

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

MAREMONT CORPORATION, et al.,¹

Debtors.

Chapter 11

Case No. 19-10118 (KJC)

(Jointly Administered)

Ref. Docket Nos. 68, 101 & 104

**DEBTORS' OBJECTION TO UNITED STATES TRUSTEE'S MOTION TO
APPOINT A LEGAL REPRESENTATIVE FOR FUTURE ASBESTOS CLAIMANTS**

Maremont Corporation (“Maremont”) and its affiliated debtors and debtors in possession (collectively, the “Debtors”) in the above-captioned chapter 11 cases (the “Chapter 11 Cases”) submit this objection (this “Objection”) to the *United States Trustee’s Motion to Appoint a Legal Representative for Future Asbestos Claimants* [Docket No. 68] (as amended by Docket No. 104, the “UST Motion”) filed by the United States Trustee for the District of Delaware (the “U.S. Trustee”). In opposition to the UST Motion, the Debtors respectfully state as follows:

PRELIMINARY STATEMENT

1. The U.S. Trustee proposes two alternative candidates to serve as the legal representative for future claimants in these Chapter 11 Cases (the “Future Claimants’ Representative”) as part of its opposition to James L. Patton, Jr.’s appointment to such role. In the UST Motion, the U.S. Trustee regurgitates the argument made in its objection to Mr. Patton’s appointment that experienced professionals like Mr. Patton cannot be trusted as “independent” fiduciaries for future claimants precisely because of their invaluable experience. This argument

¹ The Debtors in these chapter 11 cases, together with the last four digits of each Debtor’s federal taxpayer identification number, are: Maremont Corporation (6138); Maremont Exhaust Products, Inc. (9284); AVM, Inc. (9285); and Former Ride Control Operating Company, Inc. (f/k/a ArvinMeritor, Inc., a Delaware corporation) (9286). The mailing address for each Debtor for purposes of these chapter 11 cases is 2135 West Maple Road, Troy, MI 48084.

does not succeed for a number of reasons as set forth in the Debtors' FCR Motion and Debtors' Reply (as defined below).² Yet, through the UST Motion, the U.S. Trustee doubles-down on its position by proposing two candidates that have no experience in mass tort bankruptcies or as a future claimants' representative.³ Moreover, although it appears that one of the candidates may be disinterested based on information received to date, the U.S. Trustee has not made this necessary *prima facie* showing with respect to its other candidate. However, even if the U.S. Trustee's candidates are disinterested, they do not have the requisite knowledge, have never served as a future claimants' representative, and are unqualified, and the U.S. Trustee's attempt to insert a future claimants' representative into these Chapter 11 Cases to further its policy objectives with respect to section 524(g) trusts is improper. The U.S. Trustee's candidates should not be considered, much less appointed, for the role of the Future Claimants' Representative by the Court.

2. The UST Motion fails not only because the alternative candidates proposed by the U.S. Trustee do not pass muster, but also because Mr. Patton – properly proposed by the Debtors – clearly meets the disinterestedness standard and is eminently qualified for appointment. Recognizing the need for future claimants to be adequately represented in the pre-petition negotiations regarding a potential plan and section 524(g) trust, Maremont selected Mr. Patton in February 2018 to act as pre-petition future claimants' representative because it understood Mr. Patton to be conflict-free, and the most qualified and experienced candidate for the position. Nearly a year later, with a unanimously-accepted prepackaged plan of reorganization in hand that

² Capitalized terms used but not defined herein shall have the meaning ascribed to such terms in the *Debtors' Motion for Entry of an Order Appointing James L. Patton, Jr., as Legal Representative for Future Asbestos Claimants, Nunc Pro Tunc to the Petition Date* [Docket No. 44] (the "Debtors' FCR Motion").

