

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)

**OBJECTION OF THE DEBTORS AND THE FUTURE
CLAIMANTS' REPRESENTATIVE TO EX PARTE MOTION FOR
ORDER SHORTENING NOTICE AND EXTENDING THE RESPONSE DEADLINE**

Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), as debtors and debtors in possession (together, the "Debtors"), and Joseph W. Grier, III, as the representative for future asbestos claimants in the above-captioned cases (the "Future Claimants' Representative"), jointly file this Objection to the motion [Dkt. 494] (the "Motion to Shorten") filed by the Official Committee of Asbestos Personal Injury Claimants (the "Current Asbestos Claimants' Committee") seeking to shorten notice of the hearing on the *Motion of the Official Committee of Asbestos Personal Injury Claimants to Continue Hearing on the Joint Motion of the Debtors and the Future Claimants' Representative for an Order (I) Establishing a Bar Date for Certain Known Asbestos Claims, (II) Approving Proof of Claim Form, (III) Approving Personal Injury Questionnaire, (IV) Approving Notice to Claimants, and (V) Granting Related Relief*² [Dkt. 493] (the "Motion to Continue"). In support of this Objection, the Debtors and the Future Claimants' Representative respectfully represent as follows:

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

² The *Joint Motion of the Debtors and the Future Claimants' Representative for an Order (I) Establishing a Bar Date for Certain Known Asbestos Claims, (II) Approving Proof of Claim Form, (III) Approving Personal Injury Questionnaire, (IV) Approving Notice to Claimants, and (V) Granting Related Relief* [Dkt. 471] is referred to herein as the "Joint Bar Date Motion."



Factual Background

1. On December 14, 2020, after having first discussed doing so with the Current Asbestos Claimants' Committee, the Debtors and the Future Claimants' Representative filed their Joint Bar Date Motion.

2. The hearing for the Joint Bar Date Motion was set for January 28, 2021, a full six weeks after the filing of the motion, with an objection deadline of January 14, 2021. Thus, the Debtors and the Future Claimants' Representative gave the Current Asbestos Claimants' Committee a month to respond, double the two-week period set under the general case management order. This additional time was given not because the issues presented by the Joint Bar Date Motion are novel or complex. They are not. Indeed, the Motion seeks substantively identical relief to that sought in other cases, including relief granted by this Court in the Garlock bankruptcy. Rather, the additional time was given as a courtesy because of the upcoming holidays.

3. On December 16, 2020, following the parties' discussion of and the filing of the Joint Bar Date Motion, the parties appeared before the Court to finalize the case management order ("CMO") for the preliminary injunction litigation in these cases. At that hearing, the Court offered a subsequent hearing date on December 18, 2020 to resolve any outstanding issues. Ultimately, that second hearing was not needed as the parties were able to come to consensus on the terms of the CMO. Critically, no other open issues were raised with the Court at that time. Despite having multiple opportunities to do so, the Current Asbestos Claimants' Committee never raised with the Court that the Joint Bar Date Motion should be continued for any reason. Nor, in the weeks that followed, did the Current Asbestos Claimants' Committee separately raise any concern or request any modification of the hearing or briefing schedule for the Joint Bar Date Motion with either the Debtors or the Future Claimants'

Representative.

4. Instead, the Current Asbestos Claimants' Committee waited until almost a month after the filing of the Joint Bar Date Motion, and just before the objection deadline, to seek a continuance of the Joint Bar Date Motion on an emergency basis, giving the Court, the Debtors, and the Future Claimants' Representative only three business days' notice of a very material request. The Motion to Continue does not seek a continuance because the Current Asbestos Claimants' Committee needs more time to respond to the Joint Bar Date Motion for unforeseen circumstances, resource constraints, or an emergency not of their making. Rather, the Current Asbestos Claimants' Committee moves for a continuance solely because of its avowed (and seemingly default) preference that this reorganization case should be put on hold until the preliminary injunction is heard, i.e., until at least May 2021.³

5. This Objection responds directly to the Motion to Shorten. The Debtors and the Future Claimants' Representative will respond to the Motion to Continue when and if the Court deems appropriate.

Argument

6. The Motion to Shorten should be denied. There is no emergency that warrants hearing the Motion to Continue on three business days' notice and no good reason why the objection deadline should be extended.

7. The Current Asbestos Claimants' Committee has had almost a month to indicate an intention to seek a continuance, including in connection with the CMO process

³ The Current Asbestos Claimants' Committee suggests that the relief is compelled by the Court's disposition in the *In re DBMP LLC* case. The Debtors and the Futures Claimants' Representative disagree, as will be set forth in greater detail in their opposition to the Motion to Continue, but, at the very least, if that is the genesis of the Current Asbestos Claimants' Committee's request to delay consideration of the Joint Bar Date Motion for at least five months, why wait until the last minute to raise it with the Court on an emergency basis?

before the Court on December 16th or 18th, or by filing the Motion to Continue weeks ago. Instead, the Current Asbestos Claimants' Committee sat on its hands waiting until the last minute to seek relief. One party's delay should never be a thief of another party's time, particularly that of the Court. The Motion to Continue can be readily heard at the upcoming January 28 hearing on the Joint Bar Date Motion.⁴ Indeed, the Motion to Continue should not be heard in isolation from the Joint Bar Date Motion. The merits of the latter are highly relevant to the arguments made in the former, so it will be necessary and advantageous for the Court to hear both at the same time.

8. As to the objection deadline, the Current Asbestos Claimants' Committee has had nearly a month to prepare its objection to the Joint Bar Date Motion, an objection that need not travel far from similar objections that counsel for the Current Asbestos Claimants' Committee have prepared in multiple other cases. Indeed, the Joint Bar Date Motion seeks standard relief substantively identical, albeit more limited in scope, to that sought before this Court in Garlock, and litigated by some of the same Current Asbestos Claimants' Committee counsel. As such, maintaining the current (extended) objection deadline should not be prejudicial to the Current Asbestos Claimants' Committee in any way. In addition, since the end of the one-month objection period to the Joint Bar Date Motion is approaching in three business days, the Current Asbestos Claimants' Committee at this point must have substantially completed any objection it may have to the Joint Bar Date Motion.

⁴ In fact, in an e-mail to counsel to the Debtors on the afternoon of January 8, 2021, the Current Asbestos Claimants' Committee proposed having the Motion to Continue heard on January 28, 2021, but requested the hearing on the Joint Bar Date Motion not proceed that day, and requested a suspension of the briefing related to the Joint Bar Date Motion pending the outcome of that hearing. After the Debtors and Future Claimants' Representative declined to agree to these requests, the Current Asbestos Claimants' Committee did not consult with either the Debtors or the Future Claimants' Representative about the relief requested in the Motion to Shorten. While hearing the Motion to Continue at the January 28th hearing would shorten (by one day) the standard notice required for that motion under the case management order entered in these cases, the Debtors and Future Claimants' Representative have no objection to hearing the Motion to Continue on January 28th.

WHEREFORE, for all of the foregoing reasons, the Debtors and the Future Claimants' Representative respectfully request that the Court deny the Motion to Shorten in its entirety without a hearing and grant such other and further relief to the Debtors and the Future Claimants' Representative as the Court may deem proper.

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Dated: January 11, 2021
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