Docket #0139 Date Filed: 2/23/2026

UNITED STATES BANKRUPTCY COURT
FOR THE 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)
OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS, Plaintiff, v. ALDRICH PUMP LLC, MURRAY BOILER LLC, TRANE TECHNOLOGIES COMPANY LLC, and TRANE U.S. INC., Defendants.	Adv. Pro. No. 21-03029 (LMJ)
OFFICIAL COMMITTEE OF ASBESTOS PERSONAL INJURY CLAIMANTS, on behalf of the estates of Aldrich Pump LLC and Murray Boiler LLC, Plaintiff, v. INGERSOLL-RAND GLOBAL HOLDING COMPANY LIMITED, TRANE TECHNOLOGIES HOLDCO INC., TRANE TECHNOLOGIES COMPANY LLC, TRANE INC., TUI HOLDINGS INC., TRANE U.S. INC., and MURRAY BOILER HOLDINGS LLC, Defendants.	Adv. Pro. No. 22-03028 (LMJ)

[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.

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DEFENDANTS' REPLY IN SUPPORT OF MOTION TO COMPEL THE COMMITTEE TO PROVIDE ADEQUATE RESPONSES TO DISCOVERY REQUESTS

Defendants file this reply: (1) in response to *The Committee's Opposition to Defendants' Motion to Compel the Committee to Provide Adequate Responses to Discovery Requests* [Adv. Pro. 21-03029 Dkt. 207; Adv. Pro. 22-03028 Dkt. 137] (the "Opposition" or "Opp."), and (2) in further support of *Defendants' Motion to Compel the Committee to Provide Adequate Responses to Discovery Requests* [Adv. Pro. 21-03029 Dkt. 204; Adv. Pro. 22-03038 Dkt. 131] (the "Motion").[2]

PRELIMINARY STATEMENT

On the three principal issues raised in the Motion, the Opposition demonstrates why Court intervention is required and, indeed, why the Adversary Proceedings are baseless, unwarranted, and should be stayed.[3] On the "possession, custody, and control issue," the Committee makes the surprising statement that all facts relevant to these proceedings are "***solely*** … in Defendants' possession." Opp. ¶ 2 (emphasis in the original). Yet, the Committee bases its substantive consolidation complaint on the Augie-Restivo "creditor reliance" factor, which cannot be supported by Defendants' records but instead requires evidence of actual creditor reliance. The Opposition demonstrates the Committee has no facts to support its "creditor reliance" theory.

The Committee continues to assert inconsistent positions in the main case and the Adversary Proceedings, and this stark contrast further highlights the unsubstantiated nature of its

[2] Capitalized terms not defined in this Reply have the meanings set forth in the Motion.

[3] Defendants' motion for a stay [Dkt. 2822] is scheduled for a continued hearing on April 23, 2026. Defendants intend to seek a full stay of the Adversary Proceedings at that time. Defendants nonetheless filed the Motion to Compel now, given the current schedule, to allow sufficient time for Court consideration and supplemental responses by the Committee, should the Motion be granted and the Court declines to stay the Adversary Proceedings.

claims.[4] And, most obviously, the Opposition's assertion that discovery as to the Committee's position on financial distress is "not relevant" because the Adversary Proceedings are necessary to "unwind[] … the Corporate Restructuring" (id. ¶ 41)—regardless of whether asbestos claimants will be paid in full in the bankruptcy—leaves no doubt what these proceedings are solely about: an attempt to effectively dismiss the Chapter 11 cases on grounds already denied by this Court.

As to the discovery matters raised in the Motion, the Committee's overarching objections are largely divorced from the discovery requests at issue and otherwise unfounded. *First*, the Committee's suggestion that all relevant information resides "solely … in Defendant's possession," id. ¶ 2, not only undermines its own claims (as noted above) but also embodies the one-way street approach to discovery that prompted this Motion.

Second, the Motion is not a roving attempt to "target[] internal Committee conduct." Id. ¶ 13. Nor does it seek to revisit the Court's holdings on Defendants' prior Rule 2004 Motion. Id. ¶ 2. Rather, the Motion seeks responses to discovery concerning the ***Committee's*** own contentions in the Adversary Proceedings, such as creditor reliance, and its stated positions on other issues foundational to these Adversary Proceedings, such as financial distress and solvency.

