismissal before the District Court remain pending. On August 14, 2025, District Judge Volk, who was assigned the appeals, issued an order consolidating the briefing on motions for leave to appeal filed in the Bestwall and these cases. *Consolidation Briefing Order* [Dkt. 37], Robert Semian and Other Clients of MRHFM v. Aldrich Pump LLC, et al., No. 3:24-CV-00044 (W.D.N.C. Aug. 14, 2025). Briefs in support of

the motions for leave were filed on August 28, 2025. Consolidated responses and replies were filed on September 11, 2025, and September 18, 2025, respectively.¹⁷

28. Meanwhile, in the Bestwall bankruptcy, on August 1, 2025, the Fourth Circuit—acting on a direct appeal under 28 U.S.C. § 158(d)(2)(A)—affirmed Judge Beyer’s opinion denying another motion to dismiss the bankruptcy filed by the current claimants’ committee in that case (its third such motion in that case). Bestwall LLC v. Off. Comm. of Asbestos Claimants of Bestwall, LLC, 148 F.4th 233 (4th Cir. 2025). The Bestwall committee based its latest dismissal motion on Bestwall’s purported lack of financial distress, arguing Bestwall was therefore ineligible for bankruptcy under the Constitution’s Bankruptcy Clause, which, in turn, deprived the bankruptcy court of subject-matter jurisdiction. Id. at *2-3. The Fourth Circuit rejected the jurisdictional argument and reiterated its established good-faith Carolin standard. Id. at *1-2.¹⁸ The claimant representatives filed a petition for rehearing *en banc* on September 15, 2025. *Petition for Rehearing En Banc of Official Committee of Asbestos Claimants* [Dkt. 136], Off. Comm. of Asbestos Claimants v. Bestwall LLC, No. 24-1493 (4th Cir. Sept. 15, 2025). On September 29, 2025, Bestwall filed a response to the claimant representatives’ *en banc* petition.

¹⁷ The Committee also moved for certification of a direct appeal to the Fourth Circuit, again focusing heavily on the “Texas Two-Step.” [Dkt. 2074] at 1, 15-17. Judge Whitley granted the Committee’s certification request [Dkt. 2111], but the Fourth Circuit did not accept the appeal. *Order* [Dkt. 50], Off. Comm. Asbestos Pers. Inj. Claimants v. Aldrich Pump LLC, et al., No. 24-128 (4th Cir. Apr. 17, 2024).

¹⁸ In an earlier appeal in Bestwall, the Fourth Circuit rejected the committee’s argument that the corporate restructuring lacked an “independent, legitimate business justification,” reasoning the proposed bankruptcy “promote[s] the equitable, streamlined, and timely resolution of claims in one central place compared to the state tort system, which can and has caused delays in getting payment for legitimate claimants.” In re Bestwall LLC, 71 F.4th 168, 183 (4th Cir. 2023), cert. denied sub nom. Off. Comm. of Asbestos Claimants v. Bestwall LLC, 144 S. Ct. 2519, 219 L. Ed. 2d 1199 (2024), and cert. denied sub nom. Esserman v. Bestwall LLC, 144 S. Ct. 2520, 219 L. Ed. 2d 1199 (2024). The court further noted that the “Claimant Representatives appear to be using their jurisdictional arguments as a back-door way to challenge the propriety of the reorganization and the merits of a yet-to-be-filed chapter 11 plan,” which it found “**both premature and improper.**” Id. (emphasis added)

Response of Appellee Bestwall LLC in Opposition to Petition for Rehearing En Banc [Dkt. 148], Off. Comm. of Asbestos Claimants v. Bestwall LLC, No. 24-1493 (4th Cir. Sept. 29, 2025).

G. The Estimation Proceeding

29. On April 18, 2022, Judge Whitley granted the Debtors’ motion for an estimation of their asbestos-related liabilities. [Dkt. 1127]. As the Court is aware, various case management orders and extensive discovery has occurred in the estimation proceeding since that time. Currently, the case management order for estimation does not provide proposed trial dates for estimation, but estimation continues to progress, as evidenced by the parties’ exchange of initial expert reports on September 15, 2025.

30. On October 10, 2024, after the transition of these cases from Judge Whitley to Judge James, the parties submitted status reports in advance of an initial status conference. The Debtors focused on their repeated efforts to resolve these cases; noted the Committee’s preoccupation with dismissing the cases through any means; and stressed the need to move the estimation case forward productively. [Dkt. 2378]. The Committee Status Report, on the other hand, repeated its attacks on the “stratagem known as the ‘Texas Two-Step’” and the Funding Agreements (Committee Status Rep. at ¶¶ 1-6, 12-22); provided its views on how the case “can be brought to a conclusion” (*id.* at ¶¶ 7-9); characterized the estimation process as “a road to nowhere” (*id.* at ¶¶ 32-38); and forecast its next steps in the case, including the filing of a “motion to compel under the crime-fraud exception and/or at-issue waiver” in the Adversary Proceedings and submission of a “creditor plan” (*id.* at ¶¶ 51-56).¹⁹

31. During the January 30, 2025, hearing, the Court expressed concerns about the pace of estimation-related discovery and the need to establish deadlines for the estimation case.

¹⁹ Nearly a year later, none of the ACC’s forecasted next steps have taken place.

See Jan. 30, 2025 Hr’g Tr. at 29:17-30:1, 45:8-25, 46:3-18. A month later, the Debtors filed the *Debtors’ Motion to Amend Case Management Order for Estimation of Asbestos Claims* [Dkt. 2562], proposing an initial exchange of expert reports on August 15, 2025 and a March 27, 2026 deadline for completion of estimation-related written discovery. The Committee opposed the motion, arguing that “[e]stimation is a burdensome, pointless exercise” that would have “zero relevance to those voting on any plan for several reasons.” [Dkt. 2595] at 1. It argued that an “alternative, and more efficient, path” forward would include “pursuit of adversary proceedings.” Id. at 2.

32. During the March 27, 2025, hearing, the Court expressed its view that an estimation “process that works towards obtaining and sharing competing numbers” is the best way “forward . . . to get money in the hands of the claimants. That’s why I am here.” Mar. 27, 2025 Hr’g Tr. at 8:4-9; see also id. at 43:9-20. While noting the Committee had “appeals going forward,” the Court stated that estimation would be “the focus of what we’re doing here in this courtroom.” Id. at 8:10-12; at 41:19-25 (“So this [estimation] is where we are and this is what we’re doing here in this court.”), at 43:21-25 (acknowledging Committee’s arguments that “[t]he debtor should never be here,” but stating “that is not what, what we’re doing here now”). On July 24, 2025, the Court repeated that estimation remains the priority, noting that “I want you to focus on the task at hand. And that, right now, is estimation.” July 24, 2025 Hr’g Tr. at 37:5-6.

33. On April 17, 2025, the Court entered a *Second Amended Case Management Order for Estimation of Asbestos Claims* setting new deadlines for the estimation proceeding. [Dkt. 2656] (the “Second Amended Estimation CMO”). These include exchange of Initial Expert Reports on September 15, 2025; a Claims File Production Deadline of March 27, 2026; a meet and confer on December 9, 2025, to resolve any issues relating to claims file discovery; and

a deadline for the Debtors to respond to the Committee's Interrogatory No. 1 and Document Request No. 1 by June 26, 2026 (the "Interrogatory Response Deadline"). The Debtors have moved forward expeditiously, having produced approximately 520,000 pages of documents since the entry of the Second Amended Estimation CMO in April and served their Initial Expert Report on September 15, 2025, as scheduled.

H. The Committee's Recent Proposal to Amend Adversary Proceedings CMO

34. On August 7, 2025, after a five-month hiatus of any communications relating to the Adversary Proceedings, Committee counsel sent correspondence mostly continuing the parties' dialogue over various ongoing discovery disputes in the Adversary Proceedings but also proposing for the first time a comprehensively revised Adversary Proceedings CMO, a topic never raised with the Debtors in the years following entry of the existing CMO. The Committee's proposed amendments would establish aggressive and wholly unrealistic deadlines for the Adversary Proceedings, nearly all of which would serve to attempt to adjudicate the Adversary Proceedings before the estimation proceeding.

35. The Debtors and the NDAs indicated to the Committee their fundamental disagreement with the Committee's proposal, including their view (for the reasons set forth herein) that the Adversary Proceedings should be stayed or, at the very least, need not move beyond written discovery until after conclusion of the estimation proceedings. The Committee disagreed, and on October 2, 2025 filed a motion seeking approval of a proposed amended Adversary Proceeding CMO.²⁰

²⁰ The Committee's most recently proposed deadlines for the Adversary Proceedings include exchange of initial expert reports (April 30, 2026); completion of fact discovery (May 15, 2026); exchange of expert rebuttal reports (June 1, 2026); completion of expert discovery (June 30, 2026); dispositive motions (August 14, 2026); motions *in limine*, Daubert-type motions, witness and exhibit lists, deposition designations, and joint pretrial order (September 30, 2026); and trial of the Fraudulent Transfer and Substantive Consolidation Proceedings (on or after October 15, 2026). Under the current case management

LEGAL STANDARDS

Authority to Issue a Stay

36. “[T]he Court has inherent discretionary power to stay proceedings in order to achieve equity and to ensure the efficient management of its docket.” Landress v. Tier One Solar LLC, 243 F. Supp. 3d 633, 646 (M.D.N.C. 2017) (citing Williford v. Armstrong World Indus., Inc., 715 F.2d 124, 127 (4th Cir. 1983)); Landis v. N. Am. Co., 299 U.S. 248, 254 (1936) (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”). Proper use of this authority requires courts to exercise judgment “to balance the various factors relevant to the expeditious and comprehensive disposition of” the litigation before it. Landress, 243 F. Supp. 3d at 646 (quoting United States v. Ga. Pac. Corp., 562 F.2d 294, 296 (4th Cir. 1977)). “These various factors include the interests of judicial economy, the hardship and equity to the moving party in the absence of a stay, and the potential prejudice to the non-moving party in the event of a stay.” Landress, 243 F. Supp. 3d at 646.

37. In bankruptcy, the Court’s inherent power to stay proceedings is also found in section 105(a) of the Bankruptcy Code, which states that the Court “may issue any order, process, or judgment that is necessary or proper to carry out the provisions of this title.” This authority is further supported by section 105(d) of the Bankruptcy Code, which states that the Court, on its own motion or on the request of a party in interest, “shall hold such status conferences as are necessary to further the expeditious and economical resolution of the case” and “may issue an order at any such conference prescribing such limitations and conditions as

order governing estimation, the deadlines proposed by the Committee here would almost certainly result in adjudicating the Adversary Proceedings before the Estimation Proceeding.

the court deems appropriate to ensure the case is handled expeditiously and economically[.]” 11 U.S.C. § 105(d).²¹

Divestiture of Bankruptcy Court Jurisdiction Upon Appeal

38. The filing of a notice of appeal “confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.” Griggs v. Provident Consumer Disc. Co., 459 U.S. 56, 58 (1982). This “divesture rule” applies to the extent that the issues on appeal are the same as or “closely related” to issues before the lower court. See In re Bestwall LLC, 658 B.R. 348, 359 (Bankr. W.D.N.C. Feb. 21, 2024); In re Bryant, 175 B.R. 9, 12-13 (W.D. Va. 1994).

Law of the Case Doctrine

39. When a court decides a matter at issue in the case, “that decision should continue to govern the same issues in subsequent stages in the same case.” TFWS, Inc. v. Franchot, 572 F.3d 186, 191 (4th Cir. 2009). Accord Carlson v. Boston Sci. Corp., 856 F.3d 320, 325 (4th Cir. 2017); In re Bestwall, 658 B.R. at 357; In re Toys “R” US, Inc., 642 B.R. 727, 737, 742-43 (Bankr. E.D. Va. 2022).

ARGUMENT

I. THE COMMITTEE’S “TEXAS TWO-STEP HINDER AND DELAY CONTENTION” IS ALREADY AT ISSUE IN THE COMMITTEE’S PENDING APPEAL OF THE ORDER DENYING DISMISSAL.

40. As detailed above, both the Committee and MRHFM have appealed Judge Whitley’s December 28, 2023, Order Denying Dismissal, which remains pending in the District Court. “The filing of a notice of appeal is an event of jurisdictional significance—it confers jurisdiction on the court of appeals and divests the district court of its control **over those aspects**

²¹ The Debtors propose that the hearing on this motion be such a status conference under section 105(d) at the Debtors’ request.

of the case involved in the appeal.” Griggs, 459 U.S. at 58 (emphasis added); In re Bestwall, 658 B.R. at 359 (“Generally, the timely filing of a notice of appeal ‘confers jurisdiction on the [appellate court] and divests the [trial court] . . . of its control over those aspects of the case involved in the appeal.”) (quoting Levin v. Alms & Assocs., Inc., 634 F.3d 260, 263 (4th Cir. 2011)). Similarly, while an interlocutory appeal “does not produce a complete divestiture of the [lower] court’s jurisdiction over the case,” it **does** “divest[] the [lower] court of jurisdiction over those aspects of the case on appeal.”²²

41. Courts have stressed the importance of this divestiture rule, noting it “fosters judicial economy and guards against the confusion and inefficiency that would result if two courts simultaneously were considering the same issues.” Doe v. Pub. Citizen, 749 F.3d 246, 258 (4th Cir. 2014); see also In re Bestwall, 658 B.R. 348 at 360 (rule serves to “preserve the integrity of the appeal process”); In re Whispering Pines Ests., Inc., 369 B.R. 752, 759 (B.A.P. 1st Cir. 2007) (“[O]nce an appeal is pending, it is imperative that a lower court not exercise jurisdiction over those issues which, although not themselves expressly on appeal, nevertheless so impact the appeal so as to interfere with or effectively circumvent the appeal process.”).

