

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

In re

ALDRICH PUMP LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

**MOTION OF THE DEBTORS FOR  
AN ORDER AUTHORIZING THE PARTIES TO USE  
CATEGORICAL PRIVILEGE LOGS WHEN CLAIMING MATERIAL  
IS PRIVILEGED OR OTHERWISE PROTECTED FROM DISCOVERY**

Aldrich Pump LLC and Murray Boiler LLC, as debtors and debtors in possession (together, the "Debtors"), hereby move the Court for entry of an order, substantially in the form attached hereto as Exhibit A (the "Proposed Order"), authorizing the parties to use categorical privilege logging in the instant proceeding for estimation of asbestos claims ("Estimation Proceeding").

On April 18, 2022, the Court entered an order granting the Debtors' motion for an estimation of all current and future asbestos-related claims against the Debtors [Dkt. 1127] (the "Estimation Order").<sup>2</sup> On June 9, 2022, the Debtors filed a motion seeking approval of their *Proposed Case Management Order for Estimation of Mesothelioma Claims* (the "Debtors' Proposed CMO") (attached hereto as Exhibit B) to govern the initial schedule and procedures that would apply to the Estimation Proceeding. The Debtors' Proposed CMO permits the

<sup>1</sup> 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.

<sup>2</sup> The Estimation Order expanded the scope of the estimation originally sought by Debtors. The *Motion of the Debtors for Estimation of Prepetition Asbestos Claims* [Dkt. 833] only requested estimation of mesothelioma claims against the Debtors that had manifested prepetition.



Debtors, the Official Committee of Asbestos Personal Injury Claimants (the "ACC"), and Joseph W. Grier, III, as the representative for future asbestos claimants in the above-captioned cases (the "FCR" and, together with the Debtors and the ACC, the "Parties")<sup>3</sup> to, *inter alia*, serve upon each other requests for the production of documents, interrogatories, and requests for admissions (collectively, "Written Discovery").

Based upon the experience of other similar cases, and particularly the experience in the In re Bestwall LLC, No. 17-31795 (Bankr. W.D.N.C. 2017) ("Bestwall") case pending before Judge Beyer, the Debtors anticipate that as part of that Written Discovery, the ACC will seek production of the Debtors' litigation files for several thousand asbestos product liability lawsuits spanning a decade, including files maintained by lawyers (both in-house and outside counsel) who have represented the Debtors and their predecessors-in-interest in that litigation. If that occurs, an enormous volume -- likely hundreds of thousands of documents -- of attorney-client privileged, attorney work-product, and/or common interest protected material will be within the scope of those requests.

There can be little doubt that the overwhelming majority of this material will be privileged and/or protected from disclosure, and that the basis for the assertion of such privilege will fall into one of a handful of relatively discrete categories. At the same time, the burden of preparing such a document by document privilege log, and the drain on estate resources in doing so, would be immense, as proven by the experience in Bestwall. Under these circumstances, individually logging presumptively privileged and protected materials on a document-by-document basis in this Estimation Proceeding would be unduly burdensome, and provide little

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<sup>3</sup> All Parties have agreed that Trane Technologies Company LLC ("New Trane Technologies") and Trane U.S. Inc. ("New Trane") should be added as parties to the Estimation Proceeding, and included as parties to whatever form of the case management order the Court ultimately enters.

material benefit, if any, to the discovering party in assessing whether a privilege or protection claim is well grounded.

The Debtors therefore move the Court for the entry of an order pursuant to Federal Rule of Civil Procedure 26 (b)(5),<sup>4</sup> permitting the Parties to use a categorical privilege log to identify material withheld on the basis of privilege or work-product protection in response to Written Discovery in the Estimation Proceeding. The categorical privilege log would contain the information described below and in the Proposed Order (including significant metadata for each electronically stored document withheld), which will provide descriptions sufficient to permit the assessment of, and potential challenge to, the validity of privilege and work-product claims without imposing undue burden on the Parties. Pursuant to the relief requested in this Motion, the Parties would also meet and confer in good faith to discuss the format of such a categorical log.

In support of this Motion, the Debtors respectfully state as follows:

### **BACKGROUND**

#### **A. The Debtors' Proposed Use of a Categorical Privilege Log In The Estimation Proceeding.**

1. Pursuant to the Estimation Order, the Court shall estimate the Debtors' aggregate liability for all current and future asbestos-related mesothelioma claims arising from any product or other source for which the Debtors, Trane Technologies Company LLC, successor by merger to Ingersoll-Rand Company (a former New Jersey Corporation), or Trane U.S. Inc. are alleged to be responsible. See Estimation Order [Dkt. 1127] at ¶2.

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<sup>4</sup> Fed. R. Civ. P. 26 is made applicable to the Estimation Proceeding pursuant to Rules 7026 and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules").

2. On May 5, 2022, the Debtors provided the ACC and the FCR with a proposed case management order (substantially similar to the Debtors' Proposed CMO) to govern the Estimation Proceeding. One week later, the Debtors provided the ACC and the FCR with a draft a joint discovery plan and ESI protocol (substantially similar to the Debtors' Joint Discovery Plan and ESI Protocol, attached hereto as Exhibit C) (the "Debtors' Proposed Discovery Plan"). Both of these documents proposed use of a categorical privilege log, and the Debtors' Proposed Discovery Plan sets forth a detailed description of that proposed categorical privilege log. See Debtors' Proposed CMO, Ex. B at ¶ 9, Debtors' Proposed Discovery Plan, Ex. C at §4.1.1. On May 24, 2022, the ACC proposed significant modifications to both documents that declined to agree to the use of any type of categorical privilege log, instead insisting on the use of a document-by-document privilege log. Subsequent meet and confers between the Parties were unable to resolve the disagreement concerning the use of a categorical privilege log.

3. At the same time as the filing of the instant Motion, the Debtors have filed a motion seeking approval of the Debtors' Proposed CMO to govern initial scheduling and procedures in the Estimation Proceeding and understand the ACC will file its own proposed CMO as well. Consistent with the prior drafts the Debtors shared with the ACC, the Debtors' Proposed CMO requests authorization for use of a categorical privilege log. Id. It is expected, based on the meet and confers between the parties, that the ACC will request that the Court order the Debtors to prepare document-by-document privilege logs.<sup>5</sup>

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<sup>5</sup> On June 9, 2022, as the Debtors were preparing to file the instant Motion, counsel for the Debtors again spoke with counsel for the ACC, during which time counsel for the ACC suggested that the ACC may be amenable to categorical privilege logging for certain categories of documents, and that the ACC was going to represent the same in its own filing later that day. As of this filing, however, the ACC has not yet provided the Debtors any details concerning the contours of such a proposal.

**B. The Bestwall Experience Concerning Privilege Logs and Disputes.**

4. Recent document discovery taken as part of the estimation proceeding in Bestwall provides helpful context regarding the volume of attorney-client privilege and attorney work-product protected documents likely to be sought in these cases through Written Discovery. In Bestwall, the Official Committee of Asbestos Claimants and Future Claimants' Representative (collectively, the "Bestwall Claimant Representatives") served discovery that called for the production of nearly one million documents concerning the defense and resolution of asbestos product liability litigation filed against the debtor and the former Georgia-Pacific LLC over a 10+ year period.<sup>6</sup>

5. According to filings in Bestwall, in response to the written discovery requests propounded by the Bestwall Claimants Representatives, the debtor collected and reviewed approximately 1.6 million documents from the files of lawyers' and legal personnel. From that collection it produced about 500,000 documents and withheld, as privileged, nearly as many—491,011.<sup>7</sup> See Bestwall, *Debtor's Objection to Motion to Compel Production of All Documents Listed on Debtor's Privilege Log* [Dkt. 2305] at ¶ 2 ("Bestwall Objection to Motion to Compel").

6. In Bestwall, the debtor prepared and served on a rolling basis 15 separate privilege log installments as of March 2022, in which each of the 491,011 withheld documents

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<sup>6</sup> See generally, *The Official Committee of Asbestos Claimants' and the Future Claimants' Representative's First Set of Documents Requests Directed to the Debtor Pursuant to Fed. Bankr. R. 7026, 7034 and 9014*, [Dkt. 2305] Ex. A at 1-16 (the "Bestwall Claimant Representatives' Requests") (a true copy of which is annexed hereto as Exhibit D).

<sup>7</sup> The 491,011 logged documents primarily were retrieved from two sources: 296,001 from in-house counsel's custodial ESI and hard-copy documents and other targeted collections; and 195,010 from the requested litigation claim files housed at either the debtor or the offices of approximately 190 law firms. See Bestwall Objection to Motion to Compel, at ¶ 6.

was logged individually. In addition to specific descriptions relevant to each document, the following categories of information were provided for each document: the document and parent privilege log IDs; document custodians; date and time; whether the document was a parent; the number of attachments; file extension; description; privilege(s) asserted; whether the document was redacted or removed/amended, and the starting Bates Number if the document was redacted or removed/amended; associated legal personnel; author and recipient information, where available; and for emails, the to, from, CC, and BCC fields.<sup>8</sup> *Id.* at ¶ 8. For any documents that came from a "claim file" pertaining to a particular mesothelioma claimant, the debtor also provided that claimant's name. The debtor also provided the Bestwall Claimant Representatives with "Players' Lists" providing detailed information concerning each individual that was copied on any privileged document; this list initially contained over 13,000 entries. *Id.*, at ¶ 20.

7. The *Joint Discovery Plan and Report (ESI Protocol)* in Bestwall required the debtor to serve privilege logs no later than 45 days after each production. To meet the production deadline, the debtor ultimately employed over 70 contract attorneys who devoted more than 35,000 hours reviewing documents for responsiveness and privilege determinations, along with privilege logging activities. The debtor's in-house and outside counsel conducted supplemental review efforts thereafter. *Id.*, at ¶¶ 3-4; ("Bestwall March 17, 2022 Hearing Transcript").

8. By June 2021, the Bestwall Claimant Representatives had already suggested to the debtor that they viewed the debtor's privilege logs as insufficient. Discussions

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<sup>8</sup> In Bestwall, the debtor's initial privilege logs included 19 fields of information for most of the 491,000 withheld documents. That increased to 27 fields when the debtor revised its privilege log in response to the Bestwall Claimant Representatives' complaint that the initial logs were inadequate. See Bestwall, Transcript for Hearing/Trial Held on March 17, 2022 [Dkt. 2480], at 8, and 14 (the "Bestwall March 17, 2022 Hearing Transcript"). A true copy of the relevant pages of the Bestwall March 17, 2022 Hearing Transcript are annexed hereto as Exhibit E.

ensued between the parties, during which the debtor suggested that a categorical privilege logging was appropriate going forward and should be permitted given the burden imposed by the volume of privilege and protected material sought in Bestwall Claimant Representatives' document requests. See Bestwall, Transcript for Hearing/Trial Held on January 20, 2022 [Dkt. 2371] at 135-36 ("Bestwall January 20, 2022 Hearing Transcript").<sup>9</sup> Bestwall Claimant Representatives rejected the use of categorical privilege logs, and ultimately the parties were unable to resolve the dispute. Id.

9. Bestwall Claimant Representatives then proceeded to file a motion to compel on December 3, 2021 directed at the debtor's privilege logs. See Bestwall, *The Official Committee of Asbestos Claimants and the Future Claimants' Representative's Motion to Compel Production of Documents Listed on the Debtor's Privilege Log* [Dkt. 2277] ("Bestwall Claimants' Representatives' Motion to Compel"). In that motion, they argued that the debtor had not adequately established that any documents had been properly withheld from discovery as privileged or protected. They urged Judge Beyer to find that the debtor had therefore waived privilege for all the documents and asked the court to compel production of all 491,011 documents on the debtor's privilege logs. Alternatively, they requested that the debtor be required to turn over all 491,011 documents to the Bestwall Claimant Representatives, subject to a Federal Rule of Evidence 502(d) order. Id. at ¶ 11.

10. At a January 20, 2022 hearing on the Bestwall Claimants' Representatives' Motion to Compel, Judge Beyer raised the issue of categorical privilege logs. See Bestwall January 20, 2022 Hearing Transcript, at 166.<sup>10</sup> Ultimately, however, the debtor requested and

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<sup>9</sup> A true copy of the relevant pages of the Bestwall January 20, 2022 Hearing Transcript are annexed hereto as Exhibit F.

