UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re	Chapter 11
ALDRICH PUMP LLC, *et al.*,	Case No. 20-30608 (LMJ)
Debtors.	(Jointly Administered)

THE FUTURE ASBESTOS CLAIMANTS' REPRESENTATIVE'S RESPONSE TO THE MOTION OF THE OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS TO AMEND THE SECOND AMENDED CASE MANAGEMENT ORDER FOR ESTIMATION OF ASBESTOS CLAIMS AND/OR THE PROTECTIVE ORDER

Joseph W. Grier, III, the representative for future asbestos claimants in the above-captioned cases (the "FCR"), through counsel, hereby files this *Response* to the *Motion to Amend the Second Amended Case Management Order For Estimation Of Asbestos Claims and/or The Protective Order* (the "Motion to Amend") filed by the Official Committee of Asbestos Personal Injury Claimants (the "ACC") [Dkt. No. 2828].

The Motion to Amend, on its face, defies reasonable explanation. Earlier this year, the parties and the Court made painstaking efforts to settle on the language of the Second Amended Estimation CMO (the "Estimation CMO").[1] The Court set out a clear sequence of events: the parties would exchange reports (the "Initial Expert Reports"), would use them to focus the issues and advance negotiations, and would reserve docket filings until the appropriate time. The Debtors and FCR have followed that sequence. Neither the Debtors nor the FCR has signaled any disclosure that would breach the terms of the *Agreed Protective Order Governing Confidential*

[1] *Aldirch*, Dkt. 2656 (Bankr. W.D.N.C. Apr. 17, 2025).

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Information (the "Protective Order").[2] Thus, the status quo protects every legitimate confidentiality interest.

Why, then, did the ACC file the Motion to Amend? Because it truly is not about confidentiality. It is about imposing a gag on both the Court and the claimants—the ACC's constituency—from seeing even high-level, non-confidential conclusions in the ACC's report. Rather than expose an indefensible number, the ACC goes to extraordinary lengths to hide the ball. The Court's orders, and the very purpose of the Bankruptcy Code, do not countenance that result. The better course is the one already envisioned by the Protective Order and the parties' fiduciary obligations: making targeted redactions where necessary (already agreed to and applied), submitting filings where necessary to support or respond to a motion (which has not yet occurred), and sharing critical information with committee members so they can serve as informed fiduciaries (which, the FCR believes, also has not yet occurred). Simply put, the Motion to Amend supplies no grounds to amend the Estimation CMO. Instead, it amply demonstrates the pressing need for a Rule 2004 examination and, as appropriate, further relief addressing the ACC's handling of its expert report.

ARGUMENT

There is no good cause for the Motion to Amend.[3] The Court has twice amended the Estimation CMO and directed the parties to exchange Initial Expert Reports by September 15—which they did. No party has threatened to violate the Protective Order in any way. Curiously,

[2] *Aldrich*, Dkt. 345 (Bankr. W.D.N.C. Sept. 23, 2020). The ACC indicates in the Motion to Amend that the FCR has planned to immediately file the Initial Expert Reports on the public docket. Motion to Amend at 4. It is unclear what that allegation is based on because the FCR has not stated an intention to do so.

[3] *See Nexus Techs., Inc. v. Unlimited Power, Ltd.*, No. 1:19-CV-00009-MR, 2020 WL 5739601, at *2 (W.D.N.C. Sept. 24, 2020) (under Rule 26(c), courts "may, for good cause, issue [or amend] a protective order to protect a party's trade secrets or other confidential research, development, or commercial information").

the ACC now seeks again to amend the Estimation CMO, and/or the Protective Order, having never raised the issue before (despite multiple opportunities), forcing the parties and the Court to expend more time and resources on meritless motion practice. The Motion to Amend flies in the face of the Court's multiple directives that estimation proceed unobstructed.[4] It is also plainly unnecessary because the existing Protective Order has sufficient confidentiality protections. What the Protective Order does not and should not do, however, is permit the ACC to unilaterally gatekeep disclosure of the Initial Expert Reports and their top-line liability estimates with respect to the Debtors' asbestos liabilities.

Context as to how we arrived here is critical. Four years ago, the ACC filed an application to employ Dr. Mark Peterson of Legal Analysis Systems, Inc. ("LAS") as their claims expert.[5] In his supporting declaration, Dr. Peterson cited his work in other matters that resulted in confirmed plans, most notably *Garlock,*[6] in which Dr. Peterson himself authored an initial expert report in February 2013.[7] That report,[8] relying on *Garlock* debtors' claims database, estimated Garlock's liabilities to be between approximately $1.1 billion and $1.3 billion as of the February 2010 petition date. The comparison to the *Garlock* case matters because the Debtors' asbestos liabilities largely arise from third-party encapsulated asbestos products (gaskets and packing) contained in their pumps and HVAC equipment.[9] Garlock was the leading manufacturer of those products. Given that overlap and considering that all incidence curves for mesothelioma show claims

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[4] *See, e.g.,* Mar. 27, 2025 Hr'g Tr. at 8:1-3; Apr. 15, 2025 Hr'g Tr. at 6:19-20.

[5] *Aldrich*, Dkt. 900 (Bankr. W.D.N.C. Nov. 22, 2021).

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

[7] *Garlock*, Dkt. 4464-1, Ex. C, Initial Expert Report of Mark A. Peterson § 8 ("Liability Forecasts") (Bankr. W.D.N.C. Apr. 1, 2015).

