Docket #2886 Date Filed: 11/6/2025

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re:	)	Case No. 20-30608
	)	
ALDRICH PUMP LLC, *et al.*,[1]	)	Chapter 11
	)	
Debtors.	)	(Jointly Administered)

BANKRUPTCY ADMINISTRATOR'S RESPONSE IN OPPOSITION TO DEBTORS' MOTION FOR BANKRUPTCY RULE 2004 EXAMINATION OF COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS

The United States Bankruptcy Administrator for the Western District of North Carolina (the "Bankruptcy Administrator") hereby responds (the "Response")[2] to the Debtors' Motion for Bankruptcy Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants (the "2004 Motion")[3] and, herein, addresses the issues raised in the Order Continuing Hearing on Motion for Bankruptcy Rule 2004 Examination and Requesting Appearance and Assistance of Bankruptcy Administrator (the "Court's Order Continuing Hearing"), entered on October 31, 2025. For the reasons set forth herein, the 2004 Motion should be denied.

PRELIMINARY STATEMENT

Sensing an opportunity to undermine the ACC based on the Court's recent

[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] The 2004 Motion and responses thereto began as a discovery dispute; however, the hearing evolved into a substantive discussion regarding the ACC's governance, as set forth in the Court's Order Continuing Hearing, ECF No. 2881.

[3] See ECF No. 2824. Capitalized terms not otherwise defined herein shall have the meaning ascribed to such terms in the 2004 Motion.

ruling regarding untimely substitutions of deceased committee members, the Debtors filed the 2004 Motion to attack the ACC's governance and, by extension, its case strategy. Not only is this effort an inappropriate sideshow that undermines the Debtors' stated goal of "meaningfully progress[ing] these cases"[4] and the FCR's desire for "a fresh start with a renewed committee,"[5] the Debtors' accusation that the ACC's governance has been a "scandal" attempts to recast the history of mass tort bankruptcy cases in this district.[6] The Debtors and FCR are so earnest in their belief – and insistent in their commentary – that a settlement is in the best interests of the asbestos personal injury claimants (against whom the Debtors would be litigating in state or federal court but for the filing of these bankruptcy cases), they imply that the ACC's resistance to settlement should be treated as an ultra vires act. No claimant (or their counsel) has suggested that he or she opposes the ACC's strategy. The parties should be permitted to advance their respective case strategies without an unfounded examination of their authority to do so.

The ACC has operated in accordance with its statutory authority, its fiduciary duty, and the historical practices of mass tort cases in this district, as detailed in this Response. Adjustment to the ACC's internal operations is appropriate based on the Court's recent guidance that individual members of the ACC should participate directly in the ACC's deliberations, but the ACC should be permitted to implement

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4 2004 Motion, ECF No. 2824.

5 The Future Asbestos Claimants' Representative's Joinder to the Debtors' Motion for Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants (the "FCR's Joinder"), ECF No. 2839.

6 See October 23, 2025, Hearing Transcript, 139:4-14 [ECF No. 2865].

those changes prospectively. While major changes in strategy seem unlikely, new members of the ACC will have an opportunity to review the ACC's actions to date and make a course correction if desired.

Because the primary goal of the 2004 Motion seems to be bringing the ACC to the negotiation table in hopes of reaching a settlement, the undersigned simultaneously moves to renew mediation and, in connection therewith, to modify the mediation protocols to require the ACC's members to be available by telephone or video conference to meet with the mediator and to remain in contact with ACC counsel during negotiations. This will provide a forum for the Debtors and FCR to test their theory that greater participation by the ACC's individual members will lead to a resolution of these cases.

For the avoidance of doubt, the ACC's refusal to settle with the Debtors is not evidence of bad faith or lack of client authority. A decision to settle now or later would not be proof that the ACC's prior governance was problematic. This attack is unhelpful to these cases and undermines the statutory role and purpose of the ACC. The Court should deny the 2004 Motion.

ARGUMENT

The ACC reasonably believed that its membership remained constant. Prior to the Court's recent determination regarding the composition of the ACC, the ACC held a reasonable belief that the decedent's estate of a deceased committee member would continue to serve on the committee upon a member's death. While death of a litigation party requires a substitution pursuant to most states' laws and Rule 25 of the Federal

Rules of Civil Procedure (and in bankruptcy adversary proceedings pursuant to Rule 9025 of Federal Rules of Bankruptcy Procedure), no rules address the death of a bankruptcy creditor. A bankruptcy claim survives the death of the creditor asserting such claim.[7] For each ACC member that died, that member's counsel continued to represent their decedent's estate. Several decedent's estate representatives filed timely motions to substitute in their stayed state court cases[8] and/or filed proofs of claim.[9]

Historically, substitution of asbestos personal injury committee members in this district has been a routine, uncontested process. Such motions (1) nearly always appointed the deceased member's estate representative as the substitute member; (2)

