

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

In re:	:	
	:	Chapter 11
	:	
DBMP LLC, ¹	:	Case No. 20-30080 (JCW)
	:	
Debtor.	:	
	:	Ref. Docket Nos. 416-418

AFFIDAVIT OF SERVICE

STATE OF CONNECTICUT)
) ss.:
COUNTY OF MIDDLESEX)

ANGHARAD BOWDLER, being duly sworn, deposes and says:

1. I am employed as a Senior Case Manager by Epiq Corporate Restructuring, LLC, located at 777 Third Avenue, New York, New York 10017. I am over the age of eighteen years and am not a party to the above-captioned action.
2. On August 20, 2020, I caused to be served the following:
 - a) A revised version of the “Debtor’s Motion for Bankruptcy Rule 2004 Examination of Asbestos Trust,” dated August 19, 2020 [Docket No. 416], (the “Trust Motion”), annexed hereto as Exhibit A,
 - b) A revised version of the “Debtor’s Motion for Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants,” dated August 19, 2020 [Docket No. 417], (the “PIQ Motion”), annexed hereto as Exhibit B,
 - c) “Notice of Hearing,” dated August 19, 2020 [Docket No. 418], (the “NOH”),

by causing true and correct copies of the:

- i. Trust Motion, PIQ Motion and NOH, to be enclosed securely in separate postage pre-paid envelopes and delivered via first class mail to those parties listed on the annexed Exhibit C,

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, Pennsylvania 19335.

- ii. PIQ Motion and NOH, to be enclosed securely in separate postage pre-paid envelopes and delivered via first class mail to those parties listed on the annexed Exhibit D,
 - iii. Trust Motion and NOH, to be enclosed securely in separate postage pre-paid envelopes and delivered via first class mail to those parties listed on the annexed Exhibit E,
 - iv. Trust Motion, PIQ Motion and NOH, to be delivered via electronic mail to those parties listed on the annexed Exhibit F, and
 - v. PIQ Motion and NOH, to be delivered via electronic mail to those parties listed on the annexed Exhibit G.
3. All envelopes utilized in the service of the foregoing contained the following legend: LEGAL DOCUMENTS ENCLOSED. PLEASE DIRECT TO THE ATTENTION OF ADDRESSEE, PRESIDENT OR LEGAL DEPARTMENT.”
 4. The above-referenced service has been served via email in accordance with the method established under CM/ECF Administrative Procedures.

/s/ Angharad Bowdler
Angharad Bowdler

Sworn to before me this
20th day of August, 2020
/s/ Amy E. Lewis

Notary Public, State of Connecticut
Acct. No. 100624
Commission Expires: 8/31/2022

EXHIBIT A

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

<p>In re</p> <p>DBMP LLC,¹</p> <p style="text-align: center;">Debtor.</p>	<p>Chapter 11</p> <p>Case No. 20-30080 (JCW)</p>
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**DEBTOR’S MOTION FOR BANKRUPTCY RULE
2004 EXAMINATION OF ASBESTOS TRUSTS**

DBMP LLC (“**DBMP**” or the “**Debtor**”), the debtor and debtor in possession in the above-captioned chapter 11 case, brings this motion (the “**Motion**”) under Bankruptcy Rule 2004 for examination of (a) the Delaware Claims Processing Facility (“**DCPF**”) with respect to the ten asbestos personal injury trusts it manages (collectively, the “**DCPF Trusts**”) and (b) the Manville Personal Injury Settlement Trust (the “**Manville Trust**” and, together with the DCPF Trusts, the “**Trusts**”), to obtain limited data concerning Trust filings by the approximately 9,000 individuals whose mesothelioma claims the Debtor or the former CertainTeed Corporation (“**Old CT**”) resolved through settlement or verdict before the commencement of this case (collectively, the “**DBMP Claimants**”).²

DBMP filed this case to confirm a consensual plan of reorganization that fairly and equitably resolves current and future asbestos claims by establishing a section 524(g) asbestos

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, Pennsylvania 19355.

² Pursuant to Local Bankruptcy Rule 2004-1(b), the Debtor hereby certifies that on August 12, 2020, the Debtor provided a copy of a draft proposed order on this Motion to counsel for the Official Committee of Asbestos Personal Injury Claimants (the “**ACC**”) and the Future Claimants’ Representative (the “**FCR**”), as well as counsel for the Manville Trust and DCPF. The Debtor offered to meet and confer regarding the date for the examination, as required by the Rule, as well as regarding the general scope and form of the discovery. On August 19, 2020, counsel for the Debtor conferred with counsel retained to represent both the Manville Trust and DCPF, as well as counsel for the ACC and FCR. Counsel for the Manville Trust and DCPF raised several issues regarding the proposed form of order, which the Debtor will consider and about which the parties will continue to confer. Counsel for the ACC and the FCR informed the Debtor that their clients will oppose this discovery *in toto*.

trust. Based on arguments by claimant representatives in other cases, and despite Judge Hodges's ruling in the Garlock case regarding the impropriety of using settlement amounts to measure liability, DBMP expects the ACC and the FCR to argue that Old CT's and DBMP's historical settlements in mesothelioma cases are an accurate and appropriate guide to measure DBMP's liability for current and future mesothelioma claims. In both plan negotiations and in any litigation concerning DBMP's asbestos liabilities, the ACC and the FCR likely will assert that claimants and the Court should use Old CT's and DBMP's settlements as the measuring stick to judge whether the funding contained in any proposed plan of reorganization is sufficient.

DBMP has evidence that it and Old CT were subject to a widespread pattern in which certain plaintiff firms failed to disclose material evidence of their clients' exposures to other companies' products, which the firms or their clients then secretly used to support claims against section 524(g) trusts or in bankruptcy cases. But the evidence that DBMP has on this issue at present is limited because it is based either on non-disclosures that DBMP fortuitously discovered before settling the cases, or on evidence in the public record of the Garlock estimation proceeding, which contains trust claim information only with respect to claims filed against Garlock before its June 5, 2010 petition date, and is incomplete and no longer current.

DBMP therefore brings this Motion, as its only means to obtain the information that will answer the important question of whether DBMP was subject to practices of evidence manipulation in its historical mesothelioma cases. DBMP has crafted a limited request to only a subset of the most prominent trusts, in a way that will be easy to implement and will minimize burden. And, DBMP will reimburse the trusts for their costs. For these reasons, the Debtor respectfully submits that the discovery should be ordered under Bankruptcy Rule 2004.

Jurisdiction

1. The Court has subject matter jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

2. By this Motion, DBMP seeks a Bankruptcy Rule 2004 examination in which it will issue subpoenas requesting limited database fields pertaining to any claims filed against the Trusts by the approximately 9,000 DBMP Claimants. DBMP possesses Social Security numbers for virtually all of these claimants, which will ensure the Trusts can conduct a quick and error-free matching process. The proposed order is attached as **Exhibit 1**.

3. The request focuses on mesothelioma claims because, for many years, those claims have generated the vast majority of both defense costs and settlement payments made. DBMP's liability for mesothelioma claims is the key question that must be answered to formulate a fair, confirmable plan of reorganization under section 524(g).

4. The data sought from the Trusts are the following:

- a. Claimant identifying information;³
- b. Date claim filed;
- c. Date claim approved, if approved;
- d. Date claim paid, if paid;
- e. If not approved or paid, status of the claim;
- f. All exposure-related fields, including:
 - i. Date(s) exposure(s) began;
 - ii. Date(s) exposure(s) ended;
 - iii. Manner of exposure;
 - iv. Occupation and industry when exposed; and
 - v. Products to which exposed;
- g. Mode of review selected; and

³ Claimant identifying information is comprised of the full name of the injured party; the injured party's Social Security number, gender, date of birth, date of death, state of residency, and date of diagnosis; the full name of any claimant who is not the injured party and his or her Social Security number; and claimant's law firm, state of tort claim filing, and date of tort claim filing.

h. Mode of review under which claim was approved and paid.

5. DBMP seeks authority to issue subpoenas requesting the data described above with respect to any DBMP Claimant matching the records of the Manville Trust and the following DCPF Trusts:⁴

- a. Armstrong World Industries Asbestos Personal Injury Settlement Trust;
- b. Babcock & Wilcox Company Asbestos Personal Injury Settlement Trust;
- c. Celotex Asbestos Settlement Trust;
- d. DII Industries, LLC Asbestos PI Trust (Halliburton, Harbison-Walker Subfunds);
- e. Federal Mogul U.S. Asbestos Personal Injury Trust (T&N, FMP, Fel-Pro, Vellumoid, Flexitallic Subfunds);
- f. Flintkote Asbestos Trust;
- g. Owens Corning Fibreboard Asbestos Personal Injury Trust (FB and OC Subfunds);
- h. Pittsburgh Corning Corporation Asbestos PI Trust;
- i. United States Gypsum Asbestos Personal Injury Settlement Trust; and
- j. WRG Asbestos PI Trust

6. The DCPF Trusts are the same section 524(g) trusts that were subject to similar discovery in the Garlock case, as discussed in more detail below, plus several that were not yet operational at that time.⁵ The Manville Trust succeeded to the liabilities of the most prominent former asbestos defendant, and also produced a substantial amount of data in the Garlock case (indeed, as described below, far more than the data sought by this Motion).

The Proposed Bankruptcy Rule 2004 Examination Is Necessary and Appropriate

7. Bankruptcy Rule 2004 is the “basic discovery device used [in] bankruptcy cases, permitting the examination of any party without the requirement of a pending adversary proceeding or contested matter.” In re Symington, 209 B.R. 678, 683-84 (Bankr. D. Md. 1997) (quotation omitted). The Rule provides that the Court may order the examination of “any entity”

⁴ DBMP also seeks authority to issue subpoenas to the Trusts themselves, in the event DCPF asserts that such subpoenas are necessary to secure production.

⁵ In addition, Garlock omitted the Celotex Asbestos Settlement Trust because most of its records were not digitized at that time. DBMP is willing to limit its request to the electronic records of the Celotex Asbestos Settlement Trust.

on motion of a party in interest (including the debtor). Fed. R. Bankr. P. 2004(a). A party may seek discovery related to, among other topics, the “liabilities . . . of the debtor,” “any matter which may affect the administration of the debtor’s estate,” and, in a chapter 11 case, “any other matter relevant to the case or to the formulation of a plan.” Fed. R. Bankr. P. 2004(b).

8. The scope of discovery afforded under Bankruptcy Rule 2004 is unfettered and broad.” In re Public Service Co. of New Hampshire, 91 B.R. 198, 199 (Bankr. D.N.H. 1988) (quotation omitted); see also In re Sheetz, 452 B.R. 746, 748 (Bankr. N.D. Ind. 2011) (examination may relate “to just about anything that deals with the debtor’s . . . liabilities . . . or any matter affecting the administration of the bankruptcy estate”). Discovery under Rule 2004 is as broad or broader than under the Federal Rules of Civil Procedure. See In re Ecam Publications, Inc., 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991); Sheetz, 452 B.R. at 748; Sweetland v. Szadkowski (In re Szadkowski), 198 B.R. 140, 141 (Bankr. D. Md. 1996); Symington, 209 B.R. at 684. Thus, a Rule 2004 examination “is subject to fewer objections on grounds of relevance than would burden discovery filed in a lawsuit or contested motion.” Id.

9. Third parties with relevant information concerning the debtor’s liabilities are proper subjects of examination under Bankruptcy Rule 2004. Ecam Publications, 131 B.R. at 559 (“Third parties are subject to examination pursuant to Rule 2004 if they have knowledge of the debtor’s affairs.”); see also In re Platinum Partners Value Arbitrage Fund L.P., 583 B.R. 803, 810-11 (Bankr. S.D.N.Y. 2018); In re EZ Pay Services, Inc., 389 B.R. 776, 779-80 (Bankr. M.D. Fla. 2008). One major purpose of Rule 2004 is to permit investigation of fraud and other misconduct relevant to administration of the estate. See Symington, 209 B.R. at 683-84 (an “obvious purpose[]” of Rule 2004 is “exposure of fraudulent conduct”); In re Orion Healthcorp., Inc., 596 B.R. 228, 235 (Bankr. E.D.N.Y. 2019) (“unearthing of frauds” one purpose of Rule

2004). Production of documents from third parties in a Rule 2004 examination may be compelled by subpoena, via Bankruptcy Rule 9016. See Fed. R. Bankr. P. 2004(c).

10. A proposed Bankruptcy Rule 2004 examination “must be both relevant and reasonable” and “may not be used to annoy, embarrass or oppress the party being examined.” Symington, 209 B.R. at 684-85. Some courts require “good cause” before they will authorize a Rule 2004 examination. See, e.g., In re Hammond, 140 B.R. 197, 201 (S.D. Ohio 1992). But, consistent with the breadth of the rule, courts will find good cause if the movant shows the examination “is reasonably necessary for the protection of its legitimate interests,” id. at 201, or if denial of examination would cause the movant “undue hardship or injustice,” Orion Healthcorp, 596 B.R. at 235; see also DeWitt, 608 B.R. at 798-800 (same, and also calling for weighing “relevance of the discovery against the burden it will impose on the producing party”).

A. The Discovery Sought Will Show the Extent to Which Exposure Evidence Was Not Disclosed in Historical Cases Against Old CT and DBMP and the Impact of Such Practices

11. The examination proposed in this Motion falls squarely within the scope of Bankruptcy Rule 2004 because it will provide information of core relevance to “the liabilities . . . of the debtor,” “formulation of a plan,” and “administration of the debtor’s estate.” Fed. R. Bankr. P. 2004(b). DBMP expects that the ACC and the FCR will argue, in plan negotiations and in this Court, that Old CT’s and DBMP’s settlement history should be used to measure DBMP’s liability for current and future mesothelioma claims.⁶

⁶ The attempt to equate settlements with expected liability is misguided for many reasons in addition to the one that animates this Motion. It violates the prohibition in Federal Rule of Evidence 408 on using settlements to “prove or disprove the validity or amount of a disputed claim.” And it ignores that Old CT and DBMP settled the vast majority of claims not because they posed a material liability risk, but because it was far cheaper than actively defending all cases and trying cases to verdict. See In re Garlock Sealing Techs. LLC, 504 B.R. 71, 73 (Bankr. W.D.N.C. 2014) (rejecting use of settlements in estimation in part because they were “inflated by the cost of defense”).

12. The data requested through the proposed examination will show the extent to which claimants in resolved cases against Old CT or DBMP failed to disclose relevant evidence of exposure to the products of bankrupt defendants that they used in asserting confidential Trust claims. If the practice took place, as demonstrated in Garlock, then Old CT's historical settlements also would be "useless" in assessing DBMP's liability for current and future mesothelioma claims because they would be "infected by the manipulation of exposure evidence." In re Garlock Sealing Techs., 504 B.R. at 82, 94. Denying DBMP discovery related to such a central issue in this case would cause it substantial "undue hardship or injustice." Orion Healthcorp, 596 B.R. at 235; see also Symington, 209 B.R. at 683-84 ("exposure of fraudulent conduct" a proper purpose of Rule 2004).

13. The discovery will permit exploration not only of inconsistencies and failures of disclosure in individual cases, but also important aggregate-level issues, such as the extent to which claimants delayed filing their Trust claims while they litigated against DBMP, and whether claimants who did so received higher settlement payments. See Garlock Sealing Techs., 504 B.R. at 84 (summarizing evidence showing a "regular practice" by many plaintiff firms to delay filing trust claims); Garlock Estimation Trial Transcript at 2896:10-20 (excerpts attached as **Ex. 2**) (testimony by Dr. Charles Bates that claimants who filed their trust claims before resolving their claims against Garlock settled for approximately half as much as claimants who delayed their trust claims); *Declaration of Charles E. Bates PhD in Support of PIQ and Trust Discovery* ("**Bates Decl.**," attached as **Ex. 3**) ¶¶ 37-42.

14. All of this information will be important to the parties in negotiating the terms of a confirmable chapter 11 plan of reorganization. The discovery goes to the core of the issues in

dispute in this chapter 11 case, is “relevant and reasonable,” and easily meets the standards for a Rule 2004 examination. Symington, 209 B.R. at 683-85.

15. The requested discovery is targeted and appropriate. It includes only a small portion of the scores of section 524(g) trusts that have been established for former asbestos defendants, and has been designed to explore the relevant questions with a minimum of burden on included Trusts, all while protecting claimants’ information. The Trusts have unique knowledge relevant to the Debtor’s liabilities and this case—the evidence of the Trust filings made by persons who previously sued Old CT or DBMP and whose resolutions the ACC and the FCR will attempt to use as the measure of the appropriate funding for a trust here. Examination of the Trusts is thus proper under Rule 2004. See Ecam Publications, 131 B.R. at 559.

16. The DCPF Trusts are responsible for the liabilities of many of the most prominent asbestos defendants before the Bankruptcy Wave that began in 2000-2001. Johns-Manville, meanwhile, was the most prominent asbestos defendant, and the Manville Trust has been in operation since the 1980s. Its data thus provide a source of Trust filings through the entire period when Old CT and DBMP were targeted in the litigation. The Debtor’s expert has a copy of the Manville Trust database, but only as of 2002. As such, the Manville Trust data will be an important update of the 18-year-old information that is available to the expert. Furthermore, Johns-Manville was Old CT’s main competitor before its bankruptcy in the asbestos cement pipe (“**AC Pipe**”) business, making it an important Trust for the discovery requested herein.⁷

B. Discovery From the Trusts is Appropriate and Necessary to Determine the Extent to Which Material Exposure Evidence Was Not Disclosed

17. Courts have recognized that discovery from section 524(g) trusts is necessary and appropriate to determine the extent to which exposure evidence was not disclosed in tort

⁷ Johns-Manville also manufactured many asbestos-containing products other than AC Pipe.

litigation and to evaluate its impact. In Garlock, Judge Hodges ordered the trusts and trust sub-funds then handled by DCPF to produce data concerning claims made by approximately 11,000 mesothelioma claimants who had settled with Garlock between 1999 and 2010. See Order Granting in Part and Overruling in Part Objections to Subpoena by Delaware Claims Processing Facility, LLC and Associated Trusts, Establishing Claimant Objection Procedures, and Governing the Confidentiality of Information Provided in Response to the Subpoena, In re Garlock Sealing Techs., No. 10-31607 (Bankr. W.D.N.C. Aug. 7, 2012) (Dkt. 2430) (“**Garlock DCPF Order**,” and discovery thereunder the “**DCPF Trust Discovery**”) (attached as **Ex. 4**).

18. The Court ultimately relied on the DCPF Trust Discovery data in finding a “startling pattern of misrepresentation” in cases Garlock had settled before filing its petition. Garlock Sealing Techs., 504 B.R. at 86. For this reason, the Court rejected the claimant experts’ reliance on Garlock’s past settlements, concluding that the “settlement history data does not accurately reflect fair settlements because exposure evidence was withheld.” Id. at 94. These findings were not based only on evidence from 15 of Garlock’s most significant cases. To be sure, in those 15 cases, the court granted wide-ranging discovery (including depositions of plaintiff law firms), which revealed that “exposure evidence was withheld in *each and every one* of them.” Id. at 84 (emphasis in original). But the Court also used the broad-based data from the DCPF Trust Discovery, ordered with respect to *all* of Garlock’s approximately 11,000 mesothelioma settlements after 1999, to conclude that in *hundreds* of Garlock’s high-value settlements, “the plaintiff’s discovery responses conflicted with one of the Trust claim processing facilities or balloting in bankruptcy cases.” Id. at 85-86; see also GST Est. Trial Ex. 8001, “Omissions in RFA-1 Cases Based on DCPF and Ballot Data Only” (estimation trial exhibit summarizing hundreds of cases where exposure evidence was not disclosed, **Ex. 5**). In

fact, the evidence was so overwhelming, the court concluded “[i]t appears certain that more extensive discovery would show more extensive abuse.” Garlock Sealing Techs., 504 B.R. at 86.

19. Other courts likewise have recognized that discovery from section 524(g) trusts is necessary and appropriate to determine the extent to which exposure evidence was withheld in tort litigation. *See, e.g.*, Memorandum Opinion at 2-3, 14, Congoleum Corp. v. ACE Am. Ins. Co., Misc. No. 09M-01-084 (Del. Super. Ct. Aug. 4, 2009) (attached as **Ex. 6**) (ordering trust discovery with respect to approximately 70,000 claimants to determine whether those claimants had submitted evidence inconsistent with their claims against the insured); Memorandum at 2-3, 4, 7, 9, Nat’l Union Fire Ins. Co. v. Porter Hayden Co., No. 1:03-cv-3408-CCB (D. Md. Feb. 24, 2012) (Dkt. 313) (attached as **Ex. 7**) (ordering discovery from trusts in part to determine whether claimants had submitted inconsistent exposure evidence to insured).

C. DBMP Has Reason to Believe Material Exposure Evidence Was Withheld in Significant Resolved Cases

20. Like Garlock and the insurers in Congoleum and National Union cited above, DBMP needs the requested discovery to test the ACC’s and the FCR’s anticipated contention that DBMP’s historical settlements should be relied upon as a measure of its current and future asbestos liability. As shown below, DBMP has good reason to believe it was subjected to the same pattern and practice of evidence manipulation that the court found in Garlock. In fact, during the time Garlock was in the tort system, the mesothelioma claimants against DBMP in large part were the *same* as the claimants against Garlock. Based on a preliminary analysis, over 85% of the mesothelioma plaintiffs who sued and ultimately received payment from Old CT between 2001 and 2009 (the year before Garlock’s petition) also sued Garlock or filed a ballot in its bankruptcy case. Bates Decl. ¶ 29 & n.19. This overlap strongly suggests that the same practices found in the Garlock decision were also present in cases against Old CT.

21. DBMP has reason to believe that this pattern of non-disclosure not only existed in Old CT cases, but that it continued during the decade since the Garlock petition. See generally Informational Brief of DBMP LLC (Dkt. 22) at 21-24. Just last year, for example, Old CT defended a case in which the plaintiff alleged his “bystander” exposure to Old CT’s AC Pipe caused his pleural mesothelioma. Plaintiff 1 at trial minimized his exposure to asbestos-containing insulation on the ships where he served in the Navy.⁸ Then, just after Plaintiff 1’s trial testimony concluded, the Veterans Administration (VA) produced previously requested records of a disability claim filed by him in 2018 related to his Navy service. The production included a declaration signed by Plaintiff 1 that had not been produced in discovery and that told a diametrically different story about his Navy exposures, providing numerous specific examples of his exposure to asbestos-containing insulation in the Navy. After the court ordered plaintiff’s counsel to submit declarations to the court explaining how the plaintiff’s declaration came about, Plaintiff 1 accepted Old CT’s pre-trial settlement offer.⁹

22. In a case Old CT tried to verdict in Baltimore in 2009, Plaintiff 2 produced no bankruptcy claim forms and denied most other exposures other than bystander exposure to Old CT’s AC Pipe (with the exception of a small amount of work involving joint compound). In 2013, after a defense verdict was reversed on appeal and the court ordered a new trial, Old CT learned in discovery that shortly after the first verdict, Plaintiff 2 submitted 23 bankruptcy claim

⁸ DBMP uses pseudonyms to refer to the plaintiffs discussed in this section (and has redacted identifying information about the plaintiffs and law firms) because their identities are not immediately relevant to this Motion, but denies that the identities of persons who sued DBMP or their law firms are confidential and reserves all rights to disclose the identities of such claimants publicly should they become relevant in this case.

⁹ Trial Transcript, May 1, 2019 PM, at 12:24-72:3 (attached as **Ex. 8**) (produced under Bates no. DBMP-BR_009128); Trial Transcript, May 2, 2019 PM, at 102:11-106:9 (attached as **Ex. 9**) (produced under Bates No. DBMP-BR_009130); Trial Transcript, May 8, 2019, at 17:11-24:1, 108:2-118:4 (attached as **Ex. 10**) (produced under Bates No. DBMP-BR_009134); Order Granting in Part Defendant A. Teichert & Son., Inc. dba Teichert Construction’s Motion for Sanctions (May 14, 2019) (attached as **Ex. 11**) (produced under Bates Nos. DBMP-BR_0009525-0009530); Addendum to VA Form 21-526EZ (Sept. 12, 2018) (attached as **Ex. 12**) (produced under Bates Nos. DBMP-BR_0009430-0009432).

forms asserting exposure to products that he either had not identified or affirmatively *denied* working with or around during the first trial.¹⁰ The case settled on the morning that Old CT's motion to dismiss, including a request for discovery sanctions, was to be argued.

23. In an Oklahoma case, a few months before trial was scheduled to start in early 2012, Plaintiff 3 was ordered to produce all bankruptcy trust claims. The materials produced included five affidavits signed by the principal product identification witness, a co-worker of the deceased plaintiff (the "**Co-Worker Witness**"), five more from two other co-worker witnesses that had been deposed, and one affidavit from a co-worker who had never before been identified by plaintiff. These affidavits—signed years before trial—asserted that decedent had worked with and around numerous asbestos-containing products that the co-workers never mentioned during their depositions and that had not otherwise been identified by Plaintiff 3 in response to discovery requests. The failure to disclose the affidavits in discovery prejudiced Old CT because the Co-Worker Witness passed away in 2010 and, accordingly, Old CT was unable to question him about the inconsistencies between his deposition testimony and his five affidavits. Just prior to a court hearing on Old CT's motion to strike the Co-Worker Witness's testimony and for other sanctions, plaintiff agreed to settle the case for a small fraction of her original demand.¹¹

24. Further, DBMP has determined from the public estimation record in the Garlock proceeding that there were additional cases where material exposure evidence was withheld from Old CT before it agreed to a significant settlement with the plaintiff.

¹⁰ See Defendant CertainTeed Corporation's Motion for Sanctions and Request for Hearing (Aug. 26, 2013) (attached as **Ex. 13**) (produced under Bates Nos. DBMP-BR_0035342-0035370). The voluminous exhibits are available upon request to counsel and were produced under Bates Nos. DBMP-BR_0035370-0035883.

¹¹ See Memorandum in Support of Defendant CertainTeed Corporation's Motion to Strike the Testimony of Jasper Hubbard and for Sanctions due to Plaintiff's Discovery Abuses & Exhibits (Dec. 27, 2011) (attached as **Ex. 14**) (produced under Bates Nos. DBMP-BR_0027821-0027839). The voluminous exhibits are available upon request to counsel and were produced under Bates Nos. DBMP-BR_0027423-0027820.

25. One of Old CT's largest historic settlements, for example, resolved a case filed in San Francisco in 2005. Plaintiff 4 alleged he loaded bags of asbestos fibers in connection with his work as a union teamster at the Port of San Francisco in the mid-1960s, all of which (he alleged) were shipped to Old CT's pipe plant in Santa Clara, California.¹² He did not identify any other asbestos-containing products in his tort case in response to interrogatories requiring him to identify the manufacturer, supplier, and/or distributor of all asbestos-containing materials to which he had been exposed.¹³ At his four-day deposition, Plaintiff 4 repeatedly denied knowledge of alternative asbestos exposure.¹⁴ And, with respect to jobs other than at the Port where his interrogatories acknowledged the possibility of exposure, Plaintiff 4 was unable to confirm exposure, identify any brands, or otherwise provide relevant details.¹⁵ Old CT settled the case for a substantial seven-figure amount shortly after trial began in August 2006.

¹² Plaintiff's Supplemental and Amended Response to Defendant CertainTeed Corporation's Pre-Trial Interrogatories (attached as **Ex. 15**) at 1:22-26; Declaration of Plaintiff in Supplemental Opposition to Defendant CertainTeed Corporation's Motion for Summary Judgment Or, in the Alternative, Summary Adjudication (attached as **Ex. 16**) at 3:1-3 (stating that plaintiff handled bags of asbestos only while working for one company); Declaration of Bernard Panella in Support of Plaintiff's Supplemental Opposition to Defendant CertainTeed Corporation's Motion for Summary Judgment Or, in the Alternative, for Summary Adjudication (attached as **Ex. 17**) at 3:1-6 (stating that company only transported asbestos fiber for Old CT).

¹³ San Francisco Standard Interrogatories to Plaintiffs (Personal Injury), Set 2 (attached as **Ex. 18**) at 2:15-19, 5:6-9, 5:20-26; Plaintiff's Responses to San Francisco Standard Interrogatories, Set Two (attached as **Ex. 19**) at 2:2-3, 2:6-8, 2:26-27, 3:2-4, 3:19-21, 3:23-25, 5:10-12, 5:14-16, 6:6-12, 7:2-8, 8:1-7, 10:10-11, 10:14-16, 11:11-12, 11:15-17; Plaintiff's Supplemental Responses to San Francisco Standard Interrogatories, Sets One and Two (attached as **Ex. 20**) at Ex. A; Pre-Trial Interrogatories to Plaintiff from CertainTeed (attached as **Ex. 21**) at 5:1-8; Plaintiff's Responses to CertainTeed's Pre-Trial Interrogatories (attached as **Ex. 22**) at 9:11-17.

¹⁴ See, e.g., the following deposition testimony where Plaintiff denied exposure to thermal insulation, boilers, or other potentially asbestos-containing materials: Plaintiff's Discovery Dep. Vol. 1 (excerpts attached as **Ex. 23**) at 105:7-106:15, 114:7-25, 117:8-13, 123:22-126:9, 127:12-132:18, 139:24-141:25, 143:22-145:11, 149:18-151:21, 153:2-154:17, 159:13-160:5, 162:18-163:17; Plaintiff's Discovery Dep. Vol. II (excerpts attached as **Ex. 24**) at 203:16-205:6, 205:14-207:20, 265:2-266:22, 325:24-326:23, 355:3-20; Plaintiff's Discovery Dep. Vol. III (excerpts attached as **Ex. 25**) at 364:16-365:17, 390:13-20, 394:4-25, 398:4-10, 400:7-401:2, 402:5-403:9, 445:10-447:11, 460:20-461:8, 465:12-17, 466:15-469:14, 477:5-12, 480:11-481:16, 487:8-25, 490:3-8, 497:15-498:8, 501:20-502:19, 506:19-509:2, 558:15-560:8, 569:15-572:2, 573:9-18, 578:23-579:7, 587:18-588:3, 590:11-20, 593:16-594:16, 601:15-602:5, 603:21-604:20.

¹⁵ E.g., Plaintiff's Discovery Dep. Vol. I (Ex. 23) at 122:9-124:14, 133:3-139:9; Plaintiff's Discovery Dep. Vol. III (Ex. 25) at 451:2-460:4, 635:14-640:5, 644:9-647:4; Plaintiff's Discovery Dep. Vol. IV (excerpts attached as **Ex. 26**) at 739:12-769:12.

