

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

ALDRICH PUMP LLC, *et al.*,

Debtors.

Chapter 11

Case No. 20-30608 (LMJ)

(Jointly Administered)

**THE FUTURE ASBESTOS CLAIMANTS' REPRESENTATIVE'S
JOINDER TO THE DEBTORS' MOTION FOR RULE 2004 EXAMINATION OF THE
OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS**

Joseph W. Grier, III, the representative for future asbestos claimants in the above-captioned cases (the "FCR"), through counsel, hereby files this *Joinder* to the *Debtors' Motion for Bankruptcy Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants* (the "ACC") (the "Rule 2004 Motion") [Dkt. No. 2824].

The best interests of all asbestos claimants undoubtedly lie in full, prompt, fair, and merit-based compensation for their claims. The FCR has long expressed his concern that those interests are not being adequately advanced and protected by the ACC in these cases. Rather, it appears that the ACC law firms have been making decisions by proxy, perhaps more consistent with their personal interests than those of the creditor class they are charged with representing.¹

On September 22, 2025, the Court entered its *Order Granting in Part and Denying in Part the Official Committee of Asbestos Personal Injury Claimants' Motion to Substitute Committee Members* (the "Substitution Order") providing for the replacement of ACC members who have

¹ See, e.g., Dkt. 1809 (FCR's Opposition to ACC Mot. to Dismiss); Dkt. 2786 (FCR's Response to the ACC's Motion to Substitute Committee Members) (citing, among other authorities, *In re Cyprus Mines Corp.*, Case No. 21-10398 (LSS), Dkt. 302 at 9-10 (Bankr. D. Del. May 18, 2021) (Judge Silverstein of Delaware, discussing the practice of law firms sitting on committees by proxy and setting out certain "first principles" relative to committee members and their counsel)).



died.² Thus, the prospect of a fresh start with a renewed committee presents an opportunity to consider governance issues key to the appropriate functioning of any chapter 11 creditors' committee. The discovery sought by the Rule 2004 Motion aims to determine the extent of any past problems, which could help identify issues and shape appropriate measures to address them.

As the FCR pointed out previously, the issue of adequate representation on the ACC first came to light with the deposition of then-committee member, Mr. Robert Overton, who testified that he did not know if he was on the committee.³ Soon after his appointment to the ACC, Mr. Overton died, having received no compensation from the Debtors during his lifetime as has been the case with many of the creditors for whom he served as a fiduciary. Meanwhile, however, the ACC has spent years and tens of millions of dollars in professional fees pursuing a dismissal strategy, admitting that it was motivated to prevent this Court from finding, as the *Garlock*⁴ court did, that certain law firms had engaged in a practice of suppressing exposure evidence.⁵ Indeed, more than two years ago, Judge Whitley identified both law firm motivations in the *DBMP* case, observing that “the tort firms themselves [were possibly] protecting their pecuniary interests” and “[the Aldrich ACC counsel] acknowledged . . . the fear they were going to get tarred with the . . . *Garlock* brush that, of making nondisclosures.”⁶ Likewise, the Fourth Circuit has suggested that

² Dkt. 2814.

³ See *The Future Asbestos Claimants' Representative's Response to the ACC's Motion to Substitute Committee Members*, Dkt. 2786 at 8, n.12 (quoting Nov. 9, 2020 Depo. Tr., *Robert Overton vs. Armstrong Int'l, Inc.*, No. 20-1482 (Mass. Super. Ct. Dept of the Trial Court) at 329:9-15; 378:11-24; 379:1-6, 12-16, 20-22; 380: 2-5); *The Future Asbestos Claimants' Representative's Opposition to the Motion to Dismiss on Behalf of Robert Semian and Other Clients Of MRHFM*, Dkt. 1779 at 16-17, n.50, and Ex. C.

⁴ *In re Garlock Sealing Techs., LLC*, Case No. 10-31607 (GRH), filed in this district on June 5, 2010.

⁵ See Jan. 26, 2023 Hr'g Tr., at 38:25; 39:1-10, Dkt. 1599 (ACC counsel stating the ACC seeks to avoid “some very critical determinations about the way the plaintiffs and the tort lawyers behaved in the tort system”); Mar. 27, 2025 Hr'g Tr. at 38:15-18 (ACC counsel stating: “The risk is that, like Judge Hodges in *Garlock*, the Court is presented with and asked to make findings of, essentially, some sort of wrongdoing, some sort of misconduct. That's the risk and that is what we are in a position of trying to avoid”).

⁶ *In re DBMP*, Case No. 20-30080, Dkt. 2280, Feb. 9, 2023 Hr'g Tr., at 92:22-25, 93:1-6.

the ACC law firms may be motivated in these asbestos bankruptcies by “aspirational greater fees.”⁷ Neither motivation can be squared with the best interests of claimants in receiving prompt, full compensation.