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[7] In the chapter 7 case for N Touch Health Systems, Inc., the chapter 7 trustee and Bankruptcy Administrator objected to certain notices of transfer of claim that were signed by parties other than the original claimants. The objection was resolved by consent order following the provision of documents evidencing the transferor's status as the representative of the claimant's decedent's estate. See Objection to Notices of Transfer of Claim Other Than For Security, In re N Touch Health Systems, Inc., Case No. 92-31740 (Bankr. W.D.N.C. May 20, 2025), ECF No. 119; Consent Order on Objection to Notice of Transfer of Claim, In re N Touch Health Systems, Inc., Case No. 92-31740 (Bankr. W.D.N.C. June 20, 2025), ECF No. 131. In TSI Holdings, LLC, counsel for a creditor who died filed a notice of address change, for both payment and notice purposes, to update the creditor's address to the "Estate of" that creditor, and the trustee, with the Bankruptcy Administrator's consent and the Court's approval, made distributions accordingly. See Notice of Name Change, In re TSI Holdings, LLC, Case No. 17-30132 (Bankr. W.D.N.C. Aug. 31, 2022), ECF No. 522; Order Approving (A) Final Distribution to Investors and (B) Compensation to Trustee (Bankr. W.D.N.C. April 25, 2024), ECF No. 547 (at p.10).

[8] See Motion of the Official Committee of Asbestos Personal Injury Claimants to Substitute Committee Member (the "ACC Motion to Substitute"), ECF No. 4934 at Exhibit A (state court order approving substitution entered October 10, 2020; Exhibit B (state court order approving substitution entered Feb. 10, 2021), Exhibit C (state court order approving substitution entered April 26, 2021); and Exhibit I (declaration of successor in interest filed in state court action on November 1, 2022).

[9] See Notice of Bar Date for Certain Mesothelioma Claims, ECF No. 1098. These proofs of claim are not available to the public and have not been requested by the Bankruptcy Administrator, but they likely reveal those deaths that occurred before the July 29, 2022, bar date.

were filed by the ACC without the involvement of the Bankruptcy Administrator,[10] and (3) varied in timeliness:

Case	Case No.	Motion Date	Motion ECF No.	Description	Order Date	Order ECF No.
Garlock Sealing Technologies LLC	10-31607	Oct. 26, 2015	4934	substituting daughter and estate representative 3 months after death of original member	Dec. 18, 2015	5156
Garlock Sealing Technologies LLC	10-31607	Dec. 29, 2015	5190	substituting son and estate representative four years after death of original member	Feb. 2, 2016	5246
Garlock Sealing Technologies LLC	10-31607	Dec. 29, 2015	5191	substituting new claimant five and a half years after death of original member	Feb. 2, 2016	5245
Garlock Sealing Technologies LLC	10-31607	Dec. 29, 2015	5192	substituting husband and estate representative approximately three years after death of original member	Feb. 2, 2016	5244
In re Bestwall LLC	17-31795	Feb. 21, 2018	270	substituting daughter two months after death of original member	Mar. 26, 2018	335
In re Bestwall LLC	17-31795	Oct. 10, 2018	648	substituting daughter and special administrator of estate two months after death of original member	Oct. 31, 2018	666
In re Bestwall LLC	17-31795	June 4, 2021	1812	substituting brother four months after death of original member	June 28, 2021	1838
In re Bestwall LLC	17-31795	June 4, 2021	1813	substituting wife with no date of death provided	June 28, 2021	1839
In re Bestwall LLC	17-31795	Nov. 22, 2021	2246	substituting husband with no date of death provided	Dec. 20, 2021	2309
In re DBMP LLC	20-30080	Nov. 22, 2021	1229	substituting the court-appointed fiduciary of the deceased member's estate 8 months after death of original member	Dec. 20, 2021	1256

In each of these cases, the debtors, nor the Bankruptcy Administrator, nor the Court raised concerns about tardy substitutions. In Kaiser Gypsum, no substitute committee members for the asbestos claimants' committee were appointed even

[10] In the interest of full disclosure, the undersigned attorney was in private practice until 2017 and, with other members of my firm at the time, represented Garlock Sealing Technologies LLC and Kaiser Gypsum Co., Inc. in their respective bankruptcy cases. After leaving her position as the Bankruptcy Administrator in 2017, Linda Simpson has been associated with Hamilton Stephens Steele & Martin, PLLC, which serves as local counsel for the asbestos claimants committees in Bestwall, DBMP, and the instant case.

though the case took four years to reach confirmation and remained open nine years. See In re Kaiser Gypsum Company, Inc., Case No. 16-31602 (Bankr. W.D.N.C. Sept. 30, 2016). The U.S. Trustee also frequently appoints an estate representative when a mass tort committee member dies; while it is not apparent from their notices, those substitutions also varied in their timeliness.[11] Until the recent opposition by the Debtors and FCR, parties in mass tort cases have not attempted to use untimely substitutions of committee members to their advantage. Based on these prior experiences, the ACC and the committee members' individual counsel held a reasonable, good faith belief that committee membership would continue beyond the death of the originally appointed member.