Third, the Motion does not seek compliance with "overbroad" or "premature" interrogatories. Id. ¶¶ 26, 36-38. The interrogatories specifically target particular allegations that are both principal and material to these Adversary Proceedings. The Committee long ago received significant discovery—including some ***94,000*** pages of documents from ten key

[4] In the dismissal litigation, the Committee asserts the Debtors are not only solvent but lack any financial distress whatsoever. In the Adversary Proceedings, however, the Committee alleges the Debtors are insolvent. In the estimation proceeding, the Committee has a position on the amount of the Debtors' asbestos liability in the form of a full expert report. But, for some reason, that is not the Committee's position as to the Debtors' asbestos liability in the Adversary Proceedings.

custodians and ***22*** depositions—relating to the 2020 Corporate Restructuring and subsequent bankruptcy filings, the subjects it says are the focus of these proceedings. Mot. at 3. Discovery in the PI Proceeding was not "truncated." Opp. ¶ 6. The Committee does not point to any subject for which it has not received evidence sufficient to answer Defendants' inquiries.

Fourth, Defendants did not file the Motion because they "dislike" the Committee's responses. To the contrary, the Committee simply chose to reframe (*e.g.*, Sub Con Interrogatories 1 and 4) or object to discovery requests it disliked.

Fifth and finally, the Committee's suggestion that Defendants did not adequately meet and confer before filing the Motion is groundless. See id. at 4 n.7. The correspondence attached to the Motion makes clear that every issue and discovery request at issue in the Motion has been thoroughly identified, vetted, and debated at length. The Committee's recent supplemental responses have nothing to do with the issues presented in the Motion. Notably, the Opposition neither agrees to modify the Committee's position nor offers to supplement its responses to any discovery request.

The Motion should be granted in all respects.

ARGUMENT

I. THE COMMITTEE SHOULD BE COMPELLED TO PROVIDE INFORMATION FROM ITS MEMBERS AND THEIR COUNSEL BEARING ON ITS CONTENTIONS.

1. The Opposition ignores that the Committee, comprised of its members and largely acting through their tort counsel, has made the allegations in the Adversary Proceedings, including how asbestos claimants ***like themselves*** putatively "relied" on the wherewithal of corporate entities. In this type of circumstance, the Committee cannot file litigation and then assert it is immune to discovery.

2. Defendants do not suggest that any piece of information held by an individual creditor automatically becomes relevant once that creditor joins a creditors' committee. But the Committee's position here—that relevant information possessed by its members is neither "available to" the Committee nor in its "possession, custody, or control" ***unless*** it stems directly from the members' work on the Committee—is neither supported by the authorities it cites nor otherwise consistent with the rules of discovery.

A. The Committee Does Not Apply the Correct Standards.

3. As to interrogatories, the Opposition further demonstrates that the Committee's responses conflate the "possession, custody, or control" standard applicable to Rule 34 document requests with the broader "available to" standard applicable to interrogatories under Rule 33.[5] Notwithstanding the Committee's attempts to blur the standards, see id. ¶¶ 17-19, Rule 33 expressly requires the Committee to provide information "available to the party," not merely what is allegedly in its "possession, custody, or control" as required under Rule 34. Fed. R. Civ. P. 33(b)(1)(B); Fed. R. Civ. P. 34(a)(1). The authorities cited in the Motion make clear that the standards are different. See Mot. ¶ 15.

4. Similarly, the Committee's claim that it need not "search the personal records of its individual members," Opp. ¶ 17, likewise misses the mark. Rule 33 does not merely require the Committee to search its "own" files; it requires the Committee to "furnish the [responsive] information available to" it. This means a party "must pull together a verified answer **by reviewing *all sources* of responsive information reasonably available to him** and providing the responsive, relevant facts reasonably available to him." Areizaga v. ADW Corp., 314 F.R.D.

[5] As noted in the Motion, the Committee's objections and responses to Defendants' interrogatories objected to various interrogatories on the basis of "possession, custody, or control" and evidently did not consider whether the information sought was "available to" the Committee. See Committee Sub Con Responses, at 11-12, 36, 44.

428, 437 (N.D. Tex. 2016) (citing 8B Wright, Miller & Marcus, Fed. Prac. & Proc. § 2174 (3d ed. 2013)) (emphasis added); see also Frontier-Kemper Constructors, Inc. v. Elk Run Coal Co., 246 F.R.D. 522 , 529 (S.D. W. Va. 2007) (holding parties are "under a severe duty to make every effort to obtain the requested information and, if, after an adequate effort, he is unsuccessful, his answer should recite in detail the attempts which he made to acquire the information." (citation omitted)).

