

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

In re	:	Chapter 11
	:	
ALDRICH PUMP LLC, <i>et al.</i> , ¹	:	Case No. 20-30608 (LMJ)
	:	
Debtors.	:	(Jointly Administered)
	:	

**DEBTORS' REPLY IN SUPPORT OF
MOTION FOR BANKRUPTCY RULE 2004 EXAMINATION OF
THE OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS**

Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), as debtors and debtors in possession (together, the "Debtors"), file this reply in response to the *Objection of the Official Committee of Asbestos Claimants' to Debtors' Motion For Bankruptcy Rule 2004 Examination* [Dkt. 2840] (the "Objection") filed by the Official Committee of Asbestos Personal Injury Claimants (the "ACC"), and in further support of the *Debtors' Motion For Bankruptcy Rule 2004 Examination of The Official Committee of Asbestos Personal Injury Claimants* [Dkt. 2824] (the "Motion").²

In its opposition to the Motion, the ACC makes only a few arguments, each of which is easily refuted. The Debtors address those arguments below.

I. The Motion Seeks Highly Relevant Information.

1. First, the ACC argues that the discovery sought by the Debtors has "no probative value." Obj. at 1. While it is not clear what the ACC means in this regard, the ACC also states

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.

² Capitalized terms not otherwise defined herein have the same meanings given to them in the Motion.

in the same breath that the discovery serves no proper purpose. *Id.* The purpose of the discovery is exactly what the Debtors have stated in the Motion. As described therein, based on information that has come to light, without the benefit of **any discovery**, it appears that the ACC has been acting without the input **at all** from the actual members of that committee. This is a serious matter. Whether the ACC has caused years of delay and the incurrence of tens of millions of dollars in professional fees to the estates without direction from the actual members of that committee warrants investigation.

2. The Debtors and the other claimants in the cases, the future claimants represented by the FCR, are the parties harmed by the ACC's potentially unauthorized actions. The Debtors and the FCR have the right to know, by taking discovery, whether, as appears to be the case, counsel to the ACC has been taking direction not from its clients, but instead solely from tort lawyers.³ As the FCR has noted repeatedly in these cases,⁴ and the Fourth Circuit itself has observed,⁵ these tort lawyers have their own pecuniary interests that can conflict with those of the claimants and the class the ACC represents. Tort lawyers can take their own positions in

³ As such, the discovery sought is not, as the ACC suggests, merely the province of the Bankruptcy Administrator. *See* Obj. at ¶23. Relatedly, the Debtors and the FCR sent a letter to the Bankruptcy Administrator so that she understood their position in advance of additional ACC member appointments in an effort to avoid potential litigation. As the letter indicates, the appointment of ACC members is, as an initial matter, the province of the Bankruptcy Administrator, but also subject to objection. *See* Ex. A to Obj. at 1, 3.

⁴ *See, e.g., The Future Asbestos Claimants' Representative's Joinder to the Debtors' Motion for Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants* [Dkt. 2839] at 2 (citing to Judge Whitley's identification in the *DBMP* case that "the tort firms themselves [were possibly] protecting their pecuniary interests"); FCR's Limited Response at 13-16; *The Future Asbestos Claimants' Representative's Opposition to the Motion of the Official Committee of Asbestos Personal Injury Claimants to Dismiss the Debtors' Chapter 11 Cases* [Dkt. 1809] at 1.

⁵ *In re Bestwall LLC*, 71 F.4th 168, 184 (4th Cir. 2023) ("It is not clear why Claimant Representatives' counsel have relentlessly attempted to circumvent the bankruptcy proceeding, but we note 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"); *see also Bestwall LLC v. Official Committee of Asbestos Claimants of Bestwall, LLC*, 148 F.4th 233, 246 n.2 (4th Cir. Aug. 1, 2025) (J. Agee, concurring) (inquiring whether committee-imposed delays in *Bestwall* "begs the question . . . as to whether the delay relates to valid claims or the desire for perceived higher attorneys' fees should the claims be removed and adjudicated outside the bankruptcy").