42. The divestiture rule applies if the issues both on appeal and pending before the lower court are “closely related.” In re Bryant, 175 B.R. at 12-13 (holding issue on appeal to the Fourth Circuit (that the delinquent filing of schedules did not waive exemptions claimed in the

²² Alice L. v. Dusek, 492 F.3d 563, 564 (5th Cir. 2007) (citing Taylor v. Sterrett, 640 F.2d 663, 667-68 (5th Cir. 1981)); see also Columbus-Am. Discovery Grp. v. Atl. Mut. Ins. Co., 203 F.3d 291, 301 (4th Cir. 2000) (because appeals of interlocutory orders “decide only matters which have been decided by the district court,” it is “not intended that the cause as a whole should be transferred to the appellate court prior to the final decree”) (quoting Ex parte Nat. Enameling & Stamping Co., 201 U.S. 156, 162 (1906)) (emphasis added); Garcia v. Burlington N. R. Co., 818 F.2d 713, 721 (10th Cir. 1987); McFadyen v. Duke Univ., 2011 WL 13134315, at *3 (M.D.N.C. June 9, 2011) (citing Alice L for proposition that appeal of interlocutory order “divests the district court of jurisdiction over those aspects of the case on appeal,” finding appeal of interlocutory order divested court of jurisdiction of all claims relating to certain defendants, and staying all discovery relating to those claims); Kadel v. Folwell, 2021 WL 848203, at *5 (M.D.N.C. Mar. 5, 2021) (similarly citing Alice L).

schedules) was closely related to matters before the bankruptcy court (whether good cause or excusable neglect existed to justify the late filings)). The test “is a functional one: ‘once an appeal is pending, it is imperative that a lower court not exercise jurisdiction over those issues which, although not themselves expressly on appeal, nevertheless so impact the appeal so as to interfere with or effectively circumvent the appeal process.’” In re G-I Holdings, Inc., 568 B.R. 731, 763 (Bankr. D.N.J. 2017) (citations omitted).

43. The divestiture rule applies even where closely related issues are raised in separate contested matters or proceedings in the same case. For example, in In re Whispering Pines, the bankruptcy court had confirmed a secured creditor plan for the chapter 11 debtor. 369 B.R. at 755. The debtor appealed confirmation of the plan and, while that appeal was pending, the secured creditor sought relief from the stay. Id. The First Circuit B.A.P. overruled the bankruptcy court’s ruling that the divestiture rule did not apply, finding the subject matter of the confirmation order and the stay relief order were sufficiently related such that the bankruptcy court could not have considered the latter while the former was on appeal. Id. at 759. Under the plan, the debtor’s property was to be sold on a certain schedule, failing which the secured creditor was entitled to automatic stay relief. Id. The stay relief order then effectively overrode those provisions giving immediate stay relief to the secured creditor. Id. As a result, the relief sought in that order should not have been considered by the bankruptcy court while the confirmation order was on appeal.

44. Here, the “Texas Two-Step Hinder and Delay Contention” raised in the Adversary Proceedings is also a central feature of the Committee’s appeal of the Order Denying Dismissal. See supra ¶¶ 9-13. As noted, this is aptly demonstrated by the essentially identical allegations of made in each proceeding as set forth in Exhibit B. At base, the Committee’s challenge to the

“Texas Two-Step,” whether made in connection with the Adversary Proceedings or its dismissal motion, concerns the propriety of these bankruptcies. Indeed, the Committee has acknowledged that its “fundamental questions about what bankruptcy is about and who it is for and who can use the tools of bankruptcy” are subject to an appeal that “remains in the District Court,” which it “intends to vigorously prosecute.” Committee Status Rep. at ¶ 8.

45. Because the Committee has filed a notice of appeal of the Order Denying Dismissal, which assumes the solvency of the Debtors and includes the same challenges to the so-called “Texas Two-Step” at issue in the Adversary Proceedings, the Court is presently divested of jurisdiction over the Adversary Proceedings. See Griggs, 459 U.S. at 58 (1982); Bestwall LLC, 658 B.R. at 359; Bryant, 175 B.R. at 12-13; Whispering Pines, 369 B.R. at 759-61.

If the District Court Grants the Committee’s Motion for Leave to Appeal

46. If the District Court **grants** the motions for leave, then the Committee’s challenges to the “Texas Two-Step” will continue to squarely fall within the divestiture rule. Because the Committee’s dismissal appeal would include consideration of the “Texas Two-Step Hinder and Delay Contention”—a matter directly at issue in the Order Denying Dismissal—the divestiture rule applies. In that instance, the District Court will be reviewing arguments central to the Committee’s claims in the Adversary Proceedings, including whether a solvent or non-financially distressed debtor can file for bankruptcy, whether a debtor filing a “Texas Two-Step” bankruptcy allegedly “to gain a ‘tactical litigation advantage’” is cause for dismissal, and whether the Debtors potentially qualifying as “new debtors” constitutes cause for dismissal. See [Dkt. 2065] at ¶ 13. Ruling on such issues while the District Court dismissal appeal is pending would necessarily “impact the appeal so as to interfere with or effectively circumvent the appeal

process.” In re Bestwall, 658 B.R. 348 at 360 (citing In re Scopac, 624 F.3d 274, 280 (5th Cir. 2002)).

If the District Court Denies the Committee’s Motion for Leave to Appeal

47. If the District Court **denies** the Committee’s motion for leave, then the Order Denying Dismissal—which rejected the Committee’s claim that the Debtors (created through a “Texas Two-Step”) are improper debtors and other dismissal arguments—is law of the case and cannot be disturbed through a collateral attack via the Adversary Proceedings.

48. The law-of-the-case doctrine provides that, in the interest of finality, “when a court decides upon a rule of law, that decision should continue to govern the same issues in subsequent stages in the same case.” TFWS, 572 F.3d at 191 (quoting United States v. Aramony, 166 F.3d 655, 661 (4th Cir. 1999)); In re Bestwall, 658 B.R. at 357.²³ The “doctrine applies both to questions actually decided as well as to those decided by ‘necessary implication’” Sejman v. Warner-Lambert Co., Inc., 845 F.2d 66, 69 (4th Cir. 1988).²⁴ There are three exceptions to the law-of-the-case doctrine: “(1) a subsequent trial produc[ing] substantially different evidence; (2) a change in applicable law; or (3) clear error causing manifest injustice.” Carlson, 856 F.3d at 325 (citations omitted). Courts “treat[] interlocutory rulings as law of the case,” subject to the same limited exceptions. See id. at 325; see also Am. Canoe Ass’n v.

²³ “Usually the law-of-the-case doctrine, rather than issue preclusion[,] governs the effect of an earlier decision within the same action.” § 4478 *Law of the Case*, 18B FED. PRAC. & PROC. JURIS. § 4478 (3d ed.) (citing Currier v. Virginia, 585 U.S. 494 (2018)).

²⁴ While courts often refer to the law-of-the-case doctrine as applying to a court’s prior decision on a “rule of law,” courts in this Circuit and others routinely apply the doctrine to prior factual findings or decisions involving mixed questions of law and fact. See, e.g., In re Toys “R” US, 642 B.R. at 737, 742-43 (applying law of the case to bar re-litigation of “prior factual findings”) (citing of LNV Corp. v. Ad Hoc Group of Second Lien Creditors (In re La Paloma Generating Co.), 2020 WL 224569 (Bankr. D. Del. Jan. 13, 2020)); In re Hoffman Assocs., Inc., 194 B.R. 943, 951 (Bankr. D.S.C. 1995) (holding “[t]he findings and rulings of this Court, as well as those of the District Court and the Fourth Circuit, are the law of the case”). In Bestwall, Judge Beyer applied law of the case in denying a second motion to dismiss, filed by a different movant four-and-a-half years after the ACC’s first motion to dismiss, finding the “ultimate question remains exactly the same.” See 548 B.R. at 357-599.

Murphy Farms, Inc., 326 F.3d 505 (4th Cir. 2003); Off. Comm. of Unsecured Creditors of Color Tile, Inc. v. Coopers & Lybrand, LLP, 322 F.3d 147, 167 (2d Cir. 2003). None of these exceptions apply here.

49. Bankruptcy courts routinely apply law of the case to preclude re-litigation of issues already decided in a different contested matter or adversary proceeding within the same bankruptcy case. See e.g., In re Toys “R” US, 642 B.R. at 742-46 (prior approval of DIP financing in main case proceeding was law of the case precluding fiduciary duty claims against directors and officers relating to DIP financing); Cohen v. Bucci, 905 F.2d 1111, 1112 (7th Cir. 1990) (stating “[a]dversary proceedings in bankruptcy are not distinct pieces of litigation; they are components of a single bankruptcy case,” and suggesting law of the case might have applied had it been raised by the parties); In re Montagne, 2010 WL 271347, at *6 (Bankr. D. Vt. Jan. 22, 2010) (noting “adversary proceedings in the same main case do not constitute different ‘cases’”); In re Pilgrim’s Pride Corp., 442 B.R. 522, 530-31 (Bankr. N.D. Tex. 2010) (similar).

50. As detailed above, Judge Whitley found in the Order Denying Dismissal that these are proper chapter 11 cases that should not be dismissed. He explicitly held that Aldrich and Murray, even as by-products of a “Texas Two-Step,” were eligible debtors under 11 U.S.C. § 109. See In re Aldrich Pump LLC, 2023 WL 9016506, at *14 (Bankr. W.D.N.C. Dec. 28, 2023) (“In section 109(d) of the Bankruptcy Code, Congress determined which entities are eligible to file cases under chapter 11. 11 U.S.C. § 109(d). These Debtors satisfy those requirements.”). In that same ruling, Judge Whitley held that “[t]he ACC’s arguments about the propriety [of the] ‘Texas Two-Step’ and the ‘New Debtor Syndrome’ Fail.” Id. at 58. Absent some exception—substantially different evidence, a change in applicable law, or clear error

manifesting injustice—those rulings are law of the case and preclude re-litigation of the same “Texas Two-Step Hinder and Delay Contention” through the Adversary Proceedings.

51. Applying the law-of-the-case doctrine to enforce the Order Denying Dismissal is particularly appropriate since the Committee’s “Texas Two-Step Hinder and Delay Contention” is, fundamentally, a challenge to the propriety of these bankruptcies, including what assets were (and were not) put into bankruptcy. The bankruptcy court, the Bankruptcy Code, and the statutory and common-law standards for dismissal of bankruptcy petitions—not inapposite substantive consolidation and fraudulent-conveyance claims—provide the exclusive forum, standards, and remedies for resolving whether these chapter 11 cases are “proper.” Congress has specified (through 11 U.S.C. § 109) who is and is not eligible to be a debtor in bankruptcy, and courts may not “engraft[]” additional requirements. Toibb v. Radloff, 501 U.S. 157, 160-61 (1991). Likewise, Congress has established grounds for the dismissal of bankruptcy cases for various enumerated reasons (see 11 U.S.C. § 1112(b)), and courts have established legal standards for dismissal for lack of good faith. See, e.g., Carolin, 886 F.2d 693.

52. The Northern District of Ohio’s decision in Casden v. Burns, 504 F. Supp. 2d 272, 282 (N.D. Ohio 2007), is instructive. There, a plaintiff brought causes of action against officers and directors of a company as a result of their approval of the company’s bankruptcy filing. Id. at 274 (plaintiff alleged the “decision to bankrupt” the company was a breach of defendants’ fiduciary duties). The court dismissed plaintiff’s action as preempted by the Bankruptcy Code, reasoning it was the exclusive province of the bankruptcy court to assess whether the company’s bankruptcy filing was proper or not. Id. at 282. Numerous other decisions have likewise held that state-law causes of action seeking to challenge a bankruptcy filing are preempted by federal

law.²⁵ Likewise, the Committee’s federal-law causes of action similarly are not cognizable because the Committee is admittedly attempting to use fraudulent-transfer claims and the Sub Con Proceeding to regulate who may make “use of the bankruptcy process.” Fraudulent Transfer Compl. at ¶¶ 159, 173; Sub Con Compl. at ¶¶ 4, 53-54. But as explained above, 11 U.S.C. §§ 109 and 1112 already specifically address who may be a debtor and when a bankruptcy case should be dismissed for improper filing of or conduct in a bankruptcy case. If a statute contains an “express” provision governing a subject, “the specific provision prevails.” Lucas v. VHC Health, 128 F.4th 213, 223-24 (4th Cir. 2025); In re Cleary Packaging, LLC, 36 F.4th 509, 515 (4th Cir. 2022) (same); see also David v. King, 109 F.4th 653, 662 (4th Cir. 2024) (Bankruptcy Code must be read as “a[] harmonious whole”).