It is regrettable that member substitutions were not made in a timelier fashion. For at least some committee members, the delay appears to be the result of ACC counsel's oversight – upon information and belief, certain attorneys for ACC members provided timely notice of the death of their client, believed that such substitution had occurred, and, consistent with that belief, continued to attend meetings and represent the interests of their new client. The Bankruptcy Administrator trusts that future committee member substitutions in these cases will be handled in a timely manner. In addition, the Bankruptcy Administrator will be

[11] See, e.g., Am. Notice Appoint. Off. Comm. Tort Claimants, In re Imerys Talc Am. Inc., et al., Case No. 19-10289 (Bankr. D. Del. Jun. 11, 2019) ECF No. 683; 2d Am. Notice Appoint. Off. Comm. Tort Claimants, In re Imerys Talc Am. Inc., et al., No. 19-10289 (Bankr. D. Del. Jan. 22, 2021) ECF No. 2818; Am. Notice Appoint. Off. Comm. Tort Claimants, In re Cyprus Mines Corp., Case No. 21-10398 (Bankr. D. Del. Jan. 7, 2022) ECF No. 784. In Judge Silverstein's bench ruling, she reveals: "two members of the Imerys TCC passed away . . . in 2019 and . . . 2020. The UST did not amend the Notice of Appointment to the TCC until January 22, 2021." See In re Cyprus Mines Corp., 2021 Bankr. LEXIS 1368, *11, 2021 WL 2105427, *5 (Bankr. D. Del. May 18, 2021).

more involved with those transitions going forward.

The Bankruptcy Administrator appointed new members to the ACC on October 27, 2025.[12] The firms representing such claimants have not changed but for the reduction in the ACC's size from eleven members to ten. Several were the same claimants proposed in the ACC's prior substitution motion;[13] others join as new members who will benefit from their counsel's previous and ongoing participation. The ACC now can continue representing the interests of the asbestos personal injury claimants in these cases and implement adjustments to their operations on a prospective basis, as set forth below.

Committee participation through counsel can be appropriate. Serving on a creditors' committee is a volunteer, uncompensated task that takes time and attention from the member's "day job" and existing responsibilities. It is not uncommon for a committee member (in a "regular" chapter 11 bankruptcy case, as well as in a mass tort bankruptcy case) to request the assistance of counsel in carrying out its committee membership duties. "Responsible fulfillment of [committee member's] duties may entail a substantial amount of work by committee members which is of value to the committee as a whole and may require services by a creditor's

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12 See Bankruptcy Administrator's Notice of Appointment to the Official Committee of Asbestos Personal Injury Claimants, ECF No. 2870, as amended by the technical corrections reflected in the Bankruptcy Administrator's Amended and Restated Notice of Appointment to the Official Committee of Asbestos Personal Injury Claimants, filed on November 5, 2025, ECF No. 2885.

13 See Motion of the Official Committee of Asbestos Personal Injury Claimants to Substitute Committee Members, ECF No. 2769.

counsel." In re First Merchs. Acceptance Corp., 198 F.3d 394, 403 (3d Cir. 1999).[14] Collier explains:

> Despite the lack of a specific reference in the Code to representatives, representatives of creditors have routinely been permitted to serve on committees. . . . The type of representative most often designated by the U.S. trustee to serve on a creditors' committee is the creditor's attorney. While this is sometimes discouraged, the general view is that a creditor may designate whatever individual it wants to serve on the committee on its behalf.

7 COLLIER ON BANKRUPTCY P 1102.02 (16th 2025). Similarly, one court explained:

> [W]ith respect to service of attorneys on creditors committees, it is our policy to encourage creditors to designate persons engaged in their businesses to serve on a creditors committee, our thought being that such persons have greater insight into business affairs and this will be more useful in fulfilling the function of a creditors committee. We do not, however, bar the service on a creditors committee of an attorney if a creditor, aware of the just stated policy suggestion of the court, wishes that such a person be its representative.

In re M.H. Corp., 30 B.R. 266, 267 (Bankr. S.D. Ohio 1983).

The participation of counsel on behalf of a committee member occurs in both "regular" chapter 11 cases and mass tort bankruptcy cases. In a recent chapter 11 case in this district, Gordon Food Service, Inc. ("GFS") was appointed to the unsecured creditors committee, and the corporate address provided notice to the attention of Julie Lamar, a GFS employee.[15] Julie Lamar signed, as chair of the

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[14] The Bankruptcy Code was amended to make clear that the fees of a committee member's separate counsel could not be compensated from the estate, but this amendment did not limit a member's separate counsel from participating in the committee's work.

[15] See Order Appointing Unsecured Creditors' Committee, In re Tantum Companies, LLC, Case No. 23-30407 (W.D.N.C. July 18, 2025), ECF No. 47.

committee, the committee's application to employ counsel.[16] By the time the debtor and committee reached an agreement on the plan, Jason Torf of Tucker Ellis LLP was GFS's representative on the committee.[17] This development did not raise concerns for the Bankruptcy Administrator, who earlier learned of Mr. Torf's participation through informal conversations with counsel for the committee. Mr. Torf was authorized by GFS to participate in the committee's work and vote on the committee's decisions on GFS's behalf. In this context, counsel to the Tantum committee reasonably relied on the rules of professional conduct to conclude that Mr. Torf's actions on behalf of GFS were taken with GFS's actual authority. Unless a dispute arose between GFS and Mr. Torf or, perhaps, among committee members, the Bankruptcy Administrator would have no occasion (setting aside the attorney-client privilege, which complicates matters) to inquire whether Mr. Torf had authority to act on GFS's behalf or by what methods he secured such authority. This is just one example of this phenomenon, provided because of the publicly available supporting documents.