³ The UST Motion proposed four candidates: the Honorable Peggy L. Ableman, Dennis J. Connolly, Joe D. Whitley, and Joseph W. Grier III. However, on February 28, 2019, the U.S. Trustee amended the UST Motion to withdraw the nominations of Mr. Whitley and Mr. Grier [Docket No. 104].

provides fair and equal treatment for future claimants, the Debtors are forced to defend this selection as they seek Mr. Patton's official appointment during these cases. Mr. Patton is disinterested and qualified, and there has been no evidence presented that Mr. Patton is not disinterested, has a conflict of interest, or did not carefully dispatch his fiduciary duties in representing future claimants prior to the filing of these Chapter 11 Cases (or in other cases). Future claimants' representatives have, since the enactment of section 524(g) of the Bankruptcy Code, been proposed by the debtor and appointed by the Court based on the disinterestedness standard. Any other process would run afoul of the statutory language, and would upset potential debtors' ability to negotiate a prepackaged or pre-arranged plan such as the Plan presented here. For these reasons, the Court should deny the UST Motion, and appoint Mr. Patton as Future Claimants' Representative in these Chapter 11 Cases.

BACKGROUND

3. On January 22, 2019 (the "Petition Date"), the Debtors filed the *Joint Prepackaged Plan of Reorganization of Maremont Corporation and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 10] (the "Plan") and the related disclosure statement [Docket No. 11] (the "Disclosure Statement"). The centerpiece of the Plan is the creation of the Asbestos Personal Injury Trust and the channeling of Asbestos Personal Injury Claims and Demands to the Asbestos Personal Injury Trust pursuant to an injunction issued under section 524(g) of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the "Bankruptcy Code"). Prior to the Petition Date, the Plan was accepted by 100% of Holders of Asbestos Personal Injury Claims that voted on the Plan [Docket No. 12].

4. At a hearing held on January 23, 2019, the United States Bankruptcy Court for the District of Delaware (the "Court") entered an order scheduling a combined hearing (the

“Confirmation Hearing”) for March 18, 2019 at 1:00 p.m. (prevailing Eastern Time) to consider approval of the Disclosure Statement and confirmation of the Plan [Docket No. 30].

5. On January 31, 2019, the Debtors filed the Debtors’ FCR Motion to request the Court’s appointment of Mr. Patton. The *Declaration of James L. Patton, Jr., In Support of the Debtors’ Motion for Entry of an Order Appointing James L. Patton, Jr., as Legal Representative for Future Asbestos Claimants, Nunc Pro Tunc to the Petition Date* (the “Patton Declaration”) was attached to the Debtors’ FCR Motion as Exhibit A. On February 14, 2019, the U.S. Trustee filed an objection to the Debtors’ FCR Motion [Docket No. 63] (the “UST Objection”).

6. On February 20, 2019, the Debtors filed their reply to the UST Objection [Docket No. 76] (the “Debtors’ Reply”), and the Official Committee of Personal Injury Claimants (the “Asbestos Claimants Committee”) filed its reply to the UST Objection [Docket No. 70].

7. On February 20, 2019, the U.S. Trustee filed the UST Motion, proposing four alternative candidates; however, on February 28, 2019, the U.S. Trustee amended the UST Motion [Docket No. 104] to provide that the U.S. Trustee would only move forward with the nominations of the Honorable Peggy L. Abelman and Dennis J. Connolly (each a “UST Candidate”, and together the “UST Candidates”). On February 20, 2019, the U.S. Trustee filed the *United States Trustee’s Motion to Shorten Time for Notice of the United States Trustee’s Motion to Appoint a Legal Representative for Future Asbestos Claimants* [Docket No. 69] (the “Motion to Shorten”) requesting that the UST Motion be heard with the Debtors’ FCR Motion at the hearing scheduled for February 25, 2019.

8. The Debtor and the Asbestos Claimants Committee filed objections to the Motion to Shorten on February 21, 2019 [Docket Nos. 79 & 82]. On February 21, 2019, the Court entered an order (i) denying the Motion to Shorten, (ii) setting March 1, 2019 at 4:00 p.m.