53. Beyond preemption, the Committee’s fraudulent transfer and substantive consolidation claims based on the “Texas Two-Step Hinder and Delay Contention” are implausible for more reasons than can be fully explained in this Motion. However, among other things:

- The filing of a bankruptcy case neither affects a “transfer” nor incurs any “obligation.” See, e.g., In re Smith, 449 B.R. 221, 223 (Bankr. M.D. Pa. 2011) (noting “absence” of authority for proposition that a bankruptcy filing could be a “transfer”); SEC v. Goto, 2004 WL 2613915, at *2 (D. N.H. Nov. 18, 2004) (rejecting argument that debtor’s bankruptcy filing was a “transfer” or any sort of “disposal of . . . funds and other assets”).
- It is the bankruptcy filings—not the Corporate Restructuring—that are the source of the alleged “delay” (indeed, but for the bankruptcy filings, the post-Corporate Restructuring entities would still be paying asbestos claims in the tort system). But the filing of a bankruptcy case cannot constitute “a scheme to defraud” or to “hinder and delay” creditors, see, e.g., United States v. Huebner, 48 F.3d 376, 379 (9th Cir. 1994), as the “incidental effect” of a bankruptcy filing delaying or hindering payment

²⁵ See, e.g., Gonzales v. Parks, 830 F.2d 1033, 1035 (9th Cir. 1987); Astor Holdings, Inc. v. Roski, 325 F. Supp. 2d 251, 262 (S.D.N.Y. 2003); Raymark Indus., Inc. v. Baron, 1997 WL 359333, at *10-11 & n.14 (E.D. Pa. June 23, 1997); Koffman v. Osteoimplant Tech., Inc., 182 B.R. 115, 125 (D. Md. 1995).

“is not enough to satisfy the requirements of actual intent to defraud.” Mayo v. Pioneer Bank & Tr. Co., 270 F.2d 823, 831 (5th Cir. 1959).

- Claims of actual fraudulent transfer, whether under federal or state law, require proof of “actual fraudulent intent,” In re Summit Place, LLC, 298 B.R. 62, 70 (Bankr. W.D.N.C. 2002), meaning a showing—by “clear and convincing evidence”—of “moral turpitude, intentional wrong, or felonious intent.” Id. at 70; In re Cockey, 622 B.R. 178, 189 (Bankr. D. Md. 2020). Any notion of “actual fraudulent intent” here is dispelled by the fact that these cases followed the divisional-merger “blueprint” previously upheld in Bestwall as a proper bankruptcy purpose. 2021 WL 3729335, at *14. The Committee cannot possibly explain how the Debtors following the same “blueprint” here can rise to the level of acting with “fraudulent intent,” whether through “moral turpitude,” “intentional wrong,” “felonious intent,” or otherwise.
- Any suggestion that the Debtors and their affiliates are the source of any “delay” in these proceedings is belied by what has happened in these cases since their inception—including the agreement between the Debtors, the NDAs, and the FCR on a plan of reorganization within a year and a half of the filings—as contrasted with the Committee’s abject, years-long refusal to meaningfully negotiate.

54. These fundamental infirmities indicate that the Committee faces little prejudice by a stay of the Adversary Proceedings, litigation that, at least the Debtors suggest, are effectively “Hail Marys” with little chance of success.

II. BECAUSE THE COMMITTEE’S “INSUFFICIENT ASSETS CONTENTION”—ENTIRELY DEPENDENT ON UNCERTAIN FUTURE EVENTS—IS NOT RIPE, THE ADVERSARY PROCEEDINGS SHOULD BE STAYED.

55. “A claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated, or indeed may not occur at all.” Texas v. United States, 523 U.S. 296, 300 (1998) (citation and internal quotation marks omitted); see also Miller v. Brown, 462 F.3d 312, 319 (4th Cir. 2006) (case is not “fit for judicial decision” if it is “dependent on future uncertainties”) (citing Charter Fed. Sav. Bank v. Office of Thrift Supervision, 976 F.2d 203, 208 (4th Cir. 1992)). A claim might technically meet the “case or controversy” requirements for Article III standing, yet still fail the prudential reasons for the ripeness doctrine if it depends on uncertain future events. See Pardee v. Consumer Portfolio Services, Inc., 344 F. Supp. 2d 823, 833 (D.R.I. 2004) (“[A] claim may be unripe in the prudential sense (as here) without necessarily

being constitutionally defective”); Terra Nova Ins. Co. Ltd v. DiStefano, 663 F. Supp. 809, 812 (D.R.I. 1987) (when a claim “turns on the outcome of a future event,” the “court may be presented with a technical case or controversy” but “may decide it is unwise to decide such a matter” at the present time); *Sources Of Doctrine*, 13B FED. PRAC. & PROC. JURIS. § 3532.1 (3d ed.) (“Prudential reasons carry beyond the minimum requirements of Article III, beginning with the same general concerns about contingency and uncertainty.”). Although dismissal in that situation may not be warranted, a court may stay the case until it becomes fit for adjudication.²⁶

56. Pardee is instructive here. There, shareholders of a company brought an indemnification action in Rhode Island against the company relating to actions brought against them in California and Connecticut. Pardee, 344 F. Supp. 2d at 825. The company moved to dismiss or stay the action as unripe at the outset of the case, which motion was denied. Id. at 826. The case was subsequently transferred to a new judge, who, upon hearing cross motions for summary judgment, requested briefing on whether the case was ripe for adjudication. Id. at 825-27. The new judge then stayed the case, finding the earlier decision not to dismiss or stay the matter was not law of the case (as it was decided at the inception of the case before the matter had unfolded)²⁷ and concluding that the “indemnity claims are contingent on events in both the

²⁶ See W.R. Grace & Co. – Conn. v. U.S. E.P.A., 959 F.2d 360, 365 (1st Cir. 1992) (“Our careful review of the parties’ arguments convinces us that postponing decision on the merits until there exists an actual dispute . . . is necessary to ensure fair, focused, and intelligent analysis of the issues presented.”); Aaron Enters., Inc. v. Fed. Ins. Co., 415 F.Supp.3d 595, 601 (E.D. Pa. 2019) (“Plaintiff is attempting to fast forward one sequence of events so this Court may interpret the contract at issue. In doing so, a judgment from this Court would be strictly advisory. It will not conclude the matter and the judgment, itself, would be a contingency.”).

²⁷ Similarly here, Judge Whitley’s prior decision not to stay this litigation through use of tolling agreements (see supra note [10]) occurred several years ago before the Committee’s decision to litigate its challenges to the “Texas Two-Step” through a motion to dismiss (which, as detailed above, implicates the divestiture rule).

California and Connecticut cases that, given the nature of the litigation, may not occur as anticipated or may not occur at all.” Id. at 833-36.

57. The Adversary Proceedings’ “Insufficient Assets Contention” presents a quintessential circumstance of a claim that turns on uncertain future events. The Debtors already have substantial assets and access to funds to pay asbestos-related liabilities. The question of whether those assets alone will prove sufficient to pay their liabilities will depend on the amount of those liabilities and on the NDAs’ funding of any necessary additional amounts through the Funding Agreements. Any uncertainty regarding the sufficiency of the Debtors’ assets and the provision of additional funding turns on contingent future events. See ¶ 6, *supra* (citing In re Aldrich Pump LLC, 2021 WL 3729335, at *13-15). Until these events come to pass, there is no justiciable claim to adjudicate.

58. Further, there is no reason to believe the NDAs will not honor their obligations under the Funding Agreements. Contracts are presumed valid until they are breached. See Love v. Edmonston, 27 N.C. 354, 356 (N.C. 1845) (“When a contract is once made between parties, it binds and is legally presumed to subsist, until it be sh[o]wn to have been performed or rescinded.”). A claim for breach of contract does not accrue until there has been a breach, either through a lack of performance or an unequivocal anticipatory repudiation of the contract. See Abram v. Charter Med. Corp. of Raleigh, Inc., 100 N.C.App. 718, 721 (N.C. Ct. App. 1990).²⁸ For repudiation to result in a breach, “the refusal to perform must be of the whole contract or of a covenant going to the whole consideration, and must be distinct, unequivocal, and absolute[.]” Edwards v. Proctor, 173 N.C. 41, 44 (1917) (citation omitted).

²⁸ For contracts with conditions precedent, such as the Funding Agreements, there can be no breach until events triggering those conditions have occurred. See Cox v. Funk, 42 N.C. App. 32, 32-34 (N.C. Ct. App. 1979); Fed. Reserve Bank v. Neuse Manufacturing Co., 213 N.C. 489 (1938).

59. Here, the Committee has not alleged the NDAs have breached or repudiated any provision of the Funding Agreements. And the conditions in the Funding Agreements requiring the NDAs to fund a plan have not occurred. As such, an allegation that there will ever be a need for litigation regarding the Funding Agreements is, at this time, at best speculative. The continued prosecution of the Adversary Proceedings, and concomitant time, expense, and use of judicial resources to do so, benefits no one.

60. The Committee also faces no prejudice if the Adversary Proceedings are stayed at this time. The parties have already engaged in extensive discovery on the Corporate Restructuring, the Debtors' financial condition, and the bankruptcy filings through the PI Proceeding and are continuing to engage in extensive discovery in the estimation proceeding. Cumulative, wasteful, repeat discovery into undisputed past events will not inform whether the NDAs will fund a plan of reorganization or otherwise honor their potential future obligations under Funding Agreements. Nor does the Committee or its constituency face any hardship if the largely dormant Adversary Proceedings are stayed at this time, as the "circumstances giving rise to the claim[s]" in the cases do not create "a direct and immediate dilemma for the parties requiring them to choose between costly compliance and non-compliance" Pardee, 344 F. Supp. 2d at 838 (quoting W.R. Grace & Co., 959 F.2d at 364).

61. By contrast, without a stay the existing run-rate of expenses associated with the Adversary Proceedings (all paid by the Debtors) would escalate dramatically, as the parties, among other things, complete document productions and prepare associated privilege logs, engage in discovery-related motion practice, conduct upwards of 40 depositions (see Discovery Plan ¶ 6), prepare expert reports and engage in expert discovery, prepare dispositive motions, and otherwise prepare for trial. In similar adversary proceedings in DBMP, a discovery dispute

resulted in the appointment of a discovery referee, who was appointed in February 2023 and needed until April 2025 to publish his report, the nature of which remains subject to ongoing litigation and dispute.²⁹ This discovery dispute to date has cost the estate in DBMP hundreds of thousands, if not millions, of dollars in professionals' fees, and hundreds, if not thousands, of hours in attorney time. Moreover, this activity—**which would occur before the parties even have a ripe dispute**—would undoubtedly distract and parties' efforts in the estimation proceedings.

62. While reserving all rights to seek dismissal of the Committee's unripe claims in the future, the Debtors submit that a stay, rather than further motions practice, is the most appropriate course at this time. A stay avoids the potential need to enter into tolling agreements and/or refile the proceedings in the event that the Committee's claims later become ripe. See Roosevelt Campobello Int'l Park Comm'n, Campobello Island, New Brunswick, Canada v. U.S. E.P.A., 684 F.2d 1034, 1041 (1st Cir. 1982) (finding claims unripe due to dependence on future events, but ordering a stay of litigation rather than dismissal to avoid statute of limitations issues); Pardee, 344 F. Supp. 2d at 833 (finding stay, rather than dismissal, was the "most prudent, fair, and therefore appropriate action to take at this time").

III. AT MINIMUM, THE ADVERSARY PROCEEDINGS SHOULD BE STAYED UNTIL COMPLETION OF THE ESTIMATION PROCEEDINGS.

63. Finally, staying litigation of the Adversary Proceedings at this time would promote judicial economy and foster a long-overdue resolution of these bankruptcy cases. It is

²⁹ See Defendants' Objection to Referee Reports and Recommendation [Dkt. 3212] In re DBMP LLC, No. 20-30080 (Bankr. W.D.N.C. July 25, 2025); Discovery Referee Final Report and Recommendations Concerning Privilege Log Documents, Attorney Client Privilege, Alleged Waiver and Crime/Fraud Exception to the Privilege [Dkt. 3139] In re DBMP LLC, No. 20-30080 (Bankr. W.D.N.C. Apr. 24, 2025); Order Appointing Discovery Referee and Establishing Protocol for Resolution of Crime-Fraud/Waiver Motion [Dkt. 2290] In re DBMP LLC, No. 20-30080 (Bankr. W.D.N.C. Feb. 16, 2023).

entirely sensible that the proceedings to estimate the Debtors' asbestos liabilities precede any continued litigation of the Adversary Proceedings.