Involvement of committee members' counsel in the work of the committee is even more common in mass tort cases. In early mass tort bankruptcy cases, the U.S. Trustee often appointed the attorneys themselves. See Elizabeth Gibson, Judicial

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[16] See Ex Parte Application to Employ Moon Wright & Houston, PLLC as Counsel for the Official Committee of Unsecured Creditors, In re Tantum Companies, LLC, Case No. 23-30407 (W.D.N.C. July 18, 2025), ECF No. 59.

[17] The disclosure statement states: "In these Chapter 11 Cases, Mr. Torf has represented Gordon Food Service, Inc. in relation to its Claims against the Debtors, including representing Gordon Food Service, Inc. as a member of the Committee." Disclosure Statement to the Amended Plan of Reorganization of Tantum Companies, LLC, In re Tantum Companies, LLC, Case No. 23-30407 (W.D.N.C. Sept. 20, 2024), ECF No. 347.

Management of Mass Tort Bankruptcy Cases 43-45 (2005).[18] In a decision that rejected the appointment of attorneys to the committee, the court in Dow Corning acknowledged that counsel could attend on behalf of the member they represent:

> This is not to say, of course, that a member cannot designate a representative to attend in his, her or its stead. While nothing in the Code expressly permits this, neither does anything in the Code prohibit it and traditionally and logically it has been tolerated. Therefore, cases such as M.H. Corp., supra, have permitted a committee member to request that the member's attorney represent him or her at committee meetings.

In re Dow Corning Corp., 194 B.R. 121, 136-37 (Bankr. E.D. Mich. 1996), rev'd on other grounds, 212 B.R. 258 (E.D. Mich. 1997).

In more recent years, committees in mass tort cases typically have been comprised of individual claimants, as is true for the ACC, but their respective attorneys typically may participate in the committee's work and may act on behalf of their client. As Professor Gibson explains:

> Whether or not the Bankruptcy Code limits committee membership to actual creditors, the key lawyers involved in the tort litigation against the debtor will need to be actively involved in the negotiation of a reorganization plan. For a consensual plan regarding the tort claims to be achieved, the lawyers representing a large percentage of the claimants will have to support it. Even if actual claimants are appointed to the tort claimants' committee, they will most likely participate through their lawyers, and the lawyers will become the major players in the negotiations with the debtor over the terms of a reorganization plan.

Judicial Management of Mass Tort Bankruptcy Cases 46.

While the Debtors and FCR feign outrage at attorneys' participation in ACC

[18] Available online at https://www.uscourts.gov/sites/default/files/gibsjudi_1.pdf, last accessed on November 3, 2025.

meetings on behalf of their clients, plaintiffs' firms' role in the ACC has been well known over the course of these cases. When assessing the Bankruptcy Administrator's proposed committee, Judge Whitley stated: "[t]he Bankruptcy Administrator list looks like it . . . has dispersed between various firms and would appear to be fair and equitable." See July 6, 2020, Hearing Transcript at 19:18-20, ECF No. 155. He later stated in his remarks that he "would decline . . . to add the two extra firms. . . ." Id., 19:25 (emphasis added). The original appointment order listed each claimant in the care of their counsel.[19] The ACC's application to employ professionals was signed by two plaintiff attorneys who denoted their role as co-chairs of the ACC.

The same is true for the prior asbestos bankruptcies in this district, three of which were filed by the same firm that represents the Debtors:

- Garlock: During the hearing on the formation of the *Garlock* committee, the Bankruptcy Administrator[20] stated: "It has become apparent that the claimant is not so much the person active on the committee. Typically it is my understanding, and the parties here can certainly correct me, that these are committees made up of the representatives of the claimants, and these representatives don't represent just this one claimant. They have a wide variety of claimants and a large number of claimants." Hearing on the formation of the committee, In re Garlock Sealing Technologies LLC, Case

[19] Order Appointing the Official Committee of Asbestos Personal Injury Claimants, ECF No. 147.

[20] At that time, Linda Simpson served as the Bankruptcy Administrator.

No. 10-31607, Transcript 11:12-19 (Bankr. W.D.N.C. June 15, 2010), ECF No. 190. Regarding Steven Kazan, whose firm also has a client serving on the ACC in these cases, the Bankruptcy Administrator said: "he will personally take part in the committee and not delegate the work to another member of his firm." Id., 12:18-19. Plaintiffs' attorneys advanced arguments in support of additions to the committee as well:

- Joe Rice of Motley Rice, which Judge Whitley added to the *Garlock* committee at the hearing (Motley Rice also serves as counsel to a committee member in *Aldrich*): explained committee work in prior asbestos cases:

> The group that I am speaking for has served as chairman or negotiating chairman for every major bankruptcy since Johns Manville . . . if you are talking about Owens Corning, USG, Armstrong, those that resolve for a billion dollars or more, this group has been involved in everyone of them. These firms have all been litigating cases since the 1970s. . . . Each of those firms has established a willingness to do the work in the bankruptcies and to attend the meetings personally, and each has been selected by the bankruptcy court after the conclusion of the bankruptcy to serve as a trust advisor in those major bankruptcies.