<sup>10</sup> Judge Beyer stated: "that brought a question to my mind – and you all briefed this as well – is just [a] reference to categorical logs and you cited cases in support of, I guess, the validity of categorical logs, but

was provided an opportunity to revise its privilege log by February 24, 2022. See id. at 189-90, 196. As part of that effort, 400 attorneys working 50,000 attorney hours reviewed the entirety of the 491,011 withheld documents and, on a document-by-document basis, revised the descriptions in the previously served privilege log. See Bestwall, Transcript for Hearing/Trial Held on February 24, 2022 [Dkt. 2450] at 159 ("Bestwall February 24, 2022 Hearing Transcript").<sup>11</sup>

11. At the March 17, 2022 omnibus hearing, Judge Beyer announced that she was denying the Bestwall Claimant Representatives' Motion to Compel in full. Judge Beyer held "that the debtor's log is sufficient to make the necessary *prima facie* showing that the documents in question are protected from production by the attorney-client privilege, work product doctrine, or common interest doctrine." See Bestwall March 17, 2022 Hearing Transcript, at 15.

12. Undeterred, the Bestwall Claimants' Representatives have persisted with their attacks on the debtor's privilege log, just recently filing a motion to reconsider Judge Beyer's ruling denying their motion to compel production of documents on the debtor's privilege logs. See Bestwall, *Motion for Reconsideration of Order Denying the Official Committee of Asbestos Claimants and the Future Claimants' Representative's Motion to Compel Production of Documents Listed on the Debtor's Privilege Log* [Dkt. 2530].

### **RELIEF REQUESTED**

13. By this Motion, the Debtors seek entry of an order pursuant to Federal Rule of Civil Procedure 26(b)(5), substantially in the form of the Proposed Order attached as Exhibit A, authorizing the Parties to use a categorical privilege log for responding to discovery

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you didn't seek that relief from this Court, at least aside from mentioning it, I suppose, in your response to the motion to compel. And in the case management order you agreed to, the debtor agreed to provide more than, I believe, a categorical log. So just wanted to ask you to expand on, you know, why even mention the categorical logging issue." See id.

<sup>11</sup> A true copy of the relevant pages of the Bestwall February 24, 2022 Hearing Transcript are annexed hereto as Exhibit G.



requests in the Estimation Proceeding. The categorical log would contain descriptions sufficient to permit the assessment of, and potential challenge to, the validity of privilege and work-product claims.

14. As provided for in the Proposed Order, each entry in the categorical privilege log would contain a single, general subject matter description (applicable to all documents that are part of the category), as well as: (i) the type of privilege asserted with respect to documents in that category; (ii) the total number of documents withheld that fall within the subject matter; and (iii) a document identification number for each document within the particular category. In addition, to further assist any evaluation of the assertion of privilege, for each electronically stored document on the categorical privilege log the following metadata would be provided (as applicable): (i) document identification number; (ii) document type; (iii) date; (iv) author (if readily available); (v) email from; (vi) email to; (vii) email CC; and (viii) email BCC (the "Included Metadata").

15. After service of Written Discovery, the Parties would meet and confer to further discuss the categories of privileged documents that would be used as part of the categorical log, and in particular to attempt to reach agreement on acceptable general subject matter descriptions for each category.

#### **BASIS FOR RELIEF REQUESTED**

16. The Bestwall experience is both informative and telling. There, the debtor used enormous estate resources to create a document-by-document privilege log that may be unprecedented in terms of size and scope. The nearly 500,000 entry log was the result of work by 70 contract attorneys and a dozen additional outside counsel. See supra, at ¶ 7. Later revisions to the privilege log required the efforts of nearly 400 attorneys working 50,000 attorney

hours. See supra, at ¶ 10. It would be hard to imagine how the costs to the estate for this effort did not run into the millions of dollars.

17. But these efforts have not eliminated disputes concerning the assertion of privilege. Quite the opposite. Instead, the Bestwall Claimants' Representatives have filed multiple rounds of motions contending that Bestwall's privilege log does not comply with the law, and have argued that the privilege log is so deficient that the Court should order the privilege waived and all 491,011 documents turned over. Judge Beyer has rejected all of these contentions, found the debtor's privilege log sufficient, found that there has been no waiver of privilege, and declined to compel in any fashion production of the withheld documents. See Bestwall, March 17, 2022 Hearing Transcript at 15; Bestwall, *Order Denying the Official Committee of Asbestos Claimants and the Future Claimants' Representative's Motion to Compel Production of Documents Listed on the Debtor's Privilege Log* [Dkt 2502].

18. The Bestwall experience is one the Debtors hope to avoid repeating in these cases. The primary purpose of any privilege log is to "provide[] information about the nature of the withheld documents sufficient to enable the receiving party to make an intelligent determination about the validity of the assertion of the privilege." Auto. Club of New York, Inc. v. Port Auth. of N.Y. & N.J., No 11 Civ. 6746 (RKE) (HBP), 2014 WL 2518959, at \*5 (S.D.N.Y. June 4, 2014) (finding categorical privilege log adequate and rejecting movant's claim that the categorical privilege log was insufficiently detailed). Privilege logging should not be what it has clearly become in Bestwall, an unprecedented expenditure of estate resources to produce exceedingly voluminous and burdensome privilege logs, followed by repeated attacks by asbestos claimants that the logs are insufficient in any case.

19. In an effort to avoid a repeat of the Bestwall experience, the Debtors propose, here at the outset of the Estimation Proceeding, the use of categorical privilege logs for identifying privileged documents in response to discovery. The privilege issues in this Estimation Proceeding, and potential disputes concerning the same, should be readily apparent. Assessment and resolution of those disputes are not advanced by a document-by-document privilege log and, thus, do not justify the nearly unprecedented burden that would be imposed on the Debtors in preparing such a document-by-document privilege log.

20. This is exactly the type of case where courts have endorsed the use of categorical privilege logs. This Court should follow suit, and grant the Debtors' Motion.

**A. The Federal Rules of Civil Procedure and Case Law Interpreting the Same Permit the Use of Categorical Privilege Logs.**

21. Federal Rule of Civil Procedure 26 was amended in 1993 to require that a party withholding production of discoverable material on the basis of privilege expressly make the claim and describe the withheld material in a manner sufficient for other parties to assess the privilege claim. See Fed. R. Civ. P. 26(b)(5). Rule 26 does not require a document-by-document privilege log, neither by its express terms, nor by the judicial decisions interpreting the rule. See Fed. R. Civ. P. 26(b)(5); In re Imperial Corp. of Am., 174 F.R.D. 475, 479 (S.D. Cal. 1997) ("Fed.R.Civ.Pro. 26(b)(5) does not require the production of a document-by-document privilege log.")

22. The Official Notes of the Advisory Committee on the Rules of Civil Procedure (the "Official Notes") instead reflect a flexible approach to privilege logs, and demonstrate that categorical privilege logs were contemplated at time of the 1993 amendment. The Official Notes provide in pertinent part:

[Rule 26] does not attempt to define for each case what information must be provided when a party asserts a claim of privilege or work product protection. **Details concerning time, persons, general subject matter, etc., may be appropriate if only a few items are withheld, but may be unduly burdensome when voluminous documents are claimed to be privileged or protected, particularly if the items can be described by categories.**

Fed. R. Civ. P. 26 Advisory Committee Note, 1993 Amendment (emphasis supplied).

23. Sec. & Exch. Comm'n v. Thrasher, No. 92 Civ. 6987 (JFK), 1996 WL 125661 (S.D.N.Y. Mar. 20, 1996) ("Thrasher") is the leading case on categorical privilege logs, having been approvingly cited and adopted by District Courts within the Second, Fourth, Sixth, Seventh, Ninth, and Eleventh Circuits.<sup>12</sup> In addition, District Courts within the other circuits have permitted the use of categorical privilege logs without reference to Thrasher.<sup>13</sup>

24. In Thrasher, plaintiff requested production of an "extremely voluminous" quantity of documents that were likely to be covered by work product protection and very

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<sup>12</sup> See, e.g., **Second Circuit:** City of New York v. FedEx Ground Package Sys., Inc., 13 Civ. 9173 (ER), 2016 WL 1718261, at \*5 (S.D.N.Y. Apr. 27, 2016); **Fourth Circuit:** Asghari-Kamrani v. U.S. Auto. Ass'n, No. 2:14-cv-478, 2016 WL 8243171, at \*3-\*4, (E.D. Va. Oct. 21, 2016); **Fifth Circuit:** Mfrs. Collection Co., LLC v. Precision Airmotive, No. 3:12-cv-853-L, 2014 WL 2558888, at \*3 (N.D. Tex. June 6, 2014); **Sixth Circuit:** First Nat'l Horizon Corp. v. Certain Underwriters at Lloyd's, No. 2:11-cv-02608-SHM-DKV, 2013 WL 11090763, at \*7 (W.D. Tenn. Feb. 27, 2013); **Seventh Circuit:** Fed. Deposit Ins. Corp. v. Crowe Horwath LLP, No. 17-cv-04384, 2018 WL 3105987, at \*6 (N.D. Ill. June 25, 2018); **Ninth Circuit:** In re Imperial Corp., 147 F.R.D. at 477-78; **Eleventh Circuit:** Teledyne Instruments, Inc. v. Cairns, No. 6:12-cv-854-Orl-28TBS, 2013 WL 5781274, at \*16 (M.D. Fla. Oct. 25, 2013).

<sup>13</sup> See, e.g., **First Circuit:** Neelon v. Krueger, No. 12-cv-11198-IT, 2015 WL 1037992, at \*3 (D. Mass. Mar. 10, 2015) (citing Teledyne's holding that sufficiency of a categorical privilege log turns on whether the categories of information are sufficiently articulated to permit assessment of privilege of work-product protection); **Third Circuit:** United States v. Coburn, No. 2:19-cr-00120 (KM), 2022 WL 357217, at \*5 (D.N.J. Feb. 1, 2022) (finding categorical privilege log sufficient where such log "provided 66 pages of detail," and "a line-item version of that log would likely be much longer and repetitive, and would not provide much, if any additional information"), aff'd in part, rev'd in part on other grounds, 2022 WL 874458 (D.N.J. Mar. 23, 2022); **Eighth Circuit:** Patterson Dental Supply, Inc. v. Pace, No. 19-cv-1940 (JNE/LIB), 2020 WL 13032906, at \*9 (D. Minn. Apr. 2, 2020) (noting that "a party may offer a categorical description of privileged documents in lieu of a privilege log if a document by document description would be unduly burdensome") (internal quotation marks and citations omitted); **Tenth Circuit:** Raymond v. Spirit AeroSystems Holdings, Inc., 319 F.R.D. 334, 341 (D. Kan. 2017) (holding that "the burden to [describe documents withheld on basis of privilege] may be simplified by fashioning privilege logs that describe documents categorically"); **DC Circuit:** United States v. KPMG LLP, 237 F.Supp.2d 35, 37-38 (D.D.C. 2002) (acknowledging magistrate judge's opinion that court had "discretion to permit [defendant] to prepare a less burdensome, category-by-category privilege log").

probably the attorney-client privilege. Thrasher, at \*1-\*2. Rather than provide a privilege log, defendant submitted an affidavit from counsel representing that all the documents in question were both confidential and reflected communications between counsel. Id. Unsatisfied, the requesting party moved for an order compelling (i) production of all documents, or alternatively, (ii) a document-by-document privilege log. Defendant cross-moved for a protective order relieving him from submitting a privilege log. Id.

25. The Thrasher court recognized that in "appropriate circumstances" a court should permit the use of categorical privilege logs and annunciated its now widely adopted test. The Thrasher test finds appropriate circumstances for use of a categorical privilege log where: "(a) a document-by-document listing would be unduly burdensome, and (b) the additional information to be gleaned from a more detailed log would be of no material benefit to the discovering party in assessing whether the privilege claim is well grounded." Id., at \* 1.

26. Addressing burden, the Thrasher court found that that a document-by-document privilege log "would be a long and fairly expensive project for counsel to undertake." Id. It then found that plaintiff's bald claim to entitlement to a document-by-document privilege log did not adequately demonstrate it would receive a material benefit from such a log. Id. As a result, the court ordered that a document-by-document privilege log was not appropriate; defendant merely needed to supplement its prior submission from counsel with the following general information: (i) the time period encompassed by the withheld documents; (ii) listing of authors and addressees of the documents; and (iii) further representation by counsel regarding the nature of the privilege or work product protection asserted. Id. at \*2.