64. When Judge Whitley granted derivative standing to the Committee in January 2022, he expressed a desire to give each side their own litigation path, the apparent goal being to provide each side some sort of leverage in these proceedings in the hope of fostering a global resolution. See Jan. 27, 2022 Hr'g Tr. at 18:19-24, 21:22-22:5. But the Committee subsequently chose a third litigation path, the dismissal motions, which Judge Whitley was not aware of at the time. And getting the Debtors and their affiliates to the negotiating table has never been the problem in this case.³⁰ Moreover, Judge Whitley repeatedly highlighted the high cost of such litigation and indicated that the parties should perhaps instead be attempting to negotiate a resolution of these cases. See Mar. 3, 2022 Hr'g Tr. [Dkt. 1049] at 192:10-16 (Judge Whitley: "I hate to see you spend as much client money as you're having to do to, to go through the exercise. . . . You might want to talk amongst yourselves and see if, with everyone reserving rights, that there might be an appropriate time to, to chat and, if so, we can make accommodations here.").³¹ Likewise, consistent with case law holding that substantive consolidation is a "remedy . . . of last resort" which should be "used 'sparingly,'" In re Owens Corning, 419 F.3d 195, 208-09, 211 (3d Cir. 2005), Judge Whitley has noted that this relief is a "longshot" and should be "the last arrow in the quiver." Apr. 1, 2022 Hr'g Tr. [Dkt. 1099] at 30:5-9.

³⁰ See Jan. 27, 2022 Hr'g Tr. [Dkt. 976] at 37:3-7 (Judge Whitley: "Apart from trying to dismiss the case or litigate the, the corporate restructuring, that's about all the ACC has been willing to do so far."); see also Order Denying Dismissal [Dkt. 2047] at 61 ("[A]t every opportunity [the ACC] have sought to force dismissal of these cases.").

³¹ See also id. at 191:16-192:3 (Judge Whitley: "[I]f y'all think . . . that negotiating now would help you, you can keep all your powder dry . . . If there is really a likelihood that a number could be arrived at that would pay all the claimants . . . it might be well to let those other [cases] be the test case and work out the number and get everyone paid in this one").

65. The Debtors have continually demonstrated they are open to negotiating a resolution to these cases and moving towards confirmation. The Debtors agree wholeheartedly with the Court's recent observations that engaging in an estimation process—including the exchange of Initial Expert Reports where the parties develop and share competing estimates of the Debtors' asbestos liability—is the best course towards resolving this case and should be “the focus on what we're doing in this courtroom.” See Mar. 27, 2025 Hr'g Tr. at 8:4-12. As the Court recognized, this process presents a real opportunity to resolve these cases in their entirety, which would moot the need to litigate the Adversary Proceedings. See id. at 43:9-44:8 (stating estimation provides a tool “for plan negotiations and for settlements” and observing the possibility that “all of the sudden people would have a settlement conference and agree to a number”).³²

66. In any event, litigation of the Adversary Proceedings should follow the estimation trial because the “Insufficient Assets Contention” portion of the Adversary Proceedings, in addition to being unripe for the reasons discussed above, necessarily first **requires an estimation** of the Debtors' asbestos liability. Indeed, the Committee seems to agree, as it refused to provide what it described as “premature” discovery in the Adversary Proceedings related to the amount of the Debtors' alleged asbestos liabilities, a necessary element of their “Insufficient Assets Contention.” See Aug. 7, 2025, Letter from Committee counsel at 3-4 (declining to provide documents or interrogatory responses pertinent to the Debtors' aggregate asbestos

³² The state of these bankruptcies is not unlike the situation faced in Matter of Baldwin-United Corp., 45 B.R. 382 (Bankr. S.D. Ohio 1984), where the court ultimately stayed all adversary proceedings in the interest of promoting plan negotiations and global resolution. The court described the various proceedings as “imbroglios,” questioned whether “certain parties in these proceedings are pursuing their own agendas,” and observed that “time and resources are being wasted over battles that would be more profitably fought in a conference room rather than a courtroom.” The Court stressed that “the time has come for the imposition of a standstill . . . in all adversary proceedings in this Court” and ordered the parties “to devote their full attention to the negotiation of a plan of reorganization and to resolving their disputes.” Id. at 384. These remarks could have been penned for these cases.

liability, instead stating the Committee will share estimates in accordance with the “deadlines set forth in the Second Amended Estimation CMO” and arguing that “Defendants’ requests for the Committee’s estimation-related work before those deadlines have passed . . . is premature”) (attached hereto as **Exhibit C**). Perhaps it is this recognition that led the Committee to, until its suggestion of a new CMO in early August, cease any communications on the Adversary Proceedings for nearly five months.

67. But even if not, finishing the estimation proceedings before any further activity in the Adversary Proceedings simply makes logical sense. As noted, the Proposed Plan would fund a trust in an amount of \$545 million, \$500 million of which would go to the payment of claims. The Debtors’ estates have a direct, present value available to pay asbestos claimants well in excess of \$600 million³³—without even considering the Funding Agreements—more than enough to fund the Plan. Until and unless a court decides that the Debtors’ asbestos liability exceeds that level, the “Insufficient Assets Contention” is premature.

68. For these reasons, as well, staying the Adversary Proceedings promotes judicial economy and the efficient management of the Court’s docket.

CONCLUSION

69. For all of the foregoing reasons, the Court should grant the Motion to stay litigation of the Adversary Proceedings at this time.

³³ Comprised of \$270 million in the QSF, insurance that historically matched payments to asbestos claimants approximately dollar for dollar (*i.e.* approximately another \$270 million in insurance value), and other assets estimated to be worth close to \$80 million.

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Charlotte, North Carolina

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ATTORNEYS FOR DEBTORS AND
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EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
AT CHARLOTTE**

OFFICIAL COMMITTEE OF
ASBESTOS CLAIMANTS,

Appellant,

v.

CIVIL ACTION NO. 3:24-cv-00042

ROBERT SEMIAN AND OTHER
CLIENTS OF MRHFM, et al.,

Appellees.

In re
ALDRICH PUMP LLC, et al.

Chapter 11
Case No. 20-30608

Debtors.

ROBERT SEMIAN AND OTHER
CLAIMANTS OF MRHFM,

Appellant,

v.

CIVIL ACTION NO. 3:24-cv-00044

ALDRICH PUMP LLC, et al.

Appellees.

In re
ALDRICH PUMP LLC, et al.

Chapter 11
Case No. 20-30608

Debtors.

WILSON BUCKINGHAM and
ANGELIKA WEISS,

Appellants,

v.

CIVIL ACTION NO. 3:24-cv-00284

BESTWALL, LLC,

Appellee.

In re

BESTWALL LLC,

Debtor.

Chapter 11

Case No. 17-31795

**CONSOLIDATED MEMORANDUM OF LAW TO SUPPORT MOTION FOR LEAVE
TO APPEAL THE ORDERS DENYING THE ALDRICH COMMITTEE’S, MR.
ROBERT SEMIAN AND FORTY-SIX OTHER MRHFM PLAINTIFFS’, AND MR.
WILSON BUCKINGHAM AND
MS. ANGELIKA WEISS’S MOTIONS TO DISMISS**

Pursuant to the Court’s order directing the parties to file a consolidated brief, Movants (here, “Appellants”) request the Court to grant leave to appeal two orders denying dismissal of “Texas Two-Step” bankruptcy petitions from the Western District of North Carolina (the “Orders”). These appeals involve controlling issues of law: whether bankruptcy’s vast equitable powers are available for debtors who (1) are not financially troubled, (2) in no need of resuscitation, and (3) seek to use the Bankruptcy Code to effectuate extra-legislative tort reform.¹

Resolving the appeals now will materially advance the ultimate termination of the litigation. As noted in the very order from which these appeals arise:

Until the propriety of the ‘Texas Two Step’ and its use by solvent ‘non-distressed’ corporations is determined by the higher courts, no progress will be made in these bankruptcy cases. None has been made in *Bestwall*, which was filed six years ago. None has been made in *DBMP*, filed four years ago. And none has been made here. These cases are simply spinning round and about, to the growing frustration of all.

In re Aldrich Pump LLC, No. 20-30608, 2023 WL 9016506, at *11 (Bankr. W.D.N.C. Dec. 28, 2023).

I. PROCEDURAL BACKGROUND

Nearly forty years ago, the Fourth Circuit rejected the proposition that questions regarding a debtor’s bad faith must be left for confirmation. *See Carolin Corp. v. Miller*, 886 F.2d 693 (4th Cir. 1989).² In *Carolin*, the Fourth Circuit held that courts may properly dismiss for bad faith a Chapter 11 petition that does not further the Bankruptcy Code’s “statutory objective of

¹ The *Aldrich* bankruptcy court explicitly rejected the debtors’ suggestion that these cases were filed with benevolent intent. To the contrary, the court specifically held that the petitions were filed to leverage the automatic stay until claimants capitulated: “Nor were these actions undertaken for the benefit of the asbestos claimants. Rather, these bankruptcies were designed to isolate the asbestos claimants from the overall corporate enterprise and strand them in bankruptcy until such time as they agree to a Section 524(g) plan.” *In re Aldrich Pump LLC*, No. 20-30608 (JCW), Adv. No. 20-03041 (JCW), 2021 WL 3729335, at *21 (Bank. W.D.N.C. Aug. 23, 2021).

² *Carolin* also recognized the availability of lift-stay relief for creditors trapped in bad faith bankruptcies. *Carolin*, 886 F.2d at 699. However, the Western District of North Carolina has denied all requests of individual claimants trapped in these Texas Two-Step bankruptcies. As with the Motions at issue here, the bankruptcy courts have denied these requests for lift stay based upon bad faith without ruling on the question of bad faith.

resuscitating a financially troubled [debtor].” *Id.* at 701 (alteration in original) (quoting *In re Coastal Cable TV, Inc.*, 709 F.2d 762, 765 (1st Cir. 1983)). In 2007, the Fourth Circuit reaffirmed this commonsense principle—bankruptcy’s “powerful equitable weapons” are not for “financially healthy companies with no need to reorganize.” *In re Premier Auto. Servs., Inc.*, 492 F.3d 274, 279-80 (4th Cir. 2007).

But the bankruptcy courts in the Western District of North Carolina have adopted a different standard, permitting cash-flush enterprises to avoid scrutiny of their good faith (or determination of their bad faith) prior to confirmation. These courts have explicitly declined to rule on the foundational question of bad faith—is the Code available as a mechanism to “overcome the tort system”³ for wealthy debtors who boast the ability to pay all creditors in full? Or that separate their tort liabilities from their assets in separate companies and strand their tort claimants in bankruptcy?

In so doing, the bankruptcy courts have effectively denied the right of thousands of claimants to a jury trial and have effectively overruled one of the central holdings of *Carolin*: that bad faith can and should be ruled upon prior to confirmation.

While the bankruptcy courts in the Western District of North Carolina have misapplied *Carolin* to avoid the foundational issue of bad faith, they have also indicated the need for guidance from higher courts. In 2019, Judge Beyer certified her order denying dismissal in *Bestwall* for

³ Motion to Dismiss of Claimants Wilson Buckingham and Angelika Weiss, at 5 n.3, *In re Bestwall LLC*, No. 17-31795 (Bankr. W.D.N.C. Feb. 17, 2023), ECF No. 2882 (citing Transcript of American Bankruptcy Institute Annual Spring Meeting at 40, 50, April 2022).

appeal under 28 U.S.C. § 158(d)(2).⁴ *In re Bestwall LLC*, 605 B.R. 43 (Bankr. W.D.N.C. 2019).⁵ Likewise, Judge Whitley’s order denying certain Appellants’ dismissal motions in *Aldrich Pump LLC*, 2023 WL 9016506, at *11.

Judge Whitley’s prediction was prescient: all Two-Step cases pending in the Western District still await direction: the debtors have spent hundreds of millions of dollars pursuing an improper bankruptcy as a litigation strategy, redirecting money away from compensating their asbestos victims to bankruptcy professionals;⁶ shareholders of the profitable tortfeasors who manufactured the “debtors” have reaped billions in dividends;⁷ and asbestos victims nationwide remain stranded in bankruptcy.

This Court’s intervention is essential. The Fourth Circuit has twice declined to accept direct certifications of the denial of bad-faith motions to dismiss in these cases. Order, *Off. Comm. of Asbestos Personal Injury Claimants v. Aldrich Pump LLC*, No. 24-128 (4th Cir. Apr. 17, 2024), ECF No. 50; *Off. Comm. of Asbestos Claimants of Bestwall, LLC*, 2019 WL 13512209. And while the Fourth Circuit has considered two appeals in *Bestwall*, both panels expressly held that the Court

⁴ Judge Beyer’s 2019 Order related to a Motion to Dismiss filed by the Asbestos Claimants Committee in *Bestwall* that raised the issue of bad faith. As discussed below, that Motion was filed and ruled upon prior to Mr. Buckingham being diagnosed with the mesothelioma and differed in several ways from Mr. Buckingham’s Motion. Nevertheless, the Bankruptcy Court denied Mr. Buckingham’s Motion without considering of its merits, treating it as a motion to reconsider the court’s earlier denial of the Committee’s Motion to Dismiss.

⁵ The Fourth Circuit did not accept the certified interlocutory appeal, *Off. Comm. of Asbestos Claimants of Bestwall, LLC v. Bestwall LLC*, No. 19-408, 2019 WL 13512209 (4th Cir. Nov. 14, 2019), and the District Court denied leave to appeal in 2023. See *Off. Comm. of Asbestos Claimants v. Bestwall LLC*, No. 3:19-CV-00396-RJC, 2023 WL 7361075 (W.D.N.C. Nov. 7, 2023).