Id. at 23:2-4, 6-9, 15-19 (emphasis added).

- John Cooney of Cooney & Conway, which was added to the Garlock committee at the hearing and also serves as counsel to a committee member in Aldrich, described his prior experience in asbestos bankruptcy cases: "I have been asked to chair a lot of them, including ones that are well-known in the bankruptcy world. In Owens Corning, in W.R. Grace, USG, and Armstrong World Industries, in Combustion

Engineering, in Haliburton, in each of those I think I have served as the chair or the co-chair." Id. at 42:19-23.

The Garlock debtors also spoke about the importance of firms' participation in the committee: "we also have an interest in making sure that we allow credible law firms who represent claimants and who certainly have a history with the debtor of participating in the case, both in terms of representing their constituency and also in negotiating with the debtor." Id. at 19:19-23.

- Kaiser:[21] A prepetition ad hoc committee of plaintiffs' firms met for 10 months, engaged professionals, and negotiated with the debtors. Shortly after the petition date, the Kaiser debtors and this ad hoc group filed a joint motion to have clients of the *ad hoc* committee members approved as the official committee. Despite the naming of individual claimants as members, the motion described the proposed committee as "law firms from a variety of geographic locations and who have diverse caseloads of asbestos personal injury claims with regard to occupations, asbestos-related diseases, and number of claims against the [d]ebtors. . . . [M]any of the law firms have chaired asbestos claimants' committees and all have been involved in negotiating and confirming plans of reorganizations." In re Kaiser Gypsum Co., Inc., Joint Motion of Debtors and Proposed Official Committee of Asbestos Personal Injury Claimants for an Order Appointing Official

[21] The debtors in Kaiser, Bestwall, and DBMP were/are represented by Jones Day, which is also counsel to the Debtors.

Committee of Asbestos Personal Injury Claimants, Case No. 16-31602 (Bankr. W.D.N.C. Oct. 11, 2016), ECF No. 69. The motion was approved; the Bankruptcy Administrator attended the hearing but did not otherwise participate. In re Kaiser Gypsum Company, Inc., Case No. 16-31602, Transcript 5:16-17 (Bankr. W.D.N.C. Oct. 18, 2016), ECF No. 157.

- Bestwall: The Bestwall debtor described the benefits of including Mr. Cooney of Cooney and Conway on the committee: "[N]ot only has he served on many committees, he's been a chairperson of many of those committee as well. And speaking for myself, I certainly found him to be someone who's productive and business oriented and helpful in getting to an agreement. So we would certainly support his addition to the committee." Comments by Greg Gordon of Jones Day in support of Mr. Cooney's addition to the committee, In re Bestwall LLC, Case No. 17-31795, Transcript 14:5-11 (Bankr. W.D.N.C. Nov. 15, 2017), ECF No. 96.
- DBMP: The debtor in DBMP filed a motion to approve as the official committee an ad hoc group formed only shortly before the petition date; the group had never met. In its motion, the debtor wrote: "[a]s is typical for asbestos committees, **the experienced law firms would serve on the ACC on behalf of the identified claimants**." In re DBMP LLC, Case No. 20-30080 (Bankr. W.D.N.C. Jan. 23, 2020), ECF No. 23 at ¶7 n.2 (emphasis added). The Bankruptcy Administrator opposed the debtor's recommendation and solicited and proposed her own slate for the official

committee. Id. (Feb. 5, 2020), ECF No. 96. At the hearing to consider the formation of the DBMP committee, Judge Whitley stated: "it's very important [for] the professionals, if not even more so the clients, that your firms be involved and active." Hearing on committee formation, In re DBMP LLC, Transcript 106:5-8, Case No. 20-30080 (Bankr. W.D.N.C. Feb. 13, 2020), ECF No. 159.

Upon information and belief, the active role of plaintiffs' firms in the work of a mass tort claimants committee is not unique to this district.[22] Given the above sampling of statements demonstrating the various parties' understanding of the ACC's typical governance and undersigned's personal experience across the last fifteen years of asbestos bankruptcy cases in this district, the Debtors' characterization of the ACC's operations as a "scandal" comes as a surprise.[23] The Bankruptcy Administrator does not mean to suggest that the law firms are members of the ACC – only that attorney involvement in the ACC through their active and regular representation of their respective clients who are the members is, and has been, known to the Debtors and FCR. Perhaps the Debtors find Mr. Torf's representation of GFS on the Tantum committee to be equally scandalous. In both these cases and the Tantum case,

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[22] See In re Cyprus Mines Corp., 2021 Bankr. LEXIS 1368 at *10, 2021 WL 2105427, *3 (Bankr. D. Del. May 18, 2021) ("Neither Debtors nor the Cyprus Committee took issue" with Kazan's statement that "tasks to be performed by the [Committee] are likely to be performed by the firms representing the Committee representatives, not the representatives themselves.").