26. However, available discovery from the Garlock case shows that Plaintiff 4 subsequently alleged numerous other exposures in asbestos trust and bankruptcy filings that were never disclosed to Old CT, including in at least seven claims to DCPF-managed trusts and in four ballots in bankruptcy cases (in which the plaintiff's attorney swore under penalty of perjury that the plaintiff was exposed to those debtors' products).¹⁶ Had these exposures been disclosed, the case would have looked far different—instead of asbestos fiber destined for Old CT's pipe plant being the sole identified exposure, there would have been numerous other companies, each of which could have been held responsible by the jury in whole or in part under California law. See Cal. Civil Code § 1431.2; DaFonte v. Up-Right, Inc., 828 P.2d 140, 146 (Cal. 1992).

27. Plaintiff 5 sued Old CT in Delaware in 2009 claiming that he helped install Old CT AC Pipe in several towns in New Mexico and Texas in the mid-1970s.¹⁷ Under Delaware Standing Order No. 1 (as amended December 21, 2007, which was in effect at all times relevant to that case), plaintiffs were required to provide "all materials related to . . . claims made to trusts for bankrupt asbestos litigation defendants" within 30 days of filing suit, and had to "update the production mandated above up to and including the time of trial."¹⁸ Plaintiff 5 disclosed no trust claims pursuant to this order, and the only product of a bankrupt company that the plaintiff disclosed was Johns-Manville AC Pipe.¹⁹ In October 2010, Old CT settled the case for a substantial seven-figure amount.

¹⁶ The data showing this claimant's trust claims, which are publicly available, will be provided to the ACC, the FCR, and the DCPF Trusts and Manville Trust upon request. The ballots in the four cases, with the relevant part of the exhibit listing this plaintiff, are attached as **Ex. 27**.

¹⁷ Plaintiff's Video Dep. (excerpts attached as **Ex. 28**) at 16:24-21:25.

¹⁸ Standing Order No. 1 – Amended on December 21, 2007 (Del. Super. Ct., Dec. 27, 2007) (attached as **Ex. 29**) ¶ 7.

¹⁹ Plaintiff's Video Dep. (Ex. 28) at 12:24-16:13, 22:1-24:4; Plaintiff's Discovery Dep. (excerpts attached as **Ex. 30**) at 54:12-17, 56:7-57:2, 66:3-67:7, 91:17-92:10, 126:8-14; Plaintiffs' Answers to Interrogatories Directed to Plaintiffs by All Defendants and Response to Request for Production (attached as **Ex. 31**) at 7 & Exs. A and C thereto.

28. Nevertheless, Plaintiff 5 submitted a PIQ in Garlock showing that he filed 23 trust claims, starting in late December 2009, three weeks after his deposition.²⁰ At least 12 of those trust claims were submitted before Old CT settled the case. None of these claim forms were ever turned over in discovery (in direct violation of Delaware Standing Order No. 1), and only one of the underlying asbestos exposures (Johns-Manville) was identified. Under the law that governed the case (either New Mexico or Texas law), proportional liability applied, so that these additional exposures would have been highly relevant in the case.²¹

29. Plaintiff 6, who filed his case in Oakland, California in 2009, was a longtime electrician who claimed that he regularly used and cut Old CT asbestos cement electrical conduit pipe in the late 1960s.²² Old CT never manufactured or sold asbestos cement electrical conduit pipe, and it defended the case on that ground. However, since the plaintiff's testimony was to the contrary, Old CT sought to provide an alternative explanation for the plaintiff's mesothelioma. Thus, Old CT sought discovery of Plaintiff 6's other exposures to asbestos. During his deposition, Plaintiff 6 testified to work removing and replacing pipe insulation on a World War II era aircraft carrier while in the Navy from 1966 to 1968, but he testified that he was unable to identify the brand or manufacturer of any insulation material that he encountered.²³ Plaintiff 6 disclosed only one trust claim (Owens Corning) in the tort case, and that disclosure was made only after the plaintiff's deposition was completed. As a result, attorneys for defendants were unable to question the plaintiff about it.²⁴ Plaintiff 6 disclosed no other exposures to products

²⁰ Garlock PIQ (attached as **Ex. 32**).

²¹ N.M.S.A. § 41-3A-1; Tex. Civ. Prac. & Rem. Code Ann. §§ 33.013; 33.012(b) (several liability for entities less than 50% at fault).

²² Plaintiffs' Amended Response to Defendant CertainTeed Corporation's Pre-Trial Interrogatories Propounded to Plaintiffs [First Set] (attached as **Ex. 33**) at 1:21-2:9.

²³ Plaintiff's Discovery Dep. Vol. 2 (excerpts attached as **Ex. 34**) at 91:19-22, 94:5-11, 100:1-9, 100:22-25; Plaintiff's Discovery Dep. Vol. 6 (excerpts attached as **Ex. 35**) at 1121:21-1122:13.

²⁴ Plaintiffs' Amended and Supplemental Responses to Defendant Cooper Industries LLC's Special Interrogatories to Plaintiffs (excerpts attached as **Ex. 36**) at 34:18-21; Plaintiffs' Supplemental Responses to Defendant Cooper

manufactured by bankrupt entities in response to interrogatories specifically asking for that information.²⁵ In mid-September 2009, a couple of weeks before trial was scheduled to begin, Old CT agreed to a mid-six-figure settlement.

30. The Garlock record reveals that Plaintiff 6 ultimately filed 13 more trust claims (in addition to the single claim disclosed in his case), which his attorneys started filing less than a week after plaintiff settled with all remaining defendants during jury selection.²⁶ All of these claims were based on products and exposures not disclosed in his tort case. Many of the claims identified the plaintiff's exposures to specific asbestos-containing products, largely during his Navy service, including particular brands of pipe covering, block, and insulating cement products.²⁷ Plaintiff 6 had affirmatively denied knowledge of some of these products when specifically questioned about them during his deposition.²⁸ In addition to the trust claims, plaintiff's attorneys filed ballots for him in six bankruptcy cases, swearing under penalty of perjury that plaintiff was exposed to products for which those companies were responsible.²⁹ In the tort case, only one of those (the Garlock exposure) was disclosed (Garlock was not in bankruptcy at that time, and was a co-defendant in the case).³⁰

Industries, LLC's Inspection Demands to Plaintiffs (excerpts attached as **Ex. 37**) at 8:16-18 & Ex. E.

²⁵ Defendant CertainTeed Corporation's Pre-Trial Interrogatories Propounded to Plaintiff [First Set] (attached as **Ex. 38**) Nos. 11-15; Request for Production of Documents to Plaintiff Propounded by Defendant CertainTeed Corporation (attached as **Ex. 39**) No. 2; Plaintiff's Amended Response to Defendant CertainTeed Corporation's Pre-Trial Interrogatories Propounded to Plaintiffs [First Set] (Ex. 33); Plaintiff's Second Amended Response to Defendant CertainTeed Corporation's Pre-Trial Interrogatories Propounded to Plaintiffs [First Set] (attached as **Ex. 40**); First Supplemental Interrogatory to Plaintiff by Defendant [CertainTeed] (attached as **Ex. 41**); First Supplemental Request for Production of Documents to Plaintiff by Defendant [CertainTeed] (attached as **Ex. 42**); Plaintiffs' Response to Defendant CertainTeed Corporation's First Supplemental Interrogatory to Plaintiffs (attached as **Ex. 43**); Plaintiffs' Response to Defendant CertainTeed Corporation's First Supplemental Request for Production of Documents to Plaintiffs (attached as **Ex. 44**).

²⁶ Garlock PIQ (attached as **Ex. 45**).

²⁷ See id. at Ex. 8 (AC&S, Armstrong, Celotex, Eagle-Picher, Fibreboard trust claims attached to PIQ).

²⁸ Plaintiff's Discovery Dep. Vol. 6 (Ex. 35) at 1127:15-1128:1, 1198:21-1199:2.

²⁹ Plaintiff 6 Ballots (attached as **Ex. 46**).

³⁰ Plaintiff's Videotaped Direct Dep. (April 20, 2009) (excerpts attached as **Ex. 47**) at 102-107.

31. Plaintiff 7 claimed direct and take-home exposure to Old CT and other joint compounds from her father's work as a contractor and landlord of rental homes.³¹ She also claimed take-home exposure to Old CT AC Pipe through washing her son's laundry after he allegedly broke up old pipe during a construction job from 1988 to 1992.³² Although plaintiff's father had worked as an insulator at shipyards during World War II, including the Kaiser Shipyard, she testified that she had no personal knowledge of her father's shipyard exposure; that he lived apart from his family during those years, coming home only for the weekends; and that she had no involvement with his laundry.³³ Old CT settled her claim for a substantial six-figure amount in late May 2010.

32. However, Plaintiff 7's PIQ in the Garlock case indicates she filed 14 trust claims, 12 of which reflect exposures that were never disclosed in her tort case.³⁴ Moreover, one week after Old CT settled with her, Plaintiff 7 executed an affidavit to support trust claims that substantially differed from her deposition testimony in material respects. In contrast to her deposition testimony about her father's shipyard exposure, the affidavit stated she had personal knowledge of her father's work as an insulator at the Kaiser Shipyard, and described how he "cut, mixed and applied thermal insulation and worked in close proximity to others as they cut, mixed and applied thermal insulation."³⁵ The affidavit also stated that she "always hugged him when he returned from work," and "helped my mother launder his clothing."³⁶ Plaintiff 7 relied

³¹ Plaintiffs Second Supplemental Answers to Standard Interrogatories Propounded by Defendants (Personal Injury) Set 1 (attached as **Ex. 48**) at 7-10.

³² Id. at 11.

³³ Plaintiff's Dep. Vol. 1 (excerpts attached as **Ex. 49**) at 19:2-12, 21-24, 97:5-14, 98:9-99:3; Plaintiff's Dep. Vol. 2 (excerpts attached as **Ex. 50**) at 106:25-107:22; Plaintiff's Dep. Vol. 3 (excerpts attached as **Ex. 51**) at 185:7-186:9, 198:9-199:7.

³⁴ Garlock PIQ Table B (attached as **Ex. 52**). Claims were filed with the following trusts: Amatex, ARTRA, Babcock & Wilcox, Celotex, Manville, Kaiser Aluminum, Keene, National Gypsum, Owens Corning, Fibreboard, Raytech, U.S. Gypsum, UNR, and Western Asbestos.

³⁵ Declaration in Support of Claims, dated June 2, 2010 (attached as **Ex. 53**).

³⁶ Id.

on that shipyard exposure in support of at least three trust claims. Her Garlock PIQ also claimed exposure to Garlock packing through contact with her father's clothes upon his returning home from the shipyards.³⁷ This evidence of significant exposure to asbestos insulation products was a more likely explanation for her mesothelioma than the claimed exposure to Old CT products, but Old CT was prevented from pursuing this explanation in discovery or trial. Moreover, all the exposures would have been relevant to apportionment under California law.

33. Plaintiff 8 filed suit in Cook County, Illinois in 2009. He alleged that he worked with Old CT's AC Pipe during his time as the water superintendent of a small North Dakota town.³⁸ In his deposition, Plaintiff 8 recalled only products manufactured by non-bankrupt defendants, with the help of his previously signed affidavit that he brought to the deposition.³⁹ Old CT resolved the case for a mid-six-figure settlement in June 2011.

34. A Garlock PIQ submitted on behalf of Plaintiff 8 shows he filed 21 trust claims. Many of the forms identified the plaintiff's exposure to particular products, including particular brands of asbestos-containing insulation, pipe covering, and cement, and stated he was exposed to the products for years and in many cases *decades*.⁴⁰ However, none of the claims were produced in discovery in the case, nor were any of the exposures to particular asbestos-containing products of the bankrupt companies disclosed. In response to a discovery request asking for "all documents" that "relate to your use of or exposure to asbestos or asbestos-containing products," Plaintiff 8 did not refer to or provide any of the trust claim forms, even though he had submitted at least 10 of them on October 2, 2009—three days before he signed the

³⁷ Spreadsheet containing data submitted by PIQ claimants in GST Est. Trial Ex. 8002 (Debtor can provide a copy to the ACC and FCR upon request).

³⁸ Plaintiff's Deposition (excerpts attached as **Ex. 54**) at 64:7-25, 77:12-78:4, 79:4-80:11, 85:2-8, 86:18-88:1, 88:17-89:12.

³⁹ *Id.* at 15:16-17:6, 30:3-9, 31:3-10, 32:10-33:9, 34:16-37:6, 45:12-47:16, 48:10-51:17, 54:17-57:10, 57:11-61:2, 67:24-68:8, 74:9-75:25, 94:18-95:9, 98:19-102:2 & Ex. A.

⁴⁰ Garlock PIQ (attached as **Ex. 55**).

discovery response.⁴¹ North Dakota law (which would have applied to his claim under Illinois choice-of-law rules) follows several liability, and thus the many undisclosed exposures would have been directly and materially relevant to Old CT's defense of this case.⁴²

35. In light of DBMP's experiences described above, there is an urgent need to uncover additional evidence establishing the extent of this practice in Old CT's claims resolution history, and discovery is the only way to do so because the Trusts keep claim filings confidential.⁴³ The cases identified so far are either those rare instances where Old CT fortuitously discovered the non-disclosure prior to settlement (the three cases highlighted in the Informational Brief) or are examples of older claims for which information exists in the public record of the Garlock estimation trial, enabling DBMP to uncover the non-disclosure.⁴⁴ DBMP cannot compile a more comprehensive list without the discovery sought herein. Moreover, the ACC and the FCR will inevitably argue that these known cases are not representative. Discovery that will help determine whether withholding of evidence was prevalent and thus whether past settlements are an appropriate measure of DBMP's liability—a role that such discovery performed in Garlock—could not be more basic to determining “the liabilities . . . of the debtor” as well as “formulat[ing] . . . a plan,” and thus is justified under Rule 2004.⁴⁵

⁴¹ Plaintiff's Answers to Defendants' Consolidated Requests for Production of Documents (**Ex. 56**) at 3, 7.

⁴² See Gregory v. Beazer East, 384 Ill.App.3d 178, 198 (2008) (asbestos case; “presumption” that “local law of the state where the injury occurred” should govern), citing Restatement (Second) Conflict of Laws § 146, at 430 (1971) & Townsend v. Sears, Roebuck & Co., 227 Ill. 2d 147, 164-65 (2007); N.D. Century Code § 32-03.2-02 (several liability).

⁴³ See, e.g., Owens Corning/Fibreboard Asbestos Personal Injury Trust Distribution Procedures § 6.5, available at <http://www.ocfbasbestoatrust.com/wp-content/uploads/2015/12/OC-FB.-Amended-TDP.12.2.2015-C0463534x9DB18.pdf> (last visited July 10, 2020).

⁴⁴ Further, the ACC and the FCR have propounded an informal discovery request to DBMP seeking “[c]omplete case files for any plaintiff that the Debtor contends it settled with in error because of representations made, failure to provide complete and accurate information, or fraud by such plaintiff in the tort system.” DBMP has no ability to provide a full and accurate response to this request without the discovery requested in this Motion, and the ACC's and the FCR's interest in this topic confirms the urgent need for the discovery.

⁴⁵ In addition to being necessary for DBMP to formulate a plan as described herein, the requested data also will be relevant and useful for other purposes going forward in this case. If the parties are unable to negotiate a consensual resolution without it, DBMP intends to ask this Court to estimate the aggregate amount of DBMP's current and

The Requested Discovery Will Pose Minimal Burdens on DCPF and the Trusts and Will Protect Claimant Privacy

36. In weighing “the relevance of the discovery against the burden it will impose on the producing party,” DeWitt, 608 B.R. at 800, it is clear that the relevance of the information and the Debtor’s need for it are demonstrably high for the reasons described above.

37. In contrast, the burden on DCPF and the Trusts will be quite low. DBMP has crafted the request narrowly, to obtain information directly relevant to the extent of any evidence manipulation against Old CT and DBMP and its impact. And although there are currently over 70 asbestos bankruptcy trusts, DBMP seeks discovery from only 11 of them, all but one of which are managed by the same claims processing facility. This Motion seeks discovery from the same facilities that were subject to the trust discovery orders in the Garlock case. Even though broader discovery from more of the dozens of trusts that have been established to pay the liabilities of formerly prominent debtors would also be relevant and would permit discovery of the full scope of this practice, DBMP believes that, as in Garlock, this targeted discovery will be sufficient to show the extent of evidence manipulation in historical cases against DBMP, and its impact.⁴⁶

38. In addition, the request is restricted to non-sensitive, database information such as exposure- and claims-related data fields, and does not include medical data beyond the disease claimed (including body site) and diagnosis date (both of which plaintiffs themselves make public in their complaints or court pleadings). Moreover, all of the information requested is

future asbestos liability for plan purposes and to assist in the negotiation, formulation, and confirmation of a plan. See 11 U.S.C. § 502(c); A.H. Robins Co., Inc. v. Piccinin (In re A.H. Robins Co., Inc.), 788 F.2d 994, 1012-13 (4th Cir. 1986). To the extent the ACC and the FCR advocate using Old CT’s settlements to estimate DBMP’s liability, the discovery also will be relevant at estimation for all the reasons described above. See In re Garlock Sealing Techs., 504 B.R. at 94; S. Elizabeth Gibson, Fed. Judicial Ctr., Judicial Management of Mass Tort Bankruptcy Cases at 97 (2005) (noting that if past settlements are proffered at estimation, debtor “should have the opportunity prior to a judicial estimation to establish the invalidity of past settlement values as a basis for valuing present and future claims”).

⁴⁶ DBMP reserves all rights to seek further discovery from other claims processing facilities and trusts, with respect to some or all of the claims at issue in this motion, to the extent it becomes necessary in this case.

maintained by DCPF and the Trusts in database form and can be retrieved using electronic searches, with minimal expense for DCPF and the Trusts. See Bates Decl. ¶ 41. DCPF has access to software that can quickly and easily compile the requested data fields after being provided with a list of DBMP Claimants. In fact, DCPF and the Trusts routinely respond to such discovery requests and have the technology to respond quickly and at relatively modest expense. DBMP will reimburse DCPF's and the Manville Trust's reasonable and documented out-of-pocket costs in complying with the subpoenas, which from past experience should not be substantial.

39. As further evidence of the ease with which the Trusts can produce data of this nature and the lack of sensitivity, the Manville Trust routinely provides this type of data in discovery in individual cases. The Manville Trust has a published practice of providing exposure-related information as a matter of course, to requesting tort defendants with respect to any person who asserts a claim against such defendant. See Frequently Asked Questions Related to Third Party Discovery of Information and Documents Pursuant to the 2002 Manville Trust TDP (attached as **Ex. 57**) ("**Manville FAQ**").⁴⁷ The Manville Trust provides the information in response to a subpoena (even an out-of-state subpoena), without objection (although it will stay production pending resolution of a timely filed objection by an individual claimant). Id. at 2-3. The Manville Trust for many years provided complete copies of its entire database to experts for a fee (which is how Bates White obtained its copy of the database from 2002), and until 2007 licensed copies to members of the public (including Bates White) for a fee. The expert for the ACC in this case has recognized that data from the Manville Trust are regularly used in assessing other companies' liabilities, stating that "Manville data are universally regarded as the most

⁴⁷ Such a request would of course be unavailing if the claimant had not yet filed an eventual Manville Trust claim—and determining the extent to which this occurred in DBMP's historical cases is one of the reasons the discovery requested herein is necessary.

comprehensive data on asbestos claims filing and have been used repeatedly by analysts in forecasting liabilities for other defendants.” Mark A. Peterson, USG Corporation Projected Liabilities for Asbestos Personal Injury Claims (May 2006), at 30 (attached as **Ex. 58**).

40. In Garlock, DCPF produced the requested data (of a scope similar to what is requested here) less than a month after the order overruling its objections was entered.⁴⁸ Also in the Garlock case, during discovery relating to plan confirmation and estimation of non-mesothelioma claims, the court ordered the Manville Trust to produce asbestos exposure and medical data fields pertaining to more than 100,000 non-mesothelioma claimants against Garlock, as well as copies of the medical and exposure records those claimants had submitted. See Order Granting in Part and Denying in Part Debtors’ Motion for Leave to Serve Subpoena on Manville Trust ¶ 5, In re Garlock Sealing Techs. LLC, No. 10-31607 (Bankr. W.D.N.C. July 24, 2015) (Dkt. 4721) (attached as **Ex. 60**). The Manville Trust produced tens of thousands of records pertaining to non-mesothelioma claimants against Garlock a little more than a month after the order on that discovery was entered, despite a more complicated matching exercise because Garlock lacked Social Security numbers for most such claimants. Id.

41. DBMP has further limited any burden by restricting the request to DBMP Claimants for whom DBMP has Social Security numbers. This will permit a simple matching protocol under which the Trusts would produce those records matching either (a) any DBMP Claimant’s full Social Security number, or (b) the last four digits of any DBMP Claimant’s Social Security number as well as the DBMP Claimant’s last name. This procedure will minimize the risk of false positive matches. Bates Decl. ¶ 41.

⁴⁸ Compare Ex. 4 with GST-1601, Letter from Stephen M. Juris to Garland S. Cassada dated Sept. 5, 2012 (attached as **Ex. 59**). DCPF made a supplemental production two months later.

42. Finally, DBMP proposes an order to govern this discovery, providing that the data will be used exclusively in connection with this bankruptcy case, and will be kept confidential unless used in proceedings in this case, and then only upon redacting personally sensitive information such as full Social Security numbers. See Ex. 1. The discovery here has been crafted to minimize burden and cannot be characterized as “annoy[ing], embarrass[ing] or oppress[ing] the party being examined.” Symington, 209 B.R. at 684-85.

43. Many courts in addition to those referenced above have recognized that discovery from trusts is proper when they possess evidence relevant to a pending bankruptcy case, including in In re W.R. Grace & Co. (involving over 70,000 claimants),⁴⁹ In re Motors Liquidation Company,⁵⁰ and In re Specialty Products Holding Corporation.⁵¹

44. The proposed discovery here is far less extensive than many of the requests these other courts have approved—limited to data for approximately 9,000 claimants instead of the 70,000 claimants at issue in W.R. Grace, or the more than 100,000 in the Garlock Manville Trust

⁴⁹ See Transcript of Aug. 29, 2007 Hearing at 49-55, 74, 83, In re W.R. Grace & Co., No. 01-01139 (Bankr. D. Del. 2007) (Dkt. 16747) (attached as **Ex. 61**); *Order Regarding W.R. Grace & Company’s Motions to Compel Discovery Materials from the Celotex Asbestos Settlement Trust* at 1, In re W.R. Grace & Co., No. 01-01139 (Bankr. D. Del. Oct. 3, 2007) (Dkt. 16979) (attached as **Ex. 62**); see also *Order Regarding W.R. Grace & Company’s Motion to Compel Discovery Materials from the DII Industries, LLC Asbestos PI Trust*, In re W.R. Grace & Co., No. 01-01139 (Bankr. D. Del. Oct. 9, 2007) (Dkt. 17024) (attached as **Ex. 63**).

⁵⁰ See *Order Pursuant to Bankruptcy Rule 2004 Authorizing the Official Committee of Unsecured Creditors of Motors Liquidation Company to Obtain Discovery from (I) the Claims Processing Facilities for Certain Trusts Created Pursuant to Bankruptcy Code Section 524(g), (II) the Trusts, and (III) General Motors LLC and the Debtors*, Case No. 09-50026 (Bankr. S.D.N.Y. Aug. 24, 2010) (Dkt. 6749) (attached as **Ex. 64**); see also Transcript of Hearing at 8, In re Motors Liquidation Co., No. 09-50026 (Bankr. S.D.N.Y. Aug. 9, 2010) (Dkt. 6641) (attached as **Ex. 65**) (Judge Gerber stating that the request for trust claim data is plainly relevant and that Bankruptcy Rule 2004 is appropriately invoked). The need for the discovery in the Motors Liquidation case was obviated after the asbestos claimants’ committee stipulated that the asbestos claimants had asserted claims against and recovered from all the trusts subject to the discovery. Stipulation and Order, In re Motors Liquidation Co., No. 09-50026 (Bankr. S.D.N.Y. Dec. 6, 2010) (Dkt. 8002) (attached as **Ex. 66**).

⁵¹ See *Debtor’s Objection to T H Agriculture & Nutrition Asbestos Personal Injury Trust and Verus Claims Services, LLC’s Joint Motion to Quash and, Alternatively, for Issuance of a Protective Order* at 2, In re Spec. Prods. Holding Corp., Misc. No. 12-108 (Bankr. D.N.J. Nov. 12, 2012) (Dkt. 5) (attached as **Ex. 67**); *Order Denying T H Agriculture & Nutrition Asbestos Personal Injury Trust & Verus Claims Services, LLC’s Joint Motion to Quash and, Alternatively, for Issuance of a Protective Order*, In re Spec. Prods. Holding Corp., Misc. No. 12-108 (Bankr. D.N.J. Dec. 14, 2012) (Dkt. 28) (attached as **Ex. 68**).

discovery. The discovery is measured and does not impose undue burdens or costs on the Trusts, all while generating information needed to determine a key issue in this case: the extent to which DBMP's historical resolutions were tainted by evidence manipulation. This Court should not rely on those historical resolutions, allow the ACC and the FCR to rely on them, or allow the solicitation of a plan that relies on them, without understanding the extent to which this problem of evidence manipulation existed.

Notice

45. Consistent with the *Order Establishing Certain Notice, Case Management and Administrative Procedures* (Dkt. 27) (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 FCR; (d) counsel to Debtor's non-debtor affiliate, CertainTeed LLC; (e) counsel for DCPF and the Trusts; and (f) the other parties on the Service List established by the Case Management Order. DBMP submits that, in light of the nature of the relief requested, no other or further notice need be provided.

No Prior Request

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

Dated: August 19, 2020
Charlotte, North Carolina

Respectfully submitted,

/s/ Garland S. Cassada

Garland S. Cassada

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ATTORNEYS FOR DEBTOR AND DEBTOR
IN POSSESSION

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

DBMP LLC,¹

Debtor.

Chapter 11

Case No. 20-30080 (JCW)

**ORDER GRANTING DEBTOR’S MOTION FOR BANKRUPTCY RULE 2004
EXAMINATION OF ASBESTOS TRUSTS AND GOVERNING CONFIDENTIALITY
OF INFORMATION PROVIDED IN RESPONSE**

This matter came before the Court pursuant to Debtor’s Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts (Dkt. No. _____) (the “**Motion**”), filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**DBMP**”).² Upon consideration of the Motion, the responses filed thereto, and the arguments of counsel at the hearing on this

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, Pennsylvania 19355.

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

matter, and for the reasons stated on the record at the hearing, the Court grants the Motion and hereby ORDERS, ADJUDGES, AND DECREES as follows:

1. The Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334, and it is a core proceeding under 28 U.S.C. § 157(b)(2). Venue of this proceeding and the Motion is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. Adequate notice of the Motion was given and it appears that no other notice need be given.

2. Pursuant to Federal Rules of Bankruptcy Procedure 2004 and 9016, the Debtor is authorized to issue and serve subpoenas requesting the data described in paragraph 6 below on the Manville Personal Injury Settlement Trust (“**Manville Trust**”) and the Delaware Claims Processing Facility (“**DCPF**”) with respect to the following asbestos personal injury trusts whose claims are handled by DCPF (the “**DCPF Trusts**,” and together with the Manville Trust, the “**Trusts**”):

- a. Armstrong World Industries Asbestos Personal Injury Settlement Trust
- b. Babcock & Wilcox Company Asbestos Personal Injury Settlement Trust
- c. Celotex Asbestos Settlement Trust
- d. DII Industries, LLC Asbestos PI Trust (Halliburton, Harbison-Walker Subfunds)
- e. Federal Mogul U.S. Asbestos Personal Injury Trust (T&N, FMP, Fel-Pro, Vellumoid, Flexitallic Subfunds)
- f. Flintkote Asbestos Trust
- g. Owens Corning Fibreboard Asbestos Personal Injury Trust (FB and OC Subfunds)
- h. Pittsburgh Corning Corporation Asbestos PI Trust
- i. United States Gypsum Asbestos Personal Injury Settlement Trust
- j. WRG Asbestos PI Trust³

The subpoenas seek evidence that is relevant to the negotiation, formulation, solicitation, and confirmation of a plan of reorganization in this case, and are proportional to the needs of the case, considering the importance of the issues at stake, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in

³ The Debtor may also subpoena the DCPF Trusts if necessary to ensure compliance with this Order.

resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

3. On or before _____, 2020, the Debtor shall provide to the Manville Trust and DCPF a list (in electronic, text searchable format) of last names and Social Security numbers (“SSNs”) for claimants and other injured parties who asserted mesothelioma claims against the Debtor or the former CertainTeed Corporation (“**Old CT**”) that were resolved by settlement or verdict and for whom the Debtor possesses Social Security numbers (“**DBMP Claimants**”). The list referenced in this paragraph may delete punctuation marks, prefixes (Mr., Miss, Ms., etc.), suffixes (Sr., Jr., III, IV, etc.), and any other words that do not constitute part of the name (“executor,” “deceased,” “dec,” etc.) but that may be contained in the last name field, and may also close spaces between parts of a name (i.e., “Van” or “De”).

4. On or before _____, 2020, DCPF and the Manville Trust shall identify the claimants in the Trusts’ databases whose filings match (a) any DBMP Claimant’s nine-digit SSN, or (b) any DBMP Claimant’s last name and last four digits of SSN (the “**Matching Claimants**”).

5. DCPF and the Manville Trust shall notify the Matching Claimants’ counsel of record that the relevant Trusts have received a subpoena from the Debtor, and inform such counsel that the Matching Claimants’ data described in paragraph 6 below will be produced if they do not notify DCPF or the Manville Trust and the Debtor in writing, within 14 days, that the Matching Claimant is not a DBMP Claimant. Any dispute regarding whether a Matching Claimant is a DBMP Claimant shall be heard in this Court, upon notice to the Matching Claimant, and no data shall be produced for any such claimant until the Court determines whether the Matching Claimant is a DBMP Claimant. If counsel for any Matching Claimants do

not on or before _____, 2020 notify DCPF or the Manville Trust and the Debtor that the Matching Claimant is not a DBMP Claimant, DCPF and the Manville Trust shall produce to Debtor the information in paragraph 6 relating to any such Matching Claimants on or before _____, 2020.