5. The Committee has made no effort to explain how information in its members' possession that bears directly on the Committee's contentions—including as to how asbestos claimants, such as the Committee members, acted—is not "available to" the Committee. Its objections and responses do not detail ***any*** attempts to obtain the requested information regarding creditor reliance; the Committee instead shrugs off its duty to inquire with conclusory statements that the requested information is not within its possession, custody, or control. See Committee Sub Con Responses, at 11-12, 36, 44. That is not sufficient.

6. The Committee reveals for the first time in a footnote that it "did not rely" on "claimants and/or tort counsel" when "drafting the complaint and motion for substantive consolidation in the SubCon proceeding." Opp. at 13 n.31. While this, again, demonstrates the baseless nature of the Committee's claims, it does not immunize responsive information available to the Committee, including from its members or their tort counsel, from discovery.

7. As to document requests, the Committee provides no response to the "practical ability" standard that prevails in the Fourth Circuit. See Mot. ¶ 12. There should be no dispute that the Committee has the practical ability to request information from its own members regarding allegations the Committee itself has made. See Clark v. Council of Unit Owners of 100 Harborview Drive Condo. Ass'n, 2024 WL 2155021, at *4-*7 (D. Md. May 13, 2024)

(collecting cases and holding that "at a minimum, [Respondent] has an obligation to ask its current Board Members for emails [in private inboxes] that may be relevant to the case").

B. The Committee's Authorities Are Inapposite.

8. The Committee's reliance on Circle K and Snyder is misplaced. See Opp. ¶ 19. As noted in the Motion, Circle K stands for the unremarkable proposition that committee counsel do not serve as lawyers for individual members; it has nothing to do with what information is "available to" a committee or within its "possession, custody, or control" for discovery purposes. Mot. ¶ 29. Snyder likewise addresses professional responsibility rules regarding attorney communications, not discovery obligations. Id.

9. The Committee's reliance on Spring v. Board of Trustees is similarly unavailing. See Opp. ¶ 22. That case held only that a school board did not "control" documents of individual board members outside the school's internal systems because the board members were named defendants in their official capacities and, as such, the board was the "real party in interest … not the trustees personally." Spring v. Bd. of Trs. of Cape Fear Cmty. Coll., 2016 WL 1389957, at *4 (E.D.N.C. Apr. 7, 2016). This is a far cry from holding a creditors' committee has no obligation to ask its members, who remain parties in interest in their individual capacity despite the committee's existence, for information supporting contentions the committee itself has made. Indeed, courts in the Fourth Circuit considering the practical ability of a party to obtain documents from an alleged "non-party" have considered "the extent to which the non-party has a stake in the outcome of the litigation." Benisek v. Lamone, 320 F.R.D. 32, 34-35 (D. Md. 2017). Here, the Committee members (and their tort counsel) have a stake in the outcome of the Adversary Proceedings and are the very parties prosecuting the litigation.

10. As to transcripts cited in the G-I Holdings and Garlock proceedings, the Committee overplays what those courts actually ruled. See Mot. ¶ 30. The discovery in G-I

Holdings and Garlock did not seek documents directly relevant to factual contentions made by the committee itself.[6] Here, by contrast, Defendants seek information directly relevant to contentions the Committee has advanced; if the Committee made allegations without any factual basis from its members, then that itself is revealing. See, e.g., 11 U.S.C. § 9011(b)(3) (requiring in part that "the allegations and factual contentions have evidentiary support" in all filings lodged with the court).

C. The Committee's Remaining Arguments Are Meritless.

11. The Committee's suggestion that the files of individual claimants and their tort counsel unrelated to their Committee work must be protected from discovery for "policy reasons"—otherwise "no rational creditor would ever agree to serve" on a committee—is unfounded. Indeed, Judge Whitley already rejected such an assertion in these proceedings.[7]

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[6] In G-I Holdings, the debtor sought information relevant to a "pretest" conducted by the asbestos claimant committee's expert, who had opined in objecting to the debtor's estimation motion that the debtor's proof of claim form was too time consuming and expensive to complete. See G-I Holdings Sep. 10, 2003 Hr'g Tr. at 4-5. Because the expert's pretest involved the participation of certain law firms (some of which represented individual members of the committee), the debtor's discovery primarily sought material in the possession of those law firms. The court was "not convinced that the files of individual claimants' lawyers were necessarily within the Committee's possession, custody, or control," and found that discovery served on the Committee could not properly require a separate "responses by and on behalf of individual claimants or their tort counsel who represent them." Id. at 15. Here, Defendants' requests are not seeking separate responses from individual claimants or their counsel but, rather, seek information available to the Committee and directly responsive to the Committee's allegations in Adversary Proceedings it commenced.