[23] See October 23, 2025, Hearing Transcript, 139:4-14 [ECF No. 2865]. The Debtors' second reference to scandal – that most of defendants' litigation costs go to attorneys – is unpersuasive as the referenced costs include Debtors' defense counsel. That expense has been halted by the filing of these cases, and this issue does not bear on the ACC's governance or authority. Id. at 4:15-25.

committee counsel reasonably relied on the rules of professional conduct to conclude that the attorney attending meetings on behalf of the committee member had actual authority to participate in ACC meetings and act on behalf of its client. This does not mean that individual committee members "have no role in the process," as the Debtors suggest.[24] Committee members have attended ACC meetings through their respective counsel. Just because ACC members are represented by counsel does not mean that individual members have no role in the ACC's work.

The ACC member's attorney was considered when selecting the ACC. Committee members in these cases are selected because their disease type, work history, product exposure, and/or geographic location are somehow emblematic of the types of claims that have been filed against one or both Debtors. The Bankruptcy Administrator undertook a thorough analysis aimed at gathering a group that adequately represents the thousands of cases filed against the Debtors. Only in bankruptcy administrator districts have parties learned the factors considered in selecting the individual claimants appointed to a mass tort committee.[25] While section 1102 suggests that the committee should be comprised of the holders of the

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[24] Debtors' Reply In Support of Motion for Bankruptcy Rule 2004 Examination of the Official Committee of Asbestos Personal Injury Claimants, Oct. 20, 2025, ECF No. 2849.

[25] Compare the talc claimants' committee formation hearing in LTL Management, held on Nov. 4, 2021 (In re LTL Management LLC, Case No. 21-30589, Transcript 32:20 – 39:11 (Bankr. W.D.N.C. Nov. 4, 2021), ECF No. 390), to the U.S. Trustee's approach to the same case after it was transferred to New Jersey. In re LTL Mgmt. LLC, 636 B.R. 610, 623 (Bankr. D. N.J. 2022) (describing how the U.S. Trustee refused to disclose its rationale in appointing two talc claimants' committees, having taken the position that "the U.S. Trustee is not required to disclose or make any record regarding his reasoning, rationale or conclusions behind his issuance of the Notice of Appointment"). Indeed, as the undersigned revealed at the LTL hearing, the U.S. Trustee declined to share insights on their general methodology even when contacted on a confidential basis by the undersigned. See In re LTL Management LLC, Case No. 21-30589, Tr. 32:10-19, (Bankr. W.D.N.C. Nov. 4, 2021), ECF No. 390.

seven largest claims against a debtor, it is impossible to identify the holders of the seven largest claims – i.e., the seven sick individuals with the highest damages resulting from the Debtors' products – because every claim (other than a handful of settled claims) is scheduled as disputed and unliquidated.

The Debtors listed twenty law firms representing a variety of claimants on their top twenty list of creditors rather than listing individual claimants.[26] There is no way to know whether a plaintiffs' firm with one client or one with 200 clients represents the claimant who would receive the highest jury award at trial. This may afford the Debtors an opportunity to influence the committee formation, as these firms are solicited regarding potential committee membership, but the Bankruptcy Administrator did not limit selection of committee members to claimants represented by firms found on the Debtors' top twenty.

With full knowledge of all parties and the Court, the Bankruptcy Administrator considered the plaintiffs' firms that represent the claimants in selecting proposed members for the ACC. Following the Court's recent ruling on the ACC's current membership, the Debtors and FCR went so far as to suggest what firms the Bankruptcy Administrator should remove (those firms they consider an obstacle to their goals) and others that should be added,[27] making clear that they too believe

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[26] See Order (I) Authorizing the Filing of (A) Consolidated Master List of Creditors and (B) Consolidated List of 20 Law Firms with Significant Asbestos Cases Against the Debtors in Lieu of Lists of 20 Largest Unsecured Creditors; (II) Approving Certain Notice Procedures for Asbestos Claimants; . . . . entered on June 25, 2020, ECF No. 112. In accordance with this order, at the Debtors' request, service on claimants in these cases is made through their counsel.

[27] See the Debtors' and FCR's letter attached as Exhibit A to the Objection of the Official Committee of Asbestos Claimants to Debtors' Motion for Bankruptcy Rule 2004 Examination, ECF No. 2840, Ex. A.

that the claimant's firm is a factor that should be considered in committee formation.

There are no mass tort committees in this district in which two claimants from the same firm (even if those claimants could have the two highest demands for alleged damages) serve on the committee – the diversity of perspectives from the plaintiffs' firms informs the decision making and strategy of the ACC. Different firms focus their practice in different jurisdictions and understand the impact of various states' laws on products liability litigation and, in turn, the estimation trial in these cases. The firms employ different business models – some take fewer representations with the intention of taking such cases to trial, while others may enter into bulk settlement agreements with the Debtors' predecessors. In addition to the perspectives of the individual claimants, their counsel brings important perspectives to the ACC's work.