⁶ See Alexander, *Profitable companies are dodging asbestos lawsuits. A Charlotte court has helped them*, CHARLOTTE OBSERVER, 7/24/2024, <https://www.charlotteobserver.com/news/local/crime/article289390884.html>; Jeff Tiberri, *Legal maneuvers used in Charlotte bankruptcy court hold up lawsuits by victims of asbestos exposure*, NORTH CAROLINA PUBLIC RADIO, July 30, 2024, <https://www.wunc.org/show/due-south/2024-07-30/legal-manuevers-used-in-charlotte-bankruptcy-court-hold-up-lawsuits-by-victims-of-asbestos-exposure>. Love, *Advisers Reap \$500 Million From Longest Asbestos Bankruptcy*, BLOOMBERG LAW, July 28, 2025, <https://news.bloomberglaw.com/bankruptcy-law/advisers-reap-500-million-from-longest-asbestos-bankruptcy>.

⁷ Claimants Wilson Buckingham and Angelika Weiss’ Reply in Support of Motion to Dismiss, at 11, *In re Bestwall LLC*, No. 17-31795 (Bankr. W.D.N.C. Mar. 14, 2023), ECF No. 2902; *Aldrich Pump LLC*, 2023 WL 9016506, at *10.

was not faced with the question of bad faith. *See Bestwall LLC v. Off. Comm. of Asbestos Claimants of Bestwall, LLC*, No. 24-1493, 2025 WL 2177391, at *4 (4th Cir. Aug. 1, 2025);⁸ *In re Bestwall LLC*, 71 F.4th 168, 182 (4th Cir. 2023) (recognizing appeal does not involve a motion to dismiss filed on the basis of absence of financial distress).

Accordingly, it falls to this Court to resolve the issue of whether these non-distressed bankruptcies are consistent with Fourth Circuit precedent and the purposes of the Bankruptcy Code.

II. FACTUAL BACKGROUND

The facts material to the Court’s limited decision here have been determined by the bankruptcy courts below and are not disputed.

First, the debtors—Aldrich Pump LLC, Murray Boiler LLC,⁹ and Bestwall LLC—can pay all creditors in full, inside or outside of bankruptcy. *Aldrich Pump LLC*, 2023 WL 9016506, at *10; *Bestwall LLC*, 605 B.R. at 49. Second, all three corporations performed a pre-filing Texas Two-Step in order to “isolate the asbestos claimants from the overall corporate enterprise and strand them in bankruptcy until such time as they agree to a Section 524(g) plan.” *Aldrich Pump*, 2021 WL 3729335, at *21. *See also Bestwall LLC*, 605 B.R. at 47-48. Third, the bankruptcy courts overseeing these cases have recognized the need for higher courts to decide whether the *Aldrich* and *Bestwall* petitions were filed in bad faith. Certification of the Order Denying Motion to Dismiss [ECF No. 2047] for Direct Appeal to the Court of Appeals for the Fourth Circuit Under 28 U.S.C. § 158(d)(2), at 2-3, *In re Aldrich Pump LLC*, No. 20-30608 (Bankr. W.D.N.C. Feb. 9,

⁸ *But see Off. Comm. of Asbestos Claimants of Bestwall, LLC*, 2025 WL 2177391, at *10 (King, J., dissenting) (citing *Grogan v. Garner*, 498 U.S. 279, 286–87 (1991)) (reasoning that the Two-Step “fundamentally departs from the central purpose of our Nation’s bankruptcy system, which has long been to provide a ‘fresh start’ to the ‘honest but unfortunate debtor’”).

⁹ Hereafter, “*Aldrich*” refers to the *In re Aldrich Pump LLC* and *In re Murray Boiler LLC* cases that are being jointly administered.

2024), ECF No. 2111; Certification for Direct Appeal to the United States Court of Appeals for the Fourth Circuit Under 28 U.S.C. § 158(d)(2), at 4, *In re Bestwall LLC*, No. 17-31795 (Bankr. W.D.N.C. Sept. 11, 2019), ECF No. 987.

A. Bestwall / Georgia-Pacific

Georgia-Pacific easily managed its asbestos liabilities for over forty years without financial distress. Nevertheless, in 2017, Georgia-Pacific created Bestwall as part of a “corporate restructuring.” *Bestwall LLC*, 605 B.R. at 47. Bestwall was assigned all “Old” Georgia-Pacific’s asbestos liabilities in Georgia Pacific’s Two-Step restructuring while its assets went to another company, New GP. Nevertheless, the bankruptcy court found that Bestwall “has the full ability to meet all of its obligations (whatever they may be) through its assets and New GP’s assets, which are available [to Bestwall] through the Funding Agreement” with New GP. *Id.* at 49.

The Official Committee of Asbestos Claimants of Bestwall LLC (“Bestwall Committee”) moved to dismiss Bestwall’s petition in 2018. In ruling on that motion—which is not part of this appeal—the bankruptcy court declined to address whether Bestwall filed in subjective bad faith because it found “this case is not objectively futile.” *Id.* at 50–51. The bankruptcy court found that “[a]ttempting to resolve asbestos claims through 11 U.S.C. § 524(g) is a valid reorganizational purpose”—irrespective of its finding that Bestwall had the financial ability to pay all its asbestos liabilities—and noted that “[t]he [Bestwall] Committee agrees.” *Id.* at 49. In other words, the *Bestwall* Bankruptcy Court found the Committee conceded the desire for section 524(g) relief was a proper purpose for filing a bankruptcy petition in the absence of financial distress caused by overwhelming asbestos liabilities.

Mr. Buckingham did not and does not concede that point. Mr. Buckingham, who was not diagnosed with mesothelioma at the time of the Committee’s motion in 2019, moved to dismiss *Bestwall* in 2023. *See In re Bestwall LLC*, 658 B.R. 348, 351 (Bankr. W.D.N.C. 2024), *aff’d sub*

nom. Bestwall LLC v. Off. Comm. of Asbestos Claimants of Bestwall, LLC, No. 24-1493, 2025 WL 2177391 (4th Cir. Aug. 1, 2025). He argued that *Bestwall* should be dismissed for violating *Carolin*’s good-faith standard because: (1) *Bestwall* is not financially distressed due to its funding agreement with New GP, and (2) New GP—which is obligated to pay all *Bestwall*’s asbestos liabilities—is worth over \$27 billion¹⁰ and is not overwhelmed by approximately \$150 to \$200 million in annual asbestos liabilities; and (3) that Old GP’s pre-filing Texas Two-Step restructuring provided additional indicia of bad faith. *Id.* at 356; *see* Transcript of Hearing at 136:11-24, *In re Bestwall LLC*, No. 17-31795 (Bankr. W.D.N.C. May 17, 2023), attached hereto as **Exhibit 1**. In 2023, the *Bestwall* Committee also moved to dismiss *Bestwall*, this time raising Constitutional and jurisdictional arguments.

Reiterating its 2019 holding, the *Bestwall* Bankruptcy Court denied Mr. Buckingham’s motion, reasoning that “because *Bestwall* has the resources with which to reorganize, this case is not objectively futile, . . . [so the court] need not reach the issue of whether the case was filed in subjective bad faith.” 658 B.R. at 353 (citing *In re Bestwall LLC*, 605 B.R. at 50-51). The Bankruptcy Court did not reach the merits of Mr. Buckingham’s good faith challenge to *Bestwall*’s petition, treating it as a motion for reconsideration of the *Bestwall* Committee’s first motion to dismiss.¹¹ The *Bestwall* Committee’s motion was also denied.

The bankruptcy court certified its decision on the Committee’s motion for direct appeal. Certification of the Order Denying Motion to Dismiss for Direct Appeal to the Court of Appeals for the Fourth Circuit Under 28 U.S.C. § 158(d)(2), at 2, *In re Bestwall LLC*, No. 17-31795 (Bankr.

¹⁰ New GP, which is not subject to Bankruptcy Court oversight or bound by the Bankruptcy Code’s reporting requirements or other debtor obligations, has distributed over \$7.4 billion in dividends during the pendency of *Bestwall*’s bankruptcy case.

¹¹ The bankruptcy court also declined to address Mr. Buckingham’s motion because of a pending request for appeal of the Committee’s 2019 Motion (*Bestwall LLC*, 658 B.R. at 361), which appeal has since been dismissed. *Off. Comm. of Asbestos Claimants*, 2023 WL 7361075, at *2.

W.D.N.C. Apr. 3, 2024), ECF No. 3360. The bankruptcy court’s decision was upheld by a Fourth Circuit panel earlier this month. *Off. Comm. of Asbestos Claimants of Bestwall, LLC*, 2025 WL 2177391, at *3. But the majority of the Fourth Circuit’s divided panel expressly noted it was not ruling on the question of good faith: “[t]his appeal is not about the validity of the controversial Texas [T]wo-[S]tep maneuver,” “nor is it about whether a debtor’s ability to pay its debts is relevant in a bankruptcy case.” *Id.* at *4 (alteration in original).¹²

B. Aldrich and Murray

Prior to implementing their Texas Two-Step, Aldrich’s and Murray’s predecessors, Ingersoll-Rand Company (“Old IRNJ”) and Trane U.S. Inc. (“Old Trane”) had easily managed their asbestos liabilities. The bankruptcy court found Old IRNJ and Old Trane were each “a profitable going concern whose assets significantly outweighed its combined operating and asbestos liabilities.” *Aldrich Pump LLC*, 2023 WL 9016506, at *7 (citing *Aldrich Pump*, 2021 WL 3729335, at *8). Old IRNJ and Old Trane never entertained a bankruptcy filing for themselves or any of their subsidiaries and affiliates (the “Trane Enterprise”). *Aldrich Pump*, 2021 WL 3729335, at *8. The bankruptcy court found “[t]here is no dispute” the Two Step “was performed to isolate . . . asbestos liabilities from the rest of the Trane Enterprise.” *Aldrich Pump LLC*, 2023 WL 9016506, at *5.

The bankruptcy court held that Aldrich and Murray, through their respective funding agreements with corporate affiliates, can “undisputedly . . . fund their obligations.” *Aldrich Pump LLC*, 2023 WL 9016506, at *7. These affiliates’ “growing annual profits—to say nothing of their total book value—dwarf the Debtors’ sworn estimate of all-in, total asbestos liability. This is

¹² While the majority opinion did refer to the *Carolin* test, it expressly did not consider its application with respect to Bestwall’s factual circumstances. See *Off. Comm. of Asbestos Claimants of Bestwall, LLC*, 2025 WL 2177391, at *7 & n.7.

particularly true given that over half of that liability is covered by third-party insurance.” *Id.* at *8. Aldrich and Murray have the same ability to pay claimants as did their corporate predecessors, and that ability to pay is beyond doubt. *Id.* at *7.

Robert Semian and the Aldrich Committee each moved to dismiss the *Aldrich* case in 2023. In denying those motions, the *Aldrich* court adopted the reasoning of the *Bestwall* court in denying the Bestwall Committee’s 2018 motion to dismiss, while noting the reasoning was subject to significant dispute. *Id.* at *4.

Indeed, the *Aldrich* court spent several pages analyzing Movants’ arguments regarding the proper application of *Carolyn* and *Premier Auto* to the facts of these cases and wrote: “[t]hese are persuasive arguments and if writing on a clean slate,¹³ I might well agree with the Movants. . . . And given the rarity of such non-distressed entities filing bankruptcy, particularly in 1989 when *Carolyn* was decided, one wonders whether the *Carolyn* majority contemplated that its test would be employed to the cases of solvent, non-distressed corporations.” *Aldrich Pump LLC*, 2023 WL 9016506, at *27.

III. ANALYSIS

A party may seek leave to appeal an interlocutory order pursuant to 28 U.S.C. § 158(a)(3) and Bankruptcy Rule 8004. Courts generally will grant leave when the following three factors are met: “1) the appeal involves a controlling issue of law, 2) as to which there is substantial ground for a difference of opinion, and 3) an immediate appeal will materially advance the termination of the litigation.” *In re Bestwall LLC*, No. 3:21-CV-151-RJC, 2021 WL 1857295, at *3 (W.D.N.C. May 10, 2021), *clarified on reh’g in part*, No. 3:21-CV-151-RJC, 2021 WL 5099592 (W.D.N.C. Nov. 2, 2021) (citations omitted). Although they provide “strong guidance,” the factors need not

¹³ The *Aldrich* court did not mean that *Carolyn* and *Premier Auto* controlled his reasoning, but instead that the *Bestwall* court’s application of *Carolyn* and *Premier Auto* controlled.

be strictly applied. *W.S. Badcock Corp. v. Beaman*, No. 4:14-CV-169-BO, 2015 WL 575422, at *2 (E.D.N.C. Feb. 11, 2015).