Because the ACC correctly characterizes its fiduciary constituency, current claimants, as a “tiny little” class that does not specially inform the issue of what an asbestos trust will need, it has acknowledged that “the real issue here is the futures.”⁸ Thus, the ACC’s misaligned proxy decision-making in seeking dismissal not only harms current claimants, it also directly harms the much larger class of future claimants—the FCR’s constituency. Unquestionably, thousands of future claimants have been diagnosed post-petition and died from terminal asbestos illnesses, without receiving compensation from the Debtors. In the meantime, these cases have languished, incurring more than \$150 million in professional fees.⁹

At a hearing on July 24, 2025, the FCR again voiced concern that creditors, including members of the ACC, were dying from mesothelioma, a terminal, fast-progressing disease, without recompense for their illness.¹⁰ Thereafter, the ACC filed its *Motion to Substitute Committee Members* (the “Motion to Substitute”) revealing that eight of its members had died even while it

⁷ In affirming key *Bestwall* orders, the Fourth Circuit described ACC law firm tactics as “relentless[] attempt[s] to circumvent the bankruptcy proceeding,” while noting that “aspirational greater fees that could be awarded to the claimants’ counsel in the state-court proceedings is not a valid reason to object to the processing of the claims in the bankruptcy proceeding....”). *In re Bestwall LLC*, 71 F.4th 168, 184 (4th Cir. 2023). As recently as August 1, 2025, Judge Agee’s concurrence in the Fourth Circuit opinion denying the ACC’s latest motion to dismiss in *Bestwall* noted anew: “But in the eight years this case has been pending, it is the [ACC] that has filed multiple challenges that have impeded progression to a plan and confirmation hearing.... That begs the question, as we previously noted in *In re Bestwall LLC*, as to whether the delay relates to valid claims or a desire for perceived higher attorneys’ fees should the claims be removed and be adjudicated outside of bankruptcy? Perhaps future review will answer that question.” *Bestwall LLC v. Off. Comm. of Asbestos Claimants of Bestwall, LLC*, No. 24-1493, 2025 WL 2177391, at *10 n.2 (4th Cir. Aug. 1, 2025).

⁸ Dkt. 575, Jan. 28, 2021, Hr’g Tr., at 139:8-15 (ACC counsel stating: “In the scheme of the debtors’ long history and in the scheme of the anticipated future litigation, [the class of current claims] is a tiny little population that does not uniquely or specially inform the issue of what it is that the trust is likely to need. The real issue here is the futures.”).

⁹ The FCR’s professional fees to date are approximately 5% of that total.

¹⁰ Dkt. 2800, Jul. 24 Hr’g Tr. 20:20–21:1.

had been making critical decisions as to strategy in these cases.¹¹ Those decisions included, problematically for creditors, various efforts to dismiss these cases, both directly and indirectly, and a refusal to participate in meaningful plan discussions, including over the Debtors' proposed plan.

Most recently, these problematic decisions extended to the provision of a liability estimate on September 15, 2025, as ordered by the Court. Without providing specifics, the FCR contends that the ACC's estimate by Legal Analysis Systems reflects an unrealistically high figure especially in comparison with reports in other asbestos cases provided by Legal Analysis Systems. Whether the ACC's expert report was prepared with the full knowledge and understanding of the last three committee members will be a consideration with respect to the ACC's motion to amend the case management order, filed on October 10, 2025, which seeks to keep the high level, non-confidential conclusions of the ACC's expert from being disclosed to the creditor class. And, of course, that leaves open the question of whether a committee of only three is sufficient when the Court and the non-ACC parties understood that the ACC was comprised of eleven members.

At the hearing on the Motion to Substitute, the ACC approached its request for relief as a routine, administrative matter, apparently failing to recognize that there is no special exemption for asbestos creditors' committees that permits decisions to be made by proxy.¹² Underscoring that point, the Court stated in its ruling that committee members "cannot abdicate their role and their counsel do not sit by proxy."¹³ Thus, the Court tasked the Bankruptcy Administrator with

¹¹ Dkt. 2769, ¶¶ 7-23.

¹² Dkt. 2814, Aug. 28 Hr'g Tr. at 8:23.

¹³ Dkt. 2814; Aug. 28 Hr'g Tr. at 48:1-14.

identifying new committee members who are able and willing to perform their fiduciary obligations.¹⁴

The Substitution Order set in motion the first step toward resolving this case for the benefit of creditors, the appointment of a properly constituted and functioning creditors' committee that adequately represents the class of current claimants,¹⁵ free of conflicts¹⁶ and fully able to perform its statutory function pursuant to Section 1102(b)(1) of the Bankruptcy Code. The next step—one no less critical—will be to determine appropriate committee governance measures. In that regard, the discovery sought by the Debtors will inform the Court, the Bankruptcy Administrator, and the parties as to past practices and, more critically, help inform what procedures may need to be put in place to ensure that the ACC, going forward, can function properly in alignment with the interests of its creditor constituency. The Debtors' discovery is not burdensome, does not seek privileged information, and is directly relevant to the claimants' best interests, including determining the measures going forward to ensure their best interests are being properly represented.

¹⁴ *Id.*; Substitution Order at 2-3.

¹⁵ See 11 U.S.C. 1102(a)(4) (requiring adequate representation); *A.H. Robins Co. v. Piccinin*, 788 F.2d 994, 1015 (4th Cir. 1986) (holding a “Committee is not authorized to represent the individual interests of any claimant, as distinguished from the general interests of all claimants[.]”).

¹⁶ See *In re Whittaker, Clark & Daniels, Inc.*, No. 23-13575, Dkt. 957 (ACC objection to appointment of official committee of unsecured creditors, on grounds that these creditors are conflicted and noting that committee members owe fiduciary duties to all creditors); *In re Cyprus Mines Corp.* No. 21-10398 (LSS), 2021 WL 2105427 (Bankr. D. Del. May 18, 2021) (claimants represented by Kazan, McClain, Satterley, & Greenwood (“Kazan McClain”), which sits on the Aldrich ACC, seeking an independent, unconflicted committee).

For these reasons, the FCR respectfully requests that the Court enter an Order granting the Rule 2004 Motion and providing such further relief as is just and proper.

Dated: October 16, 2025
Charlotte, North Carolina

Respectfully submitted,

/s/ A. Cotten Wright

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