While settlement is the most likely means of a resolution of these cases, a failure to settle is not a violation of the ACC's fiduciary duty. While the parties agree that a settlement is the most likely way for these cases to result in a confirmed plan, especially considering the confirmation requirements for a section 524(g) channeling injunction, the ACC's refusal to settle cannot be cast as bad faith or a violation of their fiduciary duty. As Collier's explains: "Most courts have also rejected arguments based on a creditor's supposed antipathy to the debtor or to the debtor's reorganization. There is nothing inherent in a creditor's fiduciary duty to other creditors that requires the creditor to favor a debtor's reorganization or to refrain from serious disagreements with the debtor." 7 COLLIER ON BANKRUPTCY P 1102.02. *See also* Listecki v. Official Comm. of Unsecured Creds., 780 F.3d 731, 739 (7th Cir.

2015) (creditors' committee is a representative for "the larger interests of the unsecured private creditors" and so it is to them . . . that the committee owes a fiduciary duty); Smart World Techs., LLC v. Juno Online Services, 423 F.3d 166, 175 n.12 (2d Cir. 2005) ("A creditors' committee owes a fiduciary duty to the class it represents, but not to the debtor, other classes of creditors, or the estate."); In re SPM Mfg. Corp., 984 F.2d 1305, 1315-16 (1st Cir. 1993) ("Thus the committee's fiduciary duty, as such, runs to the parties or class it represents. . . . It is charged with pursuing whatever lawful course best serves the interests of the class of creditors represented.").

The Debtors chose to file bankruptcy to aggregate their personal injury liabilities and defense costs, themselves having been created as the **ultimate proxy** for the true parties in interest in these cases, their non-debtor affiliates. Having voluntarily availed themselves of bankruptcy relief, they cannot now complain about the adversary that the Bankruptcy Code creates and empowers to give voice to creditors. While the Bankruptcy Administrator generally views the Debtors' utilization of the so-called Texas two-step to be a perversion of the Bankruptcy Code, their strategy could work and, if it does, it will likely be because seventy-five percent of the ACC's constituency voted in favor of a reorganization plan.[28] If the Debtors (and FCR) believe a plan can be confirmed without the ACC's support, they can put the decision directly to the claimants and solicit votes on the Plan.[29]

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[28] Upon information and belief, the Debtors may seek cramdown confirmation under 11 U.S.C. § 1129(b), which, for the avoidance of doubt, the Bankruptcy Administrator opposes.

[29] Joint Plan of Reorganization of Aldrich Pump LLC and Murray Boiler LLC (the "Plan"), Sept. 24, 2021, ECF No. 831. While the $545 million settlement between the Debtors and FCR

The source of the complaint about the ACC's governance must be considered. The Court should look askance at complaints by an adversary about their opponent's lack of authority for its case strategy. No claimant or firm, whether on or off the ACC, has raised concerns about the ACC's strategy, conduct, or governance. No claimant has called the Bankruptcy Administrator's office to ask when they will receive a payment on their claim, as often happens in long-lasting bankruptcy cases. Only the ACC's adversaries have suggested that the ACC's strategy is counter to the interests of their constituency. The Bankruptcy Administrator had the opportunity to speak directly to claimants and their individual counsel over recent weeks while identifying new committee members and left those conversations with no concerns.

The FCR's Joinder includes the following statement: "[the ACC's decision-making] 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. . . ." Id. at p.3. While it may be true that thousands may have been diagnosed and died during the pendency of these cases, the FCR is incorrect that he speaks for these claimants. They are the ACC's constituency. The FCR speaks for those who may manifest disease after confirmation of a plan.[30] As such, the ACC's constituency continues to expand as these

receives regular mention, the Plan lacks many of the important details that would be required for confirmation, particularly the "Claims Resolution Procedures," which sets forth what evidence would be required to receive payment from the Asbestos Trust, as such term is defined in the Plan.

[30] See Order Appointing Joseph W. Grier, III as Legal Representative for Future Asbestos Claimants, Oct. 14, 2020, ECF No. 389, which provides:

> Pursuant to sections 105(a) and 524(g)(4)(B)(i) of the Bankruptcy Code, Joseph W. Grier, III is hereby appointed, as of October 6, 2020, as the Future Claimants'

cases progress.

The Debtors and FCR repeatedly reference the tort lawyers' "conflicts of interest" with their clients, suggesting at the October 23rd hearing that certain firms resist settlement because they would recover a smaller split of their client's recovery on trust claims as compared to litigation cases.[31] The record is devoid of any evidence regarding these contingency fee arrangements nor an explanation for how an existing contractual agreement between a claimant and his counsel could be modified to reduce the attorney's percentage recovery. The fact that tort lawyers will be compensated by a contingency fee cannot create a disabling conflict.

The FCR relies heavily on Judge Silverstein's ruling in Cyprus Mines to support his position, but the dispute in that case arose from an inter-claimant dispute between plaintiffs' attorneys – not from the committee's adversaries.[32] In Imerys, the debtor and committee reached an agreement that contemplated the formation of a joint trust to pay talc-related personal injury claims of both Imerys and Cyprus

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> Representative to represent and protect the rights of persons who may, subsequent to confirmation of a plan of reorganization for the Debtors, hold claims against one or both of the Debtors based on, arising out of, or related to asbestos-related injury, disease, or death that has not manifested, become evident, or been diagnosed as of the date an order is entered confirming such a plan of reorganization in these cases by both the bankruptcy court and a district court (collectively, the "Future Claimants").

