



1 APPEARANCES (via video and telephone conference):

2  
3 For the Debtors: Rayburn Cooper & Durham, P.A.  
4 BY: JOHN R. MILLER, JR., ESQ.  
5 MATTHEW TOMSIC, ESQ.  
6 C. RICHARD RAYBURN, JR., ESQ.  
7 227 West Trade St., Suite 1200  
8 Charlotte, NC 28202

9 Jones Day  
10 BY: DAVID S. TORBERG, ESQ.  
11 51 Louisiana Avenue, N.W.  
12 Washington, D.C. 20001

13 Jones Day  
14 BY: GENNA GHAUL, ESQ.  
15 JAMES M. JONES, ESQ.  
16 250 Vesey Street  
17 New York, NY 10281

18 Jones Day  
19 BY: BRAD B. ERENS, ESQ.  
20 MARK A. CODY, ESQ.  
21 CAITLIN K. CAHOW, ESQ.  
22 AMANDA P. JOHNSON, ESQ.  
23 77 West Wacker, Suite 3500  
24 Chicago, IL 60601

25 Evert Weathersby Houff  
BY: C. MICHAEL EVERT, JR., ESQ.  
3455 Peachtree Road, NE, #1550  
Atlanta, GA 30326

JOHN SLAUDERBACH, ESQ.

19 For Certain Asbestos  
20 Claimants: Caplin & Drysdale  
21 BY: KEVIN MACLAY, ESQ.  
22 TODD PHILLIPS, ESQ.  
23 One Thomas Circle, NW, Suite 1100  
24 Washington, DC 20005

25 Robinson & Cole LLP  
BY: NATALIE D. RAMSEY, ESQ.  
DAVIS LEE WRIGHT, ESQ.  
1201 N. Market Street, Suite 1406  
Wilmington, DE 19801

1 APPEARANCES (via video and telephone conference continued):

2 For Certain Asbestos  
3 Claimants:

Maune Raichle  
BY: MARCUS RAICHLE, JR., ESQ.  
1015 Locust Street, Suite 1200  
St. Louis, MO 63101

4  
5 Essex Richards, P.A.  
6 BY: JOHN C. WOODMAN, ESQ.  
1701 South Boulevard  
Charlotte, NC 28203

7 Winston & Strawn LLP  
8 BY: DAVID NEIER, ESQ.  
CARRIE V. HARDMAN, ESQ.  
200 Park Avenue  
9 New York, NY 10166-4193

10 Hamilton Stephens Steele & Martin  
11 BY: GLENN C. THOMPSON, ESQ.  
525 North Tryon Street, #1400  
Charlotte, NC 28202

12  
13 SWMW Law  
BY: LAUREN WILLIAMS, ESQ.  
701 Market Street, Suite 1000  
14 St. Louis, MO 63101

15 Brayton Purcell, LLP  
16 BY: BRYN LETSCH, ESQ.  
222 Rush Landing Road  
Novato, CA 94948

17  
18 Simmons Hanley Conroy LLC  
BY: CHRIS GUINN, ESQ.  
One Court Street  
19 Alton, IL 62002

20 Shepard Law  
21 BY: MICHAEL SHEPARD, ESQ.  
160 Federal Street  
Boston, MA 02110

22  
23 Cooney & Conway  
BY: JOHN D. COONEY, ESQ.  
120 N. LaSalle Street, Suite 3000  
24 Chicago, IL 60602

25

1 APPEARANCES (via video and telephone conference continued):

2 Goldberg Persky White, P.C.  
3 BY: BRUCE E. MATTOCK, ESQ.  
4 11 Stanwix Street, Suite 1800  
5 Pittsburgh, PA 15222

6 Weitz & Luxenberg, P.C.  
7 BY: LISA BUSCH, ESQ.  
8 700 Broadway  
9 New York, NY 10003

10 For Trane Technologies McCarter & English, LLP  
11 Company LLC and Trane U.S. BY: GREGORY J. MASCITTI, ESQ.  
12 Inc.: 825 Eighth Avenue, 31st Floor  
13 New York, NY 10019

14 Burt & Cordes, PLLC  
15 BY: STACY C. CORDES, ESQ.  
16 122 Cherokee Road, Suite 1  
17 Charlotte, NC 28207

18 ROBERT SANDS, ESQ.

19 For Richard and Calvena JD Thompson Law  
20 Sisk: BY: LINDA W. SIMPSON, ESQ.  
21 P. O. Box 33127  
22 Charlotte, NC 28233