6. DCPF and the Manville Trust shall produce to Debtor (in electronic database format, and, with respect to DCPF, separated by Trust) the following information pertaining to Matching Claimants who do not object or who are determined by the Court to be DBMP Claimants (to the extent the relevant Trust databases contain such information) (the “**Matched Production**”):

- a. Full name of injured party;
- b. Injured party SSN;
- c. Gender of injured party;
- d. Date of birth of injured party;
- e. Date of death of injured party;
- f. State of residency of injured party;
- g. Date of diagnosis of injured party;
- h. Claimed disease and disease body site (if available);
- i. Full name of any claimant who is not the injured party and his or her SSN;
- j. Claimant’s law firm, jurisdiction of tort claim filing, and date of tort claim filing;
- k. Date claim filed against Trust;
- l. Date claim approved by Trust, if approved;
- m. Date claim paid by Trust, if paid;
- n. If not approved or paid, status of claim;

- o. All exposure-related fields, including:
 - i. Date(s) exposure(s) began;
 - ii. Date(s) exposure(s) ended;
 - iii. Manner of exposure;
 - iv. Occupation and industry when exposed; and
 - v. Products to which exposed;
- p. Mode of review selected; and
- q. Mode of review under which claim was approved and paid.

7. The Matched Production shall be designated “Confidential” pursuant to the Agreed Protective Order Governing Confidential Information (Dkt. 251). In addition to and without diminution of the protections in that Order, the provisions in this Order will apply, including the following:

- a. No Matched Production data shall be disseminated or disclosed, whether in written or electronic form, to any person other than (i) the Debtor, the Official Committee of Asbestos Personal Injury Claimants (the “**ACC**”), the Future Claimants’ Representative (the “**FCR**”), and CertainTeed LLC (“**New CT**”) (collectively, the “**Parties**”) and their employees or members who are personally performing work with respect to this bankruptcy case; (ii) any law firm rendering legal services with respect to the Parties, and each such law firm’s employees, agents, and representatives who are personally involved in rendering services in connection with this bankruptcy case, and (iii) any Party’s retained experts (consulting or testifying) and members of their staff, who are personally involved in rendering services to a Party in connection with this bankruptcy case; *provided*,

however, that the right of access to the Matched Production hereby conferred on the foregoing persons shall be subject to the conditions precedent set forth in paragraph 7.b immediately below.

- b. Any person exercising a right of access to the Matched Production shall thereby consent, and be deemed to consent, to be bound by this Order and shall thereby submit, and be deemed to submit, to the exclusive jurisdiction and venue of this Court for any dispute pertaining to the interpretation or enforcement of this Order. Without limitation of the generality of the foregoing sentence, as a condition of the right of access to the Matched Production conferred by paragraph 7.a above, every entity described in subparts (ii) and (iii) of paragraph 7.a shall execute a joinder in the form annexed to this Order as Exhibit A.1 or Exhibit A.2. Exhibit A.1 shall be executed on the part of corporations, partnerships, companies, or firms whose employees, representatives, or agents will receive access to the Matched Production in the performance of the firm's duties with respect to this bankruptcy case. Exhibit A.2 shall be signed in an individual capacity by individuals (such as witnesses or self-employed experts) who receive a right of access to the Matched Production under paragraph 7.a above in their individual capacities, rather than as employees, agents, or representatives of a firm.
- c. Any entity that receives access to the Matched Production as provided in this Order shall provide for physical, managerial, and electronic security thereof such that the Matched Production data are reasonably maintained and secured, ensuring that they are safe from unauthorized access or use during utilization, transmission, and storage.

- d. If Matched Production data are incorporated into or merged with any preexisting electronic information or database (a “**Merged Database**”), the Merged Database must itself be treated as confidential to the same extent as the underlying Matched Production itself, shall be maintained in a separate file, database, or physical storage medium, and shall be subject to the same use restrictions that this Order imposes on the Matched Production itself.
- e. No claimant-specific data from or derived from the Matched Production shall be (i) offered as evidence in this bankruptcy case, (ii) placed on the public record, or (iii) filed with this Court, the District Court, or any reviewing court, absent further order by this Court made after notice of hearing of a motion authorizing such use (with notice to claimants provided to their attorneys at the addresses contained in the data produced by the Manville Trust and DCPF), which motion shall be brought by the movant no later than 30 days before such offer or use.
- f. In connection with a motion pursuant to Paragraph 7.e, or any response to such motion, if a party proposes to place such Matched Production data under seal, that party shall have the burden of making the showing required for sealing under applicable law.
- g. In addition to, and without diminution of any other use restrictions in this Order, the Matched Production shall be used only in connection with this bankruptcy case.
- h. Notwithstanding the foregoing, in the course of proceedings in this bankruptcy case and solely for the purposes thereof, a party may use in this Court, or any reviewing court, summaries or analyses derived from the Matched Production if

such material is redacted so as not to reveal any identifying detail of any individual claimant.

- i. Likewise, nothing herein shall prohibit an expert witness with access pursuant to the Agreed Protective Order from using or referring to the Matched Production in an expert report, preparing summaries of information for other experts to rely on, or testifying concerning the Matched Production, so long as such testimony, summary, or report does not reveal any identifying detail of any individual claimant.
8. Pursuant to section 105(a) of the Bankruptcy Code, none of the Matched Production shall be subject to subpoena or otherwise discoverable by any person or entity other than the Parties. The ACC, the FCR, and New CT may obtain a copy of the Matched Production upon request to the Debtor.
9. Within one year after the date of substantial consummation of a confirmed chapter 11 plan of reorganization for the Debtor, the Parties and any retained professionals, experts or agents possessing the Matched Production shall (i) permanently delete those files, and any excerpts thereof, without in any way retaining, preserving, or copying the Matched Production, and (ii) certify in writing to DCPF and the Manville Trust that they have permanently deleted such files and any excerpts thereof.
10. Nothing in this Order shall restrict any person's right to make lawful use of:
- a. any discrete data set or materials that came into the possession of such person lawfully and free of any confidentiality obligation;

- b. any exhibit or other document that is placed on the public record in this bankruptcy case in conformity with this Order, or any data or material that is or becomes publicly available other than by a breach of this Order; or
- c. any discrete data set or materials developed by or on behalf of such person independent of the Matched Production.

11. Debtor shall reimburse DCPF and the Manville Trust their reasonable expenses in complying with the subpoenas. DCPF and the Manville Trust shall have no liability in connection with their compliance with the subpoenas described in this Order.

12. This Court shall retain exclusive jurisdiction to interpret, apply, and enforce this Order to the full extent permitted by law.

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 A.1 TO ORDER GRANTING DEBTOR'S MOTION FOR BANKRUPTCY
RULE 2004 EXAMINATION OF ASBESTOS TRUSTS AND GOVERNING
CONFIDENTIALITY OF INFORMATION PROVIDED IN RESPONSE**

**Re: *In re DBMP LLC*
Case No. 20-30080 (JCW)
United States Bankruptcy Court
for the Western District of North Carolina**

Instructions: *This joinder must be executed by an authorized representative of any corporation, partnership, company, or firm required to execute a joinder pursuant to paragraph 7.b of the above-referenced Order.*

A C K N O W L E D G E M E N T

On behalf of my employer, _____ [write in name of employer] (“**Employer**”), I and other employees, agents, and representatives of Employer may be given access to the Matched Production. The Matched Production constitutes confidential and protected information in connection with the above-referenced Order Granting Debtor’s Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts and Governing Confidentiality of Information Provided in Response (the “**Order**”), entered by the United States Bankruptcy Court for the Western District of North Carolina (the “**Bankruptcy Court**”) in the above-referenced chapter 11 case. Capitalized terms used in this Acknowledgment but not otherwise defined herein shall have the meanings ascribed to them in the Order.

I have read the Order on behalf of Employer as part of performing its duties to _____ [name of the Party or other client for whom Employer is rendering services in connection with the bankruptcy case]. I understand the conditions and obligations of confidentiality, and use restrictions, that the Order makes applicable to the Matched Production. By my signature below, Employer, for itself and all of its employees, agents, and representatives who receive access to the Matched Production, hereby accepts and agrees to be bound by, and to abide by, those conditions, obligations, and restrictions. On Employer’s behalf, I represent that Employer has made, or will make the Order and this joinder known in advance to all of Employer’s employees, agents, and representatives who are to receive access to the Matched Production, so that they will be on notice of Employer’s duties in connection therewith and their own responsibilities to ensure compliance with the Order.

Employer, its employees, agents, and representatives will not disclose any data from the Matched Production to any person not authorized by the Order, or further order of the Bankruptcy Court, to receive such information. They will not use the Matched Production for any purpose other than the bankruptcy case.

Pursuant to paragraph 9 of the Order, Employer will destroy the Matched Production and any Merged Databases within one year of the date of substantial consummation of a confirmed

chapter 11 plan of reorganization for the Debtor (the “**Plan**”), and will promptly certify such destruction in writing to counsel of record for DCPF and the Manville Trust.

Employer and I (in my individual capacity and my capacity as a representative of Employer) consent to the exclusive jurisdiction and venue of the Bankruptcy Court for any action to interpret, apply, and enforce the terms of the Order and this joinder.

I represent that I am duly authorized to execute this joinder on behalf of Employer.

By: _____
Print Name: _____
Title: _____
Employer: _____
Address: _____

Dated: _____
Relationship to Employer: _____

**EXHIBIT A.2 TO ORDER GRANTING DEBTOR'S MOTION FOR BANKRUPTCY
RULE 2004 EXAMINATION OF ASBESTOS TRUSTS AND GOVERNING
CONFIDENTIALITY OF INFORMATION PROVIDED IN RESPONSE**

Re: *In re DBMP LLC*
Case No. 20-30080 (JCW)
United States Bankruptcy Court
for the Western District of North Carolina

Instructions: *This joinder must be executed by any individual required to execute a joinder in his or her individual capacity pursuant to paragraph 7.b of the above-referenced Order.*

A C K N O W L E D G E M E N T

I may be given access to certain confidential and protected information in connection with the above-referenced Order Granting Debtor's Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts and Governing Confidentiality of Information Provided in Response (the "**Order**"), entered by the United States Bankruptcy Court for the Western District of North Carolina (the "**Bankruptcy Court**") in the above-referenced chapter 11 case.

I have read the Order. Capitalized terms used in this joinder but not otherwise defined herein shall have the meanings ascribed to them in the Order. I understand the conditions and obligations of confidentiality, and use restrictions, that the Order makes applicable to the Matched Production and hereby accept and agree to be bound by, and to abide by, those conditions, obligations, and restrictions.

I will not disclose the Matched Production to any person not authorized by the Order, or further order of the Bankruptcy Court, to receive such information. I will not use the Matched Production for any purpose other than the bankruptcy case.

Pursuant to paragraph 9 of the Order, I will destroy the Matched Production and any Merged Databases within one year of the date of substantial consummation of a confirmed chapter 11 plan of reorganization for the Debtor (the "**Plan**"), and will promptly certify such destruction in writing to counsel of record for the Manville Trust and DCPF.

I consent to the exclusive jurisdiction of the Bankruptcy Court for any action to interpret, apply, and enforce the terms of this Order and this joinder.

By: _____
Print Name: _____
Title: _____
Employer: _____
Address: _____

Dated: _____

EXHIBIT 3

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re
DBMP LLC,¹
Debtor.

Chapter 11
Case No. 20-30080 (JCW)

DECLARATION OF CHARLES E. BATES, PHD

Charles E. Bates, PhD, deposes and states as follows:

1. I am the Chairman of Bates White, LLC (“Bates White”), which maintains offices at 2001 K Street NW, North Building, Suite 500, Washington, DC 20006.

2. I am duly authorized to make this Declaration as a consultant for DBMP LLC (“DBMP” or the “Debtor”) in this case. I make this Declaration at the request of the Debtor’s counsel regarding the need for and usefulness of the information requested in the *Debtor’s Motion for Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants* (the “PIQ Motion”) and in the *Debtor’s Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts* (the “Trusts Motion”).² In particular, I explain how the requested information will be used to estimate DBMP’s legal liability for mesothelioma claims; assess whether the amounts of DBMP’s pre-petition settlements and resolutions of mesothelioma claims in the tort system represent its liability for such claims and can be extrapolated to estimate the Debtor’s liability for current and future claims; provide support to the Debtor in designing Claim Resolution Procedures (“CRPs”) that

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, PA 19355.

² I refer to the PIQ Motion and the Trusts Motion together as the “Motions.”

will provide payments to claimants that cover DBMP’s share of any liability for current and future mesothelioma claims; and evaluate the settlements-based analysis that the experts for the Official Committee of Asbestos Personal Injury Claimants (“ACC”) and the Future Claimants’ Representative (“FCR”) may present to the Court.

3. In this Declaration, I first describe the Law and Economics model I will use in my analyses in this matter. Second, I describe the information sought in the PIQ Motion and how it will be used in performing the needed analytical tasks. Third, I describe the information sought in the Trusts Motion and, again, how it also will be used to perform the needed analytical tasks. Finally, I describe Bates White’s data security protocols.

I. Qualifications

4. I have more than 25 years of experience in a wide range of litigation and commercial consulting areas, including extensive experience working on asbestos-related claims and liability issues. I specialize in the application of statistics and computer modeling to economic and financial issues, including asbestos-related claims and liability valuation matters. A detailed description of Bates White’s and my expertise is contained in the January 23, 2020 Declaration by Charles H. Mullin, PhD, attached as Exhibit B to the Debtor’s Ex Parte Application of the Debtor for an Order Authorizing It to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date.³ In addition, a complete and updated copy of my curriculum vitae is attached to this Declaration as Exhibit 1.

³ *Ex Parte Application of the Debtor for an Order Authorizing It to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date*, Jan. 23, 2020, Doc. 19, Exh. B(1).

5. This Court issued an Ex Parte Order Authorizing the Debtor to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date.⁴

II. Overview of the Law and Economics model that relates a defendant's settlements to its legal liability and the costs of defending claims

6. It is a well-established fact in the Law and Economics literature that the amount that a defendant pays and a plaintiff accepts to settle a lawsuit is not a direct measure of the defendant's liability.⁵

7. Depending on the nature of the litigation, settlements can be lower or higher than actual liability. Some situations will lead the parties to settle for an amount less than the actual liability (a windfall to the defendant and a loss for the plaintiff), while others will lead the parties to settle for an amount more than the actual liability (a windfall to the plaintiff and a loss for the defendant).

8. Factors that affect the amount that a defendant pays in settlement, other than its potential liability, include the direct costs of litigation, the potential impact on the defendant's reputation, the effect of litigation on the defendant's finances (stock price, ability to borrow, etc.), the time and resources that certain employees would have to spend on the process, and the

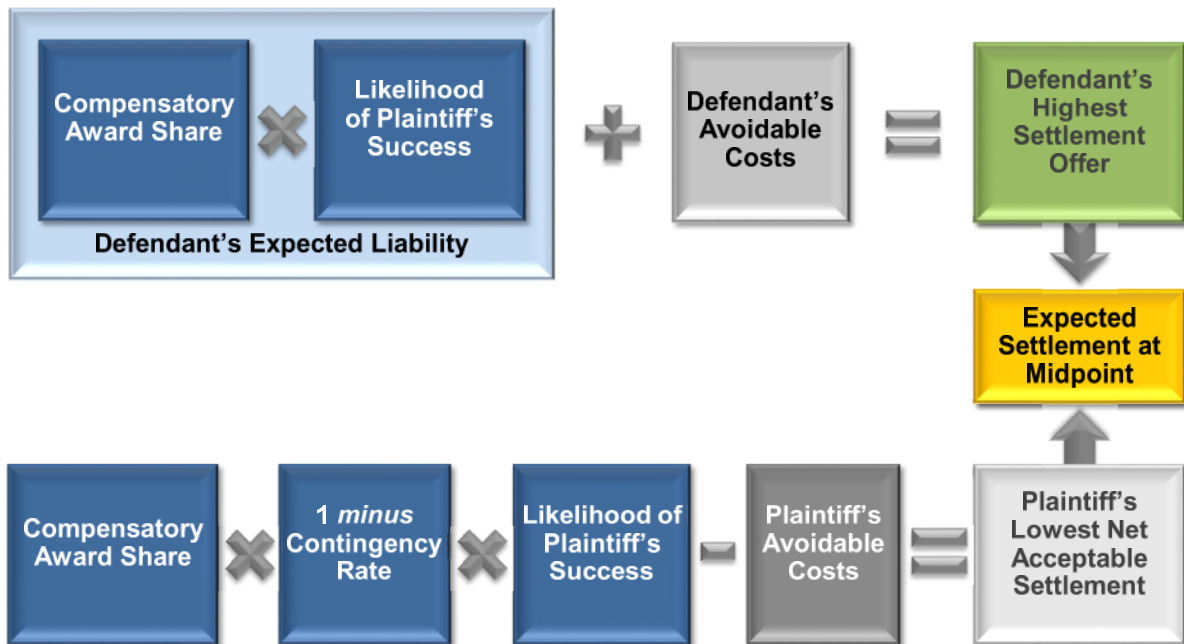
⁴ *Ex Parte Order Authorizing the Debtor to Retain and Employ Bates White, LLC as Asbestos Consultants as of the Petition Date*, Jan. 24, 2020, Doc. 37, as amended Doc. 363.

⁵ See, e.g.:
Richard A. Posner, "An Economic Approach to Legal Procedure and Judicial Administration," *Journal of Legal Studies* 2, no. 2 (1973): 399–458;
Lucian A. Bebchuk, "Litigation and Settlement Under Imperfect Information," *RAND Journal of Economics* 15, no. 3 (1984): 404–15;
George L. Priest and Benjamin Klein, "The Selection of Disputes for Litigation," *Journal of Legal Studies* 13, no. 1 (1984): 1–55;
David Rosenberg and Steven Shavell, "A Model in Which Suits Are Brought for Their Nuisance Value," *International Review of Law and Economics* 5 (1985): 3–13;
Lucian A. Bebchuk, "Suing Solely to Extract a Settlement Offer," *Journal of Legal Studies* 17 no. 2 (1988): 437–50; and
Lucian A. Bebchuk, "A New Theory Concerning the Credibility and Success of Threats to Sue," *Journal of Legal Studies* 25, no. 1 (1996): 1–25.

distraction of management from the main business of the company. The amount that plaintiffs accept for releasing a defendant from the litigation is also affected by factors other than liability. Plaintiffs’ litigation costs in personal injury claims also matter, though they are structured differently than defendants’ costs. The litigation process is onerous and costly; it takes time, sometimes years, to resolve a case.

9. Figure 1 presents a simplified version of the Law and Economics model for liability and settlements, and depicts its main components.⁶ The picture shows two equations, one for the defendant (top equation) and one for the plaintiff (bottom equation). I first describe each of the equation’s components, and then I explain how the two equations interact to determine a settlement.

Figure 1. Law and Economics model relating liability and settlements⁷



⁶ I present a simplified version of the model for illustrative purposes. The actual model takes into account the more complex structure of how settlements are determined – a structure in which the amount the claimant receives in settlement is reduced by the plaintiff law firm’s contingency rate, whereas the defendant pays the full settlement amount.

⁷ “Testimony of Dr. Charles E. Bates,” presentation, *In re Garlock Sealing Technologies LLC, et al.*, No. 10-31607 (Bankr. W.D.N.C. 2013) (Trial exhibit GST-8005), slide 22.

10. The top line of boxes in the figure illustrates the equation specifying the highest amount a defendant would be willing to pay in settlement at a given point in time in the litigation process. The light blue box labeled “Defendant’s Expected Liability” has two parts: the Compensatory Award Share and the Likelihood of Plaintiff’s Success. The Compensatory Award Share represents the amount of the defendant’s liability if it were determined to be liable. This component is the total expected compensatory award that the plaintiff would receive for the plaintiff’s damages (economic and non-economic damages) multiplied by the percentage share of total liability for which the defendant would be responsible, if found liable. The Likelihood of Plaintiff’s Success is the defendant’s perception of the probability that the defendant would be found liable at trial. The gray component to the right of the Defendant’s Expected Liability, labeled “Defendant’s Avoidable Cost,” represents the expenses that a defendant could avoid if it reached settlement instead of continuing the case until either the plaintiff releases the defendant or the case concludes. The avoidable expenses component declines as the case progresses through litigation because, as the litigation proceeds, expenses are incurred and cannot be saved any more. These components determine the Defendant’s Highest Settlement Offer, as they represent the total expected cost that the defendant would incur from not settling the case. If a plaintiff requested a settlement above this number, a (risk-neutral) defendant would be better off not settling and would continue to litigate. In contrast, with any settlement below this amount, the defendant would be *better off* settling than continuing to litigate (considering here only the impact of settlement on that particular case).

11. The bottom line of boxes in the figure illustrates the equation specifying the lowest net amount the plaintiff would be willing to accept in settlement at a given point in time in the litigation process (notice that the actual settlement would be above the calculated number

because the plaintiff law firm would charge its contingency fee, leaving the claimant with a lower recovery). The first component on the left is the “Compensatory Award Share,” which is defined in the same manner as the same component in the defendant’s equation. The second component, labeled “1 minus Contingency Rate,” is a factor that accounts for the portion of compensatory recoveries that the plaintiff has to pay to their lawyer. Typically, contingency rates in asbestos cases are between 30% and 40% of the compensatory award, which means this component is typically between 60% and 70% from the plaintiff’s point of view. The “Likelihood of Plaintiff’s Success” component reflects the plaintiff’s perception of the probability that the defendant would be found liable at trial. Finally, the gray component labeled “Plaintiff’s Avoidable Costs” represents the expenses that the plaintiff lawyer would incur throughout the litigation that would be deducted from the plaintiff’s recoveries, after applying the contingency rate. In asbestos cases, these costs for the plaintiffs mainly arise during trial, which may include experts, other trial costs, delay in compensation, and the emotional cost of going through trial. Importantly, in a contingency fee arrangement, a plaintiff, unlike the defendant, cannot avoid their lawyer’s fees by settling because the lawyer’s compensation is a percentage of the total recovery. As mentioned above, these components determine the Plaintiff’s Lowest Net Acceptable Offer; i.e., the total expected net recovery the plaintiff would receive from the defendant. Therefore, if a defendant offered a settlement that would generate a recovery (after the contingency fee) below the Plaintiff’s Lowest Net Acceptable Offer, a (risk-neutral) plaintiff would be better off continuing to litigate than settling. In contrast, in the case of any settlement offer above the Plaintiff’s Lowest Net Acceptable Offer, the plaintiff would be better off settling than continuing to litigate.

12. In cases in which the Defendant's Highest Settlement Offer would yield a net recovery above the Plaintiff's Lowest Net Acceptable Offer, there is room for settlement because both parties would be better off settling than continuing to litigate. The range between the Defendant's Highest Settlement Offer and an amount that would yield the Plaintiff's Lowest Net Acceptable Offer after applying the contingency fee is called the "Settlement Core." In cases in which both parties understand and agree on the value of the case (given the available information to the parties) and have a general understanding about the cost structure of the opposing party, it is expected that settlements will fall within the Settlement Core. This expectation is applicable to asbestos litigation because, on the one hand, defendants have faced thousands of cases and are represented by experienced defense attorneys and, on the other hand, although plaintiffs typically only experience one case in their lives, they are represented by sophisticated and experienced lawyers who have usually interacted multiple times with the defendant's counsel.

13. If the Defendant's Highest Settlement Offer would result in a net recovery below the Plaintiff's Lowest Net Acceptable Offer, the Settlement Core is "empty," and there would be no room for settlement. An empty Settlement Core occurs when there is a significant difference of opinion between the defendant and the plaintiff about the value of the case; it may be that the plaintiff considers that his probability of winning at trial, the defendant's share, or both are higher than what the defendant believes.⁸ Those are the rare cases that proceed to trial; they are not representative of the rest of a defendant's cases.

⁸ In some instances, a plaintiff lawyer or a defendant may wish to take a case to trial to demonstrate to the other party a willingness to spend the time and effort to try the case, even when the case could settle. Defendants may do this in an attempt to discourage non-meritorious filings. A plaintiff's lawyer may want to take a case to trial to establish a reputation as a successful trial lawyer, though the plaintiff must agree to forego settlement and proceed to trial.

14. Examination of the components of the model presented in Figure 1 shows the potential impact of plaintiffs' withholding exposure information. By withholding relevant alternative exposure information from a defendant in a particular case, a plaintiff can effectively increase each one of the three components of the defendant's settlement equation, thereby increasing the amount of the settlement the defendant would be willing to pay the plaintiff. First, with fewer available co-defendants disclosed, the defendant's Compensatory Award Share appears higher than it would if the plaintiff disclosed all sources of exposure, especially in jurisdictions in which several liability apportionment rules apply. Second, with the most likely contributors to a plaintiff's disease not included in the case, the likelihood that a remaining defendant would be found liable appears higher than it would if all exposure sources were disclosed. Third, if a plaintiff does not willingly disclose all sources of the plaintiff's asbestos exposure, the defendant must spend more money trying to find alternative exposure information through indirect sources.

III. The information sought in the PIQ Motion

15. As explained above, a reliable estimation of expected liability requires analysis of the various factors relevant to compensatory award share and to the likelihood of plaintiff success, as well as the number of expected claims that could go to trial. For the reliable estimation of DBMP's liability with respect to current claims and for the valuation of current claims under other approaches such as an extrapolation of historical settlement amounts or under CRPs, it is necessary to identify the number and characteristics of pending claims. In this section I explain how each of the types of information sought in the PIQ Motion are needed for these analytical tasks. Based on my experience working with a large number of asbestos defendants since the 1990s, asbestos defendants generally do not possess complete and up-to-date

information for most pending claims for several reasons, including because discovery has not been initiated or completed or because defendants do not collect certain information about claims and claimants until such claims resolve.

16. **Pending DBMP claims.** It is first necessary to identify the number and characteristics of the mesothelioma claims that would currently be asserted against DBMP. As of today, there are at least two groups of potential current mesothelioma claimants: (1) claimants who filed pre-petition mesothelioma claims against DBMP and who are reflected in DBMP's claims database as having an unresolved mesothelioma claim; and (2) claimants who developed mesothelioma and would allege contact with DBMP's asbestos-containing products but did not file a pre-petition claim against DBMP. There is also potentially a third group of such claimants: those with unresolved claims for which the database does not have information about the claimant's alleged disease; it is possible that some of these claimants have been diagnosed with mesothelioma.

17. The DBMP claims database contains approximately 4,000 records identified as unresolved mesothelioma claims. However, the number of records that actually represent a pending mesothelioma claim against DBMP is unknown, and information is necessary to determine which of the records actually represent pending mesothelioma claims. This is the case for several reasons. Of those 4,000 claims, almost 1,400 were filed more than four years before DBMP's petition date.⁹ Because more than 97% of DBMP payments to mesothelioma claimants were made within four years of the date the claims were filed, it is necessary to determine which

⁹ These 1,400 claims include claims by approximately 200 claimants represented by firms with which DBMP had a settlement agreement described in paragraph 19.

of those older records represent active claims against the Debtor as opposed to claims that have been abandoned by the claimants who filed them.

18. That a substantial number of mesothelioma records shown as pending in the DBMP database are in fact not pending is typical. In my experience, asbestos claims databases consistently do not contain up-to-date information on abandoned or dismissed claims because keeping track of that information is costly and provides no benefit to the defendant. *Garlock* is an example. As of its petition date, Garlock’s claims database showed 5,813 “pending” mesothelioma claim records. As a result of the Personal Injury Questionnaire (“PIQ”) process in that case, plaintiffs revealed that about 2,000 of those 5,813 claim records in fact did not represent a pending mesothelioma claim against Garlock.¹⁰ The PIQ information established, among other things, if a claim had already been resolved through dismissal or settlement, if a claimant did not have mesothelioma, if a claimant did not have Garlock exposure, or if the claimant had withdrawn or was no longer pursuing their claim against Garlock. Further, of the PIQ claimants who still asserted a pending claim against Garlock, only about 54% described any direct, bystander, or secondary exposure to Garlock’s asbestos-containing products.¹¹ Similarly, PIQs were authorized for individuals with pending mesothelioma claims in the Bondex bankruptcy case. That process revealed that about 1,500 of the 3,500 claims reflected as pending in the Bondex database in fact did not represent pending claims against the debtors in that case.¹²

¹⁰ See Expert Report of Jorge Gallardo-García, PhD, *In re Garlock Sealing Technologies LLC, et al.*, No. 10-31607 (Bankr. W.D.N.C. Feb. 15, 2013) (Trial exhibit GST-8004) [hereinafter “Gallardo-García Garlock Report”], Exhibit 1 and ¶ 33.

¹¹ Expert Report of Charles E. Bates, PhD, *In re Garlock Sealing Technologies LLC, et al.*, No. 10-31607 (Bankr. W.D.N.C. Feb. 15, 2013) (Trial exhibit GST-0996) [hereinafter “Garlock Report”], Exhibit 46.

¹² Expert Report of Charles H. Mullin, PhD, *In re Specialty Products Holding Corp. et al.*, No. 10-11780 (Bankr. D. Del. Aug. 15, 2012), Doc 3473-5, pp. 22–23.

19. I understand that DBMP had longstanding settlement arrangements, dating back a decade or more, with two law firms, under which DBMP agreed to resolve trial-set mesothelioma cases for a set average amount and did not conduct discovery or otherwise litigate the cases.¹³ Among the 4,000 pending mesothelioma records in the DBMP claims database, approximately 1,400 records are associated with these law firms. Historically, more than 60% of the mesothelioma claims DBMP paid to settle after 2010 were with those firms with which it had these kinds of agreements. Further, there are more than 500 pending mesothelioma records in DBMP's claims database filed within the six months prior to DBMP's petition date.¹⁴

20. The DBMP claims database contains no information on mesothelioma claimants who may exist but who have not filed a claim. DBMP therefore has no information on these claims.

21. As stated above in paragraph 16, it is also possible that there are some potentially pending mesothelioma claims not identified as mesothelioma claims in DBMP's claims database. In particular, the DBMP claims database includes pending records with no alleged disease information.¹⁵ There are more than 12,800 such records in DBMP's claims database that appear as pending. Based on my experience, the vast majority of these records likely either represent old claims alleging non-malignant conditions or are abandoned claims with no prospects against

¹³ *Declaration of Michael T. Starczewski in Support of Debtor's Motion for Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants*, Aug. 19, 2020, ¶ 6.

¹⁴ These 500 claims include claims by approximately 200 claimants represented by firms with which DBMP had a settlement agreement described earlier in paragraph 19.

¹⁵ Further, although some unresolved records show a non-mesothelioma disease, the claimant may indeed have mesothelioma. This type of error is possible in databases with hundreds of thousands of records.

DBMP.¹⁶ This is likely the case with most of the 12,800 pending records with unknown disease information, particularly because about 12,500 of them were filed more than four years before DBMP's petition date. Nonetheless, some of these pending records may represent mesothelioma claims.

