

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

**MOTION OF THE DEBTORS FOR ENTRY
OF AN ORDER EXTENDING THE PERIOD WITHIN WHICH THE
DEBTORS MAY REMOVE ACTIONS PURSUANT TO 28 U.S.C. § 1452 AND
RULE 9027 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), as debtors and debtors in possession (together, the "Debtors"), hereby move the Court for the entry of an order, pursuant to Rule 9006(b) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), extending the period within which the Debtors may remove actions pursuant to 28 U.S.C. § 1452 and Bankruptcy Rule 9027 (the "Removal Period") through and including March 15, 2021. In support of this Motion, the Debtors respectfully state as follows:

Background

1. On June 18, 2020 (the "Petition Date"), the Debtors commenced their reorganization cases (the "Chapter 11 Cases") by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). These Chapter 11 Cases have been consolidated for procedural purposes only and are being administered jointly.

2. The Debtors are authorized to continue to manage their property and operate their businesses as debtors in possession pursuant to sections 1107(a) and 1108 of the

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.



Bankruptcy Code.

3. A comprehensive description of the Debtors, their history, their assets and liabilities, and the events leading to the commencement of these Chapter 11 Cases can be found in the *Declaration of Ray Pittard in Support of First Day Pleadings* [Dkt. 27] (the "Pittard Declaration") and the *Declaration of Allan Tananbaum in Support of Debtors' Complaint for Injunctive and Declaratory Relief, Related Motions, and the Chapter 11 Cases* [Dkt. 29] (the "Tananbaum Declaration" and, together with the Pittard Declaration, the "First Day Declarations"), which were filed on the Petition Date. The Debtors also filed the *Informational Brief of Aldrich Pump LLC and Murray Boiler LLC* [Dkt. 5] (the "Informational Brief") to provide additional information about their asbestos litigation, related costs, and plans to address these matters in these Chapter 11 Cases.

4. On July 7, 2020, the Court entered an order [Dkt. 147] appointing an official committee of asbestos personal injury claimants (the "Asbestos Committee") in these Chapter 11 Cases.

Jurisdiction

5. This Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

6. By this Motion, the Debtors seek the entry of an order pursuant to Bankruptcy Rule 9006(b) extending the Removal Period by approximately six months, through and including March 15, 2021, to the extent that the time period for filing any notices of removal expires on or before such date.

7. The relief requested is without prejudice to (a) any position the Debtors may take regarding whether section 362 of the Bankruptcy Code applies to stay any given civil action pending against the Debtors and (b) the Debtors' right to seek from this Court further extensions of the Removal Period.

Basis for Relief Requested

8. Section 1452 of title 28 of the United States Code provides for the removal of pending claims in civil actions related to bankruptcy cases. Section 1452 provides in pertinent part as follows:

A party may remove any claim or cause of action in a civil action other than a proceeding before the United States Tax Court or a civil action by a governmental unit to enforce such governmental unit's police or regulatory power, to the district court for the district where such civil action is pending, if such district court has jurisdiction of such claim or cause of action under section 1334 of this title.

28 U.S.C. § 1452(a).

9. Bankruptcy Rule 9027 establishes the deadline for filing notices of removal of claims or causes of action. Bankruptcy Rule 9027(a)(2) provides in pertinent part as follows:

If the claim or cause of action in a civil action is pending when a case under the [Bankruptcy] Code is commenced, a notice of removal may be filed [in the bankruptcy court] only within the longest of (A) 90 days after the order for relief in the case under the [Bankruptcy] Code, (B) 30 days after entry of an order terminating a stay, if the claim or cause of action in a civil action has been stayed under § 362 of the [Bankruptcy] Code, or (C) 30 days after a trustee qualifies in a chapter 11 reorganization case but not later than 180 days after the order for relief.

Fed. R. Bankr. P. 9027(a)(2).

10. With respect to postpetition actions, Bankruptcy Rule 9027(a)(3) provides that a notice of removal may be filed:

only within the shorter of (A) 30 days after receipt, through service or otherwise, of a copy of the initial pleading setting forth the claim or cause of action sought to be removed or (B) 30 days after receipt of the summons if the initial pleading has been filed with the court but not served with the summons.

11. Finally, Bankruptcy Rule 9006(b)(1) provides that the Court can extend the period within which the Debtors may remove actions provided for by Bankruptcy Rule 9027, without notice, upon a showing of cause:

Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order. . . .

Fed. R. Bankr. P. 9006(b)(1).

12. It is well-settled that this Court is authorized by Bankruptcy Rule 9006 to extend the Removal Period provided under Bankruptcy Rule 9027. See, e.g., Pacor, Inc. v. Higgins, 743 F.2d 984, 996 n.17 (3d Cir. 1984) (stating that "it is clear that the court may grant such an extension" of the time limit for removal under the Bankruptcy Rules), overruled in part on other grounds by Things Remembered, Inc. v. Petrarca, 516 U.S. 124 (1995); Caperton v. A.T. Massey Coal Co., Inc., 251 B.R. 322, 325 (S.D. W.Va. 2000) (explaining that Bankruptcy Rule 9006(b) allows a court to enlarge the time period for removing actions under Bankruptcy Rule 9027(a)(3)); Jandous Elec. Constr. Corp. v. City of New York (In re Jandous Elec. Constr. Corp.), 106 B.R. 48, 50 (Bankr. S.D.N.Y. 1989) (indicating that the removal period may be extended under Bankruptcy Rule 9006); In re World Fin. Servs. Ctr., Inc., 81 B.R. 33, 39 (Bankr.