these cases, and they have done so repeatedly, purportedly on behalf of their clients.⁶ But ACC counsel are fiduciaries for the class of claimants, and have been retained by this Court to fulfill such fiduciary responsibilities.⁷ If ACC counsel is not acting through the Court-appointed representatives of such class, but instead only through tort lawyers who hire ACC counsel for multiple other engagements, serious conflict of interest issues and issues of unauthorized action in a Title 11 case arise. To suggest, as the ACC does, that none of this is relevant or the proper subject of a Rule 2004 examination is simply an attempt to hide the truth from this Court and all parties in interest. Clearly, such issues "affect the administration of the debtor's estate." Fed. R. Bankr. P. 2004(b).

II. ACC Counsel Cannot Operate Without Input From Its Members.

3. Next, the ACC essentially argues that "none of this is a big deal," noting that tort committee counsel always operate without input from its actual members in chapter 11. For instance, the ACC states:

The Committee operated with a good-faith understanding that the standard practices for managing Committee business in similar asbestos and other mass-tort bankruptcies were appropriate here, including that the suitable degree of delegation between the individual committee members and their separate tort counsel is best left to the respective members.

Obj. at 2. Apparently, to the ACC, the "suitable degree of delegation" is **total delegation**. But

⁶ See, e.g., *Joinder to the ACC's Motion to Substitute Committee Members on Behalf of All Claimants Represented by MRHFM* [Dkt. 2791]; *Maune Raichle Hartley French & Mudd LLC's Objection to the Debtors' Motion to Amend Case Management Order for Estimation of Asbestos Claims* [Dkt. 2596]; *Shaun and Lisa N. Beaudoin's Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d)* [Dkt. 2243]; *Robert Semian's Motion for Relief from the Automatic Stay Pursuant to 11 U.S.C. § 362(d)* [Dkt. 1588].

⁷ See *Westmoreland Hum. Opportunities, Inc. v. Walsh*, 246 F.3d 233, 256 (3d Cir. 2001) ("We have construed § 1103(c) as implying a fiduciary duty on the part of members of a creditor's committee . . . toward their constituent members"); *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[.]"); *Committee Powers and Duties*, ABI-CCOM 4, 6 ("The committee . . . must try to maximize the return for all general unsecured creditors as a whole.").

that is not the case, as Judge Silverstein ruled in the Cyprus Mines case in Delaware⁸ and as this Court already ruled at the August 2025 hearing in these cases.⁹ Committees cannot operate by "proxy."¹⁰

4. Further, as the Debtors and the FCR have demonstrated, in at least one instance of which they are aware (again, without the benefit of discovery), a former committee member (at the time, the co-chair of the committee no less), did not even know he was on the ACC.¹¹ How, then, could he have supposedly delegated (total) authority to his counsel? In addition, as noted by the FCR in his filings for the August 2025 hearing, the fact that a law firm is the tort lawyer for a claimant, and then purports to act as the same claimant's proxy on a committee, creates a conflict of interest for such firm. The firm has an ethical obligation to represent the claimant, but, by acting as a proxy to a fiduciary, also takes on fiduciary obligations to the chapter 11 estate, which may be in conflict. Dow Corning Corp., 194 B.R. at 135 ("[A]llowing attorneys [as opposed to individual creditors] to serve on committees in . . . [a representative] capacity places them in the unacceptable position of concurrently serving two masters with contrary

⁸ In re Cyprus Mines Corp., 2021 WL 2105427 (Bankr. D. Del. May 18, 2021).

⁹ See Aug. 28, 2025 Hr'g Tr. at 48:6-8 ("While they may be assisted by their individual counsel, Committee members cannot abdicate their role and their counsel do not sit by proxy.").