22. Determining the actual number of pending mesothelioma claims against DBMP is a critical starting point for any evaluation of DBMP's liability, for any evaluation of a plan of reorganization (including whether the plan contains sufficient funding to pay such claims the full amount of their legal liability or amounts negotiated with the ACC or the claimants), and to determine how much claimants should receive from an eventual Trust subject to prescribed amounts of Trust funding. It is necessary to determine the extent of DBMP's liability for current claims and for estimating the number of future mesothelioma claims that could proceed to trial against DBMP. To estimate DBMP's liability for future mesothelioma claims, I will project the number of future claims that will be filed against DBMP and the trial risk associated with each claim. This estimate will take into account differences in demographic characteristics and exposure profiles revealed by the information sought in the PIQ Motion. I am currently unable to perform a reliable estimate because of the lack of information on the number and characteristics of current claims alleging DBMP exposure, and on other exposure allegations made by current claimants and resolved claimants in claims they submitted to asbestos trusts.

23. **Identifying information for the individual with mesothelioma and the individual pursuing the claim.** For the individual with mesothelioma, we need 9-digit Social Security Number ("SSN"), gender, birth date, life status, death date (if applicable), and state of

¹⁶ In fact, of the 12,800 pending records with no disease information in DBMP's database, about 7,700 show a status of "inactive" which is used to indicate that a DBMP claim was placed on an inactive non-malignant docket. Therefore, it is unlikely that any of these 7,700 records represents a pending mesothelioma claim.

residency. For the individual pursuing the claim, we need name and SSN. This information is necessary to identify claimants across the multiple sources of asbestos claims information available in this matter. In addition, this information is necessary to identify multiple claims that may have been generated by a single mesothelioma diagnosis, such as personal injury and wrongful death claims for the same person. This is important for all valuation purposes, because these claims may appear twice in the claims database but represent a single mesothelioma diagnosis.

24. **Diagnosis information.** This information includes the date of diagnosis and the mesothelioma body site (e.g., pleural versus peritoneal). This information is necessary to assess the viability of the claim and to understand the potential economic loss for the claimant and, accordingly, the possible damage amount. Although DBMP's database includes general disease information for many claim records, as discussed above, there may be unidentified mesotheliomas in the database. Similarly, the database includes diagnosis dates for a number of records, but it lacks this information for a large number of unresolved records. The diagnosis date provides information to determine the portion of total US diagnoses in a given year that were pursued against DBMP. Further, DBMP's claims database typically does not include information on the mesothelioma body site.

25. **The injured party's alleged exposure to asbestos-containing products for which DBMP is responsible.** For valuing current (and future) claims under any of the analytical tasks identified in this Declaration, information concerning the injured party's alleged exposure to DBMP asbestos-containing products is needed. We currently have little exposure information for current claims, including how many claimants will actually assert contact with a DBMP asbestos-containing product.

26. If the claimant alleges DBMP exposure, the methodology for estimating DBMP's legal liability requires detailed information about claimants' exposures over time. For this reason, the PIQ Motion requests, for each alleged exposure, information regarding type of exposure (occupational, non-occupational, secondary), location where the exposure allegedly occurred, dates of alleged exposure, occupation/job type of the individual while the alleged exposure occurred, and specific DBMP products to which the individual alleges exposure. This information regarding the nature and extent of the plaintiff's exposure is fundamental for assessing the share of liability (if any) that DBMP should cover for that claim. This information is also necessary to evaluate the ACC's/FCR's settlement analysis and the design of distribution procedures for a trust. Fundamentally, this information is important for determining how much money claimants with different DBMP exposure profiles should receive from an eventual trust, including whether these claimants would qualify for any payment.

27. **The injured party's alleged exposure to asbestos-containing products manufactured by or associated with other entities.** The methodology for estimating DBMP's legal liability also requires information concerning allegations of exposure to non-DBMP asbestos-containing products and, for each alleged exposure, basic exposure-related information, including type of such exposure (occupational, non-occupational, secondary), location where the exposure allegedly occurred, dates of alleged exposure, occupation/job type of the individual while the alleged exposure occurred, and specific products to which the individual alleges exposure.

28. In determining an appropriate apportionment of damages, it is first necessary to identify and quantify the number of entities and codefendants that would share in the liability

with DBMP, should DBMP be found liable.¹⁷ This determination requires sufficient information on claimants' work and alleged exposure histories to identify the sources of asbestos exposure for these claimants.

29. Based on my preliminary analysis of DBMP's claims and resolutions history, I expect that discovery in this matter will show that the number of entities sharing liability with DBMP in pending and future mesothelioma claims will be substantial. And it will likely vary by claimant type. As part of my preliminary analysis in this matter, I have merged the publicly available Garlock Analytical Database¹⁸ and DBMP's claims database to determine the overlap between the two claiming populations. The overlap is substantial: four of five DBMP mesothelioma claims filed from 2002 to Garlock's petition date on June 5, 2010 were also claims filed against Garlock, and approximately four-fifths of DBMP's payments to DBMP mesothelioma claimants during this time period were to claimants who also pursued claims against Garlock.¹⁹ These data, however, do not provide sufficient information about DBMP's historical claims, both because about 2,900 of DBMP's mesothelioma claims that were filed before Garlock's petition date were not asserted against Garlock (including many of DBMP's highest-value claims) and because the Garlock data do not include claims filed after Garlock's petition date.

¹⁷ I use a legal analysis provided by counsel that set forth the law in each jurisdiction governing the apportionment of damages awards among multiple joint tortfeasors and the extent to which damages awards must be reduced by claimants' settlements with other defendants. *See* Garlock Report, Section V.3.7; Memorandum of Robinson, Bradshaw & Hinson P.A., *In re Garlock Sealing Technologies LLC, et al.*, No. 10-31607 (Bankr. W.D.N.C. Feb. 5, 2013) (Trial exhibit GST-1305). In this matter, I will use an updated analysis provided by counsel.

¹⁸ This database is part of the Garlock Estimation Trial record that the *Garlock* Court made public. For a description of the Garlock Analytical Database, *see* Gallardo-García Garlock Report.

¹⁹ If I also include DBMP mesothelioma claimants who voted in the Garlock bankruptcy even though they did not file a tort claim against Garlock, the overlap is approximately 85% of DBMP claims.

30. Information on current claimants' job histories and exposure to other companies' asbestos-containing products is needed to identify alternative sources of exposure and assess the relative contribution of DBMP asbestos-containing products (if any) to a claimant's alleged asbestos exposure. The same information for past claimants is also required. The exposure-related information will be used to construct a full description of the exposure profiles of claimants with a pending mesothelioma claim against DBMP. This information is central to liability apportionment and to estimate the likelihood of a plaintiff's success against DBMP, but is not in the Debtor's database and, for the reasons described above, is in major part not available to the Debtor.

31. **Injured party's economic loss.** Economic loss is another fundamental component of a liability estimate because it enables us to ascertain the expected award that a claimant may receive should they proceed to trial and prevail. Economic loss estimates are based on the claimant's demographic information, as well as on information on lost income and expenses caused by the alleged disease. They require information about key claimant characteristics, including work/retirement status, current or last occupation, current or last annual income, medical expenses, dependent information, and funerary expenses (if applicable).

32. **Information about the claimants' lawsuits and claims against other entities.** Information about other parties' payments to claimants and the status of claims against other entities is important for producing a reliable estimation of DBMP's share of liability for a given claim.

33. To apply the liability apportionment rules described above, it is necessary to obtain information regarding claimants' settlements and recoveries from tort defendants and

asbestos trusts.²⁰ This information permits us to take into account offsets when estimating DBMP's share of the liability, if any.

34. The PIQ Motion includes a request for claimants to submit documents as part of their PIQ responses. The requested documents include those generated through discovery in the tort system such as responses to interrogatories, deposition transcripts, affidavits of exposure, complaints, Social Security Administration work records, and economic loss reports, among others. In addition, the PIQ Motion requests copies of trust claims filed by claimants with trusts or an authorization for the Debtor to obtain copies. In my experience, these documents contain readily available information compiled by claimants that characterize claimants' asbestos exposure histories and demographic profiles. These documents will allow me to perform the analytical tasks described in this Declaration.

35. Finally, as mentioned before, the information requested in the PIQ Motion is needed for calculating and estimating the potential settlement offers that DBMP claimants would receive from an eventual trust. For example, the PIQ information in *Garlock* was fundamental for this task. After the Garlock Estimation Trial, once Garlock, the ACC, and the FCR reached a settlement regarding total trust funding, the data gathered through the *Garlock* PIQ were a key input in calculating the settlement offers that different types of claimants would receive from the Garlock Trust's CRP. Based on Bates White's analysis using the Garlock Analytical Database, of which the PIQ data were a principal component, the parties were able to determine the level of baseline settlement offer values for the Garlock Trust. As these data were an important input for determining trust settlement offers, the PIQ data in *Garlock* also enabled us to evaluate whether the trust funding under the Garlock Plan would allow the Garlock Trust to provide substantially

²⁰ Garlock Report, Section V.3.3.

equivalent treatment to pending and future claimants. The PIQ data in this matter will play a similar role in formulating or evaluating any proposed plan of reorganization and in designing or evaluating CRPs and payments to claimants to ensure or determine that the payments are at levels that are substantially equivalent for present and future claimants.

36. About 85% of the unresolved mesothelioma records in DBMP's claims database were filed by 25 plaintiff law firms. My experience is that these law firms will have the information sought in the PIQ readily available in electronic form. The remaining plaintiff law firms that filed mesothelioma claims that appear as unresolved in the DBMP claims database filed on average fewer than five claims.

IV. The information sought in the Trust Motion

37. The information DBMP requests from asbestos trusts is fundamental for estimating DBMP's legal liability. It is also critical for assessing whether claimants withheld exposure information from DBMP while in the tort system and how its payments to claimants were impacted by these practices. These data are needed to assess whether DBMP's historical settlements reflect its liability. The Trusts discovery will permit us to compare data from asbestos trusts that document claimants' exposures to the products of the reorganized entities for which the trusts were established with the exposures those same claimants disclosed in their tort litigation against DBMP. DBMP will have no information on any trust claims plaintiffs pursued after DBMP resolved those claims.

38. The trust claims information on DBMP claims resolved with payment for a wide range of values will enable us to test the impact on DBMP's historical settlement amounts caused by claimants' failures to disclose alternative exposure evidence and/or claimants' decisions to delay filing claims. In addition, analysis of the settlements under the Law and

Economics model will permit us to test how the non-disclosure of trust exposure evidence may have affected the likelihood of success factor under the model in historical cases.

39. Furthermore, the information sought from asbestos trusts will supplement DBMP's claims database with information about its claimants and their claims that is currently not reflected in that database.

40. The asbestos trust discovery seeks information for DBMP's mesothelioma claims resolved by settlement or verdict in the tort system that is similar to (although only a subset of) the information sought for current claims in the PIQ Motion. This information includes basic identifying information about the individual with mesothelioma and the claimant (if different), diagnosis information about the alleged mesothelioma, identity of representing law firm, information about the tort system claim (if one exists), and work and exposure information submitted to the trust by the claimant to support their claim. In addition, the discovery sought includes basic information about the trust claim, including the date the claim was filed against the trust; the date the claim was approved (if approved); the date the claim was paid (if paid); if not approved or paid, status of claim; mode of review selected by the claimant; and mode of review approved.

41. The trusts and the trust processing facilities possess the information sought by the Trust Motion in readily available electronic form. The cost of searching for and identifying the DBMP claimants within the Asbestos Trusts Processing Facilities' ("Processing Facilities") databases is low and, with the cooperation of the Processing Facilities, could be implemented in a short period of time. The search can be performed electronically with simple computer code. This especially will be the case because DBMP has SSNs for nearly all mesothelioma claims it resolved by settlement or verdict. Using SSNs will yield a reliable identification of claimants in

trusts' databases that will result in a minimal number of potential false positives, if any. In particular, the computer code required for identifying claims in the trusts' databases will be simple, as it will only have to focus on SSN matches or matches of last four digits of the SSN plus last name. Given the sophistication and experience in data management that the Processing Facilities have, this process will be easy for them to implement accurately.

42. In summary, the asbestos trusts discovery seeks information that is fundamental for (1) estimating DBMP's legal liability, (2) assessing whether claimants withheld information from DBMP in the tort system and how those practices impacted DBMP's settlements, and (3) evaluating how those practices, if they occurred, may have affected DBMP's payments to claimants.

V. Data security

43. In the ordinary course of business, Bates White routinely receives privileged and confidential information, often highly sensitive in nature. Bates White has data security protocols that implement industry best practices for data confidentiality and protection. Such protocols include, but are not limited to, the following safeguards: (1) each staff member has unique log-in credentials to access Bates White's systems; (2) data access in each matter is limited to staff based on "need-to-know" and "least privilege" principles, which include time restrictions and other controls as necessary; (3) transmission of confidential or privileged information is done through encrypted file sharing systems that are password protected (all media that leave Bates White are encrypted and password protected); (4) physical external media with confidential information are secured in a locked safe or cabinet; (5) to comply with data destruction requirements, external media are destroyed, and external hard drives and laptops are wiped to ensure all data are removed; and (6) Bates White's network is protected by next-

generation firewalls, web filtering, intrusion detection and prevention capabilities, and 24/7 monitoring by a third party. Bates White also deploys next-generation antivirus protection to all endpoints, two-factor authentication for external connections, and data loss protection designed to monitor and prevent theft and unauthorized uses of data. All Bates White employees must complete a cybersecurity training program.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 19, 2020



Charles E. Bates, Ph.D.
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Exhibit 1

Curriculum Vitae

CHARLES E. BATES, PHD

Chairman

AREA OF EXPERTISE

- Asbestos liabilities and expenditures estimation
- Economic analysis
- Statistical analysis
- Microsimulation modeling
- Econometrics



SUMMARY OF EXPERIENCE

Charles E. Bates has extensive experience in statistics, econometric modeling, and economic analysis. He specializes in the application of statistics and computer modeling to economic and financial issues. Dr. Bates has more than 25 years of experience and provides clients with a wide range of litigation and commercial consulting services, including expert testimony and guidance on economic and statistical issues.

Dr. Bates is a recognized expert in asbestos-related matters. He speaks in national and international forums on the asbestos litigation environment and estimation issues. Dr. Bates is frequently retained to serve as an expert on such matters in large litigations and has testified before the US Senate Judiciary Committee and Federal Bankruptcy Court.

EDUCATION

- Advanced Seminar in Pharmacoeconomics, Harvard School of Public Health
- PhD, Economics, University of Rochester
- MA, Economics, University of Rochester
- BA, Economics and Mathematics (high honors), University of California, San Diego

PROFESSIONAL EXPERIENCE

Prior to founding Bates White, Dr. Bates served as a Vice President of A.T. Kearney. Previously, he was the Partner in Charge of the Economic Analysis group at KPMG. Dr. Bates began his career on the faculty of Johns Hopkins University's Department of Economics, where he taught courses in advanced statistical economic analysis and trade theory.

SELECTED ASBESTOS AND PRODUCT LIABILITY EXPERIENCE

- Retained as an asbestos liability valuation expert on behalf of the debtor in the matter *In re DBMP LLC* pending in the US Bankruptcy Court for the Western District of North Carolina, Charlotte Division.
- Retained as an asbestos liability valuation expert on behalf of the debtor in the matter *In re Bestwall LLC* pending in the US Bankruptcy Court for the Western District of North Carolina, Charlotte Division.
- Retained as an asbestos liability valuation expert on behalf of Truck Insurance Exchange in the matter *In re Kaiser Gypsum Company, Inc., et al.* pending in the US Bankruptcy Court for the Western District of North Carolina, Charlotte Division.
- Served as an asbestos liability valuation expert on behalf of Garlock Sealing Technologies in its bankruptcy proceedings. Testified before the US Bankruptcy Court for the Western District of North Carolina both in preliminary case hearings and at trial.
- Served as an expert in asbestos claims valuation for financial reporting purposes in *Erica P. John Fund Inc. et al. v. Halliburton Company et al.* on behalf of certain Halliburton stockholders regarding Halliburton's financial disclosures of its asbestos liabilities after its acquisition of Dresser in 1998.
- Served as the Individual Claimant Representative on behalf of potential future No Notice Individual Creditors as part of the Amending Scheme of Arrangement for OIC Run-Off Limited (formerly the Orion Insurance Company plc).
- Authored expert reports and provided testimony in *United States Fid. & Guar. Co. v. American Re-Insurance Company* in asbestos claims valuation, estimation methodology, and asbestos reinsurance billing regarding the proper reinsurance bill associated with USF&G's reinsurance bill of its asbestos-related payments to Western MacArthur.
- Served as an asbestos liability valuation expert on behalf of Specialty Products Holding Corp./Bondex International in its bankruptcy proceedings.
- Retained as an asbestos liability valuation expert on behalf of the Official Committee of Unsecured Creditors of Motors Liquidation Company (f/k/a General Motors Corporation) in its bankruptcy proceedings.
- Authored expert report and provided deposition testimony regarding the value of diacetyl claims on behalf of the Official Committee of Equity Security Holders in the Chemtura Corporation bankruptcy proceedings.
- Testified in deposition on behalf of the ASARCO Unsecured Creditors Committee in the ASARCO bankruptcy proceedings regarding the valuation of past and future asbestos-related personal injury claims.
- Authored expert report and provided deposition testimony on behalf of the policyholder in the matter of *Imo Industries, Inc. v. Transamerica Corp.*
- Currently retained as an expert by Fortune 500 companies to produce asbestos expenditure estimates for annual and quarterly financial statements. Estimations aid clients with Sarbanes-Oxley compliance.
- Currently retained as an expert in asbestos estimation and insurance valuation, for numerous asbestos litigation matters, on behalf of insurance companies, corporations, and financial creditors' committees of federal bankruptcy proceedings.
- Testified before the Senate Judiciary Committee on the economic viability of the Trust Fund proposed under S.852, the Fairness in Asbestos Injury Resolution (FAIR) Act of 2005. Testimony clarified Bates White's independent analysis on the estimate of potential entitlements created by the administrative no-fault trust fund that uses medical criteria for claims-filing eligibility.

- Testified in deposition on behalf of Liberty Mutual Insurance Company in the Plibrico bankruptcy proceedings regarding the valuation of past and future asbestos personal injury claims and exposure criteria in plan proponents proposed trust distribution procedures.
- Testified at deposition on behalf of the joint insurers defense committee to address the fraction of expenditures associated with the company's asbestos installation operations in *Owens Corning v. Birmingham Fire Insurance Company of Pennsylvania*.
- Testified in the Babcock & Wilcox bankruptcy confirmation hearing on behalf of the Insurers Joint Defense Group to address asbestos liability. Developed claims criteria evaluation framework to assess asbestos liability forecasts and trust distribution procedures.
- Testified at deposition on behalf of Sealed Air in the fraudulent conveyance matter regarding the 1998 acquisition of Cryovac from W.R. Grace. Directed estimation of foreseeable asbestos liability for fraudulent conveyance matter to advise the debtor in the bankruptcy of a defendant with over \$200 million in annual asbestos payments. Developed asbestos liability forecasting model and software. Directed industry research and interviewed industry experts.
- Testified at deposition on behalf of Hartford Financial Services Group to address the asbestos liability of MacArthur Company and Western MacArthur Company. Estimated asbestos liability in the context of bankruptcy proceedings.
- Testified at deposition on behalf of the Center for Claims Resolution in arbitration proceedings of *GAF v. Center for Claims Resolution*.
- Served as testifying expert on behalf of CSX Transportation on the suitability of asbestos claim settlements for arbitration proceedings of *CSX Transportation, Inc. v. Lloyd's, London*.
- Developed an econometric model of property damage lawsuits for estimating the future liability of a former asbestos manufacturer arising from the presence of its asbestos products in buildings.

SELECTED LITIGATION AND CONSULTING EXPERIENCE

- Testified in US Tax Court on behalf of the taxpayers on the statistical basis and accuracy of shrinkage accruals in *Kroger v. Commissioner*.
- Served as consulting expert and performed statistical and quantitative analyses to assess the merits of a class action alleging payment of fees to mortgage brokers for referral of federally related mortgage loans.
- Testified in US Tax Court on behalf of the taxpayer analyzing the statistical prediction of bond ratings using company financial data in *Nestlé Holdings Inc. v. Commissioner*.
- Submitted written expert testimony on the statistical and financial analysis of option transactions and an analysis of alternative stock option hedges in *McMahon, Brafman, and Morgan v. Commissioner*.
- Testified in US Tax Court on behalf of the taxpayers of IRS experts on the statistical basis and accuracy of shrinkage accruals in *Wal-Mart v. Commissioner*.
- Served as consulting expert and analyzed the racial composition for a large manufacturing corporation using EEO data and employed sophisticated statistical analysis and modeling to determine the validity and strength of an employment discrimination claim.
- Testified on behalf of VNC in the arbitration hearing of *VNC v. MedPartners*.

- Provided expert testimony in California Superior Court on the validity of economic comparability adjustments for pipeline easement rents in *Southern Pacific Transportation Corp. v. Santa Fe Pacific Corp.*
- Served as statistical expert and developed detailed statistical analysis of customs trade data for use in criminal transfer-pricing litigation.
- Submitted written testimony in US Tax Court on the beneficial life of company credit card in a tax matter for a large retailer drawing on the company's point-of-sale data, credit card data, and customer demographic information.
- Developed state-of-the-art models to account for default correlation for underwriting credit insurance; models became the standard tools for the country's largest credit insurance firm.
- Led a team of economists that provided litigation-consulting services in one of the largest US price-fixing cases. Case involved the development of state-of-the-art economic models, damages' analyses, client presentations, pretrial discovery, industry research, preparation of evidence and testimony, depositions, and a critique of opposing expert analyses and reports.
- For a start-up global telecommunications enterprise, provided consulting services and developed a comprehensive computer model to evaluate the firm's financial plan. Model incorporated marketing, pricing, and communications traffic in a single modeling framework to facilitate sensitivity analysis by creditors and to evaluate the risk associated with the strategic business plan.
- Served as senior economic advisor on issues of analytical methodology for numerous pharmacoeconometric and health outcomes research projects. Provided expertise in the development of decision tools and the creative use of modeling applications for pharmacoeconomics and outcomes research.

PUBLICATIONS

- Bates, Charles E., Charles H. Mullin, and Marc C. Scarcella. "The Claiming Game." *Mealey's Litigation Report: Asbestos* 25, no. 1 (February 3, 2010).
- Bates, Charles E., Charles H. Mullin, and A. Rachel Marquardt. "The Naming Game." *Mealey's Litigation Report: Asbestos* 24, no. 15 (September 2, 2009).
- Bates, Charles E., and Charles H. Mullin. "State of the Asbestos Litigation Environment—October 2008." *Mealey's Litigation Report: Asbestos* 23, no. 19 (November 3, 2008).
- Bates, Charles E., and Charles H. Mullin. "Show Me The Money." *Mealey's Litigation Report: Asbestos* 22, no. 21 (December 3, 2007).
- Bates, Charles E., and Charles H. Mullin. "The Bankruptcy Wave of 2000—Companies Sunk By An Ocean Of Recruited Asbestos Claims." *Mealey's Litigation Report: Asbestos* 21, no. 24 (January 24, 2007).
- Bates, Charles E., and Charles H. Mullin. "Having Your Tort and Eating It Too?" *Mealey's Asbestos Bankruptcy Report* 6, no. 4 (November 2006).
- Bates, Charles E., and Halbert White. "Determination of Estimator with Minimum Asymptotic Covariance Matrices." *Econometric Theory* 9 (1993).
- Bates, Charles E., and Halbert White. "Efficient Instrumental Variables Estimation of Systems of Implicit Heterogeneous Nonlinear Dynamic Models with Nonspherical Errors." In *International Symposia in Economic Theory and Econometrics*, vol. 3, edited by W.A. Barnett, E.R. Berndt and H. White. New York: Cambridge University Press, 1988.

- Bates, Charles E. “Instrumental Variables.” In *The New Palgrave: A Dictionary of Economics*, edited by John Eatwell, Murray Milgate, and Peter Newman. London: Macmillan, 1987.
- Bates, Charles E., and Halbert White. “An Asymptotic Theory of Consistent Estimation for Parametric Models.” *Econometric Theory* 1 (1985).

SELECTED SPEAKING ENGAGEMENTS

- “The Top Emerging Trends in 2015 Asbestos Litigation.” Perrin Conferences Cutting-Edge Issues in Asbestos Litigation Conference, March 15–17, 2015.
- “Asbestos Bankruptcy: A Discussion of the Top Trends in Today’s Chapter 11 Cases.” Perrin Conferences Asbestos Litigation Conference: A National Overview & Outlook, Sept. 8–10, 2014.
- “An Asbestos Defendant’s Legal Liability—The Experience in Garlock’s Bankruptcy Asbestos Estimation Trial.” Bates White webinar, July 29, 2014.
- “Concussion Suits against the NFL, NCAA, and Uniform Equipment Manufacturers.” Perrin Conferences’ Legal Webinar Series, May 24, 2012.
- “An Update on US Mass Tort Claims.” Perrin Conferences’ Emerging Risks on Dual Frontiers: Perspectives on Potential Liabilities in the New Decade, April 12–13, 2012, London, United Kingdom.
- “The Next Chapter of Asbestos Bankruptcy: New Filings, Confirmations, & Estimations.” Perrin Conferences’ Asbestos Litigation Conference: A National Overview & Outlook, September 13–15, 2010, San Francisco, CA.
- “Trust Online: The Impact of Asbestos Bankruptcies on the Tort System.” Perrin Conferences’ Asbestos Bankruptcy Conference: Featuring a Judicial Roundtable on Asbestos Compensation, June 21, 2010, Chicago, IL.
- “Current Litigation Trends that are Impacting Asbestos Plaintiffs, Defendants, & Insurers.” Perrin Conferences’ Asbestos Litigation Mega Conference, September 14–16, 2009, San Francisco, CA.
- “Verdicts, Settlements, and the Future of Values: Where Are We Heading? A Roundtable Discussion.” HB Litigation Conferences’ Emerging Trends in Asbestos Litigation, March 9–11, 2009, Los Angeles, CA.
- “Role of Bankruptcy Trusts in Civil Asbestos.” Mealey’s Emerging Trends in Asbestos Litigation Conference, March 3–5, 2008, Los Angeles, CA.
- “The Intersection between Traditional Litigation & the New Bankruptcy Trusts.” Mealey’s Asbestos Bankruptcy Conference, June 7–8, 2007, Chicago, IL.
- ABA’s Insurance Coverage Litigation Committee Conference, March 1–4, 2007, Tucson, AZ.
- Mealey’s Asbestos Conference: The New Face of Asbestos Litigation, February 8–9, 2007, Washington, DC.
- Mealey’s Asbestos Bankruptcy Conference, December 4–5, 2006, Philadelphia, PA.
- “Seeking Solutions to European Asbestos Claiming: Will it be FAIR?” Keynote address, Mealey’s International Asbestos Conference, November 1–2, 2006, London, United Kingdom.
- Mealey’s Asbestos Bankruptcy Conference, June 9, 2006, Chicago, IL.
- Harris Martin Publishing Asbestos Litigation Conference, March 2, 2006, Washington, DC.
- Mealey’s Wall Street Forum: Asbestos Conference, February 8, 2006, New York, NY.
- Mealey’s Asbestos Legislation Teleconference, February 7, 2006.

PROFESSIONAL ASSOCIATIONS

- National Association of Business Economists
- American Economic Association
- Econometric Society

DBMP LLC

**DEBTOR'S MOTION FOR BANKRUPTCY RULE 2004 EXAMINATION
OF ASBESTOS TRUSTS [Docket No. 416]**

The remaining attachments to the Motion (collectively, the “Exhibits”) have been excluded from service due to the size of the document.

The Exhibits are available for review and can be downloaded free of charge at the website of the Noticing Agent, Epiq Corporate Restructuring, LLC (“Epiq”) at <http://dm.epiq11.com/dbm>. The Exhibits are located within Docket No. 416.

You may also request a copy of the Exhibits by contacting Epiq directly at (646) 282-2400 or email at dbmp@epiqglobal.com.

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re DBMP LLC, ¹ Debtor.	Chapter 11 Case No. 20-30080 (JCW)
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**DEBTOR’S MOTION FOR ORDER PURSUANT TO BANKRUPTCY
RULE 2004 DIRECTING SUBMISSION OF PERSONAL INJURY
QUESTIONNAIRES BY PENDING MESOTHELIOMA CLAIMANTS**

Debtor DBMP LLC (“**DBMP**” or the “**Debtor**”) seeks an order pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) requiring all persons with pending mesothelioma claims against the Debtor’s bankruptcy estate (as more specifically described below) to complete and submit personal injury questionnaires (each, a “**Questionnaire**”), in substantially the form attached hereto as **Exhibit A**, providing basic information about the merits of their claims, including their alleged exposures to asbestos and their claims against DBMP and other parties.²

DBMP filed this case to confirm a plan of reorganization that fairly and equitably resolves current and future asbestos claims by establishing an asbestos trust under section 524(g) of the Bankruptcy Code. The facts gathered through the Questionnaire, concerning the basic merits of claims against the estate, will provide a critical factual foundation for the negotiation,

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, Pennsylvania 19355.

² Pursuant to Local Bankruptcy Rule 2004-1(b), the Debtor hereby certifies that on August 12, 2020 it provided a copy of the Questionnaire and proposed order on this motion (the “**Motion**”) to counsel for the Official Committee of Asbestos Personal Injury Claimants (the “**ACC**”) and the Future Claimants’ Representative (the “**FCR**”) and offered to meet and confer regarding the date for the submission of Questionnaire responses, as required by the Rule, as well as regarding the general scope and form of the discovery. On August 19, 2020, counsel for the Debtor conferred with counsel for the ACC and FCR, who informed the Debtor that they will oppose this discovery *in toto*. Debtor’s counsel expressed continued willingness to meet and confer concerning the discovery requested herein.

formulation, solicitation, and confirmation of such a plan of reorganization. The information will permit DBMP's experts to complete a reliable estimate of the number and the aggregate allowed amount of present and future mesothelioma claims against DBMP. It will enable DBMP to determine and propose an amount of trust funding that will provide payments to qualifying claimants that DBMP believes will fairly compensate them in an efficient manner and thus can achieve the requisite creditor support.