(prevailing Eastern Time) as the deadline for parties to object or otherwise respond to the UST Motion, (iii) scheduling a hearing on March 8, 2019 at 10:00 a.m. (prevailing Eastern Time) (the “March 8 Hearing”) to consider the Debtors’ FCR Motion and the UST Motion, and (iv) scheduling a telephonic status hearing for February 25, 2019 to consider any pre-hearing needs of the parties in advance of the March 8 Hearing [Docket No. 92].

9. The Court held a telephonic status hearing on February 25, 2019 (the “February 25 Hearing”), at which the Debtors requested the U.S. Trustee provide sworn declarations concerning each candidate’s disinterestedness and qualifications, and requested the ability to conduct depositions or interviews of the U.S. Trustee’s proposed candidates prior to the March 8 Hearing.

10. The Debtors and the Asbestos Claimants Committee requested that the U.S. Trustee file declarations from each UST Candidate regarding their disinterestedness and relevant experience by February 27, 2019, so that the Debtors and the Asbestos Claimants Committee could have two days to review the declarations ahead of the objection deadline. The U.S. Trustee stated that it would endeavor to do so. On February 27, 2019, the U.S. Trustee filed only a declaration from Judge Ableman stating her disinterestedness and relevant experience [Docket No. 101] (the “Ableman Declaration”).⁴ As of the filing of this Objection, no declaration by Mr. Connolly has been filed concerning his disinterestedness or relevant experience.

OBJECTION TO UST MOTION

11. The UST Motion should be denied because (a) the Debtors have proposed a well-qualified, disinterested candidate that is already familiar with the Debtors’ assets, liabilities, and asbestos claims history and projections, that was directly involved in the negotiations for the

⁴ The Ableman Declaration (which purports to be “in opposition to” Mr. Patton’s appointment) is dated February 14, 2019, six days before the U.S. Trustee filed the UST Motion on February 20, 2019, and thirteen days before the Ableman Declaration was filed in these Chapter 11 Cases.

Plan and the Asbestos Personal Injury Trust, and that has already achieved the best possible outcome for future claimants; and (b) (i) the UST Candidates are less qualified than the Debtors' proposed candidate, and the UST Motion provides no basis to believe that they will achieve any better outcome for future claimants to justify the significant additional costs they would incur, and (ii) the U.S. Trustee has not provided evidence establishing a *prima facie* case that Mr. Connolly is disinterested.

A. The Debtors Have Proposed a Disinterested and Highly Qualified Candidate for Future Claimants' Representative in James L. Patton, Jr.

12. The Debtors have proposed James L. Patton, Jr. to serve as the Future Claimants' Representative, and the appointment of Mr. Patton is in the best interests of the estates. The Bankruptcy Code does not specify the standard for appointment of a legal representative for future claimants; however, every court to address the standard for appointing such a representative under section 524(g) has applied the disinterestedness test set forth in section 101(14) of the Bankruptcy Code.⁵ As set forth more fully in the Patton Declaration and the Debtors' FCR Motion, Mr. Patton is not a creditor of the Debtors, nor does he have an interest materially adverse to the future claimants. Accordingly, Mr. Patton is "disinterested" as that term is defined in section 101(14) of the Bankruptcy Code, and is therefore eligible to be appointed as the Future Claimants' Representative. The U.S. Trustee has not disputed that Mr. Patton is disinterested, and has provided no evidence to question Mr. Patton's disinterestedness.

13. Moreover, Mr. Patton is extraordinarily well-qualified to serve as the legal representative for future claimants in these Chapter 11 Cases. As set forth in the Patton

⁵ See, e.g., In re Duro Dyne Nat'l Corp., Case No. 18-27963 (MBK) (Bankr. D.N.J. Oct. 16, 2018), Transcript of Court Decision on Debtors' Motion at 17:22-24; In re Leslie Controls, Inc., Case No. 10-12199 (CSS) (Bankr. D. Del. Aug. 9, 2010), Transcript at 70:15-71:4; In re Thorpe Insulation Co., Case No. 2:07-19271-BB (Bankr. C.D. Cal. Dec. 12, 2007), Transcript at 44:14-45:4; Fed. Ins. Co. v. W.R. Grace (In re W.R. Grace), Case No. 04-844 (RLB), 2004 WL 5517843, at *7 (D. Del. Nov. 24, 2004).