¹⁰ Id. at 48:10-12 ("Committee counsel must communicate with and receive direction from actual Committee members, not their lawyers."). The cases cited by the ACC (Obj. at ¶¶12-13) do not authorize total delegation by a committee member to a representative for such member. In M.H. Corp., and Aearo, the "representative" is a representative of a business (like Blue Cross Blue Shield) that had been appointed committee member. While a business creditor, not being a natural person, clearly must choose a human representative to serve on a creditors' committee, neither case supports the notion that a natural person, appointed in their personal capacity as a committee member, can similarly delegate all committee matters to their attorney. Further, the ACC's cite to Dow Corning is particularly odd given that court's reservations, in the same opinion, of potential conflicts of interest created by "[Committee] attorney-members represent[ing] numerous (hundreds or thousands of) claimants," which has interesting analogies to these cases. See In re Dow Corning Corp., 194 B.R. 121, 137 (Bankr. E.D. Mich. 1996), rev'd, 212 B.R. 258 (E.D. Mich. 1997). Finally, although inapplicable in the bankruptcy committee context, it is notable that even the state-law trustee statute cited by the ACC requires trustees to take reasonable care in "[e]stablishing the scope and terms of the delegation . . . [and] [p]eriodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation." N.C. Gen. Stat. Ann. § 36C-8-807.

¹¹ See Mot. at ¶ 17 (discussing deposition of ACC co-chair who, at the time, was unaware he was even on the ACC); FCR's Limited Resp. at 8 n.12 (same).

interests.").¹² And, to the extent that such law firm went even further by pursuing its own interests over those of both its client and the class for which the clients acts as a fiduciary, even more serious consequences pertain.

5. In any event, the argument by the ACC that "tort committees always operate like this," is simply not true. As an example, the tort claimants' committee in LTL Management, which was comprised of ten individual claimants and one insurer, appears to have actively participated in committee meetings and decision-making. See Dec. 15, 2021 Hr'g Tr. [Dkt. 846], In re LTL Mgmt. LLC, No. 21-30589 (Bank. D. N.J.) at 30:24-31:5 (Claimants' committee counsel: "The Office of the U.S. Trustee has rightly called attention to the importance of active participation by individual Committee members. I can personally assure the Court, as well as the Office of the U.S. Trustee, that our Committee members actively participate in our meetings and decision-making, notwithstanding any health or personal issues they may have.").¹³

6. Finally, the ACC attempts to infer that the Debtors always knew that the actual members would have no role in the process.¹⁴ In support it cites a first day motion that the Debtors filed, as an accommodation to the plaintiffs' bar, to provide notice in these cases to counsel and to provide the Bankruptcy Administrator with a list of the law firms that had the largest number of cases in the tort system against the Debtors as of the petition date. Id. But

¹² See also In re HaskellDawes, Inc., 188 B.R. 515, 522 (Bankr. E.D. Pa. 1995) ("[T]he creditors appointed to the creditors' committee have a fiduciary obligation to act in the interests of the members whom they represent This duty prohibits members of the creditors' committee from using their position to advance their own individual interests."); Kenneth N. Klee & K. John Shaffer, *Creditors' Committees Under Chapter 11 of the Bankruptcy Code*, 44 S.C. L. Rev. 995, 1011 (1993) ("[A] representative or agent may be disqualified from serving on a creditors' committee due to the agent's conflicting loyalties to his or her own client's particular interests and to the constituency of the creditors' committee as a whole.").

¹³ See also In re ACandS, Inc., 311 B.R. 36, 43 (Bankr. D. Del. 2004) (declining to confirm plan where plan was largely drafted by and for the benefit of certain plaintiffs' asbestos counsel on prepetition committee, noting that claimants "should be compensated based on the nature of their injuries, not based on the influence and cunning of their lawyers.").

¹⁴ Obj. at ¶18 ("Indeed, from the beginning of these cases, the Debtors demonstrated the expectation that tort counsel would play a central role in the Committee.").

none of this supports the idea that, contrary to the law, the Debtors understood and were fine with a process where no actual committee members were involved in the ACC at all and, instead, counsel to the ACC acted merely on the wishes of potentially conflicted tort system lawyers.