27. Courts around the country have employed the Thrasher test to order use of categorical privilege logs in situations strikingly similar to the one presented by this Estimation

Proceeding. For example, in Precision Airmotive, the court denied defendants' motion to require a document-by-document privilege log, and instead permitted a categorical log where the document request sought documents relating to a ten-year litigation. See 2014 WL 2558888, at \*4-\*6. Employing the Thrasher test, the court accepted the producing party's argument that individually logging litigation-related documents that spanned ten years would be "unduly burdensome," that "additional information to be gleaned from a more detailed log would be of no material benefit to [defendant] in assessing whether a privilege or work-product claim is well grounded;" and that a document-by-document approach could potentially reveal some privileged information. Id. at \*5.

**B. Courts Within the Fourth Circuit Have Approved of the Use of Categorical Privilege Logs.**

28. Asghari-Kamrani is the leading case within the Fourth Circuit adopting the Thrasher test, finding it a "reasonable measure for evaluating the categorical privilege log proffered by Plaintiffs." 2016 WL 8243171, at \*3. The Asghari-Kamrani court approved use of a categorical privilege log covering just 439 privileged documents, which were then grouped into 11 categories. Id. at \*1. It found that the categorical privilege log provided the requesting party with sufficient information to assess whether the claim of privilege was proper, and to lodge a challenge if appropriate. Id. at \*3. It further found that the requesting party had not demonstrated the benefit of a traditional document-by-document log. Id. at \*4.

29. The categorical log in Asghari-Kamrani provided the following information: (i) the date ranges of the communications; (ii) the format of the communications (i.e., document type); (iii) the attorneys and clients who sent and/or received the communications; (iv) a category description; (v) the nature of privilege asserted by category; (vi) and the number of documents in each category. In approving that format, the court recognized

that it is the substance -- and not the quantity -- of the information disclosed in the categorical log which matters. The court explained, "[a]lthough the information in the log is somewhat sparse . . . the log need not be overly detailed, it merely must provide the requesting party with sufficient information to be able to assess the privilege." Id. at \*3.

30. Similarly, two years ago, another court in the Fourth Circuit endorsed the use of categorical privilege logs. See RLI Ins. Co. v. Nexus Servs., Inc., No. 5:18-cv-66, 2020 WL 674454, at \*3 (W.D. Va. Feb. 11, 2020). There, the defendant urged that it should be permitted to provide a categorical privilege log as it had produced over 100,000 pages with redactions for privilege. Finding that Rule 26(b) does not require a document-by-document privilege log, the district court allowed for a categorical privilege log. Id. Without explicitly mentioning Thrasher, the RLI Insurance Co. analysis reflects it applied that very test: "the court finds persuasive [defendant's] argument that a categorical privilege log would serve the purpose of asserting privilege and explaining redactions without imposing undue burden on the parties, given the number of documents produced and discoverable in this case." Id. (granting motion to allow for categorical privilege log where defendant had produced 100,000 redacted documents).

**C. The Debtors' Proposed Categorical Privilege Log For Use In The Estimation Proceeding Far Exceeds the Standards Set Out By Thrasher and Asghari-Kamrani.**

31. Here, the information the Debtors propose to provide as part of the categorical privilege log in these cases far surpasses that which the court ordered in Thrasher or Asghari-Kamrani. In particular, the Debtors propose not just providing a detailed description of the categories of documents being withheld on the basis of privilege, but the Included Metadata for every withheld electronically stored document where such information is available. See supra, at ¶14.

32. The categorical log proposed by the Debtors discloses significantly more substantive information regarding each of the withheld documents than was required in either Thrasher or Asghari-Kamrani, and potentially permits a document-by-document challenge by the ACC. A copy of the publicly filed categorical privilege log approved by the Asghari-Kamrani court is annexed hereto as Exhibit H. Upon cursory review it is readily apparent the Debtors propose to provide substantially more information in their categorical privilege log than was provided by the logging party in Asghari-Kamrani. The Included Metadata the Debtors propose providing on a document-by-document basis was not provided in Asghari-Kamrani; no document-by-document information was provided there at all. Compare Exhibit A to Exhibit H.

33. It also bears repeating that the Debtors propose providing this greater level of detail despite the fact that the volume of anticipated privileged documents dwarfs (potentially by 1000-fold) the number of privileged documents in Asghari-Kamrani (fewer than five hundred). Nevertheless, the court ordered the use of a categorical privilege log in that case, finding it would be unduly burdensome to order document-by-document privilege logging. See 2016 WL 8243171, at \*4 ("[T]he Court finds that requiring Plaintiffs to separately list each of the 439 documents separately would be unduly burdensome for no meritorious purpose...")

34. There is little doubt that the ACC's Written Discovery in these cases will likely seek production of hundreds of thousands of privileged and/or protected documents. Indeed, based on the Bestwall experience, the Debtors anticipate the central focus of the ACC's Written Discovery to be litigation files maintained by in-house and outside counsel in the defense of asbestos cases filed against the Debtors and their predecessors.<sup>14</sup> There can also be

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<sup>14</sup> Far from requiring a document-by-document privilege log for litigation files and documents within them, courts frequently do not require such documents to be included on privilege logs at all. See Pa. State Univ. v. Keystone Alts. LLC, No. 1:19-cv-02039, 2021 WL 1737751, at \*3 (M.D. Pa. May 3, 2021) ("There is no requirement that a privilege log be created for privileged documents generated after the filing of the



little doubt that much of the content of these litigation files are privileged and protected from disclosure. To borrow the language of the Advisory Committee on the Rules of Civil Procedure, these are precisely the kinds of documents that "can be described by categories." See Fed. R. Civ. P. 26 Advisory Committee Note, 1993 Amendment.

35. The Bestwall experience teaches, and common sense confirms, that document-by-document logging of those documents would be expensive, protracted, and incredibly burdensome. Bestwall also demonstrates that document-by-document logging is unlikely to avoid privilege disputes among the Parties. Instead, the categorical privilege log proposed by the Debtors, along with the Included Metadata, will provide the Parties with more than sufficient information to lodge any appropriate challenge to the withholding of documents without the unnecessary and extraordinary expenditure of estate resources. The Thrasher test is easily met. Accordingly, the Debtors' Motion should be granted.

### **NOTICE**

36. 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; (b) counsel to the ACC; (c) counsel to the Debtors' non-debtor affiliates, Trane Technologies Company LLC and Trane U.S. Inc.; (d) counsel to the FCR; and (e) the other parties on the Service List established by the Case

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complaint.") (citing Grider v. Keystone Health Plan Cent., Inc., 580 F.3d 119, 139 n.22 (3d Cir. 2009); Ryan Inv. Corp. v. Pedregal de Cabo San Lucas, No. C 06-319 JW (RS), 2009 WL 5114077, at \*3 (N.D. Cal. Dec. 18, 2009) (denying motion to compel "to the extent it [sought] to require a log of post-litigation counsel communications and work product" because "counsel's communications with the client and work product developed once the litigation commences are presumptively privileged and need not be included on any privilege log"); Frye v. Dan Ryan Builders, Inc., No. 3:10-cv-39, 2011 WL 666326, at \*7 (N.D. W. Va. Feb. 11, 2011) (party need not prepare privilege log for litigation file).

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**

37. 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: (a) enter the Proposed Order granting the relief requested herein; and (b) such other and further relief to the Debtors as the Court may deem proper.

Dated: June 9, 2022  
Charlotte, North Carolina

Respectfully submitted,

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**EXHIBIT A**

Proposed Order

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

In re

ALDRICH PUMP LLC, *et al.*,<sup>1</sup>

Debtors.

Chapter 11

Case No. 20-30608 (JCW)

(Jointly Administered)

**ORDER AUTHORIZING THE PARTIES TO USE  
CATEGORICAL PRIVILEGE LOGS WHEN CLAIMING MATERIAL  
IS PRIVILEGED OR OTHERWISE PROTECTED FROM DISCOVERY**

This matter coming before the Court on the *Motion Of The Debtors For An Order Authorizing The Parties To Use Categorical Privilege Logs When Claiming Material Is Privileged Or Otherwise Protected From Discovery* (the "Motion"),<sup>2</sup> 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; the Court finding that

<sup>1</sup> 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.

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

(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 opportunity for a hearing was sufficient under the circumstances, and (e) cause exists under Bankruptcy Rules 7026, 7034, and 9014; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. The Court finds that individually logging presumptively privileged and protected materials on a document-by-document basis in this Estimation Proceeding would be unduly burdensome, and provide little material benefit, if any, to the discovering party in assessing whether a privilege or protection claim is well grounded.
3. The Parties may use categorical privilege logs when identifying material withheld on the basis of privilege or work-product protection in response to Written Discovery in the Estimation Proceeding. Categorical privilege logs shall contain a single, general subject matter description (applicable to all documents that are part of the category), as well as: (i) the type of privilege asserted with respect to documents in that category; (ii) the total number of documents withheld that fall within the subject matter; and (iii) a document identification number for each document within the particular category. In addition, to further assist any evaluation of the assertion of privilege, for each electronically stored document on the categorical privilege log the following metadata shall be provided to the extent such information is available: (i) document identification number; (ii) document type; (iii) date; (iv) author (if readily available); (v) email from; (vi) email to; (vii) email CC; and (viii) email BCC (the “Included Metadata”).

4. The Parties shall meet and confer in good faith to discuss the format of such a categorical log.

5. This Order shall be immediately effective and enforceable upon its entry.

6. 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

**EXHIBIT B**

DEBTORS' PROPOSED CMO



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

In re	:	Chapter 11
ALDRICH PUMP LLC, <i>et al.</i> , <sup>1</sup>	:	Case No. 20-30608 (JCW)
Debtors.	:	(Jointly Administered)

**[PROPOSED] CASE MANAGEMENT ORDER FOR ESTIMATION OF  
MESOTHELIOMA CLAIMS**

On September 24, 2021, Aldrich Pump LLC ("Aldrich") and Murray Boiler LLC ("Murray"), the debtors and debtors in possession in the above-captioned chapter 11 cases (the "Debtors"), filed a motion pursuant to section 502(c) of title 11 of the United States Code (the "Bankruptcy Code"), seeking authorization of an estimation of mesothelioma claims against the Debtors that manifested disease prior to the petition date (the "Estimation Motion").

On January 27, 2022, the Court announced that it was granting the Estimation Motion, but expanded the scope of the estimation to cover all asbestos-related claims against the

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<sup>1</sup> 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.

Debtors, both prepetition and postpetition. The Court entered its formal order confirming the same on April 18, 2022.

This Order sets forth the initial schedule and procedures that shall apply to the contested matter (the "Estimation Proceeding").

NOW THEREFORE, IT IS HEREBY ORDERED THAT:

1. Each of the Debtors, the Official Committee of Asbestos Claimants (the "Committee"), the Future Claimants Representative (the "FCR"); Trane U.S. Inc, and Trane Technologies Company LLC (and, together with the Debtors, the Committee, the FCR, and Trane U.S. Inc., the "Parties," or each individually a "Party") shall be the parties to the Estimation Proceeding.

2. The Joint Discovery Plan and Report (ESI Protocol) (the "Discovery Plan"), attached hereto as Exhibit 1, shall govern discovery of electronically stored information ("ESI") among the Parties to the Estimation Proceeding.

3. As set forth in the Estimation Order, (a) the Court shall estimate the Debtors' aggregate liability for all current and future mesothelioma claims arising from any product or other source for which the Debtors, Old IRNJ or Old Trane are alleged to be responsible; and (b) the estimated amount of all current and future claims, including non-mesothelioma claims, shall be determined by dividing the Court's estimated amount for mesothelioma claims by \_\_\_\_\_, representing a \_\_\_\_\_ split between mesothelioma and non-mesothelioma claims.

4. The limitations on discovery found in Civil Rules 30, 31, and 33, made applicable to this contested matter by Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 7030, 7031, 7033, and 9014, are applicable to this case. The Parties agree that each side may serve no more than 50 interrogatories, including all discrete subparts. The Parties reserve the

right to modify, either through stipulation or further order from this Court the number of interrogatories permitted by Rule 33 and this Order.

5. Any Party may pursue non-party discovery (including requests made by subpoenas *duces tecum*) at any time subject to the rules applicable to contested matters ("Non-Party Discovery").

6. Each Party may serve interrogatories, requests for production of documents, or requests for admission, on any other Party (collectively "Written Discovery") at any time subject to the deadlines for Written Discovery.