In Garlock, the debtor sought from the asbestos claimants committee certain communications relating to the solicitation of the debtor's proposed plan. See Garlock Dec. 28, 2015 Hr'g Tr. at 11. Judge Whitley was highly skeptical at the outset on whether any of the requested materials would be material. See id. at 11-12. Judge Whitley further found that debtor's motion seemed to be asking for "communications by individual members and the claimants and their attorneys," which he found problematic. Id. at 12:22-13:2. Again, the requested discovery in Garlock, unlike here, did not seek discovery directly related to a committee's allegations in an adversary proceeding.

[7] The Debtors sought discovery in the PI Proceedings from individual Committee members concerning their recoveries against co-defendants in the tort system to test certain allegations made by the Committee concerning the harm of a litigation stay on claimants. The Court rejected the Committee's motion for a protective order [PI Adv. Dkt. 86], including its claim that the Debtors were inappropriately "targeting" Committee members for discovery. See Feb. 25, 2021 Hr'g Tr. at 16:11-19:5, 62:1-64:18 (attached hereto as **Exhibit A**). The Court found the requested discovery relevant and, in addressing the alleged "harassing" nature of the discovery, noted that "the reality is that these committees, the law firms that represent those individuals take a great interest in the bankruptcy case and there is a great deal of desire to serve on the committee." Id. at 62:3-6. Accordingly, the discovery was not "likely to chill anyone." Id. at 62:9-10.

12. Next, the Committee argues that beyond "theoretical assertions," Defendants "offer no factual basis to believe the individual members' or tort counsel's files contain relevant, responsive, and non-privileged information." Opp. ¶ 24. Defendants have no obligation to prove that their adversary possesses responsive information before seeking it in discovery. In any event, if the Committee members or their individual tort counsel have nothing to produce, then there is little burden associated with responding to Defendants' requests.

13. Finally, the Committee suggests that "Defendants' selective quotations from the Committee's discovery responses misrepresent the comprehensiveness with which the Committee responded to the requests." Id. ¶ 25. In support, the Committee points to its answer to Sub Con Interrogatory 1, which asks for facts supporting the assertion that creditors and asbestos claimants "dealt with" TTC and Aldrich Pump (and TUI and Murray Boiler) as "one entity" ***subsequent to*** the Corporate Restructuring. Its response, however, offers only the argument that TTC and Aldrich Pump were one entity ***prior to*** the Corporate Restructuring, as were TUI and Murray Boiler, and settlement data that was already well known to Defendants. What the Committee did not provide were any details of how any specific creditor or asbestos claimant dealt with the entities subsequent to the Corporate Restructuring, a key element of the interrogatory. The Committee's incomplete and evasive answer to Sub Con Interrogatory 1 is emblematic of the incomplete nature of its responses.

II. THE COMMITTEE SHOULD BE COMPELLED TO PROVIDE ITS POSITION ON THE EXTENT OF DEBTORS' AGGREGATE ASBESTOS LIABILITY IN THE ADVERSARY PROCEEDINGS.

14. There is no dispute the Committee provides nothing of substance in its existing responses to Defendants' discovery requests seeking the Committee's position on the extent of Debtors' asbestos liability. The Committee has provided no estimation of the Debtors' asbestos liability for purposes of the Adversary Proceedings.

15. Nor does the Committee dispute that it has fundamentally changed its view on when it will, or should, disclose its estimate in connection with the Adversary Proceedings. As detailed in the Motion, the Committee previously stated that an "estimate of aggregate asbestos liabilities is set to occur in a related but separate proceeding," indicating its estimate for purposes of the Adversary Proceedings would be provided in the estimation proceeding. See Mot. ¶ 32. Now, the Committee acts as if the estimate provided in the estimation proceeding is irrelevant to discovery in these Adversary Proceedings. See Opp. ¶ 30.

16. The Committee's argument that Defendants' requests are "procedurally improper" and contrary to the "discovery framework established by the Court," id. ¶ 28, is baseless. The Court never suggested the Committee could altogether avoid responding to discovery requests in these Adversary Proceedings with responsive information the Committee currently has simply because the discovery request in question might later be further informed by expert analysis. Damage disclosure case law is analogous and informative: future expert analysis does not relieve a party from providing estimates they already have developed and have in their possession. See Mot. ¶¶ 35-37. Here, of course, the Committee has already developed and shared an estimate in the estimation proceeding.