S.D. Cal. 1987) (stating that the court may enlarge the time period for filing removal notices under Bankruptcy Rule 9027(a)(3)).

13. The Debtors submit that "cause" exists to extend the Removal Period within the meaning of Bankruptcy Rule 9006. To date, the Debtors have not had an adequate opportunity to determine whether to remove any actions brought prepetition that may be subject to removal. As of the Petition Date, among other things, the Debtors were defendants in roughly 100,000 pending actions throughout the United States (the "Actions"). Given (a) the sheer number of Actions and (b) the other critical matters to address in the early stages of these Chapter 11 Cases, the Debtors require additional time to evaluate whether the removal of any Actions under 28 U.S.C. § 1452 is appropriate and desirable.

14. Under Bankruptcy Rule 9027(a)(2)(A), the Debtors may have as little as 90 days from the Petition Date (i.e., through and including September 15, 2020) to make certain removal decisions, but may obtain an extension of this period for cause under Bankruptcy Rule 9006. Accordingly, absent an extension of the Removal Period, the Debtors risk waiving their removal rights before they have had an opportunity to complete an evaluation of these issues.² The requested relief will protect the Debtors' right to remove lawsuits under 28 U.S.C. § 1452 if the circumstances warrant.

15. This Court has granted similar relief in bankruptcy cases involving a large number of asbestos claims. See, e.g., In re DBMP LLC, No. 20-30080 (JCW) (Bankr. W.D.N.C.

² As quoted above, for a chapter 11 debtor in possession, the actual deadline under Bankruptcy Rule 9027(a) with respect to a prepetition action is the longer of (a) 90 days after the Petition Date or (b) 30 days after entry of an order terminating the automatic stay as to an action. Because the Actions currently are stayed by section 362 of the Bankruptcy Code, the Debtors believe that they would have until 30 days after the entry of any order terminating the automatic stay as to a particular Action to remove such action under 28 U.S.C. § 1452 and Bankruptcy Rule 9027(a)(2), which deadline could extend well beyond the initial 90-day period. Nevertheless, the Debtors seek the extension herein out of an abundance of caution to ensure that the removal period does not lapse.

May 8, 2020) [Dkt. 284] (granting an initial extension of the removal deadline of six months); In re Bestwall LLC, No. 17-31795 (LTB) (Bankr. W.D.N.C. Jan. 23, 2018) [Dkt. 187] (granting an initial extension of the removal deadline of four months); In re Kaiser Gypsum Co., No. 16-31602 (JCW) (Bankr. W.D.N.C. Dec. 20, 2016) [Dkt. 273] (granting an initial extension of the removal deadline of six months); In re Garlock Sealing Tech., No. 10-31607 (Bankr. W.D.N.C. Aug. 27, 2010) [Dkt. 442] (granting an initial extension of the removal deadline of seven months).

16. The Debtors provided counsel to the Asbestos Committee with a copy of this Motion prior to filing. The Debtors understand that the Asbestos Committee does not object to the extension of the Removal Period requested herein.

17. For the foregoing reasons, the Debtors have demonstrated cause for the relief requested herein.

Request to Use the No Protest Motion Process

18. Consistent with other asbestos chapter 11 cases, the Debtors believe that they likely will seek additional extensions of the Removal Period. Although such motions are not subject to Rule 9013-1(e) of the Rules of Practice and Procedure of the United States Bankruptcy Court for the Western District of North Carolina (the "Local Rules"), the Debtors believe that the no protest motion process set forth in that Local Rule would offer an efficient way to obtain future extensions that are not contested. As such, if the Debtors make one or more further motions to extend the Removal Period in these Chapter 11 Cases, the Debtors request authorization to utilize the no protest motion process set forth in Local Rule 9013-1(e). Such a process has been authorized previously in this District. See, e.g., In re DBMP LLC, No. 20-30080 (JCW) (Bankr. W.D.N.C. May 8, 2020) [Dkt. 284]; In re Bestwall LLC,

No. 17-31795 (LTB) (Bankr. W.D.N.C. Aug. 29, 2018) [Dkt. 613].

Notice

19. Consistent with the *Order Establishing Certain Notice, Case Management, and Administrative Procedures* [Dkt. 123] (the "Case Management Order"), notice of this Motion has been provided to: (a) the Office of the United States Bankruptcy Administrator for the Western District of North Carolina (the "Bankruptcy Administrator"); (b) counsel to the Asbestos Committee; (c) counsel to the Debtors' non-debtor affiliates, Trane Technologies Company LLC and Trane U.S. Inc.; (d) the proposed legal representative for future asbestos claimants and his counsel; and (e) the other parties on the Service List established by the Case Management Order. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be provided.