7. All Written Discovery shall be served such that the response time for said discovery expires no later than 180 days after the entry of this Order. Similarly, by separate order, the Court has granted the Debtors' request for the issuance of a Personal Injury Questionnaire ("PIQ") in connection with this Estimation Proceeding. The deadline to respond to the PIQ's will be set by the order governing the same, but it is anticipated that the deadline for completion of all PIQ's will be no later than 180 days after the entry of this Order.

8. Within 10 days of service of a written response to a request for production, the Parties shall meet and confer concerning an estimated time for substantial completion of any responsive document production.

9. The Parties agree that for Written Discovery, given the likely volume of privileged documents, logging of privileged documents on a document-by-document basis would be unduly burdensome and would likely provide no material benefit to the discovering party in assessing whether the privilege claim is well grounded. Therefore, for Written Discovery the Parties agree to utilize a categorical privilege log which shall contain descriptions sufficient to permit the assessment of, and potential challenge to, the validity of privilege claims without

imposing undue burden on the parties. The parties shall meet and confer to discuss the format of such a categorical log.

10. Any motion to compel or other motions directed at compliance with Written Discovery and/or PIQ's must be served no later than 60 days after the expiration of the 180 day period described in Paragraph 7.

11. To the extent any motions directed at compliance with Written Discovery or PIQ's, whether in this Court or other courts, remain pending, or to the extent any additional responses to Written Discovery or PIQ's resulting from orders, whether in this Court or other courts, remain outstanding after the deadlines set forth in Paragraph 7, this Court will extend the deadlines set forth in Paragraph 7.

12. A schedule for fact witness depositions and associated productions, expert reports, depositions, and associated productions, and the estimation trial and related pretrial activities will be set by the Court after completion of the PIQ's and Written Discovery.

13. Upon a showing of good cause by any Party, after notice and hearing, the Court may alter or extend any of the deadlines specified herein.

14. This Court shall retain jurisdiction to hear and determine all matters involving the interpretation, implementation, 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

# EXHIBIT C

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

In re	:	Chapter 11
	:	
ALDRICH PUMP LLC, <i>et al.</i> , <sup>1</sup>	:	Case No. 20-30608
	:	
Debtors.	:	
	:	

**[DRAFT] JOINT DISCOVERY PLAN AND REPORT (ESI PROTOCOL)**

Aldrich Pump LLC and Murray Boiler LLC (“Debtors”), the Official Committee of Asbestos Personal Injury Claimants (the “Committee”), Joseph W. Grier, III, the Legal Representative for Future Asbestos Claimants (the “FCR” and, together with the Debtors, and the Committee, the “Parties,” or each individually a “Party”) through their attorneys, agree that the following Joint Discovery Plan and Report (ESI Protocol) (the “Discovery Plan”) will govern discovery of electronically stored information (including scanned hard-copy documents) (“ESI”) in connection with the estimation proceeding (the “Estimation Proceeding”) and the appended *Proposed Case Management Order for Estimation of Certain Mesothelioma Claims* (the “Proposed Case Management Order”) as a supplement to any other applicable rules and orders of the Court:

1. **Cooperation:** The Parties will cooperate in good faith throughout the discovery process in this action. The Parties recognize that discovery of ESI is governed by the proportionality standard set forth in Federal Rule of Civil Procedure 26.

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<sup>1</sup> 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. **Search and Identification of ESI:** In responding to requests for the production of documents<sup>2</sup> and things, the Parties will meet and confer about methods to search ESI for documents that will be reviewed for responsiveness, privilege, confidentiality, and production.

2.1. Custodians: In response to requests for production, each Party shall search the electronic files where practicable, and the hard-copy documents of current and/or former employees or other individuals whose electronic files or documents are in the Party's possession, custody, or control (each a "Custodian").

2.1.1. Identification of Custodians: Within 15 days of entry of a Case Management Order, the Parties shall meet and confer to determine Custodians likely to have discoverable,<sup>3</sup> responsive, non-duplicative documents or communications. The Parties will negotiate in good faith to reach agreement as to the number and identity of custodians whose ESI will be searched in the Estimation Proceeding. The Parties will meet and confer in good faith concerning the identification of Custodians. After reaching agreement concerning the number and identity of Custodians, the Parties, nonetheless, may request searches of the custodial data of additional Custodians if, in their view, it becomes apparent that other such Custodians likely have responsive documents. The Parties will meet and confer in good faith regarding such request. If the Parties are unable to resolve any dispute regarding

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<sup>2</sup> For the purposes of this Discovery Plan, "Document" shall have the meaning set forth in Federal Rule of Civil Procedure 34, but shall exclude Documents that the Parties agree are not reasonably accessible as described in Section 2.1.3.

<sup>3</sup> "Discoverable," as it is used here, is not intended to suggest that the Parties will not propose custodians whose data may include privileged information. The Parties contemplate reviewing custodial data for privilege and producing non-privileged documents.

Custodian designation, whether concerning number or identity, the Requesting Party may seek relief from the Court.

2.1.2. Identification of Search Terms: The Parties shall meet and confer to develop search terms to be applied to identify and limit the volume of custodial ESI to be reviewed for responsiveness. Search terms shall be applied to custodial ESI and Shared Repositories<sup>4</sup> as appropriate. In the event the search terms identified return an unmanageable volume of ESI for review, the party responding to a request for production (the "Responding Party") reserves the right to propose modifications to the proposed terms and will meet and confer with the party issuing the request for production (the "Requesting Party") regarding such a change. As specified in Section 2.5 and its subparts, the Parties may use certain other search methods and analytics tools to manage the volume of ESI for review.

2.1.3. Not Reasonably Accessible ESI: The Parties agree that they will work cooperatively on determining what ESI is reasonably accessible and what is not and agree to respond to reasonable requests for information on ESI management in that effort. Electronic documents of limited accessibility may include those created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval involves substantial cost. For purposes of this Paragraph, the Parties agree that the following sources of ESI are not reasonably accessible:

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<sup>4</sup> See Section 2.2 "Shared Repositories and Drives."



- Data stored in a backup system for the purpose of system recovery or information recovery, including, but not limited to: disaster recovery backup tapes and media; continuity of operations systems; and data or system mirrors or shadows.
- Voicemail recordings.
- Mobile devices and ESI or other data stored on mobile devices, including smart phones or tablets.<sup>5</sup>
- Instant/Chat Messaging.
- Legacy Data (*e.g.*, data stored on floppy discs).
- Deleted, erased, or overwritten computer files, whether fragmented or whole, which were deleted in the regular course of business.
- Data stored in Random Access Memory (“RAM”), cache memory, or in temporary or cache files, including internet history, web browser cache, and cookie files, wherever located.
- Encrypted data/password protected files, where the key or password cannot be ascertained absent extraordinary efforts.
- Data stored on printers, photocopiers, scanners, and fax machines.

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<sup>5</sup> For the avoidance of doubt, “Mobile devices” does not include laptop computers.

- Data stored as server, system, or network logs.

2.2. Shared Repositories and Drives: The Parties shall, in good faith and using reasonable measures, identify and search shared repositories, shared databases, and shared drives reasonably likely to contain discoverable documents or communications (each a “Shared Repository”).

2.3. Date Scope: The Parties agree to meet and confer in good faith to determine the appropriate date range to search Custodian files and Shared Repositories for documents and information responsive to discovery requests in this Estimation Proceeding.

2.4. Preservation Obligations: Nothing in this Discovery Plan shall affect the Parties’ respective preservation obligations imposed by rule or law.

2.5. Use of Other Review Analytics: The Parties may use other reasonable review analytics or tools, including but not limited to de-duplication, e-mail threading, inclusiveness-only review and production, and technology-assisted review to streamline the review of ESI, to the extent that those review analytics and tools are consistent with other provisions in the Discovery Plan, including provisions relating to the Form of Production (Section 3 below). Those review and analytics tools used by any Party for culling ESI, as set forth in section 2.5.1, shall be disclosed to the other Party. Those analytics and tools used for non-culling purposes need not be disclosed.

2.5.1. Use of Predictive Coding, Clustering, or Technology Assisted Review: In the event a Responding Party employs culling tools, such as predictive coding, clustering, or Technology Assisted Review, to remove from review documents

otherwise identified using the search terms and date range referenced herein, the Responding Party shall advise the Requesting Party of its intention and provide the Requesting Party with a statistical sample of documents it intends to use to seed the process in the case of predictive coding, or the search parameters that the Responding Party intends to use. Within 5 business days of being notified of the Responding Party's intention to use predictive coding or other analytic tools listed in this paragraph, the Requesting Party may object in writing. In the event of an objection, the Parties will meet and confer and attempt to reach resolution. If no resolution is met, the Parties may raise this issue with the Court.

3. **Form of Production:** The Parties agree to produce responsive non-privileged ESI in the manner set out in this Discovery Plan. The Parties agree to take reasonable steps not to degrade the searchability or legibility of ESI as part of the document review and production processes. Additionally, if particular responsive ESI warrants a format different than those set out below, the Parties will meet and confer in an effort to agree to a mutually acceptable format.
  - 3.1. Format for ESI: The Parties shall produce responsive non-privileged ESI in the format set out in **Exhibit A** hereto unless otherwise agreed in writing or ordered by the Court.
  - 3.2. Format for Electronically Scanned Hard Copies: To the extent practicable, the Parties shall produce electronically scanned hard-copy documents in the applicable format set out in Exhibit A unless otherwise agreed in writing or ordered by the Court. In particular, the Parties shall format such documents with optical character recognition, or

OCR, as described in Exhibit A and include the metadata fields identified in Exhibit A where that metadata is available.

3.3. Family Production: The Parties shall produce documents and e-mail communications as complete families as is reasonably practicable. The Parties shall not take steps to dissociate attachments to e-mails or other documents from parent e-mails or documents even if the attachments are exact duplicates of other documents in the production.

Parent documents and any attachments shall be assigned sequential Bates numbers. If a responsive, non-privileged e-mail or document has a privileged attachment, a Party may replace the attachment with a Bates-numbered slip-sheet indicating that the attachment was withheld on privilege grounds or may redact the privileged material.

3.4. E-mail Threading: The Parties agree that e-mail threading and inclusiveness-only review and production may be applied to production documents such that only the most inclusive version of any responsive, non-privileged e-mail chain is produced, *provided that* the e-mail-threading process is performed by an e-discovery vendor in a manner consistent with standard practices in the industry and that all independent responsive, non-privileged branches of the chain are produced.

3.5. Global Deduplication: The Parties agree that automated document de-duplication may be applied across ESI identified for review and production such that only one copy of any responsive, non-privileged document is produced, provided that the de-duplication process is performed by an e-discovery vendor in a manner consistent with standard practices in the industry. Further, de-duplication shall be performed only at

the document family level such that attachments are not de-duplicated against identical stand-alone versions of such document and vice versa.

3.5.1. Related Metadata: If a Party opts to apply document de-duplication, that Party shall include in its production “Other Custodian” metadata or some other field, to the extent practicable, indicating each Custodian who appears from the available ESI to have maintained a copy of the produced document in his or her files (where such copy was removed from production through the de-duplication process).

4. **Privilege Logs**: A Responding Party shall use reasonable measures, consistent with applicable law, to include information in their respective privilege logs sufficient to permit the Requesting Party to assess any privilege claims.

4.1. Categorical Privilege Log: The Parties agree that, given the likely volume of privileged documents, logging of privileged documents on a document-by-document basis would be unduly burdensome and would likely provide no material benefit to the discovering party in assessing whether the privilege claim is well grounded. Therefore, the Parties agree to utilize a categorical privilege log which shall contain descriptions sufficient to permit the assessment of, and potential challenge to, the validity of privilege claims without imposing undue burden on the parties. *See Asghari-Kamrani v. United Services Automobile Association*, 2016 WL 8243171, \*3, 2:15cv478 (Oct. 21, 2016 ED Va.) (finding categorical privilege log compliant with requirements of FRCP 26).

4.1.1 Contents of Categorical Privilege Log: Each entry in the categorical log would contain a single, general subject matter description (applicable to all documents that are part of the category), as well as the: (i) document identification numbers for

each document within the category; (ii) type of privilege asserted with respect to documents in that category; and (iii) total number of documents withheld that fall within the subject matter. In addition, to further assist any evaluation of the assertion of privilege, for each document on the categorical privilege log certain metadata would be provided (as applicable), including (i) document identification number, (ii) document type; (iii) date; (iv) author; (v) email from; (vi) email to; (vii) email cc; and (viii) email bcc. The parties shall meet and confer to further discuss the format of the categorical log, and in particular to attempt to reach agreement on acceptable general subject matter descriptions for each category.