Declaration, Mr. Patton has more than 30 years of experience with asbestos litigation, bankruptcies, and settlement trusts, and he is therefore intimately familiar with the many complex issues that arise in such matters. He is chairman emeritus of Young Conaway and a partner in its Bankruptcy and Corporate Restructuring section. He specializes in corporate restructurings, mass tort insolvencies, complex asbestos bankruptcies, and post-confirmation asbestos settlement trusts.

14. Mr. Patton previously has been found by multiple courts to possess the experience necessary to serve as the Future Claimants' Representative. Mr. Patton serves as the future claimants' representative for four other asbestos personal injury trusts, and Mr. Patton and Young Conaway have represented other future claimants' representatives in connection with numerous asbestos-related bankruptcy cases, as detailed in the Patton Declaration. Through this extensive experience, Mr. Patton has knowledge of and familiarity with (i) the Bankruptcy Code and requirements for plan confirmation and channeling injunctions, (ii) the asbestos tort system and claims estimation issues, and (iii) the operations of asbestos personal injury trusts – each of which is critical to representing Maremont's future claimants during these Chapter 11 Cases, as well as after the Effective Date.

15. Further, the courts that have appointed Mr. Patton have acknowledged and praised his qualifications, independence, and integrity, and expressed confidence in his representation of future claimants. See, e.g., In re Leslie Controls, Inc., Case No. 11-0013 (JBS) (D. Del. Mar. 25, 2011), Additional Findings in Support of Affirmation Order at 14 (“Mr. Patton . . . was clearly a qualified choice for the position, who exercised his responsibilities in good faith. He spoke with knowledge and evident wisdom with respect to the challenges of representing the future claimants, revealing a reassuring level of sophistication in his analysis of the issues.”); In

re Leslie Controls, Inc., Case No. 10-12199 (CSS) (Bankr. D. Del. Aug. 9, 2010), Transcript at 72:18-73:5 (“Mr. Patton is well-known to the asbestos bar. He’s well-known to the bankruptcy bar nationally. He’s well-known to the Delaware bar. And I have no doubt in my mind that he will work diligently on behalf of the future claimants. . . . [I]f the debtor were simply to come to me and say look, Judge, you need to find us a future claims representative, quite frankly I would have called Mr. Patton because I know of his experience in the area and I know of his reputation.”); In re The Celotex Corp., Case No. 90-10016-8G1 (Bankr. M.D. Fla. May 8, 2006), Order Approving the Appointment of James L. Patton, Jr. as the Successor Legal Representative for Unknown Asbestos Bodily Injury Claims ¶ 6 (“This Court has carefully reviewed Mr. Patton’s qualifications and background. It has determined that he will ably carry out the duties and responsibilities of the Legal Representative under the Trust Agreement and fully represent the interests of future holders of asbestos-related personal injury demands as to matters concerning the Trust.”).

16. As described in the Debtors’ FCR Motion, Maremont selected Mr. Patton to serve as an independent third-party representative for future asbestos claimants in February 2018 based on his reputation, experience, and expertise. The Pre-Petition Future Claimants’ Representative Agreement specifically stated that both Mr. Patton and Maremont understand and acknowledge that his sole responsibility and loyalty is to the future asbestos personal injury claimants, and that Maremont has no right to control or influence how Mr. Patton or his professionals carry out their duties.

