

December 29, 2021

The Honorable Michael B. Kaplan  
United States Bankruptcy Court, District of New Jersey  
Clarkson S. Fisher US Courthouse  
402 East State Street, Courtroom #8  
Trenton, NJ 08608

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Re: LTL Management LLC, Case No. 21-30589 (MBK)

Dear Judge Kaplan:

We write on behalf of Johnson & Johnson with regard to the letter dated December 28, 2021 submitted by co-counsel to the Official Committee of Talc Claimants (the “TCC”) (Dkt. No. 988). Johnson & Johnson defers to the Debtor regarding the hearing on the Debtor’s motion to appoint Joseph W. Grier III as legal representative for future talc claimants (the “FCR Motion”) (Dkt. 26), but writes to correct a number of mischaracterizations and misstatements in the TCC’s letter.

First, Johnson & Johnson promptly and correctly objected to the TCC’s demand that Johnson & Johnson respond on behalf of the Debtor with respect to the discovery propounded on Johnson & Johnson (consisting of broad document requests, interrogatories and a 30(b)(6) deposition notice). There was and continues to be no basis for the TCC to demand that Johnson & Johnson, a non-debtor and the ultimate corporate parent of the Johnson & Johnson family of companies, respond on behalf of the Debtor with respect to the FCR Motion filed by the Debtor. Nor is there any basis for the TCC to disregard the corporate separateness between the Debtor and non-debtor Johnson & Johnson entities. In connection with the motion to dismiss, the TCC propounded discovery on the Debtor, and the Debtor agreed to also respond for Johnson & Johnson and certain other non-debtor affiliates as a matter of expediency. But that was without prejudice to the distinction between the Debtor and its non-debtor affiliates. As for the FCR Motion, the TCC admits that it did subsequently propound discovery on the Debtor, as it should have done in the first place.

Second, Johnson & Johnson timely served written responses and objections to the discovery issued by the TCC on December 23, 2021. Johnson & Johnson objected to the issuance of interrogatories to a non-moving party and raised specific objections to the overly broad requests and to deposition topics which were not limited to the only issues relevant to Mr. Grier’s appointment: his disinterestedness and qualifications. The TCC issued broad discovery requests seeking information about entirely separate bankruptcy proceedings, future claims representatives in other bankruptcy cases, and the Debtor’s not-yet-filed plan of reorganization, none of which is relevant to the pending FCR Motion. *See* Exhibit A (Johnson & Johnson’s Responses and Objections to the TCC’s Document Requests), Request Nos. 1-3 (seeking information regarding other bankruptcy cases), 6 (seeking information about a future claims representative in a different bankruptcy case), and 7 (seeking all communications concerning any potential aspect of a potential

plan). Nor would Johnson and Johnson be an appropriate target of discovery related to the FCR Motion in any case; it is not the moving party, and any relevant discovery requests are more suitably directed to Mr. Grier or the Debtor. While not currently before the Court, to the extent the TCC intends to pursue a broad fishing expedition in connection with the FCR Motion, the parties would benefit from the Court's guidance to ensure that discovery is properly targeted.

Third, contrary to the TCC's mischaracterization in its letter, Johnson & Johnson made clear in its responses that the document requests sought either documents not relevant to the FCR Motion or privileged communications. Specifically, for the document requests seeking any communications referencing Mr. Grier or related to any agreement for the position of future claims representative in this case, Johnson & Johnson responded that it did not have any non-privileged documents responsive to those requests. *See* Exhibit A, Request Nos. 5 & 12.

We thank for Court for its consideration and look forward to addressing any open issues with the Court at the appropriate time.

Respectfully submitted,

/s/ Gregory Starnier

**Gregory Starnier**

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Exhibit A

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-and-

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY**

In re:

LTL MANAGEMENT LLC,

Debtor.