Here, the three factors are met. The Orders both involve one overarching controlling issue of law: the availability of bankruptcy’s safe harbor to ultrawealthy debtors who are neither financially troubled nor in need of resuscitation. There is substantial ground for a difference of opinion. Judge Whitley’s dismissal order in *Aldrich* lays out in great detail those differences regarding proper application of Fourth Circuit precedent to these Texas Two-Step non-distressed bankruptcies. *See generally Aldrich Pump LLC*, 2023 WL 9016506, at *22–28.¹⁴

Finally, taking up a consolidated appeal of these orders now will materially advance this litigation, terminating the years-long delay wrought by the bankruptcy courts’ decisions to relegate the question of bad faith to a later day. Properly applying *Carolyn/Premier* now will end the attempt by non-distressed, profitable companies to transform a single bankruptcy district into a nationwide forum for mass-tort litigation management, to force mass settlement, and to co-opt Article I courts into a statutorily (and constitutionally) impermissible rebalancing of the debtor-creditor relationship.

A. The Appeal of the Dismissal Order Involves a Controlling Issue of Law.

An order involves a controlling question of law when either “(1) reversal of the bankruptcy court’s order would terminate the action, or (2) determination of the issue on appeal would materially affect the outcome of the litigation.” *In re Biltmore Invs., Ltd.*, 538 B.R. 706, 711 (W.D.N.C. 2015); *see KPMG Peat Marwick, L.L.P. v. Estate of Nelco, Ltd.*, 250 B.R. 74, 78 (E.D. Va. 2000) (describing a “controlling question of law” as a “narrow question of pure law whose

¹⁴ The Fourth Circuit’s refusal to accept certification of the *Aldrich* appeal, coupled with its decision to accept direct certification of the presented constitutional issue in *Bestwall*, does not mean that the Fourth Circuit endorsed, much less agreed with, each Bankruptcy Court’s resolution of the bad faith issue.

resolution will be completely dispositive of the litigation, either as a legal or practical matter, whichever way it goes”).

The first factor is met here. Blackletter law, applied by all federal appellate courts, makes plain that bankruptcy is for “individuals and businesses in financial distress” seeking “a fresh start to reorganize, discharge their debts, and maximize the property available to creditors.”¹⁵ *Truck Ins. Exch. v. Kaiser Gypsum Co.*, 602 U.S. 268, 272 (2024). But a “simple bargain” exists in bankruptcy: only a company which “places virtually all its assets on the table for its creditors” may win a discharge of its debts. *Harrington v. Purdue Pharma L.P.*, 603 U.S. 204, 209 (2024).

¹⁵ See *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934) (“One of the primary purposes of the Bankruptcy Act is to ‘relieve the honest debtor from the weight of oppressive indebtedness, and permit him to start afresh free from the obligations and responsibilities consequent upon business misfortunes.’” (emphasis added)); *Wetmore v. Markoe*, 196 U.S. 68, 77 (1904) (“Systems of bankruptcy are designed to relieve the honest debtor from the weight of indebtedness which has become oppressive”); *In re Capitol Food Corp. of Fields Corner*, 490 F.3d 21, 25 (1st Cir. 2007) (reasoning that a debtor need not be insolvent before filing bankruptcy petition, but that it must be experiencing “some type of financial distress”); *In re Cohoes Indus. Terminal, Inc.*, 931 F.2d 222, 228 (2d Cir. 1991) (debtor must “at least . . . face such financial difficulty that, if it did not file at that time, it could anticipate the need to file in the future”); *In re SGL Carbon Corp.*, 200 F.3d 154, 164–66 (3d Cir. 1999) (reversing the district court and dismissing the debtor’s bankruptcy because, *inter alia*, “[t]he mere possibility of a future need to file, without more, does not establish that a petition was filed in ‘good faith,’” and “Chapter 11 was designed to give those teetering on the verge of a fatal financial plummet an opportunity to reorganize on solid ground and try again, not to give profitable enterprises an opportunity to evade contractual or other liabilities”); *Premier Auto.*, 492 F.3d at 280–81 (dismissal upheld because debtor was not “experiencing financial difficulties,” the debtor’s filings “reveal a solvent business entity,” a fact that “alone may justify dismissal of . . . [the debtor’s] Chapter 11 petition”); *In re Little Creek Dev. Co.*, 779 F.2d 1068, 1072–73 (5th Cir. 1986) (“The ‘new debtor syndrome,’ in which a one-asset entity has been created . . . to isolate the insolvent property and its creditors, exemplifies . . . bad faith cases. . . . Neither the bankruptcy courts nor the creditors should be subjected to the costs and delays of a bankruptcy proceeding under such conditions.”); *In re Cook*, 104 F.2d 981, 985 (7th Cir. 1939) (no valid bankruptcy purpose where “proceeding was instituted not for the purpose of obtaining benefits afforded by the Act to a corporation in financial distress, but to enable appellees to escape the jurisdiction of another court where the day of reckoning . . . was at hand”; “[A] Federal Court should not extend its jurisdiction under such circumstances.”); *In re Cedar Shore Resort, Inc.*, 235 F.3d 375, 380 (8th Cir. 2000) (affirming dismissal because, *inter alia*, the bankruptcy court found the primary motivation of the debtor—a healthy company “not in dire financial straits”—was to dispose of a state court lawsuit); *In re Marsch*, 36 F.3d 825, 829 (9th Cir. 1994) (no good faith where debtor “had the financial means to pay” its obligations, which posed no “danger of disrupting business interests”); *In re Stewart*, 175 F.3d 796, 811 (10th Cir. 1999) (affirming dismissal and recognizing that relieving “oppressive indebtedness” is “[o]ne of the main purposes of bankruptcy law”); *In re Waldron*, 785 F.2d 936, 940 (11th Cir. 1986) (rejecting a debtor’s bankruptcy because “[t]he bankruptcy laws are intended as a shield, not as a sword,” and recognizing that the purpose of Chapter 11 is to give a fresh start to a “financially troubled debtor” rather than the “financially secure”). See also *Grogan v. Garner*, 498 U.S. 279, 286–87 (1991) (“This Court has certainly acknowledged that a central purpose of the Code is to provide a procedure by which certain insolvent debtors can reorder their affairs But in the same breath that we have invoked this ‘fresh start’ policy, we have been careful to explain that the Act limits the opportunity for a completely unencumbered new beginning to the ‘honest but unfortunate debtor.’” (emphasis added)).

This appeal involves whether, as a matter of law, companies that have been found to have the ability to pay all creditors in full outside bankruptcy—while shielding their wealthy parents’ assets behind the Texas Two-step’s circular funding arrangements and bankruptcy’s automatic stay—have sought Chapter 11’s safe harbor in good faith. The relevant facts in *Bestwall* and *Aldrich* are undisputed. The issue presented is purely one of what limits the law places on the use of bankruptcy by such debtors.

Should this Court take these appeals and reverse, these appeals would end the Debtors’ bankruptcies. Accordingly, these appeals involve controlling issues of the law. The first factor is satisfied.

B. There is Substantial Ground for a Difference of Opinion.

Regarding the second factor, “[a]n issue presents a substantial ground for difference of opinion if courts, as opposed to parties, disagree on a controlling legal issue.” *Johnson v. Cent. Collections Unit*, No. CV ELH-19-2821, 2020 WL 2306452, at *5 (D. Md. May 8, 2020) (citation omitted); see *KPMG Peat Marwick*, 250 B.R. at 82 (“[A] difference of opinion exists between courts on a given controlling question of law, creating the need for an interlocutory appeal to resolve the split or clarify the law.”).

The courts below have explained repeatedly that there is substantial ground for a difference of opinion as to primary issue of whether the Debtors’ full-pay bankruptcy cases should be permitted to continue. In *Aldrich*, after recognizing that several factors recognized in *Premier Auto* as indicia of bad faith “are present here,” that court noted: “one wonders whether the *Carolin* majority contemplated that its test would be employed to the cases of solvent, non-distressed corporations.” *Aldrich Pump LLC*, 2023 WL 9016506, at *27. Analyzing the Appellants’ contentions regarding the proper application of *Carolin*/*Premier* to these cases, the bankruptcy court directly acknowledged the substantial grounds for a difference of opinion:

Read this way, arguably both *Carolin* prongs presuppose financial distress, just as the Movants say. And if one accepts the Movants' premise that . . . [the Debtors] are not 'financially distressed,' these may in fact be bad faith filings. All of which I say simply for the Fourth Circuit's consideration, if it elects to reconsider applicability of the *Carolin* Two-Prong Test in the case of a solvent, non-distressed Chapter 11 debtor. For now, *Carolin* is controlling precedent.

Id.; see also Certification for Direct Appeal to the United States Court of Appeals for the Fourth Circuit Under 28 U.S.C. § 158(d)(2), *In re Bestwall LLC*, No. 17-31795 (Bankr. W.D.N.C. Sept. 11, 2019), ECF No. 987; *Bestwall LLC*, 658 B.R. 348.

Other courts that have considered analogous non-distressed bankruptcies designed to overcome the tort system have rejected those attempts. See *In re LTL Mgmt., LLC*, 64 F.4th 84 (3d Cir. 2023); *In re Aeero Techs. LLC*, No. 22-02890-JJG-11, 2023 WL 3938436 (Bankr. S.D. Ind. June 9, 2023), *appeal dismissed*, No. 22-2606, 2024 WL 5277357 (7th Cir. July 11, 2024); *In re LTL Mgmt., LLC*, 652 B.R. 433 (Bankr. D.N.J. 2023); *In re Red River Talc LLC*, 670 B.R. 251 (Bankr. S.D. Tex. 2025).¹⁶

The Bankruptcy Courts' misapplication of *Carolin*'s two-prong test conflicts not only with the holdings of *Carolin* and *Premier Auto*—which certain Appellants argued below mandate dismissal—but also establishes a conflict with the Third Circuit (see *SGL Carbon*, 200 F.3d at 162 ("After considering the language of § 1112(b), its legislative history, the decisions of other courts of appeals, the equitable nature of bankruptcy proceedings, and the purposes behind Chapter 11, we conclude a Chapter 11 petition is subject to dismissal for 'cause' under 11 U.S.C. § 1112(b) unless it is filed in good faith.)), the Eighth Circuit (see *Cedar Shore Resort, Inc.*, 235 F.3d at 381

¹⁶ Not only the judicial branch decries the Two-Step. Attorneys General from over two dozen states and a bipartisan group of United States Senators filed *amicus* briefs with the Supreme Court in *Bestwall* decrying the Texas Two-Step as an abuse of the Code, Constitutional principles such as the right to a jury trial, and the rights of states to govern conduct within their borders. See Brief of Members of Congress as Amici Curiae in Support of Petitioner, *Off. Comm. of Asbestos Claimants v. Bestwall LLC*, 144 S. Ct. 2519 (2024) (No. 23-675), 2024 WL 304851; Amicus Brief in Support of Petitioner, *Off. Comm. of Asbestos Claimants v. Bestwall LLC*, 144 S. Ct. 2519 (2024) (No. 23-675), 2024 WL 305618.

(“After considering the purposes and policies underlying the Bankruptcy Code, we decline to adopt the *Carolin* test and hold that a Chapter 11 petition may be dismissed for bad faith alone where the circumstances warrant.”)), and the Eleventh Circuit (*In re Phoenix Piccadilly, Ltd.*, 849 F.2d 1393, 1395 (11th Cir. 1988) (holding that bad faith alone is sufficient to warrant dismissal, because “the possibility of a successful reorganization cannot transform a bad faith filing into one undertaken in good faith”)).¹⁷

As it recognized, the *Aldrich* court’s application of *Carolin*’s test to *Aldrich* and *Murray* leads to absurd results—the *more profitable* and *less* financially distressed a “debtor” is, the *more* immune from dismissal its petition becomes. *See Aldrich Pump LLC*, 2023 WL 9016506, at *24.

The Bankruptcy Courts’ misapplication of *Carolin/Premier* creates secondary “differences of opinion” in its wake. The *Aldrich* Bankruptcy Court refused to dismiss despite compelling evidence that the Debtors filed bankruptcy to gain a tactical litigation advantage and finding that the corporate restructuring was performed to isolate the asbestos liabilities from the rest of the Trane Enterprise and to obtain bankruptcy relief for the Trane Enterprise without other affiliates having to file for bankruptcy themselves. *Aldrich Pump LLC*, 2023 WL 9016506, at *5. But in *Patel*, the same court held that “using the bankruptcy system to frustrate the rights of creditors” provides sufficient cause for dismissal. *In re Patel*, No. 20-30455, 2022 WL 1420045, at *5 (Bankr. W.D.N.C. May 4, 2022). The Bankruptcy Court in *Aldrich* stated that the Bankruptcy Code does not require the rehabilitation of an ongoing business. *Aldrich Pump LLC*, 2023 WL

¹⁷ Given *Premier Auto*’s reliance on *SGL Carbon* as a bedrock of its discussion of the need for financial distress, the proposition that the Third and Fourth Circuits have a materially different view of this basic understanding of bankruptcy is questionable at best. Indeed, in *LTL Management*, Judge Ambro, writing for the Third Circuit and rejecting Johnson & Johnson’s Texas Two-Step, cited *Carolin* when noting “[o]ur confidence in the conclusion that financial distress is vital to good faith is reinforced by the central role it plays in other courts’ inquiries.” *See* 64 F.4th at 103 & n.14 (citing *Carolin*, 886 F.2d at 701, for the proposition that “one prong of the good-faith inquiry is meant to ensure the petition bears ‘some relation to the statutory objective of resuscitating a financially troubled [debtor]’” (alteration in original)).