17. Following his selection, Mr. Patton hired Young Conaway and Ankura to assist him in conducting diligence, estimating future claims, and negotiating the terms of a potential pre-packaged plan of reorganization and asbestos personal injury trust. In his role as Pre-Petition

Future Claimants' Representative, Mr. Patton, personally or through his advisors, conducted due diligence concerning the background, nature, and scope of the Asbestos Personal Injury Claims, including, inter alia, reviewing the Debtors' historical involvement with asbestos, the nature and extent of past and pending asbestos litigation against the Debtors, including the types of claims asserted and the legal issues raised, the projected value of present and future Asbestos Personal Injury Claims, and Maremont's asbestos insurance and related settlements and other financial assets. Mr. Patton, personally or through his advisors, also examined the Debtors' corporate and transactional history and the potential for recovery by the Debtors and/or holders of Asbestos Personal Injury Claims from current or former affiliates of Maremont, based upon a variety of legal theories, including derivative liability theories such as alter ego, successor liability, and/or fraudulent conveyance.

18. The diligence and investigation described above performed by Mr. Patton and his advisors was well-advanced prior to the Debtors' engagement with the Ad Hoc Committee in June 2018. Thus, contrary to the insinuations in the UST Motion, there can be no suggestion that current claimants somehow influenced the Debtors' selection of Mr. Patton or that Mr. Patton was or is somehow beholden to the Ad Hoc Committee or the Asbestos Claimants Committee in any way.

19. After the negotiations among the Debtors, Meritor, the Ad Hoc Committee and the Pre-Petition Future Claimants' Representative concluded, representatives of Mr. Patton and the Ad Hoc Committee conducted negotiations regarding the terms of the asbestos personal injury trust and related payment percentages and distribution procedures for holders of current Claims and future Demands. Mr. Patton had the knowledge, experience, and standing to

effectively negotiate with the Ad Hoc Committee for the best possible outcome for future claimants.

20. The extensive pre-petition negotiations resulted in the Plan (and Plan-related trust documents), which was unanimously accepted by all Holders of Asbestos Personal Injury Claims voting on the Plan. The involvement of Mr. Patton and his advisors ensured that future claimants had adequate representation throughout the entire process. As Chief Judge Sontchi noted in *Leslie Controls*: “There is no such thing in the Bankruptcy Code as a pre-negotiated plan. It is something that is developed over time and is a very efficient way to get in and out of bankruptcy usually.” In re Leslie Controls, Inc., Case No. 10-12199 (CSS) (Bankr. D. Del. Aug. 9, 2010), Transcript at 71:16-19. Here, that work was done on behalf of future claimants by Mr. Patton and his advisors. As such, it is in the best interests of the estates, the current claimants, and the future claimants that Mr. Patton be appointed as the Future Claimants’ Representative in these Chapter 11 Cases.

B. The UST Candidates Are Less Qualified to Serve as Future Claimants’ Representative in these Chapter 11 Cases and Will Not Achieve a Better Outcome for Future Claimants, and the U.S. Trustee Has Not Made a *Prima Facie* Case that Mr. Connolly is Disinterested.

21. The UST Motion seeks to disregard Mr. Patton’s qualifications and the extensive pre-petition work performed by him and his advisors, and instead requests appointment of one of two candidates selected by the U.S. Trustee. Neither candidate has ever performed the role of future claimants’ representative before, and both UST Candidates lack the substantial experience and knowledge that Mr. Patton has regarding (i) bankruptcy cases involving asbestos liabilities and the operation of section 524(g) trusts, (ii) the Debtors, their corporate and transactional history, their assets and liabilities, and their asbestos litigation history and future claims estimations, and (iii) the Plan, including the Asbestos Personal Injury Trust Agreement and

Asbestos Personal Injury Trust Distribution Procedures. Nor does the UST Motion provide any basis to believe that the UST Candidates could achieve a better outcome for future claimants to justify the significant delays and increased expenses that would be required for the UST Candidate and her or his advisors to learn the role of the future claimants' representative, duplicate the diligence already performed by Mr. Patton and the Ad Hoc Committee, and attempt to negotiate any changes to the Plan and its exhibits relating to the Asbestos Personal Injury Trust.