23 Kazan McClain  
24 BY: STEVEN KAZAN, ESQ.  
25 55 Harrison St. Suite 400  
Oakland, CA 94607

For Bankruptcy Administrator: SHELLEY ABEL  
402 W. Trade Street, Suite 200  
Charlotte, NC 28202-1669

For Creditor, Earl Gross: Higgins & Owens, PLLC  
BY: SARA (SALLY) HIGGINS, ESQ.  
524 East Boulevard  
Charlotte, NC 28203

Bergman Draper Oslund Udo  
BY: MATTHEW P. BERGMAN, ESQ.  
821 Second Ave., Suite 2100  
Seattle, WA 98104

1 APPEARANCES (via video and telephone conference continued):

2 For Schrader & Associates, Touchstone Family Law  
3 LLP: BY: CHRISTOPHER J. CULP, ESQ.  
4 6101 Carnegie Blvd., Suite 100  
Charlotte, NC 28211

5 Schrader & Associates, LLP  
6 BY: ROBERT SHUTTLESWORTH, ESQ.  
9 Greenway Plaza, Suite 2300  
Houston, TX 77046

7 For Certain London Market Duane Morris LLP  
8 Companies: BY: RUSSELL W. ROTEN, ESQ.  
865 S. Figueroa St., Suite 3100  
Los Angeles, CA 90017

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1                                   P R O C E E D I N G S

2           (Call to Order of the Court)

3                   THE COURT: Have a seat, everyone.

4                   Okay. Back in the Aldrich Pump case on, pursuant to  
5 an agenda. We have, essentially, one matter on, I think, to be  
6 heard, or, actually, one matter and one tertiary matter related  
7 to it.

8                   Let me get appearances. We're appearing by a mixture  
9 of videoconferencing equipment and, also, telephonic  
10 appearances. I'm just going to read out the list and then ask,  
11 if you have corrections, to please let me know and then, after  
12 that, I will also read out those that are appearing  
13 telephonically and I'll ask you if, at the end of it, if there  
14 are any other people who need to announce an appearance. If  
15 you're just listening in and don't need to announce, you don't  
16 need to say anything. But if you need your appearance noted,  
17 please let me know.

18                   So we'll start with the, the list. As I understand  
19 it, appearing by video today we have Mr. Erens on behalf of  
20 Aldrich Pump.

21                   Greg Mascitti on behalf of Trane Technologies Company.

22                   Todd Phillips on behalf of Certain Asbestos Claimants.

23                   Natalie Ramsey, also Certain Asbestos Claimants.

24                   And Kevin Maclay in the same.

25                   Glenn Thompson, representing Certain Asbestos

1 Claimants.

2 Sally Higgins, representing creditor, Earl Gross, as  
3 well as Matthew Bergman.

4 Christopher Culp on behalf of Schrader & Associates  
5 and Robert Shuttlesworth, as well.

6 Russell Roten on behalf of Certain London Market  
7 Companies.

8 Linda Simpson on behalf of Richard Sisk.

9 And Davis Wright on behalf of Certain Asbestos  
10 Claimants.

11 I have a second category, those appearing by video but  
12 not planning to speak unless they feel the need to do so. I  
13 assume you're going to want your appearances noted, anyway. So  
14 I would note that we have:

15 James Jones, David Torberg, Mark Cody, Caitlin Cahow,  
16 and Genna Ghaul, all representing Aldrich Pump.

17 Rick Rayburn, also representing Aldrich Pump, together  
18 with Michael Evert and David Neier or -- excuse me -- Michael  
19 Evert representing Aldrich.

20 And David Neier representing Certain Asbestos  
21 Claimants.

22 Carrie Hardman representing Certain Asbestos  
23 Claimants.

24 Marcus Raichle representing -- and I don't have that  
25 one.

1 And then Steven Kazan, proposed member of the ACC.

2 That's all I have by video. Let me stop there and ask  
3 if there are any corrections to be noted or any additions.

4 I'll go to telephone appearances in a moment.

5 MS. ABEL: Your Honor, this is Shelley Abel, the  
6 Bankruptcy Administrator. I don't think I put myself on my own  
7 list. So I apologize for that.

8 THE COURT: Okay. You're here, Ms. Abel. Thank you.

9 Anyone else?

10 MS. CORDES: Yes, your Honor. Stacy Cordes on behalf  
11 of, local counsel on behalf of Trane Technologies.

12 THE COURT: Okay, very good. We had you on as a  
13 telephonic appearances.

14 MR. RAICHLE: And this is --

15 THE COURT: Anyone else?

16 MR. RAICHLE: This is Marcus Raichle. I'm here on  
17 behalf of my client, Joseph Hamlin, and I'm represented by  
18 Natalie, Kevin, and Carrie.

