

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)

**THE OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS'
REPLY IN SUPPORT OF MOTION TO AMEND THE SECOND AMENDED CASE
MANAGEMENT ORDER FOR ESTIMATION OF ASBESTOS CLAIMS AND/OR
THE PROTECTIVE ORDER**

The Official Committee of Asbestos Personal Injury Claimants (the “Committee”) of Aldrich Pump LLC and Murray Boiler LLC (the “Debtors”) hereby files this reply (“Reply”) in support of its *Motion to Amend the Second Amended Case Management Order for Estimation of Asbestos Claims and/or the Protective Order* [Dkt. No. 2828] (the “Motion”)² and in response to (i) *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* [Dkt. No. 2843] (the “FCR Response”); (ii) the *Debtors’ Objection to the Official Committee of Asbestos Personal Injury Claimants’ Motion to Amend the Second Amended Case Management Order for Estimation of Asbestos Claims and/or the Protective Order* [Dkt. No. 2844] (the “Debtors’ Objection”) and (iii) the *Joinder of the Non-Debtor Affiliates to the Debtors’ Objection* [Dkt. No.

¹ The Debtors are the following entities (the last four digits of the Debtors’ 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 used but not defined herein shall have the meanings ascribed to them in the Motion.



2847] (the “NDA Joinder,” and together with the FCR Response and the Debtors’ Objection, the “Responses”). The Committee respectfully states as follows:

REPLY

1. The Committee’s Motion proposes a procedure for the non-consensual provision of Initial Expert Reports to the Court or non-estimation parties.

2. The Court ordered the Initial Expert Reports to inform the Estimation Parties³ regarding estimation matters and potential settlement discussions. Apr. 15, 2025 Hr’g Tr. at 14:25-15:2 (the Court). The Estimation Parties received the Initial Expert Reports. During discussions regarding logistics of the exchange of the reports, however, it became apparent that the Debtors and FCR did not agree that the Initial Expert Reports should be shared exclusively among the Estimation Parties.

Filing Procedure

3. The Committee’s Motion seeks an orderly process that affords the procedural protections applicable to contested matters. The Committee is not seeking “to hide from the Court . . . the opinions of all of the experts on the central issue in these cases.” Debtors’ Response ¶ 21. At the time contemplated by the Federal Rules of Civil Procedure and the Bankruptcy Rules, the Parties will present expert estimation testimony. Also in accordance with the applicable Rules, the Parties will present rebuttal testimony and *Daubert* challenges. Now is not that time.

4. The estimation proceeding remains at an early stage; further expert activity will not occur for some time. The only purpose for filing the expert reports this early in the case is to prematurely attack an opponents’ expert’s methodology, analysis, and credentials before: (i) fact

³ The “Parties” or “Estimation Parties” are the Debtors, the Committee, the FCR, and the Non-Debtor Affiliates. [Dkt. No. 1302].

discovery has closed; (ii) expert discovery has even begun; (iii) the experts have the opportunity to refine and finalize their analysis; (iv) rebuttal reports are served; and (v) motions in limine are filed.

5. The Debtors' and FCR's Responses and the FCR's joinder⁴ to the *Debtors' Motion for Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants* [Dkt. No. 2824] demonstrate why the relief the Committee seeks is necessary. Despite the pending Motion, the objectors have already begun to publicly characterize and attack the Committee's estimate. In his Rule 2004 Joinder, the FCR states: "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." Rule 2004 Joinder at 4. In his response to the Motion, he states that "the Committee's estimate does not appear to be a good-faith estimate of the ACC's asbestos liabilities" and attacks Mr. Sackett's expert credentials, stating, "[I]t appears that Sackett is not qualified to provide an estimate of the Debtors' liabilities." FCR Response at 4. The Debtors make the false charge that "the ACC fears that any review of the orders of magnitude of difference between the Debtors' and FCR's experts' estimates, on the one hand, and the ACC's expert's estimate on the other, will demonstrate that the ACC's estimate is improper and unsupportable on its face." Debtors' Obj. at 3.