17. The Committee's vague arguments that the preliminary estimates provided by Mr. Sackett were prepared "for reasons particular to the estimation proceeding in the main case," and that the "analysis" of the Debtors' aggregate estimate liability "differ," Opp. ¶ 31, are similarly groundless. The Committee fails to explain how these estimates would materially differ in the six weeks between the May 1, 2020 Corporate Restructuring and the June 18, 2020 Petition Date. Id. at 15 n.35.

III. THE COMMITTEE SHOULD BE COMPELLED TO RESPOND TO SUB CON INTERROGATORY 4 AS FRAMED.

18. The Committee does not dispute that it did not answer Interrogatory 4, requesting the Committee to state the facts and reasons for its contention in the dismissal litigation that the Debtors are ***not*** in financial distress. Nor does the Committee dispute that it answered a different question than was asked in Interrogatory 4. The Committee's various attempts to avoid answering the inquiry posed are meritless.

19. Sub Con Interrogatory 4 is not "another premature contention interrogatory." Id. ¶ 39. The stage of these proceedings never stopped the Committee from presenting substantial argument to this Court, the district court, and the Fourth Circuit about the Debtors' alleged lack of financial distress.

20. Nor does the Committee's claim that it may take alternative positions on the Debtors' insolvency permit it to evade discovery into the factual basis of those positions. Defendants are not limited to seeking discovery that supports the alternative position the Committee chooses to advance in the Adversary Proceedings. The Committee offers no valid objection to Sub Con Interrogatory 4.

21. The Committee's argument that the Debtors' solvency is somehow "not relevant" to the substantive consolidation ***remedy*** is specious. Id. ¶ 41. The Committee's own motion for substantive consolidation alleges that the Debtors are "undercapitalized," insolvent, and "cash-starved." See Mot. ¶ 42 (citing Committee's motion for substantive consolidation). That alone belies the Committee's suggestion that the topic is "not relevant."

22. Moreover, the "sole purpose" of substantive consolidation is "to ensure the equitable treatment of all creditors.'" In re Gordon Properties, LLC, 478 B.R. 750, 755 (E.D. Va. 2012) (quoting In re Augie/Restivo Baking Co., 860 F.2d 515, 518 (2d Cir. 1988)). A court does

not reach the Augie/Restivo factors for substantive consolidation unless there is a clear and demonstrated need for the extraordinary remedy. Defendants contend this is a full-pay case and that substantive consolidation is unnecessary to pay asbestos claimants in full. The Debtors' solvency is undeniably relevant.

23. The Committee's allegations that solvency is not relevant because the Corporate Restructuring and the "Texas Two-Step stratagem" has "disadvantaged, hindered, and delayed," and "structurally subordinated asbestos claimants," id., simply recast the same "sundried arguments" about the Texas Two-Step that Judge Whitley rejected as a basis for dismissal.[8] As the U.S. District Court for the District of New Jersey recently held in Love v. Red River Talc, allegations of harm caused solely by bankruptcy stays are "fundamentally incompatible with the structure and purposes of the Bankruptcy Code." Mot. at 2 n.2 (citing Slip Op. at 10). The Committee's allegations again show the Adversary Proceedings have nothing to do with augmenting creditor recoveries but, instead, are merely attempts to dismiss the bankruptcies on grounds already denied by the Court.

24. The Committee should be compelled to respond to Sub Con Interrogatory 4 as written, regardless of whether it serves its purposes in these Adversary Proceedings.

CONCLUSION

For all of the foregoing reasons, the Court should grant the Motion to Compel Adequate Responses to Discovery Requests.

[8] See *Order Denying Motions to Dismiss* [Dkt. 2047] at 58 (finding "Movants' sundried arguments" that the "'Texas Two-Step' is a manipulation of the bankruptcy process," designed to create "prejudicial delays," cannot form the basis for dismissal under the Carolin standard, and noting "[t]hat which cannot be done directly cannot be done indirectly").

Dated: February 23, 2026
Charlotte, North Carolina

Respectfully submitted,

/s/ John R. Miller, Jr.