19 THE COURT: All right, very good. Thank you.

20 Anyone else out of that list?

21 (No response)

22 THE COURT: All right. Telephonic appearances. I  
23 have Amanda Johnson. And I may read some of you who have  
24 announced video, but I have you down as Amanda Johnson on  
25 behalf of Aldrich, Matt Tomsic, Jack Miller, John Slauderbach



1 (phonetic), Robert Sands on behalf of Aldrich and Trane  
2 Technologies.

3 Ms. Cordes we just mentioned.

4 John Woodman on behalf of The Gori Law Firm.

5 Lauren Williams, SWMW Law.

6 Bryn Letsch on behalf of Brayton Purcell.

7 These are all proposed members of the Committee.

8 Chris Guinn on behalf of Simmons Hanley Conroy.

9 Michael Shepard, the Shepard Law, P.C.

10 John Cooney of Cooney & Conway.

11 Bruce Mattock, Goldberg Persky White.

12 Lisa Busch, Weitz & Luxenberg.

13 And I believe that's all I have there.

14 Are there, first, any corrections on that list?

15 (No response)

16 THE COURT: And secondarily, are there any other  
17 parties who are, need to announce an appearance but have not  
18 been called on on either list?

19 (No response)

20 THE COURT: Anyone else?

21 (No response)

22 THE COURT: Okay, good.

23 All right. We have a proposed agenda. Let me ask on  
24 behalf of the debtor who will be speaking.

25 And, and, Mr. Erens, I guess it's up to you. Are you

1 wanting to lead off or update us before we get to the two  
2 motions at hand?

3 MR. ERENS: Thank you, your Honor.

4 No, I don't think it's necessary to do an update. The  
5 first item on the agenda is the Bankruptcy Administrator's  
6 motion to appoint the committee.

7 So I think we'd start with that, get that out of the  
8 way, and then I can inform you of discussions we've had with  
9 the representatives of the asbestos claimants in terms of what  
10 we're going to do today in terms of the extension of the TRO  
11 and then where we're going from there.

12 THE COURT: Okay.

13 Anyone got a different thinking, way of thinking as to  
14 what we need to do?

15 (No response)

16 THE COURT: If not, we'll go straight into the  
17 Bankruptcy Administrator's motion.

18 And I assume that that would also call the Gross  
19 motion as well to be added to that list as they're both on the  
20 subject matter area.

21 But let's hear from the Bankruptcy Administrator,  
22 first.

23 Ms. Abel?

24 MS. ABEL: Yes, your Honor. This is Shelley Abel.

25 And I, I'd be happy to sort of take those up together

1 'cause I really view the, the motion as almost an independent  
2 response to my motion. And so however the Court would like to  
3 handle is fine --

4 THE COURT: Well --

5 MS. ABEL: -- fine by me. And I don't know if  
6 Mr. Bergman wants to make any preliminary statements or not.

7 THE COURT: Well, let's start with your motion.

8 MR. BERGMAN: I'll follow your lead.

9 THE COURT: Yes, sir.

10 MR. BERGMAN: I'll follow your lead.

11 THE COURT: All right. Let's start with Ms. Abel.

12 Tell me how, how you came to select the committee that  
13 you did.

14 MS. ABEL: Yes, your Honor. Thank you.

15 And as you have heard recently, this is a, quite the  
16 beauty pageant contest each time we're asked to choose among  
17 the parties that would like to be on the committee. I only  
18 wish we had as much interest in our typical chapter 11 cases.

19 But we had a very sizeable response, both from members  
20 of the Top 20 as presented to, as presented by the debtors and  
21 then a number of claimants who have asked to be added to that  
22 list and be considered. And frankly, your Honor, all of them  
23 are qualified to serve.

24 So it simply became a matter of choosing among them in  
25 an effort to represent a mix of people, mix of claimants across

1 jurisdictions, disease types, and, and just diversity of, of  
2 people, generally speaking. It's a, it's a difficult task. I  
3 was, spent more time than I care to admit, again, with my  
4 whiteboard in trying to get the right mix of folks.

5 Just to be clear for purposes of the record, our  
6 understanding -- and I think the debtors have already outlined  
7 this for the Court -- that this is the only committee that we  
8 expect to be formed. We don't anticipate any trade vendors in  
9 this case and my understanding from the debtors is that there's  
10 not any environmental exposures that we should expect to be a  
11 case, the case as was, as occurred in Kaiser. And so this  
12 would be the primary adversary for the debtors in this case.