6. The circumstances here demonstrate exactly the "specific prejudice or harm" that merits protection. *See United States ex rel. Davis v. Prince*, 753 F. Supp. 2d 561, 567-68 (E.D. Va. 2010). The Debtors' and FCR's comments amount to an improper and premature attack on expert analysis that may or may not be the testimony offered at estimation. The Debtors have

⁴ *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. No. 2839] (the "Rule 2004 Joinder").

repeatedly told the Court that estimation is the most important issue in these cases. *See, e.g., Debtors' Motion to Amend Case Management Order for Estimation of Asbestos Claims* [Dkt. No. 2562] at 2 (liability is “the issue that matters most in these cases”); Mar. 27, 2025 Hr’g Tr. at 13:11-14 (liability to asbestos claimants “[t]he central issue in this bankruptcy” (Mr. Hirst)). The premature submission of reports concerning liability valuation would likely result in “oppression, . . . undue burden or expense,” *Prince*, 753 F. Supp. at 568, by muddying the waters with provisional and preliminary information absent adequate context. A party’s criticism of another party’s expert testimony is properly made through rebuttal testimony and a properly timed motion in limine or *Daubert* challenge. Circumvention of the procedural rules and argument concerning matters not before the Court for decision can only be an improper attempt to unduly influence the Court and would introduce additional litigation, delay, and uncertainty into the estimation process.⁵

7. The Debtors and the FCR do not dispute that they want the Court to see the Initial Expert Reports.⁶ Under the Protective Order, the Debtors and the FCR could waive confidentiality of their respective Initial Expert Reports (except for limited PEO redactions) and file the Committee’s report under seal on five days’ notice (assuming the Court grants a motion by the Committee to “seal[], redact[], or otherwise protect[]” its report. Protective Order ¶ I.1.)

8. In seeking to augment the terms of the Protective Order specifically for the Initial Expert Reports, the Committee asks this Court to require any Party seeking to file any Initial Expert Report to seek Court approval, in the absence of unanimous agreement among the Parties, **before** making such a filing. The Committee believes the additional procedure it proposes is both

⁵ The harm associated with avoidable delay in this process to the current claimants who are living with disease, many with fatal disease, cannot be overstated.

⁶ The Debtors and FCR cite to no authority, and the Committee is aware of none, where parties provided preliminary reports to the finder of fact (often as attached to a *Daubert* motion) before an imminent hearing or trial.

appropriate and necessary because of the potential prejudice to the estimation process posed by Court review of the Initial Expert Reports without the procedural protections normally afforded expert testimony.

Non-Party Disclosure Procedure

9. In addition, the Debtors have represented that their insurers asked for the Initial Expert Reports, and that they believe that the Initial Expert Reports should be shared with their insurers. However, despite the Committee's inquiry, they have not provided a reason why the insurers require such access. Indeed, no Party has identified any non-party to estimation that can articulate a need for this information consistent with the purposes for which it was ordered.⁷ Despite the absence of an articulated need for this information, if the Debtors (and FCR) only sought to disclose the Initial Expert Reports to the insurers in compliance with paragraph F.1 of the Protective Order, the Committee would agree that the Debtors could share the reports with their insurers. But, while the Debtors maintain that the "only" request they have received to date is from their insurers, Debtors' Obj. ¶ 19, they broadly resist the Committee's efforts to ensure that any disagreement between the Parties with respect to broader disclosure is subject to determination by this Court on regular notice.⁸

10. Under the Protective Order, any Party can consent to disclosing its own Initial Expert Report to non-parties to the Protective Order. At this time, fact discovery remains ongoing, expert discovery has not commenced, and the case record remains incomplete. Absent consent of

⁷ Theoretically and potentially, the Debtors' insurers might have a purpose for the Initial Expert Reports if they were attempting to settle their policies, but the Committee is unaware of any such current attempt.

⁸ In contrast, the Protective Order provides significantly shortened notice where a party "becomes subject to any legal process seeking to disclose any Covered Information." Protective Order ¶ H.

all the Estimation Parties, Initial Expert Reports should be disclosed beyond the Estimation Parties only with Court approval.

11. Fundamentally, the Court ordered these Initial Expert Reports as part of the estimation process and for use in the estimation process. *See Order Authorizing Estimation of Asbestos Claims* [Dkt. No. 1127]; Second Amended Estimation CMO [Dkt. No. 2656]. At this stage, disclosure of these reports should be exclusively for use of the Estimation Parties in preparation for litigating estimation.

CONCLUSION

For all of the foregoing reasons set forth in the Motion and herein, the Motion should be granted.

[*Signature on following page*]

Dated: October 20, 2025
Charlotte, North Carolina

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