Chapter 11

Case No. 21-30589 (MBK)

**JOHNSON & JOHNSON’S RESPONSES AND OBJECTIONS TO  
THE FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS  
BY OFFICIAL COMMITTEE OF TALC CLAIMANTS TO JOHNSON & JOHNSON**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure (“Federal Rules”), as made applicable by Rules, 7026, 7034 and 9014 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”) and the Local Rules for the United States Bankruptcy Court for the District of New Jersey (the “Local Bankruptcy Rules” and together with the Federal Rules and the Bankruptcy Rules, the “Rules”), Johnson & Johnson (“J&J”), by and through its undersigned counsel, hereby responds and objects, without prejudice and while reserving all rights, to the *First Set of Requests for Production of Documents by Official Committee of Talc Claimants to Johnson & Johnson* (the “Requests for Production”), as follows:

**GENERAL RESPONSES AND OBJECTIONS**

The following general objections (“General Objections”) apply to each Definition, Instruction, and Request for Production, and shall have the same force and effect as if fully set forth in the response to each individual Request for Production. To the extent that J&J responds to a Request for Production, J&J reserves all objections as to relevance, materiality, competence, confidentiality, propriety, privilege, and admissibility, as well as to any and all other objections on any ground that would require or permit the exclusion of the response, or any portion of the response, if the response were offered into evidence. J&J objects as follows:

1. J&J objects to the Requests for Production to the extent that they purport to impose obligations that are broader than, or inconsistent with, those required or authorized by the Rules, or other applicable laws, rules, court orders, or regulations.

2. J&J objects to the Requests for Production to the extent that they seek disclosure of documents or information protected from disclosure by the attorney-client privilege, the work-product doctrine, the mediation privilege, the common interest or joint defense privilege, or any other protection, privilege or immunity against disclosure (collectively, "Privileged Materials"). J&J will not produce any Privileged Materials, including without limitation any attorney work product. J&J expressly reserves the right to redact non-responsive, proprietary, commercially sensitive, privileged or protected portions of any documents that may be produced in response to the Requests. Pursuant to Federal Rule of Evidence 502(d) as well as any other applicable laws, rules or regulations, if any Privileged Material is inadvertently produced or disclosed, J&J does not waive or intend to waive any privilege or immunity from discovery pertaining to such Privileged Material or to any other documents or information and reserve the right to demand the return of all copies of any such document(s).

3. By responding and objecting to the Requests for Production, J&J does not waive or intend to waive their attorney-client privilege, joint or common interest privilege, mediation privilege, or any other applicable privilege, doctrine or immunity protecting its Privileged Materials from disclosure. Accordingly, any response or objection inconsistent with the foregoing is wholly inadvertent and shall not constitute a waiver of any such privilege, doctrine or immunity. To the extent that there are inconsistencies in the types of privilege or other protections asserted with respect to various copies of the same document, the most comprehensive privilege or protection is intended to apply to all copies of such document.

4. J&J objects to the Requests for Production to the extent they seek production of a privilege log, which is unduly burdensome and disproportionate to the needs of the case, and will

impose unreasonable, expense, or undue burden on J&J. J&J will not be producing a privilege log in response to the Requests for Production.

5. J&J objects to the Requests for Production to the extent that they seek documents containing confidential, personal or private, proprietary, or sensitive business information; or information protected from disclosure by any law (including, but not limited to, foreign laws), court order or any agreement with respect to confidentiality or non-disclosure (collectively, “Confidential Materials”). To the extent that they produce any Confidential Materials, J&J will produce such materials upon entry of an appropriate protective order.

6. J&J objects to the Requests for Production to the extent that they seek documents or information publicly available, or already in the possession, custody, or control of the Official Committee of Talc Claimants (the “TCC”), or are more readily or equally available from any other party to the above-captioned action, including the Debtor, without subjecting J&J to unnecessary burden or expense.

7. J&J objects to the Requests for Production to the extent that they seek disclosure of documents or information that is unreasonably cumulative or duplicative, including but not limited to, Requests for Production that seek disclosure of documents or information that is cumulative or duplicative of documents or information received from, or more appropriately sought from, some other source that is more convenient, less burdensome, or less expensive.

8. J&J objects to the Requests for Production to the extent that they are overly broad and unduly burdensome, fail to identify the documents sought with reasonable particularity or seek information that is outside the scope of discovery permitted by the Rules, or any other applicable rules or orders.

9. J&J objects to the Requests for Production to the extent that they impose unreasonable expense or undue burden on J&J.