9016506, at *29. But other courts disagree. See *In re RainTree Healthcare of Forsyth LLC*, No. 17-51237, 2018 WL 770367, at *9 (Bankr. M.D.N.C. Feb. 7, 2018); *In re Paterno*, 511 B.R. 62, 68 (Bankr. M.D.N.C. 2014).

Accordingly, substantial grounds for a difference of opinion exist, and the second factor is satisfied.

C. An Immediate Appeal Will Materially Advance the Termination of the Litigation.

“Generally, this requirement is met when resolution of a controlling legal question would serve to avoid a trial or otherwise substantially shorten the litigation.” *Martin v. Garrett*, No. 1:17-CV-350-MOC-WCM, 2020 WL 4700717, at *3 (W.D.N.C. Aug. 13, 2020) (quoting *Clark Constr. Grp., Inc. v. Allglass Sys., Inc.*, No. CIV.A. DKC 2002- 1590, 2005 WL 736606, at *4 (D. Md. Mar. 30, 2005)). Leave to appeal is appropriate where “immediate reversal of . . . [the] issue at the appellate level will save the parties unnecessary time and expense.” *Gaston v. Lexisnexis Risk Sols.*, No. 5:16-CV-9, 2017 WL 5340384, at *1 (W.D.N.C. Nov. 13, 2017) (quoting *Riley v. Dow Corning Corp.*, 876 F. Supp. 728, 731 (M.D.N.C. 1992)).

The *Aldrich* court expressly found that there is no hope of material advancement towards a real final resolution until this central issue is determined conclusively by the higher courts: “Here we are—admittedly—three years into the case, but it is because the parties have heartfelt differences of opinion about the propriety of these cases and what should result from them.” *Aldrich Pump LLC*, 2023 WL 9016506, at *32. An immediate appeal will materially advance the termination of these cases. An order reversing the dismissal orders will dispose of the W.D.N.C. Two-Step bankruptcy cases entirely, just as the rejection of the Third Circuit and the Southern District of Texas of Johnson & Johnson’s three attempts at Texas Two-Steps ended those cases. Once these cases are terminated, the Debtors and their affiliates would return to the tort system

where asbestos victims would be free to pursue litigation, exercise their Constitutionally protected right to a jury trial, settle or otherwise resolve their claims, and receive compensation for their injuries. The Debtors' asbestos personal injury victims have been denied these options since these Debtors first received bankruptcy protection—the only class of creditors to be treated so discriminatorily.

Importantly, considering this appeal now will not materially delay the proceedings below. There has never been a stay pending appeal in *Aldrich* or *Bestwall* and in both cases the Bankruptcy Courts have gone forward with other proceedings regardless of any pending appeals or requests for leave to appeal. This Court's appellate review will materially advance all Two-Step cases pending in the Western District of North Carolina. The third factor for review is satisfied.

CONCLUSION

Appeal of the Orders at issue here (1) involves controlling issues of law (2) as to which there are substantial grounds for a difference of opinion, and (3) an immediate appeal will materially advance the termination of the litigation. Accordingly, the Court should grant the Appellants leave to file interlocutory appeals of the Orders pursuant to 28 U.S.C. § 158(a)(3) and Bankruptcy Rule 8004.

Date: August 28, 2025

Respectfully submitted,

[SIGNATURE BLOCK TO FOLLOW]

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CERTIFICATE OF COMPLIANCE

I hereby certify that (1) this memorandum complies with the type-volume limitation of Fed. R. Bankr. P. 8015 (a)(7)(B) because this memorandum contains 5,578 words; and (2) this memorandum complies with the typeface requirements of Fed. R. Bankr. P. 8015(a)(5)(A) as well as the type style requirements of Fed. R. Bankr. P. 8015(a)(6) because this memorandum has been prepared in a proportionally spaced typeface in a 12-point Times New Roman font in the text and quotations, and 10-point Times New Roman font in the footnotes.

Respectfully submitted this the 28th day of August 2025.

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**CERTIFICATE OF COMPLIANCE REGARDING USE OF ARTIFICIAL
INTELLIGENCE**

Pursuant to the Court's June 18, 2024, Order, 3:24-mc-104, the undersigned hereby certifies that no artificial intelligence was employed in performing legal research for the preparation of the foregoing brief with the exception of such artificial intelligence embedded in standard online legal research sources such as Westlaw, Lexis, FastCase, and Bloomberg. The undersigned further certifies that every statement and every citation to an authority contained in the foregoing brief has been checked by me or another attorney in this case, and/or a paralegal working at my direction or at the direction of another attorney in this case, as to the accuracy of the proposition for which it is offered, and the citation to authority provided.

Respectfully submitted this the 28th day of August 2025.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing CONSOLIDATED MEMORANDUM IN SUPPORT OF MOTION FOR LEAVE TO APPEAL THE ORDERS DENYING THE ALDRICH COMMITTEE'S, MR. ROBERT SEMIAN AND FORTY-SIX OTHER MRHFM PLAINTIFFS', AND MR. WILSON BUCKINGHAM AND MS. ANGELIKA WEISS'S MOTIONS TO DISMISS was filed in accordance with the local rules and served upon all parties registered for electronic service and entitled to receive notice thereof through the CM/ECF system.

Respectfully submitted this the 28th day of August 2025.

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EXHIBIT B

Comparison of Committee's "Texas Two-Step" Allegations Across the Adversary Proceedings and Dismissal Motion

Dismissal Motion & Appeals	Adversary Proceedings
<i>THE TEXAS TWO-STEP VIOLATES STATE AND RESTRUCTURING LAW</i>	
"The Two-Step scheme is an affront to the civil justice system and the <u>fundamental precepts</u> of corporate restructuring and reorganization." Dismissal Mot. ¹ at 4.	"The Texas Two-Step violates the <u>fundamental purpose</u> of applicable state law and the Bankruptcy Code." Fraudulent Transfer Compl. ² at 4; Fiduciary Duty Compl. ³ at 5.
<i>THE TEXAS TWO-STEP ALLOWS THE DEBTORS TO GAIN AN UNFAIR LITIGATION ADVANTAGE</i>	
"The Debtors and their affiliates have manipulated the process to <u>force the claimants into an untenable dilemma</u> : either they endure more prejudicial delay or <u>they settle for 524(g) trust funding that is far less than warranted in light of the extensive asbestos liabilities</u> and the vast resources and profits of the Trane plc enterprise group that can pay those liabilities." Dismissal Mot. at 40.	"In sum, the Corporate Restructuring and subsequent bankruptcy filings constitute a <u>legal strategy</u> to disadvantage asbestos victims and <u>gain leverage over them</u> , with the expectation that—as claims remain unpaid, victims die, memories fade, and legal rights and remedies are lost—the asbestos claimants and their attorneys will <u>eventually knuckle under and settle for 524(g) trust funding that would be far less than warranted in light of the extensive asbestos liabilities</u> ." Sub Con Mot. ⁴ at 30-31.

¹ *Mot. of the Off. Comm. of Asbestos Pers. Inj. Claimants to Dismiss the Debtors' Ch. 11 Cases, In re Aldrich Pump LLC*, No. 20-30608 [Dkt. 1756] (Bankr. W.D.N.C. May 15, 2023) (the "Dismissal Motion").

² *Complaint, Off. Comm. of Asbestos Pers. Inj. Claimants v. Ingersoll-Rand Glob. Holding, et al.*, Adv. No. 22-03028 [Adv. Dkt. 1] (Bankr. W.D.N.C. June 18, 2022) (the "Fraudulent Transfer Complaint").

³ *Complaint, Off. Comm. of Asbestos Pers. Inj. Claimants v. Trane Techs. PLC, et al.*, Adv. No. 22-03029 [Adv. Dkt. 1] (Bankr. W.D.N.C. June 18, 2022) (the "Fiduciary Duty Complaint").

⁴ *Mot. of the Off. Comm. of Asbestos Pers. Inj. Claimants for Substantive Consolidation of Debtors' Estates with Certain Nondebtor Affiliates, or Alternatively, to Reallocate Debtors' Asbestos Liabilities to Those Affiliates, In re Aldrich Pump LLC*, No. 20-30608 [Dkt. 851] (Bankr. W.D.N.C. Oct. 18, 2021) (the "Sub Con Motion").

Dismissal Motion & Appeals	Adversary Proceedings
<i>THE TEXAS TWO-STEP ALLOWS THE DEBTORS TO GAIN AN UNFAIR LITIGATION ADVANTAGE (CONT.)</i>	
"[T]he Debtors and their affiliates have used the Two Step to manipulate the bankruptcy process in order to <u>gain litigation advantages over claimants</u> that would be unavailable to them in the tort system and <u>pressure the Committee and its creditor constituency</u>. This is cause enough for dismissal." Dismissal Mot. at 42. "As shown above, the Debtors have resorted to chapter 11 to cause hardship and delay in order to <u>coerce asbestos claimants into settling for substantially less than what is owed to them</u>." Dismissal Mot. at 51. "[T]he corporate restructuring and the follow-on bankruptcies are a <u>litigation tactic</u> designed to prejudice and harm asbestos claimants and to <u>coerce</u> them into an <u>unfavorable resolution</u> of the asbestos liabilities." July 14, 2023 Hr'g Tr.⁵ at 63:17-20.	"Defendants acted in concert and conspired on a fraudulent scheme designed to strip the valuable assets of Ingersoll-Rand and Old Trane from their significant asbestos liabilities and file bankruptcy petitions for the entities laden with those asbestos liabilities (Aldrich and Murray) in order to hinder and delay payment of those liabilities and to <u>use the bankruptcy claims process to delay and seek to avoid or reduce recoveries to asbestos victims</u> and abridge or even eradicate their rights." Fraudulent Transfer Compl. at 4-5; Fiduciary Duty Compl. at 6, 48.
<i>THE TEXAS TWO STEP ALLOWS THE NON-DEBTORS TO ISOLATE THEMSELVES FROM ASBESTOS LIABILITY</i>	
"While the Debtors are not single-asset entities, they nevertheless were formed with the express purpose of <u>isolating the Non-Debtor Affiliates</u>, their profitable businesses, and the Trane enterprise group <u>from asbestos claims</u>." Dismissal Mot. at 46-47.	"Defendants perpetrated intentional and constructive fraudulent transfers by implementing two divisional mergers, purportedly in compliance with Texas law, to divide entities within the Trane Organization so as to <u>separate the Trane Organization's valuable assets and non-asbestos liabilities from its asbestos liabilities</u> and filing bankruptcies to hinder, delay and defraud asbestos victims." Fraudulent Transfer Compl. at 2.

⁵ July 14, 2023 Hr'g Tr., *In re Aldrich Pump LLC*, No. 20-30608 [Dkt. 1888] (Bankr. W.D.N.C. July 24, 2023) (the "July 14, 2023 Hr'g Transcript").

Dismissal Motion & Appeals	Adversary Proceedings
<i>THE TEXAS TWO STEP ALLOWS THE NON-DEBTORS TO ISOLATE THEMSELVES FROM ASBESTOS LIABILITY (CONT.)</i>	
"[A]s your Honor knows and as substantial evidence was developed in connection with the preliminary injunction proceeding, the sole objective of Project Omega, as it was called, and the corporate restructuring more generally was the <u>isolation of the Trane plc enterprise's asbestos tort liabilities</u> into <u>non-operating shells</u> to give the corporations a bankruptcy discount." July 14, 2023 Hr'g Tr. at 59:7-13. "The Corporate Restructuring and follow-on bankruptcies have enabled the Debtors to <u>run their chapter 11 cases for the benefit of their non-debtor insiders and affiliates</u>, not their asbestos creditors." Dismissal Mot. at 42.	The Corporate Restructuring created Aldrich and Murray as <u>empty shells</u>, with few (insufficient) assets, employees and operations, and wholly dependent on Defendants for any ability to pay their creditors, which creditors consist only of asbestos creditors, <u>leaving all non-asbestos creditors completely unaffected</u> by the Corporate Restructuring. Fraudulent Transfer Compl. at 48. "Through this [Texas Two Step] stratagem, the Debtors and Non-debtor Affiliates have sought to <u>isolate their asbestos liabilities from profitable operating businesses</u> and to single out asbestos victims for unfair and discriminatory treatment by essentially breaking TTC and Trane into separate corporate entities that Plaintiff now seeks to consolidate." Sub Con Compl.⁶ at 1-2. "These corporate transactions and the resulting bankruptcies are commonly referred to as the 'Texas Two-Step,' an attorney-designed strategy to (i) create separate <u>'good' companies</u> with all the assets and non-asbestos liabilities and <u>'bad' companies</u> with all the asbestos liabilities, and (ii) file bankruptcy petitions for the 'bad' companies and use the bankruptcy process to hinder, delay and defraud the claims of asbestos victims." Fraudulent Transfer Compl. at 3; Fiduciary Duty Compl. at 4.