The basic information about the claims against the estate also should be important to the Official Committee of Asbestos Personal Injury Claimants (the "**ACC**"), the Future Claimants' Representative (the "**FCR**") and their respective experts, because this information likewise will permit them to assess the number and value of compensable claims against the estate. In this way, the Questionnaire will help the parties develop well-informed positions and negotiate based on a common set of facts. Further, if negotiations are ultimately successful, the information will provide a factual basis to inform asbestos claimants through a disclosure statement about the recoveries they should expect to receive from the proposed section 524(g) trust.

Without Questionnaires, the parties and the Court will operate in an information vacuum that could frustrate the Debtor's ability to reorganize successfully under section 524(g). As discussed in detail below, the proposed Questionnaire is necessary because DBMP does not have current or complete information about the merits of pending mesothelioma claims.

Finally, the discovery proposed here is limited and tailored, and is designed to collect the most current and complete information about the pending mesothelioma claims in a manner that minimizes the burden on claimants and their lawyers. Each request in the Questionnaire is supported by precedent (as described below), and the Questionnaire has been shortened and simplified compared to questionnaires in many of these precedent cases. As numerous courts

have recognized, a Questionnaire like the one proposed here will provide the essential factual basis for the negotiation, formulation, solicitation, and ultimately confirmation of a consensual plan of reorganization. It will be an important step in guiding this case toward ultimate resolution.

Jurisdiction

1. The Court has subject matter jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

2. By this Motion, DBMP seeks an order authorizing it to serve (through counsel) a Questionnaire on every person who alleges a claim against DBMP based on a diagnosis of mesothelioma on or before June 30, 2020 allegedly caused by asbestos-containing products for which DBMP is (or Old CT previously was) responsible (each a “**Pending Mesothelioma Claimant**” and each claim asserted by such party, a “**Pending Mesothelioma Claim**”).³ There are approximately 4,000 Pending Mesothelioma Claimants identified in the DBMP claims database as of January 23, 2020 (the “**Petition Date**”). There may be other claims in the database listed as having an unknown disease that are in fact Pending Mesothelioma Claims. Further, additional Pending Mesothelioma Claims presumably have arisen since the Petition Date. Counsel receiving the Questionnaire would have information about all of these claims.

³ By order entered on January 28, 2020 (Dkt. 63) (the “**Notice Procedures Order**”), the Court has authorized certain notice procedures in this case. Among other things, “[t]he Debtor is authorized to serve all notices, mailings, filed documents and other communications relating to the Chapter 11 case on the Asbestos Claimants in care of their counsel (including counsel of record in asbestos-related proceedings) . . . at such counsel's address, including e-mail address.” Notice Procedures Order, ¶ 4.

3. The Questionnaire is directed to Pending Mesothelioma Claimants (and not claimants alleging other diseases) because claims alleging mesothelioma dominated DBMP's litigation before its petition, and will indisputably constitute more than 90% (and likely more than 95%) of its liability for asbestos claims. The Debtor attaches as **Exhibit A** the proposed form of Questionnaire and as **Exhibit B** the proposed order authorizing the issuance of the Questionnaire and governing confidentiality of the responses.

The Proposed Rule 2004 Examination Through the Questionnaire Is Appropriate and Necessary for Plan Negotiation, Formulation, Solicitation, and Confirmation and Any Estimation of Mesothelioma Claims

4. DBMP proposes the Questionnaire to obtain basic facts about the existence, nature, and merits of mesothelioma claims asserted against DBMP (or formerly asserted against Old CT). This will provide the factual foundation for DBMP to negotiate, formulate, solicit, and confirm a plan of reorganization in this case. The Questionnaire is vital to resolution of this case and accordingly falls squarely within the scope of permitted discovery.

5. Bankruptcy Rule 2004 is the "basic discovery device used [in] bankruptcy cases, permitting the examination of any party without the requirement of a pending adversary proceeding or contested matter." In re Symington, 209 B.R. 678, 683-84 (Bankr. D. Md. 1997) (quotation omitted). The Rule provides that the Court may order the examination of "any entity" on motion of a party in interest (including the debtor). Fed. R. Bankr. P. 2004(a). A party may seek both documentary and testimonial discovery related to, among other topics, the "liabilities . . . of the debtor," "any matter which may affect the administration of the debtor's estate," and, in a chapter 11 case, "any other matter relevant to the case or to the formulation of a plan." Fed. R. Bankr. P. 2004(b).

6. “The scope of discovery afforded under Bankruptcy Rule 2004 is unfettered and broad.” In re Public Service Co. of New Hampshire, 91 B.R. 198, 199 (Bankr. D.N.H. 1988) (quotation omitted); see also In re Sheetz, 452 B.R. 746, 748 (Bankr. N.D. Ind. 2011) (examination may relate “to just about anything that deals with the debtor’s . . . liabilities . . . or any matter affecting the administration of the bankruptcy estate”). Discovery under Bankruptcy Rule 2004 is as broad or broader than discovery under the Federal Rules of Civil Procedure. See In re Ecam Publications, Inc., 131 B.R. 556, 559 (Bankr. S.D.N.Y. 1991); Sheetz, 452 B.R. at 748; Sweetland v. Szadkowski (In re Szadkowski), 198 B.R. 140, 141 (Bankr. D. Md. 1996); Symington, 209 B.R. at 684. Accordingly, a Rule 2004 examination “is subject to fewer objections on grounds of relevance than would burden discovery filed in a lawsuit or contested motion.” Symington, 209 B.R. at 684.

7. Courts have repeatedly recognized that Rule 2004 is a proper vehicle for investigating the facts and circumstances of disputed claims against the estate. See Sheetz, 452 B.R. at 750 (Rule 2004 examination to obtain “accurate information concerning” a claim against the estate “correspond[s] precisely with the scope of the trustee’s responsibilities and the purpose for the rule”); Public Service Co. of New Hampshire, 91 B.R. at 199 (ordering examination relevant to “issues of classification and appropriate treatment of” certain claims “for plan formulation purposes”); In re Transmar Commodity Group Ltd., 2018 WL 4006324, at *2, 4 (Bankr. S.D.N.Y. Aug. 17, 2018) (authorizing Rule 2004 examination of creditor who filed proof of claim); In re Sutera, 141 B.R. 539, 541 (Bankr. D. Conn. 1992) (same); In re Arkin-Medo, Inc., 44 B.R. 138, 139-40 (Bankr. S.D.N.Y. 1984) (“facts surrounding . . . validity” of a claim against the estate are “clearly ‘related’ to the debtor’s financial condition and affect the

administration of its estate”). Such examinations may extend to “all the facts and circumstances” surrounding the claim. Arkin-Medo, 44 B.R. at 140.

8. A proposed Bankruptcy Rule 2004 examination “must be both relevant and reasonable” and “may not be used to annoy, embarrass or oppress the party being examined.” Symington, 209 B.R. at 684-85. Some courts require a showing of “good cause” before they will authorize a Rule 2004 examination. See, e.g., In re Hammond, 140 B.R. 197, 201 (S.D. Ohio 1992). But, consistent with the breadth of the rule, courts find good cause if the movant shows the examination “is reasonably necessary for the protection of its legitimate interests,” id. at 201, or if denial of the examination would cause the movant “undue hardship or injustice,” Orion Healthcorp, 596 B.R. at 235. See also In re DeWitt, 608 B.R. 794, 798-800 (Bankr. W.D. Pa. 2019) (good cause established when denial of examination would cause “undue hardship or injustice,” and also requires weighing “the relevance of the discovery against the burden it will impose on the producing party”). In the context of Rule 2004 examinations of creditors, “[e]xercise of discretion under Rule 2004 requires a balancing of the interest of the debtor in obtaining sufficient information necessary for the formulation of its plan of reorganization, as opposed to the interest of a creditor in avoiding an overbearing and intrusive inquiry into its affairs unrelated to legitimate plan formulation inquiries.” Public Service Co. of New Hampshire, 91 B.R. at 199.

9. Here, the requested examination by means of a Questionnaire is proper because it concerns fundamental facts directly relevant to “the liabilities . . . of the debtor” and “formulation of a plan,” Fed. R. Bankr. P. 2004(b), and to the current mesothelioma claims against the estate, Arkin-Medo, Inc., 44 B.R. at 140.

10. State law governs the validity and amount of claims in bankruptcy, and thus defines the facts that matter when assessing asbestos claims against the estate. Matter of Brints Cotton Mktg., Inc., 737 F.2d 1338, 1341 (5th Cir. 1984). All of the Questionnaire sections seek information directly relevant to the merits and therefore value of Pending Mesothelioma Claims under state law.

11. *First*, immediately after requesting basic information about the Pending Mesothelioma Claimant and his or her claim,⁴ the Questionnaire seeks facts regarding the Injured Party's alleged exposures to asbestos from Old CT asbestos-containing products (see Questionnaire, Part 6A).⁵ The requested information includes facts about the Injured Party's occupation and industry when exposed, sites of exposure, the Old CT products to which the Injured Party was allegedly exposed, and basic facts concerning how the Injured Party was exposed to those products.

12. Questions about exposure to Old CT products go to the heart of the merits of Pending Mesothelioma Claims because, under applicable state law, each Pending Mesothelioma Claimant has the burden of proving both exposure to asbestos from an Old CT asbestos-containing product and that the exposure was a substantial contributing cause of his or her disease. See, e.g., Restatement (Second) of Torts § 433B; Thacker v. UNR Indus., Inc., 603 N.E.2d 449, 455 (Ill. 1992); Bostic v. Georgia-Pacific Corp., 439 S.W.3d 332, 338 (Tex. 2014); Rutherford v. Owens-Illinois, Inc., 941 P.2d 1203, 1223 (Cal. 1997). Any claim in which the claimant cannot demonstrate sufficient exposure to asbestos from an Old CT product does not have value in this bankruptcy case or under any plan of reorganization. See In re Garlock Sealing

⁴ This preliminary information includes the identity of the Pending Mesothelioma Claimant, the status of his or her claim, the law firms representing the claimant, and basic facts concerning the mesothelioma diagnosis.

⁵ The "Injured Party" is defined in the Questionnaire as the individual whose alleged mesothelioma forms the basis for the Pending Mesothelioma Claim.

Techs. LLC, 504 B.R. 71, 96 (Bankr. W.D.N.C. 2014) (“[I]t is appropriate to value at zero the claims of those ‘claimants’ who asserted no exposure to Garlock products.”). It is vitally important for the parties to know how many Pending Mesothelioma Claims have evidence of exposure to asbestos from an Old CT product, and thus may be compensable in this case and by an eventual section 524(g) trust.

13. *Second*, the Questionnaire seeks information concerning the Pending Mesothelioma Claimant’s exposures to asbestos from asbestos-containing products unrelated to Old CT, such as exposure from products of other manufacturers (see Questionnaire, Part 6B), including the Injured Party’s occupation and industry and sites of exposure. It also requires Pending Mesothelioma Claimants to attach documents that will contain more detailed information about their alternative exposures (such as answers to interrogatories, depositions, and trust claim forms) (Parts 10, 11).

14. The Pending Mesothelioma Claimants’ exposures to products for which other entities are responsible are relevant for two reasons. As an initial matter, exposure to asbestos from other entities’ products may demonstrate that Old CT’s products did not substantially contribute to a claimant’s mesothelioma. See Thompson v. Better-Bilt Alum. Prods. Co., 832 P.2d 203, 207 n.6 (Ariz. 1992) (part of substantial causation inquiry involves examining “the number of other factors which contribute in producing the harm and the extent of the effect which they have in producing it”); Rutherford, 941 P.2d at 1218 (substantial causation analysis must consider “any other potential causes to which the disease could be attributed (e.g., other asbestos products, cigarette smoking)”).

15. Further, other asbestos exposures—or payments by others to settle claims of such exposure—impact DBMP’s share of any potential judgment. Depending on the applicable state

law, other responsible parties can be allocated shares of liability and/or payments they make can result in credits or offsets against any potential verdicts against DBMP. See, e.g., Tex. Civ. Prac. & Rem. Code Ann. §§ 33.012(b), 33.013 (Texas statute providing for reduction of judgment by liability shares attributed to others, as well as payments by others); N.Y. Gen. Oblig. Law § 15-108(a) (New York statute providing for reduction of judgment by the greater of liability shares attributed to others or payments by others); Fla. Stat. Ann. § 768.81(d)(3) (Florida statute providing that judgment should be entered against each party based on that party's "percentage of fault"); Garlock Sealing Techs., 504 B.R. at 95-96 (describing importance of alternative exposures in liability allocation under applicable law).

16. *Third*, the Questionnaire seeks information concerning the Pending Mesothelioma Claimant's damages (see Questionnaire, Part 7), including the Pending Mesothelioma Claimant's occupation at time of diagnosis, occupation before retirement, medical expenses, number of dependents, and allegations of economic loss. These facts determine the total amount of the Injured Party's damages for which parties may be responsible under applicable law.

17. *Finally*, the Questionnaire seeks information regarding the Pending Mesothelioma Claimant's lawsuits and other claims, including claims against existing section 524(g) trusts ("**Trusts**"), as well as the Pending Mesothelioma Claimant's aggregate recoveries from such Trusts and other co-defendants (see Questionnaire, Part 8). Pending Mesothelioma Claimants' claims against other entities (including tort defendants and Trusts) are relevant for the reasons discussed above.

18. Information regarding all of these facts is fundamental to assessing the number, validity, and value of mesothelioma claims against DBMP, which will assist in negotiating appropriate funding for a section 524(g) trust in this case. Moreover, because the Questionnaire

elicits the facts relevant to the validity and value of the claims under state law, it provides information the Debtor's expert, Charles E. Bates PhD, needs to estimate DBMP's legal liability, whether for an estimation proceeding or for other purposes in this case, such as solicitation and plan confirmation. See Declaration of Charles E. Bates PhD in Support of PIQ and Trust Discovery ("Bates Decl.," attached as Ex. C) ¶¶ 15-35; see also Garlock Sealing Techs., 504 B.R. at 96 (crediting Dr. Bates for using "the freshest and most reliable data available" collected through the personal injury questionnaires in that case). The Debtor's asbestos expert also needs the information the Questionnaire will provide concerning Pending Mesothelioma Claims to project the number and value of future mesothelioma claims against DBMP. See Bates Decl. ¶ 22; Garlock Sealing Techs., 504 B.R. at 96-97. Any trust funding negotiated by the parties or otherwise accepted by claimants under section 524(g) must provide substantially equivalent treatment for such future claimants. 11 U.S.C. § 524(g)(2)(B)(ii)(V).

19. Facts concerning the number and merit of claims against the estate also should be considered by the ACC and the FCR in determining positions to take in this case on behalf of present and future claimants, including the amount of funding and terms necessary for an acceptable section 524(g) trust or whether to seek an alternative resolution of the case. See Garlock Sealing Techs., 504 B.R. at 95 (refusing to credit ACC and FCR experts' estimates because they "had Garlock's Analytical Database of fresh data available to them, but did not use it in any way for their estimates"). No appropriate methodology can ignore facts concerning, for example, how many Pending Mesothelioma Claimants currently allege claims against DBMP or identify exposure to an Old CT asbestos-containing product. Id.

20. The data that DBMP proposes to gather through the Questionnaire will provide a necessary, sound foundation for negotiation, formulation, and ultimately solicitation and

confirmation of a plan in this case.⁶ Most fundamentally, it is not currently known how many Pending Mesothelioma Claimants actually assert a claim against DBMP or can identify exposure to asbestos from products for which it is responsible—the basic prerequisite to recovery. In Garlock, as of its petition date, the debtor’s database showed 5,813 “pending” mesothelioma claim records. Bates Decl. ¶ 18. Responses to questionnaires in that case revealed that approximately 2,000 of those records in fact did not represent pending mesothelioma claims against Garlock as claimants admitted that they did not have mesothelioma or exposure to a Garlock product; they had withdrawn or were no longer pursuing their claims; or their claims had already been resolved through dismissal or settlement. Id. DBMP and all the parties to this case likewise need to know the extent to which the approximately 4,000 Pending Mesothelioma Claims in DBMP’s claims database actually represent potentially viable claims against the estate.

21. The other facts requested in the Questionnaire similarly will help DBMP evaluate the number and amount of compensable claims in this case. How many claimants have claims based on alleged exposure to asbestos from Old CT asbestos cement pipe versus Old CT asbestos-containing roofing or other products (the latter claims based on chrysotile-containing low-dose products, historically resolved for lower amounts)? How many alternative exposures do claimants identify, in both tort discovery and in Trust claims? How much have claimants recovered from other parties, and how does that compare with their total alleged damages? The Questionnaire will provide current, fresh data relevant to all of these important questions.

22. Finally, the information collected through the Questionnaire will permit DBMP to inform claimants about their likely recoveries from the proposed section 524(g) trust funding in

⁶ The facts collected through the Questionnaire likewise will be relevant in the event a contested estimation of mesothelioma claims is conducted at some point in this case. Questionnaires were used for this purpose in the A.H. Robins, USG, SPHC, W.R. Grace, G-I Holdings, and Garlock cases discussed below.

this case, by giving experts a reliable means to estimate the number of compensable claims and their valuation characteristics. The questionnaire in Garlock served this purpose, providing the factual basis for the debtor, Garlock ACC, and Garlock FCR to agree on preliminary Maximum Settlement Values and Medical Information Factors for disclosure statement purposes, which in turn informed claimants about what they were likely to recover from the trust. See 7/27/16 Tr. at 7, 15-25, 36-37, 46 (attached as **Ex. D**); Bates Decl. ¶ 35. The Questionnaire can serve the same purpose here, helping the parties to inform claimants about what they are likely to recover from whatever amount of trust funding the parties ultimately agree upon.

DBMP Does Not Have Current or Fresh Data Relating to the Merits of Pending Mesothelioma Claims

23. The Questionnaire is necessary because DBMP does not have complete or up-to-date data regarding the merits of Pending Mesothelioma Claims. There are several reasons for this lack of complete information.

24. *First*, for many years, DBMP had longstanding settlement arrangements, principally with two law firms. Under these arrangements, which date back a decade or more, DBMP agreed to settle trial-set mesothelioma cases for an established average amount, thus obviating DBMP's need to conduct discovery or otherwise litigate the cases. Declaration of Michael T. Starczewski ("**Starczewski Decl.**," attached as **Ex. E**) ¶ 6. DBMP required proof of disease and exposure to an Old CT product only when a case was presented for settlement, which typically happened in the year the case was scheduled to start trial in the tort system. Id. These two law firms represent the claimants in almost 1,400 of the approximately 4,000 Pending Mesothelioma Claims. Id. Because these claims had not yet been presented for settlement, DBMP possesses no information about these claims other than basic identifying data contained in the complaints. Id.; see also Bates Decl. ¶ 19.

25. *Second*, putting aside claims covered by such settlement arrangements, more than 300 of the approximately 4,000 Pending Mesothelioma Claims in DBMP's database were filed in the six months immediately before the Petition Date. Starczewski Decl. ¶ 7; Bates Decl. ¶ 19. In that short timeframe, discovery likely would not have been completed or, in many cases, not even started. Starczewski Decl. ¶ 7. There simply was not an adequate opportunity to develop relevant facts about these claims before the bankruptcy filing.

26. *Third*, and again putting aside claims covered by group settlement arrangements, almost 1,200 of the approximately 4,000 Pending Mesothelioma Claims in the Debtor's claims database had been pending for more than four years as of the Petition Date. Starczewski Decl. ¶ 8. There is significant reason to doubt whether these claims are viable because the vast majority of mesothelioma cases filed against Old CT were settled within four years of filing. See id.; Bates Decl. ¶ 17. At the very least, the Debtor needs to learn from the Pending Mesothelioma Claimants which of their claims are still being asserted and which are no longer claims against the estate.

27. *Fourth*, with respect to a majority of the remaining Pending Mesothelioma Claims (i.e., those not subject to a settlement arrangement and pending for at least six months but for no more than four years as of the Petition Date), DBMP has not conducted any significant investigation or discovery because a trial date has not been scheduled or a case management order entered. Starczewski Decl. ¶ 9. As a result, DBMP will not possess much of the information sought by the Questionnaire for a large number of this group of pending cases. Id.

28. *Fifth*, even where some discovery occurred pre-petition, DBMP has reason to believe the information provided was not always complete. As described in *Debtor's Motion for Bankruptcy Rule 2004 Examination of Asbestos Trusts*, filed at the same time as this Motion,

DBMP claimants failed to disclose all their evidence of exposure to other companies' products. Id. at ¶¶ 20-34. Although discovery will be required to determine the extent to which this occurred in resolved cases, it no doubt occurred in some of the Pending Mesothelioma Claims as well. Relevant information about Trust claims and exposures can be collected through the Questionnaire.

29. *Sixth*, there are records in DBMP's database for which it does not yet have disease information. There may be some number of Pending Mesothelioma Claims within this set of claims. Starczewski Decl. ¶ 10. In addition, because the Debtor does not even know the claimed disease, it can be expected that the database lacks other significant information about those claims.

30. *Seventh*, even with respect to pre-petition Pending Mesothelioma Claims that were actively defended in litigation before the Petition Date, DBMP will not have the most current information regarding those claims, which remained open on the Petition Date and presumably continued to be litigated against other defendants without DBMP's participation. Id. ¶ 11. The Questionnaire will provide the most up-to-date information on these claims, including information regarding any trust claims filed by these claimants since the Petition Date.

31. *Finally*, DBMP has no information with respect to claims based on mesotheliomas that have manifested since the Petition Date (or claims not filed before the Petition Date). The Questionnaire seeks information with respect to any such claims based on disease diagnosed on or before June 30, 2020, and notice of the Questionnaire will be provided to these claimants through the relatively small group of law firms that have brought mesothelioma claims against DBMP and Old CT in the past. Bates Decl. ¶¶ 16, 20.

32. In short, the Questionnaire will play an invaluable role in providing complete, fresh, reliable data about the Pending Mesothelioma Claims, which will provide the necessary factual foundation for the events that must take place to resolve this case. DBMP does not have alternative means to obtain the information sought through the Questionnaire. See Fed. R. Civ. P. 26(b)(1) (court to consider “the parties’ relative access to relevant information” in considering scope of appropriate discovery).

Courts In Other Mass Tort Bankruptcy Cases Have Routinely Used Questionnaires to Obtain Important Facts About Pending Claims

33. The proposed Questionnaire is a proper method for obtaining current information about the Pending Mesothelioma Claims. Similar questionnaires have been used in multiple mass tort bankruptcy cases, at various stages of those cases, to obtain vital evidence necessary to assess the merits of claims against a debtor. Questionnaires sometimes have been used in support of an estimation process, but also have been ordered pursuant to Bankruptcy Rule 2004 independent of any pending estimation proceeding, and have at times promoted consensual resolutions short of estimation.

34. In the seminal A.H. Robins case from the Fourth Circuit, the district court adopted a questionnaire process to facilitate the estimation of the allowed amount of personal injury claims relating to the Dalkon Shield intrauterine device. The court ordered all of the more than 300,000 claimants to answer a basic questionnaire regarding “the claimant’s use of the Dalkon Shield, including dates of insertion and removal, the type of injury alleged and the names of physicians or clinics visited by the claimant.” In re A.H. Robins Co., 862 F.2d 1092, 1093 (4th Cir. 1988). The court then ordered a sample of approximately 7,500 claimants to answer a more detailed 50-page questionnaire, covering topics that included the claimant’s use of the Dalkon Shield; reasons for removing the Dalkon Shield; use of other methods of contraception; general

medical condition and problems allegedly caused by the Dalkon Shield; warnings about the Dalkon Shield received from doctors and others; claims against parties other than A.H. Robins and recoveries from those parties; and damages, including economic and other alleged losses. See Dalkon Shield User Claim Form (attached as **Ex. F**); see also In re A.H. Robins Co., 880 F.2d 694, 699 (4th Cir. 1989). Ultimately, the expert whose estimate was closest to the court's determination based her analysis on information derived from the questionnaires, taking into account the claimants' medical information, the nature of the injuries, the presence of complications, and the potential for "disallowance of claims." A.H. Robins Co., 880 F.2d at 699-700. That estimate led to formulation and confirmation of the consensual plan of reorganization. Id.

35. The court in In re USG Corp., 290 B.R. 223 (Bankr. D. Del. 2003) likewise authorized the use of a questionnaire. The debtor, USG, contended that its settlements overstated its legal liability and maintained that, at estimation, it should "be permitted to challenge the validity of the claims" and "attack the medical merits of the tort claims." Id. at 224, 226. The court agreed that "if the debtor maintains that its creditors are not legitimate and that, properly analyzed, claims against it do not exceed its assets, the Court must assist," and must "reject unsubstantiated claims, bogus medical evidence and fanciful theories of causation." Id. at 225. The court then expressed its intention to require claimants alleging cancer to provide substantial information regarding the ultimate merits of their claims, including medical information; a description of the sites where alleged USG exposure occurred; the nature of the exposure; the injured party's occupation and industry; and the claimant's claims against and recoveries from other parties. Id. at 227-29. The bankruptcy court ultimately approved a questionnaire to be sent to a sample of 2,000 personal injury claimants, but the case settled before the completed forms

had to be submitted. See Debtors' Standard Questionnaire to Select Personal Injury Asbestos Claimants, attached to Order re: Personal Injury Claim Estimation, In re USG Corp., No. 01-2094 (Bankr. D. Del. 2005) (Dkt. 61) (attached as **Ex. G**).

36. In the asbestos bankruptcy case of In re Specialty Products Holding Corp., pursuant to Bankruptcy Rule 2004, the court ordered all of the approximately 3,100 pending mesothelioma claimants to answer a 19-page questionnaire concerning the claimants' diagnoses, exposures to the debtors' products, exposures to other companies' products, and claims against other defendants and Trusts. See SPHC/Bondex Mesothelioma Claim Information Form, attached to *Order Granting in Part and Denying in Part Debtors' Motion for an Order Directing Submission of Information by Current Asbestos Claimants*, In re Specialty Products Holding Corp., No. 10-11780 (Bankr. D. Del. 2011) (Dkt. 1466) (attached as **Ex. H**).

37. In In re G-I Holdings, Inc., 323 B.R. 583 (Bankr. D.N.J. 2005), another asbestos bankruptcy case, the court in the context of an aggregate estimation of current claims permitted the debtor "to review the claims against the estate and object to those claims that it believes are illegitimate or dispensable as a matter of law." Id. at 622-23. The court also allowed the debtor "to present any relevant defenses and . . . attack any medical evidence submitted by the Committee in the estimation proceeding," and further determined that the debtor could "move for summary judgment on certain issues on a claims-wide consolidated basis pursuant to Federal Rule of Bankruptcy Procedure 7042." Id. at 626. Consistent with these rulings, the court ordered a sample of 2,500 claimants to submit responses to a detailed questionnaire concerning their diagnoses, exposures to G-I Holdings' and other companies' asbestos-containing products, and claims against and recoveries from other parties. See G-I Holdings Asbestos Personal Injury Questionnaire, attached to *Fourth Amended Order Implementing G-I's Claimant Questionnaire*

and Sampling Protocol, In re G-I Holdings Inc., No. 01-30135 (Bankr. D.N.J. 2008) (Dkt. 8078) (attached as **Ex. I**). Like USG, this case settled before the claimants submitted their questionnaire responses.

38. In In re W.R. Grace, where the debtor contested its liability for asbestos claims and objected to the use of its past settlements to value its liability, the court required more than 100,000 asbestos claimants to answer a detailed 12-page questionnaire about the claimants' diagnoses, their exposures to asbestos-containing products manufactured by W.R. Grace and other companies, and their claims against and recoveries from other parties. See W.R. Grace Asbestos Personal Injury Questionnaire, attached to *Case Management Order for the Estimation of Asbestos Personal Injury Liabilities*, In re W.R. Grace & Co., No. 01-1139 (Bankr. D. Del. 2005) (Dkt. 9301) (attached as **Ex. J**). Grace's experts used information in questionnaire responses to estimate the debtor's legal liability at trial. The Grace asbestos claimants' committee and future claimants' representative agreed to a settlement with Grace without presenting any evidence at the trial, and the settlement led to formulation and confirmation of a plan of reorganization.

39. Finally, in In re Garlock Sealing Technologies LLC, again pursuant to Bankruptcy Rule 2004, the court ordered all of the approximately 5,800 claimants with pending mesothelioma claims against the debtors as of the petition date to respond to a 24-page questionnaire inquiring about their mesothelioma diagnoses, their exposures to Garlock asbestos-containing products, their exposures to non-Garlock asbestos-containing products, and their claims against other defendants and Trusts. See Mesothelioma Claim Questionnaire, attached to *Order Authorizing the Debtors to Issue Questionnaire to Holders of Pending Mesothelioma Claims and Governing the Confidentiality of Information Provided in Responses*, In re Garlock

Sealing Techs. LLC, No. 10-31607 (Bankr. W.D.N.C. 2011) (Dkt. 1390) (attached as **Ex. K**).

The purpose of the discovery was both to assist formulation of a plan of reorganization and to inform estimation of the debtor's aggregate liability for asbestos claims. *Id.* at 2.

40. The Garlock court subsequently ordered a sample of 471 mesothelioma claimants to provide detailed information regarding the frequency, duration, and proximity of their exposures to Garlock and non-Garlock asbestos-containing products. *See* Supplemental Exposure Questionnaire, attached as exhibit to *Order Authorizing Debtors to Issue Supplemental Exposure Questionnaire and Governing Confidentiality of Information Provided in Responses, In re Garlock Sealing Techs. LLC*, No. 10-31607 (Bankr. W.D.N.C. 2012) (Dkt. 2337) (attached as **Ex. L**). The court also ordered a sample of 1,000 mesothelioma claimants to provide information regarding their recoveries from tort defendants and Trusts, concluding that the latter category of information “appears to me to be necessary for the debtors to prepare their case”⁷ *See* Supplemental Settlement Payment Questionnaire, attached as an exhibit to Order Authorizing Debtors to Issue Supplemental Settlement Payment Questionnaire and Governing the Confidentiality of Information Provided in Responses, *In re Garlock Sealing Techs. LLC*, No. 10-31607 (Bankr. W.D.N.C. 2012) (Dkt. 2338) (attached as **Ex. N**). The court acknowledged that these questions about exposures and aggregate recoveries should have been included in the original questionnaire sent to all pending claimants.⁸

41. The court in Garlock ultimately adopted a legal liability estimate derived from a database constructed from, among other evidence, information from responses to the three questionnaires. *See Garlock Sealing Techs.*, 504 B.R. at 95. The court described this database as

⁷ Transcript of May 17, 2012 Hearing, *In re Garlock Sealing Techs. LLC, et al.*, No. 10-31607, at 34 (excerpts attached as **Ex. M**).