13 And we simply submit that the, the committee as  
14 proposed should be formed. The -- I will just sort of  
15 anticipate some of the arguments that I might expect  
16 Mr. Bergman to make during my presentation. While the firm,  
17 while the committee members are listed with their firms because  
18 that is how notice is going to be provided in this case, I'll  
19 just note for purposes of the record that even though there is  
20 a great, there has the appearance of some concentration in  
21 certain areas of the country for these firms, the people that  
22 they represent come from a wider segment of geography than is  
23 apparent to the Court. Practically, at least 25 percent of all  
24 asbestos cases in the last five years have been filed in  
25 Madison County, Illinois. And so there is a concentration of

1 firms handling those cases in that area of the country, but  
2 they represent plaintiffs from all over the country because of  
3 the destination nature of that particular jurisdiction and  
4 there are similar jurisdictions like Madison County, but, if  
5 you look, it's something like 25 percent of all asbestos  
6 filings in the last five years and it's even higher when you  
7 look at mesothelioma claims. It's almost 50 percent.

8           So there is a natural concentration in that  
9 jurisdiction that fails to sort of recognize the fact that  
10 those firms represent parties from all over the country.

11           And I will inform the Court that Jerry Fowles, who is  
12 represented by Brayton Purcell, is from -- I'm sorry. Hold on  
13 one second. His case was filed in Utah, but he lives in  
14 Wyoming. So that kind of gives you an idea of how the, the  
15 desire to achieve geographic diversity is, is a goal, but it  
16 also is hard to represent in just the information that's  
17 presented in the, in the Top 20, I mean, in the ACC as  
18 proposed.

19           I do have a number of the ACC members who are on the  
20 phone and I, I don't know. I believe the Court covered all of  
21 them, but if you had any questions for individual members they  
22 are here to answer those questions. And I, I will leave it at  
23 that, your Honor.

24           THE COURT: All right.

25           Mr. Bergman, your firm had filed a motion, also,

1 asking to be added to the, to the list. Ready to hear you.

2 MR. LAMB: He's muted.

3 THE COURT: I think you need to unmute your, your  
4 speaker, if you don't mind.

5 MR. BERGMAN: Thank you, your Honor. And I appreciate  
6 being allowed to appear, appear before you *pro hac*.

7 The, the issue is -- and Ms. Abel has a very difficult  
8 task. I would agree with her that there are a lot of qualified  
9 firms and a lot of meritorious clients. If this is a beauty  
10 contest, that helps explain why I wasn't selected.

11 But in all seriousness, I think geographic diversity  
12 is particularly important for a couple of reasons. One is just  
13 optics. Ms., Mr. Gross hails from Kitsap County, Washington,  
14 which has the single highest rate of mesothelioma anywhere in  
15 the United States. Washington State has among the highest  
16 rate. We have, unfortunately, a huge number of our citizens  
17 who are suffering from mesothelioma.

18 And so I think, as Ms. Abel recognized, optics are  
19 important that the committee have, be geographically  
20 representative.

21 I think there's a practical issue as well, your Honor,  
22 and that is that, as the Court is well aware, 524(g) requires a  
23 plebiscite among claimants in order to approve any plan to  
24 present before your Honor. To the extent that the electorate,  
25 if you would, is broadly representative of victims around the

1 country, the chance that the plebiscite will be successful,  
2 that all voters feel like they have, they're essentially bought  
3 into the, into the plan is, is important.

4           The third, the third reason, your Honor, we believe  
5 that it's important is that one of the most important jobs that  
6 the committee undertakes is drafting trust distribution  
7 procedures. Those are very jobsite specific in many instances  
8 and expertise in a particular region is very helpful in helping  
9 develop trust distribution procedures that kind of separate the  
10 wheat from the chaff, ensure that the meritorious claimants are  
11 compensated and those that don't have claims are not.

12           Mr. Gross, himself, is a very articulate individual.  
13 He's fortunately had a good response to treatment and he's a  
14 good listener. He's a good team player. He's very articulate  
15 and very interested and committed to proceeding in, in this  
16 matter in an active and meaningful way.