⁶ *Complaint for Substantive Consolidation of Debtors' Estates with Certain Nondebtor Affiliates or, Alternatively, to Reallocate Debtors' Asbestos Liabilities to Those Affiliates*, Off. Comm. of Asbestos Pers. Inj. Claimants v. Aldrich Pump LLC, et al., Adv. No. 21-03029 [Adv. Dkt. 1] (Bankr. W.D.N.C. Oct. 18, 2021) (the "Sub Con Complaint").

EXHIBIT C

ASBESTOS PERSONAL INJURY CLAIMANTS OF
ALDRICH PUMP LLC AND MURRAY BOILER LLC,
by and through its undersigned counsel

August 7, 2025

VIA EMAIL

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Re: *In re Aldrich Pump LLC, et al.*, Case No. 20-30608 (LMJ); Adv. Pro. No. 21-3029 (LMJ) (the “SubCon Proceeding”); Adv. Pro. No. 22-3028 (LMJ) (the “Fraudulent Transfer Proceeding”); and Adv. Pro. No. 22-3029 (LMJ) (the “Fiduciary Duty Proceeding” and, together with the SubCon Proceeding and the Fraudulent Transfer Proceeding, the “Proceedings”)

Counsel:

On behalf of the Official Committee of Asbestos Personal Injury Claimants (the “Committee”), we write in response to your letter of March 7, 2025 (“Defendants’ Letter”) outlining what you claim to be deficiencies in the Committee’s May 28, 2024 responses and objections (the “Responses”) to the interrogatories (the “Interrogatories”), requests for production (the “RFPs”), and requests for admission (the “RFAs”) served by you in the above-referenced adversary proceedings.

The Committee incorporates by reference its prior letter of October 23, 2024 (the “Prior Letter”), which addresses many of the issues in Defendants’ Letter, and responds here for the limited purpose of clarifying its positions Defendants appear to have misconstrued those positions.

The Committee is available to meet and confer as necessary on any of the issues discussed in Defendants' Letter or herein.

I. Introduction to Defendants' Letter and General Objections (RFPs – Global)

Defendants' Letter inaccurately claims that the Committee is asserting complete immunity from discovery. Not so. The Prior Letter explained that (a) the “overwhelming majority” of the Committee's documents are “protected by the attorney-client privilege, the work product doctrine, the common interest privilege,” and other privileges and protections, and (b) any remaining non-privileged information “is extremely limited and irrelevant to the issues at hand.” Prior Letter at 3. This is not a claim of total immunity from discovery; it is the basis for the Committee's assertion that it does not have relevant, non-privileged documents to produce.

Moreover, Defendants' reliance on *Adelphia Communications* is puzzling, since that case is both inapposite and unfavorable to Defendants. *In re Adelphia Commc'ns Corp.*, 348 B.R. 99 (S.D.N.Y. 2006). It is inapposite because it involved a dispute over whether a specific protocol establishing a fee committee granted that immunity from discovery or suit. *Id.* at 102, 109. And it is unfavorable to Defendants because the fee committee in *Adelphia* received a protective order, and the court even instructed the propounding party to try obtaining relevant information from *other sources* before seeking it from the Committee. *Id.* at 102, 110.

The Committee also disagrees that it is “inexplicably” refusing to produce press inquiries to which its counsel did not respond. The Committee disputes that these documents are relevant to these adversary proceedings. Nor are they responsive to Defendants' various requests focusing on the bases for the Committee's contentions in the adversary proceedings.¹ And Defendants' argument that “[o]ther responsive documents likely exist” is nothing more than speculation. *See Kinetic Concepts, Inc. v. ConvaTec Inc.*, 268 F.R.D. 226, 252 (M.D.N.C. 2010) (“[E]ven an informed suspicion that additional non-privileged documents exist . . . cannot alone support an order compelling production of documents.”).

In short, Defendants have not identified any factual basis for their assertion that the Committee has responsive, non-privileged documents in its possession, custody, or control. The Committee will be prepared to discuss these issues further during the next meet and confer.

II. General Objections (Interrogatories – Global)

The Committee disagrees that it failed to respond fully to Defendants' Interrogatories but will be prepared to discuss these issues during the next meet and confer. To clarify the Committee's position stated in the Prior Letter, the Committee did not withhold any information from its responses based on its objection that Defendants exceeded the permitted number of Interrogatories. The Committee will be prepared to discuss these issues further during the next meet and confer.

¹ In addition, as previously stated, the Committee's possession, custody, and control is limited to documents in its members' or professionals' possession, custody, or control only *while and to the extent* they are acting in their capacity as Committee members or professionals. Prior Letter at 3.

III. General Objections (RFAs – Global)

Defendants' Letter characterizes as "bizarre[]" the Committee's objections to Defendants' efforts "to use discovery requests to have the Committee ratify or endorse Defendants' factual contentions and legal conclusions." But the law supports the Committee's position. *See, e.g., Watkins v. Lincare, Inc.*, No. 3:22-CV-00109, 2023 WL 5490181, at *7 (S.D.W. Va. Aug. 24, 2023) ("Requests for admission are not a vehicle to establish disputed facts. *Dowdy v. The Coleman Company*, No. 1:11-cv-00045-DAK-EJF, 2012 WL 5450039, at *1 (D. Utah 2012). Moreover, they are not a device 'to have [the answering party] ratify what are, in essence, the legal conclusions that the [moving party] ha[s] attached to the operative facts of the case.' *Roe v. Bishop of Charleston*, No. 2:21-CV-00020-RMG, 2021 WL 4272595, at *5 (D.S.C. Sept. 20, 2021) (quoting *Lakehead Pipe Line Co.*, 177 F.R.D. at 458).") (alterations in original).

Defendants' Letter also accuses the Committee of trying to "evade discovery" and "demand[s] the Committee respond to the RFAs in accordance with Fed. R. Civ. P. 36." But the Committee still provided a "clear and unequivocal response" to every RFA, making its responses sufficient as a matter of law. *Watkins*, 2023 WL 5490181, at *3.

Finally, Defendants' Letter addresses none of the issues the Committee raised concerning the vague, ambiguous, and compound nature of many of the RFAs. As stated in the Prior Letter, the Committee is willing to discuss these issues further during the next meet and confer.

Substantive Consolidation Proceeding

IV. General Objection 26

The Committee is not refusing to produce any documents, declining to provide any interrogatory answers, or denying any request for admission solely based on General Objection 26.

V. Interrogatory Responses

Defendants' discovery to the Committee includes several interrogatories regarding estimation of the Debtors' aggregate asbestos liability, including Interrogatories 5 and 6. The Court has entered the *Second Amended Case Management Order for Estimation of Asbestos Claims* ("Second Amended Estimation CMO")² in the Estimation Proceeding.³ The Committee will fully comply with all deadlines set forth in the Second Amended Estimation CMO and any further deadlines agreed to or ordered by the Court in the Estimation Proceeding. The Defendants' requests for the Committee's estimation-related work before those deadlines have passed—or in some cases, even been set—is premature.

² Case No. 20-30608 (LMJ), Dkt. No. 2656.

³ The "Estimation Proceeding" was commenced by the *Order Authorizing Estimation of Asbestos Claims*, Case No. 20-30608, Dkt. No. 1127.

August 7, 2025

Page 4

Defendants also demand responses to several interrogatories that the Committee is unable to respond to until Defendants comply with their own discovery obligations and/or may be the subject of expert testimony that would be disclosed at the time required by Civil Rule 26(a)(2)(D), Bankruptcy Rule 7026, and any applicable orders. Discovery is ongoing and the Committee reserves its rights to supplement its responses as necessary and appropriate. *See, e.g.*, Sub Con Interrogatories 1, 4, 5, 7.

The Committee believes the remaining issues were already addressed in the Prior Letter, but is prepared to discuss these issues further during the next meet and confer.

VI. RFPs

Defendants' discovery to the Committee includes several RFPs regarding estimation of the Debtors' aggregate asbestos liability, including RFPs 21 and 22. As set forth above, the Committee will fully comply with all deadlines set forth in the Second Amended Estimation CMO and any further deadlines agreed to or ordered by the Court in the Estimation Proceeding. The Defendants' requests for the Committee's estimation-related work before those deadlines have passed—or in some cases, even been set—is premature.

The Committee believes these issues were already addressed in the Prior Letter, but is prepared to discuss these issues further during the next meet and confer.

VII. RFAs

Defendants purport to take issue with the Committee's responses to Sub Con RFAs 9 and 10, asserting that the "Committee's refusal to respond to these RFAs based on the Mediation Order is baseless". Defendants' Letter at 5-6. Defendants then quote Fraudulent Transfer RFAs 9 and 10, presumably in error. *Id.* Sub Con RFAs 9 and 10 deal with estimation and plainly implicate the Mediation Order. The Committee asks that the Defendants clarify their position. The Committee also notes, again, that the Committee will fully comply with all deadlines set forth in the Second Amended Estimation CMO and any further deadlines agreed to or ordered by the Court in the Estimation Proceeding. The Defendants' requests for the Committee's estimation-related work before those deadlines have passed—or in some cases, even been set—is premature. Subject to and without waiving its objections, the Committee admits that, as the Debtors are aware, the Committee is a party to the estimation proceeding. As part of that, the Committee continues to develop an estimate of the aggregate value of the Debtors' Asbestos-Related Liabilities. The Committee otherwise denies Sub Con RFAs 9 and 10.

Defendants also ask that the Committee clarify its response to RFA 11. Discovery is ongoing and the Committee reserves its right to continue to review any materials that Defendants eventually produce to determine whether an asbestos claimant has fixed a judgment lien on any or all of Old IRNJ's or Old Trane's assets. Subject to and without waiving its objections, the Committee admits that it is not currently aware of any instance where an asbestos claimant fixed a judgment lien on any of Old IRNJ's or Old Trane's assets, but will update this response in

accordance with Rule 26(e) of the Federal Rules of Civil Procedure should any additional information come to light. The Committee otherwise denies Sub Con RFA 11.

The Committee believes the remaining issues raised by Defendants were already addressed in the Prior Letter. The Committee will be prepared to discuss these issues further during the next meet and confer.

Fraudulent Transfer Proceeding

VIII. Interrogatory Responses

The Committee believes these issues were already addressed in the Prior Letter. The Committee will be prepared to discuss these issues further during the next meet and confer.

IX. RFAs

The Committee believes these issues were already addressed in the Prior Letter. The Committee will be prepared to discuss these issues further during the next meet and confer.

* * *

August 7, 2025

Page 6

Nothing contained herein shall constitute a waiver, either express or implied, of the rights of our clients' rights or remedies, whether at law or in equity, all of which are hereby reserved.

Very truly yours,

HAMILTON STEPHENS STEELE
+ MARTIN, PLLC

/s/ Robert A. Cox, Jr.

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**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)

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS,
Plaintiff,

v.

Adv. Pro. No. 21-03029 (LMJ)

ALDRICH PUMP LLC, MURRAY
BOILER LLC, TRANE TECHNOLOGIES
COMPANY LLC, and TRANE U.S. INC.,
Defendants.

OFFICIAL COMMITTEE OF ASBESTOS
PERSONAL INJURY CLAIMANTS, on
behalf of the estates of Aldrich Pump LLC
and Murray Boiler LLC,
Plaintiff,

v.

Adv. Pro. No. 22-03028 (LMJ)

INGERSOLL-RAND GLOBAL HOLDING
COMPANY LIMITED, TRANE
TECHNOLOGIES HOLDCO INC.,
TRANE TECHNOLOGIES COMPANY
LLC, TRANE INC., TUI HOLDINGS
INC., TRANE U.S. INC., and MURRAY
BOILER HOLDINGS LLC,
Defendants.

NOTICE OF HEARING

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.

NOTICE IS HEREBY GIVEN that Aldrich Pump LLC., et al., Defendants in the above-captioned cases, have filed the Defendants' Motion to Stay Adversary Proceedings (the "Motion").

If a copy of the Motion is not included with this Notice, a copy may be viewed at the Court's website, www.ncwb.uscourts.gov under Debtor Aldrich Pump LLC's name and case number, you may obtain a copy of the Motion from the Debtors' claims and noticing agent at www.kcellc.net/aldrich, or you may request in writing a copy from the undersigned counsel to the Debtors.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THESE BANKRUPTCY CASES. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WANT THE COURT TO GRANT THE RELIEF REQUESTED IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN ON OR BEFORE THURSDAY, OCTOBER 16, 2025, YOU MUST:

- (1) A. File with the Bankruptcy Court a written objection at:

Clerk, United States Bankruptcy Court
401 W. Trade Street
Charlotte, North Carolina 28202

- B. If you have your attorney file a written objection then the objection should be filed with the Bankruptcy Court by electronic means through the Court's website, www.ncwb.uscourts.gov under the jointly administered name and case number shown above.

- (2) Serve the objection pursuant to the procedures set forth in the Order Establishing Certain Notice, Case Management, and Administrative Procedures (Docket No. 123).

- (3) Attend the hearing scheduled for October 23, 2025, at 9:30 a.m. EDT or as soon thereafter as the matter can be heard in the Bankruptcy Courtroom 2B, 401 West Trade Street, Charlotte, North Carolina. You should attend this hearing if you file an objection.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought and may enter an Order granting the relief requested. No further notice of that hearing will be given.

This the 2nd day of October, 2025.

/s/ Bradley R. Kutrow

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