⁸ *See id.* (Judge Hodges concluding “the balance that I struck earlier was at the wrong place”).

containing “the most current data available” and “the only data that accurately reflect[ed] the pool of claims against Garlock.” Id.⁹

42. As the case law demonstrates, this Court has clear authority to order pending claimants to respond to a personal injury questionnaire, including under the auspices of Rule 2004. Questionnaires have time and again proved to be the most reliable and efficient means for obtaining information necessary to assess the merits of the claims against a mass tort debtor.

43. As set forth in detail in the chart attached as **Exhibit P**, each of the particular requests in the Questionnaire proposed by DBMP has appeared in previously approved questionnaires. Moreover, responses will be required from far fewer claimants than in many previous bankruptcy cases—for example, the over 300,000 in A.H. Robins and over 100,000 in W.R. Grace.

The Proposed Questionnaire’s Burden on Claimants and Their Lawyers Will Be Minimal

44. DBMP’s proposed Questionnaire balances the Debtor’s need for relevant information with the burden on Pending Mesothelioma Claimants and their lawyers and seeks to minimize that burden as much as possible. See In re Pub. Serv. Co. of New Hampshire, 91 B.R. at 199.

45. It is first important to note that the Questionnaire responses will benefit not just DBMP but all parties to this case, by providing the most current and complete information possible about the Pending Mesothelioma Claims. This information will provide the necessary factual foundation not only for DBMP’s experts to estimate its liability, but also for the ACC’s

⁹ One of Garlock’s experts whose testimony the court credited described the information collected through the questionnaires as “probably the most important piece of discovery” in that case. Testimony of Dr. Jorge Gallardo-Garcia (“**Gallardo-Garcia Test.**”), Garlock Estimation Trial Transcript 2631:3-9 (excerpts attached as **Ex. O**).

and the FCR's experts to do the same. There are thus important benefits for the claimants in this case, not just burdens.

46. Answering the Questionnaire itself will pose minimal burden on claimants and their counsel. First, the Questionnaire seeks only information directly relevant to the merits of claims against DBMP, all of which should be readily available to Pending Mesothelioma Claimants.

47. Second, the Questionnaire's substantive sections—on Old CT alleged exposure, alleged exposure to other companies' products, alleged damages, and claims against and recoveries from other parties and trusts—can be answered by attaching documents. Because the requested information should be found in documents routinely generated during litigation (including interrogatory answers, depositions, and trust claims), claimants generally should be able to answer most or all of the Questionnaire by attaching documents. DBMP then will take on the burden of assembling the relevant information from those documents.

48. The section on the Injured Party's exposures to other companies' products has been designed especially to minimize burden on claimants. The Questionnaire itself only asks basic questions about employer, occupation and industry, sites of exposure, and activity that caused exposure—all of which can be answered by attaching documents. Unlike in many previous questionnaires in mass tort bankruptcy cases, claimants are not required to identify the details of their exposures to other companies' products. DBMP instead will rely on documents that must be attached to the Questionnaire, including interrogatory answers, deposition transcripts relating to exposure, and trust claim forms. To further decrease burden, claimants have the option to execute an authorization for DBMP to obtain claim forms from Trusts instead of providing the forms directly.

49. The procedures DBMP proposes also permit Pending Mesothelioma Claimants to upload their Questionnaire submissions, along with any attached documents, to the website maintained by Epiq Corporate Restructuring, LLC, DBMP's claims and noticing agent. Further, upon request, DBMP will provide any Pending Mesothelioma Claimant or law firm with a PDF copy of the Questionnaire containing text boxes in which Pending Mesothelioma Claimants or their attorneys may type answers to the Questionnaire, if they prefer.

50. Finally, the proposed order contains confidentiality and use restrictions as well as destruction requirements that mirror those ordered in the most recent cases where questionnaires were issued, SPHC and Garlock. See Ex. H ¶ 13;¹⁰ Ex. K ¶¶ 7-16. The proposed order requires the parties to keep the Questionnaires confidential, restricts their use to this case, provides that full Social Security numbers, medical information, and other sensitive information may not be introduced in open court, and requires destruction of Questionnaire responses within one year after substantial consummation of a confirmed plan of reorganization. See Ex. B ¶¶ 6-15.¹¹ These provisions will protect the confidentiality of any sensitive information Pending Mesothelioma Claimants provide through the Questionnaire process.

51. The Debtor respectfully requests that the Court (a) enter the proposed order in substantially the form attached hereto as Exhibit B (i) approving the Questionnaire, (ii) directing the Pending Mesothelioma Claimants to complete and return the Questionnaire, and (iii)

¹⁰ The SPHC order incorporated by reference the *Agreed Protective Order Governing Confidential Information, In re Specialty Products Holding Corp.*, No. 10-11780 (Bankr. D. Del. 2010) (Dkt. 471) (attached as **Ex. Q**).

¹¹ The proposed order provides that when a party seeks to introduce a Questionnaire into evidence in the chapter 11 case, the party must move to seal (a) Social Security numbers (except last four digits), (b) dates of birth (except year), (c) names of identifiable minors (except for their initials), (d) financial account numbers (except last four digits), and (e) medical information (except claimed disease). This scope of redaction follows *the Order on Motions to Seal Materials in Record of Estimation Proceeding and Protocol for Redaction of Record, In re Garlock Sealing Techs. LLC*, No. 10-31607 (Bankr. W.D.N.C. 2014) (Dkt. 4195), which was entered following remand of public access litigation from the District Court and effectively modified the original questionnaire order in that case.

implementing the confidentiality and privacy protections therein; and (b) grant DBMP such other and further relief as the Court deems appropriate.

Notice

52. Consistent with the Order Establishing Certain Notice, Case Management and Administrative Procedures (Dkt. 27) (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 FCR; (d) counsel to Debtor’s non-debtor affiliate, CertainTeed LLC; and (e) the other parties on the Service List established by the Case Management Order. DBMP submits that, in light of the nature of the relief requested, no other or further notice need be provided.

No Prior Request

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

Dated: August 19, 2020
Charlotte, North Carolina

Respectfully submitted,

/s/ Garland S. Cassada

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ATTORNEYS FOR DEBTOR AND DEBTOR
IN POSSESSION

EXHIBIT A

DBMP LLC Mesothelioma Claim Questionnaire

PURPOSE OF QUESTIONNAIRE

The U.S. Bankruptcy Court for the Western District of North Carolina has authorized DBMP LLC ("DBMP" or the "Debtor") to issue this Questionnaire to every person who alleges a claim against DBMP based on a diagnosis of mesothelioma on or before June 30, 2020 allegedly caused by asbestos-containing products for which DBMP is, or the former CertainTeed Corporation ("CertainTeed") was, responsible. Each person meeting these criteria is referred to below in this Questionnaire as a "Pending Mesothelioma Claimant."

The Debtor is pursuing reorganization in a Chapter 11 case in the Bankruptcy Court, referred to as *In re DBMP LLC*, Case No. 20-30080 (Bankr. W.D.N.C.). The Bankruptcy Court has granted the Debtor's application to issue this Questionnaire.

The purpose of this form is to obtain complete and up-to-date information about each Pending Mesothelioma Claim with respect to the topics noted below. If you have a Pending Mesothelioma Claim, you must provide accurate, complete, and timely responses to this Questionnaire.

All information provided in response to this Questionnaire will be treated as confidential. The uses and further disclosure of such information shall be restricted in accordance with the *Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants and Governing the Confidentiality of Responses*, dated _____, 2020. A copy of that Order [Dkt. No. ____] is provided with this Questionnaire.

ADMINISTRATOR INFORMATION

If you have a Pending Mesothelioma Claim against DBMP, you are directed to complete and submit this Questionnaire on or before _____, 2020.

You may upload your completed Questionnaire responses and any attachments electronically through the electronic portal supported by _____, whom the Debtor has retained as its Claims Administrator. Access to this system and upload instructions are available through the _____ website at [address]. If you elect to upload your responses and any attachments electronically, please do so on the _____ system no later than _____, 2020.

In the alternative, you have the option of submitting your completed Questionnaire responses and any attachments by mail. If this is your preference, please deposit your completed Questionnaire, along with any attachments, in the U.S. Mail (and include the required postage) postmarked no later than _____, 2020, addressed to:

[_____]

Each Pending Mesothelioma Claimant listed as such in the Debtor's database has been provided a unique copy of this Questionnaire; if you have been provided such a copy, you must provide your answers on it or through the electronic portal. Other Pending Mesothelioma Claimants should use blank copies of this Questionnaire to provide their responses (or use the electronic portal). In addition, if you answer by mail, you are permitted and encouraged to provide any attachments in electronic format (for example, on a CD or thumb drive), where feasible.

LIST OF QUESTIONNAIRE SECTIONS AND INSTRUCTIONS

INDUSTRY CODES

- Contains reference codes for industry in which alleged exposure occurred for use in completing Part 6.

PART 1: STATUS OF DBMP CLAIM

- Provide information about the status of the claimant's Pending Mesothelioma Claim against DBMP. If you are not a Pending Mesothelioma Claimant, but are listed as such in the Debtor's database and thus receive a preprinted Questionnaire, you must answer this section but you are not required to answer the rest of the Questionnaire, except for Parts 2, 3, and 4.

PARTS 2, 3, 4: INJURED PARTY INFORMATION, RELATED CLAIMANT INFORMATION, LAW FIRM INFORMATION

- In Part 2, provide identifying information for the person diagnosed with mesothelioma (the "Injured Party").
- Only complete Part 3 if the claimant (the plaintiff) is a "Related Claimant," rather than the Injured Party. Provide identifying information for the Related Claimant, including the Related Claimant's relationship to the Injured Party.
- As used in this Questionnaire, the term "Related Claimant" means a person who is not the Injured Party but who is making a claim based on or derived from the Injured Party's mesothelioma, either in a representative capacity (e.g., the personal representative of the Injured Party's estate suing for the Injured Party's injuries), or in an independent capacity (e.g., a family member suing for his or her own losses based on the alleged personal injury to or wrongful death of the Injured Party).
- As used in this Questionnaire, "claimant" means the Pending Mesothelioma Claimant, whether the Injured Party or the Related Claimant.
- In Part 4, provide contact information for the law firm that represents the claimant in responding to the Questionnaire. Also provide the identity of any other law firms that represent the claimant with respect to asbestos claims, whether in lawsuits, in making claims against trusts established to pay claims against bankrupt asbestos defendants ("Trusts"), or otherwise.

PART 5: INFORMATION ON MESOTHELIOMA DIAGNOSIS

- Provide diagnosis information related to the alleged injury and/or death of the Injured Party.

PART 6: ALLEGED EXPOSURE

- In Part 6A, identify whether the claimant alleges the Injured Party was exposed to asbestos from asbestos-containing products for which DBMP or CertainTeed is responsible. (The products for which DBMP is responsible are the same products for which CertainTeed was responsible.) Then, answer the questions with respect to the Injured Party's occupational and non-occupational alleged exposures to asbestos from CertainTeed products.
- In Part 6B, answer the questions with respect to the Injured Party's occupational and non-occupational alleged exposures to asbestos from non-CertainTeed products (including products such as talc alleged to contain asbestos that may not have been intentionally added).
- In Parts 6A and 6B, "secondary" exposure means alleged exposure when another person who worked with or around asbestos-containing products (the "Primary Exposed Person") brought home fibers on his or her clothes. In the case of secondary exposure, list information for jobs and non-occupational contexts where primary exposure allegedly occurred and provide the required information regarding the Primary Exposed Person's alleged exposure.
- See below for "Option to Respond by Producing Documents."

PART 7: INJURED PARTY'S ECONOMIC LOSS INFORMATION

- Provide the information requested in Part 7 regarding the Injured Party's alleged economic losses and dependents.
- See below for "Option to Respond by Producing Documents."

PART 8: LITIGATION AND OTHER CLAIMS RELATED TO THE INJURED PARTY'S ALLEGED ASBESTOS EXPOSURE

- Provide the information requested in Part 8 regarding all payments received from Trusts and entities that are not Trusts (e.g., other defendants).
- Then, for every lawsuit based on the Injured Party's mesothelioma (or any other asbestos-related condition), provide the requested information in Part 8A and complete Tables A, B, and C. Answer these questions regardless of whether DBMP or CertainTeed was a defendant in the lawsuit.
- The term "DWOP" in Tables A and C means "dismissed without payment." You should check this box if the claim was dismissed for any reason without a payment from the defendant.
- See below for "Option to Respond by Producing Documents."

OPTION TO RESPOND BY PRODUCING DOCUMENTS (APPLICABLE TO PARTS 6, 7, AND 8)

- In lieu of providing a written response to Part 6A, Part 6B, Part 7, Part 8, or any particular question included therein, you may submit verified complaints, interrogatory responses, deposition transcripts of plaintiffs and/or product identification witnesses, bankruptcy trust claim forms, or expert reports that provide true and complete information responsive to the questions answered by this alternative means.

PART 9: CERTIFICATION

- Either the claimant or the claimant's attorney must sign the appropriate certification.

PART 10: ATTACHMENT OF TRUST CLAIM FORMS

- The claimant must submit copies of all Trust claim forms submitted by or on behalf of the claimant or Injured Party to Trusts listed in Table B (or the electronic equivalent if submitted electronically), along with any other documents submitted such as deposition transcripts, affidavits, invoices, etc. Alternatively, the claimant may execute the authorization attached as Exhibit 1 for DBMP to obtain the claim forms and their attachments directly from the Trusts.

PART 11: OTHER CASE DOCUMENTS

- The claimant must attach copies of the following documents:
 - o All depositions taken in any lawsuits listed in Part 8A that relate in any way to the Injured Party's alleged exposures to asbestos or asbestos-containing products;
 - o All written discovery (including interrogatories and responses to requests for admission) you or your attorney have answered on your behalf in any of the lawsuits listed in Part 8A;
 - o All expert reports produced by any party in any lawsuit listed in Part 8A;
 - o Social Security printout and copy of union employment records (where applicable); and
 - o Copy of medical records (or autopsy report) confirming diagnosis of mesothelioma.

Industry Codes (use when completing Part 6)			
Code	Industry	Code	Industry
I-1	Non-occupational/do-it-yourself (DIY)	Transportation	
Mining/extraction		I-19	Truck transportation
I-2	Asbestos mining	I-20	Rail transportation
I-3	Non-metallic mining other than asbestos	Utilities and waste management services	
I-4	Metal ore mining	I-21	Electric and gas utilities and distribution
I-5	Oil and gas extraction	I-22	Water, sewer, steam, air-conditioning, heating, and irrigation systems
Construction		I-23	Sewage and water treatment facilities
I-6	Construction (residential)	I-24	Asbestos abatement
I-7	Construction (commercial)	Military	
I-8	Construction (industrial)	I-25	U.S. Navy
I-9	Municipal/infrastructure construction	I-26	Other Armed Forces, Military Reserves, or National Guard Branch
Manufacturing/repairing		Other services and professionals	
I-10	Asbestos product manufacturing	I-27	Automotive repair and maintenance
I-11	Textile, yarn, thread, fabric, and knitting mills/manufacturing	I-28	Gasoline stations
I-12	Pulp, paper, and paperboard mills/manufacturing	I-29	Commercial and industrial machinery and equipment repair and maintenance
I-13	Chemical/petroleum refining	I-30	Architectural, engineering, and related services
I-14	Cement, concrete, lime, and gypsum/drywall products manufacturing	Other	
I-15	Blast furnaces and steel mills	I-31	Other (describe; use for any other industry in categories above or in any other category)
I-16	Iron, aluminum, and other metals foundries/mills/manufacturing		
I-17	Ship and boat building and repairing		
I-18	Motor vehicles and motor vehicle equipment manufacturing		

PART 1: STATUS OF DBMP CLAIM

Select the status of your claim against DBMP (check one and only one):

- Pending in filed and unresolved lawsuit
- Would have been filed absent bankruptcy stay
- Dismissed or withdrawn
- Settled and paid If so, amount of settlement with DBMP/CertainTeed: \$ _____
- Settled and unpaid If so, amount of settlement with DBMP/CertainTeed: \$ _____
- Resolved by judgment If so, amount of judgment against DBMP/CertainTeed: \$ _____
- Not based on a diagnosis of mesothelioma
- I do not assert a claim against DBMP

If you checked any box other than "pending" or "would have been filed absent bankruptcy stay," **you do not have to answer the remainder of this Questionnaire other than Parts 2, 3, and 4.**

PART 2: INJURED PARTY INFORMATION (See instructions above for Part 2 for definition of "Injured Party")

Last Name:		First Name:		Middle Initial:	Suffix:	Date of Birth (mm/dd/yyyy):
Sex (M/F):	Social Security Number:		Foreign Tax ID (if applicable):		Estate Tax ID (if applicable):	
City of Residence:		State of Residence:	Postal Code:		Country (if outside the US):	
Country of birth:			Date immigrated to United States (if applicable):			

PART 3: RELATED CLAIMANT INFORMATION (if different than INJURED PARTY) (See instructions above for Part 3 for definition of "Related Claimant")

Last Name:		First Name:		Middle Initial:	Suffix:	Date of Birth (mm/dd/yyyy):
Sex (M/F):	Social Security Number :		Foreign Tax ID (if applicable):			
City of Residence:		State of Residence:	Postal Code:		Country (if outside the US):	

Relationship to Injured Party: _____

Additional Related Claimants (and use additional copies of this page to provide information above for such claimants): _____

PART 4: LAW FIRM INFORMATION

Name of Firm Responding to Questionnaire: _____

Firm Mailing or Street Address: _____

Firm City:	Firm State:	Zip Code:	Phone No.: (Area Code) ###-####
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Name of Firm Contact: _____ Email Address: _____

Other Law Firms That Represent Claimant With Respect to Asbestos Personal Injury or Wrongful Death Claims (whether in lawsuits, in making claims against Trusts, or otherwise): _____

PART 5: INFORMATION ON MESOTHELIOMA DIAGNOSIS

Has the Injured Party been diagnosed with Mesothelioma? (Y/N): _____

Date of first diagnosis of Mesothelioma (mm/dd/yyyy): _____

Type of Mesothelioma: Pleural Peritoneal Other If Other, identify: _____

Is the Injured Party deceased? (Y/N): _____

If so, Date of Death (mm/dd/yyyy): _____

Has the Injured Party been diagnosed with a different asbestos-related condition at any time? (Y/N): _____

If so, identify the condition: _____

PART 6A: ALLEGED EXPOSURE TO ASBESTOS FROM CERTAINTEED PRODUCTS

INSTRUCTIONS: Answer the question regarding the Injured Party's alleged exposure to asbestos from products for which DBMP or CertainTeed is responsible ("CertainTeed Exposure"). Then, complete a separate section for every job in which claimant alleges CertainTeed Exposure, as well as any site where claimant alleges non-occupational CertainTeed Exposure. Use as many copies of the following two pages as necessary to answer for all jobs and non-occupational sites where alleged CertainTeed Exposure occurred, and assign a number for each job or non-occupational site. In the case of secondary exposure, list information for job or non-occupational site where primary exposure allegedly occurred and provide the required information regarding the Primary Exposed Person's alleged exposure during the periods when the Secondary Exposed Person claims exposure.

If you wish to produce documents instead of providing a written response, see "Option to Respond by Producing Documents" on page 2 above, and follow the instructions set forth there and on page 1 under "Administrator Information."

Does claimant allege CertainTeed Exposure? Yes No

ALLEGED CERTAINTEED EXPOSURE (JOB OR NON-OCCUPATIONAL SITE # ___)

Type of alleged exposure (check one and only one):

Occupational: Injured Party experienced CertainTeed Exposure because of his or her job (whether full-time or part-time).

Non-occupational: Injured Party experienced CertainTeed Exposure for reasons unrelated to his or her job

Secondary: Injured Party alleges contact with someone who experienced CertainTeed Exposure.
 For Secondary, provide relationship between Injured Party and Primary Exposed Person: _____
 How did the Injured Party allegedly come into contact with asbestos from the Primary Exposed Person? _____
 During what period of time did the Injured Party allegedly come into contact with asbestos from the Primary Exposed Person? _____

Employer (if applicable; for Secondary, list Primary Exposed Person's employer):	City:	State:	Country:
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Sites of CertainTeed Exposure (i.e., name of worksites or other place of alleged exposure; for Secondary, list sites where Primary Exposed Person was allegedly exposed; use additional pages if necessary):

Site 1:	City:	State:	Country:
Site 2:	City:	State:	Country:
Site 3:	City:	State:	Country:

Site Type(s) (check all that apply): Industrial Commercial Residential Other (describe) _____

If the claimant alleges occupational or secondary exposure, provide information for each occupation Injured Party (or Primary Exposed Person) held in this job. Specify the Occupation, Industry Code (see p. 3—if "Other," please describe), Start & End Dates, and CertainTeed Exposure Dates for each occupation. Use additional pages if necessary.

Occupation 1:	Industry Code: I-	Start Date: (___/___/___)	End Date: (___/___/___)	CertainTeed Exposure Dates: (___/___/___)-(___/___/___)
Occupation 2:	Industry Code: I-	Start Date: (___/___/___)	End Date: (___/___/___)	CertainTeed Exposure Dates: (___/___/___)-(___/___/___)
Occupation 3:	Industry Code: I-	Start Date: (___/___/___)	End Date: (___/___/___)	CertainTeed Exposure Dates: (___/___/___)-(___/___/___)

Product type(s) and brand(s) of CertainTeed asbestos-containing products resulting in CertainTeed Exposure:

Asbestos cement pipe ("ACP") Brand name: _____

Asphalt roofing cements/coatings

Asphalt roofing felt installed underneath shingles

Asphalt roofing felt installed on a flat, built-up roof

Asphalt roofing shingles Brand name: _____ Number of tabs: _____

Other (describe) _____ Brand name: _____

If Injured Party was allegedly exposed to asbestos from CertainTeed ACP:

Type of ACP (check all that apply):

- Pressure (water) Non-pressure (sewer) Irrigation/fluid transmission Storm water Air duct Other (describe) _____

Diameter(s) of ACP: _____ Length(s) of pieces of ACP: _____

Pipe joining system: Bell and spigot Coupling Mechanical joint Other (describe) _____

Please indicate the nature of the Injured Party's alleged exposure to CertainTeed ACP (check all that apply; for Secondary Exposure, check boxes and answer questions with respect to Primary Exposed Person):

- Personally cut or machined CertainTeed ACP using manual pipecutter
- Personally cut or machined CertainTeed ACP using power saw
- Was regularly within 10 feet of others who cut or machined CertainTeed ACP using manual pipecutter
- Was regularly within 10 feet of others who cut or machined CertainTeed ACP using power saw
- Was on site, 10 feet or more away from others who cut or machined CertainTeed ACP using manual pipecutter
- Was on site, 10 feet or more away from others who cut or machined CertainTeed ACP using power saw
- Other alleged exposure to asbestos from CertainTeed ACP (describe) _____

Place of pipe installation: Inside structure (with walls and ceiling) Out-of-doors

Other companies that manufactured ACP to which Injured Party was exposed, and percentage of total ACP exposure (percentages should add to 100%):

- Johns-Manville: ___% J-M AC Pipe Corp.: ___% Capco: ___% Flintkote: ___%
- CertainTeed: ___% Other (identify) _____: ___%

% of time working with or around pipe of any kind on this job: ___ %

% of time used ACP vs. pipe other than ACP on this job: ___ %

If Injured Party was allegedly exposed to asbestos from CertainTeed roofing products:

Please indicate the nature of the Injured Party's alleged exposure to asbestos from CertainTeed roofing products (check all that apply; for secondary exposure, check boxes and answer questions with respect to Primary Exposed Person):

- Personally installed CertainTeed asbestos-containing roofing products
- Was regularly within 10 feet of others who installed CertainTeed asbestos-containing roofing products
- Was on site, 10 feet or more away from others who installed CertainTeed asbestos-containing roofing products
- Other alleged exposure to asbestos from CertainTeed roofing products (describe) _____

% of time used asbestos-containing vs. non-asbestos-containing roofing products on this job: ___ %

% of time used CertainTeed vs. other brands of roofing products on this job: ___ %

If Injured Party was allegedly exposed to asbestos from CertainTeed products other than ACP or roofing products:

What product? _____

Please indicate the nature of the Injured Party's alleged exposure to asbestos from CertainTeed products other than ACP or roofing products (check all that apply; for secondary exposure, check boxes and answer questions with respect to Primary Exposed Person):

- Personally worked with non-ACP, non-roofing CertainTeed asbestos-containing products
- Was regularly within 10 feet of others who worked with non-ACP, non-roofing CertainTeed asbestos-containing products
- Was on site, 10 feet or more away from others who worked with non-ACP, non-roofing CertainTeed asbestos-containing products
- Other alleged exposure to asbestos from CertainTeed products (describe) _____

% of time used CertainTeed vs. other brands of products on this job: ___ %

PART 6B: ALLEGED EXPOSURE TO ASBESTOS FROM PRODUCTS OTHER THAN CERTAINTEED PRODUCTS

INSTRUCTIONS: In this section, identify each job or non-occupational site at which the Injured Party allegedly experienced asbestos exposure from products for which companies other than CertainTeed/DBMP are responsible (including products such as talc alleged to contain asbestos that may not have been intentionally added) ("Non-CertainTeed Exposure"). Use as many copies of this page as necessary to answer for all jobs and non-occupational sites where alleged Non-CertainTeed Exposure occurred, and assign a number for each job or non-occupational site. In the case of secondary exposure, list information for job or non-occupational site where primary exposure allegedly occurred and provide the required information regarding the Primary Exposed Person's alleged exposure during the periods when the Secondary Exposed Person claims exposure.

If you wish to produce documents instead of providing a written response, see "Option to Respond by Producing Documents" on page 2 above, and follow the instructions set forth there and on page 1 under "Administrator Information."

NON-CERTAINTEED EXPOSURE (JOB OR NON-OCCUPATIONAL SITE # ___)

Type of alleged exposure (check one and only one):

- Occupational: Injured Party experienced Non-CertainTeed Exposure because of his or her job (whether full-time or part-time)
- Non-occupational: Injured Party experienced Non-CertainTeed Exposure for reasons unrelated to his or her job
- Secondary: Injured Party alleges contact with someone who experienced Non-CertainTeed Exposure
 For Secondary, provide relationship between Injured Party and Primary Exposed Person: _____
 How did the Injured Party allegedly come into contact with asbestos from the Primary Exposed Person? _____
 During what period of time did the Injured Party allegedly come into contact with asbestos from the Primary Exposed Person? _____

Employer (if applicable; for Secondary, list Primary Exposed Person employer):	City:	State:	Country:
--	-------	--------	----------

Sites of Non-CertainTeed Exposure (i.e., name of worksites or other place of alleged exposure; for Secondary, list sites where Primary Exposed Person was allegedly exposed; use additional pages if necessary):

Site 1:	City:	State:	Country:
Site 2:	City:	State:	Country:
Site 3:	City:	State:	Country:

If the claimant alleges occupational or secondary exposure, provide information for each occupation Injured Party (or Primary Exposed Person) held in this job. Specify the Occupation, Industry Code (see p. 3—if "Other," please describe), Start & End Dates, and Non-CertainTeed Exposure Dates for each occupation.

Occupation 1:	Industry Code: I-	Start Date: (__/__/__)	End Date: (__/__/__)	Non-CertainTeed Exposure Dates: (__/__/__)-(__/__/__)
Occupation 2:	Industry Code: I-	Start Date: (__/__/__)	End Date: (__/__/__)	Non-CertainTeed Exposure Dates: (__/__/__)-(__/__/__)
Occupation 3:	Industry Code: I-	Start Date: (__/__/__)	End Date: (__/__/__)	Non-CertainTeed Exposure Dates: (__/__/__)-(__/__/__)

Describe the activity, including the allegedly asbestos-containing product or products involved and how frequently each activity occurred, that resulted in Non-CertainTeed Exposure (for Secondary, list activity that resulted in exposure of Primary Exposed Person):

If not otherwise identified in attached documents and Trust claim forms, identify any asbestos or asbestos-containing products to which the Injured Party was exposed (e.g., insulation, insulating cement, etc.) and the company that supplied each product:

PART 7: INJURED PARTY ECONOMIC LOSS INFORMATION

INSTRUCTIONS: Provide the following information. If you wish to produce documents instead of providing a written response, see "Option to Respond by Producing Documents" on page 2 above, and follow the instructions set forth there and on page 1 under "Administrator Information."

Was/Has the Injured Party retired? (Y/N): _____

If yes, date of retirement: (mm/dd/yyyy) _____

If *not retired*, answer the following for current activity; if *retired*, answer the following for activity at retirement date:

Occupation: _____ Industry: _____ State: _____ County: _____

Was the Injured Party employed at the time of diagnosis? (Y/N): _____

If yes, answer the following:

Occupation: _____ Industry: _____ State: _____ County: _____

Planned date of retirement but for diagnosis: (mm/dd/yyyy) _____

Did the Injured Party leave employment after the diagnosis? (Y/N) _____

If yes, date on which Injured Party left employment: (mm/dd/yyyy) _____

Does the claimant allege lost wages, lost Social Security, or lost pension? (Y/N): _____ Amount: _____

Does the claimant allege lost household services? (Y/N): _____ Amount: _____

Does the claimant seek to recover medical expenses? (Y/N): _____ Amount: _____

Does the claimant allege any economic loss other than lost wages, lost household services, and medical expenses? (Y/N): _____

If yes, describe: _____ Amount: _____

The Injured Party's Current Marital Status: (check one) Single, Never Married Married Divorced Widowed Marriage Annulled

Legally Separated Other: (specify) _____

If married, age of spouse: _____

Please provide information on each non-spouse dependent

Dependent	Disabled? (Y/N)	Age	Dependent	Disabled? (Y/N)	Age
Dependent 1			Dependent 4		
Dependent 2			Dependent 5		
Dependent 3			Dependent 6		

PART 8: LAWSUITS AND OTHER CLAIMS BASED ON THE INJURED PARTY'S MESOTHELIOMA (OR OTHER ASBESTOS-RELATED CONDITION)

INSTRUCTIONS: Answer the questions regarding payments received by the claimant. Then, use additional copies of the following page **AND** associated **TABLE A** for **EACH LAWSUIT** seeking compensation based on the Injured Party's mesothelioma (or a separate lawsuit alleging another asbestos-related condition), whether or not (1) DBMP or CertainTeed was named as a defendant, or (2) the lawsuit remains pending. Use additional pages if more space is required. If you wish to produce documents instead of providing a written response, see "Option to Respond by Producing Documents" on page 2 above, and follow the instructions set forth there and on page 1 under "Administrator Information."