17           I think one concern that, that individuals might have  
18 -- and I think it's a fair one -- is, well, what if we have an  
19 even number of members on the committee. Does that mean that  
20 it will be difficult to get anything done? I have served and  
21 represented individuals on committees in the past, your Honor,  
22 and if -- if we -- given the magnitude of the issues at stake,  
23 the amount of money involved, we have always operated in these  
24 matters by consensus. If ever a committee is in a situation  
25 where something's decided by one vote, the task is not for the

1 winning side to ram their, their, their position through, but,  
2 rather, go back to the table and work out a plan that, that  
3 works for everybody that can garner the, the requisite 75  
4 percent.

5           So I have tremendous respect for the work that  
6 Ms. Abel is doing. There's no easy way to do it, but if you  
7 look at the, you know, look at the cast of, of firms there --  
8 there -- there -- there's two from California, two from  
9 Missouri, and two from Illinois. They're all excellent  
10 lawyers, they're all excellent law firms, but we believe that  
11 Mr. Gross would, would be a good addition to this committee and  
12 we respectfully submit that he be allowed to join.

13           THE COURT: Anyone else on either motion? Those were  
14 the only responses.

15           MS. ABEL: Your Honor?

16           MR. CULP: Your Honor?

17           THE COURT: Yes.

18           MR. CULP: Oh, I'm sorry. I'm, I'm sorry, your Honor.  
19 I, I didn't hear your last, last point. I'll, I'll shut up.

20           THE COURT: I was asking whether anyone who has not  
21 had a chance to speak wanted, wanted to weigh in on either  
22 motion.

23           (No response)

24           THE COURT: Okay.

25           All right. Back to you, Ms. Abel.



1 MS. ABEL: Thank you, your Honor.

2 I, I just wanted to make sure. I failed to do so in  
3 my original presentation. I did want to make sure the Court  
4 was aware that Bergman was not listed in the Top 20 as  
5 presented by the debtor and I will confess that of those who I  
6 have selected for the committee, 1, 2,3, 4, 5 already were not  
7 appearing on the debtors' Top 20. Eleven of those firms  
8 responded. And so I've already excluded several of the Top 20  
9 as the debtors selected in order to capture the diversity that  
10 appears on the committee as proposed.

11 And I simply -- I, I regret that there's not room for  
12 everyone to participate, but in order for it to not become a, a  
13 group of the whole as opposed to a committee as, as intended I  
14 would just submit that the Court approve the, the committee as  
15 proposed simply because there, there would be valid reasons to  
16 add everybody to the committee --

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

19 MS. ABEL: -- based on the, the reasons supported by  
20 Mr. Bergman.

21 So for that reason, we just ask for you to approve the  
22 motion.

23 THE COURT: Anything else?

24 MR. CULP: Your Honor?

25 THE COURT: Yes, sir. Mr. Culp.

1 MR. CULP: This is Chris, this is Chris Culp on behalf  
2 of Jesus Perez and, and Schrader & Associates. My colleague,  
3 Robert Shuttlesworth, did want to be heard on the motion to, on  
4 appointment of the committee.

5 So if I could, I'd just defer to him and, and, and ask  
6 that he be allowed to address the Court.

7 THE COURT: Mr. Shuttlesworth?

8 MR. SHUTTLESWORTH: Yes, sir, your Honor. Good  
9 morning from Houston.

10 THE COURT: Good morning.

11 MR. SHUTTLESWORTH: I represent Jesus Perez. He's a  
12 Texas resident. He's, all of his exposure occurred in Texas  
13 and he first started off taking apart World War II ships in the  
14 Port of Brownsville and then he worked as a pipefitter, mostly  
15 in Houston, in the petrochemical industry.

16 Ms. Abel's done a good job putting together a  
17 committee, but I, with all due respect, I believe an additional  
18 Texas resident is in order here. There's only one firm from  
19 Texas that I, that I can see based on the list and at the heart  
20 of this bankruptcy's going to be the divisive merger statutes  
21 in the Texas Business Organization Code and I believe that  
22 additional Texas counsel and an additional Texas claimant will  
23 be a value to the committee to be able to discuss those  
24 statutes, in particular, that are going to be raised in, in  
25 this particular bankruptcy. And Schrader is one of the Top 20

1 firms.

2 And with that, we would, we would ask that Mr. Perez  
3 be considered for an additional member to the committee.

4 Thank you, your Honor.

5 THE COURT: All right.

6 Anyone else got anything to say about the motions?

7 (No response)

8 THE COURT: I'm inclined to approve the Bankruptcy  
9 Administrator's motion and to deny the firm motion for an  
10 additional representative for the, for exactly the reason that  
11 just came up. Unlike most cases in this area, there must be  
12 some business advantage or marketing advantage to firms to be  
13 in this area because every case we've had, we've had an  
14 abundance of groups not only willing to serve, but also  
15 lobbying to serve and every one can't serve unless, otherwise  
16 you would have a, an overload and wouldn't get anything done  
17 with these committees.

