

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

IN RE:

FIBRANT, LLC, *et al.*,

Debtors.

Chapter 11

Case No. 18-10274 (SDB)

(Jointly Administered)

FIBRANT, LLC, EVERGREEN NYLON  
RECYCLING LLC, FIBRANT SOUTH CENTER,  
LLC, GEORGIA MONOMERS COMPANY, LLC,  
CHEMICAINVEST HOLDING, B.V., and  
AUGUSTA LIQUIDATIONS, LLC,

Plaintiffs,

v.

ACE PROPERTY & CASUALTY INSURANCE  
COMPANY, a corporation, UNITED STATES FIRE  
INSURANCE COMPANY, a corporation,  
CENTURY INDEMNITY COMPANY, a  
corporation, ADMIRAL INSURANCE COMPANY,  
a corporation, MT. MCKINLEY INSURANCE  
COMPANY, a corporation, COLUMBIA  
CASUALTY COMPANY, a corporation,  
CONTINENTAL CASUALTY COMPANY, a  
corporation, THE CONTINENTAL INSURANCE  
COMPANY, a corporation, CERTAIN  
UNDERWRITERS AT LLOYD'S, LONDON, a  
corporation, CERTAIN LONDON MARKET  
COMPANIES, corporations, STARR INDEMNITY  
& LIABILITY COMPANY, a corporation,  
BERKSHIRE HATHAWAY SPECIALTY  
INSURANCE COMPANY, a corporation, FIRST  
STATE INSURANCE COMPANY, a corporation,  
ALBA GENERAL INSURANCE COMPANY  
LIMITED, a corporation, THE DOMINION  
INSURANCE COMPANY LIMITED, a corporation,  
EXCESS INS. CO. TO HFPI LTD., a corporation,  
ASSICURAZIONI GENERALI SPA, a corporation,  
HELVETIA ACCIDENT SWISS INSURANCE

Adversary Proceeding

No. 19-01016 (SDB)



COMPANY LIMITED, a corporation, LONDON AND EDINBURGH GENERAL INSURANCE COMPANY LIMITED, a corporation, RIVER THAMES INSURANCE COMPANY LIMITED, a corporation, STRONGHOLD INSURANCE COMPANY LIMITED, a corporation, HARPER INSURANCE LTD., a corporation, ARGONAUT NORTHWEST INSURANCE COMPANY, a corporation, DELTA-LLOYD NON-LIFE INSURANCE COMPANY LIMITED, a corporation, NATIONAL CASUALTY COMPANY, a corporation, NATIONAL CASUALTY COMPANY OF AMERICA LIMITED, a corporation, NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, a corporation, LEXINGTON INSURANCE COMPANY, a corporation, THE NORTH RIVER INSURANCE COMPANY, a corporation, HOME INSURANCE COMPANY, a corporation, ALLSTATE INSURANCE, a corporation, PROTECTIVE NATIONAL INSURANCE COMPANY, a corporation, ZURICH INTERNATIONAL, a corporation, LIBERTY MUTUAL, a corporation,

Defendants.

### **JOINT STATUS CONFERENCE STATEMENT**

This adversary proceeding is a declaratory judgment action in which the Plaintiffs seek a determination regarding coverage under certain historic insurance policies, issued by the Insurer Defendants,<sup>1</sup> for funding of past and ongoing environmental liabilities. On October 3, 2019, the parties filed a joint motion to stay this action pending the outcome of mediation between the parties. On October 17, 2019, the Court ordered the action stayed. As part of the Court's order, the parties were required to file an initial joint status report on December 16, 2019, and subsequent

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<sup>1</sup> As these terms are defined in the Complaint for Declaratory Judgment, *see* Dkt. 1.

status reports each 90 days thereafter while the matter is stayed, pending further order of the Court. Plaintiffs and the Defendant Insurers jointly file this status report in compliance with the Court's order and report the following.

With this action stayed, the parties have worked successfully towards establishing the parameters of a mediation process including the selection of a preferred neutral to act as mediator. This agreed process includes the provision of certain information from the Plaintiffs to the Defendant Insurers, which are outlined in the Defendant Insurer's enumerated Pre-Mediation Information Requests ("PMIR"), to ensure the parties can meaningfully participate in the mediation and increase the chances of reaching a negotiated resolution through this process.

The information and documents requested in the PMIR relate to a variety of topics, including the underlying environmental liability and property damage at the Augusta Site, as well as the historic insurance policies at issue in this matter. Since the filing of the previous status report, Plaintiffs have provided the Defendant Insurers with certain additional documents in response to the PMIR on a rolling basis. Although Plaintiffs have advised Defendant Insurers that their production of documents is nearing completion, certain documents have not yet been produced due to unresolved confidentiality issues, and Defendant Insurers are seeking further information from Plaintiffs regarding the adequacy and completeness of their responses, including clarification regarding a number of requests in the PMIR as to which Plaintiffs appear not to have produced responsive material. Defendant Insurers and Plaintiffs are continuing in their efforts to resolve the remaining issues consensually.

The Defendant Insurers' review of the produced materials is ongoing. The parties intend to work cooperatively to allow time for this review and to set a date and location for mediation. However, the COVID-19 ("Coronavirus") outbreak has led to significant travel disruptions and

office closures throughout the United States and abroad, making a formal mediation impracticable for the immediate future and impeding the review of documents and other preparation for mediation by Defendant Insurers and their experts. The parties will continue to explore methods for resolving these claims, and will schedule mediation as soon as it is reasonably safe and reasonable to do so.

The parties respectfully submit this joint status report to the Court. The parties will submit the next status report on June 16, 2020, absent further direction by the Court

Date: March 19, 2020

Respectfully submitted,

s/ Matthew Levin

Matthew Levin

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**CERTIFICATE OF SERVICE**

I hereby certify that I have on this day electronically file the foregoing **JOINT STATUS CONFERENCE STATEMENT** with the Clerk of the Court using the CM/ECF system, which will automatically send electronic mail notification of such filing to all attorneys of record.

Date: March 19, 2020

*s/ Brook B. Roberts* \_\_\_\_\_

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