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ATTORNEYS FOR DEBTORS AND DEBTORS IN POSSESSION

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:	:	Case No. 20-30608-JCW (Jointly Administered)
ALDRICH PUMP LLC, ET AL.,	:	
Debtors,	:	Chapter 11
	:	Charlotte, North Carolina
	:	Thursday, February 25, 2021 9:30 a.m.
	:	
ALDRICH PUMP LLC and MURRAY BOILER LLC,	:	AP 20-03041-JCW
Plaintiffs,	:	
v.	:	
THOSE PARTIES TO ACTIONS LISTED ON APPENDIX A TO COMPLAINT and JOHN AND JANE DOES 1-1000,	:	
Defendants.	:	

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE J. CRAIG WHITLEY,
UNITED STATES BANKRUPTCY JUDGE

Audio Operator:	COURT PERSONNEL
Transcript prepared by:	JANICE RUSSELL TRANSCRIPTS 1418 Red Fox Circle Severance, CO 80550 (757) 422-9089 trussell31@tdsmail.com

Proceedings recorded by electronic sound recording; transcript produced by transcription service.

MR. WEHNER: -- at the end of last month about. The committee members have each individually joined in this request for relief.

Your Honor, a week after the debtors filed their -- their -- I think it was their second motion or renewed motion asking for a PIQ, on December 14th, debtors served these PIQ interrogatories on each of the individual committee members. Those are Jerry Lynn Fowles, Pete Panagiotopoulos, Ray Hager, Richard Shiel, Richard and Calvena Sisk, Joseph Hamlin, John Gambill, Robert Overton, Richard Villanueva, Barbara Korte, and Stephen Bomzer. Like the proposed PIQ that we talked about, the interrogatories are seeking information about other entities the individual committee members contend are liable for their asbestos claim, submissions to asbestos trusts the individual committee member has made or may make, who's named in the committee member's lawsuit and the status of the lawsuit, recoveries to, received or to be received from other tortfeasors, and the gross amount of recovery the individual committee member has received or will receive on their asbestos claim.

Your Honor, the overlap with the PIQ is total. All of these requests are part of the proposed PIQ. There's nine interrogatories in total in these requests. Interrogatories 2 through 5 and 8 track the Section 8B of the proposed PIQ. Interrogatories 6 and 7 track Section 8 and Table A of the PIQ

that is proposed by the debtors. And finally, Interrogatories 1 and 9 track Section 8 of the PIQ. The complete overlap with the PIQ makes this a little bit of an odd situation. You indicated that in our last hearing in late January that further arguments on the PIQ are going to be heard, if necessary, in late May. So even if you grant this protective order in some sense, we could be back here in May talking about what is essentially the same discovery.

THE COURT: Uh-huh (indicating an affirmative response.)

MR. WEHNER: Nevertheless, granting this protective order now for these interrogatories makes sense. First of all, one of the reasons it makes sense is that targeting committee members for this kind of discovery is inappropriate. Out of the approximately hundred thousand current asbestos claimants, the debtors have selected the 11 committee members to subject to this discovery. The debtors have cited no precedent for treating the committee members as proxies for a creditor body and we submit that targeting committee members because they are committee members is not good for the bankruptcy process, that creditors should be encouraged to serve as committee members, not punished for agreeing to, to serve.

In their objection to our motion the debtors attempt to shift the responsibility for their choice of discovery targets to the Bankruptcy Administrator who proposed the

Committee, but the Bankruptcy Administrator did not make the debtors serve this discovery, nor can the debtors turn the Bankruptcy Administrator into some kind of retroactive expert witness on statistical sampling. We don't think that this discovery has anything to do with the preliminary injunction, but even if it did when a party's aim is to burden or harass the person from whom they seek discovery, even relevant discovery can be denied. We cited to a couple of cases in our brief, Oppenheimer and Amick v. Ohio Power, for that proposition, your Honor.

In fact, the debtors' attempt to connect this PIQ discovery to the preliminary injunction is charitably strained. The preliminary injunction proceeding is not going to evaluate the merits of individual asbestos claims, even if somehow it was the details of 11 claims picked out of a hundred thousand, affected by the injunction cannot be relevant to any claim or defense in the PI. Apart from pointing to the Bankruptcy Administrator, debtors don't even argue that these 11 claimants are some type of statistically valid sample of the thousands of asbestos claimants. Thus, the interrogatories fail the requirement of Rule 26 that discovery be relevant to a claim or defense. It can be set aside for that reason.

Debtors have suggested that because some asbestos claimants may recover damages from other defendants they, the debtors need details of these 11 claims to see if the claimants

will be harmed by the preliminary injunction, but debtors cite no law at all for the proposition that an assessment of the financial means of the committee members is required to decide the PI motion. The Fourth Circuit has held that delaying access to, to the courts for asbestos claimants itself were to manifest injustice on those claimants. That's the Williford case.