18 The Bankruptcy Administrator list looks like it, it  
19 has dispersed between various firms and would appear to be fair  
20 and equitable.

21 And I'd also note that the Bergman firm is already  
22 serving in the Kaiser case and in the Bestwall case. So it's  
23 not as if they're going to be left out of, of what's been going  
24 on.

25 So I would decline that, to add the two extra firms,

1 including Mr. Shuttlesworth's firm on the verbal motion.

2 Ms. Abel, if you'll do one order addressing all of  
3 that. I would appreciate it if you would run it by opposing  
4 counsel for their comments, see if it fairly captures the  
5 ruling, and then send it on down, all right?

6 MS. ABEL: Yes, your Honor. We'll do so. Thank you.

7 THE COURT: All right, very good.

8 I take that would move us back discussing what we  
9 really were here for today, or originally were to be here  
10 today, which was an extension of the temporary restraining  
11 order. And I understand there've been some negotiations and  
12 potential settlements about that over the weekend.

13 So I'll go back to the debtor and get an update now.

14 MR. ERENS: Okay. Thank you, your Honor. Brad Erens  
15 on behalf of the debtor.

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

18 MR. ERENS: Yes, you're right, your Honor. Today, we  
19 are here for an extension of the TRO which your Honor entered  
20 on the 25th through and including today. As we informed  
21 Chambers, I think Thursday afternoon, after we filed, after the  
22 debtors filed our response to the existing objections to the  
23 extension of the TRO, or TRO, which response, also, we tried to  
24 address some of the concerns I think your Honor raised at the  
25 first day hearing, the parties talked and agreed that it didn't

1 really make sense to have a contested hearing today on the TRO  
2 for at least a couple of reasons, but probably the main one was  
3 that the ACC is intending to take over the matter effectively.  
4 The lawyers on behalf of the individual claimants are likely to  
5 be the lawyers proposed for the ACC. Obviously, the ACC is the  
6 official committee. They wanted some time to meet and confer  
7 among themselves and consider next steps. Of course, we also  
8 want to sit down with them and, and discuss next steps.

9           So it was agreed that there'd be a consensual  
10 extension of the TRO that would be discussed at today's  
11 hearing. I think there's, really, two issues as a result that  
12 need to be discussed, what date we would extend the TRO to  
13 because while we started those discussions a little bit, we  
14 didn't really come up with a date. But I think more  
15 importantly -- and I'll maybe start with this issue -- is what  
16 are we going to actually do at the next hearing.

17           So, you know, if you look back at the DBMP case, for  
18 instance, we had a very similar circumstance and at that time  
19 when we were at this point the ACC expressed a desire to get  
20 discovery on the matter, have a full chance to, after the  
21 committee met, conferred, hired counsel and the like, a full  
22 chance to do briefing after discovery, and to have a full  
23 evidentiary hearing.

24           And I think your Honor, also -- I don't want to put  
25 words in your mouth -- but I think you also expressed similar

1 desire at the last hearing to have a full record, a full chance  
2 for briefing and the like, and I think you mentioned one of the  
3 reasons, perhaps, was it's potential that this matter may go up  
4 on appeal.--

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

7 MR. ERENS: -- after your Honor's decision.

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

10 MR. ERENS: So if that's the way we're going, that's  
11 certainly fine, and we would sit down with the ACC after they  
12 have a chance to, to sit down among themselves. And I think  
13 what we would propose at the next hearing, as this, you know,  
14 influences the amount of time we need at the next hearing,  
15 among other things, is to present to your Honor an order,  
16 either a case management order or at least a date for the  
17 hearing by which the preliminary injunction matter would be  
18 heard and then we'd follow up with a case management order.

19 So that's what happened in DBMP. An, an order was  
20 entered at the next hearing, which set a date for a hearing,  
21 and the parties agreed to come up with a schedule between then  
22 and the actual hearing on discovery and briefing and the like.

23 So that's what we're assuming for the next hearing,  
24 but did want to make sure that all parties agree. Because if,  
25 instead, for instance, the desire on the ACC -- and we have not

1 heard this -- but if the desire on the ACC was just to have a  
2 preliminary injunction hearing at the next hearing, that's,  
3 obviously, much different. We would need much more time for  
4 that hearing, we would have to have time to present witnesses,  
5 and we'd have to have a briefing schedule. And the reality --  
6 and I think you expressed this at the last hearing -- is,  
7 unfortunately, the, the time periods for the TRO and that kind  
8 of process don't really match.