1. *The UST Candidates Are Less Qualified Because They Lack Asbestos-Related Bankruptcy and Trust Experience.*

22. While both UST Candidates are accomplished professionals (and in the case of Peggy L. Ableman, a former judge), neither candidate has the asbestos-related bankruptcy and trust experience necessary to represent the future claimants in these Chapter 11 Cases or as the Post-Petition Future Claimants' Representative. Certain limitations of each of the UST Candidates' experiences are addressed below.

23. The Honorable Peggy L. Ableman:

- Judge Ableman, a former Assistant United States Attorney for the District for Delaware and a state trial judge on the Superior Court of the State of Delaware, is currently special counsel in the Wilmington office of McCarter & English LLP. The Ableman Declaration and other background materials for Judge Ableman submitted by the U.S. Trustee do not reflect any prior experience or familiarity with bankruptcy cases or the Bankruptcy Code. Judge Ableman also does not appear to have any experience administering a section 524(g) trust or negotiating any documentation or issues relating to such a section 524(g) trust. Judge Ableman has never served as a legal representative for future claimants, and her background materials do not provide any examples of her serving in a fiduciary capacity in private practice.
- The Ableman Declaration includes several articles authored by Judge Ableman criticizing section 524(g) trusts and advocating for specific asbestos-related legislation, including legislation to amend section 524(g) of the Bankruptcy Code, and includes Judge Ableman's testimony before Congress in support of such legislation. If appointed as the future claimants' representative for Maremont's future claimants, Judge Ableman's tort reform

advocacy and policy goals may conflict with her fiduciary duties to represent the specific interests of Maramont's future claimants in connection with these Chapter 11 Cases, and as the Post-Petition Future Claimants' Representative.

- The McCarter & English website does not indicate whether its Bankruptcy and Commercial Litigation Practice has experience with asbestos or other mass tort bankruptcies, or with representing a future claimants' representative. However, the firm's website states that the firm represents distributors and manufacturers of asbestos, and serves as national defense counsel in mass tort cases, including asbestos matters.

24. Dennis J. Connolly:

- Mr. Connolly is a partner with the firm Alston & Bird, based in the Atlanta and New York offices. While Mr. Connolly's background materials state that his practice focuses on representation of debtors and creditors' committees in chapter 11 bankruptcy cases, Mr. Connolly has no prior experience as a legal representative for future claimants, and does not appear to have other experience related to administering a section 524(g) trust or negotiating any documentation or issues relating to such a section 524(g) trust. Mr. Connolly's background materials also do not indicate any prior experience with asbestos or mass tort litigation or bankruptcy cases. Further, Mr. Connolly's background materials provide limited examples of him serving in a fiduciary capacity.
- The Alston & Bird website does not indicate whether its Financial Restructuring & Reorganization group has experience with asbestos or other mass tort bankruptcies or with representing a future claimants' representative. However, the firm's website discloses that the firm serves as managing counsel in asbestos litigation pending in several jurisdictions around the country, and serves as national coordinating co-counsel and trial counsel for a Fortune 500 automobile parts distributor in asbestos litigation.

25. Each of these UST Candidates lacks in-depth asbestos-related bankruptcy and trust experience, which will require them to spend significant and valuable time learning on the job if appointed. It is not in the best interests of any person or entity to have an inexperienced legal representative, especially future asbestos claimants given the specialized nature of section 524(g) bankruptcy cases and plan and trust-related documents.

2. *The UST Candidates Are Also Less Qualified Because They Lack Specific Knowledge Regarding the Debtors, the Plan, and the Asbestos Personal Injury Trust.*

26. In addition to the general lack of experience with asbestos bankruptcies and negotiating section 524(g) plans of reorganization, trusts, and trust procedures, the UST Candidates lack the specific knowledge regarding the Debtors, the Plan, and the Asbestos Personal Injury Claims that make Mr. Patton uniquely qualified to serve as the Future Claimants' Representative in these Chapter 11 Cases.