Provide the total aggregate payments received by the claimant from all Trusts on account of the Injured Party's mesothelioma:

Provide the total number of Trusts from which the claimant has received a payment on account of the Injured Party's mesothelioma:

Provide the total aggregate payments received by the claimant from all entities that are not Trusts, such as tort system defendants, on account of the Injured Party's mesothelioma:

Provide the total number of non-Trust entities from which the claimant has received a payment on account of the Injured Party's mesothelioma:

PART 8A: LAWSUITS BASED ON THE INJURED PARTY'S MESOTHELIOMA (OR SEPARATE LAWSUIT BASED ON ANOTHER ASBESTOS-RELATED CONDITION)

LAWSUIT # _____ -of - _____ (For example, Lawsuit #1 of 3 related lawsuits. Use additional copies of this page to complete the section separately for each related lawsuit.)

What is the capacity of the claimant (select and fill out for all that apply)?

- | | | |
|--|---|---|
| <input type="checkbox"/> Injured Party | <input type="checkbox"/> Personal Representative/Executor | <input type="checkbox"/> Dependent Child |
| <input type="checkbox"/> Spouse of Injured Party | <input type="checkbox"/> Wrongful Death Claimant | <input type="checkbox"/> Other (please specify) _____ |

State (list state): _____

Federal court? (Y/N): _____

What state county/subdivision or federal district court (fill in the blank):

Case Number / Docket Number (fill in the blank): _____

Date first filed (mm/dd/yyyy): _____

Trial Information

Has this claim been resolved either in whole or in part by trial? (Y/N): _____

If yes, please provide further information about the trial:

Was a verdict entered? (Y/N): _____

If a verdict was entered, please provide further information about the verdict:

When was the verdict entered? (mm/dd/yyyy): _____

Was it a plaintiff verdict or a defense verdict? _____

If a plaintiff verdict, please answer the following:

Which defendants were found liable? _____

What was the allocation of fault or damages? _____

Was there a monetary award to plaintiff (Y/N)? _____

If yes, what was the award of compensatory damages? _____

Is the case on appeal? (Y/N): _____

Complete **attached TABLE A** for all defendants named in this lawsuit

TABLE A

NAMED DEFENDANTS AGAINST WHICH A LAWSUIT FOR ASBESTOS-RELATED PERSONAL INJURY OR WRONGFUL DEATH HAS BEEN FILED

If you wish to produce documents instead of providing a written response, see "Option to Respond by Producing Documents" on page 2 above, and follow the instructions set forth there and on page 1 under "Administrator Information." "DWOP" means "dismissed without payment."

LAWSUIT # _____ -of- _____ (fill in appropriate lawsuit # from PART 8A)

RELATED CASE NUMBER _____ (fill in appropriate Case Number from PART 8A)

Named Defendant	Claim Status			Payment Date (or, if not paid, Resolution Date) (mm/dd/yyyy)
	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
1	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
2	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
3	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
4	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
5	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
6	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
7	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
8	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
9	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
10	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
11	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
12	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
13	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
14	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
15	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
16	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
17	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
18	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
19	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
20	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
21	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
22	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
23	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
24	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
25	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	

Note: If more space is required, use additional pages

PART 8B: OTHER CLAIMS RELATED TO THE INJURED PARTY (Information About Claims against Bankruptcy Trusts and Other Entities)

INSTRUCTIONS: Complete attached Table B (claims against bankruptcy trusts) and attached Table C (claims against other entities not previously identified in Table A or Table B) for all such claims based on the Injured Party's mesothelioma or other asbestos-related condition. You must provide information relating to claims against Trusts and against other entities made by or on behalf of the claimant or the Injured Party. Use additional pages if more space is required. If you wish to produce documents instead of providing a written response, see "Option to Respond by Producing Documents" on page 2 above, and follow the instructions set forth there and on page 1 under "Administrator Information."

TABLE B

BANKRUPTCY TRUSTS AGAINST WHICH A CLAIM HAS BEEN FILED FOR ASBESTOS-RELATED PERSONAL INJURY OR WRONGFUL DEATH

Trust Name	Claim Has Been Filed	Claim Status (check both if applicable)	Payment Date (or, if not paid, Resolution Date) (mm/dd/yyyy)
A&I Corporation Asbestos Bodily Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
ABB Lummus Global Inc. 524(g) Asbestos PI Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
A-Best Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
AC&S Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Amatex Asbestos Disease Trust Fund	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
APG Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
API, Inc. Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Armstrong World Industries Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
ARTRA 524(g) Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
ASARCO LLC Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Babcock & Wilcox Company Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Bartells Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Brauer 524(g) Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Burns and Roe Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
C. E. Thurston & Sons Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Celotex Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Christy Refractories Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Combustion Engineering 524(g) Asbestos PI Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Congoleum Plan Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
DII Industries, LLC Asbestos PI Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Durabla Manufacturing Company Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Eagle-Picher Industries Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Federal Mogul U.S. Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Flintkote Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Forty-Eight Insulations Qualified Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Fuller-Austin Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
G-I Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	

GST Settlement Facility	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
H. K. Porter Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Hercules Chemical Company, Inc. Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
J.T. Thorpe Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
JT Thorpe Company Successor Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Kaiser Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Keene Creditors Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Leslie Controls, Inc. Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Lykes Tort Claims Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
M. H. Detrick Company Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Manville Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Metex Asbestos PI Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Motors Liquidation Company Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Muralo Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
NGC Bodily Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
North American Refractories Company Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Owens Corning Fibreboard Asbestos Personal Injury Trust (OC Sub-Fund)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Owens Corning Fibreboard Asbestos Personal Injury Trust (FB Sub-Fund)	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Pittsburgh Corning Corporation Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Plant Insulation Company Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
PLI Disbursement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Plibrico Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Porter Hayden Bodily Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Quigley Company, Inc. Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Raytech Corporation Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Rock Wool Mfg Company Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Rutland Fire Clay Company Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Shook & Fletcher Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Skinner Engine Co. Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
SPHC Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
State Insulation Corporation Asbestos PI Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Stone and Webster Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Swan Asbestos and Silica Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
T H Agriculture & Nutrition, LLC Industries Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Thorpe Insulation Company Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
United Gilsonite Laboratories Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
United States Gypsum Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
United States Lines, Inc. and United States Lines (S.A.) Inc. Reorganization Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	

United States Mineral Products Company Asbestos Personal Injury Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
UNR Asbestos-Disease Claims Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Utex Industries, Inc. Successor Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Wallace & Gale Company Asbestos Settlement Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Western MacArthur-Western Asbestos Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
WRG Asbestos PI Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Yarway Asbestos Personal Injury Trust	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Other Trust _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	
Other Trust _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Approved <input type="checkbox"/> Paid	

TABLE C

OTHER ENTITIES AGAINST WHICH A CLAIM FOR ASBESTOS-RELATED PERSONAL INJURY OR WRONGFUL DEATH HAS BEEN ASSERTED OUTSIDE OF JUDICIAL PROCEEDINGS OR TRUST PROCESSES, OR AGAINST WHICH LAW FIRM INTENDS TO ASSERT A CLAIM UNDER AN ADMINISTRATIVE AGREEMENT

Company or Other Party	Claim Status			Payment Date (or, if not paid, Resolution Date) (mm/dd/yyyy)
1	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
2	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
3	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
4	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
5	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
6	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
7	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
8	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
9	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
10	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
11	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
12	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
13	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
14	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
15	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
16	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
17	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
18	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
19	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
20	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
21	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
22	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
23	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
24	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	
25	<input type="checkbox"/> Pending	<input type="checkbox"/> DWOP	<input type="checkbox"/> Settled	

Note: If more space is required, use additional pages.

PART 9: CLAIM CERTIFICATION

INSTRUCTIONS: This certification must be signed by either the Injured Party/Related Claimant or by the attorney for such party but need not be signed by both.

If Completed By Claimant:

I swear, under penalty of perjury, that, to the best of my knowledge, all of the information contained in the foregoing responses to this Mesothelioma Claim Questionnaire is true, accurate and complete as of the date hereof.

Signature Date

Print Name

If Completed By Attorney:

I acknowledge that by submitting the foregoing responses to this Mesothelioma Claim Questionnaire on behalf of my client, I am making the certifications contained in Rule 9011(b) of the Federal Rules of Bankruptcy Procedure.

Signature Date

Print Name Law Firm

PART 10: TRUST CLAIM FORMS

Attach copies of all Trust claim forms submitted by or on behalf of the claimant or Injured Party to Trusts listed in Table B, as well as all other documents submitted to the Trusts, such as deposition transcripts, affidavits, invoices, etc. Alternatively, the claimant may execute the form attached as Exhibit 1 to authorize a law firm representing DBMP to obtain from Trusts any claim forms submitted to a Trust by or on behalf of the claimant or Injured Party, as well as other documents claimants submitted to the Trusts.

PART 11: OTHER CASE DOCUMENTS

Attach copies of the following documents:

- a. All depositions taken in any lawsuits listed in Part 8A that relate in any way to the Injured Party's alleged exposures to asbestos or asbestos-containing products
- b. All written discovery (including interrogatories and responses to requests for admission) you or your attorney have answered on your behalf in any of the lawsuits listed in Part 8A
- c. All expert reports produced by any party in any lawsuit listed in Part 8A
- d. Social Security printout and copy of union employment records (where applicable)
- e. Copy of medical records (or autopsy report) confirming diagnosis of mesothelioma

Exhibit 1: Claimants’ Optional Authorization for Debtor’s Counsel to Obtain Trust Records

TO WHOM IT MAY CONCERN:

The Claimant named below hereby authorizes each Trust listed in the attachment hereto to provide a copy of any claim form submitted to such Trust as well as all other documents submitted by or on behalf of such Claimant (or the equivalent information as to Trust claims filed with Trusts electronically) to the law firm of Robinson, Bradshaw & Hinson, P.A. (“Robinson Bradshaw”) in its capacity as counsel to DBMP LLC in its chapter 11 case, docketed as Case No. 20-BK-30080 (Bankr. W.D.N.C.) (the “Bankruptcy Case”).

The Claimant has elected to provide this Authorization pursuant to the *Order Authorizing the Debtors to Issue Questionnaire to Holders of Pending Mesothelioma Claims and Governing the Confidentiality and Use of Information Provided in Responses*, entered in the Bankruptcy Case on _____, 2020 [Dkt. No. ____] (the “Questionnaire Order”). The Claimant expressly reserves his or her right to all of the protections of the Questionnaire Order, including, without limitation, the restrictions set forth therein on the uses and disclosure of “Confidential Questionnaire Information.” Except for the limited disclosure permitted by this Authorization, the Claimant does not waive, but expressly asserts, his or her rights under any confidentiality provisions applicable under the bankruptcy plan of reorganization, Trust agreement, or Trust distribution procedures under which any given Trust was created or operates.

This Authorization does not permit any Trust to release any information whatsoever, other than a copy of any claim form submitted to any of the listed Trusts by or on behalf of the Claimant (or the equivalent information as to Trust claims filed with Trusts electronically), as well as any attached documents such as deposition transcripts, affidavits, invoices, etc. Without limiting the generality of the foregoing two sentences, the Authorization does not permit any Trust to release information concerning the status of any claim, settlement of any claim, or payment of any claim.

Name of Claimant: _____

Claimant Social Security No.: _____

Name of Injured Party: _____

Injured Party Social Security No.: _____

Signature of Claimant or attorney authorized to execute this document for Claimant:

Name of signing attorney, if applicable: _____

Date: _____

Attachment: List of Asbestos Settlement Trusts

Attachment to Exhibit 1: List of Trusts Referenced in Claimants’ Optional Authorization for Debtors’ Counsel to Obtain Trust Records

Trusts	
A&I Corporation Asbestos Bodily Injury Trust	NGC Bodily Injury Trust
ABB Lummus Global Inc. 524(g) Asbestos PI Trust	North American Refractories Company Asbestos Personal Injury Settlement Trust
A-Best Asbestos Settlement Trust	Owens Corning Fibreboard Asbestos Personal Injury Trust (OC Sub-Fund)
AC&S Asbestos Settlement Trust	Owens Corning Fibreboard Asbestos Personal Injury Trust (FB Sub-Fund)
Amatex Asbestos Disease Trust Fund	Pittsburgh Corning Corporation Asbestos Personal Injury Settlement Trust
APG Asbestos Trust	Plant Insulation Company Asbestos Settlement Trust
API, Inc. Asbestos Settlement Trust	PLI Disbursement Trust
Armstrong World Industries Asbestos Personal Injury Settlement Trust	Plibrico Asbestos Trust
ARTRA 524(g) Asbestos Trust	Porter Hayden Bodily Injury Trust
ASARCO LLC Asbestos Personal Injury Settlement Trust	Quigley Company, Inc. Asbestos Personal Injury Trust
Babcock & Wilcox Company Asbestos Personal Injury Settlement Trust	Raytech Corporation Asbestos Personal Injury Settlement Trust
Bartells Asbestos Settlement Trust	Rock Wool Mfg Company Asbestos Trust
Brauer 524(g) Asbestos Trust	Rutland Fire Clay Company Asbestos Trust
Burns and Roe Asbestos Personal Injury Settlement Trust	Shook & Fletcher Asbestos Settlement Trust
C. E. Thurston & Sons Asbestos Trust	Skinner Engine Co. Asbestos Trust
Celotex Asbestos Settlement Trust	SPHC Asbestos Personal Injury Trust
Christy Refractories Asbestos Personal Injury Trust	State Insulation Corporation Asbestos PI Trust
Combustion Engineering 524(g) Asbestos PI Trust	Stone and Webster Asbestos Trust
Congoleum Plan Trust	Swan Asbestos and Silica Settlement Trust
DII Industries, LLC Asbestos PI Trust	T H Agriculture & Nutrition, LLC Industries Asbestos Personal Injury Trust
Durabla Manufacturing Company Asbestos Trust	Thorpe Insulation Company Asbestos Personal Injury Settlement Trust
Eagle-Picher Industries Personal Injury Settlement Trust	United Gilsonite Laboratories Asbestos Personal Injury Trust
Federal Mogul U.S. Asbestos Personal Injury Trust	United States Gypsum Asbestos Personal Injury Settlement Trust
Flintkote Asbestos Trust	United States Lines, Inc. and United States Lines (S.A.) Inc. Reorganization Trust
Forty-Eight Insulations Qualified Settlement Trust	United States Mineral Products Company Asbestos Personal Injury Settlement Trust
Fuller-Austin Asbestos Settlement Trust	UNR Asbestos-Disease Claims Trust
G-I Asbestos Settlement Trust	Utex Industries, Inc. Successor Trust
GST Settlement Facility	Wallace & Gale Company Asbestos Settlement Trust
H. K. Porter Asbestos Trust	Western MacArthur-Western Asbestos Trust
Hercules Chemical Company, Inc. Asbestos Trust	WRG Asbestos PI Trust
J.T. Thorpe Settlement Trust	Yarway Asbestos Personal Injury Trust
JT Thorpe Company Successor Trust	
Kaiser Asbestos Personal Injury Trust	
Keene Creditors Trust	
Leslie Controls, Inc. Asbestos Personal Injury Trust	
Lykes Tort Claims Trust	
M. H. Detrick Company Asbestos Trust	
Manville Personal Injury Settlement Trust	
Metex Asbestos PI Trust	
Motors Liquidation Company Asbestos Personal Injury Trust	
Muralo Trust	

EXHIBIT B

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re
DBMP LLC,¹
Debtor.

Chapter 11
Case No. 20-30080 (JCW)

ORDER PURSUANT TO BANKRUPTCY RULE 2004 DIRECTING SUBMISSION OF PERSONAL INJURY QUESTIONNAIRES BY PENDING MESOTHELIOMA CLAIMANTS AND GOVERNING THE CONFIDENTIALITY OF RESPONSES

This matter came before the Court on *Debtor’s Motion for Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires By Pending Mesothelioma Claimants* (Dkt. No. ____) (hereinafter, the “**Motion**”), filed by the above-captioned debtor and debtor-in-possession (the “**Debtor**” or “**DBMP**”).² Based upon a review of the Motion, the further submissions of the parties, the evidence presented, and the arguments of counsel at a hearing before the Court, the Court concludes that DBMP should be permitted to take discovery from pending mesothelioma claimants through the mechanism of a personal injury questionnaire for use in negotiating, formulating, soliciting, and confirming a plan of reorganization, subject to

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, Pennsylvania 19355.

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

the terms and conditions of this Order, and hereby ORDERS, ADJUDGES, AND DECREES that:

1. This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334. The Motion is a core proceeding pursuant to 28 U.S.C. § 157.
2. The Motion is GRANTED on the terms and conditions set forth herein.
3. The DBMP LLC Mesothelioma Claim Questionnaire (the “**Questionnaire**”) attached to this Order as Exhibit A and incorporated herein by reference is approved; *provided, however,* that modifications to the form may be made without further order of the Court on the written consent of DBMP, the Official Committee of Asbestos Personal Injury Claimants (the “**ACC**”), and the Future Claimants’ Representative (the “**FCR**” and, collectively with Debtor and the ACC, the “**Parties**”); *provided, further,* that non-substantive corrections and formatting changes may be made by the Debtor in its discretion, on notice to the other Parties. The Questionnaire seeks evidence that is relevant to negotiation, formulation, solicitation, and confirmation of a plan of reorganization, and is proportional to the needs of the case, considering the importance of the issues at stake, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.
4. Every person who alleges a claim against DBMP based on a diagnosis of mesothelioma on or before June 30, 2020, allegedly caused by asbestos-containing products for which DBMP is, or the former CertainTeed Corporation (“**Old CT**”) was, responsible (for purposes of this Order, a “**Pending Mesothelioma Claimant,**” and each claim asserted by such party, a “**Pending Mesothelioma Claim**”) is required to complete and return the Questionnaire, pursuant to the deadlines set forth in paragraph 5 below.

5. The following deadlines and requirements shall apply:
 - a. On or before _____, Epiq Corporate Restructuring, LLC, the Debtor's claims, noticing, and balloting agent (the "**Claims Agent**") shall serve the Questionnaire, via direct U.S. mail, postage prepaid, on counsel of record for all Pending Mesothelioma Claimants indicated as such in Debtor's claims database. DBMP shall provide counsel with a unique paper copy of the Questionnaire for each mesothelioma claimant in DBMP's claims database with a claim status of "open." DBMP also shall serve a blank copy of the Questionnaire on each such counsel and any other counsel who (according to the Debtor's claims database) have ever represented an asbestos claimant against the Debtor and whose addresses are reasonably available to the Debtor. DBMP shall directly serve Pending Mesothelioma Claimants indicated as such in Debtor's claims database and who are not represented by counsel if the identities and addresses of those claimants are known. DBMP shall promptly file a certificate of service and provide the ACC and the FCR with an electronic copy of the service list. The Claims Agent shall post a blank copy of the Questionnaire on the Debtor's restructuring website at _____ and shall offer a secure electronic portal for the completion of the Questionnaire, including the ability to upload required or supporting documentation.
 - b. Responses to the Questionnaire, whether in electronic or paper form, including all attachments thereto, and all trust claim forms submitted by Pending Mesothelioma Claimants pursuant to the Questionnaire or

obtained from any established asbestos personal injury trust (each, a “Trust”) pursuant to the optional authorization form incorporated in the Questionnaire,³ are referred to herein as “Questionnaire Responses.”

- c. All Pending Mesothelioma Claimants may submit their Questionnaire Responses and any attachments in paper form or by uploading electronic copies of the responses through the secure portal established by the Claims Agent.
 - d. If a Pending Mesothelioma Claimant chooses to submit the Questionnaire Response and any attachments through the secure portal, he or she shall complete and submit the Questionnaire Response no later than _____.
 - e. If a Pending Mesothelioma Claimant chooses to submit the Questionnaire Response and any attachments in paper form, he or she shall complete and submit the Questionnaire Response and deposit it and any attachments in the U.S. Mail (prepaid), postmarked no later than _____, addressed to _____.
- Any Pending Mesothelioma Claimant whose counsel receives a unique, marked paper form from the Claims Agent must use it or the corresponding PDF form if submitting electronically. The Claims Agent shall send fillable PDF forms to any law firms requesting them. All Pending Mesothelioma Claimants submitting

³ The authorization form is set forth as Exhibit 1 to the Questionnaire and is entitled “Claimants’ Optional Authorization for Debtor’s Counsel to Obtain Trust Records.” It is referred to below in this Order as the “**Authorization.**”

Questionnaire Responses in paper form are permitted and encouraged to provide attachments in electronic format, where feasible.

- f. The Claims Agent shall produce all Questionnaire Responses to the Parties, their respective bankruptcy counsel and special counsel (the “**Bankruptcy Counsel**”), and their respective retained asbestos claims experts.
- g. No Questionnaire Responses shall be disseminated or disclosed, whether in written or electronic form, to any person other than (i) the Parties; (ii) any entity that becomes a party to this bankruptcy case by way of intervention pursuant to an order of this Court (each, an “**Intervenor**”); (iii) any party-in-interest who obtains a right of access to Questionnaire Responses by an order issued pursuant to paragraph 18 of this Order; (iv) any law firm rendering legal services with respect to this bankruptcy case to any person described in the preceding parts (i) through (iii) of this paragraph 5.g., and each such law firm’s employees, agents, and representatives who are personally involved in rendering services in connection with the bankruptcy case; (v) any Party’s or Intervenor’s consulting or testifying experts, and members of their staff, who are personally involved in rendering services to a Party or Intervenor in connection with this bankruptcy case; (vi) any person who testifies at a deposition or hearing in connection with this bankruptcy case, and for whose examination or cross-examination reference to a Questionnaire Response is relevant; (vii) third-party service companies providing outside

photocopying, graphic production services, or litigation support services to counsel or experts in connection with the this bankruptcy case; (viii) the Claims Agent and any of its employees, agents, or representatives rendering services in connection with this bankruptcy case; (ix) the Court, including secretaries, judicial assistants, law clerks, and other clerical staff; and (x) court reporters, stenographers, or videographers who record deposition or other testimony in connection with this bankruptcy case; *provided, however*, that the right of access to Questionnaire Responses hereby conferred on the foregoing persons is subject to the conditions precedent set forth in paragraph 5.h. immediately below.

- h. Any person exercising a right of access to Questionnaire Responses granted by this Order shall thereby consent, and be deemed to consent, to be bound by this Order and shall thereby submit, and be deemed to submit, to the exclusive jurisdiction and venue of this Court for any dispute pertaining to the interpretation or enforcement of this Order. Without limitation of the generality of the foregoing sentence, as a condition of the right of access to Questionnaire Responses conferred by paragraph 5.g. above, every entity described in subparts (ii) through (viii) of paragraph 5.g. shall execute a joinder in the form annexed to this Order as Exhibit B.1 or Exhibit B.2. Exhibit B.1 shall be executed on the part of corporations, partnerships, companies, or firms whose employees, representatives, or agents will receive access to Questionnaire Responses in the performance of the firm's duties with respect to this bankruptcy

case. Exhibit B.2 shall be signed in an individual capacity by individuals (such as witnesses or self-employed experts) who receive a right of access to Questionnaire Responses under paragraph 5.g. above in their individual capacities, rather than as employees, agents, or representatives of a firm.

- i. Any Intervenor shall be deemed subject to all of the obligations and restrictions applicable to the Parties under this Order. Any Intervenor, and any party in interest who obtains such relief on motion pursuant to paragraph 18 of this Order, shall have access to the Questionnaire Responses only to the extent specified by this Court and subject to such terms and conditions as this Court may impose by further order.
- j. DBMP is authorized to serve subpoenas under Bankruptcy Rule 9016 on the Trusts listed in the Authorization form, and their claims processing facilities, to obtain claim forms and any other materials submitted by claimants to the Trusts pursuant to Authorizations returned as part of Questionnaire Responses. The subpoenas may request claim forms submitted to the Trusts or claims processing facilities by (i) claimants matching the full social security number of the claimant or Injured Party contained in the Authorization, and (ii) claimants matching the claimant or Injured Party last name and last four digits of the social security number in the Authorization. An electronic signature on the Authorization through an electronic portal established to receive Questionnaire Responses shall be treated as equivalent to a physical signature. The Trusts and claims processing facilities shall not be subject to any actions, claims, or demands

by claimants or any other parties as a result of their good faith compliance with this Order, the subpoenas, and the matching protocol contained therein.

6. Questionnaire Responses shall be confidential and treated as such without need of any special designation by or on behalf of the responding Pending Mesothelioma Claimants. Any entity granted access to Questionnaire Responses as provided in this Order must maintain the confidentiality of the same in a manner consistent with the obligations and restrictions imposed herein.

7. Pending Mesothelioma Claimants, the Parties, and any Intervenors shall have standing to enforce the protections afforded to Questionnaire Responses by this Order.

8. As a precautionary measure, but not as a precondition to protection, the Claims Agent shall stamp any written Questionnaire Responses with the following legend:

“CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER.”

9. Any entity that receives access to Questionnaire Responses as provided in this Order shall provide for physical, managerial, and electronic security thereof such that Questionnaire Responses are reasonably maintained and secured, ensuring that they are safe from unauthorized access or use during utilization, transmission, and storage.

10. The Questionnaire Responses, and any analyses, conclusions, summaries, excerpts, or redacted copies derived therefrom, and any knowledge obtained therefrom, shall be used only in connection with this bankruptcy case.

11. Neither Questionnaire Responses nor any analyses, conclusions, summaries, excerpts, or redacted copies derived therefrom may be (a) publicly disclosed except pursuant to this Order, (b) used as a disclosed or undisclosed source in any article, study, research, editorial,

publication, or scholarly work, or (c) incorporated into or merged with any preexisting database that is to be used or maintained for any purpose other than this bankruptcy case.

12. If Questionnaire Responses maintained or converted to electronic form are incorporated into or merged with any preexisting electronic information or database for purposes of this bankruptcy case (a “**Merged Database**”), the Merged Database must itself be treated as confidential to the same extent as the underlying Questionnaire Responses themselves, and shall be subject to the same use restrictions that this Order imposes on the Questionnaire Responses themselves.

13. Nothing in this Order shall restrict any person’s right to make lawful use of:

- a. any discrete data set or materials that came into the possession of such person lawfully and free of any confidentiality obligation;
- b. any exhibit or other document that is placed on the public record in this bankruptcy case in conformity with the restrictions set forth in paragraph 14 below, or any data or material that is or becomes publicly available other than by a breach of this Order; or
- c. any discrete data set or materials developed by or on behalf of such person independent of any Questionnaire Responses.

14. If, in the course of this bankruptcy case, any Party or Intervenor intends to offer into evidence or otherwise use Questionnaire Responses in connection with testimony, argument, or filings in this Court, or any reviewing court, such Party or Intervenor may not divulge Questionnaire Responses except when the following conditions are met: (a) such information is relevant to this bankruptcy case; (b) there is no reasonable manner to use such information without disclosing Questionnaire Responses; and (c) such Party or Intervenor has filed a proper

motion to seal (i) Social Security numbers (except last four digits), (ii) dates of birth (except year), (iii) names of identifiable minors (except for their initials), (iv) financial account numbers (except last four digits), and (v) medical information (except claimed disease, such as ‘pleural mesothelioma,’ ‘peritoneal mesothelioma,’ ‘asbestosis,’ or ‘lung cancer,’ and diagnosis date). Nothing herein shall prohibit an expert for any Party or Intervenor from using or referring to Questionnaire Responses in such expert’s report, or testifying concerning Questionnaire Responses in open court, so long as such testimony or report does not reveal the information described in categories (i) through (v) of the previous sentence.

15. If an entity granted access to Questionnaire Responses pursuant to this Order receives a subpoena, interrogatory, or other request for the production or disclosure of any Questionnaire Response, in whole or in part, to a third party (a “**Third-Party Discovery Demand**”), including a governmental or other regulatory body, such entity (a “**Discovery Target**”) shall provide prompt written notice of any such request or requirement to the Pending Mesothelioma Claimant or Pending Mesothelioma Claimants who provided the information requested, with copies to the Parties and any Intervenors, so that any of them may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Order. Pending a timely effort to obtain such a protective order or other remedy to prevent the requested production or disclosure, or written waiver by the Pending Mesothelioma Claimant, each of the Parties, and any Intervenors of the right to seek such an order or remedy, the Discovery Target shall interpose an objection to the Third-Party Discovery Demand on the basis of this Order. Nothing in this Order shall prohibit a Discovery Target from complying in good faith with an order directing it to comply, in whole or in part, with such Third-Party Discovery Demand, or require a Discovery Target to seek a stay of such an order, or to appeal from such an

order; *provided, however*, that any Discovery Target shall exercise reasonable efforts to preserve the confidentiality of Questionnaire Responses produced or disclosed pursuant to such an order, including, without limitation, by cooperating with any Pending Mesothelioma Claimant, Party, or Intervenor who expresses an intention to seek an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Questionnaire Responses.

16. Within the one-year anniversary of the date of substantial consummation of a confirmed chapter 11 plan of reorganization for the Debtor (a “**Plan**”), each entity that has received Questionnaire Responses shall destroy such Questionnaire Responses, including all copies thereof, in a commercially reasonable manner and continue to be bound by the terms and obligations imposed by this Order, and shall certify such destruction in writing to respective counsel of record for Debtor, the Reorganized Debtor, the ACC, and the FCR; *provided, however*, that the obligations of this paragraph shall not apply to copies of pleadings and exhibits filed under seal with this Court, or to file copies in the possession of counsel of record for the Pending Mesothelioma Claimants, for the Parties, or for Intervenors of papers prepared in connection with this bankruptcy case (*e.g.*, pleadings, transcripts, interview or document summaries, internal memoranda, written communications with professionals, experts, and witnesses, depositions and exhibits thereto, court papers, and other papers prepared, created, or served in connection with this bankruptcy case); and *provided further* that the obligations of this paragraph may be superseded and rendered inoperative if and to the extent that a confirmed Plan specifically authorizes a particular entity to turn over Questionnaire Responses to an asbestos settlement trust created pursuant to the Plan.

17. When the Claims Agent serves the Questionnaire, a copy of this Order shall be included therewith.

18. Any person who seeks relief from any provision of this Order shall do so by motion in this Court on notice to the Parties, any Intervenors, and the Pending Mesothelioma Claimants potentially affected by the relief sought. The movant shall bear the burden of showing good cause for the requested relief.

19. This Court shall retain exclusive jurisdiction to interpret, apply, and enforce this Order to the full extent permitted by law.