4.2. Post-Filing Documents: The Parties are not required to log any privileged documents, communications, or information or trial preparation material or work product generated after the filing of the petition initiating the Chapter 11 Case (*i.e.*, June 18, 2020).

4.3. Privilege Redactions: Where requested documents contain responsive information together with privileged or protected information and the privileged or protected information can be redacted by the Responding Party without undue burden and while preserving for production the responsive information, the Responding Party shall apply such redactions and produce the requested documents. The word “Redacted - Privileged” shall appear over the redacted portion or portions of such documents.

5. **Personal Identifying Information**: Where requested documents contain responsive information together with personal identifying information (including, but not limited to, social security numbers, bank account numbers, and residential addresses) and the personal identifying information can be redacted by the Responding Party without undue burden and

while preserving for production the responsive information, the Responding Party shall apply such redactions and produce the requested documents. A black bar shall appear over redacted portion or portions of such documents. The Responding Party shall not be required provide a log for documents redacted for personal identifying information.

6. **Scope of Discovery:** Nothing in this Discovery Plan constitutes an agreement regarding the appropriate substantive scope of discovery, the responsiveness of any document or category thereof, or the relevance or admissibility of any document or category thereof. The Parties reserve all objections as to discoverability, relevance, authenticity, use, and admissibility.
7. **Resolution of Disputes:** The Parties agree to meet and confer in good faith regarding matters related to the production of ESI set forth in this Discovery Plan, the production of ESI not set forth in this Discovery Plan, and the Parties' obligations, if any, in respect of both. If a Responding Party determines that it cannot comply with any material aspect of this Discovery Plan, such Party shall promptly inform the Requesting Party why compliance is impracticable.
  - 7.1 Discovery-Related Motions: If the Parties are unable to resolve a dispute concerning interpretation of or compliance with this Discovery Plan or the production of ESI, whether or not pursuant to this Discovery Plan, the Parties shall submit the dispute to the Court for adjudication, provided that the Parties have previously met and conferred regarding the dispute. Nothing herein shall affect the Parties' respective burdens of proof or persuasion in connection with any motion or dispute submitted for resolution by the Court. All motion papers under Bankruptcy Rules 7026-37 and 9016 shall be filed

and served so as to be received at least 12 days before the hearing date on such motion.

When service is made for a discovery-related motion under the Discovery Plan, any objections shall be filed and served so as to be received at least two business days before the hearing date.

8. **No Waiver:** Nothing in this Discovery Plan, including any meet-and-confer obligation specified, constitutes a waiver of any privilege or protection available by law, including any Party's attorney-client privilege or the protection afforded to work product and trial preparation materials. Inadvertent production of information subject to a claim of privilege or protection similarly will not constitute a waiver of such privilege or protection, as is and will be governed by that certain agreed protective order by and among the Parties.
9. **Modifications:** The Parties may, by agreement, modify any provision in this Discovery Plan. Further, if the Parties are unable to agree regarding a proposed modification, the Party requesting the modification may seek relief from the Court.

**IT IS SO ORDERED.**

**Date:** \_\_\_\_\_

\_\_\_\_\_  
**J. CRAIG WHITLEY**  
**UNITED STATES BANKRUPTCY JUDGE**

**APPROVED AND AGREED:**

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(Admitted *pro hac vice*)

COUNSEL FOR THE FUTURE CLAIMS  
REPRESENTATIVE

**EXHIBIT A**

**To**

**JOINT DISCOVERY PLAN AND REPORT (ESI PROTOCOL)**

The Parties<sup>1</sup> shall produce responsive non-privileged ESI in the following format unless agreed otherwise or pursuant to an order of Court:

1. ESI should be produced in Concordance, Opticon, or universal format.
2. **TIFFs.** Bates-branded, black and white, Group 4, single page TIFF files at 300 dpi, named according to sequential Bates number will be produced for all ESI documents except spreadsheet file types (*e.g.*, .xls, .xlt, .xml), database file types (*e.g.*, .csv), and software code file types. All presentation file types (*e.g.* .ppt, .pptx, .pptm) will be produced in color, showing speaker notes. Single-page TIFF files will be delivered in unique sequentially numbered folders (*i.e.*, 001, 002, 003) and each folder shall not consist of more than 5,000 images. JPG format may be used for pages that require production of color images. If a document was not produced in color and a Party deems color necessary to understand the document, they may request a color image or native form of that document. All image files should cross reference to both the log file for Opticon image base (.OPT) and Concordance delimited text file (.DAT). For word-processing file types other than e-mail (*e.g.* .doc), corresponding TIFF files will reflect any track changes or comments contained in the underlying word-processing documents. If a document is more than one page, the unitization of the document and any attachments and/or affixed note shall be maintained as it existed in the original when creating the image file.

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<sup>1</sup> Unless otherwise provided herein, this Exhibit A adopts the capitalized terms as defined in the Discovery Plan appended hereto.

3. **TIFF Reference File.** A log file for Opticon image base (.OPT) that lays out the document unitization of each discrete document will be produced.

4. **Native Format.** Spreadsheet file types and database file types will be produced in native format. The Parties will provide native files, named according to ProdBegDoc, in a separate folder and provide the path to the native file in the DocLink field of the .DAT file.

Documents produced in native file format shall be produced in the manner such files were maintained electronically in the ordinary course of business. A placeholder TIFF shall be produced indicating the Bates number of the native file and confidentiality designation, if applicable. In the event any document produced in native format is to be used as an exhibit at deposition, trial or otherwise, the Parties may request that the Party using such exhibit provide the MD5 programmatic hash value of the underlying electronic file from which the exhibit is derived to be provided to all Parties, and such information should be provided promptly.

4.1. **Other File Formats.** Non-document files types (*e.g.*, .wav, .mp3, .aiff, .avi, .mov, .mp4) will be produced in native format with accompanying slip sheet.

4.2. **Request for Natives.** The parties reserve the right to request native files for individual ESI documents produced in TIFF format.

4.3. **Redactions to Native Format.** To the extent redactions are necessary in a document to be produced in native form, and the ability to remove such redactions cannot practicably be prohibited in native form, the document may be converted to TIFF format, or some comparable image file type, for redaction. To the extent that such conversion erodes the

legibility or significant functionality of a document, the Parties agree to meet and confer in good faith to determine how such document can be produced without those limitations, to the extent practicable, and while still protecting the redacted information.

5. **Hard Copy Documents.** Hard-copy or paper documents should be converted to Group IV, single page TIFF format image files. All hard copy paper documents shall be logically unitized prior to production. Therefore, when scanning or producing paper documents, distinct documents shall not be merged into a single file or database record, and distinct documents shall not be split into multiple files or database records. All Parties shall make their reasonable best efforts to unitize documents correctly.
6. **Extracted Text Files.** For each item of ESI, and any hard-copy or paper document that has been converted to TIFF image file, document level TXT files should be provided in a separate folder and should have file names that are identical to the first TIFF image file of the corresponding images for a document. To the extent practicable, text from native files should be extracted directly from the native file, except that, where redaction is necessary for a document to be produced in native format, the text file corresponding to such document may be extracted from the OCR of the redacted image file (as opposed to from the native file). Redactions shall be reflected in the multipage TXT file containing OCR for searching purposes.
7. **Unique IDs.** Each TIFF image shall have a unique, sequential Bates number. Each Native file shall have a unique, sequential Bates number applied to the TIFF placeholder indicating that the file has been produced in native format.

8. **Metadata.** Where available, the Parties shall produce the following metadata fields for all ESI and scanned hard-copy or paper files produced, in an ASCII delimited text file (.DAT), using standard Concordance delimiters:

Preferred Field Name	Description	Example
ProdBegDoc	Start Bates value.	ABC0500
EndBegDoc	End Bates value.	ABC0500
ProdBegAtt	Start Bates of first attachment.	ABC0501
ProdEndAtt	End Bates of last attachment.	ABC0503
ImageCount	Total pages in document.	1
TO	Email TO recipients.	Mary Smith; Tjones
FROM	Email sender (author).	Doe, John
CC	Email CC recipients.	Some User
BCC	Email BCC recipients.	Johnson, M.
Subject	Email subject line.	Your subject line
DateCreated	The date the file/email was created.	4/1/2003
TimeCreated	The time the file/email was created.	8:12:32 AM
DateSent	The date the email was sent.	4/1/2003
TimeSent	The time the email was sent.	8:12:32 AM
DateReceived	The date the email was received.	4/1/2003
TimeReceived	The time the email was received.	8:12:32 AM
DateModified	The date the file/email was last saved.	4/1/2003
TimeModified	The time the file/email was last saved.	8:11:32 AM
FileExt	Extension of the file.	.doc
Filename	The name of the file.	Filename.doc
FileSize	The size of the file or message in bytes.	802
DocType	The file type determined by the file signature (Excel, Word etc.).	Microsoft Office Word
MD5HASH		
Custodian	The Custodian associated with the item.	Doe, John
Other Custodians	All custodians who retained a duplicative copy of the file in their ESI files, to the extent that copy was removed by de-duplication.	Doe, John; Doe, Jane; Smith, Mary
DocLink	The relative path to the associated native file.	\\export\000000000000003E8.xls
ExtractText	The extracted text for an item. This field will populate with the path to	"This is sample text. It can be extracted from a

Preferred Field Name	Description	Example
	the text file location and the text will be delivered separately.	document or email or can be generated when converting to TIFF format.”
Production: Has Redactions	Indicates a document contains redaction for privilege or other protection	Yes
Privilege Designation	Indicates document(s) withheld for privilege or other protection	Privilege Withhold

# **EXHIBIT D**



UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

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In re:	:	Chapter 11
	:	
BESTWALL LLC <sup>1</sup>	:	Case No. 17-31795 (LTB)
	:	
Debtor.	:	
	:	
	:	
	:	

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**THE OFFICIAL COMMITTEE OF ASBESTOS CLAIMANTS' AND THE  
FUTURE CLAIMANTS' REPRESENTATIVE'S  
FIRST SET OF DOCUMENT REQUESTS DIRECTED TO THE DEBTOR  
PURSUANT TO FED. BANKR. R. 7026, 7034 AND 9014**

Pursuant to Federal Rules of Bankruptcy Procedure 7026, 7034 and 9014 and Federal Rules of Civil Procedure 26, the Official Committee of Asbestos Claimants (the “**Committee**”) and Sander Esserman, the legal representative for future claimants (the “**Future Claimants’ Representative**” or the “**FCR**,” and together with the Committee, the “**Claimants Representatives**”), by and through their undersigned counsel, hereby propound the *Official Committee of Asbestos Claimants’ and Future Claimants’ Representative’s Document Requests Directed to the Debtor* (each a “**Document Request**” and collectively, the “**Document Requests**”) in the above-captioned debtor’s bankruptcy case.

Bestwall LLC (the “**Debtor**”) is directed to respond to these Document Requests and serve a copy of their responses, and any responsive documents, so as to be received by counsel for the Claimants Representatives: (i) Davis Lee Wright, Robinson & Cole LLP, 1201 North Market Street, Suite 1406, Wilmington, Delaware 19801; and (ii) Sharon M. Zieg, Young

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<sup>1</sup> The last four digits of the Debtor’s taxpayer identification number are 5815. The Debtor’s address is 133 Peachtree Street, N.E., Atlanta, Georgia 30303.

Conaway Stargatt & Taylor, LLP, Rodney Square, 1000 North King Street, Wilmington, Delaware 19801, by 5:00 p.m. (ET) on the date specified in the *Joint Discovery Plan and Report (ESI Protocol)* (the “**Discovery Plan**”), attached as Exhibit 1 to the *Case Management Order for Estimation of the Debtor’s Liability for Mesothelioma Claims* [D.I. 1685] (the “**Estimation CMO**”).

These Document Requests shall be deemed continuing so as to require immediate supplemental responses if the Debtor or its attorneys or other representatives obtain other or further information or responsive documents.