9           So we only have 14 more days left for the TRO. That  
10 would not be a lot of time to have a full briefing from both  
11 parties. Obviously, the ACC would want to brief, we'd want to  
12 respond, and it doesn't, obviously, allow really any time for  
13 discovery.

14           So our assumption is we would come back at the next  
15 hearing -- the next scheduled hearing in the case is the 15th  
16 -- and present an, hopefully, an agreed order with a date for a  
17 full hearing and then either at that time, or subsequently,  
18 come up with a, a schedule for discovery and the like. That's  
19 our intent. That would be our expectation, but I don't want to  
20 speak for all parties. I think counsel for the asbestos  
21 claimants and potential counsel for the ACC should weigh in  
22 and, and express their expectations as to where we go from here  
23 as well.

24           THE COURT: Okay.

25           All right. Anyone want to speak to preferences with

1 how we, we schedule this? For those who aren't aware of it  
2 otherwise, I would point out that -- and I think I mentioned it  
3 at the first day hearing -- two weeks from today I will be  
4 going into, as many of you will, into the Kaiser confirmation  
5 hearing, which is supposed to schedule, is scheduled to last a  
6 week.

7 So 14 days -- and we have a claim objection on the  
8 16th and a DBMP hearing on the 17th. So the time period for  
9 the next two weeks is pretty well spoken for, already. And  
10 Judge Beyer, of course, has a conflict with this case. So our  
11 choices are fairly limited by the practical side of this as  
12 well as the legal side.

13 So with that said, comments, suggestions, druthers?

14 MR. MACLAY: Yes, your Honor.

15 THE COURT: Mr. --

16 MR. MACLAY: This is Kevin MacLay for the proposed  
17 committee. And let me just make one representational  
18 clarification.

19 When this call started, Natalie Ramsey from the  
20 Robinson firm, me from the Caplin firm, and Dave Neier from  
21 Winston all represented certain claimants.

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

24 MR. MACLAY: At the moment your Honor ruled that the  
25 proposed committee would become the official committee, those



1 representations ended and we then became provisional counsel  
2 for the official committee. Pursuant to a, to an understanding  
3 that this gap in representation would exist upon that ruling,  
4 the, the proposed committee had reached out to the three firms  
5 and asked us to appear for that limited purpose today.

6 So I just wanted to make that clear for the record,  
7 but as of right now, I'm speaking for the proposed committee,  
8 not for the certain claimants.

9 THE COURT: Okay.

10 MR. MACLAY: Secondly, your Honor, Mr. Erens  
11 appropriately characterized our discussions. He had reached  
12 out to Natalie and I before they filed their brief and asking  
13 about our intentions with respect to the timing of the hearing.  
14 We had, subject to consultation with our clients, agreed it  
15 would make sense to move that hearing to a, to an agreed-upon  
16 date, hopefully, but, but one in the future similar to what was  
17 done in CertainTeed. And as of right now, we have not met with  
18 our full proposed committee 'cause, of course, it was just  
19 officially formed right now.

20 THE COURT: Right.

21 MR. MACLAY: But I -- Mr. Erens' suggestion is  
22 perfectly reasonable, that it would make sense for us to, now  
23 that there is an official committee that's been formed,  
24 negotiate with the debtor over, essentially, a bridge order to  
25 get us to the substantive hearing on the, on the preliminary

1 injunction and I think we should be able to do that  
2 consensually.

3 So I think his suggestion makes sense, that we should  
4 get back to your Honor with a proposed date and a proposed  
5 order. And I would anticipate we would be able to do that  
6 consensually.

7 THE COURT: Others?

8 (No response)

9 THE COURT: Anyone?

10 (No response)

11 THE COURT: Think you can get me a report back next  
12 week when we're supposed to talk on the 15th? We've got a  
13 couple matters there.

14 MR. MACLAY: Yes, your Honor.

15 THE COURT: Okay. And if it goes awry, then we've got  
16 a real problem because we don't have any time to have a hearing  
17 unless we delay the start of the Kaiser case, which would make  
18 no one happy.

19 So then we'll, we'll just have to assume that we're  
20 going to go one way or the other past the 14-day extension  
21 period unless the wheels really fall off and, and we have to do  
22 something up here on Saturday.

23 But in any event, let's just go ahead and extend this  
24 through the conclusion of, of the hearing on the, on the 15th  
25 for the expiration of the -- well, let's do it the other way --

1 the extension all the way through 14 days maximum that is  
2 allowed and then we will revisit the topic and what you intend  
3 to do beyond that on the 15th at 9:30 Eastern, all right?

