

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

BESTWALL LLC,¹

Debtor.

Chapter 11

Case No. 17-31795

**EX PARTE MOTION OF THE DEBTOR FOR ENTRY OF AN ORDER
(I) SHORTENING THE NOTICE PERIOD ON FIRST DAY PLEADINGS FILED
BY THE DEBTOR, (II) LIMITING THE NOTICE ON FIRST DAY PLEADINGS,
(III) SCHEDULING AN EXPEDITED HEARING ON FIRST DAY PLEADINGS AND
(IV) APPROVING THE FORM AND MANNER OF LIMITED NOTICE THEREOF**

Bestwall LLC, as debtor and debtor in possession (the "Debtor"), respectfully represents as follows:

Background

1. On the date hereof (the "Petition Date"), the Debtor commenced this reorganization case by filing a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

2. The Debtor is a North Carolina limited liability company. It owns real property in Mt. Holly, North Carolina and is the parent company of certain non-debtor subsidiaries that manufacture and distribute industrial plaster products. As of the Petition Date, the Debtor was a defendant in tens of thousands of asbestos-related lawsuits pending in the courts of nearly every state and certain territories of the United States.

¹ The last four digits of the Debtor's taxpayer identification number are 5815. The Debtor's address is 100 Peachtree Street, N.W., Atlanta, Georgia 30303.

3. The Debtor is authorized to continue to manage its property and operate its business as a debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

4. A comprehensive description of the Debtor, its history, its assets and liabilities and the events leading to the commencement of this chapter 11 case can be found in the declaration of Tyler L. Woolson (the "First Day Declaration"), which was filed contemporaneously herewith and is incorporated herein by reference. In addition to the First Day Declaration, the Debtor has filed an Informational Brief to provide additional information about its asbestos litigation, related costs and plans to address these matters in this chapter 11 case (the "Chapter 11 Case").

Jurisdiction

5. This 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). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

6. The Debtor seeks the entry of an order, on an *ex parte* basis, substantially in the form attached hereto as Exhibit A, pursuant to 28 U.S.C. §§ 157 and 1334, Rule 9006(c) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 9006-1 and 9013-1(f) of the Rules of Practice and Procedure of the United States Bankruptcy Court for the Western District of North Carolina (the "Local Bankruptcy Rules"): (a) shortening the notice period with respect to, limiting notice of and scheduling an expedited hearing (the "First Day Hearing") on certain first day pleadings filed by the Debtor contemporaneously herewith (collectively, the "First Day Pleadings") and (b) approving the form and manner of notice thereof (the "First Day Notice"), which is attached hereto as Exhibit B.

Argument

7. Contemporaneously herewith, the Debtor filed the First Day Pleadings, by which it seeks certain relief on an expedited basis. The First Day Pleadings consist of the following:

- (a) *Motion of the Debtor for an Order: (I) Authorizing It to File a List of the Top Law Firms With Asbestos Cases Against the Debtor in Lieu of the List of 20 Largest Unsecured Creditors; (II) Approving Certain Notice Procedures for Asbestos Claimants; and (III) Approving the Form and Manner of Notice of Commencement of This Case (Docket No. 10);*
- (b) *Motion of the Debtor for Entry of an Order Establishing Certain Notice, Case Management and Administrative Procedures (Docket No. 17);*
- (c) *Application of the Debtor for an Order Authorizing the Retention and Employment of Donlin, Recano and Company, Inc. as Claims, Noticing and Ballot Agent (Docket No. 9);*
- (d) *Motion of the Debtor for an Order: (I) Approving the Continued Use of Its Bank Accounts, Cash Management System and Business Forms; (II) Granting a Waiver of the Requirements of Section 345(b); and (III) Authorizing the Debtor's Banks to Charge Certain Fees and Other Amounts (Docket No. 22);*
- (e) *Debtor's Complaint for Injunctive and Declaratory Relief (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) in the Alternative, Declaring That the Automatic Stay Applies to Such Actions and (III) Granting a Temporary Restraining Order Pending a Full Hearing on the Motion, as filed in the adversary proceeding styled Bestwall LLC v. Those Parties Listed on Appendix A to Complaint and John and Jane Does 1-1000 (the "Adversary Proceeding") (Adversary Proceeding Docket No. 1);*
- (f) *Debtor's Motion for an Order (I) Preliminarily Enjoining Certain Actions Against Non-Debtors, or (II) in the Alternative, Declaring That the Automatic Stay Applies to Such Actions and (III) Granting a Temporary Restraining Order Pending a Full Hearing on the Motion, as filed in the Adversary Proceeding (Adversary Proceeding Docket No. 2); and*

- (g) *Debtor's Motion for Approval of Service Procedures for Summons and Complaint*, as filed in the Adversary Proceeding (Adversary Proceeding Docket No. 4).

8. The Debtor also filed the *Declaration of Tyler L. Woolson in Support of First Day Pleadings* (Docket No. 2) (the "First Day Declaration"), the *Declaration of J. Joel Mercer, Jr. in Support of Debtor's Complaint to Extend or Apply the Automatic Stay and Related Motions* (filed in the Adversary Proceeding as Docket No. 5) (the "Stay Declaration") and the *Informational Brief of Bestwall LLC* (Docket No. 12), as well as certain motions and applications on an *ex parte* bases. Further, the Debtor has filed the following motions to be heard at a hearing following the First Day Hearing:

- (a) *Motion of the Debtor for an Order Authorizing It to Perform Under Certain Intercompany Agreements With Non-Debtor Affiliates* (Docket No. 30);
- (b) *Motion of the Debtor for an Order Authorizing the Retention and Compensation of Professionals Utilized by the Debtor in the Ordinary Course of Business* (Docket No. 31); and
- (c) *Motion of the Debtor for an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Retained Professionals* (Docket No. 32).

9. As described in detail in each of the First Day Pleadings and in the First Day Declaration and the Stay Declaration, the relief requested in each of the First Day Pleadings: (a) is essential to the Debtor's ability to successfully transition into chapter 11 and administer the Chapter 11 Case and reorganize for the benefit of all creditors; and (b) requires an expedited, emergency hearing. Accordingly, to allow the relief sought in the First Day Pleadings to be heard in an expedited manner, the Debtor respectfully requests that the Court shorten the notice period for the First Day Pleadings, limit notice of the First Day Pleadings to the parties set forth below and schedule an expedited hearing on the First Day Pleadings to be conducted as soon after the Petition Date as possible.

10. Courts in this District and other districts have granted similar relief expediting consideration of first day motions in other large chapter 11 cases. See, e.g., In re Mizan Enters. Inc., No. 17-30601 (JCW) (Bankr. W.D.N.C. Apr. 18, 2017) (granting an expedited hearing on first day pleadings); In re Tanner Cos., LLC, No. 17-40029 (JCW) (Bankr. W.D.N.C. Jan. 31, 2017) (same); In re Kaiser Gypsum Co., Inc., No. 16-31602 (JCW) (Bankr. W.D.N.C. Oct. 3, 2016) (same); see also In re Morehead Memorial Hosp., No. 17-10775 (BAK) (Bankr. M.D.N.C. July 11, 2017) (same); In re RFI Mgmt., Inc., No. 17-80247 (BAK) (Bankr. M.D.N.C. Mar. 31, 2017) (same); In re Alpha Natural Res., Inc., No. 15-33896 (KRH) (Bankr. E.D. Va. Aug. 5, 2015); In re Health Diagnostic Lab., Inc., No. 15-32919 (KRH) (Bankr. E.D. Va. June 9, 2015); In re Patriot Coal Corp., No. 15-32450 (KLP) (Bankr. E.D. Va. May 12, 2015); In re Plantation All., LLC, No. 14-00104 (HB) (Bankr. D.S.C. Jan. 8, 2014) (same); ECI of Wash., LLC, No. 13-19854 (TJC) (Bankr. D. Md. June 14, 2013) (same).

11. The Debtor respectfully submits that its creditors and other parties in interest will not be prejudiced by the relief requested herein.

Notice

12. Pursuant to Local Bankruptcy Rule 9013-1(f), the Debtor seeks approval of this Motion on an *ex parte* basis. Nevertheless, immediately upon filing this Motion, the Debtor will cause the Motion to be served via e-mail or facsimile, where such information is known to the Debtor, and will otherwise cause it to be served by hand delivery or overnight carrier on the following parties (collectively, the "First Day Notice Parties"): (a) the Office of the United States Bankruptcy Administrator for the Western District of North Carolina; (b) the top law firms representing asbestos claimants against the Debtor, as identified in the Debtor's chapter 11 petition; (c) counsel to the Debtor's non-debtor affiliate, Georgia-Pacific LLC, a Delaware limited liability company; and (d) any other parties who received service of a First Day

Pleading. The First Day Notice Parties include all parties on whom the First Day Pleadings were served, and represent parties on whom the First Day Pleadings may have a direct impact.

The Debtor submits that, in light of the *ex parte* nature of the relief requested, no other or further notice of this Motion need be provided.

13. The Debtor proposes to serve the First Day Notice on (a) the First Day Notice Parties and (b) any party that has requested notice pursuant to Bankruptcy Rule 2002 as of the time of service (the "First Day Notice Service Procedures"). The Debtor submits that, in light of the expedited nature of the relief requested, no other or further notice need be provided. Thus, the Debtor requests that service of the First Day Notice, the First Day Pleadings and this Motion in the form and manner described herein be deemed adequate and appropriate under the circumstances and substantially in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Bankruptcy Rules.

No Prior Request

14. No prior request for the relief sought in this Motion has been made to this or any other Court in connection with this chapter 11 case.

WHEREFORE, the Debtor respectfully requests that the Court: (a) enter an order, substantially in the form attached hereto as Exhibit A, granting the relief requested herein and (b) grant such other and further relief to the Debtor as the Court may deem just and proper.

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Dated: November 2, 2017
Charlotte, North Carolina

Respectfully submitted,

/s/ Garland S. Cassada

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PROPOSED ATTORNEYS FOR DEBTOR
AND DEBTOR IN POSSESSION

Exhibit A

Proposed Order

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

In re

BESTWALL LLC,¹

Debtor.

Chapter 11

Case No. 17-31795

EX PARTE ORDER (I) SHORTENING THE NOTICE PERIOD ON FIRST DAY PLEADINGS FILED BY THE DEBTOR, (II) LIMITING THE NOTICE ON FIRST DAY PLEADINGS, (III) SCHEDULING AN EXPEDITED HEARING ON FIRST DAY PLEADINGS AND (IV) APPROVING THE FORM AND MANNER OF LIMITED NOTICE THEREOF

This matter coming before the Court on the *Ex Parte Motion of the Debtor for Entry of an Order (I) Shortening the Notice Period on First Day Pleadings Filed by the Debtor, (II) Limiting the Notice on First Day Pleadings, (III) Scheduling an Expedited Hearing on First Day Pleadings and (IV) Approving the Form and Manner of Limited Notice Thereof*

¹ The last four digits of the Debtor's taxpayer identification number are 5815. The Debtor's address is 100 Peachtree Street, N.W., Atlanta, Georgia 30303.

(the "Motion"),² filed by the debtor and debtor in possession in the above-captioned case (the "Debtor"); the Court having reviewed the Motion, the First Day Declaration and the First Day Notice; the Court finding that (a) the Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, (b) venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409, (c) this is a core proceeding pursuant to 28 U.S.C. § 157(b)(2), (d) notice of the Motion was sufficient under the circumstances and (e) the exigency of the situation justifies an immediate hearing on the First Day Pleadings; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the *ex parte* relief granted herein;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED.
2. An expedited hearing (the "Expedited Hearing") shall be held before the Honorable Judge Laura T. Beyer on November 7, 2017 at 2:00 p.m. (prevailing Eastern Time) at the United States Bankruptcy Court for the Western District of North Carolina, Charlotte Division, 401 West Trade Street, Charlotte, North Carolina 28202, in Courtroom 1-5, to consider the relief requested in the First Day Pleadings.
3. The notice period for the First Day Pleadings is hereby shortened so that the Court can consider the relief requested therein at the Expedited Hearing.
4. Notice of the First Day Pleadings is hereby limited to the First Day Notice Parties.
5. Service of the First Day Notice, in substantially the form attached to the Motion as Exhibit B, in accordance with the First Day Notice Procedures constitutes adequate

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

and appropriate notice of the Expedited Hearing under the circumstances. No further or other notice of the Expedited Hearing is necessary under the circumstances.

6. Pursuant to Local Bankruptcy Rule 9013-1(f), any party shall be entitled to request a hearing or request that the Court reconsider entry of this Order by filing a motion for reconsideration within 14 days of service of this Order.

7. The Debtor is authorized and empowered to take all actions necessary to implement the relief granted in this Order.

8. This Court shall retain exclusive jurisdiction over any and all matters arising from or related to the implementation, enforcement or interpretation of this Order.

This Order has been signed electronically.
The Judge's signature and Court's seal appear
at the top of the Order.

United States Bankruptcy Court

Exhibit B

First Day Notice

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

In re

BESTWALL LLC,¹

Debtor.

Chapter 11

Case No. 17-31795

**NOTICE OF CHAPTER 11 FILING AND OF
EXPEDITED HEARING ON FIRST DAY PLEADINGS**

PLEASE TAKE NOTICE THAT Bestwall LLC, the debtor and debtor in possession in the above-captioned case (the "Debtor"),² filed a voluntary petition under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the Western District of North Carolina on November 2, 2017 and has filed the following pleadings (collectively, the "First Day Pleadings"):

- (a) *Motion of the Debtor for an Order: (I) Authorizing It to File a List of the Top Law Firms With Asbestos Cases Against the Debtor in Lieu of the List of 20 Largest Unsecured Creditors; (II) Approving Certain Notice Procedures for Asbestos Claimants; and (III) Approving the Form and Manner of Notice of Commencement of This Case (Docket No. 10);*
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- (c) *Application of the Debtor for an Order Authorizing the Retention and Employment of Donlin, Recano and Company, Inc. as Claims, Noticing and Ballot Agent (Docket No. 9);*

¹ The last four digits of the Debtor's taxpayer identification number are 5815. The Debtor's address is 100 Peachtree Street, N.W., Atlanta, Georgia 30303.

² The Debtor was formerly named Georgia-Pacific, LLC, a North Carolina limited liability company, and Georgia-Pacific, LLC, a Texas limited liability company.

- (d) *Motion of the Debtor for an Order: (I) Approving the Continued Use of Its Bank Accounts, Cash Management System and Business Forms; (II) Granting a Waiver of the Requirements of Section 345(b); and (III) Authorizing the Debtor's Banks to Charge Certain Fees and Other Amounts (Docket No. 22);*
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- (c) *Motion of the Debtor for an Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Retained Professionals* (Docket No. 32).

PLEASE TAKE FURTHER NOTICE THAT a hearing to consider the First Day Pleadings and the relief requested therein will be held before the Honorable Judge Laura T. Beyer on November 7, 2017 at 2:00 p.m. (prevailing Eastern Time) at the United States Bankruptcy Court for the Western District of North Carolina, Charlotte Division, 401 West Trade Street, Charlotte, North Carolina 28202, in Courtroom 1-5.

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Dated: _____
Charlotte, North Carolina

Respectfully submitted,

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PROPOSED ATTORNEYS FOR DEBTOR
AND DEBTOR IN POSSESSION