### **DEFINITIONS**

The following definitions shall apply throughout these Document Requests:

1. “**2017 Restructuring**” shall mean the July 31, 2017 corporate restructuring which resulted in the dissolution of Old GP (as defined herein) and the formation of two new entities: (i) Bestwall, which succeeded to certain assets and liabilities of Old GP related to the historical Bestwall Gypsum business, including any and all of Old GP’s asbestos liabilities, and (ii) New GP, which succeeded to the other assets and liabilities of Old GP.
2. “**Any**” is used inclusively to mean either or both of “any” and “all.”
3. “**Asbestos**” shall include all asbestos or asbestiform minerals of either the amphibole or serpentine group, including without limitation chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite.
4. “**Bankruptcy Code**” refers to title 11 of the United States Code, 11 U.S.C. §§ 101–1532.
5. “**Bestwall**” shall mean Bestwall LLC and all companies, divisions, subdivisions, and corporations bearing the name “Bestwall” and any and all predecessor companies, including Old GP, and successor companies, divisions and corporations and shall include its agents,

employees, officers, directors, representatives, and other Persons (as defined herein) that are subject to their control or acting on their behalf.

6. **“Communication”** or **“Communications”** include, without limitation, any oral communication, whether transmitted in meetings, by telephone, telegraph, telex, cable, tape recordings, voicemail or otherwise, and all written communications, including communications by e-mail or other Internet-based or electronic communications system.

7. **“Concerning,” “relate to,” “relating to,” “refer to,” “referring to,” “pertain to,”** and **“pertaining to”** shall mean recording, summarizing, digesting, referencing, commenting on, describing, evidencing, reporting, listing, analyzing, studying, or otherwise discussing or mentioning in any way a subject matter identified in the Document Request.

8. **“Correspondence”** shall mean any Document (as defined herein) that either constitutes a Communication between two or more entities or Persons (as defined herein), or that records, memorializes, or reflects such communication, whether made directly to the author of the Document or otherwise.

9. **“Debtor”** shall mean Bestwall and shall include Bestwall’s agents, employees, officers, directors, representatives, and other Persons (as defined herein) that are subject to its control or acting on its behalf.

10. **“Document”** or **“Documents”** shall mean all materials within the scope of Federal Rule of Civil Procedure 34, including, without limitation, all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation e-mail and attachments, correspondence, memoranda, notes, records, diaries, minutes, statistics, letters, telegrams, minutes, receipts, returns, summaries, pamphlets, books, interoffice and intraoffice

communications, offers, notations of any sort of conversations, working papers, applications, permits, file wrappers, indices, telephone calls, meetings, printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes, and amendments of any of the foregoing), graphic or aural representations of any kind (including without limitation photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings, surveys), and electronic, mechanical, magnetic, optical, or electronic records or representations of any kind (including without limitation computer files and programs, tapes, cassettes, discs, recordings, and metadata).

11. “**ESI**” shall mean electronically stored information.

12. “**GP Entities**” shall mean Bestwall, the Debtor’s affiliate New GP (as defined herein) and the identified non-debtor affiliates listed on Appendix B to *Debtor’s Motion for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) in the Alternative, Declaring that the Automatic Stay Applies to Such Actions and (III) Granting a Temporary Restraining Order Pending a Full Hearing on the Motion* [Adv. Pro. No. 17-3105. Docket No. 2], Old Bestwall (as defined herein), Old GP (as defined herein) and their agents, employees, officers, directors, representatives, and other Persons (as defined herein) that are subject to their control or acting on their behalf.

13. “**GP Joint Compound Products**” shall mean joint compound products containing asbestos as either an ingredient or contaminant, that were manufactured and sold by the any GP Entity on or before December 31, 1977, including, but not limited to, All Purpose Joint Compound (manufactured by Old GP), Bedding Compound (manufactured by Old Bestwall, Old GP), Central Mix (manufactured by Old GP), Ready Mix (manufactured by Old Bestwall, Old GP), Joint Compound (manufactured by Old Bestwall, Old GP), Speed Set/One

Day (manufactured by Old Bestwall, Old GP), Topping Compound (manufactured by Old Bestwall, Old GP), and Triple Duty Joint Compound (manufactured by Old GP).

14. **“Gypsum Asbestos PI Claim”** shall mean any formal or informal claim, lawsuit, workers’ compensation claim, legal process, civil action, demand letter, notice of claim, proof of claim, complaint, or any similar contention that has been or may be advanced by an individual (or an individual’s personal or legal representative) against any of the GP Entities alleging bodily injuries or wrongful death allegedly caused by exposure to asbestos or asbestos-containing products cause by exposure to GP Gypsum Products. A “Gypsum Asbestos PI Claim” includes any claim or demand ever asserted against the Debtor or the GP Entities regardless of how that claim was resolved by settlement, dismissal, or otherwise, and regardless of whether that claim resulted in the filing of a civil lawsuit by the claimant.

15. **“Including”** or **“includes”** shall mean “including without limitation.”

16. **“Informational Briefs”** shall mean the *Information Brief of Bestwall LLC* filed on November 2, 2017 [D.I. 12] and *Debtor’s Supplemental Response to Informational Brief of the Official Committee of Asbestos Claimants of Bestwall LLC* [D.I. 1351].

17. **“Internal,”** when used to describe Documents or Communications, shall mean Documents and Communications between or among employees, agents, or other persons representing or acting on behalf of the subject entity.

18. **“New GP”** shall mean Georgia-Pacific LLC, a Delaware limited liability company.

19. **“Old Bestwall”** shall mean former Bestwall Gypsum Co.

20. **“Old GP”** shall mean the entity which was Georgia-Pacific Corporation, which was later converted into and renamed Georgia-Pacific LLC.

21. “**Or**” is used inclusively, so as to bring within the scope of a request the greatest number of documents responsive to the terms of the Document Requests.

22. “**Person**,” “**person**,” and “**persons**” shall refer without limitation in the plural as well as singular, to all types of corporate and natural persons, as well as all types of partnerships, incorporated and unincorporated associations, limited liability companies, firms, joint ventures, trade names, sole proprietorships, or other business organizations, unless the context otherwise indicates.

23. “**Petition Date**” shall mean November 2, 2017.

24. “**Pre-Petition**” shall mean and refer to the time period before the Debtor filed voluntary petition for relief under chapter 11 of the Bankruptcy Code on the Petition Date.

25. A Document is in the “**possession, custody, or control**” of the Debtor if the Debtor has the legal right to obtain the Document, regardless of its source or present location. Documents include the Records identified as GP Assets on Schedule 5(b)(i) to the *Plan of Divisional Merger* dated July 31, 2017.

26. “**Resolved Mesothelioma Claims**” shall mean the mesothelioma claims the Debtor or Old GP resolved through settlement or verdict before the Petition Date.

27. “**Sample Resolved Mesothelioma Claims**” shall mean the sample set of mesothelioma claims, to be identified by the Committee and FCR, that the Debtor or Old GP resolved through settlement or verdict before the Petition Date.

28. “**Trust Discovery Motion**” shall mean the *Debtor’s Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts* filed on July 31, 2020 [D.I. 1237].

29. “**You**” or “**your**” shall mean, individually and/or collectively, the Debtor and shall include its agents, employees, officers, directors, representatives, and other Persons that are

subject to their control or acting on their behalf.

### **INSTRUCTIONS**

1. Unless otherwise specified in any Document Request, each Document Request shall extend to all Documents dating from 1/1/2011 to the present.
2. To the extent the Debtor asserts that any Document requested is privileged or otherwise immune from discovery, they shall provide the information, specified in the Discovery Plan.
3. If the Debtor claims that any Document or record was, but is no longer, in existence, in its possession, or subject to its control, state whether it:
  - a. is missing or lost;
  - b. has been destroyed;
  - c. has been transferred, voluntarily or involuntarily to others; or
  - d. has otherwise been disposed of.

In each instance, set forth the contents of the Document, the location of any copies of the Document, and describe the circumstances surrounding its disposition, stating the date of its disposition, any authorization therefore, the person or persons responsible for such disposition, and the policy, rule, order or other authority by which such disposition was made.

4. If the Debtor objects to any Document Request or subpart thereof, all grounds for an objection to that Document Request shall be stated with specificity.
5. Each Document Request set forth herein refers to all Documents and property in the Debtor's possession, custody, or control, as well as Documents and property in the possession, custody, or control of their representatives, agents, servants, employees, experts, investigators, or consultants and, unless otherwise privileged, their counsel, representatives,

agents, servants, employees, experts, investigators, or consultants.

6. Unless otherwise specified in any Document Request, each Document Request shall extend to all Documents which have been available to, in the possession of, custody of, or subject to the control of the Debtor as well as the GP Entities, predecessor corporations, successor corporations and/or affiliates, present and former agents, attorneys and other persons acting or purporting to act on the Debtor's or a GP Entities' behalf.

7. If no Documents responsive to a Document Request exist, You should so state in response to that Document Request.

8. For any Document(s) or item(s) that are responsive to more than one Document Request, the Document(s) or item(s) should be produced in response to the Document Request that contains the more specific description thereof.

9. Some of the Document Requests call for a category of Documents "including without limitation" or "including, but not limited to" a designated subcategory of Documents. The specified subcategory shall not be construed to restrict the generality of that Document Request. You must produce all Documents responsive to the general category identified in the Document Request, even if You think that the subcategory does not fall within the scope of the general category. And You must produce all Documents responsive to the identified subcategories, even if You think that they do not fall within the scope of the general category.

10. You must produce all non-identical copies of Documents, including drafts and copies upon which notations or additional writings have been made.

11. If e-mail or other Documents stored electronically have been deleted from a computer, but are still retrievable in some form, all such responsive Documents should be retrieved and produced, either in hard copy or a readily readable electronically recorded form.



12. As used herein, the present tense includes the past tense, and the past tense includes the present tense.

13. As used herein, the singular includes the plural, and the plural includes the singular.

14. Produce ESI pursuant to the Discovery Plan.

### **DOCUMENT REQUESTS**

1. All Documents concerning the identified Sample Resolved Mesothelioma Claims, including, but not limited to claims files, litigation files, or similar files.

2. All Documents referring to, related to, or concerning Resolved Mesothelioma Claims that were reviewed, considered or relied upon with respect to the Informational Briefs or the Trust Discovery Motion.

3. All Documents exchanged with counsel for the holder of a Sample Resolved Mesothelioma Claim that refer to, related to or concern the negotiation of a settlement of that Resolved Mesothelioma Claim.

4. All Documents concerning or related to the GP Entities' decisions to settle each Sample Resolved Mesothelioma Claim it settled prior to trial or verdict.

5. All Documents concerning or related to the GP Entities' decisions to litigate each Sample Resolved Mesothelioma Claim that it tried to verdict.

6. All Documents concerning or related to the GP Entities' decisions to settle a Sample Resolved Mesothelioma Claim after a trial verdict.

7. All Documents concerning or related to the GP Entities' use of verdict history of GP Entities and/or non-GP Entities in the decisions to litigate each Resolved Mesothelioma Claim that it tried to verdict or settled.

8. All Documents constituting, referring to, relating to, or concerning any analysis or valuation of the nature, extent and/or value of the GP Entities' liabilities on Gypsum Asbestos PI Claims.

9. All Documents referring to, relating to, or concerning, asbestos exposure attributable to other defendants who filed for bankruptcy prior to November 1, 2017.

10. All Documents constituting, referring to, relating to, or concerning the usage, market share, sales and/or product reach of the GP Joint Compound Products.

11. All documents constituting, referring to, relating to, or concerning whether exposure to GP Joint Compound Products does or does not contribute to the development of mesothelioma.

12. All Documents constituting, referring to, relating to, or concerning the Debtor's usual course of conduct of asbestos-related litigation, the mechanics of asbestos-related litigation, and any guidelines or procedures related to litigating or settling such litigation.

13. All Documents constituting, referring to, relating to, or concerning the extent and/or value of asbestos liabilities of any entities other than the GP Entities.

14. All Documents constituting, referring to, or concerning the extent and/or value of any third-party's joint and/or several liability for any Sample Resolved Mesothelioma Claim.

15. All Documents constituting, referring to, relating to, or concerning the Debtor's attempt to pursue, or decision not to pursue, any indemnification and/or contribution claim from any other entity for any Sample Resolved Mesothelioma Claim.

16. All Communications between You, or anyone acting on Your behalf, and any third party that You believed was joint and/or severally liable with the GP Entities for any Sample Resolved Mesothelioma Claims.

17. All Documents constituting, referring to, relating to, or concerning the GP Entities knowledge of purported inappropriate conduct by plaintiffs in the tort system, as identified in the Informational Briefs and the Trust Discovery Motion.