III. The Information Sought Obviously Is Not Privileged.

7. Next, the ACC attempts to assert, in a single paragraph without any specific reasoning or caselaw,¹⁵ that the discovery seeks privileged information. Obj. at ¶ 21. That obviously is not the case. Rather, the ACC never explains why it believes any of the information the discovery seeks is privileged, because it simply cannot make such an argument.¹⁶

8. Courts have routinely found that meeting minutes, attendance records, and by-laws are not eligible attorney-client communications¹⁷ and, to the extent specific information therein is protected, redaction¹⁸ is the remedy, not wholesale nondisclosure. And the ACC is no doubt aware of this, because it has requested, and received, nearly identical information from the

¹⁵ The only case cited in the ACC's highly cursory discussion of privilege, Yahweh Ctr., underscores the inadequacy of the ACC's privilege argument. There, the bankruptcy court approved the Rule 2004 motion, held that the party objecting to the Rule 2004 discovery on the basis of attorney-client privilege "must specify its application rather than hide behind a blanket objection," and required the party to produce non-privileged responsive documents not already produced and to prepare a privilege log for review by debtor's counsel. In re Yahweh Ctr., Inc., 2017 WL 327473, at *4 (Bankr. E.D.N.C. Jan. 23, 2017).

¹⁶ This failure is also notable given that the ACC bears the burden of demonstrating that privilege applies. See In re Grand Jury Subpoena, 542 F. App'x 252, 253 (4th Cir. 2013) ("The burden is on the proponent of the attorney-client privilege to demonstrate its applicability.").

¹⁷ See United States v. W. Elec. Co., 132 F.R.D. 1, 2 (D.D.C. 1990) ("These [meeting] notes indicate only that there was a meeting and the names of the employees who attended; they do not describe or even mention what was said. Attorney-client privilege, needless to say, protects only communications and not the existence of an attorney-client relationship."); New Jersey v. Sprint Corp., 258 F.R.D. 421, 444 (D. Kan. 2009) ("[T]he subject matter of meetings with an attorney, the persons present, the location of the meetings, or the persons arranging the meetings are also not protected by the [attorney-client] privilege."); Montgomery v. Leftwich, Moore & Douglas, 161 F.R.D. 224, 227 (D.D.C. 1995) (draft by-laws are not privileged communications as they are "business related and do not contain personal legal advice").

¹⁸ See In re FiberMark, Inc., 330 B.R. 480, 500 (Bankr. D. Vt. 2005) (holding that portions of creditor committee's communications with counsel should not be redacted because they related to "divergence of opinions regarding corporate governance issues" and counsel was not "advising its client and/or not pursuing legal issues on behalf of its client"); Fed. Trade Comm'n v. Vyera Pharms., LLC, 2021 WL 124322, at *3 (S.D.N.Y. Jan. 13, 2021) (engaging in a line-by-line analysis of board meeting minutes and ordering the removal of certain redactions where the underlying notes did not relate to legal advice).

Debtors during these chapter 11 cases. For example, in October 2020 the Debtors produced to the ACC agendas for and meeting minutes of the Board of Managers of the Debtors that refer to the prepetition corporate restructuring or the Debtors' potential bankruptcy filings. These productions included lists of meeting attendees, the dates of these meetings, and general descriptions of discussions that took place at these meetings.

IV. If The ACC's Assertions Are Correct, Why Is It Unwilling to Prove Them?

9. The ACC states that "[t]hrough the filing of this Objection, the Committee is making clear that all actions by the Committee that the Debtors seek to investigate were fully in accordance with the Committee's views." Obj. at ¶ 10.¹⁹ As literally stated, presumably the statement is correct, as it is a tautology—"what the Committee did is what the Committee wanted to do." However, what the ACC is really trying to suggest is that the actions the agents of the committee (ACC counsel) have taken in these cases have been pursuant to the wishes and direction of the actual members of the ACC. Inquiry notice suggests otherwise. The former co-chair of the ACC didn't even know he was on the ACC.²⁰ Counsel to the ACC has repeatedly referred to ACC member's law firms as committee members, even though they are not.²¹ No ACC member attended the one formal mediation session that has occurred in these cases. It is