10. J&J objects to the Requests for Production to the extent they are unclear, overly broad, unlimited in time, unduly burdensome and/or are not reasonably calculated to lead to the discovery of admissible documents or information proportional to the needs of the case, considering the importance of the issues at stake in the action, 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.

11. J&J objects to the terms or phrases defined by the TCC to the extent that those terms and phrases are vague or ambiguous or beyond their customary meanings. J&J has done its best to understand the terms in the Requests for Production as used in context, but J&J makes its responses and objections based on its understanding of such terms.

12. J&J objects to the Requests for Production to the extent that they contain any factual or legal misrepresentation.

13. Nothing herein shall be construed as an admission concerning the admissibility or the relevance of any documents or information, an admission that documents or information exist, or an admission of the truth or accuracy of any characterization or assertion contained in the Requests for Production.

14. No specific objection to any Request for Production is to be construed as a waiver of any general objection applicable to that Request for Production.



15. J&J's failure to object to the Requests for Production on a particular ground shall not be construed as a waiver of its right to object on that ground or any additional ground at any time.

16. J&J does not in any way waive or intend to waive, but rather preserves and intends to preserve: (a) all rights to object on any ground to the use of any document or information produced in response to the Requests for Production or the subject matter thereof, in any subsequent proceeding; and (b) all rights to object on any ground to any request for further responses to the Requests or any other document request.

17. J&J's responses and objections to the Requests for Production are made to the best of its present knowledge, information and belief. The objections are made without prejudice to the assertion of additional objections and responses by J&J at a later date. J&J reserves the right to supplement and amend any or all of its responses and objections to the Requests for Production, pursuant to Bankruptcy Rule 7026, Federal Rule 26(e), any other applicable Rule and any order of this Court.

#### **OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS**

1. J&J objects to the definition of "Decision Maker" as vague and ambiguous, overly broad, unduly burdensome and not proportional to the needs of the case, and to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, J&J's obligations under the Rules.

2. J&J objects to the definition of "Financial Statements" as vague and ambiguous, overly broad, unduly burdensome and not proportional to the needs of the case, and to the extent

that it seeks to impose discovery obligations that are broader than, or inconsistent with, J&J's obligations under the Rules.

3. J&J objects to the definitions of "J&J", "You" and "Your" as vague and ambiguous, overly broad, unduly burdensome and not proportional to the needs of the case, and to the extent that it seeks to impose discovery obligations that are broader than, or inconsistent with, J&J's obligations under the Rules. Specifically, J&J objects to the Requests for Production to the extent they purport to require J&J to respond on behalf of the Debtor. The Requests for Production were addressed to, Johnson & Johnson, and to the extent Johnson & Johnson discloses any information, they will disclose only information that is within the possession, custody or control of Johnson & Johnson and Johnson & Johnson Consumer, Inc., and not of any other person or entity, including the Debtor.

4. J&J objects to the Requests for Production as overly broad, unduly burdensome and disproportionate to the needs of the case, including, without limitation, the absence of a time limitation on the discovery requests.

5. J&J objects to the Instructions, including, without limitation, Instruction No. 7, to the extent they seek to require J&J to produce documents that are not in J&J's possession, custody or control. J&J further objects to these Instructions to the extent they seek to require J&J to perform searches that are not reasonably likely to identify responsive documents.

6. J&J objects to the Instructions, including, without limitation, Instruction 1, to the extent they seek production of a privilege log and to impose associated requirements, which are unduly burdensome and disproportionate to the needs of this matter, and will impose

unreasonable expense and burden on J&J. J&J will not be producing a privilege log in response to the Requests for Production.

7. J&J objects to the Instructions to the extent they seek to impose requirements on J&J that are unreasonable, unduly burdensome or non-customary.

### **SPECIFIC RESPONSES AND OBJECTIONS**

#### **REQUEST FOR PRODUCTION NO. 1:**

All documents and communications concerning the proposed plan of reorganization in the Aldrich Pump Bankruptcy, including specifically the establishment and funding of a trust that would serve to cap the total amount of funds available to creditors.