18. All Documents evidencing alleged inappropriate conduct by the holder of a Resolved Mesothelioma Claim.

19. All Communications, reports, memoranda, or data compilations relating to the nature, extent and/or value of the Gypsum Asbestos PI Claims that You received from any expert engaged, employed or otherwise retained by the GP Entities or on the GP Entities' behalf prior to the Petition Date.

20. All Communications, reports, memoranda, or data compilations relating to the usage, market share, sales and/or product reach of GP Joint Compound Products containing asbestos as either an ingredient or contaminant, that the GP Entities received from any expert engaged, employed or otherwise retained by GP Entities (or on the GP Entities behalf) prior to the Petition Date.

21. All Communications, reports, memoranda, or data compilations relating to the risks and likelihood of cause of various diseases from the GP Joint Compound Products containing asbestos as either an ingredient or contaminant that the GP Entities received from any Expert engaged, employed or otherwise retained by the GP Entities (or on the GP Entities behalf) prior to the Petition Date.

22. All Documents relating to the eight published research studies funded by Old GP in 2005 concerning the health effects of its joint compound that were the subject of the opinion by in *Weitz & Luxenberg P.C. v. Georgia-Pacific LLC (In re N.Y.C. Asbestos Litig.)*, 966

N.Y.S.2d 420, 423 (N.Y. App. Div. 2013) including but not limited to, the data, protocols, process, conduct, discussion, and analyses underlying these studies.

23. All Documents that evidence Old GP's employment relationship with Stewart Holm as an expert consultant with respect to the eight published research studies funded by Old GP in 2005 concerning the health effects of its joint compound.

24. All Documents constituting, referring to, relating to, or concerning any analysis or valuation of the nature, extent and/or value of all Claims (as such term is defined in Section 101(5) of the Bankruptcy Code) against the Debtor, including, without limitation, Gypsum Asbestos PI Claims, arising prior to the Petition Date.

25. All Documents provided to any GP Entities' boards of managers regarding Gypsum Asbestos PI Claims, including, without limitation, all presentations, business plans, memoranda, analyses, reports and materials prepared for or made during any meeting of the board of managers prior to the 2017 Restructuring.

26. All Documents provided to the Bestwall's boards of managers regarding Gypsum Asbestos PI Claims, including, without limitation, all presentations, business plans, memoranda, analyses, reports and materials prepared for or made during any meeting of the board of directors since the 2017 Restructuring.

27. All minutes, transcripts, written consents, and resolutions of or resulting from meetings of the Old GP's boards of managers during which Gypsum Asbestos PI Claims were discussed or otherwise addressed prior to the 2017 Restructuring.

28. All minutes, transcripts, written consents and resolutions of or resulting from meetings of the GP Entities' boards of managers during which Gypsum Asbestos PI Claims were discussed or otherwise addressed since the 2017 Restructuring.

29. All Documents constituting internal procedures handbooks or similar manuals for the process, protocols or means by which the GP Entities address or handle Gypsum Asbestos PI Claims.

30. All Documents related to or considered by the Debtor to determine the appropriate settlement amounts to provide to Resolved Mesothelioma Claims as part of a group of five (5) or more plaintiffs.

31. All Documents evidencing factors the Debtor considered or evaluated in connection with settling the Resolved Mesothelioma Claims, including, but not limited to, settlement offers made by the Debtor or settlement offers rejected by the Debtor.

32. All Documents constituting, referring to, relating to, or concerning the Debtor's knowledge of or participation with any state and/or federal legislation designed to limit tort related liabilities.

33. All Documents or Communications evidencing the Debtor's knowledge of alleged issues of asbestos plaintiffs withholding information regarding exposure to other products manufactured by bankrupt asbestos defendants.

34. All Documents concerning or related to any appraisal of GP Industrial Plasters LLC.

35. All Documents relating to costs incurred by the Debtor including, without limitation, fees for attorneys and various experts and consultants, to defend or otherwise litigate Resolved Mesothelioma Claims.

36. All Documents constituting, referring to, relating to, or concerning the cost of defense for each Resolved Mesothelioma Claim and/or the total defense costs for all Resolved Mesothelioma Claims.

37. All Documents constituting, referring to, relating to, or concerning asbestos-contaminated talc in the GP Joint Compound Products.

38. All Documents constituting, referring to, relating to, or concerning the source of talc used in GP Joint Compound Products.

39. All Documents or Communications with trade organizations, including but not limited to Gypsum Association Safety Committee, regarding health risks associated with products containing or contaminated with asbestos.

40. All Documents or Communications related to the amounts necessary to fund a 524(g) trust to finally and fairly resolve current and future Gypsum Asbestos PI Claims.

41. All Documents or Communications related to the negotiation and funding for the North Carolina trust established in December 2020.

42. All Documents constituting, referring to, relating to, or concerning Old GP's identified change in legal strategy in 2005 and 2006 which NERA Economic Consulting referenced in the report dated February 4, 2014, and produced as Bates Number BW-Ch11-00012860 PEO to BW-Ch11-00012885 PEO, and relied upon to estimate the fixed-cost defense investment in the updated forecast of Old GP's asbestos liabilities for the ten-year period from January 2014 through December 2023.

43. All Documents or Communications regarding any deposition noticed pursuant to (i) paragraph 6 of any of the agreed orders (original, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, and Thirteenth) Regarding Debtor's Request For Extension Or Application Of The Automatic Stay To Certain Actions Against Non-Debtors [D.I. 30, 32, 33, 46, 41, 91, 125, 136, 141, 152, 157, 160, 162] or (ii) paragraph 5 of the Memorandum Opinion and Order Granting the Debtor's Request For Preliminary Injunctive Relief [D.I. 164]

44. All Documents necessary to replicate or reproduce the estimation of aggregate “Legal Liability,” as set forth in the *Report of Charles E. Bates, PhD*, dated February 15, 2013, and adopted by the United States Bankruptcy Court for the Western District of North Carolina in the case of *In re Garlock Sealing Technologies, LLC*. See 504 B.R. 71 (Bankr. W.D.N.C., Jan. 10, 2014).

45. All Documents related to services Bates White has ever performed for Old GT or any of its Affiliates since 2003.

Dated: April 15, 2021

ROBINSON & COLE LLP

/s/ Davis Lee Wright

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- and -

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# **EXHIBIT E**



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1 counsel at Bestwall and Old GP and outside defense law firms,  
2 according to the debtor approximately 190 of them.

3           The discovery requests necessitated the review by  
4 Bestwall's attorneys, contract attorneys, in-house and outside  
5 counsel of approximately 1.6 million documents for  
6 responsiveness and privilege. That resulted in the production  
7 of 500,000 documents and a privilege log with 491,000 entries  
8 and documents withheld on the basis of attorney-client  
9 privilege, work product, and the common interest doctrine.  
10 Approximately 300,000 of those documents, according to  
11 Mr. Jones, were from in-house counsel files and 200,000 were  
12 from files of outside counsel. The logs were prepared and  
13 served on a rolling basis 45 days after the documents were  
14 produced and the delivery of the logs ran from July to November  
15 of 2021 and resulted in the delivery of 15 different logs. The  
16 debtor employed 75 attorneys who spent more than 35,000 hours  
17 reviewing the documents with a second-level review performed by  
18 outside counsel for the debtor and that was for the work done  
19 up to the period of November 15th. The logs included 19 fields  
20 of information on an Excel spreadsheet. The debtor also  
21 produced a players' list with over 17,000 entries on 14  
22 different spreadsheets and, as Mr. Jones said, it was a  
23 material effort to review and log the documents produced in  
24 this case, which I would add was, undoubtedly, necessitated by  
25 the debtor's litigation position in the estimation proceeding.

1 fields where information had previously been missing. The  
2 Court expressed concern about the common interest doctrine and  
3 urged the debtor to drill down on that some more.

4 The Court conducted a final hearing on February 24th  
5 and while the debtor was able to serve the claimants with its  
6 revised log before the hearing, the bulk of it was not received  
7 by them until within 24 hours before the continued hearing.

8 We learned from the debtor that the following changes  
9 and more had been made. The debtor had re-reviewed all 491,000  
10 entries on the log as well as the underlying documents, again  
11 requiring the efforts of approximately 400 attorneys working  
12 about 50,000 hours. The debtor added express confidentiality  
13 notations. The debtor extracted e-mail chain data which  
14 required its vendor to develop new software for this purpose  
15 resulting in data for nearly all of the e-mails within an e-  
16 mail chain. The debtor reduced the number of entries with  
17 missing To and From data from 120,000 to 50,000, which could be  
18 further reduced to 33,000 with the entry of the 502(d) order  
19 proposed by the debtor. The debtor prepared and served two  
20 attorney declarations detailing the facts of the common  
21 interest agreement and setting forth the basis for the  
22 assertion of common interest privilege. It increased the  
23 number of fields of information in the privilege log from 19 to  
24 27. It removed the word "or" from all of its entries and  
25 cleaned up the players' list, reduced it to approximately

1 14,000 entries, adding a field explaining the relationship  
2 between all players and Bestwall and Old GP with few  
3 exceptions. The debtor also formally proposed a 502(d) order  
4 pursuant to which it would produce two sets of documents, all  
5 the documents in attorney compilations and notebooks that were  
6 withheld solely to protect work product and coversheets from CT  
7 that had embedded within them work product information.

8 Ms. Bradley on behalf of the FCR insisted the revised  
9 log was still inadequate, that it was too little, too late.  
10 She argued that the privilege had been waived and insisted on  
11 the immediate production of the documents on the log for  
12 production pursuant to a 502, or production pursuant to a  
13 502(d) order. At the same time Ms. Bradley acknowledged a few  
14 times that the relief she was seeking is an extreme remedy.

15 Mr. Donlon on behalf of the ACC also stood on the  
16 motion to compel, but acknowledged that waiver "would be a  
17 difficult decision given the vast number of documents which are  
18 claimed" and asked that the Court order the documents be  
19 produced pursuant to a 502(d) order.

20 Taking all of these facts and the law into  
21 consideration, again I conclude I must deny the motion. As the  
22 party asserting the privilege, the debtor has the burden of  
23 demonstrating its applicability and the law presumes that the  
24 debtor will produce responsive documents unless the debtor can  
25 demonstrate that a privilege or protection applies. As

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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 28, 2022

Janice Russell, Transcriber

Date



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1 essentially, to impose -- well, those requests, rather, imposed  
2 that burden and then they rejected, that is, the ACC and the  
3 FCR together, our proposal, the debtor's proposal to alleviate  
4 at least some of that burden when they declined to accept  
5 categorical logging for what is, as we will establish,  
6 hopefully, later this afternoon, presumptively privileged  
7 material. So that's the request in short form. That is the  
8 burden in short form.

9           And now a moment on the motion. Now as of December  
10 and now, again, in January, the FCR in the main and the ACC, as  
11 I understand Mr. Donlon joining them, now argue that, "Your  
12 491,000 individual logging entries are insufficiently detailed  
13 and there is no practicable alternative but to impose privilege  
14 waiver. We asked for your lawyers' files. We asked for lots  
15 of your lawyers' files. We declined to agree to categorical  
16 logging of what in the main was presumptively and remains  
17 presumptively privileged and we, therefore, imposed the burden  
18 that caused you to make 491,000 individual log entries," and  
19 now complain that they are "somehow insufficient because we  
20 declined to agree to categorical logging," and they have other,  
21 what has been argued to be lapses, many of which I will take up  
22 with your Honor in a few moments. And at the end, of course,  
23 they asked for waiver of privilege essentially as a result of  
24 the burden they themselves have imposed.

25           The inequity of the ask, your Honor, is real. A party

1 should not be permitted to impose an unbearable burden in  
2 logging, reject categorical logging, and then by that rejection  
3 strip its adversary's privilege on claims that the burden,  
4 claiming that the burden was insufficiently borne. As you will  
5 see, your Honor, that burden was borne, it was sufficiently  
6 borne, and what we have heard in the main this afternoon is a  
7 set of challenges to hunks of the log that were dropped on us  
8 on the Friday before a holiday weekend with, essentially, two  
9 business days to process. I have some preliminary responses  
10 for you this afternoon and for my colleagues and I can share  
11 more with them in a meet and confer that I would suggest makes  
12 sense since it did not precede either the motion in any real  
13 way and certainly didn't precede the reply brief of 19 pages  
14 and 231 pages of PDF with exhibits that we received either in  
15 the late afternoon or the night of Friday last and which we are  
16 still processing.