No Prior Request

20. No prior request for the relief sought herein has been made to this Court or any other court.

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form attached hereto as Exhibit A, granting: (a) the relief requested herein; and (b) such other and further relief to the Debtors as the Court may deem proper.

Dated: September 14, 2020
Charlotte, North Carolina

Respectfully submitted,

/s/ John R. Miller, Jr.

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ATTORNEYS FOR DEBTORS
AND DEBTORS IN POSSESSION

EXHIBIT A

Proposed Order

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

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

**ORDER EXTENDING THE PERIOD WITHIN WHICH THE
DEBTORS MAY REMOVE ACTIONS PURSUANT TO 28 U.S.C. § 1452 AND
RULE 9027 OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE**

This matter coming before the Court on the *Motion of the Debtors for Entry of an Order Extending the Period Within Which the Debtors May Remove Actions Pursuant to 28 U.S.C. §1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure* (the "Motion"),² filed by the debtors and debtors in possession in the above-captioned cases (together, the "Debtors"); the Court having reviewed the Motion and having considered the statements of counsel and the evidence adduced with respect to the Motion at a hearing before the Court (the "Hearing"); the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (d) notice of the Motion and the Hearing was sufficient under the circumstances and (e) cause exists under Bankruptcy Rule 9006(b)(1) to grant an extension of the removal periods established under Bankruptcy Rule

¹ The Debtors are the following entities (the last four digits of their respective taxpayer identification numbers follow in parentheses): Aldrich Pump LLC (2290) and Murray Boiler LLC (0679). The Debtors' address is 800-E Beaty Street, Davidson, North Carolina 28036.

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

9027(a); and the Court having determined that the legal and factual bases set forth in the Motion and at the Hearing establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The time period provided under Bankruptcy Rule 9027(a) within which the Debtors may file notices of removal of any and all civil actions is extended to and including March 15, 2021 to the extent that the time period for filing any such notices of removal otherwise would expire before such date.
2. This Order shall be without prejudice to (a) any position the Debtors may take regarding whether section 362 of the Bankruptcy Code applies to stay any given civil action pending against the Debtors and (b) the Debtors' right to seek from this Court further extensions of the period within which the Debtors may file notices of removal under Bankruptcy Rule 9027(a) (any such request, an "Extension Request").
3. If the Debtors make one or more further Extension Requests in these cases, the Debtors are authorized to utilize the no protest motion process set forth in Local Rule 9013-1(e).
4. This Order shall be immediately effective and enforceable upon its entry.
5. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, interpretation or enforcement of this Order.

This Order has been signed electronically.
The Judge's signature and Court's seal appear
at the top of the Order.

United States Bankruptcy Court

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

In re

ALDRICH PUMP LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that Aldrich Pump LLC, et al., Debtors in the above-captioned cases, have filed the Motion of the Debtors for Entry of an Order Extending the Period Within Which the Debtors May Remove Actions Pursuant to 28 U.S.C. § 1452 and Rule 9027 of the Federal Rules of Bankruptcy Procedure (the “Motion”).

If a copy of the Motion is not included with this Notice, a copy may be viewed at the Court’s website, www.ncwb.uscourts.gov under Debtor Aldrich Pump LLC’s name and case number, you may obtain a copy of the Motion from the Debtors’ claims and noticing agent at www.kccllc.net/aldrich, or you may request in writing a copy from the undersigned counsel to the Debtors.

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THESE BANKRUPTCY CASES. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WANT THE COURT TO GRANT THE RELIEF REQUESTED IN THE MOTION, OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE MOTION, THEN ON OR BEFORE MONDAY, SEPTEMBER 28, 2020 YOU MUST:

- (1) A. File with the Bankruptcy Court a written objection at:

Clerk, United States Bankruptcy Court
401 W. Trade Street

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Charlotte, North Carolina 28202

B. If you have your attorney file a written objection then the objection should be filed with the Bankruptcy Court by electronic means through the Court's website, www.ncwb.uscourts.gov under the jointly administered name and case number shown above.

(2) You must also serve a copy of such request to the parties shown below and any other parties as required by law or orders of the Court on or before the date described above:

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Counsel to the Debtors

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Counsel to the Official Committee of Asbestos Personal Injury Claimants

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Office of Bankruptcy Administrator
402 W. Trade St., Suite 200
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(3) Attend the hearing scheduled for October 29, 2020, at 9:30 a.m. EDT or as soon thereafter as the matter can be heard in the Bankruptcy Courtroom 1-4, 401 West Trade Street, Charlotte, North Carolina. You should attend this hearing if you file an objection.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought and may enter an Order granting the relief requested. No further notice of that hearing will be given.

This the 14th day of September, 2020.

RAYBURN COOPER & DURHAM, P.A.

/s/ John R. Miller, Jr.

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ATTORNEYS FOR DEBTORS