#### **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request to the extent it seeks documents that are publicly available or that are already within the TCC’s possession, custody or control. J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J further objects to this Request as seeking materials related to a bankruptcy case in which J&J is not a party. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 2:**

All documents and communications concerning any potential or actual proposal or argument in any bankruptcy case other than the Debtor's chapter 11 case that the future claimants' representative may vote on behalf of future claimants in such bankruptcy case(s).

**RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this request as overly broad and unduly burdensome to the extent it seeks "all documents and communications." J&J further objects to this request to the extent it seeks documents that are publicly available or that are already within the TCC's possession, custody or control. J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J further objects to this Request as seeking materials related to bankruptcy cases in which J&J is not a party. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 3:**

All documents and communications concerning selection or performance of the future claimants' representative in the Aldrich Pump Bankruptcy.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from

the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request to the extent it seeks documents that are publicly available or that are already within the TCC’s possession, custody or control. J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J further objects to this Request as seeking materials related to a bankruptcy case in which J&J is not a party. J&J will not produce documents in response to this Request

**REQUEST FOR PRODUCTION NO. 4:**

Documents sufficient to show all professional or personal relationships and prior engagements between Jones Day or any current or prior attorney thereof or J&J, on the one hand, and Mr. Grier, on the other hand.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous, including the phrase “all professional or personal relationships.” J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request to the extent it seeks documents that are publicly available or that are already within the TCC’s possession, custody or control. J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J will not produce documents in response to this Request

**REQUEST FOR PRODUCTION NO. 5:**

All documents and communications to, from, copying, discussing or referencing Mr. Grier.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J objects to the Request to the extent that it seeks disclosure of Privileged Materials. Subject to and without waiving its general and specific objections, J&J does not have any non-privileged documents responsive to this Request.

**REQUEST FOR PRODUCTION NO. 6:**

All documents and communications concerning Sander Esserman, including without limitation his performance as future claimants’ representative in connection with the DBMP Bankruptcy and Bestwall Bankruptcy and Jones Day’s and/or the corresponding debtors’ satisfaction, dissatisfaction or other views of his performance as future claimants’ representative.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J further objects to

this Request as seeking materials related to a bankruptcy case in which J&J is not a party. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 7:**

All documents and communications concerning the desire, need or benefits to having an FCR, including without limitation, in the event that a motion to dismiss is granted in the Debtor's chapter 11 case.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks "all documents and communications." J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J further objects that this Request on the basis that J&J is not the moving party with respect to the FCR Motion. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 8:**

All documents and communications concerning any potential aspect of a potential proposed plan of reorganization in the Debtor's chapter 11 case, including without limitation the establishment and funding of a trust that would serve to cap the total amount of funds available to creditors.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request

to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J further objects that this Request as prematurely seeking plan discovery. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 9:**

All documents and communications concerning any potential or actual proposal or argument that the FCR may vote on behalf of future claimants in the Debtor’s chapter 11 case.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 10:**

All documents and communications to, from, copying, concerning or referencing any actual or potential candidate for the FCR position.



**RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 11:**

All documents and communications concerning the position of FCR, including without limitation (i) the selection process, role, performance, duties, or qualifications of FCR; (ii) the potential or actual consideration, selection or appointment of any person, including without limitation, Mr. Grier, as FCR, and (iii) the desire or willingness of any potential or actual candidate to serve as FCR.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. J&J will not produce documents in response to this Request.

**REQUEST FOR PRODUCTION NO. 12:**

All documents and communications concerning any potential or actual terms or agreements, whether oral or written, formal or informal, concerning the position of FCR, including without limitation, with Mr. Grier.

**RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

J&J incorporates its general objections to the Requests for Production as if fully set forth herein. J&J objects to this Request as vague and ambiguous. J&J objects to this Request to the extent it purports to require J&J to respond on behalf of the Debtor. J&J objects to this Request to the extent that it seeks disclosure of documents or information more appropriately sought from the Debtor or Mr. Grier. J&J further objects to this Request as overly broad and unduly burdensome to the extent it seeks “all documents and communications.” J&J further objects to this Request as seeking materials that are not relevant to the FCR Motion. Subject to and without waiving its general and specific objections, J&J does not have any non-privileged documents responsive to this Request.

Dated: December 23, 2021  
Respectfully submitted,

/s/ Kenneth A. Rosen

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