4 MR. ERENS: Yeah, that'd be fine. That'd be fine,  
5 your Honor, and we already have a, a form of prepared order  
6 that we'll circulate to counsel after the hearing.

7 THE COURT: Okay.

8 MR. ERENS: So we can, hopefully, get an order back to  
9 your Honor quickly.

10 The TRO, again, only extended through today. So if  
11 the order is not entered until tomorrow or the day after, we  
12 assume it's, it's effectively extended through the entry of the  
13 extension order. And we also have a good form from DBMP as to  
14 the form of order we would submit on the 15th.

15 So I think we can work with the committee quickly and  
16 get that order presented as well, or that order circulated as  
17 well and, hopefully, agreed to. So --

18 THE COURT: Right.

19 MR. ERENS: But I think the committee, in fairness,  
20 you know, they need to sit down. They just were appointed.  
21 They weren't exactly sure who was going to be on the committee.  
22 There's, obviously, 11 of them. So we want to give them some  
23 time and we will work cooperatively with them to get that order  
24 entered.

25 THE COURT: Now in terms of planning, we've got the

1 DBMP preliminary injunction hearing or the merits hearing, if  
2 you will, on September 9 and 10. The rest of that month looks  
3 pretty crowded, but from September the 30th until October the  
4 9th, right now, if you're thinking about a, a substantive  
5 hearing -- I don't know if you'll be ready to go that  
6 quickly -- but those dates are open at the moment for me.

7 MR. ERENS: Okay. Thank you, your Honor.

8 Yeah. In DBMP, although it got extended, as I think  
9 your Honor mentioned because of COVID and some other things,  
10 the date that was set in the original order was --

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

13 MR. ERENS: -- roughly, three months out from kind of  
14 where we are today. So that pretty much fits the same  
15 schedule.

16 So if that's what parties want to do, we will take  
17 that into account and try to fit it into that period.

18 THE COURT: I seem to recall there was a reason that  
19 we, we didn't start on Wednesday. I think someone had a  
20 conflict, but if you wanted to do something radical, you could  
21 consider whether or not the DBMP injunction and the one sought  
22 in this are similar enough to have a joint hearing and start on  
23 Tuesday, the 8th of September. That may not allow you enough  
24 time to, to be prepared, but I was just wondering whether --  
25 someone's going to do a lot of work on this and if we enter a

1 decision on that time in the other case, it might steal some of  
2 your thunder one way or the other on, on the current case.

3 Again, just something to think about of whether it makes sense  
4 to do it once or whether we consider doing it in both cases at  
5 the same time and get rulings at the same time. Up to y'all.

6 From my vantage point, we'll, we'll deal with one,  
7 then the next and if we need to and if we can consolidate and  
8 save everyone some time and expense, that's great, but  
9 otherwise, it's not required.

10 MR. ERENS: Okay.

11 THE COURT: All right.

12 MR. ERENS: All right. Well, Thank you, your Honor.  
13 We will, again, sit down with the committee -- they need some  
14 time -- and figure out the right schedule.

15 THE COURT: Okay.

16 Anything else?

17 (No response)

18 THE COURT: I would point out. Someone offered a  
19 comment to us -- and I appreciate the comment -- we're all  
20 working through these videoconference hearings as a new thing  
21 and trying to, to maximize what we're doing. At the moment,  
22 you may see my face from an angle. The reason, of course, for  
23 those who have been in our courtroom, is our computer monitors  
24 are to the side and if I'm going to look at you straight on, I  
25 have to turn to what appears to be the side. We don't have a

1 good answer for that short of putting the monitor right in  
2 front of the bench and I don't think that will work when we get  
3 back to being in the courtroom.

4 But if, if any of y'all are having problems, we'll try  
5 to work on a, a better resolution. I realize it's just about  
6 as important to be able to see the Judge's facial expressions  
7 as it is for the Judge to see witness and attorney expressions.

8 But that's why you see me cast off to the side at the  
9 moment. I'm just looking at the monitor, okay?

10 Any other matters to deal with in these cases?

11 (No response)

12 THE COURT: All right.

13 If not, we will recess at this point. Thank you all.  
14 Have a good week.

15 MR. ERENS: Thank you, your Honor.

16 THE COURT: Okay.

17 MS. ABEL: Thank you.

18 (Proceedings concluded at 11:03 a.m.)  
19  
20  
21  
22  
23  
24  
25