17 I -- I was -- I, I heard Ms. Bradley suggest that they  
18 were still "triaging" things. Well, we haven't had a benefit  
19 of evaluating any of that which they are triaging until I'm  
20 speaking with you, rather, over the course of the last couple  
21 days and as I'm speaking with you now, your Honor. These  
22 challenges in their, in the way that they were made on the 19th  
23 in the reply brief were not made before, certainly not with  
24 identified logging, logged entries.

25 Jon, if you could put the slides back up, we'll pick

1 an estimate. And nobody is e-mailing me at the moment to tell  
2 me not to make the offer and not to confine it so much, your  
3 Honor. But I certainly would imagine that we now have and have  
4 started, I think in the words of my colleague, triaging these  
5 groups of complaints. And I'm not suggesting we'll be able to  
6 resolve them all, but I am suggesting we can triage them  
7 reciprocally and get back to our, our colleagues, I would hope,  
8 within a couple weeks about what more could be done.

9 THE COURT: Thank you.

10 The only other thing you mentioned, Mr. Jones, that  
11 brought a question to my mind -- and you all briefed this as  
12 well -- is just reference to categorical logs and you cited  
13 cases in support of, I guess, the validity of categorical logs,  
14 but you didn't seek that relief from this Court, at least aside  
15 from mentioning it, I suppose, in your response to the motion  
16 to compel. And in the case management order you agreed to, the  
17 debtor agreed to provide more than, I believe, a categorical  
18 log.

19 So just wanted to ask you to expand on, you know, why  
20 even mention the categorical logging issue.

21 MR. JONES: Well, I mentioned it because the case  
22 management order also, your Honor, allows us to request it and,  
23 and to raise it as, as appropriate. We gave more than a  
24 categorical log in every instance and we, we heard our  
25 adversaries say, "We're going to fight you," or, "We're going



1 alleged. I think, as Ms. Bradley pointed out in her argument,  
2 the descriptions in some of the cases cited by Mr. Jones are  
3 far more detailed and would be more along the lines of what the  
4 Court thinks is appropriate and what the Court would be looking  
5 for, you know. The, there was reference to a description of  
6 draft settlement documents, for example, and the debtor's log  
7 doesn't plead any description with that amount of specificity.

8           The other example that was discussed today was failure  
9 to list authors of documents and while I understand and  
10 appreciate that it may be difficult for, the example that was  
11 thrown out, an Excel spreadsheet, to determine who an author  
12 is, I, I get that, but at the same time I don't understand. It  
13 strikes me as a little difficult to claim privilege for a  
14 document if you are unsure who the author is. And so the  
15 debtor should probably revisit some of those documents or  
16 privilege logs. Excuse me.

17           But I think at the end of the day what the debtor  
18 requested rather than -- the debtor, I believe, requested that  
19 I deny the motion today or order a meet and confer and I think,  
20 not unlike the situation in which we found ourselves with  
21 respect to the debtor's motion to enforce the personal injury  
22 questionnaire, it seems to me that it would be reasonable, as  
23 the objecting claimants requested for that motion, to give the  
24 debtors the opportunity to meet and confer again one more time  
25 with the ACC and the FCR before the Court grants the motion

1 that's on the table for today. I think that would be  
2 appropriate.

3 And so what I'm going to do is to continue this  
4 hearing until February 17th, which I believe is the next  
5 regularly scheduled hearing date for a Bestwall hearing, and  
6 the Court will conduct a status hearing that day.

7 And, Mr. Jones, let me just be clear that the Court's  
8 expectation is that whatever progress and changes the debtor  
9 plans to make in response to and reaction to a meet and confer  
10 and today's hearing, that those changes need to be made to the,  
11 the privilege log before we come back for the status hearing on  
12 February 17th. In other words, what I don't want to hear when  
13 we come back for a status hearing on the 17th is that, "We plan  
14 to do this or that." It needs to be done. Because as the ACC  
15 and the FCR pointed out, time is of the essence at this point  
16 and unfortunately, that's where we find ourselves.

17 So the other thing I would add is if anybody wants to  
18 file any form of supplemental pleading prior to that February  
19 17th hearing date, I would direct all of the parties to do that  
20 by 5:00 on Monday, February 14th, and then we will go forward  
21 on February 17th and see where we are. We will treat that as a  
22 status hearing, though. And, and, you know, the Court will,  
23 you know, further consider in light of the status update the,  
24 the motion at that continued hearing on February 17th.

25 So are there any questions about that?

1 injunctions and I know that that will be all encompassing.

2 And if it suits all of the parties, then I would agree  
3 to continue the hearing from February 17th until February 24th.

4 So, Mr. Jones and Ms. Bradley and Mr. Donlon,  
5 everything that I just said to you about February 17th, just  
6 push that date out and we will have that hearing on the 24th.

7 And, Mr. Worf, does that affect what we did this  
8 morning? It may.

9 MR. WORF: I --

10 THE COURT: I don't remember.

11 MR. WORF: It does. I was just going to say, your  
12 Honor, I think Mr. Buric and Mr. Waldrep may not be on the call  
13 anymore. So --

14 THE COURT: Oh.

15 MR. WORF: -- I was going to offer to reach out to  
16 them and, and see if the 24th works for them.

17 THE COURT: Yes, sir. If you would, Mr. Worf, I sure  
18 would appreciate that. And just include, e-mail Mr. Badger  
19 and, and confirm with him, if you would, that they, too, are  
20 able to continue their hearings until the 24th.

21 MR. WORF: I'll do it.

22 THE COURT: All right. Are there any other -- so I  
23 think where we are, then, is that we will continue the hearings  
24 on the three motions that are remaining on today's calendar,  
25 those being the Motion for the Letter of Request under the

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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

January 26, 2022

Janice Russell, Transcriber

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# EXHIBIT G



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1 it. I apologize being late on the draw there.

2 We did re-review all 491,000 log entries. You'll  
3 recall that on the Jan, at the day of the January 20 hearing  
4 that the focus was on the descriptions primarily that were  
5 repetitious for the claim file documents or --

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

8 MR. JONES: -- the same, not just repetitious, but  
9 flat out the same. And we didn't stop there. We didn't re-  
10 review those documents and re-describe those documents. We  
11 went back and immediately went over all 491,000 documents on  
12 the log. That's just not looking at the entries. That's  
13 looking at the documents so that you can more fairly describe  
14 them or more fully describe them than already was, we thought,  
15 fair and full representation. We did it not just for the claim  
16 files -- that would have been about 188,000, 190,000 -- we did  
17 it for all. And it took 400 lawyers working the, the  
18 referenced 50,000 attorney hours to this re-review alone. This  
19 isn't the data you saw back whenever we argued about the  
20 original log and the effort involved. This is all new since  
21 January 20th.

22 And the dates and the volumes of these logs, yes, the  
23 bulk of them came late. Yes, as late in the period between  
24 January 20 and February 24. There were, however, samples  
25 provided, as you, as you know because we discussed a 76-item

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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 7, 2022

Janice Russell, Transcriber                      Date

# EXHIBIT H

**PLAINTIFFS' CATEGORICAL PRIVILEGE LOG – OCTOBER 3, 2016**

<b>Category No.</b>	<b>Date Range<sup>1,2</sup></b>	<b>Document Type</b>	<b>Sender(s)/Recipient(s) /Copyees</b>	<b>Category Description</b>	<b>Privilege</b>	<b>Documents Withheld (Total Documents: 439)<sup>3</sup></b>
1	March 25, 2015 – October 30, 2015	E-mail; Word; Powerpoint; PDF; HTML	<b>Attorney(s):</b> Dirk McClanahan <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding licensing of U.S. Patent No. 8,266,432 (“the ‘432 patent”), litigation over the ‘432 patent, and negotiation of a nondisclosure agreement (NDA)	Attorney-Client Privilege; Attorney Work Product	173
2	September 1, 2015 – October 30, 2015	E-mail; Word; PDF	<b>Attorney(s):</b> Dirk McClanahan, Sang Ho Lee, Harold Novick, Steve Kim, Allen Xue	Communications with outside counsel providing, requesting, or reflecting legal advice regarding post-grant review of	Attorney-Client Privilege; Attorney Work Product	62

<sup>1</sup> The parties will agree on the relevant date range for discovery in the litigation. Date ranges in the log reflect the date of the earliest document and the date of the last document in the category.

<sup>2</sup> To the extent that responsive documents were created after October 30, 2015, the parties have agreed that they do not have to be listed on a privilege log. See Stipulated Protective Order [Dkt. No. 45 at 17 (¶ 15)].

<sup>3</sup> A single document is counted as one document regardless of whether it is reproduced in multiple e-mails. Further, documents may appear in more than one category. Total Documents represents the total document count.

			<b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	the '432 patent and litigation over the '432 patent		
3	September 23, 2015 – October 26, 2015	E-mail; PDF	<b>Attorney(s):</b> Sang Ho Lee, Harold Novick, Steve Kim <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding post-grant review of the '432 patent and litigation over the '432 patent	Attorney-Client Privilege; Attorney Work Product	26
4	September 28, 2015 – October 23, 2015	E-mail; Word; PDF	<b>Attorney(s):</b> Sang Ho Lee <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding post-grant review of the '432 patent and litigation over the '432 patent	Attorney-Client Privilege; Attorney Work Product	14
5	October 4, 2013 – June 6, 2014	E-mail	<b>Attorney(s):</b> Stephen Sulzer <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding licensing of the '432 patent and litigation over the '432 patent	Attorney-Client Privilege; Attorney Work Product	17
6	October 4, 2013 – March 27, 2015	E-mail; Word; PDF; Powerpoint	<b>Attorney(s):</b> Stephen Sulzer, Stanley Green <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding licensing of the '432	Attorney-Client Privilege; Attorney Work Product	94

				patent, litigation over the '432 patent, and negotiation of a nondisclosure agreement (NDA)		
7	October 4, 2013 – January 2, 2014	E-mail; Word; Powerpoint	<b>Attorney(s):</b> Stephen Sulzer, Stanley Green, Todd Taylor <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding licensing of the '432 patent and litigation over the '432 patent	Attorney-Client Privilege; Attorney Work Product	18
8	January 31, 2014	E-mail	<b>Attorney(s):</b> Stanley Green <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding licensing of the '432 patent and litigation over the '432 patent	Attorney-Client Privilege; Attorney Work Product	1
9	March 24, 2014 – July 2, 2015	E-mail; PDF	<b>Attorney(s):</b> Stephen Sulzer and/or Stanley Green <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding prosecution of U.S. Patent Appl. Nos. 13/633,680 and 13/606,538	Attorney-Client Privilege; Attorney Work Product	23
10	April 24, 2014	E-mail	<b>Attorney(s):</b> Stephen Sulzer, Stanley Green <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside counsel providing, requesting, or reflecting legal advice regarding maintenance fees of U.S.	Attorney-Client Privilege; Attorney Work Product	1

				Patent Nos. 7,356,837, 7,444,676, 8,266,432, and 8,281,129		
11	May 12, 2015 – May 31, 2015	E-mail; Word; HTML	<b>Attorney(s):</b> Shawna Shaw (Patent Agent) <b>Client(s):</b> Nader Asghari-Kamrani, Kamran Asghari-Kamrani	Communications with outside patent agent providing, requesting, or reflecting legal advice regarding prosecution of U.S. Patent Appl. Nos. 13/633,680 and 13/606,538	Patent Agent Privilege; Attorney Work Product	10

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

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In re	:	
	:	Chapter 11
ALDRICH PUMP LLC, <i>et al.</i> ,	:	
	:	No. 20-30608 (JCW)
Debtors,	:	
	:	(Jointly Administered)
	:	

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**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 an Order Authorizing the Parties to use Categorical Privilege Logs when Claiming Material is Privileged or Otherwise Protected from Discovery (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](http://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](http://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 THURSDAY, JUNE 23, 2022 YOU MUST:**

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

Clerk, United States Bankruptcy Court  
401 W. Trade Street  
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](http://www.ncwb.uscourts.gov) under the jointly administered name and case number shown above.



(2) Serve the objection pursuant to the procedures set forth in the Order Establishing Certain Notice, Case Management, and Administrative Procedures (Docket No. 123).

(3) Attend the hearing scheduled for June 30, 2022, at 9:30 a.m. EDT or as soon thereafter as the matter can be heard in the Bankruptcy Courtroom 2B, 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 9<sup>th</sup> day of June, 2022.

RAYBURN COOPER & DURHAM, P.A.

/s/ John R. Miller, Jr.  
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ATTORNEYS FOR DEBTORS