While the Plan includes a definition for the "Current/Future Claims Determination Date" that suggests this cut-off date is to be determined, the earlier order makes clear that claimants manifesting postpetition, preconfirmation disease fall within the ACC's constituency, consistent with the Debtors' motion seeking Mr. Grier's appointment. See Motion of the Debtors for an Order Appointing Joseph W. Grier, III as Legal Representative for Future Asbestos Claimants, Aug. 21, 2020, ECF No. 276 at ¶21(a).

31 See October 23, 2025, Hearing Transcript, 139:4-14 [ECF No. 2865].

32 In re Cyprus Mines Corp., 2021 Bankr. LEXIS 1368, *11, 2021 WL 2105427, *5 (Bankr. D. Del. May 18, 2021).

Mines. In light of the proposed joint trust for two unaffiliated debtors, a plaintiffs' firm could have a positional conflict if its other client serving on the Cyprus Mines committee opposed the settlement that its client serving on the Imerys committee approved. It was in this context that Judge Silverstein considered the possibility that plaintiff firms held a conflict of interest and made her comments about committee participation, which was necessary to avoid the positional conflict that may otherwise exist.[33] While her suggestions may have broader applicability in mass tort cases, including the instant cases consistent with the Court's previous guidance, this guidance should be applied prospectively in light of the previous expectations of the ACC and individual members' counsel, as outlined in detail above.

Adjustments to the ACC's governance may be appropriate, but those changes should apply prospectively. Seven members just joined the ACC. Each of the new (and existing) members reviewed language from the Court's guidance at the August 28, 2025, hearing and acknowledged and affirmed that they are prepared, to the extent required by the Court and/or requested by the ACC, to actively and directly participate in the ACC's decision-making. The process of adding members was underway when the 2004 Motion was filed – effectively providing the substantive relief for which the Debtors sought discovery.

The Bankruptcy Administrator took care to convey the need for ACC members to be available for direct participation. This forced some members to decline (or, from

[33] The FCR's Joinder implies that conflicts like those in Cyprus Mines exist in the Aldrich cases. While the Debtors have followed a strategy similar to Bestwall and DBMP, there is no possibility of a joint trust for the Debtors in this case with any other bankrupt defendant as was proposed in the Imerys and Cyprus Mines cases.

their perspective, resign) the committee appointment, removing from the ACC their voice and previous experience with the cases. In the Bankruptcy Administrator's view, if the option to delegate some responsibilities to counsel facilitates claimant participation in the ACC, this is a benefit, not a detriment, to the claimant, the ACC, and these cases. Regular participation in litigation strategy sessions is an heavy burden to place on any individual – and especially burdensome for individuals whose remaining days are limited by disease.[34] Individual claimants are unlikely to have strong views on how to best develop the discovery plan or set the benchmarks and dates for a case management order; however, the Bankruptcy Administrator agrees with Judge Silverstein regarding the benefits of participation by individual committee members – that "individuals serving on committees bring valuable real life/non-legal perspectives (whether business or personal) to committee deliberations and how a case should proceed." In re Cyprus Mines Corp., 2021 Bankr. LEXIS 1368, *12, 2021 WL 2105427, *5 (Bankr. D. Del. May 18, 2021).

While all ACC members have affirmed their willingness to directly participate in the work of the ACC consistent with the Court's guidance at the August hearing, the undersigned urges the Court to allow the ACC members to determine the best means to facilitate the goals of that guidance without removing the benefits of counsel's assistance in the member's committee work. The Bankruptcy Administrator recommends the following principles guide the ACC going forward:

[34] One of the new members of the ACC, a living person suffering from mesothelioma, is two months into his twelve-month projected lifespan. While he is committed to service on the ACC, his time is more precious than most.

- Individual claimants named to the ACC are its members. Decision-making authority rests with ACC members, not their counsel.
- ACC members' direct participation is encouraged and should be facilitated when possible.
- ACC counsel must communicate directly with its members and provide the information necessary for the ACC's members to make informed decisions.
- ACC members have a responsibility to remain informed about these cases and engaged in the work of the ACC.
- Actions taken through counsel must be authorized by the ACC member.

The undersigned suggests that these principles be reflected in an order denying the 2004 Motion, which would be served on the ACC members at their individual addresses, as well as their counsel. To the extent changes are needed to the ACC's governing documents and/or communication plan to comply with these principles, the ACC should implement necessary updates within 14 days of the entry of an order denying the 2004 Motion. The undersigned urges the Court to allow the ACC members to determine the best means to facilitate their objectives for these cases consistent with the above-described principles regarding of participation, engagement, and informed decision-making. Input from the ACC's adversaries on these matters should be afforded little consideration, if any.

Wherefore, the Bankruptcy Administrator respectfully requests that the Court enter an order (a) denying the 2004 Motion (b) approving the principles listed above, and (c) directing the ACC to implement these principles in its governing documents,

communications, and decision making following the entry of such order.

Dated: November 6, 2025

/s/ Shelley K. Abel

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