[8] *Id*.

[9] See *Aldrich*, Dkt. 5 (Bankr. W.D.N.C. Jun. 18, 2024) ("Informational Brief") at 25-26.

reducing over time, an apples-to-apples estimate of the Debtors' liabilities here would be expected to be lower.

Dr. Peterson's fee applications in this case confirm that he had developed an initial estimate as early as February 3, 2022.[10] Since then, the ACC has resisted estimation at every turn, and has refused to provide any estimate of the Debtors' liabilities, until finally ordered to exchange its Initial Expert Report.[11] The report it provided last month was prepared by Andrew Sackett, and does not appear to be a good-faith estimate of the ACC's asbestos liabilities.[12] Moreover, it appears that Sackett is not qualified to provide an estimate of the Debtors' liabilities. The ACC's application to employ Dr. Peterson did not identify Sackett as an estimation expert, and the Court never approved Sackett to serve as a testifying expert. That may explain the ACC's insistence on restricting access to the report beyond what the Protective Order contemplates.

The Motion to Amend also reflects an even deeper breakdown in committee oversight (as detailed in the FCR's *Joinder to the Debtors' Motion for a Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants*).[13] The FCR has serious concerns about whether the ACC committee members ever saw the ACC's Initial Expert Report or its top-line

[10] *Aldrich*, Dkt. 1395 at 3 (Bankr. W.D.N.C. Nov. 8, 2022); *id.*, Dkt. 1567, Schedule A-1 at 3–4 (Bankr. W.D.N.C. Jan. 3, 2023).

[11] ACC counsel suggested recently that the ACC's liability estimates were provided by the ACC during the Court-ordered mediation years prior. *See* Mar. 27, 2025 Hr'g Tr. at 32:2-11 (Ms. Ramsey stating that "[i]t strains credulity to not think that there wouldn't have been discussion [in mediation] about how the parties were seeing values of cases."). In truth, until the recent filing of the ACC's Initial Expert Report, which had to be ordered by the Court, the ACC refused to provide either the FCR or the Debtors with any estimate in any context.

[12] Andrew Sackett is a bankruptcy lawyer by training, whereas Dr. Peterson has served as an expert consultant and testifying expert in mass tort cases for several decades. *See* https://www.legalstat.com/experts (last visited 10/16/2025). Sackett holds a law degree and a Ph.D. in history, but does not claim formal training in mathematics, statistics, or economics. *See In re Imerys Talc America*, No. 19-10289 (Bankr. D. Del.), Dkt. 7198, *Motion in Limine to Preclude Expert Testimony of Andrew Sackett*, at 2. On information and belief, Sackett has not previously been qualified as an expert on claim estimation or any other subject. *See id.* In *Imerys*, his proposed testimony was withdrawn, mooting the motion to exclude him. *Id.*, Mar. 19, 2025 Hr'g Tr., Dkt. 7340, at 31:16-24.

[13] *Aldrich*, Dkt. 2389 (Bankr. W.D.N.C. Oct. 16, 2025).

liability estimate. Nor can the ACC's current position be reconciled with what its advisors concluded in *Garlock*. If the number here were generated in good faith and approved by duly informed committee members, there would be no reason to seek to hide it from the Court. Visibility into the top-line figure is especially warranted because it underscores concerns that the ACC's litigation posture is driven solely by lawyers, not informed fiduciaries.

As the ACC itself stated, "a fair and accurate valuation of the asbestos claims is necessary in order for the [ACC] to participate in the administration of this case, to negotiate a plan, and otherwise discharge its fiduciary duties in connection with the Chapter 11 case."[14] Here, expert materials have been exchanged, and they may be filed only when used in court or to support or oppose a motion. At that point, a presumption of open access attaches, subject to narrow carve-outs for trade secrets, "confidential research, development, or commercial information," and "scandalous or defamatory matter."[15] Further, the "commercial information" exception is narrow: it protects material that would confer an unfair competitive advantage by revealing operational or pricing strategy, not a party's conclusion—or, in the ACC's case, advocacy—regarding the Debtors' aggregate asbestos liability.

The Bankruptcy Code presumes openness in this regard. Given the serious governance concerns at play, the ACC's stark departure from its liability estimate in *Garlock*, and its strained effort to suppress disclosure of the Initial Expert Reports even pursuant to the existing Protective

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[14] *Aldrich*, Dkt. 900, ¶ 8 (Bank. W.D.N.C. Nov. 22, 2021).

[15] *See* 11 U.S.C. § 107; *see also Gray Media Grp., Inc. v. Loveridge*, 2025 U.S. App. LEXIS 24329, *11-12 (4th Cir. 2025) (the common-law right of access extends broadly, and "can be rebutted only by showing that countervailing interests heavily outweigh the public interests in access."); *Legal Newsline v. Garlock Sealing Technologies, LLC*, No 3:13-CV-00464 (W.D.N.C. July 23, 2014) (internal citation omitted) (holding that "[w]hen a document or a hearing is sealed, a court is required to state the reasons for its decision to seal supported by specific findings, and the reasons for rejecting alternatives to sealing….").

Order, the Court should not be denied limited visibility into the ACC's estimate going forward. At a minimum, the Motion to Amend should be denied.

WHEREFORE, the FCR prays that the Court will enter an Order denying the ACC's Motion to Amend and providing such further relief as is just and proper.

Dated: October 17, 2025
Charlotte, North Carolina

Respectfully submitted,

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