THE COURT: Uh-huh (indicating an affirmative response.)

MR. WEHNER: And notably, the, the Fourth Circuit made that determination without any individualized consideration of financial hardship. The debtors also point to Judge Beyer's decision in the PI in Bestwall. It's obviously something we disagree with, but even there Judge Beyer did not evaluate the financial resources of individual claimants in her decision. She simply observed that plaintiffs in an asbestos-related lawsuit typically name multiple defendants. Here, the proposition that some asbestos claimants may seek recovery from their injuries from multiple sources is apparent from even the most cursory examination of the thousands of complaints that Ingersoll-Rand and Trane have been named in for decades and for looking at the verdicts that apportion recovery among multiple tortfeasors, you -- you -- we just don't need to look at these 11 claims to establish that, again.

So these, these interrogatories should be set aside

for those reasons. They're targeting the committee members for no reason and it has nothing to do with the PI. I mean, these interrogatories are inappropriate for the same reasons that the, we argued that the PI, PIQ is inappropriate. I'll just touch on some of those reasons real quickly, your Honor.

THE COURT: Okay.

MR. WEHNER: The debtors already have information on what they're asking. I, I'll give you an example. Interrogatory No. 6 asks --

THE COURT: Uh-huh (indicating an affirmative response.)

MR. WEHNER: -- each of these 11 individual committee members to "Identify all entities named in any lawsuit you have relating to an asbestos claim." So they're basically asking the committee members to write down all the people that are on the caption of the lawsuit that Ingersoll-Rand or Trane is also named in. I mean, they already have the complaint. This is, this is sort of make work. And more broadly, Ingersoll-Rand and Trane have a huge amount of information about asbestos claims, just gobs. They've been defending these cases for decades and the idea that, that adding to that pile the individual details of 11 committee members is, is kind of ridiculous.

These -- the PI -- both -- these interrogatories call for speculation. Interrogatory 5 asks what they're going to do

in the future with respect to claims. Claims are worked up over time in the tort system. We cited case law that explains that, your Honor, in our motion and in our reply. Requiring the committee members to submit discovery responses that are conjecture is, thus, improper and contrary to law. The same kind of questions about future conduct raise privilege questions and work-product questions. To the extent the interrogatories call for that kind of material, they are inappropriate as well. They're, they also call for confidential settlement information. Again, debtors have offered no law suggesting we need to delve into the financial resources of the committee members to decide the, the PI. And finally, it is -- there is possibility that some of this is subject to a protective order in underlying tort cases.

THE COURT: Uh-huh (indicating an affirmative response.)

MR. WEHNER: Your Honor, I don't, we hope you don't need to get into the details of going through these interrogatories and sorting out, like we might have to do in May with the PIQ, these individual PIQ arguments. We think they are independently objectionable for targeting the committee members and their irrelevance to the PI motion. Therefore, we'd ask you to grant the protective order and relieve the committee members from having to deal with this PI discovery now during the PI case, I mean, responding to --

it doesn't have the benefit of, of full-time exposure to bankruptcy law, generally. And it just strikes me that having this split up between a summary judgment on the stay matter and a personal injury matter is only going to confuse the higher courts as to what the appropriate standard is. It's going to multiply appeals. I'd just rather not do it.

So that's the, the first ruling and I go with the, the ACC there. We'll just keep the deadlines in this. We, y'all can talk about the sharp-pencil issues as to briefing and the like, but I'm, I'm wanting to keep all of this copasetic with, with what we have already in the injunction hearing.

As to the motion for the --

Everybody got that? Do we need to talk any more about that?

(No response)

THE COURT: Okay. All right. As -- and I'd ask the, the Committee for a, an order since they're the prevailing party here. Run it by everyone else for their comments, then, then send it on down. Let me know if you have problems.

As to the --

MS. RAMSEY: Yes, your Honor.

THE COURT: -- protective order request --

Yes? Someone say something?

(No response)

THE COURT: All right.