¹⁹ This statement contrasts with the ACC's simultaneous admission that it heard this Court's "recent instruction that individual Committee members should participate directly in Committee deliberations" and "is complying with that direction." Obj. at 2 n.3. This statement seems to indicate the ACC members were not, prior to August 2025, directly participating in these cases. And, if ACC members were not directly participating up to this point, how can ACC counsel be certain the committee's decision-making to date accords with members' wishes? Further, the extent of ACC members' involvement remains questionable in light of the ACC's recent attempt to prevent disclosure of the asbestos estimations in the Initial Expert Reports not only to the Court, but to their own claimant class. Why would claimants want to avoid such disclosure of the Debtors' purported asbestos liability?

²⁰ See Mot. at ¶ 17 (discussing deposition of ACC co-chair who, at the time, was unaware he was even on the ACC); FCR's Limited Resp. at 8 n.12 (same).

²¹ See Mar. 3, 2022 Hr'g Tr. [Dkt. 1049] at 34:19-23 (Counsel to FCR: "You heard [Committee counsel] saying five committee members were on the [meet and confer about the bar date and personal injury questionnaires]. That was a slip of the tongue. There were no committee members on that call. There were five law firms on that call, the same law firms that dominate all these committees.").

also notable that the thousands of time entries for ACC counsel in these cases, covering tens of millions of dollars of fees, appear to be devoid of any reference to discussions with actual ACC members.²²

10. The discovery requested here goes to this fundamental issue. It asks for confirmation that actual committee members attended committee meetings and authorized ACC actions. It does this by asking for simple, non-privileged information such as the attendance lists for such meetings. If the ACC acted through actual members as it infers, why wouldn't it prove that by providing this simple, presumably readily available information?

V. The Requested Discovery Is Not Harassment.

11. Finally, the ACC repeatedly states that the requested discovery is nothing other than harassment. See Obj. at 3, 5, ¶¶ 19-22. Given the limited nature of the discovery and the ease with which the ACC can comply, as well as the serious nature of the issues involved, the ACC's protestations ring hollow and come across as merely an attempt to distract. This is a federal court of law, the purpose of which is, among other things, the seeking of truth. See Briscoe v. LaHue, 460 U.S. 325, 335 (1983) ("It is precisely the function of a judicial proceeding to determine where the truth lies.") The ACC instead seeks to bury the serious nature of the issues involved in the cloak of darkness.

12. This has been its *modus operandi* before. In opposing estimation, ACC counsel admitted that one of its primary drivers was not to allow a light to be shined in this Court on the

²² In fact, after the passing of both ACC co-chairs in September 2020 and January 2021 (Substitution Mot. at ¶¶ 6, 9, 23), ACC counsel reported several meetings with or communications with "committee co-chairs." See e.g., Thirteenth Interim Fee Application of Robinson & Cole LLP, as Counsel to the Official Committee of Asbestos Personal Injury Claimants, for Payment of Interim Compensation and Reimbursement of Expenses Incurred for the Period June 1, 2024 through September 30, 2024 [Dkt. 2476], Sched. A-1 at 5, 6, 14; Sched. A-3 at 5, 13; Sched. A-4 at 4, 5 (at least eleven time entries indicating communications with Committee co-chair, including 1.3 hour meeting).

activities of tort counsel (who are not even ACC counsel's clients) in the tort system.²³ Judge Hodges found in Garlock such activities to include evidence suppression²⁴ that led to RICO lawsuits being filed in that case against various tort firms.²⁵ The tort firms sought to dismiss such suits, which attempts failed, and the Garlock chapter 11 case settled soon thereafter.²⁶

13. Similarly, the ACC opposed all discovery the Debtors sought in estimation, including a bar date, personal injury questionnaire, and various discovery against bankruptcy trusts (that the ACC does not represent but who have ACC law firms as advisors) so that none of the information that would help inform the activities of tort counsel in the tort system could come to light (all of the ACC's objections were overruled).²⁷ The ACC should not be allowed to continue to try to bury the truth in darkness. The Motion should be approved.

