

**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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**JOINDER OF CERTAINTED LLC TO
EMERGENCY MOTION OF THE DEBTOR TO CONTINUE
HEARINGS ON AND BRIEFING SCHEDULE FOR THE ASBESTOS COMMITTEE
AND FUTURE CLAIMANTS' REPRESENTATIVE'S MOTIONS FOR (I) STANDING,
(II) SUBSTANTIVE CONSOLIDATION AND (III) CERTAIN DISCOVERY**

CertainTeed LLC ("New CT") hereby submits this joinder (the "Joinder") to the relief requested in the Motion,² and respectfully states as follows:

JOINDER

1. New CT is directly or indirectly impacted by the Claimant Representatives' Motions. For the reasons set forth in the Motion, the Claimant Representatives' Motions should be continued and an appropriate briefing schedule should be addressed at a status conference on the Claimant Representatives' Motions on September 17, 2021. Accordingly, New CT joins in the arguments set forth in the Motion, and respectfully requests that the Court enter an order substantially in the form attached to the Motion as Exhibit A.

2. The Claimant Representatives' Motions should not be heard on the hyper-compressed schedule proposed by the Claimant Representatives (especially in light of the

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 See Emergency Motion of the Debtor to Continue Hearings on and Modify Briefing Schedule for the Asbestos Committee and Future Claimants' Representative's Motions for (I) Standing, (II) Substantive Consolidation and (III) Certain Discovery (ECF []) (the "Motion").

upcoming holidays). As set forth in the Motion, a continuance would not prejudice the Claimant Representatives. New CT is willing to work on an agreement to toll the deadline to file the alleged claims being investigated by the Claimant Representatives to preserve any such claims beyond the current statute of limitations. Also, as this Court has acknowledged, New CT has fully performed under the Funding Agreement and has publicly affirmed its commitment to comply with the Funding Agreement.³ Thus, maintaining the status quo and continuing the Claimant Representatives' Motions will not prejudice the Claimant Representatives, especially in the event tolling agreements can be obtained.

3. Conversely, the absence of a continuance would severely prejudice New CT and the Debtor. The Claimant Representatives' Motions seek extraordinary (and in New CT's view impermissible) relief as against New CT and the Debtor. The Claimant Representatives Motions raise numerous complex issues in papers totaling 308 pages (including exhibits), requiring extensive attention and a fair and reasonable amount of time to respond. Thus, as a practical and principled matter maintaining the Claimant Representatives' proposed schedule for the Claimant Representatives' Motions would enact great prejudice on New CT and the Debtor. A continuance and status conference is warranted.

4. At bottom, the Claimant Representatives' Motions raise numerous issues, and the Claimant Representatives admit that many of the issues raised therein lack guidance from the Fourth Circuit Court of Appeals.⁴ Hearing these matters on the Claimant Representatives'

³ Order: (I) Declaring That the Automatic Stay Applies to Certain Actions of Non-Debtors, (II) Denying the Motion of the Official Committee of Asbestos Personal Injury Claimants to Lift the Stay, and Alternatively (III) Preliminarily Enjoining Such Actions (ECF 973; PI Adv. Pro. ECF 344), ¶¶ 108, 109.

⁴ See, e.g., Substantive Consolidation Mot. ¶ 41 (acknowledging that "the Fourth Circuit has not yet weighed in with its own standard for substantive consolidation"); Standing Mot. ¶ 31 n. 39 (citing no Fourth Circuit opinion authorizing derivative standing).

proposed schedule would be premature and prejudicial.⁵ There is no critical urgency to do so. The parties should have additional time to: (i) engage in meaningful discussions regarding these matters and the tolling agreements; (ii) permit New CT and the Debtor reasonable time to respond to the Claimant Representatives' Motions; and (iii) afford the Court sufficient time to consider the positions of the parties. Continuing the Claimant Representatives' Motions will afford the parties and the Court appropriate time to consider the complex issues raised therein, without prejudicing the Claimant Representatives.

5. Based upon the foregoing and the reasons set forth in the Motion, New CT submits that the Court should grant the relief requested in the Motion and continue the Claimant Representatives' Motions and set a status conference as proposed in the Motion.

RESERVATION OF RIGHTS

6. New CT reserves all of its rights, claims, defenses, and remedies, including, without limitation, the right to amend, modify, or supplement this Joinder.

CONCLUSION

New CT respectfully requests that the Court enter an order substantially in the form attached to the Motion as Exhibit A, and grant such other and further relief as the Court may deem proper.

⁵ For example, the Substantive Consolidation Motion has a response date well before the deadline to answer the complaint in the Substantive Consolidation Adversary Proceeding.

Dated: September 2, 2021

Respectfully submitted,

/s/ John R. Miller, Jr.

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