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 A (Questionnaire)

**EXHIBIT B.1 TO ORDER PURSUANT TO BANKRUPTCY RULE 2004 DIRECTING
SUBMISSION OF PERSONAL INJURY QUESTIONNAIRES BY PENDING
MESOTHELIOMA CLAIMANTS AND GOVERNING THE CONFIDENTIALITY OF
RESPONSES**

**Re: *In re DBMP LLC*
Case No. 20-30080 (JCW)
United States Bankruptcy Court
for the Western District of North Carolina**

Instructions: *This joinder must be executed by an authorized representative of any corporation, partnership, company, or firm required to execute a joinder pursuant to paragraph 5.h of the above-referenced Order.*

A C K N O W L E D G E M E N T

On behalf of my employer, _____ [name of employer] (“**Employer**”), I and other employees, agents, and representatives of Employer may be given access to Questionnaire Responses. Each and every Questionnaire Response constitutes confidential and protected information in connection with the above-referenced *Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants and Governing the Confidentiality of Responses* (the “**Questionnaire Order**”), entered by the United States Bankruptcy Court for the Western District of North Carolina (the “**Bankruptcy Court**”) in the above-referenced chapter 11 case. Capitalized terms used in this Acknowledgment but not otherwise defined herein shall have the meanings ascribed to them in the Questionnaire Order.

I have read the Questionnaire Order on behalf of Employer as part of performing its duties to _____ [name of the Party or other client for whom Employer is rendering services in connection with the bankruptcy case]. I understand the conditions and obligations of confidentiality, and use restrictions, that the Questionnaire Order makes applicable to Questionnaire Responses. By my signature below, Employer, for itself and all of its employees, agents, and representatives who receive access to Questionnaire Responses, hereby accepts and agrees to be bound by, and to abide by, those conditions, obligations, and restrictions. On Employer’s behalf, I represent that Employer has made, or will make the Questionnaire Order and this joinder known in advance to all of Employer’s employees, agents, and representatives who are to receive access to Questionnaire Responses, so that they will be on notice of Employer’s duties in connection therewith and their own responsibilities to ensure compliance with the Questionnaire Order.

Employer, its employees, agents, and representatives will not disclose any Questionnaire Responses to any person not authorized by the Questionnaire Order, or further order of the Bankruptcy Court, to receive such information. They will not use Questionnaire Responses for any purpose other than the bankruptcy case, except as may be specifically authorized by further order of the Bankruptcy Court pursuant to paragraph 18 of the Questionnaire Order.

Pursuant to paragraph 16 of the Questionnaire Order, Employer will destroy or cause to be destroyed all Questionnaire Responses within one year of the date of substantial consummation of a confirmed Chapter 11 plan of reorganization for the Debtor (the “**Plan**”), and will promptly certify such destruction in writing to counsel of record for the Debtor, the Reorganized Debtor, the ACC, and the FCR, unless relieved of that obligation by a specific provision of the Plan authorizing Employer to turn over Questionnaire Responses to an asbestos settlement trust created pursuant to the Plan.

Employer and I (in my individual capacity and my capacity as a representative of Employer) consent to the exclusive jurisdiction and venue of the Bankruptcy Court for any action to interpret, apply, and enforce the terms of the Questionnaire Order and this joinder.

I represent that I am duly authorized to execute this joinder on behalf of Employer.

By: _____
Print Name: _____
Title: _____
Employer: _____
Address: _____

Dated: _____
Relationship to Employer: _____

**EXHIBIT B.2 TO ORDER PURSUANT TO BANKRUPTCY RULE 2004 DIRECTING
SUBMISSION OF PERSONAL INJURY QUESTIONNAIRES BY PENDING
MESOTHELIOMA CLAIMANTS AND GOVERNING THE CONFIDENTIALITY OF
RESPONSES**

**Re: *In re DBMP LLC*
Case No. 20-30080 (JCW)
United States Bankruptcy Court
for the Western District of North Carolina**

Instructions: *This joinder must be executed by any individual required to execute a joinder in his or her individual capacity pursuant to paragraph 5.h. of the above-referenced Order (for example, a self-employed expert or a witness).*

A C K N O W L E D G E M E N T

I may be given access to certain confidential and protected information in connection with the above-referenced *Order Pursuant to Bankruptcy Rule 2004 Directing Submission of Personal Injury Questionnaires by Pending Mesothelioma Claimants and Governing the Confidentiality of Responses* (the “**Questionnaire Order**”), entered by the United States Bankruptcy Court for the Western District of North Carolina (the “**Bankruptcy Court**”) in the above-referenced Chapter 11 case.

I have read the Questionnaire Order. Capitalized terms used in this joinder but not otherwise defined herein shall have the meanings ascribed to them in the Questionnaire Order. I understand the conditions and obligations of confidentiality, and use restrictions, that the Questionnaire Order makes applicable to Questionnaire Responses and hereby accept and agree to be bound by, and to abide by, those conditions, obligations, and restrictions.

I will not disclose any Questionnaire Responses to any person not authorized by the Questionnaire Order, or further order of the Bankruptcy Court, to receive such information. I will not use Questionnaire Responses for any purpose other than the bankruptcy case, except as may be specifically authorized by further order of the Bankruptcy Court pursuant to paragraph 18 of the Questionnaire Order.

Pursuant to paragraph 16 of the Questionnaire Order, I will destroy all Questionnaire Responses within one year of the date of substantial consummation of a confirmed Chapter 11 plan of reorganization for the Debtor (the “**Plan**”), and will promptly certify such destruction in writing to counsel of record for the Debtor, the Reorganized Debtor, the ACC, and the FCR, unless relieved of that obligation by a specific provision of the Plan authorizing me to turn over Questionnaire Responses to an asbestos settlement trust created pursuant to the Plan.

I consent to the exclusive jurisdiction and venue of the Bankruptcy Court for any action to interpret, apply, and enforce the terms of the Questionnaire Order and this joinder.

By: _____
Print Name: _____
Title: _____
Employer: _____
Address: _____
Dated: _____

EXHIBIT E

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re
DBMP LLC,¹
Debtor.

Chapter 11
Case No. 20-30080 (JCW)

**DECLARATION OF MICHAEL T. STARCZEWSKI IN SUPPORT OF
DEBTOR’S MOTION FOR ORDER PURSUANT TO BANKRUPTCY
RULE 2004 DIRECTING SUBMISSION OF PERSONAL INJURY
QUESTIONNAIRES BY PENDING MESOTHELIOMA CLAIMANTS**

Michael T. Starczewski, being first duly sworn, deposes and states as follows:

1. I am the Chief Legal Officer, Vice President and Secretary of DBMP LLC (“DBMP” or “Debtor”). I have held these positions with the Debtor since its formation on October 23, 2019.

2. Prior to DBMP’s formation, I served as the Associate General Counsel to Saint-Gobain Corporation (“SGC”) and the former CertainTeed Corporation (“Old CT”). In that role, I was responsible for overseeing asbestos-related litigation involving Old CT. I held the position of Associate General Counsel for SGC and Old CT from March 2015 until October 23, 2019, when I assumed my current positions for DBMP. Prior to my role as Associate General Counsel for SGC and Old CT, I was Senior Counsel to SGC and Old CT from January 1, 2003, when I joined SGC, through March 2015.

3. As both Senior Counsel and, later, Associate General Counsel to Old CT, one of my primary responsibilities was to manage asbestos personal injury litigation asserted against

¹ The last four digits of the Debtor’s taxpayer identification number are 8817. The Debtor’s address is 20 Moores Road, Malvern, Pennsylvania 19355.

Old CT in various jurisdictions in the United States. This included overseeing the defense and resolution of asbestos-related litigation filed against Old CT asserting claims of exposure to asbestos-containing products previously manufactured and/or sold by Old CT and certain companies previously acquired by Old CT. As the Debtor's Chief Legal Officer, I continued to be responsible for overseeing the defense and resolution of that litigation, as well as newly-filed asbestos-related litigation involving DBMP. As a result, I have extensive experience with, and knowledge of, the asbestos-related claims against the Debtor, including claims that formerly were asserted against (or that could have been asserted against) Old CT relating in any way to asbestos or asbestos-containing materials.

4. The facts and statements set forth in this Declaration are based on: (a) my personal knowledge and experience managing for over 17 years asbestos-related claims asserted against Old CT and/or the Debtor; and (b) information contained in a database of asbestos claims filed against Old CT and/or the Debtor that Old CT and the Debtor maintained for many years under my and my predecessor's oversight. This database has been produced to the Official Committee of Asbestos Personal Injury Claimants and the Future Claimants' Representative. If called upon to testify, I could and would testify to the facts and opinions set forth herein.

5. As of the petition date, approximately 4000 claimants allegedly diagnosed with mesothelioma had claims against Old CT or the Debtor that were recorded in DBMP's claims database as "open" ("Pending Mesothelioma Claims"). While DBMP has basic identifying information about these claimants, as well as their tort system complaint, it does not possess complete or up-to-date information regarding the merits of most of the Pending Mesothelioma Claims, including details of such claimants' diagnosis, their alleged exposure to Old CT asbestos-containing products, their other exposures to asbestos, their damages, and their claims

against and recoveries from other tort system defendants and 524(g) trusts. That is true for various reasons.

6. First, almost 1400 of the Pending Mesothelioma Claims involve individuals represented by one of two law firms with which Old CT had longstanding settlement arrangements. Under these arrangements, which date back for a decade or more, DBMP agreed to settle trial set mesothelioma cases for a set average amount. As a result, with rare exception, DBMP did not conduct discovery or otherwise litigate cases filed by these two law firms. A case was typically presented by the firms for settlement in the year it was expected to start trial. At that point, DBMP required proof of disease and exposure to an Old CT product. As a result, other than the complaint, and basic identifying data contained in the complaint, DBMP possesses essentially no information about the 1400 Pending Mesothelioma Claims involving claimants represented by these two law firms, because none of them had yet been presented to DBMP for settlement.

7. Second, over 300 Pending Mesothelioma Claims involve claimants represented by law firms other than one of the two firms referenced in paragraph 6 and whose claims were filed within the six months prior to the petition date. In my experience, discovery in most asbestos cases is not typically completed so quickly after filing. Indeed, with respect to those cases filed within two or three months of the petition date, Old CT or DBMP had likely not even started seeking discovery.

8. Third, a significant percentage of the Pending Mesothelioma Claims had been pending for many years, and were accordingly unlikely ever to be resolved with a settlement payment. In my experience, the vast majority – over 96 percent – of mesothelioma cases filed against Old CT were settled within four years of filing. Almost 1200 Pending Mesothelioma

Claims involving claimants not represented by one of the two firms referenced in paragraph 6 have been pending for four or more years.

9. Fourth, subtracting the claims described in paragraphs 6, 7 and 8 leaves approximately 1100 Pending Mesothelioma Claims. These cases were all filed at least six months but no more than four years before the petition date, and the plaintiffs in them are represented by firms other than one of the two firms referenced in paragraph 6. In a majority of these cases, DBMP has not conducted any significant investigation or discovery because a trial date has not been scheduled or a case management order entered, which in my experience is the trigger for such activity in certain jurisdictions. Accordingly, for these Pending Mesothelioma Claims, DBMP does not possess much of the information sought in the personal injury questionnaires.

10. DBMP's claims database includes claimants with unresolved claims for which DBMP does not have information of the alleged disease. While the vast majority of such claimants (about 98%) filed suit more than four years prior to the petition date, a small number of such claimants filed suit within that four-year window. It is possible that some of these claimants were diagnosed with mesothelioma.

11. Finally, whatever information DBMP does possess regarding the Pending Mesothelioma Claims is at least six months old, since DBMP has not been actively participating in any of these cases since the petition date.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

EXECUTED on this 19th day of August, 2020.

/s/ Michael T. Starczewski

Michael T. Starczewski

DBMP LLC

**DEBTOR'S MOTION FOR ORDER PURSUANT TO BANKRUPTCY
RULE 2004 DIRECTING SUBMISSION OF PERSONAL INJURY
QUESTIONNAIRES BY PENDING MESOTHELIOMA CLAIMANTS
[Docket No. 417]**

The remaining attachments to the Motion (collectively, the “Exhibits”) have been excluded from service due to the size of the document.

The Exhibits are available for review and can be downloaded free of charge at the website of the Noticing Agent, Epiq Corporate Restructuring, LLC (“Epiq”) at <http://dm.epiq11.com/dbm>. The Exhibits are located within Docket No. 417.

You may also request a copy of the Exhibits by contacting Epiq directly at (646) 282-2400 or email at dbmp@epiqglobal.com.

EXHIBIT C

DBMP, LLC
SERVICE LIST

Claim Name	Address Information
INTERNAL REVENUE SERVICE	CENTRALIZED INSOLVENCY OPERATION P.O. BOX 7346 PHILADELPHIA PA 19101-7346
INTERNAL REVENUE SERVICE	2970 MARKET STREET MAIL STOP 5Q30133 PHILADELPHIA PA 19104-5016

Total Creditor count 2

EXHIBIT D

Claim Name	Address Information
JENKINS PARRON	119 MINTON WAY SMITHFIELD VA 23430
JERRY KIRKSEY ASSOCIATES	212 EAST SECOND STREET EDMOND OK 73034
JOHN C DEARIE ASSOCIATES	3265 JOHNSON AVENUE BRONX NY 10463
JOHN F DILLON PLC	PO BOX 25 HAYESVILLE NC 28904-0025
JOHN J DUFFY ASSOCIATES	23823 LORIAN ROAD NORTH OLMSTED OH 44070
JONES GRANGER	10000 MEMORIAL DRIVE HOUSTON TX 77210
JONES TETE NOLAN HANCHEY SWIFT SPE	PO BOX 910 LAKE CHARLES LA 70602-0910
JUPITER STEVEN MARK ESQ	1631 ELYSIAN FIELDS AVE NEW ORLEANS LA 70117
KAESKE LAW FIRM	6301 GASTON AVENUE DALLAS TX 75214
KAHN ROVEN LLP	5550 TOPANGA CANYON BLVD 200 WOODLAND HILLS CA 91367
KAPUSTA DEIHL SCHWEERS LLC	445 FORT PITT BLVD SUITE 500 PITTSBURGH PA 15219
KARL ASCH ESQUIRE	77 BRANT AVE CLARK NJ 07066
KARST VON OISTE LLP	23923 GOSLING RD SPRING TX 77389
KASSAB ARCHBOLD JACKSON OBRIEN	1214 ELGIN STREET HOUSTON TX 77004
KEAHEY LAW OFFICE	1 INDEPENDENCE PLAZA 612 BIRMINGHAM AL 35209
KEEFE LAW FIRM	76 FERRY STREET NEWARK NJ 07105
KEEFE LAW FIRM	125 HALF MILE ROAD RED BANK NJ 07701
KEEFE LAW FIRM	2400 NJ 88 POINT PLEASANT NJ 08742
KELLER FISHBACK JACKSON LLP	28720 CANWOOD STREET, SUITE 200 AGOURA HILLS CA 91301
KEYES LAW FIRM	5813 HERON DRIVE BALTIMORE MD 21227
KING LAW FIRM	24 NE 53RD STREET OKLAHOMA CITY OK 73105
KLINE SPECTER PC	1525 LOCUST STREET 19TH FLOOR PHILADELPHIA PA 19102
KNAPP KENNETH	695 TOWN CENTER DRIVE COSTA MESA CA 92626
KOONZ MCKENNEY JOHNSON DEPAOLIS	WILLOW WOOD PLAZA 10300 EATON PL #200 FAIRFAX VA 22030
KOREIN TILLERY	10 EXECUTIVE WOODS COURT BELLEVILLE IL 62226
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KRUPNICK CAMPBELL MALONE BUSER	SLAMA HANCOCK LIBERMAN 700 SE THIRD AVENUE SUITE 100 FORT LAUDERDALE FL 33316
L WARREN TURNER JR	1006 SLATER ST VALDOSTA GA 31601
LANDRY & SWARR LLC	1100 POYDRAS STREET ENERGY CENTRE - SUITE 2000 NEW ORLEANS LA 70163
LANIER LAW FIRM PLLC	126 EAST 56TH STREET, 6TH FLOOR NEW YORK NY 10022
LANIER LAW FIRM PLLC	10940 W SAM HOUSTON PKWY N HOUSTON TX 77064
LANIER LAW FIRM PLLC	10940 W SAM HOUSTON PKWY N STE 100 HOUSTON TX 77064-5768
LANIER LAW FIRM PLLC	21550 OXNARD STREET, 3RD FLOOR WOODLAND HILLS CA 91367
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LAW OFFICE OF JAMES M BARBER	410 WASHINGTON STREET EAST CHARLESTON WV 25301
LAW OFFICE OF JAMES M BARBER	604 VIRGINIA STREET E CHARLESTON WV 25301
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LAW OFFICE OF JEFFREY A VARAS	POST OFFICE BOX 886 HAZLEHURST MS 39083
LAW OFFICE OF JEFFREY A VARAS	272 W GALLATIN ST HAZLEHURST MS 39083-3026
LAW OFFICE OF W HARVEY BARTON	3007 MAGNOLIA STREET PASCAGOULA MS 39567
LAW OFFICE OF WILLIAM P FEDULLO	2401 PENNSYLVANIA AVENUE PHILADELPHIA PA 19130-3061
LAW OFFICES OF CHRISTOPHER E GRELL	THE BROADLAKE PLAZA 360 22ND STREET, SUITE 320 OAKLAND CA 94612
LAW OFFICES OF DANNY E CUPIT PC	304 NORTH CONGRESS STREET JACKSON MS 39225
LAW OFFICES OF DEVIN ROBINSON PC	1400 NW IRVING STREET PORTLAND OR 97209
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LAW OFFICES OF MICHAEL R BILBREY PC	8724 PIN OAK ROAD EDWARDSVILLE IL 62025
LAW OFFICES OF MICHAEL R BILBREY PC	104 MAGNOLIA DRIVE GLEN CARBON IL 62034
LAW OFFICES OF MICHAEL R BILBREY PC	65 EAST FERGUSON AVENUE WOOD RIVER IL 62095
LAW OFFICES OF PETER G ANGELOS PC	60 W BROAD STREET BETHLEHEM PA 18018
LAW OFFICES OF PETER G ANGELOS PC	2001 NORTH FRONT STREET HARRISBURG PA 17102
LAW OFFICES OF PETER G ANGELOS PC	100 PENN SQUARE EAST PHILADELPHIA PA 19107
LAW OFFICES OF PETER G ANGELOS PC	1300 NORTH MARKET STREET WILMINGTON DE 19801
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LAW OFFICES OF PETER G ANGELOS PC	2633 KINGSTON PIKE STE 100 KNOXVILLE TN 37919
LAW OFFICES OF PETER T ENSLEIN PC	1738 WISCONSIN AVENUE NW WASHINGTON DC 20007
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LAW OFFICES OF SHEPARD A HOFFMAN	12720 HILLCREST ROAD, SUITE 700 DALLAS TX 75230
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LEBLANC CONWAY LLC	1400 PRESTON ROAD, STE. 400 PLANO TX 75093
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LISTONLANCASTER PLLC	304 NCONGRESS STREET JACKSON MS 39225
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LOCKS LAW FIRM LLC	1518 WALNUT ST STE 808 PHILADELPHIA PA 19102-3405
LOCKS LAW FIRM LLC	601 WALNUT STREET PHILADELPHIA PA 19106
LOMAX LAW FIRM PA	2502 MARKET STREET PASCAGOULA MS 39568
LOUIS H WATSON JR PA	520 E CAPITOL STEET JACKSON MS 39201
LUBEL VOYLES LLP	675 BERING DR STE 850 HOUSTON TX 77057
LUCKEY MULLINS LAW FIRM PLLC	2016 BIENVILLE BOULEVARD OCEAN SPRINGS MS 39564
LUNDY DAVIS LLP	501 BROAD STREET LAKE CHARLES LA 70602
LUTHER ANDERSON CLEARY RUTH	99 WALNUT STREET CHATTANOOGA TN 37403
LYNCH LYNCH	45 BRISTOL DRIVE 3 SOUTH EASTON MA 02375
MACDONALD LAW GROUP LLC	11720 BELTSVILLE DRIVE SUITE 1050 BELTSVILLE MD 20705
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MARGESON FLYNN ASSOCIATES PC	317 WEST TIFT AVENUE ALBANY GA 31701
MARONEY WILLIAMS WEAVER PANCAKE PLLC	608 VIRGINIA ST E 4 CHARLESTON WV 25301
MARTENS ICE KLASS LEGGHIO ISRAEL PC	306 SOUTH WASHINGTON ROYAL OAK MI 48067
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MATHIS LAW FIRM	311 W BROUGHTON STREET SAVANNAH GA 31401
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MATTHEW E KIELY LLC	4915 SAINT ELMO AVENUE, SUITE 510 BETHESDA MD 20814
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MAUNE RAICHLE HARTLEY FRENCH MUDD LLC	1 METROPOLITAN SQUARE SUITE 2940 ST LOUIS MO 63102
MAUNE RAICHLE HARTLEY FRENCH MUDD LLC	80 SE MADISON STREET SUITE 310 PORTLAND OR 97214
MAZUR KITTEL PLLC	412 FOURTEENTH STREET TOLEDO OH 43624-1202
MAZUR KITTEL PLLC	30665 NORTHWESTERN HIGHWAY FARMINGTON HILLS MI 48334
MCDERMOTT HICKEY LLC	20525 CENTER RIDGE ROAD STE 200 ROCKY RIVER OH 44116
MCDERMOTT KEVIN E	36815 DETROIT ROAD AVON OH 44011
MCGIVNEY KLUGER PC	23 VREELAND ROAD FLORHAM PARK NJ 07932
MCGIVNEY KLUGER PC	100 MADISON STREET, SUITE 1640 SYRACUSE NY 13202
MCHUGH WILLIAMS PLLC	1 UNION SQUARE CHARLESTON WV 25302
MCINTYRE LAW PC	8601 S WESTERN AVE OKLAHOMA CITY OK 73139
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MCPHERSON MONK HUGHES BRADLEY	WIMBERLEY 3120 CENTRAL MALL DRIVE PORT ARTHUR TX 77642
MEIROWITZ WASSERBERG LLP	535 5TH AVENUE 23RD FLOOR NEW YORK NY 10017
MENGES LAW LLC	3126 GARDEN HILL LANE SAINT LOUIS MO 63139
MICHIE HAMLETT	500 COURT SQUARE STE 300 CHARLOTTESVILLE VA 22902-0298
MICHIE HAMLETT PLLC	310 4TH STREET NE, 2ND FLOOR PO BOX 298 CHARLOTTESVILLE VA 22902-0298
MILLS JACQUELINE WARNER	250 PETERS REST CHRISTIANSTED VI 00820-4478
MINOR ASSOCIATES	160 MAIN ST BILOXI MS 39533
MONGE ASSOCIATES	8205 DUNWOODY PLACE, BUILDING 19 ATLANTA GA 30350
MORENO PURCELL SCHINDLER	227 BROADWAY STREET SANTA MONICA CA 90401
MORGAN MORGAN PA	76 SOUTH LAURA STREET JACKSONVILLE FL 32202
MORGAN MORGAN PA	20 NORTH ORANGE AVENUE SUITE 1600 ORLANDO FL 32801
MORRIS SAKALARIOS BLACKWELL PLLC	1817 HARDY STREET HATTIESBURG MS 39401
MOSLEY SAUER TOWNES PLLC	401 W MAIN ST LOUISVILLE KY 40202
MOSLEY SAUER TOWNES PLLC	730 WEST MAIN ST LOUISVILLE KY 40202
MOSS LAW OFFICE	5350 S STAPLES CORPUS CHRISTI TX 78411
MOTLEY RICE LLC	55 CEDAR ST STE 100 PROVIDENCE RI 02903
MOTLEY RICE LLC	401 9TH ST. NW, SUITE 1001 WASHINGTON DC 20004
MOTLEY RICE LLC	50 CLAY STREET SUITE 1 MORGANTOWN WV 26501
MOTLEY RICE LLC	1750 JACKSON STREET BARNWELL SC 29812
MOTLEY RICE LLC	1555 POYDRAS STREET NEW ORLEANS LA 70112

Claim Name	Address Information
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MYERS COMPANY P L L C	1530 EASTLAKE AVE SEATTLE WA 98102
NAPOLI SHKOLNIK PLLC	360 LEXINGTON AVE 11TH FL NEW YORK NY 10017
NAPOLI SHKOLNIK PLLC	400 BROADHOLLOW ROAD MELVILLE NY 11747
NAPOLI SHKOLNIK PLLC	1 GREENTREE CENTRE MARLTON NJ 08053
NAPOLI SHKOLNIK PLLC	919 NORTH MARKET STREET SUITE 1801 WILMINGTON DE 19801
NAPOLI SHKOLNIK PLLC	MARK TWAIN PLAZA II EDWARDSVILLE IL 62025
NAPOLI SHKOLNIK PLLC	525 SOUTH DOUGLAS STREET SUITE 260 EL SEGUNDO CA 90245
NASS CANCELLIERE BRENNER	1515 MARKET STREET SUITE 2000 PHILADELPHIA PA 19102
NEGEM BICKHAM WORTHINGTON	440 S VINE AVE TYLER TX 75702
NICHOL ASSOCIATES	6759 BAUM DRIVE KNOXVILLE TN 37919
NIX PATTERSON ROACH LLP	205 LINDA DRIVE DAINGERFIELD TX 75638
NOLAN STEPHEN J LAW OFFICES OF	600 WASHINGTON AVENUE, SUITE 200 TOWSON MD 21204
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ORTNER LAW FIRM LLC	145 KING ST, SUITE 211 CHARLESTON SC 29401
PATTEN WORNOM HATTEN	DIAMONSTEIN LC 12350 JEFFERSON AVENUE NEWPORT NEWS VA 23602
PAUL D HENDERSON PC	712 W DIVISION STREET ORANGE TX 77630-6320
PAUL REICH MYERS PC	1608 WALNUT STREET PHILADELPHIA PA 19103
PAUL T BENTON	181 MAIN STREET BILOXI MS 39533-1341
PENN RAKAUSKI	927 MAIN STREET RACINE WI 53403
PENN RAKAUSKI	3319 W BELDEN AVENUE CHICAGO IL 60647
PERLBERGER LAW ASSOCIATES PC	TWO BALA PLAZA, SUITE 300 BALA CYNWYD PA 19004
PERRY SENSOR	1ST FEDERAL PLAZA WILMINGTON DE 19899
PETERSEN PARKINSON ARNOLD PLLC	390 N CAPITAL AVENUE IDAHO FALLS ID 83403
PEYTON LAW FIRM	2801 FIRST AVENUE NITRO WV 25143
PHILLIPS CAPPIELLO KALBAN HOFMANN ET	360 WEST 31ST STREET NEW YORK NY 10001
PHILPOT LAW FIRM PA	115 BROADUS AVENUE GREENVILLE SC 29601
PINTAS MULLINS LAW FIRM	368 WEST HURON STREET CHICAGO IL 60654
PLAUT LIPSTEIN	12600 WEST COLFAX AVE LAKEWOOD CO 80215
POLAND WILLIAM D JR ESQ	2101 NORTH FRONT STREET HARRISBURG PA 17110-1061
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POURCIAU LAW FIRM	8550 UNITED PLAZA BLVD STE 702 BATON ROUGE LA 70809-0200
POWELL POWELL POWELL	142 ADAMS AVE SCRANTON PA 18503
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PRESTON SALANGO	206 CAPITOL ST 300 CHARLESTON WV 25301
PRICE WAICUKAUSKI RILEY LLC	277 EAST 12TH STREET INDIANAPOLIS IN 46202
PRICE WAICUKAUSKI RILEY LLC	3815 RIVER CROSSING PARKWAY INDIANAPOLIS IN 46240
PRIM LAW FIRM PLLC	3825 TEAYS VALLEY ROAD SUITE 200 HURRICANE WV 25526
PRITCHARD LAW FIRM PLLC	1325 CANTY STREET PASCAGOULA MS 39568-1707
PROVOST UMPHREY LAW FIRM LLP	490 PARK STREET BEAUMONT TX 77701
RAMSEY ANDREWS SOREY RAMSEY	1117 GROVE STREET VICKSBURG MS 39180
REAUD MORGAN QUINN INC	801 LAUREL STREET BEAUMONT TX 77720-6005
REBECCA S VINOCUR PA	5915 PONCE DE LEON BLVD CORAL GABLES FL 33146
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RICHARDSON PATRICK WESTBROOK	BRICKMAN LLC 174 EAST BAY STREET CHARLESTON SC 29402
RICHARDSON PATRICK WESTBROOK	BRICKMAN LLC 1730 JACKSON STREET BARNWELL SC 29812
RIGGS ABNEY NEAL TURPEN ORBISON LEWIS	502 WESWT SIXTH STREET TULSA OK 74119
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ROBERT M CHEVERIE ASSOCIATES PC	333 E RIVER DR EAST HARTFORD CT 06108
ROBERT PEIRCE ASSOCIATES PC	707 GRANT STREET, SUITE 125 PITTSBURGH PA 15219
ROBERT PEIRCE ASSOCIATES PC	2500 GULF TOWER PITTSBURGH PA 15219-1912
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ROBINS CLOUD LLP	910 TRAVIS STREET HOUSTON TX 77002
ROBINS CLOUD LLP	2000 WEST LOOP SOUTH SUITE 2200 HOUSTON TX 77027
ROBINS CLOUD LLP	808 WILSHIRE BLVD SANTA MONICA CA 90401
ROBLES LOUIS S PA	100 SOUTH BISCAYNE BLVD SUITE 900 MIAMI FL 33131-2026
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ROSE KLEIN MARIAS LLP	801 S GRAND AVENUE LOS ANGELES CA 90017-4645
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ROVENKAPLAN LLP	550 WESTCOTT ST STE 305 HOUSTON TX 77007-9021
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SERLING ABRAMSON PC	280 N OLD WOODWARD AVE BIRMINGHAM MI 48009
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SHEIN LAW CENTER LTD	121 SOUTH BROAD STREET PHILADELPHIA PA 19107
SHELBY CARTEE	2956 RHODES CIRCLE BIRMINGHAM AL 35205

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SHRADER ASSOCIATES LLP	9 GREENWAY PLAZA SUITE 2300 HOUSTON TX 77046
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SIEBEN POLK PA	2600 EAGAN WOODS DR., SUITE 50 EAGAN MN 55121
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CELOTEX ASBESTOS SETTLEMENT TRUST	P.O. BOX 1036 WILMINGTON DE 19899-1036
CLAIMS RESOLUTION MANAGEMENT CORP	(FOR MANVILLE TRUST) 3120 FAIRVIEW PARK DRIVE, SUITE 200 FALLS CHURCH VA 22042-4570
DELAWARE CLAIMS PROCESSING FACILITY	(FOR ALL OF THE ABOVE TRUSTS EXCEPT MANVILLE), 1007 N. ORANGE STREET WILMINGTON DE 19801
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