²³ See Jan. 26, 2023 Hr'g Tr. [Dkt. 1599] at 38:25; 39:1-10 (ACC counsel, in response to the Court's question as to why precision is needed for an estimation number, stated "The, the difficulty from the claimant perspective . . . and I, I want to be very transparent about this – is that in addition to reaching a low number, Judge Hodges made some very critical determinations about the, the, the way that the plaintiffs and the tort lawyers behaved in the tort system And that is the responsibility that we bear, is to not let that happen again on our watch.").

²⁴ In re Garlock Sealing Techs., LLC, 504 B.R. 71, 84 (Bankr. W.D.N.C. 2014).

²⁵ Garlock Sealing Techs., LLC v. Shein Law Ctr., Ltd., 2015 WL 5155362 (W.D.N.C. Sep. 2, 2015); Garlock Sealing Techs., LLC v. Simon Greenstone Panatier Bartlett, 2015 WL 5148732 (W.D.N.C., Sep. 2, 2015); Garlock Sealing Techs., LLC v. Belluck & Fox, LLP, 2015 WL 1022279 (W.D.N.C. Mar. 9, 2015); Complaint, Garlock Sealing Techs., LLC, v. Waters & Kraus, LLP, 2015 WL 1022291 (W.D.N.C. Mar. 9, 2015).

²⁶ See Garlock Sealing Techs., LLC v. Shein, 2015 WL 5155362, at *3 (W.D.N.C. Sept. 2, 2015) (denying law firms' dismissal motion); see also Joint Plan of Reorganization of Garlock Sealing Technologies, LLC et al. and OldCo, LLC Proposed Successor by Merger to Coltec Industries Inc. [Dkt. 5331], No. 10-31607, In re Garlock Sealing Techs., LLC, (Bankr. W.D.N.C. May 20, 2016).

²⁷ *Objection of the Official Committee of Asbestos Personal Injury Claimants to the Joint Motion of the Debtors and the Future Claimants' Representative for an Order (I) Establishing a Bar Date for Certain Known Asbestos Claims, (II) Approving Proof of Claim Form, (III) Approving Personal Injury Questionnaire, (IV) Approving Notice to Claimants, and (V) Granting Related Relief* [Dkt. 502]; *Order (I) Establishing a Bar Date for Certain Known Mesothelioma Claims, (II) Approving Proof of Claim Form, (III) Approving Notice to Claimants, and (IV) Granting Related Relief* [Dkt. 1093]; *Order Approving Personal Injury Questionnaire and Granted Related Relief* [Dkt. 1246]; *The Official Committee of Asbestos Personal Injury Claimants' Objection to the Motion of the Debtors for an Order Authorizing the Debtors to Issue Subpoenas on Asbestos Trusts and Paddock Enterprises LLC* [Dkt. 1162]; *Order Granting Motion of the Debtors for an order Authorizing the Debtors to Issue Subpoenas on Asbestos Trusts and Paddock Enterprises, LLC* [Dkt. 1240].

Dated: October 20, 2025
Charlotte, North Carolina

Respectfully submitted,

/s/ John R. Miller, Jr
C. Richard Rayburn, Jr. (NC 6357)
John R. Miller, Jr. (NC 28689)
RAYBURN COOPER & DURHAM, P.A.
227 West Trade Street, Suite 1200
Charlotte, North Carolina 28202
Telephone: (704) 334-0891
Facsimile: (704) 377-1897
E-mail: rrayburn@rcdlaw.net
jmiller@rcdlaw.net

-and-

Brad B. Erens (IL Bar No. 6206864)
Mark A. Cody (IL Bar No. 6236871)
Morgan R. Hirst (IL Bar No. 6275128)
JONES DAY
110 North Wacker Drive
Chicago, Illinois 60606
Telephone: (312) 782-3939
Facsimile: (312) 782-8585
E-mail: bberens@jonesday.com
macody@jonesday.com
mhirst@jonesday.com
(Admitted *pro hac vice*)

ATTORNEYS FOR DEBTORS AND
DEBTORS IN POSSESSION