As to the protective order request, on that one I, I take the debtors' side. I think the discovery should be allowed. It would be much more efficient if we could just agree that these, the salient facts are adjudicative in nature or that we stipulate as to those. 'Cause I agree that picking 11 out of 10,000 plaintiffs and trying to prove injury or not injury by, by the injunction may not be the most probative evidence ever, but you've got to have some if you're going to be talking about these issues and while it would seem to me to not to be a particularly controversial point as to, if there is an injunction, who else you could collect from and the fact that you might collect from other sources, if you can get to trial or settlement in the tort system, or from the trusts. While it wouldn't seem to me to be a very complicated issue to determine that there are other sources of recovery and whatever might be recovered against the debtor, parents, affiliates, and, and distributors, that is likely, in the main, to, to be a lesser sum. But even then, if you're the person who has been injured, it would appear, just thinking about it, that recovering some of what you're due is not the same thing as recovering all of what you're due, again assuming that you're due anything.

But anyway, since we can't agree on that and as the debtor has to have some evidence to combat the, the arguments made, I'm inclined to allow the, the discovery on the 11

members of the Committee. It is the Committee's position that is putting this at issue in this particular matter. It is relevant to the standards of the injunction and the balancing of the harms, if not irreparable harm. I don't think it's particularly burdensome, from what I could tell reading the interrogatories. It would appear to me that the law firms that represent these claimants probably have that information, whereas I, the debtors' not likely to have all of it, including how much have you been paid and who do you intend to file claims against.

As to that question about No. 5, the, the present intention to file any bankruptcy trust claims, I agree with the debtors. To the extent that the person already has made that, had that thought and made a decision, that's discoverable information. That's fact, not speculation. If it were to be for someone who has not considered that question, then it becomes speculative in nature because you can't tie anyone down at this point in time if they really hadn't already made those plans.

But in any event, again, I don't think that, in and of itself, is, is a question of legal advice or work product. To the extent the client's made the determination with counsel that they are or aren't, it is what it is.

It's -- I don't think it's particularly harassing in this circumstance. I'm sensitive to that. In this

circumstance, I think we all know, as a reviewing court might not, that while the committee members are individuals, and in this case putative victims, the reality is that these committees, the law firms that represent those individuals take a great interest in the bankruptcy case and there is a great deal of desire to serve on the committee. It strikes me from what I've seen and read that it's almost like a resumé builder for the firms, that if you are a, a player in this area you want to be on these committees. So I don't think it's likely to chill anyone. I don't think in the current circumstances it's harassing.

So I believe in that instance the discovery is allowable, even though I'm not sure it's the most effective way of getting those factual issues resolved. I'd leave it to all of you that, to consider whether or not stipulations might be a more effective way, but I'm going to grant the discovery, decline the motion for protective order, that is. All right?

Questions? Concerns?

MR. TORBERG: Your Honor, this is David Torberg.

I, I did want to follow up on our argument on, on a waiver of objections by the ACC members --

THE COURT: Uh-huh (indicating an affirmative response.)

MR. TORBERG: -- and where we go from here.

What we're concerned about, of course, is that, you

know, the Court denies the protective order motion and then we see similar or additional objections in response to the discovery and then we have to move to compel and do this all over again.

THE COURT: Right. Well, that sounds to me suspiciously like an advisory ruling because that hasn't happened yet. I will tell you that having said that I don't think a protective order is in order, that I'm not much inclined for us going farther afield, but I'll have to wait until someone makes that objection. But for the present purpose, you've -- you've -- I've heard you loud and clear that no one objected except for this and the, I wouldn't be encouraging of folks take the other view, but I'm not foreclosing it. I might change my mind.

But that's where the, best I can do for you at the moment.

What was the other one? There was one more that I, I think I forgot to say. I don't know if we need it for appeal purposes. Well, just by observation, I'm sure that if, if the ACC's concerned about only 11 out of a hundred thousand claimants being, having discovery against them, I'm certainly sure the debtor would be happy to revisit the PIQ matter and, and serve all hundred thousand, but I doubt that's really the answer there, either.

Okay. That, I think, is sufficient for present

purposes.

Any other matters this morning?

(No response)

THE COURT: Okay. All right.

MR. ERENS: Nothing from the debtors, your Honor.

THE COURT: Well, we'll shift gears, do a little regular work, and get ready to talk about injunctions on Monday.

So thank you all for your time today and we, the quality of your thoughts, as always, are excellent. Never any simple answers in, in these decisions, so, which I think speaks to your abilities.

We'll recess now.

MR. WEHNER: Thank you.

MR. GUY: Thank you, your Honor.

MR. TORBERG: Thank you, your Honor.

MR. HAMILTON: Thank you.

(Proceedings concluded at 11:01 a.m.)

CERTIFICATE

I, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

/s/ *Janice Russell* March 1, 2021

Janice Russell, Transcriber Date