27. As explained above, Mr. Patton and his representatives spent eleven months prior to the Petition Date analyzing the Debtors, their assets and liabilities, and their asbestos claims history, as well as negotiating the terms of the Plan and the Asbestos Personal Injury Trust. The UST Candidates would take over the role of future claimants' representative with less than two weeks before the scheduled Confirmation Hearing, would need to become familiar with the Plan and the exhibits relating to the Asbestos Personal Injury Trust, and would need to duplicate the diligence performed by Mr. Patton and the Ad Hoc Committee.

3. *The UST Motion Provides No Basis to Believe that the UST Candidates Could Achieve a Better Outcome for Future Claimants to Justify the Significant Additional Costs that They Would Incur.*

28. The UST Motion offers no evidence to suggest that either of the UST Candidates could achieve a better outcome for future claimants, which is not surprising given the candidates' lack of experience and expertise in this area. More specifically, the U.S. Trustee has not identified any changes either remaining candidate would seek to make to the Plan or the Asbestos Personal Injury Trust, why or whether other parties in interest would agree to those changes, or what the value of those changes would be. Indeed, given the fair and equitable outcome for future claimants already achieved by Mr. Patton, it is exceedingly unlikely that any material benefit to future claimants could be achieved by the appointment of one of the UST Candidates.

29. Yet it is certain the appointment of any UST Candidate would cause significant delays and increased expenses. Mr. Patton, Young Conaway, and Ankura spent hundreds of hours over the course of almost a year negotiating the best possible outcome for future claimants. Any UST Candidate, and her or his advisors, would spend a significant amount of time and money learning the role of the future claimants' representative, duplicating the diligence already performed by Mr. Patton, and attempting to identify and then negotiate any changes to the Plan and Asbestos Personal Injury Trust.⁶ Those significant costs would come from the Debtors' estates, thereby reducing the total amount available to compensate asbestos claimants, to the detriment of future claimants.

4. *The U.S. Trustee Has Not Made a Prima Facie Case of Disinterestedness for Mr. Connolly.*

30. Additionally, the U.S. Trustee has not proffered any evidence that Mr. Connolly is disinterested, which is the threshold standard for appointment of a future claimants' representative. The UST Motion provided only a copy of Mr. Connolly's law firm biography. As of the time of this Objection, the U.S. Trustee has not provided any declaration by Mr. Connolly indicating that he performed any conflicts searches, or disclosing his connections to potential parties in interest in these Chapter 11 Cases. Without these critical disclosures, the Court cannot determine that Mr. Connolly is "disinterested" and eligible for appointment as a future claimants' representative. The UST Motion therefore fails to establish a *prima facie* case supporting the appointment of Mr. Connolly as legal representative for future claimants, and he should not be considered by the Court.

* * *

⁶ As an additional consideration, Mr. Connolly is not located in Delaware, and his firm does not have offices in Delaware. He would be required to hire Delaware counsel, and would incur additional expenses travelling to Delaware for these Chapter 11 Cases.

31. The UST Candidates, even if disinterested, are significantly less qualified than Mr. Patton, and there is no evidence that they will achieve a better outcome for future claimants. Consequently, the appointment of any of the UST Candidates it is not in the best interests of the Debtors' estates, or current or future claimants.

RESERVATION OF RIGHTS

32. As discussed at the February 25 Hearing, the Debtors and the Asbestos Claimants Committee plan to conduct depositions of the UST Candidates prior to the March 8 Hearing. The Debtors accordingly reserve all rights to supplement this Objection following such depositions, as well as following any further filings by the U.S. Trustee regarding the UST Candidates.

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WHEREFORE, for the reasons set forth herein, in the Debtors' FCR Motion, and in the Debtors' Reply, the Debtors respectfully request that the UST Motion be denied, and that the Debtors' FCR Motion be granted.

Dated: March 1, 2